

CITY OF HAMTRAMCK
OFFICE OF THE EMERGENCY MANAGER

CATHY L. SQUARE

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Hamtramck, MI 48212

Telephone: (313) 876-7700

Dated: June 24, 2014

ORDER NO. S-009

RE: Approving Submission of an Application to the Local Emergency Financial Assistance Loan Board Requesting an Emergency Loan

**TO: City Clerk
 Mayor
 City Council
 Department Heads**

The Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.1541, et. seq.) in Section 10(1) states that “[a]n emergency manager shall issue orders 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 [the] act, including, but not limited to, orders for the timely and satisfactory implementation of a financial and operating plan... or to take actions, or refrain from taking actions, to enable the orderly accomplishment of the financial and operating plan.” 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.

Section 12(1) provides that an Emergency Manager may take one or more of the following actions: (a) Analyze factors and circumstances contributing to the financial emergency of the local government and initiate steps to correct the condition; (b) Amend, revise, approve, or disapprove the budget of the local government, and limit the total amount appropriated or expended; (d) Require and approve or disapprove, or amend or revise, a plan for paying all outstanding obligations of the local government; and (s) Apply for a loan from the state on behalf of the local government, subject to the conditions of the emergency municipal loan act.

WHEREAS, the City of Hamtramck, Michigan (the “City”), a municipal corporation of the State of Michigan (the “State”), has been duly created under the provisions of The Home Rule Cities Act of the State, Act 279, Michigan Public Acts of 1909, as amended (“Act 279”), pursuant to which the City has the comprehensive home rule power conferred upon it by Act 279 and the Constitution of the State of 1963 (the “Constitution”), subject only to the limitations of the exercise of that power contained in the Constitution, by statute of the State or by City Charter (the “City Charter”) provisions; and

WHEREAS, the State has enacted the Revised Municipal Finance Act, Act 34, Michigan Public Acts of 2001, as amended (“Act 34”), relative, inter alia, to the borrowing of money and the issuance of certain debt and securities, providing for tax levies, authorizing the issuance of certain debt and securities and to generally govern municipal finance practices in the State; and

WHEREAS, the City is defined to be a “municipality” under Act 34 that has the power to issue a security such as bonds, notes, contracts, obligations, or other similar instruments; and

WHEREAS, pursuant to the provisions of the Local Financial Stability and Choice Act, Act 436, Michigan Public Acts of 2012 (“Act 436”), a financial emergency has been determined to exist within the City and Cathy Square has been appointed, pursuant to Act 436, as emergency manager (the “Emergency Manager”) for the City and is authorized to take certain actions in accordance with Act 436; and

WHEREAS, the Emergency Manager has determined that there exists or will exist a deficit in the City’s general fund for the current fiscal year that could not be adequately provided for in the current fiscal year budget; and

WHEREAS, the Emergency Manager has determined that it is necessary and in the best interest of the City to make application to the Michigan Local Emergency Financial Assistance Loan Board (the “Board”) established pursuant to the Emergency Municipal Loan Act, Act 243, Michigan Public Acts of 1980, as amended (“Act 243”) to borrow the sum of \$2,070,027.29; and

WHEREAS, the City is defined to be a “municipality” under Act 243 which may apply for and receive a loan under Act 243; and

WHEREAS, pursuant to Act 34, Act 279, Act 436, and Act 243, the Emergency Manager may approve the issuance of municipal securities to finance the deficit and pay necessary operating expenditures of the City; and

WHEREAS, pursuant to Act 436 and Act 34, the Emergency Manager may order to resolve the issuance of a municipal security which order or resolution shall contain any irrevocable provision for the levying of a tax in order to repay the municipal security from the receipt of such taxes; and

WHEREAS, the Emergency Manager has determined that a deficit for the City’s general fund is projected for the City’s current fiscal year; and

WHEREAS, within the last 18 months immediately preceding the filing of an application for a loan with the Board, the Department of Treasury has acted upon a request by the City to issue tax anticipation notes under Act 34, and the request was denied; and

WHEREAS, the City’s income tax revenue growth rate is .90 or less; and

WHEREAS, the City’s local tax base growth rate is 75% or less of the statewide tax base growth rate; and

WHEREAS, the state equalized valuation of real and personal property within the City at the time the loan application will be made will be less than the state equalized valuation of real and personal property within the City in the immediately preceding year; and

WHEREAS, the City is levying the maximum number of mills it is authorized to levy as approved by the voters, and has one or more delinquent special assessments; and

WHEREAS, the City has or will submit a 5-Year Plan that has been approved by the Emergency Manager on behalf of the City, outlining actions to be taken to balance future expenditures with anticipated revenues; and

WHEREAS, the Emergency Manager hereby certifies the foregoing and further desires to make certain determinations for, on behalf of and in the best interest of the City, which determinations by the Emergency Manager shall be in writing and included along with all other documentation of the Loan, as hereinafter defined;

NOW, THEREFORE, BE IT ORDERED AND RESOLVED, by the Emergency Manager of the City of Hamtramck, that:

1. The Emergency Manager is authorized to submit an application to the Board requesting a loan in the amount of \$2,070,027.29 or such part thereof as the Michigan Department of Treasury may authorize (the "Loan") for which a note (the "Note") of the City shall be issued as evidence thereof.
2. The Loan shall be a general obligation of the City, and the full faith and credit of the City shall be pledged to the payment of the principal of and interest on the Note as and when due. The Note shall be payable out of the general funds of the City, including collections of ad valorem taxes the City may levy on all taxable property within the City within applicable Constitutional, statutory, and City Charter limitations. As additional security for the payments due and owing under the Note, the City shall acknowledge, assign, and pledge to the repayment of principal of or interest on the Note, the State's statutory right to withhold the amount of all delinquent payments due on the Note from State payments owed to the City under the Glenn Steil State Revenue Sharing Act of 1971, Act 140, Michigan Public Acts of 1971, as amended ("Act 140").
3. The Emergency Manager shall execute the Note on behalf of the City and the City's seal or facsimile thereof shall be imprinted or affixed thereon, and upon receipt of the principal amount of the Loan, the fully executed Note shall be delivered to the Board as agent for the State.
4. The City hereby acknowledges that the Loan will be made pursuant to an order of the Board (the "Order") which Order may contain terms and conditions of the Loan. The Manager is hereby authorized to accept such terms and conditions if she determines that accepting such terms and conditions is in the best interest of the City, and once accepted such terms and conditions of any such Order shall be binding on the City.

5. Notwithstanding anything herein to the contrary, the Emergency Manager, City Clerk, Finance Director, City Attorney, and any other official or employee of the City are each hereby authorized and ordered to take such action or execute such documents and certificates as may be necessary or desirable and in the best interest of the City in connection with the delivery of the Note and the City's receipt of the proceeds of the Loan.
6. The appointment of the law firm of Giarmarco, Mullins, & Horton, P.C. of Troy, Michigan, as Note Counsel for the Note securing the Loan is hereby ratified and confirmed notwithstanding the periodic representation Giarmarco, Mullins, & Horton, P.C. in unrelated matters of the State and other parties and potential parties, if any, to the issuance of the Note. The fees and expenses of Giarmarco, Mullins, & Horton, P.C. shall be payable as part of the issuance costs from the proceeds of the Notes and other available funds of the City in accordance with the letter of such firm on file.
7. All resolutions and parts of resolutions inasmuch and insofar as they conflict with the provisions of this Resolution be and the same are hereby rescinded.

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.


Cathy Square
City of Hamtramck
Emergency Manager

cc: State of Michigan Department of Treasury