



**EMERGENCY MANAGER
CITY OF FLINT
GENESEE COUNTY MICHIGAN**

ORDER No. 18

**FLINT POLICE OFFICERS ASSOCIATION
CONTRACT PROVISION MODIFICATION/TERMINATION**

BY THE POWER AND AUTHORITY VESTED IN THE EMERGENCY MANAGER ("EMERGENCY MANAGER) FOR THE CITY OF FLINT, MICHIGAN ("CITY") PURSUANT TO MICHIGAN'S PUBLIC ACT 4 OF 2011, THE LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT, ("PA 4"); MICHAEL BROWN, THE EMERGENCY MANAGER, ISSUES THE FOLLOWING ORDER:

On March 16, 2011, the Local Government and School District Fiscal Accountability Act, Public Act 4 of 2011, ("Public Act 4") was enacted to safeguard and assure the fiscal accountability of units of local government; to preserve the capacity of units of local government to provide or cause to be provided necessary services essential to the public health, safety and welfare of citizens; and

Pursuant to Public Act 4, the Emergency Manager has broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the City of Flint and its capacity to provide or cause to be provided necessary services essential to the public health, safety and welfare; and

Pursuant to Public Act 4, the Emergency Manager acts in place of local officials, specifically the Mayor and City Council, unless the Emergency Manager delegates specific authority; and

Public Act 4 empowers the Emergency Manager to issue the orders the Manager considers necessary to accomplish the purposes of the Act and any such orders are binding on the local officials or employees to whom they are issued. **Section 19(1)** provides that an Emergency Manager may take on one or more additional actions with respect to a local government in receivership: **(g)** Make, approve or disapprove any appropriation, contract, expenditure..."; **(k)** After meeting and conferring with the appropriate bargaining representative and, if in the emergency manager's sole discretion and judgment, a prompt and satisfactory resolution is unlikely

to be obtained, reject, modify, or terminate 1 or more terms and conditions of an existing collective bargaining agreement. The rejection, modification, or termination of 1 or more terms and conditions of an existing collective bargaining agreement under this subdivision is a legitimate exercise of the state's sovereign powers if the emergency manager and the state treasurer determine that all of the following conditions are satisfied...; **(I)** Act as sole agent of the local government in collective bargaining with employees or representatives and approve any contract or agreement; **(ee)** Take any other action or exercise any power or authority of any officer, employee, department, board, commission, or other similar entity of the local government, whether elected or appointed, relating to the operation of the local government. The power of the emergency manager shall be superior to and supersede the power of any of the foregoing officers or entities...; and **19(2)** ...the authority of the chief administrative officer and governing body to exercise power for and on behalf of the local government under law, charter, and ordinance shall be suspended and vested in the Emergency Manager.

As part of our plan to reduce costs, Attorney John Clark and other members of my team have met with the Flint Police Officers Association ("FPOA") in an attempt to meet and confer over our proposed concessions. My team met with the executive committee of FPOA and its attorney on March 15, 2012, March 30, 2012, April 13, 2012, April 17, 2012 and April 19, 2012. The FPOA has refused to agree to any of our proposed concessions.

On April 11, 2012, I requested that the State Treasurer concur in my determination under Section 19(k) of the Local Government and School District Fiscal Accountability Act, Public Act 4 of 2011 (Act) to allow the modification of certain sections of the Collective Bargaining Agreement with the FPOA, as discussed below.

As stated in the April 11, 2012 correspondence to the State Treasurer, in my sole discretion and judgment, and after conferring with the FPOA and its representatives, a prompt and satisfactory resolution of outstanding issues is unlikely to be obtained. Therefore, I determined that the four conditions of Section 19(k) of the Act had been satisfied.

On April 20, 2012, the State Treasurer concurred with my determination and made his separate determination (see attached) that the four conditions of Section 19(k) of the Act had been satisfied.

It is hereby ordered:

By operation of law, as provided in Section 19(k) of the Act, pursuant to the determinations made by me and the State Treasurer, the sections of the Collective Bargaining Agreement with the City and the union listed above are hereby modified as follows:

Article 4. Association President

Elimination of this entire Article.

Article 5. Steward

Modification the last paragraph of this Article as follows:

One Steward or alternate may during his working hours, without loss of time or pay, in accordance with the terms of this Article,

investigate and process grievances upon having received permission from their superior to do so. The supervisor shall grant permission within a reasonable time after the hour of the shift for such steward to leave his work for these processes, subject to the necessary emergency exceptions. The privilege of such steward leaving his work during hours without loss of time or pay is subject to the understanding that only to a maximum of two (2) hours per day may be devoted to the proper processing of grievances and will not be abused. Any abuse of this time will result in disciplinary action by the Employer and the Union.

Article 8. Bargaining Team

Modification of Article VIII to limit to three (3) the number of members on the FPOA's bargaining team who may participate in negotiations during their normal work shift without loss of time or pay.

Article 10. Union Leave Days

Elimination of this entire Article and replace with the following:

Any leave associated with any union business shall be taken on an employee's regularly scheduled day off.

Article 11. Work Time and Pay Periods

Addition of the following provision:

Notwithstanding anything to the contrary as may be contained herein or elsewhere, the City shall have the unfettered right to modify work schedules of all employees, including but not limited to the right to place some or all employees on eight hour, ten hour and/or twelve hour shifts. The City will provide fourteen (14) calendar days notice before any schedule change will be implemented. However, this notice provision does not apply in the event of an emergency.

Article 12. Seniority. Section IV, Seniority of Stewards

Elimination of this Article in its entirety.

Article 14. Wages

Modify this Article to provide for the reduction of wages by five (5%) percent across the board for all members of the bargaining unit, and elimination of step increases in the contract effective June 7, 2011 (the date of adoption of Act 54 of Public Acts of 2011).

Article 15. Shift Premium

Elimination of shift premium for all employees.

Article 16. Overtime and Overtime Pay. Section 1. Definition.

Revision of the definition of overtime as follows:

An employee who works in excess of 84 hours in a two week period shall be paid overtime premium pay at the rate of one and one half times the employee's regular hourly rate. For the purpose of computing overtime hours, only actual hours worked shall be counted towards eligibility of overtime premium pay. Time spent on leave during a two-week pay period shall not be counted as time worked for overtime purposes.

Article 17. Court Time.

Modification of this Article to provide a minimum of one (1) hour of overtime pay for scheduled court appearances as defined in the collective bargaining agreement.

Article 22. Annual Leave.

Modify this Article to provide for the reduction of the accruals for all employees by one (1) hour per pay.

Article 27. Injuries During the Course of Employment. Section 5, Light Duty.

Elimination of Section 5 in its entirety, as well as any companion letter of understanding, memorandum of understanding, and/or settlement agreement that similarly requires light duty assignments for non-duty injuries.

Article 29. Equalization of Scheduled Overtime.

Modification of this Article as follows:

The Police Chief or his designee will make a reasonable effort to equally distribute overtime to all eligible employees.

The remainder of this Article is eliminated.

Article 51. Retirement.

Modification of this Article as follows:

Section 2

Notwithstanding anything to the contrary as may contain herein, all current employees shall have the portion of their pension earned for credited service time prior to April 15, 2012, calculated in accordance with the provisions of the parties' expired collective bargaining agreement. Effective April 15, 2012, the multiplier for all employees

shall be reduced to 2.25 for all credited service time earned after that date and there shall be a cap of a total of 240 hours of leave time included as part of FAC. Overtime shall not be included in FAC.

Section 3.

The employee annual contribution is increased to 9.5% on all wages earned.

Article 56. Hospitalization Insurance.

Modification of this Article as follows:

The Employer agrees to provide regular Employees and their eligible spouses and dependents health coverage subject to the terms below.

(a) The City shall not provide health care coverage for the Employee's and spouse if the spouse is eligible to receive paid health coverage through an employer or former employer of the spouse. As a condition of continued spousal health care coverage under this section, the City may require that a retiree file a yearly affidavit attesting that the spouse is eligible for no other employer-paid health coverage.

(b) The Employer will offer eligible Employees the following health coverage plans:

- (i) BCBSM Community Blue PPO Plan CB 12 PPO with \$1,000/\$2,000 deductible and, for those employees who retired after July 1, 2000, \$10, \$40, \$80 prescription drug coverage;
- (ii) Health Plus Plan DVDF and, for those employees who retired after July 1, 2000, \$20, \$40, \$60 prescription drug coverage;
- (iii) McLaren Health Plan C6 and, for those employees who retired after July 1, 2000, \$10, \$40, \$80 prescription drug coverage

The Employer may offer a high deductible plan in conjunction with a health savings account, to be offered in a special open enrollment not subject to subsection (c) below.

These health coverage plans will include a mandatory mail-order maintenance prescription drug program for Employees. Employees may change their coverage elections during an open enrollment held before July 1, 2012, and during subsequent annual enrollment periods scheduled by the Employer. Plan coverage will be subject to the coverage terms and regulations of each carrier.

(c) The Employer may, at its discretion, amend the health coverage plans offered, add new health coverage plans, or remove health coverage plans. The Employer may change the open enrollment periods for existing health coverage plans, but not more often than twice annually.

(d) The Employer reserves the right to change or discontinue the existing health insurance benefit program in response to the Patient Protection and Affordable Care Act (“PPACA”), as amended. This includes the right to respond to regulations issued under the PPACA or judicial interpretations of the PPACA.

(e) The City’s contribution for an Employee’s health coverage, and to the HSA, if applicable, shall be the lesser of (i) the applicable annual single, double or family coverage contribution limits provided in Section 3 of the Michigan Publicly Funded Health Insurance Contribution Act, 2011 PA 152, as adjusted by the State Treasurer for each subsequent coverage year, or (ii) the actual annual costs or illustrative rate for the elected health coverage, plus contributions to the Employee’s HSA, if applicable. The Employee will pay any premium contributions that exceed the amount contributed by the employer through payroll deduction.

Section 2. Future Retiree Health Coverage.

(a) New Hires. Employees hired on or after April 15, 2012 (“new hire Employee”) are not eligible for Employer-paid retiree health care coverage. Instead, the Employer shall establish a Retiree Medical Savings Account (RMSA) or other IRS-qualifying savings plan for each new hire Employee. During the term of this contract, the Employer will contribute \$1,500.00 per year to this account. New hire Employees shall make a pre-tax employee withholding of \$600.00 per year to the Employee’s RMSA. Employees shall be one hundred percent (100%) vested at all times on their own employee contributions and investment earnings. Employees shall be vested on Employer contributions and investment earnings according to the following schedule:

<i>Completed Years of Service</i>	<i>Percent Vested</i>
1 Year	20%
2 Years	40%
3 Years	60%
4 Years	80%
5 Years	100%

Annual Employer and Employee contributions to a new hire

Employee's RMSA shall cease at the earlier of the Employee's separation from City employment (including retirement) or upon becoming eligible for Medicare. The Employee may use the RMSA for any purpose consistent with federal law and regulations.

(b) Deferred Retirement. An Employee who elects a deferred retirement during the term of this Agreement is not eligible for the retiree health care coverage provided by this section.

(c) Vested Regular Retirement for Defined Benefit Plan Members. An Employee whose rights to a non-deferred defined benefit pension vested by virtue of the Employee's age and service on or before the effective date of this Agreement may, upon retirement, elect health care benefits for the Employee, the Employee's spouse, and the employee's dependents in existence at the time of retirement, on the same terms (including required contributions to premiums) and with the same benefit levels as offered to current regular Employees, until the Employee attains age sixty-five (65). Employees who participate in the high-deductible health coverage plan at the time of retirement shall receive an annual contribution to the Employee's HSA equal to fifty percent (50%) of the applicable contribution amount provided to active employees pursuant to Section 1(e) of this Article.

(i) The City shall not provide retiree health care coverage for the Employee if the Employee is eligible to receive paid health coverage through another employer or former employer. As a condition of continued retiree health care coverage under this section, the City may require that a retiree file a yearly affidavit attesting that the retiree is eligible for no other employer-paid health coverage.

(ii) The City shall not provide retiree health care coverage for the Employee's spouse if the Employee's spouse is eligible to receive paid health coverage through an employer or former employer of the Employee's spouse. As a condition of continued spousal health care coverage under this section, the City may require that a retiree file a yearly affidavit attesting that the spouse is eligible for no other employer-paid health coverage.

(d) Non-vested Regular Retirement for Defined Benefit Plan Members. An Employee whose rights to a non-deferred defined benefit pension do not vest on or before the effective date of this Agreement may, upon retirement, elect health care benefits for the Employee only on the same terms (including required contributions to premiums) and with the same benefit levels as offered to current regular Employees, until the Employee attains age sixty-five (65). The

City shall not provide retiree health care coverage for the Employee if the Employee is eligible to receive paid health coverage through another employer or former employer. As a condition of continued retiree health care coverage under this section, the City may require that a retiree file a yearly affidavit attesting that the retiree is eligible for no other employer-paid health coverage.

(e) Medicare Supplemental Part B. A City of Flint retiree aged sixty-five (65) or over will be covered by a Medicare supplemental plan at the Employer's expense, subject to the contribution limits provided in Section 3 of the Publicly Funded Health Insurance Contribution Act, 2011 PA 152, and the retiree must enroll in and pay for Medicare Supplemental Part B. The spouse of a City of Flint retiree aged sixty-five (65) or over will be covered by a Medicare supplemental plan at the Employer's expense, subject to the contribution limits provided in Section 3 of the Publicly Funded Health Insurance Contribution Act, 2011 PA 152, but the spouse must enroll in and pay for Medicare Supplemental Part B.

(f) Dependent/Spouse Health Coverage. A City of Flint retiree may purchase health coverage for the retiree's spouse or dependents on the same terms as offered to current regular Employees, and at the prevailing group rate for the selected plan. The retiree must agree to deduction of premium costs from the retiree's pension payments.

Section 3. Termination of Benefits.

(a) Except as otherwise provided herein, health coverage terminates on the last day of the premium month in which the Employee is terminated or laid off.

(b) Health coverage shall be continued during any leave for which the Employee receives full pay from the Employer. Employees on leave of absence with reduced or without pay or on layoff are not entitled to continued health coverage paid by the Employer but may be eligible for continuation coverage as provided by the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

Article 61. Work Force.

Modification of this Article to provide that the City may in its sole discretion use part-time and /or volunteers to augment the full-time police officers.

Article 70. Comp Time.

Modification of this Article to provide that no employee shall be able to accumulate comp time. Moreover, the City, at its discretion may pay off current comp time banks as funds become available.

Article 71. Duration of Agreement.


Modification of this Article to provide that this collective bargaining agreement shall expire on June 30, 2014.

The Human Resources Director shall immediately implement the contract changes set forth above and incorporate those into the collective bargaining agreement between the City of Flint and the Flint Police Officers Association.

This Order shall have immediate effect.

This Order may be amended, modified, repealed or terminated by any subsequent order issued by the Emergency Manager.

Dated: April 24, 2012

By: 
Michael K. Brown
Emergency Manager
City of Flint

xc: State of Michigan Department of Treasury
Mayor Dayne Walling
Flint City Council
Inez Brown, City Clerk

S:\P. Bade\EM2011\Orders\Order.No.18.FPOA.CBA.DOC