

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE NAVAJO NATION,
DIVISION OF TRANSPORTATION,
AND
SAN JUAN COUNTY, UTAH
ROAD DEPARTMENT**

I. PREAMBLE AND GUIDING PRINCIPLES

This Memorandum of Understanding (MOU) is entered into as of January 9, 2019 by and between the Navajo Nation, through its Division of Transportation, hereinafter referred to as the "Nation", and San Juan County, a political subdivision of the State of Utah, through its Road Department, hereinafter referred to as "San Juan 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, San Juan County through its Road Department maintains and improves a transportation system of public roadways and related structures within the unincorporated areas of the county under the jurisdiction of its Board of Commissioners.

WHEREAS, by this MOU and related agreements with the Bureau of Indian Affairs (BIA) the Nation and San Juan 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 San Juan 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 San Juan 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, San Juan County respects the continued existence of the Nation's government, values, cultures, codes, and laws.

WHEREAS, San Juan County has 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 Utah.

WHEREAS, On April 17, 2018, Navajo Division of Transportation issued San Juan County a letter indicating the transition of road ownership of all roads on the Navajo Indian Reservation from County to Tribal to become effective May 1, 2018.

WHEREAS, San Juan County has updated the Official B-Road Map to reference the ownership change and submitted this to the Utah Department of Transportation.

WHEREAS, San Juan County will be required to adhere to the Utah Department of Transportation Regulations Governing Class B&C Road Funds including Appendix to that document.

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

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

II. PURPOSE AND OBJECTIVES

- A. This MOU is intended to build confidence and trust between the parties in order to improve communication.
- B. The MOU lays the foundation and framework for developing specific Intergovernmental 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 San Juan 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 Director of the Nation's Division of Transportation and the Public Works Director of San Juan County's Road Department.
- B. The primary contacts as described in paragraph A and selected members of their staff 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. Potential projects will be presented by the Nation to San Juan County who will then evaluate the project to be of mutual interest and benefit. Any proposed project will be considered by the intended improvements to school bus route conditions, reduced road maintenance requirements, and increased safety. Mutual interest and benefit will be determined by review and presented for consideration for joint cooperation by the San Juan County Board of Commissioners.
- D. When a specific transportation project which is appropriate for joint cooperation and participation has been identified, the primary contacts and selected members of their staff will meet at least quarterly until the project is completed to discuss the progress and set priorities for the next meeting.
- E. 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.
- F. After the project is established, the primary contacts and their staff will develop an action plan 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.
- G. The parties agree to work together in good faith to enhance each party's participation in the actions of the other party that may affect the interests of both of the parties, including but not limited to on-going transportation activities, short-range and long-range transportation planning, decisions, and their implementation.
- H. 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 may affect the health, safety or welfare of their citizens.
- I. Nothing in this MOU shall be construed as obligating either party in the expenditure of funds for the future payment of money in excess of appropriations authorized by IGA and law.
- J. 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.

- K. 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 Resources and Development Committee of the Navajo Nation Council .San Juan County's primary contact shall be accountable to the County Administrator and Board of County Commissioners.
- L. As a component of the system of accountability, the parties agree that on an annual basis the primary contacts and their respective staff will review and evaluate their ability to implement the terms of this MOU and will prepare an annual report summarizing this evaluation for San Juan County's Board of Commissioners, 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 San Juan County Commission, Administrator, Public Works Director, and other San Juan 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 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 San Juan County waives any rights, including but not limited to; treaty rights, immunities, sovereign immunities, jurisdictional defenses, or defenses based on their protecting laws. Specifically, nothing in this MOU shall be construed as a waiver of sovereign immunity by the Navajo Nation, consents to be sued, or consent to the 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 Director of the Nation's Division of Transportation and the Public Works Director of San Juan County. If these officials are unable to resolve the dispute or controversy, the officials identified in Article IV 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 a thirty (30) day notice to the other of its intention to terminate. Any implemented IGA will be completed per terms as stated within said IGA, regardless of a motion to terminate the MOU. Amendments, including any extension for this MOU, must be approved by both parties in writing.

Wherefore, the duly authorized official of the parties has executed this Memorandum of Understanding on the dates affixed by their signatures with the effective date as stated above.

NAVAJO NATION

SAN JUAN COUNTY



Russell Begaye
President



Bruce Adams
Chairman, Board of Commissioners

1-9-2019

Date

12-17-2018

Date