

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving the Installation of a Shade Canopy by the United States Customs and
Border Protection for Checkpoint Station on BIA Indian Reservation Road 15)

RESOLUTION NO. 16-395

1 **WHEREAS, Article XVI, Section 1, of the Constitution of the Tohono O'odham Nation (the**
2 **"Nation") provides that the unallotted lands of the Nation "shall be held as**
3 **national lands forever" and are under the control and management of the**
4 **Legislative Council; and**

5 **WHEREAS, the Legislative Council has a duty "to manage, protect, preserve and regulate the**
6 **use of the property, wildlife, land, air and natural resources (including surface**
7 **and ground waters) of the Tohono O'odham Nation" (Constitution, Article VI,**
8 **Section 1(i)(2)); and**

9 **WHEREAS, the Nation has approved the issuance of a right-of-way to the Bureau of Indian**
10 **Affairs (BIA) for Indian Reservation Road (IRR) 15, which includes that portion of**
11 **Route 15 that passes through national lands within the Sif Oidak District; and**

12 **WHEREAS, the United States Customs and Border Protection (CBP) has received prior**
13 **approval from the Nation through Legislative Council Resolution No. 10-388 to**
14 **establish a tactical checkpoint station located on the BIA IRR 15 and IRR 42,**
15 **specifically at mile marker 30, which included the approval for the BIA**
16 **Transportation Division to issue an Encroachment Permit to CBP for a five-year**
17 **period; and**

18 **WHEREAS, upon approval by the Nation, the BIA's Transportation Division issued**
19 **Encroachment Permit No. 2010-0016 for the establishment of CBP's checkpoint**
20 **station for a five-year period which was extended for a second five-year period**
21 **through Legislative Council Resolution No. 15-324; and**

22 **WHEREAS, in accordance with the terms and conditions described in Tohono O'odham**
23 **Legislative Council Resolution No. 15-324, Resolution No. 08-399, and Resolution**
24 **No. 07-679 CBP must request and receive authorization from the Legislative**
25 **Council prior to installing buildings or otherwise establishing IRR 15 tactical**
26 **checkpoint infrastructure that is not readily removable, including but not**
27 **limited to telephone, electricity and other utility delivery systems; and**

28 **WHEREAS, CBP has proposed to construct a canopy as a means to improve the work**
29 **environment and safety for agents at the IRR 15 checkpoint station, and which**

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1 will allow the checkpoint station to maintain consistent operations during
2 weather events; and

3 **WHEREAS,** the canopy will be built within the footprint of CBP's current checkpoint
4 location, as established under BIA Transportation's Encroachment Permit No.
5 2010-0016 for IRR 15, until such time the permit expires or there is no longer a
6 need for the canopy, at which time it shall be dismantled and removed from the
7 checkpoint area; and

8 **WHEREAS,** CBP has provided sufficient documentation for the project that includes canopy
9 specifications, site map, cultural and biological clearances; and

10 **WHEREAS,** Sif Oidak District and Gu Achi District were consulted by CBP on the canopy
11 proposal and adopted resolutions supporting the installation; and

12 **WHEREAS,** the Domestic Affairs and the Agricultural and Natural Resources Committees
13 have reviewed the canopy proposal and recommend approval by the Legislative
14 Council.

15 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council approves
16 installation of the CBP shade canopy to be constructed at the CBP checkpoint
17 station located within the road right-of-way for IRR 15 at mile marker 30, which
18 shall be made a part of the current BIA Encroachment Permit No. 2010-0016;
19 provided that the Nation reserves the right to revoke approval by subsequent
20 resolution, and further provided that the CBP personnel shall:

21 (1) consult and coordinate with the Nation's Department of Public Safety
22 (TODPS) to the maximum extent possible, and work with a liaison
23 appointed by the TODPS Director to provide public information and
24 address concerns; and

25 (2) respect the human and civil rights of the Nation's members and respond
26 in a timely manner to concerns regarding these issues; and

27 (3) minimize any environmental impacts of CBP operations by not
28 destroying vegetation, littering, or otherwise injuring the Nation's lands,
29 including by not widening, or otherwise expanding existing roads without
30 the advance, written consent of the Legislative Council; and

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- (4) consult with the Nation's Cultural Affairs Office to prevent damage to cultural sites and with districts and communities to prevent any interruption of traditional ceremonies or celebrations and to immediately notify the Cultural Affairs Office upon gaining knowledge of any such damage that might occur; and**
- (5) refrain from harassing the Tohono O'odham and comply with all applicable federal laws, including but not limited to those governing searches, seizures, vehicle and other stops; and**
- (6) with Legislative Council approval, consider improving existing roads serving the Nation's members and its communities as a means of improving community relations, lawful transportation, communications, and access; and**
- (7) remove vehicles abandoned by smugglers and drug traffickers but refrain from destroying or unnecessarily damaging such vehicles, which are often stolen from the Nation's members or other innocent victims; and**
- (8) request and receive authorization from the Legislative Council prior to installing buildings or otherwise establishing Route 15 tactical checkpoint infrastructure that is not readily removable, including but not limited to telephone, electricity and other utility delivery systems; and**
- (9) report on IRR 15 checkpoint operations on a regular basis as requested by the Nation's Chairperson or the Legislative Chairperson, and on a monthly basis to the Domestic Affairs Committee and the Sif Oidak District Council; and**
- (10) generate and present a written annual report on IRR 15 checkpoint operations to the Legislative Council.**

BE IT FURTHER RESOLVED by the Legislative Council that CBP shall not install any temporary or permanent infrastructure or technology, or otherwise disturb any Nation's lands outside the area covered by the Encroachment Permit without Legislative Council approval.

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 05TH day of AUGUST, 2016 at a meeting at which a quorum was present with a vote of 3,021.4 FOR; -0- AGAINST; -0- NOT VOTING; and [03] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(i)(2) and Article XVI, Section 1 of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin

Timothy Joaquin, Legislative Chairman

5 day of August, 2016

ATTEST:

Evonne Wilson

Evonne Wilson, Legislative Secretary

5 day of August, 2016

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 6 day of August, 2016 at 4:15 o'clock, P.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

Timothy Joaquin, Legislative Chairman

APPROVED

on the 9 day of August, 2016

DISAPPROVED

at 9:32 o'clock, A.m.

Edward D. Manuel

EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 9 day of

August, 2016, at 10:12 o'clock, a.m.


Evonne Wilson, Legislative Secretary

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ACTION: APPROVING THE INSTALLATION OF A SHADE CANOPY BY THE UNITED STATES CUSTOMS AND BORDER PROTECTION FOR CHECKPOINT STATION ON BIA INDIAN RESERVATION ROAD 15

Moved: COUNCILWOMAN LUCINDA ALLEN

SECOND: COUNCILWOMAN MARY LOPEZ

DATE: AUGUST 05, 2016

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL <i>(Absent)</i> (Roberta E. Harvey) <i>(Present)</i>	183.60	X			
	2. VERNON J. SMITH <i>(Absent)</i> (Gloria Zazueta) <i>(Present)</i>	183.60	X			
CHUKUT KUK 332.1	1. ETHEL GARCIA <i>(Absent)</i> (Marlakay K. Henry) <i>(Present)</i>	166.05	X			
	2. BILLMAN LOPEZ <i>(Absent)</i> (Patricia Vicenti) <i>(Present)</i>	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 <i>(Absent)</i> (Dallas Lewis) <i>(Present)</i>	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 <i>(Absent)</i> (Gloria Ramirez) <i>(Present)</i>	113.25	X			X
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III ()	114.3	X			X
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.3	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. ()	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 ODAK 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-	[03]