Analysis of Cost Recovery Methods for Water System Capital Costs

Prepared for the

Village of Lannon

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EXECUTIVE SUMMARY

The Village of Lannon imposes water impact fees on new development or existing structures when they first connect to the water system to recover the capital costs of constructing water system infrastructure. There are two impact fee zones. Customers connecting directly to existing water mains pay a higher fee that includes a portion of the cost of an eight-inch equivalent main required to serve the property, including service laterals and hydrants, as well as transmission main oversizing, well, storage and pumping capacity. Customers connecting in other parts of the Village pay a lower impact fee that only includes the main oversizing, well, storage and pumping capacity costs. These customers will also pay special assessments for new mains needed to extend service or connect via new mains constructed by developers. The Village is currently constructing a major expansion to the water system and plans to assess the properties served.

To date, it has been the policy of the Village to allow property owners to choose if and when to connect to the water system after service is available. However, a condition of the USDA loan and grant financing for the current project is that the Village require connection of all existing structures where water service is available. Under current Village ordinances, these properties would be subject to an impact fee upon connection to the water system.

Some Village property owners have raised questions regarding the ability of the Village to impose impact fees on existing structures. Lannon's current impact fee policy to collect impact fees from developed unconnected structures is common for Wisconsin municipalities, particularly other Waukesha County municipalities. However, the practice of collecting impact fees from existing structures has not been tested in Wisconsin courts.

The Village has over $3.2 million of past and future water system infrastructure costs that it had intended to recover through impact fees. An alternative cost recovery mechanism is necessary if the Village no longer collects impact fees from existing structures. Other funding sources used by Wisconsin municipalities and water utilities include water rates, tax levies, and reserve capacity assessments.

While Wisconsin municipalities may in some cases recover capital costs through water rates or a tax levy, these approaches are not feasible or recommended in Lannon's case for the following reasons:

- The Wisconsin Public Service Commission does not allow water utilities to recover capital costs through water rates once a municipality adopts an impact fee for those costs. Therefore, Lannon cannot recover costs in water rates for any facilities that were included in prior impact fee studies.
- Recovering costs through water rates or a tax levy (even if feasible) would not be fair to customers or property owners who have already paid a water impact fee or are not served by the water system.

As an alternative to water impact fees, some communities impose a Reserve Capacity Assessment (RCA) on properties connecting to the water system, under the authority to impose assessments for special benefits conferred to a property from a public improvement. An RCA is recommended for existing developed properties for the following reasons:

- The approach has been used by Wisconsin municipalities to recover costs from existing developed properties, particularly municipalities in Waukesha County, and has been upheld in Wisconsin courts.
- RCAs can be used to collect a similar amount from developed properties as would have been collected via impact fees, but RCAs can be collected in installment payments over a 5-10 year period.

It is further recommended that the Village continue to charge water impact fees to new development. An advantage to imposing impact fees for new development is that the impact fees must be paid upon issuance of a building permit.

The impact fees and RCAs should be calculated using the same amount of capital costs and projections of future connections to the water system. The fees should be used in coordination to recover the same costs that the Village had intended to recover through impact fees.

The Village should continue to use an equivalent meters method for determining the impact fees and RCAs for each property. This method is commonplace in Wisconsin. It is a fair and equitable method for estimating water demand, especially in situations where properties vary greatly in combinations of size, width, land use, and water demand. It is a more straightforward and less subjective approach than attempting to estimate water use before a property is connected.

AUTHORITY FOR THE USE OF RESERVE CAPACITY ASSESSMENTS AND IMPACT FEES

Wisconsin municipalities commonly impose fees and assessments on properties newly connecting to their water or sewer system to pay for the capital costs of constructing sewer and water infrastructure.

If the municipality constructs water or sewer mains to serve areas of existing development, it is common to levy special assessments or other types of charges on the adjacent properties for all or a part of the cost of the mains. Indeed, the Wisconsin Public Service Commission's water main extension rules require that when a new customer connects to a water main that was financed by a municipality within ten years of construction, the new customer must pay an amount equal to what would have been special assessed, as reimbursement to the municipality.

Municipalities also frequently impose fees or charges on new connections to pay for the capital costs of other system infrastructure that serves an area larger than the adjacent properties. In the case of water systems, this could include oversizing mains to handle transmission of water

throughout the system, booster pumping stations, wells, water treatment, or storage facilities. These fees and charges take a variety of forms and have different names. However, they are imposed under one of three different sections of Wisconsin Statutes: §66.0617 which allows municipalities to charge impact fees for the cost of facilities needed to serve development; §66.0703 which allows municipalities to assess properties for special benefits received from public improvements; and §66.0821 which allows municipalities to establish rates and charges for sanitary sewer service. The imposition of charges for water system capital costs under Sections 66.0617 and 66.0703 are described below.

Impact Fees – Wisconsin Statutes 66.0617

Municipalities may impose impact fees on land development to pay for the capital costs of new, improved, or expanded public facilities, including water system facilities. Land development is defined in the statutes as 'the construction or modification of improvements to real property that creates additional residential dwelling units within a municipality or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a municipality.'

When the impact fee statute was enacted in 1994, municipalities could collect impact fees from developers at the time of building permit issuance or any development approval prior to building permit. Many municipalities initially required payment at the time of subdivision plat or Certified Survey Map approval. Enacted in 2006, 2005 Wisconsin Act 477 allowed municipalities to collect impact fees from developers or property owners but limited the collection of impact fees to the period within 14 days of issuance of a building permit. Subsequent changes enacted by 2007 Wisconsin Act 44 narrowed the collection date to 'upon issuance of a building permit'.

Impact fees for water system facilities are common throughout Wisconsin. They are most often used to recover the costs of system-wide capacity such as oversizing of transmission mains, booster pump stations, wells, and storage facilities. Impact fees were initially imposed on new subdivisions or commercial developments. However, the statutes changed to allow municipalities to charge property owners and limit them to collecting fees at the time of building permit.

Some municipalities have provisions in their impact fee ordinances or policies to impose impact fees on existing structures upon first connecting to the water or sewer system or on connected properties that have a change in use that results in increased water or sewer use. As best as it can be determined, this practice has not yet been examined by a Wisconsin court The following municipalities are among those that Trilogy Consulting or our principals have worked with that impose water or sewer impact fees on existing structures upon connection to the water or sewer system or upon existing connected structures or properties that increase the use of the sewer or water system due to a change in use, building expansion, or redevelopment.

Municipalities commonly include an annual increase to the fees to keep the cost in current dollars or to recover interest expense for financing public improvements. The impact fee statute does not specifically address this practice.

Table 1 - Example Municipalities that Charge Impact Fees to Existing Structures

Municipality	Impact Fees	New Development	Existing Unconnected Structures Upon Connection	Existing Connected Structures Upon Expansion or Change of Use	Municipal Code Section
Germantown	Water	X	X	X	3.14 (3)
Hudson	Water	X	X	X	254-12 F. (as amended June 2020)
Menomonee Falls [(1)]	Water and Sewer	X	NA	X	Chapter 42 Article II
Mukwonago	Water and Sewer	X	X	X	44-3 (b) and (c)
Oconomowoc	Water and Sewer	X	X	X	27-09 (4)
Oregon	Water	X	X	X	13.075 (4)
River Falls	Water	X	X	X	14.08.060
Racine	Water	X	X	X	98.88 (a)
Slinger	Sewer	X	X	X	486-9

(1) Menomonee Falls has no unconnected commercial or industrial structures and few residential structures. Existing residential structures do not pay impact fees when connecting. Existing connected nonresidential structures pay impact fees if increasing their use of water and sewer.

Reserve Capacity Assessments – Wisconsin Statutes 66.0703

Under Wisconsin Statutes 66.0703, a city, town, or village may levy special assessments upon property in a limited and determinable area for special benefits conferred upon the property by any municipal work or improvement. If an assessment is an exercise of the 'police power' of the municipality, the assessment must be made on a reasonable basis as determined by the governing body of the municipality. 'Police power' is the power given by the Wisconsin Legislature to cities, villages, and towns to legislate for the purposes of health, safety, and welfare of the public.

The special assessment statute is most often used to recover the costs of installing new water or sewer mains to serve both developed and undeveloped parcels. The statutes do not specify how costs are apportioned between properties, only that it be done a reasonable basis. Because there may be wide variation in parcel size, width, land use, and water or sewer demand within some assessment areas, municipalities have developed a variety of methods to ensure that assessments are reasonable in proportion to the benefit received by each parcel. Common methods of determining assessments for water mains are described below:

Front footage – this method assesses properties based on the feet of the property fronting the water main. It is a reasonable approach when the water mains serve parcels with the same or similar land use where the amount of front footage and parcel size is similar between parcels or is proportional to the potential use of the property.

Area – this method assesses costs based on the size of each parcel in acres or square feet. This is a reasonable approach when parcels vary substantially in size and amount of water demand. For example, this may be an appropriate approach when assessing a mix of existing developed parcels and large tracts of land that could be subdivided and developed in the future.

Residential Equivalent Connections (RECs) or Equivalent Meters – this approach assesses properties in proportion to the relative amount of water demand from each property. The residential equivalent connections approach bases the assessment on the amount of estimated water demand for each property as compared to an average residential connection. The equivalent meters approach establishes assessments based on the size of the water meter for each connection and the amount of water that can be supplied by the meter relative to a standard 5/8-inch or ¾-inch residential meter. This approach is appropriate in areas with a mix of land uses and parcel sizes and widths where the size of a property or the width of the property at the street may not be proportional to the amount of water used by the property.

This statute has also been used to impose assessments to recover the costs of system-wide facilities such as main oversizing, booster pump stations, wells, and storage facilities. When used in this manner, these special assessments are typically referred to as 'Reserve Capacity Assessments' or 'RCAs'. Reserve capacity assessments are imposed on properties that are benefited by transmission mains, booster pump stations, wells, or water storage facilities that have reserve capacity available to serve new connections to the water system. Reserve capacity assessments are imposed in addition to any special assessments required for construction of adjacent water mains and laterals to serve properties.

Reserve capacity assessments are generally imposed on all properties within the current and future service area of the water system but are deferred until a property connects to the system or has a change in use that results in increased water use. When reserve capacity assessments are imposed, the municipality does not typically prepare a list of every property that is subject to the RCA and the amount of the proposed RCA for each property because the amount is determined when the property connects to the water or sewer system. Payment may be required in full at the time of connection or property owners may be allowed to make installment payments.

Because the purpose of the RCAs is to recover the costs of capacity to serve each property, the charges are typically based on the amount of water demand for each property as approximated

by RECs, equivalent meters, or service lateral size. The appropriate amount to charge per REC, equivalent meter, or service lateral size may be determined based on the total capacity of the facilities or by the number of RECs, equivalent meters, or equivalent services that the municipality expects to connect over a reasonable period, such as the repayment period for project financing.

The methods described above for imposing reserve capacity assessments under Wisconsin's special assessment laws were upheld in CIT Group v. Village of Germantown (1991).

When municipalities began using Wisconsin's special assessment law to impose reserve capacity assessments for water and sewer infrastructure (roughly the late 1960's through the early 1980's), it was generally to recover the costs of a large project, such as new Wastewater Treatment Facility. These facilities were sized to accommodate increased demand from both existing unserved areas and future development. Reserve capacity assessments provided a means of recovering the cost from all benefitted properties. The costs included in the RCA's as initially imposed were the costs of the major project or projects to be constructed at that time, plus associated engineering, legal, administrative, and interest costs.

Over time, the types of costs included in the calculation of RCA's has become more varied, as indicated in Table 2 below showing example municipalities that Trilogy Consulting or its principals have worked with. The Village of Sussex, for example, charges RCAs based on the replacement cost of all existing sewer and water infrastructure excluding the 8-inch equivalent cost of mains and infrastructure paid for with Tax Incremental District funds, plus estimated costs for major projects in its 5-year Capital Improvement Program. The City of Pewaukee includes a list of recently completed projects, plus estimated costs for future projects over the next 20 years, including interest for projects intended to be debt financed.

Table 2 - Example Municipalities that Charge Reserve Capacity Assessments

Municipality	RCAs	New Development	Existing Unconnected Structures Upon Connection	Existing Connected Structures Upon Expansion or Change of Use	Municipal Code Section	Form and Payment of Charges	Infrastructure Funded / Method of Calculation
Germantown	Sewer	X	X		Repealed and replaced with a Sewer Connection Charge in 2007; Section 13.32 still references sewer reserve capacity assessments	Charges based on RECs; deferred until connection; 7% per year increase in the charge while deferred	Net cost of sewer interceptor to connect to MMSD after grant funding, divided by projected RECs of 125 RECs for 27 years
Mukwonago	Sewer	X	X		86-240; repealed and replaced with sewer connection fee in 2013	Charges based on RECs; deferred until connection; payment of 25% at building permit; 25% at occupancy permit; remainder in 12 monthly installments; increased each year while deferred	Cost of WWTF facilities
Muskego	Water and Sewer	X	X		290-7 (G) (Sewer)	Water Capacity Assessment is based on meter size; Sewer Reserve Capacity Assessment is based on RECs; reduced charge for existing structurs; imposed at time of connection; may be paid in 5 annual installments at 8% interest	
C. Pewaukee	Water				16.0400	Charges based on lateral size; may be paid in installments in case of hardship	Existing and future infrastructure costs plus past and projected interest on debt, divided by projected future RECs
Sussex	Water and Sewer	X	X	X	12.23; 13.06; 13.19	Charges established by resolution; based on equivalent meters; paid before occupancy permit or placed on tax roll	Value of existing assets, adjusted for inflation, divided by total system capacity in RECs

TREATMENT OF IMPACT FEE AND RCA REVENUES BY THE WISCONSIN PUBLIC SERVICE COMMISSION

The Wisconsin Public Service Commission (PSC) determines how much revenue each Wisconsin water utility is allowed to collect (also known as 'revenue requirements'). Revenue requirements include operation and maintenance expenses, taxes, depreciation expense, and a return on investment. The return on investment is calculated by multiplying the standard authorized percentage rate of return (currently 4.90%) by the value of the water utility financed assets net of accumulated depreciation:

Return on investment = (water utility financed assets – accumulated depreciation) x % rate of return

Beginning in 2003, the PSC no longer allowed water utilities to collect depreciation expense or a return on investment for contributed assets, including assets constructed by developers, grant funded assets, or assets paid for with special assessments, impact fees, or by another municipality under an intermunicipal agreement. When a water utility constructs assets that are intended to be paid for in whole or in part with impact fees or special assessments, the PSC requires the water utility to immediately record the entire cost that it intends to recover from sources other than water utility rates as contributed plant. The water utility may not include depreciation expense or a return on investment for those assets in its water rates. In other words, if a municipality enacts an impact fee, reserve capacity assessment, or special assessment to pay for any water infrastructure costs, it cannot recover those costs through water rates.

With respect to impact fees, the PSC has recently taken the position that once a municipality imposes an impact fee, it may not recover any portion of the amount originally intended to be recovered through impact fees through its water rates even if it later rescinds or reduces the water impact fee.

In 2014, the Lannon Water Utility was required to reclassify $1.6 million of its $1.7 million of water utility financed assets as contributed assets to account for the portion expected to be paid for with impact fees, leaving only $99,000 of utility financed assets.

EXISTING VILLAGE LANNON WATER SYSTEM INFRASTRUCTURE

As reported on the 2020 Annual Report filed with the Wisconsin Public Service Commission, the existing Village of Lannon water system consisted of 19,258 feet of water main ranging in diameter from 6 inches to 16 inches, one 300 gpm well, a 160,000-gallon reservoir, and pumping station with two booster pumps, 118 service laterals, 188 water meters, and 39 fire hydrants. The following table details the system infrastructure, the date of construction, the original cost, and the intended funding source. A portion of the Village's water mains, services, and hydrants were constructed in 1997 but not placed in service until the Utility was formed in 2008. Additional water main and the well, reservoir, and booster pumps were constructed by the developer of the Whispering Ridge subdivision and were subsequently contributed to the Village and placed in service by the Utility in 2008.

Amounts shown as developer contribution and Village tax levy were considered 'contributed plant' and are not recovered through water rates charged to utility customers. Similarly, as described above, costs for facilities included in impact fees are required to be treated as contributed plant that may not be recovered through water rates. The only capital costs that the Village is allowed to recover through water rates are the amounts that are considered 'utility

financed'. These include water meters, SCADA equipment (Supervisory Control and Data Acquisition), and a small amount of water main that was replaced by the utility in 2018.

As shown in Table 3, the Village has expended $1,751,666 through 2020 on facilities intended to be recovered through impact fees. Additional planned facilities include a secondary well, an elevated storage tank and additional water main looping and oversizing costs totaling $1,500,001 (net of costs to be funded with Tax Incremental Finance). In total, the Village has over $3.2 million of past and future construction, legal, and engineering costs that have been identified to be recovered through impact fees.

Table 3 - Existing Village Water System Infrastructure

Existing Assets	Year in Service	Original Cost	Intended Funding Source: Developer Contribution and 1997 Construction [1]	Intended Funding Source: Impact Fees - Zone 1	Intended Funding Source: Impact Fees - Zone 2	Intended Funding Source: Utility Financed (Rates)
13 fire hydrants	2008	$163,898	$42,131		$121,767	
5 meters	2008	$1,234				$1,234
109 services	2008	$265,089	$68,118		$196,971	
90 feet 6" main; 5,102 feet 8" main; 11,829 feet 12" main; 1,419 feet of 16" main	2008	$2,451,134	$1,202,535	$275,854	$972,745	
Well #1 (Whispering Ridge), reservoir, and pumping station	2008	$946,694	$946,694			
Land for future elevated storage tank [2]	2009	$69,917		$96,280		
64 meters	2010	$15,565				$15,565
SCADA project	2011	$27,836				$27,836
6 meters	2011	$1,289				$1,289
18 meters	2015	$3,991				$3,991
Replacement of 25 feet of 8" main	2016	$55,613				$55,613
Retired - 25 feet of 8" main	2008	($49,385)	($49,385)			
22 meters	2016	$4,561				$4,561
8 meters	2017	$5,587				$5,587
21 meters	2018	$4,990				$4,990
3 meters retired	2008	($741)				($741)
121 feet of 12" main; 697 feet of 16" main [3]	2019	$430,814	$356,735	$74,079		
9 service laterals	2019	$38,100	$24,130		$13,970	
10 meters	2019	$3,685				$3,685
1 meter retired	2019	($247)				($247)
2 hydrants	2019	$18,000	$18,000			
38 meters	2020	$6,752				$6,752
Subtotal Existing Infrastructure		$4,464,376	$2,608,958	$446,213	$1,305,453	$130,115
Future Projects						
Acquisition and upgrades to Lannon Estates well [4]				$400,001		
1,000 feet Townline Loop				$500,000		
3,000 feet watermain oversizing				$150,000		
Non-TID share of future elevated storage				$450,000		
Total		$4,464,376	$2,608,958	$1,946,214	$1,305,453	$130,115

Source: Public Service Commission of Wisconsin Annual Reports of the Lannon Water Utility, 2020 impact fee study, adjustments have been made as noted.

(1) Includes main that was contributed by a developer and main constructed in 1997 by the Village. Mains, services, and hydrants were recorded as placed into service in 2008 when the Village formed the Water Utility.

(2) Amount recorded in the PSC report for this item was adjusted to $0 in 2014. The Village still owns the land, so this adjustment appears to be in error. The amount attributed to the Impact Fee Zone 1 includes $5,976 of legal expenses and $20,387 of design engineering expense that were never capitalized and do not appear as assets in the PSC Annual Report, but are reasonable to recover through impact fees or RCAs.

(3) This cost was included in the impact fee study but was recorded as utility financed plant in the PSC report.

(4) Includes acquisition costs of $1. The remaining value of the well will be contributed to the Village as an in-kind contribution in place of impact fees.

AMOUNTS RECOVERED TO DATE THROUGH IMPACT FEES

The Village has imposed impact fees since 2008 on all properties that connect to the Village water system, including both existing structures that are newly connected as well as new development. The impact fees were originally established with two different fee zones. The larger of the two zones applied to all properties that were expected to connect to the water system in the future and included the cost of the oversizing of the initial water main installation, plus estimated costs for future well supply, elevated storage, and future water main looping and oversizing. The second zone applied to properties connecting directly to the water main placed in service in 2008 and recovered the cost of the 8-inch equivalent cost of main installed and paid for by the Village in 2008. The portion of the cost of mains installed in 2008 as bid alternatives was not included in the 2008 impact fee study because it was uncertain at the time if those segments would be constructed. The impact fee study was amended in 2018 to include the cost of the bid alternative mains. A third impact fee zone was developed to recover the cost of these mains from the properties that could connect to them.

A subsequent update to the impact fee study in 2020 combined Zone 2 and 3 into a single Zone 2 that applies to all properties connecting directly to mains constructed in 2008. Currently, Zone 1 impact fees recover the cost of system-wide facilities benefiting all connections to the water system – oversizing of water transmission mains (mains of 12 inches in diameter or greater), wells, reservoirs, and booster pumps. Zone 2 impact fees recover the cost of system-wide facilities, plus the cost of an 8-inch equivalent water main for properties connecting directly to existing mains in service as of 2020. The costs intended to be recovered for Zone 1 and Zone 2 facilities are as show in Table 3 above.

Under the ordinance adopted in 2008, impact fees were increased by 4.5% each year to recover the interest expense incurred by the Village to finance the improvements. When the Village refinanced the bonds in 2018, the interest rate was reduced to 2.5%, so the schedule of increases to the impact fees was reduced to 2.5% per year. The 2020 impact fee study adjusted the fees for both Zone 1 and Zone 2 based on changes in future project costs and proposed a 3.0% per year increase in the fees.

Impact fees were originally imposed based on Residential Equivalent Connections (RECs), wherein each single-family dwelling unit was assigned a single REC and nonresidential properties were assigned RECs based on estimates of intended water use. This method was modified in the 2020 update to assign RECs based on water meter size. Using water meter size is a simpler approach to administer and is less subjective than attempting to estimate water use for a property for which historical water use data is not available.

Through the end of 2020, the Village had about $1.25 million in impact fees either collected or obligated under developer agreements for Zone 1 costs and $1.1 million for Zone 2 (formerly Zone 2 and Zone 3) costs.

RECOMMENDATIONS REGARDING COST RECOVERY FOR WATER SYSTEM CAPITAL COSTS

It is recommended that the Village implement a reserve capacity assessment for existing developed parcels and continue to charge water impact fees to new development to recover the costs of existing water mains and future well capacity, elevated storage, and water main looping and oversizing.

A brief evaluation of each of the potential methods available to Wisconsin municipalities for recovering the costs invested in water system infrastructure is summarized below:

1. Water Rates
   - Under PSC rules, the Water Utility cannot include any costs in water rates for facilities that were intended to be recovered through impact fees.
   - Even if it were feasible, putting these costs in water rates would not be fair to the existing customers who have already paid a water impact fee and should not have to pay again via water rates.
2. Tax Levy
   - The Village could potentially fund future debt service for water system assets with a tax levy; however, this would be inequitable to existing water utility customers who paid impact fees as well as properties that will be assessed for new main construction and properties that are not served by the water system.
3. Impact Fees
   - While municipalities commonly impose impact fees on existing structures, this practice has not been tested in court.
   - Impact fees must be paid upon issuance of a building permit.
4. RCAs
   - The Reserve Capacity Assessment is a flexible form of assessment that is useful for recovering costs from larger areas benefited from system-wide facilities where the exact use of undeveloped properties is not yet known.
   - Wisconsin courts have upheld the imposition of reserve capacity assessments on both existing structures and new development.
   - The special assessment statute specifically allows the inclusion of interest costs in special assessments, while the impact fee statute does not address interest costs.
   - The special assessment statute allows municipalities to collect assessments in annual installment payments rather than a lump sum payment upon the issuance of a building permit.

There are two primary issues that the Village should consider in determining how RCAs might be calculated:

- Which costs to include in the calculation of the RCAs

- How to allocate the costs among benefited properties
  - Whether to maintain two separate charges – one for the 8-inch equivalent cost of mains installed before 2020 and one for main oversizing and looping, wells, reservoirs, pumping equipment and elevated storage.
  - How to determine the units of demand for purposes of calculating the cost per unit and the specific cost imposed on each property

Any proposed RCA policies for the Village Lannon should be consistent with Wisconsin Statutes and the approaches used by other Wisconsin municipalities in establishing RCAs. They should also maintain continuity with the current and future Village impact fee policies to the extent possible. Maintaining continuity with current and future impact fee policies is important to treat properties connecting under either policy in a similar manner. It is also important to ensure that there is not overfunding or underfunding of any infrastructure.

To maintain continuity with current policies and provide the needed revenues it is recommended that the Village use a combination impact fees and RCAs to recover the costs for the infrastructure that was included in the most recent impact fee study. Since the Village has incurred and will incur interest expense to finance these improvements, interest expense should be included in the assessments. Amounts previously collected through impact fees or obligated by developer agreements to offset the cost of the improvements included in the RCAs should be deducted from the remainder to be collected. Properties that have paid impact fees should be exempt from RCAs unless they have a change in use that results in increased water demand.

It is also recommended that the Village continue a policy of two separate charges – one for properties that connect directly to the existing water main (not including properties in subdivisions that have made in-kind contributions of other facilities in place of impact fees) and one for properties that pay for the 8-inch equivalent cost of water main extensions via future special assessments or developer contributions. Properties that connect directly to existing water mains receive additional benefits from the Village infrastructure as compared to properties that have to pay for new water main extensions to receive service.

It is further recommended that the Village impose the charge based on equivalent meters. This method is reasonable, commonly used by Wisconsin utilities for impact fees, connection fees and RCAs, is easy and straightforward to administer, and is consistent with the Village's current policy.

ALTERNATIVES FOR COLLECTING RCAS

Municipalities have substantial flexibility in the timing and method of collection of special assessments, including reserve capacity assessments. Reserve capacity assessments may be due immediately by the date established in the final resolution or may be deferred until sale or transfer of the parcel or connection to the water system. The assessment may accrue interest while deferred at a rate established by the final resolution. Payment of the full amount may be

required immediately, or the municipality may allow payment in annual installments with or without interest. If the assessment or installment is not paid by the due date, it may be placed on the tax roll.

To be consistent with current policy while allowing greater flexibility for owners of existing structures, it is recommended that the Village defer RCAs until a property connects to the water system and allow installment payments over a period of 5-10 years. It is also recommended that the deferred RCAs accrue interest and that the Village charge interest on the installment payments to cover the Village's interest expense for financing the improvements.

The Village's current water system bonds mature in 2022, 2027, and 2030. In addition, it is expected that the Village will bond for future well, watermain looping and oversize costs, and elevated storage tank construction. Before determining the number of installments and the interest rate, a cash flow forecast should be developed to determine a reasonable schedule of installments and interest rates that will allow the Village to collect sufficient revenues to cover debt service.

COMPARISON OF RCAS WITH THE EXISTING IMPACT FEE STRUCTURE

The flexibility of the special assessment statute and approaches used by Wisconsin municipalities to implement RCAs offer the Village a means to implement RCAs that are very similar in structure to the current impact fees.

From the perspective of the property owner, the amount of the fees for each zone should be similar to the current impact fees, with some small adjustments to reflect current conditions. Instead of being paid in full at the time of building permit, the Village may opt to allow payments in installments. Installment payments would be placed on the annual tax roll, therefore, the first installment would not be due until January 2023.

From the perspective of the Village, the overall amount of cost recovered will not vary substantially from the current impact fee structure. However, allowing installment payments may result in a longer time to recover costs from the properties that are required to connect as part of the mandatory connection requirement of the USDA funded project. One potential limitation to RCAs as compared to impact fees is the extent to which the costs of future public improvements may be included in the assessments. As noted above, the City of Pewaukee includes all projects anticipated in the next 20 years in its RCAs. However, it is unclear whether facilities that are not planned to be put into service for 20 years can be said to benefit the properties currently paying RCAs.

IMPLEMENTATION

Implementing the recommendations of this report would require amending the Water Impact Fee Study and Chapter 63 of the Village of Lannon Municipal Code to impose water impact fees on new development only.

Reserve capacity assessments for existing developed properties would be implemented using the process specified in Wisconsin Statutes 66.0703 for special assessments levied using the police power of the Village:

- A preliminary resolution declaring the intent of the Village to levy assessments
- Preparation of a report including the plans for the improvements, an estimate of the costs, a statement that the properties upon which the assessments are to be levied are benefited by the public improvements, and a schedule of proposed assessments
- A public hearing on the proposed assessments, with a notice published as a Class 1 notice and mailed to all affected property owners at least 10 days before the hearing
- A final resolution establishing the schedule of assessments and installment schedule

It is recommended that the public facilities needs assessment for the impact fees and the RCA report both use the same costs for public facilities and the same projections of future equivalent meter connections. The total amount that the Village needs to collect is the same whether it is recovered through impact fees or RCAs, and the exact distribution of amounts paid in the form of impact fees versus RCAs will be determined as properties connect to the system. The impact fees and RCAs should be reviewed on a regular basis to determine if infrastructure costs or projections of equivalent meters need to be updated.