

**MICHIGAN COUNTY ROAD COMMISSION  
SELF-INSURANCE POOL  
(Hereinafter Called the Pool)**

**EMPLOYEE FIDELITY and  
FAITHFUL PERFORMANCE COVERAGE AGREEMENT**

---

Various provisions in this Agreement restrict coverage. Read this entire Agreement carefully to determine rights, duties and what is and what is not covered.

Throughout this Agreement, the words “you” and “your” refer to the Named “Member” shown in the Declarations. The words “we”, “us” and “our” refer to the Pool.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section F Definitions.

**A. COVERAGE AGREEMENT**

Blanket Employee Fidelity and Faithful Performance

We will pay for direct loss of or damage to Business Personal Property and “money” and “securities” resulting from dishonest acts (including “forgery” or alteration and computer fraud or “funds” transfer fraud) committed by any of your “employees” acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:

- a) Cause you to sustain loss or damage; and also
- b) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other “employee” benefits earned in the normal course of employment) for:

- i. Any “employee”; or
- ii. Any other person or organization.

## **B. LIMITS OF COVERAGE**

1. The Pool will pay for a loss the “Member” incurs only when a Limit of Coverage for Blanket Employee Fidelity is stated in the Employee Fidelity and Faithful Performance Declarations page. The Limit of Coverage applies on an “occurrence” basis, regardless of the period of time involved in the “occurrence”. The loss of “money”, “securities”, or “other property” owned by the “Member”, or for which the “Member” is legally liable, or held by the “Member” in any capacity whether or not the “Member” is legally liable must occur within the Coverage Period of the “Member”.
2. This Agreement covers property within the United States of America (including its territories and possessions), Puerto Rico and Canada.

## **C. DEDUCTIBLE**

We will not pay for loss resulting directly from an “occurrence” unless the amount of loss exceeds the Deductible Amount shown in the Declarations Certificate. We will then pay the amount of loss in excess of the Deductible Amount, up to the Coverage Limit.

## **D. EXCLUSIONS**

Coverage is not provided for any loss:

1. Caused by Accounting or Arithmetical Errors or Omissions.
2. Caused by any “employee” if any of the “Member’s” officials or officers, but not those in collusion with the “employee”, had knowledge of any fraudulent or dishonest act ever committed by the “employee”;
3. Resulting from any acts or omissions of any “employee” who caused any fidelity or crime coverage the “Member” had to be cancelled by specific written notice before this coverage went into effect, unless that “employee” was reinstated under the “Member’s” earlier fidelity or crime coverage.

4. Due to shortage disclosed on taking inventory or unexplained or mysterious disappearance. This does not apply to loss of “money”, “securities” or “other property” if the “Member” can prove, through evidence wholly apart from the inventory, that the loss was caused by any fraudulent or dishonest act committed by an “employee”.
5. Due to the unauthorized disclosure of confidential information.
  - a) Including, but not limited to, patents, trade secrets, processing methods or customer lists owned by the “Member”; or
  - b) Owned by another person or entity which is held by you including, but not limited to, financial information, personal information, credit card information or similar non-public information.
6. For which you are legally liable as a result of:
  - a) The deprivation or violation of the civil rights of any person by an “employee”; or
  - b) The tortious conduct of an “employee”; except conversion of property of other parties held by you in any capacity.
7. Resulting from the giving or surrendering of property in any exchange or purchase.
8. Resulting from damage to the “premises” resulting from fire however caused.
9. That is an indirect result of an “occurrence” covered by this Agreement including, but not limited to, loss resulting from:
  - a) Your inability to realize income that you would have realized had there been no loss of or damage to “money”, “securities” or “other property”.
  - b) Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this Agreement.





- c) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this Agreement.
10. For payment of fees, costs and expenses incurred by you which are related to any legal action, except when covered under Coverage Agreement A.2.
11. For damage to “motor vehicles, trailers or equipment and accessories” attached to them.
12. Resulting from nuclear reaction, nuclear radiation, or radioactive contamination, or any related act or incident.
13. Resulting directly or indirectly from trading, whether in your name or in a genuine or fictitious account.
14. Caused by a treasurer or tax collector by whatever name known.
15. From damages to the “premises” or to the exterior of any safe, vault, cash box, cash drawer or cash register by vandalism or mischief.
16. Resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntary part with title to or possession or any property.
17. Resulting from war, whether or not declared, warlike action, insurrection, rebellion, or revolution, or any related act or incident.

#### **E. CONDITIONS**

1. If, while this Coverage Agreement is in force, you hire additional “employees”, other than through consolidation or merger with, or purchase or acquisition of assets or liabilities of, another entity, such “employees” shall automatically be covered under the Coverage Agreement. Notice to us of an increase need not be given and no additional contribution need be paid for the remainder of the Coverage Period shown in the Declarations.
2. This Coverage Agreement’s terms can be amended or waived only by endorsement issued by the Pool and made a part of this Coverage Agreement.

3. The first Named “Member” shown in the Declarations:
  - a) Is responsible for the payment of all contributions; and
  - b) Will be the payee for any return contributions the Pool pays.
4. The Pool will pay only for covered loss “discovered” no later than one year from the end of the coverage period.
5. After the “Member” “discovers” a loss or a situation which may result in a loss of or damage to, “money”, “securities” or “other property”, you must:
  - a) Notify us as soon as possible but no later than 90 days after “discovery”.
  - b) Submit to examination under oath at our request and give us a signed statement of your answers.
  - c) Give us a detailed, sworn proof of loss within (90) days after “discovery”.
  - d) Cooperate with us in the investigation and settlement of any claim.
  - e) Notify the police if you have reason to believe that your loss involves a violation of the law.
6. The Pool may examine and audit the “Member’s” books and records as they relate to this Agreement at any time during the Agreement period and up to three years after the final termination of this Agreement.
7. We will indemnify any of your employees who are required by law to give bonds for the faithful performance of their duties when such failure has as its direct and immediate result a loss of your “money”, “securities” and “other property” subject to the Limit of Coverage.
8. The Pool shall be permitted, but not obligated, to make inspections and surveys at any time. We may give you reports on the conditions we find and recommend changes. We are not obligated to make any inspections, surveys, reports or recommendations, and any such actions we do undertake relate only to coverage and the contributions to be charged. We

do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do not warrant that conditions:

- a) Are safe or healthful; or
- b) Comply with laws, regulations, codes or standards.

We do not provide any inspections, surveys, reports or recommendations relative to certification under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

- 9. You may not bring any legal action against the Pool involving loss:
  - a) Unless you have complied with all of the terms of this Coverage Agreement; and
  - b) Until 120 days after you have filed proof of loss with the Pool; and
  - c) Unless such action is brought within 2 years from the date that you “discover” such loss.
- 10. If two or more Coverage Agreements apply to the same loss, we will pay the lesser of:
  - a) The actual amount of the loss; or
  - b) The sum of the Coverage Limits shown on the Declarations.
- 11. If loss is sustained partly during this coverage period and partly during prior coverage period.
  - a) And you “discover” the loss during the Coverage Period shown in the Declarations, and the loss results directly from an “occurrence” taking place:
    - i. Partly during the Coverage Period shown in the Declarations; and

ii. Partly during the Coverage Period(s) of any prior cancelled coverage that we issued to you or any predecessor in interest; and

iii. This Agreement became effective at the time of cancellation of the prior coverage we will first settle the amount of loss that you sustained during this Coverage Period. We will then settle the remaining amount of loss that you sustained during Coverage Period(s) or the prior Coverage Agreement.

b) If you “discover” loss during the Coverage Period shown in the Declarations, resulting directly from an “occurrence” taking place entirely during the Coverage Period(s) of any prior cancelled coverage that we or any affiliate issued to you or any predecessor in interest, we will pay for the loss, provided:

i. This Coverage Agreement became effective at the time of cancellation of the prior Coverage Agreement; and

ii. The loss would have been covered under this Coverage Agreement had it been in effect at the time of the “occurrence”.

We will first settle the amount of loss that you sustained during the most recent prior coverage agreement. We will then settle any remaining amount of loss that you sustained during the Coverage Period(s) of any other prior Coverage Agreement.

c) The most we will pay for the entire loss is the highest single Limit of Coverage applicable during the period of loss, whether such limit was written under this Coverage Agreement or was written under the prior coverage issued by us.

12. Regardless of the number of years this Coverage Agreement remains in force or the number of contributions paid, no Limit of Coverage accumulates from year to year or Coverage Period to Coverage Period.

13. This Coverage Agreement does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, the Coverage Agreement will apply to that part of the loss, other than

that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity. However, this Coverage Agreement will not apply to the amount of loss that is more than the applicable Limit of Coverage shown in the Declarations.

14. The property covered under this Coverage Agreement is limited to property:
- a) That you own or lease; or
  - b) That you hold for others whether or not you are legally liable for the loss of such property.

However, this Coverage Agreement is for your benefit only. It provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this Coverage Agreement must be presented to you.

15. Subject to the Loss Sustained During Prior Coverage Agreement condition, we will pay only for loss that you sustain through acts committed or events occurring during the Coverage Period as shown in the Declarations Certificate.
16. You must keep records of all covered property for three years so the Pool can verify the amount of any loss.
17. Any recoveries, whether effected before or after any payment under this Agreement, whether made by us or you, shall be applied net of the expense of such recovery:
- a) First, to you in satisfaction of your covered loss in excess of the amount paid under this Agreement;
  - b) Second, to us in satisfaction of amounts paid in settlement of your claim;
  - c) Third, to you in satisfaction of any Deductible Amount; and
  - d) Fourth, to you in satisfaction of any loss not covered under this Agreement.



18. Recoveries do not include any recovery:
- a) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
  - b) Of original “securities” after duplicates of them have been issued.
19. You must transfer to the Pool your rights of recovery against any person or organization for any loss you sustained and for which the Pool pays or settles. You must also do everything necessary to secure those rights and do nothing after loss to impair them.
20. The value of any loss for purposes of coverage under this Coverage Agreement shall be determined as follows:
- a) Loss of “money” but only up to and including its face value. The Pool may pay for loss of “money” issued by any country other than the United States of America:
    - i. At face value in the “money” issued by that country; or
    - ii. In the United States of America dollar equivalent determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was “discovered”.
  - b) Loss of “securities” but only up to and including their value at the close of business on the day the loss was “discovered”. The Pool may, at our option:
    - i. Pay the market value of such “securities” or replace them in kind, in which event you must assign to the Pool all your rights, title and interest in and to those “securities”; or
    - ii. Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the “securities”. However, the Pool will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

- I. Market value of the “securities” at the close of business on the day the loss was “discovered”; or
  - II. The Limit of Coverage applicable to the “securities”.
- c) Loss of or damage to “property other than “money” and “securities” for the replacement cost of the property without deduction for depreciation. However, we will not pay more than the least of the following:
- i. The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose;
  - ii. The amount you actually spend that is necessary to repair or replace the lost or damaged property; or
  - iii. The Limit of Insurance applicable to the lost or damaged property.

With regard to Paragraphs 20.c.i. through 20.c.iii. above, the Pool will not pay on a replacement cost basis for any loss or damage:

- i. Until the lost or damaged property is actually repaired or replaced; and
- ii. Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

If the lost or damaged property is not repaired or replaced, we will pay on an actual cash value basis.

## **F. DEFINITIONS**

1. “Banking premises” means the interior of that portion of any building occupied by a banking institution or similar safe depository.
2. “Discover” or “discovered” means the time when you first become aware of facts which would cause a reasonable person to anticipate that a loss of a type covered by this Agreement may have been or may

be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known.

“Discover” or “discovered” also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a loss under this Agreement.

3. “Employee”

a) “Employee” means:

i. Any natural person:

- I. While in your service and for the first 30 days immediately after termination of service, unless such termination is due to “theft” or any other dishonest act committed by the “employee”;
- II. Who you compensate directly by salary, wages or commissions; and
- III. Who you have the right to direct and control while performing services for you.

ii. Any natural person who is furnished temporarily to you:

- I. To substitute for a permanent “employee” as defined in Paragraph a).(i), who is on leave; or
- II. To meet seasonal or short-term work load conditions; while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the “premises”;



- iii. Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary “employee” as defined in Paragraph a.(2);
- iv. Any natural person who is:
  - I. A trustee, commissioner, officer, “employee”, administrator or “manager”, except an administrator or “manager” who is an independent contractor, of any “employee benefit plan”; and
  - II. A director or commissioner or trustee of yours while that person is engaged in handling “funds” or “other property” of any “employee benefit plan”;
- v. Any natural person who is a former “employee”, partner, “member”, “manager”, director, commissioner or trustee retained as a consultant while performing services for you;
- vi. Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the “premises”; or
- vii. A natural person acting as a Volunteer who works under the direction of the “Member”; or
- viii. Any “employee” of an entity merged or consolidated with you prior to the effective date of this agreement; or
- ix. Any of your “managers”, directors, commissioners or trustees while:
  - I. Performing acts within the scope of the usual duties of an “employee”; or
  - II. Acting as a member of any committee duly elected or appointed by resolution of your board of directors or board of trustees to perform specific, as distinguished from general, directorial acts on your behalf.

- b). “Employee” does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in Paragraph 2.a above.
4. “Employee benefit plan” means any welfare or pension benefit plan shown in the Declarations that you sponsor and which is subject to the Employee Retirement Income Security Act of 1974 (ERISA) and any amendments thereto.
5. “Forgery” means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.
6. “Funds” means “money” and “securities”.
7. “Manager” means a person serving in a directorial capacity for an organization.
8. “Member” mean a participating member of the Michigan County Road Commission Self-Insurance Pool also known as MCRCSIP or the “Pool”.
9. “Messenger” means you or any “employee” while having care and custody of property outside the “premises”.
10. “Motor Vehicles, Trailers or Equipment and Accessories” means a land motor vehicle, trailer or semi-trailer designed for land travel on public roads (including any machinery or apparatus attached thereto), but does not include mobile equipment.
11. “Money” means:
  - a) Currency, coins and bank notes in current use and having a face value; and
  - b) Travelers checks, register checks and money orders held for sale to the public.

12. “Occurrence” means:

- a) An individual act;
- b) The combined total of all separate acts whether or not related; or
- c) A series of acts whether or not related;

committed by an “employee” acting alone or in collusion with other persons, during the Coverage Period shown in the Declarations, except as provided under Condition E.12. a). or E.12. b).

13. “Other property” means any tangible property other than “money” and “securities” that has intrinsic value. “Other property” does not include computer programs, electronic data or any property specifically excluded under this Agreement.

14. “Premises” means the interior of that portion of any building you occupy in conducting your operation.

15. “Securities” means negotiable and nonnegotiable instruments or contracts representing either “money” or property and includes:

- a) Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b) Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include “money”.

16. “Theft” means the unlawful taking of property to the deprivation of the Insured.

## **G. CANCELLATION**

This Agreement may be cancelled by the “Member” by giving at least sixty (60) days written notice to the Pool. This Agreement may be cancelled by the Pool by mailing to the “Member” at the address last known to the Pool, or its authorized agent, written notice stating when, not less than sixty (60) calendar days thereafter such cancellation shall be effective. The mailing of the notice,

as aforesaid, shall be sufficient notice, and the effective date of cancellation stated therein shall become the expiration date of the Coverage Period. Delivery of such written notice either by the "Member" or the Pool shall be equivalent to mailing.

This Agreement may be cancelled by the Pool for non-payment of contribution by mailing to the "Member", at the last mailing address known by the Pool, written notice stating when, not less than ten (10) days thereafter, such cancellation shall be effective.

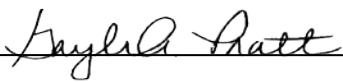
Contribution adjustment may be made either at the time cancellation is effective or as soon as practicable thereafter, but payment or tender of unearned contribution is not a condition precedent to cancellation.

The Pool shall continue servicing any of the "Member's" pending Claims, unless the "Member" specifically assumes the liability and makes provisions to indemnify the Pool from loss by taking over the servicing of any such Claim(s). The "Member" shall reimburse the Pool for all claims expenses incurred after the cancellation.

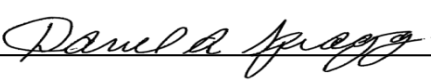
**H. FALSE OR FRAUDULENT CLAIMS**

If the "Member" shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this Agreement shall become void, and all claims shall be forfeited.

This Agreement shall not be valid unless signed by authorized representatives of the Pool.



Gayle A. Pratt, Administrator



Darrel A. Spragg, Chairman