

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Approving a Limited Waiver of the Sovereign Immunity of the Tohono O'odham  
Gaming Enterprise in Favor of Sports Information Services, Limited)**

**RESOLUTION NO. 21-404**

- 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                   the Tohono O'odham Legislative Council (the "Legislative Council") is vested with  
7                   all of the legislative powers of the Nation and is empowered to enact laws,  
8                   ordinances, and resolutions necessary or incidental to the exercise of its  
9                   legislative powers; and
- 10   **WHEREAS,**   the Legislative Council of the Nation has enacted an Ordinance for the Regulation  
11                   of Gaming Activities Within the Tohono O'odham Nation (the "Gaming  
12                   Ordinance"), which ordinance was adopted pursuant to Resolution No. 93-296  
13                   and amended by Resolution No. 97-150, Resolution No. 97-168, Resolution No. 97-  
14                   303, Resolution No. 99-206, Resolution No. 03-084, Resolution No. 07-300, and  
15                   Resolution No. 21-208 (16 T.O.C. Chapter 1); and
- 16   **WHEREAS,**   the Gaming Ordinance provides that all gaming activities conducted within the  
17                   Nation shall be owned entirely by the Nation and conducted and operated by a  
18                   tribal enterprise; and
- 19   **WHEREAS,**   the Tohono O'odham Gaming Enterprise (the "Gaming Enterprise") is a tribal  
20                   governmental enterprise of the Nation established pursuant to Article VI of the  
21                   Nation's Constitution through adoption of the Charter of the Gaming Enterprise  
22                   (the "Charter" – codified as 16 T.O.C. Chapter 2); and
- 23   **WHEREAS,**   Section 4(b) of the Charter authorizes and directs the Gaming Enterprise to "offer  
24                   gaming activities within the Nation which are conducted pursuant to the highest  
25                   standards of honesty and integrity"; and
- 26   **WHEREAS,**   Section 5(d)(10) of the Charter authorizes the Gaming Enterprise to "[e]nter into,  
27                   make, perform and carry out or cancel and rescind contracts for any lawful  
28                   purpose pertaining to the Enterprise's business"; and
- 29   **WHEREAS,**   Section 8(b)(2) of the Charter provides for a limited waiver of the Gaming  
30                   Enterprise's sovereign immunity with respect to claims based upon a written  
31                   contract to which the Gaming Enterprise is a party and reserves to the Legislative  
32                   Council "the power to prospectively modify this limited waiver of the Enterprise's

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**Page 2 of 3**

1 immunity either generally or with respect to particular circumstances.” (Charter,  
2 Section 8(b)(2) and 8(c)); and  
3 **WHEREAS,** the Gaming Enterprise has negotiated an Agreement with Sports Information  
4 **Services, Limited for the Provision of Services and a Retail Sports Betting Solution**  
5 **(“Sports Betting Services Agreement”)** which will be executed promptly following  
6 **approval of this modification of Gaming Enterprise’s waiver of sovereign**  
7 **immunity; and**  
8 **WHEREAS,** the Sports Betting Services Agreement negotiated between Gaming Enterprise  
9 **and Sports Information Services, Ltd. requires a modification of the limited**  
10 **wavier of immunity within Section 8(b)(2) of the Enterprise’s Charter solely for**  
11 **purposes of the Sports Betting Services Agreement and will be for the sole benefit**  
12 **of Sports Information Services, Ltd.; and**  
13 **WHEREAS,** the Gaming Enterprise is seeking approval from the Legislative Council for this  
14 **modification to the scope of the waiver of the Gaming Enterprise’s immunity**  
15 **pursuant to the terms of the Sports Betting Services Agreement, which is**  
16 **incorporated by this reference; and**  
17 **WHEREAS,** the Commerce Committee has reviewed the language of the proposed waiver and  
18 **believes it is in the best interest of the Nation to adopt a resolution modifying the**  
19 **Gaming Enterprise’s statutory waiver of sovereign immunity as provided in the**  
20 **attached Exhibit A.**  
21 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council grants a**  
22 **limited waiver of the sovereign immunity of the Tohono O’odham Gaming**  
23 **Enterprise in favor of Sports Information Services, Ltd. solely for the purpose of**  
24 **compliance with the provisions of Section 23 of the Sports Betting Services**  
25 **Agreement and adopts the attached Exhibit A for that purpose; provided that**  
26 **nothing in this resolution or Exhibit A shall be construed as a waiver of the**  
27 **sovereign immunity of the Nation.**

28 **The foregoing Resolution was passed by the Tohono O’odham Legislative Council on the 14<sup>TH</sup>**  
29 **day of OCTOBER, 2021 at a meeting at which a quorum was present with a vote of 3,218.0 FOR;**  
30 **~~0~~ AGAINST; ~~0~~ NOT VOTING; and ~~0~~ ABSENT, pursuant to the powers vested in the Council by,**  
31 **Article V Section 1; Article VI, Section 1(e) of the Constitution of the Tohono O’odham Nation,**  
32 **adopted by the Tohono O’odham Nation on January 18, 1986; and approved by the Acting Deputy**  
33 **Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the**  
34 **Act of June 18, 1934 (48 Stat.984).**  
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Page 3 of 3

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
\_\_\_\_\_  
Timothy Joaquin, Legislative Chairman  
18 day of October, 2021

ATTEST:

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary  
15 day of October, 2021

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 18 day of October, 2021 at 16:28 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 18 day of October, 2021  
 DISAPPROVED at 11:50 o'clock, a .m.

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

Returned to the Legislative Secretary on the 18 day of  
October, 2021, at 5:00 o'clock, p .m.

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

**ACTION: APPROVING A LIMITED WAIVER OF THE SOVEREIGN IMMUNITY OF THE TOHONO O'ODHAM GAMING ENTERPRISE IN FAVOR OF SPORTS INFORMATION SERVICES, LIMITED****MOVED: COUNCILWOMAN JANICE FELIX****SECOND: COUNCILWOMAN MARLAKAY HENRY****DATE: OCTOBER 14, 2021**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 245.6	1. MARY LOPEZ (Ann M. Garcia)	122.8	X			
	2. LUCINDA ALLEN (Francis Homewytewa)	122.8	X			
SELLS 556.5	1. ARTHUR WILSON ( )	278.25	X			
	2. EVELYN JUAN-MANUEL ( <i>Absent</i> ) (Arvada Liston) ( <i>Present</i> )	278.25	X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza)	95.25	X			
	2. DELISA M. RAMON (Sharon A. Francisco)	95.25	X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	121.3	X			
	2. JANICE FELIX (Adam P. Andrews)	121.3	X			
SAN LUCY 243.8	1. JANA MONTANA (Lorraine M. Eiler)	121.9	X			
	2. ROGER MANUEL (Christina Andrews)	121.9	X			
PISINEMO 232.7	1. MARIETTA MARTIN ( )	116.35	X			
	2. EDWARD D. MANUAL (Monica Morgan)	116.35	X			
HICKIWAN 216.6	1. LOUIS R. LOPEZ ( )	108.3	X			
	2. SANDRA D. ORTEGA ( <i>Absent</i> ) (Delma M. Garcia) ( <i>Present</i> )	108.3	X			
GU VO 270.7	1. GRACE MANUEL ( )	135.35	X			
	2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35	X			
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN ( )	139.25	X			
	2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25	X			
CHUKUT KUK 351.6	1. MARLAKAY HENRY (Billman Lopez)	175.8	X			
	2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8	X			
BABOQUIVARI 388.9	1. ALBERTA J. RAY (Frances G. Antone)	194.45	X			
	2. LEANDER MASE (Francine Schooling)	194.45	X			
<b>TOTAL</b>		<b>3,218.0</b>	<b>3,218.0</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>