

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the Assignment and Assumption of Certain PNC Bank Accounts from
the U.S. Indian Health Service to the Tohono O'odham Nation and Granting a
Limited Waiver of the Nation's Sovereign Immunity)

RESOLUTION NO. 24-188

1 **WHEREAS,** the Tohono O'odham Legislative Council has the authority "to consult, negotiate
2 and conclude agreements and contracts on behalf of the Tohono O'odham Nation
3 with Federal, State and local governments...or with private persons or
4 organizations in all matters within the authority of the Tohono O'odham
5 Council," and is vested with the responsibility and "to manage any funds within
6 the exclusive control of the Tohono O'odham Nation" (Constitution of the Tohono
7 O'odham Nation, Article VI, Section 1(f) and Article VI, Section 1(d)(2)); and
8 **WHEREAS,** by Resolution No. 16-579, the Nation approved several agreements, collectively
9 called here the "Treasury Management Documents," between itself and PNC Bank
10 to open new bank accounts for the purposes of providing Treasury Management
11 Services to the Nation's hospital and clinics; and
12 **WHEREAS,** these bank accounts receive reimbursement revenue from third-party payors for
13 health care services provided by Tohono O'odham Nation Health Care ("TONHC")
14 as a result of the Nation's assumption of certain health-related federal programs
15 from the U.S. Department of Health and Human Services, Indian Health Service
16 ("IHS"), under an Indian Self-Determination and Education Assistance Act of 1975
17 (Public-Law 93-638, 25 U.S.C. § 450) ("Act") Title V Compact; and
18 **WHEREAS,** the IHS still maintains four PNC Bank accounts which have existed prior to the
19 Nation's assumption of health-related federal programs and which the IHS
20 formerly used to receive reimbursement revenue from third-party payors for
21 health care services when it administered healthcare on the Nation; and
22 **WHEREAS,** although the TONHC's Business Office has been working with third-party payors
23 to have them submit all third-party reimbursements to TONHC's PNC Bank
24 accounts, some of them are still depositing third-party reimbursements into the
25 IHS's PNC Bank accounts and every few months, the federal government transfers
26 these reimbursements to the Nation; and
27 **WHEREAS,** recently, the federal government directed PNC Bank to close its IHS PNC Bank
28 accounts, which will make it difficult for the Nation to receive these
29 reimbursements; and

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1 **WHEREAS, to address this issue, PNC Bank recommended that the IHS assign these four bank**
2 **accounts to the Nation so that the Nation does not lose access to these**
3 **reimbursements; and**

4 **WHEREAS, this will cost the Nation \$400 per month (\$100 per month per account), until such**
5 **time as these accounts can be closed; and**

6 **WHEREAS, to effectuate the assignment, the Nation must enter into an Assignment and**
7 **Assumption Agreement (set forth in Exhibit A), which is incorporated by this**
8 **reference and which requires the Nation to acknowledge and agree that the terms**
9 **of the Certified Treasury Management Resolutions and Limited Waiver of**
10 **Sovereign Immunity (TM Services Comprehensive Agreement 8-17-2016) dated**
11 **January 23, 2020 ("2020 Certified Treasury Management Resolutions")(set forth in**
12 **Exhibit B), associated with the Treasury Management Documents which the**
13 **Nation approved for its own PNC Bank accounts and which requires a limited**
14 **waiver of the Nation's sovereign immunity, are in full force and effect; and**

15 **WHEREAS, the Health and Human Services and Budget and Finance Committees have**
16 **reviewed the Assignment and Assumption Agreement and recommends the**
17 **Nation enter into the Assignment and Assumption Agreement, which includes the**
18 **limited waiver of sovereign immunity the Nation previously approved.**

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

- 20 **1. Approves the Assignment and Assumption Agreement assigning all of the**
21 **Indian Health Services' rights and obligations involved with the four PNC**
22 **Bank accounts identified in the Agreement to the Nation, in substantially the**
23 **form attached, including the limited waiver of sovereign immunity in the**
24 **Certified Treasury Management Resolutions and Limited Waiver of Sovereign**
25 **Immunity (TM Services Comprehensive Agreement 8-17-2016) dated January**
26 **23, 2020, provided that the waiver shall not apply to any other future**
27 **transactions or subjects.**
- 28 **2. Authorizes the Nation's chairman or official designee to undertake all actions**
29 **as may be deemed necessary to execute and implement this resolution.**

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08TH day of JULY 2024 at a meeting at which a quorum was present with a vote of 3,263.3 FOR; -0- AGAINST; -0- NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(f) and Section 1(d)(2) 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


Wavalene M. Saunders, Legislative Chairwoman

15 day of July, 2024

ATTEST:


Evonne Wilson, Legislative Secretary

15 day of July, 2024

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 15 day of July, 2024 at 12:01 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


Wavalene M. Saunders, Legislative Chairwoman

APPROVED

on the 16 day of July, 2024

DISAPPROVED

at 4:28 o'clock, P.M.


VERLON M. JOSE, CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 17th day of

July, 2024, at 8:49 o'clock, A.m.

Evonne Wilson
Evonne Wilson, Legislative Secretary

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ACTION: AUTHORIZING THE ASSIGNMENT AND ASSUMPTION OF CERTAIN PNC BANK ACCOUNTS FROM THE U.S. INDIAN HEALTH SERVICE TO THE TOHONO O'ODHAM NATION AND GRANTING A LIMITED WAIVER OF THE NATION'S SOVEREIGN IMMUNITY

Moved: COUNCILWOMAN THEORIA CAMPILLO

SECOND: COUNCILWOMAN VIVIAN JUAN-SAUNDERS

DATE: JULY 08, 2024

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 394.2	1. LEANDER MASE (<i>Absent</i>) (Francine Schooling) (<i>Present</i>) 2. JESSE NAVARRO (Alberta J. Ray)	197.1 197.1	X X			
CHUKUT KUK 354.7	1. VIVIAN JUAN-SAUNDERS (Cornelius Antone) 2. MARLAKAY HENRY ()	177.35 177.35	X X			
GU ACHI 282.7	1. VICTORIA HOBBS (Tonya L. Joaquin) 2. JEROME F. JOAQUIN ()	141.35 141.35	X X			
GU VO 276.0	1. DALLAS LEWIS () 2. LESLIE LUNA ()	138.0 138.0	X X			X
HICKIWAN 220.5	1. DELMA M. GARCIA () 2. LOUIS R. LOPEZ (Loretta A. Ortega)	110.25 110.25	X X			
PISINEMO 236.2	1. EDWARD D. MANUEL (Monica Morgan) 2. PAMELA J. BENAVIDEZ (<i>Absent</i>) (Nora J. Ruelas) (<i>Present</i>)	118.1 118.1	X X			X
SAN LUCY 257.6	1. ROGER MANUEL (<i>Absent</i>) (Christina Andrews) (<i>Present</i>) 2. GLORIA M. RAMIREZ (Lorraine M. Eiler)	128.8 128.8	X X			X
SAN XAVIER 244.5	1. JANICE FELIX () 2. DANIEL L.A. PRESTON III ()	122.25 122.25	X X			X
SCHUK TOAK 191.8	1. DELISA M. RAMON (<i>Absent</i>) (Sharon A. Francisco) (<i>Present</i>) 2. THEORIA CAMPILLO (Rebecca Ann Valentine)	95.9 95.9	X X			X
SELLS 558.0	1. EVELYN JUAN MANUEL (Arvada Liston) 2. JANET B. ELEANDO ()	279.0 279.0	X X			
SIF Oidak 247.1	1. LUCINDA ALLEN (Francis Homewytewa) 2. WAVALENE M. SAUNDERS (Mary Lopez)	123.55 123.55	X X			
TOTAL		3,263.30	3,263.30	-0-	-0-	[05]