

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving the results of the Tohono O'odham Managed Audit Agreement with Empire Southwest, LLC, effective date January 25, 2013, and authorizing the Office of the Treasurer to enforce the assessment of transaction privilege tax, penalties and interest against Empire Southwest, LLC)**

**RESOLUTION NO. 15-151**

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to "exercise**  
2 **the inherent powers of the Tohono O'odham Nation by providing laws,**  
3 **ordinances or resolutions: to govern the conduct of members of the Tohono**  
4 **O'odham Nation and other persons within its jurisdiction and to exercise the**  
5 **following fiscal powers: to levy duties, fees, taxes and assessments on any**  
6 **person, corporation or association residing or doing business within the**  
7 **Tohono O'odham Nation...."** (Constitution of the Tohono O'odham Nation,  
8 **Article VI, Section 1(c)(1); (d)(4)); and**

9 **WHEREAS, Empire Southwest, LLC is located on the Tohono O'odham Nation at 7600 S.**  
10 **Nogales Hwy, Tucson, AZ and transacts business as a retail establishment; and**

11 **WHEREAS, 22 T.O.C. Ch. 2 § 5 provides for the levy and collection of transaction privilege**  
12 **taxes in "an amount equal to five per cent (5%) of the gross proceeds of sales or**  
13 **gross income from the business upon every person engaging or continuing**  
14 **within the exterior boundaries of the Tohono O'odham Nation" in the business**  
15 **of "selling any tangible personal property at retail"; and**

16 **WHEREAS, the Tohono O'odham Nation and Empire Southwest, LLC entered into a Managed**  
17 **Audit Agreement, effective January 25, 2013, for the purposes of resolving**  
18 **Empire Southwest, LLC's outstanding transaction privilege tax obligations**  
19 **owing to the Tohono O'odham Nation for the period of time prior to January 1,**  
20 **2012; and**

21 **WHEREAS, the Managed Audit Agreement provided for the Office of the Treasurer to**  
22 **conduct an audit of Empire Southwest, LLC's transactions for the time period of**  
23 **January 1, 2008 through December 31, 2011 and levy taxes in accordance with**  
24 **the Taxable Sales Matrix set forth as Exhibit "A" to the Managed Audit**  
25 **Agreement; and**

26 **WHEREAS, an audit was completed by the Internal Auditor of the Office of the Treasurer**  
27 **resulting in transaction privilege tax owing in the amount of \$3,552,445.08,**  
28 **penalties owing in the amount of \$355,244.50, and interest on both tax and**  
29 **penalties owing of \$2,061,627.56; for a total of \$5,969,317.14 for the tax period**  
30 **prior to January 1, 2012; and**

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1 **WHEREAS, this resolution has been reviewed by the Budget and Finance Committee which**  
2 **recommends approval by the Legislative Council.**

3 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby**  
4 **approves the results of the Tohono O'odham Managed Audit Agreement with**  
5 **Empire Southwest, LLC, effective date January 25, 2013, attached hereto; and**  
6 **authorizes the Office of the Treasurer to enforce the assessment of transaction**  
7 **privilege tax, penalties and interest against Empire Southwest, LLC in the**  
8 **amount of \$5,969,317.14.**

9 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07<sup>TH</sup>**  
10 **day of MAY, 2015 at a meeting at which a quorum was present with a vote of 2,926.9 FOR; -0-**  
11 **AGAINST; [01] NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by**  
12 **Article VI, Section 1(c)(1); (d)(4) of the Constitution of the Tohono O'odham Nation, adopted by**  
13 **the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**  
14 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of**  
15 **June 18, 1934 (48 Stat.984).**

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17 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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21 **Timothy Joaquin, Legislative Chairman**

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23 15 day of May, 2015

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26 **ATTEST:**

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29 **Evonne Wilson, Legislative Secretary**

30 13 day of May, 2015

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33 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono**  
34 **O'odham Nation on the 15 day of May, 2015 at 2:58 o'clock, P .m.,**  
35 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become**  
36 **effective upon his approval or upon his failure to either approve or disapprove it within 48**  
37 **hours of submittal.**

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39 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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43 **Timothy Joaquin, Legislative Chairman**

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APPROVED

on the 14 day of May, 2015

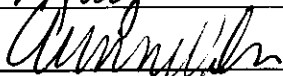
DISAPPROVED

at 4:40 o'clock, P.m.

  
\_\_\_\_\_  
NED NORRIS, JR., CHAIRMAN  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 15 day of

May, 2015, at 9:38 o'clock, a.m.

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

**ACTION:** APPROVING THE RESULTS OF THE TOHONO O'ODHAM MANAGED AUDIT AGREEMENT WITH EMPIRE SOUTHWEST, LLC, EFFECTIVE DATE JANUARY 25, 2013, AND AUTHORIZING THE OFFICE OF THE TREASURER TO ENFORCE THE ASSESSMENT OF TRANSACTION PRIVILEGE TAX, PENALTIES AND INTEREST AGAINST EMPIRE SOUTHWEST, LLC

**MOVED:** COUNCILWOMAN BARBARA HAVIER

**SECOND:** COUNCILWOMAN ETHEL GARCIA

**DATE:** MAY 07, 2015

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 224.2	1. LUCINDA ALLEN ( <i>Absent</i> ) (Nicholas Jose) ( <i>Present</i> )	112.1	X			
	2. MARY LOPEZ ( )	112.1	X			
SELLS 502.0	1. ARTHUR WILSON (Ophella Patten)	251.0	X			X
	2. BARBARA HAVIER (Beverly Rivas)	251.0	X			
SCHUK TOAK 174.2	1. ANTHONY J. RIOS ( )	87.1	X			X
	2. QUINTIN C. LOPEZ (John Fendenheim)	87.1	X			
SAN XAVIER 224.2	1. HILARION CAMPUS ( <i>Absent</i> ) (Daniel L.A. Preston, III) ( <i>Present</i> )	112.1	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	112.1	X			
SAN LUCY 219.6	1. DIANA MANUEL (Gloria Ramirez)	109.8	X			
	2. JANA MONTANA ( )	109.8	X			
PISINEMO 210.6	1. CHESTER ANTONE (Tony Murrietta)	105.3	X		X	
	2. EDWARD MANUEL, SR. ( )	105.3	X			
HICKIWAN 196.9	1. LOUIS R. LOPEZ ( )	98.45	X			
	2. SANDRA ORTEGA (Manuel Osequeda, Jr.)	98.45	X			
GU VO 241.0	1. GRACE MANUEL (Floyd Flores)	120.5				
	2. PAMELA ANGHILL (Jeffery Antone, Sr.)	120.5	X			
GU ACHI 257.3	1. TIMOTHY L. JOAQUIN ( )	128.65	X			
	2. LORETTA LEWIS (Louis Johnson)	128.65	X			
CHUKUT KUK 319.2	1. ETHEL GARCIA (Marlakay C. Henry)	159.6	X			
	2. BILLMAN LOPEZ ( )	159.6	X			
BABOQUIVARI 357.7	1. FRANCES MIGUEL ( <i>Absent</i> ) (Roberta Harvey) ( <i>Present</i> )	178.85	X			
	2. VERNON J. SMITH (Gloria Zazueta)	178.85	X			
<b>TOTAL</b>		<b>2,926.9</b>	<b>2,926.90</b>	<b>-0-</b>	<b>[01]</b>	<b>[02]</b>