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**Attorney Client Privilege Memorandum -- Overbilling for Police & Fire Services**

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**Thomas Ryan** <sylvanlawtr@gmail.com>  
To: Dan Kelly <Dan@kellyfirm.com>  
Cc: Jonathan Smith <smithj@villageofclarkston.org>

Wed, Jun 12, 2024 at 4:18 PM

Dear Dan,

Please see the attached Attorney-Client Privilege Memorandum relative to the above matter.


Sincerely,

Tom

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Thomas J. Ryan, Esquire  
2055 Orchard Lake Road  
Sylvan Lake, MI 48320  
(248)334-9938 - office  
(248)858-8508 - fax

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 **Attorney-Client Privilege Memorandum -- Dan Kelly -- 6.12.24.pdf**  
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**Law Office of Thomas J. Ryan, P.C.**

2055 Orchard Lake Road, Sylan Lake, MI 48320

(248)334-9938

**Memorandum**

**ATTORNEY-CLIENT PRIVILEGE**

**MRE 408 SETTLEMENT PROPOSAL**

**Not Subject to Production Under the Open Meetings Act or  
Freedom of Information Act Pursuant to MCL 15.268(h)**

To: Dan Kelly, Esquire  
Attorney for the Charter Township of Independence

From: Tom Ryan, Attorney for the City of the Village of Clarkston

Cc: Jonathan Smith, City Manager of the City of the Village of Clarkston

Date: June 12, 2024

Re: Overbilling by Independence Township for Police and Fire Services

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Dear Dan:

I met in closed session with the City Council on June 10th to discuss the issue of the amount owed for overpayment for police and fire services by the City, dating to the inception of the agreement in 2010.

The City trusts the relationship between the Township of Independence and the City of the Village of Clarkston, which has always been a strong neighborly one, will prevail in resolving this issue. As this is an issue of overpayment for services, any repayment will not negatively impact the Township's financial condition. Further, given the economic disparity of the City's budget versus the Township's, this money loss weighs heavily on the City.

The full amount owing at this time, which I believe is undisputed, is \$171,800.00. The request of the City is to receive this amount in a payment or payments to be determined by the two parties. If this is not acceptable to the Township, the secondary position for negotiation would be the amount of the sum due within the six-year statute of limitations or \$87,302.00.

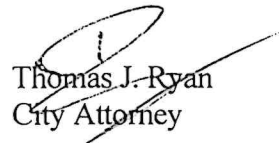
Further, regarding the amount due within the six-year statute limitations, the City is requesting that interest be paid on that amount, which we calculate to bring the amount to \$96,220.00. (Interest calculation is attached as Exhibit A, by the City Treasurer).

Mr. Dan Kelly, Esquire  
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Lastly, absent full payment of the amount due and owing, acknowledging and recognizing the six year statute of limitations, the City would request the balance of the unpaid amount would be credited on each quarterly payment due by the City for police and fire services in an amount such as 10%, which would be negotiated between the parties until reduced to zero.

The City would appreciate you discussing this in closed session with the Township board and advising me via correspondence of the Township's position on this matter and trust we can resolve this matter as cooperating neighboring communities.

Respectfully submitted,

  
Thomas J. Ryan  
City Attorney

### Opportunity cost of capital

Police Contract									
Tax Year/ Fiscal Year	Annual Difference	One Year Treasury Constant Risk Free Rate*	Variables	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
2022/2023	\$ 6,791.35	4.79		<i>Beg</i> \$ 5,836.32	\$ 5,989.81	\$ 13,046.70	\$ 20,040.98	\$ 26,695.56	\$ 34,995.50
2021/2022	\$ 6,719.41	4.73	<i>Next years Savings</i>		\$ 6,852.69	\$ 6,974.25	\$ 6,550.88	\$ 6,719.41	\$ 6,791.35
2020/2021	\$ 6,550.88	0.39		<i>Rate</i> 1.0263	1.0159	1.001	1.0039	1.0473	1.0479
2019/2020	\$ 6,974.25	0.1							
2018/2019	\$ 6,852.69	1.59		<i>End</i> \$ 5,989.81	\$ 13,046.70	\$ 20,040.98	\$ 26,695.56	\$ 34,995.50	\$ 43,788.44
2017/2018	\$ 5,836.32	2.63							
<b>Total</b>	<b>\$ 39,724.90</b>		<b>Totals</b>	<b>\$ 5,989.81</b>	<b>\$ 13,046.70</b>	<b>\$ 20,040.98</b>	<b>\$ 26,695.56</b>	<b>\$ 34,995.50</b>	<b>\$ 43,788.44</b>

Fire Contract									
Tax Year/ Fiscal Year	Annual Difference	One Year Treasury Constant Risk Free Rate*	Variables	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
2022/2023	\$ 8,328.66	4.79		<i>Beg</i> \$ 6,981.28	\$ 7,164.88	\$ 15,525.59	\$ 23,820.24	\$ 31,778.44	\$ 41,705.81
2021/2022	\$ 8,043.78	4.73	<i>Next years Savings</i>		\$ 8,117.71	\$ 8,270.85	\$ 7,834.75	\$ 8,043.78	\$ 8,328.66
2020/2021	\$ 7,834.75	0.39		<i>Rate</i> 1.0263	1.0159	1.001	1.0039	1.0473	1.0479
2019/2020	\$ 8,270.85	0.1							
2018/2019	\$ 8,117.71	1.59		<i>End</i> \$ 7,164.88	\$ 15,525.59	\$ 23,820.24	\$ 31,778.44	\$ 41,705.81	\$ 52,431.13
2017/2018	\$ 6,981.28	2.63							
<b>Total</b>	<b>\$47,577.03</b>		<b>Totals</b>	<b>\$ 7,164.88</b>	<b>\$ 15,525.59</b>	<b>\$ 23,820.24</b>	<b>\$ 31,778.44</b>	<b>\$ 41,705.81</b>	<b>\$ 52,431.13</b>

Totals Check Figure      \$ 87,301.93

\$ 96,219.57

	<u>Before Interest</u>	<u>After Interest</u>	<u>Net Change</u>
<b>Due to City</b>	\$87,301.93	\$96,219.57	10.21%

\* One year Treasury  
constant maturity as  
of 12/31 Federal  
Reserve website

Ex. A