

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Suspending Authority to Expend Gaming Revenues Pending Issuance of Certificates of Election and Seating Gu Vo District Officials Elected in the 2011 General Election)

RESOLUTION NO. 11-400

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power "to manage any**
2 **funds within the exclusive control of the Tohono O'odham Nation, including proceeds**
3 **derived from lands and resources of the Tohono O'odham Nation, and to appropriate**
4 **these funds for the benefit of the nation and its members." (Constitution, Article VI,**
5 **Section 1(d)(2)); and**

6 **WHEREAS, "All expenditures of these funds shall be pursuant to appropriations or budgets**
7 **authorized under resolutions or in accordance with ordinances of the Tohono**
8 **O'odham Council" (Constitution, Article VI, Section 1(d)(2)); and**

9 **WHEREAS, the Nation is required by tribal and federal law and its class III gaming compact to**
10 **ensure the lawful expenditure of all the Nation's gaming revenues, including revenues**
11 **distributed to the Nation's 11 districts (Ordinance for the Regulation of Gaming**
12 **Activities within the Tohono O'odham Nation, Section 302; 25 U.S.C. § 2710(b)(2)(B);**
13 **Tohono O'odham Nation-State of Arizona Gaming Compact, Section 3(aa) (2003)); and**

14 **WHEREAS, the Nation funds the operation of district governments with the Nation's gaming**
15 **revenues in accordance with the Gaming Revenue Distribution Formula and District**
16 **Allocation Guidelines (26 Tohono O'odham Code Chapter 6, Article 3); and**

17 **WHEREAS, the expenditure of each district's allocation of gaming revenues is conditioned on**
18 **annual audits by certified accountants retained by the Nation, adequate internal**
19 **controls, a district budget that is approved by the Legislative Council and "actual**
20 **expenditures which have been budgeted for, and expended in compliance with, Article**
21 **IX, Section 7 of the Nation's Constitution and Section 302 of the Gaming Ordinance" (26**
22 **Tohono O'odham Code Chapter 6, Article 3, Section 1302 and Sections 1304-1306); and**

23 **WHEREAS, the Nation allocates approximately \$1.7 million in gaming revenues annually to Gu Vo**
24 **District for District operations (Resolution No. 10-290 and Resolution No. 11-307) and**
25 **has a fiduciary, statutory, and contractual duty to ensure revenues are expended in**
26 **accordance with applicable law; and**

27 **WHEREAS, unlike the majority of the Nation's other districts, which receive and directly manage**
28 **their annual gaming revenue allocation, the Nation maintains the Gu Vo District's**
29 **allocation in an account managed by the Nation's treasurer as directed by elected**
30 **Nation's officials comprising the Investment Committee; and**

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1 **WHEREAS, the Nation also performs most of the District's payroll, accounting, and other financial**
2 **functions on the District's behalf; and**

3 **WHEREAS, the Nation carries insurance and, subject to reimbursement, pays Gu Vo District**
4 **building and vehicle insurance premiums, as well as employee medical, dental, life,**
5 **and disability insurance premiums for district employees and officials; and**

6 **WHEREAS, the Nation also maintains insurance policies for fraud and theft as well as errors and**
7 **omissions by duly authorized Gu Vo District officials; and**

8 **WHEREAS, because the Nation has substantial control over Gu Vo District funds, the District**
9 **submits purchase requisitions and other expenditure requests to the Nation for**
10 **approval before the Nation authorizes District funds to be disbursed and expended;**
11 **and**

12 **WHEREAS, although the Legislative Council approved the District's budget for the fiscal year**
13 **beginning October 1, 2010, the Nation cannot currently confirm that the Gu Vo District**
14 **expenditures are being authorized by lawfully authorized District officials (Resolution**
15 **No. 10-366, Resolution No. 11-029, and Resolution No. 11-149); and**

16 **WHEREAS, following the Nation's May 28, 2011 general election, the Gu Vo District Council (1)**
17 **refused to issue certificates of election and seat the District chairwoman and vice-**
18 **chairwoman as required by Article VII, Section 6(N) of the Uniform Election Ordinance,**
19 **(2) unlawfully assumed the authority of the Nation's Election Board by declaring an**
20 **election result conflicting with the Board's certificate of election results, (3) unlawfully**
21 **appointed an "interim" District chair and vice chair, and (4) subsequently replaced the**
22 **interim chair and vice chair with other individuals who were not candidates for the**
23 **offices of District chair or vice chair in the 2011 general election; and**

24 **WHEREAS, the Constitution expressly prohibits a district from expending funds "except pursuant**
25 **to budgets authorized under resolutions of the district council and approved by the**
26 **Tohono O'odham Council" and requires that any district funds be managed by duly**
27 **authorized district officials (Constitution, Article IX, Section 7); and**

28 **WHEREAS, the Gaming Revenue Distribution Formula and District Allocation Guidelines**
29 **similarly provide that the district allocation is available for expenditure subject to**
30 **numerous conditions, including "actual expenditures which have been budgeted for,**
31 **and expended in compliance with, Article IX, Section 7 of the Nation's Constitution and**

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1 Section 302 of the Gaming Ordinance” (26 Tohono O’odham Code Chapter 6, Article 3);
2 and

3 **WHEREAS, the Nation cannot confirm that expenditures of the Nation’s gaming revenues that are**
4 **allocated for Gu Vo District are being authorized by district officials “in compliance**
5 **with” the Nation’s Constitution and laws; and**

6 **WHEREAS, on or before August 25, 2011 the Tohono O’odham Court of Appeals is scheduled to**
7 **render a decision on the Nation’s petition for a writ of mandamus seeking to compel**
8 **the Gu Vo District Council to issue certificates of election and seat the chairwoman**
9 **and vice chairwoman elected in the Nation’s 2011 general election.**

10 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council hereby suspends**
11 **its approval of the Gu Vo District’s FY 2011 budget by Resolution No. 10-366, Resolution**
12 **No. 11-029, and Resolution No. 11-149, subject to the clauses below.**

13 **BE IT FURTHER RESOLVED that the Nation shall not expend any further gaming revenues allocated**
14 **to the Gu Vo District or authorize payments or expenditures of funds or resources on**
15 **behalf of the Gu Vo District, provided that**

- 16 **1. the Nation will continue providing the Gu Vo District with police, fire, other public**
17 **safety, social, health, and all other services that are performed by the Tohono**
18 **O’odham Nation;**
- 19 **2. the Nation will use Gu Vo District funds to pay insurance premiums for the Gu Vo**
20 **District; and**
- 21 **3. the Nation will continue expending Gu Vo District funds to pay Gu Vo District**
22 **employee salaries and benefits, and wake and emergency assistance.**

23 **BE IT FINALLY RESOLVED that this resolution shall be effective upon enactment in accordance**
24 **with the Nation’s Constitution and shall remain in effect until the Gu Vo District**
25 **chairperson and vice chairperson who were elected in the 2011 general election are**
26 **issued certificates of election and seated.**

27 **The foregoing Resolution was passed by the Tohono O’odham Legislative Council on the 17TH Day**
28 **of AUGUST, 2011 at a meeting at which a quorum was present with a vote of 1,688.70 FOR; 318.10**
29 **AGAINST; 773.80[06] NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council**
30 **by Section 1 (d) of Article VI and Section 1 (l) of Article IX, Section 7 of the Constitution of the Tohono**
31 **O’odham Nation, adopted by the Tohono O’Odham Nation on January 18, 1986; and approved by**
32 **the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to**
33 **Section 16 of the Act of June 18, 1934 (48 Stat. 984).**

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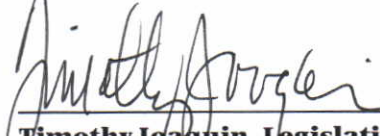
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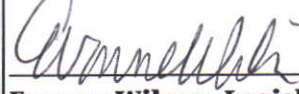
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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman
19 day of August, 2011

ATTEST:

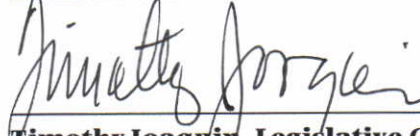


Evonne Wilson, Legislative Secretary

18 day of August, 2011

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 19 day of August, 2011 at 9:32 o'clock, A.M., pursuant to the provisions of Section 4 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



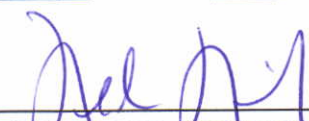
Timothy Joaquin, Legislative Chairman

APPROVED

on the 19 day of August, 2011

DISAPPROVED

at 2:25 o'clock, P.M.



NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

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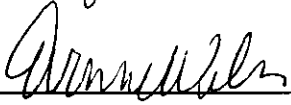
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Returned to the Legislative Secretary on the 19 day of

August, 2011, at 2:51 o'clock, P.M.



Evonne Wilson, Legislative Secretary

ACTION: SUSPENDING AUTHORITY TO EXPEND GAMING REVENUES PENDING ISSUANCE OF CERTIFICATES OF ELECTION AND SEATING GU VO DISTRICT OFFICIALS ELECTED IN THE 2011 GENERAL ELECTION

MOVED: COUNCILWOMAN EVELYN JUAN MANUEL

SECOND: COUNCILWOMAN FRANCES CONDE

DATE: AUGUST 17, 2011

| DISTRICT | LEGISLATIVE REPRESENTATIVES | # OF VOTES | FOR | AGAINST | NOT VOTING | ABSENT |
|-----------------------------|---|-----------------|-----------------|---------------|------------------------------|-------------|
| BABOQUIVARI 342.0 | 1. FRANCES MIGUEL (Roberta Harvey) | 171.0 | X | | | |
| | 2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>) | 171.0 | X | | | |
| CHUKUT KUK 302.2 | 1. ETHEL GARCIA (Sara Mae Williams) | 151.10 | | | X | |
| | 2. BILLMAN LOPEZ () | 151.10 | | | X | |
| GU ACHI 244.9 | 1. TIMOTHY L. JOAQUIN (Rose Johnson Antone) | 122.45 | | | X | |
| | 2. CYNTHIA E. MANUEL (Louis L. Johnson) | 122.45 | | | X | |
| GU VO 226.7 | 1. GRACE MANUEL (Floyd Flores) | 113.35 | | | X | |
| | 2. PAMELA ANGHILL (Angela Ortiz) | 113.35 | | | X | X |
| HICKIWAN 186.3 | 1. LOUIS R. LOPEZ (Michelle Ortega) | 93.15 | X | | | |
| | 2. SANDRA ORTEGA () | 93.15 | X | | | X |
| PISINEMO 200.7 | 1. CHESTER ANTONE (Tony Murrietta) | 100.35 | X | | | |
| | 2. EDWARD MANUEL (Gerald Fayuant) | 100.35 | X | | | |
| SAN LUCY 204.6 | 1. LORRAINE EILER () | 102.30 | X | | | |
| | 2. JANA MONTANA (Gloria Ramirez) | 102.30 | | X | | |
| SAN XAVIER 215.8 | 1. HILARION CAMPUS () | 107.90 | | X | | |
| | 2. OLIVIA VILLEGAS-LISTON (Eugene Enis) | 107.90 | | X | | |
| SCHUK TOAK 169.8 | 1. FRANCES B. CONDE () | 84.90 | X | | | |
| | 2. FREDERICK JOSE (Phyllis Cachora) | 84.90 | X | | | |
| SELLS 475.7 | 1. ARTHUR WILSON (Kimberly Mull) | 237.85 | X | | | X |
| | 2. EVELYN B. JUAN MANUEL () | 237.85 | X | | | |
| SIF Oidak 211.9 | 1. NICHOLAS JOSE () | 105.95 | X | | X | |
| | 2. MARY LOPEZ () | 105.95 | X | | | |
| TOTAL | | 2,780.60 | 1,688.70 | 318.10 | 773.80 [06] | [03] |