



COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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ALHAMBRA, CALIFORNIA 91803-1331
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ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

GAIL FARBER, Director

January 07, 2014

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**LOS ANGELES COUNTY WATERWORKS DISTRICT
NOS. 37, ACTON, AND 40, ANTELOPE VALLEY,
AMENDMENT NO. 1 OF RITTER RANCH
AGREEMENT NO. 66407 AND SETTLEMENT AGREEMENT
(SUPERVISORIAL DISTRICT 5)
(3 VOTES)**

SUBJECT

This action is to delegate authority to the Director of Public Works or her designee to execute a Settlement Agreement between Lehman Brothers, as successors in interest to Palmdale Hills, LLC, and its predecessor in interest, SunCal; and Los Angeles County Waterworks District Nos. 37, Acton, and 40, Antelope Valley, to resolve claims made by Districts 37 and 40 in the bankruptcy proceeding of Palmdale Hills Properties, LLC. The settlement agreement provides that the parties will execute Amendment No. 1 of the Amended and Restated Water System Agreement No. 66407 between District 40 and Palmdale Hills Property, LLC, and resolve Districts 37 and 40's objections to bankruptcy matter by a Stipulation.

IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY WATERWORKS DISTRICT NOS. 37, ACTON, AND 40, ANTELOPE VALLEY:

Authorize the Director of Public Works or her designee to execute: (1) Amendment No. 1 of the Amended and Restated Water System Agreement No. 66407 between District 40 and Lehman Brothers or their designee, (2) a Settlement Agreement, and (3) a Stipulation resolving District 37 and 40's objections to bankruptcy proceeding.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of this action is to amend the 2006 Amended and Restated Water System Agreement No. 66407 (Ritter Ranch Agreement) between District 40 and Lehman Brothers, successor in interest to Palmdale Hills Property, LLC (Enclosure A); approve the Settlement Agreement (Enclosure B); and execute a stipulation resolving District 37 and 40's objections to the bankruptcy proceeding (Stipulation) (Enclosure C). The initial Water System Agreement (1992 Agreement) for the Ritter Ranch development was executed in 1992 between the Ritter Park Associates, LLP (original developer), and District 40.

Ritter Ranch is located in West Palmdale and contemplated approximately 7,200 new homes and related commercial and recreational facilities. On March 31, 1992, the Board (1) approved the Mitigated Negative Declaration for the off-site water system facilities required for water service to Ritter Ranch, (2) found that these off-site facilities would have no adverse effect on the environment, (3) approved the Water System Agreement between District 40 and the original developer, and (4) authorized the Director of Public Works to negotiate and approve any revisions to time limits for any of the various phases of the project.

Subsequently, the original developer encountered financial difficulties, failed to build the water infrastructure under the 1992 Agreement, and filed for bankruptcy.

In 2004 SunCal purchased the assets of the original developer at a bankruptcy auction. SunCal claimed that one of the assets it purchased was the 1992 Agreement. In 2005 District 40 filed a declaratory relief action with the Bankruptcy Court for a determination that the 1992 Agreement was no longer valid and could not have been assigned to SunCal. District 40's claims included that the 1992 Agreement was breached and that it failed to meet the current needs of the Ritter Ranch Development. In 2006 District 40 and SunCal agreed to settle the litigation and the Board approved a settlement agreement and Supplement No. 1 of the 1992 Agreement, entitled the Amended and Restated Water System Agreement No. 66407.

In 2008 SunCal and its successor in interest, Palmdale Hills, LLC, filed for bankruptcy and Lehman VD Lenders (Lehman Brothers) took control of the Ritter Ranch property and development. In the bankruptcy proceeding, District 40 filed an objection to Palmdale Hill's plan to assign the Ritter Ranch Agreement to Lehman Brothers on the basis that the contract could not be assigned, and that the contract was anticipatory breached and that the breach caused District 40 damages. The recommended action will settle the District's objections to the bankruptcy, allowing the transfer of the Ritter Ranch Agreement to Lehman Brothers, with District 40's negotiated revisions to certain terms, including the downsizing of the project, securing rights to certain water facilities, and compensation for legal costs and lost revenue opportunities.

The 2008 SunCal bankruptcy also included a water service agreement (Acton I Agreement) with District 37 that the Board approved on March 28, 1989. In the bankruptcy proceeding, District 37 filed an objection to SunCal's plan to assign the Acton I Agreement to Lehman Brothers on the basis that the contract was expired. With the withdrawal of the objection to the SunCal transfer of the Ritter Ranch Agreement, SunCal, and its successors in interest, will affirm that the Acton I Agreement is expired.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1) and Fiscal Sustainability (Goal 2) by providing sufficient funds, which will provide reliable water supply to our existing and future customers through effective water supply management.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

As part of the settlement, the parties agree to amend the 1992 Water System Agreement by entering into Amendment No. 1 to the Amended and Restated Water System Agreement No. 66407, which provides for certain changes to the infrastructure needed for Ritter Ranch Development and to authorize District 40 to accept the dedication from the developer for ownership and operation of the water infrastructure that will serve Ritter Ranch.

ENVIRONMENTAL DOCUMENTATION

The Ritter Ranch Development water system agreement between District 40 and Ritter Park Associates, in the amount of \$13,615,000, to be paid by developers and/or public financing districts for construction of wells, chlorination facilities, forebay, booster pumping stations, water transmission mains, and necessary appurtenances was approved by the Board on March 31, 1992.

The recommended action to provide delegated authority to the Director or her designee to approve Amendment No. 1 to the Amended and Restated Water System Agreement No. 66407, approve the Settlement Agreement, and execute the Stipulation will not result in any substantial changes that would implicate new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There has not been any substantial change in circumstances or discovery of any substantial new information regarding the project's environmental effects or mitigation measures. However, the Settlement Agreement does state that if any proposed changes to the downsized water infrastructure for the development require new California Environmental Quality Act review and approval, then Lehman Brothers or their successor in interest will prepare the necessary environmental documents and seek the appropriate approvals.

This recommended action is within the scope of the project in the previously adopted Mitigated Negative Declaration.

Upon the Board's approval of the project, Public Works will file a Notice of Determination with the County Clerk in accordance with Section 21152(a) of the California Public Resources Code.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impact on current County services or projects during the performance of the recommended action.

CONCLUSION

Please return one adopted copy of this letter to the Department of Public Works, Waterworks Division.

The Honorable Board of Supervisors

1/7/2014

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Respectfully submitted,

A handwritten signature in black ink that reads "Gail Farber". The signature is written in a cursive, flowing style.

GAIL FARBER

Director

GF:AA:dvt

c: Chief Executive Office (Rita Robinson)
County Counsel
Executive Office

ENCLOSURE A

**AMENDMENT NO. 1 TO THE AMENDED AND RESTATED WATER SYSTEM
AGREEMENT BETWEEN LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40, ANTELOPE VALLEY, AND LV RITTER RANCH, LLC**

This Amendment No. 1 ("Amendment") is made by and between Los Angeles County Waterworks District No. 40, Antelope Valley, a public county waterworks district formed pursuant to Division 16 of the State Water Code (the "District"), and LV Ritter Ranch LLC (the "Builder") (collectively, the "Parties") as of _____, 2014 (the "Effective Date").

I.

RECITALS

A. As of August 15, 2006, the District and Palmdale Hills Property, LLC ("Palmdale Hills") entered into the Amended and Restated Water System Agreement Between Los Angeles County Waterworks District No. 40, Antelope Valley and Palmdale Hills Property, LLC ("Water System Agreement") (a true and correct copy of which is attached hereto as Exhibit 1).

B. The Water System Agreement concerns water service to be provided by the District to a proposed development project referred to as the "Development" in the Water System Agreement. The Development will be located on real property referred to as the "Ritter Property" in the Water System Agreement.

C. The Builder is (i) the current owner of the Ritter Property and (ii) assignee of Palmdale Hills' rights and obligations under the Water System Agreement.

II.

TERMS OF THE AMENDMENT

WHEREFORE, for valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties hereby agree as follows:

A. The definition of the term "Development" set forth on page 3 of the Water System Agreement is hereby deleted and replaced with the following definition: "Development' means that certain development project consisting of residential and other uses as identified in the summary of the Specific Plan previously approved by the City of Palmdale, commonly referred to as the Ritter Ranch Development and located on the Ritter Property, including any amendments to that Specific Plan that may be hereafter approved by the City of Palmdale so long as such amendments do not authorize more than 4,500 residential units and do not materially increase the water demands attributable to the non-residential uses in the Specific Plan."

B. Exhibit C-1 to the Water System Agreement is hereby deleted and replaced with Exhibit C-1(A) attached hereto. All references in the Water System Agreement to Exhibit C-1 are hereby replaced with references to Exhibit C-1(A).

C. Exhibit C-3 to the Water System Agreement is hereby deleted and replaced with Exhibit C-3(A) attached hereto. All references in the Water System Agreement to Exhibit C-1 are hereby replaced with references to Exhibit C-3(A).

D. Section 3.14 is added to the Water System Agreement and provides as follows: "Prior to the District's issuance of any Conditional Will Serve Letter for the Development, (1) the Builder shall secure the Antelope Valley-East Kern Water Agency's ("AVEK") written permission for the District with the District as third party beneficiary,

to have unfettered access and use of AVEK facilities for transportation of potable water to the Project at no cost to the District (e.g., all costs of the water are to be included in AVEK's sales price of the water it sells to the District as a whole) or in the alternative, (2) the Builder agrees to build the necessary water conveyance infrastructure in lieu of the use of AVEK facilities, and dedicate at no cost that infrastructure to the District for ownership, operations, and maintenance to the District.

E. Section 2.0.2 of the Water System Agreement is hereby amended by adding the following as the new final sentence: "The WSI Plans and Specs shall be prepared and signed by a registered engineer under contract with the Builder."

F. Except as expressly amended by this Amendment, all other terms and conditions of the Water System Agreement remain in full force and effect.

January _____, 2014

Los Angeles County Waterworks District No. 40

By:
Its:

January _____, 2014

LV Ritter Ranch LLC

By:
Its:

APPROVED AS TO FORM
ONLY:

December _____, 2013

Michael L. Moore
Principal Deputy County Counsel
Los Angeles County Counsel's Office

By: Michael L. Moore

December _____, 2013

Alston & Bird LLP

By: Edward J. Casey

ENCLOSURE B

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Los Angeles County Waterworks District No. 40, Antelope Valley, a public county waterworks district formed pursuant to Division 16 of the State Water Code (the "District"), and LV Ritter Ranch LLC (the "Builder") (collectively, the "Parties") as of _____, 2014 (the "Effective Date").

I.

RECITALS

A. As of August 15, 2006, the District and Palmdale Hills Property, LLC ("Palmdale Hills") entered into the Amended and Restated Water System Agreement Between Los Angeles County Waterworks District No. 40, Antelope Valley and Palmdale Hills Property, LLC. The components of this agreement include (1) the original Mitigated Negative Declaration regarding the California Environmental Quality Act ("CEQA"), (2) the Addendum to the Mitigated Negative Declaration regarding a CEQA analysis change in the scope of the Ritter Ranch Project, (3) the Settlement Agreement dated August 15, 2006, and (4) the Amended and Restated Water System Agreement by and between District and Palmdale Hills Property, LLC. (collectively "Water System Agreement").

B. The Water System Agreement concerns water service to be provided by the District to a proposed development project referred to as the "Development" in the Water System Agreement. The Development will be located on real property referred to as the "Ritter Property" in the Water System Agreement.

C. On August 23, 2011, certain affiliated entities (the "Lehman VD Lenders") of the Builder filed in the action entitled, In re: Palmdale Hills Property, LLC, and its Related Debtor, Chapter 11, Case No.: 8.08-bk-17206-ES (the "Bankruptcy Case") the *Third Amended VD Plan* (the "Solicited Plan"). It provided that ownership of the Ritter Property would be transferred to the Builder and that the Water System Agreement would be assumed by the Estate of Palmdale Hills and assigned to the Builder. The Solicited Plan also provided that the Acton Estates LLC Water Agreement would be transferred to the Builder.

D. On October 7, 2011, the Los Angeles County Waterworks District Nos. 37, Acton, and 40, Antelope Valley, jointly (collectively the "Districts") filed in the Bankruptcy Case its objection to the assumption and assignment and proposed cure as to its contracts (the "Assumption Objection"), and on October 24, 2011, the Districts' filed a proof of claim [Claim number 119-1], asserting a protective claim for current and ongoing damages from alleged defaults with respect to the Ritter Water System Agreement. The Districts' claim also alleged that the Acton Estates LLC Water Agreement had expired as of December 17, 2010, and could not be transferred to the Builder.

E. On November 29, 2011, the Lehman VD Lenders filed in the Bankruptcy Case their *Fifth Amended VD Plan* (the "Lehman Fifth Amended Plan"), which included the same terms as to these matters as the Solicited Plan. On January 6, 2012, the Court in the Bankruptcy Case (the "Bankruptcy Court") entered its order confirming and amending the Lehman Fifth Amended VD Plan, providing that the assumption and assignment of the Water System Agreements would occur only after a further order of the

Bankruptcy Court (the "Further Order").

F. On April 26, 2012, the Lehman VD Lender filed in the Bankruptcy Case a notice [Docket No. 3692] identifying the Builder as Lehman Nominee for receipt of the Ritter Property and for purposes of Plan Assumption.

G. On April 27, 2012, the Lehman VD Lenders filed a notice [Docket No. 3693] in the Bankruptcy Case identifying April 27, 2013, as the Lehman VD Lenders Plan's effective date, and the effective date occurred and the Ritter Property was transferred to the Builder.

H. On March 25, 2013, the Bankruptcy Court entered an order [Docket No. 4629] continuing the hearing to consider a Further Order, which had been continued prior, from time-to time. The Parties to this Agreement may seek a further continuance of the hearing on Further Order pending the Effective Date of this Agreement.

I. The Parties now seek to resolve the Assumption Objections by entering into this Agreement.

II.

TERMS OF THE AGREEMENT

WHEREFORE, for valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties hereby agree as follows:

A. **Settlement Check.**

Within twenty (20) calendar days after the Effective Date of this Agreement, the Builder shall deliver a check to the District, care of its counsel, Michael L. Moore, made to the order of Los Angeles County Waterworks District No. 40 in the amount of Three Hundred Seventy-five Thousand and 00/100 Dollars (\$375,000.00).

B. Expiration of Acton Estates LLC Water System Agreement

Builder agrees that the Acton Estates LLC Water System Agreement has expired and is no longer in force, and the Builder has abandoned any claim to the Acton Estates LLC Water System Agreement.

C. Amendment of the Ritter Ranch Water System Agreement

The Builder and the District agree to mutually amend the Water System Agreement to downscale the on-site and off-site water system to accommodate no more than 4,500 homes, from the original Ritter Ranch project size of 7,200 homes. The Water System Agreement shall be amended by Amendment No. 1, where-in the reduced water system shall be clearly stated and meet the standards reasonably required by the District. Amendment No. 1 shall also address and require that, as a condition to the District's issuance of a conditional will-serve letter for the Development, (1) the Builder shall secure a written agreement with AVEK, with the District as the third party beneficiary, for the District to have unfettered access and use of AVEK facilities for transportation of potable water to the Project for the life of the Project at no cost to the District (e.g., all costs of the water are to be included in AVEK's sales price of the water it sells to the District as a whole), or in the alternative, (2) the Builder agrees to build the necessary water conveyance infrastructure in lieu of the use of AVEK facilities, and dedicate at no cost that infrastructure to the District for ownership, operations, and maintenance to the District. The Parties shall use their best efforts to promptly prepare and enter into Amendment No. 1. The Parties further agree that the Builder will ensure compliance with CEQA prior to implementing any activities that would constitute a project. The Builder agrees to fund all CEQA compliance activities and provide the District and the

County of Los Angeles CEQA indemnification to the furthest extent possible pursuant to law. By entering into this agreement, the District and County of Los Angeles are not approving any activities, which would constitute a project under CEQA. The parties further agree that all other provisions of the Water System Agreement remain in full force and effect.

D. Withdrawal of Objection

Within ten (10) calendar days after receipt of the settlement check referenced in Section II-A, above, the District shall withdraw the Assumption Objection to the Water System Agreement, and thereby agree to assumption by the Estate of Palmdale Hills and assignment to the Builder of the Water System Agreement by filing in the Bankruptcy Court the "Stipulation Between Los Angeles County Waterworks District No. 40, Antelope Valley, and Lehman VD Lenders Resolving Contract Assumption/Assignment Re Debtor Palmdale Hills [Docket Nos. 2598 and 3020] and Withdrawing Claim 119-1 Filed in the Case of Palmdale Hills," in the form attached hereto as Exhibit "A" or in a substantially similar form (the "Notice of Withdrawal of Objection"). Upon entry of a court order approving the assumption of the Water System Agreement, the Parties acknowledge that there is no outstanding breach of the Water System Agreement by either Party or their respective predecessors as of the date of that court order, and that the Water System Agreement has been reinstated to a non-breach status. Subject to tender of the settlement check referenced in Section II-A above, the Water System Agreement will be deemed assumed by the Estate of Palmdale Hills and assigned to LV Ritter Ranch, under the confirmed Plan, which assignment, pursuant to Bankruptcy Code Section

365(k) effects a novation, substituting LV Ritter Ranch for Palmdale Hills as a party to the Water Contract.

E. Revising WSI.

1. The Parties shall promptly cooperate with one another in promptly revising the off-site water system improvements and facilities shown on Exhibit C-1 to the Water System Agreement (referred to as the "WSI" in the Water System Agreement) to modify the WSI (the "Reduced WSI") to reflect the reduction in the size of the Development. (The reduced Development is described in Section II-A of Exhibit "B" hereto.) Within three (3) calendar days, or as soon thereafter as possible, after the Parties approve the Reduced WSI, including the preparation of new Exhibits C-1(A) and C-3(A) referenced in Section II-B and C of Exhibit B hereto, the Parties shall sign Amendment No. 1 to the Water System Agreement as provided as Exhibit "B" hereto.

2. Nothing in this Agreement shall be construed as a waiver of, or in any way limit, contradict or prohibit any Party from enforcing, this Agreement or the Water System Agreement or any terms or provisions hereof.

F. Additional Provisions.

1. Execution of Additional Documents. Each of the Parties agrees to promptly do such acts and execute such additional documents as might be necessary to carry out the provisions and effectuate the purposes of this Agreement.

2. Authority. Each person executing this Agreement on behalf of a corporation or other entity represents that he or she has the full legal right, power and authority to execute and deliver this Agreement and to bind the Party for whom such

individual is signing, and to cause such Party to perform its obligations hereunder, subject to Section II (F)(14) of this Agreement.

3. No Reliance on Others. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party, or any officer, director, shareholder, partner, associate, agent, affiliate, insurer, attorney or employee thereof. By executing this Agreement, each of the Parties warrants and represents that this Agreement is made and entered into without reliance upon any statements or representations of any other Party, or in reliance upon any statements or representations made by any officers, directors, shareholders, partners, associates, agents, affiliates, insurer, attorneys or employees, of any other Party.

4. Independent Investigation. Each of the Parties warrants and represents that he, she or it has made its own independent investigation, in the manner deemed necessary and appropriate by them, of the facts and circumstances surrounding this Agreement and the settlement contained herein, and that through such independent investigation, each Party has satisfied itself that the execution of this Agreement and entry into the settlement contained herein is in his, her or its best interest. Also, each of the Parties warrants and represents that his, her or its independent investigation has included, but not been limited to, receipt of independent advice by legal counsel on the advisability of entering into this Agreement and making the settlement contained herein.

5. Compromise of Disputed Claims. Each of the Parties acknowledges and agrees that this Agreement is the compromise of a disputed claim, and that nothing contained in this Agreement shall be construed as admissions of liability on the part of any Party. Neither this Agreement nor any of its terms shall be offered or

received as evidence in any proceeding in any forum as an admission of any liability or wrongdoing on the part of any of the Parties.

6. Litigation Expenses. Each of the Parties hereby agrees that it shall be responsible for its own costs of suit and attorneys' fees incurred and/or accrued in connection with the Bankruptcy Case.

7. Construction of Agreement. Each of the Parties has cooperated in the drafting and preparation of this Agreement and, therefore, any construction of the intent of the Parties or language hereof to be made by a court or arbitrator shall not be construed against any of the Parties.

8. Comprehension of Terms. Each of the Parties warrants and represents that he, she and it has read this Agreement in full, fully understands each and every provision hereof, and agrees to be bound by all of the terms and provisions set forth herein.

9. Inurement to Others. Each of the Parties agrees that the terms and conditions contained in this Agreement shall inure to the benefit of each of the Parties and each of the Released Parties described in Section II-D, above.

10. Governing Law. This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereunder shall be governed by, construed and enforced in accordance with the laws of the State of California, and the United States Bankruptcy Code, where applicable.

11. Severability. Any portion of this Agreement found to be invalid, void or unenforceable shall be deemed severable from the remainder of this Agreement

and shall not invalidate the remainder of the Section in which it is located or the remainder of this Agreement.

12. Amendment. This Agreement may be amended only by a written agreement signed by all Parties.

13. Headings. The titles and headings of the various sections of this Agreement are intended solely for convenience of reference and shall not be construed as an explanation, modification or intended construction of any terms or provisions of this Agreement.

14. This Agreement is contingent on approval of the Los Angeles County Board of Supervisors.

15. Notice. Any notice required or permitted to be given under the terms of this Agreement shall be in writing and delivered by Overnight Mail and by facsimile or electronic transmission, unless another means of delivery is expressly authorized or required in this Agreement for a particular notice. Notices shall be sent to the following persons:

To: Los Angeles County Waterworks District No. 40	With a copy to: Michael L. Moore Principal Deputy County Counsel Los Angeles County Counsel's Office 648 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, California 90012 Telephone: (213) 974-8407 E-mail: MMoore@counsel.lacounty.gov
To: LV Ritter Ranch LLC	With a copy to: Edward J. Casey, Esq. Alston & Bird LLP 333 South Hope Street, 16 th Floor

	Los Angeles, CA 90071 Telephone: (213) 576-1000 Facsimile: (213) 576-1100 E-mail: ed.casey@alston.com
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Notice shall be deemed given as of the date of transmission of the notice. Any Party may change its addressee(s) for notice by providing written notice of such change in accordance with the requirements of this Section of the Agreement.

January____, 2014

Los Angeles County Waterworks District Nos. 37, Acton, and 40, Antelope Valley

 By:
 Its:

January____, 2014

LV Ritter Ranch LLC

 By:
 Its:

APPROVED AS TO FORM:

Alston & Bird LLP

JOHN F. KRATTLI
 County Counsel

 By: Edward J. Casey

By_____
 MICHAEL L. MOORE
 Principal Deputy County Counsel

ENCLOSURE C

1 Richard M. Pachulski (CA Bar No. 90073)
Dean A. Ziehl (CA Bar No. 84529)
2 Robert B. Orgel (CA Bar No. 101875)
PACHULSKI STANG ZIEHL & JONES LLP
3 10100 Santa Monica Blvd., 13th Floor
Los Angeles, California 90067-4100
4 Telephone: 310/277-6910 / Facsimile: 310/201-0760

5 Edward Soto (admitted *pro hac vice*)
Alfredo R. Perez (admitted *pro hac vice*)
6 WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
7 New York, NY 10153-0119
Telephone: (212) 310-8000 / Facsimile: (212) 310-8007

8 Attorneys for Lehman Commercial Paper Inc. and Lehman
9 ALI, Inc.

10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
SANTA ANA DIVISION

12 In re:
13 Palmdale Hills Property, LLC, and Its Related
Debtors,
14 Jointly Administered Debtors and
Debtors-In-Possession.

15 Affects:

- 16 All Debtors
17 Palmdale Hills Property, LLC
 SunCal Beaumont Heights, LLC
18 SCC/Palmdale, LLC
 SunCal Johannson Ranch, LLC
19 SunCal Summit Valley, LLC
 SunCal Emerald Meadows, LLC
 SunCal Bickford Ranch, LLC
20 Acton Estates, LLC
 Seven Brothers, LLC
21 SJD Partners, Ltd.
 SJD Development Corp.
22 Kirby Estates, LLC
 SunCal Communities I, LLC
23 SunCal Communities III, LLC
 SCC Communities, LLC
24 North Orange Del Rio Land, LLC
 Tesoro SF, LLC
25 LB-L-SunCal Oak Valley, LLC
 SunCal Heartland, LLC
26 LB-L-SunCal Northlake, LLC
 SunCal Marblehead, LLC
27 SunCal Century City, LLC
 SunCal PSV, LLC
28 Delta Coves Venture, LLC
 SunCal Torrance, LLC
 SunCal Oak Knoll, LLC

Case No.: 8:08-bk-17206-ES
Jointly Administered Case Nos.
8:08-bk-17209-ES; 8:08-bk-17240-ES;
8:08-bk-17224-ES; 8:08-bk-17242-ES;
8:08-bk-17225-ES; 8:08-bk-17245-ES;
8:08-bk-17227-ES; 8:08-bk-17246-ES;
8:08-bk-17230-ES; 8:08-bk-17231-ES;
8:08-bk-17236-ES; 8:08-bk-17248-ES;
8:08-bk-17249-ES; 8:08-bk-17573-ES;
8:08-bk-17574-ES; 8:08-bk-17575-ES
8:08-bk-17404-ES; 8:08-bk-17407-ES;
8:08-bk-17408-ES; 8:08-bk-17409-ES;
8:08-bk-17458-ES; 8:08-bk-17465-ES;
8:08-bk-17470-ES; 8:08-bk-17472-ES;
and 8:08-bk-17588-ES

Chapter 11

**STIPULATION BETWEEN LOS ANGELES
COUNTY WATERWORKS DISTRICT NO.
40, ANTELOPE VALLEY, AND LEHMAN
VD LENDERS RESOLVING CONTRACT
ASSUMPTION / ASSIGNMENT RE
DEBTOR PALMDALE HILLS [DOCKET
NOS. 2598 & 3020] AND WITHDRAWING
CLAIM 119-1 FILED IN THE CASE OF
PALMDALE HILLS**

Date: October 10, 2013
Time: 10:30 a.m.
Place: Courtroom 5A

1 Los Angeles County Waterworks District No. 40, Antelope Valley (the “District”) and
2 Lehman Commercial Paper Inc. and Lehman ALI, Inc. (the “Lehman VD Lenders” and together
3 with the District, the “Parties”), by and through their respective counsel, enter into this stipulation
4 (the “Stipulation”), with respect to the matters set forth herein.

5 **RECITALS**

6 A. On July 15, 2011, the Lehman VD Lenders filed their *Third Amended Joint*
7 *Chapter 11 Plan for Eleven Voluntary Debtors Proposed by the Lehman VD Lenders*, dated July 15,
8 2011 [Docket No. 2598] (the “Third Amended Plan”).

9 B. On August 1, 2011, the above court (the “Bankruptcy Court”) entered its
10 *Order (a) Approving Plan Solicitation, Notice, and Voting Procedures and (B) Establishing*
11 *Deadlines in and Connection With Solicitation and Confirmation With Respect to all Pending Plans*
12 [Docket No. 2453] (the “Solicitation Procedures Order”), pursuant to which the Bankruptcy Court,
13 *inter alia*, (a) established notice, balloting, and voting procedures in connection with soliciting votes
14 on the Third Amended Plan, (b) fixed objection deadlines to confirmation of the Third Amended
15 Plan, (c) fixed a deadline for receipt of ballots accepting or rejecting the Third Amended Plan, (d)
16 fixed a deadline to file and serve briefs in support of confirmation of the Third Amended Plan, and
17 (e) scheduled a hearing to consider confirmation of the Third Amended Plan;

18 C. On August 23, 2011, the Lehman VD Lenders filed a notice of errata [Docket
19 No. 2600] as to clerical errors in the Third Amended Plan and filed an amended chapter 11 plan
20 [Docket No. 2598] (the “Solicited Third Amended Plan”). The Third Amended Plan and Solicited
21 Third Amended Plan each provide, *inter alia*, that ownership of the real property (the “Ritter
22 Property”) of the estate (“Estate”) of debtor Palmdale Hills Property, LLC (“Palmdale Hills”) and all
23 associated personal property (which includes rights under contracts that are not assumed) would be
24 transferred by the liquidating trustee for the Estate under the subject plan (the “Liquidating Trustee”) to
25 an affiliate of the Lehman VD Lenders (a “Lehman Nominee”) and provide that separately
26 identified contracts or leases of Palmdale Hills are to be assumed by the Estate and assigned to a
27 Lehman Nominee.
28

1 D. On and after September 22, 2011, in accordance with the Solicitation
2 Procedures Order, the Lehman VD Lenders filed and served certain documents (collectively, the
3 “Plan Support Documents”), including, without limitation, the following:

- 4 1) *Supplement to the Third Amended Joint Chapter 11 Plan for Eleven*
5 *Voluntary Debtors Proposed by Lehman VD Lenders* [Docket No. 2872];
- 6 2) *Notice of Errata With Respect to Supplement . . .* [Docket No. 3096];
- 7 3) *First Amendment to Supplement to the Third Amended Joint Chapter*
8 *11 Plan for Eleven Voluntary Debtors Proposed by Lehman VD Lenders* [Docket No. 3163];
- 9 4) *Notice of (I) Filing and Service of Exhibits A-1 & A-2 – Lists of*
10 *Contracts and Leases to be Assumed or Rejected Pursuant to the Third Amended Joint Chapter 11*
11 *Plan for Eleven Voluntary Debtors Proposed by Lehman VD Lenders; and (II) Deadline to File any*
12 *Resulting Claims Arising From Rejections* [Docket No. 2842];
- 13 5) *Notice Of (I) Amended Lists Of Contracts Or Leases To Assume Or*
14 *Reject Under The Third Amended Joint Chapter 11 Plan For Eleven Voluntary Debtors Proposed By*
15 *The Lehman VD Lenders; And (II) Deadline To File Any Resulting Claims Arising From Rejections*
16 [Docket No. 3165];
- 17 6) *Notice of: (1) Filing of Supplement to the Third Amended Joint*
18 *Chapter 11 Plan for Eleven Voluntary Debtors Proposed by Lehman VD Lenders; and (2) Deadline*
19 *to File any Resulting Claims From Rejection of Executory Contracts or Unexpired Leases* [Docket
20 No. 2862];
- 21 7) *Notice of Filing of Amended Supplement to the Third Amended Joint*
22 *Chapter 11 Plan for Eleven Voluntary Debtors Proposed by Lehman VD Lenders* [Docket No.
23 3161]; and
- 24 8) Various other service or notice of the foregoing and/or the list of
25 contracts to be assumed and assigned under the Solicited Third Amended Plan, including as reflected
26 in Docket Nos. 2921, 2930, 2936, 3165, 3173 and 3231.

27 E. The Plan Support Documents identify as a contract to be assumed by the
28 Estate under the Solicited Third Amended Plan and assigned to a Lehman Nominee the *Amended*

1 *and Restated Water System Agreement between Los Angeles County Waterworks District No. 40,*
2 *Antelope Valley, and Palmdale Hills Property, LLC, dated August 15, 2006 (the “Water System*
3 *Agreement”) and indicates that the Lehman VD Lenders contend that no damages accrued and no*
4 *cure is owing for any defaults with respect to the Water System Agreement or that there has been no*
5 *default (the “Plan Assumption”).*

6 F. On October 7, 2011, the District filed the *Objection of the County of Los*
7 *Angeles Waterworks Districts No. 37 and No. 40’s to the Proposed Cure Obligations Set Forth on*
8 *Exhibit “A-1” of the Third Amended Joint Chapter 11 Plan for Eleven Voluntary Debtors Proposed*
9 *by the Lehman VD Lenders [Docket #3020], which, among other things, contests the Plan*
10 *Assumption (the “Assumption Objection”).*

11 G. On October 24, 2011, the District filed in the case of Palmdale Hills, a proof
12 of claim [Claim 119-1], asserting a protective claim for “current and ongoing damages” from alleged
13 defaults with respect to the Water System Agreement (the “Filed Claim”).

14 H. On October 25, 2011, at the confirmation hearing with respect to the Solicited
15 Third Amended Plan, the Court continued to November 14, 2011 at 10:00 a.m. the time for a hearing
16 on consideration of the Assumption Objection (the “Further Hearing”).

17 I. On November 10, 2012, the Parties filed a stipulation to continue the Further
18 Hearing and to reserve all rights to seek and oppose Plan Assumption [Docket No. 3288] and the
19 Court ordered the continuance of the Further Hearing (which the Court reflects as related to Docket
20 No. 2598).w

21 J. On November 29, 2011, the Lehman VD Lenders filed their *Fifth Amended*
22 *Joint Chapter 11 Plan for Eleven Voluntary Debtors Proposed by the Lehman VD Lenders [Docket*
23 *No. 3337] (the “Fifth Amended Plan”).¹*

24 K. On January 6, 2012, this Court entered its order (the “Confirmation Order”)
25 confirming and modifying the Fifth Amended Plan [Docket No. 3526] (as amended, the “Plan”),
26 which Confirmation Order, among other things:

27
28 ¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Fifth Amended Plan.

1 (1) Approves, pursuant to sections 365(a) and 1123(b)(2) of the
2 Bankruptcy Code, the assumption of, *inter alia*, the Water System Agreement by the Estate and its
3 assignment to LV Ritter Ranch LLC, subject, as a result of the Assumption Objection, to entry of a
4 separate order thereafter (as provided in paragraph 15 of the Confirmation Order); and

5 (2) Provides that the Liquidating Trustee will reasonably cooperate in
6 implementing the Plan, which includes, *inter alia*, the transfers of assets and the assumptions and
7 assignments of contracts contemplated by the Plan (as provided in paragraph 11 of the Confirmation
8 Order).

9 L. On April 26, 2012, the Lehman VD Lenders filed a notice [Docket No. 3692]
10 identifying LV Ritter Ranch LLC (the "Lehman Owner") as the Lehman Nominee for receipt of the
11 Ritter Property and for purposes of the Plan Assumption.

12 M. On April 27, 2012, the Lehman Lenders filed a notice [Docket No. 3693] in
13 the Bankruptcy Case that April 27, 2013 would be the Plan's Effective Date, such Effective Date
14 occurred and the Liquidating Trustee transferred the Ritter Property to the Lehman Owner.

15 N. On May 29, 2012, the Parties filed a further stipulation [Docket No. 4063],
16 which was approved by order of this Court entered June 6, 2012 [Docket No. 4094], which
17 stipulation and order thereupon (1) resolved certain matters and (2) continued to September 18, 2012
18 the Further Hearing as to, and reserved the Parties rights as to, the Plan Assumption. Thereafter, the
19 Parties filed further stipulations requesting and/or the Bankruptcy Court ordered that the Further
20 Hearing be further continued and the Further Hearing presently is set for October 10, 2013 at 10:30
21 a.m. before the Court.

22 O. The Lehman Owner and District now have entered into that certain *Settlement*
23 *Agreement* between them, resolving, *inter alia*, the Plan Assumption, Assumption Objection and the
24 Filed Claim (the "Settlement") and providing for their entry into that certain *Amendment No. 1 to the*
25 *Amended and Restated Water System Agreement between Los Angeles County Waterworks District*
26 *No. 40, Antelope Valley, and LV Ritter Ranch, LLC* (the "Amendment").

27 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and
28 between the parties to this Stipulation, through their undersigned counsel, that:

1 1. Approval of The Plan Assumption: Based upon the Settlement and
2 Amendment, upon approval of this Stipulation, the District withdraws the Assumption Objection and
3 the Parties agree and seek that, under the Plan, the Confirmation Order and the further order upon
4 this Stipulation:

5 a. Assumption: Assumption of the Water System Agreement by the
6 Estate (“Assumption”) is to be approved;

7 b. Assignment: Assignment to the Lehman Owner (“Assignment”) of the
8 Water System Agreement, as amended by the Amendment (the “Amended Agreement”) is to be
9 approved;

10 c. Cure: For the Assumption and Assignment, no cure or other payment
11 or obligation shall be paid or incurred by the Estate, Lehman VD Lenders, Lehman Owner or any
12 other person except for the Lehman Owner’s payment to the District under the Settlement.

13 d. Implementation: Such Assumption and Assignment shall be deemed
14 to have occurred. Nonetheless, as reasonably requested by the Lehman VD Lenders and as provided
15 in the Confirmation Order, the Liquidating Trustee is to reasonably cooperate in documenting such
16 Assumption and Assignment.

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2. Withdrawal of Filed Claim: The Filed Claim (Claim 119-1 filed by the District in the case of Palmdale Hills) is to be withdrawn.

3. The Further Hearing and Matters Therein Are to be Taken Off Calendar: The Further Hearing is to be vacated and matters therein are to be taken off calendar as resolved.

Dated: _____, 2014

STECKBAUER WEINHART JAFFE, LLP

By: _____
Barry S. Glaser
Attorneys for Los Angeles County Waterworks
District No. 40, Antelope Valley

Dated: _____, 2014

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