



CITY OF DETROIT
OFFICE OF THE EMERGENCY MANAGER

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**NOTICE OF PUBLIC HEARING ON
ORDERS TO AMEND CHAPTER 54 OF THE 1964 DETROIT CITY CODE
AND CHAPTER 47 OF THE 1984 DETROIT CITY CODE**

Notice is hereby given that a **PUBLIC HEARING** will be held by the Emergency Manager for the City of Detroit, Michigan (or his designee) on the 13th floor of the Coleman A. Young Municipal Center on:

**Tuesday, June 24, 2014
10:00 A.M.
Erma L. Henderson Auditorium**

All interested persons are invited to be present and be heard as to their views. Persons making oral presentations are encouraged to submit written copies to the City Clerk's Office, for the record.

Please note, increased security measures for entrance into this building may cause delays. Therefore, please allow sufficient time for prompt arrival.



2014 JUN 18 P 2:09
DETROIT
CITY CLERK

**EMERGENCY MANAGER
CITY OF DETROIT**

ORDER No. 25

**ORDER TO AMEND CHAPTER 54 OF THE 1964 DETROIT CITY CODE AND
CHAPTER 47 OF THE 1984 DETROIT CITY CODE**

BY THE AUTHORITY VESTED IN THE EMERGENCY MANAGER
FOR THE CITY OF DETROIT
PURSUANT TO MICHIGAN PUBLIC ACT 436 OF 2012,
KEVYN D. ORR, THE EMERGENCY MANAGER,
ISSUES THE FOLLOWING ORDER:

Whereas, on March 28, 2013, Michigan Public Act 436 of 2012 (“PA 436”) became effective and Kevyn D. Orr became the Emergency Manager (“EM”) for the City of Detroit (the “City”) with all the powers and duties provided under PA 436; and

Pursuant to Section 9(2) of PA 436, the EM “shall act for and in the place and stead of” the Detroit Mayor (the “Mayor”) and City Council (the “Council”); and

Section 9(2) of PA 436 also grants the EM “broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the [City] and the [City’s] capacity to provide or cause to be provided necessary governmental services essential to the public health, safety, and welfare;” and

Further, Section 9(2) of PA 436 prohibits, during the pendency of the receivership, the Mayor and the Council from exercising “any powers of those offices except as may be specifically authorized in writing by the [EM] or as otherwise provided by [PA 436] and are subject to any conditions required by the [EM];” and

Pursuant to Section 10(1) of PA 436, the EM may “issue to the appropriate local elected and appointed officials and employees, agents, and contractors of the local government the orders the emergency manager considers necessary to accomplish the

purposes of [PA 436], including, but not limited to, orders for the timely and satisfactory implementation of a financial and operating plan” or “to take actions, or refrain from taking actions, to enable the orderly accomplishment of the financial and operating plan;” and

Section 12(1)(a) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[a]nalyze the factors and circumstances contributing to the financial emergency of the local government and initiate steps to correct the condition;” and

Section 12(1)(b) of PA 436 authorizes the EM “notwithstanding any charter provision to the contrary,” to “[a]mend, revise, approve, or disapprove the budget of the local government, and limit the total amount appropriated or expended;” and

Section 12(1)(d) of PA 436 authorizes the EM “notwithstanding any charter provision to the contrary,” to “[r]equire and approve or disapprove, or amend or revise, a plan for paying all outstanding obligations of the local government;” and

Section 12(1)(dd) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions of the local government” as provided in the Michigan Home Rule City Act, Act 279 of 1909, Michigan Compiled Laws §§ 117.1 to 117.38 (the “Home Rule Act”); and

Section 12(1)(ee) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[t]ake 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 [EM] shall be superior to and supersede the power of any of the foregoing officers or entities;” and

Pursuant to Section 12(2) of PA 436, “during the pendency of the receivership, 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 [EM];” and

Section 11-101 of the 2012 City of Detroit Charter (the “City Charter”) provides that the “City shall provide, by ordinance, for the establishment and maintenance of retirement plans coverage for city employees;” and

Section 11-102 of the City Charter provides that the “retirement plans of the city existing when this Charter takes effect, including the existing governing bodies for administering those plans, the benefit schedules for those plans and the terms for accruing rights to and receiving benefits under those plans shall, in all respects, continue in

existence exactly as before unless changed by this Charter or an ordinance adopted in accordance with this article;" and

Section 3(k) of the Home Rule Act requires that the City's charter provide for "adopting, continuing, amending, and repealing the city ordinances and for the publication of each ordinance before it becomes operative;" and

Section 4-115 of the City Charter requires, among other things, that "[e]very proposed ordinance shall be in writing...[and that] [a]ny ordinance which repeals or amends an existing chapter, article, division, or section of the Detroit City Code shall set out in full the chapter, article, or division or section to be repealed or amended, and shall clearly indicate language to be omitted and language to be added;" and

Section 4-115 of the City Charter also requires that the proposed ordinance shall be distributed to each Council member and the Mayor and that it be placed in the Office of the City Clerk (the "Clerk"), and "such other public places," and that the Clerk "publish a summary of the proposed ordinance in a daily newspaper of general circulation in the City together with a notice establishing the time and place for a public hearing thereon" to occur not earlier than five days after the publication; and

Section 4-118 of the City Charter provides that "[a]n ordinance shall become effective only upon publication by the City Clerk." Section 4-118 of the City Charter further states that: "As soon as practicable after enactment of any ordinance . . . the City Clerk shall have the law published in a daily newspaper of general circulation in the City together with a notice of its enactment, which shall include the effective date. After publication, each ordinance shall be printed in a form for codification within the Detroit City Code;" and

Chapter 54, Article II, of the 1964 Detroit City Code, Policemen's and Firemen's Retirement System, was saved from repeal by Section 11-102 of the 1974, 1997, and 2012 Detroit City Charters and incorporated by reference into, but not codified in, Chapter 47 of the Detroit City Code, and renamed by Ordinance No. 04-05, Section 54-43-1 as the "Police and Fire Retirement System"; and

Unions representing affected employees either have received or will receive a letter informing them of the substance of this Order; and

The EM has determined, at this time, it is necessary and appropriate to adopt the following changes to the 1964 Detroit City Code and the 1984 Detroit City Code:

I. Adoption of Ordinance No. 12-14 to Freeze Benefit Accruals for All Participants in the Police and Fire Retirement System

Proposed Ordinance No. 12-14, as set forth in the attached Exhibit A (including a version showing the additions to the 1964 Detroit City Code), will amend Chapter 54 of the 1964 Detroit City Code entitled "Policemen's

and Firemen's Retirement System," which was saved from repeal by Section 11-102 of the 1974, 1997 and 2012 Detroit City Charters and incorporated by reference into, but not codified in, Chapter 47 of the 1984 Detroit City Code, by adding to Article II a new Section 54-2-15, entitled "Freeze of Police and Fire Retirement System as of June 30, 2014." This section will provide that (A) benefit accruals under the Police and Fire Retirement System will cease effective June 30, 2014; (B) with limited exception, no employee hired or rehired by the City after June 30, 2014 will be eligible to become a participant in the Police and Fire Retirement System as in effect on June 30, 2014; and (C) certain employees who are employed with the City on June 30, 2014 will have the opportunity to elect to have a portion of the employee's accrued sick leave bank included in the calculation of Average Final Compensation as of June 30, 2014; and

II. Adoption of Ordinance No. 13-14 to Provide for Limitations on Payments by the Police and Fire Retirement System

Proposed Ordinance No. 13-14, as set forth in the attached Exhibit B (including a version showing the additions to the 1964 Detroit City Code), will amend Chapter 54 of the 1964 Detroit City Code entitled "Policemen's and Firemen's Retirement System," which was saved from repeal by Section 11-102 of the 1974, 1997, and 2012 Detroit City Charters and incorporated by reference into, but not codified in, Chapter 47 of the 1984 Detroit City Code. In particular a new Section 54-2-16, entitled "Limitation on Interest Crediting Rate for Police and Fire Retirement System Annuity Savings Fund; Rates of Regular Interest Adopted by Board for Actuarial Purposes," will be added to Article II to limit payments by the Police and Fire Retirement System so that neither the Retirement System nor the trustees charged with management of the Retirement System may provide any savings plan, annuity plan, or other investment or savings vehicle that provides an annual return to investing members that in any year is greater than the actual investment return net of expenses of the Retirement System's invested reserves for the year in which the return is earned and accrued, *provided that* effective June 30, 2014 for any plan year beginning on or after July 1, 2014, such return shall be no less than zero and no greater than the lesser of (A) 5.25% or (B) the actual investment return net of expenses of the Retirement System's invested reserves for the second fiscal year immediately preceding the fiscal year in which the annual return is credited to investing members; and

III. Adoption of Ordinance No. 14-14 to Provide For a Special Election for Retirant Trustees of the Police and Fire Retirement System

Proposed Ordinance No. 14-14, as set forth in the attached Exhibit C (including a version showing the omissions from and additions to the 1964 Detroit City Code), will amend Section 54-2-8.2 and Section 54-2-8.3 of Chapter 54 of the 1964 Detroit City Code entitled "Policemen's and

Firemen's Retirement System," which was saved from repeal by Section 11-102 of the 1974, 1997 and 2012 Detroit City Charters and incorporated by reference into, but not codified in, Chapter 47 of the 1984 Detroit City Code. These sections will provide for a special election of retirant trustees to be held as soon as practicable after the Fourth Amended Plan for the Adjustment of Debts of the City of Detroit (as it may be further modified or amended) is confirmed by an order of the United States Bankruptcy Court in In re City of Detroit, Michigan, Case No. 13-53846; and

IV. Adoption of Ordinance No. 15-14 to Repeal Various Sections of the 1918 Detroit City Charter, Article II of Chapter 54 of the 1964 Detroit City Code, and Various Ordinances, Collective Bargaining Agreements and Terms of City Employment That Comprise the Police and Fire Retirement System of the City of Detroit Due to Memorialization of the Police and Fire Retirement System of the City of Detroit in a Separate Written Document

Proposed Ordinance No. 15-14, as set forth in the attached Exhibit D (including a version showing the omissions from the various sources), will repeal (A) Title IV, Chapter XV, Sections 14, 15, 16, 17, 18, and 19, of the 1918 Detroit City Charter; (B) Title IV, Chapter XXI, Sections 19, 20, 21, 22, 23, 24 and 25, of the 1918 Detroit City Charter; (C) Title IX, Chapter VII, Articles I and II, Article III, Sections 1 through 16, Article IV, Sections 1 through 4, and Article V, Sections 1 through 6 of the 1918 Detroit City Charter; (D) Title IX, Chapter VII, Article VI, Part A, Part B, Sections 3 and 4, and Parts C through G, Part H, Section 2, and Parts I through L, of the 1918 Detroit City Charter; (E) Title IX, Chapter VII, Articles VII through IX, of the 1918 Detroit City Charter; (F) Ordinance No. 18-93, which incorrectly designates amendments to Title IX, Chapter VII, Article IV, Section 1(a), (b), and (d) of the 1918 Detroit City Charter and Title IX, Chapter VII, Articles VI, Part B, Section 2.1 of the 1918 Detroit City Charter as Sections 47-12.6A-2.3, 47-12.2-14(E), 47-12.2-14(C), 47-12.6C-2.1, 47-12.6H-1(a), and 47-12.2-14(d) when, in fact, the ordinance amended Chapter 54 of the 1964 Detroit City Code (Ordinance No. 18-93); (G) Sections 54-2-1 through 54-2-5, 54-2-7, and 54-2-8.1 through 54-2-8.4 of the 1964 Detroit City Code (Ordinance No. 462-F, Ordinance No. 29-H, Ordinance No. 77-H, Ordinance No. 339-H; Ordinance No. 19-93, Ordinance No. 07-12, Ordinance No. 14-14); (H) Section 54-2-10 of the 1964 Detroit City Code (Ordinance No. 65-H); (I) Sections 54-2-11 through 54-2-14 of the 1964 Detroit City Code (Ordinance No. 04-00, Ordinance No. 05-00); (J) Section 54-2-15 (Ordinance No. 12-14); (K) Section 54-2-16 (Ordinance No. 13-14; (L) Section 54-3-3.1 of the 1964 Detroit City Code (Ordinance No. 56-H); (M) Section 54-30-3(b) of the 1964 Detroit City Code (Ordinance No. 356-H); (N) Sections 54-43-1 and 54-43-3 through 54-43-10 of the 1964 Detroit City Code (Ordinance No. 76-H, Ordinance No. 04-05, Ordinance No. 39-05, Ordinance No. 40-05); (O) Section 54-45-6 of the 1964 Detroit City Code (Ordinance No. 153-H); and

(P) Sections 54-100-2 (incorrectly designated in the 1984 Detroit City Code as Section 47-10-2), 54-100-3 (incorrectly designated in the 1984 Detroit City Code as Section 47-10-3), and 54-100-4 (incorrectly designated in the 1984 Detroit City Code as Section 47-10-4) of the 1964 Detroit City Code (Ordinance No. 348-H; Ordinance No. 349-H; Ordinance No. 11-86); and various collective bargaining agreements and terms of employment because, consistent with Ordinance No. 16-14, the terms and general provisions of the Police and Fire Retirement System will be memorialized in a separate written document entitled "Combined Plan for the Police and Fire Retirement System of the City of Detroit, Michigan," which document hereafter will comprise the exclusive terms of the Police and Fire Retirement System.

V. Adoption of Ordinance No. 16-14 to Enable the Memorializing of the Detroit Police and Fire Retirement System in a Separate Written Document

Proposed Ordinance No. 16-14, as set forth in the attached Exhibit E (including a version showing the additions to the 1984 Detroit City Code), will amend Chapter 47 of the 1984 Detroit City Code effective July 1, 2014, by adding to Article I, *Enabling Provisions*, a new Section 47-1-2 to enable the City to memorialize the Detroit Police and Fire Retirement System in a separate written document pursuant to (A) Article 11, Section 11-101 of the City Charter, which provides that the City shall provide, by ordinance, for the establishment and maintenance of retirement plan coverage for city employees, and (B) Section 11-102 of the City Charter, which provides for changing the terms of the retirement plans by Charter or an ordinance. The Detroit Police and Fire Retirement System will be memorialized in a separate written document entitled "Combined Plan for the Police and Fire Retirement System of the City of Detroit, Michigan," which will comprise the exclusive terms of the Detroit Police and Fire Retirement System and be kept in the Office of the City Clerk for the City of Detroit; and

Together, the attached Exhibits A, B, C, D, and E shall be referred to as the "Ordinances"; and

Further, the EM believes that such revisions are necessary and appropriate to safeguard and assure the financial accountability of the City and promote the City's successful restructuring.


It is hereby ordered that:

1. Consistent with Section 4-115 of the City Charter, the Clerk is hereby instructed, subject to Paragraph 2 below, to publish this Order and Exhibits A, B, C, D, and E hereto showing the proposed amendments to Chapter 54, Article II of the 1964 Detroit City Code and Chapter 47, Article I of the 1984 Detroit City Code in a daily newspaper of general circulation in the City no later than June 19, 2014.

2. In connection with the publication identified in Paragraph 1 above, the text of this Order and Exhibits A, B, C, and E shall be published in their entirety; however, consistent with Section 4-115 of the City Charter and to avoid any confusion that the Detroit Police and Fire Retirement System is being eliminated, the Clerk is hereby instructed to publish Exhibit D to this Order in summary form, rather than in its entirety, identifying in the summary the omitted sections of Chapter 54, Article II of the 1964 Detroit City Code in a daily newspaper of general circulation in the City no later than June 19, 2014.
3. Consistent with Section 4-115 of the City Charter, the Clerk shall file and maintain availability of a copy of the Ordinances, including a version of Exhibit D that includes the omitted Sections of Chapter 54, Article II of the 1964 Detroit City Code, in the Office of the City Clerk and shall provide a complete set of such documents to the Council and the Mayor.
4. Consistent with Section 4-115 of the City Charter, a public hearing regarding the amendments to Chapter 54, Article II of the 1964 Detroit City Code and Chapter 47, Article I of the 1984 Detroit City Code proposed in the Ordinances will take place on June 24, 2014 at 10:00 AM at the Erma L. Henderson Auditorium on the 13th floor of the Coleman A. Young Municipal Center.
5. All orders of the EM, ordinances, and resolutions of the Council, and all parts of orders, ordinances, or resolutions, in conflict with this Order (including the attached Ordinances) are hereby repealed to the extent of such conflict.
6. Nothing in this Order shall be interpreted as contrary to Federal law.
7. Absent any further EM Order to the contrary, the amendments made hereby to Chapter 54, Article II of the 1964 Detroit City Code and Chapter 47, Article I of the 1984 Detroit City Code, as reflected in the Ordinances, shall be effective on the effective date provided for in the applicable Ordinance.
8. Absent any further EM Order to the contrary, as soon as practicable following the conclusion of the public hearing described in Paragraph 4, and no later than June 27, 2014, the Clerk is hereby instructed to publish the Ordinances in a daily newspaper of general circulation in the City, together with a notice of their enactment, which shall include the effective date of such Ordinances. After publication, the Clerk is further instructed to take such steps as are necessary or appropriate for the Ordinances to be printed in a form for codification within the City Code and take such other steps as may be required with respect to the Ordinances under Section 4-119 of the City Charter.
9. If any component of this Order is declared illegal, unenforceable, or ineffective by a court of competent jurisdiction, such component shall be deemed severable so that all other components contained in this Order shall remain valid and effective.

10. The EM may modify, amend, rescind, replace, supplement, or otherwise revise this Order at any time.
11. Nothing in this Order shall be, or be deemed to be, a limitation, modification, waiver, or relinquishment by the EM of any right or power available under PA 436, all of which rights and powers are expressly preserved.
12. This Order shall be effective immediately.
13. This Order shall be distributed to the Mayor, Council members, all department heads, and the State of Michigan Department of Treasury.

Dated: June 16, 2014

By: 
Kevyn D. Orr
Emergency Manager
City of Detroit

cc: State of Michigan Department of Treasury
Mayor Michael Duggan
City Department Heads
Members of Detroit City Council

ORDINANCE NO. 12-14

S U M M A R Y

The proposed ordinance will amend Chapter 54 of the 1964 Detroit City Code entitled "Policemen's and Firemen's Retirement System," which was saved from repeal by Section 11-102 of the 1974, 1997, and 2012 Detroit City Charters and incorporated by reference into, but not codified in, Chapter 47 of the 1984 Detroit City Code, by adding to Article II a new Section 54-2-15, entitled "Freeze of Police and Fire Retirement System as of June 30, 2014." This section will provide that (A) benefit accruals under the Police and Fire Retirement System will cease effective June 30, 2014; (B) with limited exception, no employee hired or rehired by the City after June 30, 2014 will be eligible to become a participant in the Police and Fire Retirement System as in effect on June 30, 2014; and (C) certain employees who are employed with the City on June 30, 2014 will have the opportunity to elect to have a portion of the employee's accrued sick leave bank included in the calculation of Average Final Compensation as of June 30, 2014.

ORDINANCE NO. 13-14

S U M M A R Y

The proposed ordinance will amend Chapter 54 of the 1964 Detroit City Code entitled "Policemen's and Firemen's Retirement System," which was saved from repeal by Section 11-102 of the 1974, 1997, and 2012 Detroit City Charters and incorporated by reference into, but not codified in, Chapter 47 of the 1984 Detroit City Code. In particular a new Section 54-2-16, entitled "Limitation on Interest Crediting Rate for Police and Fire Retirement System Annuity Savings Fund; Rates of Regular Interest Adopted by Board for Actuarial Purposes," will be added to Article II to limit payments by the Police and Fire Retirement System so that neither the Retirement System nor the trustees charged with management of the Retirement System may provide any savings plan, annuity plan, or other investment or savings vehicle that provides an annual return to investing members that in any year is greater than the actual investment return net of expenses of the Retirement System's invested reserves for the year in which the return is earned and accrued, provided that effective June 30, 2014 for any plan year beginning on or after July 1, 2014, such return shall be no less than zero and no greater than the lesser of (i) 5.25% or (ii) the actual investment return net of expenses of the Retirement System's invested reserves for the second fiscal year immediately preceding the fiscal year in which the annual return is credited to investing members.

ORDINANCE NO. 14-14

S U M M A R Y

The proposed ordinance will amend Section 54-2-8.2 and Section 54-2-8.3 of Chapter 54 of the 1964 Detroit City Code entitled "Policemen's and Firemen's Retirement System," which was saved from repeal by Section 11-102 of the 1974, 1997 and 2012 Detroit City Charters and incorporated by reference into, but not codified in, Chapter 47 of the 1984 Detroit City Code. These sections will provide for a special election of retirant trustees to be held as soon as practicable after the Fourth Amended Plan for the Adjustment of Debts of the City of Detroit (as it may be further modified or amended) is confirmed by an order of the United States Bankruptcy Court in *In re City of Detroit, Michigan*, Case No. 13-53846.

ORDINANCE NO. 15-14

SUMMARY

The proposed ordinance will repeal (A) Title IV, Chapter XV, Sections 14, 15, 16, 17, 18, and 19, of the 1918 Detroit City Charter; (B) Title IV, Chapter XXI, Sections 19, 20, 21, 22, 23, 24, and 25, of the 1918 Detroit City Charter; (C) Title IX, Chapter VII, Articles I and II, Article III, Sections 1 through 16, Article IV, Sections 1 through 4, and Article V, Sections 1 through 6 of the 1918 Detroit City Charter; (D) Title IX, Chapter VII, Article VI, Part A, Part B, Sections 3 and 4, and Parts C through G, Part H, Section 2, and Parts I through L, of the 1918 Detroit City Charter; (E) Title IX, Chapter VII, Articles VII through IX, of the 1918 Detroit City Charter; (F) Ordinance No. 18-93, which incorrectly designates amendments to Title IX, Chapter VII, Article IV, Section 1(a), (b), and (d) of the 1918 Detroit City Charter and Title IX, Chapter VII, Articles VI, Part B, Section 2.1 of the 1918 Detroit City Charter as Sections 47-12.6A-2.3, 47-12.2-14(E), 47-12.2-14(C), 47-12.6C-2.1, 47-12.6H-1(a), and 47-12.2-14(d) when, in fact, the ordinance amended Chapter 54 of the 1964 Detroit City Code (Ordinance No. 18-93); (G) Sections 54-2-1 through 54-2-5, 54-2-7, and 54-2-8.1 through 54-2-8.4 of the 1964 Detroit City Code (Ordinance No. 462-F, Ordinance No. 29-H, Ordinance No. 77-H, Ordinance No. 339-H; Ordinance No. 19-93, Ordinance No. 07-12, Ordinance No. 14-14); (H) Section 54-2-10 of the 1964 Detroit City Code (Ordinance No. 65-H); (I) Sections 54-2-11 through 54-2-14 of the 1964 Detroit City Code (Ordinance No. 04-00, Ordinance No. 05-00); (J) Section 54-2-15 (Ordinance No. 12-14); (K) Section 54-2-16 (Ordinance No. 13-14); (L) Section 54-3-3.1 of the 1964 Detroit City Code (Ordinance No. 56-H); (M) Section 54-30-3(b) of the 1964 Detroit City Code (Ordinance No. 356-H); (N) Sections 54-43-1 and 54-43-3 through 54-43-10 of the 1964 Detroit City Code (Ordinance No. 76-H, Ordinance No. 04-05, Ordinance No. 39-05, Ordinance No. 40-05); (O) Section 54-45-6 of the 1964 Detroit City Code (Ordinance No. 153-H); and (P) Sections 54-100-2 (incorrectly designated in the 1984 Detroit City Code as Section 47-10-2), 54-100-3 (incorrectly designated in the 1984 Detroit City Code as Section 47-10-3), and 54-100-4 (incorrectly designated in the 1984 Detroit City Code as Section 47-10-4) of the 1964 Detroit City Code (Ordinance No. 348-H; Ordinance No. 349-H; Ordinance No. 11-86); and various collective bargaining agreements and terms of employment because, consistent with Ordinance No. [16-14], the terms and general provisions of the Police and Fire Retirement System will be memorialized in a separate written document entitled "Combined Plan for the Police and Fire Retirement System of the City of Detroit, Michigan," which document hereafter will comprise the exclusive terms of the Police and Fire Retirement System.

ORDINANCE NO. 16-14

SUMMARY

The proposed ordinance will amend Chapter 47 of the 1984 Detroit City Code effective July 1, 2014, by adding to Article I, Enabling Provisions, a new Section 47-1-2 to enable the City to memorialize the Detroit Police and Fire Retirement System in a separate written document pursuant to (A) Article 11, Section 11-101 of the City Charter, which provides that the City shall provide, by ordinance, for the establishment and maintenance of retirement plan coverage for city employees, and (B) Section 11-102 of the City Charter, which provides for changing the terms of the retirement plans by Charter or an ordinance. The Detroit Police and Fire Retirement System will be memorialized in a separate written document entitled "Combined Plan for the Police and Fire Retirement System of the City of Detroit, Michigan," which will comprise the exclusive terms of the Detroit Police and Fire Retirement System and be kept in the Office of the City Clerk for the City of Detroit.



2014 JUN 18 P 2:09

DETROIT
CITY CLERK

**EMERGENCY MANAGER
CITY OF DETROIT**

ORDER No. 26

ORDER TO AMEND CHAPTER 47 OF THE 1984 DETROIT CITY CODE

BY THE AUTHORITY VESTED IN THE EMERGENCY MANAGER
FOR THE CITY OF DETROIT
PURSUANT TO MICHIGAN PUBLIC ACT 436 OF 2012,
KEVYN D. ORR, THE EMERGENCY MANAGER,
ISSUES THE FOLLOWING ORDER:

Whereas, on March 28, 2013, Michigan Public Act 436 of 2012 ("PA 436") became effective and Kevyn D. Orr became the Emergency Manager ("EM") for the City of Detroit (the "City") with all the powers and duties provided under PA 436; and

Pursuant to Section 9(2) of PA 436, the EM "shall act for and in the place and stead of" the Detroit Mayor (the "Mayor") and City Council (the "Council"); and

Section 9(2) of PA 436 also grants the EM "broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the [City] and the [City's] capacity to provide or cause to be provided necessary governmental services essential to the public health, safety, and welfare;" and

Further, Section 9(2) of PA 436 prohibits, during the pendency of receivership, the Mayor and the Council from exercising "any powers of those offices except as may be specifically authorized in writing by the [EM] or as otherwise provided by [PA 436] and are subject to any conditions required by the [EM];" and

Pursuant to Section 10(1) of PA 436, the EM may "issue to the appropriate local elected and appointed officials and employees, agents, and contractors of the local government the orders the emergency manager considers necessary to accomplish the purposes of [PA 436], including, but not limited to, orders for the timely and satisfactory

implementation of a financial and operating plan” or “to take actions, or refrain from taking actions, to enable the orderly accomplishment of the financial and operating plan;” and

Section 12(1)(a) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[a]nalyze the factors and circumstances contributing to the financial emergency of the local government and initiate steps to correct the condition;” and

Section 12(1)(b) of PA 436 authorizes the EM “notwithstanding any charter provision to the contrary,” to “[a]mend, revise, approve, or disapprove the budget of the local government, and limit the total amount appropriated or expended;” and

Section 12(1)(d) of PA 436 authorizes the EM “notwithstanding any charter provision to the contrary,” to “[r]equire and approve or disapprove, or amend or revise, a plan for paying all outstanding obligations of the local government;” and

Section 12(1)(dd) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions of the local government” as provided in the Michigan Home Rule City Act, Act 279 of 1909, Michigan Compiled Laws §§ 117.1 to 117.38 (the “Home Rule Act”); and

Section 12(1)(ee) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[t]ake 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 [EM] shall be superior to and supersede the power of any of the foregoing officers or entities;” and

Pursuant to Section 12(2) of PA 436, “during the pendency of the receivership, 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 [EM];” and

Section 11-101 of the 2012 City of Detroit Charter (the “City Charter”) provides that the “City shall provide, by ordinance, for the establishment and maintenance of retirement plans coverage for city employees;” and

Section 11-102 of the City Charter provides that the “retirement plans of the city existing when this Charter takes effect, including the existing governing bodies for administering those plans, the benefit schedules for those plans and the terms for accruing rights to and receiving benefits under those plans shall, in all respects, continue in existence exactly as before unless changed by this Charter or an ordinance adopted in

accordance with this article;" and

Section 47-4-4 of Chapter 47 of the 1984 Detroit City Code (the "City Code") provides that "[a]ny amendment of the Plan which alters any term in this Chapter 47, requires an amendment of this ordinance approved by the Council;" and

Section 3(k) of the Home Rule Act requires that the City's charter provide for "adopting, continuing, amending, and repealing the city ordinances and for the publication of each ordinance before it becomes operative;" and

Section 4-115 of the City Charter requires, among other things, that "[e]very proposed ordinance shall be in writing...[and that] [a]ny ordinance which repeals or amends an existing chapter, article, division, or section of the Detroit City Code shall set out in full the chapter, article, or division or section to be repealed or amended, and shall clearly indicate language to be omitted and language to be added;" and

Section 4-115 of the City Charter also requires that the proposed ordinance shall be distributed to each Council member and the Mayor and that it be placed in the Office of the City Clerk (the "Clerk"), and "such other public places," and that the Clerk "publish a summary of the proposed ordinance in a daily newspaper of general circulation in the City together with a notice establishing the time and place for a public hearing thereon" to occur not earlier than five days after the publication; and

Section 4-118 of the City Charter provides that "[a]n ordinance shall become effective only upon publication by the City Clerk." Section 4-118 of the City Charter further states that: "As soon as practicable after enactment of any ordinance . . . the City Clerk shall have the law published in a daily newspaper of general circulation in the City together with a notice of its enactment, which shall include the effective date. After publication, each ordinance shall be printed in a form for codification within the Detroit City Code;" and

Unions representing affected employees either have received or will receive a letter informing them of the substance of this Order; and

The EM has determined, at this time, it is necessary and appropriate to adopt the following changes to the City Code:

I. Adoption of Ordinance No. 17-14 to Freeze Benefit Accruals for All Participants in the General Retirement System

Proposed Ordinance No. 17-14, as set forth in the attached Exhibit A (including a version showing the additions to the City Code), will amend Chapter 47 of the City Code by adding to Article I, Common Provisions of the General Retirement System, a new Section 47-1-27, entitled "Freeze of General Retirement System as of June 30, 2014." This section will provide that (A) benefit accruals under the 1973 Defined Benefit/Defined Contribution

Plan and the 1998 Defined Contribution Plan will cease effective June 30, 2014; (B) with limited exception, no employee hired or rehired by the City after June 30, 2014 will be eligible to become a participant in the 1973 Defined Benefit/Defined Contribution Plan or the 1998 Defined Contribution Plan as in effect on June 30, 2014; and (C) certain employees who are employed with the City on June 30, 2014 will have the opportunity to elect to have a portion of the employee's accrued sick leave bank included in the calculation of Average Final Compensation as of June 30, 2014; and

II. Adoption of Ordinance No. 18-14 to Provide for Limitations on Payments by the General Retirement System

Proposed Ordinance No. 18-14, as set forth in the attached Exhibit B (including a version showing the omissions from and additions to the City Code), will amend Chapter 47 of the City Code, Retirement Systems, Article I, Common Provisions of the General Retirement System. In particular Section 47-1-18 will be amended to limit payments by the General Retirement System so that neither the General Retirement System nor the trustees charged with management of the Retirement System may provide any savings plan, annuity plan, or other participant investment or savings vehicle that provides an annual return to investing participants that in any year is greater than the actual investment return net of expenses of the Retirement System's invested reserves for the year in which the return is earned and accrued, *provided that* effective June 30, 2014 for any plan year beginning on or after July 1, 2014, such return shall be no less than zero and no greater than the lesser of (A) 5.25% or (B) the actual investment return net of expenses of the Retirement System's invested reserves for the second fiscal year immediately preceding the fiscal year in which the annual return is credited; and

III. Adoption of Ordinance No. 19-14 to Repeal Various Sections of Chapter 47 of the City Code Entitled "Retirement Systems" Due to Memorialization of the General Retirement System of the City of Detroit in a Separate Written Document

Proposed Ordinance No. 19-14, as set forth in the attached Exhibit C (including a version showing the omissions from the City Code), will amend Chapter 47 of the City Code, as herein amended, by repealing Sections 47-1-1 through 47-1-30, 47-2-1 through 47-2-30, 47-3-1 through 47-3-20 and 47-4-1 through 47-4-10, because, consistent with Ordinance No. 20-14, the terms and general provisions of the General Retirement System will be memorialized in a separate written document entitled "Combined Plan for the General Retirement System of the City of Detroit, Michigan," and which separate document hereafter will comprise the exclusive terms of the Detroit General Retirement System; and

IV. Adoption of Ordinance No. 20-14 to Enable the Memorializing of the

Detroit General Retirement System in a Separate Written Document

Proposed Ordinance No. 20-14 as set forth in the attached Exhibit D (including a version showing the additions to the City Code), will amend Chapter 47 of the City Code effective July 1, 2014, by adding the title of "Enabling Provisions" to Article I and by adding to Article I a new Section 47-1-1 to enable the City to memorialize the Detroit General Retirement System in a separate written document pursuant to (A) Article 11, Section 11-101 of the City Charter, which provides that the City shall provide, by ordinance, for the establishment and maintenance of retirement plan coverage for city employees, and (B) Section 11-102 of the City Charter, which provides for changing the terms of the retirement plans by Charter or an ordinance. The Detroit General Retirement System will be memorialized in a separate written document entitled "Combined Plan for the General Retirement System of the City of Detroit, Michigan," which document hereafter will comprise the exclusive terms of the Detroit General Retirement System and be kept in the Office of the City Clerk for the City of Detroit; and

Together, the attached Exhibits A, B, C, and D shall be referred to as the "Ordinances"; and

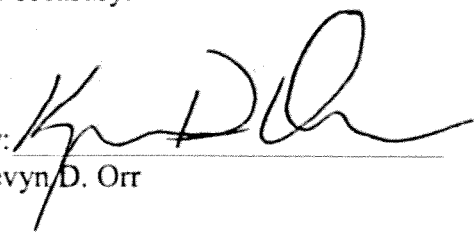
Further, the EM believes that such revisions are necessary and appropriate to safeguard and assure the financial accountability of the City and promote the City's successful restructuring.

It is hereby ordered that:

1. Consistent with Section 4-115 of the City Charter, the Clerk is hereby instructed, subject to Paragraph 2 below, to publish this Order and Exhibits A, B, C, and D hereto showing the proposed amendments to Chapter 47, Article I of the City Code in a daily newspaper of general circulation in the City no later than June 19, 2014.
2. In connection with the publication identified in Paragraph 1 above, the text of this Order and Exhibits A, B, and D shall be published in their entirety; however, consistent with Section 4-115 of the City Charter and to avoid any confusion that the Detroit General Retirement System is being eliminated, the Clerk is hereby instructed to publish Exhibit C to this Order in summary form, rather than in its entirety, identifying in the summary the omitted sections of Chapter 47 of the City Code as provided in the preamble to the proposed Ordinance.
3. Consistent with Section 4-115 of the City Charter, the Clerk shall file and maintain availability of a copy of the Ordinances, including a version of Exhibit C that includes the omitted sections of Chapter 47 of the City Code, in the Office of the City Clerk and shall provide a complete set of such documents to the Council and the Mayor.

4. Consistent with Section 4-115 of the City Charter, a public hearing regarding the amendments to Chapter 47, Article I of the City Code proposed in the Ordinances will take place on June 24, 2014 at 10:00 AM at the Erma L. Henderson Auditorium on the 13th floor of the Coleman A. Young Municipal Center.
5. All orders of the EM, ordinances, and resolutions of the Council, and all parts of orders, ordinances, or resolutions, in conflict with this Order (including the attached Ordinances) are hereby repealed to the extent of such conflict.
6. Nothing in this Order shall be interpreted as contrary to Federal law.
7. Absent any further EM Order to the contrary, the amendments made hereby to Chapter 47, Article I of the City Code, as reflected in the Ordinances, shall be effective on the effective date provided for in the applicable Ordinance.
8. Absent any further EM Order to the contrary, as soon as practicable following the conclusion of the public hearing described in Paragraph 4, and no later than June 27, 2014, the Clerk is hereby instructed to publish the Ordinances in a daily newspaper of general circulation in the City, together with a notice of their enactment, which shall include the effective date of such Ordinances. After publication, the Clerk is further instructed to take such steps as are necessary or appropriate for the Ordinances to be printed in a form for codification within the City Code and take such other steps as may be required with respect to the Ordinances under Section 4-119 of the City Charter.
9. If any component of this Order is declared illegal, unenforceable, or ineffective by a court of competent jurisdiction, such component shall be deemed severable so that all other components contained in this Order shall remain valid and effective.
10. The EM may modify, amend, rescind, replace, supplement, or otherwise revise this Order at any time.
11. Nothing in this Order shall be, or be deemed to be, a limitation, modification, waiver, or relinquishment by the EM of any right or power available under PA 436, all of which rights and powers are expressly preserved.
12. This Order shall be effective immediately.
13. This Order shall be distributed to the Mayor, Council members, all department heads, and the State of Michigan Department of Treasury.

Dated: June 16, 2014

By: 
Kevyn D. Orr

Emergency Manager
City of Detroit

cc: State of Michigan Department of Treasury
Mayor Michael Duggan
City Department Heads
Members of Detroit City Council

ORDINANCE NO. 17-14

SUMMARY

The proposed ordinance will amend Chapter 47 of the City Code by adding to Article I, Common Provisions of the General Retirement System, a new Section 47-1-27, entitled "Freeze of General Retirement System as of June 30, 2014." This section will provide that (A) benefit accruals under the 1973 Defined Benefit/Defined Contribution Plan and the 1998 Defined Contribution Plan will cease effective June 30, 2014; (B) with limited exception, no employee hired or rehired by the City after June 30, 2014 will be eligible to become a participant in the 1973 Defined Benefit/Defined Contribution Plan or the 1998 Defined Contribution Plan as in effect on June 30, 2014; and (C) certain employees who are employed with the City on June 30, 2014 will have the opportunity to elect to have a portion of the employee's accrued sick leave bank included in the calculation of Average Final Compensation as of June 30, 2014.

ORDINANCE NO. 18-14

S U M M A R Y

The proposed ordinance will amend Chapter 47 of the City Code, Retirement Systems, Article I, Common Provisions of the General Retirement System. In particular Section 47-1-18 will be amended to limit payments by the General Retirement System so that neither the General Retirement System nor the trustees charged with management of the Retirement System may provide any savings plan, annuity plan, or other participant investment or savings vehicle that provides an annual return to investing participants that in any year is greater than the actual investment return net of expenses of the Retirement System's invested reserves for the year in which the return is earned and accrued, provided that effective June 30, 2014 for any plan year beginning on or after July 1, 2014, such return shall be no less than zero and no greater than the lesser of (i) 5.25% or (ii) the actual investment return net of expenses of the Retirement System's invested reserves for the second fiscal year immediately preceding the fiscal year in which the annual return is credited.

ORDINANCE NO. 19-14

SUMMARY

The proposed ordinance will amend Chapter 47 of the City Code, as herein amended, effective June 30, 2014, by repealing Sections 47-1-1 through 47-1-30, 47-2-1 through 47-2-30, 47-3-1 through 47-3-20 and 47-4-1 through 47-4-10, because, consistent with Ordinance No. 20-14, the terms and general provisions of the General Retirement System will be memorialized in a separate written document entitled "Combined Plan for the General Retirement System of the City of Detroit, Michigan," and which separate document hereafter will comprise the exclusive terms of the Detroit General Retirement System.

ORDINANCE NO. 20-14

SUMMARY

The proposed ordinance will amend Chapter 47 of the City Code effective July 1, 2014, by adding the title of "Enabling Provisions" to Article I and by adding to Article I a new Section 47-1-1 to enable the City to memorialize the Detroit General Retirement System in a separate written document pursuant to (A) Article 11, Section 11-101 of the City Charter, which provides that the City shall provide, by ordinance, for the establishment and maintenance of retirement plan coverage for city employees, and (B) Section 11-102 of the City Charter, which provides for changing the terms of the retirement plans by Charter or an ordinance. The Detroit General Retirement System will be memorialized in a separate written document entitled "Combined Plan for the General Retirement System of the City of Detroit, Michigan," which document hereafter will comprise the exclusive terms of the Detroit General Retirement System and be kept in the Office of the City Clerk for the City of Detroit.