



Legislation Details (With Text)

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Sponsors: William Wolfson, David W. Jones
Indexes: Administration & Compliance, General Counsel
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Attachments: 1. HP 3-18-2024 Council Package Combined.pdf

Date	Ver.	Action By	Action	Result
3/21/2024	1	Board of Directors	Approved	Pass

Highland Park Settlement Agreement

Agenda of: March 21, 2024
Item No.: **2024-128**
Amount: N/A

TO: The Honorable
Board of Directors
Great Lakes Water Authority

FROM: Suzanne R. Coffey, P.E.
Chief Executive Officer
Great Lakes Water Authority

DATE: March 21, 2024

RE: **Highland Park Settlement Agreement**

MOTION

Upon recommendation of William M. Wolfson, Chief Administrative and Compliance Officer, The Board of Directors (Board) of the Great Lakes Water Authority (GLWA):

- 1) **Supports and conditionally approves the attached Settlement Agreement and Mutual Release, including exhibits, (Settlement Agreement) between and among the City of Highland Park, the State of Michigan, and GLWA; and**
- 2) **Authorizes the Chief Executive Officer (CEO) and counsel to GLWA to make necessary changes, finalize and execute on behalf of GLWA, the Settlement Agreement and Mutual Release (Settlement Agreement), between and among the City of Highland Park, the State of Michigan, and GLWA for the purposes of effectuating the overall agreement; and**

- 3) The CEO and counsel shall keep the Board advised of the progress of finalizing the Settlement Agreement including any exhibits to that Agreement affecting GLWA; and
- 4) If the CEO determines that terms of the Settlement Agreement have materially changed in a manner that is averse to GLWA, the CEO or counsel shall advise the Board of such change and suspend the authorization provided in paragraph 1 of this resolution; and
- 5) Authorizes the CEO to take such other action as may be necessary to accomplish the intent of this vote.

BACKGROUND

On October 18, 2023, representatives of GLWA, Highland Park, and the State of Michigan (collectively, the “Parties”) entered into a Term Sheet to provide for amicable resolution of their differences, long-term water, and sewer services to Highland Park from GLWA, the methodology for payment for those services, and other matters of concern to the parties. On October 25, 2023, GLWA’s Board adopted Resolution 2023-385 approving this Term Sheet.

Immediately after approval of the Term Sheet, the Parties began work on the Settlement Agreement to effectuate and codify their common understanding. While there were many agreements and proposed, stipulated orders between the Parties necessary to effectuate the settlement, the Parties recognized the necessary interrelationship between these agreements and agreed that they should all become parts of a single Settlement Agreement. The Term Sheet provides at paragraph 1 that the Parties “shall enter into a settlement agreement by January 15, 2024, that incorporates the basic terms set forth below including mutually agreeable release language.” That deadline was extended by agreement of the Parties to February 15, 2024, in stipulated orders entered by the Wayne County Circuit Court. On February 14, 2024, the Settlement Agreement was approved by GLWA and on February 15, 2024, the Highland Park City Council partially tabled the matter. Subsequently the parties returned to mediation and reached agreement on a proposed recommended Settlement Agreement.

The Settlement Agreement proposed today consists of the document itself and several related documents that are attached to and incorporated into that agreement as exhibits. The attached exhibits include (a) a water services contract between GLWA and Highland Park; (b) a wastewater disposal services contract between GLWA and Highland Park; (c) a trust established by Highland Park, with U.S. Bank, and naming GLWA as a Third-Party Beneficiary; (d) an administrative compliance agreement between the State of Michigan and Highland Park; and (e) proposed stipulated orders for entry of the Settlement Agreement as a consent judgment, for dismissal of litigation among the Parties, and for release to GLWA of a \$241,418.75 supersedeas bond deposited by Highland Park with the federal district court.

The proposed Settlement Agreement was approved by the Highland Park City Council at its March

18, 2024, meeting. Subsequent to Highland Park's approval, the parties received comments and proposed revisions to the trust agreement which must be reviewed and, if acceptable, incorporated into the Settlement Agreement.

JUSTIFICATION

The Parties have engaged in various litigation matters and settlement discussions for the better part of the last decade. In adopting Resolution 2023-385 approving the Term Sheet, the Board expressed its desire to see the litigation resolved, a plan put in place to provide for both water and sewer services to the residents of Highland Park, and for the timely and full payment of those services.

BUDGET IMPACT

The proposed Settlement Agreement is consistent with GLWA's current FY24 budget and was considered in the adoption of the budget and charges for FY25.

COMMITTEE REVIEW

This item is being presented directly to the full Board of Directors.

SHARED SERVICES IMPACT

This item does not impact the shared services agreement between GLWA and DWSD.