

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Appropriating \$117,217 and Authorizing Expenditure by O'odham
Construction & Materials Co. Subject to Repayment
and other Conditions)

RES. NO. 390-90

- 1 WHEREAS, O'odham Construction & Materials Co. ("OCM") was estab-
2 lished pursuant to a Plan of Operation and Charter
3 approved by Council Resolution No. 58-80; and
- 4 WHEREAS, by Resolution No. 84-88, Tohono O'odham Legislative
5 Council (1) continued the interim existence and operation
6 of OCM as a department of the Tohono O'odham Nation, under
7 the management of Leland Conway and the supervision and
8 direction of the Chairman of the Nation, with separate and
9 independent budgets and accounts, (2) directed the submis-
10 sion of a revised Plan of Operation and (3) authorized OCM
11 to bid on and execute contracts for jobs on the Tohono
12 O'odham Reservation, with the guidance and monitoring of
13 the Nation's Credit and Finance Program; and
- 14 WHEREAS, OCM is experiencing a severe cash flow problem which has
15 resulted in an inability to timely pay its vendors; and
- 16 WHEREAS, the delinquencies in payments to OCM vendors has damaged
17 the Nation's credit standing in the business community;
18 and
- 19 WHEREAS, the lack of available cash has prevented OCM from making
20 necessary repairs on its two concrete trucks and dump
21 truck which adversely affect its capacity to deliver
22 concrete and other materials for ongoing construction
23 projects; and
- 24 WHEREAS, significantly contributing to the cash flow problem is the
25 withholding of payment to OCM of amounts owing for the
26 delivery of concrete to Chuck Westenburg, Inc., a subcon-
27 tractor for T.L. Roof & Associates which is the general
28 contractor on the Indian Oasis School construction
29 project; and
- 30 WHEREAS, T.L. Roof has presented a claim against OCM for \$86,483
31 purportedly representing costs and damages incurred to
32 remove and replace concrete supplied by OCM which
allegedly failed to meet project specifications; and

1 WHEREAS, it is in the best interests of the Nation to initiate
2 discussions with T.L. Roof with respect to its alleged
3 damage claim to determine whether a settlement is
4 possible; and

5 WHEREAS, it is in the best interests of the Nation to advance to
6 OCM, subject to repayment, the sum of \$117,217 to pay
7 certain delinquent invoices, enable OCM to purchase
8 concrete mix materials and repair specified trucks, as
9 outlined in the schedule of items and amounts attached
10 hereto and incorporated herein by reference (the
11 "Schedule"); and

12 WHEREAS, based on projected revenues and obligated funds for fiscal
13 year 1991, there are sufficient unobligated monies to
14 appropriate \$117,217 for these purposes.

15 NOW, THEREFORE, BE IT RESOLVED THAT:

16 1. The Tohono O'odham Legislative Council hereby
17 appropriates the sum of \$117,217 to be expended solely
18 for the purposes prescribed in the Schedule (the
19 "Appropriated Amount"), and in accordance with the
20 following conditions:

21 (a) All accounts relating to the operations of OCM
22 shall be immediately transferred to and
23 administered by the Nation's Accounting
24 Department in conjunction with any review and
25 approval required by the Office of Chairman, with
26 appropriate changes made with respect to
27 authorized signatories on each account; and

28 (b) The Appropriated Amount is a loan from the Nation
29 to OCM which shall be repaid from OCM revenues
30 not required to meet operating expenses; and

31 (c) OCM's operations shall continue under the
32 supervision and direction of the Chairman of the
Nation or his Designee pursuant to Council
Resolution No. 84-88, with the clarification that
OCM bidding and contracting shall be subject to
the approval of the Chairman or his Designee; and

(d) An OCM Oversight Committee is hereby established
comprised of Juanita Parvello, CFO; Leonard
Goeller, Director of Government Operations; and

1 Ed Wroten, Director of the Credit and Finance
2 Program, whose functions shall be to recommend
3 to the Chairman's Designee (1) the payment of any
4 OCM operational expenses, including payroll and
5 the expenses and obligations listed in the
6 Schedule, (2) the amount of OCM revenues required
7 to cover ongoing operational expenses and the
8 amount thereof available for repayment of the
9 Appropriated Amount, (3) whether to authorize OCM
10 to bid on or contract for prospective work in
11 which OCM has expressed interest, and (4) within
12 60 days following the effective date of this
13 resolution, whether or under what conditions OCM
14 should be continued as a tribal entity.

8 2. The Chairman's Designee and the Attorney General are
9 hereby authorized and directed to initiate discussions
10 with the T.L. Roof, Chuck Westenburg and other
11 appropriate persons involved in the School
12 construction project, with respect to the claim
13 asserted by T.L. Roof against OCM.

14 3. The Chairman's Designee and Attorney General shall
15 present to the Tohono O'odham Legislative Council at
16 its next session, a recommendation concerning whether,
17 or to what extent and on what terms, they propose a
18 settlement of the T.L. Roof claim.

19 4. Nothing in this resolution shall be construed as an
20 express or implied waiver of the Nation's immunity
21 from suit, and the Tohono O'odham Legislative Council
22 reserves the right to assert such immunity in the
23 future.

24 The foregoing Resolution was passed by the Tohono O'odham Council
25 on the 19th. day of October, 1990 at a meeting at which a quorum
26 was present with a vote of 1,261.5 for; -0- against; 462.5 not
27 voting; 04 absent, pursuant to the powers vested in the Council
28 by Section 1 (d)(2) of Article VI of the Constitution of the
29 Tohono O'odham Nation, adopted by the Tohono O'odham Nation on
30 January 18, 1986, and approved by the Acting Deputy Assistant
31 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant
32 to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Edward D. Manuel, Legislative Chairman

22nd day of October, 1990.

ATTEST:

Teresa M. Choygaha
Teresa M. Choygaha, Legislative Secretary
22nd day of October, 1990.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 22nd day of October, 1990, at 1:53 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

Edward D. Manuel
Edward D. Manuel, Legislative Chairman

[] APPROVED) on the 24 day of Oct., 1990.
[] DISAPPROVED) at 9:13 o'clock, A.M.

Angelo J. Joaquin Sr.
ANGELO J. JOAQUIN, SR., Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 24th day of October, 1990, at 1:41 o'clock, P.M.

Teresa M. Choygaha
Teresa M. Choygaha
Legislative Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

MOVED: Willard Juan
 SECOND: Andrew Patricio
 DATE: October 19, 1990

SUBJECT: Appropriating \$117,217 and Auth-
Expenditures by O'odham Construction
& Materials Co. Subject to Repayment
and other Conditions

RESOLUTION NO. 390-90

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 229.0	1. Earl A. Francisco (Kenneth Chico, Sr.)	114.5	X			
	2. Joann Garcia (Frances Miguel)	114.5	X			
CHUKUT KUK 163.0	1. Rosita Ruiz** (Rosemary Lopez)	81.5	X			
	2. Kenneth G. Williams (Harriet Toro)	81.5	X			
GU ACHI 166.0	1. Percy Lopez ()	83.0			X	
	2. Alex J. Ramon (Fernando Joaquin)	83.0			X	
GU VO 114.0	1. Cross Antone (Juan Joe Cipriano)	57.0			X	
	2. Virgil Lewis (Michael Flores)	57.0			X	X
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Lenora Montana ()	62.5	X			
PISINEMO 119.0	1. Johnson Jose ()	59.5			X	
	2. Edward Manuel (Alex Antone)	59.5			X	
SAN LUCY 106.0	1. Albert Manuel, Jr. (Max P. Jose)	53.0	X			
	2. John Reno ()	53.0	X			
SAN XAVIER 127.0	1. Eugene Enis. Sr. (Michael Rios)	63.5	X			
	2. Joanne C. Preston (Carmelita Mattias)	63.5			X	
SCHUK TOAK 107.0	1. JoAnn Francisco (David Valenzuela Sr.)	53.5	X			X
	2. Joseph Juan (Frances Francisco)	53.5	X			
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			X
	2. Andrew Patricio (Daniel Lopez)	155.0	X			
SIF OIDAK 158.0	1. Mary Ann Antone (Nina Jose)	79.0	X			X
	2. Willard Juan, Sr. (Melissa Gregorio)	79.0	X			
TOTAL		1,724.0	1,261.5	-0-	462.5	04

**PASSED VOTES