



**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

APPROVAL OF

**SAN MANUEL BAND OF MISSION INDIANS, CALIFORNIA
BUSINESS LEASING CODE**

The attached Business Leasing Code, submitted by the San Manuel Band of Mission Indians, California (listed in the Federal Register, 83 FR 20 (January 30, 2018) as the San Manuel Band of Mission Indians, California), and prepared in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012, consisting of 20 pages and adopted by the San Manuel Band of Mission Indians General Council on November 14, 2017, is hereby approved.

Dated: JUN 11 2018

Principal Deputy Assistant Secretary – Indian Affairs
Exercising the Authority of the Assistant Secretary –
Indian Affairs
United States Department of the Interior

Pursuant to the authority delegated by 209 DM 8

ATTACHMENT 1

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CHAPTER 34. SAN MANUEL COMMERCIAL LEASE ACT¹

SMTC 34.1 Title

This Chapter shall be known and cited as the “San Manuel Commercial Lease Act”.

SMTC 34.2 Purpose and Scope; Effective Date; Applicable Law

34.2.1 This Act is adopted by the San Manuel Band of Mission Indians, as approved by its General Council pursuant to and in accordance with Articles III and VI of the Articles of Association of June 18, 1966, as amended. The purpose of this Act is to establish a process under Tribal law for the approval, rejection, management, amendment, assignment, termination, and enforcement of Commercial Leases involving Tribal Trust Land.

34.2.2 This Act shall be effective as of the date of approval by the United States Secretary of the Department of the Interior, pursuant to and in accordance with the provisions of the HEARTH Act, 25 U.S.C. § 415(h).

34.2.3 This Act shall govern all Commercial Leases submitted to and approved by the General Council after the effective date in accordance with all applicable Tribal and federal laws.

SMTC 34.3 Definitions

34.3.1 “Approval” means written authorization by the General Council.

34.3.2 “Assignment” means an agreement between a Lessee and an assignee, whereby the assignee acquires all or some of the Lessee’s rights, and assumes all or some of the Lessee’s obligations, under a Commercial Lease.

34.3.3 “BIA” means the Bureau of Indian Affairs, United States Department of the Interior.

34.3.4 “Business Committee” means the seven member elected committee established under Articles III and VI of the Articles of Association of June 18, 1966, as amended.

34.3.5 “Commercial Lease” or “Lease” means a written contract between the Tribe and a Lessee, whereby the Lessee is granted a right to possess Tribal Trust

¹ Adopted by the General Council as Ordinance No.34 on July 12, 2016; amended by the General Council on November 14, 2017.

Land for a specified commercial purpose and duration. The Lessee's right to possess will limit the Tribe's right to possess the leased premises only to the extent provided in the Lease. A Commercial Lease shall not include any terms authorizing or otherwise providing for the exploration, development, or extraction of any mineral resources.

34.3.6 "Environmental Review" means the process for conducting Tribal review to assess whether a proposed Commercial Lease will have a Significant Effect on the Environment.

34.3.7 "General Council" means the lawful governing body of the Tribe which is comprised of all adult members twenty-one years of age or older pursuant to Articles III and VI of the Articles of Association of June 18, 1966, as amended.

34.3.8 "Initial Study" means an initial study of a non-exempt Lease.

34.3.9 "Lease Document" means any document related to a Lease, including but not limited to an amendment, assignment, or sublease, or any document attached to a Lease as an exhibit or supporting document.

34.3.10 "Lessee" means a person who has acquired a legal right to possess Tribal Trust Land pursuant to a Lease authorized by the Tribe under this Act.

34.3.11 "LTRO" means the Land Titles and Records Office of the BIA with jurisdiction over the administration of Tribal Trust Land.

34.3.12 "Negative Declaration" means a finding that the Project, including any mitigation measures, will have no Significant Adverse Impacts.

34.3.13 "Public," for purposes of the Environmental Review Process, means Tribal Citizens, Tribal Departments, residents within the Reservation, and owners of real property contiguous to Tribal Trust Land which is the subject of a Lease and who are directly affected by such Lease.

34.3.14 "Significant Effect on the Environment" means a substantial, or potentially substantial, direct adverse change in the environment, including land, air water, minerals, flora, fauna, ambient noise, cultural areas, and objects of historic, cultural or aesthetic significance.

34.3.15 "SMTC" means the San Manuel Tribal Code.

34.3.16 "Sublease" means a written agreement by which the Lessee grants to a person a right to possession no greater than that held by the Lessee under the Lease.

34.3.17 "Termination" means the cancellation a Lease by the Tribe pursuant to the terms of the Lease or the provisions of this Act.

34.3.18 “Trespass” means any unauthorized occupancy, use of, or action on any Tribal Trust Land.

34.3.19 “Tribal” means of or belonging to the Tribe.

34.3.20 “Tribal Citizen” shall mean an enrolled member of the San Manuel Band of Mission Indians.

34.3.21 “Tribal Environmental Protection Agency” or “TEPA” means the official agency established by the Tribe to review and ensure compliance with the San Manuel Environmental Protection Act and other applicable environmental laws pursuant to and in accordance with Chapter 33 of the San Manuel Tribal Code.

34.3.22 “Tribal Trust Land” means any tract of land in which the surface estate is owned by the Tribe in Trust or Restricted Status and over which the Tribe exercises governmental power.

34.4.23 “Tribe” means the San Manuel Band of Mission Indians.

34.3.24 “Trust or Restricted Status” means (1) the United States holds title to a tract of land in trust for the benefit of the Tribe; or (2) the Tribe holds title to the tract of land, but can alienate or encumber it only with the approval of the United States because of limitations in the conveyance instrument under Federal law or limitations in Federal law.

34.3.25 “Violation” means a failure to take an action, including payment of compensation, when required by the Lease, or to otherwise not comply with a term of the Lease.

SMTC 34.4 Commercial Lease Requirements

34.4.1 Authority

The General Council shall review and approve or reject all proposed Commercial Leases. The Business Committee shall manage and enforce an approved Lease, and may amend, assign, or terminate an approved Lease as provided herein.

34.4.2 Lease Duration

- (a)** The initial term of a Commercial Lease may not exceed twenty-five (25) years.
- (b)** A Lease may include an option to renew for up to two additional terms, each of which may not exceed twenty-five (25) years.

- (c) Unless otherwise provided in the Lease, a Lessee shall notify the Tribe in writing of its intent to seek renewal of the Lease at least one (1) year before the Lease is due to expire.

34.4.3 Submission of a Commercial Lease Package

A prospective Lessee must submit all of the following documents to the Tribe as part of the Commercial Lease process:

- (a) Proposed Lease, or application form provided by the Tribe;
- (b) Financial statement and related banking references for the Tribe to reasonably determine prospective Lessee's credit history and ability to perform under the Lease;
- (c) Site surveys and a legal description;
- (d) All documents required by the TEPA for completion of the Environmental Review process;
- (e) All other documents as may be required by the Tribe.

34.4.4 Required Commercial Lease Provisions

A Commercial Lease shall contain provisions describing, at a minimum, the following:

- (a) Parties to the Lease;
- (b) Effective date of the Lease;
- (c) Term of the Lease;
- (d) Legal description of the land being leased, of sufficient detail to meet the recording requirements of the most current LTRO PRO TAAMS Business Rules in effect at the time;
- (e) Purpose of the Lease;
- (f) Authorized uses of the leased premises;
- (g) Terms of payment, including:

- 1) amount of rent;
 - 2) applicable due dates;
 - 3) identification of the party to whom payments will be made;
 - 4) acceptable forms of payment;
 - 5) whether late fees, penalties, or other charges apply;
- (h)** Applicable development or construction schedules;
- (i)** Reports, surveys, site assessments, etc., that are necessary to facilitate compliance with applicable Tribal and LTRO requirements;
- (j)** Applicable due diligence requirements;
- (k)** Applicable performance bond and insurance requirements:
- 1) A Lessee must provide insurance necessary to protect the interests of the Tribe, and in the amount sufficient to protect all insurable permanent improvements on the premises.
 - 2) The insurance may include property, liability, and casualty insurance, depending on the Tribal interests to be protected.
 - 3) The Tribe must be identified as an additional insured party.
 - 4) The General Council may waive the requirement if a waiver is in the best interest of the Tribe, including if the Lease is for less than fair market rental or nominal compensation.
- (l)** Terms governing improvements and due diligence requirements, including:
- 1) Whether permanent improvements may be constructed and, if so, the Lease must include due diligence requirements that require the Lessee to complete construction of any permanent improvements within the schedule specified in the Lease or general schedule of construction, and a process for changing the schedule by mutual consent of the parties;

- 2) Ownership of improvements and under what conditions, if any, permanent improvements the Lessee constructs may be conveyed to the Tribe during the Lease term;
- 3) Responsibility for constructing, operating, maintaining, and managing improvements;
- 4) Removal of improvements, and, if applicable, time period specified for removal at the Lessee's expense, with the leased premises to be restored as closely as possible to their condition before construction of the permanent improvements; if the improvements are not removed within the specified time period, the Tribe may take possession and title.
- 5) Failure of the Lessee to comply with the due diligence requirements of the Lease is a violation of the Lease and may lead to termination of the Lease.
- 6) The General Council may waive the requirements in this subsection if such waiver is in the best interest of the Tribe.

(m) terms governing adjustment of rent, including:

- 1) whether adjustments will apply;
- 2) how and when adjustments will occur;
- 3) when adjustments are effective;
- 4) how adjustment disputes will be resolved;

(n) terms governing Subleases, if applicable;

(o) terms outlining a process for enforcing Trespass and Lease Violations, including:

- 1) whether negotiated remedies (including, but not limited to, termination) are allowed in the event of a breach;
- 2) the process for termination of a Lease, including when such termination shall become effective;

- (p) If the leased premises are within an Indian irrigation project or drainage district, a Commercial Lease must also contain the following provision:

“If the leased premises are within an Indian irrigation project or drainage district, except as provided by 25 C.F.R. Part 271, the Lessee must pay all operation and maintenance charges that accrue during the Lease term. The Lessee must pay these amounts to the appropriate office in charge of the irrigation project or drainage district.”

- (q) Applicable dispute resolution procedures;
- (r) A provision in which the Lessee agrees to hold the United States and the Tribe harmless from any loss, liability, or damages resulting from the Lessee's use or occupation of the Leased premises, unless the Lessee is prohibited by law from agreeing to such provision; and
- (s) A provision in which the Lessee agrees to indemnify the United States and the Tribe against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous material from the leased premises that occurs during the lease term, regardless of fault, and with the exception that the Lessee is not required to indemnify the Tribe for liability or cost arising from the Tribe's negligence or willful misconduct.

SMTC 34.5 Environmental Review of a Commercial Lease

34.5.1 Environmental Review Required Prior to Approval of a Lease

The Tribe shall not approve a Commercial Lease until the TEPA has issued:

- (a) a written determination that the Lease is not subject to Environmental Review;
- (b) a Negative Declaration; or
- (c) a Final Environmental Study.

34.5.2 Threshold Determination

- (a) A Lessee must submit a proposed Commercial Lease, and any related documentation required by the Tribe, to the TEPA, who shall determine

within fifteen (15) calendar days whether the proposed Lease is subject to Environmental Review.

- (b)** A proposed Lease is subject to Environmental Review if it has a potential Significant Effect on the Environment and is not the subject of an environmental review under the National Environmental Policy Act, 42 U.S.C. § 4321, *et seq.*, and/or an equivalent or more extensive environmental review.
- (c)** If the TEPA concludes a proposed Commercial Lease does not meet the criteria described above in SMTC 34.5.2(b), the TEPA shall issue a written determination that the Lease is exempt from Environmental Review.
- (d)** If the TEPA concludes a proposed Commercial Lease meets the criteria described above in SMTC 34.5.2(b), the TEPA shall perform an Initial Study.

34.5.3 Initial Study

- (a)** Within thirty (30) calendar days of issuing the determination required by SMTC 34.5.2 above, The TEPA shall prepare, and issue to the Lessee and the Tribe, an Initial Study for any Commercial Lease that meets the criteria set forth above in SMTC 34.5.2(b). An Initial Study shall include, at a minimum, the following:
 - 1) identification and discussion of any of the Lease's potential Significant Effect on the Environment;
 - a. Factors to be taken into consideration in evaluating whether a Lease may have a Significant Effect on the Environment include, but are not limited to:
 - 1. unique or sensitive characteristics of the geographic or hydrologic area from which the activity is planned;
 - 2. whether the Lease will significantly adversely impact or destroy areas of significant Tribal cultural value or traditional sites;
 - 3. the risks, if any, to human health and safety, or degradation, if any, of human health and welfare and/or resources;

4. whether the Lease significantly adversely impacts existing or future land uses; and
 5. the stated purpose and Tribal need for the Lease.
- 2) identification and discussion of any proposed mitigation measures that would avoid or minimize such identified Significant Effects on the Environment; and
 - 3) a determination that either:
 - a. the Lease will not have Significant Effect on the Environment; or
 - b. the Project may have a Significant Effect on the Environment.
- (b)** If the TEPA determines a proposed Lease will not have Significant Effect on the Environment, the TEPA shall prepare and issue a Negative Declaration pursuant to SMTC 34.5.4 within seven (7) calendar days of issuing the Initial Study.
- (c)** If the TEPA determines a proposed Lease may have a Significant Effect on the Environment, the TEPA shall prepare and issue a Draft Environmental Study pursuant to SMTC 34.5.5.1. The TEPA will take all reasonable actions to have such study prepared and issued within ninety (90) calendar days of issuing the Initial Study, if possible.

34.5.4 Negative Declaration

- (a)** A Negative Declaration shall contain a detailed explanation of why a proposed Commercial Lease will not have Significant Effect on the Environment, and shall be disclosed to the Public for review and comment by at least one of the following methods:
- 1) Publication of the Negative Declaration in a newspaper of general circulation in the area affected by the proposed Commercial Lease, with notice to the Public of the opportunity to comment; or
 - 2) Conspicuous posting of the Negative Declaration in the offices of the Tribe or on a Tribal website, with notice to the Public of the opportunity to comment.

- (b)** The Public shall have thirty (30) calendar days after publication of the Negative Declaration to submit comments to the TEPA. The TEPA shall forward all Public comments to the Tribe and the Lessee no later than the first business day after expiration of the comment period.
- (c)** The Tribe and Lessee shall review the comments and provide to the TEPA written responses to all timely, relevant, and substantive Public comments. Such responses may be written and submitted separately or jointly by the Tribe and Lessee. The TEPA shall publish the responses using at least one method described above in SMTC 34.5.4(a).
- (d)** Upon review of the Public comments and the responses by the Tribe and Lessee, the TEPA may determine that further Environmental Review is warranted. If the TEPA makes such a determination, the TEPA shall notify the Tribe and Lessee, and shall publish such notice using at least one method described above in SMTC 34.5(a).

34.5.5 Environmental Study

34.5.5.1 Draft Environmental Study

- (a)** Upon a determination of potential Significant Effect on the Environment pursuant to SMTC 34.5.3(c), the TEPA shall prepare a Draft Environmental Study, which shall be written in concise, plain language, and, at a minimum, address the following:
 - 1) Description of the location of the proposed Lease, including a map of any identified Tribal Trust Land impacts;
 - 2) Description of the physical environmental conditions in the vicinity of the Tribal Trust Land that is the subject of the Lease, as such conditions exist at the time the environmental analysis is commenced;
 - 3) Brief statement of the purpose and need for the Lease;
 - 4) An assessment of potential adverse impacts the Lease may have on water resources, including drinking water;
 - 5) Assessment of potential adverse impacts the Lease may have on the quality of the Tribe's cultural resources;
 - 6) Assessment of potential adverse impacts the Lease may have on transportation network and circulation facilities;

- 7) Assessment of potential adverse impacts the Lease may have on human health and welfare in the environment;
- 8) Assessment of potential adverse impacts the Lease may have on air quality;
- 9) Assessment of potential adverse impacts the Lease may have on natural resources on Tribal Trust Land, including endangered or threatened species or habitat that has been determined to be critical under the Endangered Species Act of 1973;
- 10) Assessment of potential adverse impacts the Lease may have on the physical environment, including but not limited to:
 - a. The use, transportation, treatment, storage or disposal of Hazardous Materials in any construction and operational phases of the Lease;
 - b. The wastewater disposal, transportation, or storage in any construction and operational phases of the Lease; and
 - c. Solid waste disposal, transportation, or storage in any construction and operational phases of the Lease;
- 11) Discussion of potential adverse impacts the Lease may have on public services;
- 12) Discussion of potential adverse impacts the Lease may have on noise;
- 13) Discussion of potential adverse impacts the Lease may have on aesthetics;
- 14) Discussion of viable alternatives, if any, to the Lease, including a discussion of short and long-term beneficial and adverse impacts to the environment of such alternatives, specifying such adverse impacts which cannot be avoided;
- 15) Discussion of mitigation or reclamation measures which may be taken to avoid or minimize adverse impacts to the environment; and
- 16) Any other information the TEPA deems necessary.

34.5.5.2 Public Review of Draft Environmental Study

- (a) The TEPA shall disclose a Draft Environmental Study to the Public for review and comment by at least one of the following methods:

- 1) Publication of the DES in a newspaper of general circulation in the area affected by the proposed Commercial Lease, with notice to the Public of the opportunity to comment; or
 - 2) Conspicuous posting of the DES in the offices of the Tribe or on a Tribal website, with notice to the Public of the opportunity to comment.
- (b)** The Public shall have thirty (30) calendar days after publication of the DES to submit comments to the TEPA. The TEPA shall forward all Public comments to the Tribe and the Lessee no later than the first business day after expiration of the comment period.
- (c)** Within fifteen (15) calendar days of receipt of the Public comments, the Tribe and Lessee shall review all Public comments and provide to the TEPA written responses to all timely, relevant, and substantive Public comments. Such responses may be written and submitted separately or jointly by the Tribe and Lessee. The TEPA may grant a reasonable extension of time to respond to comments upon request of the Tribe or Lessee.

34.5.5.3 Final Environmental Study

- (a)** The TEPA shall issue a Final Environmental Study within fifteen (15) calendar days of receipt of the Tribe's and Lessee's responses to Public comments.
- (b)** The FES shall include all Public comments and the Tribe's responses.
- (c)** The FES shall include the TEPA's final determination as to whether the proposed Commercial Lease will have any Significant Effect on the Environment.
- (d)** The TEPA shall send the FES to the Tribe and Lessee, and publish the FES using at least one method described above in SMTC 34.5.5.2(a).
- (e)** The Public shall have fifteen (15) calendar days after publication of the FES to submit comments to the TEPA. The TEPA shall forward all Public comments to the Tribe and the Lessee no later than the first business day after expiration of the comment period.

- (f) Within seven (7) calendar days of receipt of the Public comments, the Tribe and Lessee shall review all Public comments and provide to the TEPA written responses to all timely, relevant, and substantive Public comments. Such responses may be written and submitted separately or jointly by the Tribe and Lessee. The TEPA may grant a reasonable extension of time to respond to comments upon request of the Tribe or Lessee.
- (g) The TEPA shall publish the above comments and responses using at least one method described in SMTC 34.5.5.2(a).

SMTC 34.6 Commercial Lease Process

34.6.1 Review, Approval, and Rejection of a Proposed Lease

- (a) Upon receiving a proposed Lease, the General Council shall notify the parties in writing whether the package is or is not complete. A complete Lease package includes all the information and supporting documents required under this Act.
 - 1. If the Lease package is not complete, the letter shall identify the missing information or documents required.
 - 2. If the Lease package is complete, the General Council shall schedule it for review and consideration at its next regularly scheduled meeting, or may call a special meeting pursuant to and in accordance with Article VII of the Articles of Association. The General Council may only approve a Lease that meets the requirements set forth in this Act.
 - 3. Within ninety (90) days of the notice of a complete Lease package, the General Council shall either 1) approve or reject the Lease, 2) return the package for revision, or 3) inform the parties in writing that additional review time is necessary. If additional review is necessary, the General Council shall identify any initial concerns and invite the parties to respond in writing within fifteen (15) days.
- (b) Unless otherwise provided in the Lease, no Lease shall be approved more than twelve (12) months prior to the commencement of the term of the Lease.

(c) An approved Lease shall be executed only by the Tribe's Chairperson or Vice Chairperson.

(d) Prior to approval of a Lease, the General Council shall determine that the Lease is in the best interest of the Tribe based upon the following:

1. Review of the Lease and supporting documents;
2. Ensure compliance with all applicable environmental laws and identify potential environmental impacts;
3. Require lease modifications or mitigation necessary to satisfy any environmental or other requirements; and
4. If lease involves Restricted lands, assure adequate consideration of the factors listed in 25U.S.C. 415(a).

(e) If the General Council determines that the Lease is not in the best interest of the Tribe, the Lease shall be rejected.

34.6.2 Amendment of a Lease

(a) The Business Committee may review a proposed amendment to an approved Lease provided the proposed amendment is in accordance with the terms of the Lease.

(b) The Business Committee may only approve an amendment which it determines is in the best interest of the Tribe and complies with the requirements of this Act.

(c) When a proposed amendment is received, the Business Committee shall have thirty (30) days to approve or disapprove the amendment. The Business Committee's determination whether to approve the amendment will be in writing and will state the basis for its approval or disapproval.

(d) If additional time is needed to review the proposed amendment, the Business Committee shall inform the parties in writing, identify its initial concerns, and invite the parties to respond within fifteen (15) days.

34.6.3 Assignment of a Lease

- (a)** The Business Committee may approve or reject an Assignment of an approved Lease in accordance with the terms of the Lease.
- (b)** Unless the Lease provides otherwise, the Lessee must notify the Business Committee of the proposed Assignment. When a proposed Assignment is received, the Business Committee shall have thirty (30) days to approve or disapprove the Assignment. The Business Committee's determination whether to approve the assignment will be in writing and will state the basis for the approval or disapproval.
- (c)** In approving or disapproving a proposed Assignment, the Business Committee shall consider whether the proposed Assignment is in the best interest of the Tribe and may consider whether:
 - 1. The value of any part of the Leased premises not covered by the Assignment would be adversely affected; and
 - 2. If a performance bond is required, the Assignee has posted the bond or security and provided supporting documents that demonstrate that: (i) The Lease will be enforceable against the Assignee; and (ii) The Assignee will be able to perform its obligations under the Lease or Assignment

34.6.4 Enforcement of a Lease

- (a)** The Business Committee shall have all powers necessary and proper to enforce the terms of an approved Lease and to protect the best interests of the Tribe.
- (b)** The Business Committee may take appropriate emergency action if there is a natural disaster or if an individual or entity causes or threatens to cause immediate and significant harm to Tribal Trust Land.
- (c)** If the Business Committee determines there has been a Violation of the terms and conditions of a Lease, the Tribe shall promptly send the Lessee a notice of Violation by certified mail, return receipt requested. Unless the Lease provides otherwise,
 - 1. The notice of Violation will advise the Lessee that, within ten (10) business days of the receipt of a notice of Violation, the Lessee must notify the Business Committee that: (i) the

Violation has been cured; (ii) the Lessee disputes the Business Committee's determination that a Violation has occurred; or (iii) additional time is required to cure the violation.

2. If the Violation is a failure to pay compensation in the time and manner required by a Lease, the Lessee shall provide adequate proof of payment to the Business Council within ten (10) days of the notice.
3. Failure to cure a Violation within the required time period, or provide adequate proof of payment as required in the notice of Violation, the Business Committee shall determine whether to:
(i) grant an extension of time to cure the Violation; (ii) invoke any remedies available under the lease; (iii) invoke other remedies available under applicable law; or (iv) terminate the Lease.
4. If the Business Committee decides to terminate the Lease, it will send the Lessee and any surety and mortgagee a termination letter by certified mail, return receipt requested, within five (5) business days of its decision. The termination letter shall: (1) explain the grounds for termination; (ii) notify the Lessee of the amount of any unpaid compensation, late payment charges or damages due under the Lease; (iii) notify the Lessee of the Lessee's right to appeal under Section 34.9 of this Act; (iv) order the lessee to vacate the property within 30 days of the date of receipt of the termination letter, unless an appeal is timely filed; and (v) order the Lessee to take any other action the Business Committee deems necessary to protect the best interests of the Tribe.

(d) Trespass

If a Lessee remains in possession after the expiration or termination of a Lease, the Business Committee may treat the unauthorized possession as a trespass and file an action in San Manuel Tribal Court to recover possession and/or pursue any additional remedies available under applicable law, such as a forcible entry and detainer action.

34.6.5 Recording of Commercial Leases and Lease Documents

All Commercial Leases and Lease Documents shall be forwarded to following address for recording:

Attn: LTRO
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

SMTC 34.7 Fair Lease Valuation

Prior to its Approval of any Commercial Lease, the Tribe shall determine (i) an appropriate lease valuation based on the fair rental value of the leased premises, and (ii) a rental payment structure that serves the best interest of the Tribe, including the Tribe's economic development goals.

SMTC 34.8 Accounting for Income from Tribal Trust Land

In accounting for any income from a Commercial Lease of Tribal Trust Land, the Tribe shall segregate such income from income from sources other than Tribal Trust Land, consistent with the internal Tribal accounting standards.

SMTC 34.9 Commercial Lease Management

The Business Committee shall manage all Commercial Leases pursuant to this Act. Pursuant to the terms of a Lease, the Tribe may charge administrative, management, and other fees for costs associated with the management of a Lease, reviewing a Lease and Lease Documents, and other administrative actions.

SMTC 34.10 Appeal

The San Manuel Tribal Court shall have jurisdiction over any claims which may arise under terms and conditions of an approved Lease. Proceedings in the Tribal Court shall be conducted in accordance with the SMTC Chapter 22 Judicial Code; SMTC Chapter 27, Formal Evidence Code; SMTC Chapter 28 San Manuel Rules of Civil Procedure, the San Manuel Rules of Court; and other applicable Tribal law. The Tribal Court shall have no authority to award punitive damages regardless of the outcome of the proceeding.

SMTC 34.11 Amendment of this Act

If the Tribe adopts any substantive amendment to this Act, it shall forward the amended Act to the BIA for approval. The Tribe may not enter into a Lease pursuant to the terms of any substantive amendment of this Act until the BIA has approved the

amendment pursuant to section 34.2.2 of this Act in accordance with the timeline established by applicable federal law.

SMTC 34.12 Severability

If any provision of this Act is held invalid by a Court of Competent Jurisdiction, such invalidity shall not affect the remaining provisions that can be implemented without the invalid provision and, to this end, the provisions of this Act are declared to be severable.

SMTC 34.13 Sovereign Immunity

Nothing herein shall be deemed to constitute a waiver of the Tribe's sovereign immunity from unconsented suit, which is hereby expressly reserved.

Lym R. Valbrena

CONFIDENTIAL