

EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK

ORDER NO. 45

**NOTICE OF INTENT TO ISSUE REVENUE BONDS
AND DECLARATION OF INTENT TO REIMBURSE
(SANITARY SEWER SYSTEM IMPROVEMENTS)**

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:

WHEREAS, under the Local Financial Stability and Choice Act, Act 436, Public Acts of Michigan, 2012 ("Act 436"), Brad Coulter has been appointed as the Emergency Manager (the "Emergency Manager") of the City of Lincoln Park, County of Wayne, State of Michigan (the "City"); and

WHEREAS, pursuant to Section 9(2) of Act 436, the Emergency Manager "shall act for and in the place and stead of" the Mayor, the City Manager, as the Chief Administrative Officer, and of the City Council, as the governing body of the City; and

WHEREAS, Section 9(2) of Act 436 also grants the Emergency Manager "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

WHEREAS, Section 9(2) of Act 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 Emergency Manager or as otherwise provided by Act 436 and are subject to any conditions required by the Emergency Manager;" and

WHEREAS, Section 12(1)(u) of Act 436 authorizes the Emergency Manager, "notwithstanding any charter provision to the contrary," but subject to Section 19 of Act 436, to authorize the borrowing of money by the local government as provided by law; and

WHEREAS, pursuant to Section 10(1) of Act 436, the Emergency Manager 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 this act;" and

WHEREAS, Section 12(1)(dd) of Act 436 authorizes the Emergency Manager, "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, Public Acts of Michigan 1909 (the "Home Rule Act"); and

WHEREAS, pursuant to Section 12(1)(ee) of Act 436, the Emergency Manager, “notwithstanding any charter provision to the contrary,” may “[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 emergency manager shall be superior to and supersede the power of any of the foregoing officers or entities;” and

WHEREAS, the City has determined that it is necessary for the public health, safety and welfare of the City to acquire, construct, furnish and equip additions, extensions, and improvements to the City’s Sanitary Sewer System, consisting generally of sewer lining, manhole and retention basin control valve improvements, together with all necessary structures, equipment, furnishings and all appurtenances and attachments thereto (the “Project”); and

WHEREAS, the City has been advised by the Michigan Department of Environmental Quality (“MDEQ”) that financial assistance to accomplish the acquisition and construction of the Project is available through the State Revolving Fund Loan Program administered by the MDEQ and the Michigan Finance Authority (the “MFA”); and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended (“Act 94”), provides a means for financing the purchase, acquisition, construction, improvement, enlargement, extension, and repair of public improvements such as the Project through the issuance of revenue bonds; and

WHEREAS, the issuance of bonds payable from revenues of the System under Act 94 in a total amount not to exceed Two Million Dollars (\$2,000,000) (the “Bonds”) for the purpose of financing all or part of the Project represents the most practical means to that end; and

WHEREAS, a Notice of Intent to Issue Bonds must be published at least forty-five (45) days before issuance of the same in order to comply with the requirements of Section 33 of Act 94, Public Acts of Michigan, 1933, as amended; and

WHEREAS, the City intends, at this time to state its intentions to be reimbursed from proceeds of the bonds for any expenditures undertaken by the City for the Project prior to issuance of the bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a Notice of Intent to Issue Bonds in *The News Herald*, a newspaper of general circulation in the City.
2. The Notice of Intent shall be published as a display advertisement not less than one-quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.
3. The Emergency Manager does hereby determine that the foregoing form of Notice of Intent to Issue Bonds and the manner of publication directed is adequate notice to the electors of the City and users of the City’s Sanitary Sewer System and is well calculated to inform them of the intention of the City to issue the bonds, the purpose of the bonds, the security for the bonds and the rights of referendum of the electors with respect thereto, and that the provision of forty-five (45) days within which to file a referendum petition is adequate to insure that the City’s electors may exercise their legal rights of referendum.

4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- (a) The City reasonably expects to reimburse itself with proceeds of the Bonds for certain costs of the Project which were paid or will be paid from the sanitary sewer funds or general funds of the City subsequent to sixty (60) days prior to today.
- (b) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$2,000,000.
- (c) A reimbursement allocation of the capital expenditures described above with the proceeds of the Bonds will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the Bonds to reimburse the City for a capital expenditure made pursuant to this resolution.

5. The City hereby retains the law firm of Miller, Canfield, Paddock and Stone, P.L.C. ("Miller Canfield") as bond counsel in connection with the financing of the proposed Project, notwithstanding Miller Canfield's periodic representation of the MFA.

6. This Order is effective immediately upon the date of execution below.

7. 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.

8. The Emergency Manager may modify, amend, rescind, replace, supplement or otherwise revise this Order at any time.

9. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

Dated: December 21, 2015

By: _____



Brad Coulter
Emergency Manager
City of Lincoln Park

EXHIBIT A

NOTICE TO ELECTORS
OF THE CITY OF LINCOLN PARK AND
USERS OF THE CITY'S SANITARY SEWER SYSTEM
OF INTENT TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES
OF THE SANITARY SEWER SYSTEM
AND OF RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City of Lincoln Park, County of Wayne, State of Michigan, intends to issue and sell revenue bonds pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in the principal amount of not to exceed Two Million Dollars (\$2,000,000), for the purpose of paying all or part of the cost to acquire, construct, furnish and equip additions, extensions, and improvements to the City's Sanitary Sewer System, consisting generally of sewer lining, manhole and retention basin control valve improvements, together with all necessary structures, equipment, furnishings and all appurtenances and attachments thereto.

SOURCE OF PAYMENT OF BONDS

THE PRINCIPAL OF AND INTEREST ON SAID REVENUE BONDS shall be payable from the net revenues received by the City from the operations of the sanitary sewer system (the "System") except as provided below in the case of bonds sold to the Michigan Finance Authority in connection with the State of Michigan's State Revolving Loan Fund program. The revenues will consist of rates and charges billed to the users of the System which may from time to time be revised in order to provide sufficient revenues to meet expenses of operating and maintaining said System and paying debt service on certain existing revenue bonds, the bonds referred to herein and any future revenue bonds payable from the net revenues of said System. Schedules of rates presently in effect for the System are on file in the office of the City Clerk.

BOND DETAILS

THE REVENUE BONDS will be payable in annual installments not to exceed twenty (20) in number and will bear interest at the rate or rates to be determined at public or private sale but in no event to exceed such rates as may be permitted by law on the unpaid balance from time to time remaining outstanding on said bonds.

ADDITIONAL SOURCES OF PAYMENTS FOR BONDS
SOLD TO MICHIGAN FINANCE AUTHORITY

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN FINANCE AUTHORITY, THE CITY MAY PLEDGE FOR THE PAYMENT OF THE BONDS MONEY RECEIVED OR TO BE RECEIVED BY THE CITY DERIVED FROM IMPOSITION OF TAXES BY THE STATE AND RETURNED OR TO BE RETURNED TO THE CITY AS PROVIDED BY LAW, except for money the use of which is prohibited for such purposes by the State Constitution. The City may enter into an agreement providing for the payment of taxes, which taxes are collected by the State and returned to the City as provided by law, to the Michigan Finance Authority or a trustee, and such funds may be pledged for the payment of the revenue bonds.

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN FINANCE AUTHORITY, THE CITY MAY PLEDGE ITS LIMITED TAX FULL FAITH AND CREDIT AS SECURITY FOR THE REVENUE BONDS, IN WHICH EVENT DEBT SERVICE ON THE BONDS SHALL BE PAYABLE EITHER FROM REVENUES OF THE SYSTEM OR FROM AD VALOREM TAXES THAT MAY BE LEVIED ON ALL TAXABLE PROPERTY IN THE CITY, SUBJECT HOWEVER, TO APPLICABLE CONSTITUTIONAL, STATUTORY AND CHARTER TAX RATE LIMITATIONS.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING AN ELECTION ON THE QUESTION OF ISSUING THE BONDS, SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY, IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH A PETITION IS FILED, THE BONDS CANNOT BE ISSUED UNLESS APPROVED BY A MAJORITY VOTE OF THE ELECTORS OF THE CITY VOTING ON THE QUESTION OF THEIR ISSUANCE.

THIS NOTICE is given pursuant to the requirements of Section 33 of Act 94, Public Acts of Michigan, 1933, as amended.

ADDITIONAL INFORMATION will be furnished at the office of the City Clerk upon request.

Brad Coulter, Emergency Manager
City of Lincoln Park

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