TRIBAL-STATE COMPACT

BETWEEN

THE STATE OF CALIFORNIA

AND THE

BARONA BAND OF MISSION INDIANS
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TRIBAL-STATE GAMING COMPACT

Between the BARONA BAND OF MISSION INDIANS, a federally recognized Indian Tribe, and the STATE OF CALIFORNIA

This Tribal-State Gaming Compact is entered into on a government-to-government basis by and between the Barona Band of Mission Indians, a federally-recognized sovereign Indian tribe (hereafter "Tribe"), and the State of California, a sovereign State of the United States (hereafter "State"), pursuant to the Indian Gaming Regulatory Act of 1988 (P.L. 100-497, codified at 18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.) (hereafter "IGRA"), and any successor statute or amendments.

PREAMBLE

A. In 1988, Congress enacted 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 are necessary to meet congressional concerns.

B. The system of regulation of Indian gaming fashioned by Congress in IGRA rests on an allocation of regulatory jurisdiction among the three sovereigns involved: the federal government, the state in which a tribe has land, and the tribe itself. IGRA makes Class III gaming activities lawful on the lands of federally-recognized Indian tribes only if such activities are: (1) authorized by a tribal ordinance, (2) located in a state that permits such gaming for any purpose by any person, organization or entity, and (3) conducted in conformity with a gaming compact entered into between the Indian tribe and the state and approved by the Secretary of the Interior.
C. The Tribe is currently operating a tribal gaming casino offering Class III gaming activities on its land. On September 1, 1999, the largest number of Gaming Devices operated by the Tribe was 1057.

D. The State enters into this Compact out of respect for the sovereignty of the Tribe; in recognition of the historical fact that Indian gaming has become the single largest revenue-producing activity for Indian tribes in the United States; out of a desire to terminate pending “bad faith” litigation between the Tribe and the State; to initiate a new era of tribal-state cooperation in areas of mutual concern; out of a respect for the sentiment of the voters of California who, in approving Proposition 5, expressed their belief that the forms of gaming authorized herein should be allowed; and in anticipation of voter approval of SCA 11 as passed by the California legislature.

E. The exclusive rights that Indian tribes in California, including the Tribe, will enjoy under this Compact create a unique opportunity for the Tribe to operate its Gaming Facility in an economic environment free of competition from the Class III gaming referred to in Section 4.0 of this Compact on non-Indian lands in California. The parties are mindful that this unique environment is of great economic value to the Tribe and the fact that income from Gaming Devices represents a substantial portion of the tribes’ gaming revenues. In consideration for the exclusive rights enjoyed by the tribes, and in further consideration for the State’s willingness to enter into this Compact, the tribes have agreed to provide to the State, on a sovereign-to-sovereign basis, a portion of its revenue from Gaming Devices.

F. The State has a legitimate interest in promoting the purposes of IGRA for all federally-recognized Indian tribes in California, whether gaming or non-gaming. The State contends that it has an equally legitimate sovereign interest in regulating the growth of Class III gaming activities in California. The Tribe and the State share a joint sovereign interest in ensuring that tribal gaming activities are free from criminal and other undesirable elements.

Section 1.0. PURPOSES AND OBJECTIVES.

The terms of this Gaming Compact are designed and intended to:

(a) Evidence the goodwill and cooperation of the Tribe and State in fostering a mutually respectful government-to-government relationship that will serve the mutual interests of the parties.

(b) Develop and implement a means of regulating Class III gaming, and only Class III gaming, on the Tribe’s Indian lands to ensure its fair and honest operation in accordance with IGRA, and through that regulated Class III gaming, enable the Tribe to develop self-sufficiency, promote tribal economic development, and generate jobs.
and revenues to support the Tribe's government and governmental services and programs.

(c) 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 Tribe's Gaming Operation 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.

Sec. 2.0. DEFINITIONS.

Sec. 2.1. "Applicant" means an individual or entity that applies for a Tribal license or State certification.

Sec. 2.2. "Association" means an association of California tribal and state gaming regulators, the membership of which comprises up to two representatives from each tribal gaming agency of those tribes with whom the State has a gaming compact under IGRA, and up to two delegates each from the state Division of Gambling Control and the state Gambling Control Commission.

Sec. 2.3. "Class III gaming" means the forms of Class III gaming defined as such in 25 U.S.C. Sec. 2703(8) and by regulations of the National Indian Gaming Commission.

Sec. 2.4. "Gaming Activities" means the Class III gaming activities authorized under this Gaming Compact.

Sec. 2.5. "Gaming Compact" or "Compact" means this compact.

Sec. 2.6. "Gaming Device" means a slot machine, including an electronic, electromechanical, electrical, or video device that, for consideration, permits: individual play with or against that device or the participation in any electronic, electromechanical, electrical, or video system to which that device is connected; the playing of games thereon or therewith, including, but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the outcome, prize won, and other information regarding the playing of games thereon or therewith.

Sec. 2.7. "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.

Sec. 2.8. "Gaming Facility" or "Facility" means any building in which Class III gaming activities or gaming operations occur, or in which the business records, receipts, or other funds of the gaming operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation, provided that nothing herein prevents the conduct of Class II gaming (as defined under IGRA) therein.

Sec. 2.9. "Gaming Operation" means the business enterprise that offers and operates Class III Gaming Activities, whether exclusively or otherwise.

Sec. 2.10. "Gaming Ordinance" means a tribal ordinance or resolution duly authorizing the conduct of Class III Gaming Activities on the Tribe's Indian lands and approved under IGRA.

Sec. 2.11. "Gaming Resources" means any goods or services provided or used in connection with Class III Gaming Activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, gambling devices and ancillary equipment, implements of gaming activities such as playing cards and dice, furniture designed primarily for Class III gaming activities, maintenance or security equipment and services, and Class III gaming consulting services. "Gaming Resources" does not include professional accounting and legal services.

Sec. 2.12. "Gaming Resource Supplier" means any person or entity who, directly or indirectly, manufactures, distributes, supplies, vends, leases, or otherwise purveys Gaming Resources to the Gaming Operation or Gaming Facility, provided that the Tribal Gaming Agency may exclude a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, Gaming Activities, if the purveyor is not otherwise a Gaming Resource Supplier as described by of Section 6.4.5, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gambling Operation.

Sec. 2.14. "Management Contractor" means any Gaming Resource Supplier with whom the Tribe has contracted for the management of any Gaming Activity or Gaming Facility, including, but not limited to, any person who would be regarded as a management contractor under IGRA.

Sec. 2.15. "Net Win" means "net win" as defined by American Institute of Certified Public Accountants.

Sec. 2.16. "NIGC" means the National Indian Gaming Commission.

Sec. 2.17. "State" means the State of California or an authorized official or agency thereof.

Sec. 2.18. "State Gaming Agency" means the entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code).

Sec. 2.19. "Tribal Chairperson" means the person duly elected or selected under the Tribe's organic documents, customs, or traditions to serve as the primary spokesperson for the Tribe.

Sec. 2.20. "Tribal Gaming Agency" means the person, agency, board, committee, commission, or council designated under tribal law, including, but not limited to, an intertribal gaming regulatory agency approved to fulfill those functions by the National Indian Gaming Commission, as primarily responsible for carrying out the Tribe's regulatory responsibilities under IGRA and the Tribal Gaming Ordinance. No person employed in, or in connection with, the management, supervision, or conduct of any gaming activity may be a member or employee of the Tribal Gaming Agency.

Sec. 2.21. "Tribe" means the Barona Band of Mission Indians, also known as the Barona Group of the Capitan Grande Band of Mission Indians, a federally-recognized Indian tribe, or an authorized official or agency thereof.

Sec. 3.0 CLASS III GAMING AUTHORIZED AND PERMITTED. The Tribe is hereby authorized and permitted to engage in only the Class III Gaming Activities expressly referred to in Section 4.0 and shall not engage in Class III gaming that is not expressly authorized in that Section.
Sec. 4.0. SCOPE OF CLASS III GAMING.

Sec. 4.1. Authorized and Permitted Class III gaming. The Tribe is hereby authorized and permitted to operate the following Gaming Activities under the terms and conditions set forth in this Gaming Compact:

(a) The operation of Gaming Devices.

(b) Any banking or percentage card game.

(c) The operation of any devices or games that are authorized under state law to the California State Lottery, provided that the Tribe will not offer such games through use of the Internet unless others in the state are permitted to do so under state and federal law.

(e) Nothing herein shall be construed to preclude negotiation of a separate compact governing the conduct of off-track wagering at the Tribe's Gaming Facility.

Sec. 4.2. Authorized Gaming Facilities. The Tribe may establish and operate not more than two Gaming Facilities, and only on those Indian lands on which gaming may lawfully be conducted under the Indian Gaming Regulatory Act. The Tribe may combine and operate in each Gaming Facility any forms and kinds of gaming permitted under law, except to the extent limited under IGRA, this Compact, or the Tribe's Gaming Ordinance.

Sec. 4.3. Authorized number of Gaming Devices

Sec. 4.3.1 The Tribe may operate no more Gaming Devices than the larger of the following:

(a) A number of terminals equal to the number of Gaming Devices operated by the Tribe on September 1, 1999; or

(b) Three hundred fifty (350) Gaming Devices.

Sec. 4.3.2. Revenue Sharing with Non-Gaming Tribes.

(a) For the purposes of this Section 4.3.2 and Section 5.0, the following definitions apply:

(i) A “Compact Tribe” is a tribe having a compact with the State that authorizes the Gaming Activities authorized by this Compact. Federally-recognized tribes that are operating fewer than 350 Gaming Devices are “Non-Compact Tribes.” Non-Compact Tribes shall be deemed third party beneficiaries of this and other compacts identical in all material respects. A Compact Tribe that becomes a Non-Compact Tribe may not thereafter return to the status of a Compact Tribe for a period of two years becoming a Non-Compact Tribe.
(ii) The Revenue Sharing Trust Fund is a fund created by the Legislature and administered by the California Gambling Control Commission, as Trustee, for the receipt, deposit, and distribution of monies paid pursuant to this Section 4.3.2.

(iii) The Special Distribution Fund is a fund created by the Legislature for the receipt, deposit, and distribution of monies paid pursuant to Section 5.0.

Sec. 4.3.2.1. Revenue Sharing Trust Fund.

(a) The Tribe agrees with all other Compact Tribes that are parties to compacts having this Section 4.3.2, that each Non-Compact Tribe in the State shall receive the sum of $1.1 million per year. In the event there are insufficient monies in the Revenue Sharing Trust Fund to pay $1.1 million per year to each Non-Compact Tribe, any available monies in that Fund shall be distributed to Non-Compact Tribes in equal shares. Monies in excess of the amount necessary to $1.1 million to each Non-Compact Tribe shall remain in the Revenue Sharing Trust Fund available for disbursement in future years.

(b) Payments made to Non-Compact Tribes shall be made quarterly and in equal shares out of the Revenue Sharing Trust Fund. The Commission shall serve as the trustee of the fund. The Commission shall have no discretion with respect to the use or disbursement of the trust funds. Its sole authority shall be to serve as a depository of the trust funds and to disburse them on a quarterly basis to Non-Compact Tribes. In no event shall the State's General Fund be obligated to make up any shortfall or pay any unpaid claims.

Sec. 4.3.2.2. Allocation of Licenses.

(a) The Tribe, along with all other Compact Tribes, may acquire licenses to use Gaming Devices in excess of the number they are authorized to use under Sec. 4.3.1, but in no event may the Tribe operate more than 2,000 Gaming Devices, on the following terms, conditions, and priorities:

(1). The maximum number of machines that all Compact Tribes in the aggregate may license pursuant to this Section shall be a sum equal to 350 multiplied by the number of Non-Compact tribes as of September 1, 1999, plus the difference between 350 and the lesser number authorized under Section 4.3.1.

(2) The Tribe may acquire and maintain a license to operate a Gaming Device by paying into the Revenue Sharing Trust Fund, on a quarterly basis, in the following amounts:
Number of Licensed Devices | Fee Per Device Per Annum
---|---
1-350 | $0
351-750 | $900
751-1250 | $1950
1251-2000 | $4350

(3) Licenses to use Gaming Devices shall be awarded as follows:

(i) First, Compact Tribes with no Existing Devices (i.e., the number of Gaming Devices operated by a Compact Tribe as of September 1, 1999) may draw up to 150 licenses for a total of 500 Gaming Devices;

(ii) Next, Compact Tribes authorized under Section 4.3.1 to operate up to and including 500 Gaming Devices as of September 1, 1999 (including tribes, if any, that have acquired licenses through subparagraph (i)), may draw up to an additional 500 licenses, to a total of 1000 Gaming Devices;

(iii) Next, Compact Tribes operating between 501 and 1000 Gaming Devices as of September 1, 1999 (including tribes, if any, that have acquired licenses through subparagraph (ii)), shall be entitled to draw up to an additional 750 Gaming Devices;

(iv) Next, Compact Tribes authorized to operate up to and including 1500 gaming devices (including tribes, if any, that have acquired licenses through subparagraph (iii)), shall be entitled to draw up to an additional 500 licenses, for a total authorization to operate up to 2000 gaming devices.

(v) Next, Compact Tribes authorized to operate more than 1500 gaming devices (including tribes, if any, that have acquired licenses through subparagraph (iv)), shall be entitled to draw additional licenses up to a total authorization to operate up to 2000 gaming devices.

(vi). After the first round of draws, a second and subsequent round(s) shall be conducted utilizing the same order of priority as set forth above. Rounds shall continue until tribes cease making draws, at which time draws will be discontinued for one month or until the Trustee is notified that a tribe desires to acquire a license, whichever last occurs.
(e) As a condition of acquiring licenses to operate Gaming Devices, a non-refundable one-time pre-payment fee shall be required in the amount of $1,250 per Gaming Device being licensed, which fees shall be deposited in the Revenue Sharing Trust Fund. The license for any Gaming Device shall be canceled if the Gaming Device authorized by the license is not in commercial operation within twelve months of issuance of the license.

Sec. 4.3.2.3. The Tribe shall not conduct any Gaming Activity authorized by this Compact if the Tribe is more than two quarterly contributions in arrears in its license fee payments to the Revenue Sharing Trust Fund.

Sec. 4.3.3. If requested to do so by either party after March 7, 2003, but not later than March 31, 2003, the parties will promptly commence negotiations in good faith with the Tribe concerning any matters encompassed by Sections 4.3.1 and Section 4.3.2, and their subsections.

SEC. 5.0 REVENUE DISTRIBUTION

Sec. 5.1. (a) The Tribe shall make contributions to the Special Distribution Fund created by the Legislature, in accordance with the following schedule, but only with respect to the number of Gaming Devices operated by the Tribe on September 1, 1999:

<table>
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<tr>
<th>Number of Terminals in Quarterly Device Base</th>
<th>Percent of Average Gaming Device Net Win</th>
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<tbody>
<tr>
<td>1 - 200</td>
<td>0%</td>
</tr>
<tr>
<td>201 - 500</td>
<td>7%</td>
</tr>
<tr>
<td>501 - 1000</td>
<td>7% applied to the excess over 200 terminals, up to 500 terminals, plus 10% applied to terminals over 500 terminals, up to 1000 terminals.</td>
</tr>
<tr>
<td>1000+</td>
<td>7% applied to excess over 200, up to 500 terminals, plus 10% applied to terminals over 500, up to 1000 terminals, plus 13% applied to the excess above 1000 terminals.</td>
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(b) The first transfer to the Special Distribution Fund of its share of the gaming revenue shall be made at the conclusion of the first calendar quarter following the second anniversary date of the effective date of this Compact.

Sec. 5.2. Use of funds. The State’s share of the Gaming Device revenue shall be placed in the Special Distribution Fund, available for appropriation by the Legislature for the following purposes: (a) grants, including any administrative costs, for programs designed to address gambling addiction; (b) grants, including any administrative costs, for the support of state and local government agencies impacted by tribal government gaming; (c) compensation for regulatory costs incurred by the State Gaming Agency and the state Department of Justice in connection with the implementation and administration of the Compact; (d) payment of shortfalls that may occur in the Revenue Sharing Trust Fund; and (e) any other purposes specified by the Legislature. It is the intent of the parties that Compact Tribes will be consulted in the process of identifying purposes for grants made to local governments.

Sec. 5.3. (a) The quarterly contributions due under Section 5.1 shall be determined and made not later than the thirtieth (30th) day following the end of each calendar quarter by first determining the total number of all Gaming Devices operated by a Tribe during a given quarter ("Quarterly Device Base"). The "Average Device Net Win" is calculated by dividing the total Net Win from all terminals during the quarter by the Quarterly Terminal Base.

(b) Any quarterly contribution not paid on or before the date on which such amount is due shall be deemed overdue. If any quarterly contribution under Section 5.1 is overdue to the Special Distribution Fund, the Tribe shall pay to the Special Distribution Fund, in addition to the overdue quarterly contribution, interest on such amount from the date the quarterly contribution was due until the date such quarterly contribution (together with interest thereon) was actually paid at the rate of 1.0% per month or the maximum rate permitted by state law, whichever is less. Entitlement to such interest shall be in addition to any other remedies the State may have.

(c) At the time each quarterly contribution is made, the Tribe shall submit to the State a report (the “Quarterly Contribution Report”) certified by an authorized representative of the Tribe reflecting the Quarterly Device Base, the Net Win from all terminals in the Quarterly Device Base (broken down by Gaming Device), and the Average Device Net Win.

(d) If the State causes an audit to be made pursuant to subdivision (c), and the Average Device Net Win for any quarter as reflected on such quarter’s Quarterly
Contribution Reports is found to be understated, the State will promptly notify the Tribe, and the Tribe will either accept the difference or provide a reconciliation satisfactory to the State. If the Tribe accepts the difference or does not provide a reconciliation satisfactory to the State, the Tribe must immediately pay the amount of the resulting deficiencies in the quarterly contribution plus interest on such amounts from the date they were due at the rate of 1.0% per month or the maximum rate permitted by applicable law, whichever is less.

(c) The Tribe shall not conduct Class III gaming if more than two quarterly contributions to the Special Distribution Fund are overdue.

Sec. 6.0. LICENSING.

Sec. 6.1. Gaming Ordinance and Regulations. All Gaming Activities conducted under this Gaming Compact shall, at a minimum, comply with a Gaming Ordinance duly adopted by the Tribe and approved in accordance with IGRA, and with all rules, regulations, procedures, specifications, and standards duly adopted by the Tribal Gaming Agency.

Sec. 6.2. Tribal Ownership, Management, and Control of Gaming Operation. The Gaming Operations authorized under this Gaming Compact shall be owned solely by the Tribe.

Sec. 6.3. Prohibition Regarding Minors. (a) Except as provided in subdivision (b), the Tribe shall not permit persons under the age of 18 years to be present in any room in which Class III Gaming Activities are being conducted unless the person is en-route to a non-gaming area of the Gaming Facility.

(b) If the Tribe permits the consumption of alcoholic beverages in the Gaming Facility, the Tribe shall prohibit persons under the age of 21 years from being present in any area in which Class III gaming activities are being conducted and in which alcoholic beverages may be consumed, to the extent required by the state Department of Alcoholic Beverage Control.

Sec. 6.4. Licensing Requirements and Procedures.

Sec. 6.4.1. Summary of Licensing Principles. All persons in any way connected with the Gaming Operation or Facility who are required to be licensed or to submit to a background investigation under IGRA, and any others required to be licensed under this Gaming Compact, including, but not limited to, all Gaming Employees and Gaming Resource Suppliers, and any other person having a significant influence over the Gaming Operation must be licensed by the Tribal Gaming Agency. The parties intend that the licensing process provided for in this Gaming Compact shall involve
joint cooperation between the Tribal Gaming Agency and the State Gaming Agency, as more particularly described herein.

Sec. 6.4.2. Gaming Facility. (a) The Gaming Facility authorized by this Gaming Compact shall be licensed by the Tribal Gaming Agency in conformity with the requirements of this Gaming Compact, the Tribal Gaming Ordinance, and IGRA. The license shall be reviewed and renewed, if appropriate, every two years thereafter. Verification that this requirement has been met shall be provided by the Tribe to the State Gaming Agency every two years. The Tribal Gaming Agency's certification to that effect shall be posted in a conspicuous and public place in the Gaming Facility at all times.

(b) In order to protect the health and safety of all Gaming Facility patrons, guests, and employees, all Gaming Facilities of the Tribe constructed after the effective date of this Gaming Compact, and all expansions or modifications to a Gaming Facility in operation as of the effective date of this Compact, shall meet the building and safety codes of the Tribe, which, as a condition for engaging in that construction, expansion, modification, or renovation, shall amend its existing building and safety codes if necessary, or enact such codes if there are none, so that they meet the standards of either the building and safety codes of any county within the boundaries of which the site of the Facility is located, or the Uniform Building Codes, including all uniform fire, plumbing, electrical, mechanical, and related codes then in effect provided that nothing herein shall be deemed to confer jurisdiction upon any county or the State with respect to any reference to such building and safety codes. Any such construction, expansion or modification will also comply with the federal Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. § 12101 et seq.

(c) Any Gaming Facility in which gaming authorized by this Gaming Compact is conducted shall be issued a certificate of occupancy by the Tribal Gaming Agency prior to occupancy if it was not used for any Gaming Activities under IGRA prior to the effective date of this Gaming Compact, or, if it was so used, within one year thereafter. The issuance of this certificate shall be reviewed for continuing compliance every two years thereafter. Inspections by qualified building and safety experts shall be conducted under the direction of the Tribal Gaming Agency as the basis for issuing any certificate hereunder. The Tribal Gaming Agency shall determine and certify that, as to new construction or new use for gaming, the Facility meets the Tribe's building and safety code, or, as to facilities or portions of facilities that were used for the Tribe's Gaming Activities prior to this Gaming Compact, that the facility or portions thereof do not endanger the health or safety of occupants or the integrity of the
Gaming Operation. The Tribe will not offer Class III gaming in a Facility that is constructed or maintained in a manner that endangers the health or safety of occupants or the integrity of the gaming operation.

(d) The State shall designate an agent or agents to be given reasonable notice of each inspection by the Tribal Gaming Agency’s experts, which state agents may accompany any such inspection. The Tribe agrees to correct any Gaming Facility condition noted in an inspection that does not meet the standards set forth in subdivisions (b) and (c). The Tribal Gaming Agency and the State’s designated agent or agents shall exchange any reports of an inspection within 10 days after completion of the report, which reports shall also be separately and simultaneously forwarded by both agencies to the Tribal Chairperson. Upon certification by the Tribal Gaming Agency’s experts that a Gaming Facility meets applicable standards, the Tribal Gaming Agency shall forward the experts’ certification to the State within 10 days of issuance. If the State’s agent objects to that certification, the Tribe shall make a good faith effort to address the State's concerns, but if the State does not withdraw its objection, the matter will be resolved in accordance with the dispute resolution provisions of Section 9.0.

Sec. 6.4.3. Suitability Standard Regarding Gaming Licenses. (a) In reviewing an application for a gaming license, and in addition to any standards set forth in the Tribal Gaming Ordinance, the Tribal Gaming Agency shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Tribe's Gaming Operations, or tribal government gaming generally, are free from criminal and dishonest elements and would be conducted honestly. A license may not be issued unless, based on all information and documents submitted, the Tribal Gaming Agency is satisfied that the applicant is all of the following, in addition to any other criteria in IGRA or the Tribal Gaming Ordinance:

(a) A person of good character, honesty, and integrity.

(b) A person whose prior activities, criminal record (if any), reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gambling, or in the carrying on of the business and financial arrangements incidental thereto.

(c) A person who is in all other respects qualified to be licensed as provided in this Gaming Compact, IGRA, the Tribal Gaming Ordinance, and any other criteria adopted by the Tribal Gaming Agency or the Tribe. An applicant shall not be found to be
unsuitable solely on the ground that the applicant was an employee of a tribal gaming operation in California that was conducted prior to the effective date of this Compact.

Sec. 6.4.4. Gaming Employees. (a) Every Gaming Employee shall obtain, and thereafter maintain current, a valid tribal gaming license, which shall be subject to biennial renewal; provided that in accordance with Section 6.4.9, those persons may be employed on a temporary or conditional basis pending completion of the licensing process.

(b) Except as provided in subdivisions (c) and (d), the Tribe will not employ or continue to employ, any person whose application to the State Gaming Agency for a determination of suitability, or for a renewal of such a determination, has been denied or has expired without renewal.

(c) Notwithstanding subdivision (a), the Tribe may retain in its employ a person whose application for a determination of suitability, or for a renewal of such a determination, has been denied by the State Gaming Agency, if: (i) the person holds a valid and current license issued by the Tribal Gaming Agency that must be renewed at least biennially; (ii) the denial of the application by the State Gaming Agency is based solely on activities, conduct, or associations that antedate the filing of the person’s initial application to the State Gaming Agency for a determination of suitability; (iii) the person is not an employee or agent of any other gaming operation; and (iv) the person has been in the continuous employ of the Tribe for at least three years prior to the effective date of this Compact.

(d) Notwithstanding subdivision (a), the Tribe may employ or retain in its employ a person whose application for a determination of suitability, or for a renewal of such a determination, has been denied by the State Gaming Agency, if the person is an enrolled member of the Tribe, as defined in this subdivision, and if (i) the person holds a valid and current license issued by the Tribal Gaming Agency that must be renewed at least biennially; (ii) the denial of the application by the State Gaming Agency is based solely on activities, conduct, or associations that antedate the filing of the person’s initial application to the State Gaming Agency for a determination of suitability; and (iii) the person is not an employee or agent of any other gaming operation. For purposes of this subdivision, “enrolled member” means a person who is either (a) certified by the Tribe as having been a member of the Tribe for at least five (5) years, or (b) a holder of confirmation of membership issued by the Bureau of Indian Affairs.

(e) Nothing herein shall be construed to relieve any person of the obligation to apply for a renewal of a determination of suitability as required by Section 6.5.6.
Sec. 6.4.5. Gaming Resource Supplier. Any Gaming Resource Supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least twenty-five thousand dollars ($25,000) in Gaming Resources in any 12-month period, or who has received at least twenty-five thousand dollars ($25,000) in any consecutive 12-month period within the 24-month period immediately preceding application, shall be licensed by the Tribal Gaming Agency prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any such Gaming Resources to or in connection with the Tribe’s Operation or Facility. These licenses shall be reviewed at least every two years for continuing compliance. In connection with such a review, the Tribal Gaming Agency shall require the Supplier 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. The Tribe shall not enter into, or continue to make payments pursuant to, any contract or agreement for the provision of Gaming Resources with any person whose application to the State Gaming Agency for a determination of suitability has been denied or has expired without renewal. Any agreement between the Tribe and a Gaming Resource Supplier 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, or payment for services or materials received up to, the date of termination, upon revocation or non-renewal of the Supplier’s license by the Tribal Gaming Agency based on a determination of unsuitability by the State Gaming Agency.

Sec. 6.4.6. Financial Sources. Any person extending financing, directly or indirectly, to the Tribe’s Gaming Facility or Gaming Operation shall be licensed by the Tribal Gaming Agency prior to extending that financing, provided that any person who is extending financing at the time of the execution of this Compact shall be licensed by the Tribal Gaming Agency within ninety (90) days of such execution. These licenses shall be reviewed at least every two 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. 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. A
Gaming Resource Supplier who provides financing exclusively in connection with the
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. The Tribal Gaming Agency may, at its discretion, exclude from the
licensing requirements of this section, financing provided by a federally regulated or
state-regulated bank, savings and loan, or other federally- or state-regulated lending
institution; or any agency of the federal, state, or local government; or any investor
who, alone or in conjunction with others, holds less than 10% of any outstanding
indebtedness evidenced by bonds issued by the Tribe.

Sec. 6.4.7. Processing Tribal Gaming License Applications. Each applicant for a
tribal gaming license shall submit the completed application along with the required
information and an application fee, if required, to the Tribal Gaming Agency in
accordance with the rules and regulations of that agency. At a minimum, the Tribal
Gaming Agency shall require submission and consideration of all information required
under IGRA, including Section 556.4 of Title 25 of the Code of Federal Regulations,
for licensing primary management officials and key employees. For applicants who
are business entities, these licensing provisions shall apply to the entity as well as: (i)
each of its officers and directors; (ii) each of its principal management employees,
including any chief executive officer, chief financial officer, chief operating officer,
and general manager; (iii) each of its owners or partners, if an unincorporated
business; (iv) each of its shareholders who owns more than 10 percent of the shares
of the corporation, if a corporation; and (v) each person or entity (other than a
financial institution that the Tribal Gaming Agency has determined does not require
a license under the preceding section) that, alone or in combination with others, has
provided financing in connection with any gaming authorized under this Gaming
Compact, if that person or entity provided more than 10 percent of (a) the start-up
capital, (b) the operating capital over a 12-month period, or (c) a combination thereof.
For purposes of this Section, where there is any commonality of the characteristics
identified in clauses (i) to (v), inclusive, between any two or more entities, those
entities may be deemed to be a single entity. Nothing herein precludes the Tribe or
Tribal Gaming Agency from requiring more stringent licensing requirements.
Sec. 6.4.8. Background Investigations of Applicants. The Tribal Gaming Agency shall conduct or cause to be conducted all necessary background investigations reasonably required to determine that the applicant is qualified for a gaming license under the standards set forth in Section 6.4.3, and to fulfill all requirements for licensing under IGRA, the Tribal Gaming Ordinance, and this Gaming Compact. The Tribal Gaming Agency shall not issue other than a temporary license until a determination is made that those qualifications have been met. In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or the Tribal Gaming Ordinance, the Tribal Gaming Agency may contract with the State Gaming Agency for the conduct of background investigations, may rely on a state certification of non-objection previously issued under a gaming compact involving another tribe, or may rely on a State gaming license previously issued to the applicant, to fulfill some or all of the Tribal Gaming Agency's background investigation obligation. An applicant for a tribal gaming license shall be required to provide releases to the State Gaming Agency to make available to the Tribal Gaming Agency background information regarding the applicant. The State Gaming Agency shall cooperate in furnishing to the Tribal Gaming Agency that information, unless doing so would violate any agreement the State Gaming Agency has with a source of the information other than the applicant, or would impair or impede a criminal investigation, or unless the Tribal Gaming Agency cannot provide sufficient safeguards to assure the State Gaming Agency that the information will remain confidential or that provision of the information would violate state or federal law. If the Tribe adopts an ordinance confirming that Article 6 (commencing with section 11140) of Chapter 1 of Title 1 of Part 4 of the California Penal Code is applicable to members, investigators, and staff of the Tribal Gaming Agency, and those members, investigators, and staff thereafter comply with that ordinance, then, for purposes of carrying out its obligations under this Section, the Tribal Gaming Agency shall be considered to be an entity entitled to receive state summary criminal history information within the meaning of subdivision (b)(12) of section 11105 of the California Penal Code. The California Department of Justice shall provide services to the Tribal Gaming Agency through the California Law Enforcement Telecommunications System (CLETS), subject to a determination by the CLETS advisory committee that the Tribal Gaming Agency is qualified for receipt of such services, and on such terms and conditions as are deemed reasonable by that advisory committee.
Sec. 6.4.9. Temporary Licensing of Gaming Employees. Notwithstanding anything herein to the contrary, if the applicant has completed a license application in a manner satisfactory to the Tribal Gaming Agency, and that agency has conducted a preliminary background investigation, and the investigation or other information held by that agency does not indicate that the applicant has a criminal history or other information in his or her background that would either automatically disqualify the applicant from obtaining a license or cause a reasonable person to investigate further before issuing a license, or is otherwise unsuitable for licensing, the Tribal Gaming Agency may issue a temporary license and may impose such specific conditions thereon pending completion of the applicant's background investigation, as the Tribal Gaming Agency in its sole discretion shall determine. Special fees may be required by the Tribal Gaming Agency to issue or maintain a temporary license. A temporary license shall remain in effect until suspended or revoked, or a final determination is made on the application. At any time after issuance of a temporary license, the Tribal Gaming Agency may suspend or revoke it in accordance with Sections 6.5.1 or 6.5.5, and the State Gaming Agency may request suspension or revocation in accordance with subdivision (d) of Section 6.5.6. Nothing herein shall be construed to relieve the Tribe of any obligation under Part 558 of Title 25 of the Code of Federal Regulations.

Sec. 6.5. Gaming License Issuance. Upon completion of the necessary background investigation, the Tribal Gaming Agency may issue a license on a conditional or unconditional basis. Nothing herein shall create a property or other right of an applicant in an opportunity to be licensed, or in a license itself, both of which shall be considered to be privileges granted to the applicant in the sole discretion of the Tribal Gaming Agency.

Sec. 6.5.1. Denial, Suspension, or Revocation of Licenses. (a) Any application for a gaming license may be denied, and any license issued may be revoked, if the Tribal Gaming Agency determines that the application is incomplete or deficient, or if the applicant is determined to be unsuitable or otherwise unqualified for a gaming license. Pending consideration of revocation, the Tribal Gaming Agency may suspend a license in accordance with Section 6.5.5. All rights to notice and hearing shall be governed by tribal law, as to which the applicant will be notified in writing along with notice of an intent to suspend or revoke the license.

(b) (i) Except as provided in paragraph (ii) below, upon receipt of notice that the State Gaming Agency has determined that a person would be unsuitable for licensure in a gambling establishment subject to the jurisdiction of the State Gaming Agency, the Tribal Gaming Agency shall promptly revoke any license that has theretofore been
issued to the person; provided that the Tribal Gaming Agency may, in its discretion, re-issue a license to the person following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in state court conducted pursuant to section 1085 of the California Civil Code.

(ii) Notwithstanding a determination of unsuitability by the State Gaming Agency, the Tribal Gaming Agency may, in its discretion, decline to revoke a tribal license issued to a person employed by the Tribe pursuant to Section 6.4.4(c) or Section 6.4.4(d).

Sec. 6.5.2. Renewal of Licenses; Extensions; Further Investigation. The term of a tribal gaming license shall not exceed two years, and application for renewal of a license must be made prior to its expiration. Applicants for renewal of a license shall provide updated material as requested, on the appropriate renewal forms, but, at the discretion of the Tribal Gaming Agency, may not be required to resubmit historical data previously submitted or that is otherwise available to the Tribal Gaming Agency. At the discretion of the Tribal Gaming Agency, an additional background investigation may be required at any time if the Tribal Gaming Agency determines the need for further information concerning the applicant’s continuing suitability or eligibility for a license. Prior to renewing a license, the Tribal Gaming Agency shall deliver to the State Gaming Agency copies of all information and documents received in connection with the application for renewal.

Sec. 6.5.3. Identification Cards. The Tribal Gaming Agency shall require that all persons who are required to be licensed wear, in plain view at all times while in the Gaming Facility, identification badges issued by the Tribal Gaming Agency. Identification badges must display information including, but not limited to, a photograph and an identification number that is adequate to enable agents of the Tribal Gaming Agency to readily identify the person and determine the validity and date of expiration of his or her license.

Sec. 6.5.4. Fees for Tribal License. The fees for all tribal licenses shall be set by the Tribal Gaming Agency.

Sec. 6.5.5. Suspension of Tribal License. The Tribal Gaming Agency may summarily suspend the license of any employee if the Tribal Gaming Agency determines that the continued licensing of the person or entity could constitute a threat to the public health or safety or may violate the Tribal Gaming Agency’s licensing or other standards. Any right to notice or hearing in regard thereto shall be governed by Tribal law.
Sec. 6.5.6. State Certification Process. (a) Upon receipt of a completed license application and a determination by the Tribal Gaming Agency that it intends to issue the earlier of a temporary or permanent license, the Tribal Gaming Agency shall transmit to the State Gaming Agency a notice of intent to license the applicant, together with all of the following: (i) a copy of all tribal license application materials and information received by the Tribal Gaming Agency from the applicant; (ii) an original set of fingerprint cards; (iii) a current photograph; and (iv) except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Tribal Gaming Agency. Except for an applicant for licensing as a non-key Gaming Employee, as defined by agreement between the Tribal Gaming Agency and the State Gaming Agency, the Tribal Gaming Agency shall require the applicant also to file an application with the State Gaming Agency, prior to issuance of a temporary or permanent tribal gaming license, for a determination of suitability for licensure under the California Gambling Control Act. Investigation and disposition of that application shall be governed entirely by state law, and the State Gaming Agency shall determine whether the applicant would be found suitable for licensure in a gambling establishment subject to that Agency’s jurisdiction. Additional information may be required by the State Gaming Agency to assist it in its background investigation, provided that such State Gaming Agency requirement shall be no greater than that which may be required of applicants for a State gaming license in connection with nontribal gaming activities and at a similar level of participation or employment. A determination of suitability is valid for the term of the tribal license held by the applicant, and the Tribal Gaming Agency shall require a licensee to apply for renewal of a determination of suitability at such time as the licensee applies for renewal of a tribal gaming license. The State Gaming Agency and the Tribal Gaming Agency (together with tribal gaming agencies under other gaming compacts) shall cooperate in developing standard licensing forms for tribal gaming license applicants, on a statewide basis, that reduce or eliminate duplicative or excessive paperwork, which forms and procedures shall take into account the Tribe’s requirements under IGRA and the expense thereof.

(b) Background Investigations of Applicants. Upon receipt of completed license application information from the Tribal Gaming Agency, the State Gaming Agency may conduct a background investigation pursuant to state law to determine whether the applicant would be suitable to be licensed for association with a gambling establishment subject to the jurisdiction of the State Gaming Agency. If further investigation is required to supplement the investigation conducted by the Tribal
Gaming Agency, the applicant will be required to pay the statutory application fee charged by the State Gaming Agency pursuant to California Business and Professions Code section 19941(a), but any deposit requested by the State Gaming Agency pursuant to section 19855 of that Code shall take into account reports of the background investigation already conducted by the Tribal Gaming Agency and the NIGC, if any. Failure to pay the application fee or deposit may be grounds for denial of the application by the State Gaming Agency. The State Gaming Agency and Tribal Gaming Agency shall cooperate in sharing as much background information as possible, both to maximize investigative efficiency and thoroughness, and to minimize investigative costs. Upon completion of the necessary background investigation or other verification of suitability, the State Gaming Agency shall issue a notice to the Tribal Gaming Agency certifying that the State has determined that the applicant would be suitable, or that the applicant would be unsuitable, for licensure in a gambling establishment subject to the jurisdiction of the State Gaming Agency and, if unsuitable, stating the reasons therefor.

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

(d) Prior to denying an application for a determination of suitability, the State Gaming Agency shall notify the Tribal Gaming Agency and afford the Tribe an opportunity to be heard. If the State Gaming Agency denies an application for a determination of suitability, that Agency shall provide the applicant with written notice of all appeal rights available under state law.

Sec. 7.0. COMPLIANCE ENFORCEMENT.

Sec. 7.1. On-Site Regulation. 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 Gaming Compact, IGRA, and the Tribal Gaming Ordinance with respect to Gaming Operation and Facility compliance, and to protect the integrity of the Gaming Activities, the reputation of the Tribe and the Gaming Operation for honesty and fairness, and the confidence of patrons that tribal government gaming in California 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.

Sec. 7.2. Investigation and Sanctions. The Tribal Gaming Agency shall investigate any reported violation of this Gaming Compact and shall require the Gaming Operation to correct the violation upon such terms and conditions as the Tribal Gaming Agency determines are necessary. The Tribal Gaming Agency shall be
empowered by the Tribal Gaming Ordinance to impose fines or other sanctions within
the jurisdiction of the Tribe against gaming licensees or other persons who interfere
with or violate the Tribe's gaming regulatory requirements and obligations under
IGRA, the Tribal Gaming Ordinance, or this Gaming Compact. The Tribal Gaming
Agency shall report significant or continued violations of this Compact or failures to
comply with its orders to the State Gaming Agency.

Sec. 7.3. Assistance by State Gaming Agency. The Tribe may request the
assistance of the State Gaming Agency whenever it reasonably appears that such
assistance may be necessary to carry out the purposes described in Section 7.1, or
otherwise to protect public health, safety, or welfare. If requested by the Tribe or
Tribal Gaming Agency, the State Gaming Agency shall provide requested services to
ensure proper compliance with this Gaming Compact. The State shall be reimbursed
for its actual and reasonable costs of that assistance, if the assistance required
expenditure of extraordinary costs.

Sec. 7.4. Access to Premises by State Gaming Agency; Notification; Inspections.
Notwithstanding that the Tribe has the primary responsibility to administer and
enforce the regulatory requirements of this Compact, the State Gaming Agency shall
have the right to inspect the Tribe's Gaming Facility with respect to Class III Gaming
Activities only, and all Gaming Operation or Facility records relating thereto, subject
to the following conditions:

Sec. 7.4.1. Inspection of public areas of a Gaming Facility may be made at any
time without prior notice during normal Gaming Facility business hours.

Sec. 7.4.2. Inspection of areas of a Gaming Facility not normally accessible to the
public may be made at any time during normal Gaming Facility business hours,
immediately after the State Gaming Agency's authorized inspector notifies the Tribal
Gaming Agency of his or her presence on the premises, presents proper identification,
and requests access to the non-public areas of the Gaming Facility. The Tribal Gaming
Agency, in its sole discretion, may require a member of the Tribal Gaming Agency to
accompany the State Gaming Agency inspector at all times that the State Gaming
Agency inspector is in a non-public area of the Gaming Facility. If the Tribal Gaming
Agency imposes such a requirement, it shall require such member to be available at
all times for those purposes and shall ensure that the member has the ability to gain
immediate access to all non-public areas of the Gaming Facility. Nothing in this
Compact shall be construed to limit the State Gaming Agency to one inspector during
inspections.
Sec. 7.4.3. (a) Inspection and copying of Gaming Operation papers, books, and records may occur at any time, immediately after notice to the Tribal Gaming Agency, during the normal hours of the Gaming Facility’s business office, provided that the inspection and copying of those papers, books or records shall not interfere with the normal functioning of the Gaming Operation or Facility. Notwithstanding any other provision of California law, all information and records that the State Gaming Agency obtains, inspects, or copies pursuant to this Gaming Compact shall be, and remain, the property solely of the Tribe; provided that such records and copies may be retained by the State Gaming Agency as reasonably necessary for completion of any investigation of the Tribe’s compliance with this Compact.

(b)(i) The State Gaming Agency will exercise utmost care in the preservation of the confidentiality of any and all information and documents received from the Tribe, and will apply the highest standards of confidentiality expected under state law to preserve such information and documents from disclosure. The Tribe may avail itself of any and all remedies under state law for improper disclosure of information or documents. To the extent reasonably feasible, the State Gaming Agency will consult with representatives of the Tribe prior to disclosure of any documents received from the Tribe, or any documents compiled from such documents or from information received from the Tribe, including any disclosure compelled by judicial process, and, in the case of any disclosure compelled by judicial process, will endeavor to give the Tribe immediate notice of the order compelling disclosure and a reasonable opportunity to interpose an objection thereto with the court.

(ii) The Tribal Gaming Agency and the State Gaming Agency shall confer and agree upon protocols for release to other law enforcement agencies of information obtained during the course of background investigations.

(c) Records received by the State Gaming Agency from the Tribe in compliance with this Compact, or information compiled by the State Gaming Agency from those records, shall be exempt from disclosure under the California Public Records Act.

Sec. 7.4.4. Notwithstanding any other provision of this Compact, the State Gaming Agency shall not be denied access to papers, books, records, equipment, or places where such access is reasonably necessary to ensure compliance with this Compact.

Sec. 7.4.5. (a) Subject to the provisions of subdivision (b), the Tribal Gaming Agency shall not permit any Gaming Device to be transported to or from the Tribe’s land except in accordance with procedures established by agreement between the State Gaming Agency and the Tribal Gaming Agency and upon at least 10 days’ notice to the Sheriff’s Department for the county in which the land is located.
(b) Transportation of a Gaming Device from the Gaming Facility within California is permissible only if: (i) The final destination of the device is a gaming facility of any tribe in California that has a compact with the State; (ii) The final destination of the device is any other state in which possession of the device or devices is made lawful by state law or by tribal-state compact; (iii) The final destination of the device is another country, or any state or province of another country, wherein possession of the device is lawful; or (iv) The final destination is a location within California for testing, repair, maintenance, or storage by a person or entity that has been licensed by the Tribal Gaming Agency and has been found suitable for licensure by the State Gaming Agency.

(c) Gaming Devices transported off the Tribe’s land in violation of this Section 7.4.5 or in violation of any permit issued pursuant thereto is subject to summary seizure by California peace officers.

Sec. 8.0. RULES AND REGULATIONS FOR THE OPERATION AND MANAGEMENT OF THE TRIBAL GAMING OPERATION.

Sec. 8.1. Adoption of Regulations for Operation and Management; Minimum Standards. In order to meet the goals set forth in this Gaming Compact and required of the Tribe by law, the Tribal Gaming Agency shall be vested with the authority to promulgate, and shall promulgate, at a minimum, rules and regulations or specifications governing the following subjects, and to ensure their enforcement in an effective manner:

Sec. 8.1.1. The enforcement of all relevant laws and rules with respect to the Gaming Operation and Facility, and the power to conduct investigations and hearings with respect thereto, and to any other subject within its jurisdiction.

Sec. 8.1.2. Ensuring the physical safety of Gaming Operation patrons and employees, and any other person while in the Gaming Facility. Nothing herein shall be construed to make applicable to the Tribe any state laws, regulations, or standards governing the use of tobacco.

Sec. 8.1.3. The physical safeguarding of assets transported to, within, and from the Gaming Facility.

Sec. 8.1.4. The prevention of illegal activity from occurring within the Gaming Facility or with regard to the Gaming Operation, including, but not limited to, the maintenance of employee procedures and a surveillance system as provided below.

Sec. 8.1.5. The recording of any and all occurrences within the Gaming Facility that deviate from normal operating policies and procedures (hereafter "incidents"). The procedure for recording incidents shall: (1) specify that security personnel record
all incidents, regardless of an employee's determination that the incident may be immaterial (all incidents shall be identified in writing); (2) require the assignment of a sequential number to each report; (3) provide for permanent reporting in indelible ink in a bound notebook from which pages cannot be removed and in which entries are made on each side of each page; and (4) require that each report include, at a minimum, all of the following:

(a) The record number.
(b) The date.
(c) The time.
(d) The location of the incident.
(e) A detailed description of the incident.
(f) The persons involved in the incident.
(g) The security department employee assigned to the incident.

Sec. 8.1.6. The establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like, consistent with industry practice.

Sec. 8.1.7. Maintenance of a list of persons barred from the Gaming Facility who, because of their past behavior, criminal history, or association with persons or organizations, pose a threat to the integrity of the Gaming Activities of the Tribe or to the integrity of regulated gaming within the State.

Sec. 8.1.8. The conduct of an audit of the Gaming Operation, not less than annually, by an independent certified public accountant, in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public Accountants.

Sec. 8.1.9. Submission to, and prior approval, from the Tribal Gaming Agency of the rules and regulations of each Class III game to be operated by the Tribe, and of any changes in those rules and regulations. No Class III game may be played that has not received Tribal Gaming Agency approval.

Sec. 8.1.10. Addressing all of the following:
(a) Maintenance of a copy of the rules, regulations, and procedures for each game as played, including, but not limited to, the method of play and the odds and method of determining amounts paid to winners;
(b) Specifications and standards to ensure that information regarding the method of play, odds, and payoff determinations shall be visibly displayed or available to patrons in written form in the Gaming Facility;
(c) Specifications ensuring that betting limits applicable to any gaming station shall be displayed at that gaming station;

(d) Procedures ensuring that in the event of a patron dispute over the application of any gaming rule or regulation, the matter shall be handled in accordance with, industry practice and principles of fairness, pursuant to the Tribal Gaming Ordinance and any rules and regulations promulgated by the Tribal Gaming Agency.

Sec. 8.1.11. Maintenance of a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and may not be modified without the approval of, the Tribal Gaming Agency. The Tribal Gaming Agency shall have current copies of the Gaming Facility floor plan and closed-circuit television system at all times, and any modifications thereof first shall be approved by the Tribal Gaming Agency.

Sec. 8.1.12. Maintenance of a cashier's cage in accordance with industry standards for such facilities.

Sec. 8.1.13. Specification of minimum staff and supervisory requirements for each Gaming Activity to be conducted.

Sec. 8.1.14. Technical standards and specifications for the operation of Gaming Devices and other games authorized herein to be conducted by the Tribe, which technical specifications may be no less stringent than those approved by a recognized gaming testing laboratory in the gaming industry.

Sec. 8.2. State Civil and Criminal Jurisdiction. Nothing in this Gaming Compact affects the civil or criminal jurisdiction of the State under Public Law 280 (18 U.S.C. Sec. 1162; 28 U.S.C. Sec. 1360) or IGRA, to the extent applicable. In addition, criminal jurisdiction to enforce state gambling laws is transferred to the State pursuant to 18 U.S.C. § 1166(d), provided that no Gaming Activity conducted by the Tribe pursuant to this Gaming Compact may be deemed to be a civil or criminal violation of any law of the State.

Sec. 8.3. (a) The Tribe shall take all reasonable steps to ensure that members of the Tribal Gaming Agency are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties under this Compact; shall adopt a conflict-of-interest code to that end; and shall ensure the prompt removal of any member of the Tribal Gaming Agency who is found to have acted in a corrupt or compromised manner.

(b) The Tribe shall conduct a background investigation on a prospective member of the Tribal Gaming Agency, who shall meet the background requirements of a
management contractor under IGRA; provided that, if such official is elected through a tribal election process, that official may not participate in any Tribal Gaming Agency matters under this Compact unless a background investigation has been concluded and the official has been found to be suitable. If requested by the tribal government or the Tribal Gaming Agency, the State Gaming Agency may assist in the conduct of such a background investigation and may assist in the investigation of any possible corruption or compromise of a member of the agency.

Sec. 8.4. In order to foster statewide uniformity of regulation of Class III gaming operations throughout the state, rules, regulations, standards, specifications, and procedures of the Tribal Gaming Agency in respect to any matter encompassed by Sections 6.0, 7.0, or 8.0 shall be consistent with regulations adopted by the State Gaming Agency in accordance with Section 8.4.1. Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the California Government Code does not apply to regulations adopted by the State Gaming Agency in respect to tribal gaming operations under this Section.

Sec. 8.4.1. (a) Except as provided in subdivision (d), no State Gaming Agency regulation shall be effective with respect to the Tribe’s Gaming Operation unless it has first been approved by the Association and the Tribe has had an opportunity to review and comment on the proposed regulation.

(b) Every State Gaming Agency regulation that is intended to apply to the Tribe (other than a regulation proposed or previously approved by the Association) shall be submitted to the Association for consideration prior to submission of the regulation to the Tribe for comment as provided in subdivision (c). A regulation that is disapproved by the Association shall not be submitted to the Tribe for comment unless it is re­adopted by the State Gaming Agency as a proposed regulation, in its original or amended form, with a detailed, written response to the Association’s objections.

(c) Except as provided in subdivision (d), no regulation of the State Gaming Agency shall be adopted as a final regulation in respect to the Tribe’s Gaming Operation before the expiration of 30 days after submission of the proposed regulation to the Tribe for comment as a proposed regulation, and after consideration of the Tribe’s comments, if any.

(d) In exigent circumstances (e.g., imminent threat to public health and safety), the State Gaming Agency may adopt a regulation that becomes effective immediately. Any such regulation shall be accompanied by a detailed, written description of the exigent circumstances, and shall be submitted immediately to the Association for consideration. If the regulation is disapproved by the Association, it shall cease to be
effective, but may be re-adopted by the State Gaming Agency as a proposed regulation, in its original or amended form, with a detailed, written response to the Association's objections, and thereafter submitted to the Tribe for comment as provided in subdivision (c).

(e) The Tribe may object to a State Gaming Agency regulation on the ground that it is unnecessary, unduly burdensome, or unfairly discriminatory, and may seek repeal or amendment of the regulation through the dispute resolution process of Section 9.0.

Sec. 9.0. DISPUTE RESOLUTION PROVISIONS.

Sec. 9.1. Voluntary Resolution; Reference to Other Means of Resolution. In recognition of the government-to-government relationship of the Tribe and the State, the parties shall make their best efforts to resolve disputes that occur under this Gaming Compact by good faith negotiations whenever possible. Therefore, without prejudice to the right of either party to seek injunctive relief against the other when circumstances are deemed to require immediate relief, the parties hereby establish a threshold requirement that disputes between the Tribe and the State first be subjected to a process of meeting and conferring in good faith in order to foster a spirit of cooperation and efficiency in the administration and monitoring of performance and compliance by each other with the terms, provisions, and conditions of this Gaming Compact, as follows:

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

(b) The parties shall meet and confer in a good faith attempt to resolve the dispute through negotiation not later than 10 days after receipt of the notice, unless both parties agree in writing to an extension of time.

(c) If the dispute is not resolved to the satisfaction of the parties within 30 calendar days after the first meeting, then either party may seek to have the dispute resolved by an arbitrator in accordance with this section, but neither party shall be required to agree to submit to arbitration.

(d) Disagreements that are not otherwise resolved by arbitration or other mutually acceptable means as provided in Section 9.3 may be resolved in the United States District Court where the Tribe's Gaming Facility is located, or is to be located, and the Ninth Circuit Court of Appeals (or, if those federal courts lack jurisdiction, in any state court of competent jurisdiction and its related courts of appeal). The disputes to be submitted to court action include, but are not limited to, claims of breach or violation of this Compact, or failure to negotiate in good faith as required by the terms of this Compact. In no event may the Tribe be precluded from pursuing any arbitration or
(c) Specifications ensuring that betting limits applicable to any gaming station shall be displayed at that gaming station;

(d) Procedures ensuring that in the event of a patron dispute over the application of any gaming rule or regulation, the matter shall be handled in accordance with, industry practice and principles of fairness, pursuant to the Tribal Gaming Ordinance and any rules and regulations promulgated by the Tribal Gaming Agency.

Sec. 8.1.11. Maintenance of a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and may not be modified without the approval of, the Tribal Gaming Agency. The Tribal Gaming Agency shall have current copies of the Gaming Facility floor plan and closed-circuit television system at all times, and any modifications thereof first shall be approved by the Tribal Gaming Agency.

Sec. 8.1.12. Maintenance of a cashier's cage in accordance with industry standards for such facilities.

Sec. 8.1.13. Specification of minimum staff and supervisory requirements for each Gaming Activity to be conducted.

Sec. 8.1.14. Technical standards and specifications for the operation of Gaming Devices and other games authorized herein to be conducted by the Tribe, which technical specifications may be no less stringent than those approved by a recognized gaming testing laboratory in the gaming industry.

Sec. 8.2. State Civil and Criminal Jurisdiction. Nothing in this Gaming Compact affects the civil or criminal jurisdiction of the State under Public Law 280 (18 U.S.C. Sec. 1162; 28 U.S.C. Sec. 1360) or IGRA, to the extent applicable. In addition, criminal jurisdiction to enforce state gambling laws is transferred to the State pursuant to 18 U.S.C. § 1166(d), provided that no Gaming Activity conducted by the Tribe pursuant to this Gaming Compact may be deemed to be a civil or criminal violation of any law of the State.

Sec. 8.3. (a) The Tribe shall take all reasonable steps to ensure that members of the Tribal Gaming Agency are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties under this Compact; shall adopt a conflict-of-interest code to that end; and shall ensure the prompt removal of any member of the Tribal Gaming Agency who is found to have acted in a corrupt or compromised manner.

(b) The Tribe shall conduct a background investigation on a prospective member of the Tribal Gaming Agency, who shall meet the background requirements of a
judicial remedy against the State on the grounds that the Tribe has failed to exhaust its state administrative remedies. The parties agree that, except in the case of imminent threat to the public health or safety, reasonable efforts will be made to explore alternative dispute resolution avenues prior to resort to judicial process.

Sec. 9.2. Arbitration Rules. Arbitration shall be conducted in accordance with the policies and procedures of the Commercial Arbitration Rules of the American Arbitration Association, and shall be held on the Tribe's land or, if unreasonably inconvenient under the circumstances, at such other location as the parties may agree. Each side shall bear its own costs, attorneys' fees, and one-half the costs and expenses of the American Arbitration Association and the arbitrator, unless the arbitrator rules otherwise. Only one neutral arbitrator may be named, unless the Tribe or the State objects, in which case a panel of three arbitrators (one of whom is selected by each party) will be named. The provisions of Section 1283.05 of the California Code of Civil Procedure shall apply; provided that no discovery authorized by that section may be conducted without leave of the arbitrator. The decision of the arbitrator shall be in writing, give reasons for the decision, and shall be binding. Judgment on the award may be entered in any federal or state court having jurisdiction thereof.

Sec. 9.3. No Waiver or Preclusion of Other Means of Dispute Resolution. This Section 9.0 may not be construed to waive, limit, or restrict any remedy that is otherwise available to either party, nor may this section be construed to preclude, limit, or restrict the ability of the parties to pursue, by mutual agreement, any other method of dispute resolution, including, but not limited to, mediation or utilization of a technical advisor to the Tribal and State Gaming Agencies; provided that neither party is under any obligation to agree to such alternative method of dispute resolution.

Sec. 9.4. Limited Waiver of Sovereign Immunity. (a) In the event that a dispute is to be resolved in federal court or a state court of competent jurisdiction as provided in this Section 9.0, the State and the Tribe expressly consent to be sued therein and waive any immunity therefrom that they may have provided that:

(1) The dispute is limited solely to issues arising under this Gaming Compact;
(2) Neither side makes any claim for monetary damages (that is, only injunctive, specific performance, including enforcement of a provision of this Compact requiring payment of money to one or another of the parties, or declaratory relief is sought); and
(3) No person or entity other than the Tribe and the State is party to the action, unless failure to join a third party would deprive the court of jurisdiction; provided that nothing herein shall be construed to constitute a waiver of the sovereign immunity of either the Tribe or the State in respect to any such third party.
(b) In the event of intervention by any additional party into any such action without consent of the Tribe and the State, the waivers of either the Tribe or the State provided for herein may be revoked, unless joinder is required to preserve the court’s jurisdiction; provided that nothing herein shall be construed to constitute a waiver of the sovereign immunity of either the Tribe or the State in respect to any such third party.

(c) The waivers and consents provided for under this Section 9.0 shall extend to civil actions authorized by this Compact, including, but not limited to, actions to compel arbitration, any arbitration proceeding herein, any action to confirm or enforce any judgment or arbitration award as provided herein, and any appellate proceedings emanating from a matter in which an immunity waiver has been granted. Except as stated herein or elsewhere in this Compact, no other waivers or consents to be sued, either express or implied, are granted by either party.

Sec. 10.0. PUBLIC AND WORKPLACE HEALTH, SAFETY, AND LIABILITY.

Sec. 10.1. The Tribe will not conduct Class III gaming in a manner that endangers the public health, safety, or welfare; provided that nothing herein shall be construed to make applicable to the Tribe any state laws or regulations governing the use of tobacco.

Sec. 10.2. Compliance. For the purposes of this Gaming Compact, the Tribal Gaming Operation shall:

(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, 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. 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 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 water quality by state or county health inspectors, as applicable, during normal hours of operation, to assess compliance with these standards, unless inspections and testing are 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. 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 Compact.

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

(d) Carry no less than five million dollars ($5,000,000) in public liability insurance
for patron claims, and that the Tribe provide reasonable assurance that those claims
will be promptly and fairly adjudicated, and that legitimate claims will be paid;
provided that nothing herein requires the Tribe to agree to liability for punitive
damages or attorneys’ fees. On or before the effective date of this Compact or not less
than 30 days prior to the commencement of Gaming Activities under this Compact,
whichever is later, the Tribe shall adopt and make available to patrons a tort liability
ordinance setting forth the terms and conditions, if any, under which the Tribe waives
immunity to suit for money damages resulting from intentional or negligent injuries
to person or property at the Gaming Facility or in connection with the Tribe’s Gaming
Operation, including procedures for processing any claims for such money damages;
provided that nothing in this Section shall require the Tribe to waive its immunity to
suit except to the extent of the policy limits set out above.

(e) Adopt and comply with standards no less stringent than federal workplace and
occupational health and safety standards; the Gaming Operation will allow for
inspection of Gaming Facility workplaces by state inspectors, during normal hours of
operation, to assess compliance with these standards, unless inspections are regularly
made by an agency of the United States government to ensure compliance with federal
workplace and occupational health and safety standards. Nothing herein shall be
construed as submission of the Tribe to the jurisdiction of those state inspectors, but
any alleged violations of the standards shall be treated as alleged violations of this
Compact.

(f) Comply with tribal codes and other applicable federal law regarding public
health and safety.

(g) Adopt and comply with standards no less stringent than federal laws and state
laws forbidding employers generally from discriminating in the employment of
persons to work for the Gaming Operation or in the Gaming Facility on the basis of
race, color, religion, national origin, gender, sexual orientation, age, or disability;
provided that nothing herein shall preclude the tribe from giving a preference in
employment to Indians, pursuant to a duly adopted tribal ordinance.

(h) Adopt and comply with standards that are no less stringent than state laws
prohibiting a gaming enterprise from cashing any check drawn against a federal, state,
county, or city fund, including but not limited to, Social Security, unemployment insurance, disability payments, or public assistance payments.

(i) Adopt and comply with standards that are no less stringent than state laws, if any, prohibiting a gaming enterprise from providing, allowing, contracting to provide, or arranging to provide alcoholic beverages, or food or lodging for no charge or at reduced prices at a gambling establishment or lodging facility as an incentive or enticement.

(j) Adopt and comply with standards that are no less stringent than state laws, if any, prohibiting extensions of credit.

(k) Provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. Sec. 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, insofar as such provisions and reporting requirements are applicable to casinos.

Sec. 10.2.1. The Tribe shall adopt and, not later than 30 days after the effective date of this Compact, shall make available on request the standards described in subdivisions (a)-(c) and (e)-(k) of Section 10.2 to which the Gaming Operation is held. In the absence of a promulgated tribal standard in respect to a matter identified in those subdivisions, or the express adoption of an applicable federal statute or regulation in lieu of a tribal standard in respect to any such matter, the applicable state statute or regulation shall be deemed to have been adopted by the Tribe as the applicable standard.

Sec. 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 employee work-related injuries through requiring insurance or self-insurance, which system must include a scope of coverage, availability of an independent medical examination, right to notice, hearings before an independent tribunal, a means of enforcement against the employer, and benefits comparable to those mandated for comparable employees under state law. Not later than the effective date of this Compact, or 60 days prior to the commencement of Gaming Activities under this Compact, the Tribe will advise the State of its election to participate in the statutory workers’ compensation system or, alternatively, will 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 parties
agree that independent contractors doing business with the Tribe must comply with all state workers’ compensation laws and obligations.

(b) The Tribe agrees that its Gaming Operation will participate in the State's program for providing unemployment compensation benefits and unemployment compensation disability benefits with respect to employees employed at the Gaming Facility, including compliance with the provisions of the California Unemployment Insurance Code, and the Tribe consents to the jurisdiction of the state agencies charged with the enforcement of that Code and of the courts of the State of California for purposes of enforcement.

(c) As a matter of comity, with respect to persons employed at the Gaming Facility, other than members of the Tribe, the Tribal Gaming Operation shall withhold all taxes due to the State as provided in the California Unemployment Insurance Code and the Revenue and Taxation Code, and shall forward such amounts as provided in said Codes to the State.

Sec. 10.4. Emergency Service Accessibility. The Tribe shall make reasonable provisions for adequate emergency fire, medical, and related relief and disaster services for patrons and employees of the Gaming Facility.

Sec. 10.5. Alcoholic Beverage Service. Standards for alcohol service shall be subject to applicable law.

Sec. 10.6. Possession of firearms shall be prohibited at all times in the Gaming Facility except for state, local, or tribal security or law enforcement personnel authorized by tribal law and by federal or state law to possess firearms at the Facility.

Sec. 10.7. Labor Relations.

Notwithstanding any other provision of this Compact, this Compact shall be null and void if, on or before October 13, 1999, the Tribe has not provided an agreement or other procedure acceptable to the State for addressing organizational and representational rights of Class III Gaming Employees and other employees associated with the Tribe’s Class III gaming enterprise, such as food and beverage, housekeeping, cleaning, bell and door services, and laundry employees at the Gaming Facility or any related facility, the only significant purpose of which is to facilitate patronage at the Gaming Facility.

Sec. 10.8. Off-Reservation Environmental Impacts.

Sec. 10.8.1. On or before the effective date of this Compact, or not less than 90 days prior to the commencement of a Project, as defined herein, the Tribe shall adopt an ordinance providing for the preparation, circulation, and consideration by the Tribe of environmental impact reports concerning potential off-Reservation environmental
impacts of any and all Projects to be commenced on or after the effective date of this Compact. In fashioning the environmental protection ordinance, the Tribe will make a good faith effort to incorporate the policies and purposes of the National Environmental Policy Act and the California Environmental Quality Act consistent with the Tribe’s governmental interests.

Sec. 10.8.2. (a) Prior to commencement of a Project, the Tribe will:

(1) Inform the public of the planned Project;

(2) Take appropriate actions to determine whether the project will have any significant adverse impacts on the off-Reservation environment;

(3) For the purpose of receiving and responding to comments, submit all environmental impact reports concerning the proposed Project to the State Clearinghouse in the Office of Planning and Research and the county board of supervisors, for distribution to the public.

(4) Consult with the board of supervisors of the county or counties within which the Tribe’s Gaming Facility is located, or is to be located, and, if the Gaming Facility is within a city, with the city council, and if requested by the board or council, as the case may be, meet with them to discuss mitigation of significant adverse off-Reservation environmental impacts;

(5) Meet with and provide an opportunity for comment by those members of the public residing off-Reservation within the vicinity of the Gaming Facility such as might be adversely affected by proposed Project.

(b) During the conduct of a Project, the Tribe shall:

(1) Keep the board or council, as the case may be, and potentially affected members of the public apprized of the project’s progress; and

(2) Make good faith efforts to mitigate any and all such significant adverse off-Reservation environmental impacts.

(c) As used in Section 10.8.1 and this Section 10.8.2, the term “Project” means any expansion or any significant renovation or modification of an existing Gaming Facility, or any significant excavation, construction, or development associated with the Tribe’s Gaming Facility or proposed Gaming Facility and the term “environmental impact reports” means any environmental assessment, environmental impact report, or environmental impact statement, as the case may be.

Sec. 10.8.3. (a) The Tribe and the State shall, from time to time, meet to review the adequacy of this Section 10.8, the Tribe’s ordinance adopted pursuant thereto, and the Tribe’s compliance with its obligations under Section 10.8.2, to ensure that
significant adverse impacts to the off-Reservation environment resulting from projects undertaken by the Tribe may be avoided or mitigated.

(b) At any time after January 1, 2003, but not later than March 1, 2003, the State may request negotiations for an amendment to this Section 10.8 on the ground that, as it presently reads, the Section has proven to be inadequate to protect the off-Reservation environment from significant adverse impacts resulting from Projects undertaken by the Tribe or to ensure adequate mitigation by the Tribe of significant adverse off-Reservation environmental impacts and, upon such a request, the Tribe will enter into such negotiations in good faith.

(c) On or after January 1, 2004, the Tribe may bring an action in federal court under 25 U.S.C. Sec. 2710(d)(7)(A)(i) on the ground that the State has failed to negotiate in good faith, provided that the Tribe’s good faith in the negotiations shall also be in issue. In any such action, the court may consider whether the State’s invocation of its rights under subdivision (b) of this Section 10.8.3 was in good faith. If the State has requested negotiations pursuant to subdivision (b) but, as of January 1, 2005, there is neither an agreement nor an order against the State under 25 U.S.C. Sec. 2710(d)(7)(B)(iii), then, on that date, the Tribe shall immediately cease construction and other activities on all projects then in progress that have the potential to cause adverse off-Reservation impacts, unless and until an agreement to amend this Section 10.8 has been concluded between the Tribe and the State.

Sec. 11.0. EFFECTIVE DATE AND TERM OF COMPACT.

Sec. 11.1. Effective Date. This Gaming Compact shall not be effective unless and until all of the following have occurred:

(a) The Compact is ratified by statute in accordance with state law;
(b) Notice of approval or constructive approval is published in the Federal Register as provided in 25 U.S.C. 2710(d)(3)(B); and
(c) SCA 11 is approved by the California voters in the March 2000 general election.

Sec. 11.2. Term of Compact; Termination.

Sec. 11.2.1. Effective. (a) Once effective this Compact shall be in full force and effect for state law purposes until December 31, 2020.

(b) Once ratified, this Compact shall constitute a binding and determinative agreement between the Tribe and the State, without regard to voter approval of any constitutional amendment, other than SCA 11, that authorizes a gaming compact.

(c) Either party may bring an action in federal court, after providing a sixty (60) day written notice of an opportunity to cure any alleged breach of this Compact, for
a declaration that the other party has materially breached this Compact. Upon issuance of such a declaration, the complaining party may unilaterally terminate this Compact upon service of written notice on the other party. In the event a federal court determines that it lacks jurisdiction over such an action, the action may be brought in the superior court for the county in which the Tribe’s Gaming Facility is located. The parties expressly waive their immunity to suit for purposes of an action under this subdivision, subject to the qualifications stated in Section 9.4(a).

Sec. 12.0. AMENDMENTS; RENEGOTIATIONS.

Sec. 12.1. The terms and conditions of this Gaming Compact may be amended at any time by the mutual and written agreement of both parties.

Sec. 12.2. This Gaming Compact is subject to renegotiation in the event the Tribe wishes to engage in forms of Class III gaming other than those games authorized herein and requests renegotiation for that purpose, provided that no such renegotiation may be sought for 12 months following the effective date of this Gaming Compact.

Sec. 12.3. Process and Negotiation Standards. All requests to amend or renegotiate this Gaming Compact shall be in writing, addressed to the Tribal Chairperson or the Governor, as the case may be, and shall include the activities or circumstances to be negotiated, together with a statement of the basis supporting the request. If the request meets the requirements of this Section, the parties shall confer promptly and determine a schedule for commencing negotiations within 30 days of the request. Unless expressly provided otherwise herein, all matters involving negotiations or other amendatory processes under Section 4.3.3(b) and this Section 12.0 shall be governed, controlled, and conducted in conformity with the provisions and requirements of IGRA, including those provisions regarding the obligation of the State to negotiate in good faith and the enforcement of that obligation in federal court. The Chairperson of the Tribe and the Governor of the State are hereby authorized to designate the person or agency responsible for conducting the negotiations, and shall execute any documents necessary to do so.

Sec. 12.4. The Tribe shall have the right to terminate this Compact in the event the exclusive right of Indian tribes to operate Gaming Devices in California is abrogated by the enactment, amendment, or repeal of a state statute or constitutional provision, or the conclusive and dispositive judicial construction of a statute or the state Constitution by a California appellate court after the effective date of this Compact, that Gaming Devices may lawfully be operated by another person, organization, or entity (other than an Indian tribe pursuant to a compact) within California.
Sec. 13.0 NOTICES.

Unless otherwise indicated by this Gaming 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 
Barona Band of Mission Indians 
1095 Barona Road 
Lakeside, California 92040

Sec. 14.0. CHANGES IN IGRA. This Gaming Compact is intended to meet the requirements of IGRA as it reads on the effective date of this Gaming Compact, and when reference is made to the Indian Gaming Regulatory Act or to an implementing regulation thereof, the referenced provision is deemed to have been incorporated into this Compact as if set out in full. Subsequent changes to IGRA that diminish the rights of the State or the Tribe may not be applied retroactively to alter the terms of this Gaming Compact, except to the extent that federal law validly mandates that retroactive application without the State's or the Tribe's respective consent.

Sec. 15.0. MISCELLANEOUS.

Sec. 15.1. Third Party Beneficiaries. Except to the extent expressly provided under this Gaming Compact, this Gaming Compact is not intended to, and shall not be construed to, create any right on the part of a third party to bring an action to enforce any of its terms.

Sec. 15.2. Complete agreement; revocation of prior requests to negotiate. This Gaming Compact, together with all addenda and approved amendments, sets forth the full and complete agreement of the parties and supersedes any prior agreements or understandings with respect to the subject matter hereof.

Sec. 15.3. 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.

Sec. 15.4. Most Favored Tribe. If, after the effective date of this Compact, the State enters into a Compact with any other tribe that contains more favorable provisions with respect to any provisions of this Compact, the State shall, at the Tribe's request, enter into the preferred compact with the Tribe as a superseding substitute for this Compact; provided that the duration of the substitute compact shall not exceed the duration of this Compact.
Sec. 15.6. Representations.

By entering into this Compact, the Tribe expressly represents that, as of the date of the Tribe's execution of this Compact: (a) the undersigned has the authority to execute this Compact on behalf of his or her tribe and will provide written proof of such authority and ratification of this Compact by the tribal governing body no later than October 9, 1999; (b) the Tribe is (i) recognized as eligible by the Secretary of the Interior for special programs and services provided by the United States to Indians because of their status as Indians, and (ii) recognized by the Secretary of the Interior as possessing powers of self-government. In entering into this Compact, the State expressly relies upon the foregoing representations by the Tribe, and the State's entry into the Compact is expressly made contingent upon the truth of those representations as of the date of the Tribe's execution of this Compact. Failure to provide written proof of authority to execute this Compact or failure to provide written proof of ratification by the Tribe's governing body will give the State the opportunity to declare this Compact null and void.

IN WITNESS WHEREOF, the undersigned sign this Compact on behalf of the State of California and the Barona Band of Mission Indians.

STATE OF CALIFORNIA

By Gray Davis
Governor of the State of California

Executed this 8th day of October, 1999, at Sacramento, California.

BARONA BAND OF MISSION INDIANS

By Clifford LaChappa
Chairperson of the Barona Band of Mission Indians

Executed this 6th day of Oct, 1999, at Barona Reservation.
ATTEST:

By Bill Jones
Secretary of State, State of California
ADDENDUM “A” TO TRIBAL-STATE GAMING COMPACT
BETWEEN THE BARONA BAND OF MISSION INDIANS
AND THE STATE OF CALIFORNIA

Modification No. 1
Section 6.4.4(d) is modified to read as follows:

Section 6.4.4(d) is modified to read as follows:

(d) (1) Notwithstanding subdivision (a), the Tribe may employ or retain in its
employ a person whose application for a determination of suitability, or for a
renewal of such a determination, has been denied by the State Gaming Agency, if
the person is an enrolled member of the Tribe, as defined in this subdivision, and if
(i) (A) the person holds a valid and current license issued by the Tribal Gaming
Agency that must be renewed at least biennially; (ii) (B) the denial of the
application by the State Gaming Agency is based solely on activities, conduct, or
associations that antedate the filing of the person’s initial application to the State
Gaming Agency for a determination of suitability; and (iii) (C) the person is not an
employee or agent of any other gaming operation.

(2) For purposes of this subdivision, “enrolled member” means a person who
is either: (a) (A) a person certified by the Tribe as having been a member of the
Tribe for at least five (5) years; or (b) (B) a holder of confirmation of membership
issued by the Bureau of Indian Affairs; or (C), if the Tribe has 100 or more enrolled
members as of the date of execution of this Compact, a person certified by the Tribe
as being a member pursuant to criteria and standards specified in a tribal
Constitution that has been approved by the Secretary of the Interior.

Modification No. 2
Section 8.4.1(e) is modified to read as follows:

(e) The Tribe may object to a State Gaming Agency regulation on the ground
that it is unnecessary, unduly burdensome, conflicts with a published final
regulation of the NIGC, or is unfairly discriminatory, and may seek repeal or
amendment of the regulation through the dispute resolution process of Section 9.0;
provided that, if the regulation of the State Gaming Agency conflicts with a final
published regulation of the NIGC, the NIGC regulation shall govern pending
conclusion of the dispute resolution process.
Modification No. 3

Section 12.2 is modified to read as follows:

Sec. 12.2. (a) This Gaming Compact is subject to renegotiation in the event the Tribe wishes to engage in forms of Class III gaming other than those games authorized herein and requests renegotiation for that purpose, provided that no such renegotiation may be sought for 12 months following the effective date of this Gaming Compact.

(b) Nothing herein shall be construed to constitute a waiver of any rights under IGRA in the event of an expansion of the scope of permissible gaming resulting from a change in state law.

Modification No. 4

Section 11.2.1(a) is modified to read:

Sec. 11.2.1. Effective. (a) Once effective this Compact shall be in full force and effect for state law purposes until December 31, 2020. No sooner than eighteen (18) months prior to the aforementioned termination date, either party may request the other party to enter into negotiations to extend this Compact or to enter into a new compact. If the parties have not agreed to extend the date of this Compact or entered into a new compact by the termination date, this Compact will automatically be extended to June 30, 2022, unless the parties have agreed to an earlier termination date.

Modification No. 5

Section 12.4 is modified to read as follows:

Sec. 12.4. The Tribe shall have the right to terminate this Compact in the event the exclusive right of Indian tribes to operate Gaming Devices in California is abrogated by the enactment, amendment, or repeal of a state statute or constitutional provision, or the conclusive and dispositive judicial construction of a statute or the state Constitution by a California appellate court after the effective date of this Compact, that Gaming Devices may lawfully be operated by another person, organization, or entity (other than an Indian tribe pursuant to a compact) within California, the Tribe shall have the right to: (i) termination of this Compact, in which case the Tribe will lose the right to operate Gaming Devices and other Class III gaming, or (ii) continue under the Compact with an entitlement to a reduction of
the rates specified in Section 5.1(a) following conclusion of negotiations, to provide for (a) compensation to the State for actual and reasonable costs of regulation, as determined by the state Department of Finance; (b) reasonable payments to local governments impacted by tribal government gaming; (c) grants for programs designed to address gambling addiction; (d) and such assessments as may be permissible at such time under federal law.

Modification No. 6
Section 10.2(d) is modified to read as follows:

(d) Carry no less than five million dollars ($5,000,000) in public liability insurance for patron claims, and that the Tribe shall request its insurer to provide reasonable assurance that those claims will be promptly and fairly adjudicated, and that legitimate claims will be paid settle all valid claims; provided that nothing herein requires the Tribe to agree to liability for punitive damages, any intentional acts not covered by the insurance policy, or attorneys' fees. On or before the effective date of this Compact or not less than 30 days prior to the commencement of Gaming Activities under this Compact, whichever is later, the Tribe shall adopt and make available to patrons a tort liability ordinance setting forth the terms and conditions, if any, under which the Tribe waives immunity to suit for money damages resulting from intentional or negligent injuries to person or property at the Gaming Facility or in connection with the Tribe's Gaming Operation, including procedures for processing any claims for such money damages; provided that nothing in this Section shall require the Tribe to waive its immunity to suit except to the extent of the policy limits and insurance coverage set out above.

Modification No. 7
Section 10.2(k) is modified to read as follows:

(k) Comply with provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. Sec. 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, insofar as such provisions and reporting requirements are applicable to casinos.
IN WITNESS WHEREOF, the undersigned sign this Addendum on behalf of the State of California and the Barona Band of Mission Indians.

STATE OF CALIFORNIA

By Gray Davis
Governor of the State of California

Executed this 8th day of October, 1999, at Sacramento, California.

BARONA BAND OF MISSION INDIANS

By Clifford M. LaChappa, Sr.
Chairperson of the Barona Band of Mission Indians

Executed this 6th day of October, 1999, at Barona Indian Reservation, California.
ATTEST:

Bill Jones

By Bill Jones
Secretary of State, State of California
ADDENDUM "B" TO TRIBAL-STATE GAMING COMPACT
BETWEEN THE BARONA BAND OF MISSION INDIANS
AND THE STATE OF CALIFORNIA

In compliance with Section 10.7 of the Compact, the Tribe agrees to
adopt an ordinance identical to the Model Tribal Labor Relations Ordinance
attached hereto, and to notify the State of that adoption no later than October
12, 1999. If such notice has not been received by the State by October 13,
1999, this Compact shall be null and void. Failure of the Tribe to maintain the
Ordinance in effect during the term of this Compact shall constitute a material
breach entitling the State to terminate this Compact. No amendment of the
Ordinance shall be effective unless approved by the State.

Attachment: Model Tribal Labor Relations Ordinance.

IN WITNESS WHEREOF, the undersigned sign this Addendum
on behalf of the State of California and the Barona Band of Mission Indians.

STATE OF CALIFORNIA

By Gray Davis
Governor of the State of California

Executed this 8th day of October,
1999, at Sacramento, California.

BARONA BAND OF MISSION
INDIANS

By Clifford M. LaChappa, Sr.
Chairperson of the Barona Band of
Mission Indians

Executed this 6th day of Oct,
1999, at Barona , California.

# ###
ATTEST:

By Bill Jones
Secretary of State, State of California
Governor Gray Davis  
State Capitol  
Sacramento, California  

Re: Notice of Adoption Of Tribal Labor Relations Ordinance  

Dear Governor Davis:  

Pursuant to Section 10.7 of the Tribal-State Gaming Compact entered into by the Barona Band of Mission Indians, I hereby notify you that the Barona Band of Mission Indians adopted the Tribal Labor Relations Ordinance pursuant to Section 10.7 of the Tribal-State Gaming Compact on Oct 5, 1999.

I declare under penalty of perjury that the foregoing is true and correct. Executed this ______ day of ______, 1999, at ______, California.

Indian Reservation  

(Signature)  

(Print name)  

(Title)  

(Address)  

(Date)
ATTACHMENT TO ADDENDUM B
TRIBAL LABOR RELATIONS ORDINANCE
September 14, 1999

Section 1: Threshold of applicability
(a) Any tribe with 250 or more persons employed in a tribal casino and related facility shall adopt this Tribal Labor Relations Ordinance (TLRO or Ordinance). For purposes of this ordinance, a “tribal casino” is one in which class III gaming is conducted pursuant to a tribal-state compact. A “related facility” is one for which the only significant purpose is to facilitate patronage of the class III gaming operations.

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

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

Section 2: Definition of Eligible Employees
(a) The provisions of this ordinance shall apply to any person (hereinafter “Eligible Employee”) who is employed within a tribal casino in which Class III gaming is conducted pursuant to a tribal-state compact or other related facility, the only significant purpose of which is to facilitate patronage of the Class III gaming operations, except for any of the following:

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

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

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

(5) any dealer.

Section 3: Non-interference with regulatory or security activities

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

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

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

Section 5: Unfair Labor Practices for the tribe

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

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

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

(3) to discharge or otherwise discriminate against an Eligible Employee because s/he has filed charges or given testimony under this Ordinance;
(4) to refuse to bargain collectively with the representatives of Eligible Employees.

Section 6: Unfair Labor Practices for the union

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

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

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

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

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

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

Section 7: Tribe and union right to free speech

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

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

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

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

(1) security and surveillance systems throughout the casino, and reservation;
(2) access limitations designed to ensure security;
(3) internal controls designed to ensure security;
(4) other systems designed to protect the integrity of the tribe's gaming operations, tribal property and/or safety of casino personnel, patrons, employees or tribal members, residents, guests or invitees.

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

(e) The tribe agrees to facilitate the dissemination of information from the union to Eligible Employees at the tribal casino by allowing posters, leaflets and other written materials to be posted in non-public employee break areas where the tribe already posts announcements.
pertaining to Eligible Employees. Actual posting of such posters, notices, and other materials, shall be by employees desiring to post such materials.

Section 9: Indian preference explicitly permitted

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

Section 10: Secret ballot elections required

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

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

(c) The election officer shall certify the labor organization as the exclusive collective bargaining representative of a unit of employees if the labor organization has received the majority of votes by employees voting in a secret ballot election that the election officer determines to have been conducted fairly. If the election officer determines that the election was
conducted unfairly due to misconduct by the tribe and/or employer or union, the election officer may order a re-run election. If the election officer determines that there was the commission of serious Unfair Labor Practices by the tribe that interfere with the election process and preclude the holding of a fair election, and the labor organization is able to demonstrate that it had the support of a majority of the employees in the unit at any point before or during the course of the tribe’s misconduct, the election officer shall certify the labor organization.

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

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

Section 11: Collective bargaining impasse

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

Section 12: Decertification of bargaining agent

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

(b) The election shall be conducted by an election officer. The election officer shall be a member of the Tribal Labor Panel chosen pursuant to the dispute resolution provisions herein. All questions concerning the decertification of the labor organization shall be resolved by an election
officer. The election officer shall be chosen upon notification to the tribe and the union of the intent of the employees to present a decertification petition, and the same election officer shall preside thereafter for all proceedings under the request for decertification; provided however that if the election officer resigns, dies or is incapacitated for any other reason from performing the functions of this office, a substitute election officer shall be selected in accordance with the dispute resolution provisions herein.

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

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

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

Section 13: Binding dispute resolution mechanism

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

(b) The first level of binding dispute resolution for all matters related to organizing, election procedures, alleged unfair labor practices, and discharge of Eligible Employees shall be an appeal to a designated tribal forum such as a Tribal Council, Business Committee, or Grievance Board.
The parties agree to pursue in good faith the expeditious resolution of these matters within strict time limits. The time limits may not be extended without the agreement of both parties. In the absence of a mutually satisfactory resolution, either party may proceed to the independent binding dispute resolution set forth below. The agreed upon time limits are set forth as follows:

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

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

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

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

(2) Unless either party objects, one arbitrator from the Tribal Labor Panel will render a binding decision on the dispute under the Ordinance. If either party objects, the dispute will be decided by a three-member panel of the Tribal Labor Panel, which will render a binding decision. In the event there is one arbitrator, five (5) Tribal Labor Panel names shall be submitted to the parties and each party may strike no more that two (2) names. In the event there is a three (3) member panel, seven (7) TLP names shall be submitted to the parties and each party may strike no more than two (2) names. A coin toss shall determine which party may
strike the first name. The arbitrator will generally follow the American
Arbitration Association’s procedural rules relating to labor dispute
resolution. The arbitrator or panel must render a written, binding decision
that complies in all respects with the provisions of this Ordinance.

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

This Compact is entered into this day of , 1992, by and between the Barona Group of the Capitan Grande Band of Mission Indians ("Barona"), a federally recognized Indian tribe which exercises governmental authority over the Barona Indian Reservation, which is located within the boundaries of the County of San Diego, State of California ("Reservation"), and the Honorable Pete Wilson, Governor of the State of California ("Governor"), acting for and on behalf of the State of California ("the State") and is made pursuant to Section 11(d) of the Indian Gaming Regulatory Act, 25 U.S.C. §2710(d) ("the Act").

WHEREAS, the State of California permits and regulates parimutuel wagering on horse racing at authorized simulcast wagering facilities (also known as satellite wagering facilities or extended wagering facilities) at various locations within the State, under the terms of Section 19400 et seq. of the California Business and Professions Code ("the California Horse Racing Law") and Title 4, California Code of Regulations, Article 24 ("Rules and Regulations of the Board"); and

WHEREAS, the California Horse Racing Board ("Board") is the agency established under California state law to administer and enforce all laws, rules, and regulations affecting horse racing and parimutuel wagering within the State; and

WHEREAS, operation of a simulcast wagering facility is a Class III gaming activity under the Act; and

WHEREAS, Barona has duly enacted a Tribal Ordinance entitled, "Gaming Ordinance", enacted on May 4, 1989, amended on May 16, 1991, permitting such gaming activities on and within the Barona Indian Reservation if conducted in conformity with an applicable Tribal-State Compact; and

WHEREAS, Barona and the State each recognize the sovereign authority and interests of the other in regulating gaming activities within their respective areas of jurisdiction and in insuring that simulcast wagering is conducted fairly, honestly, professionally and in a manner that promotes the California horse racing industry; and

WHEREAS, the parties hereto deem it to be in their respective best interests to enter into this Compact for the purposes set forth herein; and

WHEREAS, the Board has recommended the approval and execution of this Compact by the Governor on behalf of the State of California.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:
1. **Definitions.** Except where the context otherwise requires, the terms employed in this Compact shall have the same meanings ascribed to them in the California Horse Racing Law and the Rules and Regulations of the Board.

2. **Purpose.** The purpose of this Compact is to establish and declare the terms upon which a simulcast wagering facility may be established and operated upon the Barona Indian Reservation by the Barona Group of the Capitan Grande Band of Mission Indians as a means of generating revenues necessary to provide tribal services and programs, while providing the Board and Barona with an effective means of regulating such activities. In furtherance thereof, this Compact constitutes the sole expression of the mutual will of the parties concerning the subject to which it pertains.

3. **Authorization to Operate Simulcast Wagering Facility.** Barona is authorized to establish and operate a simulcast wagering facility upon the Barona Indian Reservation provided that such facility is operated in conformity with the Act and this Compact.

4. **Exclusivity.** Except as provided in this Compact, no prohibition upon, or regulation of, the establishment or operation of a simulcast wagering facility on the Barona Indian Reservation will be imposed upon Barona by the State.

5. **Taxes.** No tax will be imposed by the State on a simulcast wagering facility established by Barona upon the Barona Indian Reservation, or on the operation thereof.

6. **Approval of Simulcast Facility.**
   a. **Modification of Present Gaming Facility.** Barona presently operates a gaming facility, known as Barona Indian Gaming, formerly known as the Barona Indian Bingo Palace, located in protracted Section 21, T. 14 S., R. 1 E., SBM, County of San Diego, on the trust lands of the Barona Indian Reservation. In this 2,200-seat hall, Barona now offers bingo. Now under construction and expected to open in July of 1991 is an addition to this existing structure in which Barona plans to offer various Class II card games under the same roof. Subject to the Board's approval, Barona is now preparing plans and specifications for the remodeling of a portion of the existing structure adjacent to the addition now under construction for card games to be used to accommodate simulcast wagering. At its early convenience, the Board will review the plans and specifications for the intended simulcast facility and will inspect the existing facility. If the Board finds that the plans for the simulcast facility comply with the substantive requirements of Title 4, Code of California Regulations, Article 24, Sections 2058(e) and (f), or the then applicable requirements for approving simulcast facilities, and the applicable uniform building and construction codes, the Board shall approve the new Barona facility as a simulcast facility, provided that it is constructed in accordance with the approved plans and specifications, and in conformity with the applicable uniform codes.
b. Continuing Obligation to Maintain Facility. Barona agrees to maintain its facility in a manner that complies with all applicable simulcast facility requirements at all times.

c. Fire Safety Inspection. For several years, the Rural Fire Protection District of San Diego County, California, with funding provided by the Bureau of Indian Affairs of the U.S. Department of the Interior, has provided primary fire protection services for the Barona Indian Reservation, including the existing Barona Indian Gaming facility. This protection is supplemented by a local volunteer fire company. On June 11, 1991, Barona's Tribal Council adopted its resolution no. 91-0611, requesting further federal funding for this purpose for Fiscal Year 1992. Before the Board's approval of the plans and specifications for the above simulcast wagering facility and annually thereafter, Barona will provide to the Board verification that the above fire protection district is providing fire protection to the said facility and that the said facility meets a reasonable standard of fire safety. Barona will promptly notify the Board if there is significant change in the fire protection provided to the Barona Indian Gaming facility or the expected simulcast wagering facility by this district, and the Board must approve any such change prior to its effectiveness.

7. Term of Compact. This compact shall remain in full force and effect until one of the following events shall occur:

a. This Compact is terminated by mutual consent of the parties;

b. This Compact is determined to be invalid by a court of competent jurisdiction; or

c. The State amends its Constitution or laws to prohibit all persons, organizations, and entities from conducting simulcast parimutuel wagering anywhere within the State of California for any purpose.

8. Agreements With Simulcast Organizations.

a. In order to permit the conduct of intrastate simulcast wagering and out-of-state wagering at the Barona Simulcast wagering facility, Barona is hereby authorized to enter into agreements with any simulcast organization which is established pursuant to Business and Professions Code Sections 19608-19608.2, and which organization provides the audiovisual signal of, and operates simulcast wagering on, racing events authorized to be received in the southern zone. No such simulcast organization shall refuse to enter into such an agreement with Barona on the ground that Barona is not an entity eligible to be authorized to operate a simulcast wagering facility under state law, or that the proposed agreement with Barona is otherwise inconsistent with any other provision of state law, or with the Rules and Regulations of the Board, as long as the proposed agreement between Barona and the simulcast organization complies with Federal laws and with the terms of this Compact. A copy of any such agreement entered into by Barona shall be provided to the Board within 30 days after its execution. Except as herein
provided, nothing in this Compact is intended to alter in any way the rights of the simulcast organization under State law.

b. Upon the written request of Barona made not sooner than one year after commencement of operation of the Barona simulcast wagering facility, the provisions of subparagraph (a) limiting the simulcast organizations with which Barona may enter into agreements shall be subject to amendment in accordance with the procedures of Paragraph 11(b) of this compact.

9. Right of Entry. Barona hereby grants the Board a right of entry onto the Barona Indian Reservation for purposes of inspecting its simulcast facility and monitoring compliance with this Compact. Such inspection or other site visits shall be conducted by the Board in accordance with the same schedules, policies and procedures that the Board customarily applies to simulcast facilities licensed under state law.

10. Concurrent Tribal Authority. Unless expressly prohibited under the terms of this Compact, nothing contained herein shall operate to preclude Barona from exercising such additional and concurrent governmental authority as it may otherwise possess over the gaming activities authorized under this Compact; provided, however, that any regulatory authority exercised by Barona shall be no less stringent than that which the Board would exercise over simulcast facilities approved under state law.

11. Negotiation of Amendments.

a. Changes in Applicable Law. The activities authorized and regulated under this Compact are Class III gaming activities within the meaning of the Act, and are permissible under current state law. The parties recognize, however, that subsequent changes in state or federal law may affect the scope of such permissible activities. In the event of any change in state or federal law which any party hereto believes (1) materially affects the validity of this Compact, in whole or in part, or (2) expands or diminishes the permissible type of gaming activities under this Compact, or (3) materially affects the duties or responsibilities of the parties under this Compact, that party shall notify the other party, in writing, of that belief, and the parties shall thereafter comply with the provisions of subparagraph (b), below.

b. Procedures. In the event that either party seeks any amendment pursuant to the terms of this Compact, that party shall in writing request a meeting to be scheduled within 30 days after the request is made. The parties shall thereupon meet to discuss the proposed amendment, and the impact, if any, on this compact. As a result of such meeting, or any subsequent negotiations, and within 180 days following the initial notice:

(1) The parties may agree that no amendment of the Compact is required; or

(2) The parties may agree that amendment of the Compact is required and execute such amendment; or
(3) Either party, if no agreement can be reached by the parties as to the proposed amendment, may bring suit against the other, in a court of competent jurisdiction, seeking a declaratory judgment as to the respective rights of the parties.

12. Consent Under Interstate Horse Racing Act. To the extent that acceptance of interstate off-track wagers is authorized by state law, the execution of this compact by the State shall constitute consent to acceptance of interstate off-track wagers by the simulcast organization at the Barona simulcast facility, as required under 15 U.S.C.§3004(a)(3). The California Horse Racing Board, if requested, shall acknowledge in writing the consent given herein.

13. Licenses Generally. Subject to compliance with the terms of this Compact, Barona shall not be required to obtain a license from the Board in order to establish and operate a simulcast wagering facility within the Barona Indian Reservation, and shall not be required to obtain any other license under State law in connection with its operation of a simulcast wagering facility.

14. Licensing of Personnel. Every person employed at the simulcast facility on the Barona Indian Reservation required to be licensed pursuant to Section 1481 of the Board’s Rules shall hold a valid license issued by the Board; and

a. hold a valid license issued by Barona, if Barona licenses such occupation or activity within the Reservation; or

b. be approved by Barona for such employment.

15. Security Control over Inclosure. Barona shall maintain such security controls over its inclosure and premises as the Board’s Assistant Executive Secretary for Licensing and Enforcement shall direct; and shall remove, deny access to, eject or exclude persons whose presence within the inclosure is inimical to the interests of the State as provided by Sections 1980 and 1989 of the Board’s Rules, or the interests of Barona in operating an honest, legitimate facility.

16. Civil Regulation.

a. Generally. Except as modified by this compact, and except to the extent that they are in conflict with the provisions of federal law, the Constitution and all statutes of the State of California specifically pertaining to the conduct of simulcast wagering, and all regulations, policies and regulatory and enforcement practices of the California Horse Racing Board or its successor, which are now in existence or which may hereafter be enacted, adopted or from time to time amended and which apply generally to simulcast wagering facilities within the State, are hereby incorporated into this Compact and are applicable to the simulcast wagering facility established or operated by Barona on the Barona Indian Reservation and to all persons, entities and things operating on behalf or under the authority, supervision, direction or control of Barona, its governing body, or any enterprise formed for the purpose of establishing or operating such facility.
b. **Non-Discrimination in Enforcement.** In exercising the regulatory enforcement authority granted herein, such authority and the application of its rules, regulations and procedures shall be exercised by the Board in a manner that does not improperly discriminate against Barona or is more stringent than that applied to regularly approved simulcast wagering facilities under normal State jurisdiction.

17. **Registration of Management Personnel.**

a. **Intent.** It is the intent of this section to establish concurrent jurisdiction with the tribe over the approval and registration of persons involved in the management of tribal gaming facilities authorized by this compact, as well as those with a financial interest, as described below, in such facilities, through registration by the California Department of Justice of those persons.

b. **Prohibition against operation of tribal gaming facility without valid registration.**

(1) No person shall manage, operate or have a financial interest in, a tribal gaming facility authorized by this compact without first obtaining a valid registration from the California Department of Justice.

(2) The tribe shall not authorize or permit any person to manage or operate any tribal gaming facility authorized by this compact unless that person possess a valid registration pursuant to subdivision (1).

(3) This paragraph shall not apply to any person licensed or supervised by the California Horse Racing Board.

c. **Definitions.**

(1) "Person" means any member, stockholder, officer, director, manager, partner, principal, associate, individual, or combination thereof holding any direct or indirect financial interest exceeding 5% in the operation or management of a tribal gaming facility authorized by this compact. "Person" also means any individual who has the power to exercise influence over the operation or management of a tribal gaming facility authorized by this compact whether or not such person has a financial interest. "Person" does not include the tribe itself, or any elected or appointed tribal official acting solely in his or her official capacity.

(2) "Conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the California Department of Justice takes following a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the California Penal Code or
any similar provisions of a statute or law, whether state, federal or of a foreign jurisdiction. The record of conviction of the crime shall be conclusive evidence of the fact that conviction occurred, but only of that fact, and the California Department of Justice may inquire into the circumstances surrounding the commission of the crime in order to determine if the conviction is substantially related to the qualifications, functions, and duties of the applicant or registrant in question.

(3) "Dishonesty" means: (a) an absence of integrity; (b) lack of honesty; or (c) a crime involving dishonest conduct.

d. Investigations; authority to initiate proceedings to deny or revoke registration; subpoenas. The California Department of Justice may, either on his or her initiative or in response to a complaint, investigate and gather evidence of fitness for registration under this section and may initiate proceedings to deny or revoke a registration. The California Department of Justice may issue subpoenas for the appearance of witnesses and the production of documents and other evidence. Subpoenas will not be directed to the tribe itself, or to any elected or appointed tribal official acting solely in his or her official capacity. Barona agrees to voluntarily supply the California Department of Justice with requested information; if such information is not supplied, Barona agrees that the California Department of Justice may refuse to register the applicant.

e. Examination of applicants' or registrants' books and records, inspection of premises and seizure of illegal equipment. Applicants and registrants shall authorize the California Department of Justice, or his or her representative, as a condition of registration, to do any of the following:

(1) Make any examination of the books and records of any applicant, registrant or other person and visit and inspect the premises of any applicant or registrant or of the tribal gaming facility authorized by this compact during normal business hours as deemed necessary by the California Department of Justice to enforce this paragraph.

(2) Seize and remove from such premises and impound any illegal equipment or supplies to the extent that it is finally determined in a court of competent jurisdiction that law enforcement officials in the State of California have authority to take such action. To the extent that such authority is not established, the California Department of Justice, or any law enforcement official within the State, may refer the matter to appropriate federal officials.

f. Information required of applicant; action on completed application.

(1) The California Department of Justice shall provide forms, which are to be completed under penalty of perjury, to obtain information to identify the persons applying for registration including, but not limited to, the individual's
name, address, identification numbers and other data prescribed by the California Department of Justice. Applicants for registration who have or will have a management or financial interest in any tribal gaming facility authorized by this compact shall submit full financial statements, as prescribed herein and which shall include a statement of any interest in any other business. The applicant shall submit a statement under penalty of perjury that no person, other than those disclosed in the application, shall have any management control of, or other financial interest in, the tribal gaming facility authorized by this compact.

(2) If any of the information submitted by an applicant or registrant changes, the applicant or registrant shall promptly notify the California Department of Justice. Based on such information, the California Department of Justice may initiate proceedings to deny or revoke a registration issued under this section.

(3) The California Department of Justice may issue a conditional registration in order to allow sufficient time to complete background investigations without causing undue hardships to applicants or registrants or to the tribal gaming facility authorized by this compact.

(4) Registration: application.

(i) An application form shall be submitted by all individuals who have or who intend to have a financial or management interest in any gaming establishment.

(ii) Part I, General Application Information, shall include substantially the following: name of applicant; type of affiliation with the tribal gaming facility authorized by this compact; name and address of the tribal gaming facility authorized by this compact; amount of interest in the tribal gaming facility authorized by this compact; names and addresses of other investors or managers if applicant is not sole investor in, or manager of, the facility.

(iii) Part II, Personal History, shall include substantially the following: personal identifiers; marital information; family information; education; military information; prior criminal activity; residence; employment; and character references.

(iv) Part III, Financial History, shall include substantially the following: complete financial history of the applicant, including a statement of assets and liabilities; amount invested or to be invested in the tribal gaming facility authorized by this compact and/or in the management entity with whom Barona contracts or otherwise engages to operate the tribal gaming facility authorized by this compact and source of funds; whether the applicant has ever filed bankruptcy.

(v) Applications shall be submitted on forms supplied by the California Department of Justice. The completed initial or first-time registration application shall be accompanied by two completed ten-print applicant fingerprint cards
obtained from a law enforcement agency and the specified nonrefundable application fee. Applications to renew registration need not be accompanied by fingerprint cards.

(5) Annual renewal of registration. Registration shall be renewed on an annual basis following instructions that shall be provided when the initial certificate of registration is issued to the applicant.

(6) Furnishing of additional information. The California Department of Justice may require an applicant for registration or a registrant to supply additional information beyond what is routinely required to be included in the application form in order to enforce the terms of this paragraph.

(7) Registration: proof thereof. Two forms of documentation may constitute proof of compliance with the Act and regulations: 1) possession of a valid "conditional registration" which will allow the applicant to operate pending the outcome of the Department of Justice background investigation conducted pursuant to the submission of an application for registration; or 2) possession of a valid annual registration certificate issued when the background investigation has been completed and the applicant has been registered.

g. Fees. All applicants for registration, whether for an initial or renewal registration, shall be charged an amount not to exceed the actual, reasonable cost incurred in processing, investigating, approving or denying the application. Such fees shall be paid prior to the commencement of any processing of an application, in an amount to be determined by the California Department of Justice, but, in any event, shall not exceed $5,000 per applicant unless previously approved by the Tribal Council on the basis of a report to the Tribal Council by the California Department of Justice describing the results of the initial investigation and setting forth the additional projected costs of further investigation. Barona agrees that such report will not include information which is deemed confidential pursuant to Part 4, Title 1, Chapter 1, section 11105, et seq. of the California Penal Code. Barona further agrees that if the additional costs are not approved, the California Department of Justice may refuse to register the applicant.

h. Grounds for denial of application: conditions.

(1) An application for registration may be denied if the person:

   (i) Is under the age of 21 years.

   (ii) Makes a false statement required to be revealed in an application for registration issued pursuant to this paragraph or in any application for authorization to own or operate any gaming facility.

   (iii) Has been convicted of a crime punishable as a felony.
(iv) Is determined by the California Department of Justice to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

(v) Has engaged in bookmaking or other illegal gaming activities or has been convicted of an offense involving such activities.

(vi) Has been issued a conditional registration and commits any act which would be grounds for revocation under this paragraph.

(vii) Had his or her authorization to operate a gaming facility suspended or revoked or otherwise restricted by any authority, whether tribal, state, federal or foreign jurisdiction, if not reversed, vacated, or otherwise set aside in the same proceeding.

(2) The California Department of Justice may impose any condition upon registration reasonably necessary for implementation of this section.

(3) Denial of an application for any of the reasons specified in subdivision (a) shall not preclude the California Department of Justice or local enforcement agencies from filing criminal charges for any act done in making the application or for any act which is a ground for denial of a registration, which act might otherwise constitute a public offense.

i. Arrests for illegal gaming or dishonest acts; disclosure of facts and circumstances.

Notwithstanding any other provision of law, the California Department of Justice, or his or her representative, may require an applicant for registration to reveal the facts and circumstances of any arrest for illegal gaming activities, or of any act of dishonesty. Such an arrest must be disclosed regardless of whether or not the arrest resulted in a conviction or in a denial, suspension, revocation or restriction of any authorization to own or operate a gaming facility. An act of dishonesty must be disclosed if proceedings for the denial, suspension, or restriction of any business or occupational license was initiated as a result thereof.

j. Review of criminal history information. Notwithstanding any other provision of law, an investigation of an applicant's qualifications for registration may include review of his or her criminal history information maintained pursuant to Sections 11105 and 13300 of the California Penal Code, or criminal history information collected by any law enforcement agency, in any jurisdiction, whether state, federal or other foreign jurisdiction, including records of arrests which did not result in conviction.
k. **Grounds for revocation.**

(1) Registration may be revoked if the registrant has done any of the following:

(i) Committed any act which would constitute grounds for denial of registration as set forth in this paragraph.

(ii) Violated any applicable federal, state or local statute, rule or ordinance regulating gaming.

(iii) Engaged in unfair business practices or false or misleading advertising, as defined in Division 7, Part 2, Chapter 4, commencing with section 17000, and Part 3, Chapter 1, commencing with section 17500, of the California Business and Professions Code in connection with gaming.

(iv) Failed to take reasonable steps to prevent any dishonest acts or illegal activities occurring on the premises of the tribal gaming facility authorized by this compact committed by any patron or other individual or employee of the tribal gaming facility.

(v) Had his or her authorization to operate a gaming facility suspended or revoked or otherwise restricted by any authority, whether tribal, state, federal or foreign jurisdiction.

(vi) Denied the California Department of Justice access to any place within a tribal gaming facility authorized by this compact or failed to promptly produce for inspection or audit any book, record, or document requested by the California Department of Justice. Such inspection shall be limited to those relating to any tribal gaming facility authorized by this compact, unless the California Department of Justice deems it necessary to inspect other places or books, records or documents in order to fully investigate the operations of the tribal gaming facility authorized by this compact. In circumstances where the registrant has denied access to a place or inspection of any book, record or document, the California Department of Justice may request of Barona such access and/or copies of specified books, records or documents. The request shall describe the need for access or inspection. Within 15 days of such a request to Barona, Barona shall respond to the request.

(vii) Failed to comply with any condition of registration.

(viii) Obtained a registration by fraud, misrepresentation, concealment, or through inadvertence or mistake.

(ix) Made a misrepresentation, or failed to disclose, a material fact to the California Department of Justice.
(2) Revocation of a registration for any of the reasons specified in subdivision (a) shall not preclude the California Department of Justice or local enforcement agencies from filing criminal charges for any act done which is grounds for revocation, which act might otherwise constitute a public offense.

(3) Prior to commencing any proceeding to revoke, suspend, or restrict a registration required by this paragraph, the California Department of Justice will notify Barona, by letter, of its proposed action, including a brief description of the factual basis for the action. Within fifteen (15) days of the mailing of the letter, Barona may present its views in written form to the California Department of Justice, who will consider those views prior to commencing the proceeding. All such communications will be confidential to the degree provided by law.

1. Hearings related to denial or revocation of a registration; conduct.

All hearings relating to the denial or revocation of a registration shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code. These proceedings shall be subject to judicial review pursuant to Section 1094.5 of the California Code of Civil Procedure.

18. Criminal Jurisdiction. In enforcing the terms and provisions of this Compact, the State shall have such criminal jurisdiction over Barona and its gaming operations, including its simulcast wagering facility within the Barona Indian Reservation as is recognized under 18 U.S.C. §1162.

19. Judicial Review. Judicial review of any action taken by either party under this Compact, or seeking any interpretation of this Compact, shall be had solely in the appropriate United States District Court; provided, however, that nothing herein shall be construed to confer jurisdiction on any federal court to review administrative actions taken by the Board with respect to persons or entities other than Barona.

20. Distribution of Handle.

a. Generally. Subject to subsections (b) and (c) below, the amounts deducted from parimutuel wagers at the Barona simulcast wagering facility, and the distribution of such amounts, shall be the same as that provided for under state law for simulcast wagering facilities, other than fairs, in the southern zone.

b. State License Fee.

(1) The parties acknowledge that the legality of the imposition, deduction, and distribution by the State of a license fee under business and Professions Code §§19605.71 (a) and (b), 19606.5, and 19606.6 on tribally-operated satellite wagering operations, such as that contemplated by this Compact, is currently being litigated by the Cabazon Band of Mission Indians in the U.S. District Court for the Eastern District
of California. Following the exhaustion of all appellate review of such litigation, the parties to this Compact will abide by that final outcome concerning the applicability of the said State license fee to the simulcast wagering facility contemplated by this Compact.

(2) In the event a final judgment is obtained in such litigation that the deduction and distribution of the said state license fee is permissible under the Act, and following the exhaustion of all appellate review, the State shall retain all license fees previously distributed to it, and shall be entitled to collects the state license fee from all wagers at the Barona simulcast wagering facility. Under such circumstances, the State shall not be entitled to any further assessment against or payment from Barona to cover the costs of State regulation of the Barona simulcast wagering facility, and the Barona simulcast wagering facility shall be entitled to all benefits and to participate in all programs under applicable state law which are available to any simulcast wagering facility, other than a fair, in the southern zone.

(3) In the event a final judgment is obtained in such litigation that the deduction and distribution of the said state license fee is impermissible under the Act, and following the exhaustion of all appellate review, the State shall pay over to Barona the amount of all state license fees previously distributed to the State under this Compact exclusive of assessments due and owing under subparagraph 4, below, and Barona shall thereafter be entitled to receive an amount equivalent to the state license fee from all wagers at the Barona simulcast wagering facility. The amount of state license fee previously distributed to the State and not reasonably claimed by the State as due and owing from the commencement of operation of the facility shall be paid over to Barona as soon as practicable and in any event, not later than sixty (60) days following final judgment.

(4) If it is judicially determined that the State is not entitled to receive the state license fee, the parties, in accordance with Paragraph 11(b), shall modify this Compact to provide for assessment by the State of the actual costs incurred by it in regulating the Barona simulcast wagering facility and for the settlement and collection of such costs due and owing from the commencement of operation of the facility.

c. Additional Provisions.

(1) Barona and the simulcast organization may agree between them and incorporate into the agreement described in Paragraph 8, above, how the one percent (1%) of the handle designated for promotion of the program at the Barona simulcast wagering facility shall be distributed and expended; and

(2) Barona shall be deemed to be the equivalent of the city or county entitled to the 0.33% of the handle distributed to the local government within which the simulcast wagering facility is located, and Barona shall receive such distribution.

21. Governing Law. This compact shall be governed by and construed in accordance with the laws of the United States; provided, however, that those provisions
of state law expressly incorporated into this Compact shall be construed in accordance with the laws of the State of California to the extent not inconsistent with federal law.

22. **Entire Agreement.** This Compact contains the entire agreement of the parties hereto with respect to the matters covered by this Compact and no other statement, agreement, or promise made by any party, officer, or agent of any party shall be valid or binding.

23. **Amendments.**

   a. This Compact may be amended upon the written agreement of all the parties hereto, and with the approval of the Secretary of the Interior.

   b. In order to provide Barona terms and conditions equivalent to those provided to any other California Indian Tribe under another Tribal-State compact, this Compact shall be amended by the parties in accordance with the procedures of Paragraph 11(b) if, during the term of this compact, either of the following conditions occurs:

      (1) The State becomes a party to another Tribal-State Compact for the operation of as tribal simulcast wagering facility located in the central or southern zone under which the other tribe receives a greater percentage of the handle derived from wagers at its facility than does Barona under this Compact; or

      (2) Acceptance of parimutuel wagers at any other tribal facility is permitted on racing other than as authorized at non-tribal facilities under state law.

24. **Authority to Execute.** Each of the undersigned represents to each of the other parties that he or she is duly authorized and has the authority to execute this agreement on behalf of the party for whom he or she is signing.
25. Effective Date. This Compact shall be effective upon execution by the parties and approved by the Secretary of the Interior and publication in the Federal Register.

IN WITNESS WHEREOF, the parties have executed this Compact on the day and year first above written.

BARONA GROUP OF THE CAPITAN GRANDE BAND OF MISSION INDIANS

Date: April 2, 1992
By: Clifford La Chappa, Chairman

STATE OF CALIFORNIA

Date: 1/17/92
By: Pete Wilson, Governor

APPROVED:

Date: 6/23/92
By: Authorized Representative of the Secretary of the Interior

BUREAU OF INDIAN AFFAIRS

Assistant Secretary - Indian Affairs