

EM SUBMISSION NO.: 2012 EM 059

PRESENTED: 1-27-12

ADOPTED: 2-3-12

BY THE EMERGENCY MANAGER:

RESOLUTION AUTHORIZING ENTERING INTO A PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN THE CITY OF FLINT AND ARNOLD BROWN

In order to provide continuity of services, the Emergency Manager has determined that it would be advantageous for the City to employ the services of Arnold Brown; and

Mr. Brown's duties shall be pursuant to the PSA, and any other duties that may be required by the Emergency Manager; and

The PSA shall be effective beginning on January 3, 2012 and ending on April 6, 2012, inclusive; and

Compensation shall be at the rate of \$36.00 per hour payable in accordance with the City of Flint's normal payroll practices with such payroll deductions and withholdings as required by law; and

Mr. Brown shall not receive any fringe benefits. Compensation for services provided is limited to the hourly wage agreed upon.

IT IS RESOLVED, that the Emergency Manager shall, on behalf of the City of Flint, enter into a PSA with Arnold Brown commencing January 3, 2012 and ending April 6, 2012. Agreed upon compensation is \$36.00 per hour, with no fringe benefits. Compensation shall be drawn from appropriated funds to be determined by the Emergency Manager.

APPROVED AS TO FORM:


Peter M. Bade, Chief Legal Officer

APPROVED AS TO FINANCE:


Jerry Ambrose, Finance Director

EM DISPOSITION:

ENACT ✓ FAIL _____

DATED 2-3-12


Michael K. Brown, Emergency Manager

PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF FLINT AND ARNOLD BROWN

Arnold Brown (herein after "Contractor") does hereby agree to perform the duties described in Section II of this Agreement, and the City of Flint (hereinafter "the City") accepts such services upon all of the terms and conditions set forth in this Agreement.

I. TERM

The term of this contract for professional services under this Agreement shall be for ninety days, beginning on January 3, 2012 and ending April 6, 2012.

II. DUTIES

Contractor agrees and promises to perform and discharge, well and faithfully, the duties assigned to him by Michael K. Brown in his capacity as the Emergency Manager (hereinafter "Emergency Manager") for the City of Flint. Contractor shall carry out administrative and supervisory responsibilities over street maintenance, fleet operations and the sanitation department. Other related duties may, from time to time, be required in the absolute discretion of the Emergency Manager. Contractor agrees to perform those duties necessary to meet the expectations and goals of the City by and through the direction of the Emergency Manager.

III. COMPENSATION

Effective January 3, 2012, Contractor shall be paid at the rate of \$36.00 per hour, in biweekly installments or in other installments that are agreed to by the Emergency Manager and the Contractor. Contractor shall submit invoices for time worked on a biweekly basis. Wages will be payable in accordance with the City of Flint's normal payroll practices with such payroll deductions and withholdings as required by law.

IV. BENEFITS

The City, through the Emergency Manager, shall not provide the Contractor with fringe benefits of any kind, including but not limited to leave time, medical and retirement benefits. The compensation detailed in Section III shall be the sole consideration paid to Contractor by the City.

V. TERMINATION

This Agreement may be terminated by the Contractor at any time upon at least one week of prior written notice of voluntary termination to the Emergency Manager, hand delivered or by certified mail, return receipt requested, or by registered mail. This Agreement may be terminated by the City, by and through the Emergency Manager at any time, with or without cause upon written notification to the Contractor, hand delivered or by certified mail, return

receipt requested, or by registered mail. In all cases, Contractor shall only be entitled to wages for time actually worked.

VI. DISPUTE RESOLUTION

All disputes, controversies, or claims arising out of, in connection with, or relating to this Agreement or any breach or alleged breach of the Agreement shall be submitted to and settled by arbitration in the State of Michigan under the rules then in effect of the American Arbitration Association. The parties specifically agree to arbitration with the other party in a joint proceeding for all common issues and disputes. This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law.

Notice of the demand for arbitration shall be filed, in writing, with the other party to this agreement. The demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question arose when the party asserting the claim should reasonably have been aware of it, but in no event later than one (180) days after the claim arose.

The parties may elect to be represented by an attorney or other representative of their choice. Each party shall have the right to prehearing discovery in the time and manner provided by the then-applicable Michigan Court Rules. Each party also shall have the right to subpoena witnesses and documents for the arbitration hearing.

The arbitrator shall have no power to add to, subtract from, or alter the terms of this Agreement, and shall render a written decision setting forth findings and conclusions only about the claims or disputes at issue. The expenses of any arbitration shall be born by the respective parties and each party shall pay for and bear the costs of its own experts, evidence, and counsel fees. However, if any party prevails on a statutory claim, the arbitrator may award reasonable costs and fees, including the portion of the arbitrator's fees paid by the party, and attorney fees to the prevailing party in accordance with such statute.

Any award by the arbitrator shall be final and conclusive upon the parties and a judgment may be entered in the highest court for the forum, state or federal, having jurisdiction.

VII. ASSIGNMENT PROHIBITED

This Agreement is personal to each of the parties and neither party may assign or delegate any of its rights or obligations under this Agreement without first obtaining the other's written consent.

VIII. MISCELLANEOUS

- A. This Agreement contains all of the terms and conditions of the contractual relationship between the parties, and no amendments or additions to this Agreement shall be binding unless they are in writing and signed by both parties.
- B. This Agreement shall be binding upon the parties, their legal representatives, successors, and assigns.

- C. This Agreement abrogates and takes the place of all prior agreements or understandings that may have been made by the parties.
- D. The Contractor shall comply with all reporting and recording requirements regarding compensation expenditures and benefits provided by the City under the U.S. Internal Revenue Code, as amended, and any of its rules and regulations.

IX. GOVERNING LAW

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Michigan.

X. SEVERABILITY

The invalidity of all or any part of any sections, subsections, or paragraphs of this Agreement shall not invalidate the remainder of this Agreement or the remainder of any paragraph or section not invalidated unless the elimination of such subsections, sections, or paragraphs shall substantially defeat the intents and purposes of the parties.

XI. DEFENSE AND INDEMNIFICATION

City agrees to defend, indemnify and hold harmless Contractor for and against any and all claims made against Contractor in the course of Contractor's performance and duties as specified in Flint City Ordinance 35-80.

By Arnold Brown
CONTRACTOR

Arnold Brown

Dated: January __, 2012

By Michael K. Brown
FOR THE CITY OF FLINT

Michael K. Brown

Dated: January __, 2012

By Arnold Brown,
CONTRACTOR



Arnold Brown

Dated: January 24, 2012

By Michael K. Brown
FOR THE CITY OF FLINT



Michael K. Brown

Dated: January ____, 2012