

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Agreement and Indemnification with Bank of America, National Association)

RESOLUTION NO. 09-508

1 **WHEREAS, by Resolution No. 09-164 the Tohono O'odham Nation ("Nation") approved a Per Capita**
2 **Revenue Allocation Plan which allows the Nation to issue per capita payments to**
3 **eligible Nation members in accordance with the Indian Gaming Regulatory Act (25**
4 **U.S.C. Section 2701-2721), Initiative IN-97-01 (16 T.O.C. Chapter 3) and the Ordinance**
5 **for the Regulation of Gaming Activities within the Tohono O'odham Nation, (16 T.O.C.**
6 **Chapter 1); and**

7 **WHEREAS, on June 15, 2009 the Department of the Interior approved the Nation's Per Capita**
8 **Revenue Allocation Plan; and**

9 **WHEREAS, the Nation has requested that the Bank of America, National Association ("BANA")**
10 **facilitate the cashing of per capita checks by the Nation's members by agreeing to**
11 **accept the Nation's enrollment identity card as a primary form of identification when**
12 **cashing their checks; and**

13 **WHEREAS, the BANA has concerns that per capita checks will be fraudulently cashed at its banks**
14 **and later will not be honored by the Nation, thereby causing losses by the bank; and**

15 **WHEREAS, the Nation and BANA have negotiated an Agreement and Indemnification**
16 **("Agreement") in the form attached hereto, which Agreement provides that the Nation**
17 **will indemnify BANA against certain specified claims and losses resulting from this**
18 **check cashing Agreement, and provides that the parties will submit any disputes**
19 **arising under the Agreement to arbitration in accordance with the Commercial**
20 **Arbitration Rules of the American Arbitration Association; and**

21 **WHEREAS, the Agreement has been reviewed by the Budget and Finance Committee, which**
22 **recommends approval by the Legislative Council.**

23 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council:**

- 24 **1. Approves the Agreement and Indemnification substantially in the form attached**
25 **hereto, and authorizes the Chairman of the Nation to execute it.**
- 26 **2. Approves a limited waiver of the Nation's sovereign immunity to support the**
27 **indemnification provision in Section 2 and the arbitration provision in Section 3.c.**
28 **of the Agreement.**

29 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16TH. Day**
30 **of SEPTEMBER, 2009 at a meeting at which a quorum was present with a vote of 2,318.50 FOR; -0-**
31 **AGAINST; -0- NOT VOTING; and 277.0[04] ABSENT, pursuant to the powers vested in the Council by**
32 **Section 1 (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the**
33 **Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
34 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
35 **18, 1934 (48 Stat. 984).**
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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Felicia Huntz
Verlon M. Jose, Legislative Chairman

16th day of September, 2009

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary

16 day of September, 2009.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 16th day of September, 2009 at 5:19 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

Felicia Huntz
Verlon M. Jose, Legislative Chairman

on the 16 day of September, 2009

APPROVED

at 5:20 o'clock, P.M.

DISAPPROVED

Ned Norris, Jr.
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 16 day of September, 2009, at 5:21 o'clock, P.M.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: APPROVING AGREEMENT AND INDEMNIFICATION WITH BANK OF AMERICA, NATIONAL ASSOCIATION

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON SECOND: COUNCILWOMAN EVELYN JUAN MANUEL

DATE: SEPTEMBER 16, 2009

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35	X			
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY LISTO ()	224.80	X			
	2. EVELYN B. JUAN MANUEL ()	224.80	X			
SCHUK TOAK 159.0	1. FRANCES B. CONDE (Fredrick Jose)	79.50	X			
	2. LINDA PARLEY (Agnes Joaquin)	79.50	X			
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35	X			
SAN LUCY 187.1	1. LORRAINE EILER (Charlotte Cadavas)	93.55	X			
	2. GLORIA RAMIREZ ()	93.55	X			
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X			
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25	X			
	2. SANDRA ORTEGA ()	87.25	X			X
GU VO 206.3	1. GRACE MANUEL ()	103.15	X			
	2. PAMELA ANGHILL (Angela Ortiz)	103.15	X			
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X			
	2. CYNTHIA E. MANUEL ()	115.05	X			X
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50				X
	2. VERLON M. JOSE ()	138.50				X
BABOQUIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			
	2. FRANCES G. ANTONE ()	162.0	X			
TOTAL		2,595.50	2,318.50	-0-	-0-	277.0 [04]