

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing a Settlement Between the Gu Achi District and the Internal Revenue Service)

RESOLUTION NO. 12-293

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council with the**
2 **authority to "consult, negotiate and conclude agreements and contracts on behalf of**
3 **the Tohono O'odham Nation with Federal, State and local governments. . .or their**
4 **departments, agencies, or political subdivisions. . ." and to "manage any funds within**
5 **the exclusive control of the Tohono O'odham Nation. . ." (Constitution, Article VI,**
6 **Section 1(f) and Section 1(d)(2)); and**

7 **WHEREAS, the Tohono O'odham Nation Protocol for Internal Revenue Service ("IRS") Inquiries**
8 **or Audits of the Nation, its Districts, or its Enterprises, requires authorization by the**
9 **Legislative Council for any agreements with IRS; and**

10 **WHEREAS, by letter dated September 11, 2009, the United States Internal Revenue Service ("IRS")**
11 **selected the Gu Achi District ("District"), one of the Nation's eleven districts, for an**
12 **extensive audit of the District's Form 941 (employment tax) filings including records,**
13 **books of accounts, and financial management documents for the calendar year**
14 **ending December 31, 2007; and**

15 **WHEREAS, the IRS audit continued from September 11, 2009 through October of 2011, ultimately**
16 **expanding to the 2007, 2008 and 2009 calendar years; and**

17 **WHEREAS, at conclusion of the audit, the IRS issued several findings with cumulative liabilities**
18 **in excess of \$400,000.00, which the District appealed on October 3, 2011; and**

19 **WHEREAS, as a result of negotiations between the District and the IRS Appeals division since the**
20 **filing of their Appeal, IRS has expressed a willingness to resolve all matters covered by**
21 **the 2007-2009 audits for approximately \$150,000.00 in taxes and penalties; and**

22 **WHEREAS, the District recommends approving settlement authority with the IRS for an amount**
23 **not to exceed \$150,039.09 (District Resolution No. 1206-229), while leaving open the**
24 **possibility of presenting additional argument and evidence through the deadline set**
25 **by Appeals of July 25, 2012, and provided that the District and Appeals are able to reach**
26 **a final agreement that is satisfactory on issues such as the future treatment of District**
27 **Council members, boards, and summer youth workers.**

28 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it authorizes**
29 **a settlement with the IRS for the Gu Achi District employment tax audits covering**
30 **calendar years 2007, 2008, and 2009 for an amount not to exceed \$150,039.09; provided**
31 **that:**

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- 1 **1. The Nation's legal counsel is authorized to continue negotiations with the IRS in**
2 **an effort to reduce the final settlement amount;**
- 3 **2. The Nation's legal counsel shall ensure that the final settlement will include**
4 **options for lump sum or deferred payment (with interest if applicable) to be**
5 **selected by the Gu Achi District; and**
- 6 **3. The final settlement is contingent on and subject to the parties reaching a**
7 **satisfactory settlement or closing agreement on key matters covered by the IRS**
8 **audit of the District, including future limitations regarding the future employment**
9 **classification of District council members, youth workers, and committee or board**
10 **members.**

11 **BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that in the course of**
12 **further negotiations with the IRS, if any of the terms and conditions of the settlement**
13 **change to the detriment of the Nation or the District from those described herein, or**
14 **the parties are unable to reach a final settlement agreement to document the**
15 **foregoing (including the future treatment of District Council members, youth workers**
16 **and committee or board members), the Nation's legal counsel shall first discuss any**
17 **changes from the original settlement offer or other issues of impasse with the Gu Achi**
18 **District Council and Legislative Council, respectively, before final settlement approval**
19 **by Legislative Council resolution.**

20 **BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that the Chairman of the**
21 **Gu Achi District is authorized to execute final settlement documents, closing**
22 **agreements and other forms or documents as may be needed to complete the**
23 **settlement authorized hereby so long as (1) the final settlement does not exceed the**
24 **settlement authority approved herein and (2) so long as the IRS Appeals Division and**
25 **the Gu Achi District Chairman, in consultation with the Nation's legal counsel and the**
26 **Nation's Chairman, are able to reach a final settlement agreement consistent with the**
27 **terms of this Resolution.**

28 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that the actions taken by**
29 **Council members or officials in furtherance of these Resolutions are taken in their**
30 **official capacities on behalf of the Tohono O'odham Nation, without a waiver of the**
31 **Nation's immunity or consultation rights.**

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12TH Day of JULY, 2012 at a meeting at which a quorum was present with a vote of 2,780.60 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Section 1 (d)(2) and (f) 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


Timothy Joaquin, Legislative Chairman

17 day of July, 2012

ATTEST:


Evonne Wilson, Legislative Secretary

10 day of July, 2012

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 17 day of July, 2012 at 2:45 o'clock, P.M., pursuant to the provisions of Section 4 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.

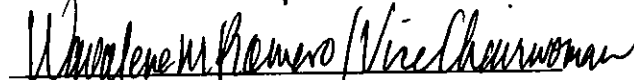
TOHONO O'ODHAM LEGISLATIVE COUNCIL


Timothy Joaquin, Legislative Chairman

APPROVED

DISAPPROVED

on the 17 day of July, 2012
at 4:06 o'clock, P.M.


NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 17 day of

July, 2012, at 4:45 o'clock, P.M.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: AUTHORIZING A SETTLEMENT BETWEEN THE GU ACHI DISTRICT AND THE INTERNAL REVENUE SERVICE

Moved: COUNCILWOMAN EVELYN JUAN MANUEL

SECOND: COUNCILMAN FREDERICK JOSE

DATE: JULY 12, 2012

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	171.0	X			
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ()	151.10	X			
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN ()	122.45	X			
	2. CYNTHIA E. MANUEL <i>(Absent)</i> (Louis L. Johnson) <i>(Present)</i>	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL ()	113.35	X			X
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ()	93.15	X			
PISINEMO 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
SAN LUCY 204.6	1. LORRAINE EILER ()	102.30	X			
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
SAN XAVIER 215.8	1. HILARION CAMPUS <i>(Absent)</i> (Racheal Vilson-Stoner) <i>(Present)</i>	107.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. STEPHENS (Anthony J. Rios)	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
SELLS 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85	X			
	2. EVELYN B. JUAN MANUEL ()	237.85	X			
SIF OIDAK 211.9	1. NICHOLAS JOSE ()	105.95	X			
	2. MARY LOPEZ ()	105.95	X			X
TOTAL		2,780.60	2,780.60	-0-	-0-	[02]