

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Suspending Authority to Expend Sif Oidak District Budget Funds)

RESOLUTION NO. 24-091

1 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Legislative Council with
2 the fiscal powers to "prevent the use, disposition or encumbrance of fiscal assets
3 of the Tohono O'odham Nation," "manage any funds within the exclusive control
4 of the Tohono O'odham Nation . . . and to appropriate these funds for the benefit
5 of the nation and its members" (Constitution, Article VI, Section 1(d)(1) and (d)(2));
6 and

7 **WHEREAS,** pursuant to Article IX, Section 7 of the Constitution of the Tohono O'odham
8 Nation, "[n]o district council shall expend district funds except pursuant to budgets
9 authorized under resolutions of the district council and approved by the Tohono
10 O'odham Council"; and

11 **WHEREAS,** the Gaming Ordinance, the Tohono O'odham Nation-State of Arizona Amended
12 and Restated Gaming Compact, and the Indian Gaming Regulatory Act require the
13 Nation to ensure that net gaming revenues, including revenues allocated to
14 districts, are used exclusively to fund government operations or programs or for
15 another of the specific purposes authorized by law (Gaming Ordinance, Section
16 302; Compact, Section 16(d); 25 U.S.C. Section 2710(b)(2)(B)); and

17 **WHEREAS,** the Legislative Council is vested with substantial control over the Nation's 11 local
18 district governments and over district finances; it may by ordinance change district
19 boundaries, create a district, or disestablish a district (Constitution, Article IX,
20 Section 2); and

21 **WHEREAS,** the districts "are organizations of fairly limited power and authority which may
22 act only under the supervision of the Tohono O'odham Council" and which may
23 not expend district funds without a budget authorized by district council resolution
24 and approved by the Legislative Council (*Juan v. Juan*, 2 TOR3d 62 (Trial Ct.,
25 Jan. 27, 2000) *appeal dism'd*, 3 TOR3d 1 (Jan. 4, 2005); Constitution, Article
26 IX, Section 7); and

27 **WHEREAS,** the Tohono O'odham Judicial Court has recognized that even after distributing
28 funds to a district, the Nation has an ongoing fiduciary obligation to ensure that
29 district funds are expended under valid authority (*Angela Ortiz & Frances Buis*
30 *v. Charlene Montana, et al; consolidated with Tohono O'odham Nation v. Gu-*
31 *Vo Governing Council*, 3 TOR3d 34 (Ct.App., Aug. 24, 2011)); and

RESOLUTION NO. 24-091

(Suspending Authority to Expend Sif Oidak District Budget Funds)

Page 2 of 7

1 **WHEREAS,** the Nation elects to allocate gaming, mining, leasing, and other revenues to fund
2 district government budgets, and the allocations of Nation's funds are the primary
3 sources of funding for Sif Oidak District operations; and

4 **WHEREAS,** the Legislative Council established the Sif Oidak Development Authority ("SODA")
5 as an entity of the Sif Oidak District by Nation's Ordinance No. 01-86, "Charter of
6 the Sif Oidak Development Authority" ("SODA Charter"); and

7 **WHEREAS,** in 2012, the Sif Oidak District Council approved District Resolution No. SODC 12-
8 006 and requested that the Nation appropriate \$1.7 million, including \$1.2
9 million to purchase the 40-acre Bob's Market property and business north of the
10 Main Reservation (collectively, the "Property"); \$150,000 to refund the Sif Oidak
11 District for expenditures on a prior economic development feasibility study; and
12 \$350,000 to fund SODA operations, overhead, and improvements for SODA to
13 operate a business on the Property; and

14 **WHEREAS,** by Resolution No. 13-185, the Legislative Council conditionally appropriated \$1.7
15 million for the Sif Oidak District and SODA as follows:

16 **\$500,000 for the cost of purchasing 40 acres of property, the Bob's Market**
17 **L.L.C. store, improvements, and value of the business as a going concern;**
18 **\$150,000 to repay the Sif Oidak District for the Mile Post 21 project;**
19 **\$75,000 for the SODA operating budget; \$675,000 for Bob's Market**
20 **operations, improvements, and contingency; and \$300,000 for a fuel site at**
21 **Bob's Market *provided that the funds appropriated by this resolution .***
22 ***. . . shall not be loaned to any person or entity, or be used for any***
23 ***purpose other than those expressly identified in this resolution.***

24 **(Emphasis added); and**

25 **WHEREAS,** by Resolution No. 13-185, the Legislative Council further amended the SODA
26 Charter to increase transparency and accountability by requiring: (1) that the
27 "books and records of the Authority, including current financial and operating
28 statements and all budget information" be maintained at SODA's offices and be
29 available to Sif Oidak District officials and others; (2) that SODA's books and
30 records be "audited by an independent certified public accountant within 120 days
31 of the close of each fiscal year" and (3) that, "[a] copy of the complete final audit
32 and a comprehensive, written annual report shall be provided to the Board,
33 District Council, Legislative Council, and Nation's chairperson; and the accountant
34 who prepared the audit shall present it to the Board and at a District Council
35 meeting that is open to District residents" (Resolution No. 13-185); and

RESOLUTION NO. 24-091

(Suspending Authority to Expend Sif Oidak District Budget Funds)

Page 3 of 7

1 **WHEREAS, the Sif Oidak District Council accepted the SODA Charter amendments by**
2 **Resolution No. SODC 13-066; and**

3 **WHEREAS, SODA repeatedly violated Ordinance No. 86-01, Charter of the Sif Oidak**
4 **Development Authority, and Resolution No. 13-185 by failing to provide copies of**
5 **SODA's complete final audits or comprehensive, written annual reports to the**
6 **Legislative Council and Nation's chairperson for several years; and**

7 **WHEREAS, despite Resolution No. 13-185's prohibition on expending Nation's funds "for any**
8 **purpose other than those expressly identified," the SODA Board chairman, who is**
9 **currently a Sif Oidak District Council representative, reported that the \$300,000**
10 **appropriated by Legislative Council Resolution No. 13-185 exclusively for a fuel**
11 **site on the Property had been reallocated for operating expenses; no fuel site was**
12 **ever constructed; and**

13 **WHEREAS, the SODA Board chairman, who is also a District Council representative, refused**
14 **the request of a Nation's internal auditor to provide financial records for a fraud**
15 **investigation internal audit as required by the Nation's Fraud Policy, 26 T.O.C.**
16 **Chapter 1, Article 5, and the audit could not be completed in the absence of**
17 **adequate records; and**

18 **WHEREAS, the Sif Oidak District Council has failed to manage SODA, ensure compliance with**
19 **the SODA Charter, provide oversight of the Nation's \$1.7 million appropriation,**
20 **or timely respond to numerous Nation's requests for financial information and**
21 **records critical to conducting a fraud investigation and subsequent fraud**
22 **accounting to evaluate, in part, if Nation's funds were lawfully expended consistent**
23 **with Resolution No. 13-185, the SODA Charter, and the Nation's laws; and**

24 **WHEREAS, by Sif Oidak District Council Resolution SODC No. 23-170, the District Council**
25 **agreed to the Nation's management and control of all District funds and accounts**
26 **and authority to expend District funds; and**

27 **WHEREAS, by Resolution No. 23-440, the Legislative Council transferred**
28 **to the Nation all financial management functions of the Sif Oidak District, control**
29 **of all Sif Oidak District funds and accounts, and authority to expend the Sif Oidak**
30 **District's funds in accordance with the FY 2024 Sif-Oidak District Gaming**
31 **Revenue Budget, the FY 2021-2024 Sif-Oidak District American Rescue Plan Act**
32 **Budget, and any other Legislative Council-approved Sif Oidak District budgets, as**
33 **amended or modified;**

34 **; and**

35

RESOLUTION NO. 24-091

(Suspending Authority to Expend Sif Oidak District Budget Funds)

Page 4 of 7

1 **WHEREAS,** the Sif Oidak District Council also amended its FY 2024 Gaming Revenue Budget
2 to repay the Nation the \$300,000.00 plus \$123,983.73 for the unlawful
3 expenditure of funds appropriated for the SODA fuel station, but failed to repay
4 the Nation; and

5 **WHEREAS,** in violation of Resolution No. 23-440, the Sif Oidak District failed to disclose the
6 existence of a Millennium Private Wealth checking account, failed to transfer to
7 the Nation control over the account, and the District chairperson and vice
8 chairperson retained debit cards and expended funds from the account without the
9 Nation's knowledge; and

10 **WHEREAS,** in violation of SODA Charter amendments made by Legislative Council Resolution
11 No. 23-440 and supported by Sif Oidak District Council Resolution SODC No. 23-
12 170, Sif Oidak District Council Representative Alex Vavages has refused to execute
13 documents required to remove him from the articles of incorporation for the
14 Arizona limited liability company he created for the SODA or remove himself as a
15 signatory on the LLC's bank accounts; and

16 **WHEREAS,** the Sif Oidak District's actions and refusal to act creates a substantial risk of loss
17 and ongoing violations of Nation's and other laws, and require further actions to
18 protect the assets and financial integrity of the Nation and the District; and

19 **WHEREAS,** in the best interests of the Nation and its members, the Budget and Finance
20 Committee recommends further action to protect the assets and financial integrity
21 of the Nation and the District.

22 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council suspends
23 all authority to expend funds under the FY 2024 Sif Oidak District Gaming
24 Revenue Budget and the FY 2021-2024 Sif-Oidak District American Rescue Plan
25 Act Budget with the following exceptions:

26 (1) the Sif Oidak District may authorize paid administrative leave and
27 continuing benefits for District employees; provided that the Nation shall
28 make such payments consistent with Legislative Council Resolution No. 23-
29 440; and

30 (2) the Nation may continue approving expenditures for essential District
31 services and valid, outstanding obligations under approved District budgets
32 as authorized jointly by the Budget and Finance Committee and the
33 Nation's chairperson or a designee the chairperson identifies in writing.

34 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council authorizes the
35 Nation's chairperson, the Nation's attorney general, and any Nation's Executive

RESOLUTION NO. 24-091

(Suspending Authority to Expend Sif Oidak District Budget Funds)

Page 5 of 7

1 **Branch official or employee whom the Nation's chairperson designates in writing**
2 **to take actions necessary to secure control of Sif Oidak District records and**
3 **property.**

4 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that the suspension
5 **of expenditure authority approved by this Resolution shall terminate when the**
6 **Budget and Finance Committee and Nation's chairperson jointly certify that the**
7 **Sif Oidak District, and its officials, agents, employees have fully complied with**
8 **Resolution No. 23-440 and with the November 2023 Amendments to the**
9 **Ordinance No. 86-01, Charter of the Sif Oidak Development Authority; provided**
10 **that the provision of Resolution No. 23-440 shall remain in effect pending further**
11 **Legislative Council action.**

12 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that, notwithstanding
13 **any Nation's law or resolution to the contrary, until the Budget and Finance**
14 **Committee and Nation's rhairperson jointly certify that the Sif Oidak District, and**
15 **its officials, agents, and employees have fully complied with Resolution No. 23-440**
16 **and with the November 2023 Amendments to Ordinance No. 86-01, Charter of the**
17 **Sif Oidak Development Authority, as amended, no further distributions or**
18 **allocations of gaming revenue, mining royalties, or other funds shall be made for**
19 **the Sif Oidak District**

20 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that nothing in this
21 **Resolution waives any civil or criminal liability of any person or entity, whether**
22 **or not currently established or identified or waives any obligation to produce**
23 **records and information; and nothing in the Resolution waives the Nation's**
24 **sovereign immunity or Legislative Council's legislative immunity in any**
25 **jurisdiction or forum.**

26 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that, notwithstanding
27 **any Nation's law or resolution to the contrary, the provisions of this Resolution**
28 **are not severable and if any word, clause, phrase, or other provision (collectively,**
29 **"provision") of this Resolution or its application to any person or circumstance is**
30 **held invalid by a court of competent jurisdiction: (1) the Legislative Council's**
31 **approval of the FY 2024 Sif Oidak District Gaming Revenue Budget shall be**
32 **invalid, and (2) any authority to expend funds under the FY 2024 Sif-Oidak**
33 **District Gaming Revenue Budget or FY 2021-2024 Sif-Oidak District American**
34 **Rescue Plan Act Budget shall be terminated.**

35

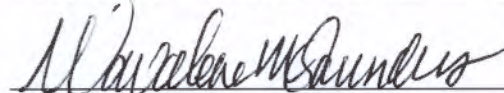
RESOLUTION NO. 24-091

(Suspending Authority to Expend Sif Oidak District Budget Funds)

Page 6 of 7

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH day of MARCH 2024 at a meeting at which a quorum was present with a vote of 3,263.3 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article V, Sections 1; Article VI, Section 1; Article VI, Section 1(d)(1), (d)(2), (d)(3), and (e); Article VII, Section 2(c) and 2(d), Article IX, Section 7 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


Wavalene M. Saunders, Legislative Chairwoman

7 day of March, 2024

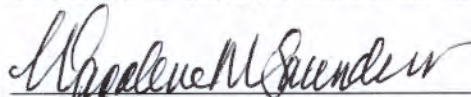
ATTEST:


Evonne Wilson, Legislative Secretary

7 day of March, 2024

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 7 day of March, 2024 at 4:35 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

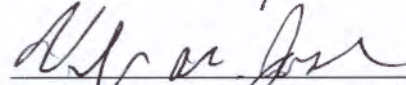

Wavalene M. Saunders, Legislative Chairwoman

APPROVED

on the 7 day of March, 2024

DISAPPROVED

at 4:36 o'clock, p.m.


VERLON M. JOSE, CHAIRMAN
TOHONO O'ODHAM NATION

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
52

RESOLUTION NO. 24-091
(Suspending Authority to Expend Sif Oidak District Budget Funds)
Page 7 of 7

Returned to the Legislative Secretary on the 7 day of
March, 2024, at 4:39 o'clock, p.m.

Evonne Wilson
Evonne Wilson, Legislative Secretary

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
52

ACTION: SUSPENDING AUTHORITY TO EXPEND SIF Oidak DISTRICT BUDGET FUNDS**MOVED: COUNCILWOMAN EVELYN JUAN MANUEL****SECOND: COUNCILWOMAN VICTORIA HOBBS****DATE: MARCH 07, 2024**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 394.2	1. LEANDER MASE (Francine Schooling) 2. JESSE NAVARRO (Alberta J. Ray)	197.1 197.1	X X			
CHUKUT KUK 354.7	1. VIVIAN JUAN-SAUNDERS (Cornelius Antone) 2. MARLAKAY HENRY ()	177.35 177.35	X X			
GU ACHI 282.7	1. VICTORIA HOBBS (Tonya L. Joaquin) 2. TIMOTHY L. JOAQUIN (Jerome L. Joaquin)	141.35 141.35	X X			
GU VO 276.0	1. DALLAS LEWIS () 2. LESLIE LUNA (Grace Manuel)	138.0 138.0	X X			
HICKIWAN 220.5	1. DELMA M. GARCIA () 2. LOUIS R. LOPEZ (Loretta A. Ortega)	110.25 110.25	X X			X
PISINEMO 236.2	1. EDWARD D. MANUEL (Monica Morgan) 2. PAMELA J. BENAVIDEZ (Nora J. Ruelas)	118.1 118.1	X X			
SAN LUCY 257.6	1. ROGER MANUEL (Christina Andrews) 2. GLORIA M. RAMIREZ (Lorraine M. Eiler)	128.8 128.8	X X			
SAN XAVIER 244.5	1. JANICE FELIX () 2. DANIEL L.A. PRESTON III ()	122.25 122.25	X X			X
SCHUK TOAK 191.8	1. DELISA M. RAMON (Sharon A. Francisco) 2. THEORIA CAMPILLO (Rebecca Ann Valentine)	95.9 95.9	X X			
SELLS 558.0	1. EVELYN JUAN-MANUEL (Arvada Liston) 2. JANET B. ELEANDO ()	279.0 279.0	X X			
SIF Oidak 247.1	1. LUCINDA ALLEN (Francis Homewytewa) 2. WAVALENE M. SAUNDERS (Mary Lopez)	123.55 123.55	X X			
TOTAL		3,263.30	3,263.3	-0-	-0-	[02]