

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:	:	Chapter 9
	:	
CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	

**STIPULATION CONCERNING THE CONDUCT OF THE PLAN
CONFIRMATION HEARING AND MODIFYING CERTAIN DEADLINES
ESTABLISHED IN THE SEVENTH AMENDED ORDER ESTABLISHING
PROCEDURES, DEADLINES, AND HEARING DATES RELATING TO
THE DEBTOR’S PLAN OF ADJUSTMENT [Docket No. 6560]**

This Stipulation (the “Stipulation”) is made by and among (i) the City of Detroit, Michigan (the “City”); and (ii) Assured Guaranty Municipal Corp., National Public Finance Guarantee Corp.; Berkshire Hathaway Assurance Corp.; U.S. Bank National Association, as Trustee for the Water and Sewer Bonds; Nuveen Asset Management and BlackRock Financial Management, Inc., members of the Ad Hoc Bondholder Committee; and Fidelity Management & Research Company, Eaton Vance Management, and Franklin Advisers, Inc., members of the Ad Hoc Bondholder Committee (collectively, the “DWSD Financial Parties”, and together with the City, the “Parties”). By and through each of their undersigned counsel, the Parties have reached an agreement with respect to, and request the entry of an order in the form of Exhibit A hereto approving, the following:



RECITALS

As of the date of this Stipulation, the City has reached an agreement in principle with certain of the DWSD Financial Parties regarding various matters in the *Corrected Fifth Amended Plan for the Adjustment of Debts of the City of Detroit (July 29, 2014)* [Docket No. 6379] (the “Plan”) which relate to the “DWSD Bonds” (as such term is defined in the Plan).¹ Nothing herein is intended to alter, amend, or expand this agreement in principle.

In light of this agreement in principle, which involves a certain tender transaction (the “Tender Transaction”), the Parties have further agreed, subject to the Court’s consent, to certain procedures relating to the presentation of witnesses and evidence at the Confirmation Hearing on the Plan and the modification of certain deadlines established by this Court’s Seventh Amended Order Establishing Procedures, Deadlines and Hearing Dates Relating to the Debtor’s Plan of Adjustment [Docket No 6560] (the “Scheduling Order”), with respect to DWSD Financial Parties, as set forth herein.

¹ Capitalized terms used but not defined herein have the meanings ascribed to them in the Plan.

STIPULATION

NOW, THEREFORE, it is hereby stipulated and agreed by and between the Parties, through their undersigned counsel, as follows:

A. Until the later of the City's determination to accept the DWSD tender offer and the settlement date of the Tender Transaction, but in no event later than September 4, 2014:

1. Except as the Court may order, the City and the DWSD Financial Parties will not call any fact or expert witnesses to testify at the Confirmation Hearing, or otherwise present evidence, to address any issues relating in any way to the DWSD or its operations, finances, budgets, projections, capital expenditures or debt, or the Plan's proposed impairment of interest rates or call protection of DWSD Bonds (collectively, "DWSD Bond Issues") without the agreement of all parties. For the avoidance of doubt, issues relating to DWSD pension contributions under the Plan shall be included within the meaning of DWSD Bond Issues, but the City will not be precluded, from calling witnesses or otherwise presenting evidence on the Class 10 and Class 11 claim amounts and any Plan pension provisions other than DWSD pension contributions, or precluded from referring to DWSD pension contribution issues during its opening statement. Nothing in this Stipulation shall preclude any of the DWSD Financial Parties from

objecting to the admissibility of such testimony by such witnesses called by the City or the admissibility of such evidence presented by the City.

2. To the extent that the City calls any fact or expert witnesses at the Confirmation Hearing to address issues other than DWSD Bond Issues, where such witness's testimony would also have extended to DWSD Bond Issues but for this stipulation (including without limitation the witnesses Kevyn Orr, Kenneth Buckfire, Gaurav Malhotra and Charles Moore), such witness may testify about those other issues but not the DWSD Bond Issues. The City or the DWSD Financial Parties will be permitted to recall such witness at a later time to address DWSD Bond Issues under the circumstances set forth below, and all cross-examination of any witness with respect to DWSD Bond Issues (including cross-examination beyond the scope of direct) shall be deferred until such later time under the circumstances set forth in Section B below when the witness is recalled to address DWSD Bond Issues.

3. The City and the DWSD Financial Parties shall defer addressing DWSD Bond Issues in opening statements at the start of the Confirmation Hearing, subject to their right to address DWSD Bond Issues in a supplemental or deferred opening statement at a later point during the Confirmation Hearing under the circumstances set forth in Section B below.

4. Notwithstanding anything contained in the Scheduling Order, the DWSD Financial Parties shall be permitted to defer filing or exchanging any of the following, subject to their right to make such filings at a later time under the circumstances set forth in Section B below:

- a. evidentiary motions of any kind (including without limitation motions *in limine* and *Daubert* motions under Scheduling Order ¶ 5(a)) relating to DWSD Bond Issues or to witnesses who may address DWSD Bond Issues;
- b. reply briefs under Scheduling Order ¶ 7 to evidentiary motions of any kind made by the City (including without limitation motions *in limine* and *Daubert* motions) relating to DWSD Bond Issues or to witnesses who may address DWSD Bond Issues;
- c. their pretrial briefs under Scheduling Order ¶ 5(c);
- d. any supplemental objections they may have to the Plan under Scheduling Order ¶ 4;
- e. those portions of the pretrial order under Scheduling Order ¶ 5(b) pertaining to DWSD Bond Issues or to the DWSD Financial Parties;

- f. their deposition designations and counter-designations under Scheduling Order ¶ 5(e); and
- g. the briefs called for by Scheduling Order ¶¶ 6(a)-(b).

5. The City will adjourn all upcoming depositions of expert witnesses who provided expert reports on behalf of the DWSD Financial Parties, subject to the City's right to reschedule such depositions at a later time under the circumstances set forth in Section B below.

B. If at any time prior to the settlement date of the Tender Transaction the City makes a filing with the Court stating that the Tender Transaction has been terminated, or if by the earlier of (i) the settlement date of the Tender Transaction, or (ii) September 4, 2014, the City has not filed an amended Plan in which it irrevocably commits to non-impairment of the DWSD Bonds, then:

- 1. The foregoing restrictions in Section A above on presenting witnesses or evidence on DWSD Bond Issues at the Confirmation Hearing shall cease to be in effect.
- 2. Witnesses eligible for recall to address DWSD Bond Issues during the Confirmation Hearing may be recalled at any time by any party for that purpose.

3. Paragraph 2(a) of the Scheduling Order shall be amended to provide that the City may reschedule and take within five (5) business days those previously-noticed depositions of expert witnesses who provided expert reports on behalf of the DWSD Financial Parties that had been adjourned by virtue of this stipulation.
4. The Scheduling Order shall be amended to provide that the filings by the DWSD Financial Parties that were deferred by ¶ A.4. above may be made within five (5) business days, and the City will respond to any such filing by the DWSD Financial Parties within ten (10) business days, except that the City's responses to the filings by the DWSD Financial Parties that were deferred by ¶¶ A.4(e)-(f) shall be made within five (5) business days.
5. Nothing in this Stipulation shall be deemed to have waived, limited or prejudiced in any way (a) the right of any party to present any witness, evidence or argument during or in connection with the Confirmation Hearing that such party would have possessed absent this stipulation, or (b) the merits of any factual or legal argument made by such party during or in connection with the Confirmation Hearing.

Dated: August 11, 2014

Respectfully submitted,

David G. Heiman (OH 0038271)
Heather Lennox (OH 0059649)
Thomas A. Wilson (OH 0077047)

JONES DAY

North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

Thomas F. Cullen, Jr.
Gregory M. Shumaker
Geoffrey S. Stewart
Geoffrey S. Irwin

JONES DAY

51 Louisiana Avenue, N.W.
Washington, D.C. 20001.2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

/s/ Deborah Kovsky-Apap

Robert S. Hertzberg (P30261)
Deborah Kovsky-Apap (P68258)

PEPPER HAMILTON LLP

4000 Town Center, Suite 1800
Southfield, MI 48075
Telephone: (248) 359-7300
Facsimile: (248) 359-7700
hertzbergr@pepperlaw.com
kovskyd@pepperlaw.com

*Attorneys for the City Of
Detroit*

CHADBOURNE & PARKE LLP

By: /s/ Lawrence A. Larose

Lawrence A. Larose
Samuel S. Kohn
Robert A. Schwinger
30 Rockefeller Plaza
New York, NY 10112
Telephone: (212) 408-5100
llarose@chadbourne.com
skohn@chadbourne.com
rschwinger@chadbourne.com

*Counsel for Assured Guaranty
Municipal Corp.*

By: /s/ Guy S. Neal

James F. Bendernagel, Jr.
Guy S. Neal
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 736-8041
Fax: (202) 736-8711
jbbendernagel@sidley.com
gneal@sidley.com

– and –

Jeffrey E. Bjork
Gabriel MacConaill
SIDLEY AUSTIN LLP
555 West Fifth Street, Suite 4000
Los Angeles, California 90013
Telephone: (213) 896-6000

Fax: (213) 896-6600
jbjork@sidley.com
gmacconail@sidley.com

*Attorneys for National Public
Finance Guarantee Corp.*

By: /s/ Thomas P. Christy
Thomas P. Christy
GARAN LUCOW MILLER, P.C.
1111 West Long Lake Road,
Suite 300
Troy, Michigan 48098
Telephone: (248) 641-7600
Fax: (248) 641-0222
tchristy@garanlucow.com

– and –

Christopher P. Jelinek
GARAN LUCOW MILLER, P.C.
1000 Woodbridge St
Detroit, Michigan 48207
Telephone: (313) 446-1530
cjelinek@garanlucow.com

– and –

My Chi To, Esq.
DEBEVOISE & PLIMPTON LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 909-7435
Fax: (212) 521-7425
mcto@debevoise.com

*Attorneys for Berkshire Hathaway
Assurance Corp.*

By: /s/ Paul S. Davidson
Paul S. Davidson
David E. Lemke
Heather J. Hubbard
WALLER LANSDEN DORTCH &
DAVIS, LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219
Telephone: (615) 244-6380
Fax: (615) 244-6804

– and –

Robert J. Diehl, Jr.
Jaimee L. Witten
BODMAN PLC
1901 St. Antoine Street, 6th Floor
Detroit, Michigan 48226
Telephone: (313) 393-7597
Fax: (313) 393-7579

*Attorneys for U.S. Bank National
Association, as Trustee for the
Water and Sewer Bonds*

By: /s/ Amy Caton
Amy Caton
Gregory A. Horowitz, Esq
KRAMER LEVIN NAFTALIS &
FRANKEL, LLP
1177 Avenue of the Americas
New York, New York 10036
Tel: (212) 715-9100
Fax: (212) 715-8000
acaton@kramerlevin.com

*Attorneys for Nuveen Asset
Management, and BlackRock
Financial Management, Inc.,
members of the Ad Hoc Bondholder*

Committee

By: /s/ William W. Kannel

William W. Kannel
Adrienne K. Walker, Esq.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston, MA 02111
Tel: 617-542-6000
Fax: 617-542-2241
wkannel@mintz.com
akwalker@mintz.com

*Attorneys for Fidelity Management
& Research Company, Eaton Vance
Management, and Franklin
Advisers, Inc., members of the Ad
Hoc Bondholder Committee*

Exhibit A

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:	:	Chapter 9
	:	
CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	

**ORDER CONCERNING THE CONDUCT OF THE PLAN
CONFIRMATION HEARING AND MODIFYING CERTAIN DEADLINES
ESTABLISHED IN THE SEVENTH AMENDED ORDER ESTABLISHING
PROCEDURES, DEADLINES, AND HEARING DATES RELATING TO
THE DEBTOR’S PLAN OF ADJUSTMENT [Docket No. 6560]**

This matter having come to the Court upon the stipulation (the “Stipulation”) of (i) the City of Detroit, Michigan; and (ii) Assured Guaranty Municipal Corp., National Public Finance Guarantee Corp.; Berkshire Hathaway Assurance Corp.; U.S. Bank National Association, as Trustee for the Water and Sewer Bonds; Nuveen Asset Management and BlackRock Financial Management, Inc., members of the Ad Hoc Bondholder Committee; and Fidelity Management & Research Company, Eaton Vance Management, and Franklin Advisers, Inc., members of the Ad Hoc Bondholder Committee, and the Court being otherwise duly advised in the premises:

IT IS HEREBY ORDERED THAT:

1. The Stipulation is approved; and

2. The provisions of the Seventh Amended Order Establishing Procedures, Deadlines and Hearing Dates Relating to the Debtor's Plan of Adjustment [Docket No 6560] shall remain in full force and effect except as modified by the Stipulation.