

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving August 2020 District Allocation and Apportionment of Gaming Revenues to**  
**Districts by Population Distribution)**

**DEFEATED**  
**RESOLUTION NO. 20-227**

1 **WHEREAS,** the Tohono O'odham Legislative Council is authorized "to manage any funds  
2 within the exclusive control of the Tohono O'odham Nation . . . and to appropriate  
3 these funds for the benefit of the nation and its members" provided that "[a]ll  
4 expenditures of these funds shall be pursuant to appropriations or budgets"  
5 authorized by resolution or ordinance (Constitution of the Tohono O'odham  
6 Nation, Article VI, Section 1(d)(2)); and  
7 **WHEREAS,** pursuant to Article IX, Section 7 of the Constitution of the Tohono O'odham  
8 Nation,  
9 No district council shall expend district funds except pursuant to budgets  
10 authorized under resolutions of the district council and approved by the Tohono  
11 O'odham Council. The management of these funds shall be only by a treasurer or  
12 other authorized officer of the district council who has furnished a surety bond  
13 satisfactory to the treasurer of the Tohono O'odham Nation, and all expenditures  
14 of these funds shall be by checks signed by such treasurer or other authorized  
15 officer and the chairman or vice chairman of the district council.  
16 ; and  
17 **WHEREAS,** by 26 Tohono O'odham Code Chapter 1, Section 1301, the Legislative Council has  
18 adopted a formula for distributing the Nation's gaming revenues ("Formula"),  
19 which includes an allocation to the Nation's districts ("District Allocation"); and  
20 **WHEREAS,** 26 Tohono O'odham Code Chapter 1, Section 1301(B)(2)(a) of the Formula provide  
21 that "Fifteen percent (15%) of the District Allocation shall be allocated to the  
22 District where the Gaming Facility which generated such revenue is located" (the  
23 "Host District Share"); and  
24 **WHEREAS,** 26 Tohono O'odham Code Chapter 1, Section 1301(B)(2)(b) and Section 1304  
25 provides that the remainder of the District Allocation be divided among all  
26 districts in accordance with the allocation formula established by the Legislative  
27 Council; and  
28 **WHEREAS,** Section 1304 of 26 Tohono O'odham Code Chapter 1 provides that:  
29 Annually, on August 1, the District Allocation (as that term is used in Article 3 of  
30 this Chapter) shall be apportioned to the separate District accounts in  
31 accordance with the allocation formula established by the Legislative Council  
32 and shall be made available for expenditure subject to . . . (C) an annual audit of  
33 each District's books of accounts and activities for compliance with the

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requirements of this Article, the Nation's Constitution and Section 302 of the Gaming Ordinance, as more fully identified below . . .

; and

**WHEREAS, Section 1305 of the Nation's Gaming Revenue Distribution Formula and District Allocation Guidelines provides that:**

**Each District's book of accounts and activities shall be audited annually by the independent certified public accountants retained by the Nation to prepare the Nation's annual audit . . . The auditors shall submit to the Chairperson of the Nation an audit report expressing an unqualified or qualified opinion, or, if appropriate, disclaim an opinion of the statement taken as a whole in accordance which [sic] generally accepted auditing standards of the accounting profession. The examination and audit shall disclose whether the accounts, records, expenditures and internal controls and accounting procedures maintained by the District are in compliance with this Article, Section 302 of the Gaming Ordinance, and the Nation's Constitution.**

**(emphasis added); and**

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

**WHEREAS, the remainder of the District Allocation has historically been allocated: (1) by equal distribution, (2) by population distribution, or (3) by 50/50 distribution (1/2 equal and 1/2 population); and**

**WHEREAS, the Tohono O'odham Nation Office of the Treasurer has calculated the August 2020 District Allocation in accordance with the August 2020 District Gaming Allocation Table, which is incorporated by this reference; and**

**WHEREAS, the Budget and Finance Committee reviewed the August 2020 District Gaming Allocation Table.**

**NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves the August 2020 Host District Share and approves the allocation of the remainder of the August 2020 District Allocation among the 11 Districts of the Nation by population distribution effective August 1, 2020 in accordance with the August 2020 District Gaming Allocation Table.**

1 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that all August 2020  
2 District Allocation funds, including the Host District Share, shall be made  
3 available for expenditure subject to budgets approved in accordance with Article  
4 VI, Section 1(d)(2) and Article IX, Section 7 of the Nation's Constitution, and the  
5 additional requirements of 26 Tohono O'odham Code Chapter 1, Article 3;  
6 provided that pursuant to 26 Tohono O'odham Code Chapter 1, the August 2020  
7 District Allocation, including any Host District Share, of a district whose book of  
8 accounts and activities have not been audited annually by the independent  
9 certified public accountants retained by the Nation to prepare the Nation's  
10 annual audit shall not be disbursed to the district or made available for  
11 expenditure, but shall be retained by the Nation's treasurer in a separate account  
12 for the benefit of the district pending:

- 13 (1) confirmation from the Nation's independent certified public accountant  
14 retained by the Nation to perform the annual district audits that the  
15 auditor received copies of the district's books of accounts and activities  
16 and any additional relevant documents to conduct an audit of that  
17 district's finances in compliance with the requirements of Section 1305 of  
18 26 Tohono O'odham Code Chapter 1, Article 3; and  
19 (2) confirmation that the Nation's Chairperson received an audit report from  
20 the Nation's independent certified public accountant retained by the  
21 Nation to perform the annual district audits for the district or districts  
22 previously in noncompliance.

23 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that notwithstanding 1  
24 Tohono O'odham Code Chapter 1, each provision of this resolution is integrated  
25 with and integral to the whole and shall not be severable from the remainder of  
26 this resolution.

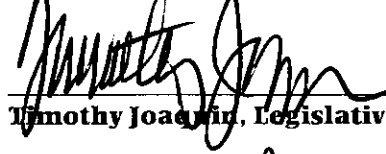
27 **The foregoing Resolution was defeated by the Tohono O'odham Legislative Council on the 27<sup>TH</sup>**  
28 **day of JULY, 2020 at a meeting at which a quorum was present with a vote of 1,558.7 FOR; 1,617.0**  
29 **AGAINST; -0- NOT VOTING and -0- ABSENT, pursuant to the powers vested in the Council by**  
30 **Article VI, Section 1(d), 1(l) and Article IX, Section 7 of the Constitution of the Tohono O'odham**  
31 **Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting**  
32 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section**  
33 **16 of the Act of June 18, 1934 (48 Stat.984).**  
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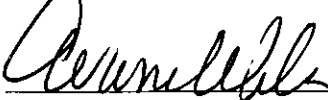
**TOHONO O'ODHAM LEGISLATIVE COUNCIL**



**Timothy Joaquin, Legislative Chairman**

29 day of July, 2020

**ATTEST:**



**Evonne Wilson, Legislative Secretary**

29 day of July, 2020

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**ACTION: APPROVING AUGUST 2020 DISTRICT ALLOCATION AND APPORTIONMENT OF GAMING REVENUES TO DISTRICTS BY POPULATION DISTRIBUTION**

**Moved: COUNCILMAN ARTHUR WILSON**

**SECOND: COUNCILWOMAN MARLAKAY HENRY**

**DATE: JANUARY 08, 2020**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI 384.8</b>	<b>1. LEANDER MASE (Francine Schooling)</b>	<b>192.40</b>	<b>X</b>			
	<b>2. ALBERTA J. RAY (Frances G. Antone)</b>	<b>192.40</b>	<b>X</b>			
<b>CHUKUT KUK 347.5</b>	<b>1. VIVIAN JUAN-SAUNDERS (Juanita Homer)</b>	<b>173.75</b>	<b>X</b>			
	<b>2. MARLAKAY HENRY (Billman Lopez)</b>	<b>173.75</b>	<b>X</b>			
<b>GU ACHI 279.3</b>	<b>1. VICTORIA HOBBS ( )</b>	<b>139.65</b>	<b>X</b>			
	<b>2. TIMOTHY L. JOAQUIN (Louis L. Johnson)</b>	<b>139.65</b>	<b>X</b>			
<b>GU VO 264.5</b>	<b>1. DALLAS LEWIS (Nacho Flores)</b>	<b>132.25</b>		<b>X</b>		
	<b>2. GRACE MANUEL ( )</b>	<b>132.25</b>		<b>X</b>		
<b>HICKIWAN 213.8</b>	<b>1. SANDRA D. ORTEGA ( )</b>	<b>106.90</b>		<b>X</b>		
	<b>2. LOUIS R. LOPEZ (Delma M. Garcia)</b>	<b>106.90</b>		<b>X</b>		
<b>PISINEMO 230.7</b>	<b>1. MONICA K. MORGAN ( )</b>	<b>115.35</b>		<b>X</b>		
	<b>2. MARIETTA MARTIN ( )</b>	<b>115.35</b>		<b>X</b>		
<b>SAN LUCY 235.6</b>	<b>1. GLORIA RAMIREZ ( )</b>	<b>117.80</b>		<b>X</b>		
	<b>2. JANA MONTANA (Lorraine M. Eiler)</b>	<b>117.80</b>		<b>X</b>		
<b>SAN XAVIER 238.9</b>	<b>1. JANICE FELIX (Adam Andrews)</b>	<b>119.45</b>		<b>X</b>		
	<b>2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)</b>	<b>119.45</b>		<b>X</b>		
<b>SCHUK TOAK 189.0</b>	<b>1. QUINTIN C. LOPEZ (Agnes V. Joaquin)</b>	<b>94.50</b>		<b>X</b>		
	<b>2. TERESA F. DONAHUE (Alberta Espinoza)</b>	<b>94.50</b>		<b>X</b>		
<b>SELLS 547.1</b>	<b>1. EVELYN JUAN MANUEL ( )</b>	<b>273.55</b>	<b>X</b>			
	<b>2. ARTHUR WILSON ( )</b>	<b>273.55</b>	<b>X</b>			
<b>SIF OIDAK 244.5</b>	<b>1. LUCINDA ALLEN (Yolonda Garcia)</b>	<b>122.25</b>		<b>X</b>		
	<b>2. MARY LOPEZ (Ann M. Garcia)</b>	<b>122.25</b>		<b>X</b>		
<b>TOTAL</b>		<b>3,175.7</b>	<b>1,558.7</b>	<b>1,617.0</b>	<b>-0-</b>	<b>-0-</b>