RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Litigation Against the State of Arizona to Secure a Tribal-State Compact Pursuant to the Indian Gaming Regulatory Act)

RESOLUTION NO. 92-009

WHEREAS, *the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §2701 et seq. (the "Act"), requires that Class III gaming (as that term is defined in the Act), be conducted pursuant to the terms of a tribal-state compact; and*

WHEREAS, *the Nation has conducted Class III gaming at its gaming operation, Papago Bingo, since before the Act was signed into law; and*

WHEREAS, *upon passage of the Act, in November 1988 the Nation requested that the State of Arizona enter into compact negotiations; and*

WHEREAS, *the subsequent negotiations with the State of Arizona soon came to a standstill, due in large part to the many changes in the office of the Governor of Arizona, without the successful conclusion of a tribal-state compact; and*

WHEREAS, *there is now a new Governor of the State of Arizona, with whom the Nation has communicated its desire to negotiate a tribal-state compact; and*

WHEREAS, *in those negotiations the Governor and the Attorney General of the State of Arizona, through their representatives, have*

communicated their intention to not negotiate a compact which includes the operation of video gaming machines by Indian tribes in their gaming operations; and

WHEREAS, the State's refusal to negotiate compact terms for the conduct of video machine gaming is evidence of the State's bad faith in negotiating with the Nation; and

WHEREAS, the Act authorizes an Indian tribe to commence a lawsuit in federal district court against a state which fails to negotiate a tribal-state compact in good faith (25 U.S.C. §2710(d)(7)); and

WHEREAS, by Resolution No. 354-89, the Legislative Council previously authorized the commencement of litigation against the State of Arizona pursuant to the Act; and

WHEREAS, the Yavapai-Prescott Tribe of Arizona has filed a lawsuit in the federal district court for the District of Arizona (Case No. CIV-91-1696-PCT-PGR) against the State of Arizona pursuant to 25 U.S.C. §2710 (d)(7), alleging the State has negotiated in bad faith; and

WHEREAS, *attorneys representing the Yavapai-Prescott Tribe have filed with the Court a motion for summary judgment contending, among other things, that the Court may decide as a matter of law that the State is obligated to negotiate a compact which includes the operation of video gaming machines, which motion has been fully briefed and is set for hearing on February 10, 1992; and*

WHEREAS, *upon advice of the Nation's attorneys there is substantial risk that the Court in the Yavapai-Prescott case could render a decision which is adverse to the tribe because of the insubstantial record which is before the Court and upon which the Court will decide; and*

WHEREAS, *an adverse ruling in that case would be disadvantageous the interests of the Tohono O'odham Nation; and*

WHEREAS, *a separate lawsuit against the State of Arizona filed by the Nation, alone or in conjunction with other Arizona gaming tribes, may have the effect of forestalling the Court's decision in the Yavapai-Prescott case until a more thorough and complete record can be presented to the Court; and*

WHEREAS, *the Nation's Compact Negotiating Committee and the Legislative Council's Commerce Committee have been meeting and communicating with representatives of the other Arizona gaming tribes, and the Negotiating Committee and the Commerce Committee jointly recommend authorization of the initiation of litigation against the State of Arizona pursuant to the Indian Gaming Regulatory Act.*

NOW, THEREFORE, BE IT RESOLVED THAT *the Legislative Council hereby authorizes and directs the Nation's Attorney General to take all steps reasonably necessary to protect the Nation's interest in the continued operation of the Nation's gaming operation, including, without limitation, the initiation of a lawsuit in association with private attorney under contract to the Nation against the State of Arizona in federal district court, alone or in conjunction with other Arizona gaming tribes, as authorized under the Indian Gaming Regulatory Act, 25 U.S.C. §2710(d)(7).*

The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on the 6TH. day of JANUARY, 1992 at a meeting at which a quorum was present with a vote of 1,664.5 FOR; -0- AGAINST; 59.5 NOT VOTING; and 01 ABSENT, pursuant to the powers vested in the Council by Section 1 (a) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the

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Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Mary Ann Antone
Mary Ann Antone, Legislative Chairwoman

7th ***day of*** January, ***19*** 92

ATTEST:

Teresa M. Choyguha
Teresa M. Choyguha, Legislative Secretary

7th ***day of*** January, ***19*** 92

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 07th ***day of*** January, ***19*** 92, ***at*** 3:15 ***o'clock,*** P ***.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.***

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Mary Ann Antone
Mary Ann Antone, Legislative Chairwoman

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[X] APPROVED on the 17 day of January, 1992

[ ] DISAPPROVED) at 4:17 o'clock, P.M.

JOSIAH MOORE, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 7th day of January, 19 92, at 4:41 o'clock, P.M.

Teresa M. Choyguha, Legislative Secretary

RESOLUTION NO. 92-009

MOVED: COUNCILMAN ALBERT MANUEL, JR.

SECOND: COUNCILMAN EARL A. FRANCISCO

DATE: JANUARY 06, 1992

SUBJECT: AUTHORIZING LITIGATION AGAINST STATE OF AZ. TO SECURE A TRIBAL-STATE COMPACT PURSUANT TO THE INDIAN GAMING REGULATORY ACT

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
CHUKUT KUK 163.0	1. Kenneth Williams (Harriet Toro)	81.5	X			
	2. Alberta M. Lopez (Berdella Jose)	81.5	X			
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Manuel Osequeda, Jr. ( )	62.5	X			
GU VO 114.0	1. Virgil Lewis (Michael Flores)	57.0	X			
	2. Emilio Lewis (Anthony Flores)	57.0	X			
SAN LUCY 106.0	1. Albert Manuel, Jr. (Max P. Jose)	53.0	X			
	2. John Reno ( )	53.0	X			
PISINEMO 119.0	1. Johnson Jose ( )	59.5			X	
	2. Chester Antone (Fernando Valentine)	59.5	X			
GU ACHI 166.0	** 1. Alex Ramon (Fernando Joaquin)	83.0	X			
	2. Willard Anita ( )	83.0	X			
BABOQUIVARI 229.0	1. Earl A. Francisco (Kenneth Chico, Sr.)	114.5	X			
	** 2. Frances Miguel ( )	114.5	X			
SAN XAVIER 127.0	1. Joanne C. Preston (Carmelita Mattias)	63.5	X			
	2. Eugene Enis, Sr. (Michael R. Rios)	63.5	X			
SCHUK TOAK 107.0	1. JoAnn Francisco (David Valenzuela Sr.)	53.5	X			
	2. Frances Francisco (Joseph Juan)	53.5	X			
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			
	2. Andrew Patricio (Lucille Encinas)	155.0	X			X
SIF OIDAK 158.0	1. Mary Ann Antone (Nina Jose)	79.0	X			
	2. Willard Juan, Sr. (Delbert Thomas)	79.0	X			
	TOTAL	1,724.0	1,664.5	-0-	59.5	01

**PASSED VOTES