

ORDINANCE NUMBER 2023-06

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO 2012-1 ESTABLISHING RATES, FEES AND CHARGES IN CONNECTION WITH THE USE OF THE WATERWORKS, WASTEWATER RECLAMATION AND REUSE SYSTEMS OWNED OR OPERATED BY, OR LOCATED WITHIN THE BOUNDARIES OF, THE MILL CREEK WATER RECLAMATION DISTRICT

WHEREAS, the Board of Trustees (the "Board of Trustees") of the Mill Creek Water Reclamation District (the "District") previously adopted Ordinance Number 95-06 and subsequently adopting Ordinance Number 2012-01 establishing certain rules, regulations, requirements, fees and charges ("User Charges") in connection with the connection to and use of the wastewater reclamation and reuse system (the "Wastewater System") and the water supply and distribution system (the "Water Supply System") owned and operated by and located within the boundaries of, the District (collectively, the "Systems"), and

WHEREAS, the Board of Trustees commissioned a Sewer and Water Rate Study (the "Study") which was prepared by Trilogy Consulting in September 2023; and

WHEREAS, the findings of the Study recommend that the User Charges be increased in order to generate revenues sufficient to meet the operational expenses of the combined water and sewerage of the District; and

WHEREAS, the Board of Trustees desires to amend and restate the User Charges previously adopted under Ordinance No. 2012-01 in this Ordinance;

NOW, THEREFORE, be it and it is hereby ordained by the Board of Trustees of the Mill Creek Water Reclamation District, Kane County, Illinois, as follows:

ARTICLE I. GENERAL PROVISIONS

SECTION 1. Preamble and Purpose. The provisions of the above preamble and the purposes set forth above are hereby adopted as though fully set forth herein. The purposes of this Ordinance are to establish and/or confirm certain rates, fees, charges and penalties with respect to the use of the District's Systems within the boundaries of the District and to adjust the combined User Fees;

SECTION 2. Applicability. This Ordinance shall apply to any property (including any Lot) located within the Mill Creek Subdivision (the "Development") or anywhere within the

corporate boundaries of the District (as such may be modified from time to time) and to any person or other entity who owns, leases, uses or occupies any property within the boundaries of the District.

SECTION 3. User Fees. The District has established certain fees and charges ("user fees") for the connection to and use and service of the District's Systems. Such user fees are based upon the costs of operating, maintaining, repairing, and replacing the District's Systems, including reasonable contingencies and capital reserves relating thereto. The user fees are collected using volumetric rates, meter service and other charges that are applicable to providing service. The user fees are set forth in Article II below; provided however, that the user fees may be adjusted from time to time at the discretion of the Board of Trustees or as necessary to provide or account for operating, maintenance and repair costs and for proper capital expenditures, improvements and reserves. All users of the District's Systems shall be billed on a monthly basis; provided that the Board of Trustees may, in its discretion change the billing cycle to semi-monthly or quarterly. Charges will be based upon the amount of potable water used during the applicable period as indicated by the water meter readings or water use estimates made by the District as more particularly set forth in Article II. Adjustments in billing rates to nonresidential users may be made in accordance with the requirements agreed upon by the District and the owner or representative of the nonresidential property. The user fees shall be levied on all properties located in the Development or otherwise within the boundaries of the District.

ARTICLE II. USER FEES

SECTION 1. Meters Required. All premises served by the District Water Supply System shall be equipped, at the customer's expense, with an adequate water meter approved by the District at charges determined by the District. The cost of such water meter, as determined and adjusted by the District from time to time, shall be paid prior to, and as a condition of, the installation of the meter. In addition to any other remedies available to the District for the breach of the payment obligation set in the User Charge Ordinance, as amended (including without limitation the right to collect late charges and interest on unpaid amounts and the right to discontinue service to the property), the District shall also have the right to delay the installation of meters and provision of services to other property owned or controlled by such delinquent party until such time that the unpaid amounts and any late charges and interest relating thereto have been paid.

SECTION 2. Reading Meters. The District shall cause every water meter used in the District to be read at such time as are necessary to ensure that bills are sent out at the times required by the District.

SECTION 3. Billing Procedure. Bills for the combined use of the District's Water Supply System and Wastewater System shall be dated and sent out monthly. Such bills shall be due and payable within fifteen (15) days after the date thereof.

SECTION 4. Waterworks Rates and Service Charges.

(a) All users of the District's Water Supply System and/or Wastewater System shall pay user fees and service charges as established from time to time by the District. As provided in subsection I(3) above, users shall be billed on a monthly basis; provided that the Board of Trustees may, in its discretion, change the billing cycle to semi-monthly or quarterly without amending the User Charge Ordinance. User charges will be based upon the amount of potable water used during the applicable period as determined by the water meter readings or by water use estimates made by the District if meter readings cannot be obtained. Bills for use of the District's Systems shall be dated and sent out monthly.

(b) The volumetric meter rates for water furnished to customers of the District shall be at the combined water and sewer rate of \$ 10.43 per 1,000 gallons of water provided (the "Combined User Rate"), as determined by the District's water meters. Such Combined User Rate may be adjusted by the Board of Trustees from time to time. The aforesaid rate shall be applied on the basis of meter readings at the end of each period; provided, however, that in addition to the meter rates set forth above, a monthly Meter Service Charge shall be charged to all customers based upon the meter size servicing said customer as set forth below:

| | |
|------------|-----------|
| 1.0" meter | \$ 15.43 |
| 1.5" meter | \$ 65.13 |
| 2.0" meter | \$ 110.71 |
| 3.0" meter | \$ 221.43 |

(c) A Fire Protection Charge shall be imposed upon customers with a fire suppression system based upon the diameter of the water service line serving said customer, as follows:

| Diameter of Water Service Line | Service Charge for Billing Period |
|---------------------------------------|--|
| Up to 1.0") | \$ 12.39 |
| 2.0" | \$ 68.85 |
| 2.50" | \$ 68.85 |
| 4.0" | \$ 688.50 |
| 6.0" | \$ 688.50 |

*The user fees and service charges are intended to apply to each dwelling unit even if such dwelling unit does not have a separate service line and/or meter serving such dwelling unit. Accordingly, the service charge shall apply to each individual apartment, condominium unit or other dwelling unit and shall be billed along with usage charges so that each dwelling unit served by the District shall pay the service charge applicable to residential units (as such may be amended from time to time).

(d) In addition, a monthly infrastructure service charge shall be charged to all users of the District's Systems in an amount equal to \$14.44 per unit, even if the unit does not have a separate service line and/or meter.

(e) In addition, a monthly depreciation reserve charge shall be charged to all users of the District's Systems in an amount equal to \$10.07 per unit.

SECTION 5. Additional Charge for Industrial Users. Unless otherwise provided for under an annexation agreement with the District, the aforesaid rates shall be subject to an additional charge for private fire service connections as follows:

1. For each six (6) inch or less private fire service connection: \$123.93 per year.
2. For each eight (8) inch private fire service connection: \$247.86 per year.

SECTION 6. Industrial Usage Rates and Service Charges. Unless otherwise provided for under an annexation agreement with the District, in addition to paying the combined rate, industrial users shall pay an additional \$ 1.58 per 1,000 gallons for use of the Wastewater System of the District. This additional amount reflects the additional burdens placed on the Wastewater System by industrial users. The rates for the use of the Wastewater System may also be adjusted from time to time. In addition to the monthly rates for the use and service of the sewage system of the District as set forth above, all customers shall be charged a fixed monthly service charge of \$1.00

SECTION 7. Combined Rate. As stated above, the operation of each of the District's systems is integrated with the operation of the District's other systems, and the successful operation of the District is dependent upon the operation of each system. Accordingly, the District charges its users a combined fee for the use of the District's Systems, which combined fee is based upon water usage as set forth in Sections 4 and 6 of this Article II. The Combined User Rate as of the date hereof is \$10.43 per 1,000 gallons of water usage; provided that the Combined User Rate may be changed or adjusted from time to time by

the Board of Trustees as necessary or appropriate to meet the expenses of operating the District and the District's Systems.

SECTION 8. Annual Review.

(a) Prior to the close of each fiscal year, the District through its employees and staff shall prepare for the forthcoming fiscal year estimates of anticipated costs, expenses and revenues. The anticipated costs shall include the costs of operating and maintaining the District's Systems, reasonable reserves and contingencies, principal and interest payments due on outstanding indebtedness and other expenses anticipated by the District employees and staff.

(b) The District shall calculate estimated revenues for the upcoming year (including anticipated user fees) based upon the number of users at current rates, fees and charges expected to be received by the District and other miscellaneous income.

(c) Based upon such estimates, the Board of Trustees shall determine whether any adjustments of the Combined User Rate or other user fees are necessary or appropriate. If an adjustment is necessary, the Board of Trustees shall amend this Ordinance by rescinding the then applicable rates, fees or charges and establishing the new rates, fees and charges.

(d) Notwithstanding anything to the contrary, the adequacy of the water and sewer rates and service charges and other charges shall be reviewed, not less often than annually, by certified public accountants for the District in their annual audit report. The water service charge shall be revised periodically, as necessary or appropriate, to reflect and account for a change in local capital costs or in the operation, maintenance or repair costs.

SECTION 9. Revenues. All revenues and moneys derived from the operation of the District's waterworks and sewerage systems shall be deposited in an account of the District. All such revenues and moneys shall be held by the District separate and apart from any private funds or accounts of the District's trustees, treasurer, accountant or other consultants.

SECTION 10. Accounts. The District shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the waterworks and sewerage system, and at regular annual intervals shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the waterworks and sewerage systems. In

addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the waterworks and sewer facilities, including a replacement cost. The financial information to be shown in the audit report shall include the following:

- Flow data showing total gallons received at the water plant for the current fiscal year;
- Billing data to show total number of gallons billed per fiscal year;
- Debt service for the next succeeding fiscal year;
- Number of users connected to the system; and
- Number of non-metered users.

SECTION II. Access to Records. The Illinois Environmental Protection Agency or its authorized representative shall have access to any books, documents, papers and records of the District which are applicable to the District's system of user charges for the purpose of making audit, examination, excerpts and transactions thereof to insure compliance with the terms of the "Public Water Supply Loan Program."

SECTION 12. Appeals.

(a) The method for computation or rates and service charges established for user charges in Article II of the Ordinance shall be made available to a user within thirty (30) days of receipt of a written request for such, Any disagreement over the computations of such charges shall be responded to by the District within thirty (30) days after the District has received a formal written appeal from a user describing with specificity the alleged discrepancies.

(b) If an owner or user of the System disputes a bill on the basis that the meter is materially inaccurate, then such owner or user may request that the meter be tested by the District's operator. If such test shows that the meter is not accurate, then the bill will be adjusted and the costs of the testing will be borne by the District. If, however, the test shows that the meter is accurate, then the owner or user shall reimburse the District for the cost of such testing, in an amount not less than \$75.

SECTION 13. Liability for Payment of Bills. The Owner of the premises, the occupant thereof and the customer who uses the District's Water Supply System and/or Wastewater System shall be jointly and severally liable for payment of any bill rendered by the District for such use. The District shall have the right to seek payment directly from the Owner of the premises, even if such Owner did not occupy the premises.

SECTION 14. Delinquent Bills.

(a) If any bill is not paid by the due date the District shall be entitled to collect a late charge in an amount equal to 10% of the amount of the bill (or portion thereof) which is not paid, In addition, interest on all outstanding amounts shall accrue (and be due to the District) at an interest rate equal to ten percent (10%) per annum.

(b) In addition to the late charges and interest due pursuant to Section 14(a) above, if any bill for use of the District's Systems is not paid within thirty (30) days after it is rendered and mailed and shall remain unpaid for a period of five (5) business days after written notice of such default from the District, the District shall have the right to disconnect the District's Systems from such property and to discontinue service without any further notice to the owner. Such service shall not be reinstated and the District's Systems not re-connected until all outstanding bills, including any then current bill and all applicable late fees and charges, are paid in full, together with (i) an administration fee of \$50 and (ii) the District's then current fee for turning on the water and reconnecting such Systems, which amount shall be not less than \$50.00.

(c) The District's attorney is hereby authorized and directed to institute such proceedings, in the name of the District, in any court having jurisdiction over such matters, against any property as to which the bill for the use or the District's Systems has remained unpaid for a period of thirty (30) days after it has been rendered.

(d) In the event the District is required to commence any proceedings to collect any delinquent bill, including but not limited to any unpaid late charge as provided herein, the District shall also be entitled to recover from the customer and/or the owner any attorney's fees and out-of pocket expenses incurred by the District in collecting or attempting to collect such past due amounts.

(e) Notwithstanding the foregoing to the contrary, in the event a customer demonstrates financial hardship in satisfying any delinquent bill, upon application by the customer and a payment of not less than 25% of the delinquent bill, a payment plan may be authorized requiring that the remaining delinquent balance be paid in full within six (6) months and the current bills are timely paid.

SECTION 2. Applicability. This Ordinance shall apply to any property located within the boundaries of the District as legally described on Exhibit "A" attached hereto and any

other property (whether within or outside the District) which is served by the District or is otherwise under the jurisdiction of the District. The use of the District's Systems and compliance with the rules and regulations set forth herein shall be required at all times.

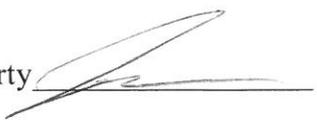
SECTION 3. Conflict. All ordinances or parts of ordinances or other rules and regulations of the District, which are in conflict herewith, are hereby repealed.

SECTION 4. Severability. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts. In the event that any part of this Ordinance shall be deemed to be illegal, invalid, or unenforceable, such portion of this Ordinance shall be deemed severed from this Ordinance and shall not affect the remaining portions of the Ordinance which shall be given their full force and effect.

SECTION 5. Ordinance in Force. This Ordinance shall be effective and in full force from and after its passage, approval, and publication as provided by law.

Passed and adopted by the Board of Trustees of the Mill Creek Water Reclamation District of the County of Kane, State of Illinois on the 28th day of November, 2023.

Ayes: 3 Nays: 0 Absent: 0 Abstaining: Holding Office: 3

____s/s James R. Dougherty 
James R. Dougherty
President, Mill Creek Water Reclamation District

Publication Date: 11/29/23

EXHIBIT "A"

All Neighborhoods and Parcels of Mill Creek P.U.D., Geneva and Blackberry Townships, Kane County, Illinois and the Geneva Public School District bus garages on Keslinger Road, Geneva Township, under P.I.N. 11-01-400-021.