

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Addition of Coronavirus-Related Distributions to the Nation's 401(k)
Retirement Plan)**

RESOLUTION NO. 20-296

1 **WHEREAS,** pursuant to Resolution No. 2000-453, the Tohono O'odham Legislative Council
2 approved a 401(k) Retirement Plan (the "Plan") for employees of the Tohono
3 O'odham Nation (the "Nation"), as amended; and

4 **WHEREAS,** the Plan was amended and restated in its entirety effective January 1, 2016 and
5 has been subsequently amended to make required compliance changes; and

6 **WHEREAS,** by letter dated January 31, 2017, the Internal Revenue Service ("IRS") issued a
7 favorable determination that the Plan document satisfies the qualification
8 requirements under the Internal Revenue Code ("IRC"); and

9 **WHEREAS,** on March 11, 2020, the World Health Organization declared the COVID-19
10 coronavirus to be a pandemic; and

11 **WHEREAS,** on March 13, 2020, the President of the United States proclaimed the COVID-19
12 outbreak in the United States to be a national emergency; and

13 **WHEREAS,** on March 13, 2020, the Chairman of the Tohono O'odham Nation declared a state
14 of emergency for the Nation with regard to the COVID-19 pandemic; and

15 **WHEREAS,** the coronavirus pandemic has created numerous health and financial hardships
16 for many employees of the Nation; and

17 **WHEREAS,** the Coronavirus Assistance, Relief, and Economic Stabilization Act (the "CARES
18 Act") was enacted by Congress and signed into law by the President to provide
19 economic stimulus to assist with the impacts of the COVID-19 pandemic; and

20 **WHEREAS,** Section 2202(a) of the CARES Act allows sponsors of employee 401(k) plans to
21 permit special coronavirus-related distributions ("CRDs") to employees who are
22 impacted by the coronavirus crisis; and

23 **WHEREAS,** the Trustees of the Nation's 401(k) Plan ("Plan Trustees") recommend that CRDs
24 be added to the Nation's 401(k) Plan, subject to the following restrictions:

- 25 • CRDs be offered only to those employees who certify that they meet the
26 eligibility criteria specified in the CARES Act and related Treasury
27 guidance;
- 28 • Eligible employees be permitted to take CRDs from all vested amounts
29 held in their 401(k) Plan accounts other than Employer Basic
30 Contributions Accounts and Prior Money Purchase Pension Plan Transfer
31 Accounts;
- 32 • Employees be provided with detailed information regarding the taxation
33 of CRDs and the ability to repay CRDs to the 401(k) Plan or other tax-
34 preferred retirement vehicles; and

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1 **WHEREAS, the Budget and Finance Committee has met with the Plan Trustees and**
2 **recommends that it is in the best interests of the Nation and its affected**
3 **employees to permit eligible employees to take CRDs from the 401(k) Plan in**
4 **response to the pandemic.**

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

- 6 **1. The Tohono O'odham Legislative Council approves and directs that**
7 **Coronavirus-Related Distributions be made available to eligible**
8 **employees participating in the 401(k) Plan as soon as practicable and in**
9 **accordance with the recommendations of the Plan Trustees and subject to**
10 **the following restrictions:**
- 11 **a. CRDs be offered only to those employees who certify that they meet**
12 **the eligibility criteria specified in the CARES Act and related**
13 **Treasury guidance.**
- 14 **b. Eligible employees be permitted to take CRDs from all vested**
15 **amounts held in their 401(k) Plan accounts other than Employer**
16 **Basic Contributions Accounts and Prior Money Purchase Pension**
17 **Plan Transfer Accounts.**
- 18 **c. Employees be provided with detailed information regarding the**
19 **taxation of CRDs and the ability to repay CRDs to the 401(k) Plan or**
20 **other tax-preferred retirement vehicles.**
- 21 **2. That the CRD option being added to the 401(k) Plan shall be administered**
22 **in accordance with Section 2202(a) of the CARES Act and in a manner**
23 **consistent with any guidance published by the IRS or the Department of**
24 **Treasury.**
- 25 **3. That the Plan Trustees and the Nation's Human Resources Department**
26 **shall work with Wells Fargo to implement the CRD option under the Plan**
27 **in a manner consistent with this Resolution.**

28 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that the Plan Trustees**
29 **shall prepare and submit an amendment to the Plan to document the CRD**
30 **feature, as required by the CARES Act and related Treasury guidance, to the**
31 **Legislative Council for approval and adoption.**

32 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 14TH**
33 **day of SEPTEMBER, 2020 at a meeting at which a quorum was present with a vote of 3,175.7 FOR;**
34 **-0- AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**
35 **Article VI, Section 1(c)(2) and (l) of the Constitution of the Tohono O'odham Nation, adopted by**
36 **the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
37 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
38 **18, 1934 (48 Stat.984).**

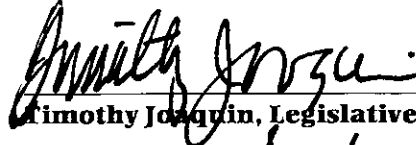
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TOHONO O'ODHAM LEGISLATIVE COUNCIL


Timothy Joaquin, Legislative Chairman

18 day of September, 2020

ATTEST:


Evonne Wilson, Legislative Secretary

17 day of September, 2020

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 18 day of September, 2020 at 2:07 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 21 day of September, 2020

DISAPPROVED

at 2:58 o'clock, P.M.


NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 21 day of

September, 2020, at 4:28 o'clock, P.M.


Evonne Wilson, Legislative Secretary

ACTION: APPROVING ADDITION OF CORONAVIRUS-RELATED DISTRIBUTIONS TO THE NATION'S 401(K) RETIREMENT PLAN

MOVED: COUNCILWOMAN MARLAKAY HENRY

SECOND: COUNCILMAN LEANDER MASE

DATE: SEPTEMBER 14, 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			
GU ACHI 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			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			
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	3,175.7	-0-	-0-	[01]