

City of Flint, Michigan

*Third Floor, City Hall
1101 S. Saginaw Street
Flint, Michigan 48502
www.cityofflint.com*



Meeting Agenda - Final

Monday, August 26, 2019

4:30 PM

Committee Room

SPECIAL AFFAIRS COMMITTEE

Monica Galloway, Chairperson, Ward 7

***Eric Mays, Ward 1
Santino J. Guerra, Ward 3
Jerri Winfrey-Carter, Ward 5
Allan Griggs, Ward 8***

***Maurice D. Davis, Ward 2
Kate Fields, Ward 4
Herbert J. Winfrey, Ward 6
Eva L. Worthing, Ward 9***

Inez M. Brown, City Clerk

ROLL CALL

REQUEST FOR CHANGES AND/OR ADDITIONS TO AGENDA

Council shall vote to adopt any amended agenda.

EXECUTIVE (CLOSED) SESSION

The Department of Law requests an Executive Session for the purpose of requesting settlement authority regarding (1) pre-suit claim by Marjorie McClain and (2) pre-suit claim by Vivian Pickard.

PUBLIC SPEAKING

Members of the public shall have no more than two (2) minutes to address the City Council on any subject.

UNFINISHED BUSINESS/RECONSIDERATION (POSTPONED)

[NOTE: Resolution No. 190280, which was FAILED by the City Council on July 22, 2019, was discussed during the August 12, 2019 City Council meeting. At that time, Councilperson Mays, seconded by Councilperson Winfrey-Carter, made a motion to table the reconsideration of the resolution to the following committee agenda. As a result, Resolution No. 190280 was listed under "Unfinished Business/Reconsideration" on the August 21st Finance Committee agenda. However, the meeting(s) was adjourned due to the lack of a quorum and the resolution was not addressed at that time.]

- 190280** Purchase Order/AFSCME Local 1600/AFSCME Local 1799/Phase V Restoration Services/Two (2) Zones
- Resolution authorizing the Department of Purchases and Supplies, upon City Council's approval, to issue a purchase order to AFSCME Local 1600 & 1799 for Phase V restoration services for the remaining two (2) zones for pavement right-of-way repair/restoration services, in an amount NOT-TO-EXCEED \$2,058,780.00, as requested by Public Works [Acct. No. 496-540.210-801.030 SDEQ-18LEAD1.]

RESOLUTIONS (POSTPONED)

[NOTE: Resolution No. 190345 was POSTPONED from the August 21, 2019 Committee meetings to this Special Affairs agenda due to the lack of a quorum.]

- 190345** Public Hearing Date/Obsolete Property Rehabilitation Exemption Application/2957 Carr Street
- Resolution resolving that a public hearing to consider an Obsolete Property Rehabilitation Exemption Certificate for Fraser Flint, L.L.C., on the property located at 2957 Carr Street, Flint, be held September 23, 2019, at 5:30 p.m. in City Council Chambers, Flint City Hall, 1101 S. Saginaw Street, Flint, as requested by the Community and Economic Development, and that notice of such hearing shall be published in an official paper of general circulation not

less than ten (10) days prior to said hearing.

RESOLUTIONS

190330.1 Amendment/Purchase Agreement/City of Flint/County of Genesee/Chevy Commons/Flint Riverfront Restoration Project

Amended resolution resolving that the Flint City Council approves entering into the Purchase Agreement between the City of Flint and the County of Genesee related to the nine (9) parcels of real property commonly known as Chevy Commons, AND, resolving that the Purchase Price, in accordance with the Purchase Agreement, shall be held in escrow by a third-party escrow agent, which will use the escrowed funds to pay the hard and soft costs of constructing certain improvements to public parks within the City of Flint park system, as described in the development plans and budget to be approved by the city in accordance with the Purchase Agreement, AND, resolving that all lawful conduct and actions of the employees, contractors and/or agents of the City of Flint to effectuate this resolution are hereby ratified, adopted, affirmed and approved. [NOTE: The County of Genesee desires to purchase the property from the City of Flint for a total purchase price of Six Million Two Hundred Sixty-Three Thousand Seven Hundred and 00/100 (\$6,263,700.00) Dollars. The Purchase Price consists of a grant in the amount of Four Million Six Hundred Ninety-Seven Thousand Seven Hundred Seventy-Five and 00/100 (\$4,697,775.00) Dollars and matching funds in the amount of One Million Five Hundred Sixty-Five Thousand Nine Hundred Twenty-Five and 00/100 (\$1,565,925.00) Dollars.] [NOTE: Resolution amended to add additional details.]

190342 Rescission/Resolution No. 190123/Zero Mass Water Michigan, LLC

Resolution resolving that the proper City Officials, upon appropriate authorization, do all things necessary to rescind Resolution No. 190123 to Zero Mass Water Michigan, LLC. [NOTE: On June 10, 2019, the City was authorized to enter into a Lease Agreement with Zero Mass for the purpose of producing bottled water utilizing SOURCE Hydropanels, which were to be installed pursuant to the terms of the lease. Zero Mass informed the City that the depth below the surface at the City of Flint Water Treatment Plant is not deep enough to mount the hydropanels.]

APPOINTMENTS (POSTPONED)

[NOTE: Appointment No. 190197 was POSTPONED from the August 21, 2019 Committee meetings to this Special Affairs agenda due to the lack of a quorum.]

190197 Reappointment/Hurley Board of Managers/Dr. Ronald Stewart/Ward 2

Resolution resolving that the Flint City Council approves the reappointment of Dr. Ronald Stewart (2425 Welch Blvd., Flint, MI 48504 - Ward 2) to a five-year term on the Hurley Board of Hospital Managers, commencing May 15, 2019, and expiring April 30, 2024, as recommended by Mayor Karen W. Weaver.

APPOINTMENTS

190346 Appointment/Zoning Board of Appeals/Florisa Stebbins (Ward 1)

Resolution resolving that the Flint City Council approves the appointment of Florisa Stebbins (341 Robbie Lane, Flint, MI, 48505 - Ward 1) to the Zoning Board of Appeals for a three-year term that begins immediately and expires on September 1, 2020, replacing Leon A. El-Alamin. [NOTE: By way of background, Leon A. El-Alamin's term on the Zoning Board of Appeals expired August 31, 2017, although he continued to serve.]

ORDINANCES (POSTPONED)

[NOTE: Ordinances No. 190239 and 190323 were POSTPONED from the August 21, 2019 Committee meetings to this Special Affairs agenda due to the lack of a quorum.]

190239 Amendment/Ordinance/Chapter 46 (Utilities)/Article V (Wastewater Disposal Regulations)/Division I (Use of Storm Sewers)

An ordinance to amend the Flint City Code of Ordinances by amending Chapter 46 (Utilities), Article V (Wastewater Disposal Regulations), Division I (Use of Storm Sewers), by adding new sections 46-125 through 46-150.

190323 Amendment/Ordinance/Chapter ____/Article ____/_/_____/Add Section ____ (Ethics and Accountability Board By-Laws)

An ordinance to amend the Flint City Code of Ordinances by amending Chapter ____, Article ____, _____, by adding Section _____ (Ethics and Accountability Board By-Laws).

ORDINANCES**DISCUSSION ITEMS****ADDITIONAL COUNCIL DISCUSSION****ADJOURNMENT**

FAILED
7.22.2019

SUBMISSION NO

190280

PRESENTED

7-17-19

ADOPTED

BY THE CITY ADMINISTRATOR

**RESOLUTION TO THE CITY OF FLINT MAINTENANCE /AFSCME LOCAL 1600 & 1799
FOR PHASE V FOR PAVEMENT RIGHT-OF-WAY REPAIR/RESTORATION SERVICES**

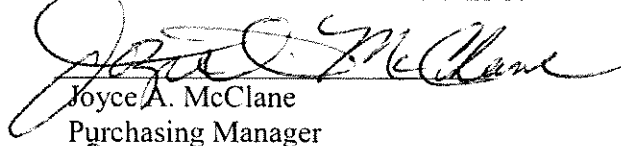
RESOLUTION

The Department of Purchases and Supplies received a staff review recommendation from the Department of Public Works for Phase V Restoration Services. Eight of the ten zones for restoration were previously awarded leaving two remaining zones; and

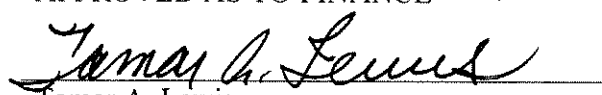
The City of Flint is recommending that AFSCME Local 1600 & 1799 be awarded the remaining two zones (totaling 1200 addresses) for pavement right-of-way repair/restoration services after water SLR's and SLE's in the amount not to exceed \$2,058,780.00 from account 496-540.210-801.030 SDEQ-18LEAD1, as they were the lowest responsive bidder; and

IT IS RESOLVED, Department of Purchases and Supplies is requesting authorization to issue a purchase order to **AFSCME Local 1600 & 1799 for Phase V Restoration Services** for the remaining two zones for pavement right-of-way repair/restoration services in the **amount not to exceed \$2,058,780.00.**

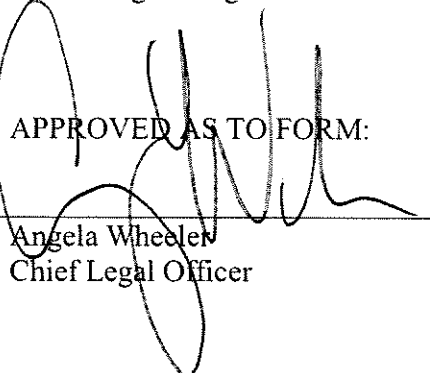
APPROVED PURCHASING DEPT.


Joyce A. McClane
Purchasing Manager

APPROVED AS TO FINANCE


Tamar A. Lewis
Deputy Finance Director

APPROVED AS TO FORM:


Angela Wheeler
Chief Legal Officer

APPROVED AS TO FINANCE:


Steve Branch
City Administrator



AECOM
G-3287 Beecher Road
Suite 1400
Flint, MI 48532
www.aecom.com

810 732 6712 tel
810 732 6768 fax

June 19, 2018

Mr. Bryan D. Bond
Purchasing Manager
City of Flint, Department of Purchases and Supplies
1101 S. Saginaw Street, Room 203
Flint, MI 48502

Reference: City of Flint Fast Start
2018 Phase V Restoration
Proposal No. 18-579
Bid Evaluation and Recommendation

Dear Mr. Bond:

Proposals for the Phase V Restoration project, as covered by the Contract Documents prepared by AECOM Technical Services, Inc. (AECOM) were received until 12:00 PM on Friday, June 15, 2018, by the City of Flint. Shortly thereafter, the bids received were opened and the bid prices were read aloud.

Five (5) bids were received. At the conclusion of the reading of all of the bids received, AECOM was authorized by the City to check the bids received and to prepare an official breakdown of all information received. In compliance therewith, we submit our Official Record of Bids Received, which has been certified by the Program Construction Manager, Mr. Darby Neidig, P.E. The bids are tabulated in order of the low bidder first, the second low bidder second, etc. A summary of the bids received is listed below:

Bidder	Total Base Bid Submitted	Corrected Total Base Bid	Max Number Work Areas
AFSCME Local 1600 / 1799	\$1,029,390.00	N/A	2
Goyette Mechanical	\$1,482,822.56	\$1,483,072.00	10
Zito Construction, Inc.	\$2,087,195.00	N/A	10
LA Construction Corporation	\$2,250,000.00	N/A	5
Martha Brown Custom Builders	\$2,710,850.00	N/A	10
Engineer's Estimate	\$1,066,825.00		

BID COMPLETENESS

The following items are required to be submitted with the Bids.

Acknowledgement of Addenda

- All bidders acknowledged Addenda 01 and 02.
- Goyette Mechanical did not acknowledge the quantity of Bid Item R.9 as 19,200 SF on the actual bid form per Addenda 02.

Mr. Bryan D. Bond
June 19, 2018
Page 3

Bid Bond

- No Bid Bonds were properly submitted. Per Addendum 01, the Bid Bond was to be provided in an amount of 5% of the submitted Bid multiplied by the number of work zones.
- Goyette Mechanical and LA Construction provided a Bid Bond equal to 5% of the total price of their respective Bid but did not consider the number of zones in their Bid Bond.
- Zito Construction and Martha Brown Custom Builders provided a Bid Bond equal to \$75,000 multiplied by the number of work zones.
- AFSCME did not provide a Bid Bond.

It is our opinion that the irregularities listed above can be waived by the City of Flint, with the understanding that missing or incomplete information be corrected as requested by the City or discussed below. Corrections should be addressed prior to the City making a determination regarding the award of the Contract.

COST EVALUATION**Total Cost**

The total cost of the Bids and the corresponding variance from the low bid is summarized in the table below.

BIDDER	CORRECTED TOTAL BASE BID	DIFFERENCE VS. LOW BID	
AFSCME Local 1600 / 1799	\$1,029,390	\$0	0%
Goyette Mechanical	\$1,483,072	\$453,682	44.07%
Zito Construction, Inc.	\$2,087,195	\$1,057,805	102.76%
LA Construction Corporation	\$2,250,000	\$1,220,610	118.58%
Martha Brown Custom Builders	\$2,710,850	\$1,681,460	163.35%

Based upon the large variance (>100%) of the total cost of the bottom three bidders (Zito, LA Construction, and Martha Brown) from the low bidder (AFSCME), we believe that the bottom three bidders should be removed from further consideration and not awarded a portion of, or the entire Phase V Restoration contract. Our opinion is that only Bids submitted by AFSCME and Goyette Mechanical should be further evaluated for consideration of award for either a portion of or the entire Phase V Restoration contract.

RECOMMENDATION

We recommend that the City consider one of the two options described below based upon obtaining the information described below:

- OPTION #1: Award one or two zones to AFSCME and eight to nine remaining zones to Goyette Mechanical.
- OPTION #2: Award ten zones to Goyette Mechanical

ITEM	DESCRIPTION	QUANTITY	ENGINEER ESTIMATE		ASFCME LOCAL 1600 / 1799		GOVETTE MECHANICAL ¹		ZITO CONSTRUCTION		LA CONSTRUCTION		MARTHA BROWN	
			UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST
M.1	Mobilization / Demobilization	1 LS	\$	\$	\$	\$	\$	\$	\$ 28,000.00	\$ 28,000.00	\$ 78,948.00	\$ 78,948.00	\$ 2,500.00	\$ 2,500.00
R.1	Asphalt Roadway, Major Roads	6,600 SF	\$ 1.20	\$ 7,920.00	\$ 16.49	\$ 108,174.00	\$ 18.74	\$ 123,618.00	\$ 40.00	\$ 264,000.00	\$ 35.97	\$ 237,402.00	\$ 45.00	\$ 297,000.00
R.2	Asphalt Roadway, Local Roads	34,700 SF	\$ 9.50	\$ 329,650.00	\$ 13.11	\$ 454,917.00	\$ 15.88	\$ 551,046.00	\$ 20.00	\$ 694,000.00	\$ 29.14	\$ 1,011,158.00	\$ 32.00	\$ 1,110,400.00
R.3	Concrete Roadway, State Highways	400 SF	\$ 15.00	\$ 6,000.00	\$ 21.63	\$ 8,652.00	\$ 17.40	\$ 6,960.00	\$ 45.00	\$ 18,000.00	\$ 21.72	\$ 8,688.00	\$ 80.00	\$ 32,000.00
R.4	Concrete Roadway, Major Roads	1,200 SF	\$ 11.00	\$ 13,200.00	\$ 21.63	\$ 25,956.00	\$ 17.40	\$ 20,880.00	\$ 40.00	\$ 48,000.00	\$ 20.97	\$ 25,164.00	\$ 80.00	\$ 96,000.00
R.5	Concrete Roadway, Local Roads	6,200 SF	\$ 9.00	\$ 55,800.00	\$ 17.30	\$ 107,260.00	\$ 15.82	\$ 98,084.00	\$ 32.00	\$ 198,400.00	\$ 16.60	\$ 102,920.00	\$ 70.00	\$ 434,000.00
R.6	Asphalt Driveway	2,900 SF	\$ 9.50	\$ 27,550.00	\$ 13.11	\$ 38,019.00	\$ 14.75	\$ 41,325.00	\$ 24.00	\$ 66,700.00	\$ 29.16	\$ 84,564.00	\$ 30.00	\$ 87,000.00
R.7	Concrete Driveway	2,900 SF	\$ 9.00	\$ 26,100.00	\$ 4.88	\$ 14,152.00	\$ 13.14	\$ 38,106.00	\$ 27.00	\$ 78,300.00	\$ 22.44	\$ 65,076.00	\$ 20.00	\$ 58,000.00
R.8	Curb and Gutter	4,100 LF	\$ 4.80	\$ 237,600.00	\$ 37.73	\$ 154,693.00	\$ 56.43	\$ 231,463.00	\$ 65.00	\$ 266,500.00	\$ 47.89	\$ 196,349.00	\$ 50.00	\$ 205,000.00
R.9	Concrete Sidewalk	19,200 SF	\$ 10.50	\$ 201,600.00	\$ 4.88	\$ 93,696.00	\$ 14.75	\$ 273,600.00	\$ 19.00	\$ 364,800.00	\$ 12.19	\$ 234,048.00	\$ 16.00	\$ 307,200.00
R.10	Greenbelt and Lawn Area	32,700 SF	\$ 2.75	\$ 89,925.00	\$ 0.73	\$ 23,871.00	\$ 3.03	\$ 98,100.00	\$ 1.85	\$ 60,495.00	\$ 6.29	\$ 205,683.00	\$ 2.50	\$ 81,750.00
				\$ 1,066,825.00		\$ 1,029,350.00		\$ 1,483,072.00		\$ 2,087,185.00		\$ 2,250,000.00		\$ 2,710,850.00

¹ Bid Items R.1, R.2 and R.9 do not tabulate correctly. Total Cost is reflective of the Unit Cost * Quantity.

190345

Resolution No. _____

Presented: 8-21-19

Adopted: _____

**Resolution Setting Hearing Date to Consider an Obsolete Property
Rehabilitation Exemption Application – Carr St. Apartments**

(P.A. 146 of 2000, as amended –2957 Carr St. District – Fraser Flint L.L.C.)

By the Mayor:

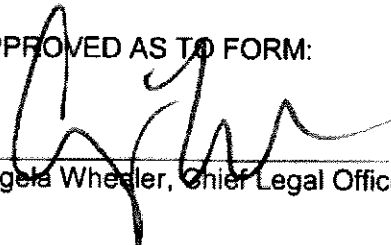
On the 13th day of May, 2019, an Obsolete Property Rehabilitation District was established on the property legally described in the *Attachment* and comprised of real property at 2957 Carr St., and located within the City of Flint.

Owners of said property filed with Flint City Clerk's Office, an application for an Obsolete Property Rehabilitation Exemption, for rehabilitated facilities located within the previously established and legally described Obsolete Property Rehabilitation District.

Before acting upon said application, the Flint City Council is required by state statute, to hold a public hearing on the approval of the Obsolete Property Rehabilitation Exemption Application, at which time the owners and other interested parties may appear and be heard.

IT IS RESOLVED, That such hearing to consider an Obsolete Property Rehabilitation Exemption Application for the Fraser Flint, L.L.C. property located at 2957 Carr St., be held on the 23rd day of September, 2019, at 5:30 p.m. in the City Council Chamber of Flint City Hall, 1101 S. Saginaw Street, Flint, Michigan. The City Clerk shall cause notice of such hearing to be published in an official paper of general circulation not less than ten (10) days prior to said hearing.

APPROVED AS TO FORM:



Angela Wheeler, Chief Legal Officer

ADMINISTRATION



Karen W. Weaver, Mayor

CITY COUNCIL

Herbert J. Winfrey, President

ATTACHMENT

The land is described premises situated in the City of Flint, County of Genesee, State of Michigan, to-wit:

2957 Carr St.

Parcel No. 47-33-302-006

Legal Description: KEARSLEY LAKE VIEW PART OF NW 1/4 OF SW 1/4 OF SEC 33, T8N, R7E LOTS 11 THRU 18 INCL

RESOLUTION STAFF REVIEW

DATE

August 2, 2019

Agenda Item Title:

- ✓ 1. Resolution Setting Hearing Date to Consider the Approval of an Obsolete Property Rehabilitation Exemption Application for Fraser L.L.C. (Public Act 146 of 2000, as amended - 2957 Carr St.)
- 2. Resolution Approving an Obsolete Property Rehabilitation Exemption Application (Public Act 146 of 2000, as amended – 2957 Carr St.)

Prepared By

Department of Planning and Development - Community and Economic Development Division

Background/Summary of Proposed Action:

These resolutions are to 1.) Set a public hearing date on which to allow for public comments on the application for an Obsolete Property Exemption Certificate for 2957 Carr St.; 2.) Subsequent approval of the application.

The apartment complex for which this application refers, is owned by Fraser Flint, L.L.C and is located at 2957 Carr Street in a northeast Flint neighborhood in close proximity to the Kearsley Reservoir. The complex was constructed in 1968 and consists of a mix of five 2-story California and ranch style buildings. There is a total of 42 apartments with a total square footage of 21,000. All units are currently vacant.

The Owner plans to completely renovate all units with energy efficient furnaces, tankless water heaters, new kitchens, bathrooms and other items as included in the attached application.

The owner's intent is to create a gated community, rehab the units and market them to seniors and veterans. Amenities offered or included will be onsite laundry facilities, security with security cameras, gardening area for residents, fitness/activity room, exam room for medical personnel to see patients, area for cookouts and gatherings, and an area close to the water to enjoy the view.

Obsolete Property Rehabilitation Act (OPRA)

Under the OPRA, only those properties within the district meeting the definition of "obsolete property" are eligible for an exemption certificate. The facility for which the

Flint Fraser L.L.C. – OPRA Request
2957 Carr St. District
August 2, 2019 – Page Two

OPRA exemption is being requested for this application has been deemed and described as functionally obsolete, which is defined as follows:

... the property is unable to be used to adequately perform the function for which it is intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or super inadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

Financial Implications (Analysis):

If the Obsolete Property Rehabilitation Exemption Certificate is granted, property taxes would be levied using the taxable value of the building prior to rehab of the facility (i.e. the value of the building for the year prior to the approval of the application for the certificate) for the exemption period. In addition, state education taxes and school operating taxes would be levied throughout the exemption period, but always using the *current* value of the building and not the pre-rehab value.

Tax savings are realized under the exemption certificate when the owner rehabilitates the building, resulting in an increased taxable value. The owner would then be paying taxes based on the pre-rehabilitated value of the building as opposed to the current higher rehabilitated value.

Budgeted Expenditure: Yes _____ No X _____ **Please explain, if no: N/A**

Account #:

Date Reviewed and approved by Carissa Dotson N/A

Pre-encumbered: Yes _____ No _____ **Requisition #** N/A

Other Implications (i.e., collective bargaining): There are no known implications

Staff Recommendation: The Administration recommends approval.


Glenda R. Dunlap
Program Manager

RESOLUTION REVIEW FORM

FROM: DCED/- GRD
Department/Author

DATE
NO.

August 2, 2019
19-8128
Law Office Login #

RESOLUTION NAME: **Reso Settling a Hearing Date for Approval of the 2957 Carr St. Application**

Date in:

1. RESOLUTION REVIEW - PLANNING AND DEVELOPMENT DIRECTOR

By: Suzanne Wilcox
Planning and Development Director

DATE: 8/2/19
(Date)

Date in:

2. RESOLUTION REVIEW - LEGAL

The attached RESOLUTION is submitted to the Legal Department for Approval as to FORM ONLY:
The Legal Department has reviewed the RESOLUTION as to Form on
this form approves as to FORM ONLY

(Date)

and by signing

By:
Legal Officer

DATE:

8/7/19

190330.1

RESOLUTION NO.: _____

PRESENTED: 8-7-19

ADOPTED: _____

**RESOLUTION TO ENTER INTO PURCHASE AGREEMENT BETWEEN THE CITY
OF FLINT AND THE COUNTY OF GENESEE TO BENEFIT THE FLINT
RIVERFRONT RESTORATION PROJECT**

BY THE MAYOR:

WHEREAS, the City of Flint (the "City") and County of Genesee (the "County") (collectively, the "Parties") mutually desire to further the Flint Riverfront Restoration Project ("FRRP"), which will include further development of Chevy Commons, Riverbank Park, Vietnam Veterans Park, and improvements inside the banks of the Flint River between Chevrolet Avenue and Stewart Avenue;

WHEREAS, the County of Genesee has agreed to purchase nine (9) parcels of real property located in the City of Flint, Genesee County, State of Michigan, commonly known as Chevy Commons (the "Property") for the development of the FRRP in accordance with the terms and conditions set forth in the purchase agreement (the "Purchase Agreement");

WHEREAS, the County of Genesee desires to purchase the Property from the City of Flint;

WHEREAS, the Parties desire to transfer ownership of the Property from the City to the County upon the terms set forth in the Purchase Agreement;

WHEREAS, the total purchase price for the Property shall be Six Million Two Hundred Sixty Three Thousand Seven Hundred and 00/100 (\$6,263,700.00) Dollars (the "Purchase Price"). The Purchase Price consists of a grant in the amount of Four Million Six Hundred Ninety Seven Thousand Seven Hundred Seventy Five and 00/100 (\$4,697,775.00) Dollars and matching funds in the amount of One Million Five Hundred Sixty Five Thousand Nine Hundred Twenty Five and 00/100 (\$1,565,925.00) Dollars.

WHEREAS, in accordance with the Purchase Agreement, the Purchase Price will be held in escrow by a third party escrow agent, which will use the escrowed funds to pay the hard and soft costs of constructing certain improvements to public parks within the City of Flint park system and in the Flint River between Chevrolet and Stewart Avenue as described in the development plans and budget to be approved by the City in accordance with the Purchase Agreement. The improvements to be funded with the grant and matching funds are generally contemplated in the City's Master Plan as it relates to the FRRP;

WHEREAS, the Purchase Agreement provides that the Parties will restrict the use of the Property by utilizing deed restrictions which will limit the use of the Property to a park open to the general public for recreational purposes;

WHEREAS, the Purchase Agreement provides that residents of the City and County will not be charged an entrance fee for their use of the Property or a parking fee of any kind for parking within the boundaries of the Property, without the written consent of the City.

WHEREAS, subject to certain conditions more fully described in the Purchase Agreement, the Purchase Agreement grants the City a right of first option to repurchase the Property for One (\$1.00) Dollar in the event that the County desires to: i) sell, assign or otherwise convey or transfer the Property or any portion thereof, ii) grant a concession, lease or license or other use or occupancy agreement to any third party for the purpose of enabling or permitting the third party to operate or manage the Property, or any portion thereof, or iii) cease using the Property or any portion thereof as a park open to the general public for recreational purpose approved by the City and the County;

WHEREAS, the Purchase Agreement provides that the County shall not change the established name of the Property from Chevy Commons without the City's consent;

WHEREAS, any profits earned by the County's operation of the Riverfront Project, as defined in the Purchase Agreement, after payment of outstanding obligations related to the Riverfront Project, shall be equally shared amongst the City and the County;

WHEREAS, the FRRP goals and benefits will improve public safety in many ways. The project will make access to the river for fishing and other recreation much safer. Crime Prevention Through Environmental Design (CPTED) principles will be implemented along the Flint River Corridor;

WHEREAS, the FRRP will further remove the dams, and naturalize the river, improve water quality by increasing the dissolved oxygen content in the water, improve sediment and material transport, and return the river back to its natural geomorphology. In addition, the project has improved 71 stormwater outfalls, which will help reduce erosion and sedimentation;

WHEREAS, the FRRP will improve water quality, aquatic habitat, and provide fish passage for better fishing conditions. In addition to fishing, paddling will be possible for the first time in this stretch of the river. On land, the project will add park amenities, miles of trail that will connect neighborhoods to the river, and plenty of opportunities for children to play;

WHEREAS, with improved water quality and more recreation opportunities comes better health benefits. All residents deserve to have access to safe walking trails, places for kids to ride bikes, and access to a healthier river. By creating a healthier environment, the City and County will create a healthier place to live, which makes it easier for residents to live healthy lives. As Chevy Commons is being greened, it is not just reducing blight, stormwater will be actively managed and pre-treated through the use of green infrastructure which results in improving water quality for the Flint River. With nearly 40 acres greened already, habitat will be added along with the planting of hundreds of trees;

WHEREAS, by caring for our natural resources, Flint and Genesee County are being made a better place to live for residents and providing people across the state even more reasons to visit Flint, which, increases the quality of life in Flint and attracts more businesses. Given the far reaching implications of this project, it would be in the City's best interests to expand the momentum of development from downtown Flint across the entire corridor along the river upstream and into the City's neighborhoods; and

WHEREAS, Mayor, Dr. Karen W. Weaver recommends entering into the Purchase Agreement between the City of Flint and the County of Genesee, in the form attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the Flint City Council approves entering into the Purchase Agreement between the City of Flint and the County of Genesee related to the nine (9) parcels of real property commonly known as Chevy Commons.

FURTHER, BE IT RESOLVED, that the Purchase Price, in accordance with the Purchase Agreement, shall be held in escrow by a third party escrow agent, which will use the escrowed funds to pay the hard and soft costs of constructing certain improvements to public parks within the City of Flint park system as described in the development plans and budget to be approved by the City in accordance with the Purchase Agreement.

FURTHER, BE IT RESOLVED, that all lawful conduct and actions of the employees, contractors and/or agents of the City of Flint to effectuate this resolution are hereby ratified, adopted, affirmed and approved.

APPROVED AS TO FORM:



Angela Wheeler, Chief Legal Officer

FOR THE CITY OF FLINT:

Dr. Karen W. Weaver, Mayor

APPROVED AS TO FINANCE:

Tamar Lewis, Deputy Finance Director

APPROVED BY CITY COUNCIL:

Herbert Winfrey, City Council President

RESOLUTION STAFF REVIEW

August 5, 2019

Agenda Item Title:

Resolution to Enter into Purchase Agreement Between the City of Flint and the County of Genesee to Benefit the Flint Riverfront Restoration Project.

Submitted By:

Law Department

Summary of Proposed Action:

The County of Genesee has agreed to purchase nine parcels of real property from the City of Flint commonly known as Chevy Commons. Sale of the property will allow for further advancement of the Flint River Restoration Project. The Flint River Restoration Project (FRRP) works to provide: 1) Improved Safety, 2) Improved Water Quality, 3) More Recreation, 4) Health Benefits, 5) Economic Development in and along the Flint River between Chevrolet Avenue and Carpenter Road. Two phases of the FRRP have already been complete; those being the removal of the superstructures of Hamilton and Fabri Dams, and the repair of 71 storm water outfalls along the Flint River from Robert T. Longway to Carpenter Road. The sale of the property will provide funding for the third phase of the project. The third phase of the project will provide improvements to Chevy Commons, Riverbank Park, Vietnam Veterans Park, provide fish passage upstream, and kayaking/canoeing opportunities downstream.

Financial Implications:

The purchase price of the property shall be \$6,263,700.00 from Michigan Department of Natural Resource grant funds. The payment will be placed into an escrow account, and then re-invested by the City of Flint in to the river for the FRRP. The grant was specifically written for this purpose and funds may only be used to invest in the FRRP.

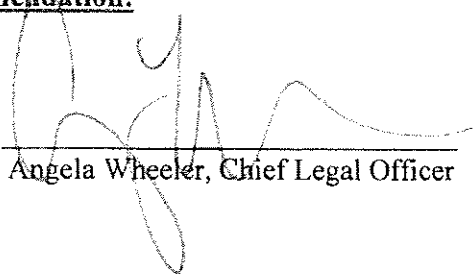
Other Implications:

None

Staff Recommendation:

Approval.

Staff Person:


Angela Wheeler, Chief Legal Officer

190342

RESOLUTION NO: _____

PRESENTED: _____

8-26-2019

ADOPTED: _____

**RESOLUTION TO RESCIND RESOLUTION #190123 TO ZERO MASS WATER
MICHIGAN, LLC**

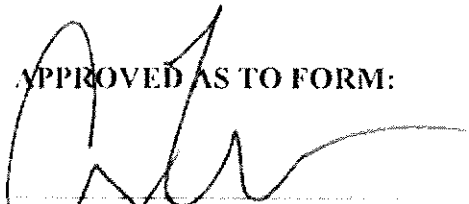
BY THE CITY ADMINISTRATOR:

On June 10, 2019, the Proper City Officials were authorized under submission #190123 to enter into a Lease Agreement with Zero Mass Water Michigan, LLC.

Zero Mass informed the City that the depth below the surface at the City of Flint Water Treatment Plant is not deep enough to mount the hydro-panels. The City is requesting to rescind the Lease Agreement with Zero Mass Water Michigan, LLC and request submission #190123 be rescinded.

IT IS RESOLVED, that the Proper City Officials, upon appropriate authorization, do all things necessary to rescind resolution #190123 to Zero Mass Water Michigan, LLC.

APPROVED AS TO FORM:



Angela Wheeler, Chief Legal Officer

FOR THE CITY OF FLINT:



Steve Branch, City Administrator

APPROVED AS TO FINANCE:



Tamar Lewis, Deputy Finance Director

APPROVED BY CITY COUNCIL:

Herbert Winfrey, City Council President

Attachment
to 190342

190123

RESOLUTION NO.: _____

PRESENTED: 4 4-19

ADOPTED: 6-10-2019

**RESOLUTION TO APPROVE LEASE AGREEMENT BETWEEN THE CITY OF
FLINT AND ZERO MASS WATER MICHIGAN, LLC**

BY THE MAYOR:

WHEREAS, Zero Mass Water Michigan, LLC has agreed to produce bottled water, utilizing SOURCE Hydropanels, that provide clean, safe, high quality, renewable drinking water.

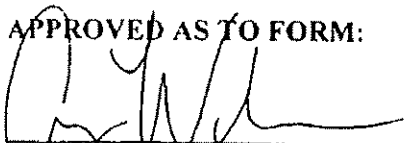
WHEREAS, the Hydropanels are to be installed pursuant to the terms of the lease.

WHEREAS, the City of Flint and Zero Mass Water Michigan, LLC desire to enter into a Lease for the Premises. A copy of the Lease Agreement is attached.

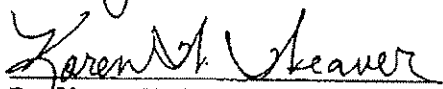
WHEREAS, Mayor, Dr. Karen W. Weaver recommends approving the Lease Agreement between the City of Flint and Zero Mass Water Michigan, LLC.

THEREFORE, BE IT RESOLVED that the Flint City Council approves the Lease Agreement between the City of Flint and Zero Mass Water Michigan, LLC.

APPROVED AS TO FORM:


Angela Wheeler, Chief Legal Officer

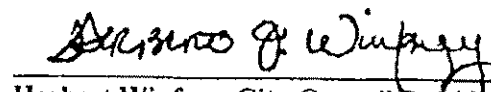
FOR THE CITY OF FLINT:


Dr. Karen W. Weaver, Mayor

APPROVED AS TO FINANCE:


Hughey Newsome, Chief Financial Officer

APPROVED BY CITY COUNCIL:


Herbert Winfrey, City Council President

190197

RESOLUTION NO. _____

PRESENTED: 5-22-19

ADOPTED: _____

**RESOLUTION APPROVING THE RE-APPOINTMENT OF DR. RONALD STEWART
TO
THE BOARD OF HOSPITAL MANAGERS**

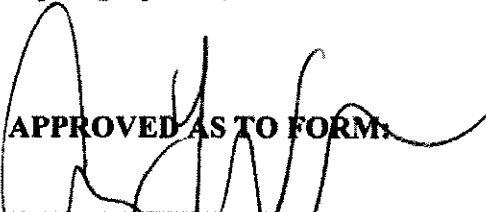
BY THE MAYOR:

Mayor Karen W. Weaver desires to re-appoint Dr. Ronald Stewart, (2425 Welch Blvd., Flint, MI 48504) to the Board of Hospital Managers, and,

Mayor Karen W. Weaver recommends the appointment of Dr. Ronald Stewart to serve another five-year term on the Board of Hospital Managers, commencing May 15, 2019, and expiring April 30, 2024.

IT IS RESOLVED, that the Flint City Council approves the appointment of Dr. Ronald Stewart to a five-year term on the Board of Hospital Managers, commencing May 15, 2019, and expiring April 30, 2024.

APPROVED AS TO FORM:



Angela Wheeler, City Attorney

FOR THE CITY OF FLINT:



Dr. Karen W. Weaver, Mayor

APPROVED BY CITY COUNCIL:

Herbert Winfrey, City Council President

EM SUBMISSION NO.: EME2732014

PRESENTED: 5-14-14

ADOPTED: 5-15-14

**RESOLUTION APPROVING THE APPOINTMENT OF DR. RONALD STEWART TO
THE BOARD OF HOSPITAL MANAGERS**

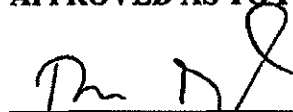
BY THE EMERGENCY MANAGER:

Emergency Manager Darnell Earley desires to appoint Dr. Ronald Stewart to the Board of Hospital Managers to replace Dr. Samuel Dismond whose term expired April 30, 2014; and,

Emergency Manager Earley recommends the appointment of Dr. Ronald Stewart (2425 Welch Blvd., Flint, MI 48504) to a five-year term on the Board of Hospital Managers, commencing May 15, 2014, and expiring April 30, 2019.

IT IS RESOLVED, that Emergency Manager Darnell Earley approves the appointment of Dr. Ronald Stewart (2425 Welch Blvd., Flint, MI 48504) to a five-year term on the Board of Hospital Managers, commencing May 15, 2014, and expiring April 30, 2019.

APPROVED AS TO FORM:



Peter M. Bade, City Attorney

EM DISPOSITION:

ENACT X FAIL _____



Darnell Earley, Emergency Manager

DATED: 5-15-14

190346

RESOLUTION: _____

PRESENTED: 8 - 26 - 2019

ADOPTED: _____

**RESOLUTION RECOMMENDING THE APPOINTMENT OF
FLORLISA STEBBINS TO THE ZONING BOARD OF APPEALS**

BY THE CLERK:

Leon A. El-Alamin's term on the Zoning Board of Appeals expired August 31, 2017, although he continued to serve; and

1st Ward Councilperson Eric Mays recommends the appointment of Florlisa Stebbins (341 Robbie Lane, Flint, MI, 48505 – Ward 1) to the Zoning Board of Appeals to replace Mr. El-Alamin; and

Florlisa Stebbins' term of office will commence immediately and she will serve until August 31, 2020.

IT IS RESOLVED, that the Flint City Council approves the appointment of Florlisa Stebbins (341 Robbie Lane, Flint, MI, 48505 – Ward 1) to the Zoning Board of Appeals, for the remainder of a three-year term expiring August 31, 2020.

APPROVED AS TO FORM:

Angela Wheeler, Chief Legal Officer

APPROVED BY CITY COUNCIL:

Herbert J. Winfrey, City Council President

Florlisa Stebbins

341 Robbie Lane
Flint, MI 48505
(810) 444-5794
fstebb01@baker.edu

Objective: To obtain professional full-time position within your company

Education: **Baker College of Flint** **2008-2016**
Master's Degree in Business Administration
Bachelor's Degree in Business Administration
Major: Business Management/Administration
Minors: HR/ Psychology
Date of Graduation: June 2016
Dean's List Eight terms

Employment:

First Merit Bank	Flint, MI	2012-2014
Client Champion I		
Blockbuster	Flint, MI	2008-2010
Assistant Store Manager		
Sears	Flint, MI	1997-2005
Commission Sales Associate/ Department Management		

Skills:

Customer Service	Opening/Closing Department
Training Employees	Problem Solving
Coordinated Department	Excelled Sales Expectations
Supervised Department	Team Work
Developed Sales Plans	Coordinated Meetings
Organized Department	Delegated Tasks
Examined Merchandise	Arranged Merchandise
Microsoft Word 2007/2010	Microsoft Excel
Microsoft XP/Vista	Powerpoint

References available upon request

ORDINANCE NO. _____

An ordinance to amend the Code of the City of Flint by amending Chapter 46, Utilities, Article V, Wastewater Disposal Regulations, Division 1, Use of Storm Sewers, by adding new Sections 46-125 through 46-150.

IT IS HEREBY ORDAINED BY THE
PEOPLE OF THE CITY OF FLINT:

Sec. 1. That the Code of the City of Flint shall be amended by amending Chapter 6, Utilities, Article V, Wastewater Disposal Regulations, Division 1, Use of Storm Sewers, by adding new Sections 46-125 through 46-150, to read in their entirety as follows:

**ARTICLE V. WASTEWATER DISPOSAL
REGULATIONS**

DIVISION 1. USE OF STORM SEWERS

§46-125 TITLE

THIS ORDINANCE SHALL BE KNOWN AS THE "CITY OF FLINT STORMWATER MANAGEMENT ORDINANCE" AND MAY BE SO CITED.

§46-126 Findings

THE CITY OF FLINT FINDS THAT:

WATER BODIES, ROADWAYS, STRUCTURES, AND OTHER PROPERTY WITHIN, AND DOWNSTREAM OF THE CITY OF FLINT ARE AT TIMES SUBJECTED TO FLOODING;

FLOODING IS A DANGER TO THE LIVES AND PROPERTY OF THE PUBLIC AND IS ALSO A DANGER TO THE NATURAL RESOURCES OF THE CITY OF FLINT AND THE REGION;

LAND DEVELOPMENT ALTERS THE HYDROLOGIC RESPONSE OF WATERSHEDS, RESULTING IN INCREASED STORM WATER RUNOFF RATES AND VOLUMES, INCREASED FLOODING, INCREASED STREAM CHANNEL EROSION, AND INCREASED SEDIMENT TRANSPORT AND DEPOSITION;

STORM WATER RUNOFF PRODUCED BY LAND DEVELOPMENT CONTRIBUTES TO INCREASED QUANTITIES OF WATER-BORNE POLLUTANTS;

INCREASES OF STORM WATER RUNOFF, SOIL EROSION, AND NON-POINT SOURCE POLLUTION HAVE OCCURRED AS A RESULT OF LAND DEVELOPMENT;

INCREASED STORM WATER RUNOFF RATES AND VOLUMES, AND THE SEDIMENTS AND POLLUTANTS ASSOCIATED WITH STORM WATER RUNOFF FROM FUTURE DEVELOPMENT PROJECTS WITHIN THE CITY OF FLINT WILL, ABSENT REGULATION AND CONTROL, ADVERSELY AFFECT THE CITY OF FLINT'S WATER BODIES AND WATER RESOURCES;

STORM WATER RUNOFF, SOIL EROSION, AND NON-POINT SOURCE POLLUTION CAN BE CONTROLLED AND MINIMIZED BY THE REGULATION OF STORM WATER RUNOFF FROM DEVELOPMENT;

THE STANDARDS, CRITERIA AND PROCEDURES CONTAINED IN THIS ORDINANCE ADDRESS THE DELETERIOUS EFFECTS OF STORM WATER RUNOFF;

THESE STANDARDS ARE NECESSARY FOR THE PRESERVATION OF THE PUBLIC HEALTH, SAFETY AND WELFARE AND THE PROTECTION OF WATER BODIES IN THE CITY OF FLINT.

THE CONSTITUTION AND LAWS OF THE STATE OF MICHIGAN AUTHORIZE LOCAL UNITS OF GOVERNMENT TO PROVIDE STORMWATER MANAGEMENT SERVICES AND SYSTEMS THAT WILL CONTRIBUTE TO THE PROTECTION AND PRESERVATION OF THE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO THE PROTECTION OF THE STATE'S NATURAL RESOURCES.

PROPERTY OWNERS INFLUENCE THE QUANTITY, CHARACTER AND QUALITY OF STORM WATER FROM THEIR PROPERTY IN RELATION TO THE NATURE OF THE ALTERATIONS MADE TO PROPERTY.

§46-127 PURPOSE

IT IS THE PURPOSE OF THIS ORDINANCE TO ESTABLISH STORM WATER MANAGEMENT REQUIREMENTS AND CONTROLS TO ACCOMPLISH, AMONG OTHERS, THE FOLLOWING OBJECTIVES:

(A) TO REDUCE ARTIFICIALLY INDUCED FLOOD DAMAGE;

(B) TO MINIMIZE STORM WATER RUNOFF RATES AND VOLUMES FROM IDENTIFIED NEW LAND DEVELOPMENT;

(C) TO MINIMIZE THE DETERIORATION OF EXISTING NATURAL

WATERCOURSES, CULVERTS AND BRIDGES, AND OTHER STRUCTURES;

(D) TO ENCOURAGE WATER RECHARGE INTO THE GROUND WHERE GEOLOGICALLY FAVORABLE CONDITIONS EXIST;

(E) TO MINIMIZE AND CONTROL STORM AND SURFACE WATER POLLUTANT LEVELS;

(F) TO PROTECT THE INTEGRITY OF STREAM CHANNELS FOR THEIR BIOLOGICAL FUNCTIONS, AS WELL AS FOR DRAINAGE AND OTHER PURPOSES;

(G) TO MINIMIZE THE IMPACT OF DEVELOPMENT UPON STREAM BANK AND STREAMBED STABILITY;

(H) TO REDUCE EROSION FROM DEVELOPMENT OR CONSTRUCTION PROJECTS; AND

(I) TO REDUCE STORM WATER RUNOFF RATES AND VOLUMES, SOIL EROSION, AND WATER POLLUTION, WHEREVER PRACTICABLE, FROM LANDS THAT WERE DEVELOPED WITHOUT STORM WATER MANAGEMENT CONTROLS MEETING THE PURPOSES AND STANDARDS OF THIS ORDINANCE.

(J) TO REDUCE THE ADVERSE IMPACT OF CHANGING LAND USE ON WATER BODIES AND, TO THAT END, THIS ORDINANCE ESTABLISHES STANDARDS TO PROTECT WATER BODIES FROM DEGRADATION RESULTING FROM CHANGING LAND USE WHERE THERE

ARE INSUFFICIENT STORM WATER MANAGEMENT CONTROLS.

§46-128 APPLICABILITY, EXEMPTIONS AND GENERAL PROVISIONS

(A) THIS ORDINANCE SHALL APPLY TO USE OF THE CITY OF FLINT MUNICIPAL SEPARATE STORM SEWER SYSTEM, ALSO KNOWN AS THE FLINT MS4.

(B) THIS ORDINANCE SHALL ALSO APPLY TO ANY EARTH CHANGE (I) GREATER THAN OR EQUAL TO 1 ACRE (≥ 1 AC.) IN CONNECTION WITH NEW DEVELOPMENT OR REDEVELOPMENT PROJECTS, AND (II) LESS THAN 1 ACRE (≤ 1 ACRE) IN CONNECTION WITH NEW DEVELOPMENT OR REDEVELOPMENT PROJECTS THAT ARE PART OF A LARGER COMMON PLAN FOR DEVELOPMENT OR SALE.

(C) THIS ORDINANCE SHALL NOT APPLY TO THE FOLLOWING:

(1) THE INSTALLATION OR REMOVAL OF AN INDIVIDUAL MOBILE HOME WITHIN A MOBILE HOME PARK. THIS EXEMPTION SHALL NOT BE CONSTRUED TO APPLY TO THE CONSTRUCTION, EXPANSION, OR MODIFICATION OF A MOBILE HOME PARK OR TO THE FEES PAYABLE BY AN INDIVIDUAL MOBILE HOME UNDER §46-149.

(2) LANDSCAPING AND FARM PLANTING, TILLING, PLOWING AND HARVESTING. EARTH DISTURBANCES THAT ARE NOT ACTUAL FARMING AND LANDSCAPING ARE NOT EXEMPT FROM THIS ORDINANCE.

§46-129 DEFINITIONS

FOR THE PURPOSE OF THIS ORDINANCE, THE FOLLOWING WORDS AND PHRASES SHALL MEAN:

(A) BEST MANAGEMENT PRACTICES (BMPS) - NON-STRUCTURAL AND STRUCTURAL PREVENTIVE ACTIONS, OTHER ACTIONS, MANAGEMENT, CONTROLS AND DESIGNS THAT FURTHER THE PURPOSES OF THIS ORDINANCE. BMPS INCLUDE SCHEDULES OF ACTIVITIES, PROHIBITIONS OF PRACTICES, MAINTENANCE PROCEDURES AND OTHER MANAGEMENT PRACTICES TO PREVENT OR REDUCE POLLUTION OF THE WATERS OF THE STATE. EXAMPLES OF NON-STRUCTURAL BMPS INCLUDE, BUT ARE NOT LIMITED TO, BUFFERS ALONG WATER BODIES, MINIMIZATION OF THE DISTURBANCE OF SOILS AND VEGETATION, AND RESTRICTIONS ON DIRECTLY CONNECTED IMPERVIOUS SURFACE AREAS. EXAMPLES OF STRUCTURAL BMPS INCLUDE, BUT ARE NOT LIMITED TO, WET PONDS, EXTENDED DETENTION OUTLET STRUCTURES, FILTRATION VIA GRASSED SWALES, SAND FILTERS, UNCOVERED GROUND FILTER STRIPS, INFILTRATION BASINS AND INFILTRATION TRENCHES.

(B) BUILDING OPENING - ANY OPENING OF A SOLID WALL SUCH AS A WINDOW OR DOOR, THROUGH WHICH FLOODWATERS COULD PENETRATE.

(C) CITY - THE CITY OF FLINT, MICHIGAN, A MUNICIPAL CORPORATION.

(D) CITY DIRECTOR - THE DIRECTOR OF UTILITIES OF THE CITY OR OTHER PERSON OR PERSONS DESIGNATED BY THE DIRECTOR OF UTILITIES TO EXERCISE CONTROL OVER THE CITY'S STORM SEWERS AND MATTERS RELATING TO THE CITY MS4.

(E) CITY ENFORCEMENT OFFICER - ANY EMPLOYEE OF THE WATER POLLUTION CONTROL DIVISION OF THE DEPARTMENT OF UTILITIES OF THE CITY OF FLINT HOLDING THE TITLE OF WATER POLLUTION CONTROL SUPERVISOR, ASSISTANT WATER POLLUTION CONTROL SUPERVISOR, ENVIRONMENTAL COMPLIANCE SUPERVISOR, ENVIRONMENTAL COMPLIANCE INSPECTOR, SENIOR ENVIRONMENTAL COMPLIANCE ANALYST, ENVIRONMENTAL COMPLIANCE ANALYST, OR WATER QUALITY SUPERVISOR.

(F) CITY WATER POLLUTION CONTROL SUPERVISOR (CWPCS) – THE SUPERVISOR OF THE DEPARTMENT OF UTILITIES OF THE CITY OR OTHER PERSON OR PERSONS DESIGNATED BY THE CWPCS OR BY THE CITY ADMINISTRATOR TO EXERCISE CONTROL OVER THE CITY MS4.

(G) CONSTRUCTION SITE STORM WATER RUNOFF - STORM WATER RUNOFF FROM A DEVELOPMENT SITE DURING OR FOLLOWING AN EARTH CHANGE.

(H) DETENTION - A SYSTEM WHICH IS DESIGNED TO CAPTURE STORM WATER AND RELEASE IT OVER TIME THROUGH AN OUTLET STRUCTURE AT A CONTROLLED RATE.

(I) DEVELOP OR DEVELOPED OR DEVELOPMENT - THE INSTALLATION OR CONSTRUCTION OF IMPERVIOUS SURFACES ON A DEVELOPMENT SITE THAT REQUIRE, PURSUANT TO STATE LAW OR LOCAL ORDINANCE, CITY APPROVAL OF A SITE PLAN, PLAT, SITE CONDOMINIUM, SPECIAL LAND USE, PLANNED UNIT DEVELOPMENT, REZONING OF LAND, LAND DIVISION APPROVAL, PRIVATE ROAD APPROVAL OR OTHER APPROVALS REQUIRED FOR THE DEVELOPMENT OF LAND OR THE ERECTION OF BUILDINGS OR STRUCTURES; PROVIDED, HOWEVER, THAT FOR PURPOSES OF ARTICLE V, DIVISION 1 ONLY, DEVELOPED OR DEVELOPMENT SHALL NOT INCLUDE THE ACTUAL CONSTRUCTION OF, OR AN ADDITION, EXTENSION OR MODIFICATION TO, AN INDIVIDUAL SINGLE-FAMILY OR A TWO-FAMILY DETACHED RESIDENTIAL USE DWELLING OR APPURTENANCES TO THE SAME, IF THE EARTH CHANGE IS LESS THAN ONE ACRE, AND IF THE CITY DIRECTOR FINDS THAT SUCH CONSTRUCTION, ADDITION, EXTENSION OR MODIFICATION WILL NOT RESULT IN ADVERSE STORM WATER RUNOFF.

(J) DEVELOPER - ANY PERSON PROPOSING OR IMPLEMENTING THE DEVELOPMENT OF LAND.

(K) DEVELOPMENT SITE - ANY LAND THAT IS BEING OR HAS BEEN DEVELOPED, OR THAT A DEVELOPER PROPOSES FOR DEVELOPMENT.

(L) DISCHARGE - THE DIRECT OR INDIRECT INTRODUCTION (INCLUDING INFILTRATION) OF POLLUTANTS, GROUNDWATER,

WASTEWATER OR STORM WATER (WHETHER OR NOT IT IS CONTAMINATED AND WHETHER OR NOT IT CONTAINS POLLUTANTS) INTO THE CITY MS4 WHICH IS EITHER INTENTIONAL OR UNINTENTIONAL.

(M) DISCHARGER - ANY PERSON OR ENTITY WHO DISCHARGES.

(N) DRAIN - ANY DRAIN AS DEFINED IN THE DRAIN CODE OF 1956, AS AMENDED, BEING MCL 280.1, ET. SEQ., OTHER THAN AN ESTABLISHED COUNTY OR INTERCOUNTY DRAIN.

(O) DRAINAGE - THE PASSIVE OR ACTIVE COLLECTION AND CONVEYANCE OF WASTEWATER, GROUNDWATER, STORM WATER AND/OR SURFACE WATER.

(P) DRAINAGEWAY - THE AREA WITHIN WHICH SURFACE WATER OR GROUND WATER IS CARRIED FROM ONE PART OF A LOT OR PARCEL TO ANOTHER PART OF THE LOT OR PARCEL OR TO ADJACENT LAND.

(Q) EARTH CHANGE - ANY HUMAN ACTIVITY WHICH REMOVES GROUND COVER, CHANGES THE SLOPE OR CONTOURS OF THE LAND, DISTURBS THE GROUND SURFACE, OR EXPOSES THE SOIL SURFACE TO THE ACTIONS OF WIND AND RAIN. EARTH CHANGE INCLUDES, BUT IS NOT LIMITED TO, ANY EXCAVATING, SURFACE GRADING, FILLING, LANDSCAPING, OR REMOVAL OF VEGETATIVE ROOTS.

(R) EPA - THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(S) EXEMPTED DISCHARGES - DISCHARGES AS SPECIFIED IN §46-143(C)-(D), OF THIS ORDINANCE.

(T) FLOOD OR FLOODING - A CONDITION OF PARTIAL OR COMPLETE INUNDATION OF NORMALLY DRY LAND AREAS.

(U) FLOOD PROTECTION ELEVATION (FPE) - THE BASE FLOOD ELEVATION PLUS ONE (1) FOOT AT ANY GIVEN LOCATION. THE BASE FLOOD ELEVATION IS THE COMPUTED ELEVATION TO WHICH FLOOD WATERS ARE ANTICIPATED TO RISE DURING THE BASE (1% ANNUAL CHANCE) EVENT.

(V) GRADING - ANY STRIPPING, EXCAVATING, CONTOURING, FILLING, AND STOCKPILING OF SOIL OR ANY COMBINATION THEREOF.

(W) HAZARDOUS SUBSTANCE - ANY SUBSTANCE AS DEFINED IN PART 201 OF THE MICHIGAN NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, ACT 451 OF 1994, AS AMENDED.

(X) ILLICIT CONNECTION - ANY METHOD OR MEANS FOR CONVEYING AN ILLICIT DISCHARGE INTO THE CITY MS4, OTHER THAN INFILTRATION.

(Y) ILLICIT DISCHARGE - ANY DISCHARGE TO THE MS4 THAT DOES NOT CONSIST ENTIRELY OF (I) DISCHARGES IN COMPLIANCE WITH THE TERMS OF AN NPDES PERMIT HELD BY THE DISCHARGER, (II) EXEMPTED DISCHARGES, OR

(III) UNCONTAMINATED STORM WATER, OR A COMBINATION OF THESE. UNCONTAMINATED STORM WATER IS STORM WATER WHICH DOES NOT CONTAIN POLLUTANTS WHICH ARE PRESENT ABOVE BACKGROUND CONCENTRATIONS REPRESENTATIVE OF THE AREA HAD A DISCHARGE OR RELEASE OF POLLUTANTS NOT OCCURRED.

(Z) IMPERVIOUS SURFACE – IMPERVIOUS MEANS A SURFACE AREA WHICH IS COMPACTED OR COVERED WITH MATERIAL THAT IS RESISTANT TO OR IMPEDES PERMEATION BY WATER, INCLUDING BUT NOT LIMITED TO, MOST CONVENTIONALLY SURFACED STREETS, ROOFS, SIDEWALKS, PATIOS, DRIVEWAYS, PARKING LOTS, AND ANY OTHER OILED, GRAVELED, GRADED, OR COMPACTED SURFACES.

(AA) MS4 – MUNICIPAL SEPARATE STORM SEWER SYSTEM.

(BB) MS4 PERMIT - A PERMIT ISSUED UNDER §46-134 AND OTHER APPLICABLE PROVISIONS OF THIS ORDINANCE.

(CC) MDEQ - MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY.

(DD) MUNICIPAL SEPARATE STORM SEWER SYSTEM. THE SYSTEM OF CONVEYANCES USED FOR COLLECTING AND TRANSPORTING STORM WATER OWNED BY THE CITY AND WHICH DISCHARGES TO SURFACE WATER OF THE STATE OR TO ANOTHER ENTITY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM, BUT NOT INCLUDING (1) ANY

FACILITIES INTENDED TO BE USED FOR COLLECTING AND TRANSPORTING SANITARY OR OTHER WASTE WATER OR (II) ANY PRIVATELY OWNED SEWERS.

(EE) NATURAL WATERCOURSE – A WATERCOURSE THAT HAS NOT BEEN ALTERED ARTIFICIALLY IN A SIGNIFICANT MANNER.

(FF) NON-STORM WATER – WATER OTHER THAN STORM WATER.

(GG) NON-STORM WATER USE CHARGE – NON-STORM WATER USE CHARGE IS THE CHARGE APPLICABLE TO ANY NON-STORM WATER USE OF THE STORM WATER SYSTEM, AS DEFINED BY THE CITY DIRECTOR.

(HH) NPDES - NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM.

(II) PERSON - AN INDIVIDUAL, FIRM, PARTNERSHIP, ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, PUBLIC AGENCY, INSTRUMENTALITY, OR ANY OTHER LEGAL ENTITY.

(JJ) PLANNING BOARD/COMMISSION - MEANS A CITY PLANNING COMMISSION CREATED UNDER THE MICHIGAN ZONING ENABLING ACT, 2006 PA 110, MCL 125.3101 ET. SEQ.

(KK) POLLUTANT - ANY DREDGED SPOIL, SOLID WASTE, VEHICLE FLUIDS, YARD WASTES, ANIMAL WASTES, AGRICULTURAL WASTE PRODUCTS, SEDIMENT, INCINERATOR RESIDUE, SEWAGE, GARBAGE, SEWAGE SLUDGE, MUNITIONS, CHEMICAL WASTES,

BIOLOGICAL WASTES, RADIOACTIVE MATERIALS, HEAT, WRECKED OR DISCARDED EQUIPMENT, ROCK, SAND, CELLAR DIRT, AND INDUSTRIAL, MUNICIPAL, COMMERCIAL AND AGRICULTURAL WASTE, ANY OTHER CONTAMINANT OR OTHER SUBSTANCE DEFINED AS A POLLUTANT UNDER THE CLEAN WATER ACT, AND ANY HAZARDOUS SUBSTANCE.

(LL) PROPERTY OWNER - ANY PERSON HAVING LEGAL OR EQUITABLE TITLE TO PROPERTY.

(MM) RETENTION - A SYSTEM WHICH IS DESIGNED TO CAPTURE STORM WATER AND CONTAIN IT BEFORE AND UNTIL IT INFILTRATES THE SOIL OR EVAPORATES OR IS DISCHARGED IN COMPLIANCE WITH AN MS4 PERMIT.

(NN) RUNOFF - MEANS THE WATER FLOW THAT OCCURS (I) WHEN SOIL IS INFILTRATED TO FULL CAPACITY AND EXCESS WATER FROM RAIN, SNOW/ICE MELT, OR OTHER SOURCES FLOWS OVER THE LAND SURFACE OR (II) OVER AND FROM AN IMPERVIOUS SURFACE.

(OO) SITE PLAN - MEANS A PLAT, A SITE DEVELOPMENT PLAN, CONSTRUCTION DRAWINGS, A BUILDING PERMIT, AND ANY OTHER PERMITS THAT NEED TO BE PREPARED BY A DEVELOPER AND APPROVED BY THE CITY BEFORE DEVELOPMENT CAN OCCUR.

(PP) STATE OF MICHIGAN WATER QUALITY STANDARDS - THE WATER QUALITY STANDARDS

PROMULGATED PURSUANT TO PART 31 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, AS AMENDED.

(QQ) STORM DRAIN - A SYSTEM OF OPEN OR ENCLOSED CONDUITS AND APPURTENANT STRUCTURES INTENDED TO CONVEY OR MANAGE STORM WATER, STORM WATER RUNOFF, GROUND WATER AND DRAINAGE.

(RR) STORM WATER - RAIN WATER AND SNOW/ICE MELT.

(SS) STORM WATER PLAN - WRITTEN NARRATIVES, SPECIFICATIONS, DRAWINGS, STANDARDS, OPERATING PROCEDURES, OR ANY COMBINATION OF THESE WHICH CONTAIN INFORMATION REGARDING THE MANAGEMENT OF STORM WATER.

(TT) STORM WATER RUNOFF FACILITY - THE METHOD, STRUCTURE, AREA, SYSTEM, OR OTHER EQUIPMENT OR MEASURES WHICH ARE DESIGNED TO RECEIVE, CONTROL, STORE, CAPTURE, CONTAIN, CONVEY OR TREAT STORM WATER.

(UU) STORM WATER MANAGEMENT PROGRAM - MEANS ONE OR MORE ASPECTS OF STORM WATER MANAGEMENT UNDERTAKEN FOR THE PURPOSE OF COMPLYING WITH APPLICABLE FEDERAL, STATE AND LOCAL LAW AND REGULATION OR THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE RELATED TO STORM WATER RUNOFF.

(VV) STORM WATER SYSTEM - MEANS ROADS, STREETS, CATCH BASINS, CURBS, GUTTERS, DITCHES, STORM SEWERS AND APPURTENANT FEATURES, LAKES, PONDS, CHANNELS, SWALES, STORM DRAINS, CANALS, CREEKS, CATCH BASINS, STREAMS, GULCHES, GULLIES, FLUMES, CULVERTS, SIPHONS, RETENTION OR DETENTION BASINS, DAMS, FLOODWALLS, LEVEES, PUMPING STATIONS, AND OTHER LIKE FACILITIES, AND NATURAL WATERCOURSES AND FEATURES LOCATED WITHIN THE GEOGRAPHIC LIMITS OF THE CITY OF FLINT WHICH ARE DESIGNED OR USED FOR COLLECTING, STORING, TREATING OR CONVEYING STORM WATER OR THROUGH WHICH STORM WATER IS COLLECTED, STORED, TREATED OR CONVEYED, OR ANY OTHER PHYSICAL MEANS BY WHICH STORM WATER MANAGEMENT IS ACHIEVED.

(WW) STREAM - A RIVER, STREAM OR CREEK WHICH MAY OR MAY NOT BE SERVING AS A DRAIN, OR ANY OTHER WATER BODY THAT HAS DEFINITE BANKS, A BED, AND VISIBLE EVIDENCE OF A CONTINUED FLOW OR CONTINUED OCCURRENCE OF WATER.

(XX) SURFACE WATERS OF THE STATE - ALL OF THE FOLLOWING, BUT NOT INCLUDING DRAINAGE WAYS AND PONDS (DETENTION AND RETENTION PONDS OR LAGOONS) USED SOLELY FOR STORM WATER AND/OR WASTEWATER CONVEYANCE, TREATMENT, OR CONTROL:

- THE GREAT LAKES AND THEIR CONNECTING WATERS**
- ALL INLAND LAKES**

- RIVERS**
- STREAMS**
- IMPOUNDMENTS**
- OPEN DRAINS**
- OTHER SURFACE BODIES OF WATER WITHIN THE CONFINES OF THE STATE**
- WETLANDS**

§46-130 STORM WATER MANAGEMENT PROGRAM

THE CITY DIRECTOR MAY ADOPT, AMEND, OR EXTEND A STORM WATER MANAGEMENT PROGRAM FROM TIME TO TIME. ANY SUCH ADOPTION, AMENDMENT, OR EXTENSION SHALL BE APPROVED BY RESOLUTION OF THE CITY COUNCIL.

§46-131 CHARGES FOR NON-STORM WATER DISCHARGES

THE CITY DIRECTOR MAY IMPOSE FEES FOR THE USE OF THE STORM WATER SYSTEM FOR NON-STORM WATER DISCHARGES PERMITTED BY THE CITY OF FLINT UNDER §46-134 OF THIS ORDINANCE. CHARGES SHALL BE PROPORTIONATE TO THE CAPACITY OF THE STORM WATER SYSTEM THAT IS USED BY THE NON-STORM WATER FLOW THAT WOULD OTHERWISE BE AVAILABLE FOR STORM WATER, AND ANY ADDITIONAL CHARGES RELATED TO PREPARING, MONITORING, AND ENFORCING ANY PERMITS RELATED TO NON-STORM WATER DISCHARGES.

§46-132 OTHER CHARGES

CHARGES FOR OTHER SERVICES PROVIDED BY THE CITY OF FLINT SHALL BE ON A TIME AND MATERIALS BASIS, INCLUDING DIRECT AND INDIRECT COSTS, AS ESTABLISHED BY THE CITY DIRECTOR. THE CITY DIRECTOR MAY ALSO SET CHARGES FOR THE FAIR SHARE RECOVERY OF THE COST, INCLUDING DIRECT AND INDIRECT COSTS, FROM DISCHARGERS FOR THE IMPLEMENTATION AND OPERATION OF ANY OF THE FOLLOWING:

(A) MONITORING, INSPECTION AND SURVEILLANCE PROCEDURES;

(B) REVIEWING ACCIDENTAL DISCHARGE PROCEDURES AND CONSTRUCTION;

(C) DISCHARGE PERMIT APPLICATIONS FOR STORM WATER AND NON-STORM WATER;

(D) ANNUAL CHARGES FOR MULTI-YEAR PERMITS, AND

(E) OTHER CHARGES AS THE CITY DIRECTOR MAY DEEM NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS ORDINANCE.

§46-133 REGULATIONS

(A) THE CITY DIRECTOR MAY ADOPT REGULATIONS IMPLEMENTING THIS ORDINANCE. THESE REGULATIONS MAY INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING TOPICS:

(1) THE DESIGN, OPERATION, MAINTENANCE, AND MAINTENANCE OF THE STORM WATER SYSTEM AND FOR CONNECTIONS TO THAT SYSTEM.

(2) CONTROL OF THE QUALITY AND QUANTITY OF STORM WATER FROM INDUSTRIAL SITES BY ESTABLISHING MANAGEMENT PRACTICES, DESIGN AND OPERATING CRITERIA.

(3) PROCEDURES FOR UPDATING BILLING DATA BASED UPON CHANGES IN PROPERTY BOUNDARIES, OWNERSHIP, AND STORM WATER RUNOFF CHARACTERISTICS.

(4) POLICIES ESTABLISHING THE TYPE AND MANNER OF SERVICE DELIVERY THAT WILL BE PROVIDED BY THE UTILITY.

(5) REGULATIONS GOVERNING THE RESOLUTION OF STORM WATER MANAGEMENT ISSUES AMONG SEVERAL PROPERTY OWNERS WITHIN THE DISTRICT.

(6) ENFORCEMENT POLICIES AND PROCEDURES.

(B) THESE REGULATIONS SHALL TAKE EFFECT THIRTY (30) DAYS AFTER BEING FILED WITH THE CITY CLERK UNLESS MODIFIED OR DISAPPROVED BY THE CITY COUNCIL. REGULATIONS WHICH ARE MODIFIED BY CITY COUNCIL TAKE EFFECT THIRTY (30) DAYS AFTER THE MODIFICATION.

§46-134 MS4 PERMITS

(A) NON-STORM WATER DISCHARGES:

(1) AN MS4 PERMIT IS REQUIRED FROM THE CITY DIRECTOR FOR A PERSON TO DISCHARGE NON-STORM WATER INTO THE MS4 EXCEPT AS EXEMPTED OR OTHERWISE ALLOWED UNDER THIS ORDINANCE.

THE CITY DIRECTOR MAY REQUIRE EACH PERSON THAT IS REQUIRED TO OBTAIN AN MS4 PERMIT FOR NON-STORM WATER TO APPLY FOR AN MS4 PERMIT ON THE FORM PRESCRIBED BY THE CITY DIRECTOR. AN MS4 PERMIT MAY BE ISSUED FOR A PERIOD NOT TO EXCEED FIVE (5) YEARS. THE PERMIT SHALL BE SUBJECT TO MODIFICATION OR REVOCATION FOR FAILURE TO COMPLY OR PROVIDE SAFE ACCESS OR PROVIDE ACCURATE REPORTS OF THE DISCHARGE CONSTITUENTS AND CHARACTERISTICS. PERMITS ARE ISSUED TO SPECIFIC PERSONS FOR SPECIFIC OPERATIONS AND ARE NOT ASSIGNABLE TO ANOTHER PERSON WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY DIRECTOR. MS4 PERMITS ARE NOT TRANSFERABLE TO ANOTHER LOCATION. ANYONE SEEKING AN MS4 PERMIT TO DISCHARGE NON-STORM WATER INTO THE STORM WATER SYSTEM MUST DO THE FOLLOWING:

(A) FILE A WRITTEN STATEMENT WITH THE CITY DIRECTOR SETTING FORTH THE NATURE OF THE ENTERPRISE, THE AMOUNT OF WATER TO BE DISCHARGED WITH ITS PRESENT OR EXPECTED BACTERIAL, PHYSICAL, CHEMICAL, RADIOACTIVE OR OTHER PERTINENT CHARACTERISTICS;

(B) PROVIDE A PLAN MAP OF THE BUILDING, WORKS OR COMPLEX WITH EACH OUTFALL TO THE SURFACE WATERS, SANITARY SYSTEM, STORM SEWER, NATURAL WATERCOURSE OR GROUND WATERS NOTED, DESCRIBED AND THE DISCHARGE STREAM IDENTIFIED; AND

(C) SAMPLE, TEST AND FILE REPORTS WITH THE CITY DIRECTOR AND THE APPROPRIATE

FEDERAL, STATE AND COUNTY AGENCIES ON APPROPRIATE CHARACTERISTICS OF DISCHARGES ON A SCHEDULE, AT LOCATIONS, AND ACCORDING TO METHODS APPROVED BY THE CITY DIRECTOR.

(1) THE CITY DIRECTOR IS AUTHORIZED TO OBTAIN INFORMATION CONCERNING INDUSTRIAL PROCESSES OR OTHER PROCESSES AND ACTIVITIES WHICH HAVE A DIRECT BEARING ON THE KIND AND SOURCE OF THE DISCHARGE TO THE STORM WATER SYSTEM. THE DISCHARGER MAY REQUEST THAT CERTAIN INFORMATION, IF IT CAN ESTABLISH TO THE SATISFACTION OF THE CITY DIRECTOR THAT RELEASE OF THE INFORMATION WOULD REVEAL TRADE SECRETS OR WOULD OTHERWISE PROVIDE AN ADVANTAGE TO COMPETITORS, BE KEPT CONFIDENTIAL BY THE CITY, EXCEPT THAT DISCHARGE CONSTITUENTS WILL NOT BE CONFIDENTIAL INFORMATION.

(2) AT THE PERMITTEE'S EXPENSE, THE CITY DIRECTOR SHALL CARRY OUT INDEPENDENT SURVEILLANCE AND FIELD MONITORING, IN ADDITION TO THE SELF-MONITORING REQUIRED IN THE MS4 PERMIT TO ASCERTAIN WHETHER THE PERMIT TERMS ARE BEING MET.

(3) THE METHOD OF DETERMINING FLOW OF DISCHARGE TO THE STORM WATER SYSTEM SHALL BE APPROVED BY THE CITY DIRECTOR.

(B) DEVELOPING LAND AND EARTH CHANGES

(1) NO PERSON SHALL DEVELOP LAND OR CONDUCT AN EARTH CHANGE SUBJECT TO §46-128(B) (I) UNLESS THAT PERSON OBTAINS AND COMPLIES WITH AN MS4 PERMIT FROM THE CITY AND THAT PERSON OBTAINS APPROVAL FROM THE CITY OF A STORM WATER PLAN FOR THE DEVELOPMENT SITE, OR (II) UNLESS SUCH EARTH CHANGE OR DEVELOPMENT SITE IS EXEMPTED UNDER THIS ORDINANCE FROM THE REQUIREMENT TO OBTAIN AN MS4 PERMIT.

(2) THE CITY DIRECTOR MAY ISSUE AN MS4 PERMIT TO A DEVELOPER, WHICH MAY IMPOSE TERMS AND CONDITIONS IN ACCORDANCE WITH THIS ORDINANCE, PROVIDED THAT THE DEVELOPER:

A. SUBMITS DETAILED INFORMATION ABOUT THE DEVELOPER, DEVELOPMENT SITE, PROPOSED DISCHARGES AND/OR EARTH CHANGES, AND ANY OTHER INFORMATION REQUIRED BY THE CITY DIRECTOR IN AN MS4 PERMIT APPLICATION, NOT LESS THAN ONE HUNDRED EIGHTY (180) DAYS PRIOR TO COMMENCEMENT OF DEVELOPMENT.

B. SUBMITS, ALONG WITH THE MS4 PERMIT APPLICATION, A STORM WATER PLAN FOR POST-CONSTRUCTION STORM WATER MANAGEMENT AND BMP IMPLEMENTATION, IN ACCORDANCE WITH THE DESIGN AND PERFORMANCE STANDARDS SET FORTH IN §46-135 AND §46-136, FOR REVIEW AND APPROVAL BY THE CITY DIRECTOR. THE STORM WATER PLAN SHALL ALSO COMPLY WITH §46-131. THE STORM WATER PLAN SHALL INCLUDE ONE OF THE FOLLOWING BMPS:

A PERMANENT ON-SITE STORM WATER RUNOFF FACILITY THAT INCLUDES ON-SITE DETENTION OF STORM WATER RUNOFF AND A DIRECT CONNECTION FOR ALL STORM WATER RUNOFF THAT WILL BE DISCHARGED FROM AND THROUGH THE DEVELOPMENT SITE; OR

A PERMANENT ON-SITE STORM WATER RUNOFF FACILITY WITH A RESTRICTED OUTLET DESIGNED TO RESULT IN NO NET INCREASE IN STORM WATER RUNOFF VOLUME OR RATE ONTO ANY ADJACENT PROPERTY.

C. PAYS THE STORM WATER PERMIT APPLICATION REVIEW FEE.

D. PAYS OR POSTS THE APPLICABLE FINANCIAL GUARANTEE.

E. PROVIDES, ALONG WITH THE MS4 PERMIT APPLICATION, COPIES OF ALL PROPOSED OR EXISTING EASEMENTS NECESSARY TO IMPLEMENT THE APPROVED STORM WATER PLAN AND TO OTHERWISE COMPLY WITH THIS ORDINANCE INCLUDING, BUT NOT LIMITED TO, §46-135. ALL EASEMENTS SHALL BE ACCEPTABLE TO THE CITY IN FORM AND SUBSTANCE AND SHALL BE RECORDED WITH THE GENESEE COUNTY REGISTER OF DEEDS NO LATER THAN FIVE (5) DAYS AFTER THE MS4 PERMIT IS ISSUED.

F. PROVIDES, ALONG WITH THE MS4 PERMIT APPLICATION, A MAINTENANCE AGREEMENT FOR ROUTINE, EMERGENCY, AND LONG-TERM MAINTENANCE OF ALL STORM WATER

RUNOFF FACILITIES WHICH MEETS THE REQUIREMENTS OUTLINED IN §46-147(C).

(1) A PERSON WHO IS REQUIRED TO HAVE AN MS4 PERMIT FOR A DISCHARGE UNDER (1) OF THIS SECTION SHALL APPLY FOR THE MS4 PERMIT ON A FORM PROVIDED BY THE CITY. THE APPLICATION FORM SHALL REQUIRE INFORMATION CONCERNING THE DISCHARGE WHICH INCLUDES BUT IS NOT LIMITED TO:

(A) THE PROPERTY FROM WHICH THE DISCHARGE WILL ORIGINATE OR AT WHICH IT WILL OCCUR.

(B) THE STRUCTURES AND CONNECTIONS TO THE MS4.

(C) A DESCRIPTION OF THE EXPECTED COMPOSITION OF THE DISCHARGE, INCLUDING INFORMATION REGARDING POLLUTANTS IN THE DISCHARGE.

(D) A DESCRIPTION OF THE AREAS AND IMPROVEMENTS AT THE PROPERTY WHICH WILL BE IN CONTACT WITH THE WATER THAT COMPRISES THE DISCHARGE.

(E) THE BMPS, IF ANY, THAT THE DISCHARGER HAS IMPLEMENTED OR WILL IMPLEMENT.

(F) THE EXPECTED VOLUMES AND FLOW RATES OF THE DISCHARGE.

§46-135 DISCHARGER STORM WATER PLAN

THE DISCHARGER STORM WATER PLAN SHALL DESCRIBE MINIMUM DESIGN STANDARDS FOR STORM WATER DISCHARGE RELEASE RATES AND ON-SITE RETENTION, DETENTION OR OTHER METHODS TO CONTROL THE QUALITY, RATE AND VOLUME OF RUNOFF DISCHARGED INTO THE MS4. THE DISCHARGER STORM WATER PLAN SHALL IDENTIFY AND CONTAIN ALL OF THE FOLLOWING:

(A) THE LOCATION OF THE DEVELOPMENT SITE AND WATER BODIES THAT WILL RECEIVE RUNOFF, THE DRAINAGE DISTRICT IDENTIFICATION, ZONING, AERIAL IMAGERY, SOILS AND FLOODPLAIN MAPS, TRAFFIC AND UTILITY INFORMATION FOR THE DEVELOPMENT SITE.

(B) THE EXISTING AND PROPOSED NATURAL FEATURES OF THE DEVELOPMENT SITE, INCLUDING THE VEGETATION, TOPOGRAPHY, AND ALIGNMENT AND BOUNDARY OF THE NATURAL DRAINAGE COURSES, WITH CONTOURS HAVING A MAXIMUM INTERVAL OF TWO (2) FEET (USING USGS DATUM). THE INFORMATION SHALL BE SUPERIMPOSED ON THE PERTINENT GENESEE COUNTY SOIL MAP.

(C) THE DEVELOPMENT DRAINAGE AREA TO EACH POINT OF DISCHARGE FROM THE DEVELOPMENT.

(D) CALCULATIONS FOR THE EXISTING AND FINAL PEAK DISCHARGE RATES (BASED ON DESIGN CRITERIA).

(E) CALCULATIONS FOR ANY FACILITY OR STRUCTURE SIZE AND CONFIGURATION.

(F) A DRAWING SHOWING ALL PROPOSED STORM WATER RUNOFF FACILITIES WITH EXISTING AND FINAL GRADES, AS WELL AS STORM WATER EASEMENTS.

(G) THE SIZES AND LOCATIONS OF UPSTREAM AND DOWNSTREAM CULVERTS SERVING THE MAJOR DRAINAGE ROUTES FLOWING INTO AND OUT OF THE DEVELOPMENT SITE. ANY SIGNIFICANT OFF-SITE AND ON-SITE DRAINAGE OUTLET RESTRICTIONS OTHER THAN CULVERTS MUST BE NOTED ON THE DRAINAGE MAP.

(H) AN IMPLEMENTATION PLAN FOR CONSTRUCTION AND INSPECTION OF ALL STORM WATER RUNOFF FACILITIES NECESSARY TO THE OVERALL STORM WATER PLAN, INCLUDING A SCHEDULE OF THE ESTIMATED DATES OF COMPLETING CONSTRUCTION OF THE STORM WATER RUNOFF FACILITIES SHOWN ON THE PLAN AND AN IDENTIFICATION OF THE PROPOSED INSPECTION PROCEDURES TO ENSURE THAT THE STORM WATER RUNOFF FACILITIES ARE CONSTRUCTED IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN.

(I) DRAWINGS, PROFILES, AND SPECIFICATIONS FOR THE CONSTRUCTION OF THE STORM WATER RUNOFF FACILITIES (BMP) REASONABLY NECESSARY TO ENSURE THAT RUNOFF WILL BE DRAINED, STORED, OR OTHERWISE CONTROLLED IN ACCORDANCE WITH THIS ORDINANCE.

(J) A MAINTENANCE AGREEMENT, IN FORM AND SUBSTANCE

ACCEPTABLE TO THE CITY DIRECTOR, FOR ENSURING MAINTENANCE OF ANY PRIVATELY-OWNED STORM WATER RUNOFF FACILITIES. THE MAINTENANCE AGREEMENT SHALL INCLUDE THE DEVELOPER'S WRITTEN COMMITMENT TO PROVIDE ROUTINE, EMERGENCY, AND LONG-TERM MAINTENANCE OF THE FACILITIES AND, IN THE EVENT THAT THE FACILITIES ARE NOT MAINTAINED IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN. THE AGREEMENT SHALL AUTHORIZE THE CITY TO MAINTAIN ANY ON-SITE STORM WATER RUNOFF FACILITY AS REASONABLY NECESSARY, AT THE DEVELOPER'S EXPENSE (SEE ARTICLE VII).

(K) THE NAME OF THE ENGINEERING FIRM AND THE REGISTERED PROFESSIONAL ENGINEER THAT DESIGNED THE STORM WATER PLAN AND THAT WILL INSPECT FINAL CONSTRUCTION OF THE STORM WATER RUNOFF FACILITIES.

(L) ALL DESIGN INFORMATION MUST BE COMPATIBLE FOR CONVERSION TO STANDARD GIS SHAPE FILES.

(M) ANY OTHER INFORMATION NECESSARY FOR THE CITY DIRECTOR TO VERIFY THAT THE STORM WATER PLAN COMPLIES WITH THE CITY DESIGN AND PERFORMANCE STANDARDS FOR DRAINS AND STORM WATER MANAGEMENT SYSTEMS.

§46-136 PERFORMANCE AND DESIGN STANDARDS

A DISCHARGER STORM WATER PLAN DEVELOPED, AS SET FORTH IN §46-135, SHALL ALSO CONFORM WITH THE FOLLOWING STANDARDS.

(A) MINIMUM TREATMENT VOLUME STANDARD: THE MINIMUM TREATMENT VOLUME STANDARD SHALL BE ONE (1) INCH OF RUNOFF FROM THE ENTIRE SITE. TREATMENT METHODS SHALL BE DESIGNED ON A SITE-SPECIFIC BASIS TO ACHIEVE EITHER A MINIMUM OF EIGHTY (80) PERCENT REMOVAL OF TOTAL SUSPENDED SOLIDS (TSS) AS COMPARED WITH UNCONTROLLED RUNOFF OR THE LIMITATION OF DISCHARGE CONCENTRATIONS OF TSS TO NO MORE THAN EIGHTY (80) MILLIGRAMS PER LITER. A MINIMUM TREATMENT VOLUME STANDARD IS NOT REQUIRED WHERE SITE CONDITIONS ARE SUCH THAT TSS CONCENTRATIONS IN STORM WATER DISCHARGES WILL NOT EXCEED EIGHTY (80) MILLIGRAMS PER LITER.

(B) CHANNEL PROTECTION CRITERIA: THE CHANNEL PROTECTION CRITERIA SHALL BE ESTABLISHED TO MAINTAIN POST-DEVELOPMENT SITE RUNOFF VOLUME AND PEAK FLOW RATE AT OR BELOW EXISTING LEVELS FOR ALL STORMS UP TO THE 2-YEAR, 24-HOUR EVENT. "EXISTING LEVELS" SHALL MEAN THE RUNOFF VOLUME AND PEAK FLOW RATE OF THE LAST LAND USE PRIOR TO THE PLANNED NEW DEVELOPMENT OR REDEVELOPMENT. EVALUATION OF THIS STANDARD SHALL BE MADE BY THE APPLICANT AND REVIEWED BY THE CWPCS.

(C) OTHER ALTERNATIVE PUBLISHED AND GENERALLY ACCEPTED TREATMENT STANDARDS APPROVED BY THE CITY DIRECTOR, WHICH ARE APPROVED BY THE MDEQ AND INCLUDED IN THE CITY NPDES PERMIT FOR THE MS4.

§46-137 MS4 APPLICATION REVIEW FEES

(A) ALL EXPENSES AND COSTS INCURRED BY THE CITY DIRECTLY ASSOCIATED WITH PROCESSING, REVIEWING AND APPROVING OR DENYING AN MS4 PERMIT APPLICATION SHALL BE PAID (OR REIMBURSED) TO THE CITY FROM THE FUNDS IN A SEPARATE ESCROW ACCOUNT ESTABLISHED BY THE DEVELOPER, AS PROVIDED IN SUBSECTION (B). THE CITY MAY DRAW FUNDS FROM A DEVELOPER'S ESCROW ACCOUNT TO REIMBURSE THE CITY FOR EXPENSES INCURRED BY THE CITY RELATING TO THE APPLICATION. SUCH REIMBURSABLE EXPENSES INCLUDE, BUT ARE NOT LIMITED TO, EXPENSES RELATED TO THE FOLLOWING:

(1) SERVICES OF THE CITY ATTORNEY DIRECTLY RELATED TO THE APPLICATION.

(2) SERVICES OF THE CWPCS DIRECTLY RELATED TO THE APPLICATION INCLUDING INSPECTIONS FEES.

(3) SERVICES OF OTHER INDEPENDENT CONTRACTORS WORKING FOR THE CITY WHICH ARE DIRECTLY RELATED TO THE APPLICATION.

(4) ANY ADDITIONAL PUBLIC HEARINGS, REQUIRED MAILINGS AND LEGAL NOTICE REQUIREMENTS NECESSITATED BY THE APPLICATION.

(B) AT THE TIME A DEVELOPER APPLIES FOR AN MS4 PERMIT, THE DEVELOPER SHALL DEPOSIT WITH THE CITY TREASURER, AS AN ESCROW DEPOSIT, AN INITIAL AMOUNT AS

DETERMINED BY RESOLUTION OF THE CITY COUNCIL FOR SUCH MATTERS AND SHALL PROVIDE ADDITIONAL AMOUNTS AS REQUESTED BY THE CITY DIRECTOR IN SUCH INCREMENTS AS ARE SPECIFIED IN SAID RESOLUTION. ANY EXCESS FUNDS REMAINING IN THE ESCROW ACCOUNT AFTER THE APPLICATION HAS BEEN FULLY PROCESSED, REVIEWED, AND THE FINAL CITY DIRECTOR'S DENIAL OR APPROVAL AND ACCEPTANCE OF THE DEVELOPMENT HAS OCCURRED WILL BE REFUNDED TO THE DEVELOPER WITH NO INTEREST TO BE PAID ON THOSE FUNDS. AT NO TIME PRIOR TO THE CITY DIRECTOR'S FINAL DECISION ON AN APPLICATION SHALL THE BALANCE IN THE ESCROW ACCOUNT FALL BELOW THE REQUIRED INITIAL AMOUNT. IF THE FUNDS IN THE ACCOUNT ARE REDUCED TO LESS THAN THE REQUIRED INITIAL AMOUNT, THE DEVELOPER SHALL DEPOSIT INTO THE ACCOUNT THE ADDITIONAL AMOUNT NEEDED TO RESTORE THE ACCOUNT TO THE REQUIRED AMOUNT BEFORE THE APPLICATION REVIEW PROCESS WILL BE CONTINUED. ADDITIONAL AMOUNTS MAY BE REQUIRED TO BE PLACED IN THE ESCROW ACCOUNT BY THE DEVELOPER FOR THE PURPOSES DESCRIBED IN THIS SECTION 46-137, AT THE DISCRETION OF THE CITY DIRECTOR TO MAINTAIN THE INITIAL AMOUNT AND THE AMOUNT OF ANY EXPECTED REIMBURSABLE COSTS.

§46-138 FINANCIAL ASSURANCE

(A) THE CITY DIRECTOR SHALL NOT APPROVE AN MS4 PERMIT FOR A DEVELOPER UNTIL THE DEVELOPER SUBMITS TO THE CITY DIRECTOR, IN A FORM AND AMOUNT SATISFACTORY TO THE CITY DIRECTOR, A LETTER OF CREDIT OR OTHER FINANCIAL

ASSURANCE FOR THE TIMELY AND SATISFACTORY CONSTRUCTION OF ALL STORM WATER RUNOFF FACILITIES AND SITE GRADING IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN. UPON CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER THAT THE STORM WATER RUNOFF FACILITIES HAVE BEEN COMPLETED IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN INCLUDING, BUT NOT LIMITED TO, THE PROVISIONS CONTAINED IN §46-141, THE CITY DIRECTOR MAY RELEASE THE LETTER OF CREDIT, OR OTHER FINANCIAL GUARANTEE UPON FINAL CITY DIRECTOR ACCEPTANCE AND APPROVAL OF SUCH STORM WATER RUNOFF FACILITIES CERTIFICATION.

(B) THE LETTER OF CREDIT OR OTHER FINANCIAL GUARANTEE MAY BE ACCESSED BY THE CITY WHEN:

(1) VIOLATION OF THIS ORDINANCE HAS OCCURRED,

(2) CORRECTIVE ACTION HAS NOT BEEN COMPLETED BY THE DEVELOPER WITHIN 30 DAYS OF NOTIFICATION OF THE VIOLATION PROVIDED BY THE CITY.

(C) EXCEPT AS PROVIDED IN SUBSECTION (E), THE AMOUNT OF THE FINANCIAL ASSURANCE SHALL BE AS DETERMINED BY THE CITY COUNCIL IN A RESOLUTION OF FEES FOR CITY SERVICES TO SATISFY §46-149, UNLESS THE CITY DETERMINES THAT A GREATER AMOUNT IS APPROPRIATE, IN WHICH CASE THE BASIS FOR SUCH DETERMINATION SHALL BE PROVIDED TO THE DEVELOPER IN WRITING. IN

DETERMINING WHETHER AN AMOUNT GREATER THAN THE AMOUNT ESTABLISHED BY RESOLUTION OF CITY COUNCIL IS APPROPRIATE, THE CITY DIRECTOR SHALL CONSIDER THE SIZE AND TYPE OF THE DEVELOPMENT, THE SIZE AND TYPE OF THE ON-SITE STORM WATER SYSTEM, AND THE NATURE OF THE OFF-SITE STORM WATER RUNOFF FACILITIES THE DEVELOPMENT WILL UTILIZE.

(D) THE LETTER OF CREDIT OR OTHER FINANCIAL ASSURANCE WILL NOT BE ALLOWED BY THE DEVELOPER TO EXPIRE UNTIL THE MAINTENANCE AGREEMENT FOR STORM WATER FACILITIES ESTABLISHED BY THE DEVELOPER HAS BEEN SIGNED BY THE DEVELOPER AND THE CITY.

(E) A MAINTENANCE BOND SHALL BE PROVIDED TO THE CITY BY THE DEVELOPER. THE MAINTENANCE BOND SHALL BE PROVIDED FOR A PERIOD OF TWO YEARS COMMENCING FROM THE DATE OF THE FINAL APPROVAL OF THE STORM WATER PLAN.

(F) THE CITY DIRECTOR MAY REDUCE OR WAIVE THE AMOUNT OF THE FINANCIAL ASSURANCE FOR A DEVELOPMENT THAT WILL NOT INCREASE THE PERCENTAGE OF IMPERVIOUS SURFACE OF THE DEVELOPMENT SITE BY MORE THAN TEN PERCENT (10%).

(G) THIS ORDINANCE SHALL NOT BE CONSTRUED OR INTERPRETED AS RELIEVING A DEVELOPER OF ITS OBLIGATION TO PAY ALL COSTS ASSOCIATED WITH ON-SITE PRIVATE

STORM WATER RUNOFF FACILITIES AS WELL AS THOSE COSTS ARISING FROM THE NEED TO MAKE OTHER STORM WATER IMPROVEMENTS IN ORDER TO REDUCE A DEVELOPMENT'S IMPACT ON A DRAIN.

§46-139 CERTIFICATE OF OCCUPANCY

NO CERTIFICATE OF OCCUPANCY FOR A DEVELOPMENT SHALL BE ISSUED BY THE CITY UNTIL STORM WATER RUNOFF FACILITIES HAVE BEEN COMPLETED IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN; PROVIDED, HOWEVER, THE CITY MAY ISSUE A CERTIFICATE OF OCCUPANCY IF AN ACCEPTABLE LETTER OF CREDIT OR OTHER FINANCIAL ASSURANCE HAS BEEN SUBMITTED TO THE CITY DIRECTOR, FOR THE TIMELY AND SATISFACTORY CONSTRUCTION OF ALL STORM WATER RUNOFF FACILITIES AND SITE GRADING IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN.

§46-140 NO CHANGE IN APPROVED FACILITIES

(A) STORM WATER RUNOFF FACILITIES, AFTER CONSTRUCTION AND APPROVAL, SHALL BE MAINTAINED BY THE DEVELOPER IN GOOD CONDITION, IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN, AND SHALL NOT BE SUBSEQUENTLY ALTERED, REVISED OR REPLACED EXCEPT IN ACCORDANCE WITH THE APPROVED STORM WATER PLAN, OR IN ACCORDANCE WITH AMENDMENTS OR REVISIONS IN THE PLAN APPROVED BY THE CITY.

(B) THE CITY DIRECTOR MAY TAKE CORRECTIVE ACTION IF ALTERATIONS TO APPROVED STORM

WATER FACILITIES OCCUR AND THE CITY MAY RECOVER FROM THE RESPONSIBLE PARTY ALL OF THE CITY'S COSTS ASSOCIATED WITH THE CORRECTIVE ACTION.

§46-141 TERMS AND CONDITIONS OF MS4 PERMITS

IN GRANTING AN MS4 PERMIT, THE CITY DIRECTOR MAY IMPOSE SUCH TERMS AND CONDITIONS, SUCH AS REQUIREMENTS FOR POLLUTION MONITORING, PREVENTION, CONTROL AND REPORTING, AS ARE REASONABLY NECESSARY TO IMPLEMENT THE PURPOSES OF THIS ORDINANCE. A PERSON HAVING SAID PERMIT SHALL COMPLY WITH SUCH TERMS AND CONDITIONS.

§46-142 STORM WATER SYSTEM, FLOODPLAIN AND OTHER STANDARDS, SOIL EROSION CONTROL

(A) THE CITY IS NOT RESPONSIBLE FOR PROVIDING DRAINAGE FACILITIES ON PRIVATE PROPERTY FOR THE MANAGEMENT OF STORM WATER ON SAID PROPERTY. IT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER TO PROVIDE FOR, AND MAINTAIN, PRIVATE STORM WATER RUNOFF FACILITIES SERVING THE PROPERTY AND TO PREVENT OR CORRECT THE ACCUMULATION OF DEBRIS THAT INTERFERES WITH DRAINAGE.

(B) ALL STORM WATER RUNOFF FACILITIES SHALL BE CONSTRUCTED AND MAINTAINED IN ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE

AND LOCAL ORDINANCES, AND RULES AND REGULATIONS.

§46-143 ILLICIT DISCHARGES/ CONNECTIONS, AND EXEMPTIONS

(A) NO PERSON SHALL MAKE OR ALLOW AN ILLICIT DISCHARGE OR HAVE AN ILLICIT CONNECTION.

(B) THE CITY DIRECTOR MAY REQUIRE DISCHARGERS TO IMPLEMENT BMPs TO PREVENT OR REDUCE THE DISCHARGE OF POLLUTANTS INTO THE CITY MS4.

(C) THE FOLLOWING DISCHARGES AND FLOWS ARE EXEMPTED DISCHARGES AND SHALL NOT REQUIRE AN MS4 PERMIT UNDER §46-135(A) PROVIDED THEY ARE NOT IDENTIFIED AS SIGNIFICANT CONTRIBUTORS TO VIOLATIONS OF STATE WATER QUALITY STANDARDS:

(1) POTABLE WATER SUPPLY LINE FLUSHING

(2) LANDSCAPE IRRIGATION

(3) DIVERTED STREAM FLOWS

(4) UNCONTAMINATED GROUNDWATER INFILTRATION TO STORM DRAINS

(5) PUMPED UNCONTAMINATED GROUND WATER, EXCEPT FOR GROUNDWATER CLEANUPS SPECIFICALLY AUTHORIZED BY NPDES PERMITS

(6) DISCHARGES OF POTABLE WATER

(7) FOUNDATION DRAIN
WATER

(8) AIR CONDITIONING
CONDENSATE WATER

(9) INDIVIDUAL
RESIDENTIAL CAR WASHING WATER

(10) DECHLORINATED
SWIMMING POOL WATERS FROM
SINGLE, TWO, OR THREE FAMILY
RESIDENCES

(11) SWIMMING POOL
WATER FROM A SINGLE-FAMILY
RESIDENCE

(12) RESIDUAL CITY
STREET WASH WATER

(13) DISCHARGES FROM
EMERGENCY FIREFIGHTING
ACTIVITIES.

(D) DISCHARGES AUTHORIZED
BY AN NPDES PERMIT ARE NOT ILLICIT
DISCHARGES.

A SPECIAL PROVISION APPLIES TO
GROUNDWATER WHICH MAY
INFILTRATE THE MS4 AT A PROPERTY
COMMONLY REFERRED TO AS "CHEVY
IN THE HOLE" WHICH IS OWNED BY THE
CITY. THE CITY ENTERED INTO AN
AGREEMENT, ORDER ON CONSENT, AND
COVENANT NOT TO SUE THE CITY OF
FLINT, MI WITH THE UNITED STATES
DEPARTMENT OF JUSTICE AND THE
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY ON OCTOBER 16,
2012, AND A COVENANT NOT TO SUE THE
CITY OF FLINT, MI WITH THE MICHIGAN
DEPARTMENT OF ENVIRONMENTAL
QUALITY AND THE MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

ON AUGUST 8, 2012, BOTH OF WHICH
ADDRESS CONTAMINATION AT THAT
PROPERTY THAT EXISTED AT THE TIME
THE CITY ACQUIRED THAT PROPERTY
("EXISTING CONTAMINATION") AND
BOTH OF WHICH ARE REFERRED TO
HERE AS THE GOVERNMENT
AGREEMENTS. NOTHING IN THIS
ORDINANCE SHALL AFFECT THE
VALIDITY, SCOPE AND EFFECT OF THE
GOVERNMENT AGREEMENTS.

§46-144 INTERFERENCE WITH NATURAL OR ARTIFICIAL DRAINAGEWAY

NO PERSON MAY STOP, FILL, DAM,
CONFINE, PAVE, ALTER THE COURSE OF,
OR OTHERWISE INTERFERE WITH ANY
PART OF THE MS4 OR ANY NATURAL OR
CONSTRUCTED DRAIN IN THE CITY IN A
MANNER THAT WILL ADVERSELY
AFFECT THE MS4, OR DRAINAGE WAY IN
THE CITY WITHOUT FIRST SUBMITTING
A STORM WATER PLAN TO THE CITY
DIRECTOR AND RECEIVING APPROVAL
OF THAT PLAN WHICH PROVIDES FOR
SUCH ACTION BY THAT PERSON. ANY
DEVIATION FROM THE APPROVED PLAN
IS A VIOLATION OF THIS ORDINANCE.
THIS SECTION SHALL NOT PROHIBIT,
HOWEVER, NECESSARY EMERGENCY
ACTION SO AS TO PREVENT OR
MITIGATE DRAINAGE THAT WOULD BE
INJURIOUS TO THE ENVIRONMENT, THE
PUBLIC HEALTH, SAFETY, OR WELFARE.
APPROVAL BY THE CITY OF SUCH PLAN
DOES NOT OBVIATE THE NEED TO
OBTAIN PERMITS OR APPROVALS FROM
OTHER GOVERNMENT AGENCIES.

§46-145 INSPECTION, MONITORING, REPORTING, AND RECORDKEEPING

(A) INSPECTIONS:

(1) AUTHORIZED REPRESENTATIVES OF THE CITY EXHIBITING PROPER CREDENTIALS AND IDENTIFICATION SHALL BE PERMITTED AT ALL REASONABLE TIMES, AND AT ANY TIME IN AN EMERGENCY, TO ENTER ANY DISCHARGER'S PROPERTY WITHOUT DELAY FOR THE PURPOSES OF INSPECTION, OBSERVATION, MEASUREMENT, SAMPLING, AND TESTING IN CONNECTION WITH THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE.

(2) WHILE ON THE PROPERTY OF THE DISCHARGER, THE AUTHORIZED REPRESENTATIVE OF THE CITY SHALL OBSERVE ALL REASONABLE SAFETY RULES APPLICABLE TO THE PREMISES ESTABLISHED BY THE DISCHARGER THAT ARE COMMUNICATED BY THE DISCHARGER TO THE CITY REPRESENTATIVE AT THE TIME OF ENTRY AND DURING THE VISIT, IF PRACTICABLE. THE AUTHORIZED REPRESENTATIVE OF THE CITY IS NOT REQUIRED TO OBSERVE SUCH SAFETY RULES IN AN EMERGENCY. THE DISCHARGER SHALL ADVISE THE CITY REPRESENTATIVE OF HEALTH AND SAFETY HAZARDS AND PRECAUTIONARY MEASURES NECESSARY TO PROTECT THE HEALTH AND SAFETY OF THE CITY REPRESENTATIVE WHILE ON THE DISCHARGER'S PREMISES. THE CITY DIRECTOR MAY ORDER ANY DISCHARGER TO PROVIDE WRITTEN INFORMATION REGARDING SUCH HEALTH AND SAFETY HAZARDS AND PRECAUTIONARY MEASURES. IF REQUIRED BY THE DISCHARGER, THE CITY REPRESENTATIVE INTENDING TO ENTER A DISCHARGER'S PROPERTY SHALL BE PROVIDED WITH AN ESCORT BY THE DISCHARGER TO ACCOMPANY THE CITY REPRESENTATIVE WHILE ON

THE DISCHARGER'S PROPERTY. THE DISCHARGER SHALL PROVIDE THE ESCORT WITHIN A REASONABLE TIME AFTER ARRIVAL AT THE DISCHARGER'S PROPERTY. IN THE EVENT OF AN EMERGENCY, OR IF THE DISCHARGER DOES NOT PROVIDE AN ESCORT WITHIN A REASONABLE TIME THE CITY REPRESENTATIVE IS NOT REQUIRED TO WAIT FOR SUCH AN ESCORT BEFORE PROCEEDING WITH THE ENTRY AND OTHER ACTIVITIES ON THE DISCHARGER'S PROPERTY. IF THE CITY REPRESENTATIVE PROCEEDS WITHOUT SUCH AN ESCORT ON THE BASIS OF AN EMERGENCY OR ON THE BASIS THAT THE DISCHARGER DID NOT PROVIDE AN ESCORT WITHIN A REASONABLE TIME UNDER THE CIRCUMSTANCES, THEN THE CITY SHALL PROVIDE SUCH DISCHARGER WITH A WRITTEN EXPLANATION OF THE SITUATION.

(3) INSPECTION BY STATE OR FEDERAL REPRESENTATIVES PURSUANT TO LAW SHALL NOT RELIEVE A DISCHARGER FROM INSPECTION BY CITY REPRESENTATIVES, AND INSPECTION BY CITY REPRESENTATIVES SHALL NOT RELIEVE ANY DISCHARGER FROM COMPLIANCE WITH LAWFUL INSPECTION BY STATE AND FEDERAL REPRESENTATIVES.

(B) STORM WATER MONITORING FACILITIES: THE CITY DIRECTOR MAY REQUIRE, BY ORDER OR BY AN MS4 PERMIT, THAT A DISCHARGER OF STORM WATER PROVIDE AND OPERATE EQUIPMENT OR DEVICES FOR THE MONITORING OF STORM WATER, SO AS TO PROVIDE FOR INSPECTION, SAMPLING, AND FLOW MEASUREMENT OF THE DISCHARGE. THE CITY DIRECTOR MAY REQUIRE A DISCHARGER TO PROVIDE AND OPERATE SUCH EQUIPMENT AND

DEVICES IF IT IS NECESSARY OR APPROPRIATE FOR THE INSPECTION, SAMPLING AND FLOW MEASUREMENT OF DISCHARGES IN ORDER TO DETERMINE WHETHER ADVERSE EFFECTS FROM OR AS A RESULT OF SUCH DISCHARGES MAY OCCUR OR TO DETERMINE VOLUME OF STORM WATER. ALL SUCH EQUIPMENT AND DEVICES FOR THE INSPECTION, SAMPLING AND FLOW MEASUREMENT OF DISCHARGES SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH APPLICABLE LAWS, ORDINANCES AND REGULATIONS. ALL MONITORING RESULTS SHALL BE REPORTED TO THE CITY DIRECTOR PROMPTLY AFTER THEY ARE RECEIVED BY THE DISCHARGER.

(C) ACCIDENTAL DISCHARGES: ANY DISCHARGER WHO ACCIDENTALLY DISCHARGES INTO THE MS4, ANY WATER OR POLLUTANTS OTHER THAN A DISCHARGE PERMITTED OR ALLOWED UNDER THIS ORDINANCE OR AN EXEMPTED DISCHARGE SHALL INFORM THE CITY DIRECTOR IMMEDIATELY. IF SUCH INFORMATION IS GIVEN ORALLY, A WRITTEN REPORT CONCERNING THE DISCHARGE SHALL BE FILED WITH THE CITY DIRECTOR WITHIN FIVE (5) DAYS. THE WRITTEN REPORT SHALL SPECIFY:

(1) THE COMPOSITION OF THE DISCHARGE AND THE CAUSE THEREOF.

(2) THE EXACT DATE, TIME, AND ESTIMATED VOLUME OF THE DISCHARGE.

(3) ALL MEASURES TAKEN TO CLEAN UP THE ACCIDENTAL DISCHARGE, AND ALL MEASURES PROPOSED TO BE TAKEN TO REDUCE AND PREVENT ANY RECURRENCE.

(4) THE NAME AND TELEPHONE NUMBER OF THE PERSON MAKING THE REPORT, AND THE NAME OF A PERSON WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION ON THE MATTER.

(D) RECORD KEEPING REQUIREMENT: ANY PERSON SUBJECT TO THIS ORDINANCE SHALL RETAIN AND PRESERVE FOR NO LESS THAN THREE (3) YEARS ANY AND ALL BOOKS, DRAWINGS, PLANS, PRINTS, DOCUMENTS, MEMORANDA, REPORTS, CORRESPONDENCE AND RECORDS, INCLUDING RECORDS ON MAGNETIC OR ELECTRONIC MEDIA AND ANY AND ALL SUMMARIES OF SUCH RECORDS, RELATING TO MONITORING, SAMPLING AND CHEMICAL ANALYSIS OF ANY DISCHARGE OR RUNOFF FROM ANY PROPERTY.

§46-146 ADMINISTRATION AND ENFORCEMENT

(A) POWERS OF THE CITY DIRECTOR: THE CITY DIRECTOR IS HEREBY EMPOWERED TO:

(1) SUPERVISE AND PERFORM THE IMPLEMENTATION OF THIS ORDINANCE;

(2) INSTITUTE ACTIONS AGAINST ALL PERSONS VIOLATING THIS ORDINANCE, INCLUDING JUDICIAL PROCEEDINGS TO ENJOIN, ABATE, AND PROSECUTE VIOLATIONS OF THIS ORDINANCE;

(3) REVIEW AND APPROVE OR DISAPPROVE STORM WATER PLANS;

(4) MAKE INSPECTIONS AND TESTS OF EXISTING AND NEWLY

INSTALLED, CONSTRUCTED, RECONSTRUCTED, OR ALTERED BMPS TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS ORDINANCE;

(5) INVESTIGATE COMPLAINTS OF VIOLATIONS OF THIS ORDINANCE; MAKE INSPECTIONS AND OBSERVATIONS OF DISCHARGES; AND RECORD SUCH INVESTIGATIONS, COMPLAINTS, INSPECTIONS, AND OBSERVATIONS;

(6) ISSUE ORDERS REQUIRING COMPLIANCE WITH THIS ORDINANCE, INCLUDING ORDERS TO IMMEDIATELY CEASE AN ILLICIT DISCHARGE OR REMOVE AN ILLICIT CONNECTION OR TO DO SO WITHIN A TIME CERTAIN;

(7) DETERMINE AND ASSESS CIVIL ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF THIS ORDINANCE;

(8) DETERMINE CHARGES FOR COMPENSATORY DAMAGES;

(9) RECOMMEND TO THE CITY ATTORNEY OF THE CITY THE INSTITUTION OF JUDICIAL PROCEEDINGS TO COMPEL COMPLIANCE WITH THE PROVISIONS OF THIS ORDINANCE OR ANY DETERMINATION OR ORDER WHICH MAY BE PROMULGATED OR ISSUED PURSUANT TO THIS ORDINANCE;

(10) DENY MS4 PERMITS FOR DISCHARGERS THAT DO NOT MEET THE REQUIREMENTS OF THIS ORDINANCE OR THAT WOULD CAUSE THE CITY TO VIOLATE ITS MS4 NPDES PERMIT; AND SET CONDITIONS ON NEW, INCREASED, OR CHANGED DISCHARGES TO THE CITY MS4;

(11) UNDERTAKE OR CAUSE TO BE UNDERTAKEN ANY NECESSARY OR ADVISABLE PROTECTIVE MEASURES SO AS TO PREVENT VIOLATIONS OF THIS ORDINANCE OR TO AVOID OR REDUCE THE EFFECTS OF NONCOMPLIANCE HEREWITH;

(12) PERFORM OTHER ACTIONS NECESSARY OR ADVISABLE FOR THE MANAGEMENT AND OPERATION OF THE CITY MS4 AND THE ENFORCEMENT OF THIS ORDINANCE AND OTHER LAWS AND REGULATIONS APPLICABLE TO THE MS4.

(B) ORDERS:

(1) WHENEVER THE CITY DIRECTOR DETERMINES THAT A PERSON HAS VIOLATED OR MAY VIOLATE THIS ORDINANCE, THE CITY DIRECTOR MAY ORDER THE PERSON TO TAKE ACTION OR REFRAIN FROM CERTAIN ACTIONS AS APPROPRIATE UNDER THE CIRCUMSTANCES.

(2) THE FOLLOWING ORDERS MAY BE ISSUED BY THE CITY DIRECTOR:

(A) IMMEDIATE CEASE AND DESIST. AN ORDER TO IMMEDIATELY CEASE AND DESIST DISCHARGING WHICH PRESENTS OR MAY PRESENT IMMINENT OR SUBSTANTIAL ENDANGERMENT TO THE HEALTH OR WELFARE OF PERSONS OR THE ENVIRONMENT OR WHICH CONSTITUTES AN ILLICIT DISCHARGE. SUCH ORDER SHALL BE FINAL AND IN EFFECT UPON ISSUANCE;

(B) CEASE DISCHARGE WITHIN A TIME CERTAIN. AN ORDER TO CEASE A DISCHARGE BY A

CERTAIN TIME AND DATE. THE ORDER MAY ALSO CONTAIN SUCH CONDITIONS AS DEEMED APPROPRIATE BY THE CITY DIRECTOR. NON-PAYMENT OF MS4 PERMIT FEES, NON-COMPLIANCE WITH ANY TERM OF AN MS4 PERMIT, AND ILLICIT DISCHARGES ARE EXAMPLES OF SUFFICIENT CAUSE FOR AN ORDER TO CEASE DISCHARGE WITHIN A TIME CERTAIN.

(C) ORDER TO PERFORM. AN ORDER REQUIRING A DISCHARGER SUBJECT TO THIS ORDINANCE TO PERFORM ANY REQUIRED ACTION OR TO COMPLY WITH ANY PROVISION OF THIS ORDINANCE, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

SAMPLING OR (1) INSTALL MONITORING EQUIPMENT;

SAMPLES; (2) SUBMIT

REPORTS; (3) SUBMIT

(4) ALLOW ACCESS FOR INSPECTION, SAMPLING, TESTS, MONITORING, AND INVESTIGATIONS;

(5) INSTALL, OPERATE, AND MAINTAIN BMPS;

(6) DEVELOP AND IMPLEMENT PROCEDURES, CONSTRUCT STRUCTURES, OR INSTALL EQUIPMENT FOR PREVENTING AND APPROPRIATELY RESPONDING TO ACCIDENTAL DISCHARGES;

(7) REDUCE OR ELIMINATE A DISCHARGE OR

POLLUTANTS IN A DISCHARGE OR A CHARACTERISTIC OF A DISCHARGE;

(8) CONTROL, RECOVER, OR MITIGATE THE EFFECTS OF POLLUTANTS ACCIDENTALLY OR INTENTIONALLY DISCHARGED TO THE CITY MS4 OR WHICH COULD POTENTIALLY BE DISCHARGED TO THE CITY MS4.

(9) CONDUCT INVESTIGATIONS AND STUDIES (I.E., ENVIRONMENTAL MONITORING, ENVIRONMENTAL RISK ASSESSMENTS, HYDRO-GEOLOGICAL STUDIES, AND THE LIKE) TO DETERMINE THE EFFECTS OR RISKS ASSOCIATED WITH ACTUAL, POTENTIAL, OR PAST DISCHARGES; THE ACTUAL OR POSSIBLE ROUTE(S) OF ENTRY OF ACTUAL OR SUSPECTED DISCHARGES (I.E., THROUGH UNDERGROUND PIPES OR BY INFILTRATION); THE EXTENT OF ENVIRONMENTAL CONTAMINATION WHICH IS OR WHICH MAY BE CAUSING A DISCHARGE; OR SUCH OTHER SIMILAR PURPOSE AS THE CITY DIRECTOR MAY DETERMINE; AND TO SUBMIT REPORTS DOCUMENTING THE FINDINGS OF SUCH INVESTIGATIONS OR STUDIES.

(10) PAY A COMPENSATORY DAMAGE CHARGE.

(11) PAY MS4 FEES.

(3) STOP WORK ORDER. AN ORDER TO PREVENT FURTHER OR CONTINUING VIOLATIONS OR ADVERSE EFFECTS.

(4) CONTENT OF ORDERS. ANY ORDER ISSUED BY THE CITY DIRECTOR SHALL GENERALLY STATE THE FACTUAL BASIS AND REASONS FOR

ITS ISSUANCE, THE REQUIRED ACTION, AND THE TIME WITHIN WHICH SUCH ACTION SHALL BE TAKEN. NO SUCH ORDER SHALL BE DEEMED INSUFFICIENT FOR INCONSEQUENTIAL ERRORS AND OMISSIONS IN THE FACTS OR REASONS FOR THE ORDER. IF ANY DISCHARGER DEEMS THE INFORMATION IN THE ORDER INSUFFICIENT, IT MAY REQUEST ADDITIONAL INFORMATION. MULTIPLE ORDERS MAY BE ISSUED SIMULTANEOUSLY, SEPARATELY, OR IN COMBINATION AS A SINGLE ORDER BY THE CITY DIRECTOR WITH RESPECT TO A SINGLE DISCHARGER OR PERSON.

(5) CONSENT ORDERS. A DISCHARGER OR A PERSON AND THE CITY MAY ENTER INTO AN ORDER BY CONSENT AND SUCH ORDER IS ENFORCEABLE BY THE CITY IN THE SAME MANNER AS ANY OTHER ORDER ISSUED BY THE CITY OF FLINT UNDER THIS ORDINANCE.

(6) DISCONNECTION. THE CITY DIRECTOR MAY PHYSICALLY DISCONNECT A DISCHARGER FROM THE CITY MS4 IF THE DISCHARGER VIOLATES ANY PROVISION OF AN ORDER, INCLUDING AN IMMEDIATE CEASE AND DESIST ORDER.

(C) NOTICES OF VIOLATION

(1) THE CITY DIRECTOR MAY ISSUE A NOTICE OF VIOLATION WITH OR WITHOUT AN ORDER AGAINST ANY DISCHARGER WHO IS OR HAS BEEN IN VIOLATION OF THIS ORDINANCE OR WHO IS OR HAS BEEN IN VIOLATION OF AN MS4 PERMIT.

(2) THE NOTICE OF VIOLATION OR THE ORDER SHALL BE SERVED UPON THE DISCHARGER OR

PERSON EITHER BY PERSONAL DELIVERY, FIRST CLASS MAIL ADDRESSED TO SUCH DISCHARGER OR PERSON, ELECTRONIC MAIL, TELECOPY, TELEPHONE, OR OTHER MEANS, INCLUDING ORALLY. IF SERVICE IS MADE ORALLY, BY TELEPHONE, OR BY ELECTRONIC MAIL, A FOLLOW-UP HARDCOPY NOTICE SHALL BE SENT BY THE CITY DIRECTOR.

(3) THE NOTICE OF VIOLATION SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) DATE OF ISSUANCE;

(B) DATE(S), TIME(S), AND PLACE(S) OF THE VIOLATION; THE NATURE OF THE VIOLATION; THE POLLUTANTS OR WATER DISCHARGED; AND THE VOLUME OF SUCH DISCHARGE, TO THE EXTENT THAT SUCH INFORMATION IS KNOWN AND APPLICABLE;

(C) REFERENCE TO THE PERTINENT SECTION OF THIS ORDINANCE OR MS4 PERMIT UNDER WHICH THE VIOLATION IS CHARGED;

(D) REFERENCE TO SECTION OF THIS ORDINANCE ESTABLISHING PENALTIES FOR THE VIOLATION;

(E) POTENTIAL PENALTIES, FINES, AND COMPENSATORY DAMAGE CHARGES;

(F) THE RIGHT OF THE ALLEGED VIOLATOR TO PRESENT TO THE CITY DIRECTOR WRITTEN EXPLANATIONS, DEFENSES, INFORMATION, OR OTHER MATERIALS

IN ANSWER TO THE NOTICE OF VIOLATION;

(D) INFORMAL CONFERENCE:

(1) AN INFORMAL CONFERENCE WITH THE CITY DIRECTOR MAY BE REQUESTED IN WRITING WITHIN TWENTY (20) DAYS BY ANY DISCHARGER OR PERSON AGGRIEVED BY A NOTICE OF VIOLATION, ORDER, COMPENSATORY CHARGE, ACTION ON OR REGARDING AN MS4 PERMIT BY THE CITY. THIS SUBSECTION DOES NOT APPLY TO MUNICIPAL CIVIL INFRACTION CITATIONS AND MUNICIPAL CIVIL INFRACTION NOTICES AS DEFINED IN CHAPTER 1, § 1-12, OF THE ORDINANCES OF THE CITY OF FLINT. THE REQUEST FOR AN INFORMAL CONFERENCE SHALL BE SUBMITTED TO THE CITY DIRECTOR. THE PURPOSE OF THE INFORMAL CONFERENCE IS TO REACH A SETTLEMENT AGREEABLE TO THE DISCHARGER OR PERSON AND THE CITY. THE INFORMAL CONFERENCE SHALL BE HELD WITHIN TWENTY (20) DAYS AFTER THE DISCHARGER SUBMITS THE WRITTEN REQUEST FOR THE INFORMAL CONFERENCE TO THE CITY DIRECTOR. THE CITY DIRECTOR MAY PARTICIPATE IN THE CONFERENCE OR APPOINT A DESIGNEE TO PARTICIPATE. NEITHER THE CITY DIRECTOR NOR HIS OR HER DESIGNEE SHALL BE REQUIRED TO REACH A CONCLUSION OR PROVIDE A DECISION AS A RESULT OF THE CONFERENCE. A DISCHARGER OR PERSON IS REQUIRED TO REQUEST OR PARTICIPATE IN AN INFORMAL CONFERENCE BEFORE SEEKING JUDICIAL REVIEW. OTHER PERSONS FROM THE CITY AND REPRESENTATIVES OF THE DISCHARGER OR PERSON MAY ATTEND AND PARTICIPATE IN THE INFORMAL CONFERENCE.

(2) IF AN IMMEDIATE CEASE AND DESIST ORDER IS THE SUBJECT OF A REQUEST FOR AN INFORMAL CONFERENCE, THE INFORMAL CONFERENCE SHALL BE HELD AS SOON AS POSSIBLE, BUT NOT LATER THAN TWENTY (20) DAYS AFTER THE REQUEST IS SUBMITTED.

(E) APPEAL BOARD:

(1) THE CITY WASTEWATER APPEALS BOARD (CWAB) SHALL CONSIST OF THE CITY ATTORNEY, THE ENVIRONMENTAL COMPLIANCE INSPECTOR, AND THE CITY DIRECTOR. IF THERE IS A VACANCY IN ANY OF THESE THREE OFFICES, THE CITY ADMINISTRATOR SHALL APPOINT AN EMPLOYEE OF THE DEPARTMENT OR FUNCTIONAL GROUP WHERE THE VACANCY OCCURRED TO SERVE AS THE CWAB MEMBER ON A TEMPORARY BASIS UNTIL SUCH VACANCY IS FILLED. IF POSSIBLE, THE TEMPORARY APPOINTEE SHALL COMPLETE ANY PENDING APPEALS THAT ARISE DURING THE DURATION OF THE TEMPORARY APPOINTMENT. THE CITY ATTORNEY MAY DESIGNATE AN ASSISTANT CITY ATTORNEY TO SIT ON THE CWAB. IF THE CITY CHANGES THE TITLE OR FUNCTION OF THE FOREGOING POSITIONS, THEN THE CWAB WILL HAVE AS MEMBERS THE THREE (3) CITY EMPLOYEES WITH FUNCTIONS MOST CLOSELY RELATED TO THOSE POSITIONS. EACH OF THOSE THREE MEMBERS SHALL HAVE ONE VOTE IN ANY MATTER DECIDED BY THE CWAB.

(2) AT THE REQUEST OF A DISCHARGER OR PERSON OR ON THEIR OWN INITIATIVE, THE CWAB MAY RETAIN A PERSON WITH EXPERTISE IN THE GENERAL SUBJECT MATTER OF THE

APPEAL ("SPECIAL EXPERT MEMBER") TO PROVIDE ADVICE TO THE CWAB. THE SPECIAL EXPERT MEMBER SHALL HAVE NO VOTE IN THE PROCEEDINGS. IF THE SPECIAL EXPERT MEMBER IS REQUESTED BY THE DISCHARGER OR PERSON, THE DISCHARGER OR PERSON MAY SUGGEST ONE OR MORE PERSONS TO SERVE AS A SPECIAL EXPERT MEMBER AND SHALL DESCRIBE THEIR QUALIFICATIONS, BUT THE CWAB SHALL HAVE SOLE DISCRETION IN CHOOSING THE SPECIAL EXPERT MEMBER. ALL COSTS, FEES, AND EXPENSES ASSOCIATED WITH CHOOSING, SELECTING, AND RETAINING A SPECIAL EXPERT MEMBER REQUESTED BY THE DISCHARGER OR PERSON SHALL BE PAID BY THE DISCHARGER OR PERSON. THE CWAB MAY REQUIRE THE DISCHARGER OR PERSON TO PAY THESE COSTS IN ADVANCE. THE CITY SHALL BEAR THE COST OF ANY SPECIAL EXPERT MEMBER RETAINED ON THE INITIATIVE OF THE CWAB. THE CWAB, AT ITS DISCRETION, MAY AGREE TO SHARE ANY PERCENTAGE OF THE COST OF RETAINING A SPECIAL EXPERT MEMBER. NO PERSON SHALL SERVE AS A SPECIAL EXPERT MEMBER WHO HAS, WITHIN THE PRECEDING FIVE (5) YEARS, BEEN AN EMPLOYEE OF THE DISCHARGER OR PERSON OR THE CITY, UNLESS AGREED TO BY BOTH THE DISCHARGER OR PERSON AND THE CITY.

(F) APPEALS:

(1) A DISCHARGER OR PERSON MAY APPEAL TO THE CWAB ANY NOTICE OF VIOLATION, ORDER, COMPENSATORY CHARGE, ACTION ON OR REGARDING AN MS4 PERMIT BY THE CITY, (BUT NOT A MUNICIPAL CIVIL INFRACTION NOTICE AS DEFINED IN CHAPTER 1, § 1-12, OF THE ORDINANCES

OF THE CITY OF FLINT) BY FILING A WRITTEN REQUEST WITH THE CITY DIRECTOR WITHIN TWENTY (20) DAYS AFTER THE LATER OF:

(A) TEN (10) DAYS AFTER THE COMPLETION OF THE INFORMAL CONFERENCE;

(B) THE DATE THE NOTICE OF VIOLATION, ORDER, NOTICE OF COMPENSATORY CHARGE, ACTION ON OR REGARDING AN MS4 PERMIT BY THE CITY IS SERVED UPON SUCH DISCHARGER OR PERSON.

(2) THE WRITTEN REQUEST SHALL DESCRIBE THE MATTER APPEALED, A SUMMARY OF THE DISCHARGER'S OR PERSON'S POSITION, A COPY OF THE NOTICE OR OTHER DOCUMENT FROM THE CITY UPON WHICH THE APPEAL IS BASED, AND ANY REQUEST BY THE DISCHARGER OR PERSON FOR A SPECIAL EXPERT MEMBER.

(3) THE CITY DIRECTOR SHALL PROMPTLY FORWARD THE WRITTEN REQUEST FOR APPEAL TO THE CITY ATTORNEY WHO SHALL NOTIFY THE OTHER MEMBERS OF THE CWAB. THE CWAB MAY REJECT ANY WRITTEN REQUEST FOR APPEAL WHICH IS NOT TIMELY AND DOES NOT CONFORM TO THE REQUIREMENTS OF THIS SUBSECTION. UPON RECEIPT OF A TIMELY AND CONFORMING WRITTEN REQUEST FOR APPEAL, THE CWAB SHALL SET A TIME FOR THE CITY AND THE DISCHARGER OR PERSON TO APPEAR BEFORE THE CWAB TO PRESENT EVIDENCE AND ARGUMENTS IN SUPPORT OF THEIR POSITIONS. THE DISCHARGER OR PERSON AND THE CITY MAY PRESENT WITNESSES AND DOCUMENTARY EVIDENCE TO THE

CWAB. WITNESSES SHALL BE SWORN AND SHALL BE SUBJECT TO CROSS-EXAMINATION. THE PROCEEDINGS OF THE CWAB SHALL BE RECORDED. THE RULES OF EVIDENCE OF THE COURTS OF THE STATE OF MICHIGAN SHALL NOT BE STRICTLY APPLIED BY THE CWAB BUT SHALL BE A GUIDE FOR THE CWAB IN DETERMINING WHICH EVIDENCE TO ADMIT OR EXCLUDE AND WHAT WEIGHT TO GIVE THE EVIDENCE ADMITTED. ON RECEIPT OF A REQUEST FOR AN APPEAL, THE CWAB SHALL ESTABLISH A TIMETABLE FOR THE PROCEEDINGS AND SHALL PROMPTLY RENDER A WRITTEN DECISION STATING ITS FINDINGS OF FACT AND CONCLUSIONS SUPPORTING ITS DECISION.

(4) IF THE DISCHARGER OR PERSON REQUESTS A TRANSCRIPT OF THE PROCEEDINGS, THE DISCHARGER OR PERSON SHALL PAY THE COST OF PREPARING THE TRANSCRIPT AND SHALL PROVIDE A COPY TO THE CITY. THE DISCHARGER OR PERSON AND THE CITY SHALL PAY THEIR OWN COSTS OF THE CWAB PROCEEDING, INCLUDING BUT NOT LIMITED TO ATTORNEY FEES, EXPERT WITNESSES (EXCEPT THAT THE COSTS FOR SPECIAL EXPERT MEMBERS SHALL BE PAID AS SET FORTH IN SUBSECTION (E)(2) OF THIS SECTION), OTHER WITNESSES, DOCUMENTS, AND TESTS. THE DISCHARGER OR PERSON REQUESTING THE APPEAL TO THE CWAB SHALL PAY A FEE AS ESTABLISHED FROM TIME TO TIME BY RESOLUTION OF THE CITY COUNCIL AND KEPT ON FILE BY THE CITY CLERK. IF THE CWAB FINDS THAT THE DISCHARGER OR PERSON FILED A FRIVOLOUS APPEAL, OR IN BAD FAITH, WHICH HAS NO REASONABLE BASIS IN FACT OR LAW, THE CWAB MAY ASSESS THE DISCHARGER OR PERSON FOR ALL OF

THE COSTS OF THE CWAB AND THE CITY IN CONNECTION WITH THE APPEAL AND THE DISCHARGER OR PERSON SHALL PAY THE SAME WITHIN THIRTY (30) DAYS.

(5) THE PARTIES MAY BE REPRESENTED BY ATTORNEYS IN ALL PROCEEDINGS BEFORE THE CWAB.

(G) JUDICIAL REVIEW: APPEAL FROM A FINAL DECISION OF THE CWAB SHALL BE TO THE GENESEE COUNTY CIRCUIT COURT. JUDICIAL REVIEW SHALL BE LIMITED TO THE RECORD FROM THE CWAB PROCEEDINGS, UNLESS THE COURT ALLOWS ADDITIONAL MATERIAL. THE DECISION OF THE CWAB SHALL BE UPHELD IF IT IS SUPPORTED BY SUBSTANTIAL EVIDENCE AND IS NOT CONTRARY TO LAW. THE DISCHARGER OR PERSON SHALL BE REQUIRED TO EXHAUST ALL ADMINISTRATIVE REMEDIES AVAILABLE UNDER SUBSECTION (E) OF THIS SECTION BEFORE SEEKING JUDICIAL REVIEW.

(H) STAYS: IF A DISCHARGER OR PERSON MAKES A TIMELY REQUEST FOR AN INFORMAL CONFERENCE UNDER SUBSECTION (D) OF THIS SECTION OR FOR AN APPEAL TO THE CWAB UNDER SUBSECTION (E) OF THIS SECTION, THE ORDER, COMPENSATORY DAMAGE CHARGE, OR ACTION ON OR REGARDING AN MS4 PERMIT, WHICH IS THE SUBJECT OF A REQUEST FOR AN INFORMAL CONFERENCE OR APPEAL TO THE CWAB, SHALL BE STAYED UNTIL A FINAL DETERMINATION IS REACHED. THE FOLLOWING SHALL NOT BE STAYED, EXCEPT BY ORDER OF A COURT OF LAW:

(1) AN IMMEDIATE CEASE AND DESIST ORDER;

(2) AN ORDER OR ACTION ON OR REGARDING AN MS4 PERMIT THAT INVOLVES AN EMERGENCY SITUATION, A THREAT TO PUBLIC HEALTH OR SAFETY, A THREAT TO PROPER OPERATION OF THE MS4, OR A THREAT TO THE ENVIRONMENT.

(I) CONTINUING VIOLATIONS: EACH DAY ON WHICH A VIOLATION OF THIS ORDINANCE, AN MS4 PERMIT, OR AN ORDER OCCURS SHALL BE A SEPARATE VIOLATION. EVERY VIOLATION OF EACH SECTION OF THIS ORDINANCE SHALL BE A SEPARATE VIOLATION.

(J) PENALTIES, FINES, AND REMEDIES:

(1) CIVIL JUDICIAL RELIEF. THE CITY DIRECTOR, THROUGH THE CITY ATTORNEY, MAY PURSUE AN ACTION AT LAW OR IN EQUITY TO ENJOIN, ABATE, OR PROSECUTE ANY VIOLATION OF THIS ORDINANCE, AN MS4 PERMIT, OR AN ORDER. THE CITY DIRECTOR MAY SEEK TEMPORARY OR PERMANENT INJUNCTIVE RELIEF, DAMAGES, COMPENSATORY DAMAGE CHARGES, CIVIL PENALTIES UNDER SUBSECTION (J)(2) OF THIS SECTION, AND SUCH OTHER RELIEF AS A COURT MAY ORDER.

(2) CIVIL PENALTIES. IN AN ACTION BROUGHT BY THE CITY AGAINST A DISCHARGER OR PERSON FOR VIOLATION OF THIS ORDINANCE, AN MS4 PERMIT, OR AN ORDER, A COURT MAY IMPOSE A CIVIL PENALTY OF UP TO \$5,000 PER DAY PER VIOLATION. IN CALCULATING THE AMOUNT OF THE PENALTY, THE COURT SHALL CONSIDER

THE FREQUENCY OF THE VIOLATION; THE IMPACT ON THE MS4, HUMAN HEALTH, AND THE ENVIRONMENT; THE MAGNITUDE AND DURATION OF THE VIOLATION; THE ECONOMIC BENEFIT TO THE DISCHARGER OR PERSON FROM THE VIOLATION; THE COMPLIANCE HISTORY OF THE DISCHARGER OR PERSON; AND OTHER FACTORS DEEMED APPROPRIATE BY THE COURT.

(3) CUMULATIVE REMEDIES. THE IMPOSITION OF A SINGLE CIVIL PENALTY, CIVIL FINE, CRIMINAL FINE, ORDER, DAMAGE, OR COMPENSATORY DAMAGE CHARGE UPON A DISCHARGER OR PERSON FOR A VIOLATION OF THIS ORDINANCE, AN MS4 PERMIT, OR AN ORDER SHALL NOT PRECLUDE THE IMPOSITION BY THE CITY OR BY A COURT OF ADDITIONAL SANCTIONS AND REMEDIES WITH RESPECT TO THE SAME VIOLATION EXCEPT THAT A DISCHARGER OR PERSON SHALL NOT HAVE BOTH A CIVIL PENALTY UNDER SUBSECTION (J)(2) OF THIS SECTION AND A CIVIL FINE UNDER SUBSECTION (J)(4) OF THIS SECTION IMPOSED ON IT FOR THE SAME VIOLATION.

(4) MUNICIPAL CIVIL INFRACTION; CIVIL FINE. THE CITY DIRECTOR AND CITY ENFORCEMENT OFFICERS ARE AUTHORIZED PERSONS AND AUTHORIZED LOCAL OFFICIALS TO ISSUE A MUNICIPAL CIVIL INFRACTION CITATION OR A MUNICIPAL CIVIL INFRACTION NOTICE FOR ANY VIOLATION OF THIS ORDINANCE, AN MS4 PERMIT, OR AN ORDER ISSUED UNDER THIS ORDINANCE, EXCEPT FOR VIOLATIONS PUNISHABLE UNDER SUBSECTION (L) OF THIS SECTION. THE MUNICIPAL CIVIL INFRACTION CIVIL FINE FOR ANY VIOLATION OF THIS ORDINANCE, AN MS4 PERMIT, OR AN

ORDER ISSUED UNDER THIS ORDINANCE SHALL BE UP TO \$5,000 PER VIOLATION PER DAY. IN CALCULATING THE AMOUNT OF THE MUNICIPAL CIVIL INFRACTION CIVIL FINE, THE CITY DIRECTOR, THE CITY ENFORCEMENT OFFICER, OR THE COURT, AS APPLICABLE, SHALL CONSIDER THE FREQUENCY OF VIOLATION BY THE DISCHARGER OR PERSON, THE IMPACT ON THE MS4 AND ON HUMAN HEALTH AND THE ENVIRONMENT OF THE VIOLATION, THE MAGNITUDE AND DURATION OF THE VIOLATION, THE ECONOMIC BENEFIT TO THE DISCHARGER OR PERSON GAINED BY THE VIOLATION, THE COMPLIANCE HISTORY OF THE DISCHARGER OR PERSON, AND OTHER FACTORS DEEMED APPROPRIATE BY THE COURT, THE CITY DIRECTOR, OR THE CITY ENFORCEMENT OFFICER, AS APPLICABLE. THE PROVISIONS OF CHAPTER 1, §§ 1-12 AND 1-19 SHALL APPLY TO MUNICIPAL CIVIL INFRACTION CITATIONS AND MUNICIPAL CIVIL INFRACTION NOTICES ISSUED UNDER THIS ORDINANCE.

(5) COMPENSATORY DAMAGES. IN ADDITION TO PROSECUTION AND THE IMPOSITION OF PENALTIES AND FINES FOR VIOLATIONS, A DISCHARGER OR PERSON VIOLATING THIS ORDINANCE, AN MS4 PERMIT, OR AN ORDER SHALL BE SUBJECT TO ONE OR MORE COMPENSATORY DAMAGE CHARGES IN ACCORDANCE WITH THIS ORDINANCE.

(K) VIOLATION CONSTITUTES A PUBLIC NUISANCE: VIOLATIONS OF THIS ORDINANCE, A PERMIT, OR AN ORDER ARE A PUBLIC NUISANCE.

(L) CRIMINAL VIOLATIONS:

(1) VIOLATIONS - GENERALLY. ANY DISCHARGER OR PERSON WHO WILLFULLY OR INTENTIONALLY VIOLATES ANY PROVISION OF THIS ORDINANCE OR ANY ORDER ISSUED UNDER THIS ORDINANCE OR AN MS4 PERMIT ISSUED HEREUNDER SHALL, UPON CONVICTION, BE GUILTY OF A MISDEMEANOR, PUNISHABLE AS PROVIDED IN § 1-7 OF THE CODE. EACH DAY OF VIOLATION IS A SEPARATE OFFENSE.

(2) FALSIFYING INFORMATION. ANY DISCHARGER OR PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENTS, REPRESENTATIONS, OR CERTIFICATIONS IN ANY APPLICATION, RECORD, REPORT, PLAN, OR OTHER DOCUMENT FILED OR REQUIRED TO BE MAINTAINED PURSUANT TO THIS ORDINANCE, OR AN MS4 PERMIT OR AN ORDER ISSUED UNDER THIS ORDINANCE, OR WHO FALSIFIES, TAMPERS WITH, OR KNOWINGLY RENDERS INACCURATE ANY MONITORING DEVICE OR METHOD REQUIRED UNDER THIS ORDINANCE SHALL, UPON CONVICTION, BE GUILTY OF A MISDEMEANOR PUNISHABLE AS PROVIDED IN § 1-7 OF THE CODE. EACH DAY OF VIOLATION IS A SEPARATE OFFENSE.

(M) VANDALISM AND TRESPASS: ANY PERSON WHO VIOLATES SUBSECTIONS (1) AND (2) IN THIS SUBSECTION SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE PUNISHED AS PROVIDED IN § 1-7 OF THE CITY CODE. THE NOTICE PROVISIONS OF §46-146(C) SHALL NOT APPLY TO THIS SUBSECTION.

(1) NO PERSON SHALL MALICIOUSLY, WILLFULLY, OR

NEGLIGENTLY BREAK, DAMAGE, DESTROY, UNCOVER, DEFACE, OR TAMPER WITH ANY STRUCTURE, APPURTENANCE, OR EQUIPMENT WHICH IS A PART OF THE CITY MS4.

(2) NO PERSON SHALL PARTIALLY OR FULLY ENTER OR OTHERWISE ACCESS ANY STRUCTURE, APPURTENANCE, OR EQUIPMENT WHICH IS A PART OF THE CITY MS4, EXCEPT AS SPECIFICALLY AUTHORIZED BY THE CITY DIRECTOR.

(N) LIEN FOR CHARGES AND FEES: ANY CHARGE, FEE, COST, OR OTHER AMOUNT REQUIRED TO BE PAID UNDER THIS ORDINANCE WHICH IS NOT PAID WHEN DUE, SHALL BE A LIEN UPON THE PREMISES. THE AMOUNT MAY BE CERTIFIED TO THE TAX ASSESSOR AND COLLECTED IN THE SAME MANNER THAT OTHER SPECIAL ASSESSMENTS ARE COLLECTED UNDER THE CHARTER OR BY ANY OTHER LAWFUL MEANS.

(O) RECOVERY OF COSTS AS COMPENSATORY DAMAGES: ANY DISCHARGER OR PERSON VIOLATING ANY OF THE PROVISIONS OF THIS ORDINANCE, OR WHO DISCHARGES OR CAUSES A DISCHARGE PRODUCING A DEPOSIT OR OBSTRUCTION, OR CAUSES DAMAGE TO OR IMPAIRS THE CITY MS4 OR ITS OPERATION OR OTHERWISE CAUSES THE CITY TO INCUR ADDITIONAL OR NON-ROUTINE COSTS, SHALL BE LIABLE TO THE CITY FOR ANY EXPENSE, LOSS, OR COSTS OF THE DAMAGE CAUSED BY SUCH VIOLATION OR DISCHARGE, ALL OF WHICH ARE COMPENSATORY DAMAGES.

§46-147 STORM WATER EASEMENTS AND MAINTENANCE AGREEMENTS

(A) APPLICABILITY OF REQUIREMENTS: THE REQUIREMENTS OF THIS SECTION CONCERNING STORM WATER EASEMENTS AND MAINTENANCE AGREEMENTS SHALL APPLY TO ALL PERSONS REQUIRED TO SUBMIT A STORM WATER PLAN TO THE CITY DIRECTOR FOR REVIEW AND APPROVAL.

(B) STORM WATER MANAGEMENT EASEMENTS: A DEVELOPER SHALL PROVIDE ALL STORM WATER MANAGEMENT EASEMENTS NECESSARY TO IMPLEMENT THE APPROVED STORM WATER PLAN AND TO OTHERWISE COMPLY WITH THIS ORDINANCE IN FORM AND SUBSTANCE REQUIRED BY THE CITY DIRECTOR AND SHALL RECORD SUCH EASEMENTS UPON APPROVAL OF THE STORM WATER PLAN BY THE CITY DIRECTOR. THE EASEMENTS SHALL ASSURE ACCESS TO THE DEVELOPMENT SITE FOR PROPER INSPECTION AND MAINTENANCE OF STORM WATER RUNOFF FACILITIES AND SHALL PROVIDE ADEQUATE EMERGENCY OVERLAND FLOW-WAYS.

(C) MAINTENANCE AGREEMENTS:

(1) THE PURPOSE OF THE MAINTENANCE AGREEMENT IS TO PROVIDE THE MEANS AND ASSURANCE THAT MAINTENANCE OF BMPS SHALL BE IMPLEMENTED.

(2) A MAINTENANCE AGREEMENT SHALL BE SUBMITTED TO THE CITY DIRECTOR BY A DEVELOPER AS PART OF THE DEVELOPER'S STORM WATER PLAN, AND SHALL BE SUBJECT TO APPROVAL AS PART OF THE STORM

WATER PLAN. A MAINTENANCE PLAN SHALL BE INCLUDED IN THE MAINTENANCE AGREEMENT.

(3) THE MAINTENANCE AGREEMENT SHALL INCLUDE A PLAN FOR ROUTINE, EMERGENCY AND LONG-TERM MAINTENANCE OF ALL STORMWATER BMPS IN THE STORM WATER PLAN, WITH A DETAILED ANNUAL ESTIMATED BUDGET FOR THE INITIAL THREE YEARS, AND SHALL REQUIRE WRITTEN NOTICE TO THE CITY OF MAINTENANCE BY THE PARTY RESPONSIBLE FOR MAINTENANCE. THE AGREEMENT SHALL PROVIDE THAT SUCH NOTICE WILL BE GIVEN TO THE CITY AT LEAST FOURTEEN (14) DAYS IN ADVANCE OF COMMENCING THE MAINTENANCE WORK. THE MAINTENANCE AGREEMENT SHALL BE IN RECORDABLE FORM AND SHALL BE BINDING ON ALL SUBSEQUENT OWNERS OF LAND SERVED BY THE BMPS AND SHALL BE RECORDED IN THE OFFICE OF THE GENESEE COUNTY REGISTER OF DEEDS IMMEDIATELY AFTER THE APPROVAL BY THE CITY OF THE MAINTENANCE AGREEMENT. IF THERE HAS BEEN A MATERIAL FAILURE, AS DETERMINED BY THE CITY DIRECTOR, TO UNDERTAKE MAINTENANCE AS REQUIRED UNDER THE MAINTENANCE AGREEMENT, THE CITY DIRECTOR MAY HIRE A PERSON WITH QUALIFICATIONS AND EXPERIENCE IN THE SUBJECT MATTER TO UNDERTAKE THE REQUIRED MAINTENANCE, IN WHICH EVENT THE PROPERTY OWNER SHALL BE OBLIGATED TO ADVANCE OR REIMBURSE PAYMENT (AS DETERMINED BY THE CITY DIRECTOR FOR ALL COSTS AND EXPENSES ASSOCIATED WITH SUCH MAINTENANCE, TOGETHER WITH A REASONABLE ADMINISTRATIVE FEE. THE MAINTENANCE AGREEMENT SHALL

CONTAIN A PROVISION WHICH SETS FORTH THIS REQUIREMENT.

§46-148 ESTABLISHMENT OF COUNTY DRAINS

PRIOR TO FINAL APPROVAL, ALL STORM WATER MANAGEMENT FACILITIES FOR PLATTED SUBDIVISIONS SHALL BE ESTABLISHED AS COUNTY DRAINS, AS AUTHORIZED IN SECTION 433, CHAPTER 18 OF THE MICHIGAN DRAIN CODE (P.A. 40 OF 1956, AS AMENDED) FOR LONG-TERM MAINTENANCE.

§ 46-149 MS4 PERMIT FEES

(A) ANNUAL FEES: THE CITY DIRECTOR MAY ASSESS AN ANNUAL MS4 PERMIT FEE OF \$200 FOR EACH CONNECTION TO THE CITY MS4 TO DISCHARGERS PERMITTED TO DISCHARGE TO THE CITY MS4 UNDER § 46-134.

(B) MS4 PERMIT FEES: PERSONS REGULATED UNDER MS4 PERMITS, SHALL PAY A PERMIT APPLICATION OR RE-APPLICATION FEE OF \$100, A PERMIT RENEWAL FEE OF \$100, AND A PERMIT TRANSFER FEE (IN THE EVENT OF A TRANSFER OF THE MS4 PERMIT) OF \$100 TO THE CITY. IN ADDITION TO THESE FEES, SUCH PERSONS SHALL REIMBURSE THE CITY FOR ANY AND ALL OTHER EXPENSES THE CITY INCURS ARISING FROM: (A) PROCESSING INCOMPLETE, INCORRECT, OR OTHERWISE UNACCEPTABLE MS4 PERMIT APPLICATIONS; (B) ESTABLISHING CASE-SPECIFIC RESTRICTIONS ON DISCHARGES TO THE CITY MS4; (C) SAMPLING AND ANALYZING DISCHARGES TO THE CITY MS4 AND INSPECTING PERMITTEE'S FACILITIES;

(D) ENFORCING MS4 PERMITS;
(E) PRODUCING AND MAILING COPIES OF MS4 PERMITS; AND (F) OTHER ACTIVITIES IN CONNECTION WITH ISSUING, ADMINISTERING, MS4 PERMITS.

§46-150 OTHER MATTERS

INTERPRETATION: WORDS AND PHRASES IN THIS ORDINANCE SHALL BE CONSTRUED ACCORDING TO THEIR COMMON AND ACCEPTED MEANINGS, EXCEPT THAT WORDS AND PHRASES DEFINED IN §46-129 SHALL BE CONSTRUED ACCORDING TO THE RESPECTIVE DEFINITIONS GIVEN IN THAT SECTION. TECHNICAL WORDS AND TECHNICAL PHRASES THAT ARE NOT DEFINED IN THIS ORDINANCE BUT WHICH HAVE ACQUIRED PARTICULAR MEANINGS IN LAW OR IN TECHNICAL USAGE SHALL BE CONSTRUED ACCORDING TO SUCH MEANINGS.

CATCH-LINE HEADINGS: THE CATCH-LINE HEADINGS OF THE SECTIONS, SUBSECTIONS AND PARAGRAPHS OF THIS ORDINANCE ARE INTENDED FOR CONVENIENCE ONLY, AND SHALL NOT BE CONSTRUED AS AFFECTING THE MEANING OR INTERPRETATION OF THE TEXT OF THE SECTIONS, SUBSECTIONS AND PARAGRAPHS TO WHICH THEY MAY REFER.

SEVERABILITY: THE PROVISIONS OF THIS ORDINANCE ARE HEREBY DECLARED TO BE SEVERABLE, AND IF ANY PART OR PROVISION OF THIS ORDINANCE SHOULD BE DECLARED INVALID OR UNENFORCEABLE BY ANY COURT OF COMPETENT JURISDICTION, SUCH INVALIDITY OR UNENFORCEABILITY SHALL NOT AFFECT ANY OTHER PART OR PROVISION OF THE ORDINANCE.

OTHER ORDINANCES: THIS ORDINANCE SHALL BE IN ADDITION TO OTHER ORDINANCES OF THE CITY AND SHALL NOT BE DEEMED TO REPEAL OR REPLACE OTHER ORDINANCES OR PARTS THEREOF EXCEPT TO THE EXTENT THAT SUCH REPEAL IS SPECIFICALLY PROVIDED FOR IN THIS ARTICLE.

Sec. 2. This ordinance shall become effective on the _____ day of _____, 2019, A.D.

Adopted this _____ day of _____, 2019, A.D.

Dr. Karen W. Weaver, Mayor

Inez M. Brown, City Clerk

APPROVED AS TO FORM:

Angela Wheeler, Chief Legal Officer

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190323

ORDINANCE NO. _____

An Ordinance to amend the Flint City Code of Ordinances by amending Chapter __, _____, Article __, _____, to add Section __, Ethics and Accountability Board By-laws.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF FLINT:

Sec. 1. That the Flint City Code of Ordinances shall be amended by amending Chapter __, _____, Article __, _____, to add Section __, Ethics and Accountability Board By-laws, which shall read in its entirety as follows:

SECTION 1: DEFINITIONS

FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANING RESPECTIVELY ASCRIBED TO THEM BY THIS SECTION:

(a) **CONFIDENTIAL INFORMATION** MEANS INFORMATION THAT HAS BEEN OBTAINED BY A PUBLIC SERVANT IN THE COURSE OF ACTING AS A PUBLIC SERVANT, THAT IS NOT AVAILABLE TO MEMBERS OF THE PUBLIC PURSUANT TO THE MICHIGAN FREEDOM OF INFORMATION ACT, BEING MCL 15.231 *ET SEQ.* OR PURSUANT TO OTHER LAW, REGULATION, POLICY OR PROCEDURE RECOGNIZED BY LAW, AND THAT THE PUBLIC SERVANT IS UNAUTHORIZED TO DISCLOSE, INCLUDING:

(1) ANY WRITTEN INFORMATION, WHETHER IN DOCUMENT OR IN ELECTRONIC FORM, WHICH COULD BE EXEMPTED FROM DISCLOSURE PURSUANT TO STATE

LAW OR TO OTHER PERTINENT LAW, REGULATION, POLICY OR PROCEDURE RECOGNIZED BY LAW, UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION IS PERMITTED BY SUCH AUTHORITY TO MAKE DISCLOSURE; AND

(2) ANY NON-WRITTEN INFORMATION WHICH, COULD BE EXEMPTED FROM DISCLOSURE PURSUANT TO STATE LAW OR TO OTHER PERTINENT LAW, REGULATION, POLICY OR PROCEDURE RECOGNIZED BY LAW, UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION IS PERMITTED BY SUCH AUTHORITY TO MAKE DISCLOSURE; AND

(3) INFORMATION WHICH WAS OBTAINED IN THE COURSE OF OR BY MEANS OF A WRITTEN OR ELECTRONIC RECORD OR ORAL REPORT OF A LAWFUL EXECUTIVE OR CLOSED SESSION, WHETHER OR NOT THE DISCLOSURE OF THE INFORMATION WOULD VIOLATE STATE LAW, UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION IS AUTHORIZED BY STATE LAW TO MAKE DISCLOSURE, OR UNLESS THE PUBLIC SERVANT DISCLOSING THE INFORMATION HAS BEEN PROPERLY AUTHORIZED TO MAKE DISCLOSURE PURSUANT TO AN APPLICABLE LAW, REGULATION, POLICY OR PROCEDURE, EXCEPT THAT WHEN SUCH INFORMATION IS AVAILABLE THROUGH CHANNELS WHICH ARE OPEN TO THE PUBLIC, THIS PROVISION DOES NOT PROHIBIT PUBLIC SERVANTS FROM DISCLOSING THE AVAILABILITY OF THOSE CHANNELS.

(b)DECISION MEANS:

(1) A DETERMINATION, ACTION, VOTE, OR OTHER DISPOSITION UPON A MOTION, PROPOSAL, OR RECOMMENDATION. BY THE ETHICS AND ACCOUNTABILITY BOARD

(c)WILLFUL NEGLECT OF DUTY MEANS THE INTENTIONAL FAILURE OF A PUBLIC SERVANT TO PERFORM THE DUTIES OF HIS OR HER OFFICE.

SECTION 2: DISCLOSURE REQUIREMENTS

(1) IMPROPER USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION IS PROHIBITED.

EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW, AN ETHICS AND ACCOUNTABILITY BOARD MEMBER SHALL NOT KNOWINGLY USE OR DISCLOSE CONFIDENTIAL INFORMATION TO THIRD PARTIES CONCERNING THE PROPERTY, GOVERNMENT OR AFFAIRS OF THE CITY OR ANY OFFICE, DEPARTMENT OR AGENCY THEREOF, WHICH IS NOT AVAILABLE TO MEMBERS OF THE PUBLIC AND GAINED BY REASON OF HIS OR HER OFFICIAL DUTIES.

(2) LIMITATIONS ON PARTISAN POLITICAL ACTIVITY BY BOARD MEMBERS.

(a) WHILE A MEMBER OF THE ETHICS AND ACCOUNTABILITY BOARD, A BOARD MEMBER SHALL DISCLOSE ANY PARTICIPATION IN SUPPORT OF A CANDIDATE FOR ELECTION AND ANY CANDIDACY FOR OFFICE MADE BY THE BOARD MEMBER TO THE BOARD AND TO THE CITY CLERK

PURSUANT TO FLINT CITY CHARTER SECTION 1-602(D)(1)(c).

(b) PARTICIPATING IN CAMPAIGN ACTIVITIES OR THE MEMBER'S CANDIDACY FOR AN ELECTIVE OFFICE MAY DISQUALIFY THE BOARD MEMBER'S PARTICIPATION IN A MATTER BEFORE THE BOARD.

(c) THIS DETERMINATION MAY BE MADE BY THE INDIVIDUAL BOARD MEMBER TO RECUSE HIM OR HERSELF OR BY A VOTE OF THE BODY.

(3) INFORMATION PROVIDED TO BOARD TO REMAIN CONFIDENTIAL.

(4) MEMBERS OF THE ETHICS AND ACCOUNTABILITY BOARD OR ANY PUBLIC SERVANT WHO HAVE ACCESS TO ANY CONFIDENTIAL INFORMATION THAT IS RELATED TO THE FUNCTIONS OR ACTIVITIES OF THE BOARD ARE PROHIBITED FROM DIVULGING SUCH INFORMATION TO ANY PERSON WHO IS NOT AUTHORIZED TO POSSESS THE INFORMATION.

(5) VIOLATION OF THIS PROVISION IS SUBJECT TO FLINT CITY CHARTER SECTION 1-603 FORFEITURE OF OFFICE AND REMOVAL FOR CAUSE.

SECTION 3: COMPLAINTS

(1) COMPLAINT; CONTENTS THEREOF; LIMITATION OF ACTION.

(a) ANY PERSON MAY FILE A COMPLAINT WITH THE ETHICS AND ACCOUNTABILITY BOARD WHERE THE PERSON BELIEVES THAT A PUBLIC SERVANT MAY

HAVE COMMITTED MISCONDUCT IN OFFICE OR A DERELICTION OF DUTY AS DESCRIBED IN FLINT CITY CHARTER SECTION 3-503(D) IN CONNECTION WITH THE CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT.

(b) A COMPLAINT SHALL BE MADE IN WRITING ON A FORM THAT IS CREATED BY THE LAW DEPARTMENT, SHALL SPECIFY THE PROVISION(S) OF THE CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT ALLEGED TO HAVE BEEN VIOLATED AND THE FACTS ALLEGED TO CONSTITUTE THE VIOLATION, AND SHALL BE SIGNED BY THE PERSON WHO IS MAKING THE COMPLAINT AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC.

(c) SUCH A COMPLAINT SHALL BE FILED WITHIN NINETY (90) DAYS FROM THE DATE THE COMPLAINANT(S) KNEW OR SHOULD HAVE KNOWN OF THE ACTION THAT IS ALLEGED TO BE A VIOLATION OF THE CHARTER CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT. AND IN NO EVENT SHALL THE ETHICS AND ACCOUNTABILITY BOARD CONSIDER A COMPLAINT WHICH HAS BEEN FILED MORE THAN ONE (1) YEAR AFTER A VIOLATION OF THIS ARTICLE OR CHARTER IS ALLEGED TO HAVE OCCURRED.

(d) UPON MAJORITY VOTE OF THE MEMBERS-ELECT, THE BOARD MAY ACCEPT A COMPLAINT OUTSIDE THE SUBMISSION GUIDELINES PROVIDED IN SUBSECTION (C).

(e) A COMPLAINT THAT HAS BEEN FILED WITHIN THE TIME PERIOD CONTAINED IN SUBSECTION (C) OF THIS SECTION AND, WHERE DISMISSED BY THE BOARD DUE TO OTHER INVESTIGATIONS OR PENDING PROCEEDINGS, SHALL BE DEEMED DISMISSED WITHOUT PREJUDICE AND MAY BE REINSTATED AND RECONSIDERED BY THE BOARD AT THE CONCLUSION OF THE OTHER PROCEEDINGS.

SECTION 4: RETALIATION AND HARASSMENT PROHIBITED.

(a) IT SHALL BE A VIOLATION FOR ANY PUBLIC SERVANT TO RETALIATE AGAINST ANY INDIVIDUAL WHO FILES A COMPLAINT WITH THE ETHICS AND ACCOUNTABILITY BOARD ON THE BASIS THE INDIVIDUAL HAS FILED A COMPLAINT.

(b) IT SHALL BE A VIOLATION FOR AN INDIVIDUAL TO USE THIS ARTICLE, OR CHARTER TO HARASS A PUBLIC SERVANT, OR CONTRACTOR, BY FILING A COMPLAINT WITH KNOWLEDGE OF ITS FALSITY OR WITH RECKLESS DISREGARD FOR ITS TRUTH OF FALSITY.

SECTION 5: COMMUNICATION WITH THE BOARD REGARDING COMPLAINTS

COMMUNICATIONS WITH THE BOARD REGARDING A COMPLAINT IS PROHIBITED IN THE ABSENCE OF THE

**COMPLAINANT, RESPONDENT, OR HIS
OR HER RESPECTIVE COUNSEL.**

**(a) AFTER A COMPLAINT HAS BEEN
FILED AND DURING ITS PENDENCY
BEFORE THE ETHICS AND
ACCOUNTABILITY BOARD, NO
MEMBER OF THE BOARD MAY
COMMUNICATE REGARDING THE
COMPLAINT DIRECTLY OR
INDIRECTLY WITH ANY
COMPLAINANT, RESPONDENT, OR
HIS OR HER RESPECTIVE
COUNSEL, IN THE ABSENCE OF
THE OPPOSING PARTY, EXCEPT
THAT:**

**(1) THE MEMBERS OF THE
BOARD MAY DISCUSS THE
COMPLAINT WITH
ADMINISTRATIVE STAFF,
AND MAY OBTAIN LEGAL
ADVICE FROM THE LAW
DEPARTMENT OR, WHEN
NECESSARY, FROM
OUTSIDE COUNSEL;**

**(2) THE MEMBERS OF THE
BOARD MAY DISCUSS THE
COMPLAINT AT A
LAWFULLY CONDUCTED
MEETING;**

**(b) WHERE ANY COMPLAINANT OR
RESPONDENT, OR HIS OR HER
RESPECTIVE COUNSEL, ATTEMPTS
TO COMMUNICATE WITH A
MEMBER OF THE ETHICS AND
ACCOUNTABILITY BOARD
REGARDING A PENDING
COMPLAINT IN THE ABSENCE OF
THE OPPOSING PARTY, THE
BOARD MEMBER SHALL REPORT
THE SUBSTANCE OF THE
COMMUNICATION TO THE BOARD
ON THE PUBLIC RECORD AT THE
NEXT REGULARLY SCHEDULED
MEETING OF THE BOARD.**

**SECTION 6: DISPOSITION OF
COMPLAINTS.**

**(a) THE ETHICS AND
ACCOUNTABILITY BOARD SHALL
DISPOSE OF A COMPLAINT WITHIN
NINETY (90) CALENDAR DAYS
AFTER ITS RECEIPT. HOWEVER, IF
THE COMPLAINT IS ALREADY
UNDER INVESTIGATION AND
REVIEW BY ANOTHER
DEPARTMENT, BODY, OR COURT
OF LAW, OR THERE ARE
EXTENUATING CURCUMSTANCES
PREVENTING THE INVESTIGATION
FROM PRCEEDING,, THE BOARD
MAY EXTEND ITS TIME TO
RESPOND TO A SPECIFIC
COMPLAINT BY NOT MORE THAN
NINETY (90) ADDITIONAL DAYS.**

**(b) THE BOARD SHALL CONTACT THE
HUMAN RESOURCES/LABOR
RELATIONS AND LAW
DEPARTMENTS TO VERIFY IF AN
INVESTIGATIONS AND/OR
LITIGATION ARE ALREADY IN
PROGRESS PRIOR TO
COMMENCING ITS
INVESTIGATION.**

**(c) IN THE EVENT THE BOARD
EXTENDS ITS TIME TO RESPOND
TO A COMPLAINT, THE BOARD
SHALL NOTIFY, IN WRITING, THE
COMPLAINANT(S) , AND
RESPONDENT OF THE EXTENSION
AND OF THE SPECIFIC REASONS
THEREFORE.**

**(d) AFTER GIVING DUE
CONSIDERATION TO A
COMPLAINT, THE ETHICS AND
ACCOUNTABILITY BOARD SHALL
TAKE ANY ACTION OR
COMBINATION OF ACTIONS, UPON
MAJORITY VOTE, WHICH THE
BODY DEEMS APPROPRIATE IN
ORDER TO DISPOSE OF A
COMPLAINT INCLUDING, BUT NOT**

**LIMITED TO, ONE OR MORE OF
THE FOLLOWING:**

**(1) DISMISS THE COMPLAINT
STATING THE REASONS IN
WRITING.**

**(i) CONDUCT ITS
OWN
INVESTIGATION
WITH RESPECT
TO ANY
ALLEGED
VIOLATION; OR**

**(ii) SUBMIT THE
COMPLAINT TO
THE
OMBUDSPERSONS OFFICE FOR
INVESTIGATION**

(iii) ; OR

**(1) PROVIDE
RECOMMENDATIONS
FOR POLICY CHANGES
WHEN A PATTERN AND
PRACTICE OF
MISCONDUCT IS
IDENTIFIED OR**

**(2) ISSUE AND ADVISORY
OPINION , PUBLIC
REPORT OR
RECOMMEND FOR
REMEDIAL ACTIONS TO
THE APPROPRIATE
GOVERNMENTAL OR
JUDICIAL UNIT
INCLUDING PURSUIT OF
RECOMMENDATIONS
FOR LEGAL REMEDIES.**

**(3) DETERMINE, ON ITS OWN
OR UPON REQUEST OF
THE PARTY WHO HAS
HAD THE COMPLAINT
FILED AGAINST HIM OR
HER, WHETHER THE
COMPLAINT WAS FILED**

**WITH KNOWLEDGE OF
ITS FALSITY OR WITH
RECKLESS DISREGARD
FOR ITS TRUTH OR
FALSITY.**

**(e) WHERE A HEARING IS HELD THE
BOARD SHALL ISSUE WRITTEN
FINDINGS OF FACT AND
CONCLUSIONS OF LAW AS TO
WHETHER A VIOLATION OF THIS
ARTICLE OR CHARTER HAS
OCCURRED. IN ITS DECISION, THE
BOARD MAY MAKE ITS
RECOMMENDATIONS.**

**SECTION 7: VIOLATIONS OF
ARTICLE OR CHARTER; BOARD
PERMITTED TO MAKE PUBLIC
ADMONITION AND TO REFER
FINDINGS.**

**(a) IN THE EVENT THE ETHICS AND
ACCOUNTABILITY BOARD
DETERMINES A VIOLATION OF
THE CITY OF FLINT CHARTER,
CITY OF FLINT ORDINANCES,
REGULATIONS, POLICIES,
PROCEDURES AND STANDARDS
OF CONDUCT, HAS OCCURRED,
THE BOARD MAY ADOPT A
RESOLUTION OF PUBLIC
ADMONITION AGAINST AN
ELECTIVE OFFICER, OR AN
APPOINTEE, REGARDING THE
VIOLATION. IN ADDITION,
WHERE, BASED UPON AN
INVESTIGATION ARISING FROM A
COMPLAINT, THE ETHICS AND
ACCOUNTABILITY BOARD
DETERMINES THERE MAY BE
GROUNDS FOR FURTHER
INVESTIGATION FOR POSSIBLE
FORFEITURE OF OR REMOVAL
FROM OFFICE UNDER
APPLICABLE LAW, THE MATTER
MAY BE REFERRED BY THE
BOARD TO THE CITY COUNCIL
FOR CONSIDERATION OF**

**FORFEITURE OR REMOVAL
PROCEEDINGS.**

(b) IN THE EVENT THE ETHICS AND ACCOUNTABILITY BOARD DETERMINES A VIOLATION OF THE CITY OF FLINT CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT HAS OCCURRED, THE BOARD MAY ADOPT A RESOLUTION OF PUBLIC ADMONITION AGAINST A PUBLIC SERVANT OTHER THAN AN ELECTIVE OFFICER, OR AN APPOINTEE, REGARDING THE VIOLATION. IN ADDITION, WHERE THE ETHICS AND ACCOUNTABILITY BOARD DETERMINES A VIOLATION OF THE CITY OF FLINT CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT BY SUCH PUBLIC SERVANT MAY PRESENT GROUNDS FOR DISCIPLINARY ACTION, THE MATTER MAY BE REFERRED BY THE BOARD TO SUCH PUBLIC SERVANT'S SUPERVISOR WITH A RECOMMENDATION THAT THE PUBLIC SERVANT'S CONDUCT BE REVIEWED FOR DISCIPLINARY ACTION.

(c) WHERE THE ETHICS AND ACCOUNTABILITY BOARD FINDS THAT A PUBLIC SERVANT MADE A DECISION IN VIOLATION OF THE CITY OF FLINT CHARTER, CITY OF FLINT ORDINANCES, REGULATIONS, POLICIES, PROCEDURES AND STANDARDS OF CONDUCT, THE BOARD MAY RECOMMEND TO THE MAYOR, THE CITY COUNCIL, THE CITY CLERK, THE APPOINTEE, THE

VOTING BODY, OR OTHER PUBLIC SERVANT THAT SUCH DECISION BE REVIEWED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE 2018 FLINT CITY CHARTER AND THIS ORDINANCE. UPON SUCH RECOMMENDATION, THE DECISION MAY BE REVIEWED BY THE MAYOR, THE CITY COUNCIL, THE CITY CLERK, THE APPOINTEE, THE VOTING BODY, OR OTHER PUBLIC SERVANT IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE 2018 FLINT CITY CHARTER, THIS ORDINANCE, AND ANY OTHER APPLICABLE LAWS.

(d) NO REPORT OR RECOMMENDATION THAT CRITIZES AN OFFICIAL ACT SHALL BE ANNOUNCED UNTIL EVERY AGENCY OR PERSON AFFECTED IS ALLOWED REASONABLE OPPORTUNITY TO BE HEARD WITH COUNSEL.

(e) THE INVOCATION OF ONE (1) SUBSECTION OF THIS SECTION DOES NOT PRECLUDE THE APPLICATION OF ANY OTHER SUBSECTION OF THIS SECTION OR OF ANY OTHER APPLICABLE LAWS OR POLICIES.

Sec. 2. This ordinance shall become effective this _____ day of _____ 2019.

Adopted this _____ day of _____, A.D., 2019.

Karen W. Weaver, Mayor

Inez M. Brown, City Clerk

APPROVED AS TO FORM:

Angela Wheeler, City Attorney