



CHRISTOPHER J. CLARK

THIRD WARD ALDERMAN - CITY OF HARVEY, ILLINOIS
PO Box 1771, HARVEY ILLINOIS 60426



January 9, 2018

Testimony of City of Harvey, Illinois Third Ward Alderman Christopher J. Clark Regarding Resolution 17-6213

Dear Cook County Human Relations Committee,

As Third Ward Alderman in the City of Harvey, drinking water is an important issue to my constituents as well as the entire Harvey community. It has come to my attention the Human Relations Committee is to hold a hearing on January 9, 2018 regarding spiking municipal water rates, and access to safe, clean, and affordable drinking water.

Your advocacy on our behalf is of paramount importance. If I may, please allow me to offer a few issues of concern.

1. The city of Chicago charges Harvey, Illinois \$3.88 per 1000 gallons of water. While this may be considered “high” by some, the city of Harvey charges its residents \$10.29 per 1000 gallons of water. This is a 265 percent increase over and above what Chicago charges Harvey for water. Currently, Harvey has a minimum \$20.16 charge for water. If a resident uses no water at all, they are charged \$20.16.
2. According to the city of Chicago, it has increased water on the city of Harvey at the following per 1000-gallon rates:
 - a. 2011: \$2.01;
 - b. 2012: \$2.51;
 - c. 2013: \$2.88;
 - d. 2014: \$3.31;
 - e. 2015: \$3.81;
 - f. 2016: \$3.81; and
 - g. 2017: \$3.88 beginning June 1, 2017.

As you can see, in 2015, Chicago charged \$3.81 per 1000 gallons. In the same year, Harvey charged its residents \$7.49 per 1000 gallons. In January 2016, when Chicago’s rate was still \$3.81 per 1000 gallons, Mayor Eric J Kellogg arbitrarily increased the water rates without council approval to \$10.29 per 1000 gallons. Keep in mind that in 2016, Chicago’s water rate remained static. While there was no Chicago water increase, Harvey increased its water by \$2.80 or 37.4 percent. After the Harvey water increase, Chicago increased its scheduled rate by \$0.07 from \$3.81 to \$3.88 per 1000 gallons.

3. For years, at least two, Harvey has overcharged its residents for water reconnection. Prior to October 23, 2017, the initial fee for water reconnection was \$10. Harvey, however, was charging residents a \$100 reconnection fee. My office became aware of

the overcharge and on October 17, 2017 wrote a letter to Mayor Eric J. Kellogg and the court appointed receiver. The letter requested Harvey to cease the overcharge; comply with the current Harvey municipal code; and refund or credit the overcharged residents. Within three (3) days of my emailed letter, the city council received a new ordinance (#3358) officially changing the ordinance to a \$100 reconnection fee. The ordinance was approved on October 23, 2017. It does not end there. According to the ordinance, the \$100 fee is for the disconnection and reconnection of water. However, residents will be charged the fee as a delinquency fee even if their water has not been disconnected. Keep in mind that Harvey residents already pay a late fee of ten (10) percent of the current bill. In essence, the \$100 delinquency fee serves as a late fee on top of an already charged ten (10) percent late fee. This is punitive to Harvey residents.

4. Water system infrastructure is also a serious concern as it pertains to safe, clean and affordable drinking water. The village of Homewood and Hazel Crest, Illinois, downstream municipalities that purchase water from Harvey, filed a court motion (2012 CH 44855) to force Harvey to assess and repair its water infrastructure. This lawsuit came after Harvey would not supply the requested information regarding the water infrastructure and limited access to some facilities. A study by Baxter & Woodman, consultant engineers to Homewood, determined that three Harvey reservoirs, holding a total of 14.8 million gallons of water were in need of repairs. The assessment, however, was not completed due to Harvey's intervention. Thus, Homewood and Hazel Crest filed their motion. Additionally, in an initial report, the court appointed water receiver observed infrastructure issues in need of repair.
5. According to the U.S. Census Bureau, Harvey's 2016 per capita income was \$13,715.00. According to the American Community Survey 5-Year estimates, 37.9 percent of Harvey's residents live in poverty. My office receives concerns from Harvey residents regarding egregiously high water bills. For example, an 80-year-old woman living alone had a past due bill of \$318.87 and a current bill of \$507.48. Unfortunately, this type of charge is not abnormal for Harvey residents. My office regularly receives phone calls about monthly water bills in the \$150 to \$400-dollar range. Harvey's explanation for the high bills: there must be a leak. By the way, get on a payment plan before your water is disconnected. I cannot be convinced that all of these residents have leaks resulting in these high bills. There is something fundamentally wrong with how residents are billed. Billing charges fluctuate constantly. Harvey residents do not have the resources to fight against such charges. They simply have to take it and pray for the best. When you are living on a fixed income, a \$150 to \$400-dollar monthly water bill is a life changing event.
6. For years Harvey residents have complained and sought assistance of various agencies regarding water rates and Harvey's failure to pay Chicago over twenty-million for water. In fact, my office drafted, and other alderperson joined in a June 6, 2015 letter asking for assistance from any and all government officials. Additionally, over 1,300 Harvey residents signed a petition to Illinois Attorney General Lisa Madigan requesting an investigation regarding Harvey's collection of water revenues; failure to pay Chicago

and use of water funds for non-water purposes. Harvey residents have attended every Chicago v. Harvey court hearing since Chicago filed its motion asking for a water receiver. Further, my office met with Illinois Attorney General's office along with 30th District Illinois State Representative William Davis to request assistance, investigation and relief. Finally, on several occasions, approximately 20 Harvey residents visited the Cook County State's Attorney Anita Alvarez and subsequently Kim Foxx's office to request assistance, investigation and relief. Personally, my office has sent several emails to various government officials including Cook County State's Attorney Anita Alvarez and subsequently Kim Foxx. While I cannot recall the date, I had an in-person conversation with Anita Alvarez regarding this matter at the Thornton Township building in South Holland, Illinois. I also attended a round table discussion in Hazel Crest, Illinois with Kim Foxx and, per her instruction, gave her assistance several documents regarding the water issue, including the petition filed by over 1,300 Harvey residents. Finally, I attended a private meeting during a Cook County Commissioner meeting with several attorneys and Cook County Commissioner Deborah Sims (who eventually stepped out) and her assistant Aeria Charles. So far, Harvey residents have received very little if no assistance, investigation and relief with the exception of Illinois State Representative William Davis. Some may say they have been looking into the matter. If this is true, and with all respect, Harvey residents have yet to see any fruits of the investigatory labor.

7. The city of Harvey sells water to downstream communities for less than what is charged to Harvey residents. Per the court appointed receiver's report, Harvey sells water to downstream municipalities at the following per 1000-gallon rates (with conversions from cubic feet to gallons):
 - a. Dixmoor - \$7.04;
 - b. East Hazel Crest - \$6.72;
 - c. Homewood - \$4.26;
 - d. Posen - \$6.92;
 - e. Hazel Crest - \$5.36; and
 - f. Hazel Crest - \$5.32 (Hazel Crest had two (2) meters that were being charged at different rates. That is why it is listed twice.)

Once again, Harvey residents pay \$10.29 per 1000 gallons of water. While it may be easy to avoid this issue by saying that Harvey negotiates its own water rates, still this should come to the committee's attention. These downstream municipal rates demonstrate that Harvey does not have to charge the exorbitant rate that it currently charges its citizens. Harvey's excuse for these rates may be that it must honor the contractual rates with the downstream municipalities. This may be true. However, what about the contract Harvey has with its residents? What about Harvey's social contract with its residents? As Harvey complains about Chicago's behavior regarding rate increases, how is Harvey's behavior (rate increases) any better? If this committee is going to investigate Chicago's rate increases, then it must investigate Harvey's rate

increases on its own residents as well.

Harvey mayor Eric J. Kellogg and his administration have constantly complained that Chicago's water rates are arbitrary and capricious. In city of Harvey council meetings, it has been alluded that the water rates are racial in nature because Harvey is a predominantly African-American community. If this were true, which I do not subscribe, then hopefully someone can explain why an African-American mayor with a predominantly African-American city council, charges such egregious water rates to a predominantly African-American community? The race argument, in my opinion, fails the smell and logic test. In my opinion and that of several residents, the water revenue was simply misused, misappropriated, mismanaged, incompetently handled, and not paid to Chicago. As a result, Mayor Eric J. Kellogg arbitrarily increased the water rates in an effort to capture as much money as possible; continue using water revenue for non-water related purposes and still pay what should have been paid to Chicago. The only stop-gap measure was the Court's appointment of a water receiver to control the water fund. Harvey residents, however, continue to pay for this administration's failures.

Here I am, again, drafting a lengthy email to another government entity. Take action! Help Harvey residents! We cannot take it anymore! You are in a position of great leadership, responsibility and influence. Please use that leadership, responsibility, influence and every other tool at your disposal to bring much needed relief to Harvey residents and assure they have access to safe, clean, and affordable drinking water. If you need any supporting documents or additional testimony, please feel free to contact me. You may also visit www.harveywaterbill.com for document information. Thank you for your time and attention.

Regards,

/s/ Christopher J. Clark

Christopher J. Clark
City of Harvey
Third Ward Alderman
PO Box 1771
Harvey, Illinois 60426
708-491-5259
aldermanclark@gmail.com

**CITY OF HARVEY
WATER DEPT
FEE INCREASE
January 1, 2016**

ORDINANCE # 3321

| | |
|---|-------------------|
| OLD Minimum water Usage: | 227 CU.FT. |
| Min Water Fee: | \$ 12.89 |
| Sewer Fee: | \$ 0.80 |
| Refuse Fee: (per unit) | \$ 21.41 |
| Total Minimum Bill: | \$ 35.10 |
| *****PER CUBIC FOOT RATE***** | \$ 0.056 |
| Sewer Fee is 16% of water consumption After 227 CU. FT. Min Tampering Fee: \$100.00/ 1st offense \$500.00/ 2nd offense Criminal Charges/ 3rd offense | |

| | |
|---|--------------------|
| New Minimum water Usage: | 267 CU. FT. |
| Min Water Fee: | \$ 20.16 |
| Sewer Fee: | \$ 10.00 |
| Refuse Fee: (per unit) | \$ 26.76 |
| Admin Fee: | \$ 2.00 |
| Total Minimum Bill: | \$ 58.92 |
| *****PER CUBIC FOOT RATE***** | \$ 0.075 |
| Sewer Fee is 16% of water consumption After 267CU. FT. Min Tampering Fee: \$500.00/ 1st offense \$1,000.00/ 2nd offense Criminal Charges/ 3rd offense Sr. Discount: 10% with copy of Tax Bill | |

MINUTES OF THE REGULAR CITY OF HARVEY COUNCIL MEETING

Monday - June 8th, 2015 - 7:00 p.m.

Mayor Eric J. Kellogg called meeting of the regular scheduled Council meeting to order at 7:05 p.m.

Mayor Kellogg asked City Clerk Nancy Clark to call roll of Council members: present were Alderwoman Shirley Drewenski, Aldermen Joseph Whittington, Christopher Clark Lamont Brown, Donald Nesbit, Keith Price and Mayor Eric J. Kellogg.

Invocation was given by Elder Rudd and the pledge was led by Mayor Kellogg.

PRESENTATIONS:

City Clerk Nancy Clark swore in the newly appointed Building and Planning Commission Officers: Ms. Casey Nesbit and Ms. Joyce Kellogg – Weaver that they would faithfully discharge the duties of Building and Planning Commission Officers. Congratulations!

Mr. W.C .Walker “A resident and the President of the Green View Manor association 14736 Artesian reported that we the residents of Green View Manor do not want 4th Ward want Alderman Lamont Brown to be our Alderman for the 4th Ward.” We do not want him for a role model for our kids and grandkids.”

CITY CLERK’S REPORT:

City Clerk Nancy Clark “Good evening, it is good to see everyone here tonight, Aldermen I just have one additional petition and communication, which will be Item I- The Blessed for life Ministries 110 W 150th Harvey. They are requesting a street blockage for Saturday – June 13,2015 with a free food giveaway. Aldermen please make sure that the emails that you give are correct and phone numbers. Lastly, Aldermen you have two letters of Veto’s in your packet from by Mayor Eric J Kellogg, for Ordinances #3323 and # 3324. My minutes were not finished for the special meeting.

Alderwoman Drewenski “Madam Clerk that Ordinance # 3324 from the Special meeting should be Ordinance #3325 that was the number you gave for the Cook County Sherriff. It was clearly a typo.

Attorney Lewis “Aldermen that was the Ordinance that was drafted up by Alderman Clark” it was not circulated. So the Mayor’s veto should read Ordinance #3324 should be # 3325.”

City Clerk Clark “For the record the Ordinance #3324 should be Ordinance # 3325.

City Clerk Clark announcement: Live Jazz in Harvey Wednesday - June 10, 2015 at the Harvey Community Center 15320 Center 6 p.m. until 9:00 p.m. This will be on the 2nd Wednesday of each month. Donation is \$5.00, musicians get in free .Sponsored by Friends of HACO keeping Jazz and HACO Alive, this time they will be celebrating June birthdays. Lastly, City of Harvey /Mayor Eric J, Kellogg presents 2015 Summer Recreational Camp starting Tuesday - June 9, 2015 through July 24, 2015, Monday through Friday except holidays 1st through 8th Grade, the registration fee is \$75.00 and \$25.00 if you have more than one child and breakfast and lunch will be provided.”

TREASURER’S REPORT:

City Treasurer Gloria Morningstar was present no report the 1st meeting of the month.

APPROVAL OF MINUTES:

Motioned by Alderman Nesbit that Council approve minutes dated Monday - May 11, 2015. The motion was second by Alderman Price.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark, Brown, Nesbit and Price.

MOTION CARRIED

Motioned by Alderman Nesbit that Council approve minutes dated Tuesday - May 26, 2015. The motion was second by Alderwoman Drewenski.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark, Brown, and Nesbit.

Alderman Price abstained, he was absent.

MOTION CARRIED

APPROVAL OF THE BILLS FOR PAYMENT:

Alderwoman Drewenski motioned that Council tabled the bills dated May 26, 2015 and June 8,2015. The motion was second by Alderman Clark.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark and Brown.
Voting Nay were Aldermen Nesbit and Price.

**MOTION CARRIED
BILLS TABLED**

Alderman Price "For the record; we have very important water bill payments that are due. I don't know if this some type of attempt to make us default on paying the water bills but atleast this Council should take into inconsideration the water bill payments because we are all aware of our agreement with the City of Chicago. So for the record I will vote no because of the importance of the water bill".

ORDINANCES AND RESOLUTIONS:

Ordinance # 3320 – An Ordinance for the City of Harvey Vehicle sticker Increase. (2nd Reading)

Alderman Nesbit motioned to approve Ordinance #3320.

**MOTION DIES
LACK OF SECOND**

Ordinance # 3321 – An Ordinance for the City of Harvey for Water Department Fees Increases. (2nd Reading)

Alderman Nesbit made motion to approve Ordinance #3321. The motion was second by Alderman Price.

Voting Aye was Alderman Nesbit.

Voting Nay were Alderwoman Drewenski, Aldermen Whittington, Clark, Brown and Price.

MOTION FAILED

Resolution #2764 – A resolution for the transfer of property located at 15130 – 15144 Dixie Highway – Harvey, Illinois. G Development - Jason Griffin) (2nd Reading)

Alderman Price motioned that Council adopts Resolution #2764. The motioned was second by Alderman Nesbit.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark, Brown, Nesbit and Price.

MOTION CARRIED

PETITIONS AND COMMUNICATIONS:

Motioned by Alderman Price that the Council grants permission for the Petitions Communications items A- I in an omnibus vote. The motioned was second by Alderwoman Drewenski.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark, Brown, Nesbit and Price.

MOTION CARRIED

REPORTS BY THE ALDERMEN:

Ward 1 – Alderwoman Drewenski Good evening everyone. We had our 1st Ward meeting on Saturday and we had 100 people. What the major concerns were for the beautification of our ward, the grass cutting and pot holes everything that is common, but we are also having a major issue with raccoons in particular on Union and Emerald from 156th all the way to 164th in the abandon homes and garages and in the alleys these raccoons are multiplying, and its quite alarming when people are leaving their homes it went through and landed in a child's bed room, this happened last year. We do have a high incident rate. I don't know what we can do as a city but that is a major concern. A very serious situation occurred on May 17th at the St John's Church and on behalf of Father Ed and myself and I cannot say enough about how much we appreciate the Police Department, they responded, they kept the residents calm, they were professional and in all honesty I really can get emotional on that day and that is a day and that day I will never forget. Some residents in this room can agree with me that will always be imbedded in our minds. I cannot say enough for the Harvey Police Department and the Phoenix Police Departments because no one resident was injured. Thank you!"

Ward 3 – Alderman Christopher Clark "Thank you Mr. Mayor, City of Harvey and 3rd Ward residents. Thank you for allowing me to be here once again. I see residents from the 3rd Ward thank you for coming out. First of all I would like to offer my condolences to the Long family on the passing of Mr. Long and along with that condolence: I would like to celebrate the people that have June birthdays for I'm also a June baby. I have been going through the Ward and so far I talk to residents everyday and I will continue to do so on a daily basics. So if by chance I pop up at your home, please do not be alarmed it's just me and if you are not there I will leave you some information or a card letting you know that I came by your home and you can always give me a call. I will continue to do that on regular basics, I figure if I talk to one home a day that will be 365 over a year. Now so far I've found over 72 items that need to be addressed and I will be turning those issues over to you Mayor. We have our first 3rd Ward meeting on Saturday - June 20th 2015 a New Shinning Light COGIC Church located at 15400 Lincoln Ave. the time for the meeting is 1:00 p.m. until 2:30 p.m. I invite each and everyone to come out Mayor, Council and even if you are not a 3rd Ward resident we would like to have you out as well. We will have flyers going throughout the Ward. Lastly, I would like to do an

unofficial motion for a new or improved PA system, because the residents say they cannot hear. I would like for the residents to be able to hear us. That would be one of the spending issues that I would be in support of.”

Ward 2 – Alderman Joseph Whittington “Thank you Mr. Mayor, Citizens, of Harvey and 2nd Ward residents. We have had some block clubs meeting. I thank the Block clubs for giving some guidance. I want to thank the Street Department for going through the grid to attack some of those alleys. Some of our tenants still don’t have an understanding they just can’t put things in the alley. In closing, a lot of you may not know I have worked with the Cook County Jail for over 36 years. I’ve worked on many programs. I’m the Founder of the American Justice Center. I worked with the Safer Foundation Board to help our ex offenders, our children that have somewhere along the lines something went on in this county that allowed minorities to have make a living selling drugs, but that was about 30 years ago but before that there was always alcohol, pimping, robbing, being chased and as we talk about today in the news, some of our kids are being shot because they did not come out of the car correctly. This is an issue that is very big in our country, but I won’t address the country, I’ll address where I live. There is somewhere along the lines that we have to draw a line to say “What we are going to do at home? How are we going to address the stigmatism? What do we do as a City to address these real situations? When do we stop picking at the sore and never solving the problem? When are we going to deal with the kids going around here with their pants down? The girls are doing it too.”

Ward 6 – Alderman Keith Price “First of all I would like to say that I’m a little upset with the expansion of the car lot on 147th allowing those cars to move all the way up to the sidewalk. When they agreed to not park cars in the parkway, They also said they would put a privacy fence. I have gotten several calls concerning that. One of the big problems in the Ward is grass cutting and if you don’t know the budget was passed and they took out the grass cutting out of our budget. The workers for the city have been working hard. I see them working. I can’t say that they are not working. I want my residents to be patient constantly calling to know just want to. Please, be patient with us dealing with grass. I have faith in the City to master the program that has been put in place. The 5th ward has about 150 abandon homes and several vacant lots. Street sweeping, the residents move their cars for the street sweeping and waited and nothing happened . Open meeting act. During the special meeting it was a clear violation of the open meeting act. If documents are being passed to four of the aldermen and I just want to note that for later. The water bill not being paid, it is understandable not to pay or to hold to off on some bills but some bills are mandatory and we have a water bill and we have an agreement with the City of Chicago to pay a certain amount every month which everyone has heard. As the six people who represent the residents of this City, I personally do not want anyone coming here taking over our water system and I’ll tell you why. In Africa they take over all the places where all the diamonds and gold, In Iraq they take over all the places where the oil is and believe it or not in Afghanistan they take over the heroin fields. I don’t want anyone coming in here and taking over our natural resources, and if we as a council we can’t understand that as a Council to me it looks as if you are trying to force us to not meet our obligation that we agreed on.”

6 Ward residents the Ward meetings will start back up Saturday – June 20th 2015 and they will be every 3rd Saturday of each month until December 1:00 p.m. until 3:00 p.m. at Bishop Owens church at 14600 Green Street looking forward to seeing you.

Ward 4 – Alderman Lamont Brown “Thank you Mayor, and especially the residents of the 4th Ward. The Ward meeting we had on this past Saturday was a success We had several special guests that came out and shared information with the residents. My report will be brief. The 4th Ward meeting will be every other month at 1:00 PM. The next one is scheduled for August. Save the date of Friday - June 31, the 4th ward will be having a “Night of Safety” Services for Juwane the young man that was shot and killed will be Friday - June 12, 2015 at St .Mark Missionary Baptist Church 147th Lincoln Pastor Ed Harris at 10:00 am. The family has been displaced and we have raised \$1,100 so far to help them out in their time of trouble and if you want to make a donation to help out the family please make your checks payable to Cheryl Homan (708) 589-4031. Lastly, I would like to submit items to be added to the agenda on June 22, 2015 our regular City Council meeting signed by Aldermen of 1st, 2nd, 3rd, & 4th Wards. I just want to leave you with this; A few grains of success, weights more that a ton of treasurer”

Ward 5 – Alderman Donald Nesbit “No report tonight”

PUBLIC PARTICIPATION:

Clyde Edmond resident at 15617 Ashland “Good evening, I would like to give the Mayor a compliment as well as the Council, City workers, Police Department, and Fire Department. I actually have seen you all really working. I see you have hired more employees. The main arteries look very good. You’ve taken care of the illegal dumping. The Police Department has a high visibility throughout the neighborhood and I think you are doing a great job. I have seen Harvey rising these past few months. Nobody prompt me to say this and I think you are doing a good job. I have a request there are some logs in the yard next to me and you can’t cut the grass with the logs there , if those could be removed that would be great. There are two dying trees in front of my house and if you can take care of that I would be appreciative. Sincerely, you all are doing a great job.”

Pastor Donald Luster “I have just a couple of things Alderwoman Drewenski I want to commend you because you spoke from your heart regarding the Police Department and the job that they did coming together for the common good of the City. How everyone was kept safe and how everyone felt secure. I do believe we have a professional Department. I do believe that we are addressing the social issues that plague our people and I don’t believe that it is necessary we should be in a hurry to have outsiders come in and aid and assist something that is already being done every day. We can come together. I commend Alderman Whittington who is very, very passionate. We should use this public forum for what it is established for to address the service of the public. Part of serving the public is putting the public above our own personal interest and agendas. Public service is to serve the Public.”

ADJOURNMENT: 8:40 P.M.

Alderman Price motioned to meeting is hereby adjourned at 8:40 p.m. The motioned was second by Alderman Nesbit.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark, Brown, Nesbit and Price.

MOTION CARRIED

City Clerk Nancy L, Clark



CITY OF HARVEY

15320 BROADWAY AVENUE • HARVEY, ILLINOIS 60426-7539
PHONE (708) 210-5300 • FAX (708) 210-5366

ERIC J. KELLOGG
Mayor

November 18, 2015

To: Alderman Shirley Drewenski, Alderman Joseph Whittington, Alderman Christopher Clark, Alderman Lamont Brown, Alderman Donald Nesbit, Alderman Keith Price

From: Mayor Eric J. Kellogg

Re: Water, Sewer, and Refuse Rate Increases per Ordinance #3321

Per the emails sent to you dated June 5, 2015, from the Comptroller and Ben Jacobi, our legal counsel, concerning the water rates; the City is currently in violation of the State Statute (65 ILCS 5/11-124-1(a), 65 ILCS 5/11-126-6, and the Chicago-Harvey Water Contract) regarding the necessity that water rates be sufficient to cover all operating, capital, and debt service costs of a municipally operated Water Utility. In the proposed Ordinance referenced above, we requested that the rates be raised to a level sufficient to comply with the Statutes. The water fund deficits, per the last three audits, were: 2012– \$639,541, 2011–\$963,242, 2010–\$229,391; these deficits are projected to continue based on our internally prepared financial statements through 2016. **This Ordinance, as proposed, failed to pass the City Council; therefore, in order to comply with the State Statute, and to prevent further default under the settlement agreement and court order, with the City of Chicago, I am issuing an executive order. This order will take effect on January 1, 2016 and will raise the rates in accordance with those proposed in Ordinance 3321. It is unfortunate that an agreement could not be reached and that I must take such a drastic measure to protect the well-being and solvency of the City.** I will continue to work with the Council to do what is in the best interest of our great City and as always, welcome your input.

City of Harvey Water Dept. Rate Increase January 1, 2016

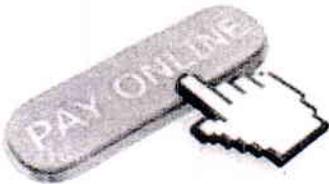
| | |
|---|-------------------|
| OLD Minimum water Usage: | 227 CU.FT. |
| Min Water Fee: | \$ 12.89 |
| Sewer Fee: | \$ 0.80 |
| Refuse Fee: (per unit) | \$ 21.41 |
| Total Minimum Bill: | \$ 35.10 |
| *****PER CUBIC FOOT RATE***** | \$ 0.056 |
| Sewer Fee is 16% of water consumption After 227 CU. FT. Min Tampering Fee: \$100.00/ 1st offense \$500.00/ 2nd offense Criminal Charges/ 3rd offense | |

| | |
|---|--------------------|
| New Minimum water Usage: | 267 CU. FT. |
| Min Water Fee: | \$ 20.16 |
| Sewer Fee: | \$ 10.00 |
| Refuse Fee: (per unit) | \$ 26.76 |
| Admin Fee: | \$ 2.00 |
| Total Minimum Bill: | \$ 58.92 |
| *****PER CUBIC FOOT RATE***** | \$ 0.075 |
| Sewer Fee is 16% of water consumption After 267CU. FT. Min Tampering Fee: \$500.00/ 1st offense \$1,000.00/ 2nd offense Criminal Charges/ 3rd offense Sr. Discount: 10% with copy of Tax Bill & Copy I.D. | |

Call to pay your bill and/or call for bill inquiries **877-885-7968**

New Hours: 2nd & 4th Monday Each Month 9:00am-7:00pm
Tuesday-Friday 9:00am-4:30pm

Just 3 clicks to pay City of Harvey utility bills online



*It's quick!
After you register,
it's just 3 easy steps.*

PAY ONLINE

Go to www.CityofHarvey.org

1. Click on the pay bills link
2. You will go to our payment processor's website where you should register and make your payment

PAY ON MOBILE

Download "PSN Payments" from App Store® or Google Play™

NOTE: Register online before using the app

CALL TO PAY

1-877-885-7968 (have your bill handy to provide your account number)

VIEW BILLS ONLINE

Go to www.CityofHarvey.org

1. Click on the view bills link
2. You will go to our payment processor's website to register
3. You will get an email each time your bill is ready

Convenience Fees: \$1.00 for checks; 2.75 (+50¢ if under \$100) for credit cards

Check out what you can do...

- View your balance due
- Pay immediately, schedule a payment or set up Auto-Pay
- Opt out of receiving paper bills
- You don't have to pay online to view your bills online
- Print receipts, view payment history and more



Authorized Processor
PSN

We accept...





CHRISTOPHER J. CLARK
THIRD WARD ALDERMAN - CITY OF HARVEY, ILLINOIS
PO BOX 1771, HARVEY ILLINOIS 60426



October 17, 2017

Mayor Eric J. Kellogg
City of Harvey
15320 Broadway Avenue
Harvey, Illinois 60426

Robert P. Handler
Managing Partner
Commercial Recovery Associates, LLC
205 West Wacker Drive, Suite 1818
Chicago, IL 60606

Re: Possible Overcharge of Water Renewal or Reconnection Fee

Dear Mayor Eric J. Kellogg and Robert Handler,

It has come to my attention that several residents that have experienced a disconnection of water services are currently charged a \$100.00 water renewal or reconnection fee.

The published Harvey Municipal Code 13-04-280 reads in part as follows:

“There shall be paid, prior to renewal of water service after disconnection by the superintendent for delinquency or at the request of the user, a charge to cover the cost of shutting off and turning on the water as follows: For the first renewal of water service for a user, ten dollars (\$10.00); for the second renewal of the water service for the same user, twenty dollars (\$20.00); for the third renewal of the water service for the same user, thirty dollars (\$30.00).”

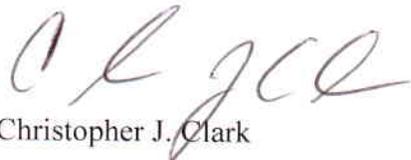
My concern is that residential and commercial water customers are overcharged for water renewal or reconnection. As you are probably aware, a \$70.00 to \$90.00 overcharge is a huge difference to those already having difficulty paying their water bill. Additionally, the longer a meter is kept out of service, the less revenue there is to the City. A \$100.00 water renewal or reconnection fee may create an economic barrier to our residential and commercial water customers.

Please accept my humblest appreciation to you for reading this letter. If my assessment is incorrect, then please show the error. If my assessment is correct, then I request the City of

Harvey either refund the balance or issue a credit for the overcharged and overpaid water renewal or reconnection fee to all affected residential and commercial customers.

I look forward to your written response.

Sincerely,

A handwritten signature in black ink, appearing to read "C. J. Clark". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

Christopher J. Clark

**CITY OF HARVEY REGULAR CITY COUNCIL MEETING
MONDAY - OCTOBER 23, 2017 – 7:00 P.M.**

The regular Harvey City Council meeting was called to order at 7:05 p.m. by Mayor Eric Kellogg.

Mayor Kellogg asked City Clerk Nancy Clark to call the roll of Council members; present were Alderwoman Shirley Drewenski, Aldermen Joseph Whittington, Christopher Clark, Tracy Key, Donald Nesbit, Keith Price and Mayor Eric Kellogg.

Mayor Kellogg asked Pastor Earnest Cardwell to give the Invocation and Mayor led the pledge of Allegiance.

PRESENTATIONS:

Pastor Pitts introduced our Global Leader the Honorable Prime Minister Prince Israel

CITY CLERKS REPORT:

City Clerk Nancy Clark "I do hope all are well. I just have a few announcements, First: For the record: I am asking all Departments, Staff and Council if you have items for the agenda please submit them to my office the Thursday before the Council meetings or it will not be placed on the agenda. Mayor Eric J Kellogg annual Turkey Give away, sign up will start on Wednesday - November 1st, 2017 through November 10, 2017, you must present have two forms of identification, must be a Harvey resident, and proof of residency, the Christmas Toy Sign Up will be Wednesday - November 1, 2017, lastly the Harvey Senior Luncheon will be held on Friday – December 1, 2017 at 3:00 p.m. at the Harvey Community Center .

CITY TREASURER'S REPORT:

City Treasurer Gloria Morningstar was present, no report tonight.

APPROVAL OF MINUTES:

Alderwoman Drewenski made the motion that the Council approve minutes dated October 9th, 2017. The motion was second by Alderman Price.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark, Key, Nesbit and Price.

MOTION CARRIED

1.

APPROVAL OF BILLS FOR PAYMENT;

(No Bills for payment list tonight.)

MAYORS REPORT:

Mayor Kellogg announced that he will come back to his report.

ORDINANCES AND RESOLUTION FOR THE CITY:

ORDINANCE # 3358 – An Ordinance of the City of Harvey, Cook County Illinois amending certain section of Title 4 Chapter 3 of the City of Harvey Municipal Code. (*1st. Reading*)

Alderman Price made the motion to suspend the rules for Ordinance # 3358. The motion was second by Alderman Nesbit.

Voting Aye were, Aldermen Key, Nesbit, Price and Mayor Kellogg.

Voting Nay were Alderwoman Drewenski, Aldermen Whittington, and Clark.

RULES SUSPENDED

Alderman Price made the motion to approve Ordinance # 3358. The motion was second by Alderman Nesbit.

Alderman Clark “I have some questions section 4-3-11 it says ...that the water ... It looks like an increase to me. It is saying that a meter has to be installed. So how many residents will this effect? It says when the ¾ inch pipes are installed ... and under section 4-3.2-8 what was the previous rate? It's a \$100-\$200 dollars restore fee, and activation fee. So only businesses have a ¾ pipe?”

Alderwoman Drewenski “Point of order” This was not a part of my packet. I just received this Ordinance # 3358 tonight. I want the record to reflect that.”

Alderman Clark “The same applies to myself.”

Mayor Kellogg “Asked Mr. Lewis to speak to the questions regarding water rates.”

Water Supervisor Andre Lewis “Good evening Council, Mayor there are no increases at all in the water rates. We just wanted to make it clear in this Ordinance.”

Alderman Clark “In June of 2015 there was a letter sent out to the residents about an increase and we voted the rate increase down. I’m questioning because I’m not getting clarity, Section 4-3;2-4 scheduled rates says residents minimum water rate \$20.16 Sewer fee \$10.00 , Refuse fee \$26.76 and Admin fee \$2.00 how is this different and what is the fee that they are currently charging ? What was the previous rate?”

Alderman Price the tampering fee is \$500 dollars for the 1st offense and second offense is a \$1.000 dollars. The reconnection fee was \$100. 00, this was done when we made all those changes to the business licenses, liquor license etc..”

Alderman Clark, “Where is that Ordinance where we raised all the fines?”

Alderman Price “For the record it was stated by Supervisor Lewis that there was no increase as long as there is not an increase my vote is yes.”

Voting Aye were, Aldermen Key, Nesbit, Price and Mayor Kellogg.

Voting Nay were Alderwoman Drewenski, Aldermen Whittington, and Clark.

MOTION CARRIED

RESOLUTION # 2845 - A resolution for the City of Harvey authorizing the transfer of property located at 15600 Lathrop Harvey, Illinois. (2nd Reading)

Alderman Price ‘Motioned to go into executive session to talk about this, there are some legal concerns with this property.

Attorney Bettie Lewis “Tabled this until I can review it”.

RESOLUTION # 2846 - A resolution for the City of Harvey authorizing a 3rd. Party requestor for property located at 15240 & 15312 Dixie Highway. (2nd Reading)

RESOLUTION # 2847 - A resolution for the City of Harvey Cook County, Illinois authorizing 3rd Party requestor for no cash bid for property in Harvey, Ill. to Sun Fresh Market, the property located at 14847 Dixie Highway. *(Sun Fresh Market) (2nd Reading)

Alderman Price made the motion that Council adopts Resolution # 2847. The motion was second by Alderman Nesbit.

Alderwoman Drewenski "For the record, I just received paper work today."

Ald. Clark motioned to table.

Ald. Whittington "They did not have the respect to come here, that's my concern."

Voting Aye were, Aldermen Key, Nesbit, Price and Mayor Kellogg.

Voting Nay were Alderwoman Drewenski, Aldermen Whittington, and Clark.

MOTION CARRIED

Alderman Price "For the record, our residents deserved a grocery store we need to keep our dollars here in the City of Harvey. It's no reason to hold up the grocery store"

Ald. Clark "You don't follow the rules."

RESOLUTION # 2850 - A resolution for the City of Harvey relating to Illinois Municipal Retirement. *(1st Reading)*

Alderwoman Drewenski made the motion to suspend the rules for Resolution #2850. The motion was second by Alderman Nesbit.

Voting Aye were Aldermen Whittington, Key, Nesbit, Price.

Voting Nay were Alderwoman Drewenski, Alderman Clark.

RULES SUSPENDED

Alderman Price made the motion to adopt Resolution # 2850. The motion was second by Alderwoman Drewenski.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Key, Nesbit and Price.

Voting Nay was Alderman Clark.

MOTION CARRIED

RESOLUTION # 2851 - A resolution for the City of Harvey authorizing the transfer of property located at 15600 Lathrop *(1st. Reading) Tabled*

RESOLUTION # 2852 - A resolution for the City of Harvey authorizing 3rd Party requestor for property located at 15130 – 15144 Dixie Highway. (Jones Consultants) (*1ST Reading*) *Tabled*

RESOLUTION # 2853 - A resolution for the City of Harvey authorizing 3rd Party requestor for property located at 15554 Halsted Street - Harvey, Il. (Noil Petroleum) (*1ST Reading*) *Tabled*

REPORTS BY ALDERMEN:

Ward 4 – Alderman Key “ Residents, thanks for coming out tonight, I appreciate all the citizens for showing up, outside of that I hope that we are moving forward, tonight we got a little off track going back into that zone and I was not comfortable with that. I didn’t come here for that. Let’s keep the city moving forward. I’m just glad to see us working together to get something done.”

Ward 6 – Alderman Price “Good evening everyone. Although we are trying hard to work together, we will have clashes, it’s hard for six people to always agree, I’m more suspect to that. There are a couple of things we need to table. We will not have an EDC meeting on the Friday before our regular meeting because that has happen twice and it is not enough time for us to review property and have time for the Clerk’s office to get the material and have it on the agenda correctly. I want to congratulate the City of Harvey on approving the grocery store. I want the have a place for our people to shop. It is supposed to be a total rehab and if they do not do what they say in the redevelopment agreement we will have to shut them down. I appreciate the camera program for dumping, its working great but I still want us to post the charges for dumping. I want to thank the Street Department for what they are doing.”

Ward 2 – Alderman Whittington “I’m very proud to be a senior, I’ve been attending the meetings Chairman Price, and Alderman Key the meetings have been very short but productive, we are able to get information and ask questions, making mistakes cost. As a senior, I vote on things, I vote we should have been much further ahead. I try to get as much information as I possibly can, being an Alderman takes a lot of time to make the right decisions. So when I vote no don’t frown at me.” I want to leave a legacy.

Ward 3 – Alderman Clark “Thank you Mayor. I’d like to send our thoughts and prayers to the Tabb family on the loss of Leontyne Reese Tabb. I want to thank the city for the Resolution that was sent. I want to again thank the Police Department for what they are doing. I want to say that in regards to the grocery store, I have no reservations that Harvey needs a grocery store, a place to shop. It is important at what cost to the city and at what cost to the residents. In regards to the water, I will bring back to the next Council meeting Mayor the paper work so I can show you some things, water seems to be that one thing that we can’t get right. We have a serious problem... You may contact me at (708) 491-5259 or aldermanclark@gmail.com. Thank you.

Ward 1 - Alderwoman Drewenski “Thank you Mayor. I just want to thank everyone who came out to the 1st Ward meeting, a special thanks to Commissioner Debra Sims, State Representative Will Davis, Aldermen Whittington and Clark. We had over 100 people in attendance. She complemented the EDC Alderman Price. It in the details Ald. Price, Alderman Key and myself, we do want to move this city forward. Mayor, thank you for responding to every text. I do appreciate that .and so do the 1st Ward residents. I want to thank T. Showers he doing a phenomenal job.”

PUBLIC PARTICIPATION:

Mary Jennings asked when was the light going to be fixed on the corner of her block? It’s very dark over there.

ADJOURNMENT: 8:30 P.M.

Alderwoman Drewenski made the motion to adjourn meeting. Motion was second by Alderman Clark.

Voting Aye were Alderwoman Drewenski, Aldermen Whittington, Clark, Key, Nesbit and Price.

MOTION CARRIED

City Clerk Nancy L. Clark

ORDINANCE NO. 3358

AN ORDINANCE OF THE CITY OF HARVEY, COOK COUNTY,
ILLINOIS AMENDING CERTAIN SECTIONS OF TITLE 4
CHAPTER 3 OF THE CITY OF HARVEY MUNICIPAL CODE

WHEREAS, the City of Harvey (hereinafter "City") is a home rule unit and as such may exercise any power and perform any function pertaining to its government and affairs.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Harvey, Cook County, Illinois, in the furtherance of its home rule powers, as follows:

That Section 4-3-8 is amended to read:

4-3-8: **TAMPERING FORBIDDEN:** It shall be unlawful for any person, firm, or corporation not specifically authorized by the City Water Department, to tamper with, injure, damage or alter any part of the City Water Works, supply system, or any water meter or water meter seal installed herein. Offenses will incur a penalty as set forth below:

\$500.00 - First Offense
\$1,000.00 - Second Offense
Criminal Charges - Third Offense

That Section 4-3-11 is amended to read:

4-3-11: **WATER METERS:**

(A) No consumer shall be supplied with water from the Village system until a meter with an outside reading device shall be set and ready for use, except in cases where it is impractical to so set a meter as a temporary measure. All meters used in connection with said water system shall be supplied and installed by the City and shall be and remain the property of the city.

The actual cost to the City of furnishing and installing a meter, which is larger than the standard meter for a three-quarter inch (3/4") pipe service, shall be paid by the person ordering the same immediately upon the installation and before water is turned on. The actual cost of keeping such larger meter in repair shall be paid to the City by the person ordering same or by the owner or occupant of the premises as soon as the billing therefor is presented. All out of date meters not in compliance with today's standards shall be updated and paid for by

owner per the City of Harvey Water Ordinance, or risk termination of service. The person upon whose application any such larger meter is installed or the occupant or owner of the premises where installed shall be liable for any breakage by freezing or otherwise, or any loss or damage to said meter in any manner, and the cost of making good such damage or loss shall be paid to the City by the person upon whose application such meter was installed, as soon as a bill therefor is presented, and the amount thereof shall be a lien against the premises in which such meter is located to the same extent and with the same effect as delinquent water charges.

Where more than one meter is required to serve the customer's premises said meters shall be furnished by the owner at his cost. Said meters shall be maintained by the City but at the sole cost and expense of said owner.

- (B) The water meter shall be installed in such a location that it is readily accessible for replacement and reading in the opinion of the Commissioner or his duly authorized representative.
- (C) The water meter shall be installed in a saddle which will hold the pipes in position even without the meter in place.

That Section 4-3.2-4 is amended to read:

4-3.2-4: **SCHEDULE OF RATES:** All water supplied to customers and users thereof, upon, along, and from the Waterworks or Water Supply System for all public and private purposes shall be supplied through meter only, and the water rates to be charged therefor shall be and are hereby fixed in accordance with the following schedule:

- (A) Residents of the City of Harvey:

Monthly Rate:

| | |
|--------------------|---------|
| Minimum water fee: | \$20.16 |
| Sewer fee: | \$10.00 |
| Refuse fee: | \$26.76 |
| Admin fee: | \$2.00 |

Water rate is \$.077 per cubic foot

Sewer fee is 16% of water consumption after 267 cubic feet

- (B) The rate to be charged non-residents of the City of Harvey shall be 150% of the resident rate, except where the City has executed binding intergovernmental agreements with other municipalities, in which case the rates established pursuant to said agreements shall be controlling.
- (C) In the event that water is shut off for default in the payment of water charges, the user shall be charged a fee of One Hundred Dollars (\$100.00) for each meter used to have water turned on. This fee shall be in addition to any delinquent charges.

That Section 4-3.2-6 is amended to read:

4-3.2-6: **CHARGE FOR BAD CHECKS:** Whenever a check paid to the Water Department is returned by the bank for any reason, a Thirty-seven Dollar and 50/100 (\$37.50) fee shall be incurred and shall be applied to a special account designated for bad checks.

That Section 4-3.2-8 is amended to read:

4-3.2-8: **SHUTTING OFF WATER:** Immediately upon the delinquency of a statement for water charges, the Superintendent of the Water Department or his designee shall notify the customer prior to termination of service. Said notice of termination shall include the proposed date of termination and a brief description of the procedure for challenging the termination, as hereinafter set forth.

- (A) The Superintendent of the Water Department or his designee shall send notice to the customer prior to termination of service by certified or registered mail. Said notice of termination shall set forth the proposed date of termination and notify the customer that he has ten (10) days within which to challenge termination of service as being unjustified by written notice to the Superintendent of the Water Department.
- (B) The Superintendent of the Water Department, or his designee, upon receipt of a customer's challenge to termination of service, shall schedule a hearing on the challenge. The Superintendent or his designee shall hold the hearing and render a final decision thereon. The customer may be present at the hearing with counsel, may cross-examine witnesses, may offer witnesses and evidence, and may present defenses to the termination. All testimony shall be taken under oath.
- (C) In the event a decision to terminate service is rendered, the customer may appeal said decision to the Commissioner based upon the record at the hearing and said Commissioner shall render a decision thereon.

- (D) The Commissioner shall have the power to terminate service after compliance with the foregoing provisions of this Section.
- (E) The water shall not be turned on again until all arrearages, both as to water charges and sewer rentals, together with any respective penalties, shall have been paid or a schedule of payments shall have been approved by the Commissioner of Public Property, in his discretion. There shall be paid, prior to renewal of water service after disconnection by the Commissioner of Public Property, for delinquency or at the request of the user, a charge of One Hundred Dollars (\$100.00) to cover the cost of shutting off and turning on the water. This delinquency fee will have to be paid in order for all service to be turned back on. When you are listed for delinquency you will be charged \$100 delinquency fee.

BE IT FURTHER ORDAINED:

Section I: The preambles hereto are hereby made a part of and operative provisions of this Resolution are fully as if completely repeated at length herein.

Section II: That the Mayor and City Council of the City of Harvey hereby find that it is in the best interest of the City and its residents that aforesaid Agreement with the County be entered into and executed by the City attached hereto as exhibit A.

Section III: That the Mayor and City Clerk are hereby authorized to execute the agreement on behalf of the City.

Section IV: That all Ordinances and Resolutions of parts thereof that conflict with herein are hereby repealed to the extent of any such conflict.

Section V: That if any provision of this ordinance or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect other provisions or application of this ordinance which be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Section VI: That this resolution shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HARVEY,
ILLINOIS, THIS _____ DAY OF _____, 2017.

VOTING AYE:

VOTING NAY:

ABSENT:

APPROVED by me this _____ DAY OF _____, A.D., 2017.

/s/ _____
Eric J. Kellogg
Mayor

ATTEST:

/s/ _____
Nancy L. Clark
City Clerk

(65 ILCS 5/1-1-2) (from Ch. 24, par. 1-1-2)

Sec. 1-1-2. Definitions. In this Code:

(1) "Municipal" or "municipality" means a city, village, or incorporated town in the State of Illinois, but, unless the context otherwise provides, "municipal" or "municipality" does not include a township, town when used as the equivalent of a township, incorporated town that has superseded a civil township, county, school district, park district, sanitary district, or any other similar governmental district. If "municipal" or "municipality" is given a different definition in any particular Division or Section of this Act, that definition shall control in that division or Section only.

(2) **"Corporate authorities" means (a) the mayor and aldermen or similar body when the reference is to cities, (b) the president and trustees or similar body when the reference is to villages or incorporated towns, and (c) the council when the reference is to municipalities under the commission form of municipal government.**

(65 ILCS 5/3.1-40-40) (from Ch. 24, par. 3.1-40-40)

Sec. 3.1-40-40. Vote required. The passage of all ordinances for whatever purpose, and of any resolution or motion (i) to create any liability against a city or (ii) for the expenditure or appropriation of its money shall require the concurrence of a majority of all members then holding office on the city council, including the mayor, unless otherwise expressly provided by this Code or any other Act governing the passage of any ordinance, resolution, or motion. Where the council consists of an odd number of aldermen, however, the vote of the majority of the aldermen shall be sufficient to pass an ordinance. The passage of an ordinance, resolution, or motion to sell any school property shall require the concurrence of three-fourths of all aldermen then holding office. The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the city council. In addition, the corporate authorities at any meeting may by unanimous consent take a single vote by yeas and nays on the several questions of the passage of any 2 or more of the designated ordinances, orders, resolutions, or motions placed together for voting purposes in a single group. The single vote shall be entered separately in the journal under the designation "omnibus vote", and in that event the clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case instead of entering the names of the members of city council voting "yea" and those voting "nay" on the passage of each of the designated ordinances, orders, resolutions, and motions included in the omnibus group or consent agenda. The taking of a single or omnibus vote and the entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance with the requirements of this Section to all intents and purposes and with like effect as if the vote in each case had been taken separately by yeas and nays on the question of the passage of each ordinance, order, resolution, and motion included in the omnibus group and separately recorded in the journal. Likewise, the yeas and nays shall be taken upon the question of the passage of any other resolution or motion at the request of any alderman and shall be recorded in the

journal.

(Source: P.A. 87-1119.)

(65 ILCS 5/Art. 11 Div. 124 heading)

DIVISION 124. POWER TO CONTRACT FOR WATER SUPPLY

(65 ILCS 5/11-124-1) (from Ch. 24, par. 11-124-1)

Sec. 11-124-1. Contracts for supply of water.

(a) The corporate authorities of each municipality may contract with any person, corporation, municipal corporation, political subdivision, public water district or any other agency for a supply of water. Any such contract entered into by a municipality shall provide that payments to be made thereunder shall be solely from the revenues to be derived from the operation of the waterworks system of the municipality, and the contract shall be a continuing valid and binding obligation of the municipality payable from the revenues derived from the operation of the waterworks system of the municipality for the period of years, not to exceed 40, as may be provided in such contract. Any such contract shall not be a debt within the meaning of any constitutional or statutory limitation. No prior appropriation shall be required before entering into such a contract and no appropriation shall be required to authorize payments to be made under the terms of any such contract notwithstanding any provision in this Code to the contrary.

(65 ILCS 5/Art. 11 Div. 126 heading)

DIVISION 126. JOINT CONSTRUCTION OF WATER
SUPPLY

(65 ILCS 5/11-126-6) (from Ch. 24, par. 11-126-6)

Sec. 11-126-6. All the income received by a municipality from such a system of waterworks, from the payment and collection of water rents or rates, shall be kept in a separate fund and shall be applied first in the payment and discharge of the principal of and the interest on bonds or money borrowed and used in the construction of the waterworks and of the operating expenses thereof. Any surplus may be applied in such manner as the corporate authorities may direct.

(Source: Laws 1961, p. 576.)

65 ILCS 5/11-126-4) (from Ch. 24, par. 11-126-4)

Sec. 11-126-4. The corporate authorities of each municipality may make and enforce all needful rules and regulations in the construction and management of such a system of waterworks, and for the use of the water supplied

thereby.

The corporate authorities of each municipality also may make and enforce all needful rules, regulations, and enact ordinances for the improvement, care, and protection from pollution or other injury of any impounding reservoir or artificial lake constructed or maintained by the municipality for water supply purposes and any adjacent zone of land which the municipality may acquire or control. If the leasing of portions of such adjacent zone of land will, in the discretion of the corporate authorities, aid in the protection from pollution or other injury of the impounding reservoir or artificial lake by promoting forestation, development or care of other suitable vegetation, and the improvement, care and maintenance of the premises, the corporate authorities may lease those portions of that land jointly or severally to custodians of good reputation and character for periods not to exceed 60 years, and permit those custodians to construct, maintain, use, and occupy dwelling houses and other structures thereon for such rental and on such other terms and conditions and subject to such rules and regulations and with such powers and duties as may be determined by the corporate authorities.

The corporate authorities of each municipality have the power to fix and collect from the inhabitants thereof the rent or rates for the use and benefit of water used or supplied to them by such a system of waterworks, as the corporate authorities shall deem just and expedient.

These rents or rates shall be paid and collected in such manner as the corporate authorities by ordinance shall provide. Such charges, rents, or rates are liens upon the real estate upon or for which water service is supplied whenever the charges, rents, or rates become delinquent as provided by the ordinance of the municipality fixing a delinquency date. However, the municipality has no preference over the rights of any purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the filing of the notice of such a lien in the office of the recorder of the county in which such real estate is located, or in the office of the registrar of titles of such county if the property affected is registered under "An Act concerning land titles", approved May 1, 1897, as amended. This notice shall consist of a sworn statement setting out (1) a description of such real estate sufficient for the identification thereof, (2) the amount of money due for such water service, and (3) the date when such amount became delinquent. The municipality may foreclose this lien in the same manner and with the same effect as in the foreclosure of mortgages on real estate.

(Source: P.A. 97-813, eff. 7-13-12.)

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

CITY OF CHICAGO,

Plaintiff,

v.

**CITY OF HARVEY,
VILLAGE OF HOMEWOOD, VILLAGE OF
HAZEL CREST, VILLAGE OF POSEN,
VILLAGE OF DIXMOOR, VILLAGE OF EAST
HAZEL CREST,**

Defendants.

No. 12 CH 44855

Hon. Kathleen M. Pantle

ORDER

This matter comes before the Court on Plaintiff's, City of Chicago ("Chicago"), Motion to Declare Transactions Relating to City of Harvey's Water Account "Unauthorized Transactions" under the Consent Decree and for Appointment of a Receiver as an Independent Monitor. First, Chicago seeks a declaration that certain transactions conducted by Defendant, City of Harvey ("Harvey"), are "unauthorized transactions" under a Consent Decree between the parties regarding the operation of Harvey's waterworks system. Second, Chicago requests the appointment of a receiver, at Harvey's expense, as an independent monitor to implement and enforce compliance with state law and the Consent Decree. Third, Chicago seeks an order requiring Harvey to provide real-time access to its cloud-based financial account system.

Harvey has moved to strike, or in the alternative, file a Sur-Reply to Chicago's Reply in Further Support of its Supplemental Memorandum on the grounds that the Second Supplemental Declaration of Ronald Cote contains new facts and/or conclusions to which Harvey has had no opportunity to respond.

Chicago's Motion to Declare Transaction Unauthorized and for Appointment of a Receiver is granted.

Harvey's Motion to Strike or File a Sur-Reply is denied.

Background

Since 1917, Harvey has purchased water from Chicago and resold it to its residents, its businesses, and downstream municipalities. After Harvey fell behind on its water payments to Chicago in 2012, Chicago sued Harvey in the Circuit Court of Cook County, entitled *City of Chicago v. City of Harvey, et al.*, 12 CH 44855. After the Court entered Summary Judgment against Harvey in the amount of \$26,303,339.02, the parties settled the case by Consent Decree entered on January 20, 2015 (the "Consent Decree").

The Consent Decree forgave some of Harvey's interest owed to Chicago in exchange for Harvey agreeing to certain obligations and consequences should it fail to meet its obligations. Specifically, Harvey was obligated to satisfy its outstanding water bills to Chicago in monthly instalments of \$243,919.66 and to pay its future water bills in a timely manner. (Pl.'s Mot. Ex. 1 ¶¶4,8.) In regards to any money generated by its waterworks system ("Water Revenue"), Harvey was required to deposit all Water Revenue into a segregated bank account (the "Water Fund") and to use Water Revenue only for water-related expenses while water-related expense remain unpaid. (Pl.'s Mot. Ex. 1 ¶¶5,6.) Harvey maintains the Water Fund at Fifth Third Bank along with other municipal accounts. (Pl.'s Memo p2.) The Consent Decree contains, in pertinent parts as follows:

5. Deposit of All Water Revenue into Segregated Bank Account.

Harvey agrees that on a monthly basis it will deposit... all revenue or income generated by its waterworks system ("Water Revenue"), including money Harvey earns by reselling the water provided by Chicago to residents, industry and commercial enterprises within Harvey and any customers outside of Harvey, including [Downstream Municipalities], into a specific, identified and segregated bank account ("Water Fund Account"). ...

6. Water Revenue Used First for Water-Related Expenses.

Harvey agrees that it will use Water Revenue first for statutorily-approved water-related expenses, and that it will not use any Water Revenue for non-water-related expenses, if water-related expenses remain unpaid. ...

(Pl.'s Mot. Ex. 1 ¶¶5, 6)

Furthermore, Harvey is required to provide Chicago with real-time access to Harvey's cloud based accounting system. (Pl.'s Mot. Ex. 1 ¶10.) Specifically, Paragraph 10 states:

10. Real-Time Access, and Quarterly and Annual Reports.

(a) Harvey shall continue to provide Chicago access in real time to the same cloud-based financial system..., or any successor system, for all ledger accounts to

which Chicago currently has access

(Pl.'s Mot. Ex. 1 ¶10.)

The Consent Decree also outlines procedure to help resolve any potential violations. Specifically, Chicago can send Harvey's Comptroller and Corporation Counsel a "request for clarification" detailing Harvey's alleged "unauthorized transactions," which are violations of Paragraphs 5 and 6. (Pl.'s Mot. Ex. 1 ¶12.) Harvey then must respond by either agreeing to cure the unauthorized transaction within 30 days or explain why such transactions are not unauthorized. (*Id.*) If Harvey fails to cure the unauthorized transaction or Chicago rejects Harvey's claim of legitimate transaction, then Chicago may request this Court to find the transaction unauthorized. (*Id.*) The Consent Decree contains, in pertinent parts as follows:

12. Unauthorized Transactions.

... Chicago shall have the right to send notice to Harvey via email and certified mail to its then-Comptroller and then-Corporation Counsel of a "request for Clarification" identifying any transactions from the Water Account that Chicago has a good faith belief are in violation of this Consent Decree ("Unauthorized Transactions"). An "unauthorized Transaction" is defined as a transaction from the Water Account that fails to comply with Paragraphs 5 and 6 of this Consent Decree. Such "Notice of Request for Clarification" ... shall identify the transaction(s) for which Chicago seeks clarification and Chicago's good faith basis for believing that such transaction(s) is (are) unauthorized under this Consent Decree. ... Harvey shall have fourteen (14) days to respond to such notice by either agreeing to cure the unauthorized transaction(s) within 30 days or setting forth in writing its reasons why such transaction(s) is (are) not unauthorized. In the event that Harvey fails to cure the unauthorized transaction(s) or Chicago rejects Harvey's claim of authorization for such transaction(s), then Chicago may request this Court to find the transaction(s) unauthorized and, if it so found, Harvey shall cure it (them) within seven (7) days of that finding.

(Pl.'s Mot. Ex. 1 ¶12.)

Lastly, Paragraph 34 of the Consent Decree grants this Court "jurisdiction over the Lawsuit for the purposes of interpretation, implementation and/or enforcement of the terms and conditions of this Consent Decree." (Pl.'s Mem. Ex.1 ¶34)

Though Harvey made regular installment payments for over a year, it eventually missed several at the end of 2016. (Order Jan. 20, 2017.) As a result, on January 20, 2017, this Court found Harvey in Default under the Consent Decree for its repeated failures to make its monthly installment payments to Chicago and ordered, among other things, the following: (1) it

prohibited Harvey from paying non-water-related expenses with Water Revenue while water-related expense remain unpaid; (2) it reinstated the Final Judgment against Harvey in the amount of \$21,724,070.70; (3) it ordered Fifth Third Bank to wire all money in the Water Fund to Chicago; and (4) it ordered the downstream municipalities to make all water invoice payments directly to Chicago; (the “January Order”). As a result, the Water Fund account was frozen and the downstream municipalities began to pay Chicago directly. However, Harvey continues to bill its residents and businesses and utilizes Payment Service Network Inc. (“PSN”) to collect. (Def.’s Resp. Mem. Ex. A ¶6.)

Shortly before the Court’s Order, Chicago sent Harvey a “request for clarification” on December 9, 2016 pursuant to Paragraph 12 of the Consent Decree regarding six potential unauthorized transactions. (Pl.’s Mot. Declare ¶11 and Ex. 2 p5.) The letter outlined three violations of Paragraph 5—failure to deposit \$5.98 million of Water Revenue into the Water Fund in 2015, failure to deposit \$2.75 million of Water Revenue into the Water Fund in 2016, and failure to sweep all funds from the lockbox account—and three violations under Paragraph 6—a transfer of over \$26 million of Water Revenue from the Water Fund to the General Fund, Harvey’s misuse of Water Revenue to pay non-water-related expenses, and Harvey’s fraudulent use of Water Revenue to pay for various non-city bills, such as, Kay Jewelers, Kohl’s, and credit cards. (Pl.’s Mot. Declare Ex. 2 p2-5)

Harvey did not cure the issues within 30 days and summarily rejected the alleged violations in a letter from Harvey’s Comptroller Louis Williams dated December 16, 2016 (“Harvey’s Letter”). (Pl.’s Mot. Ex.3 p1.) In the letter, Harvey directed Chicago to Harvey’s Annual Financial Reports that outlines Harvey’s deteriorating financial situation, admitted to the use of Water Revenue for non-water-related expenses, and made unsupported assertions about Water Revenue deposits. (Pl.’s Mot. Ex.3 p1.) Accordingly, on February 24, 2017, Chicago filed this Motion to Declare Transactions Relating to City of Harvey’s Water Account “Unauthorized Transactions” under the Consent Decree and for Appointment of a Receiver as an Independent Monitor (Chicago’s “Motion to Declare”), alleging misconduct regarding the Water Revenue by Harvey through its municipal officials, Mayor Eric Kellogg and Comptroller Louis Williams. (Pl.’s Mot. ¶2.) Additionally, Chicago contends Harvey has denied Chicago real-time access to its accounting system as required under the Paragraph 10 of the Consent Decree and seeks this Court order Harvey to provide such access. (Pl.’s Mot. Declare ¶¶15, 43.)

Analysis

In its initial Motion to Declare and for Appointment of a Receiver, Chicago outlined several transactions it seeks the Court to find as “unauthorized transactions” under Paragraph 12 of the Consent Decree. First, Chicago alleges Harvey has spent Water Revenue on non-water-related expenses while water expenses remain unpaid, such as, general city-wide payroll and fraudulent expenditures. (Pl.’s Mot. ¶3.) Second, Chicago alleges Harvey transferred over \$26 million of Water Revenue to the General Fund. (Pl.’s Mot. ¶¶33-34.) Third, Chicago contends Harvey failed to deposit \$5.98 million of Water Revenue in to the Water Fund in 2015 and another \$2.75 million in 2016. (Pl.’s Mot. Declare ¶4.) After receiving subpoenaed bank records from Fifth Third Bank, Chicago filed a supplemental motion in which it alleged that Harvey has failed to deposit all the Water Revenue into the Water Fund and, instead, has deposited some of the Water Revenue into a non-segregated account. (Pl.’s Mem. p.3-6.) Thus, Chicago seeks the appointment of a receiver to implement and enforce compliance with state law and the Consent Decree. (Pl.’s Mot. ¶42.)

The Court Has Jurisdiction to Appoint a Receiver

First, Harvey contends this Court does not have jurisdiction under the terms of the Consent Decree to appoint a receiver and, thus Plaintiff’s entire motion is defeated. (Def.’s Resp. to Mot. 1-5.) Specifically, Harvey contends that the Consent Decree does not explicitly provide that the Court can appoint a receiver pursuant to Paragraph 34, nor does the Consent Decree explicitly allow for the appointment of a receiver based on a finding of “unauthorized transactions” pursuant to Paragraph 12. (Def.’s Resp. to Mot. 1-3.) However, the fact that the Consent Decree does not explicitly offer an appointment of a receiver as a remedy does not adversely affect this Court’s jurisdiction to appoint one. Paragraph 34 of the Consent Decree is sufficiently broad to empower the Court to appoint a receiver even without the explicit language. (Pl.’s Mem. Ex.1 ¶34.) Moreover, this Court, as a court of equity, has the inherent power to appoint a receiver. *City of Chicago v. Concordia Evangelical Lutheran Church*, 2016 IL App (1st) 151864, ¶87.

Paragraph 34 of the Consent Decree is broad enough to grant this Court jurisdiction in regards to conflicts under it. Specifically, Paragraph 34 states:

Retention of Jurisdiction. The Court shall retain jurisdiction over the Lawsuit for the purposes of interpretation, implementation and/or enforcement of the terms and conditions of this Consent Decree.

(Pl.'s Mem. Ex.1 ¶34.)

The plain language of the Consent Decree demonstrates the parties consented to giving this Court power to interpret the Consent Decree, as well as, implement and enforce it. *Id.* Harvey acknowledges the Court possess the power to enforce: "Paragraph 34 of the Consent Decree... provides that this Court has retained jurisdiction over this lawsuit only for the limited purpose of enforcing the terms of the Consent Decree." (Def.'s Resp. to Mot. 1).

However, Harvey maintains that no provision of the Consent Decree allows the Court to designate "unauthorized transactions." (Def.'s Resp. Mot. 2.) However, the Consent Decree does in fact explicitly allow the Court to make these findings. Paragraph 12 holds that if Chicago brings violations of Paragraph 5 and 6 to Harvey's attention and Harvey fails to cure or disputes the violations, then "Chicago may request this Court to find the transaction(s) unauthorized." (Pl.'s Mem. Ex.1 ¶12.) Thus, the plain language of Paragraph 12 makes clear that upon Chicago's request, this Court can make findings of unauthorized transactions under the Consent Decree. (Pl.'s Mem. Ex.1 ¶12.) However, even if this is exact language did not exist, Paragraph 34 is sufficiently broad to permit the Court to make these findings as it gives the Court the power to interpret, implement, and enforce the terms of the Consent Decree. (Pl.'s Mem. Ex.1 ¶34.) Thus, it naturally follows that if the Court is to enforce the Consent Decree, it will have to determine if there is something that needs enforcing, i.e., make findings that Harvey is or is not complying with the terms of the Consent Decree. Since Paragraph 5 requires all Water Revenue be deposited into a segregated bank account and Paragraph 6 requires Harvey to use the Water Revenue for water-related expenses, then pursuant to Paragraph 34 the Court has the jurisdiction to determine whether Harvey is properly storing and spending Water Revenue and enforce compliance if Harvey is not. (Pl.'s Mem. Ex.1 ¶¶5, 6.) Thus, the Court is within its power under the plain language of Paragraphs 12 and 34 to make determinations of Harvey's compliance with the Consent Decree, namely whether Harvey's transactions are authorized or unauthorized by the requirements of Paragraphs 5 and 6.

Next, Harvey contends that Paragraph 34 of the Consent Decree is not specific in granting the Court authority to appoint a receiver. (Def.'s Resp. to Mot. 1-5.) However, the power to appoint a receiver is an inherent power of a court of equity. *City of Chicago v. Concordia Evangelical Lutheran Church*, 2016 IL App (1st) 151864, ¶87("The legislature

recognized the inherent power of a court of equity to appoint a receiver and from this inferentially stated that a court of equity could reasonably find the appointment of a receiver appropriate in a situation..."); *People ex rel. Fahner v. Community Hospital of Evanston*, 108 Ill. App. 3d 1051, 1059 (1st Dist. 1982)("the court shall have all ordinary powers of a court of equity to appoint a receiver"). "A court of equity has the power to appoint a receiver of a corporation when conditions of dissension, dispute, fraud or mismanagement exist which make it impossible for the corporation to carry on its business or preserve its assets..." *Duval v. Severson*, 15 Ill. App. 3d 634, 642-43 (1st Dist. 1973). "Although the appointment of a receiver is generally a harsh remedy, it is an equitable remedy used when in the sound discretion of the trial judge it is needed to insure complete justice." *Chicago v. Westphalen*, 93 Ill. App. 3d 1110, 1126 (1st Dist. 1981); *Poulakidas v. Charalidis*, 68 Ill. App. 3d 610, 613 (1st Dist. 1979)("application for the appointment of a receiver is addressed to the sound discretion of the court"). Thus, this Court has jurisdiction to review the facts of the case and issue appropriate remedies in the enforcement of the Consent Decree, which may include the appointment of a receiver.

Harvey contends that the cases Chicago relied on in its Motion do not demonstrate the Court's authority to appoint a receiver. (Def.'s Respon. to Mot. 4.) However, as demonstrated this Court, as a Court of equity, does in fact have the power to appoint. In its request for an appointment of a receiver, Chicago contends this "Court has the equitable power to enter appropriate orders to prevent and restrain future violations of state law and the Consent Decree" and cited to two Illinois cases: (1) *Cnty. Renewal Found., Inc. v. Chicago Title & Trust CO.*, 44 Ill.2d 284 (1970) and (2) *City of Chicago v. Cosmopolitan Nat'l Bank of Chicago*, 77 Ill.App.3d 212 (1st Dist. 1979). (Pl.'s Mot. ¶29.) Additionally, Chicago pointed to three persuasive federal cases: (1) *Local 28 of Sheet Metal Worker's Int'l Ass'n v. EEOC*, 478 US. 421, 481-82 (1986) where the United States Supreme Court approved the appointment of an administrator to supervise compliance with a court order "in light of the difficulties inherent in monitoring compliance with the court's orders, and especially petitioners' established record of resistance to prior state and federal court orders"; (2) *National Organization for Reform of Marijuana Laws v. Mullen*, 828 F.2d 536, 544 (9th Cir. 1987) where the appellate court upheld the appointment of a master to monitor implementation of the civil rights decree; and (3) *United States v. Microsoft Corp.*, 147 F.3d 935, 954 (D.C. Cir. 1998) where the federal court notes the "well-established tradition allowing use of special masters to oversee compliance." (Pl.'s Mot. ¶30.)

Harvey argues the Illinois holdings are narrow and only demonstrate the Court's ability to appoint a receiver to preserve and restore residential property, and since Chicago is not attempting to enforce a building code in this matter, the Court does not have the power to appoint a receiver here. (Def.'s Respon. to Mot. 4.) Additionally, Harvey attacks the federal cases alleging that receivers were appointed to enforce compliance with the federal courts' orders, not an agreement between the parties, leaving this Court without the power to appoint a receiver here. (Def.'s Respon. to Mot. 4.) However, as discussed above, it is within the inherent power of a court of equity to appoint a receiver and it may do so for a variety of reasons, such as, to enforce building codes (*Cmty. Renewal Found., Inc.*, 44 Ill.2d 284), to prevent dissension, dispute, fraud or mismanagement exist which make it impossible for a corporation to carry on its business or preserve its assets (*Duval*, 15 Ill. App. 3d 634, 642-43), or to allow a mortgagee possession (*Bank of Am., N.A. v. 108 N. State Retail LLC*, 401 Ill. App. 3d 158, 165 (1st Dist. 2010)). Thus, if this Court finds the facts of the case merit a receiver in order to carry out justice and prevent violations of Illinois law and the Consent Decree, it may do so.

Harvey Has Committed Unauthorized Transactions Under the Consent Decree Rendering the Appointment of a Receiver Appropriate

Pursuant to Paragraph 12 of the Consent Decree, the Court may determine whether Harvey violated Paragraphs 5 and 6 and make a finding of "unauthorized transaction." (Pl.'s Mot. Ex. 1 ¶12.) Harvey has alleged several violations under each paragraph and the Court addresses each potential unauthorized transaction.

Non-Water-Related Spending

Chicago alleges that Harvey has used Water Revenue for non-water-related expenses in violation of Paragraph 6, including fraudulent transactions and various non-water-related city spending. (Pl.'s Mot. ¶3.) Harvey is required to use the Water Revenue for water-related expenses by Illinois law, the Consent Decree, and this Court's January Order. Under Illinois law, Harvey may only use Water Revenue for water-related expenses, unless all water-related expenses are satisfied:

All the income received by a municipality from such a system of waterworks, from the payment and collection of water rents or rates, shall be kept in a separate fund and shall be applied first in the payment and discharge of the principal of and the interest on bonds or money borrowed and used in the construction of the waterworks and of the operating expenses thereof. Any surplus may be applied in such manner as the corporate authorities may direct.

65 ILCS 5/11-126-6 (emphasis added.)

Additionally, Paragraph 6 of the Consent Decree requires Harvey to “use Water Revenue first for statutorily-approved water-related expenses, and that it will not use any Water Revenue for non-water-related expenses, if water-related expenses remain unpaid...” (Pl.’s Mot. Ex. 1 ¶6.) Lastly, the Court’s January Order specifically prohibited Harvey “from paying non-water-related expenses with Water Revenue while water-related expenses remain unpaid.” (Order Jan. 20, 2017 p9.) Indeed, Harvey is obligated only to use the Water Revenue on water-related expenses, as currently water expenses remain unpaid. Essentially, there are three categories of water-related expenses: (1) current purchases of water from Chicago; (2) settlement payments to Chicago; and (3) water-related expenses for the running of the utility, including billing and collections as well as maintenance and repairs. (Pl.’s Mot. Ex. 7 ¶22).

First, Chicago alleges fraudulent payments were made from the Water Fund to pay bills to Kay Jewelers, Kohl’s Department Store, and a Capital One credit card, and to make a contribution to a 529 college fund account. (Pl.’s Mot. ¶3.) In its December 16, 2016 Letter, Harvey not only admitted to the fraud and mis-use of water funds, but also expressed indignation at Chicago’s concern:

The amounts you noted as the City paying non-related expenses from water account are an insult. The thought that the City would pay Kay Jewelers, Kohl’s Department Store and other such bills out of City funds, indicates that your impression of the City is that we condone fraudulent activities, and nothing can be further from the truth. We are surprised that this was reduced to writing without looking at the bank statements in detail, whereby it would have been noted that these fraudulent activities were reimbursed to the City. We know that we are not the only governmental entity, business or individual that has had fraudulent activity posted to its checking account.

(Pl.’s Mot. Ex. 3 p2.)

Instead of providing more information regarding the admitted fraudulent transactions and steps that Harvey intends to take to prevent such fraudulent transactions in the future, Harvey excuses the problem by essentially saying “it happens to everyone.” *Id.* Moreover, Harvey failed to address the fraudulent payments in both its Response to Chicago’s Motion to Appoint a Receiver and in its Response to Chicago’s Supplemental Memo. (Def.’s Resp. Mot. 5-6 and Def.’s Resp. Supplemental Mem. 7-8.) Thus, it is undisputed that fraudulent payments were

made with Water Revenue. Accordingly, this Court finds the fraudulent payments made from the Water Fund are a direct violation of Paragraph 6 and thus are “unauthorized transactions” pursuant to Paragraph 12 of the Consent Decree.

Second, Chicago alleges that Harvey has used Water Revenue to pay non-water-related expenses, such as general city payroll. (Pl.’s Mot. ¶3.) First, Harvey’s December 16, 2016 Letter did not deny that it used Water Revenue for non-water-related expenses, but simply referred Chicago to its annual report: “Our simple response to your assertions is for you to review pages 14-17 of the City’s Annual Financial Reports for April 30, 2015 and 2016.” (Pl.’s Mot. Declare Ex. 3 p1.) The pages cited by Harvey represent a chart, entitled “Statement of Net Position-Propriety Funds” for the Water Revenue found in “City of Harvey, Illinois Annual Financial Report for the Fiscal Year Ended April 30, 2016” (“2016 Annual Report”) that was prepared by an independent auditor. (Pl.’s Mot. Ex5 p.14-17, 42.) However, in “Harvey’s Management Letter for the Fiscal Year Ended April 30, 2016” that accompanied the 2016 Annual Report, Harvey admits to using the Water Fund to meet the city’s budgetary shortfalls:

Previously during our current year-end audit procedures, we noted the City’s financial condition has continued to deteriorate from the prior year. We noted that the expenditures out of the General Fund have been causing the City to borrow from its other funds, including the TIF Funds and the Water Fund, in order to meet its obligations.

(Pl.’s Mot. Ex. 4 ¶27.)

By Harvey’s own admission, it has been “borrowing” Water Revenue in the Water Fund to satisfy other non-water-related city expenses. *Id.* Moreover, Harvey did not deny or even address its use of the Water Revenue for these non-water expenses in either its Response to Chicago’s Motion to Appoint Receiver or in its Response to Chicago’s Supplemental Memo. (Def.’s Resp. Mot. 5-6 and Def.’s Resp. Supplemental Mem. 7-8.) Thus, it is undisputed that Harvey has used Water Revenue to pay non-water-related expenses. Accordingly, this Court finds the use of Water Revenue to pay non-water-related expenses while water expenses remain unpaid to be a direct violation of Paragraph 6 and thus are “unauthorized transactions” pursuant to Paragraph 12 of the Consent Decree.

Further, both unauthorized transactions regarding the improper use of the Water Revenue make an appointment of a receiver appropriate. First, the occurrence of the fraudulent payments and Harvey’s cavalier attitude towards them support the need for a receiver. To this date, Harvey

has failed to provide any information as to how much money was taken, who took the money, what, if any investigative steps were taken, what potential discipline or criminal charges were pursued, how much was reimbursed and by whom, or what measures were implemented to prevent such further fraud. Instead of taking any proactive measures, Harvey simply deflects responsibility. (Pl.'s Mot. Ex. 3 p2.) The fact that Harvey has allowed fraudulent transactions to occur and its poor attitude in the addressing the issue make a receiver necessary.

Second, Harvey has a demonstrated history of failing to properly use the Water Revenue for water-related expenses. First, Harvey fell so far behind in paying its water bills to Chicago that Chicago had to sue Harvey in 2012. After a judgment was entered against it, Harvey signed the Consent Decree in which it agreed to use Water Revenue to pay water-related expenses, specifically paying its past water bills and staying current on its new ones. Next, Harvey failed to meet its obligations under the Consent Decree and the Court once again ordered Harvey to use Water Revenue only for water-related expenses. (Order of Jan. 20, 2017, p9) However, Harvey has now failed to follow this Court's Order. Further, Harvey failed to cure the unauthorized transactions of the Water Revenue after receiving Chicago's Request for Clarification as is required by the Consent Decree, forcing Chicago to bring this motion. (Pl.'s Mot. Ex. 1 ¶12.) In conclusion, Harvey has failed to follow Illinois law, failed to follow its own Consent Decree, failed to follow this Court's Order, and failed to cure the unauthorized transactions outlined in Chicago's Letter. Harvey cannot be trusted to only spend Water Revenue on water-related expenses.

Accordingly, the occurrence of multiple fraudulent payments, Harvey's cavalier attitude towards these instances, and its demonstrated history of misusing Water Revenue not only make a receiver appointment appropriate, but necessary to ensure that Harvey follows the law, the Consent Decree, and this Court orders.

Deposit Failures

In its original motion, Chicago contends that Harvey failed to deposit all Water Revenue into the Water Fund, specifically \$5.98 million in 2015 and \$2.75 million from January-August, 2016. (Pl.'s Mot. ¶4.) Once it received bank records from Fifth Third Bank, Chicago filed a supplemental memo to further allege that Water Revenue collected from Harvey's residents and businesses was also not deposited into the segregated account after the January Order was entered 2017. (Pl.'s Mem. p.3.) Harvey is required to deposit all Water Revenue into a

segregated account, the Water Fund, by Illinois law and the Consent Decree. Under Illinois law, all the income received by Harvey “from the payment and collection of water rents or rates, shall be kept in a separate fund.” 65 ILCS 5/11-126-6. (emphasis added.) Additionally, Paragraph 5 of the Consent Decree requires Harvey to deposit “all revenue or income generated by its waterworks system (“Water Revenue”), including money Harvey earns by reselling the water provided by Chicago to residents, industry and commercial enterprises within Harvey and any customers outside of Harvey, including [Downstream Municipalities], into a specific, identified and segregated bank account.” (Pl.’s Mot. Ex.1 ¶5.) Harvey, by law and through its own agreement, is obligated to deposit all Water Revenue into the water fund.

First, Chicago contends Harvey failed to deposit all Water Revenue into the Water Fund since the January 2017 Order was entered and attached the subpoenaed Fifth Third Bank statements to support its claim. (Pl.’s Mem. ¶3 and Ex. A-B.) The Water Fund statements show deposits from Payment Service Network Inc. (“PSN”), which Harvey utilizes to collect water bill payments from its residents and businesses. (Def.’s Resp. Mem. Ex. A ¶6.) From September, 2016 through January, 2017, the Fifth Third Bank Water Fund statements show there were approximately 30 PSN deposits into the Water Fund each month. (Pl.’s Mem. Ex. A.) However, after the January 2017 Order was entered and the Water Fund account was frozen—meaning Harvey would no longer have the ability to withdraw funds from it—the deposits began to drastically decline. (Pl.’s Mem. Ex. A.) In February, 2017, only 10 PSN deposits were made and in March, 2017 zero PSN deposits were made into the Water Fund. (Pl.’s Mem. Ex. A.) Accordingly, the Fifth Third Bank statements for the Water Fund from September, 2016 through March, 2017 show the decline in total funds and PSN deposits:

| Month | Total Deposits into the Water Fund | Number of PSN deposits into the Water fund |
|-----------------|------------------------------------|--|
| September, 2016 | \$1,653,719.48 | 30 |
| October, 2016 | \$1,531,837.98 | 31 |
| November, 2016 | \$887,043.91 | 30 |
| December, 2016 | \$662,920.08 | 29 |
| January, 2017 | \$947,107.63 | 31 |
| February, 2017 | \$51,757.77 | 10 |
| March, 2017 | \$14,813.62 | 0 |

(Chart created by Court based on data in Pl.’s Mem. Ex. A.)

While the PSN deposits into the Water Fund ground to a halt, PSN deposits began and increased in another Harvey account at Fifth Third Bank, the "City of Harvey Pooled Disbursement" ("Pooled Account"). (Pl.'s Mem. Ex. B.) In February, 2017, there were 18 PSN deposits made into the Pooled Account and over 30 PSN deposits in March, 2017. (Pl.'s Mem. Ex. B.)

Harvey does not deny that Water Revenue collected through PSN is now being deposited into the Pooled Account. (Def.'s Resp. Mem. Ex. A ¶15.) In fact, Harvey admits that Water Revenue is going into the Pooled Account, but contends it is still being used for water-related expenses:

It is my understanding that the City of Chicago claims that the Pooled Disbursement Account that receives water related funds is not being used for the operation of the Water System. ... However, all water related funds are exclusively being utilized for the operation of the Water System. Those water related funds are utilized to pay employees, maintain the pumping stations and pay for utility service for those pumping stations.

(Def.'s Resp. Mem. Ex. A ¶15.)

Not only does Harvey admit to putting Water Revenue in a Pooled Account, it dismisses its actions as a problem and complains that since the Water Fund account was frozen in January, 2017 it needs the money in another account so that it can make payroll and other expenses. (*Id.*) However, this is not the law, nor what Harvey agreed to in the Consent Decree. Harvey is not required to place some of the Water Revenue in the Water Fund, nor may Harvey deposit Water Revenue in other accounts if Harvey thinks it needs to do so. Harvey must place all Water Revenue into the Water Fund and any failure to do so is a violation of Paragraph 5 of the Consent Decree.

Harvey contends that the decrease in Water Revenue can be explained. As Comptroller Williams explained in his declaration, Harvey invoices approximately \$700,000 a month from its residents and businesses and receives payment only on about 80% of the bills, which explains the lower deposits. (Def.'s Resp. Mem. Ex. A ¶12.) Even taking Comptroller Williams at his word, if only 80% of \$700,000 was actually paid to Harvey, then Harvey receives \$560,000 of Water Revenue a month. However, only \$51,757.77 was deposited into the Water Fund account in February, 2017 and only \$14,813.62 was deposited in March, 2017. (Pl.'s Mem. Ex. A.) By Harvey's own Comptroller's estimation, over a million dollars of Water Revenue was not deposited into the Water Fund in March and February of 2017 and is still unaccounted for. The

Court finds this to be another admission by Harvey that it is failing to deposit all Water Revenue into the Water Fund account.

Harvey also tries to explain that the low balances in the Water Fund in March and February are the result of the Downstream Municipalities making payment to Chicago. (Def.'s Resp. Mem. p5.) While this would certainly cause a decrease in the balance of the Water Fund, it offers no explanation as to why the Water Revenue being collected from Harvey residents and businesses through PNS is no longer being deposited into the Water Fund, but being deposited into the Pooled Fund. It also does not explain where the estimated \$560,000 of Water Revenue collected each month went in February and March of 2017. Thus, this argument too fails.

In conclusion, the Fifth Third Bank statements for the Water Fund and the Pooled Account demonstrate that in February and March of 2017 Harvey deposited Water Revenue into a non-segregated account; Harvey admitted to depositing Water Revenue into the non-segregated account; Harvey admitted to its failure to deposit hundreds of thousands if not a million dollars of Water Revenue into the Water Fund; and Harvey has failed to provide an accounting of where that money went. Thus, it is not disputed that all the Water Revenue did not go into the Water Fund in February and March of 2017. Accordingly, this Court finds Harvey's failure to deposit all Water Revenue into a segregated account, the Water Fund, is a direct violation of Paragraph 5 and thus is "unauthorized transactions" pursuant to Paragraph 12 of the Consent Decree.

Second, Chicago contends that Harvey failed to deposit all Water Revenue into the Water Fund in 2015 and 2016, specifically \$5.98 million in 2015 and \$2.75 million from January-August, 2016. (Pl.'s Mot. ¶4.) Chicago hired a forensic accountant, Ronald Cote, to perform a financial analysis of Harvey's Water Revenue collection and deposits. (Pl.'s Mot. 7 ¶¶2-3.) In a sworn declaration, Cote concluded that "during the calendar year 2015, the Utility Billing System sub-ledger in the ACS System recorded \$5.98 million more in payments having been received by Water Fund than was deposited into the Water Fund Account, as shown in the Water Fund Account bank statements." (Pl.'s Mot. 7 ¶18.) Thus, Cote concluded this indicates that Harvey did not deposit \$5.98 million of Water Revenue into the Water Fund and it is unknown where the money went. (Pl.'s Mot. 7 ¶18.) To support his conclusion, Cote included a table that depicted the cash received through the utility billing service from each month in 2015 compared to the cash deposited into the Water Fund in each respective month. (Pl.'s Mot. 7 ¶18.) After calculating the difference from the cash received and the cash deposited for each month, the total

of non-deposited Water Revenue from 2015 equaled \$5.98 million. (Pl.'s Mot. 7 ¶18.) Cote conducted the same analysis for the first six months of 2016 and provided another table that depicted the cash received through the utility billing service and the cash deposited into the Water Fund. (Pl.'s Mot. 7 ¶19.) Cote concluded that from January to August 2016, the utility billing system sub-ledger in the ACS system records \$2.75 million more in cash received than was deposited into the Water Fund. (Pl.'s Mot. 7 ¶19.) Again, it is unknown where the money has gone. (Pl.'s Mot. 7 ¶19.)

In response to the allegation of over \$8 million of unaccounted Water Revenue, Harvey is wholly silent. First, Harvey's Letter never addressed the missing \$5.98 million from 2015 or \$2.75 million from 2016. (Pl.'s Mot. Ex 3.) Pursuant to Paragraph 12, if Chicago seeks clarification for a possible violation of the Consent Decree, Harvey is required to cure the violation or offer an explanation as to why it is not a violation. (Pl.'s Mot. Ex 1 ¶12.) As Harvey did not produce the missing money, nor offer an explanation, it again violated the Consent Decree. Next, Harvey's Response to Chicago's Motion also failed to acknowledge or explain the missing Water Revenue from 2015 and 2016. (Def.'s Resp. Mot. p5-6.) Moreover, Harvey's Response to Chicago's Supplemental Memo also failed to offer an explanation for the discrepancies between the 2015 and 2016 utility billing services sub-ledger cash and the cash deposited into the Water Fund. (Def.'s Resp. Memo.)

Harvey does attempt to offer an explanation as to why the "pre-November 2016 amounts are inflated," noting transfers from the General Fund. (Def.'s Resp. Mem. p5.) However, that is only a potential explanation for why the Water Fund balances were higher a year ago; it is not an explanation for why there are such drastic discrepancies between the utility billing services sub-ledger cash and the Water Fund deposits in 2015 and 2016. Further, in Harvey's Response to Chicago's Supplemental Memo, Harvey complains that Cote "could not possibly reach any conclusion with a reasonable degree of accounting certainty" because he has failed to analyze the account records and ledgers of Harvey. (Def.'s Resp. Mem. 5.) First, if Chicago is missing any records it is because Harvey has failed to provide them and is in further violation of the Consent Decree. Moreover, if there are records that Harvey has failed to provide to Chicago but that do offer an explanation for the \$8 million discrepancies between the utility billing services sub-ledger cash and the Water Fund deposits in 2015 and 2016, then Harvey should be able to offer a sound explanation with the supporting records to this Court. However, Harvey has not.

Thus, based on Cote's sworn declaration, the supported data from ACS, and Harvey's lack of an alternate accounting of the funds, Harvey has failed to deposit over \$8 million of Water Revenue into the Water fund from January, 2015 through August, 2016. (Pl.'s Mot. 7 ¶¶2-3.) Accordingly, this Court finds Harvey's failure to deposit all Revenue into a segregated account, the Water Fund, in 2015-16 to be a direct violation of Paragraph 5 and thus is "unauthorized transactions" pursuant to Paragraph 12 of the Consent Decree.

Further, the unauthorized transactions of failing to deposit all Water Revenue into the Water Fund in 2015, 2016, and 2017 and Harvey's flippant attitude towards these failures make an appointment of a receiver appropriate. First, Harvey cannot be trusted to make the deposits because despite the law, Consent Decree, and the January Order, Harvey deposits only some of the Water Revenue into the Water Fund, some of the money is comingled, and some of it disappears. Second, Illinois law, Consent Decrees, and Court orders have had no effect on Harvey, showing that a receiver is now the appropriate next step. Third, Harvey's dismissive attitude demonstrates its failure to take the inaccurate deposits seriously. Instead of offering a proper explanation for the missing funds or bringing the deposits into compliance, it instead makes unsupported claims it is following the law or makes excuses about Harvey's struggling financial situation. Lastly, Harvey's lack of transparency and refusal to provide an accounting of the Water Revenue make a receiver necessary to ensure Water Revenue is deposited properly. In order to get the information it needed to bring this motion, Chicago had to subpoena Fifth Third Bank because Harvey would not provide them. (Pl.'s Memo. p2.) In conclusion, Harvey has failed to follow Illinois law, failed to follow its own Consent Decree, failed to follow this Court's Order, failed to offer an accounting of where the missing Water Revenue is, and failed to grasp the severity of their years of illegal conduct.

Harvey opposes the appointment of a receiver arguing that because all the downstream municipalities pay Chicago directly there is nothing for a receiver to monitor. (Def.'s Resp. Mot. 5.) This is simply untrue. While the receiver may not be needed to monitor the Water Revenue generated from the downstream municipalities, it is clear a receiver is needed to monitor the revenue generated from the residents and businesses of Harvey.

Harvey also argues that it cannot afford a receiver because it is already paying someone to manage the Water Revenue and the Fund (*i.e.* Williams). (Def.'s Resp. Mem. p.2.) However, Harvey has been paying Williams (or his firm) \$19,000.00 per month for part-time work as

Comptroller. (Williams Dep. p73). The money that is presently being used to pay Williams can be used to pay the receiver. More importantly, the evidence establishes that Williams either is unwilling or unable to handle water revenue in a manner consistent with Harvey's legal obligations as detailed above. Thus, it is imperative that the money Harvey presently expends to pay Williams, who cannot or will not force Harvey to comply with its obligations, be used to pay an independent receiver who will insure compliance with the law.

Accordingly, Harvey's failure to deposit all of the Water Revenue into the Water Fund in 2015, 2016, and 2017 and Harvey's dismissive attitude towards these failures make an appointment of a receiver not only appropriate, but necessary to ensure that Harvey follows the law, the Consent Decree, and this Court's orders.

Inter-fund Transfer

Chicago contends that Harvey has transferred over \$26 million dollars from the Water fund to Harvey's General Fund. (Pl.'s Mot. ¶¶33-34.) As discussed, Harvey is required to use the Water Revenue only for water-related expenses by Illinois law (65 ILCS 5/11-126-6), the Consent Decree 65 ILCS 5/11-126-6, and this Court's January Order (Order Jan. 20, 2017 p9.) However, the 2016 Annual Report, which was prepared by an independent auditor, shows a transfer from the Water Fund to Harvey's "General Fund" in the amount of \$26,459,559. (Pl.'s Mot. Ex5, p42.) Additionally, "Harvey's Management Letter for the Fiscal Year Ended April 30, 2016" that accompanied the 2016 Annual Report, Harvey admits to using the Water Fund to meet the city's budgetary shortfalls: "...the expenditures out of the General Fund have been causing the City to borrow from its other funds, including ... the Water Fund, in order to meet its obligations." (Pl.'s Mot. Ex. 4 ¶27.)

Again, Harvey offers no explanation. First, Harvey's Letter never explained why the 2016 Annual Report shows a transfer from the Water Fund of \$26,559,807 to the General Fund. (Pl.'s Mot. Ex 3.) Next, Harvey's Response to Chicago's Motion also failed to acknowledge or explain the transfer. (Def.'s Resp. Mot. p5-6.) Moreover, Harvey's Response to Chicago's Supplemental Memo also failed to offer an explanation. (Def.'s Resp. Memo.) At no point has Harvey provided an explanation as to when these funds were transferred, how the funds will be paid back and on what timeline. Thus, based on Harvey's admission in the 2016 Annual Report and Harvey's complete lack of explanation, it is undisputed that Harvey has used Water Revenue to pay non-water-related expenses. Accordingly, this Court finds the use of Water Revenue to

pay non-water-related expenses while water expenses remain unpaid to be a direct violation of Paragraph 6 and thus are “unauthorized transactions” pursuant to Paragraph 12 of the Consent Decree.

Further, the unauthorized transaction regarding the improper use of the Water Revenue and Harvey’s total silence make an appointment of a receiver appropriate. First, the fact that such a massive amount of Water Revenue, \$26 million, has not been used for water-related expenses while Harvey has many unpaid water expenses, such as the outstanding Judgment to Chicago, outstanding water bills, and water management expenses, is egregious. Further, the fact that Harvey has provided no accounting to track the amount of Water Revenue taken, nor a plan to ensure the money is paid back indicates that at best Harvey is disorganized, but at worst Harvey does not intend to pay the Water Fund back. Moreover, it demonstrates a full disregard of the law, the Consent Decree, and this Court’s orders. Accordingly, a receiver is necessary to ascertain exactly how much water revenue has been transferred out of the water account, to create a plan for its repayment, and to assure that any Water Revenue Harvey collects from its residents is deposited and remains in the Water Fund.

Harvey Has Violated Paragraph 10 of the Consent Decree and Is Ordered to Provide Harvey with Uninterrupted Real-time Access

Chicago contends that Harvey has failed to provide real-time access to Harvey’s cloud-based financial system. On June 9, 2017, this Court ordered that Harvey is to provide Chicago with immediate and ongoing real-time access to Harvey’s ACS System and quarterly and annual reports as required by section 10 of the Consent Decree and copies of its Water Fund bank statements as required by section 5 of the Consent Decree. These rulings stand.

Harvey’s Motion to Strike or File a Sur-Reply

As stated above, Harvey contends that the Second Supplemental Declaration of Ronald Cote contains new facts and/or conclusions to which Harvey has not had the opportunity to respond. Accordingly, Harvey has moved to strike the Reply Brief or file a Sur-Reply. In this ruling, the Court has not relied on any information contained solely in the Second Supplemental Declaration of Ronald Cote and therefore Harvey’s motion is denied as moot.

Conclusion

The importance of appointing a receiver to monitor what is happening in Harvey cannot be understated. The people who live in the downstream municipalities and the City of Harvey

depend on Harvey's water system for their supply of clean, potable water. The water system must be maintained and funds are needed to properly maintain that system. It is undisputed that Harvey's water fund finances are in disarray, and are being unlawfully raided by Harvey's government to pay for non-water related expenses. Harvey has not presented the Court with any evidence that it has policies and procedures in place to halt unauthorized expenses, including payments on personal accounts. Chicago phrases the danger best: "lack of funds means lack of maintenance, lack of service, and, in the end, the real danger of interruption of the supply of clean drinking water to the thousands of people who depend on Harvey to deliver it." (Reply p6). The Court wholeheartedly agrees. The appointment of a receiver is necessary and imperative to protect the water supply for the people who depend on Harvey's water system.

Chicago's Motion to Declare Transactions Relating to City of Harvey's Water Account "unauthorized Transactions" under the Consent Decree and for Appointment of a Receiver as an Independent Monitor is granted.

The fraudulent payments made from the Water Fund are a violation of Paragraph 6 of the Consent Decree and are found to be unauthorized transactions pursuant to Paragraph 12.

The use of Water Revenue to pay Harvey's non-water-related expenses is a violation of Paragraph 6 of the Consent Decree and is found to be unauthorized transactions pursuant to Paragraph 12.

Harvey's failure to deposit all Water Revenue into the Water Fund in February and March, 2017 is a direct violation of Paragraph 5 and thus is found to be an unauthorized transaction pursuant to Paragraph 12 of the Consent Decree.

Harvey's failure to deposit over \$8 million of Water Revenue into the Water Fund in 2015-16 is a direct violation of Paragraph 5 and is found to be an unauthorized transaction pursuant to Paragraph 12 of the Consent Decree.

Harvey's transfer of \$26 million of Water Revenue to the General Fund to pay non-water-related expense is a direct violation of Paragraph 6 and is found to be an unauthorized transaction pursuant to Paragraph 12 of the Consent Decree.

A Receiver as an independent monitor is appointed at Harvey's Expense.

Harvey is to provide Chicago real-time access to Harvey's cloud-based financial system (formally called the ACS System which shall include Utility Billing System, the Accounts Payable System, the Government Financial System and the ~~Cash Register System~~ or any successor system.

DATE: July 19, 2017

ENTERED
JUDGE KATHLEEN M. PANTLE-1775
JUL 19 2017
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Judge Kathleen M. Pantle

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

City of Chicago,

Plaintiff,

v.

City of Harvey, Village of Homewood, Village
of Hazel Crest, Village of Posen, Village of
Dixmoor, Village of East Hazel Crest,

Defendants.

No. 12 CH 44855

Hon. Kathleen M. Pantle

ORDER APPOINTING RECEIVER

This action is before the Court on the Motion of the Plaintiff, City of Chicago (“Chicago”), to Declare Transactions Relating to City of Harvey’s Water Account “Unauthorized Transactions” under the Consent Decree and for Appointment of a Receiver as an Independent Monitor (the “Motion”). By a previous Order dated July 19, 2017, this Court has granted the Motion (the “General Relief Order”). By this Order the Court is appointing the receiver proposed by Chicago in the Motion, and setting forth (i) such receiver’s powers, duties, rights and responsibilities, and (ii) the additional obligations and duties of the City of Harvey (“Harvey”) and other third parties as are necessary to enable such receiver to perform his duties hereunder. All of the findings, conclusions, analysis and orders in the General Relief Order are hereby incorporated herein by reference in their entirety as if expressly stated herein.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. Appointment of Receiver and General Powers; Third Party Cooperation.

1.1 Robert P. Handler, Esq. of Commercial Recovery Associates, LLC (“Receiver”), whose address is 205 West Wacker, Suite 1818, Chicago, IL 60606, is hereby appointed

Receiver of the following property, wherever located, whether now existing or hereafter coming into existence: (i) all monies generated by Harvey's waterworks system at any time, wherever such monies are located and however they are held ("Water Revenue"), including all Water Revenue located in or required to be deposited in a segregated bank account under applicable law or any order of this Court at any time (the "Water Fund" and the funds therein the "Water Funds") and all Water Funds and Water Revenue located in any Harvey accounts which have been commingled with other funds, (ii) all bank accounts or other accounts containing any Water Revenue or Water Funds at any time, (iii) except as modified below, all books, records and other recorded information (including all electronic information) of the Harvey Water Department (the "Water Department") or of Harvey that evidences or relates to the origination or disposition of Water Revenue or the Water Funds, (iv) all financial assets of the Water Department, (v) all claims and causes of action to recover any illegal, unauthorized or fraudulent transfers of all or any portion of the Water Revenue or the Water Fund, regardless of when such transfers have occurred and including any such transfers as may occur after the Effective Date (as defined below), including without limitation any and all unauthorized transfers referenced in the Motion or the General Relief Order, (vi) any and all other property ordered by the Court to be under the exclusive authority and control of the Receiver at any time after the Effective Date, and (vii) all documents and records related to any of the foregoing, and any and all proceeds of any of the foregoing (collectively, the "Receivership Property"). The appointment of the Receiver, and all of his rights, duties and powers set forth herein, shall be effective as of the later of the date (a) this Order is entered and (b) this Court approves any bond the Court may require of the Receiver in this case (the "Effective Date"); provided however that, if the Court waives any such bond, then the Effective Date shall be the date set forth in Section 8.1 hereof.

1.2 The Receivership Property shall be under the exclusive authority and control of the Receiver as of the Effective Date until the Receiver is discharged.

1.3 As of the Effective Date, the Receiver (i) is authorized to direct and take immediate possession and full control of all Receivership Property with the powers set forth herein, and (ii) shall have access to all of Harvey's bank accounts, records (including electronic and hard copies), financial assets and financial information for purposes of enabling the Receiver to identify and protect any and all Receivership Property, including without limitation all bank accounts of Harvey in which any Water Funds have been commingled with any other monies or funds. If Receivership Property is commingled with any other property of Harvey at any time, the portion of such other property constituting or attributable to Receivership Property shall be and remain Receivership Property under the exclusive authority and control of the Receiver notwithstanding such commingling, and Harvey shall separate such Receivership Property from all such other property and remit it to the Receiver immediately upon learning or being notified of any such commingling.

1.4 Except as (i) otherwise ordered by this Court or authorized herein, (ii) expressly permitted by the Receiver in writing or (iii) as may be necessary to enable the Water Department to operate the Harvey water system in the ordinary course in compliance with Illinois law or contracts by which Harvey is bound, all persons and entities (other than the Receiver) are hereby enjoined and restrained from (a) directly or indirectly transferring or liquidating or receiving any Receivership Property, including any Water Revenue or any of the Water Funds, (b) seeking to obtain control of any Receivership Property, or (c) interfering, directly or indirectly, with any action taken by the Receiver in performance or furtherance of his duties or otherwise harassing the Receiver, directly or indirectly, in any manner.

1.5 The Receiver is hereby authorized and empowered to take all actions and exercise all such powers, and to direct the Water Department and Harvey to take all such actions, as the Receiver deems necessary to require, cause or enable the Water Department or Harvey to perform and fulfill Harvey's and the Water Department's obligations under (i) that certain Consent Decree between Chicago and Harvey dated (and approved by this Court on) January 20, 2015 (the "Consent Decree"), (ii) the General Relief Order or this Order, (iii) Illinois law as it relates to the collection or use of water revenue by municipalities, or (iv) any other order of this Court entered at any time (collectively, items 1.3(i) through 1.3(iv) being hereinafter referred to as the "Legal Requirements"). In addition, the Receiver shall have all powers, rights, privileges and authority available to receivers in equity, at common law or under Illinois law.

1.6 Without limiting the generality of the foregoing general powers of the Receiver, the Receiver is authorized, and empowered, without further Court order, immediately:

- (a) to have access to and take control of the Water Revenue and the Water Fund and all other financial assets under the possession, custody or control of the Water Department, and all choses in action, claims, books, records, papers, information, documents (whether written or electronic or in any other form) related thereto, with full power to (i) monitor and approve each transaction, disbursement or receipt of funds, or any other disposition relating to the Water Funds or the Water Revenue, and (ii) take such steps as he deems necessary to ensure the Water Department's and Harvey's compliance with the Legal Requirements;
- (b) to have access to all of Harvey's bank accounts, records (including electronic, cloud-based and hard copies), financial assets, financial information and accounting systems, wherever located and however held, for purposes of enabling the Receiver to identify, recover, separate and protect any and all Receivership Property, including without limitation all bank accounts of Harvey in which any Water Funds have been commingled with any other monies or funds at any time;
- (c) to have access to all of Harvey's and the Water Department's historical records, including without limitation all of their financial and bank records (including without limitation all bank records of Harvey or the Water Department under the possession, custody or control of 5th/3rd Bank or any other financial institution having such records), within date ranges determined by the Receiver and to the extent the Receiver

determines is necessary in order to (i) identify, rectify and/or recover any unlawful, fraudulent or unauthorized transactions or transfers that have occurred at any time or are ongoing, or (ii) enable the Receiver to perform any of his obligations or duties hereunder;

- (d) to have access to all of Harvey's property of whatever type or nature, whether real or personal, wherever located, (i) to the extent the Receiver determines such access is necessary to enable the Receiver to perform his duties and responsibilities hereunder, or (ii) for purposes of enabling the Receiver to take an inventory or prepare an accounting of, or verify any other inventory or accounting of, any or all of such property;
- (e) to direct that any or all of Harvey's records (in whatever form, including print or electronic) for any department, wherever located, be preserved, to the extent the Receiver determines that such preservation is necessary to enable the Receiver to fulfill his duties and responsibilities hereunder;
- (f) to, in the Receiver's discretion, establish and implement separate and independent procedures for (i) billing water customers, including to the extent necessary to eliminate or reduce the risk of commingling of Water Revenue or Water Funds with other funds, (ii) permitting persons or entities serviced by the Water Department to pay cash for their water bills and (iii) collecting Water Revenue and other payments from customers that may include payments due to the Water Fund, and to apply such payments to such customers' obligations to the Water Fund in the Receiver's judgment;
- (g) to, in the Receiver's discretion, (i) direct the Water Department to (a) terminate water service to customers of the Water Department that have not cured payment defaults or delinquencies, and (b) restore service to customers that have cured such defaults or delinquencies in the judgment of the Receiver, or who are otherwise entitled to water service in the judgment of the Receiver, and (ii) seek an order of the Court compelling the Water Department to terminate or restore service to such particular customers (as applicable), as determined by the Receiver;
- (h) to have control of, and be the sole authorized signatory for, all accounts related to or containing any Receivership Property, including any and all accounts (wherever located) containing the Water Fund or any Water Revenue at any time, and all assets or cash or funds held in the name or for the benefit of the Water Department at any bank or other financial institution which has possession, custody or control of any funds, cash or other assets of the Water Department, wherever located and however held;
- (i) to take all necessary measures to ensure that collections of Water Revenue and all other Water Department funds are deposited into segregated accounts under the Receiver's sole control, which measures may include without limitation, within the Receiver's discretion: (i) directing Payment Service Network Inc. ("PSN"), or any other collection

service approved by the Receiver, to pay the funds it collects from Harvey's residential and commercial customers to accounts under the Receiver's control; (ii) directing all other residential and commercial customers to pay their bills to lockboxes and sweep accounts under the Receiver's control; (iii) requesting PSN and all commercial customers to provide the Receiver with historical and year-to-date reporting on all Water Department-related activity, including deposits of prior collections and payments, billing and credit history and other allowed Water Fund-related activities; (iv) monitoring the invoicing, payment and disposition of funds remitted or owed by downstream municipalities to Harvey for any water usage; and (v) entering into and negotiating new, or renegotiating existing, contracts or agreements to which Harvey is or may become a party in order to facilitate or improve the financial stability and integrity of the Water Department's finances or otherwise protect the Receivership Property;

- (j) to oversee and monitor the financial affairs of the Water Department and the Water Fund to the extent necessary to ensure compliance by Harvey and the Water Department with the Legal Requirements, except that the Receiver shall not at any time be responsible or liable for the day to day operations of the Water Department's non-financial activities such as water intake, water treatment, water storage, the safety of the water supply and delivery of water to the Water Department's or Harvey's residents and customers;
- (k) to generally install, implement and enforce (i) financial controls throughout the Water Department's cash management system in order to prevent the dissipation of any Receivership Property and ensure compliance with the Legal Requirements at all times and (ii) procedures and technology to (a) protect electronic and other information related to or evidencing any of the Receivership Property, and (b) prevent the destruction, corruption or impairment of any computer or software used or owned by any Harvey Personnel in connection with their duties, including technology and software to prevent the hacking of any computer;
- (l) to engage and employ persons or entities in his discretion at any time to assist him in carrying out his duties and responsibilities hereunder, including but not limited to attorneys, accountants, security personnel and computer consultants;
- (m) to conduct any and all investigations, including undertaking discovery and issuing subpoenas to compel deposition testimony and the production of documents, as the Receiver or his counsel deem necessary to protect or recover any Receivership Property or enforce any of the Legal Requirements against Harvey and the Water Department or otherwise perform his duties, including without limitation any and all action to recover (i) any illegal or fraudulent transfers of Water Revenue or the Water Fund by or to any person or entity at any time, and (ii) the

proceeds of any or all of the unauthorized transfers or transactions identified in the Motion or the General Relief Order;

- (n) to issue and send to any person or entity, including any and all past or present Harvey Personnel (as defined below), any and all notices, instructions, litigation hold letters and other documentation as necessary to require such persons or entities to preserve any and all documents and information in whatever form related to or evidencing the Receivership Property or any transfers or proceeds thereof, as determined by the Receiver in his sole discretion;
- (o) to prepare, initiate, pursue and/or settle any litigation against any persons or entity to the extent necessary to recover or protect any Receivership Property or ensure compliance by Harvey or the Water Department with any or all of the Legal Requirements;
- (p) to take such other action as is necessary and appropriate to marshal, recover, preserve, protect and take control of, and to prevent the dissipation, concealment, or disposition of, any financial assets of the Water Department;
- (q) to take administrative control over the Water Department's accounting systems (and the parts of any accounting systems of Harvey to the extent they relate specifically to its water system), including any cloud-based financial systems, and provide to Chicago real time access thereto;
- (r) to defend the Water Fund from any and all claims made against the Water Fund at any time;
- (s) to take all actions and execute all such documents as the Receiver deems necessary to implement his proposed plan of action dated July 26, 2017 and submitted or disclosed to the Court in connection with this Order;
- (t) to seek (i) any additional Court orders to facilitate or enable the performance of his duties hereunder or to otherwise fulfill his responsibilities hereunder, and (ii) any and all other orders or relief, including civil and criminal contempt orders, as the Receiver deems necessary to enforce any person's or entity's duties or obligations however arising, including any obligations of any Harvey Personnel under this Order or any other order of this Court;
- (u) to take actions that should have been taken by Harvey or the Water Department to comply with the Legal Requirements;
- (v) to develop, pursue and/or file any claim or complaint, or pursue any legal action or litigation in any state or federal forum, in law or in equity, or otherwise take any action to resolve any claim or dispute in any non-judicial manner (including through arbitration or mediation), as the Receiver deems necessary to perform and discharge his duties and effectuate the terms and purposes of this Order;

- (w) to defend any action, suit or claim, whether in any court proceeding or in any other forum or context, related in any way to the Receivership Property or which could in any way diminish the value of any Receivership Property;
- (x) to make or authorize such payments and disbursements from the funds and assets of the Water Department, whether now existing or hereafter acquired, and to incur, or authorize the incurrence of, such expenses and make, or authorize the making of, such agreements as may be reasonable, necessary and advisable in discharging the Receiver's duties hereunder;
- (y) to, in the Receiver's discretion, direct that the Water Department or Harvey change, modify or update the Harvey website in order to conform the collection procedures for water bills stated therein to the procedures established and approved by the Receiver;
- (z) to, in the discretion of the Receiver, establish a waste, fraud and abuse hotline or other phone or communications resource for persons to report any alleged, observed or potential misconduct of any Harvey Personnel in relation to the disposition of Water Revenue, the Water Fund or any other Receivership Property;
- (aa) to publish any notices in any media providing any instructions or information as the Receiver deems necessary to perform his duties hereunder;
- (bb) to take all such other actions and execute all such other documents as the Receiver deems necessary to perform his duties hereunder or cause, enable or require Harvey or the Water Department to comply with or perform any or all of the Legal Requirements; and
- (cc) to take any other action as approved by this Court or in furtherance of the terms, provisions and purposes of this Order.

1.7 Nothing herein shall be construed to impute to or impose on the Receiver any liability for the failure of Harvey or the Water Department to comply with any of the Legal Requirements. The Legal Requirements shall remain separate and independent legal obligations of Harvey and the Water Department and shall not become obligations of the Receiver.

1.8 Harvey and the Water Department, and all of their past, present and future respective personnel, employees, officials (including elected officials), directors, officers, managers, attorneys, agents, advisors, accountants and consultants and representatives (collectively, the "Harvey Personnel"), are hereby ordered to cooperate with the Receiver and all

of his Representatives (as defined below) in all respects the Receiver deems necessary to enable the Receiver to perform his duties hereunder or enable such Representatives to provide services to the Receiver. Harvey shall deliver a copy of this Order to each Water Department employee and to all contractors and other companies providing services to the Water Department within two business days of the Effective Date. All persons or entities with any custody, control or possession of any Receivership Property (including the Water Fund and all Water Revenue), including without limitation all Harvey Personnel, shall forthwith (i) provide access to and control of such Receivership Property to the Receiver, (ii) preserve all Receivership Property, and (iii) take all such actions and execute all such documents as the Receiver deems necessary to effect a transfer of all possession, custody and control of all Receivership Property, including without limitation all accounts containing any Water Revenue or the Water Fund, to the Receiver.

1.9 On and after the Effective Date, no Harvey Personnel may destroy any records in whatever form (including electronic or cloud-based or hard copies) constituting or related to the Receivership Property, including any financial records, except upon the prior written consent of the Receiver.

1.10 No Harvey Personnel may send any bills or notices to Water Department customers or otherwise seek to collect monies from them for water usage, except as otherwise authorized in writing by the Receiver, so as not to interfere with the Receiver's collection efforts. From and after the Effective Date, the Receiver shall have exclusive authority and control over the manner and procedures for all billing for water usage by customers or residents serviced by Harvey's Water Department or water system. To the extent Harvey's current billing systems and procedures for water usage overlap with or incorporate other billing procedures for usage of

other public services (such as sewer or garbage), the Receiver shall have the authority to restructure such joint billing procedures to protect Receivership Property, including (within his discretion) to require that any and all proceeds of any joint billing procedures be deposited into an account controlled solely by the Receiver and later allocated and remitted solely by the Receiver to the respective non-water usage accounts under the control of authorized Harvey Personnel.

1.11 All persons or entities, including all Harvey Personnel, shall provide ongoing, unfettered and unrestricted access for the Receiver to all Receivership Property, including without limitation all records and information related to (a) Water Revenue, (b) the Water Fund, (c) any transfers of Receivership Property occurring at any time, (d) the Water Department or (e) any other Receivership Property. For purposes hereof, the “Receiver Representatives” or “Representatives” shall mean all persons and entities retained or engaged by the Receiver at any time to perform his duties hereunder and fulfill his responsibilities herein, including without limitation all employees, agents, representatives, attorneys, accountants, consultants, advisors and professionals engaged by or servicing the Receiver in connection with such duties and all shareholders, owners, employees, agents, partners and representatives of any of the foregoing.

1.12 Without limiting the generality of the foregoing, all Harvey Personnel are further ordered to turn over to the Receiver on the Effective Date (or such later date as may be agreed by the Receiver in writing or as otherwise set forth hereinbelow), or at the Receiver’s election provide access to, all of the following pertaining to the Receivership Property in both physical and electronic form to the extent that such items are in their possession, custody, or control:

- (a) All information on all bank accounts, wherever located, which hold any Water Revenue or Water Funds or any other cash assets of the Water Department, or which have held such property at any time prior to the

Effective Date, including bank statements, and the name and location of all financial institutions holding any Water Revenue or any Water Funds.

- (b) Access to all of Harvey's bank accounts, records (including electronic, cloud-based and hard copies), financial assets, financial information and accounting systems, wherever located and however held, to the full extent that the Receiver deems necessary to enable the Receiver to identify, recover, separate and protect or liquidate any and all Receivership Property, including without limitation all bank accounts of Harvey in which any Water Funds have been commingled with any other monies or funds at any time.
- (c) All financial records of the Water Department.
- (d) All payroll and employee records of the Water Department, including time records and employee utilization reports, if any.
- (e) All outside reports of consultants and advisors related to the financial affairs or operations of the Water Department.
- (f) A list of all employees and personnel employed by or performing services for the Water Department, including name, title, function, telephone, email and address information and, as to outside vendors, the nature of and consideration paid for services rendered.
- (g) A list of the names and contact information (including phone, street address, and email address) for (i) all past employees, managers, retired employees, and non-employee personnel of the Water Department, and (ii) all persons or entities who have performed services for or been paid by the Water Department at any time, for any activity related to (a) the Water Department or (b) the generation, use or misuse of Water Revenue or Water Funds at any time.
- (h) All contracts and agreements to which the Water Department is a party or by which it is bound or pursuant to which it has any rights or obligations, including any (i) employment agreements between the Water Department or Harvey, on the one hand, and any Harvey Personnel, on the other hand and (ii) contracts or agreements with Payment Service Network.
- (i) The petty cash fund, if any.
- (j) A current aged account receivable/delinquency report for any amounts owed to the Water Department by any person or entity.
- (k) An aged listing of all trade payables and other payables.
- (l) Year-end operating statements of Harvey and the Water Department for (i) each of 2009 through 2016, and year-to date 2017 operating statements for Harvey and Water Department and (ii) such other years as the Receiver may request.
- (m) All on-site employee payroll records and employee files and applications.

- (n) An inventory of all equipment, furniture, vehicles and supplies of the Water Department.
- (o) All existing contracts with any vendors servicing the Water Department.
- (p) All pending bids for contractor work related to any property managed or owned by the Water Department.
- (q) A list of, and any and all documents pertaining to, any unpaid vendor or service provider invoices or record of work performed by any such vendors.
- (r) Information regarding all insurance claims submitted in the past three (3) years.
- (s) Surveys, site plans, stacking plans, specifications, floor plans, drawings, and measurements related to any real property owned or managed by the Water Department.
- (t) Any reports and other documents or information regarding the condition of any of the facilities and infrastructure constituting Harvey's water system and pertaining to any period in 2015, 2016, or 2017, including but not limited to any environmental assessments, physical condition reports, and information pertaining to deferred maintenance or capital improvements.
- (u) All documents identifying and summarizing all pending litigation involving or naming the Water Department (excluding this action).
- (v) All documents and information pertaining to any existing or claimed violations of any Legal Requirement.
- (w) An inventory of all computers, including laptops, held by any persons or entities with any access (including remote access) to the records (including electronic records), servers, computers and any stored information of the Water Department.
- (x) All documents, books, records and computer files, computer equipment, software, management files, and all passwords needed to access all software and computer files, and e-mail accounts maintained at the Water Department related to the Receivership Property.
- (y) All documents, records, files, data, contact information and all other materials relevant to any attempt or failure of Harvey or the Water Department to comply with the Legal Requirements.
- (z) Such other records pertaining to the Receivership Property as may be requested by the Receiver.

1.13 All banks, brokerage firms, financial institutions and other business entities which have any possession, custody or control of any assets, funds or accounts (i) in the name of or for the benefit of the Water Department or Harvey and (ii) related to or containing any portion of the

Water Revenue or the Water Funds or any other Receivership Property (collectively, the “Financial Institutions” and such accounts the “Water Accounts”), shall take all such action as necessary to make the Receiver the sole authorized signatory on such accounts and otherwise grant the Receiver exclusive access and control to all such assets, funds or accounts. All Financial Institutions shall recognize, acknowledge and for all purposes treat the Receiver as the sole signatory for the Water Accounts. To the extent any or all of the Water Revenue or the Water Funds are commingled with other funds or accounts (the “Other Funds”), the Financial Institutions shall (a) separate the Water Revenue and Water Funds from such Other Funds and (b) deliver the Water Funds and Water Revenue to the Receiver in accordance with his instructions.

1.14 No Harvey Personnel may take any action, directly or indirectly, or permit any inaction, that would hinder, obstruct, delay or otherwise interfere with the Receiver’s custody or control of the Receivership Property or the performance of his duties hereunder or the assistance provided by any Receiver Representative to the Receiver.

1.15 The Harvey Personnel shall prepare and submit to the Receiver, by no later than fourteen (14) days after the Effective Date, and file with this Court, an accounting for all (i) Receivership Property existing as of the Effective Date, and (ii) Receivership Property transferred, concealed, or diverted at any time since January 1, 2013, other than transfers in the lawful ordinary course of business of the Water Department. Such accounting shall be provided under oath and the penalty of perjury and signed by an authorized officer of Harvey. Nothing herein shall be construed to limit, deny, or prejudice the Receiver’s right to seek and obtain any information regarding any other transfer or disposition of any Receivership Property at any other time, including before January 1, 2013.

1.16 The Harvey Personnel are hereby prohibited from (i) destroying or disabling any Receivership Property or (ii) removing any Receivership Property from the Water Department, or diverting any Water Revenue or Water Funds at any time, other than as may be necessary to operate the Water Department in the lawful ordinary course of business.

1.17 All Harvey Personnel shall provide the Receiver with all information in whatever form (including written, oral and electronic) as and when requested by the Receiver or his Representatives at any time, (i) related to the Receivership Property or the Legal Requirements or otherwise necessary in the Receiver's judgment to enable the Receiver to perform his duties and fulfill his responsibilities hereunder, or (ii) from any department or function of Harvey as of any date, to the extent the Receiver determines that such information may be related to any Receivership Property or otherwise necessary to enable the Receiver to preserve, protect or recover any Receivership Property or perform any of his duties hereunder (collectively, the "Information"). The Receiver and his Representatives are authorized to issue any subpoena to any person or entity, including subpoenas for documents or deposition testimony, for purposes of obtaining any Information at any time, without further order of the Court. All Harvey Personnel, including any former Harvey employees or officers, shall appear for any deposition testimony, and provide all documents containing any Information, in response to a subpoena or other request from or on behalf of the Receiver.

1.18 All Harvey Personnel shall not destroy any records that may be commingled with or related to records pertaining to any Receivership Property, at any time, except upon the prior written consent of the Receiver.

1.19 The Harvey Personnel shall add the Receiver as an additional insured and loss payee on all insurance relating to the Receivership Property, including, but not limited to, fire,

extended coverage, property damage, liability (including both general liability and excess liability), fidelity, errors and omissions, and workers compensation, and modifying the policies if deemed appropriate by the Receiver, but subject to approval for any modifications to insurance. The Harvey Personnel are prohibited from canceling, reducing, or modifying any and all insurance coverage in existence with respect to any of the Receivership Property.

2. Allocation of Income Collections

2.1 The term “Income” means, collectively, all cash, cash on hand, checks, cash equivalents, credit card receipts, demand deposit accounts, bank accounts, cash management or other financial accounts, bank or other deposits, and all other cash (all whether now existing or later arising); current and past-due earnings, rents, prepaid rents, revenues, issues and profits, accounts, and accounts receivable (all whether unpaid, accrued, due, or to become due); and all other gross income derived from the operations of the Water Department regardless of whether earned before or after entry of this Order.

2.2 Income from the Receivership Property shall be applied by (or paid under the supervision of) the Receiver as follows:

- (a) First to the approved fees and expenses (including any applicable bond costs and fees) of the Receiver and of the attorneys, accountants and other professionals retained by the Receiver to assist and advise the Receiver in the performance of his duties hereunder;
- (b) Then to any unpaid Indemnified Liabilities (as defined below in Section 5.4 of this Order) that may be owed by Harvey to the Receiver or any Receiver Representative at any time;
- (c) Then to “Water Related Expenses” as defined in Paragraph 6 of the Consent Decree, as well as the reinstated Judgment as amended by the Court;
- (d) To any reserves established by the Receiver at any time for purposes of enabling him to perform his duties, including for any contingent or anticipated expenses or liabilities of the Water Department; and
- (e) Any surplus to be held pending further order of the Court.

3. Receiver Professionals; Compensation and Reports.

3.1 The Receiver's proposed retention of Michael Pakter and his firm Gould & Pakter Associates, LLC (collectively, "Pakter") as his forensic accountant to perform the Accounting Services (as defined below) for this case is hereby approved (subject to the filing of any applicable retention application pursuant to the Local Rules of this Court (the "Local Rules"), unless such filing requirement is waived by the Court), retroactive to the date Pakter first incurred time in connection with providing services to the Receiver for this case. "Accounting Services" shall consist of all forensic accounting services requested by the Receiver or otherwise necessary in order to enable the Receiver to perform his duties hereunder, including without limitation review and analysis of financial records of Harvey, investigation of financial transfers and preparation of financial reports to assist the Receiver in managing the Receivership Property.

3.2 The Receiver's proposed retention of N. Neville Reid and his firm Fox Swibel Levin & Carroll LLP as his general legal counsel to perform the Legal Services (defined below) is hereby approved, subject to the filing of any applicable retention application required under the Local Rules unless such filing requirement is waived by the Court (collectively, "Reid" and together with Pakter and any other professionals retained by the Receiver, the "Professionals"), retroactive to the date Reid first incurred time in connection with providing services to the Receiver for this case. The "Legal Services" shall consist of all legal services requested by the Receiver in connection with this case or otherwise necessary to enable him to perform his duties hereunder, including without limitation general case administration, investigation of potential claims against third parties, recovery of any illegally transferred Receivership Property or the

proceeds thereof, general discovery, litigation, and negotiation and settlement of claims against the Water Department.

3.3 The Receiver may retain such additional advisors and professionals, without further Court order, as the Receiver deems necessary in order to enable him to perform his duties and fulfill his responsibilities hereunder.

3.4 The Receiver's and his Professionals' compensation for performance of their duties or services shall be billed on an hourly basis and charged at a rate of no more than \$295 per hour.

3.5 The Receiver's Professionals shall prepare and send to the Receiver monthly invoices for their services rendered. The Receiver shall pay his own invoices and that of his Professionals from the Receivership Property upon entry of an order of the Court approving an application for allowance of such compensation. The Receiver and his professionals may file an application for approval of compensation at any time, upon ten (10) days' notice to Chicago, Harvey and any other parties requesting notice in this case.

3.6 Nothing herein shall be construed to require the Receiver to pay any obligation of Harvey or the Water Department from his own funds.

3.7 The Receiver shall provide quarterly reports to the Court, Chicago and Harvey of the Income, and the status, condition and amount of the Receivership Property, including balances in the Water Accounts, and such other information as the Receiver deems appropriate for review by the Court (collectively, the "Reports" and individually a "Report"). Each Report shall include a copy of the relevant bank statement(s) related to the Water Accounts.

3.8 The Receiver shall furnish to Chicago and Harvey any additional information regarding the Receivership Property as may be reasonably requested by them, but the Receiver is

authorized to request instructions from this Court should any party request information or documents that would be unduly burdensome or expensive to produce, or if the Receiver reasonably believes such request is intended to annoy or harass the Receiver or achieve any other improper purpose. The Receiver is hereby authorized to comply with the terms and conditions of any lawful subpoena request for production of documents comprising Receivership Property.

3.9 Notice to Chicago for any purpose of this Order shall be deemed sufficient if provided by email or regular U.S. Mail, to: Diane M. Pezanoski, Deputy Corporation Counsel, City of Chicago Law Department, 30 North LaSalle Street, Suite 1400, Chicago, IL 60602, Diane.Pezanoski@cityofchicago.org.

3.10 Notice to Harvey or any Harvey Personnel shall be deemed sufficient if provided by email or regular U.S. Mail, to: Ken Hurst, Esq. and Mark Roth, Esq., Roth Fioretti LLC, 311 S. Wacker, Suite 2470, Chicago, Illinois 60606, Ken@rothfioretti.com and Mark@rothfioretti.com.

4. Term; Bond; Final Accounting.

4.1 This Receivership shall continue until further order of the Court.

4.2 The Receiver shall provide a bond solely to the extent, and in amounts and terms, required by the Court.

4.3 The Receiver shall submit a final Report (with copies to Chicago and Harvey) for approval by the Court within the deadline designated by the Court.

4.4 Only after the Court approves the Receiver's final accounting may the Receiver be discharged and any Receiver's bond be cancelled.

5. General Provisions; Indemnity.

5.1 No person or entity shall file suit against the Receiver or any of his Representatives, or take other action against the Receiver or any of his Representatives, in any forum without an order of this Court permitting the suit or action; provided, however, that no prior Court order is required to file a motion in this action to enforce the provisions of this Order or any other order of this Court in this action.

5.2 The Receiver and his Representatives shall have no personal liability in connection with any liabilities, obligations, liens, or amounts owed to any of Harvey's creditors because of his duties as Receiver or their services to the Receiver. Nothing in this Order shall grant any rights to any creditors beyond what such creditors already have under Illinois law.

5.3 The Receiver and his Representatives shall have (i) no personal liability to anyone for any claim or injury arising from the operation of the Harvey water system or the failure or malfunction of such water system, and (ii) no personal liability for actions taken pursuant to this Order or in furtherance or support of the Receiver's duties hereunder or for services provided pursuant to the Receiver's instructions or in furtherance of his duties, except for claims against the Receiver for the Receiver's intentional and willful failure to comply with this Court's orders.

5.4 Harvey shall indemnify and hold harmless the Receiver and each of his Representatives against any and all claims, expenses or liabilities suffered by or pursued against any of them at any time, including defense costs, arising from or related to (i) any actions or inaction of Harvey occurring at any time, including any actions or inaction of Harvey related to the delivery or non-delivery of water to any persons or entities and any safety or contamination of such water, including residents, businesses or water customers of Harvey and any municipalities under contract to receive water from Harvey, or (ii) any performance by the

Receiver or any Receiver Representative of their respective duties hereunder or services provided in relation hereto, or any action taken by the Receiver or any Receiver Representative in furtherance of their respective duties and responsibilities hereunder or services provided in relation hereto (collectively, the “Indemnified Liabilities”).

5.5 Harvey shall pay the Indemnified Liabilities to the Receiver or Receiver Representatives (as applicable) within ten (10) days of receipt of a written notice from the Receiver or such Receiver Representative of such Indemnified Liability. The Receiver is hereby authorized to use Receivership Property to pay any Indemnified Liability not timely paid by Harvey.

5.6 The Receiver’s duty to act as Receiver is subject to the Receiver’s written acceptance and approval of the terms of this Order.

6. Amendment of Order; Retention of Jurisdiction.

6.1 This Order may be amended for cause after a motion or hearing. This Order may also be amended by Order of Court after agreed to by the Receiver, Chicago and Harvey.

6.2 This Court shall retain jurisdiction to enforce the provisions of this Order, as it may be amended from time to time.

7. Receiver’s First Report.

7.1 The Receiver’s first Report to the Court will cover the period August 4, 2017 to October 4, 2017 and shall be filed on October 18, 2017. Any objections to the Receiver’s first Report must be filed on or before October 27, 2017.

7.2 The hearing on the Receiver's first Report and status in this case will be held on November 14, 2017 at 10:30 AM.

8. Effective Date.

8.1 The Effective Date of this Order shall be August 4, 2017. The Receiver is not required to post a bond in this case.

ENTERED
JUDGE KATHLEEN M. PANTLE-1775
AUG 04 2017
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
COOK COUNTY, IL
DEPUTY CLERK

Date: _____

Acceptance of Receivership

Robert Handler of Commercial Recovery Associates accepts the duties of the Receiver as set forth in this Order and agrees to submit to the personal jurisdiction of the Court.

Robert Handler, Esq.
Commercial Recovery Associates

Dated: _____, 2017

FILED-3

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS 8 24 03
COUNTY DEPARTMENT - CHANCERY DIVISION

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
CHANCERY DEPARTMENT

City of Chicago,

Plaintiff,

v.

City of Harvey, Village of Homewood, Village of
Hazel Crest, Village of Posen, Village of Dixmoor,
Village of East Hazel Crest,

Defendants.

No. 12 CH 44855

Hon. Kathleen M. Pantle

No. 12 CH 44855

Hon. Kathleen M. Pantle

RECEIVER'S INITIAL REPORT

Robert P. Handler, not individually, but as the Court-appointed Receiver (“Handler” or the “Receiver”) for the water-related assets (including the Water Fund; the “Fund”) of the City of Harvey, IL (“Harvey”) (the receivership estate of such water-related assets of Harvey, the “Receivership Estate” or the “Estate” or “estate”), in accordance with Circuit Court of Cook County, Illinois Rule 8.5 and the August 4, 2017 Order entered by this Court appointing Handler as Receiver (the “Order”), files this Initial Report.¹ The purpose of the Initial Report is to provide the Court and all interested parties with a description of the nature of the Receiver's activities, investigations, analysis, conclusions, recommendations to date, and the revenues

¹ Unless otherwise defined, all capitalized terms in this report have the same meanings set forth in the Order, the Consent Decree made by the parties and entered by this Court on January 20, 2015 (the “Consent Decree”) and this Court’s order of July 19, 2017.

generated and/or collected by him, and the Receivership Estate expenses incurred since August 4, 2017 through October 4, 2017 (the “Reporting Period”).

Introduction

1. Pursuant to the Order, this Court appointed Handler the Receiver for the Water Fund. A copy of the Order is attached hereto as Exhibit A.

2. To assist in his work, the Receiver retained counsel and non-legal professionals who met with many people and reviewed documents over the past several weeks. The volume of material and the need for additional information, verification and analysis requires this Report to be considered preliminary. Future reports will supplement this Report.

3. The Receiver's duties, responsibilities and activities generally fall into three categories: (i) identifying, securing, protecting and recovering Water Fund assets; (ii) managing the Water Fund's assets to preserve or enhance their value for the benefit of the estate; and (iii) developing and implementing plans for payment of the Water Fund's legal obligations. This Report addresses these general categories in varying degree of detail in relation to the progress made on each during the Reporting Period. This Report also addresses the Receiver's efforts to increase Water Revenue, manage Water-Related Expenses, assist the Water Department in its mission, comply with the Consent Decree and otherwise improve the overall management of the Water Fund.

Preliminary Assessment

4. During the initial days of the Reporting Period, the Receiver and his professionals undertook a complete tour of Harvey's above-ground water transmission network. The tour began at the two City of Chicago water intake vaults where the four water intake main water lines and meters are positioned. The Receiver noted and observed the condition in and around the vaults and meters, and the valves themselves. The Receiver also toured and observed the five main pumps, controls and the reservoirs located at the Main Pumping Station at 149th and Page Avenue, as well as a sub pumping station at 147th & Sibley. This pumping station is unmanned and monitored from the Main Pumping Station. The two pumping stations combine and pump all the water throughout Harvey's water system. This water system includes five networked

reservoirs that possess total water capacity of 16.6 million gallons. Three reservoirs are located at the Main Pumping station, one at 147th & Sibley, and a two million gallon aerial tank is located in the southern section of Harvey. A flow chart outlining this system is attached hereto as Exhibit B. The water system services residential, commercial and industrial accounts within the City of Harvey and five downstream municipalities: Posen, Dixmoor, Hazel Crest, East Hazel Crest and Homewood. Homewood also services, through the City of Harvey, the municipality of Flossmoor. As a result, Harvey's Water Department provides water service to 79,343 residents, according to the US Census Bureau's 2010 Census. The Receiver also visited the downstream municipality underground vaults where the main water lines of the City of Harvey are connected to the main water lines of the downstream municipalities. The vaults are to be locked at all times and are accessible through a ground level hatch. Within the vaults joining the two municipality water lines are large meters that measure the quantity of water flowing through the system. The meters and the vaults are owned by the municipalities and are maintained by the direction of the City of Harvey at the downstream municipalities' expense.

5. The overall condition of these assets as well as Harvey's other water assets, such as its water mains, hydrants, meters and other equipment, have to some extent been inspected and/or reported on by others prior to the Reporting Period. This Receiver will refer to these reports as appropriate.

6. The Water Fund includes Water Revenue, Water Funds, and all financial assets of the Water Department. On an annual basis, the Fund generates approximately \$16.5 million derived from its monthly sales of water to Harvey's residents, businesses located in Harvey, and the downstream municipalities. The Water Fund's annual expenses for obtaining water from Chicago and delivering it to all of Harvey's customers is approximately \$15.2 million. A summary of the Water Fund's revenue and expenses for its 2017, 2016 and 2015 fiscal years ending in April is attached hereto as Exhibit C. These statements have not been prepared, audited or reviewed by the Receiver or any of its professionals in accordance with generally accepted accounting principles. Instead, these were obtained from the Water Fund's records as assembled by the Receiver.

Receiver's Activities

7. The Receiver has undertaken and continues to (i) assess the Water Fund's financial condition; (ii) locate and preserve (if in the Receiver's judgment the Receiver deems it to be in the best interests of the Water Fund) the estate's assets; (iii) retain counsel for assisting the Receiver in all court proceedings, litigation and in the negotiating and executing of agreements necessary for managing the receivership; and (iv) meet with the parties in this case and other third parties (residential, commercial and municipal customers; bank officers; vendors; and other contractors) to discuss the management of the receivership. Among other things, the Receiver did or began the following during the Reporting Period:

- a. Prepared a budget to permit the Water Fund to fund the Water Department for the Water Department to continue its mission;
- b. Rejected and/or stopped payment on all the Water Fund's financial obligations which, in the Receiver's judgment, provided little or no benefit to the Water Fund;
- c. Undertook an inventory of the Water Fund's assets and began to identify, locate and take dominion over those assets, such as bank accounts at 5th/3rd Bank and payment sources such as PSN which were not in the Receiver's immediate control or possession;
- d. Changed the authorized signatures on all the Water Fund's bank accounts known to the Receiver, to the control of the Receiver;
- e. Verified liability insurance coverage for the Water Fund, maintained the current liability policies, and secured insurance coverage for this receivership;
- f. Implemented a confidential and anonymous tip hotline for use by all Harvey water customers;
- g. Met regularly with Harvey Water Department and Harvey Finance Department employees;
- h. Took site visits of the Water Department's physical assets, including its pumping stations, reservoirs, incoming and outgoing water mains and meters;
- i. Engaged and met with Receiver's counsel, Neville Reid, Esq., to develop and implement legal strategies to execute the mission of this receivership;

- j. Met in person or via phone conference with all the parties, including the City of Chicago, City of Harvey, City of Homewood and other downstream municipalities to obtain further information concerning the operations and financial structure of this estate and potential means of making changes to improve the Water Fund's performance;
- k. Marshaled the Water Fund's records; and
- l. Undertook management of the Water Fund's administrative matters.

Some of these activities are described in detail in this Initial Report.

Preliminary Inventory and Accounting

8. As of October 4, 2017, the Water Fund had the sum of \$952,124.70 on hand in bank accounts under the Receiver's signature control. However, to enforce its judgment against Harvey, Chicago has maintained a citation on these accounts, which from a book balance standpoint, effectively renders these accounts in a negative balance. Copies of the Water Fund's bank statements as of September 30, 2017 are attached hereto as Exhibit E. Since October 4, 2017 the Receiver has collected additional net proceeds of the Water Fund's receivables and has made disbursements in connection with his duties. Exhibit F summarizes the Receivership's banking activities for the Reporting Period.

Receiver's Preliminary Observations, Actions and Recommendations

9. The Receiver noted that (i) Harvey's main water intake vault with three main lines entering from the City of Chicago had no available lights, (ii) water was collecting at the bottom of the vault, (iii) one main meter was stuck and not recording water flow, and (iv) one gate valve was inoperable. Corrective action of pumping out the collected ground water, relighting the vault and ordering a new water meter was completed during the Reporting Period. The new main water meter is expected to be delivered in mid-December 2017. The Water Department, after obtaining competitive bidding, has selected the service organization to install the new meter once it arrives. Presently, the Water Fund is receiving an estimated bill from Chicago for the account monitored by the stuck meter.

10. Harvey's Water Department and Water Fund are working with Chicago to identify the make and model of the defective gate valve. Once the information is identified, the new valve will be ordered. Chicago will also soon help locate the main shutoff valve to the two main water vaults so proper repairs can be performed on a timely basis.

11. A drive controlling one of Harvey's five main pumps was inoperable; the main pumping station was operating with four of five main pumps in service. The main drive was identified, ordered and installed during the Reporting Period. Also at the Main Pumping station it was noted that an electrical control panel was corroded from chlorine gas and out of operation. The electrical control panel enables a gate valve to move electronically within the pumping station. In the absence of electrical power, the pumping station attendant needs to call hourly water department employees to go into a vault where the main valves were located and manually open the valves and subsequently close the valves once the proper water flow into the reservoir is established. The new electrical box was ordered and installed, and a vent was installed within the room to eliminate future chlorine corrosion. The gate valves are now electronically operated by the pump room attendant.

12. Through examination of internal records from the City of Harvey Water Fund and various annual reports to the Illinois Department of Natural Resources, the Receiver determined that, over time, anywhere from 13% to 20% of water purchased from the City of Chicago is not billed to City of Harvey Water Department customers. This water received but not billed is commonly referred to by Harvey as "non-revenue water". The Receiver's recent informal calculations showed an average loss of 15% of purchased water due to "non-revenue water". The cause of "non-revenue water" is believed to be from both physical leaks in the water system, inaccurate meter reads from old meters, or erroneous meter readings by Harvey personnel.

13. The Receiver noted that on average 57% of all water purchased from the City of Chicago is billed by Harvey to the downstream municipalities. During the Receiver's tour of the water system, it was also noted that the municipal water meter vaults were in various operable conditions. Following up on the initial system tour the Receiver recorded the make, model, size and serial number for all municipal meters. From this the Receiver could determine the installation date and the age of the meters, which range in age from 2 years to 35 years of age. Four of the nine meters are more than 26 years old. After consulting with outside meter

professionals, the Receiver learned that the industry practice is to test heavy use meter accuracy every other year, and to replace meters after 15 years of high service to prevent losing water revenue due to inaccurate and/or low meter reads. As a result, the Receiver has approved the Water Department's budget to replace eight of nine meters within the next six (6) months. The expense of the meter and installation, per the agreements with the downstream municipalities, is to be passed on to the downstream municipalities. Once these old municipal meters are replaced, the Receiver believes Harvey will be able to record increased water consumption to the downstream municipalities and realize a substantial increase in billed water revenue.

14. The Receiver is also reviewing and scheduling replacing old commercial and industrial meters. At the beginning of the Reporting Period the Receiver noted the Water department had replaced old meters for one large customer group. The Receiver analyzed recorded consumption pre- and post-meter replacement, and noted a material increase in recorded water consumption by the customer, even though that customer had not increased its operations. As a result, the Receiver has approved the Water Department's budget and meter replacement schedule for several commercial and industrial accounts. The cost of the replacement meter and installation is to be passed on to the customer. The Receiver believes the new meters will assist in recovering revenue and diminish "non-revenue water".

15. The Receiver believes it is imperative for the Water Department to review and update all commercial meters. For example, one of Harvey's largest users is Prairie Materials, a concrete and cement supplier. It was discovered during the Reporting Period that Prairie Material has been drastically undercharged for its water usage for several years due to a faulty meter and meter reader. Harvey recently presented Prairie an estimated bill for prior usage in the amount of \$180,000. This bill is currently under discussion with Prairie, and the Receiver expects these discussions will result in a favorable outcome for Harvey. Regardless, this discovery has underscored the need for the Water Fund to provide the Water Department the necessary resources to prevent incidents like this.

16. To manage these activities the Receiver has established a weekly Capital Projects Committee meeting with the Water Department Superintendent and Water Department Supervisors. The Committee's purpose is to identify, budget and act on all Water Fund-related

capital projects to (i) promote capturing of all “non-revenue water”, (ii) drive efficiencies, and (iii) promote security and safety.

17. In addition to the above-mentioned activities, the Receiver created a fiscal year 2018 budgetary guide for the Water Fund. The budget was based on recent historical data and the information acquired by the Receiver during the Reporting Period. A copy of the initial fiscal year 2018 budget, as noted earlier in this report, is attached as Exhibit D. As this Receivership progresses, the Receiver will refine the 2018 budget and build budgets and operating plans for fiscal years 2019, 2020 and 2021.

18. The Receiver has noted discrepancies from Harvey’s recording of water usage and subsequent billing to downstream municipalities. These discrepancies have resulted in improper recording of actual water consumption for some of these municipalities. A copy of the Receiver’s investigative report is attached hereto as Exhibit G.

19. The Receiver is also currently reviewing the five downstream municipalities’ contractual agreements with Harvey. These agreements all vary in billed rates and contract conditions. The *effective* billing rates for the most recent billing period, not the *contractual rates*, reveal a range of rates from a low of \$.03246 per cubic foot (Homewood) to a high of \$.05357 per cubic foot (Dixmoor). During the next reporting period the Receiver will recalculate the rates under the current agreements to verify the contractual rate is being charged. In addition, the Receiver will seek to renegotiate agreements that are not economically feasible for Harvey.

Receiver’s Proposal for Repayment of Harvey’s Obligations to Chicago:

20. One of the Receiver’s primary goals in this receivership is to prepare and carry out a plan for Harvey’s repayment of its obligations to Chicago. During the Reporting Period, the Receiver reviewed the Water Fund’s revenue and expenses and the Water-Related expenses as set forth in the Consent Decree. In addition, the Receiver met and/or discussed with Chicago’s representatives as well as Harvey’s Comptroller and other Water Department employees to prepare the Water Fund’s operating budget for this receivership. This review included the results of implementing many of the Receiver’s expense reduction and revenue enhancement initiatives discussed in this Initial Report.

21. The Receiver's proposed Water Fund budget is attached hereto as Exhibit D. Under this budget, and in combination with the changes set forth below, the Receiver proposes that the Water Fund through the Receiver will:

- a. Pay Chicago
 - i. All current bills going forward;
 - ii. A minimum of \$100k/month on the arrearage (the "Minimum Payment")
- b. Review quarterly the Minimum Payment as Harvey improves collection and billing practices, repairs leaks, and updates metering for all customers; and
- c. Prepare Harvey's budget for future repairs and capital expenditures. This budget will include, as determined by the Receiver after completion of a capital improvement assessment, the necessary repairs and/or capital expenditures for those items raised by Homewood and Hazel Crest in their pending motion to expand the receivership.

22. In order to implement this proposal the Receiver has proposed to Chicago an initial 90-day grace period for enforcement of (i) Chicago's Citation on Harvey's bank accounts and payments by the downstream municipalities (the "Citation") and (ii) the Consent Decree, subject to further extension by consent of the City of Chicago (as it may be so extended from time to time, the "Grace Period"), as follows:

- a. Release the Citation during the Grace Period: The Receiver has proposed that the Citation be released for the duration of the Grace Period, insofar as the Receiver will be in complete charge of Harvey's Water Fund and Chicago will continue to retain its judgment.
- b. Modify the downstream municipalities' payments of bills due to Harvey by directing them to:
 - i. Pay the full amount of their bills directly to Harvey's Water Fund account; and
 - ii. Turn over all water bill reserves to the Receiver for Harvey's water fund, for deposit solely in Harvey's Water Fund.

- c. Extend the Grace Period an additional ninety (90) days upon a showing of good cause for such extension by the Receiver and agreement by Chicago following its review of the proffered good cause showing.
- d. Chicago would retain the right to terminate the Grace Period before its 90 day life ends should Harvey fail to make the payments proposed by the Receiver or for other good cause shown.

23. This is a reasonable proposal for management of the Water Fund under this receivership, and the Receiver is confident that he will be able to reach an agreement with Chicago regarding all or substantially all of the components of the foregoing proposal. As mentioned earlier in this report, Chicago's Citation on the Water Fund's accounts is problematic for this receivership. Because of the Citation on Harvey's accounts at 5th/3rd Bank, the bank has imposed a permanent hold on Harvey's water fund accounts. This hold creates a daily negative balance. Even though 5th/3rd has stated to the Receiver that Harvey still has funds available from those accounts, the daily balance reports continue to show a negative balance. In addition, pursuant to the Citation, 5th/3rd is required to sweep those accounts at the end of the month and provide Chicago with whatever balance remains at that time. The actual amount turned over varies. This is creating an administrative and accounting burden on the receivership. The Receiver needs to properly manage the Water Fund. However, because of the Citation, the Receiver is unable to accurately budget for the allowed Water Fund expenses without risking bouncing a check.

24. As also currently required under the Consent Decree, the downstream municipalities are directed to pay their current bills from Harvey to Chicago. Chicago, in turn, applies those payments to Harvey's arrearage. In addition, those suburbs can hold back up to 15% of those bills, presumably for capital improvements. However, these are Harvey's funds, and their retention by the downstream municipalities has also created an administrative and accounting burden on the receivership. In most receiverships, the Receiver has dominion over all of the funds he is charged with managing. In this receivership, the Receiver is required to collect and verify the Water Funds information from Chicago and the downstream municipalities as to what has been paid, the actual amount of the arrearage (in part because the holdback consists of Harvey's funds), as well as what the municipalities are holding in reserve.

25. The Receiver is in negotiations with Chicago and the downstream municipalities for modification of the Consent Decree. A copy of the Receiver's proposal is attached hereto as Exhibit H. Concurrently with these negotiations, the Receiver filed his Response to Homewood and Hazel Crest's motion to expand the Receiver's authority, asking for a Court order directing the downstream municipalities to pay all water revenue they are holding in reserve to the Receiver, and to stop holding such revenue in reserve going forward. If the Receiver's negotiations with Chicago and the downstream municipalities merit doing so, the Receiver is willing to enter and continue his request for a Court order directing the downstream municipalities to stop holding some of Harvey's water revenues as reserves. The Receiver will update the Court on the October 24th, 2017 hearing as to whether entering and continuing the Receiver's request makes sense at that time, or if the Receiver still wishes to pursue the Order requested, and indeed may need to broaden the relief requested to address other needed amendments to the Consent Decree.

Management of Water Fund Operations and Assets

26. Once appointed as Receiver, Handler attempted to take management control over the operations of the Water Fund. The Order allows the Receiver to use the services of Harvey's existing personnel to carry out the receivership. To reduce administrative costs to this estate, the Receiver has greatly utilized the services of Harvey's existing personnel. The Receiver has also used his own resources as well as the services of independent third parties to carry out this receivership.

27. Among other professionals, the Receiver has retained:
- a. Red Flag Chicago to implement and monitor the Receiver's confidential and anonymous tip hotline for all of Harvey's water customers, including its residents;
 - b. eTerra Services, to undertake a survey of Harvey's IT assets, including its server-based accounting systems. ETerra will also provide the Receiver with recommendations for securing all of Harvey's accounting systems; and
 - c. Gould & Pakter, LLC, to undertake a forensic review of Harvey's Water Fund, including the transactions between the Water Fund and other funds and

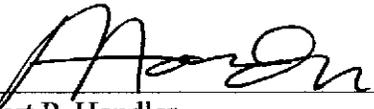
accounts maintained by Harvey, such as Harvey's General Fund. Gould & Pakter will also assist the Receiver in developing a plan for recovery of Water Fund assets from other Harvey accounts and/or third parties.

28. This Report reflects the Receiver's activities as of this date. The Receiver may undertake further activities, make additional disbursements, and discover additional assets as this proceeding continues.

WHEREFORE, THE Receiver respectfully requests the Court to enter an Order:

- a. Approving the Receiver's Initial Report as set forth herein; and
- b. Providing such further relief to which the Receiver may be justly entitled.

Respectfully Submitted
ROBERT P. HANDLER
Receiver for Harvey's Water Fund

By: 
Robert P. Handler
Commercial Recovery Associates, LLC
205 West Wacker Drive Street, Suite 1818
Chicago, IL 60606
T: (312) 845-5001
F: (312) 893-2220

N. Neville Reid, Esq,
Counsel for the Receiver
Fox, Swibel, Levin & Carroll, LLP
200 West Madison Suite, 3000
Chicago, IL 60606
312-224-1245

October 18, 2017

EXHIBIT A

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

City of Chicago,

Plaintiff,

v.

City of Harvey, Village of Homewood, Village
of Hazel Crest, Village of Posen, Village of
Dixmoor, Village of East Hazel Crest,

Defendants.

No. 12 CH 44855

Hon. Kathleen M. Pantle

ORDER APPOINTING RECEIVER

This action is before the Court on the Motion of the Plaintiff, City of Chicago (“Chicago”), to Declare Transactions Relating to City of Harvey’s Water Account “Unauthorized Transactions” under the Consent Decree and for Appointment of a Receiver as an Independent Monitor (the “Motion”). By a previous Order dated July 19, 2017, this Court has granted the Motion (the “General Relief Order”). By this Order the Court is appointing the receiver proposed by Chicago in the Motion, and setting forth (i) such receiver’s powers, duties, rights and responsibilities, and (ii) the additional obligations and duties of the City of Harvey (“Harvey”) and other third parties as are necessary to enable such receiver to perform his duties hereunder. All of the findings, conclusions, analysis and orders in the General Relief Order are hereby incorporated herein by reference in their entirety as if expressly stated herein.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. Appointment of Receiver and General Powers; Third Party Cooperation.

1.1 Robert P. Handler, Esq. of Commercial Recovery Associates, LLC (“Receiver”), whose address is 205 West Wacker, Suite 1818, Chicago, IL 60606, is hereby appointed

Receiver of the following property, wherever located, whether now existing or hereafter coming into existence: (i) all monies generated by Harvey's waterworks system at any time, wherever such monies are located and however they are held ("Water Revenue"), including all Water Revenue located in or required to be deposited in a segregated bank account under applicable law or any order of this Court at any time (the "Water Fund" and the funds therein the "Water Funds") and all Water Funds and Water Revenue located in any Harvey accounts which have been commingled with other funds, (ii) all bank accounts or other accounts containing any Water Revenue or Water Funds at any time, (iii) except as modified below, all books, records and other recorded information (including all electronic information) of the Harvey Water Department (the "Water Department") or of Harvey that evidences or relates to the origination or disposition of Water Revenue or the Water Funds, (iv) all financial assets of the Water Department, (v) all claims and causes of action to recover any illegal, unauthorized or fraudulent transfers of all or any portion of the Water Revenue or the Water Fund, regardless of when such transfers have occurred and including any such transfers as may occur after the Effective Date (as defined below), including without limitation any and all unauthorized transfers referenced in the Motion or the General Relief Order, (vi) any and all other property ordered by the Court to be under the exclusive authority and control of the Receiver at any time after the Effective Date, and (vii) all documents and records related to any of the foregoing, and any and all proceeds of any of the foregoing (collectively, the "Receivership Property"). The appointment of the Receiver, and all of his rights, duties and powers set forth herein, shall be effective as of the later of the date (a) this Order is entered and (b) this Court approves any bond the Court may require of the Receiver in this case (the "Effective Date"); provided however that, if the Court waives any such bond, then the Effective Date shall be the date set forth in Section 8.1 hereof.

1.2 The Receivership Property shall be under the exclusive authority and control of the Receiver as of the Effective Date until the Receiver is discharged.

1.3 As of the Effective Date, the Receiver (i) is authorized to direct and take immediate possession and full control of all Receivership Property with the powers set forth herein, and (ii) shall have access to all of Harvey's bank accounts, records (including electronic and hard copies), financial assets and financial information for purposes of enabling the Receiver to identify and protect any and all Receivership Property, including without limitation all bank accounts of Harvey in which any Water Funds have been commingled with any other monies or funds. If Receivership Property is commingled with any other property of Harvey at any time, the portion of such other property constituting or attributable to Receivership Property shall be and remain Receivership Property under the exclusive authority and control of the Receiver notwithstanding such commingling, and Harvey shall separate such Receivership Property from all such other property and remit it to the Receiver immediately upon learning or being notified of any such commingling.

1.4 Except as (i) otherwise ordered by this Court or authorized herein, (ii) expressly permitted by the Receiver in writing or (iii) as may be necessary to enable the Water Department to operate the Harvey water system in the ordinary course in compliance with Illinois law or contracts by which Harvey is bound, all persons and entities (other than the Receiver) are hereby enjoined and restrained from (a) directly or indirectly transferring or liquidating or receiving any Receivership Property, including any Water Revenue or any of the Water Funds, (b) seeking to obtain control of any Receivership Property, or (c) interfering, directly or indirectly, with any action taken by the Receiver in performance or furtherance of his duties or otherwise harassing the Receiver, directly or indirectly, in any manner.

1.5 The Receiver is hereby authorized and empowered to take all actions and exercise all such powers, and to direct the Water Department and Harvey to take all such actions, as the Receiver deems necessary to require, cause or enable the Water Department or Harvey to perform and fulfill Harvey's and the Water Department's obligations under (i) that certain Consent Decree between Chicago and Harvey dated (and approved by this Court on) January 20, 2015 (the "Consent Decree"), (ii) the General Relief Order or this Order, (iii) Illinois law as it relates to the collection or use of water revenue by municipalities, or (iv) any other order of this Court entered at any time (collectively, items 1.3(i) through 1.3(iv) being hereinafter referred to as the "Legal Requirements"). In addition, the Receiver shall have all powers, rights, privileges and authority available to receivers in equity, at common law or under Illinois law.

1.6 Without limiting the generality of the foregoing general powers of the Receiver, the Receiver is authorized, and empowered, without further Court order, immediately:

- (a) to have access to and take control of the Water Revenue and the Water Fund and all other financial assets under the possession, custody or control of the Water Department, and all choses in action, claims, books, records, papers, information, documents (whether written or electronic or in any other form) related thereto, with full power to (i) monitor and approve each transaction, disbursement or receipt of funds, or any other disposition relating to the Water Funds or the Water Revenue, and (ii) take such steps as he deems necessary to ensure the Water Department's and Harvey's compliance with the Legal Requirements;
- (b) to have access to all of Harvey's bank accounts, records (including electronic, cloud-based and hard copies), financial assets, financial information and accounting systems, wherever located and however held, for purposes of enabling the Receiver to identify, recover, separate and protect any and all Receivership Property, including without limitation all bank accounts of Harvey in which any Water Funds have been commingled with any other monies or funds at any time;
- (c) to have access to all of Harvey's and the Water Department's historical records, including without limitation all of their financial and bank records (including without limitation all bank records of Harvey or the Water Department under the possession, custody or control of 5th/3rd Bank or any other financial institution having such records), within date ranges determined by the Receiver and to the extent the Receiver

determines is necessary in order to (i) identify, rectify and/or recover any unlawful, fraudulent or unauthorized transactions or transfers that have occurred at any time or are ongoing, or (ii) enable the Receiver to perform any of his obligations or duties hereunder;

- (d) to have access to all of Harvey's property of whatever type or nature, whether real or personal, wherever located, (i) to the extent the Receiver determines such access is necessary to enable the Receiver to perform his duties and responsibilities hereunder, or (ii) for purposes of enabling the Receiver to take an inventory or prepare an accounting of, or verify any other inventory or accounting of, any or all of such property;
- (e) to direct that any or all of Harvey's records (in whatever form, including print or electronic) for any department, wherever located, be preserved, to the extent the Receiver determines that such preservation is necessary to enable the Receiver to fulfill his duties and responsibilities hereunder;
- (f) to, in the Receiver's discretion, establish and implement separate and independent procedures for (i) billing water customers, including to the extent necessary to eliminate or reduce the risk of commingling of Water Revenue or Water Funds with other funds, (ii) permitting persons or entities serviced by the Water Department to pay cash for their water bills and (iii) collecting Water Revenue and other payments from customers that may include payments due to the Water Fund, and to apply such payments to such customers' obligations to the Water Fund in the Receiver's judgment;
- (g) to, in the Receiver's discretion, (i) direct the Water Department to (a) terminate water service to customers of the Water Department that have not cured payment defaults or delinquencies, and (b) restore service to customers that have cured such defaults or delinquencies in the judgment of the Receiver, or who are otherwise entitled to water service in the judgment of the Receiver, and (ii) seek an order of the Court compelling the Water Department to terminate or restore service to such particular customers (as applicable), as determined by the Receiver;
- (h) to have control of, and be the sole authorized signatory for, all accounts related to or containing any Receivership Property, including any and all accounts (wherever located) containing the Water Fund or any Water Revenue at any time, and all assets or cash or funds held in the name or for the benefit of the Water Department at any bank or other financial institution which has possession, custody or control of any funds, cash or other assets of the Water Department, wherever located and however held;
- (i) to take all necessary measures to ensure that collections of Water Revenue and all other Water Department funds are deposited into segregated accounts under the Receiver's sole control, which measures may include without limitation, within the Receiver's discretion: (i) directing Payment Service Network Inc. ("PSN"), or any other collection

service approved by the Receiver, to pay the funds it collects from Harvey's residential and commercial customers to accounts under the Receiver's control; (ii) directing all other residential and commercial customers to pay their bills to lockboxes and sweep accounts under the Receiver's control; (iii) requesting PSN and all commercial customers to provide the Receiver with historical and year-to-date reporting on all Water Department-related activity, including deposits of prior collections and payments, billing and credit history and other allowed Water Fund-related activities; (iv) monitoring the invoicing, payment and disposition of funds remitted or owed by downstream municipalities to Harvey for any water usage; and (v) entering into and negotiating new, or renegotiating existing, contracts or agreements to which Harvey is or may become a party in order to facilitate or improve the financial stability and integrity of the Water Department's finances or otherwise protect the Receivership Property;

- (j) to oversee and monitor the financial affairs of the Water Department and the Water Fund to the extent necessary to ensure compliance by Harvey and the Water Department with the Legal Requirements, except that the Receiver shall not at any time be responsible or liable for the day to day operations of the Water Department's non-financial activities such as water intake, water treatment, water storage, the safety of the water supply and delivery of water to the Water Department's or Harvey's residents and customers;
- (k) to generally install, implement and enforce (i) financial controls throughout the Water Department's cash management system in order to prevent the dissipation of any Receivership Property and ensure compliance with the Legal Requirements at all times and (ii) procedures and technology to (a) protect electronic and other information related to or evidencing any of the Receivership Property, and (b) prevent the destruction, corruption or impairment of any computer or software used or owned by any Harvey Personnel in connection with their duties, including technology and software to prevent the hacking of any computer;
- (l) to engage and employ persons or entities in his discretion at any time to assist him in carrying out his duties and responsibilities hereunder, including but not limited to attorneys, accountants, security personnel and computer consultants;
- (m) to conduct any and all investigations, including undertaking discovery and issuing subpoenas to compel deposition testimony and the production of documents, as the Receiver or his counsel deem necessary to protect or recover any Receivership Property or enforce any of the Legal Requirements against Harvey and the Water Department or otherwise perform his duties, including without limitation any and all action to recover (i) any illegal or fraudulent transfers of Water Revenue or the Water Fund by or to any person or entity at any time, and (ii) the

proceeds of any or all of the unauthorized transfers or transactions identified in the Motion or the General Relief Order;

- (n) to issue and send to any person or entity, including any and all past or present Harvey Personnel (as defined below), any and all notices, instructions, litigation hold letters and other documentation as necessary to require such persons or entities to preserve any and all documents and information in whatever form related to or evidencing the Receivership Property or any transfers or proceeds thereof, as determined by the Receiver in his sole discretion;
- (o) to prepare, initiate, pursue and/or settle any litigation against any persons or entity to the extent necessary to recover or protect any Receivership Property or ensure compliance by Harvey or the Water Department with any or all of the Legal Requirements;
- (p) to take such other action as is necessary and appropriate to marshal, recover, preserve, protect and take control of, and to prevent the dissipation, concealment, or disposition of, any financial assets of the Water Department;
- (q) to take administrative control over the Water Department's accounting systems (and the parts of any accounting systems of Harvey to the extent they relate specifically to its water system), including any cloud-based financial systems, and provide to Chicago real time access thereto;
- (r) to defend the Water Fund from any and all claims made against the Water Fund at any time;
- (s) to take all actions and execute all such documents as the Receiver deems necessary to implement his proposed plan of action dated July 26, 2017 and submitted or disclosed to the Court in connection with this Order;
- (t) to seek (i) any additional Court orders to facilitate or enable the performance of his duties hereunder or to otherwise fulfill his responsibilities hereunder, and (ii) any and all other orders or relief, including civil and criminal contempt orders, as the Receiver deems necessary to enforce any person's or entity's duties or obligations however arising, including any obligations of any Harvey Personnel under this Order or any other order of this Court;
- (u) to take actions that should have been taken by Harvey or the Water Department to comply with the Legal Requirements;
- (v) to develop, pursue and/or file any claim or complaint, or pursue any legal action or litigation in any state or federal forum, in law or in equity, or otherwise take any action to resolve any claim or dispute in any non-judicial manner (including through arbitration or mediation), as the Receiver deems necessary to perform and discharge his duties and effectuate the terms and purposes of this Order;

- (w) to defend any action, suit or claim, whether in any court proceeding or in any other forum or context, related in any way to the Receivership Property or which could in any way diminish the value of any Receivership Property;
- (x) to make or authorize such payments and disbursements from the funds and assets of the Water Department, whether now existing or hereafter acquired, and to incur, or authorize the incurrence of, such expenses and make, or authorize the making of, such agreements as may be reasonable, necessary and advisable in discharging the Receiver's duties hereunder;
- (y) to, in the Receiver's discretion, direct that the Water Department or Harvey change, modify or update the Harvey website in order to conform the collection procedures for water bills stated therein to the procedures established and approved by the Receiver;
- (z) to, in the discretion of the Receiver, establish a waste, fraud and abuse hotline or other phone or communications resource for persons to report any alleged, observed or potential misconduct of any Harvey Personnel in relation to the disposition of Water Revenue, the Water Fund or any other Receivership Property;
- (aa) to publish any notices in any media providing any instructions or information as the Receiver deems necessary to perform his duties hereunder;
- (bb) to take all such other actions and execute all such other documents as the Receiver deems necessary to perform his duties hereunder or cause, enable or require Harvey or the Water Department to comply with or perform any or all of the Legal Requirements; and
- (cc) to take any other action as approved by this Court or in furtherance of the terms, provisions and purposes of this Order.

1.7 Nothing herein shall be construed to impute to or impose on the Receiver any liability for the failure of Harvey or the Water Department to comply with any of the Legal Requirements. The Legal Requirements shall remain separate and independent legal obligations of Harvey and the Water Department and shall not become obligations of the Receiver.

1.8 Harvey and the Water Department, and all of their past, present and future respective personnel, employees, officials (including elected officials), directors, officers, managers, attorneys, agents, advisors, accountants and consultants and representatives (collectively, the "Harvey Personnel"), are hereby ordered to cooperate with the Receiver and all

of his Representatives (as defined below) in all respects the Receiver deems necessary to enable the Receiver to perform his duties hereunder or enable such Representatives to provide services to the Receiver. Harvey shall deliver a copy of this Order to each Water Department employee and to all contractors and other companies providing services to the Water Department within two business days of the Effective Date. All persons or entities with any custody, control or possession of any Receivership Property (including the Water Fund and all Water Revenue), including without limitation all Harvey Personnel, shall forthwith (i) provide access to and control of such Receivership Property to the Receiver, (ii) preserve all Receivership Property, and (iii) take all such actions and execute all such documents as the Receiver deems necessary to effect a transfer of all possession, custody and control of all Receivership Property, including without limitation all accounts containing any Water Revenue or the Water Fund, to the Receiver.

1.9 On and after the Effective Date, no Harvey Personnel may destroy any records in whatever form (including electronic or cloud-based or hard copies) constituting or related to the Receivership Property, including any financial records, except upon the prior written consent of the Receiver.

1.10 No Harvey Personnel may send any bills or notices to Water Department customers or otherwise seek to collect monies from them for water usage, except as otherwise authorized in writing by the Receiver, so as not to interfere with the Receiver's collection efforts. From and after the Effective Date, the Receiver shall have exclusive authority and control over the manner and procedures for all billing for water usage by customers or residents serviced by Harvey's Water Department or water system. To the extent Harvey's current billing systems and procedures for water usage overlap with or incorporate other billing procedures for usage of

other public services (such as sewer or garbage), the Receiver shall have the authority to restructure such joint billing procedures to protect Receivership Property, including (within his discretion) to require that any and all proceeds of any joint billing procedures be deposited into an account controlled solely by the Receiver and later allocated and remitted solely by the Receiver to the respective non-water usage accounts under the control of authorized Harvey Personnel.

1.11 All persons or entities, including all Harvey Personnel, shall provide ongoing, unfettered and unrestricted access for the Receiver to all Receivership Property, including without limitation all records and information related to (a) Water Revenue, (b) the Water Fund, (c) any transfers of Receivership Property occurring at any time, (d) the Water Department or (e) any other Receivership Property. For purposes hereof, the “Receiver Representatives” or “Representatives” shall mean all persons and entities retained or engaged by the Receiver at any time to perform his duties hereunder and fulfill his responsibilities herein, including without limitation all employees, agents, representatives, attorneys, accountants, consultants, advisors and professionals engaged by or servicing the Receiver in connection with such duties and all shareholders, owners, employees, agents, partners and representatives of any of the foregoing.

1.12 Without limiting the generality of the foregoing, all Harvey Personnel are further ordered to turn over to the Receiver on the Effective Date (or such later date as may be agreed by the Receiver in writing or as otherwise set forth hereinbelow), or at the Receiver’s election provide access to, all of the following pertaining to the Receivership Property in both physical and electronic form to the extent that such items are in their possession, custody, or control:

- (a) All information on all bank accounts, wherever located, which hold any Water Revenue or Water Funds or any other cash assets of the Water Department, or which have held such property at any time prior to the

Effective Date, including bank statements, and the name and location of all financial institutions holding any Water Revenue or any Water Funds.

- (b) Access to all of Harvey's bank accounts, records (including electronic, cloud-based and hard copies), financial assets, financial information and accounting systems, wherever located and however held, to the full extent that the Receiver deems necessary to enable the Receiver to identify, recover, separate and protect or liquidate any and all Receivership Property, including without limitation all bank accounts of Harvey in which any Water Funds have been commingled with any other monies or funds at any time.
- (c) All financial records of the Water Department.
- (d) All payroll and employee records of the Water Department, including time records and employee utilization reports, if any.
- (e) All outside reports of consultants and advisors related to the financial affairs or operations of the Water Department.
- (f) A list of all employees and personnel employed by or performing services for the Water Department, including name, title, function, telephone, email and address information and, as to outside vendors, the nature of and consideration paid for services rendered.
- (g) A list of the names and contact information (including phone, street address, and email address) for (i) all past employees, managers, retired employees, and non-employee personnel of the Water Department, and (ii) all persons or entities who have performed services for or been paid by the Water Department at any time, for any activity related to (a) the Water Department or (b) the generation, use or misuse of Water Revenue or Water Funds at any time.
- (h) All contracts and agreements to which the Water Department is a party or by which it is bound or pursuant to which it has any rights or obligations, including any (i) employment agreements between the Water Department or Harvey, on the one hand, and any Harvey Personnel, on the other hand and (ii) contracts or agreements with Payment Service Network.
- (i) The petty cash fund, if any.
- (j) A current aged account receivable/delinquency report for any amounts owed to the Water Department by any person or entity.
- (k) An aged listing of all trade payables and other payables.
- (l) Year-end operating statements of Harvey and the Water Department for (i) each of 2009 through 2016, and year-to date 2017 operating statements for Harvey and Water Department and (ii) such other years as the Receiver may request.
- (m) All on-site employee payroll records and employee files and applications.

- (n) An inventory of all equipment, furniture, vehicles and supplies of the Water Department.
- (o) All existing contracts with any vendors servicing the Water Department.
- (p) All pending bids for contractor work related to any property managed or owned by the Water Department.
- (q) A list of, and any and all documents pertaining to, any unpaid vendor or service provider invoices or record of work performed by any such vendors.
- (r) Information regarding all insurance claims submitted in the past three (3) years.
- (s) Surveys, site plans, stacking plans, specifications, floor plans, drawings, and measurements related to any real property owned or managed by the Water Department.
- (t) Any reports and other documents or information regarding the condition of any of the facilities and infrastructure constituting Harvey's water system and pertaining to any period in 2015, 2016, or 2017, including but not limited to any environmental assessments, physical condition reports, and information pertaining to deferred maintenance or capital improvements.
- (u) All documents identifying and summarizing all pending litigation involving or naming the Water Department (excluding this action).
- (v) All documents and information pertaining to any existing or claimed violations of any Legal Requirement.
- (w) An inventory of all computers, including laptops, held by any persons or entities with any access (including remote access) to the records (including electronic records), servers, computers and any stored information of the Water Department.
- (x) All documents, books, records and computer files, computer equipment, software, management files, and all passwords needed to access all software and computer files, and e-mail accounts maintained at the Water Department related to the Receivership Property.
- (y) All documents, records, files, data, contact information and all other materials relevant to any attempt or failure of Harvey or the Water Department to comply with the Legal Requirements.
- (z) Such other records pertaining to the Receivership Property as may be requested by the Receiver.

1.13 All banks, brokerage firms, financial institutions and other business entities which have any possession, custody or control of any assets, funds or accounts (i) in the name of or for the benefit of the Water Department or Harvey and (ii) related to or containing any portion of the

Water Revenue or the Water Funds or any other Receivership Property (collectively, the “Financial Institutions” and such accounts the “Water Accounts”), shall take all such action as necessary to make the Receiver the sole authorized signatory on such accounts and otherwise grant the Receiver exclusive access and control to all such assets, funds or accounts. All Financial Institutions shall recognize, acknowledge and for all purposes treat the Receiver as the sole signatory for the Water Accounts. To the extent any or all of the Water Revenue or the Water Funds are commingled with other funds or accounts (the “Other Funds”), the Financial Institutions shall (a) separate the Water Revenue and Water Funds from such Other Funds and (b) deliver the Water Funds and Water Revenue to the Receiver in accordance with his instructions.

1.14 No Harvey Personnel may take any action, directly or indirectly, or permit any inaction, that would hinder, obstruct, delay or otherwise interfere with the Receiver’s custody or control of the Receivership Property or the performance of his duties hereunder or the assistance provided by any Receiver Representative to the Receiver.

1.15 The Harvey Personnel shall prepare and submit to the Receiver, by no later than fourteen (14) days after the Effective Date, and file with this Court, an accounting for all (i) Receivership Property existing as of the Effective Date, and (ii) Receivership Property transferred, concealed, or diverted at any time since January 1, 2013, other than transfers in the lawful ordinary course of business of the Water Department. Such accounting shall be provided under oath and the penalty of perjury and signed by an authorized officer of Harvey. Nothing herein shall be construed to limit, deny, or prejudice the Receiver’s right to seek and obtain any information regarding any other transfer or disposition of any Receivership Property at any other time, including before January 1, 2013.

1.16 The Harvey Personnel are hereby prohibited from (i) destroying or disabling any Receivership Property or (ii) removing any Receivership Property from the Water Department, or diverting any Water Revenue or Water Funds at any time, other than as may be necessary to operate the Water Department in the lawful ordinary course of business.

1.17 All Harvey Personnel shall provide the Receiver with all information in whatever form (including written, oral and electronic) as and when requested by the Receiver or his Representatives at any time, (i) related to the Receivership Property or the Legal Requirements or otherwise necessary in the Receiver's judgment to enable the Receiver to perform his duties and fulfill his responsibilities hereunder, or (ii) from any department or function of Harvey as of any date, to the extent the Receiver determines that such information may be related to any Receivership Property or otherwise necessary to enable the Receiver to preserve, protect or recover any Receivership Property or perform any of his duties hereunder (collectively, the "Information"). The Receiver and his Representatives are authorized to issue any subpoena to any person or entity, including subpoenas for documents or deposition testimony, for purposes of obtaining any Information at any time, without further order of the Court. All Harvey Personnel, including any former Harvey employees or officers, shall appear for any deposition testimony, and provide all documents containing any Information, in response to a subpoena or other request from or on behalf of the Receiver.

1.18 All Harvey Personnel shall not destroy any records that may be commingled with or related to records pertaining to any Receivership Property, at any time, except upon the prior written consent of the Receiver.

1.19 The Harvey Personnel shall add the Receiver as an additional insured and loss payee on all insurance relating to the Receivership Property, including, but not limited to, fire,

extended coverage, property damage, liability (including both general liability and excess liability), fidelity, errors and omissions, and workers compensation, and modifying the policies if deemed appropriate by the Receiver, but subject to approval for any modifications to insurance. The Harvey Personnel are prohibited from canceling, reducing, or modifying any and all insurance coverage in existence with respect to any of the Receivership Property.

2. Allocation of Income Collections

2.1 The term “Income” means, collectively, all cash, cash on hand, checks, cash equivalents, credit card receipts, demand deposit accounts, bank accounts, cash management or other financial accounts, bank or other deposits, and all other cash (all whether now existing or later arising); current and past-due earnings, rents, prepaid rents, revenues, issues and profits, accounts, and accounts receivable (all whether unpaid, accrued, due, or to become due); and all other gross income derived from the operations of the Water Department regardless of whether earned before or after entry of this Order.

2.2 Income from the Receivership Property shall be applied by (or paid under the supervision of) the Receiver as follows:

- (a) First to the approved fees and expenses (including any applicable bond costs and fees) of the Receiver and of the attorneys, accountants and other professionals retained by the Receiver to assist and advise the Receiver in the performance of his duties hereunder;
- (b) Then to any unpaid Indemnified Liabilities (as defined below in Section 5.4 of this Order) that may be owed by Harvey to the Receiver or any Receiver Representative at any time;
- (c) Then to “Water Related Expenses” as defined in Paragraph 6 of the Consent Decree, as well as the reinstated Judgment as amended by the Court;
- (d) To any reserves established by the Receiver at any time for purposes of enabling him to perform his duties, including for any contingent or anticipated expenses or liabilities of the Water Department; and
- (e) Any surplus to be held pending further order of the Court.

3. Receiver Professionals; Compensation and Reports.

3.1 The Receiver's proposed retention of Michael Pakter and his firm Gould & Pakter Associates, LLC (collectively, "Pakter") as his forensic accountant to perform the Accounting Services (as defined below) for this case is hereby approved (subject to the filing of any applicable retention application pursuant to the Local Rules of this Court (the "Local Rules"), unless such filing requirement is waived by the Court), retroactive to the date Pakter first incurred time in connection with providing services to the Receiver for this case. "Accounting Services" shall consist of all forensic accounting services requested by the Receiver or otherwise necessary in order to enable the Receiver to perform his duties hereunder, including without limitation review and analysis of financial records of Harvey, investigation of financial transfers and preparation of financial reports to assist the Receiver in managing the Receivership Property.

3.2 The Receiver's proposed retention of N. Neville Reid and his firm Fox Swibel Levin & Carroll LLP as his general legal counsel to perform the Legal Services (defined below) is hereby approved, subject to the filing of any applicable retention application required under the Local Rules unless such filing requirement is waived by the Court (collectively, "Reid" and together with Pakter and any other professionals retained by the Receiver, the "Professionals"), retroactive to the date Reid first incurred time in connection with providing services to the Receiver for this case. The "Legal Services" shall consist of all legal services requested by the Receiver in connection with this case or otherwise necessary to enable him to perform his duties hereunder, including without limitation general case administration, investigation of potential claims against third parties, recovery of any illegally transferred Receivership Property or the

proceeds thereof, general discovery, litigation, and negotiation and settlement of claims against the Water Department.

3.3 The Receiver may retain such additional advisors and professionals, without further Court order, as the Receiver deems necessary in order to enable him to perform his duties and fulfill his responsibilities hereunder.

3.4 The Receiver's and his Professionals' compensation for performance of their duties or services shall be billed on an hourly basis and charged at a rate of no more than \$295 per hour.

3.5 The Receiver's Professionals shall prepare and send to the Receiver monthly invoices for their services rendered. The Receiver shall pay his own invoices and that of his Professionals from the Receivership Property upon entry of an order of the Court approving an application for allowance of such compensation. The Receiver and his professionals may file an application for approval of compensation at any time, upon ten (10) days' notice to Chicago, Harvey and any other parties requesting notice in this case.

3.6 Nothing herein shall be construed to require the Receiver to pay any obligation of Harvey or the Water Department from his own funds.

3.7 The Receiver shall provide quarterly reports to the Court, Chicago and Harvey of the Income, and the status, condition and amount of the Receivership Property, including balances in the Water Accounts, and such other information as the Receiver deems appropriate for review by the Court (collectively, the "Reports" and individually a "Report"). Each Report shall include a copy of the relevant bank statement(s) related to the Water Accounts.

3.8 The Receiver shall furnish to Chicago and Harvey any additional information regarding the Receivership Property as may be reasonably requested by them, but the Receiver is

authorized to request instructions from this Court should any party request information or documents that would be unduly burdensome or expensive to produce, or if the Receiver reasonably believes such request is intended to annoy or harass the Receiver or achieve any other improper purpose. The Receiver is hereby authorized to comply with the terms and conditions of any lawful subpoena request for production of documents comprising Receivership Property.

3.9 Notice to Chicago for any purpose of this Order shall be deemed sufficient if provided by email or regular U.S. Mail, to: Diane M. Pezanoski, Deputy Corporation Counsel, City of Chicago Law Department, 30 North LaSalle Street, Suite 1400, Chicago, IL 60602, Diane.Pezanoski@cityofchicago.org.

3.10 Notice to Harvey or any Harvey Personnel shall be deemed sufficient if provided by email or regular U.S. Mail, to: Ken Hurst, Esq. and Mark Roth, Esq., Roth Fioretti LLC, 311 S. Wacker, Suite 2470, Chicago, Illinois 60606, Ken@rothfioretti.com and Mark@rothfioretti.com.

4. Term; Bond; Final Accounting.

4.1 This Receivership shall continue until further order of the Court.

4.2 The Receiver shall provide a bond solely to the extent, and in amounts and terms, required by the Court.

4.3 The Receiver shall submit a final Report (with copies to Chicago and Harvey) for approval by the Court within the deadline designated by the Court.

4.4 Only after the Court approves the Receiver's final accounting may the Receiver be discharged and any Receiver's bond be cancelled.

5. General Provisions; Indemnity.

5.1 No person or entity shall file suit against the Receiver or any of his Representatives, or take other action against the Receiver or any of his Representatives, in any forum without an order of this Court permitting the suit or action; provided, however, that no prior Court order is required to file a motion in this action to enforce the provisions of this Order or any other order of this Court in this action.

5.2 The Receiver and his Representatives shall have no personal liability in connection with any liabilities, obligations, liens, or amounts owed to any of Harvey's creditors because of his duties as Receiver or their services to the Receiver. Nothing in this Order shall grant any rights to any creditors beyond what such creditors already have under Illinois law.

5.3 The Receiver and his Representatives shall have (i) no personal liability to anyone for any claim or injury arising from the operation of the Harvey water system or the failure or malfunction of such water system, and (ii) no personal liability for actions taken pursuant to this Order or in furtherance or support of the Receiver's duties hereunder or for services provided pursuant to the Receiver's instructions or in furtherance of his duties, except for claims against the Receiver for the Receiver's intentional and willful failure to comply with this Court's orders.

5.4 Harvey shall indemnify and hold harmless the Receiver and each of his Representatives against any and all claims, expenses or liabilities suffered by or pursued against any of them at any time, including defense costs, arising from or related to (i) any actions or inaction of Harvey occurring at any time, including any actions or inaction of Harvey related to the delivery or non-delivery of water to any persons or entities and any safety or contamination of such water, including residents, businesses or water customers of Harvey and any municipalities under contract to receive water from Harvey, or (ii) any performance by the

Receiver or any Receiver Representative of their respective duties hereunder or services provided in relation hereto, or any action taken by the Receiver or any Receiver Representative in furtherance of their respective duties and responsibilities hereunder or services provided in relation hereto (collectively, the “Indemnified Liabilities”).

5.5 Harvey shall pay the Indemnified Liabilities to the Receiver or Receiver Representatives (as applicable) within ten (10) days of receipt of a written notice from the Receiver or such Receiver Representative of such Indemnified Liability. The Receiver is hereby authorized to use Receivership Property to pay any Indemnified Liability not timely paid by Harvey.

5.6 The Receiver’s duty to act as Receiver is subject to the Receiver’s written acceptance and approval of the terms of this Order.

6. Amendment of Order; Retention of Jurisdiction.

6.1 This Order may be amended for cause after a motion or hearing. This Order may also be amended by Order of Court after agreed to by the Receiver, Chicago and Harvey.

6.2 This Court shall retain jurisdiction to enforce the provisions of this Order, as it may be amended from time to time.

7. Receiver’s First Report.

7.1 The Receiver’s first Report to the Court will cover the period August 4, 2017 to October 4, 2017 and shall be filed on October 18, 2017. Any objections to the Receiver’s first Report must be filed on or before October 27, 2017.

7.2 The hearing on the Receiver's first Report and status in this case will be held on November 14, 2017 at 10:30 AM.

8. Effective Date.

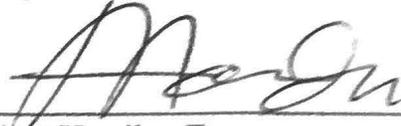
8.1 The Effective Date of this Order shall be August 4, 2017. The Receiver is not required to post a bond in this case.

ENTERED
JUDGE KATHLEEN M. PANTLE-1775
AUG 04 2017
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
COOK COUNTY, IL
DEPUTY CLERK

Date: _____

Acceptance of Receivership

Robert Handler of Commercial Recovery Associates accepts the duties of the Receiver as set forth in this Order and agrees to submit to the personal jurisdiction of the Court.



Robert Handler, Esq.
Commercial Recovery Associates

Dated: 8/4/17, 2017

EXHIBIT B

Population: 25,000
Services: 7,164

The City of Harvey (031-1110) Public Water System Flow Chart 2014 Inspection

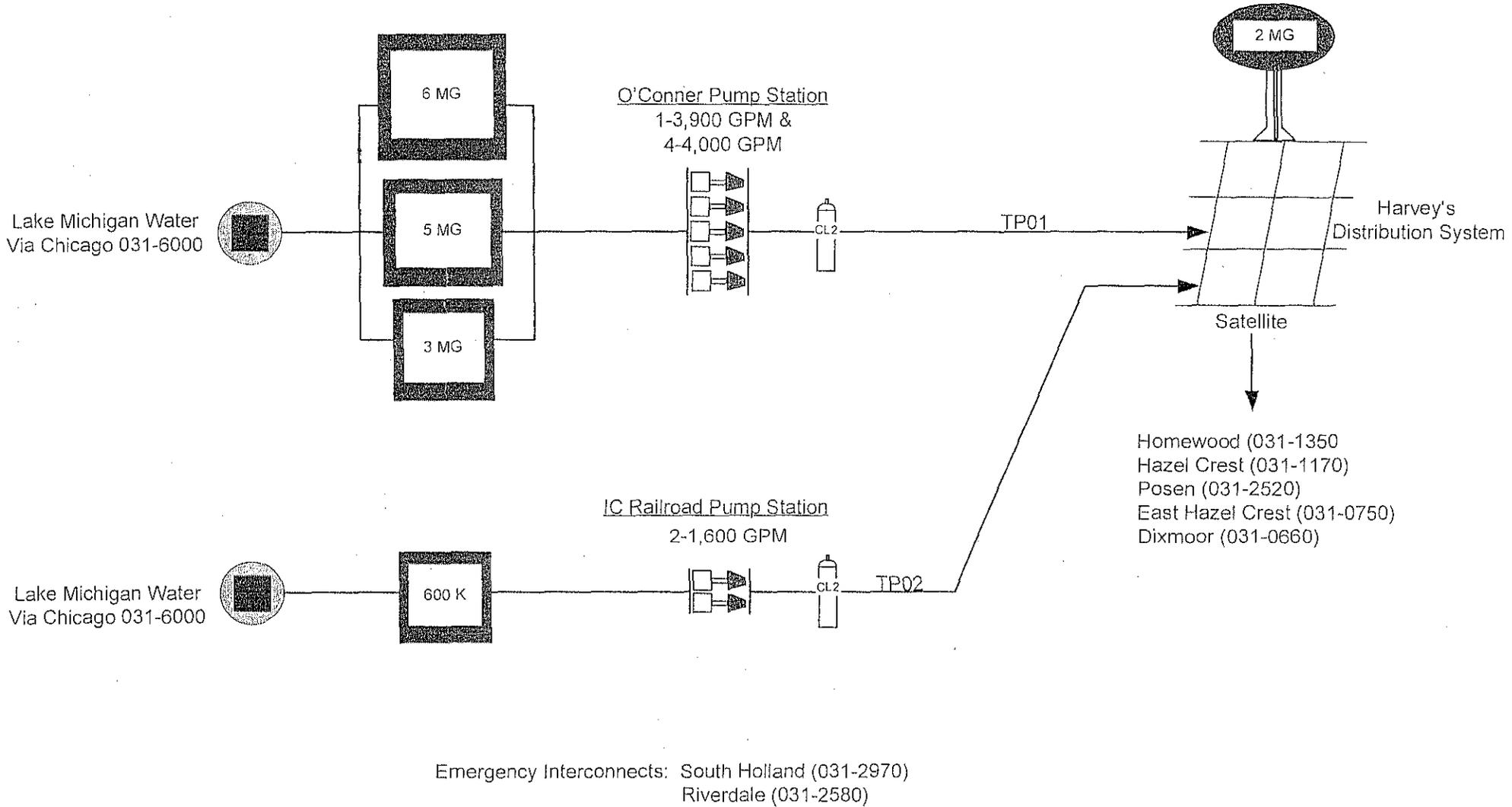


EXHIBIT C

City of Harvey Water Department
Statement of Revenue and Expense

| DESCRIPTION | (Preaudited) 04/30/2017 | (Audited) 04/30/2016 | (Audited) 4/30/2015 |
|---------------------------------|----------------------------|-------------------------|------------------------|
| Transfer from Debt Service Fund | 410,537.93 | 0.00 | 810,615.19 |
| Other Services | 46,416.12 | 20,841.29 | 561,901.56 |
| Water Services | 16,549,594.05 | 16,016,480.68 | 14,546,380.93 x |
| Meter Charge | 10,143.12 | 22,439.66 | 17,706.82 |
| Restore Fee | 102,230.00 | 29,160.00 | 39,730.00 |
| Tampering Fee | 32,106.35 | 14,427.53 | 11,737.27 |
| Change in IMRF Net Pension | 0.00 | 291,550.00 | |
| Interest Income | 155.07 | 0.00 | 169.21 |
| Lien Fee | 275.00 | 0.00 | 169.50 |
| Penalties | 172,141.04 | 30,535.29 | 15,824.14 |
| | <u>17,323,598.68</u> | <u>16,425,434.45</u> | <u>16,004,234.62</u> |
| Salaries | 501,323.36 | 562,359.59 | 594,772.58 |
| Overtime | 15,806.95 | 15,564.97 | 31,921.54 |
| Payroll Taxes | 38,181.95 | 54,665.85 | 44,532.66 |
| Payroll Taxes-Unemployment | 3,537.74 | 0.00 | 14,925.28 |
| IMRF | 6,386.91 | 15,553.88 | 41,498.03 |
| Fringe Benefits | 159,790.34 | 129,723.87 | - |
| Physical Examinations | 185.00 | 0.00 | - |
| Insurance Package | 385,775.98 | 6,823.33 | - |
| Workers Compensation | 6,813.48 | 0.00 | - |
| Uniform & Clothing Allowance | 3,099.83 | 6,059.73 | 4,505.83 |
| Office Supplies | 14,398.71 | 1,050.97 | 19,637.30 |
| Printing & Duplication | 1,405.00 | 6,831.49 | 6,395.17 |
| Equipment Purchases | 77,563.58 | 15,325.93 | - |
| Postage & Delivery | 33,511.47 | 64,146.04 | 54,641.76 |
| Accounting & Audit | 153,156.50 | 86,673.00 | 20,925.00 |
| Legal Fees | 24,869.58 | 36,874.00 | 167,468.23 |
| IT Fees | 42,404.18 | 20,611.10 | 8,358.30 |
| Contractual Services | 81,300.46 | 0.00 | - |
| Outside Services | 32,465.29 | 7,687.87 | 20,162.86 |
| Professional Services | 87,553.29 | 255,770.77 | 199,224.79 |
| Travel Expense | 65.00 | 0.00 | - |
| Dues & Subscriptions | 351.00 | 281.00 | - |
| Vehicle Maintenance | 23,322.08 | 7,605.07 | - |
| Gas, Oil & Fuel | 17,770.04 | 0.00 | 52,699.67 |
| Operating Supplies | 74,681.99 | 23,224.05 | 5,614.64 |
| Utilities | 94,484.36 | 186,101.70 | 61,131.70 |
| Communications | 36,463.78 | 24,425.04 | 26,536.31 |
| Building Maintenance | 2,949.84 | 0.00 | - |
| Equipment Maintenance | 324,612.95 | 391,934.37 | 356,602.42 |
| Equipment Rental | 7,276.28 | 0.00 | 2,242.38 |
| Bank & Credit Card Fees | 48,040.63 | 15,727.23 | 37,586.66 |
| Miscellaneous Expense | 100.00 | 1,036.52 | 531.23 |
| Water Purchases | 11,994,291.53 | 11,609,593.45 | 11,737,919.53 |
| Depreciation Expenses | 397,239.40 | 390,829.80 | 389,044.78 |
| Amortization Expense | - 4,608.00 | - 4,608.00 | - 4,608.00 |
| Debt Service Interest | 908,528.71 | 0.00 | 709,943.83 |
| | <u>15,595,099.19</u> | <u>14,877,596.09</u> | <u>14,604,214.48</u> |
| | 17,323,598.68 | 16,425,434.45 | 16,004,234.62 |
| | <u>15,595,099.19</u> | <u>14,877,596.09</u> | <u>14,604,214.48</u> |
| | 1,728,499.49 | 1,547,838.36 | 1,400,020.14 |

EXHIBIT D

**City of Harvey Water Department
Revenue and Expense report
period ending 8/31/17**

| | 8/31/2017 YTD | | foot note | proposed adjustments | 8/31/2017 YTD | | proposed 4/30/2018 | |
|---|------------------|---------------|--------------|-------------------------|------------------|--------------------|-------------------------------|---------------|
| | \$ | % of revenue | | | proposed | adjusted statement | annualized adjusted statement | % of revenue |
| | \$ | % of revenue | | \$ | \$ | % of revenue | \$ | % of revenue |
| Revenue | | | | | | | | |
| transfer from debt service fund | 96,079 | | | - 96,079 | 0 | | 1 | |
| other services | - | | | | - | | - | |
| water services | 5,231,426 | | 1 | | 5,231,426 | | 15,694,279 | |
| meter charge | 674 | | | | 674 | | 2,023 | |
| restore fee | 133,100 | | | | 133,100 | | 399,300 | |
| tampering fees | 17,250 | | | | 17,250 | | 51,750 | |
| interest income | 119 | | | | 119 | | 358 | |
| lien fee | - | | | | - | | - | |
| penalties | 75,030 | | | | 75,030 | | 225,091 | |
| total revenues | 5,553,679 | 100% | | | 5,553,679 | 100% | 16,372,800 | 100% |
| Expenditures | | | | | | | | |
| salaries | 248,334 | 4.47% | 2 | | 248,334 | 4.47% | 745,001 | 4.55% |
| overtime | 15,974 | 0.29% | | | 15,974 | 0.29% | 47,922 | 0.29% |
| payroll taxes | 20,149 | 0.36% | | | 20,149 | 0.36% | 60,447 | 0.37% |
| payroll taxes - unemployment | 1,541 | 0.03% | | | 1,541 | 0.03% | 4,622 | 0.03% |
| IMRF | 1,919 | 0.03% | | | 1,919 | 0.03% | 5,756 | 0.04% |
| fringe benefits | 75,311 | 1.36% | | | 75,311 | 1.36% | 225,934 | 1.38% |
| sub-total | 363,227 | 6.54% | | | | | 1,089,682 | 6.66% |
| physical examinations | - | | | | - | | - | |
| insurance package | 186,701 | 3.36% | 3 | | 186,701 | 3.36% | 560,104 | 3.42% |
| workers comp | 2,754 | 0.05% | | | 2,754 | 0.05% | 8,261 | 0.05% |
| uniform & clothing allowance | 3,955 | 0.07% | | | 3,955 | 0.07% | 11,865 | 0.07% |
| office supplies | 2,983 | 0.05% | | | 2,983 | 0.05% | 8,948 | 0.05% |
| printing & duplication | 1,109 | 0.02% | | | 1,109 | 0.02% | 3,327 | 0.02% |
| equipment purchases | - | 0.00% | | | - | 0.00% | - | 0.00% |
| postage & delivery | 7,324 | 0.13% | | | 7,324 | 0.13% | 21,971 | 0.13% |
| Receiver fees | - | 0.00% | | | - | 0.00% | 405,000 | 2.47% |
| Accounting & Audit | 63,631 | 1.15% | 4 | | 63,631 | 1.15% | 190,892 | 1.17% |
| legal fees | 49,273 | 0.89% | 5 | - 49,273 | 0 | 0.00% | 1 | 0.00% |
| IT fees | 17,518 | 0.32% | 6 | - 5,081 | 12,437 | 0.22% | 37,310 | 0.23% |
| contractual services | - | 0.00% | | | - | 0.00% | - | 0.00% |
| outside services | 98,739 | 1.78% | 7 | - 74,333 | 24,406 | 0.44% | 73,219 | 0.45% |
| professional services | 24,000 | 0.43% | 8 | - 12,000 | 12,000 | 0.22% | 36,000 | 0.22% |
| travel expense | - | 0.00% | | | - | 0.00% | - | 0.00% |
| dues & subscriptions | - | 0.00% | | | - | 0.00% | - | 0.00% |
| vehicle maintenance | 16,451 | 0.30% | | | 16,451 | 0.30% | 49,354 | 0.30% |
| gas, oil & fuel | 6,857 | 0.12% | | | 6,857 | 0.12% | 20,572 | 0.13% |
| operating supplies | 17,020 | 0.31% | | | 17,020 | 0.31% | 51,060 | 0.31% |
| utilities | 30,289 | 0.55% | 9 | | 30,289 | 0.55% | 90,868 | 0.55% |
| communications | 10,726 | 0.19% | | | 10,726 | 0.19% | 32,177 | 0.20% |
| building maintenance | 10,313 | 0.19% | | | 10,313 | 0.19% | 30,940 | 0.19% |
| equipment maintenance | 47,170 | 0.85% | 10 | | 47,170 | 0.85% | 141,509 | 0.86% |
| capital improvements | - | | 11 | | 66,667 | 1.20% | 200,000 | 1.22% |
| equipment rental | 1,539 | 0.03% | | | 1,539 | 0.03% | 4,616 | 0.03% |
| bank & credit card fees | -212 | 0.00% | | | 212 | 0.00% | 636 | 0.00% |
| misc exp. | - | 0.00% | | | - | 0.00% | - | 0.00% |
| water purchases | 3,936,611 | 70.88% | 12 | | 3,936,611 | 70.88% | 11,809,834 | 72.13% |
| depreciation expense | - | 0.00% | | | - | 0.00% | - | 0.00% |
| amortization expense | - | 0.00% | | | - | 0.00% | - | 0.00% |
| debt service principal | 208,582 | 3.76% | 13 | - 208,582 | 0 | 0.00% | 1 | 0.00% |
| debt service interest Genl & JAWA | 178,101 | 3.21% | 14 | - 178,101 | 0 | 0.00% | 0 | 0.00% |
| debt service per consent decree | - | | 15 | 95,149 | 95,149 | 1.71% | 285,447 | 1.74% |
| debt service interest city of Chicago water | 238,188 | 4.29% | 16 | - 238,188 | 0 | 0.00% | - | 0.00% |
| total expenditures | 5,522,850 | 99.44% | | - 766,488 | 4,756,362 | 85.64% | 15,162,323 | 92.61% |
| Net of revenue & expenses | 30,830 | 0.56% | | | 797,317 | 14.36% | 1,210,478 | 7.39% |
| Meter read error additional water revenue from Prairie Materials | | | | | | | 195,000 | |
| system conversion error recapture water revenue from Hazel Crest 16 LLC | | | | | | | 185,000 | |
| projected revenue in excess of expense for FY2018 | | | | | | | 1,590,478 | |

Robert P. Handler, Receiver for Harvey Water Fund
Footnotes to the Proposed Adjusted Revenue and Expense Statement
August 31, 2017 Month to Date

Foot notes

1. No adjustment made to water services revenue for the first four months. However in September an additional \$195,000 and \$185,000 was billed to customers for previous bad meter reads. The additional \$380,000 of water services billing in September is real revenue but a one-time event. The benefit of the meter replacement project is not reflected here.
2. Salaries increased materially from the previous year. The increase is due to reclassification of employees. When the Receiver started the engagement it was noted the pump station supervisor was not on the Water Department's payroll, but was on the Sewer Department payroll. The Receiver was informed that other individuals may have been previously misclassified and were corrected in August. The Receiver's next phase of review will be concentrated in this area for proper classification and job function. No adjustment proposed at this time.
3. General insurance expense has increased annually by 38.5%. The Receiver will investigate further; but this may just be a classification issue. No adjustment proposed at this time.
4. Accounting fees are for (i) the outside Audit firm of Lauterbach & Amen in the amount of \$20,400 and (ii) W&W Consulting in the amount of \$43,231. The Receiver will examine for proper apportionment of fees in the near term. No adjustment is proposed at this time.
5. Legal fees are all for Roth Fioretti, counsel to Harvey. The Receiver believes these should be reclassified out of Water Fund and entirely into the General Fund, without any allocation for contribution by the Water Fund.
6. IT services included a one time set up fee for BS&A of \$7,621.59. Amortized over 12 months, this results in an adjustment of \$5,081.06 for the first four months of the year.
7. Outside services reflects the recording of two large invoices from the Illinois EPA: one in the amount of \$60,000 for prior years' obligations; the other in the amount of \$20,000 for this year's obligation. The Receiver proposes to adjust \$74,333 from the four-month statement as follows: (i) \$60,000 is to be excluded for the budgeted operation and (ii) the remaining \$14,333 is to be amortized over the remaining 8 months of the fiscal year.

8. Professional services consists of the outside contract of Rufus Fisher, who is acting as the Superintendent of Water and Public Works. At this time the Receiver proposes a 50% allocation between Water and the Public Works dept.
9. The utility expense is comparable to previous years', but a review is needed to determine whether the current allocation is proper. No adjustment proposed at this time.
10. Equipment maintenance appears to be low for the first four months of the year. We know first hand that some needed repairs will be scheduled in the near term. This line item is expected to increase over time.
11. Water purchases as a percent of water services has increased from FY2017 of 72.5% to 75.25% for the first four months of FY2018. We anticipate increased capture of water revenue with the installation of new water meters for the commercial accounts. We also anticipate water expenses will decrease once a new meter is installed at the city of Chicago water vault. This will result in Harvey being charged for actual usage of the water line. No proposed adjustment at this time as the Receiver envisions the ratio of water expense to water service revenue will decrease by year-end.
12. Debt service reflects the general obligation and JAWA principal payments. There is currently scheduled \$417,165 for JAWA principal payments (obligation ends 5/18) and \$338,000 for general obligation payments, for total principal payments of \$755,165 for FY2018. Amortized ratably over the twelve month period, the four month principal accrual should be \$251,721. An additional \$43,140 must be accrued for the scheduled principal payment for FY2018.
13. Debt service interest for the two general obligation bonds and the JAWA bond amounts to \$367,761.12 for the year. Amortizing the interest expense ratably over the twelve months renders a monthly obligation interest expense of \$30,647.78. The expense for the four-month period should be \$122,587, which reflects an adjustment of \$55,514.
14. Debt service interest city of Chicago reflects is the penalty and interest charges on the current four monthly bills received from the City of Chicago Water department.

EXHIBIT E



Statement Period Date: 9/1/2017 - 9/30/2017
 Account Type: PF COMML 53 ANALYZED
 Account Number: 7239704419

CITY OF HARVEY
 WATER BILL
 15320 BROADWAY AVE
 HARVEY IL 60426-3396



OLA

Banking Center: Harvey
 Banking Center Phone: 708-333-2010
 Commercial Client Services: 866-475-0729

279

Account Summary - 7239704419

| | | | | |
|--------------|--------------------------|---------------------|--------------------------|----|
| 09/01 | Beginning Balance | \$452,535.96 | Number of Days in Period | 30 |
| | Checks | | | |
| 1 | Withdrawals / Debits | \$(570.22) | | |
| 26 | Deposits / Credits | \$328,727.88 | | |
| 09/30 | Ending Balance | \$780,693.62 | | |

Withdrawals / Debits 1 item totaling \$570.22

| Date | Amount | Description |
|-------|--------|--------------------------------------|
| 09/20 | 570.22 | RETURN DEPOSIT ITEM(S) ADVICE:101020 |

Deposits / Credits 26 items totaling \$328,727.88

| Date | Amount | Description |
|-------|------------|---|
| 09/05 | 502.09 | DEPOSIT |
| 09/12 | 2,758.77 | DEPOSIT |
| 09/12 | 3,305.74 | DEPOSIT |
| 09/13 | 508.92 | DEPOSIT |
| 09/13 | 1,860.46 | DEPOSIT |
| 09/13 | 2,248.49 | GRAND TRUNK WEST PAYMENT 0190104670 CITY OF HARVEY 091317 |
| 09/14 | 565.77 | DEPOSIT |
| 09/14 | 1,686.73 | DEPOSIT |
| 09/14 | 3,812.90 | DEPOSIT |
| 09/14 | 5,650.67 | FUCHS LUBRICANTS DIRECT DEPOSIT TRD PYBLES 0000000001 CITY OF HARVEY 091417 |
| 09/15 | 570.22 | DEPOSIT |
| 09/18 | 501.25 | DEPOSIT |
| 09/18 | 7,563.46 | DEPOSIT |
| 09/18 | 36,295.26 | GRAND TRUNK WEST PAYMENT 0190106027 CITY OF HARVEY 091817 |
| 09/18 | 93,364.55 | DEPOSIT |
| 09/19 | 626.83 | DEPOSIT |
| 09/20 | 3,265.20 | DEPOSIT |
| 09/20 | 6,003.02 | DEPOSIT |
| 09/20 | 141,943.93 | DEPOSIT |
| 09/21 | 500.00 | DEPOSIT |
| 09/21 | 2,928.26 | DEPOSIT |
| 09/22 | 4,452.71 | DEPOSIT |
| 09/25 | 928.36 | DEPOSIT |
| 09/25 | 1,838.07 | DEPOSIT |
| 09/25 | 3,952.76 | DEPOSIT |
| 09/27 | 1,093.46 | DEPOSIT |

Daily Balance Summary

| Date | Amount | Date | Amount | Date | Amount |
|-------|------------|-------|------------|-------|------------|
| 09/05 | 453,038.05 | 09/15 | 476,006.72 | 09/21 | 768,428.26 |
| 09/12 | 459,102.56 | 09/18 | 613,731.24 | 09/22 | 772,880.97 |
| 09/13 | 463,720.43 | 09/19 | 614,358.07 | 09/25 | 779,600.16 |
| 09/14 | 475,436.50 | 09/20 | 765,000.00 | 09/27 | 780,693.62 |



EFFECTIVE SEPTEMBER 1ST, WE INCREASED THE INTEREST RATE WE PAY OUR CUSTOMERS ON SOME OF OUR COMMERCIAL DEPOSIT PRODUCTS. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR FIFTH THIRD BANK RELATIONSHIP MANAGER, TREASURY MANAGEMENT REPRESENTATIVE OR CALL 1-866-475-0729 AND SELECT OPTION 5 THEN 2. MEMBER FDIC.



Statement Period Date: 9/1/2017 - 9/30/2017
 Account Type: PF COMML 53 ANALYZED
 Account Number: 7240672175

CITY OF HARVEY
 WATER LOCKBOX
 15320 BROADWAY AVE
 HARVEY IL 60426-3396



0

Banking Center: 222 S. Riverside
 Banking Center Phone: 312-704-7300
 Commercial Client Services: 866-475-0729

22786

Account Summary - 7240672175

| | | | | |
|--------------|--------------------------|---------------------|--------------------------|----|
| 09/01 | Beginning Balance | \$94,308.11 | Number of Days in Period | 30 |
| | Checks | | | |
| | Withdrawals / Debits | | | |
| 53 | Deposits / Credits | \$75,792.89 | | |
| 09/30 | Ending Balance | \$170,101.00 | | |

Deposits / Credits **53 items totaling \$75,792.89**

| Date | Amount | Description |
|-------|-----------|-----------------|
| 09/01 | 98.40 | LOCKBOX DEPOSIT |
| 09/05 | 455.17 | LOCKBOX DEPOSIT |
| 09/05 | 1,263.43 | LOCKBOX DEPOSIT |
| 09/06 | 281.24 | LOCKBOX DEPOSIT |
| 09/08 | 648.92 | LOCKBOX DEPOSIT |
| 09/11 | 84.16 | LOCKBOX DEPOSIT |
| 09/11 | 100.00 | LOCKBOX DEPOSIT |
| 09/11 | 240.29 | LOCKBOX DEPOSIT |
| 09/11 | 860.05 | LOCKBOX DEPOSIT |
| 09/11 | 1,107.59 | LOCKBOX DEPOSIT |
| 09/11 | 3,359.52 | LOCKBOX DEPOSIT |
| 09/11 | 6,638.85 | LOCKBOX DEPOSIT |
| 09/12 | 430.60 | LOCKBOX DEPOSIT |
| 09/12 | 7,523.09 | LOCKBOX DEPOSIT |
| 09/13 | 65.14 | LOCKBOX DEPOSIT |
| 09/13 | 75.71 | LOCKBOX DEPOSIT |
| 09/13 | 1,063.67 | LOCKBOX DEPOSIT |
| 09/14 | 302.11 | LOCKBOX DEPOSIT |
| 09/14 | 2,569.90 | LOCKBOX DEPOSIT |
| 09/14 | 4,674.41 | LOCKBOX DEPOSIT |
| 09/14 | 6,770.80 | LOCKBOX DEPOSIT |
| 09/14 | 10,538.33 | LOCKBOX DEPOSIT |
| 09/15 | 59.45 | LOCKBOX DEPOSIT |
| 09/15 | 85.38 | LOCKBOX DEPOSIT |
| 09/15 | 146.59 | LOCKBOX DEPOSIT |
| 09/15 | 501.64 | LOCKBOX DEPOSIT |
| 09/15 | 4,058.30 | LOCKBOX DEPOSIT |
| 09/18 | 118.10 | LOCKBOX DEPOSIT |
| 09/18 | 246.71 | LOCKBOX DEPOSIT |
| 09/18 | 2,515.25 | LOCKBOX DEPOSIT |
| 09/18 | 3,144.43 | LOCKBOX DEPOSIT |
| 09/19 | 2,339.39 | LOCKBOX DEPOSIT |
| 09/20 | 423.85 | LOCKBOX DEPOSIT |
| 09/20 | 1,878.17 | LOCKBOX DEPOSIT |
| 09/20 | 2,659.61 | LOCKBOX DEPOSIT |
| 09/21 | 197.50 | LOCKBOX DEPOSIT |
| 09/21 | 200.85 | LOCKBOX DEPOSIT |
| 09/22 | 869.63 | LOCKBOX DEPOSIT |
| 09/25 | 68.71 | LOCKBOX DEPOSIT |
| 09/25 | 125.00 | LOCKBOX DEPOSIT |
| 09/25 | 136.91 | LOCKBOX DEPOSIT |



Deposits / Credits - continued

| Date | Amount | Description |
|-------------|---------------|--------------------|
| 09/25 | 273.42 | LOCKBOX DEPOSIT |
| 09/25 | 1,544.79 | LOCKBOX DEPOSIT |
| 09/25 | 2,922.50 | LOCKBOX DEPOSIT |
| 09/26 | 59.32 | LOCKBOX DEPOSIT |
| 09/26 | 124.99 | LOCKBOX DEPOSIT |
| 09/27 | 12.12 | LOCKBOX DEPOSIT |
| 09/27 | 125.75 | LOCKBOX DEPOSIT |
| 09/28 | 250.00 | LOCKBOX DEPOSIT |
| 09/28 | 608.91 | LOCKBOX DEPOSIT |
| 09/29 | 65.26 | LOCKBOX DEPOSIT |
| 09/29 | 412.98 | LOCKBOX DEPOSIT |
| 09/29 | 466.00 | LOCKBOX DEPOSIT |

Daily Balance Summary

| Date | Amount | Date | Amount | Date | Amount |
|-------------|---------------|-------------|---------------|-------------|---------------|
| 09/01 | 94,406.51 | 09/14 | 143,459.49 | 09/22 | 162,904.34 |
| 09/05 | 96,125.11 | 09/15 | 148,310.85 | 09/25 | 167,975.67 |
| 09/06 | 96,406.35 | 09/18 | 154,335.34 | 09/26 | 168,159.98 |
| 09/08 | 97,055.27 | 09/19 | 156,674.73 | 09/27 | 168,297.85 |
| 09/11 | 109,445.73 | 09/20 | 161,636.36 | 09/28 | 169,156.76 |
| 09/12 | 117,399.42 | 09/21 | 162,034.71 | 09/29 | 170,101.00 |
| 09/13 | 118,603.94 | | | | |

EFFECTIVE SEPTEMBER 1ST, WE INCREASED THE INTEREST RATE WE PAY OUR CUSTOMERS ON SOME OF OUR COMMERCIAL DEPOSIT PRODUCTS. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR FIFTH THIRD BANK RELATIONSHIP MANAGER, TREASURY MANAGEMENT REPRESENTATIVE OR CALL 1-866-475-0729 AND SELECT OPTION 5 THEN 2. MEMBER FDIC.

EXHIBIT F

10/16/2017

CHECK DISBURSEMENTS
WATER FUND
FROM 08/04/2017 TO 10/04/2017

| Date | Description | Reference # | Amount |
|------------|--------------------------------------|--------------|-------------------|
| 08/04/2017 | 17-000-1032 Cash - 53 Disbursements | BEG. BALANCE | |
| 08/01/2017 | | | |
| 08/09/2017 | AIRGAS USA, LLC | 121759 | 1,229.24 |
| 08/09/2017 | Bank Direct | 204(E) | 44,769.41 |
| 08/11/2017 | AT&T July-17 Bill; Aug-17 Auto Debit | 1191 | 1,801.32 |
| 08/11/2017 | AT&T July-17 Bill; Aug-17 Auto Debit | 1191 | 450.33 |
| 08/14/2017 | SPRINT | 205(E) | 69.34 |
| 08/15/2017 | GLEN'S UNIFORM SALES | 121782 | 643.45 |
| 08/16/2017 | METROPOLITAN INDUSTRIES, INC | 121795 | 4,260.00 |
| 08/24/2017 | COMCAST BUSINESS | 211(E) | 177.82 |
| 08/25/2017 | COMCAST | 212(E) | 180.98 |
| 08/28/2017 | GASVODA & ASSOCIATES, INC. | 121809 | 736.70 |
| 08/31/2017 | W & W CONSULTING GROUP, LLC | 215(E) | 10,324.00 |
| 08/31/2017 | UNITEDHEALTHCARE INS. COMPANY | 1377 | 2,916.89 |
| 08/31/2017 | THE STANDARD | 1387 | 33.83 |
| 09/01/2017 | RUFUS FISHER | 121817 | 6,000.00 |
| 09/08/2017 | ANDRE LEWIS | 121821 | 30.39 |
| 09/12/2017 | AT&T Aug-17 Bill; Sept-17 Auto Debit | 1302 | 1,808.69 |
| 09/12/2017 | AT&T Aug-17 Bill; Sept-17 Auto Debit | 1302 | 452.17 |
| 09/12/2017 | SPRINT | 221(E) | 71.70 |
| 09/13/2017 | ITRON, INC. | 121827 | 2,383.21 |
| 09/18/2017 | THIRD MILLENNIUM | 121831 | 1,162.18 |
| 09/18/2017 | Bank Direct | 223(E) | 30,000.00 |
| 09/21/2017 | CONDUENT BUSINESS SERVICES, LLC | 121835 | 9,896.16 |
| 09/21/2017 | XEROX BUSINESS SERVICES LLC | 121836 | 8,662.12 |
| 09/21/2017 | DYS INC | 121839 | 8,100.00 |
| 09/22/2017 | COMCAST BUSINESS | 225(E) | 177.82 |
| 09/23/2017 | COMCAST | 222(E) | 171.48 |
| 09/26/2017 | PURCHASE POWER | 227(E) | 650.00 |
| 09/28/2017 | ALMIGHTY ROOTER INC | 121841 | 77.51 |
| 09/28/2017 | CLARENCE N. RASHEED | 121842 | 110.86 |
| 09/28/2017 | ERIKA RIVERA | 121843 | 40.81 |
| 09/28/2017 | NATALIE SHIPMAN | 121844 | 72.40 |
| 09/29/2017 | RUFUS FISHER | 121845 | 6,000.00 |
| 09/30/2017 | UNITEDHEALTHCARE INS. COMPANY | 1378 | 2,916.89 |
| 09/30/2017 | THE STANDARD | 1388 | 33.83 |
| 10/02/2017 | W & W CONSULTING GROUP, LLC | 232(E) | 8,279.00 |
| 10/02/2017 | UNITEDHEALTHCARE INS. COMPANY | 233(E) | 16,077.22 |
| 10/02/2017 | CHECK AMERICA CORPORATION | 121854 | 4,169.61 |
| 10/02/2017 | CREATIVE FORMS & CONCEPTS, INC. | 121859 | 111.10 |
| 10/02/2017 | HACH COMPANY | 121866 | 1,242.98 |
| 10/02/2017 | HP PRODUCTS | 121869 | 674.41 |
| 10/02/2017 | ILLINOIS CENTRAL R.R. CO. | 121870 | 93,364.51 |
| 10/02/2017 | PATTEN INDUSTRIES, INC. | 121882 | 3,894.00 |
| 10/02/2017 | RICOH USA, INC. | 121886 | 94.10 |
| 10/02/2017 | THE STANDARD | 121894 | 88.03 |
| 10/02/2017 | WATER PRODUCTS- AURORA | 121900 | 19,807.36 |
| 10/02/2017 | WEST SIDE EXCHANGE DEPT #4570 | 121901 | 10,481.29 |
| 10/03/2017 | RED FLAG CHICAGO, LLC | 121910 | 3,500.00 |
| 10/04/2017 | CONDUENT BUSINESS SERVICES, LLC | 121914 | 4,948.08 |
| | | Total | <u>313,143.22</u> |

EXHIBIT G

Commercial Recovery Associates, LLC
Robert P. Handler, Receiver for City of Harvey Water Fund
Downstream Municipality Rate Investigation Report

September 11, 2017

There are five downstream municipalities that receive their water from the City of Harvey. When we initially tested the billing rate for water per cubic foot we noticed two ranges of value. The municipalities of Dixmoor and East Hazel Crest were within one range. However, Homewood, Posen and Hazel Crest were in another range that differed by nearly a factor of 10 from the other two municipalities. See computed rates below:

| <u>Municipality</u> | <u>Computed Rate from Invoice</u> |
|---------------------|-----------------------------------|
| Dixmoor | \$.0527 per cubic foot |
| East Hazel Crest | \$.0503 per cubic foot |
| Homewood | \$.3186 per cubic foot |
| Posen | \$.5177 per cubic foot |
| Hazel Crest | \$.4007 per cubic foot |
| Hazel Crest | \$.4126 per cubic foot |

Because of this wide discrepancy, the Receiver undertook an examination of Harvey's billing process.

The meters that record water passing through to the downstream municipalities are read on a monthly basis. We accompanied Harvey's meter readers on their regularly scheduled meter viewings and verified in the field the numbers that were actually being recorded from the meters in the various municipality water vaults. Those recorded meter numbers from the field were then handed to a billing clerk at the water department offices. The billing clerk in turn records the meter reads in a meter book. The billing clerk then computes the consumed amount of water by subtracting the previous month's reading from the current month's read. Harvey maintains a separate meter sheet for each downstream municipality, and the clerk calculates the net consumption amount for each municipality by hand.

In our review of the municipal read sheets we noticed hand written instructions on Homewood, Posen and Hazel Crest's sheets stating: "Drop 0 when billing". In accordance with these instructions, when entering the consumed quantity into the billing system, the clerk would reduce the quantity consumed by the last zero (0) digit. This practice reduced the net consumption for that specific meter by a factor of 10. The billing rates for these three municipalities were then increased in the system by a factor of ten as reflected in the systems rate chart. Decreasing the

consumption and increasing the rate yielded the proper total amount to be charged to the municipality. However by performing this practice, the actual consumption for the three municipalities was understated and the unit rate for billing purposes was overstated. This practice appears to have been performed for a number of years. The Receiver has not been given any reasonable explanation justifying this practice. A copy of Hazel Crest's recent bill and the underlying meter read sheet accompanies this memo as an example.

The actual effective rates for the down stream municipalities are listed below for the same time period as listed above.

| <u>Municipality</u> | <u>Actual Effective Rate</u> |
|---------------------|-------------------------------|
| Dixmoor | \$.0527 per cubic foot (same) |
| East Hazel Crest | \$.0503 per cubic foot (same) |
| Homewood | \$.0319 per cubic foot |
| Posen | \$.0518 per cubic foot |
| Hazel Crest | \$.0401 per cubic foot |
| Hazel Crest | \$.0413 per cubic foot |

Hazel Crest, which has two meters, for some reason was billed different rates for each of them. The Receiver has ended this practice and will invoice one rate for both Hazel Crest water meters, effective August 31, 2017.

The practice of dropping zeros and using a higher billing rate will be stopped in the very near future.

EXHIBIT H



September 29, 2017

Via Email:

Diane.Pezanoski@cityofchicago.org

Fiona.Burke@cityofchicago.org

Diane M. Pezanoski, Deputy Corporation Counsel
Fiona A. Burke, Senior Counsel
City of Chicago, Department of Law
121 North LaSalle Street, Suite 600
Chicago, Illinois 60602

Re: City of Chicago v. City of Harvey, et al; Case No. 12 CH 44855

Dear Diane and Fiona,

As we have recently discussed with you, we request an initial 90-day grace period for enforcement of (i) Chicago's Citation on Harvey's bank accounts and payments by the downstream municipalities, and (ii) the Consent Decree, subject to further extension by consent of the City of Chicago as discussed below (as it may be so extended from time to time, the "Grace Period"), as follows:

1. Release the Citation during the Grace Period: We propose that the citation be released for the duration of the Grace Period, insofar as the Receiver will be in complete charge of Harvey's Water Fund and Chicago will continue to retain its judgment.
2. Modify the Downstream Municipalities' payments of bills due to Harvey by directing them to:
 - a. Pay the full amount of their bills directly to Harvey's Water Fund account; and
 - b. Turn over all water bill reserves to the Receiver for Harvey's water fund, for deposit solely in Harvey's Water Fund.
3. Harvey, through the Receiver, will:
 - a. Pay Chicago
 - i. All current bills going forward; and
 - ii. A minimum of \$100k/month on the arrearage (the "Minimum Payment")
 - b. Review quarterly the Minimum Payment as Harvey improves collection and billing practices, repairs leaks, and updates metering for all customers; and
 - c. Prepare Harvey's budget for future repairs and capital expenditures. This budget will include, as determined by the Receiver after completion of a capital improvement assessment, the necessary repairs and/or capital expenditures for those items raised by Homewood in its pending motion to expand the

receivership.

4. The Grace Period will be extended an additional ninety (90) days upon a showing of good cause for such extension by the Receiver and agreement by Chicago following its review of the proffered good cause showing.
5. Chicago would of course retain the right to terminate the Grace Period before its 90 day life ends should Harvey fail to make the payments in paragraph 3 a) i-ii above or for other good cause shown

In our prior correspondence with you, we explained how the citation is creating an administrative and accounting burden on the receivership. Currently, because of the citation on Harvey's accounts at 5th/3rd Bank, the bank has imposed a permanent hold on Harvey's water fund accounts. This hold creates a daily negative balance. Even though 5th/3rd has stated to the Receiver that Harvey still has funds available from those accounts, the daily balance reports continue to show a negative balance. In addition, 5th/3rd continues to sweep those accounts at the end of the month and provide Chicago with whatever balance remains at that time. The actual amount turned over varies. The Receiver needs to properly manage the Water Fund. However, because of the citation, the Receiver is unable to accurately budget for the allowed Water Fund expenses without risking bouncing a check.

As we also discussed, as currently required under the Consent Decree, the downstream municipalities are directed to pay their current bills from Harvey to Chicago. Chicago, in turn, applies those payments to Harvey's arrearage. In addition, those suburbs can hold back up to 15% of those bills, presumably for capital improvements. This has also created an administrative and accounting burden on the receivership.

You will find enclosed our proposed operating budget for managing the Water Fund during the grace period. The budget includes our footnotes setting forth the basis for the key inputs and other assumptions. This budget, which incorporates our proposal, demonstrates that the Water Fund, while managed by the Receiver, will be able to (i) satisfy its obligations under state law regarding water-related expenses, (ii) provide Harvey's Water Department with the cash resources it requires to carry out its duties to Harvey and (iii) satisfy Harvey's dual obligations to Chicago for all future bills and begin to reduce the arrearage.

We would like the Grace Period to be effective no later than October 3, 2017. If you approve, our counsel will prepare the Receiver's motion and the proposed order for your review and approval.

In considering whether to approve this proposal, we wish to stress that we do not believe at this time that the restructured payments (proposed herein at \$100,000/month as opposed to the \$243,919.70/month required under the Consent Decree) are all that Harvey will be able to pay out of the Water Fund once all efficiencies are obtained and waste is eliminated, based upon our ongoing work. Further, we are not, by way of this proposal, suggesting that Harvey has no obligation to repay the Water Fund prior amounts taken from it for use in payment of non-water related expenses. In fact, we fully intend to seek recovery of those payments so that not only can Harvey make the mandatory Consent Decree payments, but it can also make additional lump sum payments to Chicago to the extent the Receiver deems them feasible, until such time as the full Consent Decree debt is paid. In furtherance of that objective, our financial consultant, Gould & Pakter Associates, has recently begun collecting the forensic and other information we will need in order to identify and recover all amounts misappropriated from the Water Fund. As

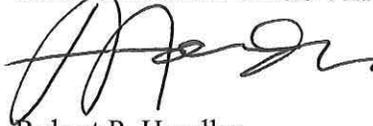
that information is obtained, we will diligently advance our plan to recover all amounts owed the Water Fund.

Please respond to this proposal by October 2, 2017.

Thank you for your time and consideration.

Regards,

COMMERCIAL RECOVERY ASSOCIATES, LLC



Robert P. Handler

Receiver for City of Harvey, IL's Water Fund

Copies (via email):

Edward.Siskel@cityofchicago.org

skulwin@kmklawllp.com

jkulwin@kmklawllp.com

nreid@foxswibel.com

bwilson@foxswibel.com

mark@rothfioretti.com

ken@rothfioretti.com

rwfchicago@yahoo.com

zimmer@dlglawgroup.com

vblopez@dlglawgroup.com

chris@cummingsduda.com

pmmlawyer@aol.com

admin@zenolawoffice.com

marovich@hdoml.com

**City of Harvey Water Department
Revenue and Expense report
period ending 8/31/17**

| | 8/31/2017 YTD | | foot note | proposed adjustments | 8/31/2017 YTD | | proposed 4/30/2018 | | 2017 FY | |
|---|------------------|---------------|-----------|----------------------|------------------|--------------------|-------------------------------|---------------|-------------------|---------------|
| | \$ | % of revenue | | | proposed | adjusted statement | annualized adjusted statement | \$ | % of revenue | \$ |
| Revenue | | | | | | | | | | |
| transfer from debt service fund | 96,079 | | - | 96,079 | 0 | | 1 | | 410,538 | |
| other services | - | | | | - | | - | | 46,416 | |
| water services | 5,231,426 | | 1 | | 5,231,426 | | 15,694,279 | | 16,549,550 | |
| meter charge | 674 | | | | 674 | | 2,023 | | 10,143 | |
| restore fee | 133,100 | | | | 133,100 | | 399,300 | | 102,230 | |
| tampering fees | 17,250 | | | | 17,250 | | 51,750 | | 32,106 | |
| interest income | 119 | | | | 119 | | 358 | | 155 | |
| lien fee | - | | | | - | | - | | 275 | |
| penalties | 75,030 | | | | 75,030 | | 225,091 | | 172,125 | |
| total revenues | 5,553,679 | 100% | | | 5,553,679 | 100% | 16,372,800 | 100% | 17,323,538 | 100% |
| Expenditures | | | | | | | | | | |
| salaries | 248,334 | 4.47% | 2 | | 248,334 | 4.47% | 745,001 | 4.55% | 501,323 | 2.89% |
| overtime | 15,974 | 0.29% | | | 15,974 | 0.29% | 47,922 | 0.29% | 15,807 | 0.09% |
| payroll taxes | 20,149 | 0.36% | | | 20,149 | 0.36% | 60,447 | 0.37% | 38,182 | 0.22% |
| payroll taxes - unemployment | 1,541 | 0.03% | | | 1,541 | 0.03% | 4,622 | 0.03% | 3,538 | 0.02% |
| IMRF | 1,919 | 0.03% | | | 1,919 | 0.03% | 5,756 | 0.04% | 6,387 | 0.04% |
| fringe benefits | 75,311 | 1.36% | | | 75,311 | 1.36% | 225,934 | 1.38% | 159,790 | 0.92% |
| sub-total | 363,227 | 6.54% | | | | | 1,089,682 | 6.66% | 725,027 | 4.19% |
| physical examinations | - | | | | - | | - | | 185 | 0.00% |
| insurance package | 186,701 | 3.36% | 3 | | 186,701 | 3.36% | 560,104 | 3.42% | 385,776 | 2.23% |
| workers comp | 2,754 | 0.05% | | | 2,754 | 0.05% | 8,261 | 0.05% | 6,813 | 0.04% |
| uniform & clothing allowance | 3,955 | 0.07% | | | 3,955 | 0.07% | 11,865 | 0.07% | 3,100 | 0.02% |
| office supplies | 2,983 | 0.05% | | | 2,983 | 0.05% | 8,948 | 0.05% | 14,399 | 0.08% |
| printing & duplication | 1,109 | 0.02% | | | 1,109 | 0.02% | 3,327 | 0.02% | 1,405 | 0.01% |
| equipment purchases | - | 0.00% | | | - | 0.00% | - | 0.00% | 77,564 | 0.45% |
| postage & delivery | 7,324 | 0.13% | | | 7,324 | 0.13% | 21,971 | 0.13% | 33,511 | 0.19% |
| Receiver fees | - | 0.00% | | | - | 0.00% | 405,000 | 2.47% | - | 0.00% |
| Accounting & Audit | 63,631 | 1.15% | 4 | | 63,631 | 1.15% | 190,892 | 1.17% | 153,157 | 0.88% |
| legal fees | 49,273 | 0.89% | 5 - | 49,273 | 0 | 0.00% | 1 | 0.00% | 24,870 | 0.14% |
| IT fees | 17,518 | 0.32% | 6 - | 5,081 | 12,437 | 0.22% | 37,310 | 0.23% | 42,404 | 0.24% |
| contractual services | - | 0.00% | | | - | 0.00% | - | 0.00% | 81,300 | 0.47% |
| outside services | 98,739 | 1.78% | 7 - | 74,333 | 24,406 | 0.44% | 73,219 | 0.45% | 32,465 | 0.19% |
| professional services | 24,000 | 0.43% | 8 - | 12,000 | 12,000 | 0.22% | 36,000 | 0.22% | 87,553 | 0.51% |
| travel expense | - | 0.00% | | | - | 0.00% | - | 0.00% | 65 | 0.00% |
| dues & subscriptions | - | 0.00% | | | - | 0.00% | - | 0.00% | 351 | 0.00% |
| vehicle maintenance | 16,451 | 0.30% | | | 16,451 | 0.30% | 49,354 | 0.30% | 23,322 | 0.13% |
| gas, oil & fuel | 6,857 | 0.12% | | | 6,857 | 0.12% | 20,572 | 0.13% | 17,770 | 0.10% |
| operating supplies | 17,020 | 0.31% | | | 17,020 | 0.31% | 51,060 | 0.31% | 74,682 | 0.43% |
| utilities | 30,289 | 0.55% | 9 | | 30,289 | 0.55% | 90,868 | 0.55% | 94,484 | 0.55% |
| communications | 10,726 | 0.19% | | | 10,726 | 0.19% | 32,177 | 0.20% | 36,464 | 0.21% |
| building maintenance | 10,313 | 0.19% | | | 10,313 | 0.19% | 30,940 | 0.19% | 2,950 | 0.02% |
| equipment maintenance | 47,170 | 0.85% | 10 | | 47,170 | 0.85% | 141,509 | 0.86% | 324,613 | 1.87% |
| capital improvements | - | | 11 | | 66,667 | 1.20% | 200,000 | 1.22% | - | |
| equipment rental | 1,539 | 0.03% | | | 1,539 | 0.03% | 4,616 | 0.03% | 7,276 | 0.04% |
| bank & credit card fees | -212 | 0.00% | | | 212 | 0.00% | 636 | 0.00% | 48,041 | 0.28% |
| misc exp. | - | 0.00% | | | - | 0.00% | - | 0.00% | 100 | 0.00% |
| water purchases | 3,936,611 | 70.88% | 12 | | 3,936,611 | 70.88% | 11,809,834 | 72.13% | 11,994,292 | 69.24% |
| depreciation expense | - | 0.00% | | | - | 0.00% | - | 0.00% | 397,239 | 2.29% |
| amortization expense | - | 0.00% | | | - | 0.00% | - | 0.00% | (4,608) | -0.03% |
| debt service principal | 208,582 | 3.76% | 13 - | 208,582 | 0 | 0.00% | 1 | 0.00% | - | 0.00% |
| debt service interest Genl & JAWA | 178,101 | 3.21% | 14 - | 178,101 | 0 | 0.00% | 0 | 0.00% | - | 0.00% |
| debt service per consent decree | - | | 15 | 95,149 | 95,149 | 1.71% | 285,447 | 1.74% | - | 0.00% |
| debt service interest city of Chicago water | 238,188 | 4.29% | 16 - | 238,188 | 0 | 0.00% | - | 0.00% | 908,529 | 5.24% |
| total expenditures | 5,522,850 | 99.44% | | 766,488 | 4,756,362 | 85.64% | 15,162,323 | 92.61% | 15,595,099 | 90.02% |
| Net of revenue & expenses | 30,830 | 0.56% | | | 797,317 | 14.36% | 1,210,478 | 7.39% | 1,728,439 | 9.98% |
| Meter read error additional water revenue from Prairie Materials | | | | | | | 195,000 | | | |
| system conversion error recapture water revenue from Hazel Crest 16 LLC | | | | | | | 185,000 | | | |
| projected revenue in excess of expense for FY2018 | | | | | | | 1,590,478 | | | |

City of Harvey, Water department
Footnotes to the proposed adjusted revenue and expense statement
August 31, 2017 Month to Date

Footnotes

1. No adjustment made to water services revenue for the first four months. However in September an additional \$195,000 and \$185,000 was billed to customers for previous bad meter reads. The additional \$380,000 of water services billing in September is real revenue but a one-time event.
2. Salaries increased materially from the previous year. The increase is due to reclassification of employees. When the Receiver started the engagement it was noted the pump station supervisor was not on the Water Department's payroll, but on the Sewer Department payroll. Other individuals were also said to be misclassified and corrected in August. The Receiver's next phase of review will be concentrated in this area for proper classification and job function. No adjustment proposed at this time.
3. General insurance expense has increased annually by 38.5%; need to investigate increase. This may be a classification issue. No adjustment proposed at this time.
4. Accounting fees are for the outside Audit firm of Lauterbach & Amen of \$20,400; and W&W Consulting for \$43,231. Receiver needs to examine for proper apportionment of fees in the near term. No adjustment is proposed at this time.
5. Legal fees are all for Roth Fioretti legal advisement. All fees are proposed to be reclassified out of Water fund and into the general fund.
6. IT services included a one time set up fee for BS&A of \$7,621.59. Amortized over 12 months results in an adjustment of \$5,081.06 for the first four months of the year.
7. Professional services results from recording two large invoices from the Illinois EPA: one is \$60,000 for prior years' obligations; the other is for \$20,000 and is for this year's obligation. Proposed to adjust \$74,333 from the four-month statement as follows: \$60,000 is to be excluded for the budgeted operation; the remaining \$14,333 is to be amortized over the remaining 8 months of the fiscal year.

8. Professional services records the outside contract of Rufus Fisher who is the Superintendent of Water and Public Works. At this time I propose a 50% allocation between Water and the Public Works dept.
9. The utility expense is comparable to previous years. A review of the utility charge shows that the large energy invoice is for the water pumping station. No adjustment proposed at this time.
10. Equipment maintenance appears to be low for the first four months of the year. We know first hand that some needed repairs will be scheduled in the near term. This line item is expected to increase over time.
11. Capital improvement is a new line item for specifically recording expenditures for water system repairs and enhancements (e.g. ME Simpson Leak repair report of December 2016; installation of new intake water meter with radio read capability; and main reservoir improvements)
12. Water purchases as a percent of water services has increased from FY2017 of 72.5% to 75.25% for the first four months of 2018. We anticipate increase capture of water revenue with the installation of new water meters for the commercial accounts and we also anticipate a lowering of water expense as a new meter is installed at the city of Chicago water vault and city of Harvey would be charged for actual usage on the water line. No proposed adjustment at this time I do envision by year-end the percent of water expense to water service revenue will decline.
13. Debt service records the general obligation and JAWA principal payments. For the year there is scheduled \$417,165 for JAWA principal payments (obligation ends 5/18) and \$338,000 for general obligation payments. Total principal payments for the year are \$755,165. The debt service is not listed in the 2015 consent decree, and therefore is eliminated for the proposed budget.
14. Debt service interest for the two general obligation bonds and the JAWA bond amounts to \$367,761.12 for the year. Amortizing the interest expense ratably over the twelve months renders a monthly obligation interest expense of \$30,647.78. The expense is not listed as a line item per the 2015 consent decree and is eliminated for the proposed 2018 budget.
15. Pursuant to sec. 6 of the 2015 consent decree Harvey shall be entitled to pay \$258,447.48 per year on debt service on Harvey's 2007A GO bond in fiscal year 2018 and 2019.
16. The debt service interest city of Chicago is the penalty and interest charges on the current four monthly bills received from the City of Chicago Water dept.

HOMWOOD – FLOSSMOOR CHRONICLE



<http://twitter.com/HFChronicle>



<http://www.facebook.com/HomewoodChronicle>



<http://www.youtube.com/channel/UCL6ptOJVL4ig00IUwKtV7wg>

Judge grants Homewood's request, orders Harvey to assess, repair water system

By David P. Funk on December 11, 2017 - 8:29pm

Cook County Circuit Court Judge Kathleen Pantle ruled last week that Harvey must pay for an assessment of its water system and make necessary repairs at the request of Homewood and other downstream towns.

The Dec. 6 court order is the latest development in a more than four year back-and-forth between Harvey and the municipalities to which it sells water.

Pantle ruled in July that an independent receiver, Robert Handler, would take control of Harvey's water finances and water-related assets after the city illegally used millions of dollars paying for expenses that were not water related.

Harvey owes millions more in back payments to Chicago for Lake Michigan water.

Harvey then sells the water to other south suburban towns, including Homewood. Homewood continues the chain, selling water to Flossmoor.

Following a January court ruling, these downstream municipalities began making payments for water directly to Chicago. The latest ruling orders them to again make the payments to Harvey through the receiver. The Homewood village board is expected to approve a \$334,883.63 payment when it pays the village's bills at the Dec. 12 meeting.

Handler is the only person who will have access to the Harvey water account, Homewood Village Attorney Christopher Cummings said.

A clause in a previous ruling allowed downstream towns to put a portion of water payments —about 10.5 percent— in escrow to pay for repairs and maintenance to the Harvey water system infrastructure. The Dec. 6 ruling ordered

those funds be paid to the receiver.

Homewood commissioned engineering firm Baxter and Woodman to inspect Harvey's water infrastructure between September 2014 and November 2015. Much of that inspection couldn't be done or was delayed because Harvey did not supply requested information and limited access to some facilities.

It was determined that at least three Harvey reservoirs, holding a total of 14.8 million gallons of water, were in need of roof repairs. In August, Homewood and Hazel Crest asked the court to make maintenance of the Harvey water system mandatory. The latest ruling requires an assessment by a civil engineer by March 31.

"We spent \$84,000 of Homewood's money back in 2015 and we're not going to pay for that again," Cummings said. "That's something that the receiver should be doing.

"They're going to have to figure out how to get things fixed."

Each downstream municipality has a meter at the town border to measure the water coming in from Harvey. Homewood has at least two of those meters, Cummings said, but both are aging. Those meters will be replaced at Harvey's expense so that a more accurate measurement can be made.

Harvey officials did not respond to requests for comment for this story.

Like 37

Recommend 37

Send



CHRISTOPHER J. CLARK

THIRD WARD ALDERMAN - CITY OF HARVEY, ILLINOIS
15320 BROADWAY AVENUE, HARVEY ILLINOIS 60426



September 20, 2015

Lisa Madigan
Illinois Attorney General
Springfield Main Office
500 South Second Street
Springfield, IL 62706

Dear Illinois Attorney General Lisa Madigan:

I write on behalf of over 1,000 Harvey citizens, who have signed the enclosed petition requesting your office to take legal action regarding the City of Harvey, Illinois. The petition process was a combined effort of myself, Alderpersons Shirley Drewenski, Joseph Whittington, Lamont Brown, and countless other Harvey citizens interested in justice and the future of the City of Harvey, Illinois.

City of Harvey Failure to Pay City of Chicago Water Bills

In 2012, the City of Chicago filed a lawsuit against the City of Harvey, captioned The City of Chicago v. The City of Harvey, Case No. 12CH44855. Said lawsuit alleged the City of Harvey collected revenues from its water customers but failed to pay the water bills due and owed to the City of Chicago.

This is not a simple case of a city not paying its bills. Upon information and belief, the City of Harvey does not have the revenue it collected for water service. Furthermore, the City of Harvey does not account, to its citizens, the use, if any, or whereabouts of the revenue it collected for water service. According to the City of Harvey Municipal Code and Illinois State Law, all revenues and monies derived from the operation of the waterworks or water supply system revenues collected from water service are to be placed, without any deduction whatever, in a separate "waterworks fund.". In essence, the waterworks fund is similar to a trust in which the City of Harvey is the trustee and water customers are the beneficiaries.

By failing to place the water revenues in a separate "waterworks fund", the water receipts were used for other purposes, legal or illegal, and not on behalf of its beneficiaries. The City of Harvey had a fiduciary duty to manage, pay and not misuse or misappropriate one iota of the water revenues.

Now, the City of Harvey, through its citizens, are required to pay, under a settlement not approved by its City Council, approximately \$244,000.00 a month over at least seven years. The settlement must be paid in addition to the current water fees charged by the City of Chicago.

Harvey citizens are not, in essence, paying twice for their own bills which were collected but not paid to Chicago, they also must absorb the cost of repaying the revenues, collected from other municipalities, but not paid to the City of Chicago.

SEC and City of Harvey's Use of Municipal Bonds for Improper Purposes

In 2014, the U.S. Securities and Exchange Commission filed a lawsuit against the City of Harvey, captioned U.S. Securities and Exchange Commission v. City of Harvey, Illinois and Joseph T. Letke, Case No. 1:14-cv-04744. Said lawsuit alleged the City of Harvey and Joseph T. Letke schemed to misuse municipal bond proceeds, from a Hotel Redevelopment Project, for improper purposes.

The improper purposes, as alleged, include but are not limited to, Harvey officials improperly diverting at least \$1.7 million of limited obligation bond proceeds into the general operation accounts of Harvey to pay the City's operation costs, including payroll; Joseph Letke, Harvey's comptroller, receiving approximately \$269,000 in undisclosed payments derived from bond proceeds and other proceeds earmarked for the Hotel Redevelopment Project; transferring \$290,000 from a TIF District fund to its general operations account and then used the money to make payroll; payment of \$100,000 to a woman that had no apparent connection to the Hotel Redevelopment Project; using \$600,000 in 2009 Bond proceeds for the City of Harvey's general expenses, and not for the Hotel Redevelopment Project; using an additional \$300,000 in 2009 Bond proceeds for the City of Harvey's general expenses, not for the Hotel Redevelopment Project; using \$959,000 in 2010 Bond proceeds for the City of Harvey's general expenses, not for the Hotel Redevelopment Project; certifying, through the Mayor of Harvey, a Project Fund Disbursement request for the funds although the Hotel Redevelopment Project was in foreclosure; and misrepresenting investors and underwriters regarding the Bonds for the Hotel Redevelopment Project.

Although the SEC lawsuit was settled and investors protected, Harvey residents continue to bear the burden of repaying the Bond obligations. Again, upon information and belief, the City of Harvey does not have the revenue from the Bond proceeds. Furthermore, the City of Harvey does not account, to its citizens, the use, if any, or whereabouts of the revenue from the Bond proceeds.

Someone Must be Held Accountable

How much more must Harvey citizens endure? Harvey citizens must contend with high property taxes; lack of city services, dilapidated infrastructure; crime; political intimidation; high unemployment; no justice; and now, repayment of at least \$34,000,000.00 in what becomes increasingly obvious as misused funds! This \$34,000,000.00 could have gone to a variety of projects to benefit Harvey citizens. In fact, someone other than Harvey citizens received a benefit. **THAT SOMEONE MUST BE HELD ACCOUNTABLE!**

The aforementioned alleged actions on the part of the City of Harvey, its officers, employees and others may have involved, misconduct, misuse or misappropriation of public funds, or other breaches of the public trust. Therefore, the citizens of the City of Harvey, County of Cook, and State of Illinois, desire the Office of the Illinois Attorney General to investigate and prosecute the aforementioned alleged actions on behalf of Harvey residents and in accordance with State of Illinois law.

My office is available to discuss this matter. If you so desire, please contact me by mail, telephone at 708-491-5259; or aldermanclark@gmail.com.

Sincerely,

Christopher J. Clark
Third Ward Alderman, City of Harvey, Illinois



CITY OF HARVEY, ILLINOIS

15320 BROADWAY AVENUE, HARVEY, ILLINOIS 60426



CHRISTOPHER J. CLARK
THIRD WARD ALDERMAN

SHIRLEY DREWENSKI
FIRST WARD ALDERMAN

JOSEPH WHITTINGTON
SECOND WARD ALDERMAN

July 29, 2015

An Open Letter to all Government Officials

Dear United States President Barack Obama: United States Attorney General Loretta Lynch: United States Senator Richard "Dick" Durbin: United States Senator Mark Kirk: United States Congresswoman Robin Kelly: United States Securities and Exchange Commission Chair Mary Jo White: Federal Bureau of Investigation Director James Comey: Illinois Governor Bruce Rauner: Illinois State Senator Napoleon Harris III: Illinois State Representative William Davis: Illinois Attorney General Lisa Madigan: Illinois Comptroller Leslie Geissler Munger: Illinois State Police Director Leo P. Schmitz: Cook County Illinois State's Attorney Anita Alvarez: Cook County Board President Toni Preckwinkle: Cook County Illinois Sheriff Thomas J. Dart: and all other government officials of concern:

We are writing to you on several matters of importance to members of the Harvey City Council. We are concerned about the fate of our city. Some may say this type of letter should never be written because it highlights problems or concerns we should keep among ourselves and within our community. This, in their opinion, is good for our political agenda. Respectfully, we disagree. We believe our only political agenda is to fully represent the citizens of Harvey. This representation includes using any and all resources at our disposal to bring the fullness of life, liberty and the pursuit of happiness to our community. Thus, you are receiving this letter because you are considered one of those resources. As a resource, we request that you assist us in addressing issues in the City of Harvey (City), a city long plagued with possible corruption, impropriety and scandal.

As council members, we have sworn to protect and defend the U.S. Constitution, Illinois Constitution and the laws of the City of Harvey. In addition to these oaths, we believe that we have a moral duty to protect and defend our citizens. We understand that simple political disagreements do not rise to the level urgency. Nevertheless, we believe our situation is more than a simple political disagreement. Similar to the Declaration of Independence, we believe that when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce citizens under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. The history of the present administration is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over the citizens. To prove this, let facts be submitted to a candid world.

Raid on Harvey Police Department

In 2007, the Cook County State's Attorney's Office, Illinois State Police Public Integrity Unit, and Cook County Sheriff's Office conducted a raid on the Harvey Police Department (HPD). The raid's purpose was to search for records and evidence related to dozens of unsolved murders and other violent crimes. In addition to the aforementioned purpose, there were numerous press reports regarding HPD's use of excessive force during and after arrests. In an interview with a local newspaper, an HPD employee who ran the HPD's holding cell said that HPD officers routinely beat and choked suspects and hog-tied them on the floor of their cells where they soiled themselves.

The raid led to an investigation by the Special Litigation Section of the United States Department of Justice. Where it appears there may have been a *Blue Wall of Silence*, the DOJ found very little information but several deficiencies in the HPD. In fact, the DOJ concluded "the HPD's system for reporting, reviewing and investigating use of force is grossly deficient and creates a high risk of excessive force." Further, the DOJ stated, "If appropriate measures are not taken, we may re-open our investigation." Finally, the DOJ, in its recommendation, stated that "some of these incidents constitute prosecutable excessive force."

The questions remain: Was there any change in HPD policies? Was there any follow-up from the DOJ regarding a change in policies? Where are the prosecutions, if any, for the incidents which constitute prosecutable excessive force? We believe that very little, if any, has changed. The only thing which may have changed is the culture to keep these incidents from coming to light.

It appears this raid and investigation stopped short of holding the responsible parties accountable to the fullest extent of the law.

Unprocessed Rape Kits

The 2007 raid on the HPD revealed approximately 200 unprocessed rape kits. Of the 200 unprocessed rape kits, approximately 50 were viable. Of the approximately 50 viable rape kits, tested by authorities, there have been charges brought against at least 14 defendants in 21 separate cases. The revelation of the unprocessed rape kits resulted in a litany of civil lawsuits. Those lawsuits will eventually make their way through a court of law.

The question remains, however, who is responsible? Should the failure to process 200 rape kits be considered a simple mistake or a crime? Where is the justice for the people we represent?

Javon Patterson

In 2010, Javon Patterson, who won a certificate of innocence from the State of Illinois after spending 2 1/2 years in prison on what he claimed was a trumped-up gun possession charge by the City, filed suit in a Federal Court. Patterson claimed he was arrested and falsely accused

of a gun charge after Detective Hollis Dorrough and Mayor Eric Kellogg allegedly questioned him at the police station about their missing narcotics.

This case involved the death and possible homicide of Willie Lloyd III; Detective Hollis Dorrough, who was later convicted of illegally returning a seized gun to a convicted drug dealer's family and Mayor Eric Kellogg allegedly stating, "Where's my (expletive) cocaine?"

As what appears to be City custom, the matter was settled. There still remains, however, possible criminal issues in the arrest and conviction of a man who eventually won a certificate of innocence from the State of Illinois.

Financial Audits

In 2014, it was reported the City failed to file years of annual audits as required by State law. Under State law, if a town does not complete its audit, the state comptroller is allowed to hire auditors to do it and bill the town for the work. As a result of the news reports, Cook County Sheriff Tom Dart sought an ordinance granting his office powers to become an inspector general if a municipality failed to file two consecutive years of financial audits. This ordinance was not passed by the Cook County Board of Commissioners. Although the measure remained in committee, the Illinois State Comptroller's office continued to have the authority to demand, force, or complete the audits. We, however, saw very little efforts by the Illinois State Comptroller's Office to demand, force, or complete the audits.

Although financial audits are generally a part of the public record, it has now come to our attention that the City has asked the Federal Court for leave to file these financial audits under seal. As council members, we have not seen the audits. The audits contain information that would be of great public interest. If a court allows the audits to be filed under seal, then it would be a great disservice to the public at large.

Failure to Comply with Freedom of Information Requests

As recent as 2014, the Illinois Attorney General issued at least two binding opinions stating the City violated the Freedom of Information Act. The Better Government Association filed suit in the Circuit Court alleging the City failed to respond to FOIA requests. The aforementioned organizations have the resources to litigate the matter in a court of law. The average citizen does not have the resources to litigate the matter in a court of law. There is no telling how many requests the City has illegally denied.

Open Meetings Act

On May 11, 2015, the City passed a budget without first complying with the public hearing requirement under Illinois state law. When the City Council moved to properly reconsider the vote, the Mayor refused to call the motion for a vote. Additionally, the City has failed to post meetings and budgets on its website, as required by law.

Failure to Pay Water Bills to the City of Chicago

In 2015, the City owed the City of Chicago at least 26 million in unpaid water bills for at least four years. While the City collected receipts from residents and other municipalities, the bill to the City of Chicago was not paid. The City municipal code states in part, "All revenues and monies derived from the operation of the waterworks or water supply system shall be ... kept separate and apart from the sewerage funds and separate and apart from all other funds and all of said money without any deduction." Nevertheless, the monies are not in the water fund. The City cannot and will not account for what happened to the money.

The City of Chicago negotiated a settlement with the City to pay the water bill in the amount of approximately \$244,000.00 per month. In essence, this means that citizens of Harvey will have to pay again for a bill they paid previously. The settlement was not presented to the City Council for a vote.

Our question: How can the water receipts, in our opinion, be collected, misappropriated or misused without any recompense? How can at least 26 million dollars in water receipts go unpaid and unaccounted? It appears the City of Harvey collected water receipts from its residents, but did not pay the City of Chicago. It, also, appears the leaders who got the City into this situation are allowed to continue without any accountability to the taxpayers and residents.

S.E.C. Investigation and Municipal Bonds

In 2014, the Securities and Exchange Commission filed a civil lawsuit against the City alleging fraud and misuse of municipal bonds. During the lawsuit, several parties took the Fifth Amendment. Those parties could have been compelled to testify. However, the procedure fell short of compelling those parties to testify. As a result, the S.E.C. and City settled the matter. The settlement simply made the City agree to no longer do what it had done. However, the people, who will have to repay those bonds through higher property taxes and other fees, appear to have no legal recourse or accountability from its leaders.

F.B.I. Involvement in Mayoral Re-election

In 2014, the Chicago Tribune reported that in 2007, Carlos Vargas, an undercover F.B.I. agent, gave \$141,300.00 to a political committee to re-elect Eric J. Kellogg for Mayor of Harvey, U.S. Sen. Dick Durbin, U.S. Sen. Mark Kirk and U.S. Rep. Robin Kelly wrote the U.S. Department of Justice. The letter, in part, stated "Harvey's citizens – like all citizens – must be confident in the honesty and trustworthiness of their government officials and law enforcement." While this was a good approach by the representatives, it has fallen short in the lack of response by the U.S. Department of Justice.

Our question: Where in the United States of America, does the F.B.I become involved, donate and support a candidate in a local election? We have seen it in overseas initiatives. But, never have we seen it on our own soil.

Hotel Deal

In 2013, it was reported the City of Harvey entered into a deal for the rehabilitation of a hotel. The City gave about \$10 million to a developer with a history of money problems but a close relationship with City Hall. According to the Chicago Tribune, the deal was rife with red flags:

- The city partnered with a developer who had a history of lawsuits and liens — including with Harvey — and then let him use millions to pay off debt, not rebuild the hotel.
- The city's comptroller — charged with looking out for Harvey's best interests — was also working with the developer, who said he paid the comptroller too.
- The money continued to flow from City Hall even as contractors said they weren't being paid and the developer took out a high-interest, short-term mortgage.
- After that mortgage went into foreclosure, the city did little to recover its money. In fact, an alderman even tried to help the developer land a similar deal in another city.

Agendas and Council Procedure

On June 22, 2015, the City Clerk failed to put on the agenda an important measure to override a mayoral veto. The measure which would allow the Cook County Sheriff as an Independent Inspector General, was vetoed by the Mayor. According to State law, the council was to reconsider the measure at the next regular council meeting, which would have been June 22, 2015. The City Clerk received two letters, from three to four Alderpersons, requesting the measure appear on the agenda. We believe the failure to put this measure on the agenda was not an error. Refusing to put the measure on the agenda and call for a vote was, in our opinion, a violation of State law.

Failure to Pay Police Pension

In 2015, it was reported the City owed more than 7.3 million to the police pension after neglecting payments for over 10 years. This matter was filed in the Circuit Court of Cook County and granted in favor of the police pension board.

It appears the City levied the money on behalf of the Pension Fund, but failed to pay the money once it was received. Once again, the city collected money, failed to pay it, but does not account for the whereabouts of the money. In essence, it appears the money is gone.

Conclusion

How can one administration be involved in so many appearances of impropriety without any oversight or transparency? How can so much revenue go unaccounted without any investigation? We concede there has been some involvement by local, state and federal authorities. The involvement, however, appeared to fall short of holding elected officials, appointed department heads, and employees or vendors responsible. Nevertheless, millions of dollars are missing. Laws are broken. Rights are violated. Citizens suffer.

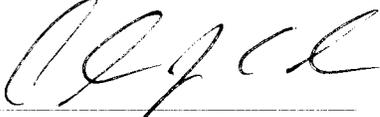
One may believe that all of the aforementioned acts can or may be resolved in the electoral process. We agree. We, however, do not agree that the power of the electoral process negates an abuse of legislative power and tyranny. It is this tyranny that destroys the will of the people, hampers individual freedoms, and usurps the electoral process. Each and every one of the aforementioned acts, without consequence, only condones and fosters the acts of tyranny over our community. Additionally, it fosters the belief that the current administration is beyond reproach. This degrades the public trust in government both locally, statewide and federally. We want it to come to an end!

As a result of the aforementioned events and many others which are unnamed or unknown, we request that any and every governmental entity, entrusted with the duty to protect the interests, lives and property of the citizens of Harvey, Illinois, provide assistance and investigation, to the Harvey City Council and the citizens of Harvey, Illinois with a sense of urgency.

We urge you in whatever way, under whatever legal authority you may have, to intervene into the City of Harvey. We do not wait on your response. We wait on your action!

This is our plea. The citizens of Harvey deserve better.

Respectfully,



Christopher J. Clark
Third Ward Alderman, City of Harvey



Shirley Drewenski
First Ward Alderwoman, City of Harvey



Joseph Whittington
Second Ward Alderman, City of Harvey

May 9, 2016

Via Hand Delivery and USPS

Honorable Lisa Madigan
Illinois Attorney General
500 South Second Street
Springfield, Illinois 62706

Honorable Anita Alvarez
Cook County State's Attorney
69 West Washington, Suite 3200
Chicago, Illinois 60602

Re: Application for Writ of Quo Warranto: City of Harvey, Illinois

Dear Attorney General Madigan and State's Attorney Alvarez:

We write this letter to request that your office brings an action in *quo warranto* pursuant to 735 ILCS 5/18-101, *et seq.*, or any other such action, to address the City of Harvey, Illinois (the "City" or "Harvey"): (a) illegally increasing water rates upon its residents; and (b) illegally imposing a Real Estate Tax Levy upon its residents. Additionally, we ask that your offices file all applicable criminal and civil claims, including requests for injunctive relief, to stop the continuously corrupt practices of the Eric Kellogg Mayoral Administration of the City. As discussed below, and as you may know from your independent investigations, the residents of the City have suffered long enough from the unethical actions of Eric Kellogg, and the people of Harvey deserve better.

PROCEDURAL BACKGROUND/AUTHORITY

As you are aware, Section 4 of the Attorney's General Act (15 ILCS 205/4) provides that the Illinois Attorney General has a duty,

"...To enforce the proper application of funds appropriated to the public institutions of the State, prosecute breaches of trust in the administration of such funds, and, when necessary, prosecute corporations for failure or refusal to make the reports required by law..." 15 ILCS 205/9.

Further, Section 6.5 of the same Act (15 ILCS 205/6.5), provides as follows:

"... (a) The General Assembly finds that the health, welfare, and prosperity of all Illinois citizens, and the public's interest in adequate, safe, reliable, cost-effective electric, natural gas, water, cable, video, and telecommunications services, requires effective public representation by the Attorney General to protect the rights and interests of the public in the provision of all elements of electric, natural gas, water, cable, video, and telecommunications service both during and after the transition to a competitive market, and that to ensure that the benefits of competition in the provision of electric, natural gas, water, cable, video, and telecommunications services to all consumers are attained, there shall be created within the Office of the Attorney General a Consumer Utilities

Unit... (c) There is created within the Office of the Attorney General a Consumer Utilities Unit, consisting of Assistant Attorneys General appointed by the Attorney General, who, together with such other staff as is deemed necessary by the Attorney General, shall have the power and duty on behalf of the people of the State to intervene in, initiate, enforce, and defend all legal proceedings on matters relating to the provision, marketing, and sale of electric, natural gas, water, cable, video, and telecommunications service whenever the Attorney General determines that such action is necessary to promote or protect the rights and interests of all Illinois citizens, classes of customers, and users of electric, natural gas, water, cable, video, and telecommunications services.

Similarly, Section 3-9005 of the Counties Code (55 ILCS 5/3-9005) states in relevant part that the duties of the Cook County State's Attorney include the duty:

"...To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned..." 55 ILCS 5/3-9005.

Based on the foregoing, it is clear that each office listed above has the authority to pursue the actions as set forth above. As the actions complained of below involve the exercise of public authority, the appropriation of public funds, and the bounds of public power, it is an appropriate matter for a *quo warranto* action. Frankly, any method to stop these corrupt practices would be useful.

WATER RATES

Please review the attached Memorandum from the Office of Harvey Mayor regarding increases of water, sewer, and refuse rates (the "Memorandum") and copies of the (immaterial) statutes cited in the Memorandum.

As you will note in your review of the Memorandum, the Mayor of Harvey illegally raised water rates upon the people of Harvey through an illegal "...**executive order**." The imposition and increase of water rates can only be accomplished through the passage of an Ordinance by the Corporate Authorities of a municipality. In sum, the Mayor raising water rates by *fiat* is illegal and this action cannot stand.

The undersigned Aldermen acknowledge and call for the following (1) they have not been provided with any reports substantiating the need for such a raise in water rates; (2) they have not been afforded the opportunity to meet as an applicable committee and deliberate in public on the merits of the proposed increase; (3) they (despite requests for the same) have not been provided with a copy of the "Settlement Order" by the (purported) City Legal Counsel (copied), the document upon which the Mayor relies for his claims that this rate increase is needed; (4) they (despite requests for the same) have not been provided with any information regarding the whereabouts of the millions of dollars in municipal funds that should have been paid to the City of Chicago, but were not, causing the City of Chicago to sue Harvey for the aforesaid delinquency and upon which the aforesaid Settlement Order was based; (5) they have not been made aware of and have never been given the opportunity to vote upon a \$400,000 abatement of water fees granted by the Harvey Administration to the Village of Dixmoor, Illinois (where the City Mayor serves as a part time Police Officer); and (6) they (again generally) demand that the laws of the State of Illinois be followed and if an ordinance is required to be passed to increase these fees and rates then such rates should not be raised until such an ordinance is passed.

Please also find the attached petition which has been signed by a plethora of residents of the City requesting that the Illinois Attorney General intervene in this matter. It is therefore clear that the people of the State of Illinois are concerned about these matters and implore your office for assistance in this matter.

2016 REAL ESTATE TAX LEVY

Initially, please note that the Illinois Municipal Code requires all [municipal] real estate tax levies be (1) passed by the applicable municipal Corporate Authorities and (2) filed with the County Clerk on the last Tuesday of the applicable year. The City's Corporate Authorities failed to take either step (with the Corporate Authorities actually voting to NOT pass the real estate tax levy). When the real estate tax levy was neither passed nor filed in accordance with the law, the Mayor unilaterally attempted to impose or "pass" a real estate tax levy by *fiat*. The Mayor's purported levy was dispatched in a subversive attempt to have a wholly illegal document be filed by the County Clerk as validly approved real estate tax levy imposing real estate taxes on all of the property owners in the City of Harvey. This feeble attempt to subvert the laws of the State of Illinois was discovered and quashed.

Now, the Mayor attempts to pass a real estate tax levy by 2 May, 2016. Again, this Levy (not having a basis in law as set forth above) would, of course, need to be passed by the Corporate Authorities of the City at a "Public Meeting" held in accordance with the Open Meetings Act, all other applicable State laws, and Robert's Rules of Order. Taking the aforesaid into consideration, please review the attached correspondences from the Aldermen of the City of Harvey, Illinois. These correspondences clearly indicate, in accordance with the attached newspaper story reported by the Chicago Tribune, that the Aldermen of the City were not in the City Council Chambers when the 2016 Real Estate Tax Levy was "passed", despite the certified document signed by the Mayor and the City Clerk and dispatched to the County Clerk. What in fact did happen was that 4 of the 6 Aldermen of the City left the Chambers and the Mayor (not the City Clerk) called his name and the names of his 2 politically aligned Aldermen and from that action determined that the Levy was passed. It is clear that the Public Meeting lost its quorum when the 4 Aldermen left the room. Any actions taken after that point in time were illegal and of no effect. As such, again, the Real Estate Tax Levy did not pass.

Numerous residents of the City visited the Cook County Clerk's Office and the Cook County State's Attorney's Office to (again) complain of the lawless acts of the Mayor. It is clear that the people of the State of Illinois are concerned about these matters and imploring for your offices' help in this matter.

SUMMARY

These cases involve almost identical factual situations. The Mayor of the City of Harvey almost unilaterally, by *fiat*, and devoid of City Council Authority imposed a tax or fee upon Harvey residents. These acts involved either the illegal imposition of charges related to utilities or the illegal imposition of real estate taxes, which are funds to be administered by the public institution of the City. The Harvey residents objected (either in writing or vocally at the Office of the Cook County Clerk) and now demand that actions be taken to stop this corruption. By taking these actions the Mayor of the City usurped those laws governing his office and far exceeded his authority and to the detriment of the residents and tax payers of the City.

At this time the people of the City seek your help please file all appropriate actions to stop the illegal imposition of taxes and fees upon the residents of Harvey and to ensure the public funds of the City of Harvey are not illegally appropriated.

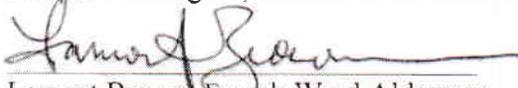
Harvey Deserves Better,



Christopher J. Clark, Third Ward Alderman



Joseph Whittington, Second Ward Alderman



Lamont Brown, Fourth Ward Alderman



Shirley Drawenski, First Ward Alderwoman

Attach.

cc: Senator Mark Kirk
Senator Dick Durbin
Representative Robin Kelly
Chicago Sun-Times
Chicago Tribune
Comptroller for the State of Illinois
Federal Bureau of Investigation
United States Department of Justice
Security Exchange Commission
Illinois Commerce Commission
Cook County Sherriff
Illinois House Representative Will Davis
Illinois Senator Napoleon Harris
Ben Jacobi, Esq.
Clifford G. Kosoff, Esq.
Betty Lewis, Esq.
Glen Amundsen, Esq.

From: Alderman Clark
To: [Wolfsmith, John; dante.sawyer@cookcountyil.gov](mailto:dante.sawyer@cookcountyil.gov)
Subject: City of Harvey administrations has Misappropriated Funds, Misused Funds , Breached the Public Trust and Possibly Committed Faud
Date: Wednesday, April 26, 2017 5:59:48 PM
Attachments: [2017-4-24 Supplemental memo.pdf](#)
[2017-1-20 Order \(3\).pdf](#)

Please see the following statement and enclosed documents.

On several occasions, I have discussed the issues regarding the City of Harvey and its use of water funds.

In June 2015, I wrote a letter to your offices and several other government officials, requesting assistance. Around October or December 2015, over 1,000 Harvey residents signed a petition asking the Illinois Attorney General to investigate and prosecute Harvey's alleged misuse of water funds. Chicago's largest newspaper, the Chicago Tribune, has reported extensively regarding Harvey's alleged misuse of water funds as well as other improper or illegal conduct. Several other media outlets have reported the same. My office has had meetings, made telephone calls and sent emails regarding Harvey's improper conduct and the alleged misuse of water funds. Harvey residents have made calls seeking assistance.

Once again, I believe it necessary to address the issue regarding Harvey and the alleged misuse of water funds.

Recently, the City of Chicago filed a supplemental memorandum for the appointment of a receiver to monitor Harvey's water fund. In this memorandum, the City of Chicago revealed how Harvey has allegedly diverted millions of dollars from its water fund without paying the City of Chicago.

As you should be aware, under Illinois law, municipalities are to use water funds for water purposes only. According to Chicago, Harvey has, among other things, violated Illinois law. Chicago subpoenaed Harvey bank record and employed the services of Ronald Cote. Ronald Cote is the Managing Director within the Forensic Advisory Services Group of the accounting firm Grant Thornton LLP. Mr. Cote concluded, among other things, Harvey collected millions of dollars in water payments from Harvey residents but failed to use those water payments for water services. This is in violation of Illinois law.

This conduct demonstrates a breach of public trust. Harvey's Mayor and Comptroller act as fiduciaries. Harvey residents pay their water bills to the City of Harvey as a fiduciary. Harvey residents trust and expect that when they pay those water bills, those payments will go for its intended purpose under state law: water purposes. Harvey's Mayor, Comptroller and possibly others, breached that trust and expectation by using water revenue for purposes other than water purposes.

Additionally, the failure to use water revenue for water purposes may result in a lack of maintenance for Harvey's water system. Harvey provides water service to its residents and five (5) downstream municipalities. As an Alderman and Harvey resident, I can attest that Harvey has several issues with its current water system. Harvey's breach of its fiduciary duty, threatens the health and safety of Harvey residents and downstream municipalities. The last thing anyone should want is a situation like that of Flint, Michigan where toxic chemicals have entered the water system. The biggest problem with that scenario is the residents do not find out about the toxins until it is too late.

Further, this conduct may be considered a misappropriation of funds, misuse of funds, and fraud. Harvey has fraudulently misrepresented to Harvey residents that water revenues were used for water services. The Court prohibited Harvey from using water revenue for non-water related expenses. It appears Harvey purposefully diverted water revenues to a separate fund in order to get around the Court's order.

Once again, I implore your assistance in these matters.

If there are any questions, you may contact me at 708-491-5259 or aldermanclark@gmail.com. I thank and appreciate your consideration.

Sincerely,

Christopher J. Clark

Christopher J. Clark
Third Ward Alderman
PO Box 1771
Harvey, Illinois 60426
708-491-5259
aldermanclark@gmail.com