City-owned assets hived off in Detroit bankruptcy deals

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In a flurry of settlements in the Detroit bankruptcy case this week, city-owned assets continued to be hived off, with a long-term lease deal for the Detroit-Windsor Tunnel and the setting up of a regional authority to take control of the Detroit water and sewerage system.

The moves were aimed at resolving outstanding objections to the city's financial restructuring plan and accelerating its implementation. The so-called Plan of Adjustment includes sweeping cuts in city worker jobs, pensions and health benefits, the razing of low-income neighborhoods and the privatization of services.

On Wednesday, federal bankruptcy judge Steven Rhodes suspended hearings on the confirmation of the plan to allow the conclusion of a deal with bond insurer Syncora Guarantee Inc., which has been the most aggressive objector. The Bermuda-based financial company, which is liable for the losses of the Wall Street banks and bondholders it insures, has been holding out for a much larger payout. It has pressed the city to impose even deeper attacks on city workers and retirees, sell off paintings from the Detroit Institute of Arts and "monetize" other city assets.

In the deal announced Tuesday, Syncora will get millions more through the extension of a leasing agreement for the Detroit-Windsor tunnel and the payment of financial subsidies to the bond insurer to purchase prime real estate along the Detroit riverfront. The deal will also allow Syncora to collect 75 percent of the proceeds from an 800-space city parking garage in the center of the sports entertainment district.

The tunnel, built in 1930, is owned by Detroit–Windsor Tunnel LLC, a joint venture between the city of Windsor, Canada and the City of Detroit. Last year, ownership of the company that operates the US side of the tunnel—American Roads—was transferred to Syncora in another bankruptcy case. The deal reached Tuesday will extend the current lease, which runs to 2020, until 2040. This will provide Syncora a lucrative flow of revenue from the 13,000 toll-paying vehicles that pass through the tunnel each day.

Syncora will also get $5 million in cash from Detroit to help settle claims from banking giants UBS AG and Bank of America, which swindled the city out of hundreds of millions in an interest rate swap deal in the mid-2000s. The banks would have to drop their $200 million insurance claim for the plan to work. A "significant loose end," one source told the *Detroit News.*

All told, the bankruptcy court has increased Syncora's allowed claim to $201.5 million, boosting its recovery from six cents on the dollar to roughly 26 cents. UBS and Bank of America will be getting 29 cents, or $85 million, on their claims for swap deals the bankruptcy judge acknowledged were likely illegal. Hailing the deal, Syncora attorney Ryan Bennett, told reporters, "It's a big day... a lot of creative, constructive thought went into it to unlock value."

In another major move on Monday, Detroit's Democratic mayor Mike Duggan and executives from the three metropolitan area counties announced a deal to establish a regional authority—the Great Lakes Water Authority—to take over the Detroit water system. The Detroit Water and Sewerage Department (DWSD) is one of the largest municipally owned systems in the US, providing water for 700,000 city residents and four million people in southeastern Michigan.

From the beginning, DWSD has been considered the jewel in the crown of the Detroit bankruptcy case, since it generates about $1 billion in revenue each year. Emergency Manager Kevyn Orr sent out bids to privatize DWSD and has threatened to press ahead if the Detroit City Council and at least one county government fail to back the scheme.

Under the 40-year plan, the city's 300 miles of suburban pipes would be leased to communities in

Wayne, Oakland and Macomb counties for $50 million a year. Detroit will retain control of its largely antiquated system of 3,000 miles of local water mains and 3,400 miles of sewer lines.

A governing board will be made up of two members appointed by the Detroit mayor and one each appointed from Wayne, Oakland and Macomb counties and the governor. Detroit's City Charter explicitly prohibits giving up control over the system without a popular vote. But Emergency Manager Kevyn Orr has repeatedly stated federal bankruptcy law essentially nullifies the Charter.

In a statement opposing the deal, the advocacy group Food and Water Watch said, "The deal will not serve the people of Detroit but it will corporatize the system by allowing appointed, unelected officials to determine the cost and quality of the water service, effectively denying city residents the ability to hold decision-makers accountable."

The statement added, "This plan is a wolf in sheep's clothing; corporatization is the first step towards full privatization, which would lead to even higher utility rates and degraded service in the form of water loss, backlogs, sewage spills and more."

Last week, lawyers for the counties bitterly opposed the Plan of Adjustment, complaining that it diverted $428 million over nine years from the water department to pensions. What was needed, one lawyer said, was a sharp reduction in "headcount" and implementation of the plan to "right-size" Detroit by decommissioning the water system in impoverished neighborhoods.

The new plan appears to have satisfied these demands. Under the terms of the new agreement, there will be a one-time payment into the General Retirement System to fund pension obligations. Although the plan says the 1,400 DWSD employees will retain their jobs—with 500 remaining in Detroit and 900 running the regional system—a huge attack on jobs and working conditions will come after workers are under the new employer, the Great Lakes Water Authority. Duggan met with the unions, including the American Federation of State, County and Municipal Employees (AFSCME), to pave the way for this attack.

The Memorandum of Understanding signed by Duggan and the county executives includes the retention of French conglomerate Veolia Water "to assist parties in evaluating operating models, capital requirements and savings opportunities."

The DWSD previously released plans to eliminate 80 percent of its workforce through outsourcing to private contractors. The remaining workers will have additional job responsibilities and many will be reduced to the status of at-will employees without the slightest job security.

The deal allows rate increases of four percent each year for the first 10 years—a staggering 53 percent hike in rates—under conditions in which thousands of low-income Detroit residents have already seen their service terminated for failure to pay their bills.

In a sop to deep public anger over the water shutoffs, the deal includes the payment by the counties of an addition $4.5 million annually for a Water Residential Assistance Program. This is a pittance compared to the $118 million DWSD says Detroiters owe. The new program, which will cover both the city and the suburbs, includes the caveat that it will "provide assistance to indigent residential customers throughout the Systems who agree to take appropriate actions to reduce consumption."

Outright privatization of the system is not excluded. The memorandum states ominously that the parties have "no commitment" to contract with Veolia to operate, manage or maintain the systems. It also contains a none-too-comforting provision requiring that a vote of five out of six commissioners on the new regional authority is needed to approve "the terms on which any aspect of the operations of either System may be privatized." It also allows for Detroit to "contract with the Authority or another Third Party for all or a portion" of functions to operate, maintain, and repair the local system in Detroit and for billing and collection services.

Last month, Detroit sold about $1.8 billion in bonds tied to its water system to buy back existing debt. Already a full 50 percent of the water department's revenue is earmarked for debt servicing, and the amount of debt held by the Wall Street banks stands to rise even more sharply as another $500-$800 million in bonds is floated, allegedly for repairs on the aged system. However, the plans envisage repairs on only one mile a year in a city where the majority of water mains are between 70 and 90 years old, resulting in 3,000 breaks in the last three years alone.