

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Amendments to 2015 Arizona 26-12 Project Lease and AZ-26-22 Master
Leases and Two New Master Leases for the Construction and Rehabilitation of 40
Housing Units for the Tohono O'odham Ki:Ki Association's 2016 Low Income
Housing Tax Credit Project Known as "TOKA Homes II")

RESOLUTION NO. 16-552

1 **WHEREAS, the Constitution of the Tohono O'odham Nation ("Nation") vests the Legislative**
2 **Council with the power to enact laws "to promote, protect and provide for public**
3 **health, peace, morals, education and general welfare of the Tohono O'odham**
4 **Nation and its members" and to enact laws "governing the use, assignment,**
5 **permit, lease or other disposition of lands, interests in land and resources of the**
6 **nation consistent with Federal law" (Constitution, Article VI, Section 1(c)(2) and**
7 **Article XVI, Section 1); and**

8 **WHEREAS, the Tohono O'odham Ki:Ki Association ("TOKA") is the successor-in-interest to the**
9 **Papago Housing Authority and the tribally designated housing entity ("TDHE") of**
10 **the Tohono O'odham Nation, responsible for administering United States**
11 **Housing and Urban Development ("HUD") block grant funds pursuant to the**
12 **Native American Housing Assistance and Self-Determination Act of 1996, § 2 U.S.C.**
13 **§ 4101, et seq., P.L. 104-330, 110 Stat. 4106 ("NAHASDA") and operating and**
14 **developing low income housing for the Nation and its members (18 Tohono**
15 **O'odham Code Chapter 1); and**

16 **WHEREAS, in 2014, the TOKA applied for and was awarded Low Income Housing Tax Credit**
17 **("LIHTC") from the Arizona Department of Housing ("ADOH") for the renovation**
18 **and rehabilitation of existing residential housing units on a parcel of the Nation's**
19 **land located within the Sells District originally known as TOKA Project Arizona**
20 **26-12 (the "2014 LIHTC Project"); and**

21 **WHEREAS, in order to qualify for the 2014 LIHTC Project, the Nation approved by Resolution**
22 **No. 15-135 the 2015 Arizona 26-12 Project Lease with TOKA, dated May 18, 2015,**
23 **which was approved by the Secretary of the United States Department of Interior**
24 **(the "Secretary") on December 12, 2015, and recorded by the Bureau of Indian**
25 **Affairs' Land Title Records Office as Document No. BLTS150005 on February 19,**
26 **2016, as legally described therein, a copy of which is attached hereto and**
27 **incorporated by this reference as Exhibit A; and**

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1 **WHEREAS, the 2015 Arizona 26-12 Project Lease is for a term of 50 years commencing on the**
2 **date of the Secretary's approval thereof and will expire on December 12, 2065; and**

3 **WHEREAS, as approved by the Secretary on October 21, 1982, the Papago Council of the**
4 **Papago Reservation, Arizona and the Papago Housing Authority entered into two**
5 **leases, one for land within the Sells District for forty dwelling sites known as**
6 **Project AZ 26-22, BIA Lease No. 610-13-82, and one for land for ten dwelling sites,**
7 **BIA Lease No. 610-14-82 (BIA Lease No. 610-13-82 and BIA Lease No. 610-14-82 are**
8 **collectively referred to herein as the "AZ 26-22 Leases," copies of which are**
9 **attached hereto and incorporated by this reference as Exhibit B); and**

10 **WHEREAS, the AZ 26-22 Leases are each for terms of 50 years and both will expire on October**
11 **21, 2032; and**

12 **WHEREAS, the TOKA applied for and was awarded an allocation of Low Income Housing Tax**
13 **Credits from the Arizona Department of Housing (the "TOKA Homes II 2016 LIHTC**
14 **Project") for the construction and rehabilitation of 40 Housing Units consisting**
15 **of:**

16 **(1) the renovation/reconstruction of one existing TOKA residential rental**
17 **housing unit ("Parcel 8") currently located within TOKA Project Arizona**
18 **26-12 and subject to the 2015 Arizona 26-12 Project Lease that was not part**
19 **of TOKA's 2014 LIHTC Project; and**

20 **(2) the construction of twenty new TOKA residential rental units/townhomes**
21 **on (i) a vacant and unimproved parcel of land (hereinafter "Parcel TH-A")**
22 **that also currently is located within TOKA Project Arizona 26-12 and**
23 **subject to the 2015 Arizona 26-12 Project Lease and (ii) another vacant and**
24 **unimproved parcel of the Nation's trust land that is adjacent and**
25 **contiguous to Parcel TH-A (hereinafter "Parcel TH-B"); and**

26 **(3) the renovation and reconstruction of nineteen existing TOKA residential**
27 **rental housing units located on parcels of real property currently within**

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TOKA Project AZ 26-22 and subject to the AZ 26-22 Leases (hereinafter the "19 AZ 26-22 Parcels"); and

WHEREAS, the ADOH LIHTC program and applicable federal tax laws require that TOKA maintain site control of all the properties comprising the TOKA Homes II 2016 LIHTC Project, as described above, for a period of 50 years; and

WHEREAS, under federal law, the existing 2015 Arizona 26-12 Project Lease and the AZ 26-22 Leases cannot be extended for terms beyond the original fifty year terms of the original leases and the current terms of the existing 2015 Arizona 26-12 Project Lease and the AZ 26-22 Leases are scheduled to and shall expire in less than fifty years; and

WHEREAS, in order to qualify and satisfy federal and state LIHTC program and funding eligibility requirements for the TOKA Homes II 2016 LIHTC Project, it is necessary for TOKA and the Nation to:

- (1) amend the 2015 Arizona 26-12 Project Lease in order to withdraw and release Parcel 8 and Parcel TH-A from the existing lease and Leased Premises; and**
- (2) amend the two existing AZ 26-22 Leases in order to withdraw and release the 19 AZ 26-22 Parcels from the existing lease and the Leased Premises; and**
- (3) enter into a new Master Lease for Parcel 8, Parcel TH-A and Parcel TH-B for a new term of fifty years beginning on the date that such new Master Lease is approved by the Secretary of Interior, as required by law; and**
- (4) enter into a new Master Lease for the 19 AZ 26-22 Parcels for a new term of fifty years beginning on the date that the new Master Lease is approved by the Secretary of Interior, as required by law; and**

WHEREAS, the TOKA Board requests the lease amendments and new master leases in the best interests of the Nation in order to address and serve the housing needs of the Nation's members; and

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1 **WHEREAS, the Sells Community and Sells District support and the Legislative Housing**
2 **Committee has reviewed and recommended approval of the TOKA Board of**
3 **Director's request for two new fifty year Master Leases and two lease amendments**
4 **in order for TOKA to qualify and satisfy program and funding eligibility**
5 **requirements for the ADOH LIHTC program related to the TOKA Homes II 2016**
6 **LIHTC Project.**

7 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it:**

- 8 (1) **Authorizes and approves the amendment to the 2015 Arizona 26-12 Project**
9 **Lease in order to withdraw and release Parcel 8 and Parcel TH-A from the**
10 **existing lease and Leased Premises.**
- 11 (2) **Authorizes and approves the amendment to the two existing AZ 26-22**
12 **Leases in order to withdraw and release the 19 AZ 26-22 Parcels from the**
13 **existing lease and the Leased Premises.**
- 14 (3) **Authorizes and approves (i) a new Master Lease by and between the Nation**
15 **and TOKA for Parcel 8, Parcel TH-A, and Parcel TH-B; and (ii) a new Master**
16 **Lease by and between the Nation and TOKA for the 19 AZ 26-22 Parcels,**
17 **each for new terms of fifty years commencing on the respective dates that**
18 **such two new Master Leases are approved by the Secretary of Interior, as**
19 **required by law, in the forms attached hereto as Exhibit C and Exhibit D,**
20 **respectively (collectively referred to herein as the "TOKA 2016 LIHTC**
21 **Project Leases").**

22 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that it authorizes the**
23 **Nation's Chairperson to execute on behalf of the Nation, all such lease**
24 **amendments and new Master Leases, together with any and all such other**
25 **documents or instruments related to the TOKA Homes II 2016 LIHTC Project**
26 **necessary or that may be required to be executed by the Nation in order to**
27 **implement and carry out the intent of this resolution and/or the TOKA Homes II**

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2016 LIHTC Project, subject to approval by the Secretary of Interior, as required by applicable law.


The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16TH day of NOVEMBER, 2016 at a meeting at which a quorum was present with a vote of 3,021.4 FOR; -0- AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2) and Article XVI, Section 1 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
18 day of November, 2016

ATTEST:



Evonne Wilson, Legislative Secretary
18 day of November, 2016

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 16 day of November, 2016 at 12:50 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

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APPROVED

on the 29th day of November, 2016

DISAPPROVED

at 11:25 o'clock, a .m.



EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 22 day of

November, 2016, at 11:40 o'clock, A .m.



Evonne Wilson, Legislative Secretary

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ACTION: APPROVING AMENDMENTS TO 2015 ARIZONA 26-12 PROJECT LEASE AND AZ-26-22 MASTER LEASES AND TWO NEW MASTER LEASES FOR THE CONSTRUCTION AND REHABILITATION OF 40 HOUSING UNITS FOR THE TOHONO O'ODHAM KI:KI ASSOCIATION'S 2016 LOW INCOME HOUSING TAX CREDIT PROJECT KNOWN AS "TOKA HOMES II"

MOVED: COUNCILWOMAN LORETTA LEWIS

SECOND: COUNCILWOMAN BARBARA HAVIER

DATE: NOVEMBER 16, 2016

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL (Roberta E. Harvey)	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			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			
PISINEMO 219.9	1. CHESTER ANTONE ()	109.95	X			
	2. MONICA K. MORGAN ()	109.95	X			
SAN LUCY 226.5	1. DIANA MANUEL (Lorraine Eiler)	113.25	X			
	2. JANA MONTANA (Gloria Ramirez)	113.25	X			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III (Felicia Nunez)	114.3	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.3	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. (Mario J.B. Juan)	90.3	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.3	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 <i>(Absent)</i> (Nicholas Jose) <i>(Present)</i>	115.80	X			X
	2. MARY LOPEZ ()	115.80	X			
TOTAL		3,021.4	3,021.4	-0-	-0-	[03]