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## **GREAT LAKES WATER AUTHORITY SETTLEMENT POLICY**

On February \_\_, 2018, the Board of Directors (Board) of the Great Lakes Water Authority ("GLWA") authorized and adopted the following settlement policy ("Settlement Policy") for resolving claims, administrative proceedings, mediations, arbitrations, and litigation ("Actions"):

- (1) For and against GLWA ("GLWA Action(s)"); and
- (2) Against the City of Detroit and/or the Detroit Water and Sewerage Department ("DWSD"), which allege liabilities in existence on or before December 31, 2015 and were transferred and/or assumed by GLWA, pursuant to Article IV of Regional Sewage Disposal System Lease and/or the Regional Water Supply System Lease ("DWSD Action(s)").

### **DEFINITIONS**

For purposes of this Policy the following terms shall have the following meanings:

*BOARD* means the GLWA Board of Directors.

*DWSD ACTION* means an administrative or judicial action, including but not limited to an arbitration proceeding commenced pursuant to the provisions of the Regional Water Supply System Lease, Regional Sewage Disposal System Lease, Water and Sewer Services Agreement, or other agreement between GLWA and the City of Detroit (DWSD), which is:

- A) Brought by DWSD against GLWA;
- B) Brought by a third party against both DWSD and GLWA;
- C) Brought by GLWA against DWSD; or
- D) Otherwise asserts a claim of GLWA liability for the Detroit local system.

*GLWA* means the Great Lakes Water Authority, its Board, Officers, Employees, and assigns.

*GLWA ACTION* means a proceeding or claim brought against GLWA in an administrative or judicial forum. The following shall not be considered GLWA Actions:

- A) Administrative claims or citations arising out of the employment relationship between GLWA and its employees including by way of example and not limitation:
  - i) Michigan Occupational Health and Safety Agency (MIOSHA);
  - ii) Grievances claims pursuant to a collective bargaining agreement including Unfair Labor Practices charges and other matters brought before the Michigan Employment Relations Commission (MERC);
  - iii) Administrative adjustments to an invoice or other steps taken by GLWA's designated Contract Administrator pursuant to a GLWA contract to resolve business issues related to that contract;

- iv) Matters, such as automobile liability claims which GLWA has assigned to a Third Party Administrator for adjustment pursuant to contract approved by its Board of Directors; and
- v) Any other matter or proceeding which the GLWA Board of Directors has determined should be exempted from this Policy.

*SETTLEMENT* means an agreement pertaining to the resolution or proposed resolution of an Action.

### **GLWA ACTIONS**

- **Settlement Threshold.** The CEO has the authority to settle a GLWA Action in any amount of \$250,000.00 or less without Board approval.
  - At times, a GLWA Action may involve a single underlying event with multiple claimants or plaintiffs (“Related GLWA Actions”) that might result in separate Settlements of \$250,000.00 or less but, when combined, aggregate above the threshold. When evaluating the Settlement value of a GLWA Action, the value of all Related GLWA Actions shall be considered when determining the aggregate dollar impact on GLWA. If the aggregate dollar impact on GLWA is more than \$250,000.00, the GLWA Action and all Related GLWA Actions shall be approved by the Board.
  - The CEO has the discretion to refer to the Board for approval a proposed settlement of a GLWA Action of \$250,000.00 or less.
- **Committee Referral.** Except as provided below, a proposed Settlement of a GLWA Action greater than \$250,000.00 shall be referred by the CEO to the Board’s Legal Committee.
- **Committee Consideration.** For each proposed Settlement, the Legal Committee shall consider, by way of example and without limitation, the following factors:
  - The factual allegations
  - The financial impact on GLWA
  - The likelihood of successful defense
  - The recommendation of GLWA’s General Counsel regarding the proposed Settlement.
- **Committee Recommendation.** The Legal Committee shall return one of the following recommendations to the Board within 30 days of the referral: (i) recommended for approval, (ii) not recommended for approval, or (iii) referred without recommendation.
- **Exception.** In the event of a time-sensitive need to approve a proposed Settlement of a GLWA Action, the CEO may refer the proposed Settlement directly to the Board at a regularly scheduled or Special Meeting for approval.

### **DWSD ACTIONS**

- **Settlement Threshold.** Upon the recommendation of GLWA’s General Counsel that GLWA contribute to the Settlement a DWSD Action, the Board delegates to the CEO, the authority to allocate funds to the Settlement of a DWSD Action in any amount of \$250,000.00 or less without Board approval.

- At times, a DWSD Action may involve a single underlying event with multiple claimants or plaintiffs (“Related DWSD Actions”) that might result in separate Settlements of \$250,000.00 or less but, when combined, aggregate above the threshold. When evaluating the Settlement value of a DWSD Action, the value of all Related DWSD Actions shall be considered when determining the aggregate dollar impact on GLWA. If the aggregate dollar impact on GLWA is more than \$250,000.00, the DWSD Action and all Related DWSD Actions shall be approved by the Board.
  - The CEO has the discretion to refer to the Board for approval a proposed Settlement allocation of a DWSD Action of \$250,000.00 or less.
- **Committee Referral.** Except as provided below, all proposed Settlement allocations of a DWSD Action greater than \$250,000.00 shall be referred by the CEO to the Board’s Legal Committee.
- **Committee Consideration.** For each proposed settlement, the Legal Committee shall consider, by way of example and without limitation, the following factors:
  - The factual allegations
  - The financial impact on GLWA
  - The proposed allocation between DWSD and GLWA
  - The likelihood of successful defense
  - The recommendation of General Counsel regarding the Settlement allocation.
- **Committee Recommendation.** The Legal Committee shall return one of the following recommendations to the Board within 30 days of the referral: (i) recommended for approval, (ii) not recommended for approval, or (iii) referred without recommendation.
- **Exception.** In the event of a time-sensitive need to approve a Settlement Allocation of a DWSD Action, the CEO may refer the proposed Settlement allocation directly to the Board for approval at a regular or Special Meeting of the Board.
- **Written Agreement.** In each Settlement allocation of a DWSD Action, the CEO shall enter into a written agreement with DWSD conditioning the use of GLWA funds to settle the DWSD Action on a future reallocation of the funds provided by GLWA based on an arbitration panel’s decision on how to allocate settlements of DWSD Actions between DWSD and GLWA, however, (i) the Board may, by resolution, instruct the CEO to allocate funds to a DWSD Action without a future reallocation or (ii) when the arbitration panel reaches a decision on how to allocate settlements of DWSD Actions between DWSD and GLWA, the arbitration panel’s decision controls.

### **REPORTING REQUIREMENTS**

- **Timing.** GLWA’s General Counsel shall include the Settlement of all Actions in the CEO Report within 30 days of General Counsel’s receipt of a fully executed settlement agreement.
- **Committee Review.** No less than quarterly, the complete listing of all pending Actions shall be reviewed by the Legal Committee with General Counsel as to status, likelihood of success, actions required, and other pertinent information involving such pending Actions.

- Trial Reporting. Within 30 days of a trial on an Action, General Counsel shall meet and confer with the Legal Committee to discuss the following:
  - The factual allegations
  - The potential witnesses
  - The potential financial impact on GLWA, including the Action's costs to date and anticipated through trial
  - All settlement demands or offers
  - The likelihood of success in the trial and on appeal
- Annual Reporting. Annually, GLWA's General Counsel shall present to the Board a list of all Actions, for and against GLWA or DWSD<sup>1</sup>, that were settled.

#### **POLICY TERM**

This Settlement Policy shall be effective upon approval of a majority of the Board. This Settlement Policy may be amended by the Board, by resolution, at any time provided, however, that this Settlement Policy shall be reviewed and re-authorized by the Board on or before the last Board meeting in December 2020.

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<sup>1</sup> Only lawsuits where GLWA contributed to the allocation will be listed.