

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Authorizing a Limited Waiver of the San Xavier District's Sovereign Immunity  
for Retaining Services of Morgan Stanley Smith Barney, LLC)**

**RESOLUTION NO. 17-553**

1 **WHEREAS, the Tohono O'odham Nation is a sovereign and federally recognized Indian tribe**  
2 **possessing powers of self-government and sovereign immunity; and**

3 **WHEREAS, the Nation's sovereign immunity extends to its 11 local district governments,**  
4 **and a district's immunity may not be waived "except by a resolution or other**  
5 **official action of the Tohono O'odham Legislative Council expressly waiving, or**  
6 **authorizing a waiver of, sovereign immunity" 1 T.O.C. Chapter 2, Section 2101(B)**  
7 **and (C); (*Juan v. Juan*, 2 TOR3d 62 (Trial Ct., Jan. 27, 2000) appeal dism'd, 3 TOR3d**  
8 **1 (Jan. 4, 2005)); and**

9 **WHEREAS, the San Xavier District has funds belonging to the District that it wishes to**  
10 **manage using certain accounts with Morgan Stanley Smith Barney, LLC; and**

11 **WHEREAS, Morgan Stanley Smith Barney, LLC has requested a limited waiver of the San**  
12 **Xavier District's sovereign immunity to enter an enforceable agreement**  
13 **authorizing designated District officials to make investment decisions and give**  
14 **instructions to Morgan Stanley Smith Barney, LLC, for certain District accounts,**  
15 **and the agreement provides for dispute resolution by arbitration, enforcement**  
16 **in a court of competent jurisdiction, and waiver of the right to demand**  
17 **exhaustion of tribal remedies; and**

18 **WHEREAS, the Budget and Finance Committee has reviewed and supports the San Xavier**  
19 **District's request for a limited waiver of the District's sovereign immunity**  
20 **provided that the Nation's sovereign immunity is not waived.**

21 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council authorizes a**  
22 **limited waiver of the sovereign immunity of the San Xavier District to enter an**  
23 **agreement with Morgan Stanley Smith Barney, LLC for investment and related**  
24 **services with the District, provided that the Nation's sovereign immunity is not**  
25 **waived and further provided that the waiver of the District's sovereign immunity**  
26 **shall be limited to the terms of the agreement.**

27 **BE IT FINALLY RESOLVED that nothing in this resolution shall be construed as a waiver of the**  
28 **sovereign immunity of the Tohono O'odham Nation and any responsibility and**  
29 **liability, including financial liability, related to the District's agreement with**  
30 **Morgan Stanley Smith Barney, LLC shall remain exclusively with San Xavier**  
31 **District, and the Tohono O'odham Nation shall have no responsibility or liability**  
32 **of any kind.**

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RESOLUTION NO. 17-553

(Authorizing a Limited Waiver of the San Xavier District's Sovereign Immunity for Retaining Services of Morgan Stanley Smith Barney, LLC)

Page 2 of 3

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 15<sup>TH</sup> day of NOVEMBER, 2017 at a meeting at which a quorum was present with a vote of 2,858.7 FOR; -0- AGAINST; -0- NOT VOTING; and 225.9 [06] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(d) and 1(i) and Article IX, Section 7 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 C. Joaquin for  
Timothy Joaquin, Legislative Chairman  
28 day of November, 2017

ATTEST:

Evonne Wilson  
Evonne Wilson, Legislative Secretary  
28 day of November, 2017

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 28 day of November, 2017 at 3:37 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 C. Joaquin for  
Timothy Joaquin, Legislative Chairman

APPROVED

on the 28 day of November, 2017

DISAPPROVED

at 6:45 o'clock, P.M.

Edward D. Manuel  
EDWARD D. MANUEL, CHAIRMAN  
TOHONO O'ODHAM NATION

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**RESOLUTION NO. 17-553**

**(Authorizing a Limited Waiver of the San Xavier District's Sovereign Immunity for Retaining Services of Morgan Stanley Smith Barney, LLC)**

**Page 3 of 3**

1 Returned to the Legislative Secretary on the 29 day of  
2  
3 November, 2017, at 11:10 o'clock, a.m.  
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5  
6 Evonne Wilson

7 **Evonne Wilson, Legislative Secretary**  
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**ACTION:** AUTHORIZING A LIMITED WAIVER OF THE SAN XAVIER DISTRICT'S SOVEREIGN IMMUNITY FOR RETAINING SERVICES OF MORGAN STANLEY SMITH BARNEY, LLC

**Moved:** COUNCILWOMAN JANCIE FELIX

**Second:** COUNCILMAN DANIEL L.A. PRESTON III

**DATE:** NOVEMBER 15, 2017

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 235.8	1. MARY LOPEZ ( )	117.9	X			X
	2. LUCINDA ALLEN (Yolonda Garcia)	117.9	X			
SELLS 527.2	1. ARTHUR WILSON ( )	263.6	X			X
	2. ADRIANNE TILLER (Idaleen Reyes)	263.6	X			
SCHUK TOAK 185.7	1. ANTHONY J. FRANCISCO JR. (Teresa F. Donahue)	92.85	X			
	2. QUINTIN C. LOPEZ (Agnes V. Joaquin)	92.85	X			
SAN XAVIER 232.3	1. DANIEL L.A. PRESTON III (Felicia Nunez)	116.15	X			
	2. JANICE FELIX ( )	116.15	X			
SAN LUCY 231.1	1. JANA MONTANA (Diana Manuel)	115.55	X			
	2. GLORIA RAMIREZ (Lorraine Eiler)	115.55	X			
PISINEMO 225.9	1. CHESTER ANTONE (Caroline D. Garcia)	112.95	X			X
	2. MONICA K. MORGAN ( )	112.95	X			X
HICKIWAN 209.0	1. LOUIS R. LOPEZ (Shirley Molina)	104.5	X			
	2. SANDRA D. ORTEGA ( )	104.5	X			X
GU VO 256.9	1. GRACE MANUEL ( )	128.45	X			
	2. DALLAS LEWIS (Nacho Flores)	128.45	X			X
GUACHI 270.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	135.45	X			
	2. LORETTA LEWIS (Victoria Hobbs)	135.45	X			
CHUKUT KUK 337.7	1. BILLMAN LOPEZ (Patricia Vicenti)	168.85	X			
	2. VIVIAN JUAN-SAUNDERS (Juanita Homer)	168.85	X			
BABOQUIVARI 372.1	1. FRANCES MIGUEL ( <i>Absent</i> ) (Roberta E. Harvey) ( <i>Present</i> )	186.05	X			
	2. LEANDER MASE ( )	186.05	X			
<b>TOTAL</b>		<b>3,084.6</b>	<b>2,858.7</b>	<b>-0-</b>	<b>-0-</b>	<b>225.9</b> <b>[06]</b>