

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF LAKE AND
THE ANTIOCH TOWNSHIP ROAD DISTRICT
FOR THE USE OF TOWNSHIP BRIDGE PROGRAM
AND MFT FUNDS FOR IMPROVEMENT OF
EDWARDS ROAD AT THE DUTCH GAP CANAL**

THIS AGREEMENT is entered into this ____ day of _____, A.D. 20__, by and between the COUNTY OF LAKE, Illinois, an Illinois body politic and corporate, acting by and through its Chair and County Board, hereinafter referred to as the COUNTY, and the ANTIOCH TOWNSHIP ROAD DISTRICT, an Illinois Unit of Local Government, acting by and through its Township Highway Commissioner, hereinafter referred to as the ROAD DISTRICT. The COUNTY and the ROAD DISTRICT are hereinafter referred to collectively as the “parties” to THIS AGREEMENT, and either one is referred to individually as a “party” to THIS AGREEMENT.

WITNESSETH

WHEREAS, Edwards Road is a public roadway between US Route 45 and US Route 41 located within Antioch Township; and,

WHEREAS, the crossing of Edwards Road over the Dutch Gap Canal between US Route 45 and Brighton Farm Road is located within a segment of Edwards Road under the jurisdiction of the ROAD DISTRICT; and,

WHEREAS, said crossing of Edwards Road over the Dutch Gap Canal consists of two corrugated metal pipe arches, the opening of said arches when taken together, and measured along the center of the roadway at the spring line of the arches, exceeds 20 feet and is defined as a bridge in accordance with the Illinois Department of Transportation (IDOT) Bureau of Local Roads and Streets Manual; and,

WHEREAS, said crossing of Edwards Road over Dutch Gap Canal was damaged by the flood of July of 2017 forcing the ROAD DISTRICT to make an emergency closure of Edwards Road at the Dutch Gap Canal until such time as replacement of the failed arches can be made; and,

WHEREAS, the ROAD DISTRICT desires to reconstruct the crossing of Edwards Road over the Dutch Gap Canal, which will allow for the reopening of the road; and,

WHEREAS, the reconstruction of the crossing of Edwards Road over the Dutch Gap Canal includes the replacement of the failed corrugated metal pipe arches with a new triple box culvert, and other necessary associated work items, and shall hereinafter be referred to as the IMPROVEMENT. The IMPROVEMENT shall also be known as Township Section 18-01102-01-BR and once completed, the Edwards Road crossing of the Dutch Gap Canal will function, and continue to be defined as, a bridge in accordance with the IDOT Bureau of Local Roads and Streets Manual; and,

WHEREAS, the location of the IMPROVEMENT is generally depicted on the attached EXHIBIT A to THIS AGREEMENT, which is attached hereto and is hereby made a part hereof; and,

WHEREAS, the Road District has requested the use of Motor Fuel tax funds (hereinafter MFT) and Township Bridge Program funds (hereinafter TBP) for engineering and construction of the IMPROVEMENT; and

WHEREAS, the State of Illinois, acting through its Department of Transportation, distributes Motor Fuel tax funding to the counties for use by the road districts in accordance with 35 ILCS 505/8 et. seq; and

WHEREAS, TBP funds are made available to the township road districts through the counties of the state in accordance with TBP Circular Letters issued by IDOT on a yearly basis; and,

WHEREAS, TBP funds require a minimum 20% local match to be provided by the ROAD DISTRICT; and,

WHEREAS, there is an “Agreement of Understanding for Maintenance and Construction” between the State of Illinois and Lake County (hereinafter AOU), which ensures that funds administered under MFT policies and procedures are expended in a manner as prescribed by law, and rules and regulations deemed necessary by IDOT; and

WHEREAS, in accordance with the AOU, Lake County is responsible for the administration, contract letting and award of Road District projects using state funds administered under MFT policies and procedures, including TBP funds; and

WHEREAS, the estimated costs for construction and construction engineering of the IMPROVEMENT and the funding anticipated to be used by the ROAD DISTRICT to cover these costs are indicated on the attached EXHIBIT B to THIS AGREEMENT, which is attached hereto and is hereby made a part hereof; and,

WHEREAS, the COUNTY and the ROAD DISTRICT are public agencies and governmental units within the meaning of the Illinois Intergovernmental Cooperation Act, as specified at 5 ILCS 220/1, et seq., and are authorized by Article 7, Section 10 of the Constitution of the State of Illinois to cooperate, contract, and otherwise associate for public purposes; and,

WHEREAS, the purpose of the Intergovernmental Cooperation Act and Article 7 of the Constitution of the State of Illinois includes fostering cooperation among governmental bodies; and,

WHEREAS, because TBP and MFT funds flow from IDOT to the COUNTY for use by the ROAD DISTRICT, both the COUNTY and the ROAD DISTRICT have agreed to enter into THIS AGREEMENT which sets forth the duties and the responsibilities of the parties hereto; and,

WHEREAS, the COUNTY and the ROAD DISTRICT, by virtue of their powers as set forth in the Illinois Highway Code (605 ILCS 5/6-201.10-1 *et. seq.*), the County Code (55 ILCS 5/1-1001 *et seq.*), and the Illinois Highway Code (605 ILCS 5/5-504), are authorized by statute to enter into THIS AGREEMENT; and,

WHEREAS, the IMPROVEMENT of Edwards Road at the Dutch Gap Canal as heretofore described will be of immediate benefit to the residents of the ROAD DISTRICT and the COUNTY;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, made and pursuant to all applicable statutes, local ordinances, and authority, the parties do hereby agree to the following:

SECTION I. Recitals/Headings

1. It is mutually agreed by and between the parties hereto that the foregoing preambles are hereby incorporated herein as though fully set forth.
2. It is mutually agreed by and between the parties hereto that the “headings” as contained in THIS AGREEMENT are for reference only, and the actual written provisions, paragraphs and words of THIS AGREEMENT shall control.

SECTION II. General Description of ROAD DISTRICT & COUNTY Responsibilities

1. It is mutually agreed that the IMPROVEMENT is a ROAD DISTRICT initiated and led effort and as such, the ROAD DISTRICT shall perform, or cause to be performed, any and all necessary project management and public coordination for the IMPROVEMENT.
2. The ROAD DISTRICT agrees to prepare, or cause to be prepared, all surveys, design engineering plans and specifications (hereinafter PLANS) for the IMPROVEMENT, subject to the approval of the COUNTY’s Division of Transportation and IDOT. As of this writing, the current PLANS are the final set of plans dated February 11, 2019, prepared by Gewalt Hamilton Associates, Inc. Said PLANS by reference herein are hereby made a part hereof.
3. The ROAD DISTRICT agrees to secure all required approvals for the IMPROVEMENT from IDOT, the COUNTY’s Division of Transportation and various permitting agencies with jurisdiction over the IMPROVEMENT (including, but not limited to, the United States Army Corps of Engineers, Lake County Stormwater Management, and the Illinois Department of Natural Resources).
4. The ROAD DISTRICT agrees to acquire any rights-of-way and easements, permanent and/or temporary, that are necessary for implementation of the IMPROVEMENT.

5. The COUNTY agrees to prepare the necessary contract documents and to advertise and let the IMPROVEMENT based on information received from the ROAD DISTRICT and the ROAD DISTRICT's consultant design engineer for the IMPROVEMENT, in accordance with the Agreement of Understanding for Maintenance and Construction between IDOT and the COUNTY, as fully executed on May 3, 2018. It is further mutually agreed that the COUNTY will enter into a contract for the IMPROVEMENT with the lowest responsible bidder on behalf of the ROAD DISTRICT and in accordance with IDOT requirements and procedures.
6. It is mutually agreed that the ROAD DISTRICT shall be listed as an additional insured pursuant to an endorsement of coverage to the same extent the COUNTY is insured by any contractor performing the work referenced in this AGREEMENT.
7. It is mutually agreed that the ROAD DISTRICT is targeting an April 16, 2019 COUNTY letting/bid opening for the IMPROVEMENT.
8. The ROAD DISTRICT agrees to contract with an IDOT pre-qualified consultant engineering firm to furnish construction engineering supervision for the IMPROVEMENT in accordance with IDOT procedures and policies, and to cause the IMPROVEMENT to be built in accordance with the approved plans, specifications, construction contract and with IDOT procedures, policies and standards. Said consultant engineering firm furnishing construction engineering supervision for the IMPROVEMENT shall hereinafter be referred to as the RESIDENT ENGINEER.

The ROAD DISTRICT further agrees to cause the RESIDENT ENGINEER to prepare and submit all required documentation and associated paperwork to the COUNTY and to IDOT associated with the use of MFT and TBP funds for the IMPROVEMENT.

9. It is mutually agreed that upon notice of award of the contract, or soon thereafter, it is anticipated that IDOT will cut the COUNTY a check for TBP construction funds. The COUNTY shall deposit the TBP funds into an account and said TBP funds shall only be disbursed for construction of the IMPROVEMENT.
10. It is mutually agreed that the COUNTY will act as a pass-through agency for MFT and TBP funding from the State to the Contractor for the IMPROVEMENT. The COUNTY will make progress payments directly to the Contractor with the MFT and TBP funding allocated to the ROAD DISTRICT for the IMPROVEMENT based upon pay estimates prepared by the RESIDENT ENGINEER.

It is further mutually agreed that, upon notice from the COUNTY, the ROAD DISTRICT shall pay the Contractor directly the balance of the cost of the IMPROVEMENT less any MFT and TBP used. The ROAD DISTRICT intends to use Township General Funds to cover the balance of the cost of the IMPROVEMENT less the MFT and TBP funds.

It is further mutually agreed that the COUNTY will not expend any COUNTY funds to the Contractor or to the RESIDENT ENGINEER for the IMPROVEMENT and that all costs associated with the IMPROVEMENT are the responsibility of the ROAD DISTRICT.

11. It is mutually agreed that a total of \$260,000 of TBP funds are programmed for construction of the IMPROVEMENT. It is further mutually agreed that the ROAD DISTRICT intends to use its Township MFT allocation for this project. As of this writing, the COUNTY records show the ROAD DISTRICT's Township MFT allocation is \$293,376.

It is further mutually agreed that in order for the ROAD DISTRICT to access the TBP funds for construction of the IMPROVEMENT, the IMPROVEMENT must be let and a contract awarded prior to September 1, 2019. If the contract for the IMPROVEMENT is not awarded prior to said date, the ROAD DISTRICT will lose the amount of TBP funds that were available for construction of the IMPROVEMENT and the ROAD DISTRICT would then be responsible for the entire cost of the IMPROVEMENT less the amount of MFT available to the ROAD DISTRICT.

SECTION III. General Provisions

1. It is mutually agreed by and between the parties hereto that nothing contained in THIS AGREEMENT is intended or shall be construed as, in any manner or form, creating or establishing a relationship of co-partners between the parties hereto, or as making the ROAD DISTRICT (including its elected officials, duly appointed officials, employees and agents) the agent, representative or employee of the COUNTY for any purpose or in any manner whatsoever, or the COUNTY (including its elected officials, duly appointed officials, employees, and agents) the agent, representative, or employee of the ROAD DISTRICT for any purpose or in any manner whatsoever. The ROAD DISTRICT is to be and shall remain independent of the COUNTY, and vice-versa, with respect to all services performed under THIS AGREEMENT.
2. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall not be construed in any manner or form, to limit the power or authority of the COUNTY or the COUNTY ENGINEER to maintain, operate, improve, construct, reconstruct, repair, manage, widen or expand COUNTY Highways as may be best determined, as provided by law.
3. It is mutually agreed by and between the parties hereto that each party warrants and represents to the other party and agrees that: (1) THIS AGREEMENT is executed by duly authorized agents or officers of such party and that all such agents and officers have executed the same in accordance with the lawful authority vested in them, pursuant to all applicable and substantive requirements; (2) THIS AGREEMENT is binding and valid and will be specifically enforceable against each party; and (3) THIS AGREEMENT

does not violate any presently existing provision of law nor any applicable order, writ, injunction or decree of any court or government department, commission, board, bureau, agency or instrumentality applicable to such party.

4. The ROAD DISTRICT agrees to indemnify, save harmless and defend the COUNTY, its agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of or in connection with the scope of service covered by THIS AGREEMENT. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the intentional and/or negligent conduct of the COUNTY, its agents, servants, or employees or any other person indemnified hereunder.
5. The COUNTY agrees to indemnify, save harmless and defend the ROAD DISTRICT, its agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of or in connection with the scope of service covered by THIS AGREEMENT. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the intentional and/or negligent conduct of the ROAD DISTRICT, its agents, servants, or employees or any other person indemnified hereunder.
6. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall take effect on April 1, 2019, provided the duly authorized agents of the parties hereto duly execute THIS AGREEMENT by affixing their signatures prior to April 1, 2019. In the event the date that the last authorized agent of the parties hereto affixes their signature to THIS AGREEMENT is subsequent to April 1, 2019, the effective date of THIS AGREEMENT shall then be the first day of the month which follows the date that the authorized agent of the parties hereto affixes his/her signature.
7. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be enforceable in any court of competent jurisdiction by each of the parties hereto by any appropriate action at law or in equity, including any action to secure the performance of the representations, promises, covenants, agreements and obligations contained herein.
8. It is mutually agreed by and between the parties hereto that the provisions of THIS AGREEMENT are severable. If any provision of THIS AGREEMENT is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, the illegality of such provision shall not affect the remaining portions of THIS AGREEMENT.

9. It is mutually agreed by and between the parties hereto that the agreement of the parties hereto is contained herein and that THIS AGREEMENT supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof.
10. It is mutually agreed by and between the parties hereto that any alterations, amendments, deletions, or waivers of any provision of THIS AGREEMENT shall be valid only when expressed in writing and duly executed by the parties hereto.
11. THIS AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. No party hereto shall assign, transfer, sell, grant, convey, deed, cede or otherwise give over, in any manner or form, any of its duties, obligations and/or responsibilities as heretofore set forth in THIS AGREEMENT without first obtaining the expressed written consent and permission of the other party, except as provided for in THIS AGREEMENT.
12. THIS AGREEMENT may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute THIS AGREEMENT.
13. Except where otherwise provided in THIS AGREEMENT, the term of THIS AGREEMENT shall be perpetual in nature and terminable only by the mutual written agreement of both of the parties hereto.
14. It is mutually agreed by and between the parties hereto that any notice required by the provisions of THIS AGREEMENT shall be mailed to:

If to the COUNTY:

Director of Transportation/County Engineer
Lake County Division of Transportation
600 West Winchester Road
Libertyville, IL, 60048-1381

If to the ROAD DISTRICT:

Highway Commissioner
Antioch Township Road District
933 Bartlett Ave
Antioch, IL 60002

15. THIS AGREEMENT shall be considered null and void in the event that the construction contracts covering the IMPROVEMENT contemplated herein, are not awarded by September 1, 2019.

ANTIOCH TOWNSHIP ROAD DISTRICT

ATTEST:

Township Clerk

By: _____
Highway Commissioner
ANTIOCH TOWNSHIP ROAD DISTRICT

Date: _____

RECOMMENDED FOR EXECUTION

Shane E. Schneider, P.E.
Director of Transportation /County Engineer
Lake County

COUNTY OF LAKE

ATTEST:

County Clerk

By: _____
Chair
Lake County Board

Date: _____

EXHIBIT A
GENERAL LOCATION MAP
OF THE IMPROVEMENT

Antioch Township

Edwards Rd at Dutch Gap Canal

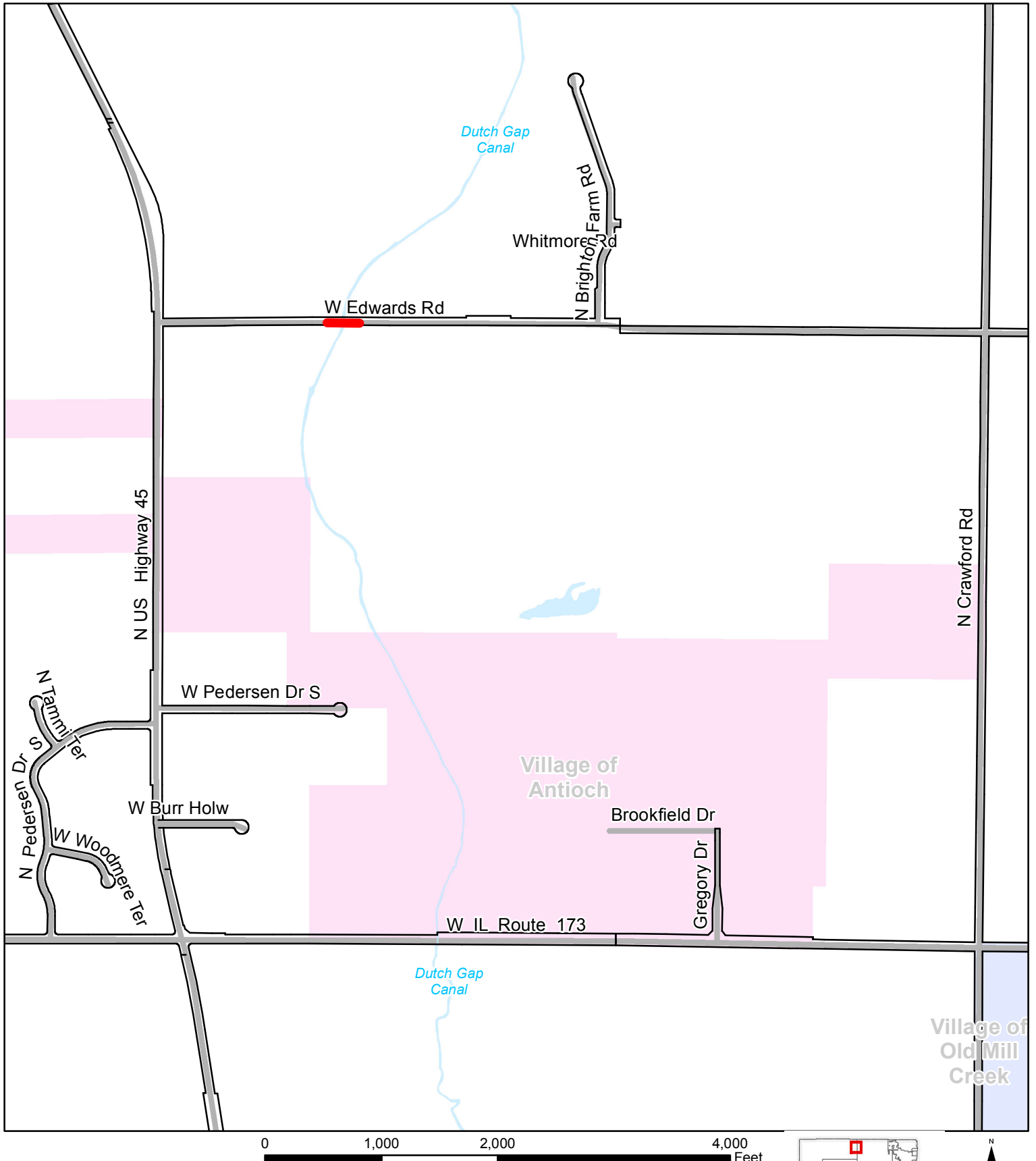


EXHIBIT B
EDWARDS ROAD AT DUTCH GAP CANAL
ESTIMATED IMPROVEMENT FUNDING

Estimated Construction Costs:

Engineer's Estimated Cost for Construction of the IMPROVEMENT	\$862,627
<u>Engineer's Estimated Cost for Phase 3 Engineering</u>	<u>\$93,802</u>
Total	\$956,429

Estimated Construction Funding:

Programmed Township Bridge Program (TBP) Funds	\$260,000
ROAD DISTRICT Motor Fuel Tax (MFT) Funds	\$293,376
<u>ROAD DISTRICT Township General Funds</u>	<u>\$403,053</u>
Total	\$956,429