

Agenda of January 21, 2014

Item No. 13-0569

Amount: Revenue Contract Amendment No. 2

TO: The Honorable
Board of Water Commissioners
City of Detroit, Michigan

FROM: Sue F. McCormick, Director
Water and Sewerage Department

DATE: January 21, 2014

RE: **Proposed Amendment No. 2 to Water Service Contract with George W. Kuhn Drainage District**

MOTION: Upon recommendation of Sue F. McCormick, Director, the Board of Water Commissioners authorizes the Director, upon approval and execution by the wholesale water customer, to **execute Amendment No. 2 to the 30-year water service contract with the George W. Kuhn Drainage District. This Amendment will amend the terms of the existing water service contract between the parties**, and also authorizes the Director to take such other action as may be necessary to accomplish the intent of this vote.

It is therefore requested that the Board of Water Commissioners authorize the Director to enter into this contract amendment.

BACKGROUND

On November 19, 2013, the George W. Kuhn Drainage District (“Customer”) Board agreed to the terms of Amendment No. 2 (“Amendment”) to the Water Service Contract with the City of Detroit.

This Amendment is the second of several regularly occurring amendments as mandated by the terms of the standard 30-year water service contracts with DWSD’s wholesale customers. Pursuant to Section 5.07 of the contract, DWSD and the Customer agree to affirm or modify the projected annual volume, pressure range, and maximum day and peak hour values (collectively, the “Values”) at year 2 of the contract, year 5 of the contract, and every 5 years thereafter. In this Amendment, the Customer has agreed to modify the Values for the 2014 to 2018 period as stated in the attached Exhibit B.

In addition, this Amendment incorporates new or modified contract language that was negotiated in October 2011 by DWSD through the Technical Advisory Committee outreach process to address several contract provisions that DWSD and its customers believed required expansion and clarification. The language set forth in this Amendment is identical to the language

proposed in the 24 amendments that were approved by the Board of Water Commissioners in February 2013. The substantive changes are summarized as follows:

Article 1: Establishes a new defined term, “Allocation Flow Rate”, for a process that existed under the previous contract language, but was not specifically defined.

Article 5: The bulk of the modifications occur in this section. In summary, the modifications provide:

- a. Revised time lines throughout the section to conform to actual practice;
- b. A new time line for the annual notification of any alleged customer violation of the maximum flow rate;
- c. For the establishment of a meeting procedure to validate an alleged flow rate violation and negotiate a remedy;
- d. Clear guidelines for work group review and recommendation on all flow rate violations;
- e. Assurance that DWSD and the customer have the right to present all relevant information during the flow rate violation review process;
- f. For the utilization of the new defined term, “Allocation Flow Rate”, to describe a previously existing process; and
- g. For DWSD to apply the remedy for a flow rate violation from the date of the first violation or some subsequent date.

Article 21: Adds a mandate for DWSD review of customer construction that may impact DWSD infrastructure.

This Amendment will amend the terms of the existing water service contract between DWSD and the Customer.