RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Consenting to Grants of Easement for Rights-of-Way across Nation's lands for the United States Customs and Border Protection's Integrated Fixed Tower Project)

RESOLUTION NO. 19-088

WHEREAS, "The unallotted lands of the Tohono O'odham Nation and all lands hereafter acquired by the nation, or held for the use of the nation or its members, are a valuable public resource and shall be held as national lands forever. Control and management thereof are vested in the Tohono O'odham Council, which may enact laws governing the use, assignment, permit, lease or other disposition of lands, interests in land and resources of the nation consistent with Federal law." (Constitution of the Tohono O'odham Nation, Article XVI, Section 1); and

WHEREAS, the Legislative Council has a duty "to manage, protect, preserve and regulate the use of the property, wildlife, land, air and natural resources (including surface and ground waters) of the Tohono O'odham Nation" and to "administer land and other public property, and by law, ordinance or resolution . . . to prevent the sale, disposition, lease, use or encumbrance of Tohono O'odham national lands, interests in lands, rights-of-way, or other public resources when such sale, disposition, lease, use or encumbrance will, in the opinion of the Tohono O'odham Council, be injurious to the best interests of the Tohono O'odham Nation as a whole" (Constitution, Article VI, Section 1(i)(1) and (2)); and

WHEREAS, uses of unallotted national lands by federal agencies must be approved by Legislative Council resolution, Nation's law, or a lease or other agreement authorized or approved by the Legislative Council, and the Council is accordingly empowered to "consult, negotiate and conclude agreements and contracts on behalf of the Tohono O'odham Nation" with federal agencies and to consult with "appropriate federal agencies regarding federal activities that affect the Tohono O'odham Nation" (Constitution, Article VI, Section 1(i) and (j)); and

WHEREAS, when federal agencies propose uses of national lands, the Legislative Council strongly supports consultation with affected members, communities, and districts before the Council considers approving any proposed use; and

WHEREAS, unlike national forests, wilderness areas, and other federal lands on the international boundary dividing the United States and Mexico, the Nation's reservation is not public land, and the Nation has a duty to ensure that tribal members' interests and the Nation's jurisdiction to perform its constitutional obligations are protected; and

WHEREAS, the duty to protect Nation's lands, its jurisdiction, and members' interests, including in the Nation's dealings with the United States Customs and Border Protection ("CBP"), is consistent with the Department of Homeland Security's
RESOLUTION NO. 19-088
(Consenting to Grants of Easement for Rights-of-Way across Nation’s lands for the United States Customs and Border Protection’s Integrated Fixed Tower Project)

Tribal Consultation Policy in which, "The United States recognizes the right of Federally-recognized Indian Tribes ("Indian Tribes") to self-government. Indian Tribes exercise inherent sovereign powers over their members and territories." DHS Tribal Consultation Policy, I.A.; and

WHEREAS, the Tucson Sector of the United States Border Patrol, as part of CBP of the Department of Homeland Security, is responsible for securing the border along the international boundary with Mexico ("International Boundary"), including the areas on the Nation’s lands; and

WHEREAS, CBP has proposed to construct an Integrated Fixed Tower ("IFT") system on the Nation and has requested that the Nation consent to grants of easement for rights of way for IFT tower sites and related roadways; and

WHEREAS, pursuant to Resolution Nos. 12-121 and 13-142, the Legislative Council authorized CBP to conduct initial site visits and pre-development activities; and

WHEREAS, by Resolution No. 15-479, the Legislative Council gave its preliminary support to the IFT Project subject to the following five conditions being met:

1. CBP’s completion of environmental, cultural and other requirements identified by the Nation’s Cultural Affairs, Planning, Realty, Roads, and Wildlife and Vegetation Management staff (the “IFT Conditions”);

2. The Nation’s final evaluation of the IFT project;

3. Negotiation and approval of compensation for related rights-of-way for the IFT project;

4. The approval and execution of a written agreement between the Nation and CBP that will protect the Nation’s lands, its jurisdiction, and members’ interests; and

5. A resolution granting the Nation’s consent for a grant of easement for rights-of-way for the IFT project; and

WHEREAS, the five conditions of support listed in Resolution No. 15-479 have been met or will be met with the approval of this Resolution; and

WHEREAS, the Domestic Affairs, Cultural Preservation and Agricultural and Natural Resources Committees have reviewed the following documents relating to the grants of easement for rights-of-way for the IFT project and recommend their approval:

1. Grant of Easement for Right-of-Way for TCA-AJO-0450 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.
RESOLUTION NO. 19-088
(Consenting to Grants of Easement for Rights-of-Way across Nation's lands for the United States Customs and Border Protection's Integrated Fixed Tower Project)
Page 3 of 7

2. Grant of Easement for Right-of-Way for TCA-AJO-0448 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.

3. Grant of Easement for Right-of-Way for TCA-AJO-0446 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.

4. Grant of Easement for Right-of-Way for TCA-CAG-0442 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.

5. Grant of Easement for Right-of-Way for TCA-CAG-0440 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.


8. Grant of Easement for Right-of-Way for TCA-CAG-0434 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.


10. Grant of Easement for Right-of-Way for TCA-CAG-0444 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.

11. Grant of Easement for Right-of-Way for Portions of the Traditional Northern Road.

12. Grant of Easement for Right-of-Way for Low Water Crossings


RESOLUTION NO. 19-088
(Consenting to Grants of Easement for Rights-of-Way across Nation’s lands for the United States Customs and Border Protection’s Integrated Fixed Tower Project)

Page 4 of 7

O'odham Nation for Integrated Fixed Tower sites, approach roads, accessoads, the Traditional Northern Road and Low Water Crossings.

NOW, THEREFORE, BE IT RESOLVED that the Legislative Council consents to the following grants
of easement for rights-of-way by the U.S. Bureau of Indian Affairs to the U.S.
Department of Homeland Security/Customs and Border Protection for the IFT
project, subject to the finalization and signing by all parties of the documents and
agreements attached to or incorporated by this reference in the following grants
of easement for rights-of-way:

1. Grant of Easement for Right-of-Way for TCA-AJO-0450 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

2. Grant of Easement for Right-of-Way for TCA-AJO-0448 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

3. Grant of Easement for Right-of-Way for TCA-AJO-0446 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

4. Grant of Easement for Right-of-Way for TCA-CAG-0442 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

5. Grant of Easement for Right-of-Way for TCA-CAG-0440 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

6. Grant of Easement for Right-of-Way for TCA-CAG-0438 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

7. Grant of Easement for Right-of-Way for TCA-CAG-0436 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

8. Grant of Easement for Right-of-Way for TCA-CAG-0434 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.

9. Grant of Easement for Right-of-Way for TCA-CAG-0430 Tower Site and
   associated Access Road, Approach Road, and Temporary Construction
   Easement.
RESOLUTION NO. 19-088
(Consenting to Grants of Easement for Rights-of-Way across Nation's lands for the United States Customs and Border Protection's Integrated Fixed Tower Project)
Page 5 of 7

10. Grant of Easement for Right-of-Way for TCA-CAG-0444 Tower Site and associated Access Road, Approach Road, and Temporary Construction Easement.

11. Grant of Easement for Right-of-Way for Portions of the Traditional Northern Road.


BE IT FURTHER RESOLVED that the Legislative Council approves the “Agreement between the Tohono O’odham Nation and United States Customs and Border Protection for Conditions for Grants of Easement for Right-of-Way for Integrated Fixed Tower Project, Access and Approach Roads, Low Water Crossings and Traditional Northern Road” in substantially the form attached and authorizes the Chairman of the Nation to execute it and any related documents reasonably necessary to carry out the intent of this Resolution.

BE IT FURTHER RESOLVED that the Legislative Council approves the “Right-Of-Way Compensation Agreement between the U.S. Department of Homeland Security/Customs and Border Protection and the Tohono O’odham Nation for Integrated Fixed Tower sites, approach roads, access roads, the Traditional Northern Road and Low Water Crossings” in substantially the form attached and authorizes the Chairman of the Nation to execute it and any related documents reasonably necessary to carry out the intent of this Resolution.

BE IT FURTHER RESOLVED that the compensation received from U.S. Department of Homeland Security/Customs and Border Protection for the rights-of-way shall be distributed as follows: Fifty percent (50%) to the Nation and fifty percent (50%) to be divided between the Chukut Kuk and Gu Vo Districts based on the percentage of the total acreage of the rights-of-way approved through this Resolution present in each District, as determined by the Nation’s Office of Real Estate Management Program.

BE IT FINALLY RESOLVED that, pursuant to 25 C.F.R. §169.110, the Legislative Council:

(1) finds that the compensation agreed to in the “Right-Of-Way Compensation Agreement between the U.S. Department of Homeland Security/Customs and Border Protection and the Tohono O’odham Nation for Integrated Fixed Tower sites, approach roads, access roads, the Traditional Northern Road and Low Water Crossings” is satisfactory to the Tohono O’odham Nation;

(2) waives valuation by the Bureau of Indian Affairs; and
RESOLUTION NO. 19-088
(Consenting to Grants of Easement for Rights-of-Way across Nation's lands for the United States Customs and Border Protection's Integrated Fixed Tower Project)

(3) determines that accepting the agreed-upon compensation and waiving valuation is in the Nation's best interest.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 22nd day of March, 2019 at a meeting at which a quorum was present with a vote of 3,084.6 FOR; 0 AGAINST; 0 NOT VOTING; and 03 ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(i) 1(i) and 1(j); Article XVI 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, Legislative Chairman

day of , 2019

ATTEST:

, Legislative Secretary
day of , 2019

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the day of , 2019 at o'clock, .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 day of , 2019

at o'clock, .m.

EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

[ ] DISAPPROVED
RESOLUTION NO. 19-088
(Consenting to Grants of Easement for Rights-of-Way across Nation's lands for the United States Customs and Border Protection's Integrated Fixed Tower Project)

Page 7 of 7

Returned to the Legislative Secretary on the 25th day of March, 2019, at 4:42 o'clock, p.m.

Evonne Wilson, Legislative Secretary
RESOLUTION NO. 19-088

ACTION: CONSENTING TO GRANTS OF EASEMENT FOR RIGHTS-OF-WAY ACROSS NATION'S LANDS FOR THE UNITED STATES CUSTOMS AND BORDER PROTECTION'S INTEGRATED FIXED TOWER PROJECT

MOVED: COUNCILWOMAN GLORIA RAMIREZ
SECOND: COUNCILWOMAN LUCINDA J. ALLEN
DATE: MARCH 22, 2019

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>LEGISLATIVE REPRESENTATIVES</th>
<th># OF VOTES</th>
<th>FOR</th>
<th>AGAINST</th>
<th>NOT VOTING</th>
<th>ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>SIF OIDAK</td>
<td>1. MARY LOPEZ (Yolonda Garcia)</td>
<td>117.9</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. LUCINDA ALLEN</td>
<td>117.9</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SELLIS</td>
<td>1. ARTHUR WILSON (Evelyn Juan Manuel)</td>
<td>263.6</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. ADRIANNE TILLER</td>
<td>263.6</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SCHUK TOAK</td>
<td>1. ANTHONY J. FRANCISCO JR. (Absent) (Teresa F. Donahue) (Present)</td>
<td>92.85</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. QUINTIN C. LOPEZ (Agnes V. Joaquin)</td>
<td>92.85</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SAN XAVIER</td>
<td>1. DANIEL L.A. PRESTON III (Felicia Nuñez)</td>
<td>116.15</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. JANICE FELIX (Adam Andrews)</td>
<td>116.15</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SAN LUCY</td>
<td>1. JANA MONTANA (Diana Manuel)</td>
<td>115.55</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. GLORIA RAMIREZ (Lorraine Eiler)</td>
<td>115.55</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PISINEMO</td>
<td>1. CHESTER ANTOINE (Absent) (Caroline D. Garcia) (Present)</td>
<td>112.95</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. MONICA K. MORGAN (Present)</td>
<td>112.95</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HICKIWAAN</td>
<td>1. LOUIS R. LOPEZ (Absent) (Shirley Molina) (Present)</td>
<td>104.5</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. SANDRA D. ORTEGA</td>
<td>104.5</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GUVO</td>
<td>1. GRACE MANUEL (Nacho Flores)</td>
<td>128.45</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. DALLAS LEWIS</td>
<td>128.45</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GUACHI</td>
<td>1. TIMOTHY L. JOAQUIN (Louis L. Johnson)</td>
<td>135.45</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. LORETTA LEWIS (Victoria Hobbs)</td>
<td>135.45</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CHUKUTKUK</td>
<td>1. BILLMAN LOPEZ (Patricia Antone)</td>
<td>168.85</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. VIVIAN JUAN-SAUNDERS (Juanita Homer)</td>
<td>168.85</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BABOQUIVARI</td>
<td>1. FRANCES MIGUEL (Absent) (Roberta E. Harvey) (Present)</td>
<td>186.05</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. LEANDER MASE (Francine Schooling)</td>
<td>186.05</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>3,084.6</td>
<td>3,084.6</td>
<td>-0-</td>
<td>-0-</td>
<td>[03]</td>
</tr>
</tbody>
</table>