

Cooperative Agreement No. A17AC000_____

COOPERATIVE AGREEMENT
between
U. S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS, NAVAJO REGION
and
SAN JUAN COUNTY, STATE OF UTAH

Provide Road Maintenance Service on the Bureau of Indian Affairs Road System.

ARTICLE I - RECITALS

This Cooperative Agreement (“CA”) is entered into by and between the County of San Juan, a political subdivision of the State of Utah (the “County”), and the Bureau of Indian Affairs, Navajo Regional Office Division of Transportation, an agency of the United States Department of the Interior (the “BIA”). The purpose of this CA is for the County to carry-out certain road maintenance activities on BIA system roads located within San Juan County, BIA-Western Navajo Agency and BIA-Northern Navajo (Shiprock) Agency.

- 1.1 The County is authorized by Utah Codes Ann. § 11-13-202 (1) to enter into cooperative agreements for cooperative action with agencies of the United States or Tribal governments.
- 1.2 Utah Codes Ann. § 72-3-103 (1)(c) authorizes the County to maintain public BIA System Roads within the County, “including are located on property under the control of a federal agency and constructed or maintained by the county under agreement with the appropriate federal agency.”
- 1.3 The BIA has the primary responsibility to improve and maintain roads on the BIA Road System.
- 1.4 Congress has appropriated funds for the BIA Road Maintenance Program as part of the appropriations for the BIA, and a portion of those funds have been designated by the Secretary of the Interior for the BIA Road Maintenance Program (RMP). The BIA Navajo Region – Division of Transportation (NRDOT) anticipates receiving a portion of the BIA-RMP funds to carry out by direct service maintenance activities on BIA System Roads within the exterior boundaries of the Navajo Indian Reservation, part of which is located within San Juan County, Utah.
- 1.5 The BIA, with the assent of the Navajo Nation government, believes that a CA allowing the County to carry out maintenance activities on public BIA System Roads on the Navajo Indian Reservation within San Juan County, Utah.

ARTICLE II - PURPOSE

- 2.1 The purpose of this CA is for the County to carry out maintenance activities on certain earth roads designated as BIA System Roads within the exterior boundaries of the Navajo Nation that lie within San Juan County, Utah, as such maintenance activities are described in the attached Scope of Work Attachment “A” and Scope of Work Attachment “B”.

Road maintenance is defined as an activity necessary to repair, preserve, restore and maintain a road to a safe, usable, and/or original condition. Road maintenance does not include road improvement. Earth Road Maintenance, as defined in the Scope of Work Attachment “A” and “B”, is the only activity authorized under this agreement that may be performed at this time.

ARTICLE III - TERMS

- 3.1 **Financing:** The County will develop an annual budget to conduct road maintenance activities as set forth in Scope of Work Attachment “A” and Scope of Work Attachment “B”. The BIA, in consultation with the Navajo Nation government, will annually review and approve the proposed budget. Provided that the Navajo Nation has declined the opportunity to enter into a self-determination agreement to contract for the BIA-RMP pursuant to the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638 (as amended) (ISDA), the BIA will pay the County an amount of \$210,800.00 per year of BIA road funds for those maintenance activities conducted by the County. Payment shall be made upon receipt of quarterly invoices. Procedures for invoices and payments are set forth in Article VI below. The balance of the cost of conducting road maintenance activities on BIA System Roads under this Agreement shall be borne by the County.
- 3.2 **Term:** This CA shall become effective upon signing by both parties and shall continue to be binding upon the parties through September 30, 2023. This CA may be renewed annually for up to five (5) additional years, but only upon formal written agreement signed by the authorized representatives of both parties. This CA and any renewals are subject to the availability of funds to the NRDOT to carry out BIA-RMP activities. Unless renewed by the parties exercising the next option year this CA terminates automatically at the end of the term specified in this section.

Base Year	Date of CA signature to September 30, 2023
Option Year 1	October 1, 2023 to September 30, 2024
Option Year 2	October 1, 2024 to September 30, 2025
Option Year 3	October 1, 2025 to September 30, 2026
Option Year 4	October 1, 2026 to September 30, 2027

- 3.3 Termination: Either party reserves the right to terminate this CA at any time. In such event, the terminating party shall provide a written notice to the other party 30 calendar days prior to the effective date of termination. Notices shall be delivered, mailed or faxed to the key officials identified in Article V.
- 3.4 Recordation: This CA shall be filed with the San Juan County Recorder pursuant to Utah Codes Ann. § 17-34-4 and shall become effective on the date provided in Section 3.2 of this CA.
- 3.5 Modifications: This CA may be amended in writing by mutual consent of both parties. No modifications shall be considered final until a written modification is executed by the Contracting Officer for the BIA, and approved by the San Juan County Board of Commissioners and recorded with the San Juan County Recorder. The parties may propose a modification to this CA by submitting a written modification before June 30 of each year.

ARTICLE IV - RESPONSIBILITIES

- 4.1 The County shall perform authorized maintenance activities in strict compliance with all state, local, tribal, and federal codes and regulations (i.e., 82-IAM, cultural resource requirements on federal lands and Clean Water Act requirements). The BIA is responsible for mitigation of any discovered cultural properties during the performance of the maintenance activities.
- 4.2 The County shall not disturb any artifacts or sites of possible archaeological significance noted during authorized maintenance activities, and shall immediately report to the BIA Agency Road Engineer and the NRDOT Regional Transportation Engineer the discovery of any such artifacts or sites.
- 4.3 The County shall be responsible for providing all labor, equipment, materials, quality control, safety plan, and traffic control necessary to perform the authorized road maintenance activities. When the roads are maintained, it shall be done so as to provide for a safe condition suitable for the road class and surface type.
- 4.4 The County is responsible for insuring that all traffic control required to perform maintenance activities authorized under this CA is in compliance with the latest “Manual of Uniform Traffic Control Devices” (MUTCD), as amended.
- 4.5 The County shall be solely responsible for any damages to the road and roadside appurtenances caused by the negligent performance by the County in carrying out its obligations under this CA.

- 4.6 The County shall maintain written records (i.e., dates, locations, work performed, personnel involved in performance of work, materials utilized, cost, etc.) of road maintenance activities performed under this CA. These records shall be made available to the BIA upon request.
- 4.7 The BIA shall inspect the County's road maintenance activities periodically and shall inform the County in writing of any deficiencies noted.
- 4.8 The performance of this CA shall be subject to events of force majeure. Events of force majeure shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or public enemy, war, riot, civil commotion, insurrection, government or de facto government action (unless caused by acts or omissions of the parties) fires, explosion, rain or other weather delays, floods, strikes, slowdowns or work stoppages.

ARTICLE V – KEY OFFICIALS

- 5.1 The key officials for each party are as follows:

San Juan County
Mr. Mack McDonald
Chief Administrative Officer
San Juan County
117 South Main Street #221
P.O. Box 9
Monticello, Utah 84535-0009
(435) 587-3225, FAX (435) 587-2447

San Juan County Road Department
Mr. Todd Adair
Road Superintendent
San Juan County
181 East Center Street
P.O. Box 188
Monticello, Utah 84535-0188
(435) 587-3230, Fax (435) 587-2771

BIA-Western Navajo Agency
Mr. Henry Begay
Branch of Road Maintenance
P.O. Box 127
Tuba City, Arizona 86045
(928) 283-2233, FAX (928) 283-2227

BIA-Shiprock Agency
Mr. Alfred Reed Jr.
Branch of Road Maintenance
304 N. Auburn Ave, Suite E
Farmington, NM 87401
(505) 258-7172, (505) 258-7174

BIA-Navajo Regional Office
Contracting Officer
Division of Acquisition
P.O. Box 1060
Gallup, New Mexico 87305
(505) 863-8257, FAX (505) 863-8382

ARTICLE VI - REPORTING, BILLING AND PAYMENT

- 6.1 **Records and Reports:** Records and reports will be maintained by both the County and the BIA for all activities, funding and expenditures related to this CA. Upon request by either party, the other party shall provide access to or copies of all such records and reports. The Daily Report Form is provided in Appendix A as an example.
- 6.2 **Funding:** Disbursement of Allocated BIA Road Maintenance Funds is as shown below. Funding for any option years shall be provided by written amendments to this agreement subject to the availability of funds under different accounting strings.

<u>BIA Agency</u>	<u>Accounting and Appropriation Data</u>				<u>Amount</u>
Western	22XA2100DD	A0T965056.999900	AANN333730		\$49,600.00
Western	23XA2100DD	A0T965056.999900	AANN333730		\$49,600.00
Shiprock	22XA2100DD	A0T965056.999900	AANN323730		\$55,800.00
Shiprock	23XA2100DD	A0T965056.999900	AANN323730		\$55,800.00

- 6.3 **Invoice and Payment:** The County shall submit all original invoices quarterly before the 30th of the end of each quarter; i.e., December 30th, March 30th, June 30th and September 30th, with the following information in Appendix B as an example as well. In addition, one (1) copy shall be sent to the Contracting Officer, the BIA-Western Navajo Agency, Branch of Road Maintenance and the BIA-Shiprock Agency, Branch of Road Maintenance.

Submit original invoices to Designated Billing Office: Automated Standard Application for Payments (U.S. Department of Treasury) must be used at <https://www.asap.gov>.

The Billing/Payment Office will be responsible for obtaining a certification from the BIA-Western Navajo Agency, Branch of Road Maintenance and the BIA-Shiprock Agency, Branch of Road Maintenance, that the invoices have been approved (authorized) for payment by the Contracting Officer.

Submit copies of the invoices to:
Contracting Officer
ATTN: BIA-Division of Acquisition
P.O. Box 1060
Gallup, New Mexico 87305

Submit copy of the invoice to:
Mr. Henry Begay
BIA-Western Navajo Agency, Branch of Road Maintenance
P.O. Box 127
Tuba City, Arizona 86045

Submit copy of the invoice to:
Mr. Alfred Reed Jr.
BIA-Shiprock Agency, Branch of Road Maintenance
304 N. Auburn Ave, Suite E
Farmington, NM 87401

The invoices shall include the name and address of the BIA Agency, CA number, current date, and original signature of an authorized person. The BIA shall make payments to the County within thirty (30) days of receipt of approved invoices.

- 6.4 Any funds provided under this CA that are not spent on authorized maintenance activities for BIA System Roads shall be returned to the BIA at the end of each fiscal year.

ARTICLE VII - OTHER TERMS AND CONDITIONS

- 7.1 In the event of any controversy which may arise out of this CA, the County and BIA agree to select a procedure and forum mutually acceptable to them to informally resolve such dispute.
- 7.2 Appropriation - Nothing contained in this CA shall be construed as binding the BIA or the County to expend in any one fiscal year any sum in excess of funding provided by this CA or in excess of available appropriations made by Congress, or to obligate any amount for the future expenditure of funding in excess of available appropriations, or in excess of any amount established in this CA.
- 7.3 Nothing in this CA is intended to nor shall it be interpreted to grant or alter any existing jurisdiction of any government over BIA System Roads.
- 7.4 Nothing in this CA is intended to nor shall be interpreted to allocate or shift any current or future liability of a party to this CA due to such party's acts or omissions to the other party to this CA.
- 7.5 Nothing in this CA is intended to nor shall be interpreted to establish or enhance any rights by any person, government, or other entity not a party to this CA. Nothing in this CA shall prevent BIA from consulting with representatives of the Navajo Nation and San Juan County, Utah concerning BIA participation pursuant to this CA.
- 7.6 By entering into the CA, neither the County nor the BIA waive, nor shall they be deemed to waive, any immunity or defense that would otherwise be available to them against claims arising by third parties.

ARTICLE VIII - ACCEPTANCE AND APPROVAL

IN WITNESS WHEREOF, the parties hereto have executed the CA as of the dates given below:

SAN JUAN COUNTY

Approved by resolution of the San Juan County Board of Commissioners at a duly noticed open meeting held on the _____ day of _____, 2022.

_____ Commissioner Chair	_____ Date
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ATTEST:

_____ Clerk of the Board	_____ Date
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COUNTY ATTORNEY APPROVAL:

Approved as to form and found to be within the powers and authority of the San Juan County Board of Supervisors under the laws of the State of Utah:

_____ Deputy County Attorney	_____ Date
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BUREAU OF INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE

_____ Contracting Officer, Navajo	_____ Date
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ATTACHMENT “A”
SCOPE OF WORK BIA WESTERN NAVAJO AGENCY BORM

The BIA authorizes the County to expend up to \$99,200.00 (as shown in the CA) of BIA annual allocated funds (subject to availability of funds) to supplement the funding the County will expend in accordance with the terms and conditions of this Agreement for road maintenance services on public BIA system roads located within San Juan County, Utah, and the Navajo Indian Reservation, BIA Western Navajo Agency.

STATEMENT OF WORK

BIA funds agreed to above shall be used by County for labor, equipment, supervision, transportation, materials, and other incidentals necessary to provide the road maintenance services and necessary improvements agreed upon on designated federally funded public BIA system earth roads located within San Juan County, Utah, and BIA Western Navajo Agency, as follows:

Route	Description	Road Inventory (RI) Sections	RI Length (miles)	ADT
N42	From US 163 near Arizona-Utah state line, then northwest, then south toward Boot Mesa via Gouldings and Oljetoh	20 & 25	3.49	449
N61	From US 163 to west Douglas Mesa	20 & 30	4.54	262
N6325	From Jct. of N42 northwest to Copper Canyon	20, 30, 35, 40 & 60	10.5	245
N6410	From Jct. of N42 southeast to the Arizona- Utah state line	10	0.35	177
N6440	From US 163 to Arizona-Utah state line	20, 40, 50, 70 & 75	15.15	68
N6444	From N6440 to N6440	10, 20	4.78	50
N6470	From US 163 to Halgaitoh Wash	10	2.0	50
N6480	From US 163 to Jct. of N6440	10	0.2	440
N6471	From Jct. of N61 northeast	10	3.4	50
	Total Miles		44.41	

The County shall confine all maintenance equipment and activities strictly within the existing road template, following the existing road contours. The existing road template consists of the existing road traveled way and existing roadside ditches. The existing road contours consist of the surface of the traveled way; no cutting into the surface of the traveled way is permitted without the proper NEPA clearances. The County shall not disturb any artifacts of possible archaeological significance noted during maintenance activities, and shall report the discovery of them to the respective Agency Road Engineers who will coordinate any and all mitigations with the NRDOT.

A. THE ROAD MAINTENANCE FOR EARTH ROADS SHALL CONSIST OF:

1. Grading roads to provide a passable driving surface, and to maintain the existing road elevation and side drainage ditches as applicable. Roads shall be maintained four (4) times per year, unless otherwise agreed to by San Juan County Road Department Head and the BIA-Regional Transportation Engineer.
2. Repairing weather damaged roads and drainage crossings (not including bridges) shall be on an emergency basis as necessary. A situation shall qualify for such consideration if both the San Juan County Road Department Head and the BIA Regional Transportation Engineer agree that an emergency exists.
3. Provide the Agency BORM a monthly work accomplishment report similar to the form in Appendix C to this agreement.

ATTACHMENT “B”
SCOPE OF WORK BIA SHIPROCK AGENCY BORM

The BIA authorizes the County to expend up to \$111,600 (as shown in the CA) of BIA annual allocated funds (subject to availability of funds) to supplement the funding the County will expend in accordance with the terms and conditions of this Agreement for road maintenance services on public BIA system roads located within San Juan County, Utah, and the Navajo Indian Reservation, BIA Northern Navajo Agency.

STATEMENT OF WORK

BIA funds agreed to above shall be used by County for labor, equipment, supervision, transportation, materials, and other incidentals necessary to provide the road maintenance services and necessary improvements agreed upon on designated federally funded public BIA system earth roads located within San Juan County, Utah, and BIA Northern Navajo Agency, as follows:

Route	Description	Road Inventory (RI) Sections	RI Length (miles)	ADT
N5060	N 12 east via Red Mesa to AZ Line	40, 50 & 60	12.4	256
N5061	N5060 north to N5090	10, 20 & 30	16.8	81
N5062	N35 west to N5061	10	4.1	74
N5063	N12 east to CR409 (Montezuma Creek)	10, 15, 20, 25 & 30	17.6	133
N5065	UT! 62 east to N5099	10 & 15	7.4	82
N5066	UT! 62 north to N5099	10	8.7	240
N5067	N5099 north to Navajo Reservation boundary	10	2.5	57
N5089	AZ Line nmih to N5060	10 & 20	7.1	76
N5090	N5061 west	10	2.1	74
N5099	Hatch T.P. east to CR402	60	0.3	379
N35	AZ Line north to N5063	90 & 100	5.1	844
	Total Miles		84.1	

The County shall confine all maintenance equipment and activities strictly within the existing road template, following the existing road contours. The existing road template consists of the existing road traveled way and existing roadside ditches. The existing road contours consist of the surface of the traveled way; no cutting into the surface of the travel way is permitted without the proper NEPA clearances. The County shall not disturb any artifacts of possible archaeological significance noted during maintenance activities, and shall report the discovery of them to the Agency Road Engineer who will coordinate any and all mitigations with the NRDOT.

A. THE ROAD MAINTENANCE FOR EARTH ROADS SHALL CONSIST OF:

1. Grading roads to provide a passable driving surface, and to maintain the existing road elevation and side drainage ditches as applicable. Roads shall be maintained four (4) times per year, unless otherwise agreed to by San Juan County Road Department Head and the BIA-Regional Transportation Engineer.
2. Repairing weather damaged roads and drainage crossings (not including bridges) shall be on an emergency basis as necessary. A situation shall qualify for such consideration if both the San Juan County Road Department Head and the BIA Regional Transportation Engineer agree that an emergency exists.
3. Provide the Agency BORM a monthly work accomplishment report similar to the form in Appendix C to this agreement.

APPENDIX A



NAVAJO REGION

DIVISION OF TRANSPORTATION

Agency Code: _____

Date: _____

Work Order #: _____

Contract/Agreement: _____

Weather: _____

Level of Service (LOS): (1=Excellent, 2=Good, 3=Fair, 4=Poor, 5=Failing)

Description of Work Performed	LOCATION		ACCOUNTING CODE		SURFACE TYPE				Accomplishment		
	Route	M.P. / MI.	Program	Activity	Paved	Gravel	Earth	Other	No.	Units	LOS
	Bridge		Code	Code			U / I				
1											
2											
3											
4											
5											
6											

PERSONNEL							
Employee	Title	Description of Work	Regular		O.T.		Personnel Cost
			Hours	Rate	Hours	Rate	
1							
2							
Total:							

EQUIPMENT UTILIZATION							
Tribal or GSA Vehicle	Vehicle I.D. / Tag #	Mileage		Total Operation	Vehicle		
		Starting	Ending		Rate	Unit	Cost
1							
Support Equipment		Equipment I.D. / Tag #	PM Inspection Performed?	Total Operation	Equipment		
					Rate	Unit	Cost
2							
3							
Total:							

MATERIAL & PARTS COST							
Ref. No.		Material I.D.	Description	Qty.	Unit	Unit Cost	Cost
Rte.	Eq.						
Total:							

PROGRAM EXPENSE											
Agency	Route	Program Code	Activity Code	L.O.S.	Personnel Cost		Vehicle Cost	Equipment Cost	Material Cost		Total
					Reg.	O.T.			Route	Equipment	
Total:											

Reviewed By: _____ Date: _____

Approved By: _____ Date: _____

APPENDIX B

San Juan County Road Department

181 E. Center St.
P.O. Box 188
Monticello, Utah 84535-0188
(435) 587-3230

Invoice

Date	Invoice #

To:
Contracting Officer BIA – Division of Acquisition P.O. Box 1060 Gallup, New Mexico 87305

For:
Road Maintenance Services
Contract No. A17AC000____

[illegible]

THANK YOU FOR YOUR BUSINESS!

Subtotal: _____
 NN Tax (5.0%): _____
 Total: _____
 Payments/Credits: _____
 Balance Due: _____

Route Work Accomplishments Report

[illegible]