



DETROIT
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**EMERGENCY MANAGER
CITY OF DETROIT**

ORDER No. 41

**ORDER ESTABLISHING
CENTRALIZED FINANCIAL MANAGEMENT ORGANIZATIONAL STRUCTURE**

BY THE AUTHORITY VESTED IN THE EMERGENCY MANAGER
FOR THE CITY OF DETROIT
PURSUANT TO MICHIGAN'S 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 (the "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 the Detroit City Council (the "City Council"); and

Section 9(2) of PA 436 also grants the EM "broad powers in receivership to rectify the financial emergency and 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

Section 9(2) of PA 436 prohibits, during the pendency of receivership, the Mayor and City Council from exercising "any of the powers of those offices except as may be specifically authorized 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 this act;" and

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

Section 12(1)(g) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[m]ake, approve, or disapprove any appropriation, contract, expenditure, loan, the creation of any new position, or the filling of any vacancy in a position by any appointing authority;” and

Section 12(1)(i) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” and “[n]otwithstanding any minimum staffing level requirement established by charter or contract, [to] establish and implement staffing levels for the local government;” and

Section 12(1)(n) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “consolidate or eliminate departments; of the local government or transfer functions from one department to another and appoint, supervise, and, at his or her discretion, remove administrators, including heads of departments other than elected officials;” and

Section 12(1)(ff) of PA 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[r]emove, replace, appoint, or confirm the appointments to any office, board, commission, authority, or other entity which is within or is a components unit of the local government;” and

Michigan Public Act 181 of 2014 ("PA 181"), which amended Michigan's Home Rule City Act, Michigan Public Act 279 of 1909 (the "Home Rule City Act"), requires the appointment of a Chief Financial Officer of any city with a population of over 600,000 (a "Qualifying City"), "notwithstanding a charter provision or ordinance to the contrary;" and

In particular, PA 181 added Section 4s to the Home Rule City Act, which, among other things, establishes the qualifications and responsibilities of the Chief Financial Officer position for a Qualifying City and grants the authority of the Chief Financial Officer to “supervise all financial and budget activities of the city.”

The City is a Qualifying City subject to PA 181;

On July 18, 2013, consistent with the authorization of the Governor of the State of Michigan provided under 18(1) of PA 436, the City filed a petition for relief pursuant to chapter 9 of title 11 of the United States Code, 11 U.S.C. § 101 *et. seq.* (as it may be amended, the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of Michigan (the “Bankruptcy Court”) with the case caption of “*In re City of Detroit, Michigan*, Case No. 1353846” (the “Bankruptcy Case”); and

On September 16, 2014, the City filed a Seventh Amended Plan for the Adjustment of Debts of the City of Detroit (Docket No. 6908) (as it may be further amended, modified, corrected or supplemented, and including all exhibits thereto and any order confirming such plan, the “Plan of Adjustment”), and the City is pursuing the Bankruptcy Court’s confirmation of the Plan of Adjustment pursuant to the Bankruptcy Code; and

The EM, in consultation with the Mayor, has determined that it is appropriate, in light of PA 181 and to ensure the financial well-being of the operations of the government of the City and to assist in rectifying its financial emergency, that a centralized financial management organization, under the direction of the Chief Financial Officer, be established. In consultation with the Mayor, the EM also has determined that a centralized financial management organization will create an operational environment of financial accountability; provide integrated financial management focused on ensuring financial management integrity; and promote the long-term financial recovery of the City and the health, safety and welfare of the public.

It is hereby ordered that:

1. All actions taken by the City's Chief Financial Officer ("CFO") under this Order shall be taken under the supervision of, and with the approval of, the Mayor, or with respect to matters relating to the Bankruptcy Case or the Plan of Adjustment, under the supervision of, and with the approval of, the EM while he is in office.
2. The CFO shall have direct and indirect oversight of all finance, budget, and grant related functions. The CFO shall have all of the authority and responsibilities of the Finance Director under Sections 6-301 and 6-302 of the City Charter and Budget Director under Section 6-101, as well as the additional duties and responsibilities outlined in this Order.
3. The CFO is directed to establish a centralized financial management organizational structure, to be called the Office of the Chief Financial Officer ("Office of the CFO"). The Office of the CFO will provide management oversight, control, and direction to the existing Budget Department, Finance Department and all their subordinate components, and all finance, budget, and grant related components of other City departments, divisions, and agencies. The Office of the CFO shall oversee, control, direct, and coordinate the City's activities relating to budgets, financial plans, financial management, grants management, financial reporting, financial analysis, and compliance with the budget and financial plan of the City.
4. The Office of the CFO will be comprised of the following organizational components which shall be considered to be "Divisions" of the Office of the CFO:
 - a. Office of the Assessor (Assessments Division);
 - b. Office of the Treasury (Treasury Division);
 - c. Office of the Controller (Accounts Division);
 - d. Office of Contracting and Procurement (Purchasing Division);
 - e. Office of Grants Management (Grants Management Department);
 - f. Office of Budget (Budget Department); and
 - g. Office of Financial Planning & Analysis.

The Office of the Treasury will be headed by the Treasurer under Section 6-305 of the City Charter. The Office of the Controller will be headed by the Chief Accounting Officer under Section 6-303 of the City Charter. The Office of Contracting and Procurement will be headed by the Purchasing Director under Section 6-306 of the City Charter. The Office of Budget will be headed by the Budget Director under Section 6-101 of the City Charter. The Office of Grants Management, the Office of Financial Planning & Analysis and the Office of the Assessor will each be headed by appointees who will serve at the pleasure of the CFO. The CFO may determine the title of the head of each Division.

The CFO also may create a position of Chief of Staff, who shall be appointed by, and serve at the pleasure of, the CFO and shall be responsible for the day-to-day management of the Office of the CFO

5. The CFO, as necessary, shall have the authority to create additional subordinate organizational components and modify existing organizational subordinate components within the Office of the CFO and to select appropriate staff.
6. All finance, budget, and grants management related positions in each of the City's departments, divisions and agencies shall report to the CFO. Each department, division and agency will include in their annual budgets the full funding of all finance, budget, and grant related positions performing financial and/or budget management functions. The CFO may transfer finance, budget, and grant related position and their full funding into the Office of the CFO from any department, division, and agency. The CFO will seek input from each department, division and agency in the selection of the finance, budget, and grant related positions that will be housed in a department, division and agency and will seek input from such entities in the management of those positions.
7. The CFO may transfer all positions performing the following functions to the Office of the Controller within the Office of the CFO:
 - a. Payroll and payroll administration related functions;
 - b. Benefits administration related functions;
 - c. Unemployment insurance administration related functions; and
 - d. Workers' compensation administration related functions.
8. The CFO shall have the authority to modify the organization components or titles/job descriptions set forth in this Order.
9. All positions and the associated funding for positions performing payroll and payroll administration related functions of the Police Department are hereby transferred to the Office of the CFO, Office of the Controller.

10. Notwithstanding any City or human resources rule, regulation, policy, agreement, ordinance, or practice to the contrary, including but not limited to the City's Civil Service Rules, the CFO shall have the authority to do the following in consultation with the Human Resource Department:
 - a. Determine the placement of all finance, budget, and grants related positions, including the selection and removal of incumbents, within the Office of the CFO and other City departments, division and agencies;
 - b. Create or modify job titles, roles, responsibilities and positions in support of the City's finance and budgeting functions, within the Office of the CFO and other City departments, divisions and agencies; and
 - c. Make recruitment, hiring, retention, promotion, demotion, reassignment and any other related personnel decisions affecting the City's finance and budgeting functions.

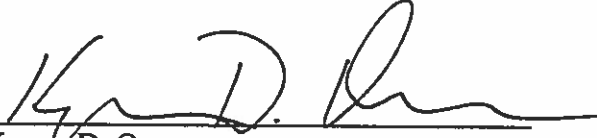
In all events, the CFO shall comply with the terms of applicable collective bargaining agreements and provide required notices to impacted employees and labor unions, if applicable.

11. The Human Resources Director shall file any employment position or new classification that is created on or after the date of this Order with the City Clerk and the Council on the 15th day of each month (or if such date is not a business day, the next succeeding business day), commencing on November 17, 2014. Such report shall include the compensation range of that employment position. Any new position that is created and filled shall be within available appropriations.
12. The CFO shall have the authority to write-off accounts receivable without City Council approval if such accounts receivable: (a) are older than the statute of limitations; (b) have been absolved by a legal proceeding such as the confirmed Plan of Adjustment; or (c) are older than one year, *provided that*, with respect to subparagraph (c), the CFO obtains the written approval of the Mayor.
13. Notwithstanding any City or human resources rule, regulation, policy, agreement, ordinance or practice to the contrary, including, but not limited to, the City's Civil Service Rules, in consultation with the Human Resource Department, the CFO shall create a new classification and compensation system for the positions under the authority of the CFO. The CFO shall have the authority to create compensation and salary schedules and to change said schedules based on future needs and compensation surveys to ensure competitive salaries for City finance and related positions. In all events, the CFO shall comply with the terms of applicable collective bargaining agreements and provide required notices to impacted employees and labor unions, if applicable.
14. Nothing in this order shall affect the employees, staff or appropriations related to the City Council.
15. Nothing in this order shall be interpreted as contrary to applicable law.

16. 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.
17. This Order shall be distributed to the Mayor, members of the City Council and all City Department Directors and Group Executives.
18. For transparency, the Executive Branch departments of the City described herein shall prepare a monthly report describing actions taken pursuant to this order on 15th day of each month (or if such date is not a business day, the next succeeding business day), commencing November 17, 2014. This report shall be filed with the City Clerk and City Council and posted on the City's website.

Dated: September 25th, 2014

By: _____


Kevyn D. Orr
Emergency Manager
City of Detroit

cc: State of Michigan, Department of the Treasury
Mayor Michael Duggan
Members of the Detroit City Council
City Department Directors and Group Executives