

EM SUBMISSION NO.: 2012EM260

PRESENTED: 5-15-12

ADOPTED: 5-15-12

BY THE EMERGENCY MANAGER:

**RESOLUTION CONCERNING CITIZENS SERVICE BUREAU LAWSUITS: DENIAL
OF INDEMNIFICATION AND APPROVAL OF COLLECTION EFFORTS**

WHEREAS, The City of Flint is a party to litigation arising from allegations of racial discrimination and retaliation when former Mayor Donald J. Williamson created the Citizen's Service Bureau (CSB), those being the cases of David Porter, *et al.* v City of Flint and Donald J. Williamson, et al, being Case Number 07-14507, pending in U.S. District Court for the Eastern District of Michigan, Southern Division, and Mike Angus, *et al.* v. Donald J. Williamson, Case Numbers 09-92472-CL, 09-92480-CL, 09-92391-CL, 09-92481-CL, 09-92407-CL, pending in the Circuit Court for the County of Genesee, State of Michigan; and

WHEREAS, the parties entered into an Arbitration Agreement on December 11, 2009, which consolidated all pending CSB matters; and

WHEREAS, the arbitration occurred over ten (10) days in January, 2011 and resulted in an arbitration award issued July 6, 2011 against Defendant City of Flint and Defendant Donald J. Williamson for \$3,825,435.70 plus judgment interest under MCL 600.6013; and

WHEREAS, the arbitrators specifically provided that the arbitration award was joint and several, meaning the award could be collected from either or both of the defendants; and

WHEREAS, the arbitrators described Defendant Williamson's conduct and decision making as "ill-advised," "rash," "arrogant," "impulsive," and "misguided"; and

WHEREAS, the arbitrators concluded Defendant Williamson "failed to be open and honest" in his testimony and were "deeply disturbed by his apparent refusal to honor his oath"; and

WHEREAS, the arbitrators concluded Defendant Williamson disregarded the advice of his police chief, disregarding existing procedures that governed how promotions in the police department were to be made, and made appointments to the CSB without consulting his police chief; and

WHEREAS, the arbitrators concluded Defendant Williamson clearly violated the law and made appointments to the CSB illegally based on race to promote his own political interests; and

WHEREAS, the arbitrators concluded Defendant Williamson violated police officers' first amendment rights by retaliating against them; and

WHEREAS, Defendant Williamson did not appeal the findings of the arbitrators; and

WHEREAS, based on the findings of the arbitrators, Defendant Williamson was not acting in good faith or within the scope of his employment when he formed the CSB or retaliated against police officers; and

WHEREAS, under the circumstances of the case, Defendant Williamson is not entitled to indemnification under City Code §35-80 and, absent court order to do so, the City should not indemnify Defendant Williamson; and

WHEREAS, the City of Flint has negotiated a payment agreement with the CSB plaintiffs pursuant to which the arbitration award will be paid in installments of \$1,000,000 in September, 2011, \$500,000 on or before June 1, 2012, \$500,000 on or before September 1, 2012; and on or before January 15, 2013 the total remaining amount owed including judgment interest.

WHEREAS, the CSB plaintiffs have assigned to the City of Flint their right to collect the judgments from Defendant Williamson, meaning the City of Flint may collect from him the judgments; and

WHEREAS, the City of Flint, through the Chief Legal Officer, is actively seeking to collect the arbitration award/judgments from Defendant Williamson; and

WHEREAS, Defendant Williamson has requested the City of Flint indemnify him pursuant to Flint City Code §35-80, but that request has been denied by the Chief Legal Officer.

THEREFORE BE IT RESOLVED, the City of Flint's payment agreement with the CSB plaintiffs, as set forth above, is approved.

BE IT FURTHER RESOLVED that Defendant Donald J. Williamson is not entitled to indemnification under Flint City Code §35-80 and the City of Flint does not agree to indemnify him.

BE IT FURTHER RESOLVED that the Chief Legal Officer should continue with efforts to collect the arbitration award/judgments from Defendant Donald J. Williamson.

APPROVED AS TO FORM:

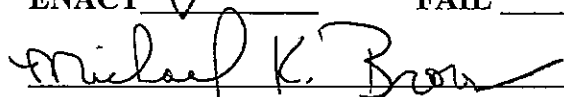


Peter M. Bade, Chief Legal Officer

EM DISPOSITION:

ENACT ☒ _____ FAIL _____

DATED 5-15-12



Michael K. Brown, Emergency Manager
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