

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

In re	§	
	§	
SCC KYLE PARTNERS, LTD.	§	Case No. 12-11978-hcm-11
	§	(Chapter 11)
Debtor.	§	

**DEBTOR'S SECOND AMENDED SECOND MODIFICATION TO PROPOSED  
AMENDED PLAN OF REORGANIZATION**

TO THE HONORABLE H. CHRISTOPHER MOTT:

Debtor files this Second Amended Second Modification to Proposed Amended Plan of Reorganization as follows:

1. This Modification is made pursuant to 11 U.S.C. §1127. The modifications set forth below are not “material” requiring re-solicitation.

2. The Debtor’s Amended Proposed Plan of Reorganization is modified as follows:

**4.1.1 §4.1.2 Class II – Priority Tax Claims.**

Notwithstanding anything to the contrary contained within the Plan or approved Disclosure Statement, the Priority/Secured Tax Claims owing to Hays County and Hays CISD (Taxing Entities) shall be paid by the Debtor, pursuant to the provisions of 11 USC §1129 (a) (9) (C), in equal monthly installments, commencing thirty days from the Plan’s Effective Date and ending sixty (60) months from the petition date. The Claims shall bear interest at the statutory rate of 12% per annum from the date of filing of this case until said taxes are paid in full.

In the event that any tract(s) which is secured by the Secured Tax Claims is sold during the term of the Plan, the unpaid taxes secured by the tract(s) shall be paid in full upon the sale of the property.

The 2013 ad valorem taxes owing to the Taxing Entities shall be paid in the ordinary course of business and Taxing Entities shall not be required to file a request for allowance and payment of its claim.

Taxing Entities shall retain all liens until such taxes are paid in full.

Default shall occur if one monthly installment due to Taxing Entities

under the confirmed Plan is not paid by Debtor or if post-confirmation taxes (including the 2013 taxes) are not paid timely pursuant to state law. In the event of default, Taxing Entities or either of them shall send written notice of default to Debtor's attorney and Debtor. If the default is not cured within twenty (20) days after notice of the default is mailed, Taxing Entities may proceed with state law remedies for collection of all amounts due under state law pursuant to the Texas Property Tax Code. The Debtor has the opportunity to cure two (2) times over the life of the Plan. In the event of a third default, Taxing Entities may proceed with the state law remedies for collection of all amounts due under state law pursuant to the Texas Property Tax Code.

**§4.1.3 Class III – Secured Claim of Lender.**

The secured claim of the Lender group will be paid over 5 years from the Effective Date from cash proceeds on hand at the time of confirmation and ongoing sales of the remaining Property and future tax incentive revenues, with interest-only payments to be made monthly beginning on the 15<sup>th</sup> day after the Effective Date at 4% per annum, or such other rate as is determined by the Court not to exceed 8%. All remaining principal, interest and costs will be due and payable on the 15<sup>th</sup> day of the 60<sup>th</sup> month from the Effective Date. Lender will retain its liens on the collateral currently pledged to Lender, though Debtor shall be permitted to use the proceeds from sales tax incentive payments and existing cash to make the payments for allowed administrative claims, priority tax claims and unsecured creditors. This Class is impaired.

Debtor shall be entitled to close any sale and the Lender shall be required to release its lien on any property for which the gross sale price is at least 85% of the appraised value of the tract, based on the market/retail appraised value from the April 4, 2013 Aegis appraisal, as set forth in Exhibit "A" hereto. Lender will receive the net proceeds after payment of customary closing costs (including broker's fees, title insurance fees, and other typical closing costs) and taxes attributable to the tract, and less any amounts necessary for funding a one-year rolling reserve for taxes, insurance and interest, and operating expenses (bookkeeping/accounting, and landscaping/ maintenance not to exceed \$1000 per month). The rolling reserve will be calculated based on the estimates, as of the date of the closing of a sale, for payment of one-year's interest on the then-existing amount of the Lender's Allowed Claim at the rate determined by the Court, ad valorem taxes [based upon the amount assessed for the year by the applicable taxing authorities] and insurance, and operating expenses (with such operating expenses not to exceed \$1000 per month). The reserve account will be held at Whitney Bank and Lender shall maintain a lien on the account. Interest will be paid monthly, and taxes and insurance when due. Debtor shall also be entitled to utilize its cash on hand and, if available, from Sales Tax Incentive payments, as of the Effective Date to

pay administrative claims or any of the items covered by the reserve funds or payments to unsecured creditors or tax authorities.

With respect to the pending sale to Avail, Debtor will remit the sale proceeds (net of closing costs, taxes and commissions) to Lender, provided, however, that a portion of the proceeds paid shall be credited as pre-paid interest n (at the rate determined by the Court) for the period May 1, 2013 through December 31, 2013 with the balance to be applied as principal reduction. To the extent that the Court does not allow the proceeds of the Avail sale to be applied as pre-paid interest, as provided herein, , interest will accrue at the rate determined by the Court until the next sale, at which time the accrued interest will be paid. Such payment shall occur on or before December 31, 2013.

In the event of a default under these provisions, Debtor shall be entitled to five (5) days' written notice and opportunity to cure, after which Lender shall be entitled to pursue its available remedies. Debtor shall be entitled to three (3) such notices and opportunities to cure, after which Lender shall be entitled to pursue its available remedies.

Respectfully submitted,

HOHMANN, TAUBE & SUMMERS, L.L.P.

By: /s/ Mark C. Taylor

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ATTORNEYS FOR DEBTOR

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served electronically upon all parties receiving the Court's electronic notices and by first class mail on all parties on the attached list on April 25, 2013.

/s/ Mark C. Taylor

Mark C. Taylor