

HABEMATOLEL, POMO OF UPPER LAKE

Tribal Employment Preference Ordinance

The Executive Council of the Habematolel, Pomo of Upper Lake (“Tribe”), as the governing body empowered to negotiate and make contracts with Federal, State, Local and Tribal governments pursuant to Article X, Section 1(B) of the Constitution, and further empowered and control Tribal enterprises for the benefit of the Tribe pursuant to Article X, Section 1(K), hereby enacts the following:

**Section 1.     Findings**

The Executive Council finds and declares as follows:

- A. The Tribe has inherent authority, as a sovereign, to protect and preserve the homeland of the Tribe and to work toward the goal of self-determination and self-sufficiency through Tribal operation and licensing of various enterprises, including Class II and Class III gaming, which are a legitimate means to generate revenue.
  
- B. It is in the interests of the Tribe to promote the employment of members of federally-recognized Indian Tribes in the Tribe’s Gaming and other business activities.

Therefore, in accordance with the powers enumerated in the Tribe’s Constitution and the terms stated in Section 12.3(f) of the Amended and Restated Tribal State Compact between the State of California and the Habematolel, Pomo of Upper Lake, this Ordinance is created to effectuate the Tribe's right to give preference in employment in its business operations, including but not limited to those conducted at the Gaming Facility, to members of federally-recognized Indian Tribes.

**Section 2.     Definitions**

For the purposes of this Ordinance, the following words shall have the following meanings:

- A. **“Compact”**: The Tribal-State Compact between The State of California and the Habematolel Pomo of Upper Lake.
  
- B. **“Employment Discrimination Claim”**: A claim brought seeking recompense under the Tribe's Casino Employment Discrimination Ordinance, as required by the Compact, for employment discrimination that occurred in connection with employment by the Gaming Authority at the Tribe's Gaming Facility.
  
- C. **“Gaming Facility”**: The Running Creek Casino.
  
- D. **“Ordinance”**: This Tribal Employment Preference Ordinance.
  
- E. **“Executive Council”**: The Habematolel Pomo of Upper Lake Executive Council, the Tribe's governing body as established by the Tribe’s Constitution.

F. **“Tribe”**: The Habematolel Pomo of Upper Lake, a federally recognized Indian tribe, or an authorized official or agency thereof.

G. **“Reduction in Force”**: The termination of one or more existing employees through the elimination of positions due to economic factors.

All other terms not defined in this Ordinance shall have the definition assigned to them in the Compact.

### **Section 3. Sovereign Immunity**

The sovereign immunity of the Tribe is in no manner waived by this Ordinance. Neither is sovereign immunity waived by any action of the Executive Council, Gaming Facility, or staff of the Tribe acting pursuant to this Ordinance.

### **Section 4. Establishing Preference**

Before an applicant may receive preference in employment at the Gaming Facility or any other Tribal business, it must first be established that he/she meets the qualifications as stated in the job announcement/description. Similarly, before any existing employee may receive preference in employment at the Gaming Facility or any other Tribal business in the context of a Reduction in Force, it must first be established that he or she is satisfactorily performing the duties as stated in the job description and is equally qualified as others being considered for termination via a Reduction in Force.

### **Section 5. Preference**

It is the policy of the Gaming Facility and the Tribe in operating its other on-reservation businesses to hire the most qualified applicant and retain the most qualified employees. However, when candidates for an open position are determined to be equally qualified, Native American candidates will have preference for hiring purposes. Similarly, when employees are determined to be equally qualified but one or more must be terminated in the context of a Reduction in Force, Native American employees will have preference for retention purposes. This means that if the qualifications of the best candidates or existing employees are comparable, the Native American candidate or employee is given preference in hiring or retention in the event of a Reduction in Force. The following order of preference shall be adhered to when hiring qualified applicants at the Gaming Facility and other Tribal enterprises, and when retaining qualified employees at the same in the event of a Reduction in Force.

1. Members of the Habematolel Pomo of Upper Lake
2. Spouses, domestic partners (registered and unregistered) and those who are otherwise in a committed relationship with members of the Habematolel Pomo of Upper Lake
3. Parents, children, or other individuals who are residing with members of the Habematolel, Pomo of Upper Lake
4. All other documented Native Americans

5. All other applicants

If there are multiple qualified applicants or employees at the same preference level, then the decision-maker shall have discretionary authority to pick among the highest preference applicants or employees.

**Section 6. Employment Discrimination**

Any employment preference given in accordance with this Ordinance shall not be subject to an Employment Discrimination Claim.

**Section 7. Amendments**

This Ordinance, or any section herein, may be amended by a majority vote of the Executive Council.

**Section 8. Severability**

If any part of this Ordinance is found void and without legal effect, the remainder of the Ordinance shall continue to remain in full force and effect, as though such part had not been contained therein.

**Section 10. Effective Date**

This Ordinance shall take effect on the date it is approved by the Executive Council and shall replace all existing Tribal Members Employment Preference Ordinances and related practices, whether formal or informal, written or oral.

**CERTIFICATION**

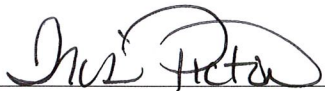
We the undersigned Officers of the Habematolel Pomo of Upper Lake (the “Tribe”), being the Chairperson and Secretary of the Executive Council of the Tribe, do hereby certify that the foregoing Ordinance was adopted by Resolution Number 09-14-07 by an official poll vote of Executive Council which is composed of seven (7) Council Members, of which 7 participated, constituting a quorum, a poll vote was duly conducted on this day of SEPTEMBER 18, 2014 and that this Ordinance was initially adopted by an affirmative poll vote of 6 YEAS, 0 NAYS, and 1 ABSTENTION. We further certify that this Ordinance has not been rescinded, amended, or modified in any way.



Sherry Treppa, Executive Council Chairperson

September 24, 2014

Date



Iris Picton, Executive Council Secretary

10-6-14

Date

