Emergency Financial Manager of the City of Ecorse
(Directive No. 075)

ORDER OF THE EMERGENCY MANAGER OF THE CITY OF ECORSE, COUNTY OF WAYNE, STATE OF MICHIGAN, IMPLEMENTING CERTAIN CITY OF ECORSE CHARTER PROVISIONS AND THE MARCH 6, 2012 COURT ORDER FOR PERMANENT INJUNCTION IN THE MATTER OF *THE CITY OF ECORSE* VS. *DORIS YOUNG*, CASE NO. 11-014118-CZ

WHEREAS, under the Local Government and School District Fiscal Accountability Act, Act 4, Public Acts of Michigan, 2011, as amended ("Act 4") and a Contract (the "Contract") between the State of Michigan and Joyce A. Parker, dated October 30, 2009, Joyce A. Parker has been appointed as the Emergency Manager (the "EM") of the City of Ecorse, County of Wayne, Michigan (the "City") and charged with the power and authority to take all actions necessary to develop and implement financial and operational plans to regulate expenditures, investments and the provision of services for the City of Ecorse in conformity with and using the powers set forth in Act 4; and

WHEREAS, pursuant to Public Act 4 of 2011, Section 19 (1) (dd) an Emergency Manager has the power and authority to exercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforce ordinances or resolutions of the local government as provided in the Public Acts enumerated in *(i)* through *(ix)*.

WHEREAS, pursuant to Public Act 4 of 2011, Section 19 (g) an emergency manager has the power and authority to fill any vacancy in a position; additionally, under Section 19 (1) (ee) the emergency manager can take any other action or exercise any power or authority of any position, whether elected or appointed relating to the operation of the local government; and further, the power of an emergency manager is superior to and supersedes the power of any officer or employee whether elected or appointed and, therefore, allows the Emergency Manager to exercise the power and authority of any elected or appointed position, including the elected positions of the governing body, to properly accomplish certain work, such as taking all steps necessary to enforce State law and the City Charter to declare an elected position vacant and implement a process to fill same;

WHEREAS, on July 18, 2011, Doris Young, the elected City Treasurer, was notified by personal service and certified mail that due to her inability to obtain bonding as required by the Michigan General Property Tax Act (Public Act 206 of 1893 as amended) and the City of Ecorse Charter (Chapter VII, Section 3(a)) prior to entering upon the duties of her office, she is not qualified to assume the position and duties of City Treasurer for the City of Ecorse;

WHEREAS, Chapter VII, section 3(a) of the Ecorse City Charter specifically states that "every officer, elective or appointive, before entering the duties of his [or her] office and within the time prescribed for filing his [or her] Oath of Office, if a bond is required, shall file with the City Clerk such bond or security as may be required by law, ordinance, or resolution of the Council and with such sureties as shall be approved by the Council, conditioned for the due performance of the duties of his [or her] office...". Additionally, where the required bond or security has not been filed, Section 6 mandates that "such office shall be deemed to be vacant..." Neither State law or the City Charter requires the City to provide deadline extensions.

WHEREAS, after the November, 2011 General Election, Doris Young had failed to comply with State law and City of Ecorse Charter provisions, the City of Ecorse filed an action in the Wayne County Circuit Court for injunctive relief on November 15, 2011 entitled, CITY OF ECORSE vs. DORIS YOUNG, Case No. 11-014118-CZ;

WHEREAS, after Ms. Young received several extensions of time but had failed to produce to the Court evidence of obtaining the bond, the Court entered, on March 6, 2012, an <u>ORDER FOR PERMANENT INJUNCTION</u> prohibiting Young from assuming, entering into, performing and/or executing the duties of the Office of City Treasurer for the City of Ecorse, specifically giving the City the right to declare the office of Treasurer "vacant" and allowing the City to fill the vacancy;

WHEREAS, it is in the best interests of the City to implement the Court's Order and comply with the City's Charter by formally declaring the position of Treasurer 'vacant' and immediately implementing an appropriate process to fill the vacant position;

WHEREAS, this Directive and Order is necessary in order to carry out the duties and responsibilities required of the Emergency Manager as set forth in Public Act 4 of 2011, the contract between the Local Emergency Financial Assistance Loan Board and the Emergency Manager and, additionally, is considered necessary to implement the financial plan.

RESOLVED, IT IS HEREBY ORDERED BY THE EMERGENCY MANAGER OF THE CITY OF ECORSE, PURSUANT TO PUBLIC ACT 4 of 2011 AND THE CONTRACT, THAT:

1. Pursuant to the Wayne County Circuit Court's Order for Permanent Injunction entered March 6, 2012 and attached hereto and the City's Charter, the Office of the City Treasurer is hereby deemed **VACANT**.

2. The Office of Treasurer being Vacant, the Emergency Manager shall appoint a Treasurer for the City of Ecorse.

3. Repeal. All orders of the EFM, resolutions of the Ecorse City Council and parts of resolutions or orders in conflict with this Order are hereby repealed to the extent of such conflict.

IT IS SO ORDERED this 12th day of March, 2012.

Joyce A. Parker
Emergency Manager
City of Ecorse

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LOGAN, HUCHLA
& WYCOFF, P.C.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE CITY OF ECORSE, a
Michigan Municipal Corporation, and
Joyce A. Parker, in her capacity as Emergency Manager
for the City of Ecorse

Plaintiff,

ECORSE CITY OF , et al. v YOUNG,
Hon. Prentis Edwards 11/15/2011
11-014118-CZ

v.

DORIS YOUNG,

Treasurer-Elect, City of Ecorse

Defendant.

Charles E. Wycoff (P23804)
Neil J. Sawicki (P47443)
Logan, Huchla & Wycoff, P.C.
Attorneys for Plaintiff
13900 Sibley Road, P.O. Box 2148
Riverview, MI 48193
(734) 283-5300
fax: (734) 283-6577

ORDER FOR PERMANENT INJUNCTION

THE COURT, upon review of Plaintiff's Temporary Restraining Order ("TRO") and Preliminary Injunction against Defendant, after hearing arguments of counsel and being more fully advised in the premises,

THE COURT FINDS:

1. Defendant has failed to provide evidence of fulfilling the responsibilities of applying for, procuring, and presenting to the City of Ecorse a surety bond as required by the Ecorse City Charter, Chapter VII, Section 3(a);

2. The time to fulfill this requirement as ordered by this Court and agreed to by the parties expired on February 16, 2012;

IT IS ORDERED:

1. The preliminary injunction dated December 5, 2011 prohibiting and proscribing Defendant, Doris Young, from assuming, entering into, performing and/or executing the duties of the Office of City Treasurer for the City of Ecorse is made PERMANENT.

2. Due to Defendant's failure to comply with the provisions of the Ecorse City Charter, Chapter VII, Section 3(a), Plaintiff may proceed under the Ecorse City Charter, Chapter VII, Section 7, and/or Public Act 4 of 2011 to declare the office of City Treasurer "vacant".

3. Having declared the Office of City Treasurer for the City of Ecorse vacant, Plaintiff may then proceed to fill the vacancy pursuant to the Ecorse City Charter, Chapter IV, Section 8.

Date: MAR 06 2012

HONORABLE PRENTIS EDWARDS

CIRCUIT COURT JUDGE

A TRUE COPY
CATHY M. GARRETT
WAYNE COUNTY CLERK
BY R Byrd DEPUTY CLERK