

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

RESOLUTION NO. 05-418

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 construction of the health clinic is nearing completion, and the construction of**
7 **staff housing is now scheduled to begin; and**

8 **WHEREAS, the Tohono O'odham Nation ("Nation") and the architect for the Westside Health**
9 **Clinic, Johnson Smitthipong and Rosamond Associates, Inc., have completed a draft**
10 **construction contract ("Construction Contract") for the staff housing project at the**
11 **Westside Health Clinic, which contract contains paragraphs 5.2, 5.3, and 10.11.2**
12 **which provide certain remedies to the Nation and the Contractor for breach of the**
13 **Construction Contract and other claims; and**

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

16 **WHEREAS, the Commerce Committee recommends approval by the Legislative Council of a**
17 **limited waiver of sovereign immunity.**

18 **NOW, THEREFORE, BE IT RESOLVED THAT:**

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

26 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 22ND Day**
27 **of JULY, 2005 at a meeting at which a quorum was present with a vote of 1,471.0 FOR; -0- AGAINST;**
28 **969.8 NOT VOTING; and [06] ABSENT, pursuant to the powers vested in the Council by Section 1**
29 **(d)(2) & (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono**
30 **O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
31 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
32 **Stat. 984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL


Evelyn B. Juan Manuel, Legislative Chairwoman

22nd day of July, 2005

ATTEST:


Lucille Lopez, Acting Legislative Secretary

22nd day of July, 2005.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 22nd day of July, 2005 at 4:08 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 25th day of July, 2005

DISAPPROVED

at 8:16 o'clock, A.M.


VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 25th day of

July, 2005, at 8:21 o'clock, A.M.


Lucille Lopez, Acting Legislative Secretary

ACTION: APPROVING LIMITED WAIVER OF IMMUNITY ON CONSTRUCTION CONTRACT FOR STAFF HOUSING AT WESTSIDE HEALTH CLINIC

MOVED: COUNCILWOMAN FRANCES MIGUEL

SECOND: COUNCILWOMAN SANDRA ORTEGA

DATE: JULY 22, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
GU VO 193.1	1. RAYMOND VICTOR ()	96.55			X	X
	2. MICHAEL FLORES (Grace Manuel)	96.55			X	
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			X
	2. SANDRA ORTEGA ()	83.70	X			
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			X
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50			X	
	2. GLORIA RAMIREZ ()	84.50			X	X
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			X
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. DENNIS E. JOSE ()	210.50			X	X
	2. EVELYN B. JUAN MANUEL ()	210.50			X	
SIF Oidak 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35			X	
	2. DARLENE ANDREW (Rita Martinez)	93.35			X	
TOTAL		2,440.8	1,471.0	-0-	969.8	[06]

****PASSED VOTES**