

**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 18-843 Archie Hendricks Sr. Skilled  
Nursing Facility Wastewater Improvements Gu Achi District)**

**RESOLUTION NO. 24-020**

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 trihe 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,** the Archie Hendricks Sr Skilled Nursing Facility wetlands system is undersized  
23 and the herms is failing between the treatment ponds, has settled, and  
24 wastewater overtops the berms rather than flowing though the transfer pipe; and

25 **WHEREAS,** TOUA began manually pumping the effluent into the percolation cells in 2017 on  
26 a regular basis to keep the system operational; and

27 **WHEREAS,** the Indian Health Service (IHS) conducted a planning Project TU 18-843, to  
28 explore Wastewater Improvement options for the Archie Hendricks Sr. Skilled  
29 Nursing Facility, recommending the elimination of the septic tanks, lift station,  
30 sewer force main and wetlands system in favor of a gravity sewer system and total  
31 retention lined lagoon ponds located approximately ½ mile north of IRR 34; and



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**Page 2 of 3**

1 **WHEREAS, the Tohono O'odham Nursing Care Authority (TONCA) has expressed interest in**  
2 **funding the project with American Recovery Plan Act (ARPA) funds being**  
3 **allocated to TONCA; and**

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

7 **WHEREAS, the Gu Achi District Council has approved Project No. 18-843 through Resolution**  
8 **No. 0622-100; and**

9 **WHEREAS, the Agricultural and Natural Resources Committee has reviewed and**  
10 **recommends to the Legislative Council the approval of the planned waste water**  
11 **alignment.**

12 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby grants**  
13 **to TOUA a right to utility alignment for Project TU 18-843, the Archie Hendricks**  
14 **Sr. Skilled Nursing Facility Wastewater Improvements, based on the submittal of**  
15 **an acceptable Application for Utility Alignment with all documentation required**  
16 **by the Application and which includes an accurate legal description in**  
17 **accordance with 25 CFR 169.102(b) (1), and a survey grade Map of Definite**  
18 **Location, prepared in accordance with 25 CFR §169.102(b) (2) as these sections**  
19 **may be amended from time to time, certified by a registered professional**  
20 **engineer or an Arizona Registered Land Surveyor.**

21 **BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council hereby grants approval**  
22 **of any encroachment permits for this project, including future individual**  
23 **services installed on the system, which may be granted by the Bureau of Indian**  
24 **Affairs pursuant to federal regulations to allow the utility alignment or service**  
25 **lines to individual customers to cross roads constructed by the Bureau of Indian**  
26 **Affairs.**

27 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17<sup>TH</sup>**  
28 **day of JANUARY 2024 at a meeting at which a quorum was present with a vote of 3,263.3 FOR;**  
29 **-0- AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by**  
30 **Article VI, Section 2(d) of the Constitution of the Tohono O'odham Nation, adopted by the**  
31 **Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**  
32 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**  
33 **18, 1934 (48 Stat.984).**

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Page 3 of 3

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 1:45 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

*Wavalene M. Saunders*

Wavalene M. Saunders, Legislative Chairwoman

APPROVED

on the 24 day of January, 2024

DISAPPROVED

at 4:09 o'clock, P.m.

*Verlon M. Jose*

VERLON M. JOSE, CHAIRMAN  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 25 day of

January, 2024, at 9:49 o'clock, A.m.

*Evonne Wilson*

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 18-843 ARCHIE HENDRICKS SR. SKILLED NURSING FACILITY WASTEWATER IMPROVEMENTS GU ACHI DISTRICT

**Moved:** COUNCILMAN TIMOTHY L. JOAQUIN

**Second:** COUNCILWOMAN VIVIAN JUAN-SAUNDERS

**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
GU ACHI 282.7	1. VICTORIA HOBBS (Tonya L. Joaquin) 2. TIMOTHY L. JOAQUIN (Jerome L. Joaquin)	141.35 141.35	X X			
GU VO 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			
<b>TOTAL</b>		<b>3,263.30</b>	<b>3,263.3</b>	<b>-0-</b>	<b>-0-</b>	<b>[04]</b>