

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

MARIAN KRAMER BAKER, CRAIG CULLERS,
STEPHEN GAINES, PRISCILLA HARRIS,
EBAN MORALES, SHIRLEY TURNER,
DERRICK ARMSTRONG and HIGHLAND
PARK HUMAN RIGHTS ORGANIZATION,
Individually and Representative Capacity,
Plaintiffs,

v.

Case No.: 15-014492-CZ

Hon. Annette J. Berry

CITY OF HIGHLAND PARK,
a Municipal Corporation.

Defendant.

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**IMPORTANT NOTICE ABOUT YOUR WATER AND SEWERAGE
BILLS CITY OF HIGHLAND PARK RESIDENTIAL WATER CUSTOMERS**

Please read this notice carefully if:

You were a city of Highland Park water and sewerage residential customer not living in HUD owned or multi-family properties, during any period between January of 2012 to today's date.

This notice is an official communication from the Wayne County Circuit Court. This notice is about the proposed settlement of a lawsuit that may affect your legal rights. This notice includes information about a proposed consent judgment, a settlement fairness hearing scheduled by the Court, and the process for being heard by the Court. The key points of the proposed consent judgment and settlement are summarized in Section 4 of this notice.

CONTENTS

<u>NOTICE</u>	<u>Page</u>
1. The Purpose of this Notice.....	1
2. The Lawsuit	1
3. The Claims and Settlement Negotiations.....	1
a. Plaintiffs’ Claims	1
b. Defendants’ Claims.....	2
c. Settlement Negotiations	2
4. The Proposed Settlement	2
a. Description of Class Members.....	2
b. Settlement Amount and Terms	2
c. Credits for Payments.....	2
i. Proofs of Payment for Credits	3
ii. Claims Period for Credits	3
iii. Applying Credits.....	3
d. Payment Plans for Arrearages and Current Bills	3
e. Property Taxes and Water Liens	3
f. Collection Rules	3
5. Attorney Fees and Expenses	3
6. The Reasons for the Proposed Settlement	3
7. Objections and Hearing.....	4
8. More Information.....	4
9. Summary of Key Points in This Notice	4
ELECTION TO BE EXCLUDED.....	A
CONSENT JUDGMENT	B

1. THE PURPOSE OF THE NOTICE

This is an official notice from the Wayne County Circuit Court. A class action lawsuit is pending in the Court. The Court has been asked to approve a proposed settlement of that lawsuit. The lawsuit and the proposed settlement affect certain city of Highland Park residential water customers. If you are among those described above and in Section 2 of this notice, you likely are part of the class covered by the lawsuit. If so, the proposed settlement addresses your water and sewerage bills.

The Court will hold a hearing at which class members can present their views on the proposed settlement. At the hearing, the Court will consider giving final approval to the Proposed Consent Judgment. The Court will only give final approval if, after considering all viewpoints presented by the parties to the lawsuit and class members, the Court decides that the proposed settlement is fair, reasonable and adequate under all the circumstances.

The terms of the proposed settlement are set out in the Proposed Settlement Agreement attached to this notice. This notice summarizes those terms. You can use the information in the Proposed Settlement Agreement and in this notice to assess the proposed settlement. If you approve of the proposed settlement, or if you do not wish to be heard, you do not need to take any action. If you want to object to the proposed settlement and ask that the Court not approve it, or you wish to be excluded, you must follow the objection procedure explained in Section 7 of this notice. Again, if you do not object to the proposed settlement or elect to be excluded, you do not need to contact the Court or take any other action after reading this notice.

2. THE LAWSUIT

The Lawsuit – titled *Marian Kramer Baker, Craig Cullers, Stephen Gaines, Priscilla Harris, Eban Morales, Shirley Turner, Derrick Armstrong and Highland Park Human Rights Organization, Individually and Representative Capacity v. City of Highland Park, a municipal corporation*, Docket No. 15-014492-CZ was filed in the Wayne County Circuit Court on November 6, 2015.

The Lawsuit was brought by the Highland Park Human Rights Organization and by seven individuals who are city of Highland Park residential water customers. They are: (1) Marian Kramer Baker; (2) Craig Cullers; (3) Stephen Gaines; (4) Priscilla Harris; (5) Eban Morales; (6) Shirley Turner, and (7) Derrick Armstrong. The seven individuals are the "class representatives." They sued for themselves and on behalf of approximately 2030 residential water customers in the city of Highland Park. The Highland Park Human Rights Organization, the seven class representatives, and the class are collectively called the "Plaintiffs." The Plaintiffs sued the City of Highland Park who is called the "Defendant."

The Plaintiffs are represented by attorneys Alice B. Jennings of the law firm of EDWARDS & JENNINGS, PC, Vanessa G. Fluker of VANESSA G. FLUKER, PLLC, and Marilyn Mullane of MICHIGAN LEGAL SERVICES, all located in Detroit, Michigan. The Plaintiffs' attorneys are collectively called "Class Counsel." The Defendants are represented by John Clark of GIARMARCO, MULLINS & HORTON, PC of Troy, Michigan.

The parties stipulated to the certification of a class of approximately 2036 (estimated as of January 23, 2017) residential water customers who were not living in HUD owned or managed multi-family properties, in the city of Highland Park. They believe that the class is so numerous that joinder of all members as individual plaintiffs would be impracticable and that there are questions of law and fact common to the class that predominate over questions affecting only individual members, that the claims of the representative parties are typical of the claims of the class, that the individually named Plaintiff representatives of the class and class counsel have fairly and adequately asserted and protected the interests of the class, and that the requirements for the case to proceed as a class action, as set forth in the Michigan Court Rules at Rule 3.501 are otherwise satisfied.

3. THE CLAIMS AND SETTLEMENT NEGOTIATIONS

a. Plaintiffs' Claims

In the Lawsuit, Plaintiffs sought to stop Highland Park's water debt collection activities, including threatened and actual terminations of water service, for certain residential customers, because it could not establish an accurate basis for its billings. Plaintiffs claimed that since 2012, Defendant had engaged in a pattern of violating Highland Park's City Ordinance, Section 1040.17 by not regularly mailing water and sewerage usage bills and/or mailing bills which were not based upon the customer's actual household use, but on inaccurate estimates. The Complaint also alleged that since 2012, many of the water meters for Plaintiff class member customers had not been working, had provided inaccurate readings, or were routinely not read. Beginning in late 2015, Plaintiff class members were also subjected to collection activity by the city's agent, a debt collection law firm. At the same time, residential water customers in Highland Park began receiving shut-off notices from Defendant. Without any accounting for payments received or an actual usage basis for charges, Plaintiff class members received bills ranging from several hundred to several thousand dollars for which payment was demanded under threat of termination of service. Plaintiffs also claimed that these threats of termination of service and collection activities violated their due process rights under the Michigan constitution.

Plaintiffs sued the city of Highland Park for violations of MCL 123.141(3), a state statute which prohibits the sale of water at a retail rate that is not based on actual cost (Count I), for violation of the Headlee Amendment, Article 9, Section 31 of the

Michigan Constitution which prohibits water rate overcharges that were disguised taxes (Count II); for Unjust Enrichment as a result of the overcharges (Count III), Silent Fraud (Count IV) in Defendant's omissions and silent failure to provide accurate water bills to Plaintiffs and Violations of Due Process (Count V), for Defendant's failure to follow its own rules and local laws for the collection of water charges and provision of water and sewerage services, recognized as protected property rights. Plaintiffs sought injunctive relief and damages, noting that they would be irreparably harmed if their water service was terminated; and that they would be required to pay enormous bills for alleged arrearages which were not based on actual water and sewer service usage since at least 2012. Defendant had commenced water shutoffs of residential properties on several streets in Highland Park for alleged failures to pay bills generated in violation of Highland Park Ordinance 1040.17.

Plaintiffs sought a court order stopping Highland Park from continuing to pursue third party collections, terminations of water service, and transfers of water debt to property taxes for collection, during the pendency of the case.

b. Defendants' Claims

In response, Defendants denied Plaintiffs claims but agreed to halt collection activities, including service terminations, pending discovery and the case proceeding through a facilitation process operated by the Court.

c. Settlement Negotiations

The Wayne County Circuit Court has not determined which side is right about the legal claims of the Plaintiffs. The case proceeded through multiple facilitation sessions with a Wayne County Circuit Court mediator over a two-year period, and two settlement conferences with the Wayne County Circuit Court judge, during which the parties reached the mutually-acceptable compromise described in the attached Proposed Settlement Agreement. This Proposed Settlement Agreement was reached after more than two years of facilitation and a year of additional negotiations, with counsel for both Plaintiffs and Defendants strongly advocating for their respective positions.

Under the proposed Settlement Agreement, if approved by the Court, the City of Highland Park will waive all bills for water and sewer service for the period of January, 2012 through the dates of new meter installation (but no later than December 31, 2016) for each class member. Class members who paid bills during that period and who have proofs of payment may be eligible to recover some or all of those payments in credits against future bills if the city of Highland Park prevails in another case that that it has filed against the city of Detroit for claims that it was overcharged wholesale rates for water. Those proofs of payments will be required to be submitted timely during a claims period which arises only in the event that Highland Park prevails in the other case. For all class members who are low-income, any accumulated arrearages on bills from the date of new meter installation to the present may be paid on reasonable payment plans which are based on household income. The parties, through their counsel, have also agreed to written rules or policies for collection practices and termination of service which are attached in the addendum to the consent judgment. No bills for service which accumulated prior to January 1, 2017 may be imposed as liens on real property for collection in the tax foreclosure process pursuant to the Michigan General Property Tax Act. The proposed settlement, set out in detail in the Proposed Consent Judgment, is summarized next. The parties also agree to an attorney fee award of \$100,000 to be paid to Plaintiff's attorneys.

4. THE PROPOSED SETTLEMENT

The Plaintiffs and Defendants have agreed to settle the lawsuit on the terms described in the Proposed Settlement Agreement, a copy of which is attached to this Notice. If the settlement is approved by the Court, the lawsuit will end and all class members, who do not elect to be excluded, will be bound by the terms of the Proposed Settlement Agreement. Class members who are bound by the settlement will receive the benefits of the settlement but will not be able to file their own individual lawsuits against the Defendants, unless they elect to be excluded from the Consent Judgment. Please read the Proposed Settlement Agreement carefully. To help you understand it, this Notice summarizes the proposed settlement.

a. Description of Class Members

Under the Proposed Settlement Agreement, the class members are all residential water customers not living in HUD owned or multi-family properties (approximately 2036 such customers (households) as of January, 2017).

b. Settlement Amount and Terms

There are no funds being paid to the class members. Credits will only be given based on the language of (4)(c) below. Instead, the settlement provides for the waiver of Defendant's claims and release of class members from any unpaid water or sewerage debt accumulating during the period January 1, 2012 through the date of new meter installation for each affected residential property, but no later than December 31, 2016.

c. Credits for Payments

To provide water to its residents, the city of Highland Park purchases water from the city of Detroit at wholesale rates. Currently the City of Highland Park has sued the city of Detroit for overcharges in these rates in another case in the Wayne County Circuit Court (Case No. 14-001974-CK.) If the city of Highland Park prevails in its case against the city of Detroit, any amounts recovered will be set aside to provide for credits against future water bills for claims by class members in this case who paid water bills during the period of January 1, 2012 through the date of new meter installations for each property, but no later than December 31, 2016, and who can produce proofs of payment during a claims period as described below. To the extent that the city of Highland Park recovers less than the total amount of class member claims, the credits

available for each claimant will be reduced on an equal percentage basis. To the extent that the city of Highland Park recovers more than the total of all combined claims by the claim deadline, it is entitled to keep the balance of the recovery.

i. Proofs of Payment for Credits

To apply for credits, class members may submit proofs of payment in the form of records obtained from the city of Highland Park in this case, including the records of payments collected by the law firm of Roosen, Varchetti & Olivier, and any other proofs of payment including but not limited to receipts issued by Highland Park or its agents, cancelled checks or statements of banks or financial institutions, copies of money orders or other types of similar credible evidence of payment.

ii. Claims Period for Credits and Disputes

The claims period for class members applying for water credits is 120 days from the date of the final judgment and recovery in Highland Park's case against Detroit (No. 1400194-CK). For claims disputes, the parties will utilize the dispute resolution process described in the attached addendum to the proposed consent judgment.

iii. Applying Credits

Class members who present credible proofs and timely claims showing payment of any water or sewerage bills during the period of January, 2012 through the date of their new meter installation (but no later than December 31, 2016) shall receive full credit provided against billings issued after the date of their new meter installation or December 31, 2016, whichever is earlier, as the recovery in Highland Park's case against Detroit allows. To the extent that the City of Highland Park recovers less than the total amount of class member claims, the credits available for each claimant will be partial and reduced on an equal percentage basis.

d. Payment Plans for Arrearages and Current Bills

For all bills covering periods from the date of new meter installation in 2016 to the present, low income class members with proofs of incomes at or below 200% of the federal poverty level shall be offered reasonable payment plans. These plans will provide for monthly payments that are reasonable and do not exceed 5% of household income for the combined cost of the arrears and bills for current usage. All eligible households will be encouraged to apply for State Emergency Relief through the Michigan Department of Human Services annually to assist with arrearage debt and will also be referred to any other water relief programs of which the city of Highland Park becomes aware, including any sources from the Great Lakes Water Authority.

e. Property Taxes and Water Liens

The parties agree that the City of Highland Park will not transfer any water or sewer debt accumulated during the period of January 2012 to December 31, 2016, to property tax liens for collection by the county treasurer in the state tax foreclosure process.

f. Collection Rules

The proposed collection rules appear in the attached addendum to the proposed consent judgment. The rules establish an administrative process that will be implemented when finalized, which is consistent with due process requirements and which cover the procedures and rules for providing service, methods for challenging billings, credit disputes, denial of service, shut-offs, costs and quality of service and collection practices. These procedures include a grievance and hearing process with the water department. The process for terminating service includes notice requirements, opportunities for hearings and protection for vulnerable populations (including persons with medical issues, the elderly, households with minor children and low-income households). The protections include reasonable income-based payment plans to address arrearages.

5. ATTORNEY FEES AND EXPENSES

The parties agree that the lawyers for the Plaintiffs are entitled to a total attorney fee award of \$100,000.00 for work performed to date which shall be paid by Defendant and which shall not be imposed as a lien upon any properties of Plaintiffs. Each party bears its own expenses in this case, and Defendant agrees to pay the cost of notice for the proposed and final consent judgment to all class members.

6. THE REASONS FOR THE PROPOSED SETTLEMENT

The class representatives, the Highland Park Human Rights Organization and class counsel have concluded that the settlement as described in the Proposed Consent Judgment is in the best interests of the class members. Without the settlement, the litigation would continue, leaving many class members exposed to liability for thousands of dollars in water and sewer bills allegedly accumulated over the course of many years, subject to terminations of service and other collection activities for an unknown period into the future. In addition, there is a risk that at the end of the litigation, the Plaintiffs would not be able to meet their burden of proof, and that the lawsuit would fail. If Plaintiffs lose the lawsuit, all class members will be at risk for shut-offs of service for thousands of dollars in water bills that they cannot afford to pay.

Plaintiffs and class counsel concluded that the certainty of the waiver of water bills for the period of 2012 to date of new meter installation in 2016 for each household, with possible credits available for those who paid water debts during this period, with reasonable payment plans for debts accumulated after new meter installation, and a written process for future collections and dispute resolutions is a reasonable compromise. After extended negotiations with Defendant over a nearly 3

year period, Plaintiffs and class counsel concluded that this settlement is the best available course of action for the class members because it provides substantial benefits for all class members into the future, and it eliminates the risk that class members would be subject to enormous debt, exposure to water shut-offs and possible loss of property in tax foreclosure, without any method for challenging disputed charges.

Again, please read the Proposed Consent Judgment carefully. If approved, its terms will bind all class members who do not elect to be excluded and will supersede all other agreements and statements, oral or written, regarding class members' health benefits.

7. MAKING OBJECTIONS, HEARING ON THOSE OBJECTIONS AND PROCESS FOR ELECTION TO BE EXCLUDED

The Court has scheduled a hearing at the Wayne County Circuit Court in the Courtroom of **Judge Annette Berry, Courtroom 1807 in the Coleman A. Young Municipal Center, at 2 Woodward Ave in the City of Detroit, MI, 48226.** The hearing will take place at **10:00 a.m. on Thursday, March 5, 2020.** The purpose of the hearing is to help the Court determine whether the proposed settlement and the terms set out in the Proposed Consent Judgment are fair, reasonable and adequate, and in the best interests of the class, and whether to give final approval to the settlement. The Proposed Consent Judgment will not be effective unless and until it is approved by the Court.

You do not have to attend the hearing. Lawyers for the Plaintiffs and the Class will attend the hearing on behalf of the class. You may attend the hearing and may attend with or without your personal lawyer. Whether or not you attend the hearing, all class members who do not elect to be excluded will be bound by the settlement if it is approved. Any class member may object to the settlement or seek to be excluded, by filing a written objection or election to be excluded in compliance with the procedure described in the next paragraph. If you file a written objection, you or your personal lawyer will have the opportunity to speak to the Court at the hearing to explain your objection and tell the Court why you do not believe that the proposed settlement should be approved. You or your personal lawyer will not have the right to address the Court at the hearing, however, unless you file a written objection postmarked on or before February 27, 2020. If you file a written election to be excluded within 21 days of the date the judge has heard the objections and decides that the settlement is fair, you will not be covered by the settlement and are free to pursue your own claims.

If you want to object to the proposed settlement or elect to be excluded, you must mail a written statement to the Court and at the same time mail copies to the lawyers for the Plaintiffs' and the lawyers for the Defendants. Any statement should have the following heading at the top: "*Kramer Baker, et al v City of Highland Park*, Docket No. 15-014492-CZ." Any objection should be titled "Objection to Proposed Settlement." Any objection should be mailed, postmarked on or before February 27, 2020, to Clerk for Judge Annette Berry, Courtroom 1807, Wayne County Circuit Court, 2 Woodward Ave., Detroit, MI 48226. Any election to be excluded should be filed on the attached form and mailed to the same address at the court within 21 days of the date the judge decides whether the settlement is fair after hearing the objections.

At the same time that any objection or election to be excluded is mailed to the Clerk, a photocopy of that objection or election must also be mailed to each of the following: (1) Alice B. Jennings, EDWARDS & JENNINGS, PC, 65 Cadillac Square, Ste 2710, Detroit, MI 48226 and (2) John C. Clark, attorney for the Defendants, at Giarmarco, Mullins & Horton, P.C., 101 West Big Beaver Road, 10th Floor, Troy, MI 48084.

If, after any objections are considered and after the hearing the Court determines that the Proposed Consent Judgment is fair, reasonable and adequate and is in the best interests of class members, the Court will issue a judgment approving the settlement. Once the judgment is final, the settlement will be binding on all Plaintiffs who do not elect to be excluded and on Defendants. If the settlement is not approved, the Proposed Consent Judgment will not be entered by the court and the lawsuit will continue.

If you do not want to object to the proposed settlement or to be excluded from it, you do not need to do anything.

8. REQUESTS FOR ADDITIONAL INFORMATION

This notice and a copy of the Proposed Consent Judgment have been sent to all known class members at their last known address. The notice and Proposed Consent Judgment and other papers associated with this case are also available in the court file at the Wayne County Circuit Court, 2 Woodward Ave., Detroit, MI 48226. A list of the documents filed in the court proceedings are also available in the Court's (Third Circuit) public records electronic filing system, "Odyssey," located at <https://cmspublic.3rdcc.org/default.aspx>.

If you are aware of others who should have received this notice but did not, please ask them to *write* to John Clark, providing their contact information and requesting copies. If you would like to change your address or other contact information, please notify Mr. Clark *in writing* at the addresses set out in paragraph 7.

If you want additional information about the litigation, the proposed settlement, or the procedure described in this notice, you may contact class counsel by *writing* to any of them at Alice B. Jennings, EDWARDS & JENNINGS, at 65 Cadillac Square, Ste 2710, Detroit, MI 48226 or Vanessa Fluker, VANESSA G. FLUKER, ESQ, PLLC, at 2717 Second, Ste 111, Detroit, MI 48201 or Marilyn Mullane, MICHIGAN LEGAL SERVICES at 2727 Second, Ste 333, Detroit, MI 48201.

9. **SUMMARY OF KEY POINTS IN THIS NOTICE**

- A. This is an official notice from the Wayne County Circuit Court
- B. You received this notice because Plaintiffs and Defendants believe you are a class member. The definition of the class is in Section 2 of this notice.
- C. Counsel for the parties have reached a proposed settlement of the class action lawsuit brought by certain types of residential water customers as class representatives and by the Highland Park Human Rights Organization against the City of Highland Park.
- D. If the settlement is approved by the Court, the City of Highland Park will waive certain residential water and sewerage debts for class members for the period of January, 2012 through date of new meter installation, conditionally provide for possible credits for those who paid bills during this period, provide for reasonable payment plans for any water debts incurred after new meter installations, provide for a new written collections process, including rules for service and terminations of service, collection activity, challenging bills and payment plans. Approval of the settlement by the court would end the lawsuit and bind all class members, who do not elect to be excluded.
- E. Class members are not required to take any action, unless they wish to be excluded from the settlement or wish to have objections to the settlement heard in court. If the settlement is approved by the Court, all class members who do not elect to be excluded, will be governed by the settlement and will be eligible for the benefits provided by the settlement.
- F. Class members may object to the settlement and may be heard by the Court at the March 5, 2020, hearing, by following the procedures set out in Section 7 of this notice. Class members who wish to elect to be excluded from the settlement must file the attached "Election to be Excluded" form with the court as indicated in the procedure also described in Section 7 of this notice.
- G. All class members may attend the hearing. However, class members are not required to attend the hearing. Again, if the settlement is approved by the Court, it will apply to all class members who do not elect to be excluded.
- H. The Court will approve the settlement *only* after considering all objections and information filed with the Court and presented at the hearing and *only* if the Court determines that the settlement is fair, reasonable, and adequate and in the best interest of class members. If the settlement is not approved, the Proposed Consent Judgment will not be entered by the court; it will have no effect and the lawsuit will continue.
- I. If the Court finds that the settlement is fair, reasonable and adequate under all the circumstances, the Court will enter judgment approving the settlement.
- J. If you want additional information about the litigation, the proposed settlement, or the procedure described in this notice, you may contact class counsel at the addresses set out in Section 7 of this notice.

Honorable Annette Berry
Wayne County Circuit Court

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

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STEPHEN GAINES, PRISCILLA HARRIS,
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ELECTION TO BE EXCLUDED

My name is: _____ (print full name)

I live at _____, in the City of Highland Park,

Michigan, and I elect to be excluded from the Settlement in the above-captioned case.

(Signature and date)

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CONSENT JUDGMENT

The parties, by and through their respective counsel, enter into the following Consent Judgment, in settlement of any/all claims in the above-captioned case between Plaintiffs, the below-defined class of Highland Park residential water¹ customers (collectively referred to as, the “Claimants”) and Defendant, the City of Highland Park, Michigan, a municipal corporation, and all of its agents, assigns, employees, successors, affiliates, attorneys and representatives, both past and present (collectively referred to as, “Highland Park”). This Consent Judgment shall supersede and replace any prior Consent Judgments executed by the parties in connection with this matter:

WHEREAS, Claimants have alleged certain claims arising out of Highland Park’s provision of water and sewerage services to Claimants;

WHEREAS, Highland Park denies the validity and substance of Claimants’ allegations;

WHEREAS, Claimants and Highland Park desire to end, resolve, compromise and settle any/all claims as articulated in Claimants’ lawsuit against Highland Park (Case No. 15-014492-CZ, filed in the Wayne County Circuit Court);

NOW THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Claimants and Highland Park agree as follows:

1. Stipulated Class Definition. All residential water customers not living in HUD owned or multi-family properties,² i.e., approximately 2036 such customers, hereafter the “Claimants.”

¹ Hereafter, wherever the term “water” appears, it shall be read to include water, sewerage, drainage, and all related costs, such as service, tax, penalty and late fees, charged to Highland Park class members in the Defendant’s billings.

² As defined by Damon Garrett, Director of the Office of the Water Department for the City of Highland Park in his letter to Cathy Square, the City of Highland Park Administrator, dated January 23, 2017, and attached as “**Exhibit 1.**”

2. Billings. Each Claimant shall be subject to billings and collections for debts accruing after the date of their new water meter installation in 2016. All amounts owed prior to the date of new water meter installation for each customer are hereby waived.

3. Credits for Payments. To the extent that the City of Highland Park recovers any amount for overpayments in its case against the City of Detroit (Wayne County Circuit Court Case No. 14-001974-CK), those funds shall be set aside to be used to provide credits for class members who paid for water services for any time during the period of January 1, 2012 to the date of their new meter installation in 2016, as follows: (a) A full credit shall be provided against billings issued before the date of their new water meter installation, to the extent that payment is established through records of the City of Highland Park (including records at Bates document pages 002780 through 002893), or its agent, Roosen, Varchetti, Olivier, PLLC, or the Claimants' proofs of payment, including but not limited to receipts issued by Highland Park or its agents, cancelled checks or statements of banks or financial institutions, copies of money orders, or other types of similar credible evidence of payment; (b) Such credits shall appear on the Claimants' water bills and shall offset charges for the period from date of new water meter installation through future months, until the credit for that household has been expended in full; (c) Disputes regarding such credits shall be subject to the dispute resolution process developed by the parties and implemented no later than 6 months from the date of recovery in the above-cited Wayne County Circuit Court Case No. 14-001974. In no event shall total credit payments exceed the amount recovered by Highland Park in the above-referenced case; (d) A claims period of 120 days from the date of the recovery shall be established by notice to all customers, with Defendant paying for the notice to all present and past, residential class members as defined, to provide an opportunity for eligible Highland Park residents to apply for credits. At the expiration of the claims period, if the total

amount in claims exceeds the total amount of the recovery (including interest), credits distributed will be reduced equally on a pro rata basis to provide some relief to all claimants. If the recovery exceeds the claims, the remaining balance of the recovery is the sole and exclusive property of Defendant; (e) Finally, Defendant shall advise Plaintiffs' counsel that a settlement agreement has been reached in the Case No. 14-001974-CK, within seven (7) days of the settlement with the City of Detroit.

4. Water Debts Transferred As Property Tax Liens. The parties agree that Highland Park has not transferred any water debt to property tax liens since January 2012, and will not transfer any tax arrearages incurred prior to December 31, 2016, as property tax liens to be collected by the County Treasurer in the state foreclosure process. Thereafter, to the extent that any customer remains current on a payment plan with Defendant, any accumulating arrearages as a result of the plan shall not be transferred as lien for collection with property taxes.

5. Procedural Due Process Compliance. The parties acknowledge that they have jointly developed rules governing the provision and termination of water and sewer services for the City of Highland Park, which are attached to this Consent Judgment as "**Exhibit 2**," and which are intended to address the issue procedural due process. These rules are immediately applicable upon approval of this Consent Judgment by Defendant and the Court, following a fairness hearing (*See* ¶ 9, *infra*). The rules shall also be incorporated by reference in any amendment(s) to the applicable ordinance(s) governing Defendant's Water Department.

6. Attorney Fees. The parties agree that Plaintiffs' counsel are entitled to an attorney fee award of one hundred thousand dollars (\$100,000.00), which shall be paid following a fairness hearing, by Defendant to Plaintiffs, as instructed by Plaintiffs, and which shall not be imposed as

a lien on any properties owned or occupied by Claimants. Neither Plaintiffs nor their counsel shall be entitled to any additional costs or fees.

7. No Admission of Liability. By executing this consent judgment, Defendant does not admit to any liability for any of Plaintiffs' claims, and Plaintiffs agree to release Defendant from any and all liability on any claims arising from this case.

8. Notice to Class. Defendant agrees to pay for the cost of notice of the proposed and final consent judgment to all class members. The parties shall reach an agreement on the content and form of the class notice regarding the proposed settlement, in compliance with the Michigan Court Rules.

9. Fairness Hearing. The parties recognize that this Consent Judgment is subject to the Court's approval following a "fairness hearing," under MCR 3.501(e).

10. City Council Approval. The parties recognize that the proposed Consent Judgment executed by counsel for Defendant is subject to the approval of the Highland Park City Council.

11. Dismissal of Lawsuit Without Prejudice. This lawsuit shall be dismissed without prejudice, as it is contingent on a final order of this court, after Case No. 14-001974-CK is resolved.

12. Final Order. Upon the final resolution of the claims of Highland Park against the City of Detroit in Wayne County Circuit Court Case No. 14-001974-CK, the parties agree to the entry of a final order in this case, dismissing the claims with prejudice and without costs or fees, except as otherwise provided for in this Consent Judgment.

SO ORDERED.

Dated: _____

Circuit Court Judge

Approved as to form and content by:

Co-Counsel for Plaintiffs:

/s/ Alice B. Jennings
EDWARDS & JENNINGS, P.C.
Alice B. Jennings (P29064)

/s/ Vanessa G. Fluker
VANESSA G. FLUKER, ESQ., PLLC
Vanessa G. Fluker (P64870)

/s/ Marilyn Mullane
MICHIGAN LEGAL SERVICES
Marilyn Mullane (P30998)

Dated: _____

Counsel for Defendant

/s/ John C. Clark
GIARMARCO MULLINS & HORTON, PC
John C. Clark (P51356)
Counsel for Defendant

Dated: _____

EXHIBIT 1

(Omitted for confidentiality reasons)

EXHIBIT 2

CITY OF HIGHLAND PARK WATER DEPARTMENT

Dispute of Water Bills

- Dispute and appeal procedures for all water¹ bills will be clearly communicated to the customer in written easily understandable form, at the outset of the dispute resolution process, and at every stage in the proceedings after a decision issues. These communications shall either be available in translations to commonly spoken languages among Highland Park customers or include a sentence in such languages indicating the urgent nature of the communication with phone numbers for translation resources. They will also be published on the Water Department web site and available in printed form at City Hall and the Customer Service Center.
- Informal dispute
 - o Customers must inform the Water Department of a disputed bill no more than 45 days from the billing date. They may accomplish this by written request, including by email or fax, or by an in-person request, available at the Water Department and in downloadable form, on its website. All requests received will be confirmed in writing by the Department sent by first-class mail to the customer address, or provided by return e-mail, if the form is e-mailed, or provided to the customer in the form of a date stamped and signed copy of the complaint form delivered to the customer when the customer files the complaint.
 - o The Water Department will test the customer's water meter for accuracy, upon customer request, after a dispute resolution request has been filed. The Water Department will

¹ The term "water" in these rules shall refer to water, sewerage, drainage and any other components of residential water bills in Highland Park including late fees, taxes and penalties.

- permit the customer to have the meter tested by an independent laboratory, at the customer's expense, if the Water Department's results are disputed.
- o Shut-offs of water service for the non-payment of disputed bills are prohibited.
 - o Customers must inform the Water Department of a failure to provide credits no more than 90 days from the billing date where the credits were not provided.
 - o The Water Department will communicate in writing with the customer and provide a proposed resolution to the disputed bill within 7 days of filing a dispute with the department. If the customer finds the informal resolution unacceptable, the customer may dispute billing through the formal process within five (5) business days.
- Formal appeal
 - o Parties aggrieved by the informal dispute resolution may file a formal appeal on a form provided by the Department and included with the proposed written proposed resolution in the informal dispute resolution process. The formal appeal will be reviewed by the Department Director within 30 days of receipt.
 - o The Department Director will issue decisions and follow a procedure that comports with due process, including conducting a hearing before a city official, permitting the customer to appear and if s/he desires to be represented by another person or advocate, providing for an opportunity to present evidence, present, subpoena and examine witnesses, and providing for decisions based upon the evidence gathered during the informal dispute process.
 - Other Remedies
 - o These rules do not foreclose a party's right to pursue other appropriate remedies, at law or equity, after a dispute determination.

- Public Access to Procedure
 - o The Highland Park Water Department will prepare a brochure summarizing these rules in plain English. The brochure will be displayed prominently at the Customer Service Center and on the Water Department’s website in a downloadable format.
 - o Upon promulgation of these rules, a brochure containing these rules will be included in the next communication between the Water Department and a customer, and thereafter with the first billing for each new customer address, and following a complaint or request triggering the dispute resolution process
- Settlement Agreements/Payment Plan Agreements (PPA)
 - o Customers demonstrating an inability to pay the outstanding bill are eligible to enter into a reasonable income-based payment plan agreement with the Water Department which requires payment of the current monthly bill as well as the monthly payment plan amount which is based on a reasonable percentage of monthly income, not to exceed 5% of monthly income.

Reasonable income-based payment plans shall also be available to vulnerable households with children under the age of 6, seniors 65 years old or older, or persons with disabilities or medical issues which would be exacerbated by a water shut-off. Persons presenting evidence of these conditions shall be entitled to an immediate 21-day stay of the shut-off which may be renewed until a reasonable payment plan is reached within 90 days.

Water Service Shutoff Procedures

- Grounds for shut-off include:
 - o Nonpayment of a delinquent balance by customers without contact made with the Water Department staff to discuss entering into a payment plan agreement or obtain a resolution of a disputed bill
 - o Where providing service would violate state, local or federal law
 - o Illegal connections to water service
 - o For health and safety reasons or during a state of emergency. Such shut-offs can be done without notice however customers will be notified if possible (i.e. when Highland Park has advance knowledge of a proposed emergency shutoff or planned construction event).
- Residential service may be shut-off any time after 14 days following a Final Notice stating the proposed earliest date of shutoff except on a day that immediately precedes a day when the Water Department offices will be closed. The notice shall be provided by first-class mail and personally delivered to the site. The household will be notified of options for avoiding shutoff including payment plan agreement, medical grounds, informal dispute process, and resources available for help with payments or plumbing issues.
- Whenever the Water Department performs a site visit, a document clearly explaining, in plain language, the purpose of the visit and any relevant rules (i.e. how to restore service if the visit was to disconnect service and how to dispute a shutoff via the informal dispute process) will be presented to the customer, a responsible person at the premises, or placed conspicuously on the premises.

- Customers may challenge a shut-off or notice thereof in accordance with the procedures outlined for informal disputes.
- Upon payment of arrearage, service will be restored within 24 hours.
- In cases where landlords have become delinquent in their water bills, tenants may begin paying for water service directly. The Water Department is not responsible for unpaid rent if the tenant deducts such payments from their rent.
 - o Tenants must have a landlord/tenant agreement or other evidence of a legitimate tenancy on file with the Water Department while they occupy the address for which service is sought to clearly indicate the primary responsibility of monthly bill payment.
 - o Such tenants will be afforded the same rights and responsibilities as any other customer under these rules, including access to payment plan agreements, dispute resolution procedures and requirements to keep current with bills.