

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION

**ACTION REQUEST**

**Subject:** State Building Authority Financing of Fairlane Training and Development Center

**Action Requested:** Approval of Resolution Approving Construction and Completion Assurance Agreement, Conveyance of Properties, Lease, and Easement Agreements, if necessary, for the Named Project, and Authorization for the Appropriate Officers to Execute and Deliver the Required Documents

**Background and Summary:**

In a separate action request presented to the Regents this month, we seek authorization to purchase the Fairlane Training and Development Center.

Provided the State of Michigan and the State Building Authority (SBA) approve financing for the acquisition and renovation of condominium Unit 2 of the Fairlane Training and Development Center (FTDC), then the SBA is expected to issue commercial paper for this project. The SBA commercial paper program proceeds will be used to fund the cash flow requirements of the acquisition and renovation. Subsequently, at or near completion of the renovation, the SBA plans to issue long-term bonds to retire its commercial paper debt.

The SBA's initial financing will require the University to execute a Construction and Completion Assurance Agreement. This Agreement details the rights, duties and obligations of the State of Michigan, the SBA, and the University for the project during the construction period and prior to conveyance of the property with improvements to the SBA. The Construction and Completion Assurance Agreement also provides assurance to the SBA that the University will complete the renovations to the FTDC in a timely manner. At the same time, the University is required to execute a Bill of Sale to convey title for personal property to the SBA.

At or near completion of the renovations, when the SBA is ready to issue long term bonds, the SBA will also require execution of a Warranty Deed conveying the property to the SBA and the execution of a Lease between the SBA, the State of Michigan and the University. The University will lease the property from the SBA and the annual lease-rental payments will be paid by the State on behalf of the University. In addition, it may be necessary to execute easement agreements between the University and the SBA to facilitate this transaction. All of the required documents are expected to be substantially similar to those authorized by the Regents for previous SBA projects.

**We recommend** the Regents approve, for the UM-Dearborn acquisition and renovation of condominium Unit 2 of the FTDC, the Resolution to be provided at the December meeting authorizing the appropriate University officers to:

- On or prior to the SBA's issuance of commercial paper notes, execute the Construction and Completion Assurance Agreement and Bill of Sale for the project.
- At or near completion of the project and prior to the issuance of the SBA's bonds, execute the Lease, convey title to the property, and execute any necessary easement agreements.
- Execute any other documentation required for the financing of the project by the SBA.

**APPROVED BY THE REGENTS ON**

**DEC 12 2002**

Copies of the Construction and Completion Assurance Agreement, Bill of Sale, Lease, Warranty Deed, any necessary Easement Agreements, and other legal documents will be available for review in the Treasurer's Office prior to the projected February closing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy P. Slottow", written over a horizontal line.

Timothy P. Slottow  
Interim Chief Financial Officer

December 2002

RESOLUTION OF THE REGENTS OF  
THE UNIVERSITY OF MICHIGAN  
APPROVING A COMPLETION  
ASSURANCE AGREEMENT, A CONVEYANCE OF  
PROPERTY, A LEASE AND ADDITIONAL AGREEMENTS,  
IF NECESSARY, FOR THE UNIVERSITY OF MICHIGAN - DEARBORN  
HUBBARD DRIVE PROFESSIONAL TRAINING  
AND EDUCATION BUILDING ACQUISITION  
(PHASE I)

A RESOLUTION of the Regents of the University of Michigan (i) approving (a) a form of completion assurance agreement (the "Completion Assurance Agreement"), by and among the State Building Authority (the "Authority"), the State of Michigan (the "State") and the Regents of the University of Michigan, a Michigan constitutional body corporate (the "Educational Institution"), providing for the rights, duties and obligations of the Authority, the State and the Educational Institution with respect to the Educational Institution's Dearborn Hubbard Drive Professional Training and Education Building Acquisition (Phase I), also known as the Fairlane Training and Development Center, and the site therefor (the "Facility") during the acquisition, renovation and/or equipping of the Facility and prior to the conveyance of the Facility to the Authority, (b) the conveyance of the Facility to the Authority, (c) a lease (the "Lease"), by and among the Authority, the Educational Institution and the State, for the purpose of leasing the Facility to the State and the Educational Institution and (d) a condominium association agreement, a common use agreement, an easement and/or other agreement (the "Additional Agreements") between the Authority and the Educational Institution, if necessary and/or desirable in connection with access, parking, utilities, pedestrians, encroachments, common use and/or other matters pertaining to the interactions between the Facility and real property owned by the Educational Institution, and (ii) providing for other matters related thereto.

WHEREAS, the Authority has been incorporated under and pursuant to the provisions of Act No. 183, Public Acts of Michigan, 1964, as amended ("Act 183"), for the purpose of acquiring, constructing, furnishing, equipping, owning, improving, enlarging, operating, mortgaging and maintaining buildings, necessary parking structures or lots and facilities, and sites therefor, for the use of the State, including institutions of higher education created pursuant

to Section 4, 5, 6 or 7 of Article 8 of the Michigan Constitution of 1963 (the "State Constitution"), or any of its agencies; and

WHEREAS, the Educational Institution has been maintained and created pursuant to Sections 4 and 5 of Article 8 of the State Constitution; and

WHEREAS, the State and the Educational Institution desire that the Authority finance the acquisition, renovation and/or equipping of the Facility in consideration of (i) the Educational Institution granting a license to the Authority to enter upon the site of the Facility (the "Site") in order to undertake such acquisition, renovation and/or equipping, (ii) the Educational Institution undertaking on behalf of the Authority the oversight of such acquisition, renovation and/or equipping and (iii) the Educational Institution conveying the Facility to the Authority on or prior to the date of its completion, and the Authority is willing to provide such financing in consideration of the items described above; and

WHEREAS, in accordance with the Completion Assurance Agreement, the State and the Educational Institution desire that the Authority acquire the Facility on or prior to the date of its completion, and lease the same to the State and the Educational Institution, and the Authority is willing to acquire the Facility and lease the same to the State and the Educational Institution; and

WHEREAS, the Facility will be acquired and renovated by the Educational Institution on behalf of the Authority, and it is intended that the Facility be conveyed to the Authority by the Educational Institution; and

WHEREAS, the acquisition of the Facility by the Authority for use by and lease to the Educational Institution and the State is necessary in order for the State and the Educational Institution to carry out necessary governmental functions and to provide necessary services to the people of the State as mandated or permitted by constitution and law, and the use of Act 183 to accomplish such acquisition represents the most practical means to that end at the lowest cost to the State and the Educational Institution; and

WHEREAS, Section 7 of Act 183 provides that the Lease shall be approved by the Authority, by the State Administrative Board of the State and by concurrent resolution of the Legislature of the State concurred in by a majority of the members elected to and serving in each house and if the Lease is for an institution of higher education existing or created pursuant to

Section 4, 5, 6 or 7 of Article 8 of the State Constitution, then in addition, the Lease shall be authorized by the institution of higher education and signed by its authorized officer and, accordingly, it is necessary that the Educational Institution authorize and approve the Lease; and

WHEREAS, if it is determined that (i) the Authority will require an easement from a public road to the Facility over real property owned by the Educational Institution so that the Authority has access to the Facility, (ii) the Educational Institution will require for future use certain easements through the Facility, (iii) the Authority and the Educational Institution will require an agreement to share a common structural wall, (iv) the Authority will require an easement over real property owned by the Educational Institution so that the Authority has sufficient parking available in connection with the reasonable use of the Facility, and/or (v) the Authority and/or the Educational Institution will require other easements and/or agreements pertaining to the Facility and/or real property owned by the Educational Institution (such as, but without limitation, condominium association agreements, common use agreements, easements and/or agreements pertaining to pedestrian traffic, utility lines, and/or encroachments), then in order to meet any such requirement, it may be necessary for an authorized officer of the Educational Institution to approve Additional Agreements to provide for such easements and/or agreements;

NOW, THEREFORE, BE IT RESOLVED BY THE REGENTS OF THE UNIVERSITY OF MICHIGAN THAT:

1. The Educational Institution hereby authorizes and approves the Completion Assurance Agreement in substantially the form attached as Exhibit A, and the Chief Financial Officer of the Educational Institution is hereby authorized and directed to execute and deliver, at the appropriate time, the Completion Assurance Agreement in substantially the form attached as Exhibit A for and on behalf of the Educational Institution. Such officer is hereby authorized to approve such changes in and modifications to the Completion Assurance Agreement as do not materially adversely affect the Educational Institution.

2. The conveyance of the Facility to the Authority in accordance with the Completion Assurance Agreement is hereby approved, and the then seated President and the Chief Financial Officer of the Educational Institution are hereby authorized and directed to

execute and deliver a warranty deed in substantially the form attached as Exhibit B and bills of sale to accomplish such conveyance in such form as may be from time to time approved by such officers. Such officer is hereby authorized to approve such changes in and modifications to the warranty deed as do not materially adversely affect the Educational Institution.

3. The Educational Institution hereby authorizes and approves the Lease in substantially the form attached as Exhibit C, and the Chief Financial Officer of the Educational Institution is hereby authorized and directed to execute and deliver the Lease in accordance with the Completion Assurance Agreement and in substantially the form attached as Exhibit C for and on behalf of the Educational Institution and such officer is hereby designated as an authorized officer of the Educational Institution for purposes of Section 7 of Act 183. Such officer is hereby authorized to approve such changes in and modifications to the Lease as do not materially alter the substance and intent thereof as expressed in the Lease and the request for action submitted to the Regents in connection therewith; provided such officer is not hereby authorized to approve a change in the Lease with respect to the range of rental or the material financial obligations of the Educational Institution contained in the Lease approved herein. The Educational Institution hereby determines that the maximum rental in the amount described below is reasonable and the authorized officer is hereby authorized to approve in the Lease, as executed, rental in annual amounts determined by the final appraisal of "True Rental," but not exceeding \$2,440,000 in any 12-month period and a lease term of not exceeding 40 years.

4. If in connection with the entering into of the Lease, and if the Chief Financial Officer of the Educational Institution determines that (i) the Authority will require an easement from a public road to the Facility over real property owned by the Educational Institution so that the Authority has access to the Facility, (ii) the Educational Institution will require for future use certain easements through the Facility, (iii) the Authority and the Educational Institution will require an agreement to share a common structural wall, (iv) the Authority will require an easement over real property owned by the Educational Institution so that the Authority has sufficient parking available in connection with the reasonable use of the Facility, and/or (v) the Authority and/or the Educational Institution will require other easements and/or agreements pertaining to the Facility and/or real property owned by the Educational Institution (such as, but

without limitation, condominium association agreements, common use agreements, easements and/or agreements pertaining to pedestrian traffic, utility lines, and/or encroachments), then such officer is hereby authorized and directed to execute and deliver Additional Agreements if necessary in order to meet any such requirement.

5. The Chief Financial Officer and other appropriate officers of the Educational Institution are each hereby authorized and directed to take or cause to be taken all other actions, including, without limitation, making requests of and approving requests from the Authority and the State and signing certificates, documents or other instruments, on behalf of the Educational Institution, as each deems necessary or desirable under the circumstances to accomplish the purposes of the transactions authorized in this Resolution.

6 The Educational Institution further confirms its obligations to perform the duties and obligations specified in the Completion Assurance Agreement (only upon its execution by the authorized officer of the Educational Institution) and the Lease (only upon its execution by the authorized officer of the Educational Institution) and acknowledges that such obligations do not depend upon passage of title to the Facility to the Educational Institution without consideration upon termination of the Lease. The Educational Institution hereby recognizes that it would execute and deliver the Lease even if title to the Facility would not pass upon termination of the Lease.

7. The Educational Institution recognizes that the Authority shall pay for costs of the Facility in an amount not in excess of \$24,599,800.

8. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

9. This Resolution shall be effective immediately upon its adoption.