

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the Tohono O'odham Gaming Enterprise to Continue to Proceed with Its
Efforts to Replace the Desert Diamond Casino Nogales Highway Facility)

RESOLUTION NO. 05-433

- 1 **WHEREAS, by Resolution No. 93-311, the Legislative Council adopted the Charter of the Tohono**
2 **O'odham Gaming Authority as the entity of the Nation charged with developing,**
3 **operating and maintaining the Nation's gaming facilities; and**
- 4 **WHEREAS, by Resolution 2004-531, the Legislative Council amended the Charter of the Gaming**
5 **Authority to change its name to the Tohono O'odham Gaming Enterprise; and**
- 6 **WHEREAS, the Gaming Enterprise operates a gaming facility on Nogales Highway; and**
- 7 **WHEREAS, the Nogales Highway gaming facility initially was constructed as a warehouse building**
8 **that could be operated as a bingo hall; and**
- 9 **WHEREAS, the Nogales Highway gaming facility is substantially functionally obsolescent and is**
10 **in need of replacement; and**
- 11 **WHEREAS, the Gaming Enterprise has been planning to replace the Nogales Highway Gaming**
12 **Facility with a new casino with a hotel, restaurants, conference facilities, and other**
13 **amenities; and**
- 14 **WHEREAS, the Gaming Enterprise has contracted with Jeter, Cook & Jepson Architects, Inc. (JCJ),**
15 **in concert with ASCG Incorporated (a wholly owned subsidiary of NANA Regional**
16 **Corporation), to prepare conceptual design plans for the new Nogales Highway**
17 **casino/hotel project; and**
- 18 **WHEREAS, JCJ and ASCG have prepared conceptual design plans for the new Nogales**
19 **Highwaycasino/hotel project and the Gaming Enterprise has presented those**
20 **conceptual design plans to the Legislative Council and the Office of the Chairwoman;**
21 **and**
- 22 **WHEREAS, the Gaming Enterprise desires to have JCJ and ASCG proceed to revise and refine the**
23 **conceptual design plans and to thereafter prepare the final plans needed to construct**
24 **the new Nogales Highway casino/hotel project; and**
- 25 **WHEREAS, the Gaming Enterprise desires to enter into a final contract with JCJ for the services**
26 **needed to design and oversee construction of the new Nogales Highway casino/hotel**
27 **project, with that contract subject to the approval of the Legislative Council; and**

RESOLUTION NO. 05-433

(Authorizing the Tohono O'odham Gaming Enterprise to Continue to Proceed with Its Efforts to Replace the Desert Diamond Casino Nogales Highway Facility)

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1 **WHEREAS, the Gaming Enterprise has solicited proposals for the financing of the new Nogales**
2 **Highway casino/hotel project; and**

3 **WHEREAS, the Gaming Enterprise selected a proposal presented by JPMorgan Chase Bank, N.A.**
4 **as the most favorable proposal among the various proposals received from the**
5 **lenders that submitted proposals; and**

6 **WHEREAS, the Gaming Enterprise desires to negotiate final loan documents with JPMorgan Chase**
7 **Bank, N.A., with those loan documents subject to the approval of the Legislative**
8 **Council; and**

9 **WHEREAS, the Gaming Enterprise has solicited proposals from major construction companies**
10 **to act as the construction manager for the construction of the new Nogales Highway**
11 **casino/hotel project; and**

12 **WHEREAS, after reviewing proposals and interviewing prospective construction managers, the**
13 **Gaming Enterprise has selected Kitchell Contractors, Inc. of Arizona as the contractor**
14 **that it desires to engage to construct the new Nogales Highway casino/hotel project;**
15 **and**

16 **WHEREAS, the Gaming Enterprise desires to enter into a contract with Kitchell Contractors, Inc.**
17 **of Arizona for construction management services, where Kitchell also will serve as the**
18 **contractor (construction manager at risk), for the construction of the new Nogales**
19 **Highway casino/hotel project, with that contract subject to the approval of the**
20 **Legislative Council; and**

21 **WHEREAS, the Gaming Enterprise desires to create a sinking fund, with the approval of the**
22 **Legislative Council, to pay a portion of the anticipated capital expenditures related to**
23 **the construction of the new Nogales Highway casino/hotel project.**

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

- 25 **1. The Gaming Enterprise is authorized to conclude its negotiations with JCJ for the**
26 **services needed to design and oversee construction of the new Nogales Highway**
27 **casino/hotel project, with that contract subject to the approval of the Legislative**
28 **Council and the Office of the Chairwoman.**

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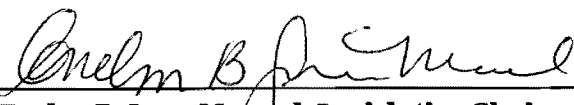
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2. The Gaming Enterprise is authorized to have JCJ and ASCG proceed to revise and refine their conceptual design plans for the new Nogales Highway casino/hotel project and, after the Legislative Council and the Office of the Chairwoman approve the final conceptual plans and approve the JCJ contract, to thereafter prepare the final plans needed to construct the new Nogales Highway casino/hotel project.
3. The Gaming Enterprise is authorized to negotiate final loan documents with JPMorgan Chase Bank, N.A. to provide the financing necessary for the construction of the new Nogales Highway casino/hotel project, with those loan documents subject to the approval of the Legislative Council and the Office of the Chairwoman.
4. The Gaming Enterprise is authorized to negotiate an agreement with Kitchell Contractors, Inc. of Arizona for construction management services, where Kitchell also will serve as the contractor (construction manager at risk), for the construction of the new Nogales Highway casino/hotel project, with that contract subject to the approval of the Legislative Council and the Office of the Chairwoman.
5. The Gaming Enterprise is authorized to create a sinking fund, solely from its revenues in excess of those needed to make the distributions it has committed to make to the Nation, to pay a portion of the anticipated capital expenditures related to the construction of the new Nogales Highway casino/hotel project.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 01ST Day of AUGUST, 2005 at a meeting at which a quorum was present with a vote of 1,873.0 FOR; 357.3 AGAINST; 210.5 NOT VOTING; and [-0-] ABSENT, pursuant to the powers vested in the Council by Section 1 (d) & (e) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Evelyn B. Juan Manuel, Legislative Chairwoman

8th day of August, 2005

ACTION: AUTHORIZING THE TOHONO O'ODHAM GAMING ENTERPRISE TO CONTINUE TO PROCEED WITH ITS EFFORTS TO REPLACE THE DESERT DIAMOND CASINO NOGALES HIGHWAY FACILITY

MOVED: VICE CHAIRMAN VERLON JOSE

SECOND: COUNCILWOMAN FRANCES MIGUEL

DATE: AUGUST 01, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
GU VO 193.1	1. RAYMOND VICTOR ()	96.55	X			
	2. MICHAEL FLORES (Grace Manuel)	96.55		X		
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70		X		
	2. SANDRA ORTEGA ()	83.70		X		
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. DENNIS E. JOSE ()	210.50	X			
	2. EVELYN B. JUAN MANUEL ()	210.50			X	
SIF OIDAK 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35	X			
	2. DARLENE ANDREW (Rita Martinez)	93.35		X		
TOTAL		2,440.80	1,873.0	357.3	210.5	[-0-]

****PASSED VOTES**