Section 20: Lots 10 (NW¼ and S½) and 11through 15;
Section 29: Lots 1 (W½), 2 through 7, 8 (W½ and SE¼), and 9 through 16;
Section 30: Lots 5, 6, 11 through 14, 19, and 20.

Containing 1,427.77 acres more or less.

The tract is adjacent to an existing Federal coal lease along the western boundary of the Eagle Butte Mine. It is adjacent to additional unleased Federal coal to the north, west, and south. All of the acreage offered has been determined to be suitable for mining since current plans include moving U.S. Highway 14/16. However, BLM has excluded approximately 80 acres along the northeastern portion of the tract from its economic analysis to provide a blasting buffer between the mining activity and existing residences. Other features such as pipelines, utilities, and Little Rawhide Creek can be relocated to permit coal recovery. In addition, oil and/or gas wells have been drilled on the tract. The estimate of the bonus value of the coal lease will include consideration of depletion and any future production from these wells. An economic analysis of any future income stream will determine whether a well is bought out and plugged prior to mining or re-established after mining is completed. The surface estate of the tract is owned by Foundation Coal West, Inc.

The tract contains surface mineable coal reserves primarily in the Wyodak seam with minor additions from up to four lower splits. The Wyodak is generally mined as two separate seams, the Roland and the Smith, in the area and on the LBA. The total coal thickness ranges from about 95–115 feet thick with the overburden thickness ranging from about 250–450 feet thick on the LBA. The tract contains approximately 255 million tons of mineable coal. This estimate of mineable reserves is primarily from the Roland and the Smith seams and does not include any tonnage from localized seams or splits containing less than 5 feet of coal. It does not include any tonnage from the existing, adjacent Federal coal lease although additional reserves are expected to be recovered in conjunction with the LBA once the highway is moved. The total mineable stripping ratio (BCY/Ton) of the LBA coal is about 2.9:1. Potential bidders for the LBA should consider the recovery rate expected from multiple seam mining.

The Eagle Butte West LBA coal is ranked as subbituminous C. The overall average quality on an as-received basis is 8434 BTU/lb with about 0.4% sulfur. These quality averages place the coal reserves near the lower end of the range of coal quality currently being mined in the Wyoming portion of the Powder River Basin.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets or exceeds the BLM's estimate of the fair market value of the tract. The minimum bid for the tract is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after 4 p.m., on Tuesday, February 19, 2008, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale. The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre, or fraction thereof, and of a royalty payment to the United States of 12.5 percent of the value of coal produced by strip or auger mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are available from the BLM Wyoming State Office at the addresses above. Case file documents, WYW155132, are available for inspection at the BLM Wyoming State Office.

Dated: January 11, 2008.

Larry Claypool,

Acting Deputy State Director, Minerals and Lands.

[FR Doc. E8–882 Filed 1–17–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Deemed Approved Amended Tribal—State Class III Gaming Compact.

SUMMARY: This notice publishes the Deemed Approved Amendment to the Tribal—State Compact between the State of California and the San Manuel Band of Mission Indians.

DATES: *Effective Date:* January 18, 2008.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, 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. 2710, 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 allows for an increase in gaming devices and any devices or games authorized under State law to the State lottery. Finally, the term of the compact is until December 31, 2030. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, is publishing notice that the Amendment between the State of California and the San Manuel Band of Mission Indians is now in effect.

Dated: December 31, 2007.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–894 Filed 1–17–08; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–100–1430–EU; MTM 95676]

Notice of Realty Action; (Non-Competitive) Direct Sale of Public Land; Granite County, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: A 1.08-acre parcel of public land in Granite County, Montana, is being considered for sale under the provisions of the Federal Land Policy Management Act of 1976 (FLPMA), at no less than the appraised fair market value, to resolve a longstanding, inadvertent unauthorized use.

DATES: Interested parties may submit comments regarding the proposed sale until March 3, 2008.

ADDRESSES: Send written comments to the Missoula Field Manager, BLM, Missoula Field Office, 3255 Ft. Missoula Road, Missoula, Montana 59804–7293.

FOR FURTHER INFORMATION CONTACT: Jim Ledger, Realty Specialist, at the above address or phone (406) 329–3914.

SUPPLEMENTARY INFORMATION: The following described public land is being considered for possible disposal by direct sale under Sections 203 and 209 of FLPMA, 43 U.S.C. 1713 and 1719.

AMENDMENT TO

THE TRIBAL-STATE COMPACT

BETWEEN

THE STATE OF CALIFORNIA

AND THE

SAN MANUEL BAND OF

MISSION INDIANS

AMENDMENT TO TRIBAL-STATE COMPACT BETWEEN THE STATE OF CALIFORNIA AND THE SAN MANUEL BAND OF MISSION INDIANS

WHEREAS, the State of California (hereinafter "the State") and the San Manuel Band of Mission Indians of California (hereinafter "the Tribe") entered into a compact in 1999 (hereinafter the "1999 Compact"); and

WHEREAS, the Tribe has a history of working with San Bernardino County and local communities on land use, economic development, and other matters of mutual interest; and

WHEREAS, the State and the Tribe have agreed to revise the 1999 Compact to promote continued good relations between tribal, state, and local governments and to enhance tribal economic development and self-sufficiency; and

WHEREAS, the Tribe agrees to make a fair revenue contribution to the State, to enter into arrangements to mitigate to the extent practicable the off-reservation environmental and direct fiscal impacts of its Gaming Facility on local communities and local governments, and to offer additional consumer protections; and

WHEREAS, in recognition of the fair revenue contribution and the measures enhancing protections for local governments and the public and to provide a sound basis for the Tribe's decisions with respect to investment in, and the operation of, its Gaming Activities, the State agrees to amend the 1999 Compact to afford the opportunity to operate additional Gaming Devices and to extend the term of the Compact; and

WHEREAS, the Tribe wishes to increase its commitment to share revenues with tribes in California that receive monies from the Revenue Sharing Trust Fund; and

WHEREAS, the State and the Tribe have concluded that this amendment to the 1999 Compact provides for a fair contribution to the State from the Tribe's Gaming Operation, enhances the Tribe's exclusive right to operate slot machines, protects the interests of the Tribe and the California public, and will promote and secure long-term stability, mutual respect, and mutual benefits; and

WHEREAS, the State and the Tribe recognize that this amendment is authorized and negotiated and shall take effect pursuant to the Indian Gaming Regulatory Act ("IGRA"); and

WHEREAS, the State and the Tribe agree that all terms of this amendment to the 1999 Compact (collectively the "Amended Compact") are intended to be binding and enforceable.

NOW, THEREFORE, the Tribe and the State hereby amend the 1999 Compact as follows:

I. *AUTHORIZED FACILITIES*

Section 4.2 is repealed and replaced by the following:

Section 4.2. Authorized Gaming Facilities. The Tribe may establish and operate not more than two (2) Gaming Facilities within the boundaries of its Reservation and only on the Tribe's Indian lands existing as of the execution date of this Amended Compact. The Gaming Facilities shall be located at (1) 777 San Manuel Boulevard, Highland, California 92346; and (2) one additional location on the Tribe's Indian lands. The Tribe may operate in each Gaming Facility any forms and kinds of gaming permitted by law, but only to the extent allowed under IGRA, this Amended Compact, and the Tribe's Gaming Ordinance.

II. *REVENUE CONTRIBUTION*

A. **Sections 2.15, 4.3.2.3, 5.0, 5.1, 5.2,** and **5.3** are repealed.

B. **Section 4.3.1** is repealed and replaced by the following:

Section 4.3.1.

(a) The Tribe is entitled to operate no more than seven thousand five hundred (7,500) Gaming Devices, as set forth below, but its right to operate any Gaming Devices shall be conditioned upon its making the payments set forth under subdivision (b) in accordance with the terms set forth in subdivision (c). The number of Gaming Devices that may be operated is:

(i) 974, which were operated on September 1, 1999; and

(ii) 1,026, operated pursuant to licenses previously issued in accordance with former Section 4.3.2.2 of the 1999 Compact, which licenses shall be maintained during the term of this Amended Compact pursuant to Section 4.3.2.2 herein; and

(iii) up to 5,500 additional Gaming Devices.

(b) The Tribe agrees that in consideration of the exclusive right to operate Gaming Devices within the geographic region specified in Section 3.2 of this Amended Compact and to operate additional Gaming Devices outside the licensing system established by the 1999 Compact, and other valuable consideration, the Tribe shall pay to the State the following:

(i) an annual payment of forty five million dollars ($45,000,000); and

(ii) an annual payment for the operation of the additional Gaming Devices identified in subdivision (a)(iii) of: (1) fifteen percent (15%) of the Net Win generated from the operation of up to three thousand (3,000) additional Gaming Devices over the existing two thousand (2,000) Gaming Devices specified in subdivisions (a)(i) and (a)(ii); plus (2) twenty-five (25%) percent of the Net Win generated from the operation of up to an additional two thousand five hundred (2,500) Gaming Devices.

The payments specified in this subdivision (b) have been negotiated between the parties as a reasonable contribution to be made annually in quarterly payments based upon the Tribe's market conditions, its circumstances, and the rights afforded by this Amendment.

(c) The Tribe shall remit the annual payments referenced in subdivision (b) to such agency, trust, fund or entity, as the State Director of Finance, pursuant to law, from time to time, shall specify to the Tribe in writing, in quarterly payments. The quarterly payments shall be due on the thirtieth (30th) 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). The payments in subdivision (b)(ii) shall be determined in accordance with subdivision (d) below and shall be based on the Net Win generated during the immediately preceding quarter. If the Gaming Activities authorized by this Amended Compact commence during a calendar quarter, the first payment shall be due on the thirtieth (30th) day following the end of the first full quarter of the Gaming Operation and shall cover the period from the commencement of the Gaming Activities to the end of the first full calendar quarter. The quarterly payments shall be accompanied by the certification specified in subdivision (g).

(d) (i) For purposes of subdivision (b)(ii), the Net Win generated from the operation of all additional Gaming Devices over the existing 2,000 Gaming Devices shall be calculated by multiplying the average Net Win per Gaming Device for the quarter by the average number of Gaming Devices operated during that quarter in excess of 2,000.

(ii) The average Net Win per Gaming Device is the total Net Win for the quarter divided by the average number of Gaming Devices present on the floors of the Tribe's Gaming Facilities during that quarter.

(iii) In turn, the average number of Gaming Devices for the quarter shall be determined by aggregating each day's total number of Gaming Devices present on the floors of the Tribe's Gaming Facilities for each day that the Gaming Facilities are open to the public during that quarter and dividing that total by the number of days in the quarter that the Gaming Facilities are open.

(e) "Net Win" means the gross revenue from Class III Gaming Devices ("drop") less all prizes and payouts that are directly related to the amount wagered, fills, hopper adjustments, and "participation fees" as defined herein. "Participation fees" is defined as payments made to Gaming Resource Suppliers on a periodic basis by the Tribe's Gaming Operation for the right to lease or otherwise license for play Class III Gaming Devices that the Tribe does not own and that are not generally available for outright purchase by gaming operators.

(f) "Gaming Device," as defined in Section 2.6 of the Amended Compact, 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). For purposes of calculating the

number of Gaming Devices, each player station, terminal or other device on which a game is played constitutes a separate Gaming Device, irrespective of whether it is part of an interconnected system of such terminals, stations or devices. For purposes of Sections 3.2(b)(ii), 4.3.1(b)(ii), 4.3.1(d), 4.3.1(e), and 4.3.1(f) of this Amended compact, if a Gaming Device is taken out of play during a day for repairs or otherwise, and is replaced by another Gaming Device for all or a portion of the remainder of that day, those two (2) Gaming Devices shall be deemed one (1) Gaming Device for that day.

(g) The quarterly payments made pursuant to subdivision (c) shall be accompanied by a certification of the Net Win calculation prepared by the chief financial officer of the Gaming Operation or other duly authorized representative of the Tribe. The State Gaming Agency may audit the Net Win calculation and, if it determines that the Net Win is understated, will promptly notify the Tribe and provide a copy of the audit. The Tribe, within thirty (30) calendar days, will either accept the difference or provide a reconciliation satisfactory to the State Gaming Agency. If the Tribe either 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 (1.0%) 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 provide a reconciliation satisfactory to the State Gaming Agency, the Tribe, once payment is made, may commence dispute resolution under Amended Compact Section 9.0. The parties hereto expressly acknowledge that the certifications and information related to payments herein are subject to the confidentiality protections and assurances of subdivision (c) of Amended Compact Section 7.4.3.

(h) Notwithstanding anything to the contrary in Amended Compact Section 9.0, any failure of the Tribe to remit its payments pursuant to subdivisions (b), (c), (d), (e), (f), or (g) will entitle the State to immediately seek injunctive relief in federal court, or, if the federal court declines to hear the action, in any state court of competent jurisdiction, to compel the payments, plus accrued interest thereon at the rate of one percent (1.0%) per month or the maximum rate permitted by state law for delinquent payments owed to the State, whichever is less; and further, the Tribe hereby expressly consents to be sued in either court, including any

related courts of appeal, and waives its right to assert sovereign immunity against the State in any such proceeding to enforce the payment obligations. Failure to make timely payment shall be deemed a material breach of this Amended Compact.

(i) If any portion of the fee payments under subdivision (b) 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.

(j) Notwithstanding the repeal of Sections 5.0, 5.1, 5.2, and 5.3 of the 1999 Compact, nothing herein shall be construed to: (1) discharge any contribution obligations of the Tribe under Sections 5.1 and 5.3 of the 1999 Compact based on the Tribe's gaming revenue received prior to the effective date of this Amended Compact; or (2) preclude the State from conducting audits pursuant to Section 5.3 of the 1999 Compact for any contributions made by the Tribe to the Special Distribution Fund pursuant to the 1999 Compact.

(k) This Section constitutes a "Section 4.3.1." within the meaning of article 6.5 (commencing with section 63048.6) of Chapter 2 of Division 1 of Title 6.7 of the California Government Code.

(l) If it is determined that there is an insufficient amount in the Indian Gaming Revenue Sharing Trust Fund in a fiscal year to distribute the quarterly payments pursuant to Government Code Section 12012.90 to each eligible recipient Indian tribe, then the State Gaming Agency shall direct a portion of the revenue contribution in Section 4.3.1(b)(i) to increase the revenue contribution to the Indian Gaming Revenue Sharing Trust Fund in Section 4.3.2.2 in an amount sufficient to ensure the Indian Gaming Revenue Sharing Trust Fund has sufficient resources for each eligible recipient Indian tribe to receive quarterly payments pursuant to Government Code Section 12012.90.

C. **Section 4.3.2.2** is repealed and replaced by the following:

Section 4.3.2.2. The Tribe shall maintain its existing licenses to operate Gaming Devices by paying to the State Gaming Agency for deposit into the

Revenue Sharing Trust Fund an annual fee of two million dollars ($2,000,000.00), to be paid in quarterly payments of five hundred thousand dollars ($500,000.00) each within thirty (30) days of the end of each calendar quarter. If this Amendment becomes effective during a calendar quarter, payment shall be prorated for the number of days remaining in that quarter.

D. A new **Section 4.3.4** is added as follows:

Section 4.3.4. For purposes of Sections 4.3.1 and 4.3.2.2 of this Amended Compact, the State Gaming Agency shall be the California Gambling Control Commission, unless the State provides otherwise by written notice pursuant to Section 13.0.

III. *AUTHORIZATION AND EXCLUSIVITY*

A. **Section 12.4** is repealed.

B. **Section 3.0** is repealed and replaced with the following:

Section 3.0. Authorization and Exclusivity of Class III Gaming.

C. A new **Section 3.1** is added as follows:

Section 3.1. The Tribe is hereby authorized and permitted to engage in only the Gaming Activities expressly referred to in Section 4.1 and shall not engage in Class III gaming that is not expressly authorized in that Section.

D. A new **Section 3.2** is added as follows

Section 3.2.

(a) (i) In the event the State authorizes any person or entity other than an Indian tribe with a federally approved Class III gaming compact to engage in the Gaming Activities specified in subdivision (a) of Section 4.1 of this Amended Compact within the Tribe's core geographic market, which for purposes of this subdivision (a)(i) consists of that geographic area that is within San Bernardino, Riverside, Orange, and Los Angeles Counties, and such person or entity engages in the Gaming Activities specified in subdivision (a) of Section 4.1 of this Amended Compact

within the Tribe's core geographic market as specified in this subdivision (a)(i), the Tribe shall have the right to: (A) terminate this Amended Compact, in which case the Tribe will lose the right to engage in Gaming Activities, or (B) continue under this Amended Compact, in which case the Tribe shall be relieved of its obligations to make payments to the State specified in Sections 4.3.1, subdivision (b) and 4.3.2.2, except as set forth in subdivision (b) below, until such time that the Gaming Activities by such person or entity within the Tribe's core geographic market cease.

(ii) In the event the State authorizes any person or entity other than an Indian tribe with a federally approved Class III gaming compact to engage in the Gaming Activities specified in subdivision (b) of Section 4.1 of this Amended Compact within the Tribe's core geographic market, which for purposes of this subdivision (a)(ii) consists of that geographic area that is within a 100-mile radius of the Tribe's Gaming Facility, and such person or entity engages in the Gaming Activities specified in subdivision (b) of Section 4.1 of this Amended Compact, with twenty-five (25) or more tables at which any kind of card game is played, at any one location within the Tribe's core geographic market as specified in this subdivision (a)(ii), the Tribe shall have the right to: (A) terminate this Amended Compact, in which case the Tribe will lose the right to engage in Gaming Activities, or (B) continue under this Amended Compact, in which case the Tribe shall be relieved of its obligations to make payments to the State specified in Sections 4.3.1, subdivision (b) and 4.3.2.2, except as set forth in subdivision (b) below, until such time that the Gaming Activities by such person or entity within the Tribe's core geographic market cease.

(b) (i) Notwithstanding the Tribe's cessation of payments under subdivision (a), if the Tribe operates no more than 2,000 Gaming Devices throughout any calendar year, it shall nonetheless compensate the State for the actual and reasonable costs of regulation, as determined by the State Director of Finance, or failing agreement on that amount, as determined by arbitration pursuant to Section 9.2 of this Amended Compact.

(ii) Notwithstanding the Tribe's cessation of payments under subdivision (a), if the Tribe operates more than 2,000 Gaming Devices, it shall nonetheless pay twelve and one-half percent (12.5%) of the Net Win attributable to all Gaming Devices above 2,000 in quarterly

payments in accordance with subdivisions (c), (d), (e), (f), and (g) of Section 4.3.1, but in no event shall the Tribe pay less than the actual and reasonable costs of regulation, as determined in subdivision (b)(i), if that amount is greater.

(iii) For purposes of subdivision (b)(ii), the Net Win generated from the operation of all additional Gaming Devices over the existing 2,000 Gaming Devices shall be calculated by multiplying the average Net Win per Gaming Device for the quarter by the average number of Gaming Devices operated during that quarter in excess of 2,000. The average Net Win per Gaming Device is the total Net Win for the quarter divided by the average number of Gaming Devices present on the floors of the Tribe's Gaming Facilities during that quarter. In turn, the average number of Gaming Devices for the quarter shall be determined by aggregating each day's total number of Gaming Devices present on the floors of the Tribe's Gaming Facilities for each day that the Gaming Facilities are open to the public during that quarter and dividing that total by the number of days in the quarter that the Gaming Facilities are open.

(c) Nothing herein shall relieve the Tribe of any obligations it may have pursuant to any intergovernmental agreement entered into pursuant to Sections 10.8.8 or 10.8.9.

(d) Nothing herein precludes the State Lottery from offering any lottery games or devices that are authorized by the California Constitution as it exists as of July 1, 2006.

IV. *TESTING OF GAMING DEVICES*

A. The following new **Section 7.5** is added as follows:

Section 7.5. Testing of Gaming Devices.

(a) No Gaming Device may be offered for play unless:

(i) The manufacturer or distributor which sells, leases, or distributes such Gaming Device (A) has applied for a determination of suitability by the State Gaming Agency at least fifteen (15) days before it is offered for play, (B) has not been found to be unsuitable by the State Gaming

Agency, and (C) has been licensed by the Tribal Gaming Agency; and

(ii) The software for the game authorized for play on the Gaming Device has been tested, approved and certified by an independent or state governmental gaming test laboratory (the "Gaming Test Laboratory") as operating in accordance with either the standards of Gaming Laboratories International, Inc. known as GLI-11 and GLI-12, 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, and a copy of the certification is provided to the State Gaming Agency by electronic transmission or by mail unless the State Gaming Agency waives in writing receipt of copies of certification; and

(iii) The software for the game authorized for play on the Gaming Device is tested by the Tribal Gaming Agency to ensure that each game authorized for play on the Gaming Device has the correct electronic signature prior to insertion into the Gaming Device; and

(iv) The hardware and associated equipment for each type of Gaming Device has been tested by the Gaming Test Laboratory to ensure operation in accordance with the manufacturer's specifications.

(v) The hardware and associated equipment for each Gaming Device has been tested by the Tribal Gaming Agency to ensure operation in accordance with the manufacturer's specifications.

(b) The Gaming Test Laboratory shall be an independent or state governmental gaming test laboratory recognized in the gaming industry which (i) is competent and qualified to conduct scientific tests and evaluations of Gaming Devices, and (ii) 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 (i) and (ii) herein within thirty (30) days of the effective date of this Amended Compact, or if such use follows the effective date, within fifteen (15) days prior to reliance thereon. If, at any time, the Gaming Test Laboratory license and/or approval required by (ii) 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 the Gaming Test Laboratory, and upon such rejection, the Tribal Gaming Agency shall ensure that the Gaming Test Laboratory discontinues its responsibilities under this Section.

(c) The State Gaming Agency may inspect the Gaming Devices in operation at a Gaming Facility on a random basis four (4) times annually to confirm that they operate and play properly pursuant to the manufacturer's technical standards. During each random inspection, the State Gaming Agency shall inspect no more than five percent (5%) of the Gaming Devices in operation at the Gaming Facility and shall not remove a Gaming Device from service, except during inspection or testing, or from the Gaming Facility at any time, unless it obtains the concurrence of the Tribal Gaming Agency, which shall not be unreasonably withheld. The random inspections conducted pursuant to this subdivision shall occur during normal business hours from 7 a.m. to 5 p.m. outside of Fridays, weekends, and holidays. The State Gaming Agency shall provide notice to the Tribal Gaming Agency of such inspection prior to the commencement of the random inspection, and the Tribal Gaming Agency may accompany the State Gaming Agency inspector(s) during the inspection of the Gaming Devices. The State Gaming Agency may conduct additional inspections only upon reasonable belief of any irregularity and after informing the Tribal Gaming Agency of the basis for such belief.

(d) The State Gaming Agency may review at a Gaming Facility during normal business hours the Tribe's technical standards, regulations and internal controls applicable to the Tribe's Gaming Devices. The Tribal Gaming Agency shall notify the State Gaming Agency of, and make available for review by the State Gaming Agency, any revisions to the Tribe's technical standards, manuals, regulations and/or internal controls for the Tribe's Gaming Devices. The notice shall be made at least thirty (30) days before the effective date of such revisions. Upon request by the State Gaming Agency, the Tribal Gaming Agency shall provide copies of specified portions of the technical standards, manuals, regulations and internal controls to the State Gaming Agency.

(e) For purposes of this Section 7.5, the State Gaming Agency shall be the California Gambling Control Commission, unless the State provides otherwise by written notice pursuant to Section 13.0.

V. *BUILDING CODES*

Subdivision (d) of Section 6.4.2 is repealed and subdivisions (d)-(l) of Section 6.4.2 are added as follows:

Section 6.4.2.

(d) Subdivision (b) shall apply to any Gaming Facility constructed prior to the effective date of this Amendment, and subdivisions (e) through (l) herein shall apply to the construction of any new Gaming Facility after the effective date of this Amendment and to any reconstruction, alteration of, or addition to, any Gaming Facility occurring after the effective date ("Covered Gaming Facility Construction").

(e) In order to ensure the protection of the health and safety of all Gaming Facility patrons, guests, and employees, the Tribe shall adopt or has already adopted, and shall maintain throughout the term of this Amended Compact, an ordinance that requires any Covered Gaming Facility Construction to meet or exceed the California Building Code and the Public Safety Code applicable to the city or county in which the Gaming Facility is located 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 Amended Compact, including but not limited to, codes for building, electrical, energy, mechanical, plumbing, fire, and safety ("the Applicable Codes"). Any Covered Gaming Facility Construction will also comply with the federal Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. § 12101 et seq. Notwithstanding the foregoing, the Tribe need not comply with any standard that specifically applies in name or in fact only to tribal facilities. Without limiting the rights of the State under this Section, reference to Applicable Codes is not intended to confer jurisdiction upon the State or its political subdivisions.

(f) In order to assure compliance with the Applicable Codes, in all cases where the Applicable Codes would otherwise require a permit, the Tribe shall require inspections and shall, for that purpose, employ for any Covered Gaming Facility Construction 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 city or county in which the Gaming Facility is located, and employ project inspectors that have been either certified in compliance with California Health and Safety Code sections 18949.25-18949.31 or approved as Class 1 certified inspectors by the Division of the State Architect or approved as Class A certified inspectors by the Office of Statewide Health Planning and Development or their successors. For purposes of this subdivision, the local agency referenced in California Health and Safety Code sections 18949.25-18949.31 shall be the Tribe. The Tribe shall require the 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 an agency designated by the State (the "State Designated Agency"). The plan checkers, review firms, and project inspectors shall hereafter be referred to as "Inspector(s)."

(g) In all cases where the Applicable Codes would otherwise require plan check, the Tribe shall require those responsible for any Covered Gaming Facility Construction to maintain for inspection and copying by the State Designated Agency upon its request the documentation set forth below:

(i) The design and construction calculations, and plans and specifications that form the basis for the planned Covered Gaming Facility Construction (the "Design and Building Plans");

(ii) All contract change orders, and other documents that are related to any material changes to a structural detail of the Design and Building Plans or any other changes in the Design and Building Plans; and

(iii) All other contract change orders.

The Tribe shall maintain the Design and Building Plans for the term of this Amended Compact or until expiration of twenty four (24) months following permanent cessation of occupancy of the building to which such plans and other documents apply, whichever first occurs.

(h) The State Designated Agency may designate an agent or agents to be given reasonable advance notice of each inspection required under subdivision (f), and the State agent(s) may accompany the Inspector on any

such inspection. The Tribe agrees to correct any Gaming Facility condition noted in the inspection that does not meet the Applicable Codes (hereinafter "deficiency"). Upon not fewer than three (3) business days' notice to the Tribal Gaming Agency, except in circumstances posing a serious or significant risk to the health or safety of any persons, in which case no advance notice is required, the State Designated Agency shall also have the right to 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 prior to any exercise by the State of its right to inspect without notice based upon alleged circumstances posing a serious or significant threat to the health 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.

(i) Upon final certification by the Inspector that a Gaming Facility meets Applicable Codes, the Tribal Gaming Agency shall forward the Inspector's certification to the State Designated Agency 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 Designated Agency'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 9.0.

(j) A Gaming Facility shall be issued a certificate of occupancy by the Tribal Gaming Agency based on the final certification specified in subdivision (i). The certificate of occupancy shall be reviewed for continuing compliance on a biennial basis. Inspections by Inspectors (as defined herein) shall be conducted under the direction of the Tribal Gaming Agency as the basis for issuing any biennial renewals of the certificate of occupancy.

(k) Any failure to remedy within a reasonable period of time any deficiency that poses a serious or significant risk to the health or safety of any person shall be deemed a violation of this Amended Compact and furthermore shall be grounds for the State Designated Agency to seek and obtain a court order to prohibit occupancy of the affected portion of the Gaming Facility until the deficiency is corrected.

(l) The Tribe shall also take all necessary steps to (i) reasonably ensure the ongoing availability of sufficient and qualified fire suppression services to the Gaming Facility and (ii) reasonably ensure that the Gaming

Facility satisfies all requirements of the Tribe's fire codes and the fire codes and regulations applicable to the county and any city in which the Gaming Facility is located. Not more than sixty (60) days after the effective date of this Amendment and not less than thirty (30) days before the commencement of Gaming Activities in any Gaming Facility subject to the Covered Gaming Facility Construction requirements of this Section, and not less than biennially thereafter in both cases, 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 a Tribal official, if any, who is responsible for fire protection on the Tribe's lands, or by an independent expert, for purposes of certifying that the Gaming Facility meets a reasonable standard of fire safety and life safety. The State Designated Agency shall be entitled to designate and have a qualified representative or representatives present during the inspection. During such inspection, the State's representative(s) shall specify to the Tribal official or independent expert, as the case may be, 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. Within fifteen (15) days of the inspection, the Tribal official or independent expert shall issue a report on the inspection, 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. Within fifteen (15) days after the issuance of the report, the Tribal official or independent expert shall also require and approve a specific plan for correcting deficiencies, whether in fire 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's representative(s). A copy of the report shall be served on the State Designated Agency, upon delivery of the report to the Tribe. Immediately upon correction of all deficiencies identified in the report, the Tribal official or independent expert shall certify in writing to the State Designated Agency that all previously identified deficiencies have been corrected. Any failure to correct all deficiencies identified in the report within a reasonable period of time may be deemed by the State to be a violation of the Amended 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 the 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 a court order until the deficiency is corrected.

VI. *PATRON DISPUTES*

Section 8.1.10(d) of the 1999 Compact is repealed and replaced by the following:

Section 8.1.10(d)

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

(A) A patron who makes a complaint to personnel of the Gaming Operation over the play or operation of any game within three (3) days of the play or operation shall be advised in writing of his or her right to request, within fifteen (15) days of the date of making the complaint, resolution of the complaint by the Tribal Gaming Agency, and if dissatisfied with that resolution, to timely proceed to a resolution by binding arbitration.

(B) Upon request by the patron for a resolution of his or her complaint, the Tribal Gaming Agency shall conduct a complete investigation, shall provide to the patron a copy of its regulations concerning patron complaints, and shall render a decision consistent with federal gaming standards. 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, or no decision is issued within the sixty (60) day period, the patron may request that the complaint over claimed prizes or winnings and the amount thereof, be settled by binding arbitration before a single arbitrator, who shall be a retired judge, in accordance with the streamlined arbitration rules and procedures of JAMS (or if those rules no longer exist, the closest equivalent). The arbitration shall take place within twenty-five (25) miles of the exterior boundaries of the San Manuel Indian Reservation (the "Reservation"). Upon such request, the Tribe shall consent to such

arbitration and agree to abide by the decision of the arbitrator; provided, however, that if any alleged winnings are found to be a result of a mechanical, electronic or electromechanical failure, which is not due to the intentional acts or gross negligence of the Tribe or its agents, the arbitrator shall deny the patron's claim for the winnings but shall award reimbursement of the amounts wagered by the patron which were lost as a result of the failure, unless the arbitrator finds that such failure was the result of the intentional act or gross negligence of the patron. To effectuate its consent to arbitration, the Tribe shall, in the exercise of its sovereignty, waive its right to assert sovereign immunity in connection with the arbitrator's jurisdiction and in any action brought in federal court or, if the federal court declines to hear the action, in any action brought in the courts of the State of California that are located in San Bernardino County, including courts of appeal, to (1) enforce the parties' obligation to arbitrate, (2) confirm, correct, modify, or vacate the arbitral award rendered in the arbitration, or (3) 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 such state courts. The cost and expenses of such arbitration shall be initially borne by the Tribe but the arbitrator shall award to the prevailing party its costs and expenses (but not attorney fees). Any party dissatisfied with the award of the arbitrator 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 must bear all costs and expenses of JAMS and the arbitrators associated with the Appeal Procedure regardless of the outcome.

(ii) At such time that the Tribe establishes a tribal court system, the Tribe may give notice to the State that it seeks to renegotiate in good faith this subdivision (d), in which case, the State shall be obligated to negotiate in good faith the arrangements, if any, by which the tribal court system will adjudicate patron claims covered under this subdivision. In so negotiating, the State shall give due respect to the sovereign rights of the Tribe, and due consideration to the due process safeguards established in the tribal court system, the transparency of the tribal court system, and the appellate rights afforded under the system.

VII. *PUBLIC AND WORKPLACE HEALTH, SAFETY, AND LIABILITY*

A. Sections 10.2 (a), (b), and (c) of the 1999 Compact are repealed and replaced by the following:

(a) Adopt and comply with standards no less stringent than state public health standards for food and beverage handling. The Gaming Operation will allow inspection of food and beverage services by state or county health inspectors, during normal hours of operation of the Gaming Facility, 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 writing by any inspector shall be transmitted to the State Gaming Agency and the Tribal Gaming Agency within twenty-four (24) hours of its issuance to the Gaming Operation. Nothing herein shall be construed as a submission of the Tribe to the jurisdiction of those state or county health inspectors, but any alleged violations of the standards shall be treated as alleged violations of this Amended Compact.

(b) Adopt and comply with standards no less stringent than federal water quality and safe drinking water standards applicable in California; the Gaming Operation will allow for inspection and testing of Gaming Facility water quality by state or county health inspectors, as applicable, during normal hours of operation of the Gaming Facility, to assess compliance with these standards, unless inspections and testing are routinely made by an agency of the United States pursuant to, or by the Tribe under express authorization of federal law, to ensure compliance with federal water quality and safe drinking water standards. Any report or writing by any inspector shall be transmitted to the State Gaming Agency and the Tribal Gaming Agency within twenty-four (24) hours of its issuance to the Gaming Operation. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of those state or county health inspectors, but any alleged violations of the standards shall be treated as alleged violations of this Amended Compact.

(c) Comply with the building and safety standards set forth in Section 6.4, as amended herein.

B. A new **Section 10.2(l)** is added as follows:

(l) Adopt and comply with standards no less stringent than the standards of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., and the United States Department of Labor regulations implementing the Fair Labor Standards Act (29 CFR § 500, et seq.).

C. **Section 10.2(d)** of the 1999 Compact is repealed and replaced by the following:

Section 10.2(d)

(i) The Tribe shall obtain and maintain a commercial general liability 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 ("Policy") which provides coverage of no less than ten million dollars ($10,000,000.00) per occurrence for bodily injury, property damage, and personal injury arising out of, connected with, or relating to the operation of the Gaming Facility or Gaming Activities. In order to effectuate the insurance coverage, the Tribe shall waive its right to assert sovereign immunity up to the limits of the Policy in accordance with the tribal ordinance referenced in subdivision (d)(ii) below in connection with any claim for bodily injury, property damage, or personal injury arising out of, connected with, or relating to the operation of the Gaming Facility, 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 that the Tribe has waived its right to assert sovereign immunity for the purpose of arbitration of those claims up to 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 beyond the Policy limits.

(ii) The Tribe shall maintain in continuous force its Tort Liability Ordinance which shall, prior to the effective date of this Amendment and at all times hereafter, continuously provide at least the following:

(A) That California tort law shall govern all claims of bodily injury, property damage, or personal injury arising out of, connected with, or relating to the operation of the 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 any and all laws governing punitive damages need not be a part of the Ordinance.

(B) That the Tribe waives its right to assert sovereign immunity with respect to the arbitration and court review of such claims but only up to the limits of the Policy; provided, however, such waiver shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity beyond the Policy limits.

(C) That the Tribe consents to binding arbitration before a single arbitrator, who shall be a retired judge, in accordance with the comprehensive arbitration rules and procedures of JAMS (or if those rules no longer exist, the closest equivalent) 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 shall initially bear the cost of JAMS and the 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 arbitrators associated with the Appeal Procedure regardless of the outcome. To

effectuate its consent to the foregoing arbitration procedure, the Tribe shall, in the exercise of its sovereignty, waive its right to assert its sovereign immunity in connection with the arbitrator's jurisdiction and in any action brought in the United States District Court where the Tribe's Gaming Facility is located and the Ninth Circuit Court of Appeals (and any successor court), or, if the federal court declines to hear the action, in any action brought in the courts of the State of California that are located in San Bernardino County, including courts of appeal, to (1) enforce the parties' obligation to arbitrate, (2) confirm, correct, modify, or vacate the arbitral award rendered in the arbitration, or (3) 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 such state courts.

(D) The Ordinance may require that the claimant first exhaust the Tribe's administrative remedies, if any, for resolving the claim (hereinafter the "Tribal Dispute Resolution Process") in accordance with the following standards:

(1) That upon notice that a claimant alleges to have suffered an injury or damage, the Tribe or the Tribal Gaming Agency shall provide notice by personal service or certified mail, return receipt requested, that the claimant is required within 180 calendar days of receipt of the written notice ("limitation period") to proceed with the Tribal Dispute Resolution Process.

(2) That the claimant must bring his or her claim within 180 days of receipt of the written notice of the Tribal Dispute Resolution Process as long as the notice specified in subdivision (1) has been satisfied.

(3) That the arbitration may be stayed until the completion of the Tribal Dispute Resolution Process or 180 days from the date the claim was filed,

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

(4) That the decision of the Tribal Dispute Resolution Process be a reasoned decision, and shall be rendered within 180 days from the date the claim was filed.

(iii) 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 Resolution Process, if any, and if dissatisfied with the resolution, is entitled to arbitrate his or her claim before a retired judge.

(iv) Failure to comply with this Section 10.2, subdivisions (d)(i), (d)(ii), or (d)(iii), shall be deemed a material breach of the Compact.

(v) At such time that the Tribe establishes a tribal court system, the Tribe may give notice to the State that it seeks to renegotiate in good faith this subdivision (d), in which case, the State shall be obligated to negotiate in good faith the arrangements, if any, by which the tribal court system will adjudicate claims of bodily injury, property damage, or personal injury covered under this subdivision (d). In so negotiating, the State shall give due respect to the sovereign rights of the Tribe, and due consideration to the due process safeguards established in the tribal court system, the transparency of the tribal court system, and the appellate rights afforded under the system.

VIII. *WORKERS' COMPENSATION*

Section 10.3(a) is amended to read as follows:

Section 10.3. Participation in state statutory programs related to employment.

(a) In lieu of permitting the Gaming Operation to participate in the state statutory workers' compensation system, the Tribe may create and maintain a system that provides redress for Gaming Facility employees' work-related injuries through requiring insurance or self-insurance, which system must include a scope of coverage, provision of up to ten thousand dollars ($10,000) in medical treatment for alleged injury until the date that liability for the claim is accepted or rejected, employee choice of physician (either after thirty (30) days from the date of the injury is reported or if a medical provider network has been established, within the medical provider network), quality and timely medical treatment provided comparable to the state's medical treatment utilization schedule, availability of an independent medical examination to resolve disagreements on appropriate treatment (by an Independent Medical Reviewer on the state's approved list, a Qualified Medical Evaluator on the state's approved list, or an Agreed Medical Examiner upon mutual agreement of the employer and employee), the right to notice, hearings before an independent tribunal, a means of enforcement against the employer, and benefits (including, but not limited to, disability, rehabilitation and return to work) comparable to those mandated for comparable employees under state law. Not later than the effective date of this Amended Compact, or sixty (60) days prior to the commencement of Gaming Activities under this Amended Compact, the Tribe will (1) advise the State of its election to participate in the statutory workers' compensation system or, alternatively, (2) forward to the State all relevant ordinances that have been adopted and all other documents establishing the system and demonstrating that the system is fully operational and compliant with the comparability standard set forth above. The Tribe may, no more than once every two calendar years thereafter, change its election by so notifying the State and providing such demonstration of compliance as required above, and shall allow thirty (30) days to elapse following notification to the State of such election before implementing any change to the system. The parties agree that independent contractors doing business with the Tribe must comply with all state workers' compensation laws and obligations.

IX. *MITIGATION OF OFF-RESERVATION IMPACTS*

Section 10.8 is repealed and replaced by the following:

Section 10.8. Off-Reservation Impact(s).

Section 10.8.1. Tribal Environmental Impact Report. (a) Before the commencement of any Project as defined in Section 10.8.7 herein, the Tribe shall prepare a tribal environmental impact report, (hereafter "TEIR"), analyzing the potentially significant off-reservation environmental impacts of the Project pursuant to the process set forth in this Section 10.8; 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 such 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 Off-Reservation Environment which the Project is likely to have, including the matters set forth in Exhibit A, 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:

(i) All Significant Effects on the Off-Reservation Environment of the proposed Project;

(ii) In a separate section:

(A) Any Significant Effect on the Off-Reservation Environment that cannot be avoided if the Project is implemented;

(B) Any Significant Effect on the Off-Reservation Environment that would be irreversible if the Project is implemented;

(iii) Mitigation measures proposed to minimize Significant Effects on the Off-Reservation Environment, including, but not limited to, measures to reduce the wasteful, inefficient, or unnecessary consumption of energy;

(iv) Whether any proposed mitigation is feasible;

(v) Alternatives to the Project; provided that the Tribe need not address alternatives that would require it to forgo its right to engage in the Gaming Activities authorized by this Amended Compact on its Indian lands;

(vi) Any direct growth-inducing impacts of the Project; and

(vii) Whether the proposed mitigation would be effective to substantially reduce the potential Significant Effects on the Off-Reservation Environment.

(b) In addition to the information required pursuant to subdivision (a), the TEIR shall also contain a statement briefly 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 Off-Reservation Environment, including each of the items on Exhibit A, 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 Project alternatives, which would feasibly attain most of the objectives of the Project and which would avoid or substantially lessen any of the Significant Effects on the Off-Reservation 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 Amended 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 Off-Reservation Environment with proposed mitigation 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 to discuss cumulative impact analysis.

Section 10.8.2. 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"), to the County of San Bernardino, to the public and to other Interested Persons, Agencies and cities. The Notice shall provide all Interested Persons 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:

(i) A description of the Project;

(ii) The location of the Project shown on a detailed map, preferably topographical, and on a regional map; and

(iii) The probable off-reservation environmental effects of the Project.

(b) The Notice shall also inform Interested Persons of the opportunity to provide comments to the Tribe within thirty (30) days of the date of 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.

Section 10.8.3. Notice of Completion of the Draft TEIR.

(a) Within no less than thirty (30) days following 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 County, the local city (if any) within which the Project is located, and the California Department of Justice. The Notice of Completion shall include all of the following information:

(i) A brief description of the Project;

(ii) The proposed location of the Project;

(iii) An address where copies of the draft TEIR are available; and

(iv) Notice of a period of forty-five (45) days during which the Tribe may receive comments on the draft TEIR.

(b) The Tribe will submit forty-five (45) copies of the draft TEIR and Notice of Completion to the County, which will be asked to serve in a timely manner the Notice of Completion to all Interested Persons and asked to post public notice of the draft TEIR at the Office of the County Board of Supervisors and to furnish the public notice at the public libraries serving the County. In addition, the Tribe will provide public notice by at least one of the procedures below:

(i) Publication of the Notice of Completion 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

(ii) Direct mailing by the Tribe of the Notice of Completion 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.

Section 10.8.4. Issuance of Final TEIR. The Tribe shall prepare, certify and make available to the County and the local city (if any) within which the Project is located, a Final TEIR, which shall consist of:

(i) The draft TEIR or a revision of the draft;

(ii) Comments and recommendations received on the draft TEIR either verbatim or in summary;

(iii) A list of persons, organizations, and public agencies commenting on the draft TEIR;

(iv) The responses of the Tribe to significant environmental points raised in the review and consultation process; and

(v) Any other relevant comments and information added by the Tribe.

Section 10.8.5. 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 10.8.

Section 10.8.6. The Tribe's failure to prepare a TEIR when required may warrant an injunction where appropriate.

Section 10.8.7. Definitions. For purposes of this Section 10.8, the following terms shall be defined as set forth in this Section 10.8.7.

(a) "Project" is defined as any activity occurring on Indian lands, a principal purpose of which is to serve the Tribe's 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 construction or planned expansion of any Gaming Facility and any construction or planned expansion, a principal purpose of which is to serve a Gaming Facility, including, but not limited to, access roads, parking lots, a hotel, an entertainment facility, utility or waste disposal systems, or water supply, as long as such construction or expansion causes a direct or indirect physical change in the off-reservation environment.

(b) "Significant Effect(s) on the Environment" is the same as "Significant Effect(s) on the Off-Reservation Environment" and occur(s) if any of the following conditions exist:

(i) A proposed Project has the potential to degrade the quality of the off-reservation environment, reduce the off-reservation habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, eliminate an off-reservation plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(ii) The possible effects on the off-reservation environment of a Project 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 effect of probable future projects.

(iii) 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 Indian lands within the meaning of IGRA.

(c) "Interested Persons" means (i) 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, (ii) Any city with a nexus to the Project, and (iii) any other persons, groups, or agencies that request in writing a notice of preparation of a draft TEIR or have commented on the Project in writing to the Tribe or the County.

Section 10.8.8. Intergovernmental Agreement. Before commencement of a Project and no later than when the Tribe issues its Final TEIR, the Tribe shall offer to begin negotiations with the County and any impacted City in which the Gaming Facility is located or adjacent to, (hereafter "Impacted City"), and upon the County's and/or any Impacted City's acceptance of the Tribe's offers, shall negotiate with the County and any Impacted City and shall enter into enforceable written agreements with the County and any Impacted City which include all of the following:

(i) Provisions providing for the timely mitigation of any Significant Effect on the Off-Reservation Environment (which effects may include, but are not limited to, adverse changes in 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, and/or other considerations.

(ii) Provisions relating to reasonable compensation for law enforcement, fire protection, emergency medical services and any other public services to be provided by the County and any Impacted City to the Tribe for the purposes of the Tribe's Gaming Operation as a consequence of the Project.

(iii) Provisions providing for mitigation of any effect on public safety attributable to the Project, including any reasonable compensation to the County and any Impacted City as a consequence thereof.

(iv) Provisions providing for reasonable compensation for programs designed to address gambling addiction.

Section 10.8.9. Dispute Resolution Process

(a) In order 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 agreement with the County and any Impacted City, if any, is not entered into within fifty-five (55) days of the submission of the Final TEIR, or such further time as the Tribe or the County or Impacted City (for the purposes of this Section "the parties") may mutually agree in writing, any party may demand binding arbitration before a single arbitrator pursuant to the comprehensive arbitration rules and procedures of JAMS (or if those rules no longer exist, the closest equivalent) with respect to disputes over mitigation or compensation on which the parties cannot reach agreement. Upon mutual agreement of the parties, the arbitration may be before a panel of three arbitrators. Any party dissatisfied with the award of the arbitrator 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 must bear all costs and expenses of JAMS and the arbitrators associated with the Appeal Procedure regardless of the outcome.

(b) With respect to each dispute specified in subdivision (a), the arbitrator shall issue an award that provides for feasible mitigation of Significant Effects on the Off-Reservation Environment and on public safety and which reasonably compensates for public services pursuant to Section 10.8.8, 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 to determine both whether the Project may result in a Significant Effect on the Off-Reservation Environment and whether the proposed measures in mitigation are sufficient to mitigate any such effect. The arbitrator may require the parties to produce evidence in support of or in opposition to any factual matter deemed by the arbitrator to be relevant and material to the determination of the dispute. If any party does not participate in the arbitration, the arbitrator shall nonetheless conduct the arbitration and issue an award, and the participating party or parties shall submit such evidence as the arbitrator may require therefor. The award shall be deemed part of the Intergovernmental Agreement provided for under Section 10.8.8, and upon request of either party, the arbitrator may include those mitigation and compensation measures upon which the parties have agreed in the award. To effectuate its consent to the foregoing arbitration procedure, the Tribe shall, in the exercise of its sovereignty, waive its right to assert its sovereign immunity in connection with the arbitrator's jurisdiction and in any action brought in the United States District Court where the Tribe's Gaming Facility is located and the Ninth Circuit Court of Appeals (and any successor court), or, if the federal court declines to hear the action, in any action brought in the courts of the State of California that are located in San Bernardino County, including courts of appeal, to (1) enforce the parties' obligation to arbitrate, (2) confirm, correct, modify, or vacate the arbitral award rendered in the arbitration, or (3) 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 such state courts.

X. *LICENSURE OF FINANCIAL SOURCES*

Section 6.4.6 is repealed and replaced by the following:

Section 6.4.6. Financial Sources.

(a) Subject to subdivision (e) of this Section 6.4.6, any person or entity extending financing, directly or indirectly, to the Tribe for a Gaming Facility or a Gaming Operation (a "Financial Source") shall be licensed by the Tribal Gaming Agency prior to extending that financing.

(b) A license issued under this Section shall be reviewed at least every two (2) years for continuing compliance. In connection with such a review, the Tribal Gaming Agency shall require the Financial Source to update all information provided in the previous application. For purposes of Section 6.5.2, such a review shall be deemed to constitute an application for renewal.

(c) Any agreement between the Tribe and a Financial Source shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the bona fide repayment of all outstanding sums (exclusive of interest) owed 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. The Tribe shall not enter into, or continue to make payments 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 has expired without renewal.

(d) A Gaming Resource Supplier who provides financing exclusively in connection with the provision, sale, or lease of Gaming Resources obtained from that Supplier may be licensed solely in accordance with licensing procedures applicable, if at all, to Gaming Resource Suppliers, and need not be separately licensed as a Financial Source under this Section.

(e) (i) 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) A federally-regulated or state-regulated bank, savings and loan association, or other federally- or state-regulated lending institution.

(B) An entity identified by Uniform Tribal Gaming Regulation CGCC-2, subdivision (f) (as in effect on July 1, 2006) of the California Gambling Control Commission, when that entity is a Financial Source solely by reason of being (1) a purchaser or a holder of debt securities issued directly or indirectly by the Tribe for a Gaming Facility or by the Gaming Operation or (2) the owner of a participation interest in any amount of indebtedness for which a Financial Source described in subdivision (e)(i)(A) is the creditor.

(C) An investor who, alone or together with any person controlling, controlled by or under common control with such investor, holds less than 10% of all outstanding debt securities issued directly or indirectly by the Tribe for a Gaming Facility or by the Gaming Operation.

(D) An agency of the federal, state or local government providing financing, together with any person purchasing any debt securities of the agency to provide such financing.

(ii) The following are not Financial Sources for purposes of this Section.

(A) An entity identified by Uniform Tribal Gaming Regulation CGCC-2, subdivision (h) (as in effect on July 1, 2006) of the California Gambling Control Commission.

(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.

(C) The holder of any Letter-of-Credit-Backed Bonds identified in Uniform Tribal Gaming Regulation CGCC-1 (as in effect on July 1, 2006), so long as the criteria set forth in Uniform Tribal Gaming Regulations CGCC-1(a)(1) and CGCC-1(a)(2) are met.

(f) In recognition of changing financial circumstances, this Section shall be subject to good faith renegotiation upon 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.

XI. *EFFECTIVE DATE AND TERM OF COMPACT*

A. **Section 11.1** is amended to read in its entirety as follows:

> **Section 11.1. Effective Date**. This Amendment shall not be effective unless and until both of the following have occurred: (a) This Amendment to the 1999 Compact is ratified in accordance with state law; and (b) Notice of approval or constructive approval by the United States Secretary of the Interior is published in the Federal Register as provided in 25 U.S.C. Section 2710(d)(3)(B).

B. **Section 11.2.1(a)** is repealed and replaced by the following:

> **Section 11.2.1(a)** Once effective, this Amended Compact shall remain in full force and effect until December 31, 2030. No later than July 1, 2028, the State or the Tribe may request good faith negotiations to extend and modify this Amended Compact or enter into a new compact. Upon such request by either the State or the Tribe, the parties shall confer promptly and schedule within 30 calendar days of the request a meeting for commencing negotiations. Nothing in this provision shall preclude the State and the Tribe from engaging in good faith negotiations at any time during the term of this Amended Compact.

C. **Section 11.2.1(b)** is repealed.

XII. *NOTICES*

A. **Section 13.0** is amended to read:

Section 13.0. Unless otherwise indicated by this Amended Compact, all notices required or authorized to be served shall be served by first-class mail at the following addresses:

Governor
State Capitol
Sacramento, California 95814

Tribal Chairperson
San Manuel Band of Mission Indians
26569 Community Center Drive
Highland CA 92346

The Tribe or State may change the address to which notices shall be sent by providing twenty (20) days written notice to the other party.

XIII. *MISCELLANEOUS*

A. A new **Section 15.7** is hereby added as follows:

Section 15.7. Calculation of time. In computing any period of time prescribed by this Amended 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.

B. A new **Section 15.8** is hereby added as follows:

Section 15.8. Whenever the Tribe adopts or amends any ordinance required to be adopted and/or maintained under the 1999 Compact or this Amended Compact, the Tribe shall provide a copy of such adopted or amended ordinance to the Governor's Legal Affairs Secretary within thirty (30) days of the effective date of such amended ordinance.

C. A new **Section 15.9** is hereby added as follows:

Section 15.9. The Tribe expressly represents that, as of the date of the Tribe's execution of this Amended Compact, the undersigned Chairman has the authority to execute this Amendment on behalf of the Tribe, including any waivers of the right to immunity therein, and will provide written proof of such authority and of the ratification of this Amendment by the tribal governing body to the Governor no later than thirty (30) days after this Amendment's execution by the Tribal Chairman. In entering into this Amendment, the State expressly relies upon the foregoing representations by the Tribe, and the State's entry into this Amendment is expressly made contingent upon the truth of those

representations. If the Tribe fails to provide written proof of authority to execute this Amendment or written proof of ratification by the Tribe's governing body within thirty (30) days of the Tribal Chairman's execution of this Amendment, the Governor may declare this Compact null and void by written notice filed with the California Secretary of State within ninety (90) days of the Governor's execution of this Amendment.

The undersigned sign this Amendment on behalf of the State of California and the San Manuel Band of Mission Indians.

STATE OF CALIFORNIA

By: Arnold Schwarzenegger
Governor of the State of California

Executed this 28th day of August, 2006, at Sacramento, California

San Manuel Band of Mission Indians

By: ~~Henry Duro~~ VINCENT DURO
Vice Chairman of the San Manuel Band of Mission Indians

Executed this 28th day of August, 2006, at Sacramento, California

ATTEST:

~~Bruce McPherson~~ Debra Bowen
Secretary of State, State of California