

FAQs About County and Pueblo Right of Way Agreements

1. **Why did the County, the Pueblos, and the United States (Settlement Partners) negotiate Right-of-Way Settlement Agreements rather than litigate the roads issue?** *The County, the Pueblos, and the United States agreed that litigation would unnecessarily divide the affected communities for years to come and that, by settling, the Settlement Partners would avoid the uncertainty and great expense of litigation. A negotiated win-win settlement is a far better approach than win-lose litigation to resolve the long-standing debate about the roads on Pueblo land.*
2. **What types of Settlement Agreements were negotiated?** *The County has separately negotiated the key principles of settlement with the United States and each Pueblo. The Settlement Partners are now in the final stages of negotiating four formal Settlement Agreements that will resolve the roads issue on each Pueblo. Although each Settlement Agreement includes unique terms, they also have many terms in common. In addition, the Settlement Agreements can be divided into two general types. Under the Settlement Agreements for the Pueblos of Pojoaque and Tesuque, the Pueblos will consent and BIA will grant the County rights-of-way for County-maintained roads within those Pueblos. Under the Settlement Agreements for the Pueblos of Nambe and San Ildefonso, the County and those Pueblos will grant the BIA rights-of-way for County-maintained roads and place those roads in the Tribal Transportation Program. In all cases, the rights-of-way will be granted for two 99-year terms. In some cases, where there is no dispute that a specific County-maintained road is already subject to an adequate right-of-way, the Settlement Partners agreed that no further grant is necessary.*
3. **Why are there 4 different Settlement Agreements with different approaches?** *Each road situation is different on each of the Pueblos. Each Pueblo is a separate government and addressed the roads situation within its lands differently according to the needs of the Pueblo and its community. Each Agreement is tailored to resolve the roads issue within each Pueblo.*
4. **What is the difference between a Right-of-Way granted to the County by the BIA (the approach taken by the Pueblos of Pojoaque and Tesuque) and a Right-of-Way granted by the County and the Pueblo to the BIA (the approach taken by the Pueblos of Nambe and San Ildefonso)?** *The difference is mostly technical, because in both cases the roads in question will remain public roads for generations to come (198 years, at a minimum). The technical difference is that, when BIA grants a road right-of-way to the County, the County obtains an easement across Pueblo land along the surveyed right-of-way route. In contrast, when the Pueblo and the County grant rights-of-way to the BIA, the Pueblo and the County are granting easements to the BIA across Pueblo and private land, respectively. Note that the Settlement Partners agree that the County already has easements through years of public use where the County-maintained roads cross private land.*

5. **Can any of these roads be closed by the Pueblos or BIA during the term of the Settlement Agreements?** *The Pueblo and BIA will not permanently close the roads during the term of the rights-of-way or remove the roads from the BIA public roads inventory. However, a Pueblo may on occasion temporarily close a road for cultural purposes, as has been done in the past. The Settlement Agreements will not change a Pueblo's policies regarding temporary closures.*
6. **What is the term of Rights-of-Way and what happens to the roads at the end of the term?** *The rights-of-way will be granted for an initial term of 99 years, and will automatically renew for a second 99-year term. At the end of the 198-year period, the rights-of-way for the roads will revert to the party that granted or assigned them, unless the parties otherwise agree at that time.*
7. **How do these agreements help me?** *The Settlement Agreements resolve a decades-old problem by making the identified roads unequivocally public roads with continuous lawful public access across both Pueblo and private land, either through grants of rights-of-way to the County or to the BIA. The Settlement Agreements will also resolve the "gap" issues where driveways or access roads cross Pueblo lands, enabling property owners to obtain insurable access to their homes.*
8. **Will the Settlement Agreements resolve the ingress and egress issues with the title companies?** *Yes. The Settlement Agreements will provide for long term access to private property off of the identified roads through the grants of rights-of-way, and each Pueblo will establish a long-term process for those properties in which a gap of Pueblo land exists between the property and the road. This will provide a long-term solution to the "gap" issue.*
9. **How do the Settlement Agreements affect my individual rights as a private land owner within the exterior boundaries of a Pueblo?** *Your individual property rights will not be affected. In fact, your property will benefit from this long-term resolution of the roads and "gap" issues, since it is designed to enable property owners to obtain insurable access required to have marketable title and for financing purposes.*
10. **Who will maintain the roads?** *Under all four Settlement Agreements, the County will maintain the roads for the term of the rights-of-way, regardless of whether the roads rights-of-way are granted to the County or the BIA.*

- 11. How will the Settlement Agreements affect land use issues for my property?** *The Settlement Agreements do not address land use issues directly. However, in reviewing and approving new development on private lands within the Pueblos, the County will require the ingress and egress to the subject lot(s) to be consistent with the legal access points established under the Settlement Agreements.*
- 12. How will this affect utilities to my property?** *The Settlement Agreements acknowledge that the Pueblos have sole authority to allow the installation of utilities along roads that cross Pueblo lands. However, since at least 2004, the County has required utility companies to obtain Pueblo consent before they install utilities along the County-maintained roads on Pueblo land. Accordingly, the Settlement Agreements should not affect the utilities serving your property.*
- 13. Why aren't the Right-of-Way Agreements granted in perpetuity?** *The County and the Pueblos understand the concern for a long term solution, especially since it affects the ability to obtain title insurance and financing. However, after consulting with representatives of the title insurance industry, the Settlement Partners concluded that two 99-year terms, totaling 198 years, provide long-term stability and enable private property owners to obtain lawful access, title insurance, and financing. In addition, it is common for sovereign entities, including the State of New Mexico, not to grant rights-of-way or other easements across their land in perpetuity.*
- 14. Will my street address change?** *As part of the Settlement Agreement, the roads within the Pueblo de San Ildefonso will be renamed by the Pueblo. Your street address will not change right away, however, because the renaming will be done in a phased approach over several years and you may see signs for both the County Road designations and the new road names for a period of time. The renaming will be consistent with E-911 service requirements. Other Pueblos may rename roads within their lands.*
- 15. Who provides law enforcement on each type of Right-of-Way?** *The Settlement Agreements will not change allocation of criminal jurisdiction as between federal, state, and local law enforcement officials over the County-maintained roads. The complicated rules governing law enforcement jurisdiction in Indian Country will continue to apply.*
- 16. Will the Settlement Agreements raise my property taxes or be paid for by a local tax assessment?** *No, while the Settlement Agreements impose costs on the County, these costs will be paid entirely from existing revenue sources. The Settlement Agreements will not cause any increase in property or other taxes, will not be funded by a local tax assessment of any kind, and will not be funded by general obligation bonds paid from property taxes.*