CONSTITUTION OF THE PASCUA YAQUI TRIBE

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CONSTITUTION OF THE PASCUA YAQUI TRIBE

PREAMBLE

We, the Pascua Yaqui Tribe of Arizona, in order to exercise more fully our privileges and duties as American citizens and promote the general welfare of our people, to cooperate more fully with the Government of the United States for our benefit, to establish a self-supporting economy offering education and opportunity for all, and to preserve and promote the spiritual, cultural and social values of the Yaqui people, do hereby adopt this constitution, under Divine Guidance and pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended.

ARTICLE I - BILL OF RIGHTS

Section 1. Consistent with the provisions of this Constitution, the Pascua Yaqui Tribe in exercising its powers of self-government shall not:

a. Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition for redress of grievances.

b. Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

c. Subject any person for the same offense to be twice put in jeopardy.

d. Compel any person in any criminal case to be a witness against himself/herself.

e. Take any private property for public use without just compensation.

f. Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against them, to have compulsory process for obtaining witnesses in their favor, and at their own expense to have the assistance of counsel for their defense.

g. Require excessive bail, impose excessive fines, inflict cruel and unusual punishment, and in no event impose for conviction of one (1) offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of $5,000 or both.

h. Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

i. Pass any bill of attainder or *ex post facto* law.

j. Deny to any person accused of any offense punishable by imprisonment the right, upon request, to a trial by jury of not less then six (6) persons.

Section 2. The privilege of the writ of habeas corpus shall be available to any person in a court of the United States to test the legality of their detention by order of the Pascua Yaqui Tribe.

ARTICLE II – JURISDICTION

The jurisdiction of the Pascua Yaqui Tribe and of the Pascua Yaqui Tribal Council shall extend to all lands within the boundaries of the Pascua Yaqui Indian Reservation, established pursuant to the Act of September 18, 1978 (Public Law 95-375; 92 Stat. 712). Such jurisdiction shall also extend to such other lands as may in the future be added thereto, and to all land which from time to time may be owned by or held in trust for the Pascua Yaqui Tribe provided the state, county, city or other political subdivision where such land is located has retroceded to the United States Federal Government all civil and criminal jurisdiction. The jurisdiction of the Pascua Yaqui Tribe shall include also that jurisdiction granted to Indian tribes pursuant to the Indian Child Welfare Act of 1978 (Public Law 95-608; 92 Stat 3069).

ARTICLE III - MEMBERSHIP IN THE PASCUA YAQUI TRIBE

Section 1. The membership of the Pascua Yaqui Indian Tribe shall consist of the following:

a. The base membership of the Pascua Yaqui Tribe shall be all eligible persons listed on the base membership roll of the Pascua Yaqui Tribe dated September 18, 1980, which was approved by the Phoenix Area Director on December 1, 1983, and published in the Federal Register on May 17, 1984. Corrections to the base roll may be made at any time by the tribal council subject to the approval of the Secretary of the Interior; provided that the names of additional persons may not be added to the base membership roll; and

b. All children born to members listed in Section 1(a) of this Article who are at least one-quarter (¼) degree Pascua Yaqui Indian Blood.

Section 2. The Pascua Yaqui Tribal Council shall have the power to enact ordinances, subject to the approval of the Secretary of the Interior, governing future membership and loss of membership.

Section 3. Any member of the Pascua Yaqui Tribe may relinquish membership by making written request to the Chairman of the Pascua Yaqui Tribe that his or her name be stricken from the tribal roll. No person who voluntarily relinquishes membership shall be reinstated to the Pascua Yaqui Tribe except by a majority vote of the Pascua Yaqui Tribal Council.

Section 4. No person otherwise eligible for membership in the Pascua Yaqui Tribe may be enrolled as a member of the tribe who, at the same time, is on the roll of any other tribe of Indians.

ARTICLE IV – ORGANIZATION OF GOVERNMENT

The powers of the Government of the Pascua Yaqui Tribe shall be divided into three separate branches**:** the Legislative, the Executive and the Judicial and no person or group of persons charged with the exercise of powers properly belonging to one of these branches, shall exercise any powers properly belonging to the others, except as this constitution may otherwise expressly direct or permit.

ARTICLE V - LEGISLATIVE BRANCH

Section 1. The legislative powers of the Pascua Yaqui Tribe shall rest in the Pascua Yaqui Tribal Council hereinafter referred to as the tribal council, provided the registered voters retain the power to legislate through the initiative and referendum.

Section 2. The tribal council shall consist of eleven (11) members elected at large from the membership of the Pascua Yaqui Tribe. The first tribal council election under this constitution shall be held within one hundred and twenty (120) days following approval by the Secretary of the Interior as provided in Article XXIII of this constitution. The council members elected to the tribal council shall serve for a term of four (4) years.

Section 3. Within thirty (30) days of the date of the election of tribal council members, a chairman and vice-chairman shall be chosen from among the tribal council members by vote of the members of the tribal council. The tribal council member receiving the most tribal council votes shall serve as chairman, and the tribal council member receiving the second most tribal council votes shall serve as vice-chairman. In the event of a tie, a run-off election shall be held, with all tribal council members voting except the two candidates. The candidate receiving a majority of the remaining nine (9) votes shall serve as chairman and the other candidate as vice-chairman.

The chairman and vice-chairman shall serve to that capacity for a term of four (4) years provided, however, that the tribal council may select a different chairman or vice-chairman at any time but only upon a vote of no confidence of at least two-thirds of the tribal council. The no confidence vote by the tribal council is solely for the purpose of removal of such tribal council member in their capacity as chairman or vice-chairman. Nor is the two-thirds vote required in this election related to the complete removal of a tribal council member as contemplated in Article X, Section 1. A chairman or vice-chairman removed from his post in this manner shall continue to serve as a member of the tribal council.

Section 4. Membership on the tribal council shall be limited to enrolled members of the Pascua Yaqui Tribe, as defined in Article III of this constitution, who are twenty-five (25) years of age or more at the time of election or appointment.

Section 5. No person who has been convicted in any federal or state court of a felony, or of any crime involving deceit, fraud or misappropriation of funds, shall be eligible to be a member of the tribal council unless, in the event of a felony conviction, his or her voting rights have been legally restored, or unless the criminal conviction has been expunged.

Section 6. The tribal council shall be the sole judge in determining eligibility of candidates for office. The tribal council shall have the authority to enact such ordinances as are necessary to regulate eligibility of candidates for office consistent with this constitution and the Indian Civil Rights Act of 1968.

Section 7. No person shall serve as a member of the tribal council while holding any other elective office, or holding any policy making position with the tribe, or while in the employ of the tribe or any tribal enterprise.

ARTICLE VI - POWERS OF THE TRIBAL COUNCIL

Section 1. The Pascua Yaqui Tribal Council shall have the following powers including those conferred by Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987), as amended, subject to any limitations imposed upon such powers by Federal law and this constitution:

a. To negotiate and to execute contracts and agreements with federal, state and local governments as well as any person, association, partnership, corporation or other private entity.

b. To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior so long as such approval is required by Federal law.

c. To authorize employment of any agent, community manager, representative, business manager, advisor, or other employee upon such terms as it deems advisable in the best interest of the Pascua Yaqui Tribe.

d. To appropriate available tribal funds for public, governmental and business purposes serving the general welfare of the Pascua Yaqui Tribe.

e. To borrow money and to pledge or assign future tribal income as security for such loans.

f. To levy and collect dues and fees upon any person residing within the jurisdiction of the Pascua Yaqui Tribe consistent with the provisions of Article II of this constitution and any applicable Federal laws or regulations.

g. To sell and convey, lease, and grant interests in tribal lands and property, subject to the laws and regulations of the United States Government or any branches thereof.

h. To make loans to members of the Pascua Yaqui Tribe provided such loans are made in accordance with ordinances adopted by the tribal council and provided that such loans are secured by sufficient collateral.

i. To establish rates of compensation to be paid to officers, council members, tribal employees and members of boards, commissions and committees, and to create and provide compensation for any other tribal officer deemed necessary for the proper conduct of tribal business, including sergeant-at-arms.

j. To incorporate or authorize the organization of any profit or non-profit corporation or association, to subscribe to the purchase of stock, and to participate in the ownership or management of any corporation or association in such forms as the tribal council deems appropriate to serve the best interests of the Pascua Yaqui Tribe.

k. To acquire for public purposes of the Pascua Yaqui Tribe consistent with Federal law, by direct purchase any property or interest therein held by any member or non-member of the Pascua Yaqui Tribe within the area of the Pascua Yaqui Reservation and to acquire by purchase or donation any property outside of the reservation. Any such acquisitions are subject to the due process requirements set out in Article I of this constitution.

l. To regulate all business, scientific and missionary activities, and the granting of licenses and permits therefore to members and non-members of the tribe.

m. To bar for cause any person from entering the reservation, and to exclude and remove any such person from the reservation, consistent with the provisions of Article I of this constitution; except that this provision does not apply to certain Federal and state officials who must enter onto the reservation in performance of official duty.

n. To create offices, committees, boards, and associations, and to define their powers and duties and to make any provisions that may be deemed necessary in exercising this power.

o. To develop and adopt ordinances, resolutions, rules and regulations to protect and promote the peace, health, safety and general welfare of the Pascua Yaqui people and to facilitate the conduct and operation of the tribal government. The council may establish a tribal police agency.

p. To establish rules and regulations governing its proceedings including removal of council members consistent with this constitution.

q. To protect all historic, religious, sacred, archeological and other sites of scenic or scientific or cultural interest on the Pascua Yaqui Reservation and on land where the title or an interest therein is owned by or held in trust for the tribe.

r. To regulate ceremonies and other Yaqui customs and traditional activities in order to ensure the preservation of Yaqui cultural values, and to encourage and foster the arts, crafts, traditions, language and culture of the tribe.

s. To seek, apply for and accept grants, aid/gifts, of donations from any source.

t. To enact ordinances, subject to applicable federal law and this constitution, regulating activities including, but not limited to, civil actions, crimes, law enforcement, gambling and gaming, zoning, business, signs, land use, environmental quality, housing development and improvement, uniform building codes and enforcement, protection of minors and mental incompetents, including the appointment of guardians and custodial care and adoptions, and sale and use of alcoholic beverages.

u. To manage, protect and preserve all lands, minerals, water, wildlife and other natural resources on the reservation and other land subject to the jurisdiction of the tribe.

v. To issue bonds or other debt instruments in accordance with the tribal law and the laws of the United States.

w. To conduct, on or off the reservation, any and all activities or businesses not otherwise prohibited by law.

Section 2. All ordinances, resolutions, rules and regulations shall be enacted by a majority vote of the tribal council unless otherwise provided herein. Each tribal council member, including the chairman and vice-chairman shall be entitled to cast one vote. The foregoing enumeration of powers shall not be construed to limit the powers of the Pascua Yaqui Tribe, but all powers not expressly entrusted to the tribal council by this constitution shall be reserved to the people of the Pascua Yaqui Tribe, and such powers may be exercised by the people through appropriate action. Those powers specifically set forth in Article VI, Section 1 of this constitution are expressly and solely entrusted to the tribal council and any action, sale, lease, conveyance, enactment, acquisition, contract obligation, incorporation, purchase, removal of lawmaker, appropriation or loan entered into on behalf of the Pascua Yaqui Tribe by any other entity or individual shall be considered void or voidable.

ARTICLE VII - THE EXECUTIVE BRANCH

Section 1. The executive branch of the Pascua Yaqui Tribe shall consist of the chairman, and vice-chairman referred to in Article V, a secretary and treasurer and such other officers as the tribal council may find necessary for the proper administration of the tribal business. A "tribal officer" shall be the designated head of an agency created by the tribal council to regulate and attend to a defined area of tribal government. The secretary, treasurer and

all non-elective tribal officers shall report to and serve at the will of the chairman subject to the provisions of Section 4 of this article. All other persons employed by the tribe shall be considered "tribal employees" and are exempt from Section 4 of this article. The terms of employment for all tribal employees shall be set forth in a personnel policy manual prepared by the tribal administrator and approved by the tribal council.

The executive power of the Pascua Tribe shall be vested in the chairman, vice-chairman, secretary, treasurer and tribal officers subject to the paramount authority of the tribal council.

Section 2. The chairman and vice-chairman shall be selected as provided in Article V, Section 3 of this constitution.

Section 3. The secretary, treasurer and tribal officers shall be nominated by the chairman subject to the approval of a two-thirds majority vote of the tribal council. Only one person may fill each executive post provided for herein. The secretary and treasurer shall be selected from within the tribal council.

Section 4. All non-elective tribal officers shall be responsible to the chairman and may be removed from office by the chairman of the tribal council, with the consent of a two-thirds majority vote of the tribal council.

Section 5. No person shall be eligible to hold an elective tribal office or the position of secretary or treasurer unless he or she is an enrolled member of the Pascua Yaqui Tribe, as defined in Article III of this constitution, and has reached the age of twenty-five (25) years.

Section 6. No person who has been convicted in any Federal or state court of a felony, or of any crime involving deceit, fraud or misappropriation of funds shall be eligible to serve as a tribal officer unless, in the case of a felony conviction, his or her voting rights have been restored, or unless the criminal conviction has been expunged.

ARTICLE VIII - THE JUDICIARY

Section 1. The judicial powers of the Pascua Yaqui Tribe shall be vested in such tribal courts as the tribal council may establish but shall include a trial and appellate court.

Section 2. The jurisdiction of the courts shall extend to all cases in law and equity arising under, this constitution and the laws, traditions, customs or enactments of the Pascua Yaqui Tribe consistent with the provisions of this constitution. The tribal courts shall exercise jurisdiction over all civil and criminal matters wherein members or non-members of the Pascua Yaqui Tribe are parties, unless otherwise expressly prohibited by Federal or tribal laws.

Section 3. The duties and procedures of the tribal courts shall be established by ordinance of the tribal council.

Section 4. The judges of the Pascua Yaqui Tribe shall be nominated by the chairman subject to the approval of a two-thirds majority vote of the tribal council. The number, salary, qualifications of tribal judges and a system of staggered three-year terms shall be fixed by ordinance of the tribal council and no person appointed to the office of tribal Judge shall hold at the same time any other tribal office or position. The chairman shall nominate, subject to approval of a two-thirds majority vote of the tribal council, a chief judge who shall be responsible for the administration of judicial business and for providing assistance to the tribal council in establishing the duties of tribal Judges and in

formulating Rules of Court and Rules of Procedure for adoption by ordinance as provided in Section 3 of this article.

Section 5. The Court of Appeals of the Pascua Yaqui Tribe shall be created by the tribal council pursuant to Article VIII, Section 1. This court shall have the power of judicial review of all civil and criminal matters appealed from the Pascua Yaqui Tribal Court. Such appellate review shall not include trial de novo in any civil matter but trial de novo shall be provided in any criminal matter upon the request of any defendant.

Section 6. No person shall be appointed to the office of judge who has been convicted of a felony or of any crime involving deceit, fraud or misappropriation, of funds, unless in the event of a felony conviction, his or her voting rights have been restored; or unless the conviction has been expunged. Any member of the judiciary who is charged with any felony or a misdemeanor involving deceit, fraud or misappropriation of funds during his or her term in office may be suspended by a two-thirds majority vote of the tribal council during the pendency of the criminal investigation in order to preserve the dignity and integrity of the tribal court system; provided that the accused judge is first given a written statement of the charges pending at least ten (10) days before the meeting of the tribal council at which the action against him or her is to be taken and providing that he or she is given an opportunity to answer all pending charges. Upon conviction of a felony or any crime involving deceit, fraud or misappropriation of funds, a judicial officer shall automatically be removed from office effective the date of conviction.

Section 7. The Chief Judge of the Pascua Yaqui Tribal Court shall be an enrolled member of the Pascua Yaqui Tribe as defined in Article III; however, it shall not be a qualification that any other judge be an enrolled member of the Pascua Yaqui Tribe so long as he or she is a properly enrolled member of any recognized Indian tribe and, (1) has had at least five (5) years experience as a tribal court Judge, or (2) is a graduate of an accredited law school and has had at least one year of experience as either a tribal court advocate or tribal judge.

ARTICLE IX - TRIBAL ELECTIONS

Section 1. Within thirty (30) days of the effective date of this constitution, the incumbent tribal council shall adopt an election ordinance governing the conduct of all tribal elections. Such ordinance shall provide for, but not be limited to, provisions for voter registration, secret balloting, establishment of polling locations, proof of voting eligibility, nomination of candidates, and a procedure for resolving election disputes. This ordinance shall be made public no less than sixty (60) days prior to the first set of tribal elections. Provisions shall also be included regarding the conduct of recall, initiative and referendum elections and a uniform procedure for submitting petitions. Elections to amend this constitution shall be conducted in accordance with Article XXIII of this constitution.

Section 2. All enrolled members of the Pascua Yaqui Tribe, as defined in Article III of this constitution, who have reached the age of eighteen (18) years and have complied with the tribal voter registration ordinance shall be eligible to vote in tribal elections.

ARTICLE X - REMOVAL, RECALL AND RESIGNATION FROM OFFICE

Section 1. Any elected official, which includes tribal council members, chairman and vice-chairman or any appointed tribal official and as defined in Article VII, Section 1 of this constitution, or any judge of the tribal courts, who, during the term for which he or she has been elected or appointed to serve in tribal government is convicted of a felony or

of any crime involving deceit, fraud or misappropriation of funds, or who engages in gross neglect of duty or misconduct in office may be removed from office by a two-thirds majority vote of the tribal council. The two-thirds vote required in this section does not abridge the council's right to select a different chairman or vice-chairmen as provided for in Article V, Section 3. Before any vote for removal is taken, the accused shall be given a written statement of the charges against him or her at least ten days before the meeting of the tribal council called to consider the removal action. No removal action may be taken pursuant to this article until appeals of convictions, if any, are exhausted. No member of the tribal council shall preside over the meeting considering his or her removal; nor may any tribal council member participate in any vote considering his or her removal. The elected or appointed official whose removal is sought shall have the opportunity at the designated council meeting to answer any and all charges, to present documentation and to call witnesses on his or her behalf.

Section 2. The registered voters of the Pascua Yaqui Tribe shall have the right to recall any elected officer of the Pascua Yaqui Tribe by filing a petition with the secretary of the tribe signed by at least thirty percent (30%) of the registered voters. Upon receipt of a valid petition it shall be the duty of the tribal council to call a special election within thirty (30) days. In the event that a majority of those voting in such election, vote to recall the elected official, the office shall be immediately declared vacant.

Section 3. Upon the death or resignation of an elected or appointed tribal officer, his or her seat shall automatically be declared vacant.

Section 4. The Pascua Yaqui Tribal Council shall adopt such ordinances as are necessary to implement this article consistent with Article IX of this constitution.

ARTICLE XI – VACANCIES

Section 1. All vacancies which occur on the Pascua Yaqui Tribal Council, the office of the chairman or vice-chairman or with the judiciary as a result of recall, removal, death or resignation shall be filled within 45 days in the manner provided in sections two (2) through four (4) of this article.

Section *2.* In the event of a vacancy, for any cause, in the office of the chairman, the vice-chairman shall assume the duties of the chairman for the remainder of the unexpired term or until a successor has been chosen by the tribal council. In the event of a vacancy in the office of vice-chairman, a successor shall be chosen by majority vote of the tribal council from among those members then sitting on the council.

Section 3. In the event of vacancy in the tribal council, that office shall be filled by special election provided that, should the vacancy occur within six (6) months of the next election, the council shall have the discretion to decline to hold a special election and to leave the office vacant. If more than six months remain in the unexpired term, a special election shall be held within forty-five (45) days of the date upon which the vacancy occurs. The candidate elected in the special election shall serve only for the remainder of the unexpired term.

Section 4. Any vacant judge's position in the tribal courts shall be filled as set out in Article VIII of this constitution. A judge selected to fill any vacancy in the tribal courts shall serve for the remainder of the unexpired term.

ARTICLE XII - INITIATIVE OR REFERENDUM

Section 1. The members of the Pascua Yaqui Tribe reserve to themselves the power of initiative and referendum.

Section 2. Upon receipt by the secretary of the tribe of a petition signed by at least thirty percent (30%) of the number of registered votes requesting an election on any initiative or referendum issue, the tribal council shall call and conduct an election within thirty (30) days of the petition's receipt pursuant to the procedures set forth in the election ordinance.

Section 3. Any measures referred to the tribe by the initiative or referendum procedure shall be placed on the ballot for approval or rejection by the voters. If the measure is approved by majority vote of the registered members of the tribe voting in that election, it shall become law provided that the measure does not conflict with any portion of this constitution; and further provided that at least 30% of the registered voters of the tribe vote in that election. Disputes concerning the constitutionality of such a measure shall be resolved by the Court of Appeals of the Pascua Yaqui Tribe.

ARTICLE XIII - TRIBAL LANDS

The Pascua Yaqui Reservation shall remain tribal property and shall not be granted or divided by allotment in whole or in part to individual members or groups of individual members as private property. The Pascua Yaqui Tribal Council shall enact an assignment ordinance subject to Secretarial approval governing the assignment of tribal land to tribal members for their private use.

ARTICLE XIV - LOCAL YAQUI COMMUNITIES

In order to encourage and facilitate the greatest possible participation in the affairs of the Pascua Yaqui Tribe on the part of all local Yaqui communities recognized as such by the Pascua Yaqui Tribal Council, local community organizations may be established subject to the provisions of this constitution and applicable federal law.

ARTICLE XV - DUTIES OF EXECUTIVE OFFICERS

Section 1. The Chairman of the Pascua Yaqui Tribe shall report to the Pascua Yaqui Tribal Council at each regular session thereof regarding the status of tribal matters and make such recommendations to the tribal council as he or she may deem advisable in the best interests of the tribe.

Section 2. The Chairman of the Pascua Yaqui Tribe shall act to carry out, or cause to be carried out, the provisions of any resolution which has been duly adopted by the Pascua Yaqui Tribal Council and he or she shall act in an executive capacity on behalf of the tribe in connection with all other tribal affairs, subject to any limitations provided in the resolution of the tribal council and this constitution. The chairman shall have no veto power over the ordinances and resolutions adopted by the tribal council.

Section 3. When so authorized under the terms of this constitution or by resolution of the Pascua Yaqui Council, the chairman of the Pascua Yaqui Tribe shall sign any and all documents, agreements, contracts and commitments for and on behalf of the Pascua Yaqui Tribe. The chairman may delegate the authority to sign such documents to either the vice-chairman, the secretary or the treasurer. Such delegation shall be in writing, shall specify to whom such authority is delegated, the purpose therefore and effective dates thereof and be approved by the tribal council.

Section 4. In the absence of the chairman, the vice-chairman shall perform such functions as the chairman shall direct subject to this constitution.

Section 5. The chairman shall direct the preparation of an annual tribal budget and present such budget for the approval of the Pascua Yaqui Tribal Council at the regular council meeting next preceding the close of any fiscal year.

Section 6. Both the chairman and vice-chairman of the Pascua Yaqui Tribe shall maintain offices on the Pascua Yaqui Reservation and the vice-chairman shall assist the chairman in the discharge of the tribal duties and business as the chairman may direct subject to this constitution.

ARTICLE XVI - DUTIES OF SECRETARY AND TREASURER

Section 1. The secretary and treasurer shall be appointed from within the tribal council in accordance with Article VII, Section 3 of this constitution.

Section 2. The duties of the secretary and treasurer shall be established by ordinance of the tribal council.

Section 3. The books and records of the treasurer shall be audited annually by a competent independent auditor and at such other times as the tribal council or the Secretary of the Interior may direct. Any person, firm, organization or subsidiary thereof having financial business dealings with the Pascua Yaqui Tribe shall not be permitted to conduct the annual audit.

Section 4. The books and records of the secretary and treasurer shall be available to inspection by any person during normal business hours according to procedures established by the tribal council.

Section 5. At the expiration of the terms of their appointment, all the records and papers in the possession of the secretary and treasurer shall be stored and filed in an orderly fashion in the appropriate administrative office.

ARTICLE XVII - OATH OF OFFICE

Each person elected to tribal office shall take the following oath of office prior to assuming the duties thereof:

> "I, _____do solemnly swear that I will support and defend the Constitution and Laws of the United States, that I will support and carry out, insofar as is within my power, the Constitution of the Pascua Yaqui Tribe and the ordinances adopted pursuant thereto, and that I will faithfully and impartially discharge the duties of my office to the best interest of the Pascua Yaqui Tribe."

ARTICLE XVIII - MEETINGS AND VOTES

Section 1. Regular meetings of the tribal council shall be held at least once a month. The time, date and place shall be determined by the tribal council. All tribal council meetings shall be announced publicly and shall be open to the public. The tribal council may adjourn to executive session and such proceedings shall be closed to the public. The tribal council shall adopt ordinances establishing the procedures necessary to comply with this section.

Section 2. Special meetings of the tribal council may be held for any reason but only upon the written request of a majority of the tribal council. Vacant tribal council seats shall not be counted towards the establishment of a majority.

Section 3. A majority of the tribal council members shall constitute a quorum for the official transaction of business. Vacant council seats shall not be counted towards the establishment of a majority.

Section 4. In all instances in this constitution wherein a majority vote or a two-thirds majority vote of the tribal council is required, a vacant council position shall not be counted towards the establishment of a majority, but in no event may a tribal council with five (5) or more vacancies enact any ordinance or conduct any other business in the name of the Pascua Yaqui Tribe except to fill vacancies on the tribal council consistent with Article XI of this constitution.

ARTICLE XIX - ORDINANCES AND RESOLUTIONS

Section 1. Ordinances. All final decisions of the tribal council on matters of general and permanent interest to the members of the tribe shall be embodied in ordinances. Such ordinances shall be collected and made available for inspection and copying by an enrolled tribal member.

Section 2. Resolutions. All final decisions of the tribal council on matters of temporary interest, such as the establishment of a committee, action taken on the tribal budget for a single year, or rules of order, shall be embodied in resolutions which shall be duly executed and recorded in a special book which shall be open to inspection by tribal members during regular business hours.

ARTICLE XX – AMENDMENTS

The constitution may be amended by a majority vote of the registered voters of the tribe voting at an election called for that purpose by the Secretary of the Interior and conducted pursuant to federal regulations, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election, but no amendment shall become effective until approved by the Secretary of the Interior or his authorized representative.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of a majority of the tribal council or upon receipt of a petition signed by at least thirty percent (30%) of the registered voters of the tribe.

ARTICLE XXI - SAVINGS CLAUSE

Any resolution or ordinance adopted by the Pascua Yaqui Interim Tribal Council shall continue in full force and effect unless inconsistent with this constitution or revoked.

ARTICLE XXII – SEVERABILITY

In the event that any provision of this constitution shall be determined invalid, illegal or unconstitutional by a court of competent jurisdiction, that portion shall be severed and the remaining provisions of this constitution shall continue in full force and effect.

ARTICLE XXIII – ADOPTION

This constitution, when adopted by a majority vote of the registered voters of the Pascua Yaqui Tribe voting in an election called for that purpose by the Secretary of the Interior as provided by the Act of September 18, 1978 (92 Stat. 712), conducted pursuant to federal regulations, and when approved by the Secretary of the Interior, shall become effective from the date of such Secretarial approval; provided, that at least thirty percent (30%) of those registered to vote in such election shall vote.

ARTICLE XXIV - SOVEREIGN IMMUNITY

The Pascua Yaqui Tribe and any person acting within the scope of his or her capacity as an officer or employee of the Pascua Yaqui Tribe shall be immune from suit, unless the tribal council enacts an ordinance expressly consenting to suit.

ARTICLE XXV - CERTIFICATE OF RESULTS OF ELECTIONS

Pursuant to an order issued on October 15, 1987, by /S/ Ross O. Swimmer Assistant Secretary - Indian Affairs, the foregoing Constitution of the Pascua Yaqui Tribe was submitted to the qualified voters of the Pascua Yaqui Tribe and on January 26, 1988, duly adopted/rejected by a vote of 247 for, and 161 against, and 2 cast ballots found separated or mutilated, in an election in which at least thirty percent (30%) of the 660 members entitled to vote, cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934, (48 Stat. 984) as amended.

Date: January 26, 1988

I, /S/ Ross Swimmer, Assistant Secretary - Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934, (48 Stat. 984), as amended, and delegated to me by 209 D. M. 8.3, do hereby approve the Constitution of the Pascua Yaqui Tribe,

Assistant Secretary - Indian Affairs

Washington, **DC**

Date: February 8, 1988