

# City of Flint, Michigan

*Third Floor, City Hall  
1101 S. Saginaw Street  
Flint, Michigan 48502  
[www.cityofflint.com](http://www.cityofflint.com)*



## Meeting Agenda - Final

**Wednesday, June 5, 2019**

**5:00 PM**

**Committee Room**

### **FINANCE COMMITTEE**

*Monica Galloway, Chairperson, Ward 7*

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

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

*Inez M. Brown, City Clerk*

**ROLL CALL****CHANGES AND/OR ADDITIONS TO AGENDA**

*Council shall vote on any changes and/or additions to the agenda.*

**EXECUTIVE (CLOSED) SESSION**

*An Executive Session as requested by the Department of Law to update the City Council regarding the Michigan Self Insurance Settlement Payment.*

**SPECIAL ORDERS****190212 Special Order/Budget-to-Actuals/Other Reports**

A Special Order as requested by Councilperson Kate Fields to allow the Finance Department to discuss quarterly budget amendments, budget-to-actuals and other reports as required by the new Flint City Charter.

**190015 Special Order/Status of Water Fund/Water Liens**

A Special Order as requested by Councilperson Fields and Worthing to discuss the status of the city's Water Fund and Water Liens.

**190045 Special Order/Master Fee Schedule/Review of Fees/Service Charges**

Special Order as requested by Councilperson Mays concerning the recently amended (Resolution No. 180351 -- adopted July 23, 2018) Master Fee Schedule that added fees for micro-cell equipment, and to allow discussion of lowering service charge fees for low income residents.

**190046 Special Order/Update/Investigative Hearing**

Special Order as requested by Councilperson Mays to allow Attorney Harrell Milhouse to update City Council members on the Investigative Hearing regarding the flow of money from the State of Michigan to the City of Flint.

**190084 Special Order/Discussion of Letter**

A special order as requested by Councilperson Mays, re: He would like to discuss a letter addressed to Councilpersons Fields, Griggs and Worthing.

**190102 Special Order/Rowe Professional Services/FAST Start Project**

A Special Order as requested by 1st Ward Councilperson Eric Mays to allow for a discussion with Rowe Professional Services, whose contract for Phase VI of the City's FAST Start Project [Program] was approved by City Council on March 11, 2019.

**RESOLUTIONS**

190123 Lease Agreement/City of Flint/Zero Mass Water, Inc.

Resolution resolving that the Flint City Council approves the Lease Agreement between the City of Flint and Zero Mass Water, Inc. [NOTE: Zero Mass Water, Inc. has agreed to produce bottled water, utilizing SOURCE Hydropanels that provide clean, safe, high quality, renewable drinking water. The Hydropanels are to be installed pursuant to the terms of the lease.]

**DISCUSSION ITEMS**

190205 Referral/FastStart Restoration

Referral by Councilperson Guerra to ADMIN/DPW, re: He would like to know if city personnel can spot-check areas of the city where restoration has been completed to ensure that proper procedures were followed. [Referral Action Date: 5/22/2019 @ Finance Committee Meeting.]

**OLD, OUTSTANDING DISCUSSION ITEMS**

170061 Referral/Copy/Public Relations Contract

Referral by Councilperson Fields to ADMIN/LEGAL, re: She would like a copy of the public relations contract that was entered into with pipe replacement funding. [Referral Action Date: 1/18/2017 @ Finance Committee Meeting.]

170066 Referral/Business Customers/Legal Action/Multi-Unit Developments

Referral by Councilperson Mays to ADMIN/LEGAL, re: He would like the law department to provide information on how to pursue action against owners of multi-unit developments when the renters pay their water bills but the landlord does not, and if that can be written into an ordinance. [Referral Action Date: 1/18/2017 @ Finance Committee Meeting.]

170194 Repair/Copper Service Line/618 W. Alma

Referral by Councilperson Mays to ADM: He would like to know when the city plans to repair a ruptured copper service line at 618 W. Alma. [Referral Action Date: 4/19/2017 @ Finance Committee Meeting.]

170422 Copies/Bid/Contract/Martin Waymire

Referral by Councilperson Fields to FIN/LEGAL: She would like copies of the bid and the contract for public relations firm Martin Waymire. [Referral Action Date: 6/19/2017 @ Finance Committee Meeting.]

170424 Discussion Item/Water Assistance Program/Disadvantaged/Elderly Customers

Discussion item as requested by Councilperson Mays: He would like to talk about a water assistance program and/or agencies that can assist disadvantaged and/or elderly water customers. [Referral Action Date: 6/19/2017 @ Finance Committee Meeting.]

**170577** Reimbursements/State of Michigan/City of Flint Departments

Referral from Councilperson Mays to FINANCE DIRECTOR: Regarding State of Michigan reimbursements to all city departments except Finance (see Discussion Item 170390): What has been requested and what has been reimbursed? [Referral Action Date: 11/21/17 @ Finance Committee Meeting.]

**170601** Referral/2016 Tax Reverted Property/5306 North Street

Referral by Councilpersons Mays and Guerra to LEGAL: He would like to know how and when the ownership of 5306 North Street (old Jefferson Elementary School) will be returned to the 2nd Chance Church (5306 North Street was the only tax reverted property whose transfer from Genesee County the City of Flint did not object to in 2016). [Referral Action Date: 12/13/2017 @ Special City Council Meeting.]

**180001** Payments/State of Michigan's \$25 Million Discretionary Fund

Referral and discussion item from Councilperson Mays to FIN: How much money has been taken from the State of Michigan's \$25 million in discretionary funds and what was it used for? [Referral Action Date: 1/3/18 @ Finance Committee Meeting.]

**180002** Referral/Positions/Water Plant/Water Service Center/Wage Study

Referral by Councilperson Fields to HUMAN RESOURCES/WATER SERVICE CENTER/DPW: She would like a list of all unfilled positions at the Water Plant and Water Service Center; she would like the list also to include what certifications are needed for each position, what the compensation packages are, and what the city has done so far to recruit for these positions. She is also asking if a wage study for City of Flint positions has been completed (or started). [Referral Action Date: 1/3/2018 @ Finance Committee Meeting.]

**180015** Referral/List/Water Customers With Estimated Bills

Referral by Councilperson Mays to FIN: He would like a list of water customers who had estimated bills and then were hit with high bills when actual readings were used. He would also like to know if these customers still have "holds" on their accounts and if they are in danger of having their water shut off. [Referral Action Date: 1/3/2018 @ Finance Committee Meeting.]

**180025** Referral/Copy/'Transfer of Property'

A referral from Councilperson Mays to LAW: He would like a copy of the Legal Department's interpretation of "Transfer of Property." [Referral Action Date:

1/17/2018 @ Finance Committee Meeting.]

**180074** Referral/Copies/Current & Revised/WIIN Project Plans

Referral by Councilperson Fields TO FINANCE/DPW, re: She would like copies of the plans, both old and new, for the WIIN grant, and a rationale for the amounts assigned to each. (For example, money allocated to the Water Plant was reduced after the city signed the long-term water deal with the Great Lakes Water Authority). [Referral Action Date: 2/21/2018 @ Finance Committee Meeting.]

**180080** Referral/Kellogg Grant/Entire Proposal

A referral from Councilperson Fields to ADMIN/LAW, re: She would like a copy of the entire Kellogg Grant proposal. [Referral Action Date: 2/21/2018 @ Finance Committee Meeting.]

**180084** Referral/Police Department/Number of Lawsuits/Cost of Lawsuits

A referral from Councilperson Fields to LAW, re: She would like to know how many lawsuits there have been in the last two years involving the Flint Police Department, including the status for each and the total estimated cost. [Referral Action Date: 2/21/2018 @ Finance Committee Meeting.]

**180160** Discussion Item/Itemized Water Fund Revenues & Expenditures

A discussion item as requested by Councilperson Mays regarding the city's Water Fund. He would like itemized revenues and expenditures. [Referral Action Date: 3/22/2018 @ Finance Committee Meeting.]

**180180** Referral/Community Development Block Grant (CDBG) Money/Salvation Army

A referral as requested by Councilperson Mays to Planning & Development: He would like to know if Community Development Block Grant (CDBG) money can be given to the Salvation Army. [Referral Action Date: 4/4/2018 @ Finance Committee Meeting.]

**180204** Referral/Trial Water Shut-Off/Shut-On Policy

A referral as requested by Councilperson Fields to FIN: She would like to know how the new Trial Collection Policy for shutting water off and turning it back on it working. [Referral Action Date: 4/18/2018 @ Finance Committee Meeting.]

**180206** Referral/Cost/Parliamentarian

A referral as requested by Councilperson Fields to CITY CLERK: She would like to know the cost for the City Council to hire a Parliamentarian. [Referral Action Date: 4/18/2018 @ Finance Committee Meeting.]

**180234** Update/Great Lakes Water Authority Contract

A referral from Councilperson Fields to LEGAL: re, she would like an update on the Great Lakes Water Authority (GLWA) contract, particularly the additional elements within the contract. [Referral Action Date: 5/9/2018 @ Finance Committee Meeting.]

**180294** Referral/LED Street Lights

Referral by Councilpersons Fields and Guerra to ADMIN, re: An action plan and project steps (equipment and labor) concerning the LED street lights. [Referral Action Date: 6/20/2018 @ Finance Committee Meeting.]

**180297** Referral/Breakdown/Chief of Staff Budget

Referral by Councilperson Fields to FINANCE, re: She would like a detailed breakdown of the \$75,000.00 budgeted for the Chief of Staff, including how, who, when and the date it was spent. [Referral Action Date: 6/25/2018 @ Special Affairs Committee Meeting.]

**180298** Referral/Breakdown/Budgets/Mayor & City Administrator

Referral by Councilperson Fields to FINANCE, re: She would like a detailed, itemized breakdown of the budgets for Mayor and City Administrator, particularly for wages and salaries -- who they're for and how much each earns. [Referral Action Date: 6/25/2018 @ Special Affairs Committee Meeting.]

**180300** Referral/Quarterly Budget Amendment Reports

Referral by Councilperson Fields to FINANCE, re: She would like to see quarterly budget amendment reports that are supposed to be supplied to City Council per the newly adopted City Charter. [Referral Action Date: 6/25/2018 @ Special Affairs Committee Meeting.]

**180356** Discussion Item/Investigative Hearing

Councilperson Mays asked that a discussion item about the Investigative Hearing City Council members approved for financial issues related to the Water Crisis be placed on the Finance Committee Agenda. [Referral Action Date: 7/9/2018 @ Finance Committee Meeting.]

**180365** Attendance Request/Discussion/Filling Budgeted Positions in Water/Sewer

Referral from Councilperson Mays to HUMAN RESOURCES/DEPARTMENT OF PUBLIC WORKS, re: He would like for Makini Jackson, Director of Human Resources, and Rob Binscik, Director of DPW, to attend the next Finance Committee meeting to discuss unfilled budgeted positions in water and sewer as identified on an organizational chart distributed at the last Finance Committee Meeting. [Referral Action Date: 7/18/2018 @ Finance Committee Meeting.]

**180369** Referral/Number of Employees Needed/Turning Water On and Off

Referral from Councilperson Mays to DEPARTMENT OF PUBLIC WORKS/FINANCE, re: He would like a breakdown of personnel needed to turn water on and then to turn water off. [Referral Action Date: 7/18/2018 @ Finance Committee Meeting.]

**180419** Referral/Payments from Water Fund to Subcontractors

Referral by Councilperson Fields to LAW, re: She would like to justification for paying a subcontractor (Arco) out of the Water Fund without City Council permission. [Referral Action Date: 8/8/2018 @ Finance Committee Meeting.]

**180437** Referral/Accounting/Water Funds/Grant Funds/Budget Amendments

Referral by Councilperson Fields to FIN, re: She would like a detailed accounting of all 591 and 296 funds (with detailed subsets) and any from other accounts that the city has used to accept Water Funds/Grants, has paid invoices and expenditures from, and all related Budget Amendments made since January 2016 to current that relate to these funds. [Referral Action Date: 8/22/2018 @ Finance Committee Meeting.]

**180438** Referral/Lead Service Line Replacements/Those Paid/Those Submitted for Reimbursement

Referral by Councilperson Fields to FIN, re: She would like any lead service line replacements that have been paid and/or submitted for reimbursement by contractors since May 2018 to current. [Referral Action Date: 8/22/2018 @ Finance Committee Meeting.]

**180472** Referral/Contract Clauses/Great Lakes Water Authority (GLWA)/Collection Rate/Transmission Pipe

A referral as requested by Councilperson Fields to FIN/LEGAL: She would like the clauses in the Great Lakes Water Authority (GLWA) that speak to the collection rate for water/sewer customers and the transmission pipe. [Referral Action Date: 9/5/2018 @ Finance Committee Meeting.]

**180474** Referral/Status of 'New' Program Manager/Division of Community & Economic Development (DCED)

A referral as requested by Councilperson Galloway to FIN/LEGAL/HR: Planning & Development Director Suzanne Wilcox has a clause in her contract that allows her to return to her former position (Program Manager for DCED) in the event that her supervisory position doesn't work out. But her former job was recently filled. Councilperson Galloway would like to know what would happen to the "new" Program Manager if Ms. Wilcox decided to return to that position. [Referral Action Date: 9/5/2018 @ Finance Committee Meeting.]

**180508** Referral/Questions/Finance/Contracts/Invoices/Financial Statements/Rizzo

A referral as requested by Councilpersons Fields and Galloway to FIN: They would like answers to questions posed in a memo to Finance Director Hughey Newsome

regarding contracts, invoices (including any outstanding invoices) and various financial statements, and specific questions about invoices and payments to trash company Rizzo (copy of memo provided). They would also like the account(s) the money was taken from, proof that it was budgeted, information regarding who authorized (signed the payments), and an answer as to why Rizzo was paid in 2018 and not 2016 or 2017. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

**180509** Referral/Line Item Details/Revenues/Expenditures/Invoices Paid/First \$2 Million/State of Michigan

A referral as requested by Councilperson Fields to FIN: She would like line item details of revenues in and expenditures out on the first \$2 million received from the State of Michigan. She would also like line item accounts and invoices paid from this \$2 million. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

**180510** Referral/Federal Procurement Rules/Sub-Contractors

A referral as requested by Councilperson Fields to FIN/LEGAL: She would like a copy of the federal procurement rules as it relates to sub-contractors. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

**180511** Referral/Attendance/Planning & Development Director/Action Plan

A referral as requested by Councilperson Mays to PLANNING & DEVELOPMENT: He would like for Planning & Development Director Suzanne Wilcox to attend the next Finance Committee meeting to discuss Special Order 180448 - the final allocations of the recent Action Plan, as well as any leftover funds. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

**180512** Referral/Attendance/Finance Committee Meeting/Lead Line Replacements, Etc.

A referral as requested by Councilperson Mays to FIN/DPW/LEGAL/MAYOR/ADMIN: He wants to discuss lead line replacements, including hydrovacating, excavation and restoration, with Mayor Weaver, Mr. Gilcreast, and DPW Director Rob Binscik, and representatives from the following: Aecom, Goyette Mechanical and Martha Brown Custom Builders, LLC. He also asks that City Attorney Angela Wheeler weigh in on whether this conversation should take place in open or closed session. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

**180529** Referral/Revenue to Turn On, Turn Off Water Service

A referral as requested by Councilperson Galloway to FIN: How much revenue is generated from shutting off water? Turning on water? Was the water study that was promised ever completed? If so, what were the results? [Referral Action Date: 10/3/2018 @ Finance Committee Meeting.]

**180532** Referral/Zito Construction



A referral as requested by Councilperson Galloway to FIN/DPW: She would like to know if Zito Construction is being assessed liquidated damages, according to their contract. Also, what are the estimated damages? How many houses does Zito need to complete? What else do they need to complete as part of their contract? [Referral Action Date: 10/3/2018 @ Finance Committee Meeting.]

**180570** Referral/Waste Collection Contract

Referral by Councilperson Mays to ADMIN/DPW re: He would like a copy of the current waste collection contract with Republic for waste/rubbish collection. [Referral Action Date: 10/22/2018 @ City Council Meeting.]

**180599** Referral/Attorneys Hired by the City

Referral as requested by Councilperson Fields to LEGAL, re: She would like a listing of every attorney and/or law firm that has been hired by the City during the calendar years of 2015 through 2018, with totals for each attorney/firm listed by the same years. [Referral Action Date: 11/19/2018 @ Special Affairs Committee Meeting.]

**180600** Referral/City Contract Totals/Lead Line Replacement Program

Referral as requested by Councilperson Fields to ADMIN/DPW, re: She would like to know the current contract totals for lead service line replacement work contractors and subcontractors, up to and including AECOM, ARCO, DLZ, E Holdings (E & L Construction), Super Construction, A&S. Zito, Orchard, AFSCME, W.T. Stevens, Goyette, etc. [Referral Action Date: 11/19/2018 @ Special Affairs Committee Meeting.]

**180601** Referral/Lead Pipe Contractors and Subcontractors

Referral as requested by Councilperson Fields to ADMIN/DPW, re: She would like a listing of every contractor and subcontractor who has done or is doing work for the City concerning lead pipe replacement, with list to include phase worked, dates worked and payment/contract totals. [Referral Action Date: 11/19/2018 @ Special Affairs Committee Meeting.]

**180604** Discussion Item/Water Account Trends

Referral by Councilperson Fields: She would like to know if there are trends that can be identified in the city's Water Account. [Referral Action Date: 11/20/2018 @ Finance Committee Meeting.]

**180605** Referral/Aecom/Procedures & Sub-Contractors

Referral by Councilperson Fields: She would like to see documents that show Aecom followed proper procurement procedures, per the company's contract, and that the city approved all of their sub-contractors [Referral Action Date: 11/20/2018 @ Finance Committee Meeting.]

**180614** Referral/Aecom/Written Documentation/Scope of Work

Referral from Councilperson Fields to ADMIN/DPW: She would like written documentation of the change in scope of work that was given to Aecom that allowed them think they could continue working and move beyond 6,000 service lines. [Referral Action Date: 12/5/2018 @ Finance Committee Meeting.]

**180615** Referral/Aecom/\$1.1 Million Change Order/Line Items

Referral from Councilperson Fields to FIN: She would like a copy of the line items that represent the \$1.1 million in Aecom's change order. [Referral Action Date: 12/5/2018 @ Finance Committee Meeting.]

**190035** Referral/Report/Funding/Service Line Replacement Program

Referral from Councilperson Fields to FIN: She would like all funding utilized for the Service Line Replacement Program in a cohesive, understandable report from the beginning of the project to date, including all revenue paid in to all pertinent city accounts, identified by name, amount, purpose for use and date (including name and account numbers in subsets); all expenditures paid out, identified by name paid to, amount, purpose for use and date (including phase and date, and what account it was paid out of; all reimbursements requested, all paid and all outstanding, with pertinent details, and any reimbursement requests that were denied (with accompanying correspondence); all accounts payable at this point in time for this program, with pertinent details; a list of any/all funds encumbered for this program, at this point in time; a list of total accomplishments by any contractor paid for this program (include Phase and specific activity in detail); the total amount still available to be used for the Service Line Replacement Program, to include management of same program. [Referral Action Date: 1/23/2019 @ Finance Committee Meeting.]

**190036** Referral/Local Capacity Development Line Item of the Water Infrastructure Improvements for the Nation (WIIN) Plan

Referral from Councilperson Fields to FIN: She would like a full report of the narrative of intended use and how it has been used, with all financial detail, regarding the Local Capacity Development line item of the Water Infrastructure Improvements for the Nation (WIIN) plan. [Referral Action Date: 1/23/2019 @ Finance Committee Meeting.]

**190055** Referral/Monthly Progress Report/Economic Development

Referral by Councilperson Griggs to ADMIN/PLANNING and DEVELOPMENT, re: He requests that the Economic Development Division provide monthly progress reports to the City Council. [Referral Action Date: 2/04/2019 @ City Council Meeting.]

**190072** Referral/Response/When \$433,276.00 is Reimbursed

Referral from Councilperson Fields to FIN: She would like to be notified when the \$433,276.00 is reimbursed to the City of Flint from the State of Michigan. [Referral Action Date: 2/20/2019 @ Finance Committee Meeting.]

**190073** Referral/Number of Signatures Needed/Proposals on Ballot

A referral as requested by Councilperson Mays to CITY CLERK, re: He would like to know how many signatures are needed to get a ballot proposal on the August ballot if Councilmembers reject the five current proposals before them. [Referral Action Date: 2/20/2019 @ Finance Committee Meeting.]

**190081** Referral/Increase in Salary and Benefits/Mayor and City Council

Referral by Councilperson Fields to ADMIN/FIN, re: She would like to know where the money will be coming from to cover the recent increases in salaries and/or benefits for the mayor and council, per recent action of the Local Officers Compensation Commission (LOCC). [Referral Action Date: 2/25/2019 @ City Council Meeting.]

**190083** Referral/Salaries for Appointees

Referral by Councilperson Fields to ADMIN/FIN, re: She would like to know the salaries for all appointees, as follows: salary or hourly rate at time of hire, salary or hourly rate at time of appointment, current salary or hourly rates - as well as all raises from the time of appointment until now. [Referral Action Date: 2/25/2019 @ City Council Meeting.]

**190113** Referral/Aging Report for Accounts Receivable

Referral by Councilperson Fields to ADMIN/FIN/TREASURY, re: She would like to know how much the City of Flint is carrying in past-due accounts receivable and how far back the balances go. She would also like a copy of the AR Aging Report. [Referral Action Date: 3/21/2019 @ Finance Committee Meeting.]

**190114** Referral/Revenues/Turning Water Shut-Offs/Water Shut-ons

Referral by Councilperson Fields to ADMIN/FIN/TREASURY, re: She would like to know how much the City of Flint brings in for water shut-offs and shut-ons and if that number has gone up or down in recent months. [Referral Action Date: 3/21/2019 @ Finance Committee Meeting.]

**190151** Referral/Kellogg Foundation Grant

Referral by Councilperson Fields to ADMIN/FIN, re: She requests the following information regarding the approx. \$3 million Kellogg Foundation Grant to the City of Flint for economic development: (1) a copy of the City's full report having to do with this economic development grant, and (2) the grant's activity report to date for these funds. [Referral Action Date: 4/08/2019 @ Special Affairs Committee Meeting.]

**190162** City of Flint/County of Genesee/Flint Holding Facility Operation

Discussion item as requested by Councilperson Guerra, re: He would like to know if the City of Flint will ever take over operation of the Flint Holding Facility, and how much that would cost versus outsourcing to Genesee County. [Referral Action Date: 4/17/2019 @ Finance Committee Meeting.]

**NEW BUSINESS**

**ADJOURNMENT**

190123

RESOLUTION NO.: \_\_\_\_\_

PRESENTED: 4-4-19

ADOPTED: \_\_\_\_\_

**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.

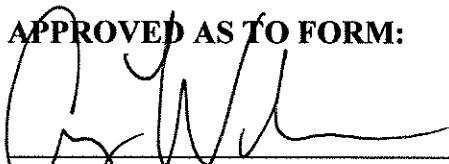
**WHEREAS**, the Hydropanels are to be installed pursuant to the terms of the lease.

**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.

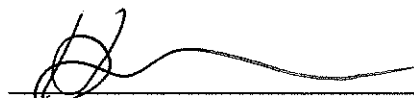
**WHEREAS**, Mayor, Dr. Karen W. Weaver recommends approving the Lease Agreement between the City of Flint and Zero Mass Water Michigan, LLC.

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

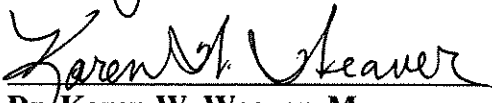
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Angela Wheeler, Chief Legal Officer

**APPROVED AS TO FINANCE:**

  
\_\_\_\_\_  
Hughey Newsome, Chief Financial Officer

**FOR THE CITY OF FLINT:**

  
\_\_\_\_\_  
Dr. Karen W. Weaver, Mayor

**APPROVED BY CITY COUNCIL:**

\_\_\_\_\_  
Herbert Winfrey, City Council President

## LEASE

This Lease Agreement (this "Lease") entered into and made on the \_\_\_\_ day of May, 2019 (the "Effective Date"), between City of Flint, Michigan, a municipality in the state of Michigan, with its principal office located at 1101 S. Saginaw Street, Flint, Michigan ("City") and Zero Mass Water Michigan, LLC, a limited liability company organized and existing under the laws of the state of Arizona, with its principal office located at 6500 E. McDowell Rd., Scottsdale, AZ 85257 ("Zero Mass") (Zero Mass and City are collectively referred to in this Lease as "Parties" and each a "Party").

## RECITALS

WHEREAS, City is the sole owner of certain land (the "Premises") which was formerly part of the City of Flint Water Treatment Plant located in Flint, Michigan;

WHEREAS, Zero Mass desires to utilize certain designated portions of the Land (such portions more specifically described in Exhibit A to this Lease and collectively referred to in this Lease as the "Premises") to produce drinking water utilizing SOURCE™ Hydropanels, an innovative technology owned by Zero Mass that is free of infrastructure and provides clean, safe, high quality, renewable drinking water in a variety of applications ("Hydropanels" and each a "Hydropanel").

WHEREAS, the Parties desire to enter into this Lease for the Premises to define their respective rights and obligations in connection with Zero Mass's occupancy of the Premises;

NOW, THEREFORE, for and in consideration of the mutual covenants contained in this agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Demise and Description of Premises/Option for Additional Premises.** City hereby leases to Zero Mass the portion of the Premises comprised of approximately one acre of land, which is more specifically described and depicted in Exhibit A to this Lease ("Parcel #1"). Zero Mass will also have an option and right of first refusal to lease up to nine (9) additional one-acre portions of the Premises, which shall be referred to in this Lease as Parcel #2, Parcel #3, Parcel #4, Parcel #5, Parcel #6, Parcel #7, Parcel #8, Parcel #9, and Parcel #10 (each a "Parcel" and collectively with Parcel #1, the "Parcels"). Parcels #2 through #10 will be selected by Zero Mass from within the areas of the Premises more specifically described and depicted in Exhibit A to this Lease, subject to any local, state, federal or other regulatory compliance obligations by the City (the "Option Areas"). In the event Zero Mass determines it desires to lease any or all of Parcels #2 through Parcel #10 at any time during the Term, it shall provide City with 90-day prior written notice exercising its option to lease any or all of Parcel #2 through Parcel #10, and on or before 90 days after such written notice, City agrees to surrender and lease such Parcels to Zero Mass under the terms set forth in this Lease. In the event City receives an offer to lease any land within the Option Areas, Zero Mass shall have a right of first refusal to lease the Parcels within such Option Areas on the terms contained in this Lease. City shall provide Zero Mass with a written notice of any such third-party offer within 14 business days of City's receipt of the offer. Zero Mass shall have 30 days from receipt of City's notice to exercise its right of first refusal. If Zero Mass exercises its right of first refusal with respect to any such Parcel, City shall surrender and lease such Parcels to Zero Mass under the terms set forth in this Lease within 90 days after Zero Mass exercises its right of first refusal. In the event Zero Mass does not exercise its right of first refusal, City can accept the third-party offer, subject to Ordinance 3865, and if any Parcels are leased to such third party, Zero Mass shall no longer have rights to lease any Parcel so leased. The right of first refusal shall expire five years from the Effective Date. The specific legal description of Parcels #1 through Parcels #10 will be completed by a surveyor engaged by City, and within 30 days of the Effective Date, such surveyor shall assign Parcel Identification Numbers to each Parcel. Zero Mass shall reimburse City for the cost of such survey.

2. **Term.** The term of the Lease shall be five (5) years from the Effective Date (the "Initial Term"), unless terminated sooner in accordance with the provisions of this Lease. After the expiration of the Initial Term and provided that the use of the Premises continues to comply with all city, state, and federal laws, regulations, and ordinances, Zero Mass shall have the right to renew this Lease for one additional five (5)-year term (the "Renewal Term") by providing written notice of such desire to renew no later than ninety (90) days prior to the expiration of the Initial Term. Within 60 days of Zero Mass providing such notice, City shall propose a Monthly Rent amount to be applicable during the Renewal Term, which Monthly Rent amount shall be either (1) equal to the Monthly Rent during the Initial Term, or (2) the fair rental value of the Premises as determined by a mutually agreeable, third-party licensed appraiser, but only if the fair rental value exceeds the Monthly Rent applicable during the Initial Term. Within 10 days of receiving City's proposal for Monthly Rent to be applicable

during the Renewal Term, Zero Mass shall accept or deny the Monthly Rent proposed by the City. If denied, the Parties will make good faith efforts to negotiate a mutually acceptable Monthly Rent to be applicable during the Renewal Term, which Monthly Rent shall in no event be less than the Monthly Rent applicable during the Initial Term. As used herein, "Term" shall refer to the then-current duration during which this Lease is in full force and effect, including the Initial Term and the Renewal Term, if applicable.

3. **Rent**. During the term of this Lease, Zero Mass shall pay to City rent of \$750 per month for each Parcel then currently leased by Zero Mass (the "Monthly Rent"). Monthly Rent shall be payable on the 15<sup>th</sup> of each month beginning with the month following the Effective Date and for each month thereafter during the Term. Monthly Rent checks shall be made payable to the City of Flint and mailed to the City of Flint Finance Department, 1101 S. Saginaw Street, Flint, Michigan or to such other address as City shall notify Zero Mass of in writing at 6500 E. McDowell Rd., Scottsdale, AZ 85257.

4. **Permitted Use of Premises**. The Premises are to be used for the purpose of installing and operating a large-scale array of Source™ Hydropanels. More specifically, Zero Mass will (1) install and operate a large-scale array of approximately 1000 Hydropanels on unshaded land on the Premises (the "Source™ Field"); (2) dig the requisite trenches and install the requisite piping and storage tanks on the Premises for the purpose of transporting the water produced by the Source Field to its off-taker(s); all of which is graphically depicted in Exhibit B (including the specific location of the Source Field and the trenches and piping, Zero Mass shall restrict its use to such purposes and shall not use or permit the use of the Premises for any other purpose without the prior written consent of City. Zero Mass will demise, relocate, build and/or install fencing on the Premises to demarcate the perimeter of the Source™ Field and related equipment, all of which is also depicted on Exhibit B, subject to City approval and appropriate permitting as establishing by Federal, State and local laws and ordinances.

5. **Restrictions on Use**. Zero Mass shall not keep, use, or sell anything prohibited by any insurance policy covering the Premises or prohibiting by State Federal and local laws and ordinances and shall comply with all requirements of any such insurance policies. Zero Mass shall not use or allow the Premises to be used for any unlawful purpose or use not previously approved by the City.

6. **Utilities**. Zero Mass shall arrange and pay for the pro rata portion of any utilities furnished to the Premises and utilized by Zero Mass for the term of the Lease, including but not limited to electricity, gas, water, or sewer..

7. **Repairs and Maintenance**. Zero Mass shall maintain the Premises and keep them in good repair at its expense. City shall maintain and keep in good repair at its expense all areas of the Land that are outside the Premises then -currently leased by Zero Mass.

8. **Delivery and Surrender of Premises**. City represents that the Premises are in fit condition for use by Zero Mass. Zero Mass shall surrender the Premises at the end of the Term in the same condition as when Zero Mass took possession, allowing for reasonable use and wear, and damage by acts of God, including storms. Before surrender, Zero Mass shall remove all business signs placed on the Premises by Zero Mass and restore the portion of the Premises on which they were placed in the same condition as when received.

9. **Full or Partial Destruction of Premises**. If the Premises are fully or partially damaged or destroyed through no fault of Zero Mass, Zero Mass shall have the right to terminate this Lease. If Zero Mass does not elect to terminate the Lease, City shall be obligated to repair or replace the Premises during a period not to exceed 180 days following the damage or destruction, except for damage by acts of God, including storms. If City is unable to repair or replace the Premises within such 180-day period, Zero Mass may elect to terminate the lease upon the expiration of the 180-day period. During the period City is repairing or replacing any portion of the Premises, rent will be reduced proportionate with the portion of the Premises that are not usable by Zero Mass during such period.

10. **Entry on Premises by City**. City reserves the right to enter on the Premises at commercially reasonable times to inspect them, perform required maintenance and repairs, or to make additions, alterations, or modifications to any part of the Land, and Zero Mass shall permit City to do so. City may erect scaffolding, fences, and similar structures, post relevant notices, and place moveable equipment in connection with making alterations, additions, or repairs that are necessary in the reasonable business judgment of City, all without incurring liability to Zero Mass for disturbance of quiet enjoyment of the Premises.

11. **Signs, Awnings, and Marquees Installed by Zero Mass.** Zero Mass shall not construct or place signs, awnings, marquees, or other structures without the prior, express, and written consent of City. If Zero Mass fails to remove such signs, displays, advertisements, or decorations within thirty (30) days after receiving written notice from City to remove them, City reserves the right to enter the Premises and remove them at the expense of Zero Mass.

12. **Liability/Indemnification.** Neither Party shall be responsible for any losses, damages, or claims arising out of this Lease or Zero Mass's occupation of the Premises. To the extent such losses, damages, or claims are caused by (A) the negligence or willful misconduct of the other Party, or (B) the breach of this Lease by the other Party, and to the extent permitted by law, each Party shall indemnify the other Party for any losses, claims, or damages caused by its own negligence, willful misconduct, or breach of this Lease.

13. **Liability Insurance.** Zero Mass shall maintain the following insurance policies: (A) commercial general liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with Zero Mass's occupancy of the Premises, containing minimum liability protection of One Million Dollars (\$1,000,000.00) combined single limit per occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate ; (B) worker's compensation insurance and employer's liability insurance as required by law; and (3) insurance against fire and such other risks including, but not limited to, a standard "All Risk" policy of property insurance protecting against all risk of physical loss or damage, including without limitation, sprinkler leakage coverage in amounts not less than the actual replacement cost, covering all of Zero Mass's equipment, furnishings, and all items of personal property. City shall maintain insurance covering the Premises in the amount deemed necessary by the City.

14. **Assignment, Sublease or License.** Neither Party shall assign or sublease the Premises, or any right or privilege connected with the Premises, or allow any other person except agents and employees of Zero Mass to occupy the Premises or any part of the Premises without first obtaining the written consent of City, which shall not be unreasonably withheld. . Any unauthorized assignment, sublease, or license to occupy by Zero Mass shall be void and of no force and effect.

15. **Termination.** Any party claiming a default of any provision of this Lease shall provide written notice to the defaulting Party, providing sufficient information to fully advise the defaulting Party of the nature and circumstances of the claimed default. The defaulting party shall then have 30 days from such written notice to cure the claimed default. If the default is not cured within 30 days, the non-defaulting Party may terminate this Lease. In the event either party determines in its reasonable discretion that the Source™ Field is not in compliance with all local, state, and federal regulations, or in any way poses a risk to public health and safety, such Party may terminate this Agreement with 60 days' written notice may terminate this Agreement.

16. **Applicable Law.** This Agreement and all related disputes shall be governed by and interpreted in accordance with the laws of the State of Michigan.

17. **Arbitration.** Zero Mass agrees that for all claims, disputes, and other matters arising out of or relating to this agreement, Zero Mass must request the City's consent to arbitrate within 60 days from the date Zero Mass knows or should have known the facts giving rise to the claim, dispute or question.

(a) Notice of a request for arbitration must be submitted in writing by certified mail or personal service upon the City Attorney.

(b) Within 60 days from the date a request for arbitration is received by the City, the City shall inform Zero Mass whether it agrees to arbitrate. If the City does not consent, Zero Mass may proceed with an action in a court of competent jurisdiction within the State of Michigan. If the City does consent, then within 30 days of the consent each party shall submit to the other the name of one person to serve as an arbitrator. The two arbitrators together shall then select a third person, the three together shall then serve as a panel in all proceedings. Any unanimous decision of the three arbitrators shall be a final binding decision. The City's failure to respond to a timely, conforming request for arbitration is deemed consent to arbitration.



(c) The costs of the arbitration shall be split and borne equally between the parties and such costs are not subject to shifting by the arbitrator.

(d) This provision shall survive the expiration or termination of this Agreement in perpetuity.

(e) NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, AND TO THE EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND, OR ANY LOSS OF PROFITS, LOSS, OR INTERRUPTION OF BUSINESS, OR LOSS OF USE OR DATA, IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

18. **Force Majeure.** Subject to section 17(B) below, neither Party to this Lease shall be in breach of this Lease or responsible for damages caused by delay or failure to perform in full or in part its obligations under this Lease, provided that there is due diligence in attempted performance under the circumstances and that such delay or failure is due to one of the following events of force majeure: fire, earthquake, unusually severe weather, strikes, government sanctioned embargo, flood, act of God, war, terrorism, act (or delay in acting) of any public authority or sovereign government (including government delays in issuing required permits), civil disorder, delay or destruction caused by public carrier, curtailment of transportation facilities or any other similar circumstance substantially beyond the control of the Party to be charged, and which cannot be reasonably forecast or prevented. If the force majeure event continues for a period of six (6) months, then either Party shall have the right to cancel this Lease upon ten (10) days written notice to the other; and (B) Each party agrees to notify the other promptly upon discovery of an event of force majeure, as described above, which may cause a failure or delay in performance under this Lease.

19. **Waivers.** Waiver by City of any breach of any covenant or duty of Zero Mass under this Lease is not a waiver of a breach of any other covenant or duty of Zero Mass, or of any subsequent breach of the same covenant or duty.

20. **Entire Agreement.** This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.

21. **Modification of Agreement.** Any modification of this Lease or additional obligation assumed by either Party in connection with this Agreement shall be binding only if evidenced in a writing signed by each Party or an authorized representative of each Party.

22. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder will be in writing and will be deemed to have been given and received: (A) when delivered by hand (with written confirmation of receipt); (B) when received by the addressee if sent by a nationally recognized overnight courier (return receipt requested); or (C) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as is specified in a notice given in accordance with this Section 23):

CITY: City Attorney

ZERO MASS:

Law Department

6500 E. McDowell Rd.

1101 S. Saginaw Street

Scottsdale, AZ 85257

Flint, MI 48502

Attn: General Counsel

23. **Severability.** Each section, subsection, term and provision of this Lease, and any portion thereof, shall be considered severable. If any applicable and binding law imposes mandatory, nonwaivable terms or conditions that conflict with a provision of this Lease, the terms or conditions required by such law shall govern to the extent of the inconsistency and supersede the conflicting provision of this Lease.

24. **Whole Agreement:** This Agreement and the documents cited herein embody the entire agreement between the parties. Any additions, deletions or modifications hereto must be in writing and signed by both parties. This Agreement may be executed by facsimile and in counterparts, all of which, taken together, shall constitute a single agreement.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement effective on the date stated on the first page above.

ZERO MASS WATER MICHIGAN, LLC

CITY OF FLINT

By:

By:

Its:

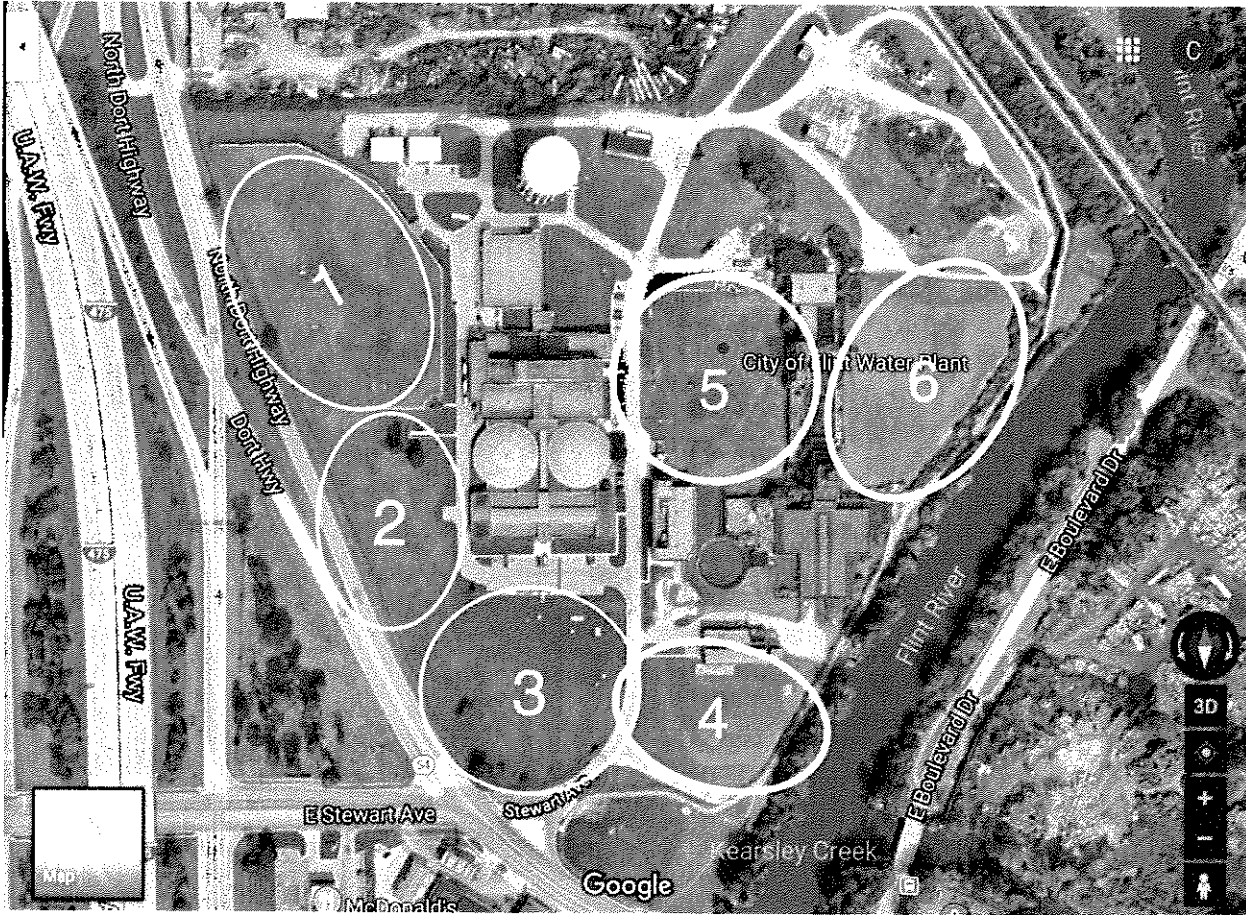
Its: Mayor

Approved as to form:

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Angela Wheeler, City Attorney

**EXHIBIT A**  
**DESCRIPTION OF PREMISES**



- Areas 1 through 5 are located at the City of Flint Water Treatment Plant located at 4500 Dort Hwy, Flint, MI 48506.
- Parcel #1 is a one-acre parcel located with Area 5.
- Parcels #2 through #10 will be located within Areas 1 through 6. The specific legal description of Parcels #1 through Parcels #10 will be completed by a surveyor engaged by City, and the surveyor shall assign Parcel Identification Numbers to each Parcel.

**EXHIBIT B**  
**DRAWINGS/PLANS FOR SOURCE FIELD**

[see attachment]