

# **CITY of NOVI CITY COUNCIL**

Agenda Item 1 September 12, 2011

**SUBJECT:** Approval of Resolution Opposing Elimination of Personal Property Tax on all Businesses, Shifting Burden to Residents, unless there is Dedicated Replacement Revenue of Equal Amount.

SUBMITTING DEPARTMENT: City Manager

CITY MANAGER APPROVAL

### BACKGROUND INFORMATION:

Earlier this year the Senate Finance Committee considered a bill that would repeal the personal property tax which would not include any replacement revenue. This issue is expected to be before the Michigan Legislature this fall. Many communities around the state are appealing to their legislators voicing their concerns about such a change. Please refer to the attached resolution and material.

**RECOMMENDED ACTION:** Approval of Resolution Opposing Elimination of Personal Property Tax on all Businesses, Shifting Burden to Residents, unless there is Dedicated Replacement Revenue of Equal Amount.

	1	2	Y	Ν
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

### **CITY OF NOVI**

### COUNTY OF OAKLAND, MICHIGAN

## RESOLUTION OPPOSING ELIMINATION OF PERSONAL PROPERTY TAXES ON ALL BUSINESSES, SHIFTING BURDEN TO RESIDENTS, UNLESS THERE IS DEDICATED REPLACEMENT REVENUE OF EQUAL AMOUNT

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall in said City on September 12, 2011, at \_\_\_\_o'clock P.M. Prevailing Eastern Time.

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PRESENT:

Councilmembers\_\_\_\_\_

ABSENT:

Councilmembers\_\_\_\_\_

The following Preamble and Resolution were offered by Councilmember

\_\_\_\_\_and supported by Councilmember \_\_\_\_\_\_.

### Preamble

- 1. Legislation has been introduced in the State Senate (Senate Bill 34, January 2011) that would make all personal property currently held by non-residential property owners exempt from taxation after December 2011. State legislative leaders have stated that repeal of the personal property tax is their top business tax reform in fall 2011.
- The Michigan Constitution, ratified in 1963, specifically states that "The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law..." - Article IX, Section 3. This provision echoes similar language in the 1908 State Constitution.
- 3. The discussion of the elimination of personal property taxes has focused on the tax burdens imposed on businesses by this tax. Of equal importance is the

significant amount of revenue that would be lost to local communities if the personal property tax authorization is repealed.

- 4. In 2010, Michigan businesses paid about \$1.2 billion in personal property taxes. Local units of government received about \$877.7 million of that amount. In Novi, personal property taxes accounted for around 7.6% of its revenue, or about \$2.3 million in 2011. The elimination of personal property taxes would result in an estimated revenue loss for the City of \$2.214 million in FY 2012.
- 5. The City of Novi finances essential public services and capital improvements through a combination of real and personal property taxes. To fully replace that lost revenue would require a millage increase of approximately 0.7719 mills. This amount of lost revenue is equivalent to the entire amount that the City of Novi currently levies for its Municipal Street Fund for the repair, reconstruction, cleaning, and maintenance of over 170 miles of city streets.
- 6. The City of Novi finances mandatory debt service payments, in part, through revenues generated by taxes on personal property. The loss of the City's personal property tax base would require a tax increase of 0.1201 mills on residential and business properties in the City to cover existing debt service payments. This tax increase would happen automatically without voter approval. By repealing this longstanding and constitutional source of local revenue, the Legislature would be effectively raising property taxes on Novi residents and businesses.
- 7. Discussion of the proposed repeal of the personal property tax has included statements that only **some** of the lost revenue should be replaced by the State. It has been suggested that the loss of local revenue can be made up through some combination of service cuts, spending cuts, or local millage options. The City of Novi has been responsibly addressing declining revenues for several years by shrinking operating costs, trimming employee rolls and reducing legacy costs without increasing city taxes. Removing a significant revenue source, from which the City of Novi provides high quality public services and capital improvements, undercuts the ability of the City of Novi to provide a competitive environment where new businesses will seek to invest in new facilities and existing businesses will expand and prosper. Cuts in services, reductions in capital investment and tax increases on new and existing businesses will work against efforts by the City

of Novi to help private businesses retain and add new jobs at a time of significant unemployment in Novi and Michigan.

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- 8. Given the historical nature of personal property taxes as a means for funding basic local government services, the constraints in state law on local governments to seek alternate sources of revenue, and the potentially devastating effect the elimination or repeal of the right to personal property taxes would have on the City of Novi and communities throughout Michigan, the City of Novi believes that any reform of the existing personal property tax should be guided by two principal considerations:
  - a. First, the focus should be on those businesses for which the personal property tax represents an obstacle for location or investment in Michigan, specifically for manufacturers and other industrial businesses with significant amounts of personal property investment in their businesses. Industrial users such as Alcan, Caparo, and Magna, all with facilities in Novi, choose communities like Novi in order to better serve their clients and customers. But these businesses have the option to locate their facilities outside of Michigan. Reform should differentiate between industrial users who can locate or expand outside Michigan and those businesses that are located in Michigan for market or monopoly reasons. In Novi, the top three personal property payments are by major utilities: ITC, DTE, and Consumers Energy. There's no guarantee that a reduction in personal property taxes will result in direct rate reductions for customers of these utilities due to the regulated status of these entities. Other major personal property taxpayers include major national retailers not based in Michigan. There is no guarantee that any windfall from the elimination of the personal property tax will be invested back into Michigan stores, employees or customers.
  - b. Second, all the revenue lost by local government must be replaced with a dedicated source or sources of new revenue. While personal property taxes have a clear constitutional and historical basis here in Michigan, there is nothing sacrosanct about that revenue source. If

the repeal of the personal property tax is required in order for Michigan firms to compete with those in neighboring states, or to allow Michigan to compete as a location for new businesses, then repeal should happen. But the repeal of the personal property tax must be matched by the creation of an alternative local revenue source, and that alternative revenue source must be constitutionally guaranteed, not subject to simple repeal by the state legislature. As the City of Novi has experienced with statutory state revenue sharing payments, there is no guarantee that past promises of state funding will be honored during times of economic distress. For that reason, the alternative revenue source must be guaranteed before the existing tax is repealed. A constitutional guarantee would be the appropriate means to ensure that subsequent state legislatures do not simply do away with the revenue altogether

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NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Novi opposes the elimination the state's current constitutional and legislative authorization for local governments to assess ad valorem personal property taxes for industrial uses **unless** there is an constitutionally guaranteed revenue source(s) to fully replace any lost revenues. The focus of business tax reform should be on proposals that assist Michigan businesses without doing harm to Michigan's local governments and the communities that they serve.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

MARYANNE CORNELIUS, CITY CLERK

### CERTIFICATION

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I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this \_\_\_\_\_\_day of \_\_\_\_\_\_, 2011, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

MARYANNE CORNELIUS, CITY CLERK

# **The Detroit News**

www.detnews.com

August 24, 2011

http://detnews.com/article/20110824/METRO/108240385

# Business tax repeal could hit cities hard

PAUL EGAN / Detroit News Lansing Bureau

Lansing — Michigan city officials say they fear even more cuts to their already shrunken revenues as the Republican-controlled Legislature is poised to repeal another major business tax.

A phase-out of the personal property tax is the No. 2 tax reform priority after the recent repeal of the Michigan Business Tax and is on the fall agenda, Lt. Gov. Brian Calley said Tuesday.

Michigan municipalities typically get about 11 percent of their property tax revenue from the tax on equipment such as machinery, computers and office furniture, but the impact of a repeal on some cities and townships would be much more severe.

Detroit stands to lose nearly \$51 million if the tax is repealed and not replaced, while Warren would lose \$11 million.

And since the Legislature has become more adept at cutting existing taxes than approving new ones, local leaders fear promises to replace lost revenues won't materialize.

"I'm very concerned about that," said Peter Auger, city manager of Auburn Hills, which gets about 22 percent of its tax revenues from personal property taxes. "That would be the easiest solution. ... Say, 'Don't worry, we'll take care of you later."

The tax generates about \$1 billion a year. Close to 80 percent goes to local governments, with most of the remainder going to local school districts. About 5 percent of personal property taxes end up in the state's general fund.

In some well-off residential communities such as the Grosse Pointes, personal property tax accounts for 2 percent or less of property tax revenues. In River Rouge, a Downriver industrial city of 8,000 residents in Wayne County, personal property makes up more than half of property tax revenues, according to data compiled by the Michigan Municipal League.

"I basically would have no other choice but to declare bankruptcy," if the tax was repealed and not replaced, said River Rouge Mayor Michael Bowdler.

"You're punishing communities that have been corporation friendly, versus the bedroom communities that don't have to put up with the noise and the dust and everything else."

# Calley: 'It's a disincentive'

Cities are bracing for repeal of the personal property tax when they are already reeling from depressed property values that have eroded their tax bases and sharp cuts to state revenue sharing that have forced some to reduce even essential services such as police and fire protection.

Not that local governments are big fans of the personal property tax, which exists in some form in 43 states

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but which Calley said discourages companies from locating equipment in Michigan.

"It's a disincentive to investment," Calley said. "When you have equipment here, it means you have people here to run that equipment and service that equipment."

In Auburn Hills, the tax "is definitely a disadvantage when we're trying to get companies to locate here," said Auger.

Joseph Dunigan, president of the excavating firm Dunigan Bros Inc., said the tax is levied not just on machinery and equipment at his Jackson headquarters, but on mobile machinery that he sends across the state to work on various jobs.

Because millage rates vary widely among municipalities, the tax can have significant unforeseen impacts on costs, particularly for lengthy out-of-town jobs where millages might go up before the work is finished, he said.

His company has no vote in those communities, resulting in a form of taxation without representation, Dunigan argued.

# 'Who is going to pay for it?'

Under the Michigan Business Tax, companies got a 35 percent credit for taxes they paid on industrial personal property, but the Legislature repealed the business tax and the tax credits along with it, effective Dec. 31. That's a major reason the Michigan Manufacturers Association is pushing hard to get the personal property tax repealed, too.

Local governments "have legitimate concerns," and "we certainly are respectful of all of that," said Mike Johnston, the association's vice president of government affairs.

"It's not a scorched-earth policy."

But as Republican lawmakers prepare to push through a Senate bill that was introduced in January to repeal the personal property tax, Senate Minority Leader Gretchen Whitmer said she fears a repeat of what happened with the \$1.8 billion tax cut that resulted from the repeal of the business tax.

Much of that lost revenue was made up with higher taxes on pensioners, the middle class and the working poor, said Whitmer, D-East Lansing.

"Here is another enormous tax break: Who is going to pay for it?" Whitmer asked.

"I don't know how any businesses will look at locating or staying in Michigan if they don't know if the police or fire services will show up if they have an emergency."

Calley said the administration is "committed to finding a solution that works both for the business community and for the local governments," but "the plan is not being released yet," and "we've got a lot more work to do."

# Repeal would be phased in

On Sept. 8, the Michigan Municipal League plans to launch its "Replace Don't Erase" campaign related to  $\chi$  the personal property tax. A website is already up at <u>www.replacedonterase.com</u>.

Summer Minnick, the league's director of state affairs, said she's confident the Legislature will find a replacement for the lost revenue because the implications of a failure to do so are too drastic to

#### contemplate.

"There are so many large, significant urban centers in this state that would close shop," Minnick said. "It is critical that we plug the hole."

Minnick said her group isn't pushing for any particular form of revenue — such as a dedicated share of the state income tax or sales tax — but whatever form the revenue takes, it must be constitutionally guaranteed, not an annual appropriation. That means it will require a two-thirds vote of the Legislature, followed by approval by voters in a general election.

She said she doesn't sense much support in the Legislature for tax increases, meaning lawmakers may choose to dedicate part of an existing revenue stream to local governments to make up for what is lost from the personal property tax.

"I'm not sure where the money will come from," she said.

Calley said repeal of the industrial and commercial portions of the personal property tax will be phased in, though he would not say how or over what length of time.

"You can't just end it overnight, and you can't expect local government to just deal with it," Calley said.

The goal is to pass legislation this year, but "the time plan under which it would be implemented would be longer than 2011," he said.

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# CIN 8/15/11 Snyder targets \$800M biz tax

Communities want plan if personal property tax dies

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it's a

BY AMY LANE CAPITOL CORRESPONDENT

LANSING - The next big tax reform - getting rid of Michigan's \$800 million-plus tax on industrial and commercial personal property — is heading to the Capitol.

Shaping up is a Snyder administra-

tion proposal to eliminate the tax businesses pay on everything from office equipment and furniture to industrial presses.

Proponents of eliminating the levy say it discourages

busito get rid of. " ness investment and . growth and makes Lt. Gov. Brian Calley Michigan uncom-

petitive. "It's a disincentive to place productive equipment in Michi-gan," said Lt. Gov. Brian Calley, who is spearheading development of a proposal expected to emerge this fall.

"It's not a system I want to fix; it's a system I want to get rid of." Personal property tax is assessed on utility property, but Calley sees the commercial and

industrial tax as most urgent But local governments, whose budgets have already been hit by declines in tax revenue from real property and cuts in state revenue sharing, say they can't afford to lose a source of funds that is stable and that in some communities

supports more than 50 percent of budgets. "To us, it's not a matter of what is or isn't eliminated. It's system a matter of guaran-I want teeing the replace-ment." said Summer to fix; Minnick, director of state affairs at the Michigan Municipal League. system "Our main con-

cern is that we find a I want funding secure stream for local governments."

Calley declined to provide details of the developing plan,

including whether there would be a dedicated source of revenue to replace the funding to local governments in whole or in part, but he said the administration intends to provide "a reasonable and adequate transition cash flow for local governments and districts that depend on that money."

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in Legislature to eliminate porsonal property. For the City of Novi, personal property has \$220, 466,950 of taxable value (2010) would be taxable value (2010) would be #2.3 million needing to be replaced with a 10.5416 rote. replaced with a

## **Tax:** Communities fear revenue loss

#### ■ From Page 1

The league is readying a public awareness campaign dubbed "Re-place, Don't Brase," to encourage lawmakers to devise full, guaran-teed replacement funding for any personal property tax that's elimi-nated. The campaign includes a website that launched last week, a letter-writing effort and media outreach.

According to the latest Michigan Department of Treasury estimates tax on industrial personal proper

ty generated about \$412 million in 2010, although a 35 percent credit that was part of the Michigan Business Tax reduced that total to about \$268 million. Taxes on commercial personal propertv were \$399 million, and utility personal property taxes were about \$397 million.

#### Manufacturers want tax gone

Mike Johnston, vice president of government affairs for the Michi-gan Manufacturers Association, said manufacturers, by virtue of the amount of equipment they have. are hit particularly hard by the tax.

The MMA had hoped to tie personal property tax elimination into the creation of the state's new 6 percent corporate income tax but is now focusing efforts on this fall "making sure that it's top of the policy discussion," Johnston said

He said the MMA recognizes the importance of the tax to local communities and will work with them on addressing revenue needs, but the association does not yet have a

"We need the services that com-munities provide. We view com-munities as partners in our com-petitiveness," Johnston said.

Calley indicated that the tax on industrial and commercial proper-ty might be phased out over five years, and that future changes would also be in store for the utility portion.

According to Treasury data, school districts receive the largest amount of tax, followed by cities and counties. After that comes a state share that goes into the School Aid Fund, followed by intermediate school districts townships, community colleges and villages.

#### What other states have done

One element Calley and some lawmakers are looking at is how other states have eliminated their personal property taxes.

According to the Council on State Taxation, a Washington-based tax organization representing more than 6,000 multistate corpora tions. 11 states have no general business personal property tax. They are: Delaware, Hawaii, Illinois, Iowa, Minnesota, New Hampshire, New Jersey, North Dakota, Ohio, Pennsylvania and South Dakota. Some of those states still tax certain public utility personal property. In a 12th state, Kansas, business personal property acquired after June 2006 Johnston said in many states

that still have personal property taxes on businesses, the rates are low or relatively insignificant. He said the biggest concern is "other industrial states who are our competitors for industrial invest-ments," like Ohio.

Ohio eliminated its personal property tax as part of a 2005 busi-

**44** We need the services that communities provide. We viewcommunities as partners. 77

#### Mike Johnston. cturers Association

ness and individual tax reform that instituted a new commercial activity tax, or CAT, a tax based on gross receipts. Ohio phased out its \$1.6 billion general personal property tax on business from 2005 to 2009 by gradually reducing the percentage of true value at which personal property was assessed. Of the \$1.6 billion that the Ohio

personal property tax generated, about 70 percent went to schools and 30 percent to local units of gov-ernment. For an initial five-year period, both were held harmless and revenue was fully replaced by a mix of state general funds and the new CAT.

The Ohio plan contemplated that reimbursement payments to locals would be phased out and eventually end in 2018. However, under a new administration and legislative leadership, the paynents are being reduced signifi-cantly in the two-year fiscal 2012 2013 budget to help cover a projected \$6 billion deficit. After 2013, some schools and lo-

cal units will no longer receive any reimbursement, while others who were more reliant on payments will continue to receive money through the scheduled reimbursement period.

That ability for replacement revenue to be altered worries the municipal league, which wants replacement revenue constitutional-

ly guaranteed. In the Legislature, such a constitutional amendment would require approval by twothirds of members in the state House and Senate to go on the ballot before Michigan voters. Sara Wurfel, Gov. Rick Snyder's

ess secretary, said the administration does not know "whether something is going to be a dedicated funding source. We don't know whether it's going to be whole or in part" revenue replacement.

She said, "Everything is still be-ing closely looked at, other than ere's a very strong commitment to make sure there's some kind of replacement revenue."

#### Community impact varies

The importance of personal property tax to communities can vary widely, depending on their economic makeup and the preva-

lence of industrial, commercial and utility property. In Auburn Hills, for example,

home to Chrysler Group LLC he quarters and many research and development and industrial opera-

tions, personal property tax is about \$5 million of an approxi-mately \$23 million revenue stream that supareas.

ager Peter Auger. The remainder of the city's approximately \$50 million budget is made up of inter-nally generated funds and money dedicated for capital improve ments such as streets, water and Sewer

If the personal property tax rev-enue disappeared, "we'd have to start eliminating services," Auger said. "So we're very interested in being part of a process to see how municipalities operate into the future.'

Still, Auger said the city understands the implications to business, both those that it currently houses and those it wants to attract.

We understand that there are other states that don't have the personal property tax, because we are at the table recruiting national and international companies," he said. "It puts us at a disadvan-tage." Some communities that may not

have had much personal property tax revenue are seeing that change, with Michigan's march toward more wind energy.

Wind farms are classified as industrial personal property. And one of the incentives for communi-ties to host them "is the fact that there is some revenue that does come to the local government through personal property tax, said David Bertram, legislative team leader at the Michigan Townships Association.

If those were to be exempt, he said, "We have a lot of communi-ties that might turn quickly on being hosts for wind farms." Even now, though, communities

may be reliant on the revenue from the personal property tax but they're not wedded to the tax itself. The municipal league says its members don't like the tax and they and others say it can be difficult to administer and track.

For example, Bertram at the townships association said it's not asy to determine the owner of mobile property, like heavy construction equipment. It can be labor-intensive and involve locating an owner that may be in another state, he said.

"We understand that personal property tax is not popular from a business standpoint. It's not even popular from our own township of-ficials who have to collect it," Bertram said.

"The problem is ... we can't afford the revenue loss. So we're very concerned about how this gets structured, and that it gets done right."

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		2010 DISTRIBU	OAKLAND TION OF ASSES BY C	SED AND EQUA	LIZED VALUES			
	ASSESSING		REAL PROPERTY			PERSONAL PROPERTY		
	DISTRICT	ASSESSED	EQUALIZED	TAXABLE	ASSESSED	EQUALIZED	TAXABLE	
	AUBURN HILLS	1,600,683,300	1,600,683,300	1,532,748,730	431,701,720	431,701,720	431,701,720	
	BERKLEY	509,977,050	509,977,050	474,624,130	14,026,180	14,026,180	14,026,160	
	BIRMINGHAM	2,034,365,310	2,034,365,310	1,824,217,770	53,902,590	53,902,590	53,902,590	
	BLOOMFIELD HILLS	838,664,570	838,664,570	785.079.670	22,262,920	22,262,920	22,262,920	
	CLARKSTON VILLAGE	45,594,700	45,594,700	42,476,780	1,666,300	1,666,300	1,666,300	
	CLAWSON	356,006,330	356,006,330	345,087,520	14,796,710	14,796,710	14,786,260	
	FARMINGTON	335,098,980	335,098,980	333,495,790	16,557,200	16,557,200	16,557,200	
	FARMINGTON HILLS	3,425,792,500	3,425,792,500	3,359,702,840	259,998,190	259,998,190	259,993,630	
	FENTON	222,200	222,200	127,190	2.600	2,600	2,600	- 1988 1988
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	FERNDALE	637,185,170	637,185,170	552,232,130	46,765,780	46,765,780	46,765,780	100
	HAZEL PARK	277,528,940	277,528,940	263,304,910	13,682,090	13,682,090	13,682,220	
	HUNTINGTON WOODS	336,739,170	336,739,170	302,755,150	3,282,560	3,282,580	3,282,580	
	KEEGO HARBOR	97,838,430	97,838,430	92,521,610	2,944,120	2,944,120	2,944,120	蘯
	LAKE ANGELUS	79,862,140	79,862,140	64,991,650	567,030	567,030	567,030	
	LATHRUP VILLAGE	133,648,590	133,648,590	131,337,070	4,018,790	4,018,790	4,006,890	
	MADISON HEIGHTS	920,206,420	920,206,420	901,937,520	133,691,350	133,691,350	133,540,720	
	NORTHVILLE	134,366,850	134,366,650	133,826,510	2,598,034	2,598,034	2,598,034	
	NOVI	3,100,717,650	3,100,717,650	2,984,101,470	220,466,950	220,466,950	220,466,950	
	OAK PARK	607,989,720	607,989,720	587,609,390 -	36,210,100	36,210,100	36,210,100	
	ORCHARD LAKE	351,415,900	351,415,900	339,680,940	3,984,400	3,984,400		
Sec. 1	PLEASANT RIDGE	134,050,970	134,050,970	119,514,550	3,430,860	3,430,860	3,430,860	
	PONTIAC	1,162,060,180	1,162,060,180	999,660,570	177.818,140	177.818,140	177,818,140	
	ROCHESTER	667,262,350	667,262,350	635,989,440	36,049,540	36,049,540	36,049,540	
	ROCHESTER HILLS	3,062,162,410	3,062,162,410	3,018,628,890	176,032,780	176,032,780	176,032,380	
	ROYAL OAK	2,346,433,160	2,346,433,180	2,146,660,370	116,007,990	116,007,990	116,007,990	
100	SOUTHFIELD	2,885,022,310	2,885,022,310	2,693,966,710	411,235,320	411,235,320	411,235,320	
	SOUTH LYON	328,818,490	328,818,490	314,038,520	15,562,600	15,562,600	15,562,600	
	SYLVAN LAKE	97,907,050	97,907,050	90,914,500	3,149,960	3,149,960	3,149,960	
	TROY		4,580,527,583	4,435,622,282	407,990,730	407.990.730	407,990,730	
	WALLED LAKE	4,580,527,583 211,815,880	4,560,527,583	4,435,022,202	407,990,730	13,420,350	13,420,350	
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	WIXOM	644,797,030	644,797,030	629,088,700	119,672,180	119,672,180	119,672,180	
	TOTAL CITIES	31,944,761,153	31,944,761,153	30,334,160,382	2,763,496,084	2,763,496,084	2,763,318,274	
C CL	TOTAL TOWNSHIPS	22,034,755,871	22,034,755,871	20,984,137,631	1,002,063,399	1,002,063,399	1,000,091,299	

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