

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

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| IN RE: | § | CHAPTER 11 |
| | § | |
| HARBORWALK, LP; | § | Case No. 10-80043 |
| HARBORWALK MARINA OPERATING | § | Case No. 10-80044 |
| COMPANY, LTD.; | § | |
| HARBORWALK SALES CORPORATION | § | Case No. 10-80045 |
| | § | |
| DEBTORS. | § | JOINT ADMINISTRATION |
| | § | REQUESTED |

**BANKRUPTCY RULES 2002, 4001, AND 9014 (I) AUTHORIZING THE DEBTORS TO
OBTAIN POST-PETITION SECURED FINANCING, (II) GRANTING
SECURITY INTERESTS AND SUPERPRIORITY CLAIMS,
AND (III) SCHEDULING FINAL HEARING
[Related Docket No. __]**

Before the Court is the motion (the "Motion")¹ of the above-captioned debtors and debtors-in-possession (together, the "Debtors"), for an order, pursuant to Bankruptcy Code §§ 105, 362, 363, and 364 and Bankruptcy Rules 2002, 4001, and 9014 seeking:

(a) authorization for the Debtors to obtain up to [\$_____] in principal amount of post-petition financing (the "Interim DIP Loans") under a \$2,500,000 aggregate principal amount debtor in possession financing facility (the "DIP Facility"), on the terms and conditions set forth in this Order and the Debtor-in-Possession Credit Agreement to be executed and delivered (as hereafter amended, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof, the "DIP Agreement"; together with all agreements, documents and instruments delivered or executed in connection herewith or therewith, including, without limitation, the Budget (as hereinafter defined), in each case as hereafter amended, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof, the "DIP Documents");

(b) authorization for the Debtors to execute and deliver any necessary DIP Documents, to perform such other and further acts as may be necessary or appropriate in connection therewith, and to grant the liens and security interests to the Lender as provided for in the DIP Documents and this Order;

(c) authorization for the Debtors to grant security interests, liens and superpriority claims (including a superpriority administrative expense claim pursuant to section

¹ Unless otherwise indicated, capitalized terms used but not immediately defined herein have the meanings ascribed to such terms later in this Order.

364(c)(1) of the Bankruptcy Code and liens pursuant to sections 364(c)(2), 364(c)(3) and 364(d)(1) of the Bankruptcy Code) on and against all of the tangible and intangible property of the Debtors to the Lender to secure all obligations of the Debtors in respect of the DIP Facility;

(d) authorization for the Lender to accelerate the maturity of the DIP Loan and terminate the commitments under and in accordance with the DIP Documents upon the occurrence and continuance of an event of default, subject to the provisions of this Order; and

(e) the Court to schedule, pursuant to Bankruptcy Rule 4001, (i) an interim hearing (the "Interim Hearing") to consider entry of this Order and (ii) a final hearing (the "Final Hearing") for this Court to consider entry of a final order (the "Final Order") authorizing and approving the relief requested in the Motion to become effective pursuant to the Final Order.

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Final Hearing.* The Final Hearing shall be held on _____, 2010, at _____m, before this Court, in Courtroom _____, at the United States Bankruptcy Court, 515 Rusk, Houston, Texas 77002. Objections to the relief requested in the Motion shall be made in writing and filed with the Clerk of the Bankruptcy Court, with a copy served upon the following parties so that any such objections are actually received on or before 5:00 p.m. (prevailing Central time) on _____:

(a) Proposed Counsel for the Debtors: Marcy E. Kurtz, Bracewell & Giuliani LLP, 711 Louisiana St., Suite 2300, Houston, Texas 77002, Marcy.Kurtz@bgllp.com;

(b) Counsel for Lender: David R. Jones, Porter & Hedges, LLP, 1000 Main St., 36th Floor, Houston, Texas 77002, djones@porterhedges.com

(c) Office of United States Trustee: _____

(d) Counsel for the Official Committee of Unsecured Creditors: Not yet appointed.

2. *Disposition/Jurisdiction.* The Motion is granted on an interim basis in accordance with the terms of this Order. Any objections to the Motion with respect to the entry of this Order that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby denied and overruled. This Court has core jurisdiction over the cases commenced on January 25, 2010 (the "Petition Date"), the Motion, and the parties and property affected hereby

pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001 and 9014.

3. *Notice.* Notice of the Motion, the relief requested herein and the Interim Hearing was served by the Debtors via e-mail, facsimile, telephone, first class mail, and/or hand delivery, as appropriate, to (a) the Office of the United States Trustee for the Southern District of Texas, (b) all known or alleged secured creditors, (c) the 30 largest unsecured non-insider creditors of the Debtors (on a consolidated basis), (d) directors and officers of the Debtors; (e) all members of the Harborwalk Yacht Club, (f) all Debtor representatives, (g) the United States Attorney's Office for the Southern District of Texas, (h) the Internal Revenue Service, (i) any persons who have filed a request for notice pursuant to Bankruptcy Rule 2002, and (j) any such other government agencies to the extent required by the Bankruptcy Rules and Local Rules, and no further notice of the relief sought at the Interim Hearing and the relief granted herein is necessary or required.

Findings Regarding the DIP Facility

4. *Good Cause for DIP Facility.* Good cause has been shown for the entry of this Order. The Debtors have an immediate need to obtain the DIP Facility in order to, among other things, preserve the value of the Debtors' assets, make payroll, and satisfy other working capital and general corporate purposes of the Debtors. The DIP Facility is necessary to ensure that the Debtors have sufficient working capital and liquidity to preserve and maintain the value of the Debtors' estates. Accordingly, the Debtors and their estates will suffer immediate and

irreparable harm unless the Debtors are immediately authorized to obtain the DIP Facility on the terms and conditions set forth in this Order.

5. *No Alternative Sources of Financing.* The Debtors are unable to obtain financing on more favorable terms from sources other than the Lender pursuant to, and for the purposes set forth in, this Order and the DIP Documents and are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without the Debtors granting the DIP Liens and the Superpriority Claims under the terms and conditions set forth in this Order and the DIP Documents.

6. *Reasonably Equivalent Value.* The terms of the DIP Facility are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration. The Debtors require additional financing under the DIP Facility under the terms of this Order in order to satisfy their post-petition liquidity needs. After considering all of their alternatives, the Debtors have concluded, in an exercise of their sound business judgment, that the financing to be provided by the Lender pursuant to the terms of this Order and the DIP Documents represents the best financing presently available to the Debtors.

7. *Good Faith.* The DIP Documents have been the subject of extensive negotiations conducted in good faith and at arms'-length among the Debtors and Lender. All DIP Obligations (as hereinafter defined) have been and shall be deemed to have been extended by the Lender and their respective affiliates in "good faith," as such term is used in section 364(e) of the Bankruptcy Code, and in express reliance upon the protections set forth therein, and shall be

entitled to, and are hereby granted, the full protection of section 364(e) of the Bankruptcy Code in the event that this Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

8. *Best Interest of the Debtors' Estates.* The Debtors have requested entry of this Order pursuant to Bankruptcy Rule 4001(c)(2). Absent granting the relief sought by this Order, the Debtors' estates will be immediately and irreparably harmed. Consummation of the DIP Facility and the use of the Debtors pre-petition property in accordance with this Order and the DIP Documents are in the best interest of the Debtors' estates.

9. *Budget.* The Debtors believe that the operating budget attached as Exhibit "A" hereto (the "Budget") is achievable and will allow the Debtors to operate in their chapter 11 cases without the accrual of unpaid administrative expenses. The Lender is relying upon the Debtors' compliance with the Budget (subject to amendment as contemplated in the DIP Agreement) in accordance with this Order in extending the DIP Facility.

Authorization of the DIP Financing and the DIP Documents

10. *Maximum Amount.* The terms and conditions of the DIP Agreement and the other DIP Documents are approved on an interim basis and incorporated herein by reference. The Debtors are authorized to execute, enter into and perform the transactions contemplated by this Order and the DIP Documents (including the DIP Agreement) and to borrow under the DIP Agreement up to an aggregate principal amount of [\$_____] for general corporate purposes of the Debtors, and to pay certain costs and expenses of administration of their chapter 11 cases pursuant and subject to the terms and conditions of this Order and the DIP Documents. For purposes of this Order, the term "DIP Obligations" shall mean and include all amounts owing under the DIP Agreement or other DIP Documents (including, without limitation, all

“Obligations” as defined in the DIP Agreement) and shall include the principal of, interest on, fees, costs, expenses and other charges owing in respect of such amounts (including, without limitation, any reasonable attorneys’, accountants’, financial advisors’ and other reasonable and documented fees, costs and expenses that are chargeable by or reimbursable to the Lender under this Order, the DIP Agreement or other DIP Documents plus the Facility Fee and Unused Commitment Fee).

11. *Further Assurances.* In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized and directed to perform all acts and to execute and deliver all instruments and documents and to pay all fees and expenses reasonably required or necessary for the Debtors’ performance of their obligations under the DIP Documents or this Order, including, without limitation, (i) the execution and delivery of, and performance of the transactions contemplated by, the DIP Documents; (ii) the execution, delivery and performance of one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case in such form as the Debtors and Lender may agree, and no further approval of this Court shall be required for amendments, waivers, consents or other modifications to and under the DIP Documents (and any fees paid in connection therewith), provided, however, that a copy of any such amendment or other modification shall be filed by the Debtors with this Court and served by the Debtors on the U.S. Trustee, counsel to the Committee and counsel to BBVA Compass, each of whom shall have five (5) business days from the date of such notice within which to object in writing to such modification or amendment, in which case such modification or amendment shall only be permitted pursuant to an order of this Court, (iii) the payment to the Lender of the DIP Obligations as and when due as set forth in this Order or the DIP Documents and (iv) the prompt performance of all other acts required under or

in connection with this Order or the DIP Documents, including, without limitation, prompt delivery to the Lender (and its professionals) of such reporting and financial information and access to the Debtors' books and records, in each case, as may be reasonably requested by the Lender from time to time and as required in the DIP Documents.

12. *No Impairment.* Upon execution and delivery of the DIP Documents, the DIP Documents shall constitute valid and binding obligations of the Debtors, enforceable against the Debtors in accordance with the terms thereof and this Order. No obligation or liability owed, or payment, transfer or grant of security to the Lender under the DIP Documents or this Order shall be stayed, restrained, disgorged, voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable nonbankruptcy law (including without limitation, under sections 502(d), 548 or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment or counterclaim, whether in the pending chapter 11 cases of the Debtors or any other subsequent proceedings under the Bankruptcy Code, including, without limitation, any chapter 7 proceeding if any of the Debtors' chapter 11 cases are converted to a case under chapter 7 of the Bankruptcy Code (collectively, the "Successor Case"). The DIP Obligations, once paid by the Debtors, shall be non-refundable.

13. *Interest, Fees, Costs and Expenses.* The DIP Obligations shall bear interest at the rates (including at the default rate specified in the DIP Agreement after the occurrence of an Event of Default (as defined in the DIP Agreement)), and be due and payable (and paid), as set forth in, and in accordance with the terms and conditions of, this Order and the DIP Documents, in each case without further notice, motion or application to, order of, or hearing before, this Court. The Debtors shall pay all DIP Obligations as and when the same shall become due under

the terms of the DIP Documents, in each case whether or not such amounts are included in the Budget or arose before or after the Petition Date. None of the fees, costs and expenses payable to the Lender in connection with these chapter 11 cases or the DIP Documents, including, without limitation, reasonable legal, accounting, collateral examination, monitoring and appraisal fees, financial advisory fees, fees and expenses of the consultants, and the out-of-pocket expenses (all of which fees and expenses constitute DIP Obligations) (collectively, the “Lender Expenses”) shall be subject to separate approval by this Court. The Lender shall provide to the Debtors, the U.S. Trustee and counsel to the Committee, on a monthly basis, the total amount of Lender Expenses (other than the Commitment Fee and Unused Facility Fee described in Section 2.6 of the DIP Agreement, collectively the “DIP Fees”) incurred per calendar month in these cases, along with redacted invoices relating to such fees and expenses (whether incurred pre- or post-petition), and the Lender shall pay itself from funds advanced under the DIP Facility the amounts reflected in such invoices absent written objection provided to the Lender and its counsel with ten (10) days of receipt of such invoice. Any unresolved objection shall be resolved by the Bankruptcy Court after notice and hearing. In addition, the Lender shall be authorized on a monthly basis to advance to itself under the DIP Facility funds in an amount equal to the total amount of the DIP Fees incurred per calendar month in these Cases. Under no circumstances shall professionals for the Lender be required to file any interim or final fee application or otherwise comply with the U.S. Trustee fee guidelines.

14. *Guarantors; Pledgors.* Each Debtor hereby agrees that such Debtor is jointly and severally liable for, and hereby absolutely and unconditionally guarantees to the Lender and its successors and assigns, the full and prompt payment when due (whether at maturity or earlier, by reason of acceleration or otherwise, and at all time thereafter) and performance of, all DIP

Obligations owed or hereafter owing to the Lender by each other Debtor. Each such Debtor agrees that (a) its guaranty obligation hereunder is a present and continuing guaranty of payment and performance and not of collection, (b) its obligations under this Order and any DIP Document shall not be discharged until the payment and performance, in full, in cash of the DIP Obligations, and the termination of the lending commitments under the DIP Documents, has occurred; and (c) its guaranty obligations hereunder shall be, and are, absolute and unconditional for all purposes in these chapter 11 cases and any Successor Case. In no event shall any person or entity who pays (or through the extension of credit to any Debtor, causes to be paid) any of the DIP Obligations be subrogated, in whole or in part, to any rights, remedies, claims, privileges, liens or security interests granted in favor of, or conferred upon the Lender by the terms of the DIP Documents or this Order, unless and until such time as all of the DIP Obligations have been indefeasibly paid in full in cash and all lending commitments have been terminated under the DIP Facility.

15. *Authorized Signatories.* The signature of any officer of the Debtors appearing on any one or more of the DIP Documents shall be sufficient to bind the respective Debtors and their estates thereto. No board of directors, member, shareholder or other approval or resolutions shall be necessary or required to consummate, effect or validate the transactions contemplated in the DIP Documents or in this Order.

16. *Permitted Use Generally.* Notwithstanding anything in this Order to the contrary, the Debtors may use the proceeds of the DIP Facility, and incur DIP Obligations, solely in accordance with and pursuant to terms and conditions set forth in the DIP Documents and this Order, including, without limitation, pursuant to the Budget, but in all events only until the occurrence of the Termination Date and regardless of whether the Debtors have expended the

entire proceeds of the DIP Facility permitted by the terms of this Order prior to the Termination Date. Notwithstanding the foregoing, if the Lender in its sole discretion advances funds or provide other extensions of credit to the Debtors in excess of the terms and conditions of this Order (or any other limitations in the DIP Documents, including, without limitation, the Budget), such advances and extensions of credit shall be entitled to, and are hereby granted, the rights, priorities, benefits and protections of this Order.

17. *No Duty to Monitor Compliance.* The Lender may assume the Debtors will comply with this Order, the Budget and the DIP Documents and shall not (i) have any obligation with respect to the Debtors' use of proceeds of the DIP Facility; (ii) be obligated to ensure or monitor the Debtors' compliance with the terms and conditions of this Order or any DIP Document or (iii) be obligated to pay (directly or indirectly from the Collateral (as hereinafter defined)) any expenses incurred or authorized to be incurred pursuant to this Order or any DIP Document or be obligated to ensure or monitor that sufficient proceeds of the DIP Facility exist to pay such expenses.

18. *Superpriority Claims.* Except to the extent expressly set forth in this Order in respect of the Carve Out, pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed senior administrative claims (the "Superpriority Claims") against each of the Debtors with priority over all valid claims, administrative expenses, adequate protection claims, and all other valid claims against each of the Debtors, now existing or hereafter arising, of any kind whatsoever (and no cost or expense of administration shall be senior to, equal to, or *pari passu* with, the Lender's Superpriority Claims), including without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under

sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113, 1114 or any other provision of the Bankruptcy Code or otherwise, in each case whether incurred in these chapter 11 cases or any Successor Case, whether for adequate protection, the lack of, or failure to provide, adequate protection, or otherwise, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which Superpriority Claims shall be payable from and have recourse to all pre-petition and post-petition property of the Debtors and all proceeds thereof (but excluding the proceeds or property recovered in respect of any Avoidance Action).

19. *Carve Out.* For purposes hereof, the “Carve Out” means (a) the allowed fees and expenses of attorneys, accountants, financial advisors, and other professionals retained pursuant to court order by the Debtors (the “Debtors’ Professionals”) pursuant to the Bankruptcy Code which have actually been incurred but are unpaid as of the occurrence of an Event of Default, provided that in no event shall any such fees and expenses exceed the respective amounts allocated for such Debtors’ Professionals in the Budget for the period up to the occurrence of an Event of Default; (b) amounts payable pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court (the “Statutory Fees”), which Statutory Fees shall be included by the Debtors in the Budget; and (c) any and all allowed fees and expenses of the Debtors’ Professionals after the occurrence of an Event of Default in an amount (exclusive of any retainers held by such Debtors’ Professionals not funded through the DIP Facility) not to exceed \$50,000. Nothing herein (including, but not limited to, the Carve Out or any obligations of the Lender with respect thereto) shall require or obligate the Lender to advance or pay any funds to the Debtors, the Debtors’ Professionals or any other party such that the total amount of

funds expended by the Lender in or related to these cases exceeds the maximum principal amount of the DIP Facility.

20. *Reservation of Rights.* Payment of any amounts with respect to the Carve Out shall not, and shall not be deemed to, (i) reduce any Debtor's obligations owed to the Lender or its agents or (ii) modify, alter or otherwise affect any of the liens and security interests of the Lender in the Collateral (or its claims against the Debtors). None of the Lender or its agents shall be responsible for the direct payment or reimbursement of any fees or disbursements of any professionals of the Debtors, any official committee of unsecured creditors in these case (the "Committee") or of any other Person incurred in connection with these chapter 11 cases or any Successor Case, and nothing in this Order or otherwise shall be construed to obligate such parties in any way to pay compensation to or to reimburse expenses of any professionals retained in these cases or any other person. Nothing herein shall impair, or be construed to impair, the ability of any party to object to any of the fees, expenses, reimbursement or compensation of the professionals retained in these cases pursuant to section 327 or 1103 of the Bankruptcy Code. Entry of this Order shall be without prejudice to the right of the Lender to seek relief in these cases and to appear and be heard on all matters before the Court.

21. *DIP Liens.* As security for repayment of the DIP Obligations, effective and perfected upon the date of this Order and without the necessity of the execution by the Debtors (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages or other similar documents, or the possession or control by the Lender of any collateral, the Lender is hereby granted the following valid, binding, enforceable, unavoidable and fully perfected security interests and liens in and upon all of the assets of the Debtors, in existence prior to the Petition Date or created after the Petition Date, including,

without limitation, all cash collateral, all of the Debtors' accounts, contract rights, inventory, machinery and equipment, capital stock or other interests in subsidiaries, licenses, general intangibles, commercial tort claims, real property (including fee and leasehold interests), personal property, all of the Debtors' developer rights (including, but not limited to, the rights to appoint directors of property owners' associations, homeowners' associations or other similar organizations or entities), all rights of the Debtors to receive reimbursement from municipal utility districts or tax incentive reinvestment zones or other similar organizations or entities and such other property of the Debtors (excluding for purposes of this Order actions for preferences, fraudulent conveyances and other avoidance power claims under sections 544, 545, 546, 547, 548, 550, 552(b) and 553 of the Bankruptcy Code (the "Avoidance Actions")), whether such property was owned on the Petition Date or thereafter created, acquired or arising, and all improvements, additions and extensions thereto, all replacements thereof, all books and records with respect thereto and all products, proceeds, rents, revenues, income, offspring and profits of the foregoing (collectively, the "Collateral"), subject only to the Carve Out (all such liens and security interests granted to the Lender pursuant to this Order and the DIP Documents, the "DIP Liens"):

(a) First Priority Lien on the Collateral. Pursuant to Bankruptcy Code § 364(c)(2), the Lender is hereby granted valid, binding, continuing, enforceable, fully-perfected first priority security interests in and liens on the Collateral that is not subject to any Pre-Petition Lien. Pre-Petition Lien means any (i) valid, perfected, enforceable and unavoidable lien or security interest existing as of the Petition Date or (ii) valid, enforceable and unavoidable lien or security interest in existing as of the Petition Date that is perfected subsequent to the Petition Date pursuant to sections 546 and 362(b)(18) of the Bankruptcy Code.

(b) Liens Priming Pre-Petition Liens. Pursuant to Bankruptcy Code § 364(d)(1), the Lender is hereby granted valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interests in and liens on the Collateral that is subject to any Pre-Petition Lien, which security interests and liens shall be senior in all respects to the Pre-Petition Liens.

22. *Adequate Protection.* Parties with Pre-Petition Liens on the Collateral are entitled, pursuant to sections 105, 361, 363 and 364 of the Bankruptcy Code, to adequate protection of their interests in the Collateral. The Court finds that such interests are adequately protected by the “equity cushion” in the Collateral, and that no other or further adequate protection is required.

23. *Perfection of the DIP Liens.* The Lender is hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, notices of lien or similar instruments in any jurisdiction, take possession of or control over any of the Collateral, or take any other action in order to validate and perfect the DIP Liens. Whether or not the Lender shall, in its sole discretion, choose to file such financing statements, intellectual property filings, mortgages, notices of lien or similar instruments, take possession of or control over certain Collateral, or otherwise confirm perfection of the DIP Liens, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, unavoidable and not subject to challenge, dispute or subordination as of the date of entry of this Order. The Debtors shall execute and deliver to the Lender all such agreements, financing statements, instruments and other documents as the Lender may reasonably request to more fully evidence, confirm, validate, perfect, preserve and enforce the DIP Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date. Pursuant to sections 364(c)(2) and (3) and 364(d) of the Bankruptcy Code, any provision of any lease or other license, contract or other agreement that requires the consent or approval of one or more parties, or requires the payment of any fees or obligations to any governmental entity, in order for the Debtors, or any guarantor to pledge, grant, sell, or otherwise transfer any such interest or the proceeds thereof or other Collateral, is and shall be deemed to be inconsistent with the provisions of the Bankruptcy Code and shall have no force

and effect with respect to the transactions granting the Lender a security interest in and lien on such interest or the proceeds of any assignment and/or sale thereof by the Debtors in favor of the Lender in accordance with the terms of the DIP Documents.

24. *Prohibition on Other Liens in the Collateral.* No claim or lien having a priority senior to or *pari passu* with those granted by this Order or the DIP Documents to the Lender shall be granted or allowed while any portion of the DIP Obligations (or any refinancing thereof) remain outstanding.

25. *Collateral Rights.* Unless the Lender has provided its prior written consent or all DIP Obligations have been indefeasibly paid in full in cash (or will be paid in full in cash upon entry of an order approving indebtedness described in subparagraph (a) below), and all commitments to lend have terminated, there shall not be entered in the Cases, or in any Successor Case, any order that authorizes any of the following:

(a) except as permitted in the DIP Documents, the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other lien on all or any portion of the DIP Collateral and/or entitled to priority administrative status which is equal or senior to those granted to the Lender;

(b) relief from stay by any person other than the DIP Lender with respect to the foreclosing on all or any portion of the Collateral; or

(c) the Debtors' return of goods constituting Collateral pursuant to section 546(h) of the Bankruptcy Code, except as permitted in the DIP Documents.

26. *Disposition of Collateral.* The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Collateral without the prior written consent of the Lender (and no such consent shall be implied, from any other action, inaction or acquiescence by the Lender or an order of this Court), except as otherwise provided for in the DIP Documents, or except when the proceeds of the sale are sufficient to pay the DIP Obligations in full. Upon the closing of any sale or other disposition of the Debtors' assets, all proceeds shall immediately

and/or directly be paid to Lender until all of the DIP Obligations have been indefeasibly satisfied in full. Nothing in this Order shall prejudice or otherwise limit or impair any and all rights of the Lender under section 363(k) of the Bankruptcy Code, which rights are expressly preserved.

27. *Subsequent Reversal or Modification.* If any or all of the provisions of this Order are hereafter reversed, modified, vacated or stayed, or if any order shall be entered by the Court converting any of these cases to a case under chapter 7 of the Bankruptcy Code, dismissing or closing any of these cases or otherwise, such action will not affect the validity and enforceability of any lien, claim, superpriority expense or other protection authorized or created hereby in favor of the Lender. Notwithstanding any such reversal, stay, modification, vacatur or additional order, any lien, security interest, and superpriority claim granted by the Debtors in accordance with this Order prior to the date hereof shall be governed in all respects by the original provisions of this Order, and the Lender shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the Bankruptcy Code and granted herein with respect to all such indebtedness, obligations, liabilities, liens, security interests, and superpriority claims. The claims, liens, and security interests granted to the Lender pursuant to this Order shall maintain their priority, validity and perfection as provided by this Order until all of the DIP Obligations are indefeasibly paid in full in cash and discharged in accordance with the respective terms and conditions of this Order and the DIP Documents.

28. *Survival of Rights.* Until all DIP Obligations are indefeasibly paid in full in cash, and except as expressly provided in this Order or in the DIP Documents, the DIP Liens, and the Superpriority Claims, and all other rights and remedies of the Lender granted by the provisions of this Order and the DIP Documents shall, in each case, survive and shall not be modified, impaired or discharged by (y) the entry of an order converting any of these cases to a case under

chapter 7 of the Bankruptcy Code, dismissing any of these cases or by any other act or omission, or (z) the entry of an order confirming a plan of reorganization in any of the cases. The terms and provisions of this Order and the DIP Documents shall continue in these cases, in any successor cases if the cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code, and the DIP Liens and the Superpriority Claims, and all other rights and remedies of the Lender granted by the provisions of this Order and the DIP Documents shall continue in full force and effect until all DIP Obligations are indefeasibly paid in full in cash.

29. *Termination.* All DIP Obligations of the Debtors to the Lender shall be immediately due and payable (subject to the provisions of this Order), and the Debtors' authority to use the proceeds of the DIP Facility shall cease on the date (the "Termination Date") that is the earliest to occur of: (i) [_____, 2010], unless the Final Order shall have been entered; (ii) the dismissal of any of the Debtors' cases or conversion of any of these cases to a chapter 7 case or appointment of a trustee or examiner with expanded powers; (iv) any stay, reversal, vacatur, rescission or other modification of the terms of this Order not consented to by the Lender; and (v) any Event of Default shall have occurred and any notice required pursuant to the DIP Documents or this Order to cause the DIP Obligations to become due and payable shall have been given, or the DIP Agreement shall otherwise have been terminated. From and after the Termination Date, the automatic stay provisions of section 362 of the Bankruptcy Court are vacated and modified to permit the Lender to exercise, in its sole discretion, all rights and remedies provided for in the DIP Documents without further Order of the Court (except with respect to the exercise of rights against the Collateral, which are subject to paragraph 31, below), including but not limited to the right to exercise all the Debtors' developer's rights with respect

to (x) the Property (as defined in the DIP Agreement), (y) any property owners' associations, homeowners' associations or other similar organizations or entities and (z) any municipal utility district, tax incentive reinvestment zones or other similar organization or entity (including the any rights to appoint and to remove directors from the board of directors of any association or entity in x and y, above).

30. *Events of Default.* The occurrence of any of the following events shall constitute an 'Event of Default' under this Order:

- (a) Failure by any of the Debtors to comply with any term of this Order;
- (b) Any application by the Debtors for entry of an order approving any financing or loans secured by liens which are senior or *pari passu* to the DIP Liens, without the prior written approval of Lender; or
- (c) The occurrence of any Event of Default as defined in the DIP Documents.

31. *Remedies Upon Event of Default.* The automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the Lender to exercise any and all remedies provided for in the DIP Documents and applicable law from and after the occurrence of an Event of Default, including setoff and the right to foreclose upon and take possession of the Collateral, upon five (5) business days written notice to the Debtors, the United States Trustee and any appointed Official Committee of Unsecured Creditors in these cases (the "Committee"). In any hearing regarding any exercise of rights or remedies, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred and is continuing, and the Debtor hereby waives its right to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the Lender set forth in this Order or the DIP Documents. In no event shall the Lender be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral. The Lender's failure to seek

relief or otherwise exercise their rights and remedies under the DIP Facility or this Order shall not constitute a waiver of the Lender's rights hereunder, thereunder or otherwise. Without the prior written consent of the Lender, the Debtors will not take any action to amend or modify any agreement with any municipal utility district, any tax incentive reinvestment zones or any property owners' or home owners' association or other similar entity or take any other action that would restrict, or result in a restriction, upon the ability of the Lender (or any purchaser acquiring the Property from the Lender in a foreclosure sale) to exercise those rights after the occurrence and during the continuance of an Event of Default or following a foreclosure by the Lender.

32. *Waiver of Claims and Causes of Action Against the Lender.* The Debtor has waived any and all claims and causes of action against the Lender and its agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors, directly related to the DIP Facility, the DIP Documents, this Order or the negotiation of the terms of any of the foregoing.

33. *Limitation On Use of the DIP Facility Proceeds and Collateral.* The Debtors shall use the proceeds of the DIP Facility solely as provided by this Order and in the DIP Documents, and subject to the Budget. Notwithstanding anything herein or in any other order of this Court to the contrary, none of the DIP Facility proceeds, the Carve Out or the Collateral shall be used (a) for the payment or reimbursement of any professional fees and expenses of any party, including the Debtors, the Committee, any trustee appointed in these chapter 11 cases or any Successor Case, or any substantial contribution expenses, any associated professional compensation, or any compensation for substantial contribution, incurred in connection with the assertion and prosecution of, or joinder in, any claim (as such term is defined in the Bankruptcy Code), counterclaim, action, proceeding, application, motion, objection, defenses or other contested

matter, or commencing or prosecuting any action (whether arising under state law, the Bankruptcy Code or other federal law) the purpose of which is to seek any order, judgment, determination or similar relief against the Lender or for the purpose of challenging the validity, extent or priority of any claim, lien or security interest held or asserted by the Lender or asserting any defense, claim, counterclaim, or offset with respect to the DIP Obligations, (b) to prevent, hinder or otherwise delay the Lender's assertion, enforcement or realization on the Collateral in accordance with the DIP Documents, (c) to seek to modify any of the rights granted to the Lender under this Order, or under the DIP Documents, or (d) pay any amount on account of any claims arising prior to the Petition Date unless such payments are (i) approved by an order of this Court, and (ii) permitted under the DIP Documents.

34. *Limitation On Charging Expenses Against Collateral.* Notwithstanding anything to the contrary contained herein, except to the extent of the Carve Out, (a) no costs or expenses of administration of these cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, or other charge, lien, assessment or claim incurred at any time (including, without limitation, any expenses set forth in the Budget) by any Debtor or any other person or entity shall be charged against or recovered from any or all of the Lender or the Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, and the Debtors, on behalf of their estates in their chapter 11 cases any Successor Case, waive any such rights, (b) no such consent shall be implied from any other action, inaction, or acquiescence by the Lender, and (c) nothing contained in this Order shall be deemed to be a consent by the Lender to any charge, lien, assessment or claim against the Collateral under section 506(c) of the Bankruptcy Code or otherwise.

35. *Exculpation.* Nothing in this Order, the DIP Documents, or any other documents related to these transactions shall in any way be construed or interpreted to impose or allow the imposition upon the Lender any liability for any claims arising from the pre-petition or post-petition activities of the Debtors in the operation of their business, or in connection with their restructuring efforts. The Lender shall not, in any way or manner, be liable or responsible for (i) the safekeeping of the Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency or other person. All risk of loss, damage or destruction of the Collateral shall be borne by the Debtors.

36. *Order Governs.* In the event of any inconsistency between the provisions of this Order and the DIP Documents, the provisions of this Order shall govern.

37. *Retention of Jurisdiction.* The Bankruptcy Court shall retain jurisdiction to enforce the provisions of this Order, and this retention of jurisdiction shall survive the confirmation and consummation of any chapter 11 plan for any one or more of the Debtors notwithstanding the terms or provisions of any such chapter 11 plan or any order confirming any such chapter 11 plan.

38. *No Obligation to Extend Credit.* The Lender shall not have any obligation to make any loan or advance under the DIP Documents unless all of the conditions precedent to the making of such extension of credit under the DIP Documents and this Order have been satisfied in full or waived by the Lender in accordance with the DIP Documents.

39. *Insurance Policies.* Upon entry of this Order, the Lender shall be, and shall be deemed to be, without any further action or notice, named as an additional insured and loss payee on each insurance policy maintained by the Debtors that in any way relates to the Collateral. The

Debtors are authorized and directed to take any action necessary to have the Lender added as an additional insured and loss payee on each insurance policy.

40. *Indemnification.* The Debtors are obligated to indemnify and hold harmless the Lender and its directors, officers, agents, subsidiaries, affiliates, successors, assigns and professionals in their respective capacities as such, from and against any and all damages, losses, settlement payments, obligations, liabilities, claims, actions or causes of action and reasonable costs and expenses incurred, suffered, sustained or required to be paid by an indemnified party of every nature and character arising out of or related to the DIP Documents or the DIP Facility and this Order, except to the extent resulting from such indemnified party's gross negligence or willful misconduct as determined by a final non-appealable order of a court of competent jurisdiction.

41. *Binding Effect; Successors and Assigns.* The DIP Documents and the provisions of this Order, including all findings herein, shall be binding upon all parties in interest in the cases, including without limitation, the Lender, all pre-petition secured lenders, any official committee of unsecured creditors and the Debtors and their respective successors and assigns, including any trustee appointed in these cases, and shall inure to the benefit of the Lender, the Debtors and their respective successors and assigns, provided, however, that the Lender shall have no obligation to extend any financing to any chapter 7 or chapter 11 trustee or similar responsible person appointed for the estates of the Debtors.

42. *Limitation of Liability.* In determining to make any loan under the DIP Documents, in administering any loans, in approving any budget, in taking any actions or in exercising any rights or remedies as and when permitted pursuant to this Order or the DIP Documents, the Lender shall not (a) be deemed to be in "control" of the operations of the

Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq. as amended, or any similar federal or state statute), or (b) owe any fiduciary duty to any Debtor, its respective creditors, shareholders or estates, and their relationship with each Debtor shall not constitute or be deemed to constitute a joint venture or partnership with such Debtor.

43. *No Implied Waiver.* The failure, at any time or times hereafter, of the Lender to require strict performance by the Debtors of any applicable provision of this Order or the DIP Documents shall not waive, affect or diminish any right of the Lender thereafter to demand strict compliance and performance therewith. No delay on the part of the Lender in the exercise of any right or remedy under this Order or the DIP Documents shall preclude any other or further exercise of any such right or remedy or the exercise of any other right or remedy. None of the rights or remedies of any party under this Order or the DIP Documents shall be deemed to have been amended, modified, suspended or waived unless such amendment, modification, suspension or waiver is in writing and signed by the party against whom such amendment, modification, suspension or waiver is sought. The Lender does not waive, and expressly reserves, any and all claims, causes of action, defenses, rights and remedies it has or may have pursuant to any or all of the DIP Documents, the Bankruptcy Code, and/or under applicable law against or with respect to any Debtor and any other person or entity. Except as expressly provided in this Order, the obligations of the Debtors, and the rights, remedies, and priorities of the Lender arising under or in connection with this Order, are in addition to, and are not intended as a waiver or substitution

for, those granted to, or contained in favor of, such parties under any or all of the DIP Documents, the Bankruptcy Code and/or under applicable law.

44. *Effectiveness.* This Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Order.

45. *Headings.* Section headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Order.

Dated: _____

HONORABLE LETITIA Z. PAUL
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

Harborwalk Development Company, Ltd.
Preliminary 6 Month Budget
January 25 - July 31, 2010

| | <u>Jan 25 - Jan 31</u> | <u>Feb 1 - Feb 7</u> | <u>Feb 8 - Feb 14</u> | <u>Feb 15 - Feb 21</u> | <u>Feb 22 - Feb 28</u> | <u>March-10</u> | <u>April-10</u> | <u>May-10</u> | <u>June-10</u> | <u>July-10</u> | <u>TOTAL</u> |
|---|------------------------|----------------------|-----------------------|------------------------|------------------------|-----------------|-----------------|---------------|----------------|----------------|----------------|
| HARBORWALK MARINA OPERATING COMPANY, LTD. | | | | | | | | | | | |
| <i>Club Revenue</i> | | | | | | | | | | | |
| Monthly membership dues | - | - | - | - | - | 27,000 | 18,000 | 18,000 | 18,000 | 18,000 | 99,000 |
| Food sales (revenue collected from previous month) | - | - | - | - | - | 8,775 | 15,600 | 15,600 | 27,300 | 23,400 | 90,675 |
| Concession payments + inventory purchase from Watkins Hospitality | - | - | - | - | - | 1,870 | 3,560 | 3,600 | 6,400 | 5,550 | 20,980 |
| Total Club Revenue | - | - | - | - | - | 37,645 | 37,160 | 37,200 | 51,700 | 46,950 | 210,655 |
| <i>Food COGS (Inventory replacement)</i> | | | | | | | | | | | |
| | - | 2,000 | 1,463 | 1,463 | 1,463 | 7,800 | 7,800 | 13,650 | 11,700 | 13,650 | 60,988 |
| <i>Club Payroll</i> | | | | | | | | | | | |
| Salaries & wages | 1,000 | 3,785 | 5,361 | 5,361 | 5,361 | 28,155 | 22,524 | 22,524 | 28,155 | 22,524 | 144,750 |
| Payroll burden | 150 | 568 | 804 | 804 | 804 | 4,223 | 3,379 | 3,379 | 4,223 | 3,379 | 21,713 |
| Group health insurance | - | 3,000 | - | - | - | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 18,000 |
| Savings plan contributions | 15 | 57 | 80 | 80 | 80 | 422 | 338 | 338 | 422 | 338 | 2,171 |
| Employee meal program | - | - | 85 | 85 | 85 | 360 | 360 | 360 | 360 | 360 | 2,055 |
| Uniforms | - | 25 | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| Total club payroll | 1,165 | 7,435 | 6,356 | 6,356 | 6,356 | 36,261 | 29,700 | 29,700 | 36,261 | 29,700 | 189,289 |
| <i>Club operating costs</i> | | | | | | | | | | | |
| Pest control | - | 250 | - | - | - | 250 | 250 | 250 | 250 | 250 | 1,500 |
| Member relations | - | - | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 575 |
| Linen service | - | - | 105 | 105 | 105 | 420 | 420 | 420 | 420 | 420 | 2,415 |
| Dry cleaning | - | 25 | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| Utility assurance deposits | 4,400 | - | - | - | - | - | - | - | - | - | 4,400 |
| Electric | - | - | 4,100 | - | - | 4,100 | 4,100 | 4,100 | 4,100 | 4,100 | 24,600 |
| Water / sewer | - | - | 650 | - | - | 650 | 650 | 650 | 650 | 650 | 3,900 |
| Gas | - | - | 625 | - | - | 625 | 625 | 625 | 625 | 625 | 3,750 |
| Alarm | - | - | 80 | - | - | 80 | 80 | 80 | 80 | 80 | 480 |
| Cable TV / Music Service | - | - | 320 | - | - | 320 | 320 | 320 | 320 | 320 | 1,920 |
| Oil removal service | - | - | 35 | - | - | 35 | 35 | 35 | 35 | 35 | 210 |
| IT expense | - | - | - | - | 175 | 175 | 175 | 175 | 175 | 175 | 1,050 |
| Equipment rental | - | - | - | - | - | 100 | 100 | 100 | 100 | 100 | 500 |
| Freight & postage | - | 100 | 50 | 25 | 25 | 200 | 200 | 200 | 200 | 200 | 1,200 |
| Permits / licenses / fees | - | - | - | - | - | 3,000 | - | - | - | - | 3,000 |
| Supplies - office | - | 50 | - | - | - | 50 | 50 | 50 | 50 | 50 | 300 |
| Supplies - bar | - | 50 | 50 | 50 | 50 | 200 | 200 | 200 | 200 | 200 | 1,200 |
| Supplies - kitchen | - | 150 | 150 | 150 | 150 | 600 | 600 | 600 | 600 | 600 | 3,600 |
| Supplies - Chemicals | - | 25 | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| Supplies - Housekeeping | - | 50 | 50 | 50 | 50 | 200 | 200 | 200 | 200 | 200 | 1,200 |
| Supplies - Laundry/linen | - | 25 | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| Equipment maintenance | - | - | - | 500 | - | 500 | 500 | 500 | 500 | 500 | 3,000 |
| China / glass / silver | - | 50 | 50 | 50 | 50 | 200 | 200 | 200 | 200 | 200 | 1,200 |
| Paper products | - | 50 | 50 | 50 | 50 | 200 | 200 | 200 | 200 | 200 | 1,200 |
| Recruiting / advertising | - | - | - | - | - | 100 | 100 | 100 | 100 | 100 | 500 |
| Seminars / Dues / Subscriptions | - | - | - | - | - | 200 | 200 | 200 | 200 | 200 | 1,000 |
| Small equipment / tools | - | - | - | - | - | 200 | 200 | 200 | 200 | 200 | 1,000 |

Harborwalk Development Company, Ltd.
Preliminary 6 Month Budget
January 25 - July 31, 2010

| | <u>Jan 25 - Jan 31</u> | <u>Feb 1 - Feb 7</u> | <u>Feb 8 - Feb 14</u> | <u>Feb 15 - Feb 21</u> | <u>Feb 22 - Feb 28</u> | <u>March-10</u> | <u>April-10</u> | <u>May-10</u> | <u>June-10</u> | <u>July-10</u> | <u>TOTAL</u> |
|--|------------------------|----------------------|-----------------------|------------------------|------------------------|-----------------|-----------------|---------------|----------------|----------------|----------------|
| Building maintenance | - | - | - | 500 | - | 500 | 500 | 500 | 500 | 500 | 3,000 |
| Employee events | - | - | - | - | - | 100 | 100 | 100 | 100 | 100 | 500 |
| Lounge entertainment | - | - | 400 | - | - | 400 | 400 | 400 | 400 | 400 | 2,400 |
| Member events | - | - | - | 1,000 | - | 1,000 | 1,000 | 1,000 | 4,000 | 1,000 | 9,000 |
| <i>Total club operating costs</i> | 4,400 | 825 | 6,815 | 2,580 | 755 | 14,805 | 11,805 | 11,805 | 14,805 | 11,805 | 80,400 |
| <i>Pool operating costs</i> | | | | | | | | | | | |
| Utility assurance deposits | 3,400 | - | - | - | - | - | - | - | - | - | 3,400 |
| Electric | - | - | 2,100 | - | - | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 | 12,600 |
| Water / sewer | - | - | 850 | - | - | 850 | 850 | 850 | 850 | 850 | 5,100 |
| Gas | - | - | 250 | - | - | 3,000 | 2,000 | 1,000 | - | - | 6,250 |
| Permits / licenses / fees | - | - | - | - | - | 1,200 | - | - | - | - | 1,200 |
| Supplies - pool | - | 300 | 300 | 300 | 300 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 7,200 |
| Building / equipment maintenance | - | - | - | 300 | - | 300 | 300 | 300 | 300 | 300 | 1,800 |
| <i>Total pool operating costs</i> | 3,400 | 300 | 3,500 | 600 | 300 | 8,650 | 6,450 | 5,450 | 4,450 | 4,450 | 37,550 |
| Total club subsidy | 8,965 | 10,560 | 18,133 | 10,998 | 8,873 | 29,871 | 18,595 | 23,405 | 15,516 | 12,655 | 157,571 |
| <i>Marina & store revenue</i> | | | | | | | | | | | |
| Long-term slip lease revenue | - | - | 16,560 | 8,280 | 8,280 | 33,120 | 33,120 | 33,120 | 33,120 | 33,120 | 198,720 |
| Transient slip lease revenue | - | - | - | - | - | 550 | 1,100 | 2,000 | 1,500 | 2,000 | 7,150 |
| Concession payments from Watkins Hospitality for alcohol sales | - | - | - | - | - | 300 | 340 | 520 | 540 | 650 | 2,350 |
| Grocery sales | - | - | 150 | 150 | 150 | 2,205 | 2,205 | 4,410 | 3,465 | 4,095 | 16,830 |
| Dry goods sales | - | - | 140 | 140 | 140 | 2,029 | 2,029 | 4,057 | 3,188 | 3,767 | 15,490 |
| Clothing sales | - | - | 20 | 20 | 20 | 265 | 265 | 529 | 416 | 491 | 2,026 |
| Bait sales | - | - | 150 | 150 | 150 | 2,205 | 2,205 | 4,410 | 3,465 | 4,095 | 16,830 |
| Ice sales | - | - | 30 | 30 | 30 | 441 | 441 | 882 | 693 | 819 | 3,366 |
| Tackle sales | - | - | 20 | 20 | 20 | 265 | 265 | 529 | 416 | 491 | 2,026 |
| Gasoline sales | - | - | 650 | 650 | 650 | 13,500 | 13,500 | 50,625 | 43,875 | 60,750 | 184,200 |
| Diesel sales | - | - | 225 | 225 | 225 | 3,750 | 7,500 | 15,938 | 15,000 | 16,875 | 59,738 |
| <i>Total marina & store revenue</i> | - | - | 17,945 | 9,665 | 9,665 | 58,630 | 62,970 | 117,020 | 105,678 | 127,153 | 508,726 |
| <i>Store cost of goods sold (inventory replacement)</i> | | | | | | | | | | | |
| Employee discounts at store | - | - | - | - | - | 100 | 100 | 100 | 100 | 100 | 500 |
| Club member discounts on store purchases | - | - | 26 | 26 | 26 | 371 | 371 | 741 | 582 | 688 | 2,828 |
| Club member discounts at fuel dock | - | - | 8 | 8 | 8 | 150 | 188 | 581 | 516 | 675 | 2,132 |
| Grocery spoilage | - | - | 5 | 5 | 5 | 66 | 66 | 132 | 104 | 123 | 505 |
| Bait spoilage | - | - | 30 | 30 | 30 | 441 | 441 | 882 | 693 | 819 | 3,366 |
| Theft / loss | - | - | 10 | 10 | 10 | 148 | 148 | 296 | 233 | 275 | 1,131 |
| Grocery COGS | - | - | 90 | 90 | 90 | 1,323 | 1,323 | 2,646 | 2,079 | 2,457 | 10,098 |
| Dry goods COGS | - | - | 91 | 91 | 91 | 1,319 | 1,319 | 2,637 | 2,072 | 2,449 | 10,069 |
| Clothing COGS | - | - | 14 | 14 | 14 | 180 | 180 | 360 | 283 | 334 | 1,378 |
| Bait COGS | - | - | 75 | 75 | 75 | 1,103 | 1,103 | 2,205 | 1,733 | 2,048 | 8,415 |
| Ice COGS | - | - | - | - | - | - | - | - | - | - | - |
| Tackle COGS | - | - | 12 | 12 | 12 | 159 | 159 | 317 | 250 | 295 | 1,216 |
| Gasoline COGS | - | - | 581 | 581 | 581 | 12,060 | 12,060 | 45,225 | 39,195 | 54,270 | 164,552 |

Harborwalk Development Company, Ltd.
Preliminary 6 Month Budget
January 25 - July 31, 2010

| | <u>Jan 25 - Jan 31</u> | <u>Feb 1 - Feb 7</u> | <u>Feb 8 - Feb 14</u> | <u>Feb 15 - Feb 21</u> | <u>Feb 22 - Feb 28</u> | <u>March-10</u> | <u>April-10</u> | <u>May-10</u> | <u>June-10</u> | <u>July-10</u> | <u>TOTAL</u> |
|---|------------------------|----------------------|-----------------------|------------------------|------------------------|-----------------|-----------------|---------------|----------------|----------------|----------------|
| Diesel COGS | - | - | 196 | 196 | 196 | 3,270 | 6,540 | 13,898 | 13,080 | 14,715 | 52,091 |
| <i>Total store cost of goods sold (inventory replacement)</i> | - | - | 1,136 | 1,136 | 1,136 | 20,689 | 23,997 | 70,020 | 60,919 | 79,246 | 258,281 |
| <i>Marina & store payroll</i> | | | | | | | | | | | |
| Salaries & wages | 2,650 | 3,960 | 4,920 | 4,920 | 4,920 | 24,600 | 19,680 | 19,680 | 24,600 | 19,680 | 129,610 |
| Payroll burden | 398 | 594 | 738 | 738 | 738 | 3,690 | 2,952 | 2,952 | 3,690 | 2,952 | 19,442 |
| Group health insurance | - | 2,000 | - | - | - | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 12,000 |
| Savings plan contributions | 80 | 119 | 148 | 148 | 148 | 738 | 590 | 590 | 738 | 590 | 3,888 |
| Uniforms | - | - | 50 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| <i>Total marina & store payroll</i> | 3,127 | 6,673 | 5,856 | 5,831 | 5,831 | 31,128 | 25,322 | 25,322 | 31,128 | 25,322 | 165,540 |
| <i>Marina, store & administrative operating costs</i> | | | | | | | | | | | |
| Pest control | - | 100 | - | - | - | 100 | 100 | 100 | 100 | 100 | 600 |
| Janitorial service - office & store | 100 | 100 | 100 | 100 | 100 | 400 | 400 | 400 | 400 | 400 | 2,500 |
| Janitorial service - floating restrooms | 100 | 100 | 100 | 100 | 100 | 400 | 400 | 400 | 400 | 400 | 2,500 |
| Utility assurance deposits | 12,600 | - | - | - | - | - | - | - | - | - | 12,600 |
| Electric - office & store | - | 1,300 | - | - | - | 1,300 | 1,300 | 1,300 | 1,900 | 1,900 | 9,000 |
| Electric - marina | - | 2,000 | - | - | - | 1,800 | 1,800 | 1,800 | 2,200 | 3,000 | 12,600 |
| Water / sewer - office & store | - | 150 | - | - | - | 150 | 150 | 200 | 300 | 350 | 1,300 |
| Water / sewer - marina | - | 600 | - | - | - | 600 | 600 | 600 | 600 | 1,500 | 4,500 |
| Gas | - | 100 | - | - | - | 50 | 50 | 80 | 80 | 80 | 440 |
| Alarm | - | 100 | - | - | - | 100 | 100 | 100 | 100 | 100 | 600 |
| WI-FI & internet service | - | 450 | - | - | - | 450 | 450 | 450 | 450 | 450 | 2,700 |
| Telephone / fax / cell / pager service | - | 1,200 | - | - | - | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 7,200 |
| IT / computer / software support expense | - | 75 | 75 | 75 | 75 | 3,800 | 300 | 300 | 300 | 300 | 5,300 |
| Permits / licenses / fees | - | - | - | - | - | 1,200 | - | - | - | - | 1,200 |
| Legal & accounting | - | - | - | - | - | 750 | 750 | - | - | - | 1,500 |
| Credit check expense | - | 25 | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| Dues & subscriptions | - | - | - | - | - | 150 | 150 | 150 | 150 | 150 | 750 |
| Freight & postage | - | - | 150 | 150 | 150 | 450 | 450 | 450 | 450 | 450 | 2,700 |
| Office supplies | - | 150 | 150 | 150 | 150 | 600 | 600 | 600 | 600 | 600 | 3,600 |
| Supplies - marina | - | 25 | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| Supplies - store | - | 150 | 150 | 150 | 150 | 600 | 600 | 600 | 600 | 600 | 3,600 |
| Supplies - bait | - | 75 | 75 | 75 | 75 | 300 | 300 | 300 | 300 | 300 | 1,800 |
| Supplies - store | - | 50 | - | - | - | 50 | 50 | 50 | 50 | 50 | 300 |
| General liability and other coverage | - | - | - | - | - | 15,087 | 15,087 | 15,087 | 15,087 | 15,087 | 75,434 |
| Flood insurance - 1445 HW Blvd. | 12,387 | - | - | - | - | - | - | - | - | - | 12,387 |
| Flood insurance - 1301 HW Blvd. | - | - | - | - | - | 13,192 | - | - | - | - | 13,192 |
| Pier & dock maintenance | - | 50 | 100 | 100 | 100 | 350 | 350 | 350 | 350 | 350 | 2,100 |
| Equipment maintenance | - | - | 200 | - | 200 | 5,000 | 400 | 400 | 400 | 400 | 7,000 |
| Building / equipment maintenance | - | 150 | - | 150 | - | 300 | 300 | 300 | 300 | 300 | 1,800 |
| Marina marketing | - | 1,000 | 1,000 | 1,000 | 1,000 | 4,000 | 4,000 | 4,000 | 4,000 | 4,000 | 24,000 |
| <i>Total marina, store & administrative operating costs</i> | 25,187 | 7,950 | 2,150 | 2,100 | 2,150 | 52,579 | 30,087 | 29,417 | 30,517 | 32,267 | 214,403 |
| Total marina & store subsidy | 28,314 | 14,623 | (8,803) | (598) | (548) | 45,766 | 16,436 | 7,740 | 16,886 | 9,683 | 129,498 |

Harborwalk Development Company, Ltd.
Preliminary 6 Month Budget
January 25 - July 31, 2010

| | <u>Jan 25 - Jan 31</u> | <u>Feb 1 - Feb 7</u> | <u>Feb 8 - Feb 14</u> | <u>Feb 15 - Feb 21</u> | <u>Feb 22 - Feb 28</u> | <u>March-10</u> | <u>April-10</u> | <u>May-10</u> | <u>June-10</u> | <u>July-10</u> | <u>TOTAL</u> |
|--|------------------------|----------------------|-----------------------|------------------------|------------------------|-----------------|-----------------|---------------|----------------|----------------|----------------|
| <i>HMOC maintenance costs</i> | | | | | | | | | | | |
| Salaries & wages | 900 | 900 | 900 | 900 | 900 | 4,500 | 3,600 | 3,600 | 4,500 | 3,600 | 24,300 |
| Payroll burden | 135 | 135 | 135 | 135 | 135 | 675 | 540 | 540 | 675 | 540 | 3,645 |
| Group health insurance | - | 400 | - | - | - | 400 | 400 | 400 | 400 | 400 | 2,400 |
| Savings plan contributions | 27 | 27 | 27 | 27 | 27 | 135 | 108 | 108 | 135 | 108 | 729 |
| Landscape maintenance contract | - | 1,191 | - | - | - | 1,191 | 9,457 | 2,978 | 2,864 | 2,382 | 20,063 |
| Vehicle maintenance | - | 25 | 25 | 25 | 25 | 100 | 100 | 100 | 100 | 100 | 600 |
| Electric - maintenance building | - | - | 50 | - | - | 50 | 50 | 50 | 50 | 50 | 300 |
| Trash compactor | - | 1,100 | - | - | - | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 6,600 |
| <i>Total HMOC maintenance costs</i> | 1,062 | 3,778 | 1,137 | 1,087 | 1,087 | 8,151 | 15,355 | 8,876 | 9,824 | 8,280 | 58,637 |
| TOTAL HARBORWALK MARINA OPERATING CO. FUNDING | 38,341 | 28,960 | 10,467 | 11,487 | 9,412 | 83,788 | 50,387 | 40,022 | 42,225 | 30,618 | 345,706 |
| HARBORWALK SALES CORPORATION | | | | | | | | | | | |
| <i>Sales & marketing payroll</i> | | | | | | | | | | | |
| Sponsoring broker fee | - | 1,000 | - | - | - | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 6,000 |
| Salaries & wages | 650 | 4,850 | 850 | 850 | 850 | 8,250 | 7,400 | 7,400 | 8,250 | 7,400 | 46,750 |
| Payroll burden | 98 | 128 | 128 | 128 | 128 | 638 | 510 | 510 | 638 | 510 | 3,413 |
| Group health insurance | - | 400 | - | - | - | 400 | 400 | 400 | 400 | 400 | 2,400 |
| Savings plan contributions | 20 | 26 | 26 | 26 | 26 | 128 | 102 | 102 | 128 | 102 | 683 |
| <i>Total sales & marketing payroll</i> | 767 | 6,403 | 1,003 | 1,003 | 1,003 | 10,415 | 9,412 | 9,412 | 10,415 | 9,412 | 59,245 |
| <i>Sales office operating costs</i> | | | | | | | | | | | |
| Pest control | - | - | - | 100 | - | 100 | 100 | 100 | 100 | 100 | 600 |
| Janitorial service | - | - | - | 100 | - | 100 | 100 | 100 | 100 | 100 | 600 |
| Utility assurance deposits | 1,450 | - | - | - | - | - | - | - | - | - | 1,450 |
| Electric | - | - | 500 | - | - | 500 | 500 | 500 | 500 | 500 | 3,000 |
| Water / sewer | - | - | 100 | - | - | 100 | 100 | 100 | 100 | 100 | 600 |
| Gas | - | - | 25 | - | - | 25 | 25 | 25 | 25 | 25 | 150 |
| Alarm | - | - | 100 | - | - | 100 | 100 | 100 | 100 | 100 | 600 |
| Grounds maintenance | - | 247 | - | - | - | 247 | 1,439 | 593 | 681 | 477 | 3,684 |
| IT expense | - | 200 | - | - | - | 200 | 200 | 200 | 200 | 200 | 1,200 |
| Insurance - Sales office D&O | 1,100 | - | - | - | - | - | - | - | - | - | 1,100 |
| Office supplies | - | 75 | 75 | 75 | 75 | 300 | 300 | 300 | 300 | 300 | 1,800 |
| Building / equipment maintenance | - | - | 100 | - | 100 | 200 | 200 | 200 | 200 | 200 | 1,200 |
| <i>Total sales office operating costs</i> | 2,550 | 522 | 900 | 275 | 175 | 1,872 | 3,064 | 2,218 | 2,306 | 2,102 | 15,984 |
| <i>Marketing costs</i> | | | | | | | | | | | |
| Real estate marketing | 1,000 | 3,600 | 4,525 | 3,350 | 325 | 15,550 | 16,800 | 10,800 | 20,050 | 10,800 | 86,800 |
| Sales aides | - | - | - | - | - | 250 | 250 | 250 | 250 | 250 | 1,250 |
| Realtor fees | - | - | - | - | - | 750 | - | - | 750 | - | 1,500 |
| Software licensing | - | - | - | - | - | 2,500 | - | - | - | - | 2,500 |
| Contract design fees | - | - | 1,000 | - | - | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 6,000 |
| <i>Total marketing costs</i> | 1,000 | 3,600 | 5,525 | 3,350 | 325 | 20,050 | 18,050 | 12,050 | 22,050 | 12,050 | 98,050 |
| TOTAL HARBORWALK SALES CORPORATION FUNDING | 4,317 | 10,525 | 7,428 | 4,628 | 1,503 | 32,337 | 30,526 | 23,680 | 34,771 | 23,564 | 173,279 |

Harborwalk Development Company, Ltd.
Preliminary 6 Month Budget
January 25 - July 31, 2010

| | <u>Jan 25 - Jan 31</u> | <u>Feb 1 - Feb 7</u> | <u>Feb 8 - Feb 14</u> | <u>Feb 15 - Feb 21</u> | <u>Feb 22 - Feb 28</u> | <u>March-10</u> | <u>April-10</u> | <u>May-10</u> | <u>June-10</u> | <u>July-10</u> | <u>TOTAL</u> |
|--|------------------------|----------------------|-----------------------|------------------------|------------------------|-----------------|-----------------|----------------|----------------|----------------|------------------|
| HARBORWALK, LP | | | | | | | | | | | |
| <i>Operating Costs</i> | | | | | | | | | | | |
| G&A - Management Fee | - | - | - | 25,000 | - | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 | 150,000 |
| G&A - Legal | - | - | 1,000 | - | - | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 6,000 |
| G&A - Accounting | - | - | - | - | - | - | - | 9,000 | - | - | 9,000 |
| COE Permit and Mitigation Monitoring | - | 10,000 | - | - | - | - | 5,000 | 5,000 | 5,000 | 5,000 | 30,000 |
| General Maintenance | - | 250 | 250 | 250 | 250 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 6,000 |
| POA Dues | - | - | - | - | 129,000 | - | - | - | - | - | 129,000 |
| Ad Valorem Taxes | - | - | - | - | - | - | - | - | - | - | - |
| Insurance - General liability | 8,279 | - | 3,027 | - | - | 3,027 | 3,027 | 3,027 | 3,027 | 3,027 | 26,441 |
| Insurance - Windstorm at 201 HW Blvd. | - | - | - | - | 8,000 | - | - | - | - | - | 8,000 |
| Insurance - Commercial Property at 201 HW Blvd. | - | - | 2,500 | - | - | - | - | - | - | - | 2,500 |
| Bankruptcy costs - Legal, FA, fees, etc. | - | 100,000 | - | - | - | 100,000 | 100,000 | 100,000 | 100,000 | 100,000 | 600,000 |
| Total Operating Costs | 8,279 | 110,250 | 6,777 | 25,250 | 137,250 | 130,027 | 135,027 | 144,027 | 135,027 | 135,027 | 966,941 |
| <i>Previously Committed Development Costs</i> | | | | | | | | | | | |
| Retainage at Harbor Drive | - | - | - | - | - | - | - | 74,000 | - | - | 74,000 |
| Balance of Section 6 Development Costs - (Complete dredge + BH retain. | - | - | - | - | - | 90,000 | - | - | - | - | 90,000 |
| Section 6 Underground Utilities Costs | - | - | - | - | - | 87,000 | - | - | - | - | 87,000 |
| Section 6 Landscaping | - | - | - | - | - | - | 25,000 | 25,000 | - | - | 50,000 |
| Total Previously Committed Development Costs | - | - | - | - | - | 177,000 | 25,000 | 99,000 | - | - | 301,000 |
| TOTAL HARBORWALK, LP FUNDING | 8,279 | 110,250 | 6,777 | 25,250 | 137,250 | 307,027 | 160,027 | 243,027 | 135,027 | 135,027 | 1,267,941 |
| CONTINGENCY | 2,547 | 7,487 | 1,234 | 2,068 | 7,408 | 21,158 | 12,047 | 15,336 | 10,601 | 9,460 | 89,346 |
| DEBTOR IN POSSESSION FINANCING COSTS | | | | | | | | | | | |
| Draws to cover operating costs | 53,484 | 157,222 | 25,906 | 43,433 | 155,573 | 444,309 | 252,987 | 322,065 | 222,624 | 198,670 | 1,876,273 |
| DIP Lender Legal Fees & Closing Costs | 40,000 | - | - | - | - | - | - | - | - | - | 40,000 |
| DIP Lender Administrative / Monitoring Fee | 10,000 | - | - | - | - | - | - | - | - | 15,000 | 25,000 |
| Origination points | 37,500 | - | - | - | - | - | - | - | - | - | 37,500 |
| DIP Standby fee | - | 9,420 | - | - | - | 7,868 | 6,001 | 4,903 | 3,515 | 2,525 | 34,232 |
| DIP Accrued interest | - | 500 | - | - | - | 14,589 | 15,560 | 19,824 | 21,414 | 23,506 | 95,393 |
| Loan Balance at End of Month | 140,984 | 308,126 | 334,032 | 377,465 | 533,038 | 999,804 | 1,274,351 | 1,621,143 | 1,868,697 | 2,108,398 | 2,108,398 |
| TOTAL DIP FINANCING COSTS | 87,500 | 9,920 | - | - | - | 22,456 | 21,560 | 24,727 | 24,930 | 41,031 | 232,125 |
| SUMMARY OF COSTS | | | | | | | | | | | |
| TOTAL HARBORWALK MARINA OPERATING CO. FUNDING | 38,341 | 28,960 | 10,467 | 11,487 | 9,412 | 83,788 | 50,387 | 40,022 | 42,225 | 30,618 | 345,706 |
| TOTAL HARBORWALK SALES CORPORATION FUNDING | 4,317 | 10,525 | 7,428 | 4,628 | 1,503 | 32,337 | 30,526 | 23,680 | 34,771 | 23,564 | 173,279 |
| TOTAL HARBORWALK, LP FUNDING | 8,279 | 110,250 | 6,777 | 25,250 | 137,250 | 307,027 | 160,027 | 243,027 | 135,027 | 135,027 | 1,267,941 |
| CONTINGENCY | 2,547 | 7,487 | 1,234 | 2,068 | 7,408 | 21,158 | 12,047 | 15,336 | 10,601 | 9,460 | 89,346 |
| DIP FINANCING COSTS | 87,500 | 9,920 | - | - | - | 22,456 | 21,560 | 24,727 | 24,930 | 41,031 | 232,125 |
| TOTAL DEBTOR IN POSSESSION FINANCING | 140,984 | 167,142 | 25,906 | 43,433 | 155,573 | 466,766 | 274,547 | 346,792 | 247,554 | 239,701 | 2,108,398 |