Deal with bond insurer paves way for approval of Detroit bankruptcy plan

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The settlement with Financial Guarantee Insurance Co. (FGIC) announced Thursday sets the stage for the approval of the Detroit bankruptcy plan by a federal judge. Closing arguments in the largest municipal bankruptcy case in US history are expected to begin early next week.

New York-based bond insurer FGIC was the last major creditor opposing the restructuring plan and holding out for a higher payout. The agreement was reached early Thursday morning by a federal mediator, representatives of the bond insurer and bankruptcy attorneys, led by the city's emergency manager Kevyn Orr.

The payout is even more generous than the deal reached with bond insurer Syncora Guarantee Inc., which was given control of city parking garages, riverfront property and an extended lease on the Detroit-Windsor, Canada tunnel.

In this case, the settlement includes an option for FGIC to develop city-owned property along the Detroit River—where the current Joe Louis arena is located—for hotel, condominium, retail and convention center projects. By 2017, the city will, at taxpayer expense, demolish the arena—currently the home of the Detroit Red Wings hockey team—and hand over 8.6 acres of choice riverfront property to FGIC. Meanwhile, a new publicly subsidized arena is being built for billionaire team owner Mike Ilitch about a mile away.

FGIC will also receive about $152 million in city notes, part of which will be backed by public parking revenue, as well as $19.7 million in credits it can apply for purchasing city parking assets or real estate, according to the *Detroit News* .

By all rights, FGIC and Syycora should not have been given a penny. Their claims stem from the insurance money they owe to several major Wall Street banks, which entangled the city in blatantly illegal financial swindles during the mid-2000s. The tribute paid to the banks and other financial institutions for these deals, not the supposedly unsustainable pension costs, have been identified as the chief cause of the city's financial crisis.

FGIC was seeking $1.1 billion to cover the losses of bondholders who control so-called Certificate of Participation (COP) instruments, which were signed by former Detroit mayor Kwame Kilpatrick to cover underfunded pension liabilities in 2005-06. Syncora was seeking more than $300 million to cover so-called swaps, or derivatives, the city bought from UBS AG and Bank of America unit Merrill Lynch Capital Services to permanently lock in steady interest rates around six percent for the COP deal. Three years later, as the economy crashed and interest rates plummeted, the city was stuck owing hundreds of millions.

Earlier in the bankruptcy process, Judge Rhodes and Orr questioned the legality of the original $1.4 billion deal because the banks concealed information about future interest rates, the amount exceeded city limits, and casino revenue was used as collateral in violation of the state's gaming law.

Nevertheless, the city settled with the Bank of America and UBS and as part of Thursday's settlement and has agreed to drop a lawsuit seeking to invalidate the $1.4 billion COP deal. If the lawsuit had been pursued and the debt overturned, FGIC said, in a statement filled with irony, the city's pension systems would have been liable to legal claims of "unjust enrichment."

In fact, the bank executives and wealthy investors made billions through the illegal methods they used to fleece cities like Detroit before, during and after the bursting of the sub-prime mortgage bubble. In 2012, UBS paid $1.5 billion to the US Securities and Exchange Commission and European regulators as part of a settlement of charges that it worked to rig Libor, which determines the interest rate of many financial products, including interest rate swaps.

According to the *Detroit News*, FGIC insured "not only Detroit's controversial casino revenue bonds but also a lot of bonds based on risky mortgages that were issued during the housing bubble. FGIC took huge losses, eventually filing for Chapter 11 bankruptcy reorganization, and now operates under a rehabilitation plan administered by the state of New York."

Rather than the big banks paying for these criminal activities, the money being squeezed out of the people of Detroit through the hiving off of city assets is finding its way to these same banks, via the bond insurers.

FGIC CEO Timothy Travers praised the deal, saying, "FGIC has always been, and continues to be, believers in Detroit's long-term revival prospects, and this deal gives us the opportunity to participate in and help catalyze that revival. We look forward to managing our ongoing stake in the city and helping to drive value for Detroit and for FGIC's stakeholders."

The deal, which was reached in the early morning hours Thursday, was the product of months of negotiations, which involved representatives of Republican Governor Rick Snyder and the city's Democratic mayor, Mike Duggan, and attorneys for the Jones Day law firm, which nominally "represents" the city of Detroit.

In the next few weeks, Judge Rhodes is expected to confirm the restructuring plan, allowing the city to exit bankruptcy and accelerating the process of savage cuts in city worker pensions and health care benefits, the privatization of city services, and the parceling out of even more city-owned assets to billionaire real estate developers. While there is deep popular opposition to the looting of the city, it has been suppressed by trade unions such as AFSCME and the United Auto Workers, which have been given their own share of the spoils in the form of a half-billion-dollar retiree health care slush fund.