

# **Bond Case Briefs**

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## **Detroit in Deal With Its Biggest Holdout Creditor in Bankruptcy Case.**

Lawyers for Detroit said on Thursday that the city had reached a settlement with its biggest remaining holdout creditor, clearing a significant obstacle from its path out of bankruptcy.

The settlement would give the Financial Guaranty Insurance Company the rights to build a hotel, retail and condominium complex on the site of the Joe Louis Arena, a five-acre riverfront site that is now the home of Detroit's hockey team, the Red Wings. The team had previously announced plans to move to a new arena in a different neighborhood when its lease expires in 2017.

In addition, Financial Guaranty would obtain the rights to a parking garage on the site, and would receive two types of notes from the city with a total stated value of about \$146 million. The city also agreed to provide about \$20 million in "settlement credits" that Financial Guaranty can use to bid on other city properties that may come onto the market in the future.

The state government will contribute \$6 million to defray the city's cost of demolishing the 35-year-old hockey arena and removing contaminants. Any unused money would go to the insurer.

Corinne Ball, of the Jones Day law firm, said the deal represented "a significant investment in Detroit's future" that would round out the development of the city's waterfront, now a mix of attractions and fenced-off empty space. The hotel would cater to people attending events at the nearby Cobo Center, including an annual auto show.

"This will be, hopefully, another turning moment for this area of Detroit," Ms. Ball said.

The settlement, which must still be approved by the City Council, would end a dispute that has been threatening to unravel other important settlements that Detroit has reached with its thousands of creditors. Financial Guaranty had raised strenuous objections to the deal at the heart of Detroit's exit strategy, called the "grand bargain," which calls for using hundreds of millions of dollars in donated money to bolster the city's pension fund and to move the Detroit Institute of Arts to a bankruptcy-proof entity.

The insurer had argued that the celebrated art collection was an asset of the city that had to be used to help resolve all the city's debts, not just to benefit one class of creditors, the pensioners. Municipal bankruptcy rules say a plan of debt adjustment cannot discriminate unfairly among creditors in a similar class.

Timothy S. Travers, the chief executive of Financial Guaranty, said in a statement Thursday that he was satisfied the insurer was now receiving a recovery consistent with those of similar creditors.

He said Financial Guaranty had always believed in Detroit's prospects for revival, and "this deal gives us the opportunity to participate in and help catalyze that revival."

If the settlement is approved, Detroit will withdraw a lawsuit it filed earlier this year contending the

debt that Financial Guaranty insured was incurred illegally and should be treated as null and void. It would have been unprecedented for a city to repudiate such debt in municipal bankruptcy.

The debt in question dates to 2005, when the city borrowed \$1.4 billion to put into its pension system. Detroit was already in financial trouble at the time and did not have another way to make its required pension contributions. Financial Guaranty insured \$1.1 billion of the debt. Another bond insurer, Syncora Guarantee, insured the remainder and settled its claims with the city last month.

Detroit's emergency manager, Kevyn D. Orr, had said the 2005 borrowing was illegal because it violated the city's legal debt limit through a convoluted structure of sham corporations. Financial Guaranty argued in response that if the borrowing were truly illegal, then the pension system would have to return the \$1.4 billion to the investors who bought the debt. Had things ever reached that point, the pension system would have been at risk of handing over more money than it now stands to get through the "grand bargain," which a majority of Detroit's retirees have already voted to accept.

Mr. Orr is expected to present the new settlement to the Council in the next few days. His term as emergency manager has ended, but the City Council recently agreed that he should stay on, "solely for the purpose of executing documents and overseeing litigation related to the bankruptcy proceedings," according to a statement it issued with Mayor Mike Duggan.

The settlement gives seven institutions that hold the pension debt the right to opt into the deal along with Financial Guaranty. It was not clear on Thursday whether they would do so. The investors include European banks that bought the debt when it first came to market, and hedge funds that bought it at deep discounts as Detroit plunged toward bankruptcy.

If the settlement with Financial Guaranty is approved, Detroit's legal team will still have to convince Judge Steven W. Rhodes that the city is ready to leave the protection of bankruptcy court. Not only must the city have a plan of debt adjustment that does not unfairly discriminate among creditors, it must also show that its plans for the future are "feasible," a term that the bankruptcy code does not define.

Judge Rhodes has already selected a public-finance expert to testify on the feasibility issue, Martha E. M. Kopacz, of Phoenix Management Services, a firm that specializes in restructurings. The judge has also been asking experts whether the pension system will still expose Detroit to too much investment risk after the bankruptcy.

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