

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving a Temporary Construction Easement for Right of Way to Construct
Highway 86 Improvements)

RESOLUTION NO. 05-467

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the authority "To consult,**
2 **negotiate and conclude agreements and contracts on behalf of the Tohono O'odham**
3 **Nation with Federal, State and local governments . . . on all matters within the**
4 **authority of the Tohono O'odham Council" (Constitution of the Tohono O'odham**
5 **Nation, Article VI, Section 1(f)); and**

6 **WHEREAS, the Arizona Department of Transportation ("ADOT") is currently constructing**
7 **improvements to sections of State Highway 86 crossing the Tohono O'odham Nation**
8 **as part of ADOT's Project No. 086-A(009) ("Highway 86 Project"); and**

9 **WHEREAS, ADOT has requested that the Nation enter into a "Grant of Temporary Construction**
10 **Easement for Right of Way" ("TCE Grant"), which is incorporated by this reference, in**
11 **order to allow ADOT to reconnect driveways, improve drainages, and construct**
12 **additional improvements necessary and incidental to the Highway 86 Project on**
13 **lands located within the Sells District of the Tohono O'odham Nation; and**

14 **WHEREAS, the proposed easement would include tribal lands in Section 25, Township 17 South,**
15 **Range 4 East, and unsurveyed Township 17 South, Range 5 East, Gila and Salt River**
16 **Meridian as indicated on Project No. 086-A(009) Plan Sheets, including five parcels of:**

- 17 **1. 5,610 sq. ft. (Plan Sheet No. 30)**
18 **2. 250 sq. ft. (Plan Sheet No. 38)**
19 **3. 16,000 sq. ft. (Plan Sheet No. 40)**
20 **4. 290 sq. ft. (Plan Sheet No. 44)**
21 **5. 33,235 sq. ft. (Plan Sheet No. 46); and**

22 **WHEREAS, pursuant to 25 U.S.C. § 324 and 25 C.F.R. § 169.3, no right-of-way may be granted**
23 **across tribal land without the prior written consent of the relevant tribe and the**
24 **proper tribal officials; and**

25 **WHEREAS, the Sells District Council has considered the TCE Grant and recommends its approval;**
26 **and**

27 **WHEREAS, the proposed TCE Grant does not waive the Nation's sovereign immunity and provides**
28 **that (1) the Easement will expire and terminate thirty days after the completion of the**

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(Approving a Temporary Construction Easement for Right of Way to Construct Highway 86 Improvements)
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1 Highway 86 Project and, furthermore, (2) the Easement shall otherwise be terminable
2 by the Nation in accordance with the terms of the TCE Grant and the applicable
3 provisions of 25 C.F.R. § 169.

4 NOW, THEREFORE, IT BE RESOLVED that the Tohono O'odham Legislative Council hereby approves
5 the TCE Grant and authorizes the Chairwoman of the Nation to execute all documents
6 necessary to approve and enter the Temporary Construction Easement described
7 therein.

8 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16TH. Day
9 of AUGUST, 2005 at a meeting at which a quorum was present with a vote of 1,993.3 FOR; -0-
10 AGAINST; 447.5 NOT VOTING; and [-0-] ABSENT, pursuant to the powers vested in the Council by
11 Sections 1 (f) and 2(d) of Article VI and Section 1 of Article XVI of the Constitution of the Tohono
12 O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by
13 the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to
14 Section 16 of the Act of June 18, 1934 (48 Stat. 984).

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16 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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20 Evelyn B. Juan Manuel, Legislative Chairwoman

21
22 17 day of August, 2005
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25 ATTEST:

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29 Lucille Lopez, Acting Legislative Secretary

30
31 17th day of August, 2005.
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33 Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono
34 O'Odham Nation on the 17 day of August, 2005 at 4:04 o'clock,
35 7 .M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become
36 effective upon her approval or upon her failure to either approve or disapprove it within 48 hours
37 of submittal.

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39 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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43 Evelyn B. Juan Manuel, Legislative Chairwoman
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APPROVED

on the 17th day of August, 2005

DISAPPROVED

at 4:37 o'clock, P.M.

Vivian Juan Saunders

**VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION**

Returned to the Legislative Secretary on the 17th day of
August, 2005, at 4:43 o'clock, P.M.

Lucille Lopez for:

Lucille Lopez, Acting Legislative Secretary

ACTION: APPROVING A TEMPORARY CONSTRUCTION EASEMENT FOR RIGHT OF WAY TO CONSTRUCT HIGHWAY 86 IMPROVEMENTS

MOVED: COUNCILMAN DENNIS JOSE

SECOND: COUNCILWOMAN FRANCES ANTONE

DATE: AUGUST 16, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35			X	
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80			X	
	2. CYNTHIA E. MANUEL ** (Louis L. Johnson)	110.80			X	
GU VO 193.1	1. RAYMOND VICTOR ()	96.55			X	
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			
	2. SANDRA ORTEGA ()	83.70	X			
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. DENNIS E. JOSE ()	210.50	X			
	2. EVELYN B. JUAN MANUEL ()	210.50	X			
SIF OIDAK 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35	X			
	2. DARLENÉ ANDREW (Rita Martinez)	93.35	X			
TOTAL		2,440.80	1,993.3	-0-	447.5	[-0-]

**PASSED VOTES