

CALIFORNIA LEGISLATURE

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

September 14, 1999

Governor Gray Davis  
State Capitol  
Sacramento, CA 95814

Dear Governor Davis:

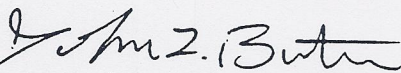
Attached is the final version of the Tribal Labor Relations Ordinance addressing organizational and representational rights of employees in tribal gaming and related facilities.

As you know, this ordinance is the product of extensive negotiations between labor and the tribes who are signatory to the recently concluded tribal-state gaming compact. As such, it is an agreement with a delicate balance of provisions.

It was the understanding of the parties that, pursuant to the terms of the tribal-state compact, this ordinance will be adopted and maintained as written, with the insertion of the Tribe's name and ordinance section numbers as permitted modifications.

We are pleased to have played a role in bringing the parties together in this historic agreement.

Sincerely,



JOHN L. BURTON  
President Pro Tem  
California State Senate



ANTONIO VILLARAIGOSA  
Speaker  
California State Assembly

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TRIBAL LABOR RELATIONS ORDINANCE  
September 14, 1999

**Section 1: Threshold of applicability**

(a) Any tribe with 250 or more persons employed in a tribal casino and related facility shall adopt this Tribal Labor Relations Ordinance (TLRO or Ordinance). For purposes of this ordinance, a "tribal casino" is one in which class III gaming is conducted pursuant to a tribal-state compact. A "related facility" is one for which the only significant purpose is to facilitate patronage of the class III gaming operations.

(b) Any tribe which does not operate such a tribal casino as of September 10, 1999, but which subsequently opens a tribal casino, may delay adoption of this ordinance until one year from the date the number of employees in the tribal casino or related facility as defined in 1(a) above exceeds 250.

(c) Upon the request of a labor union, the Tribal Gaming Commission shall certify the number of employees in a tribal casino or other related facility as defined in 1(a) above. Either party may dispute the certification of the Tribal Gaming Commission to the Tribal Labor Panel.

**Section 2: Definition of Eligible Employees**

(a) The provisions of this ordinance shall apply to any person (hereinafter "Eligible Employee") who is employed within a tribal casino in which Class III gaming is conducted pursuant to a tribal-state compact or other related facility, the only significant purpose of which is to facilitate patronage of the Class III gaming operations, except for any of the following:

(1) any employee who is a supervisor, defined as any individual having authority, in the interest of the tribe and/or employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(2) any employee of the Tribal Gaming Commission;

1 (3) any employee of the security or surveillance department, other  
2 than those who are responsible for the technical repair and maintenance of  
3 equipment;

4 (4) any cash operations employee who is a "cage" employee or money  
5 counter; or

6 (5) any dealer.

7 **Section 3: Non-interference with regulatory or security activities**

8 Operation of this Ordinance shall not interfere in any way with the  
9 duty of the Tribal Gaming Commission to regulate the gaming operation in  
10 accordance with the Tribe's National Indian Gaming Commission-approved  
11 gaming ordinance. Furthermore, the exercise of rights hereunder shall in no  
12 way interfere with the tribal casino's surveillance/security systems, or any  
13 other internal controls system designed to protect the integrity of the tribe's  
14 gaming operations. The Tribal Gaming Commission is specifically excluded  
15 from the definition of tribe and its agents.

16 **Section 4: Eligible Employees free to engage in or refrain from**  
17 **concerted activity**

18  
19 Eligible Employees shall have the right to self-organization, to form,  
20 to join, or assist employee organizations, to bargain collectively through  
21 representatives of their own choosing, to engage in other concerted activities  
22 for the purpose of collective bargaining or other mutual aid or protection,  
23 and shall also have the right to refrain from any or all such activities.  
24

25 **Section 5: Unfair Labor Practices for the tribe**

26  
27 It shall be an unfair labor practice for the tribe and/or employer or  
28 their agents:

29 (1) to interfere with, restrain or coerce Eligible Employees in the  
30 exercise of the rights guaranteed herein;

31 (2) to dominate or interfere with the formation or administration of  
32 any labor organization or contribute financial or other support to it, but this  
33 does not restrict the tribe and/or employer and a certified union from  
34 agreeing to union security or dues checkoff;

35 (3) to discharge or otherwise discriminate against an Eligible  
36 Employee because s/he has filed charges or given testimony under this  
37 Ordinance;

1 (4) to refuse to bargain collectively with the representatives of  
2 Eligible Employees.

3  
4 **Section 6: Unfair Labor Practices for the union**

5  
6 It shall be an unfair labor practice for a labor organization or its  
7 agents:

8 (1) to interfere, restrain or coerce Eligible Employees in the exercise  
9 of the rights guaranteed herein;

10 (2) to engage in, or to induce or encourage any individual employed  
11 by any person engaged in commerce or in an industry affecting commerce to  
12 engage in, a strike or a primary or secondary boycott or a refusal in the  
13 course of his employment to use, manufacture, process, transport or  
14 otherwise handle or work on any goods, articles, materials, or commodities  
15 or to perform any services; or to threaten, coerce, or restrain any person  
16 engaged in commerce or in an industry affecting commerce or other terms  
17 and conditions of employment. This section does not apply to section 11;

18 (3) to force or require the tribe and/or employer to recognize or  
19 bargain with a particular labor organization as the representative of Eligible  
20 Employees if another labor organization has been certified as the  
21 representative of such Eligible Employees under the provisions of this  
22 TLRO;

23 (4) to refuse to bargain collectively with the tribe and/or employer,  
24 provided it is the representative of Eligible Employees subject to the  
25 provisions herein;

26 (5) to attempt to influence the outcome of a tribal governmental  
27 election, provided, however, that this section does not apply to tribal  
28 members.

29  
30 **Section 7: Tribe and union right to free speech**

31  
32 The tribe's and union's expression of any view, argument or  
33 opinion or the dissemination thereof, whether in written, printed, graphic or  
34 visual form, shall not constitute or be evidence of interference with, restraint  
35 or coercion if such expression contains no threat of reprisal or force or  
36 promise of benefit.

37  
38 **Section 8: Access to Eligible Employees**

39

1 (a) Access shall be granted to the union for the purposes of organizing  
2 Eligible Employees, provided that such organizing activity shall not interfere  
3 with patronage of the casino or related facility or with the normal work  
4 routine of the Eligible Employees and shall be done on non-work time in  
5 non-work areas that are designated as employee break rooms or locker  
6 rooms that are not open to the public. The tribe may require the union and  
7 or union organizers to be subject to the same licensing rules applied to  
8 individuals or entities with similar levels of access to the casino or related  
9 facility, provided that such licensing shall not be unreasonable,  
10 discriminatory, or designed to impede access.

11  
12 (b) The Tribe, in its discretion, may also designate additional  
13 voluntary access to the Union in such areas as employee parking lots and  
14 non-Casino facilities located on tribal lands.

15  
16 (c) In determining whether organizing activities potentially interfere  
17 with normal tribal work routines, the union's activities shall not be permitted  
18 if the Tribal Labor Panel determines that they compromise the operation of  
19 the casino:

20 (1) security and surveillance systems throughout the casino, and  
21 reservation;

22 (2) access limitations designed to ensure security;

23 (3) internal controls designed to ensure security;

24 (4) other systems designed to protect the integrity of the tribe's  
25 gaming operations, tribal property and/or safety of casino personnel, patrons,  
26 employees or tribal members, residents, guests or invitees.

27  
28 (d) The tribe shall provide to the union, upon a thirty percent (30%)  
29 showing of interest to the Tribal Labor Panel, an election eligibility list  
30 containing the full first and last name of the Eligible Employees within the  
31 sought after bargaining unit and the Eligible Employees' last known address  
32 within ten (10) working days. Nothing herein shall preclude a tribe from  
33 voluntarily providing an election eligibility list at an earlier point of a union  
34 organizing campaign.

35  
36 (e) The tribe agrees to facilitate the dissemination of information  
37 from the union to Eligible Employees at the tribal casino by allowing  
38 posters, leaflets and other written materials to be posted in non-public  
39 employee break areas where the tribe already posts announcements

1 pertaining to Eligible Employees. Actual posting of such posters, notices,  
2 and other materials, shall be by employees desiring to post such materials.  
3

#### 4 **Section 9: Indian preference explicitly permitted**

5

6 Nothing herein shall preclude the tribe from giving Indian  
7 preference in employment, promotion, seniority, lay-offs or retention to  
8 members of any federally recognized Indian tribe or shall in any way affect  
9 the tribe's right to follow tribal law, ordinances, personnel policies or the  
10 tribe's customs or traditions regarding Indian preference in employment,  
11 promotion, seniority, lay-offs or retention. Moreover, in the event of a  
12 conflict between tribal law, tribal ordinance or the tribe's customs and  
13 traditions regarding Indian preference and this Ordinance, the tribal law,  
14 tribal ordinance or the tribe's customs and traditions shall govern.  
15

#### 16 **Section 10: Secret ballot elections required**

17

18 (a) Dated and signed authorized cards from thirty percent (30%) or  
19 more of the Eligible Employees within the bargaining unit verified by the  
20 elections officer will result in a secret ballot election to be held within 30  
21 days from presentation to the elections officer.  
22

23 (b) The election shall be conducted by the election officer. The  
24 election officer shall be a member of the Tribal Labor Panel chosen pursuant  
25 to the dispute resolution provisions herein. All questions concerning  
26 representation of the tribe and/or Employer's Eligible Employees by a labor  
27 organization shall be resolved by the election officer. The election officer  
28 shall be chosen upon notification by the labor organization to the tribe of its  
29 intention to present authorization cards, and the same election officer shall  
30 preside thereafter for all proceedings under the request for recognition;  
31 provided however that if the election officer resigns, dies or is incapacitated  
32 for any other reason from performing the functions of this office, a substitute  
33 election officer shall be selected in accordance with the dispute resolution  
34 provisions herein.  
35

36 (c) The election officer shall certify the labor organization as the  
37 exclusive collective bargaining representative of a unit of employees if the  
38 labor organization has received the majority of votes by employees voting in  
39 a secret ballot election that the election officer determines to have been  
40 conducted fairly. If the election officer determines that the election was

1 conducted unfairly due to misconduct by the tribe and/or employer or union,  
2 the election officer may order a re-run election. If the election officer  
3 determines that there was the commission of serious Unfair Labor Practices  
4 by the tribe that interfere with the election process and preclude the holding  
5 of a fair election, and the labor organization is able to demonstrate that it had  
6 the support of a majority of the employees in the unit at any point before or  
7 during the course of the tribe's misconduct, the election officer shall certify  
8 the labor organization.

9  
10 (d) The tribe or the union may appeal any decision rendered after  
11 the date of the election by the election officer to a three (3) member panel of  
12 the Tribal Labor Panel mutually chosen by both parties.

13  
14 (e) A union which loses an election and has exhausted all dispute  
15 remedies related to the election may not invoke any provisions of this labor  
16 ordinance at that particular casino or related facility until one year after the  
17 election was lost.

### 18 19 **Section 11: Collective bargaining impasse**

20  
21 Upon recognition, the tribe and the union will negotiate in  
22 good faith for a collective bargaining agreement covering bargaining unit  
23 employees represented by the union. If collective bargaining negotiations  
24 result in impasse, and the matter has not been resolved by the tribal forum  
25 procedures sets forth in Section 13 (b) governing resolution of impasse  
26 within sixty (60) working days or such other time as mutually agreed to by  
27 the parties, the union shall have the right to strike. Strike-related picketing  
28 shall not be conducted on Indian lands as defined in 25 U.S.C. Sec. 2703 (4).

### 29 30 **Section 12: Decertification of bargaining agent**

31  
32 (a) The filing of a petition signed by thirty percent (30%) or more  
33 of the Eligible Employees in a bargaining unit seeking the decertification of  
34 a certified union, will result in a secret ballot election to be held 30 days  
35 from the presentation of the petition.

36  
37 (b) The election shall be conducted by an election officer. The  
38 election officer shall be a member of the Tribal Labor Panel chosen pursuant  
39 to the dispute resolution provisions herein. All questions concerning the  
40 decertification of the labor organization shall be resolved by an election

1 officer. The election officer shall be chosen upon notification to the tribe  
2 and the union of the intent of the employees to present a decertification  
3 petition, and the same election officer shall preside thereafter for all  
4 proceedings under the request for decertification; provided however that if  
5 the election officer resigns, dies or is incapacitated for any other reason from  
6 performing the functions of this office, a substitute election officer shall be  
7 selected in accordance with the dispute resolution provisions herein.

8  
9 (c) The election officer shall order the labor organization  
10 decertified as the exclusive collective bargaining representative if a majority  
11 of the employees voting in a secret ballot election that the election officer  
12 determines to have been conducted fairly vote to decertify the labor  
13 organization. If the election officer determines that the election was  
14 conducted unfairly due to misconduct by the tribe and/or employer or the  
15 union the election officer may order a re-run election or dismiss the  
16 decertification petition.

17  
18 (d) A decertification proceeding may not begin until one (1) year  
19 after the certification of a labor union if there is no collective bargaining  
20 agreement. Where there is a collective bargaining agreement, a  
21 decertification petition may only be filed no more than 90 days and no less  
22 than 60 days prior to the expiration of a collective bargaining agreement. A  
23 decertification petition may be filed anytime after the expiration of a  
24 collective bargaining agreement.

25  
26 (e) The tribe or the union may appeal any decision rendered after  
27 the date of the election by the election officer to a three (3) member panel of  
28 the Tribal Labor Panel mutually chosen by both parties.

29  
30 **Section 13: Binding dispute resolution mechanism**

31  
32 (a) All issues shall be resolved exclusively through the binding  
33 dispute resolution mechanisms herein, with the exception of a collective  
34 bargaining negotiation impasse, which shall only go through the first level of  
35 binding dispute resolution.

36  
37 (b) The first level of binding dispute resolution for all matters  
38 related to organizing, election procedures, alleged unfair labor practices, and  
39 discharge of Eligible Employees shall be an appeal to a designated tribal  
40 forum such as a Tribal Council, Business Committee, or Grievance Board.



1 The parties agree to pursue in good faith the expeditious resolution of these  
2 matters within strict time limits. The time limits may not be extended  
3 without the agreement of both parties. In the absence of a mutually  
4 satisfactory resolution, either party may proceed to the independent binding  
5 dispute resolution set forth below. The agreed upon time limits are set forth  
6 as follows:

7  
8 (1) All matters related to organizing, election procedures and  
9 alleged unfair labor practices prior to the union becoming certified as the  
10 collective bargaining representative of bargaining unit employees, shall be  
11 resolved by the designated tribal forum within thirty (30) working days.

12 (2) All matters after the union has become certified as the  
13 collective bargaining representative and relate specifically to impasse during  
14 negotiations, shall be resolved by the designated tribal forum within sixty  
15 (60) working days;

16  
17 (c) The second level of binding dispute resolution shall be a  
18 resolution by the Tribal Labor Panel, consisting of ten (10) arbitrators  
19 appointed by mutual selection of the parties which panel shall serve all tribes  
20 that have adopted this ordinance. The Tribal Labor Panel shall have  
21 authority to hire staff and take other actions necessary to conduct elections,  
22 determine units, determine scope of negotiations, hold hearings, subpoena  
23 witnesses, take testimony, and conduct all other activities needed to fulfill its  
24 obligations under this Tribal Labor Relations Ordinance.

25  
26 (1) Each member of the Tribal Labor Panel shall have relevant  
27 experience in federal labor law and/or federal Indian law with preference  
28 given to those with experience in both. Names of individuals may be  
29 provided by such sources as, but not limited to, Indian Dispute Services,  
30 Federal Mediation and Conciliation Service, and the American Academy of  
31 Arbitrators.

32 (2) Unless either party objects, one arbitrator from the Tribal  
33 Labor Panel will render a binding decision on the dispute under the  
34 Ordinance. If either party objects, the dispute will be decided by a three-  
35 member panel of the Tribal Labor Panel, which will render a binding  
36 decision. In the event there is one arbitrator, five (5) Tribal Labor Panel  
37 names shall be submitted to the parties and each party may strike no more  
38 than two (2) names. In the event there is a three (3) member panel, seven (7)  
39 TLP names shall be submitted to the parties and each party may strike no  
40 more than two (2) names. A coin toss shall determine which party may

1 strike the first name. The arbitrator will generally follow the American  
2 Arbitration Association's procedural rules relating to labor dispute  
3 resolution. The arbitrator or panel must render a written, binding decision  
4 that complies in all respects with the provisions of this Ordinance.  
5

6 (d) Under the third level of binding dispute resolution, either party  
7 may seek a motion to compel arbitration or a motion to confirm an  
8 arbitration award in Tribal Court, which may be appealed to federal court. If  
9 the Tribal Court does not render its decision within 90 days, or in the event  
10 there is no Tribal Court, the matter may proceed directly to federal court. In  
11 the event the federal court declines jurisdiction, the tribe agrees to a limited  
12 waiver of its sovereign immunity for the sole purpose of compelling  
13 arbitration or confirming an arbitration award issued pursuant to the  
14 Ordinance in the appropriate state superior court. The parties are free to put  
15 at issue whether or not the arbitration award exceeds the authority of the  
16 Tribal Labor Panel.



SCA II file  
(start a "Labor" section)

September 2, 1999

Via Fax and US Mail

The Honorable John Burton  
Senator, State of California  
State Capitol  
Sacramento, CA 95814

Re: CWA Proposed Tribal Labor Relations Ordinance

Dear John:

Enclosed, please find CWA's proposed Tribal Labor Relations Ordinance. This document incorporates CWA's views on your original labor accord (Burton I), and also reflects our concerns with your second labor accord (Burton II) that was provided to interested parties on September 1, 1999.

We are submitting this TLRO in order to move away from a model (Burton I and Burton II) that contains language that would be objectionable to any union interested in ensuring employee freedom of choice and a democratic election process. Instead, your proposal unwittingly gives unacceptable advantages to employers.

Your model enables an employer to pick a union when that union doesn't even have one signed card. You further provide a perfect environment for an employer to decertify a union without one signed card. This model would force a union to fight a decertification battle without any genuine employee opposition. Under the National Labor Relations Act, a petition for an election or a petition for decertification requires a thirty (30) percent shield before it has to defend itself from a potentially sham decertification.

Your model inexplicably continues to require that unions give up their Article 20 and Article 21 rights of the AFL-CIO constitution. This means that you are trying to remove the agreed upon offensive and defensive protections for AFL-CIO affiliates for presumably a much less rigorous standard. This forces unions to be unilaterally stripped of their chosen dispute resolution mechanism. As you have heard directly and in writing from many large internationals throughout the State of California, this is entirely unacceptable.

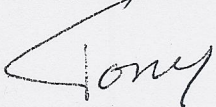
The main points within CWA's TLRO include but are not limited to the following:

1. small tribal operator exemption of 100 employees;
2. broad definition of eligible employees which includes in general all employees except for supervisors, security, "cage" cash operation employees or money counters and dealers;
3. worksite access but limited to non work areas on non work time;
4. thirty (30%) showing of interest requirement for seeking election and election eligibility list;
5. secret ballot election;
6. thirty (30%) requirement for seeking decertification;
7. right to strike;
8. first step dispute resolution before Tribal forum with strict time limits that organizing and election issues be resolved in thirty (30) work days, impasse during collective bargaining to be resolved in sixty (60) work days and grievances to be resolved in ninety (90) days;
9. In the absence of first step resolution before tribal forum, all parties may go to arbitration before a Tribal Labor Panel of approximately ten (10) arbitrators experienced in labor and tribal law and custom for a binding arbitration decision;
10. All parties may seek a motion to compel or confirm an arbitration award in federal court.

The CWA wants to continue to be a full party to any labor accord that is agreed upon by Governor Davis, the Legislature or the California Labor Federation. I look forward to your prompt response to these matters. Thank you for your leadership in this matter.

I may be reached immediately through Mr. Micheal Hartigan, Executive Vice President of Local 9400. His cell phone is (310) 748-6426 and his office is (562) 633-1917. Mr Hartigan's fax number is (562) 633-0536. Please provide him with any drafts related to this labor accord.

Very truly yours,



Tony Bixler,  
International Vice President  
CWA, District 9

cc: Governor Davis  
Speaker Villaraigosa  
Art Polaski

1 KEY PROVISIONS OF MODEL TRIBAL  
2 LABOR RELATIONS ORDINANCE ("TLRO")  
3 (CWA Proposal)  
4 September 2, 1999  
5

6 (Section 1) Small Operator Exemption - Only Non-Exempt Operators (over 100  
7 employees) must adopt a TLRO

8  
9 (Section 2) Applicable ONLY to specified eligible employees in a Tribal Casino

10 Any individual who is employed within a Tribal Casino in which class III  
11 gaming is conducted pursuant to a Tribal-State Compact except for any of the  
12 following: any employee who is a supervisor, any employee of the Tribal Gaming  
13 Commission; any employee of the security or surveillance department (that is not  
14 responsible for the technical repair and maintenance of equipment); any cash  
15 operations employee("cage" cash operation employees or money counters); or  
16 any dealer.

17 [Supervisor means any individual having authority, in the interest of the  
18 Tribe, to hire, transfer, suspend, lay off, recall, promote, discharge, assign,  
19 reward, or discipline other employees, or responsibility to direct them or to  
20 adjust their grievances, or effectively to recommend such action, if in connection  
21 with the foregoing the exercise of such authority is not of a merely routine or  
22 clerical nature but, requires the use of independent judgment.]

23 (Section 3) Operation of this TLRO shall not interfere in any way with the duty of  
24 the Tribal Gaming Commission to regulate the Gaming operation in accordance  
25 with the Tribe's NIGC-Approved Gaming Ordinance. Furthermore, the exercise  
26 of rights hereunder shall in no way interfere with the Tribal Casino's  
27 surveillance/security systems, or any other internal controls system designed to  
28 protect the integrity of the Tribe's Gaming Operations. [Tribal Gaming  
29 Commission specifically excluded from the definition of Tribe and its agents.]

30 Section 4) Eligible Casino employees are free to engage in or refrain from  
31 concerted activity.

32 Eligible Casino Employees shall have the right to self-organization, to  
33 form, to join, or assist employee organizations, to bargain collectively through  
34 representatives of their own choosing to engage in other concerted activities for  
35 the purpose of collective bargaining or other mutual aid or protection, and shall  
36 also have the right to refrain from any or all such activities.  
37

38 (Section 5) Unfair Labor Practices for the Tribe:

39 It shall be an unfair labor practice for the Tribe or its agents:

40 (a) to interfere with, restrain or coerce employees in the exercise of the  
41 rights guaranteed herein;

- 1 (b) to dominate or interfere with the formation or administration of any
- 2 labor organization or contribute financial or other support to it, but
- 3 this does not restrict an Employer and a certified Union from agreeing
- 4 to union security or dues checkoff;
- 5 (c) to discharge or otherwise discriminate against an employee because
- 6 s/he has filed charges or given testimony under this TLRO;
- 7 (d) to refuse to bargain collectively with the representatives of tribal
- 8 employees.

9  
10 (Section 6) Unfair Labor Practices for the Union:

- 11 It shall be an unfair labor practice for a labor organization or its agents;
- 12 (a) to interfere, restrain or coerce employees in the exercise of the rights
  - 13 guaranteed.
  - 14 (b) to engage in, or to induce or encourage any individual employed by
  - 15 any person engaged in commerce or in an industry affecting commerce to
  - 16 engage in, a strike or a primary or secondary boycott or a refusal in the
  - 17 course of his employment to use, manufacture, process, transport or
  - 18 otherwise handle or work on any goods, articles, materials, or
  - 19 commodities or to perform any services; or to threaten, coerce, or restrain
  - 20 any person engaged in commerce or in an industry affecting commerce or
  - 21 other terms and conditions of employment.
  - 22 (c) to force or require any employer to recognize or bargain with a
  - 23 particular labor organization as the representative of his employees if
  - 24 another labor organization has been certified as the representative of
  - 25 such employees under the provisions of this TLRO.
  - 26 (d) to refuse to bargain collectively with an employer, provided it is the
  - 27 representative of his employees subject to the provisions herein.

28  
29 (Section 7) Tribe and Union right to free speech

30 The Tribe's and Union's expression of any view, argument or opinion or

31 the dissemination thereof, whether in written, printed, graphic or visual form,

32 shall not constitute or be evidence of interference with, restraint or coercion if

33 such expression contains no threat of reprisal or force or promise of benefit.

34  
35 (Section 8) Access to eligible Casino employees

36  
37 The Tribe shall allow representatives of the Union to have access to the

38 Casino and to communicate orally and in writing with employees about their

39 terms and conditions of employment or representation by the Union on non-work

40 time and at non-work areas.

41  
42 The Tribe shall provide, upon a thirty percent (30%) showing of interest,

43 an election eligibility list containing the full first and last name of the employee

44 within the sought after bargaining unit and the employee's last known address.

1 Nothing herein shall preclude a Tribe from voluntarily providing an election  
2 eligibility list at an earlier point of a union organizing campaign.

3  
4 The Tribe agrees to facilitate the dissemination of information from the  
5 Union to eligible Casino employees at the Tribal Casino by allowing posters,  
6 leaflets and other written materials to be posted in non-public employee break  
7 areas where the Tribe already posts announcements pertaining to eligible Casino  
8 employees. Actual posting of such posters, notices, et cetera, shall be by  
9 employees desiring to post such materials or the General Manager at the request  
10 of the Union.

11  
12 (Section 9) Indian Preference Explicitly Permitted

13 Nothing herein shall preclude the Tribe from giving Indian preference in  
14 employment, promotion, seniority, lay-offs or retention to members of any  
15 federally recognized Indian Tribe or shall in any way affect the Tribe's right to  
16 follow Tribal law, ordinance, personnel policies or the Tribe's customs or  
17 traditions regarding Indian preference in employment, promotion, seniority, lay-  
18 offs or retention. Moreover, in the event of a conflict between Tribal law, Tribal  
19 ordinance or the Tribe's customs and traditions regarding Indian preference and  
20 this TLRO, the Tribal law, Tribal ordinance or the Tribe's customs and traditions  
21 shall govern.

22  
23 (Section 10) Secret Ballot Elections Required

24 [Dated and signed authorized cards from thirty percent (30%) or more  
25 of the eligible Casino employees within the bargaining unit will result in a secret  
26 ballot election. If a majority of bargaining unit employees vote to be  
27 represented by an organization, the Tribe agrees to recognize that organization  
28 as the representative of those employees, and to deal with that organization in  
29 matters concerning the wages, hours and working conditions of those  
30 employees.]

31  
32 (Section 11) Right to Strike

33 Upon recognition, the Tribe and the Union will negotiate in good faith  
34 for a collective bargaining agreement covering bargaining unit employees  
35 represented by the Union. If collective bargaining negotiations result in impasse,  
36 and the matter has not been resolved by the Tribal forum procedures sets forth  
37 in Section 13 (b) governing resolution of impasse within sixty (60) work days, the  
38 Union shall have the right to strike.

39  
40 (Section 12) Decertification of Bargaining Agent

41  
42 (Upon the filing with the Tribe of a petition signed by thirty-percent  
43 (30%) or more of the Tribe's employees in a bargaining unit seeking the  
44 decertification of a certified Union, the Tribe shall conduct a secret ballot election

1 to determine whether the certified Union continues to enjoy the support of a  
2 majority of employees participating in an election.)  
3  
4

5 (Section 13) Exhaustion of Tribal Remedy Required Before Invoking Other  
6 Binding Dispute/Enforcement Mechanisms  
7

8 The first step of dispute resolution for all matters related to organizing, election  
9 procedures, alleged unfair labor practices, discharge of employees or  
10 enforcement of the collective bargaining agreement shall be an appeal to a  
11 designated Tribal forum such as a Tribal Council, Business Committee, or  
12 Grievance Board.  
13

14 The parties agree to pursue in good faith the expeditious resolution of these  
15 matters within strict time limits. The time limits may not be extended without  
16 the agreement of both parties. In the absence of resolution within the time  
17 limits set forth below, either party may proceed to the independent binding  
18 dispute resolution set forth below. The agreed upon time limits are set forth as  
19 follows:  
20

- 21 a) All matters related to organizing, election procedures and alleged unfair labor  
22 practices prior to the Union becoming certified as the collective bargaining  
23 representative of bargaining unit employees, shall be resolved by the  
24 designated Tribal forum within thirty (30) work days;  
25  
26 b) All matters after the Union has become certified as the collective bargaining  
27 representative and relate specifically to impasse during negotiations, shall be  
28 resolved by the designated Tribal forum within sixty (60) work days;  
29  
30 c) All matters after the Union has become certified as the collective bargaining  
31 representative and relate to the interpretation or enforcement of the collective  
32 bargaining agreement, shall be resolved by the designated Tribal-forum within  
33 ninety (90) work days;  
34

35 First level of Independent Binding Dispute/Enforcement Mechanism  
36

37 A Tribal Labor Panel "TLP" of approximately ten (10) individuals who  
38 have experience in labor law and tribal law will be appointed. Unless either party  
39 objects, one arbitrator from the TLP will render a binding decision on the dispute  
40 under the TLRO. [If either party objects, the dispute will be decided by three  
41 members of the TLP who render a binding decision.] Assuming that there will be  
42 one arbitrator, five TLP names are submitted to the parties and each party gets  
43 to strike no more that two (2) names. A coin toss shall determine which party  
44 gets to strike the first name. The arbitrator will generally follow AAA's procedural



1 rules. S/he must render a written, binding decision that complies in all respects  
2 with the provisions of this TLRO.

3

4 Second and final level of Independent Enforcement Mechanism

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6 Either party may seek a motion to compel arbitration or a motion to  
7 confirm an arbitration award in federal court.

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