

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving a Limited Waiver of the Sovereign Immunity of the Tohono O'odham
Gaming Enterprise in favor of Salt River Project)**

RESOLUTION NO. 15-236

1 **WHEREAS, the Tohono O'odham Nation (the "Nation") is a federally recognized Indian tribe**
2 **organized pursuant to Section 16 of the Indian Reorganization Act of June 18,**
3 **1934 (48 Stat. 984; 25 U.S.C. § 476), which exercises sovereignty over both its**
4 **members and its lands; and**

5 **WHEREAS, pursuant to Article VI of the Nation's Constitution, the Tohono O'odham**
6 **Legislative Council (the "Legislative Council") is vested with all of the legislative**
7 **powers of the Nation and is empowered to enact laws, ordinances, and**
8 **resolutions necessary or incidental to the exercise of its legislative powers; and**

9 **WHEREAS, the Legislative Council adopted the Charter of the Gaming Enterprise (the**
10 **"Charter") by Resolution No. 93-311 and amended the Charter by Resolution 02-**
11 **294, Resolution No. 03-231, and Resolution 04-513 (16 T.O.C. Chapter 2); and**

12 **WHEREAS, Section 5(d)(3) of the Charter charges the Gaming Enterprise with the**
13 **responsibility for planning, constructing, and management of all new or**
14 **additional gaming facilities; and**

15 **WHEREAS, the Management Board is authorized to enter into, make, perform and carry out**
16 **contracts for any lawful purpose pertaining to the Enterprise's business**
17 **(Charter, Section 5(d)(10)); and**

18 **WHEREAS, Section 8(b)(2) of the Charter provides for a limited waiver of the Gaming**
19 **Enterprise's sovereign immunity with respect to claims based upon a written**
20 **contract to which the Gaming Enterprise is a party; and**

21 **WHEREAS, the Gaming Enterprise has negotiated a series of agreements with the Salt River**
22 **Project Agricultural Improvement and Power District ("SRP") to bring electrical**
23 **services to the buildings being constructed as part of TOGE's development of the**
24 **West Valley Project near Glendale, Arizona; and**

25 **WHEREAS, the agreements include a provision for TOGE and SRP to seek resolution of**
26 **disputes first through negotiation and, if negotiation fails to resolve the dispute,**
27 **then through binding arbitration; and**

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1 **WHEREAS, the agreements also include a provision to permit either party to bring an action**
2 **against the other party to compel arbitration, enter any judgement of**
3 **arbitration, or enforce any judgement therefrom in either the Federal District**
4 **Court in Phoenix, or the State Courts of Arizona in Maricopa County; and**

5 **WHEREAS, the provision for arbitration and enforcement of arbitration awards requires a**
6 **modification of the statutory waiver beyond the parameters of Section 8(b)(2) of**
7 **the Enterprise's Charter; and**

8 **WHEREAS, the Enterprise is seeking approval from the Legislative Council for this**
9 **modification to the scope of the waiver of the TOGE's immunity pursuant to the**
10 **terms of its agreements with SRP, which is attached hereto and is incorporated**
11 **by this reference; and**

12 **WHEREAS, the Commerce Committee of the Legislative Council has reviewed the language**
13 **of the proposed waiver in favor of SRP and believes it is in the best interest of the**
14 **Nation to adopt a resolution that approves those modifications; and**

15 **WHEREAS, the Nation's best interest will be served by modifying TOGE's statutory waiver of**
16 **sovereign immunity as provided in the attached Exhibit A.**

17 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council grants a**
18 **limited waiver of the sovereign immunity of the Tohono O'odham Gaming**
19 **Enterprise in favor of SRP solely for the purpose of the agreements relating to**
20 **providing electrical utility services to the West Valley Resort project, and adopts**
21 **the attached Exhibit A for that purpose.**

22 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17TH**
23 **day of JUNE, 2015 at a meeting at which a quorum was present with a vote of 3,015.3 FOR; -0-**
24 **AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by**
25 **Article VI, Section 1(e) of the Constitution of the Tohono O'odham Nation, adopted by the**
26 **Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
27 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of**
28 **June 18, 1934 (48 Stat.984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

23 day of June, 2015

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ATTEST:

[Signature]
Evonne Wilson, Legislative Secretary

03 day of June, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 23 day of June, 2015 at 3:02 o'clock, P.m., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

[Signature]
Timothy Joaquin, Legislative Chairman

APPROVED

on the 23 day of June, 2015

DISAPPROVED

at 5:43 o'clock, P.m.

[Signature]
EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 24 day of June, 2015, at 10:31 o'clock, a.m.

[Signature]
Evonne Wilson, Legislative Secretary

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ACTION: APPROVING A LIMITED WAIVER OF THE SOVEREIGN IMMUNITY OF THE TOHONO O'ODHAM GAMING ENTERPRISE IN FAVOR OF SALT RIVER PROJECT

Moved: COUNCILWOMAN FRANCES MIGUEL

SECOND: COUNCILWOMAN DIANA MANUEL

DATE: JUNE 17, 2015

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.1	1. FRANCES MIGUEL (Roberta E. Harvey)	183.55	X			
	2. VERNON J. SMITH (Gloria Zazueta)	183.55	X			
CHUKUT KUK 331.9	1. ETHEL GARCIA (<i>Absent</i>) (Marlakay K. Henry) (<i>Present</i>)	165.95	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	165.95	X			X
GU ACHI 265.1	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.55	X			
	2. LORETTA LEWIS ()	132.55	X			
GU VO 249.6	1. GRACE MANUEL (Dallas Lewis)	124.8	X			
	2. PAMELA ANGHILL (Jeffery Antone, Sr.)	124.8	X			
HICKIWAN 204.9	1. LOUIS R. LOPEZ (Shirley Molina)	102.45	X			
	2. SANDRA ORTEGA ()	102.45	X			
PISINEMO 220.0	1. CHESTER ANTONE (Tony Murrietta)	110.0	X			
	2. VACANT ()	110.0	X			X
SAN LUCY 222.9	1. DIANA MANUEL ()	111.45	X			
	2. JANA MONTANA (Gloria Ramirez)	111.45	X			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III (Gene Enis)	114.3	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.3	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. (Theresa Donahue)	90.3	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.3	X			X
SELLS 513.1	1. ARTHUR WILSON (Beverly Rivas)	256.55	X			
	2. BARBARA HAVIER ()	256.55	X			
SIF OIDAK 231.5	1. LUCINDA ALLEN (Nicholas Jose)	115.75	X			
	2. MARY LOPEZ ()	115.75	X			
TOTAL		3,015.3	3,015.3	-0-	-0-	[03]