

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

KATHRYN FARMER, Individually, )  
and as Representative of a Class of )  
Similarly-Situated Persons and Entities, )  
)  
Plaintiff, )  
)  
CITY OF CHICAGO, an Illinois )  
Municipal Corporation, )  
)  
Defendant. )

Case No. 2021 CH 04583  
Judge Allen Price Walker

**PLAINTIFF’S RENEWED MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO  
THE UNREASONABLE DISCRIMINATION CLAIMS IN COUNT IX  
OF THE FOURTH AMENDED COMPLAINT PURSUANT TO 735 ILCS 5/2-1005**

Plaintiff Kathryn Farmer (“Plaintiff”), by and through her attorneys, individually, and on behalf of a class of similarly situated persons and entities, hereby moves the Court, pursuant to 735 ILCS 5/2-1005, for partial summary judgment as to the Unreasonable Discrimination Claims in Count IX of her Fourth Amended Complaint (the “FAC”). In support of this renewed Motion, Plaintiff relies upon the following Brief in Support.<sup>1</sup>

**BRIEF IN SUPPORT**

**I. INTRODUCTION**

This is a putative class action challenging various aspects of the “Water and Sewer Rates and Charges” imposed by the City of Chicago (the “City”) on citizens whose properties receive water and sewer service from the City. Among other claims, Plaintiff’s current Complaint alleges, among other things, that the Water and Sewer Rates and Charges the City has imposed on Plaintiff and the Class have been unreasonably discriminatory because the City has arbitrarily exempted various types of

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<sup>1</sup> On May 15, 2024, Plaintiff filed her original motion for partial summary judgment as to the Unreasonable Discrimination Claims in Count IX of her Fourth Amended Complaint. That motion is withdrawn.

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similarly-situated water and sewer customers (who own or occupy tens of thousands of properties serviced by the City’s water and sewer system) from their obligation to pay the City’s Water and/or Sewer Charges (the “Exempt Customers”). These exemptions have necessarily resulted in dramatically higher Rates and Charges being assessed against Plaintiff and the Class, who are not exempt from payment (the “Unreasonable Discrimination Claims”). This Motion is directed at the so-called “Senior Sewer Exemption,” which totally exempts persons 65 and older who own and reside in their own homes (the “Exempt Senior Customers”) from payment of sewage disposal charges. Plaintiff seeks a ruling that the Senior Sewer Exemption constitutes unlawful rate discrimination under Illinois common law.

Illinois has a long-history of prohibiting “unreasonable rate discrimination” by municipal utilities –*i.e.*, the charging of different rates to similarly-situated customers— a practice that has the effect of forcing one group of utility customers to subsidize the costs associated with servicing other customers. Rate discrimination is unreasonable unless the **“difference in rates is reasonably related to a difference in the costs of providing the service.”** *Austin View Civic Ass’n v City of Palos Hts.*, 85 Ill App 3d 89, 94-95; 405 NE2d 1256 (1980) (emphasis added).

In its July 11, 2025 Memorandum Opinion and Order denying the City’s 2-615 Motion to Dismiss Plaintiff’s Fourth Amended Complaint (“FAC”) (the “July 11 Opinion”), the Court expressly adopted the *Austin View* standard, stating:

Under Illinois law, utility rates must be reasonable and not unjustly discriminatory. While municipal utilities are not subject to the Illinois Public Utilities Act, common law principles governing rate reasonableness and discrimination remain applicable. As the court in *Austin View* explained, “whether there has been discrimination in the application of water rates is a question of fact to be determined from the evidence presented.” *Austin View*, 85 Ill. App. 3d at 95.. The court also noted that rate differentials are not impermissible per se, but “must be supported by differences in the cost of furnishing the service.” *Id.* [July 11 Opinion at p. 3 (Exhibit 1 hereto).]

In assessing Plaintiff’s allegations, the Court stated that the **“structure described – a zero or**

**discounted rate applied to some, while others pay full cost – is precisely the sort of economic preference that courts have found to be potentially unlawful under common law standards.** [*Id.* (emphasis added) (citing FAC para. 43.) The Court recognized that “the central inquiry” required by *Austin View* – to assess “whether similarly situated customers are charged differently without cost justification – applies equally here.” [*Id.*]

In its Opinion, the Court also seemed to recognize that if Plaintiff’s allegations turn out to be true, Plaintiff will prevail on her unjust discrimination claims. While Plaintiff ultimately will prove that all of the City’s Exemptions are unlawful, this motion is directed against the City’s patently unworkable Senior Sewer Exemption. For the reasons discussed below, the truth of Plaintiff’s factual allegations is confirmed by undisputed evidence, and the City has no legally-cognizable justification for its Senior Sewer Exemption.

Here, it is undisputed that:

- (1) the City exempts tens of thousands of customers from payment of Sewer Charges based solely upon the age of the customers, whether their dwelling is serviced by a water meter, and whether the customers own and occupy the residences receiving sewer services from the City;
- (2) the Senior Sewer Exemptions require Plaintiff and the Class to pay different and (obviously) higher Rates than those paid by the Exempt Senior Customers. Indeed, by virtue of the Exemptions, Plaintiff and the Class pay tens of millions of dollars a year to cover the City’s costs of disposing almost **6 billion gallons of sewage** generated every year by the Exempt Senior Customers; and
- (3) the Exemptions have no cost-based justification.

Whether the City’s Senior Sewer Exemption is unreasonably discriminatory is a legal issue for the Court. Accordingly, Plaintiff brings this Motion for Summary Judgment pursuant to 735 ILCS 5/2-1005, asking this Court to rule, as a matter of law, that because of the Senior Sewer Exemptions, the City has engaged in unlawful and unreasonable rate discrimination against Plaintiff and the Class.

## II. THE UNDISPUTED FACTS RELEVANT TO THE SENIOR SEWER EXEMPTION.

### A. THE CITY'S WATER AND SEWER SYSTEMS

The City operates a water and sewer utility, the Chicago Waterworks System, under the authority provided to it pursuant to 65 ILCS 5/11-139-1 *et seq.*

The City's sewer system provides sewage and drainage collection and conveyance for a service area roughly 230 square miles inhabited by approximately 2.67 million people. *See* Exhibit 2 hereto at p. 3. The sewer system is not responsible for, and does not include any facilities for, the treatment or disposal of sewage. It is limited to collecting and conveying wastewater to the interceptor sewers of the Metropolitan Water Reclamation District (the "MWRD"), an independent government entity with exclusive responsibility for sewage treatment, sewage disposal and flood control in the City and neighboring suburbs. *Id.* at p. 24. The MWRD finances its operations primarily through the imposition of an ad valorem tax in the area that it serves. *Id.*

All (or virtually all) of the revenues received by the City from its sewer system operations are paid by the sewer customers in the City. The City admits that "[t]here are no significant areas of the City without sewer service and, except for a very limited number of industrial users who have direct connections to the Water Reclamation District's interceptors, connection to the sewer system is the only feasible means of wastewater disposal for nearly all City users." *See* Exhibit 2 hereto at p. 24.

The City's ordinances govern the City's operation and maintenance of its waterworks system, including determining the rates for water and sewer service. *See* Ordinance 11-12-260 *et seq.* (Exhibit 3 hereto) and Ordinance 3-12-010 *et seq.* (Exhibit 4 hereto).

### B. THE CITY'S UNREASONABLE DISCRIMINATION IN ITS RATES AND CHARGES

City Ordinance Section 3-12-050 totally exempts qualified sewer customers 65 and over from payment of the Sewer Charges (the "Senior Sewer Exemption"). *See* Exhibit 4 hereto. In order to receive the Senior Sewer Exemption, a person must (1) be 65 years of age or older, (2) be the owner

of the residential unit receiving sewer service, (3) occupy the residence as his or her principal place of residence and (4) have a residence with a separate water meter or assessed account. *Id.*

The Senior Sewer Exemption is in no way based on financial need – *i.e.*, wealth or income. In fact, it requires that the person claiming the exemption own the residence receiving sewer service and also use it as their principal residence. This means they are a homeowner (and not a renter), which is a further indication that they are not indigent. This also leads to the nonsensical result that an 85-year old low-income renter must pay for sewer services but a 65-year old high-income homeowner is exempt from the obligation to pay for those same services.

Of a total of 494,274 current sewer accounts, over 60,000 sewer customers of the City receive the Senior Sewer Exemption. *See* Exhibit 2 hereto at p. 26; Exhibit 5 hereto. As a result of the Senior Sewer Exemption, 434,268 “revenue paying” sewer customers pay to finance sewer service to 494,274 sewer accounts. *See* Exhibit 2 hereto at p. 26. Between January 1, 2017 and December 31, 2021, the monetary value of the Senior Sewer Exemptions exceeded \$110 million. *See* Exhibit 5 hereto.<sup>2</sup> The Senior Sewer Exemptions provided by the City’s Ordinance are arbitrary and capricious—and in no way is the difference in Sewer Rates and Charges reasonably related to any difference in the cost of providing service to the Exempt Senior Customers. The Exemptions are not based on a consideration of such factors as differences in the amount of the product used, the time when used, the purpose for which used, or any other relevant factors reflecting a difference in costs. For the reasons discussed in detail below, because the difference in Rates created by the Exemptions as a matter of fact and law is not reasonably related to a difference in the costs of providing the service, the Rates are unreasonably discriminatory.

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<sup>2</sup> The City has continued to allow the Senior Sewer Exemptions after December 31, 2021. Plaintiff has requested that the City provide data showing the monetary value of the Exemptions after December 31, 2021, but the City has failed to provide that data. Nonetheless, based upon the historical value of the Senior Sewer Exemptions, Plaintiff anticipates that the monetary value of the Senior Sewer Exemptions between January 1, 2022 and the present exceeds \$70 million.

### III. THE LAW GOVERNING PLAINTIFF'S UNREASONABLE DISCRIMINATION CLAIMS IN COUNT IX OF THE COMPLAINT.

#### A. THE COMMON LAW LIMITATIONS ON MUNICIPAL UTILITY RATES AND CHARGES.

In *Austin View Civic Ass'n v City of Palos Hts*, 85 Ill App 3d 89, 94-95; 40 Ill Dec 164; 405 NE2d 1256 (1980), the Court described the role of courts in policing the rates and charges imposed by municipal utilities. The Court observed that municipal utilities are precluded from engaging in “unreasonable discrimination in rates or manner of service:”

When a municipal corporation owns and operates a water system for the purpose of selling water to consumers, it is acting in a business capacity and is generally to be treated as if it were a private utility company. (*Baltis v. Village of Westchester* (1954), 3 Ill. 2d 388, 121 N.E.2d 495; *Village of Niles v. City of Chicago* (1980), 82 Ill. App. 3d 60, 401 N.E.2d 1235.) The business of supplying water belongs to that class of enterprises upon which the public interest is impressed. (*City of Chicago v. Northwestern Mutual Life Insurance Co.* (1905), 218 Ill. 40, 75 N.E. 803; *Village of Niles v. City of Chicago* (1980), 82 Ill. App. 3d 60, 401 N.E.2d 1235.) **At common law, such an enterprise, because it had a monopoly on the service provided in the area, was prohibited from charging exorbitant rates and was required to serve all of its consumers without unreasonable discrimination in rates or manner of service. ... Though there is no statute that prevents municipal corporations that operate public utilities from acting in an unreasonably discriminatory manner, there is still the common law duty that prevents them from doing so.** [85 Ill. App. 3d at 94-95 (emphasis added).]

#### B. THE STANDARD FOR DETERMINING UNREASONABLE DISCRIMINATION IN RATES

Plaintiff's unfair discrimination claims are based upon common law principles (described in detail below) which prohibit unreasonable rate discrimination and not upon the equal protection provisions of the Illinois Constitution. *See, e.g., Greater Peoria Sanitary & Sewage Disposal Dist. v. Kellstedt*, 130 Ill. App. 3d 1002, 1004-1005, 474 N.E.2d 1267 (3d Dist. 1985) (explaining that common law unreasonable discrimination claims are different than equal protection claims and subject to a more lenient standard). A utility rate scheme is unjustly discriminatory when differences in rates assessed to two groups of customers are not justified by differences in the costs the utility incurs to serve those two groups of customers. *Austin View*, 85 Ill App 3d at 94-95. *Austin View* described the governing standard as follows:

When it comes to the extent of plaintiffs' protection under their common law right, our supreme court has noted that consumers of municipally owned utilities "are just as completely protected from exorbitant rates and unjust discrimination as the consumers are under the Public Utilities Act [Ill. Rev. Stat. 1977, ch. 111 2/3, par. 1 *et seq.*]." (*Springfield Gas & Electric Co. v. City of Springfield* (1920), 292 Ill. 236, 252-53, 126 N.E. 739, 746.) Thus, the test to be applied in determining whether there has been a violation of plaintiffs' common law right is the same test used to determine whether a privately owned utility company is acting in an unreasonably discriminatory manner in violation of the Public Utilities Act when it charges different rates to different consumers.

When a privately owned utility is charged with unreasonable discrimination in rates, the test used for deciding the validity of the difference in rates is to determine whether the difference is reasonable, and not arbitrary, **based on a consideration of such factors as differences in the amount of the product used, the time when used, the purpose for which used, or any other relevant factors reflecting a difference in costs.** (See *Citizens Utilities Co. v. Illinois Commerce Com.* (1971), 50 Ill. 2d 35, 276 N.E.2d 330; *City of St. Charles v. Illinois Commerce Com.* (1961), 21 Ill. 2d 259, 172 N.E.2d 353.) **If the difference in rates is reasonably related to a difference in the costs of providing the service, there is no unreasonable discrimination.** [85 Ill. App. 3d at 98-99 (emphasis added).]

#### IV. THE UNDISPUTED EVIDENCE CONFIRMS THAT THE CITY'S SENIOR SEWER EXEMPTIONS CONSTITUTE UNREASONABLE DISCRIMINATION AS A MATTER OF LAW.<sup>3</sup>

Under the foregoing authorities, Plaintiff must only prove two things in order to establish that the City has engaged in unreasonable rate discrimination: (1) that there was a "difference in rates" paid by Plaintiff and the Class, on the one hand, and the Exempt Senior Customers, on the other hand, and (2) the difference in rates was not "reasonably related to a difference in the costs of providing" sewer services to Plaintiff and the Class, on the one hand, and the Exempt Senior Customers, on the other hand. The undisputed facts show that both of these elements are established as a matter of law.

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<sup>3</sup> The standards for granting a motion for summary judgment under 735 ILCS 5/2-1005 are well-established. A plaintiff's motion for summary judgment under the rule is governed by 735 ILCS 5/2-1005(a), which provides:

(a) For plaintiff. Any time after the opposite party has appeared or after the time within which he or she is required to appear has expired, a plaintiff may move with or without supporting affidavits for a summary judgment in his or her favor for all or any part of the relief sought.

Summary judgment is appropriate when the pleadings, admissions, depositions, and any affidavits demonstrate that no genuine issue of essential fact exists and that the movant is entitled to judgment by operation of law. *Finn v. Dominick's Finer Foods, Inc.*, 244 Ill. App. 3d 278, 614 N.E.2d 358 (1<sup>st</sup> Dist. 1993).

**A. BECAUSE THE CITY IMPOSES DIFFERENT RATES ON PLAINTIFF AND THE CLASS WHICH ARE NOT BASED UPON ANY DIFFERENCE IN THE COSTS OF PROVIDING WATER AND SEWER SERVICES TO PLAINTIFF AND THE CLASS, AS OPPOSED TO THE EXEMPT SENIOR CUSTOMERS, THE CITY HAS ENGAGED IN UNREASONABLE DISCRIMINATION.**

As to the first element, the Ordinance itself makes clear that Plaintiff and the Class pay different Sewer Rates than the favored Exempt Senior Customers. Indeed, the Senior Exempt Customers receive total exemptions from the payment of Sewer Charges. Because Plaintiff and the Class pay the full Rates charged by the City, the Rates paid by Plaintiff and the Class manifestly were “different” than the Rates, if any, paid by the Exempt Senior Customers.

As to the second element – the requirement that any rate differential be based on a real “difference in the costs of providing” service to the favored and disfavored classes – the City’s Ordinance confirms that the Senior Sewer Exemptions cannot be based upon any difference in the costs of providing sewer services to Exempt Senior Customers. This is true for a variety of reasons.

First, the Exemptions themselves are based **solely** upon the type of person that owns or uses the properties, as opposed to the sewer usage characteristics like “differences in the amount of the product used, the time when used, the purpose for which used, or any other relevant factors reflecting a difference in costs” that might justify differential rates. *Austin View*, 85 Ill. App. 3d at 98-99. Indeed, in the case of the Senior Exempt Customers, the Exemptions are based upon the customer’s **age** and whether the customer **owns** the home that they occupy. These criteria, as a matter of law, cannot be based upon any difference in the **cost** of servicing the Exempt Senior Customers.

Second, as to the Senior Exempt Customers, the exemption could only be justified if the City incurred no cost in providing sewer service to those Customers. But the City necessarily incurs **some** cost in providing water and sewer services to those Customers.

Fortunately, we know what that cost actually is, because the City’s ordinance requires the City to maintain records showing the sewer usage of the Exempt Senior Customers and the amount the

Exempt Customers would have been required to pay in the absence of their Exemptions. *See* Ordinance 11-12-540(d) (Exhibit 3 hereto) (“Accounts against the property of any entity exempted under the provisions of items (1), (2), (3), (4), (5), (6), (7) or (8) of subsection (a) of this section shall be kept in the usual manner”). The City in fact maintains those accounts as required by the Ordinance and created Exhibit 5 hereto to summarize the accounts of the Exempt Customers, including the Exempt Senior Customers. Exhibit 5 hereto confirms a critical fact: by keeping the accounts of the Exempt Properties in the “usual manner,” the City “bills” the Exempt Properties **at the very same rate** that it charges non-Exempt properties, proving that there is **no difference in costs** of providing the service to the Exempt Customers. Exhibit 5 hereto shows that the monetary value of the amounts the Exempt Senior Customers would have been required to pay in the absence of the Exemptions), total over \$110 million for the time period from January 1, 2017 through December 31, 2021.

The City has admitted that there is no difference in the costs to service both groups of customers because, in the absence of the Exemptions, they both would be assessed and pay the **exact same rates!** In the Brief in Support of its Motion to Dismiss Plaintiff’s Third Amended Complaint, (filed 9/20/23) at p. 12 (Exhibit 6 hereto), the City stated:

The ordinances at issue do not provide for two classes of consumers being charged different rates; rather, the ordinances provide for water and sewer rates that are applicable to everyone. **Exempt customers are subject to the same rates as Plaintiff, but do not have to pay (all or part) due to the exemption.** [Emphasis added.]

Third, with respect to the Senior Exempt Customers, their exemption from the payment of sewer charges is arbitrarily based on their **age and home ownership**, which obviously have no effect on the costs the City incurs to provide sewer services to the Senior Exempt Customers. It is manifest that the City’s costs to dispose of 1000 gallons of sewage from a dwelling occupied by a 68-year-old renter or a dwelling occupied by a 64-year-old property owner could not possibly be materially different than the costs to dispose 1000 gallons of sewage from a dwelling occupied by a 65 year old

owner in the same neighborhood. Yet the 68-year-old renter and the 64-year-old homeowner pay the full Sewer Rates, while 62,000 residents who are 65 or older **and** own their homes receive free sewer service. In *Austin View*, both groups paid **something**, yet because one group was charged more, the plaintiffs there stated a claim that the rate scheme was unlawfully discriminatory. If unlawful rate discrimination can be based on those kind of rate differentials, it would be nonsensical to conclude here that it is **not** rate discrimination to charge one group **something** and another group **nothing**.

Other Illinois cases support a finding of unreasonable discrimination here. In *Village of Niles v. City of Chicago*, 201 Ill. App. 3d 651, 664, (1<sup>st</sup> Dist. 1990), the court found that the City’s practice of including the costs of sewer service (which the suburban customers did not receive) in the suburban water charges constituted unreasonable rate discrimination because it had the effect of requiring the suburban customers to subsidize the City’s sewer customer costs. The Court observed that “[o]ur decision to allow what is in effect a sewer ‘credit’ recognizes that the plaintiffs did pay for a service they did not receive, **thereby subsidizing in-city customers’ sewer costs for a measurable period of time.**” 201 Ill. App. 3d at 683, n. 7 (emphasis added). *See also Bobrowicz v. City of Chicago*, 168 Ill. App. 3d 227, 522 N.E.2d 663 (1988) (holding that Chicago’s 50% surcharge on water sales to nonresident consumers violated its common law duty not to charge unreasonable or discriminatory rates to those customers to whom the city had undertaken to provide water).

**B. THE PUBLIC UTILITIES ACT, WHICH APPLIES TO MUNICIPAL UTILITIES, EXPRESSLY PROHIBITS THE CITY’S EXEMPTIONS.**

Moreover, the Public Utilities Act expressly forbids the type of “preferences” and “advantages” that result from the Exemptions. Section 9-241 of the Public Utility Act provides:

**No public utility shall, as to rates or other charges, services, facilities or in other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.** No public utility shall establish or maintain any unreasonable difference as to rates or other charges, services, facilities, or in any other respect, either as between localities or as between classes of service. [220 ILCS 5/9-241 (emphasis added).]

This prohibition clearly applies to municipal utilities and must be enforced by the courts. As the Court of Appeals has observed:

When it comes to the extent of plaintiffs' protection under their common law right, our supreme court has noted that consumers of municipally owned utilities 'are just as completely protected from exorbitant rates and unjust discrimination as the consumers are under the Public Utilities Act' [Ill. Rev. Stat. 1977, ch. 111 2/3, par. 1 *et seq.*]. (*Springfield Gas & Electric Co. v. City of Springfield* (1920), 292 Ill. 236, 252-53, 126 N.E. 739, 746). Thus, the test to be applied in determining whether there has been a violation of plaintiffs' common law right is **the same test** used to determine whether a privately owned utility company is acting in an unreasonably discriminatory manner in violation of the Public Utilities Act when it charges different rates to different consumers. [*Austin View Civic Ass'n v City of Palos Hts*, 85 Ill App 3d 89, 94-95; 405 NE2d 1256 (1980) (emphasis added).]

The City's Exemptions are precisely the type of "preference" or "advantage" the PUA prohibits. In *Mountain States Legal Foundation v. Public Utilities Commission*, 197 Colo. 56, 590 P.2d 495 (Colo. 1979) (Exhibit 7 hereto), the Colorado Supreme Court, interpreting a nearly identical provision of the Colorado Public Utilities Act,<sup>4</sup> held that the Colorado Public Utilities Commission engaged in unlawful rate discrimination by requiring certain utilities to provide discounted rates to low-income elderly and disabled customers of the utilities:

Section 40-3-106(1), C.R.S. 1973, prohibits public utilities from granting preferential rates to any person, and section 40-3-102, C.R.S. 1973, requires the PUC to prevent unjust discriminatory rates. **When the PUC ordered the utility companies to provide a lower rate to selected customers unrelated to the cost or type of the service provided, it violated section 40-3-106(1)'s prohibition against preferential rates. In this instance, the discount rate benefits an unquestionably deserving group, the low-income elderly and the low-income disabled. This, unfortunately, does not make the rate less preferential.** To find otherwise would empower the PUC, an appointed, non-elected body, to create a special rate for any group it determined to be deserving. The legislature clearly provided against such discretionary power when it prohibited public utilities from granting "any preference." In addition, section 40- 3-102, C.R.S. 1973, directs the PUC to prevent

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<sup>4</sup> The Colorado statute, Section 40-3-106(1), C.R.S. 1973, stated:

Advantages prohibited - graduated schedules. (1) No public utility, as to rates, charges, service, or facilities, or in any other respect, shall make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any respect, either between localities or as between any class of service. The commission has the power to determine any question of fact arising under this section.

unjust discriminatory rates. Establishing a discount gas rate plan which differentiates between economically needy individuals who receive the same service is unjustly discriminatory. [197 Colo. at 59-60 (emphasis added)].

Here, the City's Senior Sewer Exemptions are even more pernicious than the discriminatory rates that were struck down in *Mountain States*. Here, the Senior Sewer Exemptions are not based upon income or wealth (and in fact presumably favor wealthier homeowners over renters), and therefore the Exemptions do not further a goal of aiding "economically needy individuals."<sup>5</sup>

Illinois cases interpreting Section 9-241 of the PUA have similarly invalidated discriminatory rate schemes like that implemented by the City here. In *Shortino v. Illinois Bell Tel. Co.*, 207 Ill. App.2d 52, 565 N.E.2d 170 (1<sup>st</sup> Dist. 1990), the Court held that a telephone company unreasonably discriminated against its monthly billed customers in favor of coin operated pay phone users by spreading a city message tax applicable to both types of customers on the bills of **only** the monthly billed customers. In other words, the monthly billed customer paid both the taxes applicable to them and the taxes applicable to the pay phone users. Applying Section 9-241 of the PUA, the Court held:

Additionally, section 9-241 of the PUA prohibits unreasonable differences in charges between customers or classes of customers (Ill. Rev. Stat. 1987, ch. 111 2/3, par. 9-241; *City of St. Charles v. Illinois Commerce Comm'n* (1961), 21 Ill. 2d 259, 264, 172 N.E.2d 353, 355-56.) **Plainly, the shifting of pay phone users' tax burden onto monthly billed customers discriminates against billed customers in violation of section 9-241 of the PUA.** It follows that spreading is not a just and reasonable alternative to tracing. The fact that Illinois Bell found it inconvenient to collect the MUT from pay phone customers does not make it just and reasonable to overload monthly billed customers. We therefore conclude that the trial court did not err in finding that Illinois Bell's policy of spreading the MUT liability from pay phone users

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<sup>5</sup> On this point, it should be noted that U.S. Census Bureau statistics show that U.S. citizens 65 years of age or older have the lowest poverty rates of any age group. Indeed, the Census Bureau publishes data that shows the percentage of different age groups that are living below the poverty level. In 2017, the percentage of American children living in poverty (17.4%) was nearly double the percentage of senior citizens living in poverty (9.6%). See Exhibit 8 hereto. In fact, senior citizens have a lower poverty percentage than any other age group (1-64). The Court may take judicial notice of U.S. Census Bureau data. See, e.g., *In re Marriage of Aud*, 142 Ill. App. 3d 320, 325, 491 N.E.2d 894 (1986) (statistics prepared by the United States Bureau of Census were the proper subject of judicial notice). Therefore, the Court may properly consider this data in evaluating this motion.

onto monthly billed customers was unjust, unreasonable and discriminatory. [207 Ill. App. 2d at 60 (emphasis added)].

In sum, the City may not pick favorites and grant exemptions from the payment of service charges, thereby providing free or lower cost service to favored customers financed by charges imposed on disfavored customers. The City's conduct here falls squarely within the well-established prohibition against unreasonable rate discrimination. Accordingly, the Court should find as a matter of law that the City has engaged in unreasonable rate discrimination by virtue of its Exemption scheme.

**V. PLAINTIFF AND THE CLASS MANIFESTLY HAVE BEEN OVERCHARGED BY VIRTUE OF THE CITY'S UNLAWFUL EXEMPTIONS.**

Once the Court concludes that the City has engaged in unlawful rate discrimination, the further conclusion that Plaintiff and the Class have been overcharged by virtue of the Exemptions is dictated by simple math. In this regard, the City's records show that, absent the Senior Sewer Exemptions, the Exempt Senior Customers would have paid over \$110 million in Sewer Charges to the City between January 1, 2017 and December 31, 2021. *See* Exhibit 5 hereto. The City's water and sewer "revenue requirements" – *i.e.*, the total annual costs of the sewer system that the City was required to cover through Rates and Charges – obviously were unaffected by the Exemptions.

The City incurs costs in providing sewer services to the Exempt Senior Customers, which costs necessarily are part of the City's actual Revenue Requirement for sewer services. Because the City does not receive payments from the Exempt Senior Customers to cover those costs, those costs are necessarily covered by the Rates paid by the Non-Exempt Customers. By excusing the Exempt Senior Customers from payment, the City has forced the Non-Exempt Customers to overpay for their sewer services by over \$110 million between January 2017 and December 2021 and those

overcharges have continued through the present day.<sup>6</sup>

The excessiveness of the City’s charges to Plaintiff and the class—*i.e.*, the disfavored customers—is proven by the example the City itself provided at pp. 10-11 of its Motion to Dismiss (filed on July 21, 2022) (Exhibit 9 hereto), which illustrates the unlawful subsidy almost perfectly. The City posits a water utility with annual costs of \$100,000 and 100 residents, each of whom uses the same amount of water. Absent any exemptions, each of the 100 residents would pay \$1000 for their water. If, however, as the City further posits, 20 of the 100 residents were exempt, “each of the 80 non-exempt residents would have to pay \$1,250 a year in order to cover the department’s costs.” City Motion at pp. 10-11. While the implications of its example appear to be lost on the City, the example shows that, in the absence of the unfair discrimination each customer would pay \$1000, but because of the unfair discrimination, the 80 disfavored Non-Exempt Customers must pay \$1250 to cover the costs of providing water to the 20 Exempt Customers. The additional \$250 is thus excessive to the disfavored Non-Exempt Customers because that amount does not pay for the water provided to the Non-Exempt Customers but **instead** pays for the water provided to the Exempt Customers.

In order to demonstrate the overcharges in just one year relating to just the Senior Sewer Exemptions, we offer the following information for the year 2021: The City’s budget for that year projected total Sewer Fund expenditures of \$375,696,000. *See* Exhibit 10 hereto at p. D0018659. The City’s budget further expected that the total revenues of the Sewer Fund would be \$374,696,000 – roughly the same as the expenditures. *See* Exhibit 10 hereto at p. D0018673. Exhibit 5 hereto

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<sup>6</sup> The fact that, effective June 2016, the City implemented a policy of annually increasing its Sewer Rates by the rate of inflation does not mean that the Rates were not discriminatory at the time of their establishment because, among other reasons, the Senior Sewer Exemptions were already in place and therefore were part of the City’s Rate structure long before June 2016. In fact, the Senior Sewer Exemptions have been in place since at least 2014. *See* Exhibit 11 (October 8, 2014 amendment to Ordinance 3-12-050). The City’s application of an inflation factor in subsequent years merely increased the monetary value of the Exemptions and therefore continued the Overcharges that were already baked-into the Rates, albeit at ever increasing amounts.

shows that the total value of the Senior Sewer Exemptions in 2021 was \$24,557,102.64.

It is obvious that if the City had not exempted the Exempt Senior Customers and had in fact collected the \$24.5 million from the Exempt Senior Customers during 2021, the Rates and Charges to Plaintiff and the Class necessarily would have been \$24.5 million less than they actually were, yet the City would have recovered **the exact same amount** of revenues. Under those circumstances, the City would have been able to fully recover its budgeted “revenue requirements” without forcing Plaintiff and the Class to subsidize the Exempt Senior Customers. Unfortunately, the City’s failure to charge the Exempt Senior Customers necessarily resulted in Plaintiff and the Class paying over \$24.5 million more than they should have paid for sewer services in 2021 alone. **This is simply a matter of math.**<sup>7</sup>

**CONCLUSION**

For all of the foregoing reasons, the Court should grant Plaintiff’s Renewed Motion for Partial Summary Judgment as to the Unreasonable Discrimination Claims in Count IX of the Complaint.

KICKHAM HANLEY PLLC

By: /s/Gregory D. Hanley

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<sup>7</sup> The magnitude of the Senior Sewer Exemptions and their impact on the disfavored customer class cannot be overstated. Using 2021 as an example, the City’s Sewer Rate was \$30.79 per MCF (MCF=7480 gallons; Exhibit 12). Using the 2021 Exemption value of \$24,557,102 (Exhibit 5) means that in 2021 the Exempt Senior Users generated 797,567 MCF of sewage (\$24,557,102 divided by the Sewer Rate of \$30.79 per MCF).  $797,567 \text{ mcf} \times 7480 \text{ gallons per mcf} = \mathbf{5.97 \text{ BILLION gallons of sewage per year generated solely by the Exempt Senior Users}}$ . Obviously, the City incurs significant costs to convey that 5.97 billion gallons of sewage each year. The City admits that in 2021 this cost was about \$24 million because that is the value of the Exemption. **But the people who generated that sewage do not pay the City for sewage disposal. The City does not absorb this cost. Instead, that \$24 million in costs is covered by other rate-payers, resulting in an unlawful subsidy from the rate discrimination.**

Hearing Date: No hearing scheduled  
Location: <<CourtRoomNumber>>  
Judge: Calendar, 3

FILED  
8/1/2025 4:33 AM  
Mariyana T. Spyropoulos  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH04583  
Calendar, 3  
33829540

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

# EXHIBIT – 1

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY

KATHRYN FARMER, Individually and as )  
Representative of a Class of Similarly Situated )  
Persons and Entities, )  
Plaintiff, ) Case No.: 2021 CH 04583  
v. ) Calendar 3  
CITY OF CHICAGO, an Illinois Municipal Corporation )  
Defendant. ) Judge Allen P. Walker

**MEMORANDUM OPINION AND ORDER**

This matter comes before the Court on Defendant City of Chicago’s motion pursuant to 735 ILCS 5/2-615 to dismiss Counts IX and X of Plaintiff’s Fourth Amended Complaint (“FAC”). Counts IX and X allege, respectively, that the City’s water and sewer rates are unjustly discriminatory and exorbitant/unreasonable under Illinois common law. For the reasons set forth below, the City’s motion to dismiss is denied.

**BACKGROUND**

This matter comes before the Court on Defendant City of Chicago’s motion to dismiss Counts IX and X of Plaintiff Kathryn Farmer’s Fourth Amended Complaint (“FAC”) pursuant to 735 ILCS 5/2-615. These are the only remaining claims in the case and concern the legality of the City’s water and sewer rates from 2017 to the present.

Plaintiff filed the original complaint on April 29, 2021, and has since amended it multiple times. On March 25, 2024, the Court dismissed the corresponding counts in Plaintiff’s Third Amended Complaint (“TAC”) for failure to state a claim. In that order, the Court found that the TAC lacked concrete allegations demonstrating that the rates charged were unreasonable or discriminatory at the time of their establishment, and that it failed to allege facts necessary to support equitable relief. (Mar. 25, 2024, Order at 5).

On February 26, 2024, Plaintiff filed the FAC, which is now the operative pleading. It asserts two counts: Count IX alleges that the City’s exemption of certain customers—including City departments, sister agencies, and nonprofit organizations—from water and sewer charges results in unjustified rate discrimination. *FAC* ¶¶ 173–215. Count X alleges that the City inflates the overall “Revenue Requirement” charged to ratepayers by embedding unrelated or excessive costs—such as indirect overhead and pension allocations—into the rate base. *FAC* ¶¶ 223–231, 235, 239–290. The FAC includes over 150 new factual paragraphs and references supporting

exhibits, including budget line items and comparative cost estimates. *FAC* ¶¶ 174, 223–231, 235, 239–290.

The City has moved to dismiss the FAC under Section 2-615, contending that the claims remain legally insufficient and that the rate-setting practices described in the FAC reflect legitimate governmental objectives and standard municipal budgeting discretion. The motion is fully briefed and submitted for decision.

## 2-615 MOTION TO DISMISS STANDARD

A motion brought under 735 ILCS 5/2-615 challenges the legal sufficiency of a pleading and admits all well-pleaded facts. A claim will survive dismissal if the facts alleged, when viewed in the light most favorable to the plaintiff, set forth a legally cognizable cause of action. *Doe-3 v. McLean County Unit Dist. No. 5*, 2012 IL 112479, ¶ 15.

### DISCUSSION

#### I. Count IX – Unreasonable Rate Discrimination

Plaintiff alleges that the City of Chicago has created an unreasonably discriminatory rate structure by exempting certain categories of customers (the “Exempt Customers”) from paying water and sewer charges, thereby shifting the financial burden to all remaining customers (the “Non-Exempt Customers”). *Plaintiff’s Response Brief in Opposition to City’s MTD FAC*, at 6–7. These Exempt Customers are identified in Chicago Municipal Code § 11-12-540 and include City-owned or City-occupied properties, Chicago Public Schools, City Colleges, certain hospitals, armories, and nonprofit entities. *Id.* *FAC* ¶¶ 17, 27, 207–215.

The FAC alleges that these exemptions result in a rate of \$0—or a significantly reduced rate—for certain favored entities, while ordinary residents and businesses must pay full price for the same water and sewer services. *Plaintiff’s Response Brief*, at 6–7; *FAC* ¶¶ 17, 62, 223. Plaintiff further contends that the cost to the City of delivering these services is the same for both classes of users, but because Exempt Customers do not contribute to the City’s revenue requirement, their share of the system’s costs is indirectly paid by the Non-Exempt Customers. *Id.* The FAC quantifies this shift at more than \$50 million annually. *See id.*; see also *FAC* ¶¶ 17, 61–62, 207–215, 223.

Plaintiff asserts that there is no cost-based justification for these exemptions. *Plaintiff’s Response Brief*, at 6–7; *FAC* ¶¶ 220–223. The FAC explicitly alleges that the disparity in treatment is not grounded in any demonstrated difference in the cost of service and instead reflects the City’s policy choices to subsidize certain customers at the expense of others. *Id.*, at 7. The FAC further alleges that “[b]ecause the City does not receive payments from the Exempt Customers to cover those costs, those costs are necessarily covered by the Rates paid by the Non-Exempt Customers.” *FAC* ¶ 223. Plaintiff argues that this creates a preference and corresponding disadvantage that meets the common-law definition of unjust discrimination. *FAC* ¶¶ 41–43, 46; see also *Plaintiff’s Response Brief*, at pp. 2–4, 7.

The City argues in response that exemptions from payment are not equivalent to rate discrimination. It contends that all customers are subject to the same nominal per-unit rate for water and sewer services and that the exemption scheme merely reflects a decision not to collect payments from certain users. *City's Reply in Support of MTD FAC*, at 3–4.

The City also relies heavily on *Village of Niles v. City of Chicago*, 201 Ill. App. 3d 651 (1st Dist. 1990), to argue that exemptions, by themselves, do not establish unreasonable discrimination unless the plaintiff can show that such exemptions rendered the rates charged to others unreasonably high. The City asserts that in *Niles*, the plaintiffs did not prevail because they failed to quantify how free or discounted services to others affected their rates. Here, the City argues that Plaintiff has similarly failed to plead facts that support a finding that the exemptions caused Plaintiff's rates to exceed the City's cost of providing service. *City's Reply*, at 5–6.

The City further dismisses Plaintiff's reliance on *Austin View Civic Ass'n v. City of Palos Heights*, 85 Ill. App. 3d 89 (1st Dist. 1980), noting that *Austin View* involved a straightforward comparison of different rates charged to different geographic customer classes and did not involve an exemption-based challenge. *City's Reply*, at 3.

Under Illinois law, utility rates must be reasonable and not unjustly discriminatory. While municipal utilities are not subject to the Illinois Public Utilities Act, common-law principles governing rate reasonableness and discrimination remain applicable. As the court in *Austin View* explained, “whether there has been discrimination in the application of water rates is a question of fact to be determined from the evidence presented.” *Austin View*, 85 Ill. App. 3d at 95.. The court also noted that rate differentials are not impermissible per se, but “must be supported by differences in the cost of furnishing the service.” *Id.*

The Illinois Appellate Court in *Niles* reaffirmed this standard and explained that, to prevail on a discrimination claim, plaintiffs must show that they paid rates that exceeded the City's cost of service “to the point of unreasonableness.” *Niles*, 201 Ill. App. 3d at 672–73. The court in *Niles* ultimately denied relief because the plaintiffs did not quantify the burden imposed by exemptions or establish a nexus between those exemptions and the rates charged to paying customers.

Plaintiff's allegations, taken as true at the pleading stage, go beyond the level of generality found deficient in *Niles*. *Niles*, 201 Ill. App. 3d at 673–74. Unlike the plaintiffs in *Niles*, Plaintiff here identifies both the scope of the Exemptions and the estimated cost impact—over \$50 million per year—borne by paying customers. *Plaintiff's Response Brief*, at 6; *FAC* ¶¶ 17, 27, 62, 207–215, 223. The FAC further alleges that there is no cost-of-service distinction between Exempt and Non-Exempt Customers that would justify this treatment. *FAC* ¶¶ 220–223. The structure described—a zero or discounted rate applied to some, while others pay full cost—is precisely the sort of economic preference that courts have found to be potentially unlawful under common law standards. *FAC* ¶ 43.

Plaintiff's reliance on *Austin View* is also not misplaced. While that case involved geographic discrimination, the central inquiry—whether similarly situated customers are charged differently without cost justification—applies equally here. Plaintiff has alleged that she and other

Non-Exempt Customers pay higher effective rates than Exempt Customers, despite receiving the same service and imposing the same costs on the system. *Plaintiff's Response Brief*, at 7.

Finally, whether the City's policy goals in providing exemptions are sound is not at issue at the pleading stage. What matters is whether Plaintiff has alleged facts that, if proven, would support a finding that the resulting rate structure imposes unjust discrimination. Plaintiff has done so here. *Doe v. Coe*, 2019 IL 123521, ¶ 20 ("we accept as true all well-pleaded facts and all reasonable inferences that may be drawn from those facts. We also construe the allegations in the complaint in the light most favorable to the plaintiff.").

Plaintiff has adequately stated a claim for unreasonable rate discrimination. The FAC identifies two customer classes, alleges unequal economic treatment not justified by differences in cost, and quantifies the impact of that treatment. Whether the City's justifications can be substantiated is a question for a later stage. For present purposes, Plaintiff has alleged facts sufficient to survive a motion to dismiss under Illinois common law standards. Accordingly, the motion to dismiss Count IX is denied.

## II. Count X – Exorbitant and Unreasonable Rates

Plaintiff alleges that the City of Chicago has imposed water and sewer rates that are exorbitant and unreasonable because they grossly exceed the actual cost of providing those services. According to the FAC and supporting brief, each year the City calculates a "Revenue Requirement" that informs how much must be collected from ratepayers. Plaintiff does not challenge the concept of recovering legitimate costs—such as operations, maintenance, and fair administrative allocations—but contends that the Revenue Requirement includes inflated or illegitimate costs that substantially pad the rate base and result in overcharging customers. *FAC* ¶¶ 6–7, 12, 19–20, 28–30, 53–68.

Two principal categories of alleged padding are identified. First, the City's allocation of "indirect costs" from central administration is, according to Plaintiff, vastly overstated. The FAC cites a 2022 Maximus study that found the Water Fund's fair share of central service costs to be approximately \$21.7 million, while the City's 2022 budget allocated \$69.3 million—more than three times the calculated fair share. Similarly, the Sewer Fund was allocated \$37.7 million, though Maximus estimated its share should be only \$1.5 million. *FAC* ¶ 245. Plaintiff characterizes this as a covert tax on utility customers used to fund unrelated City operations. *FAC* ¶¶ 239–245.

Second, the FAC alleges that the City unfairly burdened the Water and Sewer Funds with pension obligations that far exceed their proportional share of pension-eligible employees. For instance, in 2021, the Water Fund was charged \$36.9 million toward the Municipal Employees' pension fund, while the Corporate Fund—which covers the bulk of City employees—was charged \$49.7 million. *FAC* ¶¶ 294–304. Plaintiff asserts that the Water Department does not comprise a proportionate share of the workforce to justify such allocations. Moreover, the City has continued to collect these overcharges despite a dedicated utility tax enacted in 2017 to fund pensions. *FAC* ¶¶ 19, 294–304.

Plaintiff also alleges that the rate-setting structure, codified by ordinance in 2016, locked in annual increases indexed to inflation, effectively perpetuating and compounding the excessive baseline rates set at that time. *FAC* ¶¶ 64–68. According to Plaintiff, the rate ordinance baked the excesses into the structure, and subsequent inflationary increases merely carried forward the unjustified charges.

The City responds that Plaintiff improperly relies on post-2016 data—such as the Maximus study and recent budget figures—to challenge rates set nearly a decade ago. Citing *West v. City of Batavia*, the City argues that utility rate reasonableness must be assessed at the time the rates are set and not through hindsight using more recent evidence. *West v. City of Batavia*, 155 Ill. App. 3d 925, 928 (2d Dist. 1987) (“Judicial review of rates which were unilaterally established by a municipal utility may not take intervening circumstances or after-acquired information into account”).

The City further contends that municipalities have some flexibility in setting rates, including the ability to build modest reserves or earn a return akin to depreciation. The City suggests that even if the allocations are not perfectly precise, they do not rise to the level of unreasonableness required to state a claim.

Illinois courts have consistently held that municipal utility rates must reflect reasonable compensation for services rendered. In *Village of Niles v. City of Chicago*, the court stated that “the ultimate question is whether the rates charged the plaintiffs are reasonably related to the cost of service.” *Village of Niles v. City of Chicago*, 201 Ill. App. 3d 661 (1st Dist. 1990). The court further explained that “[i]f the rates charged to plaintiffs are discriminatorily high or exceed the cost of service to the point of unreasonableness, plaintiffs are entitled to relief.” *Id.* at 673. Likewise, the Illinois Municipal Code mandates that municipalities may charge only “reasonable compensation for the use and service of the combined waterworks and sewerage system.” 65 ILCS 5/11-139-8.

The FAC meets the applicable pleading standard by alleging that the City’s rates were unreasonable at the time of their adoption and remain unreasonable due to the embedded cost inflators. Plaintiff alleges that by 2016, the City had already included excessive indirect costs and pension allocations in its rate structure, and those costs were carried forward under the inflation-indexed increases adopted by ordinance. *FAC* ¶¶ 60–66, 224–225, 288, 297–298. The 2016 Appropriation Ordinance included specific line items for “General Fund Reimbursements” and “Pension Expense” in the water and sewer budgets, demonstrating that the challenged categories were part of the rates as originally set.

While the Maximus study and 2021–2022 budget data are more recent, they illustrate the scale of the alleged overcharges and reinforce the claim that similar overcharges existed in 2016. Importantly, the Maximus study analyzed 2020 figures—closer in time to the rate-setting date—making its findings probative of the conditions at issue. Plaintiff uses these later data points to support a reasonable inference that the same flawed practices were present earlier.

The magnitude of the alleged overcharges—more than \$40 million annually in indirect costs alone, plus substantial pension over-allocations—far exceeds what might reasonably be

attributed to reserves or returns on investment. Plaintiff alleges the rates generate over \$100 million in surplus annually, suggesting not incidental misallocation but systemic overcharging for unrelated City obligations. If proven, such practices amount to a hidden tax imposed through utility billing—a practice the Illinois Supreme Court has cautioned against. *East St. Louis v. Union Electric Co.*, 37 Ill. 2d 537, 542–43 (1967) (“On a literal and superficial view it might appear as if the utility tax ordinance imposed a tax burden upon the Company, but on examination it is evident that the burden was placed on the consumers.... Adoption of the Company’s argument would give it the best of possible worlds.... The Company cannot plead that it has the burden of the utility tax and then pass it on to its consumers and in the same voice relieve itself of its obligations.... Plainly, such a construction would be unreasonable.”).

Plaintiff also points to violations of municipal ordinances governing the use of utility revenues. Section 3-12-010 of the Municipal Code restricts the use of the sewer fund to sewer-related purposes, and Section 11-12-260 similarly mandates that water rates must cover the system’s needs. Allegations that revenues have been siphoned to the City’s Corporate Fund or to pay general pension obligations bolster the claim that the rates are not grounded in legitimate cost recovery.

Finally, Plaintiff’s allegations align with Section 11-139-8 of the Illinois Municipal Code, which limits water/sewer charges to “reasonable compensation.” The combination of specific factual allegations, quantitative data, and citations to statutory and municipal limits all support a plausible claim that the rates far exceed the cost of service. *FAC ¶¶ 4, 45–46, 58, 59–60.*

Count X of the Fourth Amended Complaint adequately pleads a cause of action for exorbitant and unreasonable rates. Plaintiff has alleged that the rates, as established in 2016 and perpetuated thereafter, include cost inflators—such as overstated indirect costs and disproportionate pension allocations—that collectively impose a burden far beyond the legitimate cost of service. The use of recent data does not undermine the claim because the FAC ties the overcharges to the original rate-setting period and uses current figures illustratively.

Whether the City can justify these charges will depend on the evidence presented later in the case. But at the pleading stage, Plaintiff’s detailed and data-driven allegations are sufficient. Accordingly, the City’s motion to dismiss Count X is denied.

In its March 25, 2024 Order, the Court dismissed Counts IX–XII of the Third Amended Complaint for lack of factual detail supporting a good-faith claim of rate discrimination or unreasonableness, noting the absence of allegations linking the challenged rates to their establishment period or to actual costs. *MTD 4th Amd. Comp.*, at 3–5.

CONCLUSION

Accordingly, the City of Chicago's Motion to Dismiss Counts IX and X of the Fourth Amended Complaint pursuant to 735 ILCS 5/2-615 is hereby denied. This matter is set for status August 4, 2025 at 10:00AM.

Dated: 7/11/2025

ENTERED:



Hon. Judge Allen P. Walker

Associate Judge  
Allen Price Walker

**JUL 11 2025**

**Circuit Court-2071**

# EXHIBIT – 2



**\$227,925,000**  
**CITY OF CHICAGO**  
**Second Lien Wastewater Transmission**  
**Revenue Bonds, Refunding Series 2024A**

**DATED:** Date of Delivery

**Due:** January 1 as shown on the inside cover page

**RATINGS**

A+ (Stable Outlook) Fitch Ratings  
 AA- (Stable Outlook) Kroll Bond Rating Agency  
 A+ (Stable Outlook) S&P Global Ratings  
 AA (Stable Outlook) S&P Global Ratings (Insured Bonds)

**ISSUANCE**

The City of Chicago Second Lien Wastewater Transmission Revenue Bonds, Refunding Series 2024A (the “*Bonds*”) which will be issued pursuant to a Master Indenture of Trust dated as of May 1, 2023, as supplemented by a Second Supplemental Indenture dated as of April 1, 2024 (relating to certain technical corrections) (the “*Master Indenture*”), as supplemented by a Third Supplemental Indenture dated as of April 1, 2024 (relating to the issuance of the Bonds) (together with the Master Indenture, the “*Indenture*”) from the City to Amalgamated Bank of Chicago, Chicago, Illinois, as trustee (the “*Trustee*”). See “**INTRODUCTION— Authorization.**”

**TAX EXEMPTION**

Subject to the accuracy of certain representations and continuing compliance by the City with certain covenants, in the respective opinions of Co-Bond Counsel, under present law, interest on the Bonds is excludable from the gross income of their owners for federal income tax purposes and thus will be exempt from present federal income taxes based upon gross income. Such interest is not included as an item of tax preference in computing the federal alternative minimum tax on individuals. Interest on the Bonds is included in computing the adjusted financial statement income of those corporations subject to the corporate alternative income tax. Interest on the Bonds is not exempt from present Illinois income taxes. See “**TAX MATTERS.**”

**SECURITY**

The Bonds are limited obligations of the City having a claim for payment of principal and interest solely from Second Lien Bond Revenues on an equal and ratable basis with all other Second Lien Bonds that are Outstanding from time to time. The Bonds, together with any other Outstanding Second Lien Bonds, are secured by and payable from certain moneys and securities held by the Trustee under the Indenture, including but not limited to, any amounts on deposit in Second Lien Construction Accounts. The claim of the Bonds, together with any other Outstanding Second Lien Bonds, to Net Revenues Available for Bonds is junior and subordinate to the claim of the City's Outstanding Senior Lien Bonds. See “**SECURITY FOR THE BONDS.**”

**LIMITED OBLIGATIONS**

**THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION AS TO INDEBTEDNESS. THE BONDS DO NOT HAVE A CLAIM FOR PAYMENT FROM ANY TAXES OF THE CITY. THE BONDS ARE NOT SECURED BY A LIEN ON OR A SECURITY INTEREST IN THE PHYSICAL ASSETS OF THE SEWER SYSTEM. THE CITY SHALL NOT BE OBLIGATED TO PAY THE BONDS EXCEPT FROM THE REVENUES PLEDGED TO THEIR PAYMENT.**

**BOND INSURANCE**

The scheduled payment of principal of and interest on the Bonds maturing on January 1 of the years 2029 through 2044, inclusive (the “*Insured Bonds*”), when due will be guaranteed under a municipal bond insurance policy to be issued concurrently with the delivery of the Bonds by Build America Mutual Assurance Company (“*BAM*”).



**REDEMPTION**

The Bonds maturing on or after January 1, 2035 are subject to redemption prior to maturity at the option of the City, in whole or in part, on any date on or after January 1, 2034 at a redemption price equal to 100% of the outstanding amount of such Bonds. The Bonds are not subject to mandatory sinking fund redemption prior to maturity. The redemption provisions are more fully described in this Official Statement. See “**DESCRIPTION OF THE BONDS— Redemption.**”

**PURPOSES**

The City will use the proceeds from the sale of the Bonds to (i) refund certain Outstanding Second Lien Wastewater Transmission Revenue Bonds of the City, and (ii) pay costs of issuance of the Bonds. See “**PLAN OF FINANCE.**”

**DENOMINATIONS**

The Bonds will be issued in denominations of \$5,000 or any integral multiple thereof.

**INTEREST PAYMENTS**

Interest on the Bonds is payable on each January 1 and July 1, with the first interest payment date being July 1, 2024.

**BOOK-ENTRY FORM**

The Bonds will be issuable as fully registered bonds in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York (“*DTC*”). See “**DESCRIPTION OF THE BONDS—Book-Entry-Only Form**”

**DELIVERY**

It is expected that the Bonds will be available for delivery through the facilities of DTC on or about April 17, 2024.

**CERTAIN LEGAL MATTERS**

The Bonds are offered when, as and if issued, and accepted by the Underwriters, subject to delivery of separate approving legal opinions by ArentFox Schiff LLP, Chicago, Illinois, and Zuber Lawler LLP, Chicago, Illinois, Co-Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the City by (i) its Corporation Counsel, and (ii) in connection with the preparation of this Official Statement, Charity & Associates, P.C., Chicago, Illinois, and BurgherGray LLP, Chicago, Illinois, Co-Disclosure Counsel to the City. Certain legal matters will be passed upon for the Underwriters by Katten Muchin Rosenman LLP, Chicago, Illinois, and Sanchez Daniels & Hoffman LLP, Chicago, Illinois. See “**CERTAIN LEGAL MATTERS.**”

**Loop Capital Markets**

**BofA Securities**

**Blaylock Van, LLC**

**Cabrera Capital Markets LLC**

**Estrada Hinojosa**

**San Blas Securities**

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, PRICES, YIELDS  
AND CUSIP NUMBERS<sup>†</sup>**

**\$227,925,000**

**Second Lien Wastewater Transmission Revenue Bonds, Refunding Series 2024A**

<b>Maturity (January 1)</b>	<b>Principal Amount (\$)</b>	<b>Interest Rate</b>	<b>Price</b>	<b>Yield</b>	<b>CUSIP<sup>†</sup></b>
2025	9,730,000	5.000%	100.968	3.590%	167727 G59
2026	6,875,000	5.000	102.657	3.380	167727 G67
2027	7,225,000	5.000	104.519	3.240	167727G75
2028	7,600,000	5.000	106.598	3.100	167727 G83
2029	7,985,000	5.000	108.849	2.970	167727 G91
2030	8,395,000	5.000	110.467	2.990	167727 H25
2031	8,830,000	5.000	112.126	2.990	167727 H33
2032	9,285,000	5.000	113.296	3.050	167727 H41
2033	9,760,000	5.000	114.559	3.080	167727 H58
2034	10,265,000	5.000	115.724	3.110	167727 H66
2035	10,790,000	5.000	115.091C	3.180	167727 H74
2036	11,350,000	5.000	114.462C	3.250	167727 H82
2037	11,930,000	5.000	113.748C	3.330	167727 H90
2038	17,545,000	5.000	112.686C	3.450	167727 J23
2039	13,240,000	5.000	111.986C	3.530	167727 J31
2040	13,915,000	5.000	110.686C	3.680	167727 J49
2041	14,635,000	5.000	109.658C	3.800	167727 J56
2042	15,385,000	5.000	109.234C	3.850	167727 J64
2043	16,175,000	5.000	108.727C	3.910	167727 J72
2044	17,010,000	5.000	108.307C	3.960	167727 J80

C – Priced to the first call date.

<sup>†</sup> CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services (CGS), which is managed on behalf of the American Bankers Association by FactSet Research Systems Inc. This data is not intended to create a database and does not serve in any way as a substitute for the CGS database. CUSIP numbers have been assigned by an independent company not affiliated with the City and are included solely for the convenience of the registered owners of the Bonds. Neither the City nor the Underwriters are responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Bonds.

**CITY OF CHICAGO**

**MAYOR**

Brandon Johnson

**CITY CLERK**

Andrea M. Valencia

**CITY TREASURER**

Melissa Conyears-Ervin

**CITY COUNCIL  
COMMITTEE ON FINANCE**

Pat Dowell, Chairman

**CHIEF FINANCIAL OFFICER**

Jill A. Jaworski

**CITY COMPTROLLER**

Chasse Rehwinkel

**BUDGET DIRECTOR**

Annette Guzman

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Chicago, Illinois

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BurgherGray LLP  
Chicago, Illinois

**CO-FINANCIAL ADVISORS**

RSI Group, LLC  
Chicago, Illinois

Baker Tilly Municipal Advisors, LLC  
Chicago, Illinois

Certain information contained in, or incorporated by reference in, this Official Statement has been obtained by the City of Chicago (the "City") from The Depository Trust Company and other sources that are deemed reliable. No representation or warranty is made, however, as to the accuracy or completeness of such information by the Underwriters or the City. The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters reviewed the information in this Official Statement in accordance with, and as part of, their respective responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information. This Official Statement is being used in connection with the sale of securities as referred to herein and may not be used, in whole or in part, for any other purpose. The delivery of this Official Statement at any time does not imply that information herein is correct as of any time subsequent to its date.

No dealer, broker, salesperson or any other person has been authorized by the City or the Underwriters to give any information or to make any representation other than as contained in this Official Statement in connection with the offering described herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy any securities other than those described on the cover page, nor shall there be any offer to sell, solicitation of an offer to buy or sale of such securities in any jurisdiction in which it is unlawful to make such offer, solicitation or sale. Neither this Official Statement nor any statement that may have been made verbally or in writing is to be construed as a contract with the registered or beneficial owners of the Bonds.

This Official Statement, including the Appendices, contains certain opinions, estimates and forward-looking statements and information that are based on the City's beliefs as well as assumptions made by and information currently available to the City. Such opinions, estimates, projections and forward-looking statements set forth in this Official Statement were not prepared with a view toward complying with the guidelines established by the American Institute of Certified Public Accountants with respect to prospective financial information, but, in the view of the City, were prepared on a reasonable basis, reflect the best currently available estimates and judgments, and present, to the best of the City's knowledge and belief, the expected course of action and the expected future financial performance of the City. However, this information is not fact and should not be relied upon as being necessarily indicative of future results, and readers of this Official Statement are cautioned not to place undue reliance on such opinions, statements or prospective financial information.

Build America Mutual Assurance Company ("Insurer") makes no representation regarding the Bonds or the advisability of investing in the Bonds. In addition, the Insurer has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the Insurer, supplied by the Insurer and presented under the heading "BOND INSURANCE" and "APPENDIX H – SPECIMEN MUNICIPAL BOND INSURANCE POLICY".

The prospective financial information set forth in this Official Statement, except for certain information sourced to parties other than the City, is solely the product of the City. Neither the City's independent auditors, nor any other independent auditors, have compiled, examined, or performed any procedures with respect to, or been consulted in connection with the preparation of, the prospective financial information and forward-looking statements contained herein. The City's independent auditors assume no responsibility for the content of the prospective financial information set forth in this Official Statement, including any estimates, disclaim any association with such prospective financial information, and have not, nor have any other independent auditors, expressed any opinion or any other form of assurance on such information or its achievability.

References to web site addresses presented in this Official Statement are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such web sites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement.

**THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.**

THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF LAW OF THE STATES IN WHICH THE BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF.

## TABLE OF CONTENTS

INTRODUCTION .....	1
Purposes .....	1
Authorization .....	1
Security for the Bonds .....	1
Bond Insurance .....	2
Redemption .....	2
Rate Covenant .....	2
City of Chicago Sewer System .....	3
Sewer System Rates .....	3
PLAN OF FINANCE .....	4
Estimated Sources and Uses of Funds .....	4
Refunding of Refunded Bonds .....	4
DESCRIPTION OF THE BONDS .....	5
General .....	5
Redemption .....	5
Bond Registration and Transfers .....	6
Book-Entry Only Form .....	6
General Provisions of the Bonds When Not in Book-Entry Only System .....	7
SECURITY FOR THE BONDS .....	8
General .....	8
Pledge of Second Lien Bond Revenues .....	8
Pledge of Amounts in Second Lien Construction Accounts .....	8
Flow of Funds .....	8
Payment of Debt Service on the Bonds .....	12
Rate Covenant .....	12
Additional Bonds .....	13
Additional Information .....	13
Deficiencies and Excesses .....	13
Cash and Investments .....	13
Investment of Funds .....	14
BOND INSURANCE .....	14
Bond Insurance Policy .....	14
Build America Mutual Assurance Company .....	14
OUTSTANDING SENIOR LIEN BONDS AND SECOND LIEN BONDS .....	16
OUTSTANDING DEBT AND ANNUAL DEBT SERVICE .....	16
Subordinate Lien Obligations .....	19
DEPARTMENT OF WATER MANAGEMENT .....	20
Organization and Staffing .....	20
Description of Physical Facilities .....	21
Capital Improvement Program .....	22
US EPA .....	23
SEWER SYSTEM .....	24
General .....	24
Service Areas .....	24
FINANCIAL OPERATIONS .....	25
Sewer Service Rates .....	25
Sewer Accounts .....	26
Collections and Delinquencies .....	27
Utility Billing Relief Program .....	27
Sewer System Revenues Not Connected to the State of Illinois .....	28
Annual Budget Review and Implementation of Annual Budget .....	28
The Financial Policies of the Sewer System .....	29
Historical and Projected Operations .....	30
Pension Costs .....	34

INVESTMENT CONSIDERATIONS .....	38
Unfunded Pensions .....	38
Environmental Regulations.....	38
Operational Security and Cybersecurity of the Sewer System.....	39
Adverse Change in Laws .....	39
Uncertain Enforcement Remedies.....	40
Force Majeure Events .....	40
No Assurance of Secondary Market .....	40
Debt Covenants.....	40
Bankruptcy.....	41
Forward-Looking Statements.....	41
LITIGATION .....	42
RATINGS.....	43
CERTAIN LEGAL MATTERS .....	43
FINANCIAL STATEMENTS.....	43
CO-FINANCIAL ADVISORS.....	43
UNDERWRITING .....	44
VERIFIER .....	44
TAX MATTERS.....	45
Federal Income Tax .....	45
Discount and Premium.....	45
State and Local Taxes .....	46
Basis of Bond Counsel Opinions .....	46
Risk of Audit.....	46
Legislation .....	46
Backup Withholding.....	47
CONTINUING DISCLOSURE.....	47
Annual Financial Information Disclosure.....	47
Reportable Events Disclosure .....	48
Consequences of Failure of the City to Provide Information.....	49
Amendments; Waiver .....	49
EMMA .....	50
Termination of Undertaking.....	50
Additional Information .....	50
Corrective Action Related to Certain Bond Disclosure Requirements .....	50
MISCELLANEOUS.....	52
APPENDIX A — GLOSSARY OF CERTAIN TERMS	
APPENDIX B — SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE	
APPENDIX C — BOOK ENTRY ONLY SYSTEM	
APPENDIX D — CITY OF CHICAGO, ILLINOIS SEWER FUND BASIC FINANCIAL STATEMENTS AS OF AND FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021, AND INDEPENDENT AUDITOR’S REPORT	
APPENDIX E — PROPOSED FORM OF OPINION OF CO-BOND COUNSEL	
APPENDIX F — INFORMATION REGARDING THE CITY OF CHICAGO ECONOMY AND DEMOGRAPHICS	
APPENDIX G — THE REFUNDED BONDS	
APPENDIX H — SPECIMEN BOND INSURANCE POLICY	

# OFFICIAL STATEMENT

**\$227,925,000**

## **CITY OF CHICAGO**

### **Second Lien Wastewater Transmission Revenue Bonds, Refunding Series 2024A**

#### **INTRODUCTION**

This Official Statement, including the cover page, inside cover pages, and the Appendices, sets forth certain information in connection with the sale of \$227,925,000 Second Lien Wastewater Transmission Revenue Bonds, Refunding Series 2024A (the “Bonds”), of the City of Chicago (the “City”), which are to be issued pursuant to the Bond Ordinance (defined herein). All capitalized terms used in this Official Statement and not otherwise defined herein have the meanings provided in APPENDIX A—“GLOSSARY OF CERTAIN TERMS.” Certain information regarding the Bonds appears on the cover and in this Introduction section for ease of reference. Any prospective investor should read this Official Statement in its entirety before making an investment decision.

#### **Purposes**

The proceeds from the sale of the Bonds will be used to (i) refund certain Outstanding Second Lien Wastewater Transmission Revenue Bonds of the City, and (ii) pay costs of issuance of the Bonds. See “PLAN OF FINANCE.”

#### **Authorization**

The Bonds are being issued pursuant to the constitutional home rule powers of the City. The Bonds were authorized under an ordinance adopted by the City Council on January 24, 2024 (the “Bond Ordinance”). The Bonds are being issued pursuant to a Master Indenture of Trust dated as of May 1, 2023, as supplemented by a Second Supplemental Indenture dated as of April 1, 2024 (relating to certain technical corrections) (the “*Master Indenture*”), as supplemented by a Third Supplemental Indenture dated as of April 1, 2024 (relating to the issuance of the Bonds) (together with the Master Indenture, the “*Indenture*”) from the City to Amalgamated Bank of Chicago, Chicago, Illinois, as trustee (the “*Trustee*”).

#### **Security for the Bonds**

The Bonds are limited obligations of the City having a claim for payment of principal and interest solely from the Second Lien Bond Revenues derived by the City from its ownership and operation of the Sewer System, all on an equal and ratable basis with any other Second Lien Bonds, including those that were issued prior to the effectuation of the Indenture and remain outstanding. The Bonds are secured by and payable from certain moneys and securities held by the Trustee under the Indenture. The Bonds, together with any other Second Lien Bonds, are also secured by and payable from any amounts on deposit in the Second Lien Construction Accounts. The claim of the Bonds to the Net Revenues Available for Bonds is junior and subordinate to the claim of the City’s Senior Lien Bonds. See “SECURITY FOR THE BONDS — General” and “— Flow of Funds,” “OUTSTANDING DEBT AND ANNUAL DEBT SERVICE” and APPENDIX B — “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE — Source of Payment; Pledge of Second Lien Bond Revenues.”

**THE BONDS ARE NOT SECURED BY A LIEN ON OR SECURITY INTEREST IN THE PHYSICAL ASSETS OF THE SEWER SYSTEM. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR**

**STATUTORY PROVISION OR LIMITATION AS TO INDEBTEDNESS, AND NEITHER THE FULL FAITH AND CREDIT NOR TAXING POWER OF THE CITY, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION OF THE STATE OF ILLINOIS IS PLEDGED TO THE PAYMENT OF THE BONDS.**

**Bond Insurance**

Concurrently with the issuance of the Bonds maturing on January 1 of the years 2029 through 2044, inclusive (the “*Insured Bonds*”), BAM will issue the Policy for the Insured Bonds. The Policy guarantees scheduled payment of principal of and interest on the Insured Bonds when due as set forth in the form of the Policy included as Appendix H to this Official Statement. For additional information on the Insurer and the Policy, see “BOND INSURANCE” and APPENDIX H — “SPECIMEN MUNICIPAL BOND INSURANCE POLICY.”

**Redemption**

The Bonds are subject to redemption prior to maturity as described under the caption “DESCRIPTION OF THE BONDS – Redemption.”

**Rate Covenant**

As more specifically described in the Indenture, the City covenants that it will establish, maintain and collect at all times fees, charges and rates for the use and service of the Sewer System sufficient at all times to

(a) pay Operation and Maintenance Costs,

(b) for Senior Lien Bonds, produce Net Revenues Available for Bonds sufficient in each Fiscal Year at least equal to one hundred fifteen percent (115%) of the sum required to pay promptly when due the Bond Debt Service Requirement for the Fiscal Year on all Senior Lien Bonds then Outstanding, and to pay the principal (at maturity or pursuant to mandatory sinking fund redemption) of and interest on all Senior Lien Bonds then Outstanding from time to time and to establish and maintain the Bond Principal and Interest Account and the Bond Debt Service Reserve Account as may be covenanted in ordinances authorizing the issuance of Senior Lien Bonds, and

(c) for Second Lien Bonds, produce Second Lien Bond Revenues sufficient in each Fiscal Year at least be equal to one hundred ten percent (110%) of the sum required to pay promptly when due the Second Lien Bonds Debt Service Requirement for the Fiscal Year on Second Lien Bonds, and to pay the principal (at maturity or pursuant to mandatory sinking fund redemption) of and interest on all Second Lien Bonds then Outstanding from time to time.

(d) The amount of Net Revenues Available for Bonds that exceeds one hundred percent (100%) of the sum required to pay promptly when due the Bond Debt Service Requirement for any Fiscal Year on all Senior Lien Bonds Outstanding may be included in determining compliance with the requirements of clauses (b) and (c) above for such Fiscal Year.

The foregoing covenants are collectively referred to herein as the “Rate Covenant.” See “SECURITY FOR THE BONDS — Rate Covenant,” “FINANCIAL OPERATIONS — Annual Budget Review and Implementation of Annual Budget”, and APPENDIX B — “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE — Additional Second Lien Parity Bonds.”

The City will, prior to the end of each Fiscal Year, conduct a review to determine if it has been and will be in compliance with the Rate Covenant. Whenever the annual review indicates that projected Gross Revenues will not be sufficient to comply with the Rate Covenant, the City shall prepare or will have prepared a rate study for the Sewer System identifying the rate changes necessary to comply with the Rate Covenant and the Office of Budget and Management of the City and the Authorized Officer shall recommend appropriate action to the City Council to comply with the Rate Covenant.

### City of Chicago Sewer System

The City's wastewater transmission system (the "Sewer System") consists of approximately 4,400 miles of sewer mains, more than 350,000 sewer structures, and a service area of roughly 230 square miles inhabited by approximately 2.67 million people. The City's Department of Water Management (the "Department") does not operate any sewage treatment facilities. The Sewer System collects and transmits wastewater to the interceptors and treatment facilities of an independent governmental body, the Metropolitan Water Reclamation District of Greater Chicago (the "Water Reclamation District"). See "DEPARTMENT OF WATER MANAGEMENT" and "SEWER SYSTEM."

### Sewer System Rates

The City Council has authority to make adjustments to sewer service rates. No regulation by any administrative agency applies to the Sewer System rates. Under certain conditions, the Authorized Officer shall recommend appropriate action to the City Council to comply with the Rate Covenant. See "SECURITY FOR THE BONDS – Rate Covenant."

The Sewer System rates for all accounts located within the City are a percentage of the Water System rates. Metered water rates are based on a dollar rate per thousand cubic feet. The assessment of non-metered users is based on a formula related to the size of the relevant property and other use-related factors. Because the Sewer System rates are calculated as a percentage of the Water System rates, Sewer System rates also increase when Water System rates increase. Annual Water System rates are required to be increased, pursuant to the Municipal Code, by applying to the previous year's rates the rate of inflation, calculated based on the Consumer Price Index – Urban Wage Earners and Clerical Workers (Chicago All Items) published by the United States Bureau of Labor Statistics for the 365-day period ending on the most recent January 1 up to a maximum increase of 5%. Such increases do not require further action by the City Council, but the City Council may take action at any time to alter the then-current schedule of water rates. Under certain conditions, the Authorized Officer shall recommend appropriate action to the City Council to comply with the Rate Covenant. See "FINANCIAL OPERATIONS – Sewer Service Rates."

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**PLAN OF FINANCE**

**Estimated Sources and Uses of Funds**

The following table sets forth the estimated application of the proceeds of the Bonds:

<u>Source of Funds</u>	
Principal Amount of Bonds .....	\$227,925,000.00
Net Original Issue Premium.....	23,898,651.05
Other Available Bonds Funds .....	<u>7,273.03</u>
Total Sources of Funds.....	\$251,830,924.08

<u>Use of Funds</u>	
Deposit for Refunding .....	\$249,285,562.75
Costs of Issuance (including Underwriters' discount and bond insurance premium)...	<u>2,545,361.33</u>
Total Uses of Funds.....	\$251,830,924.08

**Refunding of Refunded Bonds**

The proceeds from the sale of the Bonds will be used to (i) refund certain of the Outstanding Series 2012 Second Lien Bonds (the "Series 2012 Refunded Bonds") and certain of the Outstanding Series 2014 Second Lien Bonds (the "Series 2014 Refunded Bonds," and together with the Series 2012 Refunded Bonds, the "Refunded Bonds"), and (ii) pay costs of issuance of the Bonds. See APPENDIX G – "THE REFUNDED BONDS."

In order to provide for the refunding of the Refunded Bonds, the City will use the net proceeds of the Bonds in such amounts sufficient to pay the principal of and accrued interest on the Refunded Bonds to and including the redemption date (which is anticipated to be no more than 90 days after the delivery date of the Bonds). The amounts described in the preceding sentence will be used to purchase Defeasance Obligations to be held in separate escrow trust accounts (the "*Escrow Accounts*") established pursuant to an Escrow Agreement (relating to the Series 2012 Refunded Bonds) and an Escrow Agreement (relating to the Series 2014 Refunded Bonds), each by and between the City and Amalgamated Bank of Chicago, for the respective benefit of the holders of the Refunded Bonds. From and after the funding of the Escrow Accounts, the Refunded Bonds shall be deemed paid and the pledge, assignment and lien of the Indenture shall be discharged and satisfied with respect to such Refunded Bonds. Holders of the Bonds will have no claim to the Escrow Accounts.

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## DESCRIPTION OF THE BONDS

### General

The Bonds will be dated the date of their delivery and will bear interest from that date until paid, payable semiannually on each January 1 and July 1, commencing July 1, 2024. The Bonds will bear interest at the rates per year, and mature in the principal amounts on January 1 in each year, as set forth on the inside cover page of this Official Statement. Interest on the Bonds is computed on the basis of a 360-day year consisting of twelve 30-day months. The Bonds will be issued in denominations of \$5,000 or integral multiples thereof. The Bonds are subject to redemption prior to maturity, as described below under the heading “—Redemption.”

Principal of and interest on the Bonds will be paid by the Trustee. If any payment on any Bond is due on a day other than a Business Day, it will be made on the next Business Day, and no interest will accrue as a result.

The Bonds initially will be issued through a book-entry only system operated by The Depository Trust Company, New York, New York (“DTC”).

### Redemption

#### *Optional Redemption.*

The Bonds maturing on or after January 1, 2035 are subject to redemption prior to maturity at the option of the City, in whole or in part, on any date on or after January 1, 2034 (and if in part, in such principal amounts as the City shall determine and to be selected by lot in such manner as may be designated by the Trustee) at a redemption price equal to the outstanding principal amount of such Bond, together with accrued interest to the date fixed for redemption.

#### *Mandatory Sinking Fund Redemption.*

The Bonds are not subject to mandatory sinking fund redemption prior to maturity.

#### *General Redemption Procedures.*

The Bonds may be called for redemption by the Trustee upon receipt by the Trustee at least 45 days prior to the redemption date (or such shorter period as shall be acceptable to the Trustee) of a written request of the City requesting such redemption. Term Bonds shall be called for redemption by the Trustee without further request or direction from the City or any other party.

Unless waived by any owner of Bonds to be redeemed, notice of the call for any optional redemption shall be given by the Trustee on behalf of the City by mailing the redemption notice by first class mail at least 30 days and not more than 45 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Trustee, but the failure to mail any such notice or any defect therein as to any Bond to be redeemed shall not affect the validity of the proceedings for the redemption of any other Bond to be redeemed. Any notice of redemption mailed as provided herein shall be conclusively presumed to have been given whether or not actually received by the addressee.

All notices of redemption shall specify, at a minimum: (i) the series name and designation and certificate numbers of Bonds being redeemed, (ii) the CUSIP numbers of the Bonds being redeemed, (iii) the principal amount of the Bonds being redeemed and the redeemed amount for each certificate (for partial calls), (iv) the redemption date, (v) the redemption price, (vi) the date of issuance of the Bonds being redeemed, (vii) the interest rate and maturity date of the Bonds being redeemed, (viii) the date of mailing of notices to Registered Owners and information services (if required), and (ix) the name of the employee of the Trustee who may be contacted

with regard to such notice. With respect to an optional redemption of any Bonds, such notice may state that said redemption is conditioned upon the receipt by the Trustee on or prior to the date fixed for redemption of moneys sufficient to pay the redemption price of the Bonds being redeemed. If such moneys are not so received, such redemption notice shall be of no force and effect, the City shall not redeem such Bonds, and the Trustee shall give notice, in the same manner in which the notice of redemption was given, that such moneys were not so received and that such Bonds will not be redeemed. Unless the notice of redemption is made conditional as provided above, on or prior to any redemption date for Bonds, the City shall deposit with the Trustee an amount of money sufficient to pay the redemption price of all Bonds or portions thereof which are to be redeemed on that date.

Notice of redemption having been given as aforesaid, the Bonds, or portions thereof, so to be redeemed shall, on the redemption date (unless the redemption has been canceled), become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds, or portions thereof, shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Trustee at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same interest rate and maturity in the amount of the unpaid principal. If any Bond, or portion thereof, called for redemption shall not be so paid upon surrender for redemption, the principal shall, until paid, bear interest from the redemption date at the rate borne by such Bond, or portion thereof, so called for redemption.

#### ***Selection of Bonds for Redemption.***

If fewer than all the Bonds of the same interest rate and maturity are to be redeemed, the aggregate principal amount thereof to be redeemed shall be in an Authorized Denomination, and the Trustee shall assign to each Bond of such interest rate and maturity a distinctive number for each minimum Authorized Denomination of such Bond and shall select by lot from the numbers so assigned as many numbers as, at such minimum Authorized Denomination for each number, shall equal the principal amount of such Bonds to be redeemed. The Bonds to be redeemed shall be those to which were assigned numbers so selected; provided that only so much of the principal amount of each Bond shall be redeemed as shall equal such minimum Authorized Denomination for each number assigned to it and so selected. For purposes of any redemption of fewer than all of the outstanding Bonds of a single interest rate and maturity, the particular Bonds or portions thereof to be redeemed shall be selected not more than 60 days prior to the redemption date by the Trustee.

#### **Bond Registration and Transfers**

For a description of the procedure to transfer ownership of a Bond while in the book-entry only system, see “—Book-Entry Only System” below. Subject to the limitations described below, the Bonds are transferable upon surrender thereof at the Principal Office of the Trustee, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Trustee and duly executed by the Bondholder or such Bondholder’s authorized agent duly authorized in writing. Any Bond, upon surrender of such Bond at the Principal Office of the Trustee together with an assignment executed by the Bondholder or its duly authorized agent, may, at the option of the Bondholder, be exchanged for an equal aggregate principal amount of Bonds of any Authorized Denomination bearing interest at the same interest rate and maturity as the Bond being surrendered. The Trustee may charge a fee sufficient to cover any tax, fee or other governmental charge in connection with any exchange or transfer of any Bond.

#### **Book-Entry Only Form**

A full description of the Book-Entry Only Form and of DTC is contained in APPENDI C – “BOOK-ENTRY ONLY SYSTEM.”

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each maturity of each Series of the Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC.

Details of payments of the Bonds when in the book-entry form and the book-entry only system are described in APPENDIX C – "BOOK ENTRY ONLY SYSTEM". Except as described in APPENDIX C, beneficial owners of the Bonds will not receive or have the right to receive physical delivery of Bonds and will not be or be considered to be the Owners thereof. Accordingly, each beneficial owner must rely upon (i) the procedures of DTC and, if such beneficial owner is not a "DTC Participant" (as defined below), the Participant who will act on behalf of such beneficial owner to receive notices and payments of principal of and interest on the Bonds, and to exercise voting rights and (ii) the records of DTC and, if such beneficial owner is not a Participant, such beneficial owner's Participant, to evidence its beneficial ownership of the Bonds. So long as DTC or its nominee is the registered Owner of the Bonds, references herein to Bondholders or Owners of such Bonds mean DTC or its nominee and do not mean the beneficial owners of such Bonds. See APPENDIX C – "BOOK ENTRY ONLY SYSTEM".

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the City or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, certificates for the Bonds will be printed and delivered.

The City may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, certificates for the Bonds will be printed and delivered to DTC.

#### **General Provisions of the Bonds When Not in Book-Entry Only System**

The Owners of the Bonds have no right to the appointment or retention of a securities depository for the Bonds. If (i) the City determines, or (ii) the City receives notice that the securities depository has received notice from its Participants having interests in at least 50 percent in principal amount of the Bonds of a given series, that the securities depository or its successor is incapable of discharging its responsibilities as a securities depository, or that it is in the best interests of the beneficial owners that they obtain certificated Bonds, the City may (or, in the case of clause (ii) above, the City shall) cause the Trustee to authenticate and deliver Bond certificates for such series. The City shall have no obligation to make any determination described in this paragraph.

If, following a determination or event specified in the preceding paragraph, the City discontinues the maintenance of the Bonds in book-entry form with the then-current securities depository, the City will issue replacement Bonds to the replacement securities depository, if any, or, if no replacement securities depository is selected for the Bonds, directly to the Participants as shown on the records of the former securities depository or, to the extent requested by any Participant, to the beneficial owners of the Bonds shown on the records of such Participant. The City and the Trustee may conclusively rely upon (i) a certificate of the securities depository as to the identity of the participants in the book-entry system and (ii) a certificate of such participants as to the identity of, and the respective principal amounts of Bonds beneficially owned by, the beneficial owners. Replacement Bonds shall be in fully registered form and in Authorized Denominations, be payable as to interest on the Interest Payment Dates of the Bonds by check mailed to each Owner at the address of such Owner as it appears on the Bond Register or at the option of any Owner of not less than \$1,000,000 principal amount of Bonds, by wire transfer to any address in the United States of America on such Interest Payment Date to such Owner as of such Record Date, if such Owner provides the Trustee with written notice of such wire transfer address not later than the Record Date (which notice may provide that it will remain in effect with respect to subsequent Interest Payment Dates unless and until changed or revoked by subsequent notice). Principal and premium, if any, on the replacement Bonds, are payable only upon presentation and surrender of such replacement Bond or Bonds at the designated corporate trust office of the Trustee.

## SECURITY FOR THE BONDS

### General

As described below, the Bonds, together with the Outstanding Second Lien Bonds, including those issued and outstanding prior to the effective date of the Indenture and any Second Lien Parity Bonds issued from time to time in the future (which are expected to be issued under the Indenture), are secured by a pledge of Second Lien Bond Revenues that are derived from the Net Revenues Available for Bonds (as defined below) in the City's Sewer Revenue Fund, which claim is junior and subordinate to the claim of the Outstanding Senior Lien Bonds and any Senior Lien Parity Bonds. See "Flow of Funds —4. The Second Lien Bonds Account," below. In the Indenture, other than the Outstanding Senior Lien Bonds, the City covenants and agrees not to issue any additional Senior Lien Parity Bonds (other than solely for refunding purposes).

"Net Revenues Available for Bonds" means that portion of the Net Revenues remaining in any period, minus any amounts deposited during that period in the Sewer Rate Stabilization Account plus the amounts allocated from the Sewer Rate Stabilization Account as provided in the Indenture plus the amounts allocated from the Residual Account at the direction of the Chief Financial Officer as provided in the Indenture. "Net Revenues" means that portion of the Gross Revenues remaining in any period after providing sufficient funds for Operation and Maintenance Costs. The terms "Gross Revenues" and "Operation and Maintenance Costs" have the meanings set forth in APPENDIX A—"GLOSSARY OF CERTAIN TERMS."

The Bonds are limited obligations of the City and do not constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations as to indebtedness. The Bonds have no claim to be paid from taxes of the City.

### Pledge of Second Lien Bond Revenues

The Bonds are payable on a parity basis as to Second Lien Bond Revenues with all other Outstanding Second Lien Bonds, including those issued and outstanding prior to the effective date of the Indenture and any Second Lien Parity Bonds issued from time to time in the future (which are expected to be issued under the Indenture). Second Lien Bond Revenues consist of all Net Revenues Available for Bonds deposited into the Second Lien Bonds Account pursuant to the Bond Ordinance and the ordinances authorizing each prior series of Outstanding Second Lien Bonds and each series of Outstanding Second Lien Parity Bonds. On the Business Day immediately preceding each January 1 and July 1, the Authorized Officer is required to transfer to the Trustee for deposit into the Second Lien Bonds Account the amounts required by the Indenture and any ordinance authorizing the issuance of Second Lien Bonds. Pursuant to the Indenture and the prior respective indentures governing Second Lien Bonds issued prior to the effective date of the Indenture, such Second Lien Bond Revenues are pledged to the payment of the principal of and interest on the Bonds and all other Outstanding Second Lien Bonds, without priority or distinction of one series of Second Lien Bonds over any other series of Second Lien Bonds. See "Flow of Funds —4. The Second Lien Bonds Account," below.

### Pledge of Amounts in Second Lien Construction Accounts

The Bonds, together with any other Outstanding Second Lien Bonds, are also secured by and payable from any amounts on deposit in the Second Lien Construction Accounts.

### Flow of Funds

The City maintains the Sewer Revenue Fund as a separate fund of the City to, among other things, carry out the provisions of the ordinances authorizing the Senior Lien Bonds, the Second Lien Bonds, any Subordinate Lien Obligations, any Commercial Paper Notes or any Line of Credit Notes. All Gross Revenues of the Sewer System are credited as they are collected to the Sewer Revenue Fund, which is held by a depository bank which

is currently not the depository for the City's General Fund. The Sewer Revenue Fund is separate, distinct and segregated from the City's General Fund and is not encumbered by any liens, claims, security interests or obligations of the City relating to its General Fund. Net Revenues Available for Bonds are required by ordinance to be deposited in the following accounts in the following order of priority:

1. **The Bond Principal and Interest Account** is used to pay principal of, redemption premium, if any, and interest on the Outstanding Senior Lien Bonds and amounts owed on Interest Rate Hedge Agreements for Outstanding Senior Lien Bonds. At least 10 days before each date that debt service payments are due with respect to Senior Lien Bonds, sufficient amounts to make such payments shall be deposited into this Account.

2. **The Bond Debt Service Reserve Account** is used to pay principal of, redemption premium, if any, and interest on the Outstanding Senior Lien Bonds as the same become due at any time when there are insufficient funds available for such purpose in the Bond Principal and Interest Account (after any available amounts in the Sewer Rate Stabilization Account and the Residual Account have first been applied to that purpose, excluding amounts in excess of the Bond Debt Service Reserve Requirement for Outstanding Senior Lien Bonds), except to the extent required to be credited to the Senior Lien Rebate Account.

3. **The Senior Lien Rebate Account** is used to make required rebates of arbitrage to the United States with respect to any Senior Lien Bonds.

4. **The Second Lien Bonds Account** is used to pay the principal of and interest on the Bonds and any other Outstanding Second Lien Bonds. The City also is required to make deposits in the Second Lien Bonds Account to meet other payment obligations under the Indenture and any ordinance or indenture authorizing Outstanding Second Lien Bonds. The City will make debt service and other deposits as required by the Indenture and by any ordinance or indenture authorizing Outstanding Second Lien Bonds. Moneys deposited in the Second Lien Bonds Account shall be transferred by the Authorized Officer on the date so deposited to the Trustee and the trustee or paying agent for each series of Second Lien Bonds in order to satisfy the debt service and other payment obligations, including with respect to Interest Rate Hedge Agreements, under the Indenture and any ordinance or indenture authorizing such Outstanding Second Lien Bonds. Moneys on deposit in the Second Lien Bonds Account shall be applied without priority as to any particular series of Outstanding Second Lien Bonds.

The City has established Debt Service Reserve Accounts for certain Series of Outstanding Second Lien Bonds. Each Debt Service Reserve Account secures only the Series of Outstanding Second Lien Bonds for which it was established. The Second Lien Bonds Debt Service Reserve Requirement for certain Series of Outstanding Second Lien Bonds is or will be met by separate municipal bond debt service reserve fund policies and by cash deposits.

5. **The Second Lien Bonds Debt Service Reserve Account** is used to pay principal of, redemption premium, if any, and interest on the Outstanding Second Lien Bonds as the same become due at any time when there are insufficient funds available for such purpose in the Second Lien Bonds Account (after any available amounts in the Sewer Rate Stabilization Account and the Residual Account have first been applied to that purpose, excluding amounts in excess of the Second Lien Bonds Debt Service Reserve Requirement for Outstanding Second Lien Bonds), except to the extent required to be credited to the Second Lien Rebate Account. The Second Lien Bonds Debt Service Reserve Requirement for the Bonds is \$0.00.

6. **The Second Lien Rebate Account** is used to make required rebates of arbitrage to the United States with respect to any Second Lien Bonds.

**7. The Subordinate Lien Obligations Account** is used to make debt service payments and other required deposits with respect to any outstanding Subordinate Lien Obligations. As of the date of this Official Statement, the only Subordinate Lien Obligations outstanding are certain loans to the City made by the Illinois Environmental Protection Agency (“IEPA”). See “OUTSTANDING DEBT AND ANNUAL DEBT SERVICE—Subordinate Lien Obligations.” The City is obligated to make required debt service and other deposits in the Subordinate Lien Obligations Account on the Business Day immediately preceding each January 1 and July 1. Moneys on deposit in the Subordinate Lien Obligations Account shall be applied without priority to any subaccounts established in the Subordinate Lien Obligations Account, as directed by a certificate of the Authorized Officer.

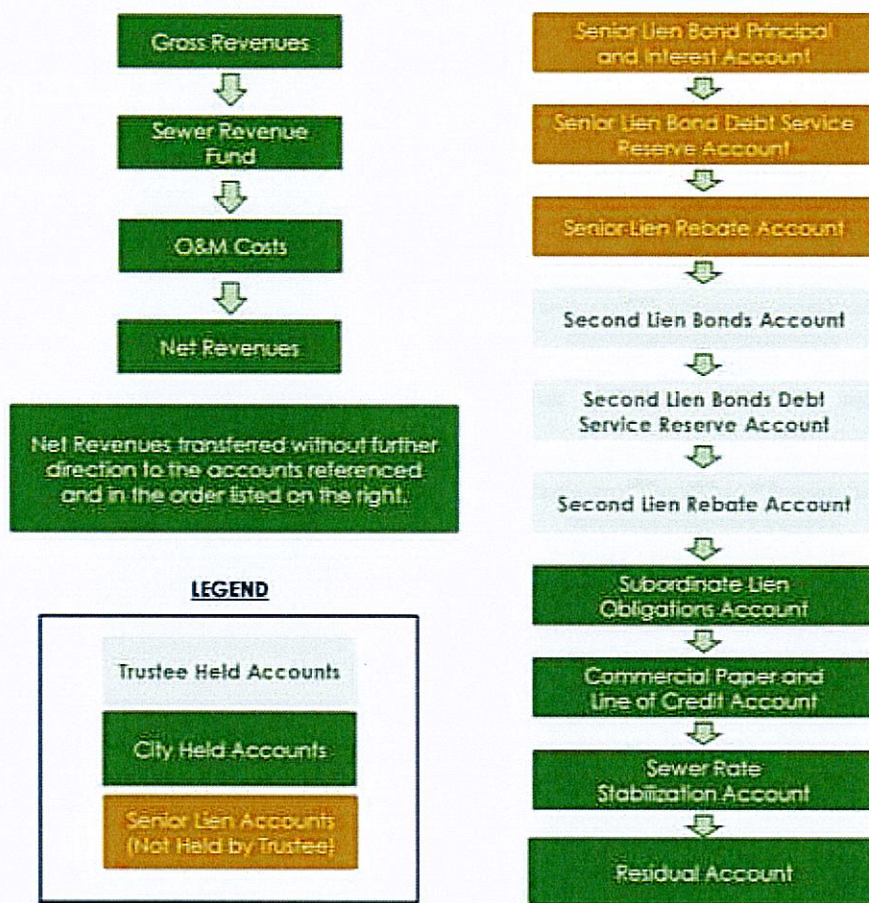
**8. The Commercial Paper and Line of Credit Account** is used for the purpose of paying such amounts as may be required to be paid by the related trust indentures governing Commercial Paper Notes, and for the purpose of paying such amounts as may be required to be paid by the related line of credit agreement governing such Line of Credit Notes.

**9. The Sewer Rate Stabilization Account** is funded by transfers from the Sewer Revenue Fund from Net Revenues and deposited to the credit of the Sewer Rate Stabilization Account the amounts as shall be required for the balance in the Sewer Rate Stabilization Account to equal at least ninety (90) Days’ Cash On Hand as of January 1 of each year. The Sewer Rate Stabilization Account is used at the City’s discretion, in any year, to pay any expenses of or obligations of the Sewer System, including, without limitation, Operation and Maintenance Costs, deposits in the Bond Principal and Interest Account, deposits in the Bond Debt Service Reserve Account, deposits when due in the Second Lien Bonds Account (but only if and to the extent no amounts are required to be deposited in the Bond Principal and Interest Account and the Bond Debt Service Reserve Account), deposits when due in the Subordinate Lien Obligations Account (but only if and to the extent no amounts are required to be deposited in the Bond Principal and Interest Account, the Bond Debt Service Reserve Account or the Second Lien Bonds Account), deposits when due in the Commercial Paper and Line of Credit Account (but only if and to the extent no amounts are required to be deposited in the Bond Principal and Interest Account, the Bond Debt Service Reserve Account, the Second Lien Bonds Account, or the Subordinate Lien Obligations Account), the costs of any Interest Rate Hedge Agreements or other similar arrangement or any costs of repairs, replacements, renewals, improvements, equipment or extensions to the Sewer System. The Sewer Rate Stabilization Account must be used to make all required deposits to the Bond Principal and Interest Account and the Bond Debt Service Reserve Account when no other funds are available for that purpose. Any Net Revenues remaining in any period and not required to be deposited in the Bond Principal and Interest Account, the Bond Debt Service Reserve Account, any Senior Lien Rebate Account, the Second Lien Bonds Account, the Subordinate Lien Obligations Account, or the Commercial Paper and Line of Credit Account may be transferred to the Sewer Rate Stabilization Account at any time upon the direction of the Authorized Officer. The Sewer Rate Stabilization Account shall be maintained in a separate bank account in a bank or banks designated by the Chief Financial Officer pursuant to a depository agreement. For more information concerning the Sewer Rate Stabilization Account, see “FINANCIAL OPERATIONS — Historical and Projected Operations.”

**10. The Residual Account** is funded by transfers from the Sewer Revenue Fund from Net Revenues Available for Bonds and deposited to the credit of the Residual Account such amounts as are not otherwise required for the purposes specified in paragraphs (1) through (9) above or as required by the Indenture. The Residual Account shall be maintained in a bank or banks designated by the Chief Financial Officer pursuant to a depository agreement. In any year the City may withdraw any amounts from the Residual Account and use those amounts for (i) paying any expenses or obligations of the Sewer System, including, without limitation, any Operation and Maintenance Costs, (ii) making deposits when due in the accounts described under Flow of Funds (but only if and to the extent no amounts are required to be deposited in an account with a higher priority in the Flow of Funds), (iii) any cost of repairs, replacements, renewals, improvements, equipment or extensions to the Sewer System or (iv) any other

cost or expense relating to the Sewer System or the financing or refinancing of the Sewer System. The Chief Financial Officer may allocate from the Residual Account to Net Revenues Available for Bonds, the amount determined by the CFO of the City of Chicago to be allocated for such purpose.

The following chart demonstrates the flow of funds from the Sewer Revenue Fund as described above.



Any funds available in the Sewer Revenue Fund after the requirements above have been satisfied or which are not necessary to satisfy such requirements may be used for any lawful purpose of the Sewer System.

The Series 2010B Second Lien Bonds are qualified “Build America Bonds” for purposes of the American Recovery and Reinvestment Act of 2009 (the “Recovery Act”), which allows the City to receive Federal Subsidies from the United States Treasury in connection with such bonds. As provided in the Indenture, Gross Revenues exclude Federal Subsidies unless the Chief Financial Officer designates such Federal Subsidies as amounts to be deposited into the Sewer Revenue Fund and subject to the lien of the Indenture. The City may designate the Federal Subsidies associated with the Series 2010B Second Lien Bonds to be deposited into the Sewer Revenue Fund and subject to the lien of the Indenture and provides certain projections herein assuming such designation. However, such designation has not been made and there is no assurance that such designation will be made in the future. Accordingly, unless or until such Federal Subsidies are designated to be deposited into the Sewer Revenue Fund and subject to the lien of the Indenture, such Federal Subsidies do not constitute security for, and are not available for payment of, the Bonds or any other Second Lien Bonds, nor any Senior Lien Bonds, Subordinate Lien Obligations, or Short Term Obligations.

### **Payment of Debt Service on the Bonds**

The Indenture establishes the 2024 Second Lien Bonds Revenue Fund to be held and administered by the Trustee. Under the Indenture, the Authorized Officer is required on the Business Day preceding each January 1 and July 1 to transfer to the Trustee for deposit in the 2024 Second Lien Bonds Revenue Fund the amounts required to be deposited in such 2024 Second Lien Bonds Revenue Fund from amounts on deposit in the Second Lien Bonds Account. The Indenture establishes a 2024 Principal and Interest Account within the 2024 Second Lien Bonds Revenue Fund. Moneys on deposit in the 2024 Principal and Interest Account will be held by the Trustee for the sole and exclusive benefit of the Bonds and used for the purpose of paying the principal of and interest on such Bonds as it becomes due.

### **Rate Covenant**

In the Indenture, the City covenants that it will establish, maintain and collect at all times fees, charges and rates for the use and service of the Sewer System sufficient at all times to

(a) pay Operation and Maintenance Costs,

(b) produce Net Revenues Available for Bonds sufficient to pay the principal (at maturity or pursuant to mandatory sinking fund redemption) of and interest on all Senior Lien Bonds then Outstanding from time to time and to establish and maintain the Bond Principal and Interest Account and the Bond Debt Service Reserve Account as may be covenanted in ordinances authorizing the issuance of Senior Lien Bonds, which Net Revenues Available for Bonds shall in each Fiscal Year at least equal to one hundred fifteen percent of the sum required to pay promptly when due the Bond Debt Service Requirement for the Fiscal Year on all Senior Lien Bonds then Outstanding, and

(c) produce Second Lien Bond Revenues sufficient to pay the principal (at maturity or pursuant to mandatory sinking fund redemption) of and interest on all Second Lien Bonds then Outstanding from time to time, which Second Lien Bond Revenues shall in each Fiscal Year at least be equal to one hundred ten percent of the sum required to pay promptly when due the Second Lien Bonds Debt Service Requirement for the Fiscal Year on Second Lien Bonds.

The amount of Net Revenues Available for Bonds that exceeds one hundred percent of the sum required to pay promptly when due the Bond Debt Service Requirement for any Fiscal Year on all Senior Lien Bonds Outstanding may be included in determining compliance with the requirements of clauses (b) and (c) of the preceding sentence for such Fiscal Year. The foregoing covenants are collectively referred to herein and heretofore defined as the "Rate Covenant."

The City will, prior to the end of each Fiscal Year, conduct a review to determine if it has been and will be in compliance with the Rate Covenant. Whenever the annual review indicates that projected Gross Revenues will not be sufficient to comply with the Rate Covenant, the City shall prepare or have prepared a rate study for the Sewer System identifying the rate changes necessary to comply with the Rate Covenant and the Office of Budget and Management of the City and the Authorized Officer shall recommend appropriate action to the City Council to comply with the Rate Covenant.

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### **Additional Bonds**

Additional Second Lien Parity Bonds may be issued, as provided in the Indenture, for any lawful purpose of the Sewer System, including to refund Outstanding Senior Lien Bonds, Second Lien Bonds, Subordinate Lien Obligations, Commercial Paper Notes, or Line of Credit Notes, in each case upon compliance with certain conditions set forth in the Indenture. See APPENDIX B — “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE — Additional Second Lien Parity Bonds.” In the Indenture, other than the Outstanding Senior Lien Bonds, the City covenants and agrees not to issue any additional Senior Lien Parity Bonds (other than solely for refunding purposes).

### **Additional Information**

For an additional description of the requirements that must be satisfied for the City to issue Second Lien Parity Bonds and other terms of the Indenture, see APPENDIX B — “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE.”

### **Deficiencies and Excesses**

In the event of a deficiency on any Interest Payment Date in the Bond Principal and Interest Account, the Bond Debt Service Reserve Account, any Senior Lien Rebate Account, the Second Lien Bonds Account, the Second Lien Bonds Debt Service Reserve Account, the Second Lien Rebate Account, the Subordinate Lien Obligations Account or the Commercial Paper and Line of Credit Account, the City shall transfer an amount from the Residual Account in the amount of such deficiency for deposit into the related deficient account. In addition, the amount of any deficiency shall be included in the amount to be transferred from the Sewer Revenue Fund and deposited into such account during the next 12-month period or succeeding Fiscal Year, as required by this Indenture.

### **Cash and Investments**

Any cash or investments in the Bond Debt Service Reserve Account and Senior Lien Rebate Account shall be held pursuant to depository agreements in separate bank accounts and in separately identifiable investments as described below under the heading “—Investment of Funds.” The remainder of all amounts in the Sewer Revenue Fund, including amounts for payment of debt service on the Bonds and any Senior Lien Parity Bonds and Second Lien Parity Bonds prior to their deposit in the Bond Principal and Interest Account or the Second Lien Bonds Account, is deposited in segregated bank accounts. Since 2019, the City has maintained all cash and investments of the Sewer Fund in separate bank accounts from the City’s general accounts, including those of the Corporate Fund of the City. Gross Revenues of the Sewer System are deposited directly in the segregated accounts after they are allocated from the Unified Bill (as defined in Financial Operations, Collections and Delinquencies). As part of the Financial Policies, the City intends to continue maintaining all cash and investment of the Sewer Fund in segregated bank accounts.

The investment of City funds is governed by the City’s Municipal Code, which provides that neither the City Comptroller nor the City Treasurer has the authority, without City Council approval, to “... (i) invest in arrangements whose returns are linked to or derived from the performance of some underlying asset such as bonds, currencies or commodities or (ii) borrow against or otherwise obligate City investments for the purpose of investment.” See APPENDIX D—“CITY OF CHICAGO, ILLINOIS SEWER FUND BASIC FINANCIAL STATEMENTS AS OF AND FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021, AND INDEPENDENT AUDITORS’ REPORT—Notes (1) and (2).” In the Bond Ordinance, the City Council granted such approval in connection with the plan of financing for the Bonds. In accordance with the requirements of the Public Funds Investment Act enacted by the State, the City Council has authorized the City Treasurer to adopt a Statement of Investment Policy and Guidelines for the purpose of establishing written cash management and investment guidelines to be followed by the Office of the City Treasurer in the investment of City funds in accordance with the Municipal Code.

## Investment of Funds

Funds in the Accounts established under the Indenture and part of the Sewer Revenue Fund as described above under the heading “Flow of Funds”, are required to be invested in Permitted Investments upon the direction of the Authorized Officer. All amounts in the Bond Debt Service Reserve Account and each Senior Lien Rebate Account must be invested in Permitted Investments that are held separate and distinct from those of any other Funds or Accounts. Investments must be scheduled to mature before needed for the respective purposes of each of such accounts. All Investment Earnings on any such accounts so invested are credited to the Sewer Revenue Fund and are considered Gross Revenues; provided, however, that earnings on the investment of amounts on deposit in the Senior Lien Rebate Accounts shall not be Investment Earnings, shall not be considered Gross Revenues, and will be retained in the respective Senior Lien Rebate Accounts, except to the extent no longer required for rebate purposes.

## BOND INSURANCE

### Bond Insurance Policy

Concurrently with the issuance of the Insured Bonds, Build America Mutual Assurance Company (“BAM”) will issue its Municipal Bond Insurance Policy for the Insured Bonds (the “Policy”). The Policy guarantees the scheduled payment of principal of and interest on the Insured Bonds when due as set forth in the form of the Policy included as an exhibit to this Official Statement.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### Build America Mutual Assurance Company

BAM is a New York domiciled mutual insurance corporation and is licensed to conduct financial guaranty insurance business in all fifty states of the United States and the District of Columbia. BAM provides credit enhancement products solely to issuers in the U.S. public finance markets. BAM will only insure municipal bonds, as defined in Section 6901 of the New York Insurance Law, which are most often issued by states, political subdivisions, integral parts of states or political subdivisions or entities otherwise eligible for the exclusion of income under section 115 of the U.S. Internal Revenue Code of 1986, as amended. No member of BAM is liable for the obligations of BAM.

The address of the principal executive offices of BAM is: 200 Liberty Street, 27<sup>th</sup> Floor, New York, New York 10281, its telephone number is: 212-235-2500, and its website is located at: [www.buildamerica.com](http://www.buildamerica.com).

BAM is licensed and subject to regulation as a financial guaranty insurance corporation under the laws of the State of New York and in particular Articles 41 and 69 of the New York Insurance Law.

BAM’s financial strength is rated “AA/Stable” by S&P Global Ratings, a business unit of Standard & Poor’s Financial Services LLC (“S&P”). An explanation of the significance of the rating and current reports may be obtained from S&P at <https://www.spglobal.com/en/>. The rating of BAM should be evaluated independently. The rating reflects S&P’s current assessment of the creditworthiness of BAM and its ability to pay claims on its policies of insurance. The above rating is not a recommendation to buy, sell or hold the Bonds, and such rating is subject to revision or withdrawal at any time by S&P, including withdrawal initiated at the request of BAM in its sole discretion. Any downward revision or withdrawal of the above rating may have an adverse effect on the market price of the Bonds. BAM only guarantees scheduled principal and scheduled interest payments payable by the issuer of the Insured Bonds on the date(s) when such amounts were initially scheduled to become due and payable (subject to and in accordance with the

terms of the Policy), and BAM does not guarantee the market price or liquidity of the Insured Bonds, nor does it guarantee that the rating on the Insured Bonds will not be revised or withdrawn.

#### *Capitalization of BAM*

BAM's total admitted assets, total liabilities, and total capital and surplus, as of December 31, 2023 and as prepared in accordance with statutory accounting practices prescribed or permitted by the New York State Department of Financial Services were \$500.0 million, \$230.7 million and \$269.3 million, respectively.

BAM is party to a first loss reinsurance treaty that provides first loss protection up to a maximum of 15% of the par amount outstanding for each policy issued by BAM, subject to certain limitations and restrictions.

BAM's most recent Statutory Annual Statement, which has been filed with the New York State Insurance Department and posted on BAM's website at [www.buildamerica.com](http://www.buildamerica.com), is incorporated herein by reference and may be obtained, without charge, upon request to BAM at its address provided above (Attention: Finance Department). Future financial statements will similarly be made available when published.

BAM makes no representation regarding the Bonds or the advisability of investing in the Bonds. In addition, BAM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding BAM, supplied by BAM and presented under the heading "BOND INSURANCE".

#### *Additional Information Available from BAM*

Credit Insights Videos. For certain BAM-insured issues, BAM produces and posts a brief Credit Insights video that provides a discussion of the obligor and some of the key factors BAM's analysts and credit committee considered when approving the credit for insurance. The Credit Insights videos are easily accessible on BAM's website at [www.buildamerica.com/videos](http://www.buildamerica.com/videos). (The preceding website address is provided for convenience of reference only. Information available at such address is not incorporated herein by reference.)

Credit Profiles. Prior to the pricing of bonds that BAM has been selected to insure, BAM may prepare a pre-sale Credit Profile for those bonds. These pre-sale Credit Profiles provide information about the sector designation (e.g. general obligation, sales tax); a preliminary summary of financial information and key ratios; and demographic and economic data relevant to the obligor, if available. Subsequent to closing, for any offering that includes bonds insured by BAM, any pre-sale Credit Profile will be updated and superseded by a final Credit Profile to include information about the gross par insured by CUSIP, maturity and coupon. BAM pre-sale and final Credit Profiles are easily accessible on BAM's website at [www.buildamerica.com/credit-profiles](http://www.buildamerica.com/credit-profiles). BAM will produce a Credit Profile for all bonds insured by BAM, whether or not a pre-sale Credit Profile has been prepared for such bonds. (The preceding website address is provided for convenience of reference only. Information available at such address is not incorporated herein by reference.)

Disclaimers. The Credit Profiles and the Credit Insights videos and the information contained therein are not recommendations to purchase, hold or sell securities or to make any investment decisions. Credit-related and other analyses and statements in the Credit Profiles and the Credit Insights videos are statements of opinion as of the date expressed, and BAM assumes no responsibility to update the content of such material. The Credit Profiles and Credit Insight videos are prepared by BAM; they have not been reviewed or approved by the issuer of or the underwriter for the Bonds, and the issuer and underwriter assume no responsibility for their content.

BAM receives compensation (an insurance premium) for the insurance that it is providing with respect to the Bonds. Neither BAM nor any affiliate of BAM has purchased, or committed to purchase, any of the Bonds, whether at the initial offering or otherwise.

### OUTSTANDING SENIOR LIEN BONDS AND SECOND LIEN BONDS

The following table reflects the Outstanding Senior Lien Bonds and Outstanding Second Lien Bonds after giving effect to the issuance of the Bonds and the refunding of the Refunded Bonds. The outstanding indebtedness of the Sewer System consists of \$16.4 million aggregate principal amount of Outstanding Senior Lien Bonds and, after giving effect to the issuance of the Bonds and the refunding of the Refunded Bonds, approximately \$1.54 billion aggregate principal amount of Outstanding Second Lien Bonds. The City has covenanted in the Indenture that it will not issue additional Senior Lien Bonds (other than for refunding purposes), which covenant will continue to remain effective once there are no longer any Senior Lien Bonds outstanding.

<u>Series</u>	<u>Final Maturity Date</u>	<u>New Money Bonds Issued</u> <sup>1</sup>	<u>Refunding Bonds Issued</u> <sup>1</sup>	<u>Principal Amount Outstanding</u> <sup>2</sup>
<b>Senior Lien</b>				
1998A	1/1/2028	-	\$62,423,423	\$16,401,899
Subtotal			\$62,423,423	\$16,401,899
<b>Second Lien</b>				
2001	1/1/2030	-	\$73,100,000	\$36,765,000
2008C	1/1/2039	-	332,230,000	178,135,000
2010B (Taxable)	1/1/2040	\$250,000,000	-	250,000,000
2012 <sup>2</sup>	1/1/2038	276,470,000	-	-
2014 <sup>2</sup>	1/1/2044	292,405,000	-	-
2015 (Taxable)	1/1/2039	87,080,000	-	69,260,000
2017A	1/1/2052	180,590,000	-	168,135,000
2017B	1/1/2038	-	215,485,000	153,340,000
2023A	1/1/2062	260,105,000	-	260,105,000
2023B	1/1/2039	-	192,470,000	192,470,000
2024A	<u>1/1/2044</u>	<u>-</u>	<u>227,925,000</u>	<u>227,925,000</u>
Subtotal		\$1,346,650,000	\$1,041,210,000	\$1,536,135,000
Total		<u>\$1,346,650,000</u>	<u>\$1,103,633,423</u>	<u>\$1,552,536,899</u>

1. Aggregate original principal amount.

2. After giving effect to the issuance of the Bonds and the refunding of the Refunded Bonds.

### OUTSTANDING DEBT AND ANNUAL DEBT SERVICE

The debt service of the Senior Lien Bonds and the Second Lien Bonds, after giving effect to the issuance of the Bonds and the refunding of the Refunded Bonds, is as shown in the following table, which also includes the debt service of Subordinate Lien Obligations that are described below.

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SENIOR LIEN, SECOND LIEN, AND SUBORDINATE LIEN OUTSTANDING ANNUAL DEBT SERVICE<sup>(1)</sup>

2024A Bonds

Fiscal Year	Outstanding Senior Lien Bonds*	Outstanding Second Lien Bonds <sup>(2)*</sup>	Principal	Interest	Total	Total Second Lien Debt Service	Total Senior Lien and Second Lien Debt Service Requirements	Outstanding Subordinate Lien Obligations <sup>(3)</sup>	Total Debt Service Requirements <sup>(3)</sup>
2024	\$595,000	\$103,558,433	\$9,730,000	\$8,940,688	\$17,770,688	\$121,329,121	\$121,924,121	\$26,467,959	\$148,392,080
2025	24,680,000	84,711,561	6,875,000	10,909,750	17,784,750	102,496,311	127,176,311	31,133,861	158,310,172
2026	24,680,000	91,594,547	7,225,000	10,566,000	17,791,000	109,385,547	134,065,547	31,133,861	165,199,408
2027	24,680,000	96,469,573	7,600,000	10,204,750	17,804,750	114,274,323	138,954,323	31,118,492	170,072,815
2028		115,374,634	7,985,000	9,824,750	17,809,750	133,184,384	133,184,384	31,033,176	164,217,560
2029		123,679,790	8,395,000	9,425,500	17,820,500	141,500,290	141,500,290	31,033,176	172,533,466
2030		123,469,933	8,830,000	9,005,750	17,835,750	141,305,683	141,305,683	31,033,176	172,338,859
2031		123,425,796	9,285,000	8,564,250	17,849,250	141,275,046	141,275,046	30,650,651	171,925,697
2032		123,026,677	9,760,000	8,100,000	17,860,000	140,886,677	140,886,677	30,268,126	171,154,803
2033		122,775,554	10,265,000	7,612,000	17,877,000	140,652,554	140,652,554	28,727,160	169,379,714
2034		122,334,584	10,790,000	7,098,750	17,888,750	140,223,334	140,223,334	28,215,314	168,438,648
2035		121,861,606	11,350,000	6,559,250	17,909,250	139,770,856	139,770,856	27,278,831	167,049,687
2036		112,180,337	11,930,000	5,991,750	17,921,750	130,102,087	130,102,087	22,178,255	152,280,342
2037		106,638,925	17,545,000	5,395,250	22,940,250	129,579,175	129,579,175	20,162,732	149,741,907
2038		95,081,913	13,240,000	4,518,000	17,758,000	112,839,913	112,839,913	17,832,986	130,672,899
2039		62,342,523	13,915,000	3,856,000	17,771,000	80,113,523	80,113,523	10,021,926	90,135,449
2040		31,592,075	14,635,000	3,160,250	17,795,250	49,387,325	49,387,325	7,203,909	56,591,234
2041		31,595,713	15,385,000	2,428,500	17,813,500	49,409,213	49,409,213	3,122,064	52,531,277
2042		31,591,550	16,175,000	1,659,250	17,834,250	49,425,800	49,425,800	3,122,064	52,547,864
2043		31,595,513	17,010,000	850,500	17,860,500	49,456,013	49,456,013		49,456,013
2044		31,594,400				31,594,400	31,594,400		31,594,400
2045		31,596,425				31,596,425	31,596,425		31,596,425
2046		31,594,263				31,594,263	31,594,263		31,594,263
2047		31,595,863				31,595,863	31,595,863		31,595,863
2048		31,598,000				31,598,000	31,598,000		31,598,000
2049		31,596,863				31,596,863	31,596,863		31,596,863
2050		31,600,475				31,600,475	31,600,475		31,600,475
2051		31,596,463				31,596,463	31,596,463		31,596,463
2052		20,722,850				20,722,850	20,722,850		20,722,850
2053		20,722,000				20,722,000	20,722,000		20,722,000
2054		20,723,875				20,723,875	20,723,875		20,723,875
2055		20,721,375				20,721,375	20,721,375		20,721,375
2056		20,722,663				20,722,663	20,722,663		20,722,663
2057		20,725,375				20,725,375	20,725,375		20,725,375
2058		12,017,150				12,017,150	12,017,150		12,017,150
2059		12,018,650				12,018,650	12,018,650		12,018,650
2060		12,020,725				12,020,725	12,020,725		12,020,725
2061		12,021,725				12,021,725	12,021,725		12,021,725
<b>Total</b>	<b>\$74,635,000</b>	<b>\$2,280,090,370</b>	<b>\$227,925,000</b>	<b>\$133,770,938</b>	<b>\$361,695,938</b>	<b>\$2,641,786,308</b>	<b>\$2,716,421,308</b>	<b>\$441,737,719</b>	<b>\$3,158,159,027</b>

Note: The applicable footnotes for the preceding table are shown on the following page.  
FOOTNOTES FOR THE PRECEDING TABLE ENTITLED "SENIOR LIEN, SECOND LIEN, AND SUBORDINATE LIEN OUTSTANDING ANNUAL DEBT SERVICE"

**FOOTNOTES FOR THE PRECEDING TABLE ENTITLED "SENIOR LIEN, SECOND LIEN, AND SUBORDINATE LIEN OUTSTANDING ANNUAL DEBT SERVICE"**

\*Outstanding Senior Lien Bonds and outstanding Second Lien Bonds are governed by the terms of the respective trust indentures relating to such bonds on a parity basis.

- (1) After giving effect to the issuance of the Bonds and the Refunding of the Refunded Bonds, Principal and interest (including the amount of interest that has accrued on capital appreciation bonds) for each year includes amounts payable on the City's wastewater transmission revenue bonds on July 1 of that year and January 1 of the following year. All of the City's outstanding wastewater transmission revenue bonds bear interest at a fixed rate.
- (2) Interest for each year includes the full amount of interest payable on the City's Series 2010B Second Lien Bonds without adjustment for certain direct payment subsidies expected by the City to be received from the U.S. Treasury. Debt service is net of capitalized interest, as applicable.
- (3) Reflects only Subordinate Lien Obligations that have final loan amounts with the IEPA, but do not reflect initial awards that are still drawing funds from the IEPA.

Totals may not add due to rounding.

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## Subordinate Lien Obligations

The City has applied for and received funding from the IEPA Clean Water Initiative State Revolving Loan Fund Program for Sewer System projects, with executed loan agreements as shown in the following table. Each loan constitutes a Subordinate Lien Obligation. It is anticipated that the City will enter into additional IEPA loans in the future. Subordinate Lien Obligations, including the IEPA loans, have a claim to payments from amounts in the Sewer Revenue Fund that is subordinate to the claim of the Senior Lien Bonds, Second Lien Bonds, and the Bonds. As of March 1, 2024, there were \$388.8 million outstanding aggregate principal amount of Subordinate Lien Obligations in the form of loans from the IEPA.

### IEPA SEWER REVENUE FUND LOANS OUTSTANDING<sup>(1)</sup>

<u>IEPA Loans in Repayment</u>	<u>Final Maturity Date</u>	<u>Interest Rate (%)</u>	<u>Amount of Loan Outstanding<sup>(2)</sup></u>
L17-2509	8/28/2027	2.50	\$367,085
L17-3629	6/21/2031	0.00	5,737,875
L17-4565	12/30/2032	1.25	8,759,650
L17-4682	3/20/2033	1.25	9,089,657
L17-4863	3/4/2034	2.295	9,084,820
L17-5006	7/21/2035	1.93	34,398,190
L17-5224	8/18/2036	1.86	2,939,650
L17-5230	6/9/2036	1.995	38,571,526
L17-5323	11/3/2037	1.75	5,044,870
L17-5328	5/30/2038	1.86	48,654,599
L17-5396	11/7/2038	1.75	21,542,161
L17-5397	4/26/2039	1.76	14,345,097
L17-5398	1/15/2040	1.76	21,604,750
L17-5413	12/19/2038	1.76	48,845,305
L17-5560	4/9/2040	1.84	42,798,491
L17-5561	10/7/2040	1.84	26,095,228
L17-5653	8/9/2042	1.35	50,959,141
Total Outstanding Principal Balance			\$388,838,095

(1) Outstanding principal amounts as of March 1, 2024.

(2) Totals may not add due to rounding.

The City has also signed initial loan agreements pertaining to an additional \$171.8 million of IEPA loans. Disbursements for these loans are ongoing and the final amounts of the loans may change based on project needs. The interest rates on these initial loan agreements range from 1.11 to 2.00 percent and expected maturity dates range from July 5, 2041 to January 15, 2044, as set out in the initial loan agreements, but may change when the final loan agreements are signed following the final disbursement of each loan.

Historically, the IEPA program provides loans for a twenty-year repayment term in most instances with shorter repayment schedules negotiated under certain project circumstances. Under newly proposed rules the repayment terms would be for a thirty-year term. The loans are provided at simple interest and payback does not begin until the completion of the construction. Interest rates for the program are established annually and are calculated and applied at one-half the Bond Market Interest Rate, defined as the mean interest rate of the *Bond Buyer 20 Bond General Obligation Index* for the preceding fiscal year. The interest rate in effect at the time of origination remains fixed for the life of the loan.

The Series 2012 Bond Ordinance authorized the issuance from time to time of Commercial Paper Notes and Line of Credit Notes for the purposes of financing or refinancing capital improvements to the Sewer System or providing funds to meet the cash flow needs of the Sewer System, among others. The maximum aggregate principal amount of all Commercial Paper Notes and Line of Credit Notes outstanding at any one time may not exceed \$150,000,000, without further authorization from the City Council. The claim of any Commercial Paper Notes or Line of Credit Notes for payment from moneys in the Sewer Revenue Fund is subordinate to the claim of the Bonds. The City has no Commercial Paper Notes nor Line of Credit Notes outstanding pursuant to this authorization, however the City reserves its rights to issue Commercial Paper Notes and Line of Credit Notes in the future.

The City has no interest rate swaps in connection with the Bonds.

## **DEPARTMENT OF WATER MANAGEMENT**

The Department is an executive department of the City with responsibility for the operation, maintenance, repair, improvement, replacement and extension of the Water System and the Sewer System. Separate water and sewer funds are maintained to comply with legal requirements.

The budgeted employment level of the Department for 2023 for Sewer System employees was 432 (this represents the total number of Sewer System employees on the City's payroll and excludes leaves of absence and duty disability). The Department includes employees with professional qualifications in the fields of engineering, law, science, construction management, public sector management and financial management, as well as skilled technical personnel. Substantially all of the Department's employees are covered by collective bargaining agreements, whose newest five-year collective bargaining agreements are effective July 1, 2022.

In 2023, the City undertook a salary compression analysis (the "Salary Study") as a managerial retention initiative. The Salary Study recommended the adjustment of certain non-represented managerial salaries, including Department non-represented managerial employees, to more accurately reflect executive functions, levels of supervision, and responsibilities. The ordinance authorizing the adjustment of managerial salaries according to the Salary Study was passed by City Council on April 19, 2023. These salary adjustments will go into effect in subsequent years.

### **Organization and Staffing**

The chief administrator of the Department is the Commissioner, who is appointed by the Mayor with the approval of the City Council. On January 16, 2024, the Mayor appointed Alfonzo Conner, Jr. as the Department's Acting Commissioner, with the Chicago City Council confirming his permanent appointment as Commissioner in February 2024. Under the direction of the Commissioner, the Department is organized into five bureaus and the Commissioner's office as follows:

Commissioner's Office: The office is responsible for the oversight and management of general and project-specific initiatives for the other bureaus. This office also determines departmental policies and includes security and safety.

Administration: This bureau is responsible for the collection and dissemination of all financial information, procurement and contract administration, personnel, labor relations, information technology and payroll.

Operations and Distribution: This bureau is responsible for the maintenance, repair and installation of water and sewer mains and appurtenances, including valves, fire hydrants, manholes, catch basins and valve basins.

Water Supply: This bureau is responsible for the treatment, purification, pumping and monitoring the quality and purity of the water supply.

Engineering Services: This bureau is responsible for providing engineering and inspection support for the planning, design, expansion, rehabilitation, operating, monitoring and inspection of facilities and the Water and Sewer Systems.

Meter Service: This bureau is responsible for water meter installation, reading, repair, and replacement.

The City maintains a self-insurance program, including casualty coverage, general liability coverage and workers' compensation for the Department. The City also maintains replacement-cost property insurance that covers the major facilities of the Sewer System.

**Description of Physical Facilities**

The Sewer System consists of approximately 4,400 miles of sewer main, ranging in size from six inches to over 21 feet in diameter. The tables below provide a profile of the transmission facilities of the Sewer System by size, age and length:

<u>WASTEWATER TRANSMISSION AND COLLECTION FACILITIES</u>		
<u>Size (in inches)</u>	<u>Length (in miles)</u>	<u>Percent of System</u>
6-36 .....	3,732	83.5%
42-84 .....	538	12.0
Larger than 84 .....	<u>201</u>	<u>4.5</u>
Total .....	<u>4,471</u>	<u>100.0%</u>

<u>Years Placed in Service</u>	<u>Approximate Length (in miles)</u>	<u>Approximate Percent of System</u>
2021-2022 .....	23	0.5%
2011-2020 .....	202	4.5
2001-2010 .....	136	3.1
1991-2000 .....	187	4.2
1981-1990 .....	149	3.3
1961-1980 .....	371	8.3
1941-1960 .....	391	8.7
1921-1940 .....	848	19.0
1901-1920 .....	1,024	22.9
Prior to 1900 .....	<u>1,141</u>	<u>25.5</u>
Total .....	<u>4,471</u>	<u>100.0%</u>

Note: Totals may not add due to rounding.

These wastewater collection and transmission facilities primarily operate as a gravity system.

## Capital Improvement Program

The City, through the Department, continually improves and rehabilitates the Sewer System. To provide for future additions to the Sewer System, replacement of facilities and rehabilitation of existing facilities, and improvement of overall hydraulic capacity the Department most recently prepared a projected capital improvement program covering a five-year period from 2022 to 2026 (the “Capital Improvement Program” or “CIP”). The City intends to publish an updated CIP later in 2024. Under the Capital Improvement Program, the City intends to construct 40 miles of sewer main, line 210 miles of existing sewers and rehabilitate 5,000 sewer structures.

The Capital Improvement Program follows the conclusion of the previous ten-year plan undertaken between 2012 to 2021, which was intended to address deferred maintenance and accelerate investment in sewer main replacement and lining. In total, the Department constructed 212 miles of sewer main, lined 546 miles of sewer main, and rehabilitated approximately 101,000 sewer structures.

The Sewer System’s expenditures for 2017 through 2023 and projected expenditures for 2024 through 2026 of the Capital Improvement Program are summarized in the table below. A 2024-2028 Capital Improvement Program is anticipated to be published by the Office of Budget and Management in Q2 2024. The information presented in the table reflects the Department’s expected allocations of resources to various projects, but does not necessarily represent an expectation of actual cash expenditures for these projects, which are subject to annual approval of the Office of Budget and Management. The primary sources of funds to undertake these projects are expected to be proceeds from Bonds, IEPA loans, and funding from current sewer revenue (also referred to as “Pay-Go”). In 2021 and 2022, as with other large infrastructure systems across the country, the Department experienced some project delays and increased costs due to shortages in supplies and manpower. The Department’s capital improvement program, as planned over the long term, will not be materially impacted by prior years’ shortages.

### HISTORICAL AND PROJECTED CAPITAL IMPROVEMENT PROGRAM FUNDING BY SOURCE\*

<u>Funding Sources</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
Bonds	\$65.7	\$81.1	\$35.6	\$46.5	\$1.6	\$27.2	\$36.8	\$180.6	\$166.5	\$163.9
Pay-Go	49.8	22.3	12.8	24.4	119.1	31.1	12.4	-	14.5	19.6
Grants	7.6	-	4.8	2.8	-	-	-	-	-	-
IEPA Loans	49.5	99.4	116.6	41.7	36.5	27.9	48.6	51.2	51.2	51.2
<b>Totals</b>	<b>\$172.6</b>	<b>\$202.8</b>	<b>\$169.7</b>	<b>\$115.4</b>	<b>\$157.3</b>	<b>\$86.1</b>	<b>\$97.7</b>	<b>\$231.8</b>	<b>\$232.2</b>	<b>\$234.7</b>

\*The amounts shown are in the millions. The amounts shown for years 2017-2022 are actual cash expenditures. The 2023 amounts are unaudited cash expenditures. The amounts shown for 2024-2026 are estimates. Totals may not add due to rounding.

*Area 4 Regional Sewer Master Planning.* The Department is advancing the Citywide Master Planning efforts to the southside Area 4 Watershed to help address this region’s flooding and local sewers surcharge and sewer backup problems. The Area 4 planning area or watershed generally stretches south of the 87th Street to the City limits, between Cicero Avenue to the west, Lake Michigan to the east, and is located within City Wards 7, 8, 9, 10, 19, and 21. This area serviced by the City’s combined sewers is approximately 30 square miles which is about 15 percent of total service area of the City. The project includes regional sewer improvements for the entirety of Area 4 with verification and optimization of local sewer system as summarized in the previous Area 4 study reports. Detailed hydrologic and hydraulic modeling will be used for listing and verification/optimization of the size and location of various future connecting sewer projects to achieve a 5-year level of flood protection for Area

4. The Area 4 Tunnel will add additional conveyance capacity and relief to existing trunk sewers that are generally 36-inch and larger in diameter.

*Lead Service Line Replacement Program.* Sewer System revenues may not be used to fund Lead Service Line Replacement (“LSLR”). Any costs to finance LSLR required as a result of the Capital Improvement Program will be paid from alternative non-sewer funding sources. The Lead Service Line Replacement Act requires full water service line replacement whenever any lead or galvanized iron lines are broken or disturbed, including for service line leaks and breaks and water or sewer main replacement. Therefore, any lead service lines that are identified as a result of the Capital Improvement Program will have to be replaced. There are approximately 409,000 lead service lines in the City, primarily in older (pre-1986) single-family and two-flat residences. Lead is a toxin that is harmful to human health. Developing fetuses, infants and young children are especially vulnerable. Most lead ingestion, however, is via ingestion of lead paint. Due to the high concentration of lead service lines in the City, the City announced plans to replace every lead service line in the City. The City estimates that the full cost to replace all of the lead service lines in the City is \$12 to \$15 billion. LSLR consists of replacement of the water line running from the water main to the external water shut-off valve (sometimes called the “Buffalo-box” or “B-box”) and replacement of the water line running from the external water shut-off valve into the home. On August 27, 2021, the Lead Service Line Replacement and Notification Act, 415 ILCS 5/17.12 (the “Lead Service Line Replacement Act”), was signed into state law and became effective for Chicago on January 1, 2023. Among other things, the Lead Service Line Replacement Act requires the owners and operators of community water supplies in the State to develop, implement and maintain a comprehensive water lead service line replacement plan. The legislation provides no funding for LSLR. Under the Lead Service Line Replacement Act, the City has 50 years (with the possibility of up to 15 years of extensions) to complete the LSLR work. The 50-year replacement period for the City does not begin until April 15, 2027.

## US EPA

The Department receives requests for information from US EPA regarding CSOs and related issues from time to time, to which it responds. The Department and other City officials have been in conversations with US EPA and other interested environmental organizations on the renewal of the National Pollutant Discharge Elimination System (“NPDES”) permit for Chicago CSO outflows. The Department, other City officials, and other interested environmental organizations reached an accord and the City worked directly with the Illinois EPA on the issuance of the new NPDES permit. The Illinois EPA issued the new NPDES permit effective April 1, 2024.

In 1975, the Water Reclamation District began the construction of its Tunnel and Reservoir Plan (“TARP”) project to address combined sewer overflows (“CSOs”) in the metropolitan Chicago area. Tunnel systems have been completed and TARP is the long term control plan to mitigate flooding in Chicago. The project will be completed upon the final completion of Phase 2 of the McCook reservoir, which is expected to be in 2029. In 2004, the United States Environmental Protection Agency (“US EPA”) requested information from the Department concerning the City’s compliance with regulatory requirements under the Clean Water Act pertaining to CSOs in Chicago area waterways. Overflows may occur when the combined flow of storm water run-off and sanitary sewage exceeds the capacity of the Sewer System and the sewage collection and treatment facilities of the Water Reclamation District.

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## SEWER SYSTEM

### General

The Sewer System provides sewage and drainage collection and conveyance for a service area of roughly 230 square miles inhabited by approximately 2.67 million people.

The Sewer System was designed, constructed and continues to be a combined system to provide for collection and conveyance of both sanitary sewage and storm water run-off in common sewer conduits. The Sewer System is not responsible for, and does not include any facilities for, the treatment or disposal of sewage. It is limited to collecting and conveying wastewater to the interceptor sewers of the Water Reclamation District, an independent government entity with exclusive responsibility for sewage treatment, sewage disposal and flood control in the City and neighboring suburbs. The Water Reclamation District is charged with providing and managing the facilities for the collection (through a network of approximately 536 miles of intercepting sewers and force mains), treatment and subsequent disposal of sewage from the City and surrounding areas. The Water Reclamation District finances its operations primarily through the imposition of an ad valorem tax in the area that it serves.

The City is solely responsible for the Sewer System except with respect to direct connections to rivers and waterways, in which case approval must be obtained from the Water Reclamation District or the U.S. Army Corps of Engineers, and direct connections to the Water Reclamation District, in which case approval must be obtained from the Water Reclamation District.

### Service Areas

There are no significant areas of the City without sewer service and, except for a very limited number of industrial users who have direct connections to the Water Reclamation District's interceptors, connection to the Sewer System is the only feasible means of wastewater disposal for nearly all City users. By regulation of the Department, all sewer work performed within the City or connecting to the Sewer System or to the City's waterways, whether on public or private property, is subject to approval by the Department. For additional economic and demographic information regarding the City and the Sewer System, see APPENDIX F – "CITY OF CHICAGO ECONOMIC AND DEMOGRAPHIC INFORMATION."

The following table shows the population of the City for the past five decades:

SEWER SYSTEM SERVICE AREA POPULATION	
Year	Population
1970	3,369,357
1980	3,005,072
1990	2,783,726
2000	2,896,016
2010	2,695,598
2020	2,746,388

Source: U.S. Census Bureau.

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## FINANCIAL OPERATIONS

### Sewer Service Rates

Revenues from sewer service charges provide funds for the operation, maintenance and debt service of the Sewer System. The Sewer Revenue Fund receives no share of any state or local property or income taxes.

Sewer service rates are set by ordinance- and the City Council has authority to make adjustments to sewer service rates. No regulation by any administrative agency applies to the Sewer System rates. Under certain conditions, the Authorized Officer shall recommend appropriate action to the City Council to comply with the Rate Covenant. See “SECURITY FOR THE BONDS – Rate Covenant.”

The sewer service charge is established in an amount designed to pay the costs of Sewer System operations and capital improvements, including any related debt service. The Sewer System rates for all accounts located within the City are a percentage of the Water System rates and the current charge for sewer service is an amount equal to 100 percent of the gross amount charged for water service, whether such water service is metered or nonmetered.

Metered water rates are based on a dollar rate per thousand cubic feet. The assessment of non-metered users is based on a formula related to the size of the relevant property and other use-related factors. Because the Sewer System rates are calculated as a percentage of the Water System rates, Sewer System rates also increase when Water System rates increase. Annual Water System rates are required to be increased, pursuant to the Municipal Code, by applying to the previous year’s rates the rate of inflation, calculated based on the Consumer Price Index – Urban Wage Earners and Clerical Workers (Chicago All Items) published by the United States Bureau of Labor Statistics for the 365-day period ending on the most recent January 1 up to a maximum increase of 5%. Such increases do not require further action by the City Council, but the City Council may take action at any time to alter the then-current schedule of water rates. Under certain conditions, the Authorized Officer shall recommend appropriate action to the City Council to comply with the Rate Covenant.

On June 1, 2023, the water rate increased by 5.0 percent to \$4.55 per 1,000 gallons; on June 1, 2024, the water rate is scheduled to increase by 3.4 percent to \$4.70 per 1,000 gallons. See “SECURITY FOR THE BONDS – Rate Covenant.”

The historical sewer rates are shown in the following table.

**HISTORICAL SEWER RATES**

Effective Date	Gross Water Rate Per 1,000 Gallons	Water Rate Increases	Percentage of Water Bill	Per 1,000 Gallons	Percentage Change
June 1, 2018	\$3.95	1.54%	100%	\$3.95	1.54%
June 1, 2019	3.98	0.82%	100%	3.98	0.82%
June 1, 2020	4.08	2.45%	100%	4.08	2.45%
June 1, 2021	4.13	1.10%	100%	4.13	1.10%
June 1, 2022	4.33	5.00%	100%	4.33	5.00%
June 1, 2023	4.55	5.00%	100%	4.55	5.00%
June 1, 2024	4.70	3.77%	100%	4.70	3.77%

## Sewer Accounts

As of December 31, 2022, the Sewer System supplied 494,274 accounts. As shown in the table below, of these 494,274 accounts, 60,006 were exempt accounts, resulting in a total of 434,268 revenue paying sewer accounts. Senior citizens age 65 and older who reside in their own single-family residences with a separate water meter or water charge may apply for an exemption from payment of the sewer service charge. Senior citizens age 65 and older living in condominiums are eligible to apply for an annual rebate of \$50 on sewer service charges.

The following table reflects the total accounts of the Sewer System, nonmetered and metered, net of exempt accounts, for the years 2018 through 2022.

Year Ended December 31	Water System and Sewer System Accounts			Exempt	Revenue Paying Sewer Accounts
	Water Accounts				
	Non- metered	Metered	Total		
2018	180,608	313,758	494,366	66,982	427,384
2019	178,348	316,262	494,610	66,889	427,721
2020	177,641	316,783	494,424	63,608	430,816
2021	176,931	317,398	494,329	62,680	431,649
2022	172,048	322,226	494,274	60,006	434,268

During 2022, residential accounts represented approximately 70 percent of Sewer System revenues and industrial and commercial accounts represented approximately 24 percent of such revenues. The remaining 6 percent of revenues were derived from governmental and not-for-profit organizations. During the same period, residential non-metered accounts were approximately 30 percent of Sewer System revenues and residential metered accounts were approximately 70 percent of such revenues. All industrial and commercial accounts are metered. There are no large industrial or commercial users that account for more than five percent of Sewer System revenues. The five largest accounts of the Sewer System are shown on the following table.

Fiscal Year 2022 Five Largest Sewer Accounts by Revenue	
Customer	Revenue (dollars in thousands)
City of Chicago Department of Aviation	\$5,169
CPD – Lincoln Park	2,899
Hometown	2,242
WR Grace and Company	1,521
Ford Motor Co	1,166
<b>Total of Top 5</b>	<b>\$12,997</b>
<b>% of Sewer Sales</b>	<b>3.36</b>
<b>Total Billed Sewer Fees<sup>(1)</sup></b>	<b>\$386,351</b>

Source: City of Chicago, Department of Water Management

(1) Actual amounts billed during calendar year; differs from Sewer Fund Basic Financial Statements which include charges accrued for calendar year regardless of year in which billed.

## **Collections and Delinquencies**

The Department of Finance follows the same collection strategy for collecting water accounts and sewer accounts, as described below. The Department of Finance bills most large industrial, commercial and wholesale municipal accounts each month, with a few exceptions that are billed quarterly. Metered residential accounts and smaller accounts are generally billed once every two months, unless a customer enters into a payment arrangement or enrolls in the UBR Program (as defined below), in which case they are billed monthly. As of December 2020, non-metered accounts are billed monthly.

On September 14, 2016, the City Council approved a tax on the use or consumption of water in the City, and on the transfer of wastewater to the Sewer System from properties located in the City (subject to certain exceptions) (the “Chicago Water and Sewer Tax”). The Chicago Water and Sewer Tax revenues are not Gross Revenues of the Sewer System and will not be utilized for the operations of the Sewer System, and the Chicago Water and Sewer Tax revenues will not be pledged to the repayment of the Bonds. The Chicago Water and Sewer Tax current rate is \$1.255 per 1,000 gallons. The Chicago Water and Sewer Tax appears as a separately stated item on the Unified Bill (as defined below) for City-provided water, sewer and refuse collection services.

Chicago residents receiving both water and sewer service from the City, as well as refuse collection services provided by the City’s Department of Streets and Sanitation, are sent a unified utility bill which details the charges for each service (a “Unified Bill”). Pursuant to the City’s Municipal Code, payments on the Unified Bills are allocated pro rata among the charges shown on the bills, with oldest unpaid amounts being paid first. The first Unified Bills, which included refuse collection services, were sent between April and September 2016 to City residents. Beginning in March 2017, the Unified Bills also included the Chicago Water and Sewer Tax as a separate charge. To date, the allocation of partial payments on the Unified Bills to water accounts, Chicago Water and Sewer Tax and refuse collection services has not had a material adverse effect on the collection of sewer charges by the City.

Payments on both metered and non-metered accounts are due 21 days after the bills are issued. A late payment penalty assessed at a monthly rate of one and one-fourth percent is imposed on all charges in excess of \$10.00 for which payment in full is not received within 30 calendar days from the date the bill was issued.

Delinquency notices, which were generated at an average rate of 6,564 per week in 2022, are sent to delinquent account holders when their balances are 30 days past due. A second delinquency notice is sent after 60 days. A third delinquency notice is sent after 90 days. After an active account reaches 365 days past due with a balance greater than \$1,000, the account is referred to an outside law firm for collections. Inactive accounts (those that do not currently have water or sewer service) that are 91 days past due with balances of \$200 or greater are referred to an outside law firm for collection. The outside law firm may pursue collection by obtaining a judgment at the City of Chicago Department of Administrative Hearings, by recording a lien against the property, or by additional legal collection actions. Additionally, by ordinance, when a property is transferred, a deed cannot be recorded with the Cook County Clerk’s Recording Division unless the Department of Finance certifies that all service charges and penalties due and owing on the Unified Bill for service to that property have been paid in full.

## **Utility Billing Relief Program**

In 2019, the City implemented a moratorium on water shutoffs for non-payment. In April 2020, in order to address issues with water affordability for low-income residents, the City launched the Utility Billing Relief Program (the “UBR Program”). The UBR Program provides low-income City residents with a reduced rate on their water rate, sewer rate, and Chicago Water and Sewer Tax as well as debt relief for those who demonstrate they can manage the reduced rate bills for one year. Benefits for UBR participants include: a reduced rate on water rates, sewer rates, and Chicago Water and Sewer Tax, no late payment penalties or debt collection activity; and debt forgiveness after successfully completing one year with no past due balance. In order to be eligible for the UBR Program, an applicant must meet the income criteria for the Low Income Home Energy Assistance

Program, which currently requires that the applicant must earn income at or below 200 percent of the federal poverty level and must own and reside in the single family home or 2-unit property with which the overdue bills are associated and for which relief is sought. The UBR Program was extended April 1, 2024 to include 3-unit properties. As of December 2022, the UBR program has helped approximately 20,000 unique accountholders through reduced billing rates and an opportunity to forgive past utility debt. The UBR program, and the revenues not collected as a result of the program, have not had, and are not expected to have, any material impact on the security for the Bonds or the ability of the City to pay the debt service on the Bonds.

The amount of annual net sewer charges and cash collected from current and prior years' billings are included in the table below.

<b>ANNUAL NET SEWER CHARGES</b>			
<u>Year</u>	<u>Net Sewer Charges<sup>(1)(2)</sup></u>	<u>Cash Collected During Year for Current Years<sup>(1)(3)</sup></u>	<u>Percentage of Charges Collected</u>
2018 .....	\$369,932	\$355,535	96%
2019 .....	363,709	348,079	96%
2020 .....	338,123	324,999	96%
2021 .....	363,216	348,091	96%
2022 .....	384,818	357,530	93%

<sup>(1)</sup>Dollars in thousands.

<sup>(2)</sup>Actual amounts billed during calendar year; differs from Sewer Fund Basic Financial Statements which include charges accrued for calendar year regardless of year in which billed.

<sup>(3)</sup>Includes collections for sewer fees and other revenue related to sewer fees.

**Sewer System Revenues Not Connected to the State of Illinois**

The State of Illinois is obligated to make payments to the City in instances where it is a user of the Sewer System, except in situations and to the extent that the applicable State of Illinois property qualifies for an exemption. The revenue from the State as a user accounts for less than one percent (1%) of the Sewer System's annual operating revenues. No operating revenues from any users of the Sewer System flow through the State of Illinois. All such revenues are paid directly to the City.

**Annual Budget Review and Implementation of Annual Budget**

The Department's annual budget is developed and implemented as part of the City's annual budget and it is based upon an analysis of its historical Operation and Maintenance Costs. If projected Gross Revenues are not sufficient to satisfy the rate covenants contained in the ordinances authorizing the Bonds and Senior Lien Bonds and Second Lien Bonds, as determined by the City pursuant to its annual review of the Sewer System, the Department is required, after consultation with the Budget Director and, when appropriate, a qualified independent consulting engineer, to recommend appropriate action to the City Council to comply with the rate covenants. See "SECURITY FOR THE BONDS — Rate Covenant." If necessary, proposed rate increases will be included in the Department's proposed annual budget.

Once the Department has prepared and finalized its proposed annual budget, the Budget Director considers the Department's proposed budget along with the proposed annual budgets recommended and submitted by all of the other departments and agencies whose budgets become part of the City's proposed annual budget. Following the Budget Director's approval, the budgets must be approved by the Mayor, the City Council's Committee on Budget and Governmental Operations and the City Council. After the City Council has approved the proposed annual budget as the City's annual appropriation ordinance, it is forwarded to the Mayor for approval.

Should the Mayor veto the approved annual appropriation ordinance, the City Council may override the veto with a two-thirds vote.

The City Council may also refuse to approve the Mayor's proposed annual budget. In such a case, the appropriate process for passage of the City budget may have to be judicially determined. In addition, in such case, the Sewer System would continue to operate and users would still be required to pay for service. By law, the City's budget must be approved by December 31 of the year preceding the budget year. The City's 2024 budget was approved by the City Council on November 15, 2023.

During each year, the Budget Director uses an allotment system to manage each department's expenditures against its respective annual appropriation. The Budget Director requires departments to submit quarterly allotment budgets which the Budget Director, in turn, monitors. Should any department's expenditures exceed its receipt of revenues, the Budget Director, through the quarterly budget allotment procedure, has the authority to institute economy measures against such department to ensure that its expenditures do not exceed or outpace its revenue collection. During 2023, there were no such restrictions in the Department's quarterly expenditures.

### **The Financial Policies of the Sewer System**

The City has developed the following financial policies applicable to the Sewer System (the "Financial Policies"):

#### *Segregation of Funds.*

The City maintains all cash and investments of the Sewer Fund in separate bank accounts from the City's general accounts, including those of the Corporate Fund of the City. Gross Revenues of the Sewer System are deposited directly in the segregated accounts after they are allocated from the Unified Bill. As part of the Financial Policies, the City intends to continue maintaining all cash and investment of the Sewer Fund in segregated bank accounts.

#### *Days Cash on Hand.*

In addition to the requirement in the Indenture that the City maintain amounts in the Sewer Rate Stabilization Account equal to at least 90 Days' Cash On Hand, the City also intends to maintain at least 270 Days' Cash On Hand. For the purpose of calculating Days' Cash On Hand under the Financial Policies, the balance in the Sewer Rate Stabilization Account will be included, along with any unrestricted cash and investments and any other restricted cash and investments available for the payment of debt service. The City calculates Sewer Fund Days' Cash On Hand as of December 31, 2022 to equal 386 days, and projects that Days' Cash On Hand for the projection period will remain at comparable levels.

**The Financial Policies as described above are not a legal requirement to which the City is bound but represent practices that, as of the date of this Official Statement, the City intends to follow in connection with the financial operations of the Sewer System. Subject to compliance by the City with the requirements of the Indenture, the Financial Policies may be changed, terminated in whole or in part, or disregarded in whole or in part at the City's discretion. No assurance can be given regarding future compliance by the City with the Financial Policies.**

## Historical and Projected Operations

The Sewer Revenue Fund is separate, distinct and segregated from the City's General Fund and is not encumbered by any liens, claims, security interests or obligations of the City relating to its General Fund. Following are the Sewer Revenue Fund's Statements of Operations, including debt service requirements, as summarized from the audited financial statements of the Sewer Revenue Fund for the years ended December 31, 2018 through December 31, 2022, together with projected financial operations and projected debt service requirements for the years ending December 31, 2023 through December 31, 2027. The projected financial operations and debt service coverage calculations also include additional assumed issuances of debt through the end of the projection period. There is no assurance of the size or timing of such future transactions or whether they will occur at all. As available, the City also intends to dedicate approximately half of net revenues after payment of debt service for Pay-Go to offset debt issuance in future years. The Sewer Fund Financial Statements for the year ended December 31, 2023 are not expected to be published until June 30, 2024. Financial results for the fiscal year ended December 31, 2023 are categorized as projected for the purposes of this section and should not be considered to be reflective of actual financial results for the period.

The Sewer Revenue Fund's operating revenues for 2022 increased by \$1 million and for 2021 increased by \$32.3 million compared to prior year operating revenues, the latter being an increase of 8.8 percent. The increase in 2021 is primarily due to increased consumption and a 1.1% increase in Sewer System rates that took effect on June 1, 2021. For 2022, projected operating revenues were estimated to increase by 2.5%, primarily based on a sewer rate increase of 5% on June 1, 2022, based on 2021 growth in CPI subject to a 5% maximum increase. Because the Sewer System rates are calculated as a percentage of the Water System rates, Sewer System rates also increase when Water System rates increase. Rate increases are projected to be partially offset by marginal decreases in water consumption due to water conservation efforts. Therefore, operating revenues are projected to increase at a modest rate.

The Sewer Revenue Fund's operating expenses before depreciation and amortization for 2022 increased by \$13.5 million and for 2021 increased \$20.6 million from the previous years due to an increase in pension expenses.

Projected operating expenses (excluding General Fund reimbursements and pension contributions) in 2023 through 2027 are reflective of an expected increase in expenses based on historical trends. Projected operating expenses also reflect an increase in each year based on growth in indirect costs being charged to the Sewer Revenue Fund as reimbursements to the General Fund. The methodology for charging these indirect costs to the Sewer Revenue Fund is prepared by a third party and is consistent with generally accepted accounting principles. The Sewer Revenue Fund has historically been charged for indirect costs properly allocable to that Fund. Direct pension contributions are budgeted at \$21.5 million and \$28.3 million in 2022 and 2023, respectively. Indirect pension contributions allocable to the Sewer Revenue Fund are budgeted to be \$14.5 million in 2022 and \$14.6 million in 2023. Pursuant to the Pension Funding Policy, the City budgeted the 2024 Advance Pension Contribution, of which the Sewer Fund's allocable share was \$5.6 million. Future pension contributions are projected to grow from 2024 to 2027 based on the City's internal projections incorporating actual pension fund returns of 12.1% on average for 2022, assumed 0.0% returns in 2023, and an anticipated reduction in the discount rate used by MEABF from 7.00% to 6.75% beginning in 2023.

Water usage in the City, upon which sewer charges are based, is assumed to marginally decline throughout the projection period due to ongoing water conservation efforts. In addition to rate increases, the City could achieve compliance with its Rate Covenant in some other manner, including any combination of rate increases, decreases in operating expenses, changes in its capital improvement program or in the timing and amounts of future borrowings or changes in net transfers to or from the Sewer Rate Stabilization Account and the Residual Account.

The City has prepared the projections discussed herein and summarized in the table below. The City believes that the underlying assumptions provide a reasonable basis for the projections, and that the projections present, to the best of the City's knowledge and belief, the City's expected course of action. However, some of the assumptions upon which the projections are based inevitably will not materialize and unanticipated events and circumstances may occur. The management of the City has prepared the projected financial information set forth below to present the expected financial performance of the Sewer System.

The accompanying projected financial information was not prepared with a view toward complying with the guidelines established by the American Institute of Certified Public Accountants with respect to projected financial information, but in the view of the City's management was prepared on a reasonable basis, reflects the best currently available estimates and judgments, and presents, to the best of management's knowledge and belief, the expected course of action and the expected future financial performance of the Sewer System. Accordingly, these projections are not fact and should not be relied on as being necessarily indicative of future results, and readers of this Official Statement are cautioned not to place undue reliance on the projected operations of the Sewer System which are contained herein.

Neither the City's independent auditors, nor any other independent accountants, have compiled, examined, or performed any procedures with respect to the projected financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability, and assume no responsibility for, and disclaim any association with, the projected financial information.

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**CITY OF CHICAGO SEWER SYSTEM  
Historical and Projected Financial Operations (Dollars in Thousands) <sup>(1)</sup>**

	(Year Ended December 31)									
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
<b>Operating Revenues</b>										
Sewer sales <sup>(2)(3)</sup>	\$380,822	\$373,902	\$356,267	\$377,514	\$390,059	\$404,304	\$419,220	\$429,779	\$438,455	\$446,340
Less: provision for bad debt <sup>(4)</sup>	(12,611)	(23,849)	(22,792)	(12,297)	(23,183)	(20,388)	(21,140)	(21,673)	(22,110)	(22,507)
Other operating revenues	1,492	1,023	484	1,052	836	977	874	845	917	890
<b>Total Operating Revenues</b>	<b>\$369,703</b>	<b>\$351,076</b>	<b>\$333,959</b>	<b>\$366,269</b>	<b>\$367,712</b>	<b>\$384,894</b>	<b>\$398,954</b>	<b>\$408,951</b>	<b>\$417,261</b>	<b>\$424,712</b>
<b>Operating Expenses <sup>(5)</sup></b>										
Repairs	\$43,654	\$41,614	\$47,398	\$44,066	\$27,513	\$42,891	\$44,337	\$45,445	\$46,400	\$47,328
Maintenance	24,909	22,958	24,405	25,861	\$14,406	\$23,633	\$24,430	\$25,040	\$25,566	\$26,078
Administrative and general	13,472	12,367	12,320	13,891	\$14,093	\$14,798	\$15,296	\$15,679	\$16,008	\$16,328
Engineering	3,664	3,515	4,776	5,328	\$6,162	\$6,470	\$6,688	\$6,855	\$6,999	\$7,139
General fund reimbursements <sup>(6)</sup>	51,188	53,688	54,467	55,937	\$55,478	\$37,213	\$38,467	\$39,429	\$40,257	\$41,062
Pension expense	18,938	3,266	-23,853	-4,979	\$21,466	\$28,307	\$30,977	\$31,984	\$32,252	\$32,508
Advance pension contributions	-	-	-	-	-	4,176	6,053	5,900	5,524	5,112
Indirect pension contributions*	-	-	-	-	-	14,577	15,548	15,787	15,810	15,854
<b>Total Operating Expenses</b>	<b>\$155,825</b>	<b>\$137,408</b>	<b>\$119,513</b>	<b>\$140,104</b>	<b>\$139,118</b>	<b>\$172,065</b>	<b>\$181,796</b>	<b>\$186,119</b>	<b>\$188,816</b>	<b>\$191,408</b>
Nonoperating Revenues <sup>(7)</sup>	7,446	11,737	12,128	2,165	5,009	13,360	13,360	13,360	13,360	13,360
<b>Net Revenues</b>	<b>\$221,324</b>	<b>\$225,405</b>	<b>\$226,574</b>	<b>\$228,330</b>	<b>\$233,603</b>	<b>\$226,188</b>	<b>\$230,518</b>	<b>\$236,193</b>	<b>\$241,806</b>	<b>\$246,664</b>
Plus: Pension expense other than contribution	6,191	-12,572	-40,972	-24,917	-7,552	-	-	-	-	-
Transfer from (to) Sewer Rate Stabilization Account	-	-	-	-	-	-	\$2,202	\$2,433	\$1,081	\$674
Other Available Funds <sup>(8)</sup>	221,509	234,799	255,980	263,437	207,660	141,857	141,857	141,857	141,857	141,857
<b>Net Revenues Available for Bonds</b>	<b>\$449,024</b>	<b>\$447,632</b>	<b>\$441,582</b>	<b>\$466,850</b>	<b>\$433,711</b>	<b>\$368,045</b>	<b>\$372,375</b>	<b>\$378,050</b>	<b>\$383,663</b>	<b>\$388,521</b>
Sewer Rate Stabilization Account Year-End Balance	\$36,992	\$36,992	\$40,814	\$40,814	\$40,814	\$40,814	\$43,016	\$45,449	\$46,530	\$47,204
<b>Net Revenues Available for Bonds <sup>(9)</sup></b>	<b>\$449,024</b>	<b>\$447,632</b>	<b>\$441,582</b>	<b>\$466,850</b>	<b>\$433,711</b>	<b>\$368,045</b>	<b>\$372,375</b>	<b>\$378,050</b>	<b>\$383,663</b>	<b>\$388,521</b>
Debt Service Requirements: <sup>(10)</sup>										
Senior Lien Debt Service Requirement	-	\$10,525	\$13,654	\$13,720	\$13,670	\$13,695	\$595	\$24,680	\$24,680	\$24,680
Senior Lien Debt Service Coverage (1.15 Required)	-	42.53	32.34	34.03	30.66	26.87	625.84	15.32	15.55	15.74
Second Lien Debt Service Requirement	\$134,343	\$124,556	\$123,522	\$117,094	\$123,689	\$123,768	\$115,636	\$96,803	\$106,313	\$114,604
Combined Senior and Second Lien Debt Service Requirements	\$134,343	\$135,081	\$137,176	\$130,814	\$137,359	\$137,463	\$116,231	\$121,483	\$130,993	\$139,284
<b>Combined Senior and Second Lien Debt Service Coverage (1.0 Required)</b>	<b>3.34x</b>	<b>3.31x</b>	<b>3.22x</b>	<b>3.57x</b>	<b>3.16x</b>	<b>2.68x</b>	<b>3.20x</b>	<b>3.11x</b>	<b>2.93x</b>	<b>2.79x</b>
IFPA Loans Subordinate Lien Debt Service Requirement	\$12,933	\$18,117	\$21,727	\$27,387	\$28,618	\$38,495	\$28,012	\$32,061	\$45,060	\$50,561
Combined Senior, Second & Subordinate Lien Debt Service Requirement <sup>(11)</sup>	\$147,276	\$153,198	\$158,903	\$158,201	\$165,977	\$175,958	\$144,243	\$153,544	\$176,053	\$189,845
<b>Combined Senior, Second &amp; Subordinate Lien Debt Service Coverage (1.15 required)</b>	<b>3.05x</b>	<b>2.92x</b>	<b>2.78x</b>	<b>2.95x</b>	<b>2.61x</b>	<b>2.09x</b>	<b>2.58x</b>	<b>2.46x</b>	<b>2.18x</b>	<b>2.05x</b>

Source: Department of Water Management

**FOOTNOTES FOR THE PRECEDING TABLE ENTITLED, "CITY OF CHICAGO SEWER SYSTEM - Historical and Projected Financial Operations"**

- (1) Totals may not add due to rounding.
- (2) 2023 sewer sales are estimated to grow by 3.70%. Projections in 2024 to 2027 are based on projected inflationary trends as published by the Federal Reserve.
- (3) Projected annual Sewer Sales reflect gross billings and not collections, which is in accordance with generally accepted accounting principles.
- (4) Projected provision for bad debt is estimated to increase by 2% in 2023 through 2027.
- (5) Non-pension operating expenditure growth is estimated to increase by 5.0% in 2023. Projections in 2024 to 2027 are based on projected inflationary trends as published by the Federal Reserve.
- (6) General Fund reimbursements in 2018 through 2022 include indirect pension contributions. For 2023 and 2024, General Fund reimbursements are based on budgeted amount. For 2025 through 2027, General Fund reimbursements are projected to grow based on projected inflationary trends as published by the Federal Reserve. Direct, indirect, and advance pension contributions in 2023 and 2024 are based on budgeted amounts.
- (7) In 2024 through 2026, includes projected Build America Bond Federal Subsidy receipts (net of assumed 5.7% sequestration) from the U.S. Treasury, which the City expects to receive in connection with its Second Lien Wastewater Transmission Revenue Project Bonds, Taxable Series 2010B. The Indenture permits such Federal Subsidies to be included in Gross Revenues, provided the City's Budget Director designates such amounts to be deposited in the Sewer Revenue Fund and subject to the lien of this Indenture. The City has not yet designated the Build America Bond Federal Subsidy receipts to be deposited into the Sewer Revenue Fund. The City expects to make such designation in Fiscal Year 2024, but there is no assurance that such designation will be made in Fiscal Year 2024 or in future years.
- (8) Other Available Funds are equal to total current unrestricted assets net of total current liabilities included in the annual Basic Financial Statements – Statements of Net Position as of December 31 of the prior year.
- (9) As provided in the Bond Ordinance, Gross Revenues remaining in any period after providing sufficient funds for Operations and Maintenance Costs, for paying required debt service on all bonds and notes secured by Sewer System revenues, for paying any required amounts into any other accounts established for any bonds or notes secured by Sewer System revenues and to make any deposits into the Sewer Rate Stabilization Account ("Other Available Funds"), can be applied to debt service for any future period. Other Available Funds is equal to total current unrestricted assets net of total current liabilities included in the annual Basic Financial Statements - Statements of Net Position as of December 31 of the prior period. From 2024 through 2027, Other Available Funds are projected to be \$207.7 million per year.
- (10) Reflects debt service after giving effect to the issuance of the Bonds and the refunding of the Refunded Bonds. Principal and interest (including the amount of interest that has accreted on capital appreciation bonds) for each year includes amounts payable on the City's wastewater transmission revenue bonds on July 1 of that year and January 1 of the following year.
- (11) Debt service includes IFPA loan debt service for loans that have been closed and does not include IFPA loan debt service for initial awards.

\*Projected indirect pension contributions are allocations for indirect costs paid by each enterprise fund as part of reimbursements to the General Fund.

## Pension Costs

### *Determination of Pension Contributions*

Pension costs paid out of the Sewer Revenue Fund constitute Operation and Maintenance Costs for purposes of determining Net Revenues Available for Bonds and for the City's compliance with its covenants (including the Rate Covenant) under the Bond Ordinance and the Indenture. See "INTRODUCTION – Rate Covenant."

The City participates in four single-employer defined-benefit pension plans for City employees: the Municipal Employees' Annuity and Benefit Fund of Chicago ("MEABF"), the Laborers' and Retirement Board Employees' Annuity and Benefit Fund of Chicago ("LABF," and together with MEABF, the "Municipal and Laborers' Funds"), the Policemen's Annuity and Benefit Fund ("PABF"), and the Firemen's Annuity and Benefit Fund ("FABF," and together with PABF, the "Public Safety Funds," which, together with the Municipal and Laborers' Funds, are referred to herein as the "Retirement Funds"). Sewer System employees participate in the Municipal and Laborers' Funds.

Certain of the annual comprehensive financial reports of the Retirement Funds and certain of the actuarial valuations of the Retirement Funds may be obtained by contacting the Retirement Funds. Certain of these reports may also be available on the Retirement Funds' websites ([www.meabf.org](http://www.meabf.org); [www.labfchicago.org](http://www.labfchicago.org); [www.chipabf.org](http://www.chipabf.org); and [www.fabf.org](http://www.fabf.org)); provided, however, that the contents of these reports and of the Retirement Funds' websites are not incorporated herein by such reference.

Members of each Retirement Fund are eligible (individually, an "Eligible Member," and collectively, "Eligible Members") for an annual annuity payment (the "Annuity Benefits") if they meet certain age, years of service and prior service credit requirements (the "Eligibility Factors"). Benefits to each Eligible Member are statutorily established based on a combination of the Eligibility Factors and the Eligible Member's average annual salary for certain years prior to retirement (the "Annuity Factors").

Annuity Benefits for each of the Retirement Funds are funded from three sources: (i) contributions from the City (the "City Contributions") which are funded from the proceeds of a property tax levy (the "Pension Levy") on all taxable property located within the City or other available funds ("Other Pension Available Funds"), including payments from the Department on behalf of Sewer System employees, (ii) contributions from Eligible Members (the "Employee Contributions," and together with the City Contributions, the "Contributions"), and (iii) investment returns. The Department has historically contributed its pro rata share of City Contributions to the Retirement Systems (the "Department Portion") based on the Annuity Factors for the number of Sewer System employees who are Eligible Members. See APPENDIX D—"CITY OF CHICAGO, ILLINOIS SEWER FUND BASIC FINANCIAL STATEMENTS AS OF AND FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021, AND INDEPENDENT AUDITOR'S REPORT—Notes to Basic Financial Statements – 6. Pension Plans." Pension liabilities are not recorded at the fund level for the Sewer Revenue Fund.

The City Contributions and Employee Contributions are each established by the Illinois Pension Code (the "Pension Code"). Historically, the Contributions required under the Pension Code do not relate to, and in prior years were substantially less than, the contribution amounts that would have been required if the Retirement Funds were funded based on actuarial determinations of the contribution amounts necessary to fully fund the Annuity Benefits to Eligible Members of each Retirement Fund over an extended period. See "INVESTMENT CONSIDERATIONS – Unfunded Pensions" herein. In an effort to improve the funded status of the Retirement Funds, the Illinois General Assembly passed Public Act 96-1495 ("P.A. 96-1495"), which modified provisions of the Pension Code with respect to PABF and FABF, and Public Act 100-23 ("P.A. 100-23") which modified provisions of the Pension Code with respect to MEABF and LABF.

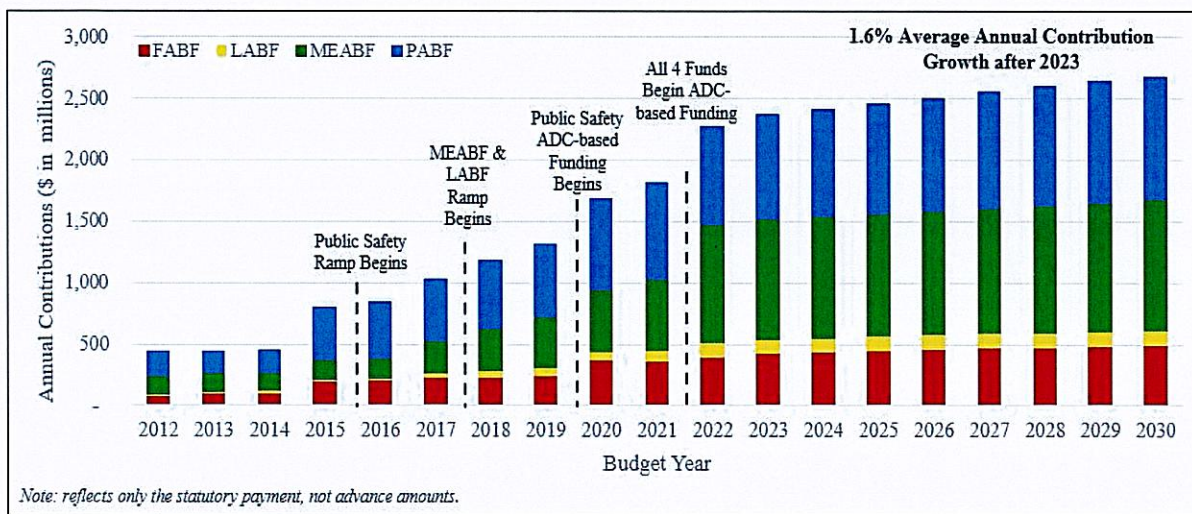
P.A. 96-1495, as later amended by Public Act 99-506, provides for the City to contribute the actuarially determined amounts necessary to achieve a 90 percent funded ratio in the Public Safety Funds by 2055, but made no changes to the Annuity Benefits for Eligible Employees hired before January 1, 2011 and established Annuity Benefits for Eligible Members hired on or after January 1, 2011 based on the Annuity Factors, but with the average annual salary capped at a certain amount, and the annual increases to the Annuity Benefits tied to the lesser of 3.0 percent or the consumer price index. Additionally, for Eligible Members hired on or after January 1, 2011, P.A. 96-1495 reduced a survivor’s Annuity Benefit equal to 2/3 of the Annuity Benefits that the deceased Eligible Member was receiving at the time of his or her death.

The Pension Code establishes Annuity Benefits for Eligible Members of the Municipal and Laborers’ Funds hired prior to January 1, 2011 based on the Annuity Factors, subject to 3 percent automatic annual increases after the Eligible Members’ first full year of retirement and Annuity Benefits for Eligible Members hired on or after January 1, 2011 based on the Annuity Factors, but with the average annual salary capped at a certain amount, and the annual increases to the Annuity Benefits are tied to the consumer price index. Further, the Pension Code establishes the Employee Contribution for MEABF and LABF Eligible Members hired prior to January 1, 2017 at 8.5 percent of the salary of each employee on an annual basis. Pursuant to P.A. 100-23, MEABF and LABF Eligible Members hired on or after January 1, 2017 (“New Members”) will contribute 11.5 percent of their salaries to their respective Retirement Funds and will be eligible for benefits at age 65 (as opposed to age 67 for Eligible Members hired between January 1, 2011 and January 1, 2017) (“Tier II Member”). In addition, Tier II Members of MEABF and LABF will be eligible to receive benefits at age 65 provided that such Tier II Members agree to contribute an additional 3.0 percent of their salaries to their respective Retirement Funds.

P.A. 100-23 requires that the City contribute the actuarially determined amounts required to achieve a 90 percent funded ratio in each of MEABF and LABF by 2058.

The City increased aggregate pension contributions by \$2.2 billion from 2015 to the 2024 budgeted contributions, and by \$1.3 billion from 2019 to 2024 budgeted contributions, including approximately \$306.6 million contributed under the Pension Funding Policy. Aggregate contributions are expected to grow approximately 1.6% annually after 2024.

HISTORICAL AND PROJECTED BUDGETED PENSION CONTRIBUTIONS



*2024 Budgeted Contributions*

The City’s Fiscal Year 2024 budget includes the following contributions to the Retirement Funds (as indicated by total annual contribution and the Sewer Revenue Fund’s proportional share): (i) \$1,127.8 million for MEABF, of which \$16.5 million, or less than two percent, is the Sewer Revenue Fund’s proportional share; and (ii) \$149.9 million for LABF, of which \$17.3 million, or 11.5 percent, is the Sewer Revenue Fund’s proportional share. In addition, the 2024 Sewer Fund budget includes \$14.6 million for indirect pension contributions chargeable to the Water Fund, and \$5.6 million pursuant to the Pension Funding Policy. These 2024 budgeted contributions include the advance pension contribution described below.

*Pension Funding Policy*

Beginning with the 2023 Budget year, the City published a new debt and pension management policy (the “**Pension Funding Policy**”) that states: “Starting in fiscal year 2023, the City will annually budget for an advance pension contribution which, in addition to the statutorily required contribution, and in the determination of the CFO, will not increase the total net pension liability of the City’s four pension funds based on best efforts projections and information available at the time of budget. This total net pension liability calculation will be based on the GASB 67/68 calculation of net pension liability included annually in the City’s Annual Comprehensive Financial Report and will include components of said calculation including interest cost derived from unfunded liability, normal cost, administrative costs, employee contributions and market value of the assets of the fund.” It also provides that the advance contribution shall be paid on the first business day of the year in which such contributions are budgeted.

The 2024 advance pension contribution, for approximately \$306.6 million, was included in the 2024 Budget adopted by the City Council on November 15, 2023 (the “**2024 Advance Pension Contribution**”). These advance pension contributions, in addition to preventing an increase in the City’s net pension liability, also help avoid market losses due to asset liquidations by the pension funds. In accordance with the Pension Funding Policy, the 2024 Advance Pension Contribution was paid in January, 2024. The 2024 Advance Pension Contribution is included in the figures cited above under “2024 Budgeted Contributions.” As part of the Pension Funding Policy, the Sewer Revenue Fund pays its proportionate share of the Advance Pension Contribution. For Budget Year 2024, that payment was approximately \$3.2 million for MEABF and \$2.4 million for LABF.

2024 ADVANCE PENSION CONTRIBUTION BY RETIREMENT FUND  
(\$ IN MILLIONS)

<u>Retirement Fund</u>	<u>Amount</u>
MEABF	\$178.1
LABF	20.3
PABF	79.9
FABF	<u>28.3</u>
Total:	<u><u>\$306.6</u></u>

PROJECTED CONTRIBUTIONS UNDER EXISTING STATUTORY REQUIREMENT AND PENSION FUNDING POLICY



The City intends to include the investment losses and gains in line with the current practices for the statutory contribution. In 2022, a 12.1% investment loss is projected to increase the 2024 pension contribution by \$141 million and such losses were included in the Fiscal Year 2024 Budget and are included in the current City’s out-year financial planning. Projections of future pension contributions incorporate an anticipated reduction in the discount rate used by MEABF from 7.00% to 6.75% beginning in fiscal year 2023.

Under the Pension Funding Policy, the City projects that it may contribute advance funding amounts of \$1.2 billion through 2030, resulting in reduced required contributions of \$3.8 billion from 2031 to 2058, resulting in a net reduction in total future pension contributions of \$2.6 billion overall and of \$60 million in Sewer Fund contributions. These advance contributions to all four funds will stabilize the overall level of the City’s total net pension liability and prevent significant liquidation losses.

**The Pension Funding Policy as described above is not a legal requirement to which the City is bound but represents practices that, as of the date of this Official Statement, the City intends to follow in connection with advance pension contributions. Subject to compliance by the City with the requirements of the Indenture and with applicable statutory requirements, the Pension Funding Policy may be changed, terminated in whole or in part, or disregarded in whole or in part at the City’s discretion. In addition, any advance pension contributions in 2024 and later years contemplated by the Pension Funding Policy would be subject to approval and appropriation by the City Council. No assurance can be given regarding future compliance by the City with the Pension Funding Policy.**

### *Accelerated Pension Payments*

During calendar year 2023, due to delays in the collection and distribution of the Second Installment Pension Levy by Cook County, each of the Retirement Funds considered the liquidation of assets in order to make benefit payments to members. To avoid such asset sales, beginning in August 2023, the City began making monthly accelerated contributions to each of the Retirement Funds. Such accelerated contributions were made by the City in each of August, September, October and November 2023 in a total amount of \$425.7 million. The accelerated payments to PABF (in an aggregate amount of \$280.0 million), FABF (in aggregate amount of \$55.4 million), and LABF (in an aggregate amount of \$30.2 million) were advances on the City's required contributions to such Retirement Funds for Fiscal Year 2023. The accelerated payments to MEABF (in an aggregate amount of \$60.1 million) represent payments toward the portion of the City's Fiscal Year 2024 pension contribution to that fund from Other Available Pension Funds payable in February 2024. The City will reimburse itself by the amount of these accelerated payments from the proceeds of the Second Installment Pension Levy upon disbursement thereof from the Cook County Treasurer. None of the accelerated pension contributions described in this paragraph are part of or related to the Pension Funding Policy or the 2024 Advance Pension Contribution, both of which are described in the preceding paragraphs.

## **INVESTMENT CONSIDERATIONS**

*The following discussion of investment considerations should be reviewed by prospective investors prior to purchasing the Bonds. Any one or more of the investment considerations discussed herein could lead to a decrease in the market value and the liquidity of the Bonds or, ultimately, a payment default on the Bonds. There can be no assurance that other factors not discussed herein will not become material in the future.*

### **Unfunded Pensions**

The Retirement Funds have significant unfunded liabilities and low funding ratios. The City's required contributions to the Retirement Funds are projected to increase in future years as set forth under "FINANCIAL OPERATIONS - Pension Costs." Future required contribution increases may require the City to increase its revenues, reduce its expenditures, or some combination thereof, which may impact the services provided by the City or limit the City's ability to generate additional revenues in the future.

### **Environmental Regulations**

The City is subject to state and federal environmental laws and regulations applicable to the Sewer System's overflows into Chicago area waterways. These laws and regulations are subject to change, and the City may be required to expend substantial funds to meet the requirements of such changing laws and regulations in the future. Failure to comply with these laws and regulations may result in the imposition of administrative, civil and criminal penalties, or the imposition of an injunction requiring the City to take or refrain from taking certain actions. In addition, the City may be required to remediate contamination on properties owned or operated by the City or on properties owned by others, but contaminated as a result of City operations.

Sewer services are governed by various federal and state environmental protection and health and safety laws and regulations, including the federal Clean Water Act and similar state laws, and federal and state regulations issued under these laws by the EPA and IEPA. These laws and regulations establish, among other things, criteria and standards for wastewater and for discharges into the waters of the United States and nearby states. Pursuant to these laws, the Department is required to obtain various environmental permits for operations. Violations or noncompliance could result in fines or other sanctions by regulators and/or such violations or noncompliance could result in civil suits. Environmental laws and regulations are complex and change frequently. These laws, and the enforcement thereof, have tended to become more stringent over time. While the Department

has budgeted for future capital and operating expenditures to comply with these laws and permitting requirements, it is possible that new or stricter standards could be imposed that will require additional capital expenditures or raise operating costs.

## **Operational Security and Cybersecurity of the Sewer System**

### *Operational Security of the Sewer System*

The physical damage to the Sewer System resulting from vandalism, sabotage, natural disasters or terrorist activities may adversely affect the operations of the Sewer System. While the Department maintains robust procedures and capabilities to ensure the physical security of the System, including (i) collaboration with the City's Office of Emergency Management and Communications (OEMC), which provides the Department with access to the citywide network of video cameras to allow 24/7 surveillance of the Sewer System, (ii) as part of the Department's ongoing partnership with law enforcement agencies, including the Chicago Police Department, the US Coast Guard, the FBI and the Department of Homeland Security, and (iii) elevated enhancement of physical security of the Sewer System and sewer access points in advance of large-scale public events and/or in response to any intelligence received indicating a potential threat, there can be no complete assurance that the City's comprehensive security, emergency preparedness and response plans will completely prevent or mitigate all such potential physical damage, or that the costs of maintaining such security measures will not be greater than currently anticipated.

### *Cybersecurity of the Sewer System*

The Department relies on information technology systems with respect to customer service and billing and accounting. In addition, the Department relies on these systems to track utility assets and to manage maintenance and construction projects, materials and supplies. A loss of these systems, or major problems with the operation of these systems, could have a material adverse effect on the financial condition and the operating condition of the Department. Information technology systems may be vulnerable to damage or interruption from the following types of cybersecurity attacks or other events:

- power loss, computer systems failures, and internet, telecommunications or data network failures;
- operator negligence or improper operation by, or supervision of, employees;
- physical and electronic loss of data;
- computer viruses, cyber security attacks, intentional security breaches, hacking, denial of service actions, misappropriation of data and similar events; and
- difficulties in the implementation of upgrades or modification to information technology systems.

Although the Department does not believe that its systems are at a materially greater risk of cybersecurity attacks than other similar utilities, its information technology systems may be vulnerable to damage or interruption from the types of cybersecurity attacks or other events listed above or other similar actions, and such incidents or other events may be unprecedented and may go undetected for a period of time.

## **Adverse Change in Laws**

There are a variety of State and federal laws, regulations and constitutional provisions that apply to the City's ability to raise taxes, fund its pension obligations or to reorganize its debts. There is no assurance that there will not be any change in, interpretation of, or addition to such applicable laws, regulations and provisions. Any such change, interpretation or addition may have a material adverse effect, either directly or indirectly, on the City or the taxing authority of the City, which could materially adversely affect the City's operations or financial condition.

Interest on the Bonds could become subject to federal and/or State income tax as a result of changes in tax laws. For example, recent legislative tax proposals in the U.S. Congress would eliminate, reduce or otherwise alter the tax benefits currently provided to certain owners of state and local government bonds. The Bonds will not be subject to mandatory redemption, and the interest rates on the Bonds will not be subject to adjustment, in the event of any change in the tax treatment of interest on the Bonds. In such event, the market value of and ability of owners to sell the Bonds could be adversely affected. No assurance can be provided, and no predictions can be made, as to whether there will be any change in tax laws relating to state and local government bonds, including the Bonds, or to what effect.

Investors in the Bonds should consult their own financial and tax advisors in connection with their purchase of the Bonds.

### **Uncertain Enforcement Remedies**

The remedies available to bondholders upon nonpayment of principal of or interest on the Bonds are uncertain and in many respects dependent upon discretionary judicial actions. See APPENDIX B—"SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE—Remedies."

The Indenture does not contain a provision allowing for the acceleration of the Bonds in the event of a default in the payment of principal of and interest on the Bonds when due.

### **Force Majeure Events**

Certain unanticipated events beyond the City's control could have a material adverse effect on the Department's and City's operations and financial conditions if they were to occur. These events include fire, flood, earthquake, pandemic, epidemic, adverse health conditions or other unavoidable casualties or acts of God, freight embargo, labor strikes or work stoppages, civil commotion, new acts of war or escalation of existing war conditions, sabotage, terrorism or enemy action, pollution, unknown subsurface or concealed conditions affecting the environment, and any similar causes and unanticipated events. No assurance can be provided that such events will not occur, and, if any such events were to occur, the effect of such event or events on the Department's and City's operations and financial condition on the Net Revenues Available for Bonds cannot be predicted.

### **No Assurance of Secondary Market**

There can be no assurances that a secondary market for the Bonds will be established, maintained or functioning. Accordingly, each purchaser should expect to bear the risk of the investment represented by the Bonds to maturity.

### **Debt Covenants**

The City is obligated to comply with the Rate Covenant. Failure to comply with the Rate Covenant, if not cured or waived, could result in the City being required to repay or finance the related borrowings before their due date, limit future borrowings, cause cross-default issues, and increase borrowing costs. If forced to repay or refinance (on less favorable terms) these borrowings, the Department's business, financial condition, and results of operations could be adversely affected by increased costs and rates.

## **Bankruptcy**

Under federal law, municipalities, including the City, are ineligible for bankruptcy unless specifically authorized to be a debtor in bankruptcy by state law or by a governmental officer or organization empowered by state law to authorize such entity to be a debtor in a bankruptcy. State law does not currently permit municipalities, including the City, to be debtors in bankruptcy, and therefore municipalities, including the City, are currently ineligible for bankruptcy.

As with all State law, the current prohibition on municipal bankruptcies is subject to review or change by State government. From time to time, legislation has been introduced in the Illinois General Assembly, which, if enacted, would permit Illinois municipalities to be debtors in bankruptcy. The City is unable to predict whether the Illinois General Assembly will adopt any such legislation or the form of such legislation if enacted.

In the event of a change in State law to provide that the City is eligible to be a debtor in bankruptcy, and that authority is acted upon, there is no guarantee that the bankruptcy court would consider the Bondholders to have a secured claim under the Bankruptcy Code with respect to Second Lien Bond Revenues and amounts on deposit in the Second Lien Construction Accounts that are derived from the remittance of Gross Revenues into the City's Sewer Revenue Fund. The Sewer Revenue Fund is not held by the Trustee, and is not subject to a statutory lien in favor of the Bondholders. In addition, the Second Lien Bond Revenues may not be "special revenues" as defined in the Bankruptcy Code.

The opinions of Co-Bond Counsel and the City's Corporation Counsel as to the enforceability of the City's obligations pursuant to the Indenture and to make payments on the Bonds are qualified as to bankruptcy and similar events and as to the application of equitable principles and the exercise of judicial discretion in appropriate cases and to common law and statutes affecting the enforceability of contractual obligations generally and to principles of public policy concerning, affecting or limiting the enforcement of rights or remedies against governmental entities such as the City. See APPENDIX E – "PROPOSED FORM OF OPINION OF CO-BOND COUNSEL."

## **Forward-Looking Statements**

This Official Statement contains certain statements relating to future results that are forward-looking statements. When used in this Official Statement, the words "estimate," "intend," "expect" and similar expressions identify forward-looking statements. Any forward-looking statement is subject to uncertainty and risks that could cause actual results to differ, possibly materially, from those contemplated in such forward-looking statements. Inevitably, some assumptions used to develop forward-looking statements will not be realized or unanticipated events and circumstances may occur. Therefore, bondholders and potential investors should be aware that there are likely to be differences between forward-looking statements and actual results; those differences could be material. The City does not undertake any obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

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## LITIGATION

There are no pending legal proceedings to which the City is a party or to which any of its property is subject that may materially affect the City's ability to pay the principal of and interest on the Bonds when they become due.

The City, like other large municipalities, is involved in various litigation relating principally to claims arising from contracts, personal injury, property damage, tax claims, police conduct and other matters. However, there is neither litigation pending nor, to the best of the City's knowledge, threatened, seeking to restrain or enjoin the issuance or delivery of the Bonds, or except as disclosed herein, materially adversely affecting the collection, pledge or application of any moneys or security provided for the payment of the Bonds. The City expects that the resolution of the matters disclosed below will not affect the City's obligation to satisfy the Rate Covenant.

*Danahy v. City of Chicago.* This case is a putative class action in federal court in the Northern District of Illinois challenging the City's use of different billing rates and procedures for water and sewer usage for metered and non-metered properties. Plaintiffs allege that the City's policies result in overcharging non-metered water customers, and they assert due process and equal protection claims on behalf of a putative class. Plaintiffs seek damages and restitution of the allegedly illegal charges. The City is vigorously defending this case.

*Farmer v. City of Chicago.* This case is a putative class action that was filed in the Circuit Court of Cook County, Illinois challenging the reasonableness of the City's water rates and sewer rates. The plaintiff alleged that the various exemptions for hospitals, certain government organizations and non-profits and cost allocations in the City's recent budget ordinances caused her rates to be unreasonably higher. The plaintiff requested, on behalf of a class of City water and sewer customers, "disgorgement" of the excess charges in the period 2016 to the present. The court has dismissed Plaintiff's claims without prejudice, with leave to file an amended complaint.

*Grabowski v. City of Chicago.* This case is a putative class action in the Circuit Court of Cook County, Illinois challenging the City's processes for refunding overpayments related to utility billing accounts. In particular, the suit seeks the return of any account credits to individuals who have moved or otherwise canceled their utility service since 2017. The City has filed a motion to dismiss. The motion has been briefed with argument pending. The City is vigorously defending this case.

*Sweet Home Chicago Management LLC, Community Partners, LLC, et al v. City of Chicago.* This case is a putative class action in federal court in the Northern District of Illinois that contends that City does not provide an adequate process for water customers to challenge their water bills or obtain refunds. The plaintiffs assert a due process claim and allege that the City required them to pay outsized water bills that resulted from defective water meters, and that the City refused to discount or credit them for erroneous payments. They seek unspecified damages on behalf of themselves and other Chicago water customers whose properties allegedly had defective water meters or who were allegedly denied an opportunity to challenge their water bills. In response, the City has asserted a counterclaim and an affirmative defense against the plaintiffs, seeking to recover any outstanding debt owed by the plaintiffs for water, sewer, and garbage services. Fact discovery recently began. The City is vigorously defending this case.

## RATINGS

The Bonds are rated “A+” (Stable Outlook) by S&P Global Ratings (“S&P”), “A+” (Stable Outlook) by Fitch Rating, and “AA-” (Stable Outlook) by Kroll Bond Rating Agency (“KBRA”). The Insured Bonds have also been assigned a rating of “AA” (Stable Outlook) by S&P based upon the issuance of the Policy by BAM. The City did not request a rating from any other rating service for the Bonds. Any explanation of the significance of such ratings may be obtained only from the respective Rating Agencies. Certain information and materials concerning the Bonds, the City and the Sewer System were furnished to the Rating Agencies by the City and others. There is no assurance that any of the ratings will be maintained for any given period of time or that any of them may not be raised, lowered or withdrawn entirely by the respective Rating Agency, if, in its judgment, circumstances so warrant. Any change in or withdrawal of any rating may have an adverse effect on the price at which the Bonds may be resold.

## CERTAIN LEGAL MATTERS

Legal matters incident to the authorization and issuance of the Bonds are subject to the separate approving opinions of ArentFox Schiff LLP, Chicago, Illinois and Zuber Lawler LLP, Chicago, Illinois, Co-Bond Counsel. The proposed form of their respective opinions are included herein as APPENDIX E – “PROPOSED FORM OF OPINION OF CO-BOND COUNSEL.”

Certain legal matters will be passed on for the City by (i) its Corporation Counsel, and (ii) in connection with the preparation of this Official Statement, Charity & Associates, P.C., Chicago, Illinois, and BurgherGray LLP, Chicago, Illinois, Co-Disclosure Counsel to the City. Certain legal matters will be passed on for the Underwriters by Katten Muchin Rosenman LLP, Chicago, Illinois and Sanchez Daniels & Hoffman LLP, Chicago, Illinois.

## FINANCIAL STATEMENTS

The basic financial statements of the City of Chicago, Illinois Sewer Fund as of and for the years ended December 31, 2022 and 2021 and included by specific reference in APPENDIX D to this Official Statement (the “Audit”) have been audited by Deloitte & Touche LLP, independent auditors (the “Auditor”), as stated in their report referenced herein. The City has not requested that the Auditor update any information contained in the Audit since the date of the Audit. The Auditor has not been engaged to perform, and has not performed since the date of the Audit, any procedures on the financial statements addressed in the Audit. Other than providing its consent to the inclusion of the Audit in this Official Statement, the Auditor has not performed any procedures relating to this Official Statement.

## CO-FINANCIAL ADVISORS

The City has engaged The RSI Group, LLC and Baker Tilly Municipal Advisors, LLC as its financial advisors (the “Co-Financial Advisors”) in connection with the issuance and sale of the Bonds. The Co-Financial Advisors have provided advice on the plan of finance and structure of the Bonds and have reviewed certain documents, including this Official Statement, with respect to financial matters.

The Co-Financial Advisors have not independently verified the factual information contained in this Official Statement but have relied on the information provided by the City and other sources. The Co-Financial Advisors make no representation, warranty, or guarantee regarding the accuracy or completeness of the information in this Official Statement. The Co-Financial Advisors will receive compensation contingent upon the sale and delivery of the Bonds and its fees are expected to be paid from proceeds of the Bonds. The Co-Financial Advisors are providing certain specific municipal advisory services to the City but are neither placement agents to the City nor brokers/dealers.

The Co-Financial Advisors are “municipal advisors” as defined in SEC Rule 15Ba1-1 (the “SEC Rule”). Baker Tilly Municipal Advisors, LLC is a controlled subsidiary of Baker Tilly US, LLP, and there are other affiliates of Baker Tilly US, LLP that provide services to the City.

### **UNDERWRITING**

Loop Capital Markets LLC, as representative on behalf of itself and the other underwriters listed on the cover of this Official Statement (the “Underwriters”) has agreed, subject to certain conditions, to purchase the Bonds at a price equal to \$250,605,218.53 (which represents the aggregate principal amount of the Bonds, plus an original issue premium of \$23,898,651.05, less an Underwriters’ discount of \$1,218,432.52).

The obligation of the Underwriters to accept delivery of the Bonds is subject to various conditions set forth in a Bond Purchase Agreement between the Underwriters and the City. The Underwriters are obligated to purchase all of the Bonds if any of the Bonds are purchased.

The Bonds are being offered for sale to the public at the prices shown on the inside cover page hereof. The Underwriters reserve the right to lower such initial offering prices as they deem necessary in connection with the marketing of the Bonds. The Underwriters may offer and sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) and others at prices lower than the initial public offering price or prices set forth in this Official Statement. The Underwriters reserve the right to join with dealers and other underwriters in offering the Bonds to the public.

The Underwriters and their respective affiliates are full service financial institutions engage in various activities, which may include sales and trading, commercial investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the Underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to the City and to persons and entities with relationships with the City, for which they received or will receive customary fees and expenses.

BofA Securities, Inc., an underwriter of the Bonds, has entered into a distribution agreement with its affiliate Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”). As part of this arrangement, BofA Securities, Inc. may distribute securities to MLPF&S, which may in turn distribute such securities to investors through the financial advisor network of MLPF&S. As part of this arrangement, BofA Securities, Inc. may compensate MLPF&S as a dealer for their selling efforts with respect to the Bonds.

### **VERIFIER**

Robert Thomas, CPA, LLC, Shawnee Mission, Kansas (the “Verifier”), upon delivery of the Bonds, will deliver to the City, Co-Bond Counsel and the Underwriters a report stating that the firm, at the request of the City and the Underwriters, has reviewed the mathematical accuracy of certain computations based on certain assumptions relating to the sufficiency of the principal and interest received from the investment in the Defeasance Obligations, together with any initial cash deposit, to meet the timely payment of the applicable principal or redemption price of and interest on the Refunded Bonds. The Verifier will express no opinion on the attainability of any assumptions or the tax-exempt status of the Bonds.

## TAX MATTERS

### Federal Income Tax

Federal tax law contains a number of requirements and restrictions which apply to the Bonds, including investment restrictions, periodic payments of arbitrage profits to the United States, requirements regarding the proper use of bond proceeds and the facilities financed with them, and certain other matters. The City has covenanted to comply with all requirements and restrictions that must be satisfied in order for the interest on the Bonds to be excludable from gross income for federal income tax purposes. Failure to comply with certain of such covenants could cause interest on the Bonds to become includable in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds.

In the respective opinions of Co-Bond Counsel, under present law, interest on the Bonds is excludable from the gross income of their owners for federal income tax purposes and thus is exempt from present Federal income taxes based upon gross income. Interest on the Bonds is not included as an item of tax preference in computing the federal alternative minimum tax for individuals. Interest on the Bonds is included in computing the adjusted financial statement income of those corporations subject to the corporate alternative income tax. The opinions described in this paragraph assume the accuracy of certain representations, certifications of fact, and statements of reasonable expectations made by the City and others in connection with the issuance of the Bonds and continuing compliance by the City and others with the above-referenced covenants.

Ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, certain insurance companies, certain corporations (including S corporations and foreign corporations operating branches in the United States), individual recipients of Social Security or Railroad Retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry tax-exempt obligations. Co-Bond Counsel will express no opinion with respect to any such collateral consequences with respect to the Bonds. Prospective purchasers of the Bonds should consult with their own tax advisors regarding the collateral consequences arising with respect to the Bonds described in this paragraph.

### Discount and Premium

If a Bond is purchased at any time for a price that is less than the Bond's stated redemption price at maturity, the purchaser will be treated as having purchased the Bond with market discount subject to the market discount rules of the Code (unless a statutory *de minimis* rule applies). Accrued market discount is treated as taxable ordinary income and is recognized when a Bond is disposed of (to the extent such accrued discount does not exceed gain realized) or, at the purchaser's election, as it accrues. The applicability of the market discount rules may adversely affect the liquidity or secondary market price of such Bond. Purchasers of the Bonds should consult their own tax advisors regarding the potential implications of market discount with respect to the Bonds.

An investor may purchase a Bond for a price in excess of its stated principal amount at maturity. (Such Bond is referred to as a "Premium Bond"). Such excess is characterized for federal income tax purposes as "bond premium" and must be amortized by an investor on a constant yield basis over the remaining term of the Premium Bond in a manner that takes into account potential call dates and call prices. An investor cannot deduct amortized bond premium relating to a Premium Bond. The amortized bond premium is treated as a reduction in the amount of tax-exempt interest received. As bond premium is amortized, it reduces the investor's basis in the Bond. Investors who purchase a Premium Bond should consult their own tax advisors regarding the amortization of bond premium and its effect on the Premium Bond's basis for purposes of computing gain or loss in connection with the sale, exchange, redemption or early retirement of such Premium Bond.

Owners of Bonds who dispose of Bonds prior to their stated maturity (whether by sale, redemption or otherwise), purchase Bonds in the initial public offering at a price different from their issue price, or purchase Bonds subsequent to the initial public offering should consult their own tax advisors as to the federal, state or local tax consequences of such dispositions or purchases.

### **State and Local Taxes**

Interest on the Bonds is not exempt from present Illinois income taxes. Ownership of the Bonds may result in other state and local tax consequences to certain taxpayers. Co-Bond Counsel will express no opinion with respect to any such state and local tax consequences with respect to the Bonds. Prospective purchasers of the Bonds should consult with their own tax advisors regarding any state and local tax consequences arising with respect to the Bonds.

### **Basis of Bond Counsel Opinions**

The respective opinions of Co-Bond Counsel to be delivered concurrently with the delivery of the Bonds and the descriptions of the tax law contained in this Official Statement are based on statutes, judicial decisions, regulations, rulings and other official interpretations of law in existence on the date the Bonds are issued. There can be no assurance that such law or those interpretations will not be changed or that new provisions of law will not be enacted or promulgated at any time while the Bonds are outstanding in a manner that would adversely affect the market value or liquidity or the tax treatment of ownership of the Bonds. Co-Bond Counsel have not undertaken to provide advice with respect to any such future changes.

The opinion of Bond Counsel expresses the professional judgment of the attorneys rendering the opinion on the legal issues explicitly addressed in the opinion. By rendering a legal opinion, the opinion giver does not undertake to be an insurer or guarantor of the expression of professional judgment, of the transaction opined upon, or of the future performance of the parties to the transaction. Rendering an opinion does not guarantee the outcome of any legal dispute that may arise out of the transaction.

In rendering their opinions, Co-Bond Counsel will receive and rely upon certifications and representations of facts, calculations, estimates and expectations furnished by the City and others which Co-Bond Counsel will not have verified independently.

### **Risk of Audit**

The Internal Revenue Service (“IRS”) conducts a program of audits of issues of tax-exempt obligations to determine whether, in the view of the IRS, interest on such obligations is properly excluded from the gross income of the owners of such obligations for federal income tax purposes. Whether or not the IRS will decide to audit the Bonds cannot be predicted. If the IRS begins an audit of the Bonds, under current IRS procedures, the IRS will treat the City as the taxpayer subject to the audit and the holders of the Bonds may not have the right to participate in the audit proceedings. The fact that an audit of the Bonds is pending could adversely affect the liquidity or market price of the Bonds until the audit is concluded even if the result of the audit is favorable.

### **Legislation**

From time to time, there are legislative proposals pending in the Congress of the United States that, if enacted, could alter or amend the federal tax matters referred to in this section, or adversely affect the market price or liquidity of tax-exempt bonds of the character of the Bonds. In some cases, these proposals have included provisions that had a retroactive effective date. It cannot be predicted whether or in what form any such proposal might be introduced in Congress or enacted or whether, if enacted, it would apply to bonds issued prior to enactment. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or

proposed federal tax legislation. Co-Bond Counsel will express no opinion regarding any pending or proposed federal tax legislation.

### **Backup Withholding**

Payments of interest on, and proceeds of the sale, redemption or maturity of, tax-exempt obligations, including the Bonds, are in most cases required to be reported to the IRS. Additionally, backup withholding may apply to any such payments to any owner of Bonds who fails to provide an accurate Form W-9 Payers Request for Taxpayer Identification Number, or a substantially identical form, or to any such owner who is notified by the IRS of a failure to report all interest and dividends required to be shown on federal income tax returns. The reporting and backup withholding requirements do not affect the excludability of such interest from gross income for federal tax purposes.

### **CONTINUING DISCLOSURE**

The City will enter into a Continuing Disclosure Undertaking (the “Undertaking”) for the benefit of the Beneficial Owners of the Bonds to send certain information annually and to provide notice of certain events to the Municipal Securities Rulemaking Board (the “MSRB”) to enable the Underwriters to meet the requirements of Section (b)(5) of Rule 15c2-12 (the “Rule”) adopted by the SEC under the Exchange Act. The MSRB has designated its Electronic Municipal Market Access system, known as “EMMA,” as the system to be used for continuing disclosures to investors. The information to be provided on an annual basis, the events which will be noticed on an occurrence basis and a summary of other terms of the Undertaking, including termination, amendment and remedies, are set forth below.

A failure by the City to comply with the Undertaking will not constitute a default under the Bonds, the Indenture or the Bond Ordinance, and Beneficial Owners of the Bonds are limited to the remedies described in the Undertaking. See “—Consequences of Failure of the City to Provide Information” under this caption. A failure by the City to comply with the Undertaking must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds and their market price.

The following is a brief summary of certain provisions of the Undertaking of the City and does not purport to be complete. The statements made under this caption are subject to the detailed provisions of the Undertaking, a copy of which is available upon request from the City.

### **Annual Financial Information Disclosure**

The City covenants that it will disseminate to EMMA its Annual Financial Information and its Audited Financial Statements (as described below) to the MSRB, commencing with the Audited Financial Statements for the fiscal year ended December 31, 2023, prepared in accordance with generally accepted accounting principles applicable to government units (as described below).

“Annual Financial Information” means financial information and statistical data generally consistent with that contained in this Official Statement (i) under the caption “SEWER SYSTEM — General,” the table captioned “Sewer System Service Area Population,” (ii) under the caption “DEPARTMENT OF WATER MANAGEMENT,” the table captioned “Historical and Projected Capital Improvement Program Funding by Source” (only with respect to the total amounts for the previous five years), and (iii) under the caption “FINANCIAL OPERATIONS,” the table captioned “Historical Sewer Rates” (only with respect to the previous five years and only the “Per 1,000 Gallons” column), the table captioned “Water System and Sewer System Accounts,” (only with respect to the Sewer System accounts for the previous five years), the table captioned

“Annual Net Sewer Charges” (only with respect to the previous five years) and the table captioned “Historical and Projected Financial Operations” (only with respect to the previous five years).

“Audited Financial Statements” means the audited basic financial statements of the Sewer Revenue Fund prepared in accordance with generally accepted accounting principles applicable to governmental units as in effect from time to time.

Annual Financial Information exclusive of Audited Financial Statements (commencing with the Audited Financial Statements for the fiscal year ended December 31, 2023) will be provided to the MSRB on EMMA, not more than 210 days after the last day of the Sewer System’s fiscal year, which currently is December 31. If Audited Financial Statements are not available when the Annual Financial Information is filed, unaudited financial statements will be included, and Audited Financial Statements will be filed within 30 days of availability to the City.

### **Reportable Events Disclosure**

The City covenants that it will disseminate in a timely manner, not in excess of ten business days after occurrence, to the MSRB the disclosure of the occurrence of a Reportable Event (defined below). Certain Reportable Events are required to be disclosed only to the extent that such Reportable Event is material, as materiality is interpreted under the Exchange Act. The “Reportable Events,” certain of which may not be applicable to all Series of the Bonds, are:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) substitution of credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, notices of proposed issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (g) modifications to rights of holders of the respective Series of Bonds, if material;
- (h) bond calls, if material, and tender offers;
- (i) defeasances;
- (j) release, substitution or sale of property securing repayment of the respective Series of Bonds, if material;
- (k) rating changes;
- (l) bankruptcy, insolvency, receivership or similar event of the City (considered to have occurred in the following instances: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if the jurisdiction of the City has been assumed by leaving the City Council and the City’s officials or officers in

possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

(m) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the Sewer System, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(n) appointment of a successor or additional trustee or the change of name of a trustee, if material;

(o) incurrence of a “financial obligation” of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect holders of the respective Series of Bonds, if material; or

(p) a default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the City, any of which reflect financial difficulties.

The term “financial obligation” as used in paragraphs (o) and (p) of the Reportable Events above means a (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of any of the foregoing. The term “financial obligation” does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

### **Consequences of Failure of the City to Provide Information**

The City shall give notice in a timely manner to the MSRB of any failure to provide disclosure of Annual Financial Information and Audited Financial Statements when the same are due under the Undertaking.

In the event of a failure of the City to comply with any provision of the Undertaking with respect to a Series of Bonds, the Beneficial Owner of any Bond may seek mandamus or specific performance by court order to cause the City to comply with its obligations under the Undertaking. The Undertaking provides that any court action must be initiated in the Circuit Court of Cook County, Illinois. A default under the Undertaking shall not be deemed a default under the Bonds, the Bond Ordinance, or the Indenture, and the sole remedy under the Undertaking in the event of any failure of the City to comply with the Undertaking shall be an action to compel performance.

### **Amendments; Waiver**

Notwithstanding any other provision of the Undertaking, the City may amend the Undertaking, and any provision of the Undertaking may be waived, if:

(a) (i) the amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the City or type of business conducted;

(ii) the Undertaking, as amended, or the provision, as waived, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(iii) the amendment or waiver does not materially impair the interests of the Beneficial Owners of the Bonds, as determined by a party unaffiliated with the City (such as Co-Bond Counsel), or by approving vote of the Beneficial Owners of the Bonds pursuant to the terms of the Indenture at the time of the amendment or waiver; or

(b) the amendment or waiver is otherwise permitted by the Rule.

## **EMMA**

All documents submitted to the MSRB through EMMA pursuant to the Undertaking shall be in electronic format and accompanied by identifying information as prescribed by the MSRB, in accordance with the Rule. All documents submitted to the MSRB through EMMA will be word-searchable PDFs, configured to permit documents to be saved, viewed, printed and electronically retransmitted.

## **Termination of Undertaking**

The Undertaking shall be terminated if the City shall no longer have any legal liability for any obligation on or relating to repayment of the Bonds under the Bond Ordinance or the Indenture.

## **Additional Information**

Nothing in the Undertaking will be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in the Undertaking or any other means of communication, or including any other information in any Annual Financial Information or Audited Financial Statements or notice of occurrence of a Reportable Event, in addition to that which is required by the Undertaking. If the City chooses to include any information in any Annual Financial Information or Audited Financial Statements or notice of occurrence of a Reportable Event in addition to that which is specifically required by the Undertaking, the City shall have no obligation under the Undertaking to update such information or include it in any future Annual Financial Information or Audited Financial Statements or notice of occurrence of a Reportable Event.

## **Corrective Action Related to Certain Bond Disclosure Requirements**

The City failed to comply with certain continuing disclosure undertakings previously entered into by it pursuant to the Rule as described below. Such non-compliance may or may not be material.

The City failed to file on EMMA a timely basis certain Annual Financial Information for the years 2017, 2018 and 2021, with respect to the City's Tax Increment Allocation Revenue Refunding Bonds (Pilsen Redevelopment Project), Series 2014A and Series 2014B (the "Pilsen Series 2014AB Bonds"). However, the Pilsen Series 2014AB Bonds have since matured. The City filed on EMMA the 2021 annual information for the Pilsen Series 2014AB Bonds on July 29, 2022.

In July 2019, the City filed on EMMA on a timely basis the City's 2018 audited financial statements for the General Fund for all then-outstanding general obligation bonds of the City, except with respect to the City's General Obligation Bonds, Library Series 2008D (the "Series 2008D Bonds"). On December 17, 2019, those financial statements were filed on EMMA with respect to the Series 2008D Bonds, and the City filed on EMMA a notice regarding its failure to file on a timely basis the 2018 audited financial statements with respect to the Series 2008D Bonds.

On September 14, 2020, the City filed on EMMA a notice regarding its failure to file on a timely basis certain Annual Financial Information including a certain capital improvements table for the years 2016, 2017, 2018 and 2019 in connection with the City's General Obligation Bonds, Project and Refunding Series 2014A and

Taxable Project and Refunding Series 2014B (the “Series 2014AB Bonds”). In connection with such notice filing, the City also filed on EMMA such capital improvements tables for the years 2016, 2017, 2018 and 2019 with respect to the Series 2014AB Bonds.

On September 14, 2020, the City filed on EMMA a notice regarding its failure to file on a timely basis a certain capital improvements table for the years 2018 and 2019 in connection with the City’s Second Lien Wastewater Transmission Revenue Bonds, Project Series 2017A and Refunding Series 2017B (the “Series 2017AB Bonds”). In connection with such notice filing, the City also filed on EMMA such capital improvements tables for the years 2018 and 2019 with respect to the Series 2017AB Bonds.

On July 8, 2021, S&P Global Ratings upgraded the rating of the City’s Motor Fuel Tax Revenue Refunding Bonds, Series 2013 (Issue of June 2014), including the Riverwalk Transportation Infrastructure Finance and Innovation Act draw-down loan, from “BB+” to “BBB-.” On July 27, 2021, the City filed on EMMA an event notice relating to this rating upgrade.

On November 12, 2021, the City filed on EMMA a notice regarding its failure to file on a timely basis certain Annual Financial Information including certain capital improvements tables for the year 2020 and certain third-party sourced Retirement Fund tables with respect to the Series 2014AB Bonds. In connection with such notice filing, the City also filed on EMMA such capital improvements tables for the years 2020 and 2021 and certain third-party sourced Retirement Fund tables with respect to the Series 2014AB Bonds.

On December 8, 2021, the City filed a notice of incurrence of a financial obligation (i.e., loans incurred by the City pursuant to each of the RBC Line of Credit Agreement and the Wells Fargo Line of Credit Agreement) pertaining to the City’s General Obligation Bonds, Series 2019A and General Obligation Refunding Bonds, Series 2020A. On December 8, 2021, the City also filed the redacted Wells Fargo Line of Credit Agreement with EMMA. On January 25, 2022, the City filed the redacted RBC Line of Credit Agreement with EMMA.

On August 9, 2022, the City filed on EMMA a notice regarding its failure to file on a timely basis certain Annual Financial Information in connection with the Series 2014AB Bonds and the City’s General Obligation Bonds, Series 2021A and Series 2021B (the “Series 2021 Bonds”). In connection with such notice filing, the City filed Tables 1-10 on EMMA in connection with the Series 2014AB Bonds and the Series 2021 Bonds.

On August 9, 2022, the City filed on EMMA a notice regarding its failure to file on a timely basis certain Annual Financial Information in connection with the City’s Second Lien Wastewater Transmission Revenue Bonds, Project Series 2017A and Refunding Series 2017B. In connection with such notice filing, the City also filed on EMMA a table titled “Historical Capital Improvement Program Funding by Source,” including data from 2017 to 2021.

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## MISCELLANEOUS

The foregoing summaries or descriptions of provisions of the Bond Ordinance and the Indenture and all references to other materials not purporting to be quoted in full, are qualified in their entirety by reference to the complete provisions of the documents and other materials summarized or described. Copies of these documents may be obtained from the office of the Chief Financial Officer.

The references, excerpts and summaries of all documents referred to herein do not purport to be complete statements of the provisions of such documents, and reference is directed to all such documents for full and complete statements of all matters of fact relating to the Bonds, the security for the payment of the Bonds and the rights and obligations of the Owners thereof.

Any statements made in this Official Statement involving matters of opinion, projection or estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the projections or estimates will be realized. Neither this Official Statement nor any statement that may have been made orally or in writing shall be construed as a contract with the Owners or Beneficial Owners of the Bonds.

CITY OF CHICAGO

By: /s/ Jill Jaworski  
Chief Financial Officer

# EXHIBIT – 3

**ARTICLE IV. WATER CHARGES (11-12-260 et seq.)****11-12-260 Annual statement – Rate establishment.**

At the close of each fiscal year, the department of water management shall prepare a statement of the revenues and expenditures of the water system of the city and a balance sheet thereof. The department shall then prepare an ordinance, for submission to the city council, establishing the rates to be charged for water service in the following year. The fees, charges, and rates established by said ordinance shall be sufficient in all times to pay the cost of operation and maintenance of the water system, to make principal and interest payments on any outstanding bonds, and to establish and maintain any reserve funds or accounts as may be covenanted for in bond ordinances authorizing the issuance of outstanding bonds.

(Prior code § 185-25.1; Added Coun. J. 12-12-84, p. 11883; Mayoral veto. 12-18-84, p. 11998; Corrected. 2-4-85, p. 13433; Amend Coun. J. 12-4-02, p. 99026, § 1.12)

**11-12-270 Nonmetered service.**

The minimum amount to be charged for water service to any building, structure or premises fronted by a public street, in or to which such building, structure or premises any water supply is laid, but excepting such service which is wholly controlled by meter, shall be as follows as of January 1st of the years indicated:

	2011	2012	2013	2014	2015
	2011	2012	2013	2014	2015
For buildings having a front width of 12 feet or less	\$63.01	\$78.76	\$90.58	\$104.16	\$119.79
For buildings having a front width:					
Exceeding 12 feet but not exceeding 15 feet	\$87.00	\$108.75	\$125.06	\$143.82	\$165.40
Exceeding 15 feet but not exceeding 18 feet	\$118.68	\$148.35	\$170.60	\$196.19	\$225.62
Exceeding 18 feet but not exceeding 21 feet	\$143.31	\$179.14	\$206.01	\$236.91	\$272.45
Exceeding 21 feet but not exceeding 24	\$151.95	\$189.94	\$218.43	\$251.19	\$288.87
Exceeding 24 feet but not exceeding 27 feet	\$175.94	\$219.93	\$252.91	\$290.85	\$334.48
Exceeding 27 feet but not exceeding 30 feet	\$206.97	\$258.71	\$297.52	\$342.15	\$393.47
Exceeding 30 feet but not exceeding 33 feet	\$229.52	\$286.90	\$329.94	\$379.43	\$436.34
Exceeding 33 feet but not exceeding 36 feet	\$238.31	\$297.89	\$342.57	\$393.96	\$453.05
Exceeding 36 feet but not exceeding 40 feet	\$277.51	\$346.89	\$398.92	\$458.76	\$527.57
Exceeding 40 feet but not exceeding 44 feet	\$295.25	\$369.06	\$424.42	\$488.09	\$561.30
Exceeding 44 feet but not exceeding 48 feet	\$318.46	\$398.08	\$457.79	\$526.45	\$605.42
Exceeding 48 feet but not exceeding 52 feet	\$342.76	\$428.45	\$492.72	\$566.63	\$651.62
Exceeding 52 feet but not exceeding 56 feet	\$366.43	\$458.04	\$526.74	\$605.75	\$696.62
Exceeding 56 feet but not exceeding 62 feet	\$391.23	\$489.04	\$562.39	\$646.75	\$743.76
Exceeding 62 feet but not exceeding 67 feet	\$405.61	\$507.01	\$583.06	\$670.52	\$771.10
Exceeding 67 feet but not exceeding 72 feet	\$429.77	\$537.21	\$617.79	\$710.46	\$817.03
Exceeding 72 feet but not exceeding 77 feet	\$453.92	\$567.40	\$652.51	\$750.39	\$862.94
Exceeding 77 feet but not exceeding 82 feet	\$478.07	\$597.59	\$687.23	\$790.31	\$908.86
Exceeding 82 feet but not exceeding 87 feet	\$509.58	\$636.98	\$732.52	\$842.40	\$968.76

For each additional five feet, or major fraction thereof, in excess of 87 feet, the following charges shall be made as of January 1st of the year indicated:

2011	2012	2013	2014	2015
\$24.00	\$30.00	\$34.50	\$39.68	\$45.63

Wings, bays, or projections of a depth not greater than 75 percent of the depth of the main portion of the structure shall have but one-half of their front width included in computing the front width of the building.

In applying the aforesaid schedule to buildings, structures or premises where the outline is a right-angle triangle; only two-thirds of the measurement of the base of such triangular outline shall be taken as the front width.

Where the measurement of the front width of a building of a rectangular outline is greater than the measurement of its depth, the measurement of such depth may be taken instead of the measurement of the front width in applying the schedule of frontage charge.

For each story in height of building in excess of one story, the following charges shall be made in addition to the foregoing as of January 1st of the years indicated:

2011	2012	2013	2014	2015
\$38.55	\$48.19	\$55.42	\$63.73	\$73.29

The term "story" as used in the foregoing shall include:

- (a) Basements containing two or more finished rooms, not including laundry rooms;
- (b) Basements or attics used for business purposes, other than those used exclusively for storage, and in which no person is regularly employed;
- (c) Attics containing two or more finished rooms. Outbuildings, rear buildings or buildings on alleys shall be exempt from a service charge when located in the rear of other buildings assessed such service charge; but such buildings shall not be considered as rear buildings when fronted by any street.

For the purpose of assessment, the occupancies of buildings, structures or premises shall be classified as nearly as possible as follows:

*Class A.* Buildings used as private residences exclusively, which are occupied by members of one family only, and in which no portion of the building is rented or maintained for rent to other persons.

Class B.

- (b1) Flat or apartment buildings containing one or more flats or apartments with a minimum of one water closet, one bath and one sink.
- (b2) Flat or apartment buildings not having baths for any of the flats or apartments.

The amounts to be charged for service to buildings in Class A shall be the amount heretofore specified as minimum charge for service. This charge shall include service for all ordinary domestic fixtures and openings, but shall not include service for outbuildings, air conditioning, or use of hose for sprinkling, washing or like purposes, or other devices which require large quantities of water. Such service as is not included shall be charged for additionally at rates hereinafter specified.

The amounts to be charged for service to buildings in Class B shall be the amounts heretofore specified as minimum charge for service, and this charge shall include, in Class (b1), one flat or apartment equipped with not less than one water closet, one bath and one sink, and in Class (b2), one water closet and two-family sinks, each of such sinks being open to use of not to exceed one family. If either sink is open to use of other families charges per annum, as of January 1st of the year indicated, shall be made for each such other family:

2011	2012	2013	2014	2015
\$79.33	\$99.16	\$114.04	\$131.14	\$150.81

For each other flat or apartment equipped with not less than one water closet, one bath and one sink, the following charges per annum, as of January 1st of the year indicated, shall be made:

2011	2012	2013	2014	2015

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

\$182.81	\$228.51	\$262.79	\$302.21	\$347.54
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For fixtures for use of apartments having less than the above equipment, the following:

For each water closet – per annum, as of January 1st of the year indicated:

2011	2012	2013	2014	2015
\$79.33	\$99.16	\$114.04	\$131.14	\$150.81

If such water closet is open to the use of more than one family, an additional charge per annum shall be made for each such family as of January 1st of the year indicated:

	2011	2012	2013	2014	2015
For each bath per annum	\$79.33	\$99.16	\$114.04	\$131.14	\$150.81
For each wash basin per annum	\$24.15	\$30.19	\$34.72	\$39.92	\$45.91
For each family sink which is open to the use of not more than one family per annum	\$24.15	\$30.19	\$34.72	\$39.92	\$45.91

If such sink is open to the use of more than one family, additional charges per annum, as of January 1st of the year indicated, shall be made for each such family:

2011	2012	2013	2014	2015
\$24.00	\$30.00	\$34.50	\$39.68	\$45.63

All openings at trays used for private laundry purposes shall be allowed with service charge, but service for outbuildings, air conditioning, use of hose for sprinkling, washing or like purposes, or other devices which require large quantities of water, shall not be included. Such service as is not included shall be charged for additionally at rates hereinafter specified.

For other special water fixtures or for any other special or unusual use of water for which no charge is specified, the commissioner shall determine the amount to be charged for such special fixtures and for such use of water, such charge to be based upon an estimate of the water used.

(Prior code § 185-26; Amend Coun. J. 12-12-84, p. 11883; Mayoral veto. 12-18-84, p. 11998; Amend Coun. J. 1-23-85, p. 12937, 4-26-89, p. 425; Amend Coun. J. 6-28-91, p. 2475; Amend Coun. J. 6-23-93, p. 34793; Amend Coun. J. 11-15-95, p. 11995; Amend Coun. J. 11-10-99, p. 14998, § 7.2; Amend Coun. J. 11-17-99, p. 17487, § 7.2; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 11-19-03, p. 14216, § 7.1; Amend Coun. J. 11-13-07, p. 15814, § 1; Amend Coun. J. 11-16-11, p. 14596, Art. III, § 1)

**11-12-280 Additional charges.**

In addition to other rates and charges assessed against any building, structure or premises the supply to which is not controlled by meter, annual rates, or rates for other periods where so specified, charges shall be assessed where fixtures, devices or occupancies are found, as follows:

For hose such as is ordinarily used for sprinkling, washing or like purposes, per season, as of January 1st of the year indicated:

	2011	2012	2013	2014	2015
	2011	2012	2013	2014	2015
For a frontage of 30 feet or less	\$56.14	\$70.18	\$80.70	\$92.81	\$106.73
For a frontage exceeding 30 feet but not exceeding 50 feet	\$79.33	\$99.16	\$114.04	\$131.14	\$150.81

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

For each additional 25 feet of frontage or major fraction thereof	\$16.16	\$20.20	\$23.23	\$26.71	\$30.72
For aquariums with water connection, with a capacity not to exceed 10 cubic feet of water per season	\$56.14	\$70.18	\$80.70	\$92.81	\$106.73
For each additional 10 cubic feet or major fraction thereof	\$56.14	\$70.18	\$80.70	\$92.81	\$106.73
For fountains, per season:					
each jet of 1/16 of an inch or less	\$127.80	\$159.75	\$183.71	\$211.27	\$242.96
exceeding 1/16 of an inch but not exceeding 1/8 of an inch	\$509.58	\$636.98	\$732.52	\$842.40	\$968.76
exceeding 1/8 of an inch but not exceeding 1/4 of an inch	\$1,264.54	\$1,580.68	\$1,817.78	\$2,090.44	\$2,404.01

Gardens sprinkled or irrigated which are not part of the adjoining premises:

	2011	2012	2013	2014	2015
For 3,000 square feet or less, per season	\$56.14	\$70.18	\$80.70	\$92.81	\$106.73
For each additional 3,000 square feet or major fraction thereof	\$24.15	\$30.19	\$34.72	\$39.92	\$45.91

For other special water fixtures, or for any other special or unusual use of water for which no charge has been heretofore specified, the commissioner shall determine the amounts to be charged for such special fixtures or for such use of water, such charge to be based upon an estimate of water used.

(Prior code § 185-27; Amend Coun. J. 12-12-84, p. 11843; Mayoral veto. 12-18-84, p. 11998; Amend Coun. J. 1-23-85, p. 12937; Amend Coun. J. 4-26-89, p. 425; Amend Coun. J. 6-28-91, p. 2475; Amend Coun. J. 6-23-93, p. 34793; Amend Coun. J. 11-15-95, p. 11995; Amend Coun. J. 11-10-99, p. 14998, § 7.2; Amend Coun. J. 11-17-99, p. 17487, § 7.2; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 11-19-03, p. 14216, § 7.2; Amend Coun. J. 11-13-07, p. 15814, § 1; Amend Coun. J. 12-12-07, p. 17167, § 10; Amend Coun. J. 11-16-11, p. 14596, Art. III, § 1; Amend Coun. J. 7-29-15, p. 3537, § 1)

#### **11-12-290 Temporary use of water from a hydrant.**

Persons requiring temporary use of water from a City fire hydrant shall apply to the commissioner for permission, stating in a signed, dated application the name and title of the person submitting the application, the name of the legal entity (if applicable), address, e-mail, fax and phone, and describing the particular proposed use or uses for the water. If the commissioner concludes that the proposed use of water is necessary and will not deprive regular consumers of water of the usual supply, he shall issue a permit in writing authorizing the use of water by the applicant upon such conditions and restrictions, appropriate to the circumstances, as he sees fit to impose.

When a fire hydrant is temporarily used to provide water for construction or for filling a truck, a street sweeper, a street sprinkler or a tanker, the amount charged for the water shall be \$83.78 per day. The person seeking temporary water use shall pay the pertinent amount in advance to the Department of Finance. When in the commissioner's judgment the anticipated use will exceed 1,000 cubic feet a day or continue for an extended period, he is authorized to evaluate the quantity of water to be used and assess an appropriate charge. The commissioner is authorized to waive the hydrant charge for work performed for, or on behalf of, the City.

(Prior code § 185-28; Amend Coun. J. 12-12-84, p. 11883; Mayoral veto. 12-18-84, p. 11998; Amend Coun. J. 1-23-85, p. 12937; Amend Coun. J. 4-26-89, p. 425; Amend Coun. J. 6-28-91, p. 2475; Amend Coun. J. 6-23-93, p. 34793; Amend Coun. J. 11-15-95, p. 11995; Amend Coun. J. 11-10-99, p. 14998, § 7.2; Amend Coun. J. 11-17-99, p. 17487, § 7.2; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 11-19-03, p. 14216, § 7.3; Amend Coun. J. 11-13-07, p. 15814, § 1; Amend Coun. J. 12-12-07, p. 17167, § 11; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 5; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 9; Amend Coun. J. 11-16-11, p. 14596, Art. III, § 1; Amend Coun. J. 7-29-15, p. 3537, § 1; Amend Coun. J. 11-16-16, p. 37901, Art. IV, § 3)

#### **11-12-300 Reserved.**

**Editor's note** – Coun. J. 7-29-15, p. 3537, § 1, repealed § 11-12-3070, which pertained to water used in improvements.

### **11-12-310 Metered service.**

The rate for metered water shall be \$30.79 per thousand cubic feet of water as of June 1, 2021, subject to increase pursuant to Section 11-12-315.

Payments shall be made to the department of finance, or its agent, or by any other means established by the department of finance. A late payment penalty assessed at a monthly rate of one and one-fourth percent shall be imposed on all water charges in excess of \$10.00 for which payment in full is not received within 24 calendar days from the date the bill therefor was sent as shown by the records of the department of finance. Where the correctness of a bill is disputed and where complaint of such incorrectness has been made prior to the time a late penalty would be imposed, and where the adjusting of such complaint requires additional time, the penalty may be held in abeyance up to and including the tenth day succeeding the resending of such bill. The late payment penalty established pursuant to this section shall not be imposed upon persons who are 65 years or older, who own and reside in their own residence and who have a separate water meter or water assessment.

All revenues received for payment of water use rates, charges and penalties shall be deposited to the water revenue fund.

(Prior code § 185-31; Amend Coun. J. 12-12-84, p. 11883; Mayoral veto, 12-18-84, p. 11998; Amend Coun. J. 1-23-85, p. 12937; Amend Coun. J. 4-26-89, p. 425; Amend Coun. J. 6-28-91, p. 2475; Amend Coun. J. 6-23-93, p. 34793; Amend Coun. J. 11-15-95, p. 11995; Amend Coun. J. 11-10-99, p. 14998, § 7.2; Amend Coun. J. 11-17-99, p. 17487, § 7.2; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 11-19-03, p. 14216, § 7.4; Amend Coun. J. 12-14-05, p. 66648, § 1; Amend Coun. J. 11-13-07, p. 15814, § 1; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 5; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 9; Amend Coun. J. 11-16-11, p. 14596, Art. III, § 1; Amend Coun. J. 11-8-12, p. 38872, § 204; Amend Coun. J. 10-27-21, p. 39543, Art. VII, § 1)

### **11-12-315 Inflation adjustment for water rates.**

With regard to the rates set forth in the tables contained in Sections 11-12-270, 11-12-280, 11-12-290 and 11-12-310, beginning June 1, 2016, and every year thereafter, the annual rates shall be adjusted upwards, if applicable, by applying to the previous year's rates the rate of inflation, calculated based on the Consumer Price Index – Urban Wage Earners and Clerical Workers (Chicago All Items) published by the United States Bureau of Labor Statistics for the 365-day period ending on the most recent January 1. Any such annual increase, however, shall be capped at 105% of the previous year's rate.

(Added Coun. J. 11-16-11, p. 14596, Art. III, § 1)

### **11-12-320 Metered billing; estimates for metered service.**

City water supplied for other than fire purposes through service pipes controlled by water meter shall be charged and paid for on the basis of the amount registered by such meter, except in cases where it shall be found that such meter is registering incorrectly, has stopped registering, or has not been read before the issuance of the next bill.

In such cases, charge and payment shall be made on an estimate prepared by the Comptroller based on the average of 12 preceding readings of such meter, excluding excessive or deficient readings.

Where such meter has been installed for a lesser period than one year, or where less than 12 competent readings exist, such estimate may be based on a lesser number than 12 readings taken preceding or subsequent to such incorrect or stopped registration. Changed condition of occupancy or use, making for greater or less consumption during such period of incorrect or stopped registration, shall be taken into consideration in the preparation of such estimate.

Once a meter is again read, if it registers the amount of water consumed in the intervening period, the following bill will reflect the actual water consumption, and will account for the estimated consumption for the period between water meter readings. However, if the meter has not been read in 24 consecutive months, through no fault of the person who owns or controls the property, the bills for actual metered water will begin after a billing cycle during which the actual metered amount for the full period is recorded and only reflects that period, that is, without charging for a difference in the estimated and actual amounts for the period prior to the actual metered amount for that billing cycle.

(Prior code § 185-32; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 11-16-11, p. 13798, Art. XII, § 3; Amend Coun. J. 10-27-21, p. 39543, Art. VII, § 2)

## **ARTICLE V. ASSESSING AND COLLECTING CHARGES (11-12-330 et seq.)**

### **11-12-330 Liability for charges.**

The owner or owners of a property, location or address where water or water service is supplied shall be jointly and severally responsible for payment for any water or water service supplied. Upon a determination that any owner did not timely pay his water or sewer charges, the comptroller may institute collection action with the department of administrative hearings by

forwarding a copy of a notice of violation or a notice of hearing, which has been properly served, to the department of administrative hearings. The billing statement, notice of a water service charge or notice of delinquent payment of a water service charge shall be prima facie evidence that the owner identified in the statement or notice shall be liable for such charge and any delinquent payment fee.

(Prior code § 185-33; Amend Coun. J. 3-28-01, p. 55444, § 4; Amend Coun. J. 5-2-01, p. 57409, § 3; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 5; Amend Coun. J. 11-16-11, p. 13798, Art. XII, § 3; Amend Coun. J. 10-28-15, p. 12062, Art. IX, § 3; Amend Coun. J. 11-26-19, p. 11514, Art. V, § 1)

#### **11-12-340 Reserved.**

**Editor's note** – Coun. J. 11-16-16, p. 37901, Art. IV, § 4, reaffirmed the repeal of § 11-12-340, which pertained to metered service – billing. For the original repeal, see Coun. J. 12-2-09, p. 78837, Art. 5, § 5.

#### **11-12-350 Reserved.**

**Editor's note** – Coun. J. 12-8-04, p. 38063, § 1, repealed § 11-12-350, which pertained to metered rowhouses and townhouses – charges – shutoff.

#### **11-12-360 Metered rowhouses and townhouses – Individual meters.**

Owners of individual units are authorized to request an individual meter providing the owner modifies the plumbing at his expense in order that a meter can be installed. Remote reading devices are available at the owner's expense. Shutoff of services shall be in accordance with Section 11-12-110.

(Prior code § 185-34.2; Added Coun. J. 11-28-84, p. 11190)

#### **11-12-370 Reserved.**

**Editor's note** – Coun. J. 12-8-04, p. 38063, § 1, repealed § 11-12-370, which pertained to townhouses and similar structures – seller's permit.

#### **11-12-380 Townhouses and similar structures – Right of entry – Owner responsibilities.**

The commissioner may deem it necessary to enter private or public property at the owner's expense, for the purpose of correcting violations and/or to protect the public health safety, and welfare. Paraphrasing Sections 11-8-050\* and 11-12-040, the owner is responsible for water piping toward the building unit from the shut-off rod box to the furthest water outlet. In that meter vaults and vaulted sidewalks are usually on the outlet side of the shut-off rod box, it is, therefore, the owner's responsibility to construct and maintain same and to prevent frost or flood damage resulting therefrom. If the department's expenses are not paid within 30 days from the date of the first notice, the water service may be terminated at owner's expense.

(Prior code § 185-34.4; Added Coun. J. 12-18-84, p. 12090; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 12-8-04, p. 38063, § 1)

\* **Editor's note** – Repealed by Coun. J. 3-28-01, p. 55444, § 1.

#### **11-12-390 Townhouses and similar structures – Shared repair expenses.**

Where there is incompatibility among owners, trustees, or association members, on individually owned duplexes, townhouses, condominiums, cooperatives or similar structures that share a common water service, with or without a meter, and the city is compelled to make repairs or alterations thereon, either on public or private property to protect the public health, safety and welfare the city's expenses will be shared equally by all owners being supplied by said common water service. If after 30 days' written notice one or more owners refuses to reimburse the city for their share of said expenses, the city may terminate, at the owner's expenses, water service to those units that are in arrears.

(Prior code § 185-34.5; Added Coun. J. 12-18-84, p. 12090)

#### **11-12-400 Determination of charges.**

All assessments shall be made by the commissioner from reports of regularly qualified field assessors or rate-takers.

(Prior code § 185-35; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 5)

#### **11-12-410 False returns.**

Should any field assessor, rate-taker, shutoff man or other employee make false returns as to the width, or height in stories, of a building, or as to the number of fixtures therein, or as to the character of the business which by its nature would be assessable under the tariff of rates set forth in this Code, he shall be removed from office according to law.

(Prior code § 185-36)

#### **11-12-420 Payment of charges.**

The water rates or charges established under this Code shall be billed in such time periods as established by the comptroller, and shall be added to and separately recited on a unified statement of charges.

A late payment penalty assessed at a monthly rate of one and one-fourth percent shall be imposed on all water charges for which payment in full is not received within 24 calendar days from the date the bill therefor was sent, as shown by the records of the department of finance.

All revenues received for payment of water use rates, charges and penalties shall be deposited to the water revenue fund.

Where the correctness of an inspection on which an assessment is based on or an amount of refund calculated, is disputed, and where, in the case of a late payment penalty, complaint of such correctness has been made within the period prior to the time the usual penalty would be imposed, and where the adjusting of such complaint requires additional time, the penalty may be held in abeyance up to and including the tenth day succeeding the remailing of such bill.

The late payment penalty established pursuant to this section shall not be imposed upon persons who are 65 years or older, who own and reside in their own residence and who have a separate water meter or water assessment.

(Prior code § 185-37; Amend Coun. J. 6-28-91, p. 2475; Amend Coun. J. 6-23-93, p. 34793; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 12-14-05, p. 66648, § 1; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 5; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 9; Amend Coun. J. 10-28-15, p. 12062, Art. IX, § 3; Amend Coun. J. 11-16-16, p. 37901, Art. IV, § 5)

### **11-12-430 Cancelling charges for transitory or portable devices.**

Where charges against any premises appear on the books of the department for devices of a transitory or of a portable nature, including hose, hydraulic motors for washing machines, etc., where it may be possible to conceal such devices if inspection is anticipated, such charge may be cancelled upon presentation of an affidavit by the owner, agent or occupant of such premises, such affidavit to be in the form prescribed by the commissioner. The chief water assessor shall then cause an inspection of said premises to be made, and where the result of such inspection verifies the claim made in such affidavit the charge for such hose or device so decreased upon affidavit shall remain cancelled.

In case the result of such inspection indicates that the affidavit was made in an endeavor to escape the payment of water rates or charges which according to the provisions of this chapter should have been paid, then the charge which has been so decreased shall be immediately restored, and a penalty equal to the amount of such charge may be collected. These charges shall become immediately due and payable.

(Prior code § 185-39; Amend Coun. J. 12-4-02, p. 99026, § 1.12)

### **11-12-440 Reserved.**

**Editor's note** – Coun. J. 11-16-16, p. 37901, Art. IV, § 4, reaffirmed the repeal of § 11-12-440, which pertained to refund because of certain nonuse. For the original repeal, see Coun. J. 12-2-09, p. 78837, Art. 5, § 5.

### **11-12-450 Reserved.**

**Editor's note** – Coun. J. 3-1-06, p. 71320, § 2, repealed § 11-12-450, which pertained to refund because of vacancy.

### **11-12-460 Leakage.**

No deduction shall be made or rebate allowed to any consumer of water under meter control by or on account of any leakage or alleged leakage in any water pipe, tank or other apparatus or device. The amount of water registered by any meter controlling the water supply to any building, structure or premises, shall be charged and paid for in full, irrespective of whether such water, after having been registered, was lost by leakage, accident or otherwise, except registration of fire meters occasioned by a fire or by evaporation as hereinbefore provided.

(Prior code § 185-42)

### **11-12-470 Reserved.**

**Editor's note** – Coun. J. 10-28-15, p. 12062, Art. IX, § 3, repealed § 11-12-470, which pertained to cash refunds. Coun. J. 11-16-16, p. 37901, Art. IV, § 4, reaffirmed the repeal of this section. For the original repeal, see Coun. J. 12-2-09, p. 78837, Art. 5, § 5.

### **11-12-480 Delinquent payments.**

(a) Any water charges that remain unpaid after the expiration of 30 days from the date of the bill for such charges shall be subject to termination, and the service shall not be resumed until all water bills in arrears shall have been paid, including accrued penalties, and all applicable fees set out in Section 11-12-120 have been paid for termination and resumption of water supply service. If, however, at any time that the premises are visited for this purpose they shall be found vacant, so that said cutting off would not be liable to serve the purpose of enforcing collection, said cutting off shall not be mandatory if, because of the shutoff

rod box or the stopcock being out of repair, such act entails the expenditure of any sum for labor or material disproportionate to the amount of such delinquent rates.

(b) In any situation where the shutting off of water service is liable to involve the city in litigation, or where the property involved is in the hands of a court, such shutting off may be postponed pending advice from the corporation counsel; or if such shutting off would be productive of public danger, or would create a pestilent situation, or would entail suffering by a great number of persons who are not liable for the payment of the delinquent bill, or where the premises involved are the property of the United States, or the State of Illinois or of any of its political subdivisions, such shutting off may be withheld if in the judgment of the commissioner the withholding of such shutting off best serves the interests of the City of Chicago. In any such situation where the past due service liability exceeds \$10,000.00, the owner of the property may also be subject to an additional penalty, to be imposed in a separate hearing, in an amount not less than \$50.00 and not more than \$500.00 for the delinquency. Each day that a past due service liability exceeds \$10,000.00 shall constitute a separate delinquency. In determining whether to impose this additional penalty, the hearing officer may consider all reasons for the failure to make timely payment. The amount of this additional penalty does not include the delinquent amount owed for water service and any applicable late payment penalties, nor does it affect any other remedies of the department pursuant to the provisions of the Municipal Code, including the right to a lien on the subject property.

(c) Whenever a payment is made for charges on a unified statement of charges and such payment does not cover the full amount of the current charges or any unpaid charges from a prior unified statement of charges, any amount paid shall be allocated pro-rata among the unpaid charges, including any associated penalties, oldest statements first. For purposes of this Section 11-12-480(c), the term "charges" shall include the Chicago Water and Sewer Tax imposed by Chapter 3-80 of this Code.

(Prior code § 185-44; Amend Coun. J. 3-28-01, p. 55444, § 4; Amend Coun. J. 5-2-01, p. 57409, § 4; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 10-28-15, p. 12062, Art. IX, § 3; Amend Coun. J. 3-16-16, p. 19439, § 1; Amend Coun. J. 9-14-16, p. 29720, § 2)

#### **11-12-483 Suspension of new charges.**

(a) Upon the Department's termination of nonmetered water service to any building, structure, or premises, the charges for water service shall be prorated through the date of such termination, and no new charges for water service shall be assessed unless and until water service is restored. A temporary disconnection, such as a disconnection in order to perform necessary repairs or maintenance of water mains or other infrastructure, or in an emergency to allow the property owner to make repairs to the property's plumbing infrastructure, shall not be considered a termination of nonmetered water service.

(b) Assessment of charges shall resume on the date of the restoration of service.

(c) When water service has been restored without authorization of the Commissioner, and no date of restoration can be determined, charges for water service shall resume and shall be charged back to the date of shut-off.

(d) This section shall not be construed to suspend any penalties or fines on any past due amounts.

(Added Coun. J. 11-26-19, p. 11514, Art. V, § 2; Amend Coun. J. 11-24-20, p. 24619, Art. IV, Ch. 1, § 1)

**Editor's note** – Pursuant to Coun. J. 11-26-19, p. 11514, Art. XV, this section shall take effect on January 1, 2021.

#### **11-12-485 Unauthorized reconnection of cut off water supply.**

(a) No person, unless acting under the direction of the commissioner, shall reconnect or turn back on any water supply which has been shut off or withheld by the department. The owner of the building, structure or premises for which the water is supplied, the person in possession, charge or control thereof and any person who reconnects or turns back on the water supply, shall be subject to a \$500.00 fee imposed by the department of water management.

(b) Any person against whom the department imposes a \$500.00 fee pursuant to subsection (a) shall have a right to a hearing to contest the fee, if he or she files a written demand for a hearing within 14 days from the date of notice served by the department assessing the fee. Notice may be served in person or by first class mail. The date of the notice shall be the date notice is delivered, if served in person, or the date notice is deposited in the mail, if served by first class mail. A hearing shall be conducted by the department of administrative hearings within 14 days of receipt of a written demand for a hearing, unless otherwise mutually agreed by the parties. Failure to request or attend a scheduled hearing shall be deemed a waiver of the right to a hearing. A hearing held pursuant to this section shall not determine or otherwise adjudicate liability for any unpaid water rates or charges related to the department's order to shut off or withhold the water supply which was reconnected or turned back on improperly.

(c) Nothing in this section shall be interpreted as prohibiting the department from collecting any cost and expenses incurred as a result of the unauthorized use of the water supply reconnected in violation of this section and also any unpaid water rates, as provided by other applicable law.

(Added Coun. J. 3-28-01, p. 55444, § 5; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 11-8-12, p. 38872, § 205)

**11-12-486 Report on water shutoffs.**

On or before February 1 of each year, the commissioner and comptroller shall submit a report to the committee on finance and the committee on the budget and government operations concerning water shutoffs for non-payment of delinquent accounts during the prior calendar year. The report shall indicate the number of shutoffs for each of the following types of uses:

- (a) Single-family dwellings;
- (b) Two to 12 unit residential structures;
- (c) More than 12 unit residential structures;
- (d) Combination of residential and commercial structures;
- (e) Commercial structures;
- (f) Industrial structures.

The report shall also indicate, for each type of use, (1) the number of metered and non-metered accounts that were shutoff, and (2) the total amount of money owed to the city at the time the shutoffs occurred for the type of use.

(Added Coun. J. 6-6-01, p. 59086, § 1; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 5; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 9)

**Editor's note** – Coun. J. 6-6-01, p. 59086, § 1, provided for inclusion of this new section, to be numbered as § 11-12-485. Because that section already existed, this section has been added as § 11-12-486 at the discretion of the editor.

**11-12-490 Enforcement of lien.**

When any water taxes, rates or rents assessed or charged, or service charges for installation or disconnection of water service assessed or charged, pursuant to ordinance remain unpaid, in whole or in part, the statutory lien upon the premises or real estate upon or for which the water was used or supplied, or the water service was installed or disconnected, for which such taxes, rates, charges or rents have been assessed or charged, may be enforced in the following manner:

Suit may be commenced as hereinafter provided or a claim for lien in the name of the city shall be filed in the office of the recorder of deeds of Cook County or in the office of registrar of title of Cook County if the property affected is registered under the Torrens system; provided, that at least ten days before the commencement of such suit or the filing of such claim for lien, the city shall have sent a notice by mail, postage prepaid, to the premises upon or for which water was used or supplied, or the water service was installed or disconnected, addressed as follows: "To owner or owners and party or parties interested in the premises at (insert address)", which notice shall state that the city will commence such suit or file such claim for lien if the water taxes, rates, rents or charges which have become due and payable are not paid within ten days from the date of such notice.

The claim for lien shall be verified by affidavit of the comptroller and shall consist of a brief statement of the nature of the claim including: (1) that water was furnished or water service installed or disconnected by the city; (2) a description of the premises or real property sufficient for identification upon or for which the water has been furnished or water service was installed or disconnected; (3) the quantity of water so furnished if registered by meter, or the amount of the charges for the installation or disconnection of the water service; (4) that such water was furnished at rates and charges fixed by assessment or such charges for installation or disconnection of water service were fixed as provided by ordinance if not registered by meter; (5) the amount or amounts of money due therefor; (6) the dates when such amount or amounts became due and payable; and (7) the date of mailing the notice as hereinbefore provided.

(Prior code § 185-45; Amend Coun. J. 3-28-01, p. 55444, § 4; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 5; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 9)

**11-12-500 Foreclosure suit.**

Suit shall be commenced in the name of the city to enforce its lien by foreclosure proceedings in any court of competent jurisdiction. Any person interested in premises or real estate affected may be made a party defendant to such suit and any judgment, decree, or order of sale of the premises or real estate subject to such lien shall affect only the interests therein of the parties defendant in such suit.

(Prior code § 185-46; Amend Coun. J. 12-4-02, p. 99026, § 1.12)

**11-12-510 Cumulative remedies.**

The remedy by enforcement of the lien for unpaid water bills and charges as provided in Sections 11-12-490 and 11-12-500 of this Code shall not be exclusive of any other legal remedy to collect the amount due and unpaid for water consumed or furnished to, or water service installed or disconnected for, the person liable therefor. The water supply of the premises against which assessed rates or rents remain unpaid may also be cut off as provided in Section 11-12-480 of this Code; provided, that if more

than four months shall have elapsed since the assessed rates or rents have become due and payable, the water supply of such premises shall not be cut off unless suit shall have been commenced or a claim for lien shall have been filed as provided in Sections 11-12-490 and 11-12-500 of this Code, or unless the person liable for the unpaid water bills is the owner, occupant or person in possession or in control of such premises when the supply of water is cut off.

(Prior code § 185-46.1)

#### **11-12-520 Release of lien.**

Any claim for lien or suit to enforce the same shall be released, discharged or dismissed upon payment of the water taxes, rates, rents or charges for which such claim for lien or suit has been filed, together with all recording charges, court costs and all other expenditures made or incurred by the city in perfecting and enforcing its lien.

(Prior code § 185-46.2)

#### **11-12-530 Certification of payment.**

Unless otherwise provided by law or rule, a full payment certificate is required in all transfers of real property whether such transfers are subject to or exempt from the real property transfer tax pursuant to Chapter 3-33 of this Code. In order to obtain a full payment certificate, an application with an application fee of \$50.00 shall be made to the comptroller. Provided, however, if the property is exempt from the real property transfer tax, the full payment certificate application fee shall not be charged. If a full payment certificate was required and such certificate was not obtained when the real property was transferred, both the transferor and the transferee will be jointly and severally liable for any outstanding water or sewer charges and penalties that have accrued to the water account.

(Prior code § 185-46.3; Added Coun. J. 6-20-84, p. 7497; Amend Coun. J. 12-18-84, p. 12088; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 11-13-07, p. 15812, § 1; Amend Coun. J. 11-16-11, p. 13798, Art. XII, § 3; Amend Coun. J. 11-16-16, p. 37901, Art. IV, § 4)

#### **11-12-531 Certificate of payment – Condominiums and townhomes.**

1. Before control of a property subject to the Illinois Condominium Property Act is transferred from the developer to the board of managers, a certificate of payment shall be obtained from the department upon application and payment of an application fee of fifty (50) dollars. Such certificate of payment shall be obtained within 30 days prior to the election of the first unit owner board of managers. The terms used in this section shall have the same meanings as those in the Illinois Condominium Property Act.

2. Subsequent transfers of a unit within a condominium building: require a certificate of payment based on the last regularly scheduled reading of that building's water meter and shall be issued subject to the same regulations contained in Section 11-12-530.

3. Where a townhome or condominium development has a single meter and the respective association's assessments include the individual owner's share of the water bill, the commissioner may issue a certificate of condo or townhome owner payment upon application and payment of an application fee of fifty (50) dollars.

(Added Coun. J. 12-8-04, p. 38063, § 1; Amend Coun. J. 11-13-07, p. 15812, § 1; Amend Coun. J. 11-16-16, p. 37901, Art. IV, § 4)

#### **11-12-540 Exemptions from charges.**

(a) The comptroller shall exempt from the payment of water rates the property enumerated in this subsection (a) if the account for such property is controlled by meter, as follows. If the account for such property is not controlled by meter, no exemption shall apply.

(1) Any property of the State of Illinois that is used as an armory by the state or federalized national guard shall be exempt from payment of 100% of the water service charge.

(2) All property owned or leased or occupied by the City of Chicago shall be exempt from payment of 100% of the water service charge, unless said City, either as lessee or lessor, shall enter into an agreement for the payment of rates by the other party.

(3) All property owned or leased or occupied by the Chicago Public Schools shall be exempt from payment of 100% of the water service charge, unless said entity, either as lessee or lessor, shall enter into an agreement for the payment of rates by the other party.

(4) All property owned or leased or occupied by the City Colleges of Chicago shall be exempt from payment of 100% of the water service charge, unless said entity, either as lessee or lessor, shall enter into an agreement for the payment of rates by the other party.

(5) Hospitals located within the corporate limits of the City that are operated by the Cook County government shall be exempt from payment of 100% of the water service charge.

(6) Except as otherwise provided in paragraph (5) of this subsection (a), not-for-profit disproportionate share hospitals located within the corporate limits of the City shall be exempt from payment of 60% of the water service charge in 2012, 40% of the water service charge in 2013, and at least 25% of the water service charge in 2014 and thereafter, if such not-for-profit hospital qualifies for a disproportionate share adjustment consistent with Section 148.120 of Subchapter d of Chapter I of Title 89 of the Illinois Administrative Code, as amended, codified at 89 Ill. Adm. Code § 148.120. Provided, however, that in 2014 and thereafter, if such disproportionate share hospital has net assets or fund balances of:

(i) Less than One Million Dollars (\$1,000,000.00) at the end of the tax year or calendar year immediately preceding the calendar year in which the exemption from payment of the water service charge is being claimed, such disproportionate share hospital shall be exempt from payment of 100% of the water service charge:

(ii) One Million Dollars (\$1,000,000.00) or more but less than Ten Million Dollars (\$10,000,000.00) at the end of the tax year or calendar year immediately preceding the calendar year in which the exemption from payment of the water service charge is being claimed, such disproportionate share hospital shall be exempt from payment of 60% of the water service charge.

(7) Public museums shall be exempt from payment of 20% of the water service charge, if such public museum is eligible to receive funds for capital development under subdivision (7) of § 1-25 of the Department of Natural Resources Act, as amended, codified at 20 ILCS 801/1-1 et seq.

(8) Not-for-profit organizations as defined in subparagraph (8)(v) of this subsection (a), other than any entity identified in paragraphs (1) through (7) of this subsection (a), that adopt a water conservation plan and perform within the corporate limits of the city charitable work benefiting the public shall be exempt in 2013 and thereafter from payment of the water service charge for water supplied to premises owned and used and occupied exclusively by such not-for-profit organization, as follows:

(i) If the not-for-profit organization has net assets or fund balances of less than One Million Dollars (\$1,000,000.00) at the end of the tax year or calendar year immediately preceding the calendar year in which the exemption from payment of the water service charge is being claimed, such not-for-profit organization shall be exempt from payment of 100% of the water service charge;

(ii) If the not-for-profit organization has net assets or fund balances of One Million Dollars (\$1,000,000.00) or more but less than Ten Million Dollars (\$10,000,000.00) at the end of the tax year or calendar year immediately preceding the calendar year in which the exemption from payment of the water service charge is being claimed, such not-for-profit organization shall be exempt from payment of 60% of the water service charge;

(iii) If the not-for-profit organization has net assets or fund balances of Ten Million Dollars (\$10,000,000.00) or more but less than Two Hundred Fifty Million Dollars (\$250,000,000.00) at the end of the tax year or calendar year immediately preceding the calendar year in which the exemption from payment of the water service charge is being claimed, such not-for-profit organization shall be exempt from payment of 25% of such water service charge;

(iv) If the not-for-profit organization has net assets or fund balances of Two Hundred Fifty Million Dollars (\$250,000,000.00) or more at the end of the tax year or calendar year immediately preceding the calendar year in which the exemption from payment of the water service charge is being claimed, such not-for-profit organization shall be not be\* entitled to any exemption from payment of the water service charge and shall be required to pay 100% of the water service charge.

\* Editor's - As set forth in Coun. J. 5-8-13, p. 52764, § 1. Intended text is "shall not be." Future legislation will correct the provision if needed.

(v) As used in this paragraph (8), the term "not-for-profit organization" means an Illinois corporation organized and existing under the General Not For Profit Corporation Act of 1986 in good standing with the State and having been granted status as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986.

(b) (1) The supply to all premises enumerated in this section on which water may be taken from the waterworks system of the City of Chicago shall be controlled by meter, and the cost of meter, its installation, connections and vaults thereof, and the erection, construction and maintenance thereof shall be paid for and be borne by the institution or owner thereof. Nothing contained in this paragraph shall be held to exempt property of the United States, of the State of Illinois, or of any of its political subdivisions except as hereinbefore mentioned.

(2) If, at the determination of the City, a vault is required to be built on the public right of way prior to the installation of a water meter at a location owned by a not-for-profit organization as defined in subparagraph (8)(v) of subsection (a) of this section, and such not-for-profit organization demonstrates to the satisfaction of the comptroller that the organization will suffer undue financial hardship if the organization is required to pay the costs associated with installing the vault and water meter, including any additional costs that may be incurred by the City in connection with the excavation of the associated structure, the comptroller may enter into a written installment plan agreement with such not-for-profit organization allowing the organization to pay such costs over an extended period of time in substantially equal installments. Failure to comply with the terms of the

installment plan agreement may result, if applicable, in loss of the not-for-profit organization's exemption under paragraph (8) of subsection (a) of this section from payment of the water service charge.

Each installment plan shall be in a form prescribed by the comptroller, and shall state the organization's total indebtedness to the City for such costs, the amount of the initial installment, the amount of each subsequent installment, the date by which each installment is due, the penalty for delinquency under the installment plan, and such other provisions as the comptroller may require. Provided, however, that the comptroller may deny any application where it is determined that the applicant has committed fraud or has failed to make a good faith effort to comply with this section. Any recommendation, action or decision of the comptroller regarding the existence of financial hardship or the financial hardship process shall be within the sole discretion of the comptroller. Nothing in this subsection (b)(2) shall be construed to prohibit a not-for-profit organization from voluntarily making an initial minimum payment or monthly installment payment in an amount greater than provided in the installment plan agreement.

As used in this subsection (b)(2), the term "comptroller" means the comptroller of the City of Chicago or the comptroller's designee.

(c) The comptroller may fix such reasonable amounts of water as the comptroller, following consultation with the commissioner of water management, may deem to be sufficient for the requirements of said premises, and the exemption from payment of water rates shall be limited to said reasonable amounts so fixed. All use of water in excess of said reasonable amounts shall be paid for at the rates for metered water hereinafter fixed in Section 11-12-310.

(d) Accounts against the property of any entity exempted under the provisions of items (1), (2), (3), (4), (5), (6), (7) or (8) of subsection (a) of this section shall be kept in the usual manner. Upon receipt of the initial application for such exemption, such account, which shall be metered, shall be inspected by authorized personnel from the department of water management, who shall certify to the comptroller whether the entity so inspected is eligible for the exemption under this section being claimed by such entity.

(Prior code § 185-47; Amend Coun. J. 12-4-02, p. 99026, § 1.12; Amend Coun. J. 12-14-05, p. 66648, § 1; Amend Coun. J. 11-16-11, p. 13798, Art. VIII, § 3; Amend Coun. J. 11-8-12, p. 38872, § 206; Amend Coun. J. 5-8-13, p. 52764, § 1)

### **11-12-545 Utility billing relief program.**

(a) *Title.* This section shall be known and cited as the Utility Billing Relief Program.

(b) *Purpose.* The Utility Billing Relief Program is intended to address City water and sewer bills for the most vulnerable, low-income homeowners, especially those with past due debt, who are at risk of having their water service shut off.

(c) *Definitions.* For purposes of this section, the following definitions shall apply:

"Anniversary Date" means the date one year from a Participant's enrollment in the UBR.

"Comptroller" means the Comptroller of the City of Chicago, or the Comptroller's designee.

"Homeowner" means the Owner and occupant of a single family or two-unit residence located in the City of Chicago.

"LIHEAP" means the Low Income Home Energy Assistance Program, codified at 42 U.S.C. § 8621-8630.

"Participant" means a participant in the UBR.

"Reduced Rate" means a 50% reduction in the ordinary charges for water service imposed in Chapter 11-12, sewer service imposed in Chapter 3-12, and a corresponding reduction in the Chicago Water and Sewer Tax imposed in Chapter 3-80. Reduced Rate does not include the charge for refuse collection imposed in Article II of Chapter 7-28.

"UBR" means the Utility Billing Relief Program created by this section.

(d) *Program.*

(1) *Eligibility.* A Homeowner who is eligible to participate in the UBR and applies to the Comptroller may become a Participant. In order to become a Participant, a Homeowner must own and occupy the single-family or two-unit residence in the City of Chicago for which participation in the UBR is sought, and must meet the eligibility criteria to participate in the LIHEAP with the exception of any United States citizenship requirement; provided, however, that a Homeowner does not need to participate in the LIHEAP in order to be eligible for the UBR. A Homeowner who receives an exemption under Section 3-12-050 shall not be eligible to simultaneously participate in the UBR. A Participant who does not successfully complete the UBR two times shall no longer be eligible to participate in the UBR.

(2) *Billing and payment.* Upon acceptance and enrollment in the UBR, the City shall bill, and the Participant shall pay, the Reduced Rate for a period of one year in order to successfully complete the UBR. A Participant shall not be required to make any payment toward a past due balance while enrolled in the UBR. During participation in the UBR, a Participant is exempt

from having water shut off; the assessment of additional penalties and interest on any past due charges incurred before becoming a Participant, or charges incurred while a Participant; and referral for debt collection.

(3) *Successful completion.* A Participant who has made payment for all Reduced Rate bills issued by the City during the UBR by the Anniversary Date shall have any past due balance incurred before enrollment in the UBR forgiven. A successful Participant who continues to meet enrollment eligibility requirements may re-enroll in the UBR.

(4) *Unsuccessful completion.* A Participant who has not made payment for all Reduced Rate bills issued by the City during the UBR by the Anniversary Date shall have any past due balance, including penalties and interest, incurred before enrollment in the UBR reinstated to the Participant's account, in addition to any past due balance incurred during the UBR, and the Participant shall be required to make full payment of such past due balance. Such past due balance shall not have incurred any additional penalties or interest during participation in the UBR. The Participant may be eligible to participate in a payment plan to resolve the outstanding debt. If all criteria are met, an unsuccessful Participant may be eligible to re-enroll in the UBR, provided that the Participant has not been unsuccessful in completing the UBR on two occasions.

(e) *Rules.* The Comptroller is authorized to adopt such rules as the Comptroller may deem necessary for the proper implementation, administration, and enforcement of this section.

(f) In furtherance of administering this section, the Comptroller shall have the authority to enter into an agreement with the Community and Economic Development Association of Cook County ("CEDA"), or any successor agency that administers the LIHEAP in Cook County, to administer outreach and enrollment activity for the UBR. Such agreement may contain terms and conditions that the Comptroller deems appropriate, and the Comptroller shall have the authority to perform any and all acts as shall be necessary or advisable in connection with such agreement and any renewals thereto, including the expenditure of duly appropriated funds.

(g) On August 1st of each year that the UBR is in effect, the Comptroller shall provide a report to the City Council Committee on Finance evaluating the UBR's effectiveness in achieving its stated purpose.

(Added Coun. J. 11-26-19, p. 11514, Art. V, § 3; Amend Coun. J. 10-27-21, p. 40504, Art. III, § 1)

**Editor's note** – Pursuant to Coun. J. 11-26-19, p. 11514, Art. XV, this section shall take effect on April 1, 2020. Coun. J. 11-26-19, p. 11514, Art. V, § 3, added this section as § 11-12-550. Because that section already existed, this section has been added as § 11-12-545 at the discretion of the editor.

## **ARTICLE VII. ENFORCEMENT OF CHAPTER PROVISIONS (11-12-620 et seq.)**

### **11-12-620 Administrative powers and duties.**

The commissioner, or any employee he may designate for that purpose, shall enforce the provisions of this chapter, and for that purpose shall be qualified as a special police officer in accordance with the ordinances of the city.

The commissioner is authorized to promulgate from time to time such rules and regulations as may be necessary to carry out the provisions of this chapter.

(Prior code § 185-55; Amend Coun. J. 12-4-02, p. 99026, § 1.12)

### **11-12-630 Violation – Penalty.**

Any person who shall violate any of the provisions of this chapter other than those dealing with the use of space in water tunnels, where no other penalty is specifically provided, shall be fined not less than \$5.00 nor more than \$200.00 for each offense; and the cutting off of the water supply to any premises, or the forfeiture of water rates paid, or the imposition of any liability or expense herein otherwise provided, for or on account of any violation of any of the aforesaid provisions of this chapter, shall not be held to exempt any such person from the penalty herein provided.

(Prior code § 185-56)

# EXHIBIT – 4

## CHAPTER 3-12

### SEWER REVENUE FUND

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- 3-12-010 Fund established.**
- 3-12-020 Charge for sewer service and use of sewerage system.**
- 3-12-030 Unified statement of charges.**
- 3-12-035 Past due accrued charges.**
- 3-12-040 Delinquent charges to be lien on premises.**
- 3-12-050 Senior citizens exempted when.**
- 3-12-060 Charges to nonresident users.**
- 3-12-070 Late payment penalty.**
- 3-12-080 City's authority not limited.**

#### **3-12-010 Fund established.**

A separate fund is hereby established designated the sewer revenue fund which shall be supported by sewer usage fees established from time to time by the city council. The revenues of the sewer revenue fund shall be reserved and utilized exclusively for the operation, maintenance, rehabilitation or reconstruction of the sewer system of the City of Chicago.

For the purposes of this chapter, the sewer system of the City of Chicago includes (a) all city-owned sewers, sewer structures, and drains in any public way or public place in the city; and (b) any private drain, house sewer, or other sewer structure connected to a residential building of four or fewer units, from the point where the private drain, house sewer or other sewer structure crosses the property line to the point where it connects to the city-owned sewer.

(Prior code § 185.1-1; Amend Coun. J. 12-12-01, p. 75777, § 6.1)

#### **3-12-020 Charge for sewer service and use of sewerage system.**

(a) A charge for sewer service and use of the sewerage system of the City of Chicago is hereby established. The charge shall be an amount equal to the percentage set forth in the below Table, of the amount charged for water service pursuant to Chapter 11-12 of this Code, whether such water service is metered or otherwise. Provided, however, that:

(1) property of the State of Illinois which is exempt from payment of a water service charge pursuant to subsection (a)(1) of Section 11-12-540 shall be exempt from payment of the first \$500.00 charge for sewer service per semiannual billing period;

(2) property of the City of Chicago which is exempt from payment of a water service charge pursuant to subsection (a)(2) of Section 11-12-540 shall be exempt from payment of 100% of the charge for sewer service;

(3) property of the Chicago Public Schools which is exempt from payment of a water service charge pursuant to subsection (a)(3) of Section 11-12-540 shall be exempt from payment of 100% of the charge for sewer service;

(4) property of the City Colleges of Chicago which is exempt from payment of a water service charge pursuant to subsection (a)(4) of Section 11-12-540 shall be exempt from payment of the first \$500.00 charge for sewer service per semiannual billing period;

(5) property of hospitals which is exempt from payment, in whole or in part, from payment of a water service charge pursuant to subsections (a)(5) or (a)(6) of Section 11-12-540 shall be exempt from payment of the first \$500.00 charge for sewer service per semiannual billing period;

(6) property of public museums which is exempt from payment of a water service charge pursuant to subsection (a)(7) of Section 11-12-540 shall be exempt from payment of the first \$500.00 charge for sewer service per semiannual billing period; and

(7) Property of not-for-profit organizations which is exempt from payment of a water service charge pursuant to subsection (a)(8) of Section 11-12-540 shall be exempt from payment of the first \$500 charge for sewer service per semiannual billing period.

2011	2012	2013	2014	2015
86%	89%	92%	96%	100%

A late payment penalty assessed at a monthly rate of one and one-quarter percent shall be imposed on all sewer usage fees billed after November 1, 1991 for which payment in full is not received within 24 calendar days from the date the bill therefor was sent, as shown by the records of the department of finance. Where the correctness of a bill is disputed and where complaint of such incorrectness has been made prior to the time the usual penalty would be imposed, and where the adjusting of such complaint requires additional time, the penalty may be held in abeyance up to and including the tenth day succeeding the resending of such bill.

The late payment penalty established pursuant to this section shall not be imposed upon persons who are 65 years or older, who own and reside in their own residence and who have a separate water meter or water assessment.

(b) Those furnished with sewer service only and not connected with, or supplied with water from, the city water supply system shall pay an annual sewer service fee based upon a calculated estimate of the volume of use at the rate established in subsection (a) hereof.

(c) Those furnished with water service only and not connected with or supplied with sewer service by the city's sewer system shall pay only the water rates and charges established by Chapter 11-12 of this Code.

(d) Nothing contained in this section shall be deemed to limit the authority of the City of Chicago to negotiate or fix rates, by contract, for users of sewer service outside the City of Chicago.

(e) The commissioner of water management is authorized to waive any sewer usage fee and accrued late payment penalty assessed or charged against any property owned or leased by the City of Chicago but only to the extent and duration of the city's use of the sewer connection.

(Prior code § 185.1-2; Amend Coun. J. 9-6-84, p. 9023; 12-12-84; 7-9-85, p. 18646; 5-11-88, p. 13418; 4-26-89, p. 425; 6-28-91, p. 2475; 6-23-93, p. 34793; 12-15-93, 43732; 11-15-95, p. 11995; Amend Coun. J. 11-10-99, p. 14998, § 5.1; Amend Coun. J. 11-17-99, p. 17487, § 5.1; Amend Coun. J. 12-12-01, p. 75777, § 6.2; Amend Coun. J. 12-4-02, p. 99026, § 1.6; Amend Coun. J. 11-13-07, p. 15814, § 1; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 3; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 3; Amend Coun. J. 11-16-11, p. 13798, Art. VIII, § 3; Amend Coun. J. 11-16-11, p. 14596, Art. III, § 1)

(a) The rates and charges calculated and applied to the billed party shall be added to and separately recited upon a unified statement of charges. The unified statement of charges shall be prepared and sent to the billed party in such time periods as established by the Comptroller and shall be subject to Section 11-12-480. All revenues received in payment of sewer use rates, charges and penalties shall be deposited to the sewer revenue

fund. The Comptroller shall enforce the provisions of this section. Pursuant to Section 2-106-040, the Commissioner of the Department of Water Management shall maintain the power and duties over the sewerage system of the City of Chicago.

(b) For purposes of this chapter, "unified statement of charges" has the same definition ascribed to that term in Section 11-12-010.

(Prior code § 185.1-3; Amend Coun. J. 11-10-99, p. 14998, § 5.1; Amend Coun. J. 11-17-99, p. 17487, § 5.1; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 3; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 3; Amend Coun. J. 10-28-15, p. 12062, Art. IX, § 1; Amend Coun. J. 7-20-22, p. 50569, § 2)

### **3-12-035 Past due accrued charges.**

An accrued past due sewer service liability in excess of \$10,000.00 may subject the owner of the subject property to an additional penalty, to be imposed in a separate hearing, in an amount not less than \$50.00 and not more than \$500.00 for the delinquency. Each day that a past due service liability exceeds \$10,000.00 shall constitute a separate delinquency. In determining whether to impose this additional penalty, the hearing officer may consider all reasons for the failure to make timely payment. The amount of this additional penalty does not include the delinquent amount owed for sewer service and any applicable late payment penalties, nor does it affect any other remedies, including right to a lien on the subject property.

(Added Coun. J. 3-28-01, p. 55444, § 3; Amend Coun. J. 5-2-01, p. 57409, § 2; Amend Coun. J. 12-4-02, p. 99026, § 1.6; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 3)

### **3-12-040 Delinquent charges to be lien on premises.**

Charges for sewer service shall be a lien upon the premises served pursuant to the law thereto pertaining. When such charges have been delinquent for a period of 60 days the comptroller may cause a statement of lien to be recorded against the premises served and delinquent in the form and manner provided by law. The failure to record such a lien or to mail notice thereof shall not affect the right of the city to foreclose or adjudicate such lien, by an equitable action in accordance with the statutory requirements therefor and in the same manner as provided for water service in Section 11-12-490 et seq. The comptroller shall execute releases of such liens on behalf of the city upon receipt of payment thereof.

(Prior code § 185.1-4; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 3; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 3)

### **3-12-050 Senior citizens exempted when.**

(a) Persons aged 65 or over, residing in their own residence with separate metered water service or a separate City water assessment for that residential unit, shall be exempt from payment of the sewer service charge for their residence. This exemption shall apply regardless of whether the person is in arrears in the payment of any refuse collection, water or sewer charges for the subject residence.

(b) Persons aged 65 or over who reside in their own residence but do not qualify for an exemption under subsection (a) because their residence is a townhouse, condominium unit or cooperative apartment that does not have separate metered water service or a separate City water assessment for the residential unit may apply for a refund in lieu of exemption pursuant to this subsection. The amount of such refund shall be \$50.00 per qualified residence for each calendar year.

In order to receive a refund in lieu of exemption, an application shall be made to the City Comptroller. The application shall (i) be given to and received by the Comptroller in the same calendar year for which a refund is requested, (ii) be made in a manner prescribed by the Comptroller, and (iii) include such affidavits or other reasonable proof of qualifications for a refund that the Comptroller may require. If the Comptroller approves the refund, the Comptroller shall promptly pay the applicant a refund in the amount of \$50.00.

(c) Persons residing in residences qualified for an exemption or refund under this section shall qualify for the exemption or refund by the submission of a copy of the applicant's birth certificate, or the applicant's driver's license, state-issued identification card or the Matrícula Consular identification card specified in Section 6-10-

065 of the Code, showing the applicant is aged 65 or over; proof of their qualification for homeowners exemption; and proof of residency. The acceptable document to prove residency shall be a copy of a utility bill for the residence. Acceptable documents to prove home ownership shall be a copy of: (i) the deed to the residence, (ii) property tax bill, or (iii) with regard to a residence held in trust, a declaration executed by the trustee, affirming that the residence is held in trust and that the trust gives the named applicant the right to occupy the residence. In lieu of the forms of proof specified in this paragraph (c), the Comptroller is authorized to accept alternative forms of proof that in the Comptroller's judgment are genuine and probative of the information sought. The Comptroller shall provide information regarding the process for obtaining an exemption or refund, and the associated forms, in Spanish as well as English.

(d) If the Comptroller's processing of a full payment certificate for a given property serves to terminate any senior exemption applicable to that property, the Comptroller shall send written notification of such termination to the address at issue.

(Prior code § 185.1-5; Amend Coun. J. 11-22-91, p. 9167; 7-29-92, p. 19276; Amend Coun. J. 11-5-14, p. 93548, § 1; Amend Coun. J. 10-28-15, p. 12062, Art. IX, § 1; Amend Coun. J. 11-26-19, p. 11390, Art. X, § 2; Amend Coun. J. 4-27-22, p. 46382, § 16; Amend Coun. J. 11-15-23, p. 6542, Art. VIII, § 1)

### **3-12-060 Charges to nonresident users.**

Effective January 1, 2011 and in subsequent years, a monthly charge for sewer service and use of the sewerage system of the city is hereby established for nonresident users at premises located outside of the corporate limits of the city who discharge sewage, by direct or indirect connection, into the city's sewer system. The monthly charge shall be an amount determined as follows, effective January 1 of the year indicated:

<i>Size of Connection</i>	<i>2011 Monthly Rate</i>	<i>2012 Monthly Rate</i>	<i>2013 Monthly Rate</i>	<i>2014 Monthly Rate</i>	<i>2015 Monthly Rate</i>
6 inches or less	\$11.03	\$14.27	\$16.96	\$20.35	\$24.38
8 inches	\$41.3*	\$53.43	\$63.51	\$76.21	\$91.30
10 inches	\$64.24	\$83.10	\$98.79	\$118.55	\$142.01
12 inches	\$91.77	\$118.71	\$141.12	\$169.35	\$202.86
15 inches	\$144.54	\$186.98	\$222.27	\$266.73	\$319.52
18 inches	\$206.48	\$267.10	\$317.52	\$381.03	\$456.44
21 inches	\$282.2*	\$365.06	\$433.96	\$520.76	\$623.82
24 inches	\$367.1*	\$474.88	\$564.52	\$677.43	\$811.50
27 inches	\$465.75	\$602.50	\$716.23	\$859.47	\$1,029.57
30 inches	\$573.58	\$741.99	\$882.05	\$1,058.46	\$1,267.94
33 inches	\$695.18	\$899.29	\$1,069.04	\$1,282.85	\$1,536.75
36 inches	\$825.96	\$1,068.47	\$1,270.15	\$1,524.18	\$1,825.85
42 inches	\$1,124.22	\$1,454.30	\$1,728.82	\$2,074.58	\$2,485.17
48 inches	\$1,468.37	\$1,899.49	\$2,258.05	\$2,709.65	\$3,245.94
54 inches	\$1,858.41	\$2,404.05	\$2,857.85	\$3,429.41	\$4,108.15
60 inches	\$2,294.32	\$2,967.94	\$3,528.18	\$4,233.82	\$5,071.76
66 inches	\$2,776.14	\$3,591.23	\$4,269.12	\$5,122.95	\$6,136.86
72 inches	\$3,303.83	\$4,273.85	\$5,080.60	\$6,096.72	\$7,303.36

\* **Editor's note** – As set forth in Coun. J. 11-16-11, p. 14596, Art. III, § 1. Future legislation will correct the provision if needed.

Beginning June 1, 2016, and every year thereafter, the annual rates shall be adjusted upwards, if applicable, by applying to the previous year's rates the rate of inflation, calculated based on the Consumer Price Index – Urban Wage Earners and Clerical Workers (Chicago All Items) published by the United States Bureau of Labor Statistics for the 365-day period ending on the most recent January 1. Any such annual increase, however, shall be capped at 105% of the previous year's rate. The above schedule of charges shall apply to direct connections, which directly link the subject property to the city's sewer system, and to indirect connections, which link the subject property to the city's sewer system through an intervening pipe or set of pipes that themselves are not part of the city's sewer system. In applying the above schedule of charges, the amount due for a single connection to the city's sewer system (whether a direct connection or an indirect connection) serving two or more buildings shall be the product of the applicable rate for the size of the pipe at said connection multiplied by the number of individual buildings discharging through said connection.

(Added Coun. J. 12-12-01, p. 75777, § 6.3; Amend Coun. J. 11-5-03, p. 10352, § 1; Amend Coun. J. 12-15-04, p. 39833, § 1; Amend Coun. J. 12-15-04, p. 39840, § 1; Amend Coun. J. 11-13-07, p. 15814, § 1; Amend Coun. J. 11-16-11, p. 14596, Art. III, § 1)

### **3-12-070 Late payment penalty.**

(a) A late payment penalty assessed at a monthly rate of one and one-quarter percent shall be imposed on all sewer usage fees billed under Section 3-12-060 for which payment in full is not received within 24 calendar days from the date the bill for such charges was sent as shown by the records of the department of finance and shall be subject to Section 11-12-480. Where the correctness of a rate or charge imposed under this chapter is disputed and where complaint of such incorrectness has been made prior to the time the usual penalty would be imposed, and where the adjusting of such complaint requires additional time, the penalty may be held in abeyance up to and including the tenth day succeeding the resending of such bill.

(b) The rates and charges calculated and applied under Section 3-12-060 shall be recited upon a unified statement of charges. The unified statement of charges shall be prepared and sent to the billed party in such time periods as established by the Comptroller. All revenues received in payment of such sewer use rates, charges, and penalties shall be deposited to the sewer revenue fund established under Section 3-12-010. Except as otherwise provided herein, the Comptroller shall enforce the provisions of this section. Pursuant to Section 2-106-040, the Commissioner of the Department of Water Management shall maintain the power and duties over the sewerage system of the City of Chicago.

(c) Charges for sewer service hereunder shall be a lien upon the premises served pursuant to the law thereto pertaining. When such charges have been delinquent for a period of 60 days, the Comptroller may cause a statement of lien to be recorded against the premises served and delinquent in the form and manner provided by law. The failure to record such a lien or to send notice thereof shall not affect the right of the city to foreclose or adjudicate such lien, by an equitable action in accordance with the statutory requirements therefor and in the same manner as provided for water service in Section 11-12-490, et seq., of this Code. The Comptroller shall execute releases of such liens on behalf of the city upon receipt of payment thereof.

(Added Coun. J. 12-12-01, p. 75777, § 6.3; Amend Coun. J. 12-4-02, p. 99026, § 1.6; Amend Coun. J. 12-2-09, p. 78837, Art. 5, § 3; Amend Coun. J. 11-16-11, p. 13798, Art. I, § 3; Amend Coun. J. 10-28-15, p. 12062, Art. IX, § 1; Amend Coun. J. 7-20-22, p. 50569, § 2)

### **3-12-080 City's authority not limited.**

Nothing contained in Section 3-12-060 or Chapter 1-25\* shall be deemed to limit the authority of the city to negotiate or fix rates, by contract, with other municipalities for users of the city's system residing in such municipalities.

(Added Coun. J. 12-12-01, p. 75777, § 6.3; Amend Coun. J. 10-28-15, p. 12062, Art. IX, § 1)

\* **Editor's note** – As set forth in Coun. J. 10-28-15, p. 12062, Art. IX, § 1. There is currently no Chapter 1-25. Future legislation will correct the provision if needed.

Hearing Date: No hearing scheduled  
Location: <<CourtRoomNumber>>  
Judge: Calendar, 3

FILED  
8/1/2025 4:33 AM  
Mariyana T. Spyropoulos  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH04583  
Calendar, 3  
33829540

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

# EXHIBIT – 5

22-Jan-18

City of Chicago, Dept of Water  
 Rate Analysis Reduction Report  
 From 01-JAN-2017 Through 01-JAN-2018

Rate	Description/Exemption Amounts	Metered Non-Metered	# of Accounts Charged	WT Charge	WT Reduction	Total Water Charge 2017	SW Charge	SW Reduction	Total Sewer Charge 2017
CH	Charitable	Metered	88	\$ 475,635.20	\$ (475,635.20)	\$ 641,131,325.59	\$ 512,526.60	\$ (33,213.58)	\$ 277,810,553.10
	100% Water Exemption / \$1,000 Annual Sewer Credit								
Total				\$ 475,635.20	\$ (475,635.20)		\$ 512,526.60	\$ (33,213.58)	
NP	Not for Profit	Metered	3,434	\$ 7,860,870.99	\$ (4,900,737.96)	\$ 641,131,325.59	\$ 7,984,401.41	\$ (1,583,607.24)	\$ 277,810,553.10
	100% between <\$1M /\$1,000 Annual Sewer Credit								
	60% between \$1M and \$10M/\$1,000 Annual Sewer Credit								
	25% between \$10M and \$250M/\$1,000 Annual Sewer Credit								
Total				\$ 7,860,870.99	\$ (4,900,737.96)		\$ 7,984,401.41	\$ (1,583,607.24)	
NT	Not for Profit	Metered	45	\$ 480,971.57	\$ (96,191.89)	\$ 641,131,325.59	\$ 476,657.56	\$ (19,994.33)	\$ 277,810,553.10
	20% Water Exemption / \$1,000 Annual Sewer Credit								
Total				\$ 480,971.57	\$ (96,191.89)		\$ 476,657.56	\$ (19,994.33)	
PK	Park	Metered	765	\$ 7,642,486.89	\$ (7,600,389.57)	\$ 641,131,325.59	\$ 7,599,820.99		\$ 277,810,553.10
	100% Water Exemption / No Sewer Credit								
Total				\$ 7,642,486.89	\$ (7,600,389.57)		\$ 7,599,820.99		
PU	Public	Metered	2,504	\$ 6,716,918.29	\$ (6,716,918.29)	\$ 641,131,325.59	\$ 6,715,139.97	\$ (6,715,139.97)	\$ 277,810,553.10
	100% Water Exemption / 100% Sewer Exemption	Non-Metered	8	\$ -	\$ -	\$ 109,761,645.72	\$ -	\$ -	\$ 91,118,315.28
Total				\$ 6,716,918.29	\$ (6,716,918.29)		\$ 6,715,139.97	\$ (6,715,139.97)	\$ 368,928,868.38
SN	Senior Exemption	Both	66,995	\$ 25,919,114.83	\$ -	\$ 750,892,971.31	\$ 25,919,114.83	\$ (25,919,114.83)	\$ 277,810,553.10
	No Water Exemption/100% SW Exemption								\$ 91,118,315.28
	*using a blended water rate 5.7								
Total				\$ 25,919,114.83	\$ -	\$ 750,892,971.31	\$ 25,919,114.83	\$ (25,919,114.83)	\$ 368,928,868.38
Total				\$ 49,095,997.77	\$ (19,789,872.91)	\$ 750,892,971.31	\$ 49,207,661.36	\$ (34,271,069.95)	\$ 368,928,868.38

17-Jan-19

City of Chicago, Dept of Water  
 Rate Analysis Reduction Report  
 From 01-JAN-2018 Through 01-JAN-2019

Rate	Description/Exemption Amounts	Metered Non-Metered	# of Accounts Charged	WT Charge	WT Reduction	Total Water Charge 2018	SW Charge	SW Reduction	Total Sewer Charge 2018
CH	Charitable	Metered	84	\$ 338,463.34	\$ (338,463.34)	\$ 658,677,238.81	\$ 338,910.52	\$ (31,482.65)	
	100% Water Exemption / \$1,000 Annual Sewer Credit								
<b>Total</b>				\$ 338,463.34	\$ (338,463.34)		\$ 338,910.52	\$ (31,482.65)	\$ 287,354,099.99
NP	Not for Profit	Metered	3,391	\$ 7,950,313.25	\$ (5,015,799.26)	\$ 658,677,238.81	\$ 7,951,985.22	\$ (1,578,365.63)	
	100% between <\$1M /\$1,000 Annual Sewer Credit								
	60% between \$1M and \$10M/\$1,000 Annual Sewer Credit								
	25% between \$10M and \$250M/\$1,000 Annual Sewer Credit								
<b>Total</b>				\$ 7,950,313.25	\$ (5,015,799.26)		\$ 7,951,985.22	\$ (1,578,365.63)	\$ 287,354,099.99
NT	Not for Profit	Metered	42	\$ 446,816.92	\$ (89,393.91)	\$ 658,677,238.81	\$ 442,794.41	\$ (18,995.60)	
	20% Water Exemption / \$1,000 Annual Sewer Credit								
<b>Total</b>				\$ 446,816.92	\$ (89,393.91)		\$ 442,794.41	\$ (18,995.60)	\$ 287,354,099.99
PK	Park	Metered	765	\$ 6,922,459.99	\$ (6,922,473.83)	\$ 658,677,238.81	\$ 6,922,469.88		
	100% Water Exemption / No Sewer Credit								
<b>Total</b>				\$ 6,922,459.99	\$ (6,922,473.83)		\$ 6,922,469.88		\$ 287,354,099.99
PU	Public	Metered	2,517	\$ 6,774,197.74	\$ (6,774,954.10)	\$ 658,677,238.81	\$ 6,771,175.02	\$ (6,772,114.53)	\$ 287,354,099.99
	100% Water Exemption / 100% Sewer Exemption	Non-Metered	6			\$ 101,760,258.52			\$ 83,996,484.51
<b>Total</b>				\$ 6,774,197.74	\$ (6,774,954.10)	\$ 760,437,497.33	\$ 6,771,175.02	\$ (6,772,114.53)	\$ 371,350,584.50
SN	Senior Exemption	Both	66,982	\$ 25,604,216.19	\$ -	\$ 658,677,238.81	\$ 25,604,216.19	\$ (25,604,216.19)	
	No Water Exemption/100% SW Exemption								
	*using a blended water rate 5:7								
<b>Total</b>				\$ 25,604,216.19	\$ -	\$ 760,437,497.33	\$ 25,604,216.19	\$ (25,604,216.19)	\$ 371,350,584.50
<b>Total</b>				\$ 48,036,467.43	\$ (19,141,084.44)	\$ 760,437,497.33	\$ 48,031,551.24	\$ (34,005,174.60)	\$ 371,350,584.50

31-Jan-20

City of Chicago, Dept of Water  
Rate Analysis Reduction Report  
From 01-JAN-2019 Through 01-JAN-2020

Rate	Description/Exemption Amounts	Metered Non-Metered	# of Accounts Charged	WT Charge	WT Reduction	Total Water Charge 2019	SW Charge	SW Reduction	Total Sewer Charge 2019
CH	Charitable	Metered	86	\$ 1,422,174.79	\$ (1,422,174.79)	\$ 645,901,931.97	\$ 1,176,732.30	\$ (30,662.25)	\$ 283,416,498.64
	100% Water Exemption / \$1,000 Annual Sewer Credit								
<b>Total</b>				\$ 1,422,174.79	\$ (1,422,174.79)		\$ 1,176,732.30	\$ (30,662.25)	\$ 283,416,498.64
NP	Not for Profit	Metered	3,385	\$ 7,295,746.94	\$ (4,471,086.68)	\$ 645,901,931.97	\$ 7,257,368.02	\$ (1,540,010.06)	\$ 283,416,498.64
	100% between <\$1M /\$1,000 Annual Sewer Credit								
	60% between \$1M and \$10M/\$1,000 Annual Sewer Credit								
	25% between \$10M and \$250M/\$1,000 Annual Sewer Credit								
<b>Total</b>				\$ 7,295,746.94	\$ (4,471,086.68)		\$ 7,257,368.02	\$ (1,540,010.06)	\$ 283,416,498.64
NT	Not for Profit	Metered	42	\$ 426,544.01	\$ (85,357.54)	\$ 645,901,931.97	\$ 422,106.59	\$ (18,700.26)	\$ 283,416,498.64
	20% Water Exemption / \$1,000 Annual Sewer Credit								
<b>Total</b>				\$ 426,544.01	\$ (85,357.54)		\$ 422,106.59	\$ (18,700.26)	\$ 283,416,498.64
PK	Park	Metered	757	\$ 6,750,991.97	\$ (6,642,873.77)	\$ 645,901,931.97	\$ 6,617,402.23		\$ 283,416,498.64
	100% Water Exemption / No Sewer Credit								
<b>Total</b>				\$ 6,750,991.97	\$ (6,642,873.77)		\$ 6,617,402.23		\$ 283,416,498.64
PU	Public	Metered	2,513	\$ 6,475,187.91	\$ (6,475,187.91)	\$ 645,901,931.97	\$ 6,474,471.72	\$ (6,474,176.03)	\$ 283,416,498.64
	100% Water Exemption / 100% Sewer Exemption	Non-Metered	7	\$ 6,475,187.91	\$ (6,475,187.91)	\$ 99,190,429.74	\$ -	\$ -	\$ 81,726,742.84
<b>Total</b>				\$ 6,475,187.91	\$ (6,475,187.91)		\$ 6,474,471.72	\$ (6,474,176.03)	\$ 365,143,241.48
SN	Senior Exemption	Both	66,889	\$ 17,057,171.22	\$ -	\$ 745,092,361.71	\$ 17,057,171.22	\$ (17,057,171.22)	\$ 365,143,241.48
	No Water Exemption/100% SW Exemption								
	*using a blended water rate 5:7								
<b>Total</b>				\$ 17,057,171.22		\$ 745,092,361.71	\$ 17,057,171.22	\$ (17,057,171.22)	\$ 365,143,241.48
<b>Total</b>				\$ 39,427,816.84	\$ (19,096,680.69)	\$ 745,092,361.71	\$ 39,005,252.08	\$ (25,120,719.82)	\$ 365,143,241.48

15-Jan-21

City of Chicago, Dept of Water  
 Rate Analysis Reduction Report  
 From 01-JAN-2020 Through 01-JAN-2021

Rate	Description/Exemption Amounts	Metered Non-Metered	# of Accounts Charged	WT Charge	WT Reduction	Total Water Charges 2020	SW Charge	SW Reduction	Total Sewer Charges 2020
CH	Charitable	Metered	84	\$ 598,278.32	\$ (598,278.32)	\$ 647,924,849.96	\$ 598,421.70	\$ (30,241.79)	\$ 269,532,145.67
	100% Water Exemption / \$1,000 Annual Sewer Credit								
Total				\$ 598,278.32	\$ (598,278.32)		\$ 598,421.70	\$ (30,241.79)	\$ 269,532,145.67
NP	Not for Profit	Metered	3,526	\$ 7,094,532.25	\$ (4,251,879.32)	\$ 647,924,849.96	\$ 7,098,649.63	\$ (1,359,023.06)	\$ 269,532,145.67
	100% between <\$1M /\$1,000 Annual Sewer Credit								
	60% between \$1M and \$10M/\$1,000 Annual Sewer Credit								
	25% between \$10M and \$250M/\$1,000 Annual Sewer Credit								
Total				\$ 7,094,532.25	\$ (4,251,879.32)	\$ 647,924,849.96	\$ 7,098,649.63	\$ (1,359,023.06)	\$ 269,532,145.67
NT	Not for Profit	Metered	42	\$ 392,444.22	\$ (78,496.69)		\$ 387,526.07	\$ (16,168.57)	\$ 269,532,145.67
	20% Water Exemption / \$1,000 Annual Sewer Credit								
Total				\$ 392,444.22	\$ (78,496.69)		\$ 387,526.07	\$ (16,168.57)	\$ 269,532,145.67
PK	Park	Metered	759	\$ 4,082,492.42	\$ (4,082,492.42)		\$ 4,082,492.42		\$ 269,532,145.67
	100% Water Exemption / No Sewer Credit								
Total				\$ 4,082,492.42	\$ (4,082,492.42)		\$ 4,082,492.42		\$ 269,532,145.67
PU	Public	Metered	2,504	\$ 5,942,852.63	\$ (5,943,576.23)	\$ 647,924,849.96	\$ 5,942,340.51	\$ (5,943,229.69)	\$ 269,532,145.67
	100% Water Exemption / 100% Sewer Exemption	Non-Metered	7	\$ 5,942,852.63	\$ (5,943,576.23)	\$ 84,186,227.29	\$ -	\$ -	\$ 70,046,669.07
Total				\$ 5,942,852.63	\$ (5,943,576.23)	\$ 732,111,077.25	\$ 5,942,340.51	\$ (5,943,229.69)	\$ 339,578,814.74
UB	Utility Billing Relief	Metered	3,564	\$ 478,280.71	\$ (239,191.52)	\$ 647,924,849.96	\$ 478,280.71	\$ (239,191.62)	\$ 269,532,145.67
	50% Water Reduction/50% SW Reduction	Non-Metered	4,713	\$ 943,696.63	\$ (471,441.24)	\$ 84,186,227.29	\$ 944,842.98	\$ (472,442.04)	\$ 70,046,669.07
Total				\$ 1,421,977.34	\$ (710,632.86)	\$ 732,111,077.25	\$ 1,423,123.69	\$ (711,633.66)	\$ 339,578,814.74
SN	Senior Exemption	Both	63,608	\$ 21,341,494.25	\$ -	\$ 732,111,077.25	\$ 21,341,494.25	\$ (21,341,494.25)	\$ 339,578,814.74
	No Water Exemption/100% SW Exemption								
	*using a blended water rate 5:7								
Total				\$ 21,341,494.25	\$ -	\$ 732,111,077.25	\$ 21,341,494.25	\$ (21,341,494.25)	\$ 339,578,814.74
Total				\$ 40,874,071.43	\$ (15,665,355.84)	\$ 732,111,077.25	\$ 40,874,088.27	\$ (29,401,791.02)	\$ 339,578,814.74

26-Jan-22

City of Chicago, Dept of Water  
Rate Analysis Reduction Report  
From 01-JAN-2021 Through 01-JAN-2022

Rate	Description/Exemption Amounts	Metered Non-Metered	# of Accounts Charged	WT Change	WT Reduction	Total Water Charges 2021	SW Charge	SW Reduction	Total Sewer Charges 2021
CH	Charitable	Metered	83	\$ 862,652.65	\$ (862,652.65)	\$ 665,294,854.48	\$ 862,940.33	\$ (32,794.35)	\$ 282,637,005.22
	100% Water Exemption / \$1,000 Annual Sewer Credit	Non-Metered	1	\$ 862,652.65	\$ (862,652.65)	\$ 98,796,847.16	\$ -	\$ -	\$ 80,578,865.74
Total				\$ 862,652.65	\$ (862,652.65)	\$ 764,091,701.64	\$ 862,940.33	\$ (32,794.35)	\$ 282,637,005.22
NP	Not for Profit:	Metered	3,527	\$ 7,572,273.29	\$ (4,542,053.31)	\$ 665,294,854.48	\$ 7,570,663.43	\$ (1,429,956.08)	\$ 282,637,005.22
	100% between <\$1M /\$1,000 Annual Sewer Credit								
	60% between \$1M and \$10M/\$1,000 Annual Sewer Credit								
	25% between \$10M and \$250M/\$1,000 Annual Sewer Credit								
Total				\$ 7,572,273.29	\$ (4,542,053.31)	\$ 665,294,854.48	\$ 7,570,663.43	\$ (1,429,956.08)	\$ 282,637,005.22
NT	Not for Profit	Metered	42	\$ 436,796.73	\$ (87,270.27)	\$ 665,294,854.48	\$ 432,727.24	\$ (19,357.46)	\$ 282,637,005.22
	20% Water Exemption / \$1,000 Annual Sewer Credit								
Total				\$ 436,796.73	\$ (87,270.27)	\$ 665,294,854.48	\$ 432,727.24	\$ (19,357.46)	\$ 282,637,005.22
PK	Park	Metered	758	\$ 6,134,238.80	\$ (6,134,238.80)	\$ 665,294,854.48	\$ 6,134,238.80	\$ -	\$ 282,637,005.22
	100% Water Exemption / No Sewer Credit								
Total				\$ 6,134,238.80	\$ (6,134,238.80)	\$ 665,294,854.48	\$ 6,134,238.80	\$ -	\$ 282,637,005.22
PU	Public	Metered	2,487	\$ 6,125,011.63	\$ (6,125,011.63)	\$ 665,294,854.48	\$ 6,124,605.14	\$ (6,124,601.06)	\$ 282,637,005.22
	100% Water Exemption / 100% Sewer Exemption	Non-Metered	6	\$ 6,125,011.63	\$ (6,125,011.63)	\$ 98,796,847.16	\$ -	\$ -	\$ 80,578,865.74
Total				\$ 6,125,011.63	\$ (6,125,011.63)	\$ 665,294,854.48	\$ 6,124,605.14	\$ (6,124,601.06)	\$ 282,637,005.22
UB	Utility Billing Relief	Metered	5,307	\$ 1,341,118.31	\$ (670,718.04)	\$ 665,294,854.48	\$ 1,341,077.59	\$ (670,697.68)	\$ 282,637,005.22
	50% Water Reduction/50% SW Reduction	Non-Metered	8,098	\$ 3,532,415.87	\$ (1,766,322.08)	\$ 98,796,847.16	\$ 3,533,621.23	\$ (1,766,985.92)	\$ 80,578,865.74
Total				\$ 4,873,534.18	\$ (2,437,040.12)	\$ 665,294,854.48	\$ 4,874,698.82	\$ (2,437,683.60)	\$ 282,637,005.22
SN	Senior Exemption	Both	62,680	\$ 24,557,102.64	\$ -	\$ 764,091,701.64	\$ 24,557,102.64	\$ (24,557,102.64)	\$ 282,637,005.22
	No Water Exemption/100% SW Exemption								
Total				\$ 24,557,102.64	\$ -	\$ 764,091,701.64	\$ 24,557,102.64	\$ (24,557,102.64)	\$ 282,637,005.22
Total				\$ 50,561,609.92	\$ (20,188,266.78)	\$ 764,091,701.64	\$ 50,556,976.40	\$ (34,601,495.19)	\$ 363,215,870.96

# EXHIBIT – 6

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

KATHRYN FARMER., Individually,  
and as Representative of a Class of  
Similarly Situated Persons and Entities,

Plaintiff,

v.

CITY OF CHICAGO, an Illinois Municipal  
Corporation,

Defendant.

Case No.: 2021 CH 04583

Calendar 3

Judge Allen Price Walker

**NOTICE OF FILING**

To: Gregory D. Hanley  
Kickham Hanley PLLC  
32121 Woodward Avenue, Suite 300  
Royal Oak, MI 48073  
E-mail: [ghanley@kickhamhanley.com](mailto:ghanley@kickhamhanley.com)  
Counsel for Plaintiff

Alex Moskovic  
Moskovic & Associates, Ltd.  
3233 N. Arlington Heights Road, Suite 303  
Arlington Heights, IL 60004  
E-mail: [amoskovic@moskoviclaw.com](mailto:amoskovic@moskoviclaw.com)  
Co-Counsel for Plaintiff

**Please take notice** that on **September 20, 2023**, the undersigned caused to be filed  
“**Defendant City of Chicago’s Motion to Dismiss the Third Amended Complaint Pursuant  
to 735 ILCS 5/2-615**” with the Clerk of the Circuit Court of Cook County by submitting it for  
electronic filing via [www.fileandserveillinois.com](http://www.fileandserveillinois.com). A copy of that motion and its exhibits are  
herewith served upon you.

Dated: September 20, 2023

Respectfully submitted,

Mary Richardson-Lowry, Corporation  
Counsel for the City of Chicago

By:

/s/ Scott M. Crouch

Attorney No. 90909  
Scott M. Crouch  
Assistant Corporation Counsel – Supervisor  
City of Chicago, Department of Law  
Revenue Litigation Division  
2 North LaSalle Street, Suite 440  
Chicago, Illinois 60602

312-744-8369 | [scott.crouch@cityofchicago.org](mailto:scott.crouch@cityofchicago.org)

**CERTIFICATE OF SERVICE**

The undersigned attorney certifies under penalty of perjury pursuant to 735 ILCS 5/1-109 that the following documents:

- 1) The forgoing Notice of Filing and Certificate of Service,
- 2) Defendant City of Chicago's Motion to Dismiss Plaintiff's Third Amended Complaint pursuant to 735 ILCS 5/2-615, with exhibits;

were served on the below-listed parties by filing the same with [www.fileandserveillinois.com](http://www.fileandserveillinois.com)

and using that website's electronic service feature:

Gregory D. Hanley  
Kickham Hanley PLLC  
32121 Woodward Avenue, Suite 300  
Royal Oak, MI 48073  
E-mail: [ghanley@kickhamhanley.com](mailto:ghanley@kickhamhanley.com)  
Counsel for Plaintiff

Alex Moskovic  
Moskovic & Associates, Ltd.  
3233 N. Arlington Heights Road, Suite 303  
Arlington Heights, IL 60004  
E-mail: [amoskovic@moskoviclaw.com](mailto:amoskovic@moskoviclaw.com)  
Co-Counsel for Plaintiff

Dated: September 20, 2023

Respectfully submitted,

Mary Richardson-Lowry, Corporation  
Counsel for the City of Chicago

By:

/s/ Scott M. Crouch

Attorney No. 90909  
Scott M. Crouch  
Assistant Corporation Counsel – Supervisor  
City of Chicago, Department of Law  
Revenue Litigation Division  
2 North LaSalle Street, Suite 440  
Chicago, Illinois 60602  
312-744-8369 | [scott.crouch@cityofchicago.org](mailto:scott.crouch@cityofchicago.org)

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

KATHRYN FARMER., Individually,  
and as Representative of a Class of  
Similarly Situated Persons and Entities,

Plaintiff,

v.

CITY OF CHICAGO, an Illinois Municipal  
Corporation,

Defendant.

Case No.: 2021 CH 04583

Calendar 3

Judge Allen Price Walker

**MOTION TO DISMISS PLAINTIFF’S THIRD AMENDED COMPLAINT**

Defendant City of Chicago (“City”) moves to dismiss and/or strike Plaintiff’s Third Amended Complaint (“Third Complaint”) pursuant to Section 2-615 of the Illinois Code of Civil Procedure.

This Motion is in six parts. In Subpart A, the City argues that the Third Complaint should be stricken for failure to comply with the pleading requirements of 735 ILCS 5/2-603. In Subpart B, the City moves to dismiss Counts VII and VIII based on Plaintiff’s failure to allege a good faith uniformity challenge. In Subpart C, the City moves to dismiss Counts IX through X for failure to plead facts that, if proved, would establish that Plaintiff and others were charged unreasonable and discriminatory water and sewer rates. In Subpart D, the City moves to dismiss Counts XI and XII for failure to plead fact in support of her claim of “Exorbitant Rates.” In Subpart E, the City moves to dismiss Plaintiff’s claims for “reparations-money had and received” and “unjust enrichment” for failure to plead the elements of those claims, in Counts VII, IX, and XI, and Counts VIII, X, and XII, respectively. In Subpart F, the City moves to strike Counts I-VI as Plaintiff significantly changed those claims while asserting she is merely seeking to preserve them for appeal.

## I. LEGAL STANDARD

“A section 2-615 motion to dismiss challenges the legal sufficiency of a complaint based upon defects that are apparent on the face of the complaint.” *Dawson v. City of Geneseo*, 2018 Ill. App. (3d) 170625, at ¶11. “[T]he plaintiff must allege facts sufficient to bring a claim within a legally recognized cause of action.” *Tedrick v. Community Resource Center, Inc.*, 235 Ill. 2d 155, 161 (2009). When a complaint has a pleading defect and/or is legally deficient, a 2-615 motion is the appropriate vehicle to dismiss the case. *Terry v. Metropolitan Pier and Exposition Authority*, 27 Ill. App. 3d 446, 450 (1st Dist. 1995). A court, when assessing the legal sufficiency of a complaint, may consider “matters of which the court can take judicial notice.” *County of Peoria v. Couture*, 2022 IL App (3d) 210091, ¶ 38 (quoting *Mt. Zion State Bank & Trust v. Consolidated Communications, Inc.*, 169 Ill. 2d 110, 115 (1995)). Illinois Courts are required to take judicial notice of municipal ordinances. 735 ILCS 5/8-1001, and the common law. 735 ILCS 5/8-1003. Where an ordinance or case law defeats a claim, the proper motion to bring for dismissal is under § 2-615 and not § 2-619(a)(9). *County of Peoria*, at ¶ 38.

## II. ARGUMENT

Plaintiff’s Third Complaint should be dismissed pursuant to § 2-615 because, as explained below, the complaint suffers from both pleading defects and legal deficiencies.

### A. **Plaintiff’s Third Complaint, like her Second Complaint, does not comply with the pleading requirements of 735 ILCS 5/2-603. (All Counts)**

The Court struck Plaintiff’s second amended complaint (“Second Complaint”) because it found Plaintiff violated 735 ILCS 5/2-603 by pleading two causes of action in each count of her complaint. *July 13, 2023 Order*, Exhibit 1 at p. 2 (“Plaintiff commingled causes of action in Counts VII-XII.”). The Court explained that the proper way of pleading these claims would have been for Plaintiff to allege “separate counts for Assumpsit, Unjust Enrichment, and Uniformity Clause

violations.” *Id.* Despite being directed to plead separate causes of action, Plaintiff continues to plead two causes of action in each count of her Third Complaint. Counts VII and VIII plead a Uniformity Clause violation and, respectively, claims for “reparations-money had and received” and unjust enrichment. Counts IX through XII allege that the City’s water and sewer rates were unlawful and a claim for reparations-money had and received or unjust enrichment.

Plaintiff’s disregard of the pleading requirements of § 2-603 in her Third Complaint is even more egregious than in her Second Complaint in that Counts VII, VIII, X, XI, and XII incorporate by reference one or more of the other counts of the complaint: (i) Count VII incorporates Counts I through VI (on which the Court has previously granted summary judgment); (ii) Count VIII incorporates Counts I through VII; (iii) Counts X and XI incorporate Count IX; and (iv) Count XII incorporates Counts IX through XI. As noted in *Brown Leasing, Inc. v. Stone*, 284 Ill. App. 3d 1035, 1045 (1st Dist. 1996), this style of pleading is “the antithesis of the plain and concise statement of the plaintiff’s causes of action” mandated by Code § 2-603(a). Plaintiff’s Third Complaint should be stricken for this reason alone.

A complaint also violates § 2-603 if it includes “numerous extraneous allegations wholly irrelevant to the specific cause of action being pled.” *Brown Leasing*, 284 Ill. App. 3d at 1045. Plaintiff’s 74 page, 261 paragraph complaint is larded with extraneous and irrelevant allegations. The extraneous and irrelevant allegations include a nearly page-long paragraph challenging the City’s characterization of this litigation to potential investors (§19); citations to decisions, including a patently irrelevant Colorado decision, (§181); and citations to the Illinois and Colorado Public Utilities Acts. (§§180-81). Plaintiff block quotes *West v. City of Batavia*, 155 Ill. App. 3d 925, 929 (2nd Dist. 1987) nine times in her complaint, §§84, 94, 101, 110, 130, 139, 187, 256,

260.<sup>1</sup> The Court, at a minimum, should strike from the Third Complaint all extraneous and irrelevant allegations.

**B. Plaintiff fails to state a good faith uniformity challenge. (Counts VII & VIII)**

Article IX of the Illinois Constitution states “[i]n any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly. Exemptions, deductions, credits, refunds, and other allowances shall be reasonable.” (Ill. Const. 1970, art. IX, § 2.) To plead a uniformity challenge, a plaintiff must allege that the challenged ordinance makes an unreasonable classification between those subject to a tax and those not subject to a tax. *See Terry*, 271 Ill. App. 3d at 453 (action dismissed due to plaintiff’s failure to identify a group of similarly situated individuals who were not taxed).

The Third Complaint does not meet this pleading threshold as it fails to allege that the ordinance at issue, Chicago Municipal Code § 3-80-010, *et seq.* (“Ordinance”), makes any attempt at classifying the object of the tax—*i.e.*, purchasers of water and sewer service. Instead, Plaintiff contends that the Ordinance violates uniformity because it imposes the tax on City water and sewer customers but does not impose the tax on those who are not City water and sewer customers. (Third Complaint, ¶¶ 118-119.) Plaintiff claims that these two groups—customers and non-customers—are similarly situated because they both “do not cause or contribute to the City’s need to fund pensions.” (*Id.*, ¶ 118.) Plaintiff’s allegations demonstrate a fundamental misunderstanding of the uniformity clause and the relevant law as explained below.

The Uniformity Clause provides that classification of “**the subjects or objects**” of non-property taxes must be reasonable. Here, the objects of the tax are: “(1) the use or consumption in the City of water that is purchased from the Department of Water Management, and (2) the transfer

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<sup>1</sup> Ironically, as explained below, the *West* decision supports dismissal of Plaintiff’s Third Complaint.

of wastewater to the City sewer system from property located in the City.” Ordinance, § 3-080-030. With respect to these “objects” of the tax, the only classification drawn is in the calculation of the amount of water used. For metered customers, the meter readings are used to determine usage of water. For non-metered customers, an assumption about water usage is made. Plaintiff does not contest that these classifications violate uniformity.

Instead, Plaintiff claims that the Ordinance draws a classification between those who are water and sewer customers and those who are not water and sewer customers. (Third Complaint, ¶118). However, that is not a “classification” with which the uniformity clause is concerned. If it were, every single tax ordinance would be subject to a uniformity challenge on the grounds that it did not impose its tax on every single person. For example, the liquor tax is imposed only on those who purchase alcohol at retail. Unsurprisingly, the liquor tax is not imposed on those who do not purchase alcohol at retail. The money collected from the liquor tax is deposited into the City’s general revenue fund. If we were to apply the Plaintiff’s reasoning, then both those who purchase alcohol and those who do not purchase alcohol should be considered to be similarly situated because neither group causes the City to need money any more than the other. This would lead to absurd results. The Uniformity Clause is only concerned with classifications drawn with respect to the object of the tax. In cases where the tax applies to everyone within a class--as is the case here--there can be no uniformity challenge.

In *Casey’s Marketing Co. v. Hamer*, 2016 IL App. (1st) 143485, a tobacco distributor brought a uniformity challenge against the tax increase in the Cigarette Tax Act. *Id.* at ¶ 6. The amount of the increase was calculated using a formula that factored in how many tax stamps each distributor already had in stock and the number of fixed versus unaffixed stamps. *Id.* at ¶ 5 This formula resulted in differing amounts of tax imposed on each distributor. *Id.* However, because

the increase applied to **all** distributors—regardless of the differing amounts each had to pay—the Court, in the first instance, found that plaintiff had insufficiently pled the existence of two classes to maintain a uniformity challenge. Noting that the tax was applied to “distributors,” the Court stated:

“[T]he General Assembly does not make any specific attempt at ‘classifying the subjects or objects of nonproperty taxes’ that the constitution sometimes forbids. Thus, it is not even clear that there could be a uniformity issue at all because, on its face, the tax applies equally to all distributors meeting the statutory criteria.”

*Id.* at ¶ 20.

Like the plaintiff in *Casey’s Marketing*, Plaintiff here has similarly failed to sufficiently plead the existence of a separate class. The challenged tax applies equally across all paying water and sewer customers. The only classifications drawn by the Ordinance concern how the volume of water used is calculated and that classification is not challenged by Plaintiff. For these reasons, Plaintiff has failed to state a good faith uniformity claim and the Third Complaint must be dismissed.

**1. Plaintiff’s allegations demonstrate the alleged classifications are reasonable.**

As discussed above, the Third Complaint must be dismissed because Plaintiff has failed to allege that the Ordinance makes a classification between taxpayers. However, even if the Court were to accept that Plaintiff has pled a good faith uniformity challenge, dismissal is still appropriate as the Third Complaint itself demonstrates that such a classification is reasonable.

“To determine whether the subjects of non-property taxes are classified reasonably, the classification must (1) be based on a real and substantial difference between the people taxed and those not taxed, and (2) bear some reasonable relationship to the object of the legislation or to public policy.” *Casey’s Marketing*, 2016 IL App. (1st) 143485, ¶ 19. “[T]he classification must be upheld if any set of facts reasonably can be conceived that would sustain it.” *Id.* Indeed, the

taxing authority need only provide a justification for the classification. *See Geja's Café v. Metropolitan Pier & Exposition Authority*, 153 Ill. 2d 239, 248 (1992). The City does not have an evidentiary burden and does not have to produce facts in support of its justification for the statute. *Marks v. Vanderverter*, 2015 IL 116226, ¶ 23. Once a taxing body provides a justification for its classification, the burden shifts to the plaintiff to show the justification is insufficient or not supported by facts. *Geja's Café*, 153 Ill. 2d at 248. Plaintiff cannot meet that burden.

Here, the two purported “classes” are customers who obtain and pay for water and sewer services versus those who do not obtain and do not pay for water and sewer services. (Third Complaint ¶¶ 118-119, 121.) Plaintiff’s own allegation, on its face, demonstrates the real and substantial difference between these two groups. As she alleges, only water and sewer customers are subject to the tax while those who are not water and sewer customers are not subject to the tax.

**2. There is a real and substantial difference between those taxed and not taxed.**

Plaintiff alleges “there is no ‘real and substantial difference’ between “water and sewer customers who pay the Taxes, and other groups of citizens and property owners in the City who do not pay the Taxes.” (Third Complaint, ¶118.) She also alleges the evidence of no “real and substantial difference” is that neither customers nor non-customers cause a greater need to fund the pensions. However, this argument conflates the second prong of the uniformity analysis—i.e., reasonable relationship to public policy and/or the purpose of the ordinance—with the first prong—i.e., “real and substantial difference” between the two classes. Plaintiff’s allegation of no “real and substantial difference” is undermined by its own language. The real and substantial difference is that only those who pay for water and sewer service are subject to tax while those who do not pay for those services are not subject to the tax. Plaintiff’s suggestion, that those who are not water and sewer customers should be subject to the water and sewer tax, is absurd.

**3. The Ordinance’s alleged classifications are reasonable on their face.**

The second requirement to establish the ‘reasonableness’ of a classification is that it “bear some reasonable relationship to the object of the legislation or to public policy.” *Casey’s Marketing Co.*, 2016 IL App. (1st) 143485, ¶ 19. As explained above, the Ordinance has not made any classification. Nevertheless, the classification between those who are subject to the tax and those who are not subject to the tax bears a reasonable relationship to both public policy and to the stated purpose of the Ordinance.

**a. The Water and Sewer Tax is reasonably related to public policy.**

A tax classification is deemed to be reasonable if it is reasonably related to public policy. *See Casey’s Marketing Co.*, 2016 IL App. (1st) 143485, ¶19. Here, Plaintiff takes issue with the fact that only water and sewer customers are subject to the water and sewer tax. (Third Complaint, ¶ 119.) She reasons this is unjustified as the tax revenue from the Ordinance funds the City pensions and neither water and sewer customers nor non-customers cause a greater need for pension funding. (*Id.* at ¶ 125.) This argument misses the point. The proper inquiry is whether imposing the water and sewer tax only on water and sewer customers is reasonably related to public policy. On the Complaint’s face, the tax is obviously reasonably related to public policy. It is axiomatic that taxing the group of people who receive the underlying goods or services for which they are being taxed is sound public policy. In other words, it is appropriate to impose the water and sewer tax only on those who receive and pay for water and sewer services the same way it is appropriate to impose the cigarette tax only on those who purchase cigarettes.

**b. The Water and Sewer Tax is reasonably related to the ordinance’s purpose.**

A tax classification is also deemed to be reasonable if it is reasonably related to the purpose of the Ordinance. *Guns Save Life, Inc. v. Ali*, 2021 IL 126014, ¶ 20. As alleged, the revenue from

the Water and Sewer Tax is being used to fund the City's Municipal Employees' pension fund. It is uncontested that water and sewer City employees are entitled to pension payments after a certain number of years of service. It is also uncontested that water and sewer City employees are necessary to operate and maintain the City's water and sewer system. Thus, the Water and Sewer Tax and using that revenue to fund the City's Municipal Employees' pensions are linked. Plaintiff's claim that water and sewer City employees only constitute a small percentage of City employees covered by the City's pension program is irrelevant.

The plaintiff in *Arangold Corp. v. Zehnder*, made claims similar to Plaintiff's claims here. 204 Ill. 2d 142 (2003). At issue was a tax imposed on wholesale distributors of non-cigarette tobacco products under Illinois' Tobacco Products Tax Act. The tax revenue was to be deposited into the State's Long-Term Care Provider Fund. *Id.* at 145. Disbursements from this fund were made to the skilled and intermediate nursing centers to provide medical care to those whose income and resources were inadequate to meet their medical needs. *Id.* Arangold contended there was no reasonable relationship between the tax and the stated purpose of the Act because the tax "target[ted] noncigarette tobacco products for taxation to fund nursing home care for the indigent, while other taxpayers equally or more related to that objective are not taxed." The Court rejected this argument stating, "[p]erfect rationality is not required as to each taxpayer. A minimum standard of reasonableness is all that is required." *Id.* at 155. Because tobacco products can cause long term health problems for those who cannot pay for medical care, and because the tax revenue was used to fund long-term health facilities for those who cannot pay for care, the tax was, in fact, reasonably related to the Act's purpose. *Id.* at 157-58.

Likewise, taxing water and sewer services in the City is reasonably related to the need to fund a City pension plan to pay the water and sewer employees. The fact that the City pension

plan also funds the pensions of non-water and sewer employees is irrelevant just as in *Arangold* it was irrelevant that the funded long-term health facilities treated those long-term health problems not caused by tobacco products. Because Plaintiff here has not alleged any facts to dispute the City's justification, her claim must be dismissed.

**c. The Water and Sewer Ordinance's exemptions are reasonable.**

Plaintiff alleges lack of uniformity concerning two purported exemptions. Third Complaint, ¶¶ 121-22. Specifically, Plaintiff alleges that owners of property in the City who are not hooked up to the City's water or sewer systems are "exempt" from the water and sewer tax. *Id.* at ¶121. Plaintiff contends the City "proffers no justification for its exemptions extended to those properties and citizens." *Id.* This argument is without merit because those who are not receiving water or sewer services are not subject to the tax at all. This is not an exemption. Rather, an exemption is someone who would otherwise be subject to the tax but for the exemption.

Plaintiff also claims water and sewer customers who are exempted from paying for water and sewer services are also exempted from paying for the water and sewer tax. *Id.* at ¶122. Plaintiff alleges that exempting those customers from payment of the tax violates uniformity because there is no real and substantial difference between those water and sewer customers who pay the tax and the exempt customers as both groups receive the same quality of water. This claim fails for two reasons: (1) exemptions only need be reasonable and are not evaluated under a uniformity standard; and (2) the exemptions are reasonable even under a uniformity analysis.

The Illinois Supreme Court has unambiguously stated that "[t]he constitutional determination to require that 'exemptions, deductions, credits, refunds and other allowances' meet only a standard of reasonableness, and not a standard of uniformity and reasonableness seems clear." *Head v. Korshak*, 62 Ill. 2d 226, 229 (1976); *Exelon Corp. v. Illinois Dept. of Revenue*, 376 Ill. App. 3d 918, 923-24 (1st Dist. 2007). As such, Plaintiff's challenge to the exemptions in the

Ordinance need only meet a reasonableness standard. This analysis is simple. The Ordinance only exempts people from payment of the water and sewer tax who are similarly exempted for paying for water and sewer service. As stated *supra* in Section II.B.2, it is common to only impose taxes on those who pay for the underlying services or goods. Plaintiff has failed to allege any facts showing that such exemptions are not reasonable.

However, even if the exemptions were subject to a uniformity challenge, they should be upheld on the same grounds as the tax itself. Specifically, there is a real and substantial difference between those subject to the tax and the exempt customers. As noted in the previous paragraph, only those who pay for water and sewer services are charged the corresponding water and sewer tax. This practice of only charging tax to those who pay for the underlying service is a sound public policy, as noted *supra* in Section II.B.2.

Plaintiff seeks monetary relief based on theories of unjust enrichment. Even if this Court were to rule that the exemptions are invalid, the City has not been unjustly enriched because exemptions from taxation mean less money, not more. Thus, plaintiff's allegations about the exemptions do not state a claim for unjust enrichment or reparations. The remedy for an invalid exemption is to strike it. *See In re R.C. a Minor*, 195 Ill. 2d 291, 309 (2001), (“An equal protection violation is remediable by equal treatment, which may be accomplished by extension of benefits to the excluded class or withdrawal of benefits from the favored class”)(citing *Heckler v. Mathews*, 465 U.S. 728 (1984)).<sup>2</sup> *See also, Davis v. Michigan Dept. of Treasury*, 489 U.S. 803, 818 (1989) (“In this case, appellant’s claim could be resolved either by extending the tax exemption ... or by eliminating the exemption ...”). Striking the exemptions rather than awarding monetary relief

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<sup>2</sup> Although *R.C.* involved an equal protection claim, the Uniformity Clause is analogous. *Terry*, 271 Ill. App. 3d at 452 (citing *Geja’s Caf e*, 153 Ill. 2d at 247).

would be especially appropriate here given the appellate court in *Vill. of Niles v. City of Chicago* ("*Niles II*") found the same exemptions at issue here did not create excessive or discriminatory rates., 201 Ill. App. 3d 651, 680–81 (1st Dist. 1990).

**C. Plaintiff has not alleged facts that show the City’s water and sewer rates are unreasonably discriminatory. (Counts IX and X)**

Plaintiff alleges in Counts IX and X that the City’s water and sewer rates were unreasonably discriminatory by virtue of the exemptions included in the City’s ordinances. Plaintiff’s claims in these counts should be dismissed because Plaintiff has not alleged facts that show that she is a member of a discrete class of customers, or that she was charged rates that exceeded the City’s cost of providing water and sewer services to her to the point unreasonableness.

**1. Plaintiff has not pled facts showing she was charged a discriminatory rate.**

A plaintiff challenging a rate ordinance must plead, among other things, that she is a member of a discrete class of customers. *Austin View Civic Ass'n v. City of Palos Heights.*, 85 Ill. App. 3d 89, 97 (1st Dist. 1980). The Third Complaint does not allege facts that establish she is a member of a discrete class of consumers that was charged a discriminatory rate. The ordinances at issue do not provide for two classes of consumers being charged different rates; rather, the ordinances provide for water and sewer rates that are applicable to everyone. Exempt customers are subject to the same rates as Plaintiff, but do not have to pay (all or part) due to the exemption.

Plaintiff’s failure to allege that there are two groups - one subject to one rate and another subject to a different rate - warrants dismissal of Counts IX and X.

**2. Plaintiff has not pled facts supporting her claims of that the exemptions cause the rates to be unreasonable.**

Furthermore, even if Plaintiff could show she was charged a different rate, she has failed to plead has failed to plead the necessary facts to support her claim. In *Niles II*, the Court stated,

“[w]e believe that if the rates charged to plaintiffs are not excessive, there is no unreasonable discrimination.” 201 Ill. App. 3d at 680. Thus, plaintiff claiming rate discrimination also must establish that the rate she was charged “exceeded the cost of service to the point of unreasonableness,” *Niles II*, 201 Ill. App. 3d at 672-73, and she must establish this as of the date the rates were set. *West*, 155 Ill. App. 3d at 929 (when reviewing the reasonableness of a municipal utility’s rates, a circuit court may not consider “intervening circumstances or after acquired information.”) Plaintiff has not alleged facts that, if proved, would establish that the rates she was charged for water and sewer service exceeded the City’s cost of providing those services, let alone to such an extent as to render those rates unreasonable. Plaintiff does not allege what she was charged for water or sewer services during the periods covered by her complaint, and there are no allegations in it regarding the City’s cost of providing water and sewer services. Plaintiff’s speculation that she and others paid higher rates because of the exemptions does not establish that she was charged unreasonable rates.

Plaintiff alleges in Counts IX and X that the City’s water and sewer rates were unreasonable by virtue of the City having “illegally exempted thousands of similarly-situated water and sewer customer locations from their obligation to pay the City’s Water and Sewer Rates and Charges, which has resulted in dramatically higher Rates and Charges being assessed against Plaintiff and the Class.” Third Complaint, ¶ 143. The predicate of these claims is that Illinois common law prohibits the City from exempting anyone, including itself, from paying for water or sewer services and that exemptions alone render water and sewer rates *per se* unreasonable and discriminatory. This is a legal conclusion and not an allegation of fact and, thus, not something this Court has to or should accept as true for purposes of a § 2-615 motion to dismiss. *See Patrick Engineering, Inc. v. City of Naperville*, 2012 IL 113148, ¶ 3131 (“ a court cannot accept as true mere conclusions

unsupported by specific facts”). Plaintiff’s argument that Illinois law bars exemptions in water and sewer rates because they alone produce rates that are *per se* unreasonable and discriminatory was rejected in *Niles II*, 201 Ill. App. 3d at 680 – 81.

Plaintiff alleges in paragraph 176 that the “total monetary value of all Exemptions for the time period between January 1, 2017, through December 31, 2021, exceeds \$250 million.” This allegation does not establish that Plaintiff was charged unreasonable and discriminatory rates for water and sewer services. Even if one assumes she would have paid less, that does not establish that she was charged unreasonable rates. *See Niles II*, 201 Ill. App. 3d at 680 (“Plaintiffs did not establish a nexus between their own costs of service and the costs of serving unmetered customers and exempt customers in Chicago. They do assert, in conclusory fashion, that Chicago’s internal policies have artificially inflated their costs.”)

**D. Plaintiff fails to adequately allege “Exorbitant Rates.” (Counts XI and XII)**

In Counts XI and XII, Plaintiff alleges that the City’s water and sewer rates are exorbitant because of alleged excessive cost allocations and pension overcharges. These allegations regarding are likewise insufficient for pleading claims for unreasonable rates for two reasons. First, Plaintiff has not alleged any facts that would support a finding that the amount of the alleged excessive cost allocations and pension overcharges would have had any impact on the rates she was charged, let alone establish that the rates she was charged exceeded the cost of service to such a degree as to render the rates unreasonable, as is required to prevail on a claim for excessive and discriminatory rates. *Niles II*, 201 Ill. App. 3d at 672-73.

Second, as noted *supra* in § II.C.2, a person challenging water and sewer rates must show that the rates were unreasonable and discriminatory as of the date the rates were set. *West*, 55 Ill. App. 3d at 929-30. The water and sewer rates that are being challenged in the Third Complaint were set by municipal ordinance SO2011-8863 on November 16, 2011. City of Chicago Journal

of Proceedings, 11/16/2011.<sup>3</sup> Rates enacted by city ordinance are presumed valid. *Niles II*, 201 Ill. App. 3d at 662. The ordinance set specific rates to be charged in years 2011 through 2015 and included a formula that provided for annual increases beginning June 1, 2016 based on the **lesser** of: (a) the annual rate of inflation per the U.S. Bureau of Labor Statistics' Consumer Price Index or (b) 5%. Code § 11-12-315. The City's website also states that this is the method which the City uses to set its water and sewer rates. [https://www.chicago.gov/city/en/depts/fin/supp\\_info/utility-billing/water-and-sewer-rates.html](https://www.chicago.gov/city/en/depts/fin/supp_info/utility-billing/water-and-sewer-rates.html) (retrieved September 18, 2023).<sup>4</sup>

Plaintiff references this formula as the basis for setting the rates (Third Complaint, ¶ 35) but does not allege anywhere in her Complaint the actual water and sewer rates charged, nor does she allege that these rates were excessive when established. Instead of addressing the actual methodology used to set the rates, Plaintiff combs through the City's recent budget documents to try to support her claim that the water and sewer rates are exorbitant because: 1) the City uses water and sewer fund proceeds to pay other City departments' indirect costs the City allocates to those funds, 2) the City allegedly overcharged the water and sewer funds for the amounts they had to contribute for the City's pension liabilities, and 3) the funds allegedly accumulated excessive reserves. (Third Complaint, ¶ 195). All of these allegations and the facts alleged in support are irrelevant to the actual rates charged, which since June 1, 2016, have been set by the rate of

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<sup>3</sup> The ordinance as enacted is available in the Official Journals of City Council Proceedings maintained by the City Clerk, [https://chicityclerk.s3.us-west-2.amazonaws.com/s3fpublic/reports/2011\\_11\\_16\\_VIVII\\_VIII.pdf?VersionId=342FLWYOms3BxBj5232ESkDg4Y0kGw0J](https://chicityclerk.s3.us-west-2.amazonaws.com/s3fpublic/reports/2011_11_16_VIVII_VIII.pdf?VersionId=342FLWYOms3BxBj5232ESkDg4Y0kGw0J) at pp. 14602-09 (retrieved September 18, 2023).

<sup>4</sup> The City requests that the Court take judicial notice of the City website listing the water and sewer rates. "Information on websites and in public records are sufficiently reliable such that judicial notice may be taken." *Leach v. Dep't of Emp. Sec.*, 2020 IL App (1st) 190299, ¶ 44 (citing *Kopnick v. JL Woode Management Co.*, 2017 IL App (1st) 152054, ¶ 26 (information on City of Chicago's public website subject to judicial notice)).

inflation, not by the annual budget allocations or the funds' current reserves. Code § 11-12-315. Every allegation Plaintiff pleads in support of her "exorbitant" rates claim relates to events that have happened post-2016, and in some instances, more than a decade after the rate ordinances at issue became law in November 2011. See *Id.* at ¶¶ 196 (referencing the 2022 Water and Sewer Fund budgets' expenditures on reimbursing the corporate fund and pension expenditures); ¶¶ 197-198, 206-208, 210-221; Complaint Ex. 9, p. D 0016252; Complaint Ex. 20, p. C-739 (referencing a consultant's 2022 cost allocation plan for the City's fiscal year that ended December 31, 2020); ¶¶ 199-204 (referencing cost allocations to the Water and Sewer funds from 2017 through 2023); ¶ 205 (alleging that the City's 2022 budget relied in part on a 2021 consultant report based on data from 2019); ¶209 and Complaint Ex. 22 (referencing police expenses allocated to the Water Fund in the 2023 Water Fund Budget); ¶¶ 222-224 (referencing allocations to the City's Office of Inspector General from the City's 2023 budget) ¶¶ 230-245 (pension payments made from the Water fund from 2018-present); ¶¶ 246-251 (amount of monies in reserve in the Water and Sewer Funds from December 2021 and December 2022).

These allegations are all properly described as "intervening circumstances or after-acquired information," which the appellate court in *West v. Batavia* explicitly held "the circuit court **should not** consider . . . in reviewing the reasonableness of the rates." 155 Ill. App. 3d at 929–30 (emphasis added). As Plaintiff has admitted, the opinion in *West* is applicable to her claims in Counts XI (Third Complaint ¶ 256) and XII (*id.* at ¶ 260), the Court should reach the same conclusion as the appellate court did there: that Plaintiff has failed to state a cause of action for unreasonable Water and Sewer rates and dismiss Counts XI and XII with prejudice.

**E. Plaintiff has failed to allege the elements of “reparations-money had and received” and unjust enrichment. (Counts VII -XII)**

In her Second Complaint, Plaintiff alleged in Counts VII, IX, and XI that she was entitled to recover on grounds of “assumpsit.” The Court struck those claims because Plaintiff had comingled them with other claims, and because she failed to allege the elements of assumpsit. Ex. 1, p. 2. Rather than correct this failure in her Third Complaint, Plaintiff simply rebrands her assumpsit claims in Counts VII, IX and XI as claims for “reparations-money had and received.”

Plaintiff’s factual allegations do not state a claim for “reparations.” Plaintiff alleges that the right to “reparations” was established in *West*, 155 Ill. App. 3d at 928. Third Complaint, ¶130. The *West* court stated that “[t]his action was based upon the theory that the defendant had funds which in right and justice belonged to the plaintiff and which it ought to restore because it received the funds by charging a rate **in excess of the lawful rate.**” *Id.* (emphasis added). For the same reason that Plaintiff has failed to allege facts in support of her claims for discriminatory, unreasonable or “exorbitant” rates, she has failed to allege a “rate in excess of the lawful” rate as required by *West*. In addition, the *West* case only addressed reparations claims for excess rates. It has no application to Plaintiff’s tax claims in Count VII.

The Court struck Plaintiff’s unjust enrichment claims in the Second Complaint because she comingled that claim with another claim, and for failure to plead the elements of unjust enrichment. Plaintiff did not correct these deficiencies in her Third Complaint. Indeed, in paragraphs VIII, X, and XII, Plaintiff simply incorporates by reference her “reparations-money had and received” allegations and brands them as unjust enrichment claims.

**F. Counts I-VI should be stricken because those claims have not been replead solely for the purpose of preserving them for appeal.**

The Court granted judgment to the City on Counts I through VI of Plaintiff’s original complaint. *September 2, 2022 Memorandum and Order*, Exhibit 2. Plaintiff alleges she has repled

those claims in her Third Complaint solely to preserve them for appeal. Third Complaint, p. 3, n. 2. This is not what she has done. Pleading claims to preserve them for appeal requires pleading them exactly as they read when the court dismissed or granted judgment on them. Here, Plaintiff has altered Counts I through VI through her incorporation of allegations not in her original complaint, namely paragraphs 2, 8, 19, 35-37, 45-60 of the Third Complaint. Further, as discussed *supra* in Section A, Plaintiff also incorporates every previous count into Counts II-VI, which she did not do in her Second Complaint. Third Amended Complaint, ¶¶ 70, 79, 87, 96, 104. Because Plaintiff has altered the claims on which the City was granted judgment, Counts I through VI of the Third Complaint should be stricken.

### III. CONCLUSION

For the reasons stated herein, the Court should dismiss counts VII-XII for failure to state a claim, and strike Counts I-VI, pursuant to 735 ILCS 5/2-615(a).

Dated: September 20, 2023

Respectfully submitted by:

/s/ Susan P. Jordan

One of the attorneys for Defendant

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# EXHIBIT – 7



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## Mountain States Legal Foundation v. Public Utilities Com.

Supreme Court of Colorado

January 29, 1979, Decided

No. 28151

### Reporter

197 Colo. 56 \*; 590 P.2d 495 \*\*; 1979 Colo. LEXIS 641 \*\*\*; 28 P.U.R.4th 609

Mountain States Legal Foundation v. Public Utilities Commission of the State of Colorado, et al., Mountain Plains Congress of Senior Organizations, Citizens Utilities Company, et al., and Colorado Association of Commerce & Industry v. Public Utilities Commission of the State of Colorado, et al., Mountain Plains Congress of Senior Organizations, Citizens Utilities Company, et al.

**Subsequent History:** [\*\*\*1] Rehearing Denied February 26, 1979.

**Prior History:** Appeal from the District Court of the City and County of Denver, Honorable Robert T. Kingsley, Judge.

**Disposition:** Affirmed.

### Core Terms

rates, classification, customers, low-income, disabled, majority opinion, unjust discrimination, overrule, elderly, public utility, preferential, ratemaking, forbidden, matter of law, trial court, charges, unjust

### Case Summary

#### Procedural Posture

Appellee organizations commenced separate actions challenging decisions by appellant, the Public Utilities Commission (PUC), which established a reduced gas rate for low-income elderly and low-income disabled persons. The District Court of the City and County of Denver (Colorado) set aside the PUC's decisions. The PUC appealed.

#### Overview

The trial court held that the PUC's adoption of special reduced rates exceeded the PUC's authority under *Colo. Const. art. XXV* and violated *Colo. Rev. Stat. §*

*40-3-106(1)* (1973). The appellate court agreed and affirmed the trial court's judgment. The court held that the PUC's power to effect social policy through preferential rate making was restricted by statute no matter how deserving the group benefiting from the preferential rate was. The court said that the discount rate which benefited an unquestionably deserving group, the low-income elderly and the low-income disabled, establishing a discount gas rate plan that differentiated between economically needy individuals who received the same service, was unjustly discriminatory. The court noted that *Colo. Rev. Stat. § 40-3-102* (1973) directed the PUC to prevent unjust discriminatory rates. The court said that it could not empower the PUC, an appointed, non-elected body, to create a special rate for any group it determined to be deserving.

#### Outcome

The court affirmed the order that set aside the PUC's decisions.

### LexisNexis® Headnotes

Energy & Utilities Law > Regulators > Public Utility Commissions > Authorities & Powers

Energy & Utilities Law > Utility Companies > General Overview

Energy & Utilities Law > Utility Companies > Rates > General Overview

#### [HN1](#) Public Utility Commissions, Authorities & Powers

*Colo. Const. art. XXV* gives the Public Utilities Commission (PUC) full legislative authority to regulate

197 Colo. 56, \*56; 590 P.2d 495, \*\*495; 1979 Colo. LEXIS 641, \*\*\*1

public utilities. However, the legislative authority in public utility matters delegated by art. XXV to the PUC can be restricted by statute. It is clear that the PUC's authority to order preferential utility rates to effect social policy has, in fact, been restricted by the legislature's enactment of *Colo. Rev. Stat. §§ 40-3-106(1), 40-3-102* (1973).

Energy & Utilities Law > Utility Companies > Rates > General Overview

Energy & Utilities Law > Utility Companies > General Overview

[HN3](#) **Utility Companies, Rates**

*Colo. Rev. Stat. § 40-3-106(1)* (1973) states: No public utility, as to rates, charges, service, or facilities, or in any other respect, shall make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any respect, either between localities or as between any class of service. The commission has the power to determine any question of fact arising under § 40-3-106(1). *Colo. Rev. Stat. § 40-3-102* states: The power and authority is hereby vested in the Public Utilities Commission of the State of Colorado and it is hereby made its duty to adopt all necessary rates, charges, and regulations to govern and regulate all rates, charges, and tariffs of every public utility of this state to correct abuses; to prevent unjust discriminations and extortions in the rates, charges, and tariffs of such public utilities of this state; to generally supervise and regulate every public utility in Colorado; and to do all things, whether specifically designated in articles 1 through 7 of this title or in addition thereto, which are necessary or convenient in the exercise of such power.

Governments > Local Governments > Home Rule

Energy & Utilities Law > Utility Companies > General Overview

Energy & Utilities Law > Utility Companies > Rates > General Overview

Governments > Local Governments > Licenses

Governments > Local Governments > Police Power

Governments > State & Territorial Governments > Licenses

Governments > State & Territorial Governments > Relations With Governments

[HN2](#) **Local Governments, Home Rule**

*Colo. Const. art. XXV* reads: In addition to the powers now vested in the General Assembly of the State of Colorado, all power to regulate the facilities, service and rates and charges therefor, including facilities and service and rates and charges therefor within home rule cities and home rule towns, of every corporation, individual, or association of individuals, wheresoever situated or operating within the State of Colorado, whether within or without a home rule city or home rule town, as a public utility, as presently or as may hereafter be defined as a public utility by the laws of the State of Colorado, is hereby vested in such agency of the State of Colorado as the General Assembly shall be law designate. Until such time as the General Assembly may otherwise designate, said authority shall be vested in the Public Utilities Commission of the State of Colorado; provided however, nothing herein shall affect the power of municipalities to exercise reasonable police and licensing powers, nor their power to grant franchises; and provided, further, that nothing herein shall be construed to apply to municipally owned utilities.

Energy & Utilities Law > Utility Companies > Rates > General Overview

[HN4](#) **Utility Companies, Rates**

*Colo. Rev. Stat. § 40-3-106(1)* (1973) prohibits public utilities from granting preferential rates to any person, and *Colo. Rev. Stat. § 40-3-102* (1973) requires the Public Utilities Commission to prevent unjust discriminatory rates.

**Syllabus**

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Separate actions were commenced in the trial court challenging Public Utilities Commission (PUC) decisions which established a reduced gas rate for low-income elderly and low-income disabled persons. Trial court entered judgment which set aside these decisions. The

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

PUC and an intervenor appealed.

**Counsel:** Kea Bardeen, James G. Watt, for plaintiff-appellee, Mountain States Legal Foundation.

J. D. MacFarlane, Attorney General, David W. Robbins, Deputy, Tucker K. Trautman, Assistant, for defendants-appellants, Public Utilities Commission of the State of Colorado, Edwin R. Lundborg, Edythe S. Miller and Sanders G. Arnold, Commissioners.

Irvin M. Kent, for intervenor-appellant, Mountain Plains Congress of Senior Organizations.

Walker D. Miller, Robert T. James, John J. Conway, for amicus curiae, The Colorado Rural Electric Association.

John Fleming Kelly, James L. White, Jeffrey C. Pond, B. Lynn Winmill, Holland and Hart, for petitioner-appellee, Colorado Association of Commerce & Industry.

John R. Barry, [\*\*\*2] for Iowa Electric Light & Power Company.

T. N. Wright, A. R. Madigan, for Peoples Natural Gas, Division of Northern Natural Gas Company.

Jones, Meiklejohn, Kehl & Lyons, Arthur R. Hauver, for Kansas-Nebraska Natural Gas.

Lefferdink, Lefferdink and Stoval, John J. Lefferdink, for Eastern Colorado Utility Company.

**Judges:** En Banc. Mr. Chief Justice Hodges delivered the opinion of the Court. Mr. Justice Pringle and Mr. Justice Carrigan dissent.

**Opinion by:** HODGES

**Opinion**

[\*58] [\*\*496] Plaintiffs-appellees, Mountain States Legal Foundation and Colorado Association of Commerce and Industry, commenced separate actions in the trial court challenging Public Utilities Commission (PUC) decisions which established a reduced gas rate for low-income elderly and low-income disabled persons. The trial court entered a judgment [\*\*497] which set aside these decisions. It held that the adoption of this special reduced rate exceeded the PUC's authority under *Article XXV of the Colorado Constitution* and violated *section 40-3-106(1), C.R.S. 1973*. The appellant PUC and intervenor-appellant Mountain Plains Congress of Senior Organizations urge reversal. We affirm the trial court's judgment.

[\*\*\*3] On November 8, 1977, the PUC, in two decisions, ordered gas utilities under its regulatory authority to implement a discount gas rate plan for low-income elderly and low-income disabled persons. <sup>1</sup> The resulting revenue loss for the discounted services would be recovered by higher rates on all other customers.

[\*\*\*4] We give full recognition to the fact that many of our state's elderly live on fixed incomes which are severely strained by today's inflationary economy, as are low-income disabled persons who are often shut out of the employment market. While efforts to provide economic relief to such needy persons are laudatory, the PUC has limited authority to implement a rate structure which is designed to provide financial assistance as a social policy to a narrow group of utility customers, especially where that low rate is financed by its remaining customers.

[\*59] In *Mountain States Telephone and Telegraph Co. v. Public Utilities Commission, 576 P.2d 544 (Colo. 1978)*, we held that [HN1](#) [↑] *Article XXV of the Colorado Constitution* <sup>2</sup> [\*\*\*6] gives the PUC full legislative

<sup>1</sup> The low-income customers who would be eligible for the discounted gas rate are "identified" through a procedure utilized by the Department of Revenue to administer the Colorado property and rent credit program.

In order to qualify for the discounted rate, a customer must have been a full year resident of Colorado; the customer must be 65 years of age or older or be the surviving spouse, 58 years old or older, of a deceased spouse who met the age requirement, or the customer must be receiving full disability benefits from a bona fide public or private insurance plan; and if the discounted gas rate plan were to go into effect during the 1978-1979 heating season, a customer would have to have an income of \$ 7,300 or less if single, and \$ 8,300 or less if married. These income standards are different from those which were in effect during the 1977-1978 heating season because of a legislative change in the standards for the Colorado property tax and rent credit.

<sup>2</sup> [HN2](#) [↑] *Article XXV* was added to the Colorado Constitution in 1954. It reads:

"In addition to the powers now vested in the General Assembly of the State of Colorado, all power to regulate the facilities, service and rates and charges therefor, including facilities and service and rates and charges therefor within home rule cities and home rule towns, of every corporation, individual, or association of individuals, wheresoever situated or operating within the State of Colorado, whether within or without a home rule city or home rule town, as a public utility, as presently or as may hereafter be defined as a public utility by the laws of the State of Colorado, is hereby vested in such agency of the

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

authority to regulate public utilities. We noted in that case, however, that the legislative authority in public utility matters delegated by Article XXV to the PUC could be restricted by statute. *Id. at 547*. It is clear in the case before us that the PUC's authority to order preferential utility rates to effect social policy has, in fact, been restricted by the legislature's enactment of *section 40-3-106(1), C.R.S. 1973* <sup>3</sup> [\*\*\*5] and *section 40-3-102, C.R.S. 1973*. <sup>4</sup>

[\*\*\*7] [HN4](#)<sup>[↑]</sup>

[\*\*498] *Section 40-3-106(1), C.R.S. 1973*, prohibits public utilities from granting preferential rates to any person, and *section 40-3-102, C.R.S. 1973*, requires the PUC to prevent unjust discriminatory rates. When the PUC ordered the utility companies to provide a lower

rate to selected customers unrelated to the cost or type of the service provided, it violated *section 40-3-106(1)*'s prohibition against preferential rates. In this instance, the discount rate benefits an unquestionably deserving group, the low-income elderly and the low-income disabled. This, unfortunately, does not make the rate less preferential. To find otherwise would empower the PUC, an appointed, non-elected body, to create a special rate for any [\*\*60] group it determined to be deserving. The legislature clearly provided against such discretionary power when it prohibited public utilities from granting "any preference." In addition, *section 40-3-102, C.R.S. 1973*, directs the PUC to prevent unjust discriminatory rates. Establishing a discount gas rate plan which differentiates between economically needy individuals who receive the same service is unjustly discriminatory.

State of Colorado as the General Assembly shall be law designate.

"Until such time as the General Assembly may otherwise designate, said authority shall be vested in the Public Utilities Commission of the State of Colorado; provided however, nothing herein shall affect the power of municipalities to exercise reasonable police and licensing powers, nor their power to grant franchises; and provided, further, that nothing herein shall be construed to apply to municipally owned utilities."

<sup>3</sup> [HN3](#)<sup>[↑]</sup> *Section 40-3-106(1), C.R.S. 1973*, states:

"*Advantages prohibited - graduated schedules.* (1) No public utility, as to rates, charges, service, or facilities, or in any other respect, shall make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any respect, either between localities or as between any class of service. The commission has the power to determine any question of fact arising under this section."

<sup>4</sup> *Section 40-3-102* states:

"The power and authority is hereby vested in the Public Utilities Commission of the State of Colorado and it is hereby made its duty to adopt all necessary rates, charges, and regulations to govern and regulate all rates, charges, and tariffs of every public utility of this state to correct abuses: to prevent unjust discriminations and extortions in the rates, charges, and tariffs of such public utilities of this state; to generally supervise and regulate every public utility in this state; and to do all things, whether specifically designated in articles 1 through 7 of this title or in addition thereto, which are necessary or convenient in the exercise of such power . . . ." (Emphasis added.)

To conclude, although [\*\*\*8] the PUC has been granted broad rate making powers by *Article XXV of the Colorado Constitution*, the PUC's power to effect social policy through preferential rate making is restricted by statute no matter how deserving the group benefiting from the preferential rate may be.

We affirm the judgment of the trial court.

**Dissent by:** PRINGLE; CARRIGAN

### Dissent

MR. JUSTICE PRINGLE dissenting:

I respectfully dissent because I agree in principle with the views enunciated by Mr. Justice Carrigan in his dissenting opinion.

MR. JUSTICE CARRIGAN dissenting:

I respectfully dissent.

The question is whether, in adopting reduced gas rates for two classes of low-income customers -- the elderly and the disabled -- the P.U.C. has established preferential and unjustly discriminatory rates forbidden by *sections 40-3-102 and 40-3-106(1)*. In my view the P.U.C. has acted within its constitutional and statutory authority.

The majority opinion acknowledges that the determination of utility rates is a purely legislative function which has been delegated, in the first instance, to the P.U.C. by *Article XXV of the Colorado Constitution*. This Court has previously stated that the

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

P.U.C. in the area of utility [\*\*\*9] ratemaking has "broadly based authority to do whatever it deems necessary or convenient to accomplish the legislative [ratemaking] functions delegated to it." Mountain States Telephone and Telegraph Co. v. Public Utilities Commission, 195 Colo. 130, 576 P.2d 544, 547 (1978).

Unfortunately, the majority opinion fails adequately to recognize that the P.U.C.'s legislative authority includes the power to initiate public policy in the narrow, specialized area of ratemaking, subject to the General Assembly's power to overrule any P.U.C. rate policy with which it disagrees. As I read the law, only the General Assembly, and not this Court, has authority to overrule the public policy embodied in a rate plan adopted by the P.U.C.

[\*61] For example, for many years the P.U.C. has implemented a policy, created by it alone, charging lower rates for electric power to those who use larger amounts of electricity. *I.e.*, as the amount of electricity a customer uses goes up, the cost per unit [\*\*499] goes down. Clearly, if the General Assembly should decide that such a policy unwisely encourages overuse, or waste, of electrical energy, it could overrule the policy by specific [\*\*\*10] legislation. But this Court could not overrule it by case law if we were to conclude that the policy is unwise, unjust or unreasonable. The effect of the majority opinion, when considered in the light of applicable statutes and prior case law, is to overrule the contested P.U.C. rate scheme for essentially these policy reasons. In my view the Court's action today oversteps the bounds of judicial review of P.U.C. ratemaking and invades the legislative prerogative.

The majority opinion depends entirely on characterization of the special rate classification here involved as a "preference" forbidden by *section 40-3-106(1)*. Thus the decisive issue is whether the instant rate classification is so clearly of the type that the legislature intended to forbid when it enacted that section that it must be held to be a "preference" as a matter of law. The majority opinion cites no precedent or other authority for its holding and we have found no case law from any state dealing with the issue. Moreover the majority opinion fails to define the term "preference" for guidance of the P.U.C. in future cases. In effect the majority opinion has condemned the rate scheme here involved by saying, [\*\*\*11] "We can't define a 'preference' but we know one when we see one." Such an *ad hoc* determination does not provide needed rational standards as precedent for future cases.

Clearly the Colorado General Assembly could not actually have intended to outlaw the practice under review when it adopted the "preference" prohibition in 1913 (Colo. Sess. Laws 1913, ch. 127, § 18 at 473), for the P.U.C. did not create this rate plan until 1977 and it did not take effect until 1978. Obviously the 1913 General Assembly never contemplated and did not intend to prevent the P.U.C. from establishing lower gas rates for these two classes of customers, the low-income elderly and low-income handicapped.

Apparently, the purpose of *section 40-3-106(1)* was to prevent the public utilities' then-common practice of favoring certain customers with lower utility rates to the *competitive* disadvantage of others in the *same class* of customers similarly situated. Columbia Gas of N.Y., Inc. v. N.Y. State Elec. & Gas Co., 28 N.Y.2d 117, 268 N.E.2d 790 (1971); Hays v. Pennsylvania Co., 12 Fed. 309 (N.D. Ohio 1882).

The issue, therefore, becomes whether the statutory language so clearly forbids [\*\*\*12] the P.U.C.'s rate classification plan that this Court, as a *matter of law*, must outlaw it rather than leaving the decision whether to overrule it to the General Assembly as a *matter of state policy*.

[\*62] In the law the word "preference" denotes giving an advantage or priority to one or more claimants in a manner which discriminates unjustly or unreasonably against other claimants *in the same class*. This connotation of the term clearly was intended by *section 40-3-106(1)*, for in the sentence immediately following the use of the term "preference" in that section, public utilities are forbidden to "establish or maintain any *unreasonable* difference as to rates . . . ." <sup>1</sup> If only *unreasonable* rate differentials are forbidden, it is plainly implied that *reasonable* differences in rates are not forbidden. It follows that a classification for rate purposes should not be considered a "preference" if the classification is reasonable.

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<sup>1</sup> "Advantages prohibited - graduated schedules. (1) No public utility, as to rates, charges, service, or facilities, or in any other respect, shall make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any *unreasonable difference as to rates*, charges, service, facilities, or in any respect, either between localities or as between any class of service. The commission has the power to determine any question of fact arising under this section." **Section 40-3-106, C.R.S. 1973** (emphasis added).

[\*\*\*13] This rationale is further buttressed by *section 40-3-102, C.R.S. 1973*, which empowers the P.U.C. "to prevent *unjust* discriminations . . . in the rates, charges and [\*\*500] tariffs of . . . public utilities. . . ." The clear implication is that *just* discrimination in rates may be tolerated.

Whether a particular classification among ratepayers is "unreasonable" or "unjust" is a question on which this court has no more expertise than the P.U.C. or the General Assembly. Indeed we probably have less. Such questions are at bottom fact issues, or at best mixed law-fact issues. They involve social policy determinations rather than legal decisionmaking.

The P.U.C. as a specialized, quasi-legislative agency is a particularly appropriate body to effectuate -- at least in the first instance -- the legislative factfinding and policymaking function incident to setting rates. It possesses unique expertise and the capacity to analyze the complex technical, economic, and social information necessary to set public utility rates intelligently and fairly. The constitution, as well as the statute governing P.U.C. rate regulation, wisely leave to the P.U.C. the initial authority to [\*\*\*14] determine policy. *Colo. Const., Art. XXV; Section 40-3-101, C.R.S. 1973*.

Moreover, *section 40-3-106(1)* expressly declares that, "[t]he commission has the power to determine any question of fact arising under this section." Generally, throughout our law, questions of what is *reasonable* or *unreasonable* are questions of fact. *Pomeroy v. Waitkus*, 183 Colo. 344, 517 P.2d 396 (1973) (negligence); *Middlesex Safe Deposit & Trust Co. v. Jacobs*, 87 Colo. 445, 290 P. 784 (1930) (reasonable time); *Colo. Postal Telegraph Co. v. City of Colo. Springs*, 61 Colo. 560, 158 [\*63] P. 816 (1916) (reasonableness of fees for inspection); *Farrier v. Colo. Springs Rapid Transit Ry. Co.*, 42 Colo. 331, 95 P. 294 (1908) (negligence). Whether a particular classification of ratepayers is reasonable or not is essentially a fact question for the P.U.C. Appellate courts are, and ought to be, extremely reluctant to overrule findings of fact so long as they are based on evidence.

To summarize, it seems clear that the constitutional framers recognized that the factfinding and policy choices involved in utility ratemaking require highly concentrated analysis of complex, detailed [\*\*\*15] factual and statistical information. Thus the constitution wisely left the initial policy aspects of ratemaking to the P.U.C. Of course, since the General Assembly is elected to represent the people in declaring the state's

overall policy, the constitution recognized that the General Assembly may, by statute, overrule any policy adopted by the P.U.C. In my view the majority opinion has invaded this legislative function by, in effect, holding that the rate classification plan under attack creates an "unreasonable difference as to rates" or constitutes an "unjust discrimination" and therefore amounts to a "preference" forbidden by *section 40-3-106(1)*. While the same result might well be reached by the General Assembly if it were to review the P.U.C.'s policy, that result is certainly not so clear that this Court, as a matter of law, should decide that the P.U.C. has created a "preference."

Although there is apparently no authority squarely in point, some light may be shed on the intent of the 1913 General Assembly in choosing the word "preference." In 1889, this Court decided *Bayles v. Kansas Pac. Ry. Co.*, 13 Colo. 181, 22 P. 341 (1889). That case dealt with the term "preference" [\*\*\*16] in the ratemaking context. It was there asserted to be unlawful for a railroad to grant a particular shipper special freight rates lower than those generally charged. The issue was whether that practice, on its face, constituted a "preference" as the trial court had held, or whether the trial court had a duty to consider all the facts and circumstances which might render the discrimination in rates reasonable in the particular situation and therefore not a preference.

While acknowledging that the railroad clearly intended to give the appellant a "special rate," the Court noted that there had been no showing that others who brought themselves within the same class of shippers by shipping under "like circumstances and conditions" would not have been granted the same special rate.

[\*\*501] Holding that there was no "unjust discrimination," and therefore that no "preference" had been granted, this Court declared:

"It is a well-settled elementary principle of the law of common carriers that mere inequality in charges does not amount to *unjust discrimination*. The requirement of the law is that the charge made shall be *reasonable*. A claim against a common carrier cannot [\*\*\*17] be predicated upon the bare fact that the amount paid by one is greater than the amount [\*64] paid by another. At common law the question is whether, under all the circumstances, the charge is *reasonable*. Complete uniformity in charges is not obligatory. This principle prevails in all states, except where it has been modified by legislative enactment. In the administration of the law the principle itself has never been modified, but the

courts have declared in many cases that there *must be no unjust discrimination*. This, too, has come to be an elementary principle. Charges, therefore, must not only be *reasonable, but equal, when the circumstances and conditions are the same*. Privileges tending to give a shipper a monopoly, which may injuriously affect those engaged in like pursuit, are declared to be *unjust*. Contracts which tend to create such *preferences* are held to be void as against public policy." [13 Colo. at 186-87, 22 P. at 342](#) (emphasis added).

The similarity between the language in the 1889 *Bayles* opinion and that in the 1913 statutory scheme adopting the term "preference" is indeed striking. Even more striking is the dissimilarity between [\*\*\*18] the meanings accorded the same words in the 1889 opinion and in today's majority opinion.

Other state courts have followed the *Bayles* reasoning that only *unreasonable* classifications of customers resulting in *unreasonable* differences in rates are forbidden as "preferences." [Columbia Gas of N.Y. v. N.Y. Elec. & Gas Corp., supra; Curtiss-Wright Corp. v. Passaic Valley Water Comm'n, 84 N.J. Super. 197, 201 A.2d 398 \(1964\)](#). Discrimination *per se* need not be eliminated; only *unjust* discrimination is prohibited.

Seen in the light of the *Bayles* rationale, the bottom line issue here is whether according a special gas rate to a class comprised of elderly poor and disabled poor customers constitutes *unreasonable* classification or *unjust* discrimination as a matter of law. Surely it does not.

Our state law is replete with instances where the legislature or quasi-legislative bodies spend state funds to benefit classes comprised of the aged, disabled or poor regardless of the cost or value of the services provided. For example, the Colorado Public Assistance Act provides payments and other social services to old age pensioners and the needy disabled. [Section \[\\*\\*\\*19\] 26-2-101, et seq., C.R.S. 1973 \(1977 Supp.\)](#). Medical and remedial care is provided at state expense for "individuals whose income and resources are insufficient to meet the costs" of such care. [Section 26-4-101, et seq., C.R.S. 1973 \(1977 Supp.\)](#). Indigent persons are assured legal representation paid for by the state in serious criminal cases. [Section 21-1-103, C.R.S. 1973](#) (and this practice was being followed to a lesser extent even before it was required by [Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 \(1963\)](#)). State university and college scholarship programs give preference to students from low-income

families. Special classes in the public school system are provided for the handicapped and special state care facilities are available for those disabled by mental [\*\*65] retardation or brain injury. Aid to dependent children of low-income parents is commonplace. A Denver resident, disabled or 65 years of age or older, is entitled to a tax rebate depending on income level and the amount paid in property taxes or rent. Similar examples of classifications based on factors like those applied here by the P.U.C. could be multiplied indefinitely.

[\*\*\*20] Nor can this Court declare that such a classification scheme is unreasonable as a matter of law. High costs of utility service [\*\*502] may effectively result in total denial of gas service to customers who cannot afford those high rates. Such a denial of natural gas service in the homes of elderly and disabled poor persons would have a serious, adverse impact on the health, safety and comfort of that class of customers to whom the P.U.C. proposes to offer special, lower rates. <sup>2</sup> The General Assembly may well conclude that these factors justify the P.U.C.'s consideration of ability to pay

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<sup>2</sup> See, e.g., *E. Lane, Elderly Exposed to Fatal Risks in Hypothermia, The Denver Post, Fr., Jan. 12, 1979, p. 31:*

"The cold temperatures of winter can pose health problems for us all, but the *elderly are most vulnerable*. For them, even a modest drop of room temperature, if prolonged, can trigger an abnormal lowering of body temperature known as accidental hypothermia.

"The *condition can be fatal* if not properly diagnosed and treated. A person whose deep body temperature falls below 95 degrees Fahrenheit is considered to be hypothermic (normal body temperature is 98.6). Such lowered body temperatures can occur even when room temperatures are between 60 and 65 degree, according to Dr. Richard Besdine, a Boston specialist in medical care of the aged.

\*\*\*\*

"In addition to such temperature control problems, there are other factors, both medical and social, which may make a person susceptible to hypothermia. According to the National Institute on Aging, these factors can include:

\*\*\*\*

"-- Low income and few savings. For those unable to afford fuel, maintaining a room temperature of 70 degrees may be a luxury that must be sacrificed in order to buy food.

"-- Substandard, inadequately insulated housing. It has been estimated that 30 percent of older Americans live in substandard housing." (Emphasis added.)

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

197 Colo. 56, \*65; 590 P.2d 495, \*\*502; 1979 Colo. LEXIS 641, \*\*\*20

in setting rates. Such a classification of consumers is not *per se* unreasonable nor arbitrary and therefore does not necessarily create a preference prohibited by the statute.

**\*\*\*21** It is not for this Court, but for the P.U.C., and ultimately the General Assembly, to decide whether to grant special utility rates to the classes of citizens here involved. Absent a showing that the classification plan adopted by the P.U.C. is unreasonable or amounts to unjust discrimination, this Court should not interfere.

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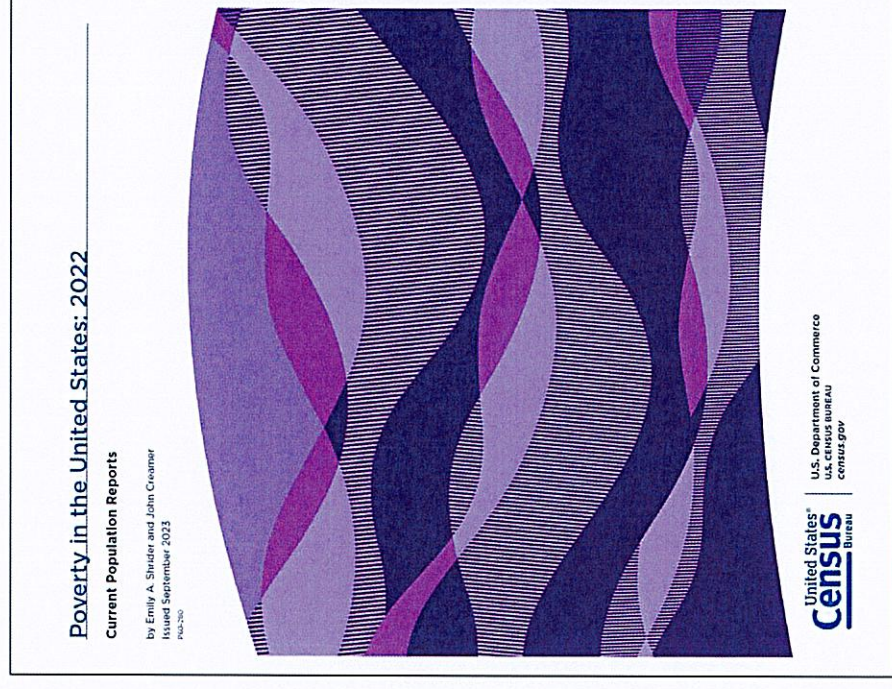
# POVERTY IN THE UNITED STATES: 2022

TUESDAY, SEPTEMBER 12, 2023 | 10:00 AM EDT



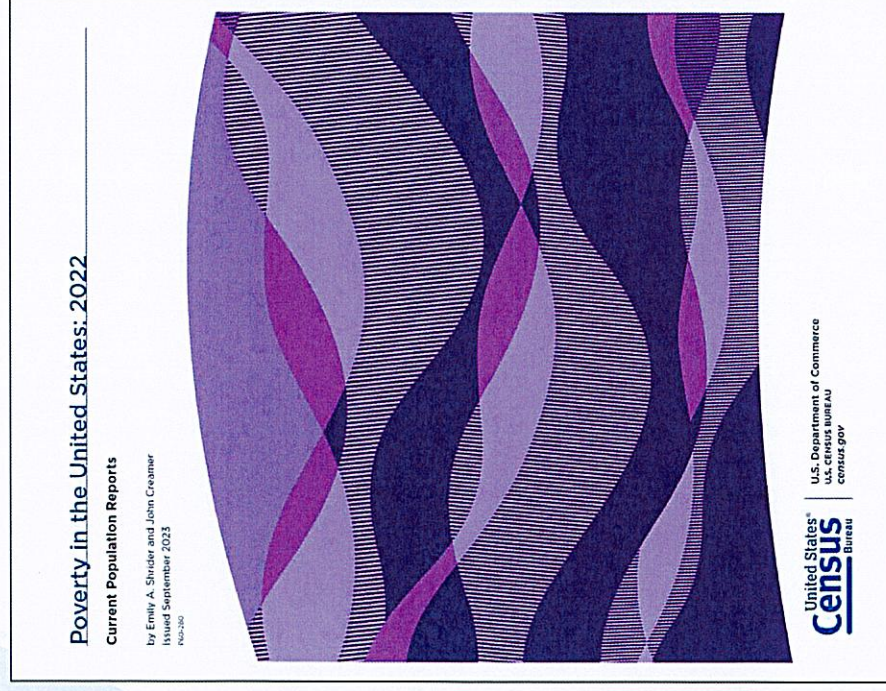
# Poverty in the United States

- Each year the Census Bureau releases two distinct indicators of economic well-being in the United States: the official poverty measure and the Supplemental Poverty Measure (SPM).



## Highlights

- The official poverty rate in 2022 was 11.5 percent, with 37.9 million people in poverty.
- The official poverty rate for Black individuals was 17.1 percent, the lowest on record.
- The SPM rate in 2022 was 12.4 percent, an increase of 4.6 percentage points from 2021.
- The SPM rate for children was 12.4 percent in 2022, an increase of 7.2 percentage points from 2021.
- Refundable tax credits kept 6.4 million people out of poverty, 3.2 million less than 2021.



# How the Census Bureau Measures Poverty: Official Poverty

## INCLUDES:

- Wages and earnings
- Social Security
- Unemployment
- Retirement
- Interest & dividends
- Public assistance



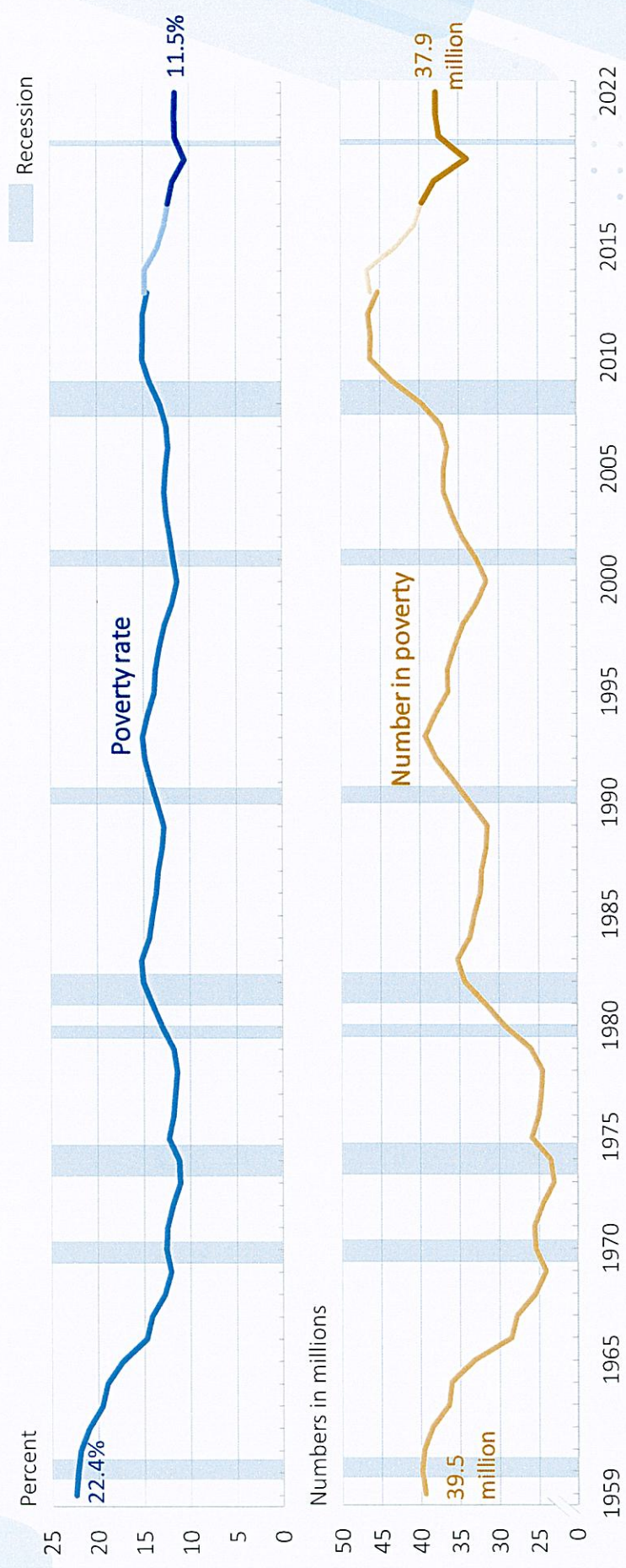
## DOES NOT INCLUDE:

- Taxes paid
- Tax credits
- Stimulus payments
- Noncash assistance (SNAP, Medicaid, etc.)

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Threshold adjusted for  
family composition

# Poverty Rate and Number in Poverty: 1959 to 2022



**United States<sup>®</sup>**  
**Census**  
Bureau

Notes: Population as of March of the following year. The data from 2017 and beyond reflect the implementation of the updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions.  
Source: U.S. Census Bureau, Current Population Survey, 1960 to 2023 Annual Social and Economic Supplements (CPS ASEC).

### Poverty Rate and Number in Poverty: 1959 to 2022

(Numbers in millions, Rates in percent)

Year	Number in Poverty	Poverty Rate	Year	Number in Poverty	Poverty Rate
1959	39.5	22.4	1989	31.5	12.8
1960	39.9	22.2	1990	33.6	13.5
1961	39.6	21.9	1991 <sup>13</sup>	35.7	14.2
1962	38.6	21.0	1992 <sup>12</sup>	38.0	14.8
1963	36.4	19.5	1993 <sup>11</sup>	39.3	15.1
1964	35.1	19.0	1994 <sup>10</sup>	38.1	14.5
1965	33.2	17.3	1995 <sup>9</sup>	36.4	13.8
1966	28.5	14.7	1996	36.5	13.7
1967 <sup>22</sup>	27.8	14.2	1997	35.6	13.3
1968	25.4	12.8	1998	34.5	12.7
1969	24.1	12.1	1999 <sup>8</sup>	32.8	11.9
1970	25.4	12.6	2000 <sup>7</sup>	31.6	11.3
1971 <sup>21</sup>	25.6	12.5	2001	32.9	11.7
1972 <sup>20</sup>	24.5	11.9	2002	34.6	12.1
1973	23.0	11.1	2003	35.9	12.5
1974 <sup>19</sup>	23.4	11.2	2004 <sup>6</sup>	37.0	12.7
1975	25.9	12.3	2005	37.0	12.6
1976	25.0	11.8	2006	36.5	12.3
1977	24.7	11.6	2007	37.3	12.5
1978	24.5	11.4	2008	39.8	13.2
1979 <sup>18</sup>	26.1	11.7	2009	43.6	14.3
1980	29.3	13.0	2010 <sup>5</sup>	46.3	15.1
1981 <sup>17</sup>	31.8	14.0	2011	46.2	15.0
1982	34.4	15.0	2012	46.5	15.0
1983	35.3	15.2	2013 <sup>4</sup>	45.3	14.5
1984 <sup>16</sup>	33.7	14.4	2013 <sup>3</sup>	46.3	14.8
1985 <sup>15</sup>	33.1	14.0	2014	46.7	14.8
1986	32.4	13.6	2015	43.1	13.5
1987 <sup>14</sup>	32.2	13.4	2016	40.6	12.7
1988 <sup>14</sup>	31.7	13.0	2017	39.7	12.3

For footnotes, see last slide of Poverty section.  
 Source: U.S. Census Bureau, Current Population Survey, 1960 to 2023 Annual Social and Economic Supplements (CPS ASEC).  
 For information on confidentiality protection, sampling error, nonsampling error, and definitions, see <www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf>.

### Recessions

Peak month	Year	Trough month	Year
November	1948	October	1949
July	1953	May	1954
August	1957	April	1958
April	1960	February	1961
December	1969	November	1970
November	1973	March	1975
January	1980	July	1980
July	1981	November	1982
July	1990	March	1991
March	2001	November	2001
December	2007	June	2009
February	2020	April	2020

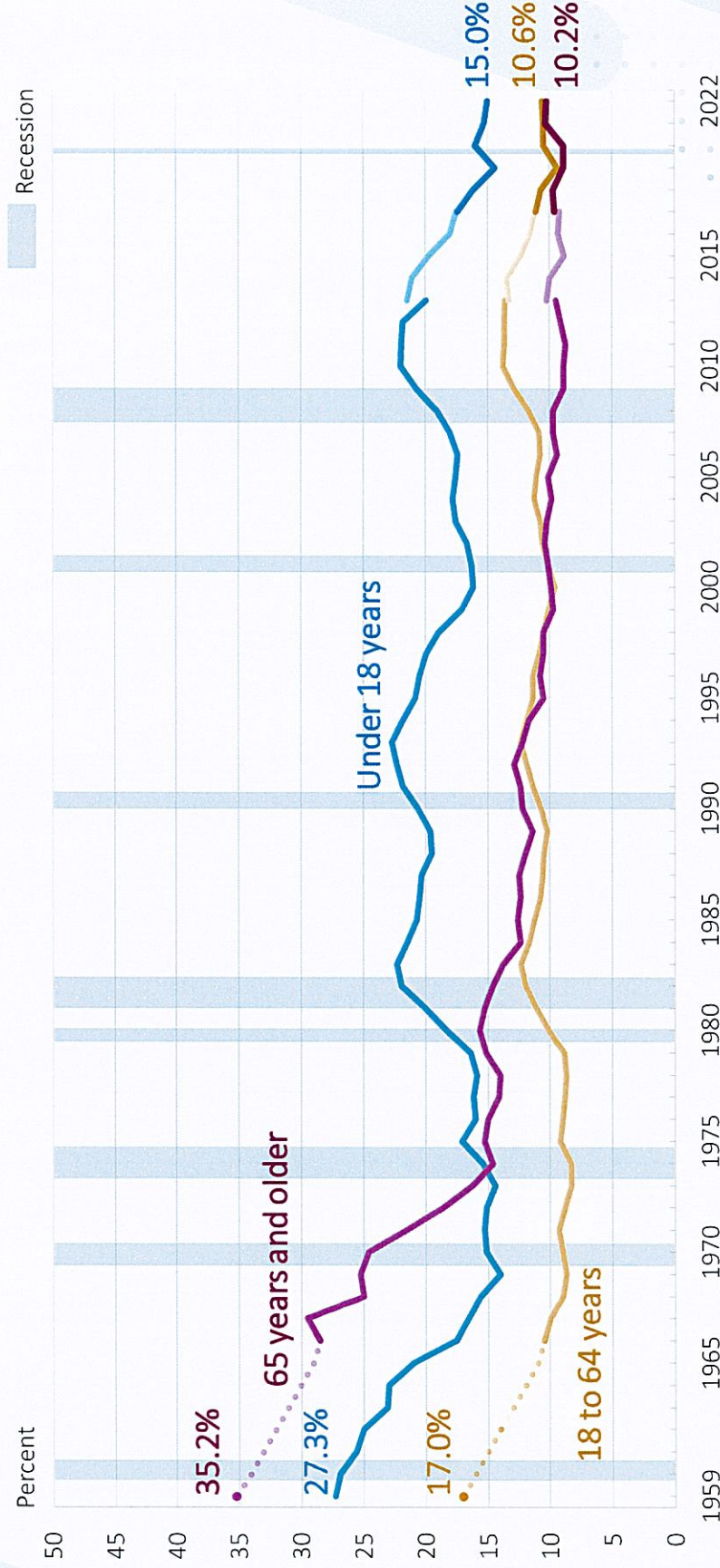
Source: National Bureau of Economic Research <www.nber.org/research/data/us-business-cycle-expansions-and-contractions>.

### Weighted Average Poverty Thresholds in 2022

Size of family unit	Threshold
One person (unrelated individual)	14,880
Under 65 years	15,230
65 years and older	14,040
Two people	18,900
Householder under 65 years	19,680
Householder 65 years and older	17,710
Three people	23,280
Four people	29,950
Five people	35,510
Six people	40,160
Seven people	45,680
Eight people	51,010
Nine people or more	60,300

Source: U.S. Census Bureau, Current Population Survey, 2023 Annual Economic Supplement.

# Poverty rates by Age: 1959 to 2022



Notes: Population as of March of the following year. The data from 2017 and beyond reflect the implementation of the updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions. Data for people aged 18 to 64 and 65 and older are not available from 1960 to 1965.

Source: U.S. Census Bureau, Current Population Survey, 1960 to 2023 Annual Social and Economic Supplements (CPS ASEC).

### Poverty Rates by Age: 1959 to 2022

(Percent)

Year	Under age 18	Aged 18 to 64	Aged 65 and older	Year	Under age 18	Aged 18 to 64	Aged 65 and older	Year	Under age 18	Aged 18 to 64	Aged 65 and older
1959	27.3	17.0	35.2	1989	19.6	10.2	11.4	2017 <sup>2</sup>	17.4	11.1	9.6
1960	26.9	N	N	1990	20.6	10.7	12.2	2018	16.2	10.7	9.7
1961	25.6	N	N	1991 <sup>13</sup>	21.8	11.4	12.4	2019	14.4	9.4	8.9
1962	25.0	N	N	1992 <sup>12</sup>	22.3	11.9	12.9	2020 <sup>1</sup>	16.0	10.5	8.9
1963	23.1	N	N	1993 <sup>11</sup>	22.7	12.4	12.2	2021	15.3	10.5	10.3
1964	23.0	N	N	1994 <sup>10</sup>	21.8	11.9	11.7	2022	15.0	10.6	10.2
1965	21.0	N	N	1995 <sup>9</sup>	20.8	11.4	10.5				
1966	17.6	10.5	28.5	1996	20.5	11.4	10.8				
1967 <sup>22</sup>	16.6	10.0	29.5	1997	19.9	10.9	10.5				
1968	15.6	9.0	25.0	1998	18.9	10.5	10.5				
1969	14.0	8.7	25.3	1999 <sup>8</sup>	17.1	10.1	10.1				
1970	15.1	9.0	24.6	2000 <sup>7</sup>	16.2	9.6	9.9				
1971 <sup>21</sup>	15.3	9.3	21.6	2001	16.3	10.1	10.1				
1972 <sup>20</sup>	15.1	8.8	18.6	2002	16.7	10.6	10.4				
1973	14.4	8.3	16.3	2003	17.6	10.8	10.2				
1974 <sup>19</sup>	15.4	8.3	14.6	2004 <sup>6</sup>	17.8	11.3	9.8				
1975	17.1	9.2	15.3	2005	17.6	11.1	10.1				
1976	16.0	9.0	15.0	2006	17.4	10.8	9.4				
1977	16.2	8.8	14.1	2007	18.0	10.9	9.7				
1978	15.9	8.7	14.0	2008	19.0	11.7	9.7				
1979 <sup>18</sup>	16.4	8.9	15.2	2009	20.7	12.9	8.9				
1980	18.3	10.1	15.7	2010 <sup>5</sup>	22.0	13.8	8.9				
1981 <sup>17</sup>	20.0	11.1	15.3	2011	21.9	13.7	8.7				
1982	21.9	12.0	14.6	2012	21.8	13.7	9.1				
1983	22.3	12.4	13.8	2013 <sup>4</sup>	19.9	13.6	9.5				
1984 <sup>16</sup>	21.5	11.7	12.4	2013 <sup>3</sup>	21.5	13.3	10.2				
1985 <sup>15</sup>	20.7	11.3	12.6	2014	21.1	13.5	10.0				
1986	20.5	10.8	12.4	2015	19.7	12.4	8.8				
1987 <sup>14</sup>	20.3	10.6	12.5	2016	18.0	11.6	9.3				
1988 <sup>14</sup>	19.5	10.5	12.0	2017	17.5	11.2	9.2				

### Recessions

Peak month	Year	Trough month	Year
November	1948	October	1949
July	1953	May	1954
August	1957	April	1958
April	1960	February	1961
December	1969	November	1970
November	1973	March	1975
January	1980	July	1980
July	1981	November	1982
July	1990	March	1991
March	2001	November	2001
December	2007	June	2009
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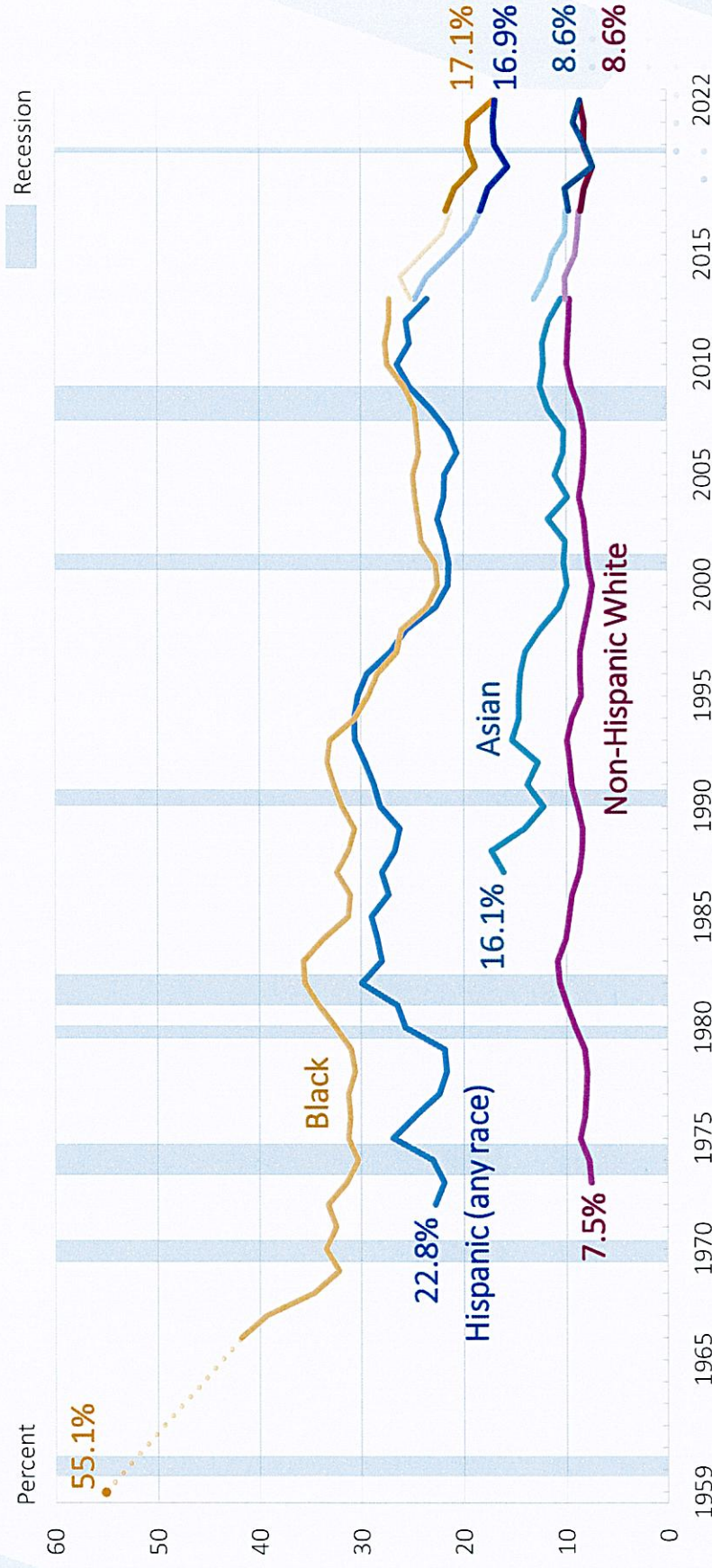
Source: National Bureau of Economic Research  
[www.nber.org/research/data/us-business-cycle-expansions-and-contractions](http://www.nber.org/research/data/us-business-cycle-expansions-and-contractions).

N Not available.

Footnotes available on last slide of Poverty section.

Source: U.S. Census Bureau, Current Population Survey, 1960 to 2023 Annual Social and Economic Supplements (CPS ASEC). More information on confidentiality protection, sampling error, nonsampling error, and definitions is available at [www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf](http://www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf).

# Poverty Rates by Race and Hispanic Origin: 1959 to 2022



Notes: Population as of March of the following year. The data from 2017 and beyond reflect the implementation of the updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions. Data for Black individuals is not available from 1960 to 1965. Source: U.S. Census Bureau, Current Population Survey, 1960 to 2023 Annual Social and Economic Supplements (CPS ASEC).

### Poverty Rates by Race and Hispanic Origin: 1959 to 2022

(Percent)

Year	All races	White alone, not Hispanic <sup>23</sup>	White, not Hispanic <sup>24</sup>	Black alone <sup>25</sup>	Black <sup>24</sup>	Asian alone <sup>26</sup>	Asian and Pacific Islander <sup>24</sup>	Hispanic (any race) <sup>25</sup>
1959	22.4	N	N	N	55.1	N	N	N
1960	22.2	N	N	N	N	N	N	N
1961	21.9	N	N	N	N	N	N	N
1962	21.0	N	N	N	N	N	N	N
1963	19.5	N	N	N	N	N	N	N
1964	19.0	N	N	N	N	N	N	N
1965 <sup>27</sup>	17.3	N	N	N	N	N	N	N
1966	14.7	N	N	N	41.8	N	N	N
1967	14.2	N	N	N	39.3	N	N	N
1968	12.8	N	N	N	34.7	N	N	N
1969	12.1	N	N	N	32.2	N	N	N
1970	12.6	N	N	N	33.5	N	N	N
1971 <sup>21</sup>	12.5	N	N	N	32.5	N	N	N
1972 <sup>20</sup>	11.9	N	N	N	33.3	N	N	22.8
1973	11.1	N	7.5	N	31.4	N	N	21.9
1974 <sup>19</sup>	11.2	N	7.7	N	30.3	N	N	23.0
1975	12.3	N	8.6	N	31.3	N	N	26.9
1976	11.8	N	8.1	N	31.1	N	N	24.7
1977	11.6	N	8.0	N	31.3	N	N	22.4
1978	11.4	N	7.9	N	30.6	N	N	21.6
1979 <sup>18</sup>	11.7	N	8.1	N	31.0	N	N	21.8
1980	13.0	N	9.1	N	32.5	N	N	25.7
1981 <sup>17</sup>	14.0	N	9.9	N	34.2	N	N	26.5
1982	15.0	N	10.6	N	35.6	N	N	29.9
1983	15.2	N	10.8	N	35.7	N	N	28.0
1984 <sup>16</sup>	14.4	N	10.0	N	33.8	N	N	28.4
1985 <sup>15</sup>	14.0	N	9.7	N	31.3	N	N	29.0
1986	13.6	N	9.4	N	31.1	N	N	27.3
1987 <sup>14</sup>	13.4	N	8.7	N	32.4	N	16.1	28.0
1988 <sup>14</sup>	13.0	N	8.4	N	31.3	N	17.3	26.7
1989	12.8	N	8.3	N	30.7	N	14.1	26.2
1990	13.5	N	8.8	N	31.9	N	12.2	28.1
1991 <sup>13</sup>	14.2	N	9.4	N	32.7	N	13.8	28.7
1992 <sup>12</sup>	14.8	N	9.6	N	33.4	N	12.7	29.6
1993 <sup>11</sup>	15.1	N	9.9	N	33.1	N	15.3	30.6
1994 <sup>10</sup>	14.5	N	9.4	N	30.6	N	14.6	30.7
1995 <sup>9</sup>	13.8	N	8.5	N	29.3	N	14.6	30.3
1996	13.7	N	8.6	N	28.4	N	14.5	29.4
1997	13.3	N	8.6	N	26.5	N	14.0	27.1
1998	12.7	N	8.2	N	26.1	N	12.5	25.6
1999 <sup>8</sup>	11.9	N	7.7	N	23.6	N	10.7	22.7
2000 <sup>7</sup>	11.3	N	7.4	N	22.5	N	9.9	21.5
2001	11.7	N	7.8	N	22.7	N	10.2	21.4
2002	12.1	8.0	N	24.1	N	10.1	N	21.8
2003	12.5	8.2	N	24.4	N	11.8	N	22.5
2004 <sup>6</sup>	12.7	8.7	N	24.7	N	9.8	N	21.9
2005	12.6	8.3	N	24.9	N	11.1	N	21.8
2006	12.3	8.2	N	24.3	N	10.3	N	20.6
2007	12.5	8.2	N	24.5	N	10.2	N	21.5
2008	13.2	8.6	N	24.7	N	11.8	N	23.2
2009	14.3	9.4	N	25.8	N	12.5	N	25.3
2010 <sup>5</sup>	15.1	9.9	N	27.4	N	12.2	N	26.5
2011	15.0	9.8	N	27.6	N	12.3	N	25.3
2012	15.0	9.7	N	27.2	N	11.7	N	25.6
2013 <sup>4</sup>	14.5	9.6	N	27.2	N	10.5	N	23.5
2013 <sup>3</sup>	14.8	10.0	N	25.2	N	13.1	N	24.7
2014	14.8	10.1	N	26.2	N	12.0	N	23.6
2015	13.5	9.1	N	24.1	N	11.4	N	21.4
2016	12.7	8.8	N	22.0	N	10.1	N	19.4
2017	12.3	8.7	N	21.2	N	10.0	N	18.3
2017 <sup>2</sup>	12.3	8.5	N	21.7	N	9.7	N	18.3
2018	11.8	8.1	N	20.8	N	10.1	N	17.6
2019	10.5	7.3	N	18.8	N	7.3	N	15.7
2020 <sup>1</sup>	11.5	8.2	N	19.6	N	8.1	N	17.0
2021	11.6	8.1	N	19.5	N	9.3	N	17.1
2022	11.5	8.6	N	17.1	N	8.6	N	16.9

N Not available.

Footnotes available on last slide of Poverty section.

Source: U.S. Census Bureau, Current Population Survey, 1960 to 2023 Annual Social and Economic Supplements. More information on confidentiality protection, sampling error, nonsampling error, and definitions is available at <www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf>

### Recessions

Peak month	Year	Trough month	Year
November	1948	October	1949
July	1953	May	1954
August	1957	April	1958
April	1960	February	1961
December	1969	November	1970
November	1973	March	1975
January	1980	July	1980
July	1981	November	1982
July	1990	March	1991
March	2001	November	2001
December	2007	June	2009
February	2020	April	2020

Source: National Bureau of Economic Research <www.nber.org/research/data/us-business-cycle-expansions-and-contractions>

# Historical Poverty Footnotes

N Not available.

<sup>1</sup> Implementation of 2020 Census-based population controls.

<sup>2</sup> Estimates reflect the implementation of an updated processing system and should be used to make comparisons to 2018 and subsequent years.

<sup>3</sup> The 2014 CPS ASEC included redesigned questions for income and health insurance coverage. All of the approximately 98,000 addresses were eligible to receive the redesigned set of health insurance coverage questions. The redesigned income questions were implemented to a subsample of the 98,000 addresses using a probability split panel design. Approximately 68,000 addresses were eligible to receive a set of income questions similar to those used in the 2013 CPS ASEC, and the remaining 30,000 addresses were eligible to receive the redesigned income questions. The source of these 2013 estimates is the portion of the CPS ASEC sample that received the redesigned income questions, approximately 30,000 addresses.

<sup>4</sup> The source of these 2013 estimates is the portion of the CPS ASEC sample that received the income questions consistent with the 2013 CPS ASEC, approximately 68,000 addresses.

<sup>5</sup> Implementation of 2010 Census-based population controls.

<sup>6</sup> Data have been revised to reflect a correction to the weights in the 2005 CPS ASEC.

<sup>7</sup> Implementation of a 28,000-household sample expansion.

<sup>8</sup> Implementation of 2000 Census-based population controls.

<sup>9</sup> Full implementation of 1990 Census-based sample design and metropolitan definitions, 7,000-household sample reduction, and revised editing of responses on race.

<sup>10</sup> Introduction of 1990 Census-based sample design.

<sup>11</sup> Data collection method changed from paper and pencil to computer-assisted interviewing. In addition, the 1994 CPS ASEC was revised to allow for the coding of different income amounts on selected questionnaire items. Limits either increased or decreased in the following categories: earnings limits increased to \$999,999; Social Security limits increased to \$49,999; Supplemental Security Income and public assistance limits increased to \$24,999; veterans' benefits limits increased to \$99,999; child support and alimony limits decreased to \$49,999.

<sup>12</sup> Implementation of 1990 Census-based population controls.

<sup>13</sup> Estimates are revised to correct for nine omitted weights from the original 1992 CPS ASEC. More information is available in "Money Income

of Households, Families, and Persons in the United States: 1992," P60-184.

<sup>14</sup> Estimates reflect the implementation of a new CPS ASEC processing system and are also revised to reflect corrections to the files after

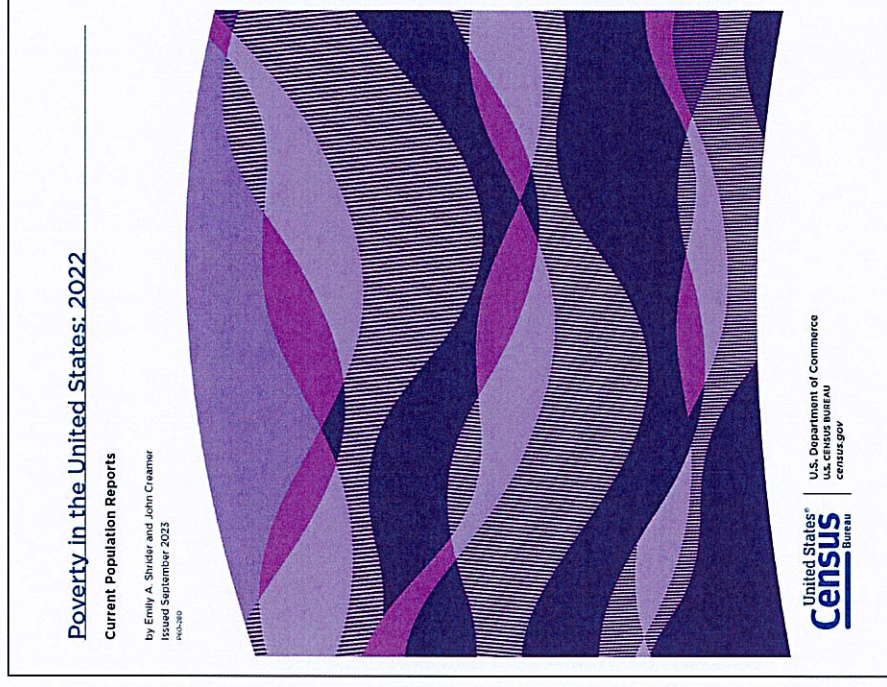
publication of the 1988 advance report "Money Income and Poverty Status in the United States: 1988," P60-166.

# Historical Poverty Footnotes – Con.

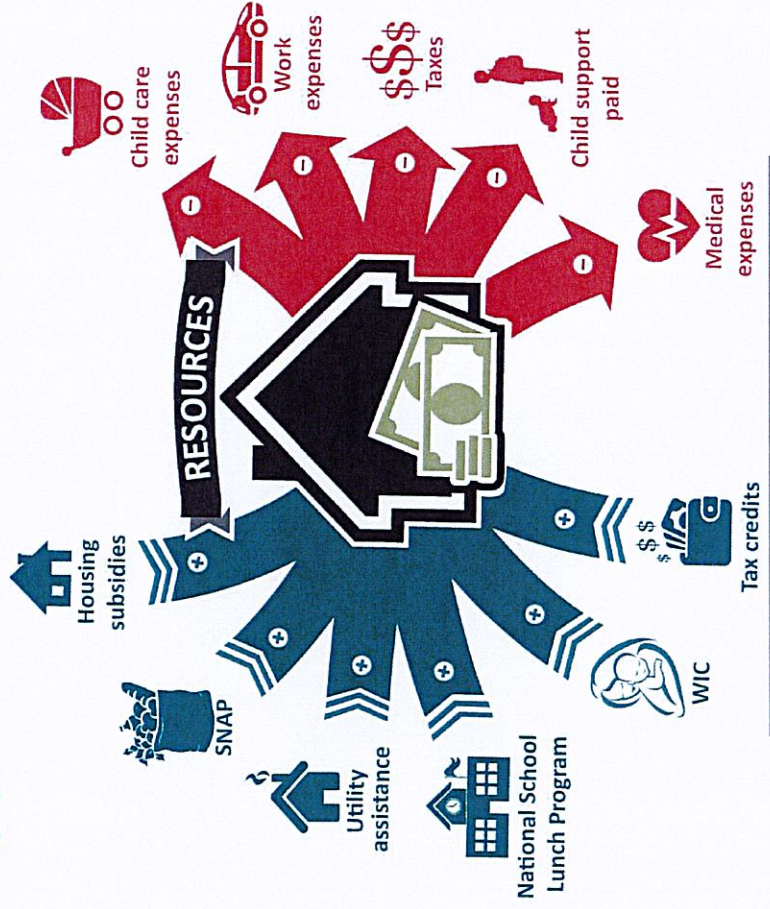
- <sup>14</sup> Estimates reflect the implementation of a new CPS ASEC processing system and are also revised to reflect corrections to the files after publication of the 1988 advance report “Money Income and Poverty Status in the United States: 1988,” P60-166.
- <sup>15</sup> Full implementation of 1980 Census-based sample design.
- <sup>16</sup> Implementation of Hispanic population weighting controls and introduction of 1980 Census-based sample design.
- <sup>17</sup> Implemented three technical changes to the poverty definition. More information is available in “Characteristics of the Population Below the Poverty Level: 1980,” P60-133.
- <sup>18</sup> Implementation of 1980 Census-based population controls. Questionnaire expanded to show 27 possible values from 51 possible sources of income.
- <sup>19</sup> Implementation of a new CPS ASEC processing system. Questionnaire expanded to ask 11 income questions.
- <sup>20</sup> Full implementation of 1970 Census-based sample design.
- <sup>21</sup> Introduction of 1970 Census-based sample design and population controls.
- <sup>22</sup> Implementation of a new CPS ASEC processing system.
- <sup>23</sup> Beginning with the 2003 CPS ASEC, respondents were allowed to choose one or more races. White alone refers to people who reported White and did not report any other race category. The use of this single-race population does not imply that it is the preferred method of presenting or analyzing the data. The Census Bureau uses a variety of approaches.
- <sup>24</sup> For the year 2001 and earlier, the CPS ASEC allowed respondents to report only one race group.
- <sup>25</sup> Black alone refers to people who reported Black and did not report any other race category.
- <sup>26</sup> Asian alone refers to people who reported Asian and did not report any other race category.
- <sup>27</sup> American Indian and Alaska Native alone refers to people who reported American Indian and Alaska Native and did not report any other race category.
- <sup>28</sup> Since Hispanic individuals may be any race, data in this report for the Hispanic population overlap with data for race groups. Of those who reported only one race, Hispanic origin was reported by 16.6 percent of White householders, 5.6 percent of Black householders, 2.9 percent of Asian householders, and 29.7 percent of American Indian and Alaska Native householders. Data users should exercise caution when interpreting aggregate results for the Hispanic population or for race groups because these populations consist of many distinct groups that differ in socio-economic characteristics, culture, and nativity. Data were first collected for Hispanic individuals in 1972 and for Asian and Pacific Islander and American Indian and Alaska Native individuals in 1987. More information is available at <[www.census.gov/programs-survey/cps.html](http://www.census.gov/programs-survey/cps.html)>.

Note: Estimates may differ from previous publications due to additional rounding implemented to protect respondent privacy.  
Source: U.S. Census Bureau, Current Population Survey, 1960 to 2023 Annual Social and Economic Supplements (CPS ASEC).

# Supplemental Poverty Measure (SPM)



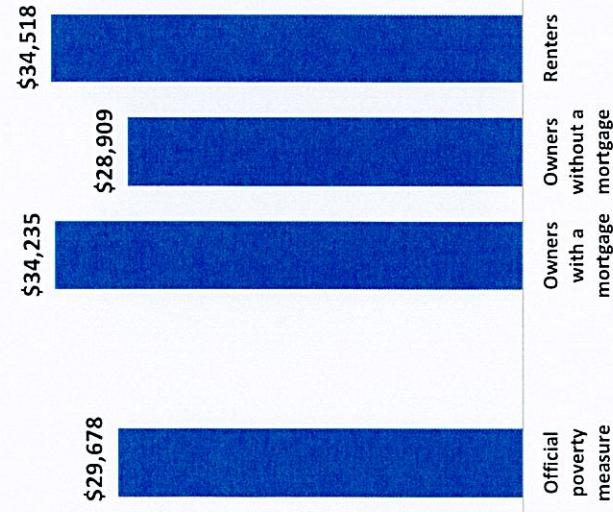
# How the Census Bureau Measures Poverty: Supplemental Poverty Measure



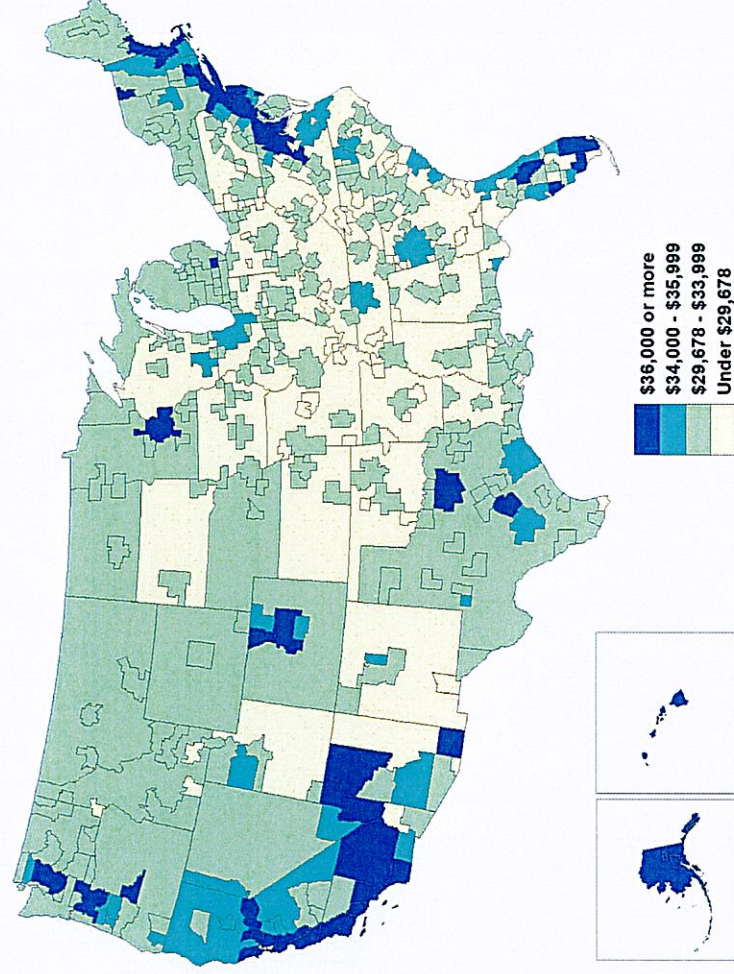
Threshold adjusted for family composition, housing tenure, and geographic variation

# Official and SPM Thresholds for Units with Two Adults and Two Children

Supplemental Poverty Measure Thresholds: 2022



Supplemental Poverty Measure Thresholds for Renters: 2022



Notes: SPM: Supplemental Poverty Measure.  
 Source: Official Poverty Thresholds, <[www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html](http://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html)>.  
 SPM Thresholds, Bureau of Labor Statistics (BLS), <<https://stats.bls.gov/pir/spmhome.htm>>. Geographic adjustments based on housing costs from the American Community Survey 2017-2021.

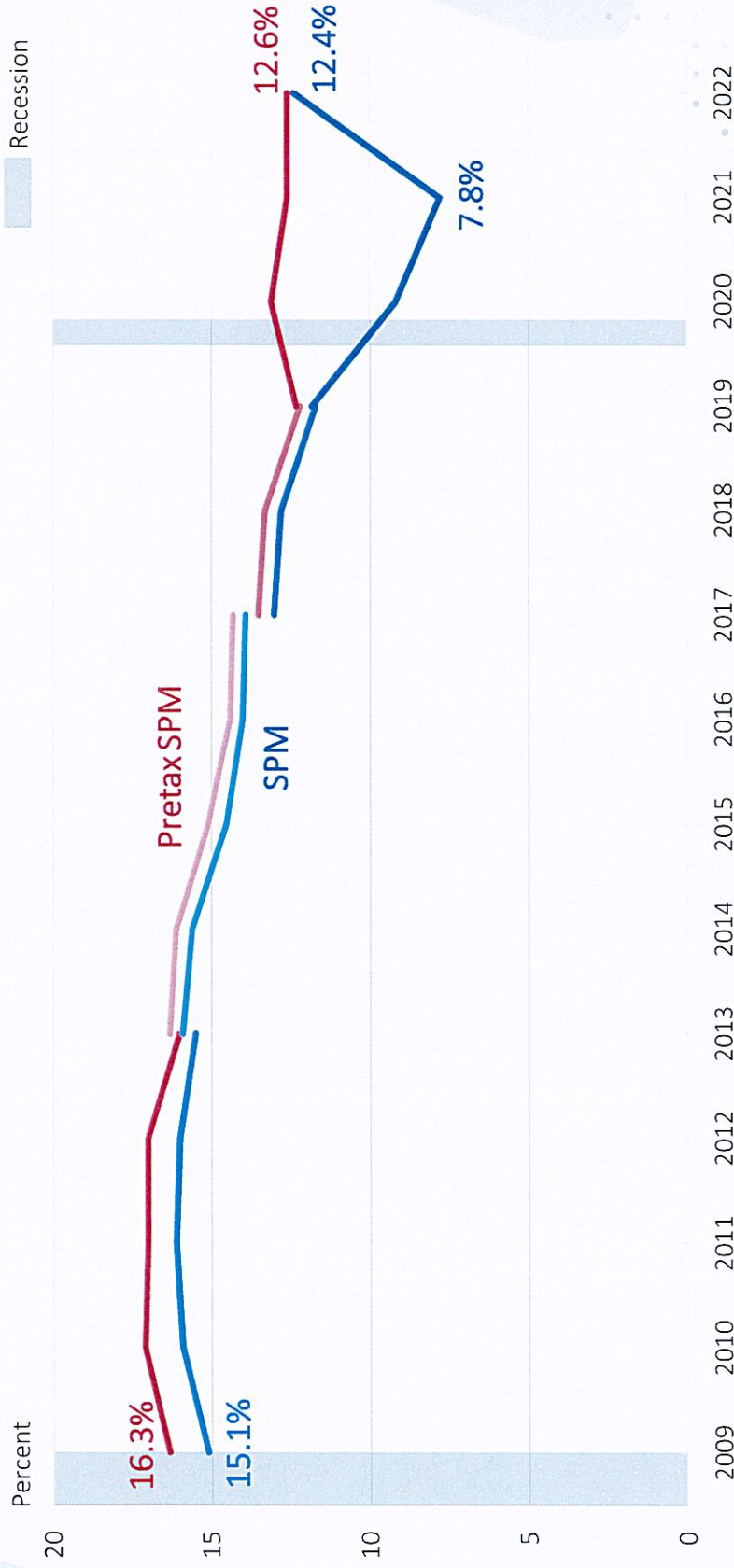
## Thresholds for Two-Adult, Two-Child SPM Units by Geography: 2022

(In nominal dollars)

Housing Tenure	2022
Homeowners with a Mortgage	34,235
Homeowners without a Mortgage	28,909
Renters	34,518

Source: Bureau of Labor Statistics (BLS), <<https://stats.bls.gov/pir/spmhome.htm>>, Geographic adjustments based on housing costs from the American Community Survey 2017-2021. Thresholds for individual geographies available at <<http://www2.census.gov/programs-surveys/demo/tables/p60/280/SPM-pov-threshold-2022.xlsx>>.

# The Impact of Taxes on SPM Poverty Rates



Notes: SPM: Supplemental Poverty Measure. Population as of March of the following year. Estimates for 2019 and beyond reflect the implementation of revised SPM methodology. The data for 2017 and beyond reflect the implementation of an updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions.  
Source: U.S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC).

## Supplemental Poverty Rate Before and After Taxes: 2009 to 2022

(Rates in percent)

Year	Pre Tax Supplemental Poverty Rate <sup>1</sup>	Supplemental Poverty Rate
2009 <sup>2</sup>	16.3	15.1
2010	17.1	15.9
2011	17.0	16.1
2012	17.0	16.0
2013 <sup>3</sup>	16.0	15.5
2013 <sup>4</sup>	16.3	15.9
2014	16.1	15.6
2015	15.1	14.5
2016	14.4	14.0
2017	14.3	13.9
2017 <sup>5</sup>	13.5	13.0
2018	13.3	12.8
2019	12.2	11.7
2019 <sup>6</sup>	12.3	11.8
2020 <sup>7</sup>	13.1	9.2
2021	12.6	7.8
2022	12.6	12.4

## Recessions

Peak month	Year	Trough month	Year
December	2007	June	2009
February	2020	April	2020

Source: National Bureau of Economic Research  
<[www.nber.org/research/data/us-business-cycle-expansions-and-contractions](http://www.nber.org/research/data/us-business-cycle-expansions-and-contractions)>.

<sup>1</sup> Pretax SPM includes all SPM resources except net of federal and state taxes and credits, payroll taxes, and temporary cash payments administered by tax agencies, like rebates or stimulus payments.

<sup>2</sup> Implementation of 2010 Census-based population controls

<sup>3</sup> The 2014 CPS ASEC included redesigned questions for income and health insurance coverage. All of the approximately 98,000 addresses were eligible to receive the redesigned set of health insurance coverage questions. The redesigned income questions were implemented to a subsample of these 98,000 addresses using a probability split panel design. Approximately 68,000 addresses were eligible to receive a set of income questions similar to those used in the 2013 CPS ASEC and the remaining 30,000 addresses were eligible to receive the redesigned income questions. The source of these 2013 estimates is the portion of the CPS ASEC sample which received the income questions consistent with the 2013 CPS ASEC, approximately 68,000 addresses.

<sup>4</sup> The source of these 2013 estimates is the portion of the CPS ASEC sample which received the redesigned income questions, approximately 30,000 addresses.

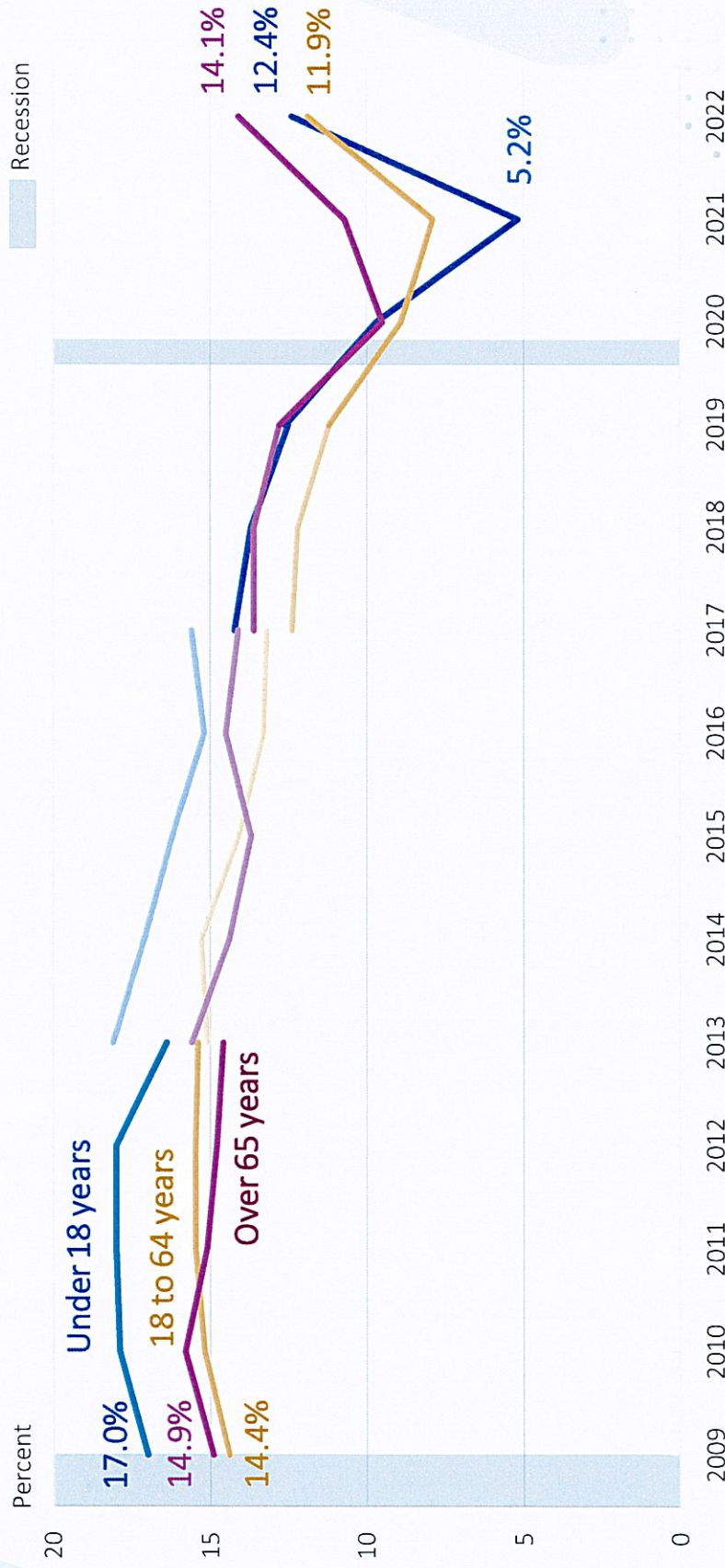
<sup>5</sup> Estimates reflect the implementation of an updated processing system and should be used to make comparisons to 2018 and subsequent years.

<sup>6</sup> Estimates for 2019 and 2020 reflect the implementation of revised SPM methodology.

<sup>7</sup> Implementation of 2020 Census-based population controls.

Source: U.S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC). More information on confidentiality protection, sampling error, nonsampling error, and definitions is available at <[www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf](http://www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf)>.

# SPM Poverty Rates by Age: 2009 to 2022



Notes: SPM: Supplemental Poverty Measure. Population as of March of the following year. Estimates for 2019 and beyond reflect the implementation of revised SPM methodology. The data for 2017 and beyond reflect the implementation of an updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions.

Source: U.S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC).

## Supplemental Poverty Rates by Age: 2009 to 2022

(Rates in percent)

Year	Under 18 years	18 to 64 years	65 years and older
2009 <sup>1</sup>	17.0	14.4	14.9
2010	17.9	15.2	15.8
2011	18.0	15.5	15.1
2012	18.0	15.5	14.8
2013 <sup>2</sup>	16.4	15.4	14.6
2013 <sup>3</sup>	18.1	15.1	15.6
2014	17.1	15.3	14.4
2015	16.2	14.1	13.7
2016	15.2	13.3	14.5
2017	15.6	13.2	14.1
2017 <sup>4</sup>	14.2	12.4	13.6
2018	13.7	12.2	13.6
2019	12.5	11.2	12.8
2019 <sup>5</sup>	12.6	11.2	12.8
2020 <sup>6</sup>	9.7	8.9	9.5
2021	5.2	7.9	10.7
2022	12.4	11.9	14.1

<sup>1</sup> Implementation of 2010 Census-based population controls.

<sup>2</sup> The 2014 CPS ASEC included redesigned questions for income and health insurance coverage. All of the approximately 98,000 addresses were eligible to receive the redesigned set of health insurance coverage questions. The redesigned income questions were implemented to a subsample of these 98,000 addresses using a probability split panel design. Approximately 68,000 addresses were eligible to receive a set of income questions similar to those used in the 2013 CPS ASEC and the remaining 30,000 addresses were eligible to receive the redesigned income questions. The source of these 2013 estimates is the portion of the CPS ASEC sample which received the income questions consistent with the 2013 CPS ASEC, approximately 68,000 addresses.

## Recessions

Peak month	Year	Trough month	Year
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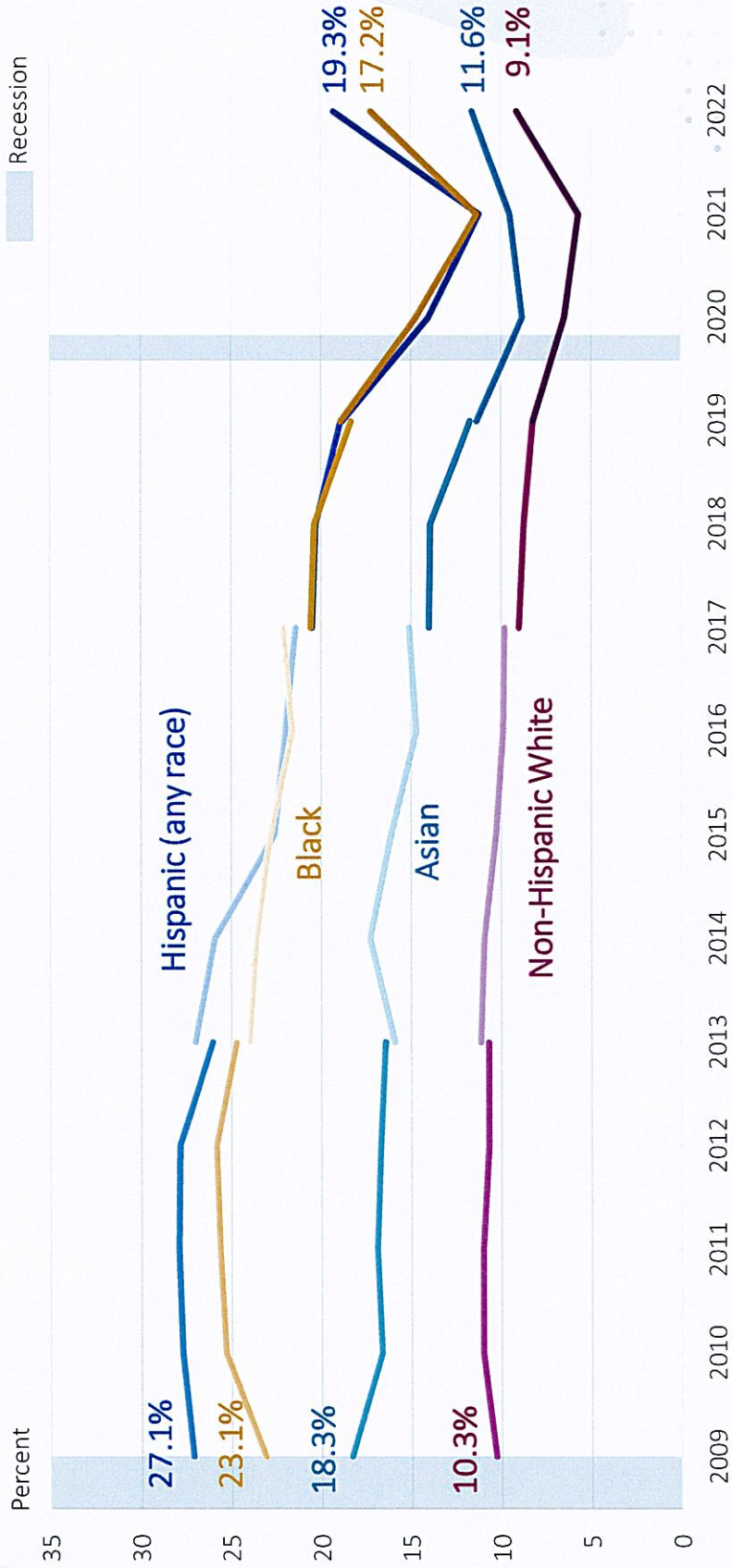
Source: National Bureau of Economic Research <[www.nber.org/research/data/us-business-cycle-expansions-and-contractions](http://www.nber.org/research/data/us-business-cycle-expansions-and-contractions)>.

<sup>3</sup> The source of these 2013 estimates is the portion of the CPS ASEC sample which received the redesigned income questions, approximately 30,000 addresses.

<sup>4</sup> Estimates reflect the implementation of an updated processing system and should be used to make comparisons to 2018 and subsequent years.

<sup>5</sup> Implementation of 2020 Census-based population controls. Source: U.S. Census Bureau. Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC). More information on confidentiality protection, sampling error, nonsampling error, and definitions is available at <[www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf](http://www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf)>.

# SPM Rates by Race and Hispanic Origin: 2009 to 2022



Notes: SPM: Supplemental Poverty Measure. Population as of March of the following year. The SPM estimates for 2019 and beyond reflect the implementation of revised SPM methodology. The data from 2017 and beyond reflect the implementation of the updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions.  
 Source: U.S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC).



## Supplemental Poverty Rates by Race and Hispanic Origin: 2009 to 2022

(in Percent)

Year	All races	White alone, not Hispanic	White, not Hispanic	Black alone	Black	Asian alone	Asian and Pacific Islander	Hispanic (any race)
2009 <sup>1</sup>	15.1	10.3	N	23.1	N	18.3	N	27.1
2010	15.9	11.0	N	25.3	N	16.6	N	27.7
2011	16.1	11.0	N	25.6	N	16.9	N	27.9
2012	16.0	10.7	N	25.8	N	16.7	N	27.8
2013 <sup>2</sup>	15.5	10.7	N	24.7	N	16.4	N	26.0
2013 <sup>3</sup>	15.9	11.1	N	24.0	N	15.9	N	27.0
2014	15.6	10.9	N	23.6	N	17.3	N	25.9
2015	14.5	10.3	N	22.8	N	16.1	N	22.6
2016	14.0	9.9	N	21.6	N	14.7	N	22.0
2017	13.9	9.8	N	22.1	N	15.1	N	21.4
2017 <sup>4</sup>	13.0	9.0	N	20.6	N	14.0	N	20.5
2018	12.8	8.7	N	20.4	N	13.9	N	20.3
2019	11.7	8.2	N	18.3	N	11.7	N	18.9
2019 <sup>5</sup>	11.8	8.2	N	18.9	N	11.3	N	18.8
2020 <sup>6</sup>	9.2	6.5	N	14.7	N	8.8	N	14.0
2021	7.8	5.7	N	11.3	N	9.5	N	11.2
2022	12.4	9.1	N	17.2	N	11.6	N	19.3

### Recessions

Peak month	Year	Trough month	Year
December	2007	June	2009
February	2020	April	2020

Source: National Bureau of Economic Research  
[www.nber.org/research/data/us-business-cycle-expansions-and-contractions](http://www.nber.org/research/data/us-business-cycle-expansions-and-contractions).

N Not available.

<sup>1</sup> Implementation of 2010 Census-based population controls

<sup>2</sup>The 2014 CPS ASEC included redesigned questions for income and health insurance coverage. All of the approximately 98,000 addresses were eligible to receive the redesigned set of health insurance coverage questions. The redesigned income questions were implemented to a subsample of these 98,000 addresses using a probability split panel design. Approximately 68,000 addresses were eligible to receive a set of income questions similar to those used in the 2013 CPS ASEC and the remaining 30,000 addresses were eligible to receive the redesigned income questions. The source of these 2013 estimates is the portion of the CPS ASEC sample which received the income questions consistent with the 2013 CPS ASEC, approximately 68,000 addresses.

<sup>3</sup>The source of these 2013 estimates is the portion of the CPS ASEC sample which received the redesigned income questions, approximately 30,000 addresses.

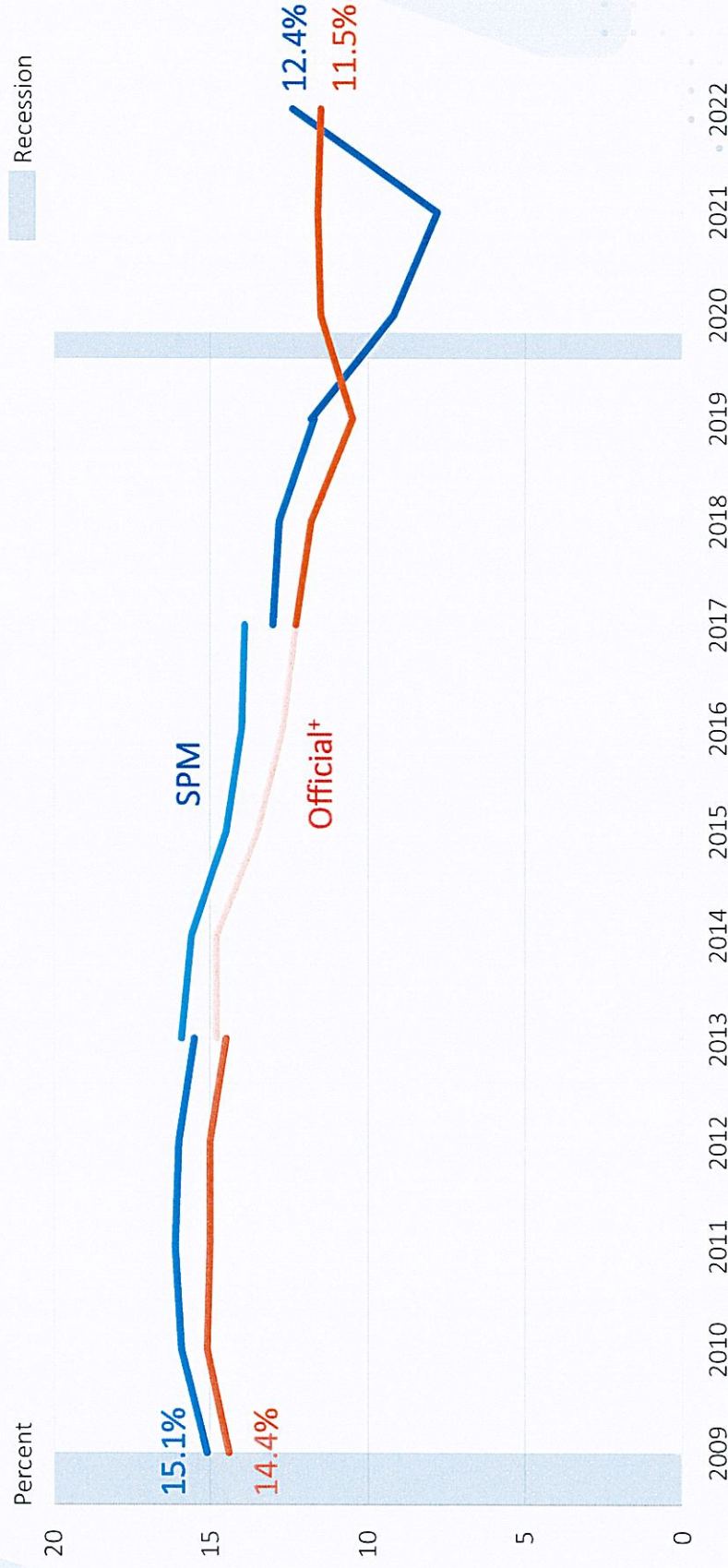
Source: U.S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC). More information on confidentiality protection, sampling error, nonsampling error, and definitions is available at [www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf](http://www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf).

<sup>4</sup> Estimates reflect the implementation of an updated processing system and should be used to make comparisons to 2018 and subsequent years.

<sup>5</sup> Estimates for 2019 and 2020 reflect the implementation of revised SPM methodology.

<sup>6</sup> Implementation of 2020 Census-based population controls

# Poverty Rates Using Official+ and the SPM: 2009 to 2022



Notes: SPM: Supplemental Poverty Measure. Population as of March of the following year. Official+ includes unrelated individuals under the age of 15. The SPM estimates for 2019 and beyond reflect the implementation of revised SPM methodology. The data for 2017 and beyond reflect the implementation of an updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions. Source: U. S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC).



# Poverty Rates Using the Official<sup>1</sup> and the SPM: 2009 to 2022

(Rates in percent)

Year	Official <sup>1</sup>	Supplemental Poverty Rate
2009 <sup>1</sup>	14.4	15.1
2010	15.1	15.9
2011	15.0	16.1
2012	15.0	16.0
2013 <sup>2</sup>	14.5	15.5
2013 <sup>3</sup>	14.8	15.9
2014	14.8	15.6
2015	13.5	14.5
2016	12.7	14.0
2017 <sup>4</sup>	12.3	13.9
2017	12.3	13.0
2018	11.8	12.8
2019	10.5	11.7
2019 <sup>5</sup>	10.5	11.8
2020 <sup>6</sup>	11.5	9.2
2021	11.6	7.8
2022	11.5	12.4

## Recessions

Peak month	Year	Trough month	Year
December	2007	June	2009
February	2020	April	2020

Source: National Bureau of Economic Research <[www.nber.org/research/data/us-business-cycle-expansions-and-contractions](http://www.nber.org/research/data/us-business-cycle-expansions-and-contractions)>.

<sup>1</sup>Includes unrelated individuals under age 15.

<sup>2</sup>Implementation of 2010 Census-based population controls.

<sup>3</sup>The 2014 CPS ASEC included redesigned questions for income and health insurance coverage. All of the approximately 98,000 addresses were eligible to receive the redesigned set of health insurance coverage questions. The redesigned income questions were implemented to a subsample of these 98,000 addresses using a probability split panel design. Approximately 68,000 addresses were eligible to receive a set of income questions similar to those used in the 2013 CPS ASEC and the remaining 30,000 addresses were eligible to receive the redesigned income questions. The source of these 2013 estimates is the portion of the CPS ASEC sample which received the income questions consistent with the 2013 CPS ASEC, approximately 68,000 addresses.

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<sup>4</sup>Estimates reflect the implementation of an updated processing system and should be used to make comparisons to 2018 and subsequent years.

<sup>5</sup>Estimates for 2019 and 2020 reflect the implementation of revised SPM methodology.

<sup>6</sup>Implementation of 2020 Census-based population controls.



# Poverty Rates for Children Using Official+ and the SPM: 2009 to 2022



Notes: SPM: Supplemental Poverty Measure. Population as of March of the following year. Official+ includes unrelated individuals under the age of 15. The SPM estimates for 2019 and beyond reflect the implementation of revised SPM methodology. The data for 2017 and beyond reflect the implementation of an updated processing system. The data for 2013 and beyond reflect the implementation of the redesigned income questions. Source: U.S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC).

# Poverty Rates for Children Using Official\* and the SPM: 2009 to 2022

(Rates in percent)

Year	Official*	Supplemental Poverty Rate
2009 <sup>1</sup>	20.7	17.0
2010	22.1	17.9
2011	21.9	18.0
2012	21.7	18.0
2013 <sup>2</sup>	19.9	16.4
2013 <sup>3</sup>	21.6	18.1
2014	21.1	17.1
2015	19.7	16.2
2016	18.0	15.2
2017	17.5	15.6
2017 <sup>4</sup>	17.4	14.2
2018	16.2	13.7
2019	14.4	12.5
2019 <sup>5</sup>	14.4	12.6
2020 <sup>6</sup>	16.0	9.7
2021	15.3	5.2
2022	14.9	12.4

\*Includes unrelated individuals under age 15.

<sup>1</sup>Implementation of 2010 Census-based population controls.

<sup>2</sup>The 2014 CPS ASEC included redesigned questions for income and health insurance coverage. All of the approximately 98,000 addresses were eligible to receive the redesigned set of health insurance coverage questions. The redesigned income questions were implemented to a subsample of these 98,000 addresses using a probability split panel design. Approximately 68,000 addresses were eligible to receive a set of income questions similar to those used in the 2013 CPS ASEC and the remaining 30,000 addresses were eligible to receive the redesigned income questions. The source of these 2013 estimates is the portion of the CPS ASEC sample which received the income questions consistent with the 2013 CPS ASEC, approximately 68,000 addresses.

Source: U.S. Census Bureau, Current Population Survey, 2010 to 2023 Annual Social and Economic Supplements (CPS ASEC). More information on confidentiality protection, sampling error, nonsampling error, and definitions is available at <[www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf](http://www2.census.gov/programs-surveys/cps/techdocs/cpsmar23.pdf)>.

## Recessions

Peak month	Year	Trough month	Year
December	2007	June	2009
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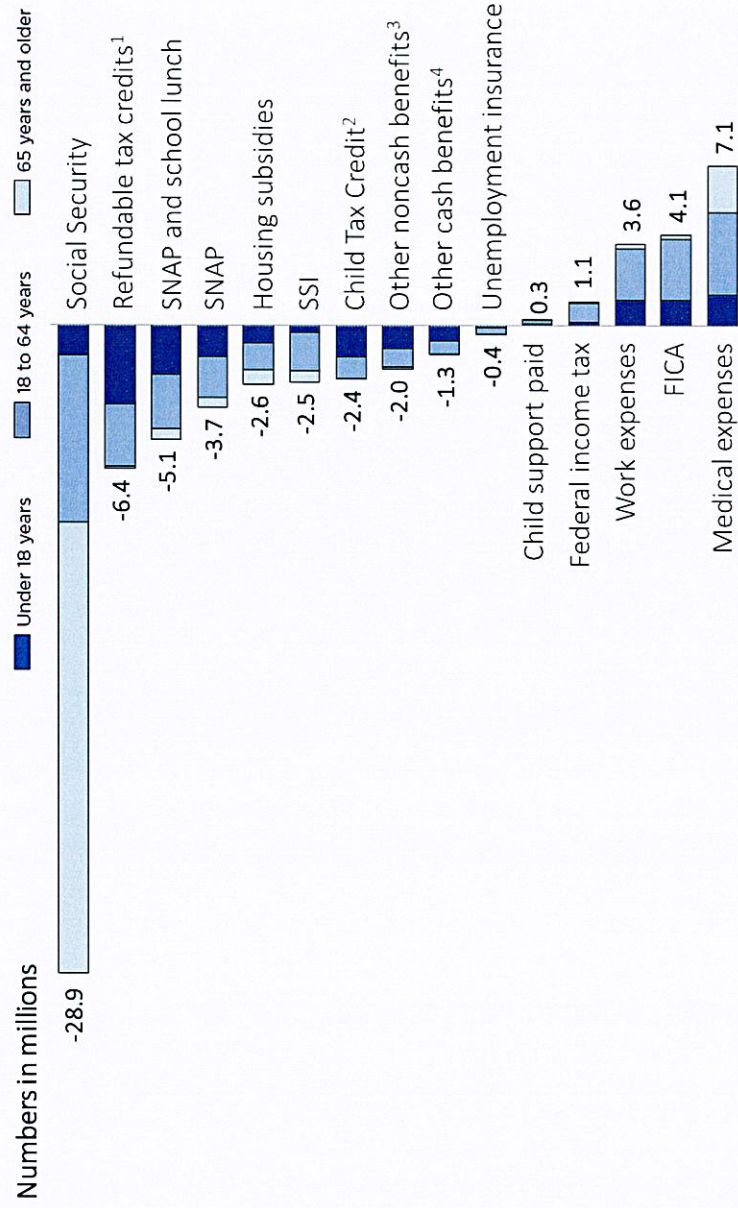
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<sup>4</sup> Estimates reflect the implementation of an updated processing system and should be used to make comparisons to 2018 and subsequent years.

<sup>5</sup> Estimates for 2019 and 2020 reflect the implementation of revised SPM methodology.

<sup>6</sup> Implementation of 2020 Census-based population controls.

# Change in Number of People in Poverty After Including Each Element: 2022



<sup>1</sup>Refundable tax credits include the Earned Income Tax Credit and the refundable portion of the Child Tax Credit.  
<sup>2</sup>Includes only the refundable portion of the Child Tax Credit.  
<sup>3</sup>Other noncash benefits include utility assistance, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and school lunch.  
 Source: U.S. Census Bureau, Current Population Survey, 2023 Annual Social and Economic Supplement (CPS ASEC).  
<sup>4</sup>Other cash benefits include workers' compensation, Temporary Assistance for Needy Families (TANF) / general assistance, and child support received.  
 Notes: Population as of March of the following year. SNAP: Supplemental Nutrition Assistance Program; SSI: Supplemental Security Income; FICA: Federal Insurance Contributions Act.

## Change in Number of People in Poverty After Including Each Element: 2022

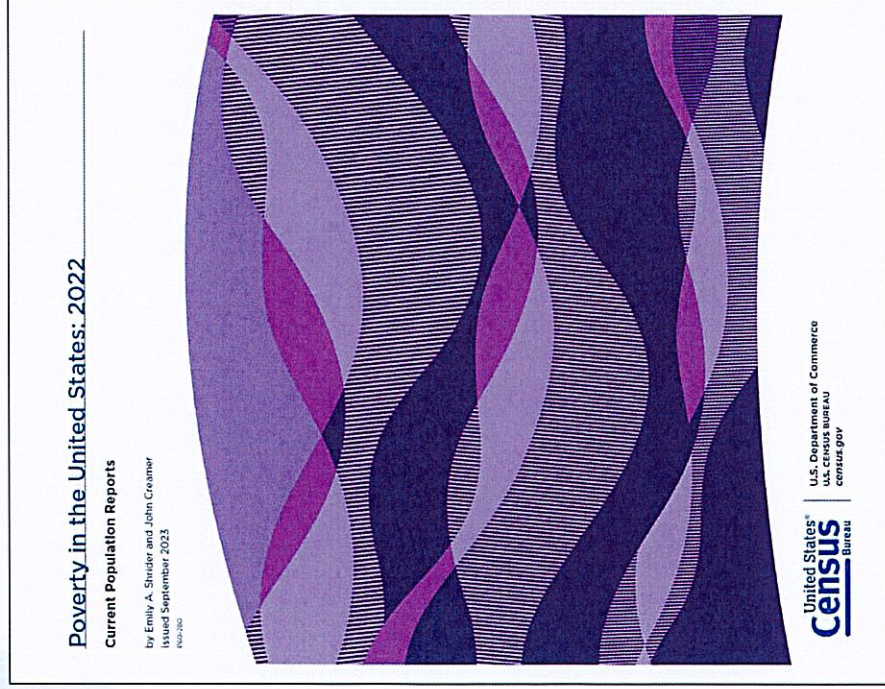
(in millions)

Program	Under 18 years	18 to 64 years	65 years and over	All Ages
Social Security	-1.353	-7.475	-20.100	-28.930
Refundable tax credits	-3.521	-2.804	-0.092	-6.417
SNAP and school lunch	-2.209	-2.422	-0.473	-5.104
SNAP	-1.407	-1.813	-0.450	-3.670
Housing subsidies	-0.791	-1.184	-0.667	-2.641
SSI	-0.291	-1.720	-0.511	-2.522
Child tax credit	-1.411	-0.963	-0.018	-2.392
Other non-cash benefits	-1.020	-0.849	-0.084	-1.952
Other cash benefits	-0.677	-0.587	-0.040	-1.304
Unemployment insurance	-0.116	-0.256	-0.032	-0.404
Child support paid	0.069	0.174	0.015	0.258
Federal income tax	0.139	0.871	0.067	1.077
Work expenses	1.130	2.316	0.195	3.641
FICA	1.143	2.707	0.212	4.062
Medical expenses	1.373	3.660	2.095	7.129

Source: U.S. Census Bureau, Current Population Survey, 2023 Annual Social and Economic Supplement (CPS ASEC). More information on confidentiality protection, sampling error, nonsampling error, and definitions is available at <https://www2.census.gov/prod/techdoc/cps/cpsmar23.pdf>.

# For More Information:

- [Poverty in the United States: 2022](#)
- [Detailed and Historical Tables](#)
- Random Samplings Blog
  - [What's the Difference Between the Supplemental and Official Poverty Measures?](#)
- America Counts: Stories Behind the Numbers
  - [Black Individuals Had Record Low Official Poverty Rate in 2022](#)
  - [Median Household Income After Taxes Fell 8.8% in 2022](#)
  - [Supplemental Poverty Measure in 2022 Higher Than Pre-Pandemic Level](#)
- Working Papers:
  - [Comparing Internal and Public Use SPM Rates after Disclosure Avoidance](#)
  - [Alternative School Lunch Valuation in the 2022 Supplemental Poverty Measure](#)



# EXHIBIT – 9

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

KATHRYN FARMER., Individually, )  
and as Representative of a Class of )  
Similarly Situated Persons and Entities, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF CHICAGO, an Illinois )  
Municipal Corporation, )  
 )  
Defendant. )

Case No. 2021 CH 04583  
Judge Allen Price Walker

**MOTION TO DISMISS COUNTS VII – XII  
OF THE SECOND AMENDED COMPLAINT**

Pursuant to Section 2-615 of the Illinois Code of Civil Procedure (“Code”), 735 ILCS 5/2-615, Defendant City of Chicago (“City”) moves to dismiss Counts VII through XII of Plaintiff’s Second Amended Complaint (“SAC”) as substantially insufficient in law. The Court has taken under advisement the City’s motion for summary judgment on Counts I through VI.

**Background**

In Counts VII and VIII, Plaintiff alleges that the City’s Water and Sewer Tax, Chapter 3-80 of the Municipal Code of Chicago (“City Code”), violates the Uniformity Clause of the Illinois Constitution, Article IX, Section 2, because it includes full or partial exemptions for certain governmental entities, not-for-profit organizations, and senior citizens (collectively, the “Exemptions”). Count VII is for assumpsit and Count VIII is for unjust enrichment.

In Counts IX and X, Plaintiff alleges that the water and sewer rates charged by the City’s Department of Water Management (“Department”) are unreasonably discriminatory, in violation

FILED DATE: 8/1/2025 4:33 AM 2021CH04583  
FILED DATE: 7/21/2022 4:50 PM 2021CH04583

of the common law, because the same Exemptions that apply to the Water and Sewer Tax apply to the water and sewer rates. Count IX is for assumpsit and Count X is for unjust enrichment.

In Counts XI and XII, Plaintiff alleges that the water and sewer rates charged by the Department are “exorbitant,” in violation of the common law because because of alleged “Excessive Cost Allocations” and “Pension Overcharges.” Count XI is for assumpsit and Count XII is for unjust enrichment.

As explained below, all counts are substantially insufficient in law and should be dismissed pursuant to Code Section 2-615.

### Discussion

#### I. Legal Standards

A motion to dismiss admits all well-pleaded facts, but it does not admit conclusions of law, nor does it admit conclusions of fact unsupported by allegations of specific fact upon which such conclusions rest. *Austin View Civic Association v. City of Palos Heights*, 85 Ill. App. 3d 89, 93 (1<sup>st</sup> Dist. 1980) (“*Austin View*”), citing *Village of Niles v. City of Chicago*, 82 Ill. App. 3d 60, 67 - 68 (1<sup>st</sup> Dist. 1980) (“*Niles P*”).

#### A. Unjust Enrichment

Counts VIII, X and XII purport to state claims for unjust enrichment. To prevail on a claim for unjust enrichment, a plaintiff must prove that the defendant “retained a benefit to the plaintiff’s detriment, and that defendant’s retention of the benefit violates fundamental principles of justice, equity, and good conscience.” *HPI Health Care Services, Inc. v. Mt. Vernon Hospital, Inc.*, 131 Ill. 2d 145, 160 (1989).

## B. Assumpsit

Counts VII, IX and XI purport to state claims for assumpsit. An action in assumpsit is a remedy to enforce an obligation arising from the receipt of money by one person that belongs to another and which, in equity and justice, should be returned. *National Malleable Castings Co. v. Iroquois Steel & Iron Co.*, 333 Ill. 588, 595 (1929). *See also C.J.S., Assumpsit*, sec. 4 (2021) (An action of assumpsit may be brought for money had and received where a party has received money that in equity and good conscience ought to be repaid to another). Courts have interpreted actions of assumpsit as embodying the same principles as claims for unjust enrichment. *See HPI Healthcare Services v. Mount Vernon* 131 Ill. 2d at 160 (unjust enrichment underlies actions of assumpsit); *see also Youmans v. Charter Township of Bloomfield*, 336 Mich. App. 161, 213, 969 N.W.2d 570, 598 (2021) (“an ‘assumpsit’ claim is modernly treated as a claim arising under ‘quasi-contractual’ principles, which represent ‘a subset of the law of unjust enrichment.’”).

## II. Counts VII and VIII—Uniformity Clause

Counts VII and VIII should be dismissed because: (1) as a matter of law, the Exemptions to the Water and Sewer Tax (“Tax”) do not violate the Uniformity Clause; and (2) even if they did, that would not mean that the City has been unjustly enriched. The remedy for an exemption held invalid under the Uniformity Clause is to strike it. Awarding monetary relief at the City’s expense is not warranted because the City was not unjustly enriched by the Exemptions.

### A. The Exemptions from the Tax do not violate the Uniformity Clause.

The Uniformity Clause provides that “[i]n any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly.” Ill. Const. 1970, Art. IX, section 2. Under the Uniformity

Clause, a classification must be based on a real and substantial difference between the people taxed and not taxed, and there must be some reasonable relationship to the object of the legislation or to public policy. *Geja's Café v. Metropolitan Pier and Exposition Authority*, 153 Ill. 2d 239, 247 (1992). Statutes are presumed constitutional and broad latitude is afforded to legislative classifications for taxing purposes. *Id.* at 248.

In response to a Uniformity Clause challenge, a taxing body need only produce a justification for its classifications. *Id.* The plaintiff then has the burden of "clearly establishing" that the classification is arbitrary or unreasonable; if any set of facts can be reasonably conceived that would sustain it, the classification must be upheld. *Empress Casino Joliet Corp. v. Giannoulas*, 231 Ill. 2d 62, 69 (2008), citing *Allegro Services, Ltd. v. Metropolitan Pier & Exhibition Authority*, 172 Ill. 2d 243, 250-251 (1996); *Geja's* at 248, citing *Illinois Gasoline Dealers Association v. City of Chicago*, 119 Ill. 2d 391, 403 (1988). In a Uniformity Clause challenge, the court is not required to have proof of perfect rationality as to each taxpayer. *Geja's* at 252. The Uniformity Clause was not designed as a straitjacket for the legislature. *Id.* It was designed to enforce minimum standards of reasonableness and fairness as between groups of taxpayers. *Id.*

Plaintiff cannot "clearly establish" that granting the Exemptions is arbitrary or unreasonable. Tax exemptions, like those at issue here, have been upheld by Illinois courts because they serve important public policies. To give just one example, the Illinois Constitution specifically allows the General Assembly to exempt from taxation property of the State, units of local government, and school districts, along with property used exclusively for school, religious and charitable purposes. Ill. Const. of 1970 Art. IX, section 6.

The Illinois Supreme Court has recognized, consistent with Article IX, sec. 6, that “[g]overnment and non-government entities the purpose of which is to serve, benefit, and improve the community in general” were sufficiently different from traditional commercial enterprises, constituting a rational basis for a tax exemption. *Kerasotes Theater Corp. v. Peoria*, 77 Ill. 2d 491, 497 (1979).

Exempting not-for-profits from tax is also common and accepted. The Illinois Appellate Court has held that tax exemptions granted for patrons of non-commercial organizations that serve their community were reasonable and did not violate the uniformity clause. *DeWoskin v. Lowe's Chicago Cinema*, 306 Ill. App. 3d 504 (1st Dist. 1999). In *DeWoskin*, the plaintiff, a movie theater patron, alleged that exemptions in the Cook County Amusement Tax Ordinance violated the uniformity clause of the Illinois Constitution. *Id.* at 510. Much like the Exemptions here, the Amusement Tax Ordinance exempts non-profit organizations such as religious, educational, and charitable organizations. *Id.* at 509. The *DeWoskin* court held that the exemptions for non-profit organizations that serve, benefit, and improve the community in general” are reasonable *as a matter of law*. *Id.* at 523.

Tax exemptions for senior citizens are also common and accepted as a matter of public policy. Numerous taxing authorities in Illinois provide partial exemptions from real property tax for seniors pursuant to 35 ILCS 200/15-172 (Senior Citizens Assessment Freeze Homestead Exemption) and 35 ILCS 200/150-170 (Senior Citizens Homestead Exemption). The Illinois Appellate Court in *Chicagoland Chamber of Commerce v. Pappas*, 378 Ill. App. 3d 334, 362 (1<sup>st</sup> Dist. 2007) noted that “the disparities engendered by the senior freeze [exemption]” from real property taxes would not be found to violate the real property tax uniformity clause, Ill. Const. 1970, art. IX, sec. 4(a). The clause “would have to be interpreted to provide sufficient

latitude for exemptions to target areas of greater need and public benefit without being burdened and shackled under section 4(a).” *Id.*

In sum, Plaintiff cannot show that the Exemptions are unreasonable or that they do not promote important public policies. Plaintiff’s allegations, therefore, fail to state a claim under the Uniformity Clause as a matter of law. Counts VII and VIII should be dismissed.

B. Plaintiff has failed to state claims for unjust enrichment and assumpsit based on the Tax Exemptions.

Plaintiff’s claim that the City has been unjustly enriched by the Exemptions depends entirely on the Exemptions being held invalid. As shown above, the Exemptions are valid and for that reason alone, Counts VII and VIII should be dismissed. Even if the Exemptions were found to be invalid, Counts VII and VIII still should be dismissed because the City has not been unjustly enriched. Exemptions do not enrich the City. Indeed, they *decrease* the amount of tax the City receives.

For the same reason, Plaintiff has failed to state a claim for assumpsit. The same principles of unjust enrichment apply under a theory of assumpsit. *HPI Health Care*, 131 Ill. 2d at 160 (“The doctrine of unjust enrichment underlies a number of legal and equitable actions and remedies, including ... *assumpsit* ...”) In *Youmans v. Charter Township of Bloomfield*, 336 Mich. App. 161, 969 N.W. 2d 570 (2021), the same Royal Oak, Michigan firm that represents Plaintiff in this case filed a class action complaint for assumpsit against Bloomfield, Michigan, challenging the township’s water and sewer rates. The Appellate Court reversed the trial court’s grant of a \$9 million refund to the plaintiff and remanded the case for entry of a judgment in the township’s favor. 336 Mich. App at 210, 233. In its opinion, the Court stressed that an assumpsit action “‘will not lie against one who has not been personally *enriched* by the transaction’ because the fundamental ‘basis’ of the action ‘is not only the loss occasioned to the

plaintiff on account of the payment of the money, but the consequent enrichment of the defendant by reason of having received the same.” 336 Mich. App. At 213, quoting *Trevor v. Fuhrmann*, 338 Mich. 219, 224-25, 61 N.W. 2d 49 (1953). (Emphasis in original).

## II. Counts IX and X —Discrimination in Rates

In Counts IX and X, Plaintiff alleges that the water and sewer rates charged by the Department unreasonably discriminate between exempt and non-exempt users and that the City has been unjustly enriched as a result. Counts IX and X should be dismissed as substantially insufficient in law because: (1) the Exemptions were found not to have produced unreasonable and discriminatory rates in *Village of Niles v. City of Chicago* 201 Ill. App. 3d 651 (1<sup>st</sup> Dist. 1990) (“*Niles II*”); (2) Plaintiff does not allege specific facts to support her conclusion that the Exemptions make the water and sewer rates she was charged unreasonable and discriminatory; and (3) the City was not unjustly enriched by the Exemptions.

### A. In *Niles II*, the Exemptions were determined not to have produced unreasonable and discriminatory rates.

The Illinois Appellate Court has previously heard and decided a challenge to the very same exemptions that are the subject of Counts VII and VIII. In *Niles I*, 74 suburban municipalities that received water from Chicago sought to enjoin Chicago from charging what they alleged were unreasonable and discriminatory rates. 82 Ill. App. 3d at 62. The Circuit Court dismissed the complaint because the City had charged the suburban municipalities the same rates for water that it charged City residents. *Id.* at 65-66. The appellate court reversed, holding that while state law bars the City from charging suburban municipalities more than it charges City residents, the fact it charged the same rates does not “establish that the rates [were] *per se* reasonable and nondiscriminatory.” *Id.* at 66.

The appellate court remanded the *Niles* case for further proceedings based on the numerous, specific facts the plaintiffs there alleged in support of their claim that they were a distinct class of consumers and that they were charged unreasonable and discriminatory rates. *Id.* One of the allegations was “that the city gives away over \$5,000,000 worth of water every year to various municipal, religious, charitable, educational, state and county facilities ....” *Id.* at 64. The plaintiffs claimed, like the Plaintiff here, that the exemptions artificially inflated their costs and therefore amounted to unreasonable discrimination in rates. *Niles II*, 201 Ill. App. 3d at 680.

On remand, “[a]fter a trial consisting of 34 days of testimony over the course of one year,” the Circuit Court found in favor of the City. *Niles II*, 201 Ill. App. 3d at 658. The Appellate Court affirmed the Circuit Court’s judgment on all claims except for one.<sup>1</sup> In its opinion, the Appellate Court again noted plaintiffs’ allegation that “[c]ertain water users in Chicago receive free water, including city-owned buildings, churches, hospitals, educational facilities, and State and county facilities” and that “all paying customers, in Chicago as well as outside, pay correspondingly higher prices when some customers pay nothing.” 201 Ill. App. 3d at 660. The Court nevertheless affirmed the judgment in favor of the City, writing:

We believe that if the rates charged to plaintiffs are not excessive, there is no unreasonable discrimination....[Plaintiffs] do assert, in conclusory fashion, that Chicago's internal policies have artificially inflated their costs....Even so, the trial court found that **plaintiffs had failed to credibly identify the costs of providing these services [to exempt customers] and failed to prove that these practices resulted in excessive and unreasonable rates charged to them.** We hold that the trial court’s findings are not against the manifest weight of the evidence.

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<sup>1</sup> The claim on which the plaintiffs prevailed on appeal concerned charges for sewer service that the plaintiff municipalities did not receive. *Id.* at 658, 681-84. That part of the *Niles II* decision does not bear on this matter.

201 Ill. App. 3d at 680 – 681. (Emphasis added.) Having failed to prove their claim that the rates were excessive and unreasonable, the plaintiffs also failed to prove unreasonable discrimination. *Niles II*, 201 Ill. App. 3d at 680. If the exemptions alone were enough to produce unreasonable and discriminatory rates, as Plaintiff argues here, the plaintiffs in *Niles* would have prevailed on their claim.

The sole allegation alleged in support of Counts IX and X is that because of the Exemptions, Plaintiff and the other non-exempt users had to pay higher rates than they otherwise would have paid. SAC ¶¶ 55, 62. Plaintiff’s complaint stands in stark contrast to the complaint in *Niles I* that the Appellate Court found stated a cause of action. Again, the complaint in *Niles* included numerous, specific factual allegation in support of the plaintiffs’ claim there that the rates they were charged unreasonable and discriminatory. *Niles I*, 82 Ill. App. 3d at 71.

After the City moved to dismiss the Plaintiff’s First Amended Complaint based on her failure to allege *any supporting* details, such as the City’s rates and the impact the Exemptions had on those rates, Plaintiff amended her Complaint. Plaintiff added allegations only about the total amount of money unpaid because of the Exemptions. SAC ¶ 54 (“Between January 1, 2012 and December 31, 2021, the monetary value of the Senior Sewer Exemption has exceeded \$110 million), citing Ex. 5 to SAC; SAC ¶ 55 (“[t]he total monetary value of all of the Exemptions for the time period from January 1, 2017 through December 31, 2021 exceeds \$250 million.”). This does not in any way support the conclusion that the City’s rates are excessive, especially when one considers that a municipal utility may charge rates that not only cover its costs but also yield a reasonable reserve, plus a reasonable return on investment. *See Niles II* at 670. Plaintiff also fails to acknowledge that the total amount of revenue paid by non-exempt customers in that same

period was over \$5.5 billion, as shown on the same exhibit that Plaintiff cites in support of her allegations (Exhibit 5).

In sum, Illinois is a fact-pleading jurisdiction. In opposing a motion for dismissal under Code Section 2-615, a plaintiff may not rely on mere conclusions of law or fact unsupported by specific factual allegations. *Anderson v. Vanden Dorpel*, 172 Ill. 2d 399, 408 (1996); *see also Austin View*, 85 Ill. App. 3d at 93 (a motion to dismiss does not admit conclusions of fact unsupported by allegations of specific fact upon which such conclusions rest), *citing Niles I*, 82 Ill. App. 3d at 67 - 68. Counts IX and X do not allege any specific facts to support a finding that the rates Plaintiff and the putative class were charged were unreasonable and discriminatory. Again, the plaintiffs in *Niles* would have prevailed on their claim if exemptions alone rendered the rates unreasonable and discriminatory. Counts IX and X should be dismissed.

B. Even if the Exemptions have the effect of subsidizing exempt users at the expense of non-exempt users, this does not mean the City has been unjustly enriched.

In Counts IX and X, Plaintiff alleges that the Exemptions have the effect of subsidizing exempt users at the expense of non-exempt users. *See* SAC ¶¶ 62, 176. Even if true, subsidizing exempt users at the expense of non-exempt users does not mean that the City has been unjustly enriched.

The following example illustrates this point:

- Assume a small town with its own department of water.
- Assume 100 residents, each of whom uses the same amount of water.
- Assume total annual costs of \$100,000.
- Assume that none of the residents are exempt.

In that case, each resident would have to pay \$1,000 a year to cover the department's costs.

If instead 20 of the residents were exempt, each of the 80 non-exempt residents would have to pay \$1,250 a year to cover the department's costs. The department, however, would still receive only a total of \$100,000. One could argue that the 20 exempt users should have paid more, and one could argue that the 80 non-exempt users should have paid less. The town, through the department, however, did not receive any more money than it should have received.

With the exemptions, the department received the same amount of money that it would have received without them (\$100,000). One might argue that the *exempt users* were unjustly enriched, but the department and town were not. *See HPI Health Care Services*, 131 Ill. 2d at 160.

Even if the City had collected excess money *overall*, this still would not support a conclusion that the City has been unjustly enriched. In *Niles II*, the Court noted that the water fund had accumulated a substantial surplus. 201 Ill. App. 3d at 668 - 669. Nevertheless, the Court held that there was no unjust enrichment:

The city is not taking the money for its own, separate use, **as the owners or shareholders of regulated utilities are entitled to do**. Instead, the money in the water fund is used to pay operating and administrative expenses as well as needed capital improvements. Money that accumulated in the fund, whether termed profit, surplus, return or reserves has been paid in by both city and suburban customers and are available for the benefit of the whole system. Therefore, Chicago is not being unjustly enriched at the plaintiffs' expense.

201 Ill. App. 3d at 670-71 (emphasis added). The same comments apply to Plaintiff's claims in this case – they do not support the conclusion that the City has been unjustly enriched. Even if the Department has *overall* collected excess revenues, that money has been deposited in the water fund, is used to pay operating and administrative expenses, as well as needed capital improvements, and is available for the benefit of the whole system. Therefore, even in that case, Chicago has not been unjustly enriched.

C. The Exemptions do not violate fundamental principles of justice, equity, and good conscience.

The City’s allowance of the Exemptions does not violate “fundamental principles of justice, equity, and good conscience,” as required to prevail on a claim for unjust enrichment. *HPI Health Care Services*, 131 Ill. 2d at 160. In *Niles II*, the Court included the following comments about the Exemptions:

A certain narrowness of vision may creep in if the courts are requested, in municipal utility rate cases, to evaluate a myriad of governmental practices that may seem, to some, as unwise exercises of governmental discretion. A broader view would take into account that many of Chicago’s amenities, including its parks, several museums, and dozens of events, are enjoyed by large numbers of nonresidents free of charge.

201 Ill. App. 3d at 681. The same comments apply with extra force to the many benefits that non-exempt *residents* of Chicago receive on a regular basis from exempt users such as governmental entities and not-for-profit organizations. Even if those benefits did not justify exempting those entities and organizations from paying full price for water and sewer service, that would not mean that the Exemptions are illegal or that the City’s allowance of them violates fundamental principles of justice, equity, and good conscience.

As we have stated previously, the points made above concerning unjust enrichment, apply equally to Plaintiff’s claim under a theory of assumpsit. In *Youmans v. Charter Township of Bloomfield*, 336 Mich. App. 161 (2021), the Court stressed that an assumpsit action ““will not lie against one who has not been personally *enriched* by the transaction”” 336 Mich. App. at 213. (emphasis in original). As we have explained in Section B, the allegations of Count IX do not support a conclusion that the City has been “*personally enriched*,” let alone unjustly enriched. For the same reasons, all of which we incorporate herein, Count IX does not state a claim for assumpsit.

The *Youmans* opinion is also consistent with the holding in *Niles II* that “if the rates charged to plaintiffs are not excessive, there is no unreasonable discrimination.” 201 Ill. App. 3d at 680. Specifically, the *Youmans* Court held: “Whether the Township would receive an unjust ‘benefit’ from retaining the disputed rate charges in this case depends on whether the water and sewer rates, viewed as a whole, were unreasonable inasmuch as they were ‘excessive,’ not on whether some aspect of the Township’s ratemaking methodology was improper.” 969 N.W. 2d at 601. *See also Brunet v. City of Rochester Hills*, 2021 WL 5750616 (Mich. App. December 2, 2021) (citing *Youmans* and affirming judgment for the defendant city in another class action filed by the same counsel, seeking refunds of water and sewer rates).<sup>2</sup>

Finally, the remedy for an invalid exemption is to strike it. *See In re R.C. a Minor*, 195 Ill. 2d 291, 309 (2001), (“An equal protection violation is remediable by equal treatment, which may be accomplished by extension of benefits to the excluded class or withdrawal of benefits from the favored class”), citing *Heckler v. Mathews*, 465 U.S. 728 (1984).<sup>3</sup> *See also Davis v. Michigan Department of Treasury*, 489 U.S. 803, 818 (1989) (In this case, appellant’s claim could be resolved either by extending the tax exemption ... or by eliminating the exemption ...). Striking the Exemptions rather than awarding monetary relief would be especially appropriate given the Appellate Court in *Niles II* found the same exemptions at issue here did not create excessive or discriminatory rates.

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<sup>2</sup> In addition to *Youmans* and *Brunet*, Plaintiff’s counsel has filed numerous similar lawsuits, with similar holdings and results: *Deerhurst Condominium Owners Association, Inc. v. City of Westland*, 2019 WL 360725 (Mich. App.); *Bohn v. City of Taylor*, 2019 WL 360730 (Mich. App.); *Shaw v. City of Dearborn*, 329 Mich. App. 640 (2019); *Kickham Hanley PLLC v. Oakland County Michigan*, 2019 WL 1965891 (Mich. App.); *Kickham Hanley PLLC v. George W. Kuhn Drainage District*, 2021 WL 137773 (Mich. App.).

<sup>3</sup> Although *R.C.* involved an equal protection claim, the Uniformity Clause is analogous. *Terry v. MPEA*, 271 Ill. App. 3d 446, 452 (1<sup>st</sup> Dist. 1995), citing *Geja’s Café v. MPEA*, 153 Ill. 2d 239, 247 (1992).

#### IV. Counts XI and XII – Exorbitant Rates

Counts XI and XII differ from Counts IX and X (discussed above) in that they include allegations that the City assigned “Excessive Cost Allocations” and “Pension Overcharges” to the water and sewer funds. Even if these allegations were true (which they are not), this still would not mean that Plaintiff and the putative class were charged excessive and unreasonable rates, or that the City has been unjustly enriched.

As Plaintiff’s allegations and exhibits make clear, the cost allocations and pension charges referenced in Counts XI and XII are established by the City Council, in its annual budget document, the appropriations ordinance. SAC ¶¶ 64 – 83, Exhibits 7, 8, 11, 13, 14. “[L]egislative enactments are presumed to be constitutional” and “reasonable doubts concerning the validity of a statute must be resolved in its favor.” *See O’Connor v. A & P Enterprises*, 81 Ill. 2d 260, 266 (1980). This rule applies equally to ordinances adopted by the City of Chicago. *See National Pride of Chicago, Inc. v. City of Chicago*, 206 Ill. App. 3d 1090, 1101 (1st Dist. 1990). A plaintiff who challenges a home rule ordinance has a “particularly heavy” burden. *See Chicago Park District v. City of Chicago*, 111 Ill. 2d 7, 14 (1986) (quoting *Walter Pecket Co. v. Regional Transportation Authority*, 81 Ill. 2d 221, 224 (1980)).

Plaintiff’s unsupported allegations of fraud (SAC ¶¶ 63, 70) are, in effect, a challenge to the City Council’s appropriations ordinance. The allegations apparently assume that City officials conspired to enrich the City’s corporate fund at the expense of the water and sewer funds, by overcharging City residents for water and sewer service, presumably to lower property taxes and other taxes that are imposed on what are in large part the same City residents. Even assuming that was all true, it still would not mean that *the City* (which includes the water and sewer departments) has been unjustly enriched.

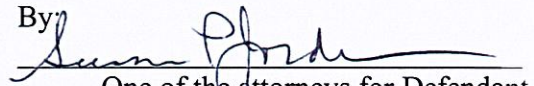
If the water and sewer funds were overcharged, that at most would provide some additional money to the corporate fund, which spends the money on valid public purposes, and decreases the amount of money that the corporate fund needs from other sources, such as the property tax. Thus, even if the alleged overcharges increased the amount of money in the corporate fund, it would not unjustly enrich the City and Plaintiff's claims of unjust enrichment fail here as well.

#### CONCLUSION

For the reasons stated herein, the City requests that the Court dismiss Counts VII through XII with prejudice, as substantially insufficient in law.

July 21, 2022

Respectfully submitted,

By:   
One of the attorneys for Defendant  
City of Chicago

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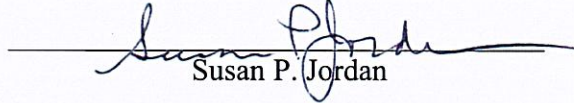
**CERTIFICATE OF SERVICE**

I, Susan P. Jordan, an attorney, certify that I caused the foregoing

**MOTION TO DISMISS COUNTS VII – XII OF THE SECOND AMENDED**

**COMPLAINT** to be served on counsel for Plaintiff by the e-filing system and electronic mail on

July 21, 2022 before 5:00 p.m.

  
Susan P. Jordan

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# EXHIBIT – 10

CITY OF CHICAGO



# 2021 BUDGET ORDINANCE



MAYOR LORI E. LIGHTFOOT

**Summary D  
Summary of Proposed 2021 Appropriations by Funds, Departments, and Object Classifications - Continued**

	Personnel Services	Contractual Services	Travel	Commodities	Equipment	Permanent Improvement and Land	Specific Items and Contingencies	Totals
<b>0310 - Motor Fuel Tax Fund</b>								
038 - Department of Assets, Information, and Services				\$11,459,934				\$11,459,934
081 - Department of Streets and Sanitation				14,892,500				14,892,500
084 - Chicago Department of Transportation								
2125 - Division of Engineering		\$900,000						\$900,000
2140 - Division of Sign Management	3,225,791	2,700,000		1,460,563				7,386,354
2145 - Division of Project Development		815,466						815,466
2150 - Division of Electrical Operations	25,645,901	783,200		3,773,775				30,202,876
2155 - Division of In-House Construction	35,971,855	3,851,029		6,188,450				46,011,334
Total - 084 - Chicago Department of Transportation	\$64,843,547	\$9,049,695		\$11,422,788			3,000,000	\$85,316,030
099 - Finance General	(14,464)							2,985,536
<b>Total - 0310 - Motor Fuel Tax Fund</b>	<b>\$64,829,083</b>	<b>\$9,049,695</b>		<b>\$37,775,222</b>			<b>\$3,000,000</b>	<b>\$114,654,000</b>
<b>0314 - Sewer Fund</b>								
003 - Office of Inspector General	\$653,183	\$52,781	\$393	\$2,092			\$1,725	\$710,174
027 - Department of Finance								
2015 - Financial Strategy and Operations		\$34,300						\$34,300
2020 - Revenue Services and Operations		1,077,000						1,077,000
Total - 027 - Department of Finance		\$1,111,300						\$1,111,300
028 - Office of City Treasurer	139,156	79,565						218,721
031 - Department of Law	745,892	90,667	1,072	2,776			805	841,212
038 - Department of Assets, Information, and Services								
2131 - Bureau of Asset Management		\$543,740		\$770,135				\$1,313,875
2140 - Bureau of Fleet Operations	2,830,801	1,040,947		917,592				4,789,340
Total - 038 - Department of Assets, Information, and Services	\$2,830,801	\$1,584,687		\$1,687,727				\$6,103,215
067 - Department of Buildings	1,230,334	704,000	8,000					1,942,334
088 - Department of Water Management								
2015 - Bureau of Engineering Services	\$2,414,268	\$724,910		\$6,500	\$28,000			\$3,173,678
2025 - Bureau of Operations and Distribution	52,130,369	5,530,861	79,390	4,098,500	370,596		13,046,202	75,255,918
Total - 088 - Department of Water Management	\$54,544,637	\$6,255,771	\$79,390	\$4,105,000	\$398,596		\$13,046,202	\$78,429,596
099 - Finance General	13,023,233	6,194,185					267,122,030	286,339,448
<b>Total - 0314 - Sewer Fund</b>	<b>\$73,167,236</b>	<b>\$16,072,956</b>	<b>\$88,855</b>	<b>\$5,797,595</b>	<b>\$398,596</b>		<b>\$280,170,762</b>	<b>\$375,696,000</b>

**Detail of Revenue Estimates for 2021 - Continued**

**0314 - Sewer Fund**

<b>Estimates at January 1, 2021</b>	
Current Assets	\$357,458,000
Current Liabilities	356,458,000
<b>Prior Year Available Resources</b>	<b>\$1,000,000</b>
<b>Estimated Revenue for 2021</b>	
Interest	\$2,000,000
Miscellaneous and Other	12,737,000
Sewer Rates	355,859,000
Capital Funding	4,100,000
<b>Total appropriable revenue</b>	<b>374,696,000</b>
<b>Total appropriable for charges and expenditures (exclusive of liabilities at January 1, 2021)</b>	<b>\$375,696,000</b>

**0346 - Library Fund**

<b>Estimates at January 1, 2021</b>	
Current Assets	\$120,721,000
Current Liabilities	110,361,000
<b>Prior Year Available Resources</b>	<b>\$10,360,000</b>
<b>Estimated Revenue for 2021</b>	
Other Revenue	\$600,000
Proceeds of Debt	114,582,000
Fine Receipts	100,000
Rental of Facilities	165,000
<b>Total appropriable revenue</b>	<b>115,447,000</b>
<b>Total appropriable for charges and expenditures (exclusive of liabilities at January 1, 2021)</b>	<b>\$125,807,000</b>

**0353 - Emergency Communication Fund**

<b>Estimates at January 1, 2021</b>	
Current Assets	\$47,627,000
Current Liabilities	22,994,000
<b>Prior Year Available Resources</b>	<b>\$24,633,000</b>
<b>Estimated Revenue for 2021</b>	
Telephone Surcharge	\$135,904,000
<b>Total appropriable revenue</b>	<b>135,904,000</b>
<b>Total appropriable for charges and expenditures (exclusive of liabilities at January 1, 2021)</b>	<b>\$160,537,000</b>

# EXHIBIT – 11

FIN.



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

October 8, 2014

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the City Comptroller, I transmit herewith, together with Aldermen Quinn, Austin, Burke, Suarez, Solis, Brookins, Cochran, O'Shea, Harris, Burnett, Mitts, Cullerton, Patrick O'Connor, Mary O'Connor, Zalewski, Reboyras, Silverstein, and Osterman, an ordinance amending Chapter 3-12 of the Municipal Code regarding the senior sewer charge exemption.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

FILED DATE: 8/1/2025 4:33 AM 2021CH04583

## ORDINANCE

### BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

**SECTION 1.** Section 3-12-050 of the Municipal Code of Chicago is hereby amended by inserting the language underscored and by deleting the language struck through, as follows:

**3-12-050 Senior citizens exempted when.**

(a) Persons aged 65 or over, residing in their own residence with separate metered water service or a separate city water assessment for that residential unit, shall be exempt from payment of the sewer service charge for their residence. This exemption shall apply regardless of whether the person is in arrears in the payment of any water or sewer charges for the subject residence.

(b) Persons aged 65 or over who reside in their own residence but do not qualify for an exemption under subsection (a) because their residence is a townhouse, condominium unit or cooperative apartment that does not have separate metered water service or a separate city water assessment for the residential unit may apply for a refund in lieu of exemption pursuant to this subsection. The amount of such refund shall be \$50.00 per qualified residence for each calendar year.

Application for a refund in lieu of exemption shall be made to the alderman of the ward in which the applicant resides no later than August 1st of the calendar year for which a refund is requested. The application shall be made on a form prescribed by the city council committee on finance, and shall include such affidavits or other reasonable proof of qualifications for a refund that the committee may require. An alderman receiving a complete application under this subsection shall introduce into the city council an ordinance authorizing the payment of a refund in lieu of exemption to the applicant. A single ordinance may authorize refunds based upon more than one application. The ordinance shall be accompanied by all applications for which refunds are sought. After introduction into the city council, all ordinances submitted pursuant to this subsection shall be referred to the city council committee on finance. If, after review, the committee on finance determines that the applicant is qualified for a refund under this subsection, the committee shall recommend to the city council that the payment of the refund be approved. If the city council approves the refund, the city comptroller shall promptly pay the applicant a refund in the amount of \$50.00.

(c) Persons residing in residences qualified for an exemption or refund under this section shall qualify for the exemption or refund ~~by virtue of their qualifications for a homestead senior exemption under Section 19.23-1 of the Revenue Act of 1939, or~~ by the submission of a copy of the applicant's birth certificate, or the applicant's driver's license, state-issued identification card or the Matricula Consular identification card specified in Section 2-160-065 of the Code, showing the applicant is aged 65 or over and; proof of their qualification for homeowners exemption; and proof of residency. The acceptable document to prove residency shall be a copy of a utility bill for the residence. Acceptable documents to prove home ownership shall be a copy of: (i) the deed to the residence, (ii) property tax bill, or (iii) with regard to a residence held in trust, a declaration executed by the trustee, affirming that the residence is held in trust and that the trust gives the named applicant the right to occupy the residence. In lieu of the forms of proof specified in this paragraph (c), the comptroller is authorized to accept alternative forms of proof that in his judgment are genuine and probative of the information sought. The comptroller shall provide information regarding the process for obtaining an exemption or refund, and the associated forms, in Spanish as well as English.

(d) If the comptroller's processing of a full payment certificate for a given property

serves to terminate any senior exemption applicable to that property, the comptroller shall send written notification of such termination to the address at issue.

**SECTION 2.** This ordinance shall take effect upon its passage and approval, and shall apply prospectively only.

# EXHIBIT – 12



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ABOUT

# Finance

The Department of Finance is responsible for revenue collection, utility billing, tax and parking enforcement, administering employee payroll, benefits and safety; risk management and accounting and financial reporting.

[Home](#) / [Departments](#) / [Finance](#) / [Supporting Info](#) / [Utility Billing](#) / Water and Sewer Rates

## Water and Sewer Rates

Water and Sewer Rates are voted on and approved by the Mayor and Chicago City Council. Per the Municipal Code of Chicago, beginning June 1, 2016, and every year thereafter, the annual water rates shall be adjusted upwards, if applicable, by applying the previous year's rate of inflation. This increase is calculated based on the Consumer Price Index -- Urban Wage Earners and Clerical Workers (Chicago All Items) published by the United States' Bureau of Labor Statistics for the 365-day period ending on the most recent January 1.

### Metered Rates

Properties with a water meter are billed based on the amount of water used in the billing period. For detailed billing information pertaining to your account, please refer to your most recent billing statement. On the back of your billing statement, you will find specific charges based on your account type.

For both metered and non-metered properties, the sewer charge is 100 percent of your water charge and is added as a separate line item on the front of the utility bills.

### Water

Effective Date	Percent Increase	Water Rate per 1,000 Cubic Feet	Approximate Water Cost per 1,000 Gallons
6/1/2025	4.00%	\$36.51	\$4.89
6/1/2024	3.37%	\$35.10	\$4.70
6/1/2023	5.00%	\$33.95	\$4.55
6/1/2022	5.00%	\$32.33	\$4.33
6/1/2021	1.10%	\$30.79	\$4.13
6/1/2020	2.45%	\$30.46	\$4.08
6/1/2019	0.82%	\$29.73	\$3.98
6/1/2018	1.54%	\$29.49	\$3.95
6/1/2017	1.83%	\$29.04	\$3.88
1/1/2016	0%	\$28.52	\$3.81
1/1/2015	15%	\$28.52	\$3.81

### Supporting Information Facts

Department:

Finance

Utility Billing & Customer Service

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FILED DATE: 8/1/2025 4:33 AM 2021CH04583

Effective Date	Percent Increase	Water Rate per 1,000 Cubic Feet	Approximate Water Cost per 1,000 Gallons
1/1/2014	15%	\$24.80	\$3.31
1/1/2013	15%	\$21.56	\$2.88
1/1/2012	25%	\$18.75	\$2.51
1/1/2011	0%	\$15.00	\$2.01
1/1/2010	14%	\$15.00	\$2.01
1/1/2009	15%	\$13.15	\$1.76
1/1/2008	15%	\$11.44	\$1.53
1/1/2007	0%	\$9.95	\$1.33
1/1/2006	0%	\$9.95	\$1.33
1/1/2005	3%	\$9.95	\$1.33
1/1/2004	3%	\$9.66	\$1.29
1/1/2003	4%	\$9.38	\$1.25
1/1/2002	4%	\$9.02	\$1.20



**Sewer**

Effective Date	Percentage of Water Rate
1/1/2015	100%
1/1/2014	96%
1/1/2013	92%
1/1/2012	89%
1/1/2011	86%
1/1/2010	86%
1/1/2009	85%
1/1/2008	84%
1/1/2007	83%
1/1/2006	83%
1/1/2005	83%
1/1/2004	83%
1/1/2003	83%
1/1/2002	83%

