



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

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Office of the Governor

JUN 17 2014

The Honorable Susana Martínez
Governor of New Mexico
Santa Fe, New Mexico 87501

Dear Governor Martínez:

On May 9, 2014, the Pueblo of Pojoaque (Tribe) requested that the Secretary of the Interior issue class III gaming procedures for the Tribe. Pursuant to 25 C.F.R. Part 291, the Tribe submitted proposed class III gaming procedures.

Pursuant to the regulations governing the submission of proposals requesting class III gaming, we have determined that this proposal is complete and that the Tribe meets the eligibility requirements in 25 C.F.R. § 291.3. Enclosed please find a copy of the Tribe's proposal.

In accordance with 25 C.F.R. § 291.7(b), we invite you to comment on (1) whether the State of New Mexico (State) is in agreement with the Tribe's proposal; (2) whether the proposal is consistent with relevant provisions of the laws of the State; (3) whether contemplated gaming activities are permitted in the State for any purposes, by any person, organization, or entity. We also invite you to submit an alternative proposal to the Tribe's proposed class III gaming procedures pursuant to 25 C.F.R. § 291.7(c),

The State's participation in the gaming procedures process is optional. If the State agrees to participate, please submit your comments or alternative proposal within 60 days of receipt of this letter to the Office of Indian Gaming, 1849 C Street NW, MS-3657-MIB, Washington, DC 20240. A similar letter has been sent to the Attorney General for the State of New Mexico.

Sincerely,

Kevin K. Washburn
Assistant Secretary - Indian Affairs

Enclosure

**[PROPOSED] TRIBAL STATE COMPACT FOR CLASS III GAMING
PUEBLO OF POJOAQUE – STATE OF NEW MEXICO**

PREAMBLE

A. In 1988, Congress enacted the Indian Gaming Regulatory Act (P.L. 100-497, codified at 25 U.S.C. §§ 2701–2721 and 18 U.S.C. §§ 1166–1168) (“IGRA”) as the federal statute governing Indian gaming in the United States. The purposes of IGRA are to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; to provide a statutory basis for regulation of Indian gaming adequate to shield it from organized crime and other corrupting influences; to ensure that the Indian tribe is the primary beneficiary of the gaming operation; to ensure that gaming is conducted fairly and honestly by both the operator and players; and to declare that the establishment of an independent federal regulatory authority for gaming on Indian lands, federal standards for gaming on Indian lands, and a National Indian Gaming Commission (“NIGC”) are necessary to meet congressional concerns.

B. Prior to the enactment of IGRA, States generally were precluded from any regulation of gaming on Indian reservations. *See California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). IGRA, by offering States an opportunity to participate with Indian tribes in developing regulations for Indian gaming, “extends to the States a power withheld from them by the Constitution.” *Seminole Tribe of Florida v. State of Florida*, 517 U.S. 44, 58 (1996).

C. In *Seminole Tribe*, the Supreme Court held that a State may assert an Eleventh Amendment immunity defense to avoid a lawsuit brought by a tribe alleging that the State did not negotiate in good faith. The State of New Mexico, in asserting Eleventh Amendment immunity in an action brought by the Pueblo, has attempted to create an effective State veto over IGRA’s dispute resolution system and to stalemate the compacting process.

D. The Department of the Interior has determined that it possesses legal authority to promulgate Secretarial Procedures setting out the terms under which Class III Gaming may take place when a State asserts its immunity from suit. The Secretary’s authority arises from the statutory delegation of powers contained in 25 U.S.C. § 2710(d)(7)(B)(vii) of IGRA and 25 U.S.C. §§ 2 and 9.

E. The Pueblo currently owns and operates tribal Gaming Facilities offering Class III Gaming activities on its lands, located in Santa Fe County of New Mexico.

F. The Pueblo has sought negotiation of a compact to be effective upon the termination date of its existing compact. The Pueblo has filed an action under IGRA against the State of New Mexico. New Mexico has asserted Eleventh Amendment immunity and, accordingly, the case has been dismissed.

G. Having met all the prerequisites required by 25 C.F.R. part 291, the Pueblo remains willing to enter into this Tribal-State Compact with the State of New Mexico.

SECTION 1. PURPOSES AND OBJECTIVES.

The terms of this Compact are designed and intended to:

A. Develop and implement a means of regulating Class III Gaming, and only Class III Gaming, on the Pueblo's Indian lands to ensure its fair and honest operation in accordance with IGRA, and enable the Pueblo to develop self-sufficiency, promote tribal economic development, and generate jobs and revenues to support the Pueblo's government and essential governmental services and programs.

B. Promote ethical practices in conjunction with that gaming, through the licensing and control of persons and entities employed in, or providing goods and services to, the Pueblo's Gaming Enterprise and protecting 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.

SECTION 2. DEFINITIONS.

For purposes of this Compact, the following definitions pertain:

A. "Class III Gaming" means all forms of gaming as defined in 25 U.S.C. § 2703(8), and 25 C.F.R. § 502.4.

B. "Gaming Employee" means any person who (a) operates, maintains, repairs, assists in any Class III Gaming activity, or is in any way responsible for supervising such gaming activities or persons who conduct, operate, account for, or supervise any such gaming activity; (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 that are not open to the public. "Gaming Employee" does not include:

1. Bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages;
2. Secretarial or janitorial personnel;
3. Stage, sound and light technicians; or
4. Other nongaming personnel.

C. "Gaming Enterprise" means the tribal entity created and designated by the Pueblo as having authority to conduct Class III Gaming pursuant to this Compact.

D. "Gaming Facility" means the physical area or room where Class III Gaming is conducted. Gaming Facility does not include other or ancillary businesses, activities or areas

not directly related to the operation of Class III Gaming activities.

E. "Gaming Floor" means the area of a Gaming Facility where Patrons engage in Class III Gaming and does not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging, or entertainment.

F. "IGRA" means the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701–2721 and 18 U.S.C. §§ 1166–1168.

G. "Indian lands" means:

1. All lands within the exterior boundaries of the Pueblo's reservation and its confirmed grants from prior sovereigns; or

2. Any other lands title to which is either held in trust by the United States for the exclusive benefit of the Pueblo or a member thereof or is held by the Pueblo or a member thereof subject to restrictions against alienation imposed by the United States, and over which the Pueblo exercises jurisdiction and governmental authority.

H. "Key Employee" means that term as defined in 25 CFR § 502.14.

I. "Net Win" means "net win" as defined by the American Institute of Certified Public Accountants ("AICPA").

J. "Ordinance" means the Gaming Ordinance and any amendments thereto adopted by the Tribal Council of the Pueblo.

K. "Patron" means any person who is on the premises of the Pueblo's Gaming Facility, for the purpose of playing Class III games authorized by this Compact.

L. "Primary Management Official" means that term as defined in 25 CFR § 502.19.

M. "Pueblo" means the Pueblo of Pojoaque, a federally recognized Indian tribe located within the State of New Mexico.

N. "State" means the State of New Mexico.

O. "Tribal Gaming Agency" means the person, board, committee, or commission designated under tribal law, primarily responsible for carrying out the Pueblo's regulatory responsibilities under IGRA and the tribal Gaming Ordinance.

SECTION 3. AUTHORIZED CLASS III GAMING.

A. Subject to the terms and conditions of this Compact, the Pueblo is authorized to

offer or operate any or all forms of Class III Gaming otherwise permitted by the laws of the State of New Mexico and/or permitted by any tribal-state compact in effect between the State of New Mexico and any federally recognized tribe, without regard to the restrictions of such activities which may be otherwise applicable to other entities or persons engaged in gaming outside Indian lands under New Mexico law.

B. This Compact shall in no way govern, control or otherwise apply to the operation by the Pueblo of Class II Gaming activities, as that term is defined at 25 U.S.C. § 2703(7).

C. The Pueblo may offer Class III games twenty-four (24) hours a day, seven (7) days a week. In the event a Gaming Facility is to have limited hours, such hours shall be posted in a conspicuous place.

D. Class III Gaming permitted or conducted under this Compact is subject to the laws of the United States and of the Pueblo of Pojoaque, and the terms set forth herein, but is not subject to any of the conditions, limitations or definitions otherwise applicable to gaming by other persons or entities outside the Pueblo under New Mexico law.

SECTION 4. REGULATION OF CLASS III GAMING.

A. Jurisdiction. The Pueblo shall have jurisdiction, subject to any concurrent jurisdiction of the United States, to regulate Class III Gaming activities on its Indian lands. The State shall have no jurisdiction regarding any gaming activity addressed or regulated by IGRA. To ensure compliance, the NIGC shall have enforcement authority over any alleged breach of this Compact.

B. Maintenance of the Integrity of Gaming. Maintaining the honesty, integrity, fairness, and security of the Pueblo's Class III Gaming assets is essential both to the success of the Gaming Enterprise and to satisfy core principles of IGRA to expand tribal opportunities for self-determination, self-government, economic development, and political stability. The Pueblo has established and will maintain the establishment of a Tribal Gaming Agency independent of casino management. No person may serve as a Commissioner of the Tribal Gaming Agency if he/she has any financial interest in, or management responsibility for, any gaming activity. It is the responsibility of the Tribal Gaming Agency to conduct on-site gaming regulation and control in order to enforce the terms of this Compact, IGRA, and the tribal Gaming Ordinance with respect to gaming operations and Gaming Facility compliance. The Tribal Gaming Agency is also responsible for protecting the integrity of the Class III Gaming activities, the reputation of the Pueblo and the Gaming Enterprise for honesty and fairness, and the confidence of Patrons that tribal government gaming in New Mexico meets the highest standards of regulation and internal controls. To meet those responsibilities, the Tribal Gaming Agency shall adopt and enforce regulations, procedures, and practices as set forth herein.

C. Responsibilities of the Tribal Gaming Agency. The Tribal Gaming Agency will assure that the Pueblo will:

1. Operate all Class III Gaming activities pursuant to this Compact, tribal law,

IGRA and all other applicable federal laws;

2. Maintain accounting procedures for all financial activities of the Gaming Enterprise in accordance with the American Institute of Certified Public Accountants Standards for Audits of Casinos, including maintenance of books and records in accordance with generally accepted accounting principles and applicable NIGC regulations;
3. 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 casinos, and maintain a reporting system for the payment of NIGC fees, Patron tax withholdings, and other applicable taxes and/or fees, if any, in a timely manner;
4. Provide for the physical safety of Gaming Enterprise Patrons and employees, and any other persons while in the Gaming Facility;
5. Provide for the protection of the property of the Patrons and the Gaming Enterprise from illegal activity;
6. Participate in licensing of Primary Management Officials and Key Employees of the Gaming Enterprise;
7. Record and investigate any and all unusual occurrences related to Class III Gaming within the Gaming Facility;
8. Impose sanctions, monetary penalties, and closure orders; and
9. Provide for an administrative appeal process relating to enforcement and investigatory actions.

D. Rules and Regulations. Without affecting the generality of the foregoing, the Pueblo shall adopt laws or the Tribal Gaming Agency shall promulgate rules and regulations:

1. Adopting and maintaining minimum internal control standards, which are consistent with or more stringent than applicable federal standards, governing the following subjects, and to ensure their enforcement in an effective manner:
 - a. The physical safeguarding of assets transported to, within, and from the Gaming Facility;
 - b. The specifications and standards necessary to ensure that information regarding the method of play, odds, and payoff determinations are visibly displayed or available to Patrons in written form in the Gaming Facility; and

c. Controls that meet or exceed those required by 25 C.F.R part 542.

(i) The Pueblo shall maintain Class III minimum internal controls that meet or exceed those set forth in 25 C.F.R. part 542 so long as NIGC promulgates such regulations and without regard as to whether the NIGC has authority to issue such regulations as they relate to Class III games.

(ii) In the event the NIGC discontinues, invalidates or voids minimum internal controls for Class III games, the Tribal Gaming Agency shall continue to maintain Class III minimum internal controls that meet or exceed industry best practice standards.

(iii) No less frequently than annually, the Pueblo shall cause a compliance audit of the minimum internal controls to be conducted by an independent reputable accounting firm, and shall make the audit findings available to the National Indian Gaming Commission.

2. Adopting and posting of game rules.

a. The Tribal Gaming Agency shall adopt rules governing the play of each game offered at the Gaming Facility, including but not limited to the odds and method of determining amounts paid to winners;

b. The Pueblo shall publish the odds of every approved game, which shall be displayed at all times on the tables or machines or in a conspicuous place immediately adjacent to them; and

c. The Pueblo shall maintain a copy of the rules, regulations and procedures for each game played, and shall provide such rules, regulations and procedures to Patrons upon request.

3. Prohibiting participation in any Class III Gaming by any person under the age of eighteen (18). Nothing herein shall be interpreted as prohibiting the Gaming Facility from requiring a higher age limit.

4. Prohibiting the employment of any person as a Gaming Employee who is under the age of eighteen (18) or who has not been licensed in accordance with the applicable requirements of federal and tribal law. Nothing herein shall be interpreted as prohibiting the Gaming Facility from requiring a higher age limit.

5. Adopting and complying with standards no less stringent than federal laws forbidding employers generally from discriminating in the employment of persons to work for the Gaming Enterprise on the basis of race, color, religion, national origin, gender, sexual orientation, age, or disability; provided that nothing herein

shall preclude the Pueblo from giving a preference in employment to Indians, pursuant to a duly adopted tribal ordinance.

6. Preventing illegal activity from occurring within the Gaming Facility or with regard to the Gaming Enterprise, including, but not limited to, the maintenance of employee procedures and a surveillance system as provided by:

- a. The recording of any and all occurrences within the Gaming Facility that deviate from normal operating policies;
- b. The establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like, consistent with industry practice; and
- c. 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 Pueblo.

7. Requiring surveillance procedures and security personnel and systems consistent with industry standards for Gaming Facilities of the type and scale operated by the Pueblo and capable of monitoring movement of cash and chips, entrances and exits of Gaming Facilities, and other critical areas of any Gaming Facility.

8. Requiring reporting procedures consistent with industry standards for Gaming Facilities that at a minimum 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 casinos.

E. Audit and Financial Statements. The Tribal Gaming Agency shall require all books and records relating to Class III Gaming to be maintained in accordance with generally accepted accounting principles and applicable NIGC regulations. All such books and records shall be retained for a period of at least five (5) years from the date of creation, as required by 25 C.F.R. § 571.7(c). Not less than annually, the Tribal Gaming Agency shall require an audit and a certified financial statement covering all financial activities of the Gaming Enterprise by an independent certified public accountant licensed in any State. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall be submitted to the Tribal Gaming Agency within one hundred twenty (120) days of the close of the Pueblo's fiscal year.

F. Records Retention, Maintenance and Inspection. In addition to the retention period provided in Section (4)(E) above, inspection and copying of papers, books, and records of the Gaming Facility by the NIGC may occur at any time, immediately after notice to the Tribal Gaming Agency. The NIGC shall have immediate access to inspect the Pueblo's Gaming Facilities and gaming records, and to make copies thereof when necessary, for the purpose of

determining the Pueblo's compliance with the terms of this Compact, including any federal or tribal law incorporated herein by reference.

G. Violations. The agents of the Tribal Gaming Agency shall have unrestricted access to the Gaming Facility during all hours of Class III Gaming activity, and shall have immediate and unrestricted access to any and all areas of the Gaming Facility for the purpose of ensuring compliance with the provisions of this Compact. The agents shall report immediately to the Tribal Gaming Agency any suspected violation of this Compact or regulations of the Tribal Gaming Agency by the Gaming Enterprise, or any person, whether or not associated with Class III Gaming.

SECTION 5. LICENSING AND EMPLOYMENT REQUIREMENTS.

A. License Required. All Primary Management Officials and Key Employees shall apply for and receive a license from the Tribal Gaming Agency before participating in any way in the operation or conduct of any Class III Gaming on Indian lands. In processing license applications and issuing licenses, the Tribal Gaming Agency shall comply fully with the requirements of this Section and of IGRA, especially at 25 U.S.C. §§ 2710–2711, and the regulations issued thereunder at 25 C.F.R. parts 550–559, as well as the requirements of the Pueblo's Gaming Ordinance and any regulations issued thereunder. Nothing herein shall be construed as preventing the Pueblo from requiring licenses for those employees who are not Primary Management Officials or Key Employees. These minimum requirements, however, shall be applicable to all Primary Management Officials and Key Employees.

B. License Application. Each applicant for a license shall file with the Tribal Gaming Agency a written application in the form prescribed by the Tribal Gaming Agency, along with the applicant's fingerprint card, current photograph and required fee.

C. Background Investigations. Upon receipt of a completed application and required fee for licensing, the Tribal Gaming Agency shall conduct or cause to be conducted a background investigation to ensure that the applicant is qualified for licensing.

D. Hearing Procedures. A licensee aggrieved by an action of the Tribal Gaming Agency suspending or revoking a license that was taken without a hearing may petition for a hearing in accordance with the rules and regulations of the Tribal Gaming Agency.

1. The Tribal Gaming Agency hearing procedures at a minimum shall provide:

- a. If a licensee requests a hearing within thirty (30) days of notice of a decision of the Tribal Gaming Agency affecting the license, the Tribal Gaming Agency shall hold and conclude a hearing without unreasonable delay;
- b. The aggrieved party may present whatever documents and information he/she believes should be taken into consideration by the Tribal Gaming Agency; and

- c. The Tribal Gaming Agency shall, within thirty (30) days of the hearing, make a final decision in writing, including findings of fact in support of its decision. The Tribal Gaming Agency shall make reasonable efforts to promptly inform the aggrieved party its decision.
2. Within thirty (30) days of notice of the Tribal Gaming Agency's final decision, the aggrieved party may appeal the final decision of the Tribal Gaming Agency to the Tribal Court. In the event of a timely appeal, the Tribal Court shall:
 - a. Make its decision solely on the record established by the Tribal Gaming Agency, including any documents and information provided by the aggrieved party as part of the hearing before the Tribal Gaming Agency;
 - b. Affirm the final decision of the Tribal Gaming Agency unless the final decision was made without proper due process, was arbitrary or capricious, or otherwise in contravention of tribal law, this Compact or applicable federal law; and
 - c. Have the authority to reverse, vacate or modify the decision of the Tribal Gaming Agency.
 3. The decision of the Tribal Court shall be final and binding upon the parties, and shall not be subject to judicial review or other legal action.

E. Code of Conduct & Conflict of Interests. The Tribal Gaming Agency shall take all reasonable steps to ensure that Gaming Employees are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties under this Compact and in their employment. The Tribal Gaming Agency shall ensure compliance with all tribal laws regarding employment, maintain conflict-of-interest provisions, and ensure the prompt removal of any Gaming Employee who is found to have acted in a corrupt or compromised manner, or in violation of Pueblo laws, policies and procedures.

SECTION 6. DISPUTE RESOLUTION

A. In the event either party believes that the other party has failed to comply with or has otherwise breached any provision of this Compact, such party may invoke the following procedure:

1. The party asserting noncompliance shall serve written notice on the other party. The notice shall identify the specific Compact provision believed to have been violated and shall specify the factual and legal basis for the allegation of noncompliance. The notice shall specifically identify the date, time and nature of the alleged noncompliance.
2. In the event an allegation by the complaining party is not resolved to the

satisfaction of such party within twenty (20) days after service of the notice set forth in Section (6)(A)(1), the complaining party may serve upon the other party a notice to cease conduct of the particular game(s) or activities alleged by the complaining party to be in noncompliance. Upon receipt of such notice, the responding party may elect to stop the game(s) or activities specified in the notice or invoke arbitration and continue the game(s) or activities pending the results of arbitration. The responding party shall act upon one of the foregoing options within ten (10) days of receipt of notice from the complaining party, unless the parties agree to a longer period, but if the responding party takes neither action within such period the complaining party may invoke arbitration by written notice to the responding party within ten (10) days of the end of such period.

3. The arbitrators shall be attorneys who are licensed members in good standing of the State Bar of New Mexico or of the bar of another State. The State will select one arbitrator, the Pueblo a second arbitrator, and the two so chosen shall select a third arbitrator. If the third arbitrator is not chosen in this manner within thirty (30) days after the second arbitrator is selected, the third arbitrator will be chosen by the American Arbitration Association. The arbitrators thereby selected shall permit the parties to engage in reasonable discovery, and shall establish other procedures to ensure a full, fair and expeditious hearing on the matters at issue. The arbitrators shall determine, after hearing from each party, whether the arbitration proceeding or any portions thereof shall be closed to the public, but in the absence of such determination the proceedings shall be open to the public. The arbitrators shall make determinations as to each issue presented by the parties.

4. All parties shall bear their own costs of arbitration and attorneys' fees.

5. The results of arbitration shall be final and binding, and shall be enforceable by an action for injunctive or mandatory injunctive relief against the State or the Pueblo in any court of competent jurisdiction. For purposes of any such action, the State and the Pueblo acknowledge that any action or failure to act on the part of any agent or employee of the State or the Pueblo, contrary to a decision of the arbitrators in an arbitration proceeding conducted under the provisions of this section, occurring after such decision, shall be wholly unauthorized and ultra vires acts, not protected by the sovereign immunity of the State or the Pueblo.

B. Waivers of Immunity.

1. The Pueblo expressly waives any sovereign immunity it may have from suit brought by the State pursuant to the provisions of this Compact.

2. The State waives any sovereign immunity it may have from suit brought by the Pueblo pursuant to the provisions of this Compact.

SECTION 7. PUBLIC AND WORKPLACE HEALTH AND SAFETY.

A. Public Health and Safety. All health, safety and construction for the Pueblo's

Gaming Facilities, parking lots and curtilage immediately surrounding and directly related to the Gaming Facility, shall meet the construction and maintenance plan for the Pueblo and other applicable federal law regarding public health and safety. The Pueblo's codes for building, fire, health and safety shall be at least as stringent as the current editions of the National Electrical Code, the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code and the Uniform Plumbing Code.

B. Compliance. For the purposes of this Compact, the Pueblo, the Gaming Enterprise and all Gaming Facilities shall:

1. Adopt and/or comply with standards no less stringent than United States Public Health Service public health standards for food and beverage handling contained in the Food Code published by the U.S. Food and Drug Administration (FDA), and incorporated herein by reference;
2. Adopt and/or comply with standards no less stringent than federal water quality and safe drinking water standards;
3. Comply with the building and safety standards set forth in Section (7)(A);
4. Comply with all policies, procedures, and intergovernmental/interagency agreements relating to the provision of emergency services as required by Pueblo laws and applicable federal laws; and
5. Adopt and/or comply with standards no less stringent than federal workplace and occupational health and safety standards and consistent with applicable principles set forth in the federal Fair Labor Standards Act of 1938 and Occupational Safety and Health Act of 1970, and any other federal laws applicable to Indian tribes relating to wages, hours of work and conditions of work, and the regulations issued thereunder.

C. Service of Alcohol. Service of alcohol shall only be done in compliance with the Pueblo of Pojoaque Liquor Control Act, as approved by the Bureau of Indian Affairs, Department of the Interior and published in the Federal Register, Vol. 72, No. 13/Monday, January 22, 2007, a true and correct copy of which is attached hereto as Exhibit A, or as may be amended from time to time, subject to approval by the Bureau of Indian Affairs.

SECTION 8. PROTECTION OF PATRONS.

A. Policy Concerning Protection of Patrons. The safety and protection of Patrons while present on the Gaming Floor is a priority of the Pueblo. It is the purpose of this Section to assure that any Patrons who suffer bodily injury or physical damage to their property incurred while present on the Gaming Floor and proximately caused by the conduct of the Gaming Enterprise have an effective remedy for obtaining fair and just compensation. To that end, in this Section, and subject to its terms, the Gaming Enterprise agrees to carry insurance that covers such injury or loss, agrees to a limited waiver of its immunity from suit, and agrees to proceed in Tribal Court.

1. Insurance Coverage for Claims Required. The Gaming Enterprise shall maintain in effect policies of liability insurance insuring the Pueblo, its agents and employees against claims, demands or liability for bodily injury and property damages by a Patron arising from an occurrence described in Section (8)(A). The policies shall provide bodily injury and property damage coverage in an amount of at least two million dollars (\$2,000,000) per occurrence for bodily injury and one million dollars (\$1,000,000) per occurrence for property damage, up to a total of ten million dollars (\$10,000,000) in the aggregate annually.

2. Limitation on Time to Bring Claim. Claims brought pursuant to the provisions of this Section must be commenced by filing an action in Tribal Court within one (1) year of the date the claim accrues.

3. The Gaming Enterprise consents to suit in the Tribal Court of the Pueblo on a limited basis in connection with any claims for compensatory damages for bodily injury or property damage to the extent of the insurance policy(ies) requirement set forth in Section (8)(A)(1). This is a limited waiver and does not waive the Pueblo's immunity from suit for any other purpose. In any claim brought under the provisions of this Section, tribal law regarding the disposition of tort claims arising from bodily injury or property damage alleged to have been suffered by Patrons shall govern the substantive rights of the claimant, and shall be applied.

B. Policy Concerning Patron Disputes Regarding Winnings. Whenever the Gaming Facility refuses payment of alleged winnings to a Patron, and the Gaming Facility and the Patron are unable to resolve the dispute to the satisfaction of the Patron, the dispute shall be resolved as follows:

1. If the dispute involves more than five hundred dollars (\$500), the Gaming Facility shall notify the Executive Director of the Tribal Gaming Agency, who shall conduct whatever investigation he or she deems necessary and shall determine whether payment shall be made.

2. If the dispute involves less than five hundred dollars (\$500), the Gaming Facility shall inform the Patron of his or her right to request that the Executive Director conduct an investigation. If the Patron requests such investigation, the Executive Director shall conduct whatever investigation he or she deems necessary and shall determine whether payment should be made.

3. Notice to Patron. The Executive Director shall mail written notice by certified mail, return receipt requested, to the Gaming Facility and the Patron of the decision resolving the dispute within thirty (30) days after the date that the Executive Director first receives notification.

4. Review of Decision. Within thirty (30) days after the date of receipt of the written decision, the aggrieved party may file a petition with the Tribal Gaming Agency requesting a hearing to review the decision. The Tribal Gaming Agency,

after consideration of the information presented at the hearing and other documentation provided by the Gaming Facility and the Patron shall then issue a written decision and mail it to the parties.

5. The written decision made pursuant to Section (8)(B)(4) shall be final and binding upon the parties, and shall not be subject to judicial review or other legal action.

SECTION 9. EMPLOYEE DISPUTES.

A. General. The provisions of the Gaming Enterprise's Team Member Handbook shall control disputes between Gaming Employees and the Gaming Enterprise. The Handbook shall provide that the Gaming Employee's immediate supervisor is responsible for taking disciplinary action. Disciplinary action may be appropriate whenever a Gaming Employee is not adequately performing their job duties, has violated the terms of employment, or has committed a serious violation of governmental laws. The immediate supervisor may take disciplinary action and counsel the Gaming Employee.

B. Response to Disciplinary Action. A Gaming Employee who has been reprimanded by a written Performance Correction Notice may respond to the immediate supervisor within five (5) working days. Upon receipt, the immediate supervisor must also respond within five (5) working days. If resolution is not achieved, the supervisor shall forward copies of the documentation related to the disciplinary action to the Human Resources Department.

C. Human Resources Department Hearing Procedures. A Gaming Employee aggrieved by a disciplinary action of the Gaming Enterprise may petition for a hearing in accordance with the rules and regulations of the Gaming Enterprise. The Human Resources Department's hearing procedures at a minimum shall provide:

1. If a Gaming Employee requests a hearing within thirty (30) days of notice of disciplinary action, the Human Resources Department shall hold and conclude a hearing without unreasonable delay; and

2. The aggrieved Gaming Employee may present whatever documents and information he/she believes should be taken into consideration by the Tribal Gaming Agency.

D. After the consideration of the record surrounding the disciplinary action and of information and materials provided at the hearing, the Human Resources Department may affirm, modify or vacate the disciplinary action.

E. The Human Resources Department, shall, within thirty (30) days of the hearing, make a final decision in writing, including findings of fact in support of its decision. The Human Resources Department shall make reasonable efforts to promptly inform the aggrieved

party of its decision.

F. The decision of the Human Resources Department shall be final and binding upon the parties, and shall not be subject to judicial review or other legal action.

SECTION 10. EFFECTIVE DATE AND TERM.

A. Effective Date. This Compact shall be effective immediately when notice of approval or deemed approval by the Assistant Secretary–Indian Affairs, U.S. Department of the Interior is published in the Federal Register.

B. Term of Compact. Once effective this Compact shall be in full force and effect until voluntarily terminated by mutual agreement of the Pueblo and the State, or by a duly adopted resolution of the Pueblo revoking the authority to conduct Class III Gaming upon Indian lands, as provided in IGRA, 25 U.S.C. § 2710(d)(2)(D).

SECTION 11. AMENDMENTS; RENEGOTIATIONS; NOTICES.

A. The terms and conditions of this Compact may be superseded at any time by a new or amended tribal-state Class III Gaming compact entered into by the mutual and written agreement of the Pueblo and the State. Any such Class III Gaming compact shall provide that this Compact be withdrawn and shall have no further force or effect upon the publication of approval of the Class III Gaming compact in the Federal Register.

B. Amendments. This Compact is subject to amendment upon a request by the Pueblo. The State shall approve requested amendments that are consistent with the purpose and intent of IGRA, and otherwise in compliance with federal law.

C. Notices. Unless otherwise indicated by this Compact, all notices required or authorized to be served shall be served by first-class mail at the following addresses, as applicable:

To the Pueblo of Pojoaque:

To the State of New Mexico:

D. Changes in 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 Pueblo may not be applied retroactively to alter the terms of this Compact, except to the extent that federal law validly mandates that retroactive application without the Pueblo's consent.

SECTION 12. MISCELLANEOUS.

A. Third Party Beneficiaries. 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 the terms this Compact.

B. Complete Agreement; Revocation of Prior Requests to Negotiate. This Compact, together with all addenda and approved amendments, set forth the full and complete agreement and supersedes any prior agreements or understandings with respect to the subject matter hereof.

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

D. Termination of Prior Compacts. On the effective date of this Compact, any and all prior tribal-state Class III Gaming compacts entered into between the Pueblo and the State shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the undersigned executes this Compact on behalf of the Department of the Interior, Office of the Assistant Secretary—Indian Affairs.