RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing United States Customs and Border Protection to Perform Emergency
Maintenance and Repair Work on “Border Fence Road” and “Traditional Northern
Road” for an Additional Six Months)

RESOLUTION NO. 15-478

WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council
with the authority “to promote, protect and provide for public health, peace,
morals, education and general welfare of the Tohono O'odham Nation and its
members” and to “consult with the Congress of the United States and
appropriate federal agencies regarding federal activities that affect the Tohono
O'odham Nation...” (Constitution, Article VI, Section 1(c)(2) and Section 1(j)); and

WHEREAS, in 1854 the United States created a boundary with Mexico that cuts through
Tohono O'odham lands and has created the southern boundary of the
reservation of the Tohono O'odham Nation (“Nation”); and

WHEREAS, in 1907 President Theodore Roosevelt issued a Presidential Proclamation dated
May 27, 1907 which reserved a sixty-foot strip of land north of the international
boundary for customs enforcement purposes (the “Roosevelt Reservation”); and

WHEREAS, the Tucson Sector of the United States Border Patrol (“USBP”), as part of
Customs and Border Protection (“CBP”) of the Department of Homeland
Security, is responsible for securing the border along the International
Boundary with Mexico (“International Boundary”), including the areas in and
around the Nation's lands; and

WHEREAS, in 2004 the Nation authorized USBP to construct enforcement barriers and an
improved road that runs in proximity to the International Boundary mostly
within the sixty-foot Roosevelt Reservation, which was referred to in Resolution
No. 04-095 as the “All-Weather Road” and which USBP agreed to maintain
(Resolution No. 04-095, as amended by Resolution No. 14-518); and

WHEREAS, prior to construction of the improved road along the enforcement barrier, a
road existed in proximity to the border, that mostly runs just outside and north
of the Roosevelt Reservation; and

WHEREAS, by Resolution No. 14-472 and Resolution No. 14-518, the Nation agreed to
designate the improved road along the enforcement barrier as the “Border
Fence Road,” and the pre-existing road to the north as the “Traditional Northern
Road,” and those portions of the road where the Border Fence Road overlaps the
Traditional Northern Road as the Border Fence Road; and
RESOLUTION NO. 15-478
(Authorizing United States Customs and Border Protection to Perform Emergency Maintenance and Repair Work on “Border Fence Road” and “Traditional Northern Road” for an Additional Six Months)
Page 2 of 4

WHEREAS, CBP uses both the Border Fence Road and the Traditional Northern Road to patrol the international boundary; and

WHEREAS, CBP has performed a survey of the Traditional Northern Road for the purpose of defining all portions of road existing outside and north of the Roosevelt Reservation as described in Exhibit 1, the 70-page HDR Engineering, Inc. legal description dated 5-19-14, and in Exhibit 2, the 13-page HDR Engineering, Inc. “Record of Survey Tohono O’odham Nation/International Border All-Weather Road” map dated 01/2014, both of which are incorporated by this reference; and

WHEREAS, CBP is in the process of seeking a right-of-way for the Traditional Northern Road, but current road conditions require a temporary authorization for emergency road improvement work; and

WHEREAS, by Resolution No. 14-472, the Legislative Council approved a proposal by CBP for emergency repair and maintenance of the Border Fence Road and Traditional Northern Road for a six-month period that expired on May 4, 2015; and

WHEREAS, the Domestic Affairs and Agricultural and Natural Resources Committees recommend that the Nation extend the emergency repair and maintenance authority granted to CBP by Resolution No. 14-472 for an additional six months.

NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council that it authorizes CBP to perform emergency repair and maintenance of the Border Fence Road and Traditional Northern Road for an additional six months beginning on the effective date of this resolution; provided that:

1. CBP shall provide advance, written notice to the Nation’s Realty Office, Environmental Protection Office, Tribal Historic Preservation Office, Wildlife and Vegetation Management Program, Chukut Kuk District, and Gu Vo District before commencing repairs and maintenance.

2. All work is conducted in accordance with applicable federal and Nation’s laws, including environmental and cultural protections.

3. The emergency repair and maintenance operations do not expand the current footprint of the Traditional Northern Road.

4. CBP shall take all necessary precautions to prevent any harm or damage to the Nation’s natural and cultural resources, and as cultural resource sites significant to the Nation occur along the Border Fence Road and Traditional
RESOLUTION NO. 15-478
(Authorizing United States Customs and Border Protection to Perform Emergency Maintenance and Repair Work on “Border Fence Road” and “Traditional Northern Road” for an Additional Six Months)

Northern Road, any road maintenance and repair projects shall be reviewed by the Nation’s Tribal Historic Preservation Office before proceeding.

5. CBP shall also coordinate with the Wildlife and Vegetation Management Program when maintenance or repair work is being done in yellow-billed cuckoo, Sonoran pronghorn, lesser long-nosed bat, jaguar, and cactus ferruginous pygmy owl habitat to avoid disturbance to those species during breeding season.

The foregoing Resolution was passed by the Tohono O’odham Legislative Council on the 08TH day of DECEMBER, 2015 at a meeting at which a quorum was present with a vote of 2,399.75 FOR; 621.65 AGAINST; 0- NOT VOTING; and 03 ABSENT, pursuant to the powers vested in the Council by Article VI, Sections 1 (c)(2) and 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).

TOHONÔ O’ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

14TH day of DECEMBER, 2015

ATTEST:

Evonne Wilson, Legislative Secretary

14TH day of DECEMBER, 2015

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O’odham Nation on the 14TH day of DECEMBER, 2015 at 4:33 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.

TOHONÔ O’ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman
RESOLUTION NO. 15-478
(Authorizing United States Customs and Border Protection to Perform Emergency Maintenance and Repair Work on "Border Fence Road" and "Traditional Northern Road" for an Additional Six Months)

[ ] APPROVED
[ ] DISAPPROVED

on the 15 day of December, 2015
at 2:25 o'clock, p.m.

EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 15 day of
December, 2015, at 4:20 o'clock, p.m.

Evonne Wilson, Legislative Secretary
RESOLUTION NO. 15-478

ACTION: AUTHORIZING UNITED STATES CUSTOMS AND BORDER PROTECTION TO PERFORM EMERGENCY MAINTENANCE AND REPAIR WORK ON "BORDER FENCE ROAD" AND "TRADITIONAL NORTHERN ROAD" FOR AN ADDITIONAL SIX MONTHS

MOVED: COUNCILWOMAN ETHEL GARCIA
SECOND: COUNCILMAN BILLMAN LOPEZ
DATE: DECEMBER 08, 2015

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>LEGISLATIVE REPRESENTATIVES</th>
<th># OF VOTES</th>
<th>FOR</th>
<th>AGAINST</th>
<th>NOT VOTING</th>
<th>ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>BABOQUIVARI</td>
<td>1. FRANCES MIGUEL (Robertta E. Harvey)</td>
<td>183.60</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>367.2</td>
<td>2. VERNON J. SMITH (Gloria Zazueta)</td>
<td>183.60</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CHUKUT KUK</td>
<td>1. ETHEL GARCIA (Marlakay K. Henry)</td>
<td>166.05</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>332.1</td>
<td>2. BILLMAN LOPEZ (Patricia Vicenti)</td>
<td>166.05</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GUACHI</td>
<td>1. TIMOTHY L. JOAQUIN (Louis L. Johnson)</td>
<td>132.50</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>265.0</td>
<td>2. LORETTA LEWIS (Jeffery Antone, Sr.)</td>
<td>132.50</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GU VO</td>
<td>1. GRACE MANUEL (Dallas Lewis)</td>
<td>125.30</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>250.6</td>
<td>2. PAMELA ANGHILL (Jeffery Antone, Sr.)</td>
<td>125.30</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>HICKIWAN</td>
<td>1. LOUIS R. LOPEZ (Shirley Molina)</td>
<td>102.90</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>205.8</td>
<td>2. SANDRA ORTEGA (Shirley Molina)</td>
<td>102.90</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PISINEMO</td>
<td>1. CHESTER ANTOINE (Shirley Molina)</td>
<td>109.95</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>219.9</td>
<td>2. MONICA K. MORGAN (Jeffery Antone, Sr.)</td>
<td>109.95</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SAN LUCY</td>
<td>1. DIANA MANUEL (Shirley Molina)</td>
<td>113.25</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>226.5</td>
<td>2. JANA MONTANA (Glenda Ramirez)</td>
<td>113.25</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SAN XAVIER</td>
<td>1. DANIEL L.A. PRESTON III (Olivia Villegas-Liston)</td>
<td>114.30</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>228.6</td>
<td>2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)</td>
<td>114.30</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SCHUKTOAK</td>
<td>1. ANTHONY J. FRANCISCO JR. (John Fendelheim)</td>
<td>90.30</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>180.6</td>
<td>2. QUINTIN C. LOPEZ (John Fendelheim)</td>
<td>90.30</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SELLS</td>
<td>1. ARTHUR WILSON (Beverly Rivas)</td>
<td>256.75</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>513.5</td>
<td>2. BARBARA HAVIER (Shirley Molina)</td>
<td>256.75</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SIF OIDAK</td>
<td>1. LUCINDA ALLEN (Nicholas Jose)</td>
<td>115.80</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>231.6</td>
<td>2. MARY LOPEZ (Nicholas Jose)</td>
<td>115.80</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>3,021.4</td>
<td>2,399.75</td>
<td>621.65</td>
<td></td>
<td>[03]</td>
</tr>
</tbody>
</table>