

RESOLUTION OF THE  
BUDGET AND FINANCE COMMITTEE  
OF THE NAVAJO NATION COUNCIL

23<sup>RD</sup> NAVAJO NATION COUNCIL - Third Year, 2017

AN ACTION

RELATING TO BUDGET AND FINANCE COMMITTEE; APPROVING THE LOAN  
AND LOAN DOCUMENTS BETWEEN THE NAVAJO NATION, ACTING BY AND  
THROUGH THE BUDGET AND FINANCE COMMITTEE, AS THE LENDER, AND  
THE NAVAJO NATION GAMING ENTERPRISE, AS THE BORROWER, TO  
PARTIALLY FUND THE SÍHASIN FUND TWIN ARROWS TRAVEL CENTER  
DEVELOPMENT PROJECT PURSUANT TO NAVAJO NATION COUNCIL  
RESOLUTION CJY-39-16

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Budget and Finance Committee of the Navajo Nation Council was established to exercise oversight authority over, including but not limited to, budget, finance, investment, bonds, contracting, insurance, audits accounting, taxes and loans and is specifically empowered to coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises. 2 N.N.C. §§ 300(C) and 301(B)(5).
- B. Navajo Nation Council Resolution CJY-39-16 delegated to the Budget and Finance Committee the responsibility and authority to approve a Loan Agreement to the Navajo Nation Gaming Enterprise from the Síhasin Fund to fully implement the Síhasin Fund Twin Arrows Travel Center Development Expenditure Plan. CJY-39-16, Section Three, Subsection Band Section Four, Subsection A.

SECTION TWO. FINDINGS

- A. On May 30, 2014, the 22<sup>nd</sup> Navajo Nation Council adopted Resolution CMY-28-14 accepting a settlement of the Navajo Nation's lawsuit, *Navajo Nation v. United States*, No. 06-945L (United States Court of Federal Claim) against the United States for its historical mismanagement of the tribe's trust assets and its failure to ensure that the

Navajo Nation received all funds due and owed under the United States' trust obligations and fiduciary duties. Resolution CMY-28-14 was signed into law by the President of the Navajo Nation on June 4, 2014.

- B. On December 13, 2014, the 22<sup>nd</sup> Navajo Nation Council adopted Resolution No. CD-68-14 enacting the Navajo Nation Breach of Trust Settlement Act of 2014 (hereinafter "2014 Act") and establishing the Navajo Nation Síhasin Fund at 12 N.N.C. § 2501 *et seq.* The President of the Navajo Nation signed Resolution CD-68-14 into law on December 31, 2014.
- C. The 2014 Act mandated that the net proceeds and earning thereon received by the Navajo Nation from the settlement of *Navajo Nation v. United States*, No. 06-945L, be deposited into the Síhasin Fund and managed and invested to provide financial support and/or financing for (1) the planning and development of regional infrastructure supporting economic and community development, including housing, within the Navajo Nation; and/or (2) education opportunities for members of the Navajo Nation. See 12 N.N.C. § 2501 and § 2502(A).
- D. The 2014 Act also established that "leveraging of the [Síhasin] Fund by way of guaranteeing loans, match funding, direct funding in part and other weighted uses of the Fund shall be favored over direct funding in whole". 12 N.N.C. § 2502(B).
- E. The 2014 Act further established that with the exception of outstanding and accrued litigation costs, Síhasin Fund Principal and Income shall only be expended pursuant to a Fund Expenditure Plan consistent with the purposes set forth in the 2014 Act at 12 N.N.C. § 2502 and adopted by a two-third (2/3) vote of all members of the Navajo Nation Council. See 12 N.N.C. § 2505(A).
- F. The Navajo Nation Council determined that it was in the best long-term interests to stimulate economic development within the Navajo Nation by providing the financial support necessary to plan, develop and construct a convenience store and gas station at or near the Twin Arrows Interstate 40 interchange and on July 20, 2016, the Council enacted Resolution CJY-39-16 adopting the Síhasin Fund Twin Arrows Travel Center Development Expenditure Plan.

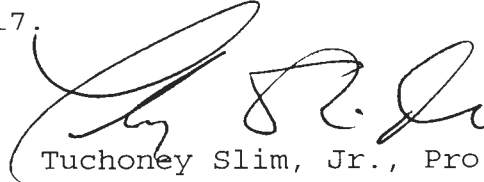
- G. The Twin Arrows Travel Center Development Expenditure Plan adopted by Resolution CJY-39-16 includes direct funding to the Navajo Nation Gaming Enterprise ("NNGE") in the amount of \$6,000,000.00, as well as loan funding to NNGE in the amount of \$4,000,000.00 with a fifteen-year amortization and 1.5% interest rate.
- H. Pursuant to CJY-39-16, the Loan Agreement, attached as **Exhibit A** and incorporated herein, between the Nation and NNGE is to be negotiated by the Navajo Nation Controller and shall be approved by the Budget and Finance Committee.
- I. The NNGE Board Resolution approving the Loan Agreement is attached as Exhibit C. The initial legislation approving the funding for the Twin Arrows Travel Center is included in Exhibit B.

### SECTION THREE. APPROVAL

- A. The Navajo Nation hereby approves the Loan Agreement, including all supporting schedules and documents, attached as Exhibit A, and hereby authorizes and directs such other actions by the Office of the Controller and Office of the President & Vice President as may hereafter be necessary and appropriate to carry out the obligations of the Nation under the Loan Agreement.
- B. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to effectuate the intent and purpose of this Resolution.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor and 0 opposed, this 5<sup>th</sup> day of December, 2017.

A handwritten signature in black ink, appearing to read 'T. Slim, Jr.', is written over the printed name.

Tuchoney Slim, Jr., Pro Tem Chairperson  
Budget and Finance Committee

Motion: Honorable Tom T. Chee  
Second: Honorable Leonard Tsosie