

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Granting a Limited Waiver of the Nation's Sovereign Immunity in Favor of
Vortex Industries, Inc.)**

RESOLUTION NO. 22-169

1 **WHEREAS,** the Tohono O'odham Nation is a federally recognized Indian tribe organized
2 pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat.
3 984; 25 U.S.C. § 476), which exercises sovereignty over both its members and its
4 lands; and

5 **WHEREAS,** the Tohono O'odham Legislative Council is vested with the power to "consult,
6 negotiate and conclude agreements and contracts on behalf of the Tohono
7 O'odham Nation with Federal, State and local governments and other Indian
8 tribes or their departments, agencies, or political subdivisions, or with private
9 persons or organizations on all matters within the authority of the Tohono
10 O'odham Council" (Constitution of the Tohono O'odham Nation, Article VI,
11 Section 1(f)); and

12 **WHEREAS,** the Tohono O'odham Nation ("Nation") desires to enter into an agreement with
13 Vortex Industries, Inc. ("Vortex Industries") to install Low Energy Door Operator
14 for electrical door opening services for its Elder Center; and

15 **WHEREAS,** Vortex Industries' Agreement, which is appears as a Proposal/Order Form
16 ("Agreement"), contains certain terms and conditions that require the Nation to
17 grant a limited waiver of its sovereign immunity to Vortex Industries; and

18 **WHEREAS,** more particularly, the language in the Agreement requires that the Agreement's
19 interpretation and enforcement be subject to the laws of the State of California
20 and any action brought to enforce any provision of the Agreement occur in the
21 jurisdiction and venue of the courts of Orange County, California. Additionally, in
22 the event of any action or proceeding to enforce the Agreement or arising out of
23 any breach of the Agreement, the prevailing party shall be entitled to recover
24 reasonable attorney's fees and costs incurred; and

25 **WHEREAS,** the Nation's Department of Health and Human Services requests a limited waiver
26 of the Nation's sovereign immunity under the following conditions in order to be
27 able to enter into the Agreement: the waiver shall be granted solely in favor of
28 Vortex Industries and no other party, it shall only be valid for breaches of the
29 Agreement by the Nation, it shall be in effect only until such time that Vortex
30 Industries completes its services provided under the Agreement, and any awards
31 shall not exceed the amounts paid by the Nation to Vortex Industries under the
32 Agreement; and

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1 **WHEREAS, the Health and Human Services Committee of the Legislative Council has**
2 **reviewed the Agreement, including the proposed limited waiver of the Nation's**
3 **sovereign immunity, and recommends that the Nation grant this limited waiver**
4 **under the specific conditions contained herein.**

5 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves and**
6 **authorizes the following:**

- 7 1. **A limited waiver of the Nation's sovereign immunity solely in favor of**
8 **Vortex Industries under the specific conditions described herein.**
9 2. **The Legislative Council authorizes the Chairman to execute the**
10 **Agreement with Vortex Industries in substantially the same form as**
11 **presented to the Legislative Council.**


12 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 10TH**
13 **day of MAY, 2022 at a meeting at which a quorum was present with a vote of 1,644.95 FOR;**
14 **1,573.05 AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the**
15 **Council by, Article VI, Section 1(f) of the Constitution of the Tohono O'odham Nation, adopted by**
16 **the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
17 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
18 **18, 1934 (48 Stat.984).**

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20 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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24 **Timothy Joaquin, Legislative Chairman**

25
26 12 day of May, 2022

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29 **ATTEST:**

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32 **Evonne Wilson, Legislative Secretary**

33
34 12 day of May, 2022

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36 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono**
37 **O'odham Nation on the 12 day of May, 2022 at 3:41 o'clock, p .m.,**
38 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become**
39 **effective upon his approval or upon his failure to either approve or disapprove it within 48**
40 **hours of submittal.**

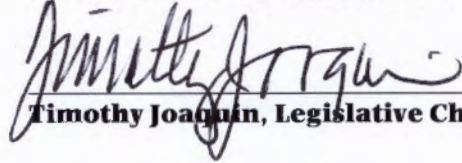
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TOHONO O'ODHAM LEGISLATIVE COUNCIL



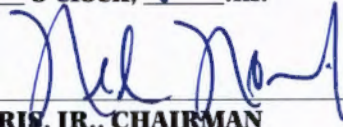
Timothy Joaquin, Legislative Chairman

APPROVED

on the 12 day of May, 2022

DISAPPROVED

at 5:30 o'clock, P.m.



**NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION**

Returned to the Legislative Secretary on the 13 day of

May, 2022, at 1:49 o'clock, P.m.



Evonne Wilson, Legislative Secretary

ACTION: GRANTING A LIMITED WAIVER OF THE NATION'S SOVEREIGN IMMUNITY IN FAVOR OF VORTEX INDUSTRIES, INC.

Moved: COUNCILMAN LEANDER MASE

SECOND: COUNCILWOMAN MARIETTA MARTIN

DATE: MAY 10, 2022

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 245.6	1. MARY LOPEZ (Ann M. Garcia)	122.8	X			
	2. LUCINDA ALLEN (Francis Homewytewa)	122.8		X		
SELLS 556.5	1. ARTHUR WILSON ()	278.25	X			X
	2. EVELYN JUAN-MANUEL (Arvada Liston)	278.25	X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza)	95.25		X		
	2. DELISA M. RAMON (Absent) (Sharon A. Francisco) (Present)	95.25		X		
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	121.3		X		
	2. JANICE FELIX (Adam P. Andrews)	121.3		X		
SAN LUCY 243.8	1. JANA MONTANA (Lorraine M. Eiler)	121.9	X			
	2. ROGER MANUEL (Christina Andrews)	121.9	X			
PISINEMO 232.7	1. MARIETTA MARTIN ()	116.35	X			
	2. EDWARD D. MANUEL (Monica Morgan)	116.35		X		
HICKIWAN 216.6	1. LOUIS R. LOPEZ ()	108.3	X			
	2. DELMA M. GARCIA ()	108.3	X			X
GU VO 270.7	1. GRACE MANUEL ()	135.35		X		
	2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35		X		
GUACHI 278.5	1. TIMOTHY L. JOAQUIN ()	139.25		X		
	2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25		X		
CHUKUT KUK 351.6	1. MARLAKAY HENRY (Billman Lopez)	175.8		X		
	2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8		X		
BABOQUIVARI 388.9	1. ALBERTA J. RAY (Frances G. Antone)	194.45	X			X
	2. LEANDER MASE (Francine Schooling)	194.45	X			
TOTAL		3,218.0	1,644.95	1,573.05	-0-	[03]