ORDER OF THE EMERGENCY MANAGER OF THE CITY OF ECORSE

ORDER No. 085

ORDER OF THE EMERGENCY FINANCIAL MANAGER OF THE CITY OF ECORSE, COUNTY OF WAYNE, STATE OF MICHIGAN, TO CONTINUE THE EMPLOYMENT OF CERTAIN APPOINTED PROFESSIONALS CURRENTLY SERVING IN IDENTIFIED 'CRITICAL EMPLOYMENT POSITIONS' AND PROVIDE FOR CERTAIN ENFORCEABLE EMPLOYMENT TERMS AND CONDITIONS.

WHEREAS, under the Local Government Fiscal Responsibility Act, Act 72, Public Acts of Michigan, 1990, as amended ("Act 72") and, for all relevant periods, under the Local Government and School District Fiscal Accountability Act, Act 4, Public Acts of Michigan, 2011, as amended ("Act 4"), as well as any successor Acts and the Contract dated October 30, 2009 and Amended Contract of October 2012 (the "Contract") between the State of Michigan and Joyce A. Parker, , Joyce A. Parker has been appointed as the Emergency Financial Manager (the "EFM" or "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, ensure compliance with federal, state and local laws, regulations, rules, local laws and make provisions for services for the City of Ecorse, including the power to exercise the authority and responsibilities of the Mayor, as the Chief Administrative Officer of the City, and of the City Council, as the governing body of the City, concerning the adoption and enforcement of resolutions affecting the financial condition of the City as provided in the Home Rule City Act, Act 279, Public Acts of Michigan, 1909, as amended ("Act 279"); and

WHEREAS, Public Act 243 of 1980, the Emergency Municipal Loan Act, the Local Emergency Financial Assistance Loan Board has the power to authorize and make loans to qualifying municipalities pursuant to certain statutory terms and conditions including, but not limited to the mandate under MCL 141.937 that a municipality that receives a loan under said Act shall employ a full-time professional administrator to direct or participate directly in the management of the municipality's operations until otherwise ordered by the Board. Furthermore, that, pursuant to MCL 141.934, a receiving municipality must submit a 5-year plan that will balance future expenditures with anticipated revenues;

WHEREAS, pursuant to the Act's processes and procedures and subject to all of the conditions articulated under Public Act 243 of 1980, the City of Ecorse has received the greatest loan amount allowable under the statute, specifically loan amounts totaling Five Million ($5,000,000.00) Dollars since November of 2009, with an anticipated twenty year repayment plan to the State of Michigan;

WHEREAS, pursuant to the legal mandate of employing a full-time professional administrator under Public Act 243 of 1980 as a term and condition of the loans already received by the City and the anticipated twenty year repayment plan to the State of Michigan of the $5,000,000 in loans, a professional City Administrator is required and otherwise advisable for the full twenty-five years of Ecorse's repayment plan to perform the specific statutory duties set forth under MCL 141.937 and otherwise as is hereinafter set forth. Further, should Ecorse repay the full loaned amount in a time less than the anticipated 25 years, the City would have the option of applying to the Local Emergency Financial Assistance Loan Board to request the termination of the mandated professional City Administrator, if it so chose;

WHEREAS, pursuant to provisions contained within Public Act 72, including Section 21, an Emergency Financial Manager has the power to authorize and make, approve, or disapprove any appropriation, contract, expenditure, or loan, fill any vacancy in a permanent position by any appointing authority, and create any new employment position, as well as exercise the authority and responsibilities affecting the financial condition of the local government as provided in numerous enumerated Acts and statutes;

WHEREAS, the Emergency Financial Manager retained certain professionals to assist her in the implementation of various initiatives critical to the implementation of the EFM's emergency financial plan and the long term sustainability of the City of Ecorse. To wit: 1. Through an Employment Contract that expires December 9, 2013, retained the professional services of an individual to serve as Director of Public Safety to assist during the financial emergency in managing and stabilizing both police and fire services and implementing a transition to a public safety model for the delivery of police and fire services;
2. Through an independent contractor agreement, retained the professional services of an Attorney to serve as Ecorse's City Attorney to create and manage a legal department, put in place appropriate legal processes, and to reduce the number of lawsuits instituted against the City and further reduce the overall size of monetary judgments that are placed upon the City's tax rolls; 3. Through an independent contractor agreement, retained the professional services of an individual to serve as Director of Human Resources to create and manage a human resources department, carry out reorganizational plans and assist in addressing labor issues; and 4) Through an independent contractor agreement, retained the professional services of an individual to serve as Director of Department of Public Works (*note: DPW Director position is presently vacant).* Further, that each retained professional named above has been delivering the requested outcomes (*exclude vacant position*);

WHEREAS, the cause, in part or in whole, of Ecorse's financial emergency stems from significant mismanagement directly linked to each of the aforementioned municipal operation areas;

WHEREAS, maintaining a trusted, knowledgeable professional staff for as long as possible assists & actively supports the City Administrator, Financial Controller and ensures the on-going implementation of the Emergency Financial Manager's long range plan for stability, internal capacity and sustainability.

WHEREAS, the Emergency Financial Manager, pursuant to former PA 4, and PA 72, the Contract and PA 243 of 1980 created the position of City Administrator through **ORDER 076** and, pursuant to a legally binding open ended Employment Agreement with severance package fully executed September 12, 2012 between the City of Ecorse by Emergency Financial Manager, Joyce A. Parker and the successful candidate for City Administrator, the City has hired a City Administrator to professionally manage the municipal operations of the City of Ecorse;

WHEREAS, in an effort to continue proper professional financial accounting and professional financial oversight throughout the financial emergency, any period of transition after on-site emergency financial management and beyond, the Emergency Financial Manager has contractually retained the on-site financial services of Plante Moran to ensure the future financial sustainability of the City;

WHEREAS, in an effort to continue the positive changes in each of the critical municipal operations areas set forth above, specifically, Police & Fire, Legal Services, Human Resources, and the Department of Public Works, and ensure the on-going implementation of the Emergency Financial Manager's long range plan for stability, internal capacity and sustainability by professionals already intimately familiar with Ecorse's municipal operations, its history, dynamics, and the EFM's Financial Plan, the continued employment and contracts by the City of Ecorse of the individuals currently serving as Director of Public Safety, City Attorney, Human Resources Director, and Department of Public Works Director is necessary and crucial to support and assist the newly hired City Administrator and Financial Controller through their knowledgeable and professional management so as to achieve the financial goals for Ecorse through at least December 31, 2013 and such other extended periods as determined by the State Treasurer or his designee(s);

WHEREAS, this **ORDER** is necessary in order for the City of Ecorse to be in full compliance with the law and to carry out the comprehensive duties and responsibilities required of the Emergency Financial Manager as set forth in Public Act 72 of 1990 and, for all relevant periods, Public Act 4 of 2011, and any successor Acts and the Contract between the Local Emergency Financial Assistance Loan Board or other State entity and the Emergency Financial Manager, other laws and, additionally, is considered necessary to implement and maintain the City of Ecorse's financial plan, to ensure the on-going implementation of the Emergency Financial Manager's long range plan for stability, development of internal capacity and the future financial sustainability of the City;

NOW THEREFORE, IT IS HEREBY ORDERED BY THE EMERGENCY FINANCIAL MANAGER OF THE CITY OF ECORSE, PURSUANT TO PUBLIC ACT 72 of 1990 AND ANY AND ALL SUCCESSOR ACTS, AND FOR ALL RELEVANT PERIODS, PUBLIC ACT 4 of 2011, AND ANY SUBSEQUENT ACT, THE CONTRACT BETWEEN THE STATE AND EMERGENCY (FINANCIAL) MANAGER, AND OTHER LEGAL MANDATES THAT:

1. The positions of City Administrator, Director of Public Safety, City Attorney, Director of Human Resources, and Department of Public Works Director for purposes of this ORDER, are all 'critical employment positions' with the City of Ecorse. Therefore, the City of Ecorse hereby hires, retains or otherwise continues the uninterrupted employment of all individuals currently serving in each of the 'critical employment positions' as of the date of this ORDER in full compliance with the provisions set forth in this ORDER through December 31, 2013 and any extensions of such employment as may be determined or ordered by the State Treasurer or his designee(s) during any continuation of the State declared emergency and/or any terms or phases of transition.
2. The employment by the City of Ecorse of each individual currently serving in an identified 'critical employment position' shall not be terminated during the term of their employment or contract but in no event before March 31, 2014, except for demonstrated just cause as determined by the State Treasurer or his designee during all terms and/ or phases of the State declared financial emergency and any periods of transition.
3. Neither the Mayor, City Council or other city administrator or authority shall suspend, demote, reassign, terminate or otherwise change the terms and conditions of employment of an individual serving in a 'critical employment position' as identified above, without the affected individual's express written consent, or without first obtaining the express written approval concerning said individual from the State Treasurer or his designee and, subsequently providing to the affected individual a written notice of termination, discipline or other change in a condition of employment with an attached copy of the written document signed by the State Treasurer or designee.
4. This ORDER recognizes, respects and finds the terms and conditions of the current City Administrator's continuing Employment Contract to be compatible with this ORDER.
5. This ORDER recognizes that the Public Safety Director's Employment Contract , by its terms, expires December 9, 2013. The effect of this ORDER on the Public Safety Director's contracted term of employment is that said term of employment of the Public Safety Director with the City of Ecorse shall continue and otherwise extend beyond December 9, 2013 and throughout the continuation of all terms and/or phases of the State declared financial emergency and any period of transition, as may be extended by the State Treasurer or his designee(s), the same as applies to the term of employment for the City Attorney, the Human Resource Director, and the Department of Public Works Director. In all other ways, the terms and conditions of the Public Safety Director's current

Contract, including Amendments, shall remain, be recognized and otherwise be extended to govern all periods of employment of the Director of Public Safety as contemplated under this ORDER and approved by the State.

6. In the event the City should terminate without demonstrated just cause the services of the individuals currently serving in the critical employment positions of City Attorney. Director of Human Resources, and Director of Public Works, these individuals, pursuant to this enforceable ORDER shall receive the financial equivalent of four (4) months of their respective then current salary. The full sum of severance shall be paid out by the City in an individual's final payroll or vendor payment check, the same as is provided for the City Administrator and the Director of Public Safety.
7. For all periods of employment of the individuals currently serving in the identified critical employment positions and/or appointed and contracted by the Emergency Financial Manager, said individuals, pursuant to and in accordance with the Contract and specifically the Emergency Financial Manager's Amended Contract shall be immune from liability as provided therein and as set forth under Michigan's Governmental Immunity Act provisions and shall be entitled to have the City procure and maintain, at the expense of the City, general liability and professional liability insurance to cover said employees, agents, appointees, or contractors of the Emergency Financial Manager, the same as may be provided to elected officials, appointed officials, or employees of the City. Moreover, the insurance that has been and will be procured and maintained shall extend to any claim, demand, or lawsuit asserted or costs recovered against the Emergency Financial Manager and/or any of the above referenced employees, agents, appointees, or contractors of the Emergency Financial Manager to the extent permitted by the Act.
8. Pursuant to and accordance with the Contract and specifically the Emergency Financial Manager's Amended Contract, if after the date that the service of the Emergency Financial Manager is concluded, the Emergency Financial Manager or any employee, agent, appointee, or contractor of the Emergency Financial Manager is subject to a claim, demand, or lawsuit arising from an action taken during or after the service of the Emergency Financial Manager, and not covered by a procured insurance policy, all litigation expenses, including but not limited to attorney fees, payments in satisfaction of judgments, and payments made in settlement as specified pursuant to the Act, shall be paid exclusively by the City.

9. If the City has purchased, or otherwise obtained, an errors and omissions policy, then, as provided in the Act, the Emergency Financial Manager and the EFM's Appointees may choose to be covered under such a policy at the expense of the City.

10. All insurance required under this ORDER and the Emergency Financial Manager's (Amended) Contract shall be acquired at the expense of the City under valid and enforceable policies, issued by insurers of recognized responsibility. This ORDER recognizes and directs the City to continue to

obtain and maintain all such insurance coverage's in accordance with the EFM's Contract, Amended Contract and this ORDER, further recognizing that the State shall continue to have the right to reject as unacceptable any insurer.

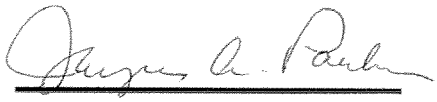
11. The Public Safety Director, City Attorney H.R. Director, and DPW Director (*vacant)* agree that to receive the benefit of this Order, the State of Michigan, all of its Departments, Department Heads, Employees or Agents are fully and totally released from any and all claims or liability of any kind or nature for any breach of this Order or their contracts.

12. Should there be a violation of this ORDER, the City shall take all action necessary and be liable for all costs associated with immediately returning any one or more displaced personnel currently serving back to their respective employment position with the City of Ecorse to continue serving in said capacity as contemplated under this ORDER.

13. This ORDER is intended to be fully enforceable the same as a Contract. Any copy of this signed ORDER shall be accepted as appropriate evidence in all legal forums for all enforcement purposes as a duplicate original.

14. Repeal. All orders of the Emergency Manager, Emergency Financial Manager, resolutions of the City Council of the City and parts of resolutions, Orders and Contracts in conflict or inconsistent with this ORDER are hereby modified to reflect the terms of this ORDER or repealed to the extent of such conflict.

IT IS SO ORDERED this 27th day of March, 2013.



Joyce A. Parker
Emergency Financial Manager
City of Ecorse