

**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 Hunt-Penta VI, a Joint Venture, Limited to an Agreement for Construction of the Far West Valley Casino and Related Construction Documents)**

**RESOLUTION NO. 23-069**

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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**Page 2 of 4**

1 **WHEREAS,** the Gaming Enterprise is currently negotiating an agreement with Hunt-Penta VI,  
2 a Joint Venture ("Hunt-Penta"), consisting of Hunt Construction Group, Inc., an  
3 Indiana corporation, and Penta Building Group, LLC, a Nevada limited liability  
4 company, for the purpose of engaging Hunt-Penta as its general contractor for  
5 the construction of a new casino facility on the Far West Valley Area Land (the "Far  
6 West Valley Area Casino Project Agreement"); and

7 **WHEREAS,** Hunt-Penta has conditioned its acceptance of the terms of the Far West Valley  
8 Area Casino Project Agreement upon the Nation approving a modification of the  
9 Gaming Enterprise's limited waiver of immunity under Section 8(b)(2) of the  
10 Enterprise's Charter, solely for the purposes of the Far West Valley Area Casino  
11 Project Agreement and for the sole benefit of Hunt-Penta in the form attached  
12 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 Far West  
16 Valley Area Casino Project Agreement with Hunt-Penta for the construction of the  
17 Far West Valley Casino; and

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

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

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

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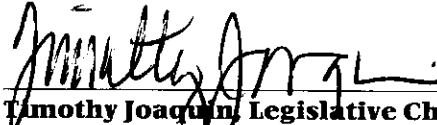
**RESOLUTION NO. 23-069**

**(Approving a Limited Waiver of the Sovereign Immunity of the Tohono O'odham Gaming Enterprise in Favor of Hunt-Penta VI, a Joint Venture, Limited to an Agreement for Construction of the Far West Valley Casino and Related Construction Documents)**


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1 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16<sup>TH</sup>  
2 day of FEBRUARY, 2023 at a meeting at which a quorum was present with a vote of 3,218.0 FOR;  
3 ~~0~~- AGAINST; [01] NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by,  
4 Article VI, Section 1(e) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono  
5 O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -  
6 Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934  
7 (48 Stat.984).  
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TOHONO O'ODHAM LEGISLATIVE COUNCIL

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12 \_\_\_\_\_  
13 Timothy Joaquin, Legislative Chairman  
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15 17 day of February, 2023  
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18 ATTEST:

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20 \_\_\_\_\_  
21 Evonne Wilson, Legislative Secretary  
22  
23 17 day of February, 2023  
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25 Said Resolution was submitted for approval to the office of the Chairman of the Tohono  
26 O'odham Nation on the 17 day of February, 2023 at 12:17 o'clock, P .m.,  
27 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become  
28 effective upon his approval or upon his failure to either approve or disapprove it within 48  
29 hours of submittal.  
30

31 TOHONO O'ODHAM LEGISLATIVE COUNCIL

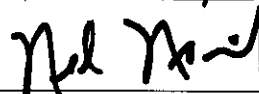
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34 \_\_\_\_\_  
35 Timothy Joaquin, Legislative Chairman  
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38  
39  APPROVED

on the 21<sup>st</sup> day of February, 2023

40  
41  DISAPPROVED

at 4:54 o'clock, P .m.

42  
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45 NED NORRIS, JR., CHAIRMAN  
46 TOHONO O'ODHAM NATION  
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Returned to the Legislative Secretary on the 22 day of  
February, 2023, at 8:57 o'clock, A.m.

Evonne Wilson  
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 HUNT-PENTA VI, A JOINT VENTURE, LIMITED TO AN AGREEMENT FOR CONSTRUCTION OF THE FAR WEST VALLEY CASINO AND RELATED CONSTRUCTION DOCUMENTS**

**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> ) (Shelia 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. Eiler) 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		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>[01]</b>	<b>[01]</b>