

## **INTRAGOVERNMENTAL OFFICE SPACE USE AGREEMENT**

This INTRAGOVERNMENTAL OFFICE SPACE USE AGREEMENT (hereinafter "IOSUA") is made and entered into between the \_\_\_\_\_ CHAPTER (hereinafter "CHAPTER"), mailing address: \_\_\_\_\_, and the DEPARTMENT OF DINÉ EDUCATION, on behalf of Navajo Head Start, (hereinafter "NHS"), P.O. Box 3479, Window Rock, Navajo Nation (Arizona) 86515.

WHEREAS, the CHAPTER is a certified political subdivision of the Navajo Nation which currently has a building and/or office space available for use located on land withdrawn by Navajo Nation for Chapter use, but still a part of the Navajo Nation; and

WHEREAS, the NHS is a program within the Navajo Nation Department of Diné Education which is currently in need of space for providing comprehensive Head Start and Early Childhood Development services and programs, an essential service of the Navajo Nation; and

WHEREAS the community the CHAPTER serves has a need for comprehensive Head Start and Early Childhood Development services and programs; and

WHEREAS, the Chapter supports by Resolution \_\_\_\_\_ the use of space by NHS (attached hereto as Attachment "A"); and

WHEREAS, pursuant to 2 N.N.C. § 110(O), this non-binding agreement may be executed between a Chapter and a Division/Program Director; and

NOW THEREFORE the parties agree that the NHS may occupy and use the space as described below, for the period as described below, and under the terms and conditions of this IOSUA. It is explicitly understood that this is an agreement for use of a Navajo Nation resource between two governmental entities of the Navajo Nation, that it in no way involves the alienation or demise of any interest in real property held in trust for the Navajo Nation, and that it does not create a possessory interest by any party not already in possession in any real property that is held in trust for the Navajo Nation, and therefore, it is not a lease as defined and governed under the provision of 25 CFR § 162 et seq.

### **I. THE SPACE COVERED BY THIS AGREEMENT**

The space which is covered by this IOSUA is an area of approximately \_\_\_\_\_ square feet in \_\_\_\_\_ (hereinafter referred to as the PREMISES). The drawings and specifications for the PREMISES are attached to this IOSUA as "Attachment B" and are incorporated herein by reference and made a part of this IOSUA.

### **II. RESPONSIBILITIES OF THE PARTIES**

A. NHS will:

1. Independently operate the \_\_\_\_\_ Head Start Center under the supervision of the Assistant Superintendent or designated representative from NHS.
2. Ensure that the \_\_\_\_\_ Head Start Center shall at all times be operated in accordance with the terms of this IOSUA and in compliance with applicable federal and Navajo Nation laws and any other applicable rules, regulations, policies or requirements, including Head Start requirements and/or standards for performance, facilities, and child health, safety and welfare.
3. Keep all PREMISES occupied by NHS in a clean and habitable condition, and do housekeeping, upkeep and maintenance as needed, including making minor repairs resulting from normal use.
4. Identify, report, and disclose to the CHAPTER any major facilities problems and/or deficiencies requiring repair and/or renovation.
5. Assume responsibility and ensure timely payment for telephone, waste disposal, and any propane/gas used in PREMISES occupied by NHS. To the extent that PREMISES are **shared** by NHS and the CHAPTER or other entities, responsibility of NHS for payments for telephone, waste disposal and propane/gas shall be determined on a pro-ratio basis based on percentage used of shared PREMISES as shown by formal records kept by NHS and approved by the CHAPTER.
6. Provide Comprehensive Early Childhood Educational services funded by Navajo Nation, State, and/or Federal Head Start Funds, and shall manage said funds in accordance with all applicable Navajo Nation, State, and/or Federal laws, regulations, rules, and policies, and all contractual requirements of any grant agreements.
7. Establish strong communication and coordination through networks and linkages with \_\_\_\_\_ Chapter officials and employees, parents, local resources, local service providers, and other appropriate persons or entities in the local community in order to develop, facilitate and maintain effective working relationships in the \_\_\_\_\_ Chapter community.
8. Ensure heating and air conditioning is at a moderate temperature at the end of each day.
9. Have authority over the \_\_\_\_\_ Head Start Center and conduct on-site monitoring to ensure compliance with all applicable Navajo Nation and Federal laws and any other applicable rules, regulations, policies or requirements, including Navajo Nation food safety, health, and environmental standards and requirements.
10. Allow the CHAPTER and/or any and all officials of any regulatory agency permission to enter the PREMISES at any time during regular working hours for the purpose of carrying out any and all inspections related to the regulatory process, and to make any repairs, alterations, and/or improvements, as required by any duly authorized regulatory agency; provided, that if children are present authorized Head Start staff person(s) must be present and shall accompany any regulatory agency personnel.

B. The CHAPTER understands that it will:

1. Allow use of the PREMISES and equipment that may include usage of the kitchen and dining areas and appliances by NHS for preparing and serving breakfast, a hot lunch and a snack to children and staff.
2. Provide the above-described PREMISES and provide other in-kind contributions when able to prevent closure of the NHS Center due to any noncompliance of CHAPTER PREMISES with applicable environmental, safety, or health regulations or requirements, including technical guidance, building materials, people power, and funds.
3. Provide documentation for the purpose of tracking and reporting in-kind contributions for any costs paid for the NHS facility. The Chapter will utilize the Navajo Nation Documentation of In-Kind Cost-Sharing Form and provide to NHS to document all in-kind contributions (attached hereto as Attachment “C”).
4. Provide workable locks and keys to NHS for PREMISES occupied exclusively by NHS.
5. Ensure that any and all PREMISES occupied by NHS meet or exceed all Navajo Nation child health and safety standards, codes and requirements used and enforced by the Navajo Nation Indian Health Service Office of Environmental Health (OEH).
6. In the best interest of the children, make best efforts to ensure that PREMISES and equipment used and occupied by NHS are secure and safe.
7. Upkeep of the exterior structure of the facility.
8. Undertake and complete, upon request by NHS, and in a timely manner, corrective action or repairs on any problems and deficiencies in PREMISES or equipment used or occupied by NHS which are owned by Navajo Nation and entrusted to the CHAPTER for its care and safekeeping, and which are classified as major repairs under this IOSUA. The CHAPTER will not be responsible for damage to items caused by the negligence or intentional conduct of the NHS, nor will it be responsible for consequential damages sustained by the NHS from the failure of items to be maintained by the CHAPTER unless the NHS, when aware of the failure of these items, has given notice of the failure to the CHAPTER.
  - i. “Major repairs” under this IOSUA include any repairs necessary to correct problems with the structure, integrity, roofing, electrical system, plumbing and sewer systems, water systems, heating and air conditioning systems, and fire suppression infrastructure of the facilities, as well as repairs to access roads and any major appliances or other equipment which are the responsibility of the CHAPTER and entrusted to the CHAPTER by the Navajo Nation for custody, care and safekeeping.
  - ii. The CHAPTER understands that failure to make major repairs in a timely manner may adversely impact the operation of programs and services provided by NHS and may jeopardize the health and safety of children and staff. The CHAPTER understands that NHS may temporarily cease operations and services as a result of a failure by the CHAPTER to make major repairs in a timely manner, and until such time as major repairs are completed.

9. Provide forty-eight (48) hours' notice to NHS regarding any closures or changes to PREMISES or equipment used by NHS which may affect its operations and services.

### **III. PERSONNEL**

Each party is solely responsible and has sole authority for the recruitment, employment, and issuance of any disciplinary action for its own personnel in accordance with Navajo Nation Personnel Policies and Procedures and other Navajo Nation laws and regulations, and neither party shall interfere with any employment related decision made by the other party.

### **IV. NECESSITY OF KEEPING RECORDS.**

Both Parties agree that each will maintain pertinent records and documents and keep such records for at least three (3) years following the end of each school year for financial and audit purposes.

### **V. AGREEMENT CONTINGENT ON FUNDING.**

The parties understand that the obligations under this IOSUA are contingent upon appropriation and availability of funds from the United States Congress, the state, and/or the Navajo Nation Council. In the event of any shortfall of anticipated funding, the parties shall work together in good faith to make budgetary adjustments in order to continue to provide high quality child education-related services in safe and secure facilities.

### **VI. FIXTURES AND PERSONAL PROPERTY**

- A. Trade fixtures, signs, and personal property purchased by NHS for the operation of Head Start and Early Childhood Development services and programs not permanently affixed to the property shall remain the property of the NHS and the NHS shall have the right to remove such fixtures, signs and personal property. "Fixtures, signs and personal property" shall include but are not limited to playgrounds, appliances, office/children furniture, educational material, storage sheds, Conex boxes and other items considered assets of the NHS.
- B. Any improvements to the property, excluding fixtures, signs and personal property as aforementioned, shall become a part of the property and will remain under the control of the CHAPTER at the termination of this IOSUA unless the CHAPTER notifies the NHS that it wishes to have such improvements removed by, and at the expense of, the NHS. Should such notice be given, the NHS will not only remove the improvements, but will restore the PREMISES to its original condition as determined by the CHAPTER.

### **VII. RIGHT TO MAKE ALTERATIONS**

Subject to the approval of the CHAPTER, such approval shall not be unreasonably withheld; the NHS may make such alterations to the PREMISES as are consistent with the character of the PREMISES, and the structure of the space. "Alteration" herein is defined as renovation, construction or remodeling to the PREMISES. Prior to commencing such alterations, the NHS must have the written permission of the CHAPTER, including its approval of all plans and specifications, materials, architects and engineers, contractors, and craftspeople, which are to make the alterations.

### **VIII. NHS CONDUCT OF BUSINESS**

The NHS, under the terms and conditions of this IOSUA will use the PREMISES solely and exclusively for conducting the official purposes of the NHS and will not permit the PREMISES to be used for any other purpose, or by any party other than the NHS, without the written permission of the CHAPTER. In the conduct of such business, the NHS will keep the PREMISES neat, clean, and fully accessible as determined and required by the CHAPTER.

### **IX. SIGNS**

All signs of any type to be utilized by the NHS must have the prior written approval of the CHAPTER. All signs must be installed at the sole expense of the NHS and must be removed at the sole expense of the NHS at the termination of its occupancy of the PREMISES.

### **X. CHAPTER'S RIGHT TO CONDUCT BUSINESS**

It is understood that this IOSUA does not limit in anyway the ability of the CHAPTER to promote the best use and interest of the PREMISES, to modify or alter the physical configurations of the PREMISES, or to substitute, promote, limit, or eliminate, any activity currently conducted within the PREMISES, provided that any such change made by the CHAPTER shall not violate any Navajo Nation, state, or federal law.

### **XI. NOTICES**

Any and all notices required to be given under this IOSUA shall be given in writing by ordinary mail with a courtesy copy also provided by e-mail and will be deemed given as of the date on which a notice is post marked. Notices, and copies thereof, must be sent to the mailing addresses and e-mail addresses provided herein:

**To the NHS:**

Roy Tracy, Assistant Superintendent  
Navajo Nation Head Start  
P.O. Box 3479, Window Rock, AZ 86515  
E-mail: [roytracy@nndode.org](mailto:roytracy@nndode.org)

**To the Chapter:**

\_\_\_\_\_, Chapter President

\_\_\_\_\_, Chapter Manager/CSC  
Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_

**XII. INTEGRATED DOCUMENT**

It is understood that this IOSUA is a final and fully integrated document that represents the complete agreement of the parties and supersedes any and all other agreements, whether written or oral, governing the use of the PREMISES.

**XIII. INSURANCE LIABILITY AND W-9**

A. This IOSUA is not intended to shift the liability of any party to the other party. The parties to this IOSUA retain whatever liability they would possess for their present and future acts or failures to act without the existence of this IOSUA, in accordance with applicable Navajo Nation law. Both parties agree to get and keep adequate insurance, including all insurance necessary to protect each party's respective interests, personnel, property and liabilities and have attached the Verification of Policy for each party at "Attachment D".

B. In accordance with applicable Navajo Nation law, the Chapter herein provides a signed W-9 as "attachment E".

**XIV. NO WAIVER**

The acceptance of performance, or failure to object to, any breach, default, or failure of performance under the terms of this IOSUA shall not constitute as a waiver of the right to demand performance under this IOSUA, as specified in the IOSUA.

**XV. DISPUTES**

The parties affirm that each are governmental units of the Navajo Nation and are governed by all laws of the Navajo Nation. Any and all disputes will be addressed administratively between the Chapter President and the Division Director.

**XVI. RIGHTS OF OTHER PARTIES**

Nothing in this IOSUA shall be interpreted to create any rights in any person or party not a signatory to this IOSUA.

**XVII. SOVERIEGN IMMUNITY**

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

**XVIII. AMENDMENTS**

This IOSUA may be amended upon written consent of both parties.

**XIX. TERM OF USE**

- A. The NHS will occupy the PREMISES beginning on \_\_\_\_\_ and ending on \_\_\_\_\_.
- B. This IOSUA may be extended upon execution of a subsequent IOSUA. NHS shall provide written notice to the CHAPTER at least ninety (90) days prior to the expiration of this IOSUA.
- C. Either party may terminate this IOSUA at any time provided that written notice is provided sixty (60) days in advance of the anticipated termination date.

IN WITNESS WHEREOF, we the undersigned enter into this IOSUA.

**FOR CHAPTER:**

**FOR NAVAJO NATION HEAD START:**

\_\_\_\_\_  
**Name, Chapter President**

\_\_\_\_\_  
**Name, Assistant Superintendent**

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

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

The Navajo Nation Department of Justice has reviewed and approved this IOSUA.

\_\_\_\_\_

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

Attachment A

Resolution of Chapter



Attachment B

Premises Drawings / Specifications

Attachment C

In-Kind Contribution Form

Attachment D

Verification of Insurance for Both Parties

Attachment E

Chapter Completed W-9