

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving a Limited Waiver of the San Lucy District's Sovereign Immunity
in Favor of BOKF, NA for the Purpose of Enabling the San Lucy District
to Establish and Operate a 401(k) Plan for Its Employees)**

RESOLUTION NO. 22-334

- 1 **WHEREAS,** the Tohono O'odham Nation is a federally recognized Indian tribe, organized
2 pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat.
3 984; 25 U.S.C. § 476), which exercises sovereignty over its members, districts, and
4 its lands; and
- 5 **WHEREAS,** the Constitution of the Tohono O'odham Nation vests the Legislative Council with
6 the authority "to promote, protect and provide for public health, peace, morals,
7 education and general welfare of the Tohono O'odham Nation and its members"
8 (Constitution of the Tohono O'odham Nation, Article VI, Section 1(c)(2)); and
- 9 **WHEREAS,** the Tohono O'odham Nation possesses sovereign immunity that extends to the
10 Nation's districts and the Tohono O'odham Legislative Council may grant a
11 waiver of a district's sovereign immunity that is limited in accordance with its
12 terms (1 T.O.C. Chapter 2, Section 2101(A)-(C)); and
- 13 **WHEREAS,** the Constitution vests the District Council of each district with the authority to
14 govern itself in matters of local concern (Constitution of the Tohono O'odham
15 Nation, Article IX, Section 5); and
- 16 **WHEREAS,** the District Council of the San Lucy District desires to develop and manage a
17 retirement fund for employees of the District; and
- 18 **WHEREAS,** the District desires to enter into an agreement with BOKF, NA referred to as the
19 Master Services Agreement to provide retirement plan services to the District
20 including custody, recordkeeping, administrative and fiduciary investment
21 management services with respect to a Governmental Plan; and
- 22 **WHEREAS,** the Master Services Agreement contains certain terms and conditions that
23 require the Nation to grant a limited waiver of the District's sovereign immunity
24 to BOKF; and
- 25 **WHEREAS,** more particularly, the San Lucy District requests that the Nation grant a limited
26 waiver of the sovereign immunity of the San Lucy District to BOKF for the limited
27 and sole purpose of allowing for enforcement of the express terms of the Master
28 Services Agreement by final and binding arbitration with enforcement of the
29 arbitration provisions and an arbitration award in the court of the Maricopa
30 County Superior Court; and
- 31

RESOLUTION NO. 22-334

**(Approving a Limited Waiver of the San Lucy District's Sovereign Immunity in Favor of BOKF, NA for the Purpose of Enabling the San Lucy District to Establish and Operate a 401(k) Plan for Its Employees
Page 2 of 3**

1 **WHEREAS, BOKF agrees that the limited waiver of sovereign immunity in favor of BOKF shall**
2 **not be assigned by BOKF to any other party, including any successor to BOKF**
3 **under this Agreement; and**

4 **WHEREAS, BOKF agrees that except for the obligations expressly assumed by the parties to**
5 **the Agreement, nothing in the Agreement shall be construed as affecting,**
6 **modifying, or otherwise impairing the sovereign immunity enjoyed by the**
7 **District or the Tohono O'odham Nation; and**

8 **WHEREAS, by Resolution No. SL. 08-121-22, the San Lucy District Council supports submitting**
9 **this resolution approving a limited waiver of the District's sovereign immunity to**
10 **the Budget and Finance Committee and the Legislative Council for approval; and**

11 **WHEREAS, the Budget and Finance Committee has reviewed the request by the San Lucy**
12 **District and recommends that the Legislative Council approve a limited waiver of**
13 **the San Lucy District's sovereign immunity so that the District may enter into the**
14 **Master Services Agreement with BOKF.**

15 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves and**
16 **authorizes the following:**

- 17 **1. A limited waiver of sovereign immunity of the San Lucy District in favor of**
18 **BOKF, NA, so that the San Lucy District may enter into the Master Services**
19 **Agreement, such limited waiver to be consistent and in accordance with and**
20 **subject to the limitations of, the provisions of the Agreement, provided that**
21 **nothing in this resolution or the Agreement shall be construed as a waiver of**
22 **the Nation's sovereign immunity.**
- 23 **2. The Master Services Agreement shall remain confidential and shall not be**
24 **reported or disclosed.**

25 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 14TH**
26 **day of SEPTEMBER, 2022 at a meeting at which a quorum was present with a vote of 3,218.0 FOR;**
27 **-0- AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by,**
28 **Article VI, Section 1(c)(2) and Section 1(l) of the Constitution of the Tohono O'odham Nation,**
29 **adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy**
30 **Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the**
31 **Act of June 18, 1934 (48 Stat.984).**

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RESOLUTION NO. 22-334

(Approving a Limited Waiver of the San Lucy District's Sovereign Immunity in Favor of BOKE, NA for the Purpose of Enabling the San Lucy District to Establish and Operate a 401(k) Plan for Its Employees)

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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

15 day of September, 2022

ATTEST:

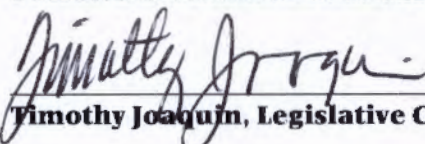


Evonne Wilson, Legislative Secretary

15 day of September, 2022

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 15 day of September, 2022 at 10:53 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



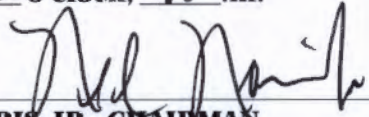
Timothy Joaquin, Legislative Chairman

APPROVED

on the 15 day of September, 2022

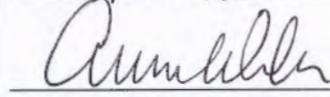
DISAPPROVED

at 11:10 o'clock, a.m.



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

Returned to the Legislative Secretary on the 15 day of September, 2022, at 2:56 o'clock, p.m.



Evonne Wilson, Legislative Secretary

ACTION: APPROVING A LIMITED WAIVER OF THE SAN LUCY DISTRICT'S SOVEREIGN IMMUNITY IN FAVOR OF BOKE, NA FOR THE PURPOSE OF ENABLING THE SAN LUCY DISTRICT TO ESTABLISH AND OPERATE A 401(K) PLAN FOR ITS EMPLOYEES

MOVED: COUNCILWOMAN JANICE FELIX

SECOND: COUNCILMAN ROGER MANUEL

DATE: SEPTEMBER 14, 2022

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDA 245.6	1. MARY LOPEZ (Ann M. Garcia)	122.8	X			
	2. LUCINDA ALLEN (Francis Homewytewa)	122.8	X			
SELLS 556.5	1. ARTHUR WILSON (<i>Absent</i>) (Shelia Espino) (<i>Present</i>)	278.25	X			
	2. EVELYN JUAN-MANUEL (Arvada Liston)	278.25	X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza)	95.25	X			
	2. DELISA M. RAMON (Sharon A. Francisco)	95.25	X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	121.3	X			
	2. JANICE FELIX (Adam P. Andrews)	121.3	X			
SAN LUCY 243.8	1. JANA MONTANA (Lorraine M. Eiler)	121.9	X			
	2. ROGER MANUEL (Christina Andrews)	121.9	X			
PISINEMO 232.7	1. MARIETTA MARTIN ()	116.35	X			
	2. EDWARD D. MANUEL (Monica Morgan)	116.35	X			
HICKIWAN 216.6	1. LOUIS R. LOPEZ ()	108.3	X			X
	2. DELMA M. GARCIA ()	108.3	X			
GU VO 270.7	1. GRACE MANUEL ()	135.35	X			
	2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35	X			
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN ()	139.25	X			
	2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25	X			
CHUKUT KUK 351.6	1. MARLAKAY HENRY (Billman Lopez)	175.8	X			
	2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8	X			
BABOQUIVARI 388.9	1. ALBERTA J. RAY (Frances G. Antone)	194.45	X			
	2. LEANDER MASE (Francine Schooling)	194.45	X			
	TOTAL	3,218.0	3,218.0	-0-	-0-	[01]