



July 1, 2016

**Via email: *John.Petoskey@gtbindians.com*
And First Class Mail**

John F. Petoskey, General Counsel
Legal Department
Grand Traverse Band of Ottawa and Chippewa Indians
2605 N. West Bay Shore Drive
Peshawbestown, MI 49682 -9275

Re: Review of the 2016 Loan Documents for the Grand Traverse Band of Ottawa and Chippewa Indians

Dear Mr. Petoskey:

This letter responds to your May 17, 2016 request, on behalf of the Grand Traverse Band of Ottawa and Chippewa Indians, for the National Indian Gaming Commission, Office of the General Counsel, to review certain financing documents and to provide an opinion as to whether or not the submitted financing documents are management contracts requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988, and whether or not the financing documents violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the 2016 Loan Documents"):

- *Loan Agreement Dated as of ____, 2016 among Grand Traverse Band Economic Development Corporation, and Grand Traverse Resort and Spa, LLC, as the Borrowers, the Lenders herein named, PNC Bank, National Association, as Administrative Agent, and PNC Capital Markets LLC, as Sole Lead Arranger and Sole Bookrunner* (marked at bottom left as "OHSUSA:764778907.5" and at top right as "NIGC Submission Draft 5-13-16");
- *Exhibit A Compliance Certificate* (marked at bottom left as "OHSUSA:764792659.3");
- *Exhibit B Form of Term Loan A Note* (marked at bottom left as "OHSUSA:764785621.3");
- *Exhibit D Request for Loan* (marked at bottom left as "OHSUSA:764785621.3");
- *Exhibit F Assignment Agreement* (marked at bottom left as "OHSUSA:764785621.3");

- Exhibit H *Form of Non-Bank Certificate* (marked at bottom left as “OHSUSA:764785621.3”);
- Exhibit I *Notice of Continuation/Conversion* (marked at bottom left as “OHSUSA:764785621.3”);
- *Term Loan A Note* (\$44,000,000) (marked at bottom left as “OHSUSA:764785576.3” and at top right as “NIGC Submission Draft 5-13-16”);
- *Tribal Agreement Dated as of ___, 2016 among Grand Traverse Band of Ottawa and Chippewa Indians and PNC Bank, National Association as Administrative Agent* (marked at bottom left as “OHSUSA:764785611.5” and at top right as “NIGC Submission Draft 5-13-16”);
- *Guaranty Agreement* (marked at bottom left as “OHSUSA:764785613.2” and at top right as “NIGC Submission Draft 5-13-16”);
- *Security Agreement* (GTR) (marked at bottom left as “OHSUSA:764785581” and at top right as “NIGC Submission Draft 5-13-16”);
- *Security Agreement* (GTBH) (marked at bottom left as “OHSUSA:764785609.3” and at top right as “NIGC Submission Draft 5-13-16”);
- *Security Agreement* (EDC) (marked at bottom left as “OHSUSA:764785601.3” and at top right as “NIGC Submission Draft 5-13-16”);
- *Deposit Account Control Agreement* (GTBH) (marked at bottom left as “OHSUSA:764785619.3” and at top right as “NIGC Submission Draft 5-13-16”);
- *Deposit Account Control Agreement* (GTR) (marked at bottom left as “OHSUSA:764785615.3” and at top right as “NIGC Submission Draft 5-13-16”);
- *Deposit Account Control Agreement* (EDC) (marked at bottom left as “OHSUSA:764785618.2” and at top right as “NIGC Submission Draft 5-13-16”);
- *Grant of Security Interest – Trademarks* (GTR) (marked at bottom left as “OHSUSA:763383845.2” and at top right as “NIGC Submission Draft 5-13-16”);
- *Grant of Security Interest – Trademarks* (EDC) (marked at bottom left as “OHSUSA:764785620.1” and at top right as “NIGC Submission Draft 5-13-16”);
- *Special Power of Attorney Dated as of ___, 2016* (GTR) (marked at bottom left as “OHSUSA:764785595.1” and at top right as “NIGC Submission Draft 5-13-16”);
- *Special Power of Attorney Dated as of ___, 2016* (GTBH) (marked at bottom left as “OHSUSA:764785610.1” and at top right as “NIGC Submission Draft 5-13-16”);
- *Special Power of Attorney Dated as of ___, 2016* (EDC) (marked at bottom left as “OHSUSA:764785608.1” and at top right as “NIGC Submission Draft 5-13-16”); and
- *Unjust Enrichment and Sovereign Immunity Agreement* (marked at bottom left as “OHSUSA:764785574.2” and at top right as “NIGC Submission Draft 5-13-16”).

John F. Petoskey, General Counsel

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The 2016 Loan Documents contain terms similar to other agreements that OGC has previously reviewed and analyzed. Some of these opinion letters may be found on the NIGC's website located at <www.nigc.gov>. Applying the same analysis here, it is my opinion that, collectively, the 2016 Loan Documents are not management contracts and do not require the approval of the NIGC Chairman. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement.

It is my understanding that the 2016 Loan Documents are represented to be in substantially final form, and any further changes will not be material to OGC's analysis. This opinion shall not apply if the 2016 Loan Documents: (i) change in any material way prior to closing; (ii) are not executed; or (iii) are inconsistent with assumptions made herein. Further, this opinion is limited to the aforementioned 2016 Loan Documents and does not include or extend to any other agreements not submitted for review.

I anticipate that this letter will be posted on the NIGC's website. Prior to posting, the NIGC FOIA Officer will notify you and provide you with an opportunity to identify and request that information subject to the exemptions under the Freedom of Information Act be redacted or withheld. A list of the FOIA exemptions may be found at 5 U.S.C. § 552(b).

If you have any questions, please contact Armando Acosta, Senior Attorney, at (202) 632-7003.

Sincerely,



Michael Hoenig
General Counsel

cc: Mr. Jon Kubiak (via email: Jon.Kubiak@gtbindians.com)
Mr. Aaron Harkins (via email: Aaron.Harkins@FaegreBD.com)
Mr. Townsend Hyatt (via email: thyatt@orrick.com)