

RESOLUTION OF THE  
NAABIK'ÍYÁTI' STANDING COMMITTEE  
24<sup>th</sup> NAVAJO NATION COUNCIL -- Third Year, 2021

AN ACTION RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES; AMENDING CJA-01-21 TO EXTEND THE DEADLINE FOR THE PROCUREMENT OF HEAVY EQUIPMENT FOR CHAPTERS

BE IT ENACTED

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is empowered to exercise oversight of matters involving water, land, environment, economic and community development, chapters, and public utilities, among others. 2 N.N.C. § 500(B), § 500(C)(1).
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the authority to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- C. The Navajo Nation Council delegated to the Naabik'íyáti' Committee certain authority over the timeline for the expenditure of Síhasin funds that the Council, in Resolution No. CJA-01-21, allocated to the Division of Community Development on behalf of the 110 Navajo Nation Chapters.

SECTION TWO. FINDINGS

- A. On January 20, 2021, the Navajo Nation Council adopted Resolution No. CJA-01-21. This resolution approved the expenditure of \$23,954,719.77 in Síhasin funds to obtain certain heavy equipment for the 110 Navajo Nation Chapters. Resolution No. CJA-01-21 is attached as **Exhibit 1**.
- B. On January 30, 2021, CJA-01-21 was line-item vetoed by Navajo Nation President Jonathan Nez. However, the President's veto only affected certain projects and expenditures involving the Navajo Nation Department of Water Resources and the Shiprock Chapter. The President's veto memorandum is attached as **Exhibit 2**.
- C. Resolution No. CJA-01-21 entrusted the Division of Community Development ("DCD") with the responsibility of procuring the heavy equipment for the Navajo Nation Chapters. The DCD was

given 90 days in which to expend the \$23,954,719.77 in Síhasin funds.

- D. To date, the DCD has worked diligently, in accordance with the Síhasin Fund Heavy Equipment Expenditure Plan approved in CJA-01-21, to obtain the heavy equipment for the Chapters. However, in order to fully meet the Navajo Nation's procurement laws and regulations, and to properly coordinate DCD's purchasing efforts with the necessary Divisions and Departments, the DCD needs additional time beyond the 90 days to complete the heavy equipment purchases identified in CJA-01-21.
- E. The DCD has explained its need for additional time in a memorandum to the Speaker of the Navajo Nation Council, entitled: "Timeline Extension Request CJA-01-21" dated May 3, 2021, attached as **Exhibit 3**. This DCD memorandum identifies heavy equipment expenditures for certain Chapters that still need to be completed. **Exhibit 4**. None of DCD's planned expenditures for the remaining Chapters involves the vetoed Water Management Branch projects or the vetoed Shiprock Chapter expenditures.
- F. CJA-01-21 does allow an extension to the heavy equipment purchasing 90-day deadline. Page 7, Section Four, paragraph 5 of CJA-01-21 states: "[t]he funds allocated for the Chapter Heavy Equipment Expenditure Plan shall revert to the Síhasin Fund principal if not spent or encumbered within ninety (90) days of distribution to the Division of Community Development, unless recommended otherwise by the Resources and Development Committee and approved by the Naabik'íyáti' Committee."
- G. The Resources and Development Committee of the Navajo Nation Council finds it in the best interest of the Navajo People to extend the 90-day deadline set forth in CJA-01-21 for the DCD to complete the procurement/purchase of the heavy equipment for the remaining Chapters, as identified in **Exhibit 4**.
- H. The Naabik'íyáti' Committee of the Navajo Nation Council finds it in the best interest of the Navajo People to extend the 90-day deadline set forth in CJA-01-21 for the DCD to complete the procurement/purchase of the heavy equipment for the remaining Chapters, as identified in **Exhibit 4**.

### SECTION THREE. APPROVAL OF DEADLINE EXTENSION

- A. The Resources Committee of the Navajo Nation Council hereby approves the extension of the 90-day Síhasin funds heavy

equipment expenditure deadline established in Resolution No. CJA-01-21 (Section Four, paragraph 5) to October 1, 2021.

- B. The Naabik'íyáti' Committee of the Navajo Nation Council hereby approves the extension of the 90-day Síhasin funds heavy equipment expenditure deadline established in Resolution No. CJA-01-21 (Section Four, paragraph 5) to October 1, 2021.
- C. After a Chapter's heavy equipment items listed in CJA-01-21 have been procured, any remaining funds may be used by such Chapter, with the approval of the Division of Community Development, to supplement Chapter funds or Capital Outlay Funds to purchase heavy equipment related items or accessories; after all heavy equipment items listed in CJA-01-21 have been procured, the Division of Community Development may use any remaining Síhasin funds allocated for the Chapter Heavy Equipment Expenditure Plan to procure heavy equipment items for any chapter in which funding shortfalls or price increases have prevented the purchase of the heavy equipment identified in CJA-01-21. Thereafter, any funds not spent or encumbered shall revert to the Síhasin Fund principal, unless otherwise recommended by the Resources and Development Committee of the Navajo Nation Council and approved by the Naabik'íyáti' Committee.

#### SECTION FOUR. EFFECTIVE DATE

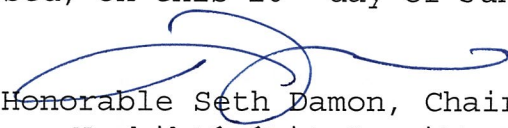
This legislation shall become effective pursuant to 12 N.N.C. § 2505.

#### SECTION FIVE. SAVING CLAUSE

Should any provision(s) of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

**CERTIFICATION**

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 18 in Favor, and 00 Opposed, on this 10<sup>th</sup> day of June 2021.

  
Honorable Seth Damon, Chairman  
Naabik'íyáti' Committee

06.15.2021

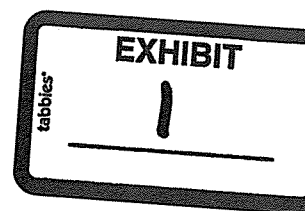
Date

Motion: Honorable Jimmy Yellowhair

Second: Honorable Herman M. Daniels, Jr.

Chairman Seth Damon not voting

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL - THIRD YEAR, 2021



AN ACTION

RELATING TO BUDGET AND FINANCE COMMITTEE, RESOURCES AND DEVELOPMENT COMMITTEE AND NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; ALLOCATING \$23,954,719.77 FROM THE SÍHASIN FUND TO THE DIVISION OF COMMUNITY DEVELOPMENT; ADOPTING THE SÍHASIN FUND CHAPTER HEAVY EQUIPMENT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 - 2508; ALLOCATING ~~\$33,876,114~~ FROM THE SÍHASIN FUND TO THE DEPARTMENT OF WATER RESOURCES; ADOPTING THE SÍHASIN FUND DEPARTMENT OF WATER RESOURCES EMERGENCY PROJECTS EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 - 2508; ALLOCATING \$4,974,992 FROM THE SÍHASIN FUND TO THE WATER MANAGEMENT BRANCH AND ADOPTING THE WIDE RUINS SDS PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501-2508; ~~ALLOCATING \$350,000 FROM THE SÍHASIN FUND TO THE CAPITAL PROJECTS MANAGEMENT; ADOPTING THE SÍHASIN FUND SHIPROCK CHAPTER PROJECT RECAPTURE EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501-2508~~

JMN  
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BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Naabik'íyáti' Committee of the Navajo Nation Council is empowered to review all proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. § 164 (A) (9).
- C. The Budget and Finance Committee of the Navajo Nation Council is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds. 2 N.N.C. § 301 (B) (2).
- D. The Resources and Development Committee of the Navajo Nation Council is empowered to provide oversight over water and chapter activities, as well as oversight over community and economic development on the Navajo Nation. 2 N.N.C. § 501 (C) (1).
- E. The Navajo Nation Code provides that the purpose of the Navajo Nation Síhasin Fund ("Síhasin Fund") is as follows:

§ 2502 Purpose

A. The purposes of this Fund are to provide financial support and/or financing for:

1. The planning and development of economic development and regional infrastructure supporting economic development, and community development, including such infrastructure as, but not limited to, housing, commercial and government buildings, waterline, solid waste management development, powerline projects, and transportation and communication systems, within the Navajo Nation; and
2. Education opportunities for members of the Navajo Nation.

B. For the Purpose in § 2502 (A)(1), Fund expenditures for infrastructure shall not be limited by 12 N.N.C. § 1310 (F) or TCDCJY-77-99.

C. Leveraging the Fund by way of guaranteeing loans, match funding, direct funding in part, and other weighted uses of the Fund, including loan financing from the Fund, for the purposes in § 2502 (A)(1), shall be favored over direct funding in whole.

12 N.N.C. § 2502, as amended by CJA-03-18.

F. The Síhasin Fund provides that "Fund Principal" shall consist of all deposits made to the Síhasin Fund and that "Fund Income" shall consist of all earnings (interest, dividends, etc.) generated and realized by the Fund Principal, and that Fund Income shall be deposited in and added to Fund Principal until such time as a Fund Expenditure Plan is duly adopted. 12 N.N.C. §§ 2504 and 2505 (C).

## SECTION TWO. FINDINGS

A. The World Health Organization (WHO) declared a Public Health Emergency of International Concern related to the outbreak of coronavirus (COVID-19), a highly contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on March 11, 2020.

B. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared

a Public Health State of Emergency on the Navajo Nation on March 11, 2020 due to COVID-19. Resolution No. CEM 20-03-11. The Navajo Nation Department of Health subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2020-030 are incorporated by reference into this resolution.

- C. The U.S. Congress on March 27, 2020, enacted the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (the "CARES Act"), which, at Title V, §5001, entitled "Coronavirus Relief Funds", set aside \$8 billion in emergency aid for Tribal governments for the COVID-19 pandemic.
- D. As of June 30, 2020, the Navajo Nation has received seven hundred fourteen million one hundred eighty-nine thousand six hundred thirty-one dollars and forty-seven cents (\$714,189,631.47) as the Nation's share of the U.S. Treasury's initial distributions of the Coronavirus Relief Fund.
- E. The CARES Act provides the Coronavirus Relief Fund shall be used to cover only those costs that:
  - a. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
  - b. are not accounted for in the Tribal budget most recently approved as of March 27, 2020; and
  - c. are incurred from March 1, 2020 through December 30, 2020.
- F. Pursuant to the U.S. Treasury "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments" updated on September 2, 2020, related to the permissible uses of the Coronavirus Relief Fund, for a CARES Act expense to have been "incurred" requires that services actually be performed and goods actually received by December 30, 2020.
- G. The Navajo Nation has enacted Resolutions No. CJN-46-20, CJN-47-20, CJY-67-20, CS-73-20 and CS-74-20, incorporated herein by reference, allocating the Nation's share of the U.S. Treasury's initial distributions of the Coronavirus Relief Fund through numerous CARES Fund Expenditure Plans, including the CARES Fund Chapter Distribution Expenditure Plan enacted by CS-73-20 and the Water Projects Expenditure Plan enacted by CJY-67-20.

- H. The purpose of the CARES Fund Chapter Distribution Expenditure Plan was to provide funding to all Navajo Nation Chapters (both LGA Certified and non-certified), through the Division of Community Development, to respond to the COVID-19 pandemic and ensure that Navajo communities have access to the funding necessary to ensure that community members are adequately protected from exposure to COVID-19 and able to comply with the Center for Disease Control (CDC) COVID-19 prevention guidance.
- I. The purpose of the CARES Fund Water Projects Expenditure Plan was to provide emergency funding to Department of Water Resources to ensure that the Navajo Nation populace has adequate access to safe potable water necessary to mitigate the spread COVID-19 and comply with CDC COVID-19 prevention guidance.
- J. Resolutions No. CJY-67-20 and CS-73-20 include that the progress of all approved Navajo Nation CARES Fund Expenditure Plan projects, including Chapter Distribution Expenditure Plan projects and Water Projects Expenditure Plan projects, shall be reviewed by the Budget and Finance and Naabik'íyáti' Committees during the month of October 2020 and that the funding for any project that has not made enough progress to demonstrate that it will be fully completed by December 30, 2020, will be re-allocated to the Hardship Assistance Expenditure Plan through Naabik'íyáti' Committee. See CJY-67-20, Section Three (Q) and CS-73-20, Section Three (F).
- K. On October 30, 2020, the Naabik'íyáti' Committee enacted NABIO-49-20, incorporated herein by reference, which states that:
 

Any remaining CS-73-20, CJY-67-20 and/or CJN-46-20 CARES Fund Expenditure Plan funds not fully expended, not including encumbered and obligated funds, by November 20, 2020, regardless of recipient or intended recipient, shall be automatically reallocated to the Hardship Assistance Expenditure Plan. Funds still encumbered as of December 15, 2020, shall be unencumbered and unobligated and automatically reallocated to the Hardship Assistance Expenditure Plan. The Office of Management and Budget and Office of Controller shall implement these reallocations without the need for further authorization. NABIO-49-20, Section Three (D).
- L. Numerous Chapters have requested that the Division of Community Development (DCD) use their respective Chapter Distribution funds to purchase heavy equipment; however, due to COVID-19 business restrictions and shut-downs, DCD was not able to



execute the heavy equipment purchases, set forth in **Exhibit A**, by NABIO-49-20's November 20<sup>th</sup> expenditure mandate and the funding was automatically reallocated to the Hardship Assistance Expenditure Plan.

- M. Similar to DCD, the Department of Water Resources (DWR) was unable, due to COVID-19 business restrictions and shut-downs, to execute the water project purchases, set forth in **Exhibit B**, by NABIO-49-20's November 20<sup>th</sup> expenditure mandate and the funding was automatically reallocated to the Hardship Assistance Expenditure Plan.
- N. Notwithstanding the automatic reallocation to the Hardship Assistance Expenditure Plan, the purchase of the heavy equipment, as set forth in **Exhibit A**, is important to both the Chapters' response to COVID-19 and its overall community development, both short-term and long-term.
- O. Notwithstanding the automatic reallocation to the Hardship Assistance Expenditure Plan, funding of the water projects, as set forth in **Exhibit B**, is important to both the Navajo Peoples access to safe potable water and overall community development, both short-term and long-term.
- P. The Navajo Nation finds that using the Síhasin Fund for the purchase of heavy equipment, as set forth in **Exhibit A**, is within the purposes of 12 N.N.C. § 2502 (A)(1) and is in the best interests of Navajo communities and the Navajo People.
- Q. The Navajo Nation also finds that using the Síhasin Fund to fund the emergency water projects, as set forth in **Exhibit B**, is within the purposes of 12 N.N.C. § 2502 (A) (1) and is in the best interests of the Navajo People and Navajo communities.
- R. The Navajo Nation approved Council Resolution CAP-35-18, attached as **Exhibit C**, titled, "Adopting the Síhasin Fund Powerline and Chapter Projects Expenditure Plan Pursuant to CD-68-14, As Amended by CJA-03-18, and 12 N.N.C. §§ 2501-2508, as Amended; Waiving 12 N.N.C. §§ 810 (F), 820 (I) And (M) And 860 (C) Relating to the Capital Improvement Budget and the Capital Improvement Process."
- S. Per memorandum dated May 7, 2018, **Exhibit C**, the Navajo Nation President line-item vetoed certain CAP-35-18 projects approved by the Navajo Nation Council, including Shiprock Chapter's "Former BIA Compound" Project, listed as No. 70 in CAP-35-18's Exhibit D, for \$350,000.00.

- T. Per CAP-35-18, Section Four (C), each Council District was awarded Síhasin Funding of \$4,166,666.67; the President's line-item veto of the Former BIA Compound Project resulted in the Shiprock Council District receiving less than \$4,166,666.67 and less funding than all other Council Districts.
- U. As set forth in Shiprock Chapter Resolution No. 10-13-19-006-SHIP (amending 09-17-19-073-SHIP), attached as **Exhibit D**, the Shiprock Chapter requests that the Navajo Nation Council approve the following projects totaling \$350,000 to replace the line-item vetoed "Former BIA Compound" project: Veteran Cemetery for \$110,000; Veterans Waterline for \$15,000; Shiprock Baseball Field for \$75,000.00; and a Portable Building for Elected Officials for \$150,000, as set forth in the Shiprock Chapter Project Recapture Expenditure Plan attached as **Exhibit E**.
- V. The Navajo Nation also finds that using the Síhasin Fund to fund the Shiprock Chapter projects, as set forth in **Exhibit E**, is within the purposes of 12 N.N.C. § 2502 (A)(1) and is in the best interests of the Navajo People and Navajo communities.
- W. The Wide Ruins South Phase II Waterline Extension project, as set forth in **Exhibit F**, has been on the Indian Health Service Sanitation Deficiency System (SDS) for more than five years, but has yet to be funded despite the fact that the project will provide water to at least 46 families in desperate need of water to comply with Center for Disease Control (CDC) guidance to prevent infection of COVID-19 and mitigate its spread throughout the community.
- X. The Navajo Nation also finds that using the Síhasin Fund to fund the Wide Ruins South Phase II Waterline Extension project, as set forth in **Exhibit F**, is within the purposes of 12 N.N.C. § 2502 (A)(1) and is in the best interests of the Navajo People and Navajo communities.

**SECTION THREE. ALLOCATION OF \$23,954,719.77 TO THE DIVISION OF COMMUNITY DEVELOPMENT AND ADOPTION OF THE CHAPTER HEAVY EQUIPMENT EXPENDITURE PLAN**

- A. The Navajo Nation hereby allocates twenty-three million nine hundred fifty-four thousand seven hundred nineteen dollars and seventy-seven cents (\$23,954,719.77) from the Síhasin Fund to the Division of Community Development to implement the Síhasin Fund Chapter Heavy Equipment Expenditure Plan as detailed in **Exhibit A**.

- B. The Navajo Nation hereby approves and adopts the Síhasin Fund Chapter Heavy Equipment Expenditure Plan as set forth in this resolution and in **Exhibit A**.

#### SECTION FOUR. APPROVAL AND ADOPTION OF CHAPTER HEAVY EQUIPMENT EXPENDITURE PLAN ADMINISTRATION

The Navajo Nation hereby approves administration of the Síhasin Fund Chapter Heavy Equipment Expenditure Plan as follows:

1. The Navajo Nation Controller shall determine whether the source of the \$23,954,719.77 allocation from the Síhasin Fund will be from Fund Principal or Fund Income or a combination of both;
2. The funds allocated for the Chapter Heavy Equipment Expenditure Plan shall be distributed to the Division of Community Development within ten (10) days following enactment of this legislation;
3. The funds allocated for the Chapter Heavy Equipment Expenditure Plan shall be used solely to purchase the equipment described in **Exhibit A** and any and all cost-savings shall be returned to the Síhasin Fund once the Chapter Heavy Equipment Expenditure Plan is completed; and
4. Chapters shall be responsible for the repairs and maintenance and insurance costs for their respective Heavy Equipment.
5. The funds allocated for the Chapter Heavy Equipment Expenditure Plan shall revert to the Síhasin Fund principal if not spent or encumbered within ninety (90) days of distribution to the Division of Community Development, unless recommended otherwise by the Resources and Development Committee and approved by the Naabik'iyáti' Committee.

#### SECTION FIVE. ALLOCATION OF \$33,876,114 TO THE DEPARTMENT OF WATER RESOURCES AND ADOPTION OF THE DEPARTMENT OF WATER RESOURCES EMERGENCY PROJECTS EXPENDITURE PLAN

- A. The Navajo Nation hereby allocates ~~thirty-three-million-eight hundred-seventy-six thousand one hundred fourteen dollars (\$33,876,114)~~ from the Síhasin Fund to the Department of Water Resources to implement the Síhasin Fund Department of Water Resources Emergency Projects Expenditure Plan as detailed in **Exhibit B**.

- B. The Navajo Nation hereby approves and adopts the Síhasin Fund Department of Water Resources Emergency Projects Expenditure Plan as set forth in this resolution and in **Exhibit B**.

**SECTION SIX. APPROVAL AND ADOPTION OF DEPARTMENT OF WATER RESOURCES EMERGENCY PROJECTS EXPENDITURE PLAN ADMINISTRATION**

The Navajo Nation hereby approves administration of the Síhasin Fund Department of Water Resources Emergency Projects Expenditure Plan as follows:

1. The Navajo Nation Controller shall determine whether the source of the \$33,876,114 allocation from the Síhasin Fund will be from Fund Principal or Fund Income or a combination of both; JMN  
ML
2. The funds allocated for the Department of Water Resources Emergency Projects Expenditure Plan shall be distributed to the Department of Water Resources within ten (10) days following enactment of this legislation;
3. The funds allocated for the Department of Water Resources Emergency Projects Expenditure Plan shall be used solely to fund the projects described in **Exhibit B** and any and all cost-savings shall be returned to the Síhasin Fund once the Department of Water Resources Emergency Projects Expenditure Plan is completed; and
4. The funds allocated for the Department of Water Resources Emergency Projects Expenditure Plan shall revert to the Síhasin Fund principal if not spent or encumbered within one hundred twenty (120) days of distribution to the Department of Water Resources, unless recommended otherwise by the Resources and Development Committee and approved by the Naabik'íyáti' Committee.

**SECTION SEVEN. ALLOCATION OF \$4,974,992 TO THE WATER MANAGEMENT BRANCH AND ADOPTION OF THE WIDE RUINS SDS EXPENDITURE PLAN**

- A. The Navajo Nation hereby allocates four million nine hundred seventy-four thousand nine hundred ninety-two dollars (\$4,974,992) from the Síhasin Fund to the Water Management Branch to implement the Wide Ruins SDS Expenditure Plan as detailed in **Exhibit F**.
- B. The Navajo Nation hereby approves and adopts the Wide Ruins SDS Expenditure Plan as set forth in this resolution and in **Exhibit F**.

# **SECTION EIGHT. APPROVAL AND ADOPTION OF WIDE RUINS SDS EXPENDITURE PLAN ADMINISTRATION**

The Navajo Nation hereby approves the administration of the Wide Ruins SDS Expenditure Plan as follows:

1. The Navajo Nation Controller shall determine whether the source of the \$4,974,992 allocation from the Síhasin Fund will be from Fund Principal or Fund Income or a combination of both;
2. The funds allocated for the Wide Ruins SDS Expenditure Plan shall be distributed to the Water Management Branch within thirty (30) days following enactment of this legislation;
3. The funds allocated for the Wide Ruins SDS Expenditure Plan shall be used solely to fund the Wide Ruins South Phase II Waterline Extension described in **Exhibit F** and any and all cost-savings shall be returned to the Síhasin Fund once the Wide Ruins SDS Expenditure Plan is completed; and
4. The funds allocated for the Wide Ruins SDS Expenditure Plan shall revert to the Síhasin Fund principal if not spent or encumbered within thirty-six (36) months of distribution to the Water Management Branch, unless recommended otherwise by the Resources and Development Committee and approved by the Naabik'iyáti' Committee.

## ~~SECTION NINE. ALLOCATION OF \$350,000 TO THE CAPITAL PROJECTS MANAGEMENT DEPARTMENT AND ADOPTION OF THE SHIPROCK CHAPTER PROJECT RECAPTURE EXPENDITURE PLAN~~

~~A. The Navajo Nation hereby allocates three hundred fifty thousand dollars (\$350,000) from the Síhasin Fund to the Capital Projects Management Department on behalf of the Shiprock Chapter to implement the Síhasin Fund Shiprock Chapter Project Recapture Expenditure Plan as detailed in **Exhibit E**.~~

~~B. The Navajo Nation hereby approves and adopts the Síhasin Fund Shiprock Chapter Project Recapture Expenditure Plan as set forth in this resolution and in **Exhibit E**.~~

## ~~SECTION TEN. APPROVAL AND ADOPTION OF SHIPROCK CHAPTER PROJECT RECAPTURE EXPENDITURE PLAN ADMINISTRATION~~

~~The Navajo Nation hereby approves administration of the Síhasin Fund Shiprock Chapter Project Recapture Expenditure Plan as follows:~~

1. ~~The Navajo Nation Controller shall determine whether the source of the \$350,000 allocation from the Síhasin Fund will be from Fund Principal or Fund Income or a combination of both;~~ JMN ML
2. ~~The funds allocated for the Shiprock Chapter Project Recapture Expenditure Plan shall be distributed to the Capital Projects Management Department within ten (10) days following enactment of this legislation;~~ JMN ML
3. ~~The funds allocated for the Shiprock Chapter Project Recapture Expenditure Plan shall be used solely to plan, design, and/or construct the projects described in Exhibit E and any and all cost-savings shall be returned to the Síhasin Fund once the Shiprock Chapter Project Recapture Expenditure Plan is completed; and~~ JMN ML
4. ~~The funds allocated for the Shiprock Chapter Project Recapture Expenditure Plan shall revert to the Síhasin Fund principal if not spent or encumbered within the timelines for third year projects set forth in Navajo Nation Council Resolution CAP 35-18, as amended, unless recommended otherwise by the Resources and Development Committee and approved by the Naabik'íyáti' Committee.~~ JMN ML

#### SECTION ELEVEN. SÍHASIN FUND REIMBURSEMENT

The Síhasin Fund shall be reimbursed for any eligible expenditures set forth in this legislation from any FEMA reimbursements and/or other federal funding, specifically including additional Congressional appropriations for COVID-19 related relief, made available to the Navajo Nation.

#### SECTION TWELVE. EFFECTIVE DATE

This legislation and the Síhasin Fund Chapter Heavy Equipment, Department of Water Resources Emergency Projects, and Wide Ruins SDS and Shiprock Chapter Project Recapture Expenditure Plans, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505. JMN ML

#### SECTION THIRTEEN. SAVINGS CLAUSE

Should any provision(s) of this Action be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Action shall remain the law of the Navajo Nation.

**SECTION FOURTEEN. DIRECTIVES**

- A. The Division of Community Development and Department of Water Resources shall report, in writing, the status of expenditures and project progress under their respective Expenditure Plans to the Naabik'iyáti' Committee and Office of the President and Vice-President by the fifth day of each month following the enactment of this legislation.
- B. The Office of the Speaker and Office of Legislative Counsel shall immediately provide the Division of Community Development with all supporting documents used in the development of **Exhibit A**.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 20 in Favor, and 01 Opposed, on this 15<sup>th</sup> day of January 2021.



Honorable Seth Damon, Speaker  
24<sup>th</sup> Navajo Nation Council

01/20/2021

DATE

Motion: Honorable Pernell Halona  
Second: Honorable Jamie Henio

Speaker Seth Damon not voting

## ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this \_\_\_\_\_ day of \_\_\_\_\_, 2021 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009, on this 30 day of January, 2021.

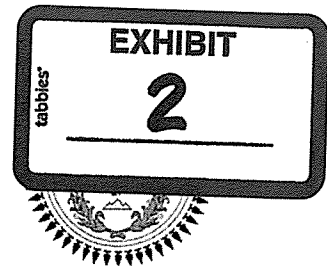
  
\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation



# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



January 30, 2021

Hon. Seth Damon  
Office of the Speaker  
Post Office Box 3390  
Window Rock, AZ 86515

RE: CJA-01-21, *An Action Relating to Budget and Finance Committee, Resources and Development Committee and Naabik'iyati' Committee and Navajo Nation Council; Allocating \$23,954,719.77 from the Sihasin Fund to the Division of Community Development; Adopting the Sihasin Fund Chapter Heavy Equipment Expenditure Plan Pursuant to 12 N.N.C. §§ 2501-2508; Allocating \$33,876,114 from the Sihasin Fund to the Department of Water Resources; Adopting the Sihasin Fund Department of Water Resources Emergency Projects Expenditure Plan Pursuant to 12 N.N.C. §§ 2501-2508; Allocating \$4,974,992 from the Sihasin Fund to the Water Management Branch and Adopting the Wide Ruins SDS Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501-2508; Allocating \$350,000 from the Sihasin Fund to the Capital Projects Management; Adopting the Sihasin Fund Shiprock Chapter Project Recapture Expenditure Plan Pursuant to 12 N.N.C. §§ 2501-2508*

Dear Speaker Damon,

We appreciate the commitment of the 24<sup>th</sup> Navajo Nation Council for finalizing this visionary and pervasive plan to enhance services at the Chapter level and to provide utility services to those in need. A majority of CJA-01-21 aligns with the Priorities we established for infrastructure needs and economic development. As we have said, the Priorities given by the People can be achieved through collaborative work to create solutions and cannot be done by one Branch of government but through a cooperative working relationship.

The concerns raised in the debate on CJA-01-21 are similar to the concerns raised by the Executive Branch with this sizeable appropriation to Chapters. We would appreciate more planning in the approach of apportioning significant funds for costly equipment. We fervently hope our Chapter officials will take extra care in operating and maintaining the equipment. We note here that any future request for funds to cover maintenance, insurance, or other related costs will be closely scrutinized by our Office. The Chapters must take on the responsibility of maintaining the equipment and ensuring that elders and disabled persons are assisted as much as possible.

For many years, and evidenced over the past year, we have been aware of the basic utility needs of our citizens. If there is a silver lining from this pandemic, it is the email we received from a grandmother who was blessed to have a water line extended to her house. Her joy is infectious as she described that she can now do laundry in her home, walk to her shower and restroom, and have ice cubes for her iced tea. This is what we work for, to give people the basic services that

many others take for granted. We appreciate the appropriation to the Department of Water Resources to allow them to continue their work.

As the saying goes, hindsight is 20/20. Had we known the CARES Act deadline would be extended, we could have taken a different route with the funded projects. Nevertheless, we can now look back and evaluate our planning and execution of the projects. We know how much effort was put into delivering the final outcome of many projects and how some projects were incomplete for a variety of reasons. The uncertainty we face in the coming months, perhaps years, of this pandemic should focus our attention on fiscal responsibility. As a Nation we have the resources, while limited, to tackle the huge rush of needs and requests but we must make these decisions with our future in mind.

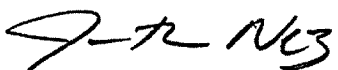
In CJA-01-21 there are some appropriations that may be addressed in the future or through other means with more planning and thought. We tap the authority provided by the People by applying the line item veto and, as in previous resolutions, we designate a partial line item veto with a series of dashes:

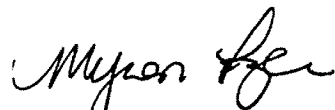
- Department of Water Resources Cistern/Septic systems \$7,500,000  
Emergency Projects Expenditure Gold King Mine Damage \$ 115,000  
Plan Assessment  
SCADA \$ 750,000
- Shiprock Chapter Project Baseball field \$ 75,000  
Recapture Expenditure Plan Veteran cemetery \$ 110,000  
Veterans waterline \$ 15,000  
Portable building \$ 150,000

We believe the appropriations here may be included elsewhere in our Priority listing. We will look into the feasibility of these projects to determine the appropriate financial need. In some instances, the appropriation is not necessary at this time; specifically speaking of the Water Resources projects.

We look forward to working with Navajo Nation Council Delegates who see the future of the Navajo Nation as a whole and plan for the entire Navajo Nation. Our continued collaboration will benefit our Nation where a grandmother can enjoy life without the stress of hauling water or spending money to travel to do laundry. Thank you.

Sincerely,

  
Jonathan Nez, President  
THE NAVAJO NATION

  
Myron Lizer, Vice President  
THE NAVAJO NATION

# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



## MEMORANDUM

TO : Honorable Speaker Seth Damon  
Honorable Delegate Mark Freeland  
**THE NAVAJO NATION COUNCIL**

FROM : *Pearl Yellowman*  
Dr. Pearl Yellowman, Executive Director  
**DIVISION OF COMMUNITY DEVELOPMENT**

DATE : May 3, 2021

SUBJECT : **Timeline Extension Request CJA-01-21**

The Division of Community Development (DCD) is diligently working to implement the subject CJA-01-21 resolution heavy equipment, vehicle, and solar project to serve approximately 110 chapters. The Council authorized \$23,954,719.77 thousand in the Navajo Nation Funding for this project through resolution CJA-01-21 with a May 1, 2021 deadline. The DCD is committed to faithfully executing the project; however, to meet the Nation's procurement requirements and to properly coordinate our efforts with the necessary Divisions and Departments. DCD determined additional time is needed to deliver the services and fully implement the resolution. The DCD provides justification with the following plan.

**Online 6B Purchasing.** The recommended formal process to complete 310 heavy equipment purchases is through the Office of Controller (OOC) 6B process. DCD dedicated team of four encumbered 53.68% of heavy equipment purchases. The remaining 46.32% is currently being submitted through the online 6(B) process.

**Construction Schedule.** The May 1, 2021 deadline per CJA-01-21 resolution, the DCD Heavy Equipment team and Chapters encounter unforeseeable challenges such as increased cost in steel and heavy equipment pieces (i.e., Utility Trailers, Vehicle Chip, and Vendors not honoring time-sensitive quotes). Please see Exhibit A. In addition, DCD encountered a high demand for Heavy Equipment vehicles nationwide. DCD is hereby respectfully requesting the council to extend the deadline to October 1, 2021.

**Emergency Procurement.** The Division of Community Development will utilize the emergency procurement procedure under 12 N.N.C. 334 in order to implement the CJA-01-21 projects. The on-going pandemic emergency conditions limited time allowed by CJA-01-21 resolution. The

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT   MYRON LIZER | VICE PRESIDENT



time extension will allow DCD to procure the goods and services in an expedited manner. DCD and its partners are diligently working toward an achievable plan to provide quality services to the families and help prevent the spread of COVID-19 across the Navajo Nation.

Your support for sponsoring the legislation to amend CJA-01-21 with a deadline extension from May 1, 2021 to **October 1, 2021** will be appreciated by DCD and 110 Chapters.

If there are any questions, please contact Mr. James Adakai, Deputy Division Director at 928-871-6211.

C:

Pearl Yellowman, Division Director

Paulson Chaco

Office of Controller

Office of Management and Budget

Attachments:

Exhibit A - Timeline Extension Request CJA-01-21

**Packets Remaining:**

Delegate	Chapter	Heavy Equipment Type	Estimated Cost
1 Jamie Henio	Alamo	Flat Bed	7,900.00
2 Jamie Henio	Alamo	Forklift	4,890.00
3 Jamie Henio	Alamo	Pallet Jack	1,050.00
4 Charlaine Tso	Aneth	Vehicle	63,005.34
5 Daniel Tso	Baca/Prewitt	Commercial Semi-Truck	154,918.58
6 Daniel Tso	Baca/Prewitt	Water Truck	163,236.50
7 Amber K. Crotty	Beclabito	Pallet Stacker	6,903.00
8 Amber K. Crotty	Beclabito	Trailer	7,200.00
9 Jimmy Yellowhair	Black Mesa	Backhoe with attachments	94,658.00
10 Paul Begay	Bodaway-Gap	Trailer	20,250.02
11 Paul Begay	Bodaway-Gap	Utility Trailer	
12 Edmund Yazzie	Churchrock	12' Flatbed and 16' Flatbed	4,999.00
13 Daniel Tso	Counselor	Gooseneck Flatbed Trailer	13,200.00
14 Amber K. Crotty	Cove	Truck	59,160.00
15 Elmer Begay	Dilkon	Dump Trailer	10,750.00
16 Elmer Begay	Dilkon	Flatbed Utility	12,450.00
17 Elmer Begay	Dilkon	Gooseneck Trailer	13,200.00
18 Elmer Begay	Dilkon	Backhoe	130,071.52
19 Elmer Begay	Dilkon	Vehicle 4x4	52,905.29
20 Elmer Begay	Dilkon	Vehicle 4x4	48,587.29
21 Jimmy Yellowhair	Forest Lake	Photovoltaic System	152,640.00
22 Jimmy Yellowhair	Forest Lake	Gooseneck Trailer	13,900.00
23 Jimmy Yellowhair	Forest Lake	Truck 4X4	64,656.77
24 Amber K. Crotty	Gadii' Ahi	Meal Delivery Van	64,860.00
25 Vince James	Ganado	Trailer	9,499.99
26 Jimmy Yellowhair	Hardrock	Flat Bed Truck	64,147.00
27 Raymond Smith Jr	Houck	Utility Trailer	21,000.00
28 Mark Freeland	Huerfano	Truck	58,347.00
29 Mark Freeland	Huerfano	Equipment for Truck	9,860.00
30 Elmer Begay	Indian Wells	Truck	81,286.85
31 Edmund Yazzie	Iyanbito	25' Trailer	23,836.00
32 Nathaniel Brown	Kayenta	Water Truck	64,051.00
33 Raymond Smith Jr	Klagetoh	Backhoe	103,763.40
34 Raymond Smith Jr	Klagetoh	Motor Grader	347,531.60
35 Raymond Smith Jr	Klagetoh	Commercial Truck	134,633.00
36 Mark Freeland	Lake Valley	Vehicle	47,482.52
37 Paul Begay	LeChee	Backhoe	105,850.00
38 Paul Begay	LeChee	Water Truck	82,000.00
39 Thomas Walker, Jr.	Leupp	towing trailer	27,820.76
40 Kee Allen Begay, Jr.	Low Mountain	Backhoe	90,850.00
41 Edmund Yazzie	Mariano Lake	40' Container	18,336.00
42 Charlaine Tso	Mexican Water	Gooseneck Trailer	13,378.34
43 Charlaine Tso	Mexican Water	Gooseneck Trailer	13,378.34
44 Charlaine Tso	Mexican Water	One Ton Truck	54,754.95
45 Charlaine Tso	Mexican Water	Water Truck	54,754.95
46 Charlaine Tso	Mexican Water	UTV	30,963.25
47 Charlaine Tso	Mexican Water	UTV	30,963.25
48 Raymond Smith Jr	Nahata Dziil	Tractor	25,877.00
49 Raymond Smith Jr	Nahata Dziil	Loader Attachment	5,597.00
50 Raymond Smith Jr	Nahata Dziil	Backhoe Attachment	1,585.00
51 Raymond Smith Jr	Nahata Dziil	Backhoe Attachment	8,435.00

52	Raymond Smith Jr	Nahata Dziil	Tractor Attachment	1,250.00
53	Raymond Smith Jr	Nahata Dziil	Tractor Bucket attachment	950.00
54	Raymond Smith Jr	Nahata Dziil	Tractor Disc	2,485.00
55	Raymond Smith Jr	Nahata Dziil	Forks attachment	785.00
56	Raymond Smith Jr	Nahata Dziil	Gooseneck Trailer	6,892.25
57	Raymond Smith Jr	Nahata Dziil	Gooseneck Trailer	8,764.76
58	Kee Allen Begay, Jr.	Nazlini	Water Truck	93,003.00
59	Rickie Nez	Nenahnezad	Tractor	66,247.00
60	Rickie Nez	Newcomb	Vehicle	52,927.92
61	Herman Daniels, Jr.	Oljato	Backhoe	95,850.00
62	Seth Damon	Rock Springs	4x4 Truck	51,615.00
63	Wilson Stewart, Jr.	Sawmill	1 ton truck	68,794.00
64	Edmund Yazzie	Smith Lake	2020 Backhoe	105,943.00
65	Vince James	Steamboat/Toyee	Dump Trailer	7,629.00
66	Vince James	Steamboat/Toyee	Water Truck	88,977.00
67	Edmund Yazzie	Thoreau	Skid Steer Loader	56,710.00
68	Otto Tso	To' Nanees Dizi (Tuba City)	chainsaws	4,903.10
69	Pernell Halona	Tohatchi	Security Cameras	3,107.27
70	Pernell Halona	Tohatchi	Tractor attachments	15,500.00
71	Pernell Halona	Tohatchi	Trailer	
72	Thomas Walker, Jr.	Tolani Lake	Trailer	18,264.66
73	Paul Begay	Tonalea	Backhoe	105,850.00
74	Seth Damon	Tsayatoh	Bucket replacements for backhoe	4,092.99
75	Seth Damon	Tsayatoh	Heavy Equipment	56,325.76
76	Amber K. Crotty	Tse A'naoztii / Sanostee	Dump Trailer	26,422.26
77	Amber K. Crotty	Tse A'naoztii / Sanostee	ATV	
78	Amber K. Crotty	Tse A'naoztii / Sanostee	Vehicle	53,114.48
79	Mark Freeland	Nahodishgish	Backhoe	98,850.00
80	Mark Freeland	Nahodishgish	Backhoe 20' Trailer	16,200.00
81	Seth Damon	Tse Lichii/Red Rock	Trailer for Backhoe (40,000 LB Capacity)	42,507.00
82	Raymond Smith, Jr	Tse Si Ani/Lupton	Tires for Backhoe loader	1,790.00
83	Raymond Smith, Jr	Tse Si Ani/Lupton	Backhoe Maintenance Service	1,465.20
84	Raymond Smith, Jr	Tse Si Ani/Lupton	Vehicle	57,863.27
85	Pernell Halona	Twin Lakes	Trailer	23,836.30
86	Amber K. Crotty	Two Grey Hills / Toadlena	Dump Trailer	17,990.00
87	Amber K. Crotty	Two Grey Hills / Toadlena	Truck 4x4 (w/delivery)	81,987.95
88	Rickie Nez	Upper Fruitland	Truck	66,966.80
89	Jimmy Yellowhair	Whippoorwill	Forklift	54,590.00
90	Elmer Begay	Whitecone	Motor Grader	301,196.31
91	Elmer Begay	Whitecone	Truck	50,550.34
92	Raymond Smith Jr	Wide Ruins	Flatbed Trailer	3,245.00
93	Raymond Smith Jr	Wide Ruins	Dump Trailer	8,995.00
				<hr/>
				4,519,810.13

## NAVAJO NATION

6/10/2021

Naa'bik'iyati' Committee Regular Meeting

01:09:00 PM

Amd# to Amd#	Legislation 0086-21: Amending	PASSED
MOT Yellowhair	CJA-01-21 to Extend the Deadline	
SEC Daniels	for the Procurement of Heavy	
	Equipment for 25 Chapters.	

Yeas : 18

Nays : 0

Excused : 4

Not Voting : 1

**Yea : 18**

Begay, K	Halona, P	Smith	Tso, O
Begay, P	Henio, J	Stewart, W	Wauneka, E
Brown	James, V	Tso, D	Yazzie
Daniels	Nez, R	Tso, E	Yellowhair
Freeland, M	Slater, C		

**Nay : 0****Excused : 4**

Walker, T	Charles-Newton	Crotty	Tso, C
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**Not Voting : 1**

Begay, E

**Presiding Speaker: Damon**