

BOARD OF COUNTY COMMISSIONERS

COUNTY OF ALGER

STATE OF MICHIGAN

**RESOLUTION APPROVING LUCE, MACKINAC, ALGER, SCHOOLCRAFT
DISTRICT HEALTH DEPARTMENT PROJECT REFINANCING
(MUNISING BUILDING PROJECT)**

A regular meeting of the Board of County Commissioners of the County of Alger, Michigan (the "County") was held in the Alger County Building, Munising, Michigan on March 9, 2009, at 4:00 o'clock p.m.

RECITALS

1. The County is one of the constituent counties of the Luce, Mackinac, Alger, Schoolcraft District Health Department (the "Health Department"), a "district health department" formed by the constituent counties of Luce, Mackinac, Alger, and Schoolcraft (the "Health Department") under Section 2415 of Act 368, P.A. 1978, as amended, for the purpose of providing essential health services to residents of those counties.

2. On June 25, 2002, NHF Sub Alger, a Michigan nonprofit corporation (the "Issuer") issued its tax-exempt Limited Obligation Refunding Revenue Note (LMAS District Health Department Project) in the principal amount of \$585,000 (the "2002 Refunding Note") to refund the entire outstanding principal amount of Issuer's \$720,000 original aggregate principal amount Nonrecourse Promissory Note (LMAS District Health Department Project), dated January 26, 1995 (the "Original Note"), which Original Note was issued to finance the construction of an approximately 13,200 square foot building to be leased to the Health Department and subleased in part to certain governmental and qualified private health and human services organizations, to satisfy the urgent need of the Health Department and the County for a building to house medical and office facilities for the provision of health care and human services to residents of the County (the "Project").

3. The Original Note and the 2002 Refunding Note were issued "on behalf of" the County, within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, pursuant to Resolutions approved by the Board of Commissioners of the County on September 12, 1994, and March 25, 2002 (the "Prior Resolutions"), which specifically provided that the County has no financial responsibility whatsoever for payments due under the Original Note and the 2002 Refunding Note, which were primarily payable from and secured by lease payments made by the Health Department to the Issuer.

4. Land owned by the County specifically described in Exhibit A, hereto was identified as a desirable site (the "Site") for the construction of the Project, and the County conveyed the Site by deed (the "Deed"), to the Issuer for purposes of development of the Project, subject to certain reversionary rights of the County.

5. Currently, approximately 12,084 square feet of the Project is occupied by the Health Department, and approximately 1116 square feet of the Project is subleased to Alger Marquette Community Action Board (“AMCAB”), a qualifying private nonprofit organization that operates a Head Start Program, and has tax exempt under Section 501(c)(3) of Internal Revenue Code.

6. Due to a number of financial challenges confronting the Health Department, the Board of Health of the Health Department, and the Health Department’s Acting Health Officer requested technical fiscal assistance from the Michigan Department of Community Health (MDCH) to evaluate the Health Department’s current fiscal status and make recommendations to strengthen its financial viability. Based upon the Health Department’s request and needs, the MDCH Public Health Administration assigned this review project to Jon Houserman, MDCH fiscal and administrative consultant. His educational background includes a Bachelor’s of Science in Accounting and a Masters in Public Administration, plus 25 years state level experience in various public health accounting and financial management roles at MDCH and 11 years local level experience as an administrator/deputy health officer at Mid-Michigan District Health Department. One of the MDCH’s principal recommendations to the LMAS Board of Health and the Health Department set forth in its Site Fiscal Review (dated September 8-9, 2008) was to explore Project refinancing options to spread the remaining debt principal balances over an extended period to minimize annual lease payments. The recommendation notes that while this would reduce the Health Department’s short-term annual space costs the overall long-term financing costs (i.e., interest) would be higher. It also indicated however, that nothing would prevent earlier payment of the remaining debt principal if the Health Department’s financial picture improves. The same recommendation was made with respect to the Health Department’s two (2) other facilities which were developed with the assistance of the Northern Health Foundation.

7. The 2002 Refunding Note, in the remaining outstanding principal amount of approximately \$332,000 currently bears interest at the rate of approximately 3.99% per annum, subject to periodic readjustments, and has a final maturity date of August 1, 2015.

8. The refinancing of the indebtedness represented by the 2002 Refunding Note, based on prevailing interest rates on tax-exempt obligations, with an extension of the principal amortization having a final maturity date not later than June 25, 2022 after factoring in any prepayment penalty or premium and costs of refinancing will result in reductions in debt service on an on-going basis, and as indicated in the MDCH Public Health recommendations, correspondingly reduce the Health Department’s lease payments, and help preserve the economic viability of the Project and the Health Department and its availability to provide critical public health and human services.

9. It is estimated by the Issuer that on such extended final maturity, upon which date title to the Project shall revert to the County, (i) the fair market value of the Project will be equal to at least 20% of the original cost of constructing the Project (determined without regard to any additions to the Project or any increase or decrease for inflation during the term of the Note), and

(ii) the remaining useful life of the Project will be at least 20% of the Project's original estimated useful life of 45 years.

10. It is therefore proposed that:

(i) the Issuer will issue a tax-exempt Limited Obligation Refunding Revenue Note on behalf of the County in a principal amount not to exceed \$364,000 (the "2009 Refunding Note"), having a final maturity date not later than June 25, 2022, and the proceeds of which will be used to pay all outstanding principal of and accrued interest on the 2002 Refunding Note, any applicable prepayment penalty or premium, and costs associated with issuance of the 2009 Refunding Note.

(ii) the Issuer will continue to lease the Project to the Health Department, pursuant to a restated lease agreement, the lease payments being fixed in amounts sufficient for the Issuer to pay the principal of and interest on the 2009 Refunding Note as such amounts become due, together with the Issuer's reasonable administrative expenses, but not in excess of the fair market rentals for the Project.

RESOLUTIONS

The Board of Commissioners of the County adopt the following resolutions:

1. The health care and human services provided by the Health Department and other governmental or charitable organizations (which are in need of medical and office facilities) constitute an essential public purpose and benefit to the health and welfare of the residents of the County.

2. The Board reaffirms its approval of the non-profit purposes and activities of the Issuer as set forth in its Articles of Incorporation, including the development of the Project and the lease of the Project to the Health Department and other qualified health and human services organizations. The Issuer was incorporated by private, charitable public health interests, is not an agent or instrumentality of the County, and shall continue to operate independently of any control by the County.

3. The Project and title to the Site shall continue to be subject to the provisions for reversion of title to the County set forth in the Prior Resolutions and the Deed, as set forth in Exhibit B hereto. All references in said reversion provisions to the indebtedness represented by "the Note" or "the Bonds" shall be deemed to refer to the indebtedness represented by the 2009 Refunding Note following issuance of the 2009 Refunding Note and the prepayment of the 2002 Refunding Note, and such refinancing shall not constitute an event giving rise to the reversion of title to the Site and the Project to the County.

4. The County hereby authorizes the Chairperson of the Board and the County Clerk to execute any and all instruments and agreements as may be required to effectuate the issuance of the 2009 Refunding Note upon the terms and provisions contained herein, including, without limitation, a Subordination Agreement subordinating the rights of the County to the liens and

claims of the holder of the 2009 Refunding Note until the indebtedness represented by the 2009 Refunding Note is paid in full.

5. The County approves of the issuance of a tax-exempt Limited Obligation Refunding Revenue Note of the Issuer on behalf of the County in a principal amount not to exceed \$364,000, for the purpose of paying all outstanding principal of and accrued interest on the 2002 Refunding Note, any applicable prepayment penalty or premium, and costs associated with issuance of the 2009 Refunding Note, which 2009 Refunding Note shall be issued no later than three (3) months from the date hereof, which shall have a final maturity date not later than June 25, 2022 upon substantially the terms set forth in Exhibit C hereto. The County's approval of the issuance by the Issuer of the 2009 Refunding Note is only to the extent required in order for such debt obligation to be deemed to be issued "on behalf of" the County for purposes of Section 103 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, and for no other purposes. The 2009 Refunding Note and interest thereon shall be non-recourse obligations of the Issuer, payable solely from the lease payments from the Health Department and other qualified health and human services organizations occupying the Project as tenants, if any, and secured by a mortgage on the Site and Project and an assignment of such lease payments. The 2009 Refunding Note shall never constitute a general obligation of the County within the meaning of any constitutional, statutory or charter provision or limitation and shall never constitute or give rise to a debt or liability of the County or a charge against the general credit or taxing power of the County. The County disclaims any financial responsibility for repayment of the 2009 Refunding Note, which is to be primarily secured by lease payments made by the Health Department to the Issuer. With respect to the partial funding for the activities of the Health Department from County appropriations, no portion of such appropriations derived from direct County taxation shall be applied toward such lease payments.

6. Upon retirement of the indebtedness represented by the 2009 Refunding Note, the County shall accept title to the Site and the Project (including any additions to the Project) from the Issuer pursuant to the County's rights of reversion set forth in Exhibit B hereto.

7. The County hereby designates the 2009 Refunding Note in the maximum principal amount of \$364,000 as a "qualified tax-exempt obligation" for purposes of the deduction of interest expense by financial institutions under Section 265 of the Internal Revenue Code of 1986, as amended.

8. Upon the reversion of the title to the Site and the Project to the County, the County shall at such time evaluate the lease of all or a portion of the Project to the Health Department for its continued use as a health services facility, provided that the County shall have no obligation to enter into such a lease.

YES: _____

NO: _____

ABSENT: _____

ABSTAIN: _____

RESOLUTION DECLARED ADOPTED.

Mary Ann Forberg, County Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF ALGER)

I, Mary Ann Forberg, the duly qualified and acting County Clerk of the County of Alger, Michigan, certify that the foregoing is a true and complete copy of a resolution adopted by the Board of County Commissioners at a regular meeting held on March 9, 2009, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267, Public Acts of Michigan, 1976, including in the case of a special or rescheduled regular meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: _____, 2009

Mary Ann Forberg, County Clerk

EXHIBIT A – LEGAL DESCRIPTION

EXHIBIT B – REVERSION RIGHTS OF COUNTY

UNENCUMBERED TITLE TO AND EXCLUSIVE POSSESSION OF THE SITE (INCLUDING THE PROPERTY REFINANCED BY THE 2002 REFUNDING NOTE AND THE 2009 REFUNDING NOTE TO BE ISSUED BY NHF SUB ALGER AND ANY ADDITIONS THERETO) SHALL REVERT TO THE COUNTY UPON THE OCCURRENCE OF ANY OF THE FOLLOWING, WITHOUT ANY DEMAND OR FURTHER ACTION ON THE PART OF THE COUNTY:

1. Commencement of the construction of the Project does not commence prior to June 30, 1995, or completion of the construction of the Project does not occur prior to December 31, 1995, as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency.
2. The Project constructed on the Site is not being used on a regular basis for functions of the Health Department (or any successor entity providing substantially the same services), or related health and human services functions of governmental or Section 501(c)(3) organizations.
3. The Health Department is dissolved.
4. Upon payment by NHF Sub Alger of the full indebtedness represented by the 2009 Refunding Note.
5. The County shall have either prepaid the principal of and interest on the 2009 Refunding Note accrued to the date of prepayment, or shall have provided for the payment of the principal of and interest on the 2009 Refunding Note by irrevocably depositing in escrow Government Obligations maturing as to principal and interest in such amounts and at such times as will insure the availability of sufficient moneys to make such payment, and the County shall have paid all necessary and proper fees and expenses incident to such prepayment or defeasance. "Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or any agency or instrumentality thereof when such obligations are backed by the full faith and credit of the United States.

PROVIDED, HOWEVER, THE REVERSION RIGHTS OF THE COUNTY ARE SUBJECT AND SUBORDINATE TO THE CLAIMS OF THE HOLDER OF THE 2009 REFUNDING NOTE UNTIL THE INDEBTEDNESS REPRESENTED BY THE 2009 REFUNDING NOTE ISSUED ON BEHALF OF THE COUNTY FOR CONSTRUCTION OF THE PROJECT ON THE SITE ARE PAID IN FULL.

EXHIBIT C

Principal Amount: Not to exceed \$364,000.

Interest Rate: Not to exceed an initial rate of 6.0 %.

Maturity Date/Amortization Schedule: Not later than June 25, 2022. Additional notes or bonds issued to finance improvements or additions to the Project or to refund the 2009 Refunding Note or any additional notes or bonds must be discharged no later than the final maturity date of the 2009 Refunding Note, regardless of whether the 2009 Refunding Note is callable at an earlier date. The final maturity date of the 2009 Refunding Note extends beyond the final maturity date of the 2002 Refunding Note, consistent with requirements of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

Purposes: To refinance the acquisition and construction of the Project for the purposes of providing a health and human services building for lease at a more advantageous rental rate to the Health Department and other governmental units and charitable organizations at rates not in excess of fair rental value, to pay any applicable prepayment penalty or premium and costs relating to the issuance of the 2009 Refunding Note, and to fund a reasonably required debt service reserve fund to the extent required in order to market the 2009 Refunding Note. All proceeds of the 2009 Refunding Note (net of the costs of issuance and amounts necessary to fund a reasonably required debt service reserve fund) shall be used for refinancing the construction of the Project and, if applicable, the acquisition of tangible real and tangible personal property. Proceeds may not be used for working capital.

Security:

1. Mortgage on the Site and Project
2. Assignment of Leases
3. 2009 Refunding Note non-recourse as to both NHF Sub Alger and the County.

Prepayment: The terms and conditions of prepayment of the 2009 Refunding Note by the Issuer shall be mutually agreeable to the Issuer and the holder of the 2009 Refunding Note.

Rights of County upon Event of Default: Upon the failure by NHF Sub Alger to pay the principal of or interest on the 2009 Refunding Note or upon any other event constituting an event of default under the 2009 Refunding Note giving rise to acceleration of the 2009 Refunding Note, the County shall have an exclusive option to purchase the Project (including any additions to the Project) for the amount of the outstanding indebtedness and accrued interest to the date of default, which option shall be exercisable for a period of at least 90 days following such default. In the event the County exercises such option, the County shall have a period of at least 90 days from the date of such exercise to purchase the Project.

Rights of County to Prepay and Defeas 2009 Refunding Note. The County shall have the right to repay or to defeas the 2009 Refunding Note. Upon such prepayment or defeasance, title to the Site and the Project shall revert to the County and all leases, management contracts and encumbrances (other than certain permitted encumbrances) shall terminate, and any users of the

property shall vacate within 90 days, subject to the right (but without any obligation) of the County to enter into a new lease agreement with users of the Project.

Insurance: Proceeds of fire or other casualty insurance policies received in connection with damage to or destruction of the Project, including any additions to the Project, will, subject to the claim of the holder of the 2009 Refunding Note, (a) be used to reconstruct the Project, regardless of whether the insurance proceeds are sufficient to pay for reconstruction or (b) be remitted to the County.

Estimates of Fair Market Value and Useful Life: (1) A reasonable estimate of the fair market value of the Project on the final maturity date of the 2009 Refunding Note, regardless of whether the Refunding Note is callable at an earlier date, is equal to at least 20% of the original cost of the Project (determined without regard to any addition to the Project or any increase or decrease for inflation during the term of the 2009 Refunding Note), and (2) a reasonable estimate of the remaining useful life of the Project on the final maturity date of the 2009 Refunding Note, regardless of whether the 2009 Refunding Note is callable at an earlier date, is the longer of one year or 20% of the originally estimated useful life of the Project.

County Resolution (Rev. 2-21-2009)