



**PUEBLO DE SAN ILDEFONSO**

**INTERIM ROAD ACCESS AUTHORIZATION**

**ACT OF 2018**

**Section 1.1 Short Title**

This enactment shall be known as, "INTERIM ROAD ACCESS AUTHORIZATION ACT OF 2018 ("Act")."

**Section 1.2 Definitions**

- (a) "Access Point" means the point identified at which lawful ingress and egress to Private Land can occur. Access Points that serve two or more subdivided lots on Private Land are called "Common Access Points."
- (b) "Agreement" shall mean the governing Agreement of the Pueblo that was approved by the voters and the U.S. Secretary of the Interior that establishes the form of government for the Pueblo.
- (c) "County" shall mean Santa Fe County.
- (d) "Courts" shall mean the Trial Court and Supreme Court of the Pueblo as established in the Agreement.
- (e) "Department" or "DOI" shall mean the United States Department of the Interior.
- (f) "Governor" shall mean the Governor of the Pueblo.
- (g) "Private Land" shall mean land located within the exterior boundaries of the Pueblo that the United States patented to private claimants or to which Indian Title has otherwise been duly extinguished. Discrete areas of Private Land may consist of one lot under common ownership or several lots under different ownership.
- (h) "Public Road" shall mean a road open to public travel.
- (i) "Pueblo" shall mean the Pueblo de San Ildefonso.
- (j) "Pueblo Land" or "Pueblo Lands" shall mean real property owned by the Pueblo in fee simple subject to Federal restrictions against alienation, or lands owned by the United States in trust for the benefit of the Pueblo.
- (k) "Roads Settlement Agreement" shall mean the Agreement entered into between the Pueblo, the County, and the Department to resolve the dispute over certain roads within the boundaries of Pueblo Lands, effective April 12, 2018.
- (l) This Act shall utilize all other terms as defined in the Roads Settlement Agreement as needed.

**Section 1.3** **Purpose**

- (a) The purpose of this Act is to authorize and direct the Governor to implement the Roads Settlement Agreement as follows:
  - (1) To authorize the Governor to grant the County a temporary public road permit for three (3) roads identified as CMR 84C, CMR 84D, and Sandy Way, for a term of five (5) years, or until the construction of Yellowbird Loop is completed, whichever is sooner, in accordance with the terms of the Roads Settlement Agreement;
  - (2) To authorize the Governor to provide temporary access to Private Land through an Access Point or Common Access Point off of four (4) roads identified as CMR 84, CMR 84A, CMR 84B, and the northern segment of CR 101D for a term of five (5) years or until a right-of-way is granted for access purposes, whichever is sooner;
  - (3) To authorize the Governor to grant specific temporary access across Pueblo Land to individual land owners seeking such specific access, subject to certain conditions contained in this Act.

**Section 1.4** **Findings**

The Council hereby finds and declares that:

- (a) The Pueblo and the County have been engaged in a long-standing dispute over certain roads within the boundaries of the Pueblo Lands involving allegations of trespass, takings, jurisdiction, and road maintenance.
- (b) In order to avoid expensive and protracted litigation, the Pueblo, the County, and DOI have executed the Roads Settlement Agreement to resolve these long-standing disputes.
- (c) The Roads Settlement Agreement calls for interim steps and permanent measures to resolve the disputes regarding the roads including granting temporary permits to utilize certain existing roads, to provide temporary access to certain roads to owners of Private Lands, and to grant specific temporary access to Private Lands pending the construction of a permanent replacement road and other Access Points and Common Access Points.

**Section 1.5 Temporary Public Road Permit to Santa Fe County**

- (a) The Governor is hereby authorized and directed to grant permits for temporary public roads, including permits for the continued use of such temporary public roads, to the County for roads described as CMR 84C, CMR 84D, and Sandy Way, for a period of five (5) years pending the construction of Yellowbird Loop as a Public Road; provided, that any such permit issued by the Governor shall include a provision that the County shall continue to maintain such roads at its sole expense during the term of the permit.
- (b) If Yellowbird Loop is not fully constructed and opened to the public at the end of the five (5) year permit term, the Governor is authorized to issue successive one (1) year extensions to the County until construction is completed, subject to the same maintenance requirements.
- (c) The Governor shall be authorized to prepare and issue written permits for temporary public roads as proscribed in the Roads Settlement Agreement.

**Section 1.6 Temporary Access Authorization for Private Land Owners**

- (a) The Governor is hereby authorized and directed to provide temporary access to Private Land from either an identified Access Point or Common Access Point off of CMR 84, CMR 84A, CMR 84B, and the northern segment of CR 101D, for a term of five (5) years or until a right-of-way is granted, whichever is first. The Governor is not required to issue temporary access permits to individual Private Land Owners who access their property from these designated Access Points or Common Access Points; provided that Private Land Owners may seek specific temporary access permits pursuant to Section 1.7 herein.
- (b) Private Land Owners who access their property from roads described as CMR 84C, CMR 84D, and Sandy Way for which a temporary five (5) year public road permit has been issued to the County pursuant to Section 1.5 above, are deemed authorized to hold temporary access to those roads over Pueblo lands from their existing point of access; provided this authorization does not allow a Private Land Owner to change their existing point of access during the time the County holds the temporary public road permit. After the construction of Yellowbird Loop, an Access Point or Common Access Point off of Yellowbird Loop will be identified for future access to Private Land(s). All other grants or authorizations for temporary access under this Act shall expire at that time.
- (c) Nothing in this Section 1.6 shall authorize the Governor to grant access, nor is access authorized by this Act, to Private Lands over any Pueblo Land from any unauthorized roads of convenience or from anywhere other than an Access Point or a Common Access Point.

**Section 1.7 Specific Temporary Permit for Private Land Owners**

- (a) The Governor is hereby authorized and directed to grant permits for specific temporary access across Pueblo Land to individual land owners, who request such a permit, for access to their Private Land, in accordance with the terms of the Roads Settlement Agreement. The term of such permits shall be five (5) years or until the permittee has a means of lawful access to a BIA Road via an Access Point or Common Access Point; provided that the Governor shall be authorized to issue subsequent one-year permits in accordance with the terms of the Roads Settlement Agreement.
- (b) Nothing in this Section 1.7 shall authorize the Governor to grant access to Private Lands over any Pueblo Land from any unauthorized roads of convenience unless specifically identified and authorized in the temporary permit.

**Section 1.8 Disclaimers and Limitations**

- (a) The issuance of any permit or grant of access under this Act shall not confer, grant, or recognize, whether expressly or impliedly or in whole or in part, any property right or property interest in anyone or any entity, including without limitation, the County and any individual.
- (b) The Governor shall have the right to revoke a permit or a grant for temporary access if, in the Governor's determination, the County or anyone with an interest in Private Land has not complied with, or is not in compliance with, any material term of the Roads Settlement Agreement or permit.
- (c) Nothing in this Act shall alter, amend, or impact in any way, any claims by any party that are not otherwise covered by the Roads Settlement Agreement.
- (d) Nothing in this Act shall authorize the Governor to alter, ignore, or otherwise violate the terms of the Roads Settlement Agreement.

**Section 1.9 Jurisdiction of the Courts over Disputes**

- (a) Any dispute arising under this Act, excluding any dispute involving the County, shall be decided exclusively in the Courts of the Pueblo. Any dispute involving the County is governed by Roads Settlement Agreement.
- (b) Nothing in this Act shall be interpreted to waive the Tribe's immunity from suit except for the purposes of enforcing this Act through non-monetary equitable relief in the Courts of the Pueblo.

**Section 1.10 Approval of the U.S. Department of the Interior**

The Governor is hereby authorized to take any and all actions necessary, if any, to seek and obtain the approval of DOI for any temporary road permit, a grant of temporary access, or any other action taken pursuant to this Act if such approval is deemed necessary.

**Section 1.11 Sunset Provision**

- (a) This Act shall be effective from the date of enactment through the end of the period of the following events, whichever occurs last:
  - (1) Five (5) years from the date of enactment by the Council; or
  - (2) The full construction of Yellowbird Loop and Blue Dove Road and opened as public roads, and the granting of ROWs to the BIA for the New Roads and those County Maintained Roads as identified in the Roads Settlement Agreement.
- (b) The Council reserves the right to reevaluate this Act and extend the effective term of the Act as needed to accomplish the purpose and goals of the Roads Settlement Agreement.