

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Approving a Business Lease and Approving Contractual Obligations for the  
Development of the Leased Premises)**

**RESOLUTION NO. 97-012**

**WHEREAS, the Hickiwan District believes economic development would be best served by the formation of the Hickiwan Development Authority, a wholly-owned enterprise of the Nation, formed for the benefit of members of the Nation and the District; and**

**WHEREAS, the Hickiwan District Authority shall be capitalized by the Hickiwan District and shall commence operations by operating a convenience store and RV park within the Hickiwan District and built with funds borrowed from the Tohono O'odham Gaming Authority and constructed as part of the new Class III gaming facility to be located in the Hickiwan District as approved by Resolution No. 96-054; and**

**WHEREAS, the principal borrowed to construct the convenience store and RV park is in excess of \$500,000 but less than \$1,000,000 (a sum not yet finalized) and documentation of the loan to be repaid by the Hickiwan Development Authority to the Tohono O'odham Gaming Authority involves waiver of sovereign immunity in excess of the limits provided in the Section 9.2.2 of the Charter; and**

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**4 WHEREAS, by Resolution No. 96-054, the Legislative Council approved the design  
5 build plans and the design build agreement for the convenience store  
6 and RV park as part of the new Class III gaming facility located  
7 within the Hickiwan District; and**

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**10 WHEREAS, the business lease in the form attached hereto requires a nominal  
11 rental fee for the leased premises and does not require a payment  
12 bond to be posted; and**

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**14 WHEREAS, the Legislative Council and the Hickiwan District Council agree to the  
15 nominal rental fee and the waiver of the payment bond for the  
16 following reasons: (a) to encourage economic development  
17 opportunities within the District without undue constraints and (b)  
18 under the terms of the proposed lease, all improvements will become  
19 the property of the Nation at the termination of the lease; and**

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**23 WHEREAS, the Hickiwan District has a Charter for the Hickiwan Development  
24 Authority and a proposed lease by and between the Nation and the  
25 Hickiwan Development Authority; and**

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**WHEREAS, the Hickiwan District has presented a supporting resolution to the Legislative Council, urging the adoption of the Charter, the approval of the business lease and recommending that the Legislative Council modify the limited waiver of the Authority's immunity as permitted in Section 9.3 of the Charter in order to finalize the loan from the Tohono O'odham Gaming Authority to construct the convenience store and RV park.**

**NOW, THEREFORE, BE IT RESOLVED that:**

- 1. The Legislative Council hereby approves the business lease between the Hickiwan Development Authority and the Nation, in substantially the form attached hereto.**
- 2. The Legislative Council accepts the above-stated justification for the nominal rental fee and waiver of the payment bond.**
- 3. The Legislative Council hereby approves raising the level of the Hickiwan Development Authority's limited waiver of sovereign immunity with respect to contract claims as described in Section 9.2.2 of the Charter, but only for contracts related to the loan**

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of funds from the Tohono O'odham Gaming Authority for the construction of the convenience store and RV park, to: the lesser of the HICKIWAN Development Authority's payment obligation under the loan or One Million Dollars (\$1,000,000).

The HICKIWAN Development Authority's immunity from execution on any judgement, award or order for contract, as described in Section 9.2.2, related to the above-referenced loan is likewise raised to: an amount which, when added to amounts received from other sources in satisfaction of such judgement, award or order does not exceed One Million Dollars (\$1,000,000).

4. The Nation's Chairman is authorized and directed to execute any document or agreement in furtherance of this Resolution.

The foregoing Resolution was passed by the Tohono O'Odham Council on the 09TH day of JANUARY, 1997 at a meeting at which a quorum was present with a vote 1,876.0 FOR; -0- AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1 (f) of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on