

Legislation Text

File #: 2020-266, **Version:** 1

Approval to Settle Arbitrations between the City of Detroit and GLWA

Agenda of: August 5, 2020

Item No.: **2020-266**

Amount: N/A

TO: The Honorable
Board of Directors
Great Lakes Water Authority

FROM: Randal M. Brown
General Counsel

DATE: July 22, 2020

RE: **Approval to Settle Arbitrations between the City of Detroit and GLWA**

MOTION

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

- 1) Approves the settlement of Arbitrations between the City of Detroit and GLWA; and
- 2) Authorizes the Chief Executive Officer to take such other action as may be necessary to accomplish the intent of this vote.

JUSTIFICATION

On January 1, 2016 and pursuant to the Regional Water Supply System Lease, the City of Detroit leased to GLWA, among other real and personal property, watermains to supply water services to the Region. Generally speaking, the City of Detroit leased all watermains that were 24 inches and larger to GLWA. However, Section 3.3. of the Water Lease acknowledged that the Parties would continuously review the use of description of Leased Water Facilities and amend Schedule A to the Lease to conform to the actual use of the Leased Water Facilities. Within a year of assuming control of the Leased Water Facilities, GLWA advised the City of Detroit, through the Detroit Water and Sewerage Department, that many of the watermains were not being actually used by the Regional

Water System and should be transferred back to the City of Detroit or decommissioned.

After several meetings, the parties agreed that it could not resolve the reallocation or decommissioning of watermain, and the issue should be arbitrated. The GLWA Board unanimously approved GLWA arbitrating which entity is responsible for specific watermain. Based on information and belief, DWSD Board of Water Commissioners authorized the City of Detroit to arbitrate the matter as well.

In addition, and based on information and belief, DWSD's Board of Water Commissioners authorized the filing of an arbitration related to GLWA proposing to remove specific Leased Sewer Facilities from the calculation of the City's water usage and demands in FY 2020. It should be noted that the GLWA Board did not approve charges for the City of Detroit which removed specific Leased Sewer Facilities from the City's water usage and demands in FY2020 or FY 2021, however, the notice to arbitrate was not withdrawn.

As the parties prepared for the arbitrations, GLWA and DWSD's administrations continued regular communication to resolve the arbitrations amicably. Counsel for both parties have agreed to present the proposed settlement agreement to their respective Boards for approval. If approved, this would amicably resolve the matter.

BUDGET IMPACT

But for the approximately 16 miles of mains being transferred to DWSD upon execution of the Settlement Agreement, there is not a significant budget impact to GLWA. GLWA will be responsible for decommissioning mains after the fieldwork verification.

COMMITTEE REVIEW

This matter is being presented directly to the Board.

SHARED SERVICES IMPACT

This request does not impact the Shared Services Agreement.