

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Granting a Right to Utility Alignment to Tohono O'odham Utility Authority**  
**for construction of the Ak Chin Arsenic Regionalization Project located**  
**within the Gu Achi District)**

**RESOLUTION NO. 16-064**

1 **WHEREAS, by Resolution No. 08-70 the Papago Tribe (now called the Tohono O'odham**  
2 **Nation ("Nation")) established the Papago Tribal Utility Authority (now called the**  
3 **Tohono O'odham Utility Authority ("TOUA")), to be an enterprise wholly owned**  
4 **by the Nation, for purposes of constructing, maintaining and operating various**  
5 **utility systems with the Nation; and**

6 **WHEREAS, by Resolution No. 91-175 the Nation adopted the Second Restated Plan of**  
7 **Operation for TOUA which requires TOUA to submit for prior review and**  
8 **approval of the Tohono O'odham Legislative Council and the prior written**  
9 **consent of each affected district any proposed utility system, line or facility; and**

10 **WHEREAS, TOUA requests permission to build and operate the Ak Chin Arsenic**  
11 **Regionalization Project and appurtenances (collectively, the "Project") on the**  
12 **Nation's land between the Ak Chin and Santa Rosa communities within the Gu**  
13 **Achi District; and**

14 **WHEREAS, the Project is funded under the Safe Drinking Water Act ("SDWA") Tribal Set-**  
15 **Aside Program through the U.S. Environmental Protection Agency ("EPA"),**  
16 **Region 9, to assist tribes with making improvements to their public drinking**  
17 **water system infrastructure with direct grants awarded to tribes or interagency**  
18 **agreements with the Indian Health Service ("IHS"); and**

19 **WHEREAS, EPA's Tribal Set-Aside Program is being used to fund the Greater Santa Rosa**  
20 **Regionalization Water System's ("GSRRWS") Arsenic Regionalization Project to**  
21 **address higher than average arsenic levels found within in the Gu Achi District,**  
22 **specifically within the Santa Rosa area and the adjacent community of Ak Chin ,**  
23 **in addition to the Archie Hendricks Nursing Home; and**

24 **WHEREAS, the overall plan is to construct and replace a new water main that will intertie**  
25 **both the Archie Hendricks Nursing Home and the Ak Chin Community water**  
26 **systems to the Greater Santa Rosa Regional Water System ("GSRRWS") that**  
27 **includes replacement of the temporary arsenic pilot treatment plant with a**  
28 **permanent treatment plant to bring both areas into compliance with EPA's**  
29 **Arsenic Rule; and**

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1 **WHEREAS, TOUA has provided legal descriptions and a Map of Definite Location for the**  
2 **Project which encompasses approximately 51.91 acres of land and such legal**  
3 **descriptions and Map of Definite Location are attached hereto and incorporated**  
4 **herein by this reference; and**

5 **WHEREAS, the Project is funded through the Indian Health Service and will be constructed**  
6 **by TOUA, which will own and operate the Project; and**

7 **WHEREAS, the Project will be of substantial benefit to the Ak Chin Community, and its**  
8 **members, and the Archie Hendricks Sr. Skilled Nursing Facility; and**

9 **WHEREAS, the Gu Achi District Council approved the proposed Project on February 11,**  
10 **2011, by District Council Resolution No. 211-399; and**

11 **WHEREAS, the Nation's Realty Office, in conjunction with the Nation's Office of Attorney**  
12 **General, has developed preliminary procedures entitled Process for**  
13 **Recordation of TOUA's Utility Corridors on the Nation's Lands—IHS Projects**  
14 **("Utility Alignment Procedures") that would grant TOUA a "utility alignment,"**  
15 **which would vest TOUA with the right to construct the Project; and**

16 **WHEREAS, the Nation's Realty Office, the Nation's Attorney General, Indian Health Service,**  
17 **and TOUA have all reviewed the Utility Alignment Procedures and have agreed to**  
18 **use the Utility Alignment Procedures, dated April 1, 2015, for a period of one**  
19 **year to see if these procedures address some of the documentation and**  
20 **recordation issues that have been encountered by various TOUA projects; and**

21 **WHEREAS, the Project area has been reviewed and approved by the Nation's Cultural Affairs**  
22 **Office, on June 9, 2014, and by the Nation's Wildlife and Vegetation Management**  
23 **Office, on May 6, 2015; and**

24 **WHEREAS, the Agricultural and Natural Resources Committee has reviewed the Project**  
25 **utility alignment, the Project's supporting documents and its scope of work and**  
26 **the Committee recommends approval by the Legislative Council.**

27 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council grants to**  
28 **TOUA a right to utility alignment for the requested Project to be constructed**  
29 **between the Ak-Chin Community and the Santa Rosa Community, located within**  
30 **the Gu Achi District, provided that TOUA will submit to the Nation's Realty Office**  
31 **an acceptable Application for Utility Alignment with all documentation required**

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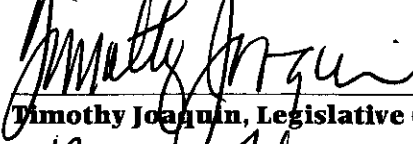
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1 by the Application and a survey grade Map of Definite Location, prepared in  
2 accordance with 25 CFR §169.10 and 25 CFR §169.6(d) as these sections may be  
3 amended from time to time, certified by a registered professional engineer or  
4 an Arizona Registered Land Surveyor.

5 **BE IT FINALLY RESOLVED** that the Tohono O'odham Legislative Council hereby grants approval  
6 of any encroachment permits for this Project, including future individual  
7 services installed on the system, which may be granted by the Bureau of Indian  
8 Affairs pursuant to federal regulations to allow the utility alignment or service  
9 lines to individual customers to cross roads constructed by the Bureau of Indian  
10 Affairs.

11 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 11<sup>TH</sup>  
12 day of FEBRUARY, 2016 at a meeting at which a quorum was present with a vote of 3,021.4 FOR;  
13 -0- AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by  
14 Section 2(d) of Article VI, of the Constitution of the Tohono O'odham Nation, adopted by the  
15 Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant  
16 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of  
17 June 18, 1934 (48 Stat.984).

18  
19 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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23 Timothy Joaquin, Legislative Chairman

24 12 day of February, 2016  
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30 ATTEST:

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33 Evonne Wilson, Legislative Secretary

34 12 day of February, 2016  
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38 Said Resolution was submitted for approval to the office of the Chairman of the Tohono  
39 O'odham Nation on the 12 day of February, 2016 at 4:27 o'clock, P .m.,  
40 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become  
41 effective upon his approval or upon his failure to either approve or disapprove it within 48  
42 hours of submittal.  
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**TOHONO O'ODHAM LEGISLATIVE COUNCIL**



**Timothy Joaquin, Legislative Chairman**

**APPROVED**

on the 16 day of February, 2016

**DISAPPROVED**

at 10:34 o'clock, A.m.



**EDWARD D. MANUEL, CHAIRMAN  
TOHONO O'ODHAM NATION**

**Returned to the Legislative Secretary on the 16 day of**

February, 2016, at 11:33 o'clock, a.m.



**Evonne Wilson, Legislative Secretary**

**ACTION: GRANTING A RIGHT TO UTILITY ALIGNMENT TO TOHONO O'ODHAM UTILITY AUTHORITY FOR CONSTRUCTION OF THE AK CHIN ARSENIC REGIONALIZATION PROJECT LOCATED WITHIN THE GUACHI DISTRICT**

**MOTION: COUNCILWOMAN LORETTA LEWIS**

**SECOND: COUNCILMAN BILLMAN LOPEZ**

**DATE: FEBRUARY 11, 2016**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL (Roberta E. Harvey)	183.60	X			X
	2. VERNON J. SMITH ( <i>Absent</i> ) (Gloria Zazueta) ( <i>Present</i> )	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			X
	2. SANDRA ORTEGA ( )	102.90	X			
PISINEMO 219.9	1. CHESTER ANTONE ( )	109.95	X			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 ( <i>Absent</i> ) (John Fendenheim) ( <i>Present</i> )	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>[03]</b>