

## Legislation Text

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**File #:** 2019-040, **Version:** 1

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### **Proposed Settlement and Release Agreement with City of Southgate**

**Agenda of:** February 27, 2019  
**Item No.:** **2019-040**  
**Amount:** \$22,225.24

**TO:** The Honorable  
Board of Directors  
Great Lakes Water Authority

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

**DATE:** February 19, 2019

**RE: Proposed Settlement and Release Agreement with City of Southgate**

### **MOTION**

Upon recommendation of Randal Brown, General Counsel, the Board of Directors (Board) of the Great Lakes Water Authority (GLWA) **approves the Settlement and Release Agreement with the City of Southgate;** and authorizes the Chief Executive Officer to take such other action as may be necessary to accomplish the intent of this vote.

### **BACKGROUND**

The City of Southgate (City) entered into a water service contract with the City of Detroit on March 17, 2009 (Contract), which was subsequently assigned to GLWA on January 1, 2016. The Contract provides that, except to the extent that GLWA is the proximate cause, GLWA shall not be liable for damage to the City's water system. The City alleges that on August 16 and 17, 2018, it experienced a total of 7 water main breaks within its water system, and that from August 19 through 22, 2018, it experienced 5 additional water main breaks.

GLWA has proposed certain terms and conditions related to a settlement of the 12 claims alleged by the City, which terms were approved by the City on January 2, 2019. Under the terms of the settlement, GLWA agrees to provide a credit to the City's wholesale water account in the amount of \$22,225.24, which credit resolves in their entirety the City's claims set forth above. In exchange, the City releases and discharges GLWA from any claims related to any water main breaks that may have occurred in the City prior to August 23, 2018.

### **JUSTIFICATION**

Approval of this Settlement and Release Agreement represents a fair and equitable resolution to the City's claims and is in keeping with GLWA's commitment to working collaboratively with its member partners.

### **FINANCIAL PLAN IMPACT**

**Summary:** The settlement and release agreement with the City of Southgate encompasses Operations & Maintenance expense only. Sufficient funds will be provided in the Operations & Maintenance (O&M) financial plan for this settlement and release agreement for damage claims (GL string: 5910-882101.000-661100-WS7310).

**Funding Source:** Operations & Maintenance (O&M) Budget

**Cost Center(s):** Water Director .....Water Operations cost center 882101

**Expense Type:** Damage Claims (661100)

**Estimated Cost by Year and Related Forecasted Variance:** See table below.

<b><u>Fiscal Year</u></b>	<b><u>Amount</u></b>
FY 2019 Budget	\$0.00*
<u>Settlement Amount</u>	<u>22,225.24</u>
Variance	\$22,225.24

\*FY 2019 total budgeted amount is \$0.00 for various emergency water main repair incidents. A budget amendment will be required to capture the settlement and release agreement amount of \$22,225.24 for the City of Southgate.

### **SAVINGS, COST OPTIMIZATION, AND REVENUE ENHANCEMENT IMPACT**

The settlement and release agreement for the City of Southgate has no savings, cost optimization, or revenue enhancement impact.

### **COMMITTEE REVIEW**

This matter is being presented to the Legal Committee for consideration and approval. The Legal Committee unanimously recommended that GLWA Board adopt the resolution as presented.

### **SHARED SERVICES IMPACT**

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