

CHAIRPERSON
DEB NOLAN

VICE-CHAIRPERSON
REBECCA BAHAR-COOK

VICE-CHAIRPERSON PRO-TEM
RANDY MAIVILLE

LAW AND COURTS COMMITTEE
VICTOR CELENTINO, CHAIR
PENELOPE TSERNOGLOU
DIANNE HOLMAN
DEBBIE DE LEON
REBECCA BAHAR-COOK
KARA HOPE
RANDY SCHAFFER

INGHAM COUNTY BOARD OF COMMISSIONERS

P.O. Box 319, Mason, Michigan 48854 Telephone (517) 676-7200 Fax (517) 676-7264

THE LAW AND COURTS COMMITTEE WILL MEET ON THURSDAY, JUNE 13, 2013
AT 6:00 P.M., IN THE PERSONNEL CONFERENCE ROOM (D & E), HUMAN SERVICES
BUILDING, 5303 S. CEDAR, LANSING.

Agenda

Call to Order

Approval of the [May 30, 2013 Minutes](#)

Additions to the Agenda

Limited Public Comment

1. Community Corrections Advisory Board - Resolution Authorizing Entering into a Contract Amendment with the Michigan [Department of Corrections](#) to Reduce the 2012-2013 Ingham County/City of Lansing Community Corrections Budget and Related Subcontracts Due to State Imposed Mid-Year Budget Reductions
2. Prosecutor's Office - Resolution to Authorize a [Juvenile Accountability Grant](#) from the Capital Region Community Foundation and Subcontract with the Resolution Services Center of Central Michigan
3. Sheriff's Office - Major Joel Maatman and Rick Terrill: Briefing on the Recent Countywide Safety Training Program
4. Controller's Office - [CLEAR](#) Contract for the Circuit Court (*Updated Resolution to be Distributed at Meeting*)

Announcements

Public Comment

Adjournment

PLEASE TURN OFF CELL PHONES OR OTHER ELECTRONIC DEVICES OR SET TO MUTE OR VIBRATE TO AVOID DISRUPTION DURING THE MEETING

The County of Ingham will provide necessary reasonable auxiliary aids and services, such as interpreters for the hearing impaired and audio tapes of printed materials being considered at the meeting for the visually impaired, for individuals with disabilities at the meeting upon five (5) working days notice to the County of Ingham. Individuals with disabilities requiring auxiliary aids or services should contact the County of Ingham in writing or by calling the following: Ingham County Board of Commissioners, P.O. Box 319, Mason, MI 48854 Phone: (517) 676-7200. A quorum of the Board of Commissioners may be in attendance at this meeting. Meeting information is also available on line at www.ingham.org.

LAW & COURTS COMMITTEE
May 30, 2013
Minutes

Members Present: Victor Celentino, Penelope Tsernoglou, Dianne Holman, Debbie De Leon, Rebecca Bahar-Cook, Kara Hope and Randy Schafer

Members Absent: None

Others Present: Jared Cypher, Rhonda Swayze and Lance Langdon

The meeting was called to order by Chairperson Celentino at 6:02 p.m. in the Personnel Conference Room "D & E" of the Human Services Building, 5303 S. Cedar Street, Lansing.

Approval of the May 16, 2013 Law & Courts Minutes

The May 16, 2013 Law & Courts minutes were approved as submitted.

Additions to the Agenda

3b. Additional Material – 911 Director - Update on the Ingham County 9-1-1 Center (No Material): Handout: Memorandum dated May 30, 2013

Limited Public Comment

None.

MOVED BY COMM. SCHAFER, SUPPORTED BY COMM. BAHAR-COOK, TO APPROVE A CONSENT AGENDA FOR THE FOLLOWING ITEMS:

1. Sheriff's Office
 - a. Resolution to Approve an Extended Police Services Agreement with the Village of Webberville Covering the Period of July 1, 2013 through June 30, 2016
 - b. Resolution to Contract with EZ Card & Kiosk

3. 911 Director
 - a. Resolution Authorizing Equipment Purchases for the Ingham County 9-1-1 Central Dispatch Center

(Comm. Holman arrived at 6:03 pm)

MOTION CARRIED UNANIMOUSLY. Absent: Comm. Tsernoglou

MOVED BY COMM. SCHAFER, SUPPORTED BY COMM. BAHAR-COOK, TO APPROVE THE ITEMS ON THE CONSENT AGENDA.

MOTION CARRIED UNANIMOUSLY. Absent: Comm. Tsernoglou

2. Controller's Office - Discussion on Proposed CLEAR Contract for the Circuit Court

Mr. Cypher reminded the Committee last November the Board of Commissioners authorized a contract with Westlaw Electronic Law Library in order to gain access to the CLEAR online legal research services. Mr. Cypher pointed out the "Be It Further Resolved" in the resolution required the approval as to form by the County Attorney. He explained since November the County Attorney has been negotiating with Westlaw to remove the indemnification language so they may give their approval as to form. Mr. Cypher pointed out the Attorney's correspondence in the agenda packet.

Mr. Cypher stated that Mr. Neilsen has been working on this with the Courts, County Attorneys and the Michigan Municipal Risk Management Authority (MMRMA). Mr. Cypher further stated Mr. Neilsen was informed by MMRMA that while they agree with the County Attorneys position the County's MMRMA insurance will cover the indemnification provision for both the County and the Court. This would minimize risk to the County if the Board of Commissioners decides to move forward with an addendum not requiring County Attorney approval. Mr. Cypher stated at this point in time the question is does the Committee want to move forward without the County Attorney approval.

Chairperson Celentino asked for input from the Commissioners. Comm. Schafer stated he was okay with moving forward. Comm. Bahar-Cook questioned if there has been an exception like this before. Comm. De Leon stated she believes this has been done before. Mr. Cypher stated he will find out. Comm. Bahar-Cook questioned if there is another vendor. Ms. Swayze stated not with this product then described the product and how it is used. Comm. Bahar-Cook stated she is willing to cautiously move forward but would like more information before making a final decision. Comm. Holman asked for an example of liability. Ms. Swayze explained this is a County government employee who has access to personal private information. She stated the Commissioners may want to speak to the County Attorney for a more comprehensive explanation. Comm. Holman stated this appears to be a behavioral liability. Comm. De Leon stated there are consequences greater than dismissal if an employee misuses the data. Comm. De Leon asked if there are employee checks and balances. Ms. Swayze described how the access logs are kept and IP addresses.

(Comm. Tsernoglou arrived at 6:13 pm)

Comm. Bahar-Cook asked if any other governments have agreed to the indemnification. Ms. Swayze stated other governments have access to the data therefore it is possible. Mr. Cypher will investigate if other governments agreed to the indemnification. Comm. Holman noted that it is not unusual in most businesses to have some indemnifications; however, the Board of Commissioners should review each case presented to them. Comm. Holman stated she had no problem moving forward. Chairperson Celentino pointed out that a disgruntled employee could cause real damage.

In conclusion, Mr. Cypher will inform the Committee if there are other contracts with the County that contain indemnification provisions, as well as, investigate if other governmental entities have agreed to similar indemnification provisions. The Committee agreed they would like to move forward with a resolution.

MOVED BY COMM. SCHAFER, SUPPORTED BY COMM. HOPE, TO SUSPEND THE BOARD RULES TO ALLOW COMM. TSERNOGLOU TO VOTE ON THE MINUTES AND CONSENT AGENDA.

MOTION CARRIED UNANIMOUSLY.

Comm. Tsernoglou voted yes to approve the minutes and the consent agenda.

3. 911 Director
 - b. Update on the Ingham County 9-1-1 Center (No Material)

Mr. Langdon provided a Memorandum dated May 30, 2013.

Mr. Langdon informed the Committee that he and 10 staff members participated in the Michigan National Emergency Number Association (NENA) conference last week in Lansing. Mr. Langdon stated he also attended the NENA Center Manager Certification Course that was run in conjunction with the conference.

Mr. Langdon updated the Committee on staffing, number of vacant positions and training. He described recent training which unfortunately a couple of individuals did not successfully complete therefore positions remain vacant. He stated it is not unusual for some individuals to be unsuccessful at this point. Comm. De Leon asked if they are able to try again. Mr. Langdon described the testing, training process, in addition to, time and cost to complete background checks. The Committee discussed staffing, skill set and educational requirements, the training process and overall cost to train.

Mr. Langdon informed the Committee there was a problem with the phones this morning and Eaton County took three calls. He described the calls. He informed the Committee that the Microwave installation for the redundant connection is taking place today and hopes completion is tomorrow.

Announcements

None.

Public Comment

None.

The meeting adjourned at approximately 6:32 p.m.

Respectfully submitted,

Julie Buckmaster

JUNE 13, 2013 LAW & COURTS AGENDA STAFF REVIEW SUMMARY

RESOLUTION ACTION ITEMS:

The Deputy Controller is recommending approval of the following resolutions:

1. CCAB - *Resolution Authorizing Entering into a Contract Amendment with the Michigan Department of Corrections to Reduce the 2012-2013 Ingham County/City of Lansing Community Corrections Budget and Related Subcontracts Due to State Imposed Mid-Year Budget Reductions*

This Resolution authorizes a Contract Amendment with the Michigan Department of Corrections reducing Ingham County/City of Lansing Community Corrections Plans and Services and Administration funding for FY 2012-2013 reducing the amount from \$285,437 to \$212,295 for the time period of October 1, 2012 through September 30, 2013.

As you will recall from several CCAB informational meetings at the Law & Courts Committee on how we were to deal with this mid-year State budget reduction, immediate action was required to reduce total annual expenditures as follows:

- 1.) Termination of the Pathways Employment Program provided by Peckham, Inc.
- 2.) Termination of Holistic OUIL III Program Enhancements (HOPE) provided by CEI Community Mental Health
- 3.) Termination of the Day Reporting Program provided by Northwest Initiative - ARRO
- 4.) Reduction of the Plans and Services subcontract total compensation amount for Cognitive Change Groups provided by National Council on Alcoholism from \$34,650 to \$20,089
- 5.) Entering into a subcontract amendment with the National Council on Alcoholism to reduce the total compensation amount for Cognitive Group services from \$34,650 to \$20,089 for the period of October 1, 2013 through September 30, 2014. (See attached memo.)

2. Prosecutor's Office - *Resolution to Authorize a Juvenile Accountability Grant from the Capital Region Community Foundation and Subcontract with the Resolution Services Center of Central Michigan*

This Resolution authorizes a grant award contract in the amount of \$4,000 with a county match of \$2,185 for a total program cost of \$6,185 for the Juvenile Accountability and Restorative Justice Project. It also authorizes a subcontract between the Ingham County Prosecutor and the Resolution Services Corporation, in the amount of \$6,185, for Juvenile Accountability and Restorative Justice programming for the time period of June 13, 2013 through June 12, 2014.

Funds are anticipated in the budget. (See attached memo.)

4. Controller's Office - CLEAR Contract for the Circuit Court

This Resolution authorizes amending an original contract agreement with Westlaw for on line research and CLEAR services for the Circuit Court from January 1, 2013 through December 31, 2015 out of budgeted operational and LOFT Funds consistent with this Resolution without approval as to form by the County Attorney. (See attached memo.)

Items not requiring action:

3. *Sheriff's Office - Major Joel Maatman and Rick Terrill: Briefing on the Recent Countywide Safety Training Program*

Informational briefing on the training program.

Agenda Item 1

TO: Law & Courts and Finance Committee
FROM: Mary Sabaj
Community Corrections Manager
DATE: June 6, 2013
RE: Resolution Authorizing Entering into Contract and Subcontract
Amendments Resulting from MDOC Mid-Year Budget Reductions

This Resolution authorizes action required to make adjustments resulting from mid-year budget reductions to Community Corrections Plans and Services implemented by the MDOC.

The Resolution authorizes:

A. Entering into a contract amendment with the MDOC that reduces the Community Corrections Plans and Services budget from \$285,437 to \$212,295 for the period of October 1, 2012 through September 30, 2013.

The following immediate action was required to reduce total annual expenditures:

- 1.) Termination of the Pathways Employment Program provided by Peckham, Inc.
- 2.) Termination of Holistic OUIL III Program Enhancements (HOPE) provided by CEI Community Mental Health
- 3.) Termination of the Day Reporting Program provided by Northwest Initiative - ARRO
- 4.) Reduction of the Plans and Services subcontract total compensation amount for Cognitive Change Groups provided by National Council on Alcoholism from \$34,650 to \$20,089.

B. Entering into a subcontract amendment with the National Council on Alcoholism to reduce the total compensation amount for Cognitive Group services from \$34,650 to \$20,089 for the period of October 1, 2013 through September 30, 2014.

Introduced by the Law Enforcement and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

RESOLUTION AUTHORIZING ENTERING INTO A CONTRACT AMENDMENT WITH THE MICHIGAN DEPARTMENT OF CORRECTIONS TO REDUCE THE 2012-2013 INGHAM COUNTY/CITY OF LANSING COMMUNITY CORRECTIONS BUDGET AND RELATED SUBCONTRACTS DUE TO STATE IMPOSED MID-YEAR BUDGET REDUCTIONS

WHEREAS, the State Community Corrections Advisory Board, the Ingham County Board of Commissioners, and the City of Lansing approved the Ingham County/City of Lansing Community Corrections Comprehensive Plan; and

WHEREAS, the State Community Corrections Advisory Board, the Ingham County Board of Commissioners, and the City of Lansing approved the Application for State of Michigan Community Corrections Act Funds for FY 2012-2013; and

WHEREAS, the FY 2012-2013 Application provided for the continuation of the following CCAB Plans and Services (CPS) and Drunk Driver Jail Reduction –Community Treatment Programs (DDJR-CTP) programming: Relapse Prevention and Recovery (\$47,200) to be provided by CEI Community Mental Health; Pathways Employment Program (\$70,737) to be provided by Peckham, Inc.; Gatekeeper services (\$12,500) to be provided by CCAB staff; Cognitive Change Groups (\$34,650) to be provided by National Council on Alcoholism, and for Day Reporting services (\$43,350) to be provided by Northwest Initiative – ARRO, and for Holistic OUIL III Program Enhancements (HOPE) (\$15,000 CPS and \$21,169 DDJR-CTP) at the House of Commons to be provided by CEI-Community Mental Health; and

WHEREAS, pursuant to the FY2012-2013 grant award, the County entered into a subcontracts for the purpose of implementing Plans and Services and DDJR/CTP programs and services identified in the Community Corrections Plan and Application; and

WHEREAS, mid-year, MDOC budget reductions were implemented that reduced the total FY 2012 – 2013 Plans and Services budget from \$285,437 to \$212,295; and

WHEREAS, immediate action was necessary to reduce total annual expenditures including termination of the Pathways Employment Program provided by Peckham, Inc., Holistic OUIL III Program Enhancements (HOPE) provided by CEI Community Mental Health, and Day Reporting provided by Northwest Initiative - ARRO; and

WHEREAS, it was also necessary to reduce the Plans and Services subcontract total compensation amount for Cognitive Change Groups provided by National Council on Alcoholism from \$34,650 to \$20,089; and

WHEREAS, the Ingham County Board of Commissioners approved in Resolution 13-218 adopted May 14, 2013, transitional funding to restore and continue Day Reporting Program Services provided by Northwest Initiative – ARRO in an amount not to exceed \$20,000 from May 15, 2013 through September 30, 2013.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners authorizes entering into a Contract Amendment with the Michigan Department of Corrections reducing Ingham County/City of Lansing Community Corrections Plans and Services and Administration funding for FY 2012-2013 reducing the amount from \$285,437 to \$212,295 for the time period of October 1, 2012 through September 30, 2013.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners authorizes entering into a subcontract amendment with the National Council on Alcoholism to reduce the total FY 2012-2013 subcontract amount for the actual cost of Cognitive Change Groups not to exceed \$20,089.

BE IT FURTHER RESOLVED, that the Board of Commissioners terminates the State CCAB funded subcontracts for the HOPE Program provided by CEI – Community Mental Health effective March 20, 2013 and the Pathways Employment Program provided by Peckham, Inc. and the Day Reporting Program provided by Northwest Initiative – ARRO effective April 26, 2013.

BE IT FURTHER RESOLVED, that the subcontracts and subcontract amendments are contingent throughout the subcontract period on the availability of grant funds from the State of Michigan for these purposes.

BE IT FURTHER RESOLVED, that the Board Chairperson and County Clerk are authorized to sign any necessary contract and subcontract amendments consistent with this resolution subject to approval as to form by the County Attorney.

Agenda Item 2

TO: Law Enforcement and Finance Committees

FROM: Scott Hughes, Prosecutor's Office

DATE: June 7, 2013

The Ingham County Prosecutor's Office has been awarded a \$4,000 grant by the Capital Region Community Foundation, for the purpose of continuing its "Juvenile Accountability and Restorative Justice Project".

The Project diverts low-level juvenile offenders (those charged with certain ticket offenses and school disciplinary violations) into a program that uses restorative justice interventions, as well as a weekend skill-building seminar, to assist youthful offenders in the Lansing schools as well as the city.

This approach is similar to that undertaken during the previous "Juvenile Accountability Incentive Block Grant" (JAIBG) program that the county operated from 1998-2012. The county fell "out of formula" to be an eligible applicant, and as such this alternative funding approach has kept the project operational. The county's match (16% of the program's operating cost) is from the line item that was used to provide matching funds under the previous JAIBG program.

The program's budget and service plan are the same as that approved by the Board in 2012.

Introduced by Law Enforcement and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION TO AUTHORIZE A JUVENILE ACCOUNTABILITY GRANT FROM THE
CAPITAL REGION COMMUNITY FOUNDATION AND SUBCONTRACT WITH THE
RESOLUTION SERVICES CENTER OF CENTRAL MICHIGAN**

WHEREAS, the Ingham County Prosecutor's Office applied for and has been approved funding for the continuation of the "Juvenile Accountability and Restorative Justice Project" from the Capital Region Community Foundation; and

WHEREAS, the grant is for \$4,000, with a county match of \$2,185, a Resolution Services Center match of \$1,815 and a City of Lansing match of \$6,000; and

WHEREAS, this is a continuation of a program that was originally authorized by Resolution #12-294; and

WHEREAS, the Resolution Services Center (formerly Dispute Resolution Center) of Central Michigan has provided quality services to Ingham County youth through the Juvenile Accountability Block Grant, providing early intervention for low-level juvenile offenders with ticket offenses; and

WHEREAS, the services provided by the Resolution Services Center through the Juvenile Accountability Block Grant, and this subsequent continuation program, titled "Ingham County Juvenile Accountability and Restorative Justice Project", save court resources, by managing juvenile ticket offenses that would otherwise be submitted to the Circuit Court-Family Division; and

WHEREAS, the City of Lansing's financial involvement in this project will consist of a separate sub-contract between the City of Lansing and the Resolution Services Center; and

WHEREAS, the Resolution Services Center financial involvement as a funder of the program will be handled internally by the Center.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners approves a grant award contract in the amount of \$4,000 with a county match of \$2,185 already budgeted for 2013 for a total program cost of \$6,185 for the "Juvenile Accountability and Restorative Justice Project.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners approves a subcontract between the Ingham County Prosecutor and the Resolution Services Center, in the amount of \$6,185, for Juvenile Accountability and Restorative Justice programming for the time period of June 13, 2013 through June 12, 2014.

BE IT FURTHER RESOLVED, that the Controller/Administrator is authorized to make any necessary budgetary adjustments in the 2013 and 2014 Prosecuting Attorney's Office budget.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners authorizes the Board Chairperson, the County Clerk, and the Prosecutor to sign any necessary contract or subcontract documents that are consistent with this resolution and approved as to form by the County Attorney.

MEMORANDUM

To: Law & Courts Committee

From: John L. Neilsen

Date: May 23, 2013

Re: Circuit Court Clear Contract Issue

The Ingham County Courts, the Prosecutor's Office and the Jail use Westlaw Next for online legal research. The Friend of the Court and Circuit Court use the CLEAR product to locate individuals for the purposes of Child Support Enforcement and/or Collections.

The Board of Commissioners via Resolution #12-403 adopted in November of 2012 (see attached), authorized a contract renewal agreement with Westlaw for on line research and CLEAR services.

Since November our Attorneys have been attempting to negotiate acceptable language in order to give their Approval as to Form on the CLEAR product for the Circuit Court which here to has not used the product to locate individuals. The CLEAR product has been used by the FOC for several years previously. We have discovered that the Vendor will not change the Indemnification language to our Attorneys satisfaction and therefore they will not approve it as to Form as required by our Authorizing Resolution. (See attached letter from Bob Townsend)

“BE IT FURTHER RESOLVED, that the Chairperson of the Ingham County Board of Commissioners and the County Clerk are authorized to sign any contract/purchase documents consistent with this Resolution and approved as to form by the County Attorney.”

The FOC CLEAR contract currently in use apparently also was not approved as to form yet attached amendments were so the Contract was inadvertently signed previously.

The County is now faced with a business decision on whether we should execute the contract without the “approval as to form by the County Attorney.”

The Circuit Court is recommending that we proceed with the contract and I have been advised by MMRMA that while they agree with our Attorneys position on these contracts the County's MMRMA insurance will cover both the County and the Court for any liability the County may occur as a result of the Indemnification provisions in the proposed agreement and Amendments.

For these reasons, I believe the risk is relatively low and I recommend that we proceed to enter into this Westlaw CLEAR agreement and the BOC authorize the contract without the “approval as to form by the County Attorney”.

If you are in agreement with this, staff will Draft the appropriate resolution.

Introduced by the Law Enforcement, Judiciary and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION TO AUTHORIZE THREE YEAR CONTRACTS FOR
WESTLAW ELECTRONIC LAW LIBRARY ACCESS FOR VARIOUS
INGHAM COUNTY DEPARTMENTS, OFFICES AND COURTS**

RESOLUTION #12-403

WHEREAS, various Ingham County criminal justice agencies utilize automated Law Library access through a vendor; and

WHEREAS, the LOFT – the Law and Order Fund for Technology: Sheriff, Prosecutor, 55th District, 30th Circuit and Probate Courts collectively looked at various vendors to provide this service to determine the most cost effective and efficient way to obtain this service; and

WHEREAS, the LOFT Committee recommend Westlaw as the best vendor to provide this service.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners approves the LOFT Committee’s recommendation and authorizes three year contracts with Westlaw from January 1, 2013 through December 31, 2015 out of budgeted operational and LOFT Funds with the exception of Friend of the Court and Prosecuting Attorney’s Office Family Support which will be paid through the Title IV-D Cooperative Reimbursement Program Contract with State of Michigan as follows:

• Circuit Court	\$ 1177.00	monthly fee * 12 = \$ 14,124.00 for 2013
	\$ 1193.00	monthly fee * 12 = \$ 14,316.00 for 2014
	\$ 1230.00	monthly fee * 12 = \$ 14,760.00 for 2015
• Friend of the Court	\$ 213.94	monthly fee * 12 = \$ 2567.28 for 2013
	\$ 224.64	monthly fee * 12 = \$ 2695.68 for 2014
	\$ 235.87	monthly fee * 12 = \$ 2830.44 for 2015
• District Court	\$ 358.00	monthly fee * 12 = \$ 4296.00 for 2013
	\$ 365.78	monthly fee * 12 = \$ 4389.36 for 2014
	\$ 378.96	monthly fee * 12 = \$ 4547.52 for 2015
• Sheriff’s Office	\$ 301.10	monthly fee * 12 = \$ 3,613.20 for 2013
	\$ 316.16	monthly fee * 12 = \$ 3,793.92 for 2014
	\$ 331.97	monthly fee * 12 = \$ 3,983.64 for 2015
• Prosecuting Attorney’s Office	\$ 1282.00	monthly fee * 12 = \$ 15,384.00 for 2013
	\$ 1294.82	monthly fee * 12 = \$ 15,527.84 for 2014
	\$ 1333.66	monthly fee * 12 = \$ 16,003.97 for 2015
• Prosecuting Attorney’s Office Family Support Unit	\$ 230.76	monthly fee * 12 = \$ 2769.12 for 2013
	\$ 242.29	monthly fee * 12 = \$ 2907.48 for 2014
	\$ 254.40	monthly fee * 12 = \$ 3052.80 for 2015

Annual Costs: 2013 - \$ 37,417.20 to be paid from LOFT
2014 - \$ 38,027.12 to be paid from LOFT
2015 - \$ 39,295.13 to be paid from LOFT
Annual Costs: 2013 – \$ 5336.40 to be paid through the Title IV-D Cooperative Reimbursement Program
Contract with State of Michigan
2014 – \$ 5603.16 to be paid through the Title IV-D Cooperative Reimbursement Program
Contract with State of Michigan
2015 - \$ 5883.24 to be paid through the Title IV-D Cooperative Reimbursement Program
Contract with State of Michigan

BE IT FURTHER RESOLVED, that the Controller/Administrator is authorized to make any necessary budget adjustments.

BE IT FURTHER RESOLVED, that the Chairperson of the Ingham County Board of Commissioners and the County Clerk are authorized to sign any contract/purchase documents consistent with this Resolution and approved as to form by the County Attorney.

LAW ENFORCEMENT: Yeas: Tsernoglou, De Leon, Celentino, Dragonetti
Nays: None **Absent:** Koenig, Schafer **Approved 11/1/12**

JUDICIARY: Yeas: Koenig, Bahar-Cook, Holman, Schafer, Dragonetti
Nays: None **Absent:** Tsernoglou **Approved 11/15/12**

FINANCE: Yeas: Grebner, McGrain, Bahar-Cook, Tennis, Dougan,
Nays: None **Absent:** Nolan **Approved 11/26/12**

COHL, STOKER & TOSKEY, P.C.
ATTORNEYS AND COUNSELORS
601 NORTH CAPITOL
LANSING, MICHIGAN 48933

PETER A. COHL
DAVID G. STOKER
ROBERT D. TOWNSEND
BONNIE G. TOSKEY
RICHARD D. McNULTY
TIMOTHY M. PERRONE

OF COUNSEL:
SHERRY L. HEDRINGTON

May 22, 2013

(517) 372-9000
FAX (517) 372-1026

Sent via Email

John L. Neilsen, Deputy Controller
Ingham County Controller's Office
Ingham County Courthouse
P.O. Box 319
Mason, MI 48854

Re: Indemnification Provisions in West CLEAR Services Subscriber Agreement and Addendum

Dear Mr. Neilsen:

This is in follow-up to my March 29, 2013 letter to Rhonda Swayze, Deputy Court Administrator/General Trial Division, regarding the West Order Form – CLEAR Services and CLEAR Services Subscriber Agreement and Addendum. As I advised Ms. Swayze our office has not Approved As To Form the West CLEAR Subscriber Agreement and Addendum due to West's refusal to remove the indemnification provisions contained in the Agreement's paragraph 8. Indemnification as modified by item #3 of the Addendum. The Addendum merely changes the title of paragraph 8 to Government Responsibility. Paragraph 8, as amended, reads as follows:

"Except as otherwise prohibited by law and without waiving any defenses to which it may be entitled, Subscriber hereby agrees to protect, indemnify, defend and hold harmless West and all its suppliers from and against any and all costs, claims, demands, damages, losses and liabilities (including actual attorneys' fees) arising from or in any way related to (i) the use, access or misuse of information by Subscriber (or any other party receiving such information from or through Subscriber), and (ii) Subscriber's breach of any representation, warranty or other provision of this Agreement."

While the indemnification provisions set forth in the Addendum's Government Responsibility section have the appearance of being narrowly drafted, they still seek to have West indemnified from liability it may incur from the "use, access or misuse of information by Subscriber (or any other party receiving such information from or through Subscriber)". The reference to subscriber of course is referring to the Circuit Court and County.

The reason our office does not approve the above indemnification provisions is rooted in Article 9, Section 18 of the Michigan 1963 Constitution which states in part that:

"The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution."

The Michigan Supreme Court has held that the above-quoted Constitutional prohibition also applies to counties as well as other local units of government and municipalities in the State of Michigan. *Drain Commissioner of Oakland Co v City of Royal Oak*, 306 Mich 124, 142 (1943) (construing the predecessor of Const. 1963, art 9, § 18, Const. 1908, art 10, § 12); *Advisory Opinion on Constitutionality of 1986 PA 281*, 430 Mich 93, 119 (1988).

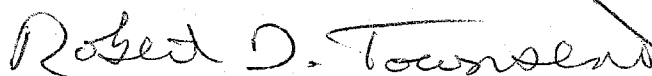
The State of Michigan views an agreement to indemnify another party for liability which it may incur as a form of lending of credit. Since the Michigan Constitution contains no authorization for indemnification, the State has long taken the position that it is barred by the Constitution's Article 9, Section 18 from entering into indemnification agreements whereby the State would be required to be the indemnifying party. Since, as noted above, Article 9, Section 18 of Michigan's Constitution also applies to Ingham County, Ingham County is in the same position as the State of Michigan with respect to indemnification provisions in agreements in which it enters.

While our office, for the reasons stated above, does not Approve As To Form the West CLEAR Subscriber Agreement and Addendum, proceeding with the execution of those documents is a business decision for the County to make. It is my understanding that you have been advised by the County's insurer, MMRMA, that while it agrees with our office's position regarding indemnification provisions in the County's contracts, the County's MMRMA insurance coverage will cover liability the County may incur as a result of the indemnification provisions contained in the West CLEAR Subscriber Agreement and Addendum documents.

If you have any questions with regards to the matters discussed in this letter, do not hesitate to contact me.

Very truly yours,

COHL, STOKER & TOSKEY, P.C.



Robert D. Townsend

RDT/hsk

Enclosures

cc: Rhonda K. Swayze, Deputy Court Administrator/General Trial Division
Jill Bauer, Assistant