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13 *Debtors in Possession*

14 **UNITED STATES BANKRUPTCY COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SANTA ROSA DIVISION**

17 In re:

18 LEFEVER MATTSON, a California  
19 corporation, *et al.*,<sup>1</sup>

20 Debtors.

21 Lead Case No. 24-\_\_\_\_\_ (CN)

22 (Joint Administration Requested)

23 Chapter 11

24 **MOTION OF DEBTORS FOR**  
25 **INTERIM AND FINAL ORDERS**  
26 **ESTABLISHING ADEQUATE**  
27 **ASSURANCE PROCEDURES WITH**  
28 **RESPECT TO THE DEBTORS'**  
**UTILITY PROVIDERS**

**Date:** TBD

**Time:** TBD

**Place:** United States Bankruptcy Court  
1300 Clay Street, Courtroom 215  
Oakland, CA 94612

<sup>1</sup> The last four digits of LeFever Mattson's tax identification number are 7537. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://veritaglobal.net/LM>. The address for service on the Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 95621.



1 LeFever Mattson, a California corporation (“LeFever Mattson”), and certain of its affiliates  
 2 that are debtors and debtors in possession (the “Debtors”) in the above-captioned chapter 11 cases  
 3 (the “Chapter 11 Cases”), hereby move (the “Motion”) this Court, pursuant to sections 105(a) and  
 4 366 of title 11 of the United States Code (the “Bankruptcy Code”), for entry of interim and final  
 5 orders in substantially the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively,  
 6 (i) establishing procedures for addressing any requests that a utility company (collectively, the  
 7 “Utility Companies” and each, individually, a “Utility Company”) may make for adequate  
 8 assurance of payment; (ii) prohibiting the Utility Companies from altering, refusing or  
 9 discontinuing services to, or discriminating against the Debtors; and (iii) granting related relief.

10 The facts and circumstances supporting this Motion are set forth in the *Declaration of*  
 11 *Bradley D. Sharp in Support of Chapter 11 Petitions and First Day Motions* (the “Sharp  
 12 Declaration”), filed contemporaneously herewith and incorporated by reference herein.  
 13 Capitalized terms used but not defined herein have the meanings given to them in the Sharp  
 14 Declaration.

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I. JURISDICTION AND VENUE**

17 This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334,  
 18 the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24  
 19 (N.D. Cal.), and Rule 5011-1(a) of the Bankruptcy Local Rules for the United States District Court  
 20 for the Northern District of California. This is a core proceeding pursuant to 28 U.S.C. § 157(b).  
 21 Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

22 **II. BACKGROUND**

23 **A. General Background**

24 On the date hereof (the “Petition Date”), LeFever Mattson and the other Debtors filed  
 25 voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to  
 26 operate their businesses and manage their properties as debtors in possession pursuant to sections  
 27 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or official committee of  
 28 unsecured creditors has been appointed in any case of the Debtors.

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1           **B.       LeFever Mattson**

2           LeFever Mattson manages a large real estate portfolio. Timothy LeFever and Kenneth W.  
3 Mattson each own 50% of the equity in LeFever Mattson.

4           LeFever Mattson directly or indirectly controls or has ownership interests in 50 limited  
5 partnerships (collectively, the “LPs”) and eight limited liability companies (collectively, the  
6 “LLCs”), almost all of which are Debtors.<sup>2</sup> LeFever Mattson invests in real estate primarily  
7 through the LLCs and the LPs. LeFever Mattson also owns a small number of properties directly.  
8 This structure has allowed LeFever Mattson to pool capital by selling limited partnership or  
9 membership interests to outside investors, while typically reserving an ownership interest for itself  
10 as general partner or managing member.

11           LeFever Mattson also has ownership interests in four California corporations: Debtor  
12 Home Tax Service of America, Inc., dba LeFever Mattson Property Management, which provides  
13 property management services, including to those properties owned by the LPs and the LLCs;  
14 Debtor California Investment Properties, a California corporation (a real estate brokerage), and  
15 non-debtors Pineapple Bear, a California corporation (which offers hospitality and catering  
16 services), and Harrow Cellars, a California corporation (which operates a winery and related  
17 businesses).

18           As of the Petition Date, Bradley D. Sharp has been appointed the Chief Restructuring  
19 Officer of the Debtors. Since Mr. Sharp’s engagement on July 18, 2024, he has worked closely  
20 with the Debtors in their efforts to maximize enterprise value in the wake of what, in retrospect  
21 and on information and belief, was a decade or more of financial misconduct by Mr. Mattson.

22           **C.       Utility Services**

23           The Debtors rely on utility services, including, but not limited to, telephone, internet, gas  
24 and electric, and waste removal services (collectively, the “Utility Services”) provided by the  
25 Utility Companies, including those identified on Exhibit C attached hereto (the “Utility Service”  
26

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27 <sup>2</sup> Two LPs have not yet filed chapter 11 petitions.  
28

1 List”), to operate their businesses.<sup>3</sup> As discussed above, the Debtors own and operate a variety of  
 2 investment properties, including residential, multifamily, mixed-use, office, commercial,  
 3 industrial, and agricultural, and rely critically on the Utility Services for their operations. Many  
 4 of the underlying accounts involve very small monthly charges which have been paid consistently  
 5 on a timely basis. Moreover, given the nature of the Debtors’ business, providing uninterrupted  
 6 service from the Utility Companies is essential to maintaining value and administering these  
 7 Chapter 11 Cases. As discussed below, the Debtors are prepared to provide additional deposits as  
 8 necessary to maintain the continuity of the Utility Services. In the meantime, any temporary or  
 9 permanent discontinuation of Utility Services could irreparably disrupt the orderly administration  
 10 of these cases, damage the Debtors’ assets, and, as a result, diminish recoveries to the Debtors’  
 11 stakeholders.

### 12 **III. RELIEF REQUESTED**

13 The Debtors propose that, upon the request of any Utility Company pursuant to the  
 14 procedures set forth below, the Debtors provide an adequate assurance deposit in the amount of  
 15 the average of two weeks’ worth of fees over the year prior to the request by the Utility Company  
 16 (the “Proposed Adequate Assurance”) and that requests and deposits be accounted for each account  
 17 used by the Debtors. The Debtors propose to adopt and follow the following procedures (the  
 18 “Adequate Assurance Procedures”) to address the right of any Utility Company under  
 19 section 366(c)(3) of the Bankruptcy Code to request the Proposed Adequate Assurance or to  
 20 modify the proposed amount of adequate assurance:

#### 21 ADEQUATE ASSURANCE PROCEDURES

22 (a) The Debtors will mail or otherwise expeditiously cause a copy of this  
 23 Motion and the order granting, on an interim basis, the relief requested herein (the  
 24 “Interim Order”), which shall include the proposed Adequate Assurance

25 <sup>3</sup> For each Utility Company, Exhibit C identifies, to the extent known: (i) the name and type  
 26 of service of the Utility Company and (ii) the address for the Utility Company. The inclusion of  
 27 any entity on, or any omission of any entity from, Exhibit C is not an admission by the Debtors  
 28 that such entity is or is not a utility within the meaning of section 366 of the Bankruptcy Code, and  
 the Debtors reserve their rights with respect thereto. In addition, the Debtors are requesting that  
 this Motion apply to all of their Utility Companies, whether or not any given Utility Company is  
 included on the Utility Service List.

1 Procedures, to be served on each company on the Utility Service List within two (2)  
2 business days after entry of the Interim Order.

3 (b) Any Utility Company desiring assurance of future payment for utility  
4 service must serve a request (an “Adequate Assurance Request”) at the following  
5 addresses for the Debtors: (i) LeFever Mattson, 6359 Auburn Blvd., Suite B, Citrus  
6 Heights, CA 95621 (Attn: Mark Bennett), (ii) DSI Consulting, 333 South Grand  
7 Avenue, Los Angeles, CA 90071 (Attn: Bradley D. Sharp), and (iii) Keller  
8 Benvenuti Kim LLP, 425 Market Street, 26th Floor, San Francisco, CA 94105  
9 (Attn: Thomas B. Rupp) (collectively, the “Notice Parties”).

10 (c) Any Adequate Assurance Request must: (i) be made in writing; (ii) specify  
11 the amount and nature of assurance of payment that would be satisfactory to the  
12 Utility Company; (iii) set forth the locations for which utility services are provided  
13 and the relevant account number(s); (iv) describe any deposits, prepayments or  
14 other security currently held by the requesting Utility Company; (v) describe any  
15 payment delinquency or irregularity by the Debtors for the postpetition period, if  
16 any; and (vi) if not requesting only the Proposed Adequate Assurance, explain why  
17 the requesting Utility Company believes the Proposed Adequate Assurance is not  
18 sufficient adequate assurance of future payment.

19 (d) If a Utility Company fails to serve on the Notice Parties an Adequate  
20 Assurance Request, such Utility Company shall be (i) deemed to have waived its  
21 right to receive adequate assurance of payment “satisfactory” to such Utility  
22 Company pursuant to section 366 of the Bankruptcy Code, and (ii) prohibited from  
23 discontinuing, altering, or refusing service to, or discriminating against, the Debtors  
24 on account of the commencement of the Debtors’ Chapter 11 Cases or any unpaid  
25 prepetition charges and from requiring additional assurance.

26 (e) If an Adequate Assurance Request is delivered upon the Notice Parties, the  
27 Debtors shall have the greater of (i) twenty-one (21) days from receipt of such  
28 Adequate Assurance Request or (ii) thirty-five (35) days from the Petition Date  
(such greater period, the “Resolution Period”) to negotiate with the requesting  
Utility Company to resolve its Adequate Assurance Request. The Resolution  
Period may be extended by agreement of the Debtors and the applicable Utility  
Company without application to or approval of the Court.

(f) The Debtors are authorized to resolve, in their discretion, any Adequate  
Assurance Request by mutual agreement with the requesting Utility Company  
without further order of the Court and, in connection with any such agreement and  
in their discretion, may provide the requesting Utility Company with alternative  
adequate assurance of payment including cash deposits, prepayments, or other  
forms of security.

(g) If the parties are not able to resolve an Adequate Assurance Request during  
the Resolution Period, the Debtors will request a hearing before the Court to  
determine the adequacy of assurances of payment made to the requesting Utility  
Company (the “Determination Hearing”), pursuant to section 366(c)(3)(A) of the  
Bankruptcy Code.

(h) Pending the resolution of the Adequate Assurance Request at a  
Determination Hearing, the Utility Company making such a request may not  
discontinue, alter, or refuse service to the Debtors on account of unpaid charges for  
prepetition services or an alleged lack of adequate assurance of payment.

(i) Absent compliance with the Adequate Assurance Procedures and the terms  
of the order granting the relief requested herein, the Debtors’ Utility Companies are

1 prohibited from altering, refusing, or discontinuing service on account of the  
2 commencement of these Chapter 11 Cases and/or any unpaid charges for  
3 prepetition services provided to any of the Debtors and are deemed to have received  
adequate assurance of payment in accordance with section 366 of the Bankruptcy  
Code.

4 (j) If the Debtors identify additional Utility Companies—or determine that a  
5 company was improperly designated as a Utility Company—the Debtors seek  
6 authority, in their discretion, to add or remove parties from the Utility Service List.  
7 The Debtors promptly will serve on any Utility Company that is subsequently  
added to the Utility Service List (a “Subsequently Added Utility”) a copy of the  
Court’s order regarding Utility Services, including the Adequate Assurance  
Procedures. The terms of these Adequate Assurance Procedures shall apply to any  
Subsequently Added Utility.

8 (k) Upon receipt of an Adequate Assurance Request, the Debtors shall then  
9 have the Resolution Period to resolve any Subsequently Added Utility’s Additional  
Assurance Request by mutual agreement without further order of this Court, or to  
10 schedule a Determination Hearing with this Court.

11 (l) If any utility account with a Utility Company is closed or terminated during  
12 the course of these Chapter 11 Cases, without the need for further order of this  
13 Court or notice to any parties except as otherwise provided herein, the Utility  
Company shall be authorized and directed to immediately return any deposits made  
by the Debtors pursuant to the Adequate Assurance Procedures.

14 **IV. AUTHORITY FOR RELIEF REQUESTED**

15 **A. The Court Should Approve the Proposed Adequate Assurance and the**  
16 **Adequate Assurance Procedures Under Section 366.**

17 Prior to the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act  
18 of 2005 (the “2005 Amendments”), it was well established by courts, commentators, and  
19 legislative history that section 366 of the Bankruptcy Code did not require, as a matter of course,  
20 that the debtor provide a deposit or other security to its utilities as adequate assurance of payment.  
21 For example, in *Virginia Electric & Power Co. v. Caldor, Inc.*, the United States Court of Appeals  
22 for the Second Circuit affirmed the bankruptcy court’s ruling that the debtor’s prepetition payment  
23 history and postpetition liquidity, as well as the administrative expense priority afforded to  
24 postpetition invoices, constituted adequate assurance of future performance. *See* 117 F.3d 646,  
25 647 (2d Cir. 1997). The Court rejected the argument that section 366(b) nevertheless required a  
26 “deposit or other security,” holding that “a bankruptcy court’s authority to ‘modify’ the level of  
27 the ‘deposit or other security,’ provided for under section 366(b), includes the power to require no  
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1 ‘deposit or other security’ where none is necessary to provide a utility supplier with ‘adequate  
2 assurance of payment.’” *Id.* at 650.

3 Amendments to the Bankruptcy Code did not abrogate the Bankruptcy Court’s ability to  
4 determine the amount of adequate assurance necessary or change the fundamental requirement that  
5 assurance of payment simply must be “adequate.” Thus, while section 366(c) of the Bankruptcy  
6 Code limits the factors a court may consider when determining whether a debtor has provided  
7 adequate assurance of payment, it does not limit the court’s ability to determine the amount of  
8 payment necessary, if any, to provide adequate assurance. Section 366(c) of the Bankruptcy Code  
9 gives courts the same discretion in determining the amount of payment necessary for adequate  
10 assurance that they previously had. *Cf.* 11 U.S.C. § 366(b) (“On request of a party in interest and  
11 after notice and a hearing, the court may order reasonable modification of the amount of the deposit  
12 or other security necessary to provide adequate assurance of payment.”) with 11 U.S.C.  
13 § 366(c)(3)(A) (“On request of a party in interest and after notice and a hearing, the court may  
14 order modification of the amount of an assurance payment under paragraph (2).”).

15 In addition, it is well established that section 366(b) of the Bankruptcy Code permits a  
16 court to find that no adequate assurance payment at all is necessary to provide a utility with  
17 adequate assurance of payment. *See Va. Elec. & Power Co. v. Caldor Inc.*, 117 F.3d 646, 650 (2d  
18 Cir. 1997) (“Even assuming that ‘other security’ should be interpreted narrowly, . . . a bankruptcy  
19 court’s authority to ‘modify’ the level of the ‘deposit or other security’ provided for under § 366(b),  
20 includes the power to require ‘no deposit or other security’ where none is necessary to provide a  
21 utility supplier with ‘adequate assurance of payment.’”); *In re Steinebach*, 303 B.R. 634, 641  
22 (Bankr. D. Ariz. 2004) (“Courts have exercised that discretion to determine, that a number of  
23 factors including prepetition payment history and lack of any past requirement for a deposit may  
24 relieve a debtor from having to make any adequate assurance deposit post-petition.”) This  
25 principle may be applicable in cases where the debtor has made prepetition deposits or  
26 prepayments for services that utility providers ultimately will render postpetition. *See* 11 U.S.C.  
27 § 366(c)(1)(A)(v) (recognizing a prepayment for postpetition services as adequate assurance).

28

1 Further, section 366(c) only requires that a utility’s assurance of payment be “adequate.”  
 2 Courts recognize that adequate assurance of performance does not constitute an absolute guarantee  
 3 of a debtor’s ability to pay. *See, e.g., In re Steinebach*, 303 B.R. at 641 (“Adequate assurance of  
 4 payment is not, however, absolute assurance . . . ‘a Bankruptcy Court is not required to give a  
 5 utility company the equivalent of a guarantee of payment, but must only determine that the utility  
 6 is not subject to any unreasonable risk of non-payment for post-petition services.’”) (quoting *In re*  
 7 *Adelphia Bus. Solutions, Inc.*, 280 B.R. 63, 80 (Bankr. S.D.N.Y. 2002)); *see also In re Caldor,*  
 8 *Inc.*, 199 B.R. 1, 3 (S.D.N.Y. 1996) (section 366(b) “does not require an ‘absolute guarantee of  
 9 payment’”) (citation omitted), *aff’d sub nom. Va. Elec. & Power Co., v. Caldor, Inc.*, 117 F.3d 646  
 10 (2d Cir. 1997).

11 Courts also have recognized that, in determining the requisite level of adequate assurance,  
 12 bankruptcy courts should “focus ‘upon the need of the utility for assurance, and to require that the  
 13 debtor supply no more than that, since the debtor almost performe has a conflicting need to conserve  
 14 scarce financial resources.’” *Va. Elec. & Power Co.*, 117 F.3d at 650 (emphasis in original); *see*  
 15 *also In re Penn. Cent. Transp. Co.*, 467 F.2d 100, 103-04 (3d Cir. 1972) (affirming bankruptcy  
 16 court’s ruling that utility deposits were not necessary where such deposits likely would “jeopardize  
 17 the continuing operation of the [debtor] merely to give further security to suppliers who already  
 18 are reasonably protected”).

19 Here, the Debtors submit that no further deposit is categorically required for all Utility  
 20 Services. However, in accordance with the proposed Adequate Assurance Procedures, it is  
 21 prepared to address the demands of Utility Companies as and when made.

22 **B. The Proposed Adequate Assurance and Adequate Assurance Procedures**  
 23 **Are Necessary, Essential, and Appropriate for the Continued Operations of**  
 24 **the Debtors’ Businesses and the Preservation of Its Estates.**

25 The Court may also rely on its equitable powers to grant the relief requested in this Motion.  
 26 Section 105(a) of the Bankruptcy Code, which codifies the inherent equitable powers of the  
 27 bankruptcy court, empowers the Court to “issue any order, process, or judgment that is necessary  
 28 or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Accordingly, the Court  
 may authorize payment of the Proposed Adequate Assurance under the procedures set forth herein



1 because such relief is necessary for the Debtors to carry out their fiduciary duties under sections  
2 1107(a) of the Bankruptcy Code. Under section 1107(a) of the Bankruptcy Code, “the debtor in  
3 possession has the same fiduciary duties and liabilities as a Trustee. When the debtor is a  
4 corporation, corporate officers and directors are considered to be fiduciaries both to the corporate  
5 debtor in possession and to the creditors.” *In re Anchorage Nautical Tours, Inc.*, 145 B.R. 637,  
6 643 (B.A.P. 9th Cir. 1992); *see also In re Curry & Sorensen, Inc.*, 57 B.R. 824, 828 (B.A.P. 9th  
7 Cir. 1986) (“[T]he debtor’s directors bear essentially the same fiduciary obligation to creditors and  
8 shareholders as would a trustee for a debtor out of possession”). As set forth above, the Debtors  
9 intend to pay and have the ability to pay all valid postpetition obligations for Utility Services in a  
10 timely manner. Additionally, the Utility Companies will be protected through the Proposed  
11 Adequate Assurance if they request a deposit.

12 Uninterrupted utility services are essential to the administration of the Debtors’ Chapter 11  
13 Cases. The Debtors own and operate real estate properties, and the smooth functioning of these  
14 properties relies on uninterrupted Utility Services. These services play a crucial role in  
15 maintaining the real properties. Any interruption in service could detrimentally impact the  
16 Debtors’ ability to conduct their businesses and thereby generate revenue. Accordingly, the relief  
17 requested herein should be approved as necessary and appropriate and in the best interests of the  
18 Debtors’ estates and all parties in interest.

19 **V. NOTICE**

20 Notice of this Motion will be provided to (i) the United States Trustee; (ii) the Secured  
21 Lenders; (iii) the parties listed on the Debtors’ consolidated *List of Creditors Who Have the 30*  
22 *Largest Unsecured Claims and Are Not Insiders*; (iv) the Utility Companies listed in **Exhibit C**;  
23 and (v) those persons who have formally appeared in these Chapter 11 Cases and requested service  
24 pursuant to Bankruptcy Rule 2002. Based on the urgency of the circumstances surrounding this  
25 Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further  
26 notice is required.

27 ///

28 ///

1           **WHEREFORE**, the Debtors respectfully request that the Court enter interim and final  
2 orders, substantially in the form attached hereto as **Exhibit A** and **Exhibit B**, granting the relief  
3 requested herein.

4 Dated: September 12, 2024

**KELLER BENVENUTTI KIM LLP**

By: /s/ Thomas B. Rupp

Thomas B. Rupp

*Proposed Attorneys for the Debtors and  
Debtors in Possession*

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**Exhibit A**  
**(Proposed Interim Order)**

1 **KELLER BENVENUTTI KIM LLP**  
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12 *Proposed Attorneys for the Debtors and*  
13 *Debtors in Possession*

14 **UNITED STATES BANKRUPTCY COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SANTA ROSA DIVISION**

17 In re:

18 LEFEVER MATTSON, a California  
19 corporation, *et al.*,<sup>1</sup>

20 Debtors.

21 Lead Case No. 24-\_\_\_\_ (CN)

22 (Jointly Administered)

23 Chapter 11

24 **[PROPOSED] INTERIM ORDER**  
25 **ESTABLISHING ADEQUATE**  
26 **ASSURANCE PROCEDURES WITH**  
27 **RESPECT TO THE DEBTORS'**  
28 **UTILITY PROVIDERS**

**Date:** TBD

**Time:** TBD

**Place:** United States Bankruptcy Court  
1300 Clay Street, Courtroom 215  
Oakland, CA 94612

<sup>1</sup> The last four digits of LeFever Mattson's tax identification number are 7537. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://veritaglobal.net/LM>. The address for service on the Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 95621.

1           Upon consideration of the *Motion of Debtors for Interim and Final Orders Establishing*  
2 *Adequate Assurance Procedures with Respect to the Debtors' Utility Providers* (the "Motion"),<sup>2</sup>  
3 filed by the above-captioned debtors and debtors in possession (the "Debtors"); the Court having  
4 reviewed the Motion and the Sharp Declaration and having considered the statements of counsel  
5 and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing");  
6 and the Court having found that (i) the Court has jurisdiction to consider the Motion and the relief  
7 requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Order Referring Bankruptcy*  
8 *Cases and Proceedings to Bankruptcy Judges*, General Order 24 and Rule 5011-1(a) of the  
9 Bankruptcy Local Rules for the United States District Court for the Northern District of California;  
10 (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core  
11 proceeding pursuant to 28 U.S.C. § 157(b); and (iv) notice of the Motion and the Hearing was  
12 sufficient under the circumstances; and after due deliberation the Court having determined that the  
13 relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors  
14 and necessary to prevent immediate and irreparable harm to the Debtors and their estate; and good  
15 and sufficient cause having been shown;

16           **IT IS HEREBY ORDERED THAT:**

- 17           1.       The Motion is granted on an interim basis.
- 18           2.       Subject to the procedures described below, no Utility Company, including any  
19 Subsequently Added Utility, may (a) alter, refuse, terminate, or discontinue utility services to,  
20 and/or discriminate against, the Debtors on the basis of the commencement of the Chapter 11 Cases  
21 or on account of outstanding prepetition invoices or (b) require additional assurance of payment,  
22 other than the Proposed Adequate Assurance, as a condition to the Debtors receiving such utility  
23 services.
- 24           3.       A deposit equal to two weeks of fees based on the average over the prior year for  
25 each account shall constitute adequate assurance if so requested by the applicable Utility Company  
26 (the "Proposed Adequate Assurance").

27 \_\_\_\_\_  
28 <sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in  
the Motion.





1 (f) The Debtors are authorized to resolve, in their discretion, any Adequate  
 2 Assurance Request by mutual agreement with the requesting Utility Company  
 3 without further order of the Court and, in connection with any such agreement and  
 in their discretion, may provide the requesting Utility Company with alternative  
 adequate assurance of payment including cash deposits, prepayments, or other  
 forms of security.

4 (g) If the parties are not able to resolve an Adequate Assurance Request during  
 5 the Resolution Period, the Debtors will request a hearing before the Court to  
 6 determine the adequacy of assurances of payment made to the requesting Utility  
 Company (the "Determination Hearing"), pursuant to section 366(c)(3)(A) of the  
 Bankruptcy Code.

7 (h) Pending the resolution of the Adequate Assurance Request at a  
 8 Determination Hearing, the Utility Company making such a request may not  
 9 discontinue, alter, or refuse service to the Debtors on account of unpaid charges for  
 prepetition services or an alleged lack of adequate assurance of payment.

10 (i) Absent compliance with the Adequate Assurance Procedures and the terms  
 11 of the order granting the relief requested herein, the Debtors' Utility Companies are  
 12 prohibited from altering, refusing, or discontinuing service on account of the  
 commencement of these Chapter 11 Cases and/or any unpaid charges for  
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13 (j) If the Debtors identify additional Utility Companies—or determine that a  
 14 company was improperly designated as a Utility Company—the Debtors seek  
 15 authority, in their discretion, to add or remove parties from the Utility Service List.  
 16 The Debtors promptly will serve on any Utility Company that is subsequently  
 added to the Utility Service List (a "Subsequently Added Utility") a copy of the  
 17 Court's order regarding Utility Services, including the Adequate Assurance  
 Procedures. The terms of these Adequate Assurance Procedures shall apply to any  
 Subsequently Added Utility.

18 (k) Upon receipt of an Adequate Assurance Request, the Debtors shall then  
 19 have the Resolution Period to resolve any Subsequently Added Utility's Additional  
 Assurance Request by mutual agreement without further order of this Court, or to  
 20 schedule a Determination Hearing with this Court.

21 (l) If any utility account with a Utility Company is closed or terminated during  
 22 the course of these Chapter 11 Cases, without the need for further order of this  
 23 Court or notice to any parties except as otherwise provided herein, the Utility  
 Company shall be authorized and directed to immediately return any deposits made  
 by the Debtors pursuant to the Adequate Assurance Procedures.

24 6. All Utility Companies shall be deemed to have adequate assurance of payment  
 25 under section 366 of the Bankruptcy Code unless and until: (a) the Debtors, in their discretion,  
 26 agree to provide the Utility Company with (i) the Proposed Adequate Assurance or (ii) an  
 27 alternative assurance of payment with the Utility Company during the Resolution Period; or  
 28

1 (b) this Court enters an order at any Determination Hearing requiring that additional adequate  
2 assurance of payment be provided.

3 7. To the extent that the procedures set forth herein are not in technical compliance  
4 with certain time periods set forth in section 366 of the Bankruptcy Code, the Debtors have  
5 demonstrated good cause for the extension of the thirty-day and twenty-day protective time periods  
6 under sections 366(c)(2) and 366(b) of the Bankruptcy Code, respectively.

7 8. Nothing herein constitutes a finding that any entity is or is not a Utility Company  
8 hereunder or under section 366 of the Bankruptcy Code, whether or not such entity is listed on the  
9 Utility Service List.

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

12 10. Nothing contained in the Motion or this Order is intended to be or shall be construed  
13 as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors'  
14 or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any  
15 claim against the Debtors; (iii) a waiver of any claims or causes of action that may exist against  
16 any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any  
17 agreement, contract, lease, program, or policy between the Debtors and any third party under  
18 section 365 of the Bankruptcy Code.

19 11. The Debtors are authorized to take all steps necessary or appropriate to carry out  
20 this Order.

21 12. A hearing to consider the relief requested in the Motion on a final basis is set for  
22 [\_\_\_\_], 2024, at [\_\_\_\_] (Pacific Time). Any objections to granting the relief requested on  
23 a final basis must be filed with the Court and served on counsel for the Debtors by [\_\_\_\_],  
24 2024.

25 13. The Court retains exclusive jurisdiction with respect to all matters arising from or  
26 related to the implementation, interpretation, and enforcement of this Order.

27 \*\* END OF ORDER \*\*  
28

**KELLER BENVENUTTI KIM LLP**  
425 MARKET STREET, 26TH FLOOR  
SAN FRANCISCO, CALIFORNIA 94105

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**Exhibit B**  
**(Proposed Final Order)**

1 **KELLER BENVENUTTI KIM LLP**  
2 TOBIAS S. KELLER (Cal. Bar No. 151445)  
3 (tkeller@kbbkllp.com)  
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8 425 Market Street, 26th Floor  
9 San Francisco, California 94105  
10 Telephone: (415) 496-6723  
11 Facsimile: (650) 636-9251

12 *Proposed Attorneys for the Debtors and*  
13 *Debtors in Possession*

14 **UNITED STATES BANKRUPTCY COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SANTA ROSA DIVISION**

17 In re:

18 LEFEVER MATTSON, a California  
19 corporation, *et al.*,<sup>1</sup>

20 Debtors.

21 Lead Case No. 24-\_\_\_\_ (CN)

22 (Jointly Administered)

23 Chapter 11

24 **[PROPOSED] FINAL ORDER**  
25 **ESTABLISHING ADEQUATE**  
26 **ASSURANCE PROCEDURES WITH**  
27 **RESPECT TO THE DEBTORS'**  
28 **UTILITY PROVIDERS**

**Date:** TBD

**Time:** TBD

**Place:** United States Bankruptcy Court  
1300 Clay Street, Courtroom 215  
Oakland, CA 94612

<sup>1</sup> The last four digits of LeFever Mattson's tax identification number are 7537. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://veritaglobal.net/LM>. The address for service on the Debtors is 6359 Auburn Blvd., Suite B, Citrus Heights, CA 95621.

1           Upon consideration of the *Motion of Debtors for Interim and Final Orders Establishing*  
2 *Adequate Assurance Procedures with Respect to the Debtors' Utility Providers* (the "Motion"),<sup>2</sup>  
3 filed by the above-captioned debtors and debtors in possession (the "Debtors"); the Court having  
4 reviewed the Motion and the Sharp Declaration and having considered the statements of counsel  
5 and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing");  
6 and the Court having found that (i) the Court has jurisdiction to consider the Motion and the relief  
7 requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Order Referring Bankruptcy*  
8 *Cases and Proceedings to Bankruptcy Judges*, General Order 24 and Rule 5011-1(a) of the  
9 Bankruptcy Local Rules for the United States District Court for the Northern District of California;  
10 (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core  
11 proceeding pursuant to 28 U.S.C. § 157(b); and (iv) notice of the Motion and the Hearing was  
12 sufficient under the circumstances; and after due deliberation the Court having determined that the  
13 relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors;  
14 and good and sufficient cause having been shown;

15           **IT IS HEREBY ORDERED THAT:**

- 16           1.       The Motion is granted on a final basis.
- 17           2.       Subject to the procedures described below, no Utility Company, including any  
18 Subsequently Added Utility, may (a) alter, refuse, terminate, or discontinue utility services to,  
19 and/or discriminate against, the Debtors on the basis of the commencement of the Chapter 11 Cases  
20 or on account of outstanding prepetition invoices or (b) require additional assurance of payment,  
21 other than the Proposed Adequate Assurance, as a condition to the Debtors receiving such utility  
22 services.
- 23           3.       A deposit equal to two weeks of fees based on the average over the prior year for  
24 each account shall constitute adequate assurance if so requested by the applicable Utility Company  
25 (the "Proposed Adequate Assurance").

26  
27 \_\_\_\_\_  
28 <sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.





1 (g) If the parties are not able to resolve an Adequate Assurance Request during  
 2 the Resolution Period, the Debtors will request a hearing before the Court to  
 3 determine the adequacy of assurances of payment made to the requesting Utility  
 Company (the “Determination Hearing”), pursuant to section 366(c)(3)(A) of the  
 Bankruptcy Code.

4 (h) Pending the resolution of the Adequate Assurance Request at a  
 5 Determination Hearing, the Utility Company making such a request may not  
 discontinue, alter, or refuse service to the Debtors on account of unpaid charges for  
 prepetition services or an alleged lack of adequate assurance of payment.

6 (i) Absent compliance with the Adequate Assurance Procedures and the terms  
 7 of the order granting the relief requested herein, the Debtors’ Utility Companies are  
 8 prohibited from altering, refusing, or discontinuing service on account of the  
 commencement of these Chapter 11 Cases and/or any unpaid charges for  
 9 prepetition services provided to any of the Debtors and are deemed to have received  
 adequate assurance of payment in accordance with section 366 of the Bankruptcy  
 Code.

10 (j) If the Debtors identify additional Utility Companies—or determine that a  
 11 company was improperly designated as a Utility Company—the Debtors seek  
 authority, in their discretion, to add or remove parties from the Utility Service List.  
 12 The Debtors promptly will serve on any Utility Company that is subsequently  
 added to the Utility Service List (a “Subsequently Added Utility”) a copy of the  
 13 Court’s order regarding Utility Services, including the Adequate Assurance  
 Procedures. The terms of these Adequate Assurance Procedures shall apply to any  
 14 Subsequently Added Utility.

15 (k) Upon receipt of an Adequate Assurance Request, the Debtors shall then  
 16 have the Resolution Period to resolve any Subsequently Added Utility’s Additional  
 Assurance Request by mutual agreement without further order of this Court, or to  
 schedule a Determination Hearing with this Court.

17 (l) If any utility account with a Utility Company is closed or terminated during  
 18 the course of these Chapter 11 Cases, without the need for further order of this  
 Court or notice to any parties except as otherwise provided herein, the Utility  
 19 Company shall be authorized and directed to immediately return any deposits made  
 by the Debtors pursuant to the Adequate Assurance Procedures.

20  
 21 6. All Utility Companies shall be deemed to have adequate assurance of payment  
 22 under section 366 of the Bankruptcy Code unless and until: (a) the Debtors, in their discretion,  
 23 agree to provide the Utility Company with (i) the Proposed Adequate Assurance or (ii) an  
 24 alternative assurance of payment with the Utility Company during the Resolution Period; or  
 25 (b) this Court enters an order at any Determination Hearing requiring that additional adequate  
 26 assurance of payment be provided.

27 7. To the extent that the procedures set forth herein are not in technical compliance  
 28 with certain time periods set forth in section 366 of the Bankruptcy Code, the Debtors have

1 demonstrated good cause for the extension of the thirty-day and twenty-day protective time periods  
2 under sections 366(c)(2) and 366(b) of the Bankruptcy Code, respectively.

3 8. Nothing herein constitutes a finding that any entity is or is not a Utility Company  
4 hereunder or under section 366 of the Bankruptcy Code, whether or not such entity is listed on the  
5 Utility Service List.

6 9. The relief granted herein is for all Utility Companies providing Utility Services to  
7 the Debtors and is not limited to those parties or entities listed on the Utility Service List.

8 10. Nothing contained in the Motion or this Order is intended to be or shall be construed  
9 as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors'  
10 or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any  
11 claim against the Debtors; (iii) a waiver of any claims or causes of action that may exist against  
12 any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any  
13 agreement, contract, lease, program, or policy between the Debtors and any third party under  
14 section 365 of the Bankruptcy Code.

15 11. Notwithstanding entry of this Order, nothing herein shall create, nor is intended to  
16 create, any rights in favor of or enhance the status of any claim held by any party.

17 12. The Debtors are authorized to take all steps necessary or appropriate to carry out  
18 this Order.

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

21 \*\* END OF ORDER \*\*  
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**Exhibit C**  
**(Utility Service List)**

Provider Name	Type of Service	Address
AT&T	Telephone	PO Box 5025, Carol Stream, IL 60197-5025
California American Water	Water	P.O. Box 7150, Pasadena, CA 91109-7150
Citrus Heights Water District	Water	Dept. LA 23168, Pasadena, CA 91185-3168
Comcast	Internet	P.O. Box 60533, City of Industry, CA 91716-0533
Consolidated Communications	Telephone	PO Box 66523, Saint Louis, MO 63166-6523
Contra Costa Water District	Water	1331 Concord Ave., PO Box H20, Concord, CA 94524-2099
Fairfield Municipal Utilities	Water Sewer	1000 Webster Street, Fairfield, CA 94533
City of Folsom	Sewer	PO Box 51046, Los Angeles, CA 90051-5346
City of Fresno	Water	Utilities Billing Collection, PO Box 2069, Fresno, CA 93718-2069
Granite Telecommunications, LLC	Telephone	PO Box 830103, Philadelphia, PA 19182-0103
Mt Diablo Resource Recovery - Concord	Trash	PO Box 5397, Concord, CA 94524-0397
Napa Valley Petroleum, Inc	Propane	PO Box 2670, Napa, CA 94558
Pacific Gas & Electric	Gas & Electricity	P.O. Box 997300, Sacramento, CA 95899-7300
Recology Vacaville Solano	Trash	PO BOX 848870, Los Angeles, CA 90084-8870
Republic Services	Trash	PO Box 78829, Phoenix, AZ 85062-8829
City of Roseville	Electricity	P.O. Box 619136, Roseville, CA 95661-9136
Sacramento County Utilities	Water Sewer Garbage	PO Box 1804, Sacramento, CA 95812
SMUD	Electricity	P.O. Box 15555, Sacramento, CA 95852-1555
City of Sonoma	Water Sewer	PO Box 1150, Suisun City, CA 94585-1150
Sonoma Garbage Collectors, Inc	Trash	1180 Fremont Dr., Sonoma, CA 95476
Touchbase Communications	Telephone	PO Box 1949, Newark, NJ 07101-1949
City of Vacaville	Water Sewer	PO Box 6180, Vacaville, CA 95696-6180
WM Corporate Services, Inc	Trash	AS PAYMENT AGENT, PO Box 541065, Los Angeles, CA 90054-1065