

**INTERLOCAL AGREEMENT
WESTERN OAKLAND COUNTY TRAILWAY MANAGEMENT COUNCIL**

This Interlocal Agreement (the "Agreement") is entered into pursuant to Act 7, Michigan Public Acts of 1967, as amended ("Act 7"), and Part 721 of Act 451, Michigan Public Acts of 1994, as amended ("Act 451"), by and among the parties having executed this Agreement (the "Parties") for the purpose of developing, managing, operating and maintaining a trailway as defined in and in accord with the authority granted in Act 451. Each of the Parties is a "governmental agency," as that term is defined in Act 451, and a "public agency," as that term is defined in Act 7, with the power to carry out the programs described in this Agreement. The Parties have each determined that the Parties will be able to provide the trailway programs described in this Agreement on a more cost-effective basis if the Parties carry out such programs jointly.

THEREFORE, the Parties to this Agreement covenant and agree as follows:

1. Establishment of Trailway Management Council. There is hereby established a separate legal entity to be known as the "Western Oakland County Trailway Management Council" (the "Council") for the purpose of administering this Agreement. The Council shall be a public body corporate having the powers granted in Section 3 of this Agreement, subject to the limitations provided in Section 4 of this Agreement. The Council shall consist of the same number of voting members as there are Parties to the Agreement, which initially shall be five (5) voting members. Voting members of the Council shall be appointed by the governing body of each Party in accordance with the provisions of this Agreement. At the initial meeting of the Council, the Council shall adopt operating procedures and shall elect such officers as

the Council considers appropriate. At the first meeting of each fiscal year thereafter, the Council shall elect its officers. Officers shall serve for terms of one (1) year or until their successors are elected.

2. Council Members; Appointment; Removal. The members of the Council shall be appointed by the legislative body of each Party as follows:

a. Each Party shall appoint one (1) voting member of the Council, in accordance with the requirements of Section 7(1) of Act 7. Within thirty (30) days of the execution of this Agreement, the governing body of each Party shall by resolution designate its voting member of the Council, which voting member may be a member of the Party's governing body. Such member shall serve at the pleasure of the governing body appointing the member, and any change in the designation of such member shall be made by resolution of the Party's governing body. In the event that additional public entities become Parties to this Agreement from time to time pursuant to Section 9 of this Agreement, the total number of voting members of the Council shall be increased by one (1) for each such additional Party, and the governing body of such additional Party within thirty (30) days of its execution of this Agreement shall by resolution designate its member of the Council.

b. The governing body of each Party by resolution may appoint one alternate member of the Council who may attend meetings but may vote only in the absence of the voting member. Such alternate member shall serve at the pleasure of the governing body of the Party appointing the alternate member, and any change in the designation of such alternate member shall be made by resolution of the Party's governing body.

c. If a Party withdraws from the Council pursuant to Section 10 of this Agreement, upon the effective date of such withdrawal the Council member representing that Party shall cease to be a member of the Council and the total membership of the Council shall be reduced by one (1).

3. Powers of the Council. The Council shall have only those powers set forth in Section 5 of Act 7 and Section 72106 of Act 451 (each as in effect as of the date of this Agreement or as hereafter amended), and, by way of example and not limitation, in addition shall have the power to make and enter into contracts; to sue and be sued; to acquire, construct, manage, maintain, or operate trailways and appurtenant improvements; to acquire, hold, or dispose of property; to incur debts, liabilities, or obligations which, except as expressly authorized by the Parties, do not constitute the debts, liabilities, or obligations of any of the Parties; to minimize potential negative impacts of trailway development on owners or residents of adjacent property as set forth in Act 451; to enter into an agreement with the Michigan Department of Natural Resources respecting the operation and maintenance of a trailway pursuant to Section 72105 of Act 451; and to establish policies, procedures, rules and regulations respecting a trailway and coordinate the enforcement of such rules and regulations. The trailway or trailways under the Council's jurisdiction shall be set forth on Exhibit A hereto, as amended from time to time by the Council; provided that the Council may not assert jurisdiction over any trailway otherwise under the jurisdiction of another governmental agency without the written consent of such other governmental agency.

4. Limitations on Powers of the Council. The Council shall not have the power to levy any type of tax or to issue any type of bond in its own name, or in any way to indebted any Party.

5. Term of Agreement. This Agreement shall remain in effect until dissolved by resolution adopted by a majority of the Parties, provided that in the event of any such dissolution, the property, assets and surplus moneys, if any, of the Council shall vest in the Parties and shall be returned to the Parties in proportion to each Party's respective contributions to the Council.

6. Initial Financial Support. The Council shall be funded initially from contributions of \$20,000 from each of the Parties, such moneys to be deposited in a separate depository account in the name of the Council and used solely for the purpose of paying costs for railway design and construction engineering and for railway inspection.

7. Fiscal Year; Ten-Year Plan; Annual Budget; Contributions.

- a. The fiscal year of the Council shall commence on the first day of January in each year and end on the last day of December the next following. The fiscal year of the Council may be changed from time to time as determined by resolution of the Council.
- b. Within one (1) year of the creation of the Council, the Council shall adopt a ten-year railway maintenance and funding plan. The railway maintenance and funding plan may include such matters as the Council determines appropriate in its discretion, but the plan shall include an estimate of the moneys needed to achieve the objectives of the Council and the proposed means of raising such moneys. The plan may be amended by the Council from time to time. Copies of the plan shall be provided to each Party for review.
- c. The Council shall prepare, adopt and submit to the governing bodies of the Parties an annual budget covering the proposed expenditures to be made for operating and maintaining the railway and operating the Council and for the necessary funds required from each Party for the

next fiscal year. Such budget shall be consistent with the trailway maintenance and funding plan and shall take into account funds received by the Council from grants and third parties in determining the funds required from each Party. Such budget shall be submitted to each Party prior to final approval by the Council at such time or times as the Council shall determine in consultation with each Party. No budget shall be adopted unless approved by a vote of a majority of the Council members then serving.

- d. Administrative costs shall be allocated equally among the Parties on a pro-rata basis.
- e. Operation and maintenance expenses of the trailway shall be the sole responsibility of the Party having jurisdiction over the property upon which the trailway is constructed; provided that a Party may satisfy its operation and maintenance responsibility by contracting with another Party or with another entity for such purpose.
- f. Each Party shall be required to make its annual payment to the Council not later than 1 month prior to the start of the Council's fiscal year.

8. Manner in Which Contracts May Be Entered Into. All contracts of the Council which are of a routine nature and for which budgeted funds are available may be approved in the sole discretion of the Council. Contracts which, if approved, shall result in additional contributions from the Parties being necessary to keep the annual budget in balance, or contracts or actions which would constitute debts, liabilities or obligations of any Party, shall be presented to each affected Party for approval prior to being executed. The Council in its sole discretion shall have power to enter into a contract with the Michigan Department of Natural Resources for the purposes and in accordance with the provisions of Section 72105 of Act 451 and with the Road Commission of Oakland County as necessary or advisable to assure the expeditious receipt of grant moneys or other trailway funding.

9. Additional Parties. Additional entities may become parties to this Agreement from time to time by enactment of a resolution by the governing body of

any such entity authorizing the execution of this Agreement and with the approving resolution of the Council adopted by a majority of Council members then serving. The Council may establish conditions of admission to the Council, including reasonable evidence of the prospective party's ability to perform the obligations under this Agreement and a contribution from the entity seeking to become a party representing an equitable share of the costs and expenses previously borne by the Parties. No entity seeking to become a party to this Agreement shall become a Party until all of the following shall have occurred:

- a. The Council has adopted the approving resolution described in this Section.
- b. The contribution described in this Section, if required, has been received by the Council.
- c. A copy of this Agreement, as amended by the addition of the entity, has been filed as set forth in Section 15 of this Agreement or otherwise as required by Act 7.

10. Withdrawal by Party. Any Party may withdraw from the Council at any time upon the adoption of a resolution to that effect by the Party's governing body; provided, however, that the Party's obligation to contribute moneys in the current fiscal year shall not be modified nor shall any amount previously paid with respect to such fiscal year be refunded; if there is at the time of the withdrawal no indebtedness or liability of the Council for which the Party is wholly or partially responsible, the Party may withdraw without any obligation other than the current fiscal year's budget obligation; and, if there is at the time of the withdrawal any indebtedness or liability

of the Council for which the Party is wholly or partially responsible, the Party may withdraw only after the withdrawing Party has paid in full its respective share of such indebtedness or liability, in addition to the current year's budget obligation.

11. Liability and Indemnification. The Council shall procure policies of liability insurance or otherwise obtain coverage for public liabilities through self-insurance pools or otherwise by or through a Party. Each Party shall provide evidence to the Council that the Party is appropriately insured for public liabilities which may accrue to the Party as a result of the Party's participation in the Council.

12. Services. The Council may contract with any Party, with another governmental entity, or with a private entity for personnel to carry out the functions of the Council. The Council further shall have power to retain and contract with such outside professional consultants and service providers as the Council determines necessary or advisable to carry out the functions of the Council. The Council shall not have employees.

13. Auditing and Records. Meetings of the Council shall be open to the public, and the Council shall retain records and conduct its affairs in accordance with the Open Meetings Act, Act 267, Public Acts of Michigan, 1976, as amended, and the Freedom of Information Act, Act 442, Public Acts of Michigan, 1976, as amended. The Council shall cause an annual audit to be made of its financial transactions by a certified public accountant and shall furnish a copy thereof to each Party.

14. Investment of Surplus Funds. Funds of the Council shall be deposited with such depositories and in such investments as are authorized for the investment

of public funds by local governmental entities pursuant to Act 20, Public Acts of Michigan, 1923, as amended. The Council may by resolution designate one or more banks or financial institutions as depositories of the funds of the Council.

15. Effective Date. This Agreement shall be effective as of the later of the date of filing of an executed copy of this Agreement with the Michigan Secretary of State, Great Seal Division, and the Oakland County Clerk.

IN WITNESS WHEREOF, the governing bodies of each of the Parties have duly authorized the officers executing this Agreement to execute and deliver this Agreement as of the date written next to the signatures of such officers.

Dated:

CHARTER TOWNSHIP OF LYON

_____, 1997

CHARTER TOWNSHIP OF MILFORD

_____, 1997

CITY OF SOUTH LYON

_____, 1997

CITY OF WIXOM

_____, 1997

HURON-CLINTON METROPOLITAN AUTHORITY

_____, 1997

Return evidence of filing to:
Michael P. McGee, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson Avenue, Suite 2500
Detroit, Michigan 48226

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

EXHIBIT A

TRAILWAYS UNDER THE JURISDICTION OF THE COUNCIL

(as amended from time to time
pursuant to Section 3 of the Agreement)

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

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_____ of _____
County of Oakland, Michigan

RESOLUTION APPROVING INTERLOCAL AGREEMENT

Minutes of a _____ meeting of the _____ of the _____ of _____, Oakland County, Michigan (the "Local Unit"), held on the ____ day of _____, 1997 at ____ o'clock p.m., prevailing Eastern Time.

PRESENT: Members _____

ABSENT: Members _____

The following resolution was offered by Member _____ and seconded by Member _____:

WHEREAS, the Local Unit has been presented with a form of interlocal agreement (the "Agreement") prepared pursuant to the provisions of Act 7, Michigan Public Acts of 1967, as amended ("Act 7"), and Part 721 of Act 451, Michigan Public Acts of 1994 ("Act 451"), which establishes a separate legal entity to be known as the "Western Oakland County Trailway Management Council" (the "Council") for the purpose of developing, managing, operating and maintaining a trailway and to provide the trailway programs described in the Agreement; and

WHEREAS, the Local Unit desires to take advantage of certain provisions set forth in Act 7 and Act 451 to accomplish the foregoing objectives on a cost-effective basis by carrying out such programs jointly through creation of the Council;

NOW, THEREFORE, BE IT RESOLVED:

1. The Agreement with respect to the creation and operation of the Council is hereby approved, and the _____ and _____ are hereby authorized and directed to execute and deliver the same for and on behalf of the Local Unit.

2. It is the intent of the Local Unit that the Council possess and exercise the powers granted under Act 7 and under Act 451 to provide trailway programs, provided that the Council shall have no power to incur debts, liabilities or obligations which constitute the debt, liability or obligation of the Local Unit except as expressly authorized by resolution of the Local Unit.

3. A copy of the Agreement, when fully executed, shall be filed with the Michigan Secretary of State and the Oakland County Clerk in accordance with the requirements of Act 7, and a duplicate copy shall be filed with the Clerk's office of the Local Unit.

4. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded to the extent of the conflict.

AYES: Members _____

NAYS: Members _____

RESOLUTION DECLARED ADOPTED.

Clerk

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the _____ of the _____ of _____, County of Oakland, Michigan, at a _____ meeting held on _____, 1997, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Clerk

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

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5/9/97

WESTERN OAKLAND COUNTY TRAILWAY MANAGEMENT COUNCIL
INTERLOCAL AGREEMENT WORKING GROUP

Ms. Patricia Carcone
Treasurer
Charter Township of Lyon
57100 Pontiac Trail
New Hudson MI 48165

Mr. Rod Cook
City Manager
City of South Lyon
214 W. Lake Street
South Lyon MI 48178

Christopher J. Doozan, AICP, PCP
McKenna Associates, Inc.
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Mr. Daniel Duncan
Huron-Clinton Metropolitan Authority
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P.O. Box 2001
Brighton MI 48116-8001

Mr. Michael D. Eberlein
Supervisor
Operations Section, MDOT
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Mr. Maurice Freed
The Farbman Group
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Ms. Theresa Gillis
Programming Supervisor
Road Commission for Oakland County
31001 Lahser
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Mr. William McCusker
Director of Public Works
City of Wixom
49045 Pontiac Trail
Wixom MI 48393-2567

Mr. Jim Caswell, Supervisor
Mr. Robert Schwartz
Charter Township of Milford
1100 Atlantic
Milford MI 48381

Mr. Phil Wells
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Mr. Paul Yauk
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