

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing the Corporation for Public Broadcasting's 5 Blanket Music
Licensing Agreements and a Limited Waiver of Sovereign Immunity)**

RESOLUTION NO. 24-157

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

6 **WHEREAS,** KOHN FM is a non-commercial terrestrial radio broadcast station licensed to the
7 Nation and is a qualified public radio station able to receive funding from the
8 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 the Nation has long desired to provide the broadcast programming of
11 KOHN FM to all of its members within and beyond its exterior boundaries; and

12 **WHEREAS,** in previous years, CPB, on behalf of public radio stations, has negotiated and
13 executed a Public Radio Webcasting License Agreement with SoundExchange;
14 Inc., with the previous term from January 1, 2014, through December 31, 2020,
15 which Agreement was approved by resolution 16-013; and

16 **WHEREAS,** CPB, on behalf of public radio stations, has successfully re-negotiated and
17 executed 5 blanket music licensing agreements ("Agreements") with The Harry
18 Fox Agency; the American Society of Composers, Authors and Publishers
19 ("ASCAP"); Broadcast Music Inc. ("BMI"); Global Music Rights LLC ("GMR"); and
20 SESAC LLC on behalf of public broadcasting system, for the term of January 1, 2023
21 through December 31, 2027; and

22 **WHEREAS,** the Agreements provide that CPB will pay the license fees for all Covered Entities
23 so as to permit them to make public performances of sound recordings by means
24 of digital audio transmissions through one or more authorized websites; and

25 **WHEREAS,** a Covered Entity is defined as an eligible Originating Public Radio Station which
26 is a noncommercial terrestrial radio broadcast station that i) is licensed as such
27 by the Federal Communications Commissions; ii) originates programming and is
28 not solely a repeater station; iii) is a member or affiliate of National Public Radio,
29 American Public Media, Public Radio International, or Public Radio Exchange, a
30 member of the National Federation of Community Broadcasters, or another
31 public radio station that is qualified to receive funding from the Corporation for
32 Public Broadcasting pursuant to its criteria; and

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1 **WHEREAS, KOHN FM is a noncommercial terrestrial radio broadcast station licensed to the**
2 **Nation, and a qualified public radio station receiving funding from the CPB,**
3 **which meets the definition of a Covered Entity as defined in the Agreements; and**
4 **WHEREAS, paragraph 11.7 of the Agreement with the ASCAP requires that a Dispute**
5 **Resolution Procedure be incorporated to allow the parties to resolve disputes in**
6 **accordance with the Commercial Mediation Procedures of the American**
7 **Arbitration Association, mediation shall take place in New York, New York; and**
8 **WHEREAS, paragraphs 16 of the Agreements with SESAC LLC and GMR LLC and paragraph**
9 **11.8 of the Agreement with the ASCAP require that the Agreement be governed by**
10 **and construed in accordance with the laws of the State of New York; and**
11 **WHEREAS, paragraph 13 of the Agreement with BMI requires that the Agreement be**
12 **governed and construed in accordance with the laws of the State of New York, that**
13 **the New York state and federal courts shall have sole jurisdiction on any**
14 **controversies regarding the Agreement; and**
15 **WHEREAS, the Legislative Cultural Preservation Committee has reviewed a limited waiver of**
16 **the Nation's sovereign immunity in accordance with, and subject to the**
17 **limitations of each of the 5 Agreements; and**
18 **WHEREAS, the interests of the Nation will be served by the Legislative Council approving a**
19 **limited waiver of the Nation's sovereign immunity in accordance with, and**
20 **subject to the limitations of, the terms of the 5 Agreements.**

21 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby grants**
22 **a limited waiver of sovereign immunity of the Nation, in accordance with, and**
23 **subject to the limitations of, the terms of the 5 Agreements for the period of**
24 **January 1, 2023 through December 31, 2027.**

25 **BE IT FINALLY RESOLVED that the 5 blanket licensing Agreements, as attached and**
26 **incorporated into this resolution, is hereby approved and accepted and that the**
27 **Chairman or designated official is authorized to execute the agreement.**

28 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 03RD**
29 **day of JUNE 2024 at a meeting at which a quorum was present with a vote of 3,071.5 FOR; -0-**
30 **AGAINST; -0- NOT VOTING; and 191.8 [05] ABSENT, pursuant to the powers vested in the Council**
31 **by Article VI, Section 1(f) of the Constitution of the Tohono O'odham Nation, adopted by the**
32 **Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
33 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
34 **18, 1934 (48 Stat.984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Wavalene M. Saunders
Wavalene M. Saunders, Legislative Chairwoman

6TH day of June, 2024

ATTEST:

Evonne Wilson
Evonne Wilson, Legislative Secretary

6 day of June, 2024

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 6TH day of June, 2024 at 3:36 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

Wavalene M. Saunders
Wavalene M. Saunders, Legislative Chairwoman

APPROVED

on the 10 day of June, 2024

DISAPPROVED

at 7:31 o'clock, p.m.

Verlon M. Jose
VERLON M. JOSE, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 10 day of

June, 2024, at 3:08 o'clock, p.m.

Evonne Wilson
Evonne Wilson, Legislative Secretary

ACTION: AUTHORIZING THE CORPORATION FOR PUBLIC BROADCASTING'S 5 BLANKET MUSIC LICENSING AGREEMENTS AND A LIMITED WAIVER OF SOVEREIGN IMMUNITY**MOVED: COUNCILWOMAN JANET B. ELEANDO****SECOND: COUNCILMAN JESSE NAVARRO****DATE: JUNE 03, 2024**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 394.2	1. LEANDER MASE (Francine Schooling) 2. JESSE NAVARRO (Alberta J. Ray)	197.1 197.1	X X			
CHUKUT KUK 354.7	1. VIVIAN JUAN-SAUNDERS (Cornelius Antone) 2. MARLAKAY HENRY ()	177.35 177.35	X X			
GUACHI 282.7	1. VICTORIA HOBBS (Tonya L. Joaquin) 2. TIMOTHY L. JOAQUIN (<i>Absent</i>) (Jerome F. Joaquin) (<i>Present</i>)	141.35 141.35	X X			
GUVO 276.0	1. DALLAS LEWIS () 2. LESLIE LUNA (Grace Manuel)	138.0 138.0	X X			
HICKIWAN 220.5	1. DELMA M. GARCIA () 2. LOUIS R. LOPEZ (Loretta A. Ortega)	110.25 110.25	X X			X
PISINEMO 236.2	1. EDWARD D. MANUEL (Monica Morgan) 2. PAMELA J. BENAVIDEZ (Nora J. Ruelas)	118.1 118.1	X X			X
SAN LUCY 257.6	1. ROGER MANUEL (Christina Andrews) 2. GLORIA M. RAMIREZ (Lorraine M. Eller)	128.8 128.8	X X			
SAN XAVIER 244.5	1. JANICE FELIX () 2. DANIEL L.A. PRESTON III ()	122.25 122.25	X X			
SCHUK TOAK 191.8	1. DELISA M. RAMON (Sharon A. Francisco) 2. THEORIA CAMPILLO (Rebecca Ann Valentine)	95.9 95.9				X X
SELLS 558.0	1. EVELYN JUAN-MANUEL (Arvada Liston) 2. JANET B. ELEANDO ()	279.0 279.0	X X			X
SIF OIDAK 247.1	1. LUCINDA ALLEN (Francis Homewytewa) 2. WAVALENE M. SAUNDERS (<i>Absent</i>) (Mary Lopez) (<i>Present</i>)	123.55 123.55	X X			
	TOTAL	3,263.30	3,071.5	-0-	-0-	191.8 [05]