

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Approving the attached Encroachment Permit Application submitted by the Tohono O'odham Utility Authority for an encroachment for utility purposes upon a right-of-way issued by Bureau of Indian Affairs for BIA Route 301-2 at a location within the San Xavier District, and approving the work described therein)**

**RESOLUTION NO. 16-026**

1 **WHEREAS, Article XVI, Section 1, of the Constitution of the Tohono O'odham Nation**  
2 **provides that control and management of the lands of the Tohono O'odham**  
3 **Nation ("Nation") are vested in the Legislative Council of the Nation; and**

4 **WHEREAS, the Nation has approved the issuance of a right-of-way to the Bureau of Indian**  
5 **Affairs ("BIA") for BIA Route 301-2 ("BIA ROW"), which includes that portion of**  
6 **Route 301-2 that passes through the San Xavier District; and**

7 **WHEREAS, the Tohono O'odham Utility Authority ("TOUA") has proposed a project**  
8 **("Project") that will upgrade the existing pipeline that provides water service to**  
9 **the San Xavier Plaza ("Plaza") located within the San Xavier District; and**

10 **WHEREAS, in order to provide such service and commence the Project, TOUA will need to**  
11 **cross the BIA ROW at the locations specified in the maps incorporated into its**  
12 **Encroachment Permit Application which is attached hereto and incorporated**  
13 **herein by this reference; and**

14 **WHEREAS, the BIA will not allow TOUA to do any work within a right-of-way issued to the BIA**  
15 **until an encroachment permit has been issued; and**

16 **WHEREAS, the BIA has provided, and TOUA has completed, the attached Encroachment**  
17 **Permit Application for such encroachment permit; and**

18 **WHEREAS, information which must be submitted with the Encroachment Permit**  
19 **Application includes, among other things, a resolution from the Nation**  
20 **approving the Encroachment Permit Application; and**

21 **WHEREAS, the Encroachment Permit Application, which does not cite to or incorporate any**  
22 **provision of federal law or the Code of Federal Regulations, requires that the**  
23 **approving resolution expressly state that "the tribe agrees with the work**  
24 **described in the permit request"; and**

25 **WHEREAS, in 1971, the San Xavier District passed an unnumbered resolution**  
26 **("Resolution"), a copy of which is attached hereto and incorporated herein by**  
27 **this reference, pursuant to which the San Xavier District accepted "...all San**  
28 **Xavier village sanitation facilities from the U.S. Public Health Service..."; and**

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1 **WHEREAS, the line to be upgraded in this Project is part of the village sanitation facilities**  
2 **accepted by the San Xavier District pursuant to the Resolution; and**

3 **WHEREAS, the Agricultural and Natural Resources Committee has reviewed the**  
4 **Encroachment Permit application with supporting documents, and**  
5 **recommends approval by the Legislative Council.**

6 **NOW, THEREFORE, BE IT RESOLVED by the Legislative Council that it does hereby approve the**  
7 **attached proposed Encroachment Permit Application, prepared by TOUA, which**  
8 **is required by the BIA for TOUA to perform work within the right-of-way issued**  
9 **to the BIA for BIA Route 301-2.**

10 **BE IT FINALLY RESOLVED that the Legislative Council, which is vested by the Nation's**  
11 **Constitution with the authority to manage the Nation's lands, approves the work**  
12 **described in the attached Encroachment Permit Application.**

13 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 13<sup>TH</sup>**  
14 **day of JANUARY, 2016 at a meeting at which a quorum was present with a vote of 3,021.4 FOR;**  
15 **-0- AGAINST; -0- NOT VOTING; and -0- ABSENT, pursuant to the powers vested in the Council by**  
16 **Section 1 of Article XVI of the Constitution of the Tohono O'odham Nation, adopted by the**  
17 **Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**  
18 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of**  
19 **June 18, 1934 (48 Stat.984).**

20  
21 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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25 **Timothy Joaquin, Legislative Chairman**

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27 **15 day of January, 2016**

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31 **ATTEST:**

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34 **Evonne Wilson, Legislative Secretary**

35  
36 **15 day of January, 2016**  
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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 15 day of January, 2016 at 10:30 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.

**TOHONO O'ODHAM LEGISLATIVE COUNCIL**

  
\_\_\_\_\_  
Timothy Joaquin, Legislative Chairman

**APPROVED**

on the 15 day of January, 2016

**DISAPPROVED**

at 10:36 o'clock, A.m.

  
\_\_\_\_\_  
EDWARD D. MANUEL, CHAIRMAN  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 15 day of

January, 2016, at 10:50 o'clock, a.m.

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

**ACTION: APPROVING THE ATTACHED ENCROACHMENT PERMIT APPLICATION SUBMITTED BY THE TOHONO O'ODHAM UTILITY AUTHORITY FOR AN ENCROACHMENT FOR UTILITY PURPOSES UPON A RIGHT-OF-WAY ISSUED BY BUREAU OF INDIAN AFFAIRS FOR BIA ROUTE 301-2 AT A LOCATION WITHIN THE SAN XAVIER DISTRICT, AND APPROVING THE WORK DESCRIBED THEREIN**

**Moved: COUNCILMAN BILLMAN LOPEZ**

**SECOND: VICE CHAIRWOMAN RACHEAL VILSON-STONER**

**DATE: JANUARY 13, 2016**

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			
	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 (Jeffery Antone, Sr.)	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 ( )	109.95	X			
	2. MONICA K. MORGAN ( )	109.95	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 ( )	114.30	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.30	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. ( )	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 ( )	256.75	X			
SIF OIDAK 231.6	1. LUCINDA ALLEN (Nicholas Jose)	115.80	X			
	2. MARY LOPEZ ( )	115.80	X			
<b>TOTAL</b>		<b>3,021.4</b>	<b>3,021.4</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>