

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Restatement of 401(k) Plan and Trust Documents and Approving Bylaws
of the Tohono O'odham Nation 401(k) Plan Board of Trustees)**

RESOLUTION NO. 25-455

1 **WHEREAS,** the Tohono O'odham Legislative Council is vested with the powers "to manage any
2 funds within the exclusive control of the Tohono O'odham Nation" (Constitution
3 of the Tohono O'odham Nation, Article VI, Section 1(d)(2)); and

4 **WHEREAS,** the Constitution also vests the Tohono O'odham Legislative Council with the
5 authority to "consult, negotiate and conclude agreements and contracts on
6 behalf of the Tohono O'odham Nation with Federal, State and local governments
7 and other Indian tribes or their departments, agencies, or political subdivisions,
8 or with private persons or organizations on all matters within the authority of the
9 Tohono O'odham Council" (Constitution, Article VI, Section 1(f)); and

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

13 **WHEREAS,** the Plan was most recently amended and restated in its entirety effective January
14 1, 2016 and then amended again on two subsequent occasions; 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,** attached hereto are the amended and restated version of the Plan (Attachment A)
22 and the related Trust Agreement (Attachment B), which include the prior
23 amendments to the Plan, certain required compliance changes and certain
24 recommended design changes; and

25 **WHEREAS,** the changes included in the amended and restated version of the Plan and the
26 related Trust Agreement are summarized in the attached memorandum from the
27 Nation's outside legal counsel, Yoder & Langford, P.C. (Attachment C); and

28 **WHEREAS,** the Trustees recommend the adoption of the amended and restated Plan and
29 Trust Agreement by the Legislative Council; and

30 **WHEREAS,** the amended and restated Plan document clarifies the authority of the Plan
31 Trustees to serve as both the Plan Administrator and the Plan Trustees, in the

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1 **form of the Tohono O'odham Nation 401(k) Plan Board of Trustees (the "Board of**
2 **Trustees"); and**

3 **WHEREAS, the Trustees wish to further document the authority and operation of the Board**
4 **by presenting the attached draft Bylaws for the Board of Trustees (Attachment D)**
5 **to the Legislative Council for approval; and**

6 **WHEREAS, the amended and restated Plan document permits the Board of Trustees to**
7 **approve the adoption of the Plan by Districts that are under the financial control**
8 **and management of the Nation, upon request by the District and with the consent**
9 **of the District Council, including the Sif Oidak District; and**

10 **WHEREAS, the Human Resources Development Committee has reviewed the amended and**
11 **restated Plan document and Bylaws and recommends approval.**

12 **NOW, THEREFORE, BE IT RESOLVED that the Legislative Council:**

- 13 **1. Adopts the amended and restated Tohono O'odham Nation 401(k)**
14 **Retirement Plan, and its related Trust Agreement, effective as of January 1,**
15 **2026, in the form attached hereto.**
- 16 **2. Ratifies and confirms the Nation's continued operation and administration**
17 **of the Plan as a governmental plan, exempt from the requirements of the**
18 **Employee Retirement Income Security Act of 1974 ("ERISA"), on a reasonable**
19 **and good faith basis.**
- 20 **3. Designates the three leaders of the Nation's Executive, Judicial, and**
21 **Legislative Branches of government or their delegates (now referred to as the**
22 **"Board of Trustees") to continue to serve as the Trustee of the Plan and to**
23 **serve in the legal and fiduciary role of Plan Administrator, all on behalf of the**
24 **Nation and in accordance with the terms of the Plan and the related Trust**
25 **Agreement.**
- 26 **4. Adopts the Bylaws of Tohono O'odham Nation 401(k) Plan Board of Trustees,**
27 **effective as of the date of this Resolution, in the form attached hereto.**
- 28 **5. Ratifies and confirms the continuing participation of the Archie Hendricks**
29 **Senior Skilled Nursing Facility and the Tohono O'odham Community College**
30 **in the Plan as authorized Adopting Employers and subject to the terms of the**
31 **amended and restated Plan document.**

32 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that the Tohono O'odham**
33 **Nation chairperson or any designated official is authorized to execute the**
34 **amended and restated Plan and Trust Agreement on behalf of the Nation.**

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17TH day of DECEMBER 2025 at a meeting at which a quorum was present with a vote of 3,187.95 FOR; 133.15 AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 2(d)(2) and Section 1(f) 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 (ONperations) 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

Wavalene M. Saunders, Legislative Chairwoman

19 day of December, 2025

ATTEST:

Evonne Wilson

Evonne Wilson, Legislative Secretary

18 day of December, 2025

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 19 day of December, 2025 at 8:05 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

Wavalene M. Saunders

Wavalene M. Saunders, Legislative Chairwoman

APPROVED

on the 22 day of December, 2025

DISAPPROVED

at 10:54 o'clock, a.m.

Verlon M. Jose
VERLON M. JOSE, CHAIRMAN
TOHONO O'ODHAM NATION

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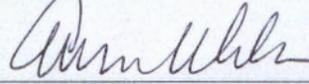
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1 Returned to the Legislative Secretary on the 22 day of

2
3 December, 2025, at 11:05 o'clock, a.m.

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7 **Evonne Wilson, Legislative Secretary**

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ACTION: APPROVING RESTATEMENT OF 401(K) PLAN AND TRUST DOCUMENTS AND APPROVING BYLAWS OF THE TOHONO O'ODHAM NATION 401(K) PLAN BOARD OF TRUSTEES**MOVED: COUNCILWOMAN DELISA M. RAMON****SECOND: COUNCILMAN BENNETT CHEWING****DATE: DECEMBER 17, 2025**

| DISTRICT | LEGISLATIVE REPRESENTATIVES | # OF VOTES | FOR | AGAINST | NOT VOTING | ABSENT |
|----------------------|--|----------------|-----------------|---------------|------------|-------------|
| SIF OIDAK 251.2 | 1. WAVALENE M. SAUNDERS (Mary Lopez) | 125.6 | X | | | |
| | 2. FRANCIS HOMEWYTEWA () | 125.6 | X | | | |
| SELLS 565.7 | 1. JANET B. ELEANDO () | 282.85 | X | | | |
| | 2. EVELYN JUAN MANUEL (Juan Buendia) | 282.85 | X | | | |
| SCHUK TOAK 195.3 | 1. THEORIA CAMPILLO (Rebecca Ann Valentine) | 97.65 | X | | | |
| | 2. DELISA M. RAMON (Quintin C. Lopez) | 97.65 | X | | | |
| SAN XAVIER 249.8 | 1. DANIEL L.A. PRESTON III () | 124.9 | X | | | |
| | 2. JANICE FELIX () | 124.9 | X | | | X |
| SAN LUCY 266.3 | 1. GLORIA M. RAMIREZ (Lorraine M. Eiler) | 133.15 | | X | | |
| | 2. ROGER MANUEL (Christina Andrews) | 133.15 | X | | | |
| PISINEMO 240.3 | 1. PAMELA J. BENAVIDEZ (Nora J. Ruelas) | 120.15 | X | | | |
| | 2. NAOMI MONTE (Edward D. Manuel) | 120.15 | X | | | |
| HICKIWAN 222.9 | 1. LOUIS R. LOPEZ (Loretta A. Ortega) | 111.45 | X | | | |
| | 2. DELMAM. GARCIA () | 111.45 | X | | | X |
| GU VO 279.6 | 1. LESLIE LUNA () | 139.8 | X | | | |
| | 2. BENNETT CHEWING () | 139.8 | X | | | |
| GU ACHI 289.2 | 1. JEROME F. JOAQUIN (Gloria Johnson) | 144.6 | X | | | |
| | 2. LUCIUS E. LOPEZ (Victoria A. Hobbs) | 144.6 | X | | | |
| CHUKUT KUK 361.9 | 1. MARLAKAY HENRY () | 180.95 | X | | | |
| | 2. VIVIAN JUAN-SAUNDERS (Cornelius Antone) | 180.95 | X | | | |
| BABOQUIVARI 398.9 | 1. JESSE NAVARRO (Alberta J. Ray) | 199.45 | X | | | |
| | 2. NED NORRIS, JR. (Leander Mase) | 199.45 | X | | | |
| TOTAL | | 3,321.1 | 3,187.95 | 133.15 | -0- | [02] |