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STATE OF MICHIGAN  
OAKLAND COUNTY CIRCUIT COURT

JEFFREY EISENBERG,  
individually and as representative of a  
Class of similarly-situated persons  
and entities.

Plaintiff,

v.

GEORGE W. KUHN DRAINAGE DISTRICT,  
a component unit of Oakland County  
with a separate legal existence, and  
CITY OF ROYAL OAK, MICHIGAN,  
a municipal corporation.

Defendant.

2023-200422-CZ

Case No 2023- -CZ  
Hon.

JUDGE DAVID M. COHEN

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Gregory D. Hanley (P51204)  
Jamie K. Warrow (P61521)  
Edward F. Kickham Jr. (P70332)  
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Attorneys for Plaintiff

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There is no other pending or dismissed civil action that arises out of  
transactions or occurrences alleged in this complaint.

**PLAINTIFF'S CLASS ACTION COMPLAINT AND JURY DEMAND**

Plaintiff Jeffrey Eisenberg, through his attorneys, Kickham Hanley PLLC, individually and as  
representative of a class of similarly-situated persons and entities (hereinafter, "Plaintiff") states as  
follows for his Class Action Complaint against Defendant George W. Kuhn Drainage District (the  
"Drainage District") and the City of Royal Oak, Michigan (the "City"):

**INTRODUCTION**

1. This is an action challenging the amount charged by Defendant Drainage District to  
Plaintiff and the Class – through the City – for stormwater disposal service which exceeds the costs

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the Drainage District actually incurs for stormwater disposal (hereinafter, the “Stormwater Disposal Overcharge”).

2. The Drainage District has systematically overcharged Plaintiff and the Class for stormwater disposal services by imposing the Stormwater Disposal Overcharge for at least the last six years.

3. Plaintiff, on behalf of the Class, seeks, among other things, a refund of all Stormwater Disposal Overcharges they paid to the Drainage District through the City from May 18, 2017 through the filing of this action and all such Overcharges collected during the pendency of this action.

### **JURISDICTION AND VENUE**

4. Plaintiff owns real property in the City and receives water and sewer services. Plaintiff has been assessed, and has paid, the Stormwater Disposal Overcharge at issue in this case; and seeks to act as class representative for all similarly situated persons and entities. Plaintiff is a member of the Class he seeks to represent.

5. Defendant Drainage District is a component unit of Oakland County with a separate legal existence. The City lies within the geographical boundaries of the Drainage District. The City’s combined sewer system flows to the Southeastern Oakland County Sewage Disposal System (the “County System”), which is owned and maintained by the Drainage District.

6. The City is a municipal corporation which passes through the Drainage District’s charges, including the Stormwater Disposal Overcharge, to sewer users located in the City. The City collects the Drainage District’s charges on behalf of Drainage District and remits those charges to the Drainage District. The Court of Appeals has explicitly recognized that end-users of the County System are the “actual ratepayers of the alleged overcharge.” *See Kickham Hanley PLLC v. GWKDD*, COA Case No. 351317 (Exhibit 1 hereto) at p. 7. Absent a release, those end-users are “entitled to recover the overcharges” from Drainage District and/or the City. *Id.* at p. 9.

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

### **GENERAL ALLEGATIONS**

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

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

10. Stormwater, in contrast, does not originate from any use of the water supply system or sanitary sewer system, and its presence in the combined system is wholly unrelated to the amount of tap water used, or sanitary sewage generated, by users of the system whose structures are physically connected to that system.

11. Stormwater collects on both private and public land, roads and other physical surfaces during rainfall events, and the runoff enters the combined sewer system through catch-basins and other collection devices.

12. Even though they have different origins, both sanitary sewage and stormwater collected in a combined sewer system need to be disposed of.

13. The City's combined sewer system flows to the Southeastern Oakland County Sewage Disposal System (the "County System"), which is owned and maintained by the Drainage District.

14. Except during heavy rainfall (when high volumes of combined sanitary sewage and stormwater exceed the outlet capacity causing excess flow to be diverted to the George W. Kuhn Retention Treatment Basin), the entire stormwater flow from the combined sewers of the County System, (*i.e.* the City's stormwater and the stormwater of various other communities in the area) is conveyed by the Drainage District to a treatment plant operated by the Great Lakes Water Authority (the "Water Authority") for ultimate disposal.<sup>1</sup>

15. The Drainage District's stormwater flow (including the portion of stormwater flow that originates in the City) passes through Detroit's Dequindre Interceptor, which contains a master meter which measures the total flow passing from the Drainage District System into the Water Authority treatment plant.

16. The Water Authority charges the Drainage District a flat annual rate to dispose of the City's total sewage flows, which include stormwater (the "Water Authority Charge"). The Water Authority's rate-making methodology (more particularly described below) is sufficiently detailed to allow a mathematical calculation of the amount of the total Water Authority Charge to the Drainage District attributable to the treatment and disposal of stormwater.

17. The Drainage District, in turn, allocates the annual Water Authority Charge among all of the municipalities in the district, including the City, and charges each municipality a flat annual "Sewage Charge" for sanitary sewage disposal (the "Sanitary Charge") and a flat annual charge for "Pollution Control," *i.e.*, stormwater disposal (the "Stormwater Charge").

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<sup>1</sup> Prior to January 2016, the Detroit Water and Sewerage Authority ("Detroit") provided wholesale sewage treatment services to the Drainage District. Effective in 2016, the Water Authority, pursuant to agreements with the City of Detroit, became the wholesale supplier of water and sewage treatment services to the City. Notwithstanding that change, the City's public water supply and sewage treatment services still are provided by Detroit facilities and the Detroit water and sewage treatment plants.

18. The Drainage District collectively charges end-users in the City in excess of \$11 million per year for Sanitary Charges and Stormwater Charges. Those charges are imposed in the first instance through billings from the Drainage District to the City.

19. The City passes on that cost to its sewer customers (i.e., Plaintiff and the Class) by imposing charges in its water and sewer rates to recover the entire \$11 million plus per year imposed by the Drainage District on an annual basis.

20. The amount of the Water Authority Charge to the Drainage District is based on a formula tied to the total volume of sewage flows that enter the Drainage District's system for ultimate disposal by the Water Authority, and the pollutants present in those sewage flows. An identifiable portion of the total Water Authority Charge to the Drainage District is attributable to the costs to treat stormwater flows that come from the Drainage District service area. As described below, the Drainage District's pass-through Stormwater Charge to the City's end-users should be the same amount, but it is not.

21. For a number of years, the Drainage District has charged end-users in the City substantially more than the amount that GLWA charges the Drainage District for the disposal of the portion of the Drainage District's stormwater flow that originates in the City. The Drainage District has therefore overcharged the City for stormwater disposal service since at least 2017 and the City, in turn, has passed that overcharge on to end-users in the City, including Plaintiff and the Class.

22. The Drainage District's Final Order of Apportionment dated April 19, 2005 (Exhibit 2 hereto), provides that the stormwater charges to the City consist of two components: (1) the Detroit Water and Sewerage Department's charges to the [Drainage District] to treat the total storm water flow, and (2) the administrative costs of operating and maintaining the balance of the George W. Kuhn Drain System not included in the sanitary sewage portion of the charges. The Final Order of

Apportionment was imposed pursuant to a Resolution of the Board of the Drainage District dated April 19, 2005 (the “Resolution”). Exhibit 3 hereto.

23. Plaintiff does not challenge the Final Order of Apportionment or the Resolution. To the contrary, Plaintiff asserts that the Final Order of Apportionment and the Resolution are valid and binding on the Drainage District.

24. The Resolution obligated the Drainage District to pass through to the City’s end-users the City’s proportionate share of the Water Authority’s actual charges to the Drainage District for treating the storm water. The Drainage District has breached its obligations, and continues to breach its obligations, under the Resolution because, in assessing storm water charges to the City, the Drainage District has **not** passed on to the City’s sewer end-users the City’s proportionate share of the actual costs the Drainage District has incurred to the Water Authority for storm water disposal. Instead, the Drainage District has grossly increased the Water Authority stormwater treatment charges.

25. The Water Authority’s annual rate calculations demonstrate the precise amount the Water Authority includes in the Water Authority Charges to recover from the Drainage District the costs for stormwater disposal from communities within the Drainage District service area. For example, for the fiscal year ending June 30, 2021, the Water Authority charged the Drainage District the total amount of \$45,851,800 in Water Authority Charges to cover the costs of disposing of all sewage flows. *See* Exhibit 4 hereto. According to the Water Authority rate methodology implemented in 2017 and in effect in 2021, the Water Authority allocated 50% of that \$45,851,800 (\$22,925,900) based upon the Drainage District’s total sewage flows and 50% (\$22,925,900) based upon the Drainage District’s share of the total pollutant load of all sewage flows treated by the Water Authority. *See* Exhibit 5 hereto.

26. The Water Authority determined that stormwater constitutes 33% of the total sewage flows coming from the Drainage District, and therefore, 33% of the total flow-related costs are attributable to stormwater disposal. *See* Exhibit 5 hereto (26.03 cfs of stormwater vs. 78.57 csf of total flows). The Water Authority further determined that stormwater contributed 16.4% of the total pollutant loads attributable to the Drainage District, and therefore, 16.4% of the total pollutant-related costs are attributable to stormwater disposal. *See* Exhibit 5 (GLWA cost of service study) and Exhibit 7 (detailed calculation derived from Exhibit 5). As a result, the Water Authority charged the Drainage District \$7,565,547 for stormwater flows ( $\$22,925,900 \times 33\%$ ) and \$3,759,847 ( $\$22,925,900 \times 16.4\%$ ) for pollutant loadings in the stormwater. The total stormwater charges from the Water Authority to the Drainage District for the fiscal year ending June 30, 2021 thus were **\$11,325,394**. The balance of the Water Authority's charges to the Drainage District for that fiscal year (\$34,526,406) are attributable to non-stormwater sewage flows.

27. In contrast, the Drainage District falsely represented to the City that, for the fiscal year ending June 30, 2021:

The Water Authority charged the Drainage District **\$45,939,650** million in total disposal charges;

The Water Authority charged the Drainage District **\$21,963,110** million for sanitary sewage disposal; and

The Water Authority charged the Drainage District **\$23,976,540** million for storm water disposal. [Exhibit 6 hereto].

28. Instead of allocating the Water Authority's stormwater charge in the amounts actually charged by the Water Authority, the Drainage District improperly reallocated the total charges imposed by the Water Authority to increase the amount of the storm water charges to end-users of the County System by over \$12 million (\$23,976,540 in actual Stormwater Charges vs. \$11,325,394 incurred from the Water Authority for stormwater disposal). Because the Drainage District allocated

to the City a higher percentage of the storm water disposal charges (29.7%) than sanitary sewage disposal charges (19.3%), the more of the total Water Authority Charges that the Drainage District allocates to storm water charges, the more the City's end-users pay in the aggregate.

29. In other words, for each dollar of storm water disposal charges the Drainage District allegedly incurs, the City pays 29.7 cents. But for each dollar of sanitary sewage disposal charges the Drainage District allegedly incurs, the City pays only 19.3 cents.

30. Based upon the Drainage District's representations and the allocation percentage assigned to the City, the Drainage District charged the City's end-users aggregate sewage disposal costs of **\$11,361,901** for the fiscal year ending June 30, 2021. This was calculated as follows:

- Sanitary -- \$4,240,198 ( $\$21,963,110 \text{ in Water Authority charges} \times .19306 = \$4,240,198$ )
- Storm water -- \$7,121,703 ( $\$23,976,540 \text{ in Water Authority charges} \times .297028 = \$7,121,703$ )

31. Given the Water Authority's actual charges to the Drainage District, however, the Drainage District should have charged the City **\$10,029,626** for the fiscal year ending June 30, 2021. This is calculated as follows:

- Sanitary -- \$6,665,667 ( $\$34,526,406 \text{ in Water Authority charges} \times .19306 = \$6,665,667$ )
- Storm water -- \$3,363,959 ( $\$11,325,394 \text{ in Water Authority charges} \times .297028 = \$3,363,959$ )

32. Based upon the foregoing, the Drainage District overcharged the City by at least **\$1,332,275** for just the fiscal year ending June 30, 2021. This Overcharge is based solely upon the Drainage District's misallocation of the Water Authority's "common-to-all" sewer charges (*i.e.*, the Water Authority Charges) imposed upon Plaintiff and the Class. The actual Overcharge is even higher because the Drainage District similarly overallocated its own non-Water Authority expenses to stormwater disposal.



33. There are similar overcharges for prior years and for the years since. The total Stormwater Disposal Overcharges imposed by the Drainage District since May 18, 2017 well exceed **\$7 million.**

34. Plaintiff and the Class need not rely upon the Resolution to invalidate the Stormwater Disposal Overcharges because, even in the absence of the Resolution, the Drainage District's stormwater charges to end-users in the City have been unreasonable and unlawful because the stormwater charges far exceed the actual costs the Drainage District incurs to dispose of the City's stormwater.

35. The Stormwater Disposal Overcharges have been arbitrary, capricious and/or unreasonable," because the challenged Charges, "viewed as a whole," have been, and continue to be, "excessive." *Youmans v. Bloomfield Township*, 336 Mich. App. 161, 969 N.W.2d 570 (2021).

36. Since at least 2015, the City has known of the Drainage District's Stormwater Disposal Overcharges but has done nothing to contest them. To the contrary, the City merely has continued to pass through Stormwater Charges it knows are excessive.

37. Plaintiff and the Class are the real parties in interest and have standing to sue Drainage District and the City because they paid the Overcharges as part of their sewer charges, which were passed through by the City. Indeed, the Court of Appeals has explicitly recognized that end-users of the County System are the "actual ratepayers of the alleged overcharge." *See Kickham Hanley PLLC v. GWKDD*, COA Case No. 351317 (Exhibit 1 hereto) at p. 7.

### **CLASS ALLEGATIONS**

38. Plaintiff brings this action as a class action, pursuant to MCR 3.501, individually and on behalf of a proposed class consisting of all persons and entities who or which were billed and/or paid the City for sewer service between May 18, 2017 and the date of the final judgment in this action (the "Class Period").

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

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

41. The Defendants have acted wrongfully in the same basic manner as to the entire class.

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

- a. whether the Stormwater Disposal Overcharge is "unreasonable;"
- b. the amounts charged by the Water Authority to the Drainage District for stormwater disposal and the amounts of Stormwater Charges imposed and/or collected by the Drainage District from Plaintiff and the Class;
- c. whether by including the Stormwater Disposal Overcharge, the Drainage District's sewer rates and charges incurred by Plaintiff and the Class "viewed as a whole" have been "excessive." *See Youmans v. Bloomfield Township*, 336 Mich. App. 161, 219, 969 N.W.2d 570 (2021).
- d. whether the Drainage District has complied with the Final Order of Apportionment and the associated resolution; and
- e. whether the Drainage District and/or the City have been unjustly enriched by collecting the Stormwater Disposal Overcharge.

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

44. A class action is superior to all other available methods for the fair and efficient

adjudication of this controversy since joinder of all members is impracticable. The prosecution of separate actions would create a risk of inconsistent or varying adjudications. Furthermore, the prosecution of separate actions would substantially impair and impede the ability of individual class members to protect their interests. Plaintiff anticipates no difficulty in the management of this action as a class action.

**COUNT I**  
**ASSUMPSIT – MONEY HAD AND RECEIVED**  
**UNREASONABLE RATES AND CHARGES**  
**DRAINAGE DISTRICT ONLY**

45. Plaintiff incorporates each of the preceding paragraphs as if fully set forth herein.

46. The Drainage District’s sewer rates and charges must be “reasonable.” *Trabey v. City of Inkster*, 311 Mich. App. 582, 595; 876 N.W.2d 582 (2015); *Mapleview Estates v. City of Brown City*, 258 Mich. App. 412 (2003).

47. A municipal utility charge is “unreasonable” if it contains illegal or improper expenses. *Trabey*, 311 Mich. App. at 595.

48. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is unreasonable because, in allocating sewer charges to the City, the Drainage District grossly and fraudulently inflates the actual Water Authority’s stormwater disposal charge and therefore it contains improper expenses.

49. A municipal utility charge is “unreasonable” if “viewed as a whole” it has been “excessive.” See *Youmans v. Bloomfield Township*, 336 Mich. App. 161, 219, 969 N.W.2d 570 (2021).

50. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is arbitrary, capricious and unreasonable.

51. As a direct and proximate result of Defendants’ improper conduct, Defendants have collected millions of dollars to which they are not entitled (the “Stormwater Disposal Overcharges”). By paying the Stormwater Disposal Overcharges, Plaintiff and the Class have conferred a benefit upon the Drainage District.

52. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

53. By virtue of the Drainage District's inclusion of the Stormwater Disposal Overcharges in the Stormwater Charges, the Drainage District has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff and the Class are entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction. *See, e.g., Bond v. Public Schools of Ann Arbor*, 383 Mich. 693, 704, 178 N.W.2d 484 (1970).

WHEREFORE, the Drainage District should be required to disgorge the revenues attributable to the Stormwater Disposal Overcharges imposed or collected by the Drainage District between May 18, 2017 and the date of the filing of this action, and during the pendency of this action, and refund all Stormwater Disposal Overcharges it has collected to Plaintiff and the Class.

**COUNT II**  
**UNJUST ENRICHMENT**  
**UNREASONABLE RATES**  
**DRAINAGE DISTRICT ONLY**

54. Plaintiff incorporates Paragraphs 1-44 in their entirety as if fully set forth herein.

55. The Drainage District's sewer Charges must be "reasonable." *Trabey v. City of Inkster*, 311 Mich. App. 582, 595; 876 N.W.2d 582 (2015); *Mapleview Estates v. City of Brown City*, 258 Mich. App. 412 (2003).

56. A municipal utility charge is "unreasonable" if it contains illegal or improper expenses. *Trabey*, 311 Mich. App. at 595.

57. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is unreasonable because, in allocating sewer charges to the City, the Drainage District grossly and fraudulently inflates the actual Water Authority stormwater disposal charge and therefore it contains improper expenses.

58. A municipal utility charge is “unreasonable” if “viewed as a whole” it has been “excessive.” See *Youmans v. Bloomfield Township*, 336 Mich. App. 161, 219, 969 N.W.2d 570 (2021).

59. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is arbitrary, capricious and unreasonable.

60. As a direct and proximate result of the Drainage District’s improper conduct, the Drainage District has collected millions of dollars to which it is not entitled (the “Stormwater Disposal Overcharges”). By paying the Stormwater Disposal Overcharges, Plaintiff and the Class have conferred a benefit upon the Drainage District.

61. The Drainage District has improperly received the Stormwater Disposal Overcharges to which it was not legally entitled, and it would be unfair for the Drainage District to retain the Stormwater Disposal Overcharges under the circumstances.

62. The Drainage District should be required to disgorge all unlawfully collected Stormwater Disposal Overcharges.

WHEREFORE, the Drainage District should be required to disgorge the revenues attributable to the Stormwater Disposal Overcharges imposed or collected by the Drainage District between May 18, 2017 and the date of the filing of this action, and during the pendency of this action, and refund all Stormwater Disposal Overcharges it has collected to Plaintiff and the Class.

**COUNT III**  
**ASSUMPSIT – MONEY HAD AND RECEIVED**  
**UNREASONABLE RATES AND CHARGES**  
**CITY ONLY**

63. Plaintiff incorporates Paragraphs 1-44 in their entirety as if fully set forth herein.

64. The City’s sewer rates and charges must be “reasonable.” *Trabey v. City of Inkster*, 311 Mich. App. 582, 595; 876 N.W.2d 582 (2015); *Mapleview Estates v. City of Brown City*, 258 Mich. App. 412 (2003).

65. A municipal utility charge is “unreasonable” if it contains illegal or improper expenses. *Trabey*, 311 Mich. App. at 595.

66. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is unreasonable because, in allocating sewer charges to the City, the Drainage District grossly and fraudulently inflates the actual Water Authority stormwater disposal charge and therefore it contains improper expenses.

67. A municipal utility charge is “unreasonable” if “viewed as a whole” it has been “excessive.” *See Youmans v. Bloomfield Township*, 336 Mich. App. 161, 219, 969 N.W.2d 570 (2021).

68. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is arbitrary, capricious and unreasonable.

69. As a direct and proximate result of Defendants’ improper conduct, Defendants have collected millions of dollars to which they are not entitled (the “Stormwater Disposal Overcharges”). By paying the Stormwater Disposal Overcharges, Plaintiff and the Class have conferred a benefit upon on the City.

70. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

71. By virtue of the City’s inclusion of the Stormwater Disposal Overcharges in the Stormwater Charges, the City – either on its own behalf or as agent of the Drainage District – has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff and the Class are entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction. *See, e.g., Bond v. Public Schools of Ann Arbor*, 383 Mich. 693, 704, 178 N.W.2d 484 (1970).

WHEREFORE, the City should be required to disgorge the revenues attributable to the Stormwater Disposal Overcharges imposed or collected by the City between May 18, 2017 and the date of the filing of this action, and during the pendency of this action, and refund all Stormwater Disposal Overcharges it has collected to Plaintiff and the Class.

**COUNT IV**  
**UNJUST ENRICHMENT**  
**UNREASONABLE RATES**  
**CITY ONLY**

72. Plaintiff incorporates Paragraphs 1-44 in their entirety as if fully set forth herein.

73. The City's sewer Charges must be "reasonable." *Trabey v. City of Inkster*, 311 Mich. App. 582, 595; 876 N.W.2d 582 (2015); *Mapleview Estates v. City of Brown City*, 258 Mich. App. 412 (2003).

74. A municipal utility charge is "unreasonable" if it contains illegal or improper expenses. *Trabey*, 311 Mich. App. at 595.

75. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is unreasonable because, in allocating sewer charges to the City, the Drainage District grossly and fraudulently inflates the actual Water Authority stormwater disposal charge and therefore it contains improper expenses.

76. A municipal utility charge is "unreasonable" if "viewed as a whole" it has been "excessive." *See Youmans v. Bloomfield Township*, 336 Mich. App. 161, 219, 969 N.W.2d 570 (2021).

77. As applied to Plaintiff and the Class, the Stormwater Disposal Charge is arbitrary, capricious and unreasonable.

78. As a direct and proximate result of the City's improper conduct, the City -- either on its own behalf or as an agent on behalf of the Drainage District -- has collected millions of dollars to which it is not entitled (the "Stormwater Disposal Overcharges"). By paying the Stormwater Disposal Overcharges, Plaintiff and the Class have conferred a benefit upon on the City.

79. The City has improperly received the Stormwater Disposal Overcharges to which it was not legally entitled, and it would be unfair for the City to retain the Stormwater Disposal Overcharges under the circumstances.

80. The City should be required to disgorge all unlawfully collected Stormwater Disposal Overcharges.

WHEREFORE, the City should be required to disgorge the revenues attributable to the Stormwater Disposal Overcharges imposed or collected by the City between May 18, 2017 and the date of the filing of this action, and during the pendency of this action, and refund all Stormwater Disposal Overcharges it has collected to Plaintiff and the Class.

**COUNT V**  
**MANDATORY INJUNCTIVE RELIEF**  
**THE CITY ONLY**

81. Plaintiff incorporates Paragraphs 1-44 in their entirety as if fully set forth herein.

82. This claim is an alternative claim to Counts III and IV of this Complaint.

83. The City maintains billing and payment records sufficient to demonstrate the amount of Stormwater Disposal Overcharges incurred or paid by each Class Member. Access to those records is necessary to effectuate the relief requested herein, including the refund remedy.

84. In addition, the City has authority under state statutes and its own ordinances to place liens against properties in the City that incur sewer charges (including Stormwater Charges) and to transfer unpaid sewer bills to the City's tax rolls. It is probable that any liens and associated taxes that the City has imposed during the Class Period are attributable in part to unpaid Stormwater Disposal Overcharges.

85. In order to provide and facilitate full relief to Plaintiff and the Class for the Stormwater Disposal Overcharges, the Court should require the City (a) to provide records sufficient to determine the amount of refunds of Stormwater Disposal Overcharges each Class Member is entitled to receive and otherwise cooperate in the process of providing a remedy to Plaintiff and the Class and (b) require the City to invalidate any municipal lien or associated tax liens which have been imposed, or which may become imposed, against the properties of all class members arising out of or relating to the Stormwater Disposal Overcharges.



### **PRAYER FOR RELIEF**

Plaintiff requests that the Court grant the following relief:

- A. Certify this action to be a proper class action with Plaintiff certified as Class Representative and Kickham Hanley PLLC designated as Class Counsel;
- B. With respect to Counts I through IV, define the Class to include all persons and entities in the City who or which were billed and/or paid the City for sewer service between May 18, 2017 and the date of the final judgment in this action (the “Class Period”);
- C. With respect to Counts I through IV, enter judgment in favor of Plaintiff and the Class and against the City and the Drainage District, and order and direct the Drainage District to disgorge and refund all Stormwater Disposal Overcharges collected during the Class Period, and order the Drainage District to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Stormwater Disposal Overcharges to which Plaintiff and the Class are entitled;
- D. With respect to Count V, require the City to provide records sufficient to determine the amount of refunds of Stormwater Disposal Overcharges each Class Member is entitled to receive and otherwise cooperate in the process of providing a remedy to Plaintiff and the Class;
- E. With respect to Count V, enter an order requiring the City to invalidate any municipal lien or associated tax liens which have been imposed, or which may become imposed, against the properties of all class members arising out of or relating to the Stormwater Disposal Overcharges.
- F. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

- G. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and
- H. Grant any other appropriate relief.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

KICKHAM HANLEY PLLC

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

Date: May 18, 2023

4871-9002-2500 v.2

# EXHIBIT – 1

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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KICKHAM HANLEY PLLC, as Trustee for a  
Certified Class of Persons and All Others Similarly  
Situated,

Plaintiff-Appellant,

v

GEORGE W. KUHN DRAINAGE DISTRICT,

Defendant-Appellee.

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UNPUBLISHED  
January 14, 2021

No. 351317  
Oakland Circuit Court  
LC No. 2019-172077-CZ

Before: FORT HOOD, P.J., and CAVANAGH and TUKEL, JJ.

PER CURIAM.

Plaintiff, assignee of the City of Oak Park and trustee for a certified class of persons defined in the final order approving a class settlement in Lower Court No. 15-149751-CZ, appeals as of right the trial court’s opinion and order granting summary disposition in favor of defendant. We affirm.

**I. BACKGROUND FACTS**

Defendant is a drainage district, which is an independent corporate entity that has powers conferred upon it by law.<sup>1</sup> Drainage districts are governed by drainage boards.<sup>2</sup> Defendant maintains and operates the George W. Kuhn Drain (the drain), which operates in an area that includes Oak Park.

Oak Park has a combined sewer system that collects both sanitary sewage and stormwater. That sewer system flows to the system operated by defendant. Generally, defendant diverts all of the stormwater flow from Oak Park and the other communities within the operational area of the drain to two water treatment plants respectively operated by the Detroit Water and Sewerage

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<sup>1</sup> See MCL 280.5.

<sup>2</sup> See MCL 280.464.

Department and the Great Lakes Water Authority. All of the subject stormwater flow travels through Detroit's Dequindre Interceptor, and there the flow is measured by a meter. Accordingly, the water treatment plants charge defendant an annual flat rate to dispose of stormwater based on the measured flow, and defendant allocates that charge among the communities within the operational area of the drain.

In February 2005, defendant's drainage board tentatively established an apportionment of the costs of the drain for stormwater disposal for the communities within the operational area of the drain. As part of the apportionment, the drainage board made an allocation on the basis of an assumption that all water purchased from the Detroit Water and Sewerage Department would be returned as sanitary flow, and so only the difference between the purchased water and the "Master Meter Charges" would be considered stormwater flow. Thus, under the apportionment, two rates would be charged to the communities within the drain's operational area, one for the cost of sanitary sewage flow into the drain, and the other for stormwater flow, which would be apportioned among the communities on the basis of an engineering study that determined each community's contribution of stormwater.

In April 2005, the drainage board resolved to adopt the tentative apportionment of costs it established in February 2005. On the same day, the drainage board entered a Final Order of Apportionment that provided an apportionment of costs between the communities within the operational areas of the drain.

In February 2019, in Lower Court No. 2015-149951-CZ, the trial court entered a final judgment and order approving a class settlement between the plaintiffs, two persons acting as individuals and as representatives of a class of similarly situated persons (the class action plaintiffs), and the defendant, Oak Park.<sup>3</sup> The instant trial court took specific notice of the assignment provisions of that settlement agreement according to which any claims Oak Park possessed against Oakland County or its agencies—including defendant—for storm water management services relating to overcharges for stormwater management services would be assigned to the class action plaintiffs "or for their benefit." Additionally, plaintiff was appointed trustee of a litigation trust to pursue the claims against defendant on behalf of the plaintiffs, and was also appointed counsel for the litigation trust.

The trial court also noted that the class action plaintiffs and other members of the class who did not ask to be excluded from the class would be deemed to have executed a release of all claims against Oak Park relating to the assessment and costs of water and sewer rates "from the beginning of time through the date" of the final judgment and a period of time thereafter. Subsequently, Oak Park executed an assignment of claims to plaintiff.

Plaintiff filed its complaint against defendant on the basis of the assignment of Oak Park's claims to plaintiff as a trustee for the class action plaintiffs. In its complaint, plaintiff alleged that defendant charged Oak Park approximately \$3 million dollars per year for the disposal of stormwater. It further alleged that Oak Park "passe[d] on that cost to its sewer Customers by imposing stormwater charges in its sewer rates to recover the entire \$3 million plus per year imposed upon

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<sup>3</sup> These class action plaintiffs were legally represented by plaintiff.

the City by [defendant] on an annual basis.” According to the complaint, the amount defendant charged Oak Park for stormwater disposal should have been the same amount defendant was charged by the water treatment plants for stormwater disposal.

Plaintiff alleged that defendant charged Oak Park “substantially more than the amount” charged by the water treatment plants for the disposal of Oak Park’s stormwater since at least 2011. According to the complaint, defendant improperly reallocated the sanitary sewage disposal costs imposed by the water treatment plants to stormwater disposal costs, and as a result defendant overcharged Oak Park. Thus, plaintiff raised claims of breach of contract, assumpsit, and unjust enrichment against defendant. The trial court ultimately granted defendant’s motion for summary disposition and dismissed plaintiff’s claims.

## II. ANALYSIS

Plaintiff argues that the trial court erred when it granted defendant’s motion for summary disposition. We disagree.

### A. STANDARD OF REVIEW

This Court reviews a trial court’s decision on a motion for summary disposition *de novo*. *Zaher v Miotke*, 300 Mich App 132, 139; 832 NW2d 266 (2013). The trial court granted defendant’s motion under MCR 2.116(C)(8). “A court may grant summary disposition under MCR 2.116(C)(8) if ‘[t]he opposing party has failed to state a claim on which relief can be granted.’ A motion brought under subrule (C)(8) tests the legal sufficiency of the complaint solely on the basis of the pleadings.” *Dalley v Dykema Gossett*, 287 Mich App 296, 304; 788 NW2d 679 (2010) (alteration in original), quoting *Corley v Detroit Bd of Ed*, 470 Mich 274, 277; 681 NW2d 342 (2004). “When considering such a motion, a trial court must accept all factual allegations as true, deciding the motion on the pleadings alone.” *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). “A motion under MCR 2.116(C)(8) may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery.” *Id.*

“Generally, this Court reviews *de novo* ‘[t]he interpretation of statutes and court rules.’ ” *Simcor Constr, Inc v Trupp*, 322 Mich App 508, 513; 912 NW2d 216 (2018) (alteration in original), quoting *Estes v Titus*, 481 Mich 573, 578; 751 NW2d 493 (2008). “[T]he rules governing statutory interpretation apply with equal force to a municipal ordinance . . . .” *Bonner v City of Brighton*, 495 Mich 209, 222; 848 NW2d 380 (2014). The existence and interpretation of a contract are questions of law reviewed *de novo*.” *Kloian v Domino’s Pizza LLC*, 273 Mich App 449, 452; 733 NW2d 766 (2006). This Court reviews equity cases “*de novo* on the record on appeal.” *Tkachik v Mandeville*, 487 Mich 38, 44-45; 790 NW2d 260 (2010). “Whether a claim for unjust enrichment can be maintained is a question of law that we review *de novo*.” *Karaus v Bank of New York Mellon*, 300 Mich App 9, 22; 831 NW2d 897 (2012).

### B. BREACH OF CONTRACT

Plaintiff first argues that the trial court erred when it ruled that plaintiff failed to state a breach-of-contract claim. We disagree.

“A party claiming a breach of contract must establish (1) that there was a contract, (2) that the other party breached the contract and, (3) that the party asserting breach of contract suffered damages as a result of the breach.” *Dunn v Bennett*, 303 Mich App 767, 774; 846 NW2d 75 (2013) (quotation marks and citation omitted). “The party seeking to enforce a contract bears the burden of proving that the contract exists.” *AFT Mich v Michigan*, 497 Mich 197, 235; 866 NW2d 782 (2015). “Michigan courts will not lightly presume the existence of an enforceable contract because, regardless of the equities in a case, the courts cannot make a contract for the parties when none exists.” *Huntington Nat’l Bank v Daniel J Aronoff Living Trust*, 305 Mich App 496, 508; 853 NW2d 481 (2014) (quotation marks and citation omitted). There is a “strong presumption that statutes do not create contractual rights.” *Studier v Mich Pub Sch Employees’ Retirement Bd*, 472 Mich 642, 661; 698 NW2d 350 (2005). Thus, “absent an adequate expression of an actual intent of the State to bind itself, courts should not construe laws declaring a scheme of public regulation as also creating private contracts to which the state is a party.” *Id.* at 662 (quotation marks and citations omitted).

The elements required to create a valid contract are “(1) parties competent to contract, (2) a proper subject matter, (3) a legal consideration, (4) mutuality of agreement, and (5) mutuality of obligation.” *Thomas v Leja*, 187 Mich App 418, 422; 468 NW2d 58 (1991). “In order for consideration to exist, there must be a bargained-for exchange—a benefit on one side, or a detriment suffered, or service done on the other.” *Bank of America, NA v First American Title Ins Co*, 499 Mich 74, 101; 878 NW2d 816 (2016) (quotation marks and citation omitted). “Contracts necessarily contain promises: a contract may consist of a mutual exchange of promises, or the performance of a service in exchange for a promise.” *AFT*, 497 Mich at 235-236 (citations omitted). “‘Before a contract can be completed, there must be an offer and acceptance. Unless an acceptance is unambiguous and in strict conformance with the offer, no contract is formed.’” *Kloian*, 273 Mich App at 452, quoting *Pakideh v Franklin Commercial Mtg Group, Inc*, 213 Mich App 636, 640; 540 NW2d 777 (1995). “A basic requirement of contract formation is that the parties mutually assent to be bound.” *Rood v Gen Dynamics Corp*, 444 Mich 107, 118; 507 NW2d 591 (1993). In other words, “the parties must have a ‘meeting of the minds’ on all the essential elements of the agreement.” *Huntington*, 305 Mich App at 508. Courts determine if there was a meeting of the minds by reviewing objective evidence such as “the expressed words of the parties and their visible acts.” *Id.* (quotation marks and citation omitted).

Plaintiff alleged in its complaint that the April 2005 resolution of the drainage board and the Final Order of Apportionment created a contract between defendant and Oak Park, and that defendant breached that contract when it overcharged Oak Park for stormwater disposal. The trial court ruled that those documents did not satisfy the elements of contract formation because they did not contain “any offer or promises or promises made by either party to the other that require[d] acceptance . . . .”

In its brief on appeal, plaintiff does not explain how the April 2005 resolution and the Final Order of Apportionment satisfied the elements of contract formation, and instead argues that the April 2005 resolution was binding on defendant whether or not it was a contract. However, in its reply brief, plaintiff addressed for the first time whether the Final Order of Apportionment and the April 2005 resolution satisfied the elements of contract formation, arguing that the consideration between Oak Park and defendant consisted of defendant’s promise to charge Oak Park “a particular allocated percentage of the total cost of stormwater disposal.”

“Reply briefs must be confined to rebuttal, and a party may not raise new or additional arguments in its reply brief.” *Kinder Morgan Mich, LLC v City of Jackson*, 277 Mich App 159, 174; 744 NW2d 184 (2007). Further, “[a] party may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, or give issues cursory treatment with little or no citation of supporting authority.” *Wolfe v Wayne-Westland Community Sch*, 267 Mich App 130, 139; 703 NW2d 480 (2005) (quotation marks and citation omitted). “If a party fails to adequately brief a position, or support a claim with authority, it is abandoned.” *MOSES, Inc v SEMCOG*, 270 Mich App 401, 417; 716 NW2d 278 (2006).

Plaintiff did not raise any challenges regarding the elements of contract formation in its brief on appeal, and may not do so in its reply brief. Given that plaintiff failed to adequately brief this argument, we deem it abandoned. And even if plaintiff had properly presented its arguments regarding consideration, plaintiff failed to address the other elements of contract formation therefore plaintiff would have otherwise failed to expose error on the part of the trial court.

Regardless, even if plaintiff had properly argued that the April 2005 resolution and the Final Order of Apportionment satisfied the elements of contract formation, a brief review of the relevant portions of the Drain Code reveals that such an argument would have been meritless. Plaintiff is the assignee of Oak Park, and Oak Park is a public corporation that benefits from the drain that is operated and maintained by defendant. Under MCL 280.468, the drainage board was required to apportion the costs for the drain on the basis of the benefits accrued to each benefiting public corporation, and under MCL 280.478(1) and MCL 280.478(2) the drainage board was required to make an apportionment of costs for any necessary expenses incurred in the operation and maintenance of the drain. As a benefiting public corporation, Oak Park had the opportunity to object to the drainage board’s apportionment of costs. See MCL 280.469.

Plaintiff’s complaint did not raise any claim that the drainage board failed to comply with the Drain Code when it entered the Final Order of Apportionment, MCL 280.460, and plaintiff explicitly abandoned any such challenge in its brief on appeal. Given the requirements set by the Drain Code, the drainage board was in no way engaged in bargaining with Oak Park or any of the other benefiting public corporations when it entered the Final Order of Apportionment pursuant to its statutory obligations. The drainage board made no offer to Oak Park, there was no bargained-for exchange, or meeting of the minds, between Oak Park and defendant before the Final Order of Apportionment was entered, and none was required. Therefore, plaintiff has failed to overcome the strong presumption that the Final Order of Apportionment did not create a contract. See *Studier*, 472 Mich at 661. And while the Drain Code authorizes a drainage board to enter into contracts with public corporations, MCL 280.471, plaintiff did not allege that Oak Park had a separate contract with defendant.

Plaintiff also briefly contends that municipal resolutions are enforceable by their beneficiaries, citing our Supreme Court’s holding in *Hardaway v Wayne Co*, 494 Mich 423; 835 NW2d 336 (2013). In that decision, the Court held that this Court improperly applied the last antecedent rule when it interpreted a municipal resolution pertaining to the entitlement of retirement benefits, and reinstated the trial court’s grant of summary disposition of the plaintiff’s declaratory judgment claim in favor of the defendant. *Id.* at 425, 427-429. Given that *Hardaway* concerned a declaratory judgment claim disposed of by way of summary disposition, rather than a



breach-of-contract claim premised on a municipal resolution, it is unclear why plaintiff relies on *Hardaway*.

### C. ASSUMPSIT & UNJUST ENRICHMENT

Plaintiff next asserts that the trial court erred when it ruled that plaintiff failed to allege any damages in support of its assumpsit and unjust enrichment claims. We disagree.

The Michigan Supreme Court explained actions of assumpsit as follows:

“We understand the law to be well settled, that the action of *assumpsit* for money had and received is essentially an equitable action, founded upon all the equitable circumstances of the case between the parties, and if it appear, from the whole case, that the defendant has in his hands money which, according to the rules of equity and good conscience, belongs, or ought to be paid, to the plaintiff, he is entitled to recover. And that, as a general rule, where money has been received by a defendant under any state of facts which would in a court of equity entitle the plaintiff to a decree for the money, when that is the specific relief sought, the same state of facts will entitle him to recover the money in this action.” [*Trevor v Fuhrmann*, 338 Mich 219, 223-224; 61 NW2d 49 (1953), quoting *Moore v Mandlebaum*, 8 Mich 433, 448 (1860).]

“Assumpsit may be upon an express contract or promise, or for nonperformance of an oral or simple written contract, or it may be a general assumpsit upon a promise or contract implied by law.” *Kristoffy v Iwanski*, 255 Mich 25, 28; 237 NW 33 (1931). “The right to bring this action exists whenever a person, natural or artificial, has in his or its possession money which in equity and good conscience belongs to the plaintiff, and neither express promise nor privity between the parties is essential.” *Hoyt v Paw Paw Grape Juice Co*, 158 Mich 619, 626; 123 NW 529 (1909). “The basis of a common-law action for money had and received 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.” *Trevor*, 338 Mich at 224-225 (quotation marks and citation omitted).

Unjust enrichment is “the equitable counterpart of a legal claim for breach of contract.” *AFT Mich v Michigan*, 303 Mich App 651, 677; 846 NW2d 583 (2014). A party may raise a claim of unjust enrichment “only if there is no express contract covering the same subject matter.” *Local Emergency Fin Assistance Loan Bd v Blackwell*, 299 Mich App 727, 734; 832 NW2d 401 (2013) (quotation marks and citation omitted). The complaining party must establish (1) the receipt of a benefit by the other party from the complaining party and (2) an inequity resulting to the complaining party because of the retention of the benefit by the other party.” *Karaus*, 300 Mich App at 22-23. Unjust enrichment “describes the result or effect of a failure to make restitution of or for property or benefits received under such circumstances as to give rise to a legal or equitable obligation to account therefor.” *Id.* at 23 (quotation marks and citation omitted).

In its complaint, plaintiff alleged that, even if there was no contract between Oak Park and defendant, defendant overcharged Oak Park for stormwater disposal by way of the Final Order of Apportionment. Plaintiff thus raised claims in assumpsit and unjust enrichment against defendant.

The trial court granted summary disposition of those claims because it ruled that plaintiff “failed to show that Oak Park suffered any damages.” At the outset, plaintiff contends that the trial court erred when it dismissed plaintiff’s claims in assumpsit and unjust enrichment, and it notes that those claims are essentially indistinguishable. We agree with the latter proposition and so will consider plaintiff’s arguments regarding its unjust enrichment and assumpsit claims together.

Following its recitation of why it believes that claims of unjust enrichment and assumpsit against defendant were proper if there was no contract between defendant and Oak Park, plaintiff does not directly address the trial court’s ruling that plaintiff failed to show that Oak Park was damaged by the stormwater disposal overcharges. Instead, plaintiff contends that Oak Park was the only entity that had standing to bring these claims against defendant, because the class action plaintiffs (i.e., Oak Park’s ratepayers) did not directly pay the assessed stormwater disposal costs to defendant. However, the trial court did not reach the issue of plaintiff’s standing by virtue of the assignment<sup>4</sup> it received from Oak Park, having disposed of the case on the ground that plaintiff failed to demonstrate that Oak Park was damaged by the stormwater disposal overcharges.

While the trial court did not explain the basis for its ruling, plaintiff alleged in its complaint that Oak Park “passe[d] on that cost to its sewer Customers by imposing stormwater charges in its sewer rates to recover the entire \$3 million plus per year imposed upon the City by [defendant] on an annual basis.” Plaintiff attached a copy of the final judgment of the class action lawsuit to its complaint, in which the trial court for that case noted that, per the settlement agreement between Oak Park and the class action plaintiffs, the class action plaintiffs were deemed to have executed a release of all claims against Oak Park relating to the assessment and costs of water and sewer rates “from the beginning of time through the date” of the final judgment, as well as a period of time for future claims. And plaintiff concedes in its reply brief that the class action plaintiffs released their claims against Oak Park.

Given the foregoing, we surmise that the trial court ruled that plaintiff failed to establish that Oak Park was harmed by the stormwater disposal overcharges because Oak Park directly passed on that cost to the class action plaintiffs, who in turn released any claims they had against Oak Park. Because the actual ratepayers of the alleged overcharge (i.e., the class action plaintiffs) released their claims against Oak Park, plaintiff cannot show that defendant either retained money that in “good conscience, belongs, or ought to be paid, to the plaintiff,” *Trevor*, 338 Mich at 223 (quotation marks and citation omitted), or that Oak Park suffered an inequity, *Karaus*, 300 Mich App at 22-23, because the money at issue belonged to Oak Park’s ratepayers as opposed to Oak Park itself.

Plaintiff argues that any ruling that Oak Park was not harmed by the stormwater disposal overcharges because it passed through the overcharges to the class action plaintiffs runs afoul of a general rejection of “pass-through” defenses in all jurisdictions where such a defense has been

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<sup>4</sup> “Under general contract law, rights can be assigned unless the assignment is clearly restricted,” and an “assignee stands in the position of the assignor, possessing the same rights and being subject to the same defenses.” *Burkhardt v Bailey*, 260 Mich App 636, 653; 680 NW2d 453 (2004).

raised. In support of its argument, plaintiff relies on a miscellany of decisions from a number of different contexts.

The earliest decision upon which plaintiff relies, *Southern Pacific Co v Darnell-Taenzer Lumber Co*, 245 US 531, 533-535; 38 S Ct 186; 62 L Ed 451 (1918), arose from a judgment obtained against a number of railroad defendants (i.e., common carriers) after the Interstate Commerce Commission found that the rate they charged for transporting hardwood lumber was excessive, and where the United States Supreme Court held that the plaintiffs were permitted to collect a judgment against the defendants even if the plaintiffs may have passed on the excessive charge to their own customers. The Court explained that a common “carrier ought not to be allowed to retain his illegal profit, and the only one who can take it from him is the one that alone was in relation with him, and from whom the carrier took the sum,” because “of the endlessness and futility of the effort to follow every transaction to its ultimate result.” *Id.* Thus, that holding pertained to proceedings involving a decision by the Interstate Commerce Commission, and commercial transactions where it would be difficult to ascertain how the excessive rate affected the prices paid by customers of the affected businesses. Given that plaintiff readily alleged in its complaint that Oak Park passed the overcharges on to its ratepayers, and has not shown that there would be any particular complexity in determining how the overcharge directly affected the fees paid by Oak Park’s ratepayers, plaintiff’s reliance on *Southern Pacific Co* is inapt.

Plaintiff also relies on decisions with similar holdings that pertain to claims based on federal antitrust violations: *Hanover Shoe, Inc v United Shoe Machinery Corp*, 392 US 481, 488-489, 493-494; 88 S Ct 2224; 20 L Ed 2d 1231 (1968) (rejecting a “passing-on” defense while recognizing that a buyer who was charged an illegally high price for materials used for the buyer’s business had established a prima facie case under federal antitrust law); *Oakland Co v Detroit*, 866 F2d 839, 844-846 (CA 6, 1989)<sup>5</sup> (holding that the county plaintiffs would have standing to bring claims under federal antitrust and racketeering law and could demonstrate an injury even if they recouped the illegal overcharges by passing it on to their own customers). However, those decisions pertain to claims based on violations of specific federal statutes rather than claims in assumpsit or unjust enrichment. Because the rationale for their disavowal of a “pass-through” or “passing-on” defense is based on considerations directly related to the aforementioned federal statutes, those cases do not militate in favor of adopting those holdings in the wholly distinct context of claims in assumpsit or unjust enrichment. Moreover, plaintiff, by virtue of its representation of the class action plaintiffs, fully demonstrated that a class action claim could be brought against Oak Park by its ratepayers, even if that litigation ended with the class action plaintiffs agreeing to release their claims against Oak Park.

Plaintiff also cites *Northern Arizona Gas Serv, Inc v Petrolane Transp, Inc*, 145 Ariz 467, 476; 702 P2d 696 (Ariz App, 1984), where the Arizona Court of Appeals held that the plaintiff’s “waiver of its claim for lost profits did not constitute an admission that none resulted from [the defendant’s] activities,” because “it was based on the complexity of issues of proof—the very reason for the supreme court’s rejection of the passing-on defense in *Hanover Shoe*.” And the

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<sup>5</sup> “Opinions of the lower federal courts and foreign jurisdictions are not binding but may be considered persuasive.” *People v Patton*, 325 Mich App 425, 435 n 1; 925 NW2d 901 (2018).

Arizona court also noted that the plaintiff was “the only party that can recover the overcharge from” the defendant. *Id.* Plaintiff has not shown that there is any complexity with issues of proof regarding the effect of the overcharges, and, as discussed above, Oak Park’s rate-payers were entitled to recover the overcharges from Oak Park but they released those claims. Therefore, plaintiff’s reliance on this decision is inapt.

For these reasons, plaintiff has failed to show that the trial court erred in concluding as a matter of law that Oak Park did not incur any damages in this matter.

Plaintiff also argues that the trial court erred when it granted defendant’s motion for summary disposition because plaintiff’s allegation that defendant charged Oak Park an unreasonable rate for stormwater disposal presented a question of fact. Again, we are not persuaded.

In its complaint, plaintiff supported its second claim in assumpsit and its claim of unjust enrichment by alleging that defendant’s charge for stormwater disposal was unreasonable because it exceeded the costs set by the Final Order of Apportionment. The trial court did not specifically address that allegation in its ruling, having disposed of the case on the ground of the lack of damages suffered by Oak Park. Because we affirm the result below on that ground, we need not consider the question of reasonableness of the stormwater disposal charge.

Nonetheless, plaintiff fails to show that defendant was under some general duty of reasonableness in connection with its stormwater disposal charges. Plaintiff relies on *Mapleview Estates, Inc v City of Brown City*, 258 Mich App 412; 671 NW2d 572 (2003). The discussion of reasonableness in that decision was limited to whether a “tap-in fee” for connecting to a municipal water system was reasonable under the Revenue Bond Act of 1933, MCL 141.101 *et seq.*, where a municipality is permitted to set the rates for services falling under that act provided that those rates are reasonable. *Id.* at 417-418.<sup>6</sup> But plaintiff provides no argument or explanation regarding how the RBA might be applicable in this situation.

And plaintiff did not raise an independent claim in its complaint that defendant charged unreasonable rates; rather, its allegation that the rates were unreasonable merely supported a claim in assumpsit and a claim of unjust enrichment. Given that plaintiff has failed to cite legal authorities that establish defendant was required to charge a reasonable rate, or otherwise adequately brief how the trial court erred, plaintiff has abandoned this argument on appeal. See *MOSES, Inc*, 270 Mich App at, 417; *Wolfe*, 267 Mich App at 139.

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<sup>6</sup> Plaintiff also cites two other decisions that do not show that defendant was required to charge a reasonable rate. See *Trahey v Inkster*, 311 Mich App 582, 594; 876 NW2d 582 (2015) (where the city defendant challenged the trial court’s finding that its water and sewer rates were unreasonable under the defendant’s own city charter, which required the defendant’s city council to set “just and reasonable rates” for public utility services provided by the defendant); *Plymouth v Detroit*, 423 Mich 106, 111; 377 NW2d 689 (1985) (a breach of contract action where the municipal water contract between the parties required the defendant to set rates for the water that was reasonable in relation to the costs incurred by the defendant).

Plaintiff also briefly contends that defendant asserts that Oak Park released its claims against defendant during the class action suit. There is no indication that defendant actually raised this argument in the trial court. Because the trial court never considered any such contention, we decline to consider it.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Mark J. Cavanagh

/s/ Jonathan Tukel

# EXHIBIT – 2

FINAL ORDER OF APPORTIONMENT  
OF COST OF ADMINISTRATION, OPERATIONS AND MAINTENANCE

IN RE GEORGE W. KUHN DRAIN

In accordance with a resolution adopted by the Drainage Board for the George W. Kuhn Drain on the 19<sup>th</sup> day of April, 2005, the apportionments of the cost of administration, operations and maintenance of the George W. Kuhn Drain shall be borne by the several public corporations are as follows:

The combined total volume of storm water and sewage disposal effluent flowing from the George W. Kuhn Drain into the City of Detroit treatment facilities is and will continue to be calculated through master meter charges ("Master Meter Charges") by the City of Detroit to the George W. Kuhn Drainage District.

In order to allocate the total costs of combined storm water and sewerage disposal and treatment by the City of Detroit, it is necessary to establish which portion of the flow from the George W. Kuhn Drain to the City of Detroit is sewage disposal and which portion is storm water runoff. This allocation will be made by assuming that all water purchased from the City of Detroit Water and Sewerage Department (DWSD) by the cities of Berkley, Birmingham, Clawson, Ferndale, Hazel Park, Huntington Woods, Madison Heights, Oak Park, Pleasant Ridge, Royal Oak, Southfield and Troy, the Township of Royal Oak and Village of Beverly Hills (the "Local Public Corporations") located within the George W. Kuhn Drainage District is returned as sanitary flow. Therefore, the difference between such purchased and metered water sales to the Local Public Corporations located within the George W. Kuhn Drainage District and the Master Meter Charges is, by definition, storm water flow.

A sewage disposal rate will be used to charge the Local Public Corporations for their respective sanitary sewage disposal flow into the George W. Kuhn Drain. Such a charge will be composed of the administrative costs of the costs of the sewage disposal portion of the George W. Kuhn Drain, together with the appropriate total sewage disposal rate per 1,000 cubic feet (MCF) of sewage flow for each Local Public Corporation.

The total storm water operation and maintenance component consists of two (2) categories. The first component is the DWSD's charges to the George W. Kuhn Drain to treat the total storm water flow. The second cost component is the administrative cost of operating and maintaining the balance of the George W. Kuhn Drain System not included in the sanitary sewage portion of the charges. An engineering study, utilizing area and land use, has been used to determine each Local Public Corporation's percentage of storm water contribution into the George W. Kuhn Drain System. These percentages will be utilized to apportion the storm water charges to the George W. Kuhn Drain communities. The percentages are finally apportioned as follows:

The costs of administration, operations and maintenance for that portion of the George W. Kuhn Drain, excluding the separate storm drains constructed as a part of Contracts 1 and 4, to be located in the County of Oakland and to serve land located in the following public corporations, are finally apportioned as follows, to wit:

<u>Public Corporation (Community)</u>	<u>Tentative Percentage of Cost</u>
City of Berkley	6.4895%
City of Birmingham	4.8837%
City of Clawson	5.9262%
City of Ferndale	10.2885%
City of Hazel Park	2.2554%
City of Huntington Woods	2.9061%
City of Madison Heights	6.5410%
City of Oak Park	13.6383%
City of Pleasant Ridge	1.3390%
City of Royal Oak	29.7915%
City of Southfield	7.7156%
City of Troy	2.4799%
Township of Royal Oak	1.2775%
Village of Beverly Hills	0.8369%
County of Oakland, on account of Drainage of county highways	1.5274%
State of Michigan, on account of Drainage of state highways	<u>2.1035%</u>
	100.0000%

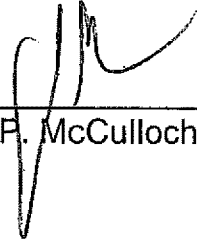
The costs of administration, operations and maintenance for that portion of the George W. Kuhn Drain, inclusive of the separate storm drains constructed as a part of Contracts 1 and 4, to be located in the County of Oakland and to serve land located in the following public corporations, are finally apportioned as follows, to wit:

<u>Public Corporation</u>	<u>Tentative Percentage of Cost</u>
City of Madison Heights	94.4820%
County of Oakland, on account of Drainage of county highways	1.3065%
State of Michigan, on account of Drainage of state highways	<u>4.2115%</u>
	100.0000%



DRAINAGE BOARD FOR THE  
GEORGE W. KUHN DRAIN

By:

  
\_\_\_\_\_  
John F. McCulloch, Chairperson

Dated and Filed: April 19, 2005

BLOOMFIELD 9007-326 684648v1 4/12/2005

# EXHIBIT – 3

**MINUTES OF THE MEETING OF THE DRAINAGE  
BOARD FOR THE GEORGE W. KUHN DRAIN**

April 19, 2005

At a meeting of the Drainage Board for the George W. Kuhn Drain held in the office of the Oakland County Drain Commissioner, Public Works Building, One Public Works Drive, Waterford, Michigan, on the 19th day of April, 2005.

The meeting was called to order by the Chairperson.

PRESENT: John P. McCulloch, Chairperson and  
Oakland County Drain Commissioner

Bill Bullard, Chairperson of the  
Oakland County Board of Commissioners

Chuck Moss, Chairperson of the  
Finance Committee of the  
Oakland County Board of Commissioners

ALSO

PRESENT: Joseph P. Kozma,  
Deputy & Manager, Engineering & Construction

Philip Sanzica,  
Chief Engineer

Eugene R. Snowden, Jr.,  
Engineer

Lynn Sonkiss,  
Chief of Fiscal Services

Shawn Phelps,  
Fiscal Services

Jeremy Adams,  
Fiscal Services

Joseph Colaianne,  
Insurance Administrator

Chuck Lawhorn,  
Civil Engineer

Elaine Van Dyke  
Secretary

J. Bryan Williams, Bond Counsel  
Dickinson Wright PLLC

John R. Axe,  
Municipal Financial Consultants Incorporated

Howard Aube  
City of Novi

Jon Austin  
City of Madison Heights

Gary Nigro  
Engineer

The Chairperson presented the minutes of the meeting of this Board held on March 22, 2005. Upon motion by Moss, seconded by Bullard, and unanimously adopted, the minutes were approved as presented.

There were no public comments.

The Chairperson offered proofs of the publication and mailing of notice of the public hearing. It was moved by Moss, seconded by Bullard and unanimously adopted that the proofs of publication and mailing be received and filed in the office of the Chairperson of the Drainage Board.

The Chairperson then opened the hearing and asked if there were any written objections. Ms. Van Dyke reported that there were no written objections on file. Mr. McCulloch noted for the record the receipt of a favorable letter from MDOT.

The Chairperson then asked if there were any comments or objections from those present at the hearing. Mr. Austin commented formally on the unanimous recommendation of the Advisory Committee with respect to the proposed final apportionments of cost with respect to administration, operations and maintenance of the George W. Kuhn Drain. On behalf of the members of the Advisory Committee, Mr. Austin thanked Mr. McCulloch and the staff of the Oakland County Drain Commissioner for their hard work in resolving serious issues and concerns related to such apportionment. Thereafter, the Chairperson declared the hearing closed.

After the hearing, the following resolution was offered by Moss and seconded by Bullard:

WHEREAS, the Drainage Board for the George W. Kuhn Drain, on the 28<sup>th</sup> day of February, 2005, tentatively established apportionments of the cost of the George W. Kuhn Drain, to be borne by the several public corporations, as follows:

The combined total volume of storm water and sewage disposal effluent flowing from the George W. Kuhn Drain into the City of Detroit treatment facilities is and will continue to be calculated through master meter charges ("Master Meter Charges") by the City of Detroit to the George W. Kuhn Drainage District.

In order to allocate the total costs of combined storm water and sewerage disposal and treatment by the City of Detroit, it is necessary to establish which portion of the flow from the George W. Kuhn Drain to the City of Detroit is sewage disposal and which portion is storm water runoff. This allocation will be made by assuming that all water purchased from the City of Detroit Water and Sewerage Department (DWSD) by the cities of Berkley, Birmingham, Clawson, Ferndale, Hazel Park, Huntington Woods, Madison Heights, Oak Park, Pleasant Ridge, Royal Oak, Southfield and Troy, the Township of Royal Oak and Village of Beverly Hills (the "Local Public Corporations") located within the George W. Kuhn Drainage District is returned as sanitary flow. Therefore, the difference between such purchased and metered water sales to the Local Public Corporations located within the George W. Kuhn Drainage District and the Master Meter Charges is, by definition, storm water flow.

A sewage disposal rate will be used to charge the Local Public Corporations for their respective sanitary sewage disposal flow into the George W. Kuhn Drain. Such a charge will be composed of the administrative costs of the costs of the sewage disposal portion of the George W. Kuhn Drain, together with the appropriate total sewage disposal rate per 1,000 cubic feet (MCF) of sewage flow for each Local Public Corporation.

The total storm water operation and maintenance component consists of two (2) categories. The first component is the DWSD's charges to the George W. Kuhn Drain to treat the total storm water flow. The second cost component is the administrative cost of operating and maintaining the balance of the George W. Kuhn Drain System not included in the sanitary sewage portion of the charges. An engineering study, utilizing area and land use, has been used to determine each Local Public Corporation's percentage of storm water contribution into the George W. Kuhn Drain System. These percentages will be utilized to apportion the storm water charges to the George W. Kuhn Drain communities. The percentages are finally apportioned as follows:

The costs of administration, operations and maintenance for that portion of the George W. Kuhn Drain, excluding the separate storm drains constructed as a part of Contracts 1 and 4, to be located in the County of Oakland and to serve land located in the following public corporations, are finally apportioned as follows, to wit:

<u>Public Corporation (Community)</u>	<u>Tentative Percentage of Cost</u>
City of Berkley	6.4895%

City of Birmingham	4.8837%
City of Clawson	5.9262%
City of Ferndale	10.2885%
City of Hazel Park	2.2554%
City of Huntington Woods	2.9061%
City of Madison Heights	6.5410%
City of Oak Park	13.6383%
City of Pleasant Ridge	1.3390%
City of Royal Oak	29.7915%
City of Southfield	7.7156%
City of Troy	2.4799%
Township of Royal Oak	1.2775%
Village of Beverly Hills	0.8369%
County of Oakland, on account of Drainage of county highways	1.5274%
State of Michigan, on account of Drainage of state highways	<u>2.1035%</u>
	100.0000%

The costs of administration, operations and maintenance for that portion of the George W. Kuhn Drain, inclusive of the separate storm drains constructed as a part of Contracts 1 and 4, to be located in the County of Oakland and to serve land located in the following public corporations, are finally apportioned as follows, to wit:

<u>Public Corporation</u>	<u>Tentative Percentage of Cost</u>
City of Madison Heights	94.4820%
County of Oakland, on account of Drainage of county highways	1.3065%
State of Michigan, on account of Drainage of state highways	<u>4.2115%</u>
	100.0000%

WHEREAS, after due notice the Drainage Board met on the 19th day of April, 2005, to hear any objections to the apportionments; and

WHEREAS, the apportionments of cost have been made by taking into consideration the benefits to accrue to each of the public corporations to be assessed and by taking into consideration the extent to which each public corporation contributes to the conditions which made the George W. Kuhn Drain necessary, limiting such

factors in the case of the County of Oakland and the State of Michigan solely to the drainage of county and state highways; and

WHEREAS, this Drainage Board has given due and full consideration to all objections offered thereto; and

WHEREAS, the George W. Kuhn Drain is necessary for the public health.

NOW, THEREFORE, BE IT RESOLVED by the Drainage Board for the George W. Kuhn Drain:

1. The apportionments of cost as above set forth be and the same are fixed and confirmed.

2. The Chairperson of this Drainage Board is authorized and directed to issue on behalf of the Board its Final Order of Apportionment setting forth the several apportionments as herein fixed and confirmed.

3. All former resolutions and orders of this Board, insofar as the same may be in conflict with the terms of this resolution, are rescinded.

ADOPTED: Yeas: 3  
Nays: 0

The Chairperson proceeded to sign the Final Order of Apportionment for the George W. Kuhn Drain as directed in the foregoing resolution. The order was dated April 19, 2005, and, upon motion by Moss, supported by Bullard and unanimously adopted, was filed with the Chairperson.

Invoices in the amount of \$108,305.17 (as attached) were presented for consideration. It was moved by Moss, supported by Bullard, that the invoices be approved for payment in the amount of \$108,305.17.

ADOPTED: Yeas - 3  
Nays - 0

Construction Estimate No. 41 (Contract No. 4) in the amount of \$750,883.85 was presented for approval. Following discussion, it was moved by Moss, supported by Bullard, that Construction Estimate No. 41 (Contract No. 4) in the amount of \$750,883.85 be approved for payment to Walbridge Aldinger Company, Contractor.

ADOPTED: Yeas - 3  
Nays - 0

Mr. Colaianne updated the Board with respect to issues involving the revocation and reissuance of the NPDES permit previously discussed at the February 28, 2005 meeting of the Drain Board. He reported that he had met with the attorneys for the various local communities in March, 2005 concerning the continuation of the practice of naming the individual communities as co-permittees. Mr. Colaianne indicated that the

Advisory Committee was prepared to take up the issue of the communities being named as co-permitees at its next meeting.

It was moved by McCulloch and supported by Moss, to certify attendance and authorize pro rata share payment of \$25 per day to both Mr. Moss and Mr. Bullard.

ADOPTED: Yeas - 3  
Nays - 0

There being no further business to come before the meeting, the meeting was adjourned.



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Chairperson

Date: April 19, 2005



STATE OF MICHIGAN            )  
  )SS.  
COUNTY OF OAKLAND        )

I, the undersigned, do hereby certify that the foregoing is a true and complete copy of the minutes of the George W. Kuhn Drain, Oakland County, Michigan, held on the 19th day of April, 2005 and that the said minutes are on file in the office of the Oakland County Drain Commissioner and are available to the public.

I further certify that notice of the meeting was posted at least 18 hours in advance of the meeting at the office of the Oakland County Drain Commissioner which is the principal office of the George W. Kuhn Drainage District.

  
\_\_\_\_\_  
John P. McCulloch, Chairperson

Dated: May 9, 2005

# EXHIBIT – 4

Great Lakes Water Authority  
 Approved FY 2021 Sewage Disposal System Allocated Revenue Requirements and Service Charges  
 Approved by the GLWA Board on March 11, 2020

	Fixed Monthly <u>Charge</u> \$/mo	Annual Revenue <u>Requirement</u> \$
<u>Suburban Wholesale</u>		
1 OMID	6,400,000	76,799,400
2 Rouge Valley	4,575,900	54,910,700
3 Oakland GWK	3,821,000	45,851,800
4 Evergreen Farmington	2,944,100	35,329,000
5 SE Macomb San Dist	2,097,000	25,164,500
6 Dearborn	1,646,200	19,754,700
7 Grosse Pointe Farms	232,300	2,787,700
8 Grosse Pointe Park	153,000	1,835,600
9 Melvindale	129,600	1,554,600
10 Farmington	97,200	1,166,900
11 Center Line	87,300	1,047,900
12 Allen Park	72,200	866,300
13 Highland Park	478,900	5,747,300
14 Hamtramck	337,000	4,044,200
15 Grosse Pointe	75,400	904,300
16 Harper Woods	18,500	222,100
17 Redford Township	22,300	267,500
18 Wayne County #3	4,300	51,500
19 <b>Subtotal "Regional Wholesale Revenues from Charges"</b>		278,306,000
20 Industrial Specific Revenues		14,038,200
21 <b>Subtotal "Regional Wholesale Revenues from Charges"</b>		292,344,200
22 less: Highland Park Bad Debt		(1,294,200)
23 <b>Total "Regional Wholesale Revenues" (a)</b>		291,050,000
<b>* Wholesale charges will be effective July 1, 2020</b>		
<b>Detroit Customer Class - \$</b>		
24 <b>Wholesale</b> Revenue Requirement (c)		195,628,100
25 less: Ownership Benefit per Lease		(5,516,000)
26 <b>Net Wholesale</b> Revenue Requirement		190,112,100
27 <b>Indirect Retail</b> Revenue Requirements (d)		36,245,300
28 less: Use of Lease Payment for Debt Service		(3,257,200)
29 <b>Net Indirect Retail</b> Revenue Requirements (d)		32,988,100
30 Subtotal Subject to GLWA Board Approval (26) + (29)		223,100,200
31 <b>Direct Retail</b> Revenue Requirements (e)		72,771,700
32 <b>Total Local System Revenue Requirement (29) + (31)</b>		105,759,800
33 <b>Net Requirement from Detroit Customer Class (a)</b>		295,871,900

(a) Agrees with GLWA Budget "Schedule 3A"

(b) Reserved

(c) Wholesale revenue requirements for the Detroit Customer Class.

(d) Local System revenue requirements related to Master Bond Ordinance (local debt service, etc.)

(e) Local System operating expenses (net of shared services reimbursement) and I&E deposit. Not Subject to GLWA Board approval.

# EXHIBIT – 5

## FY 2018 SHARE CALCULATIONS

## Volume Data Analysis - cfs

						41.88			
						11.3%			
	4-Year Average Flow Contributions from FY 2013 through FY 2016								
	Total Contributed	Total	Dry Weather Sanitary	DWII	Wet Weather	less: Overflow	Net Wet Weather	less: NNNRW	Net Contributed
						4.73			
						37.15		0	
<b>M Customers</b>									
1a OMID - Unadjusted	103.97	93.58	74.67	18.91	10.39				93.58
1b Adjust for C/O Diversion	(9.96)	(7.77)	(5.50)	(2.27)	(2.19)				(7.77)
1 Adjusted OMID	94.01	85.81	69.17	16.64	8.20	(0.43)	7.77	0.00	93.57
2 Rouge Valley	87.84	70.90	45.96	24.95	16.94	(0.89)	16.05	0.00	86.95
3 Oakland GWK	80.01	52.54	32.06	20.48	27.47	(1.44)	26.03	0.00	78.57
4 Evergreen Farmington	54.46	47.03	31.63	15.40	7.43	(0.39)	7.04	0.00	54.07
5 NE Wayne Co	43.20	27.98	18.13	9.85	15.22	(0.80)	14.42	0.00	42.40
6 Allen Park	1.35	1.01	0.74	0.27	0.34	(0.02)	0.32	0.00	1.33
7 Center Line	1.57	1.16	0.91	0.25	0.41	(0.02)	0.39	0.00	1.55
8 Dearborn East & West	31.89	21.36	13.38	7.98	10.53	(0.55)	9.98	0.00	31.34
9 Farmington	1.90	1.56	0.96	0.59	0.34	(0.02)	0.32	0.00	1.88
10 Grosse Pointe Park	3.20	2.12	1.32	0.80	1.08	(0.06)	1.02	0.00	3.15
11 Melvindale	2.42	1.92	1.33	0.59	0.51	(0.03)	0.48	0.00	2.40
12 Grosse Pointe Farms	4.62	3.05	1.68	1.37	1.57	(0.08)	1.48	0.00	4.53
13 M Total	406.46	316.43	217.26	99.17	90.03	(4.73)	85.30	0.00	401.73
14 D+	396.93	282.11	89.11	193.01	114.82	(37.15)	77.67	0.00	359.79
15 Subtotal	803.40	598.54	306.37	292.17	204.86	(41.88)	162.98	0.00	761.52
16 Z	185.98	124.13		124.13	61.85		61.85		185.98
17 Net Adjusted	989.38	722.67	306.37	416.30	266.71	(41.88)	224.83	0.00	947.50
Relative %									
18 M	41.1%	43.8%	70.9%	23.8%	33.8%	11.3%	37.9%	0.0%	42.4%
19 D+	40.1%	39.0%	29.1%	46.4%	43.1%	88.7%	34.5%	0.0%	38.0%
20 Z	18.8%	17.2%	0.0%	29.8%	23.2%	0.0%	27.5%	0.0%	19.6%
Allocation %									
21 M	50.6%	52.9%	70.9%	33.9%	44.0%	11.3%	52.3%	0.0%	52.8%
22 D+	49.4%	47.1%	29.1%	66.1%	56.0%	88.7%	47.7%	0.0%	47.2%
23 Original W	962.79	734.37							
24 less: OMID Diversion	(9.96)	(7.77)							
25 less: WTUA Diversion	(5.33)	(3.93)							
26 Net Adjusted W	947.50	722.67							
27 plus Overflow	41.88								
28 Total Contributed	989.38	722.67							
Reported D+									
29 Direct	213.25	146.28			66.97				
30 Indirect	183.68	135.84			47.85				
31 Original Total	396.93	282.11			114.82				
32 Indirect Adj Factor	100.000%	100%							
33 Adjusted Indirect	183.68	135.84							
34 Adjusted Total	396.93	282.11							
35 OMID Diversion %	9.6%	8.3%							

TFG

## FY 2018 SHARE CALCULATIONS

## Volume Data Summary - cfs

	Sanitary	DWII	Wet Weather	Total
1 Adjusted OMID	69.17	16.64	7.77	93.57
2 Rouge Valley	45.96	24.95	16.05	86.95
3 Oakland GWK	32.06	20.48	26.03	78.57
4 Evergreen Farmington	31.63	15.40	7.04	54.07
5 NE Wayne Co	18.13	9.85	14.42	42.40
6 Allen Park	0.74	0.27	0.32	1.33
7 Center Line	0.91	0.25	0.39	1.55
8 Dearborn East & West	13.38	7.98	9.98	31.34
9 Farmington	0.96	0.59	0.32	1.88
10 Grosse Pointe Park	1.32	0.80	1.02	3.15
11 Melvindale	1.33	0.59	0.48	2.40
12 Grosse Pointe Farms	1.68	1.37	1.48	4.53
13 M Total	217.26	99.17	85.30	401.73
14 D+	89.11	193.01	77.67	359.79
15 Total Allocation Units	306.37	292.17	162.98	761.52
16 Common Units		124.13	61.85	185.98
17 Grand Total	306.37	416.30	224.83	947.50

## FY 2018 SHARE CALCULATIONS

## Calculation of Allocation Units and Shares

					BOD	TSS	PHOS	FOG
					176,697,300	255,289,900	4,910,400	27,112,600
Weighted Adj Influent Split								
1	Sanitary		9,661,500	79.9%	141,198,500	204,001,800	3,923,900	21,665,600
2	DWII Ratio	5.0%	656,400	5.4%	9,593,000	13,859,800	266,600	1,472,000
3	WW Ratio	25.0%	1,772,600	14.7%	25,905,800	37,428,300	719,900	3,975,000
4	Total		12,090,500		176,697,300	255,289,900	4,910,400	27,112,600
5	Sanitary Strength				234.2	338.4	6.5	35.9
6	DWII Strength				11.7	16.9	0.3	1.8
7	Wet Weather Strength				58.6	84.6	1.6	9.0
8	Allocated Strength				111.2	160.7	3.1	17.1
9	Total Strength				94.8	136.9	2.6	14.5
					BOD	TSS	PHOS	FOG
					lbs	lbs	lbs	lbs
1	Adjusted OMID	2,181,200	524,900	2,951,000	33,155,600	47,902,800	921,400	5,087,400
2	Rouge Valley	1,449,200	786,700	2,742,000	23,603,400	34,101,800	655,900	3,621,700
3	Oakland GWK	1,011,100	645,800	2,477,700	18,247,600	26,363,800	507,100	2,799,900
4	Evergreen Farmington	997,400	485,600	1,705,100	15,742,900	22,745,100	437,500	2,415,600
5	NE Wayne Co	571,600	310,800	1,337,200	10,242,500	14,798,200	284,600	1,571,600
6	Allen Park	23,300	8,600	42,000	383,700	554,400	10,700	58,900
7	Center Line	28,700	7,800	48,900	470,400	679,700	13,100	72,200
8	Dearborn East & West	422,000	251,600	988,300	7,501,000	10,837,300	208,500	1,151,000
9	Farmington	30,400	18,700	59,200	494,800	715,000	13,800	75,900
10	Grosse Pointe Park	41,700	25,200	99,200	745,900	1,077,600	20,700	114,400
11	Melvindale	41,800	18,600	75,600	680,000	982,500	18,900	104,300
12	Grosse Pointe Farms	53,100	43,100	143,000	978,500	1,413,700	27,200	150,100
13	M Total	6,851,500	3,127,400	12,669,200	112,246,300	162,171,900	3,119,400	17,223,000
14	D+	2,810,000	6,086,600	11,346,100	54,464,000	78,688,800	1,513,500	8,357,000
15	Total Allocation Units	9,661,500	9,214,000	24,015,300	166,710,300	240,860,700	4,632,900	25,580,000
16	Common Flow		3,914,500	5,865,100	9,987,100	14,429,200	277,500	1,532,400
17	Total Flow	9,661,500	13,128,500	29,880,400	176,697,400	255,289,900	4,910,400	27,112,400
					BOD	TSS	PHOS	FOG
					%	%	%	%
18	Adjusted OMID	22.58%	5.70%	12.29%	19.89%	19.89%	19.89%	19.89%
19	Rouge Valley	15.00%	8.54%	11.42%	14.16%	14.16%	14.16%	14.16%
20	Oakland GWK	10.47%	7.01%	10.32%	10.95%	10.95%	10.95%	10.95%
21	Evergreen Farmington	10.32%	5.27%	7.10%	9.44%	9.44%	9.44%	9.44%
22	NE Wayne Co	5.92%	3.37%	5.57%	6.14%	6.14%	6.14%	6.14%
23	Allen Park	0.24%	0.09%	0.17%	0.23%	0.23%	0.23%	0.23%
24	Center Line	0.30%	0.08%	0.20%	0.28%	0.28%	0.28%	0.28%
25	Dearborn East & West	4.37%	2.73%	4.12%	4.50%	4.50%	4.50%	4.50%
26	Farmington	0.31%	0.20%	0.25%	0.30%	0.30%	0.30%	0.30%
27	Grosse Pointe Park	0.43%	0.27%	0.41%	0.45%	0.45%	0.45%	0.45%
28	Melvindale	0.43%	0.20%	0.31%	0.41%	0.41%	0.41%	0.41%
29	Grosse Pointe Farms	0.55%	0.47%	0.60%	0.59%	0.59%	0.59%	0.59%
30	M Total	70.92%	33.94%	52.75%	67.33%	67.33%	67.33%	67.33%
31	D+	29.08%	66.06%	47.25%	32.67%	32.67%	32.67%	32.67%
32	Total Allocation Units	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

TFG

PRELIMINARY

THE FOSTER GROUP

2/12/17

**Final SHARE Calculations**

	Volume Share	Pollutant Share	SHARE
<i>Relative Cost Pool:</i>	<b>50.0%</b>	<b>50.0%</b>	
<b>Shares</b>			
1 Adjusted OMID	12.288%	19.888%	16.088%
2 Rouge Valley	11.418%	14.158%	12.788%
3 Oakland GWK	10.317%	10.946%	10.631%
4 Evergreen Farmington	7.100%	9.443%	8.272%
5 NE Wayne Co	5.568%	6.144%	5.856%
6 Allen Park	0.175%	0.230%	0.203%
7 Center Line	0.204%	0.282%	0.243%
8 Dearborn East & West	4.115%	4.499%	4.307%
9 Farmington	0.247%	0.297%	0.272%
10 Grosse Pointe Park	0.413%	0.447%	0.430%
11 Melvindale	0.315%	0.408%	0.361%
12 Grosse Pointe Farms	0.595%	0.587%	0.591%
13 <b>M Total</b>	<b>52.755%</b>	<b>67.330%</b>	<b>60.042%</b>
14 <b>D+</b>	<b>47.245%</b>	<b>32.670%</b>	<b>39.958%</b>
15 <b>TOTAL</b>	<b>100.000%</b>	<b>100.000%</b>	<b>100.000%</b>



# EXHIBIT – 6



# WRC

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WATER RESOURCES COMMISSIONER

*Jim Nash*

April 30, 2020

Ms. Melissa Marsh  
City Manager  
City of Madison Heights  
300 W 13 Mile Road  
Madison Heights, MI 48071

**Re: George W. Kuhn Drain Drainage District 2020-21 Rate Change**

Dear Ms. Marsh:

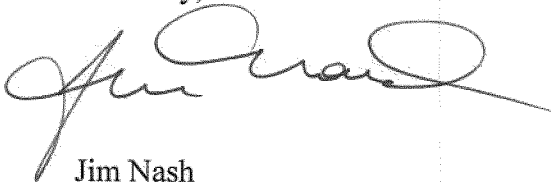
I have enclosed the Schedule of Rates and Charges for each community served by the George W. Kuhn Drain Drainage District. These rates and charges were approved at the April 28, 2020 Board meeting.

The combined sewage and stormwater charges will result in an overall 1.1 percent increase from the previous year. As you will see from the enclosed documents, this higher amount is attributable to increases in operating expenditures. I've also included related documents which provide a thorough overview of what was presented at the Drain Board meeting.

As with previous years, we will continue our practice of following the rate share calculation based on a five-year average of water volume to determine each community's monthly sewer charge. The stormwater charge continues to be based on the apportionment percentages previously adopted by the Board.

If you have any questions or would like additional detailed information, please contact Raphael Chirolla via email at [Chirollar@oakgov.com](mailto:Chirollar@oakgov.com).

Sincerely,



Jim Nash

Enclosures



Great Lakes Water Authority  
 Approved FY 2021 Sewage Disposal System Allocated Revenue Requirements and Service Charges  
 Approved by the GLWA Board on March 11, 2020

	Fixed Monthly <u>Charge</u> \$/mo	Annual Revenue <u>Requirement</u> \$
Suburban Wholesale		
1 OMID	6,400,000	76,799,400
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8 Grosse Pointe Park	153,000	1,835,600
9 Melvindale	129,600	1,554,600
10 Farmington	97,200	1,166,900
11 Center Line	87,300	1,047,900
12 Allen Park	72,200	866,300
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16 Harper Woods	18,500	222,100
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19 <b>Subtotal "Regional Wholesale Revenues from Charges"</b>		278,306,000
20 Industrial Specific Revenues		14,038,200
21 <b>Subtotal "Regional Wholesale Revenues from Charges"</b>		292,344,200
22 less: Highland Park Bad Debt		(1,294,200)
23 <b>Total "Regional Wholesale Revenues" (a)</b>		291,050,000
<b>* Wholesale charges will be effective July 1, 2020</b>		
<b>Detroit Customer Class - \$</b>		
24 <b>Wholesale</b> Revenue Requirement (c)		195,628,100
25 less: Ownership Benefit per Lease		(5,516,000)
26 <b>Net Wholesale</b> Revenue Requirement		190,112,100
27 <b>Indirect Retail</b> Revenue Requirements (d)		36,245,300
28 less: Use of Lease Payment for Debt Service		(3,257,200)
29 <b>Net Indirect Retail</b> Revenue Requirements (d)		32,988,100
30 Subtotal Subject to GLWA Board Approval (26) + (29)		223,100,200
31 <b>Direct Retail</b> Revenue Requirements (e)		72,771,700
32 <b>Total Local System Revenue Requirement (29) + (31)</b>		105,759,800
33 <b>Net Requirement from Detroit Customer Class (a)</b>		295,871,900

(a) Agrees with GLWA Budget "Schedule 3A"

(b) Reserved

(c) Wholesale revenue requirements for the Detroit Customer Class.

(d) Local System revenue requirements related to Master Bond Ordinance (local debt service, etc.)

(e) Local System operating expenses (net of shared services reimbursement) and I&E deposit. Not Subject to GLWA Board approval.

Great Lakes Water Authority  
 Approved FY 2021 Industrial Specific Retail Sewer Charges  
 Approved by the GLWA Board on March 11, 2020

Industrial Waste Control Charges		Pollutant Surcharges	
Meter Size - inches	Charge \$/mo	Pollutant	Charge \$/lb
5/8	3.45	BIOCHEMICAL OXYGEN DEMAND (BOD)	
3/4	5.18	for concentrations > 275 mg/l	<b>0.502</b>
1	8.63		
1-1/2	18.98		
2	27.60	TOTAL SUSPENDED SOLIDS (TSS)	
3	50.03	for concentrations > 350 mg/l	<b>0.51</b>
4	69.00		
6	103.50		
8	172.50	PHOSPHORUS (P)	
10	241.50	for concentrations > 12 mg/l	<b>7.519</b>
12	276.00		
14	345.00		
16	414.00	FATS, OIL AND GREASE (FOG)	
18	483.00	for concentrations > 100 mg/l	<b>0.484</b>
20	552.00		
24	621.00		
30	690.00	SEPTAGE DISPOSAL FEE	
36	759.00	Per 500 gallons of disposal	<b>48.00</b>
48	828.00		

# George W. Kuhn Sewage and Twelve Towns

58510 and 58530

## Financial Summary

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	2020 Budget	2021 Forecast	Inc / (Dec)	% Variance
<b><u>Operating Revenues</u></b>				
Operating Rate Revenue	\$ 25,797,170.00	\$ 24,427,530.00	\$ (1,369,640.00)	-5.3%
Operating Non-Rate Revenue	99,950.00	134,120.00	34,170.00	34.2%
Operating Revenues	<u>\$ 25,897,120.00</u>	<u>\$ 24,561,650.00</u>	<u>\$ (1,335,470.00)</u>	<u>-5.2%</u>
<b><u>By Expense Category</u></b>				
Operating Expenses:				
Personnel	\$ 142,890.00	\$ 148,670.00	\$ 5,780.00	4.0%
Contractual Services	25,705,420.00	24,357,290.00	(1,348,130.00)	-5.2%
Commodities	8,430.00	5,210.00	(3,220.00)	-38.2%
Internal Services	40,380.00	50,480.00	10,100.00	25.0%
Other Expense	-	-	-	
Total Operating Expenses	<u>\$ 25,897,120.00</u>	<u>\$ 24,561,650.00</u>	<u>\$ (1,335,470.00)</u>	<u>-5.2%</u>
<b><u>Operating Expenses</u></b>				
Sewage Treatment	\$ 22,043,570.00	\$ 21,963,110.00	\$ (80,460.00)	-0.4%
Sewer System Maintenance	220,420.00	234,040.00	13,620.00	6.2%
Sewer System Engineering	59,550.00	68,750.00	9,200.00	15.4%
Water Purchases	-	-	-	
Water Maintenance Unit	-	-	-	
Water Systems Engineering	-	-	-	
Septage Unloading Facility	-	-	-	
Pump Maintenance Unit	51,960.00	31,930.00	(20,030.00)	-38.5%
Systems Control Unit	134,790.00	139,550.00	4,760.00	3.5%
Plan Review and Permitting	32,380.00	57,500.00	25,120.00	77.6%
Inspection	5,770.00	8,070.00	2,300.00	39.9%
IPP	-	-	-	
Laboratory	-	-	-	
Mapping Unit	12,810.00	13,370.00	560.00	4.4%
Miss Dig	3,720.00	2,740.00	(980.00)	-26.3%
Billing Services Unit	-	-	-	
General and Administrative	3,332,150.00	2,042,590.00	(1,289,560.00)	-38.7%
Total Operating Expenses	<u>25,897,120.00</u>	<u>24,561,650.00</u>	<u>(1,335,470.00)</u>	<u>-5.2%</u>
Net Income	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	
Depreciation	(23,760.00)	(22,100.00)	1,660.00	-7.0%
<b><u>Reserves</u></b>				
Non-Operating Revenue	\$ -	\$ 500,000.00	\$ 500,000.00	
Non-Operating Expense	-	-	-	
Major Maintenance Reserve Revenue	669,500.00	689,590.00	20,090.00	3.0%
Major Maintenance Reserve Expense	(399,180.00)	(496,250.00)	(97,070.00)	24.3%
Emergency Reserve Revenue	100,000.00	100,000.00	-	0.0%
Emergency Reserve Expense	-	-	-	
Capital Reserve Revenue	448,960.00	1,350,000.00	901,040.00	200.7%
Capital Reserve Expense	(700,000.00)	(700,000.00)	-	0.0%
Change in Net Assets	<u>\$ 95,520.00</u>	<u>\$ 1,421,240.00</u>	<u>\$ 1,325,720.00</u>	<u>1387.9%</u>
<b><u>Rate Revenue</u></b>				
Revenue Requirements:				
Operating Expense	\$ 25,897,120.00	\$ 24,561,650.00	\$ (1,335,470.00)	-5.2%
Non-Operating	-	500,000.00	500,000.00	
Major Maintenance	669,500.00	689,590.00	20,090.00	3.0%
Emergency Maintenance	100,000.00	100,000.00	-	0.0%
Capital	448,960.00	1,350,000.00	901,040.00	200.7%
Total Revenue Requirements	<u>\$ 27,115,580.00</u>	<u>\$ 27,201,240.00</u>	<u>\$ 85,660.00</u>	<u>0.3%</u>
Non-Rate Revenue	<u>\$ (99,950.00)</u>	<u>\$ (134,120.00)</u>	<u>\$ (34,170.00)</u>	<u>34.2%</u>
Rate Required Revenue	<u>\$ 27,015,630.00</u>	<u>\$ 27,067,120.00</u>	<u>\$ 51,490.00</u>	<u>0.2%</u>

# George W. Kuhn Pollution Control

58520

## Financial Summary

Page 5 of 13

	2020 Budget	2021 Forecast	Inc / (Dec)	% Variance
<b><u>Operating Revenues</u></b>				
Operating Rate Revenue	\$ 25,892,510.00	\$ 26,416,560.00	\$ 524,050.00	2.0%
Operating Non-Rate Revenue	504,510.00	696,360.00	191,850.00	38.0%
Operating Revenues	<u>\$ 26,397,020.00</u>	<u>\$ 27,112,920.00</u>	<u>\$ 715,900.00</u>	<u>2.7%</u>
<b><u>By Expense Category</u></b>				
Operating Expenses:				
Personnel	\$ 1,173,290.00	\$ 1,206,650.00	\$ 33,360.00	2.8%
Contractual Services	24,865,210.00	25,524,350.00	659,140.00	2.7%
Commodities	135,870.00	141,260.00	5,390.00	4.0%
Internal Services	222,650.00	240,660.00	18,010.00	8.1%
Other Expense	-	-	-	
Total Operating Expenses	<u>\$ 26,397,020.00</u>	<u>\$ 27,112,920.00</u>	<u>\$ 715,900.00</u>	<u>2.7%</u>
<b><u>Operating Expenses</u></b>				
Sewage Treatment	\$ 23,289,390.00	\$ 23,976,540.00	\$ 687,150.00	3.0%
Sewer System Maintenance	251,040.00	299,460.00	48,420.00	19.3%
Sewer System Engineering	331,740.00	260,710.00	(71,030.00)	-21.4%
Water Purchases	-	-	-	
Water Maintenance Unit	-	-	-	
Water Systems Engineering	-	-	-	
Septage Unloading Facility	-	-	-	
Pump Maintenance Unit	1,417,620.00	1,519,290.00	101,670.00	7.2%
Systems Control Unit	96,200.00	105,210.00	9,010.00	9.4%
Plan Review and Permitting	-	-	-	
Inspection	-	-	-	
IPP	-	-	-	
Laboratory	5,520.00	8,450.00	2,930.00	53.1%
Mapping Unit	350.00	800.00	450.00	128.6%
Miss Dig	-	-	-	
Billing Services Unit	-	-	-	
General and Administrative	1,005,160.00	942,460.00	(62,700.00)	-6.2%
Total Operating Expenses	<u>26,397,020.00</u>	<u>27,112,920.00</u>	<u>715,900.00</u>	<u>2.7%</u>
Net Income	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	
Depreciation	(18,480.00)	(15,960.00)	2,520.00	-13.6%
<b><u>Reserves</u></b>				
Non-Operating Revenue	\$ -	\$ -	\$ -	
Non-Operating Expense	-	-	-	
Major Maintenance Reserve Revenue	300,000.00	309,000.00	9,000.00	3.0%
Major Maintenance Reserve Expense	(327,150.00)	(460,470.00)	(133,320.00)	40.8%
Emergency Reserve Revenue	50,000.00	50,000.00	-	0.0%
Emergency Reserve Expense	-	-	-	
Capital Reserve Revenue	515,000.00	530,450.00	15,450.00	3.0%
Capital Reserve Expense	(4,215,000.00)	(215,000.00)	4,000,000.00	-94.9%
Change in Net Assets	<u>\$ (3,695,630.00)</u>	<u>\$ 198,020.00</u>	<u>\$ 3,893,650.00</u>	<u>-105.4%</u>
<b><u>Rate Revenue</u></b>				
Revenue Requirements:				
Operating Expense	\$ 26,397,020.00	\$ 27,112,920.00	\$ 715,900.00	2.7%
Non-Operating	-	-	-	
Major Maintenance	300,000.00	309,000.00	9,000.00	3.0%
Emergency Maintenance	50,000.00	50,000.00	-	0.0%
Capital	515,000.00	530,450.00	15,450.00	3.0%
Total Revenue Requirements	<u>\$ 27,262,020.00</u>	<u>\$ 28,002,370.00</u>	<u>\$ 740,350.00</u>	<u>2.7%</u>
Non-Rate Revenue	<u>\$ (504,510.00)</u>	<u>\$ (696,360.00)</u>	<u>\$ (191,850.00)</u>	<u>38.0%</u>
Rate Required Revenue	<u>\$ 26,757,510.00</u>	<u>\$ 27,306,010.00</u>	<u>\$ 548,500.00</u>	<u>2.0%</u>

## Monthly Charge Breakdown

**SEWAGE CHARGE**

<b>Flat Rate Sewage Charge</b>	<b>Effective July 1, 2020</b>
	<b>Annual Charge</b>
GLWA Purchased Expense	\$ 21,963,110.00
OCWRC Operating Expense	2,598,540.00
Non-Operating	500,000.00
Major Maintenance Reserve	689,590.00
Emergency Maintenance Reserve	100,000.00
Capital Improvement Reserve	1,350,000.00
Less: Misc. Revenue	(134,120.00)
<b>Total:</b>	<b>\$ 27,067,120.00</b>

	<b>Effective July 1, 2020</b>	<b>Effective July 1, 2020</b>
	<b>Annual Charge</b>	<b>Monthly Charge</b>
City of Berkley	\$ 1,088,368	\$ 90,697.33
Village of Beverly Hills	73,353	6,112.75
City of Birmingham	819,051	68,254.26
City of Clawson	804,705	67,058.75
City of Ferndale	1,476,240	123,019.99
City of Hazel Park	1,108,128	92,344.00
City of Huntington Woods	497,223	41,435.25
City of Madison Heights	2,782,229	231,852.41
City of Oak Park	2,093,100	174,425.00
City of Pleasant Ridge	240,087	20,007.26
City of Royal Oak	5,198,781	433,231.74
Royal Oak Twp	255,785	21,315.42
City of Southfield	1,788,054	149,004.51
City of Troy	8,507,466	708,955.49
Detroit Zoological Park	297,197	24,766.42
County of Oakland	-	-
Rackham Golf Course	37,353	3,112.75
State Of Michigan	-	-
<b>Total</b>	<b>\$ 27,067,120</b>	<b>\$ 2,255,593.33</b>

## Monthly Charge Breakdown

**STORM CHARGE**

<b>Flat Rate Storm Charge</b>	<b>Effective July 1, 2020</b>
	<b>Annual Charge</b>
GLWA Purchased Expense	\$ 23,976,540.00
OCWRC Operating Expense	3,136,380.00
Non-Operating	-
Major Maintenance	309,000.00
Emergency Maintenance	50,000.00
Capital Improvement	530,450.00
Less: Interest Income	(696,360.00)
<b>Total:</b>	<b>\$ 27,306,010.00</b>

	<b>Effective July, 1 2020</b>	<b>Effective July 1, 2020</b>
	<b>Annual Charge</b>	<b>Monthly Charge</b>
City of Berkley	\$ 1,772,025	\$ 147,668.76
Village of Beverly Hills	228,524	19,043.67
City of Birmingham	1,333,544	111,128.66
City of Clawson	1,618,210	134,850.84
City of Ferndale	2,809,377	234,114.75
City of Hazel Park	615,860	51,321.67
City of Huntington Woods	673,667	56,138.91
City of Madison Heights	1,786,086	148,840.50
City of Oak Park	3,724,074	310,339.49
City of Pleasant Ridge	365,628	30,469.00
City of Royal Oak	8,110,649	675,887.40
Royal Oak Twp	348,833	29,069.42
City of Southfield	2,106,822	175,568.49
City of Troy	677,162	56,430.16
Detroit Zoological Park	91,856	7,654.67
County of Oakland	417,073	34,756.09
Rackham Golf Course	52,237	4,353.08
State Of Michigan	574,383.00	47,865.26
<b>Total</b>	<b>\$ 27,306,010</b>	<b>\$ 2,275,500.82</b>



## Share &amp; Monthly Charge Comparison

## SEWAGE CHARGE

	FY 2019-20 (July - June)		FY 2020-21 (July - June)		% Change Mthly Charge
	Share % of System	Monthly Charge	Share % of System	Monthly Charge	
City of Berkley	3.911%	\$ 88,048.42	4.021%	\$ 90,697.33	3.0%
Village of Beverly Hills	0.273%	6,146.09	0.271%	6,112.75	-0.5%
City of Birmingham	3.034%	68,304.49	3.026%	68,254.26	-0.1%
City of Clawson	2.898%	65,242.75	2.973%	67,058.75	2.8%
City of Ferndale	5.374%	120,985.00	5.454%	123,019.99	1.7%
City of Hazel Park	4.108%	92,483.50	4.094%	92,344.00	-0.2%
City of Huntington Woods	1.811%	40,771.17	1.837%	41,435.25	1.6%
City of Madison Heights	10.759%	242,217.67	10.279%	231,852.41	-4.3%
City of Oak Park	7.837%	176,434.66	7.733%	174,425.00	-1.1%
City of Pleasant Ridge	0.887%	19,968.91	0.887%	20,007.26	0.2%
City of Royal Oak	19.306%	434,636.51	19.207%	433,231.74	-0.3%
Royal Oak Twp	0.957%	21,544.92	0.945%	21,315.42	-1.1%
City of Southfield	6.709%	151,039.91	6.606%	149,004.51	-1.3%
City of Troy	30.917%	696,035.17	31.431%	708,955.49	1.9%
Detroit Zoological Park	1.090%	24,539.16	1.098%	24,766.42	0.9%
County of Oakland	0.000%	-	-	-	-
Rackham Golf Course	0.129%	2,904.17	0.138%	3,112.75	7.2%
State Of Michigan	0.000%	-	-	-	-
Total	100.00%	\$ 2,251,302.50	100.00%	\$ 2,255,593.33	0.2%

Charges have been rounded

## Share &amp; Monthly Charge Comparison

**STORM CHARGE**

	FY 2019-20 (July - June)		FY 2020-21 (July - June)		% Change Mthly Charge
	Share % of System	Monthly Charge	Share % of System	Monthly Charge	
City of Berkley	6.4895%	\$ 144,702.33	6.4895%	\$ 147,668.76	2.1%
Village of Beverly Hills	0.8369%	18,661.09	0.8369%	19,043.67	2.1%
City of Birmingham	4.8837%	108,896.42	4.8837%	111,128.66	2.0%
City of Clawson	5.9262%	132,142.00	5.9262%	134,850.84	2.0%
City of Ferndale	10.2885%	229,412.18	10.2885%	234,114.75	2.0%
City of Hazel Park	2.2554%	50,290.75	2.2554%	51,321.67	2.0%
City of Huntington Woods	2.4671%	55,011.16	2.4671%	56,138.91	2.1%
City of Madison Heights	6.5410%	145,850.75	6.5410%	148,840.50	2.0%
City of Oak Park	13.6383%	304,105.75	13.6383%	310,339.49	2.0%
City of Pleasant Ridge	1.3390%	29,857.00	1.3390%	30,469.00	2.0%
City of Royal Oak	29.7028%	662,310.67	29.7028%	675,887.40	2.0%
Royal Oak Twp	1.2775%	28,485.67	1.2775%	29,069.42	2.0%
City of Southfield	7.7156%	172,041.84	7.7156%	175,568.49	2.0%
City of Troy	2.4799%	55,296.74	2.4799%	56,430.16	2.0%
Detroit Zoological Park	0.3364%	7,501.00	0.3364%	7,654.67	2.0%
County of Oakland	1.5274%	34,057.83	1.5274%	34,756.09	2.1%
Rackham Golf Course	0.1913%	4,265.58	0.1913%	4,353.08	2.1%
State Of Michigan	2.1035%	46,903.75	2.1035%	47,865.26	2.0%
Total	100.0000%	\$ 2,229,792.51	100.0000%	\$ 2,275,500.82	2.0%

Charges have been rounded

**OAKLAND COUNTY WATER RESOURCES COMMISSIONER  
GEORGE W. KUHN DRAINAGE DISTRICT  
SCHEDULE OF RATES AND CHARGES, EFFECTIVE JULY 1, 2020**

**1. Sewerage Disposal Charge**

<b><u>Municipality</u></b>	<b>Effective July 1, 2020 <u>Monthly</u></b>
City of Berkley	\$ 90,697.33
Village of Beverly Hills	6,112.75
City of Birmingham	68,254.26
City of Clawson	67,058.75
City of Ferndale	123,019.99
City of Hazel Park	92,344.00
City of Huntington Woods	41,435.25
City of Madison Heights	231,852.41
City of Oak Park	174,425.00
City of Pleasant Ridge	20,007.26
City of Royal Oak	433,231.74
Royal Oak Twp	21,315.42
City of Southfield	149,004.51
City of Troy	708,955.49
Detroit Zoological Park	24,766.42
County of Oakland	-
Rackham Golf Course	3,112.75
State Of Michigan	-
	<hr/>
Toal:	<u><u>\$ 2,255,593.33</u></u>

Where communities have individual sewer customers with metered sewage, permitted and approved by the Oakland County Water Resources Commissioner (WRC), then each community shall also report, within ten days following the end of each month, the total metered sewage within the community, in lieu of water consumption.

**2. Pollutant Surcharge - APPROVED BY GLWA**

A Pollutant Surcharge shall be levied against industrial and commercial customers contributing sewage to the system with concentrations of pollutants exceeding the levels described as follows:

- A. 275 milligrams per liter (mg/l) of Biochemical Oxygen Demand (BOD)
- B. 350 milligrams per liter (mg/l) of Total Suspended Solids (TSS)
- C. 12 milligrams per liter (mg/l) of Phosphorus (P)
- D. 100 milligrams per liter (mg/l) of Fats, Oils & Grease (FOG)

<b><u>Pollutant</u></b>	<b>Effective July 1, 2020 Total Charge Per lb. of Excess Pollutants</b>
Biochemical Oxygen Demand (BOD)	\$ 0.502
Total Suspended Solids (TSS)	0.510
Phosphorus (P)	7.519
Fats, Oils & Grease (FOG)	0.484

It is assumed that normal residential customers do not contribute sewage with concentration of pollutants exceeding the above levels, therefore, the Pollutant Surcharge shall not apply to residential customers. Further, restaurants shall also be exempt from Pollutant Surcharge per the federal court "Second Interim Order", dated July 10, 1981.

**3. Industrial Waste Control Charge - APPROVED BY GLWA**

Based on the reported number of water meter sizes for non-residential users of the System, each community shall pay a monthly Industrial Waste Control Charge (IWC) in accordance with the following schedule:

<b>Non-Residential Meter Size in Inches</b>	<b>Effective July 1, 2020 \$/Month</b>
5/8	\$ 3.45
3/4	5.18
1	8.63
1 1/2	18.98
2	27.60
3	50.03
4	69.00
6	103.50
8	172.50
10	241.50
12	276.00
14	345.00
16	414.00
18	483.00
20	552.00
24	621.00
30	690.00
36	759.00
48	828.00

Non-residential users shall be defined as all users other than those in single family houses, apartment buildings, condominiums, town houses, mobile homes, schools, churches and municipal buildings.

4. **Flat Rate Storm Charge**

<b><u>Municipality</u></b>	<b>Effective July 1, 2020 <u>Monthly</u></b>
City of Berkley	\$ 147,668.76
Village of Beverly Hills	19,043.67
City of Birmingham	111,128.66
City of Clawson	134,850.84
City of Ferndale	234,114.75
City of Hazel Park	51,321.67
City of Huntington Woods	56,138.91
City of Madison Heights	148,840.50
City of Oak Park	310,339.49
City of Pleasant Ridge	30,469.00
City of Royal Oak	675,887.40
Royal Oak Twp	29,069.42
City of Southfield	175,568.49
City of Troy	56,430.16
Detroit Zoological Park	7,654.67
County of Oakland	34,756.09
Rackham Golf Course	4,353.08
State Of Michigan	47,865.26
	<hr/>
Total:	<hr/> <b>\$ 2,275,500.82</b> <hr/>

5. **Total Sewer and Storm Water Charge**

The following schedule identifies the total of the sewer charge and the storm water charge. The combined amount will be billed monthly to each customer:

**Combined Monthly Sewer and Storm Charges**

<b><u>Municipality</u></b>	<b>Effective July 1, 2020</b>
	<b><u>Monthly</u></b>
City of Berkley	\$ 238,366.09
Village of Beverly Hills	25,156.42
City of Birmingham	179,382.92
City of Clawson	201,909.59
City of Ferndale	357,134.74
City of Hazel Park	143,665.67
City of Huntington Woods	97,574.16
City of Madison Heights	380,692.91
City of Oak Park	484,764.49
City of Pleasant Ridge	50,476.26
City of Royal Oak	1,109,119.14
Royal Oak Twp	50,384.84
City of Southfield	324,573.00
City of Troy	765,385.65
Detroit Zoological Park	32,421.09
County of Oakland	34,756.09
Rackham Golf Course	7,465.83
State Of Michigan	47,865.26
Total:	<u><u>\$ 4,531,094.15</u></u>

# EXHIBIT – 7

### **BOD Pollutant Loading Calculations Per Exhibit 5 to Complaint**

<b>GWKDD SW total flows</b>	<b>SW% of GLWA SW total flows</b>	<b>Total BOD Allocated to SW</b>	<b>GWKDD portion of total SW BOD</b>	<b>Total GLWA BOD allocated to GWKDD</b>	<b>GWKDD SW BOD %</b>
820,800 mcf	11.58	25,905,800 lbs	2,999,891 lbs	18,247,600 lbs	16.4%

### **TSS Pollutant Loading Calculations Per Exhibit 5 to Complaint**

<b>GWKDD SW total flows</b>	<b>SW% of GLWA SW total flows</b>	<b>Total TSS Allocated to SW</b>	<b>GWKDD portion of total SW TSS</b>	<b>Total GLWA TSS allocated to GWKDD</b>	<b>GWKDD SW TSS %</b>
820,800 mcf	11.58	37,428,300 lbs	4,334,197 lbs	26,363,800 lbs	16.4%

### **PHOS Pollutant Loading Calculations Per Exhibit 5 to Complaint**

<b>GWKDD SW total flows</b>	<b>SW% of GLWA SW total flows</b>	<b>Total PHOS Allocated to SW</b>	<b>GWKDD portion of total SW PHOS</b>	<b>Total GLWA PHOS allocated to GWKDD</b>	<b>GWKDD SW PHOS %</b>
820,800 mcf	11.58	719,900 lbs	83,364 lbs	507,100 lbs	16.4%

### **FOG Pollutant Loading Calculations Per Exhibit 5 to Complaint**

<b>GWKDD SW total flows</b>	<b>SW% of GLWA SW total flows</b>	<b>Total FOG Allocated to SW</b>	<b>GWKDD portion of total SW FOG</b>	<b>Total GLWA FOG allocated to GWKDD</b>	<b>GWKDD SW FOG %</b>
820,800 mcf	11.58	3,975,000 lbs	460,305 lbs	2,799,900 lbs	16.4%