

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
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SAINT VINCENT’S CATHOLIC MEDICAL	:	
CENTERS OF NEW YORK d/b/a SAINT VINCENT	:	Case No. 05-14945 (PCB)
CATHOLIC MEDICAL CENTERS, <i>et al.</i> ,	:	(Jointly Administered)
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Debtors.	:	
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**STIPULATION AND ORDER WITH REGARD TO (I) REFINANCING  
AND/OR PREPAYMENT OF FHA-INSURED MORTGAGE NOTES AND  
MORTGAGES AND REDEMPTION OF BONDS, (II) REPAYMENT OF  
DASNY DIP LOAN, AND (III) PAYMENT  
OF ASSOCIATED COSTS**

WHEREAS, on July 5, 2005 (the “Petition Date”), Saint Vincent’s Catholic Medical Centers of New York d/b/a Saint Vincent’s Catholic Medical Centers (“SVCMC”), CMC Physician Services, P.C., CMC Radiological Services, P.C., CMC Cardiology Services P.C., CMC Occupational Health Services, P.C., Medical Service of St. Vincent’s Hospital and Medical Center, P.C., and Surgical Service of St. Vincent’s, P.C. (each, a “Debtor” and, collectively, the “Debtors”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), and have continued in possession of their property and management of their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code; and

WHEREAS, no trustee or examiner has been appointed in the above-captioned cases; and

WHEREAS, SVCMC<sup>1</sup> became indebted to the Dormitory Authority of the State of New York (“DASNY”) prior to the Petition Date for, inter alia, the purposes of financing and refinancing health care facilities owned and operated by SVCMC, which indebtedness is evidenced by mortgage notes (each, a “DASNY Mortgage Note,” and collectively, the “DASNY Mortgage Notes”) secured by mortgages (each, a “DASNY Mortgage,” and collectively, the “DASNY Mortgages”) and liens on SVCMC’s accounts; and

WHEREAS, the DASNY Mortgage Notes were funded with proceeds derived from three (3) series of tax-exempt bonds issued by DASNY (each, a “DASNY Bond Issue,” and collectively, the “DASNY Bonds”). Proceeds of each DASNY Bond Issue were loaned to SVCMC to finance or refinance health care facilities owned and operated by SVCMC (each, a “Mortgage Loan,” and collectively, the “DASNY Mortgage Loans”) and are secured by, inter alia, payments due under the DASNY Mortgage Notes. The resolutions adopted by DASNY authorizing the issuance of each DASNY Bond Issue (the “DASNY Bond Documents”) provide for the appointment of a bond trustee (each, a “DASNY Bond Trustee”) with respect to each DASNY Bond Issue, and further establish funds and accounts to be held by the DASNY Bond Trustee for the benefit of the owners of the Bonds, including, but not limited to a debt service fund (each, a “DASNY Debt Service Fund”) and a debt service reserve fund (each, a “DASNY Debt Service Reserve Fund”); and

WHEREAS, SVCMC became indebted to the New York State Medical Care Facilities Finance Agency (“MCFFA”) prior to the Petition Date for, inter alia, the purposes of financing and refinancing health care facilities owned and operated by SVCMC, which indebtedness is evidenced by mortgage notes (each, a “MCFFA Mortgage Note,” and

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<sup>1</sup> References to SVCMC include the entities that merged into SVCMC prior to the Petition Date.

collectively, the “MCFFA Mortgage Notes”) and secured by mortgages (each, a “MCFFA Mortgage,” and collectively, the “MCFFA Mortgages”) and liens on SVCMC’s accounts; and

WHEREAS, the MCFFA Mortgage Notes were funded with proceeds derived from two (2) series of tax-exempt bonds issued by MCFFA (each, a “MCFFA Bond Issue,” and collectively, the “MCFFA Bonds”). Portions of the proceeds of each MCFFA Bond Issue were loaned to SVCMC to finance or refinance health care facilities owned and operated by SVCMC (each and collectively, the “MCFFA Mortgage Loans”) and are secured by, inter alia, payments due under the MCFFA Mortgage Notes. The resolutions adopted by MCFFA authorizing the issuance of each MCFFA Bond Issue (the “MCFFA Bond Documents”) provide for the appointment of a bond trustee (each, a “MCFFA Bond Trustee”) with respect to each MCFFA Bond Issue, and further establish funds and accounts to be held by the MCFFA Bond Trustee for the benefit of the owners of the MCFFA Bonds, including, but not limited to a revenue fund (each, a “MCFFA Revenue Fund” or a “MCFFA Debt Service Fund”)<sup>2</sup> and a debt service reserve fund (each, a “MCFFA Debt Service Reserve Fund”); and

WHEREAS, Exhibit A attached hereto further identifies each DASNY Bond Issue and MCFFA Bond Issue described above and, for each such bond issue, sets forth, among other things, the following: (i) the principal amount of DASNY and MCFFA Bonds originally issued; (ii) the principal amount of such bonds currently outstanding; (iii) estimates of interest and premium amounts, if any, that will accrue through redemption date of such bonds; (iv) estimates of the value of the investments currently held in the Debt Service Fund, Debt Service Reserve Fund and other funds and accounts established under the applicable DASNY and

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<sup>2</sup> Amounts on deposit in each MCFFA Revenue Fund are to be applied to pay principal and interest on outstanding MCFFA Bonds, when due. Accordingly, the MCFFA Revenue Funds will also be referred to herein as

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MCFFA Bond Documents; (v) estimates of the investments currently held in the Depreciation Reserve Fund (as defined below); (vi) estimates of arbitrage rebate reserves required to satisfy anticipated liability; (vii) the Bond Trustee for each DASNY or MCFFA Bond Issue; and (viii) commercial bond insurer, if applicable; and

WHEREAS, on September 1, 1995, DASNY succeeded to all of the powers, duties and functions of MCFFA;<sup>3</sup> and

WHEREAS, SVCMC is required to make monthly payments of principal and interest with respect to each Mortgage Note to the respective mortgage servicer (each, a “Mortgage Servicer”). The Mortgage Servicers are to transfer such monthly mortgage payments, after retention of their mortgage servicing fees and other required deposits,<sup>4</sup> if any, to the Bond Trustee with respect to the respective Bond Issue that financed the Mortgage Loan. Upon receipt of mortgage payments from the Mortgage Servicer, the Bond Trustee with respect to each Bond Issue is required to deposit such amounts in the various funds and accounts established by the Bond Trustee, including the particular Debt Service Fund. Amounts on deposit in the Debt Service Fund (which may include interest earnings transferred from the Debt Service Reserve

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the “MCFFA Debt Service Funds.”

<sup>3</sup> For purposes of simplicity: (i) each DASNY Bond Issue and each MCFFA Bond Issue will be referred to herein collectively as the “Bond Issues;” (ii) the DASNY Bonds and the MCFFA Bonds will be referred to herein collectively as the “Bonds;” (iii) the DASNY Mortgage Notes and the MCFFA Mortgage Notes will be referred to herein collectively as the “Mortgage Notes;” (iv) the DASNY Mortgages and the MCFFA Mortgages will be referred to herein collectively as the “Mortgages;” (v) the DASNY Bond Trustees and MCFFA Bond Trustees will be referred to herein collectively as the “Bond Trustees;” (vi) the DASNY Mortgage Loans and MCFFA Mortgage Loans will be referred to herein collectively as the “Mortgage Loans;” (vii) the DASNY Debt Service Funds and MCFFA Debt Service Funds will be referred to herein collectively as the “Debt Service Funds;” and (viii) the DASNY Debt Service Reserve Funds and MCFFA Debt Service Reserve Funds will be referred to herein collectively as the “Debt Service Reserve Funds.”

<sup>4</sup> For example, the Mortgage Servicers apply a portion of the mortgage payments to pay ongoing mortgage insurance fees payable to FHA (as hereinafter defined).

Fund) with respect to each Bond Issue are applied semi-annually to pay fees and expenses of DASNY and the applicable Bond Trustee, floor-ceiling fees (if applicable), interest (as such interest becomes due) and the principal of such Bond Issue, as such principal becomes due, and to redeem term bonds through sinking fund installments, if any; and

WHEREAS, the Debt Service Reserve Fund with respect to each Bond Issue is funded with proceeds derived from the sale of such Bond Issue. In the event amounts on deposit in the Debt Service Fund for a particular Bond Issue are not sufficient to pay the interest on and maturing principal of such Bond Issue, when due, the Bond Trustee is to apply amounts on deposit in the Debt Service Reserve Fund to make such payments. Interest earnings on amounts on deposit in the Debt Service Reserve Fund with respect to each Bond Issue are deposited into the Debt Service Fund with respect to such Bond Issue; and

WHEREAS, SVCMC's payment obligations on the Mortgage Notes are insured by the Federal Housing Commissioner of HUD ("FHA" or "HUD") under the applicable provisions of the National Housing Act, 12 U.S.C. § 1715z-7 (each Mortgage Note so secured, a "FHA-Insured Mortgage Note"); and

WHEREAS, each Bond Issue was structured, rated and sold to the public on the basis that it would be secured or supported by, as the case may be, among other things, SVCMC's payments on the FHA-Insured Mortgage Notes and funds on deposit in various funds and accounts including, but not limited to the Debt Service Fund and the Debt Service Reserve Fund established with respect to each Bond Issue. In addition, as set forth in Exhibit A attached hereto, the timely payment of principal and interest on two (2) of the Bond Issues was insured, when the Bonds were issued, by policies of municipal bond insurance issued by two commercial bond insurers, MBIA Insurance Corporation and Ambac Assurance Corporation. In connection with the issuance of each Bond Issue, DASNY or MCFFA caused computations to be performed

to determine whether the funds and accounts expected to be held by the Bond Trustee with respect to such Bond Issue, together with FHA mortgage insurance benefits, would be sufficient to pay the debt service requirements of such Bond Issue in the event that SVCMC failed to make its mortgage payments under the applicable FHA-Insured Mortgage Note; and

WHEREAS, application of the funds and accounts described above in accordance with the terms of the applicable Bond Documents is necessary to defease and redeem each Bond Issue in accordance with the terms upon which the Bonds were marketed and sold to the public, and is in the best interests of the undersigned parties; and

WHEREAS, one of the conditions precedent to obtaining FHA mortgage insurance for the Mortgages was the establishment of a monetary trust fund (the “Depreciation Reserve Fund”), which Depreciation Reserve Fund includes accounts collectively containing approximately \$38,441,326<sup>5</sup> on deposit as of the date hereof, available to amortize the FHA-Insured Mortgage Notes and to reimburse HUD for FHA mortgage insurance benefits paid to DASNY in the event of a default by SVCMC under the applicable FHA-Insured Mortgage Notes and a subsequent assignment of the FHA-Insured Mortgage Notes and Mortgages to HUD; and

WHEREAS, pursuant to the Depreciation Reserve Fund Agreements, all withdrawals from the fund must be approved by HUD; and

WHEREAS, SVCMC hereby acknowledges that it is in default under the Mortgages and has failed to conform to the requirements of certain regulatory agreements between the United States Department of Health and Human Services, HUD and SVCMC, which are incorporated by reference into the respective Mortgages, in that, among other things: (i) it has

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<sup>5</sup> The Depreciation Reserve Fund balance includes \$2.4 million attributable to a previously satisfied non-DASNY related loan to the Debtors secured by the Debtors’ St. Mary’s property.

failed to provide for the assignment of all rents, profits and income derived from the mortgaged property and arising after the Petition Date to secure the debt evidenced by the FHA-Insured Mortgage Notes; (ii) it has failed to deposit sufficient amounts with DASNY or the Mortgage Servicers to make all FHA mortgage insurance payments, when due; (iii) it has failed to pay all water rates with respect to the mortgaged property and has permitted certain liens to be created against the mortgaged property; and (iv) it voluntarily filed a petition for relief under chapter 11 of the Bankruptcy Code; and

WHEREAS, on or around the Petition Date, the Debtors advised DASNY and HUD that no post-petition payments on the FHA-Insured Mortgage Notes would be made, save those payments made from the proceeds of the DASNY DIP Loan and Depreciation Reserve Fund releases (as discussed below); and

WHEREAS, DASNY has determined the Mortgages to be in default, and the principal amount of the Mortgages and all other sums of money secured by the Mortgages to be immediately due and payable; and

WHEREAS, HUD by executing this Stipulation has acknowledged DASNY's determination of a default under the Mortgages; and

WHEREAS, in light of the foregoing, HUD has determined that prepayment of the FHA-Insured Mortgage Notes will avoid a claim on the FHA mortgage insurance and be in best interest of the United States, and in furtherance thereof, HUD has agreed to be a party to this Stipulation, thereby waiving any pre-payment prohibitions within the Mortgages and approving of the application of the monies in the Depreciation Reserve Fund as set forth herein; and

WHEREAS, the monies in the Debt Service Funds and the Debt Service Reserve Funds are held by the Bond Trustees and pledged for the benefit of holders of the Bonds, while amounts in the Depreciation Reserve Fund are held by the trustee under the Depreciation

Reserve Trust Agreements (the “DRF Trustee”) for the benefit of HUD (the Debt Service Reserve Funds, Debt Service Funds, Depreciation Reserve Fund and any other reserve funds and/or accounts created by the Bond Documents hereinafter are collectively referred to as the “Accounts”); and

WHEREAS, to ensure the continued availability of working capital to SVCMC during the period beginning August 1, 2005, and ending January 31, 2006, and to avoid an assignment by DASNY of the FHA-Insured Mortgage Notes and Mortgages to HUD, on August 2, 2005, the Debtors filed a Motion Seeking Entry of Interim and Final Orders Authorizing SVCMC to Obtain Post-Petition Financing, and for Related Relief (the “DASNY DIP Motion”), pursuant to a Loan and Reimbursement Agreement by and between SVCMC, as borrower, and CMC Physician Services, P.C., CMC Radiological Services, P.C., CMC Cardiology Services P.C., CMC Occupational Health Services, P.C., Medical Service of St. Vincent’s Hospital and Medical Center, P.C., and Surgical Service of St. Vincent’s, P.C., as guarantors, on the one hand, and DASNY as lender, on the other hand (the “DASNY DIP Loan Agreement”); and

WHEREAS, the DASNY DIP Motion was approved by the Court pursuant to an interim order dated August 4, 2005, and a final order dated September 8, 2005 (collectively, the “DASNY Financing Orders”); and

WHEREAS, pursuant to the terms and conditions of the DASNY DIP Loan Agreement, DASNY committed to provide a term loan not to exceed \$6,765,721.47 (the “DASNY DIP Facility”); and

WHEREAS, as of the date hereof, DASNY has lent SVCMC amounts totaling \$5,658,093.12 under the DASNY DIP Facility; and

WHEREAS, pursuant to the terms and conditions of the DASNY DIP Loan Agreement, HUD agreed to direct the DRF Trustee to release a maximum of \$7,620,366.27 from



the fund to the Mortgage Servicers, on behalf of SVCMC, in order to satisfy a portion of the payments due under the Mortgage Notes; and

WHEREAS, as of the date of this Stipulation, HUD has directed releases on SVCMC's behalf totaling \$6,330,313.33; and

WHEREAS, on November 29, 2005, the Debtors filed a Motion for Order Authorizing Replacement Post-Petition Secured Financing with Administrative Superpriority and Granting Related Relief (the "GE DIP Motion"), seeking authorization to enter into and perform under a debtor-in-possession credit agreement and related documents (the "GE DIP Documents") with General Electric Capital Corporation for a \$350 million replacement debtor-in-possession secured financing facility (the "GE Capital DIP Facility"), and to grant senior liens in substantially all of their assets, including assets currently securing the Debtors' pre and post-petition indebtedness to DASNY, including the grant of first mortgages on property that is currently mortgaged to DASNY and grant of first lien on the Debtors' accounts that DASNY presently holds;<sup>6</sup> and

WHEREAS, in the GE DIP Motion, the Debtors seek authorization to use the proceeds of the GE DIP Facility to, inter alia, (i) refinance and/or prepay the FHA-Insured Mortgages and Mortgage Notes and defease and redeem the Bonds, (ii) repay the DASNY DIP Loan, and (iii) pay certain Associated Costs (as defined below); and

WHEREAS, the GE DIP Motion acknowledges that the Debtors are seeking approval and entry of this Stipulation by the Court concurrently with the entry of an order approving the GE DIP Motion due to the connectivity between the two; and

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<sup>6</sup> Pursuant to both pre- and post-petition agreements by and between DASNY, HUD, HFG HealthCo-4 LLC ("HFG") and the Debtors, DASNY subordinated its first priority lien in the Debtors' accounts, subject to returning

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WHEREAS, there are certain unpaid costs that have been or will be incurred in connection with the (i) contemplated refinancing and/or prepayment of the FHA-Insured Mortgage Notes and Mortgages and redemption and defeasance of the Bonds, and (ii) repayment of the DASNY DIP Loan, including the following: (a) DASNY semi-annual administrative fees for due August 2005 and February 2006 (pro-rated for anticipated closing on or around December 27, 2005); (b) DASNY fees payable in connection with the defeasance of the Bonds; (c) Bond Trustee fees; (d) fees payable to counsel for the Bond Trustees; (e) FHA mortgage insurance premiums due to HUD; (f) fees payable to DASNY's arbitrage consultant; and (g) post-petition fees and expenses of DASNY's counsel<sup>7</sup> (collectively, the "Associated Costs"). An itemized listing of the Associated Costs is attached hereto as Exhibit B; and

WHEREAS, in order to effect (i) refinancing and/or prepayment of the FHA-Insured Mortgages and Mortgage Notes and the defeasance and redemption of the Bonds in accordance with their terms, (ii) repayment of the DASNY DIP Loan, and (iii) payment of the Associated Costs, the undersigned parties consent to the transfers of funds described below and the application of the monies contained in the Accounts on the terms and conditions set forth herein; and

WHEREAS, the Debtors believe that entry into this Stipulation is in the best interests of their estates; and

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to first priority after the satisfaction of the Debtors' HFG indebtedness.

<sup>7</sup> In accordance with the DASNY Financing Orders, appropriate documentation in respect of the fees and expenses of DASNY's counsel has been submitted to the Debtors and to counsel for the Official Committee of Unsecured Creditors for reasonableness review.

NOW, THEREFORE, in consideration of the foregoing premises, the undersigned parties stipulate and agree as follows:

1. Transfer of Funds Respecting FHA-Insured Mortgage Notes and Mortgages and Bonds. The following transfers hereby are authorized and directed in order to effect (i) refinancing and/or prepayment of the FHA-Insured Mortgage Notes and Mortgages, and (ii) redemption of the Bonds:

- (a) Pursuant to the applicable provisions of the Depreciation Reserve Fund Agreements, HUD shall, in writing, direct the DRF Trustee to transfer, first, from the applicable account of the Depreciation Reserve Fund, the amount which is necessary, together with other amounts currently held by the applicable Mortgage Servicer to pay HUD the amount due and owing in FHA mortgage insurance premiums and, second, remaining amounts on deposit in the accounts of the Depreciation Reserve Fund, currently estimated at approximately \$38,441,326, from such accounts to the applicable Bond Trustees to be applied as a partial prepayment of the outstanding principal of the FHA-Insured Mortgage Notes. SVCMC and DASNY shall direct transfer of such monies to the applicable Bond Trustee, for the purpose of refinancing and/or prepaying the applicable FHA-Insured Mortgage Notes and Mortgages;
- (b) Pursuant to the applicable terms of the relevant Bond Documents, DASNY shall, first, direct the applicable Bond Trustees to apply monies in each Debt Service Fund to pay all Associated Costs and, second, transfer all other amounts on deposit in the Debt Service Funds to the relevant redemption account to be applied to pay a portion of the accrued interest and redemption price of the Bonds;
- (c) Pursuant to the applicable terms of the relevant Bond Documents, DASNY shall direct the applicable Bond Trustee to transfer amounts on deposit in the DASNY Cost of Issuance Account to the relevant redemption account to be applied to pay a portion of the accrued interest and redemption price of the Bonds;
- (d) Pursuant to the applicable terms of the relevant Bond Documents, DASNY shall direct the applicable Bond Trustee to transfer amounts available on deposit in the Debt Service Reserve Funds, to (i) transfer certain amounts realized from the sale of certain Debt Service Reserve Fund investments to an Arbitrage

Rebate Fund for each Bond Issue, and (ii) transfer all remaining amounts on deposit in the Debt Service Reserve Funds to the relevant redemption account to be applied to pay a portion of the accrued interest and redemption price of the Bonds;

- (e) Pursuant to the Bond Documents, any amounts held in the Arbitrage Rebate Funds are to be applied to make a rebate payment to the United States Treasury within sixty (60) days after the redemption of each Bond Issue in the amounts as determined by DASNY, and any amounts remaining in the Rebate Fund following the payments of all required rebate amounts to the United States shall be transferred to SVCMC;
- (f) Pursuant to the terms and conditions of the GE DIP Documents, which are being approved by separate order contemporaneously entered herewith, the Debtors shall direct transfer to the applicable Bond Trustees, for deposit in the applicable redemption accounts with respect to each Bond Issue for the purpose of refinancing and prepaying the FHA-Insured Mortgage Notes and Mortgages and defeasing and redeeming all the outstanding Bonds, such portion of the proceeds advanced under the GE DIP Facility as are sufficient, when added to the amounts transferred to the applicable redemption accounts by operation of subparagraphs 1(a) through 1(d) hereof, to enable (i) the FHA-Insured Mortgages and Mortgage Notes to be refinanced and/or prepaid and (ii) for DASNY to cause a defeasance and redemption of the Bonds in accordance with the applicable bond resolutions, which amounts are currently estimated at approximately \$[ ], provided that such amounts are received no later than December 27, 2005;<sup>8</sup>
- (g) Upon the completion of all transfers to the applicable redemption accounts contemplated by subparagraphs (a) through (d) above, pursuant to the Bond Documents, DASNY shall direct the applicable Bond Trustee to call for Extraordinary Mandatory Redemption or Extraordinary Redemption, as the case may be, on the earliest practicable date determined by DASNY and the applicable Bond Trustee of the following series of Bonds: SVCMC 1999, CMC 1993 and SVCMC-Richmond 1994, and to call for Optional Redemption on the earliest practicable date

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<sup>8</sup> The parties hereto each recognize that the amounts set forth in paragraphs 1(f) and 2(a) represent the parties' best estimates as of the date hereof and may be subject to non-material adjustments depending on the date of the closing of the transactions contemplated herein and by the GE DIP Documents and because of the accrual of interest.

determined by DASNY and the applicable Bond Trustee of the following series of Bonds: SVCMC 1991 and SVCMC 1995, and to take all actions that in the opinion of DASNY and the applicable Bond Trustees are necessary to effect such redemption of the Bonds; and

- (h) Upon redemption of the Bonds in full, to the extent that there are any residual amounts remaining in the redemption account, DASNY shall direct the applicable Bond Trustee to transfer any such residual amount from such redemption account to the Debtors; and
- (i) All obligations of SVCMC set forth in the Bond Documents to preserve the exclusion from gross income of the interest on the Bonds for federal income tax purposes shall survive the payment in full of the Bonds, including but not limited to the payment of all amounts payable to the United States pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, to the extent not provided for in paragraph (d) above.

2. Transfer of Funds Respecting DASNY DIP Loan. The following transfer is hereby authorized and directed in order to effect repayment of the DASNY DIP Loan:

- (a) Pursuant to the terms of the GE DIP Documents, which are being approved by separate order contemporaneously entered herewith, the Debtors shall transfer to DASNY, for the purpose of repaying the DASNY DIP Loan, such portion of the proceeds advanced under the GE DIP Facility as are sufficient to enable the DASNY DIP Loan to be repaid, which amount currently is estimated at approximately \$5,658,093, as of the date hereof.

3. Limited Relief from Automatic Stay. If, and to the extent that the Debtors have a residual interest in any of the Accounts such that the automatic stay imposed by section 362(a) of the Bankruptcy Code is applicable thereto, then the automatic stay is hereby modified to allow DASNY, HUD, the Bond Trustees, the DRF Trustee, the Mortgage Servicers and the Debtors, as the case may be, to take all actions authorized in this Stipulation. The automatic stay is also hereby modified, to the extent necessary, to allow DASNY to accelerate the amounts due under the FHA-Insured Mortgage Notes.

4. Release of Mortgages and Liens. Upon the consummation of the transfers set forth in paragraphs 1 and 2 hereof, the FHA-Insured Mortgage Notes and Mortgages and the DASNY DIP Loan shall be deemed paid in full. Accordingly, except as otherwise provided herein, in the Bond Documents and DASNY Financing Orders in respect of the Associated Costs, DASNY, HUD and any person claiming by or through any of the foregoing, shall release and discharge the FHA-Insured Mortgage Notes and Mortgages and any liens or security interests asserted against the Debtors or their property in connection such FHA-Insured Mortgage Notes, Mortgages and DASNY DIP Loan.<sup>9</sup> To confirm the foregoing, DASNY shall execute and deliver to the Debtors satisfactions of such mortgages and any related collateral mortgages and UCC termination statements.

5. Reservation of Rights. Except as set forth herein, nothing contained herein shall constitute a waiver of any rights, if any, of the undersigned parties in connection with the Debtors' continuing obligations in respect of the fees and expenses (i) of DASNY's counsel, (ii) incurred by, or owing to the Bond Trustees, or (iii) created under applicable law.

6. Binding Effect. The terms and provisions of this Stipulation or any order authorizing this Stipulation shall be binding upon, among others, the undersigned parties and their successors and assigns, including any trustee appointed in these cases or in any chapter 7 cases into which these cases may be converted.

7. Entire Agreement. This Stipulation constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior

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<sup>9</sup> Upon the defeasance of the Bonds and the prepayment of the FHA Mortgage Notes, DASNY shall also seek the termination of the FHA mortgage insurance relating to the FHA-Insured Mortgage Notes and Mortgages, and SVCMM shall request and HUD shall consent to the release of the HUD Amended and Restated Regulatory Agreements, dated August 23, 2000.

agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

8. Signatures in Counterpart. This Stipulation may be executed in counterparts, any of which may be transmitted by facsimile, and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9. Court Approval. This Stipulation has been signed or consented to by the undersigned parties prior to approval by the Court. Notwithstanding such prior consent by the undersigned parties, the terms and provisions of this Stipulation are subject to the approval of the Court. In order to effectuate all of the provisions described herein, the parties agree to seek authorization and entry of this Stipulation by the Court concurrent with the entry of the order approving the GE DIP Motion; provided, that such order shall be substantially in the form attached as Exhibit 3 to the GE DIP Motion.

Dated: New York, New York  
December \_\_, 2005

TOGUT, SEGAL & SEGAL LLP

By: \_\_\_\_\_

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\*Authorized to represent the United States in this District

Attorneys for the United States Department  
of Housing and Urban Development

SO ORDERED:

\_\_\_\_\_  
Honorable Prudence Carter Beatty  
United States Bankruptcy Judge

SIDLEY AUSTIN BROWN & WOOD LLP

By: \_\_\_\_\_

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