Legislation Details (With Text)

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12/17/2020	1	Board of Directors	Approved	Pass
12/17/2020	1	Legal Committee	Recommended for Approval	Pass

Approval of a Memorandum of Understanding between Detroit Water and Sewerage Department and GLWA

Agenda of: December 17, 2020
Item No.: **2020-465**
Amount: N/A

TO: The Honorable
Board of Directors
Great Lakes Water Authority

FROM: Sue F. McCormick
Chief Executive Officer
Great Lakes Water Authority

DATE: December 15, 2020

RE: Approval of a Memorandum of Understanding between Detroit Water and Sewerage Department and GLWA

MOTION

Upon recommendation and opinion of Suzanne Coffey, Chief Planning Officer, and Randal M. Brown, General Counsel, the Board of Directors (Board) for the Great Lakes Water Authority (GLWA): (1)

approves the non-binding Memorandum of Understanding between the Detroit Water and Sewerage Department (DWSD) and GLWA; (2) tie bars the approval of this Motion to the approval of the Memorandum of Understanding between the Evergreen Farmington Sanitary District (EFDS) and GLWA; and (3) authorizes the Chief Executive Officer to take such other action as may be necessary to accomplish the intent of this vote, including the execution of the Memorandum of Understanding.

JUSTIFICATION

On August 29, 1984, the City of Detroit and the County of Oakland, on behalf of the Evergreen Farmington Sewerage Disposal System ("EFSDS"), entered into the Detroit-Oakland Agreement for Use of Sewers for the Evergreen-Farmington District (UoS Agreement), whereby the City agreed to accept sewage from the EFSDS with the maximum rate of discharge to the Regional Sewer System being 170 cubic feet per second (cfs) or such greater amounts which they may agree upon.

Paragraph 28 of the UoS Agreement acknowledges that the UoS Agreement inures to the benefit of and is binding on the City or the County of Oakland's successors and assigns. Through the Regional Sewerage Disposal Lease, the City of Detroit assigned the UoS Agreement and other EFSDS contractual agreements with the City to GLWA. EFSD will be a duly petitioned and organized pursuant to Chapter 20 of Act No. 40, Public Acts of Michigan, 1956, as amended, to accept the assignment, ownership, and operation of the prior existing EFSDS, serving fifteen (15) communities in Oakland County. The EFSD will be the successor and assign of the County of Oakland on behalf of the EFSDS.

Both EFSD and DWSD are member partners of the Regional Sewer System. EFSD has requirements relative to compliance with its Administrative Consent Order 04995, dated August 14, 2019, (the ACO) as agreed to with the Michigan Department of Environmental Quality, now known as the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and, consequently, desires a higher maximum rate of discharge to the Regional Sewer System. DWSD and GLWA are co-permitees on the National Pollutant Discharge Elimination System Permit MI 002282 (NPDES Permit), issued by EGLE. GLWA has requirements in the NPDES Permit to address untreated combined sewer overflows. DWSD is obligated to implement a green infrastructure program to remove storm water from the Local Sewer System pursuant to Part I. Section A.15.d.5.a and b. of the NPDES Permit with an approximate annual expenditure of $3,000,000.00.

GLWA's Wastewater Master Plan identifies collaborative approaches for regional solutions for the mutual benefit of member partners of the Regional Sewer System.

DWSD identified a green infrastructure project that, if implemented, would remove storm water from approximately 225 acres of a residential neighborhood immediately west of the Rouge River and north of West Warren Avenue in the City of Detroit (the West Warren Green Infrastructure Project).

GLWA has identified Outfall B054 for improvements that, if improved, would reduce the combined sewer overflow discharge frequency and volume from the West Warren Outfall (the West Warren Outfall Project, and together with the West Warren Green Infrastructure Project, the West Warren Sewer Projects). EFSD agrees to make a capital contribution to GLWA for a higher maximum rate of discharge by EFSD to the Regional Sewer System. EFSD understands that GLWA will use the funds for the design, construction assistance, and estimated construction costs based on competitive procurements for the West Warren Sewer Projects. The estimated costs of the West Warren Sewer Projects are approximately $30,000,000 to $35,000,000.

Upon receipt of the aforementioned capital contribution for a higher maximum rate of discharge to the Regional System, GLWA agrees to reimburse DWSD for its design, construction assistance and estimated construction costs based on competitive procurements for the West Warren Green Infrastructure Project. The Parties will use their best efforts to secure EGLE's concurrence that the capital contribution made by EFSD for the West Warren Green Infrastructure Project for the benefit of an increased maximum rate of discharge constitutes a part of DWSD's obligation to spend approximately $3,000,000.00 annually on Green Infrastructure Projects under the NPDES Permit.

BUDGET IMPACT

There is no budget impact from the non-binding MOU.

COMMITTEE REVIEW

This matter was presented to the Legal Committee on December 17, 2020. The Legal Committee unanimously recommended that the GLWA Board adopt the resolution as presented.

SHARED SERVICES IMPACT

This request does not impact the Shared Services Agreement.