

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Ratifying the Intergovernmental Agreement between San Xavier District and Pima County)

RESOLUTION NO. 19-062

1 **WHEREAS,** the Tohono O'odham Legislative Council is empowered "[t]o consult, negotiate
2 and conclude agreements and contracts on behalf of the Tohono O'odham Nation
3 with Federal, State and local governments and other Indian tribes or their
4 departments, agencies or political subdivisions, or with private persons or
5 organizations on all matters within the authority of the Tohono O'odham
6 Council" (Constitution of the Tohono O'odham Nation, Article VI, Section 1(f)); and

7 **WHEREAS,** pursuant to 26 T.O.C. Chapter 1, Article 4, Section 1402(D), intergovernmental
8 agreements shall require approval by action of the Legislative Council and
9 pursuant to 1 T.O.C. Chapter 2, Section 2101(C), any waiver of the sovereign
10 immunity of a District must be approved by resolution or other action of the
11 Legislative Council and must be limited by the clear and express terms of the
12 waiver; and

13 **WHEREAS,** certain roads within the San Xavier District need maintenance and repairs; and
14 **WHEREAS,** the San Xavier District entered into an intergovernmental agreement for
15 roadway maintenance with Pima County, Arizona ("the IGA"), which is
16 incorporated by this reference, on or about January 11, 2011; and

17 **WHEREAS,** the IGA includes a limited waiver of the District's sovereign immunity to allow for
18 enforcement of the IGA through an action for declaratory and/or injunctive relief
19 in the U.S. District Court; and

20 **WHEREAS,** the Legislative Council desires the roadway maintenance activities conducted by
21 Pima County, Arizona, pursuant to the IGA to continue; and

22 **WHEREAS,** the Tohono O'odham Nation Department of Planning and Economic
23 Development recommends ratification of the IGA by the Tohono O'odham
24 Legislative Council; and

25 **WHEREAS,** the Agricultural and Natural Resources Committee reviewed the IGA and
26 recommends ratification.

27 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council approves the
28 Intergovernmental Agreement between the San Xavier District and Pima County
29 for roadway maintenance effective retroactively to January 11, 2011.

30 **BE IT FURTHER RESOLVED** that the Tohono O'odham Legislative Council approves the limited
31 waiver of the San Xavier District's sovereign immunity contained in paragraph 17
32 of the IGA.

33 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that nothing in this
34 resolution or the IGA shall be construed as creating any interest in lands of the
35 Tohono O'odham Nation or as giving the consent of the Tohono O'odham Nation

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to the grant of any easement, right-of-way, or any other interest in land that the Tohono O'odham Nation has not previously approved or consented to.

BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that nothing in this resolution or the IGA shall be construed as a waiver of the sovereign immunity of the Tohono O'odham Nation or as giving the Nation's consent to the exercise of jurisdiction by the County of Pima or the State of Arizona over any lands of the Tohono O'odham Nation.

BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that any responsibility or liability, including financial liability, related to the IGA shall remain with the San Xavier District, and no responsibility or liability, including financial liability, shall fall upon the Tohono O'odham Nation.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08TH day of FEBRUARY, 2019 at a meeting at which a quorum was present with a vote of 2,875.6 FOR; -0- AGAINST; 209.0 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 Joaquin
Timothy Joaquin, Legislative Chairman

11 day of February, 2019

ATTEST:

Evonne Wilson

Evonne Wilson, Legislative Secretary

11 day of February, 2019

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 11 day of February, 2019 at 11:30 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

Timothy Joaquin
Timothy Joaquin, Legislative Chairman


on the 11 day of February, 2019

APPROVED

DISAPPROVED

at 2:25 o'clock, P.m.

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EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 12 day of
February, 2019, at 8:58 o'clock, a.m.



Evonne Wilson, Legislative Secretary

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ACTION: RATIFYING THE INTERGOVERNMENTAL AGREEMENT BETWEEN SAN XAVIER DISTRICT AND PIMA COUNTY

Moved: COUNCILWOMAN MONICA K. MORGAN

SECOND: COUNCILWOMAN JANICE FELIX

DATE: FEBRUARY 08, 2019

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 235.8	1. MARY LOPEZ ()	117.9	X			
	2. LUCINDA ALLEN (Yolonda Garcia)	117.9	X			
SELLS 527.2	1. ARTHUR WILSON <i>(Absent)</i> (Evelyn Juan Manuel) <i>(Present)</i>	263.6	X			X
	2. ADRIANNE TILLER (Idaleen Reyes)	263.6	X			
SCHUK TOAK 185.7	1. ANTHONY J. FRANCISCO JR. (Teresa F. Donahue)	92.85	X			
	2. QUINTIN C. LOPEZ (Agnes V. Joaquin)	92.85	X			
SAN XAVIER 232.3	1. DANIEL L.A. PRESTON III <i>(Absent)</i> (Felicia Nunez) <i>(Present)</i>	116.15	X			X
	2. JANICE FELIX ()	116.15	X			
SAN LUCY 231.1	1. JANA MONTANA <i>(Absent)</i> (Diana Manuel) <i>(Present)</i>	115.55	X			X
	2. GLORIA RAMIREZ (Lorraine Eiler)	115.55	X			
PISINEMO 225.9	1. CHESTER ANTONE <i>(Absent)</i> (Caroline D. Garcia) <i>(Present)</i>	112.95	X			
	2. MONICA K. MORGAN ()	112.95	X			
HICKIWAN 209.0	1. LOUIS R. LOPEZ <i>(Absent)</i> (Shirley Molina) <i>(Present)</i>	104.5			X	
	2. SANDRA D. ORTEGA ()	104.5			X	X
GU VO 256.9	1. GRACE MANUEL ()	128.45	X			
	2. DALLAS LEWIS (Nacho Flores)	128.45	X			
GU ACHI 270.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	135.45	X			
	2. LORETTA LEWIS (Victoria Hobbs)	135.45	X			
CHUKUT KUK 337.7	1. BILLMAN LOPEZ (Patricia Antone)	168.85	X			
	2. VIVIAN JUAN-SAUNDERS (Juanita Homer)	168.85	X			
BABOQUIVARI 372.1	1. FRANCES MIGUEL <i>(Absent)</i> (Roberta E. Harvey) <i>(Present)</i>	186.05	X			
	2. LEANDER MASE (Francine Schooling)	186.05	X			
TOTAL		3,084.6	2,875.6	-0-	209.0 [01]	[04]