

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GENERAL MILL SUPPLY CO.,  
Individually and on behalf of a  
Class of similarly situated  
persons and entities,

Case No. 18-011569-CZ  
Hon. Charles S. Hegarty

Plaintiff,

v.

THE GREAT LAKES WATER AUTHORITY,  
an incorporated municipal authority,

and

CITY OF DETROIT, a municipal corporation,  
by and through its WATER AND SEWERAGE  
DEPARTMENT,

Defendants.

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**STIPULATED ORDER REGARDING PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT, NOTICE AND SCHEDULING**

At a session of said Court held in the  
City of Detroit, County of Wayne  
State of Michigan on 11/22/2023

PRESENT: HON. Charles S. Hegarty  
Circuit Court Judge

WHEREAS Plaintiff has commenced this action (the “Lawsuit”) challenging Industrial Waste Control charges (the “IWC Charges”) Defendants have imposed on owners and occupiers of property. Plaintiff contends that: (a) the IWC Charges are not proper user fees, but taxes wrongfully imposed by Defendants to raise revenue in violation of the Headlee Amendment to the Michigan Constitution of 1963; (b) the IWC Charges violate the Prohibited Taxes By Cities And Villages Act, MCL 141.91, because the IWC Charges are not ad valorem taxes, but are taxes imposed, levied, or collected after January 1, 1964; (c) the IWC Charges are unlawful because they are unreasonable; (d) Defendants have been unjustly enriched by the collection and retention of the IWC Charges and/or are required to refund the IWC Charges under a theory of assumpsit; and (e) that Plaintiff and those similarly situated have been harmed by Defendants’ collection and retention of the IWC Charges as more particularly described in Plaintiff’s First Amended Complaint (the “FAC”) in the Lawsuit;

WHEREAS Plaintiff brought these claims on behalf of itself and a class of all others similarly situated. On April 7, 2020, the Court certified a class consisting of all persons or entities who/which are not Significant Industrial Users (“SIUs”) and who/which have paid or incurred the IWC Charges since July 18, 2013 and/or paid or incurred the IWC Charges during the pendency of the Lawsuit;

WHEREAS Plaintiff sought a judgment from the Court against Defendants that would order and direct Defendants to refund all IWC Charges to which Plaintiff and the class are entitled and grant any other appropriate relief;

WHEREAS Defendants maintain and continue to maintain that the Defendants’ imposition of the IWC Charges is proper and not unlawful. Defendants contend that they should ultimately prevail in the Lawsuit.

WHEREAS the Parties desire to compromise their differences and to resolve and release all of the claims asserted by the Named Plaintiff and the Class in the Lawsuit.

WHEREAS the parties conducted eight mediation sessions with Mediator Paula Manis and reached a settlement through arms-length negotiations aided by Ms. Manis.

WHEREAS, the Named Plaintiff in the Lawsuit and Class Counsel have been provided with discovery and have conducted investigations into the facts of the Lawsuit, have made a thorough study of the legal principles applicable to the claims in the Lawsuit, and have concluded that a class settlement with Defendants in the amount and on the terms set forth in the Class Action Settlement Agreement (“Agreement”) is fair, reasonable, and adequate, and is in the best interest of the Class.

WHEREAS Plaintiff and Defendants in this action intend to make application to this Court, pursuant to MCR 3.501(E), for a Final Order approving the settlement of this class action in accordance with the terms set forth in the Agreement executed by the parties as of November 16, 2023, and attached hereto as *Exhibit 1*, and they seek preliminary approval of the Agreement for purposes of, among other things, notifying class members of the proposed settlement;

WHEREAS the Court has been made aware of the settlement process leading to the agreement reached, and counsel have demonstrated that the settlement is within a range of reasonableness and is the result of arm’s length bargaining of counsel well versed in the issues.

**IT IS HEREBY ORDERED:**

1. Unless defined otherwise herein, all capitalized terms shall have the definitions and meanings accorded to them in the Agreement.
2. The Court preliminarily approves the terms of the Agreement as fair, reasonable and adequate. The Court finds that the settlement was reached in the absence of collusion, and is the product of informed, good-faith, arm’s length negotiations between the Parties and their counsel. Pursuant to MCR 3.501, the “Class,” as defined in Paragraph 2 of the Agreement, is hereby certified for settlement purposes only.

3. A hearing (the “Settlement Hearing”) will be held before this Court on **February 23, 2024 at 2:00 p.m.**, to determine whether the proposed settlement between Plaintiff and Defendants, on the terms and conditions provided in the Agreement, is fair, reasonable and adequate and should be approved by the Court, to determine whether a final judgment should be entered dismissing this Lawsuit with prejudice, and without costs, and to determine whether to award attorneys’ fees and expenses to Class Counsel and the amount of such fees and expenses.

4. The Court approves the notification to the members of the Class regarding the Settlement and right to hearing, as authorized in Paragraphs 5 through 7 of this Order, finding that such notification is the best notice practicable under the circumstances, complies with MCR 3.501, and the requirements of due process of law, and will adequately inform Class Members of their rights.

5. The law firm of Kickham Hanley PLLC (“KH”) is hereby appointed as Class Counsel and Claims-Escrow Administrator for this Action. KH is authorized to use the services of a third-party administrator (“TPA”), as provided in the Agreement. KH (with the assistance of a TPA) is authorized to implement the notice requirements set forth in and approved by this Order and to distribute refunds in accordance with the Agreement.

6. On or before fourteen (14) days after KH receives the information set forth in Paragraph 10a of the Agreement, KH shall provide Notice to the Class, as provided in Paragraph 10a and Paragraph 24 of the Agreement. Defendants shall cooperate with the Notice process as set forth in Paragraph 10a of the Agreement.

7. Any Class Member who has not opted-out of the Class may appear personally, or by counsel of his or her own choice and at his or her own expense, at the Settlement Hearing to show cause why: (a) the proposed settlement of the claims asserted should or should not be approved as fair, just, reasonable, adequate and in good faith; or (b) judgment should or should not be entered thereon; provided, however, that no Class Member will be heard at the Hearing or be entitled to

contest the approval of the terms and conditions of the proposed settlement, and/or the judgment to be entered thereon approving the same, the attorneys' fees and expenses to be paid, or other matter(s) that may be considered by the Court at or in connection with said settlement hearings. If any Class member chooses to appear, the Class Member shall file with the Court and serve upon counsel listed below at least thirty (30) days prior to the hearing written objections that set forth the name of this matter as defined in the Notice, the objector's full name, address and telephone number, an explanation of the basis upon which the objector claims to be a Class Member, all grounds for the objection including any known legal support for the objection, the number of times in which the objector has objected to a class action settlement in the past five years and a caption of each case in which an objection was filed, the identity of all counsel representing the objector at the hearing, a statement confirming whether the objector intends to appear and/or testify at the hearing (along with a disclosure of all testifying witnesses) and the signature of the objector (not just the objector's attorney):

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*Attorneys for Plaintiff and the Class*

and

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*Attorneys for Defendants*

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*Co-Counsel for Defendant GLWA*

8. Any Class Member who does not object in the manner provided above shall be deemed to have waived any and all objections to the fairness, adequacy, or reasonableness of the proposed settlements or the award of attorney's fees and expenses and shall be bound by all determinations and judgments in the Lawsuit concerning the Settlement, including, but not limited to, the Release and Covenant set forth in Paragraph 26 of the Agreement.

9. As stated in Paragraph 5, KH is authorized to serve as the Claims-Escrow Administrator. The Claims-Escrow Administrator, with the assistance of a TPA, shall be responsible for holding the Settlement Fund in escrow, determining the eligibility of Class Members to receive refund payments, determining the size of each Allowed Claim, distributing the payments to Class Members with Allowed Claims, and preparing a distribution report along with the monetary amount of each Class Member's share of the settlement in accordance with Paragraph 11 of the Agreement. The Claims-Escrow Administrator shall also be responsible for: (a) recording receipt of all responses to the Notice; (b) preserving until further Order of this Court any and all written communications from Class members or any other person in response to the Notice; and (c) making any necessary filings with the Internal Revenue Service. The Claims-Escrow Administrator may respond to inquiries, but copies of all written answers to such inquiries will be maintained and made available for inspection by all counsel in this action.

10. All papers in support of the settlement shall be filed with the Court and served on the other parties no later than seven (7) days prior to the Settlement Hearing.

11. The Court expressly reserves its right to adjourn and/or reschedule the Settlement Hearing without any further notice to members of the Class. The Court retains jurisdiction of this action to consider all further applications arising out of or connected with the proposed settlement herein.

12. All pretrial and trial proceedings in the Lawsuit are stayed and suspended until further order of the Court. Pending the final determination of the fairness, reasonableness and adequacy of the settlements, no Plaintiff or member of the class may institute or commence any action or proceeding against Defendants asserting any of the claims asserted in this action.

13. Subject to the terms of Paragraphs 14-15 of this Order, if this Agreement and Settlement is disapproved, in part or in whole, by the Court, or any appellate court; if dismissal of the Lawsuit with prejudice against the Defendants cannot be accomplished; if KH exercises its rights to terminate the Agreement under Paragraph 31 of the Agreement; if a final judgment on the terms set forth in Paragraph 25 of the Agreement is not entered within one hundred fifty (150) days after the entry of this Order; if the Settlement Date defined in Paragraph 5 does not occur prior to March 31, 2024; if the Court (or any appellate court) alters the terms of this Settlement in any material way not acceptable to Defendants or to Class Counsel; or if this Agreement and Settlement otherwise is not fully consummated and effected:

a. The Agreement shall have no further force and effect and it and all negotiations and proceedings connected therewith shall be without prejudice to the rights of Defendants, the Named Plaintiff and the Class;

b. Any discussions, offers, negotiations, or information exchanged in association with the Settlement shall not be discoverable or offered into evidence or used in the Lawsuit or any other action or proceeding for any purpose. No publicly disseminated information regarding the Settlement, including, without limitation, the Notice, court filings, orders and public statements may be used as evidence, or construed as admissions or concessions of fact by or against either Party on any point of fact or law. In addition, neither the fact of, nor any documents relating to, either Party's withdrawal from the Settlement, any failure of the Court to approve the Settlement, and/or any objections or interventions may be used as evidence or construed as an admission or concession by the City or by

Plaintiff on any point of fact or law. All Parties to the Lawsuit shall stand in the same position as if the Agreement had not been negotiated, made or filed with the Court;

c. The Claims-Escrow Administrator shall immediately return to Defendants any and all monies provided by Great Lakes Water Authority for settlement purposes; and

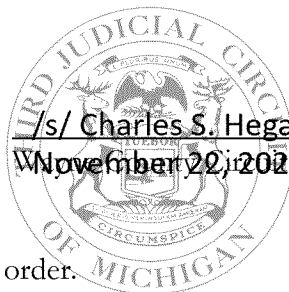
d. The Court shall grant reasonable continuances of the Lawsuit for the Parties to prepare for further argument on the parties' cross-motions for summary disposition, prepare for trial, and/or take other necessary action before this action before this Court.

14. Defendants and Class Counsel may, in their sole and exclusive discretion, elect to waive any or all of the terms, conditions or requirements stated in Paragraph 13 of this Order. Such waiver must be memorialized in a writing signed by Defendants and/or its counsel and/or Class Counsel and delivered via certified mail to all counsel of record, or it will have no force or effect.

15. Defendants and Class Counsel may, in their sole and exclusive discretion, elect to extend any or all of the deadlines stated in Paragraph 13 of this Order. Such extension must be memorialized in a writing signed by Defendants and/or its counsel and/or Class Counsel and delivered via certified mail to all counsel of record, or it will have no force or effect.

IT IS SO ORDERED:

Dated:



/s/ Charles S. Hegarty  
November 22, 2023 Court Judge

We hereby stipulate to the entry of the above order.

**Approved as to form and substance:**

/s/ Gregory D. Hanley  
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*/s/ Michael J. Watt* \_\_\_\_\_

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Co-Counsel for Defendant GLWA

4889-3904-4753 v.1

# EXHIBIT - 1

STATE OF MICHIGAN  
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GENERAL MILL SUPPLY CO.,  
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Class of similarly situated  
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THE GREAT LAKES WATER AUTHORITY,  
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Co-Counsel for Defendant GLWA

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**CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement ("Agreement") is made this 16<sup>th</sup> day of November 2023, by and between the following (collectively referred to as the "Parties"): Plaintiff General Mill Supply Company ("Named Plaintiff"), individually, and on behalf of a certified class of similarly situated persons and entities (as more specifically defined in Paragraph 2 below, the "Class"), acting

by and through its counsel, Kickham Hanley PLLC (“Class Counsel”), and Defendants Great Lakes Water Authority (“GLWA”) and the City of Detroit (the “City”) (collectively “Defendants”).

WHEREAS Named Plaintiff commenced this action in the 3rd Judicial Circuit Court for Wayne County, Michigan (the “Court”) challenging Industrial Waste Control charges (the “IWC Charges”) Defendants have imposed on owners and occupiers of property. Named Plaintiff brought these claims on behalf of itself and the Class. The action referenced in this paragraph was assigned the case number 2018-011569-CZ (the “Lawsuit”) in the Wayne County Circuit Court.

WHEREAS Named Plaintiff has paid the IWC Charges imposed by Defendants. Named Plaintiff contends that: (a) the IWC Charges are not proper user fees, but taxes wrongfully imposed by Defendants to raise revenue in violation of the Headlee Amendment to the Michigan Constitution of 1963; (b) the IWC Charges violate the Prohibited Taxes By Cities And Villages Act, MCL 141.91, because the IWC Charges are not ad valorem taxes, but are taxes imposed, levied, or collected after January 1, 1964; (c) the IWC Charges are unlawful because they are unreasonable; (d) Defendants have been unjustly enriched by the collection and retention of the IWC Charges and/or are required to refund the IWC Charges under a theory of assumpsit; and (e) that Named Plaintiff and the Class have been harmed by Defendants’ collection and retention of the IWC Charges.

WHEREAS Named Plaintiff sought a judgment from the Court against Defendants that would order and direct Defendants to refund all IWC Charges to which Named Plaintiff and the Class are entitled and grant any other appropriate relief.

WHEREAS Defendants maintain and continue to maintain that the Defendants’ imposition of the IWC Charges is and always has been proper, reasonable and lawful. Defendants contend that they should ultimately prevail in the Lawsuit.

WHEREAS On April 7, 2020, Judge Kevin J. Cox entered an Order certifying the Lawsuit as a class action.

WHEREAS, the Named Plaintiff in the Lawsuit and Class Counsel have been provided with discovery and have conducted investigations into the facts of the Lawsuit, have made a thorough study of the legal principles applicable to the claims in the Lawsuit, and have concluded that a class settlement with Defendants in the amount and on the terms hereinafter set forth (the "Settlement") is fair, reasonable, and adequate, and is in the best interest of the Class.

WHEREAS, the Parties desire to compromise their differences and to resolve and release all of the claims asserted by the Named Plaintiff and the Class in the Lawsuit.

WHEREAS, the parties conducted eight mediation sessions with Mediator Paula Manis and reached this settlement through arms-length negotiations aided by Ms. Manis.

NOW, THEREFORE, in consideration of the covenants and agreements herein, and intending to be legally bound, the Parties hereby agree as follows:

#### **IMPLEMENTATION OF AGREEMENT**

1. The Parties agree to cooperate in good faith, to use their best efforts, and to take all steps necessary to implement and effectuate this Agreement.

#### **CLASS CERTIFICATION**

2. The Court has already certified a class consisting of all persons or entities who/which are not Significant Industrial Users ("SIUs") and who/which have paid or incurred the IWC Charges since July 18, 2013.<sup>1</sup> For settlement purposes only, the parties will agree that the Court will certify a class consisting of all persons and entities who/which are not SIUs and who/which have paid or incurred IWC Charges imposed by the City and/or GLWA at any time between July 18, 2013 and June 30, 2023 (the "Class Period") and who did not previously request to be excluded from the class

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<sup>1</sup>By Order entered on April 7, 2020, the Court certified the following class: "A. All persons or entities who/which are not SIUs and who/which have paid or incurred the IWC Charges to GLWA since January 1, 2016 and/or paid or incurred the IWC Charges to the City since July 18, 2013; and C. Michigan Equal Protection Subclass: All persons or entities who/which are not SIUs and who/which have paid or incurred the IWC Charges to GLWA or the City during the three years preceding the filing of this action."

pursuant to MCR 3.501(D) (the "Class"). The City and GLWA are excluded from the Class. This Agreement is intended to settle all of the claims of the members of the Class ("Class Members").

### SETTLEMENT FUND

3. GLWA will create a Settlement Fund (the "Settlement Fund") in the amount of Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00) in order to resolve the claims of the Class. No more than 30 days after the execution of this Agreement, GLWA shall transfer by wire transfer or tender by check for deposit the sum of Four Million Two Hundred Thousand Dollars (\$4,200,000) of the Settlement Fund into the IOLTA Trust Account of Class Counsel, Kickham Hanley PLLC ("KH") (the "KH Client Trust Account") in order to fund an award of attorneys' fees, costs and an incentive award to the Class Representative. GLWA shall retain the remaining amount of the Settlement Fund (\$7,300,000) to fund the "Refunds" per the provisions of Paragraphs 10 through 12 below. The Settlement Fund shall be administered by KH (the "Claims-Escrow Administrator") with the assistance of a third-party administrator ("TPA"). The expenses the Claims-Escrow Administrator incurs to the TPA shall be recoverable by the Claims-Escrow Administrator as a cost of the litigation under Paragraphs 27-30 of this Agreement (subject to Court approval) and payable out of the Settlement Fund. The Claims-Escrow Administrator may from time to time apply to the Court for instructions or orders concerning the administration of the Settlement Fund and may apply to the Internal Revenue Service for such rulings with respect thereto as it may consider appropriate. Disbursements from the Settlement Fund by the Claims-Escrow Administrator and Defendants shall be expressly conditioned upon an order of the Court permitting such disbursements.

4. Except as set forth in Paragraphs 27 through 30 of this Agreement, the Class and Class Counsel shall not claim any attorneys' fees or costs.

5. Subject to Paragraph 31, distribution of the Settlement Fund shall occur no later than seven (7) days after the completion of the last of all of the following (the "Settlement Date"):

a. entry of an order of final judicial approval by the Court approving this Agreement pursuant to Michigan Court Rule 3.501(E);

b. entry of an order adjudicating Class Counsel's motion for an award of attorneys' fees and costs and for an incentive award for the Named Plaintiff;

c. entry of a final judgment of dismissal of the Lawsuit with prejudice with respect to the claims of the Named Plaintiff and all Class Members, except those putative Class Members who have requested to be excluded from the Class pursuant to MCR 3.501(D);

d. GLWA's deposit of the amount of the Settlement Fund required to fund the First Refund Payment described in Paragraph 3 above and Paragraph 12 below;

e. the expiration of the 21-day time for appeal of all of the aforementioned orders and judgments and final resolution of any and all appeals of such orders and judgments, but only if any Class Member files a timely objection to any of the aforementioned orders and judgments. The parties further agree that, if the Court timely enters the Final Judgment contemplated by this Agreement, none of the parties will appeal the Final Judgment or any other order entered by the Court.

6. As more specifically discussed below, and as provided in Paragraph 5, the Settlement Fund shall be distributed only pursuant to and in accordance with orders of the Court, as appropriate.

7. In the event that this Settlement fails to be consummated pursuant to this Agreement or fails to secure final approval by the Court for any reason or is terminated pursuant to Paragraph 31, any portion of the Settlement Fund being held in the KFI Client Trust Account shall immediately be returned to GLWA.

#### **DISTRIBUTION OF SETTLEMENT FUND**

8. The "Net Settlement Fund" to be distributed to the Class is the Settlement Fund less the combined total of: (a) attorneys' fees and any incentive award to the Class representative awarded pursuant to Paragraphs 27-30; and (b) Class Counsel and Claims-Escrow Administrator expenses reimbursed pursuant to Paragraphs 27-30.

9. Each Class Member's share in the Net Settlement Fund shall be referred to herein as his, her or its "Pro Rata Share," and each Class Member's Pro Rata Share of the Net Settlement Fund will be distributed via a refund payment (the "Refund"). The Pro Rata Share to be allocated to each Class Member shall be determined according to Paragraph 10.

10. All Class Members may participate in the Settlement by receiving from the Net Settlement Fund a cash distribution Refund (as described in Paragraph 10(b)). The Net Settlement Fund shall be distributed as follows:

a. Within 10 days after the Court's entry of an order preliminarily approving this Settlement, the City shall provide the Claims-Escrow Administrator with records in electronic form that provide for the Class Period the service and mailing addresses for all IWC Charge customers in the City. Within the same 10-day period, GLWA will provide for the Class Period the service and mailing addresses in its current possession for IWC Charge customers in the "Member Communities" as that term is defined under GLWA's Rules dated November 13, 2019. In addition, the Claims-Escrow Administrator will provide notice to the Class Members with known addresses through first class mail and through extensive publication and social media postings. Such forms of notice will not be required to be exclusive, and Class Counsel will be allowed to use any appropriate means to give notice to Class Members of the Settlement and the opportunity to obtain a Refund. The Claims-Escrow Administrator is authorized to utilize the services of the TPA in disseminating notices to the Class. Such forms of notice will not be required to be exclusive and the Claims-Escrow Administrator will be allowed to use any appropriate means to give notice to Class Members of the Settlement and the opportunity to obtain a Refund. Class Counsel will also provide newspaper publication notice to the Class as provided in Paragraph 24.

b. Class members seeking to participate in the Settlement by receiving their Refund as a distribution of cash via check (the "Claiming Class Members") will be required to submit sworn claims by a date certain which identify their names, service addresses, billing addresses, water



meter size, and the periods of time in which they paid IWC Charges to the City and/or GLWA in order to receive a Refund. The foregoing is just a general outline. The TPA will assist in implementing a process designed to minimize fraud and maximize distribution of the Refunds to the eligible Claiming Class Members.

c. The IWC Charges are imposed based upon the number of "Equivalent Meters" associated with all properties incurring the IWC Charges. GLWA currently uses 212,224 "Equivalent Meters" in determining the Charges.

d. The Refund process will proceed as follows: Once all valid claims have been received and the amount of the Net Settlement Fund has been determined, the Claims-Escrow Administrator will determine the total number of Equivalent Meters associated with all Claiming Class Members and the total number of months of the Class Period claimed by all of the Claiming Class Members. The Claims-Escrow Administrator will determine the Refund amount per Equivalent Meter by dividing the Net Settlement Fund amount by the total number of months of the Class Period claimed by all of the Claiming Class Members (the "Amount Per Equivalent Meter Per Month"). For example, if the Net Settlement Fund is \$7,500,000 and Claiming Class Members submit claims for 2,000,000 total months, the Amount Per Equivalent Meter Per Month would be \$3.75 ( $\$7,500,000/2,000,000$ ). The Claims-Escrow Administrator will determine the amount of the Refund for each Claiming Class Member by multiplying the Amount Per Equivalent Meter Per Month by the number of the Claiming Class Member's Equivalent Meters and the total months claimed by the Claiming Class Member. Using the example above, a Claiming Class Member with 8 Equivalent Meters who submitted a claim for 120 months would receive a Refund of \$3,600 ( $\$3.75 \times 8 \times 120$ ). In the end, the full Net Settlement Fund will be distributed to the Class.

e. In the event that two or more Class Members claim to have paid or incurred IWC Charges for the same account for the same time period, after notifying the Defendants of the competing claims and considering any information, documents, and recommendation provided in

response to the notice, the Claims-Escrow Administrator shall have the absolute discretion to determine which party or parties are entitled to participate in the settlement, and Defendants shall cooperate by providing information in their possession concerning the disputed account.

11. No later than 21 days prior to the hearing on the final approval of this settlement (as described in Paragraph 25), the Claims-Escrow Administrator shall submit to the Court a report setting forth the proposed disposition of the Net Settlement Fund including, without limitation, a list of Claiming Class Members and the percentage of the Net Settlement Fund to be paid to each such Claiming Class Member (the "Distribution Report"). Upon filing of the Distribution Report, the Claims-Escrow Administrator shall serve copies of the Distribution Report on Counsel for Defendants. At Defendants' request, at the same time the Distribution Report is filed, the Claims-Escrow Administrator will provide the raw data used by the Claims-Escrow Administrator to derive the Distribution Report.

a. The Defendants shall have 7 days to object to the Distribution Report. All objections shall be resolved by the Court at or before the final approval hearing, or as otherwise ordered by the Court. If Defendants do not timely object to the Distribution Report, all objections shall be deemed waived.

b. The Parties acknowledge that, because Class Members may have moved or ceased doing business since July 2013, complete and current address information may not be available for all Class Members. The Defendants, Named Plaintiff, counsel for any Parties, the Claims-Escrow Administrator and the TPA shall not have any liability for or to any Class Member with respect to determinations of the amount of any distribution of the Settlement Fund to any Class Member or determinations concerning the names or addresses of the Class Members.

12. Upon final approval of the Settlement, at a time consistent with Paragraph 5 and this paragraph, the Claims-Escrow Administrator shall distribute from the Net Settlement Fund the Pro Rata Share of each Claiming Class Member. The Refunds will be made in two equal payments to the

Claiming Class Members. The "First Refund Payments" will refund ½ of the Net Settlement Fund. GLWA shall deposit the amounts necessary to fund the First Refund Payments into the KH Client Trust Account within seven days after entry of an order finally approving the settlement, and KH shall distribute the First Refund Payments within ten (10) days after its receipt of those funds. The "Second Refund Payments" will refund the remaining ½ of the Net Settlement Fund to the Claiming Class Members. GLWA shall deposit the amounts necessary to fund the Second Refund Payments into the KH Client Trust Account on or before July 15, 2024, and KH shall distribute the Second Refund Payments within ten (10) days after its receipt of those funds. The Claims-Escrow Administrator is authorized to send checks reflecting Refunds due to Claiming Class Members to the address provided by each Claiming Class Member in his, her, or its sworn Claim.

13. The Claims-Escrow Administrator is further authorized to transfer the Net Settlement Fund to the TPA so that the TPA can distribute Refunds in accordance with this Agreement.

14. The amounts of money covered by checks distributing the Refund of the Pro Rata Shares which: (a) are returned and cannot be delivered by the U.S. Postal Service after the Claims-Escrow Administrator (i) confirms that the checks were mailed to the identified addresses, and (ii) re-mails any checks if errors were made or it becomes aware of an alternative address or payee; or (b) have not been cashed within six (6) months of mailing, shall be refunded to GLWA within thirty (30) days after the expiration of the six (6) month period; and the Class Members to whom such checks were mailed shall be forever barred from obtaining any payment from the Settlement Fund.

15. GLWA shall deposit any refund of money under Paragraph 14 in its sewer funds and utilize any Refund monies solely for the operation, maintenance and improvement of the sewer system.

16. Within thirty (30) days after the date on which the remaining Net Settlement Fund is distributed back to GLWA, the Claims-Escrow Administrator shall file with the Court and serve on

counsel for the Parties a document setting forth the names and addresses of, and the amounts paid to, each distributee of funds from the Settlement Fund together with a list of Claiming-Class Members entitled to receive a Pro Rata Share Refund but whose Refund checks have been returned or have not been cashed.

17. GLWA and the City may not increase the IWC Charges in the future solely for the purpose of financing, in whole or in part, the Settlement Fund. The Settlement Fund shall be financed solely from current assets of GLWA's sewer funds.

18. The Class Members shall release Defendants as provided in Paragraph 26 below.

19. Upon final approval of the Settlement, the Lawsuit will be dismissed with prejudice.

#### **CLAIMS-ESCROW ADMINISTRATOR**

20. The Claims-Escrow Administrator shall not receive a separate fee for its services as Claims-Escrow Administrator. Because Class Counsel is acting as the Claims-Escrow Administrator, the fee awarded to Class Counsel shall be deemed to include compensation for its service as Claims-Escrow Administrator. The Claims-Escrow Administrator, however, shall be entitled to be reimbursed for its out-of-pocket expenses incurred in the performance of its duties (including but not limited to the TPA's charges), which shall be paid solely from the Settlement Fund.

21. The Claims-Escrow Administrator, with the assistance of the TPA, shall have the responsibilities set forth in this Agreement, including, without limitation, holding the Settlement Fund in escrow, determining the eligibility of Class Members to receive Refunds, determining the Pro Rata Shares, distributing the Refunds to Claiming Class Members receiving a Pro Rata Share, and filing a Distribution Report consistent with Paragraph 11. The Claims-Escrow Administrator, with the assistance of the TPA, shall also be responsible for: (a) recording receipt of all responses to the notice; (b) preserving until further Order of the Court any and all written communications from Class Members or any other person in response to the notice; and (c) making any necessary filings with the Internal Revenue Service. The Claims-Escrow Administrator may respond to inquiries, but copies of

all written answers to such inquiries will be maintained and made available for inspection by all counsel in this Lawsuit. The Claims-Escrow Administrator may delegate some or all of these responsibilities to the TPA except only the Claims-Escrow Administrator may determine eligibility of Class Members to receive Refunds.

22. Any findings of fact of the Claims-Escrow Administrator and/or the TPA shall be made solely for the purposes of the allocation and distribution of the Pro Rata Shares, and, in accordance with Paragraph 35, shall not be admissible for any purpose in any judicial proceeding, except as required to determine whether the claim of any Class Member should be allowed in whole or in part.

### NOTICE AND APPROVAL OF SETTLEMENT

23. As soon as practicable, but in no event later than five (5) days after the execution of this Agreement, Class Counsel and Counsel for Defendants shall submit this Agreement to the Court, either by stipulation or joint motion, pursuant to Michigan Court Rule 3.501, for the Court's preliminary approval, and shall request an Order of the Court, substantially in the form attached as Exhibit "B," including the following terms:

a. scheduling of a Settlement approval hearing to be held as soon as practicable after the entry of such Order but in no event later than one hundred twenty (120) days thereafter to determine the fairness, reasonableness, and adequacy of this Agreement and the Settlement; whether the Agreement and Settlement should be approved by the Court; and whether to award the attorneys' fees and expenses requested by Class Counsel;

b. directing that notice, substantially in the form of Exhibit "C," be given to the Class Members advising them of the following:

i. the terms of the proposed Settlement consented to by the Named Plaintiff and Defendants;

ii. the scheduling of a hearing for final approval of the Agreement and Settlement;

iii. the rights of the Class Members to appear at the hearing to object to approval of the proposed Settlement or the requested attorneys' fees and expenses, provided that, if they choose to appear, they must file and serve at least thirty (30) days prior to the hearing written objections that set forth the name of this matter as defined in the Notice, the objector's full name, address and telephone number, an explanation of the basis upon which the objector claims to be a Class Member, all grounds for the objection including any known legal support for the objection, the number of times in which the objector has objected to a class action settlement in the past five years and a caption of each case in which an objection was filed, the identity of all counsel representing the objector at the hearing, a statement confirming whether the objector intends to appear and/or testify at the hearing (along with a disclosure of all testifying witnesses) and the signature of the objector (not just the objector's attorney);

iv. the nature of the release to be constructively entered upon approval of the Agreement and Settlement; and

v. the binding effect on all Class Members of the judgment to be entered should the Court approve the Agreement and Settlement.

c. providing that the manner of such notice shall constitute due and sufficient notice of the hearing to all persons entitled to receive such notice and requiring that proof of such notice be filed at or prior to the hearing; and

d. appointing Kickham Hanley PLLC as Claims-Escrow Administrator.

24. Notice to Class Members of the proposed settlement shall be the responsibility of Class Counsel pursuant to orders of the Court. Class Counsel shall be entitled to be reimbursed for the cost of such notice from the Settlement Fund, and Class Counsel shall make application for costs of notice to the Court at least seven (7) days before the Settlement approval hearing with the Court

approving any costs at the time of the Settlement approval hearing. Such notice shall be substantially in the form attached hereto as Exhibit "C." and provided as set forth in Paragraph 10 above within fourteen (14) days of entry of the Order Regarding Preliminary Approval of this Agreement. Class Counsel will also provide publication notice to the Class, which shall be substantially in the form attached hereto as Exhibit "A" and shall be published in the Detroit Free Press on two occasions at least 30 days prior to the end of the Claims Period.

25. After the notice discussed in Paragraphs 23 and 24 has been mailed, the Parties shall request that the Court, consistent with Paragraph 23, conduct a hearing at which it rules on any objections to this Agreement and a joint motion or stipulation for entry of a Final Order approving of this Settlement and Agreement. If the Court approves this Agreement pursuant to Michigan Court Rule 3.501(E), a final judgment, substantially in the form of Exhibit "D," shall be entered by the Court: (a) finding that the notice provided to Class Members is the best notice practicable under the circumstances and satisfies the due process requirements of the United States and Michigan Constitutions; (b) approving the Settlement set forth in this Agreement as fair, reasonable, and adequate; (c) dismissing with prejudice and without costs to any Party any and all claims of the Class Members against Defendants, excluding only those persons who in timely fashion requested exclusion from the Class; (d) awarding Class Counsel attorneys' fees, costs and expenses as granted by the Court upon motion of Class Counsel, and awarding the Named Plaintiff an incentive award as granted by the Court upon motion of Class Counsel; (e) reserving jurisdiction over all matters relating to the administration of this Agreement, including allocation and distribution of the Settlement Fund; and (f) retaining jurisdiction to protect and effectuate the judgment.

#### **RELEASE AND COVENANT NOT TO SUE**

26. On the Settlement Date, each Class Member who has not timely requested exclusion therefrom shall be deemed to have individually executed, on behalf of the Class Member and his or her heirs, successors and assigns, if any, the following Release and Covenant Not To Sue, and the

Final Order and Judgment to be entered by the Court in connection with the approval of this Settlement shall so provide:

In executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the Great Lakes Water Authority, the City of Detroit, and each of the Member Communities (as defined in the Class Action Settlement Agreement), and each of their successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever, known or unknown, which arise from the beginning of time through the date of this Final Order and Judgment concerning (1) Defendants' calculation or assessment of the IWC Charges; (2) the components of costs included in the IWC Charges; (3) Defendants' efforts to charge and/or collect IWC Charges; and (4) each and every claim and cause of action alleged by Named Plaintiff in each and every pleading Named Plaintiff filed in the Lawsuit. This release does not include any present or future claims arising out of any breach of the Class Action Settlement Agreement. In executing the Release and Covenant Not to Sue, each Class Member also covenants that: (a) except for actions or suits based upon breaches of the terms of this Agreement or to enforce rights provided for in this Agreement, he, she or it will refrain from commencing any action or suit, or prosecuting any pending action or suit, in law or in equity, against Defendants on account of any action or cause of action released hereby; (b) none of the claims released under the Release and Covenant Not To Sue has been assigned to any other party; and (c) he, she or it accepts and assumes the risk that if any fact or circumstance is found, suspected, or claimed hereinafter to be other than or different from the facts or circumstances now believed to be true, the Release and Covenant Not To Sue shall be and remain effective notwithstanding any such difference in any such facts or circumstances.

#### **ATTORNEYS' FEES AND EXPENSES**

27. Class Counsel shall be paid an award of attorneys' fees, costs, and expenses solely from the Settlement Fund. For purposes of an award of attorneys' fees and costs, the Settlement Fund shall be deemed to be a "common fund," as that term is used in the context of class action settlements. Class Counsel shall not make an application for any attorneys' fees and costs which are in addition to the "common fund" attorneys' fees and costs contemplated by this Agreement. Named



Plaintiff, the Class Members and Class Counsel waive any statutory right to recover fees from Defendants under MCL 600.308a or any other state or federal statute or constitutional provision.

28. The amount of attorneys' fees, costs and expenses to be paid to Class Counsel shall be determined by the Court applying legal standards and principles applicable to awards of attorneys' fees and costs from common fund settlements in class action cases. Class Counsel agrees that it will not seek an award of attorneys' fees in excess of Thirty-Three Percent (33%) of the Settlement Fund. Class Counsel will file and serve a motion to approve attorneys' fees, costs and expenses, and to approve an incentive award to the Named Plaintiff, no later than seven (7) days before the hearing for final approval of the Settlement. Defendants will not join in that motion, however Defendants will not oppose Class Counsel's motion, provided the motion complies with this Agreement. Defendants will also not oppose any request for an incentive award on behalf of the Named Plaintiff, in an amount not to exceed Twenty Thousand Dollars (\$20,000) to be paid solely from the Settlement Fund.

29. The award of attorneys' fees, costs and expenses to be paid from the Settlement Fund to Class Counsel pursuant to Paragraph 28 does not include any out-of-pocket expenses incurred by KH acting in its capacity as Class Counsel and/or Claims-Escrow Administrator. KH shall make a separate application for such expenses, and those expenses shall not include attorney fees of any kind.

30. The Court shall determine and approve the award of attorneys' fees and costs to Class Counsel, reimbursement of the expenses incurred by the Claims-Escrow Administrator, and any incentive award to the Named Plaintiff in connection with the final approval hearing. The attorneys' fees, costs and expenses awarded to Class Counsel and the Claims-Escrow Administrator and any incentive award to the Named Plaintiff shall be paid from the Settlement Fund upon the Settlement Date. If the total amount of fees, costs, administrative expenses, and incentive award ordered by the Court is less than the \$4,200,000 GLWA deposits in the KH Client Trust Account pursuant to Paragraph 3, KH shall promptly return the difference to GLWA so that those funds can be included in the amounts GLWA uses to fund the Refunds per Paragraphs 10 through 12 of this Agreement.

## TERMINATION

31. If this Agreement and Settlement is disapproved, in part or in whole, by the Court, or any appellate court; if dismissal of the Lawsuit with prejudice against the Defendants cannot be accomplished; if the Court does not enter an Order of Preliminary Approval substantially in the form attached as Exhibit "B" within twenty-eight (28) days after its submission to the Court; if a final judgment on the terms set forth in Paragraph 25 is not entered within one hundred fifty (150) days after the entry of the Order substantially in the form attached as Exhibit "B"; if the Settlement Date defined in Paragraph 5 does not occur prior to March 31, 2024; if the Court (or any appellate court) alters the terms of this Settlement in any material way not acceptable to Defendants or to Class Counsel; or if this Agreement and Settlement otherwise is not fully consummated and effected:

a. This Agreement shall have no further force and effect and it and all negotiations and proceedings connected therewith shall be without prejudice to the rights of Defendants, the Named Plaintiff and the Class;

b. The Claims-Escrow Administrator shall immediately return the Settlement Fund to GLWA; and

c. The Parties shall return to the status quo ante in the Lawsuit as if the Parties had not entered into this Agreement, and all of the Parties' respective pre-Settlement claims and defenses will be preserved.

32. The Parties may, in their sole and exclusive discretion, elect to waive any or all of the terms, conditions or requirements stated in Paragraph 31. Such waiver must be memorialized in a writing signed by the Parties and/or their Counsel and delivered via certified mail to all counsel or it will have no force or effect.

33. The Parties may, in their sole and exclusive discretion, elect to extend any or all of the deadlines stated in Paragraph 31. Such extension must be memorialized in a writing signed by the

Parties and/or their Counsel and delivered via certified mail to all counsel of record, or it will have no force or effect.

34. In the event the Settlement is terminated in accordance with Paragraph 31, any discussions, offers, negotiations, or information exchanged in association with this Settlement shall not be discoverable or offered into evidence or used in the Lawsuit or any other action or proceeding for any purpose. In such event, all Parties to the Lawsuit shall stand in the same position as if this Agreement had not been negotiated, made or filed with the Court.

#### USE OF THIS AGREEMENT

35. This Agreement, the Class Period, the Settlement provided for herein (whether or not consummated), and any proceedings taken pursuant to this Agreement shall not be:

a. construed by anyone for any purpose whatsoever as, or deemed to be, evidence of a presumption, concession or an admission by Defendants, Named Plaintiff or the Class of the truth of any fact alleged or the validity of any claims, or of the deficiency or waiver of any defense that has or could have been asserted in the Lawsuit, or of any liability, fault or wrongdoing on the part of Defendants; or

b. offered or received as evidence of a presumption, concession or an admission of any liability, fault, or wrongdoing, or referred to for any other reason by the Named Plaintiff, Class Members, or Class Counsel in the Lawsuit, or any other person or entity not a party to this Agreement in any other action or proceeding other than such proceedings as may be necessary to effectuate the provisions of this Agreement; or

c. construed by anyone for any purpose whatsoever as an admission or concession that the Settlement amount represents the amount which could be or would have been recovered after trial, or the applicable time frame for any purported amounts of recovery; or

d. construed more strictly against one Party than the other, this Agreement having been prepared by Counsel for the Parties as a result of arms-length negotiations between the Parties.

### WARRANTIES

36. Class Counsel warrants that in its opinion the Settlement Fund represents fair consideration for and an adequate settlement of the claims of the Class released herein.

37. The undersigned have secured the consents of all persons necessary to authorize the execution of this Agreement and related documents and they are fully authorized to enter into and execute this Agreement on behalf of the Parties.

38. Class Counsel deems this Agreement to be fair and reasonable, and has arrived at this Agreement in arms-length negotiations taking into account all relevant factors, present or potential.

39. The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the claims giving rise to the Lawsuit.

40. The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully this Agreement, and have been fully advised as to the legal effect thereof by their respective Counsel and intend to be legally bound by the same.

### BINDING EFFECT AND ENFORCEMENT

41. All covenants, terms, conditions and provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the respective predecessors and successors, and past and present assigns, heirs, executors, administrators, legal representatives, trustees, subsidiaries, divisions, affiliates, parents (and subsidiaries thereof), partnerships and partners, and all of their officers, directors, agents, employees and attorneys, both past and present, of each of the Parties hereto. It is understood that the terms of this paragraph are contractual and not a mere recital.

42. This Agreement, with the attached Exhibits A through D, constitutes a single, integrated written contract and sets forth the entire understanding of the Parties. Any previous discussions, agreements, or understandings between or among the Parties regarding the subject matter herein are hereby merged into and superseded by this Agreement. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

43. All of the Exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

44. This Agreement shall be construed and governed in accordance with the laws of the State of Michigan.

45. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties' attorneys shall consult with each other and discuss submitting any disputes to non-binding mediation. If a motion is filed in the Court, the moving Party shall certify to the Court that it has consulted with the other Parties and either has been unable to resolve the dispute in mediation or is unwilling to submit the dispute to mediation and the reasons why. Notwithstanding the foregoing, all "mediation communications" shall be deemed and treated by all Parties as strictly confidential pursuant to MCR 2.412(C) unless an exception applies pursuant to MCR 2.412(D), and no "mediation communications" shall be disclosed to the Court unless an exception applies pursuant to MCR 2.412(D).

46. The Parties intend that the Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Agreement, and the Parties shall submit to jurisdiction of the Court for purposes of implementing and enforcing the settlement reflected in this Agreement.

## MODIFICATION AND EXECUTION

47. This Agreement may be executed in counterparts, all of which shall constitute a single, entire agreement.

48. Change or modification of this Agreement, or waiver of any of its provisions, shall be valid only if contained in a writing executed on behalf of all the Parties hereto by their duly authorized representatives.

49. This Agreement shall become effective and binding (subject to all terms and conditions herein) upon the Parties when it has been executed by the undersigned representatives of the Parties.

[Signatures Next Page]

IN WITNESS WHEREOF, each of the Parties executes this Agreement through his, her or its duly authorized representatives.

KICKHAM HANLEY PLLC

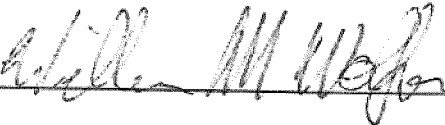
In its capacity as Class Counsel and on behalf of the Named Plaintiff in the Lawsuit and the Class

By:  \_\_\_\_\_

Gregory D. Hanley (P51204)  
Attorneys for Plaintiffs  
32121 Woodward Avenue, Suite 300  
Royal Oak, MI 48073  
(248) 544-1500

Dated: 11/16/2023

GREAT LAKES WATER AUTHORITY

By:  \_\_\_\_\_

Its: CACO/ Interim General Counsel

Dated: 11-6-2023

CITY OF DETROIT

By:  \_\_\_\_\_

Its: Director / CEO

Dated: \_\_\_\_\_

EXHIBIT A



## LEGAL NOTICE

### NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

**TO: All persons and entities who or which have paid or incurred the City of Detroit's (the "City") and/or the Great Lakes Water Authority's ("GLWA") Industrial Waste ("IWC") Charges between July 18, 2013 and June 30, 2023:**

**IF YOU PAID OR INCURRED AN INDUSTRIAL WASTE CONTROL CHARGE ("IWC") IMPOSED BY THE CITY OF DETROIT (THE "CITY") AND/OR A "MEMBER COMMUNITY" OF THE GREAT LAKES WATER AUTHORITY ("GLWA") AT ANY TIME BETWEEN JULY 18, 2013 AND JUNE 30, 2023, YOU ARE A MEMBER OF THE CLASS IN THIS ACTION. A LIST OF THE "MEMBER COMMUNITIES" CAN BE FOUND AT [KICKHAMHANLEY.COM/IWC](http://KICKHAMHANLEY.COM/IWC).**

**IF THE COURT APPROVES THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE, YOU WILL BE ENTITLED TO A REFUND.**

**IF YOU PAID IWC CHARGES IN THE PAST YOU MUST SUBMIT A WRITTEN CLAIM TO RECEIVE A CASH REFUND AS PART OF THIS CLASS ACTION SETTLEMENT. YOU MUST SUBMIT THE CLAIM FORM AVAILABLE AT [KICKHAMHANLEY.COM/IWC](http://KICKHAMHANLEY.COM/IWC) ON OR BEFORE [INSERT DATE BASED ON COURT APPROVAL DATE] AND MAIL IT TO:**

**KICKHAM HANLEY PLLC, 32121 WOODWARD AVENUE, SUITE 300, ROYAL OAK, MICHIGAN 48073 OR EMAIL THE COMPLETED FORM TO [KHTEMP@KICKHAMHANLEY.COM](mailto:KHTEMP@KICKHAMHANLEY.COM) OR SUBMIT THE CLAIM FORM ONLINE AT [WWW.KICKHAMHANLEY.COM](http://WWW.KICKHAMHANLEY.COM).**

**WHETHER YOU MAIL, EMAIL, OR SUBMIT FORM ONLINE, IT MUST BE RECEIVED BY KICKHAM HANLEY ON OR BEFORE [INSERT DATE BASED ON COURT APPROVAL DATE].**

**ONLY CLASS MEMBERS WHO SUBMIT TIMELY AND VALID CLAIMS WILL BE ENTITLED TO RECEIVE A CASH REFUND. NO OTHER MONETARY SETTLEMENT BENEFITS ARE AVAILABLE TO CLASS MEMBERS**

*A Michigan court authorized this notice.*

You are hereby notified that a proposed settlement in the amount of **\$11,500,000** has been reached with the Great Lakes Water Authority and the City of Detroit ("Defendants") in a class action lawsuit pending in Wayne County Circuit Court entitled *General Mill Supply Co. v. The Great Lakes Water Authority and the City of Detroit*, Case No. 18-011569-CZ, presiding Judge Charles S. Hegarty (the "Lawsuit"). The Lawsuit challenges the Industrial Waste Charges (the "IWC Charges") imposed by GLWA and the City. Plaintiff has brought these claims on behalf of itself and a class of all others similarly situated.

#### **BASIC INFORMATION ABOUT THE SETTLEMENT**

Plaintiff is an entity which has paid the IWC Charges imposed by GLWA and the City. Plaintiff contends that the IWC Charges are not proper user fees, but disguised taxes wrongfully imposed by Defendants to raise revenue in violation of Michigan law as more particularly described in Plaintiff's First Amended Complaint (the "FAC") in the Lawsuit.

The Plaintiff seeks a judgment from the Court against Defendants which would order and direct Defendants to disgorge and refund all IWC Charges to which Plaintiff and the class are entitled and would grant any other appropriate relief.

Defendants maintain and continue to maintain that the Defendants' imposition of the IWC Charges was and is proper and not unlawful. Defendants contend that they should ultimately prevail in the Lawsuit.

On April 7, 2020 the Court entered an order certifying the Lawsuit as a class action. If you paid or incurred IWC Charges between July 18, 2013 and June 30, 2023 you are a member of the Class. The Settlement Agreement is intended to settle all of the Claims of the Class.

### **THE TERMS OF THE SETTLEMENT**

The principal terms of the Settlement Agreement are as follows:

GLWA has agreed to create a Settlement Fund (the "Settlement Fund") in the amount of **Eleven Million, Five Hundred Thousand Dollars (\$11,500,000.00)** for the benefit of the Class ("Settlement Amount"). The Settlement Amount will be utilized, with Court approval, to provide refunds to the Class, and to pay Class Counsel an award of attorneys' fees, the total amount of which shall not exceed 33% of the Settlement Amount, and expenses for the conduct of the litigation.

The "Net Settlement Fund" is the Settlement Amount less the combined total of: (a) the attorneys' fees awarded to Class Counsel by the Court; (b) expenses reimbursed pursuant to the terms of the Settlement; (c) out-of-pocket expenses of the Claims-Escrow Administrator, and (d) any incentive award made by the Court to the class representative in an amount not to exceed \$20,000.

The Net Settlement Fund shall be used to pay refunds to Class Members who submit timely and valid claims (the "Claiming Class Members") as described in the Settlement Agreement.

Each Claiming Class Member's share in the Net Settlement Fund is his, her or its "Pro Rata Share," and each Claiming Class Member's Pro Rata Share of the Net Settlement Fund will be distributed via a refund payment. The Pro Rata Share to be allocated to each Claiming Class Member shall be determined and distributed as described in paragraph 10 of the Settlement Agreement.

### **HOW TO PARTICIPATE IN THE SETTLEMENT**

Class members seeking a Refund (the "Claiming Class Members") are required to submit sworn claims by INSERT DATE BASED ON COURT APPROVAL DATE which identify their names, service addresses, billing addresses, water meter size, and the periods of time in which they paid IWC Charges to the City and/or GLWA in order to receive a Refund. **Claim forms are available at [www.kickhamhanley.com](http://www.kickhamhanley.com). The Refunds will be distributed via two equal payments, one of which is expected to occur in or around January 2024 and one of which is expected to occur in or around July 2024. The full Net Settlement Fund will be distributed to the Class.**

### **DEFENDANTS CANNOT RAISE THE IWC CHARGES TO PAY THE COST OF THE SETTLEMENT**

Defendants may not increase the IWC Charges in the future solely for the purpose of financing, in whole or in part, the Settlement Fund. The Settlement Fund shall be financed solely from current assets of GLWA's sewer funds.

### **THE SETTLEMENT WILL AFFECT YOUR RIGHTS**

By remaining a Class Member, you will be bound by the terms of the proposed settlement and will be barred from bringing a separate action against Defendants for the claims asserted in the Lawsuit at your own expense through your own attorney. Provided you submit a timely and valid refund claim, however, you will receive your Pro Rata Share of the Net Settlement Fund. If you were to successfully pursue such a separate action to conclusion, recovery might be available to you which is not available in this class action settlement. Whether to remain a member of this class or to request exclusion from this class action to attempt to pursue a separate action at your own expense is a question you should ask your own attorney. Class Counsel cannot and will not advise you on this issue.

## THE SETTLEMENT HEARING

Pursuant to the Order of the Court dated \_\_\_\_\_, a Settlement Hearing will be held in the Wayne County Circuit Court, Detroit, Michigan 48226 at 9 a.m., on **INSERT DATE BASED ON COURT APPROVAL DATE**, to determine whether the proposed Settlement as set forth in the Settlement Agreement dated \_\_\_\_\_, is fair, reasonable, and adequate and should be approved by the Court, whether the Lawsuit should be dismissed pursuant to the Settlement Agreement and whether counsel for Plaintiff Class should be awarded counsel fees and expenses. At the Settlement Hearing, any member of the Class may appear in person or through counsel and be heard to the extent allowed by the Court in support of, or in opposition to, the fairness, reasonableness and adequacy of the proposed Settlement.

### OBJECTIONS TO THE SETTLEMENT

No Class member will be heard in opposition to the Proposed Settlement unless, on or before **INSERT DATE BASED ON COURT APPROVAL DATE** they file with the Court and serve upon all counsel written objections that set forth the name of this matter as defined in the Notice, the objector's full name, address and telephone number, an explanation of the basis upon which the objector claims to be a Class Member, all grounds for the objection including any known legal support for the objection, the number of times in which the objector has objected to a class-action settlement in the past five years and a caption of each case in which an objection was filed, the identity of all counsel representing the objector at the hearing, a statement confirming whether the objector intends to appear and/or testify at the hearing (along with a disclosure of all testifying witnesses) and the signature of the objector (not just the objector's attorney) and serves by first class mail copies thereof upon each of the following attorneys:

#### **Attorneys for Plaintiffs**

Gregory D. Hanley, Esq.  
Kickham Hanley PLLC  
32121 Woodward Avenue, Suite 300  
Royal Oak, Michigan 48073

#### **Attorneys for Defendants**

Christopher S. Frescoln, Esq.  
Fausone & Grysko, PLC  
41700 W. Six Mile Road, Suite 101  
Northville, MI 48168

Michael J. Watt (P63869)  
Kopka Pinkus Dolan PC  
32605 W. Twelve Mile Road, Suite 300  
Farmington Hills, MI 48334  
(248) 324-2620

Any Class member who does not make and serve written objections in the manner provided above shall be deemed to have waived such objections and shall be forever foreclosed from making any objections (by appeal or otherwise) to the proposed Settlement.

### THE RELEASE OF DEFENDANTS BY THE CLASS

The Class Members shall release Defendants as provided in Paragraph 26 of the Settlement Agreement.

### HOW TO FIND ADDITIONAL INFORMATION

For a more detailed statement of the matters involved in the Lawsuit, including the terms of the proposed Settlement, you are referred to papers on file in the Lawsuit, which may be inspected during regular business hours at the Office of the Clerk of Circuit Court for Wayne County, Michigan. You may also view the Settlement Agreement and other important court documents at [www.kickhamhanley.com](http://www.kickhamhanley.com).

Should you have any questions with respect to this Notice of the proposed settlement of the Lawsuit generally, you should raise them with your own attorney or direct them to counsel for the Class, **IN WRITING OR BY EMAIL TO KHTEMP@KICKHAMHANLEY.COM, NOT BY TELEPHONE.**

identified as Attorneys for Plaintiffs, above. **DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE DEFENDANT, OR THE ATTORNEYS FOR DEFENDANT.**

EXHIBIT B

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GENERAL MILL SUPPLY CO.,  
Individually and on behalf of a  
Class of similarly situated  
persons and entities,

Case No. 18-011569-CZ  
Hon. Charles S. Hegarty

Plaintiff,

v.

THE GREAT LAKES WATER AUTHORITY,  
an incorporated municipal authority,

and

CITY OF DETROIT, a municipal corporation,  
by and through its WATER AND SEWERAGE  
DEPARTMENT,

Defendants.

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Kickham Hanley PLLC  
Gregory D. Hanley (P51204)  
Jamie K. Warrow (P61521)  
Edward F. Kickham Jr. (P70332)  
32121 Woodward Avenue, Suite 300  
Royal Oak, Michigan 48073  
(248) 544-1500  
Attorneys for Plaintiff

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Christopher S. Frescoln (P63175)  
Fausone Bohn, LLP  
41700 W. Six Mile Road, Suite 101  
Northville, MI 48168  
(248) 380-0000  
Attorneys for Defendants

Michael J. Watt (P63869)  
Kopka Pinkus Dolan PC  
32605 W. Twelve Mile Road, Suite 300  
Farmington Hills, MI 48334  
(248) 324-2620  
Co-Counsel for Defendant GLWA

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STIPULATED ORDER REGARDING PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT, NOTICE AND SCHEDULING

At a session of said Court held in the  
City of Detroit, County of Wayne  
State of Michigan on \_\_\_\_\_

PRESENT: HON. \_\_\_\_\_  
Circuit Court Judge

WHEREAS Plaintiff has commenced this action (the "Lawsuit") challenging Industrial Waste Control charges (the "IWC Charges") Defendants have imposed on owners and occupiers of property. Plaintiff contends that: (a) the IWC Charges are not proper user fees, but taxes wrongfully imposed by Defendants to raise revenue in violation of the Headlee Amendment to the Michigan Constitution of 1963; (b) the IWC Charges violate the Prohibited Taxes By Cities And Villages Act, MCL 141.91, because the IWC Charges are not ad valorem taxes, but are taxes imposed, levied, or collected after January 1, 1964; (c) the IWC Charges are unlawful because they are unreasonable; (d) Defendants have been unjustly enriched by the collection and retention of the IWC Charges and/or are required to refund the IWC Charges under a theory of assumpsit; and (e) that Plaintiff and those similarly situated have been harmed by Defendants' collection and retention of the IWC Charges as more particularly described in Plaintiff's First Amended Complaint (the "FAC") in the Lawsuit;

WHEREAS Plaintiff brought these claims on behalf of itself and a class of all others similarly situated. On April 7, 2020, the Court certified a class consisting of all persons or entities who/which are not Significant Industrial Users ("SIUs") and who/which have paid or incurred the IWC Charges since July 18, 2013 and/or paid or incurred the IWC Charges during the pendency of the Lawsuit;

WHEREAS Plaintiff sought a judgment from the Court against Defendants that would order and direct Defendants to refund all IWC Charges to which Plaintiff and the class are entitled and grant any other appropriate relief;

WHEREAS Defendants maintain and continue to maintain that the Defendants' imposition of the IWC Charges is proper and not unlawful. Defendants contend that they should ultimately prevail in the Lawsuit.

WHEREAS the Parties desire to compromise their differences and to resolve and release all of the claims asserted by the Named Plaintiff and the Class in the Lawsuit.

WHEREAS the parties conducted eight mediation sessions with Mediator Paula Maris and reached a settlement through arms-length negotiations aided by Ms. Maris.

WHEREAS, the Named Plaintiff in the Lawsuit and Class Counsel have been provided with discovery and have conducted investigations into the facts of the Lawsuit, have made a thorough study of the legal principles applicable to the claims in the Lawsuit, and have concluded that a class settlement with Defendants in the amount and on the terms set forth in the Class Action Settlement Agreement (“Agreement”) is fair, reasonable, and adequate, and is in the best interest of the Class.

WHEREAS Plaintiff and Defendants in this action intend to make application to this Court, pursuant to MCR 3.501(E), for a Final Order approving the settlement of this class action in accordance with the terms set forth in the Agreement executed by the parties on November \_\_, 2023, and attached hereto as *Exhibit 1*, and they seek preliminary approval of the Agreement for purposes of, among other things, notifying class members of the proposed settlement;

WHEREAS the Court has been made aware of the settlement process leading to the agreement reached, and counsel have demonstrated that the settlement is within a range of reasonableness and is the result of arm’s length bargaining of counsel well versed in the issues.

**IT IS HEREBY ORDERED:**

1. Unless defined otherwise herein, all capitalized terms shall have the definitions and meanings accorded to them in the Agreement.

2. The Court preliminarily approves the terms of the Agreement as fair, reasonable and adequate. The Court finds that the settlement was reached in the absence of collusion, and is the product of informed, good-faith, arm’s length negotiations between the Parties and their counsel. Pursuant to MCR 3.501, the “Class,” as defined in Paragraph 2 of the Agreement, is hereby certified for settlement purposes only.



3. A hearing (the "Settlement Hearing") will be held before this Court on \_\_\_\_\_, 2023 at 9:00 a.m., to determine whether the proposed settlement between Plaintiff and Defendants, on the terms and conditions provided in the Agreement, is fair, reasonable and adequate and should be approved by the Court, to determine whether a final judgment should be entered dismissing this Lawsuit with prejudice, and without costs, and to determine whether to award attorneys' fees and expenses to Class Counsel and the amount of such fees and expenses.

4. The Court approves the notification to the members of the Class regarding the Settlement and right to hearing, as authorized in Paragraphs 5 through 7 of this Order, finding that such notification is the best notice practicable under the circumstances, complies with MCR 3.501, and the requirements of due process of law, and will adequately inform Class Members of their rights.

5. The law firm of Kickham Hanley PLLC ("KH") is hereby appointed as Class Counsel and Claims-Escrow Administrator for this Action. KH is authorized to use the services of a third-party administrator ("TPA"), as provided in the Agreement. KH (with the assistance of a TPA) is authorized to implement the notice requirements set forth in and approved by this Order and to distribute refunds in accordance with the Agreement.

6. On or before fourteen (14) days after KH receives the information set forth in Paragraph 10a of the Agreement, KH shall provide Notice to the Class, as provided in Paragraph 10a and Paragraph 24 of the Agreement. Defendants shall cooperate with the Notice process as set forth in Paragraph 10a of the Agreement.

7. Any Class Member who has not opted-out of the Class may appear personally, or by counsel of his or her own choice and at his or her own expense, at the Settlement Hearing to show cause why: (a) the proposed settlement of the claims asserted should or should not be approved as fair, just, reasonable, adequate and in good faith; or (b) judgment should or should not be entered thereon; provided, however, that no Class Member will be heard at the Hearing or be entitled to

contest the approval of the terms and conditions of the proposed settlement, and/or the judgment to be entered thereon approving the same, the attorneys' fees and expenses to be paid, or other matter(s) that may be considered by the Court at or in connection with said settlement hearings. If any Class member chooses to appear, the Class Member shall file with the Court and serve upon counsel listed below at least thirty (30) days prior to the hearing written objections that set forth the name of this matter as defined in the Notice, the objector's full name, address and telephone number, an explanation of the basis upon which the objector claims to be a Class Member, all grounds for the objection including any known legal support for the objection, the number of times in which the objector has objected to a class action settlement in the past five years and a caption of each case in which an objection was filed, the identity of all counsel representing the objector at the hearing, a statement confirming whether the objector intends to appear and/or testify at the hearing (along with a disclosure of all testifying witnesses) and the signature of the objector (not just the objector's attorney):

Gregory D. Hanley  
Kickham Hanley PLLC  
32121 Woodward Avenue, Suite 300  
Royal Oak, Michigan 48073  
(248) 544-1500  
*Attorneys for Plaintiff and the Class*

and

Christopher S. Frescoln (P63175)  
Fausone & Grysko, PLC  
41700 W. Six Mile Road, Suite 101  
Northville, MI 48168  
(248) 380-0000  
*Attorneys for Defendants*

Michael J. Watt (P63869)  
Kopka Pinkus Dolan PC  
32605 W. Twelve Mile Road, Suite 300  
Farmington Hills, MI 48334  
(248) 324-2620  
*Co-Counsel for Defendant GLWA*

8. Any Class Member who does not object in the manner provided above shall be deemed to have waived any and all objections to the fairness, adequacy, or reasonableness of the proposed settlements or the award of attorney's fees and expenses and shall be bound by all determinations and judgments in the Lawsuit concerning the Settlement, including, but not limited to, the Release and Covenant set forth in Paragraph 26 of the Agreement.

9. As stated in Paragraph 5, KFI is authorized to serve as the Claims-Escrow Administrator. The Claims-Escrow Administrator, with the assistance of a TPA, shall be responsible for holding the Settlement Fund in escrow, determining the eligibility of Class Members to receive refund payments, determining the size of each Allowed Claim, distributing the payments to Class Members with Allowed Claims, and preparing a distribution report along with the monetary amount of each Class Member's share of the settlement in accordance with Paragraph 11 of the Agreement. The Claims-Escrow Administrator shall also be responsible for: (a) recording receipt of all responses to the Notice; (b) preserving until further Order of this Court any and all written communications from Class members or any other person in response to the Notice; and (c) making any necessary filings with the Internal Revenue Service. The Claims-Escrow Administrator may respond to inquiries, but copies of all written answers to such inquiries will be maintained and made available for inspection by all counsel in this action.

10. All papers in support of the settlement shall be filed with the Court and served on the other parties no later than seven (7) days prior to the Settlement Hearing.

11. The Court expressly reserves its right to adjourn and/or reschedule the Settlement Hearing without any further notice to members of the Class. The Court retains jurisdiction of this action to consider all further applications arising out of or connected with the proposed settlement herein.

12. All pretrial and trial proceedings in the Lawsuit are stayed and suspended until further order of the Court. Pending the final determination of the fairness, reasonableness and adequacy of the settlements, no Plaintiff or member of the class may institute or commence any action or proceeding against Defendants asserting any of the claims asserted in this action.

13. Subject to the terms of Paragraphs 14-15 of this Order, if this Agreement and Settlement is disapproved, in part or in whole, by the Court, or any appellate court; if dismissal of the Lawsuit with prejudice against the Defendants cannot be accomplished; if KH exercises its rights to terminate the Agreement under Paragraph 31 of the Agreement; if a final judgment on the terms set forth in Paragraph 25 of the Agreement is not entered within one hundred fifty (150) days after the entry of this Order; if the Settlement Date defined in Paragraph 5 does not occur prior to March 31, 2024; if the Court (or any appellate court) alters the terms of this Settlement in any material way not acceptable to Defendants or to Class Counsel; or if this Agreement and Settlement otherwise is not fully consummated and effected:

a. The Agreement shall have no further force and effect and it and all negotiations and proceedings connected therewith shall be without prejudice to the rights of Defendants, the Named Plaintiff and the Class;

b. Any discussions, offers, negotiations, or information exchanged in association with the Settlement shall not be discoverable or offered into evidence or used in the Lawsuit or any other action or proceeding for any purpose. No publicly disseminated information regarding the Settlement, including, without limitation, the Notice, court filings, orders and public statements may be used as evidence, or construed as admissions or concessions of fact by or against either Party on any point of fact or law. In addition, neither the fact of, nor any documents relating to, either Party's withdrawal from the Settlement, any failure of the Court to approve the Settlement, and/or any objections or interventions may be used as evidence or construed as an admission or concession by the City or by

Plaintiff on any point of fact or law. All Parties to the Lawsuit shall stand in the same position as if the Agreement had not been negotiated, made or filed with the Court;

c. The Claims-Escrow Administrator shall immediately return to Defendants any and all monies provided by Great Lakes Water Authority for settlement purposes; and

d. The Court shall grant reasonable continuances of the Lawsuit for the Parties to prepare for further argument on the parties' cross-motions for summary disposition, prepare for trial, and/or take other necessary action before this action before this Court.

14. Defendants and Class Counsel may, in their sole and exclusive discretion, elect to waive any or all of the terms, conditions or requirements stated in Paragraph 13 of this Order. Such waiver must be memorialized in a writing signed by Defendants and/or its counsel and/or Class Counsel and delivered via certified mail to all counsel of record, or it will have no force or effect.

15. Defendants and Class Counsel may, in their sole and exclusive discretion, elect to extend any or all of the deadlines stated in Paragraph 13 of this Order. Such extension must be memorialized in a writing signed by Defendants and/or its counsel and/or Class Counsel and delivered via certified mail to all counsel of record, or it will have no force or effect.

IT IS SO ORDERED:

Dated: \_\_\_\_\_, 2023.

\_\_\_\_\_  
Wayne County Circuit Court Judge

We hereby stipulate to the entry of the above order.

**Approved as to form and substance:**

/s/ Gregory D. Hanley

Gregory D. Hanley (P51204)  
Kickham Hanley PLLC  
32121 Woodward Avenue, Suite 300  
Royal Oak, MI 48073  
(248) 544-1500  
Attorneys for Plaintiff and the Class

/s/ Christopher S. Frescoln

Christopher S. Frescoln (P63175)  
Fausone & Grysko, PLC  
41700 W. Six Mile Road, Suite 101  
Northville, MI 48168  
(248) 380-0000  
Attorneys for Defendants

*/s/ Michael J. Watt*

---

Michael J. Watt (P63869)

Kopka Pinkus Dolan PC

32605 W. Twelve Mile Road, Suite 300

Farmington Hills, MI 48334

(248) 324-2620

Co-Counsel for Defendant GLWA

EXHIBIT C

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**IF YOU PAID OR INCURRED AN INDUSTRIAL WASTE CONTROL CHARGE (“IWC”) IMPOSED BY THE CITY OF DETROIT (THE “CITY”) AND/OR A “MEMBER COMMUNITY” OF THE GREAT LAKES WATER AUTHORITY (“GLWA”) AT ANY TIME BETWEEN JULY 18, 2013 AND JUNE 30, 2023, YOU ARE A MEMBER OF THE CLASS IN THIS ACTION. A LIST OF THE “MEMBER COMMUNITIES” IS ATTACHED TO THIS NOTICE.**

**IF THE COURT APPROVES THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE, YOU WILL BE ENTITLED TO A REFUND.**

**IF YOU PAID IWC CHARGES IN THE PAST YOU MUST SUBMIT A WRITTEN CLAIM TO RECEIVE A CASH REFUND AS PART OF THIS CLASS ACTION SETTLEMENT. YOU MUST SUBMIT THE ATTACHED CLAIM FORM ON OR BEFORE [INSERT DATE BASED ON COURT APPROVAL DATE] AND MAIL IT TO:**

**KICKHAM HANLEY PLLC, 32121 WOODWARD AVENUE, SUITE 300, ROYAL OAK, MICHIGAN 48073 OR EMAIL THE COMPLETED FORM TO [KHTEMP@KICKHAMHANLEY.COM](mailto:KHTEMP@KICKHAMHANLEY.COM) OR SUBMIT THE CLAIM FORM ONLINE AT [WWW.KICKHAMHANLEY.COM](http://WWW.KICKHAMHANLEY.COM).**

**WHETHER YOU MAIL, EMAIL, OR SUBMIT FORM ONLINE, IT MUST BE RECEIVED BY KICKHAM HANLEY ON OR BEFORE [INSERT DATE BASED ON COURT APPROVAL DATE].**

**ONLY CLASS MEMBERS WHO SUBMIT TIMELY AND VALID CLAIMS WILL BE ENTITLED TO RECEIVE A CASH REFUND. NO OTHER MONETARY SETTLEMENT BENEFITS ARE AVAILABLE TO CLASS MEMBERS**

**PLEASE RETAIN THIS NOTICE**



STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GENERAL MILL SUPPLY CO.,  
Individually and on behalf of a  
Class of similarly situated  
persons and entities,

Case No. 18-011569-CZ  
Hon. Charles S. Hegarty

Plaintiff,

v.

THE GREAT LAKES WATER AUTHORITY,  
an incorporated municipal authority,

and

CITY OF DETROIT, a municipal corporation,  
by and through its WATER AND SEWERAGE  
DEPARTMENT,

Defendants.

---

Kickham Hanley PLLC  
Gregory D. Hanley (P51204)  
Jamie K. Warrow (P61521)  
Edward F. Kickham Jr. (P70332)  
32121 Woodward Avenue, Suite 300  
Royal Oak, Michigan 48073  
(248) 544-1500  
Attorneys for Plaintiff

---

Christopher S. Frescoln (P63175)  
Fausone Bohn, LLP  
41700 W. Six Mile Road, Suite 101  
Northville, MI 48168  
(248) 380-0000  
Attorneys for Defendants

Michael J. Watt (P63869)  
Kopka Pinkus Dolan PC  
32605 W. Twelve Mile Road, Suite 300  
Farmington Hills, MI 48334  
(248) 324-2620  
Co-Counsel for Defendant GLWA

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**LEGAL NOTICE**

**NOTICE OF CLASS ACTION**

**TO: All persons and entities who or which have paid or incurred the City of Detroit's (the "City") and/or the Great Lakes Water Authority's ("GLWA") Industrial Waste ("IWC") Charges between July 18, 2013 and June 30, 2023:**

You are hereby notified that a proposed settlement in the amount of \$11,500,000 has been reached with the Great Lakes Water Authority and the City of Detroit ("Defendants") in a class action lawsuit pending in Wayne County Circuit Court entitled *General Mill Supply Co. v. The Great Lakes Water Authority and the City of Detroit*, Case No. 18-011569-CZ, presiding Judge Charles S. Hegarty (the "Lawsuit"). The Lawsuit challenges the Industrial Waste Charges (the "IWC Charges") imposed by GLWA and the City. Only certain types of non-residential properties are subject to the IWC Charges. Residential

properties do not incur IWC Charges. Plaintiff has brought these claims on behalf of itself and a class of all others similarly situated.

Plaintiff is an entity which has paid the IWC Charges imposed by GLWA and the City. Plaintiff contends that: (a) the IWC Charges are not proper user fees, but taxes wrongfully imposed by Defendants to raise revenue in violation of the Headlee Amendment to the Michigan Constitution of 1963; (b) the IWC Charges violate the Prohibited Taxes By Cities And Villages Act, MCL 141.91, because the IWC Charges are not ad valorem taxes, but are taxes imposed, levied, or collected after January 1, 1964; (c) the IWC Charges are unlawful because they are unreasonable; (d) Defendants have been unjustly enriched by the collection and retention of the IWC Charges and/or are required to refund the IWC Charges under a theory of assumpsit; and (e) that Plaintiff and those similarly situated have been harmed by Defendants' collection and retention of the IWC Charges as more particularly described in Plaintiff's First Amended Complaint (the "FAC") in the Lawsuit.

Plaintiff seeks a judgment from the Court against GLWA and the City which would order and direct them to disgorge and refund all IWC Charges to which Plaintiff and the class are entitled and would grant any other appropriate relief.

Defendants maintain and continue to maintain that the Defendants' imposition of the IWC Charges is proper and not unlawful. Defendants contend that they should ultimately prevail in the Lawsuit.

On April 7, 2020, the Court entered an order certifying the Lawsuit as a class action. You are receiving this Notice because Defendants' records indicate that you paid or incurred IWC Charges between July 18, 2013 and June 30, 2023 and are therefore a member of the Class.

For settlement purposes, the parties have agreed that the Court will certify a class consisting of all persons and entities who/which paid or incurred IWC Charges imposed by the City and/or GLWA at any time between July 18, 2013 and June 30, 2023 and who did not previously request to be excluded from the Class. The Settlement Agreement is intended to settle all of the Claims of the Class.

The principal terms of the Settlement Agreement are as follows:

For the purposes of the proposed Settlement, Defendants expressly deny any and all allegations that they acted improperly or unlawfully, but, to avoid litigation costs, GLWA has agreed to create a Settlement Fund (the "Settlement Fund") in the amount of **Eleven Million, Five Hundred Thousand Dollars (\$11,500,000.00)** for the benefit of the Class ("Settlement Amount"). The Settlement Amount will be utilized, with Court approval, to provide refunds to the members of the Class who file timely and valid claims (the "Claiming Class Members"), to pay Class Counsel an award of attorneys' fees the total amount of which shall not exceed 33% of the Settlement Amount, to pay an incentive award to the class representative, and to pay the costs and expenses of the litigation.

The "Net Settlement Fund" is the Settlement Amount less the combined total of: (a) the attorneys' fees awarded to Class Counsel by the Court; (b) expenses reimbursed pursuant to the terms of the Settlement; (c) out-of-pocket expenses of the Claims-Escrow Administrator, and (d) any incentive award made by the Court to the class representative in an amount not to exceed \$20,000.

The Net Settlement Fund shall be used to pay refunds to Claiming Class Members as described below.

Each Claiming Class Member's share in the Net Settlement Fund shall be referred to herein as his, her, or its "Pro Rata Share," and each Claiming Class Member's Pro Rata Share of the Net Settlement Fund will be distributed via a refund payment. The Pro Rata Share to be allocated to each Claiming Class Member shall be determined as described below.

The Net Settlement Fund shall be distributed as follows:

Class members seeking a Refund (the "Claiming Class Members") are required to submit sworn claims by INSERT DATE BASED ON COURT APPROVAL DATE which identify their names, service addresses, billing addresses, water meter size, and the periods of time in which they paid IWC Charges to the City and/or GLWA in order to receive a Refund.

The Claims-Escrow Administrator shall calculate each Claiming Class Member's pro rata share of the Net Settlement Fund (the "Pro Rata Share"). The Refund process will proceed as follows: Once all valid claims have been received and the amount of the Net Settlement Fund has been determined, the Claims-Escrow Administrator will determine the total number of Equivalent Meters associated with all Claiming Class Members and the total number of months of the Class Period claimed by all of the Claiming Class Members. **More information about meter sizes and "Equivalent Meters" can be found in an attachment to this Notice.**

The Claims-Escrow Administrator will determine the Refund amount per Equivalent Meter by dividing the Net Settlement Fund amount by the total number of months of the Class Period claimed by all of the Claiming Class Members (the "Amount Per Equivalent Meter Per Month"). For example, if the Net Settlement Fund is \$7,500,000 and Claiming Class Members submit claims for 2,000,000 total months, the Amount Per Equivalent Meter Per Month would be \$3.75 ( $\$7,500,000/2,000,000$ ). The Claims-Escrow Administrator will determine the amount of the Refund for each Claiming Class Member by multiplying the Amount Per Equivalent Meter Per Month by the number of the Claiming Class Member's Equivalent Meters and the total months claimed by the Claiming Class Member. Using the example above, a Claiming Class Member with 8 Equivalent Meters who submitted a claim for 120 months would receive a Refund of \$3,600 ( $\$3.75 \times 8 \times 120$ ). The Refunds will be distributed via two equal payments, one of which is expected to occur in or about January 2024 and one of which is expected to occur in or about July 2024. In the end, the full Net Settlement Fund will be distributed to the Class.

In the event that two or more parties claim to have paid or incurred IWC Charges for the same account for the same time period, after notifying the Defendants of the competing claims and considering any information, documents, and recommendation provided in response to the notice, the Claims-Escrow Administrator shall have the absolute discretion to determine which party or parties are entitled to participate in the settlement, and Defendants shall cooperate by providing information in their possession concerning the disputed account.

Defendants may not increase the IWC Charges in the future solely for the purpose of financing, in whole or in part, the Settlement Fund. The Settlement Fund shall be financed solely from current assets of GLWA's sewer funds.

On the Settlement Date, each Class Member who has not timely requested exclusion therefrom shall be deemed to have individually executed, on behalf of the Class Member and his or her heirs, successors and assigns, if any, the following Release and Covenant Not To Sue, and the Final Order and Judgment to be entered by the Court in connection with the approval of this Settlement shall so provide:

In executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the Great Lakes Water Authority, the City of Detroit, and each of the Member Communities (as defined in the Class Action Settlement Agreement), and each of their successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential

damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever, known or unknown, which arise from the beginning of time through the date of this Final Order and Judgment concerning (1) Defendants' calculation or assessment of the IWC Charges; (2) the components of costs included in the IWC Charges; (3) Defendants' efforts to charge and/or collect IWC Charges and (4) each and every claim and cause of action alleged by Named Plaintiff in each and every pleading Named Plaintiff filed in the Lawsuit. This release does not include any present or future claims arising out of any breach of the Class Action Settlement Agreement. In executing the Release and Covenant Not to Sue, each Class Member also covenants that: (a) except for actions or suits based upon breaches of the terms of this Agreement or to enforce rights provided for in this Agreement, he, she or it will refrain from commencing any action or suit, or prosecuting any pending action or suit, in law or in equity, against Defendants on account of any action or cause of action released hereby; (b) none of the claims released under the Release and Covenant Not To Sue has been assigned to any other party; and (c) he, she or it accepts and assumes the risk that if any fact or circumstance is found, suspected, or claimed hereinafter to be other than or different from the facts or circumstances now believed to be true, the Release and Covenant Not To Sue shall be and remain effective notwithstanding any such difference in any such facts or circumstances.

By remaining a Class Member, you will be bound by the terms of the proposed settlement and will be barred from bringing a separate action against the City for the claims asserted in the Lawsuit at your own expense through your own attorney. Provided you submit a timely and valid claim, however, you will receive your Pro Rata Share of the Net Settlement Fund. If you were to successfully pursue such a separate action to conclusion, recovery might be available to you which is not available in this class action settlement. Whether to remain a member of this class or to request exclusion from this class action to attempt to pursue a separate action at your own expense without the assistance of the City in this Action is a question you should ask your own attorney. Class Counsel cannot and will not advise you on this issue.

Pursuant to the Order of the Court dated \_\_\_\_\_, a Settlement Hearing will be held in the Wayne County Circuit Court, Detroit, Michigan 48226 at 9 a.m., on \_\_\_\_\_, 2023, to determine whether the proposed Settlement as set forth in the Settlement Agreement dated \_\_\_\_\_, is fair, reasonable, and adequate and should be approved by the Court, whether the Lawsuit should be dismissed pursuant to the Settlement Agreement and whether counsel for Plaintiff Class should be awarded counsel fees and expenses. At the Settlement Hearing, any member of the Class may appear in person or through counsel and be heard to the extent allowed by the Court in support of, or in opposition to, the fairness, reasonableness and adequacy of the proposed Settlement.

No Class member will be heard in opposition to the Proposed Settlement unless, on or before \_\_\_\_\_, 2023 they file with the Court and serve upon all counsel written objections that set forth the name of this matter as defined in the Notice, the objector's full name, address and telephone number, an explanation of the basis upon which the objector claims to be a Class Member, all grounds for the objection including any known legal support for the objection, the number of times in which the objector has objected to a class action settlement in the past five years and a caption of each case in which an objection was filed, the identity of all counsel representing the objector at the hearing, a statement confirming whether the objector intends to appear and/or testify at the hearing (along with a disclosure of all testifying witnesses) and the signature of the objector (not just the objector's attorney) and serves by first class mail copies thereof upon each of the following attorneys:

**Attorneys for Plaintiffs**

Gregory D. Hanley, Esq.  
Kickham Hanley PLLC  
32121 Woodward Avenue, Suite 300  
Royal Oak, Michigan 48073

**Attorneys for Defendants**

Christopher S. Frescoln, Esq.  
Fausone & Grysko, PLC  
41700 W. Six Mile Road, Suite 101  
Northville, MI 48168

Michael J. Watt (P63869)  
Kopka Pinkus Dolan PC  
32605 W. Twelve Mile Road, Suite 300  
Farmington Hills, MI 48334  
(248) 324-2620

Any Class member who does not make and serve written objections in the manner provided above shall be deemed to have waived such objections and shall be forever foreclosed from making any objections (by appeal or otherwise) to the proposed Settlement.

For a more detailed statement of the matters involved in the Lawsuit, including the terms of the proposed Settlement, you are referred to papers on file in the Lawsuit, which may be inspected during regular business hours at the Office of the Clerk of Circuit Court for Wayne County, Michigan. You may also view the Settlement Agreement and other important court documents at [www.kickhamhanley.com](http://www.kickhamhanley.com).

Should you have any questions with respect to this Notice of the proposed settlement of the Lawsuit generally, you should raise them with your own attorney or direct them to counsel for the Class, **IN WRITING OR BY EMAIL TO KHTEMP@KICKHAMHANLEY.COM, NOT BY TELEPHONE**, identified as Attorneys for Plaintiffs, above. **DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE DEFENDANTS, OR THE ATTORNEYS FOR THE DEFENDANTS.**

## **LIST OF MEMBER COMMUNITIES**

To be provided by Defendants

## METER SIZES AND EQUIVALENT METERS

“Meter Size” is the size of the water meter servicing your property.

<b>Meter Size</b>	<b>Equivalent Meters</b>
5/8 inch	1.0
¾ inch	1.5
1 inch	2.5
1-1/2 inch	5.5
2 inch	8.0
3 inch	14.5
4 inch	20.0
6 inch	30.0
8 inch	50.0
10 inch	70.0
12 inch	80.0
14 inch	100.0
16 inch	120.0
18 inch	140.0
20 inch	160.0
24 inch	180.0
30 inch	200.0
36 inch	220.0
48 inch	240.0

DON'T KNOW OR UNSURE OF YOUR METER SIZE? MORE INFORMATION CAN BE FOUND AT [KICKHAMHANLEY.COM/IWC](http://KICKHAMHANLEY.COM/IWC)

EXHIBIT D



STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GENERAL MILL SUPPLY CO.,  
Individually and on behalf of a  
Class of similarly situated  
persons and entities,

Case No. 18-011569-CZ  
Hon. Charles S. Hegarty

Plaintiff,

v.

THE GREAT LAKES WATER AUTHORITY,  
an incorporated municipal authority,

and

CITY OF DETROIT, a municipal corporation,  
by and through its WATER AND SEWERAGE  
DEPARTMENT,

Defendants.

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Kickham Hanley PLLC  
Gregory D. Hanley (P51204)  
Jamie K. Warrow (P61521)  
Edward F. Kickham Jr. (P70332)  
32121 Woodward Avenue, Suite 300  
Royal Oak, Michigan 48073  
(248) 544-1500  
Attorneys for Plaintiff

---

Christopher S. Frescoln (P63175)  
Fausone Bohn, LLP  
41700 W. Six Mile Road, Suite 101  
Northville, MI 48168  
(248) 380-0000  
Attorneys for Defendants

Michael J. Watt (P63869)  
Kopka Pinkus Dolan PC  
32605 W. Twelve Mile Road, Suite 300  
Farmington Hills, MI 48334  
(248) 324-2620  
Co-Counsel for Defendant GLWA

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**FINAL JUDGMENT AND ORDER APPROVING CLASS SETTLEMENT**

At a session of said Court held in the  
City of Detroit, County of Wayne,  
State of Michigan on \_\_\_\_\_

PRESENT: HON. \_\_\_\_\_  
Circuit Court Judge

WHEREAS, Plaintiff and Defendants in this action have moved this Court, pursuant to MCR 3.501(E), for an order approving the settlement of this class action in accordance with the terms set forth in the Class Action Settlement Agreement (“Agreement”) executed by counsel for the parties, and

WHEREAS, this Court having held a hearing, as noticed, on \_\_\_\_\_, 2023, pursuant to the Order Regarding Preliminary Approval of Settlement, Notice and Scheduling, dated \_\_\_\_\_ (the “Order”), to determine the fairness, adequacy and reasonableness of a proposed settlement of the Class Action; and due and adequate notice (the “Notice”) having been made by mailing in a manner consistent with Paragraphs 4 and 6 of the Order; and all such persons having been given an opportunity to object to or participate in the settlement; and the Court having heard and considered the matter, including all papers filed in connection therewith and the oral presentations of counsel at said hearing; and good cause appearing therefor,

For the reasons stated on the record, IT IS HEREBY FOUND, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The terms of the Agreement are fair, reasonable and adequate and in the best interests of the members of the Class and are hereby approved.
2. Plaintiff and Defendants are hereby ordered and directed to perform and consummate the settlement set forth in the Agreement in accordance with the terms and conditions of the Agreement.
3. The notification to the Class members regarding the Settlement is the best notice practicable under the circumstances and is in compliance with MCR 3.501(E) and the requirements of due process of law.
4. This Lawsuit is hereby dismissed with prejudice, and without costs to any party except as provided for in the Agreement.

5. Kickham Hanley PLLC, counsel for the Class, is hereby awarded attorneys' fees and costs in the amount of \$\_\_\_\_\_, to be paid as set forth in the Agreement. Plaintiff General Mill Supply Co. is granted an incentive award of \$\_\_\_\_\_, to be paid as set forth in the Agreement.

6. Without any further action by anyone, Plaintiff and all members of the Class as certified by the Order dated \_\_\_\_\_, who previously did not submit a timely and valid Request for Exclusion are deemed to have executed the following Release and Covenant not to Sue which is hereby approved by the Court:

In executing the Release and Covenant Not To Sue, each Class Member, on behalf of himself, herself or itself, and his, her or its parents, subsidiaries, affiliates, members, shareholders, predecessors, heirs, administrators, officers, directors, successors, assigns, and any person the Class Member represents, intending to be legally bound hereby, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby absolutely, fully and forever releases, relieves, remises and discharges the Great Lakes Water Authority, the City of Detroit, and each of the Member Communities (as defined in the Class Action Settlement Agreement), and each of their successors and assigns, present and former agents, representatives, employees, insurers, affiliated entities, attorneys and administrators, of and from any and all manner of actions, causes of action, suits, debts, accounts, understandings, contracts, agreements, controversies, judgments, consequential damages, compensatory damages, punitive damages, claims, liabilities, and demands of any kind or nature whatsoever, known or unknown, which arise from the beginning of time through the date of this Final Order and Judgment concerning (1) Defendants' calculation or assessment of the IWC Charges; (2) the components of costs included in the IWC Charges; (3) Defendants' efforts to charge and/or collect IWC Charges; and (4) each and every claim and cause of action alleged by Named Plaintiff in each and every pleading Named Plaintiff filed in the Lawsuit. This release does not include any present or future claims arising out of any breach of the Class Action Settlement Agreement. In executing the Release and Covenant Not to Sue, each Class Member also covenants that: (a) except for actions, or suits based upon breaches of the terms of this Agreement or to enforce rights provided for in this Agreement, he, she or it will refrain from commencing any action or suit, or prosecuting any pending action or suit, in law or in equity, against Defendants on account of any action or cause of action released hereby; (b) none of the claims released under the Release and Covenant Not To Sue has been assigned to any other party; and (c) he, she or it accepts and assumes the risk that if any fact or circumstance is found, suspected, or claimed hereinafter to be other than or different from the facts or circumstances now believed to be true, the Release and Covenant Not To Sue shall be and remain effective notwithstanding any such difference in any such facts or circumstances.

7. This Court retains continuing jurisdiction to effectuate the provisions of the Agreement and the terms of this Order.

IT IS SO ORDERED:

Dated: \_\_\_\_\_, 2023.

\_\_\_\_\_  
Wayne County Circuit Court Judge

**STIPULATED AND AGREED:**

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