

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Approving Investment Consultant Agreement between the Tohono O'odham  
Nation and CapFinancial Partners, LLC dba/CAPTRUST)**

**RESOLUTION NO. 26-001**

1   **WHEREAS,**    the Constitution of the Tohono O'odham Nation ("Nation") vests the Legislative  
2                   Council with the authority to "promote, protect and provide for public health,  
3                   peace, morals, education and general welfare of the Tohono O'odham Nation and  
4                   its members" and to "consult, negotiate and conclude agreements and contracts  
5                   on behalf of the Tohono O'odham Nation...with private persons or organizations  
6                   on all matters within the authority of the Tohono O'odham Council"  
7                   (Constitution, Article VI, Section 1(c)(2) and (f)); and  
8   **WHEREAS,**    the Constitution of the Tohono O'odham Nation ("Nation") also vests the  
9                   Legislative Council with the authority "to manage any funds within the exclusive  
10                  control of the Tohono O'odham Nation . . . and "to appropriate these funds for the  
11                  benefit of the nation and its members" and "to adopt, approve and amend annual  
12                  budgets and to authorize the expenditure of funds in accordance with these  
13                  budgets." (Constitution, Article VI, Section 1(d)(2) and (3)); and  
14   **WHEREAS,**    the Investment Committee of the Tohono O'odham Nation provides oversight for  
15                   the financial investments of the Nation; and  
16   **WHEREAS,**    based on the recommendation of the Investment Committee, the Legislative  
17                   Council has for some years selected Bank of America as the custodian and  
18                   manager of the Nation's invested funds; and  
19   **WHEREAS,**    since FY 2009, the Nation retained CapFinancial Partners, LLC dba/CAPTRUST,  
20                   formerly known as Portfolio Evaluations, Inc., as an independent investment  
21                   consultant to advise the Nation regarding the investment choices made or  
22                   recommended by Bank of America and by any subsequent or additional  
23                   investment advisors that may be retained by the Nation; and  
24   **WHEREAS,**    the investment consultant will report as reasonably necessary to the Investment  
25                   Committee and will, at a minimum, provide two presentations per year to the full  
26                   Legislative Council; and  
27   **WHEREAS,**    the term of the CapFinancial Partners, LLC dba/CAPTRUST Investment  
28                   Consultant Agreement ("Agreement") shall be effective October 1, 2025, and shall  
29                   remain in full force and effect until terminated in accordance with the provisions  
30                   therein; and  
31

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1 **WHEREAS, the source of funds for the consultant fees will be paid from the Office of the**  
2 **Treasurer's annual fiscal year budget which is funded by the Nation's general**  
3 **fund; and**

4 **WHEREAS, the Agreement contains certain terms and conditions that require the Nation to**  
5 **grant a limited waiver of its sovereign immunity to CapFinancial Partners, LLC**  
6 **dba/CAPTRUST; and**

7 **WHEREAS, the Office of the Treasurer submits for review and approval the Agreement and**  
8 **requests a limited waiver of the Nation's sovereign immunity under the following**  
9 **conditions:**

10 **"Limited Waiver of Sovereign Immunity. The Nation hereby provides a limited**  
11 **waiver of sovereign immunity for the purpose of resolving any dispute that arises**  
12 **out of this Agreement, and as may be necessitated by any claims of**  
13 **indemnification. Nothing in this limited waiver shall be deemed to waive the**  
14 **Nation's immunity from suit except as to a case/claim brought by CapFinancial**  
15 **Partners, LLC dba/CAPTRUST alleging a breach of this Agreement and to seek**  
16 **injunctive relief. Damages are limited to direct contractual damages. The**  
17 **Nation's Attorney General is authorized to accept service on behalf of the Nation."**

18 **WHEREAS, the Investment Committee of the Legislative Council has reviewed the**  
19 **Agreement, including the proposed limited waiver of the Nation's sovereign**  
20 **immunity; finds that it is in the best interest of the Nation to grant this limited**  
21 **waiver and recommend its approval.**

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

- 23 **1. Approves the Investment Consultant Agreement with CapFinancial Partners,**  
24 **LLC dba/CAPTRUST, effective October 1, 2025, and remain in full force and**  
25 **effect until terminated in accordance with the provisions therein; and**
- 26 **2. Approves and authorizes a limited waiver of the Nation's sovereign immunity**  
27 **in favor of CapFinancial Partners, LLC dba/CAPTRUST under the specific**  
28 **conditions described therein; and**
- 29 **3. Approves the consultant fees to be paid from the Office of the Treasurer's**  
30 **annual fiscal year budget which is funded by the Nation's general fund; and**
- 31 **4. Authorizes the Chairman of the Nation to execute the agreement, in**  
32 **substantially the form attached, provided that any amendments to the**  
33 **Investment Consultant Agreement shall be presented to the Legislative**  
34 **Council for prior approval.**

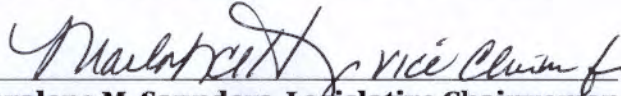
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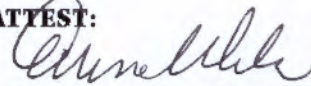
The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12<sup>TH</sup> day of JANUARY 2026 at a meeting at which a quorum was present with a vote of 3,321.1 FOR; -0- AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2) and (f); Article VI, Section 1(d)(2) and (3) 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

16<sup>TH</sup> day of January, 2026

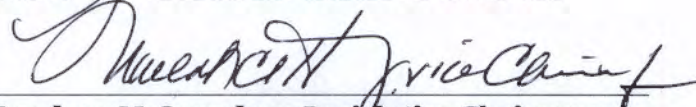
ATTEST:

  
Evonne Wilson, Legislative Secretary

15 day of January, 2026

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 16<sup>TH</sup> day of January, 2026 at 9:24 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.

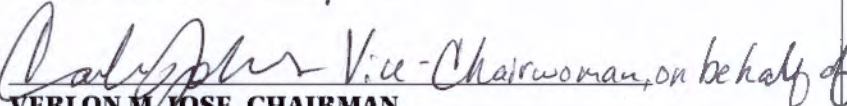
TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
Wavalene M. Saunders, Legislative Chairwoman

☒ APPROVED

☐ DISAPPROVED

on the 16 day of January, 2026  
at 2:05 o'clock, P .m.

  
VERLON M. JOSE, CHAIRMAN  
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 14 day of

January, 2026, at Five o'clock, p.m.

Evonne Wilson  
**Evonne Wilson, Legislative Secretary**

**ACTION: APPROVING INVESTMENT CONSULTANT AGREEMENT BETWEEN THE TOHONO O'ODHAM NATION AND CAPFINANCIAL PARTNERS, LLC DBA/CAPTRUST****MOVED: COUNCILWOMAN THEORIA CAMPILLO****SECOND: COUNCILWOMAN EVELYN JUAN MANUEL****DATE: JANUARY 12, 2026**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF ODAK 251.2	1. WAVALENE M. SAUNDERS (Mary Lopez) 2. FRANCIS HOMEWYTEWA ( )	125.6 125.6	X X			X
SELLS 565.7	1. JANET B. ELEANDO ( ) 2. EVELYN JUAN MANUEL (Juan Buendia)	282.85 282.85	X X			
SCHUK TOAK 195.3	1. THEORIA CAMPILLO (Rebecca Ann Valentine) 2. DELISA M. RAMON (Quintin C. Lopez)	97.65 97.65	X X			
SAN XAVIER 249.8	1. DANIEL L.A. PRESTON III ( ) 2. JANICE FELIX ( )	124.9 124.9	X X			X
SAN LUCY 266.3	1. GLORIA M. RAMIREZ (Lorraine M. Eiler) 2. ROGER MANUEL (Christina Andrews)	133.15 133.15	X X			
PISINEMO 240.3	1. PAMELA J. BENAVIDEZ (Nora J. Ruelas) 2. NAOMI MONTE (Edward D. Manuel)	120.15 120.15	X X			
HICKIWAN 222.9	1. LOUIS R. LOPEZ (Loretta A. Ortega) 2. DELMA M. GARCIA ( )	111.45 111.45	X X			X
GU VO 279.6	1. LESLIE LUNA ( ) 2. BENNETT CHEWING ( )	139.8 139.8	X X			
GU ACHI 289.2	1. JEROME F. JOAQUIN (Gloria Johnson) 2. LUCIUS E. LOPEZ ( <i>Absent</i> ) (Victoria A. Hobbs) ( <i>Present</i> )	144.6 144.6	X X			
CHUKUT KUK 361.9	1. MARLAKAY HENRY ( ) 2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	180.95 180.95	X X			
BABOQUIVARI 398.9	1. JESSE NAVARRO (Alberta J. Ray) 2. NED NORRIS, JR. (Leander Mase)	199.45 199.45	X X			
<b>TOTAL</b>		<b>3,321.1</b>	<b>3,321.1</b>	<b>-0-</b>	<b>-0-</b>	<b>[03]</b>