LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Judgment in Contest of Initiative INT-01-14, "Dissolution of the Hia Ced District" Election)

LEGISLATIVE ORDER NO. 15-158

WHEREAS, the Constitution of the Tohono O'odham Nation provides that the "Council shall enact an election ordinance . . . which shall prescribe the qualifications of candidates, the registration requirements for voting and such other rules and procedures necessary to the orderly conduct of elections, including but not limited to procedures for validation of petitions and the settlement of any and all election disputes." (Constitution, Article X, Section 7); and

WHEREAS, the "decision of the Tohono O'odham Council in all election matters, including the eligibility and qualifications of candidates, shall be final." (Constitution, Article X, Section 7); and

WHEREAS, 12 T.O.C. Chapter 1 – Elections, Article IX establishes the procedure for settling election disputes by providing "any eligible voter of the Nation" with the opportunity to contest an election upon specific grounds, including misconduct on the part of the Election Board (Elections, Section 1901); and

WHEREAS, the Legislative Council is vested with jurisdiction over election contests alleging Election Board misconduct (Elections, Section 1905 Alternative Contest Procedure); and

WHEREAS, Elections, Section 1905(B) provides that the "Council will meet within 20 days after the receipt of the answer for the sole purpose of hearing the contest on the grounds of misconduct on the part of the Board or any member thereof, and shall decide the issue(s) raised in the contest statement on those grounds only."; and

WHEREAS, on April 25, 2015 the Election Board conducted an election for Initiative INT-01-14, "Dissolution of the Hia Ced District" and issued a certificate of election results recording 1346 "yes" votes for the Initiative and 1209 "no" votes against the Initiative, which included 15 votes for the Initiative and 149 votes against the Initiative that were cast by voters registered in the Hia-Ced District; and

WHEREAS, on May 1, 2015, the Election Board delivered to the Legislative Council secretary three contest statements filed by Nation's voters from the Hia-Ced District ("contestors") alleging Election Board misconduct in the Initiative INT-01-14, "Dissolution of the Hia Ced District" election; and

WHEREAS, on May 2, 2015 the Legislative Council secretary provided a written notice requiring the Election Board ("contestee") to file an answer to the contest statements (Elections, Section 1905(A)); and
WHEREAS, on May 5, 2015 by Legislative Order No. 15-130 the Legislative Council adopted amended Election Contest Hearing Procedures, and on the same date the Council secretary provided the contestors and contestee written notice of the hearing time, date, and location, and copies of the Hearing Procedures; and

WHEREAS, on May 6, 2015, the Election Board filed with the Council secretary and provided to the contestors a written answer to the contest statement; and

WHEREAS, on May 8, 2015 the contestors and contestee each filed their disclosures with the secretary and the contestee filed a written Motion for Partial Summary Judgment; and

WHEREAS, at the beginning of the hearing, the contestee's written Motion for Partial Summary Judgment was denied; and

WHEREAS, during the contest hearing, the contestors and contestee were given the opportunity to appear, testify, make opening statements, to call, question, and cross-examine witnesses, present evidence, make objections, make closing statements, and otherwise participate in the hearing; and

WHEREAS, at the conclusion of the hearing the presiding officer ordered a vote to determine whether the Initiative INT-01-14 election results should be certified or set aside based upon the proof or lack of proof of misconduct on the part of the Election Board or any member thereof.

NOW, THEREFORE, BE IT ORDERED by the Tohono O'odham Legislative Council that the April 25, 2015 election results for Initiative INT-01-14, "Dissolution of the Hia Ced District" election are CERTIFIED.

The foregoing Order was passed by the Tohono O'odham Legislative Council on the 11TH day of MAY, 2015 at a meeting at which a quorum was present with a vote of 2,207.25 CERTIFIED; 719.65 SET ASIDE; and [01] ABSENT, pursuant to the powers vested in the Council by Article V, Section 1; Article VI, Section 1; Article VI, subsections 1(a), 1(g), and 1(i); and Article X, 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 Joejnin, Legislative Chairman

15 day of May, 2015
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ATTEST:

Evonne Wilson, Legislative Secretary

15 day of May, 2015