

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Consenting to a Grant of Easement for Right-of-Way to the Bureau of Indian Affairs
for Federal Route 4202 located within the Cockleburr Community of the Sif Oidak
District and Consenting to a Waiver of Valuation and Compensation)

RESOLUTION NO. 17-166

1 **WHEREAS, the Tohono O'odham Legislative Council is authorized "to manage, protect,**
2 **preserve and regulate the use of the property...of the Tohono O'odham Nation"**
3 **and "to manage...or otherwise deal with lands, or interests in land...of the**
4 **Tohono O'odham Nation..." (Constitution of the Tohono O'odham Nation, Article**
5 **VI, Section 1(i)(2) and Section 2(d)); and**

6 **WHEREAS, the Tohono O'odham Nation ("Nation") has expressed a need to construct new public**
7 **roads and improve existing public roads within the Nation to promote the health, safety**
8 **and welfare of the public and stimulate economic development; and**

9 **WHEREAS, by Resolution No. 05-365, the Nation adopted a construction and improvement priority**
10 **listing that identified eligible roads which are not currently listed in the Indian**
11 **Reservation Road Inventory to be added to the inventory as Bureau of Indian Affairs**
12 **("BIA") roads; and**

13 **WHEREAS, by Resolution No. 05-365, the Nation further consented to the granting of a right-of-way**
14 **to the BIA for the construction and maintenance of the identified eligible roads,**
15 **pursuant to the submission and approval of the appropriate right-of-way documents;**
16 **and**

17 **WHEREAS, in response to the Nation, the BIA is proposing to construct 1.136 miles of roadway**
18 **under BIA Road Construction Project PIR Consolidated No. 30 that includes school bus**
19 **pullouts and a cul-de-sac at the end of IIR 4202 (the "Project") which is more specifically**
20 **described in Right-of-Way Drawing #P-420-1 which is attached hereto and**
21 **incorporated by this reference; and**

22 **WHEREAS, the BIA has requested that the Nation consent to a grant of easement for right-of-way to**
23 **the BIA for the proposed Project; and**

24 **WHEREAS, the BIA has submitted all the necessary right-of-way documents in accordance with 25**
25 **CFR Part 169 Rights-of-Way Over Indian Land ("Federal Regulations") which includes a**
26 **waiver of valuation and compensation for the proposed right-of-way and any temporary**
27 **construction easements that may be necessary to complete the Project and such waivers**
28 **are in the best interest of the Nation; and**

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1 **WHEREAS, the BIA, in accordance with the Federal Regulations, performed a satisfactory**
2 **archaeological survey and biological survey of the proposed right-of-way property, has**
3 **consulted with the Arizona State Historic Preservation Office, the United States Fish and**
4 **Wildlife Service, the Tohono O'odham Nation's Cultural Affairs Office and the Wildlife**
5 **and Vegetation Management Program, and has prepared an Environmental**
6 **Assessment and issued a Finding of No Significant Impact under the National**
7 **Environmental Policy Act of 1969; and**

8 **WHEREAS, the BIA also conducted a Section 7 formal consultation with the United States Fish and**
9 **Wildlife Service regarding potential impacts on endangered species from the project and**
10 **the Fish and Wildlife Service has issued a Biological Opinion which concludes that the**
11 **proposed Project is not likely to jeopardize the continued existence of the Cactus**
12 **Ferruginous Pygmy Owl or the Lesser Long-nosed Bat and will not cause an incidental take of**
13 **either species; and**

14 **WHEREAS, the BIA held meetings with the Sif Oidak District and the Cockleburr Community to**
15 **review the Project plans and take suggestions from community members and such**
16 **suggestions were incorporated by the BIA into the Project plan; and**

17 **WHEREAS, by Resolution No. SODC 17-002, the Sif Oidak District provided its support for the Project and**
18 **agrees to a waiver of valuation and compensation; and**

19 **WHEREAS, the Agricultural and Natural Resources Committee has reviewed the proposed Project and**
20 **its supporting documents and recommends that the Legislative Council consent to the**
21 **issuance of a right-of-way to the BIA for the Project and waive valuation and**
22 **compensation.**

23 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council consents**
24 **to the issuance of a right-of-way to the BIA for the Project as depicted in**
25 **Right-of-Way Drawing #P-420-1.**

26 **BE IT FURTHER RESOLVED that the Tohono O'odham Legislative Council waives valuation**
27 **and compensation for the proposed right-of-way and any temporary**
28 **construction easements that may be needed by the BIA to complete the**
29 **Project.**

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1 **BE IT FINALLY RESOLVED** that the Tohono O'odham Legislative Council requests that the
2 **Superintendent of the BIA, Papago Agency grant the right-of-way and any**
3 **necessary temporary construction easements that may be needed by the BIA to**
4 **complete the Project.**

5 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 24TH**
6 **day of APRIL, 2017 at a meeting at which a quorum was present with a vote of 3,021.4 FOR; -0-**
7 **AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**
8 **Article VI, Section 1(i)(2) and Section 2(d) of the Constitution of the Tohono O'odham Nation,**
9 **adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy**
10 **Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the**
11 **Act of June 18, 1934 (48 Stat.984).**

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13 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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18 **Timothy Joaquin, Legislative Chairman**

19 25 day of April, 2017

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23 **ATTEST:**

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26 **Evonne Wilson, Legislative Secretary**

27 25 day of April, 2017
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33 **Said Resolution was submitted for approval to the office of the Chairman of the Tohono**
34 **O'odham Nation on the 25 day of April, 2017 at 10:17 o'clock, a.m.,**
35 **pursuant to the provisions of Section 5 of Article VII of the Constitution and will become**
36 **effective upon his approval or upon his failure to either approve or disapprove it within 48**
37 **hours of submittal.**

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39 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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42 **Timothy Joaquin, Legislative Chairman**

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APPROVED

on the 25 day of April, 2017

DISAPPROVED

at 10:30 o'clock, A.m.


EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 25 day of

April, 2016, at 11:27 o'clock, a.m.


Evonne Wilson, Legislative Secretary

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ACTION: CONSENTING TO A GRANT OF EASEMENT FOR RIGHT-OF-WAY TO THE BUREAU OF INDIAN AFFAIRS FOR FEDERAL ROUTE 4202 LOCATED WITHIN THE COCKLEBURR COMMUNITY OF THE SIF Oidak DISTRICT AND CONSENTING TO A WAIVER OF VALUATION AND COMPENSATION

Moved: COUNCILWOMAN MARY LOPEZ

Second: VICE CHAIRWOMAN LUCINDA J. ALLEN

DATE: APRIL 24, 2017

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL (Roberta E. Harvey)	183.60	X			
	2. VERNON J. SMITH (Gloria Zazueta)	183.60	X			
CHUKUT KUK 332.1	1. ETHEL GARCIA (Marla Kay Henry)	166.05	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	166.05	X			
GUACHI 265.0	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.50	X			
	2. LORETTA LEWIS ()	132.50	X			
GU VO 250.6	1. GRACE MANUEL (Dallas Lewis)	125.30	X			
	2. PAMELA ANGHILL <i>(Absent)</i> (Jeffery Antone, Sr.) <i>(Present)</i>	125.30	X			
HICKIWAN 205.8	1. LOUIS R. LOPEZ (Shirley Molina)	102.90	X			
	2. SANDRA ORTEGA ()	102.90	X			
PISINEMO 219.9	1. CHESTER ANTONE (Caroline D. Garcia)	109.95	X			
	2. MONICA K. MORGAN ()	109.95	X			
SAN LUCY 226.5	1. DIANA MANUEL (Lorraine Eiler)	113.25	X			
	2. JANA MONTANA (Gloria Ramirez)	113.25	X			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III <i>(Absent)</i> (Felicia Nunez) <i>(Present)</i>	114.30	X			X
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.30	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. <i>(Absent)</i> (Teresa F. Donahue) <i>(Present)</i>	90.30	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.30	X			
SELLS 513.5	1. ARTHUR WILSON (Beverly Rivas)	256.75	X			
	2. BARBARA HAVIER (Idaleen Reyes)	256.75	X			
SIF Oidak 231.6	1. LUCINDA ALLEN ()	115.80	X			
	2. MARY LOPEZ ()	115.80	X			
TOTAL		3,021.4	3,021.4	-0-	-0-	[01]