

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

In re:

SilverRock Development Company, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11647 (MFW)
(Jointly Administered)
Re: Docket No. 246

**AMENDED FINAL ORDER (I) AUTHORIZING THE DEBTORS TO OBTAIN
POSTPETITION SECURED FINANCING, (II) GRANTING PRIMING LIENS
AND SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS,
AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”) dated December 12, 2024, of Debtors in the above-captioned chapter 11 cases (collectively, the “**Cases**”), pursuant to sections 105, 362, 363, and 364 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “**Bankruptcy Code**”), Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and the corresponding local rules of this District (the “**Local Rules**”), requesting entry of an Order authorizing the Debtors to, among other things:

(i) Obtain senior secured postpetition financing in an aggregate principal amount not to exceed \$11,000,000.00, secured by a deed of trust executed by the Debtors and recorded in the public record (the “**DIP Credit Facility**”²), pursuant to the terms and conditions of the Term Sheet, including the Memorandum of Understanding (collectively, the “**Term Sheet**”), the DIP Documents (as defined below), and this Order;

¹The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: SilverRock Development Company, LLC (5730), RGC PA 789, LLC (5996), SilverRock Lifestyle Residences, LLC (0721), SilverRock Lodging, LLC, (4493), SilverRock Luxury Residences, LLC (6598) and SilverRock Phase 1, LLC (2247). The location of the Debtors’ principal place of business and the Debtors’ mailing address is 343 Fourth Avenue, San Diego, CA 92101.

² The DIP Credit Facility amount includes and rolls up the \$2,690,965 previously loaned by DIP Lender to Debtors post-petition on an interim basis (the “**Interim DIP Credit Facility**”).

(ii) Enter into (a) the executed Term Sheet, substantially in the form attached as **Exhibit 1** hereto, by and among the Debtors and the City of La Quinta (the “**DIP Lender**”) and (b) the documents necessary and appropriate pursuant to the Term Sheet and the DIP Credit Facility (the “**DIP Documents**”)

(iii) Borrow, pursuant to the DIP Documents and the Order (as defined below), postpetition financing in an aggregate principal amount of up to \$11,000,000.00;

(iv) Execute and deliver the Term Sheet and the other DIP Documents to the DIP Lender;

(v) Grant to the DIP Lender the DIP Liens (as defined below) on all of the DIP Collateral (as defined below), senior to any and all liens on the DIP Collateral to secure the DIP Credit Facility and all obligations owing and outstanding thereunder and under the DIP Documents, as applicable, and this Order, as applicable (collectively, the “**DIP Obligations**”);

(vi) Grant to the DIP Lender allowed superpriority administrative expense claims in the Cases for the DIP Credit Facility and all DIP Obligations; and

(vii) Use the proceeds of the DIP Credit Facility in accordance with the Term Sheet and the Budget, a copy of which Budget is attached hereto as **Exhibit 2**; and

(viii) Grant such other and further relief as this Court deems necessary and just.

The Court having considered the Motion, the Declaration of Debtors’ Chief Restructuring Officer Douglas Wilson (“**CRO**”) in Support of the Motion (the “**Wilson Declaration**”), the Declaration of Debtors’ sole Independent Manager Christopher S. Sontchi in Support of the Motion (the “**Sontchi Declaration**”), the exhibits attached thereto, the Term Sheet, the Budget, and the evidence submitted or adduced and the arguments of counsel made at the hearing on this Motion; and notice of the Motion and the hearing on the Motion having been given in accordance with

Bankruptcy Rules 4001 and 9014; held and concluded; and it appearing that granting the relief requested in the Motion is fair and reasonable and in the best interests of the Debtors, their estates and their creditors, and is essential for the preservation of the value of the Debtors' property; and all objections, if any, to the entry of this Order having been withdrawn, resolved or overruled by the Court; and after due deliberation and consideration, and good and sufficient cause appearing therefor:

I. IT IS FOUND AND CONCLUDED³:

A. **Petition Date.** On August 5, 2024 (the "**Petition Date**"), the Debtors filed voluntary petitions under chapter 11 of the Bankruptcy Code with this Court.

B. **Jurisdiction and Venue.** This Court has jurisdiction over these proceedings, pursuant to 28 U.S.C. §§ 157(b) and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, and over the persons and property affected hereby. Venue for the Chapter 11 Case and proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). This Court may enter a final order consistent with Article III of the United States Constitution.

C. **Notice.** Notice of the hearing on the Motion and the relief requested therein has been served by the Debtors pursuant to Bankruptcy Rules 2002 and 4001(b), (c), and (D) and in accordance with the Local Rules on (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors' thirty (30) largest unsecured creditors (excluding insiders); (iii) counsel to the DIP Lender; (iv) all known holders of liens upon the DIP

³ The findings and conclusions set forth herein constitute the court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Collateral; and (v) all parties that have filed notices of appearance pursuant to Bankruptcy Rule 2002. The notice constitutes good and sufficient notice of the relief requested herein, and no further notice of the relief granted by this Order is necessary or shall be required.

D. **Additional Findings and Conclusions.**

i. All Debtors are Borrowers. The entirety of Debtors' property and assets, including without limitation all interests in real property, including without limitation the real property identified in the Preliminary Report [Docket No. 425], personal property, tangible and intangible property, claims and causes of action, property that is known to exist, or unknown and proceed and products of all of the foregoing, comprises the DIP Collateral (the "**DIP Collateral**"). The capital structure of the Project and the DIP Collateral, including a list of those creditors with a secured interest in the DIP Collateral, including without limitation those secured creditors identified in the Preliminary Report [Docket No. 425] (collectively, the "**Prepetition Secured Creditors**"),⁴ is more fully laid out in the Green Declaration⁵ and in the Debtors' Bankruptcy Schedules and Statements of Financial Affairs, both of which are incorporated herein by reference. Those amounts owed to the Prepetition Secured Creditors shall be referred to herein as the "**Prepetition Secured Obligations.**"⁶

⁴ For the avoidance of doubt, nothing herein (including the definition of Prepetition Secured Parties) shall grant adequate protection to any liens or claims held by any party subject to or as identified in the *Motion of the Debtors Pursuant to Bankruptcy Rule 9019, Local Rule 9013-1 and 11 U.S.C. §§ 105(a) and 363(b) Authorizing and Approving Certain Unwind Agreements and Reconveyance of Deeds of Trust by and Between the Debtors and Certain Settling Creditors* [Docket No. 240], the *Complaint for Avoidance of Promissory Notes and the Deeds of Trusts Given to Secure the Promissory Notes, under 11 U.S.C. §§ 544, 547, 548, and 550 and California Civil Code § 3439.05, and to Preserve Avoided Liens and Interests for the Benefit of the Bankruptcy Estates Under 11 U.S.C. § 551* filed in Case No. 24-50261-MFW, The Robert Green Company, Robert Green Residential or any related affiliates

⁵ Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

⁶ Nothing herein shall constitute a finding or determination concerning the lien priority of any Prepetition Secured Obligations.

ii. The DIP Lender provided the Interim DIP Credit Facility pursuant to the interim DIP orders [Docket Nos. 162, 188, 208, & 243] (the “**Interim DIP Orders**”).

iii. The DIP Lender shall not be deemed to be a control person or insider (as defined in section 101(31) of the Bankruptcy Code) of any Debtor by virtue of providing the DIP Credit Facility;

iv. the Prepetition Secured Creditors are entitled, pursuant to sections 361, 363(e) and 364(d)(1) of the Bankruptcy Code, to adequate protection of their respective interests in the DIP Collateral, solely to the extent of any diminution in the value of their prepetition collateral occurring from and after the Petition Date (the “**Diminution**”), that may be caused by or arising as a result of, among other things, the grant of a lien under section 364 of the Bankruptcy Code.

E. **Findings Regarding the DIP Credit Facility.**

(i) **Need for the DIP Credit Facility.** Debtors need to obtain funds to, among other things, maintain their real estate, preserve the value of the Project opportunity, pay administrative expenses during the pendency of these bankruptcy proceedings, hire a broker to market and sell the Project opportunity, complete a thorough and robust sales process, and confirm a Chapter 11 Plan for the benefit of all the constituencies of the estates. The only choice of such funds is the DIP Credit Facility.

(ii) **Priming of Any Prepetition Liens.** Upon the entry of and subject to the terms of the Order (all as expressly limited by Exhibit 3 hereto), the priming of any existing liens on any of the DIP Collateral, as contemplated by the Term Sheet and as further described below, is a condition to the Debtors’ borrowings under the DIP Credit Facility, which borrowing is necessary for the Debtors to be able to continue to complete a robust process for selling the Project

opportunity and reorganizing to maximize returns for all constituencies of the bankruptcy estates.

(iii) **No Credit Available on More Favorable Terms.** The Debtors have been unable to obtain (a) unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense, or (b) secured credit on more favorable terms and conditions than those provided in the Term Sheet, DIP Documents, and this Order. The Debtors are unable to obtain credit without granting to the DIP Lender the DIP Protections (as defined below).

F. **Effect of Reversal; Good Faith.** The DIP Lender has indicated a willingness to provide financing to the Debtors in accordance with the Term Sheet, the MOU and this Order, provided that the DIP Obligations, DIP Liens and other protections granted by this Order (all as expressly limited by Exhibit 3 hereto) and the Term Sheet will not be affected by any subsequent reversal or modification of this Order as provided in section 364(e) of the Bankruptcy Code. The DIP Lender has acted in good faith in agreeing to provide the DIP Credit Facility approved by this Order.

G. **Business Judgment and Good Faith Pursuant to Section 364(e).**

(i) The terms and conditions of the DIP Credit Facility, the Term Sheet, DIP Documents, Budget and the fees paid and to be paid thereunder are fair, reasonable, and the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment, and are supported by reasonably equivalent value and consideration;

(ii) the Term Sheet and DIP Documents were negotiated in good faith and at arms' length between the Debtors and the DIP Lender; and

(iii) the DIP Credit Facility loan proceeds to be obtained pursuant to the Term Sheet and DIP Documents will be advanced in good faith, and for valid business purposes and

uses, as a consequence of which the DIP Lender is entitled to the protection and benefits of section 364(e) of the Bankruptcy Code.

H. **Prepetition Secured Creditors Have Consented to the DIP Credit Facility.** All Prepetition Secured Creditors have consented to Debtors borrowing from the DIP Credit Facility pursuant to the Term Sheet and DIP Documents, including the priming limitations and other terms set forth in this Order and on Exhibit 3 hereto.

I. **Stipulation Regarding Planning Area 7,8,9**

i. The Debtors and the DIP Lender stipulate and agree that disproportionate amount of priming with respect to Planning Area 7,8,9 (as defined on Exhibit 3) (when compared to the percentage of these parcels to the estates' total parcels' in both size and value) is appropriate because, among other reasons: (a) Planning Area 7,8,9 is comprised of some of the most valuable parcels included in the DIP Collateral; (b) there exists a substantial equity cushion in favor of the holder of the first deed of trust on the parcels comprising Planning Area 7,8,9, even taking into account the DIP Lender's \$7 million priming lien; and (c) the equity cushion in favor of the holder of the first deed of trust on the Planning Area 7,8,9 parcels is greater than the aggregate equity cushion, if any, of the holders of the first trust deeds on the estates' other parcels combined.

J. **Immediate Entry of Order.** The Debtors have requested immediate entry of this Order pursuant to Bankruptcy Rule 4001(c)(2) and Local Rule 4001-2(b). The permission granted herein for the Debtors to obtain postpetition financing from the DIP Lender pursuant to the Term Sheet, to obtain funds thereunder and to use the proceeds of this postpetition financing pursuant to this Order is necessary to avoid immediate and irreparable harm to the Debtors. Entry of this Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for access to the financing necessary for the continued administration

of Debtors' estates, preservation of Debtors' real estate and the Project opportunity, enhancement of the Debtors' prospects for a successful sale of substantially all of their assets, and confirmation of a successful Chapter 11 plan. Based upon the foregoing findings, acknowledgements, and conclusions, and upon the record made before this Court at the hearing on the Motion (the "**Hearing**"), and good and sufficient cause appearing therefor;

NOW, THEREFORE, based upon the foregoing findings and conclusions, and upon consideration of the Motion and the record made before this Court with respect to the Motion, including the record created during the Hearing, and with the consent of the Debtors and the DIP Lender to the form and entry of this Order, and good and sufficient cause appearing therefor, and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. **Motion Granted.** The Motion is GRANTED in accordance with the terms and conditions set forth in this Order (all as expressly limited by Exhibit 3 hereto), Term Sheet, MOU, and DIP Documents. Any objections to the Motion with respect to entry of this Order to the extent not withdrawn, waived or otherwise resolved, and all reservations of rights included therein, are hereby denied and overruled on the merits.

2. **The Term Sheet, MOU and the DIP Documents.**

(a) **Approval of Entry into the Term Sheet and DIP Documents.** The Debtors are authorized to execute, deliver and perform in accordance with the Term Sheet (including the MOU), the DIP Documents and to incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Order (all as expressly limited by Exhibit 3 hereto), and to execute and deliver all instruments and documents which may be required or necessary for the performance by the Debtors under the Term Sheet, subject to the priming

limitations and other conditions set forth on Exhibit 3 hereto. The Debtors are hereby authorized to do and perform all acts, pay the principal, interest, fees, expenses, and other amounts described in the Term Sheet and all other DIP Documents as such become due, subject to the priming limitations and other conditions set forth on Exhibit 3 hereto. The form and substance of both the Term Sheet and DIP Documents are hereby approved. The Debtors and the DIP Lender are hereby authorized to modify the DIP Documents, and such shall be deemed approved by this Order provided they do not materially alter the terms and conditions of the DIP Credit Facility or the priming limitations or other conditions set forth on Exhibit 3 hereto.

(b) **Enforceable Obligations.** The Term Sheet shall constitute and evidence the valid and binding obligations of the Debtors, which obligations shall be enforceable jointly and severally against the Debtors, their estates and any successors thereto, any subsequently appointed trustee, parties in interest, and the Debtors' creditors or representatives thereof, in accordance with their terms.

(c) **Termination.** Notwithstanding anything in this Order, the DIP Lender's commitments under the Term Sheet and the DIP Documents shall continue until the first to occur of (a) December 15, 2025; (b) occurrence of an Event of Default; or (c) the Maturity Date (the "**Commitment Termination Date**"); *provided, however*, that upon the occurrence of an event that, with the passage of time and/or the giving of notice would become an Event of Default (a "**Default**"), the funding commitment shall be suspended unless and until Borrowers have cured such Default. For the avoidance of doubt, none of (i) a Default, (ii) an Event of Default, or (iii) a termination in accordance with this Paragraph 2(c) shall affect the priming limitations or other conditions set forth in Exhibit 3 hereto, which shall remain in full force and effect.

(d) **Protection of the DIP Lender and Other Rights.** The Debtors shall use the proceeds of the DIP Credit Facility only for the purposes specifically set forth in the Term Sheet, the DIP Documents, and this Order and in strict compliance with the Budget subject to permitted variances (at a 10% level) determined on the basis of aggregate cash disbursements (the “Permitted Variances”). The Debtors shall inform the DIP Lender promptly of any disbursement made based on Permitted Variances. Any adjustments to the Budget (other than the Permitted Variances) shall be approved by the DIP, for which approval shall not be unreasonably withheld, provided that the adjustment does not cause the total Budget to exceed the maximum amount of the Funding Cap. The Debtors are hereby bound by, and shall comply with, the terms, conditions, covenants and obligations set forth in the Term Sheet and the MOU, all of which are incorporated herein by reference.

3. The DIP Lien Priority.

(a) To secure the DIP Obligations, the DIP Lender is hereby granted pursuant to and in accordance with 364(c)(1), and 364(d) of the Bankruptcy Code, valid, enforceable and fully perfected lien in the DIP Collateral comprising all of Debtors’ assets (the “**DIP Liens**”),⁷ subject in all respects to the Carve-Out;

(b) The DIP Liens shall be effective immediately upon the entry of this Order, and, except to the extent expressly provided in Exhibit 3, the DIP Liens shall be senior to, and not at any time be made subject or subordinated to, or made pari passu with, any other lien, security interest or claim existing as of the Petition Date or created thereafter, other than the Carve-Out;

⁷ Without limiting the generality of the foregoing, the scope of the DIP Liens includes certain property known as “PA 9,” which purportedly is (or was) subject to a 42.8% tenant in common interest in favor of SilverRock Land II, LLC, an entity owned by the Traub Family Revocable Trust.

(c) The DIP Liens shall be and hereby are deemed fully perfected liens and security interests, effective and perfected upon the date of the Order, without the necessity of execution by the Debtors of mortgages, security agreements, pledge agreements, financing agreements, financing statements, account control agreements or any other agreements, filings or instruments, such that no additional actions need be taken by the DIP Lender or any other party (including, without limitation, any depository bank or securities intermediary) to perfect such interests, but may be secured of record by a deed of trust executed by the Debtors against the DIP Collateral that is real property in favor of the DIP Lender.

(d) At all times prior to indefeasible payment in cash in full of the DIP Obligations, the priority of the DIP Liens will:

- i. Pursuant to Section 364(d)(1) of the Bankruptcy Code, be perfected first priority, senior priming liens on all DIP Collateral (except to the extent expressly provided in Exhibit 3);
- ii. Be valid and enforceable against any trustee appointed in the Cases, upon the conversion of any of the Cases to a case under Chapter 7 of the Bankruptcy Code (a “Successor Case”), or upon the dismissal of the any of the Cases or Successor Case; and

4. **Superpriority Administrative Claim.** The DIP Lender is hereby granted an allowed superpriority administrative expense claim (the “**DIP Superpriority Claim**”, together with the DIP Liens, the “**DIP Protections**”) pursuant to section 364(c)(1) of the Bankruptcy Code in each of the Cases and in any Successor Case(s) for all DIP Obligations, having priority over any and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, but subject in all respects to the Carve-Out, including, without limitation, and to the extent authorized by the Bankruptcy Code, all administrative expenses of the kinds specified in or arising

or ordered under sections 105(a), 326, 328, 330, 331, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 726, 1113, and 1114 and any other provision of the Bankruptcy Code or otherwise, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed DIP Superpriority Claim shall be payable from and have recourse to all pre- and post-petition property of the Debtors and all proceeds thereof. The DIP Superpriority Claim shall be subject and subordinate in priority of payment only to prior payment of the Carve-Out. The DIP Superpriority Claim shall be senior in all respects to any superpriority claims granted in these Cases, if any.

5. **Authorization to Use Proceeds of the DIP Credit Facility.** Pursuant to the terms and conditions of this Order, the Term Sheet, and DIP Documents and in accordance with the Budget and any variances thereto that may be permitted pursuant thereto or pursuant to the Term Sheet or DIP Documents, the Debtors are authorized to use the postpetition financing proceeds pursuant to the Term Sheet, DIP Documents and Budget.

6. **Authorization and Direction for Payment of DIP Financing Fees and Expenses.** The Debtors are hereby authorized to pay such fees, costs, and expenses in accordance with the Term Sheet, the DIP Documents, and this Order (all as expressly limited by Exhibit 3 hereto), without any requirement that the Debtors, the DIP Lender or their respective attorneys file any further application or other pleading, notice, or document with the Court for approval or payment of such fees, costs or expenses.

7. **Carve-Out.**

a. The DIP Liens and the DIP Superpriority Claim (as defined below) shall be subject and subordinate to the payment of: (a) fees payable to the United States Trustee pursuant to 28 U.S.C. Section 1930(a)(6), together with the statutory rate of interest, which shall not be limited

by any budget (“Statutory Fees”); (b) fees payable to the clerk of the Bankruptcy Court; (c) to the extent expenses are incurred prior to the Carve-Out Trigger: (i) allowed fees and expenses incurred by the Independent Manager in the amount set forth in the Budget, not exceeding \$60,000.00 per month plus reasonable expenses; (ii) allowed fees and costs of defense with respect to indemnification obligations owed by Debtors to the Independent Manager; provided, however, that this carve out shall apply solely to the extent such fees and costs exceed the amount of coverage required to be provided by D&O (Directors and Officers) insurance; (iii) allowed fees and costs plus the payment of the Independent Manager’s allowed legal fees and expenses in connection with the Chapter 11 Cases; (iv) allowed fees and expenses incurred by the CRO up to the maximum amount set forth in the Budget, subject to the Term Sheet’s Permitted Variances; (v) allowed fees and expenses incurred by Debtors’ other court approved professionals up to the maximum aggregate amount set forth in the Budget, subject to the Term Sheet’s Permitted Variances; and (vi) up to a maximum amount equal to the lesser of (a) \$400,000, or (b) amounts remaining available under the Budget (without reference to the Carve-Out Trigger, as that phrase is defined by the Term Sheet) for unpaid documented fees, costs and expenses accrued or incurred by the Independent Manager and other retained professionals following the occurrence of the Carve-Out Trigger, payable under sections 330 and 331 of the Bankruptcy Code and subsequently allowed by order of the Bankruptcy Court (collectively, the “**Carve-Out**”). Notwithstanding anything to the contrary herein, the amounts of each carve out set forth above shall be reduced by the amounts paid from the DIP Facility (whether pursuant to the Interim Orders or this Order) to or for the benefit of the holder of each such carve out; (2) except to the extent of the Post-Trigger Carve Out, the carve outs shall be limited to fees and costs incurred prior to the first to occur of (i) the Commitment Termination Date, and (ii) the occurrence of an Event of Default; (3) no carve out

shall be available with respect to fees or expenses that are incurred with respect to matters that are not a permitted use of the proceeds of the loans under the Facility, *provided, however*, that the foregoing shall not limit the Debtors' obligations to pay Statutory Fees on all disbursements made by or on behalf of the Debtors; (4) absent the City's express written agreement, the amount of the carve outs set forth in the Budget (subject to Permitted Variances) shall not increase by virtue of any extensions of time or increases in amounts as may be provided for in subsequent amendments to the Budget; and (5) to the extent that any Permitted Variance, reallocation of funds, or other use of funds reduces the amount of funds available under the Budget for the payment of fees or expenses, the maximum amount of the Carve Out shall be reduced accordingly. For clarification purposes, except (x) to the extent that the DIP Lender has not fully funded the DIP Credit Facility; and (y) with respect to the Independent Manager's rights to indemnification under section 7(a)(ii) above, the Carve Out shall be paid and satisfied solely from the funds advanced by the DIP Lender as part of the DIP Credit Facility, and not from any other DIP Collateral or proceeds thereof.

b. **"Carve-Out Trigger"** shall mean upon delivery (by email or otherwise) by the City of written notice to the Debtors, the Debtors' lead bankruptcy counsel, and the United States Trustee of the occurrence of an Event of Default.

8. **Payment of Compensation.** Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of the Debtors or affect the right of any party in interest to object to the allowance and payment of such fees and expenses.

9. **Maturity Date.** Unless otherwise agreed to by the DIP Lender, the maturity date (the "**Maturity Date**") shall be the first to occur of:

- a. The effective date of a chapter 11 plan for any of the Debtors in the Bankruptcy Case (the "**Effective Date**").
- b. The closing of a sale, assignment or transfer of all or substantially all of the Debtors' assets (the "**Closing**").

- c. The occurrence of an Event of Default under or with respect to the Facility.
- d. The dismissal or conversion of the Bankruptcy Case (or the case of any of the Debtors), or appointment of a trustee with respect to any of the Debtors.
- e. The termination or resignation of Christopher Sontchi as the manager of any of the Debtors.
- f. The termination or resignation of Douglas Wilson as chief restructuring officer of any of the Debtors.
- g. December 31, 2025.

10. Other Rights and Obligations.

(a) **Good Faith Under Section 364(e) of the Bankruptcy Code.** The DIP Lender has acted in good faith in connection with negotiating the Term Sheet, the DIP Documents, and the loans to be made pursuant thereto, and their reliance on this Order is in good faith. Based on the findings set forth in this Order and the record made during the Hearing, and in accordance with section 364(e) of the Bankruptcy Code and Bankruptcy Rules 4001(b) and (c), in the event any or all of the provisions of this Order are hereafter reversed, modified amended or vacated by a subsequent order of this or any other Court, the DIP Lender is entitled to all of the benefits and protections provided in section 364(e) of the Bankruptcy Code.

(b) **Binding Effect.** The DIP Liens, DIP Superpriority Claim and other rights and remedies granted under this Order (all as expressly limited by Exhibit 3 hereto) shall be valid and enforceable against any trustee appointed in any or all of the Debtors' Cases and upon the dismissal of any or all of the Debtors' Cases, or in any Successor Case(s), and such liens and security interests shall maintain their first priority as provided in this Order (all as expressly limited by Exhibit 3 hereto) until all the DIP Obligations have been indefeasibly paid in full in cash and the DIP Lender's commitments have been terminated in accordance with the Term Sheet, DIP Documents and this Order.

(c) **The DIP Lender's Liability for Collateral.** So long as the DIP Lender complies with reasonable commercial lending practices, the DIP Lender shall not in any way or manner be liable or responsible for: (a) the safekeeping of the DIP Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person whomsoever.

(d) **Remedies Cumulative.** The DIP Lender's rights and remedies under the Term Sheet, the DIP Documents, and all other agreements shall be cumulative. The DIP Lender shall have all other rights and remedies not inconsistent herewith as provided by law, or in equity, subject to the requirements of the Bankruptcy Code and the priming limitations and other conditions set forth on Exhibit 3 hereto. No exercise by the DIP Lender of one right or remedy shall be deemed an election. No delay by the DIP Lender shall constitute a waiver, election, or acquiescence by it. No waiver by the DIP Lender shall be effective unless made in a written document signed on behalf of the DIP Lender and then shall be effective only in the instance and for the purpose for which it was given.

(e) **Remedies.** With respect to enforcement of remedies upon an Event of Default, the DIP Lender shall provide a Carve-Out Trigger notice to the Borrowers and the U.S. Trustee five (5) Business Days prior to taking any such action (the "**Remedies Notice Period**"), and after the expiration of the Remedies Notice Period, the DIP Lender shall be authorized and entitled to exercise all rights and remedies provided in the DIP Documents, the Term Sheet or this Order (as applicable) and under applicable law. During the Remedies Notice Period (including as extended pursuant to this subparagraph (e)), the Debtors may use cash in their operating account in the ordinary course of business, consistent with past practices and the Budget, including for the

purposes of funding the Carve Out. During the Remedies Notice Period, any party in interest shall be entitled to seek an emergency hearing with the Bankruptcy Court seeking to stay the City's exercise of any rights and remedies and funds in the operating account may be used for this purpose; *provided, however*, that if an emergency hearing is requested to be heard before the end of the Remedies Notice Period but is scheduled for a later date by the Court, then the Remedies Notice Period shall be automatically extended until the Court issues an order or other ruling with respect thereto.

(f) **Relief From Automatic Stay.** Upon the expiration of the Remedies Notice Period, and except as the Court may otherwise order pursuant section 10(e) of this Order, and without further order of this Court, the automatic stay set forth in Section 362 of the Bankruptcy Code is hereby modified to permit the DIP Lender, its agents, attorneys and representatives, to take all action to enforce the DIP Lender's rights and remedies under or with respect to the DIP Credit Facility, the Term Sheet, the DIP Documents and applicable non-bankruptcy law, including without limitation, taking possession of DIP Collateral, foreclosure and sale of respect to DIP collateral, application of proceeds from the disposition of DIP Collateral to amounts due under the DIP Credit Facility, the Term Sheet, the DIP Documents or applicable non-bankruptcy law, to the extent such disposition is consistent with the priming limitations and other conditions set forth on Exhibit 3 hereto.

(g) **No Priming of DIP Lender.** It shall be an Event of Default if the Debtors in any way prime or seek to prime (or otherwise cause to be subordinated in any way) the liens provided to the DIP Lender by offering a subsequent lender or any party-in-interest a superior or pari passu lien or claim with respect to the DIP Collateral pursuant to section 364(d) of the Bankruptcy Code or otherwise.

(h) **Indemnification.** The Debtors, their bankruptcy estates, and the Debtors' successors and assigns shall indemnify the DIP Lender for all claims and liability arising from or in connection with the transactions contemplated herein, except to the extent of liability that is determined by final order to result from the DIP Lender's intentional or willful misconduct or gross negligence.

(i) **Waivers.** Subject to the terms of this Order, the Debtors, on behalf of themselves, their successors or assigns, and any subsequently appointed trustee or fiduciary, and the Debtors' creditors and equity holders who received actual notice of the DIP Motion, hereby forever waive and release any and all rights to take any of the following actions, absent the advance written consent of the DIP Lender: (1) to assert the "equities of the case" exception in Bankruptcy Code Section 552(b); (2) to surcharge any of the DIP Collateral under Bankruptcy Code Section 506(c); (3) to require marshalling by the DIP Lender with respect to any of the DIP Collateral; (4) to seek or obtain entry of an order priming (under section 364(d) of the Bankruptcy Code) the DIP Liens or the prepetition liens, security interests and/or other property interests of the DIP Lender in any real or personal property of the Debtors (including without limitation the DIP Lenders' repurchase options); (5) to sell, transfer, assign or revest any of the DIP Collateral free and clear of any of the DIP Liens, or the prepetition liens, security interest and/or other property interests of the DIP Lender in any real or personal property of the Debtors (including without limitation the DIP Lenders' repurchase options); and (6) to file or seek approval or confirmation of a motion or plan that would effectuate any of the foregoing. Such waivers and releases shall survive repayment of the indebtedness and satisfaction of other obligations under the DIP Credit Facility. The Debtors and the DIP Lender hereby waive their respective rights to terminate the Term Sheet pursuant to Section

19 of the Term Sheet; provided, however, that this waiver shall not require that the DIP Lender fund any advances upon the occurrence of an Event of Default or other failure of conditions set forth in the Term Sheet or DIP Documents.

(j) **Administrative Expense Claims.** Until such time as all DIP Obligations are paid in full and the Cases have been closed, subject in all respects to the Carve-Out, the Debtors shall not in any way or at any time seek allowance of any administrative expense claim against the Debtors of any kind or nature whatsoever, that is superior to or pari passu with the DIP Lender's superpriority administrative expense claim against the bankruptcy estates, as described more fully in the Term Sheet and this Order (the "**Superpriority Claim**").

(k) **Use of Proceeds of the DIP Credit Facility.** Proceeds of the DIP Credit Facility shall be used solely as permitted in the Term Sheet, this Order, and the Budget.

(l) **Poppy Bank Backstop Indemnity.** In the event that upon closing of a sale of substantially all of the Debtors' property, the allowed claims (the "**Allowed Poppy Claims**") of Poppy Bank ("**Poppy**") that are secured by liens on the property identified in paragraph 5 of Exhibit 3 hereto (the "**Poppy Collateral**") are not paid in full, the DIP Lender shall indemnify Poppy for its losses resulting solely from the granting and implementation of the priming lien in favor of the DIP Lender on the Poppy Collateral. The maximum amount of the DIP Lender's indemnity obligation shall be the lesser of (i) the priming cap set forth in Exhibit 3 hereto, and (ii) the amount of the proceeds paid to the DIP Lender from the proceeds of sale of the Poppy Collateral. The DIP Lender's obligation to make payment to Poppy pursuant to this indemnity obligation shall arise upon the last to occur of (x) the closing of a sale of substantially all of the Debtors' property, and (y) the finality of an order of this Court determining the allocation of

proceeds of such sale among all parties asserting liens and/or security interests in such property. The indemnity obligations hereunder are intended solely to provide protection to Poppy arising solely and directly from the priming of its asserted lien. Nothing herein shall be construed to require or provide for any other losses that Poppy may suffer in connection with this Bankruptcy Case or the disposition of the Poppy Collateral. Without limiting the generality of the foregoing, there is no indemnity on account of (1) any determination with respect to the priority of liens or security interests in the Poppy Collateral; (2) the sale price or allocation thereof with respect to the Poppy Collateral; (3) valuation of the Poppy Collateral or other DIP Collateral; (4) costs or charges as may be allowed under Section 506(c) of the Bankruptcy Code; (5) losses on account of unpaid interest, fees or charges, or the time value of money; or (6) any other reason, except for payment to the DIP Lender on account of priming from funds otherwise allocable to Poppy from the Poppy Collateral on account of the Allowed Poppy Claim. In the event, and to the extent, that the DIP Lender is obligated to make any payment to Poppy pursuant to this indemnification, the DIP Lender shall have and retain its liens in all property owned by the Debtors, and the DIP Superpriority Claim, all of which shall remain the Debtors' obligations and indebtedness under the DIP Credit Facility, and the Debtors shall jointly and severally be obligated and indebted to the DIP Lender with respect thereto unless and until the DIP Lender has been paid in full; *provided however*, that the Debtors' obligations and indebtedness to the City described in the first part of the preceding sentence shall not be paid from the sale proceeds from the parcels identified in paragraphs 1 or 2 of Exhibit 3, to the extent that such payment would increase the amount otherwise paid to the DIP Lender from such parcels on a priming basis. Nothing herein shall constitute a finding, admission or determination with respect to priority of liens in or to the Poppy Collateral. Nothing herein shall be construed as creating any right or interest in favor of any person

or entity other than Poppy, and no third-party beneficiaries exist with respect to the rights set forth herein; provided, however, that the cap on priming set forth in paragraph 5 of Exhibit 3 shall inure to the benefit (if any) of all persons who hold allowed secured claims in the Poppy Collateral. Nothing herein limits or waives any right, power or privilege of the Debtors with respect to claims or defenses they may have against Poppy or the Poppy Collateral.

11. **Survival of Order and Other Matters.** The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (i) confirming any Plan in the Cases, (ii) converting any of the Cases to a case under chapter 7 of the Bankruptcy Code or a Successor Case, (iii) to the extent authorized by applicable law, dismissing the Cases, (iv) withdrawing the reference of the Cases from this Court, or (v) providing for abstention from handling or retaining of jurisdiction of the Cases in this Court and this Order. The terms and provisions of this Order (all as expressly limited by Exhibit 3 hereto) shall be binding upon the Debtors and the DIP Lender, the Prepetition Secured Creditors and each of their respective successors and assigns, and shall inure to the benefit of the Debtors and the DIP Lender, the Prepetition Secured Creditors and each of their respective successors and assigns including, without limitation, any trustee, examiner with expanded powers, responsible officer, estate administrator or representative, or similar person appointed or elected in a case for any Debtor under any chapter of the Bankruptcy Code, including any Successor Case. The terms and provisions of this Order (all as expressly limited by Exhibit 3 hereto) shall also be binding on all of the Debtors' creditors and equity holders who received notice of the DIP Motion, and all other parties in interest, including, but not limited to a trustee appointed or elected under chapter 7 or chapter 11 of the Bankruptcy Code.

(a) **Enforceability.** This Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable immediately upon entry of this Order. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, 9024, or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Order.

(b) **Objections Overruled.** All objections to the Motion to the extent not withdrawn or resolved, are hereby overruled.

12. **Governmental Consents.** Except as otherwise provided herein, the execution, delivery and performance by the Debtors of the DIP Documents and the consummation of the transactions contemplated by the DIP Documents do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any governmental authority.

13. **Interim DIP Orders.** Upon entry of this Order, the terms of the Interim DIP Orders shall be superseded and replaced in their entirety with the terms set forth in this Order, the Term Sheet and the DIP Documents.

14. **Priority of Terms.** To the extent of any conflict between or among (a) the express terms or provisions of the Term Sheet, DIP Documents, the Motion or any other agreements, on the one hand, and (b) the terms and provisions of this Order, on the other hand, unless such term or provision herein is phrased in terms of “as defined in” “as set forth in” or “as limited by” or “as more fully described in” the DIP Documents (or words of similar import), the terms and provisions of this Order shall govern.

15. **Retention of Jurisdiction.** This Court has and will retain jurisdiction to enforce this Order.

Dated: April 15th, 2025
Wilmington, Delaware

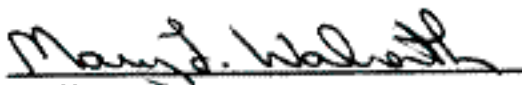

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

(Term Sheet)

In re SilverRock Development Company, LLC, et al.

Jointly Administered Chapter 11 case no. 24-11647 (the “Bankruptcy Case”)

Term Sheet for Debtor-In-Possession (“DIP”) Financing Facility (the “Facility”)

Dated: December 10, 2024

This Term Sheet sets forth the terms and conditions of a debtor-in-possession credit facility to be provided to the Borrowers, as defined below, by the City of La Quinta.¹

1. Borrowers: SilverRock Development Company, LLC (5730), RGC PA 789, LLC (5996), SilverRock Lifestyle Residences, LLC (0721), SilverRock Lodging, LLC, (4493), SilverRock Luxury Residences, LLC (6598) and SilverRock Phase 1, LLC (2247) (collectively, “Borrowers”), jointly and severally.
2. Lender: City of La Quinta (the “City”).
3. Maximum Commitment: The aggregate maximum amount of principal under the Facility will be \$11,000,000.00 (“Funding Cap”), including principal amounts previously funded by the City on an interim basis.
4. Term: Funding commitment shall commence upon the entry of a final order approving the Facility (the “Approval Order”) and shall continue until the first to occur of (a) December 15, 2025; (b) occurrence of an Event of Default; (c) the Maturity Date (the “Commitment Termination Date”);, provided, however, that the City will continue to fund all draw requests under the existing Interim Orders pursuant to an updated agreed budget through and including January 2, 2025; and further provided that upon the occurrence of an event that, with the passage of time and/or the giving of notice would become an Event of Default (a “Default”), the funding commitment shall be suspended unless and until Borrowers have cured such Default.
5. Interest. Interest shall accrue on the outstanding principal advanced by the City at the Local Agency Investment Fund (“LAIF”) rate in effect as of the date of entry of the Approval Order. (Such rate presently is 4.71% per annum; see [LAIF Quarterly Apportionment Rates \(ca.gov\)](#)). From and after the occurrence of an Event of Default with respect to the Facility, default interest shall accrue and be payable on the outstanding principal under the Facility at the rate of 5.0% (which shall be in addition to the LAIF rate, or the maximum allowable interest rate per California law, whichever is less). The interest rate set forth in this paragraph shall apply with respect to the interim and final financing provided by the City.
6. Security. Borrowers’ obligations and indebtedness under the Facility shall be secured by liens and security interests (collectively “Liens”) on all of the Borrowers’ interests in real and personal property, including without limitation (a) all proceeds of claims and causes

¹ Terms that are defined either in this Term Sheet or the attached Memorandum of Understanding (“MOU”) shall apply with respect to both documents.

of action of the Borrowers or the bankruptcy estates, but excluding a direct lien or security interest in avoidance actions arising under Sections 544, 547, 548 and 549 of the Bankruptcy Code (“Avoidance Actions”), and (b) all property in which the Debtors, or any of them, are authorized by law or contract to grant a lien or security interest. Subject only to the Carve Out (discussed below), the Liens securing the Facility shall be first priority priming liens pursuant to Section 364(d)(1) of the Bankruptcy Code, senior to all other liens and security interests in the Borrowers’ property (other than the prepetition property interests of the City). The City shall be entitled to a superpriority administrative expense to secure all indebtedness and obligations under the Facility pursuant to Section 364(c)(1) of the Bankruptcy Code, senior to all other administrative expenses in the Borrowers’ chapter 11 cases (the “Superpriority Expense”), subject only to the Carve Out.

7. Draws. Borrowers shall be entitled to draw the full amount of the Facility upon satisfaction of all conditions to borrowing under the Loan Documents. Borrowers alternatively shall have the right to make monthly draws by providing written notice to the City at least three (3) business days prior to each draw specifying the amount of the draw. The Borrowers may hold and maintain up to \$2,000,000 in their operating accounts. All funds in excess of \$2,000,000 shall be maintained in a segregated account subject to a security interest in favor of the City (the “Secured Account”), which shall be deemed to be a perfected security interest pursuant to the terms of the Approval Order. Subject to the foregoing limitation, absent the pendency of a default under the Loan Documents, the Borrowers may transfer funds from the Secured Account to the Borrowers’ operating account. During the pendency of a default under the Loan Documents, the Borrowers shall be precluded from transferring the funds in the Secured Account to the Borrowers’ operating account, or otherwise disbursing or using such funds without the advance written consent of the City. Upon the occurrence of an Event of Default, the Borrowers shall transfer such funds to the City, to be held in a segregated account pending determination of amounts needed for funding expenses subject to the Carve Out, with any excess remitted to the City as a payment of the Borrowers’ indebtedness under the Facility.
8. Maturity Date. All principal, interest, fees and charges under the Facility shall be due and payable on the first to occur of:
 - a. The effective date of a chapter 11 plan for any of the Borrowers in the Bankruptcy Case (the “Effective Date”).
 - b. The closing of a sale, assignment or transfer of substantially all or substantially of the Borrowers’ assets (the “Closing”).
 - c. The occurrence of an Event of Default under or with respect to the Facility.
 - d. The dismissal or conversion of the Bankruptcy Case (or the case of any of the Borrowers), or appointment of a trustee with respect to any of the Borrowers.
 - e. The termination of Christopher Sontchi as the manager of any of the Borrowers.

- f. The termination of Douglas Wilson as chief restructuring officer of any of the Borrowers.
 - g. December 31, 2025.
10. Transfer Taxes. The parties do not believe that any transfer tax or fee will be payable as a condition to recording the Deed of Trust securing the Facility (the “DOT”). However, to the extent that a transfer tax or fee is required in connection with the recordation of the DOT, a sale pursuant to the DOT, or a sale pursuant to a sale under section 363 of the Bankruptcy Code, the Borrowers’ (or if applicable, the purchaser) shall bear responsibility for the payment of such tax or fee. City’s professional fees and costs. On the Maturity Date and thereafter, Borrowers shall pay all reasonable and documented professional fees and costs incurred by the City in connection with the Borrowers’ chapter 11 cases subject to the terms of the applicable order; provided, however, that the maximum amount of such fees and costs shall not exceed \$600,000.00. Additionally, in the event that Borrowers default with respect to the Facility, the City shall be entitled to recover reasonable and documented professional fees and costs, including without limitation attorneys’ fees and costs incurred in connection with any action or proceeding to enforce or construe the Loan Documents, and/or to defend against any claims asserted by any person against the City in connection with the Facility or the Borrowers’ chapter 11 cases. The City’s professional fees and costs subject shall not apply against the Approved Budget. The City’s rights to recovery of its professional fees as set forth in this paragraph shall survive the repayment of Borrowers’ indebtedness under the Facility. Nothing in this paragraph shall limit the City’s right to seek or obtain reimbursement or other consideration from a purchaser or developer on account of additional fees or expenses as may be incurred in connection with the negotiation, documentation or implementation of development or related agreements.
11. Indemnification. The Borrowers and their successors and assigns shall indemnify the City for all claims and liability arising from or in connection with the transactions contemplated herein, except to the extent of liability that is determined by final order to result from the City’s intentional or willful misconduct or gross negligence.
12. Covenants. In addition to covenants, terms and conditions that are customarily included in debtor-in-possession loan documents, the following terms, conditions and covenants shall govern the Borrowers and the Facility:
 - a. Milestones. The Debtors shall take commercially reasonable efforts to implement the following milestones (the “Milestones”) with respect to the sale of the Borrowers’ real property (the “Property”), which may be pursuant to a chapter 11 plan, and approval and consummation of a chapter 11 plan unless the City agrees in writing (which consent may be confirmed via e-mail by counsel on behalf of the City) to extend or waive any Milestone, and provided that the Milestones that require an action of the Bankruptcy Court are subject to the availability of the Bankruptcy Court. Further, the parties agree that the Milestones may be subject to further revision upon consent of the Debtors and the City after further discussion with the broker retained with respect to the sale of the Property:

- i. The Borrowers shall have selected a broker, and filed an application to engage such broker, not later than December 12, 2024;
 - ii. The Borrowers shall have obtained an order approving engagement of the broker not later than January 3, 2025;
 - iii. The Borrowers shall have filed a motion for approval of bid procedures not later than January 31, 2025;
 - iv. The Borrowers shall have obtained a report regarding cost to complete the project not later than February 10, 2025;
 - v. The Court shall have entered its order approving the bid procedures not later than February 28, 2025;
 - vi. The Court shall have entered its order authorizing the entry into a definitive agreement with a stalking horse purchaser not later than April 30, 2025 ;
 - vii. Final, bids that are not contingent on due diligence or similar discretionary considerations must be submitted not later than June 30, 2025;
 - viii. The Borrowers shall have selected the successful purchaser (and if appropriate a back-up bidder) not later August 15, 2025;
 - ix. The Bankruptcy Court shall have entered its order approving a sale of all or substantially all of the Property not later than September 12, 2025;
 - x. Closing on the sale (and if Closing is to occur pursuant to the Borrowers' Plan, the Effective Date) (the "Closing Date") shall occur not later than October 10, 2025;
 - xi. Irrespective of the Closing Date, the Effective Date of the Borrowers' plan shall have occurred not later than December 31, 2025.
- b. Use of Funds. Funds advanced under the Facility shall be used solely for the purposes set forth in a budget approved by the City and attached hereto as Exhibit A (the "Approved Budget") subject to permitted variances (at a 10% level) determined on the basis of aggregate cash disbursements (the "Permitted Variances"). Borrowers shall inform the City promptly of any disbursement made based on Permitted Variances. Any adjustments to the Approved Budget (other than the Permitted Variances) shall be approved by the City, for which approval shall not be unreasonably withheld, provided that the adjustment does not cause the total Approved Budget to exceed the maximum amount of the Funding Cap.
- c. Memorandum of Understanding. Borrowers and the City shall enter into and comply with the Memorandum of Understanding attached hereto as Exhibit B.

- d. Site Protection. Borrowers shall maintain security for the project consistent with the Approved Budget. Such security measures shall include: fenced and locked access to all areas of construction including construction staging areas; security camera system to remain operational and to have sufficient storage capacity for at least two weeks of video recordings; and roadways and pathways adjacent to the project site where the public has access must be maintained and protected if impacted by conditions related to the project, this can include barricades or k-rail to protect slopes, and or repair and maintenance associated with water, sand or debris from the project site. Borrowers shall maintain fencing on the property as follows: fencing as described above for security where applicable shall include dust screening; all gated access to construction areas shall be lockable; and fencing shall be maintained to provide uninterrupted security of the site and reduce the spread of blowing sand or dust.
 - e. Material Contracts. Prior to entering into any contract, agreement or binding term sheet outside of the ordinary course of business, the Borrowers will consult with the City.
 - f. D&O Insurance. The Borrowers shall maintain D&O coverage for the Independent Manager in an amount not less than \$10,000,000, with a tail not less than five (5) years.
13. Carve Out. There shall be a carve out from the City's Liens and superpriority administrative expense claim for:
 - a. Fees payable to the United States Trustee pursuant to 28 U.S.C. Section 1930(a).
 - b. Fees payable to the clerk of the Bankruptcy Court.
 - c. To the extent such expenses are incurred prior to the Carve-Out Trigger:
 - i. Allowed fees and expenses incurred by the Independent Manager in the amount set forth in the Approved Budget, not exceeding \$60,000.00 per month plus reasonable expenses;
 - ii. Allowed fees and costs of defense with respect to indemnification obligations owed by Borrowers to the Independent Manager; provided, however, that this carve out shall apply solely to the extent such fees and costs exceed the amount of coverage required to be provided by D&O insurance;
 - iii. Allowed fees and costs plus the payment of the Independent Manager's allowed legal fees and expenses in connection with the Chapter 11 Cases;
 - iv. Allowed fees and expenses incurred by the CRO in the maximum amount set forth in the Approved Budget (subject to the Permitted Variances); and

- v. Allowed fees and expenses incurred by Borrowers' other court approved professionals in the maximum aggregate amount set forth in the Approved Budget (subject to the Permitted Variances).
 - d. Up to a maximum amount equal to the lesser of (a) \$400,000, or (b) amounts remaining available under the Approved Budget (without reference to the Carve-Out Trigger) for unpaid documented fees, costs and expenses accrued or incurred by the Independent Manager and other retained professionals following the occurrence of the Carve-Out Trigger, payable under sections 330 and 331 of the Bankruptcy Code and subsequently allowed by order of the Bankruptcy Court (the "Post-Trigger Carve Out").
 - e. Notwithstanding the foregoing: (1) the amounts of each carve out set forth above shall be reduced by the amounts paid from the Facility (whether pursuant to the Interim Orders or the Approval Order) to or for the benefit of the holder of each such carve out; (2) except to the extent of the Post-Trigger Carve Out, the carve outs shall be limited to fees and costs incurred prior to the first to occur of (i) the Commitment Termination Date, and (ii) the occurrence of an Event of Default; (3) no carve out shall be available with respect to fees or expenses that are incurred with respect to matters that are not a permitted use of the proceeds of the loans under the Facility; (4) absent the City's express written agreement, the amount of the carve outs set forth in the Approved Budget (subject to Permitted Variances) shall not increase by virtue of any extensions of time or increases in amounts as may be provided for in subsequent amendments to the Approved Budget; and (5) to the extent that any Permitted Variance, reallocation of funds, or other use of funds reduces the amount of funds available under the Approved Budget for the payment of fees or expenses, the maximum amount of the Carve Out shall be reduced accordingly.
 - f. A "Carve-Out Trigger" occurs upon delivery (by email or otherwise) by the City of written notice to the Debtors, the Debtors' lead bankruptcy counsel, and the United States Trustee of the occurrence of an Event of Default.
14. Conditions to funding. The obligations of the City to fund the full amount of the Facility will be subject to satisfaction or written waiver, by the City, of each of the following conditions precedent:
- a. Final approval by the La Quinta City Council.
 - b. Entry and finality of the Approval Order.
 - c. Acceptance of an Approved Budget by the City.
 - d. The preparation, delivery, execution and (as applicable) recordation of the Loan Documents (including a credit agreement, promissory note, deed of trust, security agreement and financing statements) in a form and substance acceptable to the City in its sole discretion.

- e. Borrowers shall have signed a definitive agreement with RD Olson Construction, Inc. for the clean-up and dust control of the Property.
 - f. The absence of an Event of Default, or the occurrence of any act or omission that, with the giving of notice or the passage of time, would constitute an Event of Default.
 - g. The City's receipt of a lender title insurance policy regarding the real property Collateral securing the Facility.
15. Interim DIP Financing. The City will continue to provide bridge DIP financing on an interim basis in a maximum amount of \$2,690,965 pursuant to a further interim budget attached hereto as Exhibit C (in addition to funds previously provided pursuant to prior Interim Orders). Such financing shall be subject to and conditioned upon entry of a fourth interim financing order that contains terms substantially the same as the first, second and third Interim Orders. The funding commitment under the fourth interim financing shall terminate on the first to occur of: (a) January 2, 2025; (b) entry of an order approving the Facility; (c) filing of a motion to approve alternative DIP financing; or (d) occurrence of a default under the fourth Interim Order or related documents. Advances made pursuant to Interim Orders shall apply to, and reduce availability of funds under, the Approved Budget.
16. Defaults. In addition to customary defaults, the following shall constitute defaults under the Facility:
- a. Any Borrowers' failure to comply with the Loan Documents, this Term Sheet, any Interim Order, the Approval Order, the CRO Order, the MOU or any other order of the Bankruptcy Court;
 - b. Failure to achieve any Milestone by the date provided with respect to such Milestone in each case, as then in effect after giving effect to any extensions, waivers or amendments thereto made in accordance with the requirements of this Term Sheet (and without regard to the Debtors' reasonable efforts to achieve such Milestones);
 - c. Failure to pay principal, interest, fees or charges under the Facility when due;
 - d. Entry of an order (i) granting relief from the automatic stay on any portion of Borrowers' real estate; (ii) granting relief stay on any other Borrower asset with a value in excess of \$500,000; or (iii) converting or dismissing the Bankruptcy Case, or appointing a trustee.
 - e. The Borrowers, or any of them, file a chapter 11 plan that is not reasonably acceptable to the City.
17. Remedies: Subject to the Approval Order, with respect to enforcement of remedies upon an Event of Default, the City shall provide a Carve-Out Trigger notice to the Borrowers five (5) Business Days' prior to taking such action (the "Remedies Notice Period"), and

after the expiration of the Remedies Notice Period, the City shall be authorized and entitled to exercise all rights and remedies provided in the Loan Documents or Approval Order (as applicable) and under applicable law. During the Remedies Notice Period, the Borrowers may use cash in their operating account in the ordinary course of business, consistent with past practices and the Approved Budget, including for the purposes of funding the Carve Out. During the Remedies Notice Period, any party in interest shall be entitled to seek an emergency hearing with the Bankruptcy Court seeking to stay the City's exercise of any rights and remedies and funds in the operating account may be used for this purpose.

18. Approval Order. The Approval Order shall contain terms and conditions that are customary for orders approving DIP financing. Additionally, and without limiting the generality of the foregoing, the Approval Order shall:

- a. Approve and implement the terms set forth in this Term Sheet.
- b. Approve the form and substance of the Loan Documents.
- c. Approve and incorporate into the Approval Order by reference the terms and conditions of the MOU.
- d. Provide for the immediate effectiveness of the Approval Order upon entry.
- e. Forever waive and release any and all rights of the Borrowers, their successors and assigns, and any subsequently appointed trustee or fiduciary:
 - vi. to assert the "equities of the case" exception in Bankruptcy Code section 552(b);
 - vii. to surcharge rights in Bankruptcy Code section 506(c);
 - viii. to seek or obtain entry of an order priming (under section 364(d) of the Bankruptcy Code) the liens and security interest of the City that secure the Facility, or the prepetition liens, security interests of the City, and/or property interests of the City (including without limitation the City's repurchase options); or
 - ix. without the City's prior written consent, to sell, transfer, assign or revest the Borrowers' property free and clear of the liens and security interests of the City that secure the Facility, or the prepetition liens, security interests of the City, and/or property interests of the City (including without limitation the City's repurchase options).
 - x. Such waivers and releases shall survive repayment of the indebtedness and satisfaction of other obligations under the Facility.
- f. Provide that the Liens are deemed perfected without filing or recordation (without prejudice to the rights of the City to require filing and recordation).

19. Binding Effect. The City and the Borrowers shall in good faith take all action that is necessary and appropriate to implement and seek approval of the Bankruptcy Court of, and to satisfy all conditions set forth in this Term Sheet. Notwithstanding the foregoing, (a) the Borrowers, in the exercise of their fiduciary duties, reserve the right to terminate this Term Sheet; and (b) absent court approval of the Term Sheet and exhibits attached hereto on or before January 2, 2025, either party may terminate this Term Sheet. Termination shall relieve all parties of their obligations under this Term Sheet (without impairing the rights of the parties under any Interim Order).

Agreed

**SilverRock Development Company, LLC,
RGC PA 789, LLC,
SilverRock Lifestyle Residences, LLC,
SilverRock Lodging, LLC,
SilverRock Luxury Residences, LLC, and
SilverRock Phase 1, LLC**

Doug Wilson

By: _____

Name: Douglas Wilson

Chief Restructuring Officer

Christopher S. Sontchi

By: _____

Name: Christopher Sontchi

Independent Manager

City of La Quinta

By: _____

Jon McMillen, City Manager

Attest:

By: _____

Monika Radeva, City Clerk

Approved as to form:

By: _____

William H. Ihrke, City Attorney

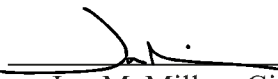
Agreed

**SilverRock Development Company, LLC,
RGC PA 789, LLC,
SilverRock Lifestyle Residences, LLC,
SilverRock Lodging, LLC,
SilverRock Luxury Residences, LLC, and
SilverRock Phase 1, LLC**

By: _____
Name: Douglas Wilson
Chief Restructuring Officer

By: _____
Name: Christopher Sontchi
Independent Manager

City of La Quinta

By:  _____
Jon McMillen, City Manager

Attest:

By:  12/11/2024
Monika Radeva, City Clerk

Approved as to form:

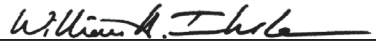
By:  _____
William H. Ihrke, City Attorney

Exhibit A

Approved Budget

[illegible]

Talus La Quinta
DIP budget - 14 months
12.09.2024
CONFIDENTIAL
SilverRock Phase I, LLC, SilverRock Development Company, LLC, RGC PA 789, LLC
SilverRock Luxury Residences, LLC, SilverRock Lifestyle Residences, LLC
SilverRock Lodging, LLC

Month #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Final Budget
	2024	2024	2024	2024	2024	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025	
	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	
Restructuring outflows																		
Professional fees	-	-	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	1,650,000
Legal - BK restructuring	-	-	85,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	1,135,000
CRO- BK restructuring	-	-	-	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	840,000
Independent Manager	-	-	-	75,000	75,000	50,000	25,000	25,000	-	50,000	50,000	25,000	25,000	25,000	25,000	-	25,000	525,000
Legal - Independent Manager	-	1,334	-	-	21,807	-	-	23,616	-	-	13,847	-	-	9,210	-	-	12,227	82,041
Trustee fees (Ties to Line 85)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Restructuring outflows	-	1,334	195,000	320,000	341,807	295,000	270,000	293,616	270,000	295,000	308,847	270,000	270,000	279,210	270,000	270,000	282,227	4,232,041
Total Outflows (Operational & Restructuring)	188,243	146,654	352,176	779,960	1,615,608	1,345,424	1,166,341	463,813	791,480	547,781	405,484	389,997	366,637	399,847	366,637	390,637	783,311	10,504,031
NET CASH FLOW	(188,243)	103,346	(27,176)	(779,960)	499,419	1,154,576	333,659	(463,813)	458,520	(547,781)	(405,484)	856,003	(366,637)	(399,847)	1,133,363	(390,637)	(783,311)	185,596
CUMULATIVE OUTFLOWS:																		
Cash requirement	188,243	334,897	687,073	1,467,033	3,082,641	4,428,065	5,594,406	6,058,219	6,844,699	7,397,480	7,802,965	8,196,962	8,563,599	8,963,446	9,330,083	9,720,721	10,504,031	
Beginning balance	-	(188,243)	(84,897)	(112,073)	(892,033)	(392,614)	761,962	1,095,621	631,808	1,090,328	542,547	137,062	993,065	626,428	226,581	1,359,944	969,306	-
Net cash flow	(188,243)	303,346	(27,176)	(779,960)	499,419	1,154,576	333,659	(463,813)	458,520	(547,781)	(405,484)	856,003	(366,637)	(399,847)	1,133,363	(390,637)	(783,311)	185,596
Ending cash balance	(188,243)	(84,897)	(112,073)	(892,033)	(392,614)	761,962	1,095,621	631,808	1,090,328	542,547	137,062	993,065	626,428	226,581	1,359,944	969,306	185,596	
DIP Facility																		
Beginning balance	-	-	250,000	575,000	575,000	575,000	5,900,000	7,000,000	7,000,000	8,250,000	8,250,000	8,250,000	9,500,000	9,500,000	9,500,000	11,000,000	11,000,000	11,000,000
Interest/Origination fees/exit fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest payment	-	250,000	325,000	-	2,425,000	2,500,000	1,500,000	-	1,250,000	-	-	1,250,000	-	-	1,500,000	-	-	-
DIP financing - funding	-	250,000	575,000	575,000	3,000,000	5,500,000	7,000,000	7,000,000	8,250,000	8,250,000	8,250,000	9,500,000	9,500,000	9,500,000	11,000,000	11,000,000	11,000,000	11,000,000
Ending balance	-	250,000	575,000	575,000	3,000,000	5,500,000	7,000,000	7,000,000	8,250,000	8,250,000	8,250,000	9,500,000	9,500,000	9,500,000	11,000,000	11,000,000	11,000,000	11,000,000

Exhibit B

Memorandum of Understanding

SilverRock Development Company, LLC (“SDC”), RGC PA 789, LLC, SilverRock Lifestyle Residences, LLC, SilverRock Lodging, LLC, SilverRock Luxury Residences, LLC, and SilverRock Phase 1, LLC (individually, a “Debtor” and collectively, the “Debtors”) and The City of La Quinta, a California municipal corporation (the “City”) hereby enter into this Memorandum of Understanding (“MOU”) as of this 10th, day of December, 2024, with reference to the following recitals:

WHEREAS, as more specifically described and detailed in that certain *Declaration of Jon McMillen in Support of City of La Quinta's Opposition to Motion of Debtors Pursuant to Sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code, Bankruptcy Rule 4001, and Local Rule 4001-2, for Interim and Final Orders (I) Authorizing Debtors to Obtain Postpetition Financing; (II) Granting DIP Lender Liens and Super-Priority Claims; (III) Scheduling a Final Hearing; and (IV) Granting Related Relief* [Docket No. 67] (the “McMillen Declaration”), the City and SDC entered into that certain Purchase, Sale, and Development Agreement dated November 19, 2014 (the “Original PSDA”), as amended by Amendment No. 1, dated October 29, 2015, Amendment No. 2, dated April 18, 2017, Amendment No. 3, dated November 28, 2018, Amendment No. 4, dated October 12, 2021, and Amendment No. 5, dated November 16, 2023 (together, the “PSDA”) and that certain Statutory Development Agreement, dated November 19, 2014, by and between SilverRock Development Company and City, adopted pursuant to California Government Code section 65864 *et seq.* and recorded in the Office of the Riverside County Official Records on December 18, 2014, as Document No. 2014-0484106 (the “Development Agreement”), which concern the purchase, sale and development of two luxury resort hotels with attached residences, appurtenant golf clubhouse and conference center, and other amenities formerly known as “SilverRock” and now referred to as “Talus” (the “Project”);

WHEREAS, as more specifically described and detailed in the McMillen Declaration, pursuant to the PSDA, the Development Agreement and related documents and instruments, the City transferred certain real property to SDC (the “Property”);

WHEREAS, on August 5, 2024 (the “Petition Date”), the Debtors commenced chapter 11 cases, which have been administratively consolidated for procedural purposes only under Chapter 11 Case No. 24-11647 MFW (each case, a “Chapter 11 Case” and collectively, the “Chapter 11 Cases”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on September 3, 2024, the Bankruptcy Court heard and denied Debtors’ motion for an interim and permanent order for Debtor-In-Possession Financing (“DIP Financing”) to be provided and serviced by non-party Serene Investment Management, LLC, based upon terms that were not acceptable to the Bankruptcy Court; thereafter, Debtors and the City negotiated a term sheet (“Interim Term Sheet”) to provide interim funding pending resolution of the Chapter 11 Cases with proposed terms and conditions that, among other goals, addressed concerns raised by the Bankruptcy Court;

WHEREAS, on September 20, 2024, Debtors filed their *Motion of Debtors Pursuant to Sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code, Bankruptcy Rule 4001, and Local Rule 4001-2, for Interim and Final Orders (I) Authorizing Debtors to Obtain Postpetition Financing from the City of La Quinta; (II) Granting Non-Priming DIP Lenders Liens and Super-Priority Claims; (III) Scheduling a Final Hearing; and (IV) Granting Related Relief* [Docket No. 125] (the “Interim DIP Financing Motion”), which included the Term Sheet, proposed order, and other terms and conditions for the proposed alternative DIP Financing to be provided by the City;

WHEREAS, on October 1, 2024, the Bankruptcy Court entered its *Interim Order (I) Authorizing the Debtors to Obtain Interim Postpetition Secured Financing, (II) Granting Non-Priming Liens and Superpriority Administrative Expense Status, and (III) Scheduling a Final Hearing* [Docket No. 162] the (“First Interim DIP Order”) granting the Interim DIP Financing Motion, on an interim basis;

WHEREAS, on October 18, 2024, the Bankruptcy Court entered its *Second Interim Order (I) Authorizing the Debtors to Obtain Interim Postpetition Secured Financing, (II) Granting Non-Priming Liens and Superpriority Administrative Expense Status, and (III) Scheduling a Final Hearing* [Docket No. 188] the (“Second Interim DIP Order”), extending the term and amount of the DIP financing by the City on an interim basis;

WHEREAS, on October 31, 2024, the Bankruptcy Court entered its *Third Interim Order (I) Authorizing the Debtors to Obtain Interim Postpetition Secured Financing, (II) Granting Non-Priming Liens and Superpriority Administrative Expense Status, and (III) Scheduling a Final Hearing* [Docket No. 208] the (“Third Interim DIP Order”), further extending the term and amount of the DIP financing by the City on an interim basis;

WHEREAS, on December 6, 2024, the Bankruptcy Court entered its *Fourth Interim Order (I) Authorizing the Debtors to Obtain Interim Postpetition Secured Financing, (II) Granting Non-Priming Liens and Superpriority Administrative Expense Status, and (III) Scheduling a Final Hearing* [Docket No. 243] the (“Fourth Interim DIP Order”), further extending the term and amount of the DIP financing by the City on an interim basis (the First Interim DIP Order, the Second Interim DIP Order, the Third Interim DIP Order, the Fourth Interim DIP Order and all other interim DIP financing orders as may be entered in connection with interim financing to be provided by the City are referred to collectively herein as the “Interim Orders”);

WHEREAS, concurrently herewith, the Debtors (as Borrowers) and the City have entered into a Term Sheet (the “Term Sheet”) providing for the City to provide up to a maximum of \$11,000,000 of DIP financing on a final basis, subject to the entry of an order approving such financing on terms and conditions set forth in the Term Sheet;

WHEREAS, the Debtors and the City acknowledge and agree that their mutual interests are served by cooperating and coordinating in connection with (a) the Debtors’ efforts to sell the Property to an acceptable developer who can complete the Project; (b) the preparation, confirmation and consummation of a chapter 11 plan; and (c) the administration of the Chapter 11 Cases;

WHEREAS, in consideration of the DIP Financing described in the Term Sheet and the mutual agreements set forth herein, the Debtors and the City hereby agree as follows:

1. Communications.

- a. The parties shall maintain open and transparent communications regarding the sale process, the preparation of a plan and disclosure statement, the commencement of litigation, the Debtors' operations, conditions at the property and other material matters as may arise from time to time with respect to the Chapter 11 Cases. To the extent necessary or appropriate, the provision of information by one party to another may be subject to a customary non-disclosure agreement ("NDA"). All disputes pertaining to the designation of confidential material or to the enforceability of relevant NDA's shall be resolved by the Bankruptcy Court. To facilitate the orderly provision of information, the parties shall meet routinely with each other.
- b. The Debtors shall make a good faith effort (but are not required) to provide to the City a draft of all material motions and applications at least three (3) days prior to serving or filing such motion or application. In the event that the City raises a concern regarding any proposed motion or application, the Debtors shall attempt to address such concerns in good faith.
- c. Information Sharing. Upon a request by the City in writing (which may be by email), Debtors and CRO shall provide to the City all documents and information in their possession, custody or control that the City from time to time may request in writing regarding: the condition or value of the Debtors' assets; claims against Debtors; negotiations and communications with prospective purchaser and/or financiers of the Debtors or their business; contracts between Debtors and third parties; transfers and payments made by Debtors; and dealings between Debtors and their insiders; cost to complete the project; appraisal reports; information regarding prospective purchasers (including without limitation their financial wherewithal and experience); purchase proposals, letters of intent and term sheets. Any request by the City shall be reasonable in scope, and shall describe the type of documents or information requested. Notwithstanding the foregoing, Debtors are not required to provide to the City any documents or information protected by the attorney-client privilege.

2. Sale of Property.

- a. Broker. The Debtors shall consult with the City regarding their selection of a broker, and the terms of employment of a broker, to be engaged with respect to the Debtors' proposed sale of the Property. The Debtors shall, at their sole discretion, include the City in communications with the selected broker. The City is authorized to have direct communications with the selected broker, but shall not communicate directly with the selected broker unless the Debtors are invited to or copied on such communications.

- b. Selection of Developer/Purchaser. The Debtors shall make the determination regarding the selection of a Developer/Purchaser, and shall have responsibility for negotiating the terms and conditions of the sale, subject to approval of the Bankruptcy Court and to the terms of this MOU and the Facility. Without limiting the generality of the foregoing, the negotiation of the sale price and payment terms shall be the province of the Debtors.

- c. City Consent Rights. The City shall have the right to consent to or reject the sale to any Developer/Purchaser as the Debtors may propose. The City shall exercise its consent rights in good faith, giving due consideration to the experience, expertise and financial wherewithal of any proposed Developer/Purchaser, and the development terms, conditions and concessions as a proposed Developer/Purchaser may require. Absent the City's consent, the Debtors shall not seek approval of, or consummate, a sale to a proposed Developer/Purchaser. The parties acknowledge and agree that the City has the right to negotiate all terms and conditions related to the development of the Project, and to enter into development agreements and related documents directly with the selected Developer/Purchaser; and that the development terms and conditions to which the City may agree may differ from terms and conditions as were in effect and/or under discussion prepetition. The parties further acknowledge and agree that absent the City's written consent, the Debtors shall not seek to assume or assign the Purchase, Sale, and Development Agreement dated November 19, 2014, by and between SilverRock Development Company and City (the "Original PSDA"), as amended by Amendment No. 1, dated October 29, 2015, Amendment No. 2, dated April 18, 2017, Amendment No. 3, dated November 28, 2018, Amendment No. 4, dated October 12, 2021, and Amendment No. 5, dated November 16, 2023 (the "PSDA") or the Development Agreement, dated November 19, 2014, by and between SilverRock Development Company and City, adopted pursuant to California Government Code section 65864 *et seq.* and recorded in the Office of the Riverside County Official Records on December 18, 2014, as Document No. 2014-0484106 (the "Development Agreement"), and that effective on Closing to which the City consents in writing, the City shall not assert cure claims against the Debtors' estates under section 365 of the Bankruptcy Code with respect to the PSDA or Development Agreement (without prejudice to the City's right to assert prepetition claims or rejection damage claims in connection with the PSDA and Development Agreement, and to enforce all rights and remedies with respect to the Facility).

- d. Consultation. The parties agree to consult with each other in good faith regarding the selection of a stalking horse purchaser and the ultimate Developer/Purchaser of the Property; the terms and conditions of the sale and development of the Property; the procedures for sale of the Property (including whether to sell pursuant to section 363 of the Bankruptcy Code or pursuant to a plan).

3. Plan and Disclosure Statement.

- a. Preparation of Plan and Disclosure Statement. If the sale transaction is consummated through a plan, the Debtors shall provide an initial draft of a plan and disclosure statement to the City at least two (2) weeks prior to filing. If the sale transaction is not consummated through a plan, the Debtors shall provide an initial draft plan and disclosure statement to the City at least five (5) business days prior to the filing. The Debtors shall attempt in good faith to provide drafts of material amendments and supplements at least five (5) business days prior to filing. The City and the Debtors shall negotiate in good faith with respect to the Debtors' plan, disclosure statement and amendments and supplements.
- b. Contents of a Plan. The Debtors' plan shall contain terms and conditions consistent with this MOU and the Facility.
- c. Exclusivity. Effective upon entry of the Approval Order, the City hereby consents to a 120-day extension of the exclusivity periods set forth in section 1121 of the Bankruptcy Code. The Debtors and the City reserve their respective rights with respect to further extensions and/or termination of exclusivity.
- d. Miscellaneous.
 - i. Effectiveness. This MOU shall be effective upon entry of the Approval Order, and shall be of no force or effect if the Approval Order is disapproved by the Bankruptcy Court.
 - ii. Reservation of Rights. Except as set forth in the Term Sheet, the Loan Documents, the Interim DIP Orders, the Approval Order or this MOU, the Debtors and the City reserve their respective rights and remedies.
 - iii. Survival. Unless terminated as set forth below, this MOU shall survive repayment and satisfaction of Debtors' obligations and indebtedness under the Facility.
 - iv. Termination. Upon the occurrence of an Event of Default under the Facility, the City may, but is not required to, terminate this MOU by written notice to the Debtors.
 - v. Third Party Beneficiaries. This MOU is solely between the Debtors and the City, and no third party is an intended beneficiary hereof.
 - vi. Defined Terms. Capitalized terms used in this MOU shall have the same meaning given to such terms in the Term Sheet.

[signatures follow]

Agreed:

**SilverRock Development Company, LLC,
RGC PA 789, LLC,
SilverRock Lifestyle Residences, LLC,
SilverRock Lodging, LLC,
SilverRock Luxury Residences, LLC, and
SilverRock Phase 1, LLC**

Doug Wilson

By: _____

Name: Douglas Wilson

Chief Restructuring Officer

By: *Christopher S. Sontchi*

Name: Christopher Sontchi

Independent Manager

City of La Quinta

By: _____

Jon McMillen, City Manager

Attest:

By: _____

Monika Radeva, City Clerk

Approved as to form:

By: _____

William H. Ihrke, City Attorney

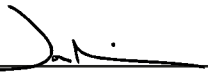
Agreed:

**SilverRock Development Company, LLC,
RGC PA 789, LLC,
SilverRock Lifestyle Residences, LLC,
SilverRock Lodging, LLC,
SilverRock Luxury Residences, LLC, and
SilverRock Phase 1, LLC**

By: _____
Name: Douglas Wilson
Chief Restructuring Officer

By: _____
Name: Christopher Sontchi
Independent Manager

City of La Quinta

By:  _____
Jon McMillen, City Manager

Attest:

By:  12/11/2024
Monika Radeva, City Clerk

Approved as to form:

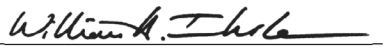
By:  _____
William H. Ihrke, City Attorney

Exhibit C

Revised Interim DIP Budget

Budget attached to Fourth Interim DIP Order, clerk's docket 243-1, is incorporated by reference.

EXHIBIT 2

(Approved Budget)

[illegible]

Talus La Quinta
DIP budget - 14 months
12.09.2024
CONFIDENTIAL
SilverRock Phase I, LLC, SilverRock Development Company, LLC, RGC PA 789, LLC
SilverRock Luxury Residences, LLC, SilverRock Lifestyle Residences, LLC
SilverRock Lodging, LLC

Month #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Final Budget
	2024	2024	2024	2024	2024	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025	
	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	
Restructuring outflows																		
Professional fees	-	-	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	1,650,000
Legal - BK restructuring	-	-	85,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	75,000	1,135,000
CRO- BK restructuring	-	-	-	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	840,000
Independent Manager	-	-	-	75,000	75,000	50,000	25,000	25,000	-	50,000	50,000	25,000	25,000	25,000	25,000	-	25,000	525,000
Legal - Independent Manager	-	1,334	-	-	21,807	-	-	23,616	-	-	13,847	-	-	9,210	-	-	12,227	82,041
Trustee fees (Ties to Line 85)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Restructuring outflows	-	1,334	195,000	320,000	341,807	295,000	270,000	293,616	270,000	295,000	308,847	270,000	270,000	279,210	270,000	270,000	282,227	4,232,041
Total Outflows (Operational & Restructuring)	188,243	146,654	352,176	779,960	1,615,608	1,345,424	1,166,341	463,813	791,480	547,781	405,484	389,997	366,637	399,847	366,637	390,637	783,311	10,504,031
NET CASH FLOW	(188,243)	103,346	(27,176)	(779,960)	499,419	1,154,576	333,659	(463,813)	458,520	(547,781)	(405,484)	856,003	(366,637)	(399,847)	1,133,363	(390,637)	(783,311)	185,596
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Cash requirement	188,243	334,897	687,073	1,467,033	3,082,641	4,428,065	5,594,406	6,058,219	6,844,699	7,397,480	7,802,965	8,196,962	8,563,599	8,963,446	9,330,083	9,720,721	10,504,031	
Beginning balance	-	(188,243)	(84,897)	(112,073)	(892,033)	(392,614)	761,962	1,095,621	631,808	1,090,328	542,547	137,062	993,065	626,428	226,581	1,359,944	969,306	-
Net cash flow	(188,243)	303,346	(27,176)	(779,960)	499,419	1,154,576	333,659	(463,813)	458,520	(547,781)	(405,484)	856,003	(366,637)	(399,847)	1,133,363	(390,637)	(783,311)	185,596
Ending cash balance	(188,243)	(84,897)	(112,073)	(892,033)	(392,614)	761,962	1,095,621	631,808	1,090,328	542,547	137,062	993,065	626,428	226,581	1,359,944	969,306	185,596	
DIP Facility																		
Beginning balance	-	-	250,000	575,000	575,000	575,000	5,900,000	7,000,000	7,000,000	8,250,000	8,250,000	8,250,000	9,500,000	9,500,000	9,500,000	11,000,000	11,000,000	11,000,000
Interest/Origination fees/exit fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest payment	-	250,000	325,000	-	2,425,000	2,500,000	1,500,000	-	1,250,000	-	-	1,250,000	-	-	1,500,000	-	-	-
DIP financing - funding	-	250,000	575,000	575,000	3,000,000	5,500,000	7,000,000	7,000,000	8,250,000	8,250,000	8,250,000	9,500,000	9,500,000	9,500,000	11,000,000	11,000,000	11,000,000	11,000,000
Ending balance	-	250,000	575,000	575,000	3,000,000	5,500,000	7,000,000	7,000,000	8,250,000	8,250,000	8,250,000	9,500,000	9,500,000	9,500,000	11,000,000	11,000,000	11,000,000	11,000,000

Exhibit 3

Exhibit 3 to Final DIP Financing Order

1. The extent of the DIP Lender's priming under Section 364(d) of the Bankruptcy Code with respect to the parcels of real property specified in this paragraph 1 shall be limited to \$1,000,000. The assessor's parcels subject to this paragraph 1, are:

a.	777-510-001	Leasehold Interest
b.	777-510-002	Leasehold Interest
c.	777-510-003	Leasehold Interest
d.	777-510-004	Leasehold Interest
e.	777-510-005	Leasehold Interest
f.	777-510-006	
g.	777-510-007	
h.	777-510-008	
i.	777-510-009	Leasehold Interest
j.	777-510-010	Leasehold Interest
k.	777-510-011	Leasehold Interest
l.	777-510-012	Leasehold Interest
m.	777-510-013	
n.	777-510-014	
o.	777-510-015	Leasehold Interest
p.	777-510-016	Leasehold Interest
q.	777-520-001	
r.	777-520-002	Leasehold Interest
s.	777-520-003	Leasehold Interest
t.	777-520-004	
u.	777-520-005	
v.	777-520-006	
w.	777-520-007	
x.	777-520-008	
y.	777-520-009	
z.	777-520-010	
aa.	777-520-011	Leasehold Interest
bb.	777-520-012	Leasehold Interest
cc.	777-520-013	Leasehold Interest

and are legally described as Lots 1 through 29 in Parcel 12 of the legal description in Schedule A of the Preliminary Report [Docket No. 425].

2. The extent of the DIP Lender's priming under Section 364(d) of the Bankruptcy Code with respect to the parcels of real property specified in and subject to this paragraph 2 ("Planning Area 7,8,9") shall be limited to \$7,000,000, *i.e.*, approximately 58% of the total DIP Credit Facility. The Debtors and the DIP Lender stipulate and agree that the disproportionate amount of priming with respect to Planning Area 7,8,9 (when compared to the percentage of these parcels to the estates' total parcels' in both size and value) is appropriate because, among other reasons: (a) Planning Area 7,8,9 is comprised of some of the most valuable parcels included in the DIP Collateral; and (b) there exists a substantial equity cushion in favor of the holder of the first deed of trust on the parcels comprising Planning Area 7,8,9, even taking into account the DIP Lender's \$7 million priming lien; and (c) the equity

cushion in favor of the holder of the first deed of trust on the Planning Area 7,8,9 parcels is greater than the aggregate equity cushion, if any, of the holders of the first trust deeds on the estates' other parcels combined. Planning Area 7,8,9 is comprised of:

- a. 777-060-075
- b. 777-060-083
- c. 777-060-085
- d. 777-060-078

and are legally described in Parcels 1, 2 and 3 of the legal description in Schedule A of the Preliminary Report [Docket No. 425].

3. Debtor RGC PA 789 LLC owns an undivided 57.2% interest in a portion of parcel no. 10 of Parcel Map. No. 37207 APN 777-060-076, described in greater detail in that certain Membership Interest Purchase and Sale Agreement dated as of April 13, 2023 (the "Planning Area 9"). The remaining 42.8% interest in the Planning Area 9 is owned by SilverRock Land II, LLC ("SR Land"). The membership interests in SR Land are owned by the Traub Family Revocable Trust dated June 22, 2015 (the "Traub Trust"). SR Land and the Traub Trust hereby consent to the sale of the Planning Area 9 by the Debtors pursuant to Section 363(h) of the Bankruptcy Code as part of a plan or a separate sale motion under section 363 of the Bankruptcy Code, provided that the provisions of any plan or order approving the sale of SR Land's interest shall in substance implement the terms of this paragraph, and shall be in a form reasonably acceptable to SR Land and the Traub Trust. In consideration of such consent, upon the closing of a sale of the Planning Area 9 pursuant to section 363 or a plan, SR Land shall be paid the sum of \$3,816,000 plus 15% interest compounding quarterly beginning on April 14, 2024, less the allocable share of costs and expenses per section 363(j) of the Bankruptcy Code. Absent agreement of the parties, the Court shall determine the allocable share of such costs and expenses. Such payment shall be made solely from the net proceeds of sale, after deducting payments made to lenders secured by Planning Area 9.
4. The Debtors, the DIP Lender, and Cypress Point Holdings, LLC shall enter into that certain *Stipulation Between the Debtors, the City of La Quinta, California, and Cypress Point Holdings, LLC Regarding Motion of Debtors Pursuant to Sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code, Bankruptcy Rule 4001, and Local Rule 4001-2, for an Order (I) Authorizing Debtors to Obtain Postpetition Financing; (II) Granting DIP Lender Priming Liens and Super-Priority Claims; and (III) Granting Related Relief.*
5. The extent of the DIP Lender's priming under Section 364(d) of the Bankruptcy Code with respect to the parcels of real property specified in this paragraph 5 shall be limited to \$4,000,000. The parcels subject this paragraph 5 are:
 - a. 777-490-040
 - b. 777-490-041
 - c. 777-490-042
 - d. 777-490-043
 - e. 777-490-044

- f. 777-490-045
- g. 777-490-046

and are legally described in Parcels 4, 5, 6, 7, 8, 9A, and 9B of the legal description in Schedule A of the Preliminary Report [Docket No. 425]