

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

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

**APPLICATION OF THE OFFICIAL COMMITTEE OF  
RETIRES FOR AN ORDER APPROVING RETENTION OF  
BROOKS WILKINS SHARKEY & TURCO, PLLC AS LOCAL COUNSEL**

The Official Committee of Retirees (the "Retiree Committee") hereby applies for entry of an Order under Title 11 United States Code (the "Bankruptcy Code") Sections 901(a), 1102(a)(1) and 1103 authorizing the employment and retention of Brooks Wilkins Sharkey & Turco, PLLC ("BWST or the "Firm") as local counsel in this matter, effective as of September 3, 2013. The Retiree Committee relies on the Declaration of Matthew E. Wilkins in support of this Application, and in further support states:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for this Application are Bankruptcy Code Sections 901(a), 1102(a)(1) and 1103.

**BACKGROUND**

3. On July 18, 2013, the City of Detroit (the "City" or the "Debtor") filed a voluntary

petition (the "Petition") for relief under Chapter 9 of the Bankruptcy Code.

4. By Order dated August 2, 2013, the Court directed the Office of the United States Trustee to appoint an official committee for retired employees pursuant to section 1102(a)(2).

5. The Retiree Committee was formed and the following parties were appointed to the Committee on August 22, 2013: (i) Edward L. McNeil for the Detroit, Michigan, Retiree Sub-Chapter 98 of the American Federation of State, County and Municipal Employees, AFL-CIO; (ii) Michael Karwoski; (iii) Shirley V. Lightsey; (iv) Terri Renshaw; (v) Robert A. Shinske; (vi) Donald Taylor; (vii) Gail Wilson Turner; (viii) Gail M. Wilson; (ix) Wendy Fields-Jacobs for the International Union, UAW.

6. The Retiree Committee engaged Dentons LLP ("Dentons") as its general bankruptcy counsel on August 28, 2013.

7. Dentons is a New York-based firm and the Retiree Committee recognized the need for capable local counsel to assist the Dentons firm in its representation of the Retiree Committee.

8. On September 3, 2013, the Retiree Committee interviewed and retained BWST as its local counsel. BWST attorneys Matthew Wilkins and Paula Hall began work on behalf of the Retiree Committee that day. An engagement agreement formally memorializing BWST's engagement was executed on October 2, 2013 (the "Engagement Agreement"). A copy of the Engagement Agreement is attached as Exhibit A.

9. While it is clear that Section 328 of the Bankruptcy Code does not apply to the retention of professionals in this proceeding, and the Debtor is not required to seek court authorization for the retention of its professionals, the Retiree Committee is filing this

Application out of an abundance of caution, as there is arguable ambiguity whether Court approval is required for the employment of professionals under Code section 1102.

10. By this Application, the Retiree Committee seeks the entry of an Order authorizing the employment and retention of BWST in accordance with the provisions of the Firm's Agreement, this Application, and the proposed Order submitted herewith, as local counsel to the Retiree Committee, effective as of September 3, 2013 (the day on which BWST began rendering services to the Retiree Committee).

### **SERVICES TO BE RENDERED**

11. The Retiree Committee seeks to engage BWST as its local counsel based upon BWST's experience and recognized expertise in the areas of bankruptcy and litigation. BWST specializes in these areas and has extensive experience representing trustees, debtors, creditors, and creditors' committees. The Retiree Committee believes that BWST has the necessary expertise to effectively deal with the complex legal issues and challenges that may arise in connection with its role in this case. The services of BWST are appropriate and necessary to enable the Retiree Committee and Dentons to faithfully execute their duties in this case.

12. Specifically, the Retiree Committee has retained BWST to perform the following non-exhaustive list of tasks:

- a. to give legal advice with respect to the Retiree Committee's powers and duties in the context of this case;
- b. to assist and advise the Retiree Committee in its consultation with the Debtor and other regarding the administration of this case;
- c. to attend meetings and negotiate with the Debtor's representatives and others;
- d. to appear, as appropriate, before the Court, the relevant Appellate Courts, and the United States Trustee, and to represent the interest of the Retiree Committee before said Courts and the United States Trustee;

- e. to advise the Retiree Committee in connection with proposals and pleadings submitted by the Debtor or other to this Court;
- f. to generally prepare on behalf of the Retiree Committee all necessary applications, motions, answers, orders, reports, and other legal papers in support of positions taken by the Retiree Committee;
- g. to assist the Retiree Committee in the review, analysis and negotiations of any plan(s) of adjustment that may be filed and to assist the Retiree Committee in the review, analysis, and negotiation of the disclosure statement accompanying any plan(s) of adjustment;
- h. to take all necessary action to protect and preserve the interest of retirees represented by the Retiree Committee, including (i) to investigate and prosecute actions on the Retiree Committee's behalf, (ii) challenge the City's eligibility to use Chapter 9 to terminate retirement promises and (iii) to conduct negotiations concerning all litigation in which the Debtor are involved;
- i. to advise the Retiree Committee on the retention of other professionals and experts to assist in the engagement, including local counsel; (Although Claude Montgomery is a member of the bar of the State of Michigan and previously admitted to the U.S. District Court of Appeals, we have advised the retention of local counsel is appropriate.);
- j. to retain expert professional assistance and witnesses, as necessary; and
- k. to perform all other necessary legal services for the Retiree Committee in connection with this Case.

**BWST'S DISINTERESTEDNESS**

13. To the best of the Committee's knowledge, and except as otherwise set forth in the Declaration of Matthew E. Wilkins, a member of BWST, attached hereto as Exhibit B (the "Declaration"), the members and associate attorneys of BWST neither hold nor represent any adverse interest in connection with the case, as required by section 1103(b) of the Bankruptcy Code.

**COMPENSATION**

14. As local counsel to the Retiree Committee, BWST shall receive compensation for professional services rendered to the Committee and for expenses incurred exclusively from the Debtor rather than from the Committee or any of its members, subject to the terms of the Fee Review Order entered on September 11, 2013 [Dkt. #810], and such other procedures as may be ordered by this Court.

15. As a courtesy to the Retiree Committee, and in recognition of the importance of this case to the Retiree Committee and its constituents, BWST has agreed to discount its standard hourly rates by approximately 10%. The Firm's current hourly rates are set forth in the Engagement Agreement. Expenses will be charged in conformity with the terms of the Fee Review Order.

**WHEREFORE**, the Retiree Committee respectfully requests that the Court enter an Order, in the form annexed hereto, granting the relief requested in the Application and such other and further relief as would be just and proper in the premises.

Dated: October <sup>25</sup>24, 2013

Respectfully submitted,

**THE OFFICIAL COMMITTEE OF RETIREES**

By: Terri L. Renshaw  
Terri Renshaw, Chairperson

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
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**INDEX OF EXHIBITS**

**Exhibit 1** Proposed Order  
**Exhibit A** BWST Engagement Agreement  
**Exhibit B** Declaration of Matthew Wilkins

# Exhibit 1

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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In re : Chapter 9  
: : Case No. 13-53846  
CITY OF DETROIT, MICHIGAN, :  
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**ORDER APPROVING RETENTION OF BROOKS WILKINS SHARKEY & TURCO  
AS LOCAL COUNSEL TO THE OFFICIAL COMMITTEE OF RETIREES**

Upon the Application of the Official Committee of Retirees (the "Retirees Committee") for an Order Approving the Retention of Brooks Wilkins Sharkey & Turco, PLLC ("BWST" or the "Firm") as Local Counsel, effective September 3, 2013, Pursuant to 11 U.S.C. Sections 901(a), 1102(a)(1) and 1103; and upon consideration of the supporting Declaration of Matthew E. Wilkins, a member of the Firm (the "Declaration"); and the Court being satisfied that the Firm neither represents nor holds any interest adverse to the above-captioned Debtor's estate nor to the Retirees Committee; due and proper notice of the Application having been provided;

ORDERED that the Application is granted; and it is further,

ORDERED that the retention of BWST as local counsel for the Retirees Committee is hereby approved pursuant to 11 U.S.C. §§ 901(a), 1102(a)(1) and 1103(a) of the Bankruptcy Code, effective as of September 3, 2013; and it is further,

ORDERED that BWST shall be compensated by the Debtor in accordance with the Firm's Engagement Agreement with the Retiree Committee and subject to the terms of the Fee



Review Order entered herein (dated September 11, 2013 [Dkt No. 810]), and such other procedures as may be ordered by the Court.

# Exhibit A

October 2, 2013

**Re: Engagement Agreement**

To the Official Committee of Retirees of the City of Detroit

This Engagement letter and our standard Terms and Conditions of Engagement, attached hereto, shall confirm the terms under which you in your capacity as the Official Committee of Retirees of the City of Detroit, Michigan (the "Retiree Committee"), appointed August 22, 2013, by the United States Trustee for Region 9 in the chapter 9 case (the "Chapter 9 Case") of the City of Detroit (the "City" or the "Debtor") pending in the United States Bankruptcy Court for the Eastern District of Michigan (the "Court") and captioned *In re City of Detroit, Michigan*, Case No. 13-53846 (SWR) (the "Case"), has agreed to retain Brooks Wilkins Sharkey & Turco PLLC ("BWST" or "we") and we have agreed to serve as your counsel. BWST has, as you know, been retained as the Retiree Committee's "local counsel" in this case. We will work under the direction of the attorneys of Dentons US LLP and of Claude Montgomery, who we understand is formally associated with the firm of Salans FMC SNR Dentons Europe LLP until September 30, 2013, when he will join Dentons US LLP.

1. **Scope of Representation.** Effective as of September 3, 2013, we anticipate that BWST will provide the following services to the Retiree Committee:

- a. to give legal advice with respect to the Retiree Committee's powers and duties in the context of this case;
- b. to assist and advise the Retiree Committee in its consultation with the Debtor and other regarding the administration of this case;
- c. to attend meetings and negotiate with the Debtor's representatives and others;
- d. to appear, as appropriate, before the Court, the relevant Appellate Courts, and the United States Trustee, and to represent the interest of the Retiree Committee before said Courts and the United States Trustee;
- e. to advise the Retiree Committee in connection with proposals and pleadings submitted by the Debtor or other to this Court;
- f. to generally prepare on behalf of the Retiree Committee all necessary applications, motions, answers, orders, reports, and other legal papers in support of positions taken by the Retiree Committee;

- g. to assist the Retiree Committee in the review, analysis and negotiations of any plan(s) of adjustment that may be filed and to assist the Retiree Committee in the review, analysis, and negotiation of the disclosure statement accompanying any plan(s) of adjustment;
- h. to take all necessary action to protect and preserve the interest of retirees represented by the Retiree Committee, including (i) to investigate and prosecute actions on the Retiree Committee's behalf, (ii) challenge the City's eligibility to use Chapter 9 to terminate retirement promises and (iii) to conduct negotiations concerning all litigation in which the Debtor are involved;
- i. to advise the Retiree Committee on the retention of other professionals and experts to assist in the engagement, including local counsel; (Although Claude Montgomery is a member of the bar of the State of Michigan and previously admitted to the U.S. District Court of Appeals, we have advised the retention of local counsel is appropriate.);
- j. to retain expert professional assistance and witnesses, as necessary; and
- k. to perform all other necessary legal services for the Retiree Committee in connection with this Case.

2. **Standard Terms and Conditions.** You have our standard Terms and Conditions of Engagement, which apply to all BWST related activities in this case. In the event of a conflict between the terms of this letter and the Terms, the provisions of this letter shall control.

3. **Our Team and Charges.** As a courtesy to the Retiree Committee, and in recognition of the importance of this case to the Retiree Committee and its constituents, BWST has agreed to discount its standard hourly rates by approximately 10%. For example, the discounted hourly rates that will be charged by the attorneys at BWST who will be primarily involved in this case are: Matthew Wilkins, \$430, and Paula Hall \$340. Our billing rates are subject to adjustment from time to time (typically at year-end), and fees will be charged at the rates in effect when the services are performed after notice of such adjustment to you and the Court.

Our fees are subject to review by a Fee Examiner appointed in the case and City pursuant to an Order of the Court. [Dkt. 810]

Our fees will be based upon the time devoted to the work. Time is charged in tenths of an hour. We maintain detailed time records which will be submitted to the Retiree Committee on a monthly basis and in accordance with the Fee Examiner Order. Redacted time records will be submitted to the City, and the Fee Examiner. No interest will be charged on any invoices.

4. **Retainer.** Under the terms of the order appointing the Retiree Committee, we accept that payment for our services will be made by the City. Therefore, no retainer is required and we will not look to any of the member of the Retiree Committee for payment of fees or expenses.

5. **Conflicts.** Our Terms include provisions regarding conflicts. We are also bound by the conflict rules of the Court and the Bankruptcy Code.

We are required by the Bankruptcy Code to establish that BWST is disinterested” as defined in the Bankruptcy Code. Based on the information we have to date, we are disinterested.

Although there are entities which may be creditors of the City which are also current or past clients of BWST, while we are engaged by the Retiree Committee, BWST will not represent any other party in the case on matters in the case.

6. **Conclusion.** It is an honor to represent the Retirees Committee and we appreciate the opportunity to help you.

Please feel free to contact us if you have any questions or comments with regard to this letter. If this letter is in accordance with your understanding of our engagement, please execute this letter in the space provided below and return it to me. I apologize for the formality required in the tone of this letter. Please be assured that we look forward to working with you on this matter.

Please confirm your agreement with the provisions of this Letter and the Terms by promptly signing the enclosed copy of this Letter and returning it to me in the enclosed envelope. The original is for your records.

In the interim, however, will commence work based on the understanding contained in this Letter and the Terms.

Should you have any questions as to this Letter, the Terms or any other aspect of our representation of you, please do not hesitate to contact me.

Sincerely yours,

**Brooks Wilkins Sharkey & Turco PLLC**

By: MEW  
Matthew E. Wilkins

MEW:cmm  
Enclosure

**Approved and Accepted:**

Terri R. Renshaw

Terri Renshaw, Chair  
The Official Committee of Retirees

# Brooks Wilkins Sharkey & Turco, PLLC

## Terms and Conditions of Engagement

### Applicability of Terms

These Terms and Conditions set forth our general policies and the terms to which Brooks Wilkins Sharkey & Turco (the Firm) and the client have agreed in order for the Firm to undertake representation. If any of these terms are inconsistent with a separate written engagement letter for a particular matter, the separate engagement letter controls.

### Scope of Engagement

Except for engagements for ongoing general services, the Firm represents you only for matter(s) specified in written engagement letter(s), and for no other purpose. Once a specific matter is completed, the Firm's representation of you will cease for that matter. You have not retained the Firm to provide advice or services with regard to any matter other than as specified in specific engagements.

### Client Cooperation

The Firm's representation is conditioned upon your full cooperation. This cooperation includes, but is not limited to, providing the Firm with all information, records, documents, and assistance as may be relevant to or necessary for the Firm to carry out the engagement, promptly responding to communications from the Firm, and timely paying the Firm's invoices for services rendered.

### Fee Arrangements

The following describes some of the fee arrangements pursuant to which clients engage the Firm. Unless we have agreed in writing to another fee arrangement, the fee arrangement for any particular engagement will be to charge for all services at our standard hourly rates, with invoices to be rendered and paid monthly. Estimates of time, fees or expenses to be incurred are not guarantees or caps on the amount of total charges to be incurred unless clearly stated as a fixed or maximum fee in the engagement letter. The Firm is willing to discuss alternative fee arrangements which make economic sense to both the Firm and the client.

### Hourly Fees

Engagements are generally undertaken by the Firm at our standard hourly rates for each timekeeper working on the matter. Rates are adjusted in January of

each calendar year. The minimum time entry is .10/hour.

### Contingent Fees

If a contingent fee is charged for a matter, the fee is calculated by taking a percentage of any net recovery, after deducting all costs and expenses incurred in pursuing the matter. Costs, attorney fees and interest recovered, if any, are included in the amount of recovery for the purpose of calculating the fee. If the Firm does not recover any sums on the client's behalf, the client will not owe the Firm any amount for legal fees, but will be responsible for payment of all costs and expenses incurred.

### Retainers

The Firm may require nonrefundable retainers in a particular matter, or may require retainers as advances against fees earned over the course of representation. Nonrefundable retainers will be specified in separate written engagement letter, and will be the property of the Firm when paid. Other retainers will be deposited into the Firm's trust account and drawn down as work proceeds.

### Payment of Expenses

You are responsible for all out-of-pocket expenses and costs incurred in connection with a matter, including but not limited to filing fees, witness fees, travel expenses, expenses of depositions and transcripts, computer research costs, investigative expenses, expert fees, and other incidental expenses. At its option, the Firm will either pay the expenses and send you an invoice for reimbursement, or will forward the third party invoice to you for direct payment to the third party vendor.

### Attorney Fee Awards

Any award of attorney fees or sanctions we receive on your behalf will be credited to you. You shall be responsible for any assessment of attorney fees or sanctions ordered against you and those assessments do not affect any amounts owed by you to the Firm.

### Invoices

The Firm will send invoices to you on a regular basis, usually monthly, for legal services rendered and expenses and costs incurred. Unless you advise that you prefer to receive invoices by regular mail, the Firm

**Brooks Wilkins Sharkey & Turco, PLLC**  
**Terms and Conditions of Engagement**

will send invoices to you by e-mail. You agree to give the Firm written notice of any claimed errors or discrepancies within 15 days of receipt, and to pay all undisputed amounts within 15 days of receipt. If any invoice remains unpaid for 60 days from the date of the invoice, the Firm may charge interest at the rate of 12% per annum from the 60<sup>th</sup> day to the date the invoice is paid in full.

**Billing Questions**

The Firm encourages you to discuss any questions concerning fees charged. The Firm will try to provide as much billing information as you require in its billing statements. The Firm is willing to discuss electronic billing or other billing formats it has available to best suit your needs. If you request a billing accommodation for which the Firm incurs a fee from an outside service provider, you will pay the service provider fee.

**Termination**

You may terminate this agreement and the Firm's representation of you at any time. You remain responsible, however, to pay for all legal services performed and expenses incurred prior to termination.

The Firm may terminate this agreement and its representation of you if you fail to comply with your obligations under this agreement. The Firm may also terminate this agreement if it is required or permitted to withdraw from representation in accordance with the applicable rules of professional conduct governing attorneys.

**Records and Retention**

Unless otherwise agreed, you will receive copies of correspondence and papers relating to the representation matter as they are produced or received. You agree to maintain your own records regarding the representation. If you require additional copies of any materials which have already been provided, the Firm will provide the additional copies at your expense. If a matter is closed, you may be billed for a charge for retrieving a file from off-site storage. Generally, the Firm's files are stored for seven years, after which they are destroyed.

**Acceptance of Terms**

You agree that retention of the Firm, or the Firm's beginning work on your behalf, constitutes acceptance of these terms.

# Exhibit B



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

-----X  
In re : Chapter 9  
: Case No. 13-53846  
CITY OF DETROIT, MICHIGAN, :  
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**DECLARATION OF MATTHEW E. WILKINS IN SUPPORT OF  
APPLICATION OF THE OFFICIAL COMMITTEE OF  
RETIREES FOR AN ORDER APPROVING RETENTION OF  
BROOKS WILKINS SHARKEY & TURCO, PLLC AS LOCAL COUNSEL**

Matthew E. Wilkins, for this declaration, states:

1. I am a member of Brooks Wilkins Sharkey & Turco, PLLC, a law firm with its principal offices at 401 S. Old Woodward Avenue, Suite 400, Birmingham, Michigan 48009 (the "Firm"). I and the other members of the Firm are admitted to practice before this Court.

2. I submit this declaration (the "Declaration") in connection with Official Committee of Retirees' (the "Retiree Committee") Application for approval of the retention of the Firm as Local Counsel in the above-captioned Chapter 9 case, effective as of September 3, 2013, on the terms set forth in the Engagement Agreement attached as Exhibit "A" to the Application, in compliance with Sections 901(a), 1102(a)(1) and 1103 of Title 11 United States Code (the "Bankruptcy Code").

3. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein. To the extent any information disclosed herein requires amendment or modification or as additional party in interest information becomes available, a supplemental Declaration will be submitted to the Court reflecting such amendment or modified information.

### **The Firm's Disinterestedness**

4. The Firm has conducted a conflict check of the parties named and identified in the City of Detroit's (the "City") initial pleadings, on the City's service lists, on the mediation lists and in a separate listing provided by the City, as well notices of appearance filed by various parties. This search included secured and unsecured creditors, the City's current professionals, pertinent City officials, City law firms and other professionals.

5. Specifically, in preparing this Declaration I caused to be searched in our Firm's database each of the parties listed above for past and current representations, including both ongoing and closed matters. The search identifies whether in any particular matter a referenced party was a client, or whether the party was adverse to a client, and whether the matter is still pending or has been closed.

6. To the best of my knowledge, the members and associate attorneys of the Firm, have no present connection with the City, its creditors or any other party in interest, or its attorneys or accountants, or with the U.S. Trustee, members of the Retirees Committee or the professionals retained by individual members of the Retiree Committee.

### **The Firm's Rates and Billing Practices**

7. As a courtesy to the Retiree Committee, and in recognition of the importance of this case to the Retiree Committee and its constituents, BWST has agreed to discount its standard hourly rates by approximately 10%. For example, the discounted hourly rates that will be charged by the attorneys at BWST who will be primarily involved in this case are: Matthew Wilkins, \$430, and Paula Hall \$340.

8. The Firm's billing rates are subject to adjustment from time to time (typically at year-end), and fees will be charged at the rates in effect when the services are performed after notice of such adjustment to the Committee and the Court.

9. The Firm understands that its fees are subject to review by a Fee Examiner appointed in the case and City pursuant to an Order of the Court. [Dkt. 810]

10. The Firm's fees will be based upon the time devoted to the work. Time is charged in tenths of an hour. The Firm shall maintain detailed time records which will be submitted to the Retiree Committee on a monthly basis and in accordance with the Fee Examiner Order.

11. The expenses incurred by the Firm shall be charged in accordance with the Firm's standard terms and procedures, as modified by the Engagement Agreement and subject to the terms of the Fee Review Order.

12. No promises have been received by the Firm or any member or Associate hereof as to payment or compensation in connection with this case other than in accordance with the provisions set forth herein. The Firm has no agreement with any other entity to share with such entity in the compensation received by the Firm or by such entity.

13. In light of the foregoing and to the best of my knowledge, BWST and its attorneys and staff neither hold nor represent any adverse interest in connection with the case as required by section 1103(b) of the Bankruptcy Code.

14. To the extent that BWST discovers any facts bearing on matters described herein or its representation of the Committee during the period of its employment, BWST will supplement the information contained in this affidavit.

I hereby declare under penalty of perjury, that to the best of my knowledge, and after reasonable inquiry, the foregoing is true and correct.

Further affiant sayeth not.

/s/ Matthew E. Wilkins  
Matthew E. Wilkins (P56697)