

Chapter 16E

**COMPREHENSIVE ORDINANCE APPROVING TRIBAL CASINO GAMING ENTERPRISE
FINANCING**

- Sec. 16E-1. Authority of Principal Chief.
- Sec. 16E-2. Authority of TCGE Board.
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Sec. 16E-1. Authority of Principal Chief.

(a) The Second Amended and Restated Loan Documents are hereby approved and the Principal Chief is hereby authorized and directed to execute and deliver the Second Amended and Restated Tribal Agreement and any other Second Amended and Restated Loan Document to which the Tribe is a party, on behalf of the Tribe, and take such other steps and to execute and deliver such other documents that may be appropriate or required to implement the Second Amended and Restated Loan Documents, and/or to accomplish, complete and provide for the continued development, construction, financing, refinancing and operation of the Permanent Casino and the improvements thereto of the Master Plan Projects.

(b) The Principal Chief is hereby further authorized and directed to take such additional steps on behalf of the Tribe as may be required to perform, implement, give effect to and administer the Second Amended and Restated Tribal Agreement and any other Second Amended and Restated Loan Documents to which the Tribe is a party, including without limitation, the forwarding of such of the Second Amended and Restated Loan Documents or other documents related to the Master Plan Projects (as legal counsel for the Tribe or other parties to the Second Amended and Restated Loan Documents may request) to the Bureau of Indian Affairs or to other regulatory authorities for regulatory review or approval and/or for confirmation that any regulatory approval is not required.

(Ord. No. 655, 4-13-2001; Ord. No. 914, § 3, 9-24-2001; Ord. No. 995, 9-11-2003; Ord. No. 379, 7-6-2006; Ord. No. 859, 7-6-2007)

Sec. 16E-2. Authority of TCGE Board.

(a) The TCGE Board of Advisors is hereby authorized and directed (i) to execute and deliver the Second Amended and Restated Loan Agreement and all other Second Amended and Restated Loan Documents to which the TCGE is a party on behalf of the TCGE, with such changes as are deemed advisable and approved by the TCGE Board of Advisors, the execution by the TCGE being conclusive evidence of the necessity and approval of such changes (except that the maxi-

imum principal amount of the loan facilities under the Amended and Restated Loan Agreement shall not be increased above \$650,000,000, shall not be extended beyond the two two-year extension options following the initial six-year term of the loan facilities, the pricing grid for the calculation of interest shall not be modified to increase the effective interest rate for the loan facilities under the Second Amended and Restated Loan Documents, no additional assets shall be pledged to secure the obligations under the Second Amended and Restated Loan Documents, the limited waiver of sovereign immunity shall not be expanded or recourse rights of the Lenders expanded without the prior approval of the tribal Council), (ii) to borrow the loans and issue letters of credit under the Second Amended and Restated Loan Agreement and reconfirm the continuation of the security interest in the personal property assets of the TCGE under the existing Security Agreement dated September 25, 2003 in favor of the Administrative Agent for the benefit of the Lenders (the "Security Agreement"), and (iii) to take such other steps and to execute and deliver such other documents that may be appropriate or required to implement the Second Amended and Restated Loan Documents, and/or to accomplish, complete and provide for the financing of the Master Plan Projects as approved by Resolution No. 684 (2007). Without limiting the foregoing, the Board of Advisors of the TCGE is hereby authorized and directed in connection with the execution and delivery of the Second Amended and Restated Loan Documents to the Lenders to make, on behalf of the TCGE, as an instrumentality of the Tribe, the representations, warranties and agreements set forth in the Second Amended and Restated Loan Documents.

(b) The TCGE Board of Advisors is hereby further authorized and directed (i) to take such additional steps as an instrumentality of the tribe as may be required to perform, implement, give effect to and administer the Second Amended and Restated Loan Documents to which the TCGE is a party including, without limitation, the execution and delivery of any necessary amendments or waivers to the Second Amended and Restated Loan Documents as deemed advisable and approved by the TCGE Board of Advisors (except

that the maximum principal amount of the loan facilities under the Loan agreement shall not be increased above \$650,000,000, shall not be extended beyond the two two-year extension options following the initial six-year term of the loan facilities, the pricing grid for the calculation of interest shall not be modified to increase the effective interest rate for the loan facilities under the Second Amended and Restated Loan Documents, no additional assets shall be pledged to secure the obligations under the Second Amended and Restated Loan Documents, the limited waiver of sovereign immunity shall not be expanded or recourse rights of the Lenders expanded without the prior approval of the Tribal Council) and (ii) to complete the development, construction and equipping of the Master Plan Projects as approved by Resolution No. 684 (2007) including, without limitation, the execution and/or delivery of such agreements (as legal counsel for the TCGE or other parties to the agreements may request) to the Bureau of Indian Affairs or to other regulatory authorities for regulatory review or approval and/or for confirmation that any regulatory approval is not required.

(c) Without limiting the foregoing, the Tribe reconfirms the Security Agreement and the collateral pledged thereby shall continue to secure the obligations under the Second Amended and Restated Loan Documents and the TCGE Board of Advisors is hereby authorized and directed to reconfirm the Security Agreement and to execute and deliver, as an instrumentality of the Tribe, such control agreements for the pledge of all deposits or other accounts of the TCGE and such other documents (collectively the "Security Documents") as necessary to create a perfected first priority security interest and first priority lien on the collateral described in the Security Agreement. It is acknowledged that the ownership and title to all personal property, whether now existing or hereafter acquired (including cash and revenues) of the Permanent Casino is in the name of the TCGE, as an instrumentality of the Tribe; provided, however, that nothing herein shall affect the title to the real property, which includes all land, buildings, improvements or fixtures (the "Real Property") related to the Permanent Casino or any Real Property related to other facilities

that the Tribe authorizes to be a part of the Permanent Casino, which shall continue to be owned in the name of the Tribe with restrictions upon alienation imposed by the United States or in the name of the United States in trust for the Tribe and title to such Real Property shall always remain in trust status.

(Ord. No. 655, 4-13-2001; Ord. No. 914, § 3, 9-24-2001; Ord. No. 995, 9-11-2003; Ord. No. 379, 7-6-2006; Ord. No. 859, 7-6-2007)

Sec. 16E-3. Agreements are obligations of Tribal signatories.

(a) Upon the execution and delivery of the Second Amended and Restated Loan Documents as authorized by this ordinance, the Second Amended and Restated Loan Agreement, the Second Amended and Restated Tribal Agreement and the other Second Amended and Restated Loan Documents are under the laws of the Tribe, legal, valid and binding obligations of the TCGE and/or the Tribe (collectively the "Tribal Signatories") who are parties thereto, enforceable against the Tribal Signatories in accordance with their terms including the waiver of sovereign immunity, consent to jurisdiction and arbitration provisions in Section 10.25 of the Second Amended and Restated Loan Agreement, Section 5.7 of the Second Amended and Restated Tribal Agreement and Section 11.11 of the Security Agreement and limited recourse provision as set for in Section 10.33 of the Second Amended and Restated Loan Agreement, Section 5.19 of the Second Amended and Restated Tribal Agreement and Section 11.13 of the Security Agreement, notwithstanding any contrary provision of Tribal law, except as otherwise provided in paragraph (f) below.

(b) Upon the execution and delivery of the second Amended and Restated Loan Documents as authorized by this ordinance, the Administrative Agent, for the benefit of the Lenders under the Security Agreement shall continue to have under the laws of the Tribe a valid and perfected first priority security interest in and lien on all collateral described in the Security Agreement superior to the claim of any other creditor of the TCGE, or of the Tribe, whether such creditor is the Tribe itself, the TCGE, any other instrumentality or agency of the Tribe, or anyone else.

(c) No permits, licenses or other governmental approvals, or renewals thereof, are required to be issued by the Tribe or any agency of the Tribe for or in connection with the Second Amended and Restated Loan Documents.

(d) No Indian Traders License is required to be issued under Tribal law or under the Indian Trader's Licensing Act, 25 U.S.C. 261-254 and accompanying regulations, for any party in connection with the closing and performance of the transactions contemplated by the Second Amended and Restated Loan Documents.

(e) As to the specific transaction approved in this ordinance, the provisions of this ordinance and Second Amended and Restated Loan Documents shall control and take precedence over any contrary provisions of any ordinance, resolution or other law of the Tribe or adopted on behalf of the Tribe, or by any agent, corporation, enterprise or instrumentality of the Tribe.

(f) Nothing contained herein shall have the effect of making any term contained in the Second Amended and Restated Loan Documents enforceable if such term is otherwise unenforceable under the laws of the state whose laws are designated as governing pursuant to the terms of such Second Amended and Restated Loan Documents. Further, this ordinance shall not have the effect of waiving nor shall it be construed as waiving any defense to the enforceability of any term of the Second Amended and Restated Loan Documents which, absent this ordinance, would be available to the parties to the Second Amended and Restated Loan Documents under the laws of the state whose laws are designated as governing pursuant to the terms of such Second Amended and Restated Loan Documents. Any such defense is hereby specifically retained.

(Ord. No. 655, 4-13-2001; Ord. No. 914, § 3, 9-24-2001; Ord. No. 995, 9-11-2003; Ord. No. 379, 7-6-2006; Ord. No. 859, 7-6-2007)