

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

MICHIGAN WAREHOUSING GROUP LLC,
a Michigan limited liability company, and
MIDWEST VALVE & FITTING COMPANY,
a Michigan corporation,

Plaintiffs/Appellees

Case No. 15-010165-CZ
Hon. John A. Murphy

v.

CITY OF DETROIT, a municipal corporation,
by and through its WATER AND SEWERAGE
DEPARTMENT,

Defendant/Appellant.

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CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made this 31st day of August, 2017, by and between the following (all of which are hereinafter collectively referred to as the “Parties”): Plaintiffs Michigan Warehousing Group LLC and Midwest Valve & Fitting Company (“Named Plaintiffs”), individually, and on behalf of a class of similarly situated persons and entities (as more specifically defined in Paragraph 2 below, the “Class”), acting by and through their counsel, Kickham Hanley PLLC (“Class Counsel”), and Defendant City of Detroit, by and through its Water and Sewerage Department (the “City”).

WHEREAS, Plaintiffs commenced the above captioned lawsuit (the “Lawsuit”) in Wayne County Circuit Court challenging one of the City’s retail drainage charges (the “Per-Acre Drainage Charges”) imposed by the City’s Water and Sewerage Department (“DWSD”) upon Plaintiffs’ property located in the City. Plaintiffs allege that the Per-Acre Drainage Charges have been disproportionately imposed upon a particularized and narrow subset of the City’s property owners (including Plaintiffs) – i.e., those non-residential customers that prior to October 1, 2016 were billed Per-Acre Drainage Charges – i.e., billed based on the impervious acreage of their properties (the “Per-Acre Properties”).

WHEREAS, the Complaint alleges that the Lawsuit should be maintained as a class action on behalf of a class consisting of persons or entities who or which have paid or incurred the Per-Acre Drainage Charges during the permitted time periods preceding the filing of this Lawsuit and/or at any time during the pendency of this action.

WHEREAS, Plaintiffs acknowledge that claims against the City arising prior to July 18, 2013, the date of the City’s bankruptcy filing, are barred by the bankruptcy discharge. The City has contended that claims arising prior to the effective date of the City’s Bankruptcy Plan (December 10, 2014) are also barred.

WHEREAS, the City denies that the Per-Acre Drainage Charges are improper; denies that it has committed any unlawful, wrongful or tortious acts or omissions of any kind, violated any constitutional provision or statute, or breached any duties of any kind whatsoever; denies that class certification is appropriate; denies that it is in any way liable to any member of the Class; and states that the claims asserted in the Lawsuit have no substance in fact or law, and the City has meritorious defenses to such claims, including but not limited to the City’s pre-Headlee Amendment charter authority to assess its drainage fee and the mandates presented by federal

regulations to assess a user charge upon users of the City's combined sewage system in order to cover the costs related to infiltration and inflow (as defined under 40 C.F.R. § 35.2005(b)(20)-(21)); but, nevertheless, has agreed to enter into this Agreement not as an admission of liability, but rather to avoid further expense, inconvenience, and distraction and risks of burdensome and protracted litigation, and to obtain total and final peace, satisfaction and protection from the claims asserted in the Lawsuit.

WHEREAS, the Named Plaintiffs in the Lawsuit and Class Counsel have been provided with discovery and have conducted investigations into the facts of the Lawsuit, have made a thorough study of the legal principles applicable to the claims in the Lawsuit, have submitted the claims to formal mediation before the Honorable Barry L. Howard and have concluded that a class settlement with the City in the amount and on the terms hereinafter set forth (the "Settlement") is fair, reasonable, and adequate, and is in the best interest of the Class given the strengths and weaknesses of the alleged claims and the risks presented to both sides at trial.

WHEREAS, the Parties desire to compromise their differences and to resolve and release all of the claims, known or unknown, that were or could have been asserted by the Named Plaintiffs and the Class in the Lawsuit, as set forth in Paragraph 26 below.

NOW, THEREFORE, in consideration of the covenants and agreements herein, and intending to be legally bound, the Parties hereby agree as follows:

IMPLEMENTATION OF AGREEMENT

1. The Parties agree to cooperate in good faith, to use their best efforts, and to take all steps necessary to implement and effectuate this Agreement and the Settlement provided for herein.

CLASS CERTIFICATION

2. For settlement purposes, the Parties agree that the Court shall enter an order certifying a class of Plaintiffs (the “Class”) consisting of all owners and occupiers of non-residential parcel-based real property who or which were billed and/or paid the Per-Acre Drainage Charges between July 18, 2013 and June 30, 2017 (the “Class Period”). Excluded from the Class are (1) the City itself, (2) owners or occupiers of non-residential parcel-based real property who or which were first billed the Per-Acre Drainage Charges on or after October 1, 2016 and prior to October 1, 2016, did not pay any Per-Acre Drainage Charges on any other owned or occupied non-residential parcel-based real property, and (3) any owners or occupiers of non-residential parcel based real property who have previously released or waived their claims for the entire Class Period. This Agreement is intended to settle all of the claims of the members of the Class (“Class Members”).

SETTLEMENT FUND

3. The City will create a Settlement Fund (the “Settlement Fund”) in the amount of Twenty-Nine Million Five Hundred Thousand Dollars (\$29,500,000).

a. On or before December 31, 2017, the City shall cause Ten Million Dollars (\$10,000,000) of the Settlement Fund to be deposited into an IOLTA Trust Account maintained by Class Counsel and subject to audit by DWSD.

b. On or before July 9, 2018, the City shall cause any remaining cash due under the settlement in accordance with the below-referenced reconciliation process (see Paragraph 11(c)) to be deposited in the same IOLTA Trust Account.

c. After the reconciliation process described in Paragraph 11(c), the deposited funds set forth in Paragraphs 3(a) and 3(b) will be earmarked to (i) pay refund payments to the Class, (ii) reimburse expenses incurred by the Claims-Escrow Administrator with assistance from a third

party administrator (see *infra*), and (iii) pay any awarded attorneys' fees and/or costs to Class Counsel and any incentive award to the Named Plaintiffs, both as determined by the Court.

d. The City shall retain possession of Nineteen Million Five Hundred Thousand Dollars (\$19,500,000) of the Settlement Fund ("City Administered Portion"), which shall be reconciled in accordance with the process set forth in Paragraph 11(c), to apply the credits against the "Outstanding Balances" described in Paragraph 10 below and/or to fund additional refunds as set forth in Paragraph 3(e) below.

e. As set forth in Paragraph 11(c), the amounts deposited in Class Counsel's IOLTA Trust Account and retained by the City will be reconciled to reflect the total amount of refunds and credits distributable to Class Members per the Distribution Report approved by the Court. In the event that funds are remitted to the City after the reconciliation, any pre-reconciliation interest earned on the portions of the Settlement Fund remitted to the Class in accordance with the reconciliation process described in Paragraph 11(c) will be remitted to the City within seven (7) days after the reconciliation has been performed.

f. The Settlement Fund other than the City Administered Portion shall be administered by Class Counsel (the "Claims-Escrow Administrator") with the assistance of a third party administrator ("TPA"). The expenses the Claims-Escrow Administrator incurs to the TPA shall be recoverable by the Claims-Escrow Administrator as a cost of the litigation under Paragraphs 27-30 of this Agreement (subject to Court approval) and payable out of the Settlement Fund. The Claims-Escrow Administrator may from time to time apply to the Court for instructions or orders concerning the administration of the Settlement Fund and may apply to the Internal Revenue Service for such rulings with respect thereto as it may consider appropriate. Disbursements from the Settlement Fund by the Claims-Escrow Administrator and the City shall be expressly conditioned upon an order of the Court permitting such disbursements.

g. In the event that any potential Class Member timely requests exclusion from the Class to opt out of this Settlement, or if a Class Member has executed a written release and/or waiver of claims against the City with respect to that Class Member's Per-Acre Drainage Charges during a portion, but not all, of the Class Period, subject to the following sentence, that specific Class Member is barred from receiving recovery under the Settlement for that portion of the Class Period, and that specific Class Member's share of the Settlement Fund (including the costs and attorneys' fees otherwise paid from such share for the relevant timeframe during the Class Period) will be deducted from the Settlement Fund and remitted to the City two (2) business days prior to the filing and service of the Distribution Report with the Court (see Paragraph 11). Notwithstanding the foregoing sentence, the pro rata shares of each Class Member who/which has executed a written release and/or waiver of claims against the City with respect to that Class Member's Per-Acre Drainage Charges shall be computed by excluding Charges assessed during any period of the Class Period that is encompassed by the release and/or waiver. Such Class Members will still be entitled to share in the settlement based upon their pro rata shares of the Per-Acre Drainage Charges assessed against their properties during any periods in the Class Period that are not within the scope of their prior releases and/or waivers. On or before 30 days after the execution of this Agreement, the City will provide information sufficient to allow the Claims-Escrow Administrator to determine the pro rata shares of the Class Members referenced in the preceding sentence.

4. Except as set forth in Paragraphs 27 through 30 of this Agreement, the Class and Class Counsel shall not claim any attorneys' fees or costs.

5. Subject to Paragraph 31, distribution of the Settlement Fund (including the issuance of credits by the City through the City Administered Portion) shall be completed within twenty-one (21) days after the completion of the last of all of the following (the "Settlement Date"):

a. entry of an order of final judicial approval by the Court approving this Agreement pursuant to Michigan Court Rule 3.501(E);

b. entry of an order adjudicating Class Counsel's motion for an award of attorneys' fees and costs;

c. entry of a final judgment of dismissal of the Lawsuit with prejudice with respect to the claims of the Named Plaintiffs and all Class Members, except those putative Class Members who have requested to be excluded from the Class pursuant to MCR 3.501(D);

d. the City's deposit of the Settlement Fund described in Paragraph 3(b) above;

e. the Court's entry of the Distribution Order described in Paragraph 11 below;

f. the reconciliation process described in Paragraph 11(c) below; and

g. the expiration of the 21-day time for appeal of all of the aforementioned orders and judgments and final resolution of any and all appeals of such orders and judgments, but only if any Class Member files a timely objection to any of the aforementioned orders and judgments.

6. As more specifically discussed below, and as provided in Paragraph 5, the Settlement Fund shall be distributed only pursuant to and in accordance with orders of the Court, as appropriate.

7. In the event that this Settlement fails to be consummated pursuant to this Agreement or fails to secure final approval by the Court for any reason or is terminated pursuant to Paragraph 31, the Settlement Fund shall immediately be returned to the City.

DISTRIBUTION OF SETTLEMENT FUND

8. The “Net Settlement Fund” to be distributed to the Class is the Settlement Fund less the combined total of: (a) attorneys’ fees, costs, and any incentive award to the Named Plaintiffs awarded pursuant to Paragraphs 27-30; and (b) Class Counsel and Claims-Escrow Administrator expenses reimbursed pursuant to Paragraphs 27-30.

9. Each Class Member’s share in the Net Settlement Fund shall be referred to herein as his, her or its “Pro Rata Share,” and each Class Member’s Pro Rata Share of the Net Settlement Fund will be distributed via a refund Payment and/or an account Credit as those terms are defined below. The Pro Rata Share to be allocated to each Class Member shall be determined according to Paragraph 10.

10. All Class Members will participate in the Settlement by receiving from the Net Settlement Fund a Credit (defined in Paragraph 10(d)) against an Outstanding Balance (defined in Paragraph 10(d)) or future Per-Acre Drainage Charges, and/or a cash distribution Payment (as defined in Paragraph 10(b)). The Net Settlement Fund shall be distributed as follows:

a. Within 30 days after the Court’s entry of an order preliminarily approving this Settlement, the City shall provide the Claims-Escrow Administrator with billing and payment records in electronic form that, at a minimum, provide for the Class Period (July 18, 2013 through June 30, 2017) the service address, account number, billing and payment history, and outstanding account balance for each non-residential sewer customer account that was subject to Per-Acre Drainage Charges on or before September 30, 2016 (but excluding those excluded from the Class under Paragraph 2 above. The Claims-Escrow Administrator will provide notice to the Class Members through first-class mail. The Claims-Escrow Administrator is authorized to utilize the services of the TPA in disseminating notices to the Class. Such forms of notice will not be required to be exclusive and the Claims-Escrow Administrator will be allowed to use any

appropriate means to give notice to Class Members of the Settlement and the opportunity to obtain a refund.

b. To qualify to receive a distribution of cash via check (or a “Payment”) from the Net Settlement Fund, Class Members will be required to submit sworn claims which identify their names, addresses, and the periods of time in which they paid the Per-Acre Drainage Charges. The Class Members will be required to submit those claims no later than 30 days prior to the hearing on the final approval of this settlement, as described in Paragraph 25. The foregoing is a general outline. The TPA will assist in implementing a process designed to minimize fraud and maximize dissemination of the refunds to the appropriate parties. In the event that two or more parties claim to have paid or incurred Per-Acre Drainage Charges for the same sewer account, the Claims-Escrow Administrator will notify the City regarding the dispute and the City shall cooperate in resolving the dispute by providing information in its possession concerning the disputed property, but the Claims-Escrow Administrator shall have the absolute discretion to determine which party or parties are entitled to participate in the settlement.

c. The Claims-Escrow Administrator shall calculate each Class Member’s pro rata share of the Net Settlement Fund (the “Pro Rata Share”) based upon the City’s records that are provided to the Claims-Escrow Administrator in accordance with Paragraph 10(a). The Claims-Escrow Administrator is authorized to utilize the services of the TPA to calculate the Pro Rata Shares distributable to the Class Members. The size of each Claim Member’s Pro Rata Share shall be determined by (1) calculating the total amount of Per-Acre Drainage Charges the City assessed against the property or properties of that Class Member during the Class Period and then (2) dividing that number by the total amount of Per-Acre Drainage Charges the City assessed against all Class Members during the Class Period and then (3) multiplying that fraction by the amount of the Net Settlement Fund. An example appears below:

Total Per-Acre Drainage Charges assessed against a Class Member during the Class Period
-- \$200,000

Total Per-Acre Drainage Charges assessed against all Class Members during the Class Period -- \$200,000,000

Net Settlement Fund -- \$21,500,000

Class Member's Pro Rata Share – $200,000/200,000,000 \times \$21,500,000 = \$21,500$

d. Class Members who do not submit claims or who do submit a claim but are members of one of the groups described in Paragraph 10(e)(i) or 10(e)(ii) will receive a credit on their sewer account in the amount of their Pro Rata Share of the Net Settlement Fund ("Credit") which will be applied against future Per-Acre Drainage Charges unless the Outstanding Balance is greater than the Class Member's Pro Rata Share, in which case the Pro Rata Share will, as described below in Paragraph 10(e)(i), offset the Outstanding Balance to the extent of the amount of the Pro Rata Share. The term "Outstanding Balance" means with respect to each Class Member the amount of Per-Acre Drainage Charges assessed on or after July 18, 2013 which are at least thirty (30) days past due as of June 30, 2017. Any Credit will attach to the account associated with the Per-Acre Drainage Charges and will remain until Per-Acre Drainage Charges accrued after the Settlement Date exceed the amount of the Credit.

e. Class Members thus will be separated into three (3) groups, each of which will benefit from the Settlement as follows.

i. Group 1 – Class Members who have Outstanding Balances equal to or greater than their respective Pro Rata Shares. No later than March 1, 2018, Group 1 Class Members will receive a Credit against their Outstanding Balances in the amount of their Pro Rata Shares paid from the City Administered Portion. If the Class Member's Pro Rata Share of the Net Settlement Fund is less than such Class Member's Outstanding Balance, the Outstanding Balance will be reduced by the amount of that Pro Rata Share, and the Class Member will still owe the City any remaining Outstanding Balance.

ii. Group 2 – Class Members who have Outstanding Balances that are less than their Pro Rata Shares. No later than March 1, 2018, Group 2 Class Members will

receive from the City Administered Portion a Credit against their Outstanding Balances to the extent of their Outstanding Balances. Group 2 Class Members who submit claims will also receive a Payment from the Claims-Escrow Administrator in the amount by which their respective Pro Rata Shares exceed their Outstanding Balances. Such Payments will be paid from the portion of the Net Settlement Fund administered by the Claims-Escrow Administrator in accordance with the time frames set forth in Paragraph 5. Group 2 Class Members who do not submit timely claims will receive no later than July 9, 2018, a Credit in their sewer account against future Per-Acre Drainage Charges in the amount by which their respective Pro Rata Shares exceed their Outstanding Balances.

iii. Group 3 – Class Members with no Outstanding Balances. Group 3 Class Members who submit timely claims will receive from the Claims-Escrow Administrator (and payable from portion of the Net Settlement Fund administered by the Claims-Escrow Administrator) a Payment that is equal to the amount of their respective Pro Rata Share. The Payment will be made in accordance with the time frames set forth in Paragraph 5. Group 3 Class Members who do not submit timely claims will receive no later than July 9, 2018, a Credit in their sewer account against future Per-Acre Drainage Charges in the amount of their respective Pro Rata Shares.

f. The City will obtain an agreement to write off and not collect all outstanding unpaid balances for Per-Acre Drainage Charges incurred by Class Members prior to July 18, 2013 (“Pre- July 18, 2013 Write Off”), the total amount of which is estimated to be approximately \$24,401,000 in past due amounts owing to the City. The City agrees to forever release its claims against all Class Members relating to the collection of the Pre July 18, 2013 Write Off who/which have not violated and are in compliance with the terms of this Agreement.

11. No later than fourteen (14) days prior to the hearing on the final approval of this settlement (as described in Paragraph 25), the Claims-Escrow Administrator (through the TPA) shall file with the Court and serve upon the City a Distribution Report, which shall consist of the

identity and/or account number of each Class Member, the Class's calculation of the Pro Rata Shares due to each Class Member, along with a list stating whether the Class Member is entitled to a Payment from the portion of the Net Settlement Fund administered by the Claims-Escrow Administrator, a Credit from the City Administered Portion, or both, and the amount to be paid and/or credited to each Class Member.

a. The City shall have seven (7) days to object to the Distribution Report. All objections shall be resolved by the Court at or before the final approval hearing.

b. Class Counsel and Counsel for the City, within five (5) days after the resolution of any objections to the Distribution Report, or within five (5) days after the deadline for submission of objections if no objections are submitted, or within fourteen (14) days after the Court's entry of the Final Order as set forth in Paragraph 25 of this Agreement, whichever is later, shall submit to the Court a stipulated Distribution Order authorizing distribution from the Settlement Fund to the Class Members entitled to a Pro Rata Share distribution of the Net Settlement Fund ("Stipulated Distribution Order") in accordance with the Distribution Report.

c. Within twenty-one (21) days after the Final Order, the City and the Claims-Escrow Administrator will reconcile the amounts in the City Administered Portion (to issue Credits) and the amounts in Class Counsel's IOLTA Trust Account (to issue Payments) based on the Distribution Report approved by the Court, with the understanding that either (i) within seven (7) days after such reconciliation, the Claims-Escrow Administrator will remit funds from Class Counsel's IOLTA Trust Account to the City for the City to include in the City Administered Portion and to use to issue Credits in accordance with the terms of this Agreement and the Distribution Report approved by the Court, or (ii) the City will remit funds from the City

Administered Portion to Class Counsel's IOLTA Trust Account by no later than July 9, 2018 so that such additional funds shall be used to issue Payments in accordance with the terms of this Agreement and the Distribution Report approved by the Court. If the Claims-Escrow Administrator remits any portion of the Settlement Funds to the City after the reconciliation process, the Administrator will also remit any interest earned on those remitted funds within seven (7) days of the reconciliation.

d. The Parties acknowledge that, because Class Members may have moved or ceased doing business since July 18, 2013, complete and current address information may not be available for all Class Members. The City, Named Plaintiffs, counsel for any Parties, the Claims-Escrow Administrator and the TPA shall not have any liability for or to any member of the Class with respect to determinations of the amount of any distribution of the Settlement Fund to any Class Member or determinations concerning the names or addresses of the Class Members.

12. At a time consistent with Paragraph 5, following the entry of the Stipulated Distribution Order and the events set forth in Paragraph 11(c), the Claims-Escrow Administrator and the City shall distribute the each Class Member's Pro Rata Share from the Net Settlement Fund. If no Stipulated Distribution Order is entered, upon the entry of an Order of the Court resolving any objections to the Distribution Report, and upon the resolution of any appeals thereof, the Claims-Escrow Administrator and the City shall respectively cause each Class Member's Pro Rata Share to be distributed or credited in accordance with the Order of the Court and the time frames set forth in Paragraph 5. The Claims-Escrow Administrator is authorized to distribute the Pro Rata Shares, and is further authorized to send checks reflecting Payments due to Class Members to the address provided by the City for each Class Member. The Claims-Escrow

Administrator is further authorized to transfer its held portion of the Net Settlement Fund to the TPA so that the TPA can distribute Payments in accordance with this Agreement.

13. The amounts of money covered by checks distributing the Payment portion of the Pro Rata Shares which: (a) are returned and cannot be delivered by the U.S. Postal Service after the Claims-Escrow Administrator (i) confirms that the checks were mailed to the identified addresses, and (ii) re-mails any checks if errors were made or it becomes aware of an alternative address or payee; or (b) have not been cashed within one-hundred and eighty (180) days of mailing, shall be refunded to the City within thirty (30) days after the expiration of the 180-day period to be deposited in the City's sewer fund; and the Class Members to whom such checks were mailed shall be forever barred from obtaining any payment from the Settlement Fund. The Claims-Escrow Administrator shall also refund to the City on or before the Settlement Date any and all monies designated to pay the Pro Rata Shares of Class Members who request to be excluded from the Class pursuant to MCR 3.501(D) or are identified as having released or waived their claims.

14. Within thirty (30) days after the date on which the remaining Net Settlement Fund is distributed back to the City, the Claims-Escrow Administrator shall file with the Court and serve on counsel for the Parties a document setting forth the names and addresses of, and the amounts paid to, each distributee of funds from the Settlement Fund together with a list of Class Members entitled to receive a Pro Rata Share but whose distribution checks have been returned or have not been cashed.

PROSPECTIVE RELIEF

15. The Parties agree that for a twelve-month period beginning August 1, 2017 (“Twelve-Month Period”), the City shall impose upon and collect from Class Members Per-Acre Drainage Charges at an effective rate of not more than \$661 per impervious acre, which according to Class Counsel, results in a net reduction in Per-Acre Drainage Charges assessed upon the Class Members of approximately \$24,000,000 for the Twelve-Month Period “Twelve-Month Drainage Reduction”).

16. The City may not levy a tax or other assessment against property owners or water or sewer customers to finance, in whole or in part, the Settlement Fund (unless such tax or assessment receives voter approval).

17. Nothing in this Agreement is intended to limit or preclude the City from exercising all rights and options available to it to collect any remaining outstanding balances due on Class Member accounts after the application of Credits and/or the Pre-July 18, 2013 Write-Off.

18. The Class Members shall release the City as provided in Paragraph 26 below. In addition to the Release and Covenant Not to Sue set forth in Paragraph 26 below, if the City complies with the relief described above for the duration of the Twelve-Month Period, the Class Members who receive Payments and/or Credits as part of the settlement agree to extend Paragraph (b) of their Release and Covenant Not to Sue, which is more fully set forth in Paragraph 26, to include the FY 2017-2018 period. Nothing in this Paragraph shall be construed as limiting the scope and extent of Paragraph (a) of the Release and Covenant Not to Sue.

19. The Lawsuit will be dismissed with prejudice, subject only to the Court’s jurisdiction to enforce the terms of this Settlement Agreement as set forth in Paragraph 46.

CLAIMS-ESCROW ADMINISTRATOR

20. The Claims-Escrow Administrator shall not receive a separate fee for its services as Claims-Escrow Administrator. Because Class Counsel is acting as the Claims-Escrow Administrator, the fee awarded to Class Counsel shall be deemed to include compensation for its service as Claims-Escrow Administrator. The Claims-Escrow Administrator, however, shall be entitled to be reimbursed for its out-of-pocket expenses incurred in the performance of its duties (including but not limited to the TPA's charges), which shall be paid solely from the Settlement Fund.

21. The Claims-Escrow Administrator, with the assistance of the TPA, shall have the responsibilities set forth in this Agreement, including, without limitation, holding the Settlement Fund in escrow, determining the eligibility of Class Members to receive Payments and Credits, determining the Pro Rata Shares, distributing the Payments to Class Members receiving a Pro Rata Share, filing a Distribution Report consistent with Paragraph 11 and refunding to the City portions of the Net Settlement Fund as required by Paragraph 13. The Claims-Escrow Administrator, with the assistance of the TPA, shall also be responsible for: (a) recording receipt of all responses to the notice; (b) preserving until further Order of the Court any and all written communications from Class Members or any other person in response to the notice; and (c) making any necessary filings with the Internal Revenue Service. The Claims-Escrow Administrator may respond to inquiries, but copies of all written answers to such inquiries will be maintained and made available for inspection by all counsel in this Lawsuit. The Claims-Escrow Administrator may delegate some or all of these responsibilities to TPA.

22. Any findings of fact of the Claims-Escrow Administrator and/or the TPA shall be made solely for the purposes of the allocation and distribution of the Pro Rata Shares, and, in accordance with Paragraph 35, shall not be admissible for any purpose in any judicial proceeding, except as required to determine whether the claim of any Class Member should be allowed in whole or in part.

NOTICE AND APPROVAL OF SETTLEMENT

23. As soon as practicable, but in no event later than seven (7) days after the execution of this Agreement, Class Counsel and Counsel for the City shall submit this Agreement to the Court, pursuant to Michigan Court Rule 3.501, for the Court's preliminary approval, and shall request an Order of the Court, substantially in the form attached as Exhibit "A," including the following terms:

a. scheduling of a Settlement approval hearing to be held as soon as practicable after the entry of such Order but in no event later than January 12, 2018 to determine the fairness, reasonableness, and adequacy of this Agreement and the Settlement; whether the Agreement and Settlement should be approved by the Court; and whether to award the attorneys' fees and expenses requested by Class Counsel;

b. directing that notice, substantially in the form of Exhibits "B" and "C," be given to the members of the Class advising them of the following:

i. the terms of the proposed Settlement consented to by the Named Plaintiffs and the City;

ii. the scheduling of a hearing for final approval of the Agreement and Settlement;

iii. the rights of the members of the Class to appear at the hearing to object to approval of the proposed Settlement or the requested attorneys' fees and expenses, provided that, if they choose to appear, they must file and serve written objections at least thirty (30) days prior to the hearing that set forth the name of this matter as defined in the Notice, the objector's full name, address and telephone number, an explanation of the basis upon which the objector claims to be a Class Member, all grounds for the objection including any known legal support for the objection, the number of times in which the objector has objected to a class action settlement in the past five years and a caption of each case in which an objection was filed, the identity of all counsel representing the objector at the hearing, a statement confirming whether the objector intends to appear and/or testify at the hearing (along with a disclosure of all testifying witnesses) and the signature of the objector (not just the objector's attorney);

iv. the nature of the release to be constructively entered upon approval of the Agreement and Settlement;

v. the binding effect on all Class Members of the judgment to be entered should the Court approve the Agreement and Settlement; and

vi. the right of members of the Class to opt out of the Class, the legal implications from doing so, the procedures for doing so, and the deadlines for doing so, including the deadline with respect to filing and/or serving written notification of a decision to opt out of the Class (such deadline must be at least thirty (30) days prior to the hearing);

c. providing that the manner of such notice shall constitute due and sufficient notice of the hearing to all persons entitled to receive such notice and requiring that proof of such notice be filed at or prior to the hearing; and

d. appointing Kickham Hanley PLLC as Claims-Escrow Administrator;

24. Notice to Class Members of the proposed settlement shall be the responsibility of Class Counsel pursuant to orders of the Court. Class Counsel shall be entitled to be reimbursed for the cost of such notice from the Settlement Fund, and Class Counsel shall make application for costs of notice to the Court at least seven (7) days before the Settlement approval hearing with the Court approving any costs at the time of the Settlement approval hearing. Such notice shall be substantially in the form attached hereto as Exhibit "B," and mailed by Class Counsel (or the TPA) to the Class Members at the addresses provided by the City within thirty-seven (37) days of entry of the Order Regarding Preliminary Approval of this Agreement. Class Counsel shall also arrange for publication of the Notice attached hereto as Exhibit "C" in the Detroit News on two occasions prior to October 1, 2017.

25. After the notice discussed in Paragraphs 23 and 24 has been mailed, the Court shall, consistent with Paragraph 23, conduct a hearing at which it rules on any objections to this Agreement and a joint motion for entry of a Final Order approving of this Settlement and Agreement. If the Court approves this Agreement pursuant to Michigan Court Rule 3.501(E), a final judgment, substantially in the form of Exhibit "D," shall be entered by the Court: (a) finding that the notice provided to Class Members is the best notice practicable under the circumstances and satisfies the due process requirements of the United States and Michigan Constitutions; (b) approving the Settlement set forth in this Agreement as fair, reasonable, and adequate; (c) dismissing with prejudice and without costs to any Party any and all claims of the Class Members against the City, excluding only those persons who in timely fashion requested exclusion from the Class; (d) awarding Class Counsel attorneys' fees, costs and expenses; (e) reserving jurisdiction over all matters relating to the administration of this Agreement, including

allocation and distribution of the Settlement Fund; and (f) retaining jurisdiction to protect and effectuate this judgment. Within five days after the entry of the Final Order, the City shall dismiss its appeals in Case Numbers 335052 and 335054 with prejudice.

RELEASE AND COVENANT NOT TO SUE

26. On the Settlement Date, each Class Member who has not timely requested exclusion therefrom shall be deemed to have individually executed, on behalf of the Class Member and his or her heirs, successors and assigns, if any, the following Release and Covenant Not To Sue, and the Final Order and Judgment to be entered by the Court in connection with the approval of this Settlement:

RELEASE AND COVENANT NOT TO SUE

(a) In executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the City, and each of its successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of past, present and/or future actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever, that, with respect to any parcel owned or occupied by the Class Member at any time during the Class Period, (1) challenge the City's Per-Acre Drainage Charge, and/or (2) challenge the method employed by the City to recover the direct and indirect costs incurred (including capital costs) by the City to operate, manage, maintain, treat and dispose of storm water and surface water runoff (including but not limited to infiltration and inflow as defined under 40 C.F.R. § 35.2005(b)(20)-(21)) on the grounds that the Per-Acre Drainage Charge (or the methodology employed by the City) is, or results in the assessment of, an unlawful tax, or is unlawful under the Headlee Amendment of the Michigan Constitution. This release does not extend to claims

challenging the Per-Acre Drainage Charge based upon any other legal theory or authority

(b) Also, in executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the City, and each of its successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever known or unknown, which arise from the beginning of time through June 30, 2017 that, with respect to any parcel owned or occupied by the Class Member at any time during the Class Period, concern or relate to (1) the legality of the City's Per-Acre Drainage Charges; (2) the City's calculation or assessment of the Per-Acre Drainage Charges; (3) the components of costs included in the Per-Acre Drainage Charges; and/or (4) the City's efforts to charge and/or collect the Per-Acre Drainage Charges.

(c) This release is intended to include all claims that were asserted or could have been asserted in the Lawsuit concerning the City's Per-Acre Drainage Charges. In executing the Release and Covenant Not to Sue, each Class Member also covenants that: (1) except for actions or suits based upon breaches of the terms of this Agreement or to enforce rights provided for in this Agreement, he, she or it will refrain from commencing any action or suit, or prosecuting any pending action or suit, in law or in equity, against the City on account of any action or cause of action released hereby; (2) none of the claims released under the Release and Covenant Not To Sue has been assigned to any other party; and (3) he, she or it accepts and assumes the risk that if any fact or circumstance is found, suspected, or claimed hereinafter to be other than or different from the facts or circumstances now believed to be true, the Release and Covenant Not To Sue shall be and remain effective notwithstanding any such difference in any such facts or circumstances. This release does not extend to claims that challenge the administered application of the City's retail Drainage Charge rate to a particular parcel, -- e.g., a claim that the City has miscalculated the impervious surface area of a particular property or has failed to properly record and deduct paid charges from drainage amounts owed.

ATTORNEYS' FEES AND EXPENSES

27. Class Counsel shall be paid an award of attorneys' fees, costs, and expenses from the Settlement Fund. For purposes of an award of attorneys' fees and costs, the Settlement Fund shall be deemed to be a "common fund," as that term is used in the context of class action settlements. Class Counsel shall not make an application for any attorneys' fees and costs which are in addition to the "common fund" attorneys' fees and costs contemplated by this Agreement.

28. The amount of attorneys' fees, costs and expenses to be paid to Class Counsel shall be determined by the Court applying legal standards and principles applicable to awards of attorneys' fees and costs from common fund settlements in class action cases. Class Counsel agrees that it will not seek an award of attorneys' fees in excess of Seven Million Seven Hundred Fifty Thousand Dollars (\$7,750,000), which is approximately 10 percent of the aggregate value of the Settlement Fund, the Pre-July 2013 Write Off, and the Twelve-Month Drainage Reduction. The City agrees that it will not oppose Class Counsel's fee request, provided that Class Counsel complies with the limitations set forth in this Agreement. The Parties agree that Class Counsel may seek Court approval of an incentive award on behalf of class representatives Michigan Warehousing Group LLC and Midwest Valve and Fitting Company in an amount not to exceed Twenty Thousand Dollars (\$20,000) each, to be paid solely from the Settlement Fund. Class Counsel will file and serve a motion to approve attorneys' fees, costs and expenses and to approve incentive awards no later than seven (7) days before the hearing for final approval of the Agreement and Settlement.

29. The award of attorneys' fees, costs and expenses to be paid from the Settlement Fund to Class Counsel pursuant to Paragraph 28 does not include any out-of-pocket expenses

incurred by Kickham Hanley PLLC acting in its capacity as Claims-Escrow Administrator. The Claims-Escrow Administrator shall make a separate application for such expenses, which also will be filed and served no later than seven (7) days before the hearing for final approval of the Agreement and Settlement.

30. The Court shall determine and approve the award of attorneys' fees and costs to Class Counsel, reimbursement of the expenses incurred by the Claims-Escrow Administrator, and any incentive award to the Named Plaintiffs in connection with the final approval hearing. The attorneys' fees, costs and expenses awarded to Class Counsel and the Claims-Escrow Administrator and any incentive award to the Named Plaintiffs shall be paid from the Settlement Fund after the Settlement Date.

TERMINATION

31. If this Agreement and Settlement is disapproved, in part or in whole, by the Court, or any appellate court; if dismissal of the Lawsuit with prejudice against the City cannot be accomplished; if the Court does not enter an Order of Preliminary Approval substantially in the form attached as Exhibit "A" within twenty-eight (28) days after its submission to the Court; if a final judgment on the terms set forth in Paragraph 28 is not entered by January 19, 2018 ; if the Settlement Date defined in Paragraph 5 does not occur prior to August 31, 2018 through no fault of the parties; if the Court (or any appellate court) alters the terms of this Settlement in any material way not acceptable to the City or to Class Counsel; or if this Agreement and Settlement otherwise is not fully consummated and effected:

a. This Agreement shall have no further force and effect and it and all negotiations and proceedings connected therewith shall be without prejudice to the rights of the City, the Named Plaintiffs and the Class;

b. The Claims-Escrow Administrator shall immediately return to the City the Settlement Fund;

c. The Parties shall return to the status quo ante in the Lawsuit as if the Parties had not entered into this Agreement, and all of the Parties' respective pre-Settlement claims and defenses will be preserved; and

d. Counsel for the Parties shall consent to reasonable continuances of the Lawsuit for the Parties to prepare and file dispositive motions, prepare for trial, or prepare and file appellate briefs.

32. The City and Class Counsel may, in their sole and exclusive discretion, elect to waive any or all of the terms, conditions or requirements stated in Paragraph 31. Such waiver must be memorialized in a writing signed by the City and/or its Counsel and Class Counsel and delivered via certified mail to Class Counsel and/or the City's Counsel, or it will have no force or effect.

33. The City and Class Counsel may, in their sole and exclusive discretion, elect to extend any or all of the deadlines stated in Paragraph 31. Such extension must be memorialized in a writing signed by the City and/or its Counsel and/or Class Counsel and delivered via certified mail to Class Counsel and/or the City's Counsel, or it will have no force or effect.

34. In the event the Settlement is terminated in accordance with Paragraph 31, any discussions, offers, negotiations, or information exchanged in association with this Settlement and

Court papers filed relating to this Settlement shall not be discoverable or offered into evidence or used in the Lawsuit or any other action or proceeding for any purpose. In such event, all Parties to the Lawsuit shall stand in the same position as if this Agreement had not been negotiated, made or filed with the Court.

USE OF THIS AGREEMENT

35. This Agreement, the Class Period, the Settlement provided for herein (whether or not consummated), and any proceedings taken pursuant to this Agreement shall not be:

a. construed by anyone for any purpose whatsoever as, or deemed to be, evidence of a presumption, concession or an admission by the City of the truth of any fact alleged or the validity of any claims, or of the deficiency or waiver of any defense that has or could have been asserted in the Lawsuit, or of any liability, fault or wrongdoing on the part of the City; or

b. offered or received as evidence of a presumption, concession or an admission of any liability, fault, or wrongdoing, or referred to for any other reason by the Named Plaintiffs, Class Members, or Class Counsel in the Lawsuit, or any other person or entity not a party to this Agreement in any other action or proceeding other than such proceedings as may be necessary to effectuate the provisions of this Agreement; or

c. construed by anyone for any purpose whatsoever as an admission or concession that the Settlement amount represents the amount which could be or would have been recovered after trial, or the applicable time frame for any purported amounts of recovery.

d. construed more strictly against one Party than the other, this Agreement having been prepared by Counsel for the Parties as a result of arms-length negotiations between the Parties.

WARRANTIES

36. Class Counsel warrants that in its opinion the Settlement Fund represents fair consideration for and an adequate settlement of the claims of the Class released herein.

37. The undersigned have secured the consents of all persons necessary to authorize the execution of this Agreement and related documents and they are fully authorized to enter into and execute this Agreement on behalf of the Parties.

38. Class Counsel deems this Agreement to be fair and reasonable, and has arrived at this Agreement through arms-length negotiations conducted in the course of a formal mediation, taking into account all relevant factors, present or potential.

39. The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the claims arising in the Lawsuit.

40. The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully this Agreement, and have been fully advised as to the legal effect thereof by their respective Counsel and intend to be legally bound by the same.

BINDING EFFECT AND ENFORCEMENT

41. All covenants, terms, conditions and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the respective predecessors and successors, and past and present assigns, heirs, executors, administrators, legal representatives, trustees, subsidiaries, divisions, affiliates, parents (and subsidiaries thereof), partnerships and partners, and all of their officers, directors, agents, employees and attorneys, both past and

present, of each of the Parties hereto. It is understood that the terms of this paragraph are contractual and not a mererecital.

42. This Agreement, with the attached Exhibits A through D, constitutes a single, integrated written contract and sets forth the entire understanding of the Parties. Any previous discussions, agreements, or understandings between or among the Parties regarding the subject matter herein are hereby merged into and superseded by this Agreement. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

43. All of the Exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

44. This Agreement shall be construed and governed in accordance with the laws of the State of Michigan.

45. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and discuss submitting any disputes to non-binding mediation with Judge Barry Howard. The Parties shall also certify to the Court that they have consulted and either have been unable to resolve the dispute in mediation or are unwilling to submit the dispute to mediation and the reasons why.

46. The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Agreement, and the Parties shall submit to jurisdiction of the Court for purposes of implementing and enforcing the settlement reflected in this Agreement.

MODIFICATION AND EXECUTION

47. This Agreement may be executed in counterparts, all of which shall constitute a single, entire agreement.

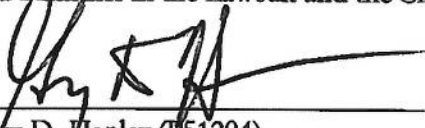
48. Change or modification of this Agreement, or waiver of any of its provisions, shall be valid only if contained in a writing executed on behalf of all the Parties hereto by their duly authorized representatives.

49. This Agreement shall become effective and binding (subject to all terms and conditions herein) upon the Parties when it has been executed by the undersigned representatives of the Parties.

IN WITNESS WHEREOF, each of the Parties executes this Agreement through his, her
or its duly authorized representatives.


KICKHAM HANLEY PLLC

In its capacity as Class Counsel and on behalf of
the Named Plaintiffs in the Lawsuit and the Class

By: 
Gregory D. Hanley (P51204)
Attorneys for Plaintiffs
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
(248) 544-1500

Dated: August 31, 2017

CITY OF DETROIT

By: 
Gary A. Brown
Its: Director of Detroit Water
+ Sewerage Dept.
Dated: August 31, 2017

_____, Clerk

EXHIBIT A

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

MICHIGAN WAREHOUSING GROUP LLC,
a Michigan limited liability company, and
MIDWEST VALVE & FITTING COMPANY,
a Michigan corporation,

Plaintiffs/Appellees

Case No. 15-010165-CZ
Hon. John A. Murphy

v.

CITY OF DETROIT, a municipal corporation,
by and through its WATER AND SEWERAGE
DEPARTMENT,

Defendant/Appellant.

Kickham Hanley PLLC
Gregory D. Hanley (P51204)
Jamie K. Warrow (P61521)
Edward F. Kickham Jr. (P70332)
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073
(248) 544-1500
Attorneys for Plaintiffs

Sonal Hope Mithani (P51984)
Caroline B. Giordano (P76558)
Miller, Canfield, Paddock and Stone, P.L.C.
101 North Main Street, Seventh Floor
Ann Arbor, MI 48104
(734) 668-7786
Attorneys for Defendant

**STIPULATED ORDER REGARDING PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT, NOTICE AND SCHEDULING**

At a session of said Court held in the
City of Detroit, County of Wayne
State of Michigan on _____
PRESENT: HON. _____
Circuit Court Judge

WHEREAS, Plaintiffs commenced the above captioned lawsuit (the "Lawsuit") in Wayne County Circuit Court challenging one of the City's retail drainage charges (the "Per-Acre Drainage Charges") imposed by the City's Water and Sewerage Department ("DWSD") upon Plaintiffs' property located in the City. Plaintiffs allege that the Per-Acre Drainage Charges have been disproportionately imposed upon a particularized and narrow subset of the City's property owners

(including Plaintiffs) – i.e., those non-residential customers that prior to October 1, 2016 have been billed for Per-Acre Drainage Charges – i.e., billed based on the estimated impervious acreage of their properties (the “Per-Acre Properties”).

WHEREAS, the Complaint alleges that the Lawsuit should be maintained as a class action on behalf of a class consisting of persons or entities who or which have paid or incurred the Per-Acre Drainage Charges during the permitted time periods preceding the filing of this Lawsuit and/or at any time during the pendency of this action.

WHEREAS, the City denies that the Per-Acre Drainage Charges are improper; denies that it has committed any unlawful, wrongful or tortious acts or omissions, violated any constitutional provision or statute, or breached any duties of any kind whatsoever; denies that class certification is appropriate; denies that it is in any way liable to any member of the Class; and states that the claims asserted in the Lawsuit have no substance in fact or law, and the City has meritorious defenses to such claims, including but not limited to the City’s pre-Headlee Amendment charter authority to assess its drainage fee and the mandates presented by federal regulations to assess a user charge upon users of the City’s combined sewage system in order to cover the costs related to infiltration and inflow (as defined under 40 C.F.R. § 35.2005(b)(20)-(21));but, nevertheless, has agreed to enter into this Agreement not as an admission of liability, but rather to avoid further expense, inconvenience, and the distraction and risks of burdensome and protracted litigation, and to obtain total and final peace, satisfaction and protection from the claims asserted in the Lawsuit.

WHEREAS, for settlement purposes, the Parties agree that the Court shall enter an order certifying a class of Plaintiffs (the “Class”) consisting of all owners and occupiers of non-residential parcel-based real property who or which were billed and/or paid the Per-Acre Drainage Charges between July 18, 2013 and June 30, 2017 (the “Class Period”). Excluded from the Class are (1) the City itself, (2) owners or occupiers of non-residential parcel-based real property who or which were

first billed the Per-Acre Drainage Charges on or after October 1, 2016 and prior to October 1, 2016, did not pay any Per-Acre Drainage Charges on any other owned or occupied non-residential parcel-based real property, and (3) any owners or occupiers of non-residential parcel based real property who have previously released or waived their claims for the entire Class Period.

WHEREAS, Plaintiff and Defendant in this action intend to make application to this Court, pursuant to MCR 3.501(E), for a Final Order approving the settlement of this class action in accordance with the terms set forth in the Class Action Settlement Agreement (“Agreement”), executed by counsel for the parties on August __, 2017 and attached hereto as Exhibit 1, and they seek preliminary approval of the Agreement for purposes of, among other things, notifying class members of the proposed settlement; and

WHEREAS, the Court has been made aware of the settlement process leading to the agreement reached, and counsel have demonstrated that the settlement was the result of facilitative mediation conducted over several days by a third-party and arm’s length bargaining of counsel well versed in all of the issues.

WHEREAS, this Order amends the Court’s September 13, 2016 Order Denying Defendant’s Motion for Summary Disposition.

IT IS HEREBY ORDERED:

1. The Court preliminarily approves the terms of the Agreement. Pursuant to MCR 3.501, the “Class,” as defined in Paragraph 2 of the Agreement, is hereby certified for settlement purposes only.

2. A hearing (the “Settlement Hearing”) will be held before this Court on January 5, 2018 at 8:30 a.m. to determine whether the proposed settlement between Plaintiffs and Defendant, on the terms and conditions provided in the Agreement between such parties, is fair, reasonable and adequate and should be approved by the Court, to determine whether a final judgment should be

entered dismissing this Lawsuit with prejudice, and without costs, to determine whether to award attorneys' fees and expenses to Class Counsel and the amount of such fees and expenses, and to determine whether an incentive award to the Named Plaintiffs is warranted.

3. The notification to the members of the Class regarding the Settlement, as authorized in Paragraphs 4 and 6 of this Order, is the best notice practicable under the circumstances, is in compliance with MCR 3.501, and the requirements of due process of law, and will adequately inform class members of their rights.

4. On or before sixty (60) days from the entry of this Order, Plaintiff's Counsel shall cause a Notice of Proposed Class Action Settlement ("Notice"), substantially in the form attached to the Agreement as Exhibit "B," to be mailed to members of the Class. Plaintiff shall arrange for the publication of notice, substantially in the form attached to the Agreement as Exhibit "C", in the Detroit News on two occasions prior to October 1, 2017.

5. The law firm of Kickham Hanley PLLC ("KH") is hereby appointed as Claims-Escrow Administrator for this Action. KH is authorized to use the services of a third party administrator as provided in the Agreement.

6. Any Class member may appear personally, or by counsel of his or her own choice and at his or her own expense at the Settlement Hearing to show cause why: (a) the proposed settlement of the claims asserted should or should not be approved as fair, just, reasonable, adequate and in good faith; or (b) judgment should or should not be entered thereon; provided, however, that no Class member will be heard at the Hearing or be entitled to contest the approval of the terms and conditions of the proposed settlement, the judgment to be entered thereon approving the same, or the attorneys' fees and expenses to be paid, or other matter(s) that may be considered by the Court at or in connection with said settlement hearings, unless, no later than 30 days before the Settlement Hearing, such class member has served by hand delivery or by first-class mail a notice of intention to

appear, proof of Class membership, written objections that adhere to the terms of the Notice and indicate the basis for such opposition, and any supporting papers and briefs, upon each of the following attorneys:

Gregory D. Hanley
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073
Attorneys for Plaintiffs

And

Sonal Hope Mithani
Caroline B. Giordano
Miller, Canfield, Paddock and Stone, P.L.C.
101 North Main Street, Seventh Floor
Attorneys for Defendant

and has filed said notice, objections, papers and briefs, as to the settlement with the Clerk of the Wayne County Circuit Court.

7. Any Class member who does not object in the manner provided above will be deemed to have waived such objection to the fairness, adequacy or reasonableness of the proposed settlements or the award of attorney's fees and expenses.

8. As stated in Paragraph 5, KH is authorized to serve as the Claims-Escrow Administrator. The Claims-Escrow Administrator, with the assistance of the third party administrator, shall be responsible for holding the Settlement Fund in escrow, determining the eligibility of Class Members to receive Payments or Credits (as defined in the Agreement), determining the size of each Allowed Claim, distributing the Payments to Class Members with Allowed Claims, filing a distribution report consistent with Paragraph 11 of the Agreement and refunding to Defendant the unclaimed portion of the Net Settlement Fund as required by Paragraph 13 of the Agreement. The Claims-Escrow Administrator shall also be responsible for: (a) recording receipt of all responses to the Notice; (b) preserving until further Order of this Court any and all written communications from Class members or any other person in response to the Notice; and (c)

making any necessary filings with the Internal Revenue Service. The Claims-Escrow Administrator may respond to inquiries, but copies of all written answers to such inquiries will be maintained and made available for inspection by all counsel in this action.

9. All papers in support of the settlement shall be filed with the Court and served on the other parties no later than seven (7) days prior to the Settlement Hearing.

10. The Court expressly reserves its right to adjourn the Settlement Hearing without any further notice to members of the Class. The Court retains jurisdiction of this action to consider all further applications arising out of or connected with the proposed settlement herein.

11. All pretrial and trial proceedings in the Lawsuit are stayed and suspended until further order of the Court. Pending the final determination of the fairness, reasonableness and adequacy of the settlements, no Plaintiff or member of the class may institute or commence any action or proceeding against Defendant asserting any of the claims asserted in this action.

12. Subject to the terms of Paragraphs 13-14 below, if this Agreement and Settlement is disapproved, in part or in whole, by the Court, or any appellate court; if dismissal of the Lawsuit with prejudice against the City cannot be accomplished; if a final judgment on the terms set forth in Paragraph 28 of the Agreement is not entered by January 19, 2018 ; if the Settlement Date defined in Paragraph 5 of the Agreement does not occur prior to August 31, 2018 through no fault of the parties; if the Court (or any appellate court) alters the terms of this Settlement in any material way not acceptable to the City or to Class Counsel; or if this Agreement and Settlement otherwise is not fully consummated and effected:

a. The Agreement shall have no further force and effect and it and all negotiations and proceedings connected therewith shall be without prejudice to the rights of Defendant, the Named Plaintiffs and the Class;

b. The Claims-Escrow Administrator shall immediately return to Defendant any and all monies provided by Defendant for settlement purposes; and

c. The Court shall grant reasonable continuances of the Lawsuit for the Parties to prepare and file dispositive motions, prepare for trial, or prepare and file appellate briefs.

13. Defendant and Class Counsel may, in their sole and exclusive discretion, elect to waive any or all of the terms, conditions or requirements stated in Paragraph 12. Such waiver must be memorialized in a writing signed by Defendant and/or its counsel and Class Counsel and delivered via certified mail to opposing counsel, or it will have no force or effect.

14. Defendant and Class Counsel may, in their sole and exclusive discretion, elect to extend any or all of the deadlines stated in Paragraph 12. Such extension must be memorialized in a writing signed by Defendant and/or its counsel and Class Counsel and delivered via certified mail to opposing counsel, or it will have no force or effect.

IT IS SO ORDERED:

Dated: _____, 2017.

Wayne County Circuit Court Judge

We hereby stipulate to the entry of the above order.

Approved as to form and substance:

/s/ Gregory D. Hanley
Gregory D. Hanley (P51204)
Jamie K. Warrow (P61521)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
(248) 544-1500
Attorneys for Plaintiffs

/s/ Sonal Hope Mithani
Sonal Hope Mithani (P51984)
Caroline B. Giordano (P76558)
Miller, Canfield, Paddock & Stone, P.L.C.
101 North Main Street, Seventh Floor
Ann Arbor, MI 48104
(734) 668-7786
Attorneys for Defendant

EXHIBIT B

Unique Identifying Number _____

**LEGAL NOTICE
NOTICE OF CLASS ACTION**

**IN ORDER TO RECEIVE A REFUND AS PART OF THIS CLASS ACTION SETTLEMENT,
YOU ARE REQUIRED TO SUBMIT A WRITTEN CLAIM.**

IF YOU PAID THE CITY OF DETROIT PER-ACRE DRAINAGE CHARGES FOR NON-RESIDENTIAL PARCEL-BASED REAL PROPERTY AT ANY TIME BETWEEN JULY 18, 2013 AND JUNE 30, 2017 AND WISH TO RECEIVE A CASH REFUND IF YOU QUALIFY FOR SUCH REFUND, YOU MUST SUBMIT THE ATTACHED CLAIM FORM ON OR BEFORE DECEMBER 6, 2017 AND MAIL IT TO _____ OR EMAIL THE COMPLETED FORM TO _____.

PLEASE RETAIN THIS NOTICE

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

MICHIGAN WAREHOUSING GROUP LLC,
a Michigan limited liability company, and
MIDWEST VALVE & FITTING COMPANY,
a Michigan corporation,

Plaintiffs/Appellees

Case No. 15-010165-CZ
Hon. John A. Murphy

v.

CITY OF DETROIT, a municipal corporation,
by and through its WATER AND SEWERAGE
DEPARTMENT,

Defendant/Appellant.

Kickham Hanley PLLC
Gregory D. Hanley (P51204)
Jamie K. Warrow (P61521)
Edward F. Kickham Jr. (P70332)
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073
(248) 544-1500
Attorneys for Plaintiffs

Sonal Hope Mithani (P51984)
Caroline B. Giordano (P76558)
Miller, Canfield, Paddock and Stone, P.L.C.
101 North Main Street, Seventh Floor
Ann Arbor, MI 48104
(734) 668-7786
Attorneys for Defendant

TO: All persons and entities who owned or occupied non-residential parcel-based real property who were billed and/or paid per-acre drainage charges to the City of Detroit (the "City") at any time between July 18, 2013 and June 30, 2017

You are hereby notified that a proposed settlement in the amount of \$29,500,000 has been reached with the City in a class action lawsuit pending in Wayne County Circuit Court titled *Michigan Warehousing Group LLC v. City of Detroit*, Case No. 15-010165-CZ, presiding Judge John A. Murphy, challenging one of the City's retail drainage charges (the "Per-Acre Drainage Charges") imposed by the City's Water and Sewerage Department ("DWSD") upon Plaintiffs' property located in the City. Plaintiffs allege that the Per-Acre Drainage Charges have been disproportionately imposed upon a particularized and narrow subset of the City's property owners (including Plaintiffs) – i.e., those non-residential customers that prior to October 1, 2016 were billed Per-Acre Drainage Charges – i.e., billed based on the impervious acreage of their properties (the "Per-Acre Properties").

Plaintiffs are non-residential water and sanitary sewer customers who have paid the Per-Acre Drainage Charges imposed by the City. Plaintiffs contend that the imposition of the Per-Acre Drainage Charges is motivated by a revenue-raising and not a regulatory purpose, that they are disproportionate to the City's actual costs of providing drainage services, and that therefore, (1) the Charges are unlawful under the Headlee Amendment to the Michigan Constitution (2) the Charges were imposed in violation of equal protection guarantees under the Michigan Constitution, and (3) the City is liable for a refund of the Charges under a theory of assumpsit.

The Plaintiffs seek a judgment from the court against the City that would order and direct the City to refund all Per-Acre Drainage Charges to which Plaintiffs and the class are entitled and any other appropriate relief.

The City denies that the Per-Acre Drainage Charges are improper; denies that it has committed any unlawful, wrongful or tortious acts or omissions of any kind, violated any constitutional provision or statute, or breached any duties of any kind whatsoever; denies that class certification is appropriate; denies that it is in any way liable to any member of the Class; and states that the claims asserted in the Lawsuit have no substance in fact or law, and the City has meritorious defenses to such claims, including but not limited to the City's pre-Headlee Amendment charter authority to assess a drainage fee and the mandates presented by federal regulations to assess a user charge upon users of the City's combined sewage system in order to cover the costs related to infiltration and inflow (as defined under 40 C.F.R. § 35.2005(b)(20)-(21)); but, nevertheless, the City has agreed to enter into this Agreement not as an admission of liability, but rather to avoid further expense, inconvenience, and distraction and risks of burdensome and protracted litigation, and to obtain total and final peace, satisfaction and protection from the claims asserted in the Lawsuit.

The Plaintiffs and the City have agreed that the Court shall enter an order certifying the Lawsuit as a class action. You are receiving this Notice because the City's records indicate that you were billed and/or paid Per-Acre Drainage Charges to the City between July 18, 2013 and June 30, 2017.

For settlement purposes, the Parties agree that the Court shall enter an order certifying a class of Plaintiffs (the "Class") consisting of all owners and occupiers of non-residential parcel-based real property who or which were billed and/or paid the Per-Acre Drainage Charges between July 18, 2013 and June 30, 2017 (the "Class Period"). Excluded from the Class are (1) the City itself, (2) owners or occupiers of non-residential parcel-based real property who or which were first billed the Per-Acre Drainage Charges on or after October 1, 2016 and prior to October 1, 2016, did not pay any Per-Acre Drainage Charges on any other owned or occupied non-residential parcel-based real property, and (3) any owners or occupiers of non-residential parcel based real property who have previously released or waived their claims for the entire Class Period. The proposed Settlement Agreement is intended to settle all of the claims of the members of the Class ("Class Members").

The principal terms of the Settlement Agreement are as follows:

For the purposes of the proposed Settlement, the City expressly denies any and all allegations that it acted improperly, but, to avoid litigation costs, the City has agreed to create a settlement fund in the aggregate amount of \$29,500,000 for the benefit of the Class ("Settlement Fund"). In addition, the City will write off and not attempt to collect all outstanding unpaid balances for Per-Acre Drainage Charges incurred by Class Members prior to July 18, 2013 ("Pre-July 18, 2013 Write Off"), the total amount of which is estimated to be approximately \$24,401,000 in past due amounts owing to the City. The City agrees to forever release its claims relating to the collection of the Pre-July 18, 2013 Write Off.

The Parties have further agreed to certain prospective relief. Specifically, for a twelve-month period beginning August 1, 2017 (the "Twelve-Month Period"), the City shall impose upon and collect from Class Members Per-Acre Drainage Charges at an effective rate of not more than \$661 per impervious acre, which according to Class Counsel, results in a net reduction in Per-Acre Drainage Charges assessed upon the Class Members of approximately \$24,000,000 for the Twelve-Month Period ("Twelve-Month Drainage Reduction").

The Settlement Fund will be utilized, with Court approval, to pay refunds to the Class, and to pay Class Counsel an award of attorneys' fees, the total amount of which shall not exceed Seven Million Seven Hundred Fifty Thousand Dollars (\$7,750,000), which is approximately 10% of the aggregate value of the Settlement Fund, the Pre-July 2013 Write Off, and the Twelve-Month Drainage Reduction, and expenses for the conduct of the litigation.

The "Net Settlement Fund" to be distributed to the Class is the Settlement Fund less the combined total of: (a) attorneys' fees, costs, and any incentive award to the Named Plaintiffs; and (b) Class Counsel and Claims-Escrow Administrator expenses reimbursed.

The Net Settlement Fund shall be used to pay Class Members as described below.

All Class Members may participate in the settlement of this case by receiving from the Net Settlement Fund a cash distribution payment or a credit on the Class Member's water and sewer account. To qualify to receive a distribution of cash via check (a "Payment") from the Net Settlement Fund, Class Members will be required to submit sworn claims (the "Claims") which identify their names, addresses, and the periods of time in which they paid the Charges in order to participate in the Settlement. Class Members who submit Claims will hereafter be referred to as the "Claiming Class Members." The Claiming Class Members will be required to submit those claims no later than December 6, 2017. A claim form is enclosed with this Notice.

The Claims-Escrow Administrator shall calculate the pro rata share of the Net Settlement Fund (the "Pro Rata Share") of each Class Member. Only those Class Members who paid Per-Acre Drainage Charges during the Class Period and submit a timely Claim are entitled to a Payment of their Pro Rata Share from the Net Settlement Fund. The size of each Claiming Class Member's Pro Rata Share shall be determined by (1) calculating the total amount of Charges the Claiming Class Member paid during the Class Period and then (2) dividing that number by the total amount of Charges the City assessed during the Class Period against all Claiming Class Members and then (3) multiplying that fraction by the amount of the Net Settlement Fund.

Class Members who do not submit claims or who do submit a claim but are members of one of the groups described below will receive a credit on their sewer account in the amount of their Pro Rata Share of the Net Settlement Fund ("Credit") which will be applied against future Per-Acre Drainage Charges unless the Outstanding Balance is greater than the Class Member's Pro Rata Share, in which case the Pro Rata Share will offset the Outstanding Balance to the extent of the amount of the Pro Rata Share. The term "Outstanding Balance" means with respect to each Class Member the amount of Per-Acre Drainage Charges assessed on or after July 18, 2013 which are at least thirty (30) days past due as of June 30, 2017. Any Credit will attach to the account associated with the Per-Acre Drainage Charges and will remain until Per-Acre Drainage Charges accrued after the Settlement Date exceed the amount of the Credit. Class Members thus will be separated into three (3) groups, each of which will benefit from the Settlement as follows.

i. Group 1 – Class Members who have Outstanding Balances equal to or greater than their respective Pro Rata Shares. No later than March 1, 2018, Group 1 Class Members will receive a Credit against their Outstanding Balances in the amount of their Pro Rata Shares paid from the City Administered Portion. If the Class Member's Pro Rata Share of the Net Settlement Fund is less than such Class Member's Outstanding Balance, the Outstanding Balance will be reduced by the amount of that Pro Rata Share, and the Class Member will still owe the City any remaining Outstanding Balance.

ii. Group 2 – Class Members who have Outstanding Balances that are less than their Pro Rata Shares. No later than March 1, 2018, Group 2 Class Members will receive from the City Administered Portion a Credit against their Outstanding Balances to the extent of their Outstanding Balances. Group 2 Class Members who submit claims will also receive a Payment from the Claims-Escrow Administrator in the amount by which their respective Pro Rata Shares exceed their Outstanding Balances. Such Payments will be paid from the portion of the Net Settlement Fund administered by the Claims-Escrow Administrator in accordance with the time frames set forth in Paragraph 5 of the Settlement Agreement. Group 2 Class Members who do not submit timely claims will receive no later than July 9, 2018, a Credit in their sewer account against future Per-Acre Drainage Charges in the amount by which their respective Pro Rata Shares exceed their Outstanding Balances.

iii. Group 3 – Class Members with no Outstanding Balances. Group 3 Class Members who submit timely claims will receive from the Claims-Escrow Administrator (and payable from portion of the Net Settlement Fund administered by the Claims-Escrow Administrator) a Payment that is equal to the amount of their respective Pro Rata Share. The Payment will be made in accordance with the time frames set forth in Paragraph 5 of the Settlement Agreement. Group 3 Class Members who do not submit timely claims will receive no later than July 9, 2018, a Credit in their sewer account against future Per-Acre Drainage Charges in the amount of their respective Pro Rata Shares.

The City may not levy a tax or other assessment against property owners or water or sewer customers to finance, in whole or in part, the Settlement Fund (unless such tax or assessment receives voter approval).

The Class Members shall release the City as provided below. In addition to the release set forth below, if the City complies with the prospective relief described above for the duration of the Twelve-Month Period, the Class Members who receive Payments and/or Credits as part of the settlement agree to extend Paragraph (b) of their Release and Covenant Not to Sue, which is more fully set forth below, to

include FY 2017-2018. Nothing in this Paragraph shall be construed as limiting the scope and extent of Paragraph (a) of the Release and Covenant Not to Sue.

Class Members who wish to exclude themselves from the Settlement may write to the Administrator, stating that they do not wish to participate in the Settlement and that they wish to retain their right to file an action against the City. This proposed settlement should not be interpreted, in any way, as suggesting that the claims alleged against the City have legal or factual merit. The City has challenged the validity of Plaintiff's claims and many of the substantive legal and factual issues have not been resolved. **This request for exclusion must be postmarked no later than November 15, 2017 and mailed to: Kickham Hanley PLLC, 32121 Woodward Avenue, Suite 300, Royal Oak, Michigan 48073.**

By remaining a Class Member, you will be bound by the terms of the proposed settlement and will be barred from bringing a separate action against the City for the claims asserted in the Lawsuit at your own expense through your own attorney. You will, however, receive your pro rata share of the Net Settlement Fund if submit a timely claim and you do not request exclusion from the Class. If you were to successfully pursue such a separate action to conclusion, recovery might be available to you which is not available in this class action settlement. Whether to remain a member of this class or to request exclusion from this class action to attempt to pursue a separate action at your own expense without the assistance of the City in this Action is a question you should ask your own attorney. Class Counsel cannot and will not advise you on this issue.

Pursuant to the Order of the Court dated _____, 2017, a Settlement Hearing will be held in the Wayne County Circuit Court, 2 Woodward Ave., Detroit, Michigan 48226 at 8:30 a.m., on January 5, 2018, to determine whether the proposed Settlement as set forth in the Settlement Agreement dated August __, 2017, is fair, reasonable, and adequate and should be approved by the Court, whether the Lawsuit should be dismissed pursuant to the Settlement and whether counsel for Plaintiff Class should be awarded counsel fees and expenses. At the Settlement Hearing, any member of the Class may appear in person or through counsel and be heard to the extent allowed by the Court in support of, or in opposition to, the fairness, reasonableness and adequacy of the proposed Settlement. However, no Class member will be heard in opposition to the proposed Settlement and no papers or briefs submitted by any such Class member will be accepted or considered by the Court unless on or before December 6, 2017, such Class member (i) files with the Clerk of the Court notice of that person's intention to appear, proof of class membership, written objections that indicate the basis for such opposition, and any supporting papers and briefs; and (ii) serves by first class mail copies thereof upon each of the following attorneys:

Attorneys for Plaintiff

Gregory D. Hanley, Esq.
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073

Attorneys for Defendants

Sonal Hope Mithani
Miller, Canfield, Paddock and Stone, P.L.C.
101 North Main Street, Seventh Floor
Ann Arbor, Michigan 48104

Any Class member who does not make and serve written objections in the manner provided above shall be deemed to have waived such objections and shall be forever foreclosed from making any objections (by appeal or otherwise) to the proposed Settlement.

AGAIN, IN ORDER TO RECEIVE A REFUND AS PART OF THIS CLASS ACTION SETTLEMENT, YOU ARE REQUIRED TO SUBMIT A WRITTEN CLAIM.

IF YOU PAID THE CITY OF DETROIT PER-ACRE DRAINAGE CHARGES FOR NON-RESIDENTIAL PARCEL-BASED REAL PROPERTY AT ANY TIME BETWEEN JULY 18, 2013 AND JUNE 30, 2017 AND WISH TO RECEIVE A CASH REFUND, YOU MUST SUBMIT THE ATTACHED CLAIM FORM ON OR BEFORE DECEMBER 6, 2017 AND MAIL IT TO _____ OR EMAIL THE COMPLETED FORM TO _____.

For a more detailed statement of the matters involved in the Lawsuit, including the terms of the proposed Settlement, you are referred to papers on file in the Lawsuit, which may be inspected during regular business hours at the Office of the Clerk of Circuit Court for Oakland County, Michigan. You may also view the Settlement Agreement and other important court documents at **www.kickhamhanley.com**.

Should you have any questions with respect to this Notice of the proposed settlement of the Lawsuit generally, you should raise them with your own attorney or direct them to counsel for the Class, **IN WRITING OR BY EMAIL TO KHTEMP@KICKHAMHANLEY.COM, NOT BY TELEPHONE**, identified as Attorneys for Plaintiffs, above. **DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE CITY (INCLUDING DWSD) OR THE ATTORNEYS FOR DEFENDANT.**

On the Settlement Date, each member of the Class who has not timely requested exclusion therefrom shall be deemed to have individually executed, on behalf of the Class Member and his or her heirs, successors and assigns, if any, the following Release and Covenant Not To Sue, which shall be binding on all class members who have not timely requested exclusion:

(a) In executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the City, and each of

its successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of past, present and/or future actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever, that, with respect to any parcel owned or occupied by the Class Member at any time during the Class Period, (1) challenge the City's Per-Acre Drainage Charge, and/or (2) challenge the method employed by the City to recover the direct and indirect costs incurred (including capital costs) by the City to operate, manage, maintain, treat and dispose of storm water and surface water runoff (including but not limited to infiltration and inflow as defined under 40 C.F.R. § 35.2005(b)(20)-(21)) on the grounds that the Per-Acre Drainage Charge (or the methodology employed by the City) is, or results in the assessment of, an unlawful tax, or is unlawful under the Headlee Amendment of the Michigan Constitution. This release does not extend to claims challenging the Per-Acre Drainage Charge based upon any other legal theory or authority.

(b) Also, in executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the City, and each of its successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever known or unknown, which arise from the beginning of time through June 30, 2017 that, with respect to any parcel owned or occupied by the Class Member at any time during the Class Period, concern or relate to (1) the legality of the City's Per-Acre Drainage Charges; (2) the City's calculation or assessment of the Per-Acre Drainage Charges; (3) the components of costs included in the Per-Acre Drainage Charges; and/or (4) the City's efforts to charge and/or collect the Per-Acre Drainage Charges.

(c) This release is intended to include all claims that were asserted or could have been asserted in the Lawsuit concerning the City's Per-Acre Drainage Charges. In executing the Release and Covenant Not to Sue, each Class Member also covenants that: (1) except for actions or suits based upon breaches of the terms of this Agreement or to enforce rights provided for in this Agreement, he, she or it will refrain from commencing any action or suit, or prosecuting any pending action or suit, in law or in equity, against the City on account of any action or cause of action released hereby; (2) none of the claims released under the Release and Covenant Not To Sue has been assigned to any other party; and (3) he, she or it accepts and assumes the risk that if any fact or circumstance is found, suspected, or claimed hereinafter to be other than or different from the facts or circumstances now believed to be true, the Release and Covenant Not To Sue shall be and remain effective notwithstanding any such difference in any such facts or circumstances. This release does not extend to claims that challenge the administered application of the City's retail Drainage Charge rate to a particular parcel, -- e.g., a claim that the City has miscalculated the impervious surface area of a particular property or has failed to properly record and deduct paid charges from drainage amounts owed.

EXHIBIT C

ATTENTION:

CURRENT AND FORMER CITY OF DETROIT NON-RESIDENTIAL

PARCEL-BASED PROPERTY OWNERS OR OCCUPANTS:

IMPORTANT NOTICE OF CLASS ACTION SETTLEMENT

YOU HAVE A LIMITED TIME TO SUBMIT A CLAIM TO OBTAIN A REFUND.

THE CLAIM FORM IS AVAILABLE AT WWW.KICKHAMHANLEY.COM

SEE THE INFORMATION BELOW:

TO: All persons and entities who owned or occupied non-residential parcel-based real property who were billed and/or paid per-acre drainage charges to the City of Detroit (the “City”) at any time between July 18, 2013 and June 30, 2017.

You are hereby notified that a proposed settlement in the amount of \$29,500,000 has been reached with the City in a class action lawsuit pending in Wayne County Circuit Court titled *Michigan Warehousing Group LLC v. City of Detroit*, Case No. 15-010165-CZ, presiding Judge John A. Murphy, challenging one of the City’s retail drainage charges (the “Per-Acre Drainage Charges”) imposed by the City’s Water and Sewerage Department (“DWSD”) upon Plaintiffs’ property located in the City. Plaintiffs allege that the Per-Acre Drainage Charges have been disproportionately imposed upon a particularized and narrow subset of the City’s property owners (including Plaintiffs) – i.e., those non-residential customers that prior to October 1, 2016 were billed Per-Acre Drainage Charges – i.e., billed based on the impervious acreage of their properties (the “Per-Acre Properties”).

Plaintiffs are non-residential water and sanitary sewer customers who have paid the Per-Acre Drainage Charges imposed by the City. Plaintiffs contend that the imposition of the Per-Acre Drainage Charges is motivated by a revenue-raising and not a regulatory purpose, that they are disproportionate to the City’s actual costs of providing drainage services, and that therefore, (1) the Charges are unlawful under the Headlee Amendment to the Michigan Constitution, (2) the Charges were imposed in violation of equal protection guarantees under the Michigan Constitution, and (3) the City is liable for a refund of the Charges under a theory of assumpsit.

The Plaintiffs seek a judgment from the court against the City that would order and direct the City to refund all Per-Acre Drainage Charges to which Plaintiffs and the class are entitled and any other appropriate relief.

The City denies that the Per-Acre Drainage Charges are improper; denies that it has committed any unlawful, wrongful or tortious acts or omissions of any kind, violated any constitutional provision

or statute, or breached any duties of any kind whatsoever; denies that class certification is appropriate; denies that it is in any way liable to any member of the Class; and states that the claims asserted in the Lawsuit have no substance in fact or law, and the City has meritorious defenses to such claims, including but not limited to the City's pre-Headlee Amendment charter authority to assess a drainage fee and the mandates presented by federal regulations to assess a user charge upon users of the City's combined sewage system in order to cover the costs related to infiltration and inflow (as defined under 40 C.F.R. § 35.2005(b)(20)-(21)); but, nevertheless, the City has agreed to enter into this Agreement not as an admission of liability, but rather to avoid further expense, inconvenience, and distraction and risks of burdensome and protracted litigation, and to obtain total and final peace, satisfaction and protection from the claims asserted in the Lawsuit.

For settlement purposes, the Parties agree that the Court shall enter an order certifying a class of Plaintiffs (the "Class") consisting of all owners and occupiers of non-residential parcel-based real property who or which were billed and/or paid the Per-Acre Drainage Charges between July 18, 2013 and June 30, 2017 (the "Class Period"). Excluded from the Class are (1) the City itself, (2) owners or occupiers of non-residential parcel-based real property who or which were first billed the Per-Acre Drainage Charges on or after October 1, 2016 and prior to October 1, 2016, did not pay any Per-Acre Drainage Charges on any other owned or occupied non-residential parcel-based real property, and (3) any owners or occupiers of non-residential parcel based real property who have previously released or waived their claims for the entire Class Period. The proposed Settlement Agreement is intended to settle all of the claims of the members of the Class ("Class Members").

The principal terms of the Settlement Agreement are as follows:

For the purposes of the proposed Settlement, the City expressly denies any and all allegations that it acted improperly, but, to avoid litigation costs, the City has agreed to create a settlement fund in the aggregate amount of \$29,500,000 for the benefit of the Class ("Settlement Fund"). In addition, the City will write off and not attempt to collect all outstanding unpaid balances for Per-Acre Drainage Charges incurred by Class Members prior to July 18, 2013 ("Pre-July 18, 2013 Write Off"), the total amount of which is estimated to be approximately \$24,401,000 in past due amounts owing to the City. The City agrees to forever release its claims relating to the collection of the Pre July 18, 2013 Write Off.

The Parties have further agreed to certain prospective relief. Specifically, for a twelve-month period beginning August 1, 2017 (the "Twelve-Month Period"), the City shall impose upon and collect from Class Members Per-Acre Drainage Charges at an effective rate of not more than \$661 per impervious acre, which according to Class Counsel, results in a net reduction in Per-Acre Drainage

Charges assessed upon the Class Members of approximately \$24,000,000 for the Twelve-Month Period (“Twelve-Month Drainage Reduction”).

The Settlement Fund will be utilized, with Court approval, to pay refunds to the Class, and to pay Class Counsel an award of attorneys’ fees, the total amount of which shall not exceed Seven Million Seven Hundred Fifty Thousand Dollars (\$7,750,000), which is approximately 10% of the aggregate value of the Settlement Fund, the Pre-July 18, 2013 Write Off, and the Twelve-Month Drainage Reduction, and expenses for the conduct of the litigation.

The “Net Settlement Fund” to be distributed to the Class is the Settlement Fund less the combined total of: (a) attorneys’ fees, costs, and any incentive award to the Named Plaintiffs; and (b) Class Counsel and Claims-Escrow Administrator expenses reimbursed. The Net Settlement Fund will be distributed to the Class through refunds or credits based upon each Class Member’s Pro Rata share of the Fund, which will be calculated using the total Charges incurred by each Class Member between July 18, 2013 and June 30, 2017.

All Class Members may participate in the settlement of this case by receiving from the Net Settlement Fund a cash distribution payment or a credit on the Class Member’s water and sewer account. **To qualify to receive a distribution of cash via check (a “Payment”) from the Net Settlement Fund, Class Members are required to submit sworn claims (the “Claims”) which identify their names, addresses, and the periods of time in which they paid the Charges in order to participate in the Settlement. Claims must be submitted no later than December 6, 2017.**

Class Members who do not submit Claims will receive credits on their sewer accounts as described in detail in the Settlement Agreement.

For a more detailed statement of the matters involved in the Lawsuit, including the terms of the proposed Settlement, the release that will apply to the Class Members’ claims, the process for submitting a Claim, your right to exclude yourself from the Settlement, and your right to object to the proposed Settlement, you are referred to papers on file in the Lawsuit, which may be inspected during regular business hours at the Office of the Clerk of Circuit Court for Oakland County, Michigan. You may also view the Settlement Agreement and other important court documents, and obtain the necessary claim form at www.kickhamhanley.com.

Should you have any questions about this Notice you should raise them with your own attorney or direct them to counsel for the Class, IN WRITING OR BY EMAIL, NOT BY TELEPHONE, identified below as Attorneys for Plaintiff and the Class. **DO NOT CONTACT THE COURT, CLERK OF THE COURT, THE CITY (INCLUDING DWSD), OR ATTORNEYS FOR DEFENDANT.**

Attorneys for Plaintiff and the Class:

Gregory D. Hanley (P70332)
Jamie Warrow (P61521)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073

AGAIN, IN ORDER TO RECEIVE A REFUND AS PART OF THIS CLASS ACTION SETTLEMENT, YOU ARE REQUIRED TO SUBMIT A WRITTEN CLAIM BY DECEMBER 6, 2017.

THE CLAIM FORM IS AVAILABLE AT WWW.KICKHAMHANLEY.COM

EXHIBIT D

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

MICHIGAN WAREHOUSING GROUP LLC,
a Michigan limited liability company, and
MIDWEST VALVE & FITTING COMPANY,
a Michigan corporation,

Plaintiffs/Appellees

Case No. 15-010165-CZ
Hon. John A. Murphy

v.

CITY OF DETROIT, a municipal corporation,
by and through its WATER AND SEWERAGE
DEPARTMENT,

Defendant/Appellant.

Kickham Hanley PLLC
Gregory D. Hanley (P51204)
Jamie K. Warrow (P61521)
Edward F. Kickham Jr. (P70332)
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073
(248) 544-1500
Attorneys for Plaintiffs

Sonal Hope Mithani (P51984)
Caroline B. Giordano (P76558)
Miller, Canfield, Paddock and Stone, P.L.C.
101 North Main Street, Seventh Floor
Ann Arbor, MI 48104
(734) 668-7786
Attorneys for Defendant

FINAL JUDGMENT AND ORDER APPROVING CLASS SETTLEMENT

At a session of said Court held in the
City of Detroit, County of Wayne,
State of Michigan on _____
PRESENT: HON. _____
Circuit Court Judge

WHEREAS, Plaintiffs and Defendant in this action have moved this Court pursuant to MCR 3.501(E), for an order approving the settlement of this class action in accordance with the terms set forth in the Class Action Settlement Agreement ("Agreement") executed by counsel for the parties, and

WHEREAS, this Court having held a hearing, as noticed, on January __, 2017 pursuant to the Order Regarding Preliminary Approval of Settlement, Notice and Scheduling, dated August __, 2017 (the "Order"), to determine the fairness, adequacy and reasonableness of a proposed settlement of the Class Action; and due and adequate notice (the "Notice") having been made by mailing in a manner consistent with Paragraphs 4 and 6 of the Order; and all such persons (excluding those who previously requested exclusion from the applicable Class) having been given an opportunity to object to or participate in the settlement; and the Court having heard and considered the matter, including all papers filed in connection therewith and the oral presentations of counsel at said hearing; and good cause appearing therefor,

For the reasons stated on the record, IT IS HEREBY FOUND, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The terms of the Agreement are fair, reasonable and adequate and in the best interests of the members of the Class and are hereby approved.

2. Plaintiffs and Defendant are hereby ordered and directed to perform and consummate the settlement set forth in the Agreement in accordance with the terms and conditions of the Agreement.

3. The notification to the Class members regarding the Settlement is the best notice practicable under the circumstances and is in compliance with MCR 3.501(E) and the requirements of due process of law.

4. This Lawsuit is hereby dismissed with prejudice, and without costs to any party except as provided for in the Agreement.

5. Kickham Hanley PLLC, counsel for the Class, is hereby awarded attorneys' fees and costs in the amount of \$_____, to be paid as set forth in the Agreement. Plaintiff

Michigan Warehousing Group, LLC is granted an incentive award of \$_____, to be paid as set forth in the Agreement. Plaintiff Midwest Valve & Fitting Company is granted an incentive award of \$_____, to be paid as set forth in the Agreement.

6. Without any further action by anyone, Plaintiffs and all members of the Class as certified by the Order dated _____, 2017, who previously did not submit a timely and valid Request for Exclusion are deemed to have executed the following Release and Covenant Not to Sue which is hereby approved by the Court and binding on all Class Members:

(a) In executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the City, and each of its successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of past, present and/or future actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever, that, with respect to any parcel owned or occupied by the Class Member at any time during the Class Period, (a) challenge the City's Per-Acre Drainage Charge, and/or (b) challenge the method employed by the City to recover the direct and indirect costs incurred (including capital costs) by the City to operate, manage, maintain, treat and dispose of storm water and surface water runoff (including but not limited to infiltration and inflow as defined under 40 C.F.R. § 35.2005(b)(20)-(21)) on the grounds that the Per-Acre Drainage Charge (or the methodology employed by the City) is, or results in the assessment of, an unlawful tax, or is unlawful under the Headlee Amendment of the Michigan Constitution. This release does not extend to claims challenging the Per-Acre Drainage Charge based upon any other legal theory or authority

(b) Also, in executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the City, and each of its successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of actions,

causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever known or unknown, which arise from the beginning of time through June 30, 2017 that, with respect to any parcel owned or occupied by the Class Member at any time during the Class Period, concern or relate to (1) the legality of the City's Per-Acre Drainage Charges; (2) the City's calculation or assessment of the Per-Acre Drainage Charges; (3) the components of costs included in the Per-Acre Drainage Charges; and/or (4) the City's efforts to charge and/or collect the Per-Acre Drainage Charges.

(c) This release is intended to include all claims that were asserted or could have been asserted in the Lawsuit concerning the City's Per-Acre Drainage Charges. In executing the Release and Covenant Not to Sue, each Class Member also covenants that: (a) except for actions or suits based upon breaches of the terms of this Agreement or to enforce rights provided for in this Agreement, he, she or it will refrain from commencing any action or suit, or prosecuting any pending action or suit, in law or in equity, against the City on account of any action or cause of action released hereby; (b) none of the claims released under the Release and Covenant Not To Sue has been assigned to any other party; and (c) he, she or it accepts and assumes the risk that if any fact or circumstance is found, suspected, or claimed hereinafter to be other than or different from the facts or circumstances now believed to be true, the Release and Covenant Not To Sue shall be and remain effective notwithstanding any such difference in any such facts or circumstances. This release does not extend to claims that challenge the administered application of the City's retail Drainage Charge rate to a particular parcel, -- e.g., a claim that the City has miscalculated the impervious surface area of a particular property or has failed to properly record and deduct paid charges from drainage amounts owed.

8. If the Defendant complies with the prospective relief described in the Agreement for the duration of the Twelve-Month Period, as defined in the Settlement Agreement, the Class Members who receive Payments and/or Credits as part of the settlement agree to extend their release as more fully set forth in Paragraph 6(b) above to include FY 2017-2018..

9. This Court retains continuing jurisdiction to effectuate the provisions of the Agreement and the terms of this Order.

IT IS SO ORDERED:

Dated: _____, 2017.

Oakland County Circuit Court Judge

We hereby stipulate to the entry of the above order.

Approved as to form and substance:

Gregory D. Hanley (P51204)
Jamie K. Warrow (P61521)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
(248) 544-1500
Attorneys for Plaintiff and the Class

Sonal Hope Mithani (P51984)
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