RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Delegating Authority to Enter a Joint Project Agreement Between the San Xavier District and the Arizona Department of Transportation and Approving a Limited Waiver of the San Xavier District's Sovereign Immunity for the Mission Gateway Pathway Project)

RESOLUTION NO. 15-459

WHEREAS, the SAN XAVIER DISTRICT has been approved to receive Federal Transportation Enhancement funding through the Arizona Department of Transportation (ADOT) and the Regional Transportation Authority (RTA) for the design review and construction of the project named Mission Gateway Pathway, at a projected cost of $700,100; and

WHEREAS, the Transportation Enhancement program is administered by the Federal Highway Administration (FHWA) and application is made to ADOT through the Pima Association of Governments (PAG), in which an Agreement is entered into between ADOT and the District; and

WHEREAS, the District has negotiated an Agreement denominated JPA 11-048-I attached hereto, using ADOT’s standard form of Intergovernmental Agreement which calls for dispute resolution by arbitration, with a limited waiver of the District’s sovereign immunity in connection with that procedure; and

WHEREAS, the Tohono O'odham Legislative Council must give approval to the District to include a limited waiver of the District’s sovereign immunity in any contract to which the District is a party; and

WHEREAS, the San Xavier District Council, in its Resolution 10-15-6, requests approval from the Tohono O'odham Legislative Council to waive its sovereign immunity as limited by the terms of the JPA; and

WHEREAS, the Legislative Council considered and approved similar language in an ADOT contract with the San Xavier District in Resolution No. 15-402; and

WHEREAS, this matter has been reviewed by the Legislative Agricultural and Natural Resources Committee, which recommends that the Legislative Council confirm San Xavier District's authority to enter into the JPA.

NOW, THEREFORE, BE IT RESOLVED:

1. The Nation approves a limited waiver of the District's sovereign immunity to support the dispute resolution and indemnification provisions in the Joint Project Agreement JPA 11-0048-I between the San
RESOLUTION NO. 15-459
(Delegating Authority to Enter a Joint Project Agreement Between the San Xavier District and the Arizona Department of Transportation and Approving a Limited Waiver of the San Xavier District's Sovereign Immunity for the Mission Gateway Pathway Project)

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Xavier District and ADOT for the design review and construction of the project named Mission Gateway Pathway, which the District is hereby authorized to enter.

2. The Tohono O'odham Nation is not waiving the District's right to assert the defense of sovereign immunity except as expressly set forth, referred to, and provided for, in this resolution.

BE IT FINALLY RESOLVED that nothing in this resolution shall be construed as a waiver of the sovereign immunity of the Tohono O'odham Nation and any responsibility and liability, including financial liability, related to this project and the Agreement, shall remain with San Xavier District, and no responsibility or liability including financial liability shall fall upon the Tohono O'odham.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 18th day of November, 2015 at a meeting at which a quorum was present with a vote of 3,921.4 FOR; -0- AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(f) 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 Joaquim, Legislative Chairman

26 day of November, 2015

ATTEST:

Evonne Wilson, Legislative Secretary

20 day of December, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 02 day of November, 2015 at 10:48 o'clock, a.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.
RESOLUTION NO. 15-459
(Delegating Authority to Enter a Joint Project Agreement Between the San Xavier District and the Arizona Department of Transportation and Approving a Limited Waiver of the San Xavier District's Sovereign Immunity for the Mission Gateway Pathway Project)

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

[Signature]

Timothy Joaquin, Legislative Chairman

\[\checkmark\] APPROVED on the 20 day of November, 2015

at 2:15 o'clock, \_ m.

[Signature]

EDWARD D. MANUEL, CHAIRMAN

TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 20 day of

[Signature]

Evonne Wilson, Legislative Secretary
RESOLUTION NO. 15-459

ACTION: DELEGATING AUTHORITY TO ENTER A JOINT PROJECT AGREEMENT BETWEEN THE SAN XAVIER DISTRICT AND THE ARIZONA DEPARTMENT OF TRANSPORTATION AND APPROVING A LIMITED WAIVER OF THE SAN XAVIER DISTRICT'S SOVEREIGN IMMUNITY FOR THE MISSION GATEWAY PATHWAY PROJECT

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON
SECOND: COUNCILMAN LOUIS R. LOPEZ
DATE: NOVEMBER 18, 2015

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