

**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 JCJ Architecture, PC and limited to the Agreement**  
**for the Development of the Far West Valley Area Casino and Resort)**

**RESOLUTION NO. 23-068**

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 Article VI of the Nation's Constitution, the Tohono O'odham  
6 Legislative Council (the "*Legislative Council*") is vested with all of the legislative  
7 powers of the Nation and is empowered to enact laws, ordinances, and  
8 resolutions necessary or incidental to the exercise of its legislative powers; and

9 **WHEREAS,** the Tohono O'odham Gaming Enterprise (the "*Gaming Enterprise*") is a wholly  
10 owned tribal governmental enterprise of the Nation established pursuant to  
11 Article VI, Section 1(e) of the Nation's Constitution and is responsible for  
12 operating the Nation's gaming facilities and conducting gaming activities in  
13 compliance with the requirements of the Gaming Ordinance (16 T.O.C. Chapter 1)  
14 and the Charter of the Gaming Enterprise (the "*Charter*") (16 T.O.C. Chapter 2);  
15 and

16 **WHEREAS,** Section 5(d)(3) of the Charter charges the Gaming Enterprise with the  
17 responsibility for planning, constructing, and management of all new or  
18 additional gaming facilities; and

19 **WHEREAS,** Section 5(d)(10) of the Charter authorizes the Management Board to enter into,  
20 make, perform and carry out contracts for any lawful purpose pertaining to the  
21 Enterprise's business; and

22 **WHEREAS,** Section 8(b)(2) of the Charter provides for a limited waiver of the Gaming  
23 Enterprise's sovereign immunity with respect to claims based upon a written  
24 contract to which the Gaming Enterprise is a party; and

25 **WHEREAS,** on May 19, 2022 the Legislative Council adopted Resolution No. 22-187 which  
26 approved a Tribal Land Assignment for the Far West Valley Area which authorized  
27 the Gaming Enterprise to utilize 80 acres of the Nation's land located in Maricopa  
28 County near the intersection of the Northern Parkway and Arizona State Route  
29 303 (the "*Far West Valley Area Land*") for the purposes of developing a gaming  
30 facility there once said land is taken into trust by the United States on behalf of  
31 the Tohono O'odham Nation (the "*Far West Valley Casino*"); and

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1 **WHEREAS, the Gaming Enterprise is currently negotiating an agreement with JCJ**  
2 **Architecture, PC ("JCJ"), a Connecticut Professional Corporation, for the purpose**  
3 **of engaging JCJ as its architect of record to design and assist in the development**  
4 **and construction of a new casino facility on the Far West Valley Area Land (the**  
5 **"Agreement for the Development of the Far West Valley Area Casino and Resort");**  
6 **and**

7 **WHEREAS, JCJ has conditioned its acceptance of the terms of the Agreement for the**  
8 **Development of the Far West Valley Area Casino and Resort upon the Nation**  
9 **approving a modification of the Gaming Enterprise's limited waiver of immunity**  
10 **under Section 8(b)(2) of the Enterprise's Charter, solely for the purposes of the**  
11 **Agreement for the Development of the Far West Valley Area Casino and Resort,**  
12 **and for the sole benefit of JCJ, in the form attached hereto as Exhibit A; and**

13 **WHEREAS, the Gaming Enterprise Management Board recommends that the Legislative**  
14 **Council approve this request to modify its limited waiver of sovereign immunity**  
15 **in the form attached hereto as Exhibit A so that it may enter into the Agreement**  
16 **for the Development of the Far West Valley Area Casino and Resort with JCJ; and**

17 **WHEREAS, the Commerce Committee of the Legislative Council has reviewed the language of**  
18 **the proposed waiver attached as Exhibit A and believes it is in the best interest of**  
19 **the Nation to adopt a resolution that approves those modifications; and**

20 **WHEREAS, the Nation's best interest will be served by modifying the Gaming Enterprise's**  
21 **statutory waiver of sovereign immunity as provided in the attached Exhibit A.**

22 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council grants a**  
23 **limited waiver of the sovereign immunity of the Tohono O'odham Gaming**  
24 **Enterprise in favor of JCJ for the purposes set forth in the Agreement for the**  
25 **Development of the Far West Valley Area Casino and Resort and adopts the**  
26 **attached Exhibit A for that purpose; provided that the Nation's sovereign**  
27 **immunity is not waived and nothing in this Resolution shall be interpreted or**  
28 **construed as creating any liability for the Nation with respect to any claims or**  
29 **other obligations asserted against the Enterprise or arising out of or related to**  
30 **the Agreement for the Development of the Far West Valley Area Casino and Resort.**

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**RESOLUTION NO. 23-068**

**(Approving a Limited Waiver of the Sovereign Immunity of the Tohono O'odham Gaming Enterprise in Favor of JCJ Architecture, PC and limited to the Agreement for the Development of the Far West Valley Area Casino and Resort)**


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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16<sup>TH</sup> day of FEBRUARY, 2023 at a meeting at which a quorum was present with a vote of 3,218.0 FOR; -0- AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by, Article VI, Section 1(e) 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  
17 day of February, 2023

ATTEST:

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary  
17 day of February, 2023

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 17 day of February, 2023 at 12:12 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<sup>st</sup> day of February, 2023

DISAPPROVED

at 4:53 o'clock, P .m.

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

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**RESOLUTION NO. 23-068**

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1 Returned to the Legislative Secretary on the 22 day of  
2 February, 2023, at 8:57 o'clock, A.m.  
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5 Deanne Fran JW:  
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7 **Evonne Wilson, Legislative Secretary**  
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**ACTION: APPROVING A LIMITED WAIVER OF THE SOVEREIGN IMMUNITY OF THE TOHONO O'ODHAM GAMING ENTERPRISE IN FAVOR OF JCJ ARCHITECTURE, PC AND LIMITED TO THE AGREEMENT FOR THE DEVELOPMENT OF THE FAR WEST VALLEY AREA CASINO AND RESORT**

**MOVED: COUNCILWOMAN JANICE FELIX**

**SECOND: COUNCILWOMAN GRACE MANUEL**

**DATE: FEBRUARY 16, 2023**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 245.6	1. MARY LOPEZ (Ann M. Garcia) 2. LUCINDA ALLEN (Francis Homewytewa)	122.8 122.8	X X			
SELLS 556.5	1. ARTHUR WILSON ( <i>Absent</i> ) (Shella Espino) ( <i>Present</i> ) 2. EVELYN JUAN MANUEL (Arvada Liston)	278.25 278.25	X X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza) 2. DELISA M. RAMON (Sharon A. Francisco)	95.25 95.25	X X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner) 2. JANICE FELIX ( )	121.3 121.3	X X			
SAN LUCY 243.8	1. JANA MONTANA (Lorraine M. Eller) 2. ROGER MANUEL (Christina Andrews)	121.9 121.9	X X			
PISINEMO 232.7	1. MARIETTA MARTIN ( ) 2. EDWARD D. MANUEL (Monica Morgan)	116.35 116.35	X X			
HICKIWAN 216.6	1. LOUIS R. LOPEZ ( ) 2. DELMA M. GARCIA ( )	108.3 108.3	X X			
GU VO 270.7	1. GRACE MANUEL ( ) 2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35 135.35	X X			
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN ( ) 2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25 139.25	X X			
CHUKUT KUK 351.6	1. MARLAKAY HENRY (Billman Lopez) 2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8 175.8	X X			X
BABOQUIVARI 388.9	1. ALBERTA J. RAY ( <i>Absent</i> ) (Frances G. Antone) ( <i>Present</i> ) 2. LEANDER MASE ( <i>Absent</i> ) (Francine Schooling) ( <i>Present</i> )	194.45 194.45	X X			
<b>TOTAL</b>		<b>3,218.0</b>	<b>3,218.0</b>	<b>-0-</b>	<b>-0-</b>	<b>[01]</b>