

**AGREEMENT
COVERING THE TRANSFER OF FEDERAL AID
FUNDS IN EXCHANGE FOR
NON-FEDERAL TRANSPORTATION DOLLARS**

THIS AGREEMENT (“Agreement”) is made as _____, 20____, between the XXXX County Road Commission (“Party A”) and the YYYY County Road Commission (“Party B”) for the purpose of setting forth the terms upon which federal aid funds available to party A will be transferred to and become available for use by Party B, in exchange of non-federal transportation dollars that will be paid to Party A by Party B.

WHEREAS, The XXXX County Road Commission and YYY County Road Commission are county road agencies pursuant to Michigan Public Act 283 of 1909; and

WHEREAS, county road agencies may transfer federal highway aid available to them to other county road agencies for certain purposes subject to approval by the MDOT and Federal Highway Administration (“FHWA”). 23 U.S.C. 126; and

WHEREAS, Party A has determined that it is in its best interest to transfer available federal aid funds in exchange for non-federal transportation dollars to enable the most efficient use of dollars and cost effective performance of improvements to its county road system; and

WHEREAS, Party B has determined that it is in its best interest to exchange non-federal transportation dollars and acquire additional federal aid funds which will be available to efficiently enhance the transportation system and cost effectively be incorporated and utilized on project(s) identified in the state or urbanized area Transportation Improvement Program (hereinafter referred to as the “S/TIP”); and

WHEREAS, Both Party A and Party B understand that the federal aid funds that will be transferred, will be limited to, federal aid funds available under the Surface Transportation Program (hereinafter referred to as “STP”). This transaction will be known as the “Federal-aid Exchange Program”; and

WHEREAS, Both Party A and Party B understand that the non-federal transportation dollars can be from any non-federal funding source that the Party B has at its disposal; and

WHEREAS, Party A and Party B shall inform its respective Rural Task Force (hereinafter referred to as "RTF") or Metropolitan Planning Organization (hereinafter referred to as "MPO") of its intention to utilize the Federal-aid Exchange Program to transfer STP funds between County Road Commissions. In addition, each Party will process any necessary S/TIP amendment(s) with its respective RTF or MPO.

WHEREAS, Party A desires to transfer \$_____ of STP funds available to the county in exchange for non-federal transportation dollars from Party B; and

WHEREAS, Party B desires to transfer non-federal transportation dollars at its disposal to Party A in the amount of \$_____ in exchange for the transfer of STP funds available to Party A. Said federal funds transferred will be incorporated into the STP fund balance available to Party B and will be identified on a S/TIP as funding available for use on a S/TIP project approved by its RTF or MPO; and

WHEREAS, County Road Commissions in Michigan are authorized to enter into voluntary exchange agreements for the purpose of exchanging federal aid funds with state transportation dollars pursuant to Section 402 of Public Act 252 of 2014;

NOW, THEREFORE, the parties agree as follows:

1. The above introductory paragraphs are made a part hereof and incorporated herein.

2. Party A hereby authorizes the transfer of STP Funds available to them in the fiscal year _____ in the amount of \$_____ to Party B. Party B agrees to pay Party A (\$_____) in non-federal transportation dollars for every one dollar of STP funds transferred. Party B agrees to pay Party A the full agreed upon amount of non-federal transportation dollars within 30 days of the date when MDOT transfers the STP funds to Party B. It is understood that the amount of STP funds ultimately available to Party A may be adjusted due to a change in the amount of STP funds available at the time of exchange. In the event that final obligation of STP Funds to Party A is changed due to an adjustment, the amount paid by Party B shall be a pro rata adjustment. However, should the amount of STP funds finally available for obligation to Party A increase or decrease by more than ten percent (10%) from the amount indicated in the first sentence of this paragraph, Party B may seek to renegotiate the terms of payment or terminate this Agreement.

3. Party B agrees to submit necessary S/TIP amendment(s) to its RTF or MPO to acknowledge the transfer of STP funds according to the terms of this agreement and agree to make revisions (to the extent required by the RTF or MPO) to any planning documents, provide any approvals and execute any documents necessary to allow the transfer to be processed. In addition, Party B agrees that the STP Funds will be utilized on federal aid eligible projects according to the terms of this Agreement.

4. Party A agrees to submit necessary S/TIP amendment(s) to its RTF or MPO to acknowledge the transfer of STP funds in accordance this Agreement and agree to make revisions to any planning documents, provide any approvals and execute any documents necessary to allow the transfer to be processed.

5. Party A agrees that all non-federal transportation dollars received under this Agreement shall be utilized on its federal aid eligible roads for activities and improvements (excluding routine maintenance) as outlined in Section 10c(l) of Michigan Public Act 51 of 1951 (MCL247.660c, Section 10c(l)), **OR**, shall be utilized, as matching funds on any federal aid project undertaken on its county road system.

6. The use of STP funds and non-federal transportation dollars received hereunder shall comply with the requirements of the applicable federal and state law and MDOT and FHWA rules and policies.

7. This Agreement is consistent with the provisions of the Local Federal Aid Exchange Program Guidelines which are incorporated by reference as if fully set forth in this Agreement.

8. This Agreement represents the parties' entire understanding and agreement with respect to the exchange and transfer of funds and dollars which is the subject of this Agreement, and supersedes all prior agreements between and among any of the parties with respect to this exchange.

9. The obligation of the transferred STP funds pursuant to this AGREEMENT is subject to appropriations and the availability of funds administered by MDOT and confirmation that Party A has received an obligation of STP funds which are the subject of this agreement.

10. This Agreement shall bind and inure to the benefit of the parties and its respective successors and assignees. No third-party beneficiary rights are created by this AGREEMENT.

11. This Agreement may not be amended or modified, except by a written agreement executed by the authorized representative of each party.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first stated above.

_____ COUNTY ROAD COMMISSION

_____ COUNTY ROAD COMMISSION

By: _____

By: _____

Title: _____

Title: _____

FROM act 51

- l*) "Preservation" means an activity undertaken to preserve the integrity of the existing roadway system. Preservation does not include new construction of highways, roads, streets, or bridges, a project that increases the capacity of a highway facility to accommodate that part of traffic having neither an origin nor destination within the local area, widening of a lane width or more, or adding turn lanes of more than 1/2 mile in length. Preservation includes, but is not limited to, 1 or more of the following:
- (i)* Maintenance.
 - (ii)* Capital preventive treatments.
 - (iii)* Safety projects.
 - (iv)* Reconstruction.
 - (v)* Resurfacing.
 - (vi)* Restoration.
 - (vii)* Rehabilitation.
 - (viii)* Widening of less than the width of 1 lane.
 - (ix)* Adding auxiliary weaving, climbing, or speed change lanes.
 - (x)* Modernizing intersections.
 - (xi)* Adding auxiliary turning lanes of 1/2 mile or less.
 - (xii)* Installing traffic signs in new locations, installing signal devices in new locations, and replacing existing signal devices.
- (m)* "Maintenance" means routine maintenance or preventive maintenance, or both. Maintenance does not

Rendered Friday, January 23, 2015 Page 17 Michigan Compiled Laws Complete Through PA 446 of 2014
© Legislative Council, State of Michigan [Courtesy of www.legislature.mi.gov](http://www.legislature.mi.gov)

include capital preventive treatments, resurfacing, reconstruction, restoration, rehabilitation, safety projects, widening of less than 1 lane width, adding auxiliary turn lanes of 1/2 mile or less, adding auxiliary weaving, climbing, or speed-change lanes, modernizing intersections, or the upgrading of aggregate surface roads to hard surface roads. Maintenance of state trunk line highways does not include streetlighting except for freeway lighting for traffic safety purposes.

- (n)* "Routine maintenance" means actions performed on a regular or controllable basis or in response to uncontrollable events upon a highway, road, street, or bridge. Routine maintenance includes, but is not limited to, 1 or more of the following:
- (i)* Snow and ice removal.
 - (ii)* Pothole patching.
 - (iii)* Unplugging drain facilities.
 - (iv)* Replacing damaged sign and pavement markings.
 - (v)* Replacing damaged guardrails.
 - (vi)* Repairing storm damage.
 - (vii)* Repair or operation of traffic signs and signal systems.
 - (viii)* Emergency environmental cleanup.
 - (ix)* Emergency repairs.
 - (x)* Emergency management of road closures that result from uncontrollable events.
 - (xi)* Cleaning streets and associated drainage.
 - (xii)* Mowing roadside.
 - (xiii)* Control of roadside brush and vegetation.
 - (xiv)* Cleaning roadside.
 - (xv)* Repairing lighting.
 - (xvi)* Grading.
- (o)* "Preventive maintenance" means a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that preserve assets by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventive maintenance includes, but is not limited to, 1 or more of the following:
- (i)* Pavement crack sealing.
 - (ii)* Micro surfacing.

- (iii) Chip sealing.
- (iv) Concrete joint resealing.
- (v) Concrete joint repair.
- (vi) Filling shallow pavement cracks.
- (vii) Patching concrete.
- (viii) Shoulder resurfacing.
- (ix) Concrete diamond grinding.
- (x) Dowel bar retrofit.
- (xi) Bituminous overlays of 1-1/2 inches or less in thickness.
- (xii) Restoration of drainage.
- (xiii) Bridge crack sealing.
- (xiv) Bridge joint repair.
- (xv) Bridge seismic retrofit.
- (xvi) Bridge scour countermeasures.
- (xvii) Bridge painting.
- (xviii) Pollution prevention.
- (xix) New treatments as they may be developed.
- (p) "County road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 750,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions. In addition, if a board of county road commissioners is dissolved as provided in section 6 of chapter IV of 1909 PA 283, MCL 224.6, county road commission includes the county board of commissioners of the county