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

WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council with the power to appropriate Nation's funds “for the benefit of the nation and its members” and to provide laws “to promote, protect and provide for public health, peace, morals, education and general welfare of the Tohono O'odham Nation and its members” (Constitution, Article VI, Section 1(d)(2) and 1(c)(2)); and

WHEREAS, the Tohono O'odham Nation includes among its objectives the economic development of the Nation as a whole and the economic development of the Districts specifically; and

WHEREAS, the Pisinemo District is one of the 11 districts of the Tohono O'odham Nation; and

WHEREAS, by Resolution No. 16-152, the Legislative Council approved a Master Lease by and between the Pisinemo District and Traveling Eagle, LLC, a wholly owned limited liability company of the Pisinemo District; and

WHEREAS, the Lease is for 40 acres of U.S. Tribal Trust Land on Highway 86 at mile marker 74 at which a multi-use Project would be built to include commercial, educational, residential and community facilities (the “Project”); and

WHEREAS, the 40 acres are undeveloped land without any infrastructure currently available; and

WHEREAS, the overall Project would be developed in phases with the initial phase including infrastructure development and construction of those activities that have the potential to generate revenues; and

WHEREAS, the Management Team of Traveling Eagle, LLC (comprised of the District Chairman and Vice-Chairman) has spent the past four years seeking funding, grant funding and loan funding, to develop the infrastructure and the Phase One construction and, to date, has been unable to identify a source of funding; and

WHEREAS, the Tohono O'odham Nation has a separate account of monies allocated from gaming revenues (“Gaming Savings”) that are set aside “for purposes of making long-term investments” and “[f]ollowing consultation with the Districts, the Legislative Council may, by resolution or ordinance, authorize disbursement of funds from such long-term investment accounts.” 26 Tohono O'odham Code Chapter 1, Article 3, Section 1301(A); and

WHEREAS, the Pisinemo District has consulted with each of the Nation's districts and has received supporting resolutions from nine districts; and

WHEREAS, the Pisinemo District has enacted a supporting resolution requesting the sum of $8,253,353.00 from the Tohono O'odham Nation Gaming Revenues Savings
RESOLUTION NO. 19-147
(Appropriating Tohono O'odham Nation Gaming Revenues Savings Account Funds to the Pisinemo District)
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WHEREAS, the Pisinemo District shall act as disbursing agent to make payments to Traveling Eagle, LLC subject to compliance with a construction schedule and compliance with disbursement obligations; and

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

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

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

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

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

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

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

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

(1) Beginning in Fiscal Year 2019 (October 1, 2018 through September 30, 2019) and continuing through the last fiscal year during which funds appropriated by this resolution are expended by the Pisinemo District, the accounts and records of Traveling Eagle, LLC, shall be audited by an
I independent certified public accountant within 120 days of the close of each fiscal year and a copy of the complete final audit and a comprehensive, written annual report shall be provided to the Legislative Council no later than 180 days after the close of each fiscal year.

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

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

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH day of MAY, 2019 at a meeting at which a quorum was present with a vote of 2,557.4 FOR: 527.0 AGAINST; 0- NOT VOTING; and 05 ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2) and 1(d)(2); Article IX, Section 7 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

Timothy Joaquin, Legislative Chairman

10 day of May, 2019

ATTEST:
Evonne Wilson, Legislative Secretary

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 10th 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 Joaquin, Legislative Chairman

[ ] APPROVED

on the 13th day of May, 2019

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

EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

[ ] DISAPPROVED

Returned to the Legislative Secretary on the 13th day of

May, 2019, at 4:17 o'clock, p.m.

Evonne Wilson, Legislative Secretary
RESOLUTION NO. 19-147

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

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**TOTAL** | 3,084.6 | 2,557.4 | 527.2 | -0- | 05 |