



POLICY

NON-MOTORIZED FACILITIES

The Board of Road Commissioners of the County of Kalamazoo non-motorized policy provides a guideline for the development of non-motorized facilities in the public right-of-way. The Board of Road Commissioners of the County of Kalamazoo is committed to working with local governments to develop safe and efficient non-motorized transportation routes throughout the communities within Kalamazoo County. The Road Commission of Kalamazoo County (RCKC) recognizes the value of non-motorized facilities, while simultaneously acknowledging the necessity of working within applicable funding requirements and fiscal limitations and competing needs of other public use considerations including utilities, engineering issues such as proper drainage, safety, right-of-way (ROW) dimensions, as well as the competing interests of users such as pedestrians, joggers, runners, strollers and bicyclists. All of these community and administrative interests should be valued appropriately in facilitating the development of a non-motorized policy and process.

The RCKC recognizes the greatest opportunity for input is in the early planning stages for projects. Annually, RCKC publicizes our primary road capital improvement plan projects and works closely with local entities to plan local projects. RCKC also participates in regional non-motorized planning discussions. The needs of all legal users are understood to be important and considered for roadway projects by RCKC.

Providing these non-motorized facilities is generally considered a responsibility of the local unit of government in which it will be located. The RCKC may be involved in certain instances in providing in whole or in part similar non-motorized facilities as they may determine. Non-motorized facilities may be part of a primary or local road or standalone project.

Application Process

To establish adequate planning, communication and coordination of local and RCKC projects, RCKC has developed an application process for approval of non-motorized facilities in the public right of way. Projects to be considered should be submitted a minimum of three (3) years in advance of design engineering for federal projects and prior to the start of design engineering for other projects, unless funding requests make this impossible, preferably in the early design stages. Projects should be identified as part of the RCKC primary road and/or local plan. Applications submitted after that deadline will be considered for approval and funding after all timely applications are processed, and may be subject to additional charges connected with the late submission and related costs, if any.

RCKC will consider American Association of State Highway and Transportation Officials (AASHTO) guidelines and other resources for planning, design and construction of non-motorized facilities.

Types of non-motorized facility requests to consider may involve, but are not limited to the following:

- A. Non-Motorized Paths (separated from the roadway)**
- B. Paved Shoulders (along existing roads)**
- C. Signed Routes (on existing roads)**
- D. Sidewalks**

RCKC may also consider the following factors as identified in the application process:

- Current Pavement Surface Evaluation and Rating (PASER) of local and primary roads and bridges

- Land Use and development
- Road classification
- Current and future capacity needs of roadway
- Safety and mobility
- Cost of incorporating and maintenance of the facility
- Existing facilities and connectivity
- Right-of-way limitations
- Drainage
- Utilities
- Environmental constraints

All projects are unique and present their own challenges, constraints, funding sources and opportunities. Therefore, it is understood that the methods of accommodation will vary from project to project, and what works in one area may not work in another. Every community RCKC serves has its unique perspective on non-motorized facilities and therefore partnerships in this area will vary. Each community should consider non-motorized facilities as part of land use and development.

All costs associated with any non-motorized facility must be fully funded including the application review and development, design and construction engineering, project construction and any future maintenance.

Appropriate written agreements will be required as a provision of the application request (the application form is attached as Exhibit “A”). Attached as Exhibits “B” – “D” are sample agreements that could be used and modified as necessary to clearly establish responsibilities for such facilities in the road right-of-way, which includes funding sources.

It is important to recognize there are not enough funds available to improve every road in the county, nor accommodate all requests for non-motorized facilities.

Townships and local governments should complete the appropriate application request to RCKC during the planning and design stages of projects. As design progresses the opportunity for input greatly decreases. Once the detailed design phase begins and projects are submitted for bid lettings the opportunity for additions and/or revisions to the plan decreases and is very limited and costly. Once the written application is completed and approved, RCKC reserves the right to decline to change the parameters and specifications of the project or to require the requesting locality to pay additional charges related to any changes or delays.

The following sections provide guidance for designing non-motorized facilities to be constructed in the public right of way – in accordance with RCKC guidelines/policies, applicable regulations, statutes, and funding limitations (non-motorized facilities included as part of a plat development will be considered in the RCKC plat review process).

Notice of non-motorized facility transfer:

Projects already constructed (such as privately developed plats with sidewalks and non-motorized paths) must provide notice of intent to cede the non-motorized facility at a minimum, one (1) year in advance of the transfer, unless development timelines make this impossible, preferably in the early design stages. The non-motorized facility must be ceded with plans for, or contemporaneous provision of adequate funding for maintenance, repair and on-going obligations related to the upkeep of the non-motorized facility. All costs associated with any non-motorized facility must be fully funded, including all future maintenance. Projects without plans for, or contemporaneous provision of such funding may be rejected. Projects already constructed and then ceded to the jurisdiction and/or oversight of the RCKC must have been constructed in accordance with RCKC guidelines/policies, applicable regulations, statutes, and funding requirements at that time.

A. NON-MOTORIZED PATHS

A non-motorized path is considered to be a facility that is separated from the motorist-traveled portion of the roadway. It is also considered to be different than a sidewalk, in that sidewalks have specific statutory status, especially as it pertains to construction and liability matters.

Such non-motorized paths will not be signed, or designated as “exclusive” bike paths because they are intended for multiple non-motorized uses, and all users should be encouraged to use the facility rather than the roadway. Existing sidewalks shall be enlarged to provide for the non-motorized path.

Width and Clearance:

The paved width and operating width are primary considerations. A facility intended for two-way traffic should have a minimum width of ten (10) feet, or for one-way traffic a minimum width of five (5) feet, in order to accommodate bicycle traffic as well as other non-motorized uses such as walking, running, wheelchairs, wagons and roller skates.

A two (2) feet wide (minimum) clear graded area is recommended along both sides of the paved path and vertical clearance to overhead obstructions should be a minimum of eight and one-half (8 ½) feet. All bridges, culverts etc. needed to accommodate these facilities should provide for these same minimum standards.

A wide separation between the facility and the roadway is desirable for safety reasons. The facility should typically be located starting one (1) foot off the outer edge of the RCKC right-of-way and provide minimum clearances of six (6) feet from back of curb on roads with curb and gutter; ten (10) feet from edge of roadway pavement (where there is no ditch), or twenty (20) feet from centerline of right-of-way (where there is no ditch), or one (1) foot behind the top of drainage backslope (where ditch exists), whichever is greater. These clearances shall also be used as a guide for allowing deviations from the location starting one foot off the outer edge of RCKC right-of-way.

Where these minimum requirements cannot be obtained in the right-of-way or where there is evidence that a roadway will require widening beyond two lanes, consideration must be given to acquiring additional right-of-way to accommodate the proposed roadway, the facility, and the minimum clearances and widths stated.

Pavement & Structures:

The type of material, thickness of surface and base are of primary importance as is the proper design of all structures needed to accommodate the facility. These designs should be determined by engineers after an analysis of soils, wheel loads, and other site-specific requirements are considered.

Normally, however, the pavement should be a minimum of four (4) inches concrete or three (3) inches bituminous surface over six (6) inches of processed road gravel. A cross slope of two (2) percent should be provided to allow for proper drainage.

Signing & Marking:

Adequate signing and marking is an important safety consideration. General guidance is provided in the Michigan Manual of Uniform Traffic Control Devices.

Signing and marking requests must be in writing using the RCKC right-of-way application and shall be reviewed by the RCKC’s Engineering Department. All approved signage and marking related to installation and maintenance costs are the responsibility of the requesting party. Only signing necessary for safety should be erected so as not to create confusion or restrict vision.

Design Speed, Grades and Alignment:

Many other factors must be considered in the design of the facility. Design speed of twenty (20) mph is normally considered adequate except for steep grades where a higher design speed should be used.

Grades and pavement elevations should be given special consideration in relation to the roadway facility and adjoining properties so as to cause minimal concern for safety, drainage, driveways, yards, etc. Profiles of the curbs and/or roadway should be utilized as a guide for such determination.

Changes in alignment and curves to accommodate such changes should be adequate to provide for the design speed selected and the safety to users of the facility.

Intersections:

Where the facility crosses a roadway, special consideration for selecting the proper location and placing adequate controls must be given. Locations shall be reviewed and approved by the RCKC's Engineering Department.

Operation & Maintenance:

The agency responsible for the control, maintenance and policing of non-motorized paths will be established prior to construction approval. Winter maintenance will be the sole responsibility of the requesting township or locality. A written agreement specifying local responsibility for maintenance, repair and restoration of the path and stating the local community will save harmless, indemnify and defend the RCKC for all related claims for as long as such path exists must be executed prior to issuance of a permit or non-motorized facility approval by the RCKC.

The RCKC will be responsible only for reviewing plans to assure conformance to the guidelines set forth above relative to geometrics within the right-of-way and for issuance of a permit or facility approval.

Attached as Exhibit "D" is a sample agreement that could be used and modified if necessary to clearly establish responsibilities for such facilities in the road right-of-way.

Design Exceptions:

This policy is intended to provide to the general public, businesses, utilities, and governmental entities RCKC guidelines for construction, operation, maintenance, use and/or removal of non-motorized facilities within the county road right-of way.

Requests for variance from these guidelines must be in writing and should include sufficient detail to support a reasonable justification for the request so that RCKC can determine if the variance should be granted. Individual requirements or specifications required by applicable law, regulation, or RCKC policy may be waived or modified in cases considered meritorious in the RCKC's discretion.

If any part of this policy is found invalid, such invalidity will not affect the validity of the remaining portions of the policy.

The RCKC also has additional policies for regulating the right-of-way. These policies are available from the RCKC and on our website:www.kalamazooountyroads.com.

B. PAVED SHOULDERS

There is considerable emphasis today on the need for paved shoulders to accommodate non-motorized transportation, particularly in urban areas.

Under certain circumstances the RCKC may from time to time suggest or recommend the construction of sidewalks or non-motorized paths where it is deemed advisable for safety, liability or maintenance reasons. Generally, such recommendations will be made when traffic volumes or non-motorized uses are exceptionally high or where adequate right-of-way is available. RCKC will approve appropriate maintenance treatments as identified in the appropriate primary road and local road plans.

When the RCKC allows for construction of a paved shoulder it shall be the policy that:

1. The cost for constructing the paved shoulder is the responsibility of the requesting party, unless otherwise agreed. The requesting party may also be required to resurface the existing roadway, dependent on its condition and PASER rating.
2. The paved shoulder will not be designated as any special facility, such as a bicycle path, but be treated as a normal road shoulder.
3. Both shoulders shall be paved along a section of roadway as opposed

- to only paving one side.
4. All construction shall be done by or under the direct supervision of the RCKC in accordance with current standards of construction and design. The width to be a maximum of four (4) feet on uncurbed roadways and six feet on curbed roadways unless a special exception is granted. Paved shoulder shall match existing road pavement design.
 5. The RCKC will only perform maintenance of the shoulders following completion and acceptance of construction.

C. SIGNED ROUTES

There may be times when it would be desirable to sign an existing roadway (without paved shoulders or separated path) as a "Bike Route". This may also be needed for the purpose of providing continuity of routes within the County or regionally.

An agreement with the local unit of government shall be executed assigning certain responsibilities for signing, maintenance and liability of such routes.

D. SIDEWALKS

Sidewalks constructed by local units of government on county roads shall conform to the following general guidelines and as noted above in the Non-Motorized Paths Widths and Clearance section. Sidewalks must receive the approval of the RCKC before construction begins.

1. The sidewalk width shall comply with any requirements of applicable funding provisions.
2. Current construction standards of the Michigan Department of Transportation shall be used for the design and construction of all sidewalks.
3. Sidewalk elevations shall be determined by the RCKC for uniformity in relation to the profile or proposed profile to curbs and/or roadway.

There are quite specific statutes regarding sidewalk construction and liability. RCKC approval of the design and construction plans is a prerequisite before locating a sidewalk on a county road and before issuance of a right-of-way permit or before non-motorized facility project approval. (See Exhibits B and C)

E. PROJECT TYPES

There are three basic types of non-motorized facility projects, based on statutory regulation and funding sources. They are:

- (1) non-motorized facilities that are not sidewalks (non-motorized paths);
- (2) sidewalks funded by special assessment districts; (see, e.g., MCL 41.722(2)(a)-(c); and
- (3) sidewalks funded by township or other funds (see, e.g., MCL 41.288(1) and 41.288a(3)).

The same, basic application form will be used to seek approval for all of these types of projects, but other requirements and forms to be completed will vary based on the type of project and funding source. The Non-Motorized Facilities Agreement is to be completed concurrent with submission of the Non-Motorized Facilities Request Application form and will vary based on the type of project proposed. Each project must comply with the specifications of any applicable funding source(s). RCKC reserves the right to assess fees or require reimbursement of costs related to compliance with any such specifications or regulations, including, but not limited to, the following: engineering costs associated with ensuring compliance with applicable standards as enumerated by funding sources; as required to discharge RCKC's administrative obligations; and as necessary to ensure payment of extra costs or cost increases which exceed the original programmed

amount. Further, to the extent a project is subject to a special assessment which outlines particular factors for RCKC approval, RCKC reserves the right to participate in the development of the non-motorized facility. Should a conflict arise regarding the source of the funding for the project, the conflict will be resolved in favor of funding RCKC priorities and administrative costs, first. Projects funded through a special assessment district will be treated as township owned to the extent consistent with applicable laws regarding right-of-way usage.

F. OTHER

The RCKC will not take on the responsibility for unfunded maintenance of any non-motorized path or sidewalk in the road right-of-way in a plat dedicated to the public use after construction by a private developer. The requirements of the RCKC Non-Motorized Facility Policy apply equally to any sidewalk or non-motorized path constructed by a private subdivision developer or plat owner. In other words, if any sidewalks or non-motorized path are contained in the right of way of a road dedicated to the public, then the dedicator must provide on-going funding for their upkeep and maintenance, or agree to indemnify the RCKC for any costs related to the maintenance, winter maintenance, signage, repair and restoration of the sidewalk or non-motorized path, so long as they exist. RCKC reserves the right to decline roads dedicated to the public without adequate maintenance funding provisions, or to identify such dedicated roads as secondary and not entitled to maintenance or winter maintenance (or other services) until after appropriate funding has been allocated by the sponsoring township.



Non-Motorized Facilities Request Application

Exhibit “A”

Non-Motorized Facilities Instructions and Request Application

Introduction

The purpose of this document is to provide a structured application process for requests to the Road Commission of Kalamazoo County (RCKC) for non-motorized facilities. The application process is intended to foster partnerships to plan, fund, design, construct, maintain and operate transportation facilities that promote safety and connectivity, while strategically using the limited transportation funding.

Timeline

Projects to be considered should be submitted a minimum of three (3) years in advance of design engineering for federal projects and prior to the start of design engineering for other projects, unless funding requests make this impossible, preferably in the early design stages. Projects should be identified as part of the RCKC primary road and/or local plan. Applications submitted after that deadline will be considered for approval and funding after all timely applications are processed, and may be subject to additional charges connected with the late submission and related costs, if any.

Considerations

Factors that may be considered before RCKC grants or denies approval of a project, and which may vary based on funding source, include, but are not limited to, the following:

- Current PASER rating of road
- Current and Future Land Use (Local planning/zoning)
- Road classification (Federal, State, All Season, etc.)
- Current and future capacity needs of roadway (Capital Improvement Plan, Long range plan)
- Project's impact on safety and mobility
- Project's Average Daily Traffic (ADT) count
- Project's cost of incorporating the facility
- Project's long term maintenance
- Project's impact on existing facilities and connectivity
- Project's right-of-way limitations
- Project's impact on drainage
- Project's impact on utilities
- Project's environmental constraints
- Project's funding
- Project's coordination with other projects
- Project being identified in a local planning document (master plan, recreation plan, etc.)
- Project's Public Support

Application Instructions

The non-motorized project application is to be filled out by the local government for each project per fiscal year, including a RCKC right-of-way permit application. Applications should be filled out thoroughly and appropriate attachments must be provided to support the application. As necessary, a proposed agreement between the locality and RCKC regarding the non-motorized facility should be submitted concurrently with the application.

RCKC NON-MOTORIZED Project Application

Project Identification

Year:	Township:	Project Name:	Project Limits:
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Project Type:
 Project Location:
 PASER Road Rating:
 Township Average PASER Rating:
 Road Classification:
 ADT:
 Has the road been identified for capacity needs? Yes No
 Have non-motorized Federal/State funding sources been applied for? Yes No
 Design Construction completed? Yes No

Project Description

Please include information to address items considered for requests.

<p>Is this project planned with an already scheduled road project? (If Yes, identify project and year)</p> <p><input type="checkbox"/> Yes _____</p> <p><input type="checkbox"/> No</p>	<p>Is the project in a local non-motorized plan? (Describe)</p> <p>Is the project in a current or future plat development? (Describe)</p> <p>Is the project in a condominium development? (Provide copy of Master Deed) Yes No</p>
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Project Cost Estimate

<u>Federal Cost</u>	<u>Local/State/Other Cost</u>	<u>Total Cost</u>	<u>Match %</u>
<u>Source:</u>	<u>Source:</u>		

Is the match already identified? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, source:	Anticipated Bid/Construction Date:
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Additional Information

Describe how the project will be funded for future maintenance:

Applicable Non-Motorized Agreement is attached? Yes No

Attach Project Location Map

**EXHIBIT "B" SAMPLE AGREEMENT
(Sidewalk Funded by Township Special Assessment District)**

WHEREAS, the _____ (hereinafter referred to as _____) is a municipal corporation organized under the laws of the State of Michigan, and is located in the County of Kalamazoo, State of Michigan, and:

WHEREAS, the Board of Road Commissioners of the County of Kalamazoo (hereinafter referred to as "RCKC") is a public body corporate, located within the County of Kalamazoo, State of Michigan, and;

WHEREAS, _____ the _____ desires to build sidewalks in accordance with plans and designs prepared by its consultant/engineer within the county road right-of-way, more specifically; _____

WHEREAS, because the intended location of the sidewalk is within the county road right-of-way, it is necessary for _____ to obtain the consent of the RCKC prior to commencing construction of the sidewalk, and;

WHEREAS, it is the desire and objective of the parties hereto, to set forth their mutual understanding with respect to the conditions under which the RCKC will grant its consent to the _____ to construct the sidewalk within the county road right-of-way;

NOW, THEREFORE, in consideration of the aforementioned premises and in furtherance thereof, it is hereby mutually agreed as follows:

1. _____ will apply for sidewalk project approval from the RCKC and agrees to abide by all terms and conditions imposed upon such approval. _____ will construct the sidewalk in accordance with the plans and design prepared by its consultant or engineer and approved by the _____ and the RCKC. Any deviation from the plans and design must receive the prior written approval of _____ and the RCKC. _____ shall develop a sidewalk project design package and submit the design package including a copy of the storm water drainage plan and calculations to the RCKC for review. The RCKC shall make final design decisions regarding sidewalk location with regard to driveways, intersection, signage and drainage features in the county road right- of- way.
2. As Owner of the facility, _____ agrees RCKC has no responsibility for sidewalk maintenance, winter maintenance (including, but not limited to snow removal/shoveling), signage, repair and restoration of the sidewalk for so long as the sidewalk may exist. RCKC reserves the right to remove the sidewalk at its expense when necessary to accommodate a roadway improvement of the RCKC, but has no responsibility to relocate the sidewalk.
3. _____ shall be responsible for all costs not covered by other funding. _____ shall be responsible for RCKC staff time and administrative expenses related to this project. Prior to project advertisement by the Michigan Department of Transportation (MDOT), _____ will deposit a check for ninety (90) percent of the estimated local cost of the construction project plus the RCKC overhead factor. All other invoices will be based on actual costs incurred. After construction is complete, the RCKC will conduct a final accounting to determine if any further payment is due or if a refund is due to _____. If bids come in ten (10) percent or less over the consultant's/engineer's estimate then the project will proceed to award. _____ shall be responsible for all costs over the amount covered by _____ funds. If bids come in more than 10 percent over the consultant's/engineer's estimate, then the _____ will have an opportunity to request to reject all bids, or to proceed to award. If bids come in under the engineer's estimate then the project will proceed to award. Any extras or increases which exceed the original programmed amount will be paid by _____.
4. For increased or extra items that may not be eligible for other funding, _____ shall generate a Work Order for RCKC review prior to the work being done by the Contractor. The RCKC will invoice _____ the amount of the Work Order as soon as it is determined. The amount of the Work Order is due within thirty (30) days of the invoice.

5. _____ shall provide construction engineering services as stated in the MDOT Program Application for this project and in the MDOT Construction Manual. Construction engineering includes all of the file documentation and review necessary to close out the project, and is the responsibility of _____. _____ shall prepare a final as built set of plans for the project and provide it to the RCKC. The as built plans shall be submitted on Mylar with the original signature page, and in electronic format (AutoCAD and PDF) on CD. _____ will also provide a copy of the project construction file to the RCKC for its records.
6. _____ will agree to have its Consultant attend a project update meeting every two weeks or as needed to review the status of the project with the Contractor and to process construction status and payment request reports. Construction Engineering includes construction staking, right-of-way staking, materials sampling and testing, and acting as a storm water operator. Every two weeks _____ shall prepare a written report including inspector daily reports, Davis Bacon Wage Documentation review, status of materials certifications, materials testing reports, the MDOT contractor pay estimate, and any other submittal requirements.
7. _____ shall reimburse the RCKC's cost in reviewing and administering the contract.
8. _____ shall be responsible for any required land acquisition (including temporary grading permits). _____ will submit the proposed right-of-way acquisitions for approval prior to acquiring the necessary additional right-of-way and shall have a qualified right-of-way specialist certify the right-of-way file prior to submitting it to the RCKC.
9. _____ shall complete the RCKC tree notification form for any tree removals within the existing county road right-of-way. Compensation required by the property owner, in accordance with RCKC written policy, will be paid by _____. All county road right-of-way encroachments shall adhere to RCKC policy, any adjustments will be paid by _____.
10. _____ agrees to be responsible for all utility reconfiguration costs associated with project. Prior to advertisement of the project, _____ shall submit a letter to the RCKC stating that they have reviewed utility conflicts, and have addressed any necessary utility relocation.
11. This agreement shall be in effect as between the parties hereto upon the affixation of the signatures of the duly authorized officers of the RCKC and _____.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their seals affixed hereto the day and year written below.

BOARD OF ROAD COMMISSIONERS OF KALAMAZOO COUNTY

By: _____
Chairman

Date: _____

**EXHIBIT "C" SAMPLE AGREEMENT
(Sidewalk funded by township or other funds)**

WHEREAS, the _____ (hereinafter referred to as _____) is a municipal corporation organized under the laws of the State of Michigan, and is located in the County of Kalamazoo, State of Michigan, and:

WHEREAS, the Board of Road Commissioners of the Kalamazoo County (hereinafter referred to as "RCKC") is a public body corporate, located within the County of Kalamazoo, State of Michigan, and;

WHEREAS, _____ the _____ desires to build sidewalks in accordance with plans and designs prepared by its consultant/engineer within the county road right-of-way, more specifically;

WHEREAS, because the intended location of the sidewalk is within the county road right-of-way, it is necessary for _____ to obtain the consent of the RCKC prior to commencing construction of the sidewalk path, and;

WHEREAS, it is the desire and objective of the parties hereto, to set forth their mutual understanding with respect to the conditions under which the RCKC will grant its consent to the _____ to construct the sidewalk within the county road right-of-way;

NOW, THEREFORE, in consideration of the aforementioned premises and in furtherance thereof, it is hereby mutually agreed as follows:

1. _____ will apply for sidewalk project approval from the RCKC and agrees to abide by all terms and conditions imposed upon such approval. _____ will construct in accordance with the plans and design prepared by its consultant or engineer and approved by _____ and the RCKC. Any deviation from the plans and design must receive the prior written approval of _____ and RCKC. _____ shall develop a sidewalk project design package and submit the design package including a copy of the storm water drainage plan and calculations to the RCKC for review. The RCKC shall make final design decisions regarding sidewalk location with regard to driveways, intersection, signage and drainage features in the county road right of way.
2. As owner of the facility, _____ agrees RCKC has no responsibility for maintenance, winter maintenance (including, but not limited to snow removal/shoveling), signage, repair and restoration of the sidewalk for so long as the sidewalk may exist. RCKC reserves the right to remove the sidewalk at its expense when necessary to accommodate a roadway improvement of the RCKC, but has no responsibility to relocate the sidewalk.
3. _____ shall be responsible for all costs not covered by other funding. _____ shall be responsible for RCKC staff time and administrative expenses related to this project. Prior to project advertisement by the Michigan Department of Transportation (MDOT), _____ will deposit a check for ninety (90) percent of the estimated local cost of the construction project plus the RCKC overhead factor. All other invoices will be based on actual costs incurred. After construction is complete, the RCKC will conduct a final accounting to determine if any further payment is due or if a refund is due to _____. If bids come in ten (10) percent or less over the consultant's/engineer's estimate then the project will proceed to award. _____ shall be responsible for all costs over the amount covered by _____ funds. If bids come in more than 10 percent over the consultant's/engineer's estimate, then the _____ will have an opportunity to request to reject all bids, or to proceed to award. If bids come in under the consultant's/engineer's estimate then the project will proceed to award. Any extras or increases which exceed the original programmed amount will be paid by _____.
4. For increased or extra items that may not be eligible for other funding, _____ shall generate a Work Order for RCKC review prior to the work being done by the Contractor. The RCKC will invoice _____ the amount of the Work Order as soon as it is determined. The amount of the Work Order is due within thirty (30) days of the invoice.
5. _____ shall provide construction engineering services as stated in the MDOT Program Application

for this project and in the MDOT Construction Manual, as required by statute or regulations applicable to the proposed project. _____ shall prepare a final as built set of plans for the project and provide it to the RCKC. The as built plans shall be submitted on Mylar with the original signature page, and in electronic format (AutoCAD and PDF) on CD. _____ will also provide a copy of the project construction file to the RCKC for its records.

6. _____ will agree to have its Consultant attend a project update meeting every two weeks or as needed to review the status of the project with the Contractor and to process construction status and payment request reports. Construction Engineering includes construction staking, right-of-way staking, materials sampling and testing, and acting as a storm water operator. Every two weeks _____ shall prepare a written report including inspector daily reports, Davis Bacon Wage Documentation review, status of materials certifications, materials testing reports, the MDOT contractor pay estimate, and any other submittal requirements.
7. _____ shall reimburse the RCKC's cost in reviewing and administering the contract.
8. _____ shall be responsible for any required land acquisition (including temporary grading permits). _____ will submit the proposed right-of-way acquisitions for approval prior to acquiring the necessary additional right-of-way and shall have a qualified right-of-way specialist certify the right-of-way file prior to submitting it to the RCKC.
9. _____ shall complete the RCKC tree notification form for any tree removals within the existing county road right-of-way. Compensation required by the property owner, in accordance with RCKC written policy, will be paid by _____. All county road right-of-way encroachments shall adhere to RCKC policy, any adjustments will be paid by _____.
10. _____ agrees to be responsible for all utility reconfiguration costs associated with project. Prior to advertisement of the project, _____ shall submit a letter to the RCKC stating that they have reviewed utility conflicts, and have addressed any necessary utility relocation.
11. This agreement shall be in effect as between the parties hereto upon the affixation of the signatures of the duly authorized officers of the RCKC and _____.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their seals affixed hereto the day and year written below.

BOARD OF ROAD COMMISSIONERS OF KALAMAZOO COUNTY

By: _____

Chairman

Date: _____

**EXHIBIT D SAMPLE AGREEMENT
(Non-Motorized Facility – Not Sidewalk)**

WHEREAS, the _____ (hereinafter referred to as _____) is a municipal corporation organized under the laws of the State of Michigan, and is located in the County of Kalamazoo, State of Michigan, and:

WHEREAS, the Board of Road Commissioners of the Kalamazoo County (hereinafter referred to as “RCKC”) is a public body corporate, located within the County of Kalamazoo, State of Michigan, and;

WHEREAS, the _____ desires to build non-motorized transportation facilities, or bicycle paths (hereinafter referred to as “non-motorized path”) in accordance with plans and designs prepared by its consultant/engineer within the county road right-of-way, more specifically:

WHEREAS, because the intended location of the non-motorized path is within the county road right-of-way, it is necessary for _____ to obtain the consent of the RCKC prior to commencing construction of the non-motorized path, and;

WHEREAS, it is the desire and objective of the parties hereto, to set forth their mutual understanding with respect to the conditions under which the RCKC will grant its consent to the _____ to construct non-motorized path within the county road right-of-way;

NOW, THEREFORE, in consideration of the aforementioned premises and in furtherance thereof, it is hereby mutually agreed as follows:

1. _____ will make application and apply for a permit and/or non-motorized facility project approval from the RCKC and agrees to abide by all terms and conditions imposed upon permit and non-motorized facility project applications. _____ will construct the non-motorized path in accordance with the plans and design prepared by its consultant or engineer and approved by _____ and the RCKC. Any deviation from the plans and design must receive the prior written approval of _____ and RCKC. _____ shall develop a project design package and submit the design package including a copy of the storm water drainage plan and calculations to the RCKC for review. The RCKC shall make final design decisions regarding non-motorized facility location with regard to driveways, intersection, signage and drainage features in the county road right of way.
2. As owner of the facility, _____ agrees to assume or assign to third parties as applicable, total and exclusive responsibility for maintenance, winter maintenance (including, but not limited to snow removal), signage, repair and restoration of the non-motorized path for so long as the non-motorized path may exist. If, however, the non-motorized facility is a paved shoulder, RCKC will do maintenance, winter maintenance, repair and restoration. RCKC reserves the right to require the removal of the non-motorized facility when necessary to accommodate a roadway improvement of the RCKC. In such an instance, _____ shall be responsible for all costs associated with the removal and relocation of the non-motorized facility and for restoration of the county road right-of-way where the non-motorized path is located, to a condition reasonably similar to that in effect prior to the construction of the non-motorized path.
3. _____ shall be responsible for all costs not covered by other funding. _____ shall be responsible for RCKC staff time and administrative expenses related to this project. Prior to project advertisement by the Michigan Department of Transportation (MDOT), _____ will deposit a check for ninety (90) percent of the estimated local cost of the construction project plus the RCKC overhead factor. All other invoices will be based on actual costs incurred. After construction is complete, the RCKC will conduct a final accounting to determine if any further payment is due or if a refund is due to _____. If bids come in ten (10) percent or less over the consultant’s/engineer’s estimate then the project will proceed to award. _____ shall be responsible for all costs over the amount covered by _____ funds. If bids come in more than 10 percent over the consultant’s/engineer’s estimate, then the _____ will have an opportunity to request to reject all bids, or to proceed to award. If bids come in under the consultant’s/engineer’s estimate then the project will proceed to award. Any extras or increases which exceed the original programmed amount will be paid by _____.

4. For increased or extra items that may not be eligible for other funding, _____ shall generate a Work Order for RCKC review prior to the work being done by the Contractor. The RCKC will invoice _____ the amount of the Work Order as soon as it is determined. The amount of the Work Order is due within thirty (30) days of the invoice.
5. _____ shall provide construction engineering services as stated in the MDOT Program Application for this project and in the MDOT Construction Manual. Construction engineering includes all of the file documentation and review necessary to close out the project, and is the responsibility of _____. _____ shall prepare a final as built set of plans for the project and provide it to the RCKC. The as built plans shall be submitted on Mylar with the original signature page, and in electronic format (AutoCAD and PDF) on CD. _____ will also provide a copy of the project construction file to the RCKC for its records.
6. _____ will agree to have its Consultant attend a project update meeting every two weeks or as needed to review the status of the project with the Contractor and to process construction status and payment request reports. Construction Engineering includes construction staking, right-of-way staking, materials sampling and testing, and acting as a storm water operator. Every two weeks _____ shall prepare a written report including inspector daily reports, Davis Bacon Wage Documentation review, status of materials certifications, materials testing reports, the MDOT contractor pay estimate, and any other submittal requirements.
7. _____ shall reimburse the RCKC's cost in reviewing and administering the contract.
8. _____ shall be responsible for any required land acquisition (including temporary grading permits). _____ will submit the proposed right-of-way acquisition for approval prior to acquiring the necessary additional right-of-way and shall have a qualified right-of-way specialist certify the right-of-way file prior to submitting it to the RCKC.
9. _____ shall complete the RCKC tree notification form for any tree removals within the existing county road right-of-way. Compensation required by the property owner, in accordance with RCKC written policy, will be paid by _____. All county road right-of-way encroachments shall adhere to RCKC policy, any adjustments will be paid by _____.
10. _____ agrees to be responsible for all utility reconfiguration costs associated with project. Prior to advertisement of the project, _____ shall submit a letter to the RCKC stating that they have reviewed utility conflicts, and have addressed any necessary utility relocation.
11. Upon completion of the installation of the non-motorized path, and final approval having been granted by the RCKC to the _____, _____ agrees to save harmless, indemnify and defend the RCKC from any and all claims for bodily injury or property damage or any other claims relating to or arising out of the construction, operation, use or continuing existence of the non-motorized path within the county road right-of-way.
12. This agreement shall be in effect as between the parties hereto upon the affixation of the signatures of the duly authorized officers of the RCKC and _____.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their seals affixed hereto the day and year written below.

BOARD OF ROAD COMMISSIONERS OF KALAMAZOO COUNTY

By: _____

Chairman

Date: _____

Adopted: 1/28/14
 Amended: 12/16/14
 Amended: 11/3/15