

McKinley County Non-Subdivision Road Work Request Procedures

Whereas, McKinley County Receives requests to perform work on roads from all sources; and,

Whereas, McKinley County Maintains a certain portion of the roads within the County, and maintains a road inventory of all roads accepted for maintenance; and,

Whereas, the Roads on the McKinley County maintenance inventory are held in various forms of ownership, i.e. Express right-of-way; easements; prescriptive easements; presumption of grant; RS2477 statutory rights-of-way; etc.; and,

Whereas, the Board of County Commissioners have the power and authority to declare the roads which will and will not receive maintenance; can accept or reject maintenance responsibilities; can abandon or abandon for maintenance any road; and,

Whereas, The budgetary constraints of McKinley County make it impossible for the County to accept all roads for maintenance; and,

Whereas, the Constitution of the State of New Mexico prohibits the County from performing any type of road maintenance or any type of work on private land or land held in trust for the benefit of an Indian allottee or in trust for a tribe or band of Indians, without the proper authorization and clearances; and,

Whereas, McKinley County will only upgrade and/or build a new road for and on rights of way that have been perfected in McKinley County, including but not limited to the recording of appropriate grant documents, obtaining appropriate consents, obtaining the necessary clearances from any other government or government agency; and,

Whereas, the Board of Commissioners of McKinley County desire to have a procedure set forth for any entity to request road services.

Now therefore, the Board of County Commissioners of McKinley County hereby adopts the following procedures for Non-Subdivision¹ Roads within McKinley County.

Definitions:

County - means McKinley County, a political subdivision of the State of New Mexico, acting through its duly elected Board of County Commissioners.

County Roads - means the Road Department of McKinley County supervised by a County Road Superintendent under the Direction of the County Manager and County

¹All subdivision roads shall follow the procedures as outlined in the McKinley County Subdivision Regulations of 1997.

Commission.

Requesting Entity - means, any person, individual, private land owner, City, Town, Village, or any similar political subdivision including, but not limited to Chapters of the Navajo Nation, Tribes, Pueblos, Quasi-Municipalities or similar divisions such as water and sanitation districts, mutual domestics, etc.

Roads / Right-of-Way - any strip of land dedicated and accepted by McKinley County for the purpose of conveying vehicular traffic.

A. Procedure for requesting maintenance on a road listed on the McKinley County Road inventory.

A requesting entity shall contact the County Road Department at 722-2303, and identify the location of road needing maintenance. If the area is on the inventory of McKinley County, the Road Superintendent (or his designee) will make an inspection to determine the extent of maintenance needed and the priority to set for the maintenance. McKinley County Roads currently has a maintenance schedule for all County inventory roads. At the Road Superintendent's Discretion (Granted By this policy and procedure) the County Road department will perform the needed maintenance taking into consideration public safety, public budget financial condition, and location of equipment and mobilization costs.

Request for grading baseball fields, private driveways, parking lots and non-County (any thing not on the County inventory) property will be DENIED.

B. Procedure for Requesting acceptance and maintenance of: a Non-inventory Road; or, changing, upgrading or altering an existing County inventory road.

Step 1. SELECTION OF ROAD ALIGNMENT: Requesting Entity **shall** contact the County Road Department at 722-2303 and initially describe any NEW road proposed or any alteration of an existing road. The Requesting Entity **shall** follow up the initial contact and description with a letter setting forth the request. The Road Department will make a preliminary inspection and prepare a "rough" cost estimate. The Written request and the "Rough" cost estimate will be transmitted to the County Manager, and at the Discretion of the County Manager, the issue will be placed on an appropriate agenda for discussion purposes only.

Request for grading baseball fields, private driveways, parking lots and non-County (any thing not on the County inventory) property will be DENIED.

Step 2. PRELIMINARY ARCHAEOLOGICAL/ENVIRONMENTAL SURVEY: The Requesting Entity shall obtain at its own expense, preliminary field evaluations of the environmental and archaeological impact of the proposed road alignment. These surveys shall be an evaluation of a 50-foot wide path of proposed roadway from the centerline. A copy of the survey along with the findings must be sent to the Road Department before any other procedure can proceed. (The surveys must be 100 feet wide from centerline for bridges).

Step 3. RIGHTS-OF-WAY / CONSENT FORMS / LAND WITHDRAWAL

The Requesting Entity will be responsible for obtaining valid signatures from all persons (Allottees, Permittees, Landowners, Government agencies, etc) whose land would be affected by the roadway, on the following:

a. Permission to enter the land for surveying;

Consent to survey must be obtained granting permission until completion of the survey work but in no event for less than six (6) months.

b. Actual right-of-way.

Right-of-way grants must be obtained for the perpetual period of road use, with a reverter clause if the road is not being used as a road for 5 years.

c. Land withdrawal.

For Navajo Chapters and any land held in trust (allotment or tribal trust or BIA), Consent forms must be obtained from the Bureau of Indian Affairs; and, Right-of-Way forms must be obtained from Navajo Department of Transportation.

For Navajo Chapters any approvals for land withdrawal shall be obtained by the requesting entity. Land Withdrawals must come from the Navajo Nation (any appropriate committee) and the Bureau of Indian Affairs. The requesting entity will need to obtain any forms and work to complete any land withdrawal process.

If time expires on the survey work permission, right-of-way grants, or land withdrawals, the Requesting Entity shall obtain a new permission, right-of-way or withdrawals.

Step 4. ACTUAL FIELD SURVEY: the Road Department will review documents submitted for the initial procedure (Steps 1, 2, and 3). When the Road Department deems the documents complete, they will be presented to the Board of County Commissioners for direction and or permission to order a “Blue Line” field survey showing the actual alignment. The County Manager should notify the requesting entity of the date and time of the commission meeting. The County Commission will need to direct the requesting entity to provide a “Blue Line” at the requesting entities expense, or will need budget, authorize and direct the County Road Department to hire a surveyor and pay the actual cost of survey.

Step 5. ARCHAEOLOGICAL SURVEY /ENVIRONMENTAL ASSESSMENT: After the “Blue Line” survey is complete, the County Commission will need to decide if the Requesting Entity shall hire professionals to conduct a study to meet all Federal and State Regulations.

A. For Navajo Nation Chapters (and for any lands governed by Navajo Nation and or BIA) the Requesting Entity shall obtain all Archaeological clearances utilizing NDOT Staff.

B. For all other Entities (lands not governed by BIA or NN), the County Commission shall either require the Requesting entity to obtain Archaeological clearances at their expense, or, budget, authorize and direct the County to conduct this phase. The entity required to obtain any clearances or assessments shall direct all studies to meet all Federal and State Regulations.

C. The Requesting Entity shall use best efforts to obtain final clearances from: Navajo Nation, BIA, BLM, private fee landowners, State lands, etc. No construction will be started without final clearances from all appropriate agencies.

Step 6. FUNDING ACTUAL CONSTRUCTION COSTS: The Board of County Commissioners will meet annually in January to prioritize road projects for School Bus Funds, Cooperative and County Arterial Funds. Proposed road projects certified as complete (by the County Road Department meeting all above steps and requirements) will be added to the list of priorities eligible to receive funds. The County Commission will be the ultimate say as to the priority each project receives. The County Commission will consider placing certified projects on the County ICIP and other planning and master planning documents and if placed, shall establish their priority in the same.

For Navajo Chapters (or lands governed by BIA and Navajo Nation) the Requesting entity shall consider requesting Road improvement funds from NDOT utilizing the Navajo Fuel Excise Tax.

Any Requesting entity in seeking funding from the State Legislature for any particular project including certified road projects shall complete and submit the proper forms under McKinley County's "Legislative Request Policy" Resolution No. NOV-03-069. A copy of the forms and policy may be obtained from McKinley County or the Northwest New Mexico Council of Governments.

Questions may be directed to Mr. David Acosta, Road Superintendent at (505) 722-2303, or Mr. Tom Trujillo, County Manager at (505) 722-3868.

APPROVED AND ADOPTED this _____ day of June, 2004, at Gallup, McKinley County, New Mexico.

McKinley County Board of Commissioners:

Harry H. Mendoza, Chairperson

Ernest C. Becenti, Jr., Commissioner

Billy W. Moore, Commissioner

ATTEST:

Carol K. Sloan, County Clerk