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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

PICAYUNE RANCHERIA OF  
CHUKCHANSI INDIANS,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE  
INTERIOR; SALLY M. JEWELL, Secretary  
of the Interior; and LAWRENCE S.  
ROBERTS, Acting Assistant Secretary of the  
Interior for Indian Affairs,

Defendants.

No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

**INTRODUCTION**

1  
2 1. This is a civil action against the United States Department of the Interior and its  
3 named officials (the “Department”) seeking declaratory relief that certain lands in Madera County,  
4 California (the “Madera Parcel”) are not eligible for gaming under the Indian Gaming Regulatory Act  
5 (“IGRA”), 25 U.S.C. § 2701 *et seq.*

6 2. The Madera Parcel is the site of a proposed casino/hotel resort being pursued by the  
7 North Fork Rancheria of Mono Indians (“North Fork Tribe”). Plaintiff seeks a declaration that the  
8 Madera Parcel does not come within any exception to the general prohibition against gaming on  
9 Indian trust lands acquired after October 17, 1988, the effective date of IGRA, and does not constitute  
10 “Indian lands” upon which Indian gaming may be conducted under IGRA.

11 3. Plaintiff further seeks a declaration that the Secretarial “two-part determination”  
12 (“Secretarial Determination”) by the Assistant Secretary for Indian Affairs with respect to the Madera  
13 Parcel (which was requisite for the parcel to come within the exception to the general prohibition and  
14 qualify as “Indian lands” under IGRA), expired and became invalid by operation of law, as a result of  
15 no affirmative concurrence with such Secretarial Determination having been made by the Governor  
16 of the State of California as was required by IGRA.

17 4. Plaintiff also seeks injunctive relief prohibiting the Department from taking any action  
18 under IGRA based, in whole or in part, upon the Madera Parcel constituting “Indian lands” under  
19 IGRA.  
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**JURISDICTION AND VENUE**

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2           5.       This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.  
3 § 1331 (federal question action), § 1337 (action under Act of Congress regulating commerce) and §  
4 1362 (federal question action brought by an Indian tribe).

5           6.       This action arises under the Constitution and laws of the United States, including but  
6 not necessarily limited to the Indian Commerce Clause of the United States Constitution, U.S. Const.  
7 Art. I, § 8, cl. 3; the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. § 2701 *et seq.*; the  
8 Administrative Procedure Act (“APA”), 5 U.S.C. § 551 *et seq.* and § 701 *et seq.*; the Declaratory  
9 Judgments Act, 28 U.S.C. §§ 2201 and 2202; the All Writs Act, 28 U.S.C. § 1651; 43 U.S.C. § 1451  
10 *et seq.* (establishment and responsibilities of the Department of the Interior); and federal common  
11 law.

12           7.       This action is brought by an Indian tribe with a governing body duly recognized by the  
13 Secretary of the Interior.

14           8.       The sovereign immunity of the United States has been waived with respect to the subject  
15 matter of this action and the relief requested herein by the APA, 5 U.S.C. § 702.

16           9.       Venue is proper in this Court pursuant to 28 U.S.C. §§ 84(b), 1391(b)(2) and  
17 1391(e)(1)(B), in that: 1) this is a civil action in which a substantial part of the events or omissions  
18 giving rise to the claim occurred or a substantial part of property that is the subject of the action is  
19 situated within the judicial district of the Eastern District of California; and 2) this is a civil action  
20 against an officer or employee of the United States or any agency thereof acting in his or her official  
21 capacity or under color of legal authority, or an agency of the United States or the United States, and  
22 a substantial part of the events or omissions giving rise to the claim occurred or a substantial part of  
23 property that is the subject of the action is situated within the judicial district of the Eastern District  
24 of California.

**PARTIES**

1  
2 10. Plaintiff Picayune Rancheria of Chukchansi Indians (“Plaintiff” or the “Picayune  
3 Tribe”) is a federally-recognized Indian tribe. *See* Indian Entities Recognized . . . , 81 Fed. Reg.  
4 5019, 5022 (Jan. 29, 2016). Its principal offices are located at 8080 Palm Ave., Suite 107, Fresno,  
5 California 93711. The Picayune Tribe owns and operates the Chukchansi Gold Resort and Casino, a  
6 class III gaming facility, on its Rancheria lands at Coarsegold, California, approximately 26.4 miles  
7 from the Madera Parcel. Ancestors of the Picayune Tribe traditionally used and occupied lands in the  
8 vicinity of the Madera Parcel, and the Picayune Tribe continues to have a cultural connection to the  
9 area. The majority of the Picayune Tribe’s members live in Madera County and pay taxes to both the  
10 County and State, and the Picayune Tribe provides governmental services throughout the County.  
11 Several members of the Picayune Tribe reside in the vicinity of the Madera Parcel.

12 11. Defendant United States Department of the Interior (the “Department”) is an  
13 executive agency of the United States government, established and organized pursuant to 43 U.S.C.  
14 § 1451 *et seq.* Congress has delegated authority over Indian affairs to the Department of the Interior  
15 and the Secretary. 43 U.S.C. § 1457(10).

16 12. Defendant Sally M. Jewell is the Secretary of the Interior (“Secretary”). The Secretary  
17 is the chief executive officer of the United States Department of the Interior. She is sued herein in her  
18 official capacity.

19 13. Defendant Lawrence S. Roberts is the Acting Assistant Secretary of the United States  
20 Department of the Interior for Indian Affairs (“ASIA”). With certain exceptions not relevant to the  
21 instant action, the ASIA is authorized to exercise all of the authority of the Secretary with respect to  
22 Indian Affairs. He is sued herein in his official capacity.

**GENERAL ALLEGATIONS**

24 14. This lawsuit involves the first attempt by a California Indian tribe to conduct class III,  
25 or Las Vegas-style, gaming on “off-reservation” lands that are generally not eligible for gaming.

26 15. In approximately 2004, the North Fork Rancheria of Mono Indians (hereinafter the  
27 “North Fork Tribe”) purchased a 305-acre tract of “non-Indian” land in southwest Madera County,  
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1 California, just north of the City of Madera and adjacent to California State Highway 99 (the  
2 “Madera Parcel”). The purpose of the purchase was to use the Madera Parcel as the location for a  
3 major Las Vegas-style casino that would conduct class III gaming as defined in IGRA.

4 16. The North Fork Tribe seeks to develop a casino/hotel resort on the Madera Parcel.  
5 The Madera Parcel is located approximately 38 miles from the North Fork Tribe’s 80-acre  
6 Rancheria. The Madera Parcel was privately owned until the United States took the land into trust  
7 for the North Fork Tribe on or about February 5, 2013.

8 17. Under section 20 of IGRA, Indian tribes are generally prohibited from conducting  
9 gaming regulated by IGRA on land acquired by the Secretary in trust for the benefit of an Indian tribe  
10 after October 17, 1988. 25 U.S.C. § 2719(a). IGRA provides for certain exceptions to this general  
11 rule, one of which is referred to as a Secretarial Determination, or more commonly a “two-part  
12 determination.” Under the two-part determination exception, the general prohibition against gaming  
13 on after-acquired land does not apply when the Secretary “determines that a gaming establishment on  
14 newly acquired lands would be in the best interest of the Indian tribe and its members, and would not  
15 be detrimental to the surrounding community, but only if the Governor of the State in which the  
16 gaming activity is to be conducted concurs in the Secretary’s determination.” 25 U.S.C. §  
17 2719(b)(1)(A); *see also* 25 C.F.R. § 292.13.

18 18. Federal regulations state that if the Governor provides a written non-concurrence, then  
19 the “applicant tribe may use the newly acquired lands only for non-gaming purposes.” 25 C.F.R. §  
20 292.23(a). Federal regulations also provide that if the Governor does not affirmatively concur within  
21 one year of the date of the request for a concurrence, the favorable two-part determination terminates  
22 and becomes ineffective unless the applying tribe or the Governor requests an extension. 25 C.F.R. §  
23 292.23(b)-(c). The maximum extension available is 180 days. 25 C.F.R. § 292.23(b).

24 19. The North Fork Tribe submitted a request to the Department of the Interior on or about  
25 March 1, 2005, to have the Madera Parcel acquired in trust for the North Fork Tribe. This request  
26 was supplemented on or about March 29, 2006, with a request for a two-part determination pursuant  
27 to 25 U.S.C. § 2719(b)(1)(A).  
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1           20.     On or about September 1, 2011, Assistant Secretary – Indian Affairs Larry Echo Hawk  
2 issued a Record of Decision making his two-part determination, favorable to the North Fork Tribe,  
3 and requested California Governor Edmund G. Brown, Jr.’s concurrence in the two-part  
4 determination.

5           21.     On information and belief, multiple groups, persons and/or entities requested that the  
6 Governor seek the extension available pursuant to 25 C.F.R. § 292.23(b) for consideration of the  
7 concurrence in the favorable two-part determination regarding the Madera Parcel.

8           22.     On or about August 30, 2012, on the last day before the Secretary’s favorable two-part  
9 determination expired and became invalid, Governor Brown issued a letter “concurring” in the two-  
10 part determination. A copy of the Governor’s August 30, 2012 concurrence letter is attached as  
11 **Exhibit A.**

12           23.     The Governor’s concurrence was contingent upon and tied together as a single  
13 package with the tribal-state gaming compact the Governor and the North Fork Tribe executed on or  
14 about August 31, 2012 (“2012 Compact”). A copy of the 2012 Compact is attached as **Exhibit B.**

15           24.     Consistent with article IV, section 19(f), of the California Constitution, the compact  
16 provided that it “shall not be effective unless and until all of the following have occurred: (a) The  
17 Compact is ratified in accordance with State law . . . .” 2012 Compact § 14.1(a), Exhibit B at 106.

18           25.     The concurrence identifies “several exceptional circumstances” that made the  
19 Governor willing to concur with the Secretary’s two-part determination. At least three of the seven  
20 bullet-pointed circumstances describe terms contained in the 2012 Compact:

21           A large tribal population will directly benefit from the gaming facility. The North Fork  
22 Mono’s compact guarantees that revenues from the gaming facility will be shared  
23 directly with the Wiyot Tribe, which has agreed to forgo gaming on its own lands –  
including environmentally sensitive areas.

24           Other tribes will indirectly benefit from the gaming facility. The North Fork Mono’s  
25 compact provides assistance to other tribes by requiring substantial contributions to the  
Revenue Sharing Trust Fund and the Tribal Nation Grant Fund.

26           The ability of other tribes to benefit from gaming will not be unduly harmed. The  
27 North Fork Mono’s compact specifically provides mitigation for the only tribe likely to  
be affected by the gaming facility, the Picayune Rancheria of the Chukchansi.

1 Exhibit A at 1-2.

2 26. The 2012 Compact also states that the Governor was willing to concur in the  
3 Secretary's IGRA determination because the North Fork Tribe was willing to agree to the specific  
4 terms of the 2012 Compact. The 2012 Compact's preamble states in relevant part:

5 WHEREAS, in light of the Tribe's willingness to locate its Gaming Facility on the 305-  
6 Acre Parcel instead of an environmentally-sensitive area, to make revenue sharing  
7 payments to the Wiyot Tribe to facilitate that tribe's sovereign agreement with the State  
8 to forgo gaming on environmentally sensitive land, to make revenue sharing payments  
9 to the Chukchansi Indian Tribe to mitigate potential competitive impacts on that tribe,  
10 and to mitigate project impacts on the local community and environment, and in light  
11 of the County's support for the proposed Gaming Facility and the other covenants of  
12 this Compact, the Governor will concur in the favorable determination by the Secretary  
13 that the Gaming Facility would be in the best interests of the Tribe and its citizens and  
14 not detrimental to the surrounding community . . .

11 Exhibit B at 3-4.

12 27. On or about November 26, 2012, Assistant Secretary – Indian Affairs Kevin  
13 Washburn issued a Record of Decision to accept the Madera Parcel into trust for the North Fork  
14 Tribe. *See* Land Acquisitions; North Fork Rancheria of Mono Indians of California, 77 Fed. Reg.  
15 71611 (Dec. 3, 2012).) Bureau of Indian Affairs Pacific Regional Director Amy Dutschke accepted  
16 conveyance of the Madera Parcel in trust for the North Fork Tribe on or about February 5, 2013.

17 28. On or about June 27, 2013, the California legislature passed Assembly Bill No. 277  
18 (“AB 277”). AB 277 provided that it “ratified” the 2012 Compact. The Governor signed AB 277 on  
19 or about July 3, 2013.

20 29. Pursuant to the California Constitution, AB 277 would not take effect until January 1,  
21 2014, unless a voter referendum on AB 277 qualified for the ballot, in which case AB 277 would not  
22 take effect (if at all) until the day after the election. Cal. Const., art. IV, § 8(c)(1) and art. II, §§ 9, 10.

23 30. Notwithstanding that the 2012 Compact was not yet effectively ratified in accordance  
24 with State law, California Secretary of State Debra Bowen transmitted the compact to Paula Hart,  
25 Director of the Office of Indian Gaming, U.S. Department of the Interior, on or about July 16, 2013,  
26 together with a letter informing Ms. Hart that a referendum on AB 277 had been filed, and that if it  
27 qualified for the ballot, “the part of the statute ratifying the compact will be stayed/suspended until  
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1 the voters have voted to either reject or adopt it.” A copy of California Secretary of State Bowen’s  
2 July 16, 2013 letter is attached as **Exhibit C**.

3 31. On or about, August 9, 2013, California Secretary of State Debra Bowen transmitted a  
4 second letter to Ms. Hart clarifying that the referendum on AB 277 also concerned a Tribal-State  
5 compact between the State of California and the Wiyot Tribe (“Wiyot Compact”). A copy of  
6 California Secretary of State Bowen’s letter dated August 9, 2013 is attached as **Exhibit D**.

7 32. On October 22, 2013, Assistant Secretary – Indian Affairs Kevin Washburn published  
8 notice of the 2012 Compact taking effect. Indian Gaming, 78 Fed. Reg. 62649 (Oct. 22, 2013). The  
9 notice states that because the Secretary did not affirmatively approve or disapprove the 2012  
10 Compact within 45 days of its submission by the Tribe and the State, “the compact is considered to  
11 have been approved, but only to the extent that the Compact is consistent with IGRA.” *Id.*

12 33. On or about November 20, 2013, California Secretary of State Bowen transmitted a  
13 letter to Director of the Office of Indian Gaming, U.S. Department of the Interior, Paula Hart,  
14 informing Ms. Hart, that the referendum measure referenced in Ms. Bowen’s July 16, 2013 and  
15 August 9, 2013, letters qualified for the ballot and would be presented to California voters on the  
16 November 4, 2014 General Election ballot rather than the June 2014 election ballot. Consequently,  
17 Ms. Bowen’s letter informed Ms. Hart that the implementation of the 2012 Compact and Wiyot  
18 Compact would be stayed until November 2014. A copy of California Secretary of State Bowen’s  
19 November 20, 2013 letter is attached as **Exhibit E**.

20 34. On November 4, 2014, California voters voted on Proposition 48, the statewide  
21 referendum on AB 277. Proposition 48 was defeated with 61% “No” votes. As a result, AB 277  
22 never went into effect.

23 35. The Governor’s authority under state law to concur in in the Secretary’s two-part  
24 determination is ancillary and incidental to his authority to “negotiate and conclude compacts.” Cal.  
25 Const., art. IV, § 19(f).

26 36. Madera County Superior Court Judge Michael J. Jurkovich held that the Governor’s  
27 authority under state law to concur in the Secretary’s two-part determination is part of his power  
28 under California Constitution article IV, section 19(f). *Stand Up for California v. State of California*



1 (Super. Ct. Madera County, 2014, No. MCV062850), Ruling on Demurrers to First Amended  
2 Complaint, Mar. 3, 2014 (F069302, app. pending).) Judge Jurkovich summarized his holding as  
3 follows:

4 The language of the California Constitution is clear. Under California Constitution  
5 article IV, section 19(f), the Governor has the power to “negotiate and conclude  
6 compacts, subject to ratification by the Legislature, for [Class III gaming] by federally  
7 recognized Indian tribes on Indian lands in California in accordance with federal  
8 law...” Under the two part test of the IGRA (federal law), land can be taken into trust  
9 by the federal government (to become Indian lands) subject to the concurrence of the  
10 Governor. To the court, the plain meaning of section 19(f) is as follows: the Governor  
11 may negotiate and conclude compacts on Indian lands – regardless of when those lands  
12 become “Indian lands” – or whether they are “off-reservation” – so long as such actions  
13 are in compliance with federal law (e.g. the IGRA). To hold otherwise would make the  
14 phrase “negotiate and conclude compacts” meaningless, where concurrence is  
15 necessary under, for example, the two part test of 25 U.S.C. section 2719(b)(1)(A)  
16 (federal law). If the Governor cannot “concur” with the Secretary of the Interior in the  
17 Secretary’s decision to put the land into trust, how can he then “negotiate and  
18 conclude” a compact that, to be enforceable, depends upon the concurrence?

13 *Id.* at 7.

14 37. The Governor’s authority under the California Constitution, article IV, section 19(f), is  
15 “subject to ratification by the Legislature.” Cal. Const., art. IV, § 19(f).

16 38. Under California law, a statute is not effective until January 1, following the 90 days  
17 after it is enacted, with certain exceptions not relevant here. Cal. Const., art. IV, § 8(c)(1). If a  
18 referendum to approve or reject a statute qualifies to be submitted to the electors, then the subject  
19 statute takes effect (if at all) the day after the referendum election. Cal. Const., art. II, §§ 9, 10.

20 39. Prior to the vote on Proposition 48, Judge Jurkovich held that AB 277 was “subject to  
21 referendum under the State Constitution,” and that the North Fork Tribe’s other objections to the  
22 validity of Proposition 48 were without merit. *Stand Up for California v. State of California* (Super.  
23 Ct. Madera County, 2014, No. MCV062850), Ruling on Demurrers to Cross-Complaint, June 26,  
24 2014 (F070327, app. pending).)

25 40. The referendum on AB 277, Proposition 48, rejected AB 277. Therefore, AB 277  
26 never went into effect.

27 41. The Governor’s actions taken pursuant to the authority granted to him in article IV,  
28 section 19(f), of the State Constitution are ineffective unless they are ratified by the legislature.

1           42.     The 2012 Compact did not take effect because the legislature's ratification of the 2012  
2 Compact did not take effect.

3           43.     The concurrence did not take effect because the concurrence was expressly  
4 conditioned on the effectiveness of specified provisions of the 2012 Compact.

5           44.     Additionally, the concurrence did not take effect because the legislature's ratification  
6 of the concurrence did not take effect.

7           45.     On information and belief, the Governor maintains that the concurrence was and is  
8 effective, or he has failed and refused to acknowledge that the concurrence was and is ineffective.

9           46.     The North Fork Tribe sued the State of California in the United States District Court  
10 for the Eastern District of California, in Fresno, on or about March 17, 2015. *North Fork Rancheria*  
11 *of Mono Indians v. State of California*, No. 1:15-cv-00419-AWI-SAB (E.D. Cal., Complaint filed  
12 Mar. 17, 2015). The North Fork Tribe claimed that the State, in violation of IGRA, failed to engage  
13 in good faith gaming compact negotiations. On information and belief, the State did not assert the  
14 available defense that the Governor's concurrence was ineffective, and consequentially that the State  
15 had no duty under IGRA to negotiate a compact for gaming at the Madera Parcel. On or about  
16 November 13, 2015, the court found in favor of the North Fork Tribe and ordered the parties to  
17 engage in the remedial process prescribed by IGRA, which involves either concluding a new gaming  
18 compact through negotiation or mediation, or securing gaming procedures prescribed by the  
19 Secretary. *See* 25 U.S.C. § 2710(d)(7)(B)(iii). On April 11, 2016, operating on the assumption that  
20 the Madera Parcel is eligible for gaming, the Court-appointed mediator transmitted the matter to the  
21 Secretary of Interior in order for the Department of the Interior to issue procedures under which  
22 North Fork could conduct gaming. On information and belief, the Department of the Interior  
23 currently is preparing to issue procedures. On information and belief, the gaming compact or gaming  
24 procedures that result from the process will not provide for mitigation to the Picayune Tribe  
25 comparable to the mitigation measures provided in the 2012 Compact. On or about March 18, 2016,  
26 the Picayune Tribe moved to intervene in *North Fork v. State of California*, arguing that North Fork's  
27 claim under IGRA for failure to negotiate in good faith is not ripe for judicial review because the  
28 issue of whether the Madera Site is eligible for gaming is not settled and currently at issue in

1 litigation in other Courts. On June 27, 2016, the Eastern District of California issued an order  
2 denying the Picayune Tribe's motion to intervene. However, based on concerns raised by the  
3 Picayune Tribe's motion, the Court ordered briefing on whether a stay should be imposed. The Court  
4 further allowed the Picayune Tribe to participate in the briefing as *amicus curiae*. Briefing on  
5 whether a stay should be imposed is scheduled to be completed by July 22, 2016. However, the  
6 Court did not order the Department of the Interior to refrain from issuing procedures during the  
7 briefing on whether a stay should be imposed. On information and belief, the Department of the  
8 Interior still is preparing to issue procedures.

9 47. On or about March 21, 2016, the Picayune Tribe brought suit against the Governor of  
10 the State of California in the Superior Court of California for the County of Madera. *Picayune*  
11 *Rancheria of the Chukchansi Indians v. Brown*, No. MCV072004 (Super. Ct. Madera County,  
12 Complaint filed Mar. 21, 2016). On May 13, 2016, California filed a Demurrer, and North Fork  
13 moved to intervene. The parties completed briefing on North Fork's motion to intervene on June 10,  
14 2016. On June 17, 2016, the Court continued the hearing on North Fork's motion to intervene, and  
15 the hearing is now scheduled for July 8, 2016 at 8:30 a.m. The Court suspended briefing on  
16 Governor Brown's Demurrer until after a decision on North Fork's motion to intervene.

17 48. The North Fork Tribe's proposed casino/hotel resort at the Madera Parcel will cause  
18 significant financial harm to the Picayune Tribe's gaming facility, the Chukchansi Gold Resort and  
19 Casino, because many of the people who would patronize the Chukchansi Gold Resort and Casino  
20 will instead patronize the North Fork Tribe's proposed casino/hotel resort, as a result of the Madera  
21 Parcel's location adjacent to State Route 99. The 2012 Compact would have partially mitigated the  
22 financial harm to the Chukchansi Gold Resort and Casino.

23 **FIRST CLAIM FOR RELIEF**

24 **Declaratory Relief – Ineffectiveness of Gubernatorial Concurrence under IGRA.**

25 49. The Picayune Tribe realleges and incorporates by reference all of the allegations  
26 contained in paragraphs 1-48, inclusive, as though they were fully set forth here.  
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1           50. The Governor’s authority to concur in a favorable Secretarial two-part determination  
2 is incidental to and derivative of his authority to negotiate and conclude tribal-state gaming compacts  
3 pursuant to article IV, section 19(f) of the California Constitution.

4           51. As a derivative power, incidental to his power negotiate and conclude tribal-state  
5 gaming compacts, the Governor’s power to concur in a favorable Secretarial two-part determination  
6 is subject to ratification by the California Legislature, pursuant to article IV, section 19(f) of the  
7 California Constitution.

8           52. The California legislature did not expressly ratify the Governor’s concurrence in the  
9 favorable Secretarial two-part determination regarding the Madera Parcel.

10           53. Because the Governor’s concurrence was never ratified by the California Legislature  
11 it is invalid under California law, and never went into legal effect.

12                               **SECOND CLAIM FOR RELIEF**

13           **Declaratory Relief-Invalidity of Retroactive Ratification of Governor’s Concurrence.**

14           54. The Picayune Tribe realleges and incorporates by reference all of the allegations  
15 contained in paragraphs 1-48, inclusive, as though they were fully set forth here.

16           55. The Governor’s concurrence in the favorable Secretarial two-part determination  
17 relating to the Madera Parcel was tied to the terms of the 2012 Compact and presented as a “package  
18 deal” with the 2012 Compact.

19           56. Article IV, section 19(f) gubernatorial authority exercised pursuant to that article is  
20 not effective unless such action is ratified by the California Legislature.

21           57. On November 4, 2014, the California Legislature passed AB 277, which purported to  
22 ratify the 2012 Compact and therefore everything tied to and packaged with 2012 Compact.

23           58. The Governor has maintained that the California Legislature’s ratification of AB 277  
24 “retroactively” ratified the Governor’s concurrence in the favorable Secretarial two-part  
25 determination regarding the Madera Parcel.  
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1           59. Pursuant to article II, sections 9 and 10, and Article IV, section 8(c)(1) of the  
2 California Constitution, AB 277 did not become immediately effective because it was subject to  
3 referendum.

4           60. On November 20, 2013, the California Secretary of State Bowen certified a  
5 referendum measure on AB 277.

6           61. The qualification of the referendum on AB 277 caused the California Legislature's  
7 purported ratification of the 2012 Compact and everything tied to and packaged with 2012 Compact  
8 to be ineffective until the day after the November 14, 2014, California General Election.

9           62. On November 4, 2014, the California voters rejected AB 277 by a vote of 61%  
10 against and 39% in favor.

11           63. In rejecting AB 277, the California voters rejected the 2012 Compact and everything  
12 tied to and presented as a package deal with the 2012 Compact, including the Governor's  
13 concurrence in the Secretary's favorable two-part determination.

14           64. Because the 2012 Compact and related concurrence were disapproved by referendum,  
15 neither ever became effective.

16   **THIRD CLAIM FOR RELIEF**

17                           **Declaratory Relief – Ineffectiveness of Conditional Concurrence**

18           65. The Picayune Tribe realleges and incorporates by reference all of the allegations  
19 contained in paragraphs 1-48, inclusive, as though they were fully set forth here.

20           66. The Governor's concurrence stated that the Governor was willing to concur in the  
21 favorable Secretarial two-part determination relating to the Madera Parcel because of "several  
22 exceptional circumstances," at least three of which were terms contained in the 2012 Compact.

23           67. The 2012 Compact also states that the Governor was willing to concur in the  
24 Secretary's IGRA determination because the North Fork Tribe was willing to agree to the specific  
25 terms of the 2012 Compact.  
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1 68. The terms of the Governor’s willingness to concur indicate that the Governor would  
2 not have concurred but for those “several exceptional circumstances,” such that the Governor’s  
3 concurrence was conditioned upon the “several exceptional circumstances.”

4 69. Because the 2012 Compact never became effective, at least some of the conditions  
5 upon which the Governor’s concurrence were predicated never occurred. Because the conditions of  
6 the concurrence never occurred, the concurrence never went into effect.

7 **FOURTH CLAIM FOR RELIEF**

8 **Declaratory Relief – Invalidity of Secretarial Determination under IGRA.**

9 70. The Picayune Tribe realleges and incorporates by reference all of the allegations  
10 contained in paragraphs 1-48, inclusive, as though they were fully set forth here.

11 71. On September 1, 2011, Assistant Secretary—Indian Affairs, Larry Echo Hawk issued  
12 a favorable two-part determination regarding the Madera Parcel and requested the Governor’s  
13 concurrence therein.

14 72. Pursuant to 25 C.F.R. section 292.23, the Governor had to affirmatively concur in the  
15 favorable two-part determination for the Madera Parcel within one year of the determination or by  
16 force of law the determination would no longer be valid and effective.

17 73. The Governor was required to effectively concur in the favorable Secretarial two-part  
18 determination on or before August 31, 2012 or the determination became invalid. Because the  
19 Governor’s concurrence was not ratified by the California Legislature, or alternatively because the  
20 California Legislature’s “retroactive” ratification was rejected by the referendum on AB 277, the  
21 concurrence never became effective.

22 74. As a consequence of the concurrence not being effective on August 31, 2012, the  
23 Secretarial two-part determination relating to the Madera Parcel is no longer valid or effective.

24 **FIFTH CLAIM FOR RELIEF**

25 **Declaratory Relief – Indians Land Status under IGRA.**

26 75. The Picayune Tribe realleges and incorporates by reference all of the allegations  
27 contained in paragraphs 1-48, inclusive, as though they were fully set forth here.

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76. Under section 20 of IGRA, Indian tribes are generally prohibited from conducting gaming regulated by IGRA on land acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988. 25 U.S.C. § 2719(a). IGRA provides for certain exceptions to this general rule, one of which is referred to as a Secretarial Determination, or more commonly a “two-part determination.” Under the two-part determination exception, the general prohibition against gaming on after-acquired land does not apply when the Secretary “determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary’s determination.” 25 U.S.C. § 2719(b)(1)(A); *see also* 25 C.F.R. § 292.13.

77. The Governor’s concurrence in a favorable Secretarial two-part determination must be valid under state law.

78. The Governor’s concurrence in the favorable Secretarial two-part test was not valid and never became effective under California Law.

79. Because the Governor’s concurrence was not ratified, as required by California law, on or before, August 31, 2012, under the provisions of 25 C.F.R. section 292.23, the Secretary’s favorable two-part determination expired.

80. Because there is no valid affirmative concurrence, the Madera Parcel does not constitute “Indian lands” under IGRA.

81. Because the Secretary’s favorable two-part determination has expired the Madera Parcel does not constitute “Indian lands” under IGRA.

**SIXTH CLAIM FOR RELIEF**

**Declaratory Relief – Validity of Secretarial Procedures under IGRA.**

82. The Picayune Tribe realleges and incorporates by reference all of the allegations contained in paragraphs 1-48, inclusive, as though they were fully set forth here.

83. IGRA provides that if a state fails to consent within 60 days to a mediator selected compact arising out of court’s finding that the State acted in “bad faith” regarding negotiation a

1 tribal-state compact, the Secretary of Interior “shall prescribe” procedures under which class III  
2 gaming may be conducted on the Indian lands over which an effected Indian tribe has jurisdiction.  
3 25 U.S.C. § 2710(d)(7)(B)(vii)(II).

4 84. Any procedures the Secretary prescribes must be “consistent” with the provisions of  
5 IGRA and “the relevant portions of the laws of the State of California.” 25 U.S.C. §  
6 2710(d)(7)(B)(vii)(I).

7 85. Because the Madera Parcel does not constitute “Indian lands” under IGRA, the  
8 Secretary cannot prescribe procedures regarding the conduct of class III gaming on the Madera  
9 Parcel.

10 86. Because the referendum on AB 277 established that, under California law, the voters  
11 of California declared that the Madera Parcel does not qualify for gaming under the IGRA, the  
12 Secretary cannot prescribe any procedures under which class III gaming can occur on the Madera  
13 Parcel.

14 **SEVENTH CLAIM FOR RELIEF**

15 **Declaratory Relief—Class II Gaming**

16 87. Class II gaming under IGRA includes bingo and card games that are explicitly  
17 authorized, or not explicitly prohibited, by the laws of the State. 25 U.S.C. § 2703(7)(A).

18 88. IGRA regulates the conduct of class II gaming on Indian lands. 25 U.S.C. §§ 10(a)  
19 through (c) and 2710(d)(1).

20 89. Gaming regulated by IGRA is prohibited on lands acquired after October 17, 1988. 25  
21 U.S.C. § 2719(a).

22 90. IGRA provides for certain exceptions to this general rule, one of which is referred to  
23 as a Secretarial Determination, or more commonly a “two-part determination.” Under the two-part  
24 determination exception, the general prohibition against gaming on after-acquired land does not  
25 apply when the Secretary “determines that a gaming establishment on newly acquired lands would  
26 be in the best interest of the Indian tribe and its members, and would not be detrimental to the  
27 surrounding community, but only if the Governor of the State in which the gaming activity is to be  
28



1 conducted concurs in the Secretary’s determination.” 25 U.S.C. § 2719(b)(1)(A); *see also* 25 C.F.R.  
2 § 292.13.

3 91. Because the Governor’s concurrence in the Secretary’s favorable two-part  
4 determination regarding the Madera Parcel was never properly ratified pursuant to California law the  
5 concurrence never went into effect.

6 92. Because the Governor’s concurrence never went into effect the Madera Parcel does  
7 not constitute “Indian lands” under IGRA.

8 93. Because the Governor’s concurrence never went into effect, he did not concur in the  
9 Secretary’s favorable two-part determination regarding the Madera Parcel before August 31, 2012,  
10 causing the favorable two-part determination to expire.

11 94. Because there is no valid Gubernatorial concurrence or favorable two-part  
12 determination, the Madera Parcel may not utilized for the conduct of class II gaming as defined and  
13 regulated by IGRA.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff respectfully requests that this honorable Court grant the following  
16 relief:

17 1. A declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Madera Parcel does  
18 not constitute “Indian Lands” within the meaning of IGRA, 25 U.S.C. § 2703, upon which Indian  
19 gaming may lawfully be conducted;

20 2. A declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Secretarial  
21 Determination concerning the Madera Parcel issued by the Assistant Secretary – Indian Affairs on or  
22 about September 1, 2011, expired by operation of law on or about September 1, 2012, and is not and  
23 has not been valid from and after the date it so expired;

24 3. A declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Governor of California  
25 never affirmatively concurred in the Secretarial Determination concerning the Madera Parcel;  
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4. Injunctive relief prohibiting the Department from taking any action required or authorized or otherwise permitted by or under IGRA based upon, in whole or in part, the Madera Parcel constituting "Indian Lands" under IGRA;

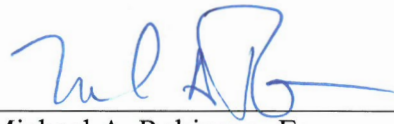
5. Attorneys' fees and costs of suit in accordance with the Equal Access to Justice Act;  
and

6. Such other and further relief as the Court deems just and proper.

Dated: July 1, 2016

Respectfully submitted,

FREDERICKS PEEBLES & MORGAN LLP  
John M. Peebles  
Steven J. Bloxham  
Michael A. Robinson  
Timothy J. Hennessy  
James Qaquadah

By:   
Michael A. Robinson, Esq.

Attorneys for Plaintiff  
Picayune Rancheria of Chukchansi Indians

# **EXHIBIT A**



OFFICE OF THE GOVERNOR

August 30, 2012

Kenneth L. Salazar, Secretary of the Interior  
United States Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Re: Two-Part Determination–North Fork Rancheria Band of Mono Indians

Dear Secretary Salazar:

I concur with your determination to allow 305 acres in Madera County to be placed in trust for the North Fork Rancheria Band of Mono Indians for the purpose of establishing a class III gaming facility. While I am reluctant to allow the expansion of gaming on land currently ineligible for it, I concur in your determination in this case because of several exceptional circumstances:

- The federal administrative process giving rise to your determination was extremely thorough. The process lasted more than seven years, included numerous hearings, considered hundreds of comments, and generated thousands of pages of administrative records.
- A large tribal population will directly benefit from the gaming facility. The North Fork Mono's compact guarantees that revenues from the gaming facility will be shared directly with the Wiyot Tribe, which has agreed to forgo gaming on its own lands – including environmentally sensitive areas. The two tribes are comprised of approximately 2,500 native Californians.
- Other tribes will indirectly benefit from the gaming facility. The North Fork Mono's compact provides assistance to other tribes by requiring substantial contributions to the Revenue Sharing Trust Fund and the Tribal Nation Grant Fund.

GOVERNOR EDMUND G. BROWN JR. • SACRAMENTO, CALIFORNIA 95814 • (916) 445-2841



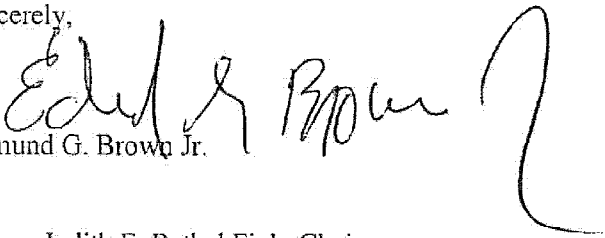
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Kenneth L. Salazar  
August 30, 2012  
Page 2

- The ability of other tribes to benefit from gaming will not be unduly harmed. The North Fork Mono's compact specifically provides mitigation for the only tribe likely to be affected by the gaming facility, the Picayune Rancheria of the Chukchansi.
- The gaming facility is supported by both Madera County and the City of Madera, and the regional gaming market can support the project along with existing gaming facilities.
- The location of the gaming facility will not be within a major metropolitan area.
- The North Fork Mono has a significant historical connection with the land.

I expect there will be few requests from other tribes that will present the same kind of exceptional circumstances to support a similar expansion of tribal gaming land.

Sincerely,

  
Edmund G. Brown Jr.

cc: Judith E. Bethel Fink, Chairwoman  
The North Fork Rancheria Band of Mono Indians  
Donald E. Laverdure, Department of the Interior, Acting Assistant Secretary – Indian  
Affairs  
Bryan Newland, Department of the Interior, Senior Policy Advisor

# **EXHIBIT B**



ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358-2280; or email DMAFR@fws.gov.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358-2104

(telephone); (703) 358-2280 (fax); DMAFR@fws.gov (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 et seq.), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 et seq.), we issued requested permits subject to

certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

Table with 4 columns: Permit No., Applicant, Receipt of application Federal Register notice, Permit issuance date. Rows are categorized under Endangered Species and Marine Mammals.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358-2280.

Brenda Tapia, Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority. [FR Doc. 2013-24541 Filed 10-21-13; 8:45 am] BILLING CODE 4310-55-P

Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100-497, 25 U.S.C. 2701 et seq., the Secretary of the Interior shall publish in the Federal Register notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Compact between the State of California and the North Fork Rancheria of Mono Indians allows for one gaming facility and authorizes the Tribe to operate up to 2,000 gaming devices, any banking or percentage card games, and any devices or games authorized under State law to the State lottery. The Compact, also authorizes limited annual payments to the State for statewide exclusivity. Finally, the term of the compact is until December 31, 2033. The Secretary took no action on the Compact within 45 days of its submission by the Tribe and the State. Therefore, the compact is considered to have been approved, but only to the extent that the Compact is consistent with IGRA. See 25 U.S.C. 2710(d)(8)(C).

Dated: September 30, 2013. Kevin K. Washburn, Assistant Secretary—Indian Affairs. [FR Doc. 2013-24350 Filed 10-21-13; 8:45 am] BILLING CODE 4310-4N-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000813]

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Class III Gaming Compact.

SUMMARY: This notice publishes the approval of an amendment to the Class III Tribal-State Gaming Compact (Amendment), between the Tunica-Biloxi Tribe of Louisiana (Tribe) and the State of Louisiana (State).

DATES: Effective Date: October 22, 2013.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA) Public Law 100-497, 25 U.S.C. 2701 et seq., the Secretary of the Interior shall publish in the Federal Register notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. On August 19, 2013 the Tribe and the State submitted an amendment for review and approval. The Amendment between the State and the Tribe facilitates refinancing of the Tribe's existing gaming-related debt. A presumption of suitability is granted for a Qualified Institutional Buyer as

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000813]

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal-State Class III Gaming Compact taking effect.

SUMMARY: This notice publishes the Class III Gaming Compact between the North Fork Rancheria of Mono Indians and the State of California taking effect.

DATES: Effective Date: October 22, 2013.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant

**TRIBAL-STATE COMPACT**  
**BETWEEN**  
**THE STATE OF CALIFORNIA**  
**AND THE**  
**NORTH FORK RANCHERIA OF MONO INDIANS**  
**OF CALIFORNIA**



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**TRIBAL-STATE COMPACT  
BETWEEN THE STATE OF CALIFORNIA AND THE  
NORTH FORK RANCHERIA OF  
MONO INDIANS OF CALIFORNIA**

The North Fork Rancheria of Mono Indians of California (“Tribe”), a federally recognized Indian tribe listed in the Federal Register as the Northfork Rancheria of Mono Indians of California, and the State of California (“State”) enter into this tribal-state compact pursuant to the Indian Gaming Regulatory Act of 1988 (“IGRA”).

**PREAMBLE**

WHEREAS, the Tribe consists of approximately 1,900 Tribal Citizens; and

WHEREAS, the lands that constitute the North Fork Rancheria are adjacent to the Sierra National Forest, are a forty (40)-minute drive from the southern entrance to Yosemite National Park, and are located in the Sierra foothills in Madera County; and

WHEREAS, the Tribe and the State do not believe that a Gaming Facility should be located in such an environmentally sensitive and scenic area, which includes the presence of threatened species and species of concern; and

WHEREAS, as subsequently set forth herein, the Tribe has agreed to utilize its Gaming Operation to facilitate the decision by another federally recognized Indian tribe in California to forgo gaming on its environmentally sensitive and scenic lands adjacent to the Humboldt Bay National Wildlife Refuge; and

WHEREAS, Section 20(b)(1)(A) of IGRA (25 U.S.C. § 2719(b)(1)(A)) contains a provision allowing a tribe to operate a gaming establishment on lands that are acquired in trust for the benefit of a tribe after IGRA’s effective date if, after consultation with the tribe and appropriate state and local officials, including officials of other nearby tribes, the Secretary of the Department of the Interior (“Secretary”) determines that a gaming establishment would be in the best interests of the tribe and its members and not detrimental to the surrounding community, and the governor of the state concurs in that determination; and



**WHEREAS, to avoid undue impacts of gaming facilities on an area adjacent to the Humboldt Bay National Wildlife Refuge and the area within and surrounding the North Fork Rancheria, and to promote tribal economic development, tribal self-sufficiency, and strong tribal government, the Tribe has requested the Secretary to take into trust for the benefit of the Tribe a separate parcel of land located in an unincorporated area of Madera County ("305-Acre Parcel") and to determine that the 305-Acre Parcel, once in trust, is eligible for gaming pursuant to Section 20(b)(1)(A) of IGRA; and**

**WHEREAS, on September 1, 2011, the Secretary issued a favorable determination pursuant to Section 20(b)(1)(A) of IGRA, and requested the Governor of California ("Governor") to concur in his determination; and**

**WHEREAS, the Secretary determined that gaming on the 305-Acre Parcel would be in the best interest of the Tribe and would not be detrimental to the surrounding community or to neighboring tribes, including the Picayune Rancheria of Chukchansi Indians ("Chukchansi Indian Tribe"); and**

**WHEREAS, the Secretary also determined that the Tribe has a significant historical connection to the 305-Acre Parcel; and**

**WHEREAS, the Secretary further determined that the 305-Acre Parcel is located close enough to the Tribe's existing community and governmental headquarters to benefit Tribal Citizens, correct past federal Indian policies, and allow the Tribe to properly exercise governmental power over the 305-Acre Parcel; and**

**WHEREAS, although the Secretary has determined that gaming by the Tribe on the 305-Acre Parcel would not be detrimental to the Chukchansi Indian Tribe, the State and the Tribe are concerned about the potential economic impact of the Tribe's proposed Gaming Facility on the Chukchansi Indian Tribe's gaming facility, and, therefore, the Tribe has agreed to minimize the potential competitive impacts from its Gaming Facility on the Chukchansi Indian Tribe by sharing a portion of the Tribe's revenue from Gaming Devices with the Chukchansi Indian Tribe to the extent necessary to ensure that the Chukchansi Indian Tribe can meaningfully benefit from tribal gaming so as to meet the basic needs of its tribal citizens; and**

**WHEREAS, the Tribe has agreed to deposit a portion of its revenue from the Gaming Devices operated at its Gaming Facility into a revenue sharing trust fund created for the benefit of the Wiyot Tribe, formerly known as the Table Bluff**

Reservation - Wiyot Tribe, California, to assist the Wiyot Tribe in meaningfully benefiting from tribal gaming so as to meet the basic needs of its tribal citizens in light of its decision to forgo gaming on its own environmentally sensitive lands; and

WHEREAS, the Board of Supervisors of Madera County and the affected local community have expressed support for the Tribe's proposed Gaming Facility to be located on the 305-Acre Parcel; and

WHEREAS, the Tribe and the State share an interest in mitigating any impacts of the operation of the Gaming Facility on the surrounding community outside the 305-Acre Parcel and in subjecting the construction and operation of the Gaming Facility to a complete environmental review; and

WHEREAS, the Bureau of Indian Affairs has prepared an environmental impact statement with respect to the construction and operation of the proposed Gaming Facility on the 305-Acre Parcel pursuant to the National Environmental Policy Act; and

WHEREAS, in August 2004, the Tribe entered into an enforceable and binding agreement with Madera County to address impacts of the Tribe's Gaming Facility as a precondition to developing its Gaming Facility; and

WHEREAS, in October 2006, the Tribe entered into an enforceable and binding agreement with the City of Madera to address impacts of the Tribe's Gaming Facility on the City; and

WHEREAS, in December 2006, the Tribe entered into an enforceable and binding agreement with the Madera Irrigation District to address impacts of the Tribe's Gaming Facility on groundwater; and

WHEREAS, in April 2008, the State and the Tribe executed a tribal-state gaming compact but agreed to wait for the Legislature to consider ratification of that compact until the Secretary made a final determination to take the 305-Acre Parcel into trust for the benefit of the Tribe; and

WHEREAS, in light of the Tribe's willingness to locate its Gaming Facility on the 305-Acre Parcel instead of an environmentally sensitive area, to make revenue sharing payments to the Wiyot Tribe to facilitate that tribe's sovereign agreement with the State to forgo gaming on environmentally sensitive land, to make revenue

sharing payments to the Chukchansi Indian Tribe to mitigate potential competitive impacts on that tribe, and to mitigate project impacts on the local community and environment, and in light of the County's support for the proposed Gaming Facility and the other covenants of this Compact, the Governor will concur in the favorable determination by the Secretary that the Gaming Facility would be in the best interests of the Tribe and its citizens and not detrimental to the surrounding community; and

WHEREAS, in consideration of the exclusive rights enjoyed by the Tribe to engage in certain Gaming Activities and to operate the number of Gaming Devices specified herein, the Governor's decision to concur in the favorable Secretarial determination, and the other meaningful concessions offered by the State in good faith negotiations, the Tribe has agreed, inter alia, to provide to the State, on a sovereign-to-sovereign basis, a portion of the Tribe's revenues from Gaming Devices operated pursuant to this Compact, for reimbursement of the State's costs of performing its duties under this Compact, for payments to Non-Gaming Tribes and Limited-Gaming Tribes, and for payments to mitigate potential impacts of the Gaming Facility on the local community; and

WHEREAS, in recognition of the Tribe's investment, including the significant accrued interest on predevelopment costs incurred so that the Tribe can commence Gaming Activities, and in exchange for significant economic benefits to surrounding communities during the construction of the Gaming Facility, and in consideration of the significant number of Tribal Citizens who will benefit from the Gaming Facility, in addition to members of the Wiyot Tribe and the Chukchansi Indian Tribe, the State has agreed to reduce the amount of revenues the Tribe would otherwise pay under this Compact for a time certain immediately following the commencement of Gaming Activities; and

WHEREAS, the parties acknowledge that if the Tribe were required to pay a larger share of its revenues from the Gaming Devices following the commencement of Gaming Activities, then the positive impact of the Tribe's investment would not be fully realized under this Compact, the Tribe would not materially benefit from this Compact, and the Gaming Facility itself would not be economically viable; and

WHEREAS, the parties believe that the Tribe's revenue contribution to the State is fair in light of the need for the Tribe to retain sufficient revenues in the initial years of its Gaming Activities to promote strong tribal government and self-sufficiency, provide services for its approximately 1,900 Tribal Citizens, assist the Wiyot Tribe's approximately 600 members, and assist the Chukchansi Indian Tribe, and

significantly reduce the debt incurred in the pre-development phase of its Gaming Facility as a result of the Tribe's efforts to address local concerns; and

WHEREAS, should the Gaming Facility's financial performance far exceed reasonable projections, such that the lower revenue payments in the initial years of this Compact are not necessary to ensure that the Tribe can meaningfully benefit from its Gaming Facility, and if after that initial period the Gaming Facility's financial performance far exceeds reasonable projections, the Tribe, in furtherance of the Tribe's and the State's goal to ensure that all California tribes benefit from tribal gaming, has agreed to make additional payments to the State for revenue sharing with Non-Gaming Tribes and Limited-Gaming Tribes;

WHEREAS, the Tribe and the State share an interest in mitigating the impacts of the Gaming Facility to the area within and surrounding the 305-Acre Parcel, affording meaningful patron and employee protections in connection with the operations of the Gaming Activities and Gaming Facility, fairly regulating the Gaming Activities conducted at the Gaming Facility, and fostering a good neighbor relationship; and

WHEREAS, the Tribe and the State share a joint sovereign interest in ensuring that tribal Gaming Activities are free from criminal and other undesirable elements; and

WHEREAS, this Compact will afford the Tribe primary responsibility over the regulation of its Gaming Facility and will enhance tribal economic development and self-sufficiency; and

WHEREAS, the State and the Tribe have therefore concluded that this Compact protects the interests of the Tribe and its members, the surrounding community, and the California public, and will promote and secure long-term stability, mutual respect, and mutual benefits; and

WHEREAS, the State and the Tribe agree that all terms of this Compact are intended to be binding and enforceable;

NOW, THEREFORE, the Tribe and the State agree as set forth herein:

**SECTION 1.0. PURPOSES AND OBJECTIVES.**

The terms of this Compact are designed to:

- (a) Foster a mutually respectful government-to-government relationship that will serve the mutual interests of the parties.
- (b) Develop and implement a means of regulating the Class III Gaming to ensure its fair and honest operation in a way that protects the interests of the Tribe, the State, its citizens, and local communities in accordance with IGRA, and through that regulated Class III Gaming, enable the Tribe to develop self-sufficiency, promote tribal economic development, and generate jobs and revenues to support the Tribe's government and its governmental services and programs.
- (c) Promote practices designed to ensure the integrity of Class III Gaming, through the licensing and control of persons and entities employed in, or providing goods and services to, the Gaming Operation, protect against the presence or participation of persons whose criminal backgrounds, reputations, character, or associations make them unsuitable for participation in gaming, thereby maintaining a high level of integrity in tribal government gaming, and protect the patrons and employees of the Gaming Operation and the local communities.
- (d) Achieve the objectives set forth in the preamble.

**SECTION 2.0. DEFINITIONS.**

**Sec. 2.1.** "Applicable Codes" means the California Building Code and the California Public Safety Code applicable to the County, as set forth in Titles 19 and 24 of the California Code of Regulations, as those regulations may be amended during the term of this Compact, including, but not limited to, codes for building, electrical, energy, mechanical, plumbing, fire and safety.

**Sec. 2.2.** "Applicant" means an individual or entity that applies for a tribal gaming license or for a State Gaming Agency determination of suitability.

**Sec. 2.3.** “Chukchansi Indian Tribe” means the Picayune Rancheria of Chukchansi Indians, a federally recognized Indian tribe listed in the Federal Register as the Picayune Rancheria of Chukchansi Indians of California.

**Sec. 2.4.** “City” means the City of Madera, California.

**Sec. 2.5.** “City MOU” means the Memorandum of Understanding entered into between the Tribe and the City on October 18, 2006. City MOU, as defined herein, does not include any amendment to that agreement; provided that nothing herein is intended to limit the ability of the City and the Tribe to amend the City MOU.

**Sec. 2.6.** “Class III Gaming” means the forms of class III gaming defined in 25 U.S.C. § 2703(8) and by the regulations of the NIGC.

**Sec. 2.7.** “Commission” means the California Gambling Control Commission, or any successor agency of the State.

**Sec. 2.8.** “Compact” means this compact.

**Sec. 2.9.** “County” means the County of Madera, California, a political subdivision of the State.

**Sec. 2.10.** “County MOU” means the Memorandum of Understanding entered into between the Tribe and the County on August 16, 2004. County MOU, as defined herein, does not include any amendment to that agreement; provided that nothing herein is intended to limit the ability of the County and the Tribe to amend the County MOU.

**Sec. 2.11.** “Financial Source” means any person or entity who, directly or indirectly, extends financing to the Gaming Facility or Gaming Operation.

**Sec. 2.12.** “Gaming Activity” or “Gaming Activities” means the Class III Gaming activities authorized under this Compact in section 3.1.

**Sec. 2.13.** “Gaming Device” means any slot machine within the meaning of article IV, section 19, subdivision (f) of the California Constitution. For purposes of calculating the number of Gaming Devices, each player station or terminal on which a game is played constitutes a separate Gaming Device, irrespective of whether it is part of an interconnected system to such terminals or stations.

“Gaming Device” includes, but is not limited to, video poker, but does not include electronic, computer, or other technological aids that qualify as class II gaming (as defined under IGRA).

**Sec. 2.14.** “Gaming Employee” means any natural person who (a) conducts, operates, maintains, repairs, accounts for, or assists in any Gaming Activities, or is in any way responsible for supervising such Gaming Activities or persons who conduct, operate, maintain, repair, account for, assist, or supervise any such Gaming Activities, (b) is in a category under federal or tribal gaming law requiring licensing, (c) is an employee of the Tribal Gaming Agency with access to confidential information, or (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility in which Gaming Activities are conducted that are not open to the public.

**Sec. 2.15.** “Gaming Facility” or “Facility” means any building in which Gaming Activities or any Gaming Operations occur, or in which the business records, receipts, or funds of the Gaming Operation are maintained (excluding offsite facilities dedicated to storage of those records and financial institutions), and all rooms, buildings, and areas, including hotels, parking lots, and walkways, a principal purpose of which is to serve the activities of the Gaming Operation rather than providing that operation with an incidental benefit.

**Sec. 2.16.** “Gaming Operation” means the business enterprise that offers and operates Gaming Activities, whether exclusively or otherwise.

**Sec. 2.17.** “Gaming Ordinance” means a tribal ordinance or resolution duly authorizing the conduct of Gaming Activities on the Tribe’s Indian lands in California and approved under IGRA.

**Sec. 2.18.** “Gaming Resources” means any goods or services provided or used in connection with Gaming Activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, Gaming Devices and ancillary equipment, implements of Gaming Activities such as playing cards, furniture designed primarily for Gaming Activities, maintenance or security equipment and services, and Class III Gaming consulting services. “Gaming Resources” does not include professional accounting or legal services.

**Sec. 2.19.** “Gaming Resource Supplier” means any person or entity who, directly or indirectly, does, or is deemed likely to, manufacture, distribute, supply, vend, lease, purvey, or otherwise provide, to the Gaming Operation or Facility at

least twenty-five thousand dollars (\$25,000) in Gaming Resources in any twelve (12)-month period, or who, directly or indirectly, receives, or is deemed likely to receive, in connection with the Gaming Operation or Facility, at least twenty-five thousand dollars (\$25,000) in any consecutive twelve (12)-month period, provided that the Tribal Gaming Agency may exclude a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, Gaming Activities, if, but for the purveyance, the purveyor is not otherwise a Gaming Resource Supplier, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gaming Operation.

**Sec. 2.20.** "IGRA" means the Indian Gaming Regulatory Act of 1988 (P.L. 100-497, 18 U.S.C. § 1166 et seq. and 25 U.S.C. § 2701 et seq.), and any amendments thereto, as interpreted by all regulations promulgated thereunder.

**Sec. 2.21.** "Interested Persons" means (a) all local, state, and federal agencies, which, if a Project were not taking place on Indian lands, would have responsibility for approving the Project or would exercise authority over the natural resources that may be affected by the Project, (b) any city with a nexus to the Project, and (c) persons, groups, or agencies that request in writing a notice of preparation of a draft tribal environmental impact report described in section 11.0, or have commented on the Project in writing to the Tribe or the County.

**Sec. 2.22.** "Irrigation District" means the Madera Irrigation District.

**Sec. 2.23.** "Irrigation District MOU" means the Memorandum of Understanding entered into between the Tribe and the Irrigation District on December 19, 2006. Irrigation District MOU, as defined herein, does not include any amendment to that agreement; provided that nothing herein is intended to limit the ability of the Irrigation District and the Tribe to amend the Irrigation District MOU.

**Sec. 2.24.** "Management Contractor" means any Gaming Resource Supplier with whom the Tribe has contracted for the management of any Gaming Activity or Gaming Facility, including, but not limited to, any person who would be regarded as a management contractor under IGRA.

**Sec. 2.25.** "Net Win" means drop, plus the redemption value of expired tickets, less fills, less payouts, less that portion of the Gaming Operation's



payments to a third-party wide-area progressive jackpot system provider that is contributed only to the progressive jackpot amount.

**Sec. 2.26.** “NIGC” means the National Indian Gaming Commission.

**Sec. 2.27.** “Project” means any activity occurring on Indian lands, a principal purpose of which is to serve the Gaming Activities or Gaming Operation, and which may cause either a direct physical change in the off-reservation environment, or a reasonably foreseeable indirect physical change in the off-reservation environment. This definition shall be understood to include, but not be limited to, the addition of Gaming Devices within an existing Gaming Facility, the impacts of which have not previously been addressed in a tribal environmental impact report described in section 11.0, and construction or planned expansion of any Gaming Facility and related improvement thereto, a principal purpose of which is to serve the Gaming Facility rather than provide that facility with an incidental benefit, as long as such construction or expansion causes a potentially significant direct or indirect physical change in the off-reservation environment. For purposes of this definition, section 11.0, and Appendix B, “reservation” refers to the Tribe’s Indian lands within the meaning of IGRA or lands otherwise held in trust for the Tribe by the United States.

**Sec. 2.28.** “Significant Effect(s) on the Off-Reservation Environment” is the same as “Significant Effect(s) on the Environment” and occur(s) if any of the following conditions exist:

- (a) A proposed Project has the potential to degrade the quality of the off-reservation environment, curtail the range of the environment, or achieve short-term, to the disadvantage of long-term, environmental goals.
- (b) The possible effects of a Project on the off-reservation environment are individually limited but cumulatively considerable. As used herein, “cumulatively considerable” means that the incremental effects of an individual Project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
- (c) The off-reservation environmental effects of a Project will cause substantial adverse effects on human beings, either directly or indirectly.

For purposes of this definition, “reservation” refers to the Tribe’s Indian lands within the meaning of IGRA or lands otherwise held in trust for the Tribe by the United States.

**Sec. 2.29.** “State” means the State of California or an authorized official or agency thereof designated by this Compact or by the Governor.

**Sec. 2.30.** “State Gaming Agency” means the entities authorized to investigate, approve, regulate and license gaming pursuant to the Gambling Control Act (Chapter 5 (commencing with section 19800) of Division 8 of the California Business and Professions Code), or any successor statutory scheme, and any entity or entities in which that authority may hereafter be vested.

**Sec. 2.31.** “State Designated Agency” means the entity or entities designated or to be designated by the Governor to exercise rights and fulfill responsibilities established by this Compact.

**Sec. 2.32.** “Tribe” means the North Fork Rancheria of Mono Indians of California, a federally recognized Indian tribe listed in the Federal Register as the Northfork Rancheria of Mono Indians of California, or an authorized official or agency thereof.

**Sec. 2.33.** “Tribal Chairperson” means the person duly elected under the Tribe’s constitution to perform the duties specified therein, including serving as the Tribe’s official representative.

**Sec. 2.34.** “Tribal Gaming Agency” means the person, agency, board, committee, commission, or council designated under tribal law, including, but not limited to, an intertribal gaming regulatory agency approved to fulfill those functions by the NIGC, primarily responsible for carrying out the Tribe’s regulatory responsibilities under IGRA and the Tribal Gaming Ordinance. No person employed in, or in connection with, the management, supervision, or conduct of any Gaming Activity may be a member or employee of the Tribal Gaming Agency.

**Sec. 2.35.** “Tribal Member” is the same as “Tribal Citizen” and means a person certified by the Tribe as being enrolled as a member pursuant to criteria and standards specified in the Constitution of the North Fork Rancheria, adopted by the Tribe on May 18, 1996, and any amendments thereto.

**Sec. 2.36.** “Wiyot Tribe” means the Wiyot Tribe, a federally recognized Indian tribe listed in the Federal Register as the Wiyot Tribe, California (previously listed as the Table Bluff Reservation – Wiyot Tribe).

**Sec. 2.37.** “305-Acre Parcel” means the approximately three hundred five (305) acres of land in Madera County, California, together with all buildings, structures, parking areas, and other improvements thereon, as legally described in, and represented on the map at Appendix A hereto, or any lesser portion of said parcel that the Tribe has requested the Secretary to take into trust for the benefit of the Tribe pursuant to the Indian Reorganization Act (25 U.S.C. § 465) and determined to be eligible for gaming pursuant to Section 20(b)(1)(A) of IGRA (25 U.S.C. § 2719(b)(1)(A)).

### **SECTION 3.0. SCOPE OF CLASS III GAMING AUTHORIZED.**

#### **Sec. 3.1. Authorized Class III Gaming.**

- (a) The Tribe is hereby authorized to operate only the following Gaming Activities under the terms and conditions set forth in this Compact:
  - (1) Gaming Devices.
  - (2) Any banking or percentage card games.
  - (3) Any devices or games that are authorized under state law to the California State Lottery, provided that the Tribe will not offer such games through use of the Internet unless others in the State are permitted to do so under state and federal law.
- (b) Nothing herein shall be construed to preclude the Tribe from offering class II gaming or preclude the negotiation of a separate compact governing the conduct of off-track wagering at the Tribe’s Gaming Facility.
- (c) Nothing herein shall be construed to authorize the operation of the game known as roulette, whether or not played with or on a mechanical, electro-mechanical, electrical, or video device, or cards, or any combination of such devices, or the operation of any game that incorporates the physical use of a die or dice.

- (d) The Tribe shall not engage in Class III Gaming that is not expressly authorized in this section and section 4.1.

**SECTION 4.0. AUTHORIZED LOCATION OF GAMING FACILITY, NUMBER OF GAMING DEVICES, COST REIMBURSEMENT, MITIGATION, AND EXCLUSIVITY.**

**Sec. 4.1. Authorized Number of Gaming Devices.** The Tribe is entitled to operate up to a total of two thousand (2,000) Gaming Devices pursuant to the conditions set forth in section 3.1 and sections 4.2 through and including section 5.2; provided, however, that in the event the State authorizes another federally recognized Indian tribe to operate in excess of two thousand (2,000) Gaming Devices at any location within a sixty (60)-mile radius of the 305-Acre Parcel, the Tribe shall be entitled to operate up to the same number of Gaming Devices as such other federally recognized Indian tribe is authorized to operate.

**Sec. 4.2. Authorized Gaming Facility.** The Tribe may engage in Class III Gaming only on eligible Indian lands held in trust for the Tribe, at a single Gaming Facility located within the boundaries of the 305-Acre Parcel. The Tribe agrees not to engage in any Gaming Activities anywhere else in California.

**Sec. 4.3. Special Distribution Fund.** The Tribe shall pay to the State on a pro rata basis the actual and reasonable 25 U.S.C. § 2710(d)(3)(C) costs the State incurs for the performance of all its duties under this Compact, as established by the monies appropriated in the annual Budget Act for the performance of their duties under the Class III Gaming compacts each fiscal year for the California Gambling Control Commission, the California Department of Justice, the Office of the Governor and the California Department of Alcohol and Drug Programs, Office of Problem Gambling, or any agency or agencies the State designates as a successor to them ("Costs"). The Costs and the total number of Gaming Devices operated by all federally recognized tribes in California pursuant to tribal-state Class III Gaming compacts determined to be in operation during the previous State fiscal year shall be reported annually by the State Gaming Agency to the Tribe on December 15. The Tribe's pro rata share of the State's Costs in any given year this Compact is in effect shall be calculated by the following equation:

The maximum number of Gaming Devices operated in the Gaming Facility for the previous fiscal year as determined by the State Gaming Agency, divided by the maximum number of Gaming

Devices operated by all federally recognized tribes in California pursuant to tribal-state Class III Gaming compacts during the previous fiscal year, multiplied by Costs, equals the Tribe's pro rata share.

- (a) Beginning the first full quarter after the Compact becomes effective, the Tribe shall pay its pro rata share into the Special Distribution Fund. The payment shall be made in four (4) equal quarterly installments at the end of each calendar quarter; provided, however, that in the event this Compact becomes effective during a calendar quarter, payment shall be prorated for the number of days remaining in that initial quarter, in addition to any remaining full quarters to obtain a full year of full quarterly payments of the Tribe's pro rata share specified above. A payment year will run from January through December.
- (b) If the Tribe objects to the State's determination of Costs, the matter shall be resolved in accordance with the dispute resolution provisions of section 13.0. Any Costs determination challenged by the Tribe shall govern pending conclusion of the dispute resolution process.
- (c) The foregoing payments have been negotiated between the parties as a fair contribution, based upon the State's costs of regulating and mitigating certain impacts of tribal Class III Gaming Activities, as well as the Tribe's market conditions, its circumstances, and the rights afforded under this Compact.

**Sec. 4.3.1. Use of Special Distribution Funds.** Revenue placed in the Special Distribution Fund shall be available for appropriation by the Legislature for the following purposes:

- (a) Grants, including any administrative costs, for programs designed to address gambling addiction;
- (b) Grants, including any administrative costs and environmental review costs, for the support of State and local government agencies impacted by tribal government gaming;
- (c) Compensation for regulatory costs incurred by the State Gaming

Agency and the State Department of Justice in connection with the implementation and administration of this Compact; and

- (d) Any other purposes specified by the Legislature that are consistent with IGRA.

**Sec. 4.4. Gaming Facility Mitigation.**

Before the commencement of a Project, the Tribe shall follow those procedures, and enter into those agreements, required pursuant to section 11.0, to mitigate Significant Effects on the Off-Reservation Environment that any tribal environmental impact report described in section 11.0 identifies may occur as a result of the Gaming Facility. In addition, the Tribe shall enter into agreements with the City, the County, the Irrigation District, and the California Department of Transportation for such undertakings and services that mitigate the impacts of the Gaming Facility and thereby benefit the Gaming Facility, the Tribe, the City, the County, the Irrigation District, other affected jurisdictions, and the California Department of Transportation upon terms satisfactory to the Governor.

**Sec. 4.5. Mitigation to Chukchansi Indian Tribe.**

- (a) To mitigate the potential economic impact of the Tribe's proposed Gaming Facility on the Chukchansi Indian Tribe's gaming facility, the Tribe agrees to refrain from operating or permitting the operation of a hotel on the 305-Acre Parcel until on or after July 1, 2018.
- (b) Commencing upon the date the Tribe secures and closes financing from third-party lenders (parties other than affiliates of the Management Contractor) to fund the construction and initial operation of the Gaming Facility, the Tribe shall be obligated to pay to the State Gaming Agency an amount equal to the quarterly payments made by the Chukchansi Indian Tribe to the Revenue Sharing Trust Fund, pursuant to sections 4.3.2, 4.3.2.1, and 4.3.2.2 of the Tribal-State Gaming Compact Between the Chuckchansi Indians and the State of California, dated September 10, 1999, but in any event, not to exceed seven hundred sixty-eight thousand seven hundred-fifty dollars (\$768,750) per quarter; provided, however, that in the event this payment obligation begins during a calendar quarter, payment shall be prorated for the number of days remaining in that initial quarter.

Within ten (10) days of receiving the quarterly Revenue Sharing Trust Fund payment from the Chukchansi Indian Tribe, the State Gaming Agency shall provide written notification to the Tribe of the amount due under this subdivision. Within twenty (20) days of receiving the written notice from the State Gaming Agency, the Tribe shall pay to the State Gaming Agency for deposit into the Special Distribution Fund the full amount due under this subdivision. Within forty-five (45) days of receiving payment from the Tribe, the State Gaming Agency shall pay from the Special Distribution Fund to the Chukchansi Indian Tribe the full amount received from the Tribe pursuant to this subdivision.

- (c) Upon the commencement of Gaming Activities pursuant to this Compact, but in no event later than January 1, 2016, the Tribe's and the State Gaming Agency's obligations under subdivision (b) shall terminate, and thereafter the Tribe shall pay to the State Gaming Agency for deposit into the Special Distribution Fund a percentage of the Tribe's Net Win for all Gaming Devices operated in the Gaming Facility according to the following schedule:

<u>Annual Net Win of Gaming Devices</u>	<u>Percentage of Net Win of Gaming Devices Paid to the State Gaming Agency</u>
\$0-\$100 million	2.5%
Over \$100 million to \$200 million	3%
Over \$200 million	3.5%

The Tribe shall remit the payments required by this subdivision to the State Gaming Agency in quarterly payments, to be paid in accordance with section 4.8; provided, however, that in the event the Tribe commences Gaming Activities during a calendar quarter, payment shall be prorated for the number of days remaining in that quarter. Within forty-five (45) days of receiving payment from the Tribe pursuant to this subdivision, the State Gaming Agency shall pay from the Special Distribution Fund to the Chukchansi Indian Tribe the full amount received from the Tribe pursuant to this subdivision.

- (d) The State Gaming Agency's obligation to make the payments to the Chukchansi Indian Tribe pursuant to this section shall be limited to

the amount actually received from the Tribe and the State has no additional obligations beyond those of the State Gaming Agency as stated in this section. In no event shall the State's general fund or Special Distribution Fund be obligated to make up any shortfall in any payments to the Chukchansi Indian Tribe or to pay any unpaid claims connected therewith.

- (e) If any portion of the payment under subdivisions (b) or (c) is overdue after the State Gaming Agency has provided written notice to the Tribe of the overdue amount with an opportunity to cure of at least fifteen (15) business days, and if more than sixty (60) calendar days have passed from the due date, then the Tribe shall cease operating all of its Gaming Devices until full payment is made. Failure to make timely payment as required by this section shall be deemed a material breach of this Compact.
  
- (f) The Tribe's and the State Gaming Agency's obligations under this section shall terminate on June 30, 2020; provided, however, that the State shall terminate the Tribe's and the State's obligations under this section sooner if the Chukchansi Indian Tribe (i) pursues in any way, or finances, in whole or in part, directly or indirectly, any lobbying, administrative, legal, judicial or other challenge to the Secretary's decision to accept the 305-Acre Parcel in trust for the Tribe, the California Legislature's ratification of this Compact, or the Secretary's approval of this Compact; (ii) utilizes the payments received from the State Gaming Agency pursuant to subdivisions (b) or (c) for any purpose other than furthering its ability to meaningfully benefit from its gaming activities so as to meet the basic needs of its tribal citizens, to be determined in the Governor's sole discretion; (iii) fails to demonstrate to the Governor the need for these payments such that they are necessary for the Chukchansi Indian Tribe's ability to meaningfully benefit from its gaming activities so as to meet the basic needs of its tribal citizens, to be determined in the Governor's sole discretion; or (iv) fails to provide to the Governor materials necessary for the Governor to determine, in the Governor's sole discretion, whether the Chukchansi Indian Tribe is in compliance with the conditions in (i) through (iii) herein. Notice of the State's decision to terminate the Tribe's obligations under this section before June 30, 2020, must be provided to the Tribe by the Governor in writing before the Tribe is relieved of its obligations under this section. In the event



the Tribe's payment obligations under this section cease or are terminated during a calendar quarter, payment shall be prorated for the number of days remaining in that final quarter.

- (g) The foregoing payments have been negotiated between the Tribe and the State as a fair contribution, based upon the Tribe's market conditions, its circumstances, and the rights afforded under this Compact.

**Sec. 4.6. Revenue Contributions.** Subject to the provisions of sections 4.3, 4.4, 4.5, 4.7, 4.7.1, and 4.8, the Tribe shall pay quarterly to the State Gaming Agency for deposit into the Revenue Sharing Trust Fund or the Tribal Nation Grant Fund, as defined in section 5.1, in accordance with the following schedule:

- (a) During Year One (constituting the first four (4) quarters in which Gaming Activities occur), ten percent (10%) of Net Win from all Gaming Devices operated in the Gaming Facility.
- (b) During Year Two (constituting the second four (4) quarters in which Gaming Activities occur), eleven percent (11%) of Net Win from all Gaming Devices operated in the Gaming Facility.
- (c) During Year Three (constituting the third four (4) quarters in which Gaming Activities occur), twelve percent (12%) of Net Win from all Gaming Devices operated in the Gaming Facility.
- (d) During Year Four (constituting the fourth four (4) quarters in which Gaming Activities occur), thirteen percent (13%) of Net Win from all Gaming Devices operated in the Gaming Facility.
- (e) During Year Five (constituting the fifth four (4) quarters in which Gaming Activities occur), fourteen percent (14%) of Net Win from all Gaming Devices operated in the Gaming Facility.
- (f) From Year Six (constituting the sixth four (4) quarters in which Gaming Activities occur), through the expiration of this Compact, fifteen percent (15%) of Net Win from all Gaming Devices operated in the Gaming Facility.

The foregoing payments have been negotiated between the parties as a fair contribution, based upon the Tribe's market conditions, its circumstances, and the rights afforded under this Compact.

**Sec. 4.7. Payment Terms.** The Tribe shall, prior to making payments to the State Gaming Agency pursuant to section 4.6, deduct payments the Tribe makes for the same calendar quarter to the following:

- (a) The State Gaming Agency for deposit into the Special Distribution Fund pursuant to section 4.3;
- (b) The State Gaming Agency for deposit into the Wiyot Tribe Trust Fund, as defined in section 5.1, subdivision (e), pursuant to section 5.2, subdivision (a); provided, however, that if the State's compact with the Wiyot Tribe is terminated, invalidated, expires, or does not go into effect by its terms, the Tribe shall not deduct the payments described in this subdivision;
- (c) The State Gaming Agency for reimbursement to the Chukchansi Indian Tribe pursuant to section 4.5;
- (d) The County pursuant to the County MOU, up to a total of four million thirty-five thousand dollars (\$4,035,000) for Year One, as defined in section 4.6, subdivision (a); provided, however, that in the event the Tribe commences Gaming Activities during a calendar quarter, this deduction shall be prorated for the number of days remaining in that initial quarter, in addition to any remaining full quarters to obtain a full year of the maximum deduction allowed in Year One as specified herein. From Year Two, as defined in section 4.6, subdivision (b), through the expiration of this Compact, the maximum annual deduction allowed under this subdivision shall be equal to the amount of the Tribe's recurring mitigation contributions to the County adjusted by the consumer price index, as set forth in the County MOU;
- (e) The City pursuant to the City MOU, up to a total of eight hundred twenty-five thousand dollars (\$825,000) for Year One, as defined in section 4.6, subdivision (a); provided, however, that in the event the Tribe commences Gaming Activities during a calendar quarter, this deduction shall be prorated for the number of days remaining in that

initial quarter, in addition to any remaining full quarters to obtain a full year of the maximum deduction allowed in Year One as specified herein. From Year Two, as defined in section 4.6, subdivision (b), through the expiration of this Compact, the maximum annual deduction allowed under this subdivision shall be equal to the amount of the Tribe's recurring mitigation contributions to the City adjusted by the consumer price index, as set forth in the City MOU;

- (f) The Irrigation District pursuant to the Irrigation District MOU, up to a total of forty-seven thousand five hundred dollars (\$47,500) for Year One, as defined in section 4.6, subdivision (a); provided, however, that in the event the Tribe commences Gaming Activities during a calendar quarter, this deduction shall be prorated for the number of days remaining in that initial quarter, in addition to any remaining full quarters to obtain a full year of the maximum deduction allowed in Year One as specified herein. From Year Two, as defined in section 4.6, subdivision (b), through the expiration of this Compact, the maximum annual deduction allowed under this subdivision shall be equal to the amount of the Tribe's recurring mitigation contributions to the Irrigation District adjusted by the consumer price index, as set forth in the Irrigation District MOU; and
- (g) The California Department of Transportation pursuant to an intergovernmental agreement with the Tribe, up to a total of one-million, four hundred thousand (\$1,400,000) for Year One, as defined in section 4.6, subdivision (a); provided, however, that in the event the Tribe commences Gaming Activities during a calendar quarter, this deduction shall be prorated for the number of days remaining in that initial quarter, in addition to any remaining full quarters to obtain a full year of the maximum deduction allowed in Year One as specified herein. From Year Two, as defined in section 4.6, subdivision (b), until such time as the Tribe's payment obligations pursuant to the intergovernmental agreement are fully deducted, the maximum annual deduction allowed under this subdivision shall not exceed two percent (2%) of Net Win from all Gaming Devices operated in the Gaming Facility; provided, however, that no further deductions under this subdivision shall occur after Year Four, as defined in section 4.6, subdivision (e); and

- (h) From Year Six, as defined in section 4.6, subdivision (f), through the expiration of this Compact, the Tribe may deduct annually up to two percent (2%) of Net Win from all Gaming Devices operated in the Gaming Facility for mitigation required by section 11.0 that is not otherwise funded through the County MOU, the City MOU, the Irrigation District MOU, or an intergovernmental agreement with the California Department of Transportation or, in the exercise of its sovereignty, for contributions to local non-tribal governments or their political subdivisions that are not covered by section 11.0 and are located within twenty-five (25) miles of the Gaming Facility, for the following purposes: law enforcement, fire services, emergency medical services, environmental impacts, water supplies, waste disposal, behavioral health, planning and adjacent land uses, public health, roads, recreation and youth programs, and child care programs.

**Sec. 4.7.1. Limitations on Payment Terms.**

If the deductions allowed by section 4.7 during a quarter exceed the Tribe's quarterly payment obligation pursuant to section 4.6, the Tribe shall pay nothing pursuant to section 4.6 for that quarter. Any deductions allowed by section 4.7 that are not used in a quarter may be carried forward to the next quarter within the same State fiscal year, but in no event shall such quarterly deductions be carried forward to the next State fiscal year for application to future section 4.6 payments.

**Sec. 4.8. Quarterly Payments.**

- (a) (1) The Tribe shall remit quarterly to the State Gaming Agency (i) the payments described in section 4.3, for deposit into the Special Distribution Fund, (ii) the payments described in section 4.5, for deposit into the Special Distribution Fund, (iii) the payments described in section 4.6, for deposit into the Revenue Sharing Trust Fund or the Tribal Nation Grant Fund, (iv) the payments described in section 5.2, subdivision (a), for deposit into the Wiyot Tribe Trust Fund, and (v) the payments described in section 5.2, subdivision (b), for deposit into the Revenue Sharing Trust Fund or the Tribal Nation Grant Fund. The quarterly payments shall be based on the Net Win generated during that quarter from the Tribe's Gaming Devices (less the deductions set forth in section 4.7, in equal quarterly

amounts), which payments shall be due on the thirtieth day following the end of each calendar quarter (i.e., by April 30 for the first quarter, July 30 for the second quarter, October 30 for the third quarter, and January 30 for the fourth quarter).

- (2) If the Gaming Activities authorized by this Compact commence during a calendar quarter, the first payment shall be due on the thirtieth day following the end of the first full quarter of the Gaming Activities and shall cover the period from the commencement of the Gaming Activities to the end of the first full calendar quarter.
  - (3) All quarterly payments shall be accompanied by the certification specified in subdivision (b).
- (b) At the time each quarterly payment is due, regardless of whether any monies are owed, the Tribe shall submit to the State Gaming Agency a certification (the "Quarterly Net Win Contribution Report") that specifies the following:
- (1) calculation of the maximum number of Gaming Devices operated in the Gaming Facility for each day during the given quarter;
  - (2) the Net Win calculation reflecting the quarterly Net Win from the operation of all Gaming Devices in the Facility;
  - (3) the amount due pursuant to section 4.3;
  - (4) the amount due pursuant to section 4.5;
  - (5) calculation of the amount due pursuant to section 4.6 after deducting the amounts set forth in section 4.7;
  - (6) calculation of the amounts deducted pursuant to each subdivision of section 4.7;
  - (7) calculation of the amount due pursuant to subdivisions (a) and (b) of section 5.2; and

**(8) the total amount of the quarterly payment paid to the State.**

**The Quarterly Net Win Contribution Report shall be prepared by the chief financial officer of the Gaming Operation.**

- (c) (1) At any time after the fourth quarter, but in no event later than April 30 of the following calendar year, the Tribe shall provide to the State Gaming Agency an audited annual certification of its Net Win calculation from the operation of Gaming Devices. The audit shall be conducted in accordance with generally accepted auditing standards, as applied to audits for the gaming industry, by an independent certified public accountant who is not employed by the Tribe, the Tribal Gaming Agency, the Management Contractor, or the Gaming Operation, is only otherwise retained by any of these entities to conduct regulatory audits or independent audits of the Gaming Operation, and has no financial interest in any of these entities. The auditor used by the Tribe for this purpose shall be approved by the State Gaming Agency, or other State Designated Agency, but the State shall not unreasonably withhold its consent.**
- (2) If the audit shows that the Tribe made an overpayment from its Net Win to the State during the year covered by the audit, the Tribe's next quarterly payment may be reduced by the amount of the overage. Conversely, if the audit shows that the Tribe made an underpayment to the State during the year covered by the audit, the Tribe's next quarterly payment shall be increased by the amount of the underpayment.**
- (3) The State Gaming Agency shall be authorized to confer with the auditor at the conclusion of the audit process and to review all of the independent certified public accountant's work papers and documentation relating to the audit. The Tribal Gaming Agency shall be notified of and provided the opportunity to participate in and attend any such conference or document review.**
- (d) The State Gaming Agency may audit the calculations in subdivision (b) and Net Win calculations specified in the audit provided pursuant to subdivision (c). The State Gaming Agency shall have access to all**

records deemed necessary by the State Gaming Agency to verify the calculations in subdivision (b) and Net Win calculations, including access to the Gaming Device accounting systems and server-based systems and software, and to the data contained therein on a read only basis. If the State Gaming Agency determines that the Net Win is understated or the deductions overstated, it will promptly notify the Tribe and provide a copy of the audit. The Tribe within twenty (20) days will either accept the difference or provide a reconciliation satisfactory to the State Gaming Agency. If the Tribe accepts the difference or does not provide a reconciliation satisfactory to the State Gaming Agency, the Tribe must immediately pay the amount of the resulting deficiency, plus accrued interest thereon at the rate of one percent (1%) per month or the maximum rate permitted by state law for delinquent payments owed to the State, whichever is less. If the Tribe does not accept the difference but does not provide a reconciliation satisfactory to the State Gaming Agency, the Tribe, once payment is made, may commence dispute resolution under section 13.0. The parties expressly acknowledge that the certifications provided for in subdivision (b) are subject to section 8.4, subdivision (h).

- (e) Notwithstanding anything to the contrary in section 13.0, any failure of the Tribe to remit the payments referenced in subdivision (a), will entitle the State to immediately seek injunctive relief in federal or state court, at the State's election, to compel the payments, plus accrued interest thereon at the rate of one percent (1%) per month, or the maximum rate permitted by State law for delinquent payments owed to the State, whichever is less; and further, the Tribe expressly consents to be sued in either court and waives its right to assert sovereign immunity against the State in any such proceeding. Failure to make timely payment shall be deemed a material breach of this Compact.
- (f) If any portion of the payments under subdivision (a) herein is overdue after the State Gaming Agency has provided written notice to the Tribe of the overdue amount with an opportunity to cure of at least fifteen (15) business days, and if more than sixty (60) calendar days have passed from the due date, then the Tribe shall cease operating all of its Gaming Devices until full payment is made.

**Sec. 4.9. Exclusivity.**

In recognition of the Tribe's agreement to make the payments specified in sections 4.3, 4.5, 4.6 and 5.2, the Tribe shall have the following rights:

- (a) In the event the exclusive right of Indian tribes to operate Gaming Devices in California is abrogated by the enactment, amendment, or repeal of a State statute or constitutional provision, or the conclusive and dispositive judicial construction of a statute or the State Constitution by a California appellate court after the effective date of this Compact that Gaming Devices may lawfully be operated by another person, organization, or entity (other than an Indian tribe) within California, the Tribe shall have the right to exercise one of the following options:
  - (1) Terminate this Compact, in which case the Tribe will lose the right to operate Gaming Devices and other Class III Gaming authorized by this Compact; or
  - (2) Continue under this Compact with an entitlement to a reduction of the rates specified in sections 4.3, 4.5, 4.6, and 5.2 following conclusion of negotiations, to provide for: (A) compensation to the State for the actual and reasonable costs of regulation, as set forth in section 4.3; (B) reasonable payments to local governments impacted by tribal government gaming, the amount to be determined based upon any intergovernmental agreement entered into pursuant to sections 4.4 or 11.8.7; (C) grants for programs designed to address gambling addiction; and (D) such assessments as may be permissible at such time under federal law. Such negotiations shall commence within fifteen (15) days after receipt of a written request by a party to enter into the negotiations, unless both parties agree in writing to an extension of time. If the Tribe and State fail to reach agreement on the amount of reduction of such payments within sixty (60) days following commencement of the negotiations specified in this section, the amount shall be determined by arbitration pursuant to section 13.2.



- (b) Nothing in this section is intended to preclude the California State Lottery from offering any lottery games or devices that are currently or may hereafter be authorized by state law.

**SECTION 5.0. REVENUE SHARING WITH NON-GAMING AND LIMITED-GAMING TRIBES.**

**Sec. 5.1. Definitions.**

For purposes of this section 5.0, the following definitions apply:

- (a) The "Revenue Sharing Trust Fund" is a fund created by the Legislature and administered by the State Gaming Agency, as limited trustee, with no duties or obligations hereunder except for the receipt, deposit, and distribution of monies paid by gaming tribes for the benefit of Non-Gaming Tribes and Limited-Gaming Tribes. The State Gaming Agency shall allocate and disburse the Revenue Sharing Trust Fund monies on a quarterly basis as specified by the Legislature. Each eligible Non-Gaming Tribe and Limited-Gaming Tribe in the State shall receive the sum of one million one hundred thousand dollars (\$1,100,000) per year from the Revenue Sharing Trust Fund. In the event there are insufficient monies in the Revenue Sharing Trust Fund to pay one million one hundred thousand dollars (\$1,100,000) per year to each eligible Non-Gaming Tribe and Limited-Gaming Tribe, any available monies in that fund shall be distributed to eligible Non-Gaming Tribes and Limited-Gaming Tribes in equal shares. Monies deposited into the Revenue Sharing Trust Fund in excess of the amount necessary to distribute one million one hundred thousand dollars (\$1,100,000) to each eligible Non-Gaming Tribe and Limited-Gaming Tribe shall remain in the Revenue Sharing Trust Fund available for disbursement in future years. In no event shall the State's general fund be obligated to make up any shortfall in the Revenue Sharing Trust Fund or to pay any unpaid claims connected therewith, and, notwithstanding any provision of law, including any existing provision of law implementing the State Gaming Agency's obligations related to the Revenue Sharing Trust Fund under any Class III Gaming compact, Non-Gaming Tribes and Limited-Gaming Tribes are not third-party beneficiaries of this Compact and shall have no right to seek any judicial order compelling disbursement of any Revenue Sharing Trust Fund monies to them.

- (b) The “Tribal Nation Grant Fund” is a fund created by the Legislature to make discretionary distribution of funds to Non-Gaming Tribes and Limited-Gaming Tribes upon application of such tribes for purposes related to effective self-governance, self-determined community, and economic development. The fiscal operations of the Tribal Nation Grant Fund are administered by the State Gaming Agency, which acts as limited trustee, with no duties or obligations hereunder except for the receipt, deposit, and distribution of monies paid by gaming tribes for the benefit of Non-Gaming Tribes and Limited-Gaming Tribes, as those payments are directed by a State Designated Agency. The State Gaming Agency shall allocate and disburse the Tribal Nation Grant Fund monies as specified by a State Designated Agency to one or more eligible Non-Gaming and Limited-Gaming Tribes upon a competitive application basis. The State Gaming Agency shall exercise no discretion or control over, nor bear any responsibility arising from, the recipient tribes’ use or disbursement of Tribal Nation Grant Fund monies. The State Designated Agency shall perform any necessary audits to ensure that monies awarded to any tribe are being used in accordance with their disbursement in relation to the purpose of the Tribal Nation Grant Fund. In no event shall the State’s general fund be obligated to pay any monies into the Tribal Nation Grant Fund or to pay any unpaid claims connected therewith, and, notwithstanding any provision of law, including any existing provision of law implementing the State’s obligations related to the Tribal Nation Grant Fund or the Revenue Sharing Trust Fund under any Class III Gaming compact, Non-Gaming Tribes and Limited-Gaming Tribes are not third-party beneficiaries of this Compact and shall have no right to seek any judicial order compelling disbursement of any Tribal Nation Grant Fund monies to them.
- (c) A “Non-Gaming Tribe” is a federally recognized tribe in California, with or without a tribal-state Class III Gaming compact, that has not engaged in, or offered, class II gaming or Class III Gaming in any location whether within or without California, as of the date of distribution to such tribe from the Revenue Sharing Trust Fund or the Tribal Nation Grant Fund, or during the immediately preceding three hundred sixty-five (365) days.

- (d) A “Limited-Gaming Tribe” is a federally recognized tribe in California that has a Class III Gaming compact with the State but is operating fewer than a combined total of three hundred fifty (350) Gaming Devices in all of its gaming operations wherever located, or does not have a Class III Gaming compact but is engaged in class II gaming, whether within or without California, during the immediately preceding three hundred sixty-five (365) days.
- (e) The “Wiyot Tribe Trust Fund” is a fund created by the Legislature and administered by the State Gaming Agency, as limited trustee, with no duties or obligations except as set forth in this subdivision and in the State’s compact with the Wiyot Tribe, dated April 28, 2008, for the receipt, deposit, and distribution of monies paid for the benefit of the Wiyot Tribe. In no event shall the State’s general fund be obligated to make up any shortfall in the Wiyot Tribe Trust Fund or to pay any unpaid claims connected therewith.

**Sec. 5.2. Payments to the Wiyot Tribe Trust Fund, and to the Revenue Sharing Trust Fund or the Tribal Nation Grant Fund.**

- (a) The Tribe agrees that it will pay to the State Gaming Agency for deposit into the Wiyot Tribe Trust Fund a percentage of the Tribe’s Net Win from all Gaming Devices operated in the Gaming Facility according to the following schedule:

<u>Annual Net Win from Gaming Devices</u>	<u>Percentage of Net Win from Gaming Devices Paid to the State Gaming Agency</u>
\$0-\$100 million	2.5%
Over \$100 million to \$200 million	3%
Over \$200 million	3.5%

If the State’s compact with the Wiyot Tribe is terminated, invalidated, expires, or does not go into effect by its terms, the Tribe’s obligations under this subdivision shall terminate.

- (b) In addition to the payments referenced in subdivision (a), if the Net Win from all Gaming Devices in operation in the Gaming Facility for the year exceeds the amount set forth in the following schedule, the

Tribe shall pay to the State Gaming Agency, for deposit into the Revenue Sharing Trust Fund or the Tribal Nation Grant Fund for distribution to Non-Gaming Tribes and Limited-Gaming Tribes, twenty-five percent (25%) of the difference between the Net Win and the corresponding amount for that year as follows:

<u>Year of Gaming Activities</u>	<u>Amount of Net Win</u>
Year One	\$180,000,000
Year Two	\$190,000,000
Year Three	\$200,000,000
Year Four	\$210,000,000
Year Five	\$220,000,000
Year Six	\$230,000,000
Year Seven	\$240,000,000
Year Eight	\$250,000,000
Year Nine	\$260,000,000
Year Ten	\$270,000,000
Year Eleven	\$280,000,000
Year Twelve	\$290,000,000
Year Thirteen	\$300,000,000
Year Fourteen	\$310,000,000
Year Fifteen	\$320,000,000
Year Sixteen	\$330,000,000
Year Seventeen	\$340,000,000
Year Eighteen	\$350,000,000
Year Nineteen	\$360,000,000
Year Twenty through the expiration of this Compact	\$370,000,000

Thus, for instance, if the annual Net Win in Year One was two-hundred million dollars (\$200,000,000), then the Tribe would pay the State Gaming Agency twenty-five percent (25%) of the twenty million dollar (\$20,000,000) difference between two-hundred million dollars (\$200,000,000) and one-hundred-eighty million dollars (\$180,000,000), or five million dollars (\$5,000,000).

For purposes of the schedule set forth in this subdivision, Year One through Year Six shall have the same meaning as set forth in section 4.6, Year Seven constitutes the next four (4) quarters in which Gaming Activities occur following the completion of Year Six, and

each successive year thereafter constitutes the next four (4) quarters in which Gaming Activities occur following the completion of the immediately preceding year's fourth quarter.

- (c) All payments made by the Tribe to the State Gaming Agency pursuant to this section and section 4.6 shall be deposited into the Revenue Sharing Trust Fund and the Tribal Nation Grant Fund in a proportion to be determined by the Legislature, provided that if there are insufficient monies in the Revenue Sharing Trust Fund to pay one million one hundred thousand dollars (\$1,100,000) per year to each eligible Non-Gaming Tribe and Limited-Gaming Tribe, the State Gaming Agency shall deposit all payments into the Revenue Sharing Trust Fund.

## **SECTION 6.0. LICENSING.**

### **Sec. 6.1. Gaming Ordinance and Regulations.**

- (a) All Gaming Activities conducted under this Compact shall, at a minimum, comply (i) with a Gaming Ordinance duly adopted by the Tribe and approved in accordance with IGRA, (ii) with all rules, regulations, procedures, specifications, and standards duly adopted by the NIGC, the Tribal Gaming Agency, and the State Gaming Agency, and (iii) with the provisions of this Compact.
- (b) The Tribal Gaming Agency shall transmit a copy of the Gaming Ordinance, and all of its rules, regulations, procedures, specifications, ordinances, or standards applicable to the Gaming Activities and Gaming Operation, to the State Gaming Agency within twenty (20) days following execution of this Compact, or within twenty (20) days following their adoption or amendment.
- (c) The Tribe and the Tribal Gaming Agency shall make available an electronic or hard copy of the following documents to any member of the public upon request and in the manner requested: NIGC minimum internal control standards, the Gaming Ordinance, this Compact, including appendices hereto, the rules of each Class III game operated by the Tribe, the Tribe's constitution, the tort ordinance specified in section 12.5, subdivision (b), the employment discrimination complaint ordinance specified in section 12.3, subdivision (f), and the

regulations promulgated by the Tribal Gaming Agency concerning patron disputes pursuant to section 10.0.

**Sec. 6.2. Tribal Ownership, Management, and Control of Gaming Operation.**

The Gaming Operation authorized under this Compact shall be owned solely by the Tribe.

**Sec. 6.3. Prohibitions Regarding Minors.**

- (a) The Tribe shall prohibit persons under the age of twenty-one (21) years from being present in any room or area in which Gaming Activities are being conducted unless the person is en route to a non-gaming area of the Gaming Facility, or is employed at the Gaming Facility in a capacity other than as a Gaming Employee.
- (b) If the Tribe permits the consumption of alcoholic beverages in the Gaming Facility, the Tribe shall prohibit persons under the age of twenty-one (21) years from purchasing, consuming, or possessing alcoholic beverages. The Tribe shall also prohibit persons under the age of twenty-one (21) years from being present in any room or area in which alcoholic beverages may be consumed, except to the extent permitted by the State Department of Alcoholic Beverage Control for other commercial establishments serving alcoholic beverages.

**Sec. 6.4. Licensing Requirements and Procedures.**

**Sec. 6.4.1. Summary of Licensing Principles.**

All persons in any way connected with the Gaming Operation or Facility who are required to be licensed or to submit to a background investigation under IGRA, and any others required to be licensed under this Compact, including, but not limited to, all Gaming Employees, Gaming Resource Suppliers, Financial Sources, and any other person having a significant influence over the Gaming Operation, must be licensed by the Tribal Gaming Agency. The parties intend that the licensing process provided for in this Compact shall involve joint cooperation between the Tribal Gaming Agency and the State Gaming Agency, as more particularly described herein.

**Sec. 6.4.2. Gaming Facility.**

- (a) The Gaming Facility authorized by this Compact shall be licensed by the Tribal Gaming Agency in conformity with the requirements of this Compact, the Tribal Gaming Ordinance, IGRA, and any applicable regulations adopted by the NIGC. The license shall be reviewed and renewed every year thereafter. Verification that this requirement has been met shall be provided by the Tribe to the State by sending a copy of the initial license and each renewal license to the Commission and any State Designated Agency within twenty (20) days after issuance of the license or renewal. The Tribal Gaming Agency's certification that the Gaming Facility is being operated in conformity with these requirements shall be posted in a conspicuous and public place in the Gaming Facility at all times.
- (b) To assure the protection of the health and safety of all Gaming Facility patrons, guests, and employees, the Tribe shall require the Gaming Facility, any expansion, improvement, modification, or maintenance of such Gaming Facility, and any other construction to meet or exceed the Applicable Codes. To determine compliance with the Applicable Codes, in all cases where the Applicable Codes would otherwise require a permit, the Tribe shall require inspections and, in connection therewith, shall employ appropriate plan checkers or review firms that either are California licensed architects or engineers with relevant experience or are on the list, if any, of approved plan checkers or review firms provided by the County, and shall employ project inspectors that are currently either certified as Class 1 inspectors by the Division of the State Architect or as Class A inspectors by the Office of Statewide Health Planning and Development or their successors or are International Code Council (ICC) certified planning inspectors. Alternatively, the Tribe can reach agreement with the County for the County's building inspectors to examine, at the Tribe's expense, all aspects of the Gaming Facility, or any expansion, modification, or maintenance thereof, to assess compliance with the Applicable Codes. In either case, the Tribe shall require all inspectors to maintain contemporaneous records of all inspections and report in writing any failure to comply with the Applicable Codes to the Tribal Gaming Agency and the State Designated Agency. The Tribe agrees to correct any Gaming Facility condition noted in the inspections that does not meet the Applicable

Codes (hereinafter “deficiency”). The plan checkers, review firms, and project inspectors shall hereinafter be referred to as “Inspectors.”

- (c) In all cases where the Applicable Codes would otherwise require plan check, the Tribe shall arrange for the following:
- (1) The Tribe shall cause the design and construction calculations, and plans and specifications that form the basis for the planned construction (the “Design and Building Plans”) to be provided to the State Designated Agency and the County within fifteen (15) days of their final plan check and approval;
  - (2) In the event that material changes to a structural detail of the Design and Building Plans will result from contract change orders or any other changes in the Design and Building Plans, the Tribe shall provide such change orders or other changes to the State Designated Agency and the County within five (5) days of the change’s execution or approval, and such changes shall be reviewed by the Inspectors for compliance with the Applicable Codes;
  - (3) The Tribe shall maintain during construction all other contract change orders for inspection and copying by the State Designated Agency upon its request; and
  - (4) The Tribe shall maintain the Design and Building Plans for the term of this Compact.
- (d) In all events, the State Designated Agency may designate an agent or agents, which may include the County or other local government, who shall be given not fewer than three (3) business days’ notice of each inspection required by section 108 of the California Building Code, and the State agents may accompany the Inspectors on any such inspection. The Tribe agrees to correct any Gaming Facility deficiency noted in the inspection. Upon not fewer than three (3) business days’ notice to the Tribal Gaming Agency, except in circumstances posing an immediate threat to the life or safety of any person, in which case no advance notice is required, the State Designated Agency shall also have the right to review all records of the Inspectors and conduct an independent inspection of the Gaming



Facility to verify compliance with the Applicable Codes before public occupancy and shall report to the Tribal Gaming Agency any alleged deficiency; provided, however, that concurrent with any exercise by the State of its right to inspect without advance notice based upon alleged circumstances posing an immediate threat to the life or safety of any person, the State Designated Agency shall provide to the Tribal Gaming Agency notice in writing specifying in reasonable detail those alleged circumstances.

- (e) Upon final certification by the Inspectors that the Gaming Facility meets the Applicable Codes, the Tribal Gaming Agency shall forward the Inspectors' certification to the State Designated Agency and the County within ten (10) days of issuance. If the State Designated Agency objects to that certification, the Tribe shall make a good faith effort to address the State's concerns, but if the State Designated Agency does not withdraw its objection, the matter will be resolved in accordance with the dispute resolution provisions of section 13.0.
- (f) Any failure to remedy within a reasonable period of time any material and timely raised deficiency shall be deemed a violation of this Compact, and furthermore, any deficiency that poses a serious or significant risk to the health or safety of any occupant shall be grounds for the State Designated Agency to prohibit occupancy of the affected portion of the Gaming Facility pursuant to a court order until the deficiency is corrected. The Tribe shall not allow occupancy of any portion of the Gaming Facility that is constructed or maintained in a manner that endangers the health or safety of the occupants.
- (g) Nothing herein shall prohibit the Tribe and the County from negotiating, or having negotiated, additional or more stringent standards in connection with any construction at or modifications to, or improvements to the Gaming Facility.
- (h) The Tribe shall also take all necessary steps to reasonably ensure the ongoing availability of sufficient and qualified fire suppression services to the Gaming Facility, and to reasonably ensure that the Gaming Facility satisfies all requirements of Title 19 of the California Code of Regulations applicable to similar facilities in the County as set forth below:

- (1) Not less than thirty (30) days before the commencement of the Gaming Activities, and not less than biennially thereafter, and upon at least ten (10) days' notice to the State Designated Agency, the Gaming Facility shall be inspected, at the Tribe's expense, by an independent expert for purposes of certifying that the Gaming Facility meets a reasonable standard of fire safety and life safety.
- (2) The State Designated Agency shall be entitled to designate and have a qualified representative or representatives, which may include local fire suppression entities, present during the inspection. During such inspection, the State's representative(s) shall specify to the independent expert any condition which the representative(s) reasonably believes would preclude certification of the Gaming Facility as meeting a reasonable standard of fire safety and life safety.
- (3) The independent expert shall issue to the Tribal Gaming Agency, the County, and the State Designated Agency a report on the inspection within fifteen (15) days after its completion, or within thirty (30) days after commencement of the inspection, whichever first occurs, identifying any deficiency in fire safety or life safety at the Gaming Facility or in the ability of the Tribe to meet reasonably expected fire suppression needs of the Gaming Facility.
- (4) Within twenty-one (21) days after the issuance of the report, the independent expert shall also require and approve a specific plan for correcting deficiencies, whether in fire safety or life safety at the Gaming Facility or in the Tribe's ability to meet the reasonably expected fire suppression needs of the Gaming Facility, including those identified by the State Designated Agency's representatives. A copy of the report shall be delivered to the State Designated Agency, the County, and the Tribal Gaming Agency.
- (5) Immediately upon correction of all deficiencies identified in the report, the independent expert shall certify in writing to the Tribal Gaming Agency and the State Designated Agency that all deficiencies have been corrected.

- (6) Any failure to correct all deficiencies identified in the report within a reasonable period of time shall be deemed a violation of this Compact, and any failure to promptly correct those deficiencies that pose a serious or significant risk to the health or safety of any occupants shall be a violation of this Compact and grounds for the State Gaming Agency or other State Designated Agency to prohibit occupancy of the affected portion of the Gaming Facility pursuant to court order until the deficiency is corrected.

**Sec. 6.4.3. Gaming Employees.**

- (a) Every Gaming Employee shall obtain, and thereafter maintain current, a valid tribal gaming license, and except as provided in subdivision (b), shall obtain, and thereafter maintain current, a State Gaming Agency determination of suitability, which license and determination shall be subject to biennial renewal; provided that in accordance with section 6.4.9, those persons may be employed on a temporary or conditional basis pending completion of the licensing process and the State Gaming Agency determination of suitability.
- (b) A Gaming Employee who is required to obtain and maintain current a valid tribal gaming license under subdivision (a) is not required to obtain or maintain a State Gaming Agency determination of suitability if any of the following applies:
  - (1) The employee is subject to the licensing requirement of subdivision (a) solely because he or she is a person who conducts, operates, maintains, repairs, or assists in Gaming Activities, provided that this exception shall not apply if he or she supervises Gaming Activities or persons who conduct, operate, maintain, repair, assist, account for or supervise any such Gaming Activity, *and* is empowered to make discretionary decisions affecting the conduct of the Gaming Activities.
  - (2) The employee is subject to the licensing requirement of subdivision (a) solely because he or she is a person whose employment duties require or authorize access to areas of the Gaming Facility that are not open to the public, provided that

this exception shall not apply if he or she supervises Gaming Activities or persons who conduct, operate, maintain, repair, assist, account for or supervise any such Gaming Activity, *and* is empowered to make discretionary decisions affecting the conduct of the Gaming Activities.

- (3) The State Gaming Agency, in consultation with the Tribal Gaming Agency, exempts the Gaming Employee from the requirement to obtain or maintain current a State Gaming Agency determination of suitability.
- (c) Notwithstanding subdivision (b), the State Gaming Agency is authorized to review the tribal license application, and all materials and information received by the Tribal Gaming Agency in connection therewith, for any person whom the Tribal Gaming Agency has licensed, or proposes to license, as a Gaming Employee. If the State Gaming Agency determines that the person would be unsuitable for issuance of a license or permit for a similar level of employment in a gambling establishment subject to the jurisdiction of the State, it shall notify the Tribal Gaming Agency of that determination. Upon receipt of such notification, the Tribal Gaming Agency, in accordance with section 6.5.1, subdivision (d), shall deny that person a tribal gaming license and shall promptly revoke any tribal gaming license theretofore issued to that person, provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in state court conducted pursuant to section 1085 of the California Code of Civil Procedure.
  - (d) The Tribe shall not employ, or continue to employ, any person whose application to the State Gaming Agency for a determination of suitability or for a renewal of such a determination has been denied, or whose determination of suitability has expired without renewal.
  - (e) At any time after five (5) years following the effective date of this Compact, either party to this Compact may request renegotiation of the scope of coverage of subdivision (b).
  - (f) This section shall not apply to members of the Tribal Gaming Agency.

**Sec. 6.4.4. Gaming Resource Suppliers.**

- (a) Every Gaming Resource Supplier shall be licensed by the Tribal Gaming Agency prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any Gaming Resources to or in connection with the Tribe's Gaming Operation or Facility. Unless the Tribal Gaming Agency licenses the Gaming Resource Supplier pursuant to subdivision (d), the Gaming Resource Supplier shall also apply to, and the Tribe shall require it to apply to, the State Gaming Agency for a determination of suitability at least thirty (30) days prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any Gaming Resources to or in connection with the Tribe's Gaming Operation or Facility, except that for Gaming Devices the period specified under section 7.1, subdivision (a), shall govern. The period during which a determination of suitability as a Gaming Resource Supplier is valid expires on the earlier of (i) the date two (2) years following the date on which the determination is issued, unless a different expiration date is specified by the State Gaming Agency, or (ii) the date of its revocation by the State Gaming Agency. If the State Gaming Agency denies or revokes a determination of suitability, the Tribal Gaming Agency shall deny or revoke the license. The license and determination of suitability shall be reviewed at least every two (2) years for continuing compliance. For purposes of section 6.5.2, such a review shall be deemed to constitute an application for renewal. In connection with such a review, the Tribal Gaming Agency shall require the Gaming Resource Supplier to update all information provided in the previous application.
- (b) Any agreement between the Tribe and a Gaming Resource Supplier shall include a provision for its termination without further liability on the part of the Tribe, except for the bona fide payment of all outstanding sums (exclusive of interest) owed as of, or payment for services or materials received up to, the date of termination, upon revocation or non-renewal of the Gaming Resource Supplier's license by the Tribal Gaming Agency based on a determination of unsuitability by the State Gaming Agency. Except as set forth above, the Tribe shall not enter into, or continue to make payments to a Gaming Resource Supplier pursuant to, any contract or agreement for the provision of Gaming Resources with any person or entity whose application to the State Gaming Agency for a determination of

suitability has been denied or revoked or whose determination of suitability has expired without renewal.

- (c) Notwithstanding subdivision (a), the Tribal Gaming Agency may license a Management Contractor for a period of no more than seven (7) years, but the Management Contractor must still apply for renewal of a determination of suitability by the State Gaming Agency at least every two (2) years and where the State Gaming Agency denies or revokes a determination of suitability, the Tribal Gaming Agency shall deny or revoke the license. Nothing in this subdivision shall be construed to bar the Tribal Gaming Agency from issuing additional new licenses to the same Management Contractor following the expiration of a seven (7)-year license.
  
- (d) The Tribal Gaming Agency may elect to license a person or entity as a Gaming Resource Supplier without requiring it to apply to the State Gaming Agency for a determination of suitability under subdivision (a) if the Gaming Resource Supplier has already been issued a determination of suitability that is then valid. In that case, the Tribal Gaming Agency shall immediately notify the State Gaming Agency of its licensure of the person or entity as a Gaming Resource Supplier, and shall identify in its notification the State Gaming Agency determination of suitability on which the Tribal Gaming Agency has relied in proceeding under this subdivision (d). Subject to the Tribal Gaming Agency's compliance with the requirements of this subdivision, a Gaming Resource Supplier licensed under this subdivision may, during and only during the period in which the determination of suitability remains valid, engage in the sale, lease, or distribution of Gaming Resources to or in connection with the Tribe's Gaming Operation or Facility, without applying to the State Gaming Agency for a determination of suitability. The issuance of a license under this subdivision is in all cases subject to any later determination by the State Gaming Agency that the Gaming Resource Supplier is not suitable or to a tribal gaming license suspension or revocation pursuant to section 6.5.1, and does not extend the time during which the determination of suitability relied on by the Tribal Gaming Agency is valid. A license issued under this subdivision expires upon the revocation or expiration of the determination of suitability relied on by the Tribal Gaming Agency. Nothing in this subdivision affects the obligations of the Tribal Gaming Agency, or of the Gaming

Resource Supplier, under section 6.5.2 and section 6.5.6 of this Compact.

- (e) Except where subdivision (d) applies, within ten (10) days of the issuance of a license to a Gaming Resource Supplier, the Tribal Gaming Agency shall transmit to the State Gaming Agency a copy of the license and a copy of all tribal license application materials and information received by it from the Applicant.

**Sec. 6.4.5. Financial Sources.**

- (a) Except as provided in subdivision (e)(1), every Financial Source shall be licensed by the Tribal Gaming Agency prior to extending any financing in connection with the Tribe's Gaming Operation or Facility. Except as provided in subdivision (e)(2) or section 6.5.6, subdivision (i), every Financial Source shall also apply to, and the Tribe shall require it to apply to, the State Gaming Agency for a determination of suitability pursuant to the following timetable: (i) at least ninety (90) days prior to extending any financing in connection with the Tribe's Gaming Operation or Facility, provided that any Financial Source that applies for such a determination within ten (10) days of the effective date of this Compact is not in violation of this section; and (ii) in the event of a purchase or acceptance of an assignment or participation interest in any financing in connection with the Tribe's Gaming Operation or Facility, at least five (5) days prior to the Financial Source's purchase or acceptance of the assignment or participation interest; provided, however, that where Uniform Tribal Gaming Regulation CGCC-2, subdivision (g) (as in effect on the date the parties execute this Compact) is complied with for bonds, and as applied to other forms of indebtedness, such transferee holders need not apply as Financial Sources.

Notwithstanding the section number under which this subdivision appears, this section constitutes a "section 6.4.6" within the meaning of Uniform Tribal Gaming Regulation CGCC-2, for purposes of licensing or excluding Financial Sources. Where the State Gaming Agency denies the application for a determination of suitability, the Tribal Gaming Agency shall deny or revoke the license. In each instance where licensure or an application for a determination of suitability is required as set forth above, the license and determination of suitability shall be reviewed at least every two (2) years for

continuing compliance. For purposes of section 6.5.2, such a review shall be deemed to constitute an application for renewal. In connection with such a review, the Tribal Gaming Agency shall require the Financial Source to update all information provided in the previous application.

- (b) Any agreement between the Tribe and a Financial Source shall include a provision for its termination without further liability on the part of the Tribe, except for the payment of all bona fide obligations (including accrued interest) which remain unpaid as of the date of termination, upon revocation or non-renewal of the Financial Source's license by the Tribal Gaming Agency based on a determination of unsuitability by the State Gaming Agency. Except as provided above, the Tribe shall not enter into, or continue to make payments to a Financial Source pursuant to, any contract or agreement for the provision of financing with any person whose application to the State Gaming Agency for a determination of suitability has been denied or revoked or whose determination of suitability has expired without renewal.
- (c) A Gaming Resource Supplier who provides financing exclusively in connection with the provision, sale, or lease of Gaming Resources obtained from that Gaming Resource Supplier may be licensed solely in accordance with the licensing procedures applicable, if at all, to Gaming Resource Suppliers, and need not be separately licensed as a Financial Source under this section.
- (d) Within ten (10) days of the issuance of a license to a Financial Source, the Tribal Gaming Agency shall transmit to the State Gaming Agency a copy of the license and a copy of all tribal license application materials and information received by it from the Applicant.
- (e) (1) The Tribal Gaming Agency may, at its discretion, exclude from the licensing requirements of this section the following Financial Sources under the circumstances stated:
  - (A) Any federally-regulated or state-regulated bank, savings and loan association, or other federally- or state-regulated lender and any fund or other investment vehicle, including, without limitation, a bond indenture or



syndicated loan, which is administered or managed by any such entity.

- (B) Any owner of a participation interest, in any amount of indebtedness for which a Financial Source described in subdivision (e)(1)(A), or any fund or other investment vehicle which is administered or managed by any such Financial Source, is the creditor.
  - (C) Any entity described in Uniform Tribal Gaming Regulation CGCC-2, subdivision (f) (as in effect on the date the parties execute this Compact), of the Commission, when that entity is a Financial Source solely by reason of being a purchaser or a holder of debt securities or other forms of indebtedness issued directly or indirectly by the Tribe for the Gaming Facility or for the Gaming Operation.
  - (D) Any investor who, alone or together with any persons controlling, controlled by or under common control with such investor, holds less than ten percent (10%) of all outstanding debt securities or other forms of indebtedness issued directly or indirectly by the Tribe for the Gaming Facility or for the Gaming Operation.
  - (E) Any agency of the federal, state or local government providing financing, together with any person purchasing any debt securities or other forms of indebtedness of the agency to provide such financing.
- (2) Where the Tribal Gaming Agency elects to exclude a Financial Source under subdivision (e)(1) from the licensing requirements of this section, that Financial Source need not apply to the State Gaming Agency for a determination of suitability.
  - (3) In any case where the Tribal Gaming Agency elects to exclude a Financial Source under subdivision (e)(1) from the licensing requirements of this section, the Tribal Gaming Agency shall give immediate notice thereof to the State Gaming Agency, shall give reasonable advance notice of any extension of

financing by the Financial Source in connection with the Tribe's Gaming Operation or Facility, and upon request of the State Gaming Agency, shall provide it with all documentation supporting the Tribal Gaming Agency's exclusion of the Financial Source from the licensing requirements of this section.

- (4) Notwithstanding subdivision (e)(2), the State Gaming Agency continues to have the right to find the Financial Source unsuitable, and if the State Gaming Agency finds that an investigation of any Financial Source is warranted, the Financial Source shall be required to submit an application for a determination of suitability to the State Gaming Agency and shall pay the costs and charges incurred in the investigation and processing of the application, in accordance with the provisions set forth in California Business and Professions Code sections 19867 and 19951.
- (5) In the event that any Financial Source excluded from the licensing requirements of this section is found unsuitable by the State Gaming Agency, the Tribe must not enter into, or continue to make payments (except for payment of all bona fide obligations (including accrued interest) which remain unpaid as of the date of the finding of unsuitability) to the Financial Source pursuant to, any contract or agreement for the provision of financing.
- (6) The following are not Financial Sources for purposes of this section.
  - (A) An entity identified by the Commission's Uniform Tribal Gaming Regulation CGCC-2, subdivision (h) (as in effect on the date the parties execute this Compact).
  - (B) A person or entity whose sole connection with a provision or extension of financing to the Tribe is to provide loan brokerage or debt servicing for a Financial Source at no cost to the Tribe or the Gaming Operation, provided that no portion of any financing provided is an

extension of credit to the Tribe or the Gaming Operation by that person or entity.

- (f) In recognition of changing financial circumstances, this section shall be subject to good faith renegotiation by both parties in or after five (5) years from the effective date of this Compact upon the request of either party; provided such renegotiation shall not retroactively affect transactions that have already taken place where the Financial Source has been excluded or exempted from licensing requirements.

**Sec. 6.4.6. Processing Tribal Gaming License Applications.**

- (a) Each Applicant for a tribal gaming license shall submit the completed application along with the required information and an application fee, if required, to the Tribal Gaming Agency in accordance with the rules and regulations of that agency.
- (b) At a minimum, the Tribal Gaming Agency shall require submission and consideration of all information required under IGRA, including Part 556.4 of Title 25 of the Code of Federal Regulations, for licensing primary management officials and key employees.
- (c) For Applicants who are business entities, these licensing provisions shall apply to the entity as well as: (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager; (iii) each of its owners or partners, if an unincorporated business; (iv) each of its shareholders who owns more than ten percent (10%) of the shares of the corporation, if a corporation; and (v) each person or entity (other than a Financial Source that the Tribal Gaming Agency has determined does not require a license under section 6.4.5) that, alone or in combination with others, has provided financing in connection with any Gaming Operation or gaming authorized under this Compact, if that person or entity provided more than ten percent (10%) of either the start-up capital or the operating capital, or of a combination thereof, over a twelve (12)-month period. For purposes of this subdivision, where there is any commonality of the characteristics identified in clauses (i) to (v), inclusive, between any two or more entities, those entities may be deemed to be a single entity.

- (d) Nothing herein precludes the Tribe or Tribal Gaming Agency from requiring more stringent licensing requirements.

**Sec. 6.4.7. Suitability Standard Regarding Gaming Licenses.**

- (a) In reviewing an application for a tribal gaming license, and in addition to any standards set forth in the Tribal Gaming Ordinance, the Tribal Gaming Agency shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Tribe's Gaming Operation is free from criminal and dishonest elements and would be conducted honestly.
- (b) A license may not be issued unless, based on all information and documents submitted, the Tribal Gaming Agency is satisfied that the Applicant, and in the case of an entity, each individual identified in section 6.4.6, meets all the following requirements:
  - (1) The person is of good character, honesty, and integrity.
  - (2) The person's prior activities, criminal record (if any), reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming, or in the carrying on of business and financial arrangements incidental thereto.
  - (3) The person is in all other respects qualified to be licensed as provided, and meets the criteria established in this Compact, IGRA, NIGC regulations, the Tribal Gaming Ordinance, and any other criteria adopted by the Tribal Gaming Agency or the Tribe; provided, however, an Applicant shall not be found to be unsuitable solely on the ground that the Applicant was an employee of a tribal gaming operation in California that was conducted prior to May 16, 2000.

**Sec. 6.4.8. Background Investigations of Applicants.**

- (a) The Tribal Gaming Agency shall conduct or cause to be conducted all necessary background investigations reasonably required to determine that the Applicant is qualified for a gaming license under the standards set forth in section 6.4.7, and to fulfill all requirements for licensing under IGRA, NIGC regulations, the Tribal Gaming Ordinance, and this Compact. The Tribal Gaming Agency shall not issue a gaming license, other than a temporary license pursuant to section 6.4.9, until a determination is made that those qualifications have been met.
- (b) In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or the Tribal Gaming Ordinance, the Tribal Gaming Agency may contract with the State Gaming Agency for the conduct of background investigations, may rely on a State determination of suitability previously issued under a Class III Gaming compact involving another tribe and the State, or may rely on a State Gaming Agency license previously issued to the Applicant, to fulfill some or all of the Tribal Gaming Agency's background investigation obligations.
- (c) An Applicant for a tribal gaming license shall be required to provide releases to the State Gaming Agency to make available to the Tribal Gaming Agency background information regarding the Applicant. The State Gaming Agency shall cooperate in furnishing to the Tribal Gaming Agency that information, unless doing so would violate state or federal law, would violate any agreement the State Gaming Agency has with a source of the information other than the Applicant, or would impair or impede a criminal investigation, or unless the Tribal Gaming Agency cannot provide sufficient safeguards to assure the State Gaming Agency that the information will remain confidential.
- (d) If the Tribe adopts an ordinance confirming that Article 6 (commencing with section 11140) of Chapter 1 of Title 1 of Part 4 of the California Penal Code is applicable to members, investigators, and staff of the Tribal Gaming Agency, and those members, investigators, and staff thereafter comply with that ordinance, then, for purposes of carrying out its obligations under this section, the Tribal Gaming Agency may be considered to be an entity entitled to receive state

summary criminal history information within the meaning of subdivision (b)(12) of section 11105 of the California Penal Code. In that case, the California Department of Justice shall provide services to the Tribal Gaming Agency through the California Law Enforcement Telecommunications System (CLETS), subject to a determination by the CLETS advisory committee that the Tribal Gaming Agency is qualified for receipt of such services, and on such terms and conditions as are deemed reasonable by that advisory committee.

**Sec. 6.4.9. Temporary Licensing of Gaming Employees.**

- (a) If the Applicant has completed a license application in a manner satisfactory to the Tribal Gaming Agency, and that agency has conducted a preliminary background investigation, and the investigation or other information held by that agency does not indicate that the Applicant has a criminal history or other information in his or her background that would either automatically disqualify the Applicant from obtaining a tribal gaming license or cause a reasonable person to investigate further before issuing a license, or that the Applicant is otherwise unsuitable for licensing, the Tribal Gaming Agency may issue a temporary tribal gaming license and may impose such specific conditions thereon pending completion of the Applicant's background investigation, as the Tribal Gaming Agency in its sole discretion shall determine.
- (b) Special fees may be required by the Tribal Gaming Agency to issue or maintain a temporary tribal gaming license.
- (c) A temporary tribal gaming license shall remain in effect until suspended or revoked, or a final determination is made on the application, or for a period of up to one (1) year, whichever comes first.
- (d) At any time after issuance of a temporary tribal gaming license, the Tribal Gaming Agency shall or may, as the case may be, suspend or revoke it in accordance with the provisions of sections 6.5.1 or 6.5.5, and the State Gaming Agency may request suspension or revocation before making a determination of unsuitability.

- (e) Nothing herein shall be construed to relieve the Tribe of any obligation under Part 558 of Title 25 of the Code of Federal Regulations.

**Sec. 6.5.0. Tribal Gaming License Issuance.**

Upon completion of the necessary background investigation, the Tribal Gaming Agency may issue a tribal gaming license on a conditional or unconditional basis. Nothing herein shall create a property or other right of an Applicant in an opportunity to be licensed, or in a tribal gaming license itself, both of which shall be considered to be privileges granted to the Applicant in the sole discretion of the Tribal Gaming Agency.

**Sec. 6.5.1. Denial, Suspension, or Revocation of Licenses.**

- (a) Any Applicant's application for a tribal gaming license may be denied, and any license issued may be revoked, if the Tribal Gaming Agency determines that the application is incomplete or deficient, or if the Applicant is determined to be unsuitable or otherwise unqualified for a tribal gaming license.
- (b) Pending consideration of revocation, the Tribal Gaming Agency may suspend a tribal gaming license in accordance with section 6.5.5.
- (c) All rights to notice and hearing shall be governed by tribal law and comport with federal procedural due process. The Applicant shall be notified in writing of the hearing and given notice of any intent to suspend or revoke the tribal gaming license.
- (d) Notwithstanding anything to the contrary herein, upon receipt of notice that the State Gaming Agency has determined that a person would be unsuitable for licensure in a gambling establishment subject to the jurisdiction of the State Gaming Agency, the Tribal Gaming Agency shall deny that person a tribal gaming license and promptly revoke any tribal gaming license that has theretofore been issued to that person; provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in state court conducted pursuant to section 1085 of the California Code of Civil Procedure.

**Sec. 6.5.2. Renewal of Licenses; Extensions; Further Investigation.**

- (a) Except as provided in section 6.4.4, subdivision (c), the term of a tribal gaming license shall not exceed two (2) years, and application for renewal of a license must be made prior to its expiration. Applicants for renewal of a license shall provide updated material, as requested, on the appropriate renewal forms, but, at the discretion of the Tribal Gaming Agency, may not be required to resubmit historical data previously submitted or which is otherwise available to the Tribal Gaming Agency. At the discretion of the Tribal Gaming Agency, an additional background investigation may be required at any time if the Tribal Gaming Agency determines the need for further information concerning the Applicant's continuing suitability or eligibility for a license.
- (b) Prior to renewing a license, the Tribal Gaming Agency shall deliver to the State Gaming Agency copies of all information and documents received in connection with the application for renewal of the tribal gaming license for purposes of the State Gaming Agency's consideration of renewal of its determination of suitability.
- (c) At the discretion of the State Gaming Agency, an additional background investigation may be required if the State Gaming Agency determines the need for further information concerning the Applicant's continuing suitability for a license.

**Sec. 6.5.3. Identification Cards.**

- (a) The Tribal Gaming Agency shall require that all persons who are required to be licensed wear, in plain view at chest height at all times while in the Gaming Facility, identification badges issued by the Tribal Gaming Agency.
- (b) Identification badges must display information, including, but not limited to, a photograph and the person's name, which is adequate to enable members of the public and agents of the Tribal Gaming Agency to readily identify the person and determine the validity and date of expiration of his or her license.



- (c) The Tribe shall monthly provide the State Gaming Agency with the name, badge identification number (if any), and job title of all Gaming Employees.

**Sec. 6.5.4. Fees for Tribal Gaming License.**

The fees for all tribal gaming licenses shall be set by the Tribal Gaming Agency.

**Sec. 6.5.5. Suspension of Tribal Gaming License.**

The Tribal Gaming Agency shall summarily suspend the tribal gaming license of any employee if the Tribal Gaming Agency determines that the continued licensing of the person could constitute a threat to the public health or safety or may summarily suspend the license of any employee if the Tribal Gaming Agency determines that the continued licensing of the person may violate the Tribal Gaming Agency's licensing or other standards. Any right to notice or hearing in regard thereto shall be governed by tribal law and comport with federal procedural due process.

**Sec. 6.5.6. State Determination of Suitability Process.**

- (a) The State Gaming Agency and the Tribal Gaming Agency (together with tribal gaming agencies under other gaming compacts) shall cooperate in developing standard licensing forms for tribal Gaming Employee license applications, on a statewide basis, that reduce or eliminate duplicative or excessive paperwork, which forms and procedures shall take into account the Tribe's requirements under IGRA and the expense thereof. To facilitate the State Gaming Agency's ability to obtain any criminal information that may relate to the Applicant, each application form shall be printed showing the State Gaming Agency's approval of its use, but the approval shall not be unreasonably withheld.
- (b) With respect to Gaming Employees, upon receipt of an Applicant's completed license application and a determination to issue either a temporary or permanent license, the Tribal Gaming Agency shall transmit within ten (10) days to the State Gaming Agency for a determination of suitability for licensure under the California

**Gambling Control Act a notice of intent to license the Applicant, together with all of the following:**

- (1) A copy of all tribal license application materials and information received by the Tribal Gaming Agency from the Applicant.**
  - (2) A complete set of fingerprint impressions, rolled by a certified fingerprint roller, transmitted electronically.**
  - (3) A current photograph.**
  - (4) Except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Tribal Gaming Agency.**
- (c) Upon receipt of a written request from a Gaming Resource Supplier or a Financial Source for a determination of suitability, the State Gaming Agency shall transmit an application package to the Applicant to be completed and returned to the State Gaming Agency for purposes of allowing it to make a determination of suitability for licensure.**
- (d) Investigation and disposition of applications for a determination of suitability shall be governed entirely by State law, and the State Gaming Agency shall determine whether the Applicant would be found suitable for licensure in a gambling establishment subject to the State Gaming Agency's jurisdiction. Additional information may be required by the State Gaming Agency to assist it in its background investigation, to the extent permitted under State law for licensure in a gambling establishment subject to the State Gaming Agency's jurisdiction.**
- (e) The Tribal Gaming Agency shall require a licensee to apply for renewal of a determination of suitability by the State Gaming Agency at such time as the licensee applies for renewal of a tribal gaming license.**
- (f) Upon receipt of completed license or license renewal application information from the Tribal Gaming Agency, the State Gaming**

Agency may conduct a background investigation pursuant to state law to determine whether the Applicant is suitable to be licensed for association with Class III Gaming operations. While the Tribal Gaming Agency shall ordinarily be the primary source of application information, the State Gaming Agency is authorized to directly seek application information from the Applicant. The Tribal Gaming Agency shall provide to the State Gaming Agency reports of the background investigations conducted by the Tribal Gaming Agency and the NIGC and related applications, if any, for Gaming Employees, Gaming Resource Suppliers, and Financial Sources. If further investigation is required to supplement the investigation conducted by the Tribal Gaming Agency, the Applicant will be required to pay the application fee charged by the State Gaming Agency pursuant to California Business and Professions Code section 19951, subdivision (a), but any deposit requested by the State Gaming Agency pursuant to section 19867 of that Code shall take into account reports of the background investigation already conducted by the Tribal Gaming Agency and the NIGC, if any. Failure to provide information reasonably required by the State Gaming Agency to complete its investigation under State law or failure to pay the application fee or deposit can constitute grounds for denial of the application by the State Gaming Agency. The State Gaming Agency and Tribal Gaming Agency shall cooperate in sharing as much background information as possible, both to maximize investigative efficiency and thoroughness, and to minimize investigative costs.

- (g) Upon completion of the necessary background investigation or other verification of suitability, the State Gaming Agency shall issue a notice to the Tribal Gaming Agency certifying that the State has determined that the Applicant is suitable, or that the Applicant is unsuitable, for licensure in a Gaming Operation and, if unsuitable, stating the reasons therefore. Issuance of a determination of suitability does not preclude the State Gaming Agency from a subsequent determination based on newly discovered information that a person or entity is unsuitable for the purpose for which the person or entity is licensed. Upon receipt of notice that the State Gaming Agency has determined that a person or entity is or would be unsuitable for licensure, the Tribal Gaming Agency shall deny that person or entity a license and promptly revoke any tribal gaming license that has theretofore been issued to that person or entity;

provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person or entity following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in state court conducted pursuant to section 1085 of the California Code of Civil Procedure.

- (h) Prior to denying an application for a determination of suitability, or to issuing notice to the Tribal Gaming Agency that a person or entity previously determined to be suitable had been determined unsuitable for licensure, the State Gaming Agency shall notify the Tribal Gaming Agency and afford the Tribe an opportunity to be heard. If the State Gaming Agency denies an application for a determination of suitability, or issues notice that a person or entity previously determined suitable has been determined unsuitable for licensure, the State Gaming Agency shall provide that person or entity with written notice of all appeal rights available under state law.
- (i) The Commission, or its successor, shall maintain a roster of Gaming Resource Suppliers and Financial Sources that it has determined to be suitable pursuant to the provisions of this section, or through separate procedures to be adopted by the Commission. Upon application to the Tribal Gaming Agency for a tribal gaming license, a Gaming Resource Supplier or Financial Source that appears on the Commission's suitability roster may be licensed by the Tribal Gaming Agency in the same manner as a Gaming Resource Supplier under subdivision (d) of section 6.4.4, subject to any later determination by the State Gaming Agency that the Gaming Resource Supplier or Financial Source is not suitable or to a tribal gaming license suspension or revocation pursuant to section 6.5.1; provided that nothing in this subdivision exempts the Gaming Resource Supplier or Financial Source from applying for a renewal of a State determination of suitability.

#### **Sec. 6.6. Submission of New Application.**

Nothing in section 6.0 shall be construed to preclude an Applicant who has been determined to be unsuitable for licensure by the State Gaming Agency, or the Tribe on behalf of such Applicant, from later submitting a new application for a determination of suitability by the State Gaming Agency in accordance with section 6.0.

**SECTION 7.0. APPROVAL AND TESTING OF GAMING DEVICES.**

**Sec. 7.1. Gaming Device Approval.**

- (a) No Gaming Device may be offered for play unless all the following occurs:
- (1) The manufacturer or distributor which sells, leases, or distributes such Gaming Device (i) has applied for a determination of suitability by the State Gaming Agency at least fifteen (15) days before it is offered for play, (ii) has not been found to be unsuitable by the State Gaming Agency, and (iii) has been licensed by the Tribal Gaming Agency;
  - (2) The software for the game authorized for play on the Gaming Device has been tested, approved and certified by an independent gaming test laboratory or state governmental gaming test laboratory (the "Gaming Test Laboratory") as operating in accordance with the standards of Gaming Laboratories International, Inc. known as GLI-11, GLI-12, GLI-13, GLI-21, and GLI-26, or the technical standards approved by the State of Nevada, or such other technical standards as the State Gaming Agency and the Tribal Gaming Agency shall agree upon, which agreement shall not be unreasonably withheld;
  - (3) A copy of the certification by the Gaming Test Laboratory, specified in subdivision (a)(2), is provided to the State Gaming Agency by electronic transmission or by mail, unless the State Gaming Agency waives receipt of copies of the certification;
  - (4) The software for the game authorized for play on the Gaming Device is tested by the Tribal Gaming Agency to ensure each game authorized for play on the Gaming Device has the correct electronic signature prior to insertion into the Gaming Device;
  - (5) The hardware and associated equipment for each type of Gaming Device has been tested by the Gaming Test Laboratory prior to operation by the public to ensure operation in

accordance with the applicable Gaming Test Laboratory standards;

- (6) The hardware and associated equipment for the Gaming Device has been tested by the Tribal Gaming Agency to ensure operation in accordance with the manufacturer's specifications; and
  - (7) The Tribal Gaming Agency shall maintain adequate records that demonstrate compliance with this subdivision (a).
- (b) Where either the Tribe or the State Gaming Agency requests new standards for testing, approval, and certification of the software for the game authorized for play on the Gaming Device pursuant to subdivision (a)(2), and the State Gaming Agency and the Tribe fail to agree to new standards within one hundred twenty (120) days of the request, the technical standards shall be those approved by the State of Nevada.

**Sec. 7.2. Gaming Test Laboratory Selection.**

- (a) The Gaming Test Laboratory shall be an independent or state governmental gaming test laboratory recognized in the gaming industry which (1) is competent and qualified to conduct scientific tests and evaluations of Gaming Devices, and (2) is licensed or approved by any of the following states: Arizona, California, Colorado, Illinois, Indiana, Iowa, Michigan, Missouri, Nevada, New Jersey, or Wisconsin. The Tribal Gaming Agency shall submit to the State Gaming Agency documentation that demonstrates the Gaming Test Laboratory satisfies (1) and (2) herein at least thirty (30) days before the commencement of Gaming Activities pursuant to this Compact, or if such use follows the commencement of Gaming Activities, within fifteen (15) days prior to reliance thereon. If, at any time, the Gaming Test Laboratory license and/or approval required by (2) herein is suspended or revoked by any of those states or the Gaming Test Laboratory is found unsuitable by the State Gaming Agency, then the State Gaming Agency may reject the use of such Gaming Test Laboratory, and upon such rejection, the Tribal Gaming Agency shall ensure that such Gaming Test Laboratory discontinues its responsibilities under this section.

- (b) The Tribe and the State Gaming Agency shall inform the Gaming Test Laboratory in writing that irrespective of the source of payment of its fees, the Gaming Test Laboratory's duty of loyalty runs equally to the State and the Tribe.

### **Sec. 7.3. Independent Audits.**

The Tribal Gaming Agency shall ensure that compliance with section 7.1 is audited annually by an independent auditor and shall provide the results of such audits to the State Gaming Agency within five (5) business days of completion. For purposes of this section, an independent auditor shall be a certified public accountant who is licensed in the state of California to practice as an independent certified public accountant or who holds a California practice privilege, as provided in the California Accountancy Act, California Business and Professions Code, section 5000 et seq., who is not employed by the Tribe, the Tribal Gaming Agency, the Management Contractor, or the Gaming Operation, has no financial interest in any of these entities, and is only otherwise retained by any of these entities to conduct regulatory audits, independent audits of the Gaming Operation, or audits under this section. Prior to the first independent audit, the Tribal Gaming Agency and the State Gaming Agency shall develop agreed upon procedures to be employed by the independent auditor when the audit is conducted. The independent audit report, along with all working papers, shall be provided to the State Gaming Agency within thirty (30) days of the receipt of the final audit report, upon request by the State Gaming Agency.

### **Sec. 7.4. State Gaming Agency Inspections.**

- (a) The State Gaming Agency, utilizing such consultants, if any, it deems appropriate, may inspect the Gaming Devices in operation at the Gaming Facility on a random basis not to exceed four (4) times annually to confirm that they operate and play properly pursuant to the manufacturer's technical standards. The inspections may include all Gaming Device software, hardware, associated equipment, software maintenance records, and systems that support the operation of the Gaming Device. The random inspections conducted pursuant to this subdivision shall occur during normal business hours outside of weekends and holidays. Whenever practicable, the State Gaming Agency shall not require removal from play any Gaming Device that

the State Gaming Agency determines may be fully and adequately tested while still in play.

- (b) The State Gaming Agency shall provide notice to the Tribal Gaming Agency of such inspection at or prior to the commencement of the random inspection, and the Tribal Gaming Agency may accompany the State Gaming Agency inspector(s).
- (c) The State Gaming Agency, utilizing such consultants, if any, it deems appropriate, may conduct additional inspections at additional times upon reasonable belief of any irregularity and after informing the Tribal Gaming Agency of the basis for such belief.

**Sec. 7.5. Technical Standards.**

The Tribal Gaming Agency shall provide to the State Gaming Agency copies of its regulations for technical standards applicable to the Tribe's Gaming Devices at least thirty (30) days before the commencement of the Gaming Operation and at least thirty (30) days before the effective date of any revisions to the regulations.

**Sec. 7.6. Transportation of Gaming Devices.**

- (a) Subject to the provisions of subdivision (b), the Tribal Gaming Agency shall not permit any Gaming Device to be transported to or from the Tribe's land except in accordance with procedures established by agreement between the State Gaming Agency and the Tribal Gaming Agency and upon at least ten (10) days' notice to the Sheriff's Department for the County.
- (b) Transportation of a Gaming Device from the Gaming Facility is permissible only if:
  - (1) The final destination of the Gaming Device is a gaming facility of any tribe in California that has a compact with the State which makes lawful the receipt of such Gaming Device;
  - (2) The final destination of the Gaming Device is any other state in which possession of the Gaming Device is made lawful by state law or by tribal-state compact;



- (3) The final destination of the Gaming Device is another country, or any state or province of another country, wherein possession of the Gaming Device is lawful; or
  - (4) The final destination is a location within California for testing, repair, maintenance, or storage by a person or entity that has been licensed by the Tribal Gaming Agency and has been found suitable for licensure by the State Gaming Agency.
- (c) Any Gaming Device transported from or to the Tribe's land in violation of this section 7.6, or in violation of any permit issued pursuant thereto, is subject to summary seizure by California peace officers in accordance with California law.

## **SECTION 8.0. INSPECTIONS.**

### **Sec. 8.1. Investigation and Sanctions.**

- (a) The Tribal Gaming Agency shall investigate any reported violation of this Compact and shall require the Gaming Operation to correct the violation upon such terms and conditions as the Tribal Gaming Agency determines are necessary.
- (b) The Tribal Gaming Agency shall be empowered by the Gaming Ordinance to impose fines or other sanctions within the jurisdiction of the Tribe against gaming licensees who interfere with or violate the Tribe's gaming regulatory requirements and obligations under IGRA, NIGC gaming regulations, the Gaming Ordinance, or this Compact as long as the fines or sanctions comport with federal due process.
- (c) The Tribal Gaming Agency shall report violations of this Compact and any failures to comply with its orders to the Commission and the Bureau of Gambling Control in the California Department of Justice within ten (10) days of discovery.

### **Sec. 8.2. Assistance by State Gaming Agency.**

The Tribe may request the assistance of the State Gaming Agency whenever it reasonably appears that such assistance may be necessary to carry out the

purposes described in section 8.1, or otherwise to protect public health, safety, or welfare.

**Sec. 8.3. Access to Premises by State Gaming Agency; Notification; Inspections.**

- (a) Notwithstanding that the Tribe and its Tribal Gaming Agency have the primary responsibility to administer and enforce the regulatory requirements of this Compact, the State Gaming Agency, including but not limited to any consultants retained by it, shall have the right to inspect the Gaming Facility, and all Gaming Operation or Facility records relating to Class III Gaming, including such records located in off-site facilities dedicated to their storage subject to the conditions in subdivisions (b), (c), and (d).
- (b) Except as provided in section 7.4, the State Gaming Agency may inspect public areas of the Gaming Facility at any time without prior notice during normal Gaming Facility business hours.
- (c) Inspection of areas of the Gaming Facility not normally accessible to the public may be made at any time the Gaming Facility is open to the public, immediately after the State Gaming Agency's authorized inspector notifies the Tribal Gaming Agency of his or her presence on the premises, presents proper identification, and requests access to the non-public areas of the Gaming Facility. The Tribal Gaming Agency, in its sole discretion, may require a member of the Tribal Gaming Agency to accompany the State Gaming Agency inspector at all times that the State Gaming Agency inspector is in a non-public area of the Gaming Facility. If the Tribal Gaming Agency imposes such a requirement, it shall require such member to be available at all times for those purposes and shall ensure that the member has the ability to gain immediate access to all non-public areas of the Gaming Facility.
- (d) Nothing in this Compact shall be construed to limit the State Gaming Agency to one inspector during inspections.

**Sec. 8.4. Inspection, Copying and Confidentiality of Documents.**

- (a) Inspection and copying of Gaming Operation papers, books, and records may occur at any time, immediately after the State Gaming

Agency gives notice to the Tribal Gaming Agency, during the hours from 8:00 a.m. to 5:00 p.m. Monday through Friday, and at any other time that a Tribal Gaming Agency employee, a Gaming Facility employee, or a Gaming Operation employee is available onsite with physical access to offices, including off-site facilities, where the papers, books, and records are kept. The Tribe shall cooperate with, and cannot refuse, the inspection and copying, provided that the State Gaming Agency inspectors cannot require copies of papers, books, or records in such volume that it unreasonably interferes with the normal functioning of the Gaming Operation or Facility.

- (b) In lieu of onsite inspection and copying of Gaming Operation papers, books, and records by its inspectors, the State Gaming Agency may request in writing that the Tribal Gaming Agency provide copies of such papers, books, and records as the State Gaming Agency deems necessary to ensure compliance with the terms of this Compact. The State Gaming Agency's written request shall describe those papers, books, and records requested to be copied with sufficient specificity to reasonably identify the requested documents. Within ten (10) days after it receives the request, or such other time as the State Gaming Agency may agree in writing, the Tribal Gaming Agency shall provide one copy of the requested papers, books, and records to the requesting State Gaming Agency. An electronic version of the requested papers, books, and records may be submitted to the State Gaming Agency in lieu of a paper copy so long as the software required to access the electronic version is reasonably available to the State Gaming Agency and the State Gaming Agency does not object.
- (c) Notwithstanding any other provision of California law, any confidential information and records, as defined in subdivision (d), that the State Gaming Agency obtains or copies pursuant to this Compact shall be, and remain, the property solely of the Tribe; provided that such confidential information and records and copies may be retained by the State Gaming Agency as is reasonably necessary to assure the Tribe's compliance with this Compact or to complete any investigation of suspected criminal activity; and provided further that the State Gaming Agency may provide such confidential information and records and copies to federal law enforcement and other state agencies or consultants that the State deems reasonably necessary to assure the Tribe's compliance with this

Compact, to renegotiate any provision thereof, or to conduct or complete any investigation of suspected criminal activity in connection with the Gaming Activities or the operation of the Gaming Facility or the Gaming Operation.

- (d) “Confidential information and records” means information and records treated as confidential or protected from disclosure under California state law, including, but not limited to, trade secrets, non-public financial data, player tracking data, video recordings, internal controls, and internal reports related to security and prevention of theft. The Tribe shall designate as confidential each page of each record it believes to be confidential under California state law, and in all such cases the State shall treat the record as confidential until such time that the designation is removed. If the State objects to such designation with respect to any record or page(s) of a record, the matter will be resolved in accordance with the arbitration procedures under section 13.2. The State need not treat as confidential any page or record not so designated.
- (e) The State Gaming Agency and all other state agencies and consultants to which it provides information and records obtained pursuant to subdivisions (a) or (b) of this section, which are deemed confidential pursuant to subdivision (d), will exercise care in the preservation of the confidentiality of such information and records and will apply the highest standards of confidentiality provided under California state law to preserve such information and records from disclosure until such time as the confidential designation may be removed by the Tribe, by mutual agreement, or pursuant to the arbitration procedures under section 13.2. Before the State Gaming Agency provides confidential information and records to a consultant as authorized under subdivision (c), it shall enter into a confidentiality agreement with that consultant that meets the standards of this subdivision.
- (f) The Tribe may avail itself of any and all remedies under State law for the improper disclosure of confidential information and records. In the case of any disclosure of confidential information and records compelled by judicial process, the State Gaming Agency will endeavor to give the Tribe prompt notice of the order compelling disclosure and a reasonable opportunity to interpose an objection thereto with the court.

- (g) The Tribal Gaming Agency and the State Gaming Agency shall confer regarding protocols for the release to law enforcement agencies of information obtained during the course of background investigations.
- (h) Confidential information and records received by the State Gaming Agency from the Tribe in compliance with this Compact, or information compiled by the State Gaming Agency from those confidential records, shall be exempt from disclosure under the California Public Records Act.
- (i) Notwithstanding any other provision of this Compact, the State Gaming Agency shall not be denied access to papers, books, records, equipment, or places where such access is reasonably necessary to ensure compliance with this Compact or to conduct or complete an investigation of suspected criminal activity in connection with the Gaming Activities or the operation of the Gaming Facility or the Gaming Operation.

**Sec. 8.5. NIGC Audit Reports.**

The Tribe shall provide to the State Gaming Agency, within twenty (20) days of their submission to the NIGC, copies of the audited financial statements of Class III Gaming and management letter(s), if any, provided to the NIGC. All submissions to the State Gaming Agency made pursuant to this section 8.5 shall be subject to the confidentiality protections and assurances set forth in section 8.4, subdivision (h) of this Compact.

**Sec. 8.6. Cooperation with Tribal Gaming Agency.**

The State Gaming Agency shall meet periodically with the Tribal Gaming Agency and cooperate in all matters relating to the enforcement of the provisions of this Compact and its Appendices.

**Sec. 8.7. Compact Compliance Review.**

The State Gaming Agency is authorized to conduct an annual comprehensive Compact compliance review of the Gaming Operation, Gaming Facility, and Gaming Activities to ensure compliance with all provisions of this Compact, any appendices hereto, including, without limitation, minimum internal

control standards set forth in Appendix D, and with all laws, ordinances, codes, rules, regulations, policies, internal controls, standards, and procedures that are required to be adopted, implemented, or complied with pursuant to this Compact. The State Gaming Agency may conduct additional periodic reviews of any part of the Gaming Operation, Gaming Facility, and Gaming Activities and other activities subject to this Compact to ensure compliance with all provisions of this Compact and its appendices. Nothing in this section shall be construed to supersede any other audits, inspections, investigations, and monitoring authorized by this Compact.

**SECTION 9.0. RULES AND REGULATIONS FOR THE OPERATION AND MANAGEMENT OF THE GAMING OPERATION AND FACILITY.**

**Sec. 9.1. Adoption of Regulations for Operation and Management; Minimum Standards.**

It is the responsibility of the Tribal Gaming Agency to conduct on-site gaming regulation and control to enforce the terms of this Compact, of IGRA, of NIGC gaming regulations, of State Gaming Agency regulations, and of the Gaming Ordinance, to protect the integrity of the Gaming Activities and the Gaming Operation for honesty and fairness, and to maintain the confidence of patrons that tribal governmental gaming in California meets the highest standards of fairness and internal controls. To meet those responsibilities, the Tribal Gaming Agency shall be vested with the authority to promulgate, and shall promulgate, rules and regulations governing, at a minimum, the following subjects pursuant to the standards and conditions set forth therein:

- (a) The enforcement of all relevant laws and rules with respect to the Gaming Activities, Gaming Operation and Gaming Facility, and the conduct of investigations and hearings with respect thereto, and to any other subject within its jurisdiction.
- (b) The physical safety of Gaming Facility patrons and employees, and any other person while in the Gaming Facility. Except as provided in section 12.2, nothing herein shall be construed, however, to make applicable to the Tribe any State laws, regulations, or standards governing the use of tobacco.
- (c) The physical safeguarding of assets transported to, within, and from the Gaming Facility.

- (d) The prevention of illegal activity within the Gaming Facility or with regard to the Gaming Operation or Gaming Activities, including, but not limited to, the maintenance of employee procedures and a surveillance system as provided in subdivision (e).
- (e) Maintenance of a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and may not be modified without the approval of, the Tribal Gaming Agency. The Tribal Gaming Agency shall have current copies of the Gaming Facility floor plan and closed-circuit television system at all times.
- (f) The recording of any and all occurrences within the Gaming Facility that deviate from normal operating policies and procedures (hereinafter "incidents"). The procedure for recording incidents pursuant to the regulations shall also do all of the following:

  - (1) Specify that security personnel record all incidents, regardless of an employee's determination that the incident may be immaterial (all incidents shall be identified in writing).
  - (2) Require the assignment of a sequential number to each report.
  - (3) Provide for permanent reporting in indelible ink in a bound notebook from which pages cannot be removed and in which entries are made on each side of each page and/or in electronic form, provided the information is recorded in a manner so that, once the information is entered, it cannot be deleted or altered and is available to the State Gaming Agency pursuant to sections 8.3 and 8.4.
  - (4) Require that each report include, at a minimum, all of the following:

    - (A) The record number.
    - (B) The date.
    - (C) The time.
    - (D) The location of the incident.

- (E) A detailed description of the incident.
- (F) The persons involved in the incident.
- (G) The security department employee assigned to the incident.

The regulations shall provide that for incidents creating the potential for criminal activity and other significant risk to the integrity of the Gaming Activities or the Gaming Operation, or to the safety of patrons or Gaming Operation employees, the Tribal Gaming Agency shall transmit copies of those incident reports to the State Gaming Agency forthwith.

- (g) The establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like, consistent with industry practice.
- (h) Maintenance of a list of persons barred from the Gaming Facility who, because of their past behavior, criminal history, or association with persons or organizations, pose a threat to the integrity of the Gaming Activities of the Tribe or to the integrity of regulated gaming within the State. The Tribal Gaming Agency shall transmit a copy of the list to the State Gaming Agency quarterly and shall make a copy of the current list available to the State Gaming Agency upon request. Notwithstanding anything in this Compact to the contrary, the State Gaming Agency is authorized to make the copies of the list available to other tribal gaming agencies, to licensees of the Commission, the California Horse Racing Board, and other law enforcement agencies.
- (i) The conduct of an audit, at the Tribe's expense, of the annual financial statements of the Gaming Operation.
- (j) Submission to, and prior approval by, the Tribal Gaming Agency of the rules and regulations of each Class III game to be operated by the Tribe, and of any changes in those rules and regulations. No Class III game may be played that has not received Tribal Gaming Agency approval.
- (k) The obligation of the Gaming Facility and the Gaming Operation to maintain a copy of the rules, regulations, and procedures for each



game as played, including, but not limited to, the method of play and the odds and method of determining amounts paid to winners.

- (l) Specifications and standards to ensure that information regarding the method of play, odds, and payoff determinations is visibly displayed or available to patrons in written form in the Gaming Facility and to ensure that betting limits applicable to any gaming station is displayed at that gaming station.
- (m) Maintenance of a cashier's cage in accordance with industry standards for such facilities.
- (n) Specification of minimum staff and supervisory requirements for each Gaming Activity to be conducted.
- (o) Technical standards and specifications in conformity with the requirements of this Compact for the operation of Gaming Devices and other games authorized herein to be conducted by the Tribe.

**Sec. 9.1.1. Minimum Internal Control Standards (MICS).**

- (a) The Tribe shall conduct its Gaming Activities pursuant to an internal control system that implements minimum internal control standards for Class III Gaming that are no less stringent than those contained in the Minimum Internal Control Standards of the NIGC (25 C.F.R. Part 542), as they existed on October 19, 2006, and as they may be amended from time to time, without regard to the NIGC's authority to promulgate, enforce, or audit the standards. This requirement is met through compliance with the provisions set forth in this section and in section 9.1.
- (b) Before commencement of Gaming Operations, the Tribal Gaming Agency shall, in accordance with the Gaming Ordinance, establish written internal control standards for the Gaming Facility that shall:
  - (i) provide a level of control that equals or exceeds the minimum internal control standards set forth in Appendix D to this Compact, as it exists currently and as it may be revised;
  - (ii) contain standards for currency transaction reporting that comply with 31 C.F.R. Part 103, as it exists currently and as it may be amended;
  - (iii) satisfy the requirements of section 9.1;
  - (iv) be consistent with this Compact; and

- (v) require the Gaming Operation to comply with the internal control standards.
- (c) The Gaming Operation shall operate the Gaming Facility pursuant to a written internal control system. The internal control system shall comply with and implement the internal control standards established by the Tribal Gaming Agency pursuant to subdivision (b) of this section 9.1.1. The internal control system, and any proposed changes to the system, must be approved by the Tribal Gaming Agency prior to implementation. The internal control system shall be designed to reasonably assure that: (i) assets are safeguarded and accountability over assets is maintained; (ii) liabilities are properly recorded and contingent liabilities are properly disclosed; (iii) financial records including records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable; (iv) transactions are performed in accordance with the Tribal Gaming Agency's general or specific authorization; (v) access to assets is permitted only in accordance with the Tribal Gaming Agency's approved procedures; (vi) recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies; and (vii) functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.
- (d) The Tribal Gaming Agency shall provide a copy of its written internal control standards and any changes to those control standards to the State Gaming Agency within thirty (30) days of approval by the Tribal Gaming Agency. The State Gaming Agency will review and submit to the Tribal Gaming Agency written comments or objections, if any, to the internal control standards and any changes to the standards, within thirty (30) days of receiving them, or by another date agreed upon by the Tribal Gaming Agency and the State Gaming Agency. The State Gaming Agency's review shall be for the purpose of determining whether the internal control standards and any changes to the standards provide a level of control which equals or exceeds the level of control required by the minimum internal control standards set forth in Appendix D, as it exists currently and as it may be revised, and are consistent with this Compact.

- (e) The minimum internal control standards set forth in Appendix D to this Compact shall apply to all Gaming Activities, Gaming Facilities and the Gaming Operation; however, Appendix D is not applicable to any activities not expressly permitted in this Compact. Should the terms in Appendix D be inconsistent with this Compact, the terms in this Compact shall prevail.
- (f) The Tribal Gaming Agency and the State Gaming Agency shall, every three (3) years after the Tribe commences Gaming Activities, and not later than thirty (30) days after the three (3)-year period, promptly commence negotiations to amend Appendix D to this Compact to continue efficient regulation, foster statewide uniformity of regulation of class III Gaming Operations, and address future circumstances, including, without limitation, technological advancements and changes in industry standards. The Tribal Gaming Agency or the State Gaming Agency may, at any time, request negotiations to amend Appendix D to this Compact for the purposes described in this subdivision (f). Such revisions to Appendix D shall not be considered to be an amendment to this Compact. Any disputes regarding the contents of future amendments to Appendix D shall be resolved in the manner set forth in section 13.0 of this Compact.
- (g) The Tribe shall cause, at its own expense and not less than annually at the Tribe's fiscal year end, an independent auditor to be engaged to perform "Agreed-Upon Procedures" to verify that the Gaming Operation is in compliance with the internal control standards at the Gaming Facility. For purposes of this section, an independent auditor shall be a certified public accountant who is licensed in the state of California to practice as an independent certified public accountant or who holds a California practice privilege, as provided in the California Accountancy Act, California Business and Professions Code, section 5000 et seq., who is not employed by the Tribe, the Tribal Gaming Agency, the Management Contractor, or the Gaming Operation, has no financial interest in any of these entities, and is only otherwise retained by any of these entities to conduct regulatory audits, independent audits of the Gaming Operation, or audits under this section. The independent auditor shall perform the Agreed-Upon Procedures in accordance with Part 542.3, subdivision (f), in Appendix D, as it may be revised. The independent auditor shall issue a report of its findings to the Tribal Gaming Agency within one

hundred twenty (120) days after the Gaming Operation's fiscal year end. Promptly upon receipt of the Agreed-Upon Procedures report, and in no event later than fifteen (15) days after receipt of the report, the Tribal Gaming Agency shall provide a complete copy of the Agreed-Upon Procedures report to the State Gaming Agency, along with a copy of any supporting reports or documents the independent auditor has prepared, and any replies the Tribe has prepared in response to the independent certified public accountant's report.

**Sec. 9.2. Program to Mitigate Problem Gambling.**

The Gaming Operation shall establish a program, approved by the Tribal Gaming Agency, to mitigate pathological and problem gambling by implementing the following measures:

- (a) It shall train Gaming Facility supervisors and gaming floor employees on responsible gaming and to identify and manage problem gambling.
- (b) It shall make available to patrons at conspicuous locations and ATMs in the Gaming Facility educational and informational materials which aim at the prevention of problem gambling and that specify where to find assistance.
- (c) It shall establish self-exclusion programs whereby a self-identified problem gambler may request the halt of promotional mailings, the revocation of privileges for casino services, the denial or restraint on the issuance of credit and check cashing services, and exclusion from the Gaming Facility.
- (d) It shall establish an involuntary exclusion program that allows the Gaming Operation to halt promotional mailings, deny or restrain the issuance of credit and cash checking services, and deny access to the Gaming Facility to patrons who have exhibited signs of problem gambling.
- (e) It shall display at conspicuous locations and at ATMs within the Gaming Facility signage bearing a toll-free help-line number where patrons may obtain assistance for gambling problems.

- (f) It shall make diligent efforts to prevent underage individuals from loitering in the area of the Gaming Facility where the Gaming Activities take place.
- (g) It shall assure that advertising and marketing of the Gaming Activities at the Gaming Facility contain a responsible gambling message and a toll-free help-line number for problem gamblers, where practical, and that it make no false or misleading claims.
- (h) It shall adopt a code of conduct, derived, inter alia, from that of the American Gaming Association, that addresses responsible gambling and responsible advertising.

Nothing herein is intended to grant any third party the right to sue based on a perceived violation of these standards.

### **Sec. 9.3. Enforcement of Regulations.**

The Tribal Gaming Agency shall ensure the enforcement of the rules, regulations, and specifications promulgated under this Compact, including under section 9.1.

### **Sec. 9.4. State Civil and Criminal Jurisdiction.**

Nothing in this Compact impairs the civil or criminal jurisdiction of the State under Public Law 280 (18 U.S.C. § 1162; 28 U.S.C. § 1360) or IGRA to the extent applicable. Except as provided below, all State and local law enforcement agencies and state courts shall exercise jurisdiction to enforce the State's criminal laws on the Tribe's Indian lands, including the Gaming Facility and all related structures, in the same manner and to the same extent, and subject to the same restraints and limitations, imposed by the laws of the State and the United States, as is exercised by State and local law enforcement agencies and state courts elsewhere in the State, to the fullest extent permitted by decisions of the United States Supreme Court related to Public Law 280. The Tribe hereby consents to such criminal jurisdiction. However, no Gaming Activity conducted by the Tribe pursuant to this Compact may be deemed to be a criminal violation of any law of the State. Except for such Gaming Activity conducted pursuant to this Compact, criminal jurisdiction to enforce State gambling laws on the Tribe's Indian lands, and to adjudicate alleged violations thereof, is hereby transferred to the State pursuant to 18 U.S.C. § 1166(d).

**Sec. 9.5. Tribal Gaming Agency Members.**

- (a) The Tribe shall take all reasonable steps to ensure that members of the Tribal Gaming Agency are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties under this Compact; shall adopt a conflict-of-interest code to that end and shall ensure its enforcement; and shall ensure the prompt removal of any member of the Tribal Gaming Agency who is found to have acted in a corrupt or compromised manner or to have a conflict of interest.
- (b) The Tribe shall conduct a background investigation on each prospective member of the Tribal Gaming Agency, who shall meet the background requirements of a management contractor under IGRA; provided that if such member is elected through a tribal election process, that member may not participate in any Tribal Gaming Agency matters under this Compact unless a background investigation has been concluded and the member has been found to be suitable. If requested by the Tribe or the Tribal Gaming Agency, the State Gaming Agency may assist in the conduct of such a background investigation and may assist in the investigation of any possible corruption or compromise of a member of the Tribal Gaming Agency.
- (c) In the event that the Tribe requests the assistance of the State Gaming Agency pursuant to subdivision (b) of this section and the State Gaming Agency determines that a member of the Tribal Gaming Agency is unsuitable, the State Gaming Agency shall serve upon the Tribe a written notice of its finding of unsuitability and request the removal of the member. Upon receipt of notice that the State Gaming Agency has determined the member to be unsuitable, the Tribe shall either remove that member from the Tribal Gaming Agency or demand an expedited arbitration pursuant to section 13.2.
- (d) If the Tribe demands an expedited arbitration of the State Gaming Agency's determination of unsuitability, the arbitrator shall make a de novo determination as to whether the State Gaming Agency's determination of unsuitability is justified using the following bases for such determination.

- (1) To be found suitable, the member must be all of the following:
  - (A) A person of good character, honesty, and integrity.
  - (B) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of the State, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.
  - (C) A person that is in all other respects qualified to be licensed as provided in section 6.4.7 of this Compact.
- (2) A member is deemed unsuitable if any of the following apply:
  - (A) The person, any partner, or any officer, director, or shareholder of any corporation in which the person has a controlling interest, has any financial interest in any business or organization that is engaged in any form of gambling prohibited by section 330 of the California Penal Code, whether within or without the State of California, unless such gambling is lawful within the jurisdiction in which it is being conducted.
  - (B) The person fails to clearly establish eligibility and qualification in accordance with section 6.4.7 of this Compact.
  - (C) The person fails to provide information, documentation, and assurances required by sections 6.4.7, 6.4.8, subdivision (c), or 6.5.6 of this Compact or requested by the Tribal Gaming Agency, or fails to reveal any fact material to qualification, or supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

- (D) The person has been convicted of a felony in any state or federal court, including a conviction by a federal court or by a court in another state for a crime that would constitute a felony if committed in California.
- (E) The person has been convicted of any misdemeanor involving dishonesty or moral turpitude within the ten (10)-year period immediately preceding the beginning of his or her service on the Tribal Gaming Agency, unless the applicant has been granted relief pursuant to section 1203.4, 1203.4a, or 1203.45 of the California Penal Code; provided, however, that the granting of relief pursuant to section 1203.4, 1203.4a, or 1203.45 of the California Penal Code shall not constitute a limitation on the discretion of the arbitrator to determine the person's compliance with the requirements of sections 6.4.7 and 9.5, subdivision (d)(1), of this Compact.
- (F) The person has been associated with criminal profiteering activity or organized crime, as defined by section 186.2 of the California Penal Code.
- (G) The person has exhibited contumacious defiance of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling, official corruption related to gambling activities, or criminal profiteering activity or organized crime, as defined by section 186.2 of the California Penal Code.
- (H) The person is less than twenty-one (21) years of age.

In all cases, in coming to a decision, the arbitrator must give due consideration for the proper protection of the health, safety and welfare of the residents of the State, and must take into account whether membership on the Tribal Gaming Agency would undermine public trust that the Gaming Operation is free from criminal and dishonest elements and would be conducted honestly.



**Sec. 9.6. State Gaming Agency Regulations.**

- (a) Pursuant to the procedures set forth in section 9.7, the State Gaming Agency may adopt regulations governing matters encompassed in sections 6.0, 7.0, and 9.1 under the following circumstances:
- (1) The State Gaming Agency may adopt regulations that apply to any aspect of the Gaming Operation that is not addressed by a regulation of the Tribal Gaming Agency, as long as the regulations are not inconsistent with the terms of this Compact.
  - (2) The State Gaming Agency may adopt regulations that apply to any subjects covered by sections 6.0, 7.0, and 9.1 when it deems that the regulations adopted by the Tribal Gaming Agency in connection with the subject are ineffective in addressing it, as long as the regulations are not inconsistent with the terms of this Compact.
  - (3) In circumstances that present an imminent threat to public health or safety, the State Gaming Agency may adopt a regulation that becomes effective immediately, regardless of whether the Tribe or Tribal Gaming Agency has enacted a regulation on the subject and regardless of whether the tribal regulation is deemed ineffective. Any such regulation shall be accompanied by a detailed, written description of the exigent circumstances, and shall be submitted immediately to the Tribal Gaming Agency. A regulation adopted by the State Gaming Agency pursuant to this subdivision shall be subject to the provisions governing arbitration under subdivision (d) of section 9.7.
- (b) Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the California Government Code does not apply to regulations adopted by the State Gaming Agency under this section.

**Sec. 9.7. Limitations on Adoption of State Gaming Regulations.**

- (a) To promote respectful relations between the Tribe and the State, except as provided in section 9.6, subdivision (a)(3), no State Gaming Agency regulation adopted under section 9.6, subdivisions (a)(1) and

(2), shall be effective with respect to the Gaming Operation until all of the following procedures have been exhausted:

- (1) When the State Gaming Agency suspects with respect to an aspect of the Gaming Operation that no such regulation exists, or that an existing regulation is ineffective in addressing a subject, it may so notify the Tribal Gaming Agency, set forth the reasons for its position, and request a meeting for the purpose of considering the adoption of a regulation by the Tribal Gaming Agency or the State Gaming Agency. The notification shall propose a date for the meeting, which shall not be less than ten (10) days following the date the notification is made.
- (2) Representatives of the Tribal Gaming Agency shall meet with the representatives of the State Gaming Agency (for purposes of this section, the “parties”) on the date proposed in the notification, or such other date as may be mutually agreed. In the absence of agreement upon a different date, the date proposed in the notification shall control. The parties at the meeting shall confer in good faith over the necessity for the adoption of a regulation and ways in which effective regulation may be achieved. Any proposal of a regulation by the Tribal Gaming Agency, either at or prior to the meeting, shall be without prejudice to its right to dispute either the necessity of a regulation or the effectiveness of a regulation in existence.
- (3) Within thirty (30) days following the meeting, the Tribal Gaming Agency may propose a regulation for the purpose of addressing the subject as to which the State Gaming Agency provided notification. The Tribal Gaming Agency may adopt the regulation only after inviting comment or objection by the State Gaming Agency, and the Tribal Gaming Agency must provide at least thirty (30) days for the State Gaming Agency to comment or object by providing a copy of the proposed regulation to the State Gaming Agency at least thirty (30) days prior to the date of its intended adoption. Prior to adoption of any regulation under this paragraph, the Tribal Gaming Agency shall respond in writing to each comment and objection of the State Gaming Agency.

- (4) If the Tribal Gaming Agency adopts a regulation as provided in subdivision (a)(3), the State Gaming Agency may, if dissatisfied with the regulation, make a demand for binding arbitration upon the Tribal Gaming Agency, in which case arbitration shall proceed as provided in subdivision (d).
- (b) If the Tribal Gaming Agency does not propose a regulation within thirty (30) days following the meeting specified in subdivision (a)(2) and adopt a regulation as provided in subdivision (a)(3) within seventy (70) days of the meeting specified in subdivision (a)(2), the State Gaming Agency may adopt a regulation for the purpose of addressing the subject as to which it provided the Tribal Gaming Agency notification pursuant to subdivision (a)(1). Except as provided in section 9.6, subdivision (a)(3), the State Gaming Agency shall adopt no regulation under this subdivision without first providing the proposed regulation to, and inviting comment or objection by, the Tribal Gaming Agency at least thirty (30) days prior to the date of the intended adoption of the regulation. The Tribal Gaming Agency shall provide its comments or objections, if any, to the State Gaming Agency at least ten (10) days prior to the date of the intended adoption of the regulation. Prior to adoption of any regulation under this subdivision, the State Gaming Agency shall respond in writing to each comment and objection of the Tribal Gaming Agency.
- (c) If the State Gaming Agency adopts a regulation as provided in subdivision (b), the Tribal Gaming Agency may, if dissatisfied with the regulation, make a demand upon the State Gaming Agency for binding arbitration, in which case the arbitration shall proceed as provided in subdivision (d).
- (d) Neither a demand for arbitration nor the pendency of arbitration shall impair the effect of a regulation adopted by the Tribal Gaming Agency under subdivision (a)(3) or by the State Gaming Agency under subdivision (b) of this section or subdivision (a)(3) of section 9.6. Arbitration, when demanded, shall proceed before a single arbitrator, who shall be a retired judge (hereafter "JAMS arbitrator"), pursuant to the Comprehensive Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent) (hereafter "JAMS Comprehensive Arbitration"). Each party shall

exchange with the other within fifteen (15) days of the demand for arbitration a single proposal in the form of a regulation that the party proposes to adopt. If either party has adopted a regulation pursuant to subdivisions (a) or (b) of this section or subdivision (a)(3) of section 9.6, that regulation shall constitute the proposal of that party. The arbitrator shall be limited to determining whether the Compact authorizes a regulation to be adopted with respect to the aspect of the Gaming Operation at issue, and if so, which of the proposals before the arbitrator most effectively addresses the subject in light of the purposes and objectives of sections 6.0, 7.0, and 9.1 of this Compact. Unless the arbitrator determines that no regulation is required by the Compact, the arbitrator shall issue an order, effective upon issuance, which shall identify which of the two (2) proposals is to be given effect as a regulation. If requested by a party at the hearing, a reasoned statement of the arbitrator's decision shall be included in the order. Review of the arbitrator's order is waived. To effectuate this provision, and in the exercise of its sovereignty, the Tribe agrees to waive, and does hereby waive, its right to assert sovereign immunity in connection with the arbitrator's jurisdiction and in any action to (i) enforce the other party's obligation to arbitrate, or (ii) enforce or confirm any arbitral order rendered in the arbitration.

- (e) The proposal identified by the arbitrator's order as the proposal to be given effect shall be effective as follows: If the proposal so identified is in effect on the date the arbitrator's order is issued, it need not be readopted and shall be effective from the date of adoption. If the proposal so identified is not in effect on the date the arbitrator's order is issued, the agency that has not adopted it, either the State Gaming Agency or the Tribal Gaming Agency, or both, shall adopt it as a regulation no earlier than thirty (30) days, but no later than sixty (60) days, after the date of the arbitrator's order. Any proposal adopted as a regulation pursuant to sections 9.6 and 9.7 prior to the arbitrator's order, which is not adopted by the arbitrator pursuant to subdivision (d), shall cease to be effective upon adoption of the proposal identified by the arbitrator's order.
- (f) Nothing in this section 9.7 shall be deemed to preclude either the State or the Tribe from seeking, under section 13.1, a resolution of the question whether a regulation adopted under section 9.0 conflicts with a final published regulation of the NIGC.

**Sec. 9.8. Uniform Tribal Gaming Regulations.**

Notwithstanding section 9.6 and section 9.7, Uniform Tribal Gaming Regulations CGCC-1, CGCC-2, and CGCC-7 (as in effect on the date the parties execute this Compact), adopted by the State Gaming Agency and approved by the Association of Tribal and State Gaming Regulators, shall apply to the Gaming Operation until amended or repealed, without further action by the State Gaming Agency, the Tribe, the Tribal Gaming Agency or the Association of Tribal and State Gaming Regulators.

**SECTION 10.0. PATRON DISPUTES.**

The Tribal Gaming Agency shall promulgate regulations governing patron disputes over the play or operation of any game, including any refusal to pay to a patron any alleged winnings from any Gaming Activities, which regulations must meet the following minimum standards:

- (a) A patron who makes an oral or written complaint to personnel of the Gaming Operation over the play or operation of any game within three (3) days of the play or operation at issue shall be notified in writing of the patron's right to request in writing, within fifteen (15) days of the Gaming Operation's written notification to the patron of that right, resolution of the dispute by the Tribal Gaming Agency, and if dissatisfied with the resolution, to seek resolution in either the Tribe's tribal court system, once a tribal court system is established, or through binding arbitration of the dispute before a retired judge pursuant to the terms and provisions in subdivision (c). If the patron is not provided with the aforesaid notification within thirty (30) days of the patron's complaint, the deadlines herein shall be removed, leaving only the relevant statutes of limitations under California law that would otherwise apply.
- (b) Upon receipt of the patron's written request for a resolution of the patron's complaint pursuant to subdivision (a), the Tribal Gaming Agency shall conduct an appropriate investigation, shall provide to the patron a copy of its regulations concerning patron complaints, and shall render a decision in accordance with industry practice extant in Nevada or New Jersey. The decision shall be issued within sixty (60) days of the patron's request, shall be in writing, shall be based on the

facts surrounding the dispute, and shall set forth the reasons for the decision.

- (c) If the patron is dissatisfied with the decision of the Tribal Gaming Agency issued pursuant to subdivision (b), or no decision is issued within the sixty (60)-day period, the patron may request that the dispute be settled either in the Tribe's tribal court system, once a tribal court system is established, or by binding arbitration before a JAMS arbitrator, in accordance with the Streamlined Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent) (hereafter "JAMS Streamlined Arbitration"). The decision to choose either the tribal court system or JAMS Streamlined Arbitration shall be at the patron's sole discretion. Resolution of the patron dispute before the tribal court system shall be at no cost to the patron (excluding patron's attorney's fees). The cost and expenses of the JAMS Streamlined Arbitration shall be initially borne equally by the Tribe and the patron (for purposes of this section, the "parties") and both parties shall pay their share of the arbitration costs at the time of election of the arbitration option, but the arbitrator shall award to the prevailing party its costs and expenses (but not attorney fees).
- (d) Upon a patron's request pursuant to subdivision (c), the Tribe and its Gaming Operation shall consent to tribal court adjudication or JAMS Streamlined Arbitration of the matter, and agree to abide by the decision of the tribal court or JAMS arbitrator; provided, however, that if any alleged winnings are found to be a result of a mechanical, electronic or electromechanical failure and not due to the intentional acts or gross negligence of the Tribe or its agents, the tribal court or JAMS arbitrator shall deny the patron's claim for the winnings but shall award reimbursement of the amount wagered by the patron which was lost as a result of any said failure.
- (e) Any party dissatisfied with the award of the tribal court or JAMS arbitrator issued pursuant to subdivision (c), may at the party's election invoke the JAMS Optional Arbitration Appeal Procedure (and if those rules no longer exist, the closest equivalent); provided that the party making such election shall bear all costs and expenses of JAMS and the JAMS arbitrators associated with the Appeal Procedure, regardless of the outcome.

- (f) To effectuate its consent to the tribal court system or JAMS Streamlined Arbitration and JAMS Optional Arbitration Appeal Procedure in this section 10.0, the Tribe shall, in the exercise of its sovereignty, waive its right to assert sovereign immunity in connection with the tribal court jurisdiction and JAMS arbitrator's jurisdiction and in any action to (i) enforce the Tribe's or the patron's obligation to arbitrate, (ii) confirm, correct, modify, or vacate the tribal court award or the arbitral award rendered in the arbitration, or (iii) enforce or execute a judgment based upon the award.

**SECTION 11.0. OFF-RESERVATION ENVIRONMENTAL AND ECONOMIC IMPACTS.**

**Sec. 11.8.1.<sup>1</sup> Tribal Environmental Impact Report.**

- (a) Before the commencement of any Project as defined in section 2.27 herein, the Tribe shall cause to be prepared a comprehensive and adequate tribal environmental impact report ("TEIR"), analyzing the potentially significant off-reservation environmental impacts of the Project pursuant to the process set forth in this section 11.0; provided, however, that information or data which is relevant to such a TEIR and is a matter of public record or is generally available to the public need not be repeated in its entirety in the TEIR, but may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly described, that its relationship to the TEIR shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building. The TEIR shall provide detailed information about the Significant Effect(s) on the Environment which the Project is likely to have, including each of the matters set forth in Appendix B, shall list ways in which the Significant Effects on the Environment might be minimized, and shall include a detailed statement setting forth all of the following:
  - (1) A description of the physical environmental conditions in the vicinity of the Project (the environmental setting and existing baseline conditions), as they exist at the time the notice of preparation is issued;

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<sup>1</sup> Sections 11.1 through 11.7 have been deliberately omitted.

- (2) All Significant Effects on the Environment of the proposed Project;
  - (3) In a separate section:
    - (A) Any Significant Effect on the Environment that cannot be avoided if the Project is implemented;
    - (B) Any Significant Effect on the Environment that would be irreversible if the Project is implemented;
  - (4) Mitigation measures proposed to minimize Significant Effects on the Environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy;
  - (5) Alternatives to the Project; provided that the Tribe need not address alternatives that would cause it to forgo its right to engage in the Gaming Activities authorized by this Compact on its Indian lands;
  - (6) Whether any proposed mitigation would be feasible;
  - (7) Any direct growth-inducing impacts of the Project; and
  - (8) Whether the proposed mitigation would be effective to substantially reduce the potential Significant Effects on the Environment.
- (b) In addition to the information required pursuant to subdivision (a), the TEIR shall also contain a statement indicating the reasons for determining that various effects of the Project on the off-reservation environment are not significant and consequently have not been discussed in detail in the TEIR. In the TEIR, the direct and indirect Significant Effects on the Environment, including each of the items on Appendix B, shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion of mitigation measures shall describe feasible measures which could minimize significant adverse effects, and shall



distinguish between the measures that are proposed by the Tribe and other measures proposed by others. Where several measures are available to mitigate an effect, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. The TEIR shall also describe a range of reasonable alternatives to the Project or to the location of the Project, which would feasibly attain most of the basic objectives of the Project and which would avoid or substantially lessen any of the Significant Effects on the Environment, and evaluate the comparative merits of the alternatives; provided that the Tribe need not address alternatives that would cause it to forgo its right to engage in the Gaming Activities authorized by this Compact on its Indian lands. The TEIR must include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison. The TEIR shall also contain an index or table of contents and a summary, which shall identify each Significant Effect on the Environment with proposed measures and alternatives that would reduce or avoid that effect, and issues to be resolved, including the choice among alternatives and whether and how to mitigate the Significant Effects on the Environment. Previously approved land use documents, including, but not limited to, general plans, specific plans, and local coastal plans, may be used in cumulative impact analysis. The Tribe shall consider any recommendations from the County concerning the person or entity to prepare the TEIR.

**Sec. 11.8.2. Notice of Preparation of Draft TEIR.**

- (a) Upon commencing the preparation of the draft TEIR, the Tribe shall issue a Notice of Preparation to the State Clearinghouse in the State Office of Planning and Research (“State Clearinghouse”) and to the County for distribution to the public. The Tribe shall also post the Notice on its website. The Notice shall provide all Interested Persons, as defined in section 2.21, with information describing the Project and its potential Significant Effects on the Environment sufficient to enable Interested Persons to make a meaningful response or comment. At a minimum, the Notice shall include all of the following information:
  - (1) A description of the Project;

- (2) The location of the Project shown on a detailed map, preferably topographical, and on a regional map; and
  - (3) The probable off-reservation environmental effects of the Project.
- (b) The Notice shall also inform Interested Persons of the preparation of the draft TEIR and shall inform them of the opportunity to provide comments to the Tribe within thirty (30) days of the date of the receipt of the Notice by the State Clearinghouse and the County. The Notice shall also request Interested Persons to identify in their comments the off-reservation environmental issues and reasonable mitigation measures that the Tribe will need to have explored in the draft TEIR.

**Sec. 11.8.3. Notice of Completion of Draft TEIR.**

- (a) Within no less than thirty (30) days following the receipt of the Notice of Preparation by the State Clearinghouse and the County, the Tribe shall file a copy of the draft TEIR and a Notice of Completion with the State Clearinghouse, the State Gaming Agency, the County, the City, and the California Department of Justice, Office of the Attorney General. The Tribe shall also post the Notice and a copy of the draft TEIR on its website. The Notice of Completion shall include all of the following information:
- (1) A brief description of the Project;
  - (2) The proposed location of the Project;
  - (3) An address where copies of the draft TEIR are available; and
  - (4) Notice of a period of forty-five (45) days during which the Tribe will receive comments on the draft TEIR.
- (b) The Tribe will submit ten (10) copies each of the draft TEIR and Notice of Completion to the County, which will be asked to post public notice of the draft TEIR at the office of the County Board of Supervisors and to furnish the public notice to the public libraries serving the County. The County shall also be asked to serve in a timely manner the Notice of Completion to all Interested Persons,

which Interested Persons shall be identified by the Tribe for the County, to the extent it can identify them. In addition, the Tribe will provide public notice by at least one of the procedures specified below:

- (1) Publication at least one time by the Tribe in a newspaper of general circulation in the area affected by the Project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas; or
- (2) Direct mailing by the Tribe to the owners and occupants of property adjacent to, but outside, the Indian lands on which the Project is to be located. Owners of such property shall be identified as shown on the latest equalization assessment roll.

**Sec. 11.8.4. Issuance of Final TEIR.**

The Tribe shall prepare, certify and make available to the County, the City, the State Clearinghouse, the State Gaming Agency, and the California Department of Justice, Office of the Attorney General, at least fifty-five (55) days before the completion of negotiations pursuant to section 11.8.7 a Final TEIR, which shall consist of:

- (a) The draft TEIR or a revision of the draft;
- (b) Comments and recommendations received on the draft TEIR either verbatim or in summary;
- (c) A list of persons, organizations, and public agencies commenting on the draft TEIR;
- (d) The responses, which shall include good faith, reasoned analyses, of the Tribe to significant environmental points raised in the review and consultation process; and
- (e) Any other information added by the Tribe.

**Sec. 11.8.5. Cost Reimbursement to County.**

The Tribe shall reimburse the County for copying and mailing costs resulting from making the Notice of Preparation, Notice of Completion, and Draft TEIR available to the public under this section 11.0.

**Sec. 11.8.6. Failure to Prepare Adequate TEIR.**

The Tribe's failure to prepare an adequate TEIR when required shall be deemed a breach of this Compact and furthermore shall be grounds for issuance of an injunction or other appropriate equitable relief.

**Sec. 11.8.7. Intergovernmental Agreement.**

- (a) Before the commencement of a Project, and no later than the issuance of the Final TEIR to the County, the Tribe shall offer to commence negotiations with the County and the City, and upon the County's and/or the City's acceptance of the Tribe's offers, shall negotiate with the County and the City and shall enter into enforceable written agreements (hereinafter "intergovernmental agreements") with the County and the City with respect to the matters set forth below:
- (1) The timely mitigation of any Significant Effect on the Environment (which effects may include, but are not limited to, aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, water resources, land use, mineral resources, traffic, noise, utilities and service systems, and cumulative effects), where such effect is attributable, in whole or in part, to the Project unless the parties agree that the particular mitigation is infeasible, taking into account economic, environmental, social, technological, or other considerations.
  - (2) Compensation for law enforcement, fire protection, emergency medical services and any other public services to be provided by the County or the City and their special districts to the Tribe for the purposes of the Gaming Operation, including the Gaming Facility, as a consequence of the Project.



Impact Statement, North Fork Casino, North Fork Rancheria of Mono Indians, Fee-to-trust and Casino/Hotel Project” (hereinafter “Final EIS”), and the respective MOUs (in their original form or as amended) do not eliminate the Tribe’s obligation to negotiate amendments to the respective MOUs or a new intergovernmental agreement for any Project commenced after the construction of the Proposed Alternative, unless the Tribe and the County, the City, or the Irrigation District, respectively, agree otherwise, or unless the respective MOUs terminate or otherwise become unenforceable prior to the termination of this Compact. Absent modification of the respective MOUs by consent of the County, the City, or the Irrigation District, failure of the Tribe to implement the mitigation measures in the Final EIS shall constitute a breach of this Compact. Nothing herein eliminates the Tribe’s obligation to enter into an intergovernmental agreement with the California Department of Transportation as necessary, prior to commencement of the Proposed Alternative as set forth in the Final EIS.

#### **Sec. 11.8.8. Arbitration.**

To foster good government-to-government relationships and to assure that the Tribe is not unreasonably prevented from commencing a Project and benefiting therefrom, if an intergovernmental agreement with the County or the City is not entered within seventy-five (75) days of the submission of the Final TEIR, or such further time as the Tribe and the County or the City (for purposes of this section “the parties”) may agree in writing, any party may demand binding arbitration before a JAMS arbitrator pursuant to JAMS Comprehensive Arbitration, with respect to any remaining disputes arising from, connected with, or related to the negotiation:

- (a) The arbitration shall be conducted as follows: Each party shall exchange with each other within five (5) days of the demand for arbitration its last, best written offer made during the negotiation pursuant to section 11.8.7. The arbitrator shall schedule a hearing to be heard within thirty (30) days of his or her appointment unless the parties agree to a longer period. The arbitrator shall be limited to awarding only one of the offers submitted, without modification, based upon that proposal which best provides feasible mitigation of Significant Effects on the Environment and on public safety and most reasonably compensates for public services pursuant to section 11.8.7,

without unduly interfering with the principal objectives of the Project or imposing environmental mitigation measures which are different in nature or scale from the type of measures that have been required to mitigate impacts of a similar scale of other projects in the surrounding area, to the extent there are such other projects. The arbitrator shall take into consideration whether the Final TEIR provides the data and information necessary to enable the County or the City to determine both whether the Project may result in a Significant Effect on the Environment and whether the proposed measures in mitigation are sufficient to mitigate any such effect. If the respondent does not participate in the arbitration, the arbitrator shall nonetheless conduct the arbitration and issue an award, and the claimant shall submit such evidence as the arbitrator may require therefore. Review of the resulting arbitration award is waived.

- (b) To effectuate this section, and in the exercise of its sovereignty, the Tribe agrees to expressly waive, and also waive its right to assert, sovereign immunity in connection with the arbitrator's jurisdiction and in any action to (i) enforce the other party's obligation to arbitrate, (ii) enforce or confirm any arbitral award rendered in the arbitration, or (iii) enforce or execute a judgment based upon the award.
- (c) The arbitral award will become part of the intergovernmental agreements with the County or the City required under section 11.8.7.

**Section 11.8.9. TEIR for Proposed Alternative.**

Notwithstanding anything to the contrary in this section 11.0, the Final EIS, as defined in section 11.8.7, subdivision (e), constitutes a TEIR within the meaning of section 11.8.1, and satisfies the requirement under sections 11.8.1 through 11.8.5 with respect to construction of the initial Gaming Facility in accordance with the Proposed Alternative identified in the Final EIS, whether constructed singularly or in phases; provided, however, that nothing herein eliminates the Tribe's obligation to prepare a TEIR with respect to any Project other than the Proposed Alternative, including, without limitation, any significant modifications to the initial Proposed Alternative, or if a federal administrative agency or court of competent jurisdiction makes a final determination that the mitigation provided in the Final EIS for the Proposed Alternative is inadequate.

**SECTION 12.0. PUBLIC AND WORKPLACE HEALTH, SAFETY, AND LIABILITY.**

**Sec. 12.1. General Requirements.**

The Tribe shall not conduct Class III Gaming in a manner that endangers the public health, safety, or welfare, provided, however, that nothing herein shall be construed to make applicable to the Tribe any State laws or regulations governing the use of tobacco.

**Sec. 12.2. Tobacco Smoke.**

Notwithstanding section 12.1, the Tribe agrees to provide a non-smoking area in the Gaming Facility and to utilize a ventilation system throughout the Gaming Facility that exhausts tobacco smoke to the extent reasonably feasible under state-of-the-art technology existing as of the date of the construction or significant renovation of the Gaming Facility, and further agrees not to offer or sell tobacco to anyone under eighteen (18) years of age.

**Sec. 12.3. Health and Safety Standards.**

To protect the health and safety of patrons and employees of the Gaming Facility, the Tribe shall, for the Gaming Facility:

- (a) Adopt and comply with State public health standards for food and beverage handling. The Tribe will allow, during normal hours of operation, inspection of food and beverage services in the Gaming Facility by State, County, or City health inspectors, whichever inspector would have jurisdiction but for the Gaming Facility being on Indian lands, to assess compliance with these standards, unless inspections are routinely made by an agency of the United States government to ensure compliance with equivalent standards of the United States Public Health Service. Any report or other writing by the State, County, City or federal health inspectors shall be transmitted within twenty-four (24) hours to the State Gaming Agency and the Tribal Gaming Agency. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of those State, County, or City health inspectors, but any violations of the standards shall be treated as violations of this Compact and may serve as a basis to issue, pursuant to section 13.0, orders requiring corrective action, including



**an order to enjoin the food and beverage operations of the Gaming Facility where warranted to protect public health or safety.**

- (b) Adopt and comply with federal water quality and safe drinking water standards applicable in California. The Tribe will allow, during normal hours of operation, inspection and testing of water quality at the Gaming Facility by State, County, or City health inspectors, whichever inspector would have jurisdiction but for the Gaming Facility being on Indian lands, to assess compliance with these standards, unless inspections and testing are routinely made by an agency of the United States pursuant to federal law to ensure compliance with federal water quality and safe drinking water standards. Any report or other writings by the State, County, City or federal health inspectors shall be transmitted within twenty-four (24) hours to the State Gaming Agency and the Tribal Gaming Agency. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of those State, County, or City health inspectors, but any violations of the standards shall be treated as violations of this Compact and may serve as a basis to issue, pursuant to section 13.0, orders requiring corrective action, including an order to enjoin the use or disposal of water at the Gaming Facility where warranted to protect public health or safety.**
- (c) Comply with the building and safety standards set forth in section 6.4.2.**
- (d) Adopt and comply with federal and State workplace and occupational health and safety standards. The Tribe will allow inspection of Gaming Facility workplaces by State inspectors, during normal hours of operation, to assess compliance with these standards, and consents to the jurisdiction of the State agencies charged with the enforcement of those laws, including the Division of Occupational Safety and Health, the Occupational Safety and Health Standards Board and Occupational Safety and Health Appeals Board, and of the courts of the State of California for purposes of enforcement; provided that there is no right to inspection by State inspectors where an inspection has been conducted by an agency of the United States pursuant to federal law during the previous calendar quarter and the Tribe has provided a copy of the federal agency's report to the State Gaming Agency within ten (10) days of the federal inspection.**

- (e) Adopt and comply with tribal codes to the extent consistent with the provisions of this Compact and other applicable federal law regarding public health and safety.
- (f) Adopt and comply with federal laws and state laws forbidding harassment, including sexual harassment, in the workplace, forbidding employers from discrimination in connection with the employment of persons to work or working for the Gaming Operation or in the Gaming Facility on the basis of race, color, religion, ancestry, national origin, gender, marital status, medical condition, sexual orientation, age, or disability, and forbidding employers from retaliation against persons who oppose discrimination or participate in employment discrimination proceedings (hereinafter “harassment, retaliation, or employment discrimination”); provided that nothing herein shall preclude the Tribe from giving a preference in employment to members of federally recognized Indian tribes pursuant to a duly adopted tribal ordinance.
- (l) The Tribe shall obtain and maintain an employment practices insurance policy consistent with industry standards for non-tribal casinos and underwritten by an insurer with an A.M. Best rating of A or higher which provides coverage of at least three million dollars (\$3,000,000) per occurrence for unlawful harassment, retaliation, or employment discrimination arising out of the claimant’s employment in, in connection with, or relating to the operation of, the Gaming Operation, Gaming Facility or Gaming Activities. To effectuate the insurance coverage, the Tribe, in the exercise of its sovereignty, shall expressly waive, and also waive its right to assert, sovereign immunity and any and all defenses based thereon up to the greater of three million dollars (\$3,000,000) or the limits of the employment practices insurance policy, in accordance with the tribal ordinance referenced in subdivision (f)(2) below, in connection with any claim for harassment, retaliation, or employment discrimination arising out of the claimant’s employment in, in connection with, or relating to the operation of, the Gaming Operation, Gaming Facility or Gaming Activities; provided, however, that nothing herein requires the Tribe to agree to liability for punitive damages or to waive its

right to assert sovereign immunity in connection therewith. The employment practices liability insurance policy shall acknowledge in writing that the Tribe has expressly waived, and also waived its right to assert, sovereign immunity and any and all defenses based thereon for the purpose of arbitration of those claims for harassment, retaliation, or employment discrimination up to the limits of such policy and for the purpose of enforcement of any ensuing award or judgment and shall include an endorsement providing that the insurer shall not invoke tribal sovereign immunity up to the limits of such policy; however, such endorsement or acknowledgement shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for any portion of the claim that exceeds such policy limits or three million dollars (\$3,000,000), whichever is greater. Nothing in this provision shall be interpreted to supersede any requirement in the Tribe's employment discrimination complaint ordinance that a claimant must exhaust administrative remedies as a prerequisite to arbitration.

- (2) The standards shall be subject to enforcement pursuant to an employment discrimination complaint ordinance which shall be adopted by the Tribe prior to the effective date of this Compact and which shall continuously provide at least the following:
  - (A) That California law shall govern all claims of harassment, retaliation, or employment discrimination arising out of the claimant's employment in, in connection with, or relating to the operation of, the Gaming Operation, Gaming Facility or Gaming Activities; provided that California law governing punitive damages need not be a part of the ordinance. Nothing in this provision shall be construed as a submission of the Tribe to the jurisdiction of the California Department of Fair Employment and Housing or the California Fair Employment and Housing Commission.
  - (B) That a claimant shall have one (1) year from the date that an alleged discriminatory act occurred to file a written notice with the Tribe that he or she has suffered

prohibited harassment, retaliation, or employment discrimination.

- (C) That, in the exercise of its sovereignty, the Tribe expressly waives, and also waives its right to assert, sovereign immunity with respect to the binding arbitration of claims for harassment, retaliation, or employment discrimination, but only up to the greater of three million dollars (\$3,000,000) or the limits of the employment practices insurance policy referenced in subdivision (f)(1) above; provided, however, such waiver shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for any portion of the claim that exceeds three million dollars (\$3,000,000) or the insurance policy limits, whichever is greater.
- (D) That the Tribe consents to binding arbitration before a JAMS arbitrator in accordance with JAMS Comprehensive Arbitration, that discovery in the arbitration proceedings shall be governed by section 1283.05 of the California Code of Civil Procedure, that the Tribe shall initially bear the cost of JAMS and the JAMS arbitrator, but the arbitrator may award costs to the prevailing party not to exceed those allowable in a suit in California superior court, and that any party dissatisfied with the award of the arbitrator may at the party's election invoke the JAMS Optional Arbitration Appeal Procedure (or if those rules no longer exist, the closest equivalent), provided that the party making such election must bear all costs and expenses of JAMS and the JAMS arbitrators associated with the Appeal Procedure, regardless of the outcome. The arbitration shall take place within seventy-five (75) miles of the Gaming Facility, or as otherwise mutually agreed by the parties. To effectuate its consent to the foregoing arbitration procedure, the Tribe shall, in the exercise of its sovereignty, expressly waive, and also waive its right to assert, sovereign immunity in connection with the arbitrator's jurisdiction and in any state or federal court action to (i) enforce the parties' obligation to arbitrate,

(ii) confirm, correct, or vacate the arbitral award rendered in the arbitration in accordance with section 1285 et seq. of the California Code of Civil Procedure, or (iii) enforce or execute a judgment based upon the award. The Tribe agrees not to assert, and will waive, any defense alleging improper venue or forum non conveniens as to any state court located within the County or any federal court located in the Eastern District of California in any such action brought with respect to the arbitration award.

- (3) The employment discrimination complaint ordinance required under subdivision (f)(2) may require, as a prerequisite to binding arbitration under subdivision (f)(2)(D), that the claimant exhaust the Tribe's administrative remedies, if any exist, in the form of a tribal employment discrimination complaint resolution process, for resolving the claim in accordance with the following standards:
- (A) Upon notice that the claimant alleges that he or she has suffered prohibited harassment, retaliation, or employment discrimination, the Tribe or its designee shall provide notice by personal service or certified mail, return receipt requested, that the claimant is required to proceed with the Tribe's employment discrimination complaint resolution process in the event that the claimant wishes to pursue his or her claim.
  - (B) The claimant must bring his or her claim within one hundred eighty (180) days of receipt of the written notice ("limitation period") of the Tribe's employment discrimination complaint resolution process as long as the notice thereof is served personally on the claimant or by certified mail with an executed return receipt by the claimant and the one hundred eighty (180)-day limitation period is prominently displayed on the front page of the notice.
  - (C) The arbitration may be stayed until the completion of the Tribe's employment discrimination complaint resolution process or one hundred eighty (180) days from the date

the claim was filed, whichever first occurs, unless the parties mutually agree upon a longer period.

- (D) The decision of the Tribe's employment discrimination complaint resolution process shall be in writing, shall be based on the facts surrounding the dispute, shall be a reasoned decision, and shall be rendered within one hundred eighty (180) days from the date the claim was filed, unless the parties mutually agree upon a longer period.
- (4) Within fourteen (14) days following notification that a claimant claims that he or she has suffered harassment, retaliation, or employment discrimination, the Tribe shall provide notice by personal service or certified mail, return receipt requested, that the claimant is required within the specified limitation period to first exhaust the Tribe's employment discrimination complaint resolution process, if any exists, and if dissatisfied with the resolution, is entitled to arbitrate his or her claim before a retired judge in a binding arbitration proceeding, at no cost to the claimant (except for the claimant's attorney's fees).
- (5) In the event the Tribe fails to adopt the ordinance specified in subdivision (f)(2), persons who claim they have suffered prohibited harassment, retaliation, or employment discrimination may proceed to arbitration as provided in this subdivision (f), in which case California employment discrimination law, including applicable statutes of limitations, shall apply to all such claims arising out of the claimant's employment in, in connection with, or relating to the operation of the Gaming Operation, Gaming Facility or Gaming Activities, and the Tribe shall be deemed to have expressly waived, and also waived its right to assert, sovereign immunity up to the greater of three million dollars (\$3,000,000) or the limits of the employment practices insurance policy in connection with the arbitration of any such claims, any court proceedings based on such arbitration, including the arbitral award resulting therefrom, and any ensuing judgments. Nothing in this subdivision (f)(5), shall be interpreted as a waiver of the Tribe's sovereign immunity or consent to the

jurisdiction of any court other than for the purposes set forth in this subdivision (f).

- (6) The Tribe shall provide written notice of the employment discrimination complaint ordinance and the procedures for bringing a complaint in its employee handbook. The Tribe also shall post and keep posted in prominent and accessible places in the Gaming Facility where notices to employees and applicants for employment are customarily posted, a notice setting forth the pertinent provisions of the employment discrimination complaint ordinance and information pertinent to the filing of a complaint.
- (7) Nothing herein shall be construed as authorization that resolution of employment discrimination complaints may be adjudicated by a tribal court system or intertribal court system as part of the Tribe's dispute resolution process or otherwise.
- (g) Adopt and comply with State laws prohibiting a gambling enterprise from cashing any check drawn against a federal, state, county, or city fund, including but not limited to, Social Security, unemployment insurance, disability payments, or public assistance payments.
- (h) Adopt and comply with State laws, if any, prohibiting a gambling or other gaming enterprise from providing, allowing, contracting to provide, or arranging to provide alcoholic beverages, or food or lodging, for no charge or at reduced prices at a gambling establishment or lodging facility as an incentive or enticement.
- (i) Adopt and comply with State laws, if any, prohibiting extensions of credit.
- (j) Comply with provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, insofar as such provisions and reporting requirements are applicable to gambling establishments.
- (k) Adopt and comply with the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., the United States Department of Labor regulations

implementing the Fair Labor Standards Act, 29 C.F.R. § 500, et seq., the State's minimum wage law set forth in California Labor Code section 1182.12, and the State Department of Industrial Relations regulations implementing the State's minimum wage law, Cal. Code Regs. tit. 8, § 1100, et seq.

**Sec. 12.4. Tribal Gaming Facility Standards Ordinance.**

The Tribe shall adopt in the form of an ordinance the standards described in subdivisions (a) through (k) of section 12.3 to which the Gaming Operation is held, and shall transmit the ordinance to the State Gaming Agency not later than thirty (30) days after the effective date of this Compact. In the absence of a promulgated tribal standard in respect to a matter identified in those subdivisions, or the express adoption of an applicable federal and/or State statute or regulation, as the case may be, in respect of any such matter, the otherwise applicable federal and/or State statute or regulation shall be deemed to have been adopted by the Tribe as the applicable standard.

**Sec. 12.5. Insurance Coverage and Claims.**

- (a) The Tribe shall obtain and maintain commercial general liability insurance consistent with industry standards for non-tribal casinos in the United States underwritten by an insurer with an A.M. Best rating of A or higher which provides coverage of no less than ten million dollars (\$10,000,000) per occurrence for bodily injury, personal injury, and property damage arising out of, connected with, or relating to the operation of the Gaming Facility or Gaming Activities ("Policy"). To effectuate the insurance coverage, the Tribe shall expressly waive, and waive its right to assert, sovereign immunity up to the greater of ten million dollars (\$10,000,000) or the limits of the Policy, in accordance with the tribal ordinance referenced in subdivision (b) below, in connection with any claim for bodily injury, personal injury, or property damage, arising out of, connected with, or relating to the operation of the Gaming Operation, Gaming Facility, or the Gaming Activities, including, but not limited to, injuries resulting from entry onto the Tribe's land for purposes of patronizing the Gaming Facility or providing goods or services to the Gaming Facility; provided, however, that nothing herein requires the Tribe to agree to liability for punitive damages or to waive its right to assert sovereign immunity in connection therewith. The Policy shall



acknowledge in writing that the Tribe has expressly waived, and waived its right to assert, sovereign immunity for the purpose of arbitration of those claims up to the greater of ten million dollars (\$10,000,000) or the limits of the Policy referred to above and for the purpose of enforcement of any ensuing award or judgment and shall include an endorsement providing that the insurer shall not invoke tribal sovereign immunity up to the limits of the Policy; however, such endorsement or acknowledgement shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for any portion of the claim that exceeds ten million dollars (\$10,000,000) or the Policy limits, whichever is greater.

- (b) The Tribe shall adopt, and at all times hereinafter shall maintain in continuous force, an ordinance that provides for all of the following:
- (1) The ordinance shall provide that California tort law shall govern all claims of bodily injury, personal injury, or property damage arising out of, connected with, or relating to the operation of the Gaming Operation, Gaming Facility, or the Gaming Activities, including but not limited to injuries resulting from entry onto the Tribe's land for purposes of patronizing the Gaming Facility or providing goods or services to the Gaming Facility, provided that California law governing punitive damages need not be a part of the ordinance. Further, the Tribe may include in the ordinance required by this subdivision a requirement that a person with claims for money damages against the Tribe file those claims within the time periods applicable for the filing of claims for money damages against public entities under California Government Code section 810, et seq.
  - (2) The ordinance shall also expressly provide for waiver of the Tribe's sovereign immunity and its right to assert sovereign immunity with respect to the arbitration or resolution of such claims in the Tribe's tribal court system, once a tribal court system is established, but only up to the greater of ten million dollars (\$10,000,000) or the limits of the Policy; provided, however, such waiver shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for any portion

of the claim that exceeds ten million dollars (\$10,000,000) or the Policy limits, whichever is greater.

- (3) The ordinance shall allow for the dispute to be settled either in the Tribe's tribal court system, once a tribal court system is established, or by binding arbitration before a JAMS arbitrator, in accordance with JAMS Comprehensive Arbitration. The decision to choose either the tribal court system or JAMS Comprehensive Arbitration shall be at the claimant's sole discretion. Resolution of the dispute before the tribal court system shall be at no cost to the claimant (excluding claimant's attorney's fees). The cost and expenses of the JAMS Comprehensive Arbitration shall be initially borne equally by the parties and the parties shall pay their share of the arbitration costs at the time of claimant's election of the arbitration option, but the arbitrator may award costs to the prevailing party not to exceed those allowable in a suit in California Superior Court.
- (4) The Tribe shall consent to tribal court adjudication or binding JAMS Comprehensive Arbitration before a JAMS arbitrator to the extent of the limits of the Policy, that discovery in the arbitration proceedings shall be governed by section 1283.05 of the California Code of Civil Procedure, that the Tribe and the claimant shall initially bear the cost of JAMS and the JAMS arbitrator equally, to be paid at the time of election of arbitration but that the JAMS arbitrator may award costs to the prevailing party not to exceed those allowable in a suit in California Superior Court, and that any party dissatisfied with the award of the arbitrator may at the party's election invoke the JAMS Optional Arbitration Appeal Procedure (or if those rules no longer exist, the closest equivalent), provided that the party making such election must bear all costs and expenses of JAMS and the JAMS arbitrators associated with the Appeal Procedure, regardless of the outcome.
- (5) To effectuate its consent to the tribal court system or JAMS Comprehensive Arbitration, and JAMS Optional Arbitration Appeal Procedure in the ordinance, the Tribe shall, in the exercise of its sovereignty, expressly waive, and also waive its right to assert, sovereign immunity in connection with the

arbitrator's jurisdiction and in any action to (i) enforce the parties' obligation to arbitrate, (ii) confirm, correct, modify, or vacate the arbitral award rendered in the arbitration, or (iii) enforce or execute a judgment based upon the award.

- (6) The ordinance may also require that the claimant first exhaust the Tribe's administrative remedies for resolving the claim (hereinafter the "Tribal Dispute Process") in accordance with the following standards: The claimant must bring his or her claim within one hundred eighty (180) days of receipt of written notice of the Tribal Dispute Process as long as notice thereof is served personally on the claimant or by certified mail with an executed return receipt by the claimant and the one hundred eighty (180)-day limitation period is prominently displayed on the front page of the notice. The ordinance may provide that any arbitration shall be stayed until the completion of the Tribal Dispute Process or one hundred eighty (180) days from the date the claim is filed in the Tribal Dispute Process, whichever first occurs, unless the parties mutually agree to a longer period.
- (c) Upon notice that a claimant claims to have suffered an injury or damage covered by this section, the Tribe shall provide notice by personal service or certified mail, return receipt requested, that the claimant is required within the specified limitation period to first exhaust the Tribal Dispute Process, if any, and if dissatisfied with the resolution, entitled to arbitrate his or her claim de novo before a retired judge.
- (d) In the event the Tribe fails to adopt the ordinance specified in subdivision (b), the tort law of the State of California, including applicable statutes of limitations, shall apply to all claims of bodily injury, personal injury, and property damage arising out of, connected with, or relating to the operation of the Gaming Operation, Gaming Facility, or the Gaming Activities, including but not limited to injuries resulting from entry onto the Tribe's land for purposes of patronizing the Gaming Facility or providing goods or services to the Gaming Facility; and the Tribe shall be deemed to have expressly waived, and also waived its right to assert, sovereign immunity up to the greater of ten million dollars (\$10,000,000) or the limits of the Policy in

connection with the arbitration of any such claims, any court proceedings based on such arbitration, including the arbitral award resulting therefrom, and any ensuing judgments.

- (e) Employees or authorized agents of the Tribe may not invoke, and the Tribe shall not invoke on behalf of any employee or agent, the Tribe's sovereign immunity in connection with any claim for, or any judgment based on any claim for, intentional injury to persons or property committed by the employee or authorized agent, without regard to the Tribe's liability insurance limits. Nothing in this subdivision prevents the Tribe from invoking sovereign immunity on its own behalf or authorizes a claim against the Tribe or a tribally owned entity.

**Sec. 12.6. Participation in State Statutory Programs Related to Employment.**

- (a) The Tribe agrees that it will participate in the State's workers' compensation program with respect to employees employed at the Gaming Operation or Gaming Facility. The workers' compensation program includes, but is not limited to, state laws relating to the securing of payment of compensation through one or more insurers duly authorized to write workers' compensation insurance in this State or through self-insurance as permitted under the State's workers' compensation laws. All disputes arising from the workers' compensation laws shall be heard by the Workers' Compensation Appeals Board pursuant to the California Labor Code. The Tribe hereby consents to the jurisdiction of the Workers' Compensation Appeals Board and the courts of the State of California for purposes of enforcement. The parties agree that independent contractors doing business with the Tribe are bound by all State workers' compensation laws and obligations.
- (b) The Tribe agrees that it will participate in the State's program for providing unemployment compensation benefits and unemployment compensation disability benefits with respect to employees employed at the Gaming Operation or Gaming Facility, which participation shall include compliance with the provisions of the California Unemployment Insurance Code, and the Tribe consents to the jurisdiction of the State agencies charged with the enforcement of that

Code and of the courts of the State of California for purposes of enforcement.

- (c) As a matter of comity, with respect to persons, including nonresidents of California, employed at the Gaming Operation or Gaming Facility or paid items of income by the Tribe or Gaming Operation for work or services conducted at the Gaming Facility, the Tribe shall withhold all taxes due to the State as provided in the California Unemployment Insurance Code and, except for Tribal Members living on the Tribe's reservation, the California Revenue and Taxation Code, and the regulations thereunder, and shall forward such amounts as provided in such Codes to the State. The Tribe shall file with the Franchise Tax Board a copy of any information return filed with the Secretary of the Treasury, as provided in the California Revenue and Taxation Code and the regulations thereunder, except those pertaining to Tribal Members living on the Tribe's reservation. For purposes of this subdivision, "reservation" refers to the Tribe's Indian lands within the meaning of IGRA or lands otherwise held in trust for the Tribe by the United States.
- (d) As a matter of comity, the Tribe shall, with respect to the earnings of any person employed at the Gaming Operation or Gaming Facility, comply with all earnings withholding orders for support of a child, or spouse or former spouse, and all other orders by which the earnings of an employee are required to be withheld by an employer pursuant to Chapter 5 (commencing with section 706.010) of Division 1 of Title 9 of Part 2 of the California Code of Civil Procedure, and with all earnings assignment orders for support made pursuant to Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the California Family Code or section 3088 of the California Probate Code.

**Sec. 12.7. Emergency Services Accessibility.**

The Tribe shall make reasonable provisions for adequate emergency fire, medical, and related relief and disaster services for patrons and employees of the Gaming Facility.

**Sec. 12.8. Alcoholic Beverage Service.**

Purchase, sale, and service of alcoholic beverages shall be subject to state law.

**Sec. 12.9. Possession of Firearms.**

The possession of firearms by any person in the Gaming Facility is prohibited at all times, except for federal, State, or local law enforcement personnel, or tribal law enforcement or security personnel authorized by tribal law and federal or State law to possess firearms at the Gaming Facility.

**Sec. 12.10. Labor Relations.**

The Gaming Activities authorized by this Compact may only commence after the Tribe has adopted an ordinance identical to the Tribal Labor Relations Ordinance attached hereto as Appendix C, and the Gaming Activities may only continue as long as the Tribe maintains the ordinance. The Tribe shall provide written notice to the State that it has adopted the ordinance, along with a copy of the ordinance, before commencing the Gaming Activities authorized by this Compact.

**SECTION 13.0. DISPUTE RESOLUTION PROVISIONS.**

**Sec. 13.1. Voluntary Resolution.**

In recognition of the government-to-government relationship of the Tribe and the State, the parties shall make their best efforts to resolve disputes that arise under this Compact by good faith negotiations whenever possible. Therefore, except for the right of either party to seek injunctive relief against the other when circumstances are deemed to require immediate relief, the Tribe and the State shall seek to resolve disputes by first meeting and conferring in good faith to foster a spirit of cooperation and efficiency in the administration and monitoring of the performance and compliance of the terms, provisions, and conditions of this Compact, as follows:

- (a) Either party shall give the other, as soon as possible after the event giving rise to the concern, a written notice setting forth the facts giving rise to the dispute and with specificity, the issues to be resolved.

- (b) The other party shall respond in writing to the facts and issues set forth in the notice within fifteen (15) days of receipt of the notice, unless both parties agree in writing to an extension of time.
- (c) The parties shall meet and confer in good faith by telephone or in person in an attempt to resolve the dispute through negotiation within thirty (30) days after receipt of the notice set forth in subdivision (a), unless both parties agree in writing to an extension of time.
- (d) If the dispute is not resolved to the satisfaction of the parties after the first meeting, either party may seek to have the dispute resolved by an arbitrator in accordance with this section, but neither party shall be required to agree to submit to arbitration.
- (e) Disagreements that are not otherwise resolved by arbitration or other mutually agreed means may be resolved in the United States District Court in the judicial district where the Gaming Facility is located, or in Madera County Superior Court. The disputes to be submitted to court action include, but are not limited to, claims of breach of this Compact, provided that the remedies expressly provided in section 13.4, subdivision (a)(ii) are the sole remedies available to either party for issues arising out of this Compact and, notwithstanding any other provision of law or this Compact, neither the State nor the Tribe shall be liable for damages or attorney fees in any action based in whole or part on the fact that the parties have either entered into this Compact, or have obligations under this Compact. The parties are entitled to all rights of appeal permitted by law in the court system in which the action is brought.
- (f) In no event may the Tribe be precluded from pursuing any arbitration or judicial remedy against the State on the ground that the Tribe has failed to exhaust its State administrative remedies, and in no event may the State be precluded from pursuing any arbitration or judicial remedy against the Tribe on the ground that the State has failed to exhaust any tribal administrative remedies.

**Sec. 13.2. Arbitration Rules.**

Unless otherwise specified in this Compact, arbitration shall be conducted before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and shall be held in the federal judicial district in which the Gaming Facility is located at a location selected by the arbitrator. Each side shall initially bear one-half the costs and expenses of the American Arbitration Association and the arbitrator, but the arbitrator shall award the prevailing party its costs, including the costs of the American Arbitration Association and the arbitrator; however, the parties shall bear their own attorney fees. The provisions of section 1283.05 of the California Code of Civil Procedure shall apply, provided that no discovery authorized by that section may be conducted without leave of the arbitrator. The decision of the arbitrator shall be in writing, shall give reasons for the decision, and shall be binding. Judgment on the award may be entered in any federal or state court having jurisdiction thereof.

**Sec. 13.3. No Waiver or Preclusion of Other Means of Dispute Resolution.**

This section 13.0 may not be construed to waive, limit, or restrict any remedy to address issues not arising out of this Compact that is otherwise available to either party, nor may this section be construed to preclude, limit, or restrict the ability of the parties to pursue, by mutual agreement, any other method of Compact dispute resolution, including, but not limited to, mediation.

**Sec. 13.4. Limited Waiver of Sovereign Immunity.**

- (a) For the purpose of actions or arbitrations based on disputes between the State and the Tribe that arise under this Compact and the enforcement of any judgment or award resulting therefrom, the State and the Tribe expressly waive their right to assert their sovereign immunity from suit and enforcement of any ensuing judgment or arbitral award and consent to the arbitrator's jurisdiction and further consent to be sued in federal or state court, as the case may be, provided that (i) the dispute is limited solely to issues arising under this Compact, (ii) neither side makes any claim for monetary damages (except that payment of any money required by the terms of this Compact may be sought, and injunctive relief, specific performance (including enforcement of a provision of this Compact requiring the payment of money to one or another of the parties), and declaratory



relief may be sought), and (iii) nothing herein shall be construed to constitute a waiver of the sovereign immunity of either the Tribe or the State with respect to any third party that is made a party or intervenes as a party to the action.

- (b) In the event that intervention, joinder, or other participation by any additional party in any action between the State and the Tribe would result in the waiver of the Tribe's or the State's sovereign immunity as to that additional party, the waivers of either the Tribe or the State provided herein may be revoked, except where joinder is required to preserve the court's jurisdiction, in which case the State and the Tribe may not revoke their waivers of sovereign immunity as to each other.
- (c) The waivers and consents to jurisdiction expressly provided for under this section 13.0 and elsewhere in the Compact shall extend to all arbitrations and civil actions authorized by this Compact, including, but not limited to, actions to compel arbitration, any arbitration proceeding herein, any action to confirm, modify, or vacate any arbitral award or to enforce any judgment, and any appellate proceeding emanating from any such proceedings. Except as stated herein or elsewhere in this Compact, no other waivers or consents to be sued are granted by either party.

#### **SECTION 14.0. EFFECTIVE DATE AND TERM OF COMPACT.**

##### **Sec. 14.1. Effective Date.**

This Compact shall not be effective unless and until all of the following have occurred:

- (a) The Compact is ratified in accordance with State law; and
- (b) Notice of approval or constructive approval is published in the Federal Register as provided in 25 U.S.C. § 2710(d)(3)(B).

##### **Sec. 14.2. Term of Compact; Termination.**

- (a) Once effective, this Compact shall be in full force and effect for State law purposes until December 31, 2033.

- (b) Either party may bring an action in federal court, after providing a thirty (30)-day written notice of an opportunity to cure any alleged breach of this Compact, for a declaration that the other party has materially breached this Compact or that a material part of this Compact has been invalidated. Unless the declaration is stayed, upon issuance of such a declaration by the trial court, the complaining party may unilaterally terminate this Compact upon service of written notice on the other party. In the event a federal court determines that it lacks jurisdiction over such an action, the action may be brought in the Superior Court for Madera County. The parties expressly waive their immunity from suit for purposes of an action under this subdivision, subject to the qualifications stated in section 13.4.
- (c) If this Compact does not take effect by July 1, 2014, it shall be deemed null and void unless the Tribe and the State agree in writing to extend the date.
- (d) If the Governor's concurrence with the Secretary's September 1, 2011 determination, pursuant to Section 20(b)(1)(A) of IGRA (25 U.S.C. § 2719(b)(1)(A)), that the federal government should acquire the 305-Acre Parcel in trust for the Tribe's benefit is determined by the Secretary or a court of competent jurisdiction to be void or voidable, or invalid in whole or in part for any reason, then this Compact shall be deemed null and void.

## **SECTION 15.0. AMENDMENTS; RENEGOTIATIONS.**

### **Sec. 15.1. Amendment by Agreement.**

The terms and conditions of this Compact may be amended at any time by the mutual and written agreement of both parties during the term of this Compact set forth in section 14.2, provided that each party voluntarily consents to such negotiations in writing. Any amendments to this Compact shall be deemed to supersede, supplant and extinguish all previous understandings and agreements on the subject.

### **Sec. 15.2. Negotiations for a New Compact.**

No sooner than eighteen (18) months before the termination date of this Compact set forth in section 14.2, either party may request the other party to enter

into negotiations to extend the term of this Compact or to enter into a new Class III Gaming compact. If the parties have not agreed to extend the term of this Compact or have not entered into a new compact by the termination date in section 14.2, this Compact shall automatically be extended for one (1) calendar year.

**Sec. 15.3. Requests to Amend or to Negotiate a New Compact.**

All requests to amend this Compact or to negotiate to extend the term of this Compact or to negotiate for a new Class III Gaming compact shall be in writing, addressed to the Tribal Chairperson or the Governor, as the case may be, and shall include the activities or circumstances to be negotiated, together with a statement of the basis supporting the request. If the request meets both the requirements of this section and section 15.1 for an amendment to this Compact, or the requirements of this section and section 15.2 for a new Class III Gaming compact, and all parties agree in writing to negotiate, the parties shall confer promptly and determine within forty-five (45) days of the request a schedule for commencing negotiations, and both parties shall negotiate in good faith. The Tribal Chairperson and the Governor of the State are hereby authorized to designate the person or agency responsible for conducting the negotiations, and shall execute any documents necessary to do so.

**SECTION 16.0. NOTICES.**

Unless otherwise indicated by this Compact, all notices required or authorized to be served shall be served by first-class mail or facsimile transmission to the following addresses, or to such other address as either party may designate by written notice to the other:

Governor  
Governor's Office  
State Capitol  
Sacramento, California 95814

Tribal Chairperson  
North Fork Rancheria of Mono Indians  
of California  
P.O. Box 929  
North Fork, California 93643

**SECTION 17.0. CHANGES TO IGRA.**

This Compact is intended to meet the requirements of IGRA as it reads on the effective date of this Compact, and, when reference is made to IGRA or to an implementing regulation thereof, the referenced provision is deemed to have been incorporated into this Compact as if set out in full. Subsequent changes to IGRA

that diminish the rights of the State or the Tribe may not be applied retroactively to alter the terms of this Compact, except to the extent that federal law validly mandates retroactive application without the State's or the Tribe's respective consent.

## **SECTION 18.0. MISCELLANEOUS.**

### **Sec. 18.1. Third-Party Beneficiaries.**

Notwithstanding any provision of law, this Compact is not intended to, and shall not be construed to, create any right on the part of a third party to bring an action to enforce any of its terms.

### **Sec. 18.2. Complete Agreement.**

This Compact, together with all appendices, sets forth the full and complete agreement of the parties and supersedes any prior agreements or understandings with respect to the subject matter hereof.

### **Sec. 18.3. Construction.**

Neither the presence in another tribal-state compact of language that is not included in this Compact, nor the absence in another tribal-state compact of language that is present in this Compact shall be a factor in construing the terms of this Compact.

### **Sec. 18.4. Successor Provisions.**

Wherever this Compact makes reference to a specific statutory provision, regulation, or set of rules, it also applies to the provision or rules, as they may be amended from time to time, and any successor provision or set of rules.

### **Sec. 18.5. Ordinances and Regulations.**

Whenever the Tribe adopts or amends any ordinance or regulations required to be adopted and/or maintained under this Compact, in addition to any other Compact obligations to provide a copy to others, the Tribe shall provide a copy of such adopted or amended ordinance or regulations to the Governor within thirty (30) days of the effective date of such ordinance or regulations.

**Sec. 18.6. Calculation of Time.**

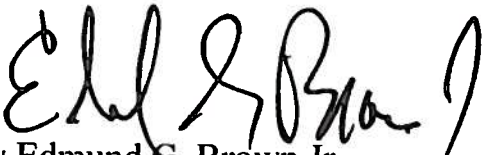
In computing any period of time prescribed by this Compact, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under the Tribe's laws, State law, or federal law. Unless otherwise specifically provided herein, the term "days" shall be construed as calendar days.

**Sec. 18.7. Representations.**

- (a) The Tribe expressly represents that as of the date of the undersigned's execution of this Compact the undersigned has the authority to execute this Compact on behalf of the Tribe, including any waiver of sovereign immunity and the right to assert sovereign immunity therein, and will provide written proof of such authority and of the ratification of this Compact by the tribal governing body to the Governor no later than thirty (30) days after the execution of this Compact by the undersigned.
- (b) The Tribe further represents that it is (i) recognized as eligible by the Secretary for special programs and services provided by the United States to Indians because of their status as Indians, and (ii) recognized by the Secretary as possessing powers of self-government.
- (c) In entering into this Compact, the State expressly relies upon the foregoing representations by the Tribe, and the State's entry into the Compact is expressly made contingent upon the truth of those representations as of the date of the Tribe's execution of this Compact through the undersigned. If the Tribe fails to timely provide written proof of the undersigned's aforesaid authority to execute this Compact or written proof of ratification by the Tribe's governing body, the Governor shall have the right to declare this Compact null and void.
- (d) This Compact shall not be presented to the California State Legislature for a ratification vote until the Tribe has provided the written proof required in subdivision (a) to the Governor.

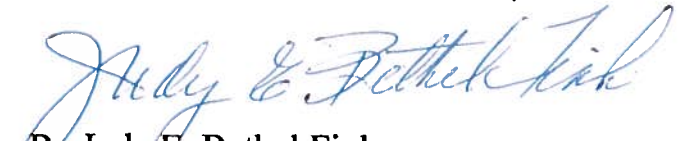
IN WITNESS WHEREOF, the undersigned sign this Compact on behalf of the State of California and the North Fork Rancheria of Mono Indians of California.

STATE OF CALIFORNIA

  
By Edmund G. Brown Jr.  
Governor of the State of California


Executed this 31 day of August,  
2012, at Sacramento, California

NORTH FORK RANCHERIA OF  
MONO INDIANS OF CALIFORNIA

  
By Judy E. Bethal Fink  
Chairperson of the  
North Fork Rancheria of Mono  
Indians of California

Executed this 30 day of August,  
2012, at Sacramento, California

ATTEST:

  
Debra Bowen  
Secretary of State, State of California



Deemed Approved

SEP 30 2013

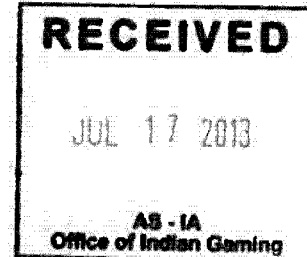
# **EXHIBIT C**



**DEBRA BOWEN** | SECRETARY OF STATE | STATE OF CALIFORNIA  
1500 11th Street, 6th Floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov

July 16, 2013

Ms. Paula Hart  
Director, Office of Indian Gaming  
United States Department of Interior  
1849 C Street, N.W.  
Mail Stop 3657, Main Interior Building  
Washington, D.C. 20240



Dear Ms. Hart:

Pursuant to California Government Code §12012.25, Subdivision (f), I am forwarding to you the Tribal-State Gaming Compacts entered into by the State of California with the North Fork Rancheria of Mono Indians and the Wiyot Tribe.

I am forwarding the following materials:

- 1) Cover letter from Jacob Applesmith, Senior Advisor in the Office of the Governor;
- 2) Copies of the compacts provided by the Governor for transmittal;
- 3) Copy of the North Fork Rancheria of Mono Indians' resolution authorizing and ratifying its compact;
- 4) Copy of the Wiyot Tribe's resolution authorizing and ratifying its compact;
- 5) Copy of the state legislation (Assembly Bill 277, Stats. of 2013, Ch. 51), effective January 1, 2014, ratifying the two compacts;
- 6) Copy of California Government Code section 12012.25.

It is incumbent upon me to call to your attention certain features of California law that impact if and when the statute ratifying the compacts may take effect.

California Government Code §12012.2, Subdivision (f) requires me, as Secretary of State, to forward upon receipt a copy of an executed Tribal-State gaming compact and a statute ratifying the compact, passed by a majority of the members of each house of the California Legislature and signed by the Governor.

Article IV, Section 8, Subdivision (c) of the California Constitution requires that absent the inclusion of an urgency clause that permits a statute to take effect immediately, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute. This delayed effective date provides adequate time for the citizens of California, pursuant to Article II of the State Constitution, to exercise their right to pursue a referendum process to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State. If a



Ms. Paula Hart  
July 16, 2013  
Page 2

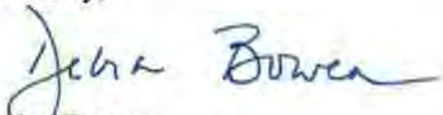
referendum measure qualifies for the ballot and the electorate rejects the statute, it is of no legal effect.

Pursuant to that constitutional authority, a referendum measure has been filed with the California Attorney General to permit referendum proponents to begin collecting voter signatures to place the part of the ratifying statute for the Tribal-State Gaming Compact between the State of California and the North Fork Rancheria of Mono Indians before the voters of California. The referendum measure was filed on July 9, 2013. The referendum proponents have 90 days from the date of enactment of the ratifying statute to qualify the referendum for the ballot. If the referendum qualifies by the deadline in early October 2013, the part of the statute ratifying the compact will be stayed/suspended until the voters have voted to either reject or adopt it. Should the referendum qualify for the ballot, it would go before the voters on June 3, 2014, unless the Governor calls a special election to allow the referendum to go before the voters at an earlier date. To date, no referendum measure concerning the compact with the Wiyot Tribe has been filed.

As noted above, I am required by California law to forward a copy of a compact upon receipt of the compact and the statute ratifying it. It is, of course, a question of federal law whether this act of forwarding to the Secretary of the Interior a compact with a ratifying statute that is, as in this case, subject to the referendum power, constitutes submitting the compact within the meaning of 25 U.S.C. §2710(d)(8)(C), and whether, prior to the exhaustion of the referendum process, such a compact has been entered into by the State of California within the meaning of 25 U.S.C. §2710(d)(8)(A).

If you have any questions, please feel free to contact me at (916) 653-6774.

Sincerely,



Debra Bowen  
Secretary of State

DB:elg:lf:pc:op

Enclosures



OFFICE OF THE GOVERNOR

July 9, 2013

Ms. Paula Hart  
Director, Office of Indian Gaming  
U.S. Department of the Interior  
1849 C Street, NW  
Mail Stop 3657 Main Interior Building  
Washington, DC 20240



Dear Ms. Hart:

On behalf of the State of California, Governor Brown has entered into compacts with the North Fork Rancheria Band of Mono Indians and the Wiyot Tribe. Pursuant to Title 25, United States Code, section 2710(d)(8) and California Government Code section 12012.54, I am forwarding you, through the California Secretary of State, original compacts for the Secretary of the Interior's review and approval.

Also enclosed are copies of: (1) the North Fork Rancheria Band of Mono Indians' resolution authorizing and ratifying the compact; (2) the Wiyot Tribe's resolution authorizing and ratifying the compact and; (3) the state ratifying legislation.

Thank you for your assistance in this matter.

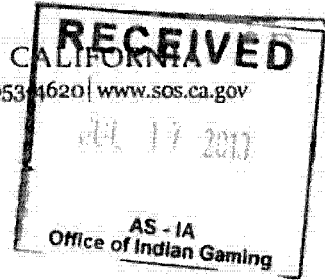
Sincerely,

  
Jacob Appelsmith  
Senior Advisor

Enclosures



**DEBRA BOWEN** | SECRETARY OF STATE | STATE OF CALIFORNIA  
1500 11th Street, 6th Floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov



**California Government Code section 12012.25**

12012.25. (a) The following tribal-state gaming compacts entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) are hereby ratified:

- (1) The compact between the State of California and the Alturas Rancheria, executed on September 10, 1999.
- (2) The compact between the State of California and the Barona Band of Mission Indians, executed on September 10, 1999.
- (3) The compact between the State of California and the Big Sandy Rancheria Band of Mono Indians, executed on September 10, 1999.
- (4) The compact between the State of California and the Big Valley Rancheria, executed on September 10, 1999.
- (5) The compact between the State of California and the Bishop Paiute Tribe, executed on September 10, 1999.
- (6) The compact between the State of California and the Blue Lake Rancheria, executed on September 10, 1999.
- (7) The compact between the State of California and the Buena Vista Band of Me-wuk Indians, executed on September 10, 1999.
- (8) The compact between the State of California and the Cabazon Band of Mission Indians, executed on September 10, 1999.
- (9) The compact between the State of California and the Cahto Tribe of Laytonville, executed on September 10, 1999.
- (10) The compact between the State of California and the Cahuilla Band of Mission Indians, executed on September 10, 1999.
- (11) The compact between the State of California and the Campo Band of Mission Indians, executed on September 10, 1999.
- (12) The compact between the State of California and the Chemehuevi Indian Tribe, executed on September 10, 1999.
- (13) The compact between the State of California and the Chicken Ranch Rancheria, executed on September 10, 1999.
- (14) The compact between the State of California and the Coast Indian Community of the Resighini Rancheria, executed on September 10, 1999.
- (15) The compact between the State of California and the Colusa Indian Community, executed on September 10, 1999.
- (16) The compact between the State of California and the Dry Creek Rancheria Band of Pomo Indians, executed on September 10, 1999.
- (17) The compact between the State of California and the Elk Valley Rancheria, executed on September 10, 1999.
- (18) The compact between the State of California and the Ewiiapaayp Band of Kumeyaay, executed on September 10, 1999.

- (19) The compact between the State of California and the Hoopa Valley Tribe, executed on September 10, 1999.
- (20) The compact between the State of California and the Hopland Band of Pomo Indians, executed on September 10, 1999.
- (21) The compact between the State of California and the Jackson Band of Mi-Wuk Indians, executed on September 10, 1999.
- (22) The compact between the State of California and the Jamul Indian Reservation, executed on September 10, 1999.
- (23) The compact between the State of California and the La Jolla Indian Reservation, executed on September 10, 1999.
- (24) The compact between the State of California and the Manzanita Tribe of Kumeyaay Indians, executed on September 10, 1999.
- (25) The compact between the State of California and the Mesa Grande Band of Mission Indians, executed on September 10, 1999.
- (26) The compact between the State of California and the Middletown Rancheria Band of Pomo Indians, executed on September 10, 1999.
- (27) The compact between the State of California and the Morongo Band of Mission Indians, executed on September 10, 1999.
- (28) The compact between the State of California and the Mooretown Rancheria Concow Maidu Tribe, executed on September 10, 1999.
- (29) The compact between the State of California and the Pala Band of Mission Indians, executed on September 10, 1999.
- (30) The compact between the State of California and the Paskenta Band of Nomlaki Indians, executed on September 10, 1999.
- (31) The compact between the State of California and the Pechanga Band of Luiseno Indians, executed on September 10, 1999.
- (32) The compact between the State of California and the Picayune Rancheria of Chukchansi Indians, executed on September 10, 1999.
- (33) The compact between the State of California and the Quechan Nation, executed on September 10, 1999.
- (34) The compact between the State of California and the Redding Rancheria, executed on September 10, 1999.
- (35) The compact between the State of California and the Rincon, San Luiseno Band of Mission Indians, executed on September 10, 1999.
- (36) The compact between the State of California and the Rumsey Band of Wintun Indians, executed on September 10, 1999.
- (37) The compact between the State of California and the Robinson Rancheria Band of Pomo Indians, executed on September 10, 1999.
- (38) The compact between the State of California and the Rohnerville Rancheria, executed on September 10, 1999.
- (39) The compact between the State of California and the San Manuel Band of Mission Indians, executed on September 10, 1999.
- (40) The compact between the State of California and the San Pasqual Band of Mission Indians, executed on September 10, 1999.
- (41) The compact between the State of California and the Santa Rosa Rancheria Tachi Tribe, executed on September 10, 1999.

- (42) The compact between the State of California and the Santa Ynez Band of Chumash Indians, executed on September 10, 1999.
- (43) The compact between the State of California and the Sherwood Valley Rancheria Band of Pomo Indians, executed on September 10, 1999.
- (44) The compact between the State of California and the Shingle Springs Band of Miwok Indians, executed on September 10, 1999.
- (45) The compact between the State of California and the Smith River Rancheria, executed on September 10, 1999.
- (46) The compact between the State of California and the Soboba Band of Mission Indians, executed on September 10, 1999.
- (47) The compact between the State of California and the Susanville Indian Rancheria, executed on September 10, 1999.
- (48) The compact between the State of California and the Sycuan Band of Kumeyaay Indians, executed on September 10, 1999.
- (49) The compact between the State of California and the Table Mountain Rancheria, executed on September 10, 1999.
- (50) The compact between the State of California and the Trinidad Rancheria, executed on September 10, 1999.
- (51) The compact between the State of California and the Tule River Indian Tribe, executed on September 10, 1999.
- (52) The compact between the State of California and the Tuolumne Band of Me-wuk Indians, executed on September 10, 1999.
- (53) The compact between the State of California and the Twenty Nine Palms Band of Mission Indians, executed on September 10, 1999.
- (54) The compact between the State of California and the Tyme Maidu Tribe, Berry Creek Rancheria, executed on September 10, 1999.
- (55) The compact between the State of California and the United Auburn Indian Community, executed on September 10, 1999.
- (56) The compact between the State of California and the Viejas Band of Kumeyaay Indians, executed on September 10, 1999.
- (57) The compact between the State of California and the Coyote Valley Band of Pomo Indians, executed on September 10, 1999.
- (b) Any other tribal-state gaming compact entered into between the State of California and a federally recognized Indian tribe which is executed after September 10, 1999, is hereby ratified if both of the following are true:
  - (1) The compact is identical in all material respects to any of the compacts expressly ratified pursuant to subdivision (a). A compact shall be deemed to be materially identical to a compact ratified pursuant to subdivision (a) if the Governor certifies it is materially identical at the time he or she submits it to the Legislature.
  - (2) The compact is not rejected by each house of the Legislature, two-thirds of the membership thereof concurring, within 30 days of the date of the submission of the compact to the Legislature by the Governor. However, if the 30-day period ends during a joint recess of the Legislature, the period shall be extended until the fifteenth day following the day on which the Legislature reconvenes.
- (c) The Legislature acknowledges the right of federally recognized

Indian tribes to exercise their sovereignty to negotiate and enter into tribal-state gaming compacts that are materially different from the compacts ratified pursuant to subdivision (a). These compacts shall be ratified by a statute approved by each house of the Legislature, a majority of the members thereof concurring, and signed by the Governor, unless the statute contains implementing or other provisions requiring a supermajority vote, in which case the statute shall be approved in the manner required by the Constitution.

- (d) The Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the State of California pursuant to the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) for the purpose of authorizing class III gaming, as defined in that act, on Indian lands within this state. Nothing in this section shall be construed to deny the existence of the Governor's authority to have negotiated and executed tribal-state gaming compacts prior to the effective date of this section.
- (e) Following completion of negotiations conducted pursuant to subdivision (b) or (c), the Governor shall submit a copy of any executed tribal-state compact to both houses of the Legislature for ratification, and shall submit a copy of the executed compact to the Secretary of State for purposes of subdivision (f).
- (f) Upon receipt of a statute ratifying a tribal-state compact negotiated and executed pursuant to subdivision (c), or upon the expiration of the review period described in subdivision (b), the Secretary of State shall forward a copy of the executed compact and the ratifying statute, if applicable, to the Secretary of the Interior for his or her review and approval, in accordance with paragraph (8) of subsection (d) of Section 2710 of Title 25 of the United States Code.
- (g) In deference to tribal sovereignty, neither the execution of a tribal-state gaming compact nor the on-reservation impacts of compliance with the terms of a tribal-state gaming compact shall be deemed to constitute a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Assembly Bill No. 277

CHAPTER 51

An act to add Section 12012.59 to the Government Code, relating to tribal gaming.

[Approved by Governor July 3, 2013. Filed with Secretary of State July 3, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 277, Hall. Tribal gaming: compact ratification.

Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

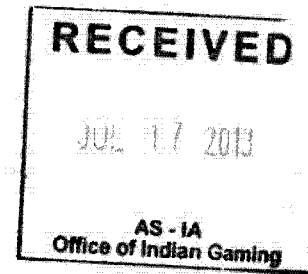
This bill would ratify the tribal-state gaming compact entered into between the State of California and the North Fork Rancheria Band of Mono Indians, executed on August 31, 2012. The bill would also ratify the tribal-gaming compact entered into between the State of California and the Wiyot Tribe, executed on March 20, 2013. The bill would provide that, in deference to tribal sovereignty, certain actions are not projects for purposes of CEQA.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12012.59 is added to the Government Code, to read:

12012.59. (a) (1) The tribal-state gaming compact entered into in accordance with the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the North Fork Rancheria Band of Mono Indians, executed on August 31, 2012, is hereby ratified.

(2) The tribal-state gaming compact entered into in accordance with the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to



Ch. 51

— 2 —

1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Wiyot Tribe, executed on March 20, 2013, is hereby ratified.

(b) (1) In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) The execution of an amendment to the tribal-state gaming compacts ratified by this section.

(B) The execution of the tribal-state gaming compacts ratified by this section.

(C) The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compacts ratified by this section.

(D) The execution of an intergovernmental agreement between a tribe and the Department of Transportation negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compacts ratified by this section.

(E) The on-reservation impacts of compliance with the terms of the tribal-state gaming compacts ratified by this section.

(F) The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

(2) Except as expressly provided herein, this subdivision does not exempt a city, county, or city and county, or the Department of Transportation, from the requirements of the California Environmental Quality Act.



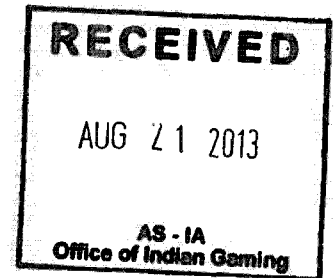
# **EXHIBIT D**



**DEBRA BOWEN** | SECRETARY OF STATE | STATE OF CALIFORNIA  
1500 11th Street, 6th Floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov

August 9, 2013

Ms. Paula Hart  
Director, Office of Indian Gaming  
United States Department of Interior  
1849 C Street, N.W.  
Mail Stop 3657, Main Interior Building  
Washington, D.C. 20240



Dear Ms. Hart:

In a letter to you dated July 16, 2013, I enclosed the Tribal-State Gaming Compact entered into by the State of California with the North Fork Rancheria of Mono Indians and the Tribal-State Gaming Compact entered into by the State of California with the Wiyot Tribe. Also included was a copy of the legislation that ratified both compacts, effective January 1, 2014, and related materials.

I included in my earlier letter the information that a referendum process had been initiated:

Pursuant to [Article II of the California Constitution], a referendum measure has been filed with the California Attorney General to permit referendum proponents to begin collecting voter signatures to place the part of the ratifying statute for the Tribal-State Gaming Compact between the State of California and the North Fork Rancheria of Mono Indians before the voters of California. The referendum measure was filed on July 9, 2013. The referendum proponents have 90 days from the date of enactment of the ratifying statute to qualify the referendum for the ballot. If the referendum qualifies by the deadline in early October 2013, the part of the statute ratifying the compact will be stayed/suspended until the voters have voted to either reject or adopt it. Should the referendum qualify for the ballot, it would go before the voters on June 3, 2014, unless the Governor calls a special election to allow the referendum to go before the voters at an earlier date. To date, no referendum measure concerning the compact with the Wiyot Tribe has been filed.

Contrary to the last sentence of the quoted passage above, the referendum measure filed on July 9, 2013, also concerns the compact with the Wiyot Tribe. The referendum measure seeks to place the entire ratifying statute before the voters, not solely the part of the statute ratifying the compact with the North Fork Rancheria of Mono Indians. A copy of the referendum proponent's submission to the Attorney General is enclosed.

Ms. Paula Hart  
August 9, 2013  
Page 2

I regret any inconvenience that may have resulted. If you have any questions, please feel free to contact me at (916) 653-6774.

Sincerely,



Debra Bowen  
Secretary of State

DB:elg:lf:pc:op

Enclosure

# **EXHIBIT E**



**DEBRA BOWEN** | SECRETARY OF STATE | STATE OF CALIFORNIA  
1500 11th Street, 6th Floor Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov

November 20, 2013

Ms. Paula Hart  
Director, Office of Indian Gaming  
United States Department of Interior  
1849 C Street, N.W.  
Mail Stop 3657, Main Interior Building  
Washington, D.C. 20240

Dear Ms. Hart:

In my letters to you dated July 16, 2013, and August 9, 2013, I called to your attention the referendum measure that was filed with the California Attorney General and how it could impact the gaming compacts entered into by the State of California with the North Fork Rancheria of Mono Indians and the Wiyot Tribe.

Today the referendum measure qualified for the ballot and will go before California voters at the November 4, 2014, General Election, not the June 2014 election that I erroneously indicated in my previous letters. As a result, the statutes implementing the compacts are stayed until the voters act to adopt or reject the compacts in November 2014.

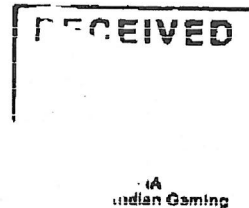
If you have any questions, please feel free to contact me at (916) 653-6774.

Sincerely,

A handwritten signature in cursive script that reads "Debra Bowen".

Debra Bowen  
Secretary of State

DB:elg:lf:pc:op



NF\_AR\_GC\_000101

JA2218

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Picayune Rancheria of the Chukchansi Indians,
a federally-recognized Indian Tribe
(b) County of Residence of First Listed Plaintiff Madera County
(c) Attorneys (Firm Name, Address, and Telephone Number)
Michael A. Robinson, Esq. (SBN 214666)
Fredericks Peebles & Morgan LLP
2020 L Street, Suite 250, Sacramento, CA 95811

DEFENDANTS
United States Department of the Interior, et al.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
25 U.S.C. § 2701; 5 U.S.C. §§ 551, 701; 28 U.S.C. §§1651, 2201 and 2202; and 43 U.S.C. § 1451.
Brief description of cause:
Indian Gaming Regulatory Act; Administrative Procedures Act; and Declaratory Judgments Act

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE Anthony W. Ishii DOCKET NUMBER 1:15-cv-00419 AWI SAB

DATE 07/01/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael A. Robinson, Esq.

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE