

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

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

**STIPULATION REGARDING PROPOSED ORDER  
MODIFYING THE ORDER IDENTIFYING LEGAL ISSUES,  
ESTABLISHING SUPPLEMENTAL BRIEFING SCHEDULE  
AND SETTING HEARING DATES AND PROCEDURES [Docket No. 5235]**

The City of Detroit, Michigan (the "City") and the United States of America (the "United States" and, together with the City, the "Parties"), by and through each of their undersigned counsel, stipulate as follows:<sup>1</sup>

1. On May 12, 2014, the United States filed an objection (Docket No. 4629) to confirmation of the Fourth Amended Plan for the Adjustment of Debts of the City of Detroit (Docket No. 4392) (the "Plan"), stating, among other things, that the United States sought certain modifications to the Plan's discharge and injunction provisions.

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<sup>1</sup> Capitalized terms not defined herein have the meanings given to them in the Plan.

2. In response to the Court's Order Regarding Identifying Legal Issues Relating to Confirmation, entered on May 23, 2014 (Docket No. 5021), on May 27, 2014, the United States filed the United States of America's Statement Identifying Issues of Law Relating to Confirmation (Docket No. 5086) (the "Statement Identifying Legal Issues"), proposing specific "carve out" language and asserting that "the permissible scope of the Plan's discharge and injunction provisions, and the appropriateness of the requested carve out, raise a purely legal issue that can be determined without the necessity of proof at the confirmation hearing ...." Statement Identifying Legal Issues, at 2, Ex. A.

3. On June 5, 2014, the Court entered the Order Identifying Legal Issues, Establishing Supplemental Briefing Schedule and Setting Hearing Dates and Procedures (Docket No. 5235) (the "Order Identifying Legal Issues"). Paragraph 12 of the Order Identifying Legal Issues identified the following issue ("Issue 12") as one that may be determinable as a matter of law: "Whether the scope of the Plan's discharge and injunction provisions should be limited as requested in the objection to confirmation filed by the United States." Pursuant to the Order Identifying Legal Issues, briefs on the issues identified therein are due on June 30, 2014, and a hearing on Issue 12 is scheduled for July 16, 2014 at 3:00 p.m. Eastern Time. Order Identifying Legal Issues, at ¶¶ (a), (d).

4. The Parties have reached an agreement that resolves the United States' objection to Plan confirmation regarding the scope of the Plan's discharge and injunction provisions. Specifically, the Parties have agreed that that the City shall include the following language in any proposed order submitted to the Court confirming the Plan:

Notwithstanding any other provision of this Order or the Plan, as to the United States, its agencies, departments or agents, nothing in the Plan or this Order shall discharge, release, or otherwise preclude: (1) any liability of the City arising on or after the Effective Date; (2) any liability that is not a "claim" within the meaning of section 101(5) of the Bankruptcy Code; (3) any valid defense of setoff or recoupment with respect to a Claim; or (4) any liability of any entity under environmental laws arising, continuing, or springing anew after the Effective Date that any entity would be subject to as a post-Effective Date owner or operator of property, provided that, for the avoidance of doubt and without limiting the liabilities previously described in this subparagraph (4), any liability that is a dischargeable "claim" within the meaning of section 101(5) of the Bankruptcy Code and arose before the Effective Date, including any liabilities for costs expended or paid by the United States under environmental laws before the Effective Date or any penalties or fines owed to the United States for days of violation of environmental laws before the Effective Date, shall be treated as otherwise provided in the Plan.<sup>2</sup>

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<sup>2</sup> The formatting and defined terms used in the language proposed to be included in any Confirmation Order may be modified as necessary or appropriate to conform to the remainder of the Confirmation Order.

5. Having thus reached a consensual resolution regarding Issue 12 in the Order Identifying Legal Issues, the Parties submit that briefing and oral argument regarding Issue 12 is unnecessary, and respectfully request that the Court enter the proposed Order attached hereto as Exhibit 1, modifying the Order Identifying Legal Issues accordingly.

Dated: June 27, 2014

/s/ Matthew J. Troy

Tracy J. Whitaker  
John T. Stemplewicz  
Matthew J. Troy  
Attorneys, Civil Division  
U.S. Department of Justice  
P.O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 514-9038  
Facsimile: (202) 514-9163  
Tracy.Whitaker@usdoj.gov  
John.Stemplewicz@usdoj.gov  
Matthew.Troy@usdoj.gov

/s/ Alan S. Tenenbaum

Alan S. Tenenbaum  
Robert Darnell  
Environmental Enforcement Section  
Environmental and Natural Resources  
Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 514-5409  
Alan.Tenenbaum@usdoj.gov

ATTORNEYS FOR THE UNITED  
STATES

/s/ Heather Lennox

David G. Heiman (OH 0038271)  
Heather Lennox (OH 0059649)  
Thomas A. Wilson (OH 0077047)  
JONES DAY  
North Point  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Telephone: (216) 586-3939  
Facsimile: (216) 579-0212  
dgheiman@jonesday.com  
hlennox@jonesday.com  
tawilson@jonesday.com

Bruce Bennett (CA 105430)

JONES DAY  
555 South Flower Street  
Fiftieth Floor  
Los Angeles, California 90071  
Telephone: (213) 243-2382  
Facsimile: (213) 243-2539  
bbennett@jonesday.com

Jonathan S. Green (MI P33140)  
Stephen S. LaPlante (MI P48063)  
MILLER, CANFIELD, PADDOCK  
AND STONE, P.L.C.  
150 West Jefferson  
Suite 2500  
Detroit, Michigan 48226  
Telephone: (313) 963-6420  
Facsimile: (313) 496-7500  
green@millercanfield.com  
laplante@millercanfield.com

ATTORNEYS FOR THE CITY

**EXHIBIT 1**

**UNITED STATES BANKRUPTCY COURT  
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SOUTHERN DIVISION**

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CITY OF DETROIT, MICHIGAN, :  
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**ORDER MODIFYING THE ORDER IDENTIFYING LEGAL  
ISSUES, ESTABLISHING SUPPLEMENTAL BRIEFING SCHEDULE  
AND SETTING HEARING DATES AND PROCEDURES [Docket No. 5235]**

This matter came before the Court on the Stipulation Regarding Proposed Order Modifying the Order Identifying Legal Issues, Establishing Supplemental Briefing Schedule and Setting Hearing Dates and Procedures [Docket No. 5235] (the "Stipulation"),<sup>1</sup> filed by the City of Detroit (the "City") and the United States of America; the Court having reviewed the Stipulation; the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court being fully advised in the premises;

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<sup>1</sup> Capitalized terms not defined herein have the meanings given to them in the Stipulation.

IT IS HEREBY ORDERED THAT:

1. The Stipulation is APPROVED.
2. The issue identified in paragraph 12 of the Order Identifying Legal Issues ("Issue 12") is resolved. Accordingly, the Order Identifying Legal Issues is modified to delete paragraph 12.
3. The City shall include the language set forth in paragraph 4 of the Stipulation in any proposed order submitted to the Court confirming the Plan.
4. The Court will not hear arguments regarding Issue 12 at the hearing on legal issues scheduled for July 16 and 17, 2014.



**CERTIFICATE OF SERVICE**

I, Heather Lennox, hereby certify that the foregoing Stipulation Regarding Proposed Order Modifying the Order Identifying Legal Issues, Establishing Supplemental Briefing Schedule and Setting Hearing Dates and Procedures [Docket No. 5235] was filed and served via the Court's electronic case filing and noticing system on this 27th day of June, 2014.

/s/ Heather Lennox \_\_\_\_\_