

MUSKEGON COUNTY BOARD OF COMMISSIONERS
Courts & Public Safety Committee

REVISED AGENDA

via Zoom and in-person at: Michael E. Kobza Hall of Justice, 990 Terrace Street, Muskegon, MI 49442

September 7, 2021 - 3:00 p.m.

Malinda Pego, Chair
Marcia Hovey-Wright, Vice-Chair

Connect to Zoom from your computer tablet or smartphone at:

<https://us06web.zoom.us/j/81503656871?pwd=SGRiVmt5RHhBVUF4THYrMFd2bTZRZz09>

Phone: (312) 626-6799

Meeting ID: 815 0365 6871

Passcode: 818002

Cell phones may mute & unmute by dialing *6
Raise and lower hand to speak by dialing *9

To raise your digital hand from your PC or
MAC, at the bottom of the window on the right
side of the screen, click the button labeled
"Raise Hand"

View the meeting on YouTube at:

<https://www.co.muskegon.mi.us/1597/Board-Meeting-Videos>

- 1) Call to Order
- 2) Roll Call
- 3) Approval of Minutes of August 3, 2021
- 4) Public Comment (on an agenda item)
- 5) Items for Consideration

*Board Work Session
regarding the American Rescue
Plan begins immediately
following the meeting.*

CPS21/09 - 48 (Sheriff/Michael Poulin) To approve the Sheriff's Office to accept for the Fiscal Year 2022 the Secondary Road Patrol (SRP) grant from the Office of Highway Safety Planning (OHSP) in the amount of \$76,320.00.

CPS21/09 - 49 (Sheriff/Michael Poulin) To approve the purchase of 43 Body Worn Cameras through Watch Guard Video for the Sheriff's Office and amend the budget accordingly. The project amount is quoted at \$68,732.00.

CPS21/09 - 50 (Emergency Management/Rich Warner) To accept the RFP from Newaygo County Emergency Services to write the update for the Muskegon County Hazard Mitigation Plan and have corporate counsel draft the contract using FEMA grant agreement guidelines.

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 the majority of the Commission.

CPS21/09 - 51 (Admin/Mark Eisenbarth) To accept and consent to allow Foster Swift Collins & Smith PC, the county's corporate counsel, to sign a Conflict of Interest Waiver to draft a contract between the Muskegon County Emergency Management Department and the Newaygo County Emergency Department regarding the Muskegon County Hazard Mitigation Plan and waive any conflict arising from representation as Foster Swift Collins & Smith PC represents both counties in several unrelated matters and authorize the County Administrator to sign the waiver.

CPS21/09 - 52 (Emergency Management/Rich Warner) To authorize the Board Chair to sign the agreement with the West Michigan Hazardous Materials Association effective from October 1, 2021 to September 30, 2024.

6) Old Business

7) New Business

CPS21/09 - 53 (Commissioner Pego) To approve the Resolution to promote general welfare in Muskegon County; and that a copy of this Resolution be sent to Governor Whitmer, Senator Jon Bumstead, Representative Terry Sabo, Representative Greg VanWoerkom, the Michigan Senate, the Michigan House of Representatives, Michigan Association of Counties and to the Clerk of each County in the State of Michigan.

8) Public Comment

9) Final Board Comment

10) Adjournment

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETINGS OF THE MUSKEGON COUNTY BOARD OF COMMISSIONERS AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The County of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting upon 24-hours' notice to the County of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the County of Muskegon by writing or calling: Administration, 990 Terrace Street, Muskegon, MI 49442 (231) 724-6520

MUSKEGON COUNTY BOARD OF COMMISSIONERS

Ways & Means Committee

Via Zoom and in-person at: Michael K. Kobza Hall of Justice, 990 Terrace Street, Muskegon, MI 49442

August 3, 2021 – 3:00 p.m.

Kim Cyr, Chair
Doug Brown, Vice-Chair

MINUTES

CALL TO ORDER

The meeting was called to order by Commissioner Cyr at 3:41 p.m.

ROLL CALL

Present: Doug Brown, Marcia Hovey-Wright, Susie Hughes, Zach Lahring, Charles Nash, Malinda Pego, Bob Scolnik, Rillastine Wilkins, Kim Cyr

Also Present: Mark Eisenbarth, County Administrator; Kathy Tharp, Administrative Coordinator

APPROVAL OF MINUTES

It was moved by Commissioner Hughes, supported by Commissioner Hovey-Wright, to approve the minutes of the July 20, 2021, meeting as written. {Voice Vote} **Motion carried.**

PUBLIC COMMENT

None

ITEMS FOR CONSIDERATION

WM21/08 – 77 It was moved by Commissioner Hughes, supported by Commissioner Wilkins, to approve payment of the accounts payable of \$17,143,012.56 covering the period of July 9, 2021 through July 22, 2021 for checks and P Card and EFT payments for the period covering June 1 through June 30, 2021 as presented by the County Clerk.

Roll Call:

Yes: Susie Hughes, Zach Lahring, Charles Nash, Malinda Pego, Bob Scolnik, Rillastine Wilkins, Doug Brown, Marcia Hovey-Wright, Kim Cyr

No: None

Motion carried.

WM21/08 – 78 It was moved by Commissioner Hughes, supported by Commissioner Hovey-Wright, to authorize Human Resources to extend the agreement with United Health Care as the insurance carrier for the Medicare Advantage Plan from January 1, 2022 through December 31, 2022.

Roll Call:

Yes: Zach Lahring, Charles Nash, Malinda Pego, Bob Scolnik, Rillastine Wilkins, Doug Brown,
Marcia Hovey-Wright, Susie Hughes, Kim Cyr

No: None

Motion carried.

WM21/08 – 79 It was moved by Commissioner Hughes, supported by Commissioner Brown, to authorize Human Resources to exercise the first one-year contract extension with The ASU Group for Workers Compensation Third Party Administrator services from January 1, 2022 through December 31, 2022 at a fixed rate of \$8,500.00 paid annually with a per claim fee of \$150.00 for New/Take over Medical only claims and \$750.00 for New/Take over Indemnity claims.

Roll Call:

Yes: Charles Nash, Malinda Pego, Robert Scolnik, Rillastine Wilkins, Doug Brown,
Marcia Hovey-Wright, Susie Hughes, Zach Lahring, Kim Cyr

No: None

Motion carried.

WM21/08 – 80 It was moved by Commissioner Hughes, supported by Commissioner Hovey-Wright, to approve setting the Public Hearing date for the FY2022 Proposed Muskegon County Budget for Tuesday, August 31, 2021 at 3:00 P.M. at the Board of Commissioners room on the 4th floor of the Michael E. Kobza Hall of Justice and to authorize the publication of a Notice of Public Hearing in a newspaper of general circulation on or before August 22, 2021.
(Voice Vote)

Motion carried.

UNFINISHED BUSINESS

None

NEW BUSINESS

Administrator Eisenbarth addressed the Board regarding the ARP Work Session dates.

PUBLIC COMMENT

None

FINAL BOARD COMMENT

None

ADJOURNMENT

There being no further business to come before the Ways & Means Committee, the meeting adjourned at 3:49 p.m.

Muskegon County Courts & Public Safety Committee

Request for Board Approval

Requestor: Michael J Poulin

Committee Date: 2021-09-07

Requesting Department: Sheriff's Office

Full Board Date: 2021-09-14

Budget: Budgeted

Agenda Number: CPS21/09 - 48

Suggested Motion: *(State the following exactly as it should appear in the minutes.)*

Move to approve the Sheriff's Office to accept for the Fiscal Year 2022 the Secondary Road Patrol (SRP) grant from the Office of Highway Safety Planning (OHSP) in the amount of \$76,320.00.

Summary of Request: *(General description of financing, other operational impact, possible alternatives.)*

The Sheriff is requesting permission to accept the FY22 grant amount from the State of Michigan, Office of Highway Safety Planning, in the amount of \$76,320.00. This is for the renewal of the annual Secondary Road Patrol (P.A. 416) grant. The grant period is October 1, 2021 – September 30, 2022.

<p>Kristen Wade, HR Director Analysis Required? No</p>	<p>Beth Dick, Finance Director/Management Analysis:</p> <p><input checked="" type="checkbox"/> <u>Beth Dick</u></p>
<p>Michael Homier, Corporate Counsel Analysis Required? No</p>	<p>Mark Eisenbarth, County Administrator Recommendation:</p> <p><input checked="" type="checkbox"/> <u>Mark Eisenbarth</u></p>



STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

GRETCHEN WHITMER
GOVERNOR

COL. JOSEPH M. GASPER
DIRECTOR

July 28, 2021

Sheriff Michael Poulin
Muskegon County Sheriff's Office
990 Terrace Street
Muskegon, Michigan 49442

Dear Sheriff Poulin:

Enclosed is the Secondary Road Patrol and Traffic Accident Prevention Program (SRP) application for fiscal year (FY) 2022 (October 1, 2021 through September 30, 2022). Appropriate forms to certify compliance are enclosed. These forms, along with others, are also available on the Secondary Road Patrol website at www.michigan.gov/ohsp-srp; click on SRP Forms. Applications received after September 1, 2021, may jeopardize the county's eligibility for funding.

Due to the nature of teleworking, please note the new policy changes regarding submissions of required reports. We will no longer be requiring original signatures to be mailed to our office. Instead, all required documentation with scanned or electronic signatures shall be emailed to MSP-SRP@michigan.gov.

Estimated program funding for FY 2022 is **\$4,800,000.00** from the Secondary Road Patrol and Training Fund.

Your county's total allocation for FY 2022 is \$76,320.00. Your reimbursement from the fund may not exceed this amount. The amount being allocated to each county for FY 2022 is based on current citation revenue collections in the SRP and Training Fund. The FY21 citation revenue collected through the month of June is 10.71% less than the amount collected during the same period in 2020.

P.A. 416, as amended, requires a "Maintenance of Effort" by the county. Your attention is directed to Section 77(1), which states, in part:

"An agreement entered into under this section shall be void if the county reduces its expenditures or level of road patrol below that which the county was expending or providing immediately before October 1, 1978, unless the county is required to reduce general services because of economic conditions and is not merely reducing law enforcement services."

County level of effort must not include positions and expenditures funded from the SRP. If the level of county funded road patrol is less than your "Maintenance of Effort" requirement, your application cannot be processed. Should this occur, and you subsequently come into compliance during the year, a partial year application will be processed at that time.

If you have any questions, please call Julie Roth at 517-284-3121 or Emily Upton at UptoneE1@michigan.gov.

Sincerely,

Michael L. Prince
Division Director
Office of Highway Safety Planning

Attachment
By email

Muskegon County Courts & Public Safety Committee

Request for Board Approval

Requestor: Michael J. Poulin

Committee Date: 2021-09-07

Requesting Department: Sheriff's Office

Full Board Date: 2021-09-14

Budget: Non-Budgeted

Agenda Number: CPS21/09 - 49

Suggested Motion: *(State the following exactly as it should appear in the minutes.)*

Move to approve the purchase of 43 Body Worn Cameras through Watch Guard Video for the Sheriff's Office and amend the budget accordingly. The project amount is quoted at \$68,732.00.

Summary of Request: *(General description of financing, other operational impact, possible alternatives.)*

In 2020 the Sheriff's Office was awarded a \$214,000.00 Federal Grant to provide a limited number of body worn cameras and new cruiser cameras. The body worn cameras have proven to assist in mitigating risk factors in the jail and during inmate movement. This request is to support corrections as well as staff working the front door of the HOJ and those assigned to Court Services. Due to the nature of work provided by our Corrections staff, there is a need for additional body worn cameras to help support battery and storage issues per duty assignment. The price includes the 43 body worn cameras, camera mounts, charging stations, batteries, and warranty to make a complete operational package. This price will also cover additional servers as the current servers do not have adequate storage. The total quoted cost for the equipment is \$68,732.00. The Sheriff is requesting to purchase the body worn cameras through Watch Guard Video and amend the budget accordingly.

<p>Kristen Wade, HR Director Analysis Required? No</p>	<p>Beth Dick, Finance Director/Management Analysis:</p> <p><input type="checkbox"/> </p>
<p>Michael Homier, Corporate Counsel Analysis Required? No</p>	<p>Mark Eisenbarth, County Administrator Recommendation:</p> <p><input type="checkbox"/> </p>

Muskegon County Courts & Public Safety Committee

Request for Board Consideration

Requestor: Richard Warner

Committee Date: 09/07/2021

Requesting Department: Emergency Services

Full Board Date: 09/14/2021

Budget: Budgeted

Agenda Number: CPS21/09 - 50

Suggested Motion: *(State the following exactly as it should appear in the minutes.)*

Move to award the RFP 21-2426 Hazard Mitigation Plan to Newaygo County Emergency Services to write the update for the Muskegon County Hazard Mitigation Plan and authorize corporate counsel to draft the contract using FEMA grant agreement guidelines.

Summary of Request: *(General description of financing, other operational impact, possible alternatives.)*

Muskegon County Emergency Services would like to accept the RFP from Newaygo County Emergency Services to write the update for the Muskegon County Hazard Mitigation Plan and have corporate counsel draft the contract using FEMA grant guidelines. Newaygo County Emergency Services scored the highest in the review process and they were successful in writing their Hazard Mitigation Plan and acquiring FEMA approval with their first draft. A total of four vendors respond with a range of \$27,000 to \$155,000.

<p>Kristen Wade, HR Director Analysis Required? No</p>	<p>Beth Dick, Finance Director/Management Analysis:</p> <p><input checked="" type="checkbox"/> </p>
<p>Michael Homier, Corporate Counsel Analysis Required? Yes Michael Homier</p>	<p>Mark Eisenbarth, County Administrator Recommendation:</p> <p><input checked="" type="checkbox"/> </p>

MUSKEGON COUNTY BID SUMMARY

Commodity Numbers: 91858, 91883, 91890, 91892, 91893, 99029

Department: Emergency Services

Proposal: RFP 21-2426

Release Date: 07/16/2021

Product / Service: Hazardous Mitigation Plan

Opening Date: 08/17/2021

Solicitation Statistics	Bonfire	Bidnet
Viewed Documents:	28	9
Solicitation Received:	4	N/A
No-Solicit Form Received:	0	N/A

Vendor Name & Address	Received	Responsive		Phase 1 Technical Score	Phase 2 Combined Score		Comments
ASTI Environmental 2311 E Beltline Ave SE Ste 104 Grand Rapids MI 49546	Yes	Yes		48.50%	58.91%		
Authintegric LLC -Diligent Resolve 308 Santa Fe Dr Baldwin City KS 66006	Yes	Yes		51.00%	52.92%		
Newaygo County Emergency Svcs 306 S North Street PO Box 885 White Cloud MI 49349	Yes	Yes		85.00%	95.68%		
PSRG 800 W Sam Houston Pkwy S Suite 107 Houston TX 77042	Yes	Yes		26.00%	28.93%		

Department Recommendation: Newaygo County Emergency Services

Name of Buyer: Jamie Burmeister

Director of Finance/Assistant County Administrator's Name: Beth Dick

Signature: Beth Dick

Vendor Awarded: _____

Board Approval Date: _____

Board Motion Number: _____

MUSKEGON COUNTY BID SUMMARY

Commodity Numbers: 91858, 91883, 91890, 91892, 91893, 99029

Department: Emergency Services

Proposal: RFP 21-2426

Release Date: 07/16/2021

Product / Service: Hazardous Mitigation Plan

Opening Date: 08/17/2021

Solicitation Statistics	Bonfire	Bidnet
Viewed Documents:	28	9
Solicitation Received:	4	N/A
No-Solicit Form Received:	0	N/A

	ASTI Environmental	Authintegric LLC Diligent Resolve	Newaygo County Emergency Svcs	PSRG	Comments
1. Determine what Progress in the local mitigation efforts have occurred and what still needs to be accomplished since the previous plan was developed.	\$2,427.00	\$4,600.00	\$1,600.00	\$8,000.00	
2. Update Census data and assist Muskegon County Homeland Security by providing data to update GIS maps to reflect changes in population and development.	\$2,064.00	\$13,800.00	\$2,960.00	\$10,000.00	
3. Assist with updating of priority hazard analysis including assisting each community with identifying hazards that are of concern to that community.	\$3,483.00	\$13,800.00	\$5,810.00	\$10,000.00	
4. Obtain input from the Local Emergency Planning Committee (LEPC), 28 Communities within the boarders of Muskegon County, and the public.	\$1,682.00	\$18,400.00	\$6,860.00	\$10,000.00	
5. Identify the goals and objectives based on the hazard analysis.	\$2,963.00	\$9,200.00	\$450.00	\$5,000.00	
6. Suggest and assist in evaluating strategies to achieve the mitigation goals and objectives.	\$3,336.00	\$13,800.00	\$1,250.00	\$6,000.00	
7. Identify action steps to achieve the strategies.	\$2,685.00	\$13,800.00	\$2,960.00	\$5,000.00	
8. Organize and Compile Information.	\$1,418.00	\$13,800.00	\$1,600.00	\$10,000.00	
9. Prepare a draft updated plan and present the plan to the Muskegon County Homeland Security Division.	\$5,581.00	\$41,400.00	\$6,010.00	\$10,000.00	
10. Facilitate formal plan approval/adoption from the County and 28 communities.	\$908.00	\$13,800.00	\$9,100.00	\$5,000.00	
11. List any additional information and/or tasks to consider.					
Travel Expenses for Meetings	No Bid	No Bid	No Bid	\$5,000.00	
Mileage	\$0.58 / Mile	No Bid	No Bid	No Bid	
Document Copies	\$80.00 / Report	No Bid	No Bid	No Bid	
Total Cost	\$26,547.00	\$156,400.00	\$38,600.00	\$84,000.00	

Muskegon County Courts & Public Safety Committee

Request for Board Approval

Requestor: Mark Eisenbarth

Committee Date: 09/07/2021

Requesting Department: Administration

Full Board Date: 09/14/2021

Budget:

Agenda Number: CPS21/09 - 51

Suggested Motion: *(State the following exactly as it should appear in the minutes.)*

Move to accept and consent to allow Foster Swift Collins & Smith PC, the county's corporate counsel, to sign a Conflict of Interest Waiver to draft a contract between the Muskegon County Emergency Management Department and the Newaygo County Emergency Department regarding the Muskegon County Hazard Mitigation Plan and waive any conflict arising from representation as Foster Swift Collins & Smith PC represents both counties in several unrelated matters and authorize the County Administrator to sign the waiver.

Summary of Request: *(General description of financing, other operational impact, possible alternatives.)*

Muskegon County's corporate counsel, Foster Swift Collins & Smith PC, is also counsel for Newaygo County.

A Conflict of Interest Waiver (see attached) is required to be signed by both parties to allow the firm to draft the contract between the Muskegon County Emergency Management Department and the Newaygo County Emergency Department for the Muskegon County Hazard Mitigation Plan.

<p>Kristen Wade, HR Director Analysis Required? No</p>	<p>Beth Dick, Finance Director/Management Analysis:</p> <p><input checked="" type="checkbox"/> </p>
<p>Michael Homier, Corporate Counsel Analysis Required? Yes Approved, Michael Homier</p>	<p>Mark Eisenbarth, County Administrator Recommendation:</p> <p><input checked="" type="checkbox"/> </p>

Lansing

313 S. Washington Square
Lansing MI 48933

Detroit

333 W. Fort Street – Suite 1400
Detroit MI 48226

Walter S. Foster
1878-1961
Richard B. Foster
1908-1996
Theodore W. Swift
1928-2000
John L. Collins
1926-2001

Webb A. Smith
Scott A. Storey
Charles A. Janssen
Charles E. Barbieri
James B. Jensen, Jr.
Scott L. Mandel
Michael D. Sanders
Brent A. Titus

Jean G. Shtokal
Brian G. Goodenough
Matt G. Hrebec
Deanna Swisher
Thomas R. Meagher
Douglas A. Mielock
Scott A. Chernich
Paul J. Millenbach
Dirk H. Beckwith
Brian J. Renaud
Lynwood P. VandenBosch
Lawrence Korolewicz
James B. Doezema
Anne M. Seuryneck
John P. Nicolucci
Michael D. Homier
David M. Lick

Southfield

28411 Northwestern Highway – Suite 500
Southfield MI 48034

Holland

151 Central Avenue – Suite 260
Holland MI 49423

Scott H. Hogan
Richard C. Kraus
Benjamin J. Price
Michael R. Blum
Jonathan J. David
Andrew C. Vredenburg
Jack A. Siebers
Julie I. Fershtman
Todd W. Hoppe
Jennifer B. Van Regenmorter
Thomas R. TerMaat
Frederick D. Dilley
David R. Russell
Joel C. Farrar
Laura J. Genovich
Karl W. Butterer, Jr.
Mindi M. Johnson

Ray H. Littleton, II
Jack L. Van Coevering
Anna K. Gibson
Patricia J. Scott
Nicholas M. Oertel
Alicia W. Birach
Adam A. Fadly
Michael J. Liddane
Ryan E. Lamb
Clifford L. Hammond
Matthew S. Fedor
Andrea Badalucco
John W. Mashni
Stefania Gismondi
Allison M. Collins
Leslie A. Dickinson
Julie L. Hamlet

Michael C. Zahrt
Gilbert M. Frimet
Paul D. Yared
Stephen W. Smith
Brett R. Schliender
Nicolas Camargo
Mark T. Koerner
Warren H. Krueger, III
Sarah J. Gabis
Amanda Afton Martin
Steven J. Tjapkes
Taylor A. Gast
Rachel G. Olney
Tyler J. Olney
Mark J. DeLuca
Thomas K. Dillon
Robert A. Easterly

Grand Rapids

1700 E. Beltline NE – Suite 200
Grand Rapids MI 49525

St. Joseph

800 Ship Street – Suite 105
St. Joseph MI 49085

Robert A. Hamor
Michael A. Cassar
Hilary J. McDaniel Stafford
Emily R. Wisniewski
Amanda J. Dernovshek
Lydia H. Kessler
Brandon M. H. Schumacher
Alexander J. Thibodeau
Cody A. Mott
Alaina M. Nelson
Caroline N. Renner
Joseph B. Gale
Sydney T. Steele
Ashley A. Poindexter
DeVaughn J. Swanson
Kaitlyn E. Manley

Writer's Direct Phone: 616.726.2230

Fax: 517.367.7120

Reply To: Grand Rapids

E-Mail: MHomier@fosterswift.com

May 17, 2021

Mr. Robert Scolnik
Board Chair
County of Muskegon
990 Terrace Street
Muskegon, MI 49442

Dear Mr. Scolnik:

Re: Legal Representation of Muskegon County

This firm has been requested by the County of Muskegon (the “Muskegon County”) and the County of Newaygo (“Newaygo County”) (and collectively the “Counties”) to draft a contract between the Muskegon County Emergency Management Department and the Newaygo County Emergency Services Department. Because Foster Swift Collins & Smith PC represents both Counties in several unrelated matters, our acceptance of the request for representation would, without the consent of both parties, present an ethical conflict under Michigan Rule of Professional Conduct 1.7.

We will be representing the Counties in this matter. Our role will be limited to discussions and then drafting a contract between the two Counties. Our limited role in this matter still presents a conflict of interest. Under the applicable rule, two requirements must be satisfied before this firm can accept the proposed representation of the parties. First, we must reasonably believe that representing the Counties would not adversely affect our relationship with either County.

We do not believe that this firm has not obtained any confidential information about the Counties in the course of our prior representation which could be used in any way to either benefit or disadvantage either party. Based on our understanding of the contemplated transaction, we believe that our firm can

Muskegon County
May 17, 2021
Page 2

fully satisfy its professional and ethical responsibilities while representing Counties in drafting the proposed contract.

Second, the potential conflict must be waived by both Counties. This letter will confirm our understanding that Muskegon County agrees to waive the potential conflict and agrees to our representation of both parties on the limited basis described in this letter. We must also obtain a separate consent and waiver from Newaygo County.

Based on our understanding of the contemplated transaction and our preliminary discussions with the Counties, we believe that the interests of both Counties are not adversarial. In the event that the circumstances change and the interests of Counties become adversarial, this firm would be required to withdraw from its representation of both Counties and would not represent either County in connection with these matters.

If you have any questions concerning any potential conflict, please do not hesitate to contact me or to consult with your own separate counsel concerning the matters discussed in this letter. If this firm's representation as described herein is acceptable to Muskegon County, please sign below and return a copy to me.

Sincerely,

FOSTER SWIFT COLLINS & SMITH, PC



Michael D. Homier

ACCEPTANCE AND CONSENT:

On behalf of Muskegon County, the undersigned is authorized to consent and agrees to the representation of Muskegon County in connection with the drafting of a contract between Muskegon County and Newaygo County. The undersigned further agrees to waive any conflict arising from such representation and waives any claims, causes of action, or damages against Foster Swift Collins & Smith, PC and/or its attorneys relative to such conflict of interest or representation.

Mark Eisenbarth, Muskegon County Administrator

Dated: _____, 2021

Muskegon County
May 17, 2021
Page 3

MUSKEGON COUNTY

STATE OF MICHIGAN)
)
COUNTY OF MUSKEGON)

I, the undersigned, the duly qualified and acting County Clerk of the County of Muskegon Michigan, DO HEREBY CERTIFY that the foregoing was approved by the Muskegon County Board of Commissioners at a _____ meeting held on _____, 2021.

Nancy Waters
Muskegon County Clerk

CC: Mark Eisenbarth
Richard Warner

Muskegon County Courts & Public Safety Committee

Request for Board Consideration

Requestor: Richard Warner

Committee Date: 09/07/2021

Requesting Department: Emergency Services

Full Board Date: 09/14/2021

Budget: Budgeted

Agenda Number: CPS21/09 - 52

Suggested Motion: *(State the following exactly as it should appear in the minutes.)*

Move to authorize the Board Chair to sign the agreement with the West Michigan Hazardous Materials Association effective from October 1, 2021 to September 30, 2024.

Summary of Request: *(General description of financing, other operational impact, possible alternatives.)*

Attached is the renewal agreement between the County of Muskegon and the West Michigan Hazardous Material Association Inc., a legal entity representing the Muskegon County Hazardous Materials Response Team.

The attached agreement renews the past agreement. The original agreement started in 1993. This appropriation is budgeted.

Term of agreement is October 1, 2021 through September 30, 2024

Kristen Wade, HR Director Analysis Required? No	Beth Dick, Finance Director/Management Analysis: <input checked="" type="checkbox"/> 
Michael Homier, Corporate Counsel Analysis Required? No	Mark Eisenbarth, County Administrator Recommendation: <input checked="" type="checkbox"/> 

**WEST MICHIGAN HAZARDOUS MATERIALS ASSOCIATION
RENEWAL AGREEMENT REGARDING
HAZARDOUS MATERIALS RESPONSE EFFORTS**

THIS AGREEMENT is entered into by and between the County of Muskegon, a Michigan municipal corporation, with principal offices at 990 Terrace Street, Muskegon, Michigan 49442, hereinafter referred to as “County”, and the West Michigan Hazardous Materials Association, Inc., a not-for-profit corporation, incorporated under the laws of the State of Michigan, with principal offices at 285 N. Mararebecah Lane Muskegon Mi. 49442, hereinafter referred to as “Corporation”, or as the “Team”.

RECITALS

A. The County, through its Emergency Management Department, funds a Hazardous Materials (“HAZMAT”) Response Program for the purpose of responding to any hazardous material incidents within the County of Muskegon.

B. The Corporation was established in 1993 for the purposes as set forth in its By-Laws, as follows:

“To foster the development and progress of HAZMAT spill prevention, HAZMAT Emergency Response training and corporation educational services, and related activities; and to promote, through effort of the several towns, City, County, State and federal public safety agencies and of the HAZMAT service units thereof to the end of the safety of human life, the protection of property and the general welfare of all people may be benefitted to the highest degree.”

C. The County, through its Emergency Services Department, and the Corporation through its Executive Officers, have for some time now worked cooperatively with respect to the pursuit of common objectives in the area of hazardous material response and previously entered into a public/private agreement regarding hazardous material response efforts which began on June 1, 1999 and have continued through September 30, 2021.

D. Accordingly, County and Corporation, by and through their respective Boards, elect to enter into this Renewal Agreement for the providing of public/private cooperative efforts toward the pursuit of HAZMAT objectives.

NOW, THEREFORE, in consideration of mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:

Section 1. Purpose. The purpose of this Agreement is to establish the terms and conditions through which the Corporation will, in its pursuit of its not-for-profit objectives, provide hazardous material response support to the County, through its Emergency Services Department and Director (“Director”), with respect to the County’s HAZMAT Program.

Section 2. Basic Agreement. The Corporation agrees to provide services to the County in connection with the operation of its HAZMAT Program, as hereinafter more fully set forth. In consideration of such services, and in an effort to support Corporation and its continued viability in pursuit of such objectives, the County hereby agrees to provide payment for services rendered as hereinafter more specifically set forth.

Section 3. Corporation Responsibilities.

A. Basic Agreement. The parties hereto contemplate that the Corporation will provide certain miscellaneous services to the County in connection with its engagement of Corporation to perform HAZMAT services by, and on behalf of, the County. The Corporation will, in accordance with more specific duties as hereinafter outlined, assist the County in providing support services to all Muskegon County governmental agencies requesting HAZMAT response assistance.

B. Specific Responsibilities. The Corporation will provide the following services in support of County and the Corporation HAZMAT objectives:

1. Membership. The Corporation will maintain an active program of recruitment of professionals interested in providing services to the County's HAZMAT Program. Corporation will, in accordance with its by-laws, maintain an active list of such professionals.

2. Team Membership. Corporation will, from among its membership, make recommendations to the Director, regarding composition of a HAZMAT Response Team(s). Among the factors to be considered with respect to establishment of such a roster for Team Membership will be training and experience in HAZMAT or related fields or endeavors, such as police or fire services. The County, by and through its Director, will, from the list of members recommended by the Corporation, agree upon a list of Responders.

3. Corporation Meetings. Corporation will periodically offer meetings for its membership, in accordance with its by-laws. Such meetings will be undertaken in an effort to establish comradeship between members, pursue educational and training objectives on a continuing formal or informal basis, and to maintain coordination with its members with regard to the performance of routine and periodic training functions, as are hereinafter provided for.

4. Equipment. Corporation will, through its membership, maintain all County HAZMAT equipment in a state of "readiness" and will provide annual reports to the Director with respect to maintenance efforts undertaken on such equipment; provided, however, that this Agreement will not contemplate actual mechanical work being done on County HAZMAT vehicles, which work will be undertaken by certified private vendors at the initiation of the Director. The County will, through its Emergency Services Department, provide appropriate funding to maintain a state of readiness for all equipment and vehicles assigned to Corporation for HAZMAT use as more fully described below.

5. Training and Certification. Corporation will work closely with Director to provide for training for “Team” members. Annual reports will be provided to the Director with respect to training of members, as well as certification status of same, together with reports regarding member compliance with any and all State and/or federal requirements for training and certification, including but not limited to: medical surveillance program requirements. All training activities, including travel and lodging, will be funded by the Muskegon County Emergency Services Department, following approval by its Director. Prior written authorization will be required for any out-of-state travel. At a minimum, however, County agrees to provide funding as may be reasonably necessary in order to maintain minimum continuing certification of HAZMAT Team members, provided, however, that ultimate budget authority remains with County.

6. Coordination of Response Plan. The Corporation, either through its President or designee, will work closely with Director to establish and maintain written Standard Operating Guidelines for responding to HAZMAT emergency incidents.

7. Reporting on Response Efforts. The Corporation will promptly provide summary reports with respect to emergency incident response activities, within seventy-two (72) hours of the occurrence thereof. Such reports will, at a minimum, provide a synopsis of the incident, the members involved, duration of involvement, equipment utilized, equipment or material exhausted, the nature of the hazardous material involved, and, upon request of the Director, provide notations with respect to replacement cost of material or equipment exhausted for utilization by Director in determining assessment costs to be paid by responsible parties, per the County “Hazardous Materials Ordinance”.

8. Miscellaneous. In addition to the foregoing, Corporation and Director will meet annually to determine strategic and tactical programming needs and may, without the necessity of amending this Agreement, periodically establish additional activities to the extent not inconsistent with the purpose and objectives of the County HAZMAT Program, as determined by its Director.

9. Insurance. Corporation agrees to maintain the following forms of insurance coverage, to-wit: (1) workers' compensation, (2) accident and sickness, (3) property and liability insurance, (4) non-owned auto liability insurance, including response vehicle insurance and equipment coverage. Such coverage will be in amounts either as required by law, or as may be determined to be necessary and appropriate by the County Human Resources Department after consultation with Director. Corporation agrees to name County as additional insured on liability insurance and casualty policies.

Prior to the execution of this Renewal Agreement, Corporation will provide Director with proof of adequate insurance.

Section 4. County Responsibilities.

A. Basic Agreement. The parties hereto contemplate that the County will, in consideration of the services to be provided by Corporation, provide Corporation with use of emergency response equipment, vehicles and materials as are reasonably necessary in order to enable Corporation to fulfill its responsibilities to County under this Agreement. In addition, County will, through its Director, work cooperatively with Corporation in establishing protocol and procedure for training of members, approval of members and leaders, equipment and vehicle repair and maintenance, and responsive reporting on HAZMAT response activities.

B. Specific Responsibilities of County. County will provide the following more specifically in support of Corporation activities and efforts:

1. Appropriation to the Corporation. In consideration of the services hereinabove set forth, and in an effort to provide assistance to the Corporation in its effort to support the County HAZMAT Program, the County commits to making an appropriation in the annual amount of Thirteen Thousand Dollars (\$13,000.00) to the Corporation for the period October 1, 2021, through September 30, 2024. The County intends to make the appropriations on a quarterly basis, but reserves the right to unilaterally make such determination subject to the other terms and conditions set forth in this Agreement; provided, however, that in the event of termination of this Agreement, then payment will be prorated by month.

2. Payment of Charges Incurred by Corporation. County further agrees to make payment on behalf of Corporation for reasonable and necessary charges incurred by Corporation on County vehicles and equipment for such matters as insurance, as above described, and vehicle maintenance or repair. Such payments will be made following receipt of invoices received by Corporation and then provided to County. With regard to the providing for these charges, however, County, through Director, expressly reserves the right to approve this overall cost prior to payment thereof. Such approval, however, should not be unreasonably withheld.

3. Funding Sources. The Hazardous Materials Response Services Agreement, see Attachment "A", that has been approved by the County Commission is the mechanism to offset the appropriation for the HAZMAT team funding.

Section 5. Use of Proceeds. Corporation covenants and agrees that appropriations or payments herein to be made by the County will be used by Corporation in pursuit of its not-for-

profit corporate objective and for no other purpose. See attachment “A” which defines the Response Services to be provided by Corporation.

Section 6. Term of Agreement/Termination. This Agreement will be given force and effect by the parties as of the first day of October, 2021, and will continue through September 30, 2024. Appropriations for such renewal term will be determined by the County Board and subject to other restrictions herein contained.

Either party may terminate this Agreement for cause at any time upon providing thirty (30) days written notice of intent. Further, either party may elect to terminate this Agreement at the end of the first or second fiscal year by providing written notice of such intent to the other party ninety (90) days prior to the expiration of that fiscal year.

Section 7. Miscellaneous.

A. Independent Contractor. Corporation shall perform all of its services under this Agreement as an independent contractor and not as an employee of the County. Corporation understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers’ compensation and protection of tenure.

B. Equal Opportunity. Corporation will comply with all equal opportunity laws.

C. Taxes. Any taxes, fines, fees, or other governmental obligations properly imposed on Corporation are the obligations of Corporation, not of the County, and will be paid out of Corporation’s operating accounts.

D. Corporate Records. The corporate books and financial records kept by Corporation will be maintained on a current basis by Corporation and will be made available to the County upon reasonable request. This obligation shall survive this Agreement.

E. Binding Effect. Terms, covenants, conditions, provisions, and agreements contained herein will be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns.

F. Transferred Liabilities. The parties will not, by entering into and performing under this Agreement, become liable now or at any time in the future for any of the existing or future obligations, liabilities or debts of the other, including any obligations, duties or liabilities arising under any collective bargaining agreement, and neither party will assume or become liable for any of the obligations, debts and liabilities of the other, except as otherwise provided herein.

G. Assignment. Obligations and benefits of a party to this Agreement may be assigned only with prior written consent of other parties.

H. Third-Party Beneficiary Rights. Nothing in this Agreement will be construed, nor have the effect of creating any rights in any third party person or party.

I. Notice. All notices hereunder by either party to the other will be in writing. All notices, demands and requests will be deemed given when mailed, postage prepaid, return receipt requested, or when received in hand by an agent or employee of the addressee at the locations listed below:

To: Antonio C. Gutierrez
West Michigan Hazardous Materials Association, Inc.
285 N. Mararebecah Lane
Muskegon, MI 49442

To: Director
Emergency Management Department
990 Terrace Street
Muskegon, MI 49442

or to such other address or such other person as may be designated by written notice given from time-to-time during the term of this Agreement by one party to the other.

J. Authority. The County and Corporation represent and warrant, each to the other, that this Agreement has been duly authorized by its respective governing body, and that this Agreement constitutes a valid and enforceable obligation of the parties in accordance with its terms.

K. Complete Agreement. This Agreement, together with any exhibits mentioned herein, contains the entire agreement between the parties, and no other representations or agreements, oral or otherwise, will be of any force and effect. Any additions or amendments to this Agreement will be void unless in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement to be immediately effective this _____ day of _____, 2021.

COUNTY OF MUSKEGON

WEST MICHIGAN HAZARDOUS MATERIALS
ASSOCIATION, INC.

By _____
Robert Scolnik, Chairman
County Board of Commissioners

By _____
Antonio C. Gutierrez, President

HAZARDOUS MATERIALS RESPONSE SERVICES AGREEMENT

This Agreement, made effective as of the date of the last signature to be affixed hereon, between the County of Muskegon, a Michigan municipal corporation, whose address is 990 Terrace Street, Muskegon, Michigan ("County") and

_____, a _____, whose address is _____ ("Participant").

WHEREAS, Participant has limited or no hazardous materials response capabilities;

WHEREAS, the County has such capability;

WHEREAS, Participant and County wish to enter into a Joint Service Agreement pursuant to Michigan Public Act 35 of 1951, Section 2, by which the capabilities and expertise of the County can be employed in the Participant's jurisdiction in order to assist in the containment of releases of hazardous materials;

NOW THEREFORE, IT IS AGREED as follows:

1. Response Services: The County, through its Emergency Services Department, shall provide hazardous materials response services ("Response Services") to the Participant. "Response Services" shall consist of actions necessary for a response to a hazardous materials incident, such as the performance of air monitoring, spill/leak detection, leak/spill control and containment, emergency rescue of victims and emergency personnel. "Response Services" does not include remediation or any ongoing environmental clean-up activities. The scope and nature of the service is within the sole discretion of the County.
2. Ordinance: The Participant shall properly enact, publish and at all times keep in effect a "Hazardous Spills Expense Recovery Ordinance" ("Ordinance"), which, to the extent provided by law, will permit the County to recover its expenses from persons causing the release. The provisions for cost recovery contained in the Ordinance shall be in addition to the provisions for recovery of expenses under Part 201 of the Michigan Natural Resources Environmental Protection Act ("Part 201").
3. Annual Fee; Commencement of Services: A fee will be charged to the Participant for each fiscal year (October 01 through September 30). The Response Services shall commence upon payment of the fee and upon the effective date of the Participant's Ordinance. The County may annually change this fee by giving at least thirty (30) days' notice to the Participant. The annual fee to be charged is as follows:

Local Emergency Planning Committees and Industries:	\$1,500.00
Cities:	\$600.00

Townships:	\$500.00
Villages:	\$250.00

4. Costs Incurred; Recovery: The person(s) causing the incident or spill for which Response Services are provided shall be responsible for payment (“Responsible Party”). Any costs incurred by the County in providing Response Services shall be billed directly to the Responsible Party. The Participant will not be directly charged for the costs incurred in providing Response Services unless the Participant is directly responsible for the incident or spill.

5. Cessation of Services: The County reserves the right to cease providing Response Services to the Participant at any time at the County’s sole discretion. The County shall give thirty (30) days’ advance notice of such decision. In such event, the Participant will be rebated a prorated fee.

6. Participant’s Withdrawal: The Participant may withdraw from this Agreement at any time by giving thirty (30) days’ notice to the County, or by not paying the annual fee within thirty (30) days after invoice. The Participant acknowledges and agrees that if it withdraws from this Agreement or fails to pay in a timely manner, Response Services shall not be provided to the Participant.

7. Non-Discrimination: The parties agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, compensation, work classification, promotion or demotion, or termination because of race, color, religion, national origin, age, sex, height, weight, or marital status, physical or mental disability, family status, sexual orientation or gender identity. Breach of this covenant may be regarded as a material breach of this Agreement.

8. Interpretation: This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. This Agreement was drafted at the joint direction of the parties. The pronouns and relative words used herein are written in the neuter and the singular. However, if more than one person or entity joins in this Agreement on behalf of Participant, or if a person of masculine or feminine gender joins in this Agreement on behalf of Participant, such words shall be interpreted to be in the plural, masculine or feminine as the sense requires.

9. Venue: Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Muskegon, State of Michigan.

10. Entire Agreement: This Agreement, together with all items incorporated herein by reference, constitutes the entire agreement of the parties and there are no valid promises, conditions or understandings which are not contained herein.
11. Indemnity: Participant shall defend, indemnify and hold harmless the County, its officers, agents and employees from and against any and all claims, liabilities, losses, damages, actual attorney fees and settlement expenses arising from bodily injury or death of any persons and damage or loss of any property resulting or arising out of or in connection with the performance of any work relating to this Agreement based upon any act, omission, or negligence of the Participant or its employees, agents, servants, or any other person or persons, including but not limited to the County, its agents, officers, or employees. The obligations to defend, indemnify, and hold harmless contained herein shall exclude only those matters in which the claim arises out of allegations of the sole negligence of the County, its officers, agents or employees. This indemnification provision shall not be limited by reason of insurance coverage of any type. This provision is not intended to waive the defense of governmental immunity that may be asserted by the County in an action against it.
12. Dispute Resolution: If any party has a dispute with another regarding the meaning, operations, or enforcement of any provision of this Agreement, the disputing parties agree to meet and confer to negotiate a resolution of the dispute. They further agree as follows:
- a. Mediation: If they are unable to resolve the dispute themselves and before formally instituting any other dispute mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of MCR 2.411, to bring them together in at least one mediation session.
 - b. Arbitration: If they are unable to resolve the dispute through mediation, it shall be decided by final and binding arbitration according to rules and procedures mutually agreed upon by the parties. Judgment upon award rendered by the arbitrator may be entered in Circuit Court.
 - c. Venue: All meetings, hearings, and actions to resolve the dispute shall be in Muskegon County.
 - d. Notice: Written notice of a claim shall be given to the other party not later than ninety (90) days after the occurrence giving rise to the dispute becomes known or should have become known. Negotiations and mediation shall occur within sixty (60) days after such notice. Unless a longer time is agreed upon, arbitration must be demanded within 120 days after such notice and, if not, the claim is deemed

waived. Arbitration must be demanded within this time limit even if negotiation or mediation has not occurred, but the arbitrator must direct the parties to mediation before issuing an award.

13. Authority to Execute: The parties agree that the signatories appearing below have the authority and are duly authorized to execute this Agreement on behalf of the party to the Agreement.

COUNTY OF MUSKEGON

PARTICIPANT

By _____

By _____

Its _____

Its _____

Dated: _____

Dated: _____

Fee Paid: _____

Ordinance Publication Date: _____

Ordinance Effective Date: _____

Muskegon County Courts & Public Safety Committee

Request for Board Approval

Requestor: Commissioner Malinda Pego

Committee Date: 2021-09-07

Requesting Department: Board of Commissioners

Full Board Date: 2021-09-14

Budget:

Agenda Number: CPS21/09 - 53

Suggested Motion: *(State the following exactly as it should appear in the minutes.)*

Move to approve the Resolution to promote general welfare in Muskegon County; and that a copy of this Resolution be sent to Governor Whitmer, Senator Jon Bumstead, Representative Terry Sabo, Representative Greg VanWoerkom, the Michigan Senate, the Michigan House of Representatives, Michigan Association of Counties and to the Clerk of each County in the State of Michigan.

Summary of Request: *(General description of financing, other operational impact, possible alternatives.)*

The attached Resolution supports the elected officials oath to "promote the general Welfare, and secure the Blessings of Liberty to ourselves and our posterity."

Kristen Wade, HR Director Analysis Required? No	Finance Analysis: <input type="checkbox"/>
Michael Homier, Corporate Counsel Analysis Required? No	Mark Eisenbarth, County Administrator Recommendation: <input type="checkbox"/>

County of Muskegon



MUSKEGON COUNTY RESOLUTION TO PROMOTE GENERAL WELFARE

At a regular meeting of the Muskegon County Board of Commissioners, Muskegon County, Michigan, held on 14th day of September, 2021, at 3:00 p.m. local time, the following resolution was adopted; and

WHEREAS, we elected officials have solemnly sworn an oath to support the Constitution of the United States of America, which is ordained and established to “promote the general Welfare, and secure the Blessings of Liberty to ourselves and our posterity”; and

WHEREAS, the people of Muskegon County being both informed about the risks and benefits of any available medical treatment such as vaccines; as well as maintaining the sacred inalienable right to make autonomous choices about their own health are essential to securing both the general Welfare and securing the Blessings of Liberty; and

THEREFORE, BE IT RESOLVED, all Muskegon County messaging henceforth related to vaccines shall encourage the people to discuss the risks and benefits of any such treatment with their chosen healthcare provider; and

BE IT FURTHER RESOLVED, Muskegon County shall NOT question any persons claim, or parents' claim on behalf of their children, to exemption from wearing a facemask or any other similarly mandated activity; and

BE IT FURTHER RESOLVED, Muskegon County shall NOT require of or mandate to any employee, prospective employee, or contractor any form of vaccine or similar medical treatment, verification or medical test verification as a general condition of employment; and will NOT encourage employers located within Muskegon County to establish such mandates that so hinder medical autonomy; and

BE IT FURTHER RESOLVED, the Muskegon County Board of Commissioners recognizes and commends the employees of the Muskegon County Department of Public Health, Administration, and the other various county offices and departments, and community health care providers for their immense efforts throughout the COVID 19 situation; and

BE IT FURTHER RESOLVED, The Muskegon County Board of Commissioners does hereby ENCOURAGE Muskegon County residents to increase their awareness of available preventative measures and therapies by discussing the risks and benefits of available preventative measures and therapies with their chosen healthcare provider; and

BE IT FURTHER RESOLVED, the Muskegon County Board of Commissioners instructs its chair, clerk, and staff to forward a copy of this resolution directly to all county commissioners, or their equivalents, in each of the counties in the United States including the 83 counties in the state of Michigan and all other states, inviting that they consider whether passing a similar resolution might be in the best interest of their own people; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be sent to Governor Whitmer, Senator Jon Bumstead, Representative Terry Sabo, Representative Greg VanWoerkom, the Michigan Senate, the Michigan House of Representatives, Michigan Association of Counties and to the Clerk of each County in the State of Michigan.

The Muskegon County Board of Commissioners, at its September 14, 2021, meeting recommended approval by Commissioner Malinda Pego, support by Commissioner _____, the aforementioned resolution.

Ayes:

Nayes:

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 September 14, 2021.

Nancy A. Waters, Clerk
County of Muskegon

Date

