

COOPERATIVE AGREEMENT

Between

THE UNITED STATES GOVERNMENT
DEPARTMENT OF INTERIOR
BUREAU OF INDIAN AFFAIRS (BIA)

And

THE KANSAS DEPARTMENT OF TRANSPORTATION (KDOT)

PURPOSE: The current Federal-Aid Transportation Act requires states to set aside certain portions of their federal funding allocated under the current Federal-Aid Transportation Act for Transportation Enhancement (TE) projects. The Prairie Band Potawatomi Nation ("PBPN") has proposed a TE project for a pedestrian/bicycle path on the Prairie Band Potawatomi Nation Reservation in Jackson County, Kansas. Pursuant to an agreement between a state and a federal agency, TE projects may be undertaken by a federal agency pursuant to 23 U.S.C. §132. The Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended, 25 U.S.C. §450, et seq., (the "ISDEAA") allows Indian tribes to enter into self-determination contracts with the BIA for certain projects or activities that would otherwise be performed by the BIA, including construction projects. Federal laws and regulations contemplate and encourage tribal use of TE funds pursuant to the foregoing scenario. The Federal Highway Administration, the BIA, and the PBPN have requested KDOT to take such steps as are deemed by KDOT to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for a TE project.

PROJECT: KDOT and the BIA desire to enter into this Agreement for the construction of a pedestrian/bicycle path on the Tribe's reservation in Jackson County, Kansas. KDOT has authorized this Project and is described as follows:

The construction of Phase II and Phase III of the 10' asphalt pedestrian and bicycle trail from L4 Lane at 158 & L, through a residential housing area at M & 152 trailing past the Prairie People Park crossing a pre-1910 relocated steel bridge (three pedestrian bridges) and past a historical hay rock area with inscriptions dating back to the mid 19th century, ending at a soon-to-be upgraded ballpark and the Buffalo Lookout tower.

EFFECTIVE

DATE: The parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the 19th day of July, 2005.

ARTICLE I

THE SECRETARY AND BIA AGREE:

1. The administration of the Project will be transferred from KDOT to the BIA as authorized by 23 U.S.C. § 132, and federal-aid payments for this Project will be made by KDOT in accordance with 23 U.S.C. §132.
2. The Project will be administered by the BIA pursuant to the ISDEAA, 25 C.F.R. Part 900 and 25 C.F.R. Part 170.
3. The BIA's performance is contingent upon the execution of a valid self-determination contract between the BIA and the PBPB for the construction of the Project, which contract shall include terms requiring the PBPB to bear the local match of fifteen percent (15%) for the Project and to bear one hundred percent (100%) of the Project costs that exceed \$437,647.06 (the "local share").
4. The PBPB has assured both KDOT and the BIA that they will have acquired the property needed for the Project prior to the time of the Project letting. Further, the PBPB has assured both KDOT and the BIA that they have sufficient funding to cover the local share.
5. The execution of a valid self-determination contract between the BIA and the PBPB is contingent upon federal laws and regulations including qualifications and terms independent of the terms of this Agreement.
6. The BIA is not expected to contribute any funding to the Project independent of that funding provided to the BIA by KDOT pursuant to 23 U.S.C. § 132.
7. If the BIA and the PBPB are unable to enter into a valid self-determination contract for the construction of the Project or if the PBPB does not fulfill the terms of its self-determination contract, this Agreement will be null and void and any unobligated deposits or payments made by KDOT will be returned to KDOT with no obligation on the part of the BIA to complete the Project. The BIA agrees to return to KDOT any portion of the federal TE funds that is not used on the Project to KDOT within thirty (30) days after the Project is complete.
8. That the Project is scheduled to start construction no later than 2006 and be completed no later than 2007.
9. That this is a pilot agreement for future 23 U.S.C. §132 agreements. If either party requests documentation or information, the other party agrees to provide the requesting party such documentation or information from the appropriate entity.
10. Nothing herein shall be construed as a waiver of the sovereign immunity of the

United States or of the State of Kansas or of the State of Kansas' rights under the Eleventh Amendment of the Constitution of the United States.

ARTICLE II

KDOT AGREES:

1. To pay federal TE funds in the amount of eighty-five percent (85%) of the total actual and eligible costs of construction and construction inspection, but not to exceed a maximum of \$372,000 for the Project (the "federal share"), to the BIA pursuant to 23 U.S.C. §132.

ARTICLE III

THE BIA AGREES:

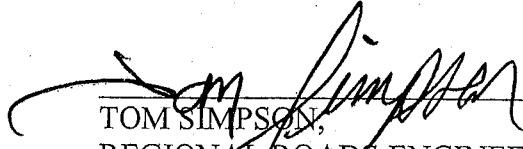
1. To enter into negotiations with the PBPN for a self-determination contract under the ISDEAA and 25 C.F.R. Part 900, wherein the PBPN would agree to construct the Project utilizing tribal funds to satisfy the local share along with the federal share paid to the BIA pursuant to this Agreement.
2. To administer the Project according to all applicable laws, regulations, policies, procedures, and practice, including, but not limited to, the ISDEAA, 25 C.F.R. Part 170 and Part 900, the Indian Reservation Roads ("IRR") Program, and any and all applicable environmental and cultural laws, regulations, policies, and procedures.
3. To require the PBPN to construct the Project pursuant to the IRR Program design standards as listed in the ISDEAA, 25 C.F.R Part 170 and 25 C.F.R. Part 900, and to monitor the PBPN's construction performance and construction inspection pursuant to the ISDEAA, 25 C.F.R. Part 170, and 25 C.F.R. Part 900.
4. When all Project work has been accomplished, to submit a statement of completion and a final cost report to KDOT for the purposes of preparing a final voucher to the FHWA and otherwise cooperate with KDOT toward the close-out of the Project.

(The signature page immediately follows this paragraph.)

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

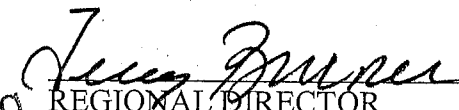
ATTEST:

BUREAU OF INDIAN AFFAIRS
SOUTHERN PLAINS REGIONAL OFFICE


TOM SIMPSON,
REGIONAL ROADS ENGINEER

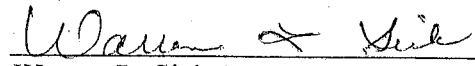
ATTEST:

BUREAU OF INDIAN AFFAIRS
SOUTHERN PLAINS REGIONAL OFFICE

Acting  JUL 19 2005
REGIONAL DIRECTOR

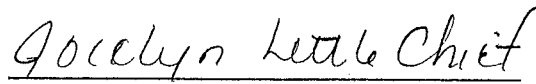
ATTEST:

Debra L. Miller
Secretary of Transportation

BY: 
Warren L. Sick, P.E.
Assistant Secretary and
State Transportation Engineer



ATTEST:

 6/29/05

Jocelyn LittleChief
Contracting Officer
1420-4222-0906