

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Limited Waiver of Sovereign Immunity in the Contract for
Construction of the Dialysis Clinic)

RESOLUTION NO. 05-753

1 **WHEREAS, the Tohono O'odham Nation (the "Nation") and Pace Pacific Corporation (the**
2 **"Construction Contractor") have negotiated a Contract and General Conditions which**
3 **establishes a Guaranteed Maximum Price of \$4,896,129 for the construction of the**
4 **Dialysis Clinic (the "Construction Contract"), a copy of which is attached hereto; and**

5 **WHEREAS, the Construction Contract provides remedies for claims asserted by the Construction**
6 **Contractor which are only enforceable upon the approval by the Legislative Council of**
7 **a limited waiver of sovereign immunity in the Construction Contract; and**

8 **WHEREAS, the Commerce Committee has reviewed and approved and the Budget & Finance**
9 **Committee has reviewed the limited waiver of sovereign immunity in the Construction**
10 **Contract.**

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

- 12 **1. The Tohono O'odham Legislative Council hereby grants a limited waiver of**
13 **sovereign immunity with respect to claims and remedies of the Construction**
14 **Contractor on the conditions prescribed in Paragraph 19.5 of the Construction**
15 **Contract.**
- 16 **2. The limited waiver of sovereign immunity shall be effective on the date the Nation**
17 **and the Construction Contractor execute the Construction Contract in**
18 **substantially the form attached hereto.**

19 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 13TH. Day**
20 **of DECEMBER, 2005 at a meeting at which a quorum was present with a vote of 1,833.1 FOR; 421.0**
21 **AGAINST; 186.7 NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by**
22 **Section 1 (d)(2)&(3) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the**
23 **Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
24 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
25 **18, 1934 (48 Stat. 984).**

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27 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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30 **Evelyn B. Juan Manuel, Legislative Chairwoman**

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33 19th day of December, 2005
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ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

13 day of December, 2005.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 19th day of December, 2005 at 9:40 o'clock, A.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
Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED on the 19th day of December, 2005

DISAPPROVED at 9:57 o'clock, A.M.

Vivian Juan Saunders
VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 19 day of December, 2005, at 9:54 o'clock, A.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

ACTION: APPROVING LIMITED WAIVER OF SOVEREIGN IMMUNITY IN THE CONTRACT FOR CONSTRUCTION OF THE DIALYSIS CLINIC

MOVED: VICE CHAIRMAN VERLON JOSE

SECOND: COUNCILWOMAN FELICIA NUNEZ

DATE: DECEMBER 13, 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			
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			
	2. SANDRA ORTEGA ()	83.70	X			X
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50	X			
	2. GLORIA RAMIREZ** ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	96.90	X			X
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			X
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. MARLENE SARAFICIO-JUAN** ()	210.50		X		
	2. EVELYN B. JUAN MANUEL (Kimberly Listo)	210.50		X		
SIF OIDAK 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35			X	X
	2. DARLENE ANDREW (Rita Martinez)	93.35			X	
TOTAL		2,440.80	1,833.1	421.0	186.7	[04]

**PASSED VOTES