

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT    MYRON LIZER | VICE PRESIDENT



August 02, 2021

MCKINLEY COUNTY  
Board of County Commissioners  
Post Office Box 70  
Gallup, NM 87305

ATTENTION: Billy Moore, Chairperson

REFERENCE: 164 Review 016319/Memorandum of Understanding

Dear Mr. Moore:

Attached, please find your copy of the approved Memorandum of Understanding (**MOU260**) with the Navajo Nation Division of Transportation/DOR. The MOU is to establish a framework of cooperation to address transportation projects and issues within McKinley County and Navajo Nation. The term of the MOU commences on April 30, 2021 and ends on April 30, 2026.

The above MOU number (**MOU260**) must be referenced on all documents and correspondences as it relates to this MOU.

Should you have any questions, please contact Mr. Ardaniel Begay, Principal Contract Analyst, at (505) 371.8351

Sincerely,

A handwritten signature in blue ink, appearing to read "Ronalda A. Logg".

Ronalda A. Logg, Senior Accountant  
OOC – Contract Administration



Ardaniel Begay, PCA, DOT  
Contract File: **MOU260**

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NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT

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**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE NAVAJO NATION,  
DIVISION OF TRANSPORTATION,  
and  
McKINLEY COUNTY, NEW MEXICO**

**I. PREAMBLE AND GUIDING PRINCIPLES**

This Memorandum of Understanding (MOU) is entered into as of April 30, 2021 by and between the Navajo Nation, through its Division of Transportation, hereinafter referred to as the "Nation," and McKinley County, a political subdivision of the State of New Mexico, through its Department of Public Works, hereinafter referred to as "McKinley County."

WHEREAS, the Nation has established its Division of Transportation to plan and develop an integrated transportation network of highways, roads, airports, railroads, and pipelines for the delivery of people, commerce, and goods within the Navajo Nation that is safe and in harmony with nature.

WHEREAS, McKinley County through its Road Department improves and maintains a transportation system of public roadways and related structures within the unincorporated areas of the County under the jurisdiction of its Board of County Commissioners.

WHEREAS, by this MOU and related agreements with the Bureau of Indian Affairs (BIA), the Nation and McKinley County wish to establish a framework for their cooperation in transportation projects of mutual interest and benefit.

WHEREAS, it is the mutual desire of the Nation and McKinley County to achieve their goals and work in harmony for the common purpose of protecting the public health, safety, and welfare of the people of the Nation and McKinley County through an improved relationship between parties.

WHEREAS, each party to this MOU respects the sovereign status of the other and wishes to establish procedures to fully implement the government-to-government relationship with respect to transportation projects of mutual interest and benefit. In recognition of the sovereign status of the Nation, McKinley County respects the continued existence of the Nation's government, values, cultures, codes, and laws; and, in recognition of the sovereign status of McKinley County as a political subdivision of the State of New Mexico, the Nation respects the continued existence of the County's government, values, cultures, codes, and laws.

WHEREAS, McKinley County has statutory authority to enter into this MOU and participate in transportation projects of mutual interest and benefit with the Nation pursuant to the laws of the State of New Mexico.

WHEREAS, the Nation has authority, as a sovereign nation, to enter into this MOU and participate in transportation projects of mutual interest and benefit with McKinley County.

NOW, THEREFORE, the parties hereby agree to the following:

## II. PURPOSES AND OBJECTIVES

- A. This MOU is intended to build confidence and trust between the parties in order to improve communications.
- B. The MOU lays the foundation and framework for developing specific Inter-governmental Agreements (IGA) and other agreements between the parties to address transportation projects of mutual interest and benefit.
- C. The parties mutually agree that this MOU is intended to formalize the government-to-government relationship in accordance with applicable law.
- D. The parties mutually agree that this MOU is intended to recognize the responsibility of each party to protect the public health, safety, and welfare of all persons within its respective territorial jurisdiction.
- E. The parties mutually agree that this MOU is intended to encourage consultation and cooperation with one another on transportation projects of mutual interest and benefit.
- F. The parties mutually agree that an objective of this MOU is to identify and seek to remove any impediments and barriers impairing the ability to work directly and effectively with one another.
- G. The parties mutually agree that an objective of this MOU is to incorporate the principles of the MOU into each party's short and long-term transportation planning.

## III. AGREEMENT AND RESPONSIBILITIES

The Nation and McKinley County mutually agree to the following:

- A. The primary points of contact for carrying out the purposes and objectives of this MOU shall be the Division Director of the Nation's Division of Transportation and the McKinley County Road Superintendent.
- B. The primary contacts as described in paragraph A and selected members of their staffs will meet at least annually to discuss possible transportation projects of mutual interest and benefit and to identify and seek to remove obstacles impairing the achievement of their transportation-related goals, objectives, and tasks.

- C. When a specific transportation project which is appropriate for joint cooperation and participation has been identified, the primary contacts and selected members of their staffs will meet at least quarterly until the project is completed to discuss the progress and set priorities for the next meeting.
- D. Once a specific transportation project which is appropriate for joint cooperation and participation has been identified, the parties will by resolution or otherwise enter into a "project specific" IGA or other agreement for the particular project.
- E. After the project is established, an action plan will be developed which describes the project and the tasks to be performed by each party, separately or jointly, and the means to be used to fund and complete the project. Each project plan as developed will be attached to the Master IGA governing the project(s).
- F. The parties agree to work efficiently together in order to enhance each party's participation in the actions of the other party that may affect the interest of both of the parties, including but not limited to on-going transportation activities, short-range and long-range transportation planning and decisions and their implementation.
- G. The parties, while acknowledging that funding limitations may exist for either party at any given time, agree to jointly or individually pursue funding for transportation projects of mutual interest and benefit, especially in circumstances where imminent danger is identified that affects the health, safety, or welfare of their citizens. Nothing in this MOU shall be construed as obligating the either party in the expenditure of funds or for the future payment of money in excess of appropriations authorized by IGA and law.
- H. The parties recognize that implementation of this MOU will require education of members, officials, agents, employees, contractors, and subcontractors of both parties. Therefore, the parties agree to develop strategies for carrying out this educational effort.
- I. The parties recognize that a key principle of the working relationship is to address transportation-related issues of mutual concern and to maintain accountability consistent with this MOU. In furtherance of this principle, the Nation's primary contact shall be accountable to the President of the Nation and the Resources and Development Committee of the Navajo Nation Council. McKinley County's Primary contact shall be accountable to the County Executive Officer and the Board of County Commissioners.

- J. As a component of the system of accountability, the parties agree that on an annual basis the primary contacts and their respective staffs will review and evaluate their ability to implement the terms of this MOU and will prepare an annual report summarizing this evaluation for McKinley County's Board of County Commissioners and the Nation's President and the Resources and Development Committee of the Navajo Nation Council.

IV. AGREEMENT TO WORK IN GOOD FAITH

- A. In good faith, the County Executive Officer, Administrator of Public Works and other McKinley County employees, in their official capacities or through their designees, shall endeavor to implement the terms of this MOU.
- B. In good faith, the President of the Navajo Nation or his designees, including the Division Director of the Division of Transportation, shall endeavor to implement the terms of this MOU.

V. RESERVATION OF RIGHTS

In executing this MOU, neither the Nation nor McKinley County waives any rights, including but not limited to: treaty rights, immunities, sovereign immunities, jurisdictional defenses based on their protecting laws including the Navajo Nation Sovereign Immunity Act and the New Mexico Tort Claims Act. Specifically, nothing in this MOU shall be construed as a waiver of sovereign immunity by the Navajo Nation, consent to be sued, or consent to jurisdiction of any Federal or State court. Nothing in this MOU creates, implies, nor should be construed to create any right of action by either party against the other, or in any third party.

VI. DISPUTE RESOLUTION

All disputes and controversies regarding this MOU shall be resolved by the Division Director of the Nation's Division of Transportation and the McKinley County Road Superintendent. If these officials are unable to resolve the dispute or controversy, the officials identified in Article IV above may participate in the resolution.

VII. EFFECTIVE DATE, TERMINATION AND AMENDMENT

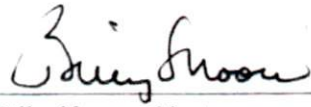
This MOU shall become effective when signed by both parties and shall continue in force for five (5) years. Termination may be initiated by either party after thirty (30) days notice to the other of its intention to terminate. Amendments, including any extension of this MOU, must be approved by both parties in writing.

WHEREFORE, the duly authorized officials of the parties have executed this Memorandum of Understanding on the dates affixed by their signatures with the effective date as stated above.

**NAVAJO NATION**

**McKINLEY COUNTY, NEW MEXICO**

By:   
Jonathan Nez  
President

By:   
Billy Moore, Chairperson  
Board of County Commissioners


Date: 04-30-2021

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

**APPROVED AS TO FORM**

**NAVAJO NATION**

**McKINLEY COUNTY, NEW MEXICO**

By:   
Legal Representative

By:   
Legal Representative

Date: 4/27/21

Date: 5/12/21