

STATE OF MICHIGAN
OTTAWA COUNTY CIRCUIT COURT

STACY PHOTHISAN, individually,
and as representative of a class of
similarly-situated persons and entities,

Plaintiff,

Case No. 2025-0000008184-CZ

Hon. JUDGE KAREN J MIEDEMA

v.

CITY OF HOLLAND, MICHIGAN,
a municipal corporation, by and through
THE HOLLAND BOARD OF PUBLIC WORKS,

Defendant.

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Jamie K. Warrow (P61521)
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PLAINTIFF'S CLASS ACTION COMPLAINT AND JURY DEMAND

Plaintiff Stacy Phothisan (hereinafter, "Plaintiff"), by her attorneys, Kickham Hanley PLLC and Head Murphy Law, individually and on behalf of a class of similarly situated class members, states the following for her Class Action Complaint against the City of Holland, Michigan, a municipal corporation, by and through the Holland Board of Public Works (the "City"):

INTRODUCTION

1. This is an action challenging the retail electric rates and charges (the “Electric Rates” and “Electric Charges”) imposed by the City on citizens and entities (the “Electric Customers”) who/which receive electricity from the City’s Electric Utility Fund (the “Electric Fund”). The City, through its Electric Fund, has systematically garnered tens of millions from its Electric Customers through its excessive rate practices.

2. Michigan has long recognized that a “municipally-owned utility is built and operated, not for a corporate profit, but for the purpose of providing utility services at a reasonable cost to the citizens...” *Wolgamood v. Village of Constantine*, 302 Mich. 384, 404-405, 4 N.W.2d 697 (1942). Contrary to this principle, since at least 2019, the City has set its Electric Rates at a level far in excess of the rates that were necessary to finance the actual costs of providing electric services.

3. The City has grossly overcharged its Electric Customers by including in its Electric Rates a charge (the “Transfer Charge”) that is designed to raise millions of dollars of revenues that the Electric Fund transfers to the City’s General Fund (and other City funds) to be used for “the general purposes of the City.” The City has made no attempt to prove that these transfers reflect the reimbursement of costs the General Fund (or any other City fund) allegedly incurs to support or provide services to the Electric Fund.

4. Relying on certain provisions in its Charter, the City allocates approximately 6.25% of its budgeted Electric Fund revenues to the Transfer Charge. That translates to about \$8 million per year. Between July 1, 2020 and June 30, 2024 the City transferred over \$30 million from the Electric Fund to the City’s Fund.

5. In addition to violating the City’s Charter, because the City’s Electric Rates included the Transfer Charge, those overall Electric Rates have been unreasonable in violation of common-law ratemaking principles. Indeed, because of the Transfer Charge, the City’s Electric Rates,

“viewed as a whole,” have been “excessive.” *Youmans v. Bloomfield Township*, 336 Mich. App. 161, 969 N.W.2d 570 (2021).

6. Finally, the Revenue Bond Act of 1933, MCL 141.121, governs the City’s Electric Rate practices and prohibits the charging of Rates which intentionally generate surpluses that can be devoted to non-utility purposes.

7. The City’s Transfer Charge, which generates electric utility revenues that the City uses for non-utility purposes, renders the City’s Electric Rates unlawful pursuant to MCL 141.121.

JURISDICTION AND VENUE

8. Plaintiff is an electric customer of the City, has paid the Electric Rates and Charges, and seeks to act as a class representative for all similarly situated persons and entities.

9. The City is a municipality located in Ottawa County, Michigan.

10. Venue and Jurisdiction are proper with this Court because all parties are present here and the actions which give rise to Plaintiff’s claims occurred in this County. This Court also has jurisdiction pursuant to MCR 3.501 because this is a class action.

GENERAL ALLEGATIONS CONCERNING THE CITY’S ELECTRIC UTILITY AND ELECTRIC RATES

11. By Charter and ordinance, the Holland Board of Public Works (“HBPW”) is a department of the City established to construct, maintain, improve, and extend the electric plants and distribution systems of the City. *See* Exhibit 1, City Charter, § 12.4 and § 12.5.

12. Through the HBPW, the City maintains and operates an electric utility (the “Electric Utility” or “Electric Fund”) purportedly to provide “electrical energy to meet the requirements of [its] electric system customers; and to provide that energy at the lowest cost possible at a high level of reliability as needed by those customers.” *See e.g.* HBPW 2016 Mission Statement.

13. HBPW provides electricity not only to the City of Holland but the surrounding townships of Holland Township, Park Township, Laketown Township, and Fillmore Township.

14. The City, through the HBPW, establishes its Electrical Rates from time to time through its Charter and enacted ordinances. *See* Exhibit 1, City Charter § 12.17.

15. The City holds a lien on the premises to which electric service is provided in order to secure payment of electric charges. Regarding this, the Charter provides:

Except as otherwise provided or limited by state law, the city shall have as security for the collection of all charges, a lien upon the premises to which such utility services were supplied. Such liens shall become effective immediately upon the distribution or supplying of such utility service or services to such premises. [*See* Exhibit 1, Charter, § 12.18.]

ALLEGATIONS CONCERNING THE TRANSFER CHARGE

16. The City has grossly overcharged its Electric Customers by including in its Electric Rates a cost component designed to generate millions of dollars of revenues that are transferred from the Electric Fund to other City funds (the “Transfer Charge”). The transferred funds, generated by the Electric Rates and Charges, are used for the general support of the City, and for purposes wholly unrelated to providing electric services.

17. The City’s General Fund receives the majority of its financing from four primary sources: (a) property taxes; (b) state shared revenues; (c) fees & charges for services; and (d) an annual transfer from the City’s Electric Utility Fund (the “Transfer”) to the General Fund and other City funds, as purportedly authorized by City Charter provisions. *See generally*, City Budgets from FY 2020 through FY 2025.

18. The Charter provision that purports to authorize the City’s Transfer (§ 12.16) provides:

The receipts from the operation of the electric and water utilities and income from investments shall be applied to the purposes thereof, in accordance with the budget appropriations, including the payment of bonds outstanding or which may be issued for the purposes of such utilities and the interest thereon.

The **net income** shall be determined by deducting from the receipts from operations and income from investments all expenses incurred and charges made or allowed for and on behalf of such utility in accordance with budget appropriations, or by

appropriate action under authority of section 9 of this chapter, and after the setting aside of moneys for the payment of principal and interest on indebtedness in accordance with any ordinance or resolution authorizing such indebtedness.

Up to 50% of the annual net income of the board may be appropriated by the council to the general purposes of the city. All such net income which is not so appropriated shall be placed in proper accounts or funds of the city which shall be established as reserves for future operations, replacement, extension, or improvement of such utilities.

Nothing herein contained shall be interpreted to limit the power of the council to place, for any year, in such accounts or funds a larger percentage than 50% of such net income to the purposes of such utilities, in the event that such appropriation shall be requested by the board of public service [works] and be approved by seven members of the council.

The foregoing limitation of 50% of such net income which may be appropriated by the council for general purposes may be increased in any year by and with the consent of the board of public service [works], and the consent of seven members of the council.

Such funds so established as reserves for the purposes of the utilities may be invested and reinvested by the city auditor as the board of public service [works] shall direct, by and with the approval of the council, in such investments as are authorized by law for investment by fiduciaries. Said funds may be used for the purposes of such utilities upon the recommendation of the board of public service [works], by and with the consent of the council.

The electors of the city may, by a 3/5 vote of the qualified electors voting on such proposal at a regular or special election, approve an appropriation of more than 50% of the net income for any year for general purposes, or may approve the placing of more than 50% of the net income for any year in the reserve accounts or funds as above provided for the purposes of such utilities, or may approve for other municipal purposes the use of such accumulated and unallocated accounts or funds as have been established. [Exhibit 1, § 12.16 (Emphasis added).]

19. Thus, pursuant to the City's Charter, the Electric Utility is permitted to transfer 50% of its net income—or a higher percentage of the net income, **but only the net income** and then only if approved by the City's Council—for the “general purposes of the city.”

20. The City prepares financial statements for its Electric Fund. These financial statements show that, in the six years preceding the filing of this Complaint, the City has systematically transferred, on an annual basis, at least \$7 million per year from the Electric Fund to the City's General Fund or other City funds.

21. The formula for determining the amount of the Transfer varies from year to year but is purportedly based upon a percentage of the Electric Fund's budgeted revenues of the same fiscal year.

22. According to the City's 2021 CAFR, the City's General Fund received a Transfer from the Electric Fund consisting of "5.5% of the Electric Utility Fund budgeted revenues of the same fiscal year." *See* Exhibit 2, 2021 CAFR at p. 79. For fiscal year 2021, total Transfers of \$7,968,900 were made. A \$6,091,621 Transfer was made to the General Fund, and a \$1,877,279 Transfer was made to the Municipal Facilities and Land Improvements Projects.

23. According to the City's 2022 CAFR, the City's General Fund received a Transfer from the Electric Fund consisting of "6.25% of the average of the previous three calendar year sales." *See* Exhibit 3, 2022 CAFR p. 14. The City further reported in its 2022 CAFR that the "current formula for determining this transfer is based upon 6.25% of Electric Utility Fund budgeted revenues of the same fiscal year. Based on this formula, a \$6,000,000 transfer was made to the General Fund, and a \$491,380 transfer was made to the Municipal Facilities/Land Improvements Projects Fund. Additionally, the City receives a portion of the electric wholesale sales designated for the capital improvement fund. The total for fiscal year 2022 was \$2,104,004 allocated to the Municipal Facilities/Land Improvements Projects Fund. For fiscal year 2022, total transfers of \$8,595,384 were made." *Id.* p. 79.

24. According to the City's 2023 CAFR, the City's General Fund received a Transfer from the Electric Fund consisting of "6.25% of the average of the previous three calendar year sales." *See* Exhibit 4, 2023 CAFR p. 14. The City further reported that "the current formula for determining this transfer is based upon 6.25% of Electric Utility Fund budgeted revenues of the same fiscal year. Based on this formula, a \$6,372,000 transfer was made to the General Fund. Additionally, the City receives a portion of the electric wholesale sales designated for the capital

improvement fund. The total for fiscal year 2023 was \$2,084,856 allocated to the Municipal Facilities/Land Improvements Projects Fund. For fiscal year 2023, total transfers of \$8,456,856 were made.” *Id.* p. 78.

25. According to the City’s 2024 CAFR, the City’s General Fund received a Transfer from the Electric Fund consisting of “6.25% of the average of the previous three calendar year sales.” *See* Exhibit 5, 2024 CAFR p. 14. The City also reported that the “current formula for determining this transfer is based upon 6.25% of Electric Utility Fund budgeted revenues of the same fiscal year. Based on this formula, a \$6,228,000 transfer was made to the General Fund. Additionally, the City receives a portion of the electric wholesale sales designated for the capital improvement fund. The total for fiscal year 2024 was \$3,413,232 allocated to the Municipal Facilities/Land Improvements Projects Fund. For fiscal year 2024, total transfers of \$9,641,232 were made.” *Id.* p. 84.

26. The City continued to make the Transfers and impose the Transfer Charge in the fiscal year beginning July 1, 2024 and continues to make the Transfers and impose the Transfer Charge as of the date of the filing of this Complaint.

27. The amounts used to support the Transfers are incorporated into the City’s Electric Rates through the Transfer Charge. The City’s electric customers were assessed the Transfer Charge in each and every electric bill they received. Moreover, as Electric Customers of the City, Plaintiff and each member of the Class paid the Transfer Charge when they paid their electric bill. Due to the Transfer Charge alone, the City has overcharged its customers by over \$40 million during the Class Periods, as defined below.

28. The City makes no attempt to justify the Transfer Charges as representing reimbursement for services provided to the Electric Fund by other City departments. To the

contrary, the historical amounts of the Transfers have been determined **solely** by reference to the financial needs of the City's General Fund.

29. In a memorandum dated March 27, 2019, the City Manager and the General Manager of the HBPW advocated for the "establishment of policy to guide planning and execution of utility transfers." In the memorandum, the authors stated:

The payments have been made from the HBPW electric utility. Except for two years (2009 and 2016), the payments have been limited to the percent of gross electric sales revenue. In 2009 and 2016, additional specific payments were made to support City needs. Those were \$300k in 2009 for the parking deck on 7th and approximately \$200k in 2016 to support the Holland Historic Trust.

Increases in the transfer percentage during the early part of this period were the result of the housing market collapse in 2008 and a resetting of the taxable value of properties in Holland. This caused significant financial strain on the City's General Fund. The HBPW transfer increase tempered this impact somewhat. During this time, the HBPW also experienced significant decline in industrial sales of electricity due to the economic recession that followed the housing crisis. The HBPW experienced a rebound in sales volume after 2011, led mostly by the economic recovery. This was coupled by a series of rate adjustments targeted to prepare for the investment in Holland Energy Park. That worked to spark significant growth, on average nearly 8.5% year over year, in the transfer payment between 2012 and 2018. By 2018, the transfer percentage had reached 5.75% of **gross electric retail sales**. [Exhibit 6 hereto (emphasis added)].

30. The City's Transfer Charge has been imposed in violation of the City's Charter because the City's Transfer Charges have been based on varying percentages of the budgeted **gross revenues** of the Electric Fund and not on 50% of the budgeted **net income** of the Electric Fund, as required by § 12.16 of the Charter.

31. The Charter requires the City to determine the "net income" of the Electric Fund as follows: "The net income shall be determined by deducting from the receipts from operations and income from investments all expenses incurred and charges made or allowed for and on behalf of such utility in accordance with budget appropriations, or by appropriate action under authority of section 9 of this chapter, and after the setting aside of moneys for the payment of principal and interest on indebtedness in accordance with any ordinance or resolution authorizing such

indebtedness.” Thus, all expenses of the Electric Fund must be deducted from the gross revenues of the Electric Fund to determine the “net income.”

32. The City’s improper use of gross revenues instead of net income to determine the amount of the Transfer Charge violates the Charter provision. In fact, for FY 2021 through FY 2025, the Transfer Charge was prohibited because the Electric Fund had **no** net income in any of those fiscal years.

33. In addition, the City issued revenue bonds to finance the Holland Energy Park and is therefore subject to the Revenue Bond Act and its limitations on rates and charges.

34. The Revenue Bond Act, MCL § 141.121, provides in pertinent part:

(1) Rates for services furnished by a public improvement shall be fixed before the issuance of the bonds. The rates shall be sufficient to provide for all the following: (a) The payment of the expenses of administration and operation and the expenses for the maintenance of the public improvement as may be necessary to preserve the public improvement in good repair and working order. (b) The payment of the interest on and the principal of bonds payable from the public improvements when the bonds become due and payable. (c) The creation of any reserve for the bonds as required in the ordinance. (d) Other expenditures and funds for the public improvement as the ordinance may require.

(2) **The rates shall be fixed and revised by the governing body of the borrower so as to produce the amount described in subsection (1).** The borrower shall covenant and agree in the ordinance authorizing the issuance of the bonds and on the face of each bond to maintain at all times the rates for services furnished by the public improvement sufficient to provide for the amount described in subsection (1). Rates pledged for the payment of bonds that are fixed and established pursuant to a contract or lease shall not be subject to revision or change, except in the manner provided in the lease or contract. [Emphasis added.]

35. MCL 141.121(1) subparts (a) through (d) require municipalities that are subject to the Revenue Bond Act to use funds garnered by municipal utility rates only to support the utility itself. Subpart (d) is a catch-all, but that provision expressly requires the funds to be expended “for the public improvement.” Subdivision (2) requires that the rates be set only “to produce the amount described in subsection (1).” Collectively, these provisions of the Revenue Bond Act prohibit the

charging of rates which intentionally generate surpluses that can be devoted to non-electric utility purposes.

36. The City's practice of transferring a percentage of its electric utility revenues to the City's General Fund and other funds of the City for the general purposes of the City is thus unlawful under the Revenue Bond Act because it allocates electric utility revenues to other City funds for non-electric utility purposes.

CLASS ALLEGATIONS

37. Plaintiff brings 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 electrical service during the relevant Class Periods, as defined in the Prayer for Relief below.

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

39. Plaintiff's claims are typical of the claims of members of the Class. Plaintiff is a member of the Class he seeks to represent, and Plaintiff was injured by the same wrongful conduct that injured the other members of the Class.

40. The City has acted wrongfully in the same basic manner as to the entire Class.

41. 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 Transfer Charge violates § 12.16 of the City Charter;
- b. Whether the Transfer Charge renders the City's Electric Rates unreasonable under the common-law;
- c. Whether the Transfer Charge is unlawful pursuant to the Revenue Bond Act, MCL § 141.121;
- d. Whether the City has been unjustly enriched by collecting the Transfer

Charge from its electric customers; and

- e. Whether the City should be required to disgorge and refund revenues received through imposing the Transfer Charge upon its electric customers.

42. Plaintiff will fairly and adequately protect the interests of the Class, and Plaintiff has no interests antagonistic to those of the Class. Plaintiff is committed to the vigorous prosecution of this action and has retained competent and experienced counsel to prosecute this action.

43. 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. Plaintiff anticipates no difficulty in the management of this action as a class action.

COUNT I
UNJUST ENRICHMENT – VIOLATION OF CITY CHARTER
TRANSFER CHARGES

44. Plaintiff incorporates each of the preceding paragraphs 1 through 43 as if fully set forth herein.

45. § 12.16 of the City’s Charter purports to authorize the City to transfer up to 50% of the “net income” of the Electric Fund to the City for the “general purposes of the City.”

46. Pursuant to Article 7, § 22 of the Michigan Constitution, “[u]nder general laws the *electors* of each city and village shall have the power and authority to frame, adopt and amend its charter...” (Emphasis added.) Under Article 7, §. 22, “the electors of cities are vested with control over their cities’ charters...” and “the electorate of a city is entitled to the final word as to whether a

revised charter is to be adopted.” *Sheffield v. Detroit City Clerk*, 508 Mich. 851, 853, 962 N.W.2d 157 (2021).

47. A city may not take any action “that contradicts limitations expressly provided in the city’s charter. The charter of a city stands as its ‘constitution’; it is the definition of a city’s rights and obligations as a municipal entity, so far as they are not otherwise legally granted or imposed.” *Bivens v. City of Grand Rapids*, 443 Mich. 391, 399, 505 N.W.2d 239 (1994).

48. The City has violated its Charter by transferring monies from the Electric Fund to the City that exceeded the limitations on such Transfers set forth in the Charter.

49. Since July 1, 2020, the City has not transferred 50% of the net income of the Electric Fund to the City but instead has transferred varying percentages of the gross revenues of the Electric Fund to the City for the “general purposes of the City.”

50. The City’s Electric Fund has had **no** net income since the fiscal year ending June 30, 2020. Thus, § 12.16 of the City Charter prohibited the City from transferring **any** of the Electric Fund monies to the City’s General Fund or any other City fund.

51. The City’s Transfers between July 1, 2020 and the filing of this Complaint violated the City Charter because they exceeded 50% of the net income of the Electric Fund.

52. 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 Transfer Charges, which are necessarily incorporated into the City’s Electric Rates, Plaintiff and the Class have conferred a benefit upon the City.

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

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

COUNT II
UNJUST ENRICHMENT – VIOLATION OF MCL § 141.121
TRANSFER CHARGES

55. Plaintiff incorporates each of the preceding paragraphs 1 through 43 as if fully set forth herein.

56. The City is subject to the Revenue Bond Act because it issued revenue bonds to pay for its new electric power utility. The City's Charter is subject to the Revenue Bond Act pursuant to MCL § 117.36, which provides that "[n]o provision of any city charter shall conflict with or contravene the provisions of any general law of the state." Thus, even if the City complied with its Charter in making the Transfers, the Transfers are still unlawful because they are prohibited by the Revenue Bond Act, for the reasons set forth below.

57. MCL § 141.121(1) subparts (a) through (d) requires the City to use funds collected through the imposition of the City's Electric Rates only to support the Electric Fund itself. MCL § 141.121(2) requires the City's to set its Electric Rates only to "produce the amount described in subsection (1)." Collectively, these provisions of the Revenue Bond Act prohibit the City from charging Electrical Rates which intentionally generate surpluses that can be devoted to non-electric utility purposes.

58. The City's practice of transferring a percentage of its Electric Rate revenues to the City's General Fund and other City funds for the general purposes of the City is thus unlawful under MCL § 141.121 of the Revenue Bond Act because it allocates Electric Rate revenues for non-electric utility purposes.

59. 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 Transfer Charge, which is

necessarily incorporated into the City's Electric Rates, Plaintiff and the Class have conferred a benefit upon the City.

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

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

COUNT III
UNJUST ENRICHMENT – UNREASONABLE UTILITY RATES
TRANSFER CHARGES

62. Plaintiff incorporates each of the preceding paragraphs 1 through 43 as if fully set forth herein.

63. Because the City's Electric Rates includes and continue to include the Transfer Charge, those overall Rates are and have been unreasonable in violation of common-law ratemaking principles. Indeed, because of the Transfer Charge, the City's Electric Rates, "viewed as a whole," have been "excessive." *Youmans v. Bloomfield Township*, 336 Mich. App. 161, 969 N.W.2d 570 (2021).

64. 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 Transfer Charge, which is necessarily incorporated into the City's Electric Rates, Plaintiff and the Class have conferred a benefit upon the City.

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

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

PRAYER FOR RELIEF

WHEREFORE Plaintiff requests that the Court grant the following relief:

- A. Certify this action to be a proper class action with Plaintiff certified as Class Representative and Kickham Hanley PLLC and Head Murphy Law being designated Class Counsel;
- B. Define the Class for Count I to include all persons or entities who/which have paid the City for Electric Service at any time after June 30, 2020 or who/which pay the City for Electric Service during the pendency of this action (the “Count I Class Period”);
- C. Define the Class for Counts II and III to include all persons or entities who/which have paid the City for Electric Service at any time in the six years preceding the filing of this suit, or who/which pay the City for Electric Service during the pendency of this action (the “Counts II and III Class Period”).
- D. Enter judgment in favor of Plaintiff and the Class and against the City, and order and direct the City to disgorge and refund all Transfer Charges collected during the class period and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Transfer Charges to which Plaintiff and the Class are entitled;
- E. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;
- F. Enjoin the City from imposing or collecting the Transfer Charges in the future;
- G. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys’, accountants’, and experts’ fees; and
- H. Grant any other appropriate relief.

JURY DEMAND

Plaintiff, individually and on behalf of the Class, hereby demands a trial on all issues so triable.

KICKHAM HANLEY PLLC

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Date: March 14, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2025, I electronically filed the foregoing pleadings with the Clerk of the Court using the court's electronic filing system.

/s/ Jamie Warrow
Jamie Warrow

EXHIBIT – 1

CHAPTER 12
Utility Franchises and Municipal Ownership of Utilities

Sec. 12.1. Conditions applicable to public utility franchises.

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the right of the city:

- (a) To repeal the same for misuse, or nonuse, or for failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To impose such other regulations as may be determined by the council to be conducive to the safety, welfare, and accommodation of the public;
- (f) To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the city, by the city, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided, that in the absence of agreement, upon application by the public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- (g) To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city, as shall arise from its use thereof and to protect and save the city harmless from all damages arising from said use.

Sec. 12.2. Procedures and requirements controlling franchise ordinances, etc.

Every ordinance or resolution granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose shall be complete in the form in which it is finally passed, and remain on file with the clerk for public inspection for at least 30 days before the final passage or adoption thereof, or approval for referral to the electorate. No exclusive or irrevocable franchise shall be granted by the city, unless such proposition shall have first received the affirmative vote of at least $\frac{3}{5}$ of the electors of the city voting thereon at a regular or special election. No such franchise ordinance, or resolution shall be approved by the council for referral to the electorate until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered by the council unless the expense of holding such election, as determined by the council, shall have first been paid to the treasurer by the grantee.

A franchise ordinance, or ordinance granting or authorizing the granting of a license to use or occupy the streets of the city for public utility purposes which is subject to revocation at the will

of the city, may be enacted by the council without referral to the voters, but shall not be enacted nor become operative unless it shall have been complete in the form in which it is finally enacted and remain on file with the clerk for public inspection for at least four weeks before the final enactment thereof.

Sec. 12.3. General powers relative to municipal utilities and services. [Amend. No. 16, 11-8-1977]

The city shall possess and hereby reserves to itself all powers granted to cities by the constitution and general laws of the State of Michigan to acquire, by purchase or condemnation, the franchises, if any exist, and the property used in the operation of companies or individuals engaged in the electric, light, gas, heat, water and power business and for the purchase and condemnation of private property for any public use or purpose within the scope of the powers specified herein, to construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, airports, landing fields and aeronautical facilities, hospitals and public utilities, including, but not by the way of limitation, public utilities for treating and supplying water, and for supplying light, heat, power, gas, sewage treatment and garbage disposal facilities, or any of them, to the city and its inhabitants; and also to sell and deliver water, light, heat, power, gas and other public utility services, without its corporate limits to an amount not exceeding the limitations set by the state constitution. The power to supply, as herein possessed and reserved, shall include the power to extract and process water, electricity or gas from natural resources, to manufacture the same or to purchase the same from others.

Sec. 12.4. Board of public works generally—Management of electric and water utilities of the city.

The board of public works of the City of Holland, having been created, is hereby continued, and shall be known and designated as the board of public service.¹ Such board, subject only to the approval of the council, is hereby charged with the duty, power and responsibility of constructing, maintaining, improving, and extending the electric and water plants and distribution systems of the city, together with any public heating which may be a by-product thereof, and with the management, supervision, and control thereof. The title of all grounds and rights in real or personal property held, purchased, or otherwise secured by or on behalf of said board, shall be taken in the name of the City of Holland; and said water, electric and heating plants and works, and everything pertaining thereto, shall be the property of the city, and all contracts and purchases made by said board, shall be in the name of the city.

Sec. 12.5. Same—Status of board.

The board of public service [works]² and the works, and utilities, under its management, supervision, and control, shall constitute a department of the city government.

Sec. 12.6. Same—Composition; appointment, qualifications and terms of members; filling

1. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

2. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

vacancies. [Amend. No. 12, 4-7-1969]

The board of public works shall be composed of the five members of that board, who held office on the date that this Charter became law, and the city manager. Said members shall hold office for the balance of the terms for which they were elected or appointed prior to the date that this Charter became law. Thereafter, their successors shall be appointed by the mayor, with the advice and consent of the council, during the month of June of each year. Each person appointed as a member of the board of public works shall possess the qualifications required by this Charter for elective officers of the city and shall be appointed to serve for a term of five years commencing on and dating from the first day of July, next following his appointment; provided, that persons appointed to fill a vacancy shall assume office immediately upon appointment and shall hold office only for the balance of the term of the person creating such vacancy. The city manager, as a member of the board of public works, shall have the duty of attending all meetings of the board, shall be privileged to participate in all discussions and proceedings of the board, but shall not be entitled to vote on questions before the board.

Sec. 12.7. Same—Organization; officers; quorum.

Said board shall, annually during the month of July, organize and elect one of its appointed members president. A majority of the board, other than the city manager, shall constitute a quorum for the transaction of business. The clerk of the city shall be ex officio clerk of the said board, but shall have no vote therein. He shall have access to all of its records and papers.

Sec. 12.8. Same—Public service planning; annual report.

The board of public service [works]³ shall be charged and entrusted with the responsibility for the planning of improvements of, additions to, extensions of, and the operation and maintenance of the public service works of the city relating to the supplying of electricity and water to the inhabitants of the city, and within any limits provided by law, the territory surrounding the city. The board shall, annually in the month of March, make a report to the council, by filing the same with the clerk, which report shall present an analysis of the status and needs of the public service works under the board's jurisdiction and the recommendations of the board with respect thereto. Such report shall contain estimates of the costs of all improvements of, additions to, and extensions of the public services of the city which are recommended to be made during the ensuing fiscal year of the city, together with explanations thereof. The council shall have power to modify or disapprove any improvement of, addition to, or extension of the public service works of the city which may be recommended to be made in such report; provided, however, that unless the council shall modify or disapprove of any such recommended improvement, addition, or extension, or any number or combination of the same within 30 days after the date of the first meeting of the council, following the filing of such report with the clerk, such report shall be deemed to be approved by the council. Such report, as approved or modified by the council shall constitute the public service works program of the board of public service [works] for the fiscal year following that in which it is filed and it shall not again be necessary for the board to secure the approval of the council for the making of any improvement of, addition to, or extension of the public service works of the city which is made in accordance with such report as approved or

3. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

modified by the council. Except as provided in section 12.9, the board of public service [works] shall make no improvement of, addition to, or extension of any public service work of the city in any year, except in accordance with such report as approved or modified by the council with respect to both the nature and the estimated cost thereof, unless the same shall be first approved by the council.

Sec. 12.9. Same—Budget; additional expenditures.

On or before February 15, of each year, the board of public service [works]⁴ shall file with the city manager for the consideration of the council, a budget proposal and a payroll schedule for the next fiscal year of the city. Such budget shall set forth estimates, in substantially the form required by this Charter for budget proposals of the city, of the amount of money, other than moneys estimated to be required for improvements of, additions to, or extensions of the public service works of the city under its control which, according to the judgment of the board, will be required for the public service works of the city during the ensuing fiscal year of the city. The budget proposal of the board of public service [works] shall be appended to and made a part of the budget proposal of the city which is submitted to the council by the city manager. The estimates of the board of public service [works], contained in its budget proposal, may be modified or adopted by the council. In the event that the council does not act upon or complete its action upon such proposed budget by the first day of June, following the filing thereof with the clerk, such proposed budget shall be presumed to have been approved by the council and shall be the budget of the board for the ensuing fiscal year of the city just as though formally approved by the council. The board of public service [works] shall administer its own budget. With the consent of the council, the board may exceed any budget appropriation or allotment where it can transfer a sufficient amount therefor from unencumbered balances within its budget. All proposed expenditures of the board of public service [works] which are not included in the board's planning report provided in section 12.8, or its budget, as approved by the council, shall be approved by the council before any obligation for such expenditures shall be incurred by the board; provided, however, that when by unanimous action of the board, it is deemed necessary for the proper functioning of any utility under the board's jurisdiction to install or construct works, or purchase material for the extension of, or addition to, any such utility beyond its yearly planning or budget report, and when the cost of such extension, addition, or purchase does not exceed the total sum of \$1,000, and the money to pay the same is or will be available in the unencumbered funds of the board, then such extension, addition, or purchase may proceed without further authorization; provided, further, that the total cost of all extensions, additions, or purchases made or done under authority by this proviso shall not exceed the sum of \$5,000 in any fiscal year of the city.

Sec. 12.10. Same—Employment of superintendent of utilities and other operating personnel.

Subject to budget allowances therefor, and without the necessity of the approval of the council, the board of public service [works]⁵ shall have power to employ a superintendent of utilities and all personnel deemed by the board to be necessary for carrying on the supervision, operation,

4. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

5. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

maintenance, and general conduct of the public service works of the city entrusted to it by the provisions of this Charter and budget allowances therefor.

Sec. 12.11. Same—Expenses and funds generally.

The expenses of conducting the affairs of the board of public service [works]⁶ shall be defrayed from the revenues of the public service works of the city under its control, or may be paid or supplemented from the general funds of the city, if the council shall so determine with the concurrence of the board of public service [works]. All funds earned, raised, or realized by the board shall be deposited with the treasurer who shall give a receipt therefor and file a copy thereof with the city auditor. The treasurer shall deposit all such receipts to the credit of the proper fund or account of the city.

Sec. 12.12. Same—City auditor to provide system of accounts; board accounts generally.

Separate accounts shall be provided for and kept by the city auditor, in the form required by state law, for each public service work which is owned by the city and operated by the board. Such accounts shall show the value of any service rendered to or by such public service work or works of the city with reference to the city itself. Such accounts shall take into consideration and preserve, for the use for which the same were set aside and accumulated, all funds of the city which stand to the credit of the board of public works of the city at the time that this Charter became law. Except as otherwise provided in this Charter, all funds raised for, or realized from the operation of such public service works and utilities of the city shall remain in the accounts to which they have been allocated and no part thereof shall be transferred from or revert to any other account or fund at the close of any fiscal year.

Sec. 12.13. Same—Annual audit; other reports to council.

The cost of making the annual audit of the accounts of the board of public service [works]⁷ shall be defrayed from the funds of the board. The annual audit of the affairs of the board of public service [works] shall show the financial status of the affairs of the board and, as nearly as possible, the financial results of the city ownership and operation of the public service works of the city for which the board is responsible. The board shall also make such other reports and furnish such other information to the council as that body shall require by ordinance or resolution.

Sec. 12.14. Same—Purchase of water or electricity by city.

With the consent of the council, the board of public service [works]⁸ may purchase water or electricity from any person, firm, or corporation, municipal or private, if such purchase may be deemed by the board to be in the best interest of the city and the inhabitants thereof.

6. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

7. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

8. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

Sec. 12.15. Other city utility services.

The council shall be charged with the responsibility for constructing, maintaining, improving and extending the sewage disposal facilities, the fire alarm system, and such other utilities of the city as existed on the date this Charter became law or which may thereafter have been acquired by the city. Such facilities shall constitute one or more separate departments of the city government or may be assigned by resolution of the council to an appropriate department or division of the city government, or shall be under the administrative charge and responsibility of the city manager as the council shall determine.

Sec. 12.16. Limitation on use of utility funds.

The receipts from the operation of the electric and water utilities and income from investments shall be applied to the purposes thereof, in accordance with the budget appropriations, including the payment of bonds outstanding or which may be issued for the purposes of such utilities and the interest thereon. The net income shall be determined by deducting from the receipts from operations and income from investments all expenses incurred and charges made or allowed for and on behalf of such utility in accordance with budget appropriations, or by appropriate action under authority of section 9 of this chapter, and after the setting aside of moneys for the payment of principal and interest on indebtedness in accordance with any ordinance or resolution authorizing such indebtedness. Up to 50% of the annual net income of the board may be appropriated by the council to the general purposes of the city. All such net income which is not so appropriated shall be placed in proper accounts or funds of the city which shall be established as reserves for future operations, replacement, extension, or improvement of such utilities. Nothing herein contained shall be interpreted to limit the power of the council to place, for any year, in such accounts or funds a larger percentage than 50% of such net income to the purposes of such utilities, in the event that such appropriation shall be requested by the board of public service [works]⁹ and be approved by seven members of the council.

The foregoing limitation of 50% of such net income which may be appropriated by the council for general purposes may be increased in any year by and with the consent of the board of public service [works], and the consent of seven members of the council.

Such funds so established as reserves for the purposes of the utilities may be invested and reinvested by the city auditor as the board of public service [works] shall direct, by and with the approval of the council, in such investments as are authorized by law for investment by fiduciaries. Said funds may be used for the purposes of such utilities upon the recommendation of the board of public service [works], by and with the consent of the council.

The electors of the city may, by a 3/5 vote of the qualified electors voting on such proposal at a regular or special election, approve an appropriation of more than 50% of the net income for any year for general purposes, or may approve the placing of more than 50% of the net income for any year in the reserve accounts or funds as above provided for the purposes of such utilities, or may approve for other municipal purposes the use of such accumulated and unallocated accounts or funds as have been established.

9. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

Sec. 12.17. Utility rates and charges generally.

With the approval of the council, the board of public service [works]¹⁰ shall fix the rates to be charged for all public utility services under its control. The council shall fix the rates to be charged for all public utility services of the city which are not under the control of the board of public service [works]. When any person, firm, or corporation, shall fail or refuse to pay to the city any sums due on utility bills, such service upon which such delinquency exists may be shut off or discontinued by the proper board or department of the city and suit may be instituted by the city for the collection of the same in any court of competent jurisdiction.

Sec. 12.18. Lien for utility charges; collection of delinquent charges.

Except as otherwise provided, or limited by state law, the city shall have as security for the collection of all charges, a lien upon the premises to which such utility services were supplied. Such lien shall become effective immediately upon the distribution or supplying of such utility service or services to such premises.

All unpaid charges for utility services furnished to any such premises, which, on the 30th day of June of each year, have remained unpaid for a period of three months, or more, shall be reported by the city auditor to the council at the first meeting thereof in the month of July. The council thereupon shall order the publication in a newspaper published in the city, of notice to all owners of property within the city that all unpaid utility charges which have remained unpaid for a period of three months or more prior to the 30th day of June, and which have not been paid by the thirty-first day of July, shall be assessed upon the city's tax roll against the premises to which the utility services, for which the unpaid charges accrued, were supplied or furnished; and that such charges shall be collected in the same manner as the city taxes on said tax roll.

All such utility charges, which remain unpaid on the 31st day of July, shall be transferred to the city's tax roll and assessed against the premises to which the utility service, for which the unpaid charges accrued, was supplied or furnished, and shall be collected with, and in the same manner as, city taxes. If the same have remained delinquent and unpaid after the expiration of the time limited in the treasurer's warrant for the collection of taxes levied in said tax roll, such charges shall be returned to the county treasurer to be collected in the same manner as the lien created by city taxes on the delinquent tax roll of the city.

In the event that any provision of this section shall prove to be incomplete or inadequate for the carrying out of the purposes thereof, the council shall provide by ordinance such additional procedures as may be required for the collection of public utility charges, and, for such purpose, shall have all the powers granted to cities by Act No. 178 of the Public Acts of 1939, as amended.

Sec. 12.19. Disposal of plants, etc.

Except for purposes permitted by law, the city shall not sell, exchange, lease, or in any other way alien or dispose of the property, easements, income, equipment, privileges, or assets belonging to and appertaining to any utility which it may own or acquire, unless and except such proposition shall first have been submitted to the qualified electors of the city at a special city election

10. Editor's Note: See section 12.20 of the Charter which changes the name of the "board of public service" to the "board of public works."

called for that purpose in the manner provided in this Charter, and approved by them by a 3/5 majority vote of the electors of the city voting thereon. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this provision shall be void and of no effect. The provisions of this section shall not, however, apply to the sale or exchange of any article of equipment of any city-owned utility which is worn out or useless, or which is being or has been replaced by new and improved machinery or equipment.

Sec. 12.20. Board name change, etc. [Amend. No. 1, 4-2-1951]

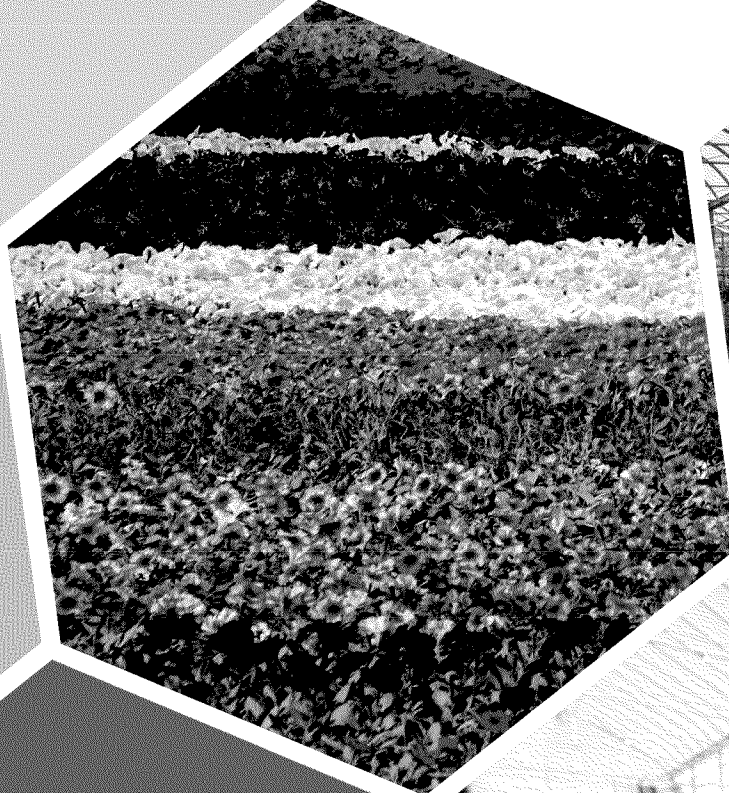
The name of the "board of public service" is hereby changed to the name of "board of public works," and in each place in the city Charter where the name of "board of public service" appears, the same shall be deemed to mean the "board of public works."

The board of public works shall succeed to all the property, money, contracts, rights, credits, effects, records, files, books and papers belonging to the board of public service, and shall perform all the duties, obligations and functions specified in the Charter to be performed by the board of public service.

EXHIBIT – 2



Holland
MICHIGAN



**ANNUAL COMPREHENSIVE
FINANCIAL REPORT
FOR FISCAL YEAR END
JUNE 30, 2021**

CITY OF HOLLAND, MICHIGAN

Notes to Financial Statements

The taxable value at December 31, 2020 was \$1,261,251,898 which provides a City-wide valuation equivalency that allows for a uniform millage rate across all taxable properties, including tax-abated properties. The tax levy was based on the following rates:

	Millage Rate Used	Authorized Millage Rate	Authorized By
General operating	8.3000		
Street development and improvement	1.2000		
Sidewalk development and improvement	0.1500		
Municipal capital projects	0.2515		
Debt service general obligation	3.8712		
	<u>13.7727</u>	15.4520	1
		17.5000	City Charter
West Michigan Airport Authority	0.0965	0.1000	1 & 2

1. Formula limitation required by 1978 State Constitutional amendment.
2. Airport support agreement between City of Holland, Park Township, and City of Zeeland effective January of 2007.

Interfund Transactions

During the course of normal operations, the City has numerous transactions between funds, including expenditures and transfers of resources to provide services, construct assets, and service debt. The accompanying financial statements generally reflect operating subsidies as transfers.

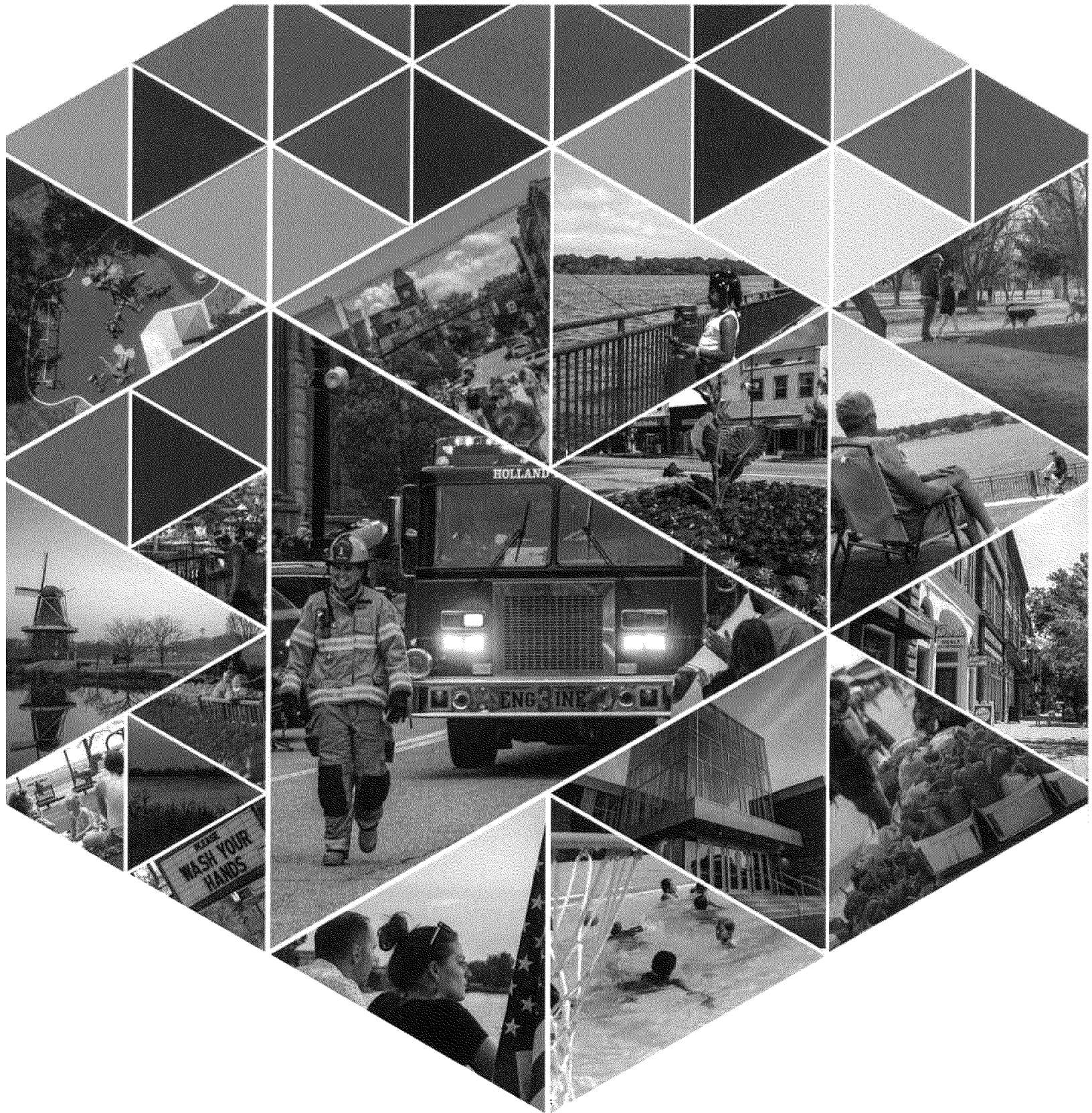
Electric Utility Fund Transfers

The City Charter authorizes an annual transfer from the Electric Utility Fund to the general purposes of the City. The current formula for determining this transfer is based upon 5.5% of Electric Utility Fund budgeted revenues of the same fiscal year. For fiscal year 2021, total transfers of \$7,968,900 were made. A \$6,091,621 transfer was made to the General Fund, and a \$1,877,279 transfer was made to the Municipal Facilities and Land Improvements Projects Fund.

Compensated Absences

Non-union City employees are granted paid time off (PTO) each pay period in varying amounts based on length of service. Public safety union employees are granted vacation and sick pay in varying amounts based on length of service. Utilities bargaining unit employees are granted paid time off on their anniversary date of hire. These benefits are compensable upon termination of employment except during resignation or discharge for disciplinary cause.

EXHIBIT – 3



Holland

MICHIGAN

Annual Comprehensive Audit
Report for Fiscal Year End
June 30, 2022

Long-range Financial Planning (continued)

The following table identifies the 2022 PA198 industrial tax abatements issued by the City. The value of the 2022 PA198 abatement roll is \$106.9 million.

PA 198 Industrial Facilities Tax Abatements (IFT's) 2022				
Company	Description of Services		Planned Investment	Projected Job Growth
By-Pas International	Manufacturing	\$	1,362,000	4
Forged by Design	Wood and Metal Products		1,350,000	8
Hudsonville Creamery and Ice Cream	Ice Cream and Dessert Products		35,537,000	0
Hyperion Automation	Automation Systems		1,505,000	12
JR Automation - 2 abatements	Automation Systems		4,425,000	99
Koops Inc.	Automation Systems		2,351,000	35
MG88 Holland Cold Storage	Warehousing and Processing		25,114,000	55
Power Manufacturing	Manufacturing		2,353,000	6
Strategic Label	Labeling Equipment and Labels		932,000	5
Sure-loc Edging	Landscape Products		1,138,000	4
Tommy's Car Wash Systems	Car Wash Systems		29,851,000	146
Trigon Steel Components	Manufacturing		197,000	7
Western Michigan Plastics	Manufacturing		824,000	6
Total PA 198 Investment for 2022			\$ 106,939,000	387

Building related fees continued to increase, driven by large industrial/commercial developments. In line with this, the City's building permit construction values increased by 40% from fiscal year 2021 (\$126 million) to fiscal year 2022 (\$176 million). Institutional and municipal permits totaled \$13.7 million for fiscal year 2022 (\$25.4 million for fiscal year 2021). The largest permit value in fiscal year 2022 was \$27 million for a new LG Energy Solution production facility. Other large permits included Vision Quest's new industrial building totaling \$18.7 million, Hudsonville Creamery and Ice Cream office and manufacturing buildings for \$18.7 million, and a cold storage facility for Cold Link Logistics of \$18.3 million.

The City's General Fund receives a transfer from the Electric Utility Fund consisting of 6.25% of the average of the previous three calendar year sales. Electric sales have increased as a result of strong manufacturing demand, resulting in increased payments to the General Fund over the past few years; however, electric rates are expected to decrease in the years ahead, which is expected to flatten the overall revenues.

Fund Balance Governmental Funds

The following comparison itemizes actual Fund Balances across all general governmental funds (excluding Component Units) and the change from the prior year:

	FUND BALANCES		
	@ June 30, 2021	@ June 30, 2022	Increase (Decrease)
General Fund	\$ 5,444,359	\$ 6,720,395	\$1,276,036
Gen. Fund Budget Stabilization	1,601,787	1,680,510	78,723
Special Revenue Funds	6,543,225	6,803,683	260,458
Debt Service Funds	1,250,128	800,979	(449,149)
Capital Projects Funds	5,576,086	9,019,853	3,443,767
Permanent Trust Funds	2,444,278	2,309,237	(135,041)
Totals	\$ 22,859,863	\$27,334,657	\$4,474,794

The Combined General Fund and Budget Stabilization ending fund balance totaled \$8,400,905 at June 30, 2022. Of this amount, \$8,393,071, or 32.2% of total expenditures plus transfers out, is unassigned.

The increase in *Fund Balance of the Special Revenue Funds* in fiscal year 2022 is due to increased revenue for Personal Property Tax (PPT) tax loss from Allegan County.

The *Fund Balance of the Capital Projects Funds* increased by \$3,443,767 during Fiscal Year 2022 due a large donation received for future construction of a Recreation Center.

CITY OF HOLLAND, MICHIGAN

Notes to Financial Statements

Electric Utility Fund Transfers

The City Charter authorizes an annual transfer from the Electric Utility Fund to the general purposes of the City. The current formula for determining this transfer is based upon 6.25% of Electric Utility Fund budgeted revenues of the same fiscal year. Based on this formula, a \$6,000,000 transfer was made to the General Fund, and a \$491,380 transfer was made to the Municipal Facilities/Land Improvements Projects Fund. Additionally, the City receives a portion of the electric wholesale sales designated for the capital improvement fund. The total for fiscal year 2022 was \$2,104,004 allocated to the Municipal Facilities/Land Improvements Projects Fund. For fiscal year 2022, total transfers of \$8,595,384 were made.

Compensated Absences

Non-union City employees are granted paid time off (PTO) each pay period in varying amounts based on length of service. Public safety union employees are granted vacation and sick pay in varying amounts based on length of service. Utilities bargaining unit employees are granted paid time off on their anniversary date of hire. These benefits are compensable upon termination of employment except during resignation or discharge for disciplinary cause.

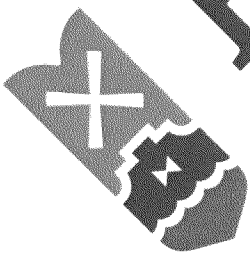
Vacation hours are credited to each public safety bargaining unit employee on the anniversary date of hire. The number of hours is dependent upon years of service. Sick leave hours are credited to each employee as earned during a calendar year up to a maximum of 104 hours for police bargaining union and 145.60 for fire bargaining union. Police bargaining employees are compensated for one half, or one quarter, based on the date of hire, of total accumulated sick leave hours in excess of 720 hours for the year ended June 30, 2022. Fire bargaining employees receive no pay out upon termination for accumulated sick leave hours.

The City's policy is to recognize the cost of vacation, sick, paid time off, deferred overtime and salary-related fringe benefits associated with these compensated absences at the time the compensated absences are earned. The liabilities associated with compensated absences have been recorded in the enterprise funds for those employees compensated by those funds and in the compensated absences internal service fund for employees compensated by governmental funds.

Deferred Inflows of Resources

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net assets that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The governmental funds report unavailable revenues, which arises only under a modified accrual basis of accounting, from special assessments receivable. These amounts are deferred and recognized as an inflow of resources in the period that the amounts become available. The City also reports a deferred inflow of resources for its deferred charge on refunding, which results from the difference in the carrying value of refunded debt and its reacquisition price and is amortized over the shorter of the life of the refunded or refunding debt. In addition, the City reports deferred inflows of resources related to its pension and other postemployment benefits plans.

EXHIBIT – 4



Holland **MICHIGAN**

**Annual Comprehensive Financial Report for
Fiscal Year Ended June 30, 2023**

Long-range Financial Planning (continued)

Building related fees continued to increase, driven by large industrial/commercial developments. In line with this, the City's building permit construction values increased more than 100% from fiscal year 2022 (\$176 million) to fiscal year 2023 (\$535 million). The largest permit value for a project in fiscal year 2023 was \$276.9 million for a new LG Energy Solution production facility. Other large permits included Resthaven Farmstead new residential project totaling \$51.1 million, Homewood Suites Hotel for \$20 million, Black River Flats apartments for \$21 million, and Shoreline Flats apartments for \$19.8 million.

The City's General Fund receives a transfer from the Electric Utility Fund consisting of 6.25% of the average of the previous three calendar year sales. Electric sales have increased as a result of strong manufacturing demand, resulting in increased payments to the General Fund over the past few years; however, electric rates are expected to decrease in the years ahead, which is expected to flatten the overall revenues.

Fund Balance Governmental Funds

The following comparison itemizes actual Fund Balances across all general governmental funds (excluding Component Units) and the change from the prior year:

	FUND BALANCES		
	@ June 30, 2022	@ June 30, 2023	Increase (Decrease)
General Fund	\$ 6,720,395	\$ 9,633,354	\$2,912,959
Gen. Fund Budget Stabilization	1,680,510	1,775,447	94,937
Special Revenue Funds	6,803,683	9,208,697	2,405,014
Debt Service Funds	800,979	1,513,151	712,172
Capital Projects Funds	9,019,853	27,360,110	18,340,257
Permanent Trust Funds	2,309,237	2,542,739	233,502
Totals	\$27,334,657	\$52,033,498	\$24,698,841

The Combined General Fund and Budget Stabilization ending fund balance totaled \$11,408,801 at June 30, 2023. Of this amount, \$11,364,184, or 39.8% of total expenditures plus transfers out, is unassigned. Property tax revenues contributed to the increase as assessed taxable value increased and an additional allocation of the City's property tax millage was directed to the General Fund for FY 2023. In addition, building permit revenues increased given additional volume and several large projects.

The increase in *Fund Balance of the Special Revenue Funds* in FY 2023 is primarily due to a large donation for the DeGraaf Nature Center.

The *Fund Balance of the Capital Projects Funds* increased by \$18,340,257 during FY 2023 due to the receipt of \$18 million in bond proceeds for the Fire Station project.

Capital Projects Governmental Funds

Capital Projects Funds expenditures, excluding interfund transfers, totaled \$9,704,169 for FY 2023 compared to \$8,047,420 for FY 2022. Projects exceeding \$50,000 during the fiscal year included:

INFRASTRUCTURE PROJECTS (Excluding Utility Fund Share)	
6 th Street Pine to Columbia	\$ 1,245,859
40 th Street Improvements	316,985
Street Resurfacing	1,153,675
Pine Avenue; 9 th Street – Michigan Avenue	1,118,728
Country Club; 8 th Street – Legion Park Drive	184,012
MUNICIPAL CAPITAL PROJECTS	
Waverly Fire Station	\$ 2,876,898
Playground Equipment	301,417
City Hall – 1st Floor Renovation	411,187

CITY OF HOLLAND, MICHIGAN

Notes to Financial Statements

Electric Utility Fund Transfers

The City Charter authorizes an annual transfer from the Electric Utility Fund to the general purposes of the City. The current formula for determining this transfer is based upon 6.25% of Electric Utility Fund budgeted revenues of the same fiscal year. Based on this formula, a \$6,372,000 transfer was made to the General Fund. Additionally, the City receives a portion of the electric wholesale sales designated for the capital improvement fund. The total for fiscal year 2023 was \$2,084,856 allocated to the Municipal Facilities/Land Improvements Projects Fund. For fiscal year 2023, total transfers of \$8,456,856 were made.

Compensated Absences

Non-union City employees are granted paid time off (PTO) each pay period in varying amounts based on length of service. Public safety union employees are granted vacation and sick pay in varying amounts based on length of service. Utilities bargaining unit employees are granted paid time off on their anniversary date of hire. These benefits are compensable upon termination of employment except during resignation or discharge for disciplinary cause.

Vacation hours are credited to each public safety bargaining unit employee on the anniversary date of hire. The number of hours is dependent upon years of service. Sick leave hours are credited to each employee as earned during a calendar year up to a maximum of 104 hours for police bargaining union and 145.60 for fire bargaining union. Police bargaining employees are compensated for 40 percent, based on the date of hire, of total accumulated sick leave hours in excess of 720 hours for the year ended June 30, 2023. Fire bargaining employees receive no pay out upon termination for accumulated sick leave hours.

The City's policy is to recognize the cost of vacation, sick, paid time off, deferred overtime and salary-related fringe benefits associated with these compensated absences at the time the compensated absences are earned. The liabilities associated with compensated absences have been recorded in the enterprise funds for those employees compensated by those funds and in the compensated absences internal service fund for employees compensated by governmental funds.

Deferred Inflows of Resources

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net assets that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The governmental funds report unavailable revenues, which arises only under a modified accrual basis of accounting, from special assessments and opioid settlement receivables. These amounts are deferred and recognized as an inflow of resources in the period that the amounts become available. In addition, the City reports deferred inflows of resources related to its other postemployment benefits plan.

EXHIBIT – 5

FISCAL YEAR

2024

ANNUAL COMPREHENSIVE
FINANCIAL REPORT
FOR FISCAL YEAR ENDED
JUNE 30, 2024



Holland
MICHIGAN

Long-range Financial Planning (Continued)

Major Revenues

Property tax is the largest source of revenue for the General Fund, representing more than 38% of total revenues. Property values have continued to rise even during the pandemic. Development interest continues to be strong with several large industrial and commercial projects in various stages of development. In addition, the City continues to prioritize affordable housing and has several residential projects in process. Property values continue to trend upward. While taxable values are limited by Michigan law, generally to the rate of inflation, numerous property sales (not limited by inflation factors) combined with new development have pushed the growth in taxable value beyond the inflation rate.

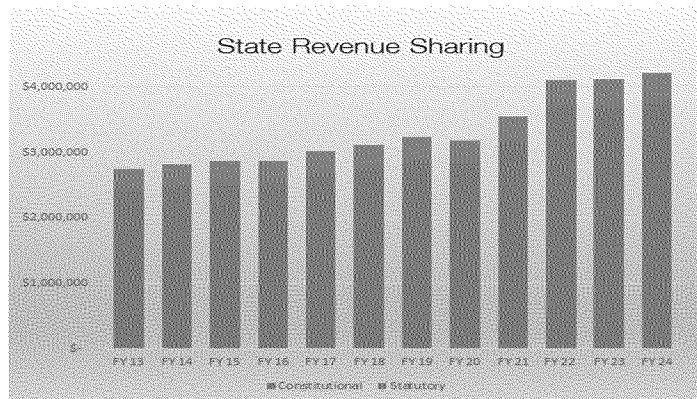
In 2012, several new public acts were passed eliminating the industrial *Personal Property Tax (PPT)* over a ten-year period. To replace the revenue source, the Local Community Stabilization Authority (LCSA) Act requires Personal Property Tax (PPT) reimbursement to municipalities. The complex calculation is designed to reimburse for the essential services (police and fire) and a portion of qualified loss. In FY 2024, the City received \$3,237,941 in PPT reimbursement.

The State of Michigan provides several economic development incentive tools, including PA 198 industrial facilities certificates. The 2024 Taxable Value for properties with IFT abatements is \$86,812,282 for new facility IFTs, all of which are taxed at half rate and \$69,700 for rehab IFTs for which the value remains frozen. Based on 2024 PA 198 applications processed by the City, 278 new or retained jobs are anticipated to be created along with \$131.1 million of new related construction and machinery.

State of Michigan PA 376 authorizes the creation of a Renaissance Zone for the purpose of fostering economic development and stimulating industrial, commercial, and residential improvements by providing certain tax credits or exemption within the zone. The City has two Renaissance Zones. The property is exempt from certain real and personal property taxes, including City operating taxes, but is not exempt from the millages voted for debt. Property within the zones have a 2024 Taxable Value of \$85,910,453.

The City also supports Brownfield Redevelopments with fourteen active projects approved for tax captures at June 30, 2024. The reader is directed to the Notes to Financial Statements section (note #20) for detail information on the various tax abatements offered by the City.

Local government *Revenue Sharing* received from the State of Michigan varies from year to year. The constitutional portion is based on a specific percentage of sales tax revenues. The City, Village, and Township Revenue Sharing (CVTRS) is an incentive-based program for which the City has met the requirements annually. Revenues have leveled off in the past two years as consumers shift spending back to services (non-taxable) following sharp increases in the purchase of goods during the pandemic.



Building related fees remained strong, driven by large industrial/commercial developments. Permits issued for industrial and commercial projects totaled \$211 million, residential projects \$49 million and institutional and municipal \$59 million.

The City's General Fund receives a transfer from the Electric Utility Fund consisting of 6.25% of the average of the previous three calendar year sales. Electric sales have increased as a result of strong manufacturing demand, resulting in increased payments to the General Fund over the past few years; however, electric rates are expected to decrease in the years ahead, which is expected to flatten the overall revenues.

CITY OF HOLLAND, MICHIGAN

Notes to Financial Statements

Electric Utility Fund Transfers

The City Charter authorizes an annual transfer from the Electric Utility Fund to the general purposes of the City. The current formula for determining this transfer is based upon 6.25% of Electric Utility Fund budgeted revenues of the same fiscal year. Based on this formula, a \$6,228,000 transfer was made to the General Fund. Additionally, the City receives a portion of the electric wholesale sales designated for the capital improvement fund. The total for fiscal year 2024 was \$3,413,232 allocated to the Municipal Facilities/Land Improvements Projects Fund. For fiscal year 2024, total transfers of \$9,641,232 were made.

Compensated Absences

Non-union City employees are granted paid time off (PTO) each pay period in varying amounts based on length of service. Public safety union employees are granted vacation and sick pay in varying amounts based on length of service. Utilities bargaining unit employees are granted paid time off on their anniversary date of hire. These benefits are compensable upon termination of employment except during resignation or discharge for disciplinary cause.

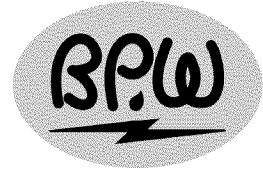
Vacation hours are credited to each public safety bargaining unit employee on the anniversary date of hire. The number of hours is dependent upon years of service. Sick leave hours are credited to each employee as earned during a calendar year up to a maximum of 104 hours for police bargaining union and 145.60 for fire bargaining union. Police bargaining employees are compensated for 40 percent, based on the date of hire, of total accumulated sick leave hours in excess of 720 hours for the year ended June 30, 2024. Fire bargaining employees receive no pay out upon termination for accumulated sick leave hours.

The City's policy is to recognize the cost of vacation, sick, paid time off, deferred overtime and salary-related fringe benefits associated with these compensated absences at the time the compensated absences are earned. The liabilities associated with compensated absences have been recorded in the enterprise funds for those employees compensated by those funds and in the governmental activities for employees compensated by governmental funds.

Deferred Inflows of Resources

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net assets that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The governmental funds report unavailable revenues, which arises only under a modified accrual basis of accounting, from special assessments and opioid settlement receivables. These amounts are deferred and recognized as an inflow of resources in the period that the amounts become available. In addition, the City reports deferred inflows of resources related to its other postemployment benefits plan.

EXHIBIT – 6



MEMORANDUM

To: Mayor DeBoer, Members of City Council, and Holland Board of Public Works Directors

From: City Manager Van Beek and HBPW General Manager Koster

RE: Establishment of policy to guide planning and execution of utility transfers

Date: March 27, 2019

Introduction

Holland's City Charter Section 12.16, Limitation on Use of Utility Funds, both outlines the method to calculate net income and limits on the use of that income for the general purposes of the City. Specifically, Council is authorized to use up to 50% of the net income of both the electric and water utilities. That amount may only be exceeded if requested by the HBPW and approved by seven members of Council, or if approved by a 3/5 majority of city voters¹.

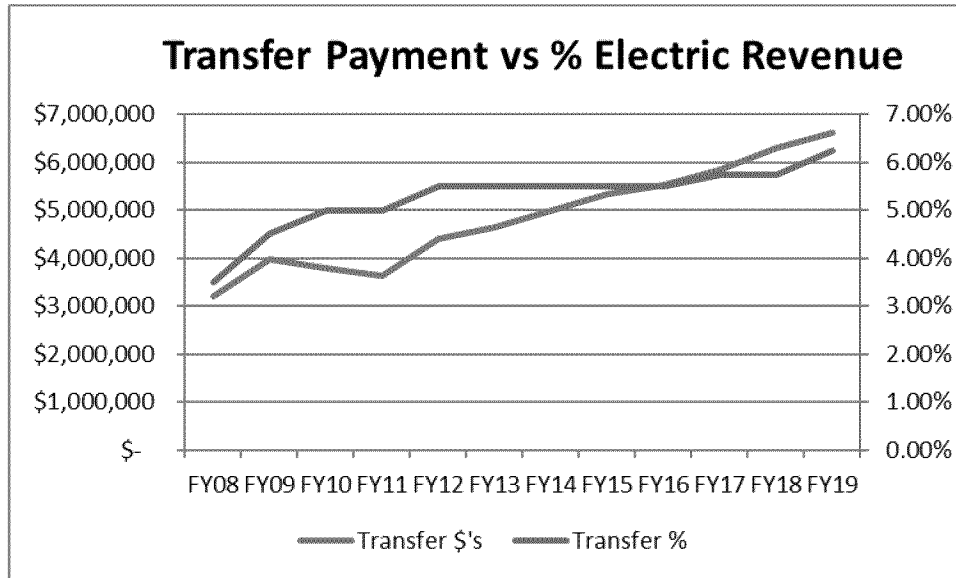
For at least the last couple of decades, a proxy has been used to establish this payment commonly known as the "BPW Transfer Payment". That proxy uses a percent of gross electric sales revenue (not net income) to determine the transfer level, which is then confirmed annually by resolution of the HBPW Board of Directors and the City Council at their respective meetings in July, the first month of the fiscal year. The process of using a proxy has been consistent in the recent past, and has been successful in generating a set amount that both entities can reliably use in budgets. Recently, the amount of the transfer has increased significantly, due to the percentage used and increases in electric sales growth and electric rates. Now, a number of issues are looming which add more complexity and uncertainty to the transfer payment. Those issues include stagnant or decreasing electric sales volume, electric rate decreases and new "off system" or wholesale sales, made possible through investment in additional electric generating supply resources.

¹ Only the voters can approve an appropriation if it exceeds net income, as determined under the Charter.

The goal is to develop policy and procedure to guide both governing bodies and their respective staff in the planning of future transfers to the City from the HBPW.

Background

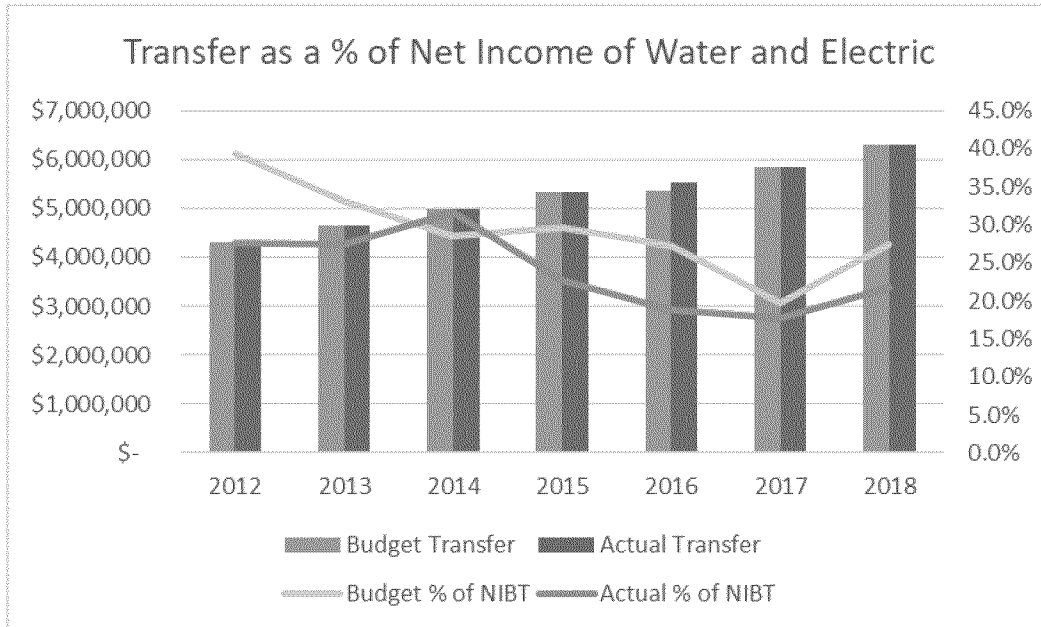
The chart below shows the transfer from the HBPW over the past twelve years.



The payments have been made from the HBPW electric utility. Except for two years (2009 and 2016), the payments have been limited to the percent of gross electric sales revenue. In 2009 and 2016, additional specific payments were made to support City needs. Those were \$300k in 2009 for the parking deck on 7th and approximately \$200k in 2016 to support the Holland Historic Trust.

Increases in the transfer percentage during the early part of this period were the result of the housing market collapse in 2008 and a resetting of the taxable value of properties in Holland. This caused significant financial strain on the City’s General Fund. The HBPW transfer increase tempered this impact somewhat. During this time, the HBPW also experienced significant decline in industrial sales of electricity due to the economic recession that followed the housing crisis. The HBPW experienced a rebound in sales volume after 2011, led mostly by the economic recovery. This was coupled by a series of rate adjustments targeted to prepare for the investment in Holland Energy Park. That worked to spark a significant growth, on average nearly 8.5% year over year, in the transfer payment between 2012 and 2018. By 2018, the transfer percentage had reached 5.75% of gross electric retail sales.

While the Charter provides the ability to use up to 50% of the net income of the both the electric and water industry, the actual use has consistently been less than that amount. The chart below shows the use as a percent of both the electric and water utility net income for the past seven years. During that period the range of budgeted transfers as a percent of net income has gone from a high of 39.3% in 2012 to a low of 19.8% in 2017, with an average of 29.3%.



The American Public Power Association (APPA), the national trade organization for municipal electric systems, routinely surveys its members to determine the trends in transfer payments to their respective city owners. The most recent survey was conducted in 2016 and published in March 2018. It is attached for reference. From the survey, the median transfer amounted to 5.6% of electric operating revenues. This result is bounded by a first quartile of 3.2% and a third quartile of 8.9%. By comparison, investor-owned utilities, like Consumers Energy, were found to have paid a median of 4.4% to state and local governments in that same period. The APPA median was the same 5.6% in the previous survey performed in 2014. In 2016, the transfer in Holland was 5.5%.

For the FY 2019 budget preparation, some of the factors influencing the transfer payment began to become apparent. For one, HBPW staff recommended rate decreases for all electric customers, with most relief coming in the industrial rates. This was due to continued low natural gas prices and the increased efficiency of Holland's generation portfolio, along with increased competition in the industrial sales sector due to investor-owned utility rate decreases and the increased cost effectiveness of customer-owned generation. Additionally, a weak summer sales season in calendar year 2017 meant that the forward look for transfers to the city were flat or declining over the next 5-year period. After considerable discussion with City staff and the HBPW Board Budget Subcommittee, a recommendation was presented within the fiscal year 2018 budget to raise the transfer payment from 5.75% to 6.25% and to base the sales revenue on the average of the last three calendar years to avoid the impact of the weak summer sales within the single calendar year. Up to that point, only the most recent full calendar year had been used to determine the revenues to which the transfer percentage would apply. Even with this adjustment, the prospective transfer amounts are expected to be relatively flat over the next five years. Below is the five-year forecast for the electric utility.

Holland Board of Public Works
5 Year Projections
Electric Utility Only

FISCAL YEAR	Actual FY2017	Forecast FY2018	Proposed Budget FY2019	Projection FY2020	Projection FY2021	Projection FY2022	Projection FY2023
REVENUES							
Readiness to Serve	\$ -	\$ 5,629,705	\$ 5,629,705	\$ 5,629,705	\$ 5,629,705	\$ 5,629,705	\$ 5,629,705
Commodity & Delivery	105,828,637	98,259,766	98,322,834	95,088,057	95,844,515	95,113,931	94,887,084
Wholesale	-	-	546,000	1,888,560	1,322,400	1,322,400	1,322,400
Street Lights	746,088	658,959	695,493	695,588	695,588	695,588	695,588
Renewable Energy	1,717,633	88,422	-	-	-	-	-
Energy Optimization	1,325,979	1,397,257	1,458,131	1,452,931	1,455,408	1,457,905	1,400,422
Other Fees	650,122	569,429	595,000	595,595	596,191	596,787	597,384
Additional Revenue	-	-	(6,004,754)	-	(3,504,514)	(1,494,823)	-
TOTAL REVENUES	\$ 110,268,458	\$ 106,603,839	\$ 101,241,409	\$ 105,350,436	\$ 104,839,293	\$ 103,321,493	\$ 104,092,584
% INCREASE (RECOMMENDATION TO MEET TARGET)			-5.76%	6.8%	-1.5%	-1.5%	6.6%
OPERATING EXPENSES							
Purchased Power	\$ 36,148,617	\$ 17,588,025	\$ 18,969,679	\$ 19,043,335	\$ 20,360,125	\$ 18,589,477	\$ 18,992,607
Fuel	5,848,239	16,477,412	13,999,183	13,316,474	13,898,334	17,266,377	17,873,254
External Resource Debt and O and M	10,660,272	8,206,724	3,477,836	3,193,176	3,679,006	3,104,402	2,538,337
Non Fuel Production and Maintenance	5,951,876	7,334,948	7,919,122	7,958,718	7,996,512	8,038,504	8,078,697
Distribution	4,027,177	4,428,181	4,826,114	4,850,245	4,874,496	4,898,868	4,923,263
Conservation Electric	1,281,180	1,288,833	1,297,245	1,310,218	1,316,799	1,323,353	1,329,970
Administrative & General	6,430,363	7,935,899	8,146,286	8,309,212	8,475,396	8,644,904	8,817,802
Depreciation	7,371,077	15,379,394	15,100,105	15,272,490	13,556,702	13,584,437	13,640,461
TOTAL OPERATING EXPENSES	\$ 77,713,800	\$ 78,639,316	\$ 73,736,871	\$ 73,283,867	\$ 74,169,940	\$ 76,460,822	\$ 76,194,491
OPERATING INCOME	\$ 32,554,657	\$ 27,964,523	\$ 27,504,538	\$ 32,066,570	\$ 29,879,353	\$ 27,870,672	\$ 27,898,093
NON-OPERATING REVENUE/(EXPENSE)							
Investment Earnings	\$ 384,509	\$ 455,370	\$ 644,460	\$ 700,000	\$ 750,000	\$ 120,000	\$ 120,000
Bond Issuance (Expense)	93	-	-	-	-	-	-
Bond Interest (Expense)	(220,647)	(6,607,234)	(6,726,078)	(6,414,469)	(6,394,540)	(3,904,752)	(3,679,546)
Other Income/(Expense)	(3,056,817)	236,524	166,722	166,722	166,722	166,722	138,935
TOTAL NON-OPERATING REVENUE/(EXPENSE)	\$ (2,892,862)	\$ (6,895,341)	\$ (6,914,896)	\$ (5,547,767)	\$ (5,477,818)	\$ (3,618,031)	\$ (3,420,611)
Contribution to the City	5,850,000	6,396,016	6,606,000	6,644,500	6,438,000	6,426,000	6,372,000
NET INCOME	\$ 23,811,795	\$ 18,772,866	\$ 14,985,943	\$ 19,884,303	\$ 17,963,536	\$ 19,826,641	\$ 20,105,482
NET INCOME TARGET	\$ 13,793,060	\$ 13,563,122	\$ 11,297,737	\$ 12,468,968	\$ 14,982,739	\$ 12,223,787	\$ 12,299,138
RETURN ON NET PLANT	7.6%	5.2%	5.1%	7.0%	6.6%	7.5%	7.8%
COVERAGE RATIO	2.86	3.11	4.86	5.71	3.09	4.41	4.44
TOTAL CASH BALANCE:	\$ 113,873,715	\$ 97,551,528	\$ 109,092,629	\$ 138,562,307	\$ 159,757,601	\$ 90,383,634	\$ 113,759,051
RESTRICTED: INTERNAL DESIGNATED	\$ 28,523,078	\$ 24,844,441	\$ 26,901,385	\$ 24,780,299	\$ 26,936,183	\$ 21,012,663	\$ 20,864,037
RESTRICTED: 3RD PARTY	\$ 24,103,632	\$ 28,632,478	\$ 28,610,402	\$ 28,653,305	\$ 28,656,969	\$ 28,657,889	\$ 28,662,087
CASH GENERALLY AVAILABLE BALANCE:	\$ 61,247,005	\$ 44,074,609	\$ 53,580,842	\$ 85,128,703	\$ 105,070,448	\$ 40,713,082	\$ 64,232,927
ADDITIONAL PRINCIPAL PRINCIPAL PAYMENT	\$ 5,428,141	\$ 5,527,241	\$ 9,660,000	\$ 849,982	\$ 866,263	\$ 5,871,384	\$ 6,095,045
CAPITAL EXPENDITURE	\$ 23,496,559	\$ 41,947,106	\$ 9,024,965	\$ 4,820,752	\$ 4,453,560	\$ 5,600,000	\$ 4,080,000

As currently outlined the transfer payment is forecasted to decline from \$6.606 MM to \$6.372 MM by FY 2023. This is impacted by rate decreases planned in FY 2021 and FY 2022, coupled with minimal retail sales volume growth. It should be noted, however, that due to the increase of the transfer percentage to 6.25% all five of these years are higher than FY 2017 actuals.

As mentioned previously, there is a new revenue source that is made possible through the increased investment in new generation supply. "Off system" or wholesale electric revenue comes from two types of transactions, capacity and energy.

Capacity sales are made when the Holland BPW has more generation capacity under contract or ownership than it has an obligation to have. Each year, Holland must show that it has enough capacity to meet its native load plus a reserve margin. To the extent that Holland has more that, it sells capacity from its resources outside of Holland (Campbell 3, Belle River, landfill gas, wind and solar). These sales are limited to those resources due to certain reliability compliance objectives too detailed for this memo. Capacity sales are usually made a year or more in advance. So, the amount of revenue associated with

those types of transactions are fairly well known going into a fiscal year. Amounts for the next few years are shown on the five-year forecast above in the “wholesale” revenue line.

Energy electric sales are the other type of wholesale revenue. These revenues come from energy diverted from the resources outside of Holland when the value exceeds the increased cost of ramping up internal generation. These types of transactions are very short term, usually committed on the day ahead or on the actual day of operation. These commitments are not made ahead due to the risk of generation equipment availability and the risk of committing fuel too far ahead of knowing the wholesale electric energy value. Therefore, wholesale energy sales volumes are very uncertain and can vary significantly from month to month or year to year. Additionally, the margins on wholesale energy sales are often very small. So, transfer policy can affect the viability of a transaction, potentially turning something that brings net value to the utility into something uneconomical.

During a joint study session of the City Council and HBPW Board in early calendar 2017, a consensus was reached that the annual transfer should remain based on retail sales and that this issue be revisited at the conclusion of FY 2018 to see what impact the wholesale sales had on the net income of the electric utility. Staff now has an understanding of the impact and is prepared to make a recommendation regarding the use of those funds.

The Process to Establish Good Policy and Procedures

The background information has been provided to set the stage for the creation of transfer payment policy and procedures, which both the HBPW Board and City Council can adopt. Having a framework to guide planning and budgeting benefits both parties by creating stability and predictability to future financial plans. Both the HBPW General Manager and the City Manager believe that a subcommittee process composed of both staff and policymakers will be useful in creating this framework. What follows is a list of goals for the policy framework. This initial list may certainly be adjusted during the subcommittee process.

- Consists of both policy and procedure
- Drives toward multi-year (3-5 year at least) planning
- Avoids using the HBPW for “one-off” projects
- Considers the financial viability of both organizations
- Considers benchmarks in the industry as guideposts
- Considers the concentration of revenue risk the transfer source means to the City operations
- Differentiates between retail and wholesale sales revenue both in terms of how the transfer is determined as well as how the transfer is used

The HBPW General Manager and City Manager have created this proposed framework over the course of several months. Below is a rough timeline of those efforts.

- Staff only (GM, CM and both Finance Directors) met to flesh out goals and begin to create a skeleton structure to the policy and procedure documents – Late December 2018 and throughout January 2019

- Broadened discussion to subset of policymakers from both entities and finalize a recommended framework – March 1, 2019
- Presented the framework to the full governing bodies – During respective study sessions in March
- HBPW approved FY 2020 budget in March based on the proposed framework
- Sometime before the end of Fiscal Year 2019, both entities would resolve to establish and utilize the framework going forward

Draft Policy Document

Purpose and Summary:

With this policy the City Council and Board of Public Works establish a set of principles to identify utility fund transfers to the City for its purposes in accordance with Charter provisions in Section 12.16, Limitation on Use of Utility Funds.

Policy:

Within the provisions of the City Charter, the City Council and Holland Board of Public Works commit to plan and execute transfers of utility funds in accordance with the following set of guiding principles.

1. Both the City and its Board of Public Works are codependent on each other's financial viability. As such, transfers should consider the short and long term impact on both organizations ability to carry out their core mission and to provide excellent services to both the citizens of Holland and the customers of the Holland Board of Public Works.
2. The transfer amounts should represent a reasonable dividend to the City as the owner of the utility. Therefore, industry metrics representing the median should be consulted for similarly situated utility-city transfers. Further, quartiles from this comparative data should provide guideposts to ensure the transfer stays within industry norms.
3. It is important to recognize that the Holland Board of Public Works electric and water utilities are exposed to market changes that could impact sales volumes, revenues and net income levels. Therefore, transfer amounts should consider the concentration of risk that its revenue stream means to the city so as to reduce the risk of industry disruptions on future cash flows.
4. Funds from utility operations can come from both retail and wholesale sales. It is important to recognize that the predictability and impact on net income can vary greatly between those two sources. As such, the transfer process should differentiate between those sources both in terms of how the transfer level is determined as well as how the City uses the funds.
5. Both the city and utility benefit from assurances that come from long range planning. Therefore, transfers should be planned on a five-year horizon. Fiscal discipline should be exercised to ensure that the planned levels can be relied upon.
6. The Holland Board of Public Works operates as an enterprise with a mission to provide competitive, reliable, and innovative utility solutions to the greater Holland area in a socially, environmentally, and financially responsible manner. Responding to "one-off" project or program needs within the City of Holland subjects the utility to a values-based judgment, which

is most appropriately left to the City Council. Therefore, the transfer planning should avoid processes that respond to “one-off” issues.

7. A procedure shall be established, which puts into practice the principles expressed through this policy.

Draft Procedure Document

Purpose and Summary:

This procedure provides the process of planning and executing transfers between the Holland Board of Public Works and City in accordance with principles established through joint policy (name it) and within Charter limitations.

Procedure:

The City Manager and Board of Public Works General Manager will ensure that the following procedure is carried in alignment with the above referenced policy. Both individuals are responsible to provide budget and forecast recommendations that result from the process herein.

1. Early in the 1st Quarter of each calendar year, both entities will meet to review the latest five-year forecast for each respective organization.
2. Additionally at that time, metrics will be shared, which best represent the state of service provision for each entity.
3. Using industry metrics on transfer levels as a guide, the entities will affirm or revise the process used to establish the first four years of transfers, as identified in the prior year’s plan. For example, questions such as “does a percentage of retail sales revenue continue to provide the best plan for transfers?” and “what percentage of net income gained from wholesale sales should be transferred?” will be answered.
4. The entities will establish the process for determining the transfer in year five.
5. Revised five year plans will be used for the respective budget submissions along with reports showing how the plan adheres to the principles established in policy (name it).
6. At the first meeting in July, resolutions will be presented for adoption to both the Board of Public Works Directors and City Council establishing the amount of the transfer for that fiscal year and transfer timing and intervals that will be used.
7. After the financial audit of the previous fiscal year is performed, the staff will report if net income before transfer was less than the amount transferred in order to ensure compliance with Charter limitations.
8. This process is repeated annually

Proposed process

- BPW transfer is established for the next fiscal year as 6.25% of the average retail sales revenue from the electric utility for the most recent three (3) calendar years. We'll refer to this as "transfer from retail operations."
- The impact of wholesale electric sales on net income is evaluated after the completion of the calendar year.
- The incremental net income from wholesale sales will be determined and transferred to the City in the same net income percentage as the "transfer from retail operations" as calculated for the next budget year. This amount is prorated and transferred to the City along with the "transfer from retail operations" over the twelve (12) months of the next fiscal year.
- For the wholesale net income amount only, an optional capital program for regional initiatives is proposed. An amount limited to the difference between 50% of the net income from wholesale sales and the calculated City percentage can be made available using the same five-year forecast utilized for the transfer from retail operations. The amount would be strictly limited for capital purposes in which the City is a partner.
- Specific Example:
 - For Fiscal Year 2020, the transfer is \$6,713,748, which is 6.25% of the average of the previous three calendar years' retail electric sales revenue (\$107.4 Million).
 - The transfer has represented approximately 30% of the net income before transfers.
 - Wholesale revenue for the most recent **calendar year** improved the net income of the electric utility by \$1.88 Million
 - Therefore, the transfer budget associated with wholesale revenue impact would be 30% of the \$1.88 Million, or \$564,000 additional.
 - The difference between 50% and 30% is 20%. If utilized, of the \$1.88 million of additional net income from wholesale sales, 50% or \$942K would stay with the BPW, \$564K would be used for capital purposes by the City only, and \$378K would be available and utilized only if a regional partnership qualifies as outlined.
 - For example, a new regional recreation center is built and the \$378,000 could be used for capital purposes including bond costs. Additionally, if a regional fire contract or authority would be formed the \$378,000 could be used towards the purchase of a fire truck.
- The incremental transfer associated with net income from wholesale sales would **not** be used for general operation fund, but rather be put into funds such as municipal capital improvement, debt retirement, or other non-operational funds.