

RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
24<sup>th</sup> Navajo Nation Council --- Third Year, 2021

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE ASSIGNMENT  
OF BUSINESS SITE LEASE NO. FD-88-134 FROM BASHAS' INC. TO  
RALEY'S, ARIZONA LLC

BE IT ENACTED:

**SECTION ONE. AUTHORITY**

- A. Pursuant to 2 N.N.C. § 500, the Resources and Development Committee is hereby established as a standing committee of the Navajo Nation Council.
- B. Pursuant to 2 N.N.C. § 501 (B)(2)(a), the Resources and Development Committee grants final approval for all non-mineral leases including modifications and assignments.

**SECTION TWO. FINDINGS**

- A. The Regional Business Development Office Executive Summary states that "[t]his Legislation is requesting Assignment of Business Site Lease No. FD-88-134 from BASHAS' INC, an Arizona Corporation to RALEY'S ARIZONA LLC, an Arizona limited liability company." The Executive Summary further states that "Business Site Lease No. FD-88-134 was approved by U.S. Department of the Interior, Bureau of Indian Affairs on September 8, 1988 for a term of 40 years to G.B. Investment Company and Bashas' Inc. for the purpose of operating a General Food Market business. Said business is located in Window Rock, Arizona. By letter dated November 1, 2021, the Purchase and Sale Agreement has been executed between the parties and are seeking Lease Assignment approval from the Navajo Nation, Lessor and U.S. Department of Interior, Bureau of Indian Affairs. BASHAS INC. is in compliance with the Navajo Nation Laws: ... ." The Regional Business Development Office Executive Summary is attached as **Exhibit 2**.
- B. Memorandum dated November 1, 2021 from Bashas' Inc, regarding "Bashas' Inc.: Request for Department of Economic Development Assistance in processing Consent to Assignments" and BASHAS, INC, Navajo Nation Corporation Code Certificate of Good Standing are attached as **Exhibit 3**.

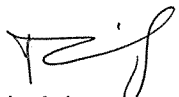
- C. Lease Number FD-88-134, "The Ground Lease, Window Rock, Arizona, by and between THE NAVAJO NATION, Landlord and G.B. INVESTMENT COMPANY, Tenant" dated August 11, 1988 is attached hereto as **Exhibit 4**.
- D. The Assignment of Lease No. FD-88-134 from BASHAS' INC., an Arizona Corporation, to RALEY'S, ARIZONA, LLC, an Arizona limited liability company attached hereto as **Exhibit 1**.
- E. The Executive Official Review Document No. 017608 is attached as **Exhibit 5**. Executive Official Review Document No. 017608 includes reviews by the Division of Economic Development and the Office of the Attorney General dated November 8, 2021 and November 9, 2021, respectively, in which each office found the review "Sufficient."

### SECTION THREE. APPROVAL OF ASSIGNMENT

- A. The Navajo Nation hereby approves the assignment of the BASHAS' INC., an Arizona Corporation, Lease No. FD-88-134 to RALEY'S, ARIZONA, LLC, an Arizona limited liability company. The ASSIGNMENT OF BUSINESS SITE LEASE, NAVAJO NATION, Lease Number FD-88-134 is attached hereto as **Exhibit 1**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

### CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24<sup>th</sup> Navajo Nation Council at a duly called meeting held at Chinle Chapter House, Chinle, Arizona for which a quorum was present and that same was passed by a vote of 5 in favor, and 0 opposed, on this 8<sup>th</sup> day of December 2021.

  
 Rickie Nez, Chairperson  
 Resources and Development Committee  
 of the 24<sup>th</sup> Navajo Nation Council

Motion: Honorable Kee Allen Begay, Jr.  
 Second: Honorable Thomas Walker, Jr.

Chairperson Rickie Nez not voting.

**ASSIGNMENT OF BUSINESS SITE LEASE  
NAVAJO NATION  
Lease Number FD-88-134**

KNOW ALL MEN BY THESE PRESENT, that we, the Assignors and named below, in consideration of \$10, to us in hand paid by the Assignee below, hereby assign to the said Assignee that certain Navajo Nation Business Site Lease describe below TO HAVE AND TO HOLD the same unto the Assignee from and after the date of approval of this Assignment by the President of the Navajo Nation for portion of the term mentioned in said lease, together with all the rights therein granted. It is understood and agreed that this assignment shall be null and void if disapproved by the Navajo Nation or if the Assignee fails to close its acquisition of substantially all of Assignor's grocery business.

DATED as of the 4<sup>th</sup> day of November, 2021.

BASHAS' INC., an Arizona corporation, successor by merger to  
G.B. Investment Company, an Arizona corporation

By: *John Basha*  
Its: V.P.  
ASSIGNOR

STATE OF ARIZONA \_\_\_\_\_ )  
 ) ss.  
COUNTY OF MARICOPA

This instrument was acknowledged before me this 4<sup>th</sup> day of November, 2021, by

*Johnny Basha*

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:  
December 26, 2023



VICKI S. HEMMING  
Notary Public - State of Arizona  
MARICOPA COUNTY  
Commission # 574024  
Expires December 26, 2023

*Vicki S. Hemming*  
Notary Public

**ASSUMPTION OF LEASE**

I, the Assignee named below, for in consideration of the approval of the above Assignment by the Navajo Nation, Lessor, acting by and through its duly authorized agents, hereby assume and agree to pay and be bound by all the rents, covenants, terms, and conditions of that certain Navajo Nation Business Site Lease described below, to the same extent as if I were the Lessee originally named therein. I understand and agree that this assumption shall be null and void if the above Assignment is disapproved by the President of the Navajo Nation or if the Assignee fails to close its acquisition of substantially all of Assignor's grocery business but otherwise shall be of full force and effect irrevocable by me.

DATED this 4<sup>th</sup> day of November, 2021.

RALEY'S ARIZONA LLC an Arizona  
limited liability company

By: *Ken Mueller*  
Its: CFO  
ASSIGNEE

STATE OF ARIZONA \_\_\_\_\_ )  
 ) ss.  
COUNTY OF MARICOPA \_\_\_\_\_ )

This instrument was acknowledged before me this 4<sup>th</sup> day of November, 2021, by  
*Ken Mueller*, acting as Manager of Raley's Arizona LLC, an Arizona limited liability company.

In witness whereof, I have hereunto set my hand and seal.

*Vicki S. Hemming*  
Notary Public

MY COMMISSION EXPIRES:  
December 26, 2023



VICKI S. HEMMING  
Notary Public - State of Arizona  
MARICOPA COUNTY  
Commission # 574024  
Expires December 26, 2023

Name of Assignor(s)

BASHAS' INC., an Arizona corporation

Address of Assignor(s):

22402 South Alma School Road

P.O. Box 488

Chandler, Arizona 85244

Name of Assignee(s):

RALEY'S ARIZONA LLC

Address of Assignee(s):

500 W. Capital Avenue

West Sacramento, California 95605

Date of Lease being Assigned: December 7, 2021

DESCRIPTION OF PREMISES

See attached legal survey, Exhibit "A".

The above assignment and assumption are hereby approved.

NAVAJO NATION, LESSOR

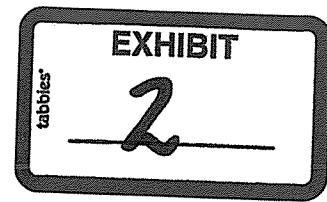
By: \_\_\_\_\_  
President of the Navajo Nation

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

Date: \_\_\_\_\_  
Approved Pursuant to Secretarial Redlegation  
Order 209 DM 8, Secretary's Order Nos. 3150  
and 3177 and 10 BIAM Bulletin 13, as amended

By: \_\_\_\_\_

Regional Director, \_\_\_\_\_ Region  
BUREAU OF INDIAN AFFAIRS



**EXECUTIVE SUMMARY**  
**ASSIGNMENT OF LEASE**  
**G.B. INVESTMENT COMPANY/BASHAS' INC.**  
**BSL No. FD-88-134**  
**Window Rock, Arizona – Fort Defiance Agency**

This Legislation is requesting Assignment of Business Site Lease No. FD-88-134 from BASHA'S INC, an Arizona Corporation to RALEY'S ARIZONA LLC, an Arizona limited liability company.

Business Site Lease No. FD-88-134 was approved by U.S. Department of Interior, Bureau of Indian Affairs on September 8, 1988 for a term of 40 years to G.B. Investment Company and Bashas' Inc. for the purpose of operating a General Food Market business. Said business is located in Window Rock, Arizona.

By letter dated November 1, 2021, the Purchase and Sale Agreement has been executed between the parties and are seeking Lease Assignment approval from the Navajo Nation, Lessor and U.S. Department of Interior, Bureau of Indian Affairs.

BASHA'S INC. is in compliance with the Navajo Nation Laws; therefore, the Navajo Nation recommends approval of the Lease Assignment of Business Site Lease No. FD-02-214 from Assignee, BASHA'S INC. to Assignor, RALEY'S ARIZONA LLC, an Arizona limited liability company.



Family of Stores



November 1, 2021

**CERTIFIED MAIL –**  
**RETURN RECEIPT REQUESTED**  
**AND E-MAIL**

Division of Economic Development  
Attn: Director Willie  
P.O. Box 663  
Window Rock, AZ 86515  
[jtwillie@navajo-nsn.gov](mailto:jtwillie@navajo-nsn.gov)

**Re: Bashas' Inc.: Request for Department of Economic Development  
Assistance in processing Consent to Assignments**

Dear Director Willie:

At the suggestion of Katherine Belzowski from the Navajo Nation Attorney General's office, I am writing you to request the assistance of the Navajo Nation Division of Economic Development in processing the assignment of the following Bashas' Inc. leases to Raley's Arizona, LLC.

Pinon	Lease Number CH-00-117, per Lease dated December 15, 1993 between the Navajo Nation and Bashas' Inc.
Dilkon	Lease Number FD-02-214, per Lease dated August 21, 2002 between the Navajo Nation and Bashas' Inc.
Window Rock	Lease Number FD-88-134, per Lease dated August 11, 1988 between the Navajo Nation and G.B. Investment Company (G.B. Investment Company thereafter being merged into Bashas' Inc.

PO Box 488 • Chandler, AZ 85244 • Phone: 480-895-9350

Crownpoint

Lease Number EN-90-32, per Lease dated February 7, 1989 between the Navajo Nation and G.B. Investment Company (G.B. Investment Company thereafter being merged into Bashas' Inc. Note that, as discussed in more detail in our October 1 letter, the Crownpoint letter allows us to assign that lease as part of a chain sale without Landlord consent, so technically we do not need the Navajo Nation's consent for this Lease. However, we want to be fully transparent and above board in our discussions with you all, so we are including it in this letter as well.

You should previously have received a copy of the request we sent to President Nez for Navajo Nation approval of the assignment of these leases per a letter from our attorney dated October 1, 2021. For your convenience, I am enclosing another copy of that letter

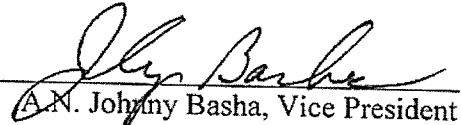
We would greatly appreciate any help you can give us to expedite the approval process, as we are hoping to be in a position to close the sale to Raley's by the end of this month..

If you have any further questions, or would like any further information regarding the proposed assignments of these leases to Raley's, please feel free to call me at ( (480) 895-5288.

Very truly yours:

BASHAS' INC. an Arizona corporation

By:

  
A.N. Johnny Basha, Vice President

COPIES BY EMAIL AND CERTIFIED MAIL TO:

Office of President and Vice President

Attn: President Jonathan Nez

Post Office Box 7440

Window Rock, AZ 86515

Katherine Belzowski, Acting Assistant Attorney General

Economic/Community Development Unit

Navajo Nation Department of Justice

P.O. Box 2010

Window Rock,

Navajo Nation (AZ) 86515

[kbelzowski@nndoj.org](mailto:kbelzowski@nndoj.org)

Director Willie  
November 1, 2021  
Page 3

Copies to:

Shawn Tobin  
Edward N. Basha III



TOBIN & CONNEALY, P.L.C.  
A PROFESSIONAL LIMITED LIABILITY COMPANY

October 1, 2021

3333 E. Camelback Road  
Suite 270  
Phoenix, Arizona 85018  
Telephone (480) 385-1234  
Facsimile (480) 385-1240

**CERTIFIED MAIL –**  
**RETURN RECEIPT REQUESTED**

Office of President and Vice President  
Attn: President Jonathan Nez  
Post Office Box 7440  
Window Rock, AZ 86515

**Re: Bashas' Inc.: Notice of Intent to Assign Leases and Request for  
Consent**

Dear President Nez:

I represent Bashas' Inc, as outside real estate counsel. Bashas' Inc. is in the process of negotiating the sale of substantially all of its grocery store operations to Raley's Arizona, LLC, an Arizona limited liability company ("Raley's"), which sale is intended to include its stores located on the Navajo Reservation. These stores include the following four (4) leases directly with the Navajo Nation:

Pinon	Lease dated December 15, 1993 between the Navajo Nation and Bashas' Inc.
Dilkon	Lease dated August 21, 2002 between the Navajo Nation and Bashas' Inc.
Window Rock	Lease dated August 11, 1988 between the Navajo Nation and G.B. Investment Company (G.B. Investment Company thereafter being merged into Bashas' Inc.
Crownpoint	Lease dated February 7, 1989 between the Navajo Nation and G.B. Investment Company (G.B. Investment Company thereafter being merged into Bashas' Inc.

Consent Rights The leases in question provide slightly different approval rights for the Navajo Nation and the Bureau of Indian Affairs, generally as follows:

President Jonathan Nez  
October 1, 2021  
Page 3

Navajo Nation and to err on the side of caution by requesting approval from both the Navajo Nation and the BIA on all four leases.

The purpose of this letter, therefore, is to request that the Navajo Nation and the Secretary of the Bureau of Indian Affairs consent to the proposed assignments. We understand that this request may take some time to process, but we do request that both the Navajo Nation and the Bureau of Indian Affairs expedite their review and approval of the assignment of the leases so as to not delay the sale by Bashas' Inc. to Raley's

My understanding is that you have previously met with representatives of Bashas' Inc. and Raley's and that they have provided you with substantial background information about Raley's as the proposed assignee, both as to its size and business experience operating a high quality grocery store chain. I believe you have also been informed that Raley's intends to continue operating substantially all of the Bashas stores, including all of the stores on the Navajo Reservation.

If you have any further questions, or would like any further information regarding the proposed assignments of these leases to Raley's, please feel free to call me at (602) 385-1236 or call Edward N. Basha, III at (480) 895-5218 or Johnny Basha at (480) 895-5288.

Very truly yours:

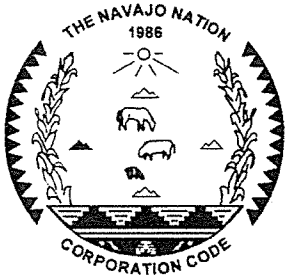
TOBIN & CONNEALY, PLC

By: 

Shawn Tobin

COPIES BY CERTIFIED MAIL TO:  
Division of Economic Development  
Attn: Director Willie  
P.O. Box 663  
Window Rock, AZ 86515

Navajo Regional Office  
Bureau of Indian Affairs  
Attn: Gregory Mehojah  
301 West Hill Street  
Gallup, NM 87301



# NAVAJO NATION CORPORATION CODE

## CERTIFICATE OF GOOD STANDING

*To all to Whom these Presents Shall Come, Greetings:*

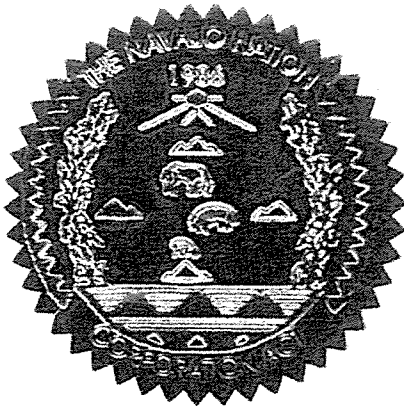
I, the Director of the Business Regulatory Department, DO HEREBY CERTIFY  
that

\*\*\*BASHAS, INC\*\*\*

File Number: 100475

a Corporation organized under the laws of the Navajo Nation Corporation Act, did  
incorporate on \_\_\_\_\_ October 26<sup>th</sup>, 1999 .

I FURTHER CERTIFY that this corporation has filed all affidavits and annual  
reports and has paid all annual filing fees required to date and, therefore, is in good  
standing within the Navajo Nation.



IN WITNESS WHEREOF, I have hereunto set  
my hand and affixed the official seal of the  
Navajo Nation Corporation Code. Done at  
Window Rock, Arizona, the Capital of the  
Navajo Nation, this \_\_\_\_\_ 18<sup>th</sup>  
day of \_\_\_\_\_ February, 2021 \_\_\_\_\_ A.D.

*Alvin H. Wauneka*

Alvin H. Wauneka  
Director, Business Regulatory  
Division of Economic Development

EXHIBIT

4

tabbies

LEASE NUMBER: FD-88-134  
LEASE FEE: \$250.00

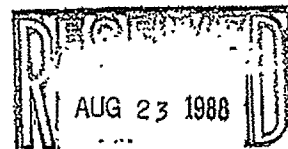
Bushas Store 35

Window Rock - Grand lease

GROUND LEASE  
WINDOW ROCK, ARIZONA

by and between  
THE NAVAJO NATION, Landlord  
and  
G.B. INVESTMENT COMPANY, Tenant

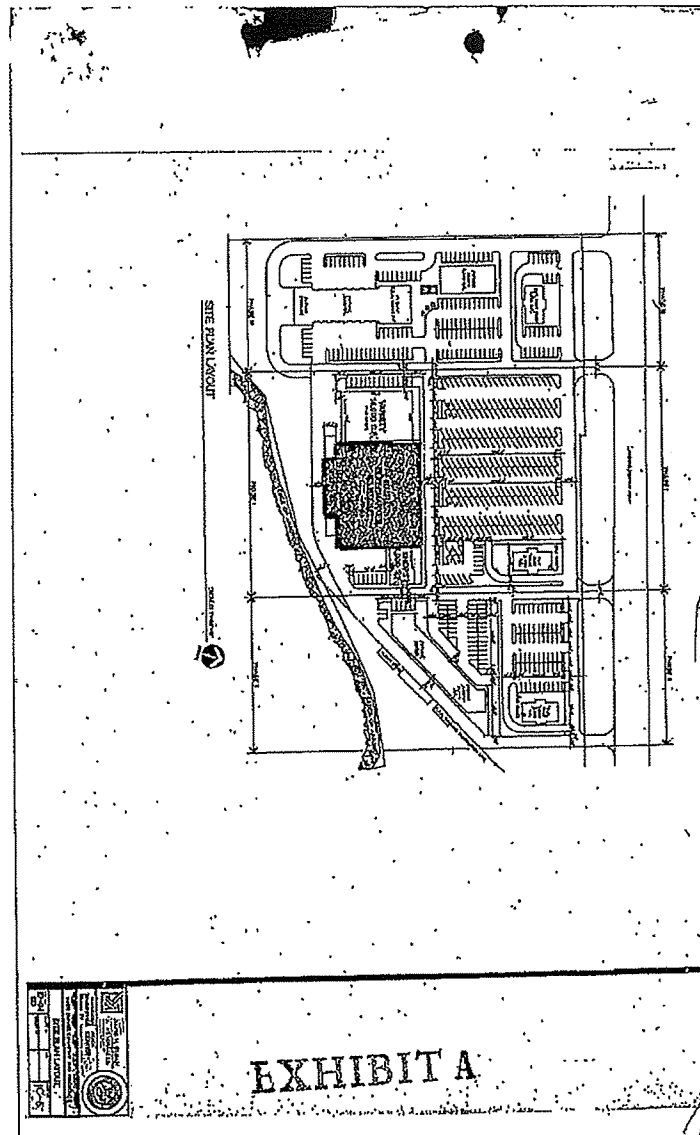
August 11, 1988



DR. OF REAL ESTATE MGMT.

Exhibit A

Survey



6/8/88  
6/22/88  
8/10/88

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EXHIBITS:

- "A" - Legal Description and Graphic Depiction of Premises
- "B" - Site Plan of Shopping Center of which Premises are  
a Part
- "C" - Memorandum of Lease
- "D" - Prohibited Uses
- "E" - Items to be Removed

## GROUND LEASE

### Section 1. PARTIES

This Ground Lease (hereinafter referred to as "this lease") in sextuplicate is made and entered into this 11th day of August, 1988, by and between The Navajo Nation (hereinafter referred to as "Landlord"), whose address is P.O. Box 308, Window Rock, Arizona 86515, and G.B. Investment Company, an Arizona corporation (hereinafter referred to as "Tenant"), whose address is P.O. Box 488, Chandler, Arizona 85244, under the provisions of the Act of August 9, 1955, as amended by 25 U.S.C. § 415 and by Part 162-Leasing and Permitting of the Code of Federal Regulations, Title 25-Indians, and any amendments thereto relative to business leases on restricted land, which by this reference are made a part hereof.

### Section 2. DEFINITIONS

A. "Secretary" means the Secretary of the Interior, or his authorized representative, delegate or successor.

B. "Chairman" means the Chairman of the Navajo Tribal Council, or his authorized representative, delegate or successor.

C. "Comptroller, Navajo Tribe" means the Comptroller of the Navajo Tribe, Window Rock, Arizona 86515.

D. "Construction" means any constructing, reconstructing, replacing, expanding or altering of the Improvements hereafter situate on the Premises.

E. "Costs of Construction" means all costs directly incurred by Tenant with respect to Construction and shall include by way of illustration but not of limitation, the cost of all labor and material, permit and license fees, equipment rental, insurance premiums, interest on construction financing, escrow and title fees, financing costs including points, lenders fees and charges,



architectural and engineering fees, legal fees and accounting fees.

F. "Excusable Delays" means any delay or inability which is beyond the control of the party so obligated and which is caused by the acts of the other party or its agents, the elements, war, riot, labor disputes, inability to procure or a general shortage of labor, materials or energy in the normal channels of trade, delay in transportation, delay in governmental inspections or delay in requested governmental approval, but shall not include financial inability.

G. "Financing" means financing obtained by Tenant for the purpose of financing the Costs of Construction of Improvements.

H. "Gross Sales" means the entire amount of the price charged by subtenants whether wholly or partly for cash, on credit or otherwise for all goods, wares and merchandise sold, licensed or delivered upon or from all or any part of a subleasehold estate created by tenant herein as the sublessor of a subleased portion of the premises. The term "gross sales" shall not include, and/or there shall be deducted therefrom such items as Tenant and subtenants agree, including by way of illustration but not of limitation, the net amount of cash or credit refunds, exchanges or transfers of merchandise between stores, sales of fixtures after their substantial use in the conduct of sublessee's business, the amount of any city, county, state or federal or landlord imposed sales, luxury or excise taxes.

I. "Improvements" mean the buildings and the parking and related facilities to be constructed on the Premises.

J. "Lender" means a bona fide institution authorized under the laws of its domiciliary state or the State of Arizona to lend money on the security of an interest or interests in real property and includes federally or state

chartered banks, savings and loan associations, mutual savings banks, private mortgage companies, life insurance companies, trust companies, real estate investment trusts, mortgage trusts and pension and welfare or profit sharing funds or trusts. "Lender" also means The Valley National Bank of Arizona as trustee in connection with the issuance of Industrial Revenue Development Bonds by The Industrial Development Authority of the County of Apache.

K. "Lease Year" means a 52-53 week fiscal year to coincide with the fiscal year of Tenant which fiscal year ends on the Saturday night closest to December 31st of each year.

L. "Lease Term" means the initial term of this lease as set forth in Section 4, together with the extension term if exercised by Tenant, which said extension term is likewise set forth in Section 4.

M. "Tenant" means the person named as Tenant in this lease or the person who at the time in question is the successor in interest of Tenant, whether by assignment, foreclosure or other transfer, and whether by voluntary act or by operation of law.

N. "Landlord" means the person who is the owner at the time in question of the reversionary interest in the Premises, whether named in this lease as Landlord or having become the successor in interest of the named Landlord whether by assignment, foreclosure, or other transfer, and whether by voluntary act or by operation of law.

O. "Mortgagee" means the Lender which is the mortgagee, beneficiary of a deed of trust or other obligee of any indebtedness secured by a Permitted Mortgage.

P. "Permitted Mortgage" means a mortgage, deed of trust or other encumbrance which is a lien on real property which is permitted by this lease, which encumbers the Leasehold interest and Improvements and which is security for Financing issued by a Lender.

Q. "Premises", except when specifically provided to the contrary in this lease, means the land described in Section 3.

R. "Site Plan" - that certain site plan reflecting the proposed development of the shopping center, which said site plan is attached hereto as Exhibit "B" and by reference incorporated herein and which said site plan reflects 67,600 square feet of building area on the Premises.

S. "Phase I Improvements" - a supermarket containing approximately 43,900 square feet, together with the common area, as the same is located within the Premises and reflected on the Site Plan.

T. "Phase II Improvements" - shops reflected on the Site Plan as containing a maximum of 4,000 square feet.

U. "Phase III Improvements" - a variety store reflected on the Site Plan as containing a maximum of 16,000 square feet and a pad reflected on the site plan as containing a maximum of 3,700 square feet.

V. "Term Commencement Date" - Ninety (90) days after the date on which Tenant has completed construction of the Phase I Improvements, or the date on which Bashas' Markets, Inc. ("Bashas'"), as the sublessee of the supermarket space has opened for business to the public, whichever first occurs. Completion shall be evidenced by the receipt by Tenant of a certificate of completion issued by the supervising architect.

### Section 3. PREMISES

A. Demise of Premises. Landlord hereby rents and leases to Tenant, and Tenant hereby leases and hires from Landlord, on the terms, at the rent, and subject to the covenants and conditions hereinafter set forth, all that certain real property legally described and graphically depicted on Exhibit "A" attached hereto and by reference incorporated herein together with any and all appurtenant rights thereto.

B. Covenant of Tenant. Tenant covenants, as a material part of the consideration for this Lease, to keep and perform each and all of said terms, covenants and conditions on its part to be kept and performed..

C. Covenants of Landlord. Landlord covenants and warrants as a material part of the consideration for this lease, that so long as Tenant is not in default of its obligations under this lease, Tenant shall be entitled to quietly and peaceably have, hold and enjoy the premises and the possession thereof in accordance with the terms and provisions of this lease without any interruption or disturbance whatsoever. Landlord further covenants and agrees that it will not encumber the premises or any part thereof with a mortgage, deed of trust or other security instrument of any kind or nature from the date hereof throughout the lease term; provided, however, that Landlord reserves the right to assign or collaterally assign its rights to receive rents, issues and profits.

D. Minerals. All minerals and sand and gravel contained in the premises in whatever concentration are hereby reserved for the use of the Landlord; provided, however, that during the lease term there shall be no entry upon the premises for the purpose of removal thereof.

E. Fencing of Premises - Use of Water. Tenant shall not have the right to fence all or any portion of the premises without Landlord's prior written approval. Tenant may not drill for water without Landlord's prior written approval.

#### Section 4. TERM AND OPTIONS

A. Term. The term of this lease shall be for a period of forty (40) years commencing on the term commencement date. Landlord and Tenant agree to execute an addendum to the lease reflecting the term commencement date as soon as reasonably possible after the term commencement date is known.

B. Options. Landlord hereby grants to Tenant one (1) option to extend the term of this Lease. (The option period is hereinafter referred to as "the extension term".) The extension term shall be for a period of twenty-five (25) years and shall be on the same terms and subject to the same conditions as the Initial Term as said terms and conditions are set forth herein with the exception of the fixed minimum rent which shall be adjusted as hereinafter set forth. Should Tenant desire to exercise its option for the Extension Term, Tenant shall give Landlord written notice of such exercise at least one hundred eighty (180) days prior to the expiration of the Initial Term.

Section 5. RENT

A. Fixed Minimum Rent. It is agreed by and between Landlord and Tenant that the appraised value of the premises is One and 65/100 Dollars (\$1.65) per square foot and that the premises contain 6.206 acres or 270,333 square feet. The total appraised value of the premises is Four Hundred Forty-Six Thousand Fifty and 04/100 Dollars (\$446,050.04). It is contemplated that 67,600 square feet of improvements will be constructed upon the premises. The appraised value of each such square foot of improvements is \$6.60, which said sum has been ascertained by dividing the total appraised value of the premises by 67,600 square feet.

5-3-89  
1. Upon completion of the Phase I improvements, the square footage under the improvements so constructed shall be multiplied by \$6.60. One percent (1%) thereof is the "Phase I fixed minimum monthly rent." The Phase I fixed minimum monthly rent shall be due and payable commencing on the term commencement date, and on the first day of each month thereafter until the first day of the first full month following the date on which the Phase II Improvements have been completed.

2. At such time as the improvements within Phase II have been completed, the square footage under such

improvements shall be multiplied by \$6.60. One percent (1%) thereof is the "Phase II fixed minimum monthly rent." The Phase II fixed minimum monthly rent will be added to the Phase I fixed minimum monthly rent and shall become due and payable on the first day of the first full month following completion of construction of the Phase II Improvements and on the first day of each month thereafter until the first day of the first full month following the date on which the Phase III Improvements have been completed.

3. At such time as the improvements within Phase III are completed, the square footage under such improvements shall be multiplied by \$6.60. One percent (1%) thereof is the "Phase III fixed minimum monthly rent." The Phase III fixed minimum monthly rent will be added to the Phase I and Phase II fixed minimum monthly rent, and shall become due and payable on the first day of the first full month following the date on which the Phase III Improvements have been completed and on the first day of each month thereafter throughout the term of this lease.

4. It is specifically acknowledged and agreed that while Tenant will construct the common area the square footage within the common area is not to be taken into consideration in determining the fixed minimum monthly rent. Instead, as hereinbefore set forth, the fixed minimum monthly rent shall be determined by the square footage under the improvements so constructed and any common area that may be appurtenant thereto shall be disregarded. Construction of the improvements within Phase II and Phase III shall be deemed completed for the purpose of subparagraphs 2 and 3 above when (i) a certificate of completion has been issued by the supervising architect, (ii) the tenant improvements, if any, have been completed, (iii) a subtenant has occupied the same and (iv) such subtenant has commenced the payment of rent; provided, however, that the provisions of this subparagraph (iv) shall not apply to Bashas' Markets, Inc.

in its capacity as a subtenant of space within Phase I. Until such time as all of the events hereinbefore set forth have occurred, the improvements within Phase II and Phase III, as the case may be, shall not be deemed to have been completed.

5. The fixed minimum rent then being paid will increase by the sum of Ten Thousand Dollars (\$10,000.00) commencing as of the first day of the 26th year following the term commencement date, which said increase shall be payable in equal monthly installments of Eight Hundred Thirty-Three Dollars and Thirty-Three Cents (\$833.33). Said amount will be added to the then existing fixed minimum monthly rental being paid by Tenant to Landlord. In addition, should Tenant exercise its option to extend the term of this lease the fixed minimum rent shall increase as of the first day of the eleventh (11th) year of the extension term by an additional Ten Thousand Dollars (\$10,000.00), which said increase shall be payable in equal monthly installments of Eight Hundred Thirty-Three Dollars and Thirty-Three Cents (\$833.33) commencing as of the first day of the eleventh (11th) year of the extension term and a like sum on the first day of each succeeding month thereafter throughout the remainder of the extension term. It is acknowledged that the rent does not increase by Ten Thousand Dollars (\$10,000.00) each year, i.e., the rent is not One Hundred Thousand Dollars (\$100,000.00) for the twenty-sixth (26th) year, One Hundred Ten Thousand Dollars (\$110,000.00) for the twenty-seventh (27th) year, and One Hundred Twenty Thousand Dollars (\$120,000.00) for the twenty-eighth (28th) year. Instead the Ten Thousand Dollar (\$10,000.00) increase is added to the fixed minimum annual rent paid for the previous year and the fixed minimum annual rent, as increased, is payable for each succeeding year after the increase, i.e., if the rent is One Hundred Thousand Dollars (\$100,000.00) for the twenty-sixth (26th)

year of the Lease, the rent will be One Hundred Ten Thousand Dollars (\$110,000.00) for the twenty-seventh (27th) year of the Lease and will remain at One Hundred Ten Thousand Dollars (\$110,000.00) for the twenty-eighth (28th) year and each succeeding year until the next adjustment.

B. Percentage Rent. In addition to the fixed minimum rent, Tenant agrees to pay to Landlord within ninety (90) days after the expiration of each lease year the following sums as and for percentage rental:

1. With reference to the sublease to be made, by and between Tenant herein as sublessor and Bashas' as sublessee, said sublease shall require the sublessee (whether the sublessee is Bashas' or another entity) to pay as percentage rental two percent (2%) of such sublessee's gross sales each lease year in excess of Nine Million Dollars (\$9,000,000.00) for the first five (5) years and thereafter two and one-half percent (2-1/2%) of such sublessee's gross sales each lease year in excess of Nine Million Dollars (\$9,000,000.00). Tenant shall transmit such percentage rental so paid by Bashas' to Landlord; provided that in connection therewith it is acknowledged that the sublessee shall be entitled to deduct from percentage rental otherwise payable, any and all property taxes and assessments, possessory interest tax or like tax and insurance premiums paid or payable by sublessee but not common area maintenance charges. Provided, however, that if Landlord elects to require Tenant to assign to Landlord Tenant's right to purchase an interest in the business of Bashas' as more fully set forth in paragraph 33 of the Bashas' sublease, then the provisions of this Section 5 B 1 shall be deemed null, void and of no force and effect as of the last day of the immediately preceding lease year; provided further that Landlord shall not permit Bashas' as sublessee to sub-sublease,



concession or license to third parties more than 4,390 square feet of space within the subleased premises for a usage which by the terms of such sub-sublease agreement, license agreement, concession agreement or otherwise does not contemplate the payment of percentage rent. In connection therewith, it is acknowledged that Bashas' intends to sub-sublease a portion of the subleasehold estate to the Valley National Bank of Arizona and that such sub-subslessee will not pay or be charged a percentage rent.

2. With reference to a sublease, if made, by and between Tenant herein as sublessor and a variety store as sublessee, twenty-five percent (25%) of the percentage rent paid by such sublessee variety store to Tenant shall be paid to Landlord;

3. With reference to each and every other sublease, which may be made by Tenant herein as sublessor and another occupant of space within the shopping center as sublessee, twenty-five percent (25%) of the percentage rent paid by each sublessee to Tenant shall be paid to Landlord.

With reference to the percentage rent to be paid by sublessees as set forth in subparagraphs 2 and 3, it is specifically acknowledged and agreed that Tenant may permit as deductions from percentage rent such amounts as Tenant and each such sublessee may agree upon. In addition, it is agreed that payments made by each such sublessee for fixed minimum annual rent (unless an upset figure has been established with reference to gross sales in the sublease based upon the fixed minimum annual rent in which event such fixed minimum annual rent is not deductible), real property taxes and assessments, if applicable, possessory interest taxes and like taxes, common area maintenance charges, insurance premiums and any other payments are not to be considered a part of percentage rental and/or may be

deducted from percentage rental payments otherwise payable for the purpose of determining Landlord's share thereof, and it is contemplated that the percentage rental paid by sublessees shall relate solely to a percentage of gross sales of each of said sublessees. It is, however, acknowledged and agreed that with reference to what is depicted on the site plan as "variety", what is depicted on the site plan as "future shops" and what is depicted on the site plan as "fut. fast food" Tenant shall require any sublessee who operates a retail business to be obligated to pay both a fixed minimum rent and a percentage rent subject to the provisions hereinbefore set forth with respect to deductions therefrom; provided, however that those sublessees who by reason of the nature of their business do not customarily pay percentage rent, which such sublessees who fall within such category include by way of illustration but not necessarily of limitation, banks, savings and loan associations, financial institutions, title companies, and insurance companies, will not be obligated to pay percentage rent.

C. Additional Rent. In addition to the fixed minimum monthly rent and the percentage rent as hereinbefore set forth, Tenant agrees to pay as additional rental within ninety (90) days following the expiration of each lease year an amount equal to the percentage of net profits which Bashas' Markets, Inc. as a sublessee pays to Tenant under the terms of its sublease. [In connection therewith Tenant herein agrees to require Bashas' to pay under the provisions of its sublease the amount by which twelve and one-half percent (12-1/2%) of the Bashas' net profits before income or like taxes exceeds the aggregate fixed minimum rent and percentage rent payable by Bashas' to Tenant herein during each calendar year. Provided, however, that Bashas' shall not be required to pay, and Landlord shall therefore not be entitled to receive, any additional rental as provided in

this section until Bashas' has received net profits from its subleased premises equal to any and all cumulative net losses suffered or incurred by Bashas' for all prior years from the subleased premises. The net losses for prior years shall be determined by the accountant for Bashas' in accordance with generally accepted accounting principles. The net profits shall likewise be determined by the accountant for Bashas' in accordance with generally accepted accounting procedures then in use by Bashas'. At such time as the Financing procured by Tenant in connection with the construction of the Improvements has been fully amortized and as a result the bonds have been fully retired, such percentage shall be increased to twenty-five percent (25%). Provided further that if Landlord elects to require Tenant to assign to Landlord Tenant's rights to purchase an interest in the business of Bashas' in accordance with paragraph 33 of the Bashas' sublease then and in such event the provisions of this section shall be deemed null, void and of no force and effect as of the last day of the immediately preceding lease year.

D. Place of Payment. While the premises are in trust for restrictive status, the Secretary may in his discretion suspend the direct rental payment provisions of this lease, in which event the rental shall be paid to the Area Director, Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona 86515. Notice of such suspension shall be given to Tenant as provided in Section 22 hereof. In the event Tenant pays rent to the Secretary or pays rent as directed by the Secretary, Tenant is in all respects relieved and released of his obligation to pay rent to Landlord herein.

E. Evidence of Payment. Tenant shall provide written evidence of its monthly advance rental payment, if requested in writing, to the Area Director, Bureau of Indian Affairs,

Navajo Area Office, P.O. Box M, Window Rock, Arizona 86515,  
Attention: Branch of Real Property Management.

Section 6. ACCOUNTING

A. Gross Sales Statements. Tenant shall as soon as reasonably possible following receipt thereof by Tenant submit to Landlord photocopies of any and all statements of gross sales received by Tenant from its sublessees. Tenant shall simultaneously therewith transmit to Landlord, its share of the percentage rent paid by sublessees within the shopping center. It is specifically acknowledged and agreed that Tenant herein shall have no liability of any kind or nature to Landlord and/or to the Secretary or to anyone else if for any reason whatsoever a sublessee or occupant fails or refuses to pay whatever may be required under its sublease, and Tenant's sole obligation in that regard is to pay out of percentage rent received by Tenant, Landlord's share thereof. Provided, however, that so long as the issued and outstanding stock of Bashas' is owned by the same individual who owns and controls Tenant, then Tenant shall not be released from liability to Landlord should Bashas' fail or refuse to pay what is required under its sublease with Tenant herein.

B. Sublessee Statements. Tenant agrees to require each sublessee or occupant to furnish a statement of such sublessee or occupant's gross sales on a yearly basis and if reasonably possible within ninety (90) days following the end of each Lease Year Tenant shall further require each sublessee and/or occupant to pay percentage rental at least once each year.

C. Audit. Landlord and/or the Secretary shall have access to and the right to examine and audit any pertinent books, documents, papers and records of Tenant relating to the business conducted on the premises, which said audit shall occur during the normal business hours of any working day at the main office of Tenant. Tenant shall insert a

similar provision in all subleases. Tenant shall, if requested by Landlord, conduct or cause to be conducted an audit of the books, documents, papers and records of subtenants relating to the business conducted on the subleasehold estates provided that such audit request by Landlord shall not be made with respect to any subtenant more than once each year and all costs of the audit shall be borne by Landlord should Landlord request an audit. Provided, however, that should any subtenant have understated in any Lease Year, the amount of percentage rent payable by such subtenant by more than three percent (3%), the cost of such audit shall be borne by the subtenant and not Landlord.

D. No Waiver. The acceptance by Landlord or the Secretary of any moneys from Tenant as percentage rental for the premises shall not be an admission of the accuracy of such statements or of the sufficiency of the amount of said percentage rent payments, but Landlord or the Secretary shall be entitled at any time for five (5) years after receipt of any said percentage rent payments to question the sufficiency of the amount thereof and/or the accuracy of the statements furnished by Tenant to justify the same and shall have the right to examine and/or audit as hereinbefore described. Therefore, Tenant shall for said period of five (5) years after submission to Landlord or the Secretary of any such statements keep safe and intact all of Tenant's records, books, accounts and other data which relate to percentage rent received by Tenant from subtenant, and Tenant shall use reasonable efforts to require each sublessee to keep such records, books, accounts and other data which support the statement of gross sales so made by such subtenants and the payment of percentage rent relating thereto.

Section 7. USE

Tenant may at any time and from time to time during the

Lease Term use, or permit the use of the premises and any improvements thereon for a shopping center or any other lawful purpose. Provided, however, that the premises may not be used for any of the purposes listed on Exhibit "D".

Section 8. CONSTRUCTION

A. Construction. Tenant shall construct or cause the construction of improvements on the Premises. Construction of the Phase I Improvements shall be completed within two (2) years from the date on which the BIA has approved this lease as evidenced by its execution hereof and the receipt of the executed copy by tenant subject, however to extension as a result of Excusable Delays. Should Tenant commence construction prior to the date on which the BIA has approved this lease, and should the BIA thereafter for any reason fail or refuse to approve this lease, Tenant shall be entitled to cease construction and Landlord agrees to indemnify and hold Tenant free and harmless from any and all costs of construction so incurred by Tenant and any and all other costs of any kind or nature whatsoever incurred by Tenant which are connected with this lease and/or the construction of improvements upon the premises. Construction of the Phase II Improvements shall occur at such time as Tenant has received written commitment from subtenants for the total of the square footage within the Phase II Improvements or within not less than eighty percent (80%) of the total of the Phase II improvements if Tenant is of the opinion that it will be able to procure sublessees for the remainder of said space. Construction of the Phase III Improvements shall occur at such time as Tenant has received a written commitment from a subtenant to occupy the Phase III Improvements, provided, however, that Tenant reserves the right to increase or decrease the size of the Phase III Improvements to accommodate the prospective subtenant. It is acknowledged that nothing contained herein shall be deemed to require Tenant to construct either the Phase II and/or Phase

III Improvements and that Tenant's decision with respect thereto will depend upon the receipt of written commitments therefor. It is acknowledged that the Phase III Improvements may be constructed prior to the Phase II Improvements and that the "fut. fast food" improvement may be constructed in Phase I or Phase II if Tenant so elects. All Improvements shall be constructed in accordance with then existing codes, ordinances and laws applicable thereto.

B. Site Plan. It is acknowledged by and between Landlord and Tenant that with respect to the Premises Tenant shall have the right to make such modifications or alterations to the site plan as Tenant deems appropriate; provided, however, that without first procuring the written consent of Landlord, Tenant may not reduce the size of the supermarket to be occupied by Bashas' below 36,015 square feet. Landlord shall construct the building and common area within the shopping center, excluding those on the Premises, in substantial accordance with the site plan. It is further acknowledged that if Tenant procures a commitment from a major drug store and/or variety store, Construction of the Improvement to be occupied by the major drugstore and/or variety store shall be included within the Phase I Improvements, in which event the Phase I fixed minimum monthly rent shall be increased accordingly and the Phase III fixed minimum monthly rental would be decreased accordingly. In addition, it is acknowledged that Tenant reserves the right to construct a portion only of the Phase II and/or Phase III Improvements, in which event the Phase II and/or Phase III fixed minimum monthly rental will be decreased accordingly, depending upon the square footage under such improvements so constructed.

C. Approval. Before commencing Construction, Tenant shall have caused to be prepared plans and specifications ("Plans") for the Construction of Improvements. The Plans shall be submitted to Landlord for its approval, which

approval shall not unreasonably be withheld. If they are not acceptable, Landlord shall notify Tenant in writing within thirty (30) days from the receipt thereof specifying with particularity in what respect any item is not acceptable and specifying with particularity the actions Tenant must take to make such item(s) acceptable. If Landlord does not notify Tenant of Landlord's disapproval within the thirty (30) day period, then the items shall be deemed to have been approved by Landlord. If Landlord does notify Tenant of Landlord's disapproval within the thirty (30) day period, then Tenant may modify the item(s) as required by Landlord. Upon resubmission of such modified items, if Landlord does not give written notice of disapproval to Tenant within ten (10) days after receipt thereof by Landlord, such modified items shall be deemed approved; this procedure shall apply with respect to subsequent disapprovals by Landlord and subsequent modifications by Tenant. If Tenant is unwilling to modify as required by Landlord, the parties promptly shall meet and confer to resolve the disputed item(s) and if they are unable to agree, the matter shall be submitted to an arbitrator selected by their mutual agreement or, if they cannot agree upon the arbitrator, the matter shall be submitted to arbitration in accordance with Section 33. No subsequent material changes shall be effected in the Plans unless such changes first shall have been approved in writing by Landlord pursuant to the procedure provided above for the obtaining of Landlord's consent. Provided, however, that the period of time within which Landlord may disapprove any subsequent material change in the Plans shall be reduced from fifteen (15) days to three (3) days if construction has commenced prior to such material change in the plans.

C. Completion. Construction of the Phase I Improvements shall be completed within two (2) years from the date on which Tenant has received a copy of this lease bearing



the approval in writing of the BIA, as such completion date may be extended because of Excusable Delays. "Completion" shall occur at such time as the Phase I Improvements to have been completed and ready for occupancy, exclusive of Tenant's Improvements which completion shall be evidenced by the receipt by Tenant of a certificate of completion execution by the supervising architect. All work shall be performed in a good and workmanlike manner, in substantial conformity with the Plans.

D. Mechanics' Liens. Tenant shall pay or cause to be paid the total cost of all work undertaken by Tenant in constructing Improvements upon the Premises. Tenant shall keep the Premises free and clear of all mechanics', materialmen's, contractors' or subcontractors' liens arising from any such work undertaken by Tenant, promptly discharging any such liens which may be recorded against the Premises; provided, however, that Tenant shall have the right, at Tenant's own expense, to contest the validity of any such asserted lien, claim or demand, upon furnishing a bond as required under the then applicable Arizona statute which provides for the posting of a bond to free the Premises from the effect of such a lien claim.

E. Grants of Easements. Landlord covenants and agrees that it will, from time to time, join with Tenant in the grant to governmental entities and public utility companies of easements or rights of way for utility lines and public streets, walks, alleys and access ways to the extent such may be reasonably required for the implementation of any development plan for the Premises. The dedication of such easements and rights of way shall not, however, result in the reduction of any rent payments to be made hereunder to Landlord by Tenant.

F. Navajo Preference. It is acknowledged that the "Navajo Nation Business Preference Law" will apply to the selection of an architect, engineer and general contractor.

In such connection, Tenant agrees to insert in every contract dealing with the premises to which Tenant is a party a provision requiring the other party to the contract to comply with the Navajo Business Preference Law to the extent that the same is applicable; provided, however, that the failure of such third party to so comply shall not subject Tenant to any liability of any kind or nature whatsoever, it being acknowledged that the sole responsibility of Tenant herein is to insert a provision requiring compliance by such third party. Nothing contained herein shall be deemed to require Tenant herein to attempt to enforce compliance therewith.

G. Contractor. Tenant shall be entitled to act as its own general contractor, provided that the requirements of the Economic Development Administration and the Department of Housing and Urban Development are met. If Tenant elects to perform construction work on the Premises, then it is acknowledged by Tenant that the Navajo Nation Business Preference Law will in all respects apply to the performance of such work.

#### Section 9. MAINTENANCE AND ALTERATIONS

A. Tenant to Maintain. Except as otherwise provided in this Lease, Tenant shall, throughout the Lease Term and at no cost and expense to Landlord, maintain the Premises and all improvements located thereon in good order and repair.

B. Right to Make Alterations. Tenant shall have the right, from time to time during the Lease Term, to undertake such alteration, improvement, or addition to, or remodeling, renovation, or demolition of the Premises or the buildings and improvements hereafter located thereon as Tenant shall deem necessary or desirable, provided that Tenant shall comply with all applicable laws and ordinances relating thereto. In the event the cost of any singular alteration, improvement or addition or remodeling, renovation or

demolition exceeds One Hundred Thousand Dollars (\$100,000.00), the consent of Landlord must be procured, which consent will not unreasonably be withheld or delayed.

Section 10. DAMAGE OR DESTRUCTION

A. Reconstruction. In the event all or any portion of any improvement on the Premises is damaged or destroyed it is agreed that Tenant may following any damage or destruction to the improvements from an "Insurable Cause", as defined below (but is under no obligation), repair or rebuild any damage to, or destruction of, all or any part of the improvements. An "Insurable Cause" is an event for which coverage is provided under a policy of fire insurance with the standard extended coverage endorsement.

B. No Abatement. No deprivation, impairment, or limitation of use resulting from any event contemplated by this section shall entitle Tenant to any offset, abatement or reduction in the fixed minimum rent.

C. Non-Insurable Loss. In the event of damage or destruction to the improvements from any cause other than an Insurable Cause, Tenant shall have the option of either:

1. Notifying Landlord in writing of Tenant's intention to cancel the lease, provided that such cancellation shall be effective only upon receipt by Landlord of proof—that all encumbrances and liens placed against the premises by Tenant, or at Tenant's direction, have been removed by Tenant prior to the time set for cancellation; or

2. Permitting the lease to continue in full force and effect by performing all obligations thereunder so long as Tenant either:

(a) Rebuilds or repairs the improvements pursuant to the provisions of Section 9A above, or

(b) Removes within a reasonable time not to exceed one hundred twenty (120) days after the

damage or destruction the debris resulting therefrom.

D. Damage at End of Term. In the event that more than twenty-five percent (25%) of the usable floor area of the premises improvements are damaged or destroyed during the final five (5) years of the lease term, Tenant shall be entitled to terminate this lease by written notice to Landlord. Said termination shall be effective on the date of said written notice, and from and after said date neither Landlord nor Tenant shall have any further duty or obligation to the other.

Section 11. OWNERSHIP OF IMPROVEMENTS

A. Ownership at Termination of Lease. All improvements constructed upon the Premises during the Lease Term by, with the permission of, or at the direction of, Tenant are and shall remain the sole and exclusive property of Tenant until the expiration or termination of the Lease Term. All buildings and improvements located upon the Premises at the expiration or earlier termination of the Lease Term shall, without compensation to Tenant except as set forth in this lease, then become Landlord's property free and clear of all claims to or against them by Tenant or any third person claiming through Tenant (other than the claims of any person holding a security interest in a particular item of property).

B. Removal of Building Materials. Any property, materials, scrap, debris, or other items removed from the Premises or the improvements thereon by or at the direction of Tenant in connection with any maintenance, alteration, or demolition of the improvement on the Premises as required or permitted by the provisions of this Lease, shall be and become the sole and exclusive property of Tenant, and Landlord shall have no claim thereto.

C. Removal of Trade Fixtures. Any other provision of this Section 11 notwithstanding, Tenant may at any time and

from time to time during the Lease Term, remove or permit to be removed trade fixtures, equipment or personal property located upon the Premises, whether installed by Tenant or by a subtenant. Further, Tenant shall have the right, upon upon the expiration of the lease term, to remove any or all trade fixtures, equipment or other items of personal property of Tenant located upon the Premises and Tenant shall, if required by Landlord, remove its trade fixtures. In the event any fixtures, trade fixtures, equipment or personal property is removed from the Premises or the improvements thereon in accordance with the provisions of this Section, any damage or injury to the structural integrity of the Premises caused by such removal shall be remedied by Tenant at the time of removal. It is acknowledged by Landlord that Tenant's sublessees will have the right to remove whatever fixtures, trade fixtures, equipment or personal property which may be located upon the subleased premises as Tenant and such sublessees may agree upon. In such connection it is specifically acknowledged and agreed that Tenant or Bashas' in its capacity as a sublessee of Tenant will be entitled to remove the items listed on Exhibit "E" attached hereto and by reference incorporated herein.

D. Equipment and Suppliers. Upon written request by Tenant, Landlord shall from time to time execute and deliver such instruments as may be required by any equipment supplier, vendor, lessor and/or lender whereby Landlord: (i) subordinates any rights it may have or acquire with respect to any fixtures, trade fixtures, equipment, or personal property which Tenant or any subtenant of Tenant may affix to the Premises to the rights of such supplier, vendor, lessor and/or lender; and (ii) agrees that such trade fixture, equipment or personal property do not constitute realty.

Section 12. ASSIGNMENT AND SUBLETTING

A. Tenant's Covenants. Tenant covenants and agrees that, except as permitted in this Section 12 and as permitted in Section 17, it will not assign all or any portion of its interest in the Premises without the Landlord's and the Secretary's written consent, which consents shall not be unreasonably withheld; and it is expressly covenanted and agreed by and between Landlord and Tenant that an attempted assignment by Tenant of all or any portion of Tenant's interest in the Premises in violation of the provisions of this Section 12 shall be null and void. Any assignment to which Landlord has consented, shall not release Tenant unless the provisions of Section 12 are complied with.

B. Tenant's Right to Assign. Landlord agrees that it shall not withhold written consent to any such sale, transfer or assignment if (i) at the date of such sale, transfer or assignment, Tenant is not in material default of any of the covenants and agreements herein contained to be kept, observed and performed by Tenant; (ii) said sale, transfer or assignment is made pursuant to or evidenced by a written agreement whereby the purchaser, transferee, or assignee assumes and agrees to be bound by and to observe all of the terms and conditions of this Lease and to pay to Landlord all sums and render all performances thereafter becoming due from Tenant; (iii) the sale, transfer or assignment is made to a financially sound investor, individual, partnership, syndicate, corporation, joint venture or other organization (hereinafter generally referred to in this Section 12.B as an "entity"); and (iv) the sale, transfer or assignment is evidenced by an instrument in writing (such as a memorandum of the sale, transfer or assignment) duly executed and an executed original of which is delivered to Landlord. An entity shall, for the purposes hereof be deemed to be financially

sound if the net worth of the entity at the time of the sale, transfer or assignment is equal to or greater than Five Million Dollars (\$5,000,000.00). Said Five Million Dollars (\$5,000,000.00) will escalate at the rate of four percent (4%) per year, which said escalation shall commence on the first day of the second full year following the term commencement date and continue to escalate at the same rate on the first day of each year thereafter. In the event the Landlord is of the opinion that the net worth of the entity is less than Five Million Dollars (\$5,000,000.00) as the same may have been increased by reason of the escalation, notwithstanding any representations or statements that may have been made with respect thereto by such entity and/or by Tenant, and if Tenant receives written notice of said opinion from Landlord within ten (10) days after the date on which the financial statement or evidence of net worth has been transmitted to Landlord, then and in such event the dispute will be subject to arbitration in accordance with Section 33 of this lease. As used herein, the term "net worth" shall mean the amount by which the total of all assets exceeds the total of all liabilities, as determined by an independent public accountant. Any sale, transfer or assignment made in accordance with the provisions of this Section 12 shall operate to release Tenant (or any subsequent seller, transferor, or assignor who makes a sale, transfer or assignment in accordance with these provisions) from all duties, obligations and liabilities becoming due from tenant hereunder after the effective date of the sale, transfer or assignment.

C. Assignment to Affiliate. Tenant may assign all of its interest in the Premises or all of its interest in this Lease to any affiliated corporation, partnership or other business entity or to any corporation, partnership, limited partnership, joint venture, or other business entity resulting from the consolidation or merger of Tenant into or

with any other business organization, or to any person, firm or corporation acquiring a majority of Tenant's issued and outstanding capital or or a substantial part of Tenant's physical assets without first obtaining the prior written consent of Landlord. Any assignment to an affiliated corporation, partnership or other business entity which is evidenced by written agreement whereby the affiliated corporation, partnership or other business entity assumes and agrees to be bound by and observe all of the terms and conditions of this Lease and to pay to Landlord all sums and render all performances thereafter becoming due from Tenant, shall release Tenant from all duties, obligations and liabilities thereafter becoming due from Tenant hereunder so long as the net worth minimum is satisfied.

D. Tenant's Right to Sublet. Consistent with the term of this Lease, Tenant shall have the absolute right to sublet to others all or any portion of the Premises or all or any portion of the improvements located thereon.

1. A sublease of Tenant shall, upon the termination of this Lease for any reason whatsoever, be deemed assigned to Landlord and shall become a direct lease between Landlord and the sublessee named therein with like force and effect as though Landlord had originally been named in such sublease in the place and stead of Tenant hereunder if said sublease satisfies the provisions of (a), or (b) below:

(a) said sublease:

(i) is for a total term of three  
(3) years or more; and

(ii) is not made to any company, firm, partnership or other entity which is affiliated with Tenant.

(b) said sublease is one to which Landlord has specifically consented in writing to attorn, which consent shall not be unreasonably withheld.



In the event (a) or (b) above are satisfied, a termination of this Lease for any reason whatsoever shall have no effect upon any sublessee's possession or right to possession of the subleased portion of the Premises or improvements, which possession and right to possession shall continue and remain unaffected thereby.

2. In the case of any sublessee whose sublease meets the criteria set forth above, Landlord shall, upon written request from Tenant or said sublessee, execute a written agreement pursuant to which Landlord acknowledges that said sublessee qualifies for the right of nondisturbance pursuant to the provisions of this section and that said sublessee is confirmed as being recognized by Landlord in the event of termination of this Lease with the same force and effect as if Landlord, as the Landlord, and the sublessee, as the Tenant, had entered into a lease containing the same terms, covenants and conditions as set forth in the sublease.

E. Prohibited Assignment or Sublease. Notwithstanding the provisions set forth above, nothing contained herein shall be deemed to require Landlord to consent to an assignee or sublessee who has previously been denied permission to conduct business on the Navajo Reservation.

### Section 13. INDEMNITY AND EXCULPATION

A. Landlord Indemnified. Landlord shall not be liable to Tenant for any damage to Tenant or Tenant's property for any cause, except for the gross negligence and willful or intentional misconduct of Landlord or Landlord's officers, agents, employees or representatives. Tenant hereby agrees to indemnify and hold harmless Landlord from and against any and all claims arising from Tenant's use of the Premises for the conduct of its business or from any activity, work or other thing done, permitted or suffered by

Tenant to be done on or about the Premises. If any cause of action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon, or about the Premises from any cause other than the gross negligence or willful or intentional misconduct of Landlord and Landlord's officers, agents, employees, or representatives, and Tenant hereby waives all claims in respect thereof against Landlord and the Secretary.

Nothing contained herein shall be deemed a waiver by Landlord of its sovereign immunity.

B. The Secretary Indemnified. Tenant hereby agrees to indemnify and to hold harmless the Secretary, his officers, agents, employees and representatives for any damages to Tenant or Tenant's property, for any and all claims arising out of Tenant's use of the Premises for the conduct of its business or from any activity, work or other thing done, permitted or suffered by Tenant to be done on or about the Premises, except for the negligent or unlawful acts of the Secretary, his officers, agents, employees and representatives cognizable under the Federal Tort Claims Act 28 U.S.C. § 2671, et seq. and other applicable federal statutes.

Nothing contained herein shall be deemed a waiver by the United States of its sovereign immunity.

C. Landlord Exculpated. Neither Landlord nor the Secretary shall be liable for any injury or damage to the person or property of Tenant or Tenant's agents, officers and employees occurring during the Lease term on or about the Premises, from any cause whatsoever, including, without limitation, fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of

the building or from the pipes, appliances or plumbing works therein, or from the roof, street or subsurface or from any other place resulting from dampness or any other cause other than the gross negligence or willful or intentional misconduct of Landlord or Landlord's officers, agents, employees or representatives cognizable under the Federal Tort Claims Act, 28 U.S.C., et seq., and other applicable federal statutes.

Section 14. INSURANCE

A. Extended Coverage Insurance. Subject to the provisions of this Section 14, Tenant shall, throughout the entire Lease keep each and every improvement located upon the premises insured, at no cost and expense to Landlord, against loss or damage by fire for not less than such amount as may be required by any encumbrance of the Premises but in no event less than the ninety percent (90%) of the replacement cost, foundations excluded. All insurance policies insuring said improvements against loss or damage by fire shall also insure against all other risks and perils customarily insured against under standard forms of insurance policies written by insurance companies licensed to write insurance in Arizona.

B. Public Liability Insurance. Tenant shall throughout the entire Lease Term and at no cost or expense to Landlord keep or cause to be kept in force for the mutual benefit of Landlord and Tenant, comprehensive broad form general public liability insurance against claims and liability for personal injury, death or property damage arising from the use and occupancy of the Premises and improvements, providing protection of at least One Million Dollars (\$1,000,000.00) for personal injury or death and at least Two Hundred Thousand Dollars (\$200,000.00) for property damage.

C. Waiver of Subrogation. Landlord and Tenant each hereby waive any and all rights of recovery against the

other, or against the officers, employees, agents and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damage. Each policy of insurance obtained by either Landlord or Tenant shall contain a waiver of subrogation clause whereby the insurance company waives all right of recovery by way of subrogation against either party hereto in connection with any loss or damage covered by such policy.

D. Evidence of Insurance. To the extent Tenant is required to procure and maintain insurance pursuant to the provisions of this Section 14, Tenant shall upon demand of Landlord, from time to time during the Lease Term, furnish Landlord with whichever of the following Landlord chooses by written notice to Tenant, establishing that the insurance required to be maintained by Tenant is in full force and effect: (i) certificates evidencing such insurance; (ii) binders representing all such insurance.

E. Reimbursement for Prepaid Insurance. Should Landlord, at the expiration of the Lease Term, elect to thereafter accept the benefits of any insurance policy then maintained by Tenant pursuant to the provisions of this Lease, Landlord shall, provided Tenant is not then in material default of its obligations under this Lease, reimburse Tenant pro rata on the basis of a three hundred sixty-five (365) day year for all prepaid premiums on such insurance policy or policies, and Tenant shall, upon such reimbursement, assign all Tenant's right, title and interest in that insurance to Landlord.

F. Failure to Obtain Required Insurance. If Tenant fails or refuses to procure or to maintain any insurance that it is required by this Lease to procure and maintain, or fails or refuses to furnish Landlord with required proof

that the insurance has been procured and is in force and paid for, then Landlord shall have the right, at Landlord's election, to either: (i) upon ten (10) days prior written notice to Tenant, procure and maintain such insurance and if Tenant has not so procured the required insurance within said 10 day period the cost to Landlord to acquire the insurance shall become additional rent due and payable by Tenant to Landlord with the next installment of fixed minimum rent; or (ii) notify Tenant that Tenant is in default of its obligations under this Section 14, whereupon Tenant, as provided in Section 16 below, shall have thirty (30) days to procure said insurance.

G. Self Insurance. Any other provision of this Lease notwithstanding, Tenant, with the prior written consent of Landlord and the Secretary, shall have the right to elect to self insure against all of the risks which would be insured against by a general public liability insurance policy. Provided, however, prior to Tenant's election to self insure under this section Tenant must submit to Landlord and the Secretary such information and data as is reasonably required by Landlord and the Secretary to enable Landlord and the Secretary to assess Tenant's capability to self insure, it being acknowledged and agreed that Tenant's right to self insure shall be determined by Tenant's financial capability to responsibly self insure. If Tenant elects to so self insure, Tenant shall indemnify and save and hold Landlord harmless from and against any liability arising from the risks which Landlord would be insured against under a standard comprehensive broad form general liability insurance policy then being issued in the State of Arizona, with Tenant's potential liability thereunder being limited to the dollar amounts specified in Section 14(B) above. Tenant shall, during any period in which Tenant self insures under this section, provide Landlord and the Secretary with any information and data which the Landlord and the

Secretary may reasonably request in order to enable Landlord and the Secretary to assess Tenant's ability to self insure hereunder. Further, either Landlord or the Secretary may, in their respective judgment reasonably exercised, require Tenant to cease to self insure and to obtain insurance coverages as required by this Lease if in the reasonable opinion of Landlord or the Secretary Tenant has ceased to be capable of responsibly self insuring. By execution of these presents, Landlord hereby expressly consents to Tenant's self insuring up to Two Hundred Fifty Thousand Dollars (\$250,000.00) and further acknowledges and agrees that such sum shall increase as of the expiration of each anniversary date during the term hereof, according to the increases in the Consumer Price Index. As used herein, the term, "Consumer Price Index," shall mean the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, U.S. City Average-All Item Consumers (1982-84=100). The amount of such increase shall be determined by multiplying Two Hundred Fifty Thousand Dollars (\$250,000.00) by a fraction, the denominator of which will be the most recent Consumer Price Index Figure prior to the Term Commencement Date, and the numerator of which will be the most recent Consumer Price Index published prior to the date of such adjustment. If the Consumer Price Index is discontinued or revised during the term hereof, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same results as would be obtained if the Consumer Price Index had not been discontinued or revised.

Section 15. CONDEMNATION

A. Definitions. For purposes of this Section 15, the following definitions shall apply:

1. "Condemnation" means: (i) the exercise of any governmental power, whether by legal proceedings or otherwise by a condemnor; and, (ii) a voluntary sale or

transfer by Landlord to any condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

2. "Date of the Taking" means the date the condemnor has the right to possession of the property being condemned.

3. "Award" means all compensation, sums or anything of value awarded, paid or received on a total or Partial condemnation.

4. "Condemnor" means any public or quasi-public authority or private corporation or individual, having the power of eminent domain.

B. Total Taking. In the event the entire Premises are appropriated or taken under the power of condemnation, this Lease shall terminate and expire as of the date of such taking, and Landlord and Tenant shall each thereupon be released from any liability thereafter accruing hereunder.

C. Partial Taking.

1. In the event that more than ten percent (10%) of the square footage of the Premises is taken under the power of condemnation by any public or quasi-public authority, or if by reason of any appropriation or taking by any such authority, regardless of the extent of the area so taken, the remainder of the Premises is either not one undivided parcel of property or is rendered substantially unsuitable for the purposes for which Tenant had been using the Premises immediately prior to the condemnation, Tenant shall have the right to terminate this Lease as of the Date of the Taking, which right may be exercised by Tenant giving written notice of such election to Landlord within thirty (30) days after the Date of the Taking. In the event of such termination, both Landlord and Tenant shall thereupon be released from any liability thereafter accruing hereunder. Landlord agrees immediately after learning of any appropriation or taking to give Tenant written notice thereof.

2. If Tenant does not elect to so terminate this Lease, or in the event that less than ten percent (10%) of the square footage of the Premises is appropriated under the power of condemnation and the remainder thereof is an undivided parcel of property and is not rendered substantially unsuitable for Tenant's purposes, then in either such event Tenant shall remain in possession of that portion of the Premises which has not been condemned.

D. Limited Takings. Upon the condemnation, other than a temporary taking, of less than a fee title interest in the Premises, the improvements located thereon, or both, any dispute between Landlord and Tenant on the question of whether the taking is total, substantial or partial, and the effect of such condemnation on Lease Term, rent and apportionment of the Award shall be promptly determined by arbitration in accordance with the provisions of Section 33 below.

E. Taking in the Final Years. In the event of any condemnation of the Premises or any part thereof occurring during the final three (3) years of the lease term, the taking shall, as in the case of a complete taking, terminate the Lease, notwithstanding any other provisions of this Section 15. Tenant shall receive no part whatsoever of any Award from such a condemnation during the final three (3) years of the lease term.

F. Award and Abatement of Rent.

1. Landlord and Tenant, and any leasehold mortgagee(s) (as hereinafter defined) shall have the right to represent their respective interests in each and every condemnation proceeding or negotiation and to make full proof of their claims. No agreement, settlement, sale or transfer to or with the condemnor shall be made without the prior written consent of Landlord, Tenant, and any leasehold mortgagee, all of whom shall execute and deliver to the others any and all instruments that may be required to



effectuate or facilitate the provisions of this Lease relating to condemnation.

2. Upon a condemnation resulting in the termination of this Lease the Award to Tenant shall be used to pay the balance due under any note(s) secured by a leasehold mortgage(s) permitted hereunder. The remainder of the award shall then be distributed to Tenant. If there is no court order which governs the division and distribution of the Award to Tenant for the value of Tenant's interest, or to Landlord for the value of Landlord's interest, then such division and distribution shall be made by an arbitrator in binding arbitration proceedings undertaken in accordance with the provisions of Section 33 below.

3. Upon a condemnation which does not result in the termination of this Lease, the Award to Tenant shall be distributed first for the payment of the cost of such restoration of the building or improvements located upon the Premises subject in all respects to the rights of a leasehold mortgage(s). The balance of the award to Tenant shall then be used to pay to Tenant the value of Tenant's interest as fixed by court order. If there is no court order which governs the division and distribution of the Award, then such division and distribution shall be made by an arbitrator in binding arbitration proceedings undertaken in accordance with the provisions of Section 33 below.

4. Upon a condemnation which does not result in a termination of this Lease, the monthly ground rental provided for in Section 4 above for the balance of the Lease Term shall be reduced in the ratio that the fair rental value of the Premises immediately prior to the condemnation bears to the fair rental value of such portion of the Premises as remains in Tenant's possession after the condemnation, valued as of immediately after the condemnation. In the event Landlord and Tenant are unable to agree on the fair rental value of the Premises

immediately before the condemnation and the remainder of the Premises immediately after the condemnation, said valuations shall be promptly determined by arbitration in accordance with the provisions of Section 33 below.

Section 16. DEFAULT

A. Subject to the provisions of Section 16B below, each of the following events shall be a default by Tenant and a breach of this Lease:

1. Failure To Pay. Tenant's failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by Tenant.

2. Failure to Perform. Failure or refusal to perform any term, covenant or condition of this Lease other than the payment of rent or other sums due from Tenant.

3. Receivership. The appointment of a receiver to take possession of the Premises, improvements located upon the Premises, Tenant's interest in the leasehold estate, or Tenant's operations on the Premises for any reason.

4. Insolvency. An assignment by Tenant for the benefit of creditors, or the filing of a voluntary petition by Tenant under any law for the purpose of adjudicating Tenant a bankrupt, or for extending the time for payment, adjustment or satisfaction of Tenant's liabilities, or for reorganization, dissolution or arrangement on account of or to prevent bankruptcy or insolvency or any involuntary petition filed against Tenant which is not quashed, vacated or answered within ninety (90) days.

B. Notice of Default By Tenant. As a precondition to pursuing any remedy for an alleged default by Tenant, Landlord shall, before being entitled to pursue any remedy, given written notice of default to Tenant and to all leasehold mortgagees whose names and addresses were previously given in writing to Landlord. Each notice of default shall specify the alleged event of default and shall allow Tenant fifteen (15) days after the date of receipt of

the notice within which to cure monetary defaults, and thirty (30) days after the date of the receipt of the notice to cure nonmonetary defaults provided that said thirty (30) days shall be extended for a reasonable period of time if Tenant is proceeding diligently and in good faith to cure any default which cannot reasonably be cured within said thirty (30) days.

C. Landlord's Remedies. Upon the occurrence of any default by Tenant, and following the attempt to resolve the dispute pursuant to Article 33, Landlord shall have the option to pursue any one or more of the following remedies:

1. Collect, by suit or otherwise, all sums of money as they become due under this lease.
2. Enforce, by suit or otherwise, Tenant's compliance with any provision of this lease.
3. Re-enter the Leased Premises and remove all persons and property therefrom, excluding property belonging to authorized sublessees and either:

(a) relet the premises without terminating this lease, as the agent and for the account of Tenant, but without prejudice to the right to terminate the lease thereafter, and without invalidating any right of Landlord and the Secretary for any obligation of Tenant hereunder;  
or

(b) terminate this lease at any time by giving Tenant written notice of the intent to terminate and the reason therefor.

#### Section 17. LEASEHOLD MORTGAGES

A. Hypothecation. Landlord agrees and consents that Tenant may, at any time and from time to time and with Landlord's and the Secretary's prior consent, which consent shall not unreasonably be withheld, mortgage, encumber, assign and hypothecate by mortgage, deed of trust or otherwise (any of which is herein called "mortgage") all or

any portion or portions of the right, title and interest of Tenant in the leasehold estate created by this lease to a lender or lenders (herein jointly called "mortgagee"). By execution hereof, Landlord acknowledges the issuance and sale of Industrial Development Revenue Bonds (G.B. Investment Company Project) Series 1986 by the Industrial Development Authority of the County of Apache, an Arizona nonprofit corporation designated as a political subdivision of the State of Arizona, and acknowledge that the leasehold estate of Tenant will be encumbered by a deed of trust to secure payment of the financing provided pursuant to the issuance of said bonds. Except as hereinafter otherwise provided, the mortgage and all rights thereunder shall be subject to each and every covenant, condition and restriction of this lease, and the same shall be subject to all rights and interest of Landlord hereunder, none of which shall be deemed waived by the foregoing consent. Any mortgagee shall have the right at any time during the term hereof while this lease is in full force and effect:

(a) To do any act required or permitted of Tenant hereunder, and all such acts done or performed shall be effective to prevent a forfeiture of Tenant's rights hereunder as if the same had been done or performed by Tenant; and

(b) To rely on the security afforded by the leasehold estate and to acquire and succeed to the interest of Tenant hereunder by foreclosure, whether by judicial or non-judicial sale, by power of sale contained in any deed of trust, security instrument or by deed given in lieu of foreclosure or otherwise, and thereafter convey or assign title to the leasehold estate so acquired to any other person, firm or corporation.

B. Notice. Landlord shall give written notice to mortgagee of any default by Tenant specifying the particular act or omission which, if not cured, will constitute a default; provided, however, that Landlord shall be under no obligation to give such notice to mortgagee specifying mortgagee's name and mailing address, unless mortgagee or Tenant has first advised Landlord of such name and address in writing. If requested by mortgagee or tenant, Landlord will confirm in writing its obligation to give such notice to mortgagee.

C. Curing by Mortgagee. Landlord shall not terminate this lease by reason of a default of Tenant, if the mortgagee shall:

1. Cure all monetary and other defaults within thirty (30) days after the expiration of any period of grace provided to Tenant under this lease; provided, however, that if any non-monetary defaults cannot be cured within thirty (30) days, mortgagee shall commence the curing within said thirty (30) days and shall have a reasonable period of time after the expiration of said thirty (30) days within which to complete such curing so long as mortgagee is proceeding to cure such default with reasonable diligence, or if mortgagee is unable to commence the curing within thirty (30) days, then mortgagee shall have a reasonable period of time to commence the curing of the default and shall likewise proceed to cure such default with reasonable diligence thereafter. The term "unable" shall mean that the default is of a kind and nature which is curable by mortgagee, through lawful means, only by obtaining actual physical possession of the premises, i.e., for the purpose of making repairs or compliance with state or local requirements, and mortgagee has applied for, in a court of competent jurisdiction, but has not yet obtained, the right to actual physical possession of the premises.

2. In the event such default is not susceptible of being cured by mortgagee, such default shall be deemed cured if mortgagee shall proceed in a timely and diligent manner to accomplish the foreclosure of Tenant's interest; provided, however, that if said foreclosure proceeding shall be subject to leave of any court (as in the case of a bankruptcy proceeding) and such leave shall have been applied for but not obtained by mortgagee, such default shall be deemed cured, nevertheless, for so long as leave of court shall not be obtained, if mortgagee shall have attempted to obtain such leave in a timely and diligent manner. It is agreed, however, that mortgagee shall cure, in the manner and at the time specified in paragraph (1) above, the monetary defaults and shall pay the monetary obligations of Tenant accruing after the date of such default, it being understood, however, that mortgagee shall not have any personal liability in connection therewith, but the payment and/or payments as aforesaid shall be a condition precedent to Landlord's obligation to forebear to exercise the rights and remedies otherwise set forth in this lease. Should mortgagee acquire the leasehold estate as the result of foreclosure of its mortgage, mortgagee shall have liability for the continued performance of the terms of this lease only to the extent of the amount of rent (excluding property taxes or like reimbursements for payments made by mortgagee to third persons) received with respect to the period between the date of acquisition by mortgagee of the leasehold estate and the date of transfer thereof by mortgagee or termination thereof. (Such limitation of liability shall not preclude enforcement of remedies by Lessor for defaults uncured within applicable grace periods.) The obligation of mortgagee for the future performance of the terms of this lease, if any, shall terminate upon the sale, transfer or assignment of the right, title and interest of mortgagee in the leasehold

estate to any other person, firm or corporation, and any such sale, transfer or assignment may be made by mortgagee without the consent of Landlord.

3. Any mortgagee or its assignee may enforce such mortgage and acquire title to the leasehold estate in any lawful manner, and, pending foreclosure of any such mortgage, may take possession of and sublet the leased premises and upon foreclosure of such mortgage may, without consent of Landlord, sell, transfer or assign the leasehold estate in its entirety or sublet any and every part of the leased premises. Any person acquiring the leasehold estate from mortgagee shall be obligated for the payment and performance of the obligations imposed upon Tenant by the terms of this lease only to the extent of those which arise or accrue subsequent to the date of transfer to such person. The Landlord shall be furnished with an executed copy of the instrument of assignment or transfer.

4. The foregoing provisions do not give any person whatsoever the right to mortgage, hypothecate or otherwise encumber or to cause any liens to be placed upon the freehold estate of Landlord, nor shall the foregoing provisions in any event be construed as resulting in a subordination in whole or in part of the freehold estate of Landlord to any indebtedness of Tenant.

D. New Lease. In the event Landlord elects to terminate this lease and Tenant's right thereunder by reason of Tenant's failure to cure any default within any period of grace provided to Tenant pursuant to the provisions of Section 16 of this lease and at the expiration of any subsequent period of grace provided to mortgagee, then Landlord may do so, but Landlord shall first serve written notice of such election on mortgagee, and mortgagee shall have thirty (30) days after the receipt of such notice within which mortgagee may elect, in addition to the rights and remedies set forth above, to demand that Landlord

execute a new lease of the leased premises with mortgagee as Tenant. In such event, Landlord and mortgagee shall immediately execute a new lease which shall be for the unexpired term of this lease and shall otherwise be identical with the terms of this lease; provided, however, that the mortgagee, its successors and assigns shall pay to Landlord, at the time of the execution and delivery of this lease, all amounts which would have been then due hereunder (and in connection shall pay to Landlord such sums of money as may be required to cure existing defaults which are curable by the payment of monies to Landlord), except for such termination, less any net income received by Landlord after termination hereof and prior to the new lease; and any then remaining net income shall then be applied to rental thereafter becoming due under the new lease.

E. Amendments. Landlord understands that Tenant intends to mortgage, from time to time, all and/or part or parts of the leasehold estate created by this lease. In that connection, Landlord agrees that it will execute such amendments to this lease as may reasonably be required by Tenant's proposed lender or lenders so long as Landlord's rights under this lease are not adversely affected to any material extent, and so long as such amendments are consistent with the intent of this lease. In such connection, Landlord agrees at Tenant's request to separate and segregate the Premises into two (2) or more leasehold estates, each such leasehold estate to be totally independent of the other so that a default under one (1) of the separated leasehold estates is not a default under any other leasehold estate(s). The fixed minimum annual rent shall be prorated on a square foot basis between the leasehold estates. Therefore, as an example, if the Premises are separated into three (3) separate leasehold estates of equal size, and if the fixed annual rental then being paid was Thirty Thousand Dollars (\$30,000.00), the



fixed minimum annual rental attributable to each leasehold estate would be Ten Thousand Dollars (\$10,000.00). At the request of Tenant, Landlord agrees to execute separate leases for each separate leasehold so created.

F. Estoppel Certificate. Landlord and Tenant each covenant and agree to make, execute and deliver to the mortgagee, its successors and assigns, estoppel certificates in form and substance as the mortgagee, its successors and assigns may from time to time reasonably require with regard to all matters pertaining to this lease and the status hereof; and, in the event that any one or more of said parties shall fail for a period of thirty (30) days after written request therefor to execute such certificate, as has been tendered for execution, even if incorrect, the certificates as tendered shall be conclusively deemed for all purposes to be correct and may be so relied upon by the mortgagee, its successors or assigns and any third persons.

G. General. In the event Tenant hereunder shall acquire Landlord's interest in and to the subject property, the leasehold interest in and to the subject property shall not merge into, but shall remain separate from, the fee interest. Likewise, if Landlord hereunder shall acquire the Tenant's interest in and to the subject property, no such merger shall occur. The term "mortgage" shall specifically include a deed of trust and the term "mortgagee" shall specifically include a beneficiary under the deed of trust, it being the intention of the parties to enable Tenant to finance the leasehold and to so encumber the same with a deed of trust or deeds of trust in lieu of a mortgage should Tenant's lender so require the use of a deed of trust rather than a mortgage. The provisions hereof relative to assignment by hypothecation shall benefit and apply to with like force and effect not only the named Tenant herein, but also any person, partnership, corporation or other business entity which has acquired by assignment the leasehold estate

now held by Tenant. The term "Tenant" as used herein shall be deemed to include any such assignee provided that, in connection with such assignment, there shall have been full compliance with the provisions of this lease. Anything elsewhere herein contained to the contrary notwithstanding, Landlord and Tenant mutually covenant and agree that so long as there exists an unpaid mortgage or deed of trust against the leasehold estate of the Tenant, this lease or any renewal shall not be modified, altered or amended and that Landlord shall not accept a surrender of the leased premises or a cancellation or release of this lease from Tenant prior to the termination of this lease without the prior written consent of the encumbrance holder, provided notice of the existence of such mortgage or deed of trust shall have previously been served upon Landlord, this provision being for the express benefit of such encumbrance holder and enforceable by it.

H. Notice of Arbitration. Any mortgagee shall be given notice of any arbitration proceedings between the parties hereto, and shall have the right to intervene therein and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention. In the event that any mortgagee does not elect to intervene or become a party to such proceedings, said leasehold mortgagee shall receive notice of, and a copy of, any award or decision made in said arbitration proceeding.

Section 18. RECORDATION OF MEMORANDUM OF LEASE

This Lease shall not be recorded. The parties have, concurrently with the execution of this Lease, executed a Memorandum of Lease, a copy of which is attached as Exhibit "C", which may be recorded in the office of the County Recorder in which the premises are located by either Landlord or Tenant. A copy of the lease will be filed with Southwest Title Plant.

Section 19. EXPIRATION, TERMINATION AND HOLDING OVER

A. Surrender of Premises. At the expiration of the Lease Term or earlier termination of this Lease, Tenant shall surrender to Landlord the possession of the Premises. Tenant shall leave the surrendered Premises and any other property in good and broom-clean condition, except as provided to the contrary in this Lease. All property that Tenant is required to surrender shall become Landlord's property as of the termination date of this Lease. All property that Tenant is not required to surrender but that Tenant does not remove from the Premises prior to the termination of this Lease shall, at Landlord's election, become Landlord's property at termination.

Section 20. NO PARTNERSHIP

Nothing in this Lease shall be construed to render the Landlord or Tenant in any way or for any purpose a partner, joint venturer or associate in any relationship with the other Party other than that of Landlord and Tenant, nor shall this Lease be construed to authorize either to act as agent for the other.

Section 21. RENTAL PERFORMANCE BOND.

Upon approval of this lease by the Secretary, Tenant agrees upon written request of Landlord or the Secretary to post a corporate surety bond in the penal sum equal to the Phase I fixed minimum rent for one (1) year, which bond shall be deposited with the Secretary and shall remain in force for the full term of this lease, at the discretion of the Secretary. It is understood and agreed that bond required by this section will guarantee performance of the obligations to pay the fixed minimum rent for one (1) year under this lease and that corporate surety bond may be furnished annually or may be continued from year to year by a certificate of renewal, a copy of which certificate shall be furnished the Secretary by Tenant. If U.S. Treasury Bonds are provided, Tenant agrees to make up any deficiency

in the value deposited that might occur due to a decrease in the value of bonds. Interest on said U.S. Treasury Bonds shall be paid to Tenant.

Section 22. PAYMENTS AND NOTICES

A. Payments. All payments from Tenant to Landlord shall be sent and submitted to the Navajo Nation Shopping Center Program, c/o the General Manager, P.O. Box 478, Window Rock, Arizona 86515, or at such place as may be designated from time to time by Landlord.

B. Notices. All notices or demands that must be or may be given or made hereunder shall be in writing and sent by certified or registered mail, return receipt requested, or personally delivered to the address set forth below to the party to whom notice or demand is to be given:

To Landlord: Navajo Tribal Council  
Attention: Chairman  
Navajo Nation  
P.O. Box 308  
Window Rock, Arizona 86515

Copy to: Director  
Commission to Accelerate Navajo  
Development Opportunities  
Navajo Nation  
Window Rock, Arizona 86515

Copy to: Bureau of Indian Affairs  
Area Director  
Navajo Area Office  
P.O. Box M  
Window Rock, Arizona 86515

To Tenant: G.B. Investment Company  
Attention: E.N. Basha, Jr.  
P.O. Box 488  
Chandler, Arizona 85244

Copy to: Gordon A. Mohr, Esq.  
Mohr, Hackett, Pederson, Blakley,  
Randolph & Haga, P.C.  
3807 North 7th Street  
Phoenix, Arizona 85014

Each such notice or demand shall be deemed given to the party on the tenth (10th) calendar day following the date of mailing of same to said party or on the date of receipt of said notice or demand by said party, whichever is sooner. Either party hereafter may designate a different person or entity or place to or at which notice shall be given by

giving written notice to that effect in compliance with this paragraph.

Section 23. RESTRICTIONS ON SALE OF ALCOHOL

It is acknowledged and understood that Tenant will not consent to the sale by sublessees of alcoholic beverages until such time, if at all, that the same are approved for retail sales on the Navajo Reservation and such sublessee is licensed by the Navajo Nation to sell, at retail, alcoholic beverages. Tenant agrees to notify the applicable officials of Landlord as soon as reasonably possible after Tenant becomes aware that alcoholic beverages are being sold from the Premises.

A. No Waste. Tenant shall not commit any waste upon the Premises or any nuisance or other act or thing against public policy.

Section 24. SANITATION.

Tenant hereby agrees to comply with all applicable sanitation codes, requirements or laws. Such compliance shall specifically include, but not be limited to, the sanitary regulations of the U.S. Public Health Service.

Section 25. SIGNS.

Signs will be permitted in accordance with the Plans and Specifications. No other exterior signs shall be permitted without the written approval of Landlord, which shall not be unreasonably withheld.

Section 26. TAXES, ASSESSMENTS, UTILITY CHARGES.

Tenant shall pay when and as the same become due, all taxes and assessments lawfully levied during the term of this lease upon or against the premises for which Tenant may become liable and of which Tenant has notice. Upon written application, Tenant shall furnish to the Secretary written evidence duly certified that any and all taxes required to be paid by Tenant have been paid, satisfied or otherwise discharged.

To the extent consistent with applicable law, Tenant shall have the right to contest any claim, asserted tax or assessment against the property by posting bond to prevent enforcement of any lien resulting therefrom. Tenant agrees to protect and hold harmless Landlord, the Secretary and the Premises and all interest therein and improvements thereon from any and all claims, taxes, assessments and like charges or any lien therefor, or sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Landlord shall execute and file any lawfully required documents with reference to real estate tax exemption of the land when requested by Tenant. In addition to the taxes and assessments herein described, Tenant shall pay all charges for water, sewage, gas, electricity, telephone and other utility services supplied to the Premises.

Section 27. AGREEMENT TO ABIDE BY NAVAJO LAWS.

Tenant and Tenant's employees, agents and sublessees and their employees and agents agree to abide by all laws, regulations and ordinances of the Navajo Nation now in force and effect or which may hereafter be in force effect. This agreement to abide by the Navajo laws shall not forfeit rights which Tenant and Tenant's employees, agents and sublessees and their employees and agents enjoy under the laws of the United States Government. Landlord agrees to diligently keep Tenant apprised of Navajo laws which affect Tenant. If any law, regulation or ordinance of the Navajo Nation hereinafter enacted shall materially or directly interfere with the conduct of business by Tenant, which interference directly renders Tenant incapable of generating the same or substantially the same profit from the Premises as existed prior to the enactment thereof, and/or if in the reasonable opinion of Tenant, it will be necessary to substantially or materially alter the manner in which Tenant is conducting business, which alternative manner is

unacceptable to Tenant and which alternative manner is substantially inconsistent with the manner of Tenant's conduct of its business in all of Tenant's other stores on the Navajo Reservation prior to the enactment, then Tenant shall notify Landlord thereof and Tenant and Landlord shall meet. Tenant shall identify to Landlord the law, regulation or ordinance which Tenant believes to be the cause of said interference and Tenant shall further specify the nature of the financial or other impact so caused. Provided, however, that in connection with the inability to obtain the same or substantially the same profit from the Premises, such inability must not be the result of competitive factors which may exist by reason of, as example, the enactment of a zoning ordinance which permits a competitive supermarket and/or shopping center to be constructed in Window Rock, Arizona.

Tenant and Landlord shall attempt a resolution through cooperative effort. If, within one hundred eighty (180) days from the date of Tenant's notice a mutually acceptable resolution has not been achieved by Landlord and Tenant as they determine in their respective sole and absolute discretion, then Tenant shall be entitled to terminate this Lease, in which event, Landlord shall purchase from Tenant the Premises and improvements constructed upon the Premises. The purchase price of the Premises and the improvements constructed on the Premises shall be all costs of construction of all improvements upon the Premises. The term, "all costs of construction," includes all costs directly incurred by Tenant in connection with the Premises and the construction of the improvements thereon, including by way of illustration but not of limitation architectural and engineering fees, legal fees, loan costs, costs of labor and materials and interest. The improvements include the building, the Tenant improvements, and the common area. There shall be deducted from the cost of construction an

amount equal to depreciation, which may have been deducted, the amount of which is to be determined in accordance with generally accepted accounting principles. In no event, however, shall the purchase price be less than an amount necessary to satisfy any debt incurred by Tenant in connection with such construction. The purchase price shall be paid as follows: (a) an amount equal to that which is necessary or required to satisfy the debt incurred by Tenant in connection with the construction of such improvements shall be paid at closing and (b) the remaining balance of the purchase price shall be paid in two equal, annual installments with the first of such equal, annual installments to be due and payable one (1) year from the date on which the one hundred eighty (180) day period expired. The unpaid balance of the purchase price shall not bear interest, but the payment of such shall be secured by a mortgage on the leasehold (it being acknowledged that no merger shall result) and also by an assignment of rents, issues and profits of all subleases, which security shall be in form and content reasonably acceptable to Tenant. Tenant shall execute such documents as may be reasonably required by Landlord in order to transfer title to the improvements to Landlord and to assign Tenant's interest as sublessor under the subleases to Landlord.

In addition, if Bashas', in its capacity as a sublessee becomes entitled to terminate its sublease with Tenant by reason of the passage of any such law, regulation or ordinance by the Navajo Nation and if Bashas' does exercise such option to terminate, then Tenant shall likewise be entitled to terminate this Lease. In the event of such termination, Landlord shall also be obligated and agrees to exercise each and every purchase option which may then remain as set forth in the Bashas' sublease and Bashas' Markets, Inc., in its capacity as the sublessee and/or Tenant herein shall be entitled to require Landlord to so



exercise each and every purchase option as aforesaid, provided that the purchase price shall be based on the fair market value of all furniture, fixtures, equipment, machinery and leasehold improvements placed upon the Premises by Tenant and/or sublessee and the cost to sublessee of the inventory then on the Premises. Therefore the other items which the accountants would or may take into consideration in ascertaining a purchase price should the option be exercised voluntarily by Landlord pursuant to the assignment referred to in paragraph 37.0 hereof will not be taken into consideration should the option be exercised by reason of the enactment of a law, ordinance or regulation as hereinabove more specifically set forth.

Section 28. EMPLOYMENT OF NAVAJOS

Tenant shall give preference in employment in connection with construction, maintenance and management work performed on the Premises by Landlord pursuant to this Lease to qualified, willing and available enrolled members of the Navajo Tribe living on or near the Navajo Reservation during the term of this Lease, to the extent authorized by law and required pursuant to the Navajo Preference in Employment Act. Tenant agrees that it will require Bashas' Markets, Inc. to employ eighty percent (80%) Navajos starting from the beginning date of the term of this Lease. Tenant further agrees that by the end of the fifth full year of this Lease Tenant will use reasonable efforts to employ ninety percent (90%) Navajos and that from and after the end of the fifth year of this Lease Tenant will use reasonable efforts to employ ninety-five percent (95%) Navajo. In the event Bashas' Markets, Inc. is unable to employ qualified, willing and available Navajos to fill the positions, Tenant shall not be in violation of this provision. Tenant agrees to insert in the sublease with Bashas' Markets, Inc., provisions consistent with the preceding two (2) sentences.

Section 29. USE OF NAVAJO PRODUCED GOODS AND SERVICES

A. Tenant agrees to make purchases of materials, equipment, goods, services and transportation from certified Navajo owned businesses, whenever economically feasible as provided in the Navajo Business Preference Law.

B. It is agreed by both parties that any materials, equipment, goods, services and transportation normally owned, utilized, employed or operated by Tenant shall be exempt from the provisions of this Section. In the event Landlord and Tenant disagree concerning the adjustments to be made, such disagreement shall be resolved under Section 33 hereof.

Section 30. TERMINATION OF FEDERAL TRUST

Nothing in this lease shall operate to delay or prevent a termination of Federal Trust responsibilities with respect to the premises by the issuance of a fee patent or otherwise during the term of this lease; however, such termination shall not serve to abrogate the lease. The owners of the premises and Tenant and their sureties shall be notified of any such change in the status of the premises.

Section 31. OBLIGATIONS OF TENANT

While the premises are in trust or restricted status, all of Tenant's obligations under this lease and the obligations of its sureties, are to the United States as well as to Landlord.

Section 32. INTEREST OF MEMBER OF CONGRESS

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

Section 33. RESOLUTION OF DISPUTES

It is the intention of the parties to establish a successful working relationship through open communications and to cooperate as fully as possible. However, should any

dispute arise under this lease which cannot be resolved between the parties through their continuing communication, the following procedure for resolution of all disputes arising under this lease shall apply: All claims, demands, disputes, controversies and differences that may arise between Landlord and Tenant under this lease shall be submitted to arbitration. Any controversy or issue between Landlord and Tenant within the terms of this lease shall be determined by arbitration in the following manner:

1. Tenant and Landlord shall each appoint an arbitrator within thirty (30) days.

2. Once the two arbitrators have been appointed, they shall agree upon and appoint within thirty (30) days a third arbitrator, and if the two arbitrators cannot agree upon a third arbitrator, the third arbitrator will be appointed by the United States District Judge for the District of Arizona.

3. Such arbitrators shall hold an arbitration hearing at a mutually agreed upon location, within forty-five (45) days after such appointments. The hearing will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and the three arbitrators shall allow each party to present its case, evidence, and witnesses, if any, in the presence of the other parties, and shall render their determination within ten (10) days. Each party shall bear its own costs of arbitration including one-half the costs of the third arbitrator. Attorneys' fees shall be awarded by the arbitrators to the prevailing party as determined by the arbitrators.

4. The award of the majority of the arbitrators shall be binding on Landlord and Tenant, unless within ninety (90) days from the date the arbitrators render their determination, either party commences an action pursuant to paragraph (5) below. It is expressly agreed that the use of arbitration under this section is not in any way a waiver of the Navajo Nation's sovereign immunity.

5. In the event either party to the arbitration finds the award of the majority of the arbitrators unacceptable, it shall have the right to bring the issue to courts of the Navajo Nation. Landlord and Tenant shall be entitled to all remedies available therein and all appeals. It is understood and agreed that in no event may any matter be brought to a State of Arizona court or a court of any other state.

Section 34. INSPECTION

The Secretary and Landlord, and their authorized representatives shall have the right, at any reasonable time during the term of this lease, to enter upon the premises or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

Section 35. HOLDING OVER

Holding over by Tenant after the termination of this lease shall not constitute a renewal or extension thereof or give Tenant any rights hereunder at, in or to the leased premises. Tenant agrees to remove all property removable under the terms of this lease within ninety (90) days after termination of this lease or pay a daily rental computed at the rate of triple the daily rental charged during the year immediately preceding termination of the lease, from the day following the ninetieth (90th) day after the termination date of the lease until said property is removed.

Section 36. COMPLIANCE

Tenant shall be subject to compliance with the provisions of the Code of Federal Regulations, Title 25, Part 141 which prescribes rules for the regulation of Reservation business for the protection of Indian consumers on the Navajo Reservation as required by 25 U.S.C. § 261-264.

~~\*~~ Section 37. RIGHT OF FIRST REFUSAL

A. In the event Tenant receives an acceptable bona fide offer from a third party to purchase Tenant's leasehold interest or any portion thereof or interest therein, Tenant shall give Landlord written notice setting forth the name and address of the prospective purchaser, the price and terms of the offer, and a copy of the Purchase and Sale Agreement executed by the purchaser, and all exhibits thereto. Landlord shall then have the prior right to purchase Tenant's interest covered by the offer at the price and upon the same terms and conditions as contained in the offer. If the consideration is not money, the purchase price shall be cash equal to the fair market value of the consideration. Landlord shall have fifteen (15) business days after receipt of Tenant's notice of offer within which to notify Tenant of its intent to accept or reject the offer. This right of first refusal shall apply to any transfer, conveyance, assignment, consolidation, merger, sale of stock of Tenant, or any other transaction in which legal or beneficial ownership of the leasehold granted by this Lease is vested in other individual than Tenant excepting, however, that this right of first refusal shall not apply to a sale, assignment, or other transfer of Tenant's leasehold estate which arises out of the sale of all or substantially all of the stores in Tenant's chain and/or all or substantially all of Tenant's real estate which is used for shopping center purposes.

B. The election by Landlord not to exercise its right of first refusal as to any offer shall not effect its right of first refusal as to any subsequent offer.

C. Any attempted sale, assignment or other transfer of the Tenant's leasehold interest effected without first giving Landlord the right of first refusal described above shall be void and of no force and effect.

D. If Landlord does not accept the offer submitted, Tenant may conclude the transfer to the purchaser consistent with the terms of this lease. Landlord will confirm its election not to purchase if requested so to do by tenant.

Section 38. MISCELLANEOUS PROVISIONS

A. Counterparts This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

B. Time of the Essence. In the performance of all of the covenants and conditions of this Lease, time shall be of the essence.

C. Title Matters.

Landlord represents and warrants that, as of the date hereof and at all times hereafter throughout the Lease term, there shall be no liens, encumbrances, restrictions or reservations encumbering the Premises or any part thereof which will in any way, directly or indirectly, preclude or in any way interfere with Tenant's ability to use the Premises in accordance with the provisions of this Lease and/or with the ability of Tenant's sublessee, Bashas' Markets, Inc., to use the Premises as and for a supermarket. Landlord agrees to indemnify and hold Tenant and Bashas' Markets, Inc., jointly and severally free and harmless from any loss, liability, cost, expense, damage and attorneys' fees arising out of any claim, demand, action or cause of action made or instituted which is inconsistent with or contrary to the representation and warranty hereinabove set forth.

D. Authority. Each individual executing this Lease on behalf of Landlord and Tenant represents and warrants that he is duly authorized to execute and deliver this lease on behalf of Landlord or Tenant, as the case may be.

E. Brokers. The parties warrant that they have had no dealings with any real estate brokers or agents or finders in connection with the negotiations of this Lease

and that they know of no real estate brokers or agents or finders, who are entitled to a commission and/or fee in connection with the making or entering into of this Lease.

F. Estoppel Certificates. Each party hereto shall, at any time and from time to time upon not less than ten (10) days prior written notice from the other party, execute, acknowledge and deliver to the requesting party a statement in writing which shall set forth the following: (i) a certification that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect, or, if no longer in full force and effect, stating that this Lease has been terminated), and the date to which the rental or other charges have been paid in advance, if any; and, (ii) an acknowledgement that there are not, to the knowledge of the party giving such statement, any uncured defaults hereunder on the part of the requesting party (or, if the requesting party is in default, specifying such defaults which are claimed to exist). The parties hereby agree that any statement delivered pursuant to this Section 38(F) may be relied upon by any prospective purchaser or mortgagee(s) of the Premises, and further agree that if a party fails to deliver the required statement within the permitted time such failure shall be conclusive and binding upon that party that: (i) this Lease is in full force and effect, without modification except as may be indicated by the requesting party; (ii) there are no uncured defaults in the performance of the requesting party; and, (iii) no more than one (1) month's rental has been paid in advance.

G. Prior Agreements and Modification. No provision of this Lease may be amended or added to except by a subsequent contract in writing signed by the parties hereto, the Secretary or their respective successors in interest. This Agreement takes the place of all other oral and written

agreements between Landlord and Tenant made prior to the date first set forth hereinabove on the first page of this Lease and contains the entire agreement of Landlord and Tenant.

H. Captions, Table of Contents and Marginal Headings.

The captions, table of contents and marginal headings used throughout this Lease have been provided for the convenience of the parties and for reference only. Such are not to be deemed a part of this Lease nor to be considered in the construction or interpretation of any part thereof.

I. Attorneys' Fees. In the event of any action, proceedings or arbitration brought by either party hereto against the other under this Lease for an alleged breach thereof, the prevailing party shall be entitled to recover all costs and expenses, including the fees of its attorneys in such action, proceedings or arbitration, in such amount as the court or arbitrators may deem reasonable.

J. Provisions are Covenants and Conditions. All provisions, whether stated as covenants or conditions on the part of Tenant, shall be deemed as both covenants and conditions hereunder.

K. Severability. The unenforceability, invalidity or illegality of any provision of this Lease shall not render any other provision unenforceable, invalid or illegal.

L. Nonmerger of Fee and Leasehold Estates. If both Landlord's and Tenant's estates in the Premises or the improvements or both become vested in the same owner, this Lease shall nevertheless not be destroyed by application of the doctrine of merger except at the express election of the owner and the consent of the mortgagee, if any.

M. Joint and Several Obligations. If either Landlord or Tenant consists of more than one (1) person, the obligation of all such persons is joint and several.

N. Successors. Subject to the provisions of this Lease on assignment and subletting, each and all of the



covenants and conditions of this Lease shall be binding upon and shall inure to the benefit of the heirs, successors, executors, administrators, assigns and personal representatives of the respective parties hereto.

~~\*~~ O. Assignment to Landlord. By execution of these presents, Tenant hereby assigns and transfers unto Landlord Tenant's rights and obligations set forth in Article 33 of that certain sublease by and between Tenant herein as Landlord and Bashas' Markets, Inc., an Arizona corporation, as Tenant, pursuant to which Tenant herein in its capacity as Landlord therein has a purchase option, pursuant to which Landlord may purchase on the 10th, 15th, 20th and 25th anniversary dates a twenty-five percent (25%) interest in Tenant's business being conducted at the premises, provided that such assignment shall become null and void and of no further force and effect if Landlord defaults in any performance required of Landlord pursuant to the provisions of this Lease.

P. Declaration. Landlord and Tenant acknowledge that Landlord intends to construct additional improvements on both sides of the Premises, and in such connection, it is acknowledged and agreed by and between Landlord and Tenant that a declaration of restrictions and cross easement agreement are required by Tenant to be made, executed and delivered so as to enable third parties to have a means of ingress and egress over that portion of the common area which Landlord intends to develop on each side of the Premises and so that the property so developed by Landlord is subject to certain restrictive uses, which restrictive uses include the restrictive use provisions contained in the sublease by and between Tenant herein as Landlord and Bashas' Markets, Inc., as Tenant. Landlord shall not be entitled to develop or cause to be developed the adjacent area on either side or both sides of the Premises without

the previous execution by Landlord and Tenant of said declaration of restrictions and cross easement agreement.

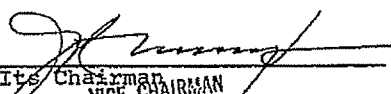
Q. Easement. Landlord and Tenant acknowledge that the means of ingress and egress to and from the shopping center and Arizona Highway 264 are located in part upon the Premises and in part upon land abutting the Premises.

By execution of these presents, Landlord hereby grants to Tenant, to Tenant's agents, employees and independent contractors, to Tenant's sublessees and sublessee's agents, employees and independent contractors and to the invitees of both Tenant and sublessee, an easement for ingress and egress over that portion of the real property approximately 13' in width on both sides of the Premises as the same is reflected by cross hatching on the site plan attached hereto as Exhibit "B". Said easement is irrevocable and shall continue throughout the term of this Lease as the same may be extended.

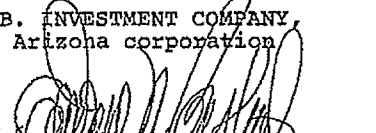
R. No Waiver. No provision of this Lease shall be construed as an express or implied waiver by Landlord of its sovereign immunity.

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

THE NAVAJO NATION

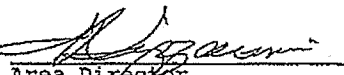
By   
Its Chairman  
VICE CHAIRMAN  
Navajo Tribal Council LANDLORD

G.B. INVESTMENT COMPANY,  
an Arizona corporation

By   
Its Chairman of the Board

TENANT

APPROVED this 8 day of  
September, 1988:

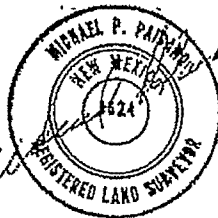
ACTING   
Area Director  
Bureau of Indian Affairs

APPROVED, pursuant to Secretarial Redelelegation  
Order 209 DM 8 and 230 DM 3.

LEGAL DESCRIPTION

A certain tract of land situated within Land Management District No. 18 Of the Navajo Indian Reservation in the vicinity of Window Rock, Apache County, State of Arizona, being more Particularly described as follows:

Beginning at the Northwest corner of the herein described tract; whence the Arizona State Highway Dept. Right-of-Way marker P.O.T. Station 665+45.16 situated on the Southerly line of Arizona State Highway No. 264 bears N.  $70^{\circ} 07' 01''$  E., 146.34 feet; thence N.  $74^{\circ} 02' 07''$  E., 485.20 feet, to the Northeast corner of the herein described tract; thence S.  $15^{\circ} 57' 53''$  E., 504.68 feet, to the Southeast corner of the herein described tract; thence S.  $47^{\circ} 54' 08''$  W. 102.14 feet; thence along the arc of a curve to the right, having a radius of 150.00 feet and a delta of  $26^{\circ} 07' 59''$ , 68.42 feet; thence S.  $74^{\circ} 02' 07''$  W., 327.43 feet, to the Southwest corner of the herein described tract; thence N  $15^{\circ} 57' 53''$  W., 565.00 feet, to the Northwest corner and point of beginning of the herein described tract, containing 6.206 acres more or less.



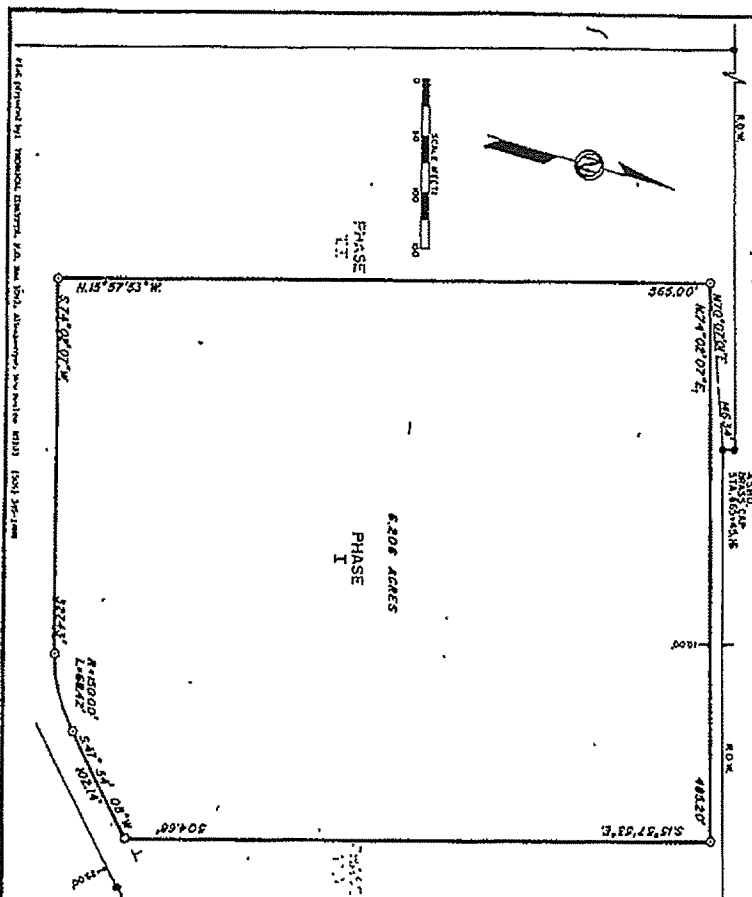
PLAT OF  
**BASHAS' LEASE**  
 A PORTION OF  
 WINDOW ROCK SHOPPING CENTER  
 DISTRICT 19 NAVAJO INDIAN RESERVATION  
 WINDOW ROCK, APACHE COUNTY, ARIZONA

ARIZONA

STATE

HIGHWAY

25'

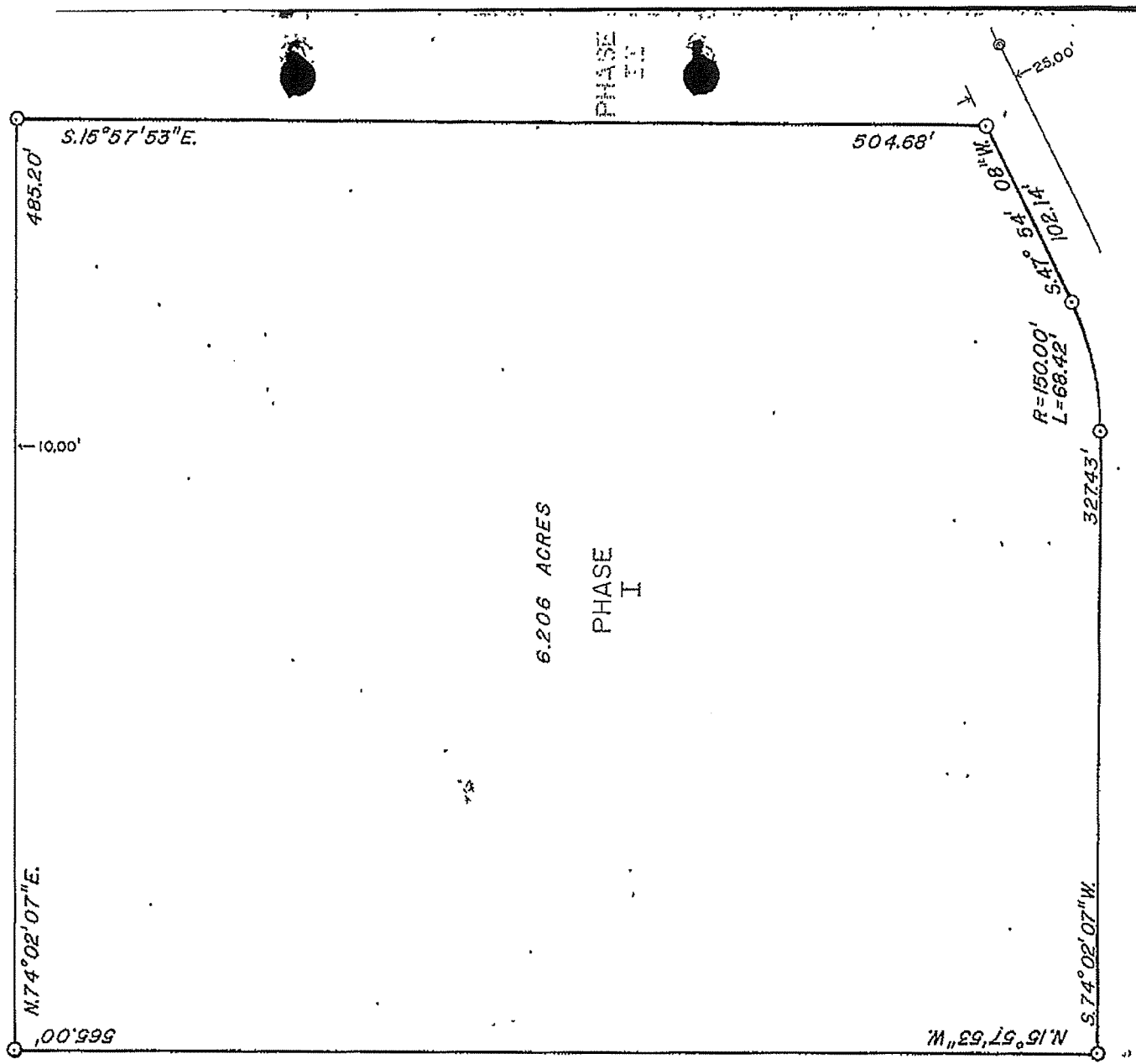


**LEGAL DESCRIPTION**

A certain tract of land situated within the Navajo Indian Reservation, District 19, Navajo County, Arizona, and more particularly described as follows: Beginning at the Northwest corner of the Section 16, Township 36 North, Range 12 East, of the Navajo Indian Reservation, Navajo County, Arizona, and running South 89° 00' 00\"/>

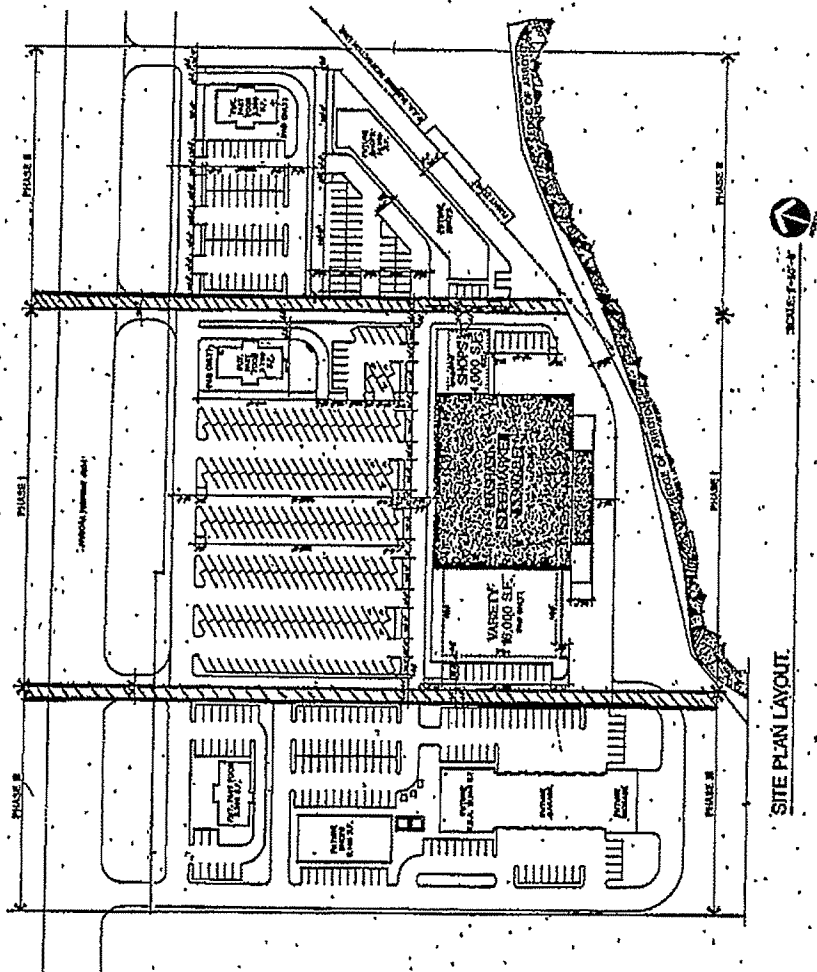


**EXHIBIT A**



PHASE  
III

PHASE  
II



NORTH  
 BRIDGE  
 PHASE  
 SITE  
 07-94

SITE PLAN LAYOUT

EXHIBIT B

THIS INSTRUMENT IS BEING RE-RECORDED BECAUSE THE ORIGINAL RECORDING INADVERTENTLY DID NOT CONTAIN EXHIBITS REFERENCED THEREIN.

When recorded, return to:  
Gordon A. Mohr, Esq.  
3807 N. 7th St.  
Phoenix, AZ 85014

STATE OF ARIZONA  
COUNTY OF APACHE  
I hereby certify that  
the within instrument was filed and  
recorded 12 15 1988 11:00A  
in docket No. 589 Page 110 117  
at the request of Mr. Hackett, Pederson et al

LEASE NUMBER: FD-88-134  
LEASE FEE: \$250.00

98008

MEMORANDUM OF LEASE

Date: August 11, 1988

Parties: THE NAVAJO NATION ("Landlord")

G.B. INVESTMENT COMPANY, an Arizona corporation  
("Tenant")

KNOW ALL MEN BY THESE PRESENTS THAT:

1. Landlord and Tenant made, executed and delivered a ground lease dated August 11, 1988 ("the lease") pursuant to which Landlord leased to Tenant that certain real property legally described on Exhibit "A" attached hereto and by reference incorporated herein ("the ground lease premises"); and

2. The lease is for a term of forty (40) years commencing on the term commencement date which is defined to be ninety (90) days after the date on which Tenant has completed construction of the Phase I improvements or the date on which Bashas' Markets, Inc. ("Bashas'") as the sublessee of the supermarket space within the ground lease premises has opened for business to the public, whichever first occurs; and

3. Landlord has granted to Tenant one (1) option to extend the term of the lease for a period of twenty-five (25) years; and

4. Landlord intends to develop certain real property located on each side of the ground lease premises, the legal description of which is attached hereto as Exhibit "B" and

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OKT 589 PAGE 110



Exhibit "B-1" (hereinafter the property so described on Exhibit "B" and "B-1" is referred to as the "Landlord's property"); and

5. No portion of the ground lease premises (other than that part of the premises subleased by Bashas') and no portion of the Landlord's property shall be occupied or used directly or indirectly for the purpose of a general food market or grocery store, meat market, fruit store, vegetable store, bakery, delicatessen (provided, however, that this restriction on use with reference to a bakery and delicatessen shall only apply so long as Bashas' is operating a bakery and delicatessen on that portion of the ground lease premises subleased to Bashas'). In no event shall any part of the ground lease premises except for that portion subleased to Bashas' nor any of the Landlord's property be used for the purpose of selling fresh or frozen meat or fish, fresh or frozen poultry or fresh produce or dairy products. If at any time alcoholic beverages are permitted to be sold by a nontribal organization or entity on the Navajo Reservation, only that portion of the ground lease premises subleased to Bashas' shall be used for the sale or offering for sale of such alcoholic beverages for off premises consumption. It is acknowledged and agreed that no portion of the Landlord's property shall be used for the sale or offering for sale of alcoholic beverages for off premises consumption; and

6. Landlord has granted Tenant and Tenant's agent, employees, independent contractors, sublessees and sublessee's

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DKT 584 PAGE 122

agents, employees and independent contractors and any invitees thereof an easement for ingress and egress over portions of the Landlord's property, which portions are crosshatched on Exhibit "C" attached hereto and by reference incorporated herein.

IN WITNESS WHEREOF, Landlord and Tenant have executed this presents as of the day and year first above written.

THE NAVAJO NATION

By [Signature]  
Its Chairman

G.B. INVESTMENT COMPANY, an Arizona corporation

By [Signature]  
Its Chairman of the Board

APPROVED, pursuant to Secretarial Redeleation Order 209 DM 8 and 230 DM 3.

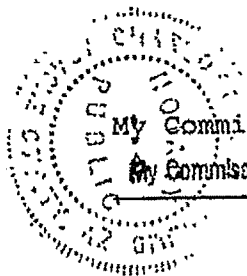
ACTING [Signature] SEP - 8 1988  
Area Director of Bureau of  
Indian Affairs

STATE OF Arizona  
County of Apache

The foregoing instrument was acknowledged before me this 22nd day of August, 1988, by Johnny R. Thompson, Vice Chairman of THE NAVAJO NATION, for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Charlotte B. Bynum  
Notary Public



My Commission Expires:  
My Commission Expires Oct. 07, 1991

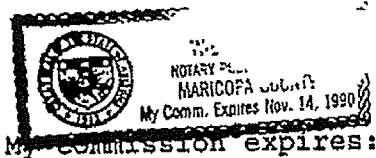
OKT 589 PAGE 112  
OKT 584 PAGE 123

STATE OF ARIZONA )

County of Maricopa

The foregoing instrument was acknowledged before me this 11th day of August, 1988, by Edward N. Basha, Jr., Chairman of the Board of G.B. INVESTMENT COMPANY, an Arizona corporation, for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Wilma Smith  
Notary Public

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OKT 584 PAGE 124

DISTRICT 18 NAVAJO INDIAN RESERVATION  
WINDOW ROCK, APACHE COUNTY, ARIZONA

第 5 卷



**U.S. ROYAL AIR FORCE**

**PHASE  
I**

Has prepared for technical drawings, P.A. and 2012. 6/14/2012 (Sun) 201-1000

OKT 534 - ALL 125

EXHIBIT A

BEGINNING AT THE NORTHWEST CORNER OF THE TRACT HEREIN DESCRIBED, THENCE N 74 DEG 02'07" E, 287.10 FEET TO THE NORTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, THENCE S 15 DEG 57'52" E, 711.05 FEET TO THE SOUTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, THENCE S 34 DEG 08'12" W, 112.92 TO A POINT, THENCE S 69 DEG 33'36" W, 201.08 TO THE SOUTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, THENCE N 15 DEG 57'53" W, 799.17 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED, CONTAINING 223,373 SQUARE FEET OR 5.128 ACRES MORE OR LESS.

BEGINNING AT THE NORTHWEST CORNER OF THE TRACT HEREIN DESCRIBED AND RUNNING, THENCE N 74 DEG 02'07" E, 538.27 FEET TO THE NORTHEAST CORNER, THENCE S 25 DEG 48'18" W, 242.89 FEET TO A POINT, THENCE S 31 DEG 31'13" W, 510.75 FEET TO THE SOUTHWEST CORNER OF THE TRACT HEREIN DESCRIBED, THENCE N 15 DEG 57'53" W, 526.31 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED, CONTAINING 147,826 SQUARE FEET OR 3.394 ACRES MORE OR LESS.

ARIZONA STATE HIGHWAY NO. 264

PAGE TWO  
NORTH  
SCALE 1\"=40'

DATE SEP 21 PM 5:19

CALIFORNIA RECORDS  
OFFICIAL APPOINTMENT  
LEON MEX

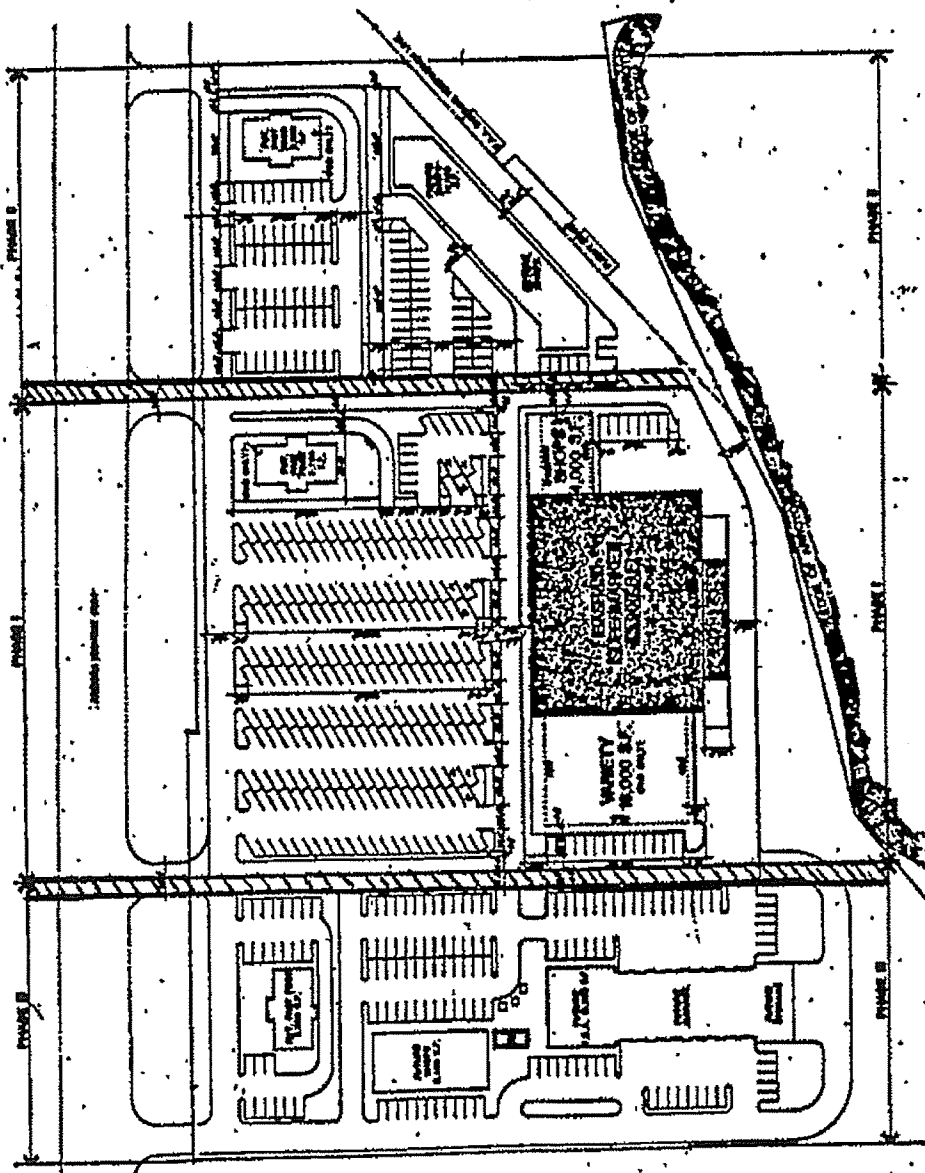
790-270-88

09 SEP 21 PM 5:19

100-443885-100



DKT: 589 PAGE 116



SITE PLAN LAYOUT

790-270-88

83 SEP 21 PM 5:19

LAO TILLS & RECORDS  
FOR INDIAN AFFAIRS  
ALBION, N. H.

EXHIBIT

DKT

589

PAGE 117

List of Prohibitive Uses & Operation

1. Mortuary
2. Storage Rental
3. Lumberyard
4. Lounge/Night Clubs
5. Office Space Rental - in excess of 4010 square feet
6. Used/new Car Sales or Service
7. Publishing & Printing
8. Concrete Brick & Block Manufacturing
9. Ship & Boat Building & Repairs
10. Motel/Hotel Operation
11. Campers & Trailers Sales
12. Bowling Alley
13. Detective Agencies
14. Public General Warehouse & Storage
15. Flea Market
16. Campaign Offices
17. Wood Collection & Sales
18. Outdoor Hay Sales
19. Livestock Auction & Sales
20. Recording Studio
21. Car Washes
22. Sand & Gravel
23. Escort Services
24. Manufacturing and/or Industrial Use

EXHIBIT D



	QUANT		QUANT
400 18X26 BUN PANS	001	10" SECO BUN PAN RACKS	001
SCALES, PASTRY UTENSILS & CUTTER	001	WORK TABLE W/SPLIT GALV BASE	001
S/S INGRID TABLE 3X6	001	4 40" COLUMBUS SHOWCASES	001
S/S WORK TABLES W/DRAWERS	001	40R REFRIG SHOWCASE	001
S/S POT RACK, TABLE, WALL SHELF	001	ACHE SHEETER	001
PROOF BOX W/EXCHNG & INSTALL	001	OLIVER SLICER	001
12 INGRID BINS, 1 BAGGER, CLP BRO	001	FORTUNA BUN DIVIDER W/WATER MTR	001
ADAM NAT. GAS RACK OVEN W/INSTAL	001	COMMODITY PRINTER & SCALE	001
S/S SPACE RACKS	001	MISC BAKERY EQUIP	001
20-11/2LB, 20-1LB BREAD PANS	001	CRUSTY BREAD UNITS W/BASKETS	002
20 PERF FLAT SCREENS, 20 BAGG.	001	CUSTOM BAKERY SHELF	001
RHODES BENCH KOOKIE KING	001		
S/S DOUBLE SPACE RACKS	001	TCYDOM HI/LO TENDERIZER	001
2 SHELVING UNITS	001	HEAT TRACK SYST	001
NAT GAS DONUT FRYER W/FILTER	001	56FT DH MEAT CASE	001
DONUT GLAZER & CUTTER	001	16FT DHH MULTI MEAT CASE	001
CAKE & PASTRY UTENSILS	001	8FT DH MEAT CASE	001
CHOPPER W/ACCESS 11373214	001	MEAT WRAPPING CONVEYOR SYSTEM	001
SHOKARAMA SMOKER W/FILTER/BSKT	001	SCRAPERS, HAND SAMS, BLADES	001
BIRD SAW W/ S.S TABLE	001	COOLER SHELVING, MEAT & HOOK TRD	001
2 S/S WORK TABLES W/SHELVES	001	MISC MEAT EQUIP.	001
3 S/S BORING TABLES W/ACCESS	003	MULTI DECK MEAT CASE W/MIRROR	001
PLATTER & BOAT RACKS, LUG HOLDER	003	EUROPEAN FISH CASE	001
MONORAIL SCALE W/INDICATOR	001	LOAD CELL SERV SCALE 013416101	001
500QTE PRINTER/CONTROLLER	001	SCAN UPGRADE SOFTWARE	001
DMIV KARTS, ALUM PLATTERS, RACKS	001	POS EQUIPMENT	001
125 GAL LOBSTER TANK	001	1A2 TELEPHONE KEY SYSTEMS	001
SEAFOOD UTENSILS & SUPPLIES	001	PHONE SYSTEM	001
PATTY MACH W/S.S. STAND 56737	001	HART CART	001
MIXER GRINDER W/ACCESS 27083310	001	JUICE TREE MACHINE	001
12" SLICER W/CARR. TRAY 56825827	001	7870 TELXON UNIT	001
POT BEAM SCALE & FLAT MEAS KIT	001	INTELLICALL 2001 PAY STATION	001
TENDERISER W/KNIVES 56826426	001	FREEZ-R-HART 1185279931	001
VERTICAL MEAT SAW 27083333, 3654	003		

EXHIBIT E

	QUANT		QUANT
FREEZER-MART 1265280250	001	DTS 2100 ECR DTS POLE DISPLAY	001
SPEC THERMASTOR 4171123	001	308 DIGITAL SCALE	001
72FTX DFC2 FROZEN FOOD CASES	001	TELXON 716 ORDER ENTRY UNITS	001
8 FT DDC EGG CASES	001	PDS EQUIP-LANE CONTROLLER	001
68 FT DDC DAIRY DELI	003	PDS EQUIP-RIGHT HAND POWER TAKE	001
COOLER FREEZER COILS	017		
HEAT RECLAIM COILS	002	PLEX, VINYL & THANKYOU SIGNS	001
REFRIG W/5 YR WARRANTY	016	1 SET 18" LETTERS	001
LBC 100 COOLING TOWER	001	PEDESTRIAN & FREEZER CASE SIGNS	001
MISC NEW STORE FIXTURES & EQUIP	001	1 SET 6' BASHAS SCRIPT	001
ELEC CUBERS	002	aisle signs	012
1500 FLAKERS	002	interior wall letters	001
BINS 416989 & 44 & 49	003		
31 KRONOS SYSTEM 71	001	ROSS TEMP 400LB ICE MACHINE	001
SCOOPS PANS, UTENSILS, TRAYS	001	HENNY PENNY FRYER	001
PIZZA MERCHANDISER	001	HOT DOG MACHINE & AMANNA MICRO	001
5/5 6 BURNER STOVE	001	S/S TABLES & 1 POT RACK W/SHELF	008
4 SEAT PLYMOLD BOOTHS	006	SCOOPS, BAGS, SCALES	001
TAULSEN FREEZER	001	DRY PRODUCE CASES	002
MOBILE CHIC CAB/METROSEAL SHELF	001	REFRIG PRODUCE CASES	002
SANDWICH TABLE	001	PRODUCE EXTENDERS	006
2 608 SLICERS	002	PRODUCE DEPT CONVERSION	001
UPC DELI SCALE & PRINTER	001	16FT PLANTER W/CANOPY	001
DELI CASES	002	30LB PRODUCE SCALE	001
14FT S/S DELI CASES	002	PRODUCE SINK	001
SALAD BAR	001	FD68 FLOWER CASE	001
DELI CANOPY INSTALLED	001		
HOT FOOD CASE	001	WALK-IN COOLERS & FREEZERS	007
		OVEN HEADER	001
		140 QT HOBART MIXER	001
68FT CHY PRODUCE CASES	002	BEATERS, BOWLS, DOUGH ARMS	001
48FT CV PRODUCE CASES	002	300T MIXER W/ACCESS	001

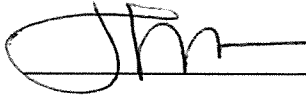
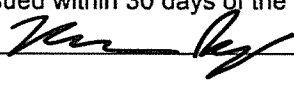
EXHIBIT **E**

	QUANT		QUANT
FREEZ-R-MART 1185279932	001	REF. COMPRESSOR UNITS	016
FREEZ-R-MART 1185279933	001	MISC. NEW STORE FIXTURES & EQUIP	001
FREEZ-R-MART 1185279934	001	REFRIG & MECH. INSTALLATION	001
FREEZ-R-MART 1285280225	001	CARPENTRY INSTALLATION	001
FREEZ-R-MART 1285280226	001	INTERCOM & SOUND SYST.	001
FREEZ-R-MART 1285280227	001	VIDEO, DELI, FRONT & BACK COUNTERS	004
FREEZ-R-MART 1285280228	001	NON FOOD, COFFEE, FILLER CABINETS	006
FREEZ-R-MART 1285280229	001	ELEC CUBERS 4107166417880	001
FREEZ-R-MART 1285280230	001	1500. FLAKERS 52826 & 52112	002
SHELVING & GENERAL MERCH.	003	BINS 416945, 415772, 412511	003
36FT XD FC12 ISL-F.F.CASE	001	DOOR REACH IN FREEZER	003
72FT XD F2C FROZEN CASES	004	VICTR CALC 12301371-4, 2450, 3, 4	007
BFT DDC EGG CASE	001	HARMONS SAFE	001
68FT DDC DAIRY/DELI CASES	003	42HS MOND W/SPRAY DEV & DRIVE	001
LBC-100 COOLING TOWER	001	COMB/MAT 55 W/BATTERY CHARGER	001
HEAT RECLAIM COILS	002	PRESSURE WASHERS 750 LAZER	001
COOLERS COILS	017		001
PEASTIC FLAM COVERED LIN CAB.	004		
FREEZ-R-MART 1185279929	001		
FREEZ-R-MART 1185279930	001		
DATA CHECKER SCAN SYSTEM	001		
TELXON MODEL 787 W/WAND	001		
7'SET BASHAS' SCRIPT W/NEON	001		
VINYL SIGNS & DURAPLY LETTERS	001		
FREEZER CASE & LIQUOR SIGNS	001		
FLEX AISLE SIGNS	012		
INTERIOR WALL SIGNS	001		
STORE GONDOLAS	005		
WALK-IN COOLER SHELVING	001		

Document No. 017608Date Issued: 11/05/2021

EXHIBIT  
**5**

  
**EXECUTIVE OFFICIAL REVIEW**Title of Document: Business Site Lease Assignment FD-88-134 Contact Name: YABENY, SALLY AProgram/Division: DIV. OF ECONOMIC DEVELOPMENTEmail: sallyyabney@navajo-nsn.gov Phone Number: 5053681315

<input checked="" type="checkbox"/>	<b>Business Site Lease</b>		<b>Sufficient</b>	<b>Insufficient</b>
	1. Division: <u></u>	Date: <u>11/8/2021</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
	3. Office of the Attorney General: <u></u>	Date: <u>11/9/2021</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>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</b>			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications</b>			
	1. Office of Management and Budget: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Navajo Housing Authority Request for Release of Funds</b>			
	1. NNEPA: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Lease Purchase Agreements</b>			
	1. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(recommendation only)			
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Grant Applications</b>			
	1. Office of Management and Budget: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>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</b>			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Relinquishment of Navajo Membership</b>			
	1. Land Department: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Elections: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

# COPY



## NAVAJO NATION DEPARTMENT OF JUSTICE

### DOCUMENT REVIEW REQUEST FORM



☐ RESUBMITTAL

DOJ
11/9/21 @ 938a
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 17608
SAS #:
UNIT: ECU

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

#### CLIENT TO COMPLETE

DATE OF REQUEST:	11/5/2021	DIVISION:	Division of Economic Development
CONTACT NAME:	Sally A. Yabeny	DEPARTMENT:	Regional Business Dev. Office, SROCK
PHONE NUMBER:	505/368-1315	E-MAIL:	sallyyabeny@navajo-nsn.gov

TITLE OF DOCUMENT: Docket #017608 - Proposed Lease Assignment between BASHAS' INC. and RALEY'S ARIZONA LLC for review and surname approval. BSL NO. FD-88-134 to be placed on RDC Agenda for approval.

#### DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: **NOV 09 2021**  
10:30 AM

REVIEWING ATTORNEY/ADVOCATE: Katherine

DATE TIME OUT OF UNIT:

#### DOJ ATTORNEY / ADVOCATE COMMENTS

Legally sufficient

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
----------------------	-------------	----------------------	-------------

Katherine Belzowski 11/9/2021 11:46am

DOJ Secretary Called: JT Willie for Document Pick Up on **NOV 09 2021** at 12:54pm By: U

PICKED UP BY: (Print) DATE / TIME:

NDOJ/DRRF-July 2013



**SCANNED**  
11/09/2021 KCB

<input type="checkbox"/>	<b>Land Withdrawal or Relinquishment for Commercial Purposes</b>			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases</b>			
	1. NLD _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. F&W _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. HPD _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. Minerals _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	5. NNEPA _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	6. DNR _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	7. DOJ _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Rights of Way</b>			
	1. NLD _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. F&W _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. HPD _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. Minerals _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	5. NNEPA _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	6. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	7. OPVP _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease</b>			
	1. Minerals _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. OPVP _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. NLD _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Assignment of Mineral Lease</b>			
	1. Minerals _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. DNR _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. DOJ _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)</b>			
	1. NLD _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. F&W _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. HPD _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. Minerals _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	5. NNEPA _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	6. DNR _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	7. DOJ _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	8. OPVP _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>OTHER:</b>			
	1. _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	5. _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

**RESOURCES AND DEVELOPMENT COMMITTEE**  
**24<sup>th</sup> Navajo Nation Council**

**THIRD YEAR 2021**

**ROLL CALL**  
**VOTE TALLY SHEET**

**LEGISLATION #0245-21:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE ASSIGNMENT OF BUSINESS SITE LEASE NO. FD-88-134 FROM BASHAS' INC. TO RALEY'S, ARIZONA LLC.

*Sponsor: Honorable Wilson C. Stewart, Jr.*

Date: December 8, 2021 – Regular Meeting (In-Person and Teleconference)  
Location: Chinle Chapter House -- 4600 Navajo Route 7 -- Navajo Nation Building  
#4600 -- Chinle, Arizona 86503  
Resources and Development Committee also called in via teleconference from their location within the boundary of the Navajo Nation.

**Main Motion:**

**M:** Kee Allen Begay, Jr.                      **S:** Thomas Walker, Jr.                      **V:** 5-0-1 (CNV)  
**In Favor:** Thomas Walker, Jr.; Kee Allen Begay, Jr.; Mark A. Freeland, Herman M. Daniels;  
Wilson C. Stewart, Jr.  
**Opposition:** None  
**Excuse:** None  
**Not Voting:** Rickie Nez, *Chairperson*

**Amendment #1:**

**M:** Herman M. Daniels                      **S:** Thomas Walker, Jr.                      **V:** 5-0-1 (CNV)  
**In Favor:** Thomas Walker, Jr.; Kee Allen Begay, Jr.; Mark A. Freeland, Herman M. Daniels;  
Wilson C. Stewart, Jr.  
**Opposition:** None  
**Excuse:** None  
**Not Voting:** Rickie Nez, *Chairperson*



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Honorable Rickie Nez, *Chairperson*  
Resources and Development Committee

*Rodney L. Tate*  
Rodney L. Tate, *Legislative Advisor*  
Office of Legislative Services