

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving Second Amendment and Extension of Term of TOUA Electric Lease)**

RESOLUTION NO. 99-638

- 1 **WHEREAS, the Papago Council, predecessor of the Tohono O'odham Legislative Council, did**
2 **by Resolution No. 8-70 enacted on May 08, 1970, create the Papago Tribal Utility**
3 **Authority, predecessor of the Tohono O'odham Utility Authority ("Authority")**
4 **and adopted a Plan of Operation for the Authority, directing the Authority, inter**
5 **alia, "To plan for, provide and furnish utility services to all areas within the**
6 **Tohono O'odham Nation where such services are determined to be feasible and**
7 **economic...[and] To acquire, construct, operate, maintain, promote and expand**
8 **electric...services within the Tohono O'odham Nation (the "Nation"); and**
- 9 **WHEREAS, the Nation did, on March 27, 1975, grant the Authority a Lease (hereinafter called**
10 **the "Lease") which leases to the Authority all of the electric facilities servicing the**
11 **Nation and gives to the Authority the right and authority to encumber to the**
12 **Government all of its leasehold interest in the Lease and the leased properties**
13 **in order to obtain loans from the Government, acting through the Administrator**
14 **of the Rural Electric Administration, now known as the Rural Utilities Service**
15 **(hereinafter called "RUS"), for the purpose of financing the acquisition,**
16 **construction and operation of electric facilities necessary to service the Nation;**
17 **and**
- 18 **WHEREAS, the Nation did by Resolution No. 108-88 approve an Amendment To Lease dated**
19 **as of May 26, 1988 (hereinafter called the "First Amendment") which amended**
20 **the Lease in order to add the National Rural Utilities Cooperative Finance**
21 **Corporation (hereinafter called "CFC") to the Lease as an authorized lender and**
22 **secured party, qualified to receive encumbrances of the Authority's leasehold**
23 **interest in the Lease and the leased property in order to secure the repayment**
24 **of loans from CFC obtained by the Authority to finance the acquisition,**
25 **construction, expansion and operation of additional electric facilities necessary**
26 **to service the Nation; and**
- 27 **WHEREAS, the Authority has heretofore borrowed funds from the Government and CFC for**

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1 its lawful purposes, and for value received, has heretofore duly authorized and
2 executed and delivered to the Government and CFC, or has assumed the payment
3 of, certain notes payable to the Government and CFC, in installments, of which
4 certain notes remain outstanding and owned by the Government and CFC which
5 are secured by encumbrances of the Authority's interest in the Lease and the
6 leased properties; and

7 **WHEREAS, the Authority has determined to borrow additional funds in an aggregate**
8 **principal amount of \$2,262,000.00 from the Government in order to finance the**
9 **acquisition, construction, expansion and operation of additional electric**
10 **facilities necessary to service the Nation, and has determined that the Authority**
11 **and the Nation would be best benefitted if the Authority obtained these funds**
12 **(hereinafter called the "Loan") from the Federal Financing Bank, a body**
13 **corporate and instrumentality of the Government (hereinafter called the "FFB"),**
14 **upon a 35 year FFB Note, repayment of which is guaranteed by the Government,**
15 **acting through RUS, pursuant to the RUS Loan Contract made by and between**
16 **the Government and the Authority dated as of September 01, 1999 (hereinafter**
17 **called the "RUS Loan Contract") and pursuant to the Consolidated And Restated**
18 **Resolution and Security Agreement made by and between the Authority, the**
19 **Government and CFC, dated as of September 01, 1999; and**

20 **WHEREAS, the Government and FFB have consented to provide the foregoing Loan provided**
21 **that the term of the Lease be extended to cover the thirty-five year term of the**
22 **Loan; and**

23 **WHEREAS, the Authority did, on June 14, 1988, by Notice of Lease Renewal, extend the term**
24 **of the Lease by its secondary twenty-five years term, following the expiration of**
25 **its primary term on July 15, 2000, in order to extend the Lease through its full**
26 **term, or until July 15, 2025; and**

27 **WHEREAS, the Final Maturity Date of the FFB Note and the Loan contemplated by the RUS**
28 **Loan Contract and Consolidated And Restated Resolution And Security**

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1 Agreement is December 31, 2033, and it is therefore necessary to extend the term
2 of the Lease beyond its current full term of July 15, 2025, in order for the
3 Authority to qualify for the Loan.

4 NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council does
5 hereby approve the Second Amendment To Lease dated as of September 01, 1999,
6 by and between the Tohono O'odham Nation, as Lessor and the Authority, as
7 Lessee, in accordance with the attached Second Amendment To Lease, and
8 Edward D. Manuel, Chairman of the Tohono O'odham Nation, is hereby
9 authorized and directed to execute and deliver as many counterparts thereof as
10 shall be deemed advisable for and on behalf of the Nation.

11 BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council does hereby approve
12 and ratify the execution and delivery by the Authority of the RUS Loan Contract
13 and the Consolidated And Restated Resolution Agreement, attached respectively
14 as Exhibits C and D to the annexed Second Amendment To Lease, and does hereby
15 waive the sovereign immunity of the Authority upon suits brought thereon and
16 directs that the Authority shall not use the defense of sovereign immunity upon
17 any suit brought by the Government, RUS, FFB, CFC or by their agents,
18 instrumentalities or successors.

19 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 6TH
20 day of DECEMBER, 1999 at a meeting at which a quorum was present with a vote of 1,839.6
21 FOR; 160.0 AGAINST; -0- NOT VOTING; and 165.9 [09] ABSENT, pursuant to the powers vested
22 in the Council by Section 1 (b), (i) & (j) and Section 2 (d) of Article VI of the Constitution of the
23 Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and
24 approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6,
25 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

26
27 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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31 **Dennis Ramon, Legislative Chairman**

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33 8th day of December, 19 99
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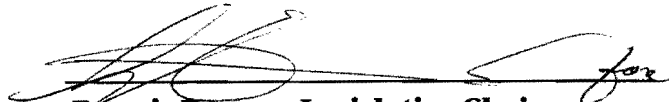
ATTEST:


Julianna Saraficio, Acting Legislative Secretary

6 day of December, 19 99.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 8th day of December, 19 99 at 1:11 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



Dennis Ramon, Legislative Chairman

APPROVED

on the 10th day of December, 19 99

DISAPPROVED

at 12:27 o'clock, P.M.


EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 10 day of

December, 19 99, at 1 o'clock, P.M.


Julianna Saraficio, Acting Legislative Secretary

ACTION: APPROVING SECOND AMENDMENT AND EXTENSION OF TERM OF TOUA ELECTRIC LEASE

MOVED: COUNCILWOMAN FRANCES ANTONE

SECOND: COUNCILWOMAN EVELYN JUAN

DATE: DECEMBER 06, 1999

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF Oidak 171.8	1. MARY ANN ANTONE (Darlene Andrew)	85.9	X			X
	2. RITA MARTINEZ (Nicholas Jose)	85.9	X			
SELLS 372.7	1. DENNIS E. JOSE ()	186.35	X			
	2. EVELYN JUAN ()	186.35	X			
SCHUK TOAK 133.4	1. MARY FLORES ()	66.7	X			X
	2. AMBROSE ENCINAS ()	66.7	X			
SAN XAVIER 165.9	1. TONY BURRELL ()	82.95				X
	2. DENNIS RAMON ()	82.95				X
BABOQUIVARI 286.5	1. FRANCES MIGUEL ()	143.25	X			X
	2. FRANCES G. ANTONE (Edward N. Kisto)	143.25	X			
GU ACHI 209.6	1. CAMILLUS LOPEZ (Louis Johnson)	104.8	X			
	2. ALEX J. RAMON ()	104.8	X			
PISINEMO 156.8	1. BARBARA SALVICIO (Alex Antone)	78.4	X			X
	2. JOHNSON JOSE ()	78.4	X			
SAN LUCY 128.1	1. ALBERT MANUEL, JR. ()	64.05	X			X
	2. GLORIA RAMIREZ ()	64.05	X			
GU VO 160.0	1. FERN SALCIDO ()	80.0		X		
	2. GLORIA MONTANA (Phillip Antone)	80.0		X		X
HICKIWAN 158.1	1. ALEX JOSE (Shirley Santos)	79.05	X			
	2. LLOYD FRANCISCO (Susan Sam)	79.05	X			
CHUKUT KUK 222.6	1. KENNETH WILLIAMS ()	111.3	X			X
	2. DAVID GARCIA (Mary Audrey Juan)	111.3	X			
TOTAL		2,165.5	1,839.6	160.0	-0-	165.9 [09]

**PASSED VOTES