

**ORDER OF THE EMERGENCY MANAGER
CITY OF LINCOLN PARK
COUNTY OF WAYNE, STATE OF MICHIGAN**

ORDER NO. 48

POSSIBLE MODEL CHARTER AMENDMENTS ON BALLOT FOR APPROVAL

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 “EM”) of the City of Lincoln Park, County of Wayne, Michigan (the “City”); and

WHEREAS, pursuant to Section 9(2) of Act 436, the EM “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 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

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 [EM] or as otherwise provided by [Act 436] and are subject to any conditions required by the [EM];” and

WHEREAS, Section 12(1)(dd) of Act 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, Public Acts of Michigan 1909 (the “Home Rule Act”); and

WHEREAS, Section 12(1)(ee) of Act 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

WHEREAS, Section 22(4) of Act 436 states “Before removing a local government from receivership, the governor may impose 1 or more of the following conditions on the local government: (a) The implementation of financial best practices within the local government. (b) The adoption of a model charter or model charter provisions. (c) Pursue financial or managerial training to ensure that official responsibilities are properly discharged.

WHEREAS, Section 21 of the Home Rule Act provides that the legislative body of a city may propose an amendment to an existing city charter; and

WHEREAS, the Emergency Manager has determined that one or more of the attached model Charter provisions may be in the best interest of the City, depending on the Governor's determination; and,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

If the Governor determines that one or more of the attached model Charter provisions should be adopted before exiting Receivership, the City shall promptly begin the process of taking the proper legal steps for putting the attached provisions on the ballot for passage. Should the City desire any modifications to the attached provisions before placing on the ballot, these modifications must first be approved by the Receivership Transitional Advisory Board.

SO ORDERED this 22nd day of December, 2015.

By:



BRAD COULTER
Emergency Manager
City of Lincoln Park

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

Attachment A: City Manager Charter Amendment
Attachment B: City Council Term Limits and Vacancies
Attachment C: Appointment of Clerk and Treasurer

ATTACHMENT A: CITY MANAGER CHARTER AMENDMENT

PROPOSING AMENDMENT OF THE CITY CHARTER TO RECTIFY THE CITY'S FISCAL EMERGENCY BY AMENDING CHAPTER III, CHAPTER IV, CHAPTER XV AND CHAPTER XVI TO PROVIDE FOR THE APPOINTMENT OF A CITY MANAGER BY THE CITY COUNCIL TO BE RESPONSIBLE FOR THE SUPERVISION OF THE AFFAIRS OF THE CITY

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 “EM”) 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 EM “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 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

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 [EM] or as otherwise provided by [Act 436] and are subject to any conditions required by the [EM];” and

WHEREAS, Section 12(1)(dd) of Act 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, Public Acts of Michigan 1909 (the “Home Rule Act”); and

WHEREAS, Section 12(1)(ee) of Act 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

WHEREAS, Section 21 of the Home Rule Act provides that the legislative body of a city may propose an amendment to an existing city charter; and

WHEREAS, Section 21 proscribes the procedure for submitting proposed charter amendments to the electors of a city for approval; and

WHEREAS, the Emergency Manager has determined that it may be necessary to rectify the

City's financial emergency to provide for the appointment of a City Manager to exercise supervision over the daily affairs, personnel and public safety of the City; and

WHEREAS, the City Charter, at Section 8 of Chapter III, currently provides for the Mayor to supervise the affairs of the City and over the public property belonging thereto; and

WHEREAS, the City Charter at Chapter XV currently provides for the Commission of Public Safety (the "Commission"); and

WHEREAS, the powers and authority of the Commission have been superseded by current collective bargaining agreements; and

WHEREAS, the Emergency Manager has determined that it may be necessary to rectify the City's financial emergency to remove the Commission and to transfer its powers and duties to the City Manager; and

WHEREAS, the City Charter at Chapter XVI currently provides for the Municipal Service Board (the "Board"), which has been inactive for an extended period of time; and

WHEREAS, the Emergency Manager has determined that it may be necessary to rectify the City's financial emergency to remove the Board and to transfer its powers and duties to the City Manager; and

WHEREAS, it may be therefore necessary to amend Section 8 and to add Section 15 of Chapter III, to amend Section 1 and to add Section 31 of Chapter IV, to add Section 11 of Chapter XV, and to add Section 19 of Chapter XVI of the City Charter to provide for the appointment of a City Manager by City Council and to prescribe the authority, powers and duties of the City Manager.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Emergency Manager hereby proposes that Sec. 8 of Chapter III of the City Charter shall be amended to read as follows:

Section 8. Mayor; authority and duties. The Mayor shall be the chief executive of the City. He shall preside at the meeting of the Council; shall be a member thereof, and shall have the right to vote and move resolutions upon any and every question, but shall not have the right to veto. He shall from time to time give the Council information concerning the affairs of the City, and recommend such measures as he may deem expedient.

2. The Emergency Manager hereby proposes that Chapter III of the City Charter shall be amended to add Section 15 which shall read as follows:

Section 15. Council interference with executive functions and administration. Except insofar as is necessary in the performance of the duties of his or her office, no member of the City Council shall interfere, directly or indirectly, with the conduct of any of the executive functions or administration of City government, nor take

any part in the appointment, promotion or dismissal of any employee in the service of the City except as provided in this Charter.

3. The Emergency Manager hereby proposes that Section 1 of Chapter IV of the City Charter shall be amended to read as follows:

Section 1. Appointive Officers and boards enumerated; officers and members; qualifications. From the recommendations submitted by the City Manager, the Council shall appoint a City Attorney, a City Assessor, a City Engineer, a City Health Officer, a City Controller, a Superintendent of Public Works, a Board of Review, consisting of three freeholders of the City, and such other officers and administrative boards as shall be provided by this charter or by ordinance of the City Council. The powers and duties of such appointive officers and administrative boards shall be prescribed by the City Council subject to the provisions of this Charter. Such officers and members of said administrative boards shall be the age of twenty-one and upwards, citizens of the United States and possessed of such further qualifications as may be prescribed by this Charter or the ordinances of the City of Lincoln Park.

4. The Emergency Manager hereby proposes that Chapter IV of the City Charter shall be amended to add Section 31 which shall read as follows:

Section 31. City Manager; authority and duties; removal. The City Council shall appoint a City Manager for an indefinite term and fix his or her compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications.

(a) *Authority and Duties.* The City Manager shall be the chief administrative officer of the City, shall be responsible to the Council for the administration of the affairs of the City and over the public property belonging thereto, and shall be responsible for ensuring that the laws relating to the City and the ordinances and regulations of the Council are enforced. The City Manager shall have the following powers and duties:

(1) To appoint and, when he or she deems it necessary for the good of the City, suspend or remove all City employees, except as otherwise provided by law or any agreements to which the City is a party. The City Manager shall provide recommendations to the City Council from which the City Council shall select when making appointments under Section 1 of Article IV of this Charter. The City Manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) To direct and supervise the administration and executive functions of City government, including supervising and directing the department heads, of all departments, offices and agencies of the City.

(3) To attend all City Council meetings and shall have the right to take part in discussion but may not vote.

(4) To see that all laws, provisions of this Charter and acts of the City Council subject to enforcement by the City Manager or by officers subject to the City Manager's

direction and supervision are faithfully executed.

(5) To prepare and submit a proposed annual budget and capital improvement program to the City Council for approval.

(6) To submit a monthly report and shall within sixty (60) days after the end of each fiscal year submit to the City Council and make available to the public a complete report on the financial operations, financial condition and administrative activities of the City as of the end of each fiscal year.

(7) To make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(8) To keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations to the City Council concerning the affairs of the City as the City Manager deems advisable.

(9) To perform such other duties as are specified in this Charter or may be required by the City Council.

(b) *Acting City Manager.* The City Manager shall, by letter filed with City Clerk, designate, subject to approval of City Council, a qualified appointive administrative officer to exercise the powers and perform the duties of City Manager during his temporary absence, disability or vacancy in office. During such absence, disability or vacancy, City Council may revoke such designation at any time and appoint another officer to serve until the City Manager shall return or his disability shall have ceased or a new City Manager shall have been appointed. No person who has been elected a member of the City Council under this Charter shall be eligible for appointment as City Manager or Acting City Manager until two (2) years have elapsed following the expiration of the term for which the person was elected.

(c) *Removal of City Manager.* The City Council may remove the City Manager from office in accordance with the following procedures:

(1) The City Council shall adopt, by affirmative vote of not less than four (4) of its members, a preliminary resolution, which must state the reasons for removal, and may suspend the City Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the City Manager.

(2) Within five (5) days after the copy of the resolution is delivered to the City Manager, he or she may file with the Clerk a written request for a public hearing. This hearing shall be held at a City Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. Notice of the date of hearing shall be promptly delivered to the City Manager. The City Manager may file with the Clerk a written reply to the preliminary resolution not later than five (5) days before the hearing.

(3) The City Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of not less than five (5) of its members, at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the City Manager, if a public hearing has not been requested, or at any time after the public hearing if a hearing has been requested.

(4) The City Manager shall continue to receive his or her salary until the effective date of a final resolution of removal. The action of the City Council in suspending or removing the City Manager shall not be subject to review.

5. The Emergency Manager hereby proposes that Chapter XV of the City Charter shall be amended by adding Section 11 which shall read as follows:

Section 11. Abolishment of Commission of Public Safety; transfer of powers and duties. The Commission of Public Safety is abolished. The City Manager shall exercise general management and control of the Department of Public Safety. All powers and duties vested in the Commission are hereby transferred to the City Manager. This Section shall control in the event any provision of this Chapter conflicts with or is inconsistent with this Section.

6. The Emergency Manager hereby proposes that Chapter XVI of the City Charter shall be amended by adding Section 19 which shall read as follows:

Section 19. Abolishment of the Municipal Service Board; transfer of powers and duties. The Municipal Service Board is abolished. The City Manager shall exercise general management and control of the personnel and human resources functions of the City. All powers and duties vested in the Municipal Service Board are hereby transferred to the City Manager. This Section shall control in the event any provision of this Chapter conflicts with or is inconsistent with this Section.

7. Provisions of the existing Chapter III, Chapter IV, Chapter XV and Chapter XVI of the City Charter to be altered or abrogated by the proposed amendment, if adopted, now read as set forth on Exhibit A attached hereto.

8. The proposed amendment of Chapter III, Chapter IV, Chapter XV and Chapter XVI of the City Charter shall be submitted to the electors in the following form:

PROPOSED AMENDMENT OF SECTION 8 OF CHAPTER III, AND SECTION 1 OF CHAPTER IV OF THE CITY CHARTER OF THE CITY OF LINCOLN PARK AND PROPOSED AMENDMENT OF CHAPTER III BY ADDING SECTION 15, CHAPTER IV BY ADDING SECTION 31, CHAPTER XV BY ADDING SECTION 11 AND CHAPTER XVI BY ADDING SECTION 19.

Shall Chapters III, IV, XV and XVI of the City Charter of the City of Lincoln Park be amended to provide for the appointment of a City Manager by the City Council, to provide the procedure for removal of a City Manager and to prescribe the authority, powers and duties of a City Manager?

9. Copies of the proposed amendment shall be transmitted to the Governor of the State of Michigan for his approval, as required by law.

10. Copies of the foregoing statements of purpose of the proposed amendment shall be transmitted to the Attorney General of the State of Michigan for his approval, as required by law.

11. The proposed amendment shall be, and the same is hereby ordered to be, submitted to a vote of the qualified electors of the City. The ballot wording of the proposed amendment is hereby certified to the City Clerk and to the Wayne County Clerk (the "County Clerk"). The City Clerk is hereby authorized and directed to file this order and/or complete any such forms, certificates or documents as may be required by the County Clerk to evidence the foregoing certification and/or submission.

12. The City Clerk and the County Clerk are hereby authorized and directed to (a) post and publish notice of the last day of registration and notice of election as required by Act 116, Public Acts of Michigan, 1954, as amended (the "Michigan Election Law"); and (b) have prepared and printed, as provided by the Michigan Election Law, ballots for submitting the proposal at the election, which ballots shall contain the proposal appearing herein, or the proposition shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.

13. The proposed amendment shall be published in full together with the existing City Charter provisions which would be altered or abrogated thereby as part of the notice of election.

14. The canvass and determination of votes of the proposed amendment shall be made in accordance with the laws of the State of Michigan and the City Charter of the City of Lincoln Park.

EXHIBIT A

PROVISIONS OF EXISTING CHAPTER III AND CHAPTER IV OF THE CITY CHARTER TO BE ALTERED OR ABROGATED BY PROPOSED CHARTER AMENDMENT

CHAPTER III ELECTIVE OFFICERS

Section 8. Mayor; authority and duties. The Mayor shall be the chief executive of the City. He shall preside at the meeting of the Council; shall be a member thereof, and shall have the right to vote and move resolutions upon any and every question, but shall not have the right to veto. He shall from time to time give the Council information concerning the affairs of the City, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the affairs of the City and over the public property belonging thereto; and see that the laws relating to the City and the ordinances and regulations of the Council are enforced.

CHAPTER IV APPOINTIVE OFFICERS

Section 1. Appointive Officers and boards enumerated; officers and members; qualifications. The Council shall appoint a City Attorney, a City Assessor, a City Engineer, a City Health Officer, a City Controller, a Superintendent of Public Works, a Board of Review, consisting of three freeholders of the City, and such other officers and administrative boards as shall be provided for a City Manager and define his powers and duties when in their discretion they see fit to do so. The powers and duties of such appointive officers and administrative boards shall be prescribed by the City Council subject to the provisions of this Charter. Such officers and members of said administrative boards shall be the age of twenty-one and upwards, citizens of the United States and possessed of such further qualifications as may be prescribed by this Charter or the ordinances of the City of Lincoln Park.

CHAPTER XV Department of Public Safety

Section 2. Composition; members; qualifications; term; compensation. The Department of Public Safety shall consist of the Fire Department of the City and the Police Department of the City combined under the general management and control of a board of five commissioners, to be known *as* and called the Commission of Public Safety. One member of such Commission shall be appointed each year by the Mayor of the City on or before the third Monday of April of each year and shall hold office for a term of five years, or until his successor is appointed and qualified; provided, however, that the first Commission be appointed upon the adoption and taking effect of this Charter amendment. One member shall be appointed as above provided for one year, one member for four years and one member for five years. The membership of the Commission of Public Safety shall be honorary and the members thereof shall serve without compensation. No elective or appointive public officer of the City of Lincoln Park or the School District of the City of Lincoln Park shall be eligible for appointment to this Commission, and if any member

of this Commission shall become a candidate for any elective office in the said City of Lincoln Park, or in the School District of the City of Lincoln Park, or shall be appointed to an office by the said City of Lincoln Park, or the School District of said City of Lincoln Park, he shall immediately resign from said Commission.

Section 3. Public Safety Commission; powers and duties. The Commission of Public Safety shall have general control and management of the Fire and Police Departments. They shall organize by annually electing a chairman, a vice-chairman and a secretary from among their number. They shall formulate rules and regulations for the organization of the Departments under their jurisdiction for the rank and number of the various officers of the respective forces for the disciplinary control and punishment and penalties for breaches of discipline or violation of rules and regulations. The executive head of the Fire Department shall be the Chief of the Fire Department and the executive head of the Police Department shall be the Chief of the Police Department, both of whom shall be directly responsible to the Commission. The Chief of the Fire Department and the Chief of the Police Department shall be appointed by the Commission of Public Safety.

Section 5. Police and Fire Departments: appointments; demotions; removals; etc. All present members of the Police and Fire Departments of the City of Lincoln Park, with their present ranking as herein provided, shall continue upon the Police and Fire Departments unless removed or demoted in accordance with the provisions of this amendment. The Commission of Public Safety shall appoint such additional firemen or policemen as may be ordered by the Council of the City of Lincoln Park and the Commission of Public Safety shall fill all vacancies that may occur in the Fire Department or in the Police Department.

The Chief of the Fire Department and the Chief of Police shall have the direction of the Fire Department and the Police Department respectively in the performance of their duties and such Fire Department and Police Department shall be at all times subject to the general control and direction of the Commission of Public Safety. No Fire Department officer or police officer shall be demoted or dismissed and no member of either force, except the probationary members, shall be dismissed except upon formal verified complaint and after trial and conviction by the Commission of Public Safety sitting as a trial board. Said person so charged shall be furnished with a copy of the complaint, together with a notice of the time and place of the hearing thereon, and may have the benefit of legal counsel to represent him, if he so desires. After trial and conviction, punishment shall be fixed by the Commission and a copy of its findings filed with the City Clerk.

Section 6. Chief of Police; Fire Chief; duties. The Chief of the Fire Department or Chief of Police shall perform such duties as prescribed for them by law or by this Charter amendment or are now or hereafter may be prescribed by ordinance or resolution of the Council relating to their respective Departments and shall respectively make such reports as are required by law to the Commission of Public Safety and to the Council of the City of Lincoln Park when required so to do.

Section 7. Policemen; firemen; appointment; Public Safety Commission duties.

The Commission shall receive applications for appointment of firemen and policemen and shall cause such applicants to be examined physically and mentally in such manner as it may deem fit. All applications for appointment shall be filed with the secretary of the Commission and shall be considered by the Commission in the order of their filing and all appointments shall be made by the Commission of Public Safety as herein stated. Each applicant shall be notified of his appointment or his rejection by the Commission of Public Safety and if rejected the reason therefor.

Section 8. Public Safety Commission meetings. The Commission of Public Safety shall hold at least one meeting every month.

**CHAPTER XVI
Municipal Service Board**

Section 1. Purpose of chapter. The purpose of this chapter is to establish a uniform municipal service system based on merit principles; to afford all citizens of the City of Lincoln Park a fair and equal opportunity for public service; to establish conditions of service which will attract employees of character and capacity; and to increase the efficiency of the various City departments by improvement of methods of personnel administration. All appointments and promotions to positions in the classified service shall, except as in this chapter otherwise provided, be made from appropriate eligible registers of persons who have demonstrated their fitness in competitive examinations for the position sought to be filled.

Section 2. Creation; composition; members; term; compensation; oath; removal; filling vacancies. There is hereby created the Department of Municipal Service in which there shall be a Municipal Service Board consisting of five qualified electors, resident in the City of Lincoln Park, who shall be appointed by the Mayor and who shall serve without compensation. Upon the taking of effect of this chapter there shall be appointed one member of the said Board who shall hold office until the second Monday in April 1940; one member who shall hold office until the second Monday in April 1941; and one member who shall hold office until the second Monday in April 1942; and on the second Monday in April 1950 and on the Second Monday in April of each year thereafter there shall be appointed one member of the said Board who shall hold office for three years. The members of the Municipal Service Board shall hold no other public office or City employment except that of notary public. Any vacancies in the Board shall be filled by the Mayor. All members of the said Board shall continue to hold office after expiration of their terms of office unless the same shall become vacant by resignation or otherwise, until their successor shall have been appointed, qualified and entered upon his duties. Every member of the Board, before entering upon the duties of his office, shall take the oath of office prescribed by the Constitution of the State, and shall file the same with the City Clerk. In case of failure to comply with this provision within ten days from the date of his appointment, such member shall be deemed to have declined the office and such office shall be considered vacant. The members of the said Board shall be subject to removal from office under the provisions of Chapter XII of the Charter. Expiration and appointment to terms for the original three members provided for in this chapter shall continue as originally provided in said chapter, and the additional two members herein provided for shall be appointed by the Mayor upon adoption of this amendment for a term of three years. Every three years from the effective date of this amendment, to-wit: November 15th, 1956, the Mayor shall appoint two members to said Board who shall hold office for three years.

Section 3. Chairman; election; secretary; meetings; rules; regulations. The said Board at its first meeting during the month of April, 1939, and thereafter at its meeting in the month of April of each year, shall elect from its membership a chairman. The City Clerk shall act as the secretary of the Board but shall not be considered a member of the Board and shall receive no compensation therefor except as has been previously provided for in the Charter, and the said City Clerk shall perform all of the necessary clerical service for the Board.

The Board shall meet at least once a month, upon such date as the Board shall designate and at such other times as it shall deem necessary. All regular and special meetings of the Board shall be held in the City Hall and shall be public. The Board shall adopt rules for its procedure and provide for the keeping of a complete record of its proceedings, which record shall be a public record. Three members of the Board shall constitute a quorum for the transaction of business, a lesser number may adjourn from time to time and all pending business noticed or set down for hearing at any meeting at which there shall not have been a quorum present shall be taken up and heard at such adjourned meeting or at the next regular meeting without notice. No resolution, motion or action of the Board shall be passed, adopted, determined upon or enforced except by the vote of a majority of the members appointed. Special meetings may be called by the chairman or any two members of the Board and notice of such special meeting, in writing, shall be given to each member of the Board or delivered to his place of residence at least six hours before the time of such meeting; provided, however, that all such members of the Board who shall be present at any special meeting without having received proper notice shall be deemed to have waived such notice.

Section 4. Powers and duties. The powers and duties of the Municipal Service Board shall be as follows:

- (1) To make such improvements of personnel administration in the Municipal service as shall truly represent the public interest.
- (2) To make annual or special reports to the City Council on the quality and status of personnel administration under the jurisdiction of the said Board.
- (3) To do any lawful act or acts necessary to effect the purpose of this chapter and the rules promulgated in accordance therewith.
- (4) To investigate and hear personal appeals of any employee or of any appointing authority in the manner hereinafter provided.
- (5) The Board shall proceed immediately after this chapter becomes effective to prepare or cause to be prepared rules for making the provisions of this chapter operative; provided, however, that such rules shall not be inconsistent with or in contravention of the provisions of this chapter or other provisions of this Charter. Such rules may from time to time be added to, amended or rescinded; provided, however, that such rules made hereunder by the said Board pertaining to the system of markings in examinations and conduct of examinations shall not be changed for a period of thirty days prior to or after such examination, and such system of markings shall be published by posting of true copies at the City Hall at least thirty days in advance of such examination and copies shall be furnished all applicants.

Such rules shall provide for the conducting, among but not exclusive of others, the following

phases of personnel administration:

(a) To adopt by and with the consent of the Mayor and Council such classification plans as may be deemed necessary, and such plans shall, for the purpose of determining seniority, classify the previous employment of all City employees who come within the classified service of the City when this chapter becomes effective.

(b) To establish by and with the consent of the Mayor and Council a compensation plan wherein the rates of compensation shall be based upon and be commensurate with the duties, authority and responsibility of positions in the Municipal service; provided that such plan may, subject to the approval of the City Council, from time to time, be amended, added to or rescinded.

(c) To prepare an eligible list for each grade or class of position in the classified service of the City, of persons whose general average standing upon examinations for such grade or class is not less than the minimum fixed by the rules of the Board and who are otherwise eligible, and such persons shall take rank upon the eligible list *as* candidates in the order of their relative excellence as determined by examination without reference to priority or time of examination. In the event of more than one applicant receiving the same mark at an examination, priority in time of filing application shall determine the order in which their names shall be placed on the eligible list. The Board may strike off names of candidates from the eligible list after they have remained thereon two years, but any list may be extended by the Board for a period of not exceeding one year. The Board may, upon written request of any person who has previously been in the classified service for a continuous period of not less than two years, and who shall not have been out of the service for more than two years, and who shall have resigned from the service in good standing, reinstate said person upon the eligible list for the same kind and grade of work he was performing when his or her resignation took effect. Such persons shall take rank upon the eligible list in the order of their relative excellence as determined by their examinations prior to induction into the classified service, or place them at the foot of the eligible list applicable to such kind and grade of service when, in the judgment of the Board, such action would be for the good of the service; provided, however, that in the event any employee under the classified service shall have been promoted to an appointive office under the Charter and his term shall have expired, such employee shall be entitled to immediate reinstatement in the classified service in the grade or class in which he or she was employed previous to his or her acceptance of the appointive office, and to the extent that length of service is considered in determining change of classification, lay off or change in compensation, service as an appointive officer shall be counted as continuous classified employment; provided that such examination for office or positions in the classified service shall be open and free to all citizens of the United States legally resident in the City of Lincoln Park, with specific limitations as to residence, age, health and character, which shall be uniform as to each kind of work or occupation. Such examinations shall be practical in their character and shall relate to those matters which will fairly test the relative capacity of the person examined to discharge the duties of the position to which they seek to be appointed and may include test of physical qualifications and health and, when appropriate, of manual skill, and provided, further, that such examinations shall recognize and

allow any and all of the war veterans preferences as provided by any applicable statute of the State of Michigan.

- (d) The establishment of policies and practices covering personnel, records and forms and including roster of cards showing the complete employment history of each employee in the classified service and other required personal records. All such records and forms shall be deemed confidential and shall not be open to public inspection.
- (e) To supervise the administration of the Municipal service rules, hold examinations thereunder from time to time giving due notice thereof and to certify the name of the person ranking highest upon the eligible list for the class or grade to which such position belongs to the appointing authorities of the several Municipal departments.
- (f) To investigate the enforcement of the provisions of this chapter, of its own rules and of the action of the employees in the classified service.
- (g) In the course of any investigation under the provisions of this chapter the Board or its authorized representative shall have the power to administer oaths, and to subpoena and to require the attendance of witnesses and the production thereby of books, papers, records and other documentary evidence pertaining to such investigation. In the case of the refusal by any persons to comply with said subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the Board shall have power to secure by proper petition to the circuit court for the County of Wayne an order requiring such persons to comply with such subpoena and to testify. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses in the circuit courts in the State of Michigan, and shall be paid from the appropriation for the expenses of the Board.

Section 5. Appropriations; Council duties. The Council shall annually make adequate appropriation to enable the Board to carry out the provisions of this chapter.

Section 9. Dismissals and demotions. Subject to the provisions of applicable statutes of the State of Michigan relating to the removal of war veterans, an appointing authority may dismiss or demote a classified employee whenever he considers the good of the service to be served thereby. Any removal or separation of an employee from the classified service shall be deemed to be a dismissal, except as in this chapter otherwise provided. In every such case of dismissal or demotion the appointing authority shall give the employee a written statement of the reasons for such action, and shall immediately file a copy thereof with the Municipal Service Board. The dismissed or demoted employee may, within ten days after the effective date of such dismissal or demotion, make a demand in writing for a hearing before the Board, and the Board shall, within fifteen days after the receipt of such demand, convene as a trial board and then and there determine the question of whether or not the aggrieved employee was dismissed or demoted contrary to the provisions of this chapter, and at which hearing the aggrieved employee may have the benefit of legal counsel to represent him or her. The aggrieved employee and the appointing authority shall, at least ten days before the date of such hearing, be given notice of the time and place of such hearing. The appointing authority and the

aggrieved employee shall, at least five days before the date of such hearing, notify the Board of the names of any witnesses or of any matters of evidence which either party demands to be produced at such hearing and the Board shall thereupon cause such witnesses or matter of evidence to be produced at the hearing. And provided that the Board may adjourn such hearing from time to time for the purpose of compelling the attendance of witnesses or the production of matters of evidence. Provided that the aggrieved employee may include in the demand provided for, that the hearing be open to the public and in such case the Board shall grant a public hearing.

If the Board shall find that the aggrieved employee was demoted or dismissed contrary to the provisions of this chapter it shall order the immediate reinstatement of the aggrieved employee and the appointing authority shall immediately reinstate such aggrieved employee, and the Board may for sufficient reason restore all pay lost, from the date that demand for a hearing was filed to the date of reinstatement, to the employee by reason of the unlawful action of the appointing authority.

If no demand for a hearing is made within ten days after the effective date of dismissal or demotion, the action of the appointing authority shall become final and binding. The Municipal Service Board may, in its discretion, order that the names of any person whose dismissal from the classified service has become final and binding to be placed at the head of the eligible register or recommend a transfer, provided that such action is taken not later than thirty days after dismissal has become final and binding.

ATTACHMENT B: CITY COUNCIL TERM LIMITS AND VACANCIES

AMENDMENT TO CHAPTER III OF THE CITY CHARTER REGARDING TERM LIMITS OF ELECTIVE OFFICERS AND THE FILLING OF VACANCIES ON CITY COUNCIL

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 “EM”) 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 EM “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 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

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 [EM] or as otherwise provided by [Act 436] and are subject to any conditions required by the [EM];” and

WHEREAS, Section 12(1)(dd) of Act 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, Public Acts of Michigan 1909 (the “Home Rule Act”); and

WHEREAS, Section 12(1)(ee) of Act 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

WHEREAS, Section 21 of the Home Rule Act provides that the legislative body of a city may propose an amendment to an existing city charter; and

WHEREAS, Section 21 proscribes the procedure for submitting proposed charter amendments to the electors of a city for approval; and

WHEREAS, the City Charter currently provides for an unlimited number of terms for City elective officers; and

WHEREAS, the City Charter currently provides for the filling of a vacancy on the City Council by appointing an individual who ran in the last City Council election and finished seventh, and if that individual is unable or unwilling to serve, in ascending order of those individuals who ran but were not elected; and

WHEREAS, the Emergency Manager has determined that it may be in the best interests of the City to provide for term limits for elective officers of the City and to provide for the filling of vacancies on the City Council by appointment of a qualified individual by the members City Council and the Mayor; and

WHEREAS, it is therefore necessary to amend Sections 3 and 7 of Chapter III to effectuate these changes.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Emergency Manager hereby proposes that Sec. 3 of Chapter III of the City Charter shall be amended to read as follows:

Section 3. Bi-ennial election of officers; term. At the regular bi-annual [bi-ennial] City election in the year 1927, and every two years thereafter, there shall be elected a Mayor, one City Clerk, one City Treasurer, six Councilmen and one Constable, who shall hold office until the first Tuesday after the first Monday in April of the second year following their election. At said election and every four years thereafter there shall be elected one Justice of the Peace whose term of office shall begin on the fourth day of July following his election, and who shall hold office for four years; provided, however, that the Justice of the Peace elected in the year 1927 shall qualify and enter upon the duties of his office as soon as he is elected, and shall hold said office until the fourth day of July in the year 1931. Except as otherwise provided in this Charter the terms of office of all elective officers shall begin as soon as they are declared elected, qualify and enter upon the duties of their office. All elective officers shall, after their several terms have expired, continue to hold office until their successors are elected, qualify and enter upon the duties of their office.

Commencing with the first election held after approval of this charter amendment, no person may be elected to any single office more than six times.

2. The Emergency Manager hereby proposes that Sec. 7 of Chapter III of the City Charter shall be amended to read as follows:

Section 7. Filling vacancies.

(a) If a vacancy occurs in the office of Mayor, the Council President shall automatically assume the office of Mayor.

(b) If a vacancy occurs in the office of Council President, the Council member having received the second greatest number of votes in the last election (second only to the Council President) shall automatically become Council President until the Council elected in the next election shall have assumed office.

(c) If a vacancy occurs in the City Council, the Mayor and Council shall fill that vacancy by appointing an eligible person by majority vote to fill such vacancy until the next bi-annual (biennial) City election.

(d) If a vacancy occurs in any other elective office, the Council shall appoint an eligible person to fill such vacancy until the next bi-annual (biennial) City election.

3. Provisions of the existing Chapter III of the City Charter to be altered or abrogated by the proposed amendment, if adopted, now read as set forth on Exhibit A attached hereto.

4. The proposed amendment of Chapter III of the City Charter shall be submitted to the electors in the following form:

**PROPOSED AMENDMENT OF SECTION 3 CHAPTER III OF THE CITY
CHARTER OF THE CITY OF LINCOLN PARK.**

Shall Sections 3 and 7 of Chapter III of the City Charter be amended to provide for term limits for elective officers of the City and to provide for the filling of vacancies on the City Council by appointment by the Mayor and the remaining members of City Council?

5. Copies of the proposed amendment shall be transmitted to the Governor of the State of Michigan for his approval, as required by law.

6. Copies of the foregoing statements of purpose of the proposed amendment shall be transmitted to the Attorney General of the State of Michigan for his approval, as required by law.

7. The proposed amendment shall be, and the same is hereby ordered to be, submitted to a vote of the qualified electors of the City at an election. The ballot wording of the proposed amendment is hereby certified to the City Clerk and to the Wayne County Clerk (the "County Clerk"). The City Clerk is hereby authorized and directed to file this order and/or complete any such forms, certificates or documents as may be required by the County Clerk to evidence the foregoing certification and/or submission.

8. The City Clerk and the County Clerk are hereby authorized and directed to (a) post and publish notice of the last day of registration and notice of election as required by Act 116, Public Acts of Michigan, 1954, as amended (the "Michigan Election Law"); and (b) have prepared and printed, as provided by the Michigan Election Law, ballots for submitting the proposal at the election, which ballots shall contain the proposal appearing herein, or the proposition shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.

9. The proposed amendment shall be published in full together with the existing City Charter provisions which would be altered or abrogated thereby as part of the notice of election.

10. The canvass and determination of votes of the proposed amendment shall be made in accordance with the laws of the State of Michigan and the City Charter of the City of Lincoln Park.

EXHIBIT A

PROVISIONS OF EXISTING CHAPTER III OF THE CITY CHARTER TO BE ALTERED OR ABROGATED BY PROPOSED CHARTER AMENDMENT

CHAPTER III ELECTIVE OFFICERS

Section 3. Bi-ennial election of officers; term. At the regular bi-annual [bi-ennial] City election in the year 1927, and every two years thereafter, there shall be elected a Mayor, one City Clerk, one City Treasurer, six Councilmen and one Constable, who shall hold office until the first Tuesday after the first Monday in April of the second year following their election. At said election and every four years thereafter there shall be elected one Justice of the Peace whose term of office shall begin on the fourth day of July following his election, and who shall hold office for four years; provided, however, that the Justice of the Peace elected in the year 1927 shall qualify and enter upon the duties of his office as soon as he is elected, and shall hold said office until the fourth day of July in the year 1931. Except as otherwise provided in this Charter the terms of office of all elective officers shall begin as soon as they are declared elected, qualify and enter upon the duties of their office. All elective officers shall, after their several terms have expired, continue to hold office until their successors are elected, qualify and enter upon the duties of their office.

Section 7. Filling vacancies.

(a) If a vacancy occurs in the office of Mayor, the Council President shall automatically assume the office of Mayor.

(b) If a vacancy occurs in the office of Council President, the Council member having received the second greatest number of votes in the last election (second only to the Council President) shall automatically become Council President until the Council elected in the next election shall have assumed office.

(c) If a vacancy occurs in the City Council, the Mayor and Council shall, within thirty days of said vacancy, fill that vacancy in the following manner.

(1) The vacancy shall be filled by an individual who ran in the last election but failed to win a seat on the Council. The first person selected shall be that person who finished seventh in the last Council election.

(2) If that person having finished seventh is unwilling or unable to serve, then that person having finished eight, then ninth and so forth, shall fill said vacancy.

(3) Provided however, if the Mayor and Council fail to fill a vacancy within thirty days of its creation, the City Clerk shall within the next thirty days set a date for a special election to fill said vacancy.

(d) If a vacancy occurs in any other elective office, the Council shall appoint an eligible person to fill such vacancy until the next bi-annual (biennial) City election.

ATTACHMENT C: APPOINTMENT OF CLERK AND TREASURER

**AMENDMENT TO CHAPTER III AND CHAPTER IV OF THE CITY CHARTER TO
MODERNIZE THE OFFICIALS OF THE CITY BY PROVIDING FOR THE APPOINTMENT
OF A CITY CLERK AND CITY TREASURER BY CITY COUNCIL, REMOVING THE
CONSTABLE AND JUSTICE OF THE PEACE AS ELECTIVE OFFICERS AND THE FIXING
OF COMPENSATION OF ELECTIVE OFFICIALS BY THE ELECTED OFFICIALS
COMPENSATION COMMISSION.**

WHEREAS, Section 21 of the Home Rule Act provides that the legislative body of a city may propose an amendment to an existing city charter; and

WHEREAS, Section 21 proscribes the procedure for submitting proposed charter amendments to the electors of a city for approval; and

WHEREAS, the City Charter currently provides for election of a City Clerk and a City Treasurer; and

WHEREAS, the City Charter currently provides for the elective positions of Constable and Justice of the Peace; and

WHEREAS, the City has not elected a Constable or Justice of the Peace for an extended period of time; and

WHEREAS, the City Charter currently sets a fixed amount for the compensation of elective officials that is outdated; and

WHEREAS, the Emergency Manager has determined that it may be in the best interests of the City to provide for the appointment of a City Clerk and a City Treasurer by the City Council, to remove the positions of Constable and Justice of the Peace as City elective officers and to provide for the fixing of compensation of elective officers by the Elected Officials Compensation Commission; and

WHEREAS, it is therefore necessary to amend Sections 1, 3 and 5 of Chapter III and to amend Section 1 of Chapter IV of the City Charter to provide for these changes.

NOW, THEREFORE, IT IS HEREBY PROPOSED THAT:

1. Sec. 1 of Chapter III of the City Charter shall be amended to read as follows:

Section 1. Elective Officers Enumerated. The elective officers of the City shall be a Mayor and six Councilmen, all of whom shall be elected in the City at large.

2. The Emergency Manager hereby proposes that Sec. 3 of Chapter III of the City Charter shall be amended to read as follows:

Section 3. Bi-ennial election of officers; term. At the regular bi-annual [bi-ennial] City election in the year 1927, and every two years thereafter, there shall be elected a Mayor and six Councilmen, who shall hold office until the first Tuesday after the first Monday in April of the second year following their election. Except as otherwise provided in this Charter the terms of office of all elective officers shall begin as soon as they are declared elected, qualify and enter upon the duties of their office. All elective officers shall, after their several terms have expired, continue to hold office until their successors are elected, qualify and enter upon the duties of their office.

3. The Emergency Manager hereby proposes that Sec. 5 of Chapter III of the City Charter shall be amended to read as follows:

Section 5. Elective Officers; compensation. The elective officers of the City of Lincoln Park shall be entitled to receive as full compensation for their services annual salaries as established from time to time by the City's Elected Officials Compensation Commission pursuant to Michigan law.

4. The Emergency Manager hereby proposes that Sec. 1 of Chapter IV of the City Charter shall be amended to read as follows:

Section 1. Appointive Officers and boards enumerated; officers and members; qualifications. The Council shall appoint a City Clerk, a City Treasurer, a City Attorney, a City Assessor, a City Engineer, a City Health Officer, a City Controller, a Superintendent of Public Works, a Board of Review consisting of three freeholders of the City, and such other officers and administrative boards as shall be provided for a City Manager and define his powers and duties when in their discretion they see fit to do so. The powers and duties of such appointive officers and administrative boards shall be prescribed by the City Council subject to the provisions of this Charter. Not all positions are required to be filled and positions may be combined at the Council's discretion. Such officers and members of said administrative boards shall be the age of twenty-one and upwards, citizens of the United States and possessed of such further qualifications as may be prescribed by this Charter or the ordinances of the City of Lincoln Park.

5. Provisions of the existing Chapter III and Chapter IV of the City Charter to be altered or abrogated by the proposed amendment, if adopted, now read as set forth on Exhibit A attached hereto.

6. The proposed amendment of Chapter III and Chapter IV of the City Charter shall be submitted to the electors in the following form:

**PROPOSED AMENDMENT OF SECTIONS 1, 3 AND 5 OF CHAPTER III AND
SECTION 1 OF CHAPTER IV OF THE CITY CHARTER OF THE CITY OF
LINCOLN PARK.**

Shall Sections 1, 3 and 5 of Chapter III and Section 1 of Chapter IV of the City Charter of the City of Lincoln Park be amended to modernize the positions of City officials by providing for the appointment of the City Clerk and City Treasurer by the City Council, the removal of a constable and justice of the peace as elective officials, and

to provide for the fixing of compensation of elective officers by the Elected Officials Compensation Commission?

7. Copies of the proposed amendment shall be transmitted to the Governor of the State of Michigan for his approval, as required by law.

8. Copies of the foregoing statements of purpose of the proposed amendment shall be transmitted to the Attorney General of the State of Michigan for his approval, as required by law.

9. The proposed amendment shall be, and the same is hereby ordered to be, submitted to a vote of the qualified electors of the City.

10. The City Clerk and the County Clerk will (a) post and publish notice of the last day of registration and notice of election as required by Act 116, Public Acts of Michigan, 1954, as amended (the "Michigan Election Law"); and (b) have prepared and printed, as provided by the Michigan Election Law, ballots for submitting the proposal at the election, which ballots shall contain the proposal appearing herein, or the proposition shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.

11. The proposed amendment shall be published in full together with the existing City Charter provisions which would be altered or abrogated thereby as part of the notice of election.

12. The canvass and determination of votes of the proposed amendment shall be made in accordance with the laws of the State of Michigan and the City Charter of the City of Lincoln Park.

EXHIBIT A

PROVISIONS OF EXISTING CHAPTER III AND CHAPTER IV OF THE CITY CHARTER TO BE ALTERED OR ABROGATED BY PROPOSED CHARTER AMENDMENT

CHAPTER III ELECTIVE OFFICERS

Section 1. Elective Officers Enumerated. The elective officers of the City shall be a Mayor, one City Clerk, one City Treasurer, six Councilmen, one Justice of the Peace and one Constable, all of whom shall be elected in the City at large.

Section 3. Bi-ennial election of officers; term. At the regular bi-annual [bi-ennial] City election in the year 1927, and every two years thereafter, there shall be elected a Mayor, one City Clerk, one City Treasurer, six Councilmen and one Constable, who shall hold office until the first Tuesday after the first Monday in April of the second year following their election. At said election and every four years thereafter there shall be elected one Justice of the Peace whose term of office shall begin on the fourth day of July following his election, and who shall hold office for four years; provided, however, that the Justice of the Peace elected in the year 1927 shall qualify and enter upon the duties of his office as soon as he is elected, and shall hold said office until the fourth day of July in the year 1931. Except as otherwise provided in this Charter the terms of office of all elective officers shall begin as soon as they are declared elected, qualify and enter upon the duties of their office. All elective officers shall, after their several terms have expired, continue to hold office until their successors are elected, qualify and enter upon the duties of their office.

Section 5. Elective Officers; compensation. Until otherwise changed by an ordinance, which shall not become effective until approved by a majority vote of the electors, the elective officers of the City of Lincoln Park shall be entitled to receive as full compensation for their services the following annual salaries, to-wit: The Mayor shall receive the sum of \$1,500; the City Clerk shall receive the sum of \$8,500 for full-time services. The City Treasurer shall receive the sum of \$3,600; the Justice of the Peace shall receive such compensation as shall be set by the Council; each Councilman shall receive the sum of \$800.00; and the Constable shall not receive any fixed compensation, but may receive from the parties for whom he performs services such fees as are provided for by law.

CHAPTER III APPOINTIVE OFFICERS

Section 1. Appointive Officers and boards enumerated; officers and members; qualifications. The Council shall appoint a City Attorney, a City Assessor, a City Engineer, a City Health Officer, a City Controller, a Superintendent of Public Works, a Board of Review, consisting of three freeholders of the City, and such other officers and administrative boards as shall be provided for a City Manager and define his powers and duties when in their discretion they see fit to do so. The powers and duties of such appointive officers and administrative boards shall be prescribed by the City Council subject to the provisions of this Charter. Such officers and members of said administrative boards shall be the age of twenty-one and upwards, citizens of the United States and possessed of such further qualifications as may be prescribed by this Charter or the ordinances of the City of Lincoln Park.

