

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---First Year 2015

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A LEASE
FOR ARIZONA DEPARTMENT OF TRANSPORTATION FOR AN EXISTING
MOTOR VEHICLE DEPARTMENT, MOTOR VEHICLE CUSTOMER SERVICES
CENTER AND OTHER SIMILAR GOVERNMENTAL SERVICES LOCATED IN
THE WINDOW ROCK AREA PORT OF ENTRY AT WINDOW ROCK, NAVAJO
NATION (APACHE COUNTY, ARIZONA)

Section One. Findings

- A. Pursuant to 2 NNC §500, the Resources and Development Committee is hereby established as a standing committee of the Navajo Nation Council; and
- B. Pursuant to 2 N.N.C. §501 B 2(a), the Resources and Development Committee grants final approval for all land withdrawals, non-mineral leases, permits, licenses, right-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations; and
- C. The Arizona Department of Transportation (ADOT), 1801 West Jefferson MD 509M, Phoenix, Arizona 85007, has submitted a request for a lease to continue operating and maintaining an Arizona Department of Transportation (MVD), a Motor Vehicle Division Customer Service Center and other similar governmental services, consistent with the principal authorized use of the Leased Premises attached hereto and incorporated herein as Exhibit "A"; and

- D. The existing ADOT MVD contains approximately 40,056 square feet, more or less, located in Sections 8 and 17, Township 26 North, Range 31 East, G&SRM, Apache County, Arizona. The location is more particularly described on the survey map attached hereto as Exhibit "B"; and
- E. The Project Review with the Navajo Land Department (NLD) has obtained the consent from the District 18 Grazing Committee Member Mr. Joseph Peshlakai who provided a document, attached hereto as Exhibit "C"; stating that there are no land users (i.e. Grazing Permittees) and
- F. All environmental and archaeological surveys and studies have been completed and received appropriate clearances which are attached hereto and made a part hereof by this reference.
- G. The rental fee has been determined by the Navajo Nation Minerals Department.

Section Two. Approval

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves a lease, attached as Exhibit "A," to Arizona Department of Transportation to operate and maintain an MVD at the Window Rock Port of Entry, Navajo Nation (Apache County, Arizona). The location is more particularly described in Exhibit "B."
- B. The rental has been determined by the Navajo Nation Minerals Department to be Compensation Satisfactory to the Navajo Nation.
- C. The Resources and Development Committee determined that such Compensation is in the best interest of the Navajo Nation and waives valuation by the Bureau of Indian Affairs.

CERTIFICATION

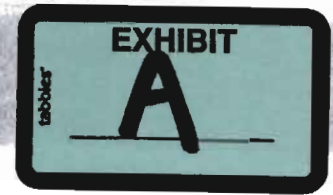
I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock (Navajo Nation) Arizona at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 0 abstained this 15th day of September, 2015.



Alton Joe Shepherd, Chairperson
Resources and Development Committee
Of the 23rd Navajo Nation Council

Motion: Honorable Davis Filfred
Second: Honorable Leonard Pete
(Presiding Vice-Chairperson Not Voting)

**THE NAVAJO NATION
and
ARIZONA DEPARTMENT OF TRANSPORTATION
(WINDOW ROCK-- MVD)**



THIS LEASE is made and entered into this _____ day of _____, 20__, by and between THE NAVAJO NATION, hereinafter called the "Lessor," whose address is P.O. Box 9000, Window Rock, Navajo Nation (Arizona) 86515, and the Arizona Department of Transportation, hereinafter called the "Lessee," whose address is 1801 West Jefferson Street, MD 509M, Phoenix, Arizona 85007, in accordance with the provisions of 2 N.N.C. ' 501.B.2.a and 25 U.S.C. ' 415, as implemented by the regulations contained in 25 C.F.R. Part 162; and all amendments or successors thereto, which by this reference are made a part hereof.

1. DEFINITIONS.

(A) *"Approved Encumbrance"* means an encumbrance approved in writing by Lessor and the Secretary in accordance with the terms and conditions of this Lease.

(B) *"Encumbrancer"* means the owner and holder of an Approved Encumbrance, including all successors and assigns.

(C) *"Hazardous Substance"* means any "hazardous substance" as defined in the NNCERCLA at 4 N.N.C. ' 2104.Q, including all amendments or successors thereto.

(D) *"Improvement"* means an addition to real property, whether permanent or not; especially one that increases its value or utility or that enhances its appearance.

(E) ANNCERCLA@ means the Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act, 4 N.N.C. ' 2101 et seq.

(F) ANNSTA@ means the Navajo Nation Storage Tank Act, which is the short title for the Navajo Nation Underground and Aboveground Storage Tank Act, as codified in 4 N.N.C § 1501 et seq. and amended by Council Res. CJA-09-12.

(G) "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. ' 6901 et seq..

(H) "*Regulated Substance*" means any regulated substance as defined at ' 1502 (V) of the NNSTA, which includes petroleum and petroleum products.

(I) "*Secretary*" means the Secretary of the United States Department of the Interior or his duly authorized representative or successor.

(J) "*Storage Tank*" is any tank which is defined by either of the following subsections:

(1) Any aboveground storage tank as defined at ' 1502 (B) of the NNSTA;

or

(2) Any underground storage tank as defined at ' 1502 (BB) of the NNSTA;

except that for purposes of this Lease the definition of AStorage Tank@ shall include underground and aboveground tanks that are used to store hazardous waste, as defined under RCRA, in addition to regulated substances.

2. LEASED PREMISES.

For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to Lessee all that tract or parcel of land situated within Window Rock, Navajo Nation (Arizona), more particularly described in Exhibit "A," attached hereto and by this reference made a part hereof, containing approximately 40,056 square feet, more or less, together with the right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-way, is hereinafter called the "Leased Premises." There is hereby reserved and excepted from the Leased Premises rights-of-way for utilities constructed by or on authority of Lessor, provided that such rights-of-way do not unreasonably interfere with Lessee's use of the Leased Premises.

3. PURPOSE, UNLAWFUL USES.

(A) Lessee shall develop, use and occupy the Leased Premises for the purpose of operating and maintaining an Arizona Department of Transportation (MVD) a vehicle check point and other similar governmental services, consistent with the principal authorized use of the Leased Premises.

(B) The Leased Premises shall not be used by Lessee for any purpose other than as described in Section 3(A) above, except with the prior written consent of Lessor and the Secretary. The consent of Lessor may be withheld, granted or granted upon conditions, in the sole discretion of Lessor.

(C) Lessee is prohibited from placing/installing storage tanks on the Leased Premises except with prior written consent of Lessor and the Secretary modifying this Lease. The consent of the Lessor may be withheld, granted, or granted upon conditions, in the sole discretion of the Lessor.

(D) Lessee agrees not to use or permit to be used any part of the Leased Premises for any unlawful conduct or purpose.

4. TERM.

The term of this Lease shall be for a period of twenty-five (25) years, effective on December 19, 2011. Lessee shall have an option to renew this Lease for another twenty-five (25) years. Lessee may exercise the option to renew by providing written notice to both the Lessor and the Bureau of Indian Affairs no later than ninety (90) days prior to the expiration of the Lease term.

5. RENTAL.

(A) In consideration of the foregoing and the covenants, agreements, terms and conditions of this Lease, Lessee hereby covenants and agrees to pay Lessor, in lawful money of the United States:

(1) a lump sum payment to reflect the time period of December 19, 2011 to the date the Secretary approves this Lease and the acreage contained in the original lease between the Lessee and the Lessor that expired on December 18, 2011. This lump sum shall be calculated at the rate of \$1,577.80 per year and adjusted based upon the increase in the Consumer Price Index (CPI) U.S. City Average for All Urban Consumers. The CPI for July 2014 shall be used as the base and the numerator will be the CPI available in the month when the Secretary approves this Lease or the lump sum payment is made, whichever date is later; and

(2) an annual rental which is effective the date this Lease is approved by the Secretary. The first annual rental shall be an adjusted amount utilizing the formula listed in this subsection and shall be due within 10 days of the date this Lease is approved by the Secretary. Subsequent annual rental shall be made within ten (10) days of each annual anniversary date reflecting the date on which the Secretary approved this Lease. The base for the annual rental shall be \$696.34 and annually adjusted upon the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers as published by the U.S. Bureau of Labor Statistics. The CPI for July 2014 shall be used as the base and the numerator should be the CPI available in the month when the payment is made.

(B) Rental unpaid ten (10) days after the due date shall bear interest at eight percent (8%) per annum, from the date it becomes due until paid, but this provision shall not be construed to relieve the Lessee from any default in making rental payment at the time and in the manner herein specified. The rent shall be paid without prior notice or demand.

6. CONDITION OF LEASED PREMISES.

Lessee has examined and knows the Leased Premises and Improvements thereon and accepts the same as-is. No representations as to the condition of the Leased Premises have been made by Lessor, any agent of Lessor or the United States prior to or at the time of execution of this Lease. Lessee warrants that it has not relied on any warranty or representation made by or on behalf of Lessor or the United States, but solely upon Lessee's independent investigation.

7. IMPROVEMENTS.

(A) All buildings and other Improvements on the Leased Premises, including removable personal property and trade fixtures, shall remain the property of Lessee. Should Lessee fail to remove any buildings or Improvements prior to termination of this Lease, said property shall become property of the Lessor; provided, however, Lessor may, at its option, require Lessee to remove said buildings and other Improvements and to restore the Leased Premises to its original state upon termination of this Lease at the expense of Lessee.

(B) As used in this Section, the term "removable personal property" shall not include property which normally would be attached or affixed to buildings, other Improvements or land in such a way that it would become a part of the realty, regardless of whether such property in fact is so attached or affixed.

(C) Notwithstanding any other provision of this Lease, the terms of this Section and Sections 7(D) and (E) below govern ownership and removal responsibility for any hazardous substances, regulated substances or petroleum product manufacturing, processing, dispensing, storage, or conveyance facilities placed in or on Leased Premises. Any such facilities must comply with applicable federal, state, Navajo Nation and local law including, in the case of Storage Tanks, but not limited to, requirements for corrosion protection, spill and overflow protection and leak detection. Any repairs made to such facilities must comply with applicable repair standards. Lessee shall provide the appropriate Navajo Nation Land Department or its successor with complete and legible copies of all documents establishing Lessee's ownership of, lease of, or acquisition of any other use interest in any Storage Tanks installed on the Leased Premises.

(D) Unless otherwise notified by the Lessor, hazardous substances, regulated substances and Storage Tanks are the property of the Lessee who placed them on the property and do not become the property of the Lessor for RCRA or CERCLA liability purposes or otherwise upon the expiration of the Lease. Lessee is the owner for RCRA, 42 U.S.C. 6991 (3), purposes of any Storage Tanks placed on the Leased Premises. Lessee is also the Owner under CERCLA 42 U.S.C. 9607(a) and NNCERCLA §§ 2501(A) and 2503. Petroleum manufacturing, processing, storage, Storage Tanks, or conveyance facilities shall be removed by Lessee unless notified by Lessor in writing not to remove all or part of such property. Except as otherwise provided under Section 7 (A) and (D) of this Lease, whatever property remaining on the Leased Premises shall become the property of Lessor upon termination of the Lease.

(E) Prior to termination of the Lease and prior to vacating the property the Lessee shall remove any of the Improvements subject to removal as described above and below, assess the site

for potential contamination, remediate any contamination discovered, and satisfy or actively and in good faith seek resolution of any third party damages which may have occurred. Should any of the above activities extend past the termination date of the Lease, the Lease shall be extended pursuant to Section 27, Holding Over, and the Lessee shall remain financially responsible for completing these activities. The bond or insurance required to be posted under section 23, Financial Responsibilities for Storage Tanks, of this Lease shall not be released or terminated until these activities are completed.

8. CONSTRUCTION; MAINTENANCE; REPAIR; ALTERATION.

(A) All buildings and other Improvements placed on the Leased Premises shall be constructed in a good and workmanlike manner in compliance with applicable laws and building codes. All parts of buildings or other Improvements visible to the public or from adjacent premises shall present a pleasant appearance and all service areas shall be screened from public view.

(B) Lessee shall maintain the Leased Premises and all buildings and other Improvements thereon and any alterations, additions or appurtenances thereto, in good order and repair and in a safe, sanitary and neat condition, presenting a good appearance both inside and outside the Leased Premises.

(C) Lessee shall have the right to make reasonable alterations, additions or repairs to buildings or other Improvements on the Leased Premises, consistent with other provisions of this Lease.

9. CONSTRUCTION BOND.

Prior to the commencement of construction of any Improvement on the Leased Premises, the Lessee shall require its construction contractor to post construction bonds in accordance with A.R.S. ' 34-222 et seq. To the extent permitted by Arizona law, the bond shall be written to protect Lessor, Lessee, and the United States of America. Copies of the bonds shall be submitted to Lessor and the Secretary upon written request.

10. NON-RESPONSIBILITY NOTICES

Prior to the commencement of construction of any Improvement on the Leased Premises, or prior to the beginning of any repair or alteration thereto, or work or labor thereon, Lessee shall post non-responsibility notices at the site on Lessor=s behalf.

11. UTILITY SERVICE LINE AGREEMENTS.

(A) Lessee specifically is authorized to enter into appropriate service line agreements with utility companies for the provision of utility services to the Leased Premises, including gas, water, sewer, electricity, telephone, television and other utilities, without further consent by Lessor, on the condition that:

- (1) such agreements are for the sole purpose of supplying utility services to the Leased Premises;
- (2) such agreements authorize utility service lines only within the Leased Premises;
- (3) such agreements do not extend beyond the term of this Lease;
- (4) executed copies of such agreements, together with plats or diagrams showing with particularity the location, size and extent of such service lines, are filed by the utility companies with Lessor and with the Secretary within thirty (30) days of their execution; and
- (5) such agreements are otherwise in accordance with the provisions of 25 C.F.R. Part 169.22, including any amendments or successors thereto.

(B) Nothing contained herein shall be construed to limit the right of Lessor to enter into service line agreements with utility companies for service lines across the Leased Premises, provided that such service lines do not unreasonably interfere with Lessee's use of the Leased Premises, nor otherwise to affect the rights-of-way reserved to Lessor in Section 2 of this Lease.

12. LIENS; TAXES AND ASSESSMENTS; UTILITY CHARGES.

(A) Lessee shall not permit any liens arising from any work performed, materials furnished, or other obligations incurred by Lessee to be enforced against the Leased Premises, any interest therein or Improvements thereon. Lessee shall discharge all such liens before any action is brought to enforce same.

(B) Lessee shall pay, before becoming delinquent, all taxes, assessments and other like charges levied upon or against the Leased Premises, any interest therein or Improvements thereon, for which Lessee is liable. Upon request by Lessor or the Secretary, Lessee shall furnish Lessor and the Secretary written evidence duly certified that any and all such taxes, assessments and other like charges required to be paid by Lessee have been paid, satisfied or otherwise discharged. Lessee shall have the right to contest any asserted tax, assessment or other like charge against the Leased Premises, any interest therein or Improvements thereon, by posting bond to prevent enforcement of any lien resulting therefrom. Lessee agrees to protect and hold harmless Lessor, the Secretary and the Leased Premises and all interests therein and Improvements thereon from any and all such taxes, assessments and like charges and from any lien therefor, any sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Upon request by

Lessee, Lessor shall execute and deliver any appropriate documents with reference to real estate tax exemption of the Leased Premises, any interest therein or Improvements thereon.

(C) Lessee shall pay, before becoming delinquent, all charges for water, sewage, gas, electricity, telephone and other utility services supplied to the Leased Premises.

(D) Lessor shall have the right to pay any lien, tax, assessment or other charge payable by Lessee under this Lease, or to settle any action therefor, if, within a reasonable time after written notice thereof from Lessor or the Secretary, Lessee fails to pay or to post bond against enforcement thereof. All costs and other expenses incurred by Lessor in so doing shall be repaid by Lessee to Lessor on demand, together with interest at the legal rate from the date of payment or incursion thereof by Lessor until repayment is made by Lessee.

13. SUBLEASES AND ASSIGNMENTS.

Lessee shall not assign, convey or otherwise transfer this Lease, or any interest therein, without the prior written approval of Lessor and the Secretary, and then only upon the condition that the assignee or other successor in interest shall agree, in writing, to be bound by each and every covenant, agreement, term and condition of this Lease. Any such attempted assignment, conveyance, or transfer, without such written approval shall be void and of no effect. The approval of Lessor may be granted, granted upon conditions, or withheld at the sole discretion of Lessor.

14. QUIET ENJOYMENT.

Lessor hereby covenants and agrees that, upon performing each of its covenants, agreements, terms and conditions contained in this Lease, that Lessee shall peaceably and quietly have, hold and enjoy the Leased Premises without any hindrance, interruption, ejection or molestation by Lessor or by any other person or persons claiming from or under Lessor.

15. ENCUMBRANCE.

(A) This Lease or any interest therein may not be encumbered without the prior written approval of Lessor and the Secretary, and no such encumbrance shall be valid or binding without such prior written approval. An encumbrance shall be confined to the leasehold interest of Lessee, and shall not jeopardize in any way Lessor's interest in the land. Lessee agrees to furnish any requested financial statements or analyses pertinent to the encumbrance that Lessor and the Secretary may deem necessary to justify the amount, purpose and terms of said encumbrance.

(B) In the event of default by Lessee of the terms of an Approved Encumbrance, Encumbrance may exercise any rights provided in such Approved Encumbrance, provided that prior to any sale of the leasehold, Encumbrance shall give to Lessor and the Secretary notice of the same character and duration as is required to be given to Lessee by the terms of such Approved Encumbrance and by applicable law. In the event of such default, Lessor shall have the right, which may be exercised at any time prior to the completion of sale, to pay to Encumbrance any and

all amounts secured by the Approved Encumbrance, plus unpaid interest accrued to the date of such payment, plus expenses of sale incurred to the date of such payment.

(C) If Lessor exercises the above right, all right, title and interest of Lessee in this Lease shall terminate and Lessor shall acquire this Lease; provided, however, that such termination shall not relieve Lessee of any obligation or liability which shall have accrued prior to the date of termination. Acquisition of this Lease by Lessor under these circumstances shall not serve to extinguish this Lease by merger or otherwise.

(D) If Lessor declines to exercise the above right and sale of the leasehold under the Approved Encumbrance shall occur, the purchaser at such sale shall succeed to all of the right, title and interest of Lessee in this Lease. It is further agreed that if the purchaser at such sale is the Encumbrance, the Encumbrance may sell and assign this Lease without any further approval by Lessor and the Secretary, provided that the assignee shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such assignment shall be valid unless and until the assignee shall so agree. If Encumbrance is the purchaser, it shall be required to perform the obligations of this Lease only so long as it retains title thereto. If the purchaser is other than Encumbrance, the purchaser shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such purchase shall be valid unless and until purchaser shall so agree.

16. DEFAULT.

(A) Time is declared to be of the essence in this Lease. Should Lessee default in any payment of monies when due under this Lease, fail to post bond or be in violation of any other provision of this Lease, said violation may be acted upon by the Secretary in accordance with the provisions of 25 C.F.R. Part 162, including any amendments or successor provisions thereto.

(B) In addition to the rights and remedies provided by the aforementioned regulations, Lessor and the Secretary, either jointly or severally, may exercise the following options upon Lessee's default, authorized by applicable law subject to the provisions of subsection (D) of this Section below:

- (1) Collect, by suit or otherwise, all monies as they become due hereunder, or enforce by suit or otherwise, Lessee's compliance with all provisions of this Lease; or
- (2) Re-enter the premises if the lessee has abandoned the premises or has failed to conduct business for an extended period of time without notice, and remove all persons and property therefrom, and re-let the premises without terminating this Lease as the agent and for the account of Lessee, but without prejudice to the right to cause the termination of the Lease under applicable law thereafter, and without invalidating any right of Lessor or the Secretary or any obligations of Lessee hereunder. The terms and conditions of such re-letting shall be reasonably imposed by Lessor, who

shall have the right to alter and repair the premises as it deems advisable and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting shall be applied first to the expense of re-letting, collection, altering and repairing, including reasonable attorney's fees and any reasonable real estate commission actually paid, insurance, taxes and assessments and thereafter toward payment to liquidate the total liability of Lessee. Lessee shall pay to Lessor monthly when due, any deficiency and Lessor or the Secretary may sue thereafter as each monthly deficiency shall arise; or

(3) Take any other action authorized or allowed under applicable law.

(C) No waiver of a breach of any of the terms and conditions of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other term or condition of this Lease. Exercise of any of the remedies herein shall not exclude recourse to any other remedies, by suit or otherwise, which may be exercised by Lessor or the Secretary, or any other rights or remedies now held or which may be held by Lessor in the future.

(D) Lessor and the Secretary, as the case may be, shall give to an Encumbrance a copy of each notice of default by Lessee at the same time as such notice of default shall be given to Lessee. Lessor and the Secretary shall accept performance by an Encumbrance of any of Lessee's obligations under this Lease, with the same force and effect as though performed by Lessee. An Encumbrance shall have standing to pursue any appeals permitted by applicable federal or Navajo Nation law that Lessee would be entitled to pursue. Neither Lessor nor the Secretary shall terminate this Lease if an Encumbrance has cured or is taking action diligently to cure Lessee's default and has commenced and is pursuing diligently either a foreclosure action or an assignment in lieu of foreclosure.

17. SANITATION.

Lessee hereby agrees to comply with all applicable sanitation laws, regulations or other requirements of the United States and the Navajo Nation. Lessee agrees to dispose of all solid waste in compliance with applicable federal and Navajo Nation law.

18. HAZARDOUS AND REGULATED SUBSTANCES.

(A) Lessee shall not cause or permit any hazardous or regulated substance to be used, stored, generated or disposed of on or in the premises without first obtaining written consent of the Navajo Nation. Such consent shall be reflected in Section 3(C) of this Lease. If hazardous or regulated substances are used, stored, generated or disposed of on or in the premises, or if the premises become contaminated in any manner for which Lessee or a Sublessee is legally liable, Lessee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, a decrease in value of the premises, damages due to loss or restriction of rentable or usable space, or any damages due to adverse impact on marketing of the space, and any and all sums paid for settlement of claims,

attorneys' fees, consultant and expert fees) arising during or after the Lease term and arising as a result of such use, storage, generation, disposal and/or contamination. This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated by the federal government or Navajo Nation. Without limitation of the foregoing, if Lessee causes or permits the presence of any hazardous or regulated substance on the premises and such results in any contamination of the Leased Premises including, but not limited to the Improvements, soil, surface water or groundwater, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the premises to the condition existing prior to the contamination presence by any such hazardous or regulated substance on the Leased Premises. Lessee shall first obtain Lessor's approval for any such remedial action.

(B) Lessee shall provide the Navajo Nation Environmental Protection Agency and the Risk Management Department of the Navajo Nation with a clear and legible copy of all notices or reports concerning Storage Tank installation, testing, leakage, or remediation at the premises subject to this Lease which Lessee is required to provide under the NNSTA and, if not already required under the NNSTA, which Lessee is required by applicable law or regulation to provide to the United States Environmental Protection Agency or which Lessee otherwise provides to the United States Environmental Protection Agency. Service of documents shall be by first class mail to:

Storage Tank and Leaking Storage Tank Programs
Navajo Nation Environmental Protection Agency
Post Office Box 3089
Window Rock, Navajo Nation (Arizona) 86515

and,

Risk Management Department
Post Office Box 1690
Window Rock, Navajo Nation (Arizona) 86515

or their respective institutional successors.

19. PUBLIC LIABILITY INSURANCE.

(A) At all times during the term of this Lease, Lessee shall carry a public liability insurance policy in the amount of at least \$1,000,000 for personal injury to one (1) person and \$2,000,000 per occurrence, and \$500,000 for damage to property.

(B) Lessor or the Secretary may require that the amount of the insurance policy required by subsection (A) of this Section be increased at any time, whenever either shall determine that such increase reasonably is necessary for the protection of Lessor or the United States.

(C) With the prior written approval of Lessor and the Secretary, the insurance obligation under this Section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor and the Secretary.

20. NON-LIABILITY.

Neither Lessor nor the United States Government, nor their officers, agents, or employees, shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of Lessee or any other person whomsoever, caused by any use of the Leased Premises by Lessee, or by any defect in any structure existing or erected thereon, or arising from accident, fire, or from any other casualty on said premises or from any other cause unless such loss, damage, death or injury is caused by, in whole or in part, the acts, omissions, negligence, misconduct, or other fault of the United States Government and the Navajo Nation. Lessee agrees to hold the United States and the Navajo Nation harmless from any loss, liability, or damages resulting from Lessee's use or occupation of the Leased Premises but only to the extent that such loss, liability, or damages, which result in vicarious/derivative liability to the United States and the Navajo Nation, was or were caused by the act, omission, negligence, misconduct, or other fault of the State of Arizona, Department of Transportation, its officers, officials, agents, employees, or volunteers.

21. PROPERTY DAMAGE, FIRE AND CASUALTY INSURANCE.

(A) Lessee shall maintain insurance coverage for fire and casualty in accordance with Arizona law. Said policy shall be written with limits in the amount of 100% of the completed value of the property(ies) involved in this Lease.

(B) Subject to the provisions of subsections (C) and (D) of this Section, in the event of destruction of or damage to any Improvement on the Leased Premises, Lessee shall promptly replace or repair the destroyed or damaged Improvement to a condition as good or better than before the destruction or damage occurred.

(C) In the event of destruction of or damage to any Improvement on the Leased Premises, Lessee shall have the option not to replace or repair said Improvement. Lessee shall provide Lessor with written notice of exercise of Lessee's option within thirty (30) days of the said event of damage. Should Lessee exercise its option not to replace or repair in accordance with this subsection, this Lease shall terminate ninety (90) days after the effective date of notice thereof and all proceeds of fire and damage insurance shall be paid to Lessor. Lessee shall clear the Leased Premises of all debris prior to termination of this Lease.

(D) In the event of destruction of or damage to any Improvement on the Leased Premises while an Approved Encumbrance remains in effect, the proceeds of fire and damage insurance equal to the amount of destruction or damage to the encumbered Improvements (but not exceeding the remaining balance of the Approved Encumbrance) shall be paid to Encumbrance on the condition that Encumbrance agrees to perform and comply with Lessee's replacement and repair obligations set forth in subsections (B) and (C) of this section. If such amount paid to Encumbrance is sufficient to repair the destroyed or damaged Improvements with respect to which

it was paid or, if within three (3) months after such payment by the insurer to Encumbrance, Lessor or Lessee shall deposit with Encumbrance sufficient additional funds, if any, required to completely replace or repair the destruction or damage, upon written order of Lessor or Lessee, Encumbrance shall pay the costs of such replacement or repair, and such payment shall not be deemed a payment or credit on the Approved Encumbrance. Otherwise, at the expiration of such three (3) months said sum so paid by the insurer to Encumbrance shall be applied and credited on the Approved Encumbrance.

(E) With the prior written approval of Lessor and the Secretary, the insurance obligation under this section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor and the Secretary.

22. INSPECTION.

The Secretary and Lessor and their authorized representatives shall have the right, at any reasonable time during the term of this Lease, to enter upon the Leased Premises, or any part thereof, to inspect the same and all buildings and other Improvements erected and placed thereon for purposes, including, but not limited to, conditions affecting the health, safety and welfare of those entering the premises, the protection of the Leased Premises, any Improvements thereto or any adjoining property or uses, or compliance with applicable environmental health or safety laws and regulations. No showing of probable cause shall be required for such entry and inspection. If testing for environmental contamination reveals environmental contamination in violation of applicable law, Lessee shall pay the costs of such testing. Nothing in this paragraph shall limit Lessee's obligation under applicable law or this Lease to perform testing or remediation or otherwise limit Lessee's liability.

23. FINANCIAL RESPONSIBILITY FOR STORAGE TANKS

If Lessee installs or operates Storage Tanks on the Leased Premises in accordance with Section 3(C) of this Lease, the Lessee shall post a bond, obtain insurance or provide such other evidence of financial responsibility that meets all the requirements of 40 C.F.R. Part 280, Subpart H regardless of whether the Storage Tank in question is an above-ground or underground storage tank. For purposes of meeting the requirements of Part 280, Subpart H, however, the insured or otherwise protected party shall be the Navajo Nation. Lessee shall provide proof of this bond, insurance, or other qualifying financial responsibility mechanism to the Risk Management Department of the Navajo Nation contemporaneous with Lessee's submission of proof of other bonds or insurance to the Bureau of Indian Affairs. This bond or insurance shall remain in effect for the term of the Lease, and any renewals thereof, and shall not be released or terminated until such time as the Risk Management Department of the Navajo Nation, in coordination with the Navajo Nation Environmental Protection Agency, verifies that the facility is in compliance with all applicable law and regulations, or that the Storage Tanks have been removed and the site has been remediated, or that the Lease has been transferred and the new operator has provided proof of an adequate bond, insurance or otherwise satisfied the NNSTA or 40 C.F.R. Part 280, Subpart H financial responsibility requirements, as the case may be. It shall be the responsibility of the

Lessee to provide the Risk Management Department of the Navajo Nation with all proof required for release of bond or termination of insurance coverage.

24. MINERALS.

All minerals, including sand and gravel, contained in or on the Leased Premises are reserved for the use of Lessor. Lessor also reserves the right to enter upon the Leased Premises and search for and remove minerals located thereon, paying just compensation for any damage or injury caused to Lessee's personal property or Improvements constructed by Lessee.

25. EMINENT DOMAIN.

If the Leased Premises or any part thereof is taken under the laws of eminent domain at any time during the term of this Lease, Lessee's interest in the Leased Premises or the part of the Leased Premises taken shall thereupon cease. Compensation awarded for the taking of the Leased Premises or any part thereof, including any Improvements located thereon, shall be awarded to Lessor and Lessee as their respective interests may appear at the time of such taking, provided that Lessee's right to such awards shall be subject to the rights of an Encumbrance under an Approved Encumbrance.

26. DELIVERY OF PREMISES.

(A) At the termination of this Lease, Lessee will peaceably and without legal process deliver up the possession of the leased premises, in good condition, usual wear and tear excepted.

(B) Upon the written request of the Navajo Nation, Lessee shall provide to the Navajo Nation, at Lessee's sole cost and expense, an environmental audit assessment of the leased premises at least sixty (60) days prior to delivery of said premises, unless the provisions of Section 29(B), Environmental Audits and Compliance Documents, of this Lease apply.

27. HOLDING OVER.

(A) Except as otherwise provided, holding over by Lessee after termination of this Lease shall not constitute a renewal or extension thereof or give Lessee any rights hereunder or in or to the Leased Premises or to any Improvements located thereon.

(B) If at the expiration of the term of the Lease, or the expiration of any extension of the term of the Lease, Lessee has not completed all removal and remediation required by this Lease and applicable law, the term of this Lease shall automatically be extended until the Phase Two audit required by this Lease to be performed during the last year of the term of this Lease under Section 29(B), Environmental Audits and Compliance Documents, and any required removal and remediation is completed. Extension of the Lease pursuant to this paragraph does not extend Lessee's right to occupy the premises for purposes of conducting the business activities, described in the provision entitled "Purpose, Unlawful Uses" of the Lease. Rather, extension of the Lease pursuant to this paragraph gives the Lessee or Lessee's agents the right to occupy the leased

premises solely for the purposes of performing any necessary environmental audit(s) and any necessary remediation. Lessor may, at its discretion, cancel the Lease extension set forth in this section with or without cause.

28. ATTORNEY'S FEES.

Lessee agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Lessor or the Secretary in enforcing the provisions of this Lease. Lessor agrees to pay attorney's fees and expenses that may be ordered by a Navajo Nation Court as allowed under 1 N.N.C. § 554 (K) and referenced in Section 33, Dispute Resolution.

29. ENVIRONMENTAL AUDITS AND COMPLIANCE DOCUMENTS.

(A) Entry Audit: If Storage Tanks are located at the Leased Premises, Lessee will supply the Navajo Nation Storage Tank Program with a complete copy of a report of any existing Storage Tank(s) on the Leased Premises, in accordance with the NNSTA. The Lessee's report of existing Storage Tanks will be submitted on a form to be provided by the Director of the Navajo Nation Environmental Protection Agency or his/her designee specifying the:

1. Age,
2. Size,
3. Type,
4. Location,
5. Uses of such tank,
6. The type of release detection system and the extent of any known soil or ground water contamination,
7. The material out of which the tank was constructed,
8. Factory tank design specifications,
9. Tank system schematic, and
10. Other pertinent information as may be determined by the Director.

(B) Lessee shall perform at its own cost a Phase Two environmental audit during the last year of the Lease or upon termination of the lease, if earlier, and any other environmental audit(s) during the term of the Lease which Lessor determines, based on probable cause, to be reasonably necessary to ascertain whether environmental contamination by hazardous or regulated substances has occurred.

30. AGREEMENT TO ABIDE BY NAVAJO NATION AND FEDERAL LAWS.

Lessee and the Lessee's employees, agents, and sublessees and their employees and agents agree to abide by all laws, regulations, and ordinances of the Navajo Nation and all applicable laws, regulations and ordinances of the United States now in force and effect or as may be hereafter in force and effect including, but not limited, to the Navajo Preference in Employment Act, 15 N.N.C. ' ' 601 *et seq.* (NPEA) and the Navajo Nation Business Opportunity Act, 5 N.N.C.

' ' 201 *et seq.* (NNBOA), provided that the parties hereby acknowledge and agree that Lessee is an agency of the State of Arizona, subject to state and federal laws and that nothing in this Agreement shall be construed as requiring Lessee or its employees, agents or sublessees to violate federal law or the laws of the State of Arizona. This agreement to abide by Navajo laws shall not forfeit rights which the Lessee and the Lessee=s employees, and agents enjoy under the laws of the United States, nor shall it affect the rights and obligations of Lessee under applicable laws of the State of Arizona.

31. GOVERNING LAW.

Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of this Lease. Any action or proceeding brought by Lessee against the Navajo Nation in connection with or arising out of the terms and conditions of this Lease, to the extent authorized by Navajo law, shall be brought only in the courts of the Navajo Nation, and no such action or proceeding shall be brought by Lessee against the Navajo Nation in any court or administrative body of any State.

32. RESERVATION OF LESSEE=S RIGHTS TO ADMINISTRATIVE AND JUDICIAL REVIEW.

Nothing in this agreement shall be construed as divesting the Lessee of any right to an administrative appeal or judicial review of an administrative decision regarding this Lease under 25 C.F.R. Part 2; 43 C.F.R. Part 4, Subpart D; and 5 U.S.C. ' 704.

33. DISPUTE RESOLUTION.

Any claim, dispute, or other matter in question arising out of or relating to this Lease, shall be resolved by the procedures set forth as follows:

- a. The Lessee and Lessor shall endeavor to resolve claims, disputes and other matters in question between them by good faith negotiation and mediation which, unless they mutually agree otherwise, shall be in accordance with the Commercial Mediation Rules of the American Arbitration Association, as modified by the following:
 - i. unless otherwise agreed to in writing by the Lessee and Lessor, all mediation procedures shall be held in Window Rock, Arizona;
 - ii. a single mediator may be chosen by mutual agreement of the Lessee and Lessor;
 - iii. the party desiring mediation shall submit to the other party a written notice of intent to mediate, and such notice shall indicate whether the hiring of a mediator is desired;
 - iv. the parties shall equally share the mediator's fee and any other costs related to the mediation;
 - v. the mediation shall not exceed one hundred twenty (120) calendar days, unless otherwise agreed to in writing by the parties.

- b. If the mediation provided for in herein does not result in resolution of the parties' dispute within one hundred twenty (120) calendar days of commencement of the mediation, then, unless the parties agree in writing to extend the time for mediation, either party may invoke arbitration. If Lessee chooses to invoke arbitration, its notice of intent to invoke arbitration against the Lessor Navajo Nation shall be filed in compliance with the notice requirements of the Navajo Nation Sovereign Immunity Act, 1 N.N.C. § 555. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, except to the extent such rules are modified by the following:
- i. unless otherwise agreed to in writing by the parties, all arbitration procedures shall be held in Window Rock, Arizona; and
 - ii. the arbitration shall be conducted by a single arbitrator selected by the both parties, unless one of the parties' claims exceeds \$1,000,000.00, exclusive of interest, costs, and fees; in such case the arbitration shall be conducted by a panel consisting of three (3) arbitrators, two of which shall be chosen by each party, with the two arbitrators choosing the third; and,
 - iii. whether as a result of an arbitration provided for herein or of any judicial action to enforce an arbitration award resulting from such arbitration, any award against the Lessor shall be in strict conformance with the provisions of 1 N.N.C. §§ 554 (K); and,
 - iv. whether in the context of an arbitration provided for herein or of any judicial action to enforce an arbitration award resulting from such arbitration, the laws of the Navajo Nation shall exclusively govern the interpretation of this Lease, the arbitration provisions set forth herein and the arbitration procedures conducted pursuant thereto, and the application of all provisions herein to Lessee.
 - v. Pursuant to 1 N.N.C. § 554 (J) and (K) and 7 N.N.C. § 1102, the appropriate Navajo Nation district court shall have exclusive jurisdiction to compel the Lessor's participation in an arbitration, shall have exclusive jurisdiction to enforce, modify, or vacate an arbitration award resulting from such arbitration; and shall have the discretion to award necessary costs of suit and/or reasonable attorney's fees.
- c. The mediation and arbitration provisions herein shall constitute the sole and exclusive procedural remedy to any dispute or controversy arising out of this Lease. Commencement of mediation or arbitration shall be a complete defense to any suit, action or proceeding instituted in any federal, state, or tribal court or any administrative tribunal, with respect to any dispute or controversy arising out of this Lease that is mediated or arbitrated as set forth herein.
- d. The dispute resolution provisions of this Lease shall, with respect to any dispute or controversy arising out of this Lease, survive the termination or expiration of this Lease.

- e. Lessee shall continue, without delay, all of its responsibilities under this Lease that are not affected by the dispute.

34. CONSENT TO JURISDICTION.

To the extent not expressly prohibited by Arizona law, Lessee hereby consents to the legislative, executive and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Lessee within the Navajo Nation.

35. COVENANT NOT TO CONTEST JURISDICTION.

Lessee hereby covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing in this Section shall be constructed to negate or impair federal responsibilities with respect to the Leased Premises or to the Navajo Nation.

36. NO WAIVER OF SOVEREIGN IMMUNITY.

Nothing in this Lease shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

37. TERMINATION OF FEDERAL SUPERVISION.

Nothing in this Lease shall operate to delay or prevent a termination of federal responsibilities with respect to the Leased Premises by the issuance of a fee patent, or otherwise, during the term of this Lease, however, such termination shall not serve to abrogate this Lease. Lessor, Lessee, Lessee=s surety or sureties and an Encumbrancer, if any, shall be notified of any such change in the status of the Leased Premises.

38. INTEREST OF MEMBER OF CONGRESS.

No member of or delegate to Congress or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

39. OBLIGATIONS TO THE UNITED STATES.

It is understood and agreed that while the Leased Premises are in trust or restricted status, all of Lessee's obligations under this Lease and the obligations of its sureties are to the United States as well as to Lessor.

40. NOTICES AND DEMANDS.

(A) Any notices, demands, requests or other communications to or upon either party or the Secretary provided for in this Lease, or given or made in connection with this Lease (hereinafter referred to as "notices"), shall be in writing and shall be addressed as follows:

To or upon Lessor:

President
The Navajo Nation
Office of the President/Vice-President
P.O. Box 9000
Window Rock, Navajo Nation (Arizona) 86515
Fax: 928-871- 4025

To or upon Lessee:

Arizona Department of Transportation
Facilities Management Operations Support
1801 West Jefferson Street, MD 509M
Phoenix, Arizona, 85007

Tel: (602) 712-8335
Fax: (602) 712-3195 _____

To or upon the Secretary:

Regional Director
Navajo Region
Bureau of Indian Affairs
United States Department of the Interior
301 West Hill Street
P.O. Box 1060
Gallup, New Mexico 87305
Fax: 505-863-8324.

(B) All notices shall be given by personal delivery, by registered or certified mail, postage prepaid, or by facsimile transmission, followed by surface mail. Notices shall be effective and shall be deemed delivered if by personal delivery, on the date of delivery if during normal business hours, or if not during normal business hours on the next business day following

delivery; if by registered or certified mail, or by facsimile transmission, followed by surface mail, on the next business day following actual delivery and receipt.

(C) Copies of all notices shall be sent to the Secretary.

(D) Lessor, Lessee and the Secretary may at any time change its address for purposes of this Section by notice.

41. SUCCESSORS AND ASSIGNS.

The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of Lessee. Except as the context otherwise requires, the term "Lessee," as used in this Lease, shall be deemed to include all such successors, heirs, executors, assigns, employees and agents.

42. RESERVATION OF JURISDICTION.

There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease; and the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

44. EFFECTIVE DATE; VALIDITY.

This Lease shall take effect on the date it is approved by the Secretary. This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party until it is approved by the Secretary.

///
///
///
///
///

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

THE NAVAJO NATION, LESSOR

By: _____
Ben Shelly, President

ARIZONA DEPARTMENT OF
TRANSPORTATION, LESSEE

By: _____

Sonya E. Herrera, Director for Administrative Services

By: _____

Date: _____

Regional Director
Navajo Region
Bureau of Indian Affairs
United States Department of the Interior

By: _____

Alvin C. Dominquez, P.E.
Cabinet Secretary

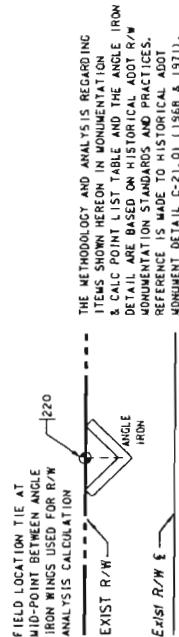
RESULTS OF SURVEY

NAVAJO INDIAN TRUST LANDS, FORT DEFIANCE AGENCY,
SAINT MICHAELS CHAPTER, LOCATED WITHIN SECTION 8 AND 17,
TOWNSHIP 26 NORTH, RANGE 31 EAST, GILA & SALT
RIVER MERIDIAN, APACHE COUNTY, ARIZONA

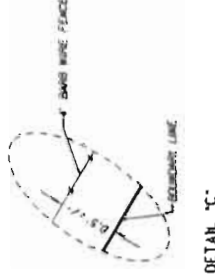
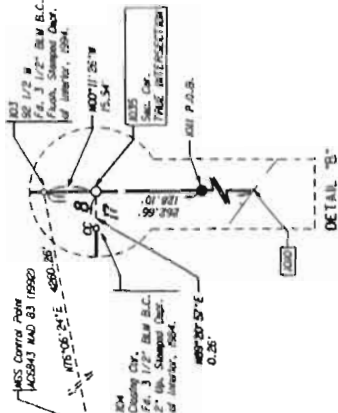
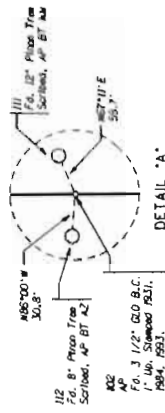
MONUMENTATION & CALC POINT LIST - GROUND COORDINATES - PER GAF 1.00029562		
P.T.	DESCRIPTION	EASTING
102	1031222.57811	AP Fd. 3 1/2" GLD B.C. on 2 1/2" Steel Post, 1" Up, Stamped 1931, 1984, 1993.
103	1698555.62202	92 1/2" W Fd. 3 1/2" BLM B.C. on 2 1/2" Steel Post, Flush, Stamped Dept. of Interior 1994
104	1698940.08030	Clothing Corner Fd. 3 1/2" BLM B.C. on 2 1/2" Steel Post, 2" Up, Stamped Dept. of Interior 1984
105	1698336.98473	93 W Fd. 3 1/2" GLD B.C. on 2 1/2" Steel Post, 3" Up, Stamped 1980, 1994.
111	1701437.72541	Fd. 12" Pinon Tree, Scribbled, AP BT NU
112	1701416.73848	Fd. 8" Pinon Tree, Scribbled, AP BT AZ
128	1699140.03007	Fd. 3" AZHO B.C. on 2 1/2" Steel Post, Flush, Stamped 1970
220	1699187.91396	Fd. 3" AZHO B.C. on 2 1/2" Steel Post, 686-50.42 - See Angle Iron Detail
1001	1699040.18264	P.C.
1002	1697252.04636	Radius Point
1003	1698582.51046	P.T.
1004	1699007.47460	P.T.
1008	1698615.76290	Set Standard ADOT Monument
1010	1698692.36353	State Line Tie
1011	1698627.51613	Set Standard ADOT Monument
1012	1698195.82538	Set Standard ADOT Monument
1014	1698081.08132	Set Standard ADOT Monument
1035	1698941.08132	Set Standard ADOT Monument
1036	1698937.74096	True Intersection
1038	1698937.74096	Section Line Tie
1040	1698937.74096	Section Line Tie
1049	1698937.74096	Section Line Tie
2015	1698937.74096	1/4 Cor. Fd. 3 1/2" BLM B.C. on 2 1/2" Steel Post, Dept. of Interior, 1987

NGS CONTROL POINT
(P344) AC5843 M40 83 (1992) 35°38'36.68840" (N) 109°03'36.45992" (W)
Grid Coordinates N 1697430.47195 E 102803.38206
Ground Coordinates N 1697932.66646 E 1025004.48644

REFERENCES
BLM Plat 1155-A1 T. 36N, R. 31E, and field notes in Book 5280
ADOT Audit Plans, STP-060-119 P. 2001
ADOT Right of Way Plans S-441-601 1966 & S-441-706 1975



ANGLE IRON DETAIL
NTS



DATE	10-01-1-2-13	APPROVED BY	APACHE COUNTY
FIELD SURVEY	MARCH 2002	APPROVED BY	TUBA CITY - WINDOW ROCK
DATE/DATE	APRIL 2002	APPROVED BY	N 810-601 AP 40
ADOT REVIEW	MARY KEMMER	APPROVED BY	264 AP 476 HOBBS OR
ADOT REVIEW	RITCOFF-POWELL	APPROVED BY	SR 264
ADOT REVIEW	264 AP 476 HOBBS OR	APPROVED BY	WINDOW ROCK PORT OF ENTRY
ADOT REVIEW	SR 264	APPROVED BY	



Administrative Services

Janice K. Brewer, Governor
John S. Halikowski, Director
Sonya Herrera, Division Director

April 24, 2014

Mr. Howard Draper
Program & Projects Specialist
Navajo Land Department
P.O. Box 2249
Window Rock, AZ. 86515

RE: Window Rock MVD Appraisal

Dear Mr. Draper:

At the request of the Navajo Nation, the Arizona Department of Transportation has completed the appraisal for the Window Rock MVD.

We will strive to expedite the negotiation process on the new lease terms for the Window Rock MVD Customer Service Center.

Please contact either Gary Gonzales or me at the number below with any questions or concerns.

Respectfully,

Freda Bilazzo
Facilities Lease Specialist
1801 W. Jefferson
Phoenix, AZ. 85007 Mail Drop 509M
Office-602-712-4002
Cell-602-680-0440
FBilazzo@azdot.gov



Enclosures (3)



7004 1160 0000 1359 9860

DESCRIPTION OF LEASE FOR PORT OF ENTRY NAVAJO NATION

Those portions of Lot 1 of Section 17, and Lot 4 of Section 8, Township 26 North, Range 31 East, Gila and Salt River Meridian, Apache County, Arizona, described as follows:

Commencing at a found 3½ inch Bureau of Land Management (BLM) Department of Interior 1994 brass cap marking the 92½ mile monument of the East line of the Arizona State Boundary, being North 00°11'26" West 2618.65 feet from a found 3½ inch GLO 1980, 1993, 1994 brass cap marking the 93 mile monument of said East line of the Arizona State Boundary;

thence along said East line of the Arizona State Boundary South 00°11'26" East 128.10 feet to the POINT OF BEGINNING;

thence along said East line of the Arizona State Boundary South 00°11'26" East 11.76 feet to the existing northeasterly right of way line of State Route 264 (TUBA CITY-WINDOW ROCK HIGHWAY);

thence along said existing northeasterly right of way line of State Route 264, from a Local Tangent Bearing of North 55°48'25" West, along a curve to the Left, having a radius of 1890.49 feet, a length of 507.61 feet;

thence North 01°29'26" West 154.09 feet;

thence South 59°28'32" East 204.40 feet;

thence South 46°44'07" East 385.62 feet to the POINT OF BEGINNING.

Comprising an area of 34,477 square feet, more or less in Section 8, and comprising an area of 5,579 square feet, more or less in Section 17.

EXHIBIT "A"

PROJECT: 264 AP 476 H0888

LOCATION: Window Rock Port of Entry

PARCEL:

*Bill to MVD B0H33620

sw 06-07-2012

[illegible]

These persons of 1817 of Section 2, and Lot 4 of Section 4, Township 26 North, Range 3 East, Choctaw County, Arkansas, Special Survey, Division, situated at Atlanta.

[illegible]

John's 7th, over # Fall in Success N.

PG 04 1429
Window Rock Motor Vehicle Division Customer Service Office

Figure 3. Site survey

Environmental Assessment

Window Rock MVD Customer Service Office



THE NAVAJO NATION



BEN SHELLY
PRESIDENT

REX LEE JIM
VICE-PRESIDENT

MEMORANDUM

TO : Howard P. Draper, Supervisor
Project Review Section, NLD

FROM : Esther Kee
Esther Kee, R/ W Agent
Project Review Section, NLD

DATE : December 3, 2014

SUBJECT: ADOT Window Rock Motor Vehicle Division Substation

The Arizona Department of Transportation, 1801 West Jefferson, Phoenix, Arizona 85007, submitted a lease to renew an expired lease to operate and maintain the Arizona Department of Transportation Window Rock MVD substation, vehicle check point and other governmental services near Window Rock, Az.

ADOT proposes to renew an expired 0.92 acres land lease in Sections 8 and 17, T26N, R31E, Window Rock, Apache County, Arizona.

The Navajo Nation is the only affected land user and provided the necessary consent from the District 18 Grazing Committee Member, Joseph Peshlakai.

Field clearance complete, land user consent, map and supporting documents are all attached for your information and reference.

cc: Project file

December 3, 2014

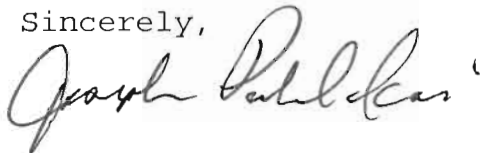
TO: Project Review Office,
Navajo Land Department

Re: Land Use Consent

Window Rock Port of Entry Office is renewing an existing land lease adjacent to New Mexico state line.

The area is not permitted for grazing and no land users will be affected or impacted by the project. If you should require additional information please contact me at St. Michaels Chapter 928.871.7842.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph Peshlakai". The signature is fluid and cursive, with a large initial "J" and a distinct "P".

Joseph Peshlakai,
District 18 Grazing Committee Member



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF ENVIRONMENTAL REVIEW

PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996

Website: www.navajonationepa.org

July 18, 2013

Leslie J. Stafford
EcoPlan Associates Inc.
701 W. Southern Avenue Suite 203
Mesa, Arizona 85210

**RE: Window Rock Motor Vehicle Division Customer Service Office ADOT Number
B0H33620 and PG U4 1429**

Ms. Stafford,

Pursuant the Title 4, NNC Chapter 9 Navajo Nation Environmental Policy Act, Subchapter 1, §904, the Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and **approves** Arizona Department of Transportation Motor Vehicle Division's customer service office (MVD Office) lease renewal. The existing MVD Office is located on a 0.92 acre, a reduction in acres from the original lease acreage of 2.17 acres in Sections 8 and 17, T26N, R31E, G&SRM, Apache County, Arizona. There will be no change in site activities, no new ground construction and ground disturbance is expected at the current existing MVD Office site.

1. Navajo Nation Clean Water Act:

- a. **§401 Certification:** Not required.
- b. **§402 Navajo Pollutant Discharge Elimination System (NPDES):** Not required.
- c. **§404 Dredge & Fill:** Not required.

2. Navajo Nation Air Pollution Prevention and Control Act:

- a. The existing MVD Office is located within an area designated as Class II which is unclassified for the National Ambient Air Quality Standards (NAAQS)~ attainment of the NAAQA;
- b. Visibility is good to excellent.

3. Navajo Nation Safe Drinking Water Act:

- a. Existing water utility infrastructure; no further action required.

4. Navajo Nation's Solid Waste Act:

¹ EcoPlan Associates Inc. Final Environmental Assessment Window Rock Motor Vehicle Division Customer Service Office Window Rock, Arizona ADOT. July 2013.

- a. ADOT MVD Office is subject to control the solid waste bin to reduce injuries or fatalities of merchandise related waste to human, wildlife and domestic animals.
5. ***Navajo Nation Comprehensive, Environmental Response, Compensation and Liability Act (CERLA):***
 - a. No hazardous waste is generated, stored or used at the current existing MVD Office.
6. ***Navajo Nation Storage Tank Act (NNSTA) (formerly Underground Storage Tank (UST) Act; amended February 2012):***
 - a. No storage tank is expected to be on the current existing MVD Office.
7. ***Federal Insecticide Fungicide and Rodenticide Act (FIFRA)/NN Pesticide Act:***
 - a. MVD Office is subject to control invasive and noxious weeds on the existing lease.
 - b. Contact the NNEPA Pesticide Program at 928/871-7815/7810 before applying any pesticides and herbicides to control noxious and invasive plant species to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
 - c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.
8. ***Others To Contact Within Navajo Nation:***
 - a. Howard Draper, Project Review Office, Navajo Land Department to ensure the proposed action meets the NN Code Title 2 Review.

If you have any questions, please contact me at 928/871- 7188. Thank you.

Sincerely,



Rita Whitehorse-Larsen, Senior Environmental Specialist
Navajo Nation Environmental Protection Agency
Office of Environmental Review

Cc: ADOT, Ed Green, via email egreen@azdot.gov
Harrilene Yazzie, Bureau of Indian Affairs, PO Box 10, Gallup, New Mexico, 87305
W. Mike Halona, Division of Natural Resources, Navajo Land Department, via NN mail
Howard Draper, Division of Natural Resources, Navajo Land Department; Project Review Office, via NN mail
NNEPA – Water Quality; Air Quality; OPP; PWSSP; RCRP, Superfund; STP; Pesticide; Administration
chrono file
Contact: Ed Green o) 602-920-3882; Leslie J. Strafford o) 480-733-6666 ext 138



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Fort Defiance Agency
P. O. Box 619
Fort Defiance, Arizona 86504



In Reply, Refer to:
6N420 – Real Estate Services

MAY 30 2014



Mr. Howard Draper
Project Review Section
Navajo Land Department
P.O. Box 2249
Window Rock, Arizona 86515

Dear Mr. Draper:

Enclosed for your information and use is an Appraisal Review of the Arizona Department of Transportation Inspection Station located in Sections 8 and 17, T26N, R31E, G&SRM in the vicinity of Window Rock, Apache County, Arizona.

The Appraisal Review was conducted by the Office of Special Trustee for American Indians Office of Appraisal Services (OST/OAS) Navajo Region. The Appraiser's Opinion of Value: Market Rental Value – Annually is \$4,046.00. The appraisal is for land only and does not address any improvements.

If you have any questions, please contact me at (928) 729-7211.

Sincerely,

Realty Specialist

Enclosures



United States Department of the Interior

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
OFFICE OF APPRAISAL SERVICES – NAVAJO REGION
2024 EAST AZTEC AVENUE



APPRAISAL REVIEW REPORT

PROPERTY APPRAISED:

MARKET RENTAL VALUE APPRAISAL OF GROUND LEASE FOR THE ADOT
INSPECTION STATION, LOCATED WITHIN THE NAVAJO NATION, WINDOW ROCK,
APACHE COUNTY, AZ

SUMMARY APPRAISAL REPORT PREPARED BY:

MARK L. WIRTH, MAI, CCIM

EFFECTIVE DATE OF VALUE:

OCTOBER 25, 2013

TYPE OF VALUE

MARKET RENTAL VALUE “FEE SIMPLE ESTATE”

DATE OF APPRAISAL REVIEW REPORT:

MARCH 6, 2014

APPRAISAL REVIEW REPORT PREPARED BY:

ALFONSO MONTOYA,
OST/OAS – NAVAJO REGION
2024 EAST AZTEC AVENUE, GALLUP, NM 87301



United States Department of the Interior

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
OFFICE OF APPRAISAL SERVICES – NAVAJO REGION
2024 EAST AZTEC AVENUE



March 6, 2014

Ms. Sharon Pinto
Regional Director
Bureau of Indian Affairs – Navajo Region
P.O. Box 1060
Gallup, NM 87305

Re: Case Numbers: N36-780-2014-06394, Market Rental Value Appraisal of ground lease for the ADOT Inspection Station, located at Window Rock, Apache County, AZ

Dear Ms. Pinto,

I have reviewed the above captioned appraisal report for the purpose of determining if it is acceptable for use by your agency. The effective date of the appraisal under review is October 25, 2013; the date this review report was prepared and signed is March 6, 2014.

This appraisal review report has been prepared in conformance with Standards Rule 3 of the Uniform Standards of Professional Appraisal Practice (USPAP).

The subject property is appraised under two hypothetical conditions, they are as follows:

- *It is noted that the use of a Hypothetical Condition might have affected the assignment results.*
- 1) *It should be noted that the subject property is part of the Navajo Indian Community and cannot be sold in the fee simple estate to non-community members. The property is known to be trust land with restrictions, however, I will value invoke a Hypothetical Condition and estimate a market value considering the Fee Simple Estate.*
- 2) *Additionally, the subject is improved as an Arizona Department of Transportation Port of Entry Station. The property has an office building. It is noted that the tenant, not being in default, upon termination of the lease has the right to remove the improvements within 60 days.*

I have been requested to value only the underlying subject property as unimproved and there are no structures located on the property.

Based on my review of the summary appraisal report, I have formed the conclusion that the report that is subject of this review is approved for use by the Bureau of Indian Affairs and intended users.



United States Department of the Interior

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
OFFICE OF APPRAISAL SERVICES - NAVAJO REGION
2024 EAST AZTEC AVENUE



Displayed below is the appraiser's opinion of market rent that is subject of the summary appraisal report.

Request Number	Effective Date	Market Value	Rate of return	Market Rental Value - Annually
N36-780-2014-06394	10/25/2013	\$50,578.00	8%	\$4,046.00

Respectfully Submitted,

Alfonso Montoya, Review Appraiser
NM General Certificate # 03003-G
Expires 04/30/2014

APPRAISAL REVIEW REPORT

INTRODUCTION

Appraisal Authorization: N36-780-2014-06394

Appraisal Review of: Appraisal review of a market rental value opinion of a ground lease for Arizona Department of Transportation (ADOT) Inspection Station within the Navajo Nation, Window Rock, Apache County, AZ

Prepared by: Alfonso Montoya

Date of Review: March 6, 2014

Type of Review: Technical Review

Extent of Data Verification: The reviewer did not re-verify the market data contained in the report and no transaction documents are contained in the review appraisal report.

Type of Value: Market Rental Value - Annually

Appraiser's Opinion of Value:

Request Number	Effective Date	Market Value	Rate of return	Market Rental Value - Annually
N36-780-2014-06394	10/25/2013	\$50,578.00	8%	\$4,046.00

Comments: The appraiser adequately researched the market, analyzed the comparable sales and appropriately applied a rate of return to the land. This technique is considered typical and appropriate. The appraisal report subject to this review is considered to be in conformance with Standard Rule 1 and 2 of the Uniform Standards of Professional Appraisal Practice (USPAP).

As a result of my review, I Alfonso Montoya, approve the summary appraisal report that is the subject of this review.

This appraisal review report is organized in four sections: (1) Summary of Appraisal Report Under Review, (2) Appraisal Review Process, (3) Reviewer's Opinions, Reasons, Analyses, Comments, and Conclusions, (4) Reviewer Certification.

SUMMARY OF APPRAISAL REPORT UNDER REVIEW

SECTION I

The following is to be completed using information in the appraisal report under review.

Extraordinary Assumptions	X	Yes		No
Hypothetical Conditions	X	Yes		No
Jurisdictional Exceptions		Yes		No
Legal instructions		Yes		No

If any of the above are checked and are included in the appraisal report under review, state and comment on applicability and/or appropriateness of use in the report, (including compliance with USPAP SR 2-2 (a)(x), (b)(x), or USPAP SR 2-2 (c)(x)).

The appraiser has appraised the subject property under two hypothetical conditions, they are as follows:

- *It is noted that the use of a Hypothetical Condition might have affected the assignment results.*
- 1) *It should be noted that the subject property is part of the Navajo Indian Community and cannot be sold in the fee simple estate to non-community members. The property is known to be trust land with restrictions, however, I will value invoke a Hypothetical Condition and estimate a market value considering the Fee Simple Estate.*
- 2) *Additionally, the subject is improved as an Arizona Department of Transportation Port of Entry Station. The property has an office building. It is noted that the tenant, not being in default, upon termination of the lease has the right to remove the improvements within 60 days.*

I have been requested to value only the underlying subject property as unimproved and there are no structures located on the property.

The uses of these hypothetical conditions are an appropriate use in the report.

- | | |
|----------------------------|--|
| a. Appraisal Authorization | N36-780-2014-06394 |
| b. Type of report | Summary Appraisal Report in compliance with USPAP Standards 2-2(b). |
| c. Owner(s) of Record | The subject property is owned by the Navajo Nation, and is held in Trust by the United States of America and administered by the Bureau of Indian Affairs. |
| d. Estate Appraised | The subject property is appraised as if held in Fee Simple Estate. |

e. Legal Descriptions

THOSE PORTIONS OF LOTS 1 OF SECTION 17, AND LOT 4 OF SECTION 8, TOWNSHIP 26 NORTH, RANGE 31 EAST, GILA AND SALT RIVER MERIDIAN, APACHE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3½ INCH BUREAU OF LAND MANAGEMENT (BLM) DEPARTMENT OF INTERIOR 1994 BRASS CAP MARKING THE 92 ½ MILE MONUMENT OF THE EAST LINE OF THE ARIZONA STATE BOUNDARY, BEING NORTH 00°11'26" WEST 2618.65 FEET FROM A FOUND 3 ½ INCH GLO 1980, 1993, 1994 BRASS CAP MARKING THE 93 MILE MONUMENT OF SAID EAST LINE OF THE ARIZONA STATE BOUNDARY:

THENCE ALONG SAID EAST LINE OF THE ARIZONA STATE BOUNDARY SOUTH 00°11'26" EAST 128.10 FEET TO THE POINT OF BEGINNING;

THENCE ALONG SAID EAST LINE OF THE ARIZONA STATE BOUNDARY SOUTH 00°11'26" EAST 11.76 FEET TO THE EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF STATE ROUTE 264 (TUBA CITY – WINDOW ROCK HIGHWAY);

THENCE ALONG SAID EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF STATE ROUTE 264, FROM A LOCAL TANGENT BEARING OF NORTH 55°48'25" WEST, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1890.49 FEET, A LENGTH OF 507.61 FEET;

THENCE NORTH 01°29'26" WEST 154.09 FEET;

THENCE SOUTH 59°28'32" EAST 204.40 FEET;

THENCE SOUTH 46°44'07" EAST 385.62 FEET, TO THE POINT OF BEGINNING.

COMPRISING AN AREA OF 34,477 SQUARE FEET, MORE OR LESS IN SECTION 8. AND COMPRISING AN AREA OF 5,579 SQUARE FEET, MORE OR LESS IN SECTION 17.

f. Property Characteristics

The subject property is trapezoid in shape comprising of approximately 40,056 SF or 0.9196 acres.

	The subject's topography is mostly level. Access is via SR 264. Overall, access and visibility is considered adequate.
g. Improvements	The appraisal is concerned with a market rent opinion for land only and do not address any improvements.
h. Extraordinary Assumptions	None noted
Hypothetical Conditions	Please see previous discussion regarding hypothetical conditions on page 2.
j. Jurisdictional Exception(s)	None noted
k. Legal Instruction(s)	None noted
l. Highest and Best Use	
Highest and Best Use As Vacant	hold for future highway commercial/industrial development
Highest and Best Use As Improved	N/A
Highest and Best Use Conclusion	hold for future highway commercial/industrial development
m. Larger Parcel	N/A
n. Present Use of Property	The present use is as an ADOT Inspection Station
o. Date of Last Property Inspection	October 25, 2013
p. Effective date of value	October 25, 2013
q. Date of Appraisal Report	December 31, 2013
r. Name of Appraiser	Mark L. Wirth, MAI, CCIM
s. Type of Value	Market Rent (<i>The Dictionary of Real Estate Appraisal, 5th edition</i>)
t. Indicated Value of Property	Please refer to page 1 of the Appraisal Review Report.
u. Unit of Value	\$55,000/ acre

APPRAISAL REVIEW PROCESS

SECTION II

Client	The client is the U.S. Bureau of Indian Affairs and the Office of the Special Trustee for American Indians (OST), Office of Appraisal Services (OAS).
Intended Use	The intended use of the appraisal review report is to provide the client information on the adequacy of the appraisal report under review for official use.
Intended Users	The intended users are the U.S. Bureau of Indian Affairs, the Office of the Special Trustee for American Indians, Office of Appraisal Services – Navajo Region, and the Arizona Department of Transportation.

The purpose of this review assignment is to ensure that the appraisal report complies with USPAP and, given the scope of work, to develop an opinion as to the completeness of the material under review; the apparent adequacy and relevance of the data and the propriety of any adjustments to the data; an opinion as to the appropriateness of the appraisal methods and techniques used; and as to whether the analysis, opinions, and conclusions are appropriate and reasonable.

Scope of Work: I have performed a technical desk review. This appraisal review was developed and reported to meet the standards set forth by USPAP. The data contained within the appraisal was confirmed. A thorough review and analysis of the information and analysis contained the appraisals under review were checked for accuracy. A narrative explanation of the review findings has been completed.

REVIEWER'S OPINIONS, REASONS, ANALYSES, COMMENTS, AND CONCLUSIONS

SECTION III

The purpose of this section is to report the reasons and support for the reviewer's conclusions, and to explain discrepancies and disagreements. This section should be written in a narrative format that clearly meets the standards found in USPAP SR 3-3.

The following requirements, as found in USPAP SR 3-3, (d) through (g), must be addressed.

- d. ***Develop an opinion as to the completeness of the material under review, given the reviewer's scope of work.*** (Comment: The reviewer is required to develop an opinion as to the completeness of the work under review within the context of the requirements applicable to that work.)

The appraisal report adequately defined and documented the appraisal problem and the valuation process. The appraiser reached an opinion of market rent for the subject property. The appraiser adequately identified the estate appraised. Legal descriptions and maps were provided. Comparable sales were used and adequately employed. The annual market rent analysis was conducted and adequately employed. General assumptions, limiting conditions and hypothetical conditions were utilized and explained in the body of the summary appraisal report.

Overall, the completeness of the material under review is considered adequate.

- e. ***Develop an opinion as to the apparent adequacy and relevance of the data and the propriety of any adjustments to the data, given the reviewer's scope of work.***

The comparable sales and market data used in the report are considered adequate and relevant for use in the Market Approach. On the fifth paragraph on page 71, the appraiser indicates "*Sales 2 and 3 required the most amount of adjustments and thus, the least weight has been place on these sales*". *Sale 3 and 4 required the least amount of adjustments.*" Given the entire analysis, it is clearly evident that this is an oversight/typo. It is obvious the appraiser meant to say Sales 1 and 2 required the most amount of adjustments, as reflected by the entire analysis. As such, this is considered an oversight and is not considered to have a material impact on the overall report. Qualitative adjustments were applied and reasonably explained. Market participant interviews appear to reflect the prevailing market attitudes and economic indicators and are consistent with available market data. The appraiser consistently applied the adjustments in a comparative analysis.

Overall, the data, relevance and propriety of adjustments to the data is supported and considered adequate.

- f. ***Develop an opinion as to the appropriateness of the appraisal methods and techniques used, given the reviewer's scope of work, and develop the reasons for any disagreement.***

The appraiser concluded the highest and best use to be industrial/highway commercial use. The highest and best use analysis of the subject properties is considered appropriate and adequate.

The appraisal methods and techniques used in the appraisal under review is the "Market Approach". This is an appropriate valuation method of estimating market rent for the subject property under appraisal. The

differences between the comparables and the subject site were considered and appropriately adjusted. In addition, the annual market rent analysis was conducted and adequately employed.

The Market Approach was the only approach applicable to the report under review. The appraiser did not develop the cost or income approaches to value, which is typical for the purposes of this assignment.

g. Develop an opinion as to whether the analyses, opinions, and conclusions are appropriate and reasonable, given the reviewer's scope of work, and develop the reasons for any disagreement.

In conclusion, the Market Approach was done for the subject property and the appraiser formed an opinion of market value. Furthermore, the appraiser applied and reasonably explained the annual lease rate as applied to the opinion of market value. As a result, the appraiser's opinion of market rent is considered adequate and supported by the data. The material under review is adequate, complete and relevant.

The appraiser performed a qualitative analysis on the comparable sales to the subject property. The adjustments to the data are appropriate and reasonable and the opinion of market rent is reasonably supported. The appraiser has complied with USPAP. The appraiser employed a recognized method and technique necessary to produce a credible summary appraisal report.

Based on the applicable scope of work, I have formed the conclusion that the summary appraisal report subject of this review is acceptable for the intended use and is approved for use by the Bureau of Indian Affairs and intended users.

**REVIEWER CERTIFICATION
SECTION IV**

I, the undersigned, certify that to the best of my knowledge and belief:

1. The statements of facts and data used in the review process and review report are true and correct.
2. The analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, impartial, and unbiased professional analysis, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
4. I have performed no other services as an appraiser or in any other capacity, regarding the property that is the subject of the work under review within the three-year period immediately preceding acceptance of this assignment.
5. I have no bias with respect to the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
6. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review.
8. My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
9. I did personally inspect the properties that are subject of the report under review; I made a personal inspection of the market comparables cited in the appraisal report under review; I have verified the factual data presented in the appraisal report reviewed.
10. No one provided significant professional assistance to the person signing this report.
11. I have completed the continuing education requirements of the State of New Mexico in which I am certified.



Alfonso Montoya, Review Appraiser

NM General Certificate #03003-G

Expires 04/30/2014

Date Signed: 03/06/2014

Desk Review Yes

Field Review No

ASSUMPTIONS AND LIMITING CONDITIONS

1. I do not authorize the out-of-context quoting from, or partial reprinting of, this review report.
2. This review report is based on information and data contained in the appraisal report, which is the subject of the review. Data and information from other sources may be considered. If so, they are identified and noted as such.
3. It is assumed that the data contained in the appraisal report and any data and information from other sources are factual and accurate.
4. The reviewer reserves the right to consider any new or additional data or information, which may subsequently become available.
5. The reviewer reserves the right to reconsider the conclusions reached in this review should the property rights valued change from those stated herein and in the appraisal report under review.
6. Unless otherwise stated, all assumptions and limiting conditions contained in the appraisal report, which is the subject of this appraisal review, are also conditions of this review.

REVIEWER'S QUALIFICATIONS

Alfonso Montoya

New Mexico Real Estate Appraisers General Certificate Number 03003-G

Education and Training

General Education

Bachelor of Business Administration – Anderson Schools of Management
University of New Mexico - Albuquerque, New Mexico

Professional Education

Seminars

Recerts, Updates & You (Columbia, Institute 013 - 4 hours)	2006
Using the New Forms (Columbia Institute – 8 hours)	2006
Review Appraisal Update, (Columbia Institute# 109-8 hours)	2006
UASFLA (Yellow Book – Appraisal Institute - 7 hours)	2006
Office Valuation (Appraisal Institute – 7 hours)	2008
Marketability Studies: Six-Step Process & Basic Applications (AI – 7 hours)	2013
Marketability Studies: Advanced Considerations & Applications (AI – 7 hours)	2013

Courses

Foundations of Real Estate Appraisal (UNM-30 hours)	2004
Appraising the Single Family Residence (UNM-30 hours)	2004
USPAP (UNM 15 hours)	2004
Appraisal of Partial Acquisitions (IRWA Course 401 – 40 hours)	2006
Legal Aspects of Easements (IRWA Course 802 – 8 hours)	2006
Eminent Domain Law Basics (IRWA Course 803 – 16 hours)	2006
Advanced Real Estate Appraisal Methods (Kaplan – 15 hours)	2006
Basic Income Capitalization (Appraisal Institute Course 310 - 39 hours)	2006
General Applications (Appraisal Institute Course 320 - 36 hours)	2006
Land and Site Valuation (McKissock – 7 hours)	2010
Eminent Domain & Condemnation (Appraisal Institute – 7 hours)	2010
Analyzing Operating Expenses (Appraisal Institute – 7 hours)	2010
Appraisal Review under UASFLA (ASFMRA A380 – 20 hours)	2011
Advanced Appraisal Review Case Studies (ASFMRA A390 – 20 hours)	2011
Real Estate Finance, Statistics, and Valuation Modeling (Appraisal Institute – 15 hours)	2011
USPAP Update (Kaplan – 7 hours)	2014

Experience:

2005 – 2007	Staff Appraiser – New Mexico Department of Transportation Responsibilities included the development and preparation of appraisals for right-of-way acquisition.
2007 – 2008	Associate Appraiser – American Property Appraisers & Consultants, Inc., Appraisal assignments have included office, retail, light industrial, gas station, restaurant and vacant land.
2008 – 2010	Independent Fee Appraiser Appraisal assignments have included office, retail, light industrial, apartment, restaurant, car wash, vacant land, rural/agricultural and eminent domain/right-of-way,
2010 – Present	Review Appraiser - Office of the Special Trustee for American Indians Appraisal assignments include appraisal and appraisal review assignments for the Federal Government.

**U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
OFFICE OF APPRAISAL SERVICES
REQUEST FOR REAL ESTATE APPRAISAL SERVICES**

TO: Regional Supervisory Appraiser - NAVAJO REGION

OAS Case Number:	N36-780-2014-06394
Agency:	N36 - FORT DEFIANCE AGENCY
Agency Case #:	FD-14-02
Reservation:	N36780 - Navajo Nation - Fort Defiance
Requested Due Date:	02/21/2014
Negotiated Due Date:	03/06/2014

Grantor/Lessor: Navajo Nation	Status: Review Complete
Grantee/Lessee: Arizona Department of Transportation (ADOT)	

Service Requested	Purpose of Request	Type of Conveyance	Lease Type	Lease #	Real Estate Interest	Effective Date Type
Review	Market Rent	Lease	Gross		Leasehold	Current

Special Instructions: Per email dated 01/06/2014, OAS OAS will allow a thirty (30) review time.

Comments: Appraisal is for the purpose of negotiating rent for lease of ADOT Inspection Station located at Window Rock, Arizona. Proposed lease is not submitted as part of the review package as the Navajo Nation will prepare the lease upon final negotiations.

Request Date: 01/21/2014 Contact Person: April Bowman Contact Telephone: (928) 729-7235

The Approving official has reviewed the need for appraisal of the described property for the purpose indicated and certifies that the appraisal is needed.

Requesting Official: April Bowman Date Requested: 01/21/2014
Approving Official: Simone A. Jones Date Approved: 01/29/2014

Office Use Only.

RSA Acceptance: 01/30/2014
Reviewer Assigned: Alfonso C Montoya 01/30/2014

Parcel List

Parcel: # T 16000 Owner: Navajo Nation
Legal Description: WINDOW ROCK INSPECTION STATION

LEGAL DESCRIPTION

THOSE PORTIONS OF LOTS 1 OF SECTION 17, AND LOT 4 OF SECTION 8, TOWNSHIP 26 NORTH, RANGE 31 EAST, GILA AND SALT RIVER MERIDIAN, APACHE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3 1/2 INCH BUREAU OF LAND MANAGEMENT (BLM) DEPARTMENT OF INTERIOR 1994 BRASS CAP MARKING THE 92 1/2 MILE MONUMENT OF THE EAST LINE OF THE ARIZONA STATE BOUNDARY, BEING NORTH 00°11'25" WEST 2618.65 FEET FROM A FOUND 3 1/2 INCH GLO 1980, 1993, 1994 BRASS CAP MARKING THE 93 MILE MONUMENT OF SAID EAST LINE OF THE ARIZONA STATE BOUNDARY:

THENCE ALONG SAID EAST LINE OF THE ARIZONA STATE BOUNDARY SOUTH 00°11'26" EAST 128.10 FEET TO THE POINT OF BEGINNING;

THENCE ALONG SAID EAST LINE OF THE ARIZONA STATE BOUNDARY SOUTH 00°11'26" EAST 11.76 FEET TO THE EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF STATE ROUTE 264 (TUBA CITY-WINDOW ROCK HIGHWAY);

THENCE ALONG SAID EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF STATE ROUTE 264, FROM A LOCAL TANGENT BEARING OF NORTH 55°48'25" WEST, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1890.49 FEET, A LENGTH OF 507.61 FEET;

THENCE NORTH 01°29'26" WEST 154.09 FEET;

THENCE SOUTH 59°28'32" EAST 204.40 FEET;

THENCE SOUTH 46°44'07" EAST 385.62 FEET TO THE POINT OF BEGINNING.

COMPRISING AN AREA OF 34,477 SQUARE FEET, MORE OR LESS IN SECTION 8, AND COMPRISING AN AREA OF 5,579 SQUARE FEET, MORE OR LESS IN SECTION 17.

State	County	Township	Range	Section	P.M.	Size	Units	Property Type
AZ	APACHE	T26N	R31E	17	G&SRM	0.128	Acre	Mixed Use

Vacant/Improved: Water Service: Sewer Service: Does the real
Improved Public Public estate have: ☒ Electricity, ☒ Telephone, ☒ Gas Service

Improvement Type	Size	Unit	Utility	Condition	Age
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Parcel: # T 10068 Owner: Navajo Nation

Legal Description: WINDOW ROCK INSPECTION STATION

LEGAL DESCRIPTION

THOSE PORTIONS OF LOTS 1 OF SECTION 17, AND LOT 4 OF SECTION 8, TOWNSHIP 26 NORTH, RANGE 31 EAST, GILA AND SALT RIVER MERIDIAN, APACHE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

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THENCE ALONG SAID EAST LINE OF THE ARIZONA STATE BOUNDARY SOUTH 00°11'26" EAST 128.10 FEET TO THE POINT OF BEGINNING;

THENCE ALONG SAID EAST LINE OF THE ARIZONA STATE BOUNDARY SOUTH 00°11'26" EAST 11.76 FEET TO THE EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF STATE ROUTE 264 (TUBA CITY-WINDOW ROCK HIGHWAY);

THENCE ALONG SAID EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF STATE ROUTE 264, FROM A LOCAL TANGENT BEARING OF NORTH 55°48'25" WEST, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1890.49 FEET, A LENGTH OF 507.61 FEET;

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State	County	Township	Range	Section	P.M.	Size	Units	Property Type
AZ	APACHE	T26N	R31E	8	G&SRM	0.791	Acre	Mixed Use

Vacant/Improved:	Water Service:	Sewer Service:	Does the real
Improved	Public	Public	estate have: <input checked="" type="checkbox"/> Electricity, <input checked="" type="checkbox"/> Telephone, <input checked="" type="checkbox"/> Gas Service

Improvement Type	Size	Unit	Utility	Condition	Age
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Request Comments

Date	User	Comment
03/06/2014 12:23 PM	Montoya, Alfonso C	Reviewd and approved.
02/27/2014 11:58 AM	Jones, Leonard	Negotiated Due Date Changed: BIA agreed on extension of negotiated due date of 5 business days: New due date 3/6/14.
02/25/2014 08:04 AM	Jones, Leonard	Negotiated Due Date Changed: Change negotiated due date to March 6, 2014 per Mary Lujan, Shiprock BIA Realty
01/30/2014 08:54 AM	Jones, Leonard	Assigned to Alfonso Montoya, RA
01/30/2014 08:53 AM	Jones, Leonard	Negotiated Due Date Changed: Package was received and accepted until 1/27/14.
01/29/2014 09:56 AM	Jones, Simone A.	
01/29/2014 09:56 AM	Jones, Simone A	
01/21/2014 04:41 PM	Bowman, April	

EXECUTIVE OFFICIAL REVIEWTitle of Document: ADOT_Lse.for sub-station veh.ckpt. Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928 871-6447☐ **Business Site Lease** Sufficient Insufficient

1. Division: _____	Date: _____	□	□
2. Office of the Controller: _____	Date: _____	□	□
(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
3. Office of the Attorney General: _____	Date: _____	□	□

☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**

1. Division: _____	Date: _____	□	□
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**

1. Office of Management and Budget: _____	Date: _____	□	□
2. Office of the Controller: _____	Date: _____	□	□
3. Office of the Attorney General: _____	Date: _____	□	□

☐ **Navajo Housing Authority Request for Release of Funds**

1. NNEPA: _____	Date: _____	□	□
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Lease Purchase Agreements**

1. Office of the Controller: _____	Date: _____	□	□
(recommendation only)			
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Grant Applications**

1. Office of Management and Budget: _____	Date: _____	□	□
2. Office of the Controller: _____	Date: _____	□	□
3. Office of the Attorney General: _____	Date: _____	□	□

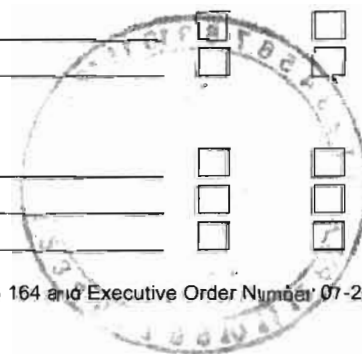
☐ **Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**

1. Division: _____	Date: _____	□	□
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Relinquishment of Navajo Membership**

1. Land Department: _____	Date: _____	□	□
2. Elections: _____	Date: _____	□	□
3. Office of the Attorney General: _____	Date: _____	□	□

DIVISION OF
NATURAL RESOURCES
DEC 16 2014



		Sufficient		Insufficient	
<input type="checkbox"/>	Land Withdrawal or Relinquishment for Commercial Purposes				
1. Division:	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Attorney General:	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases				
1. NLD	<i>[Signature]</i>	Date:	<i>04 Dec 16</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. F&W	<i>[Signature]</i>	Date:	<i>12/1/14</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. HPD	<i>[Signature]</i>	Date:	<i>12-8-14</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Minerals	<i>[Signature]</i>	Date:	<i>1-13-15</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. NNEPA	<i>[Signature]</i>	Date:	<i>1-26-2015</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. DNR	<i>Robert O. Allen</i>	Date:	<i>12/16/14</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. DOJ	<i>[Signature]</i>	Date:	<i>2/28/14</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Rights of Way				
1. NLD	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
6. Office of the Attorney General:	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
7. OPVP	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease				
1. Minerals	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. OPVP	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
3. NLD	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Assignment of Mineral Lease				
1. Minerals	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. DNR	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
3. DOJ	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)				
1. NLD	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
8. OPVP	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	OTHER:				
1.	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
2.	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
3.	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
4.	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>
5.	_____	Date:	_____	<input type="checkbox"/>	<input type="checkbox"/>



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

HARRISON TSOSIE
ATTORNEY GENERAL

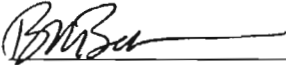
DANA L. BOBROFF
DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: Howard Draper, Program & Project Specialist
Navajo Land Department

Vera Shurley, Right-of-Way Agent
Navajo Land Department

Mariana Kahn, Attorney
Office of Legislative Counsel

FROM: 
Bidtah N. Becker, Assistant Attorney General
Natural Resources Unit
Department of Justice

DATE: February 23, 2015

SUBJECT: **Doc. No. 002928: ADOT Lease for Window Rock MVD**

The Department of Justice has reviewed the above referenced 164 document and finds it legally sufficient.

I offer this memo to explain to Office of Legislative Counsel that the Minerals Department established the rental amount found in paragraph 5 of the lease, and that the amount is not based on the appraisal but a formula developed by the Minerals Department. The Department of Justice, through my predecessor, had asked the lessee, Arizona Department of Transportation to provide an appraisal, although one is not required. Under the federal regulations, specifically 25 CFR § 162.420, the Nation can negotiate a rental amount. In addition, when the Nation negotiates a rental amount, the Nation needs to include in the approving resolution that the rental was negotiated and that the Nation is waiving an appraisal by BIA. I have hand-written proposed language onto the draft resolution to reflect this requirement.

I also offer this memo to explain to Project Review that the Minerals Department has marked the packet insufficient and submitted a memo, dated January 13, 2015, outlining its concerns. Based on the fact that the rental is what Minerals recommended, Project Review should resubmit the packet to Mineral and ask that Minerals re-review the lease and indicate in writing what matters have been resolved.

Howard Draper, Program & Project Specialist, Vera Shurley, Right-of-Way, and Mariana Kahn, Attorney
RE: Doc. No. 002928: ADOT Lease for Window Rock MVD
February 23, 2015
Page 2

Finally, ADOT, through Fred Bilazzo, has requested that the Nation prepare and issue yearly rent invoices and sent them to Facilities Management Operations Support Department, 1801 W. Jefferson St., Mail Drop 509M, Phoenix, AZ 85007. Please communicate with Ms. Bilazzo as to whether or not the Land Department will be able to provide such invoices. Her contact is FBilazzo@asdot.gov, 602-712-4002.

As always, please feel free to contact me with any questions or concerns. I can be reached at bbecker@nndoj.org or extensions 6492 or 6347.

xc: Mike Halona, Program Manager, Navajo Land Department



THE NAVAJO NATION


Navajo Land Department

P.O. Box # 2249 · Window Rock, Arizona 86515 · (928) 871-6401 · FAX: (928) 871-7039

February 24, 2015

MEMORANDUM:

TO: Mr. Akhtar Zaman, Program Director
Minerals Department

FROM: 
Howard Phillip Draper, Program/Project Specialist
Navajo Land Dept Project Review Section

RE: request for written clarification/information.

Our office has been directed to get written clarification/information on your memo dated January 13, 2015 upon re-review the enclosed lease (see Bidtah Becker memo dated February 23, 2015). Please provide in writing what matters have been resolved or not. If you have any further questions please contact Mr. Howard Phillip Draper, Program & Project Specialist, Navajo Land Department (NLD), Division of Natural Resources (DNR) at (928) 871-6447 or Bidtah Becker, Assistant Attorney General at X-6343. Thank you.

Hpd

Cc: project file



THE NAVAJO NATION

MINERALS DEPARTMENT

Post Office Box 1910

Window Rock, Arizona 86515


Phone: (928) 871-6587 • Fax: (928) 871-7095

Ben Shelly
President

Rex Lee Jim
Vice-President

Interoffice Memorandum

TO: Howard Draper, Project Specialist
Navajo Land Department

FROM: 
Akhtar Zaman, Director
Minerals Department

DATE: February 25, 2015

SUBJECT: REQUEST FOR WRITTEN CLARIFICATION

Please refer to our memorandum to you dated January 13, 2015. We discussed the issues with Ms. Bidtah Becker, Assistant Attorney General. The lease and rental issues are now included in the lease which is also referenced as Exhibit "A" and the legal description shown in Exhibit "B". However, Project Review still needs to resolve our concern in Item #2 in our memorandum. You should obtain a letter from Arizona Department of Transportation (ADOT) that they been dropping the 2.17 acres in the original lease to 0.92 acres in the new lease. Secondly, ADOT needs to reclaim the acreage they are releasing to the Navajo Nation.

If you have any questions, please contact Mr. Ram S. Das at ext. 6587.

RSD:AZ/kjs

xc: Bidtah Becker, Assistant Attorney General, Department of Justice



**THE
NAVAJO
NATION**

MINERALS DEPARTMENT

Post Office Box 1910

Window Rock, Arizona 86515

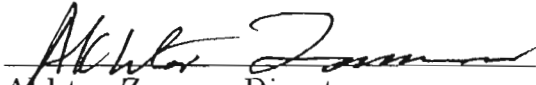
Phone: (928) 871-6587 • Fax: (928) 871-7095

Ben Shelly
President

Rex Lee Jim
Vice-President

Interoffice Memorandum

TO: Howard Draper, Senior Program & Project Specialist
Navajo Land Department

FROM: 
Akhtar Zaman, Director
Minerals Department

DATE: January 13, 2015

SUBJECT: ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT)
WINDOW ROCK SUBSTATION LEASE

The application submitted by ADOT for a new lease was reviewed by the Minerals Department and the following comments and recommendations are made:

1. The original lease was issued on December 19, 1961 for a term of 50 years. It expired on December 18, 2011. Therefore, payment for the expired lease effective December 19, 2011 to the effective date of the new lease is due. It should be calculated at the rate of \$1,577.80/year and a lump sum payment should be made for the expired portion of the lease when a new lease is issued by the Secretary of the Interior (Secretary). The amount takes into account the 2.17 acres in the original lease.
2. The new lease application is for 40,056 square feet or 0.92 acres. ADOT should submit a letter stating that the original lease is being dropped from 2.17 acres to 0.92 acres. The ADOT must reclaim the excess acreage that is being returned to the Navajo Nation.
3. The new rental rate effective the date it is approved by the Secretary shall be \$696.34 per year ($\$717.88/\text{year} \times 0.92 \text{ acres} = \$660.45/\text{year}$).

4. (i) The annual payment shall be annually adjusted based upon the increase in the Consumer Price Index (CPI) U.S. City Average for All Urban Consumers (1982-1984 = 100). The CPI for July 2014 shall be used as the base and the numerator should be the CPI available in the month when the payment is made.

(ii) The lump payment in Section 1 when made shall also be adjusted based on the method used in Section 4(i).

(iii) The first adjusted annual payment is due within 10 days of the date it is approved by the Secretary. Subsequent, annual payment shall be made within 10 days of each anniversary date which is the Secretary's approved date.
5. Project Review needs to check with Ms. Bidtah Becker, Assistant Attorney General, Navajo Nation Department of Justice (DOJ) regarding the terms and conditions as she was negotiating several leases with ADOT.
6. A copy of the original lease should be included as an Exhibit. The Resources and Development Committee of the Navajo Nation Council usually likes to see all relevant documents.
7. All past payments should be verified.

Please contact Mr. Ram Das at (928) 871-6587 if you have any questions.

RSD:AZ/kjs

Xc: Bidtah N. Becker, Assistant Attorney General, DOJ