

MEMORANDUM OF UNDERSTANDING
BETWEEN THE NAVAJO NATION
DIVISION OF TRANSPORTATION
and
APACHE COUNTY, ARIZONA

I. PREAMBLE AND BUILDING PRINCIPLES

This Memorandum of Understanding (MOU) is entered into this 14 day of December 2014, between the Navajo Nation, through its Division of Transportation, hereinafter referred to as "Nation", and Apache County, Arizona, a political subdivision of the State of Arizona, hereinafter referred to as "Apache County".

WHEREAS, the Nation has established its Division of Transportation to plan and develop an integrated transportation network of highways, roads, waterways, 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, one of the responsibilities of Apache County is to plan, repair, and maintain existing county school bus routes, and on the Navajo Nation the county participates in an Intergovernmental Agreement with the Navajo Nation and Bureau of Indian Affairs (BIA).

WHEREAS, it is the mutual desire of the Nation and Apache 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 Navajo Nation and Apache County through an improved relationship between the parties.

WHEREAS, each party of 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, Apache County respects the continued existence of the Nation's government, values, cultures, codes, and laws.

WHEREAS, Apache 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 Arizona, specifically A.R.S. 11-952.

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 Apache County.

NOW, THEREFORE, the parties hereto 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 Intergovernmental Agreements (IGAs) 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 their territorial jurisdiction.
- E. The parties mutually agree 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 entity's short and long-term transportation planning.

III. AGREEMENT AND RESPONSIBILITIES

The Nation and Apache County mutually agree to the following:

- A. The parties will establish a working group composed of representatives of each to carry out the purposes and objectives of this MOU.
- B. The parties agree that the working group will meet, at a minimum, annually to establish goals, objectives, and definition of tasks relating to implementation of projects of mutual concern and to identify and seek to remove obstacles impairing the achievement of these goals, objectives, and tasks.

- C. When a specific project has been identified, the working group will meet quarterly until the project is completed to discuss the progress and set priorities for the next meeting.
- D. Once a specific project has been identified, the parties will by resolution or otherwise pursuant to the laws applicable to the governing bodies of the participating agencies enter into a "project specific" IGA, or other agreement for the particular project.
- E. After the project is established, the working group 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.
- 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 interests of both of the parties, including but not limited to on-going 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, and welfare of the Nation and County communities. Nothing in this MOU shall be construed as obligating 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 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 the Director of the Navajo Division of Transportation who is accountable to the President of the Nation and the Resources and Development Committee of the Navajo Nation Council. Apache County's primary contact shall be the County Manager who is accountable to the Board of Supervisors.
- J. As a component of the system of accountability, the parties agree that on an annual basis, the working group will review and evaluate its ability to implement the terms of this MOU and will prepare an annual report summarizing this evaluation for the Apache County

Board of Supervisors 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 Manager and other County Employees of Apache County, in their official capacity, or through their designee(s), shall endeavor to implement the terms of this MOU.
- B. In good faith, the President of the Navajo Nation or through his designee(s), including the Director of the Division of Transportation, and the Navajo Division of Transportation Department Managers shall endeavor to implement the terms of this MOU.

V. RESERVATION OF RIGHTS

In executing this MOU, neither the Nation, nor Apache 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, 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 each other, or in any third party.

VI. DISPUTE RESOLUTION

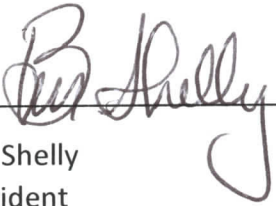
All disputes and controversies regarding this MOU shall be resolved by the Director of the Nation's Division of Transportation and County Manager of Apache County's Department of Public Works. If these officials are unable to resolve the dispute or controversy, the working group identified in Section III, Article "A" 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 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 herein stated.

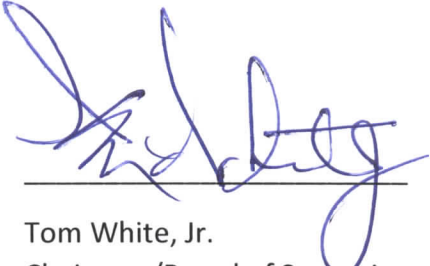
NAVAJO NATION:



Ben Shelly
President

DEC 01 2014
Date

APACHE COUNTY:



Tom White, Jr.
Chairman/Board of Supervisors

December 16, 2014
Date