

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Assumption of Remaining Federal Programs, Functions, Services and
Activities Carried Out by the Indian Health Service for or in Support of the Nation)

RESOLUTION NO. 15-365

1 **WHEREAS,** **the Legislative Council has the authority “to promote, protect and provide for**
2 **public health, peace, morals, education and general welfare of the Tohono**
3 **O’odham Nation and its members” and to “consult, negotiate and conclude**
4 **agreements and contracts on behalf of the Tohono O’odham Nation with**
5 **Federal, State and local governments” (Constitution, Article VI, Section 1(c)(2)**
6 **and Section 1(f)); and**

7 **WHEREAS,** **the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. No.**
8 **93-638; 25 U.S.C. § 450 et seq.) authorizes the Nation to assume federal programs,**
9 **functions, services or activities (“PFSAs”) by self-determination contract**
10 **pursuant to Title I or by self-governance compact pursuant to Title V with the**
11 **Secretary of the U.S. Department of Health and Human Services; and**

12 **WHEREAS,** **the Nation has previously entered into Contract No. HHS1249200400001C with**
13 **the Secretary of the U.S. Department of Health and Human Services for the**
14 **management of certain health services; and**

15 **WHEREAS,** **the Tucson Area Office and the Sells Service Unit, including the Sells Hospital,**
16 **the San Simon Health Center, the San Xavier Health Center, and the Santa Rosa**
17 **Health Center, are responsible for delivering critical healthcare resources to**
18 **the Nation’s citizens; and**

19 **WHEREAS,** **by Resolution 15-111, the Legislative Council authorized the Nation to plan and**
20 **evaluate for assuming the remaining federal PFSAs carried out by the Indian**
21 **Health Service for or in support of the Nation, together with any associated**
22 **tribal shares; and**

23 **WHEREAS,** **the Nation has determined it is in the best interest of the Tohono O’odham**
24 **Nation to assume additional PFSAs that may include the PFSAs currently**
25 **operated at the Service Unit, Area, and Headquarters levels of IHS, together with**
26 **associated Tribal Shares; and**

27 **WHEREAS,** **the Nation recognizes that IHS employees are critically important to the**
28 **continuity of care for the Nation’s members and other IHS patients; and**

RESOLUTION NO. 15-365

(Authorizing Assumption of Remaining Federal Programs, Functions, Services and Activities Carried Out by the Indian Health Service for or in Support of the Nation)

Page 2 of 4

1 **WHEREAS, it is the intent of the Legislative Council, to the greatest extent feasible, to**
2 **maintain stability in staffing of any PFSAs assumed by the Nation by offering the**
3 **opportunity to continue in federal employment to all current and eligible IHS**
4 **employees, using Intergovernmental Personnel Agreements, Memoranda of**
5 **Agreements, or direct hire employment; and**

6 **WHEREAS, the Nation is confident that the IHS Tucson Area and Sells Service Unit**
7 **leadership will work closely and cooperatively with the Nation to minimize staff**
8 **uncertainty and disruption, to disclose all pertinent information, to assist in the**
9 **development of all necessary legal documents, and to work collaboratively with**
10 **the Nation consistent with IHS's commitment to tribal self-governance and self-**
11 **determination; and**

12 **WHEREAS, a planning process has been completed to the satisfaction of the Nation that**
13 **addressed legal and budgetary issues and internal government planning and**
14 **organizational preparation relating to the administration of health programs as**
15 **required by 42 C.F.R. § 137.20; and**

16 **WHEREAS, the Nation has demonstrated financial stability and financial management**
17 **capacity; and**

18 **WHEREAS, the Legislative Council has determined that it can most effectively meet the**
19 **needs of its members by negotiating for the assumption of all remaining Indian**
20 **Health Service programs, services, functions, and activities, or portions thereof**
21 **under Title V (Self-Governance); and**

22 **WHEREAS, the Legislative Council has determined that, in the event the Nation is for any**
23 **reason ineligible to participate in self-governance under Title V of the Act, it will**
24 **proceed with contracting under Title I of the Act.**

25 **NOW, THEREFORE, BE IT RESOLVED the Tohono O'odham Legislative Council authorizes the**
26 **following:**

- 27 **1. The Nation's Chairperson may notify the IHS of the Nation's intent to assume**
28 **all remaining PFSAs that benefit the Nation; and**
29

RESOLUTION NO. 15-365

(Authorizing Assumption of Remaining Federal Programs, Functions, Services and Activities Carried Out by the Indian Health Service for or in Support of the Nation)

Page 3 of 4

1 2. The Nation's Chairperson and/or his designee, and the Nation's legal
2 counsel, are authorized and directed to develop the documents necessary
3 for the Nation to assume operation of additional IHS PFSAs, which may
4 include the PFSAs currently operated at the Service Unit, Area Office, and
5 Headquarters levels of IHS, together with associated Tribal Shares; and

6 3. The Nation's Chairperson and/or his designee, and the Nation's legal
7 counsel, may negotiate and submit to IHS, in coordination with the Health
8 and Human Services Committee, a self-governance proposal or self-
9 determination contract proposal for all remaining PFSAs; and

10 **BE IT FURTHER RESOLVED** that the Legislative Council wishes these negotiations to occur as
11 early and expeditiously as possible and, subject to final approval of the Council.

12 **BE IT FINALLY RESOLVED** that all communication from the Indian Health Service regarding
13 these negotiations shall be directed to the Nation's Chairperson with a copy to
14 the Health Director and to the Nation's legal counsel, including the Office of
15 Attorney General and the law firm of Sonosky Chambers Sachse Miller &
16 Munson, LLP.

17 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17TH**
18 **day of SEPTEMBER, 2015 at a meeting at which a quorum was present with a vote of 3,021.4**
19 **FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the**
20 **Council by Article VI, Section 1(c)(2)and(f) of the Constitution of the Tohono O'odham Nation,**
21 **adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting**
22 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section**
23 **16 of the Act of June 18, 1934 (48 Stat.984).**

24 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

25
26
27
28 **Timothy Joaquin, Legislative Chairman**

29
30 28 day of September, 2015

31
32
33 **ATTEST:**

34
35
36 **Evonne Wilson, Legislative Secretary**

37
38 24 day of September, 2015

39

RESOLUTION NO. 15-365

(Authorizing Assumption of Remaining Federal Programs, Functions, Services and Activities Carried Out by the Indian Health Service for or in Support of the Nation)

Page 4 of 4

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 28 day of September, 2015 at 10:41 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 29 day of September, 2015

DISAPPROVED

at 1:33 o'clock, p.m.



EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 30 day of

September, 2015, at 8:38 o'clock, a.m.



Evonne Wilson, Legislative Secretary

ACTION: AUTHORIZING ASSUMPTION OF REMAINING FEDERAL PROGRAMS, FUNCTIONS, SERVICES AND ACTIVITIES CARRIED OUT BY THE INDIAN HEALTH SERVICE FOR OR IN SUPPORT OF THE NATION

MOVED: COUNCILMAN ANTHONY J. FRANCISCO JR.

SECOND: COUNCILMAN CHESTER ANTONE

DATE: SEPTEMBER 17, 2015

| DISTRICT | LEGISLATIVE REPRESENTATIVES | # OF VOTES | FOR | AGAINST | NOT VOTING | ABSENT |
|----------------------|---|----------------|----------------|------------|------------|-------------|
| BABOQUIVARI 367.2 | 1. FRANCES MIGUEL (<i>Absent</i>) (Roberta E. Harvey) (<i>Present</i>) | 183.60 | X | | | |
| | 2. VERNON J. SMITH (<i>Absent</i>) (Gloria Zazueta) (<i>Present</i>) | 183.60 | X | | | X |
| CHUKUT KUK 332.1 | 1. ETHEL GARCIA (Marlakay K. Henry) | 166.05 | X | | | |
| | 2. BILLMAN LOPEZ (<i>Absent</i>) (Patricia Vicenti) (<i>Present</i>) | 166.05 | X | | | |
| GUACHI 265.0 | 1. TIMOTHY L. JOAQUIN (Louis L. Johnson) | 132.50 | X | | | |
| | 2. LORETTA LEWIS () | 132.50 | X | | | |
| GU VO 250.6 | 1. GRACE MANUEL (Dallas Lewis) | 125.3 | X | | | |
| | 2. PAMELA ANGHILL (Jeffery Antone, Sr.) | 125.3 | X | | | |
| HICKIWAN 204.8 | 1. LOUIS R. LOPEZ (Shirley Molina) | 102.90 | X | | | |
| | 2. SANDRA ORTEGA () | 102.90 | X | | | |
| PISINEMO 219.9 | 1. CHESTER ANTONE (Tony Murrietta) | 109.95 | X | | | |
| | 2. MONICA K. MORGAN () | 109.95 | X | | | |
| SAN LUCY 226.5 | 1. DIANA MANUEL () | 113.25 | X | | | |
| | 2. JANA MONTANA (Gloria Ramirez) | 113.25 | X | | | |
| SAN XAVIER 228.6 | 1. DANIEL L.A. PRESTON III (Gene Enis) | 114.3 | X | | | |
| | 2. RACHEAL VILSON-STONER (<i>Absent</i>) (Olivia Villegas-Liston) (<i>Present</i>) | 114.3 | X | | | X |
| SCHUK TOAK 180.6 | 1. ANTHONY J. FRANCISCO JR. (Theresa Donahue) | 90.3 | X | | | |
| | 2. QUINTIN C. LOPEZ (John Fendenheim) | 90.3 | X | | | |
| SELS 513.5 | 1. ARTHUR WILSON (Beverly Rivas) | 256.75 | X | | | |
| | 2. BARBARA HAVIER () | 256.75 | X | | | |
| SIF OIDAK 231.6 | 1. LUCINDA ALLEN (Nicholas Jose) | 115.80 | X | | | |
| | 2. MARY LOPEZ () | 115.80 | X | | | |
| TOTAL | | 3,021.4 | 3,021.4 | -0- | -0- | [02] |