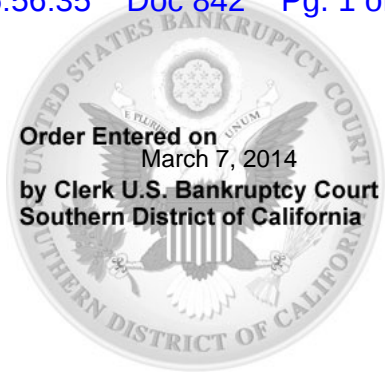


CSD 1001A [11/15/04]
Name, Address, Telephone No. & I.D. No.

RON BENDER (SBN 143364)
KRIKOR J. MESHEFEJIAN (SBN 255030)
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, California 90067
Telephone: (310) 229-1234
Facsimile: (310) 229-1244



UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

CITIZENS DEVELOPMENT CORP.

Debtor.

BANKRUPTCY NO. 10-15142-LT11

Date of Hearing: February 27, 2014

Time of Hearing: 2:00 p.m.

Name of Judge: Hon. Laura S. Taylor

**ORDER ON
CONFIRMATION OF DEBTOR'S FIRST AMENDED PLAN OF REORGANIZATION (DATED
DECEMBER 6, 2013), AS MODIFIED**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 12 with exhibits, if any, for a total of 50 pages, is granted. Motion/Application Docket Entry No. 840

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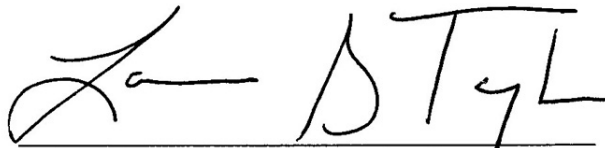
DATED: March 6, 2014

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Submitted by:

Levene, Neale, Bender, Yoo & Brill L.L.P.
(Firm name)

By: /s/ Krikor J. Meshefejian
Attorney for ☒ Movant ☐ Respondent


Judge, United States Bankruptcy Court

RON BENDER (SBN 143364)
KRIKOR J. MESHEFEJIAN (SBN 255030)
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, California 90067
Telephone: (310) 229-1234
Facsimile: (310) 229-1244
Email: rb@lnbyb.com; kjm@lnbyb.com

Counsel for Chapter 11 Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re:) Case No. 10-bk-15142-LT11
)
CITIZENS DEVELOPMENT CORP.,) Chapter 11
)
)
Debtor.) (Substantively Consolidated)
)
) ORDER CONFIRMING DEBTOR'S FIRST
LSM HOTEL, LLC,) AMENDED PLAN OF REORGANIZATION
) (DATED DECEMBER 6, 2013), AS
Member Case No. 10-13024-LT11) MODIFIED
)
LSM COUNTRY CLUB, LLC,)
) <u>Plan Confirmation Hearing:</u>
(No Member Case Number)) Date: February 27, 2014
) Time: 2:00 p.m.
)
) Place: Dept. 3
)
)
)
)
)
)

On February 27, 2014, at 2:00 p.m., the Court held a hearing to consider confirmation of the *Debtor's First Amended Plan Of Reorganization (Dated December 6, 2014), As Modified* (the "Plan") proposed by Citizens Development Corp. (the "Debtor"), the Debtor and Debtor in Possession in the above-referenced Chapter 11 bankruptcy case. A copy of the Plan containing the modifications that this Court has approved, is filed as Docket No. 840 on this Court's docket.

The Court, having considered the Plan and the modifications set forth in the Plan, the Declaration of Pino Vitti filed in support of the Plan, the Declaration of Stephanie Reichert filed in support of the Plan, the brief filed by the Debtor in support of Plan confirmation, all other evidence presented to the Court and the entire record of this case,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Core Proceeding (28 U.S.C. §157(h)(2)). Confirmation of the Plan is a core proceeding under 28 U.S.C. §157(b)(2), and this Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

B. Notice. The Disclosure Statement order, the Disclosure Statement, the Plan and ballots for accepting or rejecting the Plan were duly and timely transmitted and served in accordance with the Court's orders and in accordance with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules for the Southern District of California. Adequate and sufficient notice of the Plan confirmation hearing and the other deadlines and hearing dates was provided, and no further notice is required.

C. Solicitation. The solicitation of votes for acceptance or rejection of the Plan has complied with Bankruptcy Code §§1125 and 1126, Federal Rules of Bankruptcy Procedure 3017 and 3018, and the Disclosure Statement order, all other applicable provisions of the Bankruptcy Code, and all of the rules, laws, regulations and the soliciting procedures as set forth in the Disclosure Statement order. Based upon the record before the Court, the Debtor has acted in good faith in the solicitation of votes and is entitled to the protections afforded by Bankruptcy Code §1125(e).

1 D. Distribution. All procedures used to distribute the solicitation materials to the
2 applicable holders of claims and interests and to tabulate the ballots were fair and conducted in
3 substantial compliance with the Disclosure Statement order, the Bankruptcy Code, the Federal
4 Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules for the Southern District of
5 California and all other rules, laws and regulations.

6 E. Burden of Proof. The Debtor, as the proponent of the Plan, has met its burden of
7 proving all of the elements of §1129(a) and (b) of the Bankruptcy Code for confirmation of the
8 Plan.

9 F. Compliance with Bankruptcy Code (§1129(a)(1)). The Plan complies with the
10 applicable provisions of the Bankruptcy Code, thereby satisfying §1129(a)(1) of the Bankruptcy
11 Code.

12 G. Classification of Claims (§§1122-1123(a)(1)). The Plan designates seven classes
13 of claims and one class of interests. The claims and interests placed in each class are
14 substantially similar to other claims or interests, as the case may be, in each such class, and such
15 classification is therefore consistent with §1122 of the Bankruptcy Code. Valid business and
16 legal reasons exist for the various classes of claims and interests created under the Plan, and such
17 classes do not unfairly discriminate between holders of claims or interests. Thus, the Plan
18 satisfies §§1122 and 1123(a)(1).

19 H. Specified Treatment of Impaired Classes (§1123(a)(3)). The Plan specifies that
20 classes 1, 3, 4, 7 and 8 are impaired. The Plan specifies the treatment of those classes thereby
21 satisfying §1123(a)(3) of the Bankruptcy Code.

22 I. No Discrimination (§1123(a)(4)). The Plan provides for the same treatment for
23 each claim or interest in each respective class unless the holder of a particular claim or interest
24 has agreed to a less favorable treatment of such claim or interest, thereby satisfying Section
25 1123(a)(4) of the Bankruptcy Code.

26 J. Implementation of the Plan (§1123(a)(5)). The Plan provides adequate and proper
27 means for implementation of the Plan, thereby satisfying §1123(a)(5) of the Bankruptcy Code.
28

1 Among other things, the Plan provides that all property of the Debtor will vest in the
2 Reorganized Debtor on and as of the Effective Date free and clear of all liens, claims,
3 encumbrances and interests, except as otherwise expressly provided in the Plan or this Order.

4 K. Disclosure of Officers and Directors (§1123(a)(7)). The provisions of the Plan
5 regarding the disclosure of officers and directors of the Debtor are consistent with the interests of
6 creditors and equity security holders and with public policy, thereby satisfying §1123(a)(7) of the
7 Bankruptcy Code.

8 L. Additional Plan Provisions (11 USC §1123(b)). In accordance with Section
9 1123(b)(6) of the Bankruptcy Code, the Plan does not include any provision inconsistent with the
10 applicable provisions of the Bankruptcy Code. The provisions of the Plan are appropriate and
11 consistent with the applicable provisions of the Bankruptcy Code including, without limitation,
12 provisions for (a) certain classes of claims to be unimpaired; (b) distribution to creditors; (c) the
13 release and exculpation of various persons, and permanent injunctions prohibiting certain actions
14 against the Debtor, (d) the rejection or assumption of certain executory contracts and expired
15 leases, and (e) the retention of and right to enforce, sue on, settle or compromise (or refuse to do
16 any of the foregoing with respect to) certain claims or causes of action against third parties, to
17 the extent not waived or released under the Plan.

18 M. Federal Rule of Bankruptcy Procedure 3016(a). The Plan is dated and identifies
19 the entity submitting it, thereby satisfying Federal Rule of Bankruptcy Procedure 3016(a).

20 N. The Debtor's Compliance With The Bankruptcy Code (§1129(a)(2)). The Debtor
21 has complied with the applicable provisions of the Bankruptcy Code, thereby satisfying Section
22 1129(a)(2) of the Bankruptcy Code. Specifically:

- 23 i. The Debtor is a proper Debtor under 11 USC §109 and filed a voluntary petition
24 for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court
25 for the Northern District of California.
- 26 ii. The Court has jurisdiction over this chapter 11 case pursuant to 11 U.S.C. §1334.
- 27 iii. Venue of this case is proper in this district pursuant to 28 U.S.C. §1408.

iv. The Debtor is the proper proponent of the Plan pursuant to Section 1121(a) of the Bankruptcy Code.

v. The Debtor has acted in accordance with all orders of the Court entered during this chapter 11 case.

vi. The Debtor has complied with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules for the Central District of California in transmitting the Disclosure Statement, the Plan and ballots for accepting or rejecting the Plan and in soliciting and tabulating votes on the Plan.

O. Plan Proposed in Good Faith (§1129(a)(3)). The Plan has been proposed in good faith and not by any means forbidden by law, thereby satisfying §1129(a)(3) of the Bankruptcy Code.

P. Payments for Services or Costs and Expenses (§1129(a)(4)). All payments made or to be made by the Debtor, for services or for costs and expenses in, or in connection with the Debtor's chapter 11 case, or in connection with the Plan and incident to this chapter 11 case, have been fully disclosed to the Court and are reasonable or, if to be fixed after confirmation of the Plan, will be subject to the approval of the Court, thereby satisfying §1129(a)(4)

Q. Directors, Officers and Insider (§1129(a)(5)). The Debtor has complied with Section 1129(a)(5) of the Bankruptcy Code. Specifically:

i. The Debtor has disclosed in the Plan and the Disclosure Statement the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director or officer of the Reorganized Debtor and the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity security holders and with public policy.

ii. To the extent known at this time, the Debtor has disclosed the identity of any insider who will be employed or retained by the Reorganized Debtor and the nature of such person's compensation, to the extent known.

1 R. No Rate Changes (§1129(a)(6)). The Plan does not provide for any rate changes
2 over which any governmental regulatory commission has jurisdiction.

3 S. Best Interests of Creditors (§1129(a)(7)). The Plan satisfies the best interests of
4 creditors test set forth in Section 1129(a)(7) of the Bankruptcy Code.

5 T. Acceptance by All Classes of Claims (§1129(a)(8)). Each class of claims has
6 accepted the Plan or is not impaired under the Plan. While the sole class of interests (class 8) is
7 deemed to have rejected the Plan, the Plan is nevertheless confirmable over the rejection of class
8 4 pursuant to §1129(b)(1) and (b)(2)(C) because the Plan does not discriminate unfairly, and is
9 fair and equitable, with respect to class 4. No holder of any interest that is junior to the interests
10 of class 4 will receive or retain under the Plan any property on account of such junior interest.

11 U. Treatment of Administrative and Priority Claims (§1129(a)(9)). The treatment of
12 Administrative Claims, Priority Claims (if any), Bankruptcy Court and U.S. Quarterly Trustee
13 Fees under the Plan satisfies the requirements of Sections 1129(a)(9)(A) of the Bankruptcy Code.

14 V. Acceptance by Impaired Classes (§1129(a)(10)). Classes 1, 3, 4, 5, and 7 are each
15 classes of claims that are impaired under the Plan and have accepted the Plan, and at least one
16 such impaired class has accepted the Plan without including any acceptance of the Plan by any
17 insider of the Debtor holding a claim in such class, thereby satisfying Section 1129(a)(10) of the
18 Bankruptcy Code.

19 W. Feasibility (§1129(a)(11)). Confirmation of the Plan is not likely to be followed
20 by the liquidation, or the need for further financial reorganization, of the Reorganized Debtor.

21 X. Payment of Fees (§1129(a)(12)). Any fee, charge or amount required to be paid
22 before confirmation under 28 U.S.C. §1930 or by the Plan has been paid.

23 Y. Continuation of Retiree Benefits (§1129(a)(13)). Because the Plan does not
24 modify any retiree benefits, as that term is defined in Section 1114 of the Bankruptcy Code,
25 Section 1129(a)(13) of the Bankruptcy Code is inapplicable.

1 Z. Principal Purpose of the Plan (§1129(d)). The principal purpose of the Plan is not
2 the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of
3 1933, and no governmental unit has objected to the confirmation of the Plan on such grounds.

4 AA. Good Faith Solicitation (§1125(e)). Solicitation of acceptances of the Plan has
5 been in good faith and in compliance with the applicable provisions of the Bankruptcy Code.

6 BB. No Other Plan (§1129(c)). The Plan is the only plan of reorganization confirmed
7 by this Court in the Debtor's Chapter 11 case.

8 CC. Plan Modifications (§1127(b)). The modifications to the Plan proposed by the
9 Debtor are authorized by §1127(b) because such modifications were made before confirmation
10 of the Plan and the Plan as modified satisfies the requirements of §§1122 and 1123 of the
11 Bankruptcy Code. No additional disclosure to creditors is required of such modifications
12 because the Debtor does not intend to solicit votes from previously dissenting creditors and the
13 modifications do not materially and adversely impact parties who previously voted for the Plan.

14 DD. Full Settlement and Satisfaction. The treatment of all claims and interests
15 under the Plan shall be in full settlement and satisfaction of all claims against, and interests in,
16 the Debtor, whether or not the holder of a claim or interest has voted to accept the Plan.

17 EE. Treatment Of Class 1 Claim. The class 1 claim of LSM Lender, LLC, including
18 the Additional Financing, and all advances to the Debtor or the Reorganized Debtor made
19 thereunder, is secured by a first priority lien on all of the Debtor's and the Reorganized Debtor's
20 assets subsequent to substantive consolidation (with the exception that the Additional Deed of
21 Trust attached as Exhibit "D" to the Third Loan Modification Agreement attached to the
22 Disclosure Statement shall be junior in priority only to the security interests previously granted
23 LSM Lender, LLC by the Debtor pursuant to the Deed of Trust dated September 24, 2013 and
24 recorded as Document No. 2013-0584063 with the San Diego County Recorder and approved by
25 order of the Court entered September 24, 2013 and recorded with the San Diego County
26 Recorder as Document No. 2013-0586873), including the existing Telesis Loan first priority lien
27 and in addition pursuant to new separate deeds of trust encumbering all real property and a new
28

1 security agreement encumbering all personal property (“LSM Lender Collateral”) and other
2 documentation executed in favor of LSM Lender, LLC, free and clear of all other liens, claims,
3 encumbrances and adverse interests.

4 NOW THEREFORE, It is hereby ORDERED, ADJUDGED and DECREED that:

5 1. Plan Confirmation. The Plan, a copy of which is attached hereto as Exhibit “1” is
6 hereby confirmed and all of the terms of the Plan are herein incorporated by reference. The
7 Effective Date of the Plan will be the first business day which is at least fifteen days following
8 the date of entry of this Order when and provided that all of the following conditions to the
9 effectiveness of this Plan have been satisfied or waived by the Debtor: (a) there shall not be any
10 stay in effect with respect to this Order; (b) this Order shall not be subject to any appeal or
11 rehearing; and (c) the Plan and all documents, instruments and agreements to be executed in
12 connection with the Plan, including the Letter of Credit, shall have been executed and delivered
13 by all parties to such documents, instruments and agreements.

14 2. Objections. To the extent that any pleading filed by any party constitutes an
15 objection to confirmation of the Plan and has not been withdrawn, waived or settled, such
16 objection is hereby overruled in its entirety.

17 3. Issuance of Equity Interests and Management of the Reorganized Debtor. On the
18 Effective Date, all class 8 interests (equity interests in the Debtor) will be deemed cancelled,
19 terminated and extinguished and of no further force and effect and will no longer constitute an
20 equity interest in the Debtor without the need for either the Debtor or the class 4 interest holders
21 to take any further action. Interest holders will not receive any distribution or retain any
22 property under the Plan on account of their equity interests in the Debtor. On the Effective Date,
23 all of the equity interests in the Reorganized Debtor will be issued to Atlantica, Inc. as the New
24 Investor under the Plan in exchange for the New Value Contribution.

25 4. Executory Contracts and Unexpired Leases. In addition to any and all executory
26 contracts and unexpired leases which were previously assumed by the Debtor, all executory
27 contracts and unexpired leases which are identified in the *Debtor’s Notice Of Executory*
28

1 *Contracts And Unexpired Leases To Be Assumed Or Previously Assumed By The Debtor* [Docket
2 No. 834] shall be deemed to have been assumed by the Reorganized Debtor on the Effective
3 Date (collectively, the “Debtor’s Assumed Contracts and Leases”). In accordance with the terms
4 of the Plan, all of the Debtor’s remaining executory contracts and unexpired leases which have
5 not previously been assumed or rejected by the Debtor and which are not included among the
6 Debtor’s Assumed Contracts and Leases shall be deemed rejected effective as of 11:59 PDT on
7 the Effective Date of the Plan. The deadline to file any related rejection claims will be thirty
8 (30) days after the Effective Date.

9 5. Treatment of Allowed Claims and Distributions to Claim holders. All allowed
10 claims against the Debtor shall be treated in the manner set forth in the Plan except as modified
11 herein. The Reorganized Debtor shall serve as the disbursing agent for purposes of making all
12 distributions required to be made under the Plan. The Reorganized Debtor will not charge any
13 disbursing agent fee for making such distributions.

14 6. Administrative Claims. The deadline to file requests for allowance of
15 administrative claims of the kind described in 11 U.S.C. § 503(b) and entitled to priority under
16 11 U.S.C. § 507(a)(1) incurred through and including the Effective Date of the Plan which have
17 not otherwise been disallowed (“Administrative Claims”) shall be, and hereby is, thirty days
18 from the Effective Date of the Plan. Any party that fails to timely file a request for allowance of
19 an Administrative Claim with the Court shall be barred from asserting an Administrative Claim
20 against the Debtor or the Debtor’s consolidated bankruptcy estate.

21 7. Treatment Of Class 1 Claim. The class 1 claim of LSM Lender, LLC, including
22 the Additional Financing, and all advances to the Debtor or the Reorganized Debtor made
23 thereunder, is secured by a first priority lien on all of the Debtor’s and the Reorganized Debtor’s
24 assets subsequent to substantive consolidation (with the exception that the Additional Deed of
25 Trust attached as Exhibit “D” to the Third Loan Modification Agreement attached to the
26 Disclosure Statement shall be junior in priority only to the security interests previously granted
27 LSM Lender, LLC by the Debtor pursuant to the Deed of Trust dated September 24, 2013 and
28

1 recorded as Document No. 2013-0584063 with the San Diego County Recorder and approved by
2 order of the Court entered September 24, 2013 and recorded with the San Diego County
3 Recorder as Document No. 2013-0586873), including the existing Telesis Loan first priority lien
4 and in addition pursuant to new separate deeds of trust encumbering all real property and a new
5 security agreement encumbering all personal property ("LSM Lender Collateral") and other
6 documentation executed in favor of LSM Lender, LLC, free and clear of all other liens, claims,
7 encumbrances and adverse interests.

8 8. Binding Effect. The provisions of the Plan and this Order are hereby binding on
9 each claim and interest holder of the Debtor and any other party in interest in the Debtor's
10 Chapter 11 case, whether or not the claim or interest of such party is impaired under the Plan and
11 whether or not such party has filed, or is deemed to have filed, a proof of claim or interest or has
12 accepted, or is deemed to have accepted, or rejected the Plan.

13 9. Discharge. Except as otherwise provided in the Plan or in this Order, all property
14 distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement,
15 discharge, and release of, all claims of any nature whatsoever against the Debtor, and the
16 Reorganized Debtor and/or any of their assets, and upon the Effective Date, the Debtor shall be
17 deemed discharged and released under Section 1141(d)(1)(A) of the Bankruptcy Code from any
18 and all debts except as provided in the Plan. This Order is a judicial determination of discharge
19 of all liabilities of the Debtor except as provided in the Plan. The Debtor will receive a discharge
20 under the Plan pursuant to and in accordance with the provisions of Section 1141 of the
21 Bankruptcy Code because there has not been a liquidation of all or substantially all of the
22 property of the Debtor's estate and because the Reorganized Debtor will be continuing with the
23 Debtor's current business operations. The discharge pursuant to Section 1141 shall not apply to
24 any environmental liability imposed upon the Debtor by a Court of competent jurisdiction in
25 connection with the Lake as to any claim, counterclaim and/or cross-claim between and among
26 the parties to the District Court Action. This shall not constitute an admission that the Debtor
27 has any environmental liability whatsoever in connection with the Lake. The RWQCB shall
28

1 retain its ongoing statutory responsibility and regulatory police powers to require additional
2 environmental remediation or any other remedy against the Debtor or any successors in interest
3 that is not subject to the jurisdiction of the Bankruptcy Court.

4 10. Injunction. This Order shall enjoin the prosecution, whether directly, derivatively
5 or otherwise, of any claim, obligation, suit, judgment, damage, demand, debt, right, cause of
6 action, liability or interest released, discharged or terminated pursuant to the Plan. Except as
7 provided in the Plan or this Order, as of the Effective Date, all entities that have held, currently
8 hold or may hold a claim or other debt or liability that is discharged or an interest or other right
9 of an equity security holder that is extinguished pursuant to the terms of the Plan are permanently
10 enjoined from taking any of the following actions against the Debtor, the Reorganized Debtor, or
11 their property on account of any such discharged claims, debts or liabilities or extinguished
12 interests or rights: (i) commencing or continuing, in any manner or in any place, any action or
13 other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment,
14 award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv)
15 asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or
16 obligation due to the Debtor; and (v) commencing or continuing any action in any manner, in
17 any place, that does not comply with or is inconsistent with the provisions of this Plan. By
18 accepting distribution pursuant to the Plan, each holder of an allowed claim receiving
19 distributions pursuant to the Plan shall be deemed to have specifically consented to the
20 injunctions set forth in this Section. This paragraph does not apply to any claim, cross-claim or
21 counterclaim to determine liability for and the cost of Lake remediation and/or compliance with
22 investigative orders and the obligation of any party to comply with applicable state or federal law
23 in the District Court Action.

24 11. Exculpations and Releases. To the maximum extent permitted by 11 U.S.C. §
25 1125(e) and any other applicable law, neither the Debtor, nor the Reorganized Debtor, nor any
26 of their employees, officers, directors, shareholders, agents, members, representatives, or
27 professionals employed or retained by any of them, whether or not by Bankruptcy Court order,
28

1 shall have or incur liability to any person or entity for any act taken or omission made in good
2 faith in connection with or related to the formulation and implementation of the Plan and this
3 Order, or a contract, instrument, release, or other agreement or document created in connection
4 therewith, the solicitation of acceptances for or confirmation of the Plan or this Order, or the
5 consummation and implementation of the Plan, this Order, and the transactions contemplated
6 therein.

7 12. Retained Jurisdiction. Other than as set forth in the Plan, this Court shall retain
8 all authority and jurisdiction as provided under the Bankruptcy Code and other applicable law
9 and the Plan to enforce the provisions, purposes, and intent of the Plan or any modification
10 thereof, including, without limitation, for the purposes set forth in the Plan.

11 13. Recordable Form. This Order is hereby declared to be in recordable form, and
12 this Order or a certified copy thereof shall be accepted by any recording officer for filing and
13 recording purposes without further or additional orders, certifications, or supporting documents.

14 14. Confirmation Hearing, Findings and Conclusions. All of the Court's subsidiary
15 findings and conclusions dictated into the record at the Plan confirmation hearing are
16 incorporated herein by reference.

17 15. Post-Confirmation Modifications to the Plan. The Debtor may seek to modify the
18 Plan at any time after confirmation of the Plan so long as (1) the Plan has not been substantially
19 consummated and (2) this Court authorizes the proposed modifications after notice and a
20 hearing.

21 16. Final Decree and Post-Confirmation Status Conference. Pursuant to Section
22 1106(a)(7) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3022, the Debtor
23 shall file with the Clerk of this Court, and serve upon all interested parties, a motion for the entry
24 of a final decree to close this Chapter 11 case. The Reorganized Debtor shall be responsible for
25 the timely payment of all fees incurred pursuant to 28 U.S.C. Section 1930(a)(6).

26 **IT IS SO ORDERED.**
27
28

EXHIBIT 1

1 RON BENDER (SBN 143364)
2 KRIKOR J. MESHEFEJIAN (SBN 255030)
3 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
4 10250 Constellation Boulevard, Suite 1700
5 Los Angeles, California 90067
6 Telephone: (310) 229-1234
7 Facsimile: (310) 229-1244
8 Email: rb@lnbyb.com; kjm@lnbyb.com

9 Counsel for Chapter 11 Debtor and Debtor in Possession

10 UNITED STATES BANKRUPTCY COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

11 In re:) Case No. 10-bk-15142-LT11
)
12 CITIZENS DEVELOPMENT CORP.,) Chapter 11
)
13)
14 Debtor.) (Substantively Consolidated)
_____)
15 LSM HOTEL, LLC,) DEBTOR'S FIRST AMENDED PLAN OF
) REORGANIZATION (DATED DECEMBER
16) 6, 2013), AS MODIFIED
17 Member Case No. 10-13024-LT11)
) <u>Disclosure Statement Hearing:</u>
18 LSM COUNTRY CLUB, LLC,) Date: December 19, 2013
) Time: 10:00 a.m.
19 (No Member Case Number))
) <u>Plan Confirmation Hearing:</u>
20) Date: February 27, 2014
) Time: 2:00 p.m.
21)
) Place: Dept. 3
22)
)
23)
24 _____)

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I. INTRODUCTION

Citizens Development Corp. (the “Debtor”), the Debtor and Debtor in Possession in the above-referenced Chapter 11 bankruptcy case, is the Debtor in a pending Chapter 11 bankruptcy case. On August 26, 2010 (the “Petition Date”), the Debtor commenced this bankruptcy case by filing a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (“Bankruptcy Code”). This document is the Debtor’s First Amended Plan of Reorganization (Dated December 6, 2013) (“Plan”), As Modified that is being proposed by the Debtor.

Chapter 11 allows the Debtor, and, under some circumstances, creditors and other parties in interest, to propose a plan of reorganization. This Plan is a plan of reorganization which has been proposed by the Debtor. The effective date of this Plan (the “Effective Date”) will be the first business day which is at least fifteen days following the date of entry of the Court order confirming this Plan (the “Plan Confirmation Order”) when and provided that all of the following conditions to the effectiveness of this Plan have been satisfied or waived by the Debtor: (a) there shall not be any stay in effect with respect to the Plan Confirmation Order; (b) the Plan Confirmation Order shall not be subject to any appeal or rehearing; and (c) this Plan and all documents, instruments and agreements to be executed in connection with this Plan, including the Letter of Credit, shall have been executed and delivered by all parties to such documents, instruments and agreements. The Debtor following the Effective Date shall be referred to as the “Reorganized Debtor”. The Debtor shall, in its sole and absolute discretion, have the right to waive any or all of the conditions set forth above to the effectiveness of this Plan. If the Debtor does so and accelerates the effectiveness of this Plan, the Debtor shall file a notice with the Court identifying the Effective Date of this Plan. All defined terms which are not otherwise defined herein shall have the same meaning ascribed to such terms in the Debtor’s Disclosure Statement.

II. PLAN SUMMARY

The funding for this Plan will come from: (1) the Additional Financing in an amount up

1 to \$2,500,000; (2) a new value contribution in the amount of \$410,000 (the “New Value
2 Contribution”) to be made to the Reorganized Debtor by Atlantica (the “New Investor”); (3) the
3 Debtor’s cash on hand which is estimated to be approximately \$25,000 as of the Effective Date -
4 which collectively equates to \$2,925,000 (the “Exit Cash”); and in addition (4) the revenue
5 generated from continued business operations; (5) insurance proceeds and/or (6) the Letter of
6 Credit (to the extent necessary).

7 LSM Lender is required to provide to the Debtor the Additional Financing in principal
8 advances, upon the Debtor’s compliance with the procedures and conditions described herein, as
9 more fully set forth in the “Third Loan Modification Agreement” attached as Exhibit “9” to the
10 Disclosure Statement.

11 Pursuant to the Third Loan Modification Agreement, the Debtor is required to submit
12 evidence to LSM Lender, acceptable to LSM Lender in its sole discretion, of the Debtor’s use of
13 funds for one of the following purposes:

14 (a) Funding of capital improvements to the Debtor’s facilities located at 1105-1121
15 La Bonita Drive, San Marcos, California 92078 in an amount not to exceed \$2,000,000 in total;

16 (b) In the event not otherwise paid as of the Effective Date of the Plan and if the
17 Municipal Agencies support the Plan, payment of the Pre-Plan Confirmation Municipal
18 Agencies Investigative Order Cost Reimbursement;

19 (c) To the extent not covered by the New Value Contribution, funding the payment
20 of administrative claims of the Debtor pursuant to the Plan in an amount not to exceed \$450,000;
21 and

22 (d) To the extent not covered by the New Value Contribution, funding the
23 distribution to holders of allowed class 7 claims (general unsecured creditors) in an amount not
24 to exceed \$100,000.

25 Not all of the Exit Cash is required to be spent on or near the Effective Date of this Plan.
26 For example, the Debtor intends to invest funds in capital improvements over a short period of
27 time, as opposed to immediately upon confirmation of this Plan.

1 The Debtor's secured creditors are referred to below as the class 1 through class 5 claim
2 holders. Their respective secured claims will be treated in the manner provided below.

3 Class 6 claim holders are comprised of any non-tax priority claims. The Debtor believes
4 that if there are any remaining class 6 claims, they would be on account of still unpaid pre-
5 petition employee priority claims and would not be substantial in amount.

6 Class 7 claim holders (general unsecured creditors) will receive within sixty (60) days
7 following the Effective Date a pro rata distribution of cash totaling 10% of the amount of their
8 allowed class 7 claims, with the total distribution of cash to all creditors collectively not to
9 exceed \$100,000. Class 7 claim holders will also be entitled to recoveries, less expenses,
10 obtained from any avoidance actions or other causes of action existing prior to the Effective
11 Date and hereinafter brought by the Debtor, or the Reorganized Debtor, as the case may be,
12 subject to the priority provisions of section 507 of the Bankruptcy Code.

13 Class 8 is comprised of equity interest holders in the Debtor. On the Effective Date, all
14 of the existing equity interests in the Debtor shall be deemed cancelled and extinguished and of
15 no further force or effect. Equity holders in the Debtor will not receive any distribution or retain
16 any property on account of such equity interests.

17 In exchange for the New Value Contribution by the New Investor, the New Investor will
18 receive 100% of the equity interests in the Reorganized Debtor.

19 **III. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

20 **A. What Creditors and Interest Holders Will Receive Under the Plan**

21 As required by the Bankruptcy Code, this Plan classifies claims and interests in various
22 classes according to their right to priority. This Plan states whether each class of claims or
23 interests is impaired or unimpaired. This Plan provides the treatment each class will receive.

24 **B. Unclassified Claims**

25 Certain types of claims are not placed into voting classes; instead they are unclassified.
26 They are not considered impaired and they do not vote on this Plan because they are
27 automatically entitled to specific treatment provided for them in the Bankruptcy Code. As such,
28

the Debtor has not placed the following claims in a class.

1. Administrative Expenses

Administrative expenses are claims for costs or expenses of administering the Debtor's Chapter 11 case which are allowed under Bankruptcy Code Section 507(a)(2). The Bankruptcy Code requires that all administrative claims be paid on the Effective Date unless a particular claimant agrees to a different treatment.

The following chart lists all of the Debtor's § 507(a)(2) estimated administrative claims as of the Effective Date and their treatment under this Plan.

<u>Name</u>	<u>Amount Owed</u>	<u>Treatment</u>
Clerk's Office Fees	\$0	Paid in full on the Effective Date out of the Exit Cash and/or unrestricted cash on hand
Office of the United States Trustee ("OUST") Fees	\$0	Paid in full on the Effective Date out of the Exit Cash and/or unrestricted cash on hand
Levene, Neale, Bender, Yoo & Brill L.L.P. ("LNBYB"), bankruptcy counsel to the Debtor	\$190,000 (est. as of Effective Date), which would be in addition to any payments made to LNBYB to date and which includes a reduction of fees	Paid upon terms and conditions agreed upon by and between the Debtor and LNBYB.
Foley & Lardner LLP ("Foley")	\$30,000, which would be in addition to any payments made to Foley to date and which includes a reduction of fees	Paid upon terms and conditions agreed upon by and between the Debtor and Foley.
Barker Olmsted & Barnier, APLC	\$0 (est. as of Effective Date)	Paid in full out of the Exit Cash and/or cash on hand on the later of the Effective Date and the date the Court enters an order allowing such fees and expenses
Caufield & James LLP	\$0 (est. as of Effective Date)	Paid in full out of the Exit Cash and/or cash on hand

		on the later of the Effective Date and the date the Court enters an order allowing such fees and expenses.
Post-petition non-professional administrative claims	\$175,000 (est. as of Effective Date) ¹	Paid in full out of the Exit Cash and in the ordinary course of business from the Debtor's revenues. To the extent that the Debtor disputes any ordinary course administrative claim, such claim will only be paid to the extent that the claim is deemed an allowed administrative expense claim pursuant to Section 507(a)(2).
Debtor's Administrative Obligations In Connection with compliance with the Investigative Order	\$172,500 (est.)	The Debtor's obligations under the Investigative Order are post-petition, administrative obligations, and any costs that the Debtor is required to bear in connection with compliance with the Investigative Order are costs that are entitled to administrative priority. Such costs will be paid from the proceeds from insurance carriers directly to vendors and consultants, and the Debtor's cash on hand to the extent that the insurance carriers refuse to cover such costs (in

¹ This amount includes the post-petition claims of the California State Board of Equalization and any other post-petition non-professional administrative claims. The Debtor is in the process of resolving and reconciling non-professional administrative claims with the respective claimants. The actual amount of allowed post-petition non-professional administrative claims may differ from the estimated amount herein.

		which case the Debtor reserves its rights to pursue its insurance carriers)
LSM Lender Settlement Loan	\$100,000 (not including monthly interest payments)	To be paid pursuant to the terms of the LSM Lender Settlement Loan, as approved by the Bankruptcy Court
Municipal Agencies' Administrative Expense	The lesser of \$60,000 or 20% of the costs evidenced by the Investigative Order Reimbursement Evidence	To be paid from the Exit Cash if not previously paid on or before the Effective Date of this Plan
TOTAL PROJECTED EFFECTIVE DATE PAYMENTS	\$455,000	Paid in the manners described above

Court Approval of Fees Required:

The Court must approve all professional fees and expenses listed in this chart before they may be paid. For all professional fees and expenses except fees owing to the Clerk of the Bankruptcy Court and fees owing to the OUST, the professional in question must file and serve a properly noticed fee application and the Court must rule on the application. Only the amount of fees and expenses allowed by the Court will be required to be paid under this Plan. The administrative claim amounts set forth above simply represent the Debtor's best estimates as to the amount of allowed administrative claims in this case. The actual administrative claims may be higher or lower. Whether the estimated administrative claims described above for LNBYB are ultimately the actual administrative claims for LNBYB will be substantially dependent upon whether the Debtor is required to engage in any substantial litigation regarding the confirmation of this Plan and/or objecting to claims. To the extent the Debtor is required to engage in any such substantial litigation, LNBYB is likely to incur professional fees and expenses in excess (and possibly substantially in excess) of the figures set forth above. By voting to accept this Plan, creditors are not acknowledging the validity of, or consenting to the amount of, any of these administrative claims, and creditors are not waiving any of their rights to object to the

allowance of any of these administrative claims. Similarly, professionals who have been employed in this case are not being deemed to have agreed that the figures contained herein represent any ceiling on the amount of fees and expenses that they have incurred or are entitled to seek to be paid pursuant to Court order as such fees and expenses are just estimates provided at the time of the preparation of this Plan.

To the extent allowed administrative claims are allowed prior to the Effective Date, such allowed administrative claims may be paid by the Debtor out of the Debtor's funds. To the extent allowed administrative claims are allowed after the Effective Date, such allowed administrative claims will be paid by the Reorganized Debtor out of the New Value Contribution and cash on hand.

2. Priority Tax Claims

Priority tax claims include certain unsecured income, employment and other taxes described by Section 507(a)(8) of the Bankruptcy Code. Section 1129(a)(9)(C) of the Bankruptcy Code requires that each holder of such a Section 507(a)(8) priority tax claim receive regular installment payments of a total value, as of the Effective Date, equal to the allowed amount of such allowed tax claims, over a period ending not later than five years after the Petition Date. Section 1129(a)(9)(C) of the Bankruptcy Code requires that each holder of such a Section 507(a)(8) priority tax claim receive regular installment payments of a total value, as of the Effective Date, equal to the allowed amount of such allowed tax claims, over a period ending not later than five years after the Petition Date. All allowed Section 507(a)(8) priority tax claims will be paid the full amount of such claims over a period of six calendar quarters (with the payments to be made by March 30, 2014; June 30, 2014; September 30, 2014; December 31, 2014; March 31, 2015; and June 30, 2015) in equal quarterly payments with interest to accrue from the Effective Date at the rate of 3% per annum, except that, the allowed claims of the California State Board of Equalization shall accrue interest from the Effective Date at the rate of 6% per annum. The chart below indicates all priority tax claims which were either scheduled by the Debtor or LSM Hotel, LLC with known priority amounts or asserted by the taxing agencies

in filed proofs of claim. The Debtor and Reorganized Debtor, whichever the case may be, reserve the right to dispute the validity of these claims, and the actual claim amounts may ultimately differ from the amounts listed below, either because the Debtor or Reorganized Debtor successfully objected to such claims; the taxing agencies filed amended claims that set forth either greater or lesser claim amounts, or the taxing agencies agreed to claim amounts different than set forth below. Assuming all such claims are allowed at the amounts set forth below (which are the amounts either scheduled or claimed pursuant to proofs of claim), amortization schedules for the repayment of such claims are attached as Exhibit "3" to the Disclosure Statement.

Claimant	Claim No.	Amount Scheduled/Claimed	Amount Anticipated To Be Allowed
California State Board of Equalization	37	\$61,420.33 (proof of claim) (Scheduled on Citizens Development Corp. Schedule E at \$58,892.23)	\$61,420.33
Franchise Tax Board	23	\$829.28 (proof of claim)	\$29.00
Franchise Tax Board	54	\$13,515.46 (proof of claim) (Scheduled on LSM Hotel, LLC Schedule E at \$6,000)	\$13,515.46
San Diego County Treasurer-Tax Collector	N/A	\$25,219.69 (Scheduled on Citizens Development Corp. Schedule E)	\$8,115.00
San Diego County Treasurer-Tax Collector	N/A	\$31,664.32 (Scheduled on Citizens Development Corp. Schedule E)	\$29,828.00
San Diego County Treasurer-Tax Collector	N/A	\$28,142.84 (Scheduled on Citizens Development Corp. Schedule E but not included in total because this is a real property tax obligation which has been	\$0.00 (classified below as class 4 secured claim in the total amount of \$17,402)

		satisfied)	
San Diego County Treasurer-Tax Collector	N/A	\$80,894 (scheduled on LSM Hotel, LLC Schedule E)	\$0.00 (real property tax obligation which has been satisfied)
San Diego County Treasurer-Tax Collector	N/A	\$135.00 (scheduled on LSM Hotel, LLC Schedule E)	\$211.00
San Diego County Treasurer-Tax Collector	N/A	\$9,791.00 (scheduled on LSM Hotel, LLC Schedule E)	\$13,292.00
Department of Water Resources	67	\$21,937.50	\$21,937.50
TOTAL			\$148,348.29

C. Classified Claims and Interests

1. Classes of Secured Claims

Secured claims are claims secured by liens on property of the Debtor's estate. The following charts set forth the description and treatment of each of the Debtor's secured claims.

CLASS #	DESCRIPTION	IMPAIRED? (Yes/No)	TREATMENT
1	All claims assigned to LSM Lender LLC ("LSM Lender") by National Credit Union Administration Board ("NCUA") as liquidating agent for Telesis pursuant to the Telesis Loan.	Yes, impaired; allowed claims in this class are entitled to vote on this Plan.	<p>In full settlement and satisfaction of LSM Lender's claims against the Debtor, the Debtor will repay the class 1 claim upon terms and conditions acceptable to LSM Lender, as summarized below. Additionally, LSM Lender will advance up to an additional \$2,500,000 (the Additional Financing) pursuant to the terms of the modified Telesis Loan giving rise to the class 1 claim.</p> <p>The class 1 claim, including the Additional Financing, and all advances to the Debtor made thereunder, will be secured by a first priority lien on all of the Debtor's assets subsequent to substantive consolidation (with the exception that the Additional Deed of Trust attached as Exhibit "D" to the Third Loan Modification Agreement shall be junior in priority only to the security interests previously granted LSM Lender by the Debtor pursuant to the Deed of Trust dated September 24, 2013 and recorded as Document No. 2013-0584063 with the San Diego County Recorder and approved by order of the Court entered September 24, 2013 and recorded with the San Diego County Recorder as Document No. 2013-0586873), including the existing Telesis Loan first priority lien and in addition pursuant to new separate deeds of trust encumbering all real property and a new security agreement encumbering all personal property ("LSM Lender Collateral") and</p>

			<p>other documentation executed in favor of LSM Lender. The LSM Lender Collateral shall be free and clear of all other liens, claims, encumbrances and adverse interests. Including Additional Financing, the class 1 claim of LSM Lender totals approximately \$7,814,722.01.</p> <p>The basic terms of repayment of the class 1 claim, subject to final documentation, are as follows:</p> <p><u>Total Claim Amount (which includes the Additional Financing):</u> Approx. \$7,814,722.01</p> <p><u>Interest Rate:</u> 5% per annum.</p> <p><u>Term:</u> All due and payable within five years of the Effective Date.</p> <p><u>Repayment:</u> The Debtor will be required to make monthly interest only payments, which, assuming all of the Additional Financing is funded, will equal monthly payments of approximately \$32,561.34.</p> <p><u>Personal Guarantor:</u> Pino Vitti (the "Guarantor")</p> <p><u>Default Interest Rate:</u> 10% per annum.</p> <p><u>Late Charge:</u> 5% after ten (10) days.</p> <p><u>Acceleration:</u> On default or any transfer or further encumbrance of any of the Debtor's assets.</p>
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			<p><u>Prepayment:</u> No restriction or premium on prepayment.</p> <p><u>Loan Collateral:</u> First priority liens (with the exception that the Additional Deed of Trust attached as Exhibit “D” to the Third Loan Modification Agreement shall be junior in priority only to the security interests previously granted LSM Lender by the Debtor pursuant to the Deed of Trust dated September 24, 2013 and recorded as Document No. 2013-0584063 with the San Diego County Recorder and approved by order of the Court entered September 24, 2013 and recorded with the San Diego County Recorder as Document No. 2013-0586873) against all real and personal property of the Debtor subsequent to substantive consolidation, free and clear of all other liens, claims, encumbrances and adverse interests, except as set forth in the Plan and consented to by LSM Lender.</p> <p><u>Disbursement of Additional Financing:</u> Additional Financing will be disbursed as needed subject to LSM Lender’s approval.</p> <p>Additional Financing will only occur subsequent to the Effective Date, and will be subject to customary conditions and the following: (1) Execution and delivery by the Debtor and the Guarantor of all loan documents required by LSM Lender, including without limitation a modified loan agreement, promissory notes, new deeds of</p>
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			<p>trust, new security agreements, guaranties and other customary documents, all on terms and in forms satisfactory to LSM Lender; (2) Receipt by LSM Lender of an ALTA Loan Policy of Title Insurance, insuring the lien and priority of each deed of trust in favor of LSM Lender encumbering real property collateral, subject only to exceptions approved by the LSM Lender; (3) receipt by the Debtor of the New Value Contribution; and (4) confirmation of a plan of reorganization that is acceptable to LSM Lender that provides in addition to customary terms (including a discharge) that the claim of any individual or entity that claims a debt secured by a lien or security interest of any type or nature is satisfied and that all such liens or security interests are either discharged or reconveyed to the Debtor and that LSM Lender holds valid first priority liens and security interests in all of the Debtor's assets.</p> <p><u>Court Order.</u> Entry of an Order(s) of the Court approving the Plan and providing that the Debtor's property and assets are free and clear of all liens, claims, encumbrances, and adverse interests other than the security interests of LSM Lender and that the Modification of Deed of Trust, the Modification of Assignment, the Additional Deeds of Trust, the Security Agreement and UCC-1 Financing Statements shall be valid perfected enforceable first priority</p>
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			<p>liens on all property and assets of the Debtor superior to any and all other creditors, with the exception that the Additional Deed of Trust attached as Exhibit "D" to the Third Loan Modification Agreement shall be junior in priority only to the security interests previously granted LSM Lender by the Debtor pursuant to the Deed of Trust dated September 24, 2013 and recorded as Document No. 2013-0584063 with the San Diego County Recorder and approved by order of the Court entered September 24, 2013 and recorded with the San Diego County Recorder as Document No. 2013-0586873.</p>
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CLASS #	DESCRIPTION	IMPAIRED? (Yes/No)	TREATMENT
2	All secured tax claims of the San Diego County Treasurer-Tax Collector. The Debtor estimates that the secured tax claims of the San Diego County Treasurer-Tax Collector equal approximately \$17,402.	No, unimpaired; allowed claims in this class are not entitled to vote on this Plan.	<p>The class 2 claims will be paid in full on the Effective Date of the Plan.</p> <p>The obligations of the Reorganized Debtor under this Plan to the holder of the class 2 claims will be paid in full on the Effective Date of the Plan and upon such payment, any liens held by the class 2 claimant on account of class 2 claims shall be deemed satisfied and extinguished.</p>

CLASS #	DESCRIPTION	IMPAIRED? (Yes/No)	TREATMENT
3	Any and all claims asserted by GE Capital Commercial Inc. in connection with Contract Nos. 5473281-001 and 5473282-001 and amendments thereto. See Proof of Claim No. 35. GE asserts that the total outstanding class 3 claim amount is approximately \$3,300.	Yes, impaired; allowed claims in this class are entitled to vote on this Plan.	<p>1. On the Effective Date, the Master Lease Agreement shall be deemed to be a purchase/financing agreement and not a lease pursuant to California law.</p> <p>2. Contract No. 5473281-001 has been paid off and no further payments are due and owing under Contract No. 5473281-001.</p> <p>3. In connection with Contract No. 5473282-001, in addition to post-petition payments the Debtor has already made, the Debtor shall make additional payments at \$1,650 per month for the remaining term of Contract No. 5473282-001, until all post-petition payments total \$26,400, in full satisfaction of the class 3 claim as it relates to Contract No. 5473281-001.</p> <p>4. Payments shall be due on the due dates referenced in Contract No. 5473282-001.</p>

CLASS #	DESCRIPTION	IMPAIRED? (Yes/No)	TREATMENT
4	Any and all claims asserted by General Electric Capital Corporation ("GE") in connection with Contract No. 4442259-001 and amendments thereto. See Proof of Claim No. 33. GE asserts that the total outstanding class 4 claim amount is approximately \$14,025.	Yes, impaired; allowed claims in this class are entitled to vote on this Plan.	<p>1. On the Effective Date, the Master Lease Agreement shall be deemed to be a purchase/financing agreement and not a lease pursuant to California law.</p> <p>2. In connection with Contract No. 4442259-001, in addition to post-petition payments that the Debtor has already made, the Debtor shall make additional payments at \$1,100 per month, with an additional \$3,025 payment due as the final payment, until all payments made post-petition total \$29,425, in full satisfaction of the class 4 claim.</p> <p>3. Payments shall be due on the due dates referenced in Contract No. 4442259-001.</p>

CLASS #	DESCRIPTION	IMPAIRED? (Yes/No)	TREATMENT
5	Any and all claims asserted by Ally Financial, Inc. FKA GMAC, Inc., asserted in the total amount of \$4,561.27 as of January 31, 2014, with a per diem of \$0.82, and secured by a perfected security interest the Debtor's 2006 Chevrolet Silverado, Vehicle Identification No. 3GCEC14X06G15831 9 pursuant to a Motor Vehicle Contract & Security Agreement dated 5/18/2006 entered into between the Debtor and Ally Financial, Inc. FKA GMAC, Inc.	Yes, impaired; allowed claims in this class are entitled to vote on this Plan.	On the Effective Date, in full settlement and satisfaction of the class 5 claim, the Reorganized Debtor will pay the class 5 claim holder the balance of the loan. As of January 31, 2014, the balance of the loan is \$4,561.27 with a per diem of \$0.82. Ally Financial FKA GMAC, Inc. shall not assess any attorneys' fees or post-petition late charges.

2. Classes of Priority Unsecured Claims

Certain priority claims that are referred to in Bankruptcy Code Sections 507(a)(3), (4), (5), (6), and (7) are required to be placed in classes. These types of claims are entitled to priority treatment as follows: the Bankruptcy Code requires that each holder of such a claim receive cash on the Effective Date equal to the allowed amount of such claim. However, a class of unsecured priority claim holders may vote to accept deferred cash payments of a value, as of the Effective Date, equal to the allowed amount of such claim.

The Debtor believes that there are no Section 507(a)(3), (4), (5), (6), or (7) priority unsecured claims. To the extent the Debtor does have any such allowed priority unsecured claims (which the Debtor does not believe will be the case), such claims will be considered to be class 6 allowed claims paid in full out of the Exit Cash on the later of the Effective Date and the

date the Court enters an order allowing such priority claims unless such class 6 allowed claims can be satisfied in an alternative manner acceptable to the holders of the class 6 allowed claims (such as by permitting employees to take accrued vacation).

3. Class of General Unsecured Claims

General unsecured claims are unsecured claims not entitled to priority under Bankruptcy Code Section 507(a). The following chart identifies this Plan's treatment of the class containing all of the Debtor's non-priority general unsecured claims (see Exhibit "4" to the Disclosure Statement for detailed information about each general unsecured claim):

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>IMPAIRED?</u> <u>(Yes/No)</u>	<u>TREATMENT</u>
7	All general unsecured claims The Debtor is aware of a total of between \$672,256.20 - \$886,975.67 of potential class 7 claims. This total does not include the protective claim filed by the RWQCB. This total also does not include the indemnification claim filed by Symphony.	Yes, impaired; allowed claims in this class are entitled to vote on this Plan.	Within sixty days of the Effective Date, holders of allowed class 7 claims shall receive a cash distribution equal to 10% of their allowed claims, with the total distribution to class 7 not to exceed \$100,000. The Debtor is aware of a total of between \$672,256.20 - \$886,975.67 of potential class 7 claims, so the Debtor expects that the distribution to class 7 will total between \$67,225.62 and \$88,697.57.

	<p>A detailed claims chart showing all claims which were scheduled by the Debtor and all proofs of claim which have been filed against the Debtor is attached as Exhibit "4" to the Disclosure Statement (the "Claims Chart"). It is the Debtor's intention to update the Claims Chart prior to the Disclosure Statement hearing to indicate which claims in the Claims Chart are objectionable to the Debtor, even if the Debtor has not yet filed formal objections to those claims.</p>		<p>The actual amount of class 7 claims may differ from these estimations, and any difference will affect the total amount of distribution that the Debtor is required to make, not to exceed \$100,000.</p> <p>In addition, holders of class 7 allowed claims will also share pro rata in any net recovery obtained (after the payment of fees and expenses) by the Debtor, or Reorganized Debtor, resulting from the pursuit of any causes of action which exist prior to the Effective Date, subject to the priority provisions of section 507 of the Bankruptcy Code.</p> <p>The foregoing treatment of class 7 claims shall be in full settlement and satisfaction of all class 7 claims. Holders of class 7 allowed claims will not receive any other property or distribution from the Debtor or the Reorganized Debtor on account of their class 7 claims.</p>
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4. Class of Interest Holders

Interest holders are the parties who hold an ownership interest (i.e., equity interest) in the Debtor. The following chart identifies this Plan's treatment of the class of interest holders:

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
8	All equity holders, including holders of membership interests, partnership interests, common stock, preferred stock, stock	Impaired; holders of class 8 interests are not entitled to vote on this Plan because they are deemed	On the Effective Date, all class 8 interests will be deemed cancelled, terminated and extinguished and of no further force and effect and

	options, warrants, etc.	to have rejected this Plan pursuant to Section 1126(g) of the Bankruptcy Code.	will no longer constitute an equity interest in the Debtor without the need for either the Debtor or the class 8 interest holders to take any further action. Interest holders will not receive any distribution or retain any property under this Plan on account of their equity interests in the Debtor. In exchange for the New Value Investment by the New Investor, the New Investor shall receive 100% of the equity interests in the Debtor.
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D. Other Plan Terms

1. Prior to the Effective Date of this Plan, the Debtor will obtain an irrevocable Letter of Credit in the amount of \$500,000 (the "Letter of Credit") or other mutually acceptable (to the Debtor and the Municipal Agencies) mechanism for making certain the availability, if necessary, of the equivalent protection of the Letter of Credit, which shall evidence the Debtor's remediation fund (the "Remediation Fund"). The Remediation Fund will only be used for remediation costs and not for diagnostic costs, for liability, if any, imposed on the Debtor for environmental remediation of the Lake in that certain action styled *CDC v. County of San Diego et al.*, pending in the United States District Court, Southern District of California, Case No. 12-CV-003334-GPC ("Debtor Remediation Liability"). The City of San Marcos, and/or City of Escondido, and/or County of San Diego, and/or Vallecitos Water District (collectively, the "Remediation Fund Drawees") shall be the only parties authorized to draw on the Letter of Credit.

A reasonable time prior to finalizing the Letter of Credit and the instructions related thereto, a draft of the same will be distributed to the Municipal Agencies for review and

1 approval. The instructions/terms for the Letter of Credit shall provide that the Letter of Credit
2 may be drawn upon by the Remediation Fund Drawees, if but only if, satisfactory evidence is
3 provided to the issuing bank that the earliest of one of the following triggering events (each a
4 “Triggering Event” and collectively, the “Triggering Events”) has occurred:

5 i. A stipulated allocation of the Debtor Remediation Liability setting forth a
6 certain monetary amount of the Debtor’s Remediation Liability has existed for 180 days, and
7 such amount of the Debtor’s Remediation Liability established by stipulation has not been paid
8 by insurance proceeds or otherwise satisfied;

9 ii. The entry of any court order or judgment (whether it is appealable or not)
10 ascribing any certain monetary amount of Debtor Remediation Liability has existed for 180 days,
11 and such amount of the Debtor’s Remediation Liability established by such court order or
12 judgment has not been paid by insurance proceeds or otherwise satisfied;

13 iii. An enforcement order is issued to the Debtor by the RWQCB or the State
14 Water Board that has existed for 180 days and such amount of the Debtor’s Remediation
15 Liability established by such enforcement order has not been paid by insurance proceeds or
16 otherwise satisfied; or

17 iv. The Remediation Fund Drawees have received from the issuing bank a
18 notice of non-renewal of the Letter of Credit and the Debtor has not, at least ten days prior to the
19 expiration of the Letter of Credit, obtained a replacement Letter of Credit that is acceptable to the
20 Remediation Fund Drawees. Under this Triggering Event, issuance of the notice of non-renewal
21 by the issuing bank shall constitute satisfactory evidence that this Triggering Event has occurred
22 and the Remediation Fund Drawees need not provide any further documentation to the issuing
23 bank other than return of the original Letter of Credit before draw-down occurs.

24 Any funds drawn upon by the Remediation Fund Drawees from the Letter of Credit shall
25 be used to pay only Debtor Remediation Liability and not for any other purpose. The
26 Remediation Fund Drawees may partially draw upon the Letter of Credit, in an amount less than
27 \$500,000. Any amount drawn under the Letter of Credit shall reduce the total amount available
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1 under the Letter of Credit. For example, if a Triggering Event occurs which imposes Debtor
2 Remediation Liability in the amount of \$50,000, the Remediation Fund Drawees may partially
3 draw upon the Letter of Credit in the amount of \$50,000. Upon doing so, the total amount
4 available under the Letter of Credit shall be reduced to \$450,000. In the case of multiple
5 Triggering Events, each Triggering Event shall separately entitle the Remediation Fund Drawees
6 to make draws upon the Letter of Credit.

7 Under any Triggering Event set forth above, the Remediation Fund Drawees shall be
8 entitled to draw down upon the Letter of Credit. The Letter of Credit shall not terminate unless
9 either the amount established by Triggering Event (i) or (ii) has been satisfied, or there has been
10 a draw down by the Remediation Fund Drawees in an amount which is the lesser of the amount
11 sufficient to fulfill the Debtor Remediation Liability under either Triggering Event (i) or (ii) (but
12 not Triggering Event (iii)) or \$500,000. Thereafter, the Letter of Credit will terminate and be of
13 no force and effect (since the Debtor Remediation Liability will have been satisfied or the Letter
14 of Credit will have already been drawn down upon up to the maximum Debtor Remediation
15 Liability subject to the amount of funds available under the Letter of Credit.

16 Where Triggering Event (iv) has occurred any funds drawn by the Remediation Fund
17 Drawees pursuant to Triggering Event (iv) shall be placed on account with the District Court,
18 which shall be responsible for managing and distributing those funds going forward on the
19 occurrence of Triggering Events (i) through (iii) consistent with the terms of the Letter of Credit.
20 If the District Court is unable or unwilling to accept said deposit, then the funds shall be placed
21 in a segregated bank account in trust for the benefit of the Remediation Fund Drawees. Said
22 funds shall only be withdrawn from said segregated bank account upon the occurrence of
23 Triggering Events (i) through (iii) consistent with the terms of the Letter of Credit. Any funds
24 remaining either with the District Court or in a segregated bank account not exhausted by the
25 occurrence of Triggering Event (i) or (ii) shall be returned immediately to the Debtor; and if such
26 funds remain after Triggering Event (iii) such funds shall be returned within one hundred and
27 eighty (180) days to the Debtor.
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1 The Debtor does not believe that drawing on the Letter of Credit will be necessary,
2 because the Debtor believes that its insurance coverage is more than sufficient to cover the costs
3 of compliance with the Debtor Remediation Liability imposed upon the Debtor, if any. The
4 Letter of Credit may only be drawn upon in the amount established by a Triggering Event up to
5 the limit of the Letter of Credit.

6 The Debtor's agreement to obtain the Letter of Credit is not in any way an admission of
7 the Debtor's liability – it is solely meant to serve as additional assurance that, to the extent that
8 the Debtor's insurance carriers refuse or are not timely in providing coverage to fund any Debtor
9 Remediation Liability subsequent to a Triggering Event, or to the extent that any Debtor
10 Remediation Liability is not otherwise satisfied, funds up to the amount of the Letter of Credit
11 will be available to satisfy the Debtor Remediation Liability pursuant to the terms of the Letter of
12 Credit. To the extent that the Debtor's insurance carriers refuse to provide coverage to the
13 Debtor for the Debtor Remediation Liability, if any, the Debtor believes that the insurance
14 carriers would be doing so in bad faith and that as a result the insurance carriers would be
15 exposed to substantial liability.

16 **Neither the amount of the Letter of Credit, nor any other provision of this Plan,**
17 **limit the amount of potential liability that may later be ascribed to the Debtor, and the**
18 **Letter of Credit is not meant to limit in any way the source of cash available from the**
19 **Debtor to pay for any liability or obligation ascribed to the Debtor.**

20 To the extent that the Debtor receives any proceeds from insurance carriers in connection
21 with the tasks of characterization of the Lake that are also costs of compliance with the
22 Investigative Order not spent in compliance with the Investigative Order, or the cost of
23 remediation, any such proceeds shall be used solely for the purpose of funding compliance with
24 the Investigative Order and/or funding the Debtor's Remediation Liability. The existence and
25 availability of the Letter of Credit, and any use of the Letter of Credit, shall not jeopardize or
26 affect in any manner whatsoever any of the Debtor's insurance coverage, and shall not be
27 deemed to constitute any admission or assumption by the Debtor of any liability whatsoever.

1 The Municipal Agencies will provide the Debtor copies of invoices and evidence of
2 charges incurred for Investigative Order work completed by the Municipal Agencies under the
3 Investigative Order to date prior to Plan confirmation (“Investigative Order Reimbursement
4 Evidence”). Within 60 days of receiving the Investigative Order Reimbursement Evidence, or the
5 Effective Date, whichever is earlier, the Debtor to the extent valid and to the extent that the
6 Debtor’s insurance carriers have not already reimbursed the Municipal Agencies will, pay the
7 Municipal Agencies the lesser of \$60,000 or 20% of the costs evidenced by the Investigative
8 Order Reimbursement Evidence as an administrative expense for the costs that the Municipal
9 Agencies have incurred in performing Investigative Order Work in connection with the “Scope
10 of Work” defined in the Site Access Agreement (“Pre-Plan Confirmation Municipal Agencies
11 Investigative Order Cost Reimbursement”). The payment of the Pre-Plan Confirmation
12 Municipal Agencies Investigative Order Cost Reimbursement shall not reduce the amount of, or
13 be funded by, the Letter of Credit.

14 Additionally, under this Plan, the Debtor will within 90 days of receiving additional valid
15 Investigative Order Reimbursement Evidence of any Investigative Order work or authorized
16 Lake diagnostic work conducted after the entry of the Confirmation Order by the Municipal
17 Agencies, pay the Municipal Agencies 20% of such costs to the extent that the Debtor’s
18 insurance carriers have not already reimbursed the Municipal Agencies such sums. Any such
19 payment by the Debtor will not be drawn from the Letter of Credit. Any payments that the
20 Debtor, or Reorganized Debtor make, as the case may be, are subject to a final allocation of
21 responsibility, which final allocation shall either be agreement upon by the Debtor and the
22 Municipal Agencies, or determined by the District Court. Such final adjustment of liability by
23 either agreement or order of the District Court is non-dischargeable under 11 U.S.C. § 1141. Any
24 payments made by Debtor pursuant to the foregoing and the percentages utilized shall not be
25 construed as an admission of any fact or limitation or fixing of liability for the environmental
26 liabilities relating to the Lake of the Debtor, the Municipal Agencies or any other party.

27 **2.** The Debtor will complete the “Revised Workplan” approved by the RWQCB.
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3. The discharge pursuant to Section 1141 shall not apply to any environmental liability imposed upon the Debtor by a Court of competent jurisdiction in connection with the Lake. This shall not constitute an admission that the Debtor has any environmental liability whatsoever in connection with the Lake.

4. The Debtor will take all reasonably necessary steps on a going forward basis, to comply with its water rights license in the manner provided by the State Water Board and the RWQCB. Should the Debtor disagree with a decision made by the State Water Board and/or the RWQCB it may seek appropriate administrative relief or relief in the District Court.

5. The Debtor will take all reasonably necessary steps on a going forward basis to comply with any maintenance obligations imposed upon the Debtor related to the Lake.

6. The RWQCB shall retain its ongoing statutory responsibility and regulatory police powers to require additional environmental remediation or any other remedy against the Debtor or any successors in interest that is not subject to the jurisdiction of the Bankruptcy Court.

E. Means of Effectuating this Plan and Implementation of this Plan

1. Funding for this Plan

The funding for this Plan will come from the Exit Cash, insurance proceeds and revenue generated from continued business operations.

2. Composition of the Reorganized Debtor

In exchange for the New Value Investment by the New Investor, the New Investor will receive 100% of the equity interests in the Debtor.

3. Post-Confirmation Management

Post-confirmation management of the Reorganized Debtor will remain the same as pre-confirmation management of the Debtor. Vitti will continue to serve as President of the Debtor. Vitti will be in charge of the Reorganized Debtor's overall business operations, finances and strategic planning. Vitti will not receive compensation from the Reorganized Debtor unless and until a final decree is entered and this case has been closed.

1 **4. Disbursing Agent**

2 The Reorganized Debtor shall serve as the disbursing agent for purposes of making all
3 distributions required to be made under this Plan. The Reorganized Debtor will not charge any
4 disbursing agent fee for making such distributions.

5 **5. Objections to Claims**

6 The Debtor or the Reorganized Debtor, as the case may be, will file objections to all
7 claims which are inconsistent with the Debtor's books and records unless the Debtor deems the
8 inconsistency to be insignificant. All objections to claims must be filed within one hundred
9 twenty (120) days following the Effective Date. With respect to disputed claims which are not
10 resolved prior to the Effective Date, the Reorganized Debtor will have the authority, in its sole
11 and absolute discretion, in the reasonable exercise of its business judgment, to settle or
12 compromise any disputed claim without further notice or Court approval. As provided by
13 Section 502(c) of the Bankruptcy Code, the Court may estimate any contingent or unliquidated
14 disputed claim for purposes of confirmation of this Plan. The Reorganized Debtor will have the
15 authority to file any objections to claims following the confirmation of this Plan, and the Court
16 shall retain jurisdiction over the Debtor, the Reorganized Debtor and this case to resolve such
17 objections to claims following the confirmation of this Plan. Nothing contained in this Plan shall
18 constitute a waiver or release by the Debtor or the Reorganized Debtor of any rights of setoff or
19 recoupment, or of any defense, the Debtor or the Reorganized Debtor may have with respect to
20 any claim.

21 **6. Avoidance Actions**

22 All claims, causes of action and avoidance actions of the Debtor and its estate are
23 preserved by this Plan, and the Reorganized Debtor shall have full power and authority to settle,
24 adjust, retain, enforce or abandon any claim, cause of action or avoidance actions as the
25 representative of the Debtor's estate under section 1123(b) of the Bankruptcy Code or otherwise,
26 regardless of whether such claims, causes of action or avoidance actions were commenced prior
27 or subsequent to the Effective Date. The Court shall retain jurisdiction over the Debtor, the
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Reorganized Debtor and this case to resolve any such avoidance causes of action (whether filed by the Debtor, the Reorganized Debtor or any other party that has standing to pursue such claims), whether they are filed before or after the Effective Date. Nothing in this Plan shall affect or alter the right of a subsequent trustee, if any, to file claims or causes of actions against any former insiders of the Debtor.

7. Exemption from Transfer Taxes

Pursuant to section 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of the Bankruptcy Code, may not be taxed under any law imposing a stamp tax or similar tax.

8. Employment of Professionals By the Reorganized Debtor and Payment of Professional Fees and Expenses Incurred after the Effective Date

The Reorganized Debtor shall have the authority to employ professionals as the Reorganized Debtor deems appropriate and to pay the fees and expenses incurred by such professionals without any further order of the Court.

9. Distributions to be Made Pursuant to this Plan

Except as otherwise agreed to by the Reorganized Debtor in writing, distributions to be made to holders of allowed claims pursuant to this Plan may be delivered by regular mail, postage prepaid, to the address shown in the Debtor's schedules, as they may from time to time be amended in accordance with Bankruptcy Rule 1000, or, if a different address is stated in a proof of claim duly filed with the Bankruptcy Court, to such address. Checks issued to pay allowed claims shall be null and void if not negotiated within sixty (60) days after the date of issuance thereof.

10. Exculpations and Releases

To the maximum extent permitted by 11 U.S.C. § 1125(e) and any other applicable law, neither the Debtor, nor the Reorganized Debtor, nor any of their employees, officers, directors, shareholders, agents, members, representatives, or professionals employed or retained by any of

1 them, whether or not by Bankruptcy Court order, shall have or incur liability to any person or
2 entity for any act taken or omission made in good faith in connection with or related to the
3 formulation and implementation of this Plan, or a contract, instrument, release, or other
4 agreement or document created in connection therewith, the solicitation of acceptances for or
5 confirmation of this Plan, or the consummation and implementation of this Plan and the
6 transactions contemplated therein.

7 **11. Injunctions**

8 The Confirmation Order shall enjoin the prosecution, whether directly, derivatively or
9 otherwise, of any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action,
10 liability or interest released, discharged or terminated pursuant to this Plan. Except as provided
11 in this Plan or the Plan Confirmation Order, as of the Effective Date, all entities that have held,
12 currently hold or may hold a claim or other debt or liability that is discharged or an interest or
13 other right of an equity security holder that is extinguished pursuant to the terms of this Plan are
14 permanently enjoined from taking any of the following actions against the Debtor, the
15 Reorganized Debtor, or their property on account of any such discharged claims, debts or
16 liabilities or extinguished interests or rights: (i) commencing or continuing, in any manner or in
17 any place, any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in
18 any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien
19 or encumbrance; (iv) asserting a setoff, right of subrogation or recoupment of any kind against
20 any debt, liability or obligation due to the Debtor; and (v) commencing or continuing any action
21 in any manner, in any place, that does not comply with or is inconsistent with the provisions of
22 this Plan. By accepting distribution pursuant to this Plan, each holder of an allowed claim
23 receiving distributions pursuant to this Plan shall be deemed to have specifically consented to the
24 injunctions set forth in this Section.

25 THIS PARAGRAPH DOES NOT APPLY TO ANY CLAIM, CROSS-CLAIM OR
26 COUNTERCLAIM TO DETERMINE LIABILITY FOR AND THE COST OF LAKE
27 REMEDIATION AND/OR COMPLIANCE WITH INVESTIGATIVE ORDERS AND THE
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OBLIGATION OF ANY PARTY TO COMPLY WITH APPLICABLE STATE OR FEDERAL LAW IN THE DISTRICT COURT ACTION.

12. Executory Contracts and Unexpired Leases

On the Effective Date, all of the Debtor's remaining executory contracts and unexpired leases which have not previously been assumed or rejected by the Debtor shall be deemed to be assumed by the Debtor and to become valid and binding executory contracts and unexpired leases of the Reorganized Debtor (the "Debtor's Assumed Contracts and Leases"). By 5:00 p.m. PST on the day prior to the date of the Plan confirmation hearing, the Debtor shall file a pleading with the Court identifying all of the Debtor's Assumed Contracts and Leases. All of the Debtor's remaining executory contracts and unexpired leases which have not previously been assumed or rejected by the Debtor and which are not included among the Debtor's Assumed Contracts and Leases shall be deemed rejected effective as of 11:59 PST on the Effective Date. With respect to all of the Debtor's Assumed Contracts and Lease for which a default exists on the Effective Date, the Debtor will be required to (a) cure or provide adequate assurance that the Reorganized Debtor will promptly cure any default existing under any such executory contracts and unexpired leases, (b) compensate or provide adequate assurance that the Reorganized Debtor will promptly compensate any other party to such executory contracts and unexpired leases for any actual pecuniary loss to such parties resulting from any default existing under any such executory contracts and unexpired leases, and (c) provide adequate assurance of future performance under such executory contracts and unexpired leases. **THE BAR DATE FOR FILING A PROOF OF CLAIM BASED ON A CLAIM ARISING FROM THE REJECTION OF AN UNEXPIRED LEASE OR EXECUTORY CONTRACT WHICH IS REJECTED ON THE EFFECTIVE DATE WILL BE THIRTY DAYS AFTER THE EFFECTIVE DATE.** Any claim based on the rejection of an unexpired lease or executory contract will be barred if the proof of claim is not timely filed, unless the Court orders otherwise.

13. Changes in Rates Subject to Regulatory Commission Approval

The Debtor is not subject to governmental regulatory commission approval of its rates.

1 **14. Retention of Jurisdiction**

2 After confirmation of this Plan and occurrence of the Effective Date, and expressly
3 subject to the Bankruptcy Court's more limited post-confirmation jurisdiction under 28 U.S.C.
4 §§ 157 and 1334, in addition to jurisdiction which exists in any other court, the Court will retain
5 such jurisdiction as is legally permissible including for the following purposes:

6 i. To resolve any and all disputes regarding the operation and interpretation
7 of the Plan and the Plan Confirmation Order;

8 ii. To determine the allowability, classification, or priority of claims and
9 interests upon objection by the Debtor, the Reorganized Debtor, or by other parties in interest
10 with standing to bring such objection or proceeding and to consider any objection to claim or
11 interest whether such objection is filed before or after the Effective Date;

12 iii. To determine the extent, validity and priority of any lien asserted against
13 property of the Debtor or property of the Debtor's estate;

14 iv. To construe and take any action to enforce this Plan, the Plan
15 Confirmation Order, and any other order of the Court, issue such orders as may be necessary for
16 the implementation, execution, performance, and consummation of this Plan, the Plan
17 Confirmation Order, and all matters referred to in this Plan and the Plan Confirmation Order, and
18 to determine all matters that may be pending before the Court in this case on or before the
19 Effective Date with respect to any person or entity related thereto, not otherwise subject to the
20 jurisdiction of the District Court in the District Court Action;

21 v. To determine (to the extent necessary) any and all applications for
22 allowance of compensation and reimbursement of expenses of professionals for the period on or
23 before the Effective Date;

24 vi. To determine any request for payment of administrative expenses;

25 vii. To determine motions for the rejection, assumption, or assignment of
26 executory contracts or unexpired leases filed before the Effective Date and the allowance of any
27 claims resulting therefrom;

viii. To determine all applications, motions, adversary proceedings, contested matters, and any other litigated matters instituted during the pendency of this case whether before, on, or after the Effective Date including avoidance causes of action, not otherwise subject to the jurisdiction of the District Court in the District Court action;

ix. To adjudicate any avoidance causes of action filed by the Debtor or Reorganized Debtor, whether such avoidance cause of action is filed before or after the Effective Date;

x. To determine such other matters and for such other purposes as may be provided in the Plan Confirmation Order;

xi. To modify this Plan under Section 1127 of the Bankruptcy Code in order to remedy any apparent defect or omission in this Plan or to reconcile any inconsistency in this Plan so as to carry out its intent and purpose;

xii. Except as otherwise provided in this Plan or the Plan Confirmation Order, to issue injunctions, to take such other actions or make such other orders as may be necessary or appropriate to restrain interference with this Plan or the Plan Confirmation Order, or the execution or implementation by any person or entity of this Plan or the Plan Confirmation Order, not otherwise subject to the jurisdiction of the District Court in the District Court Action;

xiii. To issue such orders in aid of consummation of this Plan and the Plan Confirmation Order, not otherwise subject to the jurisdiction of the District Court in the District Court Action; and

xiv. To enter a final decree closing this Chapter 11 case.

IV. EFFECT OF CONFIRMATION OF THIS PLAN

A. Discharge.

The Debtor will receive a discharge under this Plan pursuant to and in accordance with the provisions of Section 1141 of the Bankruptcy Code because there has not been a liquidation of all or substantially all of the property of the Debtor's estate and because the Reorganized Debtor will be continuing with the Debtor's current business operations. The discharge pursuant

1 to Section 1141 shall not apply to any environmental liability imposed upon the Debtor by a
2 Court of competent jurisdiction in connection with the Lake as to any claim, counterclaim and/or
3 cross-claim between and among the parties to the District Court Action. This shall not constitute
4 an admission that the Debtor has any environmental liability whatsoever in connection with the
5 Lake. The RWQCB shall retain its ongoing statutory responsibility and regulatory police powers
6 to require additional environmental remediation or any other remedy against the Debtor or any
7 successors in interest that is not subject to the jurisdiction of the Bankruptcy Court.

8 **B. Modification of this Plan.**

9 The Debtor may modify this Plan at any time before confirmation. However, the Court
10 may require a new disclosure statement and/or re-voting on this Plan if the Debtor modifies this
11 Plan before confirmation. The Debtor may also seek to modify this Plan at any time after
12 confirmation of this Plan so long as (1) this Plan has not been substantially consummated and (2)
13 the Court authorizes the proposed modifications after notice and a hearing.

14 **C. Post-Confirmation Status Reports and Quarterly Fees.**

15 Until a final decree closing the Debtor's Chapter 11 case is entered, the Reorganized
16 Debtor shall file a status report with the Court approximately every one hundred and twenty
17 (120) days explaining what progress has been made toward consummation of the confirmed
18 Plan. In addition, the Reorganized Debtor shall submit quarterly status reports to the Office of
19 the United States Trustee and, to the extent required by law, pay post-confirmation quarterly fees
20 to the Office of the United States Trustee until the case is closed. The Reorganized Debtor shall
21 be authorized to file a motion for a final decree irrespective of whether avoidance causes of
22 action remain pending, so long as the Court otherwise finds that the requirements for entry of
23 final decree have been met.

24 **D. Post-Confirmation Conversion/Dismissal And Default Provisions.**

25 A creditor or any other party in interest may bring a motion to convert or dismiss the case
26 under Section 1112(b) of the Bankruptcy Code after this Plan is confirmed if there is a default in
27 performing the Plan. If the Court orders the case converted to Chapter 7 after this Plan is
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1 confirmed, then all property that had been property of the Debtor's Chapter 11 estate, and that
2 has not been disbursed pursuant to this Plan, will revert in the Chapter 7 estate, and the
3 automatic stay will be reimposed upon the revested property, but only to the extent that relief
4 from stay was not previously authorized by the Court during this case. The Plan Confirmation
5 Order may also be revoked under very limited circumstances. The Court may revoke the Plan
6 Confirmation Order if it was procured by fraud and if a party in interest brings an adversary
7 proceeding to revoke confirmation within 180 days after the entry of the Plan Confirmation
8 Order.

9 **E. Final Decree.**

10 Once this estate has been fully administered as referred to in Bankruptcy Rule 3022, the
11 Reorganized Debtor shall file a motion with the Court to obtain a final decree to close this case.
12 The Reorganized Debtor shall be responsible for the timely payment of all fees incurred pursuant
13 to 28 U.S.C. Section 1930(a)(6).

14 Dated: December 6, 2013

15 Presented By:

16 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

17 By: /s/ Krikor J. Meshefejian
18 RON BENDER
19 KRIKOR J. MESHEFEJIAN
20 Attorneys for Chapter 11
21 Debtor and Plan Proponent

22 CITIZENS DEVELOPMENT CORP.,
23 a California corporation

24 By: [Signature]
25 PINO VITTI
26 Authorized Representative
27
28