



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

ANDY DILLON
STATE TREASURER

CONTRACT FOR EMERGENCY MANAGER SERVICES

Rick Snyder, Governor (Governor) of the State of Michigan retains and appoints Michael K. Brown as the Emergency Manager (Emergency Manager) for the City of Flint (City) under Public Act 4 of 2011, the Local Government and School District Fiscal Accountability Act, MCL 141.1501 *et seq.*, (the Act). The services the Emergency Manager will provide to the City will be pursuant to the terms and conditions set forth in this Contract and the Act.

The Emergency Manager's role is to remedy the financial distress of the City by requiring prudent fiscal management and efficient provision of services. The Emergency Manager will exercise the necessary authority conferred by the State to take appropriate action on behalf of the City and its residents.

1. PARTIES, PURPOSE, DUTIES, AND REPORTS

1.1 Parties. The parties to this Contract are the State of Michigan by the Governor and Michael K. Brown, Emergency Manager.

1.2 Purpose. The parties to this Contract agree that Michael K. Brown will act as the Emergency Manager for the City. The Emergency Manager's duties and responsibilities are delineated in the Act and include conducting all aspects of the operations of the City and establishing and implementing a financial and operating plan pursuant to Section 18 of the Act.

1.3 Duties. The Emergency Manager shall possess all the powers and duties authorized under the Act, including those specifically related to municipal governments. In addition, the Emergency Manager shall work cooperatively with the Governor and the Treasurer (State Treasurer) of the State of Michigan. The Emergency Manager agrees to keep these officials informed of major initiatives to be undertaken in furtherance of this Contract before the public announcement of any such initiative. The Emergency Manager shall seek the approval of the Treasurer before entering into a new collective bargaining agreement, or before proposing publicly a change to the City's charter.

1.4 Reports. The Emergency Manager shall file the quarterly reports required by Section 15(7) and Section 22 of the Act beginning on June 1, 2012.

1.5 Advisory Committee. The Emergency Manager shall, within thirty (30) days of assuming the responsibilities of Emergency Manager, recommend to the State Treasurer the appointment of an advisory committee consisting of three to five members. The membership shall be one representative of the City's elected officials, one representative of the Flint business community, one citizen of Flint and up to two more persons with interest in and knowledge of

the Flint community and relevant professional skills to assist the Emergency Manager. The purpose of the committee will be to provide advice and counsel to the Emergency Manager regarding the Manager's decisions and actions to resolve the City's distress. The Emergency Manager shall meet with the advisory committee regularly, but no less frequently than monthly.

1.6 Communications. The Emergency Manager shall establish appropriate protocol for ongoing communications with the City's elected officials, the community of Flint and the media. The communication protocol should include a variety of means, including personal interactions.

2. TERM OF CONTRACT, EFFECTIVE DATE, AND OATH OF OFFICE

2.1 Term of Contract. The Emergency Manager shall serve at the pleasure of the Governor as provided in Section 15 of the Act.

2.2 Effective Date. This contract is effective as of December 1, 2011.

2.3 Oath of Office. The Emergency Manager shall take and subscribe an oath of office administered by an official authorized to administer oaths under the laws of Michigan and file such oath with the Office of the Great Seal.

3. COMPENSATION FOR SERVICES PROVIDED

3.1 Source of Payment. The City is required to pay the compensation of the Emergency Manager for all services rendered and for all expenses incurred under this Contract.

3.2 Salary. The Emergency Manager's annual salary for services rendered under this Contract shall be \$170,000 per year. If this Contract is terminated after the Emergency Manager has provided services for a portion of the month, the Emergency Manager shall be entitled, for that portion of that month, to one twelfth of the Emergency Manager's annual salary, multiplied by the proportion that the number of days of the month for which services were provided bears to the number of days of the whole month.

3.3 Payment for Services. The Emergency Manager shall be paid in equal bi-weekly installments consistent with the established written policies and procedures of the City. The compensation paid is subject to concessions and furloughs similar to those imposed on non-union executive staff of the City during the term of this Contract. If requested by the State, the Emergency Manager shall provide additional information for services performed pursuant to this Contract.

3.4 Reimbursement for Actual and Necessary Expenses. The actual and necessary expenses of the Emergency Manager will be reimbursed, including customary expenses related to travel, meals, and lodging, incurred and connected to services for the City. The Emergency Manager shall provide original copies of all receipts for meals, lodging, and travel reimbursement with his billings.

4. ADDITIONAL STAFF AND CONSULTANT FEES

4.1 Staff. The Emergency Manager may, as provided in the Act, appoint additional staff as necessary to fulfill the obligations of his appointment and duties under this Contract. Payment of compensation for additional staff will be the obligation of the City. While authority to hire additional staff rests with the Emergency Manager, the Emergency Manager agrees to consult with the State Treasurer, or the designee of the State Treasurer, at least 24 hours before extending offers of employment for positions paying \$50,000.00 or more annually.

4.2 Professional Assistance. The Emergency Manager may, as provided in the Act, secure professional assistance as necessary to fulfill the obligations of his appointment and duties under this Contract. Payment of compensation for additional professional assistance will be the obligation of the City. The Emergency Manager agrees to seek approval by the State Treasurer, or the designee of the State Treasurer, at least 24 hours before authorizing professional services contracts of \$50,000.00 or more per engagement or project.

4.3 Security. The Emergency Manager will be entitled to receive security protection in connection with his duties under this Contract. Security personnel will be retained only upon the approval of the State Treasurer, or the designee of the State Treasurer, and only after consultation with the Director of the Michigan Department of State Police, or her designee. Payment of compensation for security personnel will be the obligation of the City.

5. REPRESENTATIONS

5.1 Qualifications. The Emergency Manager, by signing this Contract, represents that he meets the minimum qualifications for appointment set forth in the Act.

5.2 Conflict of Interest. The Emergency Manager represents and warrants that, to his knowledge, he has no personal or financial interest, and will not acquire any such interest, that would conflict in any manner or degree with the performance of this Contract.

5.3 Non-competition. The Emergency Manager represents and warrants that he is not subject to any non-disclosure, non-competition, or similar clause with current or prior clients or employers that will interfere with the performance of this Contract. The State will not be subject to any liability for any such claim.

5.4 Facilities and Personnel. The City will provide the Emergency Manager with proper facilities and personnel to perform the services and work required to be performed pursuant to this Contract.

5.5 Records. The Emergency Manager shall maintain complete records in accordance with generally accepted accounting practices and sound business practices. This requirement applies to all information maintained or stored in the computer system of the Emergency Manager or computer system of the City. The State and its designees shall have the right to inspect all records related to this Contract.

5.6 Non-Discrimination.

a) The Emergency Manager must comply with Public Act 220 of 1976, the Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq.*, and all applicable federal, State and local fair employment practices and equal opportunity laws. The Emergency Manager covenants that he will not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Emergency Manager must impose this covenant upon every subcontractor that enters into an agreement for the performance of any obligation imposed by this Contract. A breach of this covenant is a material breach of this Contract.

b) The Emergency Manager must comply with Public Act 453 of 1976, the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*, and all applicable federal, State and local fair employment practices and equal opportunity laws. The Emergency Manager covenants that he will not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. The Emergency Manager must impose this covenant upon every subcontractor that enters into an agreement for the performance of any obligation imposed by this Contract. A breach of this covenant may be considered a material breach of this Contract.

5.7 Unfair Labor Practices. The Emergency Manager shall not enter into a contract for the performance of any obligation imposed by this Contract with a subcontractor, manufacturer, or supplier whose name appears in the register prepared pursuant to Public Act 278 of 1980, MCL 423.322, of employers found in contempt of court for failure to correct unfair labor practices. The State may void this Contract if the Emergency Manager, or any subcontractor, manufacturer, or supplier of the Emergency Manager that is a party to a contract for the performance of any obligation imposed by this Contract appears in the above mentioned register.

5.8 Independent Contractor. The relationship of the Emergency Manager to the State and to the City under this Contract is that of an independent contractor. Except as specifically provided in the Act, no liability, benefits, workers compensation rights or liabilities, insurance rights or liabilities, or any other rights or liabilities arising out of, or related to, a contract for hire, nor employer-employee relationship, shall arise, accrue, or be implied to either party under this Contract or to an agent, subcontractor, or employee of either party under this Contract, as a result of the performance of this Contract.

6. NOTICES

6.1 The State Treasurer is the designee of the State for this Contract unless notice of another designation is provided by the Governor. All notices, correspondence, requests, inquiries, billing statements, and other documents mentioned in this Contract shall be directed to the attention of the State Treasurer, Andy Dillon, and to the following:

For the State:

Roger Fraser
Deputy State Treasurer for Local Government Services
Richard H. Austin Building, 430 West Allegan Street
Lansing, Michigan 48922
Phone: (517) 373-3223

Frederick Headen
Director, Bureau of Local Government Services
Richard H. Austin Building, 430 West Allegan Street
Lansing, Michigan 48922
Phone: (517) 373-3305

For the Emergency Manager:

Michael K. Brown
City of Flint
1101 South Saginaw Street, Flint, Michigan 48502

7. LIMITATION UPON LIABILITY

7.1 The State. The State, the Governor, the Treasurer, and all other State officials are not liable for any obligation of or claim against the City resulting from actions taken in accordance with the Act or this Contract. The State, the Governor, the Treasurer, and all other State officials are not liable for any obligation of or claim against the City or the Emergency Manager resulting from actions of the Emergency Manager that are outside the scope of his authority granted by the Act or by this Contract or that are deemed to be gross negligence.

7.2 The Emergency Manager. Pursuant to Section 25 of the Act, the Emergency Manager is engaging in a governmental function and is immune from liability for any action taken which he reasonably believes to be within the scope of his authority granted by the Act or by this Contract. The Attorney General shall defend any claim, demand, or lawsuit brought against the Emergency Manager as provided for under the Act.

8. INSURANCE

8.1 General. The Emergency Manager may procure and maintain, at the expense of the City, health insurance, life insurance, worker's compensation, general liability, professional liability, and motor vehicle insurance for himself and any employee, agent, appointee, or contractor of the Emergency Manager as may be provided to elected officials, appointed officials, or employees of the City. The insurance procured and maintained by the Emergency Manager may extend to any claim, demand, or lawsuit asserted or costs recovered against the Emergency Manager and any employee, agent, appointee, or contractor of the Emergency Manager as provided in the Act.

8.2 Post-Contract. If, after the date that the service of the Emergency Manager is con-

cluded, the Emergency Manager or any employee, agent, appointee, or contractor of the Emergency Manager is subject to a claim, demand, or lawsuit arising from an action taken during the service of the Emergency Manager, and not covered by a procured insurance policy, litigation expenses, including but not limited to attorney fees, payments in satisfaction of judgments, and payments made in settlement as approved by the State Treasurer pursuant to Section 25(5) of the Act, shall be paid by the City. If such expenses are not paid by the City they shall be treated as a debt owed to the State pursuant to the Act.

8.3 Additional Insurance. If the City has purchased, or otherwise obtained, an errors and omissions policy, then, as provided in the Act, the Emergency Manager may choose to be covered under such policy at the expense of the City.

8.4 Payment by City. All insurance required under this Contract shall be acquired at the expense of the City under valid and enforceable policies, issued by insurers of recognized responsibility. The State reserves the right to reject as unacceptable any insurer.

9. TERMINATION OF CONTRACT AND APPOINTMENT

9.1 Termination by the State.

a) GOVERNOR. The Emergency Manager serves at the pleasure of the Governor, who has the power to rescind the appointment and terminate this Contract at any time, and without cause, by issuing a Notice of Termination to the Emergency Manager.

b) LEGISLATURE. The Emergency Manager may be removed by impeachment and conviction by the Legislature pursuant to the Act.

9.2 Termination Process. Upon receipt of a Notice of Termination, and except as otherwise directed by the Governor, or his designee, the Emergency Manager shall:

a) Cease work under this Contract upon the date and to the extent specified in the Notice of Termination.

b) Incur no costs beyond the date specified by the Notice of Termination;

c) Submit to the State on the date the termination is effective all records, reports and documents as this State shall specify and carry out such directives as the State may issue concerning the safeguarding and disposition of files and property; and

d) Submit within 30 calendar days a closing memorandum and final billing, which shall be paid within 30 days.

9.3 Termination by Emergency Manager. The Emergency Manager may terminate this Contract at any time, with or without cause, with 30 days written notice to the State Treasurer. Within 30 days of his final day of service, the Emergency Manager shall submit a closing memorandum and final billing, which shall be paid within 30 calendar days.

10. GENERAL PROVISIONS

10.1 Governing Law and Jurisdiction. This Contract shall be subject to and construed according to the laws of the State of Michigan, and no action shall be commenced against this State, its agents, or employees for any matter whatsoever arising out of this Contract, in any court other than a Michigan State court.

10.2 No Waiver. A party's failure to insist on the strict performance of this Contract shall not constitute waiver of any breach of the Contract.

10.3 Other Debts. The Emergency Manager represents and warrants that he is not, and will not become, in arrears on any contract, debt, or other obligation to the State of Michigan, including taxes.

10.4 Invalidity. If any provision of this Contract or its application to any persons or circumstances shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected, and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

10.5 Headings. Contract section headings are for convenience only and shall not be used to interpret the scope or intent of this Contract.

10.6 Entire Agreement. This Contract represents the entire and exclusive agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties.

10.7 Amendment. No Contract amendment will be effective and binding upon the parties to this Contract unless it expressly makes reference to this Contract, is in writing, and is signed by duly authorized representatives of all parties and all the requisite State approvals are obtained.

10.8 Order of Priority. This Contract and the Act shall be read to be consistent one with the other. However, if a conflict is deemed to exist between the terms of this Contract and the Act, the Act shall supersede the terms of this Contract.

STATE OF MICHIGAN

Dated: _____

11/28/2011



By: Rick Snyder, Governor

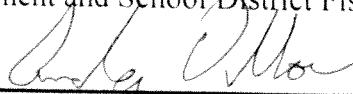
Dated: _____

11/28/2011



Michael K. Brown

Approved as to form and content pursuant to Section 15(5)(e) of Public Act 4 of 2011, the Local Government and School District Fiscal Accountability Act, MCL 141.1501 *et seq.*



Andy Dillon
State Treasurer
State of Michigan

Dated: 11/29/11