

Introduced by the Law & Courts and Finance Committee of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

RESOLUTION #02-274

At a regular meeting of the Board of Commissioners of the County of Ingham, Michigan, held on the 12th day of November, 2002, at 7:30 p.m., in Mason, Michigan, there were:

PRESENT:

Commissioners Celentino, Czarnecki, Dedden, De Leon, Grebner, Hertel,
Krause, Lynch, Minter, Schafer, Severio, Stid, Swope

ABSENT:

Commissioners None

The following preambles and resolution were offered by Minter and seconded by Grebner:

RESOLUTION TO APPROVE PLANS, COST ESTIMATE,
ESTIMATE OF THE PERIOD OF USEFULNESS,
LEASE CONTRACT AND FILING WITH THE
MICHIGAN DEPARTMENT OF TREASURY

WHEREAS, the County of Ingham, Michigan (the "County") desires to renovate, improve, furnish and equip the Ingham County Correctional Facility located at 630 N. Cedar, Mason, Michigan (the "Facility"); and

WHEREAS, it is the desire of the County to transfer ownership of the Facility to the Ingham County Building Authority (the "Authority") for One Dollar (\$1.00) in order that the Authority may finance the renovation, improvement, furnishing and equipping of the Facility, all as described in Exhibit A to Appendix I attached hereto (the "Project").

WHEREAS, there have been prepared and presented to the Board of Commissioners (the "Board") of the County, preliminary plans for the Project and a proposed Lease Contract, attached to this Resolution as Appendix I, between the County and the Ingham County Building Authority (the "Authority") dated as of February 1, 2003 (the "Lease Contract"), pursuant to which the Authority will acquire the Project as contemplated by the terms of Act No. 31, Public Acts of Michigan, 1948 (First Extra Session), as amended ("Act 31"), and lease such property to the County for a period not to exceed 50 years as permitted by Act 31; and

WHEREAS, the period of usefulness of the Project has been estimated to be not less than 25 years and the total cost of designing, constructing and installing the Project (including the costs of relocation of occupants and other incidental expenses) and issuing the Bonds (as defined in the Lease Contract) has been estimated to be not more than \$2,325,000, of which not more

than \$2,325,000 will be provided by the proceeds from the sale of the Bonds by the Authority pursuant to Act 31; and

WHEREAS, the County has prepared forecasts of its revenues and expenses which demonstrate the ability of the County to pay the debt service on the Bonds required by the Lease Contract, and the County has available the funds required to pay any Project costs not covered by the anticipated proceeds from the sale of the Bonds; and

WHEREAS, there has been prepared and attached to this Resolution as Appendix II a form of notice entitled "NOTICE OF INTENTION OF THE COUNTY OF INGHAM TO ENTER INTO A LEASE CONTRACT WITH THE INGHAM COUNTY BUILDING AUTHORITY AND NOTICE OF RIGHT TO PETITION FOR REFERENDUM THEREON" (the "Notice of Intention"), which Notice of Intention contains a maximum amount of Bonds of \$2,400,000, which is higher than the \$2,325,000 of Bonds approved herein in order to allow the County and the Authority to hereafter approve a higher amount of Bonds if it is deemed necessary or desirable;

NOW, THEREFORE, be it resolved by the Board of Commissioners of the County of Ingham, Michigan, as follows:

1. Sale of the Facility by the County to the Authority for \$1.00 for the purposes contemplated by this Resolution is hereby approved.
2. The preliminary plans and estimates relating to the Project and identified in Exhibit A to Appendix I to this Resolution are approved and ordered filed with the County Clerk.
3. The Lease Contract is approved, and the Chairperson of the Board of Commissioners and the County Clerk are authorized and directed to execute and deliver the same at any time prior to the issuance of the Bonds for and on behalf of the County.
4. It is determined that the Notice of Intention provides information sufficient to adequately inform the electors and taxpayers of the County of the nature of the contractual obligations to be undertaken by the County in the Lease Contract and of their right under Act 31 to file a petition requesting a referendum election on the Lease Contract.
5. The form and content of the Notice of Intention are approved, and the County Clerk is authorized and directed to cause the Notice of Intention to be published once in the *Lansing State Journal*, a newspaper of general circulation within the County which is determined to be the newspaper reaching the largest number of electors and taxpayers of the County.
6. The County Treasurer, the Chairperson of the County Board of Commissioners, the County Clerk, and the County Controller, or any one of them, are hereby authorized, if necessary, to make application to the Michigan Department of Treasury for permission to issue and sell the Bonds or alternatively to apply for qualified status to issue municipal securities under Act 34, Michigan Public Acts of 2001, as amended.

A ROLL CALL VOTE WAS TAKEN AS FOLLOWS:

YEAS: Celentino, Czarnecki, Dedden, De Leon, Grebner, Hertel,

Krause, Lynch, Minter, Schafer, Severino, Stid, Swope

NAYS: None

ABSTAINING: None

THE RESOLUTION WAS DECLARED ADOPTED.

STATE OF MICHIGAN)
) SS.
COUNTY OF INGHAM)

The undersigned, being the duly qualified and acting Clerk of Ingham County, Michigan, certifies that the foregoing is a true and complete copy of a resolution duly adopted by the Ingham County Board of Commissioners, at which meeting a quorum was present and remained throughout and that an original thereof is on file in the records of the County. The undersigned further certifies that the meeting was conducted, and public notice of the meeting was given, pursuant to and in full compliance with Act No. 267, Michigan Public Acts of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Mike Bryanton
Ingham County Clerk

Dated: November 12, 2002

LAW & COURTS: Yeas: Krause, De Leon, Dedden, Stid, Grebner, Minter, Schafer
Nays: None **Absent:** None **Approved 10/31/02**

FINANCE: Grebner, Stid, Swope, Krause, Schafer
Nays: None **Absent:** Hertel, Minter **Approved 11/6/02**

APPENDIX II

COUNTY OF INGHAM, MICHIGAN

NOTICE OF INTENTION OF THE COUNTY OF INGHAM TO ENTER INTO A LEASE CONTRACT WITH THE INGHAM COUNTY BUILDING AUTHORITY AND NOTICE OF RIGHT TO PETITION FOR REFERENDUM THEREON

TO ALL ELECTORS AND TAXPAYERS OF THE COUNTY OF INGHAM:

NOTICE IS HEREBY GIVEN that the Board of Commissioners of the County of Ingham, Michigan (the "County"), has authorized the execution of a full faith and credit general obligation lease contract (the "Lease") between the County and the Ingham County Building Authority (the "Authority"). The Lease provides, among other things, for the renovation, improvement, furnishing and equipping of the Ingham County Correctional Facility, located at 630 N. Cedar, Mason, Michigan (the "Project") within the County. The Lease provides further that the Authority will finance a portion of the total cost of the Project (including capitalized interest, engineering, architectural, legal, and other expenses incidental thereto and costs of issuance of the Bonds described below) by the issuance of building authority bonds (the "Bonds") pursuant to the provisions of Act No. 31, Public Acts of Michigan, 1948 (First Extra Session), as amended ("Act 31"), in anticipation of the receipt of cash rental payments to be made by the County to the Authority pursuant to the Lease. The maximum amount of Bonds to be issued is \$2,400,000 the term of the Lease shall not exceed 25 years and the Bonds shall bear interest at a rate or rates to be determined, but in no event above 8% per annum.

FULL FAITH AND CREDIT AND TAXING POWER OF THE COUNTY OF INGHAM WILL BE PLEDGED

NOTICE IS HEREBY GIVEN that in the Lease the County will obligate itself to make cash rental payments to the Authority in amounts sufficient to pay the principal of and interest on the Bonds. The full faith and credit of the County will be pledged for the making of such cash rental payments. Pursuant to such pledge of its full faith and credit, the County will be obligated to levy such ad valorem taxes upon all taxable property in the County as shall be necessary to make such cash rental payments, which taxes, however, will be subject to applicable statutory and constitutional limitations on the taxing power of the County. In addition to its obligation to make cash rental payments, the County will agree in the Lease to pay all costs and expenses of operation and maintenance of the Project and all expenses of the Authority incidental to the issuance and payment of the Bonds, to the extent such expenses are not payable from the proceeds of the Bonds.

RIGHT TO PETITION FOR REFERENDUM

NOTICE IS FURTHER GIVEN that this notice is given to and for the benefit of the electors and taxpayers of the County in order to inform them of the intention of the County to enter into the Lease and also to inform registered electors of the County of their right to petition for a referendum on the question of entering into the Lease. The County intends to enter into the

Lease without a vote of the electors thereon, but the Lease shall not become effective until at least 60 days after publication of this notice. If, within 45 days after publication of this notice, a petition for referendum requesting an election on the Lease, signed by not less than 10% or 15,000 of the registered electors of the County, whichever is less, has been filed with the County Clerk, the Lease shall not become effective unless and until approved by a majority of the electors of the County voting thereon at a general or special election.

This notice is given by order of the Board of Commissioners pursuant to Act 31. Further information may be obtained at the office of the Ingham County Clerk, Mason, Michigan.

/s/ Mike Bryanton
Ingham County Clerk

Dated: November ____, 2002

APPENDIX I

LEASE CONTRACT

THIS FULL FAITH AND CREDIT GENERAL OBLIGATION LEASE CONTRACT ("Lease") made as of February 1, 2003, by and between the INGHAM COUNTY BUILDING AUTHORITY (the "Authority"), a building authority organized and existing under and pursuant to the provisions of Act No. 31, Public Acts of Michigan, 1948 (First Extra Session), as amended ("Act 31"), and the COUNTY OF INGHAM, a county of the State of Michigan (the "County"),

WITNESSETH:

WHEREAS, the Authority has been incorporated by the County pursuant to Act 31 for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, recreational facilities and stadiums, and other facilities, and the necessary site or sites therefor, for the use of the County; and

WHEREAS, the County desires the renovation, improvement, furnishing and equipping of the Ingham County Correctional Facility, located at 630 N. Cedar, Mason, Michigan (the "Project") as more fully described in Exhibit A to this Lease, and it is proposed that the Authority undertake the Project; and

WHEREAS, it is proposed that the Authority finance a portion of the total cost of the Project by the issuance of building authority bonds payable from cash rental payments to be made by the County to the Authority pursuant to this Lease and Act 31; and

WHEREAS, a description of the Project, an estimate of 25 years and upwards as the period of usefulness of the Project and an estimate of not more than \$2,325,000, of which not more than \$2,325,000 would be paid by bond proceeds, as the total cost of the Project, all as set forth on Exhibit A to this Lease, have been reviewed and approved by the Board of Commissioners of the County; and

WHEREAS, in order to make possible the issuance of Building Authority bonds to finance a portion of the total cost of the Project, it is necessary under Act 31 for the parties to enter into this Lease;

Therefore, in consideration of the mutual undertakings and agreements set forth below, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES TO THIS LEASE AS FOLLOWS:

- 1. Authorization and Issuance of Bonds.** After the effective date of this Lease, the Authority shall, at such time as the Authority shall determine appropriate, proceed to authorize and issue its Building Authority bonds in the aggregate principal amount of not to exceed \$2,325,000 (the "Bonds"), pursuant to and in accordance with the provisions of Act 31, for the purpose of defraying a portion of the cost of the Project. The Authority shall pledge for the payment of the principal of and interest on the Bonds the receipts from the cash rental payments described and required to be paid by the County pursuant to this Lease. The Bonds shall be

dated as of such date, and shall bear interest (at a rate or rates not exceeding 8% per annum) payable on such dates, and shall mature on such dates as shall be agreed to by the Authority and the County. The County and the Authority recognize and acknowledge that the amount of each payment of interest on the Bonds and the amount of each payment of cash rental required under this Lease will be determined by application of the rate or rates of interest (not exceeding 8% per annum) actually borne by the Bonds. The Bonds may be sold subject to redemption prior to maturity at the option of the Authority, with such redemption premiums and upon such terms as shall be set forth in the resolution to be adopted by the Authority to authorize issuance of the Bonds (the "Bond Resolution").

Upon receipt of the proceeds of the sale of the Bonds, all premium, capitalized interest, if any, and accrued interest received from the purchaser or purchasers of the Bonds shall be transferred to a bond and interest redemption fund, and the balance of such proceeds shall be deposited into a construction fund, each of which shall be established by the Bond Resolution and maintained as a separate depository account of the Authority. The money in the construction fund shall be used to pay costs of the Project.

In the event that for any reason after the date upon which this Lease is executed, but before the Bonds have been issued, it appears to the County and the Authority that the part of the Project being financed may be constructed and installed for less than \$2,325,000, or the County shall be able to make payments in advance on the cash rental payments payable pursuant to this Lease, the Authority, after approval of the County, may reduce the amount of Bonds to be issued in multiples of \$5,000 and reduce the annual maturities or the years of maturities as the County shall direct.

2. **Transfer of Title to and Completion of Project.** At such time as the Authority shall determine appropriate, the Authority shall commence the Project. The County agrees that it shall, at that time and when directed by the Authority, advance up to \$500,000 to the Authority, or such lesser amounts as may be agreed to from time to time by the County and the Authority, which the Authority shall use, along with the proceeds of the Bonds, and earnings thereon, to undertake the Project (such amounts to be reimbursed from proceeds of the Bonds as agreed by the County and the Authority so that the County's final cash contribution does not exceed the amount set forth on Exhibit A). The plans, cost estimate and estimated period of usefulness for the Project, all of which have been filed with the County Clerk and the Secretary of the Authority, are hereby approved and adopted. The Project shall be implemented in substantial accordance with such plans which are incorporated as part of (but not attached to) this Lease. No major changes in such plans shall be made without the written approval of both the County and the Authority.

3. **Increased Project Costs.** In the event that it shall appear, upon taking the necessary bids for the construction of the Project and after issuance of the Bonds, that the Project cannot be completed at the estimated cost, the Authority shall immediately so notify the County. The County may elect to pay the increased cost in cash to the Authority in which event the amount of such cash payment shall be deposited in a construction fund for the Project and the Authority shall proceed to acquire and complete the Project. In the alternative, the County and the Authority may agree, by an amendment to this Lease, that additional Bonds shall be issued by the Authority in an amount sufficient to pay the increased Project costs. If, after the sale and

issuance of the Bonds, it shall become necessary to raise additional funds to pay for an increase in the Project costs and this Lease cannot be amended to provide for the issuance of additional Bonds, or if for any other reason additional Bonds cannot be issued, the County shall pay to the Authority in cash an amount which will be sufficient to enable the Authority to complete the Project in accordance with the plans for the Project.

4. **Funds Remaining After Completion.** Any unexpended balance of the proceeds of the sale of the Bonds remaining after completion of the Project may be used to improve or enlarge the Project or for other projects of the Authority provided that such use of the funds is approved by Finance Division of the Department of Treasury, if necessary, and the County. Any unexpended balance not so used shall be paid into the bond and interest redemption fund, and the County shall receive a credit against the cash rental payments next due under this Lease to the extent of the moneys so deposited in the manner provided in the Bond Resolution.

5. **Insurance Requirements During Construction.** The Authority shall require the contractor or contractors for the Project to furnish all necessary bonds guaranteeing performance and all labor and material bonds and all owner's protective, workers' compensation and liability insurance required for the protection of the Authority and the County. Such bonds and insurance, and the amounts thereof, shall be subject to approval of the County on the advice of its counsel. The Authority also shall require a sufficient fidelity bond from any person handling funds of the Authority.

6. **Lease Term; Possession; Reconveyance.** (a) The Authority does hereby lease the Project to the County for a term commencing on the effective date of this Lease and ending on the last maturity date of the Bonds, or such earlier date as provided below. Possession of the Project shall vest in the County upon the execution of the Lease. When all of the Bonds issued by the Authority to finance the Project have been retired, the Authority shall convey to the County all of its right, title and interest in the Project and any lands, easements or rights-of-way appertaining thereto. Upon such conveyance by the Authority to the County, this Lease and the leasehold term shall terminate, and the Authority shall have no further interest in, or obligations with respect to, the Project.

(b) The County shall, upon the terms and conditions set forth in this Lease, acquire and convey to the Authority all lands, buildings, tenements, hereditaments, easements and rights-of-way necessary to enable the Authority to complete the Project in accordance with the plans.

7. **Cash Rental; Pledge of Full Faith and Credit.** The County hereby agrees to pay to the Authority as cash rental for the Project such periodic amounts as shall be sufficient to enable the Authority to pay the principal of and interest on the Bonds as such principal and interest shall become due, whether at maturity or by optional or mandatory redemption. On or before each principal or interest payment date, or redemption date, the County shall pay to the Authority an amount sufficient to pay the principal or interest due on the Bonds on such principal or interest payment date or redemption date at a time sufficient to allow for such payment.

The County hereby pledges its full faith and credit for the payment of the cash rental when due and agrees that it will levy each year such ad valorem taxes as shall be necessary for