

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

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In re:

CBRM Realty Inc. *et al.*,

Debtors.¹

Chapter 11

Case No. 25-15343 (MBK)
(Jointly Administered)

Re: Docket Nos. 125, 169

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: CBRM Realty Inc. (2420), Crown Capital Holdings LLC (1411), Kelly Hamilton Apts LLC (9071), Kelly Hamilton Apts MM LLC (0765), RH Chenault Creek LLC (8987), RH Copper Creek LLC (0874), RH Lakewind East LLC (6963), RH Windrun LLC (0122), RH New Orleans Holdings LLC (7528), and RH New Orleans Holdings MM LLC (1951). The location of the Debtors' service address in these chapter 11 cases is: In re CBRM Realty, Inc., et al., c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020.



**CERTIFICATE OF NO OBJECTION WITH RESPECT TO
DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) APPROVING THE DEBTORS' PROPOSED ADEQUATE
ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES,
(II) PROHIBITING UTILITY PROVIDERS FROM ALTERING,
REFUSING, OR DISCONTINUING SERVICES, (III) APPROVING THE
DEBTORS' PROPOSED PROCEDURES FOR RESOLVING ADEQUATE
ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that, in connection with the *Debtors' Motion for Entry of Interim and Final Orders (I) Approving the Debtors' Proposed Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Services, (III) Approving the Debtors' Proposed Procedures for Resolving Adequate Assurance Requests, and (IV) Granting Related Relief* [Docket No. 125] (the “**Motion**”), and the *Interim Order (I) Approving the Debtors' Proposed Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Services, (III) Approving the Debtors' Proposed Procedures for Resolving Adequate Assurance Requests, and (IV) Granting Related Relief* [Docket No. 169] (the “**Interim Order**”), the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), by and through their undersigned counsel, hereby file this certificate of no objection.

PLEASE TAKE FURTHER NOTICE that the deadline for parties to file objections to approval of the Motion on a final basis was July 3, 2025 at 4:00 p.m. (prevailing Eastern Time) (the “**Objection Deadline**”). No objections or responses to the Motion were filed on the docket on or before the Objection Deadline. Counsel has not received comments from any party.

PLEASE TAKE FURTHER NOTICE that a clean version of the proposed order approving the relief requested in the Motion on a final basis (the “**Proposed Final Order**”) is attached hereto as **Exhibit A**. A redline comparing the Proposed Final Order to the Interim Order is attached hereto as **Exhibit B**. The Debtors respectfully request that the Court enter the Proposed

Final Order.

[Remainder of page intentionally left blank.]

Dated: July 8, 2025

Respectfully submitted,

/s/ Andrew Zatz

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Exhibit A

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

In re:

CBRM REALTY INC., *et al.*

Debtors.¹

Chapter 11

Case No. 25-15343 (MBK)
(Jointly Administered)

**FINAL ORDER (I) APPROVING THE DEBTORS' PROPOSED
ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES,
(II) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR
DISCONTINUING SERVICES, (III) APPROVING THE DEBTORS' PROPOSED
PROCEDURES FOR RESOLVING ADEQUATE ASSURANCE REQUESTS,
AND (IV) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered 2 through 10, is hereby **ORDERED**.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: CBRM Realty Inc. (2420), Crown Capital Holdings LLC (1411), Kelly Hamilton Apts LLC (9071), Kelly Hamilton Apts MM LLC (0765), RH Chenault Creek LLC (8987), RH Copper Creek LLC (0874), RH Lakewind East LLC (6963), RH Windrun LLC (0122), RH New Orleans Holdings LLC (7528), and RH New Orleans Holdings MM LLC (1951). The location of the Debtors' service address in these chapter 11 cases is: In re CBRM Realty Inc., et al., c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020.

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

Caption of Order: FINAL ORDER (I) APPROVING THE DEBTORS' PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (II) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES, (III) APPROVING THE DEBTORS' PROPOSED PROCEDURES FOR RESOLVING ADEQUATE ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the “**Motion**”),² of the above-captioned debtors and debtors in possession (the “**Debtors**”), for entry of a final order (this “**Final Order**”) (a) approving the Debtors’ Proposed Adequate Assurance of payment for future utility services, (b) prohibiting Utility Providers from altering, refusing, or discontinuing services, (c) approving the Adequate Assurance Procedures, and (d) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.) and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT:

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

Caption of Order: FINAL ORDER (I) APPROVING THE DEBTORS' PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (II) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES, (III) APPROVING THE DEBTORS' PROPOSED PROCEDURES FOR RESOLVING ADEQUATE ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF

1. The Motion is GRANTED as set forth herein.
2. Subject to the Adequate Assurance Procedures for resolving Adequate Assurance Requests, the Adequate Assurance Deposit, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, shall constitute adequate assurance of future payment as required under section 366 of the Bankruptcy Code.
3. All Utility Providers are prohibited from altering, refusing, or discontinuing services on account of any unpaid prepetition charges, the commencement of these chapter 11 cases, or any perceived inadequacy of the Proposed Adequate Assurance.
4. The following Adequate Assurance Procedures are hereby approved on a final basis:
 - a. The Debtors will serve a copy of the Motion and this Final Order to each Utility Provider within two (2) calendar days after entry of this Final Order by the Court.
 - b. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within two (2) calendar days after entry of the Interim Order; *provided* that if the Debtors' postpetition debtor-in-possession financing (the "**DIP Facility**") has not been funded as of such date, the Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within seven (7) calendar days of the funding of the DIP Facility.
 - c. If an amount relating to Utility Services provided postpetition by any Utility Provider is unpaid, and remains unpaid beyond any applicable grace period, such Utility Provider may request a disbursement from the Adequate Assurance Account up to the amount owed to each such Utility Provider by giving notice to: (a) the Debtors, CBRM Realty Inc. c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020; (b) counsel to the Debtors: (i) White & Case LLP, 111 South Wacker Drive, Chicago, Illinois 60606 (Attn: Gregory F. Pesce (gregory.pesce@whitecase.com) and (ii) White & Case LLP, 1221 Avenue

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

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of the Americas, New York, New York 10020 (Attn: Andrew Zatz (azatz@whitecase.com) and Barrett Lingle (barrett.lingle@whitecase.com); (c) co-counsel to the Debtors, Kenneth A. Rosen, 80 Central Park West, New York, New York 10023 (ken@kenrosenadvisors.com); (d) the United States Trustee for the District of New Jersey, One Newark Center, 1085 Raymond Boulevard, Suite 2100, Newark, New Jersey 07102 (Attn: Jeffrey Sponder (jeffrey.m.sponder@usdoj.gov) and Lauren Bielskie (lauren.bielskie@usdoj.gov); and (e) counsel to any statutory committee appointed in these chapter 11 cases (collectively, the "**Notice Parties**"). The Debtors shall honor such request within five (5) business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Provider to resolve any dispute regarding such request without further order of the Court. To the extent any Utility Provider receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

- d. Each Utility Provider shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Provider in the column labeled "Proposed Adequate Assurance" on the Utility Services List, attached to the Motion as Exhibit C.
- e. Each Utility Provider holding an existing deposit is permitted to maintain its existing deposit in addition to its right to funds in the Adequate Assurance Account. Such Utility Provider may not, absent a separate order granting relief from section 362 of the Bankruptcy Code, apply such existing deposit to any prepetition amounts owed if there are no outstanding disputes related to postpetition payment.
- f. The portion of the Adequate Assurance Deposit attributable to each Utility Provider shall be returned to the Debtors automatically, without further order of the Court, on the earlier of (i) the Debtors reconciling and paying the Utility Provider's final invoice in accordance with applicable nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Provider or (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases if there are no outstanding disputes related to postpetition payment.
- g. Any Utility Provider that is not satisfied with the Proposed Adequate Assurance and seeks additional or other assurance of payment must serve a request for additional assurance of future payment (an "**Additional Assurance Request**") on the Notice Parties. Any Utility Provider that objects to the Debtors' Proposed

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

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Adequate Assurance must serve an Additional Assurance Request on the Notice Parties.

- h. Any Adequate Assurance Request or Additional Assurance Request must: (i) be in writing; (ii) identify the location for which the Utility Services are provided; (iii) provide the outstanding balance for each such account and a summary of the Debtors' payment history relevant to the affected account(s), including any security deposits; (iv) provide evidence that the Debtors have a direct obligation to the Utility Provider; (v) certify that the Utility Provider does not already hold a deposit equal to or greater than two (2) weeks of Utility Services; and (vi) explain why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.
- i. Unless a Utility Provider files and serves an Adequate Assurance Request, the Utility Provider shall be (i) deemed to have received "satisfactory" adequate assurance of payment in compliance with section 366 of the Bankruptcy Code and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- j. Upon the Debtors' receipt of an Adequate Assurance Request, the Debtors shall promptly negotiate with the Utility Provider to resolve the Utility Provider's Adequate Assurance Request.
- k. The Debtors may, without further order from the Court, resolve any Adequate Assurance Request by mutual agreement with a Utility Provider and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such adequate assurance is reasonable; *provided, however*, that the Debtors shall maintain a summary record of such agreements and their respective terms, and such summary record and the agreements themselves shall be available to any official committee appointed in these chapter 11 cases and the U.S. Trustee, upon request.
- l. If the Debtors and the Utility Provider are unable to reach a consensual resolution within fourteen (14) days of receipt of an Adequate Assurance Request or Additional Assurance Request, or if a Utility Provider was omitted from the Utility Services List and wishes to dispute that it received adequate assurance of future

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

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payment as required by section 366 of the Bankruptcy Code as provided by this Final Order, the Debtors will request a hearing before the Court at the next regularly-scheduled omnibus hearing to determine the adequacy of assurance of payment with respect to such Utility Provider (a “**Determination Hearing**”) pursuant to section 366(c)(3) of the Bankruptcy Code.

- m. At all times prior to resolution of such dispute at a Determination Hearing and the entry of any Court order as a result thereof, the relevant Utility Provider shall be prohibited from altering, refusing, or discontinuing service to the Debtors on account of: (i) unpaid charges for prepetition services; (ii) a pending Adequate Assurance Request; or (iii) any objections filed in response to the Proposed Adequate Assurance.

5. The Utility Providers are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

6. The Debtors are authorized to cause the Adequate Assurance Deposit to be held in a segregated account during the pendency of these chapter 11 cases.

7. The Debtors' service of the Motion upon the Utility Services List shall not constitute an admission or concession that any such entity is a “utility” within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

8. The Debtors are authorized to amend the Utility Services List attached to the Motion as Exhibit C; *provided* that the Debtors shall seek authority under a separate order of the Court to add any Utility Provider to the Utility Services List; *provided, further*, that, if a Utility Provider is removed from the Utility Services List, the Debtors shall provide the applicable Utility Provider with fourteen (14) calendar days' notice thereof and the opportunity to respond to such

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

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removal. To the extent that there is any dispute as to the postpetition amounts owed to a Utility Provider or such Utility Provider's removal, such Utility Provider shall not be removed from the Utility Services List, and no funds shall be removed from the Adequate Assurance Deposit, until such dispute has been resolved. To the extent the Debtors and the Utility Provider are unable to reach a consensual resolution within fourteen (14) calendar days of the Debtors' receipt of notice of such dispute, the Debtors shall request a hearing before this Court at the next omnibus hearing date or such other date that the Debtor and the Utility Provider may agree. Notice shall be provided to the Notice Parties.

9. For any Utility Provider that is subsequently added to the Utility Services List under separate order of the Court (each, a "**Subsequently Identified Utility Provider**"), the Debtors shall serve such Utility Provider a copy of this Final Order, including the Adequate Assurance Procedures within two (2) business days of such Utility Provider being added to the Utilities Services List, allocate additional amounts to the Adequate Assurance Deposit in accordance with the Motion, and provide such Utility Provider notice to object to the Proposed Adequate Assurance. If an objection is received, to the extent the Debtors and the Utility Provider are unable to reach a consensual resolution within fourteen (14) calendar days of the Debtors' receipt of such objection, the Debtors shall request a hearing before this Court at the next omnibus hearing date or such other date that the Debtor and the Utility Provider may agree. The terms of this Final Order and the Adequate Assurance Procedures shall apply to any subsequently identified Utility

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

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Provider. The Debtors shall supplement Exhibit C to the Motion with the names of any subsequently identified Utility Provider and file the same with the Court. Notice shall be provided to the Notice Parties.

10. The relief granted herein is for all Utility Providers providing Utility Services to the Debtors and is not limited to those parties or entities on the Utility Services List.

11. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

12. Nothing contained in the Motion or this Final Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this Final Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in the Motion or this Final Order except as otherwise provided for in this Final Order; (e) a request or authorization to assume, adopt,

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

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or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

13. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein and to the extent authorized by this Final Order.

14. All time periods set forth in this Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

15. The Debtors and the Independent Fiduciary are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

16. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Local Rules are satisfied by such notice.

17. Any relief granted to the Debtors pursuant to this Final Order shall mean the Debtors, acting at the Direction of the Independent Fiduciary.

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Debtors: CBRM REALTY INC., *et al.*

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18. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.

19. The Debtors shall serve a copy of this Final Order on all required parties pursuant to Local Rule 9013-5(f).

20. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Exhibit B

Redline

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

In re:

CBRM REALTY INC., *et al.*

Debtors.¹

Chapter 11

Case No. 25-15343 (MBK)
(Jointly Administered)

**~~INTERIM~~FINAL ORDER (I) APPROVING THE DEBTORS' PROPOSED
ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES,
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PROCEDURES FOR RESOLVING ADEQUATE ASSURANCE REQUESTS,
AND (IV) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered 2 through ~~4~~10, is hereby
ORDERED.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: CBRM Realty Inc. (2420), Crown Capital Holdings LLC (1411), Kelly Hamilton Apts LLC (~~4115~~9071), Kelly Hamilton Apts MM LLC (0765), RH Chenault Creek LLC (8987), RH Copper Creek LLC (0874), RH Lakewind East LLC (6963), RH Windrun LLC (0122), RH New Orleans Holdings LLC (7528), and RH New Orleans Holdings MM LLC (1951). The location of the Debtors' service address in these chapter 11 cases is: In re CBRM Realty Inc., et al., c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020.

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Upon the motion (the “**Motion**”),² of the above-captioned debtors and debtors in possession (the “**Debtors**”), for entry of ~~an interim~~a final order (this “~~Interim~~Final Order”) (a) approving the Debtors’ Proposed Adequate Assurance of payment for future utility services, (b) prohibiting Utility Providers from altering, refusing, or discontinuing services, (c) approving the Adequate Assurance Procedures, and (d) ~~scheduling a final hearing (the “Final Hearing”) to consider entry of the Final Order, and (e)~~ granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.) and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

(Page 3)

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Case No. 25-15343 (MBK)

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and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

~~2. The final hearing (the "Final Hearing") on the Motion shall be held on July 10, 2025, at 1:00 p.m., prevailing Eastern Time. Objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time, on July 3, 2025. If no objections are filed to the Motion, this Court may enter an order approving the relief requested in the Motion on a final basis without further notice or hearing.~~

2. ~~3.~~ Subject to the Adequate Assurance Procedures for resolving Adequate Assurance Requests, the Adequate Assurance Deposit, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, shall constitute adequate assurance of future payment as required under section 366 of the Bankruptcy Code.

3. ~~4. Until such time as the Court enters a final order on the Motion or the Court orders otherwise, all~~All Utility Providers are prohibited from altering, refusing, or discontinuing services on account of any unpaid prepetition charges, the commencement of these chapter 11 cases, or any perceived inadequacy of the Proposed Adequate Assurance.

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Debtors: CBRM REALTY INC., *et al.*

Case No. 25-15343 (MBK)

Caption of Order: ~~INTERIM~~FINAL ORDER (I) APPROVING THE DEBTORS' PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (II) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES, (III) APPROVING THE DEBTORS' PROPOSED PROCEDURES FOR RESOLVING ADEQUATE ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF

4. ~~5.~~ The following Adequate Assurance Procedures are hereby approved on ~~an~~
~~interim~~final basis:

- a. The Debtors will serve a copy of the Motion and this ~~Interim~~Final Order to each Utility Provider within two (2) calendar days after entry of this ~~Interim~~Final Order by the Court.
- b. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within two (2) calendar days after entry of ~~this~~the Interim Order; *provided* that if the Debtors' postpetition debtor-in-possession financing (the "**DIP Facility**") has not been funded as of such date, the Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within seven (7) calendar days of the funding of the DIP Facility.
- c. If an amount relating to Utility Services provided postpetition by any Utility Provider is unpaid, and remains unpaid beyond any applicable grace period, such Utility Provider may request a disbursement from the Adequate Assurance Account up to the amount owed to each such Utility Provider by giving notice to: (a) the Debtors, CBRM Realty Inc. c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020; (b) ~~proposed~~ counsel to the Debtors: (i) White & Case LLP, 111 South Wacker Drive, Chicago, Illinois 60606 (Attn: Gregory F. Pesce (gregory.pesce@whitecase.com) and (ii) White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020 (Attn: Andrew Zatz (azatz@whitecase.com) and Barrett Lingle (barrett.lingle@whitecase.com); (c) ~~proposed~~ co-counsel to the Debtors, Kenneth A. Rosen, 80 Central Park West, New York, New York 10023 (ken@kenrosenadvisors.com); (d) the United States Trustee for the District of New Jersey, One Newark Center, 1085 Raymond Boulevard, Suite 2100, Newark, New Jersey 07102 (Attn: Jeffrey Sponder (jeffrey.m.sponder@usdoj.gov) and Lauren Bielskie (lauren.bielskie@usdoj.gov); and (e) counsel to any statutory committee appointed in these chapter 11 cases (collectively, the "**Notice Parties**"). The Debtors shall honor such request within five (5) business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Provider to resolve any dispute regarding such request without further order of the Court. To the extent any Utility Provider receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

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- d. Each Utility Provider shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Provider in the column labeled "Proposed Adequate Assurance" on the Utility Services List, attached to the Motion as Exhibit C.
- e. Each Utility Provider holding an existing deposit is permitted to maintain its existing deposit in addition to its right to funds in the Adequate Assurance Account. Such Utility Provider may not, absent a separate order granting relief from section 362 of the Bankruptcy Code, apply such existing deposit to any prepetition amounts owed if there are no outstanding disputes related to postpetition payment.
- f. The portion of the Adequate Assurance Deposit attributable to each Utility Provider shall be returned to the Debtors automatically, without further order of the Court, on the earlier of (i) the Debtors reconciling and paying the Utility Provider's final invoice in accordance with applicable nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Provider or (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases if there are no outstanding disputes related to postpetition payment.
- g. Any Utility Provider that is not satisfied with the Proposed Adequate Assurance and seeks additional or other assurance of payment must serve a request for additional assurance of future payment (an "**Additional Assurance Request**") on the Notice Parties. Any Utility Provider that objects to the Debtors' Proposed Adequate Assurance must serve an Additional Assurance Request on the Notice Parties.
- h. Any Adequate Assurance Request or Additional Assurance Request must: (i) be in writing; (ii) identify the location for which the Utility Services are provided; (iii) provide the outstanding balance for each such account and a summary of the Debtors' payment history relevant to the affected account(s), including any security deposits; (iv) provide evidence that the Debtors have a direct obligation to the Utility Provider; (v) certify that the Utility Provider does not already hold a deposit equal to or greater than two (2) weeks of Utility Services; and (vi) explain why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

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- i. Unless a Utility Provider files and serves an Adequate Assurance Request, the Utility Provider shall be (i) deemed to have received "satisfactory" adequate assurance of payment in compliance with section 366 of the Bankruptcy Code and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- j. Upon the Debtors' receipt of an Adequate Assurance Request, the Debtors shall promptly negotiate with the Utility Provider to resolve the Utility Provider's Adequate Assurance Request.
- k. The Debtors may, without further order from the Court, resolve any Adequate Assurance Request by mutual agreement with a Utility Provider and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such adequate assurance is reasonable; *provided, however*, that the Debtors shall maintain a summary record of such agreements and their respective terms, and such summary record and the agreements themselves shall be available to any official committee appointed in these chapter 11 cases and the U.S. Trustee, upon request.
- l. If the Debtors and the Utility Provider are unable to reach a consensual resolution within fourteen (14) days of receipt of an Adequate Assurance Request or Additional Assurance Request, or if a Utility Provider was omitted from the Utility Services List and wishes to dispute that it received adequate assurance of future payment as required by section 366 of the Bankruptcy Code as provided by this ~~Interim~~Final Order, the Debtors will request a hearing before the Court at the next regularly-scheduled omnibus hearing to determine the adequacy of assurance of payment with respect to such Utility Provider (a "**Determination Hearing**") pursuant to section 366(c)(3) of the Bankruptcy Code.
- m. At all times prior to resolution of such dispute at a Determination Hearing and the entry of any Court order as a result thereof, the relevant Utility Provider shall be prohibited from altering, refusing, or discontinuing service to the Debtors on account of: (i) unpaid charges for prepetition services; (ii) a pending Adequate Assurance Request; or (iii) any objections filed in response to the Proposed Adequate Assurance.

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5. ~~6.~~ The Utility Providers are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

6. ~~7.~~ The Debtors are authorized to cause the Adequate Assurance Deposit to be held in a segregated account during the pendency of these chapter 11 cases.

7. ~~8.~~ The Debtors' service of the Motion upon the Utility Services List shall not constitute an admission or concession that any such entity is a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

8. ~~9.~~ The Debtors are authorized to amend the Utility Services List attached to the Motion as Exhibit C; *provided* that the Debtors shall seek authority under a separate order of the Court to add any Utility Provider to the Utility Services List; *provided, further*, that, if a Utility Provider is removed from the Utility Services List, the Debtors shall provide the applicable Utility Provider with fourteen (14) calendar days' notice thereof and the opportunity to respond to such removal. To the extent that there is any dispute as to the postpetition amounts owed to a Utility Provider or such Utility Provider's removal, such Utility Provider shall not be removed from the Utility Services List, and no funds shall be removed from the Adequate Assurance Deposit, until such dispute has been resolved. To the extent the Debtors and the Utility Provider are unable to reach a consensual resolution within fourteen (14) calendar days of the Debtors'

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receipt of notice of such dispute, the Debtors shall request a hearing before this Court at the next omnibus hearing date or such other date that the Debtor and the Utility Provider may agree.

Notice shall be provided to the Notice Parties.

9. ~~10.~~ For any Utility Provider that is subsequently added to the Utility Services List under separate order of the Court (each, a “**Subsequently Identified Utility Provider**”), the Debtors shall serve such Utility Provider a copy of this ~~Interim~~Final Order, including the Adequate Assurance Procedures within two (2) business days of such Utility Provider being added to the Utilities Services List, allocate additional amounts to the Adequate Assurance Deposit in accordance with the Motion, and provide such Utility Provider notice to object to the Proposed Adequate Assurance. If an objection is received, to the extent the Debtors and the Utility Provider are unable to reach a consensual resolution within fourteen (14) calendar days of the Debtors' receipt of such objection, the Debtors shall request a hearing before this Court at the next omnibus hearing date or such other date that the Debtor and the Utility Provider may agree.

The terms of this ~~Interim~~Final Order and the Adequate Assurance Procedures shall apply to any subsequently identified Utility Provider. The Debtors shall supplement Exhibit C to the Motion with the names of any subsequently identified Utility Provider and file the same with the Court.

Notice shall be provided to the Notice Parties.

10. ~~11.~~ The relief granted herein is for all Utility Providers providing Utility Services to the Debtors and is not limited to those parties or entities on the Utility Services List.

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11. ~~12.~~ The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this ~~Interim~~Final Order.

12. ~~13.~~ Nothing contained in the Motion or this ~~Interim~~Final Order, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with this ~~Interim~~Final Order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in the Motion or this ~~Interim~~Final Order except as otherwise provided for in this ~~Interim~~Final Order; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other

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rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

13. ~~14.~~—The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein and to the extent authorized by this ~~Interim~~Final Order.

14. ~~15.~~—All time periods set forth in this ~~Interim~~Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

15. ~~16.~~—The Debtors and the Independent Fiduciary are authorized to take all actions necessary to effectuate the relief granted pursuant to this ~~Interim~~Final Order in accordance with the Motion.

16. ~~17.~~—Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Local Rules are satisfied by such notice.

17. ~~18.~~—Any relief granted to the Debtors pursuant to this ~~Interim~~Final Order shall mean the Debtors, acting at the Direction of the Independent Fiduciary.

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18. ~~19.~~ The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.

~~20. Any party may move for modification of this Interim Order in accordance with Local Rule 9013-5(e).~~

19. ~~21.~~ The Debtors shall serve a copy of this ~~Interim~~Final Order on all required parties pursuant to Local Rule 9013-5(f).

20. ~~22.~~ This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this ~~Interim~~Final Order.