

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Limited Waiver and Amendment to Amended and Restated Non-Impairment Agreement with Bank of America, N.A. and Other Syndicated Lenders)

RESOLUTION NO. 20-101

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 Articles V and VI of the Constitution of the Tohono O'odham Nation,**
6 **all the legislative powers of the Nation are vested in the Tohono O'odham**
7 **Legislative Council; and**

8 **WHEREAS,** **the Tohono O'odham Gaming Enterprise (the "Gaming Enterprise") is a tribal**
9 **corporation and economic development enterprise of the Nation established**
10 **pursuant to Article VI, Section 1(e), of the Nation's Constitution and is responsible**
11 **for planning, constructing, and operating the Nation's gaming facilities and**
12 **conducting gaming activities (Charter of the Gaming Enterprise (the "Charter");**
13 **16 Tohono O'odham Code Chapter 2); and**

14 **WHEREAS,** **Section 5(d) of the Charter expressly authorizes the Gaming Enterprise to enter**
15 **into and perform contracts, to borrow funds (subject to the limitations that (i) the**
16 **Gaming Enterprise may not incur obligations in excess of its ability to pay as**
17 **required and (ii) the Nation will not be liable for the debts or obligations of the**
18 **Gaming Enterprise), and to pledge or grant security interests in the personal**
19 **property, cash, accounts receivable, and other assets of the Gaming Enterprise;**
20 **and**

21 **WHEREAS,** **by Resolution No. 17-615, the Nation entered an Amended and Restated Non-**
22 **Impairment Agreement with Bank of America, N.A., a national banking**
23 **association and a syndicate of other banks (collectively, the "Syndicated**
24 **Lenders") in support of a Credit Agreement under which those Syndicated**
25 **Lenders extended financing to the Gaming Enterprise for the further**
26 **development of the Desert Diamond West Valley Casino and Resort; and**

27 **WHEREAS,** **in order to protect public health and safety during the COVID-19 epidemic and**
28 **consistent with Legislative Council Resolution No. 20-094, on March 18, 2020, the**
29 **Nation's chairperson issued Executive Order No. 2020-02 ordering the closure of**
30 **non-essential programs within the Nation's government, including the Tohono**
31 **O'odham Gaming Office, effective March 19, 2020 through April 23, 2020; and**

32 **WHEREAS,** **on March 18, 2020, the Tohono O'odham Gaming Enterprise initially closed its**
33 **Gaming Facilities in response to the COVID-19 epidemic for two weeks and**
34 **subsequently extended the closures until at least April 23, 2020; and**

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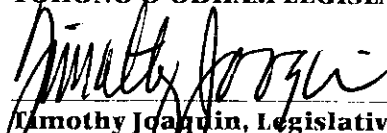
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2 **WHEREAS, the Syndicated Lenders have agreed to a Limited Waiver and Amendment to the**
3 **Amended and Restated Credit Agreement between the Gaming Enterprise and the**
4 **Syndicated Lenders and to the Non-Impairment Agreement between the**
5 **Syndicated Lenders and the Nation waiving certain defaults of those Agreements**
6 **resulting from the casino closures; and**

7 **WHEREAS, the Budget and Finance and Commerce Committees of the Legislative Council**
8 **have reviewed the Limited Waiver and Amendment and recommend its approval.**


9 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves the**
10 **Limited Waiver and Amendment to the Non-Impairment Agreement in**
11 **substantially the form presented to the Legislative Council in emergency session**
12 **on April 8, 2020 and attached as Exhibit A, and authorizes the Nation's**
13 **chairperson to execute and deliver it.**

14 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08TH**
15 **day of APRIL, 2020 at a meeting at which a quorum was present with a vote of 2,961.9 FOR;**
16 **-0- AGAINST; -0- NOT VOTING; and 213.8[06] ABSENT, pursuant to the powers vested in the**
17 **Council by Article VI, Section 1(d), 1(e), and 1(f) of the Constitution of the Tohono O'odham**
18 **Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting**
19 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section**
20 **16 of the Act of June 18, 1934 (48 Stat.984).**

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23 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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28 **Timothy Joaquin, Legislative Chairman**
29
30 9 day of April, 2020

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32 **ATTEST:**

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35 **Evonne Wilson, Legislative Secretary**

36
37 9 day of April, 2020
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39 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono**
40 **O'odham Nation on the 9 day of April, 2020 at 12:39 o'clock, P .m.,**
41 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become**
42 **effective upon his approval or upon his failure to either approve or disapprove it within 48**
43 **hours of submittal.**
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TOHONO O'ODHAM LEGISLATIVE COUNCIL


Timothy Joannin, Legislative Chairman

APPROVED on the 09 day of April, 2020
 DISAPPROVED at 12:45 o'clock, P.m.


NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 9 day of
April, 2020, at 12:49 o'clock, P.m.


Evonne Wilson, Legislative Secretary

ACTION: APPROVING LIMITED WAIVER AND AMENDMENT TO AMENDED AND RESTATED NON-IMPAIRMENT AGREEMENT WITH BANK OF AMERICA, N.A. AND OTHER SYNDICATED LENDERS

Moved: COUNCILWOMAN JANICE FELIX

SECOND: COUNCILMAN DANIEL L.A. PRESTON III

DATE: APRIL 08, 2020

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	1. LEANDER MASE (Francine Schooling)	192.40	X			
	2. ALBERTA J. RAY (Frances G. Antone)	192.40	X			
CHUKUT KUK 347.5	1. VIVIAN JUAN-SAUNDERS (Juanita Homer)	173.75	X			
	2. MARLAKAY HENRY (Billman Lopez)	173.75	X			X
GUACHI 279.3	1. VICTORIA HOBBS ()	139.65	X			
	2. TIMOTHY L. JOAQUIN (Louis L. Johnson)	139.65	X			
GUVO 264.5	1. DALLAS LEWIS (Nacho Flores)	132.25	X			X
	2. GRACE MANUEL ()	132.25	X			
HICKIWAN 213.8	1. SANDRA D. ORTEGA ()	106.90				X
	2. LOUIS R. LOPEZ (Delma M. Garcia)	106.90				X
PISINEMO 230.7	1. MONICA K. MORGAN ()	115.35	X			
	2. MARIETTA MARTIN ()	115.35	X			
SAN LUCY 235.6	1. GLORIA RAMIREZ ()	117.80	X			
	2. JANA MONTANA (Lorraine M. Eiler)	117.80	X			X
SAN XAVIER 238.9	1. JANICE FELIX (Adam Andrews)	119.45	X			
	2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45	X			
SCHUK TOAK 189.0	1. QUINTIN C. LOPEZ (Agnes V. Joaquin)	94.50	X			
	2. TERESA F. DONAHUE (Alberta Espinoza)	94.50	X			
SELLS 547.1	1. EVELYN JUAN MANUEL ()	273.55	X			X
	2. ARTHUR WILSON ()	273.55	X			
SIF OIDAK 244.5	1. LUCINDA ALLEN (Yolonda Garcia)	122.25	X			
	2. MARY LOPEZ (Ann M. Garcia)	122.25	X			
TOTAL		3,175.7	2,961.9	-0-	-0-	213.8
						[06]