RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving a P.L. 93-638 Title V Construction Project Agreements for Maintenance
and Improvement Projects for the Tohono O'odham Nation Health Care Facilities
and Approving FY 2020 TONIIC Facilities Management Budgets)

RESOLUTION NO. 19-381

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

WHEREAS, the Tohono O'odham Legislative Council is authorized “to manage any funds
within the exclusive control of the Tohono O'odham Nation . . . and to appropriate
these funds for the benefit of the nation and its members” provided that “[a]ll
expenditures of these funds shall be pursuant to appropriations or budgets”
authorized by resolution or ordinance (Constitution of the Tohono O'odham
Nation, Article VI, Section 1(d)(2)); and

WHEREAS, the Tohono O'odham Nation Health Care (“TONIIC”) Governing Body, subject to
the review and approval by oversight committees and Legislative Council, was
delegated the authority to review and approve all TONIIC budgets and budgets
expending health self-governance funds, including budgets expending such
funds for supporting programs with other Nation's departments (Tohono
O'odham Nation Health Care Governing Body Bylaws, Section 9403 (A)); and

WHEREAS, the Tohono O'odham Nation Health Care has prepared and submitted for review
and approval its FY 2020 TONIIC Facilities Management Budget in the amount of
$1,081,471.00 and the FY 2020 TONIIC Facilities Management Budget in the
amount of $785,556.00, which are incorporated by this reference and which are
funded by the Indian Health Service; and

WHEREAS, the FY 2020 TONIIC Facilities Management Budgets for the six maintenance and
improvement projects under P.L. 93-638 Title V Construction Project Agreements
will provide the terms and conditions for construction, including that the Tohono
O'odham Nation has chosen to be responsible for all the National Environmental
Policy Act (“NEPA”) and the National Historic Preservation Act (“NHPA”) reporting
requirements for the planning phase of the projects; and

WHEREAS, the Tohono O'odham Nation has adopted the IHS Environmental Review
Procedures and has identified the Tohono O'odham Nation’s Planning and
Economic Development Department Executive Director to serve as the
Environmental Certification Officer to represent the Tohono O'odham Nation
RESOLUTION NO. 19-381
(Approving a P.L. 93-638 Title V Construction Project Agreements for Maintenance and Improvement Projects for the Tohono O’odham Nation Health Care Facilities and Approving FY 2020 TONIC Facilities Management Budgets)
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and assume the status of a Responsible Federal official for the Title V Agreements; and

WHEREAS, the Tohono O’odham Nation acknowledges the jurisdiction of the federal district court for purposes of civil enforcement actions brought against the Tohono O’odham Nation’s Environmental Certification Officer in his or her official capacity for declaratory and injunctive relief that is substantially equivalent to an Administrative Procedures Act enforcement action against a Federal Agency pursuant to 42 CFR 137.292(a)(2) and 137.329(b); and

WHEREAS, the Health and Human Services Committee of the Legislative Council has reviewed the Title V Agreements, including the limited waiver of sovereign immunity and recommends its approval; and

WHEREAS, the Health and Human Service and Budget and Finance Committees have reviewed the FY 2020 TONIC Facilities Management Budget in the amount of $1,081,471.00 and the FY 2020 TONIC Facilities Management Budget in the amount of $785,556.00 and recommend their approval.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council approves:

1. the P.L. 93-638 Title V Construction Project Agreements with Indian Health Service substantially in the form attached for six maintenance and improvement projects for Tohono O’odham Nation Healthcare; and

2. the FY 2020 TONIC Facilities Management Budget in the amount of $1,081,471.00 and the FY 2020 TONIC Facilities Management Budget in the amount of $785,556.00, which shall be funded by the Indian Health Service; and

3. the Tohono O’odham Nation to be the responsible party for all the National Environmental Policy Act and National Historic Preservation Act reporting requirements for the six maintenance and improvement projects at the Sells Hospital and to identify the responsible individual, follow IHS Environmental Review Procedures, and acknowledge federal district court jurisdiction when it involves the civil enforcement of environmental actions.

BE IT FURTHER RESOLVED that the Tohono O’odham Legislative Council authorizes the Nation’s chairperson to execute the P.L. 93-638 Title V Construction Project Agreements with Indian Health Service for the six maintenance and improvement projects at the Sells Hospital.
RESOLUTION NO. 19-381
(Approving a P.L. 93-638 Title V Construction Project Agreements for Maintenance and Improvement Projects for the Tohono O'odham Nation Health Care Facilities and Approving FY 2020 TONHC Facilities Management Budgets)
Page 3 of 4

BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that the Tohono O'odham Nation chairperson or any designated official is authorized to administer and expend the FY 2020 TONHC Facility Management Budgets, provided, that the Governing Body shall approve any amendments or modifications, subject to final approval by the Tohono O'odham Legislative Council.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 23rd day of SEPTEMBER, 2019 at a meeting at which a quorum was present with a vote of 3,175.7 FOR; 0 AGAINST; 0 NOT VOTING; and 0 ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(2) and 1(f) 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 Joaquina, Legislative Chairman

23 day of Sept., 2019

ATTTEST:

Eevonne Wilson, Legislative Secretary

23 day of September, 2019

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 23 day of Sept., 2019 at 4:47 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 Joaquina, Legislative Chairman
RESOLUTION NO. 19-381
(Approving a P.L. 93-638 Title V Construction Project Agreements for Maintenance and Improvement Projects for the Tohono O'odham Nation Health Care Facilities and Approving FY 2020 TONHC Facilities Management budgets)

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[ ] APPROVED on the 24 day of September, 2019
[ ] DISAPPROVED at 2:00 o'clock, P.M.

NED NORMS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 24 day of
September, 2019, at 3:15 o'clock, P.M.

Evonne Wilson, Legislative Secretary
ACTION: APPROVING A P.L. 93-638 TITLE V CONSTRUCTION PROJECT AGREEMENTS FOR MAINTENANCE AND IMPROVEMENT PROJECTS FOR THE TOHONO O'ODHAM NATION HEALTH CARE FACILITIES AND APPROVING FY 2020 TONIC FACILITIES MANAGEMENT BUDGETS

MOVED: COUNCILWOMAN SANDRA ORTEGA
SECOND: COUNCILMAN DANIEL L.A. PRESTON III
DATE: SEPTEMBER 23, 2019

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