MUSKEGON COUNTY BOARD OF COMMISSIONERS
FULL BOARD
AGENDA

April 16, 2019 – 3:30 PM
Louis McMurray Transit Center
2624 Sixth Street, Muskegon Hts., MI

Susie Hughes, Chair
Gary Foster, Vice-Chair

1) Call to Order
2) Invocation: Pastor Tim Cross, Living Word Church
3) Pledge of Allegiance
4) Roll Call
5) Approval of Agenda
6) Approval of the Minutes of March 21, 2019 and the Regular and Closed Session Minutes of the Special Meeting of March 28, 2019
7) Public Comment (on an agenda item)
8) Communication
   Jackson County Resolution: Reconsider Public Act 93 of 2013 and MCL780.993(17) Regarding the Operations of Local MIDC Offices
9) Committee/Board Reports
   A. Courts & Public Safety Committee
   B. Human Services Committee
   C. Ways & Means Committee

Public Comment
Persons may address the Commission during the time set aside for Public Comment or at any time by suspension of the rules. All persons must address the commission and state their name for the record. Comments shall be limited to two (2) minutes for each participant, unless time is extended prior to the public comment period by a vote of a majority of the commission.
10) Chairman's Report/Committee Liaison Reports

A. Public Works Board Appointment
   • Leo Evans (City Slot) – term through 12/31/19

B. Muskegon County Jury Board Reappointment
   • Randy Hoffmeyer (Democrat Slot) – term through 4/30/25

C. United Way of the Lakeshore Annual Celebration: Thursday, April 25th
   5 p.m. – 8 p.m. – Holiday Inn & Conference Center

D. USS LST 393 Veterans Museum Opens for the Season – Saturday, April 27th

E. 7th Annual Earth Day Expo – Saturday, April 27th – Farmers Market

11) Administrator's Report

A. Convention Center Update

B. Authorization to Reassign the Agreement Between the County and Downtown Muskegon Now to the City of Muskegon and the Muskegon Downtown Development Authority for Continued Operation of the Dog Park

C. Michigan Public Service Communications System Resolution

12) Old Business

13) New Business

14) Public Comment

15) Adjournment
JACKSON COUNTY BOARD OF COMMISSIONERS
RESOLUTION # 03-19.14
Michigan Indigent Defense Commission

WHEREAS, The State of Michigan created Act 93 of 2013 Michigan Indigent Defense Commission Act, MCL 780.981, effective July 1, 2013, an act to create the Michigan Indigent Defense Commission (MIDC) and to provide for its powers and duties, to provide indigent defendants in criminal cases with effective assistance of counsel, to provide for the appointment of legal counsel, to provide for and limit certain causes of action and to provide for certain appropriations and grants; and

WHEREAS, MCL 780.993(6-7) and MCL 780.997(2) provide that the State of Michigan will pay for any increased funding that is necessary to meet minimum standards developed by the MIDC. The MIDC Act requires the state to provide grants to local delivery systems (trial court funding units), in order to comply with the new standards. A local system's duty of compliance is dependent on this funding; and

WHEREAS, Jackson County was advised March 27, 2018 that the MIDC had approved it's required compliance plan for the first four standards with approved funding from the State of Michigan in the amount of $1,244,032.74 for fiscal year 2018; and

WHEREAS, The Indigent Defense standards have the best intent of equitable treatment for defendants through providing fair and consistent indigent defense services throughout the State of Michigan; and

WHEREAS, The Board of Commissioners of Jackson County believe that MCL 780.993(17), which requires the collection and remittance of 20% of payments collected from partially indigent defendants with court appointed attorneys to the Department of Licensing and Regulatory Affairs (LARA), creates an unfunded mandate. Additional unfunded mandates include unfunded staff time at the court and prosecutor's office; and

WHEREAS, Jackson County Commissioners believe that this is not the most efficient way to provide indigent defense services for defendants in the State of Michigan; and

WHEREAS, The Jackson County Board of Commissioners believes that the local MIDC offices would be more efficiently and equitably operated under the State of Michigan administration; and

WHEREAS, due to statutory requirements and LARA requirements, operations at the local level are burdensome, including data entry and collection, administrative oversight, monitoring and application of grant resources, which are driving up costs at the local level and increasing utilization of public resources; and

THEREFORE, BE IT RESOLVED, the Jackson County Board of Commissioners request that the State of Michigan reconsider the Public Act 93 of 2013 and MCL/80.993(17) regarding the operations of local MIDC offices.

THEREFORE, BE IT ALSO RESOLVED, the Jackson County Board of Commissioners request that legislation be created and passed, moving the administration and oversight of local MIDC offices to the State of Michigan.
Resolution 03-19.14

James E. Shotwell, Jr., Chairperson
Jackson County Board of Commissioners
March 19, 2019

STATE OF MICHIGAN   )
COUNTY OF JACKSON   ) SS.

I, Amanda L. Kirkpatrick, the duly qualified and acting Clerk of the County of Jackson, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the County Board of Commissioners at a Board meeting thereof held on the 19th day of March, 2019 the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this 19th day of March, 2019

Amanda L. Kirkpatrick, County Clerk
The Courts & Public Safety Committee met on Tuesday, April 9, 2019, it was recommended and I move:

CPS19/04 - 17 To approve the one-year extension of the agreement for the Partnership in Neighborhood Safety Program between Egleston Township, the Muskegon County Sheriff and the Board of Commissioners with the County’s share of the cost being 50% or $54,555.85 and authorize the Board Chair and Sheriff to sign the document.

CPS19/04 - 18 To approve the one-year extension of the agreement for the Partnership in Neighborhood Safety Program between Fruitland Township, the Muskegon County Sheriff and the Board of Commissioners with the County’s share of the cost being 50% or $63,462.16 and authorize the Board Chair and Sheriff to sign the document.

CPS19/04 - 19 To approve the one-year extension of the agreement for the Partnership in Neighborhood Safety Program between Laketon Township, the Muskegon County Sheriff and the Board of Commissioners with the County’s share of the cost being 50% or $60,741.96 and authorize the Board Chair and Sheriff to sign the document.
The Human Services Committee met on April 9, 2019, it was recommended and I move:

HS19/04 - 07 To authorize Public Health to reclassify one vacant Environmental Health Officer II position #G34302 and one vacant Environmental Protection Officer II #G34901 (table GU-00280) to Environmental Health Officer - Unit Leader positions (table GU-00290) to provide oversight and guidance of daily work activities in the Food Service Sanitation and environmental quality programs with no change to general fund.

HS19/04 – 08 To give 90-days written notice to terminate the rental contract agreement with Planned Parenthood and reclaim the clinical space/rooms to expand STD/HIV services to high-risk residents in Muskegon County and to assure safe, confidential and sanitary operations for all nursing programs/services within the health department; with no change/increase in general fund appropriation.

MOTION TABLED UNTIL MAY 7th, 2019, HUMAN SERVICES COMMITTEE MEETING:

HS19/04 – 09 To approve 16 senior millage funding awards totaling $523,415 and 1 contract amendment (additional $10,000) as recommended by the Senior Activities Committee; and to authorize the designated Senior Millage Grants Administrator, Senior Resources (excluding the 2 awards granted to Senior Resources) to proceed with the administration of the programs.
The Ways & Means Committee met on April 11, 2019, it was recommended and I move:

WM19/04 - 34 To approve payment of the accounts payable of $9,670,631.34, covering the period of March 9, 2019 through April 1, 2019 for checks and February 1, 2019 through February 28, 2019 for P-Card and EFT payments, as presented by the County Clerk.

WM19/04 – 35 To authorize the selection of Miller Canfield, Paddock & Stone as bond counsel and the negotiation of a 3 year contract with 2 optional one (1) year renewals with the effective date of May 1, 2019.

WM19/04 – 36 To authorize the selection of PFM Financial Advisors as financial advisors and the negotiation of a 3 year contract with 2 optional one (1) year renewals to be effective upon the completion of the issuance of the 2019 delinquent tax notes.

WM19/04 – 37 To approve the request from Equalization to purchase the HP Z6 Plotter through Engineering Supply with the additional 3-year warranty for a total of $4,931.00 and amend the budget accordingly.

WM19/04 – 38 To add a Facilities Management Supervisor position Pay grade NX-00370 ($32.726/hr-$41.609/hr) appoint Michael Hysell to that position effective immediately at Step 5 ($39.66/hr): and reclassify the Building Maintenance Supervisor/Master Electrician (GF12501) Pay Grade GU-00290 ($22.54/hr-$28.39/hr) to a Building Maintenance Electrician position Pay grade GU-00240 ($17.01/hr-$24.54/hr).

WM19/04 – 39 To approve Subrecipient Agreement and Resolution between Muskegon County and Northern Initiatives for the Michigan Community Development Block Grant Revolving Loan Fund Program and authorize the Chair of the Board of Commissioners to sign the agreement.

WM19/04 – 40 To authorize staff to issue a request for proposals for engineering services to determine a normal lake level under Part 307 of Act 451 for Wolf Lake.

WM19/04 – 41 To approve the award of RFP 19-2328 for a Route Study and Comprehensive Operational Analysis to Foursquare Integrated Transportation Planning for the sum of $158,051.64, pending MDOT concurrence with the award, and to authorize the County Administrator to sign contract documents.
April 8, 2019

Nancy A. Waters
Muskegon County Clerk
990 Terrace
Muskegon, MI 49442

Re: Randy Hoffmeyer

Dear Ms. Waters:

This is to confirm that I approve of the reappointment of Mr. Hoffmeyer to the Muskegon County Jury Board.

Very truly yours,

William C. Marietti
Chief Judge, 14th Circuit Court

WCM:ial
REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

COMMITTEE
Full Board

REQUESTING DEPARTMENT
Administration

COMMITTEE DATE
April 16, 2019

REQUESTOR SIGNATURE
Mark Eisenbarth

BUDGETED
NON-BUDGETED
PARTIALLY BUDGETED

SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES)

On January 27, 2015, the Board approved a lease agreement with Downtown Muskegon Now (DMN) for the express purpose of DMN developing and operating the property at 793 W. Western Avenue as a community dog park.

Administration staff was notified on April 5, 2019, that Downtown Muskegon Now is ceasing operations and request the agreement be reassigned to the City of Muskegon and the Muskegon Downtown Development Authority.

SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES)

Move to authorize the reassignment of the Agreement Between the County of Muskegon and Downtown Muskegon Now to the City of Muskegon and the Muskegon Downtown Development Authority for continued operation of the dog park located at 793 W. Western Avenue.

ADMINISTRATIVE ANALYSIS (AS APPLICABLE)

HUMAN RESOURCES ANALYSIS:

FINANCE & MANAGEMENT ANALYSIS:

CORPORATE COUNSEL ANALYSIS:

ADMINISTRATOR RECOMMENDATION:

If motion originates from a Statutory Board, Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee

AGENDA DATE: 4-16-19
AGENDA NO.: BOARD DATE: 4-16-19
PAGE NO.

Revised 4/9/19
Mark Eisenbarth
Muskegon County Administrator
990 Terrace St.
Muskegon, MI 49442

April 5, 2019

Dear Mark:

I am writing in reference to the Downtown Muskegon Now agreement with Muskegon County on the dog park property at 793 W. Western signed in 2016. Please find it attached.

Downtown Muskegon Now will be ceasing operations and I am writing to request assigning the agreement to the City of Muskegon and the Muskegon Downtown Development Authority per Section 11 of the agreement.

If this needs to go to the county board for approval, I would welcome the opportunity to update commissioners on the success of the dog park and thank them for the county’s offer of the property. Let me know if there is anything else you need from Downtown Muskegon Now.

In advance, thank you for your consideration.

Sincerely,

Dave Alexander
Executive director/Downtown Muskegon Now

CC: Frank Peterson, John Schrier, Bob Lukens
AGREEMENT BETWEEN THE COUNTY OF MUSKEGON 
AND DOWNTOWN MUSKEGON NOW

This Agreement ("Agreement") is made by and between the County of Muskegon, a 
political subdivision of the State of Michigan ("County"), through its Board of Commissioners, 
having its principal place of business at 990 Terrace Street, Muskegon, Michigan 49442, and 
Downtown Muskegon Now, having its principal place of business at 380 West Western, Suite 
202, Muskegon, Michigan 49440 ("DMN").

County owns property fronting on Western Avenue, located in the City of Muskegon, 
Muskegon County, Michigan, legally described as:

Parcel 1: Part of Lot 1 of Block 319 of the Revised Plat (of 1903) of the City of Muskegon, 
described as: Commencing at the point of intersection of the line between Lots 1 and 2 of said 
block with the Southeasterly line of Western Avenue (old street line); thence South 40 degrees 
34 minutes East, a distance of 271.5 feet to the Westerly line of the Pere Marquette Railway 
Company's right of way; thence North 23 degrees 44 minutes East along the Westerly right of 
way line of said Pere Marquette Railway Company, a distance of 210.15 feet to a point distant 15 
feet Westerly at right angles from the centerline of Lakefront Spur (so-called), said point being 
hereinafter referred to as Point "A"; thence Northerly along a line parallel with and distant 15 
feet Westerly at right angles from the centerline of said Lakefront Spur Track to its intersection 
with the Southeasterly line of Western Avenue (old street line), said point hereinafter referred to 
as Point "B", the straight line between said Points 11A11 and "B" bears North 49 degrees 17 minutes West and the straight line distance between said points is 232.5 feet; thence South 49 
degrees 17 minutes West along the old street line of Western Avenue, a distance of 336.55 feet 
to place of beginning, excepting therefrom a strip of land 10 feet in width off the Northwesterly 
side of said parcel which is paralleled with and adjoins the Southeasterly line of Western Avenue, 
said 10 foot strip being a part of Western Avenue and used as a street; except the following 
described parcel:

Part of Lot 1 of Block 319 of the Revised Plat (of 1903) of the City of Muskegon, described as: 
Commencing at the point of intersection of the line between Lots 1 and 2 of said block with the 
Southeasterly line of Western Avenue (old street line); thence North 49 degrees 17 minutes East 
along the old street line of Western Avenue, a distance of 230.00 feet for place of beginning; 
then South 40 degrees 43 minutes East 90.00 feet; thence South 11 degrees 05 minutes 30 
seconds West 293.55 feet to intersection of the Westerly line of the Pere Marquette Railway 
Company's (now CSX Transportation, Inc.) right of way and the Westerly line of said Lot 1; 
then North 23 degrees 44 minutes East along the Westerly right of way of said Pere Marquette 
Railway Company's (now CSX Transportation, Inc.), a distance of 15 feet to a point distant 15 
feet Westerly at right angles from the centerline of Lakefront Spur (so-called), said point being 
herein after referred to as Point "A"; thence Northerly along a line parallel with and distant 15 
feet Westerly at right angles from the centerline of said Lakefront Spur Track to its intersection 
with the Southeasterly line of Western Avenue (old street line), said point hereinafter referred to 
as Point "B", the straight line between said Points "A" and "B" bears North 49 degrees 37 minutes West and the straight line distance between said points is 232.5 feet; thence South 49 degrees 17 
minutes West along the old street 106.55 feet to place of beginning; excepting therefrom a strip
of land 10 feet in width off the Northwesterly side of said parcel which is parallel with and adjoins the Southeasterly line of Western Avenue, said 10 foot strip being a part of Western Avenue and used as a street.

DMN has requested the use of the above-described property for dog park activity;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. PROPERTY. County agrees to set aside the Property for the express and limited purpose of the operation of a dog park. DMN agrees to use the Property in accordance with the terms and conditions set forth in this Agreement. See map attached as Exhibit A.

2. PREMISES OPERATION. DMN shall be responsible for obtaining any necessary permits, licenses and approvals from any applicable federal, state or local authority and DMN is solely responsible for complying with all applicable federal, state and local laws and regulations.

3. RESTRICTIONS UPON USE. The Property shall be used only for purposes related to dog park activity. No other use shall be permitted except with the express written authorization of County. Further, any alterations or changes on the Property shall be communicated to and approved in writing by County.

4. COSTS AND EXPENSES. All costs associated with the use of the Property as a dog park shall be paid for by DMN without contribution of any kind from County.

5. REPRESENTATION. County makes no representation with regard to the suitability of the Property for the use proposed by DMN.

6. TERM. The term of this Agreement shall be perpetual unless terminated by either party upon ninety (90) days written notice.

7. CONSIDERATION. For the use of the Property, DMN shall pay to County the sum of $1.00 per year, to be paid in advance on or before the date the term commences.

8. NO INTERFERENCE WITH OTHER COUNTY ACTIVITIES. The permitted use by DMN shall not interfere with any of the County’s activities at the Property, including, but not limited to, camping during Bike Time, or with any other group or organization using the Property with County’s written permission.

9. MAINTENANCE AND REPAIR. DMN shall make any repairs necessary to maintain the Property in good condition and repair and DMN shall repair damage caused by its users. DMN shall ensure that dog waste is regularly removed so as to avoid accumulation of dog waste.

10. IMPROVEMENTS. In the event of a termination of this Agreement, DMN shall have the option to restore the Property to its original condition through removal of all
improvements and restoration of the Property, it being understood that no improvement or changes to the Property shall occur without prior written consent of County. Such removal shall be completed within two (2) months of the termination. If such removal is not completed within such time, County shall be deemed to have ownership of the facility and improvements on the Property.

11. ASSIGNABILITY. DMN shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of County and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for immediate termination.

12. INDEMNITY. To the fullest extent permitted by law, DMN shall defend, indemnify, and hold harmless the County, its subsidiaries, departments, divisions, and agencies and their respective officials, officers, directors, employees, and agents from and against any and all liability, litigation, causes of action, and claims, by whomsoever brought or alleged, and regardless of the legal theories upon which based, and from and against all losses, costs, expenses, and fees and expenses of attorneys and expert witnesses resulting therefrom on account of, relating to, or arising out of bodily injury or death of any person, or on account of damage to property, including loss of use thereof, arising or allegedly arising out of or resulting from the dog park activities. The foregoing indemnity of the County shall include, but is not limited to, any personal injury that may arise from operation of the Property as a dog park. It shall not extend to the liability found by way of final judgment to have resulted from the sole negligence of the County.

13. FIREARMS, ALCOHOL. Absolutely no firearms or alcohol shall be permitted on the Property.

14. DOG PARK RULES. DMN shall establish rules for the dog park, which rules must include a requirement that all dogs be properly licensed and vaccinated.

15. RECORDS AND REVIEW. DMN shall keep such business records as would be kept by a reasonably prudent dog park and shall maintain such records for at least four years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. County shall have the right to review and examine all such documents and records upon reasonable notice.

16. NONDISCRIMINATION. DMN assures, in accordance with the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Michigan Handicapper's Civil Rights Act (1976, P.A. 220), the Michigan Civil Rights Act (1976, P.A. 453), and all other applicable state, federal and local law, that no individual shall, on the ground of race, creed, age, color, national origin or ancestry, religion, sex, marital status, or handicap be excluded from participation, be denied the benefit of, or be otherwise subjected to discrimination or harassment under any program or activity provided by the DMN under this Agreement.

17. TERMINATION. Either party may terminate this Agreement upon ninety (90) days written notice.
18. DESIGNATED REPRESENTATIVE. Mark Eisenbarth at phone number 231-724-6520 is the representative of County and will administer this Agreement for and on behalf of County. Jonathan Seyferth at phone number __________ is the authorized representative for DMN. Changes in designated representatives shall be made only after advance written notice to the other party.

19. NOTICES. Any notice required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To County: Mark Eisenbarth, Administrator
990 Terrace Street
Muskegon, MI 49442

To DMN: Jonathan Seyferth
Downtown Muskegon Now
380 W. Western, Suite 202
Muskegon, MI 49440

or at such other address or to such other person that the parties may from time-to-time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the United States mail.

20. SECTION HEADINGS. The headings of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE. No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. NO WAIVER OF DEFAULT. No delay or omission of County to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County shall be exercised from time-to-time and as often as may be deemed expedient in the sole discretion of County.

24. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with matters considered herein, this Agreement contains the entire understanding and agreement of the parties.
and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

25.  SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in the Agreement by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

26.  MICHIGAN LAW: This Agreement shall be governed by the laws of the State of Michigan. Any litigation regarding this Agreement or its contents shall be filed in the County of Muskegon, if in State Court, or in the United States District Court for the Western District of Michigan, if in Federal Court.

27.  TERMS AND CONDITIONS. The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

IN WITNESS WHEREOF, the parties have executed this Agreement by and through their respective representatives.

COUNTY OF MUSKEGON

Dated: Sept 6, 2016
By: 

DOWNTOWN MUSKEGON NOW

Dated: Oct 19, 2016
By: 

Executive Director.
RESOLUTION
MICHIGAN PUBLIC SERVICE COMMUNICATIONS SYSTEM

BE IT HEREBY RESOLVED that the Muskegon County Board of Commissioners approves the Michigan Public Safety Communications System Co-Location License Agreement with Muskegon County; and

BE IT FURTHER RESOLVED, that Susie Hughes, Muskegon County Board Chair be authorized to sign the agreement.

Ayes:
Nays:

* * * * * * * * * * * * *

The Muskegon County Board of Commissioners, at its April 16, 2019, meeting recommended approval by Commissioner __________, supported by __________, the Resolution as stated above.

I, Nancy A. Waters, Clerk of the Muskegon County Board of Commissioners and Clerk of the County of Muskegon, do hereby certify that the above Resolution was duly adopted by said Board on April 16, 2019.

________________________________
Nancy A. Waters, Clerk
County of Muskegon
REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

<table>
<thead>
<tr>
<th>COMMITTEE</th>
<th>BUDGETED</th>
<th>NON-BUDGETED</th>
<th>PARTIALLY BUDGETED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ways &amp; Means</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>REQUESTING DEPARTMENT</th>
<th>COMMITTEE DATE</th>
<th>REQUESTOR SIGNATURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Works</td>
<td>March 7, 2019</td>
<td>Matt Farrar</td>
</tr>
</tbody>
</table>

SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES)

The Michigan State Police and Kent County (the "Parties") desire to move an 800mz radio system from its current location. To do so, they need to locate a tower in the Casnovia Township area. The County of Muskegon owns Moore Park in Casnovia Township and the Parties, believing Moore Park to be a good location for a tower, have requested an easement to allow construction of a tower in Moore Park. All construction, utility and maintenance costs will be paid for by the Parties. If the County should join the system in the future, then utility and maintenance costs would be shared by Muskegon County.

SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES)

Move to approve the easement agreement with the Michigan State Police and Kent County to grant them the right to construct and maintain a tower at Moore Park and authorize the Board Chair to sign same.

ADMINISTRATIVE ANALYSIS (AS APPLICABLE)

<table>
<thead>
<tr>
<th>HUMAN RESOURCES ANALYSIS:</th>
<th>FINANCE &amp; MANAGEMENT ANALYSIS:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Concur B. Dick</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CORPORATE COUNSEL ANALYSIS:</th>
<th>ADMINISTRATOR RECOMMENDATION:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If motion originates from a Statutory Board, Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee.

AGENDA DATE: 3/7/19  AGENDA NO.: wm19/03-21  BOARD DATE: 3/12/19  PAGE NO. 17

Revised 2/27/19
MEMORANDUM OF AGREEMENT
BETWEEN
THE MICHIGAN DEPARTMENT OF TECHNOLOGY,
MANAGEMENT AND BUDGET,
OFFICE OF MICHIGAN'S PUBLIC SAFETY COMMUNICATIONS SYSTEM
AND
MUSKEGON COUNTY
AND
KENT COUNTY DISPATCH AUTHORITY

This Memorandum of Agreement (MOA) is entered on 3/12/2019, between the Michigan Department of Technology, Management and Budget, Office of Michigan's Public Safety Communications System (DTMB), Muskegon County on behalf of Muskegon Central Dispatch 9-1-1 (Muskegon County), and Kent County Dispatch Authority (KCDA). DTMB, Muskegon County and KCDA are referred to as the “Parties.”

1. Statement of Purpose.

This Memorandum of Agreement (MOA) creates a binding agreement between DTMB, KCDA, and Muskegon County regarding the future construction of a new Michigan Public Safety Communications System (MPSCS) tower site, on certain real property located, owned and provided by Muskegon County as described in the Easement Appurtenant attached as Exhibit A (Premises or Easement) and regarding the KCDA integration, co-location and additional enhancements to the MPSCS communications tower site by providing a shelter at its own costs for use with MPSCS communications tower.

Kent County Dispatch Authority intends to execute an Integration Agreement and Co-location License Agreement with DTMB to integrate with the MPSCS once the new communications site is operational. Muskegon County may decide to join the MPSCS in the future, and if so, will execute the MPSCS Member Subscriber Agreement, Integration Agreement and Co-location License Agreement with DTMB at that time. As valuable consideration for the setoff of MPSCS co-location fees, both KCDA and Muskegon County will be contributing equipment and/or property that will provide enhancements to the MPSCS communications tower site.

2. The Parties Agree.

a. DTMB will be responsible to build, maintain and operate the MPSCS tower site.

b. DTMB retains the ownership of the tower and equipment, except for the equipment supplied by KCDA or Muskegon County.
c. Utility and Maintenance cost sharing:
   i. Utilities and maintenance costs will be split evenly between DTMB and KCDA since only KCDA will be integrating on to the MPSCS system at this time. However, should Muskegon County join the MPSCS, then the utility and maintenance costs will be split evenly between DTMB, KCDA, and Muskegon Central Dispatch 9-1-1.

d. NCC Monitoring costs:
   i. The Parties will be responsible for their own NCC monitoring costs.

3. Muskegon County's Responsibilities.
   a. Grant, execute and record the Easement Appurtenant, attached as Exhibit A, with the Muskegon County Register of Deeds.
   b. Right of First Refusal. Muskegon County hereby grants DTMB the right of first refusal to purchase all or any portion of the real property described in Exhibit A, including all improvements and fixtures thereon owned by Muskegon County and all right, title, and interest presently held and subsequently acquired by Muskegon County therein, and excluding fixtures, equipment and personal property owned by KCDA, upon the following terms and conditions:
      i. If Muskegon County receives a bona fide offer from a third party to purchase all or any portion of the property described in Exhibit A and if Muskegon County desires to sell or convey the property that is the subject of the offer, Muskegon County shall provide a complete copy of the offer to the address listed below under the Notice section, within seven (7) calendar days following receipt of the offer.
      ii. DTMB shall have sixty (60) calendar days from the date of receiving the notice and a copy of the offer to elect to purchase the property on terms identical to those offered by the third party. The State's election shall be made by written notice to Muskegon County at the address specified below and must be mailed within sixty (60) calendar days following receipt of the notice from Muskegon County. If the State elects to purchase the property, the parties shall subsequently enter into a written purchase and sale agreement that contains the provisions customarily used in such contracts, including all terms of the original bona fide offer, except as the parties may otherwise mutually agree.
      iii. If DTMB exercises this right of first refusal and the parties enter into a written purchase and sale agreement, the sale shall be
completed within a reasonable time after the State exercises this right of first refusal.

iv. If the State fails to provide written notice to Muskegon County as provided in subparagraph B or notifies Muskegon County that the State elects not to purchase the property on the terms and conditions specified within the copy of the offer provided to the State, then Muskegon County may convey the property that is the subject of the bona fide offer to the third party that offered to purchase the property on the identical terms and conditions contained in the copy of the offer provided to the State, with the exception of any personal property located within the Easement area owned by the Parties, unless the full-cost of replacement and installation shall be paid for. If the third party subsequently proposes any material change in its offer and fails to purchase the property on the identical terms and conditions that were provided to the State, then the State's right of first refusal shall remain in effect.

v. Within ten (10) business days following receipt of the State's notice electing to purchase the property, Muskegon County shall obtain a title insurance commitment evidencing marketable title to the property and submit it to the State for examination by the Attorney General. The State shall have thirty (30) calendar days following receipt of the commitment to notify Muskegon County of any defects in, or objections to, title. If Muskegon County is unable to cure any defect and obtain marketable title within a reasonable time after being notified by the State of any defect in, or objection to, the condition of the title, then the State shall have the option of either (A) proceeding with the purchase with any contract modifications to which the parties may mutually agree, or (B) rescinding the contract with no further liability whatsoever to Muskegon County.

vi. This right of first refusal shall remain in effect as to all or any portion of the real property described in Exhibit A so long as this MOA is in effect and the Muskegon County holds title to all or any portion of the property described in Exhibit A. In the event the State receives notice of a bona fide offer to purchase all or any portion of the property described in Exhibit A and elects not to exercise its right of first refusal following such notice and Muskegon County does not subsequently consummate a sale of the property to the third party for any reason, this right of first refusal shall remain in effect.
4. Kent County Dispatch Authority Responsibilities.
   a. Provide MPSCS approved shelter as required at its own costs for use with
      the MPSCS communications tower. Prior to the purchase of the shelter,
      KCDA must obtain DTMB approval of Site Drawings, and Shelter
      Drawings.
   i. Shelter requirements: Shelter must be the Motorola MSB Shelter
      built by ThermoBond Buildings and outfitted to meet MPSCS
      Specifications and Requirements. Sized to support MPSCS, KCDA,
      and Muskegon Counties MPSCS equipment needs, including but
      not limited to, the Foundation, Grounding, Emergency Generator,
      Fuel Source, Electric Utility and the complete installation services
      pertaining to the shelter and associated equipment.
   b. Execute an MPSCS Integration Agreement and Co-location License
      Agreement for the new communication tower site.

5. DTMB’s Responsibilities.
   a. Grant in-kind no fee co-location to KCDA in consideration for the shelter
      investment and enhancements that KCDA will provide to the MPSCS
      communication tower site.
   b. If requested by Muskegon County, grant in-kind no fee co-location in
      consideration for the Easement Appurtenant granted by Muskegon to
      MPSCS for use of its real property for the construction, maintenance and
      operation of this new MPSCS communications site as evidenced by
      Exhibit A.

6. Termination.
   The initial term of this MOA shall be for thirty (30) years after Effectivity and
   will automatically renew for subsequent ten (10) year terms unless terminated
   by any party with notice in writing two (2) years prior to the end of the initial or
   any subsequent term.

   Any party may propose modifications to this MOA by providing written notice to
   the other parties. The notice shall include a statement of the proposed
   modification and the reason for the modification. Any modification to this MOA
   shall become effective upon written execution and approval of all parties.

   All written notices required under this MOA will be delivered to the Parties as
   follows:

<table>
<thead>
<tr>
<th>To: DTMB</th>
<th>To: Muskegon County</th>
<th>To: Kent County Dispatch Authority</th>
</tr>
</thead>
</table>

   4
8. **Governing Law.**
   This MOA shall be governed by, and construed in accordance with, the laws of the State of Michigan.

9. **Amendments.**
   This MOA may be amended and/or extended by a written agreement of the Parties.

10. **Counterparts.**
    This MOA may be signed in counterparts, each of which has the force of an original, and all of which constitute one document.

11. **Authority to Contract.**
    Each party represents and warrants that it has the power to enter into the Agreement and that the person signing the Agreement has the authority to bind its respective party.

The duly authorized representatives of the Parties executed and approved this MOA on the dates below each signature:

**SIGNATURE PAGES FOLLOW**
MUSKEGON COUNTY:

By: 
Its: 

Date: ________________________________

Resolution approving this Agreement, and the person authorized to execute the Agreement is attached.

MUSKEGON CENTRAL DISPATCH 9-1-1:

By: 
Its: 

Date: ________________________________
KENT COUNTY DISPATCH AUTHORITY:

By: __________________________

Its: __________________________

Date: __________________________

Resolution approving this Agreement, and the person authorized to execute the Agreement is attached.
EXHIBIT A
EASEMENT APPURTEENANT
GRANTED BY MUSKEGON TO MPSCS
EASEMENT APPURTENANT

THIS GRANT is made on ____________, 2019, between MUSKEGON COUNTY, whose address is 990 Terrace Street, Muskegon, Michigan 49442 (Grantor), and the STATE OF MICHIGAN, by the Department Technology, Management, and Budget, Office of the Michigan Public Safety Communications System, whose address is 7150 Harris Drive, 2nd Floor, Wing-A, Dimondale, MI 48821, which manages the Michigan Public Safety Communications System (MPSCS) (Grantee).

Grantor, in consideration of One Dollar ($1.00), receipt of which is hereby acknowledged and the good and valuable services by the Grantee, grants to Grantee a non-exclusive easement for the purposes of installing, operating and maintaining a new MPSCS communications tower, shelter and necessary equipment (Easement) on land (Land) located at 17505 White Road, Bailey, Muskegon County, Michigan 49303 which is under the ownership of Muskegon County and is further described below. The purpose of the communications tower, shelter and equipment is to help facilitate law enforcement and emergency response activities of State and local governments. Grantor and Grantee acknowledge and accept that Grantee shall not have control over how that communications system is actually used by those local governments or by other parties for which those governments allow access thereto.

The Easement area is a twenty (20) foot wide corridor following the corridor route titled “Ex. Bit Walk” on the Land described as illustrated in Attachment A.

The Land burdened by the Easement is located in the Township of Casnovia, County of Muskegon is more specifically described as follows:


The Easement is granted subject to the following terms and conditions, which Grantee agrees to comply with:

1. Grantee must notify the Muskegon County Department of Public Works (231) 724-6411 before commencing any construction, alteration, maintenance, or entry upon the Easement, and provide copies of engineering or architectural drawings before and after the completion of construction or alteration.
2. Grantor reserves the right to relocate the Easement at its sole expense unless relocation would interfere with the purpose of the Easement.

3. Grantee must obtain the prior written approval of Grantor to relocate the Easement. If there is no legal description, Grantee must obtain the prior written approval of Grantor to relocate the Easement from the location where Grantee initially located it. Grantee agrees that any relocation approved by Grantor must be completed at Grantee’s sole expense.

4. Grantee accepts the Easement subject to all existing easements, permits, licenses, leases and other rights.

5. Grantee must maintain the Easement and its appurtenances in good repair, take reasonable precautions to prevent any damage to Grantor’s property arising from Grantee’s use of, or access to, the Easement, and must repair, replace, or fully compensate Grantor for any damages to Grantor’s property, wherever situated, arising from the use of, or access to, the Easement by Grantee or its employees, agents, and contractors.

6. Following construction, maintenance or other operations on the Easement, Grantee must promptly and completely restore the landscaping over and adjacent to the Easement.

7. Grantee, at its sole expense and at no expense to Grantor, must modify the Easement as necessary in order for the Easement to comply with all laws, ordinances, and regulations.

8. With the exception of the fenced in area around the tower site, including the MPSCS tower, shelter and equipment which is under 100% control of the MPSCS (the encumbered portion), Grantor may use the Land in any manner that Grantor sees fit, provided Grantor’s use and enjoyment does not unreasonably interfere with the permitted purposes of the Easement. If in the future Grantor joins the MPSCS it will have full access to the tower and shelter for its MPSCS integrated equipment.

9. Grantor reserves the right to rent or lease space on the portion of the parcel not encumbered (outside of the Easement area) to third parties provided that such does not unreasonably interfere with the permitted purposes of the Easement or with public safety communications.

10. The rights granted are not exclusive, and Grantor may grant other rights and easements in the Land, provided that such other rights and easements do not unreasonably interfere with the permitted purposes of the Easement or with public safety communications.

11. Grantee agrees to be responsible for property damage arising in any manner out of Grantee’s use of the Easement or from any act or omission of Grantee in exercising its rights under this grant.

12. The terms and conditions of the Easement are binding upon the heirs, executors and administrators, personal representatives, successors and assigns of the parties.
13. The Easement is governed by and will be construed in accordance with the laws of the State of Michigan.

14. Grantee must record the Easement with the Register of Deeds and provide Grantor with a copy of the Easement after recording it.

This Easement shall be binding upon the Property and shall be deemed to run with the land. Execution and recording of this Easement in the Muskegon County Register of Deeds’ Office shall constitute conclusive evidence that the Grantor agrees to be bound by the foregoing conditions and restrictions and agrees to perform the obligations as described within this Easement.

IN WITNESS WHEREOF, the Grantor subscribes its name on the date set forth below:

GRANTOR:
MUSKEGON COUNTY

By:
Its:

Date: ________________________________
STATE OF MICHIGAN

COUNTY OF MUSKEGON

The foregoing instrument was acknowledged before me on ____________, 2019, by ____________________________, acting on behalf of Muskegon County.

______________________________, Notary Public
State of Michigan, County of Muskegon
My commission expires: ____________________

THIS INSTRUMENT IS EXEMPT FROM REAL ESTATE TRANSFER TAXES
Pursuant to Section 5(h) of 1966 PA 134, MCL 207.505(h)(i), and Section 6(h) of 1993 PA 330, MCL 207.526(h)(i)

<table>
<thead>
<tr>
<th>Drafted By:</th>
<th>After Recording, Return to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lisa M. Barwick (P72838)</td>
<td>Lisa M. Barwick (P72838)</td>
</tr>
<tr>
<td>Assistant Attorney General</td>
<td>Assistant Attorney General</td>
</tr>
<tr>
<td>Department of Attorney General</td>
<td>Department of Attorney General</td>
</tr>
<tr>
<td>State Operations Division</td>
<td>State Operations Division</td>
</tr>
<tr>
<td>G. Mennen Williams Bldg., 2nd Floor</td>
<td>G. Mennen Williams Bldg., 2nd Floor</td>
</tr>
<tr>
<td>525 W. Ottawa Street</td>
<td>525 W. Ottawa Street</td>
</tr>
<tr>
<td>Lansing, MI 48933</td>
<td>Lansing, MI 48933</td>
</tr>
<tr>
<td>(517) 373-1162</td>
<td>(517) 373-1162</td>
</tr>
</tbody>
</table>