

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Granting a Right for a Utility Alignment to the Tohono O'odham Utility
Authority for Project No. TU 20-861 – Chui-Chu to White Horse Pass
Communities Water System Intertie)**

RESOLUTION NO. 21-272

1 **WHEREAS,** the Tohono O'odham Legislative Council is authorized "to manage, protect,
2 preserve and regulate" the use of Nation's property and "to manage . . . or
3 otherwise deal with lands, or interests in land" belonging to the Nation
4 (Constitution of the Tohono O'odham Nation, Article VI, Section 1(i)(2) and Section
5 2(d)); and

6 **WHEREAS,** by Resolution No. 91-175, the Legislative Council approved the Second Restated
7 Plan of Operation for the Tohono O'odham Utility Authority ("TOUA"), formerly
8 known as the Papago Tribal Utility Authority, to plan, provide and furnish utility
9 services to all areas within the Nation, to acquire, construct, operate, maintain,
10 promote and expand utility systems to furnish electric, gas, water, sewer and
11 telephone services within the Nation's lands; and

12 **WHEREAS,** by Resolution No. 17-032, the Nation approved the Utility Alignment Recordation
13 Procedures for Tohono O'odham Utility Authority Projects, which provided the
14 process for TOUA to be granted a right to a utility alignment on the Nation, by the
15 Nation, without the approval of the Bureau of Indian Affairs ("BIA") and which was
16 authorized pursuant to 25 CFR §169.4(b)(3)(iii); and

17 **WHEREAS,** TOUA has submitted a complete application to the Nation's Real Estate
18 Management Office for the approval and recordation of a utility alignment for
19 Project No. TU 20-861 – Chui-Chu to White Horse Pass Communities Water System
20 Intertie (the "Project"), as required under the Nation's Utility Alignment
21 Recordation Procedures; and

22 **WHEREAS,** the Indian Health Service ("IHS") determined that arsenic and nitrate levels in the
23 two White Horse Pass Community wells are near the Maximum Contaminant
24 Level ("MCL") established by the Environmental Protection Agency ("EPA")
25 National Primary Drinking Water Regulation requirements; and

26 **WHEREAS,** the White Horse Pass Community water system is not a public water system
27 required to meet public water system compliance, however, the Tohono O'odham
28 Nation strives to exceed national drinking water requirements for all its water
29 systems in order to safeguard each tribal member's health; and

30 **WHEREAS,** IHS determined the best alternative for lowering the levels of arsenic and nitrate
31 found in the White Horse Pass Community's water system, is to connect the
32 community to the Chui-Chu Public Water System composed of four (4) wells that

RESOLUTION NO. 21-272

(Granting a Right for a Utility Alignment to the Tohono O'odham Utility Authority for Project No. TU 20-861 – Chui-Chu to White Horse Pass Communities Water System Intertie)

Page 2 of 3

1 are operated using a blending strategy that ensures water served to the public is
2 below the MCL; and

3 **WHEREAS,** the Project was made possible through the United States Environmental
4 Protection Agency and provides funds for the purchase of an inline booster
5 station, 9,483 feet of 4" HPDE water main, a generator, SCADA (a computer
6 application used to remotely control and monitor the water system), and other
7 related costs; and

8 **WHEREAS,** the new utility alignment is 50 feet wide and is 10,204.37 feet in length that will
9 run parallel to Indian Route 35 encompassing 11.712 acres more or less, which is
10 more particularly described in Attachment A – legal description, and as depicted
11 in Attachment B – survey map; and

12 **WHEREAS,** the intertie connecting the White Horse Pass Community water system into the
13 Chui-Chu Public Water System will be of substantial benefit to White Horse Pass
14 Community members who will have access to better quality of drinking water by
15 alleviating the contaminants associated with both arsenic and nitrate that
16 exceed the EPA Maximum Contaminant Levels, as well as an upgrade to the water
17 distribution line; and

18 **WHEREAS,** IHS consulted with both the Nation's Tribal Historic Preservation Office and the
19 Wildlife and Vegetation Management Program and has received clearances from
20 both respective programs, attached as Attachments C and D respectively; and

21 **WHEREAS,** IHS received floodplain consultation from the Nation's Water Resources
22 Department (the "Department") advising that a foundation pad be constructed
23 for the proposed booster pumping station site to mitigate the effects of a potential
24 100-year storm event whereby Indian Route 35 would act as a berm causing flood
25 waters to rise three (3) feet before overtopping the road, otherwise no major
26 erosion construction measures were recommended by the Department; and

27 **WHEREAS,** the Sif Oidak District Council by Resolution No. SODC 20-038, attached as
28 Attachment E, approved Indian Health Service Project No. TU 20-861, and any
29 necessary encroachment permits; and

30 **WHEREAS,** the Agricultural and Natural Resources and Commerce Committees have
31 reviewed the proposed utility alignment and recommend granting a right for a
32 utility alignment for the Project.

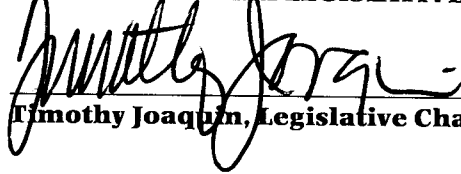
33 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council grants to
34 TOUA a right to a utility alignment for Project TU 20-861– Chui-Chu to White Horse

RESOLUTION NO. 21-272

(Granting a Right for a Utility Alignment to the Tohono O'odham Utility Authority for Project No. TU 20-861 - Chui-Chu to White Horse Pass Communities Water System Intertie)

Page 4 of 4

TOHONO O'ODHAM LEGISLATIVE COUNCIL




Timothy Joaquin, Legislative Chairman

APPROVED

on the 13 day of August, 2021

DISAPPROVED

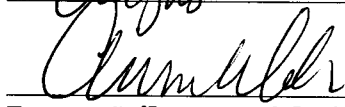
at 9:55 o'clock, a.m.



NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 13 day of

August, 2021, at 2:50 o'clock, p.m.



Evonne Wilson, Legislative Secretary

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ACTION: GRANTING A RIGHT FOR A UTILITY ALIGNMENT TO THE TOHONO O'ODHAM UTILITY AUTHORITY FOR PROJECT NO. TU 20-861 – CHUI-CHU TO WHITE HORSE PASS COMMUNITIES WATER SYSTEM INTERTIE

MOVED: COUNCILWOMAN MARLAKAY HENRY

SECOND: COUNCILWOMAN JANICE FELIX

DATE: AUGUST 10, 2021

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 245.6	1. MARY LOPEZ (<i>Absent</i>) (Ann M. Garcia) (<i>Present</i>) 2. LUCINDA ALLEN (Francis Homewytewa)	122.8 122.8	X X			X
SELLS 556.5	1. ARTHUR WILSON () 2. EVELYN JUAN-MANUEL (Arvada Liston)	278.25 278.25	X X			
SCHUK TOAK 190.5	1. TERESA F. DONAHUE (Alberta Espinoza) 2. DELISA M. RAMON (Sharon A. Francisco)	95.25 95.25	X X			
SAN XAVIER 242.6	1. DANIEL L.A. PRESTON III (Racheal Vilson-Stoner) 2. JANICE FELIX (Adam P. Andrews)	121.3 121.3	X X			
SAN LUCY 243.8	1. JANA MONTANA (Lorraine M. Eiler) 2. ROGER MANUEL (Christina Andrews)	121.9 121.9	X X			
PISINEMO 232.7	1. MARIETTA MARTIN () 2. EDWARD D. MANUAL (Monica Morgan)	116.35 116.35	X X			
HICKIWAN 216.6	1. LOUIS R. LOPEZ () 2. SANDRA D. ORTEGA (Delma M. Garcia)	108.3 108.3	X X			
GU VO 270.7	1. GRACE MANUEL () 2. CYNTHIA SAAVEDRA (Dallas Lewis)	135.35 135.35	X X			
GU ACHI 278.5	1. TIMOTHY L. JOAQUIN () 2. VICTORIA HOBBS (Tonya L. Joaquin)	139.25 139.25	X X			X
CHUKUT KUK 351.6	1. MARLAKAY HENRY (Billman Lopez) 2. VIVIAN JUAN-SAUNDERS (Cornelius Antone)	175.8 175.8	X X			
BABOQUIVARI 388.9	1. ALBERTA J. RAY (Frances G. Antone) 2. LEANDER MASE (Francine Schooling)	194.45 194.45	X X			
	TOTAL	3,218.0	3,218.0	-0-	-0-	[02]