Dykema Gossett PLLC
400 Renaissance Center
Detroit, MI 48243
WWW.DYKEMA.COM
Tel: (313) 568-6800
Fax: (313) 568-6893

John F. Rhoades
Direct Dial: (313) 568-6628
Direct Fax: (855) 256-1458
Email: JRhoades@dykema.com

February 9, 2022

Via U.S. Mail

Damon L. Garrett, PE
City of Highland Park
Office of the Water Department
Metro Consulting Associates, LLC
14110 Woodward Avenue
Highland Park, MI 48203

Re: Highland Park's Invalid "Invoices"

Dear Mr. Garrett:

We are responding to your letter dated January 26, 2022, which enclosed a purported "invoice" to Great Lakes Water Authority ("GLWA") for the return of "surplus" funds that Highland Park claims to have "mistakenly overpaid" to GLWA from 2016 to present. Your letter is inaccurate and the purported invoice and any and all related invoices from Highland Park to GLWA are invalid.

This response will not attempt to address all the inaccuracies in your letter, but the notion that Highland Park has "overpaid" GLWA is incorrect. GLWA obviously does not owe Highland Park any money. The truth is Highland Park owes GLWA approximately $20 million since 2016, over $30 million since 2014 and over $50 million since 2008.[1] GLWA rejects the "invoice" enclosed in your letter and all such invoices from Highland Park. They are false and invalid documents that Highland Park has created in an ongoing effort to avoid its clear payment obligations to GLWA for potable water, sewage treatment, and industrial waste control services.

As set forth in more detail in papers filed in ongoing litigation, Highland Park has breached express and implied contracts for those services and is currently in violation of its admitted obligation under a 1996 consent judgment to deposit daily 65% of its water and sewer revenues into an escrow account and distribute those amounts to GLWA by the 10th day of each month. That escrow obligation is memorialized in the 1996 consent judgment that Highland Park has repeatedly admitted remains "in full force and effect" in papers it has filed in the 2020 Case pending in Wayne

[1] See City of Highland Park Billings and Collections statement showing a balance as of December 31, 2021 of $51,891,141 for water, sewer, and industrial waste control (IWC) services, enclosed here at **Tab 1.**

County Circuit Court.[2] Of course, Highland Park has an obligation to pay GLWA in full for all water and sewer services provided. Highland Park has woefully failed to meet those payment obligations. Since April 2021, it has failed to meet even its minimum and independent obligation to make the monthly payments of 65% of its water and sewer revenues to GLWA from the escrow account pursuant to the 1996 consent judgment.

The legal arguments asserted in your letter are incorrect and have not been accepted by any court. There is no "declaratory judgment" as your letter wrongly suggests. No court has adopted Highland Park's preposterous assertion that its payment obligations were somehow "capped" by the 1996 consent judgment.

Highland Park asserted that position in the 2014 Case and the circuit court rejected that interpretation when it granted summary disposition to Detroit.[3] No declaratory relief was granted by court in the 2014 Case. Highland Park has received no judgment or order that in any way limits Highland Park's obligation to pay for services rendered since 2014.[4] Its continued refusal to do so is wrongful.

GLWA renews its demand that Highland Park immediately pay all amounts due for water, sewage treatment, and industrial waste control services and pay all outstanding invoices issued by GLWA for these amounts and all amounts as they come due.

Highland Park's repeated breaches of its payment obligations and its contempt of the 1996 consent judgment are serious acts of misconduct that harm the citizens of Highland Park and southeastern Michigan. It is irresponsible for Highland Park to continue to accumulate such a significant debt burden while simultaneously failing to plan for any payment for water and sewer services that GLWA continues to provide for the health and welfare of the citizens of Highland Park.

[2] See, e.g., Highland Park's Countercomplaint, p. 10, enclosed without exhibits at **Tab 2**.

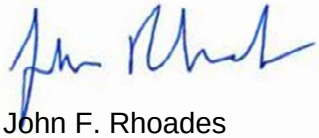
[3] Wayne County Circuit Court Case No. 14-001974-CK.

[4] A February 26, 2021 order entered in the 2014 Case did not grant Highland Park a declaratory judgment. It did also not grant Highland Park any relief against GLWA. That order, which as you know is subject to an ongoing appeal in pending in the Michigan Court of Appeals, dismissed Highland Park's claims against GLWA and directed Highland Park to refile those claims in the 2020 Case. Highland Park continues to default on its clear payment obligations and remains in contempt of the 1996 consent judgment that it admits remains "in full force and effect."

Highland Park and its citizens deserve responsible leadership that will honor payment obligations for these essential services. Highland Park's ongoing, complete failure to pay for them needlessly creates an enormous financial burden for Highland Park that will be difficult to overcome when judgments against the city are entered and executed.

Regards,

DYKEMA GOSSETT PLLC



John F. Rhoades

TAB 1

City of Highland Park Billings and Collections

	Water	Sewer	IWC	Cumulative Total
June 30, 2012 Balance	$ -	$ 10,207,956	$ 852,987	$ 11,060,943
FY 2013 Billings	485,887	4,987,635	154,444	5,627,966
FY 2013 Payments	(65,652)	(2,206,211)	-	(2,271,863)
				-
June 30, 2013 Balance	$ 420,235	$ 12,989,380	$ 1,007,431	$ 14,417,046
FY 2014 Billings	1,004,357	6,980,442	161,951	8,146,750
FY 2014 Payments	-	(1,612,633)	-	(1,612,633)
				-
June 30, 2014 Balance	$ 1,424,592	$ 18,357,189	$ 1,169,382	$ 20,951,163
FY 2015 Billings	1,008,032	5,553,123	165,739	6,726,894
FY 2015 Payments	-	(1,444,623)	-	(1,444,623)
				-
June 30, 2015 Balance	$ 2,432,625	$ 22,465,689	$ 1,335,121	$ 26,233,435
FY 2016 Billings	1,157,178	5,612,167	106,431	6,875,776
FY 2016 Payments	-	(2,022,335)	-	(2,022,335)
				-
June 30, 2016 Balance	$ 3,589,803	$ 26,055,521	$ 1,441,551	$ 31,086,875
FY 2017 Billings	1,245,267	5,802,000	101,999	7,149,265
FY 2017 Payments	-	(2,309,186)	-	(2,309,186)
				-
June 30, 2017 Balance	$ 4,835,070	$ 29,548,335	$ 1,543,550	$ 35,926,954
FY 2018 Billings	1,277,179	5,657,101	80,472	7,014,752
FY 2018 Payments	-	(4,108,108)	-	(4,108,108)
June 30, 2018 Balance	$ 6,112,248	$ 31,097,327	$ 1,624,022	$ 38,833,597
FY 2019 Billings	1,238,797	5,617,100	51,220	6,907,117
FY 2019 Payments	-	(5,241,583)	-	(5,241,583)
June 30, 2019 Balance	$ 7,351,045	$ 31,472,844	$ 1,675,243	$ 40,499,132
FY 2020 Billings	1,182,639	5,665,400	47,097	6,895,136
FY 2020 Payments	-	(3,026,117)	-	(3,026,117)
June 30, 2020 Balance	$ 8,533,684	$ 34,112,127	$ 1,722,340	$ 44,368,151
FY 2021 Billings	1,185,506	5,702,000	47,423	6,934,929
FY 2021 Payments	-	(2,783,552)	-	(2,783,552)
June 30, 2021 Balance	$ 9,719,190	$ 37,030,575	$ 1,769,763	$ 48,519,528
FY 2022 Billings	636,415	2,710,900	24,298	3,371,612
FY 2022 Payments	-	-	-	-
Balance as of December 31, 2021	**$ 10,355,605**	**$ 39,741,475**	**$ 1,794,061**	**$ 51,891,141**

TAB 2

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GREAT LAKES WATER AUTHORITY,

Plaintiff/Counter-Defendant,

v.

CITY OF HIGHLAND PARK,
a Municipal corporation,

Defendant/Counter-Plaintiff.

Case No: 20-011589-CB
Hon. John A. Murphy

/

WILLIAMS ACOSTA, PLLC
Avery K. Williams (P34731)
Attorney for Plaintiff
535 Griswold, Suite 1000
Detroit, Michigan 48226
Phone: (313) 963-3873
Fax: (313) 961-6879
AWilliams@williamsacosta.com

DYKEMA GOSSETT PLLC
Kathryn J. Humphrey (P32351)
Attorney for Plaintiff
400 Renaissance Center, 37th Flr
Detroit, Michigan 48243
313-568-6848
khumphrey@dykema.com

FORD LAW FIRM
William R. Ford (P35870) Attorney for Highland Park
613 Abbott Street, 1st Floor Detroit, MI 48226
Phone: (248) 790-6812,
fordattyford@aol.com

CALVIN B. GRIGSBY (Cal Bar 53655)
Attorney for Highland Park 2406 Saddleback Drive
Danville CA 94506
Phone: (415) 860-6446
cgrigsby@grigsbyinc.com

MAYER MORGANROTH (P17966)
JEFFREY M. THOMSON (P72202)
MORGANROTH & MORGANROTH, PLLC
Co-Counsel for Highland Park
344 North Old Woodward, Suite 200
Birmingham, MI 48009
(248) 864-4000
mmorganroth@morganrothlaw.com

/

CITY OF HIGHLAND PARK'S COUNTER-COMPLAINT AGAINST GREAT LAKES WATER AUTHORITY

NOW COMES Defendant/Counter-Plaintiff, City of Highland Park ("Highland Park"), by and through its attorneys, and for its Counter-Complaint against Plaintiff/Counter-Defendant, Great Lakes Water Authority ("GLWA"), states as follows:

PARTIES AND SEWER RATE AGREEMENTS

1. Highland Park is a home rule city incorporated pursuant to Chapter 117 of the Compiled Laws of the State of Michigan.

2. Under Section 16.1(3) of Highland Park's City Charter with respect to utility services provided by GLWA, the City must "[e]stablish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates."

3. GLWA is a municipal corporation established under Public Act 233 of 1955.

4. Pursuant to a Lease Agreement dated June 12, 2015 (the "Lease") between Detroit and GLWA, Detroit assigned all right, title and interest under the June 8, 1983 Sewage Services Agreement (the "1983 Agreement," attached as **Exhibit A**) between Highland Park and the City of Detroit ("Detroit") to GLWA.

5. On January 1, 2016, GLWA began operating the regional sewer system pursuant to the Lease.

6. On June 18, 1996, Highland Park, Detroit acting through its Water and Sewer Department (hereinafter "DWSD"), and Chrysler Corporation, as intervenor, following a fully briefed appeal to the United States Court of Appeals for the Sixth Circuit of disputes over amounts due under the 1983 Agreement, entered into settlement agreement that was incorporated into an Amended Consent Judgment that resolved United States District Court for the Eastern District of Michigan Civil Action Nos. 92-cv-76775-DT and 94-cv-73135-DT (the "1996 Settlement Agreement and Amended Consent Judgment" attached as **Exhibit B**).

7. The 1996 Settlement Agreement and Amended Consent Judgment (collectively, the "1996 Consent Agreement") set end user water and sewer rates to be charged, collected, and paid to Detroit for sewer services, which supersede the rates setting procedure established in the 1983 Agreement.

8. The Lease and one of the schedules to the Lease--Schedule D—showing the assignment of the 1983 Agreement to GLWA are attached as **Exhibit C**.

VENUE AND JURISDICTION

9. This court has the power to enter a declaratory judgment pursuant to MCR 2.605 because there is an actual controversy within this court's jurisdiction necessitating a declaration of legal rights between the parties.

10. On February 26, 2021, in Case No. 14-1974-CK, the Wayne County Circuit Court entered an order requiring Highland Park to submit an order dismissing without prejudice the third-party claims it had asserted against GLWA in that case, and re-file such claims as counterclaims in this case.

11. Venue in this Court is appropriate under MCL 600.1621.

12. Jurisdiction in this Court is appropriate under MCL 600.605 and MCL 600.711.

13. The amount in controversy is in excess of $25,000, exclusive of interest, costs, and attorney fees.

GENERAL ALLEGATIONS

14. Highland Park incorporates by reference all preceding allegations as set forth in Paragraphs 1-13 as though fully restated and set forth herein.

15. On May 6, 1977, EPA initiated litigation against the Detroit and the DWSD alleging violations of the Clean Water Act ("CWA") (United States District Court for the Eastern District of Michigan, Civil Action No. 77-cv-71100). That litigation continued for over 40 years. The case included litigation over numerous violations by DWSD of its permit and rate setting obligations under the CWA addressed by several court orders, many of which, as in this case, deal with disproportionate rate setting, and waste in the procurement process. The case ultimately resulted in the takeover of DWSD by GLWA a regional successor to DWSD, coming out of the Detroit Federal Bankruptcy. (DWSD and GLWA may be referred to jointly as "GLWA".).

16. By 1978, a consent order was entered by the United States District Court, requiring DWSD to adopt a proportionate user charge system and have it fully implemented and effective on all bills after January 1, 1980. Under this order ad valorem taxes could not be levied for sewer services based on property values because they were inherently disproportionate to use of the system.

17. On October 4, 1979, the United States District Court took jurisdiction over all challenges to this plan and ordered that "all users, customers and rate payers of the system" would be bound by the results of any challenges unless they expressly opted out. Order Re: Rate Challenges, *United States v. City of Detroit,* Case No. 77-71100 (E.D. Mich. Oct. 4, 1979).

18. On August 26, 1980, the United District Court ordered that "all users, customers and rate payers of DWSD's sewage system shall be bound by the Settlement Agreement." Order of Dismissal Re: Rate Challenges, *United States v. City of Detroit,* Case No. 77-71100 (E.D. Mich. Aug. 26, 1980). June 30, 1980 –Settlement Agreement-USA [EPA] vs. City of Detroit and "All Communities and agencies under Contract with the City of Detroit for Sewage Treatment Services" as "Intervening Rate Challengers," Case No. 77-1100.

19. On June 8, 1983, pursuant to a previous compliance Order dated 4-16-1982, of Chief Judge John Feikens, Highland Park and Detroit entered into the 1983 Agreement. The 1983 Agreement imposed upon DWSD/GLWA obligations to assess sewer rates not against Highland

Park as a wholesale customer, but pursuant to the rate-making methodologies which adjusted and fixed rates to end user ratepayers, as follows:

> The recovery of costs incurred by the system shall be accomplished through the institution of rates which assign, allocate and apportion such costs to all ratepayers on the basis of principles uniformly applicable to all, it being the intention of the parties that such rates (whether designed on the utility or cash basis) will, as nearly as is practical, recover from each customer class the respective costs of providing service regardless of the ratepayer's location" so that there is no difference in rates charged end user customers "residing or located within the City of Detroit and customers residing or located without the City of Detroit." (See **Exhibit A**, §1.B)

20. The 1983 Agreement and the 1996 Consent Agreement are the only agreements on rates and charges for sewer services approved by the City Councils of Highland Park and Detroit. (The 1983 Agreement and the 1996 Consent Agreement may collectively be referred to as the "1983/1996 Agreement").

21. The 1983 Agreement and the 1996 Consent Agreement are enforceable written agreements between Detroit and Highland Park which Detroit assigned to GLWA for provision of sewer services to Highland Park.

22. The 1996 Consent Agreement fixes sewer rates and potable water rates to be charged by Highland Park to its end user customers "on all bills rendered on and after August 1, 1996" which Highland Park must "hold in trust" in a bank escrow to be "paid over monthly to Detroit" to be applied to arrears "existing" in 1996 and then to "current charges." (**Exhibit B**, §§ 1. (a); 6. (a-c)).

23. The 1996 Consent Agreement incorporates some "obligations" from the 1983 Agreement (**Exhibit B**, § 1. (b)). The obligations from the 1983 Agreement do not include fixed volumetric rates set for end user customers of Highland Park as does the 1996 Consent Agreement.

24. The 1996 Consent Agreement requires any surplus from the fixed sewer rates over "current charges" be returned to Highland Park but does not require Highland Park to make up any deficiency between current charges and escrow payments.

25. The interrelationship of court orders and agreements regarding sewer rates payable by Highland Park to Detroit in the 1983 Agreement as incorporated into the 1996 Settlement Agreement and the 1996 Amended Consent Judgment is summarized in the following diagram:

June 8, 1983 - Sewage Service Contract

- Requires Detroit to set rates using "proportionate share" methodology required under Clean Water Act.
- Detroit must allocate operation and maintenance to Highland Park in direct proportion to the cost of the service it provides to Highland Park.

February 28, 1995 - Federal Court Judgment

- Resolved 1992 and 1994 lawsuits relating to the 1983 Agreement.
- Awarded Detroit $10.599 million.
- Required Highland Park to deposit retail water and sewer fee collections into escrow.
- Expressly made Highland Park responsible for a "deficiency" if escrow funds were insufficient to pay Detroit for current sewer services under the 1983 Agreement.

December 5, 1995 - Sixth Circuit Oral Argument

- Highland Park appealed the February 28, 1995 Judgment.
- Chrysler intervened in the appeal.
- Oral argument held on December 5, 1995.

June 18, 1996 - Settlement Agreement

- Detroit, Highland Park, and Chrysler entered into a Settlement Agrement and Amended Consent Judgment that amended the February 28, 1995 Judgment.
- Required Highland Park to deposit $22.66 per KCF of potable water sold by Highland Park to retail customers into escrow.
- Eliminated the "deficiency" provision of the February 28, 1995 Judgment, thus limiting Highland Park's obligations to pay Detroit for sewer services to the amount deposited into the escrow account.
- Charges set using "proportionate share" methodology under 1983 Agreement.
- If charges under 1983 Agreement are less than amount deposited in escrow account, Highland Park is entitled to a refund of the surplus.
- If charges under 1983 Agreement exceed the $22.66 per KCF amount deposted in escrow account, Highland Park is not responsible to pay the deficiency.

26. The 1983 Agreement contains the procedures for charging Highland Park its proportional share of the operations and maintenance costs attributable to the sewage treatment services that it receives from the regional wastewater treatment system.

27. GLWA has violated, and continues to violate, the terms and conditions of the 1983 Agreement and 1996 Agreement by billing Highland Park three to ten times more for comparable sewer services than billed to individual suburban subscribers.

28. GLWA has violated, and continues to violate, the 1983 Agreement to set rates bilaterally by contract, as GLWA does with its other municipal subscribers to its sewer treatment system, by billing Highland Park unilaterally by tariff and sewer rate formulas devised by GLWA to be in violation of the terms and conditions of the 1983/1996 Agreement.

29. GLWA has violated, and continues to violate, the 1983/1996 Agreement to "recover from each customer class the respective costs of providing service regardless of the ratepayer's location" by formulating its sewer charges to Detroit retail, commercial and industrial surcharge customers based upon retail water sales volumes, not including the water leaked from Detroit's water plants and distribution systems, while basing the formula for sewer charges to Highland Park on purported "pre-retail sale" total water plant pumped volume which charges the retail, commercial and industrial surcharge customers of Highland Park for all the water leaked out of the water plants and distribution systems before any amounts of retail usage are billed.

30. GLWA has written off millions of dollars of unpaid sewer bills for Detroit residents as "bad debts" in willful violation of the "proportionate use" requirements of the 1983/1996 Agreement.

31. GLWA has violated the 1983/1996 Agreement by disguising $320 million in losses from termination or breakage of interest rate futures and derivatives ("Swaps") contracts as expenditures for capital facilities, assets or improvements for which revenue bonds may be issued under the 1983 Agreement (**Exhibit A**, §1. A. (2)). Such Swaps losses were disguised by characterizing such losses as capital improvement costs for sewer capital and replacement facilities, passed along to its suburban customers as $600 million of principal and interest for debt service for capital facilities. Highland Park and its citizens received by far the highest percentage and per capita sewer fee increase of any other subscriber to the GLWA regional system.

32. GLWA has violated the 1983/1996 Agreement requirement that industrial surcharges "shall be billed to and collected from individual firms as identified by the BOARD in

its billings" by billing Highland Park directly for such industrial surcharges without identifying the individual firms and the amounts of industrial surcharges to be allocated to each identified firm (**Exhibit A,** §1. C. (2)).

33. GLWA's billing of Highland Park as a so-called "wholesale customer" has no basis in the 1983/1996 Agreement which requires rates to be billed based on charges to each "customer class of the costs of providing service by GLWA."

34. Under the 1983/1996 Agreement, rates must be based on the volume of sewage produced by each end-user customer and delivered to the wastewater treatment facility not the volume of potable water pumped from Lake St. Clair or the Detroit River or any other source of potable water.

35. The 1983 Contract specifically provides:

> "The rate shall conform to Section 204 (b)(1)(A) of Public Law 92-500 [the "Clean Water Act"] [§1284(b)(1)(A)], as amended, and regulations of the United States Environmental Protection Agency being 40 CFR 35.929 through 35-929.3." (**Exhibit A**, §1. A.(1)(b)).

36. GLWA's violations of the provisions of the Clean Water Act and 40 CFR 35.929 through 35-929.3 incorporated into the 1983 Agreement, taken from public SEC continuing DAC Bond disclosures in 2014, are demonstrated by the following undisputed facts:

- Oakland and Macomb counties with a population of 1,238,000 were billed $142,829,423 or $68.08 per capita.
- Melvindale with a population of 10,441 was billed $1,275,075, or $122.12 per capita.
- Grosse Pointe Park with a population of 11,288 was billed $1,244,951, or $110.29 per capita.
- Hamtramck with a population of 22,099 was billed $3,941,094, or 178.34 per capita.
- Highland Park with a population of 10,375 was billed $6,887,428 or $663.85 per capita.

37. Highland Park residents and businesses for the same sewage treatment services are being billed 10 times more than the 2 million residents and businesses in Oakland and Macomb Counties, and six times more than the cities of Melvindale and Grosse Pointe Park, subscribers with similar population and characteristics. Highland Park is being billed 3.81 times more that

Hamtramck which is an immediately adjacent City. These billings are grossly disproportionate in violation of 1983 Agreement §1. A.(1)(b).

38. Even though GLWA has willfully violated the 1983/1996 Agreement by overbilling Highland Park far more than Highland park is obligated to pay, on April 13, 2016, GLWA Board Members wrote a public letter to Governor Snyder and others which falsely and maliciously claimed GLWA's own contract breaches resulting in overbillings were Highland park bad debts which had to be "spread" among other paying customers. **Exhibit D (Letter from GLWA Board of Directors to Governor Snyder dated April 13, 2016).**

39. GLWA's letter to Governor Snyder followed DWSD's (GLWA's predecessor) prior threats to turn off Highland Park's potable water supply causing a public emergency if the bills which exceeded the amounts owed under the 1983/1996 Agreement were not paid. Until this case is resolved, Highland Park residents and businesses operate under the fear that GLWA will unilaterally shut off its water supply causing a major health crisis. **Exhibit E (Letter from Sue McCormick to Highland Park dated April 20, 2015).**

COUNT 1
BREACH OF CONTRACT

40. Highland Park incorporates by reference all preceding allegations as set forth in Paragraphs 1-39 as though fully restated and set forth herein.

41. The 1996 Agreement sets forth Highland Park's specific rate covenant, the method of collection, disbursement to Detroit, and the deposit into an escrow account, which were agreed to by the parties.

42. Pursuant to the Lease, GLWA has assumed all of Detroit's obligations to Highland Park under the 1983/1996 Agreements.

43. Highland Park has paid GLWA in excess of $16 million for sewage treatment services since January 1, 2016.

44. GLWA breached, and continues to breach, the 1983/1996 Agreements by:

a. Charging Highland Park amounts in excess of escrow payments;

b. Falling to follow contractual rate making principles, by among other things:

i. Billing Highland Park disproportionately to other customers;

ii. Passing interest rate swap termination fees on to Highland Park;

iii. Improperly charging Highland Park a "Detroit Ownership Adjustment" fee;

iv. Improperly charging Highland Park for the maintenance of meters that billing meters that serve other GLWA customers, and do not serve Highland Park at all;

v. Billing Highland Park based on water pumped, not sewage delivered;

vi. Billing Highland Park differently than Detroit; and

vii. Incorrectly calculating the volume of sewage delivered by Highland Park to the regional sewage treatment plant.

45. Since January 1, 2016, Highland Park has paid GLWA between $2 million and $13 million more than Highland Park should have paid GLWA for sewage treatment services under the 1983/1996 Agreement, and is entitled to a refund in an amount equal to the overpayment.

46. Highland Park entered into the 1983 Agreement and the 1996 Consent Agreement with Detroit whereby Detroit agreed to provide sewer services at the rates fixed in the 1983/1996 Agreement.

47. Highland Park paid money in accordance with the rates set in the 1983/1996 Agreement to Detroit and GLWA pursuant to the 1983 Agreement and the 1996 Consent Agreement.

48. Highland Park has requested that GLWA abide by the terms of the 1983/1996 Agreement, but GLWA has refused and failed to comply with Highland Park's requests.

49. As a result of GLWA's breaches of contract, Highland Park has been damaged monetarily, in excess of $25,000; including costs and attorney fees.

50. In addition, GLWA has unlawfully retained money and property and that belong to Highland Park.

WHEREFORE, Defendant/Counter-Plaintiff, City of Highland Park, respectfully requests this Honorable Court to enter judgment against GLWA in an amount to be determined in excess of $25,000, plus interest, costs, and attorney fees along with any other relief the court deems just.

COUNT 2
DECLARATORY JUDGMENT

51. Highland Park incorporates by reference all preceding allegations as set forth in Paragraphs 1-50 as though fully restated and set forth herein.

52. In accordance with MCR 2.605 and the other applicable rules relating to declaratory judgments, Highland Park seeks to have this Honorable Court declare that the parties' respective rights, as contained in the 1996 Settlement Agreement and the Amended Consent Judgment, are in full force and effect.

WHEREFORE, Defendant/Counter-Plaintiff, City of Highland Park, respectfully requests this Honorable Court to declare and award the following relief:

A. That the rate covenant contained in the settlement agreement and amended consent judgment remains in full force and effect resulting in a water rate at $12.05 per kef and a wastewater rate at $22.66 per kef;

B. That the method of collection, deposit into an escrow account, and disbursement to GLWA contained in the settlement agreement and amended consent judgment remains in full force and effect resulting in the City of Highland Park's sole obligations for water and sewerage services owed to GLWA consisting of the City of Highland Park depositing into said escrow account, on a daily basis, 65% of any and all amounts received by it in payment of bills for water or wastewater treatment services rendered to its customers which is equal to $22.66 per million cubic feet of water sold to its customers, and further that any and all amounts so deposited shall be held in trust solely for the benefit of GLWA and shall be paid over to GLWA, on a monthly basis, on or before the l0th day of each month; and

C. Such other equitable relief as is proper in the facts and circumstances of this case, including costs and attorney fees so wrongfully sustained.

Respectfully submitted,

MORGANROTH & MORGANROTH, PLLC

By: /s/ Jeffrey M. Thomson
MAYER MORGANROTH (P17966)
JEFFREY M. THOMSON (P72202)
Co-Counsel for Highland Park
jthomson@morganrothlaw.com

By: /s/Calvin B. Grigsby
CALVIN B. GRIGSBY (Bar No. 53655)
Attorney for Highland Park
2406 Saddleback Drive
Danville, CA 94506
cgrigsby@grigsbyinc.com

WILLIAM R. FORD (P35870)
Attorney for Highland Park
12050 Woodward Avenue
Highland Park, MI 48203

Dated: March 17, 2021