

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving the Memorandum of Agreement with the Inter-Tribal Council of Arizona, Inc.**  
**and Granting a Limited Waiver of the Nation's Sovereign Immunity)**

**RESOLUTION NO. 23-110**

- 1 **WHEREAS,** the Constitution of the Tohono O'odham Nation ("Nation") vests the Legislative  
2 Council with the authority to "promote, protect and provide for public health,  
3 peace, morals, education and general welfare of the Tohono O'odham Nation and  
4 its members" and to "consult, negotiate and conclude agreements and contracts  
5 on behalf of the Tohono O'odham Nation with Federal, State and local  
6 governments and other Indian tribes or their departments, agencies, or political  
7 subdivisions, or with private persons or organizations" (Constitution, Article VI,  
8 Section I (c)(2) and I(f)); and
- 9 **WHEREAS,** the Tohono O'odham Nation desires to enter into a Memorandum of Agreement  
10 ("Agreement") with the Inter-Tribal Council of Arizona ("ITCA"), which has  
11 received a funding award from the U.S. Department of Health and Human  
12 Services, Administration for Community Living to conduct the Alzheimer's  
13 Disease Program Initiative (90ADP10077-01-00, CFDA #93.761) for the period  
14 September 1, 2021 through August 31, 2024 ("Program"); and
- 15 **WHEREAS,** the Tohono O'odham Nation desires to participate in the Program to (1) market  
16 and coordinate the community-based education programs offered by ITCA-AAA  
17 and Banner Alzheimer's Institute, (2) participate in the Powerful Tools for  
18 Caregivers Program, (3) attend working group meetings to provide feedback on  
19 project activity and sustainability, and (4) document non-personally identifiable  
20 participant information for grant reporting, and (5) complete pre and post  
21 evaluation for training; and
- 22 **WHEREAS,** the ITCA is the primary contractor for the implementation of the Program and is  
23 required to enter into agreements with each participating Tribe to complete a  
24 portion of the overall Program; and
- 25 **WHEREAS,** the Nation wish to enter into this Agreement with the ITCA in which the Nation will  
26 perform certain services related to the Program in exchange for resources and  
27 materials provided to the Tohono O'odham Nation; and
- 28 **WHEREAS,** the Agreement requires the Nation to grant a limited waiver of sovereign  
29 immunity to be able to enter into this Agreement; and
- 30 **WHEREAS,** the Nation's Department of Senior Services requests a limited waiver of the  
31 Nation's sovereign immunity under the following conditions: this limited waiver  
32 shall (1) only be effective during the term of the Agreement; (2) be granted solely

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1 in favor of the ITCA and shall not be enforceable by any third party; (3) be  
2 enforceable by ITCA for the sole purpose of enforcing this Agreement; (4) only be  
3 available for injunctive and declaratory relief; and (5) be limited to breach of the  
4 Agreement by the Nation; and

5 **WHEREAS,** the Health and Human Services Committee has reviewed the Agreement,  
6 including the limited waiver of sovereign immunity, and recommends approval  
7 of the Agreement and recommends the Nation grant the limited waiver of  
8 sovereign immunity under the specific conditions contained herein.

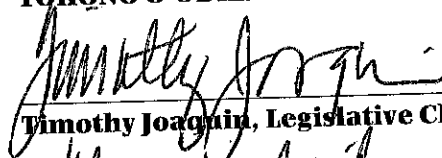
9 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council approves the  
10 Memorandum of Agreement between the Nation and the ITCA, in substantially the  
11 form attached.

12 **BE IF FURTHER RESOLVED** that the Tohono O'odham Legislative Council approves a limited  
13 waiver of the Nation's sovereign immunity solely in favor of the ITCA under the  
14 specific conditions described herein.

15 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that the Tohono O'odham  
16 Nation chairperson or any designated official is authorized to execute the  
17 Agreement with the ITCA in substantially the form attached, provided that any  
18 amendments shall be submitted for prior approval by the Tohono O'odham  
19 Legislative Council.

20 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 11<sup>TH</sup>**  
21 **day of APRIL, 2023** at a meeting at which a quorum was present with a vote of **2,939.75 FOR;**  
22 **278.25 AGAINST; -0- NOT VOTING; and -0- ABSENT,** pursuant to the powers vested in the Council  
23 **by, Article VI, Section 1(c)(2) and 1(f) of the Constitution of the Tohono O'odham Nation, adopted**  
24 **by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy**  
25 **Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the**  
26 **Act of June 18, 1934 (48 Stat.984).**

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28 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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32 **Timothy Joaquin, Legislative Chairman**

33  
34 14 day of April, 2023

**RESOLUTION NO. 23-110**

**(Approving the Memorandum of Agreement with the Inter-Tribal Council of Arizona, Inc. and Granting a Limited Waiver of the Nation's Sovereign Immunity)**

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1 **ATTEST:**

2 *Evonne Wilson*  
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4 **Evonne Wilson, Legislative Secretary**

5  
6 14 day of April, 2023

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8 Said Resolution was submitted for approval to the office of the Chairman of the Tohono  
9 O'odham Nation on the 14 day of April, 2023 at 3:46 o'clock, P.m.,  
10 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become  
11 effective upon his approval or upon his failure to either approve or disapprove it within 48  
12 hours of submittal.

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14 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

15 *Timothy Joaquin*  
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18 **Timothy Joaquin, Legislative Chairman**

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22  **APPROVED**

23 on the 14 day of April, 2023

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25  **DISAPPROVED**

26 at 4:49 o'clock, P.m.

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28 *Ned Norris, Jr.*  
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30 **NED NORRIS, JR., CHAIRMAN**  
31 **TOHONO O'ODHAM NATION**

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35 Returned to the Legislative Secretary on the 17 day of

36 April, 2023, at 9:15 o'clock, A.m.

37 *Evonne Wilson*  
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41 **Evonne Wilson, Legislative Secretary**

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**ACTION: APPROVING THE MEMORANDUM OF AGREEMENT WITH THE INTER-TRIBAL COUNCIL OF ARIZONA, INC. AND GRANTING A LIMITED WAIVER OF THE NATION'S SOVEREIGN IMMUNITY****MOVED: COUNCILMAN LEANDER MASE****SECOND: COUNCILWOMAN JANICE FELIX****DATE: APRIL 11, 2023**

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 (Shelia Espino)	278.25	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 (Sharon A. Francisco)	95.25	X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	121.3	X			
	2. JANICE FELIX ( )	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			
GU VO 270.7	1. GRACE MANUEL ( )	135.35	X			
	2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35	X			
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN ( )	139.25	X			
	2. VICTORIA HOBBS <i>(Absent)</i> (Tonya L. Joaquin) <i>(Present)</i>	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			
	2. LEANDER MASE (Francine Schooling)	194.45	X			
<b>TOTAL</b>		<b>3,218.0</b>	<b>2,939.75</b>	<b>278.25</b>	<b>-0-</b>	<b>-0-</b>