LEGISLATION NO: _0220-20__  SPONSOR: Wilson C. Stewart, Jr.

TITLE: An Action Relating To The Budget And Finance, Resources And Development, And Naabik’íyáti' Committees, And Navajo Nation Council; Approving The Purchase Of Property Offered For Sale To The Navajo Nation By The Owner Of 11 D Street, S.E., Washington, D.C.; Approving The Expenditure Of Fund Principal Of The Land Acquisition Trust Fund To The Purchase Property; Approving The Expenditure Of Fund Principal Of The Land Acquisition Trust Fund To Pay For Repair And Renovation Of The 11 D Street Property

Date posted: September 8, 2020 at 7:20 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

           Executive Director
           Office of Legislative Services
           P.O. Box 3390
           Window Rock, AZ 86515
           (928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 et. seq.
LEGISLATIVE SUMMARY SHEET
Tracking No. 0220-20

DATE: September 8, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO THE BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT, AND NABIK'YATI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING THE PURCHASE OF PROPERTY OFFERED FOR SALE TO THE NAVAJO NATION BY THE OWNER OF 11 D STREET, S. E., WASHINGTON D.C.; APPROVING THE EXPENDITURE OF FUND PRINCIPAL OF THE LAND ACQUISITION TRUST FUND TO THE PURCHASE PROPERTY; APPROVING THE EXPENDITURE OF FUND PRINCIPAL OF THE LAND ACQUISITION TRUST FUND TO PAY FOR REPAIR AND RENOVATION OF THE 11 D STREET PROPERTY

PURPOSE: The purpose of the resolution is to approve expenditure of the Land Acquisition Trust Fund “fund principal” in the amount of $5,140,281.50 for the purchase, closing costs, renovation, architect design, and construction; to waive Section VI. (C) of the Navajo Nation Land Acquisition Rules and Regulations. The expenditure of principle of the Navajo Nation Land Acquisition Trust Fund requires a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.
AN ACTION
RELATING TO THE BUDGET AND FINANCE, RESOURCES AND
DEVELOPMENT, AND NABIK’IYÁTI’ COMMITTEES, AND NAVAJO NATION
COUNCIL; APPROVING THE PURCHASE OF PROPERTY OFFERED FOR SALE
TO THE NAVAJO NATION BY THE OWNER OF 11 D STREET, S. E.,
WASHINGTON D.C.; APPROVING THE EXPENDITURE OF FUND PRINCIPAL
OF THE LAND ACQUISITION TRUST FUND TO THE PURCHASE PROPERTY;
APPROVING THE EXPENDITURE OF FUND PRINCIPAL OF THE LAND
ACQUISITION TRUST FUND TO PAY FOR REPAIR AND RENOVATION OF
THE 11 D STREET PROPERTY

BE IT ENACTED:

Section One. Authority
A. Pursuant to 16 N.N.C. § 4 the Resources and Development Committee, on the
recommendation of the Budget and Finance Committee, will grant final approval
for acquisition or disposition of real property(ies) between the sum of
$5,000,000.00 and up to and including $20,000,000.00 per calendar year. CAU-44-
16 (August 10, 2016).
B. The Resources and Development Committee, after a recommendation by the
Budget and Finance Committee shall approve price, acreage and location for the
acquisition or disposition of real property; be limited to the total expenditures of
$20,000,000 per calendar year and issue a resolution for approval or disapproval of
such acquisition or disposition of real property. See 16 N.N.C. § 4, CAU-44-16
(August 10, 2016); Navajo Nation Land Acquisition Rules and Regulations,

C. Proposed legislation that requires final action by the Navajo Nation Council shall be
assigned to the standing committees have authority over the subject matter and the
Naabik’íyáti’ Committee. 2 N.N.C. § 164 (A)(9).

D. Pursuant to 16 N.N.C. § 204, the Fund principal shall not be expended except
pursuant to a two-thirds vote of the full membership of the Navajo Nation Council.

Section Two. Findings

A. The Navajo Nation Acquisition of Lands Act, 16 N.N.C. §2. (A) (5), states “The
Navajo Nation’s major purposes in acquiring new lands shall be to: . . . (5) Provide
land necessary for approved Navajo Nation economic development.” 16 N.N.C. §2
(A) (5), Resolution No. CAU-44-16.

B. The Navajo Nation shall acquire and dispose of real property subject to land
acquisition regulations as approved by the Resources and Development Committee
of the Navajo Nation Council. 16 N.N.C. § 3, Resolution No.CAU-44-16.

C. The Resources and Development Committee approved the Navajo Nation Land
Acquisition Rules and Regulations (“Rules and Regulations”) on October 25, 2016,
by approving Resources and Development Committee Resolution No. RDCO-78-
16.

D. The Navajo Nation Land Acquisition Rules and Regulations authorize the
Executive Director of the Division of Natural Resources (“DNR”) to:
1. Strategize and evaluate properties for acquisition or disposition through
   coordination with appropriate Divisions, Chapters, and Enterprises;
2. Conduct a preliminary assessment of the property in terms of location, value to
   the Navajo Nation, title, and environmental issues;
3. Coordinate with interested Divisions or Chapters to complete the assessment of
   the property for acquisition or disposition;
4. Hire consultants, such as but not limited to, real estate brokers and agents to
   assist the Navajo Nation in the acquisition or disposition of real property;
5. Negotiate the purchase price for the subject property; and
6. Authorize the Navajo Land Department to conduct additional administrative
duties that are not already identified herein.


E. The Rules and Regulations provide, among other provisions, that the “Navajo
   Nation should purchase fee simple title to real property that is insurable. All steps
   should be taken to obtain clear and marketable title that is free of questions of fact,
   free of questions of law, free of any clouds on title, not subject to liens, and vested
   in the seller of the property, except in special circumstances that are deemed to
   benefit the Navajo Nation. The purchase price for the land must be fair and
   reasonable.” See Rules and Regulations, V, Real Property Purchase Requirements,
   (B)(C).

F. The Rules and Regulations provide general procedures for the purchase of real
property where the Navajo Land Department shall conduct a preliminary inspection
involving an on-site inspection of the property to identify the land, any title issues,
inventory, readily identifiable environmental concerns, or any other issue that may
exist and shall review preliminary title documents, if available, for identification of
any liens, encumbrances, or title issues. See Rules and Regulations, VI, General
Procedure for Purchase of Real Property, (C)(1)(2).

G. 16 N.N.C. § 201 established the Land Acquisition Trust Fund (“LATF”) to be
managed by the Navajo Land Department for the purchase of lands for the Navajo
Nation in accordance with the Navajo Nation Land Acquisition Act, 16 N.N.C. §1
et seq. and Policy and Procedures adopted by the Resources and Development
Committee of the Navajo Nation Council.

H. The Division of Natural Resources approved the 11 D Street, S. E., Washington
D.C. land acquisition on May 7, 2020. The agreed purchase price with the Seller is
$4,800,000.00 plus closing costs. See Real Estate Purchase Approval
Memorandum dated May 7, 2020 and Offer to Purchase Letter dated May 12, 2020, which are attached hereto and incorporated herein by this reference as Exhibit “A.”

I. The Navajo Nation Washington Office (“NNWO”) maintains a presence in Washington, D.C. and exists as an extension of the Navajo Nation government to represent the Navajo Nation government’s concerns to the United States Congress, White House, and federal agencies, to advance issues of critical importance to the Navajo Nation people as authorized by 2 N.N.C. §1151. The NNWO memorandum dated June 16, 2020 recommending the real estate purchase is attached as Exhibit “B.”

J. Over the Memorial Day Holiday, the current office building utilized by the Navajo Nation Washington Office was severely damaged by water from a broken water tank located on top of the building. The NNWO is in desperate need of office space immediately and this land acquisition would address that need. In order for the NNWO to occupy the proposed 11 D Street facility, minor repairs and preparations for opening the NNWO will be needed. The renovation expenses are expenses outside of this real estate purchase. The Navajo Nation Washington Office wishes to hire a General Contractor or their equivalent in the amount of $100,000 to make minimal repairs to bring the office to code and occupy the building immediately. The NNWO has submitted a memorandum dated July 8, 2020 requesting that DNR utilize funds from the LATF to pay renovation and repairs costs and a cost estimate, which is attached hereto as Exhibit “C.”

K. The Navajo Nation, from November 2003 through December 2019, has spent approximately over $3,500,000 in office space rental. The current monthly rent is approximately $24,691.62 and is adjusted each year depending on a variety of market variables, including a minimal three percent (3%) annual escalation. This land and office building acquisition will be a solid investment for the future of the Navajo Nation, provides quick and easy access to Congress, enhances Tribal-Federal Government Affairs, provides a suitable facility, and alleviates the future expense of paying rent, which is also a cost savings to the Navajo Nation.
Moreover, this facility will be the first American Indian Tribal Embassy established in our Nation's Capital.

L. The Resources and Development Committee and the Budget and Finance Committee, by their respective approval, recommend and approve price, acreage and location of the property in Washington, D.C.

M. The Resources and Development Committee, the Budget and Finance Committee, and Naabik’íyááʼ Committee, by their respective approval, recommend the purchase of the property in Washington, D.C. utilizing the expenditure of Fund Principal funds from the Land Acquisition Trust Fund, plus closing costs and expenses.

N. The Resources and Development Committee must approve the waiver of Section VI. (C) (Preliminary Inspection) the Navajo Nation Land Acquisition Rules and Regulations requiring an on-site inspection report from the Navajo Land Department for this real property land acquisition, which was not possible because of the travel prohibitions set forth by Executive Orders and Emergency Public Health Orders issued because of the COVID 19/Corona Virus Pandemic.

O. The property offered for sale includes a 3,728 square feet, two-unit, two story, mixed use building, situated on a 0.15-acre site, at 11 D. Street, Washington, D.C., whose fair market value was appraised at $4,300,000 as of February 28, 2020. The Appraisal Report, which also provides maps, property description, land status, and photographs of the property, is attached hereto and incorporated herein as Exhibit “D.” There is room to expand the improvements to the Property.

P. The Navajo Nation Washington Office wishes to hire an architect to convert the acquired property into the Navajo Nation Embassy. The Navajo Nation Embassy should be reflective of the Navajo people so a Navajo architect would be subcontracted to help infuse Navajo thought and culture into design elements of the Embassy. Such services would be procured in the amount of $150,000 to design and produce renderings that would be submitted to the District of Columbia for needed permits and construction. See Exhibit “C.”
Q. Principal Funds are available from the Land Acquisition Trust Fund Business Unit 415000 to purchase the property. A copy of the funds availability from Office of Controller is attached hereto and incorporated herein as Exhibit “E.”

R. On May 26, 2020, the Controller of the Office of the Controller advised the Division of Natural Resources that the “... unaudited unreserved amount available for use in the fund balance is $167,410,942. However, 16 N.N.C. § 204 would govern this amount as it would be Fund Principal.” The Controller further concluded that “... the budget available for purchase of Real Property is $1,344,180.67; the 16 N.N.C. §205 Expenditure of Fund Income would govern this portion as this amount is income that should be used for land acquisition.” Memorandum from Controller to DNR Executive Director, dated May 26, 2020, is attached hereto and incorporated herein by this reference as Exhibit “E.” Pursuant to 16 N.N.C. § 4 (Resolution No. CAU-44-16; Aug. 10, 2016), the Executive Director of the Division of Natural Resources “... is ... delegated a limited grant of final approval for the acquisition ... of real property(ies) not to exceed an accumulated sum of $5,000,000 per calendar year.”

S. The last land acquisition approved by the Executive Director was approved on December 27, 2019 for an amount below the $5,000,000 limit, within calendar year 2019. For calendar year 2020, the 11 D Street, S.E., Washington D.C., Property was approved for a purchase price within the Executive Director’s purchase authority limit. The Controller advised the Executive Director that “... At the time of calculating the FY 2020 Budget, our office used FY2018 interest income of $5,042,124.40.” See Exhibit “E.” It appears that Land Acquisition Trust Fund expenditure availability was calculated based upon the FY 2020 Budget, rather than on a calendar year basis. In any event, the Controller has advised the Division of Natural Resources that there are insufficient funds available to purchase the Washington D.C. property, unless the Land Acquisition Trust Fund Principal is authorized to purchase the aforementioned Property.

T. Navajo Land Department Land Acquisition Trust Fund, FY2020 BU 415000, does not have sufficient income funds to cover the purchase cost. However, the Land
Acquisition Trust Fund “Fund Principal” has sufficient funds, the expenditure of
which requires two-thirds (2/3) approval votes by the Navajo Nation Council
pursuant to Title 16 N.N.C. § 204.

U. The Commercial Real Estate Purchase Agreement is attached as Exhibit F.

V. Executive Official Review Document No. 014560 is attached as Exhibit G.

W. The Navajo Nation finds that the acquisition of this property is in the best interests
of the Navajo Nation which will provide property necessary for advocating the
position of the Navajo Nation, efforts to access funding for Navajo government
services, and to display the sovereignty of the Navajo Nation.

Section Three. Approval

A. The Navajo Nation Council hereby approves the expenditure of the Land
Acquisition Trust Fund “fund principal” in the amount of $4,800,000.00 for the
purchase of the 11 D. Street, S.E., Washington, D.C., plus any closing costs
($90,281.50), the renovation and repair of the Property to occupy the building that
will house NNWO ($100,000) and the cost to hire architects to design the Navajo
Nation Embassy ($150,000). Total amount for the purchase, closing costs,
renovation, architect design, and construction is $5,140,281.50.

B. The Budget and Finance Committee of the Navajo Nation Council hereby
recommends that the Resources and Development Committee approve the purchase
of the real property offered for sale to the Navajo Nation, located at 11 D Street, S.
E, Washington D.C.

C. The Resources and Development Committee of the Navajo Nation Council hereby
approves the purchase of the real property offered for sale to the Navajo Nation,
located at 11 D. Street, S. E., Washington D.C. and waives Section VI. (C)
(Preliminary Inspection) the Navajo Nation Land Acquisition Rules and
Regulations requiring the Navajo Land Department conduct a preliminary on-site
inspection for this real property land acquisition.

D. The Navajo Nation directs the Division of Natural Resources Executive Director to
initiate and complete the requirements for the purchase of real property before

Page 7 of 8  20-358-1
October 31, 2020, through the Commercial Real Estate Purchase Agreement negotiated in this matter, with related documents as described in the Navajo Nation Land Acquisition Rules and Regulations, VI. General Procedure for Purchase of Real Property, (E) Purchase Agreement and Opening Escrow.