

LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Execution of Sirius XM Radio, Inc. Agreement)

LEGISLATIVE ORDER NO. 12-343

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council with the**
2 **power to "negotiate and conclude agreements and contracts on behalf of the Tohono**
3 **O'odham Nation . . .with private persons or organizations on all matters within the**
4 **authority of the Tohono O'odham Council" (Constitution, Article VI, Section 1(f)); and**

5 **WHEREAS, the Council has prescribed the duties and powers of the Council Chairman and Vice**
6 **Chairman (collectively, "legislative officers") by adopting the Legislative Rules and by**
7 **passing Legislative Order No. 06-047, "Amended Delegation of Authority to Legislative**
8 **Council Chairperson and Vice Chairperson"; and**

9 **WHEREAS, although Legislative Order No. 06-047 expressly delegates to the legislative officers the**
10 **authority to negotiate, execute, and administer certain contracts, the officers are not**
11 **authorized to enter contracts that "indemnify a third party or authorize payment of**
12 **an award of attorney fees or costs of litigation or arbitration, unless previously**
13 **authorized by a majority vote of the Legislative Council"; and**

14 **WHEREAS, the legislative officers seek to equip Legislative Branch vehicles with satellite radio**
15 **service and have negotiated an agreement with service provider, Sirius XM Radio, Inc.;**
16 **and**

17 **WHEREAS, the Sirius XM Radio, Inc. Customer Agreement & Website Terms of Use (hereafter,**
18 **"Agreement"), which are incorporated by this reference, does not expressly require the**
19 **Legislative Branch to waive its sovereign immunity or legislative immunity but does**
20 **include an indemnification clause, arbitration clause, and other provisions which**
21 **require Legislative Council approval.**

22 **NOW, THEREFORE, BE IT ORDERED by the Tohono O'odham Legislative Council that it authorizes**
23 **the legislative officers to enter into the Sirius XM Radio, Inc. Agreement, provided that**
24 **nothing in this delegation or in the Agreement shall be deemed a waiver of the Nation's**
25 **sovereign immunity or legislative immunity**

26 **The foregoing Order was passed by the Tohono O'odham Legislative Council on the 29TH day of**
27 **AUGUST, 2012 at a meeting at which a quorum was present with a vote of 1,629.0 FOR; 1,151.60**
28 **AGAINST; [01] NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by**
29 **Article VI, Section 1(f) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono**
30 **O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
31 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
32 **Stat. 984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL



Timothy Joaquin, Legislative Chairman


____ day of Sept., 2012

ATTEST:



Evonne Wilson, Legislative Secretary

6 day of September, 2012

ACTION: AUTHORIZING EXECUTION OF SIRIUS XM RADIO, INC. AGREEMENT

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON

SECOND: COUNCILWOMAN FRANCES MIGUEL

DATE: AUGUST 29, 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			X
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (Roselda Lewis)	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			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 (Racheal Vilson-Stoner)	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	X	
	2. MARY LOPEZ ()	105.95		X		
TOTAL		2,780.60	1,629.0	1,151.60	[01]	[03]