

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Accepting Native American Agriculture Fund Grant and Approving a Limited Waiver of
Sovereign Immunity and Approving FY 2020 San Xavier District Budget Amendment No. 1)

RESOLUTION NO. 20-078

1 **WHEREAS,** pursuant to Article IX, Section 7 of the Constitution of the Tohono O'odham
2 Nation,

3 No district council shall expend district funds except pursuant to budgets
4 authorized under resolutions of the district council and approved by the
5 Tohono O'odham Council. The management of these funds shall be only by
6 a treasurer or other authorized officer of the district council who has
7 furnished a surety bond satisfactory to the treasurer of the Tohono
8 O'odham Nation, and all expenditures of these funds shall be by checks
9 signed by such treasurer or other authorized officer and the chairman or
10 vice chairman of the district council.

11 ; and

12 **WHEREAS,** the Nation's sovereign immunity extends to its 11 local district governments, and
13 a district's immunity may not be waived "except by a resolution or other official
14 action of the Tohono O'odham Legislative Council expressly waiving, or
15 authorizing a waiver of, sovereign immunity" 1 T.O.C. Chapter 2, Section 2101(B)
16 and (C); (*Juan v. Juan, 2 TOR3d 62* (Trial Ct., Jan. 27, 2000) appeal dism'd, 3 TOR3d
17 1 (Jan. 4, 2005)); and

18 **WHEREAS,** the San Xavier District (the "District") Administration applied for and received
19 grant funds from the Native American Agriculture Fund ("NAAF") in the amount of
20 \$75,000.00 for a proposed economic development in the San Xavier District; and

21 **WHEREAS,** grant funds are conditioned upon the District entering into an agreement with
22 NAAF, which is incorporated by this reference, and consenting to a limited waiver
23 of the District's sovereign immunity; and

24 **WHEREAS,** the FY 2020 San Xavier District Budget in the amount of \$10,281,911.53 was
25 authorized by San Xavier District Council Resolution No. SXDC 08-19-12 and
26 approved by Tohono O'odham Legislative Council Resolution No. 19-356; and

27 **WHEREAS,** by San Xavier District Council Resolution No. SXDC 01-20-02, the San Xavier
28 District has authorized and submitted for review and approval its FY 2020 San
29 Xavier District Budget Amendment No. 1, which is incorporated by this reference
30 and which will adjust operational and/or personnel line items; and

31 **WHEREAS,** the FY 2020 San Xavier District Budget Amendment No. 1 will increase the FY 2020
32 San Xavier District from \$10,281,911.53 to \$10,356,911.53 by incorporating NAAF
33 grant funds in the amount of \$75,000.00; and

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1 **WHEREAS, the Agricultural and Natural Resources and Budget and Finance Committees**
2 **have reviewed the Grant Agreement between the San Xavier District and NAAF and**
3 **the FY 2020 San Xavier District Budget Amendment No. 1 and recommend its**
4 **approval.**

5 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council:**

- 6 **1. Approves the Grant Agreement between the San Xavier District and NAAF.**
7 **2. Authorizes a limited waiver of the sovereign immunity of the San Xavier**
8 **District to the following extent:**

9 **The San Xavier District is authorized to waive its sovereign immunity for**
10 **the limited purpose of permitting the Native American Agriculture Fund**
11 **("NAAF") to enforce the terms of the Grant Agreement between NAAF and**
12 **the San Xavier District pursuant to which NAAF is providing grant funds in**
13 **the amount of \$75,000. The District's sovereign immunity may be waived**
14 **to permit NAAF to sue the District to enforce the terms of the Grant**
15 **Agreement in the courts of the Tohono O'odham Nation, in the U.S. District**
16 **Court for the District of Arizona or in the U.S. District Court for the Western**
17 **District of Arkansas to obtain monetary relief against the District in an**
18 **amount not to exceed \$75,000, to obtain declaratory relief or injunctive**
19 **relief, and to enforce any judgment or award obtained against the District.**
20 **The limited waiver of the District's sovereign immunity authorized by this**
21 **resolution extends only to claims against the San Xavier District arising**
22 **out of the Grant Agreement and shall in no way be construed or**
23 **interpreted as a waiver of the sovereign immunity of the Tohono O'odham**
24 **Nation or any of its officers, agents or employees.**

- 25 **3. Approves the FY 2020 San Xavier District Budget Amendment No. 1, which**
26 **includes a \$75,000.00 increase from \$10,281,911.53 to \$10,356,911.53 that**
27 **shall be funded by the Native American Agriculture Fund grant.**

28 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that the FY 2020 San**
29 **Xavier District Budget as amended shall be managed and expended in**
30 **accordance with Article IX, Section 7 of the Constitution of the Tohono O'odham**
31 **Nation and the Nation's laws, provided that any amendments or modifications**
32 **shall be authorized under District Council resolution and submitted for prior**
33 **approval by the Tohono O'odham Legislative Council.**
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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 04TH day of MARCH, 2020 at a meeting at which a quorum was present with a vote of 3,175.7 FOR; -0- AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by Article IX, Section 7 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 C. Joaquin
Timothy Joaquin, Legislative Chairman
9 day of March, 2020

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary
9 day of March, 2020

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 9 day of March, 2020 at 12:45 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

Timothy C. Joaquin
Timothy Joaquin, Legislative Chairman

APPROVED

on the 9 day of March, 2020

DISAPPROVED

at 1:25 o'clock, P.M.

Ned Norris, Jr.
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 9 day of

March, 2020, at 3:36 o'clock, p.m.


Evonne Wilson, Legislative Secretary

ACTION: ACCEPTING NATIVE AMERICAN AGRICULTURE FUND GRANT AND APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY AND APPROVING FY 2020 SAN XAVIER DISTRICT BUDGET AMENDMENT NO. 1

MOVED: COUNCILWOMAN JANICE FELIX

SECOND: COUNCILMAN DANIEL L.A. PRESTON III

DATE: MARCH 04, 2020

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 384.8	1. LEANDER MASE (Francine Schooling) 2. ALBERTA J. RAY (Frances G. Antone)	192.40 192.40	X X			
CHUKUT KUK 347.5	1. VIVIAN JUAN-SAUNDERS (<i>Absent</i>) (Juanita Homer) (<i>Present</i>) 2. MARLAKAY HENRY (Billman Lopez)	173.75 173.75	X X			X
GUACHI 279.3	1. VICTORIA HOBBS () 2. TIMOTHY L. JOAQUIN (Louis L. Johnson)	139.65 139.65	X X			
GU VO 264.5	1. DALLAS LEWIS (Nacho Flores) 2. GRACE MANUEL ()	132.25 132.25	X X			
HICKIWAN 213.8	1. SANDRA D. ORTEGA () 2. LOUIS R. LOPEZ (Delma M. Garcia)	106.90 106.90	X X			
PISINEMO 230.7	1. MONICA K. MORGAN () 2. MARIETTA MARTIN ()	115.35 115.35	X X			
SAN LUCY 235.6	1. GLORIA RAMIREZ () 2. JANA MONTANA (<i>Absent</i>) (Lorraine M. Eiler) (<i>Present</i>)	117.80 117.80	X X			
SAN XAVIER 238.9	1. JANICE FELIX (Adam Andrews) 2. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner)	119.45 119.45	X X			
SCHUK TOAK 189.0	1. QUINTIN C. LOPEZ (Agnes V. Joaquin) 2. TERESA F. DONAHUE (Alberta Espinoza)	94.50 94.50	X X			
SELLS 547.1	1. EVELYN JUAN MANUEL () 2. ARTHUR WILSON ()	273.55 273.55	X X			
SIF OIDAK 244.5	1. LUCINDA ALLEN (Yolonda Garcia) 2. MARY LOPEZ (Ann M. Garcia)	122.25 122.25	X X			
TOTAL		3,175.7	3,175.7	-0-	-0-	[01]