



MICHIGAN COUNTY ROAD COMMISSION SELF-INSURANCE POOL
INTERGOVERNMENTAL AGREEMENT

PREAMBLE

This Contract and Intergovernmental Agreement is entered into by and between the Michigan County Road Commission Self-Insurance Pool (hereinafter “Pool”), and the undersigned road commission of the State of Michigan (hereinafter “Member”) executing this Agreement in counterparts pursuant to the Intergovernmental Contracts between Municipal Corporations Act, MCCL 124.1 et seq for the purpose of forming a self-insurance pooling program for the members which includes, but is not limited to, general liability coverages, auto liability coverages, property insurance coverages, stop loss insurance protection, claims administration, and risk management and loss control services pursuant to Act 138 of the Michigan Public Acts of 1982, as amended.

WITNESSETH

The Member, in consideration of having pooled self-insurance coverages and services made available to the Member, by the Pool and, in further consideration of other road commissions executing identical Intergovernmental Agreements, does hereby agree to become one of the Members of the Pool. The conditions of membership agreed upon by and between the parties are as follows:

1. Pool as Separate Legal Entity: Board of Directors as Trustees: Admission as Member. Member hereby agrees to participate in the formation and/or operation of the Michigan County Road Commission Self-Insurance Pool. The Pool shall be a separate legal entity with all of the powers and rights as set forth in Act 138 of the Michigan Public Acts of 1982, as amended, and shall consist of a Trust Agreement (hereinafter “Trust”) and such by-laws, rules and regulations as are from time to time adopted pursuant to the Trust. The Trust creating the Pool shall be in the form attached as Exhibit 1 hereto. The persons designated by the founding county road commissions as the Board of Directors charged with establishing the Pool shall be the initial trustees of

the Trust and shall hereafter be referred to as the “Board of Directors” of the Trust or the “Pool Board”. The responsibility of the Pool with regard to fixing contributions to the Pool, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surpluses and administering the Pool in the event of termination or insolvency shall be as set forth in the Trust creating the Pool, the Pool By-Laws, rules, regulations, coverage agreements and Intergovernmental Agreements entered into between the Pool and participating county road commissions. Any county road commission in the State of Michigan may join the Pool by execution of the Trust and an Intergovernmental Agreement and otherwise agreeing to become bound by and complying with the By-Laws, rules and regulations of the Pool. Member and all other participating members of the Pool shall execute such further agreements, forms and authorizations as are from time to time requested by the Pool.

2. **Term.** The duration of this Intergovernmental Agreement shall be for a one-year term commencing at 12:01 a.m. on _____ and subject to automatic renewal each year thereafter unless written notice is given by a Member to the Pool not less than sixty days prior to its anniversary date. The Pool or the Pool Board may terminate this agreement immediately upon termination of the Member for non-payment of contribution or upon termination for any other reasons as provided in this Agreement, in the Trust or in the By-Laws of the Pool. The withdrawal or termination of one Member shall not affect this Agreement with respect to the remaining Members.

3. **Member Contributions to Pool.** The Member agrees to pay contributions which shall be calculated according to the method determined by the Pool Board. All contributions are payable according to the schedule established by the Pool Board attached hereto as modified from time to time by the Pool Board. The Pool shall set aside from the contributions collected during each fiscal year a reasonable sum for the operating expenses or administrative expenses of the Pool for that year. All remaining



funds coming into the possession of the Pool with respect to that fiscal year of the Pool shall be set aside and shall be used only for the following purposes:

- A.** Fee for any Service Agent duly appointed by the Pool for that year of the Pool.
- B.** Payments of those benefits provided for by coverages afforded by the Pool.
- C.** Payment of legal fees and costs associated with all claims related to that fiscal year of the Pool.
- D.** Payment of assessments as required by applicable law.
- E.** Payment of cost of all bonds and auditing expense required of the Pool or its agents or employees.
- F.** Payment of all contributions and costs of excess insurance for protection obtained from outside carriers for exposure beyond that assumed by the Pool.
- G.** Payment of all costs associated with banking transactions in which the Pool is, or becomes, involved.
- H.** Distribution among the members during the fiscal year in such manner as the Pool shall deem to be equitable, of any excess monies remaining after payment of claims and claims expenses and after provision has been made for open claims and outstanding reserves and a reserve for claims incurred but not reported; provided, however, that no such distribution shall be made earlier than twelve (12) months after the end of each Pool Year; and provided, further, that undistributed excess funds from previous Pool Years may be distributed at any time if not required for loss funding and if approved for distribution by applicable Boards and authorities. The Pool may treat members who withdraw from future Pool Years differently and less favorably than the Pool treats members who continue in the Pool for future years.

- I. Payment of such other costs, fees and expenses as are incurred in furtherance of the operation and administration of the Pool in accordance with the Trust.

4. **Investment and Administration of Funds.** The Pool shall invest and Administer any and all funds that are on deposit with the Pool. The investment earnings from these funds shall be used for the benefit of all Members and, where appropriate, Associate Members.

5. **Insurance.** The Pool shall purchase both specific and aggregate stop-loss excess, umbrella and/or reinsurance coverage to the limits determined necessary by the Pool Board subject to the minimum limits specified in Appendix A. All Members are subject to the terms and conditions of such insurance agreements. Copies of said insurance agreements shall be provided to any Member upon request. The Pool reserves the right to adjust the provisions and limits of the stop-loss insurance agreements in the event that, in the opinion of the Pool Board, the fiscal soundness of the Pool will justify such an adjustment and/or result in a savings or other benefits to the Members.

6. **Compliance with Trust, By-Laws and Other Rules.** Member agrees that it will comply with any and all provisions of the Trust, the By-Laws, and all other rules, regulations, procedures, requirements, and other measures established by the Pool Board now or hereafter existing. In the event that the measures submitted by a servicing contractor on behalf of the Pool seem unreasonable, the Member has the right to appeal to the Pool Board. The decision of the Pool Board shall be final.

7. **Compliance with Coverage Documents.** Member agrees to comply with all conditions and requirements of the coverage documents issued to Member by the Pool, including, but not limited to, co-insurance requirements and appraisal requirements.

8. **Coordinator.** Member agrees that it shall appoint a coordinator and that the Pool and its servicing contractor(s) shall not be required to contact any other individual except the coordinator designated by Member. Any notice to or any



agreements with the coordinator shall be binding upon the Member. The Member reserves the right to change the coordinator from time to time by giving a written notice to the Pool Board and to the servicing contractor(s).

9. Claims. The Pool agrees, subject to the following conditions, to handle any and all claims presented, where there is valid and collectible coverage provided by the Pool to the Member:

- A.** The Pool may provide the services necessary to fulfill its obligations under this section by whatever means it deems most appropriate. This may include, but is not limited to, servicing contractors employed by the Pool, or direct employees of the Pool.
- B.** Member hereby appoints the Pool and servicing contractor(s), if any, as its agent and attorney-in-fact to act in all matters pertaining to processing, investigating, handling and settling of claims. Member shall cooperate fully in supplying any information needed or helpful in processing, investigating, handling and settling claims.
- C.** The Pool shall have the right and duty to defend any suit against the Member where coverage is provided by the Pool, even if any of the allegations of the suit are groundless, false, or fraudulent. In furtherance thereof, the Pool may make such investigation and settlement of any claim or suit as it deems expedient, but the Pool shall not be obligated to pay any claims or judgment or to defend any suit after the applicable limit of the Pool's liability has been exhausted by payment of judgments or settlements. The Pool shall have the right to expend the amount of the deductible, or any portion thereof, of any Member, at its sole discretion, when settling any claim or suit.
- D.** All decisions on individual cases shall be made by the Pool and/or the servicing contractor(s), if any. However, any Member shall

have the right to appeal any claim decision to the Pool Board. The decision of the Pool Board shall be final.

- E.** The servicing contractor(s), if any, shall provide all of the services as provided in the service contract entered into and between the servicing contractor(s) and the Pool on behalf of the Member.
- F.** There shall be supplied periodically to each Member reports containing claims payment information. The Pool may modify or improve these reports for the benefit of the Pool or Members and may change the format of these reports as the Pool Board determines necessary.
- G.** To the extent allowed by law, Member agrees to keep all claim information and reports confidential.
- H.** Member, upon written request of the Pool, shall tender all or such portion of its deductible as the Pool may deem necessary to complete the settlement of any claim or suit within 10 days from the date of the request.
- I.** Member shall report all claims, suits, or occurrences which may give rise to claims in a timely manner and in compliance with the Pool's requirements, as detailed in Appendix A.

10. Failure to Make Contribution or Required Payments. Member shall pay contributions in a timely manner. Any Member who is not more than ten (10) days in arrears shall be considered to be in compliance with this Section. In the event that Member fails or refuses to make payments of contributions or fees as herein provided, the Pool reserves the right to terminate such member by giving ten (10) days written notice and to collect any and all contributions and other required payments that are earned for the period preceding termination.

11. Yearly Audit. All Pool transactions shall be audited annually by a certified public accountant.



12. Ancillary Services. The Pool may provide services to Members or Associate Members without requiring corresponding Pool participation. The Pool Board shall establish the fees to be charged and other requirements for such services.

13. Coverage. Member shall agree to the coverages and limits provided by the Pool. Available coverages are listed in Appendix A. Member shall designate the deductible it wishes to apply to each category subject to the minimum deductibles established by the Pool and/or approval of the Pool Board. The Pool Board reserves the rights to expand the types and scope of coverage; provided, however, that all types of coverage shall be in compliance with Act 138 of the Michigan Public Acts of 1982 as amended from time to time. The type and amount of coverage provided to the Member is as set forth in Appendix B attached hereto and made a part hereof for Member only, which Appendix may be modified from time to time as agreed by the Member and the Pool.

14. Modification of Trust and By-Laws. The Members may modify the Trust and the By-Laws of the Pool from time to time as provided in the Trust and in the By-Laws.

15. Modification of Rates, Coverage and Procedure. The Pool Board may change any of the Appendixes attached hereto or hereafter added hereto provided thirty (30) days notice is given to all affected members. The modifications shall be effective and binding upon all members thirty (30) days after the written notice is mailed to Members.

16. Amendments. Member agrees that it will execute any amendment to this Agreement presented to it by the Pool Board unless the Pool Board specifically agrees to exempt Member from the requirement of execution of the amendment. Compliance with the terms of this provision shall be a condition of continued participation in the Pool by Member. In the event Member fails or refuses to comply with the terms of this provision, the Pool Board may terminate the Member's participation in the Pool upon thirty (30) days advance written notice.

17. Failure to Comply With Trust Agreement, By-Laws, Guidelines, Duties and/or Procedures Established by the Pool. In the event Member fails or refuses to comply with the terms and provisions of the Trust Agreement, By-Laws, guidelines, duties and/or procedures established by the Pool, the Pool may terminate Member's participation in the Pool upon thirty (30) days advance written notice.

18. Inspections. The Pool shall be permitted but not obligated to inspect the property and operations of Member at any time. Neither the Pool's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of Member or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

19. Audit of Member Books and Records. The Pool may examine and audit the Member's books and records at any time during the policy period and extensions thereof and within three years after the final termination of any Pool coverages for purposes relating to the subject matter of any Pool coverage.

20. Maintenance of Records. Member shall maintain records of such information as is necessary for contribution computation, and shall send copies of such records to the Pool at such times as the Pool Board may direct.

21. Subrogation. In the event of any payment by the Pool, the Pool shall be subrogated to all the Member's rights of recovery therefore against any person or organization and the Member shall execute and deliver instruments and papers, and do whatever else is necessary or otherwise requested by Pool to secure such rights; provided, however, that any sums recovered pursuant to subrogation shall be divided between the Member and the Pool in the same proportions as the amount of the expenses and judgment paid by the Member pursuant to its deductible and the amount of the expenses and judgment paid by the Pool (directly and through re-insurance). Member shall not engage in or otherwise commit acts after loss which prejudice such rights in any manner whatsoever.



22. **Transfer and Assignment.** This Agreement may not be transferred or assigned without the written consent of the Pool.

23. **Applicable Law.** This Agreement shall be governed by the laws of the State of Michigan.

24. **Captions.** The caption headings for each provision of this Agreement are included for informational purposes only and shall not be used to construe the provision more broadly or narrowly than the text would indicate.

25. **Binding Effect.** This Agreement is binding upon the parties hereto, their successors and assigns.

26. **Counterparts.** This Agreement, other than Appendix B, is intended to be executed by each Member of the Pool in Counterparts, each of which shall be an original and all of which shall constitute the same instrument.

IN WITNESS WHEREOF, this Agreement has been entered into the _____ day of _____, _____.

WITNESSES:

**MICHIGAN COUNTY ROAD
COMMISSION SELF-INSURANCE POOL**

By _____

_____ County Road Commission

By _____

ADDENDUM TO INTERGOVERNMENTAL AGREEMENT

(Adopted December 2008)

Addendum entered into by and between the Michigan County Road Commission Self-Insurance Pool (hereinafter "Pool") and the undersigned County Road Commission of the State of Michigan (hereinafter "Road Commission").

WHEREAS, Road Commission has advised the Pool that it desires to participate in the programs of the Pool and execute the Michigan County Road Commission Self-Insurance Pool Intergovernmental Agreement and the Declaration of Trust; and

WHEREAS, Road Commission has further advised the Pool that the effective date of Road Commission's participation in the Pool is to be a date other than April 1, 1984; and

WHEREAS, in furtherance of Road Commission's participation in the Pool, the Road Commission desires to tender to the Pool advance payments in anticipation of its participation in the Pool, which payments are to be held in escrow pending the effective date of participation by the Road Commission in the Pool; and

WHEREAS, the parties desire to reduce their understandings to writing;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. Effective Date of Participation in Pool. Road Commission shall become a participant in the Pool effective _____, ____.

2. Escrow of Funds. In consideration of the Pool's agreement to permit Road Commission to become a participant in the Pool on the effective date set forth hereinabove, Road Commission hereby tenders to the Pool the sum of _____, which sum shall be held in escrow by the Pool until the effective date of Road Commission's participation in the Pool. In furtherance thereof, said funds shall be held in a separate trust escrow account in the name of and for the benefit of Road Commission. Said funds shall remain in said trust escrow account until the effective date of Road Commission's participation in the Pool, at which time said funds shall be transferred to a regular Pool account and shall be credited towards Road Commission's required contributions to the Pool for participation in and coverage by the Pool; provided, however, that in the event Road Commission elects not to participate in the Pool in accordance with paragraph 3 hereof before its effective date of participation in the Pool then in that event the escrowed funds shall forthwith be returned to Road Commission together with any interest which has accrued on the escrowed funds.



3. **Termination of Agreement to Participate in Pool.** Road Commission shall have the right to terminate its agreement to participate in the Pool at any time prior to the effective date of its participation in the Pool by tendering written notice to the Pool of its election to terminate participation in the Pool. Said written notice must be received by the Pool prior to the effective date of Road Commission's participation in the Pool. After the effective date of Road Commission's participation in the Pool, any termination of participation in the Pool by Road Commission shall be in accordance with the terms and provisions of the Intergovernmental Agreement.

4. **Binding Effect.** This Agreement shall be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, this Addendum has been executed on the _____ day of _____, _____.

**MICHIGAN COUNTY ROAD COMMISSION
SELF-INSURANCE POOL**

By: _____

_____ County Road Commission

By: _____

**MICHIGAN COUNTY ROAD COMMISSION SELF-INSURANCE POOL
INTERGOVERNMENTAL AGREEMENT
APPENDIX A**

COVERAGES

- 1. Casualty insurance, including general liability, public officials and employment practices liability and automobile liability including no-fault coverages as required by Chapter 31 of the Michigan Insurance Code;**
- 2. Physical damage coverage including equipment breakdown; and**
- 3. Employee fidelity and faithful performance coverage.**