

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving Second Amendment to the Tohono O'odham Nation 401(k) Retirement Plan)**

**RESOLUTION NO. 24-094**

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Tohono O'odham**  
2 **Legislative Council with the authority to "promote, protect and provide for public**  
3 **health . . . and general welfare of the Tohono O'odham Nation and its members"**  
4 **(Constitution, Art. VI, Sec. 1(c)(2)); and**

5 **WHEREAS, the Tohono O'odham Legislative Council has the authority to "manage funds**  
6 **within the exclusive control of the Tohono O'odham Nation . . . and to appropriate**  
7 **these funds for the benefit of the nation and its members" (Constitution, Art. VI,**  
8 **Sec. 1(d)(2)); and**

9 **WHEREAS, pursuant to Resolution No. 2000-453, the Tohono O'odham Legislative Council**  
10 **approved a 401(k) Retirement Plan (the "Plan") for employees of the Tohono**  
11 **O'odham Nation (the "Nation") and the Plan has been amended on multiple**  
12 **subsequent occasions; and**

13 **WHEREAS, the Plan was most recently amended and restated in its entirety effective January**  
14 **1, 2016; and**

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

18 **WHEREAS, to maintain the tax-qualified status of the Plan, the Nation is required to update**  
19 **the Plan documents from time to time to incorporate legislative and other**  
20 **compliance changes into the documentation; and**

21 **WHEREAS, the Plan is available to permanent full-time and part-time employees of the**  
22 **Nation and the Adopting Employers, but temporary and other limited duration**  
23 **employees are excluded from participation in the Plan; and**

24 **WHEREAS, changes to federal law require the Nation to adjust the Plan's eligibility**  
25 **requirements to allow temporary, seasonal, and occasional employees to**  
26 **participate in the Plan if they meet certain requirements; and**

27 **WHEREAS, changes to federal law do not require Employer Contributions for temporary,**  
28 **seasonal, and occasional employees who participate in the Plan; and**

29 **WHEREAS, the Nation has determined that it is appropriate to open the Plan to all employees**  
30 **who wish to make employee contributions to the Plan, and to continue to limit**  
31 **Employer Contributions to the Nation's permanent employees; and**  
32



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1 **WHEREAS, tbe proposed changes to the Plan's eligibility will apply equally to the Adopting**  
2 **Employers participating in the Plan, including the Archie Hendricks Senior**  
3 **Skilled Nursing Facility and the Tohono O'odham Community College; and**

4 **WHEREAS, the Nation also recommends that the Plan be amended to clarify that Employer**  
5 **Matching Contributions are calculated on a payroll period basis (instead of**  
6 **annually) and that certain employees of the Nation who are direct hires from the**  
7 **Indian Health Service ("IHS") receive credit for their periods of employment with**  
8 **IHS under the Plan; and**

9 **WHEREAS, the proposed Second Amendment to the Plan, which is incorporated by this**  
10 **reference, modifies the Plan's eligibility provisions to remove the six (6) month**  
11 **waiting period for employee deferrals, allows temporary, seasonal, and**  
12 **occasional employees to make employee contributions to the Plan and makes the**  
13 **other clarifications set forth above; and**

14 **WHEREAS, the Trustees of the Plan and the Human Resources Development Committee**  
15 **recommend adoption of the Second Amendment to the Plan and the passage of**  
16 **this resolution.**

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

- 18 1. **adopts the Second Amendment to the Plan, effective as of the date of this**  
19 **resolution.**  
20 2. **authorizes and directs the Nation's chairman to execute the Second**  
21 **Amendment to the Plan on behalf of the Nation.**

22 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 15<sup>TH</sup>**  
23 **day of MARCH 2024 at a meeting at which a quorum was present with a vote of 3,263.3 FOR; -0-**  
24 **AGAINST; [01] NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by**  
25 **Article VI Sec. 1(c)(2) and 1(d)(2) of the Constitution of the Tohono O'odham Nation, adopted by**  
26 **the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**  
27 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**  
28 **18, 1934 (48 Stat.984).**

30 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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33   
34 **Wavalene M. Saunders, Legislative Chairwoman**

35  
36 15<sup>th</sup> day of March, 2024

RESOLUTION NO. 24-094  
(Approving Second Amendment to the Tohono O'odham Nation 401(k) Retirement Plan)  
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1 ATTEST:

2 *Evonne Wilson*  
3

4 Evonne Wilson, Legislative Secretary

5 15 day of March, 2024  
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7  
8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono  
9 O'odham Nation on the 15<sup>th</sup> day of March, 2024 at 3:47 o'clock, p.m.,  
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become  
11 effective upon his approval or upon his failure to either approve or disapprove it within 48  
12 hours of submittal.  
13

14 TOHONO O'ODHAM LEGISLATIVE COUNCIL

15 *Wavalene M. Saunders*  
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17 Wavalene M. Saunders, Legislative Chairwoman  
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22  APPROVED

23 on the 15 day of March, 2024

24  
25  DISAPPROVED

26 at 4:07 o'clock, p.m.

27 *Verlon M. Jose*  
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29 VERLON M. JOSE, CHAIRMAN  
30 TOHONO O'ODHAM NATION  
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35 Returned to the Legislative Secretary on the 15 day of  
36 March, 2024, at 4:30 o'clock, p.m.  
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38 *Evonne Wilson*  
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41 Evonne Wilson, Legislative Secretary  
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ACTION: APPROVING SECOND AMENDMENT TO THE TOHONO O'ODHAM NATION 401(K) RETIREMENT PLAN

MOVED: COUNCILWOMAN JANICE FELIX

SECOND: COUNCILWOMAN LUCINDA ALLEN

DATE: MARCH 15, 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. MARLAKAV 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			X
SAN LUCY 257.6	1. ROGER MANUEL (Christina Andrews) 2. GLORIA M. RAMIREZ ( <i>Absent</i> ) (Lorraine M. Eiler) ( <i>Present</i> )	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			
SCHUK TOAK 191.8	1. DELISA M. RAMON (Sharon A. Francisco) 2. THEORIA CAMPILLO (Rebecca Ann Valentine)	95.9 95.9	X 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			
	<b>TOTAL</b>	<b>3,263.30</b>	<b>3,263.3</b>	<b>-0-</b>	<b>[01]</b>	<b>[02]</b>