

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Amending Ordinance 01-85, the Tribal Employment Rights Ordinance)**

**RESOLUTION NO. 02-390**

- 1 **WHEREAS, the Tohono O'odham Nation adopted an Employment Rights Ordinance in 1985 to**  
2 **protect the economic security, health and welfare of the Nation's members; and**
- 3 **WHEREAS, the Tribal Employment Rights Office (TERO Office) recently encountered a situation**  
4 **where non-union tribal members referred for work by the TERO Office to a union**  
5 **signatory contractor were forced to pay fringe benefits into the union's trust funds**  
6 **instead of being paid cash in lieu of benefits, against the wishes of such employees;**  
7 **and**
- 8 **WHEREAS, tribal members should have the choice to either accept cash in lieu of fringe benefits**  
9 **or to accept fringe benefits as a part of their wage package; and**
- 10 **WHEREAS, Section 5, Unions, of Ordinance 01-85, and Part 2.1(f), Unions, of the TERO Regulations**  
11 **provide that any covered employer/contractor having a collective bargaining**  
12 **agreement with a union must obtain a written agreement from such union requiring**  
13 **that the union comply with the Indian preference laws, rules, regulations and**  
14 **guidelines of the Nation; and**
- 15 **WHEREAS, in many instances, covered employers/contractors do not have the political leverage**  
16 **necessary to secure union compliance with the Nation's Indian preference**  
17 **requirements thereby necessitating that the TERO Office assist in procuring such**  
18 **union compliance; and**
- 19 **WHEREAS, Section 7, Powers of the Commission, subsection F., states that the [TERO] Commission**  
20 **has the power, jurisdiction and authority to enter into agreements with unions to**  
21 **insure union compliance with Indian preference laws, rules, regulations and**  
22 **guidelines; and**
- 23 **WHEREAS, a question arises as to whether "wages and fringe benefits" fall within the scope or**  
24 **meaning of "Indian preference laws, rules, regulations and guidelines"; and**
- 25 **WHEREAS, Section 9, Delegation of Authority, provides that the Commission has the power to**  
26 **delegate Commission authority to the TERO Director/Administrator necessary for the**  
27 **efficient administration of the TERO Ordinance; and**
- 28 **WHEREAS, the TERO Director/Administrator, in protecting the economic security, health and**  
29 **welfare of the Nation's tribal members, needs to negotiate with unions respecting the**

**RESOLUTION NO. 02-390**

**(Amending Ordinance 01-85, the Tribal Employment Rights Ordinance)**

**Page 2 of 3**

1 right of TERO referrals to decide for themselves whether to accept cash in lieu of  
2 benefits or to accept fringe benefits provided by the unions; and

3 WHEREAS, to assist covered employers/contractors and the TERO Office in negotiating favorable  
4 agreements with unions, a clear definition for "Indian preference laws, rules,  
5 regulations and guidelines" of the Nation needs to be developed and placed within the  
6 "Definitions" section of the TERO Ordinance; and

7 WHEREAS, a definition for "Indian preference laws, rules, regulations and guidelines" must  
8 include wages and fringe benefits as a part of such definition.

9 NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that Ordinance  
10 01-85 be amended to include a definition, for "Indian Preference laws, regulations and  
11 guidelines" as follows:

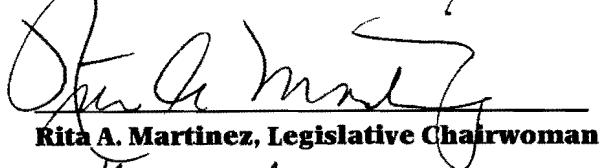
12 **Section 2: Definitions**

13 G. "Indian Preference laws, rules, regulations and guidelines" mean the ordinances,  
14 resolutions, provisions, policies, decisions, wage determinations and orders of  
15 the Tribe, including tribal judiciary interpretations thereof, which govern the  
16 employment and payment of Indians and elimination of employment  
17 discrimination within the jurisdiction of the Nation as enforced by the Tribal  
18 Employment Rights Office and Tribal Employment Rights Commission; and for  
19 which the TERO Office and TERO Commission are responsible.

20 BE IT FINALLY RESOLVED that Section 2, "G" be re-designated as "H".

21  
22 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12<sup>TH</sup> Day  
23 of SEPTEMBER, 2002 at a meeting at which a quorum was present with a vote of 1,924.9 FOR; 316.6  
24 AGAINST; 176.0 NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by  
25 Section 1 (c)(2) & (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the  
26 Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant  
27 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June  
28 18, 1934 (48 Stat. 984).

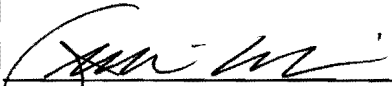
30 TOHONO O'ODHAM LEGISLATIVE COUNCIL

31  
32  
33   
34 Rita A. Martinez, Legislative Chairwoman

35  
36 19<sup>th</sup> day of September, 20 02  
37

**RESOLUTION NO. 02-390**  
**(Amending Ordinance 01-85, the Tribal Employment Rights Ordinance)**  
**Page 3 of 3**

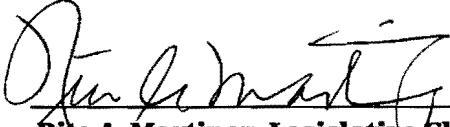
1 ATTEST:

2  
3  
4   
5 **Julianna Saraficio, Acting Legislative Secretary**

6  
7 12 day of September, 20 02.

8  
9 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham  
10 Nation on the 19th day of September, 20 02 at 9:15 o'clock, A.M.,  
11 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective  
12 upon his approval or upon his failure to either approve or disapprove it within 48 hours of  
13 submittal.

14  
15 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

16   
17  
18 **Rita A. Martinez, Legislative Chairwoman**

19  
20  
21  
22  
23  
24  APPROVED on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

25  
26  DISAPPROVED at \_\_\_\_\_ o'clock, \_\_\_\_ .M.

27  
28  
29 EXCEEDED 48 HOURS

30 **EDWARD D. MANUEL, Chairman**  
31 **TOHONO O'ODHAM NATION**

32  
33  
34  
35  
36 Returned to the Legislative Secretary on the 23rd day of

37  
38 September, 20 02, at 9:52 o'clock, A.M.

39  
40   
41  
42 **Julianna Saraficio, Acting Legislative Secretary**

43  
44  
45

ACTION: AMENDING ORDINANCE 01-85, THE TRIBAL EMPLOYMENT RIGHTS ORDINANCE

MOVED: COUNCILMAN DAVID GARCIA

SECOND: COUNCILWOMAN FERN SALCIDO

DATE: SEPTEMBER 12, 2002

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI</b> 317.7	1. FRANCES MIGUEL ( )	158.85	X			
	2. FRANCES G. ANTONE (Lucilda Norris-Valenzuela)	158.85	X			
<b>CHUKUT KUK</b> 248.1	1. KENNETH WILLIAMS (Juanita Homer)	124.05	X			X
	2. DAVID GARCIA (Mary Audrey Juan)	124.05	X			
<b>GU ACHI</b> 230.7	1. CAMILLUS LOPEZ ( )	115.35	X			
	2. ALEX J. RAMON (Jerome Joaquin)	115.35	X			
<b>GU VO</b> 188.3	1. FERN SALCIDO ( )	94.15	X			
	2. EMILIO LEWIS (Michael Flores)	94.15	X			
<b>HICKIWAN</b> 167.3	1. SHIRLEY MOLINA ( )	83.65		X		
	2. SANDRA ORTEGA ( )	83.65			X	
<b>PISINEMO</b> 174.7	1. BARBARA SALVICIO (Alex Antone)	87.35	X			
	2. PATRICIA CRUZ (Johnson Jose)	87.35	X			
<b>SAN LUCY</b> 160.7	1. ALBERT MANUEL, JR. (John W. Lawson, Sr.)	80.35		X		
	2. GLORIA RAMIREZ ( )	80.35		X		
<b>SAN XAVIER</b> 184.7	1. FELICIA NUÑEZ ( )	92.35	X			X
	2. DENNIS RAMON ( )	92.35	X			
<b>SCHUK TOAK</b> 144.5	1. MARY FLORES ( )	72.25	X			
	2. AMBROSE ENCINAS (Frances B. Conde(Francisco))	72.25		X		
<b>SELLS</b> 416.1	1. DENNIS E. JOSE ( )	208.05	X			
	2. EVELYN JUAN ( )	208.05	X			
<b>SIF OIDAK</b> 184.7	1. ISIDRO LOPEZ ( )	92.35			X	
	2. RITA MARTINEZ (Nicholas Jose)	92.35	X			
<b>TOTAL</b>		<b>2,417.5</b>	<b>1,924.9</b>	<b>316.6</b>	<b>176.0</b>	<b>[02]</b>

\*\*PASSED VOTES