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**PROPOSED COUNSEL FOR DEBTORS AND  
DEBTORS IN POSSESSION**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>In re:</b>	§	<b>Chapter 11 Cases</b>
	§	
<b>R.E. LOANS, LLC,</b>	§	<b>Case No. 11-35865-BJH</b>
<b>R.E. FUTURE, LLC,</b>	§	
<b>CAPITAL SALVAGE, a California</b>	§	<b>Jointly Administered</b>
<b>Corporation</b>	§	
	§	
<b>Debtors.</b>	§	

**DECLARATION OF W. FARLEY DAKAN  
IN SUPPORT OF EMERGENCY MOTION FOR ORDER AUTHORIZING DEBTORS  
TO CONSUMMATE CONTRACT OF SALE AND ESCROW AGREEMENT WITH  
FORESTAR (USA) REAL ESTATE GROUP**

**DECLARATION OF W. FARLEY DAKAN IN SUPPORT OF EMERGENCY MOTION FOR ORDER  
AUTHORIZING DEBTORS TO CONSUMMATE CONTRACT OF SALE AND ESCROW AGREEMENT  
WITH FORESTAR (USA) REAL ESTATE GROUP - PAGE - 1**

I, W. Farley Dakan, declare as follows:

1. I am over 18 years of age and if called upon I would competently testify to the matters set forth herein from my own personal knowledge or from knowledge gathered from my review of relevant documents, or my opinion based upon my experience.

2. During January of 2010, R.E. Loans, LLC, a California limited liability company ("**R.E. Loans**"), engaged Mackinac Partners ("**Mackinac**"), of which I am a managing director, to provide consulting services. On April 10, 2010, R.E. Loans formally engaged Mackinac to serve as Chief Restructuring Officer.

3. James A. Weissenborn assumed primary responsibility as the Chief Restructuring Officer ("**CRO**") since that date. Mackinac's authority to act on behalf of R.E. Loans and its wholly owned subsidiaries, Capital Salvage, a California corporation ("**Capital Salvage**"), and R.E. Future, LLC, a California limited liability company ("**R.E. Future**") (with R.E. Loans and Capital Salvage, the "**Debtors**") was expanded as of September 13, 2011 (the "**Petition Date**"), and Mr. Weissenborn's expanded role was approved on an interim basis by the Bankruptcy Court.<sup>1</sup>

4. Since January of 2010, I have provided numerous services to the Debtors. Among other things, I have assisted in the management of the Debtors' real estate portfolio, handled general and administrative matters relating to the Debtors' businesses, and assisted in the overall restructuring of the Debtors. Based upon my personal knowledge of the Debtors, their business operations, history, industry, and books and records, and based upon information contained in the Debtors' books and records, I am qualified to give this declaration on behalf of the Debtors.

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<sup>1</sup> See *Interim Order Authorizing Employment of Mackinac Partners and James Weissenborn on an Interim Basis From the Petition Date to Provide Interim Management Assistance to Debtors Pursuant to 11 U.S.C. §363* [Doc. No. 52].

5. Some of the information presented below is based upon my review of data regularly compiled by the Debtors in the ordinary course of their business prior to my involvement.

6. I submit this declaration in support of the *Emergency Motion for Order Authorizing Debtors to Consummate Contract of Sale and Escrow Agreement with Forestar (USA) Real Estate Group* (the "**Motion**").

**A. The Harris County Property**

7. On or around January 14, 2008, R.E. Loans made one or more loans in the aggregate principal amount of \$23,000,000 (the "**BMC Debt**") to Bravo Marshall Communities, L.P., a Texas limited partnership ("**BMC**"). The BMC Debt was evidenced by a note payable by BMC to R.E. Loans (the "**BMC Note**"), secured by a deed of trust (the "**Deed of Trust**"), security agreement, and assignment of leases and rents, executed by BMC in favor of R.E. Loans. The repayment of the BMC Note was secured by certain real and personal property located in Harris County, Texas (the "**Property**"). Capital Salvage acquired a second note executed by BMC and secured by a second-priority deed of trust on the Property (the "**Second Deed of Trust**").

8. In connection with the Deed of Trust, on January 14, 2008, BMC also executed a Collateral Assignment of Utility Agreement Rights (the "**Utility Assignment**") in favor of R.E. Loans. Pursuant to the Utility Assignment, BMC assigned to R.E. Loans certain tax increment reinvestment zone rights (the "**TIRZ Reimbursements**") relating to the Property. A true and correct copy of the Utility Assignment is attached to the Motion as **Exhibit "B"**.

**B. BMC's Bankruptcy**

9. On September 19, 2008, BMC filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Houston Bankruptcy Court**"), Case No. 08-36044-H3-7 (the "**Chapter 7 Case**").

10. Notwithstanding the fact that R.E. Loans had an assignment of the TIRZ Reimbursements pursuant to the Utility Assignment, BMC stated in its Schedules of assets and liabilities (the "**Schedules**") that it owned such TIRZ Reimbursements. R.E. Loans and Capital Salvage disputed the assertions in BMC's Schedules, but no immediate action was taken to amend BMC's Schedules.

11. On February 11, 2009, the Houston Bankruptcy Court entered an order abandoning BMC's interests in the Property (the "**Abandonment Order**"). The TIRZ Reimbursements were not included as part of property abandoned within such Abandonment Order.

12. After the Abandonment Order was entered, Capital Salvage foreclosed on the Second Deed of Trust, and credit bid at the foreclosure sale. As a result, Capital Salvage acquired title to the Property, subject to R.E. Loans' first-lien deed of trust, which had been pledged to Wells Fargo. Based on the foregoing, Capital Salvage acquired title to the Property, subject to the first-lien deed of trust in favor of R.E. Loans and securing the BMC Note payable to R.E. Loans in the amount of approximately \$23 million.

**C. Agreement to Sell Property To Forestar**

13. On or around July 11, 2011, Capital Salvage and Forestar (USA) Real Estate Group, Inc. ("**Forestar**") entered into the "Contract of Sale and Escrow Agreement with Forestar (USA) Real Estate Group" (the "**Forestar Contract**"), whereby Capital Salvage agreed to sell and transfer the Property and the TIRZ Reimbursements to Forestar. The Forestar Contract was amended on August 29, 2011, August 31, 2011, and September 6, 2011. A true and correct copy of the Forestar Contract and amendments are attached to the Motion as **Exhibit "A."**

**D. Separation Of The TIRZ Reimbursements From The Sale Of The Property**

14. Because BMC had asserted in its Schedules that it owned the TIRZ Reimbursements relating to the Property, notwithstanding the prior transfer of such rights to R.E.

Loans, there was an issue regarding whether R.E. Loans or Capital Salvage could transfer clean title to the TIRZ Reimbursements to Forestar.

15. Employees of Mackinac under my supervision contacted BMC's chapter 7 trustee (the "**Chapter 7 Trustee**") to discuss BMC's assertion of rights to the TIRZ Reimbursements.

16. The Chapter 7 Trustee agreed that BMC had improperly included the TIRZ Reimbursements in its Schedules, and he committed to file a motion to abandon the estate's interests in the TIRZ Reimbursements (the "**TIRZ Abandonment Motion**"). A hearing to consider the TIRZ Abandonment Motion is currently set for September 20, 2011.

17. However, R.E. Loans, Capital Salvage and Forestar wished to close the sale of the Property when it was scheduled to close, which was before the hearing on the TIRZ Abandonment Motion. Accordingly, to resolve issues relating to the TIRZ Reimbursements, R.E. Loans, Capital Salvage, Forestar, and Stewart Title-Kingwood, as escrow agent ("**Stewart Title**"), entered into an Escrow Agreement (the "**Escrow Agreement**"), which was consented to by Wells Fargo (the first-priority lienholder on the net cash proceeds from the sale). A true and correct copy of the Escrow Agreement is attached to the Motion as **Exhibit "C."**

**D. Closing Of Sale (Not Including TIRZ Reimbursements)**

18. On or around September 6, 2011, Capital Salvage conveyed the Property to Forestar pursuant to the Forestar Contract. R.E. Loans (through Capital Salvage) received approximately \$4.9 million of the net proceeds generated by the sale (after payment of property taxes, brokerage fees and other closing costs). These collateral proceeds were delivered to Wells Fargo and applied against R.E. Loans' prepetition obligations to Wells Fargo.

19. Additionally, pursuant to the Escrow Agreement, Forestar delivered \$2,000,000 to Stewart Title. As of the Petition Date, the \$2,000,000 Deposit remained with Stewart Title in an escrow account, pending the determination of the TIRZ Abandonment Motion.

**E. Best Interests Of Debtors To Consummate Forestar Contract And Escrow Agreement**

20. It is in the best interests of the Debtors and their estates to take necessary action to consummate the Forestar Contract and Escrow Agreement and obtain the holdback. If the order approving the TIRZ Abandonment Motion is approved, the Debtors will be able to obtain \$2,000,000.

21. There is no possible downside to allowing the Debtors to consummate the Forestar Contract and Escrow Agreement. If this Court approves the Motion, the Debtors will incur minimal expenses and secure the opportunity to receive \$2,000,000. On the other hand, if the Court denies the Motion, the Debtors will be precluded from obtaining the Deposit, to no apparent benefit.

22. Prior to the Petition Date, the Debtors determined that it was preferable to transfer the TIRZ Reimbursements for \$2 million rather than attempt to maintain and monetize the TIRZ Reimbursements over time. The Debtors' ability to utilize the TIRZ Reimbursements would have been dependant on numerous contingencies, including (i) the construction of finished homes on the Property and the sale of such homes to end users and (ii) the possibility that the proceeds available under the TIRZ Reimbursements would be re-allocated for other projects in the public interest.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Austin, Texas, on September 19, 2011.

/s/ W. Farley Dakan  
W. Farley Dakan