

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Granting a Utility Alignment to Tohono O'odham Utility Authority for IHS Project No. TU 19-586 – Water Main Extension for B. Aldrich San Simon Village, Pisinemo District)

RESOLUTION NO. 22-055

- 1 **WHEREAS,** the Tohono O'odham Legislative Council is authorized “to manage, protect,
2 preserve and regulate the use of the property . . . of the Tohono O'odham Nation”
3 and “[t]o manage . . . or otherwise deal with lands, or interests in land” belonging
4 to the Nation (Constitution of the Tohono O'odham Nation, Article VI, Section
5 1(i)(2) and Section 2(d)); and
- 6 **WHEREAS,** the U.S. Department of the Interior, Bureau of Indian Affairs promulgated
7 amended regulations at 25 CFR Part 169 Rights-of-Way over Indian Land, which
8 provide that an independent legal entity that is wholly owned and operated by a
9 tribe that owns 100 percent of the trust or restricted interests in land does not
10 need to obtain a BIA right-of-way. But instead, such tribe shall pass a resolution
11 authorizing access to the entity without BIA approval and include a legal
12 description and submit both documents to the BIA for its records (25 CFR §169.4);
13 and
- 14 **WHEREAS,** by Resolution No. 91-175, the Nation adopted the Second Restated Plan of
15 Operation for the Tohono O'odham Utility Authority (“TOUA”) to plan, provide and
16 furnish utility services to all areas within the Nation, to acquire, construct,
17 operate, maintain, promote and expand utility systems to furnish electric, gas,
18 water, sewer and telephone services within the Nation's lands (TOUA Second
19 Restated Plan of Operation, Section 4.A.1 and 2); and
- 20 **WHEREAS,** by Resolution No. 17-032, the Tohono O'odham Legislative Council approved the
21 Utility Alignment Recordation Procedures for TOUA, a wholly owned and
22 operated tribal utility; and
- 23 **WHEREAS,** the Tohono O'odham Nation under the provisions of Public Law 86-121,
24 submitted a Project Proposal requesting assistance from the Indian Health
25 Service (“IHS”) for the construction of sanitation facilities to serve BIA-HIP and
26 Other Category Housing units scattered throughout the Tohono O'odham Nation;
27 and
- 28 **WHEREAS,** this project proposes to construct the necessary water supply and waste disposal
29 facilities to serve six (6) new and/or improved homes. A list of participants is not
30 yet available, but it is anticipated that six requests for assistance will be received
31 for the installation of sanitation facilities to new and improved housing. The
32 actual construction requirements are dependent upon the new services

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1 requested and are subject to field verification of soil conditions and topography;
2 and
3 **WHEREAS, Project TU 19-586 will be a cooperative effort between the IHS and the Tohono**
4 **O'odham Nation. The IHS will contribute \$185,500 towards this project under the**
5 **provisions of Public Law 86-121 and will provide engineering design services,**
6 **plans, specifications, and oversight inspection for this project; and**
7 **WHEREAS, IHS consulted with the Nation's Cultural Affairs Office to conduct a Cultural**
8 **Resource Survey, attached as "Attachment 3. Cultural Resources Clearance"**
9 **(Exhibit A, Attachment 3), and based on their survey, there have been no surveys**
10 **in the past, no sites previously recorded from this project area, no cultural**
11 **resource sites were observed, and no traditional cultural places are known from**
12 **this site; and**
13 **WHEREAS, Cultural Resource clearance is recommended provided that if buried cultural**
14 **resources are encountered during ground-disturbing activity on the home site,**
15 **then work must stop at that location and the Pisinemo District Office and the**
16 **Cultural Affairs Office should be contacted; and**
17 **WHEREAS, the Wildlife and Vegetation Management Program, in "Attachment 4. Natural**
18 **Resources Clearance" (Exhibit A, Attachment 4) has provided clearance for this**
19 **project. No federally-listed threatened species, endangered or special status**
20 **species, or habitat was found, including O'odham-sensitive plant species; and**
21 **WHEREAS, the Pisinemo District Council has approved Resolution No. 17-P-24, attached as**
22 **Exhibit B, supporting the Utility Right-of-Way for Orville Aldrich on behalf of**
23 **Brennan Aldrich in San Simon Community; and**
24 **WHEREAS, TOUA has submitted the Project Summary in application to the Nation's Real**
25 **Estate Management Office for the approval and recordation of the new utility**
26 **alignment as required under the Nation's Utility Alignment Recordation**
27 **Procedures; and**
28 **WHEREAS, the Agricultural and Natural Resources and Commerce Committees have**
29 **reviewed the Project Summary and recommend its approval.**
30 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council grants to**
31 **TOUA a utility alignment for Project TU 19-586 for the Water Main Extension for**
32 **Orville/Brennan Aldrich in the San Simon Community. Based on the submittal of**
33 **the Project Summary in application for a utility alignment, which includes an**
34 **accurate legal description in accordance with 25 CFR 169.102(b)(1) and a survey-**

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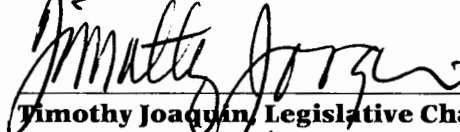
1 grade Map of Definite Location prepared in accordance with 25 CFR §169.102(b)(2)
2 and certified by a registered professional engineer or an Arizona Registered Land
3 Surveyor.

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


9 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that the Nation's
10 chairperson, or his designee, is authorized to execute any documents reasonably
11 necessary to implement this resolution.

12 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 16TH
13 day of FEBRUARY, 2022 at a meeting at which a quorum was present with a vote of 3,218.0 FOR;
14 -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by,
15 Article VI, Section 1(i)(2) and Section 2(d) of the Constitution of the Tohono O'odham Nation,
16 adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy
17 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the
18 Act of June 18, 1934 (48 Stat.984).

21 TOHONO O'ODHAM LEGISLATIVE COUNCIL

22 
23 _____
24 Timothy Joaquin, Legislative Chairman
25 18 day of February, 2022

30 ATTEST:

31 
32 _____
33 Evonne Wilson, Legislative Secretary
34 18 day of February, 2022

37 Said Resolution was submitted for approval to the office of the Chairman of the Tohono
38 O'odham Nation on the 18 day of February, 2022 at 4:40 o'clock, P.M.,
39 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become
40 effective upon his approval or upon his failure to either approve or disapprove it within 48
41 hours of submittal.

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TOHONO O'ODHAM LEGISLATIVE COUNCIL



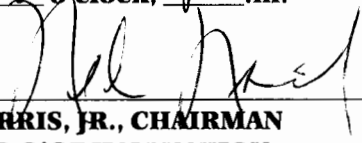
Timothy Joaquin, Legislative Chairman

APPROVED

on the 18 day of February, 2022

DISAPPROVED

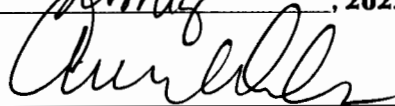
at 4:45 o'clock, P.m.



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

Returned to the Legislative Secretary on the 18 day of

February, 2022, at 4:46 o'clock, P.m.



Evonne Wilson, Legislative Secretary

ACTION: GRANTING A UTILITY ALIGNMENT TO TOHONO O'ODHAM UTILITY AUTHORITY FOR IHS PROJECT NO. TU 19-586 – WATER MAIN EXTENSION FOR B. ALDRICH SAN SIMON VILLAGE, PISINEMO DISTRICT

Moved: COUNCILWOMAN JANICE FELIX

SECOND: COUNCILWOMAN MARLAKAY HENRY

DATE: FEBRUARY 16, 2022

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