RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL (Authorizing the Tohono O'odham Nursing Care Authority to Contract with Indian Health Service pursuant to the Indian Self Determination and Education Assistance Act ("ISDEAA"))

RESOLUTION NO. 18-464

1	WHEDEAS	the Tohone Oledham Legislative Council is seeded with the south of the first
2	WHEREAS,	the Tohono O'odham Legislative Council is vested with the authority "to promote,
		protect, and provide for public health, peace, morals, education and general
3		welfare of the Tohono O'odham Nation and its members" and to "consult,
4		negotiate and conclude agreements and contracts on behalf of the Tohono
5		O'odham Nation with Federal, State and local governments and other Indian
6		tribes or their departments, agencies, or political subdivisions"(Constitution
7		of the Tohono O'odham Nation, Article VI, Section 1(c)(2) and Article VI, Section
8	-	1(f)); and
9	WHEREAS,	the Constitution of the Tohono O'odham Nation also authorizes the Legislative
10		Council to authorize, charter and regulate public or private corporations and
11		associations whether organized for profit, or for non-profit or charitable
12		purposes (Constitution, Article VI, Section 1(e)); and
13	WHEREAS,	the Tohono O'odham Nation has a continuing commitment to enhance the
14		quality of life for all O'odham members and their families; and
15	WHEREAS,	the formation of the Tohono O'odham Nursing Care Authority ("TONCA") by the
16		adoption of its charter and the construction of the Archie Hendricks Sr. Skilled
17		Nursing Facility (the "Facility") were integral components of the commitment of
18		the Nation's resources to the health of its members (Resolution No. 98-512,
19		"Adopting the Charter of the Tohono O'odham Nursing Care Authority"); and
20	WHEREAS,	TONCA is a legally established organization chartered by the Nation that includes
21		the maximum participation of Indians in all phases of its activities and TONCA is
22		therefore a "tribal organization" that is eligible to contract for services pursuant
23		to the Indian Self-Determination and Education Assistance Act ("ISDEAA"), Pub. L.
24		93-638, Jan. 4, 1975, 88 Stat. 2203, as amended (25 U.S.C. § 450b); and
25	WHEREAS,	Section 10221 of the Patient Protection and Affordable Care Act, Pub. L. 111-148,
26		March 23, 2010, enacted into law the Indian Health Care Improvement Act
27		("IHCIA"), pursuant to which section 205(b) provides new authorizations to Indian
28		Health Service ("IHS") for certain services, including but not limited to assisted
29		living services and long-term care services; and
30	WHEREAS,	approximately 75% of TONCA's residents are Medicaid eligible; and
31	WHEREAS,	the Centers for Medicare & Medicaid Services ("CMS") pays each state a
32		percentage of its total Medicaid expenditures, referred to as the Federal Medical
33		Assistance Percentage or FMAP; and
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RESOLUTION NO. 18-464

(Authorizing the Tohono O'odham Nursing Care Authority to Contract with Indian Health Service pursuant to the Indian Self Determination and Education Assistance Act ("ISDEAA")) Page 2 of 3

2 100% for Indian Health Service facilities, including tribal facilities under contract or compact with IHS; and 4 WHEREAS, if TONCA qualified as an HIS facility it would be in a position to negotiate a higher daily rate from the state; and 6 WHEREAS, the TONCA presented its self-determination contract proposal to the Health and Human Services Committee, which recommended approval, and consulted with the Department of Health and Human Services. 7 NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Conneil: 1 1 Recognizes that TONCA is a "tribal organization" as defined in Section 4 of the ISDEAA (25 U.S.C. §459(b)) eligible and qualified to contract for services, which the IHS is statutorily enacted to perform; 13 2 Grants and anthorizes TONCA, pursuant to the provisions of the DOI/IHIS Joint Interval Agency Handbook of the ISDEAA to (i) contract for services are lated to Section 205(b) of IHCIA, including, but not limited to, assisted IVing services and long-term care services are services are defined in Section 205(a) and (i) such other related long-term services and support activities and authorizes TONCA to negotiate and execute a Title I contract with the Indian Health Service under the ISDEAA (57 authorizes durborized under Section 205; and 24 4 Authorizes TONCA to further investigate with the Nation's Title V compact to include TONCA as a separate organizational entity in accordance with TONCA's current Charter. 27 The foregoing Resolution was pressed by the Tohono O'odham Legislative Conneil on the 64 TM day of DECEMBER, 2018 at a meeting at which is a genorm wa	1	WHEREAS,	in Arizona the FMAP Rate is approximately 69.8%, except that the state receives
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35 36 37 38 39	34	1986, pursua	nt to Section 16 of the Act of June 18, 1934 (48 Stat 984)
37 38 39			,
38 39			
39			

RESOLUTION NO. 18-464

(Authorizing the Tohono O'odham Nursing Care Authority to Contract with Indian Health Service pursuant to the Indian Self Determination and Education Assistance Act ("ISDEAA")) Page 3 of 3

1		TOHONO O'ODHAM LEGISLATIVE COUNCIL
2 3 4 5 6 7		Timothy Joaquin, Legislative Chairman /2 day of December , 2018
8 9 10 11 12 13 14 15 16 17 18 19 20	O'odham Nation on the _/ de pursuant to the provisions o	retary $\mathcal{L}_{,2018}$ ed for approval to the office of the Chairman of the Tohono $\mathcal{L}_{,2018}$ and $\mathcal{L}_{,2018}$ L
20 21 22 23 24	effective upon his approval of hours of submittal.	r upon his failure to either approve or disapprove it within 48 TOHONO O'ODHAM LEGISLATIVE COUNCIL
25 26 27 28		Timothy Joaquin, Legislarive Chairman
29 30 31 32 33	APPROVED	on the 18 day of December, 2018
34 35 36 37 38 39 40 41	[] DISAPPROVED	at <u>2:10</u> o'clock, <u>A</u> .m. <u>August Children</u> EDWARD D. MANUEL, CHAIRMAN TOHONO O'ODHAM NATION
41 42 43 44 45 46 47	Returned to the Legislative Sec	retary on the <u>18</u> day of , at <u>10:46</u> o'clock, <u>A</u> .m.
48 49 50 51 52	June July fr Evonne Wilson, Legislative Seco	retary

ACTION: AUTHORIZING THE TOHONO O'ODHAM NURSING CARE AUTHORITY TO CONTRACT WITH INDIAN HEALTH SERVICE PURSUANT TO THE INDIAN SELF DETERMINATION AND EDUCATION ASSISTANCE ACT ("ISDEAA")

MOVED: COUNCILMAN ANTHONY J. FRANCISCO, JR.

SECOND: COUNCILWOMAN SANDRA ORTEGA

DATE: DECEMBER 04, 2018

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSEN
SIF OIDAK	1. MARY LOPEZ	117.9	x			x
235.8	() 2. LUCINDA ALLEN (Yolonda Garcia)	117.9	x			
SELLS 527.2	1. ARTHUR WILSON (Evelyn Juan Manuel)	263.6		x		
	2. ADRIANNE TILLER (Idaleen Reyes)	263.6	x			
SCHUK TOAK 185.7	1. ANTHONY J. FRANCISCO JR. (Teresa F. Donahue)	92.85	x			
105.7	(Agnes V. Joaquin)	92.85		x		
SAN XAVIER 232.3	1. DANIEL L.A. PRESTON III (Felicia Nunez)	116.15	x			
	(FERCIA NUREZ) 2. JANICE FELIX ()	116.15	x			x
SAN LUCY	1. JANA MONTANA (Absent)	115.55		x		x
231,1	(Diana Manuel) <i>(Present)</i> 2. GLORIA RAMIREZ (Lorraine Eiler)	115.55		x		
PISINEMO 225.9	1. CHESTER ANTONE (Caroline D. Garcia)	112.95	x			
225.9	(Caroline D. Garcia) 2. MONICA K. MORGAN ()	112.95	x			x
HICKIWAN	1. LOUIS R. LOPEZ (Shirley Molina)	104.5	x			1
209.0	2. SANDRA D. ORTEGA ()	104.5	x			
GU VO	1. GRACE MANUEL	128.45		x		
256.9	() 2. DALLAS LEWIS (Nacho Flores)	128.45		x		
GU ACHI 270.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	135.45		x	х	
270.5	 (LOUIS E. JOHNSON) 2. LORETTA LEWIS (Absent) (Victoria Hobbs) (Present) 	135.45	2	x		
CHUKUT KUK 337.7	1. BILLMAN LOPEZ (Absent) (Patricia Antone) (Present)	168.85		x		
	2. VIVIAN JUAN-SAUNDERS (Juanita Homer)	168.85	x			
BABOQUIVARI 372.1	1. FRANCES MIGUEL (Roberta E. Harvey)	186.05	x			
314.1	2. LEANDER MASE (Francine Schooling)	186.05	x			
	TOTAL	3,084.6	1,800.4	1,284.2	[01]	[04]