

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

In re:

BUILDING MATERIALS HOLDING  
CORPORATION,<sup>1</sup>

Reorganized Debtor.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

**Objection Deadline: November 9, 2011 at 4:00 p.m. (ET)**

**NOTICE OF STIPULATION RESOLVING THE REQUEST OF DAVIDSON  
COMMUNITIES LLC et al. FOR RELIEF FROM THE PLAN INJUNCTION (Sze)**

PLEASE TAKE NOTICE that, on June 16, 2009 (the "Petition Date"), the above-captioned reorganized debtor (the "Reorganized Debtor") filed a voluntary petition for relief under title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code").<sup>2</sup>

PLEASE TAKE FURTHER NOTICE that, on December 17, 2009, the United States Bankruptcy Court for the District of Delaware (the "Court") entered that certain 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"), thereby confirming the joint plan of reorganization (as may be amended or supplemented from time to time, the "Plan") for the Debtors. The Plan became effective on January 4, 2010 (the "Effective Date").

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<sup>1</sup> The Reorganized Debtor in this proceeding, along with the last four digits of its tax identification number, is as follows: Building Materials Holding Corporation (4269), with a mailing address of 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

<sup>2</sup> On the Petition Date, the following affiliates of the Reorganized Debtor also filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code: BMC West Corporation; SelectBuild Construction, Inc.; SelectBuild Northern California, Inc.; Illinois Framing, Inc.; C Construction, Inc.; TWF Construction, Inc.; H.N.R. Framing Systems, Inc.; SelectBuild Southern California, Inc.; SelectBuild Nevada, Inc.; SelectBuild Arizona, LLC; and SelectBuild Illinois (collectively, the "Subsidiary Debtors," and, prior to the Effective Date, together with the Reorganized Debtor, the "Debtors"). On June 28, 2011, the Court entered that certain Final Decree Closing Subsidiary Cases and Amending Caption of Remaining Case [Docket No. 1896], thereby closing the chapter 11 cases of the Subsidiary Debtors and ordering that all motions, contested matters, and adversary proceedings that remained open as of the date thereof, or that are opened thereafter, with respect to the Reorganized Debtor and the Subsidiary Debtors shall be administered under the Reorganized Debtor's chapter 11 case.

**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 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 Debtor and the Subsidiary Debtors on account of prepetition claims.

**PLEASE TAKE FURTHER NOTICE** that on November 19, 2009, the Court entered that certain 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 Reorganized Debtor hereby gives notice of its entry into that certain Stipulation Resolving the Request of Davidson Communities LLC, et al. for Relief from the Plan Injunction (Sze) (the “Stipulation”),<sup>3</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 automatic stay and the Plan Injunction being granted in favor of Davidson Communities, LLC, Davidson Builders, Inc. and Davidson-Rancho Bernardo, LP (collectively, the “Claimant”) for the sole purpose of allowing the Claimant to proceed with a certain State Court action in California, identified as *Sze vs. Davidson Communities, LLC et al.*, in the San Diego Superior Court, Case Number 37-2011-

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<sup>3</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Stipulation. To the extent there is any inconsistency between the summary provided herein and the actual terms and conditions of the Stipulation, the latter shall control.

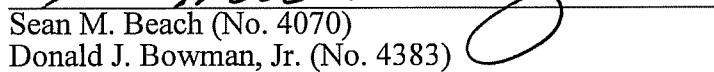
00090673-CU-CD-CTL, to recover applicable insurance proceeds from the Policy, with certain conditions as provided in the Stipulation to protect the Debtors from administrative expense, given the uncertainty surrounding the provisions of the Policy.

**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 Stipulation with the Court and serve the same on the Reorganized Debtor's 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  
October 25, 2011

YOUNG CONAWAY STARGATT & TAYLOR, LLP

  
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ATTORNEYS FOR REORGANIZED DEBTOR

**EXHIBIT A**

Stipulation

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

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

**STIPULATION RESOLVING THE REQUEST OF DAVIDSON COMMUNITIES LLC,  
et al. FOR RELIEF FROM THE PLAN INJUNCTION (Sze)**

Davidson Communities, LLC, Davidson Builders, Inc. and Davidson-Rancho Bernardo, LP (collectively "*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;

<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 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") prevents persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims;

WHEREAS, on October 6, 2011, the Claimant requested that Debtor stipulate to lift the Automatic Stay and Plan Injunction to allow Claimant to proceed against certain insurance proceeds which may be recoverable by the Claimant as a result of that certain State Court action in California identified as *Sze vs. Davidson Communities, LLC et al.*, San Diego County Superior Court, Case Number 37-2011-00090673-CU-CD-CTL (the "*Action*");

WHEREAS, the Claimant asserts it is entitled to recover from the following insurance policy, with respect to the claims alleged in the Action: Steadfast Insurance Company (the "*Insurer*"), Policy Number SCO 3837371-00; Policy Term: January 23, 2002 to January 23, 2003 (the "*Policy*");

WHEREAS, the Debtors are willing to stipulate to relief from the automatic stay and Plan Injunction in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Action to recover applicable insurance proceeds from the Policy, with certain

conditions as provided below to protect the Debtor from administrative expense, given the uncertainty surrounding the provisions of the Policy;

WHEREAS, the Insurer has confirmed in writing to Debtors and Claimants that the applicable self insured retention of the Policy has been satisfied in full.

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 automatic stay and Plan Injunction being granted in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Action to recover applicable insurance proceeds from the Policy.

2. 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 and all of the Debtor's other insurers, of any kind or nature; arising out of or related to the Action; provided however, that the Claimant shall retain a claim to the extent necessary to obtain insurance proceeds from the Policy.

3. The Claimant acknowledges and agrees that the Debtors are making no representations concerning the availability of insurance under the Policy and that the Insurer has all available defenses under the Policy, 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 Action.

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 DEBTORS</p> <p><i>ME Thomas</i></p> <hr/> <p>Mauréen E. Thomas, Esq. Building Materials Holding Corporation 9832 Coledale Court White Lake, MI 48386 Telephone: 248-698-0965</p> <p>Dated: <u>10-25-2011</u></p>	<p>For CLAIMANTS</p> <p><i>Todd Verbick</i></p> <hr/> <p>Todd Verbick, Esq. Davidson Communities, LLC, Davidson Builders, Inc. and Davidson-Rancho Bernardo, LP Lorber, Greenfield &amp; Polito, LLP 13985 Stowe Drive Poway, CA 92064 Telephone: 858-513-1020</p> <p>Dated: <u>OCTOBER 19, 2011</u></p>
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

BUILDING MATERIALS  
HOLDING CORPORATION,<sup>1</sup>

Reorganized Debtor.

Chapter 11

Case No. 09-12074 (KJC)

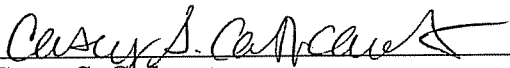
Jointly Administered

AFFIDAVIT OF SERVICE

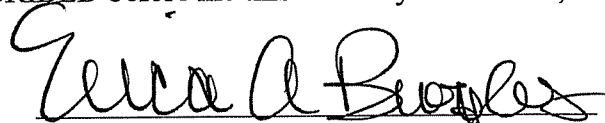
STATE OF DELAWARE    )  
                                  ) SS  
NEW CASTLE COUNTY    )

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 Debtor, and that on October 25, 2011, she caused a copy of the **Notice of Stipulation Resolving the Request of Davidson Communities LLC, et al. for Relief From the Plan Injunction (Sze)** to be served as indicated upon the parties identified on the attached service list and the following party:

Todd E. Verbick, Esq.  
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Davidson-Rancho Bernardo, LP)  
*First Class Mail*

  
Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 25th day of October, 2011.

  
Notary Public

ERICA A. BROYLES My Commission Expires: 9/6/2013  
NOTARY PUBLIC  
STATE OF DELAWARE

My commission expires Sept. 6, 2013

<sup>1</sup> The last four digits of the Reorganized Debtor's tax identification number are 4269. The Reorganized Debtor's mailing address 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**  
**10/25/2011**

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**BUILDING MATERIALS HOLDING CORPORATION**  
**2002 SERVICE LIST**  
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**BUILDING MATERIALS HOLDING CORPORATION**  
**2002 SERVICE LIST**  
**10/25/2011**

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Secretary of Treasury  
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Securities & Exchange Commission  
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