

## INTRAGOVERNMENTAL USE AGREEMENT

This Intragovernmental Land Use Agreement ("Use Agreement") is made and entered into between the Navajo Hopi Land Commission of the Navajo Nation Council ("NHLC"), P.O. Box 663, Window Rock, AZ 86515, and the Navajo Division of Transportation ("NDOT"), P.O. Box 4620, Window Rock, AZ 86515, ("the Contracting Parties") with the concurrence of the President of the Navajo Nation and the Office of Navajo and Hopi Indian Relocation ("ONHIR"), P.O. Box KK, Flagstaff, AZ 86002.

**WHEREAS** NHLC is a Commission formed by the Navajo Nation Council pursuant to 2 N.N.C. § 851 and is existing under the laws of the Navajo Nation;

**WHEREAS** NDOT is a Division under the Executive Branch of the Navajo Nation and is currently in need of a long term agreement for its headquarters and operations office;

**WHEREAS** ONHIR is an Independent Agency within the Executive Branch of the United States Government; and

**WHEREAS** The Tse Bonito Governmental and Economic Development Tract ("Tract") referenced herein, and specifically described and incorporated in Exhibit "A," will be selected by ONHIR pursuant to the Navajo Hopi Settlement Act, P.L. 93-531, the Navajo and Hopi Indian Relocation Amendments Act of 1980, P.L. 96-305, and a Letter of Intent between the Navajo Nation and ONHIR ("LOI") dated September 9, 2013; and will be subject to the provisions of the LOI and under the jurisdiction of NHLC once the land is taken into trust by the United States.

**NOW THEREFORE**, for such good and valuable consideration as described herein, the sufficiency of which is agreed upon by the Contracting Parties, the Contracting Parties agree that NDOT will occupy and use a portion of the Tract, as specifically described and incorporated in Exhibit "B," and the improvements thereon for the period described below, and under the terms and conditions of this Use Agreement. It is explicitly understood that the Contracting Parties of this Use Agreement are two Navajo Nation governmental entities and the use of the Tract is therefore by the Navajo Nation government. Thus this Use Agreement does not alienate or demise any interest in real property held in trust for the Navajo Nation. The Navajo Nation is not required to lease to itself and thus is not required to comply with the Navajo Nation Business Leasing Regulations of 2005 or 25 U.S.C. § 415(e).

## INTRAGOVERNMENTAL USE AGREEMENT

### THE TRACT COVERED BY THIS AGREEMENT

The Tract covered by this Use Agreement is an area located in Tse Bonito, Navajo Nation (NM), and is specifically described in Exhibit "A." This Use Agreement is for land use and the use and occupancy of the buildings currently located on the Tract, which are known as the Navajo Nation Transportation Complex ("Transportation Complex"). The Transportation Complex is owned by the Navajo Nation and shall remain the exclusive property of the Navajo Nation. Nothing in this Use Agreement is intended to change or affect the Navajo Nation's ownership of the Transportation Complex.

### TERM OF USE

NDOT shall be entitled to occupy that portion of the Tract described in Exhibit "B," and the Transportation Complex (collectively "the Premises") for 25 years and shall have the option to extend its occupancy for an additional 25 years provided that NDOT is not in default under any term of this Use Agreement. NDOT shall exercise this option by giving written notice thereof to NHLC and ONHIR at least ninety (90) days prior to the expiration of the principal term of this Use Agreement.

At the expiration of the term of this Use Agreement, which includes NDOT's option to renew, or if NDOT should default on any provision within this Use Agreement, the land comprising the Tract shall revert to NHLC and NHLC shall be entitled to determine how the Premises are to be used and occupied and by whom.

### COMPENSATION FOR USE

Compensation is to be paid by NDOT to the Navajo Rehabilitation Trust Fund in the amount of \$25,000 as a lump sum payment due 10 days after the Tract is taken into trust by the United States. Annually thereafter, beginning on October 1, 2015, a lump sum payment of \$25,000 shall be paid by NDOT to the Navajo Rehabilitation Trust Fund.

A renegotiation of such compensation, based on the federal Consumer Price Index, shall occur every 5 years, and the renegotiated amount shall be approved by ONHIR if it is in existence at the time of renegotiation.

1. This Use Agreement is contingent upon the availability of funds. NDOT's right to occupy the Premises shall cease if the compensation provided for in this Agreement is not paid and NDOT fails to cure any deficit in payment of the agreed-upon compensation within ninety (90) days of notice from NHLC of any such deficiency

## INTRAGOVERNMENTAL USE AGREEMENT

### TERMS AND CONDITION OF USE

1. **PURPOSE AND CONDUCT OF BUSINESS.** NDOT, under the terms and conditions of this Use Agreement, will use the Premises solely and exclusively for governmental purposes, including office space, and will not permit the Premises to be used for any other purpose unless approval is granted by NHLC and approved by ONHIR. In the conduct of such business, NDOT will keep the Premises neat, clean, and orderly as is consistent with the nature of its operations.

2. **FIXTURES AND PERSONAL PROPERTY.** Trade fixture signs and personal property not permanently affixed to the Premises shall remain the property of NDOT and NDOT shall have the right to remove such fixtures and property after expiration of the term of this Use Agreement. In the event this Use Agreement is properly terminated, NHLC shall notify NDOT in writing if it wishes to have any such signs or personal property removed from the Premises at NDOT's expense within ninety (90) days of the termination of the Use Agreement. If NDOT fails to timely remove any such signs or personal property, they shall become the property of NHLC.

3. **REPAIRS AND MAINTENANCE.** NDOT shall keep the Premises in good condition.

4. **RIGHT TO MAKE ALTERATIONS.** NDOT has the right to make alterations to the Premises consistent with NDOT's past, ongoing, and future operations on the Tract and consistent with NDOT's past, ongoing, and future operations in and about the Transportation Complex.

5. **UTILITY SERVICE.** NDOT shall be responsible for all utilities, including water, sewer, electrical, and telephone lines and any installation costs necessary for its operations on the Premises. The use charges for such utilities shall be the sole and exclusive responsibility of NDOT. If NHLC is charged, at any time, for such utilities or any utility service on the Premises, NHLC may pass this cost onto NDOT, and charge such utility costs to the account of NDOT which shall promptly pay or reimburse NHLC for such costs or charges.

6. **NOTICES.** Any and all notices required to be given under the Use Agreement shall be given in writing by United States mail, certified, return receipt requested, and will be deemed given as of the date on which they are received. Notices, and copies thereof, must be given as specified below:

NHLC: Navajo Hopi Land Commission Office  
Executive Director



## INTRAGOVERNMENTAL USE AGREEMENT

P.O. Box 663  
Window Rock, Arizona 86515

NDOT: Navajo Division of Transportation  
Executive Director  
P.O. Box 4620  
Window Rock, Arizona 86515

ONHIR: Office of Navajo and Hopi Indian Relocation  
Office of Executive Direction  
P.O. Drawer KK  
Flagstaff, Arizona 86002

With copies to:

President Ben Shelly  
Navajo Nation  
P.O. Box 7440  
Window Rock, AZ 86515

Navajo Nation Department of Justice  
Attorney General  
P.O. Box 2010  
Window Rock, Arizona 86515

7. **INTEGRATED DOCUMENT.** It is understood that this Use Agreement is final and a fully integrated document representing the complete agreement of the parties and supersedes any and all other agreements, whether written or oral.

8. **DEVELOPMENT OF REST OF TRACT.** It is understood as set forth in the LOI that this Use Agreement does not limit in any way the right of NHLC to develop the remaining 72.84 acres of the Tse Bonito Governmental and Economic Development Tract, subject to NHLC insuring reasonable ingress and egress to NDOT and provided that any such development will not interfere with NDOT's use of the Premises and with the general aesthetics of the surrounding area. NDOT acknowledges that NHLC's use of the remaining acreage will be for economic development, housing and governmental purposes and agrees to make available access to utilities and utility infrastructure on the Premises to facilitate any such development by NHLC.

## INTRAGOVERNMENTAL USE AGREEMENT

9. **NO WAIVER.** The acceptance of performance, or failure to object to, any breach, default, or failure of performance, under the terms of this Use Agreement shall not constitute a waiver of the right to demand performance as specified in the Use Agreement.

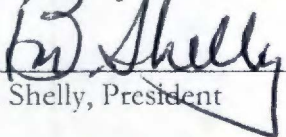
10. **NAVAJO NATION.** Any disputes shall be handled through informal discussions and nothing in this Use Agreement shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation and the United States.

11. **EFFECTIVE DATE:** This Use Agreement shall be effective when the Tract is taken into trust by the United States.

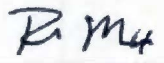
## INTRAGOVERNMENTAL USE AGREEMENT

IN WITNESS WHEREOF, we the undersigned enter into this Intragovernmental Land Use Agreement as of January 13, 2015, but subject to the Effective Date set forth herein.

THE NAVAJO NATION

  
Ben Shelly, President

Navajo Hopi Land Commission Office

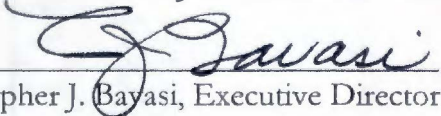
  
Raymond Maxx,  
Executive Director

Navajo Division of Transportation:

  
Paulson Chaco,  
Executive Director

### CONCURRENCE:

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

  
Christopher J. Bayasi, Executive Director



## ALTA/ACSM Land Title Survey

for

The Navajo Nation

Navajo DOT Transportation Center

### Title Legal Description

A tract of land lying within Section 2, Township 16N, Range 21W, N.M.P.M., McKinley County, New Mexico; Further described as: A tract of land situated partly within Lot 1; South Half Northeast Quarter (S 1/2 NE 1/4); North Half Southeast Quarter (N 1/2 SE 1/4) of Section 2, Township 16 North, Range 21 West, N.M.P.M. in McKinley County, New Mexico, being more particularly described as follows:

Commence at the closing corner common to Section 1 and Section 2, T16N, R21W, NMPM, a found United States Bureau of Land Management Cadastral Survey monument brass cap dated 1982, said corner having NAD83 (1996) Latitude  $36^{\circ}38'14.89''$ N and Longitude  $109^{\circ}01'25.24''$ W, also being the True Point of Beginning of the herein described tract of land;

Thence on east section line measured  $S00^{\circ}26'09''$ W, 2,663.62 feet of said Section 2 to the east corner, a found Quarter (1/4) Section Corner common to Section 1 and 2, T16N, R21W, NMPM United States Bureau of Land Management Cadastral Survey monument brass cap dated 1982, said corner having NAD83 (1996) Latitude  $35^{\circ}38'48.263''$ N and Longitude  $109^{\circ}01'25.094''$ W;

Thence continuously on said east section line measured  $S00^{\circ}23'35''$ W, 1,098.44 feet to the southeast corner on the northerly highway right of way line of NM Hwy 264, a found 1/2 inch rebar with PS13608 Aluminum Cap;

Thence on said northerly right of way line, measured  $N59^{\circ}48'45''$ W, 2056.81 feet to intersection of easterly right of way line of Indian Service Route N84, set PK-N84;

Thence on said easterly right of way line, measured  $N28^{\circ}17'04''$ E, 3125.74 feet to intersection of the north said section 2, set 5/8 inch rebar with NDOT orange plastic cap;

Thence on said north section line measured  $S89^{\circ}35'40''$ E, 276.07 feet to the Point of Beginning.

### As Surveyed Record Legal Description

A tract of land lying within Section 2, Township 16N, Range 21W, N.M.P.M., McKinley County, New Mexico; Further described as: A tract of land situated partly within Lot 1; South Half Northeast Quarter (S 1/2 NE 1/4); North Half Southeast Quarter (N 1/2 SE 1/4) of Section 2, Township 16 North, Range 21 West, N.M.P.M. in McKinley County, New Mexico, being more particularly described as follows:

Commence at the closing corner common to Section 1 and Section 2, T16N, R21W, NMPM, a found United States Bureau of Land Management Cadastral Survey monument brass cap dated 1982, also being the True Point of Beginning of the herein described tract of land;

Thence on east section line measured  $S00^{\circ}26'09''$ W, 2,663.39 feet of said Section 2 to the east corner, a found Quarter (1/4) Section Corner common to Section 1 and 2, T16N, R21W, NMPM United States Bureau of Land Management Cadastral Survey monument brass cap dated 1982;

Thence continuously on said east section line measured  $S00^{\circ}23'22''$ W, 1,098.44 feet to the southeast corner on the northerly highway right of way line of NM Hwy 264, a found 1/2 inch rebar with PS12808 Aluminum Cap;

Thence on said northerly right of way line, measured  $N59^{\circ}45'58''$ W, 2086.81 feet to intersection of easterly right of way line of Indian Service Route N84, set PK-N84;

Thence on said easterly right of way line, measured  $N28^{\circ}16'44''$ E, 3126.30 feet to intersection of the north said section 2, set 5/8 inch rebar with NDOT orange plastic cap;

Thence on said north section line measured  $S89^{\circ}23'21''$ E, 275.93 feet to the Point of Beginning.

Containing 85.68 acres more or less.

### Title Policy

Based on the Title Policy #8130631-87850839 of Commonwealth Land Title Insurance Company bearing an effective date of November 26, 2012 @ 02:31 P.M.

### Documents

1. Survey, Navajo Department of Transportation, Unrecorded, Survey at the Navajo Nation, Navajo DOT, Field Survey 10/3/2008, Drawn 11/4/2008
2. Title Policy #8130631-87850839, Commonwealth Title Insurance Company, Exhibit "A", 11/28/2012
3. Right of way easement, Book 71 Misc., Page 610
4. Lease, Book 50, Page 224, 4/30/1979
5. Lease, Book 50, Page 227, 4/30/1979
6. Right of way, Utility, Book 10, Page 5134, 11/4/1998
7. Plat, Bureau of Land Management, Township, 7/16/1564
8. Plat, Bureau of Land Management, Township, 2/2/1916
9. Exchange Patent, State of New Mexico, Document 361044, 11/28/2012

### Survey Notes

1. Bearings are based on Survey, Navajo Department of Transportation, Unrecorded, Survey at the Navajo Nation, Navajo DOT, Field Survey 10/3/2008, Drawn 11/4/2008.
2. The Basis of Bearing is the East line of the Northeast Quarter of Section 2, T16N, R21W, between NE corner and the East 1/4 corner of Section 2.
3. Record Distance and Bearings are shown in Parenthesis.
4. Distances are Ground Distance in US Survey Feet.
5. All building measurements have been rounded to the foot.
6. Private Monuments were tagged with an aluminum washer stamped, "13838".

### Survey Control

1. The survey control is a 1/2" Rebar with pink cap stamped "Elliott control". It bears  $N59^{\circ}32'51''$ W a distance of 850.85 feet from the East 1/4 corner.
2. The control is a NGS OPUS Solution with NAD83(2011) Epoch(2010.0000) Latitude of  $35^{\circ}38'52.43''$  and Longitude of  $109^{\circ}01'34.04''$ .
3. GPS Geodetic Bearings are rotated about the NE corner of Section 2,  $0^{\circ}41'31''$  clockwise.

### Statement of Title Legal Description

Minor changes to measurements are made.  
Coordinates on two Government monuments are removed.  
Sentence structure and calls appear adequate.

*Russell Elliott* March 31, 2013

Russell D. Elliott

NMPS # 13838



### Elliott Land Surveying

[www.elliottsurveying.net](http://www.elliottsurveying.net)

mobile 505-280-6728

[rully@elliottsurveying.net](mailto:rully@elliottsurveying.net)

Russell D. Elliott

PS # 13838

March 2013

Page 1 of 2



This tract is a part of the total 85.68 acre parcel and is only being described as a lease boundary being a portion of the total parcel and it does not create a separate parcel of land.

A tract of land lying within Section 2, Township 16N, Range 21 W, N.M.P.M., McKinley County, New Mexico; Further described as; A tract of land situate partly within Lot 1; South Half Northeast Quarter (S  $\frac{1}{2}$  NE  $\frac{1}{4}$ ); North Half Southeast Quarter (N  $\frac{1}{2}$  SE  $\frac{1}{4}$ ) of Section 2, Township 16 North, Range 21 West, NMPM, in McKinley County, New Mexico, being more particularly described as follows:

Commence at the closing corner common to Section 1 and Section 2, T16N, R21W, NMPM, a found United States Bureau of Land Management Cadastral Survey monument brass cap dated 1962, thence S40°10'36"W a distance of 1280.59 to the Northwest corner of said tract, being a 5/8" rebar with yellow plastic cap stamped "Elliott #13838", being the Point of Beginning;

Thence S60°29'35"E a distance of 71.97 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838";

Thence S15°48'00"E a distance of 208.49 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838";

Thence S29°20'56"W a distance of 208.16 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838";

Thence S10°40'54"E a distance of 408.21 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838";

Thence S6°51'08"W a distance of 486.48 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838";

Thence S30°13'08"W a distance of 186.91 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838";

Thence N60°42'40"W a distance of 664.05 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838" on the Easterly right of way line of Indian Service Route N54 ;

Thence N29°16'44"E along the Easterly right of way line of Indian Service Route N54 a distance of 1,305.02 feet to a 5/8" rebar with yellow plastic cap stamped "Elliott #13838" the Point of Beginning;

Containing 12.84 acres more or less.

Subject to the fact that this is a legal description of a lease agreement that is contained within a larger 85.68 acre tract. This description does not create a separate tract of land.