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*Attorneys for Respondent*

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

**DENNIS M. DAVIN, in his capacity** :  
**as Secretary for the Department** :  
**of Community and Economic** :  
**Development,** : **No. 569 MD 2011**  
**Petitioner** :  
: :  
**v.** :  
: :  
**CITY OF HARRISBURG,** :  
**Respondent** :

**APPLICATION  
FOR ENTRY OF ADMINSTRATIVE ORDER  
TO MODIFY ORDER OF RELEIF**

**NOW COMES**, the Respondent, City of Harrisburg (“City”), by and through its undersigned counsel and hereby moves as follows:

1. This matter was commenced by a Petition for Relief filed in 2011 on behalf of the Secretary of the Department of Community and Economic Development (DCED), which was made in accordance with the provisions of the Municipalities Financial Recovery Act of 1987, 53 P.S. §11701.101, et al, as amended (“Act 47”),

2. After numerous proceedings to review components of an initial recovery plan, the Honorable Court issued an Order on September 23, 2013 to confirm a comprehensive modified Act 47 financial recovery plan that had been filed by the Receiver to incorporate the global resolutions of numerous outstanding financial disputes of the City of Harrisburg and its related local government units, entitled the Harrisburg Strong Plan.

3. The Honorable Court had authorized the City through a Receiver to implement the provisions of that modified recovery plan in accordance with related consensual agreements entered into by the Commonwealth of Pennsylvania, the City, other local government units of the City, numerous City creditors and other parties acquiring an ongoing interest in the certain City assets or the operations thereof by lease or purchase.

4. By Order of February 25, 2014, this Honorable Court granted an application to vacate its prior Orders confirming the appointment of a Receiver and, in so ruling, expressly retained jurisdiction over matters relating to the implementation of the Harrisburg Strong Plan, including any plan amendments and agreements entered in the course of plan implementation.

5. By Order of July 20, 2016, the Court approved the Amended Harrisburg Strong Plan presented by Application of April 29, 2016, which provided among other things for the continuation of the City's tax authority at those rates previously approved through the duration of the Plan, which addressed budget years through December 31, 2018.

6. In accordance with amendments to Act 47 adopted after the City had exited receivership, the Recovery Coordinator for the City had commenced a prescribed process

in the Spring of 2018 that would provide a three (3) year Act 47 Exit Plan, which was subject to formal approval by an Ordinance to be adopted by the City Council.

7. On September 11, 2018, the Honorable Court entered an Order granting an *Application for Approval of a Stipulation to Defer Exit Plan Proceedings*, allowing the City Council of the City of Harrisburg to defer further action on a proposed Act 47 Exit Plan until no later than November 15, 2018, while the City explored alternate legislative relief through the Pennsylvania General Assembly.

8. On October 17, 2018, the Pennsylvania General Assembly adopted HB2557, a new law applicable to the City of Harrisburg, which authorized Third Class Cities who had successfully departed Act 47 receivership status to temporarily retain certain tax authority outside of Act 47 upon the entry of intergovernmental cooperation agreement with a newly created Intergovernmental Cooperation Authority (ICA).

9. On October 24, 2018, HB2557 was signed by Governor Wolf as Act 124 of 2018 and became effective immediately.

10. By its terms, Act 124 alters certain rights and obligations of both the City and the Commonwealth under Act 47 of 1987, as amended.

11. Act 124 provides in relevant part that upon the effective date thereof a qualifying municipality shall continue to operate under their then-current Act 47 recovery plan until the municipality enters into an intergovernmental cooperation agreement with the newly created ICA.

12. Act 124 further provides that upon entry into the required agreement between the municipality and the ICA, the municipality shall no longer be subject to Act 47.

13. Act 124 provides further still that a qualifying municipality may retain judicially approved rates of taxation on earned income and local services taxes that had been adopted by the municipality under Act 47 for four (4) fiscal years after formally entering into the required Agreement with the ICA.

14. The City currently operates under the Amended Harrisburg Strong Plan approved by this Honorable Court on July 20, 2016, which includes an Earned Income Tax rate of 2 % and an annual Local Services Tax rate of \$156,

15. By operation of law, as of October 24, 2018, Act 124 rendered moot the requirement for the City to adopt an Act 47 Exit Plan and the requirement to further petition the Court for a continuation of current tax rates after December 31, 2018.

16. Accordingly, the City respectfully requests that the Honorable Court enter an appropriate Order to vacate as moot provisions of the Order of September 11, 2018, that would be deemed to require the City Council to act on a proposed Exit Plan by November 15, 2018.

17. The undersigned Counsel for the City makes this application in accordance with the prior discussions with counsel for the Commonwealth without having had the opportunity to share a draft application prior to filing and, accordingly, the City will immediately notify the Court if any amendment or clarification hereto shall be requested by the Commonwealth.

**WHEREFORE**, the City of Harrisburg respectfully requests that the Honorable Court approve and So Order the forgoing relief.

Respectfully submitted,

OFFICE OF THE CITY SOLICITOR

Date: November 15, 2018

/s/ Neil A. Grover

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