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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director
Legislative Policy Division (LPD) Staff 

DATE: March 5, 2020

RE: **Revised resolution regarding water shut offs**

On February 6, 2020, at the request of Council Pro Tern Sheffield, the Legislative Policy Division (LPD) provided Council with a resolution calling on Governor Whitmer to prohibit mass water shut offs in order to prevent a public health emergency. Pro Tern subsequently requested that LPD expand and revise that first draft. The revised resolution is attached.

If Council has any other questions or concerns regarding this subject, LPD will be happy to provide further research and analysis upon request.

**RESOLUTION STRONGLY URGING GOVERNOR WHITMER TO BAN
RESIDENTIAL WATER SHUT OFFS AGAINST LOW-INCOME RESIDENTS
TO PREVENT A PUBLIC HEALTH EMERGENCY, AND
CALLING ON THE GOVERNMENT APPOINTING OFFICIALS
OF THE GREAT LAKES WATER AUTHORITY TO ADOPT AND IMPLEMENT
POLICIES PREVENTING WATER SHUT OFFS AGAINST LOW INCOME
RESIDENTS, RESPECT THE HUMAN RIGHT TO WATER AND SANITATION AND
PRESERVE PUBLIC HEALTH**

By Council President Pro Tern Mary Sheffield

WHEREAS, The issue of mass water shut offs against low-income Detroit residents has been publicly debated, in the face of repeated calls for a water affordability program in the form of an income-based rate structure, for over 15 years since 2004; and

WHEREAS, The Detroit City Council's resolution, passed unanimously in May 2015, called for such a water affordability program to end unjust, unhealthy and ill-advised violations of the human rights of people who are unable to pay the full rates for safe drinking water because of their economic condition, a demand City Council has been making since 2005. However, neither the Detroit Water and Sewerage Department (DWSD) nor the Great Lakes Water Authority (GLWA) has taken adequate, affirmative measures to end such residential water shut offs that are the result of financial hardship; and

WHEREAS, Terminating water service to thousands of Detroit residents every year poses an imminent danger to public health, requiring immediate action to end the shut offs; and

WHEREAS, It is unscientific, reckless and grossly irresponsible to wait until after evidence of widespread adverse health effects, epidemics of diseases, serious long term health impacts or even death emerges, before taking action to restore access to water as a public health necessity. Rather, the time to ensure resilience by establishing ready and affordable access to water for sanitation is before there is demonstrable imminent danger of a pandemic; waiting until causation of mass illness by mass water shut offs can be conclusively proven is a recipe for public endangerment; and

WHEREAS, Potential and actual serious health effects of these water shut offs may include epidemics of water-borne diseases, infant malnutrition because of inability to prepare baby formula, inability of diabetics to prepare meals essential to maintaining health, chronic urinary tract infections, upper respiratory infections, eczema and other skin conditions and other diseases, including but not limited to flus and viruses such as COVID 19 that can best be avoided by frequent hand washing. The connection between the ready availability of clean water and health is well established, and the burden of proof should be on public officials to demonstrate that their actions, such as mass water shut offs, are not increasing the risk of damage to public health, rather than requiring advocates of water affordability to prove that shut offs have already caused an unacceptable level of harm; and

WHEREAS, Over the past fifteen years while water officials in the Detroit area have continually failed to make meaningful progress toward creating a viable water affordability model for Detroit and other customers in the GLWA service area, the cities of Philadelphia and Baltimore have passed water affordability ordinances mandating income-based rate structures for low-income residential customers, and Chicago is now rapidly moving in that direction. The State of Michigan, the Detroit metropolitan region and the City of Detroit must take comparable steps to protect public health and the human rights of residential water customers whose income makes it impossible for them to consistently pay the full rates for water and sewerage services, by prohibiting the mass shut offs of water services to such residents who fail to pay the full water rates because of their inability to pay; and

WHEREAS, United Nations human rights representatives have declared the shutting off of water to people who are unable to pay the full rates for these services - as opposed to individuals with the ability to pay who simply fail or refuse to do so - to be a violation of such individuals' and families' human rights, as specifically established by United Nations Resolution No. 64/292 of July 28, 2010; and

WHEREAS, The Great Lakes Water Authority (GLWA) was created in the course of the City of Detroit's bankruptcy proceedings in 2014, undergoing a lengthy transition period involving extensive shared services agreements with the Detroit Water and Sewerage Department (DWSD), and commencing independent operations in 2016; and

WHEREAS, The board members of GLWA are appointed by the Mayor of the City of Detroit (2 members), the Governor of the State of Michigan, and the County Executives of Macomb, Oakland and Wayne Counties (1 member each); and

WHEREAS, GLWA's motto for its entire Southeastern Michigan service region is "We Are One Water", despite GLWA's utter failure to take any significant or adequate action to protect the human rights or health of residents of Detroit (or other member communities) who cannot pay the full rates because of poverty; and

WHEREAS, Mass water shut offs in Detroit, involving 5000 shut off notices per week (approximately 30,000 total, disproportionately affecting disabled persons, elders on fixed incomes, single parents with children, and people of color), were initiated in March 2014 to trigger the process of organizing GLWA, in order to limit the systems' outstanding bad debt in preparation for either regionalization or privatization, making the infrastructure an attractive investment option for bondholders; and

WHEREAS, The Water Residential Assistance Program (WRAP) established by DWSD and GLWA, and funded pursuant to the Memorandum of Understanding that created GLWA, is inadequate to stop the human rights violations caused by shutting off water service to low income families, and therefore threatens potential public health crises in the very near future because of the lack of clean, affordable water available for hand washing and other basic needs of sanitation and hygiene; and

WHEREAS, The reactive (as opposed to proactive) assistance model adopted by the WRAP has proven inadequate to stop water shut offs, the violation of human rights and the resulting threat to public health. A proactive affordability model that ties water rates to income, limits and subsidizes the rates for people living in poverty is absolutely necessary to protect human rights and public health; and

WHEREAS, Detroit City Council implores Mayor Mike Duggan, Governor Gretchen Whitmer, and County Executives David Coulter, Warren Evans and Mark Hackel to take immediate action to direct their representatives on the GLWA board to initiate action toward the adoption and implementation of a true water affordability plan tying water rates to income of residents living in poverty. NOW, THEREFORE, BE IT

RESOLVED That the Detroit City Council urgently calls for a moratorium on residential water shut offs, and for the public officials responsible for appointing the board of the Great Lakes Water Authority (GLWA) to implement an income-based water affordability rate structure for low income families, in order to avoid further human rights violations and the inevitability of severe adverse consequences on public health; and BE IT FURTHER

RESOLVED That copies of this resolution shall be provided to Mayor Mike Duggan, Governor Gretchen Whitmer, County Executives David Coulter, Warren Evans and Mark Hackel, the boards of DWSD and GLWA, media representatives and affordable water advocates.