

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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US BANKRUPTCY ME-FLAT

In re:

City of Detroit, Michigan,

Debtor.

Case No.: No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**WSP MICHIGAN INC. (F/K/A PARSONS BRINCKERHOFF MICHIGAN
INC.) RESPONSE TO CITY OF DETROIT'S MOTION TO ESTABLISH
PROCEDURES FOR DISTRIBUTION OF NEW B NOTES TO HOLDERS
OF ALLOWED CLASS 14 CLAIMS UNDER THE CITY'S PLAN OF
ADJUSTMENT AND REQUEST FOR MODIFICATION OF PROPOSED
ORDER**

WSP MICHIGAN INC. (F/K/A PARSONS BRINCKERHOFF MICHIGAN
INC.) (hereafter, "WSP"), by its undersigned counsel, hereby Responds to the City
Of Detroit's Motion To Establish Procedures For Distribution Of New B Notes To
Holders Of Allowed Class 14 Claims Under The City's Plan Of Adjustment
("Motion").¹ In support, WSP respectfully states as follows:

I. INTRODUCTION

WSP is an Allowed Class 14 Claimant (Claim Number 2328), who is to
receive payment of its Claim in this matter through the distribution of New B
Notes.

¹ Capitalized terms used but not otherwise defined in this Response have the meanings given to them in the Motion.



1 While WSP does not oppose the City of Detroit's ("City") Motion, it
2 respectfully requests the Court include in its Order granting that Motion, a process
3 by which any errors originating or caused by the City's attempted transfer of New
4 B Notes to Claimholders such as WSP, which may have caused the failed transfer,
5 be remedied directly with the Claimholder. As it stands, the City's Motion and
6 Proposed Order only includes a process whereby failed transfers only include
7 adjustments in the *Claimant's* provision of data for the transfer of the New B
8 Notes, neglecting that errors can likewise occur on the City's end of said transfer.

9 **II. JURISDICTION AND VENUE**

10 1. This Court has jurisdiction over the City's Motion under 28 U.S.C. §§
11 157 and 1334. Under Article VII of the Plan, this Court retained jurisdiction to
12 "[e]nsure that Distributions to Holders of Allowed Claims are accomplished
13 pursuant to the provisions of the Plan." (Plan, Art. VII.D, p. 70.) This is a core
14 proceeding under 28 U.S.C. § 157(b)(2)(A), (B), and (0). Venue is proper before
15 this Court under 28 U.S.C. § 1409.

16 **III. BACKGROUND**

17 2. WSP is a Class 14 Claimant, having timely filed its Brokerage
18 Account Form in accordance with the Brokerage Motion. Previously, this Court
19 approved the Stipulation between the City and WSP, resolving WSP's Claim
20 number 2328 as an Allowed Class 14 Claimant in the amount of \$829,567.28,
21 issuing an Order thereon on May 23, 2017 (Docket # 11887; Filed 5/23/17). As
22 such, WSP will soon be receiving a transfer of New B Notes in payment of its
23 Claim in this matter.

24 3. Transfers to Claimholders such as WSP necessarily involve the City
25 or its Disbursing Agent taking the Brokerage Account Form completed by WSP
26 and inputting information and data to accomplish the transfer. Given the dual role

1 of the transmitting party (here, the City and/or its agent) with the information
2 provided by the receiving party (here, Claimholders), it necessarily follows that not
3 all failed transfers will be caused by the Claimholders' provision of information on
4 the Brokerage Account Form. This is why the City's Motion acknowledges that,
5 "[a]lthough it seems likely that most failed transfers will be caused by a
6 Claimholder providing improper information on its Brokerage Account Form,
7 *some may fail for other reasons.*" (Motion, Introduction, Page 3; emphasis added.)
8 Another reason for failed transfers is stated in the City's Motion, where "a
9 Claimholder believes that its account information was misread". (Motion, Para.
10 47.)

11 4. These other reasons for a failed transfer necessarily include
12 misreading, typographical or other errors, mistakes, or other issues caused by the
13 City and/or its Disbursing Agent, made without the involvement, role, knowledge,
14 or caused by, Claimholders such as WSP. While the City's Motion recognizes
15 transfer problems created by the Claimholders' completion of the Brokerage
16 Account Form, that only addresses one-half of the transfer equation. Missing from
17 the City's Motion is a process for correcting transfer issues on the City's end.
18 There is too much at financial stake for Claimholders such as WSP, for this to be
19 overlooked.

20 5. Any burden added to the City's process of transfer of the New B
21 Notes to the just 75 Claimholders (Motion, Para. 23) is light in comparison to the
22 potential forfeiture of, as here, WSP's Claim for which it is entitled to payment in
23 this matter.

24 **IV. RELIEF REQUESTED**

25 6. WSP respectfully asks that the Court enter a Modified Order to that
26 which was provided in the City's Motion, whereby the City's New B Notes

1 transfer process includes a requirement that for any Claimholder such as WSP,
2 where any attempted transfer by the City of the New B Notes is unsuccessful, that,
3 in addition to having such Claimholder(s) complete another Brokerage Account
4 Form:

5 (a) the City require its Disbursing Agent to physically telephone or e-mail
6 each such Claimholder directly ("Affirmative Contact"), using the contact
7 information contained in the all known Class 14 Claimants listed on the Master
8 Service List, to advise such Claimant(s) of the transfer failure, and

9 (b) the City or its Disbursing Agent meet and confer with the Claimholder
10 whose transfer failed, to ensure that the Disbursing Agent properly and accurately
11 performed the steps required of it to transfer the New B Notes to the
12 Claimholder(s), and

13 (c) to the extent the Affirmative Contact results in identification of transfer
14 errors on the part of the City or its Disbursing Agent, those errors are corrected and
15 the transfers re-initiated.

16 The advantage of this Affirmative Contact process is that it could quickly
17 resolve transfer errors originating on the City's side of the transfer, resulting in the
18 Claimholders' claims being rightfully paid. This Affirmative Contact should be
19 made prior to the Disbursing Agent furnishing the City with a list of failed
20 transfers as provided in the Motion.

21 **V. NOTICE**

22 7. WSP has served this Response by overnight Federal Express on
23 Counsel for the City: Miller, Canfield, Paddock & Stone, PLC, Attn: Marc N.
24 Swanson, 150 West Jefferson, Suite 2500, Detroit, Michigan 48226.

1 **VI. CONCLUSION**

2 WHEREFORE, and for the reasons provided herein, WSP Michigan Inc.
3 respectfully requests that this Court enter a Modified Order, granting the relief
4 requested herein and such other and further relief as this Court may deem just and
5 proper.

6 Dated this 7th day of December, 2021

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