

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the Chairman of the Tohono O'odham Nation to Execute the
Tohono O'odham Farming Authority and Bank of America First Loan
Modification Documents on Behalf of TOFA and the Nation)

RESOLUTION NO. 15-307

1 **WHEREAS, the Tohono O'odham Farming Authority ("TOFA") is the Tohono O'odham**
2 **Nation's ("Nation's") enterprise authorized to operate the San Lucy, Schuk Toak,**
3 **and Vaiva Vo Farms on behalf of the Nation; and**

4 **WHEREAS, TOFA is responsible for promoting the economic development and general**
5 **welfare of the Nation and its members by profitably developing the agricultural**
6 **resources of the Nation, pursuant to Paragraph 3.1 of TOFA's Second Restated**
7 **Plan of Operation; and**

8 **WHEREAS, the Tohono O'odham Legislative Council must approve waivers of sovereign**
9 **immunity, both for the Nation and enterprises chartered pursuant to the laws of**
10 **the Nation, such as TOFA; and**

11 **WHEREAS, on May 6, 2005, the Tohono O'odham Legislative Council adopted Resolution 05-**
12 **233 (Delegating to the Nation's Chairwoman Authority Over the Tohono**
13 **O'odham Farming Authority); and**

14 **WHEREAS, by Resolution No. 13-422, the Tohono O'odham Legislative Council approved a**
15 **revolving line of credit by and between Bank of America, N.A. ("B of A"), in the**
16 **original maximum available principal amount of Six Million and No/100 Dollars**
17 **(\$6,000,000.00) (the "2013 TOFA Loan"), as set forth in the following 2013 TOFA**
18 **Loan documents (collectively referred to as the "Loan Documents"):**

- 19 **(1) a Loan Agreement between B of A and TOFA that provides for a revolving**
20 **line of credit facility through July 1, 2015;**
- 21 **(2) an Acknowledgement and Approval between B of A and the Nation;**
- 22 **(3) a Pledge Agreement between B of A and the Nation pledging the Nation's**
23 **interest income in the Nation's SAWRSA Trust Account to secure payment**
24 **of the 2013 TOFA Loan (the "Pledged Collateral");**
- 25 **(4) a Security Agreement between B of A, the Nation, and TOFA;**
- 26 **(5) a Closing Certificate of Borrower executed by TOFA; and**
- 27 **(6) an Authorizing Resolution executed by the TOFA Management Board.**

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1 **WHEREAS, by Resolution No. 13-422, the Tohono O'odham Legislative Council authorized**
2 **the Nation's Chairman to execute, deliver and perform the Loan Documents on**
3 **behalf of the Nation and TOFA; and**

4 **WHEREAS, by Resolution No. 13-422, the Tohono O'odham Legislative Council approved the**
5 **limited waiver of TOFA's sovereign immunity, as set forth in the Loan**
6 **Documents because such limited waiver of sovereign immunity was necessary**
7 **for the execution of the 2013 Loan Documents; and**

8 **WHEREAS, due to the maturity date of the 2013 TOFA Loan on July 1, 2015, combined with**
9 **the ongoing need for financing to fund TOFA operations, crop production, and**
10 **infrastructure construction, it is critical to extend the Availability Period of the**
11 **2013 TOFA Loan to July 1, 2017, to provide financing and TOFA's use of the line of**
12 **credit from July 1, 2015 through June 30, 2017; and**

13 **WHEREAS, TOFA has requested, with the assent of Nation, and Lender has agreed, to modify**
14 **and amend the Loan Documents to extend the maturity date of the 2013 TOFA**
15 **Loan, upon the terms and conditions set forth in that certain Revolving Line of**
16 **Credit First Modification Agreement (the "First Modification Agreement") and**
17 **the documents executed in connection with the First Modification Agreement**
18 **(collectively, the "First Modification Documents"); and**

19 **WHEREAS, this matter has been reviewed by the Agricultural and Natural Resources**
20 **Committee, the Budget and Finance Committee, and the Water Resources**
21 **Committee, who jointly recommend approval by the Legislative Council.**

22 **NOW, THEREFORE, BE IT RESOLVED THAT the Tohono O'odham Legislative Council hereby:**

- 23 **1. approves the First Modification Documents and authorizes the Nation's**
24 **Chairperson (the "Authorized Officer") to execute, deliver and perform**
25 **the First Modification Documents on behalf of the Nation and TOFA and**
26 **such other documents, instruments, agreements, certificates and any**
27 **additional documentation or agreements by the Nation and/or TOFA with**
28 **B of A or any affiliate of B of A, as may be required by the First**
29 **Modification Documents or as may be deemed necessary or convenient**

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1 in the discretion of the Authorized Officer to consummate the
2 transactions contemplated by the First Modification Documents,
3 whether at the time of the closing or thereafter;

4 2. grants the limited waiver of the TOFA's sovereign immunity necessary to
5 implement the dispute resolution remedies and indemnification
6 provisions incorporated by reference into the First Modification
7 Documents;

8 3. grants the limited waiver of the Nation's sovereign immunity necessary to
9 implement the dispute resolution remedies and indemnification
10 provisions incorporated by reference into the First Modification
11 Documents;

12 4. confirms the continuing grant to B of A by the Nation of a lien covering
13 the Nation's Pledged Collateral and the security interests granted by the
14 Nation therein pursuant to the Loan Documents;

15 5. agrees that this Resolution relates solely to the First Modification
16 Documents and does not in any manner affect any borrowing heretofore
17 or hereafter made under any other financing arrangement, and that this
18 Resolution shall not serve to revoke or alter any resolutions previously
19 delivered by Nation to B of A and shall not (unless specifically otherwise
20 provided) be revoked by any Resolutions subsequently delivered to B of A
21 relating to other financing arrangements between B of A, the Nation
22 and/or TOFA; and

23 6. agrees that all actions heretofore taken, and all documents heretofore
24 executed by the Authorized Officer in connection with the foregoing
25 Resolutions, are hereby ratified, confirmed, and adopted as the acts and
26 deeds of the Nation and/or TOFA, as the case may be, as of the effective
27 date of this resolution.
28

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(Authorizing the Chairman of the Tohono O'odham Nation to Execute the Tohono O'odham Farming Authority and Bank of America First Loan Modification Documents on Behalf of TOFA and the Nation)

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 04TH day of AUGUST, 2015 at a meeting at which a quorum was present with a vote of 1,814.5 FOR; 1,200.8 AGAINST; [01] NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article VI, Section (d)(2) and 1(e) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman

11 day of August, 2015

ATTEST:

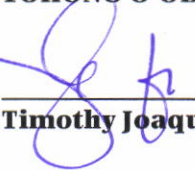


Evonne Wilson, Legislative Secretary

10 day of August, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 11 day of August, 2015 at 9:28 o'clock, a.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



Timothy Joaquin, Legislative Chairman

APPROVED

on the 11 day of August, 2015

DISAPPROVED

at 5:07 o'clock, P.m.



EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 12 day of
August, 2015, at 10:50 o'clock, AM .m.

Evonne Wilson

Evonne Wilson, Legislative Secretary

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ACTION: AUTHORIZING THE CHAIRMAN OF THE TOHONO O'ODHAM NATION TO EXECUTE THE TOHONO O'ODHAM FARMING AUTHORITY AND BANK OF AMERICA FIRST LOAN MODIFICATION DOCUMENTS ON BEHALF OF TOFA AND THE NATION

Moved: COUNCILMAN BILLMAN LOPEZ

SECOND: COUNCILWOMAN ETHEL GARCIA

DATE: AUGUST 04, 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 (Marlakay K. Henry)	165.95	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	165.95	X			
GUACHI 265.1	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.55		X		
	2. LORETTA LEWIS ()	132.55	X			
GUVO 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		X	
PISINEMO 220.0	1. CHESTER ANTONE (Tony Murrietta)	110.0	X			X
	2. MONICA K. MORGAN ()	110.0	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		
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			X
TOTAL		3,015.3	1,814.5	1,200.8	[01]	[02]