

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting amendments to Resolution No. 01-028, the Nation's Wage Determination)**

RESOLUTION NO. 02-391

- 1 **WHEREAS, the Tohono O'odham Nation enacted a Wage Determination pursuant to Resolution**
2 **No. 01-028 (Adopting a Wage Determination for Commercial Construction, Residential**
3 **Construction, and Heavy Construction projects within the boundaries of the Tohono**
4 **O'odham Nation) in 2001 to protect the wages of workers generated from projects**
5 **occurring within the Nation's boundaries; and**
- 6 **WHEREAS, as a general rule, the requirements of the Wage Determination apply to all persons,**
7 **as that term is defined in the Resolution, who operate within the boundaries of the**
8 **Nation, unless that person is specifically exempted from the coverage of the Wage**
9 **Determination; and**
- 10 **WHEREAS, Section 5 of the Wage Determination contains categories of specific situations where**
11 **persons are exempted from the coverage of the Wage Determination; and**
- 12 **WHEREAS, Section 1 of the Wage Determination requires that contractors and subcontractors pay**
13 **their workers, at a minimum, the wages and cash in lieu of benefits as specified by the**
14 **Wage Determination; and**
- 15 **WHEREAS, subsection D of Section 5, provides an exemption for contractors and subcontractors,**
16 **who are bound to collective bargaining agreements, from paying "cash in lieu of**
17 **benefits" where wages are established by the collective bargaining agreements; and**
- 18 **WHEREAS, notwithstanding the existence of a collective bargaining agreement, employees**
19 **referred by the TERO Office to a contractor or subcontractor covered by the Wage**
20 **Determination should have the option to: 1) choose to receive cash in lieu of benefits;**
21 **or 2) receive benefits in accordance with the provisions of a collective bargaining**
22 **agreement, if applicable; and**
- 23 **WHEREAS, the collective bargaining agreement exemption contained in subsection D of section**
24 **5 might provide union signatory contractors with the basis to deny tribal members the**
25 **choice to either accept cash in lieu of benefits or to accept fringe benefits as a part of**
26 **their wage package; and**
- 27 **WHEREAS, subsection D of Section 5 needs to be amended to clarify that fringe benefits will be**
28 **paid in accordance with the wishes of the TERO referred employees; and**
- 29 **WHEREAS, subsection F of Section 5, providing an exemption for an entity utilizing its own**

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1 employees on projects, might be interpreted as allowing such entity an exemption for
2 all projects the entity is involved in, not just that entity's personal construction
3 projects; and

4 WHEREAS, subsection F of Section 5 needs to be modified to exempt for Wage Determination
5 coverage only those projects which constitute projects performed by an entity for that
6 entity's own interests.

7 NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that Resolution
8 01-028, Adopting A Wage Determination, is amended as follows:

9 **Section 5: Exemptions**

10 D. Projects where wages are set by a collective bargaining agreement, except that
11 no collective bargaining agreement shall prevent employees referred by TERO
12 from exercising the option to either: 1) accept cash in lieu of benefits; or 2) receive
13 benefits in accordance with the provisions of a collective bargaining agreement,
14 as modified.

15 F. Projects performed with the existing employees of an otherwise covered entity for
16 that entity's own construction projects.

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18 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12TH Day
19 of SEPTEMBER, 2002 at a meeting at which a quorum was present with a vote of 2,152.45 FOR;
20 184.7 AGAINST; 80.35 NOT VOTING; and [06] ABSENT, pursuant to the powers vested in the Council
21 by Section 1 (c)(2) & (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by
22 the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant
23 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June
24 18, 1934 (48 Stat. 984).

25
26 TOHONO O'ODHAM LEGISLATIVE COUNCIL

27 
28 Rita A. Martinez, Legislative Chairwoman

29 19th day of September, 20 02

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33 ATTEST:

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36 Julianna Saraficio, Acting Legislative Secretary

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38 12th day of September, 20 02.
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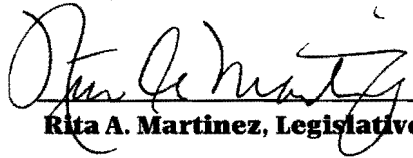
(Adopting amendments to Resolution No. 01-028, the Nation's Wage Determination)

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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 19th day of September, 20 08 at 9:10 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


Rita A. Martinez, Legislative Chairwoman

APPROVED on the _____ day of _____, 20 _____

DISAPPROVED at _____ o'clock, _____.M.

EXCEEDED 48 HOURS

EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 23rd day of

September, 20 08, at 9:52 o'clock, A.M.


Julianna Saraficio, Acting Legislative Secretary

ACTION: ADOPTING AMENDMENTS TO RESOLUTION NO. 01-028, THE NATION'S WAGE DETERMINATION

MOVED: COUNCILWOMAN FERN SALCIDO

SECOND: COUNCILMAN DAVID GARCIA

DATE: SEPTEMBER 12, 2002

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 317.7	1. FRANCES MIGUEL ()	158.85	X			
	2. FRANCES G. ANTONE (Lucilda Norris-Valenzuela)	158.85	X			X
CHUKUT KUK 248.1	1. KENNETH WILLIAMS (Juanita Homer)	124.05	X			X
	2. DAVID GARCIA (Mary Audrey Juan)	124.05	X			
GU ACHI 230.7	1. CAMILLUS LOPEZ ()	115.35	X			
	2. ALEX J. RAMON (Jerome Joaquin)	115.35	X			
GU VO 188.3	1. FERN SALCIDO ()	94.15	X			
	2. EMILIO LEWIS (Michael Flores)	94.15	X			
HICKIWAN 167.3	1. SHIRLEY MOLINA ()	83.65	X			
	2. SANDRA ORTEGA ()	83.65	X			X
PISINEMO 174.7	1. BARBARA SALVICIO (Alex Antone)	87.35	X			
	2. PATRICIA CRUZ (Johnson Jose)	87.35	X			X
SAN LUCY 160.7	1. ALBERT MANUEL, JR. (John W. Lawson, Sr.)	80.35	X			
	2. GLORIA RAMIREZ ()	80.35			X	
SAN XAVIER 184.7	1. FELICIA NUÑEZ ()	92.35	X			X
	2. DENNIS RAMON ()	92.35	X			
SCHUK TOAK 144.5	1. MARY FLORES ()	72.25	X			
	2. AMBROSE ENCINAS (Frances B. Conde(Francisco))	72.25	X			X
SELLS 416.1	1. DENNIS E. JOSE ()	208.05	X			
	2. EVELYN JUAN ()	208.05	X			
SIF OIDAK 184.7	1. ISIDRO LOPEZ ()	92.35		X		
	2. RITA MARTINEZ (Nicholas Jose)	92.35		X		
TOTAL		2,417.5	2,152.45	184.7	80.35	[06]

**PASSED VOTES