

**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)**

RESOLUTION NO. 15-402

1 **WHEREAS, the Arizona Department of Transportation (ADOT) owns a right of way for a**
2 **portion of Interstate 19 across the San Xavier District of the Tohono O'odham**
3 **Nation, and being responsible for maintaining said right of way, plans to remove**
4 **trees and any other woody vegetation therefrom; and**

5 **WHEREAS, the San Xavier District (District) has identified the mesquite as culturally**
6 **significant, and has requested ADOT to preserve cleared mesquite wood for the**
7 **use and benefit of community members; and**

8 **WHEREAS, ADOT has agreed to cut and deliver useable mesquite to the District at locations**
9 **to be determined by the District; and**

10 **WHEREAS, ADOT has requested in its Joint Project Agreement (JPA) 15-0005145 that the**
11 **District provide for dispute resolution by arbitration, and a limited waiver of the**
12 **District's sovereign immunity in connection with that procedure; and**

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

16 **WHEREAS, the San Xavier District Council, in its Resolution 15-9-1, requests approval from**
17 **the Tohono O'odham Legislative Council to waive its sovereign immunity as**
18 **limited by the terms of the JPA; and**

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

22 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that:**

- 23 **1. The Nation approves a limited waiver of the District's sovereign immunity to**
24 **support the dispute resolution and indemnification provisions in the Joint**
25 **Project Agreement JPA15-0005145 between the San Xavier District and ADOT**
26 **for the cutting of trees on the State's right of way along I-19 in the San Xavier**
27 **District, which the District is hereby authorized to enter.**

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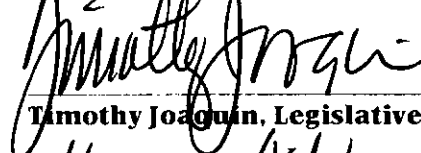
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1 2. The Tohono O'odham Nation is not waiving the District's right to assert the
2 defense of sovereign immunity except as expressly set forth, referred to, and
3 provided for, in this resolution.

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

9 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 14TH
10 day of OCTOBER, 2015 at a meeting at which a quorum was present with a vote of 3,021.4 FOR;
11 -0- AGAINST; -0- NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the Council by
12 Article VI, Section 1(f) of the Constitution of the Tohono O'odham Nation, adopted by the
13 Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant
14 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of
15 June 18, 1934 (48 Stat.984).

16 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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20 Timothy Joaquin, Legislative Chairman

21 16 day of October, 2015

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26 ATTEST:

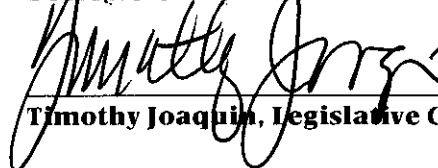
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29 Evonne Wilson, Legislative Secretary

30 16 day of October, 2015

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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 16 day of October, 2015 at 3:50 o'clock, P.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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40 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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44 Timothy Joaquin, Legislative Chairman

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APPROVED

on the 20 day of October, 2015

DISAPPROVED

at 9:25 o'clock, A.m.


EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 20 day of

October, 2015, at 9:43 o'clock, a.m.


Evonne Wilson, Legislative Secretary

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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

Moved: COUNCILWOMAN OLIVIA VILLEGAS-LISTON SECOND: COUNCILMAN ANTHONY J. FRANCISCO JR.

DATE: OCTOBER 14, 2015

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 (Marlakay K. Henry)	166.05	X			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			X
GUVO 250.6	1. GRACE MANUEL (<i>Absent</i>) (Dallas Lewis) (<i>Present</i>)	125.3	X			
	2. PAMELA ANGHILL (<i>Absent</i>) (Jeffery Antone, Sr.) (<i>Present</i>)	125.3	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 ()	109.95	X			
	2. MONICA K. MORGAN ()	109.95	X			X
SAN LUCY 226.5	1. DIANA MANUEL ()	113.25	X			
	2. JANA MONTANA (Gloria Ramirez)	113.25	X			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III (<i>Absent</i>) (Gene Enis) (<i>Present</i>)	114.3	X			X
	2. RACHEAL VILSON-STONER (<i>Absent</i>) (Olivia Villegas-Liston) (<i>Present</i>)	114.3	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. (Theresa Donahue)	90.3	X			
	2. QUINTIN C. LOPEZ (<i>Absent</i>) (John Fendenheim) (<i>Present</i>)	90.3	X			X
SELLS 513.5	1. ARTHUR WILSON (Beverly Rivas)	256.75	X			
	2. BARBARA HAVIER ()	256.75	X			
SIF Oidak 231.6	1. LUCINDA ALLEN (Nicholas Jose)	115.80	X			
	2. MARY LOPEZ ()	115.80	X			
TOTAL		3,021.4	3,021.4	-0-	-0-	[05]