

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	
	)	<b>Case No. 09-12074 (KJC)</b>
<b>Debtors.</b>	)	
	)	<b>Jointly Administered</b>
	)	
	)	<b>Objection Deadline: July 9, 2009 at 4:00 p.m. (ET)</b>
	)	<b>Hearing Date: July 16, 2009 at 4:30 p.m. (ET)</b>
	)	

**DEBTORS' APPLICATION FOR AN ORDER PURSUANT TO SECTION 327(a)  
OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 2014  
AUTHORIZING THE DEBTORS TO RETAIN AND EMPLOY  
YOUNG CONAWAY STARGATT & TAYLOR, LLP AS ATTORNEYS  
FOR THE DEBTORS *NUNC PRO TUNC* TO THE PETITION DATE**

Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the “Debtors”), hereby submit this application (the “Application”) for entry of an order, pursuant to section 327(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), and Rule 2014 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”), authorizing the Debtors to employ and retain the law firm of Young Conaway Stargatt & Taylor, LLP (“Young Conaway” or the “Firm”) as their bankruptcy co-counsel, *nunc pro tunc* to the Petition Date (as defined herein). In support of this Application, the Debtors submit the Affidavit of Sean M. Beach (the “Beach Affidavit”), attached hereto as Exhibit A, and respectfully represent as follows:

<sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

## **JURISDICTION AND VENUE**

1. The Court has jurisdiction to consider this Application pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicate for the relief sought herein is section 327(a) of the Bankruptcy Code, along with Bankruptcy Rule 2014.

## **BACKGROUND**

2. On June 16, 2009 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”). The Debtors continue to operate their businesses and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases.

3. The Debtors are one of the largest providers of residential building products and construction services in the United States. The Debtors distribute building materials, manufacture building components (e.g., millwork, floor and roof trusses, and wall panels), and provide construction services to professional builders and contractors through a network of 31 distribution facilities, 43 manufacturing facilities, and five regional construction services facilities.

4. The Debtors operate under two brand names: BMC West® and SelectBuild®.

- ***BMC West.*** Under the BMC West brand, the Debtors market and sell building products, manufacture building components, and provide construction services to professional builders and contractors. Products include structural lumber and building materials purchased from manufacturers, as well as manufactured building components such as millwork, trusses, and wall panels. Construction services include installation of various building

products and framing. The Debtors currently offer these products and services in major metropolitan markets in Texas, Washington, Colorado, Idaho, Utah, Montana, North Carolina, California, and Oregon.

- ***SelectBuild.*** Under the SelectBuild brand, the Debtors offer integrated construction services to production homebuilders, as well as commercial and multi-family builders. Services include wood framing, concrete services, managing labor and construction schedules, and sourcing materials. The Debtors currently offer these services in major metropolitan markets in California, Arizona, Nevada and Illinois.

5. On the Petition Date, the Debtors filed their proposed chapter 11 plan (the “Plan”) and accompanying disclosure statement (the “Disclosure Statement”). As set forth in greater detail in the Plan and Disclosure Statement, the Plan contemplates a restructure of the Debtors’ balance sheet and ownership structure, as well as an immediate cash distribution to unsecured creditors and an opportunity for such creditors to receive full payment from the Reorganized Debtors, depending on business performance. The Debtors believe that the restructuring proposal embodied in the Plan provides the Debtors’ creditors with the best means of maximizing value of the Debtors and their businesses. To implement this restructuring, the Debtors have obtained a commitment to provide \$80 million in the form of debtor-in-possession financing, which the Court approved on an interim basis on June 17, 2009.

### **RELIEF REQUESTED**

6. By this Application, the Debtors seek authority to employ and retain Young Conaway as their bankruptcy co-counsel with regard to the filing and prosecution of their chapter 11 cases, effective as of the Petition Date. By separate application dated simultaneously herewith, the Debtors have also asked the Court to approve the retention of Gibson, Dunn & Crutcher LLP (“Gibson Dunn”). Young Conaway has discussed the division of responsibilities with Gibson Dunn and will make every effort to avoid duplication of efforts. Accordingly, the

Debtors respectfully request the Court to enter an order, pursuant to section 327(a) of the Bankruptcy Code, authorizing them to employ and retain Young Conaway as their co-counsel under a general retainer to perform the legal services that will be necessary during these chapter 11 cases.

7. The Debtors seek to retain Young Conaway as their attorneys because of the Firm's extensive knowledge, expertise and experience in the field of debtors' and creditors' rights and business reorganizations under chapter 11 of the Bankruptcy Code. The Debtors submit that Young Conaway's knowledge, expertise and experience practicing before this Court will enable Young Conaway to work in an efficient and cost-effective manner on behalf of the Debtors' estates. Additionally, in preparing for these cases, Young Conaway has become familiar with the Debtors' businesses and affairs and many of the potential legal issues which might arise in the context of these chapter 11 cases. Accordingly, the Debtors believe that Young Conaway is uniquely qualified to represent them as co-counsel in their chapter 11 cases and will do so in a most expedient manner.

8. Subject to Court approval, in accordance with section 330(a) of the Bankruptcy Code, compensation will be payable to Young Conaway on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by the Firm. The principal attorneys and paralegal presently designated to represent the Debtors and their current standard hourly rates are:

- |    |                           |                   |
|----|---------------------------|-------------------|
| a. | Sean M. Beach             | \$440.00 per hour |
| b. | Donald J. Bowman, Jr.     | \$325.00 per hour |
| c. | Robert F. Poppiti, Jr.    | \$260.00 per hour |
| d. | Casey Cathcart, paralegal | \$155.00 per hour |

The hourly rates set forth above are subject to periodic adjustments to reflect economic and other conditions. Other attorneys and paralegals may from time to time serve the Debtors in connection with the matters herein described.

9. The hourly rates set forth above are the Firm's standard hourly rates for work of this nature. These rates are set at a level designed to fairly compensate the Firm for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is the Firm's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telephone and telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, charges for mailing supplies (including, without limitation, envelopes and labels) provided by the Firm to outside copying services for use in mass mailings, travel expenses, expenses for "working meals," computerized research, transcription costs, as well as non-ordinary overhead expenses approved by the client such as secretarial and other overtime. The Firm will charge the Debtors for these expenses in a manner and at rates consistent with charges made generally to the Firm's other clients. The Firm believes that it is fairer to charge these expenses to the clients incurring them than to increase the hourly rates and spread the expenses among all clients.

10. The professional services that Young Conaway will render to the Debtors include, but shall not be limited to, the following:

- a. providing legal advice with respect to the Debtors' powers and duties as debtors in possession in the continued operation of their business and management of their properties;
- b. pursuit of confirmation of a plan of reorganization and approval of the corresponding solicitation procedures and disclosure statement;
- c. preparing on behalf of the Debtors necessary applications, motions, answers, orders, reports and other legal papers;

- d. appearing in Court and otherwise protecting the interests of the Debtors before the Court; and
- e. performing all other legal services for the Debtors which may be necessary and proper in these proceedings.

11. To the best of the Debtors' knowledge, and except as disclosed herein and in the Beach Affidavit, Young Conaway has not represented the Debtors, their creditors or any other parties in interest, or their respective attorneys, in any matters relating to the Debtors or their estates.

12. The Debtors desire to retain Young Conaway under a general retainer because of the extensive legal services that may be required and the fact that the nature and extent of such services are not known at this time. To the best of the Debtors' knowledge and except as otherwise disclosed in the Beach Affidavit, Young Conaway does not hold or represent any interest adverse to the Debtors' estates. Young Conaway is a "disinterested person" as that phrase is defined in section 101(14) as modified by section 1107(b) of the Bankruptcy Code, and Young Conaway's employment is necessary and in the best interests of the Debtors and their estates.

13. Young Conaway was retained by the Debtors pursuant to the terms of an engagement agreement dated April 9, 2009, a copy of which is attached hereto as Exhibit B. Young Conaway received \$146,819 in connection with the planning and preparation of initial documents, anticipated filing fees related to the chapter 11 cases, and the Firm's proposed post-petition representation of the Debtors (the "Retainer"). In addition, the Firm received \$24,492.23 on or about June 15, 2009 to replenish the Retainer on account of fees and expenses incurred through May 31, 2009. After applying a portion of the Retainer to outstanding balances existing as of the Petition Date, including fees and expenses associated with the filing of these

chapter 11 cases, Young Conaway continues to hold the Retainer in the amount of \$73,272.36. The remainder of the Retainer will be held as security for post-petition services and expenses.

14. In these cases, an evergreen security retainer is appropriate for several reasons. See In re Insilco Technologies, Inc., 291 B.R. 628, 634 (Bankr. D. Del. 2003) (Carey, J.) (“Factors to be considered, include...whether terms of an engagement agreement reflect normal business terms in the marketplace;...the relationship between the Debtor and the professionals, i.e., whether the parties involved are sophisticated business entities with equal bargaining power who engaged in an arms-length negotiation[] [and]...whether the retention, as proposed, is in the best interests of the estate[...]”); see also Statements of Chief Bankruptcy Judge Peter J. Walsh, In re CTC Communications Group, Inc., Case No. 02-12873 (PJW) (Bankr. D. Del. May 22, 2003), transcript of hearing held May 22, 2003, at 43 (“I agree and adopt wholeheartedly Judge Carey’s decision in the Insilco case.”). First, these types of retainer agreements reflect normal business terms in the marketplace. See In re Insilco Technologies, Inc., 291 B.R. at 634 (“[I]t is not disputed that the taking of [security] retainers is a practice now common in the market place.”). Second, both Young Conaway and the Debtors are sophisticated business entities that have negotiated the Retainer at arm’s length. Third, the retention of Young Conaway is in the best interests of the Debtors’ estates because the engagement agreement and Retainer allow the Debtors to maintain their prepetition relationship established with Young Conaway. Thus, under the standards articulated in In re Insilco Technologies, Inc., and adopted In re CTC Communications Group, Inc., the facts and circumstances of this case support the approval of the security retainer.

### **NOTICE**

15. Notice of this Application will be provided to: (i) the Office of the United States Trustee; (ii) the 50 largest unsecured creditors of the Debtors on a consolidated basis as

identified in the Debtors' chapter 11 petitions; (iii) counsel to Wells Fargo Bank, as agent under the Prepetition Credit Facility and the DIP Facility (as defined in the Plan); and (iv) all parties that requested notice pursuant to Local Rule 2002-1(b) of the Local Rules of Bankruptcy Practice and Procedure. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

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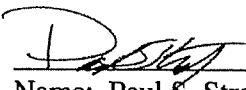


**CONCLUSION**

WHEREFORE, the Debtors respectfully request this Court to enter an order, substantially in the form attached hereto as Exhibit D, (i) authorizing the Debtors to employ and retain Young Conaway as bankruptcy co-counsel for the Debtors, effective as of the Petition Date, and (ii) granting the Debtors such other and further relief as is just and proper.

Dated: June 24, 2009

**BUILDING MATERIALS HOLDING CORPORATION**, on behalf of itself and its affiliated debtors and debtors in possession

By:   
Name: Paul S. Street  
Title: Senior Vice President, Chief  
Administrative Officer, General  
Counsel and Corporate Secretary

IN RE:	)	
	)	Chapter 11
BUILDING MATERIALS HOLDING	)	
CORPORATION, <i>et al.</i> , <sup>1</sup>	)	Case No. 09-12074 (KJC)
	)	
Debtors.	)	Jointly Administered
	)	
	)	Objection Deadline: July 9, 2009 at 4:00 p.m. (ET)
	)	Hearing Date: July 16, 2009 at 4:30 p.m. (ET)
	)	

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE; (II) THE DEBTORS' FIFTY LARGEST UNSECURED CREDITORS ON A CONSOLIDATED BASIS; (III) COUNSEL TO WELLS FARGO BANK, AS AGENT UNDER THE PREPETITION CREDIT FACILITY AND THE DIP FACILITY (AS DEFINED IN THE PLAN); AND (IV) ALL PARTIES ENTITLED TO NOTICE UNDER RULE 2002-1(b) OF THE LOCAL RULES OF BANKRUPTCY PRACTICE AND PROCEDURE FOR THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

**PLEASE TAKE NOTICE** that the above-captioned debtors and debtors in possession (collectively, the “Debtors”) have filed the attached **Debtors’ Application for an Order Pursuant to Section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014 Authorizing the Debtors to Retain and Employ Young Conaway Stargatt & Taylor, LLP as Attorneys for the Debtors *Nunc Pro Tunc* to the Petition Date** (the “Application”).

**PLEASE TAKE FURTHER NOTICE** that any objections to the attached Application must be filed on or before **July 9, 2009 at 4:00 p.m. (ET)** (the “**Objection Deadline**”) with the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 Market Street, Wilmington, Delaware 19801. At the same time, you must serve a copy of the response upon the undersigned counsel to the Debtors so as to be received on or before the Objection Deadline.

**PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE APPLICATION WILL BE HELD ON JULY 16, 2009 AT 4:30 P.M. (ET) BEFORE THE HONORABLE KEVIN J. CAREY IN THE UNITED STATES BANKRUPTCY COURT FOR**

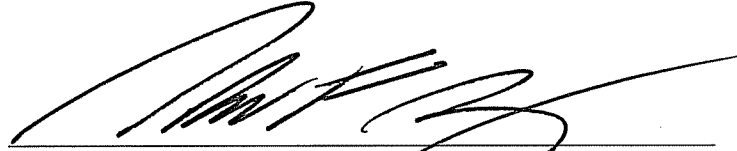
<sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

THE DISTRICT OF DELAWARE, 824 MARKET STREET, 5TH FLOOR, COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

**PLEASE TAKE FURTHER NOTICE** that if you fail to respond in accordance with this notice, the Court may grant the relief requested in the Application without further notice or hearing.

Dated: Wilmington, Delaware  
June 26, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Sean M. Beach (No. 4070)  
Donald J. Bowman, Jr. (No. 4383)  
Robert F. Poppiti, Jr. (No. 5052)  
The Brandywine Building  
1000 West Street, 17th Floor  
P.O. Box 391  
Wilmington, Delaware 19899-0391  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253

----and----

GIBSON, DUNN & CRUTCHER LLP  
Michael A. Rosenthal (admitted *pro hac vice*)  
Matthew K. Kelsey (admitted *pro hac vice*)  
Saeed M. Muzumdar (admitted *pro hac vice*)  
200 Park Avenue, 47th Floor  
New York, New York 10166-0193  
Telephone: (212) 351-4000  
Facsimile: (212) 351-4035

Aaron G. York (admitted *pro hac vice*)  
Jeremy L. Graves (admitted *pro hac vice*)  
2100 McKinney Avenue, Suite 1100  
Dallas, Texas 75201-6911  
Telephone: (214) 698-3100  
Facsimile: (214) 571-2900

**PROPOSED ATTORNEYS FOR DEBTORS  
AND DEBTORS IN POSSESSION**

**EXHIBIT A**

Beach Affidavit

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
<b>Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	
	)	
	)	

**AFFIDAVIT OF SEAN M. BEACH IN SUPPORT OF DEBTORS' APPLICATION  
FOR AN ORDER PURSUANT TO SECTION 327(a) OF THE BANKRUPTCY CODE  
AND BANKRUPTCY RULE 2014 AUTHORIZING THE DEBTORS TO RETAIN AND  
EMPLOY YOUNG CONAWAY STARGATT & TAYLOR, LLP AS ATTORNEYS  
FOR THE DEBTORS *NUNC PRO TUNC* TO THE PETITION DATE**

STATE OF DELAWARE                    )  
  : ss.  
COUNTY OF NEW CASTLE            )

SEAN M. BEACH, being duly sworn, deposes and says:

1. I am a partner in the firm of Young Conaway Stargatt & Taylor, LLP ("Young Conaway" or the "Firm"), The Brandywine Building, 17<sup>th</sup> Floor, 1000 West Street, Wilmington, DE 19801, and have been duly admitted to practice in the State of Delaware, New Jersey and New York, as well as the United States District Court for the District of Delaware. This Affidavit is submitted in support of the Debtors' Application for an Order Authorizing the Debtors to Retain and Employ Young Conaway Stargatt & Taylor, LLP as Attorneys for the Debtors *Nunc Pro Tunc* to the Petition Date (the "Application").<sup>2</sup> Based on the conflicts and

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<sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Application.

contacts search conducted and described herein, to the best of my knowledge, neither I, the Firm, nor any partner, counsel or associate thereof, insofar as I have been able to ascertain, has any connection with the Debtors, their creditors or any other parties in interest, or their respective attorneys and accountants, or the United States Trustee or any person employed in the Office of the United States Trustee, except as stated below:

a. In recent months, the Firm and certain of its partners and associates have rendered legal services to the Debtors relating to their plans to seek relief under chapter 11 of the Bankruptcy Code and the preparation of the petitions and other papers initiating these chapter 11 cases.

b. The Debtors are seeking to retain, among others, Gibson, Dunn & Crutcher LLP; Alvarez & Marsal North America, LLC; Peter J. Solomon Company; PricewaterhouseCoopers LLP; and KPMG LLP to provide professional services in these cases. In addition, Paul, Hastings, Janofsky & Walker, LLP and Richards, Layton & Finger, P.A. serve as professionals to one or more parties in interest in these chapter 11 proceedings. Young Conaway has in the past worked and/or currently does work with and/or against these professionals in connection with matters wholly unrelated to the Debtors or these chapter 11 proceedings. In addition, Young Conaway has in the past worked and/or currently does work with and/or against certain other professionals that have entered, or are anticipated to enter, an appearance in these bankruptcy proceedings.

c. Young Conaway currently represents Bank of America; Bank of New York; LaSalle National Bank, N.A.; HSBC; JP Morgan Chase & Co.; Phoenix Realty Group; U.S. Bank Trust National Association; and Wells Fargo Bank, N.A. and/or entities affiliated therewith in matters wholly unrelated to the Debtors or these chapter 11 proceedings. These entities, or affiliates thereof, have been identified as prepetition lenders to the Debtors.

d. Young Conaway has in the past represented Morgan Stanley; BNP Paribas; D.E. Shaw Laminar Portfolios, L.L.C.; Phoenix Investment Partners, Ltd.; PNC Bank National Association; Sun Trust Bank; and Hartford Fire Insurance Co. and/or entities affiliated therewith in matters wholly unrelated to the Debtors or these chapter 11 proceedings. These entities, or affiliates thereof, have been identified as prepetition lenders to the Debtors.

e. Young Conaway currently represents Weyerhaeuser Company and/or entities affiliated therewith in matters wholly unrelated to the Debtors or these chapter 11 proceedings. These entities, or affiliates thereof, have been identified as unsecured creditors of the Debtors.

f. Young Conaway has in the past represented Masonite International, General Electric Credit Corporation and Prime Source Polymers and/or entities affiliated therewith in matters wholly unrelated to the Debtors or these chapter 11 proceedings. These entities, or affiliates thereof, have been identified as unsecured creditors of the Debtors.

g. Young Conaway also currently represents an ad hoc committee of senior note holders of Masonite International in Masonite's chapter 11 bankruptcy.

h. Young Conaway currently represents American International Group, Inc., Federal Insurance Company and Old Republic National Title Insurance Company and/or entities affiliated therewith in matters wholly unrelated to the Debtors or these chapter 11 proceedings. These entities, or affiliates thereof, have been identified as insurers of the Debtors.

i. Young Conaway has in the past represented Aon Services, Lexington Insurance Company and National Union Fire Insurance Company and/or entities affiliated therewith in matters wholly unrelated to the Debtors or these chapter 11 proceedings. These entities, or affiliates thereof, have been identified as insurers of the Debtors.

2. Young Conaway is continuing to review the Debtors' lists of creditors and other parties in interest. Based upon its review as of this date, Young Conaway has determined that it does not represent any party in these proceedings with a material adverse interest with respect to these Debtors. Young Conaway will supplement this affidavit, as necessary, with disclosures of additional information as the same develops or becomes available.

3. Young Conaway is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code in that said firm, its partners, counsel and associates:

- a. Are not creditors, equity security holders, or insiders of the Debtors;
- b. Are not and were not, within two (2) years before the date of the filing of the Debtors' chapter 11 petitions, directors, officers, or employees of the Debtors; and
- c. Do not have an interest materially adverse to the interests of the estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtors, or for any other reason.

5. Young Conaway was retained by the Debtors pursuant to the terms of an engagement agreement dated April 9, 2009, a copy of which is attached as Exhibit B to the Application. Young Conaway received \$146,819 in connection with the planning and preparation of initial documents, anticipated filing fees related to the chapter 11 cases, and the Firm's proposed post-petition representation of the Debtors (the "Retainer"). In addition, the Firm received \$24,492.23 on or about June 15, 2009 to replenish the Retainer on account of fees and expenses incurred through May 31, 2009. After applying a portion of the Retainer to outstanding balances existing as of the Petition Date, including fees and expenses associated with the filing of these chapter 11 cases, Young Conaway continues to hold the Retainer in the amount of \$73,272.36. The remainder of the Retainer will be held as security for post-petition services and expenses.



6. Subject to Court approval, in accordance with section 330(a) of the Bankruptcy Code, compensation will be payable to Young Conaway on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by the Firm. The principal attorneys and paralegal presently designated to represent the Debtors and their current standard hourly rates are:

a.	Sean M. Beach	\$440.00 per hour
b.	Donald J. Bowman, Jr.	\$325.00 per hour
c.	Robert F. Poppiti, Jr.	\$260.00 per hour
d.	Casey Cathcart, paralegal	\$155.00 per hour

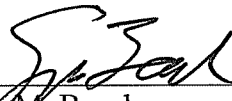
The hourly rates set forth above are subject to periodic adjustments to reflect economic and other conditions. Other attorneys and paralegals may from time to time serve the Debtors in connection with the matters herein described.

7. The hourly rates set forth above are the Firm's standard hourly rates for work of this nature. These rates are set at a level designed to fairly compensate the Firm for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is the Firm's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telephone and telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, charges for mailing supplies (including, without limitation, envelopes and labels) provided by the Firm to outside copying services for use in mass mailings, travel expenses, expenses for "working meals," computerized research, transcription costs, as well as non-ordinary overhead expenses, approved by the client, such as secretarial and other overtime. The Firm will charge the Debtors for these expenses in a manner and at rates consistent with charges made generally to the Firm's other clients. The Firm

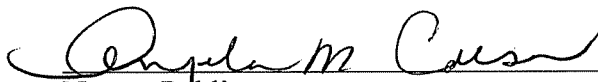
believes that it is fairer to charge these expenses to the clients incurring them than to increase the hourly rates and spread the expenses among all clients.

8. No promises have been received by the Firm or by any partner, counsel or associate thereof as to compensation in connection with these cases other than in accordance with the provisions of the Bankruptcy Code. The Firm has no agreement with any other entity to share with such entity any compensation received by the Firm in connection with these chapter 11 cases.

WHEREFORE, affiant respectfully prays for the entry of an order approving the Application and for such other and further relief as may be just and proper.

  
\_\_\_\_\_  
Sean M. Beach

Sworn to before me this 26th day of June, 2009.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

ANGELA M. COLSON  
NOTARY PUBLIC  
STATE OF DELAWARE  
My commission expires Aug. 31, 2011

**EXHIBIT B**

Engagement Agreement

# YOUNG CONAWAY STARGATT & TAYLOR, LLP

BENT, CASTLE  
SHELDON N. SANDLER  
RICHARD A. LEVINE  
RICHARD A. ZAPPA  
FREDERICK W. LOBST  
RICHARD H. MOISE  
DAVID C. MCBRIDE  
JOSEPH M. NICHIOLSON  
CRAIG A. KARSNITZ  
BARRY M. WILLOUGHBY  
ANTHONY C. RYNN  
JEROME K. GROSSMAN  
EUGENE A. DIPRINZIO  
JAMES L. PATTON, JR.  
ROBERT L. THOMAS  
WILLIAM D. JOHNSTON  
TIMOTHY J. SNYDER  
BRUCE L. SILVERSTEIN  
WILLIAM W. BOWSER  
LARRY J. TARADICOS  
RICHARD A. DILIBERTO, JR.  
MELANIE K. SHARP  
CASSANDRA F. ROBERTS  
RICHARD J.A. POPPER  
TERESA A. CHIEK  
NEILL MULLEN WALSH  
JANET Z. CHARLTON  
ROBERT S. BRADY  
JOEL A. WATTE

BRENT C. SHAFER  
DANIEL P. JOHNSON  
CRAIG D. GREAR  
TIMOTHY JAY HOUSEAL  
MARTIN S. LESSNER  
PAULINE K. MORGAN  
C. BARR FLINN  
NATALIE WOLF  
LISA B. GOODMAN  
JOHN W. SHAW  
JAMES P. TUOHUS, JR.  
EDWIN J. TIARRON  
MICHAEL R. NESTOR  
ROBIN P. BISSELL  
SCOTT A. HOLT  
JOHN T. DORSEY  
M. BLAKE CLEARY  
CHRISTIAN DOUGLAS WRIGHT  
DANIELLE GIBBS  
JOHN J. PASCHETTO  
NORMAN M. POWELL  
ELENA C. NORMAN  
EDMON L. MORTON  
JOHN E. TRACEY  
ADAM W. POFF  
SEAN M. BEACH  
JOSEPH M. BARRY  
SHARON M. ZIEG  
DAVID R. HURST

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April 9, 2009

Mr. Paul Street  
Senior Vice President, Chief Administrative Officer,  
General Counsel and Corporate Secretary  
Building Materials Holding Corporation  
720 Park Boulevard, Suite 200  
Boise, ID 83712

Re: Engagement Agreement Between Young Conaway  
Stargatt & Taylor, LLP and Building Materials  
Holding Corporation and Certain of its Affiliates

Dear Mr. Street:

Young Conaway Stargatt & Taylor, LLP ("Young Conaway") is pleased to accept representation as Delaware restructuring and bankruptcy counsel to Building Materials Holding Corporation, together with certain of its affiliates (the "Company"), on the terms set forth herein, to represent the Company in connection with its restructuring efforts and a potential bankruptcy case to be commenced in the United States Bankruptcy Court for the District of Delaware.

## 1. Nature of Engagement

Young Conaway's engagement will include representation of the Company, along with Gibson Dunn & Crutcher LLP, the Company's primary restructuring counsel ("GDC"), in its restructuring efforts including preparing for, and during the course of, all aspects of any case prosecuted under title 11 of the United States Code (the "Bankruptcy Code"). This aspect of Young Conaway's representation will include, among other things, the preparation of petition(s) for voluntary relief, defenses against any involuntary case, motions and other court papers, documents and agreements that may be called for, together with all attendant court appearances and out-of-court planning and negotiations, as well as negotiating, preparing and prosecuting any chapter 11 plans, related solicitation and disclosure statements and other related documents.

# YOUNG CONAWAY STARGATT & TAYLOR, LLP

Mr. Paul Street

April 9, 2009

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In short, Young Conaway's representation will include serving as Delaware bankruptcy counsel to the debtors-in-possession, subject to court approval. We also will be available to represent the Company in any litigation that may arise, subject to obtaining any required court approval and subject to any ethical constraints arising from potential conflicts.

## 2. Case Management and Coordination with Other Counsel

To the extent possible, given the nature and magnitude of the engagement, steps will be taken by us to coordinate tasks, and where practical, to allocate tasks to avoid unnecessary duplication of effort between us and any other counsel. Specifically, we have conferred with attorneys at GDC to arrange for appropriate division of responsibility and to minimize any duplication of effort.

If, as outlined below, court approval should not be available for all aspects of a potential chapter 11 case which you should wish us, and we should agree, to undertake, our representation would include as many of these aspects as may be approved.

## 3. Fee Structure and Retainer

Young Conaway customarily receives a reasonable retainer in matters of this nature. The retainer is designed to assure the Company's continued access to representation despite delays in obtaining authority to pay fees, the potential imposition of cash collateral requirements and other factors. Young Conaway requires payment of a retainer of \$125,000 (the "Retainer") in connection with this engagement at this time.

The prepetition Retainer funds will be held for the purpose of providing a Retainer for professional services to be rendered and expenses to be charged by us to the Company's account in connection with work performed prior to the commencement of a case under chapter 11 of the Bankruptcy Code filed by or against the Company in the District of Delaware. The Retainer will be held in an interest-bearing account for the benefit of the Interest on Lawyers Trust Accounts ("IOLTA")<sup>1</sup> Program established by the Delaware Supreme Court unless you elect to have the Retainer held in an interest bearing account for your benefit, in which case, interest will be credited to the escrow account monthly and will accumulate until the Retainer is applied to our invoices for services or until the balance of the Retainer is remitted to the Company at the conclusion of this matter. Enclosed is a tax reporting form, which must be completed, signed by an authorized representative of the Company and returned to us before our bank will open an interest-bearing escrow account for your benefit.

Young Conaway will send the Company periodic invoices for services rendered and charges and disbursements incurred. The invoices will reflect charges for services rendered

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<sup>1</sup> The IOLTA Program, administered by the Delaware Bar Foundation, provides funding to improve the administration of justice, to provide legal services to the poor, and for such other programs for the benefit of the public as are approved by the Court from time to time.

# YOUNG CONAWAY STARGATT & TAYLOR, LLP

Mr. Paul Street

April 9, 2009

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calculated on the basis of our guideline hourly rates. Invoices shall be payable upon receipt, provided, however, that in the event of a bankruptcy case, payment may be made only upon court approval.

## 4. Pre-Petition and Post-Petition Services

Some fees, charges and disbursements incurred before the filing of a bankruptcy petition (voluntary or involuntary) may remain unpaid as of the date of a bankruptcy filing. Immediately prior to the filing, Young Conaway will prepare an estimated invoice for fees and expenses incurred and deduct such amount from the Retainer which will constitute payment in full of any pre-petition balance. After the filing of the chapter 11 case, the remaining Retainer, together with any additional prepetition retainer paid in anticipation of the filing (the "Post-Petition Retainer"), will be held as security for the payment of post-petition fees and expenses in accordance with Bankruptcy Rule 2016 or other applicable laws and rules. Post-petition fees and expenses are to be paid by the Company as and when approved by the Court and are not intended to be setoff against the Post-Petition Retainer until the conclusion of the case.

## 5. Fees, Charges and Disbursements

Young Conaway's monthly invoices will reflect charges for services rendered, calculated on the basis of our guideline hourly rates. For attorney services, these rates range from \$240 to \$800 per hour. My standard rate is currently \$440 per hour. The guideline hourly rate charged for paralegals is \$145 to \$225 per hour. Our guideline hourly rates are adjusted periodically to reflect the advancing experience, capabilities and seniority of our professionals as well as general economic factors.

Our invoices also will include amounts for charges and disbursements. Such charges and disbursements will include, among others things, charges for messenger services, air couriers, document preparation services, secretarial overtime, photocopying, court fees, travel expenses, working meals, postage, materials for large mailings, telephone and facsimile charges, computerized legal research facilities, computerized document inventory and control, investigative searches, and other charges customarily invoiced by law firms in addition to fees for legal services. (In the event extraordinary or significant expenses are incurred, such as transcript costs and large mailings, the Company agrees that it will pay those expenses directly or will promptly reimburse us separately from our normal invoice procedure.)

If (a) our retention as bankruptcy or other counsel to the Company is not approved or authorized by the court, (b) it is decided that such approval ought not to be sought or (c) the Company's restructuring efforts are successfully completed, the Retainer will be refunded to the Company after deducting all unpaid pre- and post-petition fees, charges and disbursements due to Young Conaway by the Company.

# YOUNG CONAWAY STARGATT & TAYLOR, LLP

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## 6. Confidentiality and Conflicts

While confidential communications between a client and counsel are privileged, the filing of a bankruptcy case may severely impact this attorney-client privilege. Specifically, if a trustee is appointed in any bankruptcy case concerning a corporate debtor, the trustee will be able to obtain from us (or any other counsel to the corporation) and disclose to others information communicated by the corporation to counsel.

Our firm represents many other companies and individuals. Thus, it is possible that during the time we represent you, some of our present or future clients may have disputes or interests adverse to you. Accordingly, this letter will confirm your agreement that we may continue to represent or may undertake in the future to represent existing or new clients in any matter that is not substantially related to our work for you in this matter, even if the interests of such clients in those other matters are directly adverse to you and even if such representation includes litigation against you, provided that we reasonably believe that we will be able to provide competent and diligent representation to you and the other affected clients. We will not represent any party adverse to you with respect to the matters for which you engage us to represent you pursuant to this engagement letter.

Please be assured that, despite any such concurrent representation, we strictly preserve all client confidences and zealously pursue the interests of each of our clients, including in those circumstances in which we represent the adversary of an existing client in an unrelated case. The Company agrees that it does not consider such concurrent representation, in unrelated matters, of the Company and any adversary to be inappropriate and, therefore, waives any objections to any such present or future concurrent representation. Of course, with respect to any particular matter that may arise in connection with any chapter 11 case that may be commenced, we understand that the Company will evaluate all of the circumstances extant at that time and will coordinate assignments among Young Conaway and other counsel to best serve and benefit the Company.

Young Conaway does not typically provide opinion letters in connection with restructuring and bankruptcy reorganization cases to its clients or to others who might wish to rely on such letters. We do not alter this policy except under very unusual circumstances and then, only upon further written agreement, as approved by a special committee of Young Conaway, which must provide for compensation to us for the special risks attendant to the furnishing of such opinions.

Young Conaway is being engaged by the Company as a corporation. Our employment does not, and cannot, include the representation of any individual officer, director, shareholder or employee; we encourage each to consult independent counsel.

## 7. Choice of Law/Venue

In the unlikely event that a dispute arises concerning the engagement provided herein, the Company and Young Conaway agree that this agreement shall be construed and

YOUNG CONAWAY STARGATT & TAYLOR, LLP

Mr. Paul Street

April 9, 2009

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enforced in accordance with, and governed by, the laws of the State of Delaware, and that the courts of the State of Delaware shall have exclusive jurisdiction of all matters relating, in any way, to any disputes arising from this agreement.

8. Conclusion

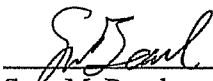
The Company agrees to make appropriate employees of the Company available to Young Conaway to assist in factual inquiries and factual determinations, court hearings and appearances, transactions and dealings relating to the subject matters with respect to which Young Conaway has been retained.

The Company may discharge Young Conaway at any time. Young Conaway may withdraw at any time with the Company's consent or for good cause without the Company's consent. Good cause includes the Company's breach of this agreement (including the Company's failure to pay any statement when due), the Company's refusal or failure to cooperate with us or any fact or circumstance that would render our continuing representation unlawful or unethical.

Other matters may arise in this representation not set forth in, or contemplated by, this letter. Indeed, given the magnitude of the representation, it would be unusual if this were not the case. Please feel free to contact us to clarify or identify any such matter that may arise in connection with our representation.

The foregoing sets forth the terms regarding Young Conaway's retention. There are no representations or promises other than as expressly set forth herein. If the foregoing terms of our representation meet with your approval, and accurately represent your understanding of the Company's Retainer agreement with Young Conaway, please execute this agreement and return it and the original executed W-9 Form to Young Conaway at your earliest convenience.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

By:   
Sean M. Beach

Enclosure - W-9 Form

cc: Michael A. Rosenthal, Esq.  
Matthew K. Kelsey, Esq.



YOUNG CONAWAY STARGATT & TAYLOR, LLP


Mr. Paul Street

April 9, 2009

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**Building Materials Holding Corporation  
for itself and its affiliates**

By:

  
\_\_\_\_\_

Its:

PAUL S. STREET

Sr. Vice President, Chief Administrative Officer

Date:

~~General Counsel and Corporate Secretary~~  
\_\_\_\_\_

**YOUNG CONAWAY STARGATT & TAYLOR, LLP**

Mr. Paul Street

April 9, 2009

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**Wiring Instructions**

Bank Name: Wilmington, Trust Company

Location: Wilmington, DE

Routing or ABA No. 031100092

FBO Account No. 2782-4358

Account Name: Young Conaway Stargatt & Taylor, LLP Escrow Account

Reference: BMHC-0596

**EXHIBIT C**

**Rule 2016 Statement**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING</b>	)	
<b>CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	
	)	
	)	

**STATEMENT UNDER RULE 2016 OF THE  
FEDERAL RULES OF BANKRUPTCY PROCEDURE  
AND SECTION 329 OF THE BANKRUPTCY CODE**

1. Young Conaway Stargatt & Taylor, LLP ("Young Conaway"), pursuant to Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Rule 2016-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), and section 329 of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), states that the undersigned is counsel for the above-captioned debtors and debtors in possession (collectively, the "Debtors") in these cases.

2. Compensation agreed to be paid by the Debtors to Young Conaway is to be for legal services rendered in connection with these bankruptcy cases. The Debtors have agreed to pay Young Conaway for the legal services rendered or to be rendered on the Debtors' behalf in connection with these cases by Young Conaway's various attorneys and paralegals.

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<sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

The Debtors have also agreed to reimburse Young Conaway for its actual and necessary expenses incurred in connection with these cases.

3. Young Conaway was retained by the Debtors pursuant to the terms of an engagement agreement dated April 9, 2009, a copy of which is attached as Exhibit B to the Application. Young Conaway received \$146,819 in connection with the planning and preparation of initial documents, anticipated filing fees related to the chapter 11 cases, and the Firm's proposed post-petition representation of the Debtors (the "Retainer"). In addition, the Firm received \$24,492.23 on or about June 15, 2009 to replenish the Retainer on account of fees and expenses incurred through May 31, 2009. After applying a portion of the Retainer to outstanding balances existing as of the Petition Date, including fees and expenses associated with the filing of these chapter 11 cases, Young Conaway continues to hold the Retainer in the amount of \$73,272.36. The remainder of the Retainer will be held as security for post-petition services and expenses.

4. Within the year prior to the Petition Date, Young Conaway has received no other payments or promises of payment from the Debtors on account of services rendered or to be rendered in contemplation of or in connection with these cases. The Retainer exceeded the amounts due to Young Conaway on account of its prepetition fees and expenses.

5. Young Conaway will seek approval of payment of compensation upon its filing of appropriate applications for allowance of interim or final compensation pursuant to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any applicable Orders of this Court.


6. The entire filing fees in these cases have been paid.

7. The services to be rendered include all those services set forth in the

Application for an Order Authorizing the Debtors to Retain and Employ Young Conaway  
Stargatt & Taylor, LLP as Attorneys for the Debtors *Nunc Pro Tunc* to the Petition Date.

8. Young Conaway further states that it has neither shared nor agreed to share (a) any compensation it has received or may receive with another party or person, other than with the partners, counsel and associates of Young Conaway, or (b) any compensation another person or party has received or may receive.

Dated: Wilmington, Delaware YOUNG CONAWAY STARGATT & TAYLOR, LLP  
June 26, 2009

  
\_\_\_\_\_  
Sean M. Beach (No. 4070)  
Donald J. Bowman, Jr. (No. 4383)  
Robert F. Poppiti, Jr. (No. 5052)  
The Brandywine Building  
1000 West Street, 17th Floor  
P.O. Box 391  
Wilmington, Delaware 19899-0391  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253

Proposed Attorneys for the Debtors and  
Debtors In Possession

**EXHIBIT D**

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING</b>	)	
<b>CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	<b>Ref. Docket No. _____</b>
	)	

**ORDER PURSUANT TO SECTION 327(a) OF THE BANKRUPTCY CODE AND  
BANKRUPTCY RULE 2014 AUTHORIZING THE DEBTORS TO RETAIN AND  
EMPLOY YOUNG CONAWAY STARGATT & TAYLOR, LLP AS ATTORNEYS  
FOR THE DEBTORS *NUNC PRO TUNC* TO THE PETITION DATE**

Upon consideration of the application (the "Application")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), for entry of an order pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014-1 authorizing the Debtors to retain and employ the law firm of Young Conaway Stargatt & Taylor, LLP ("Young Conaway") as their bankruptcy co-counsel; and upon the Beach Affidavit in support thereof; and the Court being satisfied based on the representations made in the Application and Beach Affidavit that said attorneys represent no interest adverse to the Debtors' estates with respect to the matters upon which they are to be engaged, that they are disinterested persons as that term is defined under section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and that their employment is necessary and is in the

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<sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Application.



best interests of the Debtors' estates; and it appearing that proper and adequate notice of the Application has been given and that no other or further notice is necessary; and after due deliberation and sufficient cause appearing therefor, it is hereby:

ORDERED that the Application is granted; and it is further

ORDERED that, in accordance with section 327(a) of the Bankruptcy Code, the Debtors, as debtors and debtors in possession, are hereby authorized to retain and employ the firm of Young Conaway as their bankruptcy co-counsel on the terms set forth in the Application and the Beach Affidavit, effective as of the Petition Date; and it is further

ORDERED that Young Conaway shall be entitled to allowance of compensation and reimbursement of expenses, upon the filing and approval of interim and final applications pursuant to the Bankruptcy Code, Bankruptcy Rules, Local Rules and such other orders as the Court may direct; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation and enforcement of this Order.

Dated: Wilmington, Delaware  
July \_\_\_\_, 2009

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Kevin J. Carey  
Chief United States Bankruptcy Judge