



## Legislation Text

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**File #:** 2019-292, **Version:** 1

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### **Request to Approve the Settlement of Claims regarding SW-548**

**Agenda of:** July 24, 2019

**Item No.:** **2019-292**

**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:** July 19, 2019

**RE:** **Request to Approve the Settlement of Claims regarding SW-548**

### MOTION

Upon recommendation and opinion of Randal M. Brown, General Counsel, the Board of Directors of the Great Lakes Water Authority (GLWA):

- 1) Authorize Sue F. McCormick, Chief Executive Officer, and the General Counsel to settle claims associated with Contract SW-548.

### JUSTIFICATION

On or about April 12, 2010, Colasanti Construction Services, Inc. ("Colasanti") and the City of Detroit Water and Sewerage Department ("DWSD") entered into Contract SW-548 (the "Contract") for the construction of certain improvements at DWSD's Southwest Water Treatment Plant (the "Project"). The Great Lakes Water Authority ("GLWA") is the successor-in-interest to DWSD's rights and obligations under the Contract. The Project improvements included supply and installation, in each of four sedimentation basins, of certain components ("Collector Components") for construction of chain and flight sludge collector mechanisms (the "Collector Mechanisms"). Colasanti contracted with J.F. Cavanaugh Company ("Cavanaugh") via purchase order and subcontract, respectively, for the supply and installation of the Collector Components. Cavanaugh contracted with Siemens Water Technologies Corp. n/k/a Evoqua Water Technologies LLC ("EWT") via purchase order for the supply of the Collector Components. On April 6, 2013, DWSD issued its Certificate of Substantial Completion for the Project. Both prior to and after the Substantial Completion Certificate was issued, DWSD/GLWA reported inoperability of certain Collector Mechanisms and damage to certain Collector Components. Disputes and differences arose among the Parties relating to the Project including, but not limited to, the cause(s) of and

responsibility for inoperability of certain Collector Mechanisms and/or damage to certain Collector Components, and payments due under the Contract. GLWA terminated the Contract and made a claim against the Performance Bond issued by Liberty Mutual Insurance Company ("Liberty") with respect to the Contract. Colasanti contested the default termination as wrongful and requested that the GLWA withdraw the default termination. After negotiation and facilitation, the Parties desire to resolve, contingently, their disputes and differences on the terms stated in the proposed Settlement Agreement, which is attached.

#### **BUDGET IMPACT**

The budget impact of this Agreement does not adversely impact the GLWA's ability to perform its current and proposed financial plan. Further, once the upgrades are completed, GLWA will be less reliant on the use of a sludge removal contract.

#### **COMMITTEE REVIEW**

The Legal Committee reviewed details of the claim settlement at its meeting on June 26, 2019. The Legal Committee unanimously recommended that the GLWA Board adopt the resolution as presented.

#### **SHARED SERVICES IMPACT**

There is no impact the Shared Services Agreement.