

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Authorizing the Public Radio Webcasting Settlement Agreement and a Limited  
Waiver of Sovereign Immunity)**

**RESOLUTION NO. 16-013**

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to "consult,**  
2 **negotiate and conclude agreements and contracts on behalf of the Tohono**  
3 **O'odham Nation with ...private persons or organizations on all matters within**  
4 **the authority of the Tohono O'odham Council" (Constitution of the Tohono**  
5 **O'odham Nation, Article VI, Section 1(f)); and**

6 **WHEREAS, KOHN FM is a non-commercial terrestrial radio broadcast station licensed to**  
7 **the Tohono O'odham Nation (the "Nation") and is a qualified public radio station**  
8 **able to receive funding from the Corporation for Public Broadcasting ("CPB");**  
9 **and**

10 **WHEREAS, KOHN FM's signal only reaches some areas within the exterior boundaries of the**  
11 **Nation; and**

12 **WHEREAS, the Nation has long desired to provide the broadcast programming of KOHN FM**  
13 **to all of its members within and beyond its exterior boundaries; and**

14 **WHEREAS, CPB, on behalf of public radio stations, has successfully re-negotiated and**  
15 **executed a 2016 Public Radio Webcasting Settlement Agreement ("Agreement")**  
16 **with SoundExchange, Inc., for the term of January 1, 2016, through December 31,**  
17 **2020; and**

18 **WHEREAS, the Agreement provides that CPB will pay the license fees for all Covered Entities**  
19 **so as to permit them to make public performances of sound recordings by**  
20 **means of digital audio transmissions through one or more authorized websites;**  
21 **and**

22 **WHEREAS, a Covered Entity is defined as an eligible Originating Public Radio Station which**  
23 **is a noncommercial terrestrial radio broadcast station that i) is licensed as such**  
24 **by the Federal Communications Commission; ii) originates programming and is**  
25 **not solely a repeater station; iii) is a member or affiliate of National Public**  
26 **Radio, American Public Media, Public Radio International, or Public Radio**  
27 **Exchange, a member of the National Federation of Community Broadcasters, or**  
28 **another public radio station that is qualified to receive funding from the**  
29 **Corporation for Public Broadcasting pursuant to its criteria; and**

**RESOLUTION NO. 16-013**

**(Authorizing the Public Radio Webcasting Settlement Agreement and a Limited Waiver of Sovereign Immunity)**

**Page 2 of 3**

1 **WHEREAS, KOHN FM is a noncommercial terrestrial radio broadcast station licensed to the**  
2 **Nation, and a qualified public radio station receiving funding from the CPB,**  
3 **which meets the definition of a Covered Entity as defined in the Agreement; and**

4 **WHEREAS, paragraph 16 of the Agreement requires that the Agreement be governed by the**  
5 **laws of the District of Columbia, that any actions or proceedings arising from**  
6 **this Agreement be litigated in the United States District Court for the District of**  
7 **Columbia; and**

8 **WHEREAS, the Legislative Cultural Preservation Committee has reviewed a limited waiver**  
9 **of the Nation's sovereign immunity in accordance with, and subject to the**  
10 **limitations of, the Public Radio Webcasting Settlement Agreement; and**

11 **WHEREAS, the interests of the Nation will be served by the Legislative Council approving a**  
12 **limited waiver of the Nation's sovereign immunity in accordance with, and**  
13 **subject to the limitations of, the terms of the Public Radio Webcasting**  
14 **Settlement Agreement.**

15 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby**  
16 **grants a limited waiver of the sovereign immunity of the Nation, in accordance**  
17 **with, and subject to the limitations of, the terms of the Public Radio Webcasting**  
18 **Settlement Agreement for the period of January 1, 2016 through December 31,**  
19 **2020, and shall not extend to any other transactions or subjects.**

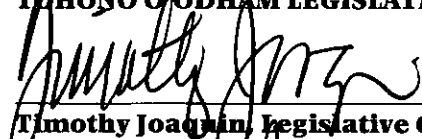
20 **BE IT FINALLY RESOLVED that the Public Radio Webcasting Settlement Agreement, as attached**  
21 **and incorporated into this resolution, is hereby approved and accepted and that**  
22 **the Chairman or designated official is authorized to execute the agreement.**

23 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12<sup>TH</sup>**  
24 **day of JANUARY, 2016 at a meeting at which a quorum was present with a vote of 3,021.4 FOR;**  
25 **~~0~~- AGAINST; ~~0~~- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**  
26 **Article VI, Section 1(f) 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**  
29 **June 18, 1934 (48 Stat.984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
\_\_\_\_\_  
Timothy Joaquin, legislative Chairman

15 day of January, 2016

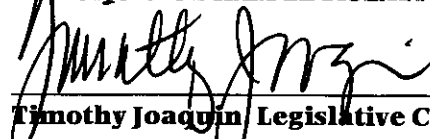
ATTEST:

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

15 day of January, 2016

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 15 day of January, 2016 at 4:59 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

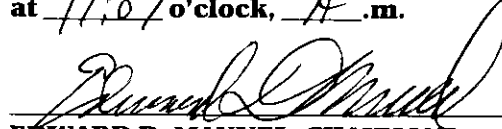
  
\_\_\_\_\_  
Timothy Joaquin, Legislative Chairman

APPROVED

on the 20 day of January, 2016

DISAPPROVED

at 11:07 o'clock, A.m.

  
\_\_\_\_\_  
EDWARD D. MANUEL, CHAIRMAN  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 20 day of

January, 2016, at 12:21 o'clock, P.m.

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

**ACTION: AUTHORIZING THE PUBLIC RADIO WEBCASTING SETTLEMENT AGREEMENT AND A LIMITED WAIVER OF SOVEREIGN IMMUNITY**

**Moved: COUNCILMAN ARTHUR WILSON**

**SECOND: COUNCILWOMAN PAMELA ANGHILL**

**DATE: JANUARY 12, 2016**

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 (Gloria Zazueta)	183.60	X			
CHUKUT KUK 332.1	1. ETHEL GARCIA (Marlakay K. Henry)	166.05	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	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)	125.30	X			
	2. PAMELA ANGHILL (Jeffery Antone, Sr.)	125.30	X			
HICKIWAN 205.8	1. LOUIS R. LOPEZ (Shirley Molina)	102.90	X			
	2. SANDRA ORTEGA ( )	102.90	X			X
PISINEMO 219.9	1. CHESTER ANTONE ( )	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 ( )	114.30	X			
	2. RACHEAL VILSON-STONER ( <i>Absent</i> ) (Olivia Villegas-Liston) ( <i>Present</i> )	114.30	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. ( )	90.30	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.30	X			
SELLS 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			
<b>TOTAL</b>		<b>3,021.4</b>	<b>3,021.4</b>	<b>-0-</b>	<b>-0-</b>	<b>[01]</b>