

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

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| In re |) | |
| |) | Chapter 9 |
| |) | |
| CITY OF DETROIT, MICHIGAN, |) | Case No. 13-53846 |
| |) | |
| Debtor. |) | Hon. Steven W. Rhodes |
| |) | |
| |) | Re: Docket No. 2713 |

**OBJECTION TO MOTION OF THE DEBTOR
FOR APPROVAL OF THE PROPOSED DISCLOSURE STATEMENT**

Syncora Guarantee Inc. and Syncora Capital Assurance Inc. (collectively, “Syncora”) file this objection to the *Motion of the City of Detroit for Approval of the Proposed Disclosure Statement* [Doc. No. 2713], seeking entry of an order approving the proposed *Disclosure Statement with Respect to Plan for the Adjustment of Debts of the City of Detroit* [Doc. No. 2709], as amended on March 31, 2014 [Doc. No. 3382]. In support of its objection, Syncora respectfully states as follows:

Preliminary Statement

1. This case is the largest and most complex chapter 9 filing in history. And, despite such size and complexity, the confirmation timetable remains atypically expedited. One would expect that, if ever there were a case in which disclosure would abound and would be clear, it would be here. To be sure, the City’s proposed amended disclosure statement (the “Amended Disclosure”



Statement”) is robust. But it is not robust in the way that Section 1125 of the Bankruptcy Code requires. Instead, the Amended Disclosure Statement — much like the City’s approach to the chapter 9 process generally — is materially deficient. It lacks information that would actually enable a hypothetical investor to understand the true character, risks, value, and opportunity costs of accepting the City’s proposed recovery.

2. The Amended Disclosure Statement at least is clear in one regard. The City is unwavering in its Chapter 9 strategy formed before it filed for bankruptcy: “pursue as many revitalization initiatives as possible”¹ and “defend against calls for expense reduction and monetizing assets to pay creditors.”² As has been true throughout this entire chapter 9 process, the City’s refusal to provide meaningful information while, at the same time, proposing little recovery to creditors will drive no consensus whatsoever. Here we are, over a year after Mr. Orr’s appointment as emergency manager and 8 months since the petition date, and the City has failed to reach consensus with any of its key creditor constituents.

3. As a matter of law, the City has not satisfied — indeed cannot satisfy — its burden of showing that the Amended Disclosure Statement contains the “adequate information” required under section 1125 of the Bankruptcy Code. For

¹ Presentation to the City of Detroit, 57 (Jan. 29, 2013), attached hereto as Exhibit A.

² *Id.* at 27.

starters, information regarding key settlements embodied in the Amended Plan is illusive. The Amended Disclosure Statement, much like its predecessor, neglects to include exhibits and key documents referenced in, relating to, and in some instances incorporated into, the Amended Disclosure Statement and the City's plan of adjustment (the "Amended Plan"). Further, key financial and operational assumptions and expectations underpinning the various aspects of Amended Plan, including the City's spending plans, asset values, creditor recoveries, and plan implementation, are insufficiently disclosed, if at all.

4. Additionally, the City stonewalling creditors apparently because it believes it has already treated them too badly to hope to garner consensus, or is oblivious or does not care about what is in the best interests of its stakeholders, satisfies *no* legal test. *See e.g.*, Ex Parte Motion to Extend Re. Disclosure Statement Hr'g Trans. 71:1-14, Apr. 2, 2014 ("MR CULLEN: Apparently the disclosure statement is adequate enough for everybody to say they don't like it, and 1125 really says is there adequate information to give the parties a meaningful basis to say yes or no. And what they're telling you is with respect to the current configuration of the plan, there's adequate information . . . enough to say no"). But, "[a] debtor cannot seek relief under the Code and then attempt to circumvent its requirements to the detriment of its creditors." *In re Copy Crafters*

Quickprint, Inc., 92 B.R. 973, 985 (Bankr. N.D. N.Y. 1988) (court addressing adequacy of disclosure statement).

5. The City's creditors have no bases on which to assess the Amended Plan's impact on their rights, or the nature, value, and risk of proposed creditor recoveries under the Amended Plan. Because it would be impossible for a hypothetical investor to make an informed judgment about the Amended Plan based on the Amended Disclosure Statement, the Court should deny its approval. Now is the time to change the City's chosen course for this case for the benefit of Detroit's citizens and creditors.

Background

6. On February 21, 2014, the City filed, among other things, a plan (the "Original Plan") [Doc. No. 2708] and a skeletal disclosure statement (the "Original Disclosure Statement") [Doc No. 2709]. According to the City, the Original Disclosure Statement contained "descriptions and summaries of provisions of the Plan." (Original Disclosure Statement p 2). The Original Disclosure Statement also referenced plan exhibits as well as other documents which informed the treatment of creditors under the Original Plan. But many, if not most, of these key summaries and documents were missing from the Original Disclosure Statement and the Original Plan.

7. Prior to and after the filing of the Original Disclosure Statement, many of the City's creditors requested information and discovery relating to the City's settlements and assets. But the City has routinely and successfully opposed such requests for information and discovery. *See e.g.*, Motion to Assume Forbearance Agreement Hr'g Trans. 128:2-18, Aug. 2, 2013 (discussing denial of discovery regarding forbearance agreement); *Order Denying Motion of Syncora Under Rule 2004* [Doc. No. 1662] (Nov. 12, 2013) (discovery denied regarding DIP financing); *Order Regarding Motion of the Objectors for Leave to Conduct Limited Discovery in Connection with Motion of the Debtor for a Final Order* [Doc. No. 1743] (Nov. 15, 2013) (discovery allowed, in part, and denied, in part, regarding DIP financing); *Order (I) Authorizing the Debtor to Enter into and Perform Under Certain Transaction Documents with the Public Lighting Authority and (II) Granting Other Related Relief* [Doc. No. 1955] (Dec. 6, 2013) (discovery denied regarding lighting transaction); Motion to Adjourn Hearing, Motion to Compel the Production of Privilege Log, Pretrial Conference Hr'g Trans. 42:3-19 (Dec. 13, 2013) (discussing denial of discovery and adjournment regarding DIP financing and City's DIP financing motion, respectively); *Order Denying Motion to Compel Production of Privilege Log* [Doc. 2194] (Dec. 17, 2013) (discovery denied regarding access to privilege log relating to City's production of documents in connection with DIP Motion); Motion of the City of Detroit for Approval of

Disclosure Statement Procedures Hr’g Trans. 18:12-17, Feb. 25, 2014 (discussing denial of disclosure regarding adequacy of the disclosure statement); *Order Denying Motion for Entry of an Order Appointing and Directing the Debtor to Cooperate with a Committee of Creditors and Interested Persons to Assess the Art Collection of the Detroit Institute of the Arts* [Doc. No. 2534] (Jan. 22, 2014) (discovery denied regarding valuation of art collection); and *Order Granting, in part, and Denying, in part, Motion of the Official Committee of Retirees to Compel Production of Documents* [Doc. No. 3098] (Mar. 20, 2014) (discovery denied regarding certain documents relative to the proposed Settlement and Plan Support Agreement with Swap Counterparties).

8. For its part, the City has provided little and, in many instances, no information in response to creditors’ requests for information throughout this case. This continues despite the City’s various assurances to the Court and parties in interest both on and off the record that it would provide information, as described in previous filings with this Court. *See, e.g.*, Art Motion Hr’g Tr. 9:15-18; 15:18-21, Jan. 22, 2014 (referencing various instances of the City assuring the Court and parties in interest that it would provide parties with the information they request); *see also* Scheduling Motion Hr’g Trans. 48:7-22, Mar. 5, 2014 (referencing same).

9. On March 6, 2014, the Court entered the *Second Amended Order Establishing Procedures, Deadlines and Hearing Dates Relating to the Debtor’s*

Plan of Adjustment [Docket No. 2937] (the “Scheduling Order”). The Scheduling Order set, among other things, March 14, 2014, as “the deadline for parties to make a good faith effort to advise counsel for the City in writing of any request to include additional information in the disclosure statement.” On March 14, 2014, Syncora, together with Financial Guaranty Insurance Company, requested that additional information be included in the Disclosure Statement, in accordance with the Scheduling Order (the “Information Request”), attached hereto as Exhibit B. And while the Scheduling Order, among other things, set April 8, 2014, as the deadline for the City to file an omnibus reply to Disclosure Statement objections, the Scheduling Order did not mandate in any way that the City comply with parties’ requests to include additional information in the Disclosure Statement.

10. On March 28, 2014, the City responded — in the most basic sense of the word — to the Information Request. Of the 46 requests for information and documentation contained in the Information Request, the City responded to 25 requests with some variation of: “The City believes that the Disclosure Statement provides all current information necessary to provide adequate information with respect to [the requested subjected matter/analysis]. The City may make further revisions to the Disclosure Statement that address the subjection matter of this request.” Of the 21 remaining requests, the City’s responses were generic and/or nonresponsive. All told, the City effectively dismissed the Information Request.

Based on information and belief, the City responded in kind to other key creditors' requests for information.

11. Until now, there have been few checks in this case on the City's disregard for disclosure and due process — without which creditors cannot possibly defend against the City's proposals, as is their legal right. And so, unsurprisingly, on March 31, 2014, 38 days after the filing of the Original Disclosure Statement, the City filed an Amended Plan and an Amended Disclosure Statement lacking in information parties actually need to protect their rights. With this filing, the City — yet again — begs for litigation with effectively all of its creditor constituencies.

12. The Amended Disclosure Statement at best provides some high-level details surrounding the bankruptcy transaction. It, however, makes no attempt to meaningfully quantify or analyze how the City's various initiatives will benefit the City's citizens and its other stakeholders. It makes no attempt to educate the City's citizens and its other stakeholders regarding the risks of its proposed transactions or to creditor recoveries, or regarding potential future tax increases, financing costs, costs of doing business in the ordinary course, or other costs on account of its actions in bankruptcy. And it contains nowhere near enough relevant information for approval under section 1125 of the Bankruptcy Code.

Legal Standard

13. “One of the fundamental policies underlying the Chapter 11 reorganization process is disclosure. The disclosure statement was intended by Congress to be the primary source of information upon which creditors and shareholders could rely in making an informed judgment about a plan of reorganization.” *In re Scioto Valley Mortg. Co.*, 88 B.R. 168, 170 (Bankr. E.D. Ohio 1988). In chapter 9 cases, “as in Chapter 11 cases, creditors and interested parties must be properly notified of all vital steps in the reorganization and confirmation process so that they have the opportunity to protect their interests.” *In re City of Colorado Springs Creek Gen. Improvement Dist.*, 177 B.R. 684, 690 (Bankr. D. Colo. 1995). Thus, a disclosure statement should contain information that would permit a creditor or other party in interest to fairly and fully assess the pros and cons of a proposed plan of adjustment and cast its vote for or against such a plan on a fully informed basis.

14. Section 1125 of the Bankruptcy Code, made applicable to cases under chapter 9 by section 901 of the Bankruptcy Code, provides the framework for such disclosure. It states that a disclosure statement should be approved only if the disclosure statement contains “adequate information.” Section 1125(b) of the Bankruptcy Code reads as follows:

An acceptance or rejection of a plan may not be solicited after the commencement of the case under this title from a holder of a claim or

interest with respect to such claim or interest, unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing *adequate information*.

11 U.S.C. §1125(b) (emphasis added). “Adequate information” is defined in section 1125(a)(1) to mean:

Information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interest in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan. ...

11 U.S.C. §1125(a)(1).

15. To satisfy the mandates of section 1125 of the Bankruptcy Code, a disclosure statement “must clearly and succinctly inform the average unsecured creditor what it is going to get, when it is going to get it, and what contingencies there are to getting its distribution.” *In re Ferretti*, 128 B.R. 16, 19 (Bankr. D. N.H. 1991). Thus, a disclosure statement should be approved *only* if it contains information that would allow the average unsecured creditor to fully and fairly assess the key economic terms of the plan, the risks associated therewith, and the impact of such on its recovery. And, while the type and amount of information required to be contained in a disclosure statement varies from case to case, section 1125 of the Bankruptcy Code is biased toward more disclosure rather than less. *See, e.g., Ryan Operations G.P. v. Santiam-Midwest Lumber Co.*, 81 F.3d 355, 362

(3d Cir. 1996) (stating that “[b]ecause creditors and the bankruptcy court rely heavily on the debtor’s disclosure statement in determining whether to approve a proposed reorganization plan, the importance of full and honest disclosure cannot be overstated”).

16. The City bears the burden of providing adequate information as that term is defined in section 1125(a)(1) of the Bankruptcy Code. “Under 11 U.S.C. § 1125(b), a party seeking chapter 11 bankruptcy protection has an affirmative duty to provide creditors with a disclosure statement containing ‘adequate information’ to ‘enable a creditor to make ‘an informed judgment’ about the Plan.” *Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. Gen. Motors Corp.*, 337 F.3d 314, 321 (3rd Cir. 2003) (*quoting* 11 U.S.C. § 1125(a)(1)). Indeed, the “‘burden of proposing a plan that satisfies the requirements of the Code always falls on the party proposing it.’ This proposition, is based on Code § 1129(a)(2), which is incorporated into chapter 9 by § 901(a).” *In re County of Orange*, 219 B.R. 543, 561 (Bankr. C.D. Ca. 1997) (*quoting* *Everett v. Perez*, 30 F.2d 1209, 1213 and n. 5 (9th Cir. 1994)). Given creditors’ reliance on the disclosure statement, it is “the debtor’s *obligation* to provide sufficient data to satisfy the Code standard of adequate information.” *Id.* (citations omitted) (emphasis added). The City has not carried its burden. And despite the Court’s Scheduling Order and creditors’

guiding information requests, the Amended Disclosure Statement still comes up short.

17. Because the City has failed to sustain its burden, the Court should deny the Amended Disclosure Statement. In fact, the Court should question the City's entire approach in this case and its intentions for its citizens as it continues to flout bankruptcy law, force costly and protracted litigation and severely burn bridges with its spectrum of creditors.

Argument

I. The Disclosure Statement Fails to Meet the Standard for Adequate Disclosure.

18. The City has not satisfied its burden of setting forth adequate information that would “enable a ... [creditor] to make an informed judgment about the plan.” 11 U.S.C. § 1125(a)(1). The Amended Disclosure Statement by its own terms is incomplete. Much of the content it does contain is insufficient and the Amended Plan attached thereto is *still* missing 18 exhibits — all of which are critical to the Amended Plan and many of which are referenced directly in the Amended Disclosure Statement. To wit, the Amended Disclosure Statement incorporates by reference various settlements and agreements, including the State Contribution Agreement,³ the Plan COP Settlement, and the DIA Settlement, but

³ Capitalized words used but not defined herein have the meanings ascribed to them in the Amended Disclosure Statement or Amended Plan, as applicable.

fails to attach the applicable documents or describe with sufficiency, or any, specificity the terms thereof. At a minimum, a disclosure statement that is missing key documents and details that directly inform the treatment of the debtor's creditors cannot possibly provide those creditors the adequate information to which they are entitled under section 1125 of the Bankruptcy Code. The City — unequivocally and unapologetically — has not shown otherwise.

19. For example, in *In re Cardinal Congregate I*, creditors of the debtor, a group of retirement living facilities, objected to the debtor's disclosure statement as "inadequate." 121 B.R. 760 B.R. 760 (Bankr. S.D. Ohio 1990). The bankruptcy court "independently reviewed the Disclosure Statement" and found that it "lacks certain necessary information" — information that is similarly missing from the City's Disclosure Statement, as described more fully below. *Id.* at 766-67.

20. First, the *Cardinal* court found, among other things, that the "Disclosure Statement contains an inadequate discussion of the claims held by various affiliates of [the debtor]" and that the disclosure statement needs to provide "more detailed information regarding the nature of these claims Additionally, a more complete discussion of the Amended Plan's proposed treatment of these claims is necessary." *Id.* at 767. Here, for instance, the Amended Disclosure Statement does not sufficiently describe the basis for the COP Swap Claims or their treatment under the Amended Plan if the Swap Settlement is approved or if it

is denied. The Amended Disclosure Statement also does not provide adequate information in support of the Amended Plan's treatment of the UTGO and LTGO Bond Claims as unsecured. Generally, the Amended Disclosure Statement fails to provide all unsecured creditors with the quality of information to which they are entitled regarding their treatment under the Amended Plan.

21. Also, the *Cardinal* court held that a disclosure statement needed to include "a discussion of the anticipated future of the debtor's business." *Id.* The court explained that

[m]erely attaching *pro forma* income calculations to the Disclosure Statement is insufficient. A more detailed analysis of the projected income, expenses, and surplus funds available for satisfaction of claims and interests is appropriate. Further, the Disclosure Statement should clearly identify all assumptions made in calculating *pro forma* information and should set forth those facts supporting all estimates. Information regarding the accounting and valuation methods used in preparation of the Disclosure Statement's financial exhibits must also be included.

Id. Likewise, in the instant case, the Amended Disclosure Statement fails to provide financial projections and associated assumptions and scenario analyses sufficient to allow creditors to make an assessment of the true value and risks attendant to their consideration.

22. Clearly here, given the volume of deficiencies in the Amended Disclosure Statement and the Amended Plan that it describes, the Amended Disclosure Statement should not be approved. To be sure, creditors would need a

level of disclosure not present here to even properly assess the full universe of information that would constitute “adequate information.” It follows that not every specific piece of information missing in the Amended Disclosure Statement is addressed below. Instead, this objection highlights certain of the most significant disclosure deficiencies.

A. The Disclosure Statement Fails to Describe the Nature and Risks of Recoveries

23. “A disclosure statement should ... contain all material information relating to the risks posed to creditors ... under the proposed plan of reorganization.” *Cardinal Congregate*, 121 B.R. at 765. Here, the Amended Disclosure Statement is overrun with ambiguity, poorly disclosed or undisclosed conditionality, and unrealized, and potentially unrealizable, promises to creditors. So determining the risks posed to creditors is impermissibly difficult.

24. To be sure, the Amended Disclosure Statement fails to provide, or inadequately provides, the financial and operational assumptions underpinning the Amended Plan — information that a creditor would need to assess the risks posed to creditors under a plan of adjustment. For example, among others:

- The Amended Disclosure Statement topically describes New B Notes that are designated for non-pension unsecured creditors. The notes pay interest only (no principal) for the first 10 years after the Effective Date. Principal payments would commence in year 11 and continue for an additional 20 years. (Sec. IV.A.1). But the City provides no forecasts beyond the first 10 years in the Amended Disclosure Statement. (Sec. III.B.2). Thus, the 15%

recovery provided for unsecured creditors generally may be closer to 0% on a risk adjusted basis. (Sec. III.B.2).

- It is unclear in the Amended Disclosure Statement whether the 15% recovery for non-pension unsecured creditors represents a present value estimate. If not, again, recoveries would be much lower than disclosed. (Sec. III.B.2).
- The Disclosure Statement does not address how the City would respond to a scenario in which the City's pension funds experience a loss — a return below the City's assumed rates of 6.25% for GRS and 6.5% for PFRS (Sec. II.A.2; Sec. VII.B.5.b.4) — in a particular year, and the potential impact of any such action on the City satisfying its obligations to other unsecured creditors.
- The City proposes to create new defined benefit plans that will be funded, in part, by employer contributions of 10% for police and fire and 5% for general employees. (Plan Exhibits I.A.202.b, I.A.148.b). The City does not disclose how these contribution percentages will be adequate to provide the new benefits, and how the City's obligations to other unsecured creditors may be impacted if they are inadequate.
- The Disclosure Statement makes clear that no DWSD Transaction is presently on the table. (Sec. VIII.K.1). But it does not quantify the risks of various transaction structures if a transaction can even be consummated. For instance, the City states generically: "If DWSD cannot prefund its actual allocable share to the GRS pension fund [based on the occurrence of the DIA Settlement and the State Contribution Agreement], then the cuts to the GRS pension beneficiaries would have to be higher than those contemplated in the Plan." (Sec. II.A.2).
- The City includes projected revenues from the DWSD Transaction in its financial projections, but there is *no* DWSD transaction regarding which to project revenues. As a result, such projections are questionable in light of the uncertainties in regionalizing or outsourcing the department. What is clear is that the City intends that "impairments of Claims under the Plan will permit DWSD to conduct substantial and necessary revenue enhanced capital improvements using revenues that would otherwise have been unavailable to DWSD and applied instead to service the City's debt." (Sec. VIII.K.1).

- The Amended Disclosure Statement describes no reforms in the City's administration that would assure creditors that safeguards will be put into place to ensure, or at the very least, make more possible, the City's success post-emergence, including the City's ability to honor and comply with the terms of the Amended Plan.

25. Because the Disclosure Statement does not provide a hypothetical investor information to determine the true risks and values associated with its recovery, the Court should deny the Disclosure Statement.

B. The Amended Disclosure Statement Fails to Provide Information in Support of its Reinvestment and Restructuring Initiatives

26. “[A] disclosure statement must contain all pertinent information bearing on the success or failure of the proposals in the plan of reorganization.” *Cardinal Congregate*, at 765. But the Amended Disclosure Statement fails to describe how the City's reinvestment and restructuring initiatives will benefit its citizens or creditors. The City's disclosures regarding such initiatives include no clearly stated and specific vision or expectations for the City, including targets for population growth, tourist growth, new real estate development, new business starts, or other identifiable success metrics. The City's proposed expenses resemble more of a wish-list of the City's departments than a targeted and calibrated municipal revitalization plan. (Sec. IX.A). Accordingly, none of the City's stakeholders can readily determine the probable success or failure of the City's proposals, or, related, the impact of those proposals on their interests.

27. Additionally, the Amended Disclosure Statement provides for revitalization spending of \$1.5 billion. (Sec. IX.A). This represents a \$250 million increase in spending over the amount provided for in the City's June 14, 2013 Proposal. (Sec. IX.A). The City provides no justifications for this additional and substantial spending, which otherwise could presently benefit existing creditors.

28. And in light of the City's infamous and long-standing reputation for financial and operational mismanagement, the City fails to address how it will managerially right the ship post-emergence. In that vein, the City acknowledges that "[s]ignificant labor cost savings may be achievable by rationalizing staffing levels and reducing employee headcounts. Consolidation of departments and elimination of redundant functions will be implemented where service improvements or cost savings can be achieved." (Sec. IX.B). The City assures that "[w]here cost savings or service improvements can be achieved, the City will explore potential outsourcing functions." (Sec. IX.B). Yet, without substantive detail, these statements are nothing but political platitudes. Departmental structures appear to mainly remain intact and privatization, regionalization, and public-private partnerships are not proposed for departments that could benefit from them, such as, but not limited to, Municipal Parking, Public Works, Recreation, Building and Safety, Planning and Development, Administrative Hearings, Information Technology Services and Workforce Development. (Sec.

IX.A). Indeed, there is nothing in the Amended Disclosure Statement that suggests that the City will not end up in the same position post-emergence that lead to its present predicament.

C. The Amended Disclosure Statement Fails to Provide Adequate Information in Support of Efforts to Monetize City Assets

29. The City provides no discussion in the Amended Disclosure Statement about how creditors are benefiting from monetization of the City's various assets (with the exception of the City's art held at the DIA and, even there, the details are inadequate, even misleading). If creditors are not benefiting from the monetization of assets, the City provides no explanation why not and on what legal bases the City may deny creditors additional recovery value.

30. For example, among others:

- The Amended Disclosure Statement makes clear that value derived from the City's world-class (and unencumbered) art collection (namely, the DIA Proceeds and payments pursuant to the State Contribution Agreement) will be designated solely for the recovery of holders of Pension Claims. But the Amended Disclosure Statement does not articulate why and how it is legally permissible that other unsecured creditors do not share in that property or that this private sale is in the best interests of creditors.
- The City avoids addressing why it is legally permissible for the City to transfer to the DIA all of the art collection — not just the art works Christie's valued, and all related real estate, buildings and other art assets, in exchange for an amount that is, in fact, lower on a present value basis than the lowest end of Christie's valuation range for only a subset of the art collection. (Plan Exhibit I.A.79).
- The Amended Plan very conservatively sets an assumed rate of return on the assets designated for Pension Claims, and proposes to share the anticipated

profits with the holders of Pension Claims by potentially restoring their benefits and/or reducing the City's future contributions to their pension plans. (Art. I. A.150, 204). For other unsecured creditors, the City offers no such "upside" participation. In the Original Plan, the City proposed to offer revenue-participation "C Notes," however, this component has been eliminated, and without explanation, from the Amended Plan.

- On November 12, 2013, the City and the State agreed to a lease whereby the State would lease Belle Isle Park from the City for 30 years. The terms of the lease are such that the State will invest between \$15 million and \$20 million to upgrade and repair portions of the park during the first three years of the lease. But, during that time, the City will continue to pay for Belle Isle Park's water and sewer services — an estimated \$1.5 million and \$2.5 million, respectively, per year. The City will retain no value in and will generate no revenue from the park. Furthermore, the receipts from \$11-per-vehicle "Recreation Passport," which will provide access to all of Michigan State parks, will be collected by the State, and not the City. The City fails to show that it had considered other, financially beneficial lease alternatives. Furthermore, the City provides no information in support of its lease agreement with the State or that this was the best way to maximize the value of this significant asset. (Sec. VIII.K.5).
- The City owns an estimated 22 square miles of land within the City limits. The City describes much of this land as vacant and overgrown. And without providing any valuations for such properties, the City states conclusively that the land has "limited present commercial value." (Sec. VII.A.5(b)). While this may be an accurate assessment of the land in its existing state, the City provides no valuations or any other information to support this sweeping declaration. And the City presents no view on the future value of the real estate assuming the City has a successful reboot. And it certainly appears again, without explanation, that the City is not minimizing creditor losses by looking to share with creditors the potential upside in the real estate.

D. The Amended Disclosure Statement Contains Inadequate Information Regarding Settlements

31. Much of the Amended Plan is predicated upon the consummation of certain settlements and agreements between the City and third parties. And yet, the

Amended Disclosure Statement provides little, if any, certainty regarding the likelihood that these transactions will come to fruition and when. Furthermore, the Amended Disclosure Statement provides mere outlines and summaries of these crucial transactions as placeholders for the specific terms and forms of documents that presumably do not yet exist, and that would provide creditors the need-to-know information to which they are entitled to make an informed judgment whether to accept or reject the Amended Plan.

32. Section IV of the Amended Disclosure Statement explains that the DIA Settlement is a means for implementing the Amended Plan. Indeed, the non-occurrence of the DIA Settlement would have a significant negative impact on the recoveries of Allowed Pension Claims. And yet, the true terms of the deal are absent from the actual body of the Amended Disclosure Statement.

33. A review of the DIA Settlement Term Sheet, which is tucked away among hundreds of pages of exhibits, indicates that the DIA settlement generates proceeds equal only to the *present value* (but payments are spread over 20 years) — so some small fraction— of \$466 million (the low end of Christie’s valuation range) for assets that go far beyond, and are worth far more, than what Christie’s valued. Nowhere in the body of the Amended Disclosure Statement does it specifically disclose that “[a]s a result of [the] settlement, at Closing, all right, title and interest in the *Museum Assets* shall be conveyed to The DIA to be held in

perpetual trust for the benefit of the people of the City and the State.” (Plan Exhibit I.A.79). Museum Assets includes all of the following:

1. the Museum Building;
2. the Frederick Lot;
3. the cultural center underground garage;
4. the (whole) art collection;
5. all assets of any kind located on or within the real estate described in 1-4 and used in the operations of the Museum including easements and property rights;
6. intangible property rights;
7. records, books, files; and
8. monies held by the City designated for the DIA.

(Plan Exhibit I.A.79, Exhibit A). The Amended Disclosure Statement does not explain and provides no information in support of why the present value of \$466 million over 20 years is fair consideration for property no doubt worth in the aggregate billions of dollars. In the absence of this information, which dictates what recovery, if any, the holders of Allowed Pension Claims and other unsecured creditors will or could receive and when, such creditors have far less than “adequate information” upon which to base a determination as to whether they should vote for or against the Amended Plan.

34. The Amended Disclosure Statement does not provide adequate information regarding the treatment of COP Swap Claims under the Amended Plan. The terms of the City’s proposed Swap Settlement are not provided for in the body of the Amended Disclosure Statement or as an exhibit to the Amended Disclosure Statement or the Amended Plan. Notably, the Amended Disclosure

Statement does not even describe what exactly the Swap Claims are that are being settled or the bases for their classification and impaired status. All that can be gleaned from the Swap Settlement for plan purposes is that it gratuitously attempts to create “[t]he existence of a significant impaired accepting class” that will “allow the City to confirm a plan of adjustment over a dissenting class vote.” (Swap Settlement Motion ¶ 6).

35. The Amended Disclosure Statement suggests that the PFRS and GRS Settlements described in the Original Disclosure Statement have been replaced by the “State Contribution Agreement,” which accounts for the settlement of Pension Claims. Still the Amended Disclosure Statement provides no documents or further information about the State Contribution Agreement. Of course, the Amended Disclosure Statement also fails to provide the status of the State Contribution Agreement, discussion of the inevitable approvals necessary and political hurdles to consummate the transaction and its effect on and/or relation to the DIA Settlement, which, according to the DIA Settlement Term Sheet is a condition to its effectiveness.

36. The Amended Disclosure Statement similarly fails to provide the form of Plan COP Settlement Documents. The Amended Plan provides that the “ ‘Plan COP Settlement’ means the comprehensive settlement regarding COP Claims on terms and conditions described in Section II.B.3.s.iii.A and definitively set forth in

the Plan COP Settlement Documents.” (Art. I.A.207). Although the Amended Plan states that settling claimants will be deemed to have an allowed claim equal to 40% of the aggregate unpaid principal amount of their COPs, the Amended Plan and Amended Disclosure Statement provide no further terms regarding the Plan COP Settlement, including those regarding which claims the Plan COP Settlement may release. (Art. II.B.3.s). Accordingly, holders of COP Claims and other creditors who are impacted by the Plan COP Settlement, are provided no meaningful way to understand the significance or value of this settlement or the proposed treatment of their claims under the Amended Plan.

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Conclusion

37. The Amended Disclosure Statement in its current form cannot be approved absent material amendments and modifications. Critically, the City's poor disclosure calls into question the real impact of its decisions on its citizens and other stakeholders. At various other stages in this case, the City has managed to limit or altogether avoid disclosure and yet still move forward with its aggressive confirmation schedule. But now the jig is up. The Amended Disclosure Statement must be denied. Due process, bankruptcy law and fundamental fairness require it.

38. For the foregoing reasons, Syncora respectfully requests that the Court deny the approval of the City's Amended Disclosure Statement.

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Dated: April 7, 2014

/s/ Ryan Blaine Bennett

James H.M. Sprayregen, P.C.

Ryan Blaine Bennett

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*Attorneys for Syncora Guarantee Inc. and
Syncora Capital Assurance Inc.*

Exhibit A

Presentation to the City of Detroit



One Firm WorldwideSM



Presentation to The City of Detroit

Detroit, Michigan

January 29, 2013

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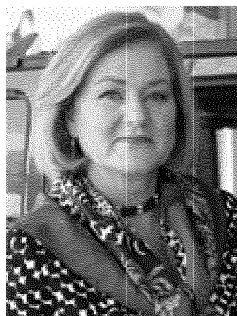
PART I – INTRODUCTION

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The Jones Day Team



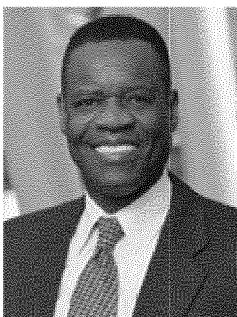
Stephen Brogan



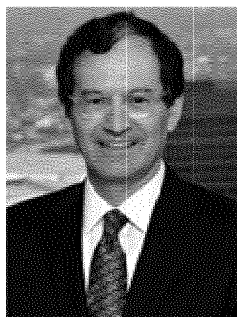
Corinne Ball



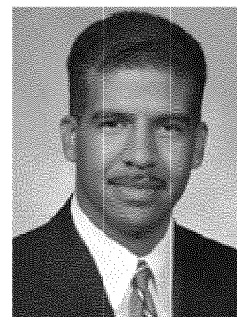
Heather Lennox



Kevyn Orr



Bruce Bennett



Aaron Agenbroad



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[Speaker Notes For Slide: 3]

The Jones Day Team:

Stephan Brogan
Corinne Ball
Heather Lennox
Kevyn Orr
Bruce Bennett
Aaron Agenbroad

[Brogan voiceover: Although I will not be heavily involved in the representation, I wanted to (i) provide my personal statement of Jones Day's commitment to this project and (ii) highlight the qualities of the team members that will manage this project on a day-to-day basis.]



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Jones Day's Qualifications and Commitment

- **Midwestern Roots – Continuing Presence and Practice**
- **Substantial Ties to Michigan and the 6th Circuit**
- **Belief in the Importance of a Strong Detroit**
- **Unsurpassed Expertise Where Detroit Needs It**
- **Historical Focus on Teamwork and Collaboration**
- **Know and Work Well With City's Other Advisors**
- **Firm-Wide Commitment to Detroit**



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[Speaker Notes For Slide: 5]

Jones Day's Commitment to the Detroit Project

Jones Day's roots are in the Midwest and a large part of our practice is centered there.

Many of Jones Day's clients are based in Detroit and in Michigan.

(Over 100 Michigan-based clients in the past 2 years.)

Long-standing representation of GM.

Special benefits counsel to, and good contacts with, Blue Cross of Michigan.

25 lawyers were 6th Circuit Clerks.

27 lawyers were clerks in federal courts in the 6th Circuit (Ohio, Michigan, Tennessee, Kentucky).

28 lawyers were US Supreme Court Clerks.

116 lawyers have one or more degrees from Michigan institutions (including 98 lawyers with 111 degrees from the University of Michigan alone).

We believe that a strong Detroit is vital to the state, the region and the country.

Jones Day has unsurpassed expertise and capabilities in the areas of greatest importance to Detroit and would be honored to be called upon to help.

Jones Day has a longstanding reputation for teamwork and collaboration, both within our own organization and when working with clients, related parties and other professional firms.

This strength will be particularly important in this matter.

We know and can work well with the other advisors retained by the City and it will be critical that everyone pulls together in the same direction.

When a client engages Jones Day, it engages the entire firm, and this would be regarded as an engagement of utmost importance for the firm as a whole.

We are committed to providing whatever resources are needed to advance Detroit's restructuring goals.

The City will have the support of each and every part of the Firm.

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PART II – GENERAL OBSERVATIONS

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7




[Speaker Notes For Slide: 7]

Jones Day's Priority for Today's Meeting

It is much more important that we discuss issues the City, the State and the FAB want to discuss rather than issues that we have identified.

We are prepared to walk through the presentation and invite dialog along the way, but are also prepared to put our presentation to one side and cover topics that interest you and address your questions and concerns.

We have studied Detroit's situation extensively and we have some preliminary views on a path forward.

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Detroit's Substantial Progress

- **Improved Cash Flows**
- **Significant Headcount Reduction**
- **Implementation of CETs**
- **Planning to Address Pension/OPEB**
- **Payroll Systems Outsourcing**
- **Public Lighting Authority**
- **Regional Transportation Authority**
- **Initiatives to Drive Revenue/Reduce Expenditures**



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[Speaker Notes For Slide: 9]

The City, working with the FAB and the State, already has made substantial progress in addressing its financial challenges.

Improved Cash Flows (Expected improvement of ~\$62MM in FY 2013)

Significant Headcount Reduction (from ~12K in Nov. 2011 to ~10K in Nov. 2012)

Implementation of CETs (Despite delays, large majority of CETs are in place)


Planning to Address Pension/OPEB (e.g., recently closed the Police & Fire Retirement System to new employees, retention of Milliman to assist in revamping benefits for retirees and active employees)

Payroll Systems Outsourced

Public Lighting (Public Lighting Authority established; rate increases)

Regional Transportation Authority (authority established; new funding committed)

Initiatives to Drive Revenue or Reduce Expenditures (Belle Isle lease to the state, funding support for new arena and commercial development via Detroit Downtown Development Authority, grant and loan support for Detroit's Eastern Market through the Community Revitalization Program)

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Formidable Challenges Remain

- **Substantial Debt (Bonds, POCs, Swaps)**
- **Pension/OPEB Liabilities**
- **Labor Issues (Costs, Work Rules)**
- **Detroiters' Quality of Life/Redevelopment of the City**
- **Development of Multi-Year Budget**
- **Reversing Economic Trends**
- **Encouraging New Investment in Detroit**
- **Political Obstacles to Reform**
- **EPA/Clean Water Act Case**
- **High Unemployment and Crime Rates**



[Speaker Notes For Slide: 11]

Notwithstanding the foregoing, many challenges remain.

Debt and related obligations (e.g., swaps)

Pensions and other retiree benefits (OPEB).

Labor costs, work rules and related issues.

Implementation of strategies to improve Detroiters' quality of life and redevelop the City.

Development of multi-year budget upon which restructuring can be based.

Identification of further options for saving/raising funds and stabilizing revenues (reversing trends) and encouraging new investment in Detroit.

Political obstacles to reform.

EPA and Clean Water Case before Judge Cox.

High unemployment.

High crime rate.

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Out of Court Solutions Are Preferred

- **Benefits of Well Planned Out-Of-Court Restructuring**
 - **Less Disruptive**
 - **Less Publicity**
 - **Less Expensive**
 - **Less Reputational Damage**
 - **Less Political Impact**
- **Consensus or Near Consensus Necessary for a Successful Out-of-Court Restructuring**
 - ***Extremely Difficult to Achieve in Practice***

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[Speaker Notes For Slide: 13]

A well planned and carefully implemented effort to resolve Detroit's difficulties out of court is vitally important for several reasons:

An out-of-court solution is preferable for a number of reasons.

Less disruptive.

Less publicity during process.

Less expensive.

Less damage to City reputation.

Less political impact.

An out of court solution requires consensus or near consensus of affected constituencies.

This is extremely hard to achieve in practice.

Note: Could mention the possibility of a moratorium on payments being negotiated in support of an out of court solution.

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Impact of Possible Emergency Manager Appointment

- **Expansive Power**
 - **Power of City Government**
 - **Ability to Reject, Modify or Terminate CBAs**
 - **Ability to Commence Chapter 9 Filing Quickly, if Warranted**
 - ***Can Create Negotiating Leverage (Negotiating with the Backdrop of Bankruptcy)***
- **Hot-Button Political Issue**
- **Relationship With Elected Officials Must Be Established**
- **Possible Legal Challenges (Delay and Risk)**



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[Speaker Notes For Slide: 15]

Appointment of an Emergency Manager may offer the City greater powers to address some issues.

The appointment of an Emergency Manager could impact the City's restructuring efforts in a number of ways:

Expansive powers over all aspects of City government could be used to promote and expedite restructuring (e.g., budget; procurement; contracts; labor negotiations; ability to adopt ordinances related to financial condition).

Could streamline certain political/bureaucratic/legal requirements to restructuring activities.

Ability to reject, modify or terminate CBAs under certain circumstances.

Ability to commence chapter 9 filing quickly under PA 72 and PA 436 (assuming State approval).

Emergency manager powers can create negotiating leverage (negotiating in the backdrop of bankruptcy).

Hot-button political issue.

Potentially unpopular option with certain segments of the public, unions, other stakeholders.

The Emergency Manager's relationship with elected officials would have to be developed.

Ultimately, the Emergency Manager could be used as political cover for difficult restructuring decisions.

Appointment of an Emergency Manager could result in legal challenges (e.g., federal & state constitutional challenges)

Could delay progress until resolved

Could lead to challenges of the legality and enforceability of any actions taken by the Emergency Manager.

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Out-of-Court Plan Should Contemplate the Possibility of Chapter 9

- **Simplify and Shorten Any Chapter 9 Case, if Out-of-Court Effort Fails**
 - **Out-of-Court Agreements Can Be Used in Chapter 9**
- **Creates Leverage in Creditor Negotiations**
 - **Negotiating in the Shadow of Chapter 9**
 - **Motivate Municipal Bond Market Participants**
- **Bolster Eligibility for – and Success in – Chapter 9 By Establishing Good-Faith Record of Seeking Creditor Consensus**



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[Speaker Notes For Slide: 17]

Any restructuring plan should be designed so that it could be implemented in a chapter 9 case, if necessary.

Even if an out-of-court plan cannot be implemented, agreements that are reached can form the basis for a chapter 9 plan of adjustment, thus simplifying and shortening any chapter 9 case.

Creditors understand that a troubled municipality has greater leverage in a chapter 9 case. Accordingly, developing an out-of-court restructuring plan that can later be implemented in chapter 9 if necessary can create leverage in favor of a negotiated deal.

This is particularly the case if an Emergency Manager is appointed because the threat of a chapter 9 filing – including a potential moratorium on payments – will be more tangible, and possibly more imminent.

The combination of an Emergency Manager and a proposal that could be implemented in chapter 9 could be the most effective way to motivate investors in the municipal bond market.

A good-faith effort to pursue an out of court restructuring plan will establish a clear record of seeking creditor consensus before seeking chapter 9 relief.

This will deflect any eligibility complaints based on alleged failure to negotiate or bad faith.

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If Chapter 9 Needed, Planning Is Key

- Any Bankruptcy Filing Should Be Accompanied By:
 - Fully Developed Plan of Adjustment / Detailed Term Sheet
 - OR-
 - Clearly Articulated, Reasonable Restructuring Plan, Already Shared with Creditors

This approach will help demonstrate that Chapter 9 was commenced to facilitate realistic solutions to problems. Chapter 9 is not an additional symptom of those problems.



[Speaker Notes For Slide: 19]

If a chapter 9 case becomes necessary, the commencement of a bankruptcy should be accompanied by either:

(1) A fully developed Plan of Adjustment or detailed term sheet for a Plan of Adjustment

– or –

(2) A clearly articulated, reasonable plan for resolving the City's financial difficulties – previously discussed with key constituencies – that can quickly be incorporated into a Plan of Adjustment.

~ ~ ~

This approach is intended to allow the City to describe a chapter 9 case as facilitating realistic solutions for the City's problems and not as an additional symptom or symbol of the intractability of those problems.

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PART III – INITIAL **PLANNING CONSIDERATIONS**

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Establish Long-Term Goals and Promote Inclusiveness

- Reach Consensus of City Team on Long-Term Goals and Steps to Achieve Them
- Then, Include All Constituents in Planning and Negotiations
 - Obtain – and Seriously Consider – Input From All Sources
 - Defuse Political Opposition Through Listening and Documentation
 - Establish Sub-Teams for Key Issues
 - Coordinated "Hub-and-Spoke" Approach: Sub-Teams Report to Central Hub
 - Establish a Strong Record of Inclusiveness and Consideration of All Options
- *The City (both the Office of the Mayor and City Council), the State and the FAB should strive to coordinate their efforts in all respects. Any differences and tensions among these groups can and will be exploited by adversaries.*



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[Speaker Notes For Slide: 22]

Set Long-Term Goals and Build a Strategy of Inclusiveness

A key to a comprehensive restructuring plan will be to reach consensus at the City (in consultation with its advisors, the FAB and the State) on the restructuring steps needed to achieve a durable long-term solution to the City's issues.

Thereafter, as many constituents as possible should be included in planning and negotiations.

Input should be obtained from all sources, documented and treated seriously, even if proposals appear unrealistic. Good listening skills are helpful. This can help defuse political opposition.

Sub-teams can be established by the City and its advisors to address particular issues (labor, pension/benefits, asset sales, redevelopment, capital markets, etc.).

Individual groups can report regularly to central core team of key officials and advisors (i.e., the Hub).

Jones Day often uses this Hub-and spokes approach to manage a complex restructuring efficiently and in a coordinated manner.

Establish a strong record (i.e., for future litigation) of (i) inclusiveness with respect to all constituencies and (ii) consideration of all options and proposals received.

The City (both the Office of the Mayor and City Council), the State and the FAB should strive to coordinate their efforts in all respects. Any differences and tensions among these groups can and will be exploited by adversaries.

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Multi-Year Budget: Set Spending Priorities Within Realistic Revenue Projections

- **Basis for Any Restructuring Agreements**
 - **Build on Budget Work to Date**
 - **Identify All Revenue Sources (Including Future Sources)**
 - **Strive for Conservative/Achievable Revenue Estimates**
 - **Incorporate Cost Savings from Outsourcing and Other Initiatives**
- ***The Budget should include funds needed to assure the proper functioning of the City and appropriate investments to revitalize the City over the long term.***



[Speaker Notes For Slide: 24]

Set spending priorities within realistic revenue projections.

A multi-year budget that includes revenue and expense projections will be the basis for determining amounts available for distribution to creditors – critical to any restructuring agreements in or out of court.

Jones Day understands that substantial work has been done in this area, and that this is a major challenge.

The City must create credibility in the face of an unsettled revenue picture.

All revenue sources should be identified, including future sources (such as monetizing assets or reallocation of state/county revenue).

At the same time, the City should strive for realistic (conservative) revenue projections to assist in planning and build credibility.

Cost savings through additional outsourcing and other initiatives should be incorporated where reasonable (e.g., exploration of regionally-based options/alternatives).

This Budget should include funds needed to assure the proper functioning of the City and appropriate investments to revitalize the City over the long term.

Projected revenues should be targeted to reinvestment where possible, with a mechanism to cover shortfalls as necessary (e.g., business, state or federal partnerships).

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Prepare to Defend the Budget

- **Defend Spending at Levels Needed to Assure Long-Term Viability**
 - **Focus on "Who Does Detroit Serve?"**
 - **Establish Case for Reinvestment**
 - **Defend Against Calls for Expense Reduction and Monetizing Assets to Pay Creditors**
- **Characterize Detroiters as "Customers "**
 - **Must Treat Citizens with Respect**
 - **Attractiveness of City to Residents and Businesses is Key**
- **Restructuring is About Revitalization, Not Just Creditor Recoveries**



[Speaker Notes For Slide: 26]

Prepare to Defend the Budget.

The Budget will have to be defended against creditor criticism that it provides for excessive expenditures in light of the city's financial circumstances. We are prepared to build this case and address any concerns, including Constitutional or other legal challenges.

Although there is not much law in this area, Jones Day believes that the City can defend a decision to spend revenues at a level necessary to assure that the City functions properly and can attract residents and businesses.

Focus on "Who does Detroit serve?"

The citizens of Michigan benefit from a revitalized Detroit serving as an engine/economic driver for the state economy.

Need to establish a credible case that stability and restoration are key elements of reinvestment in Detroit.

At the same time, need to defend against approaches that focus on expense reduction and monetizing assets to pay creditors.

This will require daily coordinated effort of the City and its advisors, in further collaboration with the State.

We learned this lesson from Orange County – daily collection of information, discussion of core group, documentation of actions taken or considered and communication are key.

City should characterize its residents as "customers," a class of constituents that ordinarily is accorded significant benefits in business reorganizations.

Creditors may attempt to characterize residents as the "owners" or "voters" who should make sacrifices to facilitate payment of creditor claims.

The changes in the population of the City indicates that citizens can "vote with their feet" by leaving. A viable restructuring for a strong and vibrant Detroit must treat its citizens with respect, just as a successful business in the private sector treats its customers.

But also must focus on "absentee" customers to obtain City services without contributing sufficiently to the City.

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Explore All Avenues to Pay Creditors

- Creditors (and any Bankruptcy Court) Expect Reasonable Efforts to Minimize Shortfalls to Creditors
- Must Explore Long List of Options for Saving or Raising Money
 - Raising Taxes and Fees
 - Non-Core Asset Sales
 - Reducing Expenses
 - Borrowing Options
 - Pay-Per-Use Taxation
 - Regional Solutions
- Any Savings Must Be Consistent with the City's Revitalization Plans

A record should be established that all avenues have been explored to minimize the concessions sought from stakeholders, to bolster the notion of shared sacrifice and to support the City's case for debt reduction if a Chapter 9 ultimately is commenced.



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[Speaker Notes For Slide: 28]

Creditors – and ultimately the Bankruptcy Court if a chapter 9 case is filed – will expect that the City exert reasonable efforts to reduce or eliminate any shortfall in amounts available to pay creditors.

Must find the right way to fix the deterioration in the City's balance sheet, including the rate and maturity of debt.

Recent events have driven to too much short term debt (for a municipality).

Must be able to assure both municipal debtholders and legacy creditors that this is not just a process of imposing more undesirable terms.

In practice, the City will be required to develop long lists of options for saving or raising money, evaluate the practicality of each of the options identified and pursue promising approaches.

In past cases, creditors have suggested:

Raising taxes and fees.

Selling assets creditors deemed to be excess or not required.

Reducing expenses.

Borrowing against revenue streams generated by municipal assets.

Borrow surplus amounts in funds administered by the municipality

Revenue enhancement alternatives should be explored, encouraged and defended, even in a chapter 9 setting. For example:

Pay-Per-Use Taxation. Consider implement pay-per-use taxation model as (1) impetus for voluntary compliance with "Core Detroit" infrastructure and service rationalization initiatives and/or (2) means to capture revenue from surrounding suburban communities that have historically expanded as Detroit's city center shrunk.

Regional cooperation/solutions also should be explored.

Any savings ultimately must be consistent with the plans to revitalize Detroit.

A record should be established that all avenues have been explored to minimize the concessions sought from stakeholders, to bolster the notion of shared sacrifice and to support the City's case for debt reduction if a chapter 9 ultimately is commenced.

Even in chapter 9, all pre-bankruptcy efforts should be highlighted to demonstrate the City's good faith efforts to resolve issues.

This also will help drive a model of equitable shared sacrifice of all stakeholders.

Given initiatives underway relating to labor and benefits, it appears that the municipal bondholders, swap participants and monoline insurers likely will be the last contributor and must understand the entire picture of sacrifices obtained over time.

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Exploring Creditor Recoveries: Challenges and Lessons Learned

- **Raising Taxes: Difficult and Possibly Counterproductive**
 - **Tax Relief May Be Needed to Promote Investment**
- **Asset Sales Pose Challenges to Generating Substantial Revenue**
 - **Sales of Assets to Pay Creditors May Not Promote Revitalization**
- **Reducing Expenditures Should Not Undermine Restructuring Goals**
- **Borrowing May Be Limited by Legal Restrictions**

Notwithstanding any challenges, the City will have to demonstrate to interested parties that all of these alternatives, and perhaps others, have been fully and fairly evaluated.



[Speaker Notes For Slide: 30]

In Jones Day's experience:

Raising additional taxes, particularly given the economic hardship in Detroit, may be difficult (if not impossible) and may be counterproductive. In fact, an evaluation of means to increase private investment dollars in Detroit suggest the need for tax relief and incentives.

Efforts by municipalities to sell or monetize asset often pose challenges to generating material value.

Disputes over the use of proceeds can undermine the benefits of an asset sale, while eroding the municipality's asset base.

Notwithstanding the foregoing, there are exceptions and unique and creative structures for asset monetization can and should be explored.

Working with the State to maximize asset revenues and cut costs could be a viable alternative to asset sales.

Regional initiatives also could be explored (joint redevelopment, sharing of services, joint purchasing arrangements).

Note: Asset monetization outside of bankruptcy may implicate eligibility requirement that City be insolvent (e.g., measured by short-term cash).

Troubled municipalities have reduced expenditures repeatedly even before financial difficulties become acute. That is true in Detroit, but additional reductions should be evaluated where feasible without undermining the City's restructuring goals.

Given the recent sacrifices already imposed on employees and legacy creditors, the City should focus prompt attention on municipal debtholders and investors who have in some cases improved their positions.

Borrowing surplus amounts in funds administered by the municipality is complicated by State and/or Federal restrictions encumbering such funds.

Using proceeds of borrowings against revenue streams to pay City obligations is also affected by laws restricting use of the underlying assets and revenue streams.

Notwithstanding any challenges, the City will have to demonstrate to interested parties that all of these alternatives, and perhaps others, have been fully and fairly evaluated.

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Equitable Shared Sacrifice Among Creditor Groups

- **Equitable Does Not Mean Equal**
 - **Parties Have Different Rights and Protections (Constitutional, Contractual, Legal)**
- **Tension Between Employees/Retirees and Bondholders/Investors**
 - **Employee/Retiree Sacrifices Must Be Sufficient, but Should Not Undermine Ability to Recruit and Retain**
 - **Employees and Retirees Already Have Made Sacrifices, While Municipal Debtholders Have Improved Position**
 - **Should Look at Entire Restructuring Process: Equality of Sacrifice Cannot Be Measured at a Single Point in Time**
- **Legal Uncertainty Regarding Sixth Circuit Treatment of Legacy Claims**
- **Consider Expanding Sacrifices Regionally**

The City will have to develop a proposal for dealing effectively with the issues of equitable sacrifice.



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Allocation of Sacrifice Among Competing Creditor Groups

In general, under United States bankruptcy law, including chapter 9 of the Bankruptcy Code, amounts available for distribution to creditors must be allocated in an equitable manner. "Equitable" generally means equally unless there are meaningful distinctions among the rights of competing creditors.

Recent chapter 9 cases and out of court negotiations involving troubled municipalities have involved significant disputes about whether or not workforce related claims (including claims for pension and other retiree benefits) should have some form of priority over claims for borrowed money and other commercial claims.

Pension and employee benefit commitments often are included in executory contracts. This reality may also permit some kinds of distinctive treatment from other creditor claims. In that regard, cuts in employee benefits and wages should be reasonably calibrated so that Detroit civil service compensation is market appropriate: cuts should not be so severe that the City cannot attract and retain qualified civil servants.

While legacy creditors are already being asked to make sacrifices, and have done so over the past number of months, municipal debt investors have been improving their positions. Municipal bondholders, swap participants and monoline insurers must be asked to make sacrifices compared to legacy creditors over an extended look back period. Equality of sacrifice cannot fairly be measured at a single point in time.

Tensions between statutes that protect the rights of municipal employees and the ability of municipal debtors to impair collective bargaining agreements have led to differing outcomes in bankruptcy court.

Outside of bankruptcy, Michigan employees enjoy certain constitutional protections for benefits (primarily accrued pension benefits). These protections have analogues in Michigan statutes and Detroit regulations, separate and apart from protections that may be included in CBAs, but are nevertheless considered "contractual" promises. Section 365 of the Bankruptcy Code – which is applicable to Chapter 9 proceedings – would provide Detroit with the ability to evaluate all of its "executory contracts" (including CBAs). Moreover, certain stringent restrictions on the rejection of CBAs otherwise applicable in bankruptcy do not apply in chapter 9.

Sections 903 and 904 of the Bankruptcy Code protect the power of a State to control municipalities and prohibit bankruptcy courts from interfering with the governmental power of the debtor. These provisions can be read to limit the ability of bankruptcy courts to disregard state law within chapter 9.

Thus, bankruptcy courts presiding over chapter 9 proceedings have reached differing conclusions with respect to the extent to which state laws protecting employees impact a debtor's ability to address CBA or other contractual benefits issues.

>> For example, in Orange County, certain county employee coalitions successfully prevented the debtor from modifying CBAs in a manner inconsistent with California law in connection with certain seniority rights.

>> On the other hand, in Vallejo, the bankruptcy court held that the filing of a Chapter 9 petition effectively foreclosed the application of state law in the CBA context. The Stockton court generally seconded Vallejo's approach regarding the primacy of federal law in chapter 9 in upholding the debtor's ability to reduce contractual OPEB benefits.

It is unclear whether bankruptcy courts within the Sixth Circuit – perhaps the most pro-union Circuit in the nation – would adopt the Orange County or the Vallejo/Stockton approach to incorporation of state law into chapter 9 proceedings.

The City also could look to expand sacrifices regionally, particularly in connection with shared services and shared benefits. Pursuing regional sacrifice may generate untested legal issues.

The City will have to develop a proposal for dealing effectively with the issues of equitable sacrifice.

PART IV – COMPONENTS AND **CONSIDERATIONS FOR RESTRUCTURING PLAN**

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Key Plan Components

- **Pensions and Benefits**
- **Labor**
- **Municipal Debt**
- **Funds for Reinvestment**

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Contrasting Approaches in Recent Chapter 9 Cases

- **Stockton, California**
 - Continued Pension Contributions to CalPERS as Protected by State Law
 - Ceased Retiree Health Plan Premiums
 - Proposed Impairment of Certain Bond Debt, Pensions Unimpaired
 - Restructuring Opposed by Municipal Bondholders
- **San Bernardino, California**
 - Ceased Pension Contributions to CalPERS, Seeking Impairment
 - Restructuring Opposed by CalPERS and Labor, and Supported by Municipal Bondholders
- **Central Falls, Rhode Island**
 - New State Law Created Lien in Favor of Municipal Debt Service Payments
 - Bondholders Paid 100%; Pensions/Benefits Sharply Cut
 - Policy to Favor Investors and Protect Credit Ratings



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Pensions and Benefits in pending California cases

The City of Stockton (population 300,000) and the City of San Bernardino (population 215,000) filed chapter 9 cases within a month of each other in mid-2012.

Like many California municipalities, both cities have very large liabilities in respect of unfunded pension and employee benefit obligations. However, each has taken a different course of action with respect to those liabilities.

Upon filing for bankruptcy, San Bernardino ceased contributions to the California Public Employee Retirement System (CalPERS) for amounts due in respect of unfunded pension obligations (both pre- and post-bankruptcy filing), and indicated that it intends to impair the claims of CalPERS like any other unsecured claim in the bankruptcy case.

Stockton, on the other hand, has continued making contributions to CalPERS and vowed to leave all CalPERS claims (the largest claims in the case) unimpaired under any plan of adjustment.

Stockton – supported by CalPERS – asserts that its obligations to CalPERS are mandated by state law and cannot be impaired in a chapter 9 case due to the limitations of sections 903 and 904 of the Bankruptcy Code.

Interestingly, Stockton has ceased paying retiree health care premiums related to promised health care benefits. Upon motion by the retirees to seek to force the city to resume such payments, the bankruptcy court issued a lengthy and important opinion touching on many questions of state sovereignty and supremacy of bankruptcy law, ultimately holding that section 904 of the Bankruptcy Code prohibited the court from granting the requested injunction against the city. In re City of Stockton, 478 B.R. 8 (Bankr. E.D. Cal. 2012). The effect of the court's opinion was to leave the retirees without a remedy, except for negotiating their treatment under the chapter 9 plan of adjustment.

The Stockton and San Bernardino cases are proceeding along parallel but opposite tracks.

In San Bernardino, due to the city's cessation of contributions to CalPERS, both CalPERS and labor groups have objected to the city's chapter 9 petition and argued, among other things, that the city will be incapable of confirming a plan of adjustment that impairs the CalPERS claims. Bondholders and bond insurers have responded in support of the city and in opposition to the CalPERS and labor objections.

In Stockton, due to the city's statement that it will not seek to impair CalPERS (and instead will seek only to impair bondholders and other unsecured creditors), it is the bondholders and bond insurers who have objected to the city's chapter 9 petition, arguing among other things that the city will be unable to confirm a chapter 9 plan of adjustment that does not impair the CalPERS claim. CalPERS has responded in support of the city and in opposition to the bondholders and bond insurers.

The cases likely will produce one or more decisions that touch upon the role and efficacy of state pension and labor law in a chapter 9 case and, when appeals ensue, ultimately may produce circuit-level authority regarding whether or not federal bankruptcy law governs in this context.

~ ~ ~

In Rhode Island, a municipality effectively accorded priority to borrowed money creditors.

Central Falls, Rhode Island filed for chapter 9 protection in August 2011, suffering from structural budget deficits and burdensome/unpayable pension and retiree benefit obligations.

Legacy Creditors – Pensions and OPEB

- **Unfunded OPEB and Pension Liabilities Pose Challenges**
 - **Unfunded OPEB Liabilities Pose the Greater Challenge**
- **Pensions Have Substantial Underfunding, but Also Significant Plan Assets**
 - **OPEB is Much Larger and Unfunded**
 - **Health Premiums Exceed Debt Service on General Obligations**
- **Equitable Restructuring of Legacy Obligations Possible**
 - **Fewer Legal Protections for OPEB Than Pensions**
 - **Pensions Constitutionally Protected, but Reasonable Changes Possible**
- ***Formulation of Unified Labor Negotiation Strategy Critical to Success***



[Speaker Notes For Slide: 38]

Legacy Creditors (Pensions and OPEB)

Detroit has significant OPEB liabilities and unfunded pension liabilities (i.e., unfunded actuarial accrued liabilities reported as approximately \$5.7 billion and \$643 million, respectively).

Recent work by Milliman suggests that unfunded pension liabilities are substantially greater than \$643 million and may exceed \$2 billion.

Given the magnitude of these liabilities, sound and long-term restructuring of Detroit's obligations will require across the board sacrifice from legacy creditors.

As between pension and retiree health (OPEB), OPEB poses the greater liability challenge. Pensions have substantial underfunding, but also significant plan assets; by contrast, there is no funding of OPEB and it is a significant cash drain. The City's annual health premiums far exceed principal and interest payments on general obligations.

Tools are available for an equitable restructuring.

OPEB has less legal protections under state law than pensions, providing a greater ability to cut and equitably restructure.

Pensions have certain state constitutional protections, but reasonable pension changes may be made that avoid the legal strategy of having to argue that federal bankruptcy law under chapter 9 overrides state constitutional protections.

Formulating a unified labor negotiation strategy will be critical to success. The benefit structure should be holistically analyzed to determine what changes are appropriate and necessary and can be rationally justified by other retained benefits.

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Potential Pension Reform Initiatives

- **Jones Day Has Significant Public and Private Pension Experience**
 - **We Know, Respect and Are Prepared to Work with the City's Other Advisors on Benefit Issues**
 - **Plan Must Be Developed Collaboratively Between City and Its Advisors**
- **A Framework for Pension Reform Could Include the Following Elements:**
 - **Require All New Employees to Participate in DCPs, Rather than DBPs**
 - **Prospectively Eliminate COLAs for active members**
 - **Raise Retirement Ages, Reduce Early Retirement Subsidies**
 - **Consider Changes to Secondary/Ancillary Features of DBPs**
- ***We believe that existing basic pension formulas can be preserved for current active members while saving significant sums for Detroit***



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[Speaker Notes For Slide: 40]

Potential Pension Reform Initiatives.

We understand that the City has engaged other pension and benefit experts on these issues.

We know, regularly work with and respect the City's other advisors and would look forward to working with them to refine the recommendations to fit within a restructuring or chapter 9 strategy.

We have significant public pension experience, and well know the differences between federally-regulated private sector arrangements and public plans.

We have begun the process of evaluating the pension issues facing the City. Any plan would need to developed based on the collaborative work of the City and its advisors after further review. Based on what we know, and our experience in other matters, we believe a framework for pension could include the following elements:

Require all new employees to participate in defined contribution plans, rather than defined benefits plans.

Prospectively eliminate COLAs for all active members.

Raise retirement ages for certain employees, reduce early retirement subsidies.

Additional changes to secondary and ancillary features of defined benefit pension arrangements.

Proposed changes could allow most existing basic pension formulas to be preserved for current active members while saving significant sums for the City. But legislative action – e.g., amendment to the City Charter and Ordinances – may be necessary to achieve certain of these changes.

If needed, chapter 9 could be used as a means to further cut back or compromise "accrued financial benefits" otherwise protected under the Michigan Constitution.

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Potential OPEB Reform Initiatives

- **Evaluate Benefits of De-linking Retiree Health Plan from Active Employee Health Plan Design and Contribution Structure**
- **Design of a New Replacement OPEB Plan Could Include the Following:**
 - **Increase Retirement Age**
 - **Transition Younger Retirees to State-Based Exchanges and Federal Subsidies under Affordable Care Act**
 - **Increase Use of the Medicare Programs – Part A, Part B, and Part D**
 - **Impose Reasonable Retiree Premiums (For Existing Retirees, Link to COLAs)**
 - **Audit Records to Cut Off Funding to Unqualified Dependents**
 - **Consider Defined Contribution Model for Future Retirees**
- **Consider Funding of OPEB through Tax-Exempt Trust**
- **Evaluate Required Scope of Coverages under City Code**
- **Be Prepared for Argument that Adverse 6th Circuit Law Applies**
 - **6th Circuit Adverse Cases Involve Private Sector Plans, but Unions Likely Will Argue They Are Applicable Here**



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[Speaker Notes For Slide: 42]

Potential OPEB Reform Initiatives.

We have begun the process of evaluating the OPEB issues facing the City. Any plan needs to address both the long-term OPEB liability, and the significant annual cost for coverage. This would need to be developed based on the collaborative work of the City and its advisors after further review. Based on what we know, and our experience in other matters, we believe a framework for OPEB obligations could include some or all of the following elements:

The City Should Evaluate "De-Linking" of Benefits Under Retiree Health Plans from Plan Design and Contribution Structure for Active Employees. Linking OPEB benefits to plan for active employees generates large inefficiencies and costs. It will be more difficult to address the \$5.7 billion underfunding of OPEB benefits without severing this link.

Design New Replacement OPEB Plan

Retiree healthcare currently is provided to many younger individuals who are not objectively recognized as retirees. Modifications could increase retirement age to cover only "true" retirees (as opposed to persons in their 40s), to decrease costs and transition younger retirees to state-based exchanges (based on residence) and available federal subsidies under Affordable Care Act.

Better use of the Medicare programs – Part A, Part B, and Part D (drug benefits) to provide the fundamental coverage to true retirees.

Impose reasonable retiree premiums; link retiree premiums to pension COLAs.

Audit records to cut off funding of benefits to ineligible dependents.

Consider defined contribution model for retirees.

Also Consider Funding of OPEB through a Tax Exempt Trust

Available in the non-ERISA, governmental plan setting based on existing IRS guidance (e.g., Private Letter Ruling 201136007; September 9, 2011).

Provides more flexibility than a VEBA, but still need cash or other assets to fund such a trust, so this may not be a viable approach.

Language in the Detroit City Code establishing the OPEB obligations may allow argument that the scope of currently offered coverages is not required.

Also, unlike accrued pension benefits, OPEB obligations are not constitutionally protected.

Must be aware, and wary, of Sixth Circuit law that is favorable to unions/retirees and adverse to actions the City may wish to take.

Much of the most concerning Sixth Circuit law is predicated on federal ERISA and the Labor Management Relations Act (relating to private sector plans), which are inapplicable to municipal plans.

But we should anticipate an argument that this reasoning should be applied as a matter of state law to municipal plans, and the City should be prepared for that.

Chapter 9 could be used, or threatened, as a means to accomplish a compromise of benefit costs (rejecting contracts or compromising claims).

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Labor Issues

- **Renegotiation of CBAs Must Focus on Economic Stability**
- **Immediately Conduct Supporting Financial Analysis**
 - **Establish Necessary Savings**
 - **Demonstrate Fair Allocation Between Personnel and Non-Personnel Costs**
- **Demonstrate a Commitment to the Unions That They Are Partners**
 - **Demonstrate That Near-Term Sacrifices Provide Long-Term Benefits**
- **Formulate Easy-to-Understand Messages for Membership/Public**
- **Consider Need to Amend City Charter and Code, or other Legislative Action, for Pension/OPEB Changes**



[Speaker Notes For Slide: 44]

Labor

Renegotiating collective bargaining agreements to terms that provide economic sustainability will be key to the City's recovery.

Financial analysis must be conducted at the outset – and must be unimpeachable – to show the savings needed and how those necessary savings are being allocated between personnel vs. non-personnel related costs.

Will need to demonstrate a commitment to unions that they are partners in this process and the near term sacrifices will provide longer term benefits to their members (preservation of jobs – a return to financial health for Detroit).

In addition to conveying these economic needs at the bargaining table, we must be prepared to provide simple, easy to understand messaging to the membership and the public.

City charter and ordinances governing pensions may provide an additional hurdle that will need to be overcome via legislative amendment. Renegotiating collective bargaining agreements will not automatically supersede ordinances and charter. There appears to be somewhat more flexibility on the retiree medical expenses, but here too there may be a need for legislative action.

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Municipal Debt – Overview of Approach

- **Viable Threat of Chapter 9 is Critical**
 - **Only Chapter 9 Allows Non-Consensual Impairment of Municipal Debt**
- **Fair Sacrifice Needed from Municipal Debtholders**
 - **Employees/Retirees Already Sacrificed (and May Again)**
 - **Investors Accepted City's Credit and Were Compensated for Risk**
 - **Investors Have Adjusted Credit Terms to Their Benefit as City's Finances Worsened**
- **City Should Make Clear That It is Not Prepared to Dedicate Scarce Resources to Prefer Debtholders over Residents, Businesses and Revenue-Driving Activities**
- **Refinanceable Bond Debt Presents a Unique Opportunity**
 - **Potential for Advantageous Fixed Rates Over an Extended Term**



[Speaker Notes For Slide: 46]

Municipal Debt [Emphasize Jones Day's significant expertise/experience with respect to municipal finance, a core competency that may separate Jones Day from other firms.]

Chapter 9 is only real mechanism to impair significant debt without consent, so the viable threat of chapter 9 is critical especially to deal with municipal debtholders. This creates real leverage.

Sacrifice by municipal debtholders is important, especially since employees and retirees have already made real personal sacrifices, and may be asked for more.

Providers and investors in funded debt accepted the City's credit and were compensated for the risk.

We are prepared to deal with these parties as creditors of the City in transparent and fair manner.

It should be made clear that the City is not prepared to dedicate scarce resources to prefer debtholders over residents, businesses and revenue driving activities.

Any effort of General Obligation creditors to obtain the collateral protections of special revenue bonds should be approached with caution.

Different types of debt receive different treatment in municipal bankruptcy cases.

General obligation bonds are treated as general debt in chapter 9. A municipality is not required to make payments of either principal or interest on account of such bonds during the case.

Certain restrictions on how debt may be readjusted in traditional bankruptcy proceedings do not apply in chapter 9. Thus, Detroit would be able to impose favorable terms upon general obligation bonds (e.g., the imposition of non market interest; drastically extended repayment terms; delays in cash payments) pursuant to a Plan of Adjustment, the only caveat being that such terms are consistent with State law.

Chapter 9, however, provides certain protections to creditors holding liens upon special project revenues. This may be of particular importance to Detroit, given the scope of its special project debt (e.g., bonds issued in connection with the construction/overhaul of water and sewer plants, collateralized with the revenues and fees earned by such projects).

Specifically, the "special revenues" from these projects remain subject to the liens of the bondholders in the specific projects and those revenues (1) must be used to fund the "necessary operating expenses" of the special project or to pay back bondholders and (2) may not be diverted to support the general obligations of the municipality.

Defining what constitutes the "necessary operating expenses" of a given special project has been the subject of litigation in other chapter 9 cases (most recently, Jefferson County); courts appear inclined to interpret the phrase narrowly. The Jefferson County case is for review by the Eleventh Circuit.

With a credible threat of chapter 9, the City has leverage:

Cramdown in chapter 9 is possible if there is one accepting impaired class, meaning that a non-accepting class of debtholders could be bound by the Plan of Adjustment to compromise their debt.

Amortizations of debt suggest that municipal debt holders have been adjusting their credit terms to their benefit as the City's finances have worsened. This supports a greater sacrifice at this point by debtholders.

This also appears to a readily re-financeable structure, and there is a unique opportunity to obtain advantageous fixed rates for an extended period if the negotiations are conducted properly.

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Municipal Debt – Other Issues

- **Carefully Evaluate POC Debt and Related Swaps**
 - **Unique Structure Could Raise Restructuring Issues**
- **Swap Termination Issues**
 - **Termination Rights Generally Protected in Bankruptcy**
 - **Recent Grant of Collateral Still Can Be Evaluated for Fraudulent Transfer**
 - **Consider Other Market Transactions to Address Swaps**
- **Engage Monoline Insurers Promptly with Coordinated Message**
- **Coordinate Funding Solutions with State**
 - **State Likely Instrumental in Financing, Revenue-Generating and Cost-Cutting Transactions**
 - **Several Recent Examples**
 - **Consider Eligibility Ramifications**
- **Should Pursue Achieving Some Excess Debt Capacity, Flexibility**



[Speaker Notes For Slide: 48]

Treatment of POC debt and related swaps should be carefully evaluated because the unique structure could raise issues in a restructuring.

Swap counterparties may assert termination rights and must be addressed promptly.

Can build on negotiations that have been ongoing.

Termination rights not impacted by bankruptcy do to safe harbors, but treatment of claims may remain an issue.

Notwithstanding safe harbors, recent granting of collateral on swap debt could be avoidable if there was fraud. LIBOR rate cases may be relevant.

City should consider addressing swaps through market transactions.

For substantial insured debt, the credit insurers will have to be engaged in a meaningful way at the outset.

Jones Day is experienced dealing with monoline insurers with the economic interest relating to insured debt.

Monolines are involved in both bond and POC debt.

Funding solutions should be coordinated with the State, which is expected to be an instrumental party in any new financing transaction or other revenue generating or cost cutting transactions (e.g., Belle Isle lease, regional transportation authority, funding to support Detroit Downtown Development Authority and possible new arena and commercial developments).

Again, receipt of State funding out-of-court may implicate eligibility concerns.

Debt negotiations should account for need for some excess debt capacity to cover potential shortfalls, provide flexibility and, if needed, fund any legacy debt solutions.



PART V – **ADDITIONAL PROCESS POINTS**

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Pay Careful Attention to Political Implications of Restructuring

- **All Decisions and Actions Will Have Political Implications and Consequences**
- **Political Implications of Proposals Should Be Identified and Vetted as Early as Possible**
- **Ensure that All Statements Are Consistent with Overall Communications Plan**

The Jones Day team has extensive experience in cases of national significance and understands this imperative.



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[Speaker Notes For Slide: 51]

Every decision and action taken by the City in responding to its financial crises will have political implications and, potentially, political consequences.

Political aspects of all proposed actions have to be identified and vetted as early as possible.

Every statement (including any court filings or arguments in court) must be consistent with an overall communications plan.

Statements made in collective bargaining must be carefully considered. Prospect of negotiation positions and statements being leaked to media outlets is significant.

Must be strong sensitivity to public relations campaigns by various constituencies.

The Jones Day team has extensive experience in cases of national significance and interest and understands these imperatives.

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Understand and Anticipate Positions of Creditors

- **Employees/Retirees Will Argue:**
 - **Obligations Cannot Be Modified as a Matter of Law**
 - **Modifications Make City Less Attractive to Qualified Job Candidates**
 - **Continuing Contractual Relationship Should Be Preferred over Debt**
- **Debtholders/Monoline Insurers Will Argue:**
 - **Repayment of Debt Essential to Continuing Access to Credit Markets**
 - **State Has a Moral/Practical Obligation to Ensure Repayment**
 - **Defer – and Provide Security for – Obligations Instead of Impairment**
- **City Responses Must Be Reasoned and Consistent**
- **Concessions Will Not Be Made to Give Any Group an Unfair Advantage**
- **Critically, New Revenues Must Be Preserved for Reinvestment**
 - **New Funders Cannot Be Compelled to Accede to Creditor Demands**
 - **Earmark New Money for Legally/Politically Sound Revitalization Activities**



[Speaker Notes For Slide: 53]

Anticipated Positions of Creditors:

Municipal employees and their representatives will contend:

Obligations to them cannot be modified as a matter of law.

Obligations to employees should not be modified because the City has to be able to attract job candidates and cannot fall behind pay and benefit packages provided by either nearby municipalities or other unionized businesses.

Obligations to employees do not have to be impaired to the same extent as borrowed money creditors because their claims are connected to contracts that have to continue in effect.

Debt holders and insurers will contend:

Repayment of borrowed money claims is essential to access to financing markets going forward. This argument is used to justify extreme budget austerity and asset sales, whether or not beneficial on a long term basis.

The State of Michigan has a moral or practical obligation to ensure repayment of City debt. This argument is used to attempt to convince the State to contribute State resources to the satisfaction of City debt and to induce the State to pressure the City to make choices favoring debt repayment over other priorities.

Deferral of obligations, even if ability to pay in the future is uncertain or questionable, is a preferred approach to deal with inability to satisfy obligations. Usually this approach is coupled with demands for security that will improve the position of borrowed money creditors in any subsequent debt restructuring.

The City must be prepared to respond to these competing points of view in a reasoned and consistent manner.

Concessions should not be made to one group – such as debtholders – to give them an unfair advantage.

Most critically, as the City gains access to new revenues, it must develop an approach that preserves those revenues for reinvestment in the City and not just to pay off preexisting debts.

As seen in the Chrysler case, new funders or buyers cannot be compelled to accede to creditor demands.

New money may be earmarked for revitalization activities as long as the transaction is legally and politically sound.

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Plan of Adjustment Issues

- **Enabling Legislation May Be Necessary**
 - **E.g., Authorization of Financing Techniques**
 - **Identify and Draft Necessary Legislation Early to Avoid Delays**
- **Best Interests Test**
 - **Demonstrate Reasonable Efforts to Satisfy Debts to the Extent Possible**
- **Cram Down: Impose Terms of Plan on Dissenting Creditor Classes**
 - **A Municipality Must Raise Taxes to the Extent Possible Without Triggering a “Death Spiral”**
 - **Expert Testimony on Tax Burdens May Be Needed**

It is crucial to focus on the plan approval standards throughout the debt adjustment process in case a Chapter 9 case is required.



[Speaker Notes For Slide: 55]

Plan of Adjustment

The goal of a chapter 9 filing for Detroit would be to emerge with a successful "Plan of Adjustment," in which the City's debts are reduced and/or restructured in a manner that is feasible given its budget and consistent with its long term revitalization strategy

The Plan of Adjustment is a document that would establish the treatment of the various classes of creditors' claims against Detroit.

Enabling Legislation May Be Necessary

Often, transactions contemplated by or specified in a Plan of Adjustment must be also authorized by legislation.

Examples of such legislation include authorization of financing techniques.

Needed legislation should be identified and drafted as early in the process as possible to avoid delays as bills move their way through the legislature.

Key Confirmation Standards

Best Interests Test

Applicable to all creditors, whether or not the creditor is in a class that has accepted the plan.

As generally applied, requires a troubled municipality to make reasonable efforts under all the circumstances to satisfy its debts to the greatest extent possible. The strategy outlined above should help us support this finding.

Cram Down

Confirmation of a non-consensual plan is possible under chapter 9.

Senior classes must be paid before more junior classes can receive any distribution.

Applied to municipalities with unlimited taxing power, a municipality must use its ability to raise taxes the extent possible without triggering a "death spiral" that would ultimately destroy the municipality.

Traditionally, this question has been determined based upon expert testimony.

Tax burdens in other comparable municipalities should be important as well.

It is crucial to focus on these standards through the debt adjustment process and continuing to build the case that if necessary, the City can confirm a Plan of Adjustment that does not provide for payment in full of all indebtedness.

Any Chapter 9 Process Should Be Comprehensive

- **Plans of Adjustment Address Narrow Range of Economic Compromises**
- **Other Fundamental Changes Must Occur Outside the Plan Context**
- **Any Chapter 9 Process Should Pursue as Many Revitalization Initiatives as Possible**
- **Negotiating in Chapter 9 – or Its Shadow – Is a Powerful Tool for Revitalization**
- **The City Should Take Advantage of Its Opportunity for Long-Term, Comprehensive Solutions**



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[Speaker Notes For Slide: 57]

Any Chapter 9 Process Should Be Comprehensive

A chapter 9 Plan of Adjustment can only accomplish a narrow band of economic compromises.

This type of debt restructuring is critical, but other fundamental changes of great importance can only occur outside of the Plan of Adjustment.

If a chapter 9 case is commenced, the City should use the process to address as many additional items as possible, not just the core debt readjustment issues in a Plan of Adjustment.

Negotiating in the chapter 9 environment – or even in the shadow of chapter 9 – is a powerful tool to pursue the City's revitalization agenda.

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Key Restructuring Lessons

- **Develop Comprehensive Plan, Supported by Defensible Budget and Assumptions**
- **Develop Out-of-Court Approach That Translates to Chapter 9**
- **Set Clear Positions Early**
- **Be Inclusive and Communicate**
- **Pursue Shared Sacrifice Without Compromising Long-Term Revitalization Goals**



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[Speaker Notes For Slide: 59]

Key Restructuring Lessons

Develop comprehensive plan, supported by defensible budget and assumptions.

Develop out-of-court approach that will work if needed in chapter 9.

Set positions early.

Be inclusive and communicate.

Pursue shared sacrifice without compromising long-term revitalization goals.



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PART VI – OTHER ISSUES

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Select Asset Monetization Issues

- **Evaluate Impact of Any Asset Sale on Chapter 9 Eligibility**
- **Water and Sewer**
 - **Various Legal and Practical Challenges Facing Monetization of DWSD Assets**
 - **Regional Stakeholders Will Seek Input**
 - **Consider Collaboration with EPA and Regional Partners to Develop Creative Solutions**
- **Lease/Operating Agreements**
 - **Could Evaluate for Airport or Other Assets**
 - **Recent Collaborations with State Could Be a Model**
- **Airport Privatization Under FAA Pilot Program**



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[Speaker Notes For Slide: 62]

Asset Sale/Privatization/Monetization Issues (Select Issues)

Concerns regarding eligibility for Chapter 9 may be implicated by asset monetization.

Any transaction should be reviewed and structured to address any eligibility issues (e.g., earmarking of funds).

Water and Sewer

Detroit Water and Sewer Department services much of southeast Michigan (Wayne, Oakland, Macomb counties).

Much of the DWSD's infrastructure is owned and operated by these surrounding counties (and the communities located therein), complicating efforts at restructuring.

DWSD services nearly 100 "first-tier" and "second-tier" customers (e.g., from the surrounding counties), all of whom would seek input with respect to restructuring.

Monetization of assets could be challenging.

The Detroit City Charter prohibits the sale of "any city-owned public utility furnishing water and sewerage services, unless approved by a majority of city voters voting on the question at a regular or special election."

Statutes/codes/caselaw may require that funds received from disposition be allocated (e.g., to pension/OPEB liabilities) in a fashion that frustrates ability to allocate funds towards restructuring initiatives.

Monetization of assets may trigger consequences under existing debt and derivative documents.

Open question whether limited universe of "purchasers" could assume liabilities.

An emergency manager, a chapter 9 proceeding or changes to law could be required to overcome obstacles.

Consider different rate structures, regional authority.

EPA litigation complicates the circumstances.

Possibly could explore with EPA and other recipients of services how to make this self-sustaining and profitable.

Negotiating in the shadow of bankruptcy could provide useful leverage for creative solutions.

Combination Lease/Operating Agreement

Could be used for airport or other assets.

The proposed Belle Isle lease may be a model for this kind of transaction.

With respect to the Coleman Young airport, for example, Detroit could evaluate entering into an arrangement combining a lease of airport property with an airfield operating agreement, with the end result being similar to the transfer of possession and operating responsibility to a private operator while falling short of a full lease of the airport.

Under this model, Detroit would remain responsible for major operating and development decisions, but the burden of operating the airport on a daily basis would be alleviated.

Might be more attractive to airport than FAA pilot program to sell asset that we can discuss (comes with various conditions).

Airport Privatization Under FAA Pilot Program [De-emphasize in light of potential unavailability of program]

Privatization of Detroit airports historically impeded by federal aviation law preventing cities from retaining the proceeds of an airport sale or transfer.

A recent FAA pilot program – adopted by Congress in 1996 – for the privatization of airports, however, may allow Detroit to privatize an airport freed from federal restrictions on the use of proceeds.

Program recently used to sell Midway Airport, with cash value going to the City of Chicago

Under the program, the FAA is authorized to exempt up to ten airports from the relevant federal statutory and regulatory requirements (i.e., to repay Federal grants; return

Prepare for Legal Challenges

- **In a Chapter 9 Setting, Legal Challenges of Various Actions Are Inevitable**
 - **Jones Day Is Well Positioned to Address These Challenges**
 - **Substantial 6th Circuit Experience**
 - **Knows How to Expedite Review**
- **Various Challenges to PA 436/Emergency Manager Authority Possible**
 - **Challenges at Ballot Box: Renewed Referendum Process**
 - **Other Legal Challenges in Court**
 - **Challenges Could Cause Delay, Threaten Progress**
 - **Jones Day Can Work With the City's Current Advisors to Address Efficiently**



[Speaker Notes For Slide: 64]

Prepare for Legal Challenges

If a chapter 9 case is commenced, it is anticipated that parties will to raise numerous legal challenges to the City's efforts. Jones Day is well prepared and positioned to address these challenges. We have substantial 6th Circuit experience. Also know how to expedite proceedings.

The City also should be prepared to address expected challenges to PA 436 and the Authority of any Emergency Manager. These challenges could delay restructuring initiatives or threaten to overturn progress made under these authorities.

Challenges could include:

Challenges at Ballot Box. Critics of PA 436 have already indicated that legal challenges to the law will be forthcoming. Stand Up for Democracy (which led the effort to reject PA 4) has suggested that it will begin a similar referendum process with respect to PA 436 (although appropriation component of PA 436 may insulate it).

Legal Challenges. Critics of PA 436 are likely to challenge the statute on grounds that the powers over contracts granted to emergency managers (including the power to reject, modify or terminate CBAs) violate the Contracts Clause of the U.S. Constitution.

Further challenges could include (1) whether PA 436 can be insulated from the referendum process through inclusion of a minor appropriation, (2) whether the law properly grants unelected emergency managers the power to displace elected officials/disenfranchise the electorate and (3) whether PA 436 was properly enacted in light of the voter rejection of PA 4 (which has been characterized by some as "substantially similar").

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EPA Litigation Issues

- **Restructuring Strategy Must Account for EPA Litigation and Rulings of Judge Cox**
- **Consider Approaches to Consolidate Issues with the Rest of the Restructuring Process**
- **Consider How EPA Litigation Could Impede or Assist Detroit in Chapter 9**

Confidential

[Speaker Notes For Slide: 66]

Other EPA Litigation Issues

Need to coordinate strategy with relevant aspects of EPA litigation, including rulings regarding CBAs and bargaining

Consider approaches to consolidate these discrete issue with the rest of the restructuring process.

Consider how EPA case could impede or be used to assist in any chapter 9 case.



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PART VII – CONCLUSION

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Jones Day Is the Right Choice for Detroit

- **We are committed to this project, which we view as a matter of particular importance given our Midwestern, industrial roots**
- **We are committed to working with the City and its advisors and stakeholders to find and pursue real solutions that will revitalize the City of Detroit**
- **We have a wealth of experience, expertise, creativity and energy throughout our firm**
- **We are here to help, as part of the team, in whatever way we can**



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[Speaker Notes For Slide: 69]


Jones Day Is the Right Choice for Detroit:

We are committed to this project, which we view as a matter of particular importance given our Midwestern, industrial roots.

We are committed to working with the City and its advisors and stakeholders to find and pursue real solutions that will revitalize the City of Detroit.

We have a wealth of experience, expertise, creativity and energy throughout our firm.

We are here to help, as part of the team, in whatever way we can.

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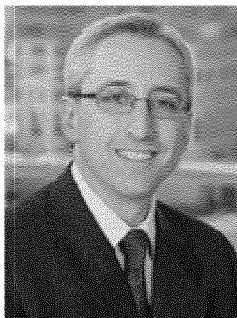
Confidential

ANNEX A: **THE REST OF THE JONES DAY TEAM**

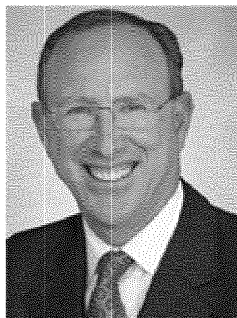
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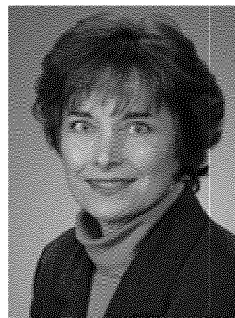
The Jones Day Team



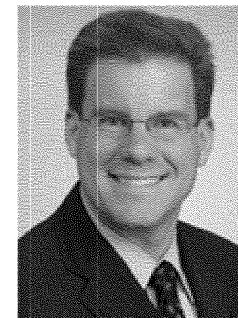
Jeffrey Ellman
Restructuring



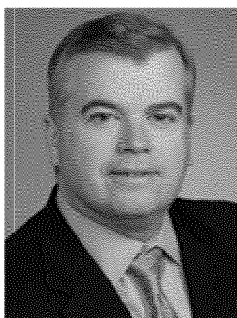
Evan Miller
Employee Benefits



Sarah Heck Griffin
Public Pensions



David Kates
Public Finance



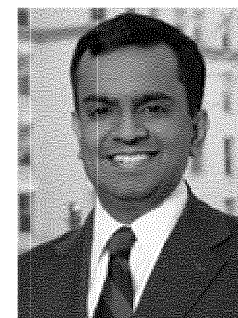
Brian Sedlak
Public Projects
& Infrastructure



Peter Clarke
Public Projects
& Infrastructure



Rebecca MacPherson
Public Projects
& Infrastructure

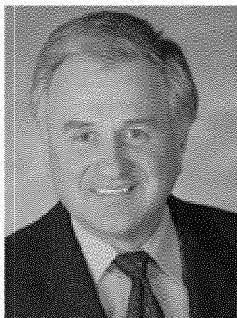


Naveen Rao
Public Projects
& Infrastructure

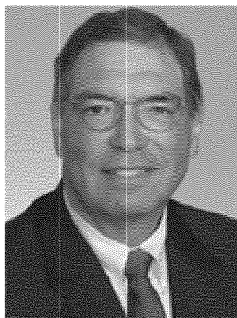


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The Jones Day Team



Robert Louis Ford
Labor



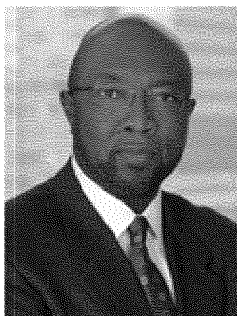
Lawrence DiNardo
Labor



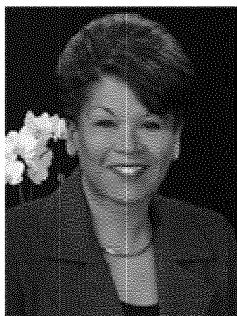
Wesley Johnson, Jr.
Mergers & Acquisitions



Beth Heifetz
Issues & Appeals



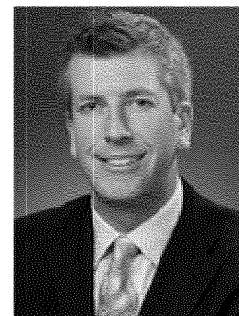
Richard Deane
Litigation



Yvette McGee Brown
Litigation



Jayant Tambe
Litigation



Chad Readler
Litigation



Confidential

ANNEX B: **CERTAIN REFERENCES**

Confidential

References

The Honorable John E. Ryan (Retired)
United States Bankruptcy Court for the Central District of California
760-522-6016

Thomas W. Hayes
Former Treasurer and Director of Finance, State of California
916-806-6200

Chris Varelas
Founding Partner, Riverwood Capital
650-618-7377



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Exhibit B
Information Request

Weil, Gotshal & Manges LLP

BY E-MAIL

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March 14, 2014

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Bruce Bennett
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Los Angeles, CA 90071
bbennett@jonesday.com

Re: Request to Include Additional Information in the Disclosure Statement

Dear Mr. Bennett:

On behalf of our clients, Financial Guaranty Insurance Company (“**FGIC**”) and Syncora Guarantee Inc. and Syncora Capital Assurance Inc. (collectively, “**Syncora**”), pursuant to paragraph 1 of the *Second Amended Order Establishing Procedures, Deadlines and Hearing Dates Relating to the Debtor’s Plan of Adjustment*, dated March 6, 2014 [Docket No. 2937], we hereby request that the City of Detroit (the “**City**”) include the following additional information in the *Disclosure Statement with respect to Plan of Adjustment of Debts of the City of Detroit*, dated February 21, 2014 [Docket No. 2709] (as the same may be amended, the “**Disclosure Statement**”):

1. **DIA Settlement**¹

- a. An explanation of the status of the DIA Settlement, including, without limitation, the status of the Foundations’ commitments, the status of the commitment by DIA Corp. and the status of the City’s efforts to obtain the approval of the Attorney General for the State and any and all necessary approvals.
- b. An explanation of all conditions to and risks associated with the execution or effectiveness of the DIA Settlement, including, without limitation, a description of what, if any, approvals are required.
- c. An explanation of the use of *all* proceeds of the DIA Settlement.²

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Disclosure Statement or the *Plan for the Adjustment of Debts of the City of Detroit*, dated February 21, 2014 [Docket No. 2708] (as the same may be amended, the “**Plan**”), as applicable.

- d. An explanation regarding how the treatment of, and the estimated percentage recoveries for, each class of creditors holding Unsecured Claims (classes 7, 8, 9, 10, 11, 12, and 13) will change if the DIA Settlement does *not* become effective, including backup information detailing how the City calculated such recovery estimates.

2. **Plan PFRS and GRS Settlements**

- a. A description of the City's claims against the State and/or State Related Entities that the City will be deemed to release if the Plan PFRS Settlement and Plan GRS Settlement are consummated, and how such claims relate to the State GRS Consideration and the State PFRS Consideration.

3. **DWSD Share of GRS UAAL**

- a. An explanation of the likelihood that DWSD will accelerate, or prefund, its allocable share of the GRS UAAL to the GRS, including all risks associated therewith.
- b. An explanation regarding how the treatment of, and the estimated percentage recoveries for, each class of creditors holding Unsecured Claims (classes 7, 8, 9, 10, 11, 12, and 13) will change if the DWSD does *not* prefund its allocable share of the GRS UAAL to the GRS, including backup information detailing how the City calculated such recovery estimates.

4. **Estimated Percentage Recoveries**

- a. Backup information detailing how the City calculated the estimated recovery percentages set forth in Section II.B. of the Disclosure Statement, including an explanation of all assumptions and risks underlying such calculations.
- b. The estimated percentage recoveries, along with backup information detailing how the City calculated such recovery estimates, for all Unsecured Claims (claims

² Section IV.F.2 of the Plan indicates that, pursuant to the DIA Settlement, the Foundations have made an irrevocable commitment of \$365 million, and DIA Corp. has made an irrevocable commitment to raise at least \$100 million from its donors, for a total of at least \$465 million in DIA Proceeds. Pursuant to section II.B.3.t.ii.A of the Plan, \$175 million of the DIA Proceeds will be used to fund the City's contributions to the PFRS, and, pursuant to section II.B.3.u.ii.A of the Plan, \$245 million of the DIA Proceeds will be used to fund the City's contributions to the GRS, for a total of \$420 million. Neither the Plan nor the Disclosure Statement discloses the intended use of the remaining \$45 million of DIA Proceeds.

in classes 7, 8, 9, 10, 11, 12 and 13), assuming the above-captioned chapter 9 case is dismissed and creditors are left to their state law remedies.

5. **Administrative Expense Claims**

- a. Estimated amount of administrative expense claims that will be satisfied pursuant to the Plan.
- b. An explanation of the assumptions the City made with respect to the payment of administrative expense claims in connection with calculating the estimated recovery percentages set forth in Section II.B of the Disclosure Statement.

6. **General Obligation Bonds**

- a. The estimated percentage recoveries, along with backup information detailing how the City calculated such recovery estimates, for all Unsecured Claims (claims in classes 7, 8, 9, 10, 11, 12 and 13), assuming that the City cannot continue to collect the ad valorem tax related to its Unlimited Tax General Obligation Bond debt, or that the City can use such tax only to fund recoveries for holders of Unlimited Tax General Obligation Bonds.
- b. The estimated percentage recoveries, along with backup information detailing how the City calculated such recovery estimates, for all Unsecured Claims (claims in classes 7, 8, 9, 10, 11, 12 and 13), assuming the City is obligated to use general tax revenues collected within the City's charter, statutory or constitutional limitations to service the Limited Tax General Obligation Bonds.

7. **Certificates of Participation**

- a. An explanation of the calculations behind, and any backup information for, the outstanding aggregate amount of each of the three series of COPs set forth on page 31 of the Disclosure Statement.
- b. An explanation of the strengths and weaknesses of the issues to be resolved pursuant to the Plan COP Settlement and why such settlement is reasonable.
- c. A disclosure that there is a risk that if the City is successful in its litigation to invalidate the COPs, the Funding Trusts, Beneficial Holders and/or insurers may have claims against the GRS and the PFRS to disgorge the proceeds received in connection with the 2005 and 2006 COPs transactions, and an explanation of the consequences of any such disgorgement.

- d. The estimated UAAL for the GRS and the PFRS, assuming the GRS and PFRS are required to disgorge the proceeds received in connection with the 2005 and 2006 COPs transactions.
 - e. The estimated percentage recoveries, along with backup information detailing how the City calculated such recovery estimates and how the City would fund such recoveries, for all Unsecured Claims (claims in classes 7, 8, 9, 10, 11, 12 and 13), assuming the GRS and PFRS are required to disgorge the proceeds received in connection with the 2005 and 2006 COPs transactions.
 - f. An explanation of how the City intends to deliver Distributions on account of COPs Claims.³
8. **Pension Claims**
- a. A copy of the “Comparison” referenced on page 6 of the Disclosure Statement.
 - b. A copy of Exhibit II.B.3.t.ii.A to the Plan, identifying annual contributions to be made to the PFRS through the Fiscal Year ending June 30, 2023.
 - c. A copy of Exhibit II.B.3.u.ii.A to the Plan, identifying annual contributions to be made to the GRS through the Fiscal Year ending June 30, 2023.
 - d. An analysis of the City’s ability to contribute all amounts necessary to fund the pension benefits that accrue under the GRS and the PFRS, as modified by the Plan (assuming the DIA Settlement and the State Settlement become effective and the DWSD prefunds its allocable share of the GRS UAAL to the GRS over the fiscal period ending June 30, 2023), through 2044, including an explanation of all assumptions and risks underlying such analysis.
 - i. The City’s projected cash flows through 2044.
 - e. An analysis of the likelihood that the PFRS or the GRS will have a funding level of more than 80% by June 30, 2023, and how such additional funding will affect the estimated percentage recoveries for pension claims in classes 10 and 11, including an explanation of all assumptions and risks underlying such analysis.

³ Section VI.O.9(b) of the Disclosure Statement addresses delivery of Distributions on account of “Bond Claims,”; however, COP Claims are not included in the definition of “Bond Claims.”

- f. An analysis of (i) the likelihood that Excess Allocations will be applied to reduce Annuity Savings Fund Accounts of active employees and monthly pension amounts of current retirees who are Holders of GRS Pension Claims, (ii) the estimated amount of such Excess Allocations and (iii) the impact the application of such Excess Allocations will have on the estimated percentage recoveries for pension claims in class 11, including an explanation of all assumptions and risks underlying such analysis, including a copy of Exhibit II.B.3.u.ii.D to the Plan, setting forth the formulae the City will use in connection with such analysis.
- g. A detailed description of the key terms of any agreements with respect to governance of the GRS or the PFRS.

9. **OPEB**

- a. The estimated percentage recoveries, along with backup information detailing how the City calculated such recovery estimates, for OPEB Claims (separate and apart from Pension Claims), including how the City calculated the total aggregate amount of allowed OPEB Claims, whether any such claims are held by active employee and whether and how the City's analysis accounts for the implementation of the Affordable Care Act and the City's agreement to provide monthly stipends to certain retirees.
- b. The estimated percentage recoveries, along with backup information detailing how the City calculated such recovery estimates, for all Unsecured Claims (claims in classes 7, 8, 9, 10, 11, 12 and 13), including separate estimates for OPEB Claims and Pension Claims, assuming the Bankruptcy Court does not approve the aggregation of OPEB and Pension Claims for Plan treatment purposes.⁴

10. **Other Unsecured Claims**

- a. The Estimated Aggregate Allowed Amount of Other Unsecured Claims.

⁴ Page 123 of the Disclosure Statement states "[i]f the Bankruptcy Court does not approve the aggregation of OPEB and Pension Claims for Plan treatment purposes, the likely impact will be that the OPEB Claims will receive a greater payment but the respective GRS Pension Claims and PFRS Pension Claims will receive lower payments. This will result in event larger cuts to accrued pension benefits for Holders of GRS Pension Claims and PFRS Pension Claims, respectively." However, the Disclosure Statement provides no additional information regarding the impact of the Bankruptcy Court declining to approve the aggregation of OPEB and Pension Claims.

- b. An explanation of the assumptions the City made with respect to the Other Unsecured Claims in connection with calculating the estimated recovery percentages set forth in Section II.B of the Disclosure Statement.

11. **Convenience Claims**

- a. The Estimated Aggregate Allowed Amount of Convenience Claims.
- b. An explanation of the assumptions the City made with respect to the Convenience Claims in connection with calculating the estimated recovery percentages set forth in Section II.B of the Disclosure Statement.

12. **Disputed Claims**

- a. The estimated amount of Disputed Claims.
- b. An explanation of the assumptions the City made with respect to the Disputed Claims in connection with calculating the estimated recovery percentages set forth in Section II.B of the Disclosure Statement.

13. **DWSD Transaction**

- a. An explanation of the status of the City's negotiations with respect to a DWSD Transaction, including the timing, material terms and likelihood of execution and effectiveness of any such transaction.

14. **Asset Monetization**

- a. *Automobile Parking Fund.*
 - i. Status of report being conducted by parking specialist, including any initial assessment of the value of the City's parking assets.
 - ii. Anticipated use of proceeds of any transaction to monetize the City's parking assets, including an analysis of how such proceeds will impact the estimated percentage recoveries on account of all Unsecured Claims (claims in classes 7, 8, 9, 10, 11, 12 and 13), along with backup information detailing how the City calculated such impact.

b. *DIA Collection*

- i. The aggregate fair market value of the works of art in the DIA Collection that were not included in Christie's Preliminary Report or Final Report, including an explanation of any limitations or restrictions on the ownership, title, acquisition, donation, transfer, use, display, reproduction, sale or disposition of such works and an analysis of how any such limitations or restrictions impact the value of such works.
- ii. An explanation of the strengths and weaknesses of the issues to be resolved pursuant to the DIA Settlement and why such settlement is reasonable.

c. *City-Owned Land*

- i. Valuation of the City-owned land.
- ii. Anticipated use of proceeds of any transaction to monetize the City-owned land, including an explanation regarding whether and how the existing projections account for such proceeds, and, to the extent the current projections do not take such proceeds into account, an analysis of how such proceeds will impact the estimated percentage recoveries on account of all Unsecured Claims (claims in classes 7, 8, 9, 10, 11, 12 and 13), along with backup information detailing how the City calculated such impact.

15. **Exit Financing**

- a. An explanation of the City's efforts to obtain the Exit Facility, including the status of the City's negotiations with potential lenders and the material terms of any potential transactions.
- b. An explanation of the consequences of the City's failure to obtain an Exit Facility, including the impact on the estimated percentage recoveries on account of all Unsecured Claims (claims in classes 7, 8, 9, 10, 11, 12 and 13), along with backup information detailing how the City calculated such impact.

16. **New C Notes**

- a. An explanation of which tax line items will be included as GSTR and the estimated revenues of each.

- b. An explanation of the likelihood the City will ever make distributions on account of the New C Notes based on the projections attached to the Disclosure Statement Exhibit J, as well as the expected amounts and timing of any such distributions and the assumptions and risks underlying such analysis.

17. **Failure to Achieve Projected Financial Performance**

- a. Page 124 of the Disclosure Statement indicates that the Projections are dependent upon, among other things, the successful implementation of the City's budget and confirmation of the Plan in accordance with its terms. An explanation regarding:
 - i. the management and operations of the City after emergence from chapter 9, including any limitations or restrictions with respect thereto, whether and for how long the City will remain in receivership under the control of an emergency manager pursuant to Public Act 436, and what will happen upon the completion of Kevyn Orr's 18-month term (*i.e.* will the governor continue his term or appoint a new emergency manager?); and
 - ii. the extent to which, after the City emerges from chapter 9 and the receivership pursuant to Public Act 436 terminates, the City's mayor and the City Council will be required to implement the Plan and the City's budget, including the Restructuring and Reinvestment Initiatives attached to the Disclosure Statement as Exhibit I.

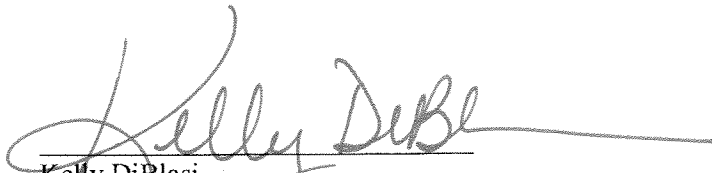
As detailed above, the Disclosure Statement fails to disclose various financial analyses and other information regarding the proposed settlements under the Plan (*e.g.* status of, claims resolved by, use of proceeds of, and specific impact on creditors of such settlements), which information is essential to enable creditors to assess their treatment under the Plan. The Disclosure Statement and the Plan also reference certain documents and exhibits that are not attached to either the Disclosure Statement or the Plan. Accordingly, in addition to the information requests set forth above, FGIC and Syncora respectfully request that the City provide copies of the missing documents and exhibits set forth on the list attached hereto as **Exhibit A**.

Bruce Bennett
March 14, 2014
Page 9

Weil, Gotshal & Manges LLP

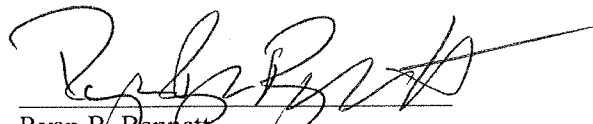
FGIC and Syncora reserve all rights to request additional information and/or modify any of the requests herein, including in connection with filing an objection to the Disclosure Statement.

Respectfully submitted,



Kelly DiBlasi
WEIL, GOTSHAL & MANGES LLP

Attorneys for FGIC



Ryan B. Bennett
KIRKLAND & ELLIS LLP

Attorneys for Syncora

cc: Alfredo R. Pérez
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Mark R. James
Stephen C. Hackney
Noah Ornstein
Alexandra Schwarzman
David G. Heiman
Heather Lennox
Thomas A. Wilson
Jonathan S. Green
Stephen S. LaPlante

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Exhibit A

Missing Documents

1. All documents referenced in and not attached to Disclosure Statement:

| Document | Location/Referenced |
|---|------------------------------|
| DWSD Class A Water Documents | II(B)(Treatment of Class 1A) |
| DWSD Class B Water Documents | II(B)(Treatment of Class 1B) |
| DWSD Class A Sewer Documents | II(B)(Treatment of Class 1C) |
| DWSD Class B Sewer Documents | II(B)(Treatment of Class 1D) |
| DWSD Revolving Sewer Bond Documents | II(B)(Treatment of Class 1E) |
| DWSD Revolving Water Bond Documents | II(B)(Treatment of Class 1F) |
| Secured GO Series 2010 Bond Documents | II(B)(Treatment of Class 2A) |
| Secured GO Series 2010(A) Bond Documents | II(B)(Treatment of Class 2B) |
| Secured GO Series 2012(A)(2) Bond Documents | II(B)(Treatment of Class 2C) |
| Secured GO Series 2012(A2-B) Bond Documents | II(B)(Treatment of Class 2D) |
| Secured GO Series 2012(B) Bond Documents | II(B)(Treatment of Class 2E) |
| Secured GO Series 2012(B2) Bond Documents | II(B)(Treatment of Class 2F) |
| HUD Installment Note Documents | II(B)(Treatment of Class 4) |
| COP Swap Documents | II(B)(Treatment of Class 5) |
| Parking Bond Documents | II(B)(Treatment of Class 6) |
| Limited Tax General Obligation Documents | II(B)(Treatment of Class 7) |
| Unlimited Tax General Obligation Bond Documents | II(B)(Treatment of Class 8) |
| DIA Settlement Documents | II(B)(Treatment of Class 10) |
| Plan PFRS Settlement Documents | II(B)(Treatment of Class 10) |
| The Detroit VEBA Trust Agreement | II(B)(Treatment of Class 10) |
| Plan GRS Settlement Documents | II(B)(Treatment of Class 11) |
| Bond Purchase Agreements | IV(F)(1) |
| Energy Services Delivery Agreement | IV(J)(3) |
| Belle Island Agreement | IV(J)(6) |
| Definitive documentation governing the New B Notes | VI(A)(1) |
| Definitive documentation governing the New C Notes | VI(A)(2) |
| Definitive documentation governing the New DWSD Bonds | VI(B)(1)(c) |
| Definitive documentation governing the New Existing Rate DWSD Bonds | VI(B)(1)(d) |
| Definitive documentation governing the New DWSD Revolving Bonds | VI(B)(1)(e) |
| Definitive documentation governing the New GLWA Bonds | VI(B)(2)(a) |
| Definitive documentation governing the New Existing Rate GLWA Bonds | VI(B)(2)(b) |

| | |
|---|-------------|
| Definitive documentation governing the New GLWA Revolving Bonds | VI(B)(2)(c) |
| Definitive documentation governing the OPEB Claim Notes | VI(F) |
| Bond Documents | VI(I) |

2. All missing Plan exhibits:

| Exhibit | Document |
|----------------|---|
| I.A.62 | Form of Detroit VEBA Trust Agreement |
| I.A.64 | Schedule of DIA Assets |
| I.A.71 | Form of DIA Settlement Documents |
| I.A.119 | Principal Terms of Exit Facility |
| I.A.140 | Material Terms Related to GRS Hybrid Pension Formula |
| I.A.161 | Form of New B Notes Documents |
| I.A.162 | New B Notes Valuation |
| I.A.163 | Principal Terms of New C Notes |
| I.A.164 | Form of New C Notes Documents |
| I.A.165 | Form of New DWSD Bond Documents |
| I.A.167 | Form of New DWSD Revolving Bond Documents |
| I.A.169 | Form of New Existing Rate DWSD Bond Documents |
| I.A.171 | Form of New Existing Rate GLWA Bond Documents |
| I.A.173 | Form of New GLWA Bond Documents |
| I.A.174 | Principal Terms of New GLWA Bonds |
| I.A.175 | Form of New GLWA Revolving Bond Documents |
| I.A.182.b. | Form of OPEB Claims Note |
| I.A.195 | Material Terms Related to PFRS Hybrid Pension Formula |
| I.A.201 | Form of Plan COP Settlement Documents |
| I.A.203 | Form of Plan GRS Settlement Documents |
| I.A.205 | Form of Plan PFRS Settlement Documents |
| I.A.206 | Principal Terms of Plan UTGO Notes |
| I.A.207 | Form of Plan UTGO Notes |
| I.A.220 | Principal Terms of Retiree Health Care Settlement Agreement |
| II.B.3.t.i | Schedule of Reductions to Allowed PFRS Claims and Related Allowed OPEB Claims |
| II.B.3.t.ii.A | Schedule of Payments and Sources of Payments for Modified PFRS Pension Benefits |

| | |
|-----------------|--|
| II.B.3.u.i | Schedule of Reductions to Allowed GRS Claims and Related Allowed OPEB Claims |
| II.B.3.u.ii.A | Schedule of Payments and Sources of Payments for Modified GRS Pension Benefits |
| II.B.3.u.ii.D | Reduction Formula for Participants in Annuity Savings Fund Accounts |
| Exhibit II.D.5 | Schedule of Postpetition Collective Bargaining Agreements |
| Exhibit II.D.6 | Executory Contracts and Unexpired Leases to be Rejected |
| Exhibit III.D.2 | Retained Causes of Action |

3. All documents referenced in and not attached to the Plan:

| Document | Location/Referenced |
|--|---------------------|
| Ballot | Art.I(15) |
| DIA Settlement Documents | Art.I(71) |
| Downtown Development Authority Loans Agreement | Art.I(83) |
| DWSD Class A Sewer Documents | Art.I(88) |
| DWSD Class A Water Documents | Art.I(91) |
| DWSD Class B Sewer Documents | Art.I(94) |
| DWSD Class B Water Documents | Art.I(97) |
| DWSD Revolving Bond Documents | Art.I(99) |
| DWSD Revolving Sewer Bond Documents | Art.I(102) |
| DWSD Revolving Water Bond Documents | Art.I(105) |
| General Obligation Bond Documents | Art.I(134) |
| HUD Installment Note Documents | Art.I(146) |
| Limited Tax General Obligation Bond Documents | Art.I(154) |
| New B Notes Documents | Art.I(161) |
| New C Notes Documents | Art.I(164) |
| New DWSD Bond Documents | Art.I(165) |
| New DWSD Revolving Bond Documents | Art.I(167) |
| New Existing Rate DWSD Bond Documents | Art.I(169) |
| New Existing Rate GLWA Bond Documents | Art.I(171) |
| New GLWA Bond Documents | Art.I(173) |
| New GLWA Revolving Bond Documents | Art.I(175) |
| Parking Bond Documents | Art.I(186) |
| Plan COP Settlement Documents | Art.I(201) |
| Plan GRS Settlement Documents | Art.I(203) |
| Plan PFRS Settlement Documents | Art.I(205) |
| Plan UTGO Notes Documents | Art.I(207) |
| Retiree Health Care Settlement Agreement | Art.I(220) |

| | |
|---|------------------------|
| Secured GO Series 2010 Bond Documents | Art.I(227) |
| Secured GO Series 2010(A) Bond Documents | Art.I(230) |
| Secured GO Series 2012(A)(2) Bond Documents | Art.I(233) |
| Secured GO Series 2012(A2-B) Bond Documents | Art.I(236) |
| Secured GO Series 2012(B) Bond Documents | Art.I(239) |
| Secured GO Series 2012(B2) Bond Documents | Art.I(242) |
| Postpetition Financing Agreement | Art.II(A)(1)(b) |
| Detroit VEBA Trust Agreement | Art.II(B)(3)(t)(ii)(H) |

4. All schedules supporting the analyses and projections referenced in or attached to the Disclosure Statement.

5. All analyses of distribution property supporting stated creditor recoveries.