1) Call to Order

2) Invocation: Pastor Rich Williams – Outpouring Worship Center

3) Pledge of Allegiance

4) Roll Call

5) Approval of Agenda

6) Approval of the Minutes of October 8, 2019

7) Public Comment (on an agenda item)

8) Communication
   A. Bay County Resolution: Opposition to County Commissioner “Non-Partisan” Candidate
   B. Lapeer County Board Resolution: Support of Line 5 Tunnel

9) Committee/Board Reports
   A. Community Development/Strategic Planning Committee
   B. Transportation 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. Building Authority Citizen Appointment Revocation – Andrew Mann
   B. Resolution in Opposition to Sanctuary County
   C. Appraisal Fair – Muskegon Museum of Art – Professional Appraisers
      Thursday, October 14th – 10 a.m. – 4 p.m. ($15 per item)
   D. USS Silversides Submarine Museum Lecture & Film Series
      Monday, November 4th – 6 p.m.
   E. Turkey Trail Run 5K – Gillett Nature Center
      Saturday, November 9th – 9 a.m.

11) Administrator’s Report
   A. Calendar Reminder: Next Meeting is November 5th
   B. Approval of the 2nd One Year Renewal Option for the Memorandum of
      Understanding with the State of Michigan Department of Health & Human
      Services for the Processing of County Child Care Fund Foster Care
      Payments

12) Old Business

13) New Business

14) Public Comment

15) Closed Session: Pursuant to MCL 15.268(c): To Discuss a Settlement
    Agreement

16) Adjournment
BAY COUNTY BOARD OF COMMISSIONERS

OCTOBER 8, 2019

RESOLUTION

BY: WAYS AND MEANS COMMITTEE (10/1/19)

WHEREAS, The Executive Director of the Michigan Association of Counties (MAC) has stated that MAC is considering supporting a change to Michigan election law; and

WHEREAS, This change in Michigan law would force candidates for the office of County Commissioner to run as a "non-partisan" candidate and would prohibit said candidates from disclosing their party affiliation on ballots provided to Michigan voters; and

WHEREAS, Preventing disclosure of a candidate's party affiliation needlessly restricts and censors information that Michigan voters have traditionally relied upon to help them select a candidate who shares their values; and

WHEREAS, The proposed change to Michigan election law is not needed as current Michigan law already permits County Commissioner candidates to withhold information about their party affiliation from being printed on ballots provided to Michigan voters; and

WHEREAS, Under the current law, Commissioner Candidates are able to run for office without being affiliated with a political party and disclosing their affiliation, by running as an independent candidate; Therefore, Be It

RESOLVED That the Bay County Board of Commissioners hereby supports providing Michigan voters with full information about their candidates for County Commissioner, and hereby opposes forcing a candidate for County Commissioner to run as a "non-partisan" candidate; Be It Further

RESOLVED That a copy of this resolution be forwarded to State Senator Kevin Daley, State Representatives Brian Elder and Annette Glenn, the Michigan Association of Counties, and all Michigan Counties within two weeks of adoption.

THOMAS M. HEREK, CHAIR

AND COMMITTEE

Opposition to County Commissioner Candidates Non-Disclosure Legislation

Resolution introduced by Commissioner Michael E. Lutz, 7th District

MOVED BY COMMISSIONER HEREK

SUPPORTED BY COMMISSIONER LUTZ

<table>
<thead>
<tr>
<th>COMMISSIONER</th>
<th>Y</th>
<th>N</th>
<th>E</th>
<th>COMMISSIONER</th>
<th>Y</th>
<th>N</th>
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<tbody>
<tr>
<td>MICHAEL J. DURANCZYK</td>
<td>X</td>
<td></td>
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<td>KIM J. COONAN</td>
<td>X</td>
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<td>ERNIE KRYGIER</td>
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<td>THOMAS M. HEREK</td>
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<tr>
<td>VAUGHN J. BEGICK</td>
<td>X</td>
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<td>TOM RYDER</td>
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VOTE TOTALS:

ROLL CALL: YEAS___, NAYS___, EXCUSED___

VOICE: X YEAS___, NAYS___, EXCUSED___

DISPOSITION: ADOPTED___, DEFEATED___, WITHDRAWN___, AMENDED___, CORRECTED___, REFERRED___

-9-
RESOLUTION

SUPPORTING LINE 5 TUNNEL

WHEREAS, Enbridge's Line 5 has been operating safely and reliably in the Straits of Mackinac for more than 66 years; and,

WHEREAS, Enbridge's Line 5, a light crude and natural gas liquids pipeline, helps to safely meet Michigan's energy needs by fulfilling more than half of the propane needs of the state, and 69% of the needs of Upper Peninsula residents; and,

WHEREAS, the products delivered to regional refineries provide jobs and ultimately fuel our lives; and

WHEREAS, issues have been raised by several concerned parties regarding the possibility and impact of a breach of Line 5 into the Straits of Mackinac, as well as multiple and extensive inspections and safety tests over the last several years have confirmed the integrity of Line 5 at the Straits of Mackinac; and,

WHEREAS, consequences to energy supply, local producers, regional airports and refineries, jobs, local economies and the pocketbook of Michiganders across the entire state are too great for Line 5 to be shut down before the tunnel replacement can be completed; and,

WHEREAS, Enbridge and the State of Michigan, under the Snyder administration, negotiated an "agreement" for a five-year, $500 million project, to construct a tunnel 100 feet below bedrock to encase Line 5, the entire length of the Straits, in one-foot-thick concrete walls in order to mitigate the chances of any leaks of product into the Great Lakes; and,

WHEREAS, the recently elected Michigan Attorney General, Dana Nessel, has subsequently opposed the negotiated "agreement" and filed a lawsuit in Ingham County Circuit Court to close down Line 5 immediately, effectively canceling all efforts to begin construction of the tunnel; and,

WHEREAS, this action may very well provide unintended consequences for all parties as the litigation to close down Line 5 may take years to be resolved in the court with no assurance of the outcome; and,

WHEREAS, the time to resolve the litigation may simply result in the delay of the start of the construction of the tunnel, thereby leaving the existing Line 5 in place unnecessarily for several additional years; and,

WHEREAS, Enbridge has demonstrated a willingness to work with the State to both protect the Great Lakes and ensure the continued safe delivery of energy upon which we all rely.

NOW THEREFORE BE IT RESOLVED, the Lapeer County Board of Commissioners hereby joins with other Michigan counties in extending its support for Enbridge's proposed tunnel replacement project and urges the State of Michigan to work with Enbridge to complete the tunnel project as quickly as possible and not disrupt Line 5 service before the tunnel can be completed.

Gaby Roy, Chairman (District #2)
Brenden Miller, District #1
Lehly Schneider, District #4
Lindy M. Jarvie, District #6

C. Ian Kempf, Vice-Chairman (District #7)
Dyle Hemmings, District #3
Rick Warren, District #5

Theresa M. Spencer, Clerk to the Lapeer County Board of Commissioners, do hereby certify and set my seal to the above resolution as adopted by the Lapeer County Board of Commissioners at their regular meeting held on the 10th day of October, 2019.

Theresa M. Spencer, County Clerk
The Community Development/Strategic Planning Committee met on October 15, 2019. There were no action items presented.
The Transportation Committee met on October 15, 2019; it was recommended, and I move:

**TR19/10-26** To create two Airport Maintenance Worker positions (NO-00180; $16.633 -$20.957/hr.) to provide improved airfield and landside maintenance staffing. Furthermore, move to unfund the Airport Maintenance Worker position #N08002 upon the retirement of the incumbent in the position.

**TR19/10-27** To approve lease amendment No. 6 to lease GS-05P-LMI17680 between the County and the GSA-TSA, extending the current lease agreement for a 1 year/six months, firm term and further authorize the Chair to execute the lease amendment.
The Ways & Means Committee met on October 15, 2019, it was recommended and I move:

WM19/10 – 130  To approve payment of the accounts payable of $2,873,551.09, covering the period of September 20, 2019 through October 3, 2019 for checks as presented by the County Clerk.

WM19/10 – 131  To approve a salary increase of 2.0% for the Sheriff, County Clerk, County Treasurer, Register of Deeds, Prosecutor and Drain Commissioner above their current salary to be effective the first pay in January 2020.

WM19/10 – 132  To approve adoption of the 2019 Apportionment Report as prepared and submitted by the Muskegon County Equalization Department.

WM19/10 – 133  To authorize the sale of surplus items though Miedema Auctioneering, Inc.

WM19/10 – 134  To authorize a one year extension on the contract with Jones Lang LaSalle, LLC.

WM19/10 – 135  To approve the resolution Urging our Governor to Restore Funding to the Department of Environment, Great Lakes and Energy (EGLE) Budget. Motion carried.
Muskegon County Board of Commissioners

A Resolution Resolving that Muskegon County Not Become a Sanctuary County

Resolution # 2019-

WHEREAS, across the country, various states and municipalities have enacted policies to provide "sanctuary" to illegal aliens, even though such individuals are in violation of federal immigration laws; and

WHEREAS, a sanctuary county means welcoming illegal undocumented immigrants; and

WHEREAS, the County of Muskegon believes that such “sanctuary” policies are harmful to the health, safety, and welfare of the residents of the County of Muskegon for numerous reasons, including but not limited to undermining law enforcement, encouraging violations of federal immigration law, and jeopardizing receipt of federal funding; and

THEREFORE BE IT RESOLVED, that the sentiment of the Muskegon County Board of Commissioners is that we oppose becoming a Sanctuary County and instead will focus on the health, safety and general welfare of the residents and taxpayers of the County of Muskegon; and

BE IT FURTHER RESOLVED that the County of Muskegon shall not become a sanctuary county and the residents of Muskegon County shall be the primary concern of the County.

*****

The Muskegon County Board of Commissioners, at its Tuesday, October 22, 2019, meeting recommended approval by Commissioner _____________________, support by Commissioner _____________________, the aforementioned resolution.

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 Tuesday, October 22, 2019.

Nancy A. Waters, Clerk
County of Muskegon

Date
REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

<table>
<thead>
<tr>
<th>COMMITTEE</th>
<th>BUDGETED</th>
<th>NON-BUDGETED</th>
<th>PARTIALLY BUDGETED</th>
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<tr>
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REQUESTING DEPARTMENT
Administration

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<tr>
<th>COMMITTEE</th>
<th>DATE</th>
<th>REQUESTOR SIGNATURE</th>
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<tr>
<td></td>
<td>October 22, 2019</td>
<td>Beth Dick</td>
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</table>

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

The Memorandum of Understanding (MOU) with the State of Michigan Department of Health and Human Services (DHHS) authorizing them to process County Child Care Fund foster care payments out of the Lansing Accounting Service center expired on September 30, 2019.

Last year the Board approved the 1st of 2 one-year renewal options on the original agreement that was approved in 2017. Staff recommends that the Board approve the second one-year renewal option with the State DHHS to continue to process County Child Care Fund foster care payments. Attached is last year’s board approved MOU as we are still waiting for the State to provide the current year MOU. The dollar amount for FY2020 is estimated to be $1,993,580. Approval is necessary so that foster care payments are not delayed.

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

Move to approve the 2nd one year renewal option for the Memorandum of Understanding with the State of Michigan Department of Health and Human Services for the processing of County Child Care Fund foster care payments out of the Lansing Accounting Service Center for the period from October 1, 2019 to September 30, 2020 and authorize the County Administrator to sign the agreement contingent upon the approval of the Bureau of Grants and Purchasing of the State of Michigan and receipt of the final document.

ADMINISTRATIVE ANALYSIS (AS APPLICABLE)

<table>
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<tr>
<th>HUMAN RESOURCES ANALYSIS:</th>
<th>FINANCE &amp; MANAGEMENT ANALYSIS:</th>
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<td>Recommend approval. BMD</td>
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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

Date

AGENDA DATE: 10/22/19
AGENDA NO.: 
BOARD DATE: 10/22/19
PAGE NO.

Revised 10/21/19
State of Michigan
Department of Health and Human Services
Bureau of Grants and Purchasing (BGP)
PO Box 30037, Lansing, MI 48909
Or
235 S. Grand Avenue, Suite 1201, Lansing, MI 48933

REVENUE AGREEMENT:  REV19-99103
Between
THE STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
And

<table>
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<tr>
<th>NAME OF AGENCY/PAYER</th>
<th>PRIMARY CONTACT</th>
<th>EMAIL</th>
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<tbody>
<tr>
<td>County of Muskegon</td>
<td>Beth Dick</td>
<td><a href="mailto:DickBe@co.muskegon.mi.us">DickBe@co.muskegon.mi.us</a></td>
</tr>
</tbody>
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<tr>
<th>AGENCY/PAYER ADDRESS</th>
<th>TELEPHONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>590 Terrace, 4th Floor Administration, Muskegon, MI 49442</td>
<td>231-724-6397</td>
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<tr>
<th>MDHHS AGREEMENT ADMINISTRATOR</th>
<th>NAME</th>
<th>TELEPHONE</th>
<th>EMAIL</th>
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<tbody>
<tr>
<td></td>
<td>Timothy A. Hoover</td>
<td>517-284-9434</td>
<td><a href="mailto:HooverT2@michigan.gov">HooverT2@michigan.gov</a></td>
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REVENUE AGREEMENT SUMMARY

BRIEF DESCRIPTION OF SERVICE
This Agreement establishes the responsibilities and procedures for the Michigan Department of Health and Human Services (MDHHS) and the County of Muskegon (Muskegon) for Muskegon County Child Care Fund.

<table>
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<tr>
<th>BEGIN DATE</th>
<th>END DATE</th>
<th>MAXIMUM AMOUNT</th>
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<tbody>
<tr>
<td>10/1/18</td>
<td>9/30/19</td>
<td>$2,045,000</td>
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The individual or officer signing this agreement certifies by his or her signature that he or she is authorized to sign this agreement on behalf of the responsible governing board, official or agency.

FOR THE AGENCY/PAYER:

County of Muskegon

[Signature]

Mark Eisenbarth
County Administrator

Date: 11/26/18

FOR THE STATE OF MICHIGAN:

Michigan Department of Health and Human Services

[Signature]

Christine H. Sanches,
Director, Bureau of Grants and Purchasing

Date: 11/20/18
This Revenue Agreement establishes the responsibilities and procedures for the Michigan Department of Health and Human Services (hereinafter referred to as MDHHS) and County of Muskegon for the purpose described below.

1. **Background**

   The Child Care Fund (CCF) program administered by MDHHS is a collaborative effort between Michigan’s circuit courts, county governments, tribes, and MDHHS. The program provides reimbursements for certain eligible expenditures related to placement and/or programming for neglected, abused, and delinquent youth in Michigan. Traditionally, the cost is paid 100% initially by the county or tribe for foster care, institutional care, independent living, and In-Home Care programming and reimbursed by the State at 50%. As have several other counties across Michigan, the County of Muskegon has requested to send their budgeted CCF funds to MDHHS and to have MDHHS make payments to the providers.

2. **Purpose**

   To define the roles and responsibilities of the parties identified above for MDHHS sub-account county child care fund services in Muskegon County.

3. **Period of Agreement**

   This Agreement will be in effect from the 10/1/18 through 9/30/19.

   At the discretion of MDHHS, this Agreement may be renewed in writing by an amendment not less than 30 days before its expiration.

4. **Work Statement of Each Party**

   MDHHS shall:
   a. Accept funds from County of Muskegon to provide MDHHS sub-account county child care fund services for court ward youth under MDHHS supervision.
   b. Provide payment to approved foster care providers, in home care vendors, and independent living youth based on receipt of child care invoices and supporting documentation as defined by MDHHS and signed by Muskegon County MDHHS. All references to funding are found in the revenue agreement.
c. Provide reconciliation and return any unused portion of these funds to County of Muskegon at fiscal year-end or carry forward to the next fiscal year if agreed to by both MDHHS and County of Muskegon.

**County of Muskegon shall:**
- **a.** Provide funds as determined in the Agreement.
- **b.** Provide Muskegon budgeted child care fund payments to MDHHS.

5. **Payment**

County of Muskegon agrees to provide funding to MDHHS for services committed and/or provided under this Agreement up to a maximum of $2,045,000 for the period from the 10/1/18 to 9/30/19.

County of Muskegon shall provide cash advances to MDHHS on a quarterly basis to fund the anticipated county child care funded payments.

Payments will be sent to:
Michigan Department of Health and Human Services
Cashier/Accounting Office
P.O. Box 30437
Lansing, MI 48909

All payments sent to MDHHS shall include a reference to the MDHHS Revenue Agreement Tracking Number, REV19-99103 and shall reference coding: Approp. # U2400, Fund 4906, Unit 4GC, Accounting Template 491MC3346, Dept. Rev. 4310.

6. **Performance/Progress Reports**

MDHHS will submit report(s) for the following time period(s):

<table>
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<tr>
<th>Period of Report</th>
<th>Report Due Date</th>
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<tr>
<td>Quarterly</td>
<td>15th of the month after the quarter ends</td>
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The report will include expenditure and revenue information and shall be submitted to Accounting_budget@co.muskegon.mi.us.

7. **Program Manager**

The Program Manager for each party will monitor and coordinate the day-to-day activities of the IA (each a "Program Manager"):  

Revised 6-18
8. **Standard Terms**

8.1 **Notices**

All notices and other communications required or permitted under this Agreement must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

8.2 **Assignment**

County of Muskegon may not assign this Agreement to any other party without the prior approval of MDHHS. Upon notice to County of Muskegon, MDHHS, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Agreement to any other party. If MDHHS determines that a novation of this Agreement to a third party is necessary, County of Muskegon will agree to the novation and provide all necessary documentation and signatures.

8.3 **Change of Control**

County of Muskegon will notify, at least 90 calendar days before the effective date, MDHHS of a change in County of Muskegon’s organizational structure or ownership. For purposes of this Agreement, a change in control means any of the following:

a. A sale of more than 50% of County of Muskegon’s stock;
b. A sale of substantially all of County of Muskegon’s assets;
c. A change in a majority of County of Muskegon’s board members;
d. Consummation of a merger of consolidation of County of Muskegon with any other entity;
e. A change in ownership through a transaction or series of transactions; or
f. The board (or the stockholders) approves a plan of complete liquidation.

A change of control does not include any consolidation or merger effected exclusively to change the domicile of County of Muskegon, or any transaction or series of transactions principally for bona fide equity financing purposes.
In the event of a change of control, County of Muskegon must require the successor to assume this Agreement and all of its obligations under this Agreement.

8.4 Termination for Cause

MDHHS may terminate this Agreement for cause, in whole or in part, if County of Muskegon, as determined by MDHHS:

a. Endangers the value, integrity, or security of any location, data, or personnel;
b. Becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor;
c. Engages in any conduct that may expose MDHHS to liability;
d. Breaches any of its material duties or obligations; or
e. Fails to cure a breach within the time stated in a notice of breach.

Any reference to specific breaches being material breaches within this Agreement will not be construed to mean that other breaches are not material.

If MDHHS terminates this Agreement under this Section, MDHHS will issue a termination notice. If it is later determined that County of Muskegon was not in breach of this Agreement, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 7.5, Termination for Convenience.

8.5 Termination for Convenience

MDHHS may immediately terminate this Agreement in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. Any net amount due and owing by County of Muskegon to MDHHS shall be paid by County of Muskegon to MDHHS, or, conversely, any prepayment by County of Muskegon in excess of the revised Agreement amount shall be refunded by MDHHS to County of Muskegon.

8.6 MDHHS Data

All data and information provided to Muskegon by or on behalf of MDHHS, and all data and information derived therefrom, is the exclusive property of MDHHS ("MDHHS Data"); this definition is to be construed as broadly as possible. Upon request, Muskegon must provide to MDHHS, or a third party designated by MDHHS, all MDHHS Data within 10 calendar days of the request and in the format requested by MDHHS. Muskegon will assume all costs incurred in compiling and supplying MDHHS Data. No MDHHS Data may be used for any marketing
purposes.

8.7 Non-Disclosure of Confidential Information

The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Agreement.

a. Meaning of Confidential Information. For the purposes of this Agreement, the term "Confidential Information" means all information and documentation of a party that:

1) Has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party;
2) If disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and,
3) Should reasonably be recognized as confidential information of the disclosing party.

The term "Confidential Information" does not include any information or documentation that was:

1) Subject to disclosure under the Michigan Freedom of Information Act (FOIA);
2) Already in the possession of the receiving party without an obligation of confidentiality;
3) Developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights;
4) Obtained from a source other than the disclosing party without an obligation of confidentiality; or,
5) Publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party).

For purposes of this Agreement, in all cases and for all matters, State Data Is deemed to be Confidential Information.

b. Obligation of Confidentiality. The parties agree to hold all Confidential information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all
Confidential Information confidential. Disclosure to a subcontractor is permissible where:
1) Use of a subcontractor is authorized under this Agreement;
2) The disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and
3) County of Muskegon obligates the subcontractor in a written contract to maintain MDHHS's Confidential Information in confidence.

At MDHHS's request, any employee of County of Muskegon or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of MDHHS, at the sole election of MDHHS, the immediate termination, without liability to MDHHS, of this Agreement or any Statement of Work corresponding to the breach or threatened breach.

e. Surrender of Confidential Information upon Termination. Upon termination of this Agreement or a Statement of Work, in whole or in part, each party must, within five calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that County of Muskegon must return State Data to MDHHS following the timeframe and procedure described further in this Agreement. Should County of Muskegon or MDHHS determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within five calendar days from the date of termination to the other party. However, MDHHS's legal ability to destroy County of Muskegon's
data may be restricted by its retention and disposal schedule, in which case County of Muskegon's Confidential Information will be destroyed after the retention period expires.

8.8 **Records, Maintenance, Inspection, Examination, and Audit**

MDHHS or its designee may audit County of Muskegon to verify compliance with this Agreement. County of Muskegon must retain, and provide to MDHHS or its designee and the auditor general upon request, all financial and accounting records related to this Agreement through the term of this Agreement and for four years after the latter of termination, expiration, or final payment under this Agreement or any extension ("Audit Period"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, County of Muskegon must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, MDHHS and its authorized representatives or designees have the right to enter and inspect County of Muskegon's premises, and examine, copy, and audit all records related to this Agreement. County of Muskegon must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of this Agreement must be paid or refunded within 45 calendar days.

This Section applies to County of Muskegon, any parent, affiliate, or subsidiary organization of County of Muskegon, and any subcontractor that performs Agreement Activities in connection with this Agreement.

8.9 **Conflicts and Ethics**

County of Muskegon will uphold high ethical standards and is prohibited from:

a. Holding or acquiring an interest that would conflict with this Agreement;
b. Doing anything that creates an appearance of impropriety with respect to the award or performance of this Agreement;
c. Attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or
d. Paying or agreeing to pay any person, other than employees and consultants working for County of Muskegon, any consideration contingent upon the award of this Agreement.

County of Muskegon must immediately notify MDHHS of any violation or potential violation of these standards. This Section applies to County of Muskegon, any parent, affiliate, or subsidiary
organization of County of Muskegon, and any subcontractor that performs Agreement Activities
in connection with this Agreement.

8.10 Compliance with Laws

County of Muskegon must comply with all federal, state and local laws, rules and regulations.

8.11 Governing Law

This Agreement is governed, construed, and enforced in accordance with Michigan law,
excluding choice-of-law principles, and all claims relating to or arising out of this Agreement are
governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this
Agreement must be resolved in Michigan Court of Claims. County of Muskegon consents to
venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or
forum non conveniens. County of Muskegon must appoint agents in Michigan to receive
service of process.

8.12 Non-Exclusivity

Nothing contained in this Agreement is intended nor will be construed as creating any
requirements contract with County of Muskegon.

8.13 Force Majeure

Neither party will be in breach of this Agreement because of any failure arising from any
disaster or acts of god that are beyond their control and without their fault or negligence. Each
party will use commercially reasonable efforts to resume performance. County of Muskegon
will not be relieved of a breach or delay caused by its subcontractors. If immediate
performance is necessary to ensure public health and safety, MDHHS may immediately contract
with a third party.

8.14 Dispute Resolution

The parties will endeavor to resolve any Agreement dispute in accordance with this provision.
The parties must submit the dispute to a senior executive if unable to resolve the dispute within
15 business days. The parties will continue performing while a dispute is being resolved, unless
the dispute precludes performance. A dispute involving payment does not preclude
performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated
to the parties' senior executive and either concludes that resolution is unlikely, or fails to
respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit MDHHS’s right to terminate this Agreement.

8.15 Severability

If any part of this Agreement is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Agreement and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Agreement will continue in full force and effect.

8.16 Waiver

Failure to enforce any provision of this Agreement will not constitute a waiver.

8.17 Survival

The provisions of this Agreement that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Agreement.

8.18 Entire Agreement

This Agreement is the entire agreement of the parties related to the Agreement Activities. This Agreement supersedes and replaces all previous understandings and agreements between the parties for the Agreement Activities.

8.19 Agreement Modification

This Agreement may not be amended except by signed agreement between the parties. Notwithstanding the foregoing, no subsequent Statement of Work or amendment executed after the effective date will be construed to amend this Agreement unless it specifically states its Intent to do so and cites the section or sections amended.

County of Muskegon shall, upon request of MDHHS and receipt of a proposed amendment, amend this Agreement, if and when required in the opinion of MDHHS, due to the revision of federal or state laws or regulations.
8.20 **Health Insurance Portability and Accountability Act**

To the extent that this act is pertinent to the services provided by the parties under this Agreement, each party assures that it is in compliance with the Health Insurance Portability and Accountability Act (HIPAA) requirements including the following:

a. None of the parties will share any protected health data and information provided by the other parties that falls within HIPAA requirements except to a subcontractor as appropriate under this Agreement.

b. If one of the parties enters into a subcontractual relationship, it must require the subcontractor not to share any protected health data and information covered by this Agreement that falls under HIPAA requirements in the terms and conditions of the subcontract.

c. All parties must only use the protected health data and information for the purposes of this Agreement.

d. All parties must have written policies and procedures addressing the use of protected health data and information that falls under the HIPAA requirements. The policies and procedures must meet all applicable federal and state requirements including the HIPAA regulations. These policies and procedures must include restricting access to the protected health data and information by their employees.

e. All parties must have a policy and procedure to report the unauthorized use or disclosure of protected health data and information that falls under the HIPAA requirements of which it becomes aware.

f. Failure to comply with any of these contractual requirements may result in the termination of this Agreement.

g. In accordance with HIPAA requirements, any party negligent in carrying out its responsibilities is liable for any claim, loss or damage relating to unauthorized use or disclosure of protected health data and information covered by this Agreement.