EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK

ORDER NO. 23

ORDER OF THE EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK

City of Lincoln Park/Action Under Sections 12(1)k and 12(2) of PA 436 of 2012 of the Local Financial Stability and Choice Act *Related to Health Care for Retirees of International Association of Fire Fighters Local 1292*

BY THE AUTHORITY VESTED IN THE EMERGENCY MANAGER FOR THE CITY OF LINCOLN PARK
PURSUANT TO MICHIGAN'S PUBLIC ACT 436 OF 2012
BRAD COULTER, THE EMERGENCY MANAGER, ISSUES THE FOLLOWING ORDER:

WHERAS, the Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.1541, et. seq.) in Section **10** empowers an emergency manager to issue orders to the appropriate local elected and appointed officials and employees, agents, and contractors of the local government a manager considers necessary to accomplish the purposes of the act and any such orders are binding on the local elected and appointed officials and employees, agents, and contractors of the local government to whom they are issued.

WHEREAS, **Section 12(1)** of the Act provides that "[a]n Emergency Manager may take one or more of the following additional actions with respect to a local government that is in receivership, notwithstanding any charter provision to the contrary:

> **(g)** Make, approve, or disapprove any appropriation, contract, expenditure, or loan, the creation of any new position, or the filling of any vacancy in a position by any appointing authority;
>
> **(k)** Subject to section 19, 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 one or more terms and conditions of an existing collective bargaining agreement. The rejection, modification or termination of one 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 …;
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> **(l)** 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 …;

WHEREAS, **Section 12(2)** of the Act provides that "[e]xcept and otherwise provided in this act, 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 emergency manager.

WHEREAS, on April 9, 2015, I requested the State Treasurer to concur in my determination under Section 12(1)k of the Local Fiscal Stability and Choice Act, Public Act 436 of 2012 (Act) to allow termination of those sections of the Collective Bargaining Agreements with the unions listed above concerning health insurance.

As stated in the April 9, 2015, correspondence to the State Treasurer, in my sole discretion and judgment, a prompt and satisfactory resolution of outstanding issues is unlikely to be obtained. Therefore, I determined that the four conditions of Section 12(1)k of the Act had been satisfied.

On April 10, 2015, the State Treasurer concurred with my determination and made his separate determination (see attached) that the four conditions of Section 12(1)k of the Act had been satisfied.

IT IS HEREBY ORDERED THAT:

I. By operation of law, as provided in Sections 12(l)k and 12(2) of the Act, pursuant to the determinations made by both myself and the State Treasurer, the sections of all Collective Bargaining Agreements with the City and the union listed above concerning retirees[1], as well as all past and present City Council resolutions or ordinances regarding retiree health care and Medicare Part B reimbursement, are terminated and replaced with the following:

Healthcare

Effective July 1, 2015, all retirees receiving City provided health care shall be provided monthly payments to be either used toward purchasing health insurance or as a supplement to income. All retirees must enroll in the City provided group coverage and pay for this coverage if they would like to continue having health insurance through the City's group plan. Alternatively, retirees may take the monthly payment and purchase coverage on their own, or take the money as income. These payment amounts are set through June 30, 2016 and will be re-evaluated every budget year.

The City will pay the following monthly amounts based on the coverage being offered:

Non-Medicare Eligible Retirees

Single:	$150 per month
Couple:	$350 per month
Family:	$425 per month

[1] Unless otherwise noted, "retiree" shall only include those individuals who retired from the City of Lincoln Park on or before April 22, 2015 and are eligible to receive City provided retiree health care. In addition, "retiree" shall include eligible spouses of retirees as well as eligible dependents.

Medicare Eligible Retirees
$50 per participant

Medicare Part B Reimbursement

Effective April 22, 2015, the City will no longer provide reimbursement for Medicare Part B.

II. The Human Resources Department is directed to take all steps necessary to advise the retirees of this order and the various insurance options that may be available to them at their expense.

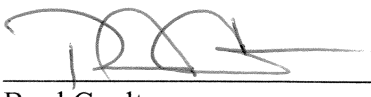
This Order shall supersede and control over any past or present collective bargaining agreement, City Council resolution, executive order, City ordinance or any other City policy, practice or procedure that in any way conflicts with the modification to retiree health care as set forth above.

The Order shall have immediate effect.

Copies of the documents referenced in this Order are to be maintained in the offices of the City Clerk and may be reviewed and/or copies may be obtained upon submission of a written request consistent with the requirements of the Michigan Freedom of Information Act and subject to any exemptions contained in that state statute and subject to any exemptions allowed under that statute **(Public Act 442 of 1976, MCL 15.231, et. seq.)**.

This order is effective as indicated and is necessary to carry out the duties and responsibilities required of the Emergency Manager as set forth in the Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.15411, et. seq.) and the contract between the Local Emergency Financial Assistance Loan Board and the Emergency Manager.

SO ORDERED this 22nd day of April, 2015.



Brad Coulter
City of Lincoln Park
Emergency Manager

Cc: State of Michigan Department of Treasury
Mayor Thomas E. Karnes
Members of the Lincoln Park City Council

72 (Rev. 12-13)

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

R. KEVIN CLINTON
STATE TREASURER

April 10, 2015

Brad Coulter, Emergency Manager
City of Lincoln Park
1355 Southfield Road
Lincoln Park, Michigan 48146

Mr. Coulter,

Thank you for your April 9, 2015 letter which is enclosed for reference. As the Emergency Manager for the City of Lincoln Park, you have asked for my agreement with your proposal to modify all collective bargaining agreements which currently grant retiree healthcare. These contract modifications would be made pursuant to Public Act 436 of 2012, the Local Financial Stability and Choice Act.

Specifically, Subsection 12(1)(k) of the Act authorizes emergency managers to reject, modify, or terminate one or more terms and conditions of an existing collective bargaining agreement. In order to do so, however, the Emergency Manager and State Treasurer must both determine that the following four conditions of subsection 12(1)(k) have been satisfied:

> (i) The financial emergency in the local government has created a circumstance in which it is reasonable and necessary for the state to intercede to serve a significant and legitimate public purpose.
>
> (ii) Any plan involving the rejection, modification, or termination of 1 or more terms and conditions of an existing collective bargaining agreement is reasonable and necessary to deal with a broad, generalized economic problem.
>
> (iii) Any plan involving the rejection, modification, or termination of 1 or more terms and conditions of an existing collective bargaining agreement is directly related to and designed to address the financial emergency for the benefit of the public as a whole.
>
> (iv) Any plan involving the rejection, modification, or termination of 1 or more terms and conditions of an existing collective bargaining agreement is temporary and does not target specific classes of employees.

I have reviewed your determinations in this regard and agree that all four statutory conditions have been satisfied. In particular, I find that:

1. The financial emergency in the City is such that it is reasonable and necessary for the State to intercede in this instance to serve the significant and legitimate public purposes of pension fund solvency and continued service delivery. Current financial figures show that the City's general and police/fire pension are funded at levels of 22% and 31% respectively. These modifications are necessary to increase the funding of these pension plans, with $3 million in additional annual pension contributions to be made after the implementation of these modifications. The funding of municipal pensions is a significant and legitimate public purpose.

2. This contract modification is reasonable and necessary following the failure of good faith negotiations with City retirees, which occurred on March 2 and 3 of 2015.

   The "broad, generalized economic problem" of the City of Lincoln Park is well documented. The City had a general fund accumulated deficit of $1 million at the close of the fiscal year ending 2014. The City is projecting the increase of this accumulated deficit to $1.5 million by the end of this fiscal year.

   Expenses for retiree pension and healthcare now constitute more than 40% of the City's general fund budget. These sizable annual contributions are insufficient to maintain the pension system; City projections anticipate a total exhaustion of pension funds in the next 10 to 15 years. The proposed collective bargaining agreement modifications are both reasonable and necessary to address the pension funding issues and the financial emergency in general.

3. The savings realized by this modification directly relate to and improve the dire financial condition of the City. The public as a whole benefits from the improvement of the City's finances, adequate funding for future liabilities, and the continued delivery of essential services.

4. The proposed CBA modification will only be effective while the City of Lincoln Park remains in receivership under PA 436 of 2012. All of these changes treat retirees the same and no class of employee is targeted for unjust treatment.

Therefore, pursuant to Section 12(1)(k) of the Act, I determine that the above statutory conditions have been satisfied and that the proposed changes to the collective bargaining agreement are necessary and appropriate. You may execute this contract modification without further delay.

Sincerely,

R. Kevin Clinton
State Treasurer