

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

In re:

BUILDING MATERIALS HOLDING  
CORPORATION, *et al.*<sup>1</sup>

Reorganized Debtors.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

Objection Deadline: January 18, 2011 at 4:00 p.m. (ET)

**NOTICE OF STIPULATION RESOLVING THE REQUEST OF  
D.R. HORTON, INC. FOR RELIEF FROM THE PLAN INJUNCTION**

**PLEASE TAKE NOTICE** that, on June 16, 2009 (the “Petition Date”), the above-captioned debtors and debtors in possession (collectively, the “Debtors”), now the Reorganized Debtors under the Plan (as defined below), filed voluntary petitions for relief under title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”).

**PLEASE TAKE FURTHER NOTICE** that, on December 17, 2009, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered the *Order Confirming Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended December 14, 2009 (With Technical Modifications)* [Docket No. 1182] (the “Confirmation Order”) confirming the Debtors’ joint plan of reorganization (as may be amended or supplemented from time to time, the “Plan”). The Plan became effective on January 4, 2010 (the “Effective Date”).

**PLEASE TAKE FURTHER NOTICE** that from the Petition Date until the Effective Date, the automatic stay imposed by section 362 of the Bankruptcy Code prohibited

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<sup>1</sup> The Reorganized Debtors, along with the last four digits of each Reorganized 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 Reorganized Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims, and from and after the Effective Date, the injunction imposed by the Plan and the Confirmation Order (the “Plan Injunction”) prevents persons or entities from bringing or continuing any actions against the Reorganized Debtors on account of prepetition claims.

**PLEASE TAKE FURTHER NOTICE** that, on November 19, 2009, the Court entered the *Order, Pursuant to Sections 105 and 362 of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing the Debtors to Implement Omnibus Procedures for Modifying the Automatic Stay as It Relates to Certain Prepetition Litigation* [Docket No. 956] (the “Procedures Order”), pursuant to which the Debtors were authorized to adopt and implement the Automatic Stay Relief Procedures (as defined in the Procedures Order).

**PLEASE TAKE FURTHER NOTICE** that, in accordance with the Procedures Order, the Debtors hereby give notice of entry into the *Stipulation Resolving the Request of D.R. Horton, Inc. for Relief from the Plan Injunction* (the “Stipulation”),<sup>2</sup> a copy of which is attached hereto as Exhibit A. Pursuant to the Stipulation, as set forth more fully therein, the Parties have agreed to relief from the Plan Injunction in favor of D.R. Horton, Inc. (the “Claimant”) for the sole purpose of allowing the Claimant to proceed with (i) that certain action currently identified as *Vintage Creek Homeowners’ Association vs. D.R. Horton, Inc.*, Washington Circuit Court Case No. 0107175CV, and (ii) a statutory claim filed under ORS 700.565 and currently referred to as *Hacker v. D.R. Horton, Inc.*, to enforce any settlement or judgment in Claimant’s favor from the available liability insurance proceeds of the Policies.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Procedures Order, Notice Parties (as defined in the Procedures Order) are required to file objections to the

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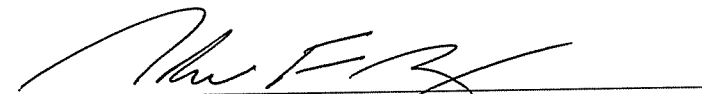
<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Stipulation.

Stipulation with the Court and serve the same on the Debtors' undersigned counsel within fifteen (15) days of service of this notice. In accordance with the Procedures Order, any unresolved objections shall be heard before the Honorable Kevin J. Carey at the United States Bankruptcy Court for the District of Delaware, 824 North 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 ENTER AN ORDER GRANTING THE RELIEF REQUESTED HEREIN WITHOUT FURTHER NOTICE OR A HEARING.**

Dated: Wilmington, Delaware  
January 3, 2011

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  
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ATTORNEYS FOR REORGANIZED DEBTORS

**EXHIBIT A**

Stipulation

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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

STIPULATION RESOLVING THE REQUEST OF D.R. HORTON, INC.  
FOR RELIEF FROM THE PLAN INJUNCTION

D.R. Horton, Inc. ("*Claimant*") and Building Materials Holding Corporation and its affiliates, the reorganized debtors in the above-referenced cases (collectively, the "*Debtors*," and together with the Claimant, the "*Parties*") hereby respectfully stipulate and agree as follows:

RECITALS

WHEREAS, on June 16, 2009 (the "*Petition Date*"), each of the Debtors filed with the United States Bankruptcy Court for the District of Delaware (the "*Court*") voluntary petitions for relief under title 11 of the United States Code (the "*Bankruptcy Code*"). The Debtors' cases are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure;

WHEREAS, on August 27, 2009, the Claimant filed Proof of Claim Number 2457 (the "*Claim*") covering several lawsuits and claims involving homes sold by Claimant in the Portland, Oregon market for which Debtor's Portland, Oregon installed framing services group provided materials and subcontracted framing labor;

<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.

WHEREAS, on December 17, 2009, the Court entered an *Order Confirming Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended December 14, 2009 (With Technical Modifications)* [Docket No. 1182] (the "*Confirmation Order*") confirming the Debtors' joint plan of reorganization (the "*Plan*"). On January 4, 2010 (the "*Effective Date*"), the Debtors' Plan became effective;

WHEREAS, from the Petition Date until the Effective Date, the automatic stay imposed by 11 U.S.C. § 362 generally prevented persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims, and from and after the Effective Date the injunction imposed by the Plan and Confirmation Order (the "*Plan Injunction*") generally prevents persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims

WHEREAS Claimant has requested that Debtor agree to lift the Plan Injunction to allow Claimant to proceed to recover certain insurance proceeds that may be recoverable by Claimant in connection with (i) a lawsuit entitled Vintage Creek Homeowners' Association vs D.R. Horton, Inc. pending in Washington Circuit Court Case No. 0107175CV and (ii) a statutory claim filed under ORS 700.565 referred to as Hacker vs D.R. Horton, Inc. (collectively the "Actions").

WHEREAS, the Claimant asserts it is entitled to recover from either or both of the following insurance policies issued to the Debtors by the listed insurance companies (the "*Insurers*"): Royal Insurance Company Policy No. P2TV463132-002 (11-11-02 to 11-11-03) and National Union Fire Insurance Company GL4806023 11-11-2003-11-11-2004) (the "*Policies*");

WHEREAS, the Debtors are willing to stipulate to relief from the Plan Injunction in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the

specified Actions and to enforce any settlement or judgment in Claimant's favor from the available liability insurance proceeds of the Policies.

NOW THEREFORE, subject to the approval of the Court, in order to avoid the costs, risks and inconveniences of litigation, it is hereby stipulated and agreed as follows:

1. The Parties hereby acknowledge and agree to relief from the Plan Injunction (and the automatic stay, to the extent applicable) being granted in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the specified Actions and to enforce any settlement or judgment in Claimant's favor from the available liability insurance proceeds of the Policies.

2. The Claimant acknowledges and agrees that the Debtors are making no representations concerning the availability of insurance under the Policies and that the Insurers have all available defenses under the Policies, including with respect to defenses, if any, that arise as the result of the Debtors entering into this stipulation with the Claimant. The Claimant further acknowledges and agrees that the Debtors retain all defenses they may have with respect to the Actions.

3. The Parties hereby acknowledge and agree that this Stipulation shall fully and finally resolve, and the Claimant waives and releases, any direct, pre-petition, post-petition, administrative, or other claim against the Debtors of any kind or nature, arising out of or related to the specified Actions, provided, however, the Claimant shall retain a claim to the extent necessary to obtain insurance proceeds from the Policies.

4. The Parties hereby acknowledge and agree that this Stipulation is entered into solely for the convenience of the Parties and neither this Stipulation nor the fact of its execution will constitute any admission or acknowledgment or liability or wrongdoing on the part of any of the Parties. The Parties will not offer this Stipulation or the fact of its execution

into evidence in any proceeding other than a proceeding to approve or enforce this Stipulation or any of its terms.

5. Each party shall bear its own attorneys' fees and costs with respect to the execution and delivery of this Stipulation. Each of the undersigned are duly authorized and empowered to execute this Stipulation.

6. This Stipulation is governed by and shall be construed in accordance with the law of the State of Delaware, without regard to its conflict of laws provisions. The Court shall retain exclusive jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation.

7. All of the recitals set forth above are incorporated by reference as if fully set forth herein. This Stipulation constitutes the complete express agreement of the Parties hereto concerning the subject matter hereof, and no modification or amendment to this Stipulation shall be valid unless it is in writing, signed by the Party or Parties to be charged and approved by the Court.

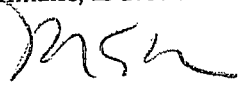

8. It is acknowledged that each Party has participated in and jointly consented to the drafting of this Stipulation and that any claimed ambiguity shall not be construed for or against either Party on account of such drafting.

9. This Stipulation may be executed in counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10. This Stipulation is subject to approval of the Court, and the Parties agree to present the Stipulation promptly to the Court for approval. If the Court does not approve this Stipulation, the Parties will revert to their pre-Stipulation positions, without any prejudice whatsoever from having entered into this Stipulation.



11. This Stipulation shall become effective immediately upon entry of an order approving the Stipulation.

<p>For Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession</p> <p></p> <hr/> <p>Maureen E. Thomas, Esq. 982 Coledale Ct. White Lake, MI 48386</p> <p>Dated: <u>12-29-10</u></p>	<p>For D.R. Horton Inc.</p> <p></p> <hr/> <p>William R. Joseph, Esq. Dunn Carney Allen Higgins &amp; Tongue LLP 851 SW 6th, Ste. 1500 Portland, OR 97204</p> <p>Dated: <u>12/29/10</u></p>
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

BUILDING MATERIALS HOLDING  
CORPORATION, *et al.*,<sup>1</sup>

Reorganized Debtors.

Chapter 11

Case No. 09-12074 (KJC)

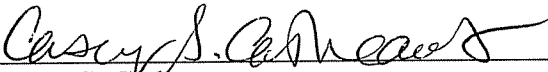
Jointly Administered

AFFIDAVIT OF SERVICE

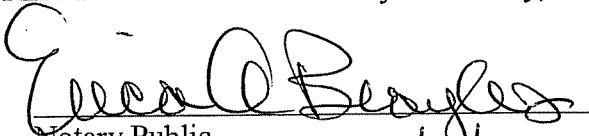
STATE OF DELAWARE     )  
  ) SS  
NEW CASTLE COUNTY    )

Casey S. Cathcart, being duly sworn according to law, deposes and says that she is employed by the law firm of Young Conaway Stargatt & Taylor, LLP, co-counsel to the Reorganized Debtors, and that on January 3, 2011, she caused a copy of the **Notice of Stipulation Resolving Request of D.R. Horton, Inc. for Relief From the Plan Injunction** to be served as indicated upon the parties identified on the attached service list and via First Class Mail upon the following party:

William R. Joseph, Esq.  
Dunn Carney Allen Higgins & Tongue LLP  
851 SW 6th Avenue, Suite 1500  
Portland, OR 97204  
(Counsel to D.R. Horton, Inc.)

  
Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 3rd day of January, 2011.

  
Notary Public  
My Commission Expires: 9/6/2013

**ERICA A. BROYLES**  
**NOTARY PUBLIC**  
**STATE OF DELAWARE**  
**My commission expires Sept. 6, 2013**

<sup>1</sup> The Reorganized Debtors, along with the last four digits of each Reorganized 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 Reorganized Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

**BUILDING MATERIALS HOLDING CORPORATION**  
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**BUILDING MATERIALS HOLDING CORPORATION**  
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**BUILDING MATERIALS HOLDING CORPORATION**  
**2002 SERVICE LIST**  
**1/3/2011**

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