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TO: Michael Einheuser, Chairman, Board of Water Commissioners
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FROM: Debra N. Pospiech, Esq., Chief General Counsel
Aliyah Sabree, Esq., Assistant General Counsel

RE: Proposed Draft of Billing and Collection Policies and Procedures

DATE: July 11, 2017

Attached is a proposed draft of Billing and Collection Policies and Procedures. We have made extensive substantive revisions and formatting changes to a previous version of this document. As such, we submit this version as a fresh start for the Board's review and comment. Please note the following provisions:

Part I, Section 1 (p. 3): There are now several methods by which a new customer may prove valid property ownership or responsibility for payment in order to establish new service.

Part III, Section 1(b) (p. 7): We have made changes to the policy regarding past due and water shut off notices in order to comport with state law.

Part III, Section 2 (p. 7): We have made changes to the policy regarding discontinuation and termination of service in order to comport with state law.

Part IV, Section 1 (p. 9): The DWSD 10-30-50 Payment Plan is included.

Part VI, Appeal Procedures (p. 10): Customer complaints and disputes will first be handled with DWSD customer service staff. If the customer is not satisfied, the complaint/dispute is submitted to the Office of General Counsel for review. If the customer is still not satisfied, the customer may appeal to the Detroit Department of Appeals and Hearings (DAH). The interim step to have the Office of General Counsel review complaints and disputes has been added based on feedback from both the billing department and our staff attorneys. Experience indicates that many complaints and disputes can be resolved without the formality, time and expense of sending the matter to the DAH.

We look forward to discussing this document with you.

cc: Gary Brown, Director
Robert Presnell, Chief Operating Officer

DETROIT WATER & SEWERAGE DEPARTMENT

BILLING AND COLLECTION POLICY AND PROCEDURES

CITY OF DETROIT

MICHAEL E. DUGGAN, MAYOR

GARY A BROWN, DIRECTOR

Approved By:

GARY A BROWN
Director

Date

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PART I. OWNER'S RESPONSIBILITY

Section 1: Establishing Water Service

(a) All new customers establishing service with the Detroit Water and Sewerage Department ("Department") will be required to provide valid identification and proof of property ownership and/or responsibility for payment.

(b) Valid forms of identification include:

- (i) passport;
- (ii) military identification;
- (iii) driver's license or state or city identification card;
- (iv) Social Security number.

(c) Valid forms of proof of property ownership and/or responsibility for payment include, but are not limited to:

- (i) deed;
- (ii) landlord/tenant agreement;
- (iii) affidavit relative to execution of a lease;
- (iv) confirmation of residency in a Detroit Land Bank Authority property;
- (v) confirmation of residency in a property in foreclosure pursuant to Wayne County Treasurer records;
- (vi) reasonable documentation, as determined by Department, of lawful possession of or residency in a property.

(d) Previously established customers will be required upon request to verify identification and ownership/responsibility information as recorded. All accounts shall include the customer name and mailing address.

(e) All properties are required to have the Automatic Meter Reading Technology (AMR) installed as part of establishing water service with the Department.

(f) The Department requires a deposit for new water service. The deposit amounts are subject to change based upon the approved Schedule of Rates and are listed in the Fees and Schedules. A copy of the Department Fees and Schedules will be provided upon request by the customer.

Section 2: Landlord/Tenant Agreement; Obligation to Pay

(a) Pursuant to Chapter 56 *Utilities*, Article II *Water*, Division 3 *Security for Collection of Water Charges and Assessments*, Sec. 56-2-42, of the City of Detroit Code of Ordinances, a Landlord/Tenant Agreement under this Part I is a duly executed lease, which lease provides, among other things, that the lessor shall not be responsible for the water rates. Should an affidavit relative to the execution of a lease be filed, then such affidavit shall be in a form prescribed by the Board of Water Commissioners, and the board shall furnish such forms, upon request, free of charge.

(b) Tenants/lessees are required to register the water service in their name and provide a copy of the Landlord/Tenant Agreement or a proper affidavit relative to execution of a lease.

(c) It shall be the duty of the lessor to notify the Department within twenty (20) days after any change in or cancellation of the terms in a lease with respect to liability for water furnished, or of the termination of such lease; provided, that should the lessor fail to give such notice, the lien provided for in Chapter 56, Article II, Division 3 of the Code of Ordinances shall be in effect from the date such lease was terminated or from the date of such change in the terms in such lease became effective, as near as the same may be ascertained.

(d) Fenkell Connections will not be permitted to assign liability to a tenant this Section. A Fenkell Connection is defined as a single service line with multiple connections.

Section 3: Obligation of Owners to Pay

(a) Under Michigan Compiled Laws 123.162 and 141.121 and Chapter 56 *Utilities*, Secs. 56-2-40, 56-3-10 and 56-3-13 of the City of Detroit Code of Ordinances, water, sewage and drainage rates, assessments or charges of the Board of Water Commissioners are a lien against the property.

(b) Except as otherwise provided in these Policies and Procedures, nothing shall be construed as relieving the owner of properties served by the Department from the responsibility of paying all charges for services billed.

(c) The rights and remedies available to the Department under these Policies and Procedures are cumulative and not alternative. Neither the failure nor any delay by the Department to enforce any provision contained in these Policies and Procedures is a waiver of its rights to enforce any provision contained in these Policies and Procedures.

PART II. BILLING, BILLS, AND MAILINGS

Section 1: Frequency

(a) The service address shall be the billing address. Upon written request, and proof of property ownership and/or responsibility for payment, the Department will mail bills to an address other than the service address. It is the responsibility of the owner to keep the account mailing information current. An obsolete address will not be a valid reason for non-payment.

(b) All customers shall be billed monthly.

(c) All customer accounts will be billed by customer name and service address.

(d) Bills will be mailed twenty-one (21) days before their due date

Section 2: Format of Bills

Current bills will include the following information:

- a. Customer name
- b. Service address
- c. Mailing address
- d. Account number
- e. Account classification
- f. Number of service days
- g. Meter size
- h. Meter read date
- i. Meter read
- j. A statement indicating the bill type
- k. Consumption in hundred cubic feet
- l. Previous balance
- m. Current payments
- n. Separate charges for water, sewage, drainage and miscellaneous debits and credits, as appropriate
- o. Due date
- p. Amount to be paid by due date
- q. Amount to be paid after due date
- r. The 24-Hour Emergency Contact Number
- s. Complaint/Dispute and Past Due Bill Information

The Department will bill accounts using the Rate Schedule approved by the Board of Water Commissioners. Rate Schedules will be made available to a customer upon request.

Section 3: Undeliverable Mail

(a) The Department will mail a maximum of two (2) bill notices after notification of undeliverable mail from the United States Postal Service. Mailed bills that are returned twice from the United States Postal Service as undeliverable will not be re-mailed. If a forwarding address is provided to the Department by the United States Postal Service, the Department will mail a copy of the bill to the forwarding address and update the billing system with the forwarding address information.

(b) A customer moving from the property is responsible for contacting the Department to terminate service and provide a forwarding address for the final bill.

Section 3: Basis for Fees and Charges

(a) The Department will strive to use actual reads of the meter or meters on the premises to determine the amount of utility service usage to such date and the amount due for billing purposes. All customers are required to have the Automatic Meter Reading (AMR) technology installed. Bills may be based upon estimated reads if the meter is non-functional or not installed. If a previous bill(s) was based upon an estimated read, all water metered, but not already billed, will be billed when the next actual read is obtained. No adjustment to the consumption billed will be granted if the meter is found to be accurate. Failure of the customer to provide access to the meter equipment will be grounds for shutting off the water service until the customer complies.

(b) The customer is solely responsible for all water that flows through the meter. The Department will not assume responsibility for wastage caused by faulty plumbing, fixtures, or pipes.

(c) Bills will include fees for water, meter service, sewage disposal, sewage service, drainage and, as appropriate, high strength pollutant surcharge fees, industrial waste control, and fire line service fees. When applicable, bills may also include other charges such as meter repair, unrecovered meter charges, service repair charges, legal costs incurred by the department in an attempt to collect and outstanding debt, and any other charges as approved by the Board of Water Commissioners.

(d) All parcels that contribute flow to the collection system will be billed drainage charges notwithstanding the properties occupancy/vacant status.

(e) Upon request for a Real Estate Closing Read, the Department will secure an actual read from the meter and issue a guaranteed closing bill. In the event the Department is unable to secure the Real Estate Closing Read remotely, the Real Estate Closing Read fee will be billed to the account.

PART III. PAYMENT, COLLECTIONS, AND TERMINATION

Section 1: Payment and Collections

(a) Payment of all bills must be delivered to the Department and are due on or before the due date on the bill statement.

(i) The date the payment is received by the Department will be the date used for posting purposes.

(ii) Payments received by the Department after the due date will be treated as late and the account will be assessed a late fee equal to 5% of the amount billed.

(iii) Payments may be made by checks, money order, debit/credit cards or cash.

(iv) The Department may use one or more of the following available options to collect monies owed from delinquent accounts, including, but not limited to:

- Discontinue water services until bill is paid;
- Transfer delinquent balances to the City of Detroit, Office of the Chief Financial Officer, Office of Treasury, Property Tax Branch as an assessment on the property tax bill;
- Revocation of Detroit business licenses where applicable;
- Assign customer account to a Collection Agency;
- Litigation.

(v) The collection cost incurred in an attempt to collect a debt will be billed to the customer.

- (b) The Department will prepare two (2) delinquent bills as follows:
- (i) Past Due Notice: When a current bill is not paid in full by its due date, a notice requesting payment will be issued eleven (11) days after the bill becomes due.
 - (ii) Water Shut Off Notice: **A WATER SHUT OFF NOTICE will be issued when an account is unpaid thirty-two (32) days after the billing due date.** The notice will be mailed directly to the mailing address provided, or delivered directly to the property ten (10) days prior to the pending shut-off date.
- (c) The WATER SHUT OFF NOTICE will contain the following information:
- (i) The address of the property served.
 - (ii) A clear and concise statement of the reasons for the proposed shut off.
 - (iii) A statement that water may be shut off in ten (10) calendar days, or anytime thereafter for any delinquent balance, unless the customer takes appropriate action.
 - (iv) A statement informing the customer of the opportunity to enter into a Payment Plan Agreement with the Department if the customer is presently unable to pay in full the amount due.
 - (v) The telephone number and address of the Department where the customer may make inquiry.

Section 2: Discontinuation and Termination of Service

- (a) The Department may discontinue service if a bill is not paid within ten (10) days of the date specified as "Notice Date" on the WATER SHUT OFF NOTICE or anytime thereafter.
- (b) The Department may discontinue service for non-compliance with the Department's efforts to install AMR Technology upon prior notification.
- (c) Customers may request temporary water service shut off for repairs. If a customer requests to have service shut-off for repairs, customer must have proper identification and proof of property ownership and/or responsibility for payment information previously recorded with the Department.
- (d) Customers may request temporary water service shut off due to property vacancy with proper identification and proof of property ownership and/or responsibility for payment information previously recorded with the Department.
- (e) Verification from property owner may be required for turn on/turn off requests received from Property Management Agencies when conducting business on behalf of the property owner.
- (f) Customers or their designee, 18 years of age or older, must be present at the property to have water service restored. If requested, the Department will restore water service without the customer or their designee present; however, by making such a request the

customer waives his or her right to claim damages which may arise as a result of having the water service restored.

(g) Service will not be discontinued for non-payment or non-compliance on a day immediately preceding a day when the Department offices will be closed to the general public, for the purpose of making payment and having service restored.

Section 3: Illegal Water Usage and Tampering with Detroit Water and Sewerage Property

(a) When necessary, the Department will check locations, including, but not limited to locations where water has been shut off, for evidence of illegal water usage. Should the Department determine that an individual or location is illegally using water it may take action to stop the illegal use. The owner of the location or customer(s) whose water is restored illegally will be assessed illegal usage fees based upon the Published Service Fee Schedule for violations. Customers who continue to illegally restore their water may have service disconnected from the main and assessed additional fines for disconnection and/or reconnection.

(b) No person other than an authorized representative of the Department shall at any time turn water on or cause water to be turned on at the control box or at a meter valve, which has been turned off for any reason by the Department. No person other than an authorized representative shall at any time or in any manner operate or cause to be operated any valve in or connected with a water main, water service, fire hydrant, or tamper with, or otherwise interfere with, any water meter, detector check valve or other part of the water system. To do so is considered tampering with the intent to illegally consume water.

(c) Unauthorized tampering with Department equipment, property or fixtures may incur a penalty charge for violation of this Section. The penalty charges are detailed below, but may also be computed by applying double the effective water rate to the consumption registered on the meter or estimated by the Department for the period of unauthorized usage as determined by the Department. Unauthorized tampering with Department equipment, property or fixtures may result in prosecution under Michigan Public Act 37 of 1984, Michigan Compiled Law 750.282 and may also result in application of such other sanctions and fines as approved by the City of Detroit Board of Water Commissioners.

(d) The following fines will be enforced for illegal water consumption:

- 1st Offense - \$250.00 Fine
- 2nd Offense - \$500.00 Fine
- On 2nd Offense, unless full payment of all fees are made, or an acceptable Payment Plan Agreement is entered into with the Detroit Water and Sewerage Department, the service line will be disconnected and an additional \$660.00 disconnect/reconnect fine will be assessed.

PART IV. PAYMENT ASSISTANCE PROGRAMS

Section 1: Payment Plan Agreement

Qualifying customers may enter into a Payment Plan Agreement (PPA) with the Department in accordance with the "DWSD 10-30-50 Payment Plan." Customers who enter a

PPA are required to make an immediate down payment to initiate the agreement. Payments must be made by money order, debit/credit card or cash.

(a) Residential Customers will be allowed to enter into a PPA under the following conditions:

- (i) Customer must be a Detroit resident;
- (ii) Customer must be at least thirty (30) days delinquent;
- (iii) Customers will be given the following timelines to pay off outstanding balances in addition to payment of their current bill:
 - \$450.99 and under- 6 months
 - \$451.00 to \$900.99 - 12 months
 - \$901.00 to \$1,350.99 - 18 months
 - \$1,351.00 and greater - up to 24 months;
- (iv) Customer must make a down payment of ten percent (10%) of the past due balance when he or she first enters into a PPA;
- (v) If customer defaults on the PPA, customer may re-enroll by paying thirty percent (30%) of the past due balance and continue making payments on outstanding balances and their current bill;
- (vi) If customer defaults a second time, customer may re-enroll by paying fifty percent (50%) of the past due balance and continue making payments on outstanding balances and their current bill;
- (vii) If customer defaults a third time, customer is no longer eligible for the plan.

(b) Commercial Customers will be allowed to enter into a PPA under the following conditions:

- (i) Customer must have a business in the City of Detroit;
- (ii) Customer must be at least thirty (30) days delinquent;
- (iii) Customers will be given the following timelines to pay off outstanding balances
 - \$1000.99 and less - 6 months
 - \$1001.00 and greater - 12 months
- (iv) Customer must make down payment(s) in the percentage(s) outlined above for residential customers.

(c) A copy of the PPA terms and conditions will be provided to the customer at the time the agreement is signed.

(d) During the Tax Roll Referral period, all customers who have been designated as having a Tax Referral on their account are required to pay the balance in full with certified funds to prevent transfer of their delinquent account to the Wayne County Treasurer's Office, unless at the Department's discretion customer is allowed to enter into a PPA.

Section 2: Assistance Programs

Residential water customers who are at or below 150% of the federal poverty level are eligible to apply for financial assistance. As long customer meets income qualifications and provides the required identification and documents, he or she may apply for assistance. Regardless of whether the customer has a delinquent water/sewage bill or is current with his or her bill, the customer shall be encouraged to apply if they are experiencing difficulty paying on time.

Customers may visit http://_____ for more information and updates to the Department's assistance programs.

PART V. COMPLAINT AND DISPUTE PROCEDURES

Section 1: Formal Billing Complaints and Disputes

(a) It is the responsibility of the registered customer on the account to inform the Department when a customer has a billing complaint or disputes the accuracy of a billing. The bill usage must have increased at minimum 30% above the average consumption for usage disputes and/or a charge of \$100 or more for a drainage dispute to qualify for review under the formal dispute process. If a dispute is submitted, the Department will record the customer's name, service address, account number, telephone number, date, and nature of the complaint and also provide customer with a copy of the Billing and Collection Policies and Procedures.

(b) If the dispute involves water usage, a Department representative should perform or more of the following activities:

- (i) Reread the meter and examine plumbing fixtures and pipes for possible wastage, if necessary.
- (ii) Test the meter for accuracy. The test will be conducted in the Department's meter shop in accordance with the American Water Works Association Standards. The customer may witness the meter test. The request to do so must be made in writing, prior to the time that the meter test is scheduled.
- (iii) Allow the meter to be tested in an independent laboratory at the expense of the customer if the Department test results are disputed. A representative of the Department must be present during the testing. The customer is responsible for the meter throughout the testing process.
- (iv) Examine customer usage utilizing the Automatic Meter Reading (AMR) system reports in an attempt to resolve the issue.

(c) The Department may attempt to resolve the dispute informally and in a manner mutually satisfactory to both parties.

(d) The Department will advise the customer in writing of the results of the examination and the right to appeal the results as provided in Part VI below.

PART VI. APPEAL PROCEDURE

Section 1: Opportunity for Appeal

(a) If billing complaints and disputes are not resolved to the customer's satisfaction by staff investigation, the customer shall submit their complaint or dispute to the Department's Office of General Counsel for review and may request a meeting with the Office of General Counsel in an effort to resolve the matter before requesting a formal hearing before the City of Detroit Department of Appeals and Hearings ("DAH"). The Office of General Counsel shall issue a letter with the results of its review within fourteen (14) days.

(b) If customer's complaint is not resolved to the customer's satisfaction after the Office of General Counsel's review, customer may request a formal hearing before an impartial Hearing Officer through the DAH". Only a person who has properly established water service with the Department may request a hearing with the DAH.

(c) A hearing request must be submitted in writing at the Department's main office, at the DAH, or online at <http://> within fifteen (15) business days from the date of a letter from the Department's Office of General Counsel. The customer will be charged an administrative fee of \$25.00 to file the hearing request, which will be returned upon any hearing ruled in favor of the customer. All requests for hearings received by the Department will be recorded and forwarded to the DAH.

(d) Failure of the customer to request an appeal hearing within fifteen (15) business days of the date of a letter from the Department's Office of General Counsel waives the customer's right to an appeal hearing, and the Department may terminate service for non-payment of the disputed bill on which the hearing was offered.

(e) Customer is entitled to only one (1) appeal hearing per complaint or dispute.

(f) The formal hearing before the DAH is the final step in the appeal process.

Section 2: Payment of Undisputed Billings

(a) In order to request a hearing and avoid shut-off or other collection actions, a customer must be current on all non-disputed billings.

(b) If a customer fails to pay a bill which is not in dispute, the Department may proceed to shut off the service after complying with the provisions of Part III of these Policies and Procedures. The Department may not terminate water services for a customer if the only arrearage on the account is the disputed amount.

Section 3: Notice of Appeal Hearing

(a) The DAH will send a notice of hearing to the requesting party. The customer will be notified by certified letter of the time, date, and place of the hearing at least ten (10) days before the scheduled hearing. Receipt of the certified letter will serve as date of notification.

(b) The notice will include a Pre-Hearing Order which will indicate the deadline for the Department and the customer to exchange documents which will be relied upon at the hearing.

(c) Appeal hearings will be scheduled by the DAH according to availability of the Hearing Officer(s).

Section 4: Adjournment

(a) A customer who cannot attend a scheduled appeal hearing must request an adjournment at least forty-eight (48) hours prior to the scheduled appeal hearing date.

(b) Only one (1) adjournment will be granted.

(c) Failure of the complainant to attend the appeal hearing as scheduled will constitute a waiver of the right to an appeal hearing, unless good cause is shown for failure to attend. The disputed bill will then be immediately due and payable.

Section 5: Appeal Hearing Procedure

(a) The parties have the following rights during the appeal hearing:

(i) To represent themselves or be represented by legal counsel. The customer must notify the DAH at least five (5) business days prior to the appeal hearing date if being represented by an attorney. Failure to do so will result in an adjournment.

(ii) To present witnesses, evidence, testimony, and/or written arguments;

(iii) To question and cross-examine witnesses appearing on behalf of the other party;

(iv) To examine, no later than two (2) days prior to the appeal hearing, a list of all witnesses who will testify and have the right to examine all documents, records, files and other material which may be used at the hearing. The customer may be charged a nominal fee for copies of records.

(b) The appeal hearing shall be held during normal business hours.

(c) All witnesses appearing for either party will testify under oath.

(d) The appeal hearing will be recorded by the DAH. The recording shall be the official transcript.

(e) If the customer desires a copy of the transcript, they must notify the DAH in writing. The customer will be responsible for the cost of the transcript.

Section 6: Burden of Proof

(a) The person(s) requesting the appeal hearing will have the burden of showing that the disputed billing is incorrect by clear and concise evidence.

(b) The Department will have the burden of showing that reasonable grounds exist requiring payment of the disputed bill(s). The burden of proof applies to water, sewer and drainage charge disputes.

(c) Metered water consumption/usage is reasonable grounds for requiring payment.

Section 7: Conduct of Hearing Officers

(a) Hearing Officers will be qualified arbitrators or attorneys staffed by The City of Detroit Department of Appeals and Hearings.

(b) The Hearing Officer will determine whether or not the customer is liable for the disputed bill.

(c) The Hearing Officer's decision will be based only on the evidence presented at the administrative hearing and applicable legislative, judicial and administrative law.

(d) The Hearing Officer will allow both parties equal time to present its respective positions relative to the dispute within the allotted time at the appeal hearing.

(e) Each hearing should not last longer than thirty (30) minutes. In the event an attorney is present to represent a customer, one (1) hour will be allotted for the hearing.

(f) A copy of the Hearing Officer's decision will be in writing and will be made within three (3) weeks of the conclusion of the hearing.

Section 8: Payment Subsequent to Hearing

(a) If the Hearing Officer determines that the Department is entitled to a sum of money, the customer must pay the entire amount due or enter into a PPA within five (5) business days of receiving the Hearing Officer's decision.

(b) If the Hearing Officer determines that the customer is liable for all or part of the disputed bill and the customer is unable to pay the bill in full, the Department will consider the following factors when negotiating a PPA:

- (i) The amount due;
- (ii) Ability to pay;
- (iii) Other factors which the Department deems relevant.

Section 9: Decision Binding Upon the Parties

The Hearing Officer's decision is final and binding upon both parties.