

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Supporting Customs and Border Protection Proposal to Establish a Temporary**  
**Mobile Camp and Forward Operating Base as a Joint Use Facility in the**  
**Pisinemo District)**

**RESOLUTION NO. 11-422**

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Legislative Council with the**  
2 **authority to "administer land and other public property, and by law, ordinance or**  
3 **resolution. . .to manage, protect, preserve and regulate the use of the property,**  
4 **wildlife, land, air and natural resources (including surface and ground waters) of the**  
5 **Tohono O'odham Nation" and the power to consult "appropriate federal agencies**  
6 **regarding federal activities that affect the Tohono O'odham Nation" (Constitution,**  
7 **Article VI, Section 1(i)(2) and 1(j)); and**

8 **WHEREAS, the southern border of the Tohono O'odham Nation ("Nation") includes 75 miles of the**  
9 **United States and Mexico international boundary ("International Boundary") and as**  
10 **a result the Nation's members experience the direct negative impacts from illegal**  
11 **immigration and drug trafficking across the international border, including damage**  
12 **to the Nation's cultural resources, increased demands on tribal law enforcement,**  
13 **violence and crime, illegal dumping, and environmental degradation; and**

14 **WHEREAS, the Tucson Sector of the United States Border Patrol ("USBP"), as part of Customs and**  
15 **Border Protection of the Department of Homeland Security ("CBP"), is responsible for**  
16 **securing the border along the International Boundary, including the areas within and**  
17 **around the Nation; and**

18 **WHEREAS, the USBP has proposed the construction and operation of a Temporary Mobile Camp**  
19 **and Forward Operating Base on the Nation within the Pisinemo District near the Kupk**  
20 **and Dirtburn communities to compliment current USBP operations, further protect**  
21 **local Tohono O'odham Nation residents and surrounding communities, and improve**  
22 **the effectiveness of USBP operations; and**

23 **WHEREAS, the USBP has acknowledged that any waivers issued by the Secretary of the**  
24 **Department of Homeland Security pursuant to section 102(c) of the Illegal**  
25 **Immigration Reform and Immigrant Responsibility Act of 1996, as amended, do not**  
26 **apply to the construction and operation of such a facility, and that the facility would**  
27 **remain subject to federal and Nation's environmental, cultural resources, realty, and**  
28 **other laws; and**

29 **WHEREAS, the proposed Temporary Mobile Camp site and three-acre Forward Operating Base**  
30 **site location was identified by the Pisinemo District and the USBP and is located at GPS**

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1                   **center points N31.896255164 and W112.200276812; and**

2 **WHEREAS, the proposed USBP Temporary Mobile Camp will include, mobile trailers, solid waste**  
3 **trash bins, above-ground water filtration system, water trailers, generators, mobile**  
4 **fuel tanks with spill containment systems, spill kits, and gray water containment**  
5 **system; and**

6 **WHEREAS, the proposed USBP Forward Operating Base will consist of the three acres within a**  
7 **surveyed boundary surrounded by a perimeter fence, one 6000 square foot modular,**  
8 **one 720 square foot modular building, a permanent water source (either by a new well**  
9 **permitted by the Nation's Water Resources Department or a 10,000+ gallon water tank**  
10 **supplied by hauled water), electric power source improvements installed by the**  
11 **Tohono O'odham Utility Authority, underground vertical septic system, telephone**  
12 **services (by airwaves supplied by TOUA) and other improvements within the structure**  
13 **or compound to assist in facilitating communications, double-wall containment fuel**  
14 **tanks (diesel fuel, JP5 jet fuel, and regular fuel) on cement engineered slabs for**  
15 **containment to be determined by USBP in consultation with the Pisinemo District,**  
16 **Legislative Council committees, Legislative Council, and the Executive Branch; and**

17 **WHEREAS, USBP has agreed, subject to the funding allocated for this project, to design, purchase,**  
18 **manage, and maintain the Temporary Mobile Camp and Forward Operating Base; and**

19 **WHEREAS, the Forward Operating Base is proposed to be a joint use facility that will serve as a**  
20 **police substation for the Nation's Police Department; and**

21 **WHEREAS, USBP plans to utilize private or government contractors, including TOUA, the Nation's**  
22 **Solid Waste Management Program, United States military units, United States Border**  
23 **Patrol units, or any combination thereof in constructing and/or placing of proposed**  
24 **improvements at the Pisinemo Temporary Mobile Camp and Forward Operating Base,**  
25 **and will request that, to the extent possible under the law, these construction units**  
26 **utilize Nation members, employees, and subcontractors from the Nation, with the**  
27 **understanding that any federal construction units will utilize their own personnel**  
28 **entirely; and**

29 **WHEREAS, USBP has presented this proposal to the communities of Kupk and Dirtburn, the**  
30 **Pisinemo District, and to the Legislative Council Domestic Affairs Committee and**

**Agricultural and Natural Resources Committee; and**

**WHEREAS, USBP and the Nation have agreed in principle on the terms stated above and the Nation and USBP or CBP, will enter into a lease agreement and a Memorandum of Understanding (“MOU”), whose terms will include a lease of approximately three acres of land for an initial term of five years plus an option for additional future lease renewals at the request of the Department of Homeland Security and with the approval of the Nation, which lease and MOU will be generally patterned on the existing lease and MOU for the similar joint use facilities of San Miguel LEC, and Papago Farms LEC, which are both within the Chukut Kuk District, and which will be presented to the Legislative Council for final approval by Council resolution.**

**NOW, THEREFORE, BE IT RESOLVED that the Tohono O’odham Legislative Council hereby supports the USBP proposal to establish a Temporary Mobile Camp and Forward Operating Base, which is proposed to be a joint use facility on land within the Pisinemo District between the communities of Kupk and Dirtburn, and supports federal funding sufficient to allow USBP to design, purchase, construct, manage, and maintain the Temporary Mobile Camp and Forward Operating Base, subject to the following:**

- (1) The approval and execution of a lease and MOU between the Tohono O’odham Nation and USBP or CBP and the receipt of all required studies, surveys and reports, clearances, permits, and other required documentation and approvals required by the Nation and the Bureau of Indian Affairs in accordance with Tribal and Federal law, as applicable, before any set-up or construction of the Temporary Mobile Camp or Forward Operating Base may be performed within the proposed site location.**
- (2) Consultation and coordination with the Nation’s Department of Public Safety (“TODPS”) to the maximum extent possible, and USBP’s further coordination with a liaison appointed by the TODPS Director to provide public information and address concerns.**
- (3) USBP will respect for the human and civil rights of the Nation’s members and respond in a timely manner to concerns regarding these issues.**

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- 1           **(4) USBP will perform any and all cultural resources clearance and will fully comply**  
2           **with the National Environmental Policy Act of 1969 ("NEPA").**
- 3           **(5) USBP will minimize any environmental impacts of their operations by not**  
4           **destroying vegetation, littering, or otherwise injuring the Nation's lands,**  
5           **including by not widening or otherwise expanding existing roads without the**  
6           **advance, written consent of the Nation.**
- 7           **(6) USBP will consult with the Nation's Cultural Affairs Office to avoid damage to**  
8           **cultural sites or interruption of traditional ceremonies or celebrations, and to**  
9           **immediately notify the Cultural Affairs Office upon gaining knowledge of any**  
10          **such damage that might occur.**
- 11          **(7) USBP will refrain from harassing the Tohono O'odham and comply with all**  
12          **applicable federal laws, including but not limited to those governing searches,**  
13          **seizures, vehicle and other stops.**
- 14          **(8) USBP will obtain the necessary rights-of-way needed for its use and access to the**  
15          **Temporary Mobile Camp and Forward Operating Base, and, with the Nation's**  
16          **advance, written consent, USBP will improve and maintain Federal Route 24 and**  
17          **other existing roads utilized to access the Temporary Mobile Camp and Forward**  
18          **Operating Base as a means of improving community relations, lawful**  
19          **transportation, communications, and access.**
- 20          **(9) USBP will remove vehicles abandoned by smugglers and drug traffickers but**  
21          **refrain from destroying or unnecessarily damaging such vehicles, which are**  
22          **often stolen from the Nation's members or other innocent victims.**
- 23          **(10) USBP will request and receive authorization from the Nation prior to installing,**  
24          **building, or otherwise establishing infrastructure that is not readily removable**  
25          **including but not limited to telephone, electricity and other utilities delivery**  
26          **systems.**
- 27          **(11) USBP will report on the Temporary Mobile Camp and Forward Operating Base**  
28          **operations on a regular basis as requested by the Nation's Chairperson or the**  
29          **Legislative Council, and on a monthly basis to the Pisinemo District Council.**
- 30          **(12) USBP will generate an annual report on Temporary Mobile Camp and Forward**

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Operating Base operations for presentation to the Legislative Council.

(13) USBP agents will comply with all applicable speed limits and traffic laws.

(14) Following approval, the Temporary Mobile Camp and Forward Operating Base MOU and lease may only be modified by written amendments to the MOU or lease that are approved by Legislative Council resolution.

BE IT FINALLY RESOLVED that the Tohono O'odham Legislative Council hereby authorizes the Chairperson of the Nation and the Nation's Realty Office to take all necessary and reasonable steps to implement this Resolution.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 13<sup>TH</sup> Day of SEPTEMBER, 2011 at a meeting at which a quorum was present with a vote of 2,780.60 FOR; -0- AGAINST; -0- NOT VOTING; and [05] ABSENT, pursuant to the powers vested in the Council by Section 1 (i)(2) and 1 (j) of Article VI 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

14 day of September, 2011


ATTEST:

  
\_\_\_\_\_  
Evonne Wilson, Legislative Secretary

14 day of September, 2011

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 14 day of September, 2011 at 2:53 o'clock, P.M., pursuant to the provisions of Section 4 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

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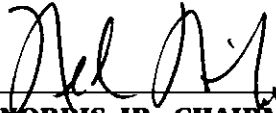
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1  APPROVED

on the 14 day of September, 2011

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3  DISAPPROVED

at 2:58 o'clock, P.M.

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NED NORRIS, JR., CHAIRMAN  
8 TOHONO O'ODHAM NATION  
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13 Returned to the Legislative Secretary on the 14 day of

14 September, 2011, at 3:05 o'clock, P.M.

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19 Evonne Wilson, Legislative Secretary

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**ACTION: SUPPORTING CUSTOMS AND BORDER PROTECTION PROPOSAL TO ESTABLISH A TEMPORARY MOBILE CAMP AND FORWARD OPERATING BASE AS A JOINT USE FACILITY IN THE PISINEMO DISTRICT**

**MOVED: COUNCILWOMAN FRANCES CONDE**

**SECOND: VICE CHAIRMAN EDWARD MANUEL**

**DATE: SEPTEMBER 13, 2011**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI</b> 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	171.0	X			X
<b>CHUKUT KUK</b> 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ( )	151.10	X			X
<b>GU ACHI</b> 244.9	1. TIMOTHY L. JOAQUIN (Rose Johnson Antone)	122.45	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			
<b>GU VO</b> 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (Angela Ortiz)	113.35	X			
<b>HICKIWAN</b> 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ( )	93.15	X			X
<b>PISINEMO</b> 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			X
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
<b>SAN LUCY</b> 204.6	1. LORRAINE EILER ( )	102.30	X			X
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
<b>SAN XAVIER</b> 215.8	1. HILARION CAMPUS ( )	107.90	X			
	2. OLIVIA VILLEGAS-LISTON ( <i>Absent</i> ) (Eugene Enis) ( <i>Present</i> )	107.90	X			
<b>SCHUK TOAK</b> 169.8	1. FRANCES B. CONDE ( )	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
<b>SELLS</b> 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85	X			
	2. EVELYN B. JUAN MANUEL ( )	237.85	X			
<b>SIF OIDAK</b> 211.9	1. NICHOLAS JOSE ( )	105.95	X			
	2. MARY LOPEZ ( )	105.95	X			
<b>TOTAL</b>		<b>2,780.60</b>	<b>2,780.60</b>	<b>-0-</b>	<b>-0-</b>	<b>[05]</b>