

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving Limited Waiver of Immunity on Construction Contract for Westside Health Clinic)**

RESOLUTION NO. 04-029

1 WHEREAS, the Tohono O'odham Legislative Council by Resolution No. 99-444 appropriated  
2 approximately \$11.2 million for the design and construction of the Westside Health  
3 Clinic, and by Resolution No. 03-203 approved a Joint Venture Agreement with the  
4 Indian Health Service for the construction and operation of the Westside Health  
5 Clinic; and

6 WHEREAS, the Nation and the architect for the Westside Health Clinic, Johnson Smitthipong and  
7 Rosamond Associates, Inc., have completed a draft construction contract  
8 ("Construction Contract") which contains paragraphs 5.2, 5.3, and 10.11.2 which  
9 provide certain remedies to the Nation and the Contractor for breach of the Contract  
10 and other claims; and

11 WHEREAS, the remedies available to the Contractor are only enforceable upon approval by the  
12 Legislative Council of a limited waiver of the sovereign immunity of the Nation; and

13 WHEREAS, the Health and Human Services Committee recommends approval by the Legislative  
14 Council of a limited waiver of sovereign immunity.

15 NOW, THEREFORE, BE IT RESOLVED THAT:

- 16 1. The Tohono O'odham Legislative Council hereby grants a limited waiver of  
17 sovereign immunity for the remedies provided in the Construction Contract,  
18 which waiver shall be limited to proven sums owed by the Nation to the  
19 Contractor.
- 20 2. The limited waiver of sovereign immunity shall be effective upon the date the  
21 Nation and the Contractor execute the Construction Contract in substantially the  
22 form attached hereto.

23 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 09<sup>TH</sup> Day  
24 of FEBRUARY, 2004 at a meeting at which a quorum was present with a vote of 2,363.1 FOR; 266.6  
25 AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by  
26 Section 1 (d)(2) & (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the  
27 Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant  
28 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June  
29 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
Dennis Ramon, Legislative Chairman

17<sup>th</sup> day of February, 2004

RESOLUTION NO. 04-029

(Approving Limited Waiver of Immunity on Construction Contract for Westside Health Clinic)

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1 ATTEST:

2 *Vivian Lopez for*  
3  
4 Vivian Hedrington, Legislative Secretary

5  
6 09<sup>th</sup> day of February, 2004.  
7

8 Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono  
9 O'odham Nation on the 17<sup>th</sup> day of February, 2004 at 4:33 o'clock,  
10 P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become  
11 effective upon her approval or upon her failure to either approve or disapprove it within 48 hours  
12 of submittal.

13  
14 TOHONO O'ODHAM LEGISLATIVE COUNCIL

15 *Dennis Ramon*  
16  
17 Dennis Ramon, Legislative Chairman

18  
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20  
21  APPROVED

on the 19 day of February, 2004

22  
23  DISAPPROVED

at 11:41 o'clock, a.M.

24  
25 *Vivian Juan Saunders*  
26  
27 VIVIAN JUAN-SAUNDERS, CHAIRWOMAN  
28 TOHONO O'ODHAM NATION

29  
30  
31  
32 Returned to the Legislative Secretary on the 19<sup>th</sup> day of

33  
34 February, 2004, at 12:53 o'clock, P.M.

35  
36 *Vivian Lopez for*  
37  
38 Vivian Hedrington, Legislative Secretary

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**ACTION: APPROVING LIMITED WAIVER OF IMMUNITY ON CONSTRUCTION CONTRACT FOR WESTSIDE HEALTH CLINIC**

**MOVED: COUNCILMAN ISIDRO LOPEZ**

**SECOND: COUNCILMAN KENNETH WILLIAMS**

**DATE: FEBRUARY 09, 2004**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>SIF OIDAK</b> <b>192.6</b>	1. ISIDRO LOPEZ (Nicholas Jose)	96.30	X			
	2. DARLENE ANDREW (Rita Martinez)	96.30		X		
<b>SELLS</b> <b>465.6</b>	1. DENNIS E. JOSE ( )	232.80	X			
	2. EVELYN JUAN ( )	232.80	X			
<b>SCHUK TOAK</b> <b>176.1</b>	1. FRANCES B. CONDE ( )	88.05	X			
	2. PHYLLIS JUAN ( )	88.05	X			
<b>SAN XAVIER</b> <b>215.4</b>	1. FELICIA NUÑEZ (Absent) (Olivia Liston) (Present)	107.70	X			
	2. DENNIS RAMON (Eleanore Hunter)	107.70	X			
<b>SAN LUCY</b> <b>166.3</b>	1. JOHN W. LAWSON, SR. ( )	83.15	X			
	2. GLORIA RAMIREZ ( )	83.15	X			
<b>PISINEMO</b> <b>175.4</b>	1. BARBARA SALVICIO ( )	87.70	X			X
	2. PATRICIA CRUZ ( )	87.70	X			
<b>HICKIWAN</b> <b>170.3</b>	1. DELMA GARCIA (Mary E. Sam)	85.15		X		
	2. SANDRA ORTEGA ( )	85.15		X		X
<b>GU VO</b> <b>191.4</b>	1. RAYMOND VICTOR ( )	95.70	X			
	2. MICHAEL FLORES (Willard Manuel)	95.70	X			
<b>GU ACHI</b> <b>253.6</b>	1. TIMOTHY L. JOAQUIN (Jonas Robles)	126.80	X			
	2. JEROME JOAQUIN(Absent) (Roberta Picard)(Present)	126.80	X			
<b>CHUKUT KUK</b> <b>258.9</b>	1. KENNETH WILLIAMS (Juanita Homer)	129.45	X			
	2. VERLON M. JOSE (David Garcia)	129.45	X			X
<b>BABOQUIVARI</b> <b>364.1</b>	1. FRANCES MIGUEL ( Lucilda Norris-Valenzuela )	182.05	X			
	2. FRANCES G. ANTONE ( )	182.05	X			
<b>TOTAL</b>		<b>2,629.7</b>	<b>2,363.1</b>	<b>266.6</b>	<b>-0-</b>	<b>[03]</b>

**\*\*PASSED VOTES**