

RESOLUTION OF THE TOHONO O'ODHAM COUNCIL
(Approving Amendment of Lease to PTUA and of Addition
of CFC as Approved Encumbrancer thereunder)

RES. NO. 108-88

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2 WHEREAS, the Papago Council, predecessor of the Tohono O'odham
3 Council, did, by Resolution No. 8-70 enacted on May 8,
4 1970, create the Papago Tribal Utility Authority ("PTUA")
5 and adopted a Plan of Operation directing PTUA, inter
6 alia: "To plan for, provide and furnish utility services
7 to all areas of the Papago Reservation, where such ser-
8 vices are determined to be feasible and economic...[and]
9 to acquire, operate, maintain, promote and expand exist-
10 ing utility systems furnishing electric...utility ser-
11 vices on the Papago Reservation," now known as the Tohono
12 O'odham Nation; and

13 WHEREAS, to finance the cost of the acquisition, expansion,
14 operation and maintenance of the electric transmission
15 and distribution facilities and service lines ("System")
16 necessary to serve the Nation, PTUA did borrow funds from
17 the United States of America, acting through the Adminis-
18 trator of the Rural Electrification Administration
19 ("REA"), pursuant to a loan contract and resolution dated
20 March 7, 1974 (said loan contract and resolution as they
21 may have been subsequently amended being hereinafter
22 called the "Prior REA Loan Contract" and "Prior Resolu-
23 tion"), pursuant to the Rural Electrification Act of
24 1936, as amended (the "Act"); and

25 WHEREAS, in order to facilitate the loan made pursuant to the
26 Prior REA Loan Contract and the Prior Resolution, and to
27 secure repayment thereof, the Papago Council did, by
28 Resolution No. 11-75 enacted on March 14, 1975, approve
29 the execution and delivery of a lease dated March 27,
30 1975 ("Lease"), between the Papago Tribe, now known as
31 the Tohono O'odham Nation, and PTUA, which lets and
32 leases the System to PTUA and approves an encumbrance by

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PTUA to the REA of its leasehold interest in the Lease and the leased properties made pursuant to the Prior REA Loan Contract and the Prior Resolution; and

WHEREAS, PTUA is unable to further meet all of its current and future loan requirements from REA as a single lender, and has determined to borrow additional funds concurrently from REA, pursuant to an REA concurrent loan agreement ("REA Concurrent Loan Contract") amending the Prior REA Loan Contract, and from the National Rural Utilities Cooperative Finance Corporation ("CFC"), pursuant to a CFC Concurrent loan agreement ("CFC Concurrent Loan Contract"), and pursuant to a restated resolution and security agreement of PTUA ("Restated Resolution") amending the Prior Resolution; and

WHEREAS, in order to enable PTUA concurrently to borrow funds from CFC and to secure the repayment thereof, it is necessary for the Nation to amend the Lease so as to add CFC as an approved encumbrancer thereunder and to approve and ratify the execution by PTUA of the REA Concurrent Loan Contract, the CFC Concurrent Loan Contract and the Restated Resolution; and

WHEREAS, it is in the best interest of PTUA, the Nation and the people residing therein, that PTUA be authorized to receive and secure loans concurrently from REA and CFC pursuant to the Act, the Restated Resolution, the REA Concurrent Loan Contract and the CFC Concurrent Loan Contract, and that the Lease be amended in order to add CFC as an approved encumbrancer thereunder.

NOW, THEREFORE, BE IT RESOLVED that the Legislative Council does hereby approve amendment of the Lease dated March 27, 1975, by and between the Papago Tribe, as Lessor, and

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PTUA, as Lessee, in accordance with the provisions of the attached Amendment to Lease, and Enos J. Francisco, Chairman of the Tohono O'odham Nation, is hereby authorized and directed to execute and deliver as many counterparts thereof as shall be deemed advisable for and on behalf of the Nation.

BE IT FURTHER RESOLVED that the Legislative Council does hereby approve and ratify the execution and delivery by PTUA of the REA Concurrent Loan Contract, the CFC Concurrent Loan Contract and the Restated Resolution And Security Agreement, substantially in the form annexed as Exhibits "A", "B" and "C" to, and incorporated into the attached Amendment to Lease, and does hereby waive the sovereign immunity of PTUA upon suits brought thereon and directs that PTUA shall not use the defense of sovereign immunity upon any suit brought thereon by REA or CFC, or by their successors.

C E R T I F I C A T I O N


The foregoing Resolution was passed by the Tohono O'odham Council on the 3rd day of May, 1988, at a meeting at which a quorum was present with a vote of 1,231.0 for; 409.0 against; -0- not voting; -0- absent, pursuant to the powers vested in the Council by Section 1 (b), (i) and (j), and Section 2 (d) of Article VI 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



Harriet Toro, Legislative Chairperson
10th day of May, 1988.

ATTEST:



Lucinda Allen
Legislative Secretary
10th day of May, 1988.

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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 10th day of May, 1988, at 4:09 o'clock, P..M., pursuant to the provisions of Section 5 of Article VII of the Constitution. It will become effective upon (1) his approval or upon his failure to either approve or disapprove it within 48 hours of submittal, and (2) upon approval of the Secretary of the Interior or his authorized representative.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Harriet Toro
Harriet Toro, Legislative Chairperson

[] APPROVED) on the 11th day of May, 1988,
[] DISAPPROVED) at 4:34 o'clock, P..M.

Enos Francisco, Jr.
Enos Francisco, Jr., Chairman
TOHONO O'ODHAM NATION

Returned to Legislative Secretary on the 11th day of May 1988, at 4:54 o'clock, P..M.

Lucinda Allen /uya
Legislative Secretary

[] APPROVED) on the 17 day of May 1988,
[] DISAPPROVED) at _____ o'clock, _____ .M.

Namus A. Barber
Superintendent
Sells BIA Agency

[] APPROVED) pursuant to delegated authority on the
[] DISAPPROVED) _____ day of _____, 19 ____.

Area Director, Phoenix Area Office
Bureau of Indian Affairs



MOVED: Henry Ramon

SUBJECT: Approving Amendment of Lease to PTUA

SECOND: Andrew Patricio

and of addition of CFC as approved Encumbrancer

DATE: May 03, 1988

RESOLUTION OR ORDINANCE # 108-88

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 138.0	1. Nicholas Jose (Letitia Garcia) 2. Willard Juan, Sr. (Melissa Gregorio)	69.0 69.0	X X			
SELLS 257.0	1. Andrew Patricio (Daniel Lopez) 2. Fred Stevens ()	128.5 128.5	X	X		
SCHUK TOAK 105.0	1. Julia Carrillo (JoAnn Francisco) 2. Joseph Juan (Frances Francisco)	52.5 52.5	X X			
SAN XAVIER 126.0	1. Eugene Enis (Michael Rios) 2. Tony Felix (Carmelita Mattias)	63.0 63.0	X	X		
BABOQUIVARI 241.0	1. Kenneth Chico, Sr. () 2. Joann Garcia (Frances Miguel)	120.5 120.5	X X			
GU ACHI 158.0	1. Percy Lopez () 2. Fernando Joaquin ()	79.0 79.0	X X			
PISINEMO 116.0	1. Johnson Jose () 2. Edward Manuel (Alex Antone)	58.0 58.0	X	X		
SAN LUCY 85.0	1. Max Jose (Dewey Ortega) 2. John Reno ()	42.5 42.5	X	X		
GU VO 117.0	1. Virgil Lewis (Roy Montana) 2. Cross Antone (Juan Joe Cipriano)	58.5 58.5		X X		
HICKIWAN 128.0	1. Henry Ramon (Billy Manuel) 2. Lloyd Francisco (Eleanor Santos)	64.0 64.0	X X			
CHUKUT KUK 169.0	1. Rosita Ruiz (Rosemary Lopez) 2. Harriet Toro ()	84.5 84.5	X X			
	TOTALS	1640.0	1,231.0	409.0	-0-	-0-