ATTACHMENT A

Memorandum of Agreement
(IGRF-33-98)

IGRF-33-98

RESOLUTION OF THE
INTERGOVERNMENTAL RELATIONS COMMITTEE
OF THE NAVAJO NATION COUNCIL

Approving a Memorandum of Agreement Between the City of Gallup and the Navajo Nation to Cooperate on the Navajo-Gallup Water Supply Project

WHEREAS:

1. The Intergovernmental Relations Committee of the Navajo Nation Council is established to ensure the presence and voice of the Navajo Nation, pursuant to 2 N.N.C §822(B), and has the power to authorize, review and approve agreements between the Navajo Nation and any state authority upon the recommendation of the standing committee with oversight authority for such agreement, pursuant to 2 N.N.C. §824(B)(6); and

2. Attached to this resolution as Exhibit A is a proposed Memorandum of Agreement between the City of Gallup and the Navajo Nation to cooperate on the Navajo-Gallup Water Supply Project; and

3. The Resources Committee of the Navajo Nation Council is charged with ensuring the optimum utilization of all resources of the Navajo Nation and to protect the rights, interests and freedoms of the Navajo Nation and People, pursuant to 2 N.N.C. §693 (1995); and

4. By Resolution RCJA-13-98, attached to this resolution as Exhibit B, the Resources Committee of the Navajo Nation Council determined that the water resources of the Navajo Nation are essential to provide a permanent homeland for the Navajo people, that protection of such water resources is essential in order to protect the health, welfare and the economic security of the citizens of the Navajo Nation, that the proposed Memorandum of Agreement would provide opportunity to advance this vitally needed project and that executing this agreement is in the best interests of the Navajo Nation; and

5. The Intergovernmental Relations Committee of the Navajo Nation Council accepts the recommendation of the Resources Committee and concurs that executing the proposed Memorandum of Agreement between the City of Gallup and the Navajo Nation to cooperate on the Navajo-Gallup Water Supply Project is in the best interests of the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

The Intergovernmental Relations Committee of the Navajo Nation Council authorizes the execution of the proposed Memorandum of Agreement between the Navajo Nation and the City of Gallup to cooperate on the Navajo-Gallup Water Supply Project, attached as Exhibit A.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Intergovernmental Relations Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, 2 opposed and 0 abstained, this 23rd day of February, 1998.

Kelsey A. Begaye, Chairperson
Intergovernmental Relations Committee

Motion: Rex Morris, Jr.
Second: Genevieve Jackson

MEMORANDUM OF AGREEMENT

Between the Navajo Nation and the City of Gallup
To Cooperate on the Navajo-Gallup Water Supply Project.

WHEREAS:

1. The Navajo Nation and the City of Gallup have severe water quality and water quantity problems; and

2. During the Congressional Hearings for the proposed Navajo Indian Irrigation Project (NIIP), the New Mexico State Engineer testified that NIIP would be part of the regional water infrastructure intended to provide water from Navajo Dam to Navajo Communities in northwest New Mexico and to the City of Gallup (Hearings before the Subcommittee on Irrigation and Reclamation of the Committee on Interior and Insular Affairs, S. 3648, July 9 and 10, 1958); and

3. In the 1960's, the Bureau of Reclamation first considered a water pipeline project that would bring water to Navajo Communities in northwest New Mexico and to the City of Gallup, and the Bureau was authorized under Public Law 92-199 (approved December 15, 1971) to conduct feasibility studies for such a project; and

4. In 1984, the Bureau of Reclamation completed a draft Environmental Impact Statement for the proposed Gallup-Navajo Indian Water Supply Project which evaluated three alternative routes for a water pipeline and recommended a route parallel to Highway 666; and

5. Following public hearings in 1984 and 1985, the Navajo Nation recommended reformulation of the project to serve additional communities along Highway 371, and a revised EIS in 1985 supported the recommendation of the route along Highway 371; and

6. By letter of March 5, 1992 from Navajo Nation Vice President Marshall Plummer to Gallup Mayor George Galanis, the Navajo Nation agreed to join the City of Gallup in further discussions to evaluate the project; and

7. In 1992, discussions commenced between technical staff from the Navajo Nation and the City of Gallup to further evaluate the project; and

8. In 1992, Congress authorized $300,000 for a preliminary reassessment of the project by the Bureau of Reclamation, and in subsequent years, Congress has authorized additional funding to develop a project definition, conduct a biological assessment, and provide an assessment of alternatives; and

9. In 1995, the Navajo Nation entered into Cooperative Agreement No. 5-FC-40-17490 (authorized by RCAU-205-95 and IGRS-190-95) with the Bureau of Reclamation to engage in public meetings and technical studies related to the project; and

10. Seventeen Chapters within the preliminary project area, including Burnham, Becenti, Coyote Canyon, Crownpoint, Dalton Pass, Nageezi, Whitehorse Lake, Mexican Springs, St. Michaels, Tseyatoh, Huerfano, Lake Valley, Pueblo Pintado, Standing Rock, Twin Lakes, Whiterock, Fort Defiance, Tohatchi, and Naschitti have approved continued planning for the project; and

11. By letter of February 15, 1996 Navajo Area Director Wilson Barber, committed the Bureau of Indian Affairs to serve as the lead agency for consultation with the Fish and Wildlife Service concerning compliance with the requirements of the Endangered Species Act, and directed the Bureau of Indian Affairs-Navajo Indian Irrigation Project Office to initiate this consultation as quickly as possible.

NOW, THEREFORE, THE CITY OF GALLUP AND THE NAVAJO NATION AGREE THAT:

1. A cooperative effort by the Navajo Nation and the City of Gallup (the Parties) to proceed with the planning and development of the Navajo-Gallup Water Supply Project is in the best interests of the Parties; and

2. The Parties are committed to a project that will work conjunctively with the Navajo Indian Irrigation Project and will otherwise be developed in a manner that is consistent with the water rights of the parties; and

3. The Parties are committed to a project that will result in a fair and equitable distribution of project water between the City of Gallup and the Navajo communities; and

4. The Parties are committed to cooperatively investigate all viable alternative project configurations, including a pipeline from the San Juan River; and

5. In order to ensure that the project will be in compliance with the requirements of the Endangered Species Act, the Parties support commitment of the Bureau of Indian Affairs to engage in consultation with the Fish and Wildlife Service as quickly as possible; and

6. The Parties will work together to resolve issues affecting the implementation of the Project; and

7. The planning efforts between the Navajo Nation and the City of Gallup will be voluntary and are without prejudice to any position either party may assert in the San Juan River General Stream Adjudication, or in any other matter concerning the water resources of the Parties.

This Memorandum of Agreement was executed on this 17th day of April, 1998.

THE NAVAJO NATION

Thomas E. Atcitty, President

THE CITY OF GALLUP

George Galanis, Mayor