

**DWSD – PROPOSAL**  
**February 18, 2014**

An Occam's Razor Approach to DWSD:

1. Form an Authority: Oakland, Wayne, Macomb, and Detroit.
2. The City becomes a wholesale customer at formation.
3. The Authority leases all of the wholesale and common- to-all assets of the DWSD.
4. The City retains its retail water and sewer assets.
5. On terms mutually agreeable to the City and the Authority, the City will contract with the Authority to operate, maintain and make collections for the city at the City's sole expense. The Authority's inability to successfully collect on behalf of the City from the City's residential, governmental or business/commercial customers shall not reduce the City's obligation to pay to the Authority amounts owed for water and sewerage charges.
6. Governing Board: 2 each from forming municipalities  
1 appointed by Governor to represent areas served that are not forming members but that receive service from the system (St. Clair, Genesee, Washtenaw, Monroe).
7. Supermajority/Affirmative Voting: General, day to day business action by majority vote of quorum of those appointed. Votes on the following items need a 7/9ths vote of the board with at least 1 affirmative vote from each forming member:
  1. Rate Setting.
  2. Bonding.
  3. Adopting Capital Improvement Plan.
  4. Bad debt write-off, claim and lawsuit settlements over \$50,000.
  5. Adoption of purchasing policies.
  6. Adoption of personnel policies.
  7. Selection of Director, deputy director, rate consultant and/or in house rate setting expert, legal counsel to authority.
  8. Lease payment adjustments.
8. Lease payment set as 5% of water and sewerage charges to wholesale customers outside of the City of Detroit, for a period of X years with a reset based upon a formula set forth in the Articles of Incorporation. At no time for the first period will the lease payment be less than \$XX million. The lease amount under this provision will be a **ceiling**, not a floor.
9. Outside of the lease payment, no rate of return payment or subsidy, no pilot payment will be made to any entity. If they want a rate of return or pilot payment, it comes off the lease payment.
10. Rate methodology to be uniformly applied across all wholesale rate payers. (i.e. no special deals or formulas for any community.)
11. All wholesale customer contracts to include provisions authorizing interception of constitutional and statutory revenue sharing to satisfy delinquent payments after a payment is X number of

days delinquent and state must agree to act as agent of the Authority to intercept the payments and then to remit to the Authority.

12. Board members to be well credentialed with significant experience in one or more of the following areas: engineering, law, accounting, finance, business management etc.
13. Board members will be required to adhere to a strict code of ethics and conflict of interest standards.
14. No preferences favoring one forming community over another in contracting, purchasing, or employment will be allowed, i.e. individuals, businesses and residents of each community forming the authority will be allowed to equally compete. In addition, any preferences allowed to the members of the authority as a group must be in accordance with state and federal law.

**15. CONDITIONS PRECEDENT**

At close the following events must have occurred for the Authority to become binding:

1. The City and State sign off on contract allowing the direct intercept of revenue sharing to setoff delinquencies as noted in Section 11 above.
2. Pension DB planned closed. The COLA will be eliminated.
3. Going forward the Authority will only offer a DC retirement plan.
4. The City retains all OPEB obligations.
5. Going forward, the Authority will only offer a HSA-type retiree health plan.
6. The City retains all pension certificates of participation (COPs) obligations.
7. The Bankruptcy Court final order nullifies any labor agreement provision that would have the effect of requiring the Authority to offer or maintain a DB retirement plan or a DB medical retirement benefit.
8. The City pension plan transfers assets to a new retirement plan operated by the Authority sufficient in amount to fund the retirement obligations for DWSD employees who transfer to the Authority and for DWSD retirees that are already receiving benefits under the retirement system.
9. That any claims, suits, ULP actions, arbitrations or any such labor actions stay with the City and do not become the responsibility, financial or otherwise, of the Authority.
10. That any and all cost of defense/litigation associated with any claims made against a county participating in the formation of the Authority or against the new Authority that relate to the formation of the Authority or any part of the transaction underlying its formation will be the responsibility of the City.
11. The Authority has assumed DWSD indebtedness on terms no less favorable to the Authority than existing DWSD indebtedness.
12. The City has entered into a wholesale contract with the Authority.
13. The City has entered into an O&M contract with the Authority.
14. The City has entered into a lease agreement with the authority.

15. The City has provided audited financial statements and any and all other records to the forming Counties sufficiently in advance of closing to enable the Counties to perform responsible due diligence.
16. If information is uncovered during the due diligence process indicating the existence of conditions, claims, expenses, liabilities or losses etc. that have not yet been disclosed or accounted for, the provision must be made to allow for claw-backs, set-offs, lease payment reductions or similar remedies to insure equity.
17. The Bankruptcy Court approves the transaction.
18. City provides written assurances (see form used in bond transactions) that all relevant financial and legal information has been provided to each County including any pending or known lawsuits and/or claims.
19. The water and sewer rate revisions underway will be reviewed by the newly-formed Authority and approved, rejected or amended, as appropriate, as one of the first business items.
20. The bankruptcy fees for services rendered, which detail has been previously requested, will be charged to the City of Detroit.
21. The restitution in the amount to of \$20 million paid by vendors arising from the Kilpatrick / Ferguson/ Mercado corruption matters will be credited to the wholesale / retail customers on a basis reasonably determined to relate to the added costs of the underlying contracts involved.
22. The State of Michigan will enter into an agreement to:
  - a. use its 'best efforts' to secure additional State Revolving Fund loans on behalf of the new Authority;
  - b. confirm the delay of certain EPA compliance construction projects through 2022 in accordance with 'affordability' provisions in the EPA regulations; and
  - c. withhold Constitutional revenue sharing amounts from distribution to the City of Detroit (and all other communities as well) and pay the new Authority such amounts should the communities fail to timely pay its wholesale invoices.