

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Amending Tohono O'odham Ki:Ki Association Ordinance to Allow the Ki:Ki Association
to Leverage Federal Grant Funds and to Authorize Limited Waivers of Immunity)

RESOLUTION NO. 10-019

1 **WHEREAS, Article VI , Section 1(c)(2) of the Constitution of the Tohono O'odham Nation vests the**
2 **Legislative Council with the power to enact laws "to promote, protect and provide for**
3 **public health, peace, morals, education and general welfare of the Tohono O'odham**
4 **Nation and its members"; and**

5 **WHEREAS, the Legislative Council established the Tohono O'odham Ki:Ki Association ("TOKA") as**
6 **a separate tribal entity in accordance with Article VI of the Constitution of the Tohono**
7 **O'odham Nation and pursuant to Legislative Council Ordinance No. 98-03, as amended**
8 **("TOKA Ordinance") (18 T.O.C. Ch. 1); and**

9 **WHEREAS, the TOKA is (1) designated as the Nation's "Tribally Designated Housing Entity" in**
10 **accordance with the Native American Housing Assistance and Self-Determination Act**
11 **of 1996, 25 U.S.C. §4101 et seq., P.L.104-330, 110 Stat. 4016 ("NAHASDA") to implement**
12 **the Nation's Indian Housing Plan under NAHASDA's Indian Housing Block Grant**
13 **("IHBG") Program; and (2) established for the primary purpose of providing well**
14 **constructed and affordable homes for the members, as well as maintaining the**
15 **current assisted stock of home ownership and rental homes (TOKA Ordinance,**
16 **Statement of Purpose and Article I.I.); and**

17 **WHEREAS, the TOKA Ordinance authorizes the TOKA to "obtain necessary funding to implement**
18 **the short and long term housing objectives of the Tohono O'odham Nation" and gives**
19 **the TOKA "the powers to authorize the borrowing of money for any of the general**
20 **purposes of the TOKA" (TOKA Ordinance, Article II, Section 1 and Article VI, Section**
21 **1(b)); and**

22 **WHEREAS, the TOKA Ordinance, Article IX, Section 2 provides that "the TOKA shall be responsible**
23 **for the contractual obligations and payment of all indebtedness of the TOKA"; and**

24 **WHEREAS, the TOKA has identified the need to (1) expand its internal infrastructure and (2)**
25 **leverage its Indian Housing Block Grant funds, per HUD rules and regulations, with**
26 **other available non-IHBG funds or funding sources to allow the TOKA to continue its**
27 **services, expand its operations, and obtain necessary funding to implement and**
28 **achieve the short- and long-term housing objectives of the Tohono O'odham Nation;**
29 **and**

30 **WHEREAS, Article IX, Section 2 of the TOKA Ordinance authorizes the limited waiver of the TOKA's**

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1 immunity with respect to tort claims which are covered by the TOKA's insurance but
2 does not authorize the limited waiver of immunity for the TOKA with respect to
3 contractual obligations; and

4 WHEREAS, the Legislative Council has recognized the need to authorize limited waivers of
5 sovereign immunity in order for its districts and other entities to obtain financing and
6 enter other business arrangements (e.g., Tohono O'odham Farming Authority Second
7 Restated Plan of Operation, 2 T.O.C. Ch. 1, Section 9.2; Economic Development
8 Authority of the Tohono O'odham Nation Amended and Restated Charter and Plan of
9 Operation, 10 T.O.C. Ch. 1, Section 8; Charter for the Community Development
10 Financial Institution of the Tohono O'odham Nation, 10 T.O.C. Ch. 2, Art. IX; Charter
11 of the Tohono O'odham Community College, 11 T.O.C. Ch. 1, Art. 10; First Amendment
12 to the Amended and Restated Charter of the Tohono O'odham Nursing Care Authority,
13 17 T.O.C. Ch. 2, Art. VIII); and

14 WHEREAS, it is in the Nation's best interest to amend the TOKA Ordinance to (1) authorize the
15 TOKA to leverage its IHBG funds, per HUD rules and regulations, with other available
16 non-IHBG funds or funding sources; (2) authorize limited waivers of the TOKA's
17 immunity with respect to contractual obligations; and (3) make typographic and other
18 corrections in accordance with the Tohono O'odham Ki:ki Association Ordinance,
19 Ordinance No. 93-01, as amended, that is dated for reference "January 2010" ("January
20 2010 TOKA Ordinance Amendments").

21 NOW, THEREFORE, BE IT RESOLVED that the Legislative Council hereby amends the TOKA
22 Ordinance in accordance with the January 2010 TOKA Ordinance Amendments.

23 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08TH Day
24 of JANUARY, 2010 at a meeting at which a quorum was present with a vote of 2,067.40 FOR; 341.0
25 AGAINST; -0- NOT VOTING; and 187.10 [03] ABSENT, pursuant to the powers vested in the Council
26 by Section 1 (c)(2) 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).

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TOHONO O'ODHAM LEGISLATIVE COUNCIL


Verlon M. Jose, Legislative Chairman

12 day of January, 2010

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1 ATTEST:

2 *Evonne Wilson*
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4 Evonne Wilson, Legislative Secretary

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6 12 day of January, 2010.

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8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham
9 Nation on the 12 day of Jan, 2010 at 5:02 o'clock, P.M.,
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective
11 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
12 submittal.

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14 TOHONO O'ODHAM LEGISLATIVE COUNCIL

15 *Verlon M. Jose*
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17 Verlon M. Jose, Legislative Chairman

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21 APPROVED

on the 13 day of Jan, 2010

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24 DISAPPROVED

at 2:40 o'clock, P.M.

25
26 *Ned Norris, Jr.*
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28 NED NORRIS, JR., CHAIRMAN
29 TOHONO O'ODHAM NATION

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32 Returned to the Legislative Secretary on the 13 day of

33
34 January, 2010, at 2:55 o'clock, P.M.

35 *Evonne Wilson*
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37 Evonne Wilson, Legislative Secretary

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ACTION: AMENDING TOHONO O'ODHAM KI:KI ASSOCIATION ORDINANCE TO ALLOW THE KI:KI ASSOCIATION TO LEVERAGE FEDERAL GRANT FUNDS AND TO AUTHORIZE LIMITED WAIVERS OF IMMUNITY

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON

SECOND: COUNCILWOMAN PAMELA ANGHILL

DATE: JANUARY 08, 2010

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35		X		
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY LISTO ()	224.80	X			
	2. EVELYN B. JUAN MANUEL ()	224.80	X		X	
SCHUK TOAK 159.0	1. FRANCES B. CONDE (Fredrick Jose)	79.50	X			
	2. LINDA PARLEY (Agnes Joaquin)	79.50	X			
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35	X			
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55				X
	2. GLORIA RAMIREZ ()	93.55				X
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X			
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25	X			
	2. SANDRA ORTEGA ()	87.25	X		X	
GU VO 206.3	1. GRACE MANUEL ()	103.15		X		
	2. PAMELA ANGHILL (Angela Ortiz)	103.15	X			
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X			X
	2. CYNTHIA E. MANUEL ()	115.05	X			
CHUKUT KUK 277.0	1. ETHEL GARCIA (<i>Absent</i>) (Sara Mae Williams) (<i>Present</i>)	138.50	X			
	2. VERLON M. JOSE ()	138.50		X		
BABOQUIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	162.0	X			
TOTAL		2,595.50	2,067.40	341.0	-0-	187.10 [03]