

Carnegie Building/City Assets Ad Hoc Committee



10:00 a.m.

Monday, November 3, 2014

Governmental Center - 400 Boardman Avenue

Second Floor Committee Room

Traverse City, MI 49684

Posted and Published: October 31, 2014

If you are planning to attend the meeting and you have a disability requiring any special assistance at the meeting, please notify the City Clerk, immediately.

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Agenda

1. Roll Call
2. Consider Approval of Minutes from October 6, 2014 meeting
3. Consider Approval of Minutes from October 22, 2014 meeting
4. Update on Status of Leases/Agreements (Ottenwess)
5. Review/Analysis of Public Preferences Results
6. Develop alternatives/recommendations for presentation to City Commission
 - a. Carnegie Building
 - b. Con Foster Collection
7. Public Comment
8. Adjournment

**City Commission Ad Hoc Committee
Carnegie Building/City Asset Discussion
Minutes
Meeting of October 6, 2014**

A meeting of the City Commission Ad Hoc Committee: Carnegie Building/City Asset Discussion was called to order on Monday, October 6, 2014 at 10:00 a.m. in the Second Floor Committee Room, 400 Boardman Avenue, Traverse City, Michigan.

The following Commissioners were present, constituting a quorum: Commissioner Easterday, Commissioner Richardson, and Commissioner Howe.

The following Commissioners were absent: None.

Staff in attendance: City Manager Jered Ottenwess and Assistant City Manager Penny Hill.

1. The first item being: "Consideration of approving the minutes of the September 12, 2014 meeting."

It was moved by Commissioner Richardson, seconded by Commissioner Howe, that the minutes of the September 12, 2014 meeting be approved.

CARRIED unanimously.

2. Next item being, "Assessment of other contract/leases associated with Carnegie Building."

General discussion took place, no action was taken.

3. Next item being, "Assessment of Con Foster Collection."

General discussion about the artifacts and process of deaccession took place.

It was moved by Commissioner Richardson, seconded by Commissioner Howe, that the City has an interest in evaluating the Con Foster collection for possible deaccession of some items, and ask the History Center to begin the process as time permits.

CARRIED unanimously.

The committee was addressed by Maddie Lundy, Stephen Morris and Dick Tuebert.

4. Next items being, "Assessment of Carnegie Building"

Discussion about responsibility of management for the building and City led building evaluation that is in process. Further discussion of the level of management for Festival of Trains, January 5th, and current tenants.

The committee was addressed by Maddie Lundy.

5. Next item being, "History Center Financial Analysis."

Discussion took place regarding the extent of City action of general maintenance of the building as well as the History Center proposal for a fee for service of maintaining the building.

The committee was addressed by Stephen Morris.

6. Next item, "Public Comment."

The following addressed the committee:

Bob Streit, 1028 S. Bayshore Drive, Elk Rapids, Art Center of TC – offering a proposal

Mary Gillette, 1800 Wayne St., Traverse City – Wonderful opportunities, what should be there, what are reasonable rents, what is our municipal responsibility?

John Noonan, 908 S. Union, Traverse City – historical museums are typically county based or regional.

There being no objection, Commissioner Easterday declared the meeting adjourned at 11:38 a.m.

Commissioner Gary Howe
Designated Secretary

Schedule of Next Meetings:

October 22

November 3

November 19

All meetings are held in the 2nd Floor Committee Room of the Governmental Center unless otherwise stated.

If interested in being on the outreach list for this ad hoc, please email:

kstroven@traversecitymi.gov.

**City Commission Ad Hoc Committee
Carnegie Building/City Asset Discussion
Minutes
Meeting of October 22, 2014**

A meeting of the City Commission Ad Hoc Committee: Carnegie Building/City Asset Discussion was called to order on Wednesday, October 22, 2014 at 7:00 p.m. in the Carnegie Building, 322 Sixth Street, Traverse City, Michigan.

The following Commissioners were present, constituting a quorum: Commissioner Easterday, Commissioner Richardson, and Commissioner Howe.

The following Commissioners were absent: None.

Staff in attendance: City Manager Jered Ottenwess, Assistant City Manager Penny Hill and Administrative Specialist Katelyn Stroven.

1. The first item being: "Introduction - Easterday."

Commissioner Easterday gave a general introduction to the meeting.

2. Next item being, "Consideration of future use(s) for the Carnegie Building – Public Participation Session."

The following addressed the Committee:

Carol Hale
Karen Nielson
Peg Jonkhoff
Liz Arrends
Larry Cairns
Mike Jackson
John Noonan
Beth Bynum

No addresses were requested from the speakers.

3. Next item, "Public Comment."

None.

There being no objection, Commissioner Easterday declared the meeting adjourned at 8:30 p.m.

Commissioner Gary Howe
Designated Secretary

Schedule of Next Meetings:

November 3

November 19

All meetings are held in the 2nd Floor Committee Room of the Governmental Center unless otherwise stated.

If interested in being on the outreach list for this ad hoc, please email:
kstroven@traversecitymi.gov.

Memorandum

The City of Traverse City
Office of the City Manager



TO: CARNEGIE BUILDING/CITY ASSETS AD HOC COMMITTEE
COPY: JERED OTTENWESS, CITY MANAGER
FROM: PENNY HILL, ASSISTANT CITY MANAGER 
DATE: OCTOBER 24, 2014
SUBJECT: SUMMARY OF CARNEGIE BUILDING PUBLIC PARTICIPATION EVENT

On October 22, 2014 the Carnegie Building/City Assets Ad Hoc Committee met at the Carnegie Library building at 322 6th St. Approximately 46 people attended the meeting.

A short review of the background of the Ad Hoc Committee was presented, including the purpose, process and goals of the Ad Hoc Committee. The main focus of the meeting was to gather input from attendees as to what future uses of the Carnegie building could be, and what the disposition of the building itself could be.

Public input was sought through a charrette style exercise, with members of the audience making suggestions as to the future use of the building, and as to the disposition of the building. Suggestions were written on large pieces of paper by city staff, and after all suggestions were received, attendees were given a set of four sticky dots and directed to place the dots next to the suggestion that was most important to them. A copy of the summary of the results of that exercise is attached for your review. By far, attendees favored the Crooked Tree Art Center proposal (59 votes), a combined art and history center (53 votes), and the History Center proposal (39 votes) as a future use of the building. With regard to the physical building itself, there was a strong sentiment that the city commission should establish a policy for disposition of city assets prior to making any decision about the disposition of an asset (7 votes). Equally important were keeping the building open and for public use (7 votes) and preserving the history of the Carnegie building (7 votes). While these votes are fairly low in comparison to the votes for the building uses, please keep in mind that each person was only allowed four dots and were instructed to place them next to the suggestion that they felt most strongly about.

Through this exercise, and through the comments received during public comment, it became clear that everyone in attendance felt very strongly that the Carnegie building should remain as a public building and for public use. We did receive many comments about the merits and benefits of having a cultural center (whether artistic, historical, or a combination of both) in Traverse City.

We will work with Commissioner Easterday, Chair of the Committee, to craft an agenda for the next meeting (November 3, 2014) to review the results of the Public Participation event and to develop potential alternatives and/or recommendations for the City Commission to consider.

Carnegie Building/City Assets Ad Hoc Committee
 Public Participation Results
 10/22/2014

Building		Uses	
Suggestions	Preference Votes	Suggestions	Preference Votes
◆ Policy Before Decision	7	◆ Crooked Tree Art Center Proposal	59
◆ Public Use/Keep Open	7	◆ Combined Art & History Center	53
◆ Preserve History of Carnegie Building	7	◆ History Center Proposal	39
◆ Retain Ownership (by City)	5	◆ Maintain & Plan for Accession/Deaccession of Con Foster Collection	5
◆ Shared Use/Multi-Use	3	◆ Community Culture Center	4
◆ Independent Board to Manage Building	2	◆ Community Event Center	1
◆ Preserve History of Traverse City	2	◆ Event Space/Rental	0
◆ Incorporate into Hanna Park	1	◆ City Uses	0
◆ Sell - with Restrictions	1	◆ City Hall	0
◆ Engage Historic District Commission	1		
◆ Sell - Open Market	0		
◆ Lease/Rent	0		

NOTE: During the time allotted for voting, a suggestion was made to create a "Cultural District" within the City, with the Park as a focal point. The person making the suggestion added it to the sheet, and one dot was placed next to the suggestion.

Memorandum

The City of Traverse City

Office of the City Manager



TO: CARNEGIE BUILDING/CITY ASSETS AD HOC COMMITTEE

FROM: ⁵⁰ JERED OTTENWESS, CITY MANAGER

DATE: OCTOBER 30, 2014

SUBJECT: ALTERNATIVES FOR FUTURE USE OF CARNEGIE BUILDING

After the October 22, 2014 Carnegie Building/City Assets Ad Hoc Committee meeting, which focused on public participation and preferences for the use of the Carnegie Building, City staff discussed the results of the preference voting. It was clear at the meeting that those present were overwhelmingly in favor of the City retaining ownership of the building, and that the building should remain open to the public. The majority also felt that a historical/cultural/artistic use would be the preferred use of the building. If the Ad Hoc Committee agrees with these concepts, then there are several areas that the Committee should focus on. These are:

1. Funding for the continued operation of the building. Historically, the goal of the City Commission has been to work toward reducing the use of city tax revenues for operation and maintenance of City-owned property. Both the History Center Proposal dated June 18, 2014 and the Crooked Tree Arts Center Proposal dated October 10, 2014 require that the City maintains the Carnegie Building. One alternative to the two proposals could be that the Ad Hoc Committee recommend that an RFP be initiated for a specific use of the building, with the successful applicant being the one who best meets the dual goals of meeting the community's desire for historical/cultural/artistic uses, and meeting the City Commission's desire to have the building be a minimal tax burden to the residents of the City. Another option could be that the Ad Hoc committee recommends negotiating with one or both parties toward a non-exclusive agreement that would require a lesser contribution on the part of the City.
2. Carnegie Building under City management after November 15th, when the History Center will be vacating the building. In discussions with City Staff, it became apparent that no single person on the City Staff currently has the time or expertise to take on the responsibility of ongoing management of the building. From 11/16/2014 through 12/31/2014, we have distributed the workload throughout the organization. However, we will need to address this in the very near future. To this end, we are preparing a proposal to the City Commission to hire a "Facilities Manager" who would have oversight of all City-owned buildings. Another suggestion that came through the October 22, public participation event was to have the Carnegie Building operate under an advisory board separate from the City Commission. This could be a Committee that is established by Ordinance (similar to the Coast Guard Committee), or a more formal Building Authority that would be established under Act 31 of 1948 (Building Authorities). A copy of the Building Authorities Act is attached for your review.

3. With regard to the Con Foster Collection and deaccession, two alternatives may be considered to start the discussion; one alternative would be to issue an RFP for evaluation of the collection and performing the deaccession process. Another alternative would be to approach the History Center to allow them space in the building in exchange for evaluation of the collection and performing the deaccession process. The deaccession could be done in phases. For instance, if the deaccession were done by location of the items, the process could start with the items that are stored in the 517 Wellington Street building once the mold issue is taken care of. The deaccession process could take 3-5 years, thus giving the History Center time to assess their own situation and decide what direction they would like to take in the future.

As you can see, the future of the Carnegie Building encompasses many factors, and includes many disparate entities with interest in the building. Recommendations from the Ad Hoc Committee for the long term use of the building may not be ready for City Commission Action until after January 1, 2015. The Ad Hoc Committee should consider that eventuality and decide whether or not to renegotiate existing leases and whether or not to allow for daily or intermittent use of the building after January 1.

In the process of deliberation, it may be helpful to the Ad Hoc Committee to have site visits to a couple of other arts/cultural centers in our region to see their facilities and review their operational models. Both Leelanau and Frankfort have Arts Centers, and Petoskey has an existing relationship with the Crooked Tree Gallery.

Attachment: Act 31 of 1948 (Building Authorities)

BUILDING AUTHORITIES
Act 31 of 1948 (1st Ex. Sess.)

AN ACT to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate, and maintain buildings, automobile parking lots or structures, transit-oriented developments, transit-oriented facilities, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any county, city, village, or township, or for the use of any combination of 2 or more counties, cities, villages, or townships, or for the use of any school district and any city, village, or township wholly or partially within the district's boundaries, or for the use of any school district and any combination of 2 or more cities, villages, or townships wholly or partially within the district's boundaries, or for the use of any intermediate school district and any constituent school district or any city, village, or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases, and subleases pertaining to authority property and the use of authority property; to authorize incorporating units to impose taxes without limitation as to rate or amount and to pledge their full faith and credit for the payment of contract of lease obligations in anticipation of which bonds are issued by an authority; to provide for the issuance of bonds by such authorities; to validate action taken and bonds issued; to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property; and to prescribe penalties and provide remedies.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955;—Am. 1964, Act 41, Imd. Eff. May 6, 1964;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1969, Act 46, Imd. Eff. July 17, 1969;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1995, Act 147, Imd. Eff. July 11, 1995;—Am. 1998, Act 190, Eff. Mar. 23, 1999;—Am. 2010, Act 243, Imd. Eff. Dec. 14, 2010.

The People of the State of Michigan enact:

123.951 Local building authorities; incorporation; purposes; "transit-oriented development" and "transit-oriented facility" defined.

Sec. 1. (1) A county, city, village, or township may incorporate, as provided in this act, 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, transit-oriented developments, transit-oriented facilities, recreational facilities, stadiums, and the necessary site or sites therefore, together with appurtenant properties and facilities necessary or convenient for the effective use of the facilities, for use for any legitimate public purpose of the county, city, village, or township.

(2) As used in this section:

(a) "Transit-oriented development" means infrastructure improvements that are located within 1/2 mile of a transit station or transit-oriented facility that promotes transit ridership or passenger rail use.

(b) "Transit-oriented facility" means a facility that houses a transit station in a manner that promotes transit ridership or passenger rail use.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.951;—Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954;—Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955;—Am. 1964, Act 41, Imd. Eff. May 6, 1964;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1992, Act 278, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 121, Imd. Eff. July 20, 1993;—Am. 2010, Act 243, Imd. Eff. Dec. 14, 2010.

123.952 Joint buildings and parking lots; authorities; incorporation; purposes.

Sec. 2. Any combination of 2 or more counties, cities, townships, or villages may incorporate 1 or more joint authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of the incorporating units.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.952;—Am. 1964, Act 41, Imd. Eff. May 6, 1964;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1969, Act 46, Imd. Eff. July 17, 1969;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

123.952a Joint buildings and parking lots of school districts and municipalities; authorities; incorporation; acquisition; operation; maintenance; use.

Sec. 2a. A school district and a city, village, or township wholly or partially within the district's

boundaries, or a school district and any combination of 2 or more cities, villages, and townships wholly or partially within the district's boundaries, may incorporate 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of the local units.

History: Add. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1969, Act 46, Imd. Eff. July 17, 1969;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

123.952b Public buildings used for disabled, developmentally disabled, or mentally disturbed children; constituent school districts and intermediate school districts; authority; purpose; contract.

Sec. 2b. An intermediate school district and a constituent school district or districts wholly or partially within the intermediate school district's boundaries may incorporate an authority for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining a building or buildings as a facility for disabled, developmentally disabled, or mentally disturbed children, and the necessary site or sites therefor, for the use of the intermediate school district and a constituent school district or districts pursuant to a contract between the intermediate school district and constituent school district or districts.

History: Add. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1998, Act 25, Imd. Eff. Mar. 12, 1998;—Am. 2014, Act 70, Imd. Eff. Mar. 28, 2014.

123.953 Incorporating unit; definition.

Sec. 3. The term "incorporating unit" as used in this act shall be deemed to mean a county, city, village, township, intermediate school district or other school district incorporating an authority or joining in such incorporation.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.953;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968.

123.954 Incorporation of authority; procedure.

Sec. 4. The incorporation of such an authority shall be accomplished by the adoption of articles of incorporation by the legislative body of each incorporating unit. For such adoption, the affirmative vote of the majority of the members elect of each such legislative body shall be required. The articles of incorporation shall be executed, for and on behalf of each incorporating unit by the following officers, to-wit: For the county, by the chairman of the board of commissioners and county clerk; for the city, by its mayor and city clerk; for the village, by its president and clerk; for the township, by its supervisor and clerk; and for the school district or intermediate school district, by the president and secretary of the board of education. The clerk or secretary of each incorporating unit shall also affix to the articles of incorporation following the signatures thereto, a certificate in form substantially as follows:

"The foregoing articles of incorporation were adopted by the of the of County, Michigan, at a meeting duly held on the day of, 19

Dated:, 19

.....
(Clerk/Secretary)"

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.954;—Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

123.955 County and municipal building authority; articles of incorporation; contents; eligibility of governing body member for membership or appointment.

Sec. 5. (1) The articles of incorporation shall set forth all of the following:

- (a) The name of the authority.
- (b) The name or names of the unit or units incorporating the authority.
- (c) The purpose for which the authority is incorporated.
- (d) The number, terms, and manner of selection of the officers of the authority including its governing body, which shall be known as the "commission".
- (e) The powers and duties of the authority and of its officers.
- (f) The date upon which the authority shall become effective.
- (g) The officer required to publish the articles of incorporation and the name of the newspaper in which the articles of incorporation shall be published.

(h) The county with whose clerk the articles of incorporation shall be filed, which shall be a county that is an incorporating unit or in which an incorporating unit is located.

(i) Any other matters considered expedient.

(2) A member of the governing body of an incorporating unit of an authority is not eligible for membership or appointment to the authority.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.955;—Am. 1955, Act 143, Eff. Oct. 14, 1955;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

123.955a Joint building authority; commissioners; election and terms of members; chairperson; secretary; bylaws and rules of procedure; elected official as member; conducting business at public meeting; notice of meeting.

Sec. 5a. (1) A joint building authority under section 2 incorporated by a county and a city, township, or village shall be directed and governed by a commission of 3 members, 1 to be elected by the county board of commissioners of the county, 1 to be elected by the legislative body of the city, township, or village, and 1 to be elected by the joint action of the county board of commissioners of the county and the legislative body of the city, township, or village. If the legislative bodies are unable to agree upon a choice for the third member within 60 days after the election of the first member, then the third member shall be appointed by the governor.

(2) A joint building authority under section 2 not described by subsection (1) shall be directed and governed by a commission consisting of 1 member elected by the legislative body of each incorporating unit and such other members as may be provided by the articles of incorporation.

(3) The commissioners of a joint building authority under section 2 shall serve for 4-year terms.

(4) The commission shall designate 1 member as chairperson and 1 as secretary, and shall adopt bylaws and rules of procedure. A member of the commission of a joint building authority shall not be an elected official of the county, city, township, or village.

(5) The business that the commission of any building authority performs shall be conducted at a public meeting of the board of commissioners held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.955a;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1977, Act 181, Imd. Eff. Nov. 17, 1977;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

123.955b Board of commissioners; compensation, per diem, mileage.

Sec. 5b. Members of the commission may be paid such compensation, and such per diem and mileage for attending meetings, as may be provided by the commission with the approval of the incorporating unit or units.

History: Add. 1968, Act 96, Imd. Eff. June 6, 1968.

123.956 Articles of incorporation; publication; statement; filing; effective date; presumption.

Sec. 6. (1) The officer designated in the articles of incorporation shall cause a copy of the articles of incorporation or a summary of the articles to be published once in a newspaper designated in the articles of incorporation and circulating within the incorporating units accompanied by a statement that the right exists to question the incorporation in court as provided in this section. The officer shall file with the county clerk of the county designated under section 5(1)(h) and the secretary of state a certified copy of the articles of incorporation with a certificate of the date and newspaper of publication. The officer shall file with the recording officer of the authority, when selected, the original articles of incorporation with a certificate of the date and newspaper of publication.

(2) The authority shall become effective at the time provided in the articles of incorporation.

(3) The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.956;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

123.957 Building authority; body corporate; powers.

Sec. 7. Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto.

The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.957.

123.958 Contracts to acquire property; leases and subleases; acquisitions constituting public purpose; stadiums.

Sec. 8. The authority and its incorporating unit or units may only enter into a contract or contracts under which the authority will acquire property contemplated by the terms of this act and lease the same to the incorporating unit or units for a period not to exceed 50 years or, if the authority issues refunding bonds pursuant to section 11k, the authority may enter into a contract or contracts under which the authority will own or continue to own the property acquired, in part or in whole, from the sale of the bonds to be refunded and will lease the same to the incorporating unit or units for a period not to exceed 50 years from the date of issuance of the refunding bonds. Any incorporating unit or units to which the property is leased, may sublease the property or any part of the property to any 1 or more persons, firms, or corporations or may contract for the use of the property or any part of the property by any 1 or more persons, firms, or corporations, where the sublease or contract benefits and serves a legitimate public purpose of the incorporating unit or units. Any sublease or contract may extend for a period not to exceed 50 years and is not a franchise or grant within the meaning of any statutory or charter provision. The acquisition of any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities by any authority and the contracting for the lease of that property by any incorporating unit or units, constitutes a benefit to and a legitimate public purpose of the authority and the incorporating unit or units. Where any stadium with appurtenant properties and facilities is acquired by an authority and leased to any incorporating unit or units, for the purpose of providing facilities for sports, recreational, and other activities and events, with or without admission charges, and furnishing facilities for use or enjoyment by the public and to induce sports and entertainment organizations, whether amateur or professional, to utilize the facilities for games, contests, and other performances and attractions, the subleasing of the property to, or the contracting for the use of the property by, any sports, entertainment, or similar organization or by any owner of a franchise in any professional sports or athletic league or association, in consideration of the agreement of the organization or owner and, if necessary, the league or association to hold, conduct, or produce games, contests, and other performances and attractions in the stadium, with or without admission charges, constitutes a benefit to a legitimate public purpose of the incorporating unit or units.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.958;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980.

123.958a Agreement in contract of lease to pay cash rental, costs, and expenses; general obligations; tax levy; other funds; setoff or abatement of cash rentals.

Sec. 8a. (1) The incorporating unit or units contracting under this act shall in the contract of lease agree to pay to the authority, as cash rental for the property, periodic amounts or their designated shares of periodic amounts that are sufficient to enable the authority to pay the principal of and the interest on the authorized bonds when due either at maturity of the bonds, or, in the case of term bonds, by the required prior redemption or maturity of the bonds. The incorporating unit or units may also agree to pay the costs and expenses of operation and maintenance of the property and the operating expenses of the authority including expenses incidental to the issuance and payment of the bonds. The obligations set forth in this subsection shall, unless specifically stated to the contrary in the contract of lease, be general obligations of the incorporating unit or units.

(2) If bonds are issued by the authority in anticipation of a full faith and credit contractual general obligation of the incorporating unit or units to pay the cash rental, as provided in this section, then the incorporating unit or units shall levy each year ad valorem taxes that are necessary for the payment of the cash rental in anticipation of which bonds are issued. These taxes may be levied without limitation as to rate or amount and shall be in addition to any other taxes that the incorporating unit or units may otherwise be authorized to levy, but not in an amount or at a rate exceeding that necessary to pay the contractual obligation. If the incorporating unit or units, at the time prescribed by law for the making of a tax levy, have other funds on hand that have been set aside and earmarked for payment of its obligations for which a tax levy would otherwise have to be made, then the tax levy shall be reduced by the amount of the other funds.

(3) The incorporating unit or units may raise and provide other funds from any lawful source, including but not limited to money received from the state or other governmental entity for use to pay rental to the authority, from the sublease or contract for the use of the property by any person, firm, or corporation, or from revenues earned by the incorporating unit from operation of the property. The contract of lease may provide

the obligation of the incorporating unit for the payment of the cash rental shall not be subject to setoff by the incorporating unit nor shall there be an abatement of the cash rentals for any cause including, but not limited to, casualty that results in the property being untenable.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1978, Act 365, Imd. Eff. July 22, 1978;—Am. 1992, Act 278, Imd. Eff. Dec. 18, 1992.

123.958b Contract of lease; full faith and credit general obligation; resolution submitting contract to vote of electors; effective date; notice of intention; referendum petition; election.

Sec. 8b. (1) The governing body of an incorporating unit may, by a majority vote of its members, authorize the execution of a full faith and credit general obligation contract of lease with an authority.

(2) The governing body may adopt a resolution submitting the contract to a vote of the electors. If the governing body adopts the resolution submitting the contract to a vote of the electors, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The contract shall be submitted at the next general or primary election to be held not earlier than the twelfth Tuesday after the date of the resolution or at a special election to be held not earlier than the twelfth Tuesday after the date of the resolution as determined by the clerk of the incorporating unit subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The clerk shall also determine the ballot language of the question.

(3) If the governing body does not adopt a resolution submitting the contract to a vote of the electors, the contract shall become effective 60 days after a notice of intention of entering into the contract has been published in a newspaper of general circulation in the incorporating unit or units unless a sufficient petition for referendum requesting an election on the contract is filed with the clerk of the incorporating unit within 45 days after the notice is published. A referendum petition shall be signed by not less than 10% or 15,000 of the registered electors of the incorporating unit, whichever is less. If a sufficient petition is filed, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The clerk of the incorporating unit shall determine the date of the election and the ballot language as provided under subsection (2). The notice of intention of entering into contract shall be directed to the electors and taxpayers of the incorporating unit, shall be published in a newspaper which is determined by the governing body of the incorporating unit to be the newspaper reaching the largest number of persons to whom the notice is directed, and shall state the maximum amount of bonds authorized to be issued, the purpose thereof, source of payment and right of referendum thereon, and such other information as the governing body of the incorporating unit may consider necessary to adequately inform the taxpayers and electors of the incorporating unit of the nature of the contractual obligation. Signatures on the petition shall be verified by the circulator under oath as the actual signatures of the persons whose names are signed on the petition and the clerk or other recording officer of the incorporating unit shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in any incorporating unit shall be determined by its registration records, or, if it does not take registrations, by the appropriate city and township registration records. A notice of intention and publication is not required if the contract of lease states that it is not a full faith and credit obligation of the incorporating unit or units.

(4) An election under this section shall not be included in any statutory or charter limitation on the number of special elections to be called within a particular period of time.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1995, Act 147, Imd. Eff. July 11, 1995;—Am. 2013, Act 256, Eff. Apr. 26, 2014.

123.958c Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 8c. A petition under section 8b, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 190, Eff. Mar. 23, 1999.

123.959 Building authority; acquisition of property, condemnation.

Sec. 9. For the purpose of accomplishing the objects of its incorporation the authority may acquire property by purchase, construction, lease, gift, devise or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to

213.41 of the Compiled Laws of 1948, or any other appropriate statute.

The legislative body of any incorporating unit, by a majority vote of the members thereof, may transfer any real property except cemetery property owned by the incorporating unit to an authority established pursuant to this act.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.959;—Am. 1962, Act 14, Imd. Eff. Mar. 14, 1962;—Am. 1968, Act 96, Imd. Eff. June 6, 1968.

123.960 Amendment of articles of incorporation.

Sec. 10. Amendments may be made to articles of incorporation if adopted by the legislative body of each incorporating unit: Provided, That no such amendment shall impair the obligation of any bond or other contract. Any city or village which is the county seat of a county incorporating an authority under the provisions of this act, may become an incorporating unit of the authority by amendment to the articles of incorporation adopted by the legislative body of such city or village and by the legislative body of the county. Any such city or village shall thereafter be deemed to be an incorporating unit. Each amendment shall be adopted, executed and published, and certified printed copies filed, in the same manner as above specified for the original articles of incorporation, in so far as applicable.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.960.

123.961 Building authority bonds or building authority refunding bonds; purpose; conditions; issuance of negotiable bonds to make cash rental payments.

Sec. 11. (1) For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property, furnishing and equipping the same, or refunding outstanding bonds, the authority, after execution and delivery of a full faith and credit general obligation contract of lease, as provided in this act, and pursuant to ordinance or resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge the receipts from the payments for payment of bonds and interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and until the contract of lease is fully effective. The bonds shall be called building authority bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority refunding bonds.

(2) For the purpose of defraying all or part of the cost of refunding capital appreciation bonds originally issued on May 17, 1990, or bonds issued to refund those bonds, the authority, pursuant to resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit to make cash rental payments to the authority under a full faith and credit general obligation contract of lease dated November 14, 1989, and may pledge the receipts from the contract of lease for payment of bonds and interest on the bonds. If issued before December 31, 2019, the refunding bonds are not subject to the requirements of section 305(2), (3), (5), or (6), 501, 503, or 611 of the revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501, 141.2503, and 141.2611. Notwithstanding the bond maturity dates contained in the notice of intention of entering into the full faith and credit general obligation contract of lease published by the incorporating unit as required by section 8b(3), the refunding bonds may be payable through 2039.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.961;—Am. 1965, Act 5, Imd. Eff. Mar. 30, 1965;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980;—Am. 2008, Act 452, Imd. Eff. Jan. 9, 2009;—Am. 2014, Act 37, Imd. Eff. Mar. 20, 2014.

123.961a Building authority revenue bonds or building authority revenue refunding bonds; purpose; prerequisites of issuance.

Sec. 11a. For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property; furnishing and equipping the same; or refunding outstanding bonds as provided in section 11k, the authority, after execution of a contract of lease which is not a full faith and credit general obligation, as provided in this act, and pursuant to ordinance or resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge

the receipts from those payments for payment of the bonds and the interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and no maturity shall in any event be more than 40 years from the date of the bonds. The bonds shall be called building authority revenue bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority revenue refunding bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980.

123.961b Ordinance or resolution authorizing issuance of bonds; adoption; contents.

Sec. 11b. The ordinance or resolution authorizing issuance of bonds shall become effective upon its adoption unless otherwise specified in the ordinance or resolution and shall be recorded in the minutes of the commission as soon as practicable after its passage. The provisions of this section shall constitute the sole requirements with respect to the adoption of any such ordinance or resolution. The ordinance or resolution authorizing the bonds shall set forth a brief description of the contract of lease, the contemplated project, the estimated cost of the contemplated project, the estimated period of usefulness of the contemplated project, and the amount and maximum rate of interest and time of payment of the bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980.

123.961c Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

Compiler's note: The repealed section pertained to payment, redemption, execution, and tax exemption of serial and term bonds.

123.961d Bonds; statutory lien.

Sec. 11d. There shall be created in the authorizing ordinance or resolution a lien by this act made a statutory lien upon the cash rental payments required to be paid by the contract of lease which are pledged to the payment of the principal of and interest on the bonds to and in favor of the holders of the bonds and the interest coupons pertaining thereto. The amounts so pledged shall be and remain subject to the statutory lien until the payment in full of the principal of and interest on the bonds. The holder or holders of bonds representing in the aggregate not less than 20% of the entire issue then outstanding may by suit, action, or other proceedings protect and enforce such statutory lien and enforce and compel the performance of all duties of the officials of the authority, including, but not limited to, compelling the incorporating unit or units by proceedings in a court of competent jurisdiction or other appropriate forum to make the cash rental payments required to be made by the contract of lease, and requiring the incorporating unit or units to certify, levy, and collect appropriate taxes as herein authorized and as may be required by the contract of lease to be so certified, levied, and collected by the incorporating unit or units for the payment of the cash rental required to be paid by the contract of lease.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

123.961e Bonds; use and disposition of proceeds.

Sec. 11e. All moneys received from the sale of bonds shall be used solely for the purpose for which the bonds were authorized including any engineering, architectural, legal, and other expenses incident thereto and to the issuance of the bonds and including also the payment of the interest on the bonds during a period not to exceed the first 3 years following the date of the bonds and an amount required for the project for operation and maintenance, if appropriate, prior to the receipt of the first revenues from the operation of the project by the incorporating unit or units. Any unexpended balance of the proceeds of sale of the bonds remaining after completion of the project for which issued may be used for the improvements or enlargement of the project for which issued or for other projects of the authority leased to the incorporating unit or units if such use is approved by the department of treasury and the incorporating unit or units. Any remaining balance shall be paid into the bond and interest redemption fund of the authority for the bonds in which event the incorporating unit or units may be provided a credit against the cash rental payments next due under contract of lease to the extent of the moneys so deposited in the manner provided in the ordinance or resolution authorizing the bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1983, Act 29, Imd. Eff. May 6, 1983.

123.961f Additional bonds.

Sec. 11f. The commission in the ordinance or resolution authorizing the bonds may provide for issuance of 1 or more series of additional bonds to complete the project for which the bonds are issued or to make improvements or additions thereto under the terms and conditions as shall be prescribed in the ordinance or resolution authorizing the bonds, one of which shall be a requirement of a sufficient increase in the cash

rentals required to be paid under the contract of lease to permit payment of the principal and interest on the additional bonds. The additional bonds when sold and delivered shall have equal standing with those issued in the first instance. The provisions of this act providing for annual installments and the amount thereof and the due date of the first installment for serial bonds shall not be controlling as to additional series of bonds. The bonds issued in the original instance, any additional bonds of equal standing then outstanding, and the proposed additional bonds shall be treated as a single issue for purposes of complying with the requirements of this act for the due date of the first installment and for annual installments with respect to serial bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

123.961g Bond and interest redemption fund.

Sec. 11g. The ordinance or resolution authorizing the bonds shall establish a bond and interest redemption fund into which shall be paid all cash rentals required to be paid by the incorporating unit or units under the contract of lease which are pledged for the payment of bonds issued under this act and such other sums as shall be required by the ordinance or resolution to be paid therein and shall establish such other funds and accounts and provide for deposits thereto as the governing body shall prescribe in the ordinance or resolution authorizing the bonds. All moneys in the funds and accounts established by the ordinance or resolution authorizing the bonds, including the proceeds of sale of the bonds, shall be deposited with 1 or more banks designated by the commission. Moneys in the bond and interest redemption fund shall be kept in a separate depository account kept with 1 or more of the banks or trust companies where the principal of and interest on the bonds are payable. Moneys in the several funds and accounts may be invested in United States government obligations or obligations the principal of and interest on which are guaranteed by the United States government or in interest bearing time deposits as shall be determined by the commission in the ordinance or resolution authorizing the bonds.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

123.961h Redemption of bonds prior to maturity.

Sec. 11h. The commission may make provision in the ordinance or resolution authorizing the bonds for the redemption thereof prior to maturity.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

123.961i Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

Compiler's note: The repealed section pertained to issuance of bonds by municipal finance commission or successor agency.

123.961j Bonds subject to revised municipal finance act; tax exemption.

Sec. 11j. (1) All bonds authorized under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The principal and interest on bonds issued under this act are exempt from taxation by this state and by any other taxing authority within this state.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1978, Act 365, Imd. Eff. July 22, 1978;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980;—Am. 1983, Act 29, Imd. Eff. May 6, 1983;—Am. 2002, Act 306, Imd. Eff. May 13, 2002.

123.961k Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

Compiler's note: The repealed section pertained to bonds issued to refund outstanding bonds.

123.962 Tax exemption for property.

Sec. 12. All property owned by any authority shall be exempt from taxation by the state or any taxing unit therein.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.962.

123.963 Bonds; retirement; conveyance of title to property.

Sec. 13. When all bonds issued pursuant to the provisions of this act shall have been retired, then the authority shall convey the title to the property acquired hereunder to the incorporating unit or units in accordance with the provisions therefor contained in the articles of incorporation, or contract of lease, or, if there be no such provisions, then in accordance with the directions of the governing body of the incorporating unit or any agreement adopted by the respective governing bodies of the incorporating units.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.963;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

123.964 Construction of act.

Sec. 14. The powers herein granted shall be in addition to those granted by any statute or charter.

History: 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.964.

123.965 Validation of prior authorities, actions, and bonds.

Sec. 15. All authorities heretofore incorporated, all actions heretofore taken, and all bonds heretofore issued under this act, as originally adopted or subsequently amended, and which incorporation actions and bonds do not violate the provisions of this act as amended by the 1968 or any subsequent amendatory act, are validated. No authority incorporated under this act, as originally adopted or subsequently amended, nor any incorporating unit or units thereof, shall contest the validity of any such bonds or any lease or contract which provides the security therefor after they have been sold and delivered and the authority has received the consideration therefor.

History: Add. 1955, Act 25, Imd. Eff. Apr. 7, 1955;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973.