

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Second Year 2016

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; RESCINDING RDCJY-46-16; AND APPROVING THE MUTUAL TERMINATION OF BUSINESS SITE LEASE NO. SR-99-159 BETWEEN THE NAVAJO NATION AND GIANT FOUR CORNERS, INC

BE IT ENACTED:

Section One. Authority

A. The Resources and Development Committee is established as a standing committee of the Navajo Nation. 2 N.N.C. § 500 (A).

B. The Resources and Development Committee of the Navajo Nation Council is empowered to grant final approval for non-mineral leases. 2 N.N.C. §501(B)(2).

Section Two. Findings

A. The Resources and Development Committee passed Resolution Number RDCJY-46-16, An Action Relating to Resources and Development; Approving the Mutual Termination of Business Site Sublease No. SR-99-159 between the Navajo Nation and Giant Four Corners, Inc. RDCJY-46-16 is attached as **Exhibit 4**.

B. Exhibits and the title of Resolution Number RDCJY-46-16 do not clearly delineate that the document to be mutually terminated is a Lease as opposed to a Sublease; therefore, in the interest of clarity, RDCJY-46-16 should be rescinded and a new resolution with exhibits clearly stating that the mutual termination is for a Lease.

C. In a letter, August 15, 2016, **Exhibit 2**, Roger C. Sprouse, of Giant Four Corners, Inc., requests a correction to a previous letter dated April 25, 2016 which referenced a Sub-lease. Mr. Sprouse's August 15, 2016 letter requests "for mutual termination of the . . . Base Lease [SR-99-159]."

D. The Executive Summary of the Regional Business Development Office (RBDO), **Exhibit 3**, requests an amendment to RDCJY-46-16 to mutually terminate the Bureau of Indian Affairs Lease No. SR-99-159 rather than mutually terminating a Sublease.

E. The Mutual Termination Lease No. SR-99-159 is attached as **Exhibit 1**.

Section Two. Approval:

A. The Navajo Nation hereby approves the Mutual Termination of Business Site Lease SR-99-159, as set forth in **Exhibit 1**

B. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute this Mutual Termination of Business Site Lease SR-99-159 and all other documents necessary to effectuate the intent of this resolution.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Peabody Mine Human Resources Conference Room, Black Mesa (Navajo Nation) Arizona, at which quorum was present and the same was passed by a vote of 4 in favor, 0 opposed, 1 abstained this 20th day of December, 2016.



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

Motion: Honorable Leonard Pete
Second: Honorable Benjamin Bennett

By: _____
Superintendent, _____ Agency
BUREAU OF INDIAN AFFAIRS

August 15, 2016

Ms. Sally A. Yabeny
Shiprock RBDO
Division of Economic Development
P.O. Box 1864
Shiprock, NM 87420

RE: Corrected Mutual Termination Request for Navajo Nation Lease # SR 99-159, Giant
Store # 245 in Teec Nez Iah

Dear Ms. Yabeny:

Please consider this Giant Four Corners' (GFC's) formal request for mutual termination of the
above reference Base Lease. GFC capped and abandoned the water well in accordance with
Section IV.A of the Global Settlement Agreement, and subsequent written instruction from the
Navajo Nation.

Our previous letter dated April 25, 2016 incorrectly stated Sub-Lease instead of Base lease.

Thank you for your consideration of our request.

Sincerely,



Robert C. Sprouse, VP Retail
Giant Four Corners, Inc.

Cc: Anthony Perry, NNDED
Wava White, NNDED
Elaine Young, NNDED
Mariann Mattia, Western





EXECUTIVE SUMMARY
Giant Four Corners, Inc
Mutual Termination – Lease No. SR-99-159

Based on resubmittal of letter dated August 15, 2016 by Giant Four Corners, Inc., Lessee is requesting correction to the Resolution; therefore, the Regional Business Development Office is respectfully requesting to amend Resource Development Committee Resolution No. RDCJY-46-16 which approved the Mutual Termination of BIA Business Site Lease No. SR-99-159 on July 12, 2016 as Sublease. The request is to amend Resolution No. RDCJY-46-16 as base Lease, see attached documents.

The Regional Business Development Office is requesting approval of the amendment to Resolution No. RDCJY-46-16 for Mutual Termination of BIA Business Site Lease No. SR-99-159 as base Lease by the Resources Development Committee of the 23rd Navajo Nation Council.



RDCJY-46-16

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Second Year 2016

AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE MUTUAL TERMINATION OF BUSINESS SITE SUBLEASE NO. SR-99-159 BETWEEN THE NAVAJO NATION AND GIANT FOUR CORNERS, INC.

BE IT ENACTED:

Section One. Findings

A. The Resources Committee is established as a standing committee of the Navajo Nation Council. 2 N.N.C. §500(A).

B. The Resources Committee of the Navajo Nation Council is empowered to grant final approval for non-mineral leases. 2 N.N.C. §501(B)(2).

C. In a letter dated, April 25, 2016, **Exhibit B**, Roger K. Burton, of Giant Four Corners, Inc., submitted a formal request for mutual termination of the SR-99-159 of the Giant Store in Teec Nez Iah.

D. The Executive Summary of the Regional Business Development Office (RBDO), **Exhibit C**, states that the Navajo Nation and Giant Four Corners, Inc., agree to mutually terminate the Bureau of Indian Affairs Sublease No. SR-99-159 because the operation at this location has ceased.

E. Also attached are **Exhibit A**, Mutual Termination of Business Site Lease SR-99-159; **Exhibit D**, Copy of Assignment and Assumption of Sublease No. SR-99-159; **Exhibit E**, Certificate of Good Standing from the Business Regulatory Department of the Division of Economic Development; **Exhibit F**, the Procurement Clearance documents; and Exhibit G, letter dated May 12, 2016 from the Navajo Nation Environmental Protection Agency to Mr. Roger Burton, Giant Industries, Inc.

Section Two. Approval

A. The Navajo Nation hereby approves the Mutual Termination of Business Site Sublease SR-99-159, as set forth in **Exhibit A**.

B. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute this Mutual Termination of Business Site Sublease SR-99-159 and all other documents necessary to effectuate the intent of this resolution.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Department of Transportation, (Navajo Nation) Tse Bonito, New Mexico, at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained this 12th day of July, 2016.



Benjamin Bennett, Vice-Chairperson
Resources and Development Committee
Of the 23rd Navajo Nation Council

Motion: Honorable Jonathan Perry
Second: Honorable Leonard Pete

MUTUAL TERMINATION
SUBLEASE NO. SR-99-159



Lease Number SR-99-159, entered into between the NAVAJO NATION, LESSOR, and Four Corners, Inc., Lessee on April 25, 2016, and approved by the Bureau of Indian Affairs on September 26, 2006 is hereby irrevocable terminated, cancelled and extinguished as of this 25th day of April, 2016.

1. The parties hereto hereby represent that the provisions of this Mutual Termination Agreement have been knowingly and voluntarily entered into and the Lessee is currently not operating on this site and has no intention to pursue operation and has requested Mutual Termination of the Agreement.

2. Lessee states that any and all permanent buildings and improvements on the lease property shall thereupon become the property of Lessor.

3. Lessee further states that all gross receipts statements and rentals due the Lessor, the Navajo Nation, have been submitted and paid in full up to the date of termination of the Lease and that all utility and other outstanding charges or fees pertaining to the Lease operation have been paid in full.

4. Nothing contained herein shall release Lessee of any obligation incurred under the provisions of Lease No. SR-99-159 prior to the date of termination set forth herein.

The termination of the Lessee's leasehold interest is hereby accepted and approved on behalf of the Navajo Nation.

IN WITNESS WHEREOF, the parties hereto have executed this Mutual Termination Agreement, this 25th day of April, 2016.

LESSEE

DATE

NAVAJO NATION, LESSOR

President of the Navajo Nation

DATE:

Date:

Approved Pursuant to 209 DM 8,
Secretary's Order No. 3150 as amended,
10 BIAM Bulletin 13, as amended, and
the addendum to 10 BIAM dated June 1,
1988.

By: _____ Agency
Superintendent,
BUREAU OF INDIAN AFFAIRS



April 25, 2016

Ms. Sally A. Yabeny
Shiprock RBDO
Division of Economic Development
P.O. Box 1864
Shiprock, NM 87420

RE: Mutual Termination Request for Navajo Nation Lease # SR 99-159, Giant Store #
245 in Teec Nez Iah

Dear Ms. Yabeny:

Please consider this Giant Four Corners' (GFC's) formal request for mutual termination of the
above reference sublease. GFC capped and abandoned the water well in accordance with Section
IV.A of the Global Settlement Agreement, and subsequent written instruction from the Navajo
Nation.

Thank you for your consideration of our request.

Sincerely,

Roger K. Burton
Giant Four Corners, Inc.

Cc: Anthony Perry, NNDED
Wava White, NNDED
Elaine Young, NNDED
Mariann Mattia, Western



EXECUTIVE SUMMARY
Giant Four Corners, Inc
Mutual Termination – Lease No. FD-99-159

Based on letter dated April 25, 2016 Lessee, Giant Four Corners, Inc. and the Navajo Nation hereby agreed and entered to mutually terminate Bureau of Indian Affairs Lease No. SR-99-159 because the operation of this location ceased and is no longer in operation.

The Assignment and Assumption of Lease No. SR-99-159 was initiated between Navajo Convenient Stores Co., LLC, a New Mexico Limited Liability Company ("Assignor"), and Giant Four Corners, Inc., an Arizona Corporation ("Assignee") in 2004; approved by the Navajo Nation President on March 7, 2005; and approved by the Bureau of Indian Affairs on September 26, 2006, see supporting documents.

Therefore, Regional Business Development Office is respectfully requesting approval of the Mutual Termination of Lease No. SR-99-159 by the Resources Development Committee of the Navajo Nation Council and Bureau of Indian Affairs.