

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

In re:
City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846
Judge Thomas J. Tucker
Chapter 9

**CITY OF DETROIT’S REPLY IN SUPPORT OF
MOTION FOR AUTHORITY TO MODIFY THE CONFIRMED PLAN OF
ADJUSTMENT WITH RESPECT TO CERTAIN MODIFICATIONS TO
THE COMBINED PLAN FOR THE POLICE AND FIRE RETIREMENT
SYSTEM OF THE CITY OF DETROIT**

John Quinn (“Quinn”) makes four points in his Objection (Doc. No. 13932) without any support, all of which the City of Detroit (“City”) will show are baseless.

First, Quinn notes that if the City devotes money to the purposes set forth in the Motion (Doc. No. 13930), it will have less money to devote to purposes he prefers, such as restoration of the pension cuts embedded in the City’s Plan.¹

Second, Quinn argues that because the City previously argued that no court could modify the Plan without its consent, the City should not be permitted to argue that the Plan can be modified with its consent and this Court’s authorization.

Third, Quinn claims that the City offers no rationale for this Plan amendment.

Fourth, and finally, Quinn says it is “quite clear” that the City is trying to use the Court for “cover” to avoid political “consequences.”

¹ Capitalized but undefined terms have the meanings set forth in the Motion.



I. Argument

A. **The Plan does not prohibit the City from using its resources as it deems appropriate so long as it complies with its Plan obligations.**

Quinn's argument about limited resources fails on its face. If his position were correct, then any City expenditure on anything other than pension restoration would be prohibited. For example, if the City plants trees in a neighborhood, it must necessarily expend resources that could otherwise be directed towards pensioners. The Plan does not encumber City resources that rigidly – if at all. The City is free to (and indeed must) expend resources in ways that it believes will enhance the well-being of all of its citizens, including (but definitely not limited to) Quinn himself.

Quinn points to Exhibit II.B.3.r.ii.C of the Plan and suggests that the City's proposed expenditures here might delay when GRS pension restoration might occur. Quinn points to no specific provision, however, because nothing there suggests that City expenditures play a direct role in the occurrence or timing of pension restoration. Instead, restoration is tied to pension funding levels, which in turn are driven by pension fund investment returns and City pension funding contributions, not unrelated City expenditures. Quinn's argument that the proposed expenditure here "negatively impacts Class 11 claims" is unsubstantiated, untrue, and irrelevant. The Plan contains no such proscription or limitation on the use of the City's general revenues. Absent an agreed-upon covenant in the City's Plan, section 904 of the Bankruptcy Code specifically prohibits any such interference.

In short, Quinn identifies no Plan provision that prohibits the City from using its general operating funds or revenues in the manner described in the Motion. There is no such provision and, absent one, section 904 is clear. Furthermore, Quinn cannot show (even if it were relevant) that this proposed expenditure would prevent the City from meeting its obligations under the Plan (including, without limitation, the City's pension funding obligations) because it will not. For these reasons, Quinn's first argument fails.

B. Quinn himself argued that only the City can modify the Plan, so it is odd that he would argue to the contrary now.

Quinn states that the City earlier argued that the Court cannot amend the Plan, implying that the City should be bound by this alleged argument. First off, Quinn mischaracterizes the City's earlier position and takes it out of context. In a Corrected Motion filed with the District Court in relation to an appeal from the City's bankruptcy case,² the City argued that "[f]or the reasons previously stated, neither the Bankruptcy Court nor this Court possesses authority to modify the City's plan." *Id.*, p. 39 (p. 47 of 297, Pg ID 53145). This was a reference back to page 20 of the Corrected Motion, wherein the City noted that under 11 U.S.C. §§ 941 and 942 and related case law, no court can rewrite the City's Plan without the City's consent. A

² Quinn cites to the *Motion of Appellee the City of Detroit, Michigan for an Order Pursuant to Fed. R. Civ. P. 12(b) Dismissing Appeal as Equitably and Constitutionally Moot*, case 2:14-cv-14899-BAF-RSW, Docket Number 32. This motion was superseded by a corrected version at Docket Number 36 ("Corrected Motion"). The Corrected Motion also contains the language Quinn cites, though.

court can reject a municipal plan of adjustment, but it cannot author and compel changes to it either before or after confirmation without the municipality's consent.

Quinn likely knows this, since he argued the very same position to the Sixth Circuit. *In re City of Detroit, Mich.*, 838 F.3d 792, 804 (6th Cir. 2016) (listing Quinn as an appellant and stating “The third theory on which the appellants proceed starts with the fact that, while Chapter 11 empowers the court to modify the plan, Chapter 9 authorizes only the debtor municipality to modify the plan; the court cannot. *See* 11 U.S.C. §§ 941, 942.”) Thus, Quinn himself argued that the City can modify the Plan, at least with Court approval, just as the City explained in its Motion. Quinn provides no support for his now-opposing view. Indeed, he even agrees that the City's Motion supports the City's position that the Plan can be modified (though Quinn dismisses the City's support as “at best, merely persuasive,” Objection, p. 3).

As noted in the Motion, a leading bankruptcy treatise has written that “[T]wo cases have held that such modification is permissible.” 6 COLLIER ON BANKRUPTCY ¶ 942.03 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (citing *Am. United Life Ins. Co. v. Haines City, Fla.*, 117 F.2d 574 (5th Cir. 1941) and *Wells Fargo Bank & Union Trust Co. v. Imperial Irrigation Dist.*, 136 F.2d 539 (9th Cir. 1943)). Under *American United Life Insurance Company*, the main requirement is that any modification sought must be justified and fair. 117 F.2d at 576. Here, the justifications are that the modification sought is the product of good-faith negotiation

between the City and its unions, the modification will not adversely affect the City's recovery efforts, and the cost is affordable. In fact, it is hard to overstate the importance to the City and its continuing recovery to work with its unions in resolving good faith disputes in a constructive and mutually beneficial manner.

The Plan states that if the Plan is modified, Holders of Claims who supported the Plan are deemed to accept the modification so long as it does not "materially and adversely change the treatment of the Claim of such Holder." Plan, Art. VIII.B. The change proposed here is neither material nor adverse to the treatment of any claim Quinn might hold in Class 11. Quinn's Class 11 Claim and its treatment are unaffected by the modifications proposed. Also, although there is no post-confirmation feasibility test to modifications, Quinn could not show that this minor modification would threaten the Plan's feasibility, as the estimated annual cost of the proposed changes is approximately \$5 million. Motion, p. 5. For comparison, the 2025 City Budget is approximately \$2.7 billion, of which the General Fund constitutes approximately \$1.46 billion.³ The City submits that committing 0.3% of the General Fund for the use proposed is neither material to the City nor reduces the likelihood of the City making future required pension contributions. And the City is not requesting any change to the Plan that would lessen its required annual

³ See <https://www.freep.com/story/news/local/michigan/detroit/2024/04/09/detroit-city-council-approves-budget-2025-fiscal-year/73178742007/>.

contributions for its pension obligations. Thus, the requested change satisfies any reading of the requirements and conditions listed in Article VIII.B of the Plan.

Finally, the absence in the Plan or Confirmation Order of any restriction on amendments or modifications to the Combined Plans at any time after June 30, 2024, except as otherwise provided in the Plan, means the City may already have authority to make this modification under section 904 of the Bankruptcy Code without court approval. Plan, pp. 39, 42. To avoid uncertainty in light of the minimal reported precedent cited above, however, the City elected to proceed by this Motion.

For these reasons, Quinn's second argument, that the Plan cannot be modified now that it is substantially consummated, is unsupported and untrue.

C. The Plan does not require any justification.

Quinn's also complains that the City has not justified this modification, but the Plan has no such requirement. The agreements with the four unions who signed MOUs here all permitted the unions to request negotiations on pension obligations starting in 2024. **Exhibit A** (Excerpts from collective bargaining agreements, with relevant language highlighted in green). The City engaged in good faith negotiations and came to agreements which both satisfy the unions and preserve the City's financial recovery, preserving the City's relationships with its unions at an affordable cost. Simply put, negotiating the modifications at the specified cost is just a sound exercise of the City's governmental powers. Quinn points to no law

that requires further (or any) justification, and no further justification is necessary.

Thus, Quinn's argument that the City is somehow required to justify this Plan modification request and failed to adequately do so also fails.

D. The City is not using, nor could use, the Court for political cover.

Quinn's last argument is disposed of by pointing out that the Court cannot order changes to the City's Plan absent the City's consent. *See* 11 U.S.C. §§ 904, 941, 942. Only the City can request, and thus be responsible for, the proposed Plan modification. Quinn's assertion that the Motion somehow insulates the City from the political process is rank unsupported speculation.

II. Conclusion

For these reasons, the City respectfully requests that the City grant its Motion.

March 13, 2025

Respectfully submitted,

By: /s/ Marc N. Swanson

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

In re: City of Detroit, Michigan, Debtor.

Bankruptcy Case No. 13-53846
Judge Thomas J. Tucker
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 13, 2025, he electronically filed the *City of Detroit's Reply in Support of Motion for Authority to Modify the Confirmed Plan of Adjustment with respect to Certain Modifications to the Combined Plan for the Police and Fire Retirement System of the City of Detroit* (the "Reply") with the Clerk of the Court which sends notice by operation of the Court's electronic filing service to all ECF participants registered to receive notice in this case. The City also served the Reply by overnight delivery on

John P. Quinn
1611 Michigan Avenue, Apt. 627
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DATED: March 13, 2025

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EXHIBIT A

MASTER AGREEMENT

BETWEEN THE

CITY OF DETROIT

AND THE

DETROIT POLICE COMMAND OFFICERS ASSOCIATION

2022 - 2027

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2. The parties acknowledge that the identity of the “designated beneficiary” is unclear in this instance.
3. The parties agree that “designated beneficiary”, as used in Article 28C, shall be that individual who is designated as beneficiary on the employee’s City of Detroit Life Insurance Policy.
4. The City shall pay the one-time payment of \$40,000, as set forth in Article 28C, to the individual who is designated as beneficiary on the employee’s City of Detroit Life Insurance Policy.
5. It shall be the employee’s responsibility to determine who shall be the designated beneficiary on the Life Insurance Policy issued by the City of Detroit by recording that name on the approved form and/or application for the City’s Life Insurance Policy.

29. PENSION AND RETIREMENT BENEFITS

During the term of this Agreement Employees will be entitled to retirement benefits in accordance with the terms of the Memorandum of Understanding Regarding the Police and Fire Retirement System of the City of Detroit, Michigan. The terms of the Memorandum of Understanding may be modified to conform with any plan of adjustment approved by the United States Bankruptcy Court. **In accordance with the plan of adjustment approved by the United States Bankruptcy Court, the DPCOA reserves the right to request to discuss potential modification after 11/7/2024.**

30.DROP

The City of Detroit has obtained Bankruptcy Court approval to modify its confirmed bankruptcy plan of adjustment to permit it to amend Article 12 of the Combined Plan For the Police and Fire Retirement System of The City of Detroit, (“Combined PFRS Plan), such that any Member meeting certain qualifications may participate in the DROP program for a maximum of ten (10) years. Such amendments will not affect those Members who are currently enrolled (“grandfathered”) in a DROP program. To facilitate this change, the City of Detroit shall seek approval to amend § 12.1 of the Combined PFRS Plan to add a new paragraph (3) along the following lines (exact wording may vary):

(3) Notwithstanding paragraph 2 of this section or any other provision of the Plan, a member of the Detroit Police Command Officers Association shall be entitled to participate in the DROP program under Component I for a maximum of ten (10) years. At the end of such ten (10) year period of participation in the DROP program, the member shall be retired and separated from employment.

A member who is participating in the DROP program pursuant to this paragraph § 12.1(3) or pursuant to Component II of the Police and Fire Retirement System must be able to perform the essential functions of his or her permanent position, assigned for the duration of his or her participation in the DROP program. Provided, however, that if a member participating in the DROP program pursuant to this paragraph §12.1(3) or Component II of the Police and Fire Retirement System requires and is granted restricted duty for 365 consecutive days or more, that member shall be retired and separated from employment.

While participating in the DROP program pursuant to paragraph § 12.1(2), this paragraph 12.1(3) or pursuant to Component II of the Police and Fire Retirement System, a member of the Detroit Police Command Officers Association must receive annual satisfactory performance evaluations according to the performance evaluation standards then in place for sworn officers. Any such member who receives an unsatisfactory performance evaluation

MASTER AGREEMENT

BETWEEN THE

CITY OF DETROIT

AND THE

DETROIT POLICE OFFICERS ASSOCIATION

2022 - 2027

31. EXCUSED TIME

Employees shall be granted eight (8) hours of "Excused Time" on Good Friday or the last eight (8) hours on the last scheduled day prior to Good Friday, ~~eight (8) hours of "excused time" on Easter or the last eight (8) hours on the last scheduled day prior to Easter,~~ and eight (8) hours of "Excused Time" on the last scheduled paid day before Christmas Day and before New Year's Day and Martin Luther King's Birthday provided they are on the payroll through the holiday in question. Employees required to work any portion of the "Excused Time" on these days will receive equal time off for hours worked or straight time cash at the option of the Chief of Police. No holiday premium will be paid for work on these days.

32. PENSION PROVISIONS/PLAN OF ADJUSTMENT

During the term of this Agreement Employees will be entitled to retirement benefits in accordance with the terms of the Memorandum of Understanding Regarding the Police and Fire Retirement System of the City of Detroit, Michigan. The terms of the Memorandum of Understanding may be modified to conform with any plan of adjustment approved by the United States Bankruptcy Court.

The parties agree that in accordance with the provisions of the Plan of Adjustment, the union may request to open this provision of the Agreement to bargain after January 1, 2024. The city will bargain in good faith with the Union regarding this provision.

33. RECALL PAY

- A. Employees are entitled to recall pay at time and one-half (1½) rate if recalled to duty after reporting off duty and before their next tour of duty. A minimum of two (2) hours will be granted to a recalled member. Travel time, not to exceed one-half (½) hour each way shall be granted for travel to and from the duty station when the total time worked exceeds one (1) hour.

The recall rate shall not be paid when a member works continuously beyond his normal tour without first being relieved. The recall rate shall terminate as of the time that his next regular tour was scheduled to begin, and he will not receive any travel time back to his residence.

Recall pay shall not be granted when:

1. A mobilization has been ordered;
 2. Leave, furlough, bonus vacation days or compensatory time days have been canceled;
 3. A member has been directed to appear in court;
 4. A member is given notice of a change in shift starting time prior to his going off duty.
- B. Standby Time Compensation: Standby time is defined as that time a Member is scheduled to be available to work in case of an emergency. The Member is scheduled to be available to work in case of an emergency. The Member is compensated for being required to be available to provide emergency services during a specified period of time.

MASTER AGREEMENT

BETWEEN THE

CITY OF DETROIT

AND THE

DETROIT POLICE LIEUTENANTS AND SERGEANTS ASSOCIATION

2022 - 2027

LAW ENFORCEMENT CODE OF ETHICS

The Law Enforcement Code of Ethics shall be the basis for governing the behavior of all members of the Department and is hereby adopted as follows:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to my agency or me. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and professional life, I will be exemplary in obeying the laws and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity, will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of the police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers.

I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

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regular tour was scheduled to begin and he will not receive any travel time back to his residence.

Recall pay shall not be granted when:

- (1) A mobilization has been ordered;
 - (2) Leave, furlough, bonus vacation days or compensatory time days have been canceled;
 - (3) A Employee has been directed to appear in court;
 - (4) An Employee is given notice of a change in shift starting time prior to his going off duty.
- b. Standby Time Compensation: Standby time is define as that time a member is scheduled to be available to work in case of emergency. The member is compensated for being required to be available to provide emergency services during a specified period of time.
- (1) Scheduling is determined by departmental procedures. If scheduled, a member can pursue personal activities, but when called must be able to promptly and effectively carry out their duties while designated to be on standby time.
 - (2) All members scheduled pursuant to departmental standby procedures will be compensated at the following rate: one(1) hour of straight time earned for every eight (8) hours of standby time. For the one (1) hour of straight time the member shall have the option of pay or compensatory time.

46. PERFORMANCE EVALUATION RATINGS

- A. Each Employee shall be rated by his or her immediate supervisor at least once per year.
1. Upon completion of the rating, each Employee will be personally informed of their respective evaluations by the immediate supervisor who prepared the evaluation.
 2. Any Employee who wishes to appeal his performance evaluation must make a written request to the Chief of Police or his/her designee within thirty days of receiving his copy of the evaluation and must identify each trait he is appealing and cite a brief basis for appealing that rating.

47. PENSION AND RETIREMENT BENEFITS

During the term of this Agreement Employees will be entitled to retirement benefits in accordance with the terms of the November 2014 Memorandum of Understanding Regarding the Police and Fire Retirement System of the City of Detroit, Michigan. The terms of the November 2014

Memorandum of Understanding may be modified to conform with any plan of adjustment approved by the United States Bankruptcy Court.

The parties further agree that in accordance with the provisions of the Plan of Adjustment, the union may request to open this provision of the Agreement to bargain after January 1, 2024. The city will bargain in good faith with the union regarding this provision.

48. GENERAL PROVISIONS

- A. Relation to Regulations, etc. This Agreement shall supersede any rules, regulations, ordinances, or resolutions inconsistent herewith.
- B. In the event that the Department enters into a consensual collective bargaining agreement with any other labor organization representing employees of the Department that provides union represented employees in the Department with general wage increases, coverage under City active or retiree medical plans, or retirement benefits that are more favorable than those provided to employees under this Agreement, the Department will promptly notify the Association of such terms and, upon request, increase the compensation or benefits provided to Employees covered by this Agreement, to such higher amount and/or comparable terms or conditions.
- C. In the event that the Bankruptcy Court approves a plan of adjustment that provides Department employees represented by another labor organization with general wage increases, coverage under City active or retiree medical plans, or retirement benefits that are more favorable than those provided to employees under this Agreement, the Department will promptly notify the Association of such terms and, upon request, increase the compensation or benefits provided to Employees covered by this Agreement, to such higher amount and/or comparable terms or conditions.
- D. Nothing in this Agreement will be construed as a commitment by the City or this Department to create parity between any bargaining units.
- E. The Association will have an opportunity to assign one member to the City of Detroit Deferred Compensation Committee. The purpose of this committee is to evaluate, make recommendations regarding the plan and record keepers in addition to other items the committee may review.

MASTER AGREEMENT

BETWEEN THE

CITY OF DETROIT

AND THE

DETROIT FIRE FIGHTERS ASSOCIATION

2020 - 2026

on a day-to-day basis. Either party may terminate the agreement by giving the other party ten (10) calendar days' written notice on or after June 30, 2026.

On or after January 2, 2024, either party may request to bargain new terms and conditions for Health Care and/or Retirement Benefits. If the request is made, the parties will bargain in good faith over the terms and conditions for Health Care and/or Retirement Benefits; however, if no agreement is reached, the issues shall not be subject to the Public Act 312 process.

In witness whereof, the parties hereto have affixed their signatures below:

Dated this 25th day of October, 2021.

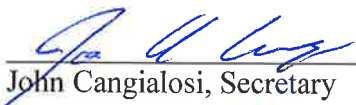
DETROIT FIRE FIGHTERS ASSOCIATION:



Thomas Gehart, President



William Harp, Vice President



John Cangialosi, Secretary

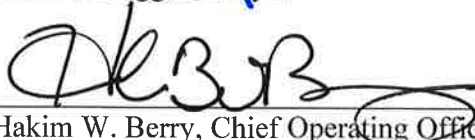


Christopher Smith, Treasurer

CITY OF DETROIT:



Michael Duggan, Mayor



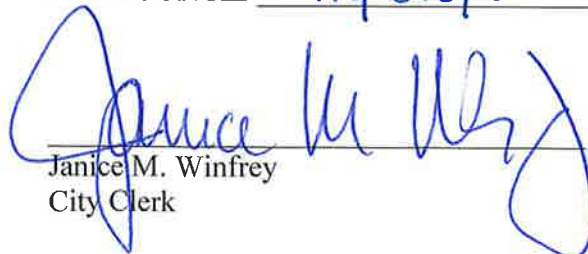
Hakim W. Berry, Chief Operating Officer



Eric Jones, Executive Fire Commissioner

APPROVED AND CONFIRMED BY THE

CITY COUNCIL July 20, 2021



Janice M. Winfrey
City Clerk