



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-2(c)

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IN RE:

LAFAYETTE YARD COMMUNITY
DEVELOPMENT CORPORATION,

DEBTOR

Case No.: 13-30752 (MBK)

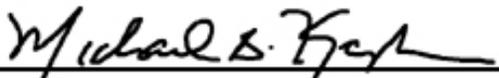
Hearing Date: September 25, 2013

Judge: Michael B. Kaplan

INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL

The relief set forth on the following pages, numbered two (2) through twenty six (26) is hereby ORDERED.

DATED: 9/26/2013



Honorable Michael B. Kaplan
United States Bankruptcy Judge

This matter is before the Court on the “*Debtor’s Motion for an Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, and 363 and Bankruptcy Rule 4001 (I) Authorizing the Debtor to Use Cash Collateral, (II) Granting Liens and Adequate Protection, and (III) Scheduling a Further Hearing*” [docket no. 3] in these proceedings (the “Cash Collateral Motion”) and upon terms agreed to by and among the Lafayette Yard Community Development Corporation (the “Debtor”) and Wells Fargo Bank National Association, not individually but as indenture trustee for the bonds described more fully below (the “Bond Trustee”) for authority to use cash collateral on an interim basis pursuant to Bankruptcy Rule 4001(b),¹ D.N.J. LBR 4001-4, and 11 U.S.C. Section 363(c)(2)(B).² The Court having considered the Cash Collateral Motion, and after due deliberation and good and sufficient cause appearing for the entry of the within order, it is hereby found:³

A. Notice and Hearing. Notice of the Cash Collateral Motion and of the order shortening time pursuant to D.N.J. LBR 9013-1(e) and Bankruptcy Rule 9006(c) for the preliminary hearing on the Debtor’s use of cash collateral has been served in accordance with Section 102(1) of the Bankruptcy Code and Bankruptcy Rules 4001 to (1) the U.S. Trustee, (2) the Debtor’s secured creditors (including without limitation, the Bond Trustee), (3) all known holders of equipment leasing interests in the Debtor’s assets, (4) the City of Trenton, New Jersey (the “City”), and (5) the twenty (20) largest unsecured creditors on the Bankruptcy Rule 1007(d) list, which notice is appropriate in the particular circumstances and

¹ As used herein, the Federal Rules of Bankruptcy Procedure are referred to as the “Bankruptcy Rules.”

² As used herein, 11 U.S.C. § 101 et seq. is referred to as the “Bankruptcy Code.”

³ Capitalized terms used in this order but not specifically defined have the meanings set forth in the Cash Collateral Motion.

is sufficient for all purposes under the Bankruptcy Code and the applicable Bankruptcy Rules in respect to the relief requested.

B. Chapter 11 Filed. The Debtor filed its petition under Chapter 11 of the Bankruptcy Code on September 23, 2013 (the "Petition Date") and is presently operating as a debtor-in-possession in accordance with Sections 1107 and 1108 of the Bankruptcy Code (the "Bankruptcy Case"). The Debtor is the owner of a Trenton New Jersey-based hotel and conference center currently known as "Lafayette Yard Hotel" (the "Facility"). No request has been heretofore made for the appointment of a trustee or examiner in the Bankruptcy Case. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334, and this matter constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

C. Pre-Petition Bond Debt. The Bond Trustee has asserted, and the Debtor has acknowledged and agreed that the Bond Trustee has, as of the Petition Date, a secured claim against the Debtor (the "Bond Claim") based on obligations of the Debtor associated with revenue bonds issued by the Debtor in 2012 (the "Bonds"). The Bonds were issued by the Debtor pursuant to an "*Amended and Restated Resolution Authorizing the Issuance of Revenue Bonds of the Lafayette Yard Community Development Corporation*", as amended and supplemented by a "*First Supplemental Resolution Authorizing the Issuance of not to Exceed \$34,500,000 Hotel/Conference Center Project Revenue Bonds*" and a "*Second Supplemental Resolution Authorizing the Issuance of not to Exceed \$16,500,000 Hotel/Conference Center Project Revenue Refunding Bonds*", as the same may be further amended from time to time (collectively, the "Resolution"). Proceeds from the sale of the

Bonds were used by the Debtor to refinance debt incurred to, inter alia, acquire, construct, furnish and equip the Facility.

D. Bond Claim Amount. As of the Petition Date, the Bond Claim includes:

- (i) Unpaid principal on the Bonds in the amount of \$14,425,000;
- (ii) Accrued but unpaid interest on the Bonds in the amount of \$228,165.76; and
- (iii) accrued and unpaid fees and expenses of the Bond Trustee and its professionals incurred through the Petition Date in the approximate amount of \$50,000 (the "Prepetition Expense Claim").

The Bond Trustee has reserved all claims for interest, fees and expenses of the Bond Trustee and its professionals and other charges described und the Bond Documents (defined below) accruing on and after the Petition Date.

E. Pre-Petition Bond Collateral. The Bond Trustee has asserted, and the Debtor has acknowledged and agreed that the Bond Trustee has, as of the Petition, a valid and binding first priority lien and security interest in all of its real and personal property as security for the Debtor's obligations associated with the Bonds and Bond Claim (the "Pre-Petition Bond Collateral") not subject to avoidance or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law. The Pre-Petition Bond Collateral specifically includes without limitation first priority liens and security interests in (i) the real property, buildings, structures, fixtures and improvements associated with the Facility; and (ii) all tangible and intangible personal property of the Debtor wherever located, including, without limitation, the Debtor's accounts and accounts receivable and proceeds thereof. The Bond Trustee's liens and security interests are evidenced by, among other documents, the Resolution, a "*Mortgage and Security Agreement*" (the "Mortgage"), a "*Security Agreement*" (the "Security Agreement"), an "*Assignment of Leases and Rents*" (the "Assignment of

Leases”), and an “*Assignment of Agreements*”, (the “Assignment of Agreements”).⁴ A portion of the initial proceeds of the Bonds was used to create debt service reserves and other funds under the Resolution (collectively with all other funds held pursuant to the Resolution from time to time, the “Bond Funds”). As of the Petition Date, the balance of the Bond Funds was approximately \$1,500,000. The Debtor has no interest in any of the Bond Funds and such Bond Funds are not property of the Debtor’s bankruptcy estate. The findings set forth in this section shall not impair the rights of a Committee set forth in Section 16 below.

F. The Subsidy Agreement. The Bonds are also supported by obligations of the City under a “*City Subsidy Agreement*”, as amended by a “*Reaffirmation of City Subsidy Agreement*” as the same may be further amended from time to time (collectively, the “Subsidy Agreement”). The Subsidy Agreement provides for, *inter alia*, the City’s unconditional guaranty of the punctual payment of the principal of and interest on the Bonds.

G. Other Loan Debt Claims. As of the Petition Date the Debtor’s books and records reflect loan obligations to other parties associated with the Facility that may be secured including: (a) a loan in the original principal amount of \$2,000,000 from the New Jersey Economic Development Authority (the “NJEDA Loan”); (b) a loan in the original principal amount of \$500,000 from the Capital City Redevelopment Corporation (the “CCRC Loan”), and (c) a loan in the original principal amount of \$675,000 from the State of New Jersey (the “State Loan”). Any liens, security interests, rights and claims associated with the NJEDA Loan, CCRC Loan or State Loan are subject to and otherwise fully subordinate to the

⁴ The Resolution, Mortgage, Security Agreement, Assignment of Leases, Assignment of Agreements and all other documents evidencing or securing the Bonds are collectively referred to herein as the “Bond Documents”).

Bond Trustee's rights, liens and security interests in the Debtor's assets.⁵

H. Cash Collateral. The Debtor has requested the use of revenues derived by the Debtor in the ordinary course of the business of the Facility (the "Cash Collateral") in connection with the Bankruptcy Case to preserve the value of its business.

I. Interim DIP Facility. Contemporaneously with the entry of this Interim Order, this Court has entered a separate order approving on an interim basis the Debtor's motion to obtain debtor-in-possession financing (the "DIP Facility") from Racebook Capital Advisors LLP (the "DIP Lender").

J. Necessary and Best Interest. The Debtor does not have sufficient unencumbered cash or other assets with which to continue to operate its business in Chapter 11. The Debtor requires immediate authority to use Cash Collateral in order to continue its business operations without interruption. The Debtor's use of Cash Collateral to the extent and on the terms and conditions set forth herein is necessary to avoid immediate and irreparable harm to the estate pending a final hearing. Without the use of cash collateral on an interim basis, the Debtor would likely be required to cease operations immediately or, at a minimum, the Debtor's inability to use cash collateral would disrupt the Debtor as a going concern, would eliminate or significantly decrease the likelihood of a successful orderly reorganization or disposition of the Debtor's assets in Chapter 11, and would otherwise not be in the best interests of the Debtor, its estate or creditors. In lieu of giving the Bond Trustee (or the holders of the NJEDA Loan, CCRC Loan or State Loan) relief from the automatic stay, the Debtor wishes to provide adequate protection of the liens and security interests of the Bond Trustee and any liens and security interests associated with the NJEDA Loan, CCRC

⁵ The Debtor has reserved all rights to challenge the liens and all defenses, set off rights and counterclaims it may have with respect to the NJEDA Loan, CCRC Loan and State Loan.

Loan or State Loan, as set forth in this Interim Order. Pursuant to the Bankruptcy Code, the Debtor is required to provide adequate protection to the Bond Trustee and the holders of the NJEDA Loan, CCRC Loan or State Loan to the extent of any liens they may have in respect of the Debtor's use of Cash Collateral and the DIP Facility. The Bond Trustee has informed the Debtor and this Court that the Bond Trustee does not consent to the use of cash collateral except upon the terms and conditions of this Interim Order. The terms of this Interim Order are fair and commercially reasonable, reflect the Debtor's prudent exercise of business judgment consistent with its fiduciary duties and constitute reasonably equivalent value and fair consideration. Good cause has been shown for the entry of this Interim Order

K. Findings Constitute Rulings. To the extent any portion of the foregoing constitute rulings of law, they shall constitute this Court's rulings with respect to the matters so-stated.

The Court having determined that there is a reasonable likelihood that the Debtor will prevail upon the merits at the final hearing of the Cash Collateral Motion as required by Section 363(c)(3) of the Bankruptcy Code, and for good cause show it is ORDERED as follows:

1. Disposition. The Cash Collateral Motion is granted on an interim basis on the terms set forth in this Interim Order. Any objections to the relief sought in the Cash Collateral Motion that have not been previously resolved or withdrawn, and all reservations of rights contained therein, are overruled on the merits. The requirements of Bankruptcy Rule 4001(b)(2) and D.N.J. LBR 4001-4 are satisfied with respect to the use of cash collateral on an interim and preliminary basis pending a final hearing on the Cash Collateral Motion.

2. Use of Cash Collateral. The Debtor is authorized to use as cash collateral (as defined in Section 363 of the Bankruptcy Code) Cash Collateral, but only on the terms of this Interim Order. Such use of Cash Collateral shall be limited solely to the categories of expenses listed on the interim budget attached hereto as Schedule A (the "Budget") and the Carve Out. Further, such use of Cash Collateral shall be limited solely to pay expenses in the amounts and at the times listed in the Budget; provided however the Debtor shall be permitted limited authority to exceed amounts set forth in the Budget to pay categories of expenses listed on the Budget to the extent such a variance does not constitute a Termination Event described in Sections 11(ii) or 11(iii) of this Interim Order. The Debtor is not authorized to use and shall not use any revenues of the Facility or proceeds thereof not derived in the ordinary course of the Debtor's operations.

3. Prohibited Use of Cash Collateral. Except as expressly provided in this **Section 3**, no Cash Collateral or proceeds thereof shall be used for the purpose of: (i)

objecting to, or contesting in any manner, or raising any defense to, the validity, amount, extent, perfection, priority, or enforceability of the Bonds, the Pre-Petition Bond Collateral, the Bond Claim or any liens or security interests with respect thereto, or any other rights or interests of the Bond Trustee therein; (ii) asserting any claims or defenses or causes of action against the Bond Trustee or any holder of the Bonds or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors including, without limitation, any actions under Chapter 5 of the Bankruptcy Code, including with respect to payments made pursuant to the Bond Documents; (iii) preventing, hindering or otherwise delaying the Bond Trustee's assertion, enforcement or realization on the Pre-Petition Bond Collateral or Collateral (defined below); (iv) seeking to modify any of the rights granted to the Bond Trustee hereunder; (v) seeking to bifurcate any claims of the Bond Trustee; or (vi) paying any amounts not authorized by this Order or without the prior written consent of the Bond Trustee. Notwithstanding the foregoing, not more than \$10,000 of the Cash Collateral may be made available to reimburse any official committee of unsecured creditors appointed by this Court under Bankruptcy Code Section 1102 (a "Committee"), upon appropriate application therefor, for the Committee's fees and expenses in investigating the validity, priority, perfection and enforceability of the Bond Trustee's liens in the Pre-Petition Bond Collateral.

4. Bond Trustee Adequate Protection Liens and Claims. As adequate protection and in consideration for the use of Cash Collateral and other Pre-Petition Bond Collateral by the Debtor and the DIP Facility, the Bond Trustee is granted:

a. Replacement Lien. A replacement perfected and enforceable continuing lien and security interest (the "Rollover Lien") to the extent of any diminution in the Pre-Petition

Bond Collateral in all assets of the Debtor existing on or after the Petition Date of the same type as the Pre-Petition Bond Collateral, together with the proceeds, rents, products and profits thereof, whether acquired or arising before or after the Petition Date to the same extent, validity, perfection, enforceability and priority of the liens and security interests of the Bond Trustee as of the Petition Date (the “Post Petition Bond Collateral”). The Bond Trustee’s Rollover Lien shall be subject to only the Carve Out, prior valid and perfected liens, if any, existing as of the Petition Date with priority over the Bond Trustee’s liens and liens of the DIP Lender under the DIP Facility.

b. Supplemental Lien. A valid, perfected and enforceable continuing supplemental lien and security interest (the “Supplemental Lien”) to the extent of any diminution in the Pre-Petition Bond Collateral in all of the assets of the Debtor of any kind or nature whatsoever within the meaning of Section 541 of the Bankruptcy Code to the extent the same is not otherwise Post-Petition Bond Collateral, whether acquired or arising prepetition or postpetition, together with all proceeds, rents, products, and profits thereof (the “Supplemental Collateral” and, collectively with the “Post-Petition Bond Collateral”, the “Collateral”). Subject to and upon the entry of an order by the Court approving the Cash Collateral Motion on a final basis (the “Final Order”), Collateral shall include any causes of action or proceeds thereof under Sections 544 through 550 and 724(e) of the Bankruptcy Code. The Supplemental Lien shall be subject to only the Carve Out, prior valid and perfected liens, if any, existing as of the Petition Date, with priority over the liens of the Bond Trustee and liens of the DIP Lender under the DIP Facility.

c. Statutory Rights Under Section 507(b). Subject to the Carve Out, a super-priority administrative expense claim pursuant to Bankruptcy Code Section 507(b) to the

extent of any diminution in the Pre-Petition Bond Collateral against all Collateral, assets of the Debtor's estate and the Debtor's rights, choses in action, or claims of any kind whatsoever, choate or inchoate, present or residual which for any reason cannot not be made the subject of the Collateral (the "Superpriority Claims"). Except for the Carve-Out and claims of the DIP Lender under the DIP Facility, the Superpriority Claims shall have priority over any and all administrative expenses, diminution claims and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all other 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), 546, 726, 1113 or 1114 of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtor, any successor trustee or any creditor, in this Case or any subsequent proceedings under the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all pre- and post-petition property of the Debtor and all proceeds thereof.

5. Bond Trustee Adequate Protection Rights. As adequate protection and in consideration for the use of Cash Collateral and other Pre-Petition Collateral by the Debtor and the DIP Facility, the Bond Trustee is also granted the following adequate protection:

a. Compliance with Subsidy Agreement. The Debtor is authorized and directed to comply with the Subsidy Agreement, and this Interim Order constitutes the irrevocable direction of the Debtor to the Bond Trustee to provide all notices to the City and take such other action as the Bond Trustee is authorized to take under the Bond Documents to ensure

payment to the Bond Trustee of any amounts the City is obligated to make pursuant to the terms of the Subsidy Agreement or to otherwise enforce the City's obligations thereunder.

b. Periodic Accountings and Other Information. Commencing within fourteen (14) days of the entry of this Interim Order, the Debtor is authorized and directed to provide to the Bond Trustee on Friday of each week, a weekly report certified by the Debtor's chief executive officer, chief restructuring officer or chief financial officer and in a form acceptable to the Bond Trustee indicating all receipts received by and disbursements made by the Debtor in the week ending the prior Sunday compared to the Budget and detailing any variances from the expenditures and receipts as described in the Budget. In addition, the Debtor shall provide the Bond Trustee all other reports required by the Bond Documents, any other reports reasonably required by the Bond Trustee, copies of the Debtor's monthly U.S. Trustee operating reports, and all financial reporting information provided to the DIP Lender or any other party in interest, when and as so provided.

c. Compliance With Bond Documents. The Debtor shall comply with all terms and provisions of the Bond Documents including, without limitation, those relating to the maintenance of adequate insurance as required by the Bond Documents, except for provisions directly relating to the payment by the Debtor of debt service, the Debtor's financial covenants, and, solely as they relate to the DIP Facility, the incurrence of additional debt and limitations on the grant of liens and other encumbrances. The requirements of this Interim Order shall be in addition to, and not in substitution for, the terms and provisions of the Bond Documents, provided, however, in the event of any inconsistency between the Bond Documents and this Interim Order, the terms of this Interim Order shall control.

d. No Competing Liens. Except as set forth herein, the Debtor shall not grant liens on, or security interests in the Pre-Petition Bond Collateral or the Collateral to any other party, pursuant to Section 364 of the Bankruptcy Code or otherwise. Nothing in this Interim Order, any subsequent order concerning the extension of the use of cash collateral by the Debtor or other order of this Court, including any order authorizing the Debtor to incur financing shall entitle the Debtor to use any Bond Funds and no lien or other interest may be granted in the Bond Funds to any third party.

6. Other Loan Adequate Protection Liens and Claims. As adequate protection and in consideration for the use of any Cash Collateral and other collateral associated with the NJEDA Loan, CCRC Loan and State Loan by the Debtor and the DIP Facility, the holders thereof are each granted:

a. Replacement Lien. A replacement perfected and enforceable continuing lien and security interest (the "Replacement Lien") to the extent of any diminution in any pre-petition collateral of such holder in all assets of the Debtor existing on or after the Petition Date of the same type as such holder's pre-petition collateral, together with the proceeds, rents, products and profits thereof, whether acquired or arising before or after the Petition Date to the same extent, validity, perfection, enforceability and priority of the liens and security interests of such holder as of the Petition Date. Each Replacement Lien shall be subject to only the Carve Out, liens of the Bond Trustee, prior valid and perfected liens, if any, existing as of the Petition Date with priority and liens of the DIP Lender under the DIP Facility.

b. Statutory Rights Under Section 507(b). Subject to the Carve Out, a super-priority administrative expense claim pursuant to Bankruptcy Code Section 507(b) to the

extent of any diminution in the such holder's collateral, assets of the Debtor's estate and the Debtor's rights, choses in action, or claims of any kind whatsoever, choate or inchoate, present or residual which for any reason cannot not be made the subject of the Replacement Lien (the "Additional Superpriority Claims"). Except for the Carve-Out, the Superpriority Claims and claims of the DIP Lender under the DIP Facility, the Additional Superpriority Claims shall have priority over any and all administrative expenses, diminution claims and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all other 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), 546, 726, 1113 or 1114 of the Bankruptcy Code, and shall at all times be senior to the rights of the Debtor, any successor trustee or any creditor, in this Case or any subsequent proceedings under the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all pre- and post-petition property of the Debtor and all proceeds thereof.

7. Deemed Perfected. The Rollover Lien, Supplemental Lien and Replacement Lien are automatically deemed perfected upon entry of this Interim Order without the necessity of any party taking possession, filing financing statements, mortgages or other documents. Although not required, upon request by the Bond Trustee or holders of the NJEDA Loan, CCRC Loan or State Loan, as applicable, the Debtor shall execute and deliver to the requesting party any and all financing statements, continuation statements, certificates of title, mortgage instruments or other instruments or documents considered by the requesting

party to be necessary in its sole discretion and the requesting party is authorized to receive, file and record the foregoing, which action shall not be a violation of the automatic stay. The Bond Trustee may, in its sole discretion, but shall not be required to, file a certified copy of this Interim Order in any filing or recording office in any jurisdiction in which the Debtor has real or personal property. All such filings or recordings shall be accepted and shall constitute further evidence of perfection of its liens and security interests. No obligation, payment, transfer or grant of security under this Interim Order shall be stayed, restrained, voidable, avoidable or recoverable under the Bankruptcy Code or under any otherwise applicable state law, or subject to any defense reduction, setoff, recoupment or counterclaim.

8. Status of Adequate Protection Liens. The adequate protection for the Bond Trustee set forth in this Interim Order shall be in addition to all other rights of the Bond Trustee, including the liens and security interests in the Pre-Petition Bond Collateral. The adequate protection for the holders of the NJEDA Loan, CCRC Loan and State Loan set forth in this Interim Order shall be in addition to all other rights of each holder of the NJEDA Loan, CCRC Loan or State Loan. With the exception of the Carve Out (as defined below) and the DIP Facility, the Rollover Lien and the Supplemental Lien shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtor and its estate under Section 551 of the Bankruptcy Code, (ii) any liens arising after the Petition Date including, without limitation, any liens or security interests in favor of any federal, state, municipal or other government unit, commission, board or court for any tax liability of the Debtor, whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both, except a tax of a kind specified in Bankruptcy Codes Section 507(a)(8), or (iii) any intercompany or affiliate liens of the Debtor or subordinated to

or made pari passu with any other lien or security interest under Sections 363 or 364 of the Bankruptcy Code or otherwise (subject to the entry of a Final Order).

9. Allowance of Bond Claim. Except as set forth in Section 16 below, the entry of this Interim Order by the Court shall be a conclusive and binding determination on all parties (w) of the amount of the Bond Claim, (x) the Bond Trustee' rights to payment of the Prepetition Expense Claim; (y) the scope, extent and first priority status of the Bond Trustee's liens and security interests in the Pre-Petition Bond Collateral; and (z) that the Bond Trustee's security interests in the Pre-Petition Bond Collateral, including, without limitation, the Cash Collateral, have been duly perfected and are in all respects valid and enforceable security interests and liens and not subject to any claim under Bankruptcy Code Section 552(b).

10. Amendment or Extension of Order, Budget. Neither this Interim Order or the Budget shall be amended without the express written consent of the Bond Trustee, which shall be at its sole discretion. Except as otherwise expressly set forth in this Section 10 notice of any amendment to this Interim Order shall be filed with the Court and served on all parties entitled to notice in accordance with Bankruptcy Rule 4001(b). Any party may object to such amendment and request a hearing before the Court. If no such objection is made within 5 business days of such notice, such amendment shall become final. Any amendment to the Budget or to the expiration date of this Interim Order shall not require approval by the Bankruptcy Court to be effective, but notice thereof shall be filed with the Court and served on all parties entitled to notice in accordance with Bankruptcy Rule 4001(b).

11. Termination of Use of Cash Collateral With Notice.

The Debtor's authority to use Cash Collateral shall terminate without any further action by this Court and a Termination Event shall occur three (3) business days after written

notice sent by the Bond Trustee to the Debtor, any Committee appointed in this case, and the U.S. Trustee of the occurrence of any of the following (a "Termination Event"):

- (i) the payment or incurrence by the Debtor of expenses or amounts of a type not set forth in the Budget;
- (ii) The payment or incurrence by the Debtor in any week of expenses of the types set forth in the Budget but in amounts exceeding the amounts for any expense line item set forth in the Budget for that week by the greater of twenty percent (20) percent or \$20,000 (the "20 Percent Test"); provided that to the extent amounts shown for specific expense line items set forth in the Budget for any week are not used, then to the extent those amounts, if used in that week, would not have caused a Termination Event based on the 20 Percent Test, such amounts may be carried over and used in whole or in part, in a subsequent week or months for purposes of the 20 Percent Test;
- (iii) The payment or incurrence by the Debtor in any week of expenses of the types set forth in the Budget but in amounts exceeding the aggregate amount for all expenses set forth in the Budget in that week by more than fifteen (15) percent (the "15 Percent Test"); provided that, to the extent the aggregate amount for all expenses set forth in the Budget for any week is not used, then such amount may be carried over and used, in whole or in part, in a subsequent week or weeks for purposes of the 15 Percent Test;
- (iv) the failure of the Debtor to pay all undisputed administrative expenses in full in accordance with their terms as provided for in the Budget;
- (v) the failure of the Debtor to timely pay all fees due under 28 U.S.C. §1930;
- (vi) the Debtor fails to comply with, keep, observe or perform any of its agreements or undertakings under this Interim Order that are not otherwise subject to a specific Termination Event,

Unless during the three business day period described in this Section 11 the Debtor has cured the Termination Event(s) described in this Section 11, the Debtor's authority to use Cash Collateral hereunder shall terminate, and, unless the Debtor obtains, within three (3) business days of the occurrence of a Termination Event described in this Section 11, an order of this Court, on notice to and with opportunity to be heard by the Bond Trustee that no such

Termination Event has occurred, the Bond Trustee shall be automatically relieved of any further stay under Section 362 of the Bankruptcy Code, or other restriction on enforcement of their pre- and post-petition liens and security interests in the Pre-Petition Bond Collateral and the Collateral, all without further order of this Court.

12. Termination of Use of Cash Collateral Without Prior Notice. The Debtor's authority to use Cash Collateral shall terminate without any further action by this Court and a Termination Event shall occur without prior notice upon the occurrence of any of the following (also a "Termination Event"):

- (i) the Debtor's Chapter 11 case is dismissed or converted to a proceeding under Chapter 7 of the Bankruptcy Code;
- (ii) an Event of Default occurs under the DIP Facility;
- (iii) the earlier of (y) the date of the entry of an order of this Court appointing a Chapter 11 trustee or an examiner with enlarged powers (beyond those set forth in Sections 1104(c) and 1106(a)(3) and (4) of the Bankruptcy Code) for the Debtor; or (z) the date the Debtor files a motion, application or other pleading consenting to or acquiescing in any such appointment;
- (iv) the Bankruptcy Court suspends the Debtor's Bankruptcy Case under Section 305 of the Bankruptcy Code;
- (v) entry of an order confirming of plan in the Bankruptcy Case;
- (vi) this Interim Order becomes stayed, reversed, vacated, amended or otherwise modified in any respect without the prior written consent of the Bond Trustee;
- (vii) an order is entered in the Bankruptcy Case over the objection of the Bond Trustee approving financing pursuant to Section 364 that would grant an additional security interest or a lien on any Collateral or granting a superpriority administrative claim that is equal or superior to the superpriority administrative claim granted to the Bond Trustee under this Interim Order;

- (viii) the Debtor fails to comply with or take any action that is necessary to ensure performance by the City under the Subsidy Agreement;
- (ix) the City fails to make any payment when and as due under the Subsidy Agreement;
- (x) an adversary proceeding or contested matter is commenced by the Debtor challenging the amount, validity, enforceability, priority or extent of the Bond Trustee's liens, security interests or claims (other than an adversary proceeding or contested matter filed by a creditors' committee or other party derivatively on behalf of the Debtor); or
- (xi) the Court fails to enter a Final Order allowing the Cash Collateral Motion, on terms acceptable to the Bond Trustee, on or before October 21, 2013.

Upon the occurrence of a Termination Event described in this Section 12, the Debtor's authority to use Cash Collateral hereunder shall terminate, and the Bond Trustee shall be automatically relieved of any further stay under Section 362 of the Bankruptcy Code, or other restriction on enforcement of their pre- and post-petition liens and security interests in the Pre-Petition Bond Collateral and the Collateral, all without further order of this Court.

13. Release. The Debtor hereby waives, releases and discharges the Bond Trustee, all holders of the Bonds, and their respective affiliates, agents, attorneys, professionals, officers, directors and employees, from any and all claims and causes of action arising out of, based upon or related to, in whole or in part, the Bonds and the Bond Documents, any aspect of the prepetition relationship between the Bond Trustee and/or all holders of the Bonds, and the Debtor, and any other acts or omissions by the Bond Trustee and/or all holders of the Bonds in connection with either the Bond Documents or the Bond Trustee's and holders of the Bonds prepetition relationship with the Debtor. Further, the Debtor waives any and all rights to object to or contest the amount of the Bond Claim or the Bond Trustee's security interests in the Pre-Petition Bond Collateral and agrees that all such claims and security

interests have been duly perfected and are in all respects valid and enforceable first priority security interests and liens. The relief set forth in this section shall not impair the rights of a committee set forth in Section 16 below.

14. No Charge on Collateral; Carve Out; Bankruptcy Code Section 506(c) Waiver.

In part in consideration of the Debtor's acknowledgement of the debt due and owing and the Debtor's waiver of any claims under Section 506(c) of the Bankruptcy Code (which shall be effective upon the entry of a Final Order), the Bond Trustee consents to a carve out for certain expenses and professional fees incurred during the pendency of this bankruptcy case which shall be superior in all instances to the liens and claims of the Bond Trustee and all other parties (the "Carve Out"). For purposes hereof, the "Carve Out" means fees and expenses of professionals retained by the Debtor or a Committee (subject to the limitations of paragraph 4) in an aggregate amount not to exceed the sum of: (i) the dollar amount of such fees and expenses to the extent (a) incurred or accrued prior to a Termination Event (whether paid or unpaid); (b) provided for under the Budget; and (c) previously or subsequently allowed by court order; plus (ii) \$50,000; plus (iii) the statutory fees of the United States Trustee pursuant to 28 U.S.C. § 1930 and the fees of the Clerk of the Bankruptcy Court, and (iv) the payment of any claim of any subsequently appointed Chapter 7 Trustee to the extent of \$20,000. Nothing herein shall constitute a waiver of any right of the Bond Trustee to object to fees and expenses of any professionals or to challenge any assertion that any amount of the fees and expenses remain unpaid. The entry of a Final Order shall be a conclusive and binding determination on all parties that except for the Carve Out and payments to the DIP Lender with respect to the DIP Facility, no costs or expenses of administration shall be imposed

against the Bond Trustee or the Pre-Petition Bond Collateral or the Collateral under Sections 105 or 506(c) of the Bankruptcy Code, or otherwise.

15. Modification of Stay. This Interim Order shall be deemed to constitute a request by the Bond Trustee for relief from the automatic stay with respect to the Pre-Petition Bond Collateral and for adequate protection for the use of cash collateral as of the Petition Date. The automatic stay imposed by virtue of Section 362 of the Bankruptcy Code is hereby vacated and modified insofar as necessary to permit the Bond Trustee to, in its sole discretion: (i) receive payments to be made by the Debtor or any other party to the Bond Trustee and/or Bond Trustee or pay amounts due to the holders of the Bonds, (ii) apply, allocate or pay from any of the funds or accounts maintained by the Bond Trustee and/or Bond Trustee (including without limitation Bond Funds) in accordance with the terms of the Bond Documents and to otherwise pay fees and expenses of the Bond Trustee and its professionals, and accelerate the Bonds, provide notices and take such other action as set forth in the Bond Documents in connection therewith; and (iii) take any action specifically authorized or contemplated by this Interim Order. Any of the aforementioned actions may be taken without further order of this Court.

16. Binding Effect. This Interim Order shall be binding on all creditors and parties in interest in this case, including, but not limited to, the Debtor and any successors thereto, any Chapter 11 or Chapter 7 trustee that is appointed or elected in this case, and any Committee and shall survive and remain binding after any order dismissing the Bankruptcy Case; provided, however, that this Interim Order is without prejudice to the rights of any Committee to, on behalf of the Debtor's estate, challenge the validity, amount, perfection, priority, extent or enforceability of the Bond Claim or the pre-petition security interests of the

Bond Trustee, so long as any such challenge is made on or before the earliest to occur of: 75 days from the appointment of a Committee, 75 days after the entry of this Interim Order, or 90 days from the Petition Date, after which time all challenges to the validity, amount, perfection, priority, extent or enforceability of the Bond Claim or the pre-petition security interests of the Bond Trustee shall be deemed finally and conclusively barred; provided further that if a claim is timely made under this Section 16 and properly filed, all potential claims and causes of actions are hereby deemed forever waived and relinquished except for those claims or causes of actions expressly asserted in accordance with this Section 16.

17. Reservation of Rights. Except as provided in this Interim Order, neither the Debtor nor the Bond Trustee waives any of their rights under the Bankruptcy Code, any applicable law, or the Bond Documents, including, without limitation, the right of the Debtor or the Bond Trustee at any time to seek any relief (or to oppose any such relief) under the Bankruptcy Code, or the right of the Debtor or the Bond Trustee to exercise any of their rights and remedies under the Bankruptcy Code at any time. In particular, the Bond Trustee reserves its rights to seek modification of this Interim Order. Nothing herein shall constitute a waiver, release or modification of the rights of the Bond Trustee to assert a claim under Bankruptcy Code Sections 364(c) and 507(b). Nothing herein shall (i) preclude the Bond Trustee from seeking any other relief that it may deem appropriate, including relief from the automatic stay, or (ii) prevent the Bond Trustee from asserting at some later time that its liens and security interests in the Pre-Petition Bond Collateral are not being adequately protected.

18. No Control. The Bond Trustee shall not be deemed to be in control of the operations of the Debtor or to be acting as a “responsible person,” “managing agent” or “owner or operator” (as such terms or any similar terms are used in the United States

Comprehensive Environmental Response, Compensation and Liability Act, as amended, or any similar Federal or state statute) with respect to the operation or management of the Debtor, notwithstanding its consent to this Interim Order and extending financial accommodations of any type, kind or nature under this Interim Order.

19. No Third Party Beneficiaries. No rights are created hereunder for the benefit of any third party, any creditor, or any direct, indirect or incidental beneficiary other than the Bond Trustee or, as set forth herein, holders of the NJEDA Loan, CCRC Loan and State Loan.

20. Effectiveness. The rights and obligations of the parties under this Interim Order shall be effective and enforceable as of the Petition Date. This Interim Order shall be deemed effective immediately and, for the avoidance of doubt, Federal Rule of Bankruptcy Procedure 6004(h) shall not apply hereto. If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, such reversal, modification, vacatur or stay shall not affect (i) the validity, extent, priority or enforceability of any obligations incurred prior to the actual receipt of written notice by the Bond Trustee of the effective date of such reversal, modification, vacatur or stay or (ii) the validity, extent or enforceability of the liens and claims granted hereunder.

21. Notices. All notices, requests, demands, waivers and other communications required or permitted to be given under this Interim Order shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) sent by next-day or overnight mail or delivery or (c) sent by facsimile, with a confirming phone message or call to the addressee.

(a) If to the Debtor to:

Lafayette Yard Community Development Corp.
1 West Lafayette Street
Trenton, New Jersey
Attn: Joyce Kersey, Chairperson

with a copy to:

Wong Fleming
Attn: Gregory Johnson, Esq.
821 Alexander Road, Suite 150
Princeton, New Jersey 08540
Fax: (609) 951-0270 Facsimile
e-mail: gjohnson@wongfleming.com

- and -

Delbello Donnellan Weingarten
Wise & Wiederkehr, LLP
Attn: Robert L. Rattet, Esq.
Dawn Kirby, Esq.
Julie Cvek Curley, Esq.
One North Lexington Avenue, 11th Floor
White Plains, New York 10601
Fax: (914) 684-0288
e-mail: rrattet@ddw-law.com
e-mail: dkirby@ddw-law.com
e-mail: jcvek@ddw-law.com

(b) If to the Bond Trustee to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
Attn: William W. Kannel
Attn: Ian A. Hammel, Esq.
One Financial Center
Boston, MA 02111
Fax.: 617-542-2241
e-mail: wkannel@mintz.com
e-mail: ihammel@mintz.com

FINAL HEARING ORDER

IT IS FURTHER ORDERED, AND NOTICE IS HEREBY GIVEN that any creditor or other interested party having any objection to this Interim Order shall file with the Clerk of

this Court and serve upon counsel for the Debtor on or before the **10TH** day of Qeqber, 2013, at 4:00 p.m. eastern time, a written objection and shall appear to advocate said objection at a Final Hearing to be held at 11:00 a.m. on the 15th day of October, 2013 in Courtroom #8 of the United States Bankruptcy Court, Trenton, New Jersey. In the event no objections are filed or not advocated at such hearing, then this Order shall continue in full force and effect and shall be deemed a Final Order without further notice or hearing in accordance with Federal Rules of Bankruptcy Procedure 4001(d)(3).

NOTICE ORDER

IT IS FURTHER ORDERED that the Debtor serve a copy of this Order and Notice by first class mail within one (1) business day from the date hereof, on (1) the U.S. Trustee, (2) the District Director of the Internal Revenue Service, (3) the New Jersey Division of Taxation, (4) all known secured creditors including, without limitation, the Bond Trustee, (5) all known holders of equipment leasing interests in the Debtor's assets; (6) the City; and (7) counsel to any Committee, if one has been appointed and if not, to Debtor's twenty (20) largest Rule 1007(d) unsecured creditors. Debtor shall immediately file with the Clerk a Certificate of Service of said mailing.

SCHEDULE A

BUDGET

Lafayette Yard Hotel and Conference Center
 13-Week Cash Flow
 Forecasted Results

| Week Number Week Ending | 0 9/22/13 | 1 9/29/13 | 2 10/6/13 | 3 10/13/13 | 4 10/20/13 | 5 10/27/13 | 6 11/3/13 | 7 11/10/13 | 8 11/17/13 | 9 11/24/13 | 10 12/1/13 | 11 12/8/13 | 12 12/15/13 | 13 12/22/13 | Total |
|---|--------------|--------------|--------------|---------------|---------------|---------------|--------------|---------------|---------------|---------------|---------------|---------------|----------------|----------------|-------|
| Cash Receipts (Sales, AR Collections, Sales and Occupancy Tax Collections) | \$ 32 | \$ 35 | \$ 48 | \$ 42 | \$ 49 | \$ 36 | \$ 36 | \$ 42 | \$ 40 | \$ 33 | \$ 35 | \$ 33 | \$ 34 | \$ 498 | |
| Operating Disbursements: | | | | | | | | | | | | | | | |
| Payroll & Related | | 40 | 45 | 37 | 49 | 43 | 38 | 37 | 37 | 43 | 37 | 38 | 37 | 42 | 524 |
| Utility Costs | | - | - | 85 | 15 | - | - | 85 | - | - | - | 85 | - | - | 272 |
| Management Fee | | - | - | - | 13 | - | - | - | - | 13 | - | - | - | 13 | 40 |
| Operating Expenses | | 21 | 21 | 25 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 21 | 276 |
| All other expenses | | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 130 |
| Total Operating Disbursements | | 71 | 76 | 158 | 108 | 74 | 69 | 154 | 68 | 87 | 68 | 154 | 68 | 86 | 1,241 |
| Rent, Taxes, and Insurance: | | | | | | | | | | | | | | | |
| Occupancy/sales taxes | | - | - | - | - | 6 | - | - | - | 23 | - | - | - | 18 | 47 |
| Insurance payments | | - | - | - | - | - | 96 | - | - | - | - | - | - | - | 96 |
| Total Rent, Taxes, and Insurance | | - | - | - | - | 6 | 96 | - | - | 23 | - | - | - | 18 | 143 |
| Capital Expenditures | | | | | | | | | | | | | | | |
| FF&E Expenditures | | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Special Projects/contingency/emergency | | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 65 |
| Total Capital Expenditures | | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 65 |
| Other Disbursements | | | | | | | | | | | | | | | |
| Utility deposits | | 95 | - | - | - | - | - | - | - | - | - | - | - | - | 95 |
| Vendor deposits | | 50 | - | - | - | - | - | - | - | - | - | - | - | - | 50 |
| Professional Fees (Less: 20% Holdback) | | - | - | - | 68 | - | - | - | - | 124 | - | - | - | 124 | 316 |
| Trustee Fees | | - | 1 | - | - | - | - | - | - | - | - | - | - | - | 1 |
| DIP Lender Counsel | | - | - | - | 35 | - | - | 5 | - | - | - | 5 | - | - | 45 |
| DIP Fees and Interest | | 20 | - | - | - | - | - | - | - | - | - | - | - | - | 20 |
| Total Other Disbursements | | 165 | 1 | - | 103 | - | - | 5 | - | 124 | - | 5 | - | 124 | 527 |
| Total Disbursements | | 241 | 82 | 163 | 216 | 85 | 170 | 164 | 73 | 239 | 73 | 164 | 73 | 233 | 1,975 |
| DIP Borrowing (Repayment) | | 200 | - | - | 500 | - | - | 500 | - | - | - | 500 | - | - | 1,700 |
| Beginning Cash Balance | \$ 182 | \$ 173 | \$ 127 | \$ 12 | \$ 339 | \$ 304 | \$ 170 | \$ 542 | \$ 511 | \$ 312 | \$ 272 | \$ 643 | \$ 603 | \$ 182 | |
| Net Cash Flow | (9) | (47) | (114) | 326 | (35) | (134) | 372 | (31) | (200) | (40) | 371 | (40) | (199) | 223 | |
| Ending Cash Balance | \$ 182 | \$ 173 | \$ 127 | \$ 12 | \$ 339 | \$ 304 | \$ 170 | \$ 542 | \$ 511 | \$ 312 | \$ 272 | \$ 643 | \$ 603 | \$ 404 | |