

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Appropriating Tohono O'odham Nation Gaming Revenues Savings Account
Funds to the Pisinemo District)

RESOLUTION NO. 19-147

1 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Legislative Council with
2 the power to appropriate Nation's funds "for the benefit of the nation and its
3 members" and to provide laws "to promote, protect and provide for public health,
4 peace, morals, education and general welfare of the Tohono O'odham Nation and
5 its members" (Constitution, Article VI, Section 1(d)(2) and 1(c)(2)); and
6 **WHEREAS,** the Tohono O'odham Nation includes among its objectives the economic
7 development of the Nation as a whole and the economic development of the
8 Districts specifically; and
9 **WHEREAS,** the Pisinemo District is one of the 11 districts of the Tohono O'odham Nation; and
10 **WHEREAS,** by Resolution No. 16-152, the Legislative Council approved a Master Lease by and
11 between the Pisinemo District and Traveling Eagle, LLC, a wholly owned limited
12 liability company of the Pisinemo District; and
13 **WHEREAS,** the Lease is for 40 acres of U.S. Tribal Trust Land on Highway 86 at mile marker 74
14 at which a multi-use Project would be built to include commercial, educational,
15 residential and community facilities (the "Project"); and
16 **WHEREAS,** the 40 acres are undeveloped land without any infrastructure currently
17 available; and
18 **WHEREAS,** the overall Project would be developed in phases with the initial phase including
19 infrastructure development and construction of those activities that have the
20 potential to generate revenues; and
21 **WHEREAS,** the Management Team of Traveling Eagle, LLC (comprised of the District
22 Chairman and Vice-Chairman) has spent the past four years seeking funding,
23 grant funding and loan funding, to develop the infrastructure and the Phase One
24 construction and, to date, has been unable to identify a source of funding; and
25 **WHEREAS,** the Tohono O'odham Nation has a separate account of monies allocated from
26 gaming revenues ("Gaming Savings") that are set aside "for purposes of making
27 long-term investments" and "[f]ollowing consultation with the Districts, the
28 Legislative Council may, by resolution or ordinance, authorize disbursement of
29 funds from such long-term investment accounts." 26 Tohono O'odham Code
30 Chapter 1, Article 3, Section 1301(A); and
31 **WHEREAS,** the Pisinemo District has consulted with each of the Nation's districts and has
32 received supporting resolutions from nine districts; and
33 **WHEREAS,** the Pisinemo District has enacted a supporting resolution requesting the sum of
34 \$8,253,353.00 from the Tohono O'odham Nation Gaming Revenues Savings

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1 Account to be disbursed in two payments: the first payment on April 1, 2019 in the
2 sum of \$4,000,000.00 and the second payment on October 1, 2019 in the sum of
3 \$4,253,353.00 to be paid to the account of the Pisinemo District; and

4 **WHEREAS,** the Pisinemo District shall act as disbursing agent to make payments to Traveling
5 Eagle, LLC subject to compliance with a construction schedule and compliance
6 with disbursement obligations; and

7 **WHEREAS,** the Tohono O'odham Judicial Court has recognized that even after distributing
8 funds to a district, the Nation has an ongoing fiduciary obligation to ensure that
9 district funds are expended under valid authority, 3 TOR3d 34 Angela Ortiz and
10 Frances Ruiz v. Charlene Montana, et. al.; consolidated with Tohono O'odham
11 Nation v. Gu-Vo District Governing Council, 3 TOR3d 34 (Ct.App., Aug. 24, 2011);
12 and

13 **WHEREAS,** the Constitution of the Tohono O'odham Nation further provides that "No district
14 council shall expend district funds except pursuant to budgets authorized under
15 resolutions of the district council and approved by the Tohono O'odham
16 Council." (Constitution, Article IX, Section 7); and

17 **WHEREAS,** the Budget and Finance and Commerce Committees have reviewed the request
18 from Pisinemo District and recommend approval.

19 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council appropriates
20 the total sum of \$8,253,353.00 from the Tohono O'odham Nation Gaming
21 Revenues Savings Account to be paid in two payments exclusively for the below-
22 identified uses as follows:

23 (1) Payment of \$4,000,000.00 will be transferred from the Nation to Pisinemo
24 District on June 1, 2019, and

25 (2) Payment of \$4,253,353.00 will be transferred from the Nation to Pisinemo
26 District on October 1, 2019.

27 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that the funds will be
28 wired to a separate designated Pisinemo District account on the dates set forth
29 above without further Tohono O'odham Legislative Council action and that all
30 funds shall remain assets of the Nation until transferred to Pisinemo District.

31 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that the following
32 conditions shall apply to the Nation's appropriation of funds:

33 (1) Beginning in Fiscal Year 2019 (October 1, 2018 through September 30, 2019)
34 and continuing through the last fiscal year during which funds
35 appropriated by this resolution are expended by the Pisinemo District, the
36 accounts and records of Traveling Eagle, LLC, shall be audited by an

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1 independent certified public accountant within 120 days of the close of each
2 fiscal year and a copy of the complete final audit and a comprehensive,
3 written annual report shall be provided to the Legislative Council no later
4 than 180 days after the close of each fiscal year.

5 (2) The funds transferred to Pisinemo District pursuant to this resolution shall
6 only be used exclusively for the construction of the infrastructure and Phase
7 I of the District's Traveling Eagle, LLC economic development project and
8 for the initial operation of the gas station and convenience store as
9 described in the presentations made by Pisinemo District to the other
10 Districts of the Nation and to the Commerce and Budget and Finance
11 Committees during 2018 and 2019, and for no other purpose.

12 (3) The Pisinemo District shall provide the Legislative Council with a written
13 update on the project every three months after this resolution is enacted to
14 include the amounts that have been disbursed by the District to Traveling
15 Eagle, LLC, amounts expended, and the status of the project (including the
16 development of design documents, hiring of contractors and other project
17 participants, percentage of work completed, percentage of work remaining
18 and the anticipated schedule for completion).

19 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH
20 day of MAY, 2019 at a meeting at which a quorum was present with a vote of 2,557.4 FOR; 527.0
21 AGAINST; -0- NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the Council by
22 Article VI, Section 1(c)(2) and 1(d)(2); Article IX, Section 7 of the Constitution of the Tohono
23 O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by
24 the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant
25 to Section 16 of the Act of June 18, 1934 (48 Stat.984).

26
27 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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31 Timothy Joaquin, Legislative Chairman

32
33 10 day of May, 2019

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36 ATTEST:

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39 Evonne Wilson, Legislative Secretary

40 9 day of May, 2019
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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 10 day of May, 2019 at 8:30 o'clock, a .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

Timothy C. Joaquin for
Timothy Joaquin, Legislative Chairman

APPROVED

on the 13 day of May, 2019

DISAPPROVED

at 3:40 o'clock, p .m.

Edward D. Manuel
EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 13 day of

May, 2019, at 4:47 o'clock, p .m.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: APPROPRIATING TOHONO O'ODHAM NATION GAMING REVENUES SAVINGS ACCOUNT FUNDS TO THE PISINEMO DISTRICT

Moved: COUNCILMAN DANIEL L.A. PRESTON III

SECOND: COUNCILWOMAN FRANCES MIGUEL

DATE: MAY 07, 2019

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 235.8	1. MARY LOPEZ ()	117.9	X			
	2. LUCINDA ALLEN (Yolonda Garcia)	117.9	X			
SELLS 527.2	1. ARTHUR WILSON (Evelyn Juan Manuel)	263.6		X		
	2. ADRIANNE TILLER ()	263.6		X		
SCHUK TOAK 185.7	1. ANTHONY J. FRANCISCO JR. (Teresa F. Donahue)	92.85	X			
	2. QUINTIN C. LOPEZ (<i>Absent</i>) (Agnes V. Joaquin) (<i>Present</i>)	92.85	X			
SAN XAVIER 232.3	1. DANIEL L.A. PRESTON III (Felicia Nunez)	116.15	X			
	2. JANICE FELIX (Adam Andrews)	116.15	X			X
SAN LUCY 231.1	1. JANA MONTANA (Diana Manuel)	115.55	X			
	2. GLORIA RAMIREZ (Lorraine Eiler)	115.55	X			
PISINEMO 225.9	1. CHESTER ANTONE (<i>Absent</i>) (Caroline D. Garcia) (<i>Present</i>)	112.95	X			
	2. MONICA K. MORGAN ()	112.95	X			
HICKIWAN 209.0	1. LOUIS R. LOPEZ (Shirley Molina)	104.5	X			
	2. SANDRA D. ORTEGA ()	104.5	X			X
GU VO 256.9	1. GRACE MANUEL ()	128.45	X			
	2. DALLAS LEWIS (<i>Absent</i>) (Nacho Flores) (<i>Present</i>)	128.45	X			X
GU ACHI 270.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	135.45	X			
	2. LORETTA LEWIS (Victoria Hobbs)	135.45	X			
CHUKUT KUK 337.7	1. BILLMAN LOPEZ (Patricia Antone)	168.85	X			X
	2. VIVIAN JUAN-SAUNDERS (Juanita Homer)	168.85	X			
BABOQUIVARI 372.1	1. FRANCES MIGUEL (Roberta E. Harvey)	186.05	X			X
	2. LEANDER MASE (Francine Schooling)	186.05	X			
TOTAL		3,084.6	2,557.4	527.2	-0-	[05]