

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Funding Commitment Letter to Hunt-PENTA-West Valley)

RESOLUTION NO. 15-035

1 **WHEREAS, the Tohono O'odham Nation (the "*Nation*") is a federally recognized Indian tribe**
2 **organized pursuant to Section 16 of the Indian Reorganization Act of June 18,**
3 **1934 (48 Stat. 984; 25 U.S.C. § 476), which exercises sovereignty over both its**
4 **members and its lands; and**

5 **WHEREAS, pursuant to Articles V and VI of the Constitution of the Tohono O'odham Nation,**
6 **all the legislative powers of the Nation are vested in the Tohono O'odham**
7 **Legislative Council (the "*Legislative Council*"); and**

8 **WHEREAS, the Tohono O'odham Gaming Enterprise (the "*Gaming Enterprise*") is a tribal**
9 **corporation and economic development enterprise of the Nation established**
10 **pursuant to Article VI, Section 1(e), of the Nation's Constitution and is**
11 **responsible for planning, constructing, and operating the Nation's gaming**
12 **facilities and conducting gaming activities (Charter of the Gaming Enterprise;**
13 **16 Tohono O'odham Code Chapter 2); and**

14 **WHEREAS, the Gaming Enterprise has been negotiating with Bank of America, N.A., a**
15 **national banking association ("*BofA*"), to obtain a new loan as described in**
16 **Resolution No. 14-560 and has commenced construction on the West Valley**
17 **Resort in accordance with its Master Construction Agreement with Hunt-PENTA-**
18 **West Valley, a joint venture ("*Hunt-PENTA*"); and**

19 **WHEREAS, the Gaming Enterprise informed the Legislative Commerce Committee, the**
20 **Budget and Finance, and the full Legislative Council of the possible need for the**
21 **Nation's financial assistance for West Valley Resort construction; and**

22 **WHEREAS, the Gaming Enterprise has requested a Funding Commitment Letter executed by**
23 **the Chairman of the Nation for Hunt-PENTA and funded from the Economic**
24 **Development Reserve Fund until the BofA loan closes and is funded as more**
25 **specifically set forth in Attachment "A," which is incorporated by this reference**
26 **and which shall not be reported or disclosed; and**

27 **WHEREAS, the Legislative Budget and Finance and Commerce Committees recommend**
28 **that the Legislative Council authorize the Funding Commitment Letter in**
29 **furtherance of the construction of the West Valley Resort; and**

30 **WHEREAS, the Nation's best interests will be served by the adoption of this Resolution.**

1 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves**
2 **and authorizes the following:**

- 3 **1. The Chairman of the Nation to execute the Funding Commitment letter in**
4 **substantially the form set forth in Attachment "A" and deliver such**
5 **executed Funding Commitment Letter to Hunt-PENTA as soon as**
6 **practicable.**
- 7 **2. The Funding Commitment Letter shall remain valid and operational only**
8 **until the loan between the Gaming Enterprise and the BofA closes and is**
9 **funded.**
- 10 **3. In the event loan proceeds are not available and Hunt-PENTA**
11 **construction invoices ("Pay Applications") become due, the Nation's**
12 **treasurer is authorized and directed to**
- 13 **(a) pay Pay Applications submitted by Hunt-PENTA and approved by**
14 **the Gaming Enterprise from accounts identified by the Nation's**
15 **Chairman and the Budget and Finance Committee within the**
16 **Economic Development Reserve Fund, subject to the maximum**
17 **amount identified in the Funding Commitment Letter, and**
- 18 **(b) report such expenditures in writing to the Nation's Chairman and**
19 **Budget and Finance Committee.**

20 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12TH**
21 **day of FEBRUARY, 2015 at a meeting at which a quorum was present with a vote of 2,548.1 FOR;**
22 **398.4 AGAINST; [04] NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the**
23 **Council by Article VI, Section 1(d)(2) of the Constitution of the Tohono O'odham Nation,**
24 **adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting**
25 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section**
26 **16 of the Act of June 18, 1934 (48 Stat.984).**

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29 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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33 **Timothy Joaquin, Legislative Chairman**

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35 12 day of February, 2015
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1 ATTEST:

2 *Amnellis*
3
4 Evonne Wilson, Legislative Secretary

5
6 12 day of January, 2015
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8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono
9 O'odham Nation on the 12 day of February, 2015 at 3:59 o'clock, p.m.,
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become
11 effective upon his approval or upon his failure to either approve or disapprove it within 48
12 hours of submittal.
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14 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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16 *Timothy Joaquin* *TS*
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18 Timothy Joaquin, Legislative Chairman
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23 APPROVED

on the 13 day of February, 2015

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25 DISAPPROVED

at 3:48 o'clock, p.m.

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27 *Ned Norris, Jr.*
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29 NED NORRIS, JR., CHAIRMAN
30 TOHONO O'ODHAM NATION
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35 Returned to the Legislative Secretary on the 13 day of
36 January, 2015, at 4:15 o'clock, p.m.

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38 *Amnellis*
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41 Evonne Wilson, Legislative Secretary

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ACTION: AUTHORIZING FUNDING COMMITMENT LETTER TO HUNT-PENTA-WEST VALLEY

MOVED: COUNCILWOMAN FRANCES MIGUEL

SECOND: COUNCILWOMAN BARBARA HAVIER

DATE: FEBRUARY 12, 2015

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 224.2	1. LUCINDA ALLEN (Nicholas Jose)	112.1	X			
	2. MARY LOPEZ ()	112.1	X			
SELLS 502.0	1. ARTHUR WILSON (Ophella Patten)	251.0	X			
	2. BARBARA HAVIER (Beverly Rivas)	251.0	X			
SCHUK TOAK 174.2	1. FRANCES B. STEPHENS (Anthony J. Rios)	87.1		X		X
	2. QUINTIN C. LOPEZ (John Fendenheim)	87.1		X		
SAN XAVIER 224.2	1. HILARION CAMPUS (Daniel L.A. Preston, III)	112.1		X		
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	112.1		X		
SAN LUCY 219.6	1. DIANA MANUEL (Gloria Ramirez)	109.8	X			
	2. JANA MONTANA ()	109.8	X			
PISINEMO 210.6	1. CHESTER ANTONE (<i>Absent</i>) (Tony Murrietta) (<i>Present</i>)	105.3	X			
	2. EDWARD MANUEL, SR. ()	105.3	X		X	
HICKIWAN 196.9	1. LOUIS R. LOPEZ ()	98.45	X			X
	2. SANDRA ORTEGA (Manuel Osequeda, Jr.)	98.45	X			
HIA CED 19.6	1. PATRICK ANDREWS (Janice E. Paul)	9.8	X			
	2. VIRGINIA GARCIA ()	9.8	X			
GU VO 241.0	1. GRACE MANUEL (Floyd Flores)	120.5	X		X	
	2. PAMELA ANGHILL (<i>Absent</i>) (Jeffery Antone, Sr.) (<i>Present</i>)	120.5	X			
GU ACHI 257.3	1. TIMOTHY L. JOAQUIN ()	128.65	X			
	2. LORETTA LEWIS (<i>Absent</i>) (Louis Johnson) (<i>Present</i>)	128.65	X			X
CHUKUT KUK 319.2	1. ETHEL GARCIA (Marlakay C. Henry)	159.6	X			
	2. BILLMAN LOPEZ ()	159.6	X		X	
BABOQUIVARI 357.7	1. FRANCES MIGUEL (Roberta Harvey)	178.85	X			
	2. VERNON J. SMITH (Gloria Zazueta)	178.85	X		X	
TOTAL		2,946.5	2,548.1	398.4	-04-	[03]