



The Navajo Nation **DR. BUU NYGREN** PRESIDENT

Yideeskáadi Nitsáhákees | *Think for the Future*

May 29, 2025

Coconino County
210 East Cherry Avenue
Flagstaff, AZ 86001

ATTENTION: Christopher Tressler, Public Work Director

REFERENCE: 164 Review 024834

Dear Mr. Tressler

Attached is your copy of the approved Agreement MOA288 with the Navajo Nation Division of Transportation. The term of the agreement will begin June 27, 2025, and expires Five (5) Years After.

Reference the agreement number on all documents and correspondence as it relates to this agreement.

Should you have any questions, call Ardaniel Joe Begay at 505-371-8351.

Sincerely,

Darlene Begay, Senior Accountant
OOC – Contract Administration

xc: Ardaniel Joe Begay, Navajo Nation Division of Transportation
Folder: MOA288



**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE NAVAJO NATION
AND
COCONINO COUNTY, ARIZONA**

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is made and entered into by and between the Navajo Nation, acting through its Navajo Division of Transportation (the "NATION"), and Coconino County, a political subdivision of the State of Arizona, acting through its Public Works Department (the "COUNTY").

WHEREAS, the NATION is a sovereign entity and has the inherent power to plan and develop an integrated transportation network of highways, roads, waterways, airports, railroads and pipelines; and

WHEREAS, the COUNTY is authorized by A.R.S §11-952 to enter into intergovernmental agreements for joint or cooperative action with agencies of the United States and/or Tribal governments; and

WHEREAS, in the face of a failure by the federal government to reauthorize certain funding for the federal program that provides counties with funds to maintain school bus routes, the NATION and the COUNTY had previously discussed potential collaboration on road maintenance and/or simple improvement projects for certain existing school bus routes within Coconino County and the Navajo Nation; and

WHEREAS, the COUNTY and the NATION had reached an informal agreement in principle as a result of these previous discussions on collaboration, whereby the COUNTY would contribute funding towards maintenance and certain small-scale, easily-mobilized improvements, contingent upon obtaining voter approval for this funding; and

WHEREAS, in 2014, voters in Coconino County approved Coconino County Road Maintenance Sales Tax Ballot Measure Proposition 403 ("Prop. 403"), whereby certain road maintenance projects will be funded through revenues raised through the levy of a dedicated road maintenance sales tax (the "Prop. 403 Sales Tax"); and

WHEREAS, among other plans for maintenance projects to be funded by the Prop. 403 Sales Tax, the COUNTY has established the "Navajo Nation Capital Projects Matching Fund" ("FUND"), which has provided at least \$200,000 per year for the total 20-year life of the Prop. 403 Sales Tax. Recently, the Coconino County Board of Supervisors approved a FY25 budget of \$500,000; and

WHEREAS, the Parties wish to collaborate on the allocation of Funds for the purpose of maintaining the level of service, safety, and reliability of existing school bus routes which are identified in Attachment A (286 miles of road) ("ROUTES");

WHEREAS, the Parties have determined that a cooperative approach to funding emergency response for road damage, capital road improvement projects, and routine road maintenance will yield the greatest benefit for the communities which travel these ROUTES;

WHEREAS, A.R.S. § 11-251(4) authorizes the COUNTY to maintain public roads within its boundaries; and

WHEREAS, A.R.S. § 28-6705 and A.R.S. § 11-251(29) authorizes the Coconino County Board of Supervisors to maintain certain public roads, including those highways that pass through Indian reservations;

WHEREAS, the NATION and the COUNTY have previously entered into a Memorandum of Understanding signed 02-11-2022 pursuant to Legislation No. 0086-07, Intergovernmental Relations Committee # IGRMA-50-07 (the "MOU"), expressing their intent to cooperate in transportation-related projects for their mutual benefit; and

WHEREAS, consistent with the MOU and their prior informal agreement, the PARTIES desire to enter into this IGA to formalize this agreement,

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Purpose.** The purpose of this Intergovernmental Agreement (IGA) is to define the roles, responsibilities, and expectations of the COUNTY and the NATION in their collaboration on Emergency Repairs of Roadways, General Maintenance Support, and Road Construction Projects. The Parties intend for the COUNTY to contribute an annual sum, as approved by the Coconino County Board of Supervisors, to be allocated from the FUND in accordance with the provisions outlined below.

The FUND will be distributed/allocated among three categories, Emergency Repair, General Maintenance Support and Road Construction Projects, described below in 1A, 1B, and 1C. This strategic allocation of capital funds is designed to ensure a balanced approach to immediate needs and long-term improvements, fostering safe, resilient, efficient, and sustainable transportation infrastructure.

1A. Emergency Repairs: a portion of the FUND, not exceeding 20% of the annual total, may be allocated for emergency repairs of ROUTES. This allocation is reserved for addressing damages and critical issues resulting from natural disasters, accidents, or wear and tear beyond normal expectations. Upon request from the Nation, the County will manage these emergency repairs, utilizing the allocated FUND resources. This work may include, but is not limited to, pothole patching, debris removal, road washout repairs, snow plowing, and culvert repair or replacement.

1B. General Maintenance Support: Up to 20% of the annual FUND may be allocated for General Maintenance of ROUTES. This includes routine repairs and preventative maintenance activities, such as blading, minor drainage cleanouts, and pothole repair, aimed at prolonging the lifespan of the roads. When requested by the Nation, the COUNTY will be responsible for managing this work entirely, using the allocated portion of the FUND.

The first General Maintenance Support work will take place on Navajo Route 213, which includes road resurfacing work. This work is expected to be completed by August, 2025.

1C. Road Construction Projects: At least 60% of the annual FUND will be dedicated to Road Construction Projects aimed at enhancing ROUTES to meet the needs of the local community and the traveling public. These Road Construction Projects typically include the resurfacing of gravel roads, improvements to gravel road infrastructure, and associated drainage systems. The NATION will perform all work related to these Road

Construction Projects, which includes, but is not limited to, Engineering, Environmental Compliance, Construction Administration, and Project Management. It is expected that the Nation will fund a significant portion of these projects and the COUNTY will provide 60% of the FUND, to augment the amount contributed by the NATION.

A. Road Construction Projects: Each 1C Road Construction Project must be described in a separate Attachment that shall be appended to this IGA, with the written approval of the authorized representatives of both Parties.

- i. Any 1C Road Construction Project shall be governed by the terms of this IGA.
- ii. Any such 1C Road Construction Project shall be directed towards repair, maintenance, and/or improvement of existing ROUTES that are located on the Navajo Nation.
- iii. The details for all 1C Road Construction Projects shall be developed cooperatively between the NATION and the COUNTY, and such details, together with other documents related to the proposed projects shall form the basis of the "separate Attachment(s)" to this IGA, and upon which the Parties will rely to gauge completeness and sufficiency of the 1C Road Construction Projects.
- iv. The NATION and the COUNTY shall meet at least annually to review progress on any 1C Road Construction Projects that are in process of being implemented under this IGA, and to propose, discuss, and agree upon possible 1C Road Construction Projects to be completed under this IGA.
- v. It shall be the responsibility of the NATION to identify and inform the COUNTY by means of a 5-year plan, detailing which roads have the appropriate engineering, environmental, and archeological clearance work completed, as well as applicable timelines for completion of such work on roads where such work has yet to be completed, so that the COUNTY will have sufficient information to allow it to effectively and timely collaborate with the NATION in deciding what potential future 1C Road Construction Projects may be feasible and appropriate to undertake pursuant to this IGA.
- vi. It shall be the responsibility of the NATION to contract with or otherwise procure appropriate contractors to perform future 1C Road Construction Project work.

2. Funding.

A. Funding for 1A, 1B, and 1C Category Work. The budget for all 1A, 1B, and 1C Category Work, as described in Section 1 above, shall not exceed the FUND balance.

- i. Each year, the COUNTY shall contribute an amount approved by the BOS during the annual budget cycle towards 1A, 1B and 1C Category Work.
- ii. It is understood and agreed by the Parties that the COUNTY's contributions towards 1A, 1B and 1C Category Work, are to be paid out of the FUND from Prop. 403 Sales Tax, and therefore, all such contributions by the COUNTY shall not be required to be paid to the NATION or expended by the COUNTY, until the COUNTY is in receipt of sufficient Prop. 403 Sales Tax in the FUND to cover its contribution amount in full.
- iii. It is specifically and expressly understood and agreed that the amount which the COUNTY is required to contribute is directly linked to receipts from collection of the Prop. 403 Sales Tax, and that the funds approved by the BOS may be reduced due to economic downturns, which impact the transportation related revenues.
- iv. It is further specifically and expressly understood and agreed that the amount which the COUNTY is required to contribute under this IGA may be reduced due to the annual maintenance costs of roads, such as snow severity, the cost of oil, gasoline, and diesel, road and/or bridge failures, and required responses to natural disasters, such as those that result in flooding and road damage, which the COUNTY maybe facing. In the event of any such occurrences, it shall not be deemed a breach of this IGA if any of these referenced events in Section 2(B)(iii) and/or (iv) cause the COUNTY to be unable to contribute any or all of the \$200,000 minimum contribution hereunder.
- v. Either the COUNTY or the NATION, in their respective sole and complete discretions, may elect to contribute any sum above and beyond the minimum annual contribution of \$200,000 (an "Excess Contribution"), but neither the COUNTY, nor the NATION shall be compelled to match any Excess Contribution voluntarily made by the other.

B. Right of Inspection & Notifications. The COUNTY shall have a right of inspection of all 1C Road Construction Project work as specified hereafter.

- i. It shall be the responsibility of the NATION to manage all work 1C Road Construction Project work and to notify the COUNTY when such work is completed.
- ii. Prior to the commencement of any new 1C Road Construction Project work, the COUNTY shall be given at least four (4) weeks to inspect the work on the present pending 1C Road Construction Project work for completeness and consistency with specifications stated in the applicable Attachment to this IGA.
- iii. If the COUNTY's inspection of 1C Road Construction Project work

reveals that it remains incomplete, or is otherwise inconsistent with the specifications stated in the applicable Attachment to this IGA, the COUNTY may withhold any and all further contributions under this IGA until the present pending 1C Road Construction Project work is both complete and appropriately consistent with specifications detailed in the applicable Attachment.

3. Division of Duties.

- A. **Duties of the NATION.** The Parties agree that the NATION shall be responsible for performing all work in implementing and completing 1C Road Construction Projects, including but not limited to, permitting, providing all project engineering, planning and management, conducting all required archeological and environmental studies and obtaining all necessary clearances, procuring materials and supplies required to complete the 1C Road Construction Projects,, and providing all labor and equipment to complete the road repair and/or improvement activity for the 1C Road Construction Projects.
- B. **Duties of the COUNTY.** It is hereby agreed and understood that the COUNTY's role shall be limited to collaborating with the NATION in identifying, scoping and concepting appropriate 1C Road Construction Project, and in making the contributions provided for in Section 2 above.
- C. **Voluntary Assistance by COUNTY.** 1A Emergency Repairs of "Routes" and 1B General Maintenance support as outlined in section 1 above, may be provided by the COUNTY as requested by the NATION, if the COUNTY's available resources and FUND balance so allow, but it is understood that the completion of the 1C Road Construction Projects, are the responsibility of the NATION.
- D. **Timelines.** If no work on any 1C Road Construction Project is initiated within any given 18-month period, the Parties shall immediately schedule a meeting to discuss delays, scoping, and the feasibility of timely initiating a 1C Road Construction Project.

4. Procurement Procedures.

- A. Unless otherwise agreed in writing by the Parties, if the COUNTY should be required to assist in procurement for any 1A, 1B and 1C work, all materials and supplies procured by the COUNTY pursuant to this IGA shall be procured in accordance with the Arizona Procurement Code and the Coconino County Procurement Policy. Procurement shall include the delivery of the materials and supplies by the vendor to the site(s) where they are required.
- B. In all instances where the NATION procures materials and supplies in furtherance of this IGA, the NATION shall follow the Navajo Nation Procurement Act [12 N.N.C. §§ 301 et seq.], the Navajo Business and Procurement Act [12 N.N.C. §§ 1501 et seq.]; the Navajo Preference in Employment Act [15 N.N.C. §§ 601 et seq.]; and the Navajo Nation Business Opportunity Act [5 N.N.C. §§ 201 et seq.].

5. Payment to the NATION.

A. Payment of PROJECT Invoices. The NATION shall provide the COUNTY with invoices for the COUNTY share of the 1C Road Construction Project work. The COUNTY will pay the invoice out of the FUND for completed, inspected and approved 1C Road Construction Project work within 30 days of receiving the invoice.

- i. Payments shall be in conformity with the provisions and specifications set forth in Section 2(A) above.
- ii. Notwithstanding this deadline, the COUNTY's obligation to make any annual contribution is made expressly contingent upon satisfactory compliance with the provisions specified in Section 2(B) above.

B. "At Cost" Basis for All PROJECT Expenses. All accounting for expenses in furtherance of all 1A, 1B, and 1C shall be at a strictly "at cost" basis. For materials, supplies, equipment, services, and labor, the NATION and the COUNTY shall include only those actual costs and any directly related procurement expenses (newspaper ads, etc.) as allowable deductions against the budget for 1A, 1B and 1C work. Neither the COUNTY, nor the NATION shall charge or expense any overhead or administrative expenses against the budget for any work.

- i. If the FUND is not adequate to complete any 1A, 1B and 1C work, work must be suspended until new annual contributions are received, unless one or both of the Parties elect to make an additional and voluntary Excess Contribution, as provided by Section 2(B)(vii) above.
- ii. The NATION shall have no obligation to continue with any 1C Road Construction Projects, for which adequate funding has not been allocated and received.
- iii. The COUNTY shall have no obligation to continue or complete any 1A, 1B and 1C work, for which adequate funding has not been received, as described in 2Aiv above.

C. Budget Reporting Requirements. The NATION will provide to the COUNTY a quarterly report showing 1C PROJECT expenditures.

- i. Each quarterly report shall reference this IGA and the appropriate Attachment thereto.
- ii. The NATION shall provide for strict accountability of all costs of materials, supplies, equipment, and labor applied against the advance funding, and shall maintain an accurate accounting of all other expenditures related to 1C Road Construction Projects.
- iii. The NATION shall preserve such records for at least three (3) years following the final payment under this IGA, or any extension thereof.

- iv. Copies of all correspondence, reports, and invoices associated with this IGA shall be made available to both the NATION and to the COUNTY.

6. Assignment. Neither the COUNTY, nor the NATION shall assign or transfer any interests in this IGA, or assign any obligations, responsibilities, claims, or rights thereunder without the prior written approval of the other Party.

7. Term. This IGA shall not become effective until executed by both the President of the Navajo Nation and the Chairman of the Coconino County Board of Supervisors. This IGA shall terminate 5 years after the date of the last signature.

8. Amendment / Renewal. This IGA shall not be altered, changed or amended except by a written instrument executed by both parties. On or before the scheduled date of termination, this IGA may be renewed for one or more additional years with the written concurrence of both Parties.

9. Termination. Either Party may terminate this IGA, or its participation in any future work, upon written notice if the other Party has failed to cure a default hereunder thirty (30) days after written notice of default from the non-defaulting Party. Upon such termination, payment of any outstanding expenses in furtherance of 1A, 1B, and 1C work incurred prior to the date of termination shall be paid. Any funds advanced to the NATION but not spent or committed shall be refunded to the COUNTY on or before thirty (30) days following the date of termination.

10. Scope of Agreement. This IGA incorporates all of the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this IGA. No prior agreement or understanding, oral or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this IGA.

11. Severability. If any portion of this IGA is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this IGA shall remain in full force and effect.

12. Other Terms and Conditions.

- A. Nothing in this IGA is intended to, nor shall it be interpreted to, grant or alter any existing jurisdiction of any government over the NATION's public roads. The COUNTY's participation in this IGA is in the spirit of cooperation described in the MOU, and, except as expressly set forth herein, the COUNTY shall have no authority, responsibility or liability in connection with any 1A, 1B and 1C related work, including road deterioration as a result of road use.
- B. Neither the NATION nor the COUNTY waives any rights (including but not limited to treaty rights, immunities, sovereign immunities, jurisdictional defenses, or defenses based on their respective protecting laws). Nothing in this IGA creates, implies or shall be construed to create any right of action in any third party.
- C. Nothing in this IGA is intended to, or shall be interpreted to, allocate or shift any current or future liability of a Party to this IGA due to such Party's acts or omissions to the other Party to this IGA.

- D. The NATION acknowledges that it will be responsible for claims of damages arising from personal injury or damages to persons or property to the extent they result from the negligence of tribal employees and/or independent contractors engaged by the NATION. The liability of the NATION shall be subject to the immunities and limitations provided for under the Navajo Nation Sovereign Immunity Act, 1 N.N.C. §§551 *et seq.*
- E. The NATION shall further require any such independent contractors to obtain and present to it a copy of any endorsement(s), rider(s), or other amendment(s) to its insurance policy(ies) or bond(s) necessary to effectuate the provisions of this Section.
- F. Further, the NATION shall include the COUNTY as an "additional insured" on its own insurance policies. in conjunction with any 1A, 1B or 1C work under this IGA.
- G. The NATION shall provide the COUNTY with a copy of all endorsements and/or other proofs that it has complied with the provisions of this Section 12.

13. Limited Waiver of Sovereign Immunity. For the purposes of this Agreement, and subject to the terms of this section, the Nation consents and agrees to a limited waiver of its sovereign immunity from suit and consents to be sued on an arbitration award. The Nation represents this limited waiver of sovereign immunity has been duly approved by the Nation's Tribal Council, as authorized by the Arbitration and Sovereign Immunity Acts of the Navajo Nation. The Nation is not waiving its right to assert the defense of sovereign immunity except as expressly set forth, referred to, and provided for, in this Agreement. This limited waiver is enforceable solely by the County as limited hereunder and does not create any additional third party beneficiary rights to suits or private causes of action in favor of third Parties. The Parties agree that this section provides a limited waiver of sovereign immunity solely for the purpose of enforcing the provisions of this Agreement and enforcing any arbitration award hereunder and for no other purpose.

14. Dispute Resolution. In the event of a dispute, or controversy ("Dispute") arising out of or related to this Agreement, the Parties agree that it is in their mutual best interest to meet as promptly as possible for the purpose of informally resolving said Dispute. In the event the Parties cannot resolve their Dispute informally after attempting to work in good faith, the Parties hereto agree to abide by arbitration as set forth below and that an order compelling arbitration or a judgment enforcing the arbitration award shall be the only relief of any kind provided by the State or Tribal court.

- A. Arbitration: If a party in good faith concludes that a Dispute arising out of or related to this Agreement is not likely to be resolved by informal dispute resolution then, upon notice by that Party to the other, said Dispute shall be finally and exclusively settled by submission of such Dispute to the American Arbitration Association ("AAA") under its then prevailing procedural rules contained in the AAA's Commercial Arbitration Rules to the extent that such rules shall not be interpreted to diminish, limit, or void the limited waiver of sovereign immunity set forth in Section 1 above or to increase

the enforcement rights of the Parties. Within ten(10) days after the notice of intent to arbitrate, each party shall select one person to act as arbitrator and the two selected shall select a third arbitrator within ten (10) days of their appointment. The third arbitrator shall be a practicing attorney, actively engaged in the practice of law for at least ten (10) years and a member in good standing of the bar of the State of Arizona. Alternatively, the third arbitrator may be a retired judge of the federal court or the trial court of the State of Arizona. At least one of the arbitrators shall be knowledgeable with federal Indian law and one arbitrator shall have AAA-acknowledged expertise in the appropriate subject matter. By agreement of the parties, when the amount in controversy renders the cost of three arbitrators unreasonable, the parties may agree to select a single arbitrator to resolve a dispute. All arbitration proceedings shall be held in Coconino County (Flagstaff, AZ) or at such other place as shall be agreed by the Parties.

- B. Award.** The award shall be made within sixty (60) days of the filing of the notice of intent to arbitrate, and the arbitrators shall agree to comply with the schedule before accepting appointment. However, this time limit may be extended by agreement of the Parties or by the majority of the Parties or by the majority of the arbitrators, if necessary. Any award rendered in any such arbitration proceeding shall be final and binding upon all Parties to the proceeding. Any action to enforce the arbitration award must be filed within one hundred and eighty (180) days from the issuance of the award.
- C. Governing Law.** This Agreement, including any claims or dispute arising hereunder submitted to binding arbitration shall be governed by the laws of the State of Arizona.
- D. Enforcement.** Judgment upon any award rendered by the arbitrators against the Nation may be entered in the Nation's Tribal court system ("Tribal Court") or against the State of Arizona in the Arizona State Court System ("Court System") and interpreted and/or enforced pursuant to the terms of this Agreement, and/or pursuant to the terms of the AAA's Commercial Arbitration Rules, and/or pursuant to the terms and provisions of the statutes, rules and regulations governing or providing for interpretation or enforcement of judgments applicable in any State of Arizona or Navajo Nation court.

[INTENTIONALLY LEFT BLANK]

14. Key Officials. The key officials for each party are as follows:

COCONINO COUNTY

Christopher Tressler
Public Works Director
210 East Cherry Avenue
Flagstaff, Arizona 86001

Office (928) 679-8317

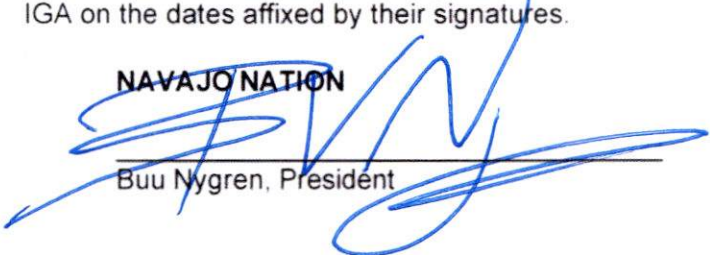
NAVAJO NATION

Tom Platero
NDOT Division Director
P.O. Box 4620
Window Rock, Navajo Nation (AZ) 86515

Office (505) 371-8377

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this IGA on the dates affixed by their signatures.

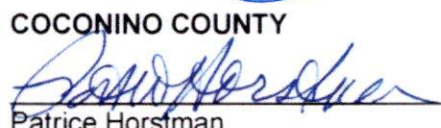
NAVAJO NATION


Buu Nygren, President

JUN 27 2025

Date


COCONINO COUNTY


Patrice Horstman,
Chair, Board of Supervisors

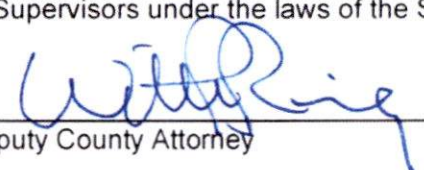
5/27/2025

Date

ATTEST:

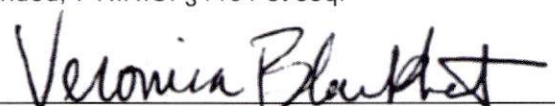

Clerk of the Board

Approved as a form and found to be within the powers and authority of the County Board of Supervisors under the laws of the State of Arizona.


Deputy County Attorney

6/2/2025
Date

DEPARTMENT OF JUSTICE APPROVAL. Pursuant to 1 N.N.C. §554(J)(2) and (K)(2), Navajo Nation Department of Justice approval is required for all agreements that include a limited waiver of sovereign immunity to compel or enforce arbitration under the Navajo Nation Arbitration Act, as amended, 7 N.N.C. §1101 et seq.


Navajo Nation Department of Justice

Attachment A - Schedule of Roads

Route	Description	Length (miles)
N16	From U.S. 160 to S.R. 98	11.31
N21	From N20 to N6331 (Kaibeto Boarding School)	23.08
N70	From N15 to N6732	15.12
N212	From 2121 to N213	3.25
N213	From U.S. 160 to N21	16.88
N213	From N21 to N21	4.29
N215	From N21 to just passed N6230	6.75
N6230	From U.S.160 to just short of N6220	4.09
N6260	From N21 to N16	15.70
N6261	From N21 to N16	10.15
N6262	From U.S. 160 to N21	1.97
N6270	From N6260 to N16	5.43
N6330	From S.R. 98 to S.R. 98	25.94
N6330	From N6330 to S.R. 98	3.45
N6720	From N2 to 264 (minus 21mile Hopi section)	19.60
N6730	From US89 to N6720	41.91
N6732	From N6730 to N2	20.51
N6812	From N2 to N24	4.00
N6910	From N15 North to N70	7.81
N6910	From N15 South to Reservation Line	11.85
N6920	From N15 North to N70	3.75
N6920	From N15 South to N6921	3.90
N6932	From N15 South to N6933	1.50
N6933	From N15 South to N6932	4.25

Total Miles: 266.5