

WORK CREDITABLE AGAINST THE SECTION 10K 1 PERCENT EXPENDITURE REQUIREMENT
PA 51 of 1951 as amended
Updated April 2019

Background:

Act 51 of 1951 is a public act of the State of Michigan that, among other things:

- creates the Michigan Transportation Fund (MTF);
- distributes the MTF for transportation purposes; to promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways;

Michigan Compiled Laws (MCL) Sec. 247.660k, commonly referred to as “Section 10k,” allows and requires spending of MTF monies on nonmotorized transportation services and facilities. MCL 247.660k(2) states, “Of the funds allocated from the Michigan Transportation Fund to the State Trunkline Fund and to the counties, cities, and villages, a reasonable amount, but not less than 1 percent of those funds shall be expended for construction or improvement of nonmotorized transportation services and facilities.”

Guidance:

The following information has been developed to help road agencies meet the statutory requirements of MCL 247.660k.

Transportation Projects versus Recreation Projects

Funds distributed to local road agencies under Act 51 must be spent on projects and services associated with state trunklines, county roads, and city and village streets. For projects supporting pedestrians and bicyclists to satisfy the Section 10k requirement, projects must serve a transportation purpose and not be solely for recreation. To aid in making that determination the following should be considered:

A project may be considered a transportation project if it is reasonably adjacent to a transportation facility or within a transportation corridor; or provides access to services or destinations by means of nonmotorized transportation, in lieu of a motor vehicle.

Nonmotorized transportation projects include sidewalks, bike lanes, paved shoulders and sidepaths within a road right of way. Sidewalks or shared-use pathways outside a road right of way may also be transportation projects if they are constructed in a transportation corridor (i.e., railroad right of way, etc.), or the project provides reasonable access to services and destinations that would otherwise only be accessible by a motor vehicle. A project that fills a gap in a local or regional network, or connects the larger network to services or destinations, could be considered a transportation project.

Recreational projects include linear or looped trails or pathways in parks, or projects solely within a park or parcel that provides access to a facility, such as a sidewalk or pathway:

- between a parking lot and a pavilion, another building or accessory structure;
- between a pavilion and a bathroom or another accessory building or structure;
- fitness walks or access to activity sites within a park; or
- natural surface hiking or walking trails.

Cross-jurisdictional Work

State trunklines pass through counties, cities and villages. It is common for state trunklines or county roads to pass through cities and villages with those cities or villages not having any management or jurisdictional responsibility for the roadway. Several statutes allow for the transfer of certain activities and financial responsibilities between transportation agencies. Specifically, MCL 247.662 and MCL 247.663 allow a road agency to enter into a contract with another road agency to perform construction or reconstruction work on a highway, road or street, or perform work incidental to those roadways.

Accommodations for nonmotorized users is allowed under MCL 247.660k and is considered work incidental to the roadway. As such, cost sharing for construction or reconstruction of nonmotorized transportation assets that are part of the nonmotorized transportation network is permissible. Agencies contributing financially to those projects can report that expenditure as an eligible expenditure under the 1 percent requirement. This assumes the expenditures meets all other requirements (such as the funding source being the MTF, the project location is in public ownership, etc.).

For example: a city or village, under contract with a county road commission (or the Michigan Department of Transportation (MDOT)), could build nonmotorized accommodations on a county road (or trunkline) in the city or village. If the city or village pays for the work using MTF monies, the city or village can report those expenditures under the Section 10k requirement.

Design Standards and Considerations

All work must be done to professional engineering standards and relevant guidance and regulations, including but not limited to the American Association of State Highway and Transportation Official (AASHTO) – Guide for the Development of Bicycle Facilities 2012 or newer; Guide for the Planning, Design and Operation of Pedestrian Facilities 2004 or newer; Michigan Manual on Uniform Traffic Control Devices (MMUTCD) 2005 or newer; and the US Access Board Public Rights-of-Way Access Guidelines (PROWAG); and any of the National Association of City Transportation Officials (NACTO) Design Guides with the allowable context of the AASHTO guides or the MMUTCD.

Project Eligibility Determination

- **New Construction or Reconstruction:** The construction of new infrastructure that supports nonmotorized transportation or the reconstruction of existing infrastructure. **Eligible** if the project has a nonmotorized transportation purpose.
- **Capital Preservation Projects:** Capital preservation projects include certain projects, such as crack and surface treatments, non-structural overlays, resurfacing, restoration, or rehabilitation. **Eligible** as long as the project supports a nonmotorized transportation facility. See page 4 for further explanation and a list of specific project work type eligibility.
- **Routine Maintenance:** Routine maintenance includes actions performed on a regular or controllable basis, or in response to uncontrollable events, such as but not limited to snow and ice removal, pothole filling, mowing, repairing/replacing lighting, clearing of brush and vegetation, sweeping, or clearing drainage facilities. **Ineligible** regardless of location.

The following table represents some specific work items creditable against the Section 10k 1 percent requirement. If your community identifies potential work items that do not appear on the list below, please contact the MDOT Pedestrian and Bicycle Specialists to discuss eligibility.

DESCRIPTION OF WORK	WORK CREDITABLE AGAINST SECTION 10K 1 PERCENT REQUIREMENT	ELIGIBLE COST	
		Engineering	Construction
NON – ROAD FACILITIES			
Shared-Use Path as a project	All engineering/construction/reconstruction.	100%	100%
Shared-Use Path as part of a road project	1) All path-related construction/reconstruction. 2) Non-path work in the road project necessitated by the path component (e.g., extra fill, culvert extension, etc.).	Prorated*	100% of 1 and 2
Shared-Use Path Structures	All engineering/construction.	100%	100%
Bicycle Parking	Acquisition and installation.	100%	100%
Sidewalks, Ramps and Curb Cuts	All engineering/construction.	100%	100%
Curb Extensions and Median Refuge Islands	All engineering/construction.	100%	100%
Signs, Pavement Markings, Pedestrian/Bicycle Signals	All work specifically associated with the signs, markings, signals specifically intended for nonmotorized users.	100%	100%
Crack and Surface Treatments, Non-structural Overlays, Resurfacing, Restoration or Rehabilitation	All engineering/construction on shared-use pathways, sidepaths or sidewalks.	100%	100%
SERVICES			
Nonmotorized Planning and Education	Costs associated with the development of nonmotorized planning documents or educational materials intended to promote the development, benefits, safety, and use of nonmotorized transportation.	Not Applicable	Not Applicable
ROAD FACILITIES (see notes below)			
Signs, Pavement Markings, Pedestrian/Bicycle Signals	All work specifically associated with the signs, markings and signals specifically intended for nonmotorized users.	100%	100%
Bike Lanes - Pavement, Markings, and Signs as a project	All engineering/construction.	100%	100%
Bike Lanes - Pavement, Markings, and Signs as part of a road or bridge construction	That portion of the engineering and construction that can be attributed to the bike lane.	Prorated	Prorated**
Shoulder Paving as a project	All engineering/construction.	100%	100%
Shoulder Paving as part of a road or bridge construction	That portion of the engineering and construction that can be attributed to the paved portion of the shoulders.	Prorated	Prorated**
Road or Bridge Construction	That portion of the road or bridge project intended for nonmotorized travel.	Prorated	Prorated
Crack and Surface Treatments, Non-structural Overlays, Reconstruction, Resurfacing, Restoration, or Rehabilitation	All engineering/construction for that portion of the roadway meeting the dimensional requirements set forth in the relevant AASHTO guidelines for the on-roadway nonmotorized facility (shoulders or bike lanes).	Prorated	Prorated
* Proration: $Enm = (Cnm / Ctot) \times Etot$, where E=Engineering \$s, and C=Construction \$s			
** Proration: $Cnm = (Wnm / Wtot) \times Ctot$ where W = Width of roadway, and C = Construction \$s. Note only road/bridge project pay items that include the nonmotorized width in the width proration.			

Questions regarding cost eligibility for items not discussed in this guidance, or for assistance in calculation of expenditures, may be directed to Josh DeBruyn, MDOT Pedestrian and Bicycle Specialist, 517-335-2918 or DeBruynJ@Michigan.gov.

ADDITIONAL NOTES:

Non-road facilities are accommodations that occur outside of the edge of the road and may or may not be within the road right of way but still have a transportation purpose. Shared-use paths and structures on those paths are off-roadway facilities intended for nonmotorized travel. Ramps and curb cuts where paths or sidewalks cross roadways are eligible; bicycle parking facilities also qualify. Signs, pavement markings, and signals associated with road or non-road facilities intended for the safety and mobility of bicyclists or pedestrian are also eligible expenditures.

Road facilities are nonmotorized accommodations built within a roadway. Marked bicycle lanes and paved shoulders qualify as a bicycle accommodation if they meet national design standards and guidelines for nonmotorized facilities. Portions of/prorated road or bridge construction, reconstruction, resurfacing, widening, rehabilitation, and certain heavy and light capital preservation maintenance (CPM) costs may be eligible if the work supports or takes place on accommodations for nonmotorized users and meet national design standards and guidelines for nonmotorized transport. In the case of resurfacing, rehabilitation and light or heavy CPM, work is eligible only if it is done on existing nonmotorized accommodations; work in motor vehicle travel lanes and turn lanes does not qualify as a nonmotorized expenditure. "Road diets" or the restriping costs associated with converting a roadway from four lanes to three lanes (two travel lanes, a turn lane and two marked bicycle lanes) within the existing curb alignment can also be considered an eligible expenditure.

As Section 10k was amended effective March 29, 2006, changing from gravel to hard-surface roads, including paving of gravel roads, no longer qualifies as an eligible expenditure toward Section 10(k). Sidewalk "addition or improvement" in a city or village are eligible nonmotorized expenditures; see MCL 247.660k(3) for more information.

The following CPM and rehabilitation projects are Section 10k-eligible when the work is performed on paved shoulders 4 feet wide or greater, in marked bike lanes, or on sidewalks, sidepaths or shared-use pathways. The following work is not eligible for reporting against the Section 10k 1 percent requirement when the work takes place in a travel lane or a dedicated turn lane.

Project Classification	Improvement Type	Description
Heavy CPM	Bituminous < 1.5"	Bituminous overlays of 1.5 inches or less
Heavy CPM	Micro-Surface	Thin surface layer application over pavement
Heavy CPM	Overband crack fill	Overband crack clean and fill
Heavy CPM	Partial remove and repair	Partial-depth concrete removal and repair
Heavy CPM	Skip patching	Intermittent paving the most distressed sections
Heavy CPM	Partial Depth Concrete Pavement Repair	Partial-depth concrete pavement repair
Heavy CPM	Concrete Joint & Surface Spall Repair	Concrete joint and surface spall repair
Heavy CPM	Concrete Pavement Restoration	Concrete pavement restoration
Heavy CPM	Ultra-Thin Bituminous Overlay (< 20mm)	Ultra-thin bituminous overlay (less than 20 millimeters)
Heavy CPM	Cold Milling & Bituminous Overlay (< 40mm)	Cold milling and bituminous overlay (less than 40millimeters)
Heavy CPM	Bituminous Overlay (< 40mm)	Bituminous overlay (less than 40 millimeters)
Light CPM	Joint/Spall repair	Concrete joint repair and surface spall repair
Light CPM	Joint Seal	Concrete joint resealing and crack sealing
Light CPM	Crack Seal	Pavement crack seal
Light CPM	Shallow crack fill	Filling shallow pavement cracks

Project Classification	Improvement Type	Description
Light CPM	Ultra-thin overlay	MHMA overlay of 0.7 inches average thickness
Light CPM	Bituminous Crack Treatment	Bituminous crack treatment
Light CPM	Concrete Crack Sealing	Concrete crack sealing
Light CPM	Concrete Joints Reseal	Concrete joints reseal
Light CPM	Overband Crack Fill	Overband crack fill
Rehabilitation	Hot-bituminous recycling	Hot-in-place bituminous recycling
Rehabilitation	Culvert Improvement	Culvert extension and headwall repair/rebuild
Rehabilitation	Full remove and repair	Full-depth concrete removal and repair
Rehabilitation	Shoulder improvement	Surfacing of shoulder with higher quality materials
Rehabilitation	Shoulder resurface	Resurfacing of the shoulder
Rehabilitation	Surface mill and overlay	Surface milling and non-structural overlays
Rehabilitation	Full-Depth Concrete Pavement Repair	Full-depth concrete pavement repair
Rehabilitation	Bituminous Resurfacing	Bituminous resurfacing
Rehabilitation	Bituminous Shoulders	Bituminous shoulders
Rehabilitation	Bit Resurf & Bit Shlders	Bituminous resurfacing and bituminous Shoulders
Rehabilitation	Bit Resurf & Drainage Imprv	Bituminous resurfacing and drainage improvements
Rehabilitation	Bituminous Shoulder Work	Bituminous shoulder work

Adapted from the Transportation Asset Management Council Investment Reporting Tool program