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# Transportation Conformity Determination Report for the 1997 Ozone NAAQS

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October 2023

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# Executive Summary

As part of its transportation planning process, the Michiana Area Council of Governments (MACOG) completed the transportation conformity process for the update to the Michiana on the Move: 2050 Transportation Plan and SFY 2024-2028 TIP. This report documents 2050 Transportation Plan and SFY 2024-2028 TIP meet the federal transportation conformity requirements in 40 CFR Part 93.

Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) requires that federally funded or approved highway and transit activities are consistent with (“conform to”) the purpose of the State Implementation Plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or any interim milestones. 42 U.S.C. 7506(c) (1). EPA’s transportation conformity rules establish the criteria and procedures for determining whether metropolitan transportation plans, transportation improvement programs (TIPs), and federally supported highway and transit projects conform to the SIP. 40 CFR Parts 51.390 and 93.

On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit in *South Coast Air Quality Mgmt. District v. EPA* (“South Coast II,” 882 F.3d 1138) held that transportation conformity determinations must be made in areas that were either nonattainment or maintenance for the 1997 ozone national ambient air quality standard (NAAQS) and attainment for the 2008 Ozone NAAQS when the 1997 Ozone NAAQS was revoked. The conformity determinations are required in these areas after February 16, 2019. The South Bend-Elkhart area was a maintenance area at the time of the 1997 Ozone NAAQS revocation on April 6, 2015 and was designated unclassifiable / attainment for the 2008 Ozone NAAQS on May 21, 2012. Therefore, per the South Coast II decision, this conformity determination is being made for the 1997 Ozone NAAQS on the amended Transportation Plan and TIP.

This conformity determination was completed consistent with CAA requirements, existing associated regulations at 40 CFR Parts 51.390 and 93, and the South Coast II decision, according to EPA’s Transportation Conformity Guidance for the South Coast II Court Decision issued on November 29, 2018.

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## Background

The concept of transportation conformity was introduced in the Clean Air Act (CAA) of 1977, which included a provision to ensure that transportation investments conform to a State Implementation Plan (SIP) for meeting the Federal air quality standards. Conformity requirements were made substantially more rigorous in the CAA Amendments of 1990. The transportation conformity regulations that detail implementation of the CAA requirements were first issued in November 1993, and have been amended several times. The regulations establish the criteria and procedures for transportation agencies to demonstrate that air pollutant emissions from transportation plans, transportation improvement programs and projects are consistent with (“conform to”) the State’s air quality goals in the SIP. This document has been prepared for State and local officials who are involved in decision making on transportation investments.

Transportation conformity is required under CAA Section 176(c) to ensure that Federally-supported transportation activities are consistent with (“conform to”) the purpose of a State’s SIP. Transportation conformity establishes the framework for improving air quality to protect public health and the environment. Conformity to the purpose of the SIP means the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) funding and approvals are given to highway and transit activities that will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the relevant air quality standard, or any interim milestone.

On April 15, 2004, the U.S. EPA designated St. Joseph and Elkhart counties as basic nonattainment and subject to the new 8-hour ozone requirements. This designation required the development of a plan to reduce volatile organic compounds (VOCs) and oxides of nitrogen (NOx) emissions as well as a demonstration that the area will meet the 8-hour ozone standard by June 15, 2009. On April 18, 2007, the U.S. EPA re-designated the South Bend-Elkhart area (including all of St. Joseph and Elkhart County) to attainment for ozone based on a request from the Indiana Department of Environmental Management (IDEM) in 2006. Since the re-designation, air quality in the region has continued to improve with the area being found in attainment of the stricter 2008 and 2015 Ozone NAAQS.

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# Michiana on the Move: 2050 Transportation Plan

Michiana on the Move: 2050 Transportation Plan is a long range plan that identifies regionally significant transportation needs and issues in the region. It is a fiscally constrained document that includes a demographic analysis of the community as well as an examination of travel patterns and trends. The planning process includes the identification of projects and strategies that address projected future demands and for providing a safe and efficient transportation system that meets mobility while not creating adverse impacts to the environment. The conformity determination is for a new MTP update.

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## SFY 2024-2028 Transportation Improvement Program (TIP)

The 2024-2028 Transportation Improvement Program (TIP) is a four year, short-range plan that provides information regarding the transportation projects that are federally funded in the MACOG region.

The TIP includes projects for all modes of surface transportation including highways and streets, active transportation, and public transportation. Projects listed are developed in cooperation with state and local agencies.

The approved TIP can be amended or modified to add or delete projects and adjust for changes in scope, cost, or timeframe. Amendments are required to go through Policy Board approval and subject for public review, while minor changes can be made by Administrative Modifications.

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## Transportation Conformity Determination: General Process

Per the court's decision in *South Coast II*, beginning February 16, 2019, a transportation conformity determination for the 1997 Ozone NAAQS will be needed in 1997 Ozone NAAQS nonattainment and maintenance areas identified by the EPA<sup>1</sup> for certain transportation activities, including updated or amended Transportation Plans and TIPs. Once the US DOT makes its 1997 Ozone NAAQS conformity determination for the 2050 Transportation Plan and SFY 2024-2028 TIP, conformity will be required no less frequently than every four years. This conformity determination report will address transportation conformity for the 2050 Transportation Plan and SFY 2024-2028 TIP.

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<sup>1</sup> The areas identified can be found in EPA's "Transportation Conformity Guidance for the South Coast II Court Decision, EPA-420-B-18-050, available on the web at [www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation](https://www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation).

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# Transportation Conformity Requirements

On November 29, 2018, the EPA issued Transportation Conformity Guidance for the South Coast II Court Decision (EPA-420-B-18-050, November 2018) that addresses how transportation conformity determinations can be made in areas that were nonattainment or maintenance for the 1997 Ozone NAAQS when the 1997 Ozone NAAQS was revoked, but were designated attainment for the 2008 Ozone NAAQS in EPA's original designations for this NAAQS (May 21, 2012).

The transportation conformity regulation at 40 CFR 93.109 sets forth the criteria and procedures for determining conformity. The conformity criteria for Transportation Plans and TIPs include:

- latest planning assumptions (93.110),
- latest emissions model (93.111),
- consultation (93.112),
- transportation control measures (93.113(b) and (c)), and
- emissions budget and/or interim emissions (93.118 and/or 93.119)

For the 1997 Ozone NAAQS areas, transportation conformity for Transportation Plans and TIPs for the 1997 Ozone NAAQS can be demonstrated without a regional emissions analysis, per 40 CFR 93.109(c). This provision states that the regional emissions analysis requirement applies one year after the effective date of EPA's nonattainment designation for a NAAQS and until the effective date of revocation of such NAAQS for an area. The 1997 Ozone NAAQS revocation was effective on April 6, 2015, and the *South Coast II* court upheld the revocation. As no regional emission analysis is required for this conformity determination, there is no requirement to use the latest emissions model, or budget and/or interim emissions tests.

Therefore, transportation conformity for the 1997 Ozone NAAQS for MACOG's Michiana on the Move: 2050 Transportation Plan and SFY 2024-2028 TIP can be demonstrated by showing the remaining requirements in Table 1 in 40 CFR 93.109 have been met. These requirements, which are laid out in Section 2.4 of EPA's guidance and addressed below, include:

- Latest planning assumptions (93.110)
- Consultation (93.112)
- Transportation Control Measures (93.113)
- Fiscal constraint (93.108)

## Latest Planning Assumptions

The use of the latest planning assumptions in 40 CFR 93.110 of the conformity rule generally applies to a regional emissions analysis. In the 1997 Ozone NAAQS areas, the use of the latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP. The SIP for St. Joseph and Elkhart County does not include any TCMs.

Planning Assumptions used for the Michiana on the Move: 2050 Transportation Plan include the following:

- Population and household characteristics were calculated from the 2020 Decennial Census and 2017-2021 5-year American Community Survey Estimates
- Employment data is from LEHD (Longitudinal Employer-Household Dynamics Data), and compared to InfoUSA data.
- 2022 MACOG Traffic Count Database for AADT
- Woods and Poole Estimates were used for forecasted population and employment growth to 2050
- The base year of the travel demand model is 2015 with geographic updates in 2018 (geographic expansion); and validated with the above data and stakeholder input

## Consultation Requirements

The consultation requirements in 40 CFR 93.112 were addressed both for interagency consultation and public consultation.

Interagency consultation was conducted with the EPA, FHWA, FTA, IDEM, and INDOT. A draft of this Transportation Conformity Determination Report for the 1997 Ozone NAAQS was provided with draft 2050 Transportation Plan via email for informal consultation. Interagency consultation was conducted consistent with the Indiana Conformity SIP.

Public consultation was conducted consistent with planning rule requirements in 23 CFR 450. A public comment period will be held from September 8, 2023 through October 9, 2023 and an open house will be held on September 21, 2023.

## Timely Implementation of TCMs

The Indiana SIP does not include any TCMs.

## Fiscal Constraint

Transportation conformity requirements in 40 CFR 93.108 state that transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450. The 2050 Transportation Plan and SFY 2024-2028 TIP are fiscally constrained, as demonstrated in the financial chapters of their respective plans.

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## Conclusion

The conformity determination process completed for the 2050 Transportation Plan and 2024-2028 TIP demonstrates that these planning documents meet the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS.



# Appendix A – Interagency Consultation Process

Federal regulation (40 CFR 93.105b) requires that a region’s MPO representatives, state and local air quality planning agencies, state and local transportation agencies, and other organizations with responsibilities for developing, submitting, or implementing provisions of an implementation plan required by the Clean Air Act (CAA) must consult with each other and with local or regional offices of EPA, FHWA, and FTA on the development of transportation plans and associated air quality conformity determinations. MACOG’s Interagency Consultation Group (ICG) includes representatives from the different stakeholders that oversee air quality analysis in the geographic area.

## Interagency Consultation Group Members

The following individuals were included on correspondence to the Interagency Consultation Group and have been instrumental in reviewing the processes and procedures used to demonstrate air quality conformity.

<b>Name</b>	<b>Organization</b>	<b>Title/Area</b>
Anthony Maietta	EPA	Environmental Protection Specialist
Erica Tait	FHWA	Planning & Environmental Team Leader
Kari Carmany-George	FHWA	Environmental Program Manager
Cecilia Godfrey	FTA	Community Planner - Region V
Shawn Seals	IDEM	Senior Environmental Planner
Breanne Freese	INDOT	LPA Program Director
Marcia Blansett	INDOT	LPA Program Director
David Armstrong	INDOT	LPA Program Director
Emmanuel Nsonwu	INDOT	Development Specialist
Frank Baukert	INDOT	Transportation Planner
Jason Casteel	INDOT	Transit Planner
Jay Mitchell	INDOT	Supervisor
Stephanie Belch	INDOT	Development Specialist
James Turnwald	MACOG	Executive Director
Caitlin Stevens	MACOG	Director of Transportation
Dana Weaver	MACOG	Short-Range Transportation Planner

## Meeting and Correspondence Summary

An informal consultation email was sent to the ICG on September 12, 2023 to provide documentation and solicit feedback on the Draft Michiana on the Move: 2050 Transportation Plan and Air Quality Conformity Report. During this process we received one question and provided a response as show below.

**Question:** “Regarding the travel demand model data, do you all have plans to include more recent geographic information? I believe the conformity report states that the population and household characteristics were taken from the most recent census and ACS data, but the base year of the travel demand model is 2015 with geographic updates in 2018.”

**Response:** “In 2018, MACOG added the Niles, MI portion of the urban area to the model. Previously, this was a separate model that was maintained by MDOT but due to its small size it wasn't very effective. MACOG partnered with SWMPC and MDOT to incorporate the Niles, MI geography into the model. Data from 2018 was used to validate the model including traffic counts and StreetLight data. This was a regional model of cooperation to ensure that planning activities across the urban area were worked on jointly with MACOG, MDOT and SWMPC. MACOG and SWMPC share a similar MTP update cycle, they are technically a few months ahead (July vs November). I believe the current SWMPC 2050 MTP was out for public comment from May 15-June 9, 2023 and was approved by SWMPC's NATS board on June 27th.

Since the model is a joint partnership, each MTP cycle we meet to discuss what needs to be done with the model. As we went into this MTP cycle, MDOT and MACOG discussed the plans. It was jointly decided that this would be the last cycle with this current model and current base year. A major factor in that decision was that the 2020 Census data was so slow in coming out and portions like the urban area boundary came out so late it would have been impossible to incorporate into a new model in time for this MTP cycle. As you noted, Census data was used to develop base population and household data, employment data was developed from a private business database (DataAxle) verified with local knowledge, and Woods & Pool was used to develop future year socioeconomic data. All of this allows us to create forecasts for the horizon year of 2050. This is similarly noted by MDOT in the SWMPC 2050 MTP that was approved earlier this year.

We are meeting in the next 30 days with MDOT to discuss our planned MTP update/refresh that will happen in 2024/2025. Rest assured that we will keep you informed of any progress made in this regard and welcome any further input or insights you may have as we work to improve our regional model.

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## Appendix B – Public Comments

MACOG made this report and the accompanying draft Transportation Plan available for public review and comment from September 8<sup>th</sup>, 2023, to October 9<sup>th</sup>, 2023. The Michiana Area Council of Governments:

- Issued an official public notice to the South Bend Tribune, Elkhart Truth, and El Puente
- Included the public comment opportunity in the bi-weekly Gazette e-newsletter
- Posted the public comment opportunity to MACOG’s Facebook page

An Open House was held on September 21, 2023 to allow time for public comment and discussion. No public comments were received pertaining to the conformity documentation. Comments made pertaining to the Michiana on the Move: 2050 Transportation Plan can be found in Appendix H of the plan.

## Appendix C – Transportation Projects

*Please note: communities in Kosciusko and Marshall County do not have transportation conformity requirements, therefore are not included in this list.*

COUNTY	SPONSOR	Open to Traffic	Route	Beginning Termini	Ending Termini	Type of Work	Length (Miles)
20	Bristol	2025	Railpark Ct/Stonemount Ct	Railpark Ct (Dead End)	Stonemount Ct (Dead End)	New Road Construction	0.21
20	Bristol	2030	Bristol Bypass	Bloomingsdale Dr	Industrial Dr/CR 10	New Road Construction	0.72
20	Bristol	2030	CR 10	Railpark CT	SR 15	New Road Construction	1.91
20	Elkhart	2030	2nd St	Harrison St	Jefferson St	Road Reconfiguration (One-Way to Two-Way)	0.47
20	Elkhart	2030	3rd St	Harrison St	Jefferson St	Road Reconfiguration (One-Way to Two-Way)	0.47
20	Elkhart	2030	Bristol St	Johnson St	Jeanwood Dr	Road Diet	2.01
20	Elkhart	2030	Bristol St (CR 10)	Jeanwood Dr	CR 15	Auxiliary Lanes (2 to 3 Lanes)	1.27
20	Elkhart	2030	Hively Ave	Norfolk Southern Railroad (#510012C)		Grade Separation	0.30
20	Elkhart	2030	Johnson St (CR 9)	Bristol St (CR 10)	CR 6	Added Travel Lanes (2 to 3 lanes)	1.50
20	Elkhart	2045	Middlebury St	Prairie St	Goshen Ave	Added Travel Lanes (2 to 3 lanes)	0.89
20	Elkhart	2045	Prairie St	Mishawaka Rd	Lusher Ave	Auxiliary Lanes (2 to 3 Lanes)	1.04
20	Elkhart County	2030	Benchmark Rd	CR 14	Beck Dr	New Road Construction	0.87
20	Elkhart County	2030	CR 13	Sunnyside Ave	US 20	Added Travel Lanes (2 to 3 lanes)	0.98

20	Elkhart County	2030	CR 17	CR 142	CR 38	New Road Construction	2.56
20	Elkhart County	2030	CR 6	Ash Rd	John Weaver Parkway	Added Travel Lanes (2 to 4 lanes)	2.03
20	Elkhart County	2030	Old CR 17	CR 18	Love's Dr	New Road Construction	0.28
20	Elkhart County	2030	Sunnyside Ave	US 33 / Norfolk Southern Railroad		Grade Separation	0.30
20	Elkhart County	2035	CR 15	CR 6	CR 104	New Road Construction	0.23
20	Elkhart County	2035	CR 17	CR 46	CR 142	New Road Construction	1.69
20	Elkhart County	2035	CR 20 (Mishawaka Rd)	SR 19 (Nappanee St)	US 33	Auxiliary Lanes (2 to 3 Lanes)	4.34
20	Elkhart County	2035	CR 4	CR 7	CR 15	Auxiliary Lanes (2 to 3 Lanes)	4.72
20	Elkhart County	2035	CR 52	CR 3	SR 19 (Main St)	Auxiliary Lanes (2 to 3 lanes)	1.00
20	Elkhart County	2040	CR 17	CR 50	CR 46	New Road Construction	1.54
20	Elkhart County	2040	Johnson St (CR 9)	CR 6	CR 4	Added Travel Lanes (2 to 3 lanes)	1.00
20	Elkhart County	2045	CR 118	Old CR 17	CR 19	New Road Construction	1.68
20	Elkhart County	2045	CR 26	SR 15	CR 31	New Road Construction	3.03
20	Elkhart County	2045	CR 31	CR 36	CR 26	New Road Construction	3.95
20	Elkhart County	2045	CR 38	SR 119	CR 17	Auxiliary Lanes	1.36
20	Elkhart County	2045	CR 43	County Line Rd (1400 N)	US 6	Added Travel Lanes (2 to 4 lanes)	1.02
20	Elkhart County	2045	Kerryhaven Dr	Current Termini	CR 10	New Road Construction	0.78
20	Elkhart County	2050	CR 17	US 6	CR 50	New Road Construction	1.52
20	ElkhartCo/Nappanee	2040	CR 150	SR 19	CR 3	New Road Construction	1.00

20	Goshen	2030	College Ave	US 33	Industrial Park Entrance	Auxiliary Lanes (2 to 3 lanes)	1.34
20	Goshen	2030	CR 40	Dierdorff Rd (CR 27)	US 33	Auxiliary Lanes (2 to 3 lanes)	1.25
20	Goshen	2030	Wilden Ave	Current Terminus	Middlebury St	New Road Construction	0.19
20	Goshen	2035	College Ave	9th st	US 33	Auxiliary Lanes (2 to 3 lanes)	1.21
20	Goshen	2035	Waterford Mills Parkway	CR 40	SR 15	New Road Construction	0.35
20	INDOT	2025	US 20	SR 15	CR 35	Added Travel Lanes (2 to 5 lanes)	4.23
20	INDOT	2030	US 20	CR 35	SR 13	Added Travel Lanes (3 to 5 lanes)	2.13
20	INDOT	2030	US 33	CR 40	Monroe St	Added Travel Lanes (3 to 5 lanes)	3.88
20	Nappanee	2030	Jackson St	W 1350 N	Current Termini	New Road Construction	0.29
20	Nappanee	2035	CR 101	Market St (US 6)	Berlin Ct Ditch	Auxiliary Lanes (2 to 3 lanes)	0.70
20	Wakarusa	2045	Maple Ln (CR 103)	CR 42	Wabash Ave SR 19 (Nappanee St)	Auxiliary Lanes (2 to 3 lanes)	0.44
20	Wakarusa	2045	Orchard Park Dr	Current Termini	(Nappanee St)	New Road Construction	0.93
71	St. Joseph County	2040	Edison Rd	Wintergreen Rd	Walnut	New Road Construction	2.03
71	Mishawaka	2030	Twelfth St	Campbell St	Dodge St	Added Travel Lanes (2 to 3 lanes)	0.86
71	Mishawaka	2035	7th/6th St	Union St	Laurel St	New Road Construction	0.30
71	Mishawaka	2035	Fir Rd	McKinley Ave	I-80/90	Auxiliary Lanes (2 to 3 lanes)	2.75
71	Mishawaka	2035	McKinley Ave	Division St	Lynn St	Added Travel Lanes (2 to 5 lanes)	1.14
71	Mishawaka	2035	Union St	Ireland Dr	Sixth St	Added Travel Lanes (2 to 4 lanes)	1.90

71	Mishawaka	2035	Veteran's Parkway	Cul-de-sac	Cleveland Rd	New Road Construction	0.74
71	Mishawaka	2040	Beacon Pkwy Connector	Cleveland Rd	Beacon Pkwy	New Road Construction	0.24
71	Mishawaka	2040	Catalpa Ave	Current Terminus	Filbert Rd	New Road Construction	0.29
71	Mishawaka	2040	Cedar St	Mishawaka Ave	Jefferson Blvd	Road Diet	0.49
71	Mishawaka	2040	Division St	Current Terminus	Catalpa Ave	New Road Construction	0.25
71	Mishawaka	2040	McKinley Ave	Lynn St	Elder Rd	Added Travel Lanes (2 to 5 lanes)	0.94
71	Mishawaka	2050	Cleveland Rd	Fir Rd	Capital Ave	Added Travel Lanes (2 to 5 lanes)	0.95
71	Mishawaka	2050	Fulmer Rd	Current Terminus	Clover Rd	New Road Construction	0.27
71	South Bend	2030	Hickory Rd	Hepler St	SR 23	New Road Construction	0.92
71	South Bend	2035	Bendix Dr	Bertrand Rd	Lathrop Dr	Road Diet	1.84
71	South Bend	2040	Eddy St/ SR 23			Road Reconfiguration	0.30
71	South Bend	2040	Western Ave	Olive St	Martin Luther King Blvd	Road Diet	1.73
71	South Bend	2045	Bertrand Rd	Meade St	Bendix Dr	Road Diet	0.33
71	South Bend	2045	Meade St	Orange Rd	Bertrand Rd	Road Diet	0.23
71	South Bend	2045	Sample St	SR 23	Mayflower Rd	Road Diet	3.16
71	St. Joseph County	2030	Ash Rd	Lincolnway E/NS Railway		Grade Separation	0.30
71	St. Joseph County	2030	Edison Rd	Walnut Rd	Smilax Rd	New Road Construction	2.01
71	St. Joseph County	2030	Portage Ave	Bendix Dr	Brick Rd	Added Travel Lanes (2 to 3 lanes)	0.84
71	St. Joseph County	2035	Bittersweet Rd	Anderson Rd	SR 23	Added Travel Lanes (2 to 3 lanes)	0.75

71	St. Joseph County	2035	Douglas Rd/ Cleveland Rd Connector	Bittersweet Rd	Beech Rd	New Road Construction	1.85
71	St. Joseph County	2035	Early Rd	Timothy Rd	Walnut Rd	New Road Construction	1.52
71	St. Joseph County	2035	Pierce Rd	Miami Rd	SR 331	New Road Construction	1.99
71	St. Joseph County	2040	Day Rd	Fir Rd	SR 331	Added Travel Lanes (2 to 4 lanes)	1.07
71	St. Joseph County	2040	Portage Ave	Brick Rd	Adams Rd	Added Travel Lanes (2 to 3 lanes)	1.06
71	St. Joseph County	2040	Smilax Rd	Edison Rd	US 20	New Road Construction	1.36
71	St. Joseph County	2045	Cleveland Rd	Bittersweet Rd	Ash Rd	Added Travel Lanes (2 to 4 lanes)	2.50
71	St. Joseph County	2045	Cleveland Rd	Canadian National		Grade Separation	0.30
71	St. Joseph County	2045	Douglas Rd	Veteran's Parkway	Capital Ave	Added Travel Lanes (2 to 5 lanes)	0.70
71	St. Joseph County	2045	Douglas Rd	Canadian National		Grade Separation	0.30
71	St. Joseph County	2045	Snowberry Rd	Johnson Rd	SR 2	New Road Construction	3.84
71	St. Joseph County	2045	Spruce Rd	US 20	Hamilton Trl	New Road Construction	1.91
20	Interurban Trolley	2030	New Goshen Transit Routes (52/53)				