

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

RESOLUTION NO. 20-228

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

RESOLUTION NO. 20-228

(Approving August 2020 District Allocation and Apportionment of Gaming Revenues to Districts by Equal Distribution)

Page 2 of 4

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

3 ; and

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

6 Each District's book of accounts and activities *shall be audited annually by the*
7 *independent certified public accountants retained by the Nation to prepare the*
8 *Nation's annual audit . . . The auditors shall submit to the Chairperson of the*
9 *Nation an audit report expressing an unqualified or qualified opinion, or, if*
10 *appropriate, disclaim an opinion of the statement taken as a whole in accordance*
11 *which [sic] generally accepted auditing standards of the accounting profession.*

12 The examination and audit shall disclose whether the accounts, records,
13 expenditures and internal controls and accounting procedures maintained by
14 the District are in compliance with this Article, Section 302 of the Gaming
15 Ordinance, and the Nation's Constitution.

16 (emphasis added); and

17 **WHEREAS,** the Tohono O'odham Court of Appeals has recognized that even after distributing
18 funds to a district, the Tohono O'odham Nation has an ongoing fiduciary
19 obligation to ensure that district funds are expended under valid authority,
20 *Angela Ortiz and Frances Ruiz v. Charlene Montana, et. al., 3 TOR3d 34;*
21 *consolidated with Tohono O'odham Nation v. Gu-Vo Governing Council, 3 TOR3d*
22 *34 (Ct.App., Aug. 24, 2011); and*

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

26 **WHEREAS,** the Tohono O'odham Nation Office of the Treasurer has calculated the August
27 2020 District Allocation in accordance with the August 2020 District Gaming
28 Allocation Table, which is incorporated by this reference; and

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

31 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council approves the
32 August 2020 Host District Share and approves the allocation of the remainder of
33 the August 2020 District Allocation among the 11 Districts of the Nation by equal
34 distribution effective August 1, 2020 in accordance with the August 2020 District
35 Gaming Allocation Table.
36

RESOLUTION NO. 20-228

(Approving August 2020 District Allocation and Apportionment of Gaming Revenues to Districts by Equal Distribution)

Page 3 of 4

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 passed by the Tohono O'odham Legislative Council on the 27TH**
28 **day of JULY, 2020 at a meeting at which a quorum was present with a vote of 1,896.3 FOR; 1,279.4**
29 **AGAINST; -0- NOT VOTING; and [01] 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).**
34
35
36
37
38
39
40


RESOLUTION NO. 20-228

(Approving August 2020 District Allocation and Apportionment of Gaming Revenues to Districts by Equal Distribution)


Page 4 of 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman
29 day of July, 2020

ATTEST:


Evonne Wilson, Legislative Secretary
28 day of July, 2020

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 29 day of July, 2020 at 3:57 o'clock, P.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 30th day of July, 2020

DISAPPROVED

at 11:42 o'clock, A.m.


Wainane M. Saunders for
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 31 day of

July, 2020, at 12:46 o'clock, P.m.


Evonne Wilson, Legislative Secretary

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

Moved: VICE CHAIRMAN QUINTIN C. LOPEZ

SECOND: COUNCILWOMAN THERESA F. DONAHUE

DATE: JULY 27, 2020

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	1. LEANDER MASE (Francine Schooling)	192.40		X		
	2. ALBERTA J. RAY (Frances G. Antone)	192.40		X		
CHUKUT KUK 347.5	1. VIVIAN JUAN-SAUNDERS (Juanita Homer)	173.75		X		
	2. MARLAKAY HENRY (Billman Lopez)	173.75		X		
GUACHI 279.3	1. VICTORIA HOBBS ()	139.65	X			
	2. TIMOTHY L. JOAQUIN (Louis L. Johnson)	139.65	X			
GU VO 264.5	1. DALLAS LEWIS (Nacho Flores)	132.25	X			
	2. GRACE MANUEL ()	132.25	X			
HICKIWAN 213.8	1. SANDRA D. ORTEGA ()	106.90	X			
	2. LOUIS R. LOPEZ (Delma M. Garcia)	106.90	X			
PISINEMO 230.7	1. MONICA K. MORGAN ()	115.35	X			
	2. MARIETTA MARTIN ()	115.35	X			
SAN LUCY 235.6	1. GLORIA RAMIREZ ()	117.80	X			
	2. JANA MONTANA (Lorraine M. Eiler)	117.80	X			
SAN XAVIER 238.9	1. JANICE FELIX (Adam Andrews)	119.45	X			
	2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45	X			
SCHUK TOAK 189.0	1. QUINTIN C. LOPEZ (Agnes V. Joaquin)	94.50	X			
	2. TERESA F. DONAHUE (Alberta Espinoza)	94.50	X			
SELLS 547.1	1. EVELYN JUAN MANUEL ()	273.55		X		
	2. ARTHUR WILSON ()	273.55		X		x
SIF OIDAK 244.5	1. LUCINDA ALLEN (Yolonda Garcia)	122.25	X			
	2. MARY LOPEZ (Ann M. Garcia)	122.25	X			
TOTAL		3,175.7	1,896.3	1,279.4	-0-	[01]