

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

RALPH STAELGRAEVE,
individually and as representative of a class of
similarly-situated persons and entities,

Plaintiff,

v.

CHARTER TOWNSHIP OF SHELBY,
a municipal corporation,

Defendant.

2018-001775-CZ

Case No. -CZ
Hon.

MICHAEL E. SERVITTO

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PLAINTIFF'S CLASS ACTION COMPLAINT

Plaintiff Ralph Staelgraeve (hereinafter, "Plaintiff"), by his attorneys, Kickham Hanley PLLC and Joelson Rosenberg Moss Cohen Warren and Drasnin, PLC, individually and on behalf of a class of similarly situated class members, states the following for his Class Action Complaint against the Defendant Charter Township of Shelby (the "Township"):

INTRODUCTION

1. This is an action challenging the retail water rates (the "Water Rates") and the retail sewage disposal rates (the "Sewer Rates") (collectively, the "Rates") imposed by the Township on

citizens who draw water from the Township's water supply system and who use the Township's sewer system. The Township has systematically garnered millions of dollars of revenues from its water and sewer customers in excess of its actual costs of providing water and sewer services.

2. The Township includes in the Rates an item of expense it characterizes as "Depreciation." By paying the Rates, the Township's water and sewer customers necessarily pay this expense (the "Depreciation Charge"). The Depreciation Charge constitutes a tax that has not been authorized by the Township's voters in violation of the Headlee Amendment to the Michigan Constitution.

3. The Depreciation Charge is precisely the type of exaction the Michigan Supreme Court found constitute unconstitutional taxes in the seminal case of *Bolt v. City of Lansing*, 459 Mich. 152, 587 N.W.2d 264 (1998). The Charges are not legitimate user fees but rather constitute unlawful taxes under the *Bolt* decision; they are motivated by a revenue-raising and not a regulatory purpose because the amount charged to Plaintiff and the Class is grossly disproportionate to the Township's actual costs of providing the purported benefits for which the Charges are purportedly imposed, and payment of the Charges is not voluntary.

4. The Depreciation Charges also are arbitrary, capricious and unreasonable, have been imposed in violation of the Township's own ordinances, state statutes, and common law rate-making principles. Therefore, the Charges are invalid even if they do not constitute unlawful taxes.

JURISDICTION AND VENUE

5. Plaintiff is a water and sewer customer of the Township, has paid the Depreciation Charges and seeks to act as class representative for all similarly situated persons.

6. Defendant Charter Township of Shelby (the "Township") is a municipality located in Macomb County, Michigan.

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

GENERAL ALLEGATIONS CONCERNING THE WATER AND SEWER RATES

8. The Township maintains and operates a water supply system (the "Water Supply System") to provide fresh water to inhabitants of the Township. The Township buys water from the Great Lakes Water Authority ("GLWA") for resale to water customers. Plaintiff has received water service from the Township and paid the Water Rates imposed by the Township. Plaintiff is required by Michigan law and other public health laws and regulations to utilize the Township's Water Supply System where that system is available.

9. The City of Detroit is authorized to supply wholesale water to local government units in Southeastern Michigan, and derives that authority from MCL 123.141(1). Prior to January 2016, the City of Detroit, through its Water and Sewerage Department ("DWSD"), supplied wholesale water to over 100 cities, villages, townships and authorities authorized to provide a water supply for their inhabitants. DWSD supplied water to the Township prior to January 1, 2016. Effective in 2016, GLWA, pursuant to agreements with the City of Detroit, became the wholesale supplier of water to the Township. Notwithstanding that change, the Township's public water supply still is provided by DWSD facilities and the DWSD water plant.

10. Local government units which purchase water from the City of Detroit/GLWA establish their own Water Rates and directly bill end users. However, Michigan state law prohibits a municipality which purchases its water from an authority which purchases its water from the City of Detroit and which supplies that water to its residents from charging a retail rate that exceeds the municipality's "actual cost of providing the service."

11. In this regard, MCL 123.141 provides that “[t]he retail rate charged to the inhabitants of a city, village, township or authority which is a contractual customer as provided by subsection (2) shall not exceed the actual cost of providing the service.” MCL 123.141(3).

12. The Township is bound by the provisions of MCL 123.141(3).

13. The Township maintains and operates a sewer system (the “Sewer System”) to provide sewage disposal services to inhabitants of the Township. The Township is a currently a customer of GLWA, and ultimately DWSD, for treatment and disposal of its sewage. Plaintiff has received sewer service from the Township and paid the Sewer Rates imposed by the Township. The Township’s ordinances require properties from which sanitary sewage emanates to be connected to the Township’s Sewer System where the Sewer System is available. *See* Ordinance Secs. 58-193(b) and 58-226. A copy of the Township’s Water and Sewer Ordinance is attached hereto as Exhibit A and incorporated herein by reference. In addition, by virtue of applicable building codes, and state and county laws, the structures used by the Township’s citizens are required to be connected to the Township’s Sewer System, where available.

14. The Township establishes Water and Sewer Rates from time to time through enacted ordinances. *See* Exhibit A, Ordinance Secs. 58-151 through 58-162 and Secs. 58-312 through 58-321.

15. The Township maintains a Water and Sewer Enterprise Fund (the “Water and Sewer Fund”) and prepares financial statements for that Fund.

THE DEPRECIATION CHARGES

16. The Water and Sewer Fund’s financial statements and other documents show that the Township has included in its Water and Sewer Rates charges for, among other expenses, (a) the cost of servicing the interest on long-term debt related to water and sewer infrastructure

improvements; and (B) the purported amount of depreciation expense associated with the Township's water and sewer system infrastructure components.

17. Depreciation expense is a non-cash expense (i.e., the Township does not pay money to "cover" this expense) and is a measure of the incremental loss in value of water and sewer system infrastructure over the useful life of that infrastructure. The Township depreciates its water and sewer system assets over 50 years.

18. Including depreciation expense in the Rates renders the rates arbitrary, capricious and unreasonable because the Township sets its rates according to the "cash basis" approach. WEF Manual of Practice No. 27, *Financing and Charges for Wastewater Systems*, ("WEF No. 27") which sets the standards for sewage disposal rates, states: "The cash-basis method differs from conventional financial accounting primarily by excluding depreciation and including principal repayment (and interest) on outstanding debt. The main objective in using the cash basis is to collect revenues to cover cash expenses. Revenues must cover annual expense and reserve needs for capital and operational funds. **Inclusion of depreciation is a common error in developing cash-basis revenue requirements because it amounts to a partial double counting of capital costs covered by the principal component of debt service payments plus a potential portion of routine capital expenditures.**" See WEF No. 27 at p. 77 (emphasis added).

19. Similarly, the AWWA M-1 Manual, *Principles of Water Rates Fees and Charges*, ("AWWA M-1 Manual") which sets the standards for water rates, states that the cash-needs approach is generally used by "government-owned utilities (except in the few jurisdictions where regulation requires the use of the utility approach)." (AWWA M-1 Manual at p. 12.) The M-1 Manual explains that "[c]ash needs refer to the total revenues required by the utility to meet its cash expenditures." (*Id.*) The M-1 Manual further states that the components of the cash-needs approach to determining a utility's revenue requirement include "O&M expenses, debt-service payments, contributions to

specified reserves, and the cost of capital expenditures that are not debt-financed or contributed. **Depreciation expense is not included.**” (Id. (emphasis added)) “The debt-service component of the cash-needs approach usually consists of principal and interest payments on bonds or other debt instruments.” (Id. At p. 13).

20. For several years, the Township has been accumulating excessive cash reserves. By 2013, the Township had so much money (over \$35,000,000 in cash and investments) that it loaned the Township’s police and fire funds over \$13 million to fully fund the pension obligations of those funds. The loan is purported being paid back with 1% interest through 2032.

21. The Township currently has \$44 million in “reserves.” See Exhibit B hereto. This is grossly excessive for a water and sewer system the size of the Township’s. Of this amount, \$27 million is designated as a reserve for “Asset Replacement.” However, the Township doesn’t use the Asset Replacement reserve for “asset replacement,” but instead funds its ongoing water and sewer “asset replacements” through Rates.

22. Worse, the Township’s total planned water and sewer capital improvement expenses for 2016-2022 (a seven-year period) are \$4 million. See Exhibit C hereto. The Asset Replacement reserve thus is almost **7 times higher** than the planned capital improvement expenses for 2016-2022. At the current rate of expenditures, the Asset Replacement reserve, if it was actually used for asset replacement expenses, would last through the year **2065!!** The Township has separate reserves for emergency repairs (\$3.9 million), “capital construction” (\$1.2 million) and O&M (\$6.2 million).

23. As recently as 2015, the Township determined that the necessary reserve for Asset Replacement (to replace infrastructure with “less than 20 years life left”) was only \$3.7 million. See Exhibit D hereto. In 2017, the Township determined that an Asset Replacement reserve of \$9.9 million was sufficient to replace infrastructure with “less than 20 years life left.” See Exhibit E hereto. Clearly, \$27 million is not a prudent and necessary “Asset Replacement” reserve.

24. Under well-established principles of municipal utility rate-making, the Township should be utilizing its Asset Replacement reserve to finance ongoing capital improvements to its water and sewer system infrastructure.

25. As noted above, however, instead of using the reserves to finance capital expenditures, the Township has a “depreciation” component in the Rates. As described above, depreciation – a noncash expense -- is not properly included as an expense for a municipality which uses the cash-needs approach to rate-making. If “depreciation” is included, however, it must be as a proxy for planned capital expenditures and principal payments on outstanding debt during the rate period.

26. Assuming the Township is using “depreciation” as a proxy for actual capital expenditures and annual principal payments on outstanding debt, the amounts included for “depreciation” in the Rates since 2013 have grossly exceeded the Township’s actual capital expenditures and principal debt payments. The chart below shows the amount of the overcharge associated with the difference between the Depreciation Charges set forth in the Township’s annual rate calculation documents (Exhibit F hereto) and the actual capital improvement and debt principal expense set forth in the Township’s financial statements between 2013 and the present.

| <u>Year</u> | <u>Depreciation in Rates</u> | <u>Actual CapEX and Debt Principal</u> | <u>Overcharge</u> |
|-------------|------------------------------|--|-------------------|
| 2013 | \$2.155 million | \$1.566 million | \$589,000 |
| 2014 | \$2.48 million | \$907,000 | \$1,573,000 |
| 2015 | \$2.96 million | \$1.397 million | \$1,563,000 |
| 2016 | \$3.2 million | \$1.78 million | \$1,420,000 |
| 2017 | \$3.7 million | \$2.068 million | \$1,632,000 |
| 2018 | \$3.96 million | \$1.727 million (est) | \$2,233,000 |

Total Overcharge 2013-2018

\$9,010,000

27. The actual Overcharge is higher. Because the actual capital expenditures during these periods should have been financed through the “Asset Replacement” reserve, including **any** depreciation in the Rates as a proxy for capital expenditures was improper. If actual capital expenditures are excluded, the overcharge exceeds **\$13,600,000**.

28. The Township incorporated the Depreciation Charge into the Rates and therefore each member of the class paid the Charge when they paid their water bill. Plaintiff has received water service from the Township and paid the Water and Sewer Rates imposed by the Township. Plaintiff is required by Michigan law, Township Ordinances, and other public health laws and regulations to utilize the Township’s Water Supply System and Sewage Disposal System where those systems are available.

THE DEPRECIATION CHARGE VIOLATES THE HEADLEE AMENDMENT

29. The Depreciation Charge constitutes a tax in violation of the Headlee Amendment to the Michigan Constitution.

30. In *Bolt*, the Court enforced Headlee and identified “three primary criteria to be considered when distinguishing between a fee and a tax” (459 Mich. at p. 161):

1. A user fee must serve a regulatory purpose rather than a revenue-raising purpose;
2. User fees must be proportionate to the necessary costs of the service; and
3. Payment of the fee is voluntary. [459 Mich. at pp. 161-62]

31. The Depreciation Charge serves a revenue-raising purpose because, among other reasons, it is being used to finance the Township’s general governmental obligations unrelated to providing treated water for consumption by Plaintiff and the Class.

32. The Depreciation Charge is not proportionate to the necessary costs of the use of the Township’s water supply and sewage disposal services by Plaintiff and the Class.

33. Payment of the Depreciation Charge is not voluntary but at the very least is effectively compulsory. The Township requires or effectively requires all dwellings in the Township to be connected to the public water supply and sewer systems, where available, and, by virtue of that connection, to pay the Township's charges for water and sewer services.

34. Pursuant to the Township's ordinances, charges for water and/or sewer services shall be a lien on the premises served. *See* Township Ordinance Sections 58-137 and 58-320. Unpaid charges that are at least six months past due are transferred to the tax rolls. *Id.*

CLASS ALLEGATIONS

35. Plaintiff brings this action as a class action, pursuant to MCR 3.501, individually and on behalf of a proposed class consisting of all persons or entities who/which have paid the Township for water service during the relevant class periods.

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

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

38. The Township has acted wrongfully in the same basic manner as to the entire class.

39. 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 Depreciation Charge imposed by the Township is a tax;
- b. whether the Depreciation Charge imposed by the Township violates the Headlee Amendment;
- c. whether the Depreciation Charge is arbitrary, capricious and/or unreasonable;

- d. whether the Depreciation Charge violates MCL 123.141;
- e. whether the Depreciation Charge violates the Township's own Ordinances;
and
- f. whether by virtue of including the Depreciation Charge in the Rates, the Township has collected amounts in excess of the amounts it was legally entitled to collect.

40. 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.

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

COUNT I **VIOLATION OF THE HEADLEE AMENDMENT**

42. Plaintiff incorporates each of the preceding allegations as if fully set forth herein.

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

44. In particular, the Township may not disguise a tax as a fee under Article 9, Section 31 of the Michigan Constitution of 1963.

45. The Depreciation Charge is a disguised tax and intended to avoid the obligations of the Headlee Amendment, including the requirement that the Depreciation Charge, as a tax, be approved by a majority of the electorate.

46. The Depreciation Charge has all relevant indicia of a tax:

- a. It has no relation to any service or benefit actually received by the taxpayer;
- b. The Township's inclusion of the Depreciation Charge in the Rates renders the Rates disproportionate to the actual cost incurred by the Township in providing water and sewer service;
- c. The Depreciation Charge is designed to generate revenue;
- d. The payers of the Depreciation Charge benefit in no manner distinct from any other taxpayer or the general public;
- e. Payment of the Depreciation Charge is not discretionary, but effectively mandatory;
- f. Various other indicia of a tax described in *Bolt v. City of Lansing* are present.¹

47. As a direct and proximate result of the Township's implementation of the Depreciation Charge, Plaintiff and the Class have been harmed.

48. Plaintiff seeks her attorneys' fees and costs as allowed by Article 9, Section 32 of the Michigan Constitution of 1963 and MCL 600.308a.

49. Plaintiff seeks a refund of all Depreciation Charges paid by Plaintiff and the Class during the one-year period prior to the commencement of this action and during the pendency of this action.

COUNT II
ASSUMPSIT/MONEY HAD AND RECEIVED
UNREASONABLE WATER AND SEWER RATES

¹ Pursuant to MCR 2.112(M), Plaintiff identifies subparts (a) through (f) of Paragraph 46 as "factual questions that are anticipated to require resolution by the Court."

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

51. Even if the Depreciation Charge is not a tax, the Water and Sewer Rates must still be reasonable. *Mapleview Estates v. Township of Brown Township*, 258 Mich. App. 412 (2003).

52. By virtue of the Township's inclusion of the Depreciation Charge in the Rates, the Water Rates are arbitrary, capricious, and unreasonable. *See, e.g., Trabey v. Inkster*, 2015 Mich. App. Lexis 1609 (August 18, 2015) (observing that "clear evidence of illegal or **improper expenses** included in a municipal utility's rates" is sufficient for a court to conclude that a utility rate is unreasonable).

53. 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.

54. By virtue of the Township's inclusion of the Depreciation Charge in the Rates, the Township has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff is 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).

55. As a direct and proximate result of the Township's improper conduct, the Township has collected millions of dollars to which it is not entitled. By paying the Depreciation Charge, Plaintiff and the Class have conferred a benefit upon on the Township.

56. Under equitable principles, the Township should be required to disgorge the revenues attributable to the Depreciation Charges imposed or collected by the Township since January 1, 2013 and during the time this action is pending and refund the Depreciation Charge to Plaintiffs and the Class.

COUNT III
UNJUST ENRICHMENT
UNREASONABLE WATER AND SEWER RATES

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

58. Even if the Depreciation Charge is not a tax, the Township's Water and Sewer Rates must still be reasonable. *Mapleview Estates v. Township of Brown Township*, 258 Mich. App. 412 (2003).

59. By virtue of the Township's inclusion of the Depreciation Charge in the Rates, the Water Rates are arbitrary, capricious, and unreasonable. *See, e.g., Trahey v. Inkster*, 2015 Mich. App. Lexis 1609 (August 18, 2015) (observing that "clear evidence of illegal or improper expenses included in a municipal utility's rates" is sufficient for a court to conclude that a utility rate is unreasonable).

60. The Township has collected amounts in excess of the amounts it was legally entitled to collect.

61. As a direct and proximate result of the Township's improper conduct, the Township has collected millions of dollars to which it is not entitled. By paying the Depreciation Charge, Plaintiff and the Class have conferred a benefit upon the Township and it would be inequitable for the Township to retain that benefit.

62. Under equitable principles, the Township should be required to disgorge the revenues attributable to the Depreciation Charges imposed or collected by the Township since January 1, 2013 and during the time this action is pending and refund the Depreciation Charges to Plaintiffs and the Class.

COUNT IV **ASSUMPSIT/MONEY HAD AND RECEIVED – VIOLATION OF MCL 123.141**

63. Plaintiff incorporates each of the preceding allegations as if fully set forth herein.

64. During the class period, the Township purchased water from the City of Detroit and the Great Lakes Water Authority ("GLWA"). The City of Detroit and GLWA are authorized to supply wholesale water to local government units in Southeastern Michigan, and derive that authority from MCL 123.141(1).

65. Local government units which purchase water from the City of Detroit/GLWA establish their own Water Rates and directly bill end users. However, Michigan state law prohibits a municipality which purchases its water from an authority which purchases its water from the City of Detroit/GLWA and which supplies that water to its residents from charging a retail rate that exceeds the municipality's "actual cost of providing the service."

66. In this regard, MCL 123.141 provides that "[t]he retail rate charged to the inhabitants of a city, village, township or authority which is a contractual customer as provided by subsection (2) shall not exceed the actual cost of providing the service." MCL 123.141(3).

67. The Township is bound by the provisions of MCL 123.141(3).

68. The Township has violated MCL 123.141(3) by including the Depreciation Charge in the rates, and thus, selling water to Plaintiff and the Class at a retail rate in excess of the Township's actual cost of providing water service.

69. MCL 123.141(3) was enacted for the purpose of protecting retail consumers of water, like Plaintiff and the Class, from being overcharged for water service.

70. Plaintiff and the Class have been injured as a direct and proximate result of the Township's violation of MCL 123.141(3) because they have paid or incurred amounts in excess of the amounts they should have paid for water service had the Township established Water Rates that did not exceed the Township's actual costs of providing water service.

71. 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.

72. By virtue of the Township's inclusion of the Depreciation Charge in the Rates, the Township has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff is 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).

73. As a direct and proximate result of the Township's improper conduct, the Township has collected millions of dollars to which it is not entitled. By paying the Depreciation Charge, Plaintiff and the Class have conferred a benefit upon on the Township.

74. Plaintiff and the Class are entitled to receive a refund corresponding to the total Depreciation Charges imposed or collected by the Township since January 1, 2013 and during the pendency of this action.

COUNT V
UNJUST ENRICHMENT
VIOLATION OF MCL 123.141

75. Plaintiff incorporates each of the preceding allegations as if fully set forth herein.

76. During the class period, the Township purchased water from the City of Detroit and the GLWA. The City of Detroit and GLWA are authorized to supply wholesale water to local government units in Southeastern Michigan, and derive that authority from MCL 123.141(1).

77. Local government units which purchase water from the City of Detroit/GLWA establish their own Water Rates and directly bill end users. However, Michigan state law prohibits a municipality which purchases its water from an authority which purchases its water from the City of Detroit/GLWA and which supplies that water to its residents from charging a retail rate that exceeds the municipality's "actual cost of providing the service."

78. In this regard, MCL 123.141 provides that "[t]he retail rate charged to the inhabitants of a city, village, township or authority which is a contractual customer as provided by subsection (2) shall not exceed the actual cost of providing the service." MCL 123.141(3).

79. The Township is bound by the provisions of MCL 123.141(3).

80. The Township has violated MCL 123.141(3) by including the Depreciation Charge in the rates, and thus, selling water to Plaintiff and the Class at a retail rate in excess of the Township's actual cost of providing water service.

81. MCL 123.141(3) was enacted for the purpose of protecting retail consumers of water, like Plaintiff and the Class, from being overcharged for water service.

82. Plaintiff and the Class have been injured as a direct and proximate result of the Township's violation of MCL 123.141(3) because they have paid or incurred amounts in excess of the amounts they should have paid for water service had the Township established Water Rates that did not exceed the Township's actual costs of providing water service.

83. By virtue of the Township's inclusion of the Depreciation Charge in the Rates, the Township has collected amounts in excess of the amounts it was legally entitled to collect.

84. By paying the Depreciation Charge, Plaintiff and the Class have conferred a benefit upon on the Township.

85. Plaintiff and the Class are entitled to receive a refund corresponding to the total amount of Depreciation Charges imposed or collected by the Township since January 1, 2013 and during the pendency of this action.

COUNT VI
ASSUMPSIT/MONEY HAD AND RECEIVED
VIOLATION OF TOWNSHIP ORDINANCE § 58-151

86. Plaintiff incorporates each of the preceding allegations as if fully set forth herein.

87. Township Ordinance § 58-151(6) provides:

Look-back adjustment. After the completion of the annual audit of the township's financial statements, the director of public works will compute the actual cost of service for the year just audited. The actual cost of service will be computed as described in subsection (4) above with the exception that the actual amounts of expense and other revenue will be utilized in lieu of budgeted amounts. **The difference between the actual cost of service and the actual revenues derived from retail water commodity charges will constitute a potential look-back adjustment that may be added to (i.e. a look-back charge) or subtracted**

from (i.e. a look-back credit) the cost of service computation used in the determination of the retail commodity charge for subsequent fiscal year(s). [emphasis added].

88. Township Ordinance § 58-151(7) provides:

Rate stabilization and normalization. The director of public works will perform, at least once annually, an analysis to determine if the balances of cash, cash equivalents and investments being held are sufficient to satisfy and meet prudent or mandatory reserves for bond covenants, general operations, equipment repair and replacement, emergency recovery from disaster and catastrophic events, pending or probable litigation, and other contingencies, claims or settlements that can have a significant financial impact on the operations of the water system. **Any balance in excess of prudent or mandatory reserves will constitute funds available for rate stabilization and normalization.** Upon the recommendation of the director of public works, a portion or all of the rate stabilization funds will be used to offset potential look back charges and/or part or all of a non-reoccurring and unique expense item(s) included in the cost of water service for subsequent fiscal year(s). [emphasis added].

89. The Township is legally required to comply with its own Ordinances.

90. The Township has violated Ordinance Section 151.51(6) because the actual revenues derived from retail water commodity charges have exceeded the Township's actual cost of service during the class period, but the Township has not incorporated a "look back" adjustment in the Water Rates, resulting in overcharges to the Township's water customers.

91. The Township has further violated Ordinance Section 151.51(7) because the Township's reserves throughout the class period have been far "in excess of prudent or mandatory reserves," but the Township has not reduced Water Rates as required by that section. The Township's failure to comply with Ordinance Section 151.51(7) has resulted in overcharges to the Township's water customers.

92. 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.

93. By failing to comply with its own Ordinance, the Township has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiff is 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).

94. As a direct and proximate result of the Township's improper conduct, the Township has collected millions of dollars to which it is not entitled. By paying the overcharges, Plaintiff and the Class have conferred a benefit upon on the Township.

95. Under equitable principles, the Township should be required to disgorge the revenues attributable to the overcharges imposed or collected by the Township since January 1, 2013 and during the time this action is pending and refund the overcharges to Plaintiff and the Class.

COUNT VII
UNJUST ENRICHMENT
VIOLATION OF TOWNSHIP ORDINANCE § 58-151

96. Plaintiff incorporates each of the preceding allegations as if fully set forth herein.

97. Township Ordinance § 58-151(6) provides:

Look-back adjustment. After the completion of the annual audit of the township's financial statements, the director of public works will compute the actual cost of service for the year just audited. The actual cost of service will be computed as described in subsection (4) above with the exception that the actual amounts of expense and other revenue will be utilized in lieu of budgeted amounts. **The difference between the actual cost of service and the actual revenues derived from retail water commodity charges will constitute a potential look-back adjustment that may be added to (i.e. a look-back charge) or subtracted from (i.e. a look-back credit) the cost of service computation used in the determination of the retail commodity charge for subsequent fiscal year(s).** [emphasis added].

98. Township Ordinance § 58-151(7) provides:

Rate stabilization and normalization. The director of public works will perform, at least once annually, an analysis to determine if the balances of cash, cash equivalents and investments being held are sufficient to satisfy and meet prudent or mandatory reserves for bond covenants, general operations, equipment repair and replacement, emergency recovery from disaster and catastrophic events, pending or probable litigation, and other contingencies, claims or settlements that can have a significant financial impact on the operations of the water system. **Any balance in excess of prudent or mandatory reserves will constitute funds available for rate stabilization and normalization.** Upon the recommendation of the director of public works, a portion or all of the rate stabilization funds will be used to offset

potential look back charges and/or part or all of a non-reoccurring and unique expense item(s) included in the cost of water service for subsequent fiscal year(s). [emphasis added].

99. The Township is legally required to comply with its own Ordinances.

100. The Township has violated Ordinance Section 151.51(6) because the actual revenues derived from retail water commodity charges has exceeded the Township's actual cost of service during the class period, but the Township has not incorporated a "look back" adjustment in the Water Rates, resulting in overcharges to the Township's water customers.

101. The Township has further violated Ordinance Section 151.51(7) because the Township's reserves throughout the class period have been far "in excess of prudent or mandatory reserves," but the Township has not reduced Water Rates as required by that section. The Township's failure to comply with Ordinance Section 151.51(7) has resulted in overcharges to the Township's water customers

102. By paying the overcharges, Plaintiff and the Class have conferred a benefit upon on the Township and it would be inequitable for the Township to retain the overcharges.

103. Under equitable principles, the Township should be required to disgorge the revenues attributable to the overcharges imposed or collected by the Township since January 1, 2013 and during the time this action is pending and refund the overcharges to Plaintiff and the Class.

PRAYER FOR RELIEF

WHEREFORE Plaintiff requests that the Court grant the following relief:

A. Certify this action to be a proper class action with Plaintiff certified as the Class Representative and Kickham Hanley PLLC and Joelson Rosenberg Moss Cohen Warren and Drasnin PLC designated as Class Counsel;

B. With respect to Count I, define the Class to include all persons or entities who/which have paid the Township for Water or Sewer Service at any time in the one year

preceding the filing of this lawsuit or which pay the Township for Water or Sewer Service during the pendency of this action;

C. With respect to Counts II, III, IV, V, VI, and VII, define the Class to include all persons or entities who/which have paid the Township for Water or Sewer Service at any time since January 1, 2013 or which pay the Township for Water or Sewer Service during the pendency of this action;

D. Enter judgment in favor of Plaintiff and the Class and against the Township, and order and direct the Township to disgorge and refund all Depreciation Charges collected during the class period(s) and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of Depreciation Charges to which Plaintiff and the Class are entitled;

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

F. Find and declare that the Depreciation Charge violates the Headlee Amendment, is unlawful and unreasonable, and permanently enjoin the Township from imposing or collecting the Depreciation Charge;

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.

KICKHAM HANLEY PLLC

/s/ 

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Date: May 4, 2018
KH154464

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EXHIBIT A

ARTICLE IV. - WATER SYSTEM

DIVISION 1. - GENERALLY

Sec. 58-101. - Violations (particular).

Notwithstanding the fines and penalties provided in section 1-7, any person violating any of the provisions of this article shall become liable to the township by reason of such violation.

Sec. 58-102. - Definitions.

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

Municipal system means the complete water supply system of the township and all appurtenances, and all extensions and improvements acquired or constructed.

Public improvements means the improvements to the municipal system authorized to be constructed under the provisions of this article.

Revenues and net revenues means as defined in section 3 of Public Act No. 94 of 1933 (MCL 141.103, MSA 5.2733).

Cross reference— Definitions generally, § 1-2.

Sec. 58-103. - Municipal water system authorized.

- (a) *Determination of necessity.* It is determined to be necessary for the public health, safety and welfare of the township to establish a public water supply system to be operated by the township under the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.).
- (b) *Municipal system definitions and inclusions.* The municipal water supply system of the township shall be operated and maintained as one system and shall include all water mains, water storage and treatment facilities, and all attendant facilities and equipment which are used or useful in the operation and maintenance of the municipal water supply system.
- (c) *Supervision and control.* The operation, maintenance, alteration, repair, extension and/or enlargement of the system shall be under the supervision and control of the township board of trustees, who may delegate such portions of the administration to such of its employees as it deems advisable to carry on the efficient management and operation of the system, and may make rules, orders and regulations in connection with the management and operation of the system.
- (d) *Powers and authority of inspectors.*
 - (1) *Inspection.* The director of public works and other duly authorized employees of the township bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article.
 - (2) *Safety.* While performing the necessary work on private properties referred to in subsection (d)(1) of this section, the director or duly authorized employees of the township shall observe all safety rules applicable to the premises established by the company and the department of public works.

Secs. 58-104—58-120. - Reserved.

DIVISION 2. - CONSTRUCTION

Sec. 58-121. - Building water construction requirements.

- (a) *Building water permit.*
 - (1) *Requirement.* No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public water main or its appurtenances without first obtaining a written permit from the director of public works.
 - (2) *Application.* The owner or his agent shall make application on a special form furnished by the township. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the director.
 - (3) *Fees.* A permit and inspection fee for a building water connection permit shall be paid to the township treasurer or his agent at the time the application is completed.
- (b) *Installation costs.* All costs and expenses incident to the installation and connection of the building supply shall be borne by the owner. The owner shall indemnify the township from any loss or damage that may directly or indirectly be occasioned by the installation of the building water supply.
- (c) *Water requirements.*
 - (1) *Every building.* A separate and independent water service line shall be provided for every building.
 - (2) *Old buildings.* Old water service lines may be used in connection with new buildings only when they are found, after examination and testing by the director, to meet all requirements of this article.
- (d) *Conformance to codes.* The size, alignment, materials of construction of a water service line and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the township.
- (e) *Insurance.* Prior to construction of subdivision and project improvements, the contractor shall procure and maintain during the life of any contract or agreement for such construction insurance protecting the township and the township engineer from any claim for damages, real, personal or otherwise, as required by township board resolution. All such policies of insurance shall specifically include underground hazard protection.
- (f) *Connections into public water system.* The connection of the water service line into the public water system shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the township. Any deviation from the prescribed procedures and materials must be approved by the director of public works before installation.
- (g) *Excavation safeguards.* All excavations for water service line installations shall be adequately guarded with barricades and lights so as to protect the public from hazard.
- (h) *Inspection and connection.* The applicant for the water service line permit shall notify the director when the building water supply is ready for inspection and connection to the public water system. The connection shall be made under the supervision of the director or his representative.
- (i) *Restoration of property.* Streets, sidewalks, parkways, and other public property and easements disturbed in the course of the work shall be restored in a manner satisfactory to the director.

State Law reference— Covering or fencing of excavations, MCL 750.493c, MSA 28.761(3).

Sec. 58-122. - Construction standards.

- (a) *Purpose.* The purpose of this section is to establish reasonable and proper standards for the design and construction of water distribution facilities for residential, commercial and industrial projects.
- (b) *Construction plans.*
 - (1) Construction plans must be submitted to the department of public works for review and approval in accordance with the provisions of this article.
 - (2) Water main construction plans shall not be detailed on the same plan and profile sheets as the storm sewer and paving improvements.
 - (3) The department will, after approval by its engineer, forward the appropriate sets of plans to the various permitting agencies for issuance of a construction permit.
- (c) *General requirements.*
 - (1) Primary distribution mains shall be constructed to the size and location indicated on the master plan. Generally, the primary distribution mains are located on all section line roads.
 - (2) Proposed developments shall extend the distribution system across the entire road frontage of the parcel.
 - (3) The water distribution system shall be looped in order to provide independent sources of water supply as determined by the director.
 - (4) Generally, all rough grading of the project area shall be completed prior to the installation of the water main.
 - (5) The construction testing of all water mains and appurtenances will be inspected by the department or its authorized agent.
 - (6) Prior to placing the water main into service, the newly installed main must pass the following tests:
 - a. Hydrostatic pressure test.
 - b. Disinfection/chlorination.

The testing procedures and acceptance criteria are outlined in the standards and specifications of the department, American Water Works Association (AWWA), state department of environmental quality, and the Detroit Water and Sewerage Department.
 - (7) No pavement shall be placed until the main has passed all testing requirements.

Sec. 58-123. - Water main requirements.

- (a) *Pipe sizes.*
 - (1) All water mains within residential districts shall be eight-inch diameter or larger as directed by the department of public works.
 - (2) All water mains within industrial and commercial districts shall be a minimum of 12-inch diameter.
 - (3) Transmission mains shall be sized according to the master water main plan.
- (b) *Locations.*
 - (1) Water mains located within a public road right-of-way shall be placed eight feet from the right-of-way line. Alternate locations must be approved by the director or the engineer.
 - (2) The location of water mains not in a public right-of-way must be approved by the director of public works or the engineer.
- (c) *Clearances.*
 - (1) A horizontal separation of ten feet must be maintained between the water main and any sanitary or

storm sewer line.

- (2) A ten-foot separation must be maintained between the water main and any portion of a building.
- (3) When the main crosses a sanitary sewer, storm sewer, county drain or natural drainage course, the following minimum vertical clearances must be maintained:

| Utility Crossing | Minimum Clearance (feet) |
|-------------------------------|--------------------------|
| Sanitary sewer | 1.5 |
| Storm sewer | 1.5 |
| County drain | 5.0 |
| Natural drainage course | 5.0 |

Vertical clearances less than the minimum requires special backfill and must be approved by the director, the engineer and any other appropriate governmental agency.

(d) *Grades.*

- (1) Mains shall be constructed with a minimum cover depth of 5.5 feet measured from the finished grade. Generally, the maximum depth of cover shall not exceed seven feet.
- (2) Grading changes in excess of one foot, occurring after the main has been installed or placed into service, may be cause for additional testing and replacement of the water main as determined by the director or engineer.
- (3) Compacted sand backfill is required in all trenches under driveways, parking lots, streets and within the influence of a roadway.

(e) *Fire hydrants.*

- (1) Generally, hydrants shall be spaced so that the furthest portion of a building is within 250 feet of a fire hydrant.
- (2) Hydrants shall be spaced at 500-foot intervals (or less) along transmission lines and at 350-foot intervals (or less) within industrial districts.
- (3) All proposed hydrant locations must be reviewed and approved by the fire marshal.
- (4) Hydrants shall be located within the road right-of-way, ten feet from the right-of-way line and at least five feet from the nearest driveway. Within all new subdivisions, hydrants shall be located near the side lot line.
- (5) Hydrants shall be placed at the end of all mains and on the pressurized side of any end-of-the-line valves.

(f) *Valves.*

- (1) Gate valves shall be spaced so that isolating a portion of the system can be accomplished by closing a maximum of four valves with less than 30 dwelling units out of service.

- (2) Gate valves shall be placed at the end of the main to allow for future extensions.
- (3) The gate valves shall have the same nominal diameter as the connecting water main.
- (4) All gate valves shall be located within a precast concrete gateway structure.
- (g) *Fittings.*
 - (1) All bends, elbows, tees and other fittings shall be placed where indicated on the plans.
 - (2) The fitting size shall have the same nominal diameter as the connecting water main.
 - (3) All fittings shall be constructed with proper restraints and thrust blocks.

Sec. 58-124. - Materials.

The materials and methods for construction of the water supply system shall be in accordance with the adopted standards and specifications of the township, American Water Works Association (AWWA), state Department of Environmental Quality, and the Detroit Water and Sewerage Department.

Sec. 58-125. - Water service line.

- (a) All water service lines on either private or public property shall be laid on a solid bottom not less than five feet below the established grade. The distance between the water service line and the sewer service lead shall conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the township.
- (b) All water service lines shall be of type K soft temper copper not less than three-fourths-inch in diameter and extending from the main to the meter. All corporations or curbstops shall be at least three-fourths-inch extra-heavy, round way stop placed inside the right-of-way line. The top never is below grade and must be set on a brick or concrete foundation to prevent settlement. Curbstop boxes shall be Mueller type A300 or equal.
- (c) Gate valves must be placed on the water service line just inside the building wall on each side of the meter so that the water may be turned off in order to make repairs or set the meter. Such gate valves shall be equal in quality to the curbstop. The upstream valve must be mechanical joint type.
- (d) Water service lines from the main to the curbstop shall be maintained by the department of public works, but this clause shall not apply to old services installed by private parties. The curbstop, stop box and all water service lines from the property line to the meter shall be maintained by the owner of the premises. Stop boxes shall be kept free from dirt, stones or other substances that will prevent access to the curbstop and if found in such condition shall immediately be cleaned out by the user. If after due notice the user fails to clean out such stop boxes, the department will proceed with the work and bill the user for the cost.
- (e) All water service lines on private property shall be installed under the supervision of the director of public works or his representative. No trench shall be backfilled until inspected and approved by the director or authorized employees of the department. There shall be no joints between the curbstop and the meter unless commercial lengths are not available to allow for this provision (in the event of excessive building setbacks). All joints between the main and the meter shall be made with three-piece flared heavy-duty type fittings. No person is permitted to turn water on or off at the curbstop except for the purpose of testing his work, in which case the curbstop shall be left in the same condition and position as he found it. Any plumber called upon to shut off water in order to drain pipes on any premises shall do so inside the building only.
- (f) All excavation in the public streets or alleys shall be backfilled by thoroughly tamping dry sand in layers not to exceed six inches. All excavated material shall be entirely removed from the roadway. Excavated material that is wet or otherwise unfit for backfill shall be entirely removed and the backfilling done with suitable dry sand hauled in for that purpose.

- (g) Connections under hard-surfaced paving shall be made only by boring or jetting.
- (h) The cost of repairing and maintenance of street and alley surfaces, pavements and sidewalks, where holes or trenches have been dug, shall be paid for by the person requiring the connection.
- (i) No water service line from the house to the curbstop shall be covered until approved by the director as to location and installation.
- (j) Before an owner, user or contractor installs a water service line from house to lot line, he shall obtain clearance from the director as to the designated terminus of the water service line at the lot line. The terminus of the water service line shall be located such that, when the water service line from this point is installed to the water main in a straight line perpendicular to the main, there are no obstructions such as driveways, manholes, trees, fire hydrants or any other obstacles.

Sec. 58-126. - Meters.

- (a) All premises using department of public works water shall be metered and shall pay for water and the disposal of sewage at the rates specified. In no case will water be supplied, except for temporary supply, at other than the established water rate. For new construction supply purposes, a minimum bill will be charged for each premises for each three-month period or fraction of such period until the department is notified of the termination of the use for construction purposes; and such payments shall be made in advance. Temporary water service will be automatically shut off at the end of the initial three-month period unless payment of a like sum is made in advance for an additional three-month period unless otherwise authorized.
- (b) Meters shall be furnished by the department and shall remain the property of the department and will at all times be under its control.
- (c) Whenever possible, meters shall be equipped with digital display instrumentation capable of being remotely connected and read away from the meter itself. Such remote reading device shall be installed on the exterior of the building as designated by the director of public works.
- (d) For ordinary domestic consumption of water, a meter will be furnished which shall conform to the requirements of the building and plumbing codes or other applicable rules of the township. Meter sizing shall be based upon information provided by the owner at the time of application. The use of meters larger than two inches will be permitted only upon specific written approval by the director after due consideration of all factors concerned, especially the probable effect of their demand on the installed capacity of water mains and supply and sewers and sewage disposal.
- (e) Meters shall be set in an accessible location and in a manner satisfactory to the director.
- (f) Meters will be sealed by the department, and no one except an authorized employee of the department shall break such seals. No person other than an authorized employee shall change the location of, alter or interfere in any way with any meter.
- (g) The expense of maintaining meters will be borne by the department; provided that where replacements, repairs or adjustments of the meter are made necessary by any act, neglect or carelessness of the user or occupant of any premises, the expense to the department shall be charged against and collected from the user of the premises.
- (h) The owner or user of any premises where a meter is installed will be held responsible for its care and protection from freezing, and from injury or interference by any person. In case of damage to the meter or in case of its stoppage or defective condition, the owner or user shall give immediate notice to the department.
- (i) All department water used on any premises must pass through the meter. Any bypass or connection between the meter and the main is prohibited unless it is sealed in a manner satisfactory to the director.

- (j) If any meter is not working properly or fails to register, the consumer will be charged at the average quarterly cor rate as shown by the meter when it is registering. The accuracy of the meter on any premises will be tested by th department upon written request of the owner, who shall pay in advance a fee to cover the cost of the test. If on the meter shall be found to register over three percent more water than actually passes through it, another mete substituted, the fee will be refunded to the user of the premises, and the water bill may be adjusted in such man be fair and just.

Secs. 58-127—58-149. - Reserved.

DIVISION 3. - RATES AND CHARGES

Sec. 58-150. - Short title.

This division shall be known and cited as the "Municipal Water Rates Ordinance." The water rates to be determined and approved as described herein are to be proportional and sufficient to meet prudent and necessary operational costs and ensure the integrity of the municipal water system.

(Ord. No. 256, 7-21-2009)

Sec. 58-151. - Water service.

The rates to be charged for water services furnished by the municipal system shall be as follows:

- (1) *Commodity charge.* A retail commodity charge, in an amount approved by the township board of trustees, shall be charged per 100 cubic feet of water consumption.
- (2) *Derivation and approval of retail commodity charge.* After the approval of the department of public works' annual budget for the next fiscal year, the director of public works will compute, in the manner prescribed in subsections (3) through (7) below, and submit to the board of trustees for approval the retail commodity charge to be effective January 1 of the next fiscal year.
- (3) *Computation of retail commodity charge.* A retail commodity charge will be computed on a cost of service basis utilizing the revenues and expenditures allocated to water operations that comprise and are part of the approved budget for the next fiscal year.
- (4) *Cost of service.* Cost of service shall be the total cost of water operations reduced by revenues from sources other than retail water commodity charges. The cost of service can be summarized by the following formula:

Detroit Water and Sewage Department (DWSD) water costs, plus,

Township department of public works expenses, less,

Township department of public works other revenues.

Where:

DWSD water costs shall be the anticipated charges for water to be delivered to the township in the next fiscal year and supported by amounts in the approved budget and related budget work papers.

Township department of public works expenses shall be all costs, other than DWSD costs, allocated to water operations currently included in departments 591, 596, 597, and 661 supported by amounts in the approved budget and related work papers. Such costs include but are not limited to labor; benefits; professional charges for engineering, legal, auditing, and information technology services; contract services for installation and repair of water lines; operating supplies, depreciation, debt service, utilities, and office supplies.

Township department of public works other revenues shall be all revenues and income, other than retail water commodity charges, allocated to water operations supported by amounts in the approved budget and related work papers. Such other income and revenue includes but is not limited to interest; front footage assessments; capital charges; administrative fees; quarterly ready-to-serve charges; penalties; whole sale water charges; and miscellaneous service and repair charges.

- (5) *Retail commodity charge per 100 cubic feet.* The retail commodity charge per 100 cubic feet will be the unit rate derived by dividing the cost of service as defined and determined in subsection (4) above, by the anticipated total retail unit sales utilized in the preparation of the of the approved budget.
- (6) *Look-back adjustment.* After the completion of the annual audit of the township's financial statements, the director of public works will compute the actual cost of service for the year just audited. The actual cost of service will be computed as described in subsection (4) above with the exception that the actual amounts of expense and other revenue will be utilized in lieu of budgeted amounts. The difference between the actual cost of service and the actual revenues derived from retail water commodity charges will constitute a potential look-back adjustment that may be added to (i.e. a look-back charge) or subtracted from (i.e. a look-back credit) the cost of service computation used in the determination of the retail commodity charge for subsequent fiscal year(s).
- (7) *Rate stabilization and normalization.* The director of public works will perform, at least once annually, an analysis to determine if the balances of cash, cash equivalents and investments being held are sufficient to satisfy and meet prudent or mandatory reserves for bond covenants, general operations, equipment repair and replacement, emergency recovery from disaster and catastrophic events, pending or probable litigation, and other contingencies, claims or settlements that can have a significant financial impact on the operations of the water system. Any balance in excess of prudent or mandatory reserves will constitute funds available for rate stabilization and normalization. Upon the recommendation of the director of public works, a portion or all of the rate stabilization funds will be used to offset potential look back charges and/or part or all of a non-reoccurring and unique expense item(s) included in the cost of water service for subsequent fiscal year(s).
- (8) *Ready-to-serve charge per quarter.* A ready-to-serve charge, at a rate adopted by the board of trustees, shall be charged for each three-month period.

(Ord. No. 256, 7-21-2009)

Sec. 58-152. - Debt service charge.

The debt service charge shall consist of the following:

- (1) *Capital charge.* A capital charge, as adopted by the township board of trustees, per dwelling unit and other capital charges, based on meter size, as set forth in this section.

- a. *Dwelling unit.* A dwelling unit is a building, or a separate unit, which is occupied by one or more person (a single set of culinary facilities) intended for a single family.
- b. *Single-family residence.* In a standard single-family residence, the term "dwelling unit" shall mean a service connection that shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the township.
- c. *Multiple-family structures.* For multiple-family dwellings, a unit shall be based on each individual dwelling unit; and a capital charge shall be made and collected at the rate of 75 percent of the normal single-family dwelling rate for each such unit.
- d. *Larger sized meters and nonresidential users.* The capital charges for larger size meters and all other users, except for multiple-family structures, shall be determined by the size of the water meter used, in accordance with a schedule adopted by the township board of trustees.
- e. *Fire protection flow checks.* The capital charges for flow checks installed in fire protection systems shall be in accordance with a schedule adopted by the township board of trustees. A ready-to-serve charge shall be charged for each fire protection flow check at a rate adopted by the board of trustees for each three-month period. In addition, any water used for fire protection purposes shall be charged to the current customer.
- f. *Limitations on capital charges.* The capital charges set forth in this subsection shall be the only debt service charge that is payable by any person where the owner of the premises to be serviced has installed the water line in front of premises at his own expense or has paid a special assessment to defray a portion of or all of the cost of installing the water line.

Sec. 58-153. - Lateral benefit charge.

Property that does not satisfy the limitations on capital charges in this division shall, in addition to the capital charge, pay a lateral benefit charge, which shall be in such amount as established by resolution of the township board, and shall be based upon but not necessarily limited to the construction cost per front foot in the most recent water special assessment district; but in no event shall such charge be less than \$400.00, which is declared to be the minimum charge.

- (1) *Front footage measurements.* The front foot measurement shall be computed along the side of the parcel to be served on the side adjoining an easement or right-of-way in which the water main is located or to be installed.
- (2) *Maximum single-family residence charge.* The maximum charge to any single-family residence under this section shall not be in excess of 120 feet times the determined cost per front foot.
- (3) *Parcels excluded from special assessment district.* Any parcel which is subject to a lateral benefit charge shall not be included in a water special assessment district.

Sec. 58-154. - Debt service charge payment options.

- (a) *Property with new construction.* The owners of existing property upon which new construction is commenced shall pay the debt service charge in cash at the time the application is completed.
- (b) *Existing single-family structures.* The owners of existing single-family structures shall have the option of paying debt service charges and or tap charges in cash or may pay the charges over a period of ten years in equal quarterly installments with their quarterly water bill. If the time payment method is elected, the amount of the quarterly installment of each charge shall be increased by and include quarterly interest at a rate adopted by

the township board of trustees on the unpaid balance of the charges. The owner shall execute a grant of lien to the township to secure the payment of the debt service charge and/or tap charges, and all interest subsequently accrued.

(Ord. No. 263, § 1, 4-2-2013)

Sec. 58-155. - Connection fees and inspection charge.

- (a) *Minimum fee.* All new connections to the system shall be made by the township, and a minimum fee shall be charged in an amount adopted by the township board to defray the reasonable cost and administrative charges incurred by the township making such connection.
- (b) *Inspection charge.* The charge for the initial inspection and subsequent reinspections of a water connection to a water main (tap), water service line and meter installation shall be adopted by the township board of trustees.
- (c) *Additional fee.* An additional connection fee for sizes in excess of three-quarter-inch or in public rights-of-way in excess of 60 feet of width shall be charged in an amount based upon the reasonable additional costs and administrative charges incurred by the township in the making of such connections.

Sec. 58-156. - Deposit.

A cash deposit, in an amount adopted by the township board, as security for payment of water service charges shall be required of each user as the director of public works shall deem advisable, or in such cases where a deposit is required by the provisions of section 21 of Public Act No. 94 of 1933 (MCL 141.121, MSA 5.2751).

Sec. 58-157. - Billing and enforcement.

- (a) *Quarterly billings.* Water bills shall be rendered quarterly at such times as designated by the director of public works.
- (b) *Nonpayment penalty.* Water bills not paid within 20 days from the date rendered shall be considered past due, and a penalty in an amount adopted by the township board of trustees shall be added to the bills.
- (c) *Past-due and unpaid water charges.*
 - (1) *Lien on property.* Charges for water services shall constitute a lien on the property served.
 - (2) *Action by tax assessor.* On or before September 1 of each year, the person in charge of collection of all charges imposed by this article shall deliver to the tax assessing officer of the township a certified statement of all such charges then six months past due and unpaid. The assessing officer shall then place such charges on the next general tax roll, which shall be collected as part of the general township taxes and the lien enforced.
 - (3) *Right to shut off and court action.* The township shall have the right to shut off and discontinue the supply of water to any premises for the nonpayment when due of any charges imposed by this article. Such service may be shut off in those cases where such charges are unpaid for 30 days or more from the date the billing is rendered; and such service shall not be restored until all past-due charges, penalties and a turn-on charge, to be specified by the township board, have been paid. Further, any such charges and penalties may be recovered by the township by court action, including its actual costs and attorney's fees.
 - (4) *Shutoff and turn-on charges.* A shutoff charge and a turn-on charge, in an amount adopted by the township board of trustees, shall be imposed and collected in addition to the amount of any past-due

water bill before water service is restored on the premises.

Sec. 58-158. - Fire hydrant maintenance and repair.

The department of public works shall maintain and repair the fire hydrants as shall be necessary and as reported by the township fire department.

Cross reference— Fire prevention and protection, ch. 26.

Sec. 58-159. - Special rates.

The township board is authorized to fix such special rates as shall be necessary to compensate the municipal system for any special service provided.

Sec. 58-160. - Free service.

No service shall be furnished by the municipal system to any person or to any public agency or instrumentality free of charge.

Sec. 58-161. - Rate revisions authorized.

The rates established by the township board of trustees are estimated to be sufficient to provide for the payment of the necessary expenses of administration, operation and maintenance of the municipal system so as to preserve the system in good repair and working order; to provide for the payments of the interest upon and the principal of all the bonds as and when they shall become due and payable, and the creation of the reserve required by this article; and to provide for such other expenditures and funds as the municipal system and this article may require. Such rates shall be fixed and revised as may be necessary to produce these amounts, and it is covenanted and agreed at all times to fix and maintain such rates for services furnished by the municipal system as shall be sufficient to provide for such services.

Sec. 58-162. - Receiving fund.

- (a) *Collection of revenues.* The revenues of the system shall be collected in a separate depository account in a bank designated by resolution of the township board, which shall be designated the receiving fund.
- (b) *Operating and maintenance account.* Out of the revenues of the receiving fund, there shall be regularly set aside a sum sufficient to provide for the payment of the expenses of the administration, maintenance and operation of the system to preserve the system in good repair and working order.
- (c) *Contract payment fund.* There shall next be set aside a sum sufficient to pay the treatment charges for sewage treatment to be incurred under the contract between the township and the county for that purpose.
- (d) *Improvement fund.* There shall next be established and maintained an improvement fund for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited in such fund each quarter, after providing for all of the requirements of subsections (b) and (c) of this section, such sum as the township board shall determine.
- (e) *Surplus revenues.* Revenues remaining in the receiving fund at the end of any operating period after satisfaction of the requirements of all the funds may be transferred to the improvement fund.
- (f) *Bank accounts.* All funds may be kept in one bank account and allocated on the books and records of the township to the individual funds by accepted accounting procedures.
- (g) *Fiscal policy.* The system shall be operated on the same fiscal year as the township generally.

Secs. 58-163—58-190. - Reserved.

Sec. 58-226. - Connection to public sanitary sewer mandatory.

When public sanitary sewer becomes usable, the building sewer shall be connected to such sewer within 90 days after written notice from the township department of public works is mailed to the property owner at the post office address of the property. The private sewage disposal system shall be cleaned and filled with clean bank run gravel or dirt.

DIVISION 5. - RATES AND CHARGES

Sec. 58-311. - Short title.

This division shall be known and cited as the "Municipal Water and Sewer Rates Ordinance."

Sec. 58-312. - Sewer service rates and charges.

The rates to be charged for sewer services furnished by the municipal system shall be as follows:

- (1) *Commodity charge.* A commodity charge, in an amount approved by the township board of trustees, shall be charged per 100 cubic feet of water consumption;
- (2) *Periodic adjustment of commodity charge.* The commodity charge shall be periodically adjusted by the director of public works, with the approval of the township board of trustees, by the percentage of any increase or decrease, rounded to the next highest whole percentage point, in the current sewer service rate charged billed to the township by the board of water commissioners of the City of Detroit.
- (3) *Ready-to-serve charge per quarter.* A ready-to-serve charge, at a rate adopted by the township board of trustees, shall be charged for each three-month period.
- (4) *Unconnected users.* Sanitary sewer users not connected to the municipal water system shall pay a sewer service rate established pursuant to section 58-316.

Sec. 58-313. - Debt service charge.

The debt service charge shall consist of the following:

- (1) *Capital charge.* A capital charge, as adopted by the township board of trustees, per dwelling unit and other capital charges, based on meter size, as set forth in this section.
 - a. *Dwelling unit.* The term "dwelling unit" shall mean a building, or a separate unit of a building, which is occupied by one or more persons as a residence (with a single set of culinary facilities) intended for a single family.
 - b. *Single-family residence.* In a standard single-family residence, the term "dwelling unit" shall mean a service connection that shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the township.
 - c. *Multiple-family structures.* For multiple-family dwellings, a unit shall be based on each individual dwelling unit, a capital charge shall be made and collected at the rate of 75 percent of the normal single-family dwelling rate, for each such unit.
 - d. *Larger sized meters and nonresidential users.* The capital charges for larger size meters, and all other users, except for multiple-family structures, shall be determined by the size of the water meter used, in accordance with a schedule adopted by the township board of trustees.
 - e. *Limitations on capital charges.* The capital charges set forth in this section shall be the only debt service charge that is payable by any person where the owner of the premises to be serviced has either installed the sewer line in front of the premises at his own expense, or has

paid a special assessment to defray a portion of or all of the cost of installing the lateral line.

Sec. 58-314. - Lateral benefit charge.

Property that does not satisfy the limitations on capital charges in this division shall, in addition to the capital charge, pay a lateral benefit charge which shall be in such amount as established by resolution of the township board, and shall be based upon but not necessarily limited to the cost per front foot in the most recent sewer special assessment district, but in no event shall it be less than \$48.00 per foot.

- (1) *Front footage measurements.* The front foot measurements shall be computed along the side of the property which adjoins an easement or right-of-way in which the sewer line is either located or to be installed.
- (2) *Maximum single-family residence charge.* The maximum charge to any single-family residence under this subsection shall not exceed the determined cost per front foot times 120 feet.
- (3) *Charge on previously excluded property.* In addition to the front foot charge, the township board may, by resolution, establish a charge per square foot for those users whose property would have been included in a special assessment district in which a part of the assessment was based upon area where, at the time of the assessment, the property was considered nonbuildable for any reason.
- (4) *Parcels excluded from special assessment district.* Any parcel which is subject to a lateral benefit charge shall not be included in a sanitary sewer special assessment district.

Sec. 58-315. - Debt service charge payment options.

- (a) *Property with new construction.* The owners of property upon which new construction is commenced shall pay the debt service charge in cash at the time the application is completed.
- (b) *Existing single-family structures.* The owners of existing single-family structures shall have the option of paying debt service charges and/or tap charges in cash or may pay the charges over a period of ten years in equal quarterly installments with their quarterly sewer bill. If the time payment method is elected, the amount of the quarterly installment of each charge shall be increased by and include quarterly interest at a rate adopted by the township board of trustees, on the unpaid balance of the charges. The owner shall execute a grant of lien to the township to secure the payment of the debt service charge and/or tap charges, and all interest subsequently accrued.

(Ord. No. 263, § 2, 4-2-2013)

Sec. 58-316. - Sewer connection inspection charge.

The charge for the initial inspection and subsequent reinspections of a sewer connection and sewer service pipe shall be adopted by the township board of trustees.

Sec. 58-317. - Special rates.

For special or miscellaneous sewer services, a special rate shall be established by resolution of the township board of trustees.

Sec. 58-318. - Free service prohibited.

No service shall be furnished by the municipal sewer system to any person or to any public agency or instrumentality free of charge.

Sec. 58-319. - Rate revisions authorized.

The rates established by the township board of trustees are estimated to be sufficient to provide for the payment of the necessary expenses of administration, operation and maintenance of the municipal system so as to preserve the system in good repair and working order; to provide for the payments of the interest upon and the principal of all bonds as and when they shall become due and payable, and the creation of the reserve required by this article; and to provide for such other expenditures and funds as the municipal system and this article may require. Such rates shall be fixed and revised as may be necessary to produce these amounts, and it is covenanted and agreed at all times to fix and maintain such rates for services furnished by the municipal system as shall be sufficient to provide for such services.

Sec. 58-320. - Billing and enforcement.

- (a) *Quarterly billings.* Sewer bills shall be rendered quarterly at such time as designated by the director of public works.
- (b) *Nonpayment penalty.* Sewer bills not paid within 20 days from the date rendered shall be considered past due; and a penalty, in an amount adopted by the township board of trustees, shall be added to each bill.
- (c) *Past-due and unpaid sewer charges.*
 - (1) *Lien on property.* Charges for sewer services shall constitute a lien on the property served.
 - (2) *Action by tax assessor.* On or before September 1 of each year, the person in charge of collection of all charges imposed by this article shall deliver to the tax assessing officer of the township a certified statement of all such charges then six months past due and unpaid. The assessing officer shall then place such charges on the next general tax roll, and they shall be collected as part of the general township taxes and the lien enforced.
 - (3) *Right to discontinue service and court action.* In addition to the other provisions of this section, the township shall have the right to discontinue sewer service to any premises for which charges for sewer service are more than 30 days past due; and such service shall not be reestablished until all past-due charges, penalties and a turn-on charge, to be specified by the township board, have been paid. Further, any such charges and penalties may be recovered by the township by court action, including its actual costs and attorney's fees.
 - (4) *Shutoff and turn-on charges.* A shutoff charge and a turn-on charge, in an amount adopted by the township board of trustees, shall be imposed and collected in addition to the amount of any past-due sewer bill before sewer service is restored on the premises.

Sec. 58-321. - Receiving fund.

- (a) *Collection of revenues.* The revenues of the system shall be collected in a separate depository account in a bank designated by resolution of the township board, which shall be designated the receiving fund.
- (b) *Operating and maintenance account.* Out of the revenues of the receiving fund, there shall be regularly

set aside a sum sufficient to provide for the payment of the expenses of the administration, maintenance and operation of the system to preserve the system in good repair and working order.

- (c) *Contract payment fund.* There shall next be set aside a sum sufficient to pay the treatment charges for sewage treatment to be incurred under the contract between the township and the county for that purpose.
- (d) *Improvement fund.* There shall next be established and maintained an improvement fund for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited in such fund each quarter, after providing for all of the requirements of subsections (b) and (c) of this section, such sum as the township board shall determine.
- (e) *Surplus revenues.* Revenues remaining in the receiving fund at the end of any operating period after satisfaction of the requirements of all the funds may be transferred to the improvement fund.
- (f) *Bank accounts.* All funds may be kept in one bank account and allocated on the books and records of the township to the individual funds by accepted accounting procedures.
- (g) *Fiscal policy.* The system shall be operated on the same fiscal year as the township generally.

Secs. 58-322—58-340. - Reserved.

EXHIBIT B

Water and Sewer Reserve

12.4.b

| | |
|--|---------------------|
| Asset Replacement | \$27,877,085 |
| Capital Construction Reserve (per 5 year plan) | 1,188,000 |
| Legal/Environmental Claim Reserve | 500,000 |
| Operating Capital Reserve (25% of Annual Oper Rev) | 6,197,777 |
| Post Employment Retirement Obligations | 869,058 |
| Repair Contingencies (1 year annual Depreciation) | 3,930,372 |
| MIDD/OMID Debt Principal Payments (5 years) | 3,844,563 |
| Total Required Reserve | 44,406,855 |
| Cash and Equivalency | 21,939,909 |
| Pension Loan | 11,725,000 |
| SAD 34-S | 8,845,692 |
| DPW Building Bond | 1,976,860 |
| Total | 44,487,461 |
| Surplus Revenue | \$80,606 |

EXHIBIT C

Water & Sewer 5 Year Plan

| | | | | | | | | | | | |
|----------------------------------|---------------|---------------------|-----------------|---------|-----------------|---------|---------------|---------|---------------|---------|---------------|
| TOTAL | \$ 32,000.00 | TOTAL | \$ 685,000.00 | TOTAL | \$ 220,000.00 | TOTAL | \$ 385,000.00 | TOTAL | \$ 120,000.00 | TOTAL | \$ - |
| 592-595-980-250 IT and Systems | | | | | | | | | | | |
| Project | Cost | Project | Cost | Project | Cost | Project | Cost | Project | Cost | Project | Cost |
| GPS & GIS Equip/Map | \$ 100,000.00 | GPS & GIS Equip/Map | \$ 100,000.00 | | | | | | | | |
| TOTAL | \$ 100,000.00 | TOTAL | \$ 100,000.00 | TOTAL | \$ - | TOTAL | \$ - | TOTAL | \$ - | TOTAL | \$ - |
| 592-595-980-000 Office Equipment | | | | | | | | | | | |
| Project | Cost | Project | Cost | Project | Cost | Project | Cost | Project | Cost | Project | Cost |
| | | | | | | | | | | | |
| TOTAL | \$ - | TOTAL | \$ - | TOTAL | \$ - | TOTAL | \$ - | TOTAL | \$ - | TOTAL | \$ - |
| GRAND TOTAL | \$ 577,000.00 | | \$ 1,170,000.00 | | \$ 1,002,000.00 | | \$ 738,600.00 | | \$ 489,000.00 | | \$ 397,000.00 |

Denotes items already purchased.

EXHIBIT D

Water and Sewer Reserve Calculation Worksheet

| | | |
|---|------------------|------------------|
| Cash and Equivalency (W & S) | 31,145,068 | |
| Cash and Equivalency (SAD) | <u>1,352,399</u> | |
| Total Cash and Equivalency | | 32,497,467 |
| Asset Replacement (less than 20 years life left) | | |
| Water Main | 1,100,000 | |
| Sewer Main | 1,100,000 | |
| Water Meter | 400,000 | |
| Vehicles and Equipment | 1,100,000 | |
| Pension Loan | 13,000,000 | |
| Legal / Environmental | 250,000 | |
| Operating Capital Reserve (25 % of Annual Oper Rev | 6,182,000 | |
| OPEB Liability | 860,000 | |
| Repair Contingencies (1 Year Depreciation) | <u>3,612,234</u> | |
| Total Required Reserve | | 27,604,234 |
| Debt Retirement and Capital Outlay | <u>2015-2019</u> | |
| Capital Outlay (Per 5 year plan) | 1,754,215 | |
| OMID Debt Principal Payments (5 year) | 3,113,897 | |
| Total Obligatory Expenditures | <u></u> | <u>4,868,112</u> |
| Net Reserve Surplus / Deficit | | 25,121 |

EXHIBIT E

Water and Sewer Reserve Calculation Worksheet

| | |
|---|-----------------------------|
| Cash and Equivalency (W & S) | 26,242,428 |
| Pension Loan | <u>12,150,000</u> |
| Total Cash and Equivalency | 38,392,428 |
| Asset Replacement (less than 20 years life left) | |
| Water Main | 2,272,183 |
| Sewer Main | 5,875,650 |
| Water Meter | 580,047 |
| Vehicles and Equipment | 1,200,000 |
| Pension Loan Receivable | 12,150,000 |
| Legal / Environmental | 500,000 |
| Operating Capital Reserve (25 % of Annual Oper Rev | 5,961,906 |
| OPEB Liability | 973,185 |
| Repair Contingencies (1 Year Depreciation) | <u>3,682,996</u> |
| Total Required Reserve | 33,195,967 |
| Debt Retirement and Capital Outlay | <u> </u> |
| Capital Outlay (Per 5 year plan) | 1,573,000 |
| OMID Debt Principal Payments (5 year) | 3,592,176 |
| Total Obligatory Expenditures | <u>5,165,176</u> |
| Net Reserve Surplus / Deficit | 31,285 |

EXHIBIT F

2013 Rate Formula

| (Column A) | | (Column B) | (Column C) 2013 | (Column D) |
|-----------------------------|-------------------------------------|-------------------|--------------------|------------------|
| Line No. | Expenses: | Total | Water | Sanitary |
| 1 | Admin. & General Expense Total | 717,869 | 473,795 | 244,074 |
| 2 | Depreciation Total | 3,539,839 | 1,086,390 | 2,453,449 |
| 3 | Debt Service Total | 1,286,467 | 186,695 | 1,099,772 |
| 4 | Labor & Benefits Total | 2,701,716 | 1,783,133 | 918,583 |
| 5 | Operation & Maintenance Total | 737,400 | 215,164 | 522,236 |
| 6 | Water Costs | 10,954,418 | 10,954,418 | - |
| 7 | Sewer Processing Costs | 4,608,075 | - | 4,608,075 |
| 8 | Less Debt Principal | (716,298) | (105,600) | (610,698) |
| 9 | Total Operating Expense | 23,829,486 | 14,593,995 | 9,235,491 |
| Revenue Adjustments: | | | | |
| 10 | | 490,000 | 274,000 | 216,000 |
| 11 | Customer Install - Taps | 157,000 | 94,200 | 62,800 |
| 12 | Interest Income | 51,200 | 30,720 | 20,480 |
| 13 | Other Revenue Total | 1,085,510 | 490,898 | 594,612 |
| 14 | Budgeted Revenue Adjustments | 1,783,710 | 889,818 | 893,892 |
| 15 | Wholesale Water Sales | 1,146,400 | 1,146,400 | - |
| 16 | Ready to Serve Charge - Total | 348,258 | 255,471 | 92,787 |
| 17 | Total Revenue Adjustments: | 3,278,368 | 2,291,689 | 986,679 |
| 18 | True Revenue Requirement | 20,551,118 | 12,302,306 | 8,248,812 |
| 19 | Depreciation Credit from Reserve | (1,384,400) | - | (1,384,400) |
| 20 | Proposed Revenue Requirement | 19,166,718 | 12,302,306 | 6,864,412 |
| | Anticipated Billable Units | | 3,528,039 | 1,741,367 |
| | Proposed Rate: | 7.429 | 3.487 | 3.942 |
| | Previous Rate (2012 Retail rates) | 7.018 | 3.431 | 3.587 |
| | % Change | 5.86% | 1.63% | 9.90% |
| | Average Number of Customers | | 25,547 | 14,059 |

2014 Rate Formula

| (Column A) | | (Column B) | (Column C) 2014 | (Column D) |
|-----------------------------------|-------------------------------------|-------------------|--------------------|------------------|
| Line No. | Expenses: | Total | Water | Sanitary |
| 1 | Admin. & General Expense Total | 759,144 | 501,037 | 258,107 |
| 2 | Depreciation Total | 3,642,807 | 1,075,473 | 2,567,334 |
| 3 | Debt Service Total | 1,388,737 | 182,471 | 1,206,266 |
| 4 | Labor & Benefits Total | 2,408,061 | 1,589,322 | 818,739 |
| 5 | Operation & Maintenance Total | 675,700 | 254,212 | 421,488 |
| 6 | Water Costs | 11,261,122 | 11,261,122 | - |
| 7 | Sewer Processing Costs | 5,126,453 | - | 5,126,453 |
| 8 | Less Debt Principal | (736,027) | (105,600) | (630,427) |
| 9 | Total Operating Expense | 24,525,997 | 14,758,037 | 9,767,960 |
| Revenue Adjustments: | | | | |
| 10 | | 675,000 | 390,000 | 285,000 |
| 11 | Customer Install - Taps | 212,000 | 127,200 | 84,800 |
| 12 | Interest Income | 27,400 | 16,440 | 10,960 |
| 13 | Other Revenue Total | 1,162,750 | 524,892 | 637,858 |
| 14 | Budgeted Revenue Adjustments | 2,077,150 | 1,058,532 | 1,018,618 |
| 15 | Wholesale Water Sales | 1,172,400 | 1,172,400 | - |
| 16 | Ready to Serve Charge - Total | 358,427 | 260,800 | 97,627 |
| 17 | Total Revenue Adjustments: | 3,607,977 | 2,491,732 | 1,116,245 |
| 18 | True Revenue Requirement | 20,918,020 | 12,266,305 | 8,651,715 |
| 19 | Depreciation Credit from Reserve | (1,159,864) | - | (1,159,864) |
| 20 | Proposed Revenue Requirement | 19,758,156 | 12,266,305 | 7,491,851 |
| Anticipated Billable Units | | | 3,528,039 | 1,741,367 |
| Proposed Rate: | | 7.779 | 3.477 | 4.302 |
| Previous Rate (2013 Retail rates) | | 7.429 | 3.487 | 3.942 |
| % Change | | 4.71% | -0.29% | 9.14% |
| Average Number of Customers | | | 26,080 | 14,792 |

2015 Rate Formula

| | (Column A) | (Column B) | (Column C) 2015 | (Column D) |
|----------|-------------------------------------|-------------------|--------------------|-------------------|
| Line No. | Expenses: | Total | Water | Sanitary |
| 1 | Admin. & General Expense Total | 803,903 | 530,575 | 273,328 |
| 2 | Depreciation Total | 3,656,875 | 1,073,025 | 2,583,850 |
| 3 | Debt Service Total | 1,465,756 | 210,587 | 1,255,169 |
| 4 | Labor & Benefits Total | 2,308,001 | 1,523,281 | 784,720 |
| 5 | Operation & Maintenance Total | 684,100 | 310,246 | 373,854 |
| 6 | Water Costs | 11,846,601 | 11,846,601 | - |
| 7 | Sewer Processing Costs | 5,510,830 | - | 5,510,830 |
| 8 | Less Debt Principal | (797,605) | (138,600) | (659,005) |
| 9 | Total Operating Expense | 25,478,461 | 15,355,715 | 10,122,746 |
| | Revenue Adjustments: | | | |
| 10 | | 725,000 | 420,000 | 305,000 |
| 11 | Customer Install - Taps | 249,000 | 149,400 | 99,600 |
| 12 | Interest Income | 120,200 | 72,120 | 48,080 |
| 13 | Other Revenue Total | 1,216,927 | 509,656 | 707,271 |
| 14 | Budgeted Revenue Adjustments | 2,311,127 | 1,151,176 | 1,159,951 |
| 15 | Wholesale Water Sales | 1,233,895 | 1,233,895 | - |
| 16 | Ready to Serve Charge - Total | 358,427 | 260,800 | 97,627 |
| 17 | Total Revenue Adjustments: | 3,903,449 | 2,645,871 | 1,257,578 |
| 18 | True Revenue Requirement | 21,575,012 | 12,709,844 | 8,865,168 |
| 19 | Depreciation Credit from Reserve | (750,000) | - | (750,000) |
| 20 | Proposed Revenue Requirement | 20,825,012 | 12,709,844 | 8,115,168 |
| | Anticipated Billable Units | | 3,528,039 | 1,741,367 |
| | Proposed Rate: | 8.263 | 3.603 | 4.660 |
| | Previous Rate (2014 Retail rates) | 7.779 | 3.477 | 4.302 |
| | % Change | 6.22% | 3.61% | 8.33% |
| | Average Number of Customers | | 26,080 | 14,792 |

2016 Rate Formula

| (Column A) | | (Column B) | (Column C) 2016 | (Column D) |
|-----------------------------------|-------------------------------------|-------------------|--------------------|-------------------|
| Line No. | Expenses: | Total | Water | Sanitary |
| 1 | Admin. & General Expense Total | 885,217 | 584,244 | 300,973 |
| 2 | Depreciation Total | 3,717,890 | 1,109,054 | 2,608,836 |
| 3 | Debt Service Total | 1,531,634 | 232,886 | 1,298,748 |
| 4 | Labor & Benefits Total | 2,355,051 | 1,554,335 | 800,716 |
| 5 | Operation & Maintenance Total | 761,300 | 386,698 | 374,602 |
| 6 | Water Costs | 12,953,846 | 12,953,846 | - |
| 7 | Sewer Processing Costs | 5,843,290 | - | 5,843,290 |
| 8 | Less Debt Principal | (879,152) | (168,300) | (710,852) |
| 9 | Total Operating Expense | 27,169,076 | 16,652,763 | 10,516,313 |
| Revenue Adjustments: | | | | |
| 10 | | 730,000 | 425,000 | 305,000 |
| 11 | Customer Install - Taps | 304,000 | 182,400 | 121,600 |
| 12 | Interest Income | 155,750 | 93,450 | 62,300 |
| 13 | Other Revenue Total | 1,133,835 | 544,701 | 589,134 |
| 14 | Budgeted Revenue Adjustments | 2,323,585 | 1,245,551 | 1,078,034 |
| 15 | Wholesale Water Sales | 1,195,000 | 1,195,000 | - |
| 16 | Ready to Serve Charge - Total | 358,427 | 260,800 | 97,627 |
| 17 | Total Revenue Adjustments: | 3,877,012 | 2,701,351 | 1,175,661 |
| 18 | True Revenue Requirement | 23,292,064 | 13,951,412 | 9,340,652 |
| 19 | Depreciation Credit from Reserve | (500,000) | - | (500,000) |
| 20 | Proposed Revenue Requirement | 22,792,064 | 13,951,412 | 8,840,652 |
| Anticipated Billable Units | | | 3,528,039 | 1,741,367 |
| Proposed Rate: | | 9.031 | 3.954 | 5.077 |
| Previous Rate (2015 Retail rates) | | 8.263 | 3.603 | 4.660 |
| % Change | | 9.30% | 9.75% | 8.95% |
| Average Number of Customers | | | 26,080 | 14,792 |

2017 Rate Formula

| (Column A) | | (Column B) | (Column C) 2017 | (Column D) |
|-----------------------------|-------------------------------------|-------------------|--------------------|-------------------|
| Line No. | Expenses: | Total | Water | Sanitary |
| 1 | Admin. & General Expense Total | 897,659 | 592,455 | 305,204 |
| 2 | Depreciation Total | 3,727,547 | 1,113,661 | 2,613,886 |
| 3 | Debt Service Total | 1,560,399 | 228,126 | 1,332,273 |
| 4 | Labor & Benefits Total | 2,220,742 | 1,465,690 | 755,052 |
| 5 | Operation & Maintenance Total | 665,800 | 278,528 | 387,272 |
| 6 | Water Costs | 13,799,285 | 13,799,285 | - |
| 7 | Sewer Processing Costs | 6,069,717 | - | 6,069,717 |
| 8 | Less Debt Principal | (928,839) | (171,600) | (757,239) |
| 9 | Total Operating Expense | 28,012,310 | 17,306,145 | 10,706,165 |
| Revenue Adjustments: | | | | |
| 10 | | 870,000 | 333,000 | 537,000 |
| 11 | Customer Install - Taps | 330,000 | 198,000 | 132,000 |
| 12 | Interest Income | 157,500 | 94,500 | 63,000 |
| 13 | Other Revenue Total | 1,194,757 | 572,854 | 621,903 |
| 14 | Budgeted Revenue Adjustments | 2,552,257 | 1,198,354 | 1,353,903 |
| 15 | Wholesale Water Sales | 1,254,000 | 1,254,000 | - |
| 16 | Ready to Serve Charge - Total | 358,427 | 260,800 | 97,627 |
| 17 | Total Revenue Adjustments: | 4,164,684 | 2,713,154 | 1,451,530 |
| 18 | True Revenue Requirement | 23,847,626 | 14,592,991 | 9,254,635 |
| 19 | Depreciation Credit from Reserve | - | - | - |
| 20 | Proposed Revenue Requirement | 23,847,626 | 14,592,991 | 9,254,635 |
| | Anticipated Billable Units | | 3,528,039 | 1,741,367 |
| | Proposed Rate: | 9.451 | 4.136 | 5.315 |
| | Previous Rate (2016 Retail rates) | 9.031 | 3.954 | 5.077 |
| | % Change | 4.65% | 4.61% | 4.68% |
| | Average Number of Customers | | 26,080 | 14,792 |

2018 Rate Formula

| | (Column A) | (Column B) | (Column C) | (Column D) |
|----------|-------------------------------------|-------------------|-------------------|-------------------|
| Line No. | Expenses: | Total | Water | Sanitary |
| 1 | Admin. & General Expense Total | 872,091 | 575,580 | 296,511 |
| 2 | Depreciation Total | 3,969,012 | 1,162,339 | 2,806,673 |
| 3 | Debt Service Total | 1,512,184 | - | 1,512,184 |
| 4 | Labor & Benefits Total | 2,391,984 | 1,578,709 | 813,275 |
| 5 | Operation & Maintenance Total | 709,600 | 312,740 | 396,860 |
| 6 | Water Costs | 14,095,502 | 14,095,502 | - |
| 7 | Sewer Processing Costs | 6,460,108 | - | 6,460,108 |
| 8 | Less Debt Principal | (727,411) | - | (727,411) |
| 9 | Total Operating Expense | 29,283,070 | 17,724,870 | 11,558,200 |
| | Revenue Adjustments: | | | |
| 10 | | 1,018,000 | 372,000 | 646,000 |
| 11 | Customer Install - Taps | 356,000 | 213,600 | 142,400 |
| 12 | Interest Income | 260,000 | 156,000 | 104,000 |
| 13 | Other Revenue Total | 1,210,822 | 594,013 | 616,809 |
| 14 | Budgeted Revenue Adjustments | 2,844,822 | 1,335,613 | 1,509,209 |
| 15 | Wholesale Water Sales | 1,275,000 | 1,275,000 | - |
| 16 | Ready to Serve Charge - Total | 372,140 | 270,500 | 101,640 |
| 17 | Total Revenue Adjustments: | 4,491,962 | 2,881,113 | 1,610,849 |
| 18 | True Revenue Requirement | 24,791,108 | 14,843,757 | 9,947,351 |
| 19 | Depreciation Credit from Reserve | - | - | - |
| 20 | Proposed Revenue Requirement | 24,791,108 | 14,843,757 | 9,947,351 |
| | Anticipated Billable Units | | 3,528,000 | 1,741,000 |
| | Proposed Rate: | 9.921 | 4.207 | 5.714 |
| | Previous Rate (2017 Retail rates) | 9.451 | 4.136 | 5.315 |
| | % Change | 4.97% | 1.73% | 7.50% |
| | Average Number of Customers | | 27,050 | 15,400 |