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STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

JUDY KISH and
JOYCE BANNON,
individually, and as representatives
of a class of similarly-situated persons
and entities,

Plaintiff,

v.

CITY OF OAK PARK,
a Michigan municipal corporation,

Defendant.

Case No. 2015-149751-CZ
JUDGE BOWMAN, CZ

Hon.

Gregory D. Hanley (P51204)
Jamie K. Warrow (P61521)
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PLAINTIFF'S CLASS ACTION COMPLAINT

Plaintiffs Judy Kish and Joyce Bannon ("Plaintiffs"), by their attorneys, Kickham Hanley PLLC, individually and on behalf of a class of similarly situated persons and entities, state as follows for their Complaint against Defendant City of Oak Park (the "City"):

INTRODUCTION

1. "When virtually every person in a community is a 'user' of a public improvement, a municipal government's tactic of augmenting its budget by purporting to charge a 'fee' for the 'service' rendered should be seen for what it is; a subterfuge to evade constitutional limitations on its power to raise taxes." *Bolt v. City of Lansing*, 459 Mich. 152, 166, 587 N.W.2d 264 (1998).

2. This is an action challenging the City's creative yet impermissible financing of its stormwater management obligations through purported "user fees" foisted upon a particularized subset of its citizenry. Plaintiffs challenge a mandatory debt service charge (the "Kuhn Facility Debt Charge") and a mandatory stormwater disposal charge (the "Stormwater Charge") imposed by the City on users of its water and sanitary sewage disposal services. The City persists in the exaction of these charges even though "the nature of a stormwater management system, which benefits the public without providing any individualized, measurable benefit to individual property owners, does not lend itself to a system of funding based on user fees." *Dekalb County v. U.S.*, 108 Fed. Cl. 681 (U.S. Court of Claims 2013).

3. The Kuhn Facility Debt Charge, which is incorporated into the water and sanitary sewage disposal rates charged by the City, constitutes a "tax" that has not been authorized by the City's voters in violation of Article 9, § 31 of the Michigan Constitution of 1963 (the "Headlee Amendment"). The City uses the revenues generated by the Kuhn Facility Debt Charge – approximately \$1 million per year – to pay for its share of the costs of the construction of a major infrastructure improvement (a combined sewer overflow ("CSO") facility) designed to benefit the general public and which should be financed through general taxation. The Kuhn Facility Debt Charge finances an investment in infrastructure and is not a fee designed simply to defray the costs of a regulatory activity. Therefore, the charge is precisely the type of exaction the Michigan Supreme Court found was an unconstitutional tax in the seminal case of *Bolt v. City of Lansing*, 459 Mich. 152, 587 N.W.2d 264 (1998).

4. Further, the Stormwater Charge – totaling approximately \$3.4 million per year – also constitutes an unlawful tax under the *Bolt* decision because it imposes upon one subset of residents – water and sanitary sewage disposal customers – the financial burden of a governmental activity – stormwater disposal – which benefits the community at large. Indeed, through payment of the

water and sewage disposal charges, Plaintiffs and the Class are paying the City's entire cost of stormwater management and disposal.

5. Both the Kuhn Facility Debt Charge and the Stormwater Charge are motivated by a revenue-raising and not a regulatory purpose, the charges to Plaintiffs and the Class are grossly disproportionate to the City's actual costs of providing to Plaintiffs and the Class the purported benefits for which the charges are purportedly imposed, and payment of the charges is not voluntary.

6. The Kuhn Facility Debt Charge and the Stormwater Charge also are unlawful because those charges are specifically prohibited by the Michigan Drain Code (MCL 280.1 et seq), the County Public Improvement Act (MCL 46.171 et seq), the Prohibited Taxes By Cities and Villages Act (MCL 141.91), and/or City Ordinance § 82-312.

7. Plaintiffs, individually and on behalf of a class of similarly situated persons and entities, seek, among other things, a refund of all Kuhn Facility Debt Charges and Stormwater Charges received by the City in the six years preceding the filing of this action and all such charges collected during the pendency of this action.

JURISDICTION AND VENUE

8. Plaintiffs own improved real property situated in the City of Oak Park, Oakland County, Michigan, has paid the charges at issue in this case, and seeks to act as a class representative for all similarly situated persons.

9. Defendant City of Oak Park (the "City") is a municipality located in Oakland County, Michigan.

10. Venue and jurisdiction are proper with this Court because all parties are present here and the actions which give rise to Plaintiffs' claims occurred in this County. Venue and jurisdiction

also are proper with this Court under Article 9, § 31 of the Michigan Constitution of 1963, and MCL 600.308a.

GENERAL ALLEGATIONS

11. The City maintains and operates a water supply system (the "Water Supply System") to provide fresh water to inhabitants of the City. The City purchases its water at wholesale from the City of Detroit. Per its ordinance § 82-312, the City assesses water rates (the "Water Rates") against the "premises" receiving water service, and obligates the owner or occupant of such land or premises to pay the Water Rates. Plaintiffs have received water service from the City and paid the Water Rates imposed by the City. The City characterizes water service as an "essential service" (Oak Park Zoning Ordinance § 202) and the City's ordinances and other applicable laws and regulations require or effectively require the structures used by its citizens to be connected to the City's Water Supply System.

12. Pursuant to its statutory authority, MCL 141.104, the City maintains and operates a sewer system (the "Sewer System") to provide sanitary sewage treatment and disposal services to inhabitants of the City and to collect surface runoff from snowmelt and rainwater ("stormwater"). The City contracts with Oakland County (the "County") for the treatment of sewage and the County, in turn, contracts with the Detroit Water and Sewerage Department ("DWSD") for treatment of the sanitary sewage and ultimate discharge of the effluent. The City also contracts with the County for stormwater disposal and the County, in turn, contracts with DWSD for disposal of the stormwater. The County's stormwater disposal services are of a general public nature and are furnished to the City at large.

13. Plaintiffs, at all relevant times, have received sanitary sewage disposal service from the City and paid the sewage disposal rates ("Sewage Disposal Rates") imposed by the City. Plaintiffs are required or effectively required by Michigan law, the City's ordinances, and other laws

and regulations to utilize the City's Sanitary Sewer System. *See, e.g.,* MCL 333.12753; City Ordinance § 82-131 ("The owner of any house, building, or property used for human occupancy, employment, recreation, or other purpose, now situated or hereafter constructed within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer . . .")

14. The City establishes Water and Sewage Disposal Rates from time to time through legislative action, and revenues generated by the Water and Sewage Disposal Rates are deposited into the City's Water and Sewer Fund. A copy of the relevant portions of City's Water and Sewer Ordinances are attached hereto as **Exhibit A** and incorporated herein by reference. The Sewage Disposal Rates are based directly and exclusively on the units of water the sewer customer uses from the City's water supply system.

15. The Kuhn Facility Debt Charge is included in the Water and Sewage Disposal Rates imposed by the City, and for the fiscal year ended June 30, 2014, the City collected Charges in excess of \$1.15 million. The Stormwater Charge also is included in the Water and Sanitary Sewer Rates imposed by the City, and for the fiscal year ended June 30, 2014, the City collected charges in excess of \$3.3 million. *See* George W. Kuhn Drainage District Schedule of Rates and Charges, attached as **Exhibit B**.

16. Even after taking into account payments to the County for its obligations relating to the Kuhn Facility Infrastructure Improvements and stormwater disposal, the City has consistently experienced an operating profit in its Water and Sewer Fund as a result of imposing Water and Sewer Charges which generate revenues far exceeding the City's actual costs of supplying water and sanitary sewer services to its inhabitants. For example, in FY 2014 (July 1, 2013 to June 30, 2014) the City's Water and Sewer Fund had net operating income of **\$2.38 million**. *See* 2013-2014

Comprehensive Annual Financial Report, attached in part as **Exhibit C**, pp. 37-39. The total operating income is calculated net of depreciation expenses. As of June 30, 2014, the Water and Sewer Fund had over **\$3.9 million** in cash and other current assets. *Id.*

THE CRITICAL DISTINCTION BETWEEN SANITARY SEWAGE AND STORMWATER

17. Like many older communities in Southeast Michigan, the City has a combined sanitary and storm sewer system, which is a system that is designed to collect both (i) snowmelt and rainwater ("stormwater") runoff and (ii) domestic sewage and industrial wastewater ("sanitary sewage"), in the same pipe.

18. Sanitary sewage – i.e., spent water from a municipal water supply system which may be a combination of liquid and water-carried wastes – enters a combined system directly from residences, commercial buildings, industrial plants, institutions and other structures. Owners and/or occupiers of such structures which generate the sewage are "users" of the sanitary sewage disposal services provided by the City.

19. Stormwater, in contrast, does not originate from any use of the water supply system or sanitary sewer system, and its presence in the combined system is wholly unrelated to the amount of tap water used, or sanitary sewage generated, by users of the system whose structures are physically connected to that system. Stormwater collects on both private and public land, roads and other physical surfaces during rainfall events, and the runoff enters the combined sewer system through catch-basins and other collection devices. As a result, surface run-off cannot be fairly ascribed to individual land-owners' "use" of the treatment system.

20. Even though they have different origins, both sanitary sewage and stormwater collected in a combined sewer system need to be disposed of. The City's combined sewer system flows to the Southeastern Oakland County Sewage Disposal System (the "County System"), which is owned and maintained by the County. Except during heavy rainfall when high volumes of

combined sanitary sewage and stormwater exceed the outlet capacity to Detroit causing excess flow to be diverted to the Kuhn Facility (as described below), the entire flow from the County System is conveyed to the DWSD treatment plant through Detroit's Dequindre Interceptor, which contains a master meter which measures the total flow passing from the County System into the DWSD treatment plant. DWSD charges the County for disposing of the sanitary sewage and stormwater and, in turn, the County charges the municipalities who contribute flow to the County System for such disposal. Those municipalities which have a combined sewer system, including the City, are charged a flat rate per month for stormwater disposal per a formula determined by the County. Those municipalities serviced by separate sanitary and stormwater systems do not incur charges from the County for stormwater disposal, since the stormwater collected by those municipalities does not enter the DWSD system but rather is discharged into neighboring watercourses.

**THE CITY'S USE OF WATER AND SANITARY SEWER REVENUES TO FINANCE
THE CONSTRUCTION OF A COMBINED SEWER OVERFLOW FACILITY**

21. Most of the time, combined sewer systems transport all of their sanitary sewage and stormwater to a sewage treatment plant, where it is treated and then discharged to a water body. During periods of heavy rainfall or snowmelt, however, the sanitary sewage and stormwater flow rate in a combined sewer system can exceed the capacity of the sewer system or treatment plant. For this reason, combined sewer systems were designed to overflow occasionally and discharge excess sanitary sewage and stormwater directly into nearby streams, rivers, or other water bodies. Historically, combined sewer overflows ("CSOs") were among the major causes of beach closings and other water quality impairments.

22. Following the passage of the Federal Clean Water Act, the Federal Government developed a nationwide CSO Control Policy and required local communities to implement interim and long-term control plans for combined sewer overflow events.

23. There are two recognized forms of corrective action to address CSOs: (1) separate the sewer system into two separate types of sewers: (a) sanitary sewers designed to carry only sanitary sewage to a wastewater treatment plant, and (b) storm water sewers designed to convey stormwater to nearby rivers, lakes or streams, or (2) install a retention and treatment system ("RTF"), which is designed to capture and treat the combined sanitary sewage and stormwater that would otherwise flow to surface waters untreated. The City is serviced by an RTF, the "Kuhn Facility", as described below.

24. The City is a member of the George W. Kuhn Drainage District (the "District"), which was originally established in 1942 (it was then called the Twelve Towns Drain District), and now includes the City and the cities of Berkley, Birmingham, Clawson, Ferndale, Hazel Park, Huntington Woods, Madison Heights, Oak Park, Pleasant Ridge, Southfield, Troy, and Royal Oak Township and the Village of Beverly Hills. The District encompasses a drainage area of 24,500 acres upstream of the Red Run Drain, a tributary of the Clinton River.

25. The original RTF servicing the members of the District was constructed in the early 1970s in the bed of the former Red Run Drain. This RTF runs 2.2 miles from Twelve Mile and Stephenson Highway in a northeastern direction to Dequindre Road south of Whitcomb where it empties into the Red Run Drain. The sole purpose of this RTF is to ameliorate the environmental effects of CSOs.

26. During dry weather, all flow from the combined sewer systems of the communities in the District is routed directly to the DWSD Waste Water Treatment Plant, but during heavy rainfall, high volumes of combined sanitary sewage and stormwater (typically more than 93 percent stormwater) exceed the outlet capacity to Detroit causing excess flow to be diverted to the RTF, where it is stored, screened, and disinfected prior to discharge to the Red Run Drain. Thus, the RTF is utilized only when CSO events occur, and the vast majority of the flow treated

(approximately 93%) constitutes stormwater runoff. Indeed, it is stormwater, not sanitary sewage, which causes the CSO events and thereby creates the need for the RTF.

27. By the 1990s the RTF could no longer meet more stringent environmental regulations. As part of an agreement with the Michigan Department of Environmental Quality ("MDEQ"), the City and the other communities in the District were required to plan and construct infrastructure improvements to the RTF aimed at reducing the volume and frequency of the overflows from the RTF into the Red Run Drain, and providing adequate treatment of the overflows when they did occur. By this time, the RTF was known as the George W. Kuhn Retention Treatment Basin (hereinafter, the "Kuhn Facility"). The cost of these improvements to the Kuhn Facility (the "Kuhn Facility Infrastructure Improvements") was originally expected to exceed \$140 million.

28. Construction of the Kuhn Facility Infrastructure Improvements commenced in 2000, and included the expansion of the existing retention treatment basin, the removal and re-routing of storm drains discharging into the basin (providing more volume to control combined sewer flows), and the installation of new screens and disinfection facilities. Construction was substantially complete by 2006 at a cost in excess of \$130 million.

29. Consistent with their purpose, the Kuhn Facility Infrastructure Improvements have provided significant environmental benefits to the public, both within and without the District. The expansion of the retention treatment basin by 30 million gallons has reduced overflow volume by an average of 875 million gallons per year. It has also eliminated the release of untreated combined sanitary sewage and stormwater by rerouting two combined sewers into the basin which would have otherwise entered the basin downstream of the new screens and disinfection facilities. All discharge is now screened, in addition to being settled and disinfected, to reduce pollutants prior to release. These improvements were undertaken in order to comply with the conditions of various wastewater

discharge permits issued by the MDEQ, and have greatly enhanced the environmental quality of the Clinton River watershed.

30. The Kuhn Facility Infrastructure Improvements were administered and initially financed by the County through various debt obligations. Pursuant to contracts with the County, the City and the other communities in the District each agreed to pay to the County, over 20 years, with interest, their *pro rata* share (based upon contributed flow) of the costs of the Kuhn Facility Infrastructure Improvements. As of June 30, 2014, the City was obligated to pay the County \$10 million in principal, plus interest, pursuant to a payment schedule that would pay off this obligation by 2029. See **Exhibit C**, p. 61. The City paid the County \$1.15 million in principal and interest for the City's share of the cost of the Kuhn Facility Infrastructure Improvements during the fiscal year ending June 30, 2014. See **Exhibit C**, p. 25.

31. Various of the communities in the District appropriately and correctly concluded that the costs associated with the Kuhn Facility Infrastructure Improvements should be a general fund obligation financed by general taxation. Certain communities did precisely what the Headlee Amendment requires by seeking and obtaining voter approval for new taxes to pay for the Improvements. For example, the City of Birmingham collects the funds necessary to pay its obligations to the County for the Kuhn Facility Infrastructure Improvements via a millage increase approved by Birmingham voters for that specific purpose. Similarly, Clawson collects the necessary funds pursuant to 2.35 mill tax increase approved by its own residents in 2010 for that specific purpose. Southfield, Huntington Woods and Troy did not increase taxes through voter millages, but nonetheless have treated their obligations for the Kuhn Facility Infrastructure Improvements as general obligations of their respective cities, and have funded those obligations from their respective general funds.

32. In contrast, the City has elected to finance its obligations to the County by charging only water and sanitary sewer users the Kuhn Facility Debt Charge as a component of the Water and Sanitary Sewer Rates paid by those users.

33. By virtue of the Kuhn Facility Debt Charge, the City has imposed and plans to continue to impose upon users of the water supply system and the sanitary sewer services, all or virtually all of the \$33 million cost of a major infrastructure improvement which should be financed by bonds, new property taxes and/or general fund revenues.

34. The use the City has made of the revenues generated by the Kuhn Facility Debt Charges constitute an investment in infrastructure as opposed to a fee designed simply to defray the costs of a regulatory activity. The Kuhn Facility Debt Charges are being used to fund public improvements designed to provide a long term benefit to the City and all its citizens. The revenues being derived from the Kuhn Facility Debt Charges are clearly in excess of the direct and indirect costs of the current "use" of the Kuhn Facility Infrastructure Improvements by the persons paying those exactions.

35. By imposing the cost of the Kuhn Facility Infrastructure Improvements only on water and sanitary sewage disposal customers, the City's charges do not correspond to the benefits conferred for at least three reasons. First, the Kuhn Facility Infrastructure Improvements do not confer a unique benefit upon Plaintiffs or the Class based upon their status as users of the water supply system and sanitary sewer services. While public water used, and sanitary sewage generated by, Plaintiffs may, under certain circumstances, be routed through the Kuhn Facility, the purpose of the Kuhn Facility Infrastructure Improvements is to address CSO events during heavy rainfall by providing a facility to receive combined sewer flows which exceed the outlet capacity to DWSD, and to store, screen, and disinfect that flow prior to discharge to the Red Run Drain. Significantly, up to 93% of the flow treated at the Kuhn Facility in the course of those events is stormwater that

originates not from public water supply or sanitary sewer usage, but rather from runoff from impervious surfaces during rain events. Indeed, the stormwaters collected in a combined sewer system are not "used" in any meaningful sense by any particular landowner or user.

36. Any "benefit" of the Kuhn Facility Infrastructure Improvements conferred on users of the City's water supply and sanitary sewer services is no different than the benefit conferred on the general public in the form of enhanced environmental quality. In fact, as the Michigan Supreme Court stated in *Bolt v. City of Lansing*, 459 Mich. 152, 166, 587 N.W.2d 264 (1998), in striking down fees the City of Lansing imposed to finance the construction of its own CSO facilities, "[i]mproved water quality ... and the avoidance of federal penalties for discharge violations are goals that benefit everyone in the city, not only property owners."

37. The City's use of the revenues generated by the Kuhn Facility Debt Charge to pay for the Kuhn Facility Infrastructure Improvements has the effect of forcing one subset of the citizenry (water and sanitary sewage disposal customers) to bear all of the costs of the construction of those public facilities, even though there are other "users" of those facilities and even though the facilities benefit the general public. Importantly, the Water and Sewer Rates are based exclusively on the volume of water each user extracts from the water supply system. A property owner's "use" of the Kuhn Facility, however, is not dependent upon the volume of tap water the owner extracts from the water supply system, but rather by a number of other factors, including the amount of rainfall and the area of impervious surface that is present on his or her property. Accordingly, by incorporating the Kuhn Facility Debt Charges, the Water Rates and Sanitary Sewer Rates do not reflect the actual costs of use of the Kuhn Facility, metered with relative precision in accordance with available technology and including an appropriate capital investment component.

38. Second, imposing the costs of the CSO facilities only on water and sanitary sewage disposal customers also allows other "users" of those facilities, including more intensive "users," to

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receive the benefit of those facilities without cost. In fact, the City's method of financing these costs fails to distinguish at all between those responsible for greater and lesser levels of runoff, which represents 93% of the flow processed by the Kuhn Facility. For example, a property owner with a parking lot with no water or sanitary sewer service incurs no charge for stormwater management or the Kuhn Facility, yet the impervious surface of a parking lot contributes much higher volumes of rainwater run-off to the stormwater system than does the same sized residential parcel. The City's method of financing these costs also fails to take into account the high volumes of rainwater run-off generated by public and private road surfaces. For these reasons, "the actual use of [the Kuhn Facility] by each [water and sanitary sewer user] is not accounted for with the requisite level of precision necessary to support a conclusion that the charge is proportionate to the costs of the services provided." *See County of Jackson v. City of Jackson*, 302 Mich. App. 90, 111; 836 N.W.2d 903 (2013).

39. Third, under *Bolt*, the Kuhn Facility Debt Charge is impermissibly designed to amortize the expense of the Kuhn Facility Infrastructure Improvements and to enable the City to fully recoup its investment in a period significantly shorter than the actual useful service life of the Improvements. The City must pay the County for the Kuhn Facility Infrastructure Improvements over a 20 year period, and that debt will be repaid by 2029. However, the Kuhn Facility Infrastructure Improvements will have an actual useful service life of more than 50 years. Nonetheless, the City has made no effort to allocate even that portion of the City's cost of the Kuhn Facility Infrastructure Improvements that will have a useful service life in excess of the financing period to the City's general fund.

40. The Kuhn Facility Infrastructure Improvements constitute an investment in infrastructure that will substantially outlast the current "mortgage" that the Kuhn Facility Debt Charge requires water and sanitary sewage disposal customers to amortize. At the end of 20 years,

those persons and entities will have fully paid for a tangible asset that will serve the City for many years thereafter.

41. By virtue of the Kuhn Facility Debt Charge, the City's Water and Sanitary Sewer Rates do not reflect the actual costs of use of the City's water supply and sanitary sewer systems, metered with relative precision in accordance with available technology and including an appropriate capital investment component. This is true even if the Kuhn Facility is "used" in some fashion by users of the City's water and sanitary sewer services.

THE CITY FORCES WATER AND SEWER CUSTOMERS TO FINANCE THE CITY'S ENTIRE COST OF STORMWATER MANAGEMENT AND DISPOSAL

42. The City's stormwater (and the stormwater of other communities in the District) is conveyed by the County to the DWSD for ultimate disposal. The DWSD charges the County a flat annual rate to dispose of the stormwater. The County, in turn, allocates the annual DWSD stormwater charge among all of the municipalities in the District, including the City, and charges each municipality a flat annual rate for stormwater disposal. *Id.* The DWSD stormwater charge to the County, and the County's pass-through stormwater charge to the City, are based on a formula tied to the amount of rainfall and the volume of surface water that enters the County system for ultimate disposal by DWSD.

43. While the charges for sanitary sewage disposal are based upon tap water usage and sanitary sewage volumes, the charges for stormwater disposal have no connection to usage of the City's water supply system or sanitary sewage disposal. The County charges the City in excess of \$3 million per year for such services. *See Exhibit B.* The City charges all of that cost to the Water and Sewer fund and imposes Stormwater Charges in order to recover the entire amount of that cost on an annual basis. *Id.* (a 3.9% increase in the City's water and sewer rates "is necessary due to a 3.9% increase in the wholesale water and sewage rates from Oakland County"). By virtue of the

Stormwater Charges, the City has imposed and plans to continue to impose upon water and sanitary sewage disposal customers, all of the cost of stormwater treatment.

44. The Stormwater Charges are being used to fund costs for services which provide a benefit to the City and all its citizens. The revenues being derived from the Stormwater Charges are clearly in excess of the direct and indirect costs of the current "use" of the stormwater disposal services by the persons paying those exactions.

45. By imposing the cost of the Stormwater Charges only on water and sanitary sewage disposal customers, the City's charges do not correspond to the benefits conferred for at least two reasons. First, stormwater disposal services do not confer a unique benefit upon Plaintiffs or the Class based upon their status as water and sanitary sewage disposal customers. Stormwater obviously does not originate from the use of the water supply system. It collects on land, roads and other physical surfaces, and the runoff enters the combined sewer system through catch-basins and other collection devices. Indeed, the storm waters collected in a combined sewer system are not "used" in any meaningful sense by any particular landowner or user.

46. Any "benefit" of stormwater disposal conferred on the City's water and sanitary sewage disposal customers is no different than the benefit conferred on the general public. Storm water systems help prevent erosion, collect contaminated water for cleansing, keep roadways from flooding, and prevent the formation of standing pools of stagnant water. The benefits resulting from this management are shared by nearly every member of the public.

47. The City's use of the revenues generated by the Stormwater Charges to pay for stormwater disposal has the effect of forcing one subset of the citizenry (water and sanitary sewage disposal customers) to bear all of the costs of a public service, even though there are other "users" of those services and even though the services benefit the general public. Importantly, the Water and Sanitary Sewer Rates are based exclusively on the volume of water each user extracts from the

water supply system. A property owner's "use" of stormwater treatment services, however, is not dependent upon the volume of tap water the owner extracts from the water supply system, but rather by a number of other factors, including the amount of rainfall and the area of impervious surface that is present on his or her property. Accordingly, by incorporating the Stormwater Charges, the Water and Sanitary Sewer Rates do not reflect the actual costs of stormwater disposal services, metered with relative precision in accordance with available technology and including an appropriate capital investment component.

48. Second, imposing the stormwater disposal costs only on water and sanitary sewage disposal users also allows other "users" of those facilities and services, including more intensive "users," to receive the benefit of those facilities and services without cost, including the City itself. In fact, the City's method of financing these costs fails to distinguish at all between those responsible for greater and lesser levels of runoff, which determine the volume of stormwater which enters the combined sewer system. For example, a property owner with a parking lot with no water or sanitary sewer service incurs no charge for stormwater management, yet the impervious surface of a parking lot contributes much higher volumes of rainwater run-off to the combined system than does the same sized residential parcel. The City's method of financing these costs also fails to take into account the high volumes of rainwater run-off generated by public and private road surfaces. For these reasons, "the actual use of [stormwater disposal services] by each [water and sanitary sewage disposal user] is not accounted for with the requisite level of precision necessary to support a conclusion that the charge is proportionate to the costs of the services provided." *See County of Jackson v. City of Jackson*, 302 Mich. App. 90, 111; 836 N.W.2d 903 (2013).

49. By virtue of the Stormwater Charge, the City's Water Rates and Sanitary Sewer Rates do not reflect the actual costs of use of the City's water supply and sewage disposal services, metered with relative precision in accordance with available technology and including an appropriate capital

investment component. This is true even if stormwater disposal services are "used" in some fashion by users of the City's water and sanitary sewer system.

PAYMENT OF THE CHARGES IS MANDATED BY THE CITY'S ORDINANCES

50. Payment of the Kuhn Facility Debt Charge and the Stormwater Charges are not voluntary because Plaintiffs and the Class are required to connect to the City's water supply and sanitary sewer system and, by virtue of that connection, are required to pay the charges at issue in this case. *See* Oak Park Ordinance § 82-131 ("The owner of any house, building, or property used for human occupancy, employment, recreation, or other purpose, now situated or hereafter constructed within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer ...".)

51. Oak Park Ordinance § 82-313 (a) provides that "[t]he rates and charges to be imposed for the consumption and use of water and sewer services furnished by the city shall be determined by ordinance by the city council from time to time and kept on file in the office of the city clerk."

52. Oak Park Ordinance § 82-313(b)(3) further provides:

Charges for water, sewer, and garbage and rubbish services furnished by the city to any premises **shall be a lien thereon**, and on March 1 and on September 1 of each year, the person or agency charged with the management of the systems shall certify any such charges which have been delinquent six months or more, to the city assessor who **shall enter the same upon the next available tax roll against the premises to which such services shall have been rendered**, together with a penalty of an additional ten percent. **The charges shall be collected and the lien shall be enforced in the same manner as provided in the respect to taxes assessed upon such roll . . . [emphasis added]**

**THE CITY'S IMPOSITION OF THE KUHN FACILITY DEBT CHARGES
AND THE STORMWATER CHARGES ALSO IS UNLAWFUL
BECAUSE THE CITY'S ORDINANCE PROHIBITS SUCH CHARGES**

53. The scope of the City's authority to charge for sewer services, and the sources of the funds, is defined and limited by the City's Ordinances.

54. City Ordinance § 82-312, titled "Basis of Charges", provides that "[a]ll sewage disposal service shall be charged for on the basis of water consumed and pollutants discharged into the sewage system."

55. Ordinance § 82-312 only empowers the City to charge for the disposal of "sewage" on the basis of water consumed and "pollutants" – not rainwater – discharged into the "sewage system" – not the stormwater disposal system.

56. The City's Sewer Ordinance § 82-101 expressly defines "sewage" to exclude stormwater runoff: "*Sewage or wastewater* means spent water which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions or other land uses, including drainage water and groundwater inadvertently present in the waste."

57. Stormwater therefore is not "sewage" within the meaning of City Ordinance § 82-312, and therefore the City is not authorized to charge sanitary sewage disposal customers for the City's cost of stormwater disposal.

58. The City has a legal duty to comply with its own ordinances.

59. The Stormwater Charges are illegal and void because they have been imposed, and continue to be imposed, in violation of City Ordinance § 82-312.

CLASS ALLEGATIONS

60. Plaintiffs bring this action as a class action, pursuant to MCR 3.501, individually and on behalf of a proposed class consisting of all persons or entities which have paid the City for water service and/or sewer service during the relevant class periods.

61. The members of the Class are so numerous that joinder of all members is impracticable.

62. Plaintiffs' claims are typical of the claims of members of the Class. Plaintiffs are members of the Class they seek to represent, and Plaintiffs were injured by the same wrongful conduct that injured the other members of the Class.

63. The City has acted wrongfully in the same basic manner as to the entire class.

64. There are questions of law and fact common to all Class Members that predominate over any questions, which, if they exist, affect only individual Class Members, including:

- a. whether the Kuhn Facility Debt Charges and Stormwater Charges imposed by the City are taxes;
- b. whether the Kuhn Facility Debt Charges and Stormwater Charges imposed by the City violate the Headlee Amendment;
- c. whether the Kuhn Facility Debt Charges and Stormwater Charges have a revenue-raising purpose;
- d. whether the Kuhn Facility Debt Charges and Stormwater Charges are disproportionate to the benefits conferred upon the payers of those charges;
- e. Whether the Kuhn Facility Debt Charges and Stormwater Charges are voluntary;
- f. Whether the Kuhn Facility Debt Charges and Stormwater Charges are authorized by state statutes and/or the City's ordinances; and
- g. Whether the City has been unjustly enriched by its collection of the Kuhn Facility Debt Charges and Stormwater Charges.

65. Plaintiffs will fairly and adequately protect the interests of the Class, and Plaintiffs have no interests antagonistic to those of the Class. Plaintiffs are committed to the vigorous

prosecution of this action, and has retained competent and experienced counsel to prosecute this action.

66. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. The prosecution of separate actions would create a risk of inconsistent or varying adjudications. Furthermore, the prosecution of separate actions would substantially impair and impede the ability of individual class members to protect their interests. In addition, since individual refunds may be relatively small for most members of the class, the burden and expense of prosecuting litigation of this nature makes it unlikely that members of the class would prosecute individual actions. Plaintiffs anticipate no difficulty in the management of this action as a class action.

COUNT I VIOLATION OF THE HEADLEE AMENDMENT

67. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

68. The City is bound by the Michigan Constitution of 1963, including those portions commonly known as the Headlee Amendment.

69. In particular, the City may not disguise a tax as a fee under Article 9, § 31 of the Michigan Constitution of 1963, which provides:

Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon. [Const. 1963, art. 9, § 31.]

70. The Kuhn Facility Debt Charges and Stormwater Charges are disguised taxes and intended to avoid the obligations of the Headlee Amendment, including the requirement that the Kuhn Facility Debt Charges and the Stormwater Charges, as taxes, be approved by a majority of the electorate.

71. The Kuhn Facility Debt Charges and Stormwater Charges have all relevant indicia of a tax:

- a. They have no relation to any service or benefit actually received by the taxpayer;
- b. The amount of the Kuhn Facility Debt Charges and Stormwater Charges is disproportionate to the cost incurred by the City in providing water and sewage disposal services;
- c. The Kuhn Facility Debt Charges and Stormwater Charges are designed to generate revenue;
- d. The payers of the Kuhn Facility Debt Charges and Stormwater Charges benefit in no manner distinct from any other taxpayer or the general public;
- e. Payment of the Kuhn Facility Debt Charges and Stormwater Charges are not discretionary, but actually or effectively mandatory;
- f. Various other indicia of a tax described in *Bolt v. City of Lansing* are present.¹

72. As a direct and proximate result of the City's implementation of the Kuhn Facility Debt Charges and Stormwater Charges, Plaintiffs and the Class have been harmed.

73. Plaintiffs seek their attorneys' fees and costs as allowed by Article 9, § 32 of the Michigan Constitution of 1963 and MCL 600.308a.

74. Plaintiffs seek damages in the form of a refund of all amounts to which they and the Class are entitled, including all Kuhn Facility Debt Charges and Stormwater Charges they paid to the City during the Headlee Class Period, as defined below.

¹ Pursuant to MCR 2.1112(M), Plaintiffs identify subparts (a) through (f) of Paragraph 71 as "factual questions that are anticipated to require resolution by the Court."

COUNT II
UNJUST ENRICHMENT – PROHIBITED TAXES BY
CITIES AND VILLAGES ACT, MCL 141.91

75. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

76. The Prohibited Taxes by Cities and Villages Act, MCL 141.91, provides: "Except as otherwise provided by law and notwithstanding any provision of its charter, a city or village shall not impose, levy or collect a tax, other than an ad valorem property tax, on any subject of taxation, unless the tax was being imposed by the city or village on January 1, 1964."

77. The City did not impose the Kuhn Facility Debt Charges on or before January 1, 1964.

78. In fact, construction of the Kuhn Facility Infrastructure Improvements, for which the Kuhn Facility Debt Charges are intended to pay, did not even begin until 2000.

79. The Kuhn Facility Debt Charges are not ad valorem property taxes.

80. Because the Kuhn Facility Debt Charges were not being imposed on January 1, 1964, they are unlawful under MCL 141.91.

81. As a direct and proximate result of the City's unlawful and improper conduct in collecting the Kuhn Facility Debt Charges, the City has collected millions of dollars to which it is not entitled.

82. By paying the Kuhn Facility Debt Charges, Plaintiffs and the Class have conferred a benefit upon the City.

83. The City has been unjustly enriched because it has received Kuhn Facility Debt Charges to which it was not entitled, and it would be unfair for the City to retain the Kuhn Facility Debt Charges under the circumstances.

84. The City should be required to disgorge the amounts by which it has been unjustly enriched.

COUNT III
UNJUST ENRICHMENT – COUNTY PUBLIC IMPROVEMENT ACT

85. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

86. The County Public Improvement Act ("CPIA"), MCL 46.171 *et seq.*, requires municipalities to charge all "users and beneficiaries" for sewage and stormwater disposal services. MCL 46.175; MCL 46.175a(c).

87. The CPIA also states that "[t]he rates, charges or assessments for water, sewage, and sewage disposal services may be fixed in accordance with the amount of water used as measured by water meter readings or by other such methods as may be deemed equitable." MCL 46.175.

88. The CPIA thus authorizes municipalities to impose rates for "sewage" and "sewage disposal services" that are tied to the amount of fresh tap water their citizens extract from the public water supply system.

89. However, the CPIA does not authorize stormwater disposal charges based upon tap water usage, because because the CPIA specifically defines "sewage" as not including stormwater. The definitional section of the CPIA, MCL 46.171(2)(a), provides: "Sewers means interceptor sewers for the transportation of sewage or stormwater or both, storm sewers, sanitary sewers, combined sanitary and storm sewers and all instrumentalities, facilities, and properties used or useful in connection with the collection of sewage or stormwater."

90. In fact, the CPIA prohibits a charge for stormwater disposal that is based upon tap water usage.

91. As a direct and proximate result of the City's unlawful and improper conduct in charging for stormwater disposal based on tap water usage, the City has collected millions of dollars to which it is not entitled.

92. By paying the City's Stormwater Charges based on tap water usage, Plaintiffs and the Class have conferred a benefit upon the City.

93. The City has been unjustly enriched because it has received Stormwater Charges to which it was not entitled, and it would be unfair for the City to retain the Stormwater Charges under the circumstances.

94. The City should be required to disgorge the amounts by which it has been unjustly enriched.

**COUNT IV
UNJUST ENRICHMENT – MICHIGAN DRAIN CODE**

95. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

96. The Michigan Drain Code, MCL 280.1 *et seq.*, mandates that the City finance its share of the Kuhn Facility Infrastructure Improvements through general ad valorem property taxes, and forbids the City from financing the improvements by including those costs in its sewer rates.

97. The Kuhn Facility is an intra-county drain and expansion of the Facility was therefore governed by Chapter 20 of the Drain Code.

98. The County drainage board must recover the costs of drain construction projects from municipalities which benefit from those projects. *See* MCL 280.473.

99. The Drain Code dictates to the assessed municipalities the method they must utilize to finance their respective shares of the Improvements – namely, ad valorem property taxes. MCL 280.473 provides that the drainage board shall "fix the date" "on which the first installment of special assessments shall become due and payable so that each public corporation can make a tax levy for the payment". MCL 280.474 provides that "[t]he tax levying officials of each of the other public corporations assessed shall levy sufficient taxes to pay assessment installments and interest as the same become due unless there has been set aside moneys sufficient therefor. A city or village may elect to spread the tax levy upon the county tax roll instead of the city or village tax roll."

100. By virtue of MCL 280.473 and 280.474, the Drain Code prohibits a benefitted municipality from financing its share of the costs of drain construction projects through "user fees"

or any method other than general property taxes unless the City takes legislative actions that it did not take with respect to the Kuhn Facility Debt Charges.

101. The Drain Code clearly prohibits recovery of the costs of drain construction projects through additional charges imposed upon water and sewer customers based upon tap water usage under these circumstances.

102. As a direct and proximate result of the City's unlawful and improper conduct in collecting the Kuhn Facility Debt Charges, the City has collected millions of dollars to which it is not entitled.

103. By paying the Kuhn Facility Debt Charges, Plaintiffs and the Class have conferred a benefit upon the City.

104. The City has been unjustly enriched because it has received Kuhn Facility Debt Charges to which it was not entitled under the Drain Code, and it would be unfair for the City to retain the Kuhn Facility Debt Charges under the circumstances.

105. The City should be required to disgorge the amounts by which it has been unjustly enriched.

**COUNT V
UNJUST ENRICHMENT – CITY CHARTER VIOLATION**

105. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

107. The City's Charter, § 14.3, provides: "Rates. The council shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide."

108. The City's Charter therefore requires it to establish "just and reasonable" water, drainage, and sewerage service rates.

109. The City has exceeded the authority stated in its Charter, § 14.3, by imposing inequitable stormwater disposal rates, in the form of the Kuhn Facility Debt Charges and Stormwater Charges, upon Plaintiffs and the Class.

110. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Kuhn Facility Debt Charges and Stormwater Charges, Plaintiffs and the Class have conferred a benefit upon on the City.

111. The City has been unjustly enriched because it received Kuhn Facility Debt Charges and Stormwater Charges to which it was not entitled, and it would be unfair for the City to retain the Kuhn Facility Debt Charges and Stormwater Charges under the circumstances.

112. The City should be required to disgorge the amounts by which it has been unjustly enriched.

COUNT VI
UNJUST ENRICHMENT – VIOLATION OF CITY ORDINANCE § 82-312

113. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

114. The City is not authorized by Ordinance § 82-312 to impose or collect the Kuhn Facility Debt Charges or the Stormwater Charges, and its actions with respect to the Kuhn Facility Debt Charges and the Stormwater Charges are ultra vires. The City's collection of the Kuhn Facility Debt Charges and the Stormwater Charges therefore was unlawful.

115. The City is prevented from retaining the Kuhn Facility Debt Charges and the Stormwater Charges by the equitable doctrine of unjust enrichment.

116. As a direct and proximate result of its imposition of the Kuhn Facility Debt Charges and the Stormwater Charges, the City has collected millions of dollars to which it is not entitled. By paying the Kuhn Facility Debt Charges and the Stormwater Charges, Plaintiffs and the Class conferred a substantial monetary benefit upon the City.

117. The City has been unjustly enriched because it received and retained the Kuhn Facility Debt Charges and Stormwater Charges to which it is not entitled. It would be inequitable to allow the City to retain the Kuhn Facility Debt Charges and the Stormwater Charges.

118. As a direct and proximate result of the City's retention of the Kuhn Facility Debt Charges and the Stormwater Charges, Plaintiff and the Class have been injured. The City should be required to disgorge the amounts by which it has been unjustly enriched, including all Kuhn Facility Debt Charges and Stormwater Charges paid by Plaintiffs and the Class during the Unjust Enrichment Class Period, as defined below.

COUNT VII
UNJUST ENRICHMENT – UNREASONABLE SEWER RATES

119. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

120. Even if the Kuhn Facility Debt Charges and the Stormwater Charges are not taxes, they must still be "reasonable." *Mapleview Estates v. City of Brown City*, 258 Mich. App. 412 (2003).

121. The Kuhn Facility Debt Charges and the Stormwater Charges are arbitrary, capricious and unreasonable.

122. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Kuhn Facility Debt Charges and the Stormwater Charges, Plaintiffs and the Class have conferred a benefit upon on the City.

123. The City has been unjustly enriched because it received Kuhn Facility Debt Charges and Stormwater Charges to which it was not entitled, and it would be unfair for the City to retain the Kuhn Facility Debt Charges and the Stormwater Charges under the circumstances.

124. The City should be required to disgorge the amounts by which it has been unjustly enriched.

PRAYER FOR RELIEF

Plaintiffs request that the Court grant the following relief:

A. Certify this action to be a proper class action with Plaintiffs certified as Class Representatives and Kickham Hanley PLLC designated Class Counsel;

B. With respect to Count I, define the Class to include all persons or entities which have paid the City for water or sewer service at any time in the one year preceding the filing of this lawsuit and/or at any time during the pendency of this action (the "Headlee Class Period");

C. With respect to Count I, enter judgment in favor of Plaintiffs and the Class and against the City, and order and direct the City to disgorge and refund all Kuhn Facility Debt Charges and Stormwater Charges collected during the Headlee Class Period, and order the City to pay into a common fund for the benefit of Plaintiffs and all other members of the Class the total amount of Kuhn Facility Debt Charges and Stormwater Charges to which Plaintiffs and the Class are entitled;

D. With respect to Counts II through VII, define the Class to include all persons or entities which have paid the City for water or sewer service at any time in the six years preceding the filing of this lawsuit and/or at any time during the pendency of this action (the "Unjust Enrichment Class Period");

E. With respect to Counts II through VII, enter judgment in favor of Plaintiffs and the Class and against the City, and order and direct the City to disgorge and refund all Kuhn Facility Debt Charges and Stormwater Charges collected during the Unjust Enrichment Class Period, and order the City to pay into a common fund for the benefit of Plaintiffs and all other members of the Class the total amount of Kuhn Facility Debt Charges and Stormwater Charges to which Plaintiff and the Class are entitled;

F. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

G. Find and declare that the Kuhn Facility Debt Charges and the Stormwater Charges violate the Headlee Amendment, the County Public Improvement Act, the Michigan Drain Code, the Prohibited Taxes By Cities and Villages Act, and the City's ordinances and permanently enjoin the City from imposing or collecting Kuhn Facility Debt Charges and Stormwater Charges;

H. Award Plaintiffs and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

I. Grant any other appropriate relief.

KICKHAM HANLEY PLLC

By: /s/ Gregory D. Hanley
Gregory D. Hanley (P51204)
Jamie Warrow (P61521)
Edward F. Kickham Jr. (P70332)
Attorneys for Plaintiffs and the Class
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073

Date: October 22, 2015
KH143936

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2015, I electronically filed the foregoing pleadings with the Clerk of the Court using the court's electronic filing system.

/s/ Kim Plets
Kim Plets

EXHIBIT - A

- (c) The determination of a water use emergency by the city manager, or his designee, and the degree of water rationing which is required and ordered, shall be submitted to the city council at the next available opportunity. The city council may continue, extend, reduce or eliminate water use restrictions as it may deem appropriate.
- (d) Upon declaration of a water use emergency and imposition of water use restrictions, the city will announce such declaration by such use of cable television, public radio, broadcast television and newspapers with normal operating range covering the community as is determined appropriate and necessary.

(Ord. No. O-94-327, § 2(42-31), 8-15-94)

Sec. 82-73. - Continuation of water use restrictions.

Water use restrictions ordered pursuant to this division shall remain in effect 24 hours per day, seven days per week until the city manager, or his designee, or the city council has declared an end to the water use emergency or determines that a more limited restriction will be sufficient to protect the health, safety, and general welfare of the community. The city manager, or his designee, may provide exceptions to water use restrictions where determined necessary to prevent imminent financial loss to a water user.

(Ord. No. O-94-327, § 3(42-32), 8-15-94)

Secs. 82-74—82-100. - Reserved.

ARTICLE III. - SEWERS

DIVISION 1. - GENERALLY

Sec. 82-101. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building drain means that part of the lowest horizontal piping of a drainage system which receives discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building's sewer (house sewer). The latter begins five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain that connects the building in which the sanitary sewage originates to the public sewer or other place of disposal and conveys the sewage of but one building.

Combined sewer means a sewer receiving both surface runoff and sewage.

Composite sample means a series of grab samples of equal volume, taken over a specified time period with no regard to the flow in the waste stream, which are combined into one sample.

Connection fee means the amount charged at the time and in the amount hereinafter provided to each premises in the city for connecting to the public sewer system.

Control manhole means a suitable manhole, together with such necessary meters, including where appropriate, adequate power source and other appurtenances, to facilitate observation, sampling and measurement of wastewater to be constructed in accordance with plans approved by the county's engineering personnel.

County means the County of Oakland, State of Michigan, or its authorized representative, the Detroit Water and Sewerage Department.

County agency means the county drain commissioner or the county department of public works.

Day means, for the purposes of computing a period of time prescribed or allowed by this article, consecutive calendar days.

Debt service charge means charges levied to customers of the wastewater system, which are used to pay principal, interest and administrative costs of retiring the debt incurred for the construction of the wastewater system. The debt service charge is separate and distinct and may be in addition to the user charge.

Domestic user means a person who contributes, causes or permits wastewater to be discharged into the publicly owned treatment works from a place of domicile for one or more persons, including, but not limited to, single-family houses, apartment buildings, condominiums, townhouses and mobile homes. It shall also mean churches, schools and government buildings.

Dwelling means any structure designed for year-round habitation, including, but not limited to, houses, mobile homes, apartment buildings, condominiums and townhouses.

Footing drain means a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits groundwater.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods. It is composed of putrescible organic matter and its natural moisture content.

Properly shredded garbage means the waste from the preparation, cooking and dispensing of foods that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 centimeters) in any dimension.

General specifications means the current edition of the standard material and construction requirements of the county.

Grab sample means a sample which is taken from a waste stream on a one-time basis without regard to the variations in flow rate but which shall reasonably reflect the characteristics of the waste stream at the time of sampling.

Groundwater means subsurface water occupying the saturation zone from which wells and springs are fed.

Holding-tank waste means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Industrial waste means the discharge into the publicly owned treatment works of any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

Infiltration means any waters entering the system from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include and is distinguished from inflow.

Infiltration/inflow means the total quantity of water from both infiltration and inflow.

Inflow means any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

Lateral line means that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line or interceptor and which collects sewage from a particular property for transfer to the trunk line or interceptor.

Local means a prefix denoting jurisdiction by the city.

Manager means the chief administrative officer of the city or his authorized representatives or agents.

Municipality means the City of Oak Park.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Obstruction means any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the trunk line or interceptor. This shall include, but not be limited to, objects, sewage, tree roots, rocks and debris of any type.

Owner means the owners of record of the freehold of the premises or lesser estate therein, a mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a building.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district or any other legal representative, agent or assigns or any combination thereof. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

Private means a prefix denoting jurisdiction by a nongovernmental entity.

Public means a prefix denoting jurisdiction by any governmental subdivision or agency.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Publicly owned treatment plant or POTW treatment plant means that portion of the publicly owned treatment works designed to provide treatment to wastewater, including the recycling and reclamation of wastewater.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Separate means a prefix denoting a wastewater transmission facility or sewer which is intended to transport sanitary wastewater only.

Service area means any area whose wastewater is received by the city or the county for the transmission for treatment by the DWSD (Detroit Water and Sewerage Department).

Sewage or wastewater means spent water which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions or other land uses, including drainage water and groundwater inadvertently present in the waste.

Sewer means a pipe or conduit that carries wastewater or drainage water. See the following definitions modifying the term sewer:

- (1) *Building sewer* means, in plumbing, the extension from the building drain to the public sewer or other place of disposal; also called house connection.
- (2) *Combined sewer* means a sewer intending to receive both wastewater and stormwater or surface water or drainage water.
- (3) *Common sewer* means a sewer in which all owners of abutting properties have equal rights.
- (4) *County sewer* means a public sewer controlled by the county agency.
- (5) *Intercepting sewer* means a sewer that receives dry-weather flow from a number of transverse sewers or outlets in frequently additional predetermined quantities of stormwater, if from a combined system, and conducts such waters to a point for treatment or disposal.
- (6) *Lateral sewer* means a sewer which is designed to receive a building sewer.
- (7) *Municipal sewer* means a public sewer exclusive of a county sewer or City of Detroit sewer.
- (8) *Public sewer* means a common sewer controlled by a governmental agency or public utility.
- (9) *Sanitary sewer* means a sewer that carries liquid and water-carried waste from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwater, stormwater, surface water and drainage water which are not admitted intentionally.
- (10) *Storm sewer* means a sewer that carries stormwater and surface water, street wash and other wash waters or drainage but excludes both domestic and industrial wastewater; also called a storm drain.
- (11) *Trunk sewer or trunk line* means a sewer which connects the lateral sewer to the intercepting sewer and to which building sewers may be connected.

Sewer service charge means the sum of the applicable user charge, surcharges and debt service charges.

Shall is mandatory; *may* is permissive.

Stormwater means the water running off from the surface of a drainage area during and immediately after a period of rain.

Superintendent means the superintendent of the city department of public works or his duly authorized representative or agent.

Surcharge means an additional charge which may be imposed to cover the cost of the treatment of excess-strength wastewater discharged by any customer.

Surface water means:

- (1) All water on the surface as distinguished from groundwater or subterranean water.
- (2) Water appearing on the surface in a diffused state, with no permanent source of supply or regular course for any considerable time, as distinguished from water appearing in watercourses, lakes or ponds.

Total equivalent master-metered water consumption means the equivalent to the total amount of potable water used by a municipality as recorded by a master water meter for sewer premises and shall include, but not be limited to, fire protection water, gardening and lawn water.

Unit means any premises or part thereof from which emanates that quantity of sanitary sewage ordinarily arising from the occupancy of a residential building by a single family of ordinary size.

User means any person who contributes, causes or permits the discharge of wastewater into the publicly owned treatment works.

Wastewater means the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, which are contributed to or permitted to enter the publicly owned treatment works. Wastewater may also contain infiltration and inflow waters and cooling water.

Wastewater facilities mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial waste and dispose of the effluent.

Watercourse means a channel in which a flow of water occurs either continuously or intermittently.

Waters of the state mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(Code 1973, § 42-40; Ord. No. O-97-366, § 1, 6-16-97; Ord. No. O-02-474, § 1, 9-3-02)

Cross reference— Definitions generally, § 1-2.

Sec. 82-102. - Abbreviations.

The following abbreviations shall have the designated meanings:

- (1) **BOD**: Biochemical oxygen demand.
- (2) **CFR**: Code of Federal Regulations.
- (3) **COD**: Chemical oxygen demand.
- (4) **DWSD**: Detroit Water and Sewerage Department.
- (5) **EPA**: Environmental protection agency.
- (6) **FOG**: Fats, oil or grease.
- (7) **l**: Liter.

Except as otherwise specifically provided, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Code 1973, § 42-46)

Sec. 82-108. - Additional requirements and regulations.

Nothing contained in this article shall be construed to interfere with any additional requirements or regulations that may be imposed by the health officer or otherwise limit his powers.

(Code 1973, § 42-47)

Secs. 82-109—82-130. - Reserved.

DIVISION 2. - CONNECTIONS

Sec. 82-131. - Required.

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purpose, now situated or hereafter constructed within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article and regulations supplementary hereto, within 90 days after the date of official notice to do so, provided that the public sewer is within 100 feet of the property line.

(Code 1973, § 42-52; Ord. No. O-97-366, § 2, 6-16-97)

Sec. 82-132. - Permit—Required.

No authorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city building inspector.

(Code 1973, § 42-53)

Sec. 82-133. - Same—Types.

There shall be two classes of building sewer permits:

- (1) For residential and commercial service; and
- (2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the city.

(Code 1973, § 42-54)

Sec. 82-134. - Same—Application.

The application for a permit required by the provisions of this division shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the building inspector.

(Code 1973, § 42-55)

Sec. 82-135. - Same—Fees.

Sec. 82-312. - Basis of charges.

All water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water or sewage disposal service customers by the department. All sewage disposal service shall be charged for on the basis of water consumed and pollutants discharged into the sewage system. No free water service or sewage disposal service shall be furnished to any person.

(Code 1973, § 42-116)

Charter reference— Utility rates and charges, collection, § 14.3 et seq.

Sec. 82-313. - Determination.

- (a) *Generally.* The rates and charges to be imposed for the consumption and use of water and sewer services furnished by the city shall be determined by ordinance by the city council from time to time and kept on file in the office of the city clerk.
- (b) *Enumeration.* The rates and charges for consumption and use of water and sewer services are as follows:
 - (1) *Water rates.* Effective on all bills rendered on or after July 1, 2015, the rates to be charged for water service shall be as follows:
 - a. Thirty-eight dollars and fifty-four cents (\$38.54) per thousand cubic feet.
 - b. Quarterly meter service and maintenance charges, in addition to subsection (b)(1) of this section as follows:

5/8-inch meter	\$ 4.75
¾-inch meter	5.03
1-inch meter	5.42
1½-inch meter	8.05
2-inch meter	9.14
3-inch meter	63.80
4-inch meter	69.57
6-inch meter	79.40
Minimum quarterly charge (includes water and meter service charge for a 5/8-inch meter service)	
24.02	
 - c. The minimum quarterly (three-month) water charge to each premises connected with the water supply system shall be the sum of \$24.02, provided that if there were two or more premises using the city water supply and such premises use one meter, the minimum consumption charge herein specified shall apply to each such premises and to the owner or tenant of each such premises, as applicable.
 - (2) *Sewage disposal rates.* The rates to be charged for sewage disposal services shall be as set forth below, and all bills for service rendered on or after the dates set forth shall be computed at such rates:
 - a.

Basic sewage disposal rate; minimum quarterly charge. Commencing July 1, 2015, the basic sewage disposal rate shall be \$67.12 per 1,000 cubic feet of water consumed. The minimum quarterly sewage disposal charge to each sewage disposal services customer shall be \$33.56, provided that if there are two or more premises using the city water supply and such premises use one meter, the minimum consumption charge herein specified shall apply to each such premises and to the owner or tenant of each such premises, as applicable.

- b. **High strength surcharge.** Effective with all bills rendered on or after August 1, 2015, for flows beginning on or after July 1, 2015, a high strength surcharge shall be levied against commercial and industrial customers, other than restaurants, contributing sewage to the sewage disposal system with concentrations of pollutants exceeding the following levels:

1. 275 milligrams per liter (mg/l) of biochemical oxygen demand (BOD);
2. 350 milligrams per liter (mg/l) of total suspended solids (TSS);
3. 12 milligrams per liter (mg/l) of phosphorus (P);
4. 100 milligrams per liter (mg/l) of fats, oils, and grease (FOG).

The high strength surcharge will be imposed at the following rates:

Pollutant	Charge per pound of excess pollutant
Biochemical oxygen demand (BOD)	\$0.502
Total suspended solids (TSS)	0.509
Phosphorus (P)	7.508
Fats, oils and grease	0.483

- c. **Industrial waste control charge.** Effective with all bills rendered on or after August 1, 2015, for flows beginning on or after July 1, 2015, an industrial waste control charge shall be levied against non-residential customers in an amount determined by the size of the water meter or meters serving such customers as set forth below:

Water Meter Size (inches)	Monthly Charge
5/8-inch meter	\$9.04
¾-inch meter	13.56
1-inch meter	22.60
1½-inch meter	49.72

2-inch meter	72.32
3-inch meter	131.08
4-inch meter	180.80
6-inch meter	271.20

No such surcharge shall be levied on the basis of any meter which serves exclusively residential users, including all structures designed for habitation including, but not limited to, single-family or two-family dwellings, apartment buildings, condominiums, townhouses, and mobile homes, nor shall such surcharge be levied on the basis of any meter used exclusively for fire protection purposes.

- (3) *Collection policy.* Charges for water, sewer and garbage and rubbish service furnished by the city to any premises shall be a lien thereon, and on March 1 and on September 1 of each year, the person or agency charged with the management of the systems shall certify any such charges which have been delinquent six months or more, to the city assessor who shall enter the same upon the next available tax roll against the premises to which such services shall have been rendered, together with a penalty of an additional ten percent. The charges shall be collected and the lien shall be enforced in the same manner as provided in the respect to taxes assessed upon such roll; provided that no such charge shall become a lien when a tenant is responsible for the payment of any such charge against any premises and the city has been so notified by the filing of an affidavit that the lease contains a provision that the landlord shall not be liable for payment of water or sewage system bills accruing subsequent to the filing of the affidavit. The affidavit shall be filed with the official in charge of the water works system and 20 days' notice shall be given by the landlord of any cancellation, change in, or termination of the lease. The affidavit shall contain a notation of the expiration date of the lease. In the event of the filing of such affidavit, no further service shall be rendered by the systems to such premises until payment to the city of a cash deposit in accordance with section 82-316.
- (4) *Services outside the city.* Water service provided outside the corporate limits of the city shall be provided by contract only with approval of the city council, and in no event shall the rates and charges for such service be less than the rates charged to customers residing within the corporate limits of the city.

(Code 1973, § 42-117; Ord. No. O-94-322, § 2, 6-20-94; Ord. No. O-95-339, § 1, 6-19-95; Ord. No. O-96-351, § 1, 6-17-96; Ord. No. O-97-369, § 1, 6-16-97; Ord. No. O-98-377, § 1, 6-15-98; Ord. No. O-99-393, § 3, 6-21-99; Ord. No. O-00-421, § 1, 6-19-00; Ord. No. O-01-445, § 1, 6-18-01; Ord. No. O-02-466, § 1, 6-17-02; Ord. No. O-03-484, § 1, 6-16-03; Ord. No. O-04-499, § 1, 6-21-04; Ord. No. O-05-514, § 1, 6-20-05; Ord. No. O-06-526, § 1, 6-19-06; Ord. No. O-07-531, § 1, 6-18-07; Ord. No. O-08-551, § 1, 6-16-08; Ord. No. O-09-560, § 1, 6-15-09; Ord. No. O-10-571, § 1, 6-21-10; Ord. No. O-11-578, § 1, 6-20-11; Ord. No. O-12-591, § 1, 6-18-12; Ord. No. O-13-594, § 1, 6-17-13; Ord. No. O-14-604, § 1, 6-16-14; Ord. No. O-15-613, § 1, 6-15-15)

Sec. 82-314. - Service to city.

EXHIBIT - B

4. Flat Rate Storm Charge

	<u>FY 2014</u>
DWSD Purchased Expense	\$ 20,314,120
DWSD Operating Expense	8,835,673
Interest Income	(224,200)
Total	<u>\$28,925,593</u>

The new apportionment percentages have been reflected effective July 1, 2013.

Municipality	Allocation in Percent	2013 Annual Charge	2014 Annual Charge	\$ Inc/Dec	Quarterly Charge	Monthly Charge	% Change
City of Berkeley	6.4885%	\$1,818,375.24	\$1,576,882.84	-\$241,492.40	\$394,185.64	\$131,395.20	-2.7%
Village of Beverly Hills	0.5888%	208,803.18	203,828.82	-\$4,974.36	\$52,202.46	\$17,401.15	-2.7%
City of Birmingham	4.5837%	1,219,046.80	1,106,523.90	-\$112,522.90	296,630.98	\$98,876.99	-2.7%
City of Clawson	0.8282%	1,479,370.87	1,439,808.47	-\$39,562.40	\$369,881.37	\$119,960.78	-2.7%
City of Ferndale	10.3685%	2,888,168.20	2,489,882.14	-\$398,286.06	\$747,013.04	\$249,004.35	-2.7%
City of Hazel Park	2.2654%	882,882.84	847,882.82	-\$35,000.02	\$211,965.70	\$70,655.23	-2.7%
City of Huntington Woods	2.4671%	618,826.19	588,886.89	-\$30,939.30	\$154,716.72	\$51,572.24	-2.7%
City of Madison Heights	8.6410%	1,882,734.43	1,688,174.78	-\$194,559.65	\$470,693.69	\$156,897.89	-2.7%
City of Oak Park	13.8583%	3,484,325.82	3,319,806.93	-\$164,518.89	\$876,375.48	\$292,125.16	-2.7%
City of Pleasant Ridge	1.3390%	234,236.04	228,318.00	-\$5,918.04	\$58,079.50	\$19,359.83	-2.7%
City of Royal Oak	29.7028%	7,414,276.75	7,216,471.97	-\$197,804.78	\$1,804,117.99	\$601,372.66	-2.7%
Township of Royal Oak	1.2733%	318,883.88	310,378.21	-\$8,505.67	\$77,594.05	\$25,864.68	-2.7%
City of Southfield	7.7166%	1,925,832.70	1,874,560.82	-\$51,271.88	\$468,637.70	\$156,212.57	-2.7%
City of Troy	2.4799%	618,821.27	602,806.42	-\$16,014.85	\$150,701.60	\$50,233.87	-2.7%
Detroit Zoo	0.3994%	84,870.63	81,730.38	-\$3,140.25	\$20,182.59	\$6,727.53	-2.7%
Rackham Golf Course	0.1913%	47,751.43	46,477.47	-\$1,273.96	\$11,689.37	\$3,896.45	-2.7%
State of Michigan	2.4035%	628,846.83	611,857.81	-\$16,989.02	\$154,711.95	\$51,570.65	-2.7%
County of Oakland	1.6274%	381,282.68	371,080.80	-\$10,201.88	\$92,770.22	\$30,923.41	-2.7%
Total	100.00%	\$24,983,641.81	\$24,286,583.87	-\$697,057.94	\$6,073,898.39	\$2,024,632.80	-2.67%

EXHIBIT - C

City of Oak Park,
Michigan



Year Ended
June 30, 2014

Comprehensive
Annual Financial
Report

Prepared by
Finance Department

City Manager
Erik Tungate

CITY OF OAK PARK, MICHIGAN

Management's Discussion and Analysis

The City's general obligation Moody's Investor Service underlying bond rating continues to be Aa2 with outstanding debt having the third highest rating due to bond insurance purchased at the time of issuance. The State limits the amount of general obligation debt that cities can issue to 10 percent of the assessed value of all taxable property within the City's corporate limits. The City's outstanding general obligation debt is below this \$43.31 million state-imposed limit.

Other obligations include accrued vacation pay and sick leave. More detailed information about the City's long-term liabilities is presented in Note 10 to the financial statements.

Economic Factors and Next Year's Budget and Rates

Oak Park (population 29,319) is primarily a residential community located in southeastern Oakland County, Michigan. The local tax base has experienced a decline of 8.57% for fiscal year 2013-2014 and is expected to continue to decline in the following year (2.98% expected for 2014-2015). This continued but slowing decline signals continued challenges in the near future. Service levels will be adjusted to match declining revenue.

In November 2012, the voters approved the creation of an Act 345 retirement system for public safety employees. The approval comes with the ability to use a property tax levy to fund a portion of public safety retirement costs (previously paid by the General Fund). The voters approved for up to 7 mills be assessed annually to be used for this purpose for a seven year period beginning in 2013-2014 fiscal year. In fiscal years 2013-2014 and budgeted 2014-2015, only 6.4729 of the allowable millage was levied.

Overall net general bonded debt is moderate, at \$1,038 per capita and 7.57% of assessed value.

The City's elected and appointed officials considered many factors when setting the fiscal year 2013-2014 budget including tax rates and fees to be charged for the business-type activities. One of those factors is the economy. Unemployment in the City now stands at 12.1 percent versus 13.3 percent a year ago. This compares with the State's unemployment rate of 7.9 percent and the national rate of 6.3 percent.

These indicators were taken into account when adopting the general fund budget for fiscal year 2013-2014. The fiscal year 2014-2015 budget was adopted in May 2014. Amounts available for appropriation in the general fund budget are \$17.14 million, an increase of 1.20% percent over the final fiscal year 2013-2014 amount of \$16.93 million. Property tax revenue is budgeted to decrease slightly by .44%. Overall, revenues are expected to remain relatively flat. Budgeted expenditures are expected to increase, to \$16.91 million from \$15.58 million in fiscal year 2013-2014. The City has added no major new programs or initiatives to the fiscal year 2013-2014 budget.

The expense plan for the water and sewer fund for fiscal year 2014-2015 is \$12,655,358, an increase of \$.61 million from fiscal year 2013-2014. The plan includes an increase in water rates of 3.9% and an increase in sewer rates of 3.9%. This increase is necessary due to a 3.9% increase in the wholesale water and sewage rates from Oakland County.

This plan includes expenses for the Twelve Towns Drain System (known also as the George W. Kuhn Drain). Construction continues and ten bonds have been issued to pay for the cost. The City is responsible for 13.48% of the cost. Debt payments have been built into the budget and sewer rates increased to meet our obligations. The George W. Kuhn Drain debt payment will be \$1.15 million in fiscal year 2014-2015.

Contacting the City's Financial Management

This financial report is designed to provide our citizens, taxpayers, customers, investors and creditors with a general overview of the City's finances and to show the City's accountability for the money it receives. If you have questions about this report or need additional financial information, contact the Director of Finance and Administrative Services' Office, at the City of Oak Park, 14000 Oak Park Blvd., Oak Park, MI, 48237.

CITY OF OAK PARK, MICHIGAN

Statement of Net Position

Proprietary Funds

June 30, 2014

	Business-type Activities	Governmental Activities
	Water and Sewer Enterprise Fund	Internal Service Funds
Assets		
Current assets:		
Cash and investments	\$ 3,920,155	\$ 454,658
Receivables:		
Special assessments	51,307	-
Accounts	3,122,358	-
Accrued interest	184	34
Due from other governments	223,312	-
Prepaid items	362	13,281
Total current assets	<u>7,317,678</u>	<u>467,973</u>
Noncurrent assets:		
Capital assets not being depreciated	1,506,024	-
Capital assets being depreciated, net	25,160,086	1,162,807
Total noncurrent assets	<u>26,666,110</u>	<u>1,162,807</u>
Total assets	<u>33,983,788</u>	<u>1,630,780</u>
Liabilities		
Current liabilities:		
Accounts payable	861,844	31,055
Accrued liabilities	96,020	199,750
Current portion of long-term debt	883,699	-
Total current liabilities	<u>1,841,563</u>	<u>230,805</u>
Noncurrent liabilities, net of current portion:		
Accumulated compensated absences	184,366	1,333
Bonds payable	9,008,845	-
Total noncurrent liabilities	<u>9,193,211</u>	<u>1,333</u>
Total liabilities	<u>11,034,774</u>	<u>232,138</u>
Net position		
Net investment in capital assets	16,773,566	1,162,807
Unrestricted	6,175,448	235,835
Total net position	<u>\$ 22,949,014</u>	<u>\$ 1,398,642</u>

The accompanying notes are an integral part of these basic financial statements.

CITY OF OAK PARK, MICHIGAN

Statement of Revenues, Expenses and Changes in Fund Net Position

Proprietary Funds

For the Year Ended June 30, 2014

	Business-type Activities	Governmental Activities
	Water and Sewer Enterprise Fund	Internal Service Funds
Operating revenues		
Charges for services	\$ 11,549,909	\$ 829,184
Miscellaneous	764	194,031
Total operating revenues	11,550,673	1,023,215
Operating expenses		
Gasoline	-	207,770
Professional services	-	89,637
Supplies	-	174,375
Postage	-	57,179
Water	1,085,980	-
Sewage treatment	5,192,925	-
Transmission and distribution	923,691	-
Maintenance and operation	798,926	-
Customer accounting and collection	173,798	-
General and administration	351,878	-
Depreciation	635,396	126,716
Wages and benefits	-	71,624
Insurance	-	611,724
Total operating expenses	9,162,594	1,339,025
Operating income (loss)	2,388,079	(315,810)
Nonoperating revenues (expenses)		
Interest income	17,315	366
Interest expense	(285,304)	-
Total nonoperating revenues (expenses)	(267,989)	366
Change in net position	2,120,090	(315,444)
Net position, beginning of year	20,828,924	1,714,086
Net position, end of year	\$ 22,949,014	\$ 1,398,642

The accompanying notes are an integral part of these basic financial statements.

CITY OF OAK PARK, MICHIGAN

Statement of Cash Flows

Proprietary Funds

For the Year Ended June 30, 2014

	Business-type Activities	Governmental Activities
	Water and Sewer Enterprise Fund	Internal Service Funds
Cash flows from operating activities		
Receipts from customers	\$ 10,864,123	\$ -
Receipts from interfund services	-	829,184
Miscellaneous receipts	-	194,031
Payments to suppliers	(7,013,684)	(1,066,168)
Payments to employees	(1,264,993)	(1,951)
Net cash provided (used) by operating activities	2,585,446	(44,904)
Cash flows from capital and related financing activities		
Purchases of capital assets	(371,161)	(110,429)
Principal paid on long-term debt	(862,095)	-
Interest paid on long-term debt	(285,304)	-
Net cash used by capital and related financing activities	(1,518,560)	(110,429)
Cash flows from investing activities		
Interest and dividends	17,438	397
Net change in cash and investments	1,084,324	(154,936)
Cash and investments, beginning of year	2,835,831	609,594
Cash and investments, end of year	\$ 3,920,155	\$ 454,658
Reconciliation of operating income (loss) to net cash provided		
by operating activities:		
Operating income (loss)	\$ 2,388,079	\$ (315,810)
Adjustments to reconcile operating income (loss) to net cash provided		
by operating activities:		
Depreciation expense	635,396	126,716
Change in assets and liabilities:		
Special assessments receivable	10,338	-
Accounts receivable	(694,147)	-
Due from other governments	(2,741)	-
Prepaid items	8,553	12,891
Accounts payable	224,202	7,078
Accrued liabilities	(6,477)	124,221
Accrued compensated absences	22,243	-
Net cash provided by operating activities	\$ 2,585,446	\$ (44,904)

The accompanying notes are an integral part of these basic financial statements.

CITY OF OAK PARK, MICHIGAN

Notes to Financial Statements

	Beginning Balance	Additions	Deductions	Ending Balance	Due Within One Year
Business-type activities					
Limited tax general obligation bonds George W. Kuhn Drain installments of \$65,707 to \$1,061,080 through April 1, 2029, interest at 1.625% to 5.25%	\$ 10,754,639	\$ -	\$ (862,095)	\$ 9,892,544	\$ 883,699
Compensated absences	162,123	37,251	(15,008)	184,366	-
Total business-type activities	\$ 10,916,762	\$ 37,251	\$ (877,103)	\$ 10,076,910	\$ 883,699

Annual debt service requirements to maturity for long-term debt are as follows:

Year Ended June 30	Governmental Activities		Business-type Activities	
	Principal	Interest	Principal	Interest
2015	\$ 1,400,000	\$ 1,146,704	\$ 883,699	\$ 267,753
2016	1,435,000	1,109,156	900,323	243,777
2017	1,480,000	1,069,561	934,274	219,055
2018	1,520,000	1,027,610	957,866	193,602
2019	1,570,000	983,535	980,806	167,465
2020-2024	8,580,000	4,161,139	4,843,506	426,473
2025-2029	9,595,000	2,578,458	392,070	26,714
2030-2034	5,200,000	1,002,329	-	-
2035-2036	2,240,000	135,286	-	-
	\$ 33,020,000	\$ 13,213,778	\$ 9,892,544	\$ 1,544,839

All general obligation bonded debt is supported by the City's full faith and credit. Interest is payable on all obligations semi-annually. Principal is paid on an annual basis.

The City is a participating community in the George W. Kuhn drain project. The project is administered by the Oakland County Drain Commission and financed through the sale of drain bonds, a State of Michigan revolving loan fund, federal and state grants, and contributions from Oakland County. The City along with 13 other local communities are obligated for payment of principal and interest of the outstanding debt. It is currently anticipated that the City's total obligation at the end of construction will be approximately \$15.6 million with an interest rate ranging from 1.625% to 5.25%. As of June 30, 2014, the City's outstanding obligation is \$9.893 million and incurred interest expense of \$285,304 for the year then ended. Due to the current construction of the project, the sale of drain bonds and draws from the revolving fund are being incurred on as an as needed basis and thus an accurate schedule of principal and interest payments cannot be determined at this time.

Kim Plets

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