

RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
23<sup>rd</sup> Navajo Nation Council --- Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING  
A HOUSING PROJECT MASTER LEASE BETWEEN THE NAVAJO NATION  
AND THE NAVAJO HOUSING AUTHORITY FOR A HOUSING PROJECT  
WITHIN THE TOLANI LAKE CHAPTER OF THE NAVAJO NATION, COUNTY  
OF COCONINO, STATE OF ARIZONA

BE IT ENACTED:

**Section One. Authority**

A. The Resources and Development Committee has oversight authority over land and the authority to grant final approval for non-mineral leases within the Navajo Nation. 2 N.N.C. §§ 500(C), 501(B) (2) (a).

**Section Two. Findings**

A. On September 25, 2002, the Resources Committee of the Navajo Nation Council, through Resolution RCS-146-02, approved land withdrawal of 9.523 acres, more or less, and granted a Lease to Tolchii'Kooh, Inc. for construction of employee housing. See Exhibit "A".

B. On January 10, 2003, the Bureau of Indian Affairs (BIA) approved the lease between the Navajo Nation and Tolchii'Kooh, Inc. See Exhibit "B".

C. On May 12, 2000, the Navajo Nation Housing Authority (NHA) and the Tolchii'Kooh Charter School, Inc. entered into Subgrantee Agreement for teacher/staff housing planning. See Exhibit "C".

D. On July 9, 2002, NHA and the Tolchii'Kooh Charter School Inc. entered into a second Subgrantee Agreement to complete rental housing units for teacher/staff housing. See Exhibit "C".

E. After the completion of the teacher/staff housing rental units, Tolchii'Kooh Inc. abandoned the housing units and the lease area, thereby defaulting on the terms and conditions of the BIA approved lease and leaving the housing units unoccupied and vandalized. See Exhibit "C".

F. On March 22, 2010, the State of Arizona administratively dissolved Tolchii'Kooh, Inc. as a corporation. See Exhibit "C".

G. On August 11, 2015, by Resolution RDCAU-50-15, the Resources and Development Committee asked the BIA to replace Tolchii'Kooh, Inc. with the NHA, if feasible. See Exhibit "C".

H. On February 4, 2016 the BIA notified, by certified mail, Tolchii'Kooh, Inc. that their lease with the Navajo Nation, TC-SL-03-318, was cancelled for abandonment and default of lease. See Exhibit "D".

I. The BIA further notified the President of the Navajo Nation by letter dated April 7, 2016 of the cancellation of Lease TC-SL-03-318. See Exhibit "E".

J. The proposed Master Lease between the Navajo Nation and the Navajo Housing Authority, as found at Exhibit "G", has been reviewed, approved or found legally sufficient by the following governmental units of the Navajo Nation: the Navajo Nation Environmental Protection Agency, Fish and Wildlife, Division of Natural Resources, Minerals Department, Historic Preservation Department, Land Department, Department of Justice. Administration. See Exhibit "F".

K. The Resources and Development Committee of the Navajo Nation Council finds it to be in the best interest of the Navajo Nation to approve a the Master Lease between the Navajo Nation and the Navajo Housing Authority for this housing project within the Tolani Lake Chapter, Navajo Nation, as found at Exhibit "G".

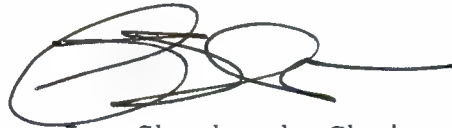
### **Section Three. Approvals**

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Master Lease between the Navajo Nation and the Navajo Housing Authority as found at Exhibit "G".

B. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute this Master Lease and all other documents necessary to effectuate the intent of this resolution.

**CERTIFICATION**

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23<sup>rd</sup> Navajo Nation Council at a duly called meeting at Twin Arrows Navajo Casino Resort, Twin Arrows (Navajo Nation) Arizona, at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 0 abstained on this 23<sup>rd</sup> day of May, 2017.

A handwritten signature in black ink, appearing to read 'Alton Joe Shepherd', with a long horizontal line extending to the right.

Alton Joe Shepherd, Chairperson  
Resources and Development Committee  
of the 23<sup>rd</sup> Navajo Nation Council

Motion: Benjamin Bennett  
Second: Jonathan Perry





RCS-146-02

RESOLUTION  
OF THE RESOURCES COMMITTEE  
OF THE NAVAJO NATION COUNCIL

Approving the Withdrawal of 9.523 Acres, More or Less, of Navajo Nation Trust Lands and Lease for Tolchii' Kooh, Inc. to Construct, Operate and Maintain Housing Units Adjacent to the School in Tolani Lake, Coconino County, Arizona

WHEREAS:

1. Pursuant to 2 N.N.C. § 695 (B) (2), the Resources Committee of the Navajo Nation Council is authorized to give final approval of non-mineral leases, subleases or assignments of Navajo lands; and
2. The Tolchii' Kooh, Inc., a non-profit corporation, HC-61, Box 300, Winslow, Arizona 86047, submitted a lease for 9.523 acres to establish, operate and maintain housing. A copy of said lease is attached hereto as Exhibit "A"; and
3. The proposed 9.523-acre housing site is located in an unplatted portion of Land Management District No. 5 of the Navajo Indian Reservation. The location is more particularly described on the map attached hereto as Exhibit "B", which includes a detailed legal description; and
4. Tolchii' Kooh Charter School, Inc. has entered into a Subgrantee Agreement with the Navajo Housing Authority for the implementation of the Navajo Nation NAHASDA Block Grant. See Exhibits "D-1" and "D-2"; and
5. The Project Review Section with the Navajo Land Department has obtained the consent of the affected land users (i.e. grazing permittees), which are attached hereto as Exhibit "C"; and
6. All environmental and archaeological surveys and studies have been completed and have received appropriate clearance. These documents are attached hereto and made a part hereof by this reference.



NOW THEREFORE BE IT RESOLVED THAT:

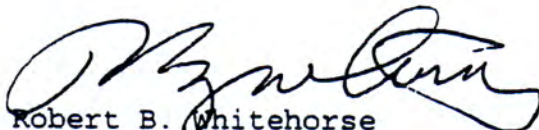
1. The Resources Committee of the Navajo Nation Council hereby approves the withdrawal of 9.523 acres, more or less, of Navajo Nation Trust lands and grant of a Lease, attached hereto as Exhibit "A", for the Tolchii' Kooch, Inc. to construct needed housing. The housing site is more particularly described on the survey plat marked Exhibit "B", attached hereto and made a part hereof.

2. The Resources Committee of the Navajo Nation Council hereby stipulates that the lands being withdrawn shall remain withdrawn for so long as the premises are used for the purposes set forth.

3. The Resources Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to effect the intent and purpose of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 25<sup>th</sup> day of September, 2002.



Robert B. Whitehorse  
Vice Chairperson  
Resources Committee

Motion: Henry B. Hudson

Second: Robert B. Whitehorse



**THE  
NAVAJO  
NATION**

P. O. BOX 9000

• WINDOW ROCK, ARIZONA 86515

• (520) 871-6000

KELSEY A. BEGAYE  
PRESIDENT

TAYLOR MCKENZIE, M.D.  
VICE PRESIDENT

OCT 14 2002

Ms. Elouise Chicharello, Regional Director  
Bureau of Indian Affairs  
Navajo Region  
Post Office Box 1060  
Gallup, New Mexico 87301

RE: Land Withdrawal & Lease

Dear Ms. Chicharello:

On September 25, 2002 the Resources Committee of the Navajo Nation Council approved a Land Withdrawal & Lease to Tolchii' Kooh, Inc.:

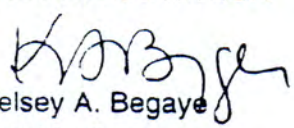
Resolution Number RCS-146-02; "Approving the Withdrawal of 9.523 Acres, More or Less, of Navajo Nation Trust Lands and Lease for Tolchii' Kooh, Inc. To Construct, Operate and Maintain Housing Units Adjacent to the School in Tolani Lake, Coconino County, Arizona."

Approval of this Land Withdrawal & Leasing is given subject to the terms and conditions stipulated in the resolution approved by the Resources Committee and exhibits attached to such resolution.

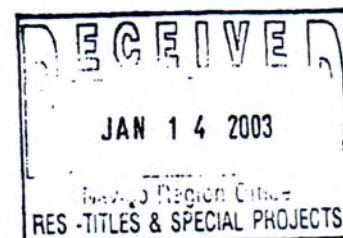
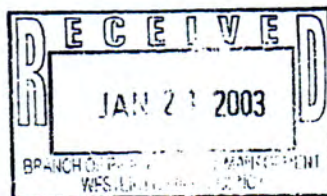
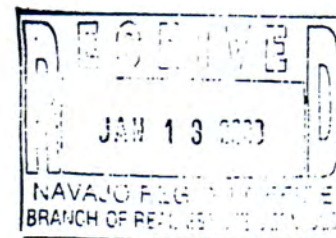
Your prompt approval of this Land Withdrawal and Leasing is greatly appreciated.

Sincerely,

THE NAVAJO NATION

  
Kelsey A. Begaye  
President

ENCLOSURES







IN REPLY REFER TO:  
540/RES

United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS

Navajo Area  
Western Navajo Agency  
P.O. Box 127  
Tuba City, Arizona 86045

EXHIBIT

B

January 27, 2003

RECEIVED  
OCT 12 2003

Ronald K. White, Superintendent  
Tolchii' Kooh, Inc.  
P.O. Box HC-61, Box 300  
Winslow, Arizona 86047

Dear Mr. Ronald K. White:

Enclosed is your approved Tolchii' Kooh, Inc. Lease to Construct, Operate and Maintain Housing Units adjacent to the School at Tolani Lake, Coconino County, Arizona consisting of 1.523 Acres, more or less, of Navajo Nation Trust Lands. Approval was given on January 10, 2003.

If you have any questions, contact Theodore Namingha, Supervisory Realty Specialist at (928) 871-5931.

Sincerely,

*Theodore Namingha*  
For Theodore Namingha  
Supervisory Realty Specialist

Enclosure



FORM NO. \_\_\_\_\_

LEASE NO. TC-SL-03-318

**THE NAVAJO NATION  
and  
Tolchii' Kooh, Inc.**

**HOUSING PROJECT MASTER LEASE  
(Trust or Restricted Land Only)**

**THIS** LEASE is made and entered into this 10th day of Jan. 2003, 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 Tolchii' Kooh, Inc., a non-profit corporation formed under the laws of the Navajo Nation, hereinafter called the "Lessee," whose address is HC-61, Box 300 Winslow, Arizona 86047, in accordance with the provisions of 2 N.N.C. § 695(B)(4) and 25 U.S.C. § 415, as implemented by the regulations contained in 25 CFR 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 under the provisions of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(14), including all amendments or successors thereto, and "petroleum" as defined under the provisions of section 9001(8) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991(8).
- (D) "Secretary" means the Secretary of the United States Department of the Interior or his duly authorized representative or successor.

## **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 the Tolani Lake Chapter of the Navajo Nation, Tolchii Kooh, Inc. School Tract, more particularly described in Exhibit "A," attached hereto and by this reference made a part hereof, containing approximately 9.523 acres, more or less, together with the right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-way, 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. USE OF PREMISES; GENERAL PLAN.**

- (A) Lessee shall develop, use and occupy the Leased Premises for the purpose of constructing and operating a Housing Project and its appurtenances, including constructing and operating appropriate related residential and public facilities such as roads, utilities, playgrounds, and other like facilities, consistent with a General Plan developed.
- (B) 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 fifty,(50) years, beginning on the date this Lease is approved by the Secretary.

## **5. RENTAL.**

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, an annual rental of: none. In accordance with the provisions of 25 C. F. R. §162. 5(b)(2), only nominal rental is provided for herein because this Lease is for a public purpose to an agency of local government, is for the purpose of subsidization or the benefit of the Navajo Nation, and/or is for providing houses to Tribal members or essential personnel of the Tolchii Kooh, Inc. Tolchii Kooh, Inc. is a sub-grantee of the Navajo Housing Authority, the Tribally Designated Housing Entity, for the purpose of meeting the housing needs of the Navajo Nation.



## **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, excluding removable personal property and trade fixtures, shall remain on the Leased Premises after termination of this Lease. At its option, Lessor may require Lessee to remove said buildings and other improvements and to restore the Leased Premises to its original state upon termination of this Lease.
- (B) Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.
- (C) 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.
- (D) All Hazardous Substances, Hazardous Substance storage systems or conveyance facilities placed on or under the Leased Premises are the property of Lessee and shall remain the property of Lessee upon termination of this Lease. Within a reasonable time prior to termination of this Lease, Lessee shall remove any such substances or improvements, shall assess the Leased Premises for contamination, shall remediate all contamination, if any, and shall address any third party damages occasioned by any contamination or otherwise by the use or storage of such substances or improvements on the Leased Premises. Should Lessee fail to complete such responsibilities prior to the termination of this Lease, Lessee shall remain responsible therefore, and shall be required to post a bond in an amount reasonably required to ensure that such responsibilities are completed within a reasonable time after termination of this Lease.



**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, deletions or appurtenances thereto, in good order and repair and in a safe, sanitary and neat condition.
- (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. 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 purposes 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. § 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.



**10. 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 thereof. 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 therefore, 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 therefore, 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.

**11. SUBLEASES AND ASSIGNMENTS; PARTIAL RELINQUISHMENTS.**

- (A) Except as otherwise provided in subsections (B) and (C) of this Section, this Lease may not be assigned, subleased or otherwise transferred or conveyed, in any manner whatsoever, in whole or in part, without the prior written consent 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, sublease, transfer or conveyance without



such prior written approval shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of Lessor.

- (B) Notwithstanding the provisions of subsection (A) of this Section, and subject to the provisions of subsection (D) of this Section, Lessee, the Fort Defiance Housing, but no successor in interest thereto, is hereby authorized to sublease, month-to-month, the Leased Premises, in whole or in part, with the prior written approval of Lessor, but without further approval of the Secretary. Subleases so made shall not serve to relieve the Lessee from any liability under this Lease nor to diminish any supervisory authority of the Secretary provided for under this Lease or under applicable federal laws and regulations. During the term of any sublease, should the sub lessee succeed to the interests of Lessee hereunder, it is hereby agreed that no merger of interests shall occur thereby.
- (C) Notwithstanding the provisions of subsection (A) of this Section, and subject to the provisions of subsection (D) of this Section, this Lease may be assigned, in whole or in part, by Lessee, the Fort Defiance Housing Corporation, but without further consent or approval of the Secretary. The assignee shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease. Assignments to individuals so made shall not serve to relieve the Lessee from any liability under this Lease nor to diminish any supervisory authority of the Secretary provided for under this Lease or under applicable federal laws and regulations; provided, that Lessee may be relieved from its liability under this Lease, in whole or in part, with the prior written approval of the Lessor and the Secretary.
- (D) Lessee shall provide an executed copy of any assignment or partial relinquishment to Lessor and to the Secretary within thirty (30) days of its execution. Any assignment authorized by this Section shall be on a form approved by Lessor and the Secretary, and no assignment shall be valid unless it is on an approved form.
- (E) It is understood by the parties, that Fort Defiance Housing Corporation will assign lots to individuals once the individuals have either satisfied their financial obligations under the rent-to-own program, or have been able to obtain financing necessary to purchase the home directly.
- (F) Lessee is hereby authorized to relinquish to Lessor any part of this Lease, with the prior written approval of Lessor and the Secretary, for the purpose of Lessor issuing a Home site Lease for the part relinquished; provided, that each person to whom the Home site Lease is proposed to be issued is eligible to receive a Home site Lease and the issuance of the Home site Lease is otherwise in compliance with all applicable requirements of the Navajo Nation Home site Policy and Procedures adopted by Resolution No. RCD-189-93, including amendments or successors thereto.



## **12. 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.

## **13. 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, Encumbrancer may exercise any rights provided in such Approved Encumbrance, provided that prior to any sale of the leasehold, Encumbrancer 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 Encumbrancer 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 the purchaser at such sale if is Encumbrancer, Encumbrancer 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 Encumbrancer 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 Encumbrancer, 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.

#### **14. DEFAULT.**

- (A) Time is declared to be of the essence of 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 successors 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, as authorized by applicable law, subject to the provisions of subsection (D) 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 premises or has failed to conduct business for an extended period of time without notice, and remove all persons and property thereof, 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 in the sole discretion of 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 Encumbrancer 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 Encumbrancer of any of Lessee's obligations under this Lease, with the same force and effect as though performed by Lessee. An Encumbrancer 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 Encumbrancer 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.

#### **15. 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. Lessee further agrees at all times to maintain the entire Leased Premises in a safe and sanitary condition, presenting a good appearance both inside and outside the Leased Premises.

#### **16. HAZARDOUS SUBSTANCES.**

Lessee shall not cause or permit any Hazardous Substance to be used, stored, generated or disposed of on or in the Leased Premises without the prior written approval of Lessor, which approval may be given, given upon conditions or denied in the sole discretion of Lessor. Without limitation of the foregoing, if Lessee causes or permits the presence of any Hazardous Substance on the Leased Premises and such results in contamination to the Leased Premises or any building or other improvement thereon, Lessee shall promptly take any and all actions necessary or appropriate to restore the Leased Premises or building or other improvement to the condition existing prior to the presence of any such Hazardous Substance on the Leased Premises. Lessee shall obtain written approval from Lessor prior to commencement of any such remedial action.

#### **17. 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 \$3,000,000 per occurrence, and \$500,000 for damage to property. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State identified in Section 2 of this Lease and shall be written to protect Lessee, Lessor and the United States and shall provide for notification to Lessor and the Secretary prior to any material change, cancellation or non-renewal of said policy for



any reason, including non-payment of premiums. Upon written request there of, copies of said policy shall be furnished to Lessor and the Secretary.

- (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.

#### **18. FIRE AND CASUALTY INSURANCE.**

- (A) At all times during the term of this Lease, Lessee shall carry fire and casualty insurance with an extended coverage endorsement covering not less than the full insurable value of all improvements on the Leased Premises. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State identified in Section 2 of this Lease, and shall be written to protect Lessee, Lessor, the United States and an Encumbrancer, if any, and shall provide for notification to Lessor, the Secretary and any Encumbrancer prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request there of, copies of said policy shall be furnished to Lessor and the Secretary.
- (B) 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 Encumbrancer on the condition that Encumbrancer agrees to promptly replace or repair the destroyed or damaged improvements to a condition as good or better than before the destruction or damage occurred. If such amount paid to Encumbrancer 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 Encumbrancer, Lessor or Lessee shall deposit with Encumbrancer sufficient additional funds, if any, required to completely replace or repair the destruction or damage, upon written order of Lessor or Lessee, Encumbrancer shall pay such 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 Encumbrancer shall be applied and credited on We Approved Encumbrance.



- (C) With the prior written approval of the Lessor and the Secretary, the insurance obligations 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.

#### **19. INSPECTION.**

The Navajo Nation and the Secretary 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 Leased Premises and any buildings and other improvements erected or placed thereon.

#### **20. 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.

#### **21. 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 Encumbrancer under an Approved Encumbrance.

#### **22. DELIVERY OF PREMISES.**

At the termination of this Lease, Lessee shall peaceably and without legal process deliver up the possession of the Leased Premises in good condition, usual wear and tear accepted. 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.

#### **23. HOLDING OVER.**

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.



#### **24. INDEMNIFICATION.**

Lessee shall indemnify and hold harmless the Navajo Nation and the Secretary and their authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the construction on or maintenance, occupancy or use of the Leased Premises by Lessee.

#### **25. 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.

#### **26. AGREEMENT TO ABIDE BY NAVAJO NATION AND FEDERAL LAWS.**

In all activities conducted by Lessee within the Navajo Nation, Lessee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect.

#### **27. GOVERNING LAW AND CHOICE OF FORUM.**

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 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.

#### **28. CONSENT TO JURISDICTION.**

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.

#### **29. 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 full 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 construed to negate or impair federal responsibilities with respect to the Leased Premises or to the Navajo Nation.



### **30. 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.

### **31. 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 and an Encumbrancer, if any, shall be notified of any such change in the status of the Leased Premises.

### **32. 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 hereof, but this provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

### **33. 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 are to the United States as well as to Lessor.

### **34. 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, AZ 86515  
Fax: 1-928-871-4025

To or upon Lessee:

Tolchii Kooh, Inc.  
HC-61, Box 300  
Winslow, Arizona 86047



Fax: 1-928-686-6352

To or upon the Secretary:

Regional Director  
Navajo Regional Office  
Bureau of Indian Affairs  
United States Department of the Interior  
301 West Hill Street  
P. O. Box 1060  
Gallup, New Mexico 87305  
Fax: 1-505-863-8324.

- (B) All notices shall be given by personal delivery, by registered or certified mail, postage prepaid, by facsimile transmission. 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, by facsimile transmission, 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.

### **35. SUCCESSORS AND ASSIGNS.**

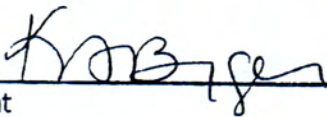
The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of Lessee. Except as the context otherwise requires, the term "Lessee," as used in this Lease, shall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

### **36. EFFECTIVE DATE; VALIDITY.**

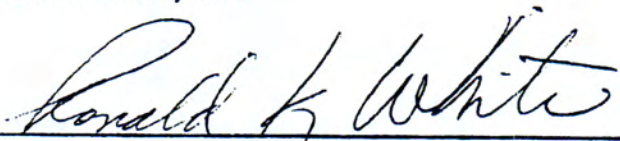
This Lease shall take effect on the date it is approved by the Secretary or his delegated representative. This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party until it is approved by the Secretary.

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

**THE NAVAJO NATION, LESSOR**


  
\_\_\_\_\_  
President

**Tolchii' Kooh, Inc.**

  
\_\_\_\_\_  
Superintendent

**APPROVED: Pursuant to Secretarial Redelelegation 209 DM 8, 230 DM \*, 230 DM 1 and 3 IAM 4.**

Date:   JAN 10 2003  

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





RDCAU-50-15

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

AN ACTION  
RELATING TO RESOURCES AND DEVELOPMENT; REQUESTING THE BUREAU OF  
INDIAN AFFAIRS (BIA) NAVAJO REGION TO RE-LET LEASE NUMBER TC-SL-  
03-318, HOUSING PROJECT MASTER LEASE.

BE IT ENACTED:

Section One. Findings

- A. The Resources and Development Committee (RDC) is a Navajo Nation Council standing committee and shall grant final approval for non-mineral leases, subleases, modifications, assignments, leasehold encumbrances, transfers, renewals and terminations. 2 N.N.C. §§500(A), 501 (B)(2)(a)(2012) see also CO-45-12.
- B. On June 20, 2002, the Navajo Nation Land Board approved Jimmy Monroe's Consent to use Navajo Tribal Lands for the construction of Tolchii'Kooh, Inc.'s teacher/staff housing units. 5-0572.
- C. On June 20, 2002, the Navajo Nation Land Board approved Harold Thomas' Consent to use Navajo Tribal Lands for the construction of the Tolchii'Kooh, Inc.'s teacher/staff housing units. 5-1070.
- D. On September 25, 2002, the Resources Committee approved the above land withdrawals of 9.523 acres and granted a Lease to Tolchii'Kooh, Inc. for the construction of employee housing. RCS-146-02.
- E. On January 10, 2003, the BIA Navajo Regional Director approved the lease between the Navajo Nation and Tolchii'Kooh, Inc. TC-SL-03-318.
- F. On May 12, 2000, the Navajo Nation Housing Authority (NHA) and Tolchii'Kooh Charter School, Inc. entered into a

Subgrantee Agreement for the teacher/staff housing planning phase.

- G. On July 9, 2002, NHA and the Tolchii'Kooh Charter School, Inc. entered into a second Subgrantee Agreement this time to complete rental housing units for teacher/staff housing.
- H. Since the completion of the teacher/staff housing rental units, Tolchii'Kooh, Inc., abandoned the housing units and the leased area, as such defaulting on the BIA lease. *Id.*, at §14 (B)(2)(2003).
- I. The Tolchii'Kooh, Inc. housing units are unoccupied and vandalized.
- J. On March 22, 2010, Arizona administratively dissolved Tolchii'Kooh, Inc. <http://images.azcc.gov/>.
- K. The Navajo Nation Housing Authority resolution states NHA is willing to acquire the BIA lease and manage the rental units. EXHIBIT A.
- L. A legal notice was placed in the Flagstaff Sun concerning the attempt to contact the statutory agent for Tolchii'Kooh, Inc., This notice is attached as EXHIBIT B. The law firm of Mangum, Wall, Stoops & Warden, P.L.L.C. contacted by Office of Legislative Counsel states that "the corporation is defunct and the Arizona Corporation Commission administratively dissolved as of March 22, 2010."
- M. Re-letting the BIA Lease to NHA is in the Navajo Nation's best interest.

## **Section Two. Approval**

- A. The Navajo Nation authorizes the lease in accordance with section 14(B)(2) of Lease No. TC-SL-03-318.
- B. The Navajo Nation requests the BIA to approve BIA Leases between the Navajo Nation and Tolchii'Kooh, Inc., to Navajo Housing Authority (NHA) in accordance with Lease No. TC-SL-03-318 §14(B)(2)(2003) if feasible; otherwise, be done

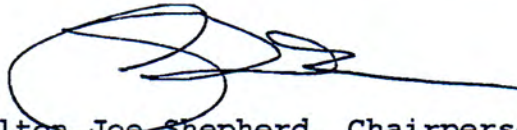


accordingly to currently terms and conditions for issuing a lease.

- C. The Navajo Nation requests NHA's staff establish the necessary documents to accomplish the purpose of this legislation.

**CERTIFICATION**

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23<sup>rd</sup> 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 5 in favor, 0 opposed, 0 abstained this 11th day of August, 2015.



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

Motion: Honorable Davis Filfred  
Second: Honorable Leonard Pete  
Vote: 5-0 (Chairman Not Voting)



name  
2/2/16  
2/2/16

**United States Department of the Interior**

**BUREAU OF INDIAN AFFAIRS**

Navajo Region Office

Division of Real Estate Services

P. O. Box 1060

Gallup, New Mexico 87305-1060

IN REPLY REFER TO:  
3N420/Real Estate Services

FEB 04 2016

**CERTIFIED MAIL- RETURN RECEIPT REQUESTED 7013 2250 0000 0374 9746**  
**& FIRST CLASS MAIL**

Tolchii Kooh, Inc.  
HC-61, Box 300  
Winslow Arizona 86047

Dear Tolchii Kooh, Inc:

**NOTICE OF CANCELLATION**

By letter dated January 05, 2016 (copy enclosed), you were notified Surface Lease Number TC-SL-03-318 was in serious default of the terms of the Lease and that Lessee abandoned the 9.523 acre lease parcel. In accordance with the provisions in 25 CFR § 162.466 you have had more than ten (10) business days from the date of notice in which to show cause why Lease Number TC-SL-03-318 should not be cancelled. As of this date, we have not received a response from you. Enclosed is a copy of the USPS Tracking No. 7013 2250 0000 0374 9876 which shows the unclaimed certified letter was returned to our office.

You are officially notified, pursuant to the Code of Federal Regulations, Title 25, Part 162, Surface Lease Number TC-SL-03-318 is cancelled for abandonment and default of the lease. The lease is cancelled the date of this letter and has no further force and effect. You are advised the business has no further interest and use of the premises. Any unauthorized use will be considered illegal and you will be liable for damages accordingly. The cancellation of this lease does not release you of any financial obligations you may have with the Navajo Nation or relieve you of any responsibility for damages incurred as a result of your occupation. Please make arrangements to satisfy these obligations.

This decision may be appealed to the Interior Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 Code of Federal Regulations, Part 4, Subpart D (copy enclosed). Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days from the date you receive this decision. Your notice of appeal should clearly identify the decision



being appeal. If possible, attach a copy of the decision. You must send copies of your notice of appeal to: (1) the Assistant Secretary – Indian Affairs, U.S. Department of the Interior, 1849 C Street, NW, Main Interior Building 4141, Washington, D.C. 20240; (2) each interested party known to you, and (3) this office. Your notice of appeal sent to the Board must certify that you have sent copies to these parties. If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period.

If you have any questions, please contact the Supervisory Realty Specialist at 928-283-2229.

Sincerely,

/s/ Derrith R. Watchman-Moore

*Acung*

Regional Director

Enclosures

cc: Southwest Regional Solicitor  
Navajo Land Department

3N420:DCODY: dc:02-01-2016

TR-4618b-P5 (Surface Lease TC-SL-03-318, Tolchii Kooh, Inc., Tolani Lake, AZ)

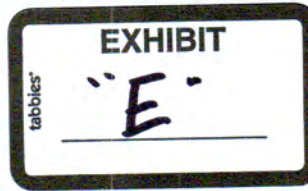
46102-T1

100

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IN REPLY REFER TO:  
3N420-Real Estate Services



**United States Department of the Interior**

**BUREAU OF INDIAN AFFAIRS**  
Western Navajo Agency  
Division of Real Estate Services  
P. O. Box 127  
Tuba City, Arizona 86045

Surname  
PC 3/28/16  
Bpa 7/6/16

APR 07 2016

Honorable Russell Begaye

President, The Navajo Nation

Dear President Begaye:

The Navajo Nation Resources and Development Committee, by Resolution RDCAU-50-15, requested the cancellation of Surface Lease TC-SL-03-318, issued to Tolchii Kooh, Inc. The notice of cancellation was approved February 4, 2016. As of March 24, 2016, the Bureau of Indian Affairs, Navajo Region did not receive a timely appeal therefore the lease is deemed cancelled February 4, 2016.

If there are any questions, please contact the Supervisory Realty Specialist at 928-283-2229.

Sincerely,

/s/ Sharon A. Pinto

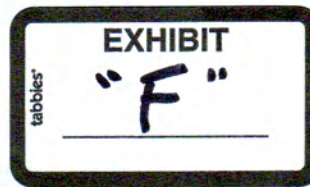
Regional Director, Navajo

cc: Navajo Land Department

3N420:DC: 3/28/2016  
TR-4618b-P5 (Cancellation, TC-SL-03-318, Tolchii Kooh Inc., Tolani Lake, AZ)  
46102-T1



Navajo Land Title Data System (NLTDs)  
Navajo Land Title, Navajo Land Title Data System - Windowrock AZ:  
Document Information



Document Information

Document Name: 006\_T008\_00007576.zip  
Revision:  
Version: 1  
Document Desc:  
Document Author: Stevie Hudson GLDD (Navajo Land Title Data System - Windowrock AZ)  
Document Status: Sufficient  
DocumentType: 164 Review Process  
Effective Date: 13-Mar-2017  
Expires: Never  
Uploaded from: Navajo Land Title Data System (NLTDs) Phase 1: Plan for Quality Management System  
  
Step 984: 006\_T008\_00007576  
  
Task 1: Upload and Manage Documents  
Size: 45837 KB  
Date Uploaded: 13-Feb-2017  
Maintained by: Project Management Team

No Document Distribution Locations

Tier 1 Document Voting Results

| User Name (Facility)  | Job Title                               | Department                                    | Vote Cast | Comments   | Replies         | Vote Date   |
|---|---|---|-----------|--|-----------------|-------------|
| Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)  | Air and Toxics - Reviewer               | Navajo Nation Environmental Protection Agency | Approved  | 1. If the BIA is accepting of the 2002 EA/FONS for a different project, then the proposed master lease is sufficient.  | 1.              | 17-Feb-2017 |
| Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ) | Water Quality - Reviwer                 | Navajo Nation Environmental Protection Agency | Approved  | 1. Should your project involve crossing any waterways, ephemeral or perennial, please contact our office at 928-871-7690 or visit our website at www.navajonationepa.org. Thank you.   | 1.              | 15-Feb-2017 |
| Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)       | Technical Review                        | Fish and Wildlife                             | Approved  | 1. Incomplete 164 review package. NHA should have included a BRCF before sending thru the NLTDs. GLDD should ensure all 164 reviews have all necessary compliance forms and letters attached.  | 1.              | 13-Feb-2017 |
| Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)        | Storage Tanks Program - Reviewer        | Navajo Nation Environmental Protection Agency | Approved  | <i>no comments</i>   | <i>No Reply</i> | 14-Feb-2017 |
| Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)   | Water Quality - Supervisor              | Navajo Nation Environmental Protection Agency | Approved  | 1. CONDITIONAL: Construction of the housing units will require coverage under the federal Construction General Permit for storm water discharges. A Notice of Intent (NOI) submitted to USEPA 14 days prior to earthmoving. A Storm Water Pollution Prevention Plan developed prior to NOI submission. | 1.              | 15-Feb-2017 |
| Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)      | Deputy Director DNR                     | DNR Administration                            | Approved  | <i>no comments</i>   | <i>No Reply</i> | 14-Feb-2017 |
| Yolanda Barney EPA (Navajo Land Title Data System - Windowrock AZ)    | Public Water System Supervision Program | Navajo Nation Environmental Protection Agency | Approved  | 1. Please see attached memorandum approving the project. The memo also outlines the requirements for drinking water and wastewater infrastructure construction permits.  | 1.              | 22-Feb-2017 |

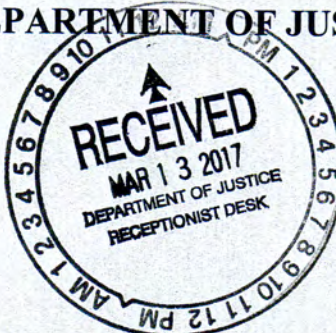
Tier 2 Document Voting Results

| User Name (Facility)   | Job Title                                | Department                                    | Vote Cast | Comments  | Replies         | Vote Date   |
|--|--|---|-----------|---|-----------------|-------------|
| Bidtah N. Becker (FBFA)  | FBFA Users                               | FBFA Action Team                              | Approved  | 1. Please see Mike Halona's comments. If the development is already in place and the sole purpose is to change the name of the lessess, then I agree with Mr. Halona that no HHPD or FWD review is necessary. | 1.              | 11-Mar-2017 |
| Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)     | Underground Injection Control - Reviewer | Navajo Nation Environmental Protection Agency | Approved  | 1. Approval contingent on NHA comply with NNEPA laws and regulations. See NNEPA staff review and comments.  | 1.              | 22-Feb-2017 |
| Sam Diswood (Navajo Land Title Data System - Windowrock AZ)        | Technical Review                         | Fish and Wildlife                             | Approved  | <i>no comments</i>  | <i>No Reply</i> | 23-Feb-2017 |
| Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)  | Technical Reviewer                       | Navajo Nation Minerals Management             | Approved  | <i>no comments</i>  | <i>No Reply</i> | 22-Feb-2017 |
| Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ) | HPD Reviewer                             | Historic Preservation Department              | Approved  | 1. HPD-00-571   | 1.              | 22-Feb-2017 |
| W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)     | Manager III Navajo Land Department       | NLD Administration                            | Approved  | 1. Existing improvements, project has been developed for years. Just amending the leasee name should not need a review.   | 1.              | 23-Feb-2017 |





## NAVAJO NATION DEPARTMENT OF JUSTICE

**DOCUMENT  
REVIEW  
REQUEST  
FORM**☐ RESUBMITTAL

|   |
|---|
| DOJ                                     |
| 03-13-17 1149a                          |
| DATE / TIME                             |
| <input type="checkbox"/> 7 Day Deadline |
| DOC #: 007576                           |
| SAS #:                                  |
| UNIT: NAM                               |

\*\*\* FOR NDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. \*\*\*

**CLIENT TO COMPLETE**

|                  |                                  |             |                                     |
|------------------|----------------------------------|-------------|-------------------------------------|
| DATE OF REQUEST: | 3/13/2017                        | DIVISION:   | NATURAL RESOURCES                   |
| CONTACT NAME:    | Michelle Hoskie or Stevie Hudson | DEPARTMENT: | GENERAL LAND DEVELOPMENT DEPARTMENT |
| PHONE NUMBER:    | x 6447                           | E-MAIL:     | steviehudson@frontier.com           |

TITLE OF DOCUMENT: NHA MASTER LEASE TOLANI LAKE

**DOJ SECRETARY TO COMPLETE**

DATE/TIME IN UNIT: 3/13/17 1150am REVIEWING ATTORNEY/ADVOCATE: Irvin Chee

DATE TIME OUT OF UNIT: 4/4/17 8am

**DOJ ATTORNEY / ADVOCATE COMMENTS**

- Document, re: NHA Master Lease for 24 New Housing is legally sufficient.

|                      |             |                      |                |
|----------------------|-------------|----------------------|----------------|
| REVIEWED BY: (Print) | Date / Time | SURNAMED BY: (Print) | Date / Time    |
| Irvin Chee           | 4/3/17      | V Blackhat           | 4/3/17 4:56 pm |

DOJ Secretary Called: Rhonda for Document Pick Up on 4/4/17 at 9:30am By: ah

PICKED UP BY: (Print)

DATE / TIME:



Document No. 007576Date Issued: 02/13/2017**EXECUTIVE OFFICIAL REVIEW**Title of Document: NHA, Master Lease Tolani Lake Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: michellehoskie@frontier.com 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: _____ | □ | □ |

☐ **Land Withdrawal or Relinquishment for Commercial Purposes**

Sufficient    Insufficient

1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases**

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. DOJ \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Rights of Way**

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. OPVP \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease**

1. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. OPVP \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

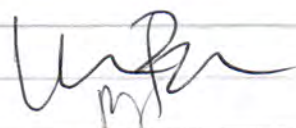
☐ **Assignment of Mineral Lease**

1. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. DOJ \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

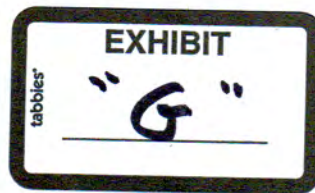
☐ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. DOJ \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
8. OPVP \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **OTHER: NHA Master Lease for 24 New Housing Project**

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. DOJ (ic) \_\_\_\_\_ Date: 4/3/17 ☒ ☐  
8. OPVP \_\_\_\_\_ Date: 4-11-17 ☒ ☐  






LEASE NO. \_\_\_\_\_

**THE NAVAJO NATION  
and  
NAVAJO HOUSING AUTHORITY**

**HOUSING PROJECT MASTER LEASE  
(Trust or Restricted Land Only)  
Tolani Lake, Arizona**

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**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 NAVAJO HOUSING AUTHORITY, a public body established and existing pursuant to the provisions of 6 N.N.C. § 601 et seq., hereinafter called the "Lessee," whose address is P.O. Box 4980, Window Rock, Navajo Nation (Arizona) 86515, in accordance with the provisions of 2 N.N.C. § 695(B)(4); 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 under the provisions of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(14), including all amendments or successors thereto, and "petroleum" as defined under the provisions of section 9001(8) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991(8).

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

**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 the **Tolani Lake Chapter** of the Navajo Nation, (County of Coconino, State of Arizona), a tract of land situate within Land Management District No. 5 of the Navajo Indian Reservation. Said Project is more particularly described in Exhibit "A", attached containing approximately **9.523**



**acres, more or less.** By this reference made a part hereof, together with the right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-way, 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. USE OF PREMISES; GENERAL PLAN.**

(A) Lessee shall develop, use and occupy the Leased Premises for the purpose of constructing and operating a Housing Project and its appurtenances, including constructing and operating appropriate related residential and public facilities such as roads, utilities, playgrounds, multi-purpose buildings, day care centers, ceremonial structures, laundry facilities, police, fire and medical facilities and other like facilities, consistent with a General Plan developed and approved in accordance with subsection (B) of this Section, known as Project No. \_\_\_\_\_.

(B) Prior to development of the Leased Premises, Lessee shall develop and submit to Lessor and the Secretary for approval a General Plan for the complete development of the Leased Premises. The approval of Lessor may be withheld, granted or granted upon conditions, in the sole discretion of Lessor.

(C) The Leased Premises shall not be used by Lessee for any purpose other than as provided in an approved General Plan, 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.

(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 fifty (50) years, beginning on \_\_\_\_\_ and ending \_\_\_\_\_.

### **5. RENTAL.**

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, an annual rental of: none. In accordance with the provisions of 25 C.F.R. § 162.320(a)(1), this Lease is for housing for public purpose to an agency of local government, is for the purpose of subsidization or the benefit of the Navajo Nation, and/or is for homesite purposes to Tribal members and the Leased Premises are not commercial or industrial in character.



**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, excluding removable personal property and trade fixtures, shall remain on the Leased Premises after termination of this Lease. At its option, Lessor may require Lessee to remove said buildings and other improvements and to restore the Leased Premises to its original state upon termination of this Lease.

(B) Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.

(C) 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.

(D) All Hazardous Substances, Hazardous Substance storage systems or conveyance facilities placed on or under the Leased Premises are the property of Lessee and shall remain the property of Lessee upon termination of this Lease. Within a reasonable time prior to termination of this Lease, Lessee shall remove any such substances or improvements, shall assess the Leased Premises for contamination, shall remediate all contamination, if any, and shall address any third party damages occasioned by any contamination or otherwise by the use or storage of such substances or improvements on the Leased Premises. Should Lessee fail to complete such responsibilities prior to the termination of this Lease, Lessee shall remain responsible therefore, and shall be required to post a bond in an amount reasonably required to ensure that such responsibilities are completed within a reasonable time after termination of this Lease.

**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.

(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. 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. § 169.51-169.56, 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.

## **10. 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 therefore, 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 therefore, 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.

## **11. SUBLEASES AND ASSIGNMENTS; PARTIAL RELINQUISHMENTS.**

(A) Except as otherwise provided in subsections (B) and (C) of this Section, this Lease may not be assigned, subleased or otherwise transferred or conveyed, in any manner whatsoever, in whole or in part, without the prior written consent 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, sublease, transfer or conveyance without such prior written approval shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of Lessor.

(B) Notwithstanding the provisions of subsection (A) of this Section, and subject to the provisions of subsection (D) of this Section, Lessee Navajo Housing Authority, but no successor in interest thereto, is hereby authorized to sublease the Leased Premises, in whole or in part, with the prior written approval of Lessor, but without further approval of the Secretary. Subleases so made shall not serve to relieve the Lessee from any liability under this Lease nor to diminish any supervisory authority of the Secretary provided for under this Lease or under applicable federal laws and regulations. During the term of any sublease, should the sublessee succeed to the interests of Lessee hereunder, it is hereby agreed that no merger of interests shall occur thereby.

(C) Notwithstanding the provisions of subsection (A) of this Section, and subject to the provisions of subsection (D) of this Section, this Lease may be assigned, in whole or in part, by Lessee Navajo Housing Authority, but not by any successor in interest thereto, with the prior written approval of Lessor, but without further consent or approval of 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. Assignments so made shall not serve to relieve the Lessee from any liability under this Lease nor to diminish any supervisory authority of the Secretary provided for under this Lease or under applicable federal laws and regulations; provided, that Lessee may be relieved from its liability under this Lease, in whole or in part, with the prior written approval of the Lessor and the Secretary.

(D) Lessee shall provide a copy of any sublease, assignment or partial relinquishment to Lessor and to the Secretary within thirty (30) days of its execution. Any sublease or assignment authorized by this Section shall be on a form approved by Lessor and the Secretary, and no such sublease or assignment shall be valid unless it is on an approved form. No sublease or assignment authorized by this Section shall be valid unless and until it is duly recorded in accordance with the provisions of 25 C.F.R. Part 150, including any amendment or successor thereto, at the Land Titles and Records Office of the Bureau of Indian Affairs, Albuquerque, New Mexico Office, or any successor thereto.

(E) Lessee is hereby authorized to relinquish to Lessor any part of this Lease, with the prior written approval of Lessor and the Secretary, for the purpose of Lessor issuing a Homesite Lease for the part relinquished; provided, that each person to whom the Homesite Lease is proposed to be issued is eligible to receive a Homesite Lease and the issuance of the Homesite Lease is otherwise in compliance with all applicable requirements of the Navajo Nation Homesite Policy and Procedures adopted by Resolution No. RCD-189-93, including amendments or successors thereto.

## **12. 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.

## **13. 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, Encumbrancer may exercise any rights provided in such Approved Encumbrance, provided that prior to any sale of the leasehold, Encumbrancer 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 Encumbrancer 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 the purchaser at such sale if is Encumbrancer, Encumbrancer 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 Encumbrancer 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 Encumbrancer, 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.

#### **14. DEFAULT.**

(A) Time is declared to be of the essence of 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 successors 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, subject to the provisions of subsection (D) 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 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 in the sole discretion of 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 Encumbrancer 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 Encumbrancer of any of Lessee's obligations under this Lease, with the same force and effect as though performed by Lessee. An Encumbrancer 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 Encumbrancer 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.

## **15. 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. Lessee further agrees at all times to maintain the entire Leased Premises in a safe and sanitary condition, presenting a good appearance both inside and outside the Leased Premises.

## **16. HAZARDOUS SUBSTANCES.**

Lessee shall not cause or permit any Hazardous Substance to be used, stored, generated or disposed of on or in the Leased Premises without the prior written approval of Lessor, which approval may be given, given upon conditions or denied in the sole discretion of Lessor. Without limitation of the foregoing, if Lessee causes or permits the presence of any Hazardous Substance on the Leased Premises and such results in contamination to the Leased Premises or any building or other improvement thereon, Lessee shall promptly take any and all actions necessary or appropriate to restore the Leased Premises or building or other improvement to the condition existing prior to the presence of any such Hazardous Substance on the Leased Premises. Lessee shall obtain written approval from Lessor prior to commencement of any such remedial action.

## **17. 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 \$3,000,000 per occurrence, and \$500,000 for damage to property. Said policy shall be obtained



from a reliable insurance company authorized to do business in the Navajo Nation and in the State identified in Section 2 of this Lease and shall be written to protect Lessee, Lessor and the United States and shall provide for notification to Lessor and the Secretary prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefore, copies of said policy shall be furnished to Lessor and the Secretary.

(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.

## **18. FIRE AND CASUALTY INSURANCE.**

(A) At all times during the term of this Lease, Lessee shall carry fire and casualty insurance with an extended coverage endorsement covering not less than the full insurable value of all improvements on the Leased Premises. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State identified in Section 2 of this Lease, and shall be written to protect Lessee, Lessor, the United States and an Encumbrancer, if any, and shall provide for notification to Lessor, the Secretary and any Encumbrancer prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefore, copies of said policy shall be furnished to Lessor and the Secretary.

(B) 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 Encumbrancer on the condition that Encumbrancer agrees to promptly replace or repair the destroyed or damaged improvements to a condition as good or better than before the destruction or damage occurred. If such amount paid to Encumbrancer 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 Encumbrancer, Lessor or Lessee shall deposit with Encumbrancer sufficient additional funds, if any, required to completely replace or repair the destruction or damage, upon written order of Lessor or Lessee, Encumbrancer shall pay such 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 Encumbrancer shall be applied and credited on the Approved Encumbrance.

(C) With the prior written approval of the Lessor and the Secretary, the insurance obligations 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.



**19. INSPECTION.**

The Navajo Nation and the Secretary 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 Leased Premises and any buildings and other improvements erected or placed thereon.

**20. 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.

**21. 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 Encumbrancer under an Approved Encumbrance.

**22. DELIVERY OF PREMISES.**

At the termination of this Lease, Lessee shall peaceably and without legal process deliver up the possession of the Leased Premises in good condition, usual wear and tear excepted. 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.

**23. HOLDING OVER.**

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.

**24. INDEMNIFICATION.**

Lessee shall indemnify and hold harmless the Navajo Nation and the Secretary and their authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the construction on or maintenance, occupancy or use of the Leased Premises by Lessee.



**25. 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.

**26. AGREEMENT TO ABIDE BY NAVAJO NATION AND FEDERAL LAWS.**

In all activities conducted by Lessee within the Navajo Nation, Lessee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect.

**27. GOVERNING LAW AND CHOICE OF FORUM.**

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 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.

**28. CONSENT TO JURISDICTION.**

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.

**29. 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 full 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 construed to negate or impair federal responsibilities with respect to the Leased Premises or to the Navajo Nation.

**30. 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.

**31. 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 and an Encumbrancer, if any, shall be notified of any such change in the status of the Leased Premises.

**32. 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 here from, but this provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

**33. 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 are to the United States as well as to Lessor.

**34. 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: 1-928-871-4025

To or upon Lessee:

Chief Executive Officer  
Navajo Housing Authority  
P.O. Box 4980  
Window Rock, Navajo Nation (Arizona) 86515  
Fax: 1-928-871-2604

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: 1-505-863-8324.



(B) All notices shall be given by personal delivery, by registered or certified mail, postage prepaid, by facsimile transmission. 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, by facsimile transmission, 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.

### **35. 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.

### **36. LEASE SUPERSEDES.**

This Lease supersedes and replaces the lease previously executed to develop **Tolchii'kooh Inc.**, approved by the Bureau of Indian Affairs on **January 10, 2003**

### **37. 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: [Signature]  
President

Date: 4/14/2017

**NAVAJO HOUSING AUTHORITY, LESSEE**

By: [Signature]  
Chief Executive Officer

Date: 2/3/17

**BUREAU OF INDIAN AFFAIRS**

APPROVED: \_\_\_\_\_  
Date

Pursuant to Secretarial Redlegation Order  
209 DM 8, 230 DM 1 and 3 IAM 4.

\_\_\_\_\_  
Regional Director, Navajo Region  
Bureau of Indian Affairs



## **EXHIBIT 'A'**

## **LEGAL DESCRIPTION**

### **Tolchii' Kooh Inc. School Housing Tract**

A parcel of land situated within Land Management District No. 5 of the Navajo Indian Reservation in the vicinity of Tolani Lake, Coconino Country, Arizona being more particularly described as follows:

Beginning for reference at the 131+4.70 Chains milepost situated on the Southerly Boundary Line of the Executive Order of 1862 as surveyed by the U.S. Bureau of Land Management Cadastral Survey in 1964;

Thence South 14° 37' 57" East, (South 25° 21' 31" East record per Land Withdrawal NO. T-70 found in the records of the Navajo Land Department, Window Rock, Arizona and hereinafter referred to as R1), 27,302.79 feet (27,153.22 fee R1) to the Northwest corner of R1 being a found 5/8 rebar and the True Point of Beginning. Said point lies South 76° 25' 00" West (Basis of Bearing for this description R1), along the North line of R1, a distance of 361.31 feet (361.50 per R1) from the Northeast corner of R1 being a found 5/8 rebar;

Thence South 06° 03' 07" East, a distance of 365.42 feet to a set ½ rebar with plastic cap stamped LS 27254;

Thence South 76° 25' 00" West, a distance of 544.54 feet to a set ½" rebar with plastic cap stamped LS 27254 and the beginning of a curve tangent to said line;

Thence northwesterly a distance of 256.19 feet along the curve concave to the north having a radius of 250.00 feet and a central angle of 58° 42' 51" to a set ½ rebar with plastic cap stamped LS 27254;

Thence North 44° 52' 09" West tangent to said curve, a distance of 511.89 feet to a set 1/2" rebar with plastic cam stamped LS 27254;

Thence North 84° 01' 47" East, a distance of 800.95 feet to a found Aluminum Cap stamped LS 14667 at the Southwest Corner of that parcel described as Land Withdrawal No. T-78 (hereinafter referred to as R2), found in the records of the Navajo Land Department, Window Rock, Arizona.

Thence continuing North 84° 01' 47" East, along said South line of R2, a distance of 287.32 feet to a set ½ rebar with plastic cap stamped LS 27254;

Thence South 06° 03' 07" East, a distance of 51.63 feet back to the True Point of Beginning.

Said Parcel contains 9.523 ACRES, more or less and is subject to existing easements of record.

Reserving a easement for utilities over the east 30.00 feet thereof.



GRAPHIC SCALE 1"=100

- 0  
100  
200  
300

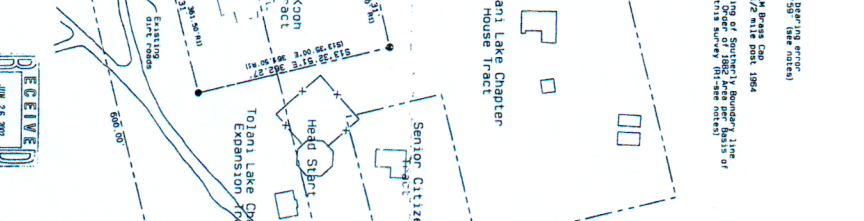
**Bearing error**

- M Brass Cap  
1/2 mile post 1964  
ing of Southern Boundary line  
Over of 1982 Area per basis of  
this survey (11-see notes)

□ □

□

ani Lake Chapter  
House Tract



## ani Lake Chapter

Dug in error  
 30' (see notes)  
 M Brass Cap  
 7/2 mile post 1964  
 ending of Southern Boundary line  
 of the survey (for see notes)

600.00

Existing dirt roads

RECEIVED  
JUN 26 2002  
PROJECT DIVISION  
WALDO LAND DEPARTMENT  
TO 1

**Cryslar**  
2655 East Mac  
Fleetaff, Ar  
Civil Engineering



**Cryslar**  
2655 East Mt  
Flagstaff, AZ  
Crysl Engineering



**Cryslar**  
2625 East Main  
Flagstaff, AZ  
Civil Engineering