

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the Webcasting Performance Agreement and a Limited Waiver of
Sovereign Immunity)

RESOLUTION NO. 11-141

- 1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to "consult,**
2 **negotiate and conclude agreements and contracts on behalf of the Tohono O'odham**
3 **Nation with ...private persons or organizations on all matters within the authority of**
4 **the Tohono O'odham Council" (Constitution of the Tohono O'odham Nation, Article VI,**
5 **Section 1(f)); and**
- 6 **WHEREAS, KOHN FM is a non-commercial terrestrial radio broadcast station licensed to the**
7 **Tohono O'odham Nation (the "Nation") and is a qualified public radio station able to**
8 **receive funding from the Corporation for Public Broadcasting ("CPB"); and**
- 9 **WHEREAS, KOHN FM's signal only reaches some areas within the exterior boundaries of the**
10 **Nation; and**
- 11 **WHEREAS, the Nation has long desired to provide the broadcast programming of KOHN FM to all**
12 **of its members within and beyond its exterior boundaries; and**
- 13 **WHEREAS, CPB, on behalf of public radio stations, has successfully re-negotiated and executed**
14 **a Webcasting Performance Agreement ("Agreement") with SoundExchange, Inc., for**
15 **the term of January 1, 2011, through December 31, 2015; and**
- 16 **WHEREAS, the Agreement provides that CPB will pay the license fees for all Covered Entities so as**
17 **to permit them to make public performances of sound recordings by means of digital**
18 **audio transmissions through one or more authorized web sites; and**
- 19 **WHEREAS, a Covered Entity is defined as an eligible Originating Public Radio Station which is a**
20 **noncommercial terrestrial radio broadcast station that i) is licensed as such by the**
21 **Federal Communications Commission; ii) originates programming and is not solely**
22 **a repeater station; iii) is a member or affiliate of National Public Radio, American**
23 **Public Media, Public Radio International, or Public Radio Exchange, a member of the**
24 **National Federation of Community Broadcasters, or another public radio station that**
25 **is qualified to receive funding from the Corporation for Public Broadcasting pursuant**
26 **to its criteria; and**
- 27 **WHEREAS, KOHN FM is a noncommercial terrestrial radio broadcast station licensed to the**
28 **Tohono O'odham Nation (Nation), and a qualified public radio station receiving**

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1 funding from the CPB, which meets the definition of a Covered Entity as defined in the
2 Agreement; and

3 WHEREAS, Section 8.1 of the Agreement requires that the Agreement be governed by the laws of
4 the District of Columbia, that any actions or proceedings arising from this Agreement
5 be litigated in the United States District Court for the District of Columbia; and

6 WHEREAS, the Legislative Cultural Preservation and Domestic Affairs Committees have reviewed
7 a limited waiver of the Nation's sovereign immunity in accordance with, and subject
8 to the limitations of, the Webcasting Performance Agreement; and

9 WHEREAS, the interests of the Nation will be served by the Legislative Council approving a limited
10 waiver of the Nation's sovereign immunity in accordance with, and subject to the
11 limitations of, the terms of the Webcasting Performance Agreement.

12 NOW, THEREFORE, BE IT RESOLVED, that the Tohono O'odham Legislative Council hereby grants
13 a limited waiver of the sovereign immunity of the Nation, in accordance with, and
14 subject to the limitations of, the terms of the Webcasting Performance Agreement for
15 the period of January 1, 2011 through December 31, 2015, and shall not extend to any
16 other transactions or subjects.

17 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 06TH Day
18 of APRIL, 2011 at a meeting at which a quorum was present with a vote of 2,389.20 FOR; -0-
19 AGAINST; -0- NOT VOTING; and 206.30[07] ABSENT, pursuant to the powers vested in the Council
20 by Article VI, Section 1 (f) of the Constitution of the Tohono O'odham Nation, adopted by the
21 Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant
22 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June
23 18, 1934 (48 Stat. 984).

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25 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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29 Verlon M. Jose, Legislative Chairman

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31 15 day of April, 2011

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34 ATTEST:

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36 _____
37 Evonne Wilson, Legislative Secretary

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39 15 day of April, 2011.
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1 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham
2 Nation on the 15 day of April, 2011 at 11:36 o'clock, A.M.,
3 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective
4 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
5 submittal.
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7 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

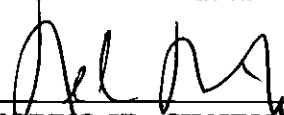
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11 **Verlon M. Jose, Legislative Chairman**
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15 **APPROVED**

16 on the 19 day of April, 2011

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18 **DISAPPROVED**

19 at 9:08 o'clock, A.M.

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23 **NED NORRIS, JR., CHAIRMAN**
24 **TOHONO O'ODHAM NATION**

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28 Returned to the Legislative Secretary on the 19 day of

29 April, 2011, at 10:20 o'clock, A.M.

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33 **Evonne Wilson, Legislative Secretary**
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ACTION: AUTHORIZING THE WEBCASTING PERFORMANCE AGREEMENT AND A LIMITED WAIVER OF SOVEREIGN IMMUNITY

MOVED: COUNCILMAN TIMOTHY JOAQUIN

SECOND: COUNCILWOMAN WAVALENE ROMERO

DATE: APRIL 06, 2011

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35	X			
	2. MARY LOPEZ ()	99.35	X			
SELLS 449.6	1. KIMBERLY MULL ()	224.80	X			
	2. EVELYN B. JUAN MANUEL ()	224.80	X			X
SCHUK TOAK 159.0	1. FRANCES B. CONDE (<i>Absent</i>) (Fredrick Jose) (<i>Present</i>)	79.50	X			
	2. NEDDIE BLAINE ()	79.50	X			
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35	X			
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55	X			
	2. GLORIA RAMIREZ ()	93.55	X			X
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X			X
	2. EDWARD MANUEL (Gerald Fayuant)	92.25	X			
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25	X			
	2. SANDRA ORTEGA ()	87.25	X			X
GU VO 206.3	1. GRACE MANUEL ()	103.15				X
	2. PAMELA ANGHILL (Angela Ortiz)	103.15				X
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	115.05	X			
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50	X			
	2. VERLON M. JOSE ()	138.50	X			X
BABOQUIVARI 324.0	1. FRANCES MIGUEL (<i>Absent</i>) (Roberta Harvey) (<i>Present</i>)	162.0	X			
	2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>)	162.0	X			
TOTAL		2,595.50	2,389.20	-0-	-0-	206.30 [07]