

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE MUSCOGEE (CREEK) NATION  
AND  
MUSKOGEE COUNTY, OKLAHOMA**

This AGREEMENT is made by and between the MUSCOGEE (CREEK) NATION, hereinafter referred to as the "NATION" and Muskogee County, Oklahoma hereafter referred to as the COUNTY.

**1. CONTRACT PERIOD**

THIS AGREEMENT becomes effective upon the date of execution by the NATION, and shall terminate upon final completion of the Project or unless terminated or modified as hereinafter provided.

**2. SCOPE AND LOCATION OF PROJECT**

The NATION and COUNTY agree that the scope of the Bridge 09681 project is the replacement of the existing bridge and the bridge approaches on NTTFI RT 1577.

**3. PRE-CONSTRUCTION RESPONSIBILITIES**

- a. The NATION shall prepare the Plans, Specifications, and Engineer's Estimate (PS&E) package. The PS&E package shall be prepared in accordance with the most recent American Association of State Highway and Transportation Officials (AASHTO) *Policy on Geometric Design of Highways and Streets*, the Oklahoma Department of Transportation (ODOT) *Roadway Design Manual*, and ODOT Standard Specifications for Highway Construction.
- b. The COUNTY shall furnish the rights-of-way for this Project through privately owned property. Where the Project passes through Government owned or controlled land, the COUNTY agrees to make application and acquire such rights-of-way for a public highway in accordance with the appropriate regulatory requirements, including 25 CFR 169 for rights-of-way over Indian Lands.
- c. The COUNTY will acquire all necessary temporary construction easements. The COUNTY will be responsible for all utility relocations necessary for the construction of the Project, including any utility permits necessary.
- d. The NATION shall ensure that the appropriate documents to meet the requirements of the National Environmental Protection Act (NEPA) and to obtain Archeological clearance are prepared in advance of the Nation providing project funding.
- e. The NATION will submit a funding application for Special Bridge Funding from the

Bureau of Indian Affairs Bridge Program for the construction of this project. Once funding is received from the Special Bridge Funding the project will be moved forward to construction. The NATION has no obligation to construct this project unless funding is received through the Special Bridge Funding.

#### **4. CONSTRUCTION RESPONSIBILITIES**

- a. The NATION shall advertise for construction bids, receive and tabulate all responsive bids and award a Contract for construction of the Project in accordance with existing procedures and applicable laws. A copy of the executed Construction Contract (Contract) will be provided to the COUNTY prior to commencing Contract work.
- b. The NATION will notify in writing the COUNTY of the bid opening date, as well as all pre-award, pre-construction, and final inspection dates.
- c. The NATION shall monitor and inspect all work performed by the Construction Contractor and will provide such engineering, inspection, and testing services as may be required to ensure that the construction of the project is accomplished in accordance with the approved PS&E and Contract Documents.
- d. The NATION shall perform and document all Davis Bacon wage rate interviews and review all certified contractor payrolls to ensure compliance with the Davis Bacon wage rates in accordance with the appropriate Federal Acquisition Regulations.
- e. The NATION will issue a "Notification of Completion" to the COUNTY once the Project is completed to the satisfaction of the COUNTY and the NATION.

#### **5. FUNDING RESPONSIBILITIES**

The NATION will reimburse the COUNTY through the NATIONS Tribal Transportation Program funding for all reasonable and agreed upon costs associated with the right of way acquisition and utility relocation associated with this project.

The NATION will submit a funding application for Special Bridge Funding from the Bureau of Indian Affairs Bridge Program for construction of this project. Once funding is received from the Special Bridge Funding the project will be moved forward to construction. The NATION has no obligation to construct this project unless funding is received through the Special Bridge Funding.

The Engineer's Estimate of Probable Cost for the Bridge 09681 Project is \$694,000.00.

#### **6. MAINTENANCE RESPONSIBILITIES**

Upon completion of the Project, the COUNTY accepts full responsibility for maintenance, upkeep, and repair of said roadway to the extent required by law and further covenants to keep said roadway open as a public thoroughfare so long as necessary, or that public necessity and convenience requires.

## **7. OWNERSHIP OF DOCUMENTS**

To the extent permitted by law, all data prepared under this AGREEMENT shall be made available to the NATION without restriction or limitation on their further use, with the exception of any documents or information, which would be considered attorney/client privileged by the COUNTY.

## **8. TERMINATION**

- a. This agreement may be terminated by any of the following conditions:
  - (1) By mutual written agreement and consent of both parties.
  - (2) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
  - (3) By the unavailability of funds for construction of the project.
- b. The termination of this agreement shall extinguish all rights, duties, obligations and liabilities of the COUNTY and the NATION under this agreement. If the potential termination of this agreement is due to the failure of either the COUNTY or the NATION to fulfill a contractual obligation as set forth herein, the non-breaching party will notify the party alleged to be in breach that possible breach of contract has occurred. The party alleged to be in breach should make a good faith effort to remedy that breach as outlined by the non-breaching party within a period mutually agreed by each party.

**APPROVED BY:**  
MUSCOGEE (CREEK) NATION  
P.O. BOX 580  
OKMULGEE, OKLAHOMA 74447

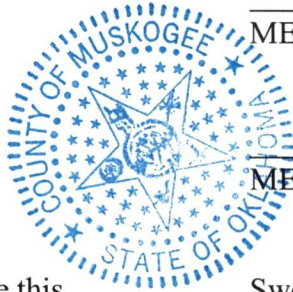
**APPROVED BY:**  
BOARD OF COUNTY COMMISSIONERS  
PO BOX 2307  
MUSKOGEE, OKLAHOMA 74402

\_\_\_\_\_  
PRINCIPAL CHIEF, Date  
MUSCOGEE (CREEK) NATION

Keith Hylton  
\_\_\_\_\_  
CHAIRMAN, Date  
MUSKOGEE COUNTY

K. Duff  
\_\_\_\_\_  
MEMBER Date

Keneth W. Pay  
\_\_\_\_\_  
MEMBER Date



Sworn & subscribed to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Sworn & subscribed to before me this  
8<sup>th</sup> day of Feb, 2021

\_\_\_\_\_  
NOTARY PUBLIC

Reynold Doring  
\_\_\_\_\_  
COUNTY CLERK

My Commission is due to expire:  
\_\_\_\_\_



**TR 20-049**

**CLASSIFICATION: #28. LANDS AND MINERALS**

**A TRIBAL RESOLUTION OF THE MUSCOGEE (CREEK) NATION AUTHORIZING THE PRINCIPAL CHIEF TO EXECUTE A MEMORANDUM OF AGREEMENT WITH MUSKOGEE COUNTY, OKLAHOMA FOR THE REPLACEMENT OF AN EXISTING BRIDGE AND BRIDGE APPROACHES**

**Be it resolved by the National Council of the Muscogee (Creek) Nation:**

**WHEREAS**, the Muscogee (Creek) Nation Transportation Department has identified a need for reconstructing deficient and hazardous bridges throughout the Nation's jurisdictional area; and

**WHEREAS**, the Bridge 09681 Project includes the replacement of the existing bridge and bridge approaches on NTTFI RT 1577; and

**WHEREAS**, the Nation's Transportation Department has coordinated this effort with the Muskogee County Commissioners; and

**WHEREAS**, the Nation's Transportation Department will prepare the plans, specifications, estimates (PS&E) and environmental assessments for Bridge 09681 Project, monitor and inspect all work performed and provide such engineering, inspection and testing services as required for the Project; and

**WHEREAS**, Muskogee County shall be responsible for the maintenance, upkeep and repair of said roadway/bridge upon completion of the Project; and

**WHEREAS**, the engineer's estimate of probable cost for the Bridge 09681 is \$694,000.00; and

**WHEREAS**, the Nation will reimburse Muskogee County through the Nation's Tribal Transportation Program funding for all reasonable and agreed upon costs associated with the right of way acquisition and utility relocation associated with this project; and

**WHEREAS**, the Nation will submit a funding application for Special Bridge Funding from the Bureau of Indian Affairs Bridge Program for construction of this project; and

**WHEREAS**, the Nation has no obligation to construct this project unless funding is received through the Special Bridge Funding.

**NOW THEREFORE BE IT RESOLVED THAT**, the National Council hereby authorizes the Principal Chief to execute the attached Memorandum of Agreement with the Muskogee County Commissioners for the purpose of replacing the bridge and bridge approaches on NTTFI RT 1577.

**ENACTED** by the Muskogee (Creek) National Council on this 24<sup>th</sup> day of March, 2020.

**IN WITNESS WHEREOF**, the Speaker of the Muskogee (Creek) National Council has hereto attached his signature.



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Randall Hicks, Speaker  
National Council  
Muskogee (Creek) Nation

**CERTIFICATION**

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muskogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the 24<sup>th</sup> day of March, 2020 and that the above is in conformity with the provisions therein adopted by a vote of 15 in favor, 0 against and that said Resolution has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



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Kristie A. Jackson, Recording Secretary  
Muskogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this 27 day of March, 2020 to the above Resolution, TR 20-049 authorizing it to become a Resolution under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

*David W. Hill*

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David W. Hill, Principal Chief  
Muscogee (Creek) Nation

