

**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. 19-819)**

RESOLUTION NO. 24-023

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

6 **WHEREAS,** on May 15, 1991, the Nation adopted the Tohono O'odham Utility Authority's
7 ("TOUA," formerly known as the Papago Tribal Utility and originally established
8 pursuant to TOLC Resolution No. 08-70) "Second Restated Plan of the Operation
9 for the Tohono O'odham Utility Authority," as adopted by TOLC Resolution No. 91-
10 175 to plan, provide and furnish utility services to all areas within the Nation, to
11 acquire, construct, operate, maintain, promote and expand utility systems to
12 furnish electric, gas, water, sewer and telephone services within the Nation's
13 lands; and

14 **WHEREAS,** the Department of the Interior, Bureau of Indian Affairs, promulgated amended
15 regulations at 25 CFR Part 169 Rights-of-Way Over Indian Lands, which provide,
16 in part, that an independent legal entity that is wholly owned and operated by a
17 tribe that owns 100 percent of the trust or restricted interests in land does not
18 need to obtain a BIA right-of-way but instead such tribe shall pass a resolution
19 authorizing access to the entity, without BIA approval, including a legal
20 description, and shall submit both documents to the BIA for its records (25 CFR
21 §169.004); and

22 **WHEREAS,** on January 18, 2017, the TOLC approved Utility Alignment Recordation
23 Procedures for TOUA, a wholly owned and operated tribal utility through
24 Resolution 17-032; and

25 **WHEREAS,** the Indian Health Service (IHS) completed an arsenic compliance feasibility study
26 for the Oakum Kuk water systems under IHS Project TU 19-819 to address water
27 well arsenic levels which exceed the EPA MCL; and

28 **WHEREAS,** IHS determined to address the high levels of arsenic is to connect the community
29 of Oakum Kuk into the Greater Santa Rosa Regional Water System (GSRRWS) and
30 replace undersized Ak Chin water main; and

31 **WHEREAS,** this project was made possible through funds provided by the United States
32 Environmental Protection Agency; and

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1 **WHEREAS, IHS will upgrade Ak Chin water main, from a 2 inch water main to a 4 inch water**
2 **main; and**

3 **WHEREAS, a new water utility alignment is planned for the Oakum Kuk water systems which**
4 **will connect the Community into the Greater Santa Rosa Regional Water System**
5 **through a main intertie; and**

6 **WHEREAS, the new utility alignment is described as a 50 foot wide alignment encompassing**
7 **10.70 acres more or less, which is more particularly described in Attachment A –**
8 **legal description, and as depicted in Attachment B – survey map; and**

9 **WHEREAS, connecting the Oakum Kuk Community Water System to the Greater Santa Rosa**
10 **Regional Water System will be of substantial benefit to the Oakum Kuk**
11 **Community and their respective members because it will address water well**
12 **arsenic levels which exceed the EPA Maximum Contaminant Level; and**

13 **WHEREAS, the Gu Achi District Councils have approved Project TU 19-819 through**
14 **resolutions No. 0622-101; and**

15 **WHEREAS, TOUA has submitted a complete application to the Nation's Realty Office for the**
16 **approval and recordation of a new utility alignment as required under the**
17 **Nation's Utility Alignment Recordation Procedures; and**

18 **WHEREAS, the Agricultural and Natural Resources Committee has reviewed and**
19 **recommends to the Legislative Council the approval of the planned water**
20 **distribution alignment.**

21 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby grants**
22 **to TOUA a right to utility alignment for Project TU 19-819, the Greater Santa Rosa**
23 **Regional Water System and the Oakum Kuk Community Water System Project**
24 **based on the submittal of an acceptable Application for Utility Alignment with all**
25 **documentation required by the Application and which includes an accurate legal**
26 **description in accordance with 25 CFR 169.102(b)(1), and a survey grade Map of**
27 **Definite Location, prepared in accordance with 25 CFR §169.102(b)(2) as these**
28 **sections may be amended from time to time, certified by a registered professional**
29 **engineer or an Arizona Registered Land Surveyor.**

30 **BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council hereby grants approval**
31 **of any encroachment permits for this project, including future individual**
32 **services installed on the system, which may be granted by the Bureau of Indian**
33 **Affairs pursuant to federal regulations to allow the utility alignment or service**

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lines to individual customers to cross roads constructed by the Bureau of Indian Affairs.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17th day of JANUARY 2024 at a meeting at which a quorum was present with a vote of 3,263.3FOR; -0- AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 2(d) 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

Wavalene M. Saunders

Wavalene M. Saunders, Legislative Chairwoman

24 day of January, 2024

ATTEST:

Evonne Wilson

Evonne Wilson, Legislative Secretary

24 day of January, 2024

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 24 day of January, 2024 at 1:48 o'clock, 8 .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

Wavalene M. Saunders

Wavalene M. Saunders, Legislative Chairwoman

APPROVED

on the 24 day of January, 2024

DISAPPROVED

at 2:12 o'clock, P. .m.

Verlon M. Jose

VERLON M. JOSE, CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 25 day of

January, 2024, at 9:49 o'clock, a.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. 19-819**

MOVED: COUNCILWOMAN VICTORIA HOBBS

SECOND: COUNCILMAN TIMOTHY L. JOAQUIN

DATE: JANUARY 17, 2024

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 394.2	1. LEANDER MASE (Francine Schooling) 2. JESSE NAVARRO (Alberta J. Ray)	197.1 197.1	X X			
CHUKUT KUK 354.7	1. VIVIAN JUAN-SAUNDERS (Cornelius Antone) 2. MARLAKAY HENRY ()	177.35 177.35	X X			X
GUACHI 282.7	1. VICTORIA HOBBS (Tonya L. Joaquin) 2. TIMOTHY L. JOAQUIN (Jerome L. Joaquin)	141.35 141.35	X X			
GUVO 276.0	1. DALLAS LEWIS () 2. LESLIE LUNA (Grace Manuel)	138.0 138.0	X X			X
HICKIWAN 220.5	1. DELMA M. GARCIA () 2. LOUIS R. LOPEZ (<i>Absent</i>) (Loretta A. Ortega) (<i>Present</i>)	110.25 110.25	X X			
PISINEMO 236.2	1. EDWARD D. MANUEL (Monica Morgan) 2. PAMELA J. BENAVIDEZ (Nora J. Ruelas)	118.1 118.1	X X			X
SAN LUCY 257.6	1. ROGER MANUEL (<i>Absent</i>) (Christina Andrews) (<i>Present</i>) 2. GLORIA M. RAMIREZ (<i>Absent</i>) (Lorraine M. Eiler) (<i>Present</i>)	128.8 128.8	X X			X
SAN XAVIER 244.5	1. JANICE FELIX () 2. DANIEL L.A. PRESTON III ()	122.25 122.25	X X			
SCHUK TOAK 191.8	1. DELISA M. RAMON (Sharon A. Francisco) 2. THEORIA CAMPILLO (Rebecca Ann Valentine)	95.9 95.9	X X			
SELLS 558.0	1. EVELYN JUAN-MANUEL (Arvada Liston) 2. JANET B. ELEANDO ()	279.0 279.0	X X			
SIF Oidak 247.1	1. LUCINDA ALLEN (Francis Homewytewa) 2. WAVALENE M. SAUNDERS (Mary Lopez)	123.55 123.55	X X			
	TOTAL	3,263.30	3,263.3	-0-	-0-	[04]