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and Debtors In Possession

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

10 In re
11 VERITY HEALTH SYSTEM OF
CALIFORNIA, INC., *et al.*,
12 Debtors and Debtors In Possession.

Lead Case No. 18-20151
Jointly Administered With:
CASE NO.: 2:18-bk-20162-ER
CASE NO.: 2:18-bk-20163-ER
CASE NO.: 2:18-bk-20164-ER
CASE NO.: 2:18-bk-20165-ER
CASE NO.: 2:18-bk-20167-ER
CASE NO.: 2:18-bk-20168-ER
CASE NO.: 2:18-bk-20169-ER
CASE NO.: 2:18-bk-20171-ER
CASE NO.: 2:18-bk-20172-ER
CASE NO.: 2:18-bk-20173-ER
CASE NO.: 2:18-bk-20175-ER
CASE NO.: 2:18-bk-20176-ER
CASE NO.: 2:18-bk-20178-ER
CASE NO.: 2:18-bk-20179-ER
CASE NO.: 2:18-bk-20180-ER
CASE NO.: 2:18-bk-20171-ER

- 13 Affects All Debtors
- 14 Affects O'Connor Hospital
- 15 Affects Saint Louise Regional Hospital
- 16 Affects St. Francis Medical Center
- 17 Affects St. Vincent Medical Center
- 18 Affects Seton Medical Center
- 19 Affects O'Connor Hospital Foundation
- 20 Affects Saint Louise Regional Hospital
Foundation
- 21 Affects St. Francis Medical Center of
Lynwood Foundation
- 22 Affects St. Vincent Foundation
- 23 Affects St. Vincent Dialysis Center, Inc.
- 24 Affects Seton Medical Center Foundation
- 25 Affects Verity Business Services
- 26 Affects Verity Medical Foundation
- 27 Affects Verity Holdings, LLC
- 28 Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose
Dialysis, LLC

Chapter 11 Cases

Hon. Ernest M. Robles

**STIPULATION TO (A) AMEND CASH
COLLATERAL AGREEMENT AND
SUPPLEMENTAL CASH COLLATERAL
ORDER, (B) AUTHORIZE CONTINUED
USE OF CASH COLLATERAL,
(C) GRANT ADEQUATE PROTECTION,
(D) MODIFY AUTOMATIC STAY, AND
(E) GRANT RELATED RELIEF**

Debtors and Debtors In Possession.



1 **STIPULATION**

2 This Stipulation (the "Stipulation") is entered into by and among Verity Health System of
3 California, Inc. ("VHS"), O'Connor Hospital ("OCH"), Saint Louise Regional Hospital
4 ("SLRH"), St. Francis Medical Center ("SFMC"), St. Vincent Medical Center ("SVMC"), Seton
5 Medical Center ("SMC"), Verity Holdings, LLC ("Holdings"), Verity Medical Foundation
6 ("VMF"), O'Connor Hospital Foundation, Saint Louise Regional Hospital Foundation, St. Francis
7 Medical Center of Lynwood Medical Foundation, St. Vincent Foundation, St. Vincent Dialysis
8 Center, Inc., Seton Medical Center Foundation, Verity Business Services, DePaul Ventures, LLC,
9 and DePaul Ventures-San Jose Dialysis, LLC (collectively, the "Debtors"), as debtors and debtors
10 in possession in the above captioned chapter 11 cases (collectively, the "Chapter 11 Cases"), on
11 the one hand, and UMB Bank, N.A., ("UMB Bank") as successor Master Trustee (in such capacity,
12 the "Master Trustee") under the Master Indenture of Trust dated as of December 1, 2001, as
13 amended and supplemented (the "Master Indenture"), Wells Fargo Bank National Association
14 ("Wells Fargo") as bond indenture trustee under the bond indentures relating to the 2005 Bonds
15 (defined below), U.S. Bank National Association ("U.S. Bank") as the note indenture trustee and
16 as the collateral agent under each of the note indentures relating to the 2015 Working Capital Notes
17 (defined below) and the 2017 Working Capital Notes (defined below), respectively (collectively,
18 the "Working Capital Notes"), and Verity MOB Financing, LLC and Verity MOB Financing II,
19 LLC (together, the "MOB Lenders") (collectively, the "Prepetition Secured Creditors," and,
20 together with the Debtors, the "Parties"), on the other hand.

21 **RECITALS**

22 A. **Petition Date.** On August 31, 2018 (the "Petition Date"), each of the Debtors filed
23 a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States
24 Bankruptcy Court for the Central District of California (the "Court"). The Debtors have continued
25 in the management and operation of their businesses and properties as debtors in possession
26
27
28

1 pursuant to §§ 1107 and 1108.¹ On September 17, 2018, an official committee of unsecured
2 creditors (the “Committee”) was appointed in these Chapter 11 Cases.

3 B. **Prepetition Secured Credit Facilities.** As of the Petition Date, the Debtors were
4 indebted and liable to the Prepetition Secured Creditors as follows:

5 (i) The Master Trustee with respect to the MTI Obligations (defined below)
6 securing the repayment by the Obligated Group (defined below) of its loan obligations with respect
7 to (1) the California Statewide Communities Development Authority Revenue Bonds (Daughters
8 of Charity Health System) Series 2005, A, G, and H (the “2005 Bonds”), (2) the California Public
9 Finance Authority Revenue Notes (Verity Health System) Series 2015 A, B, C and D (the “2015
10 Working Capital Notes”), and (3) the California Public Finance Authority Revenue Notes (Verity
11 Health System) Series 2017 A and B (the “2017 Working Capital Notes” and, collectively with
12 the 2015 Working Capital Notes, the “Working Capital Notes”). The joint and several obligations
13 issued under the Master Indenture by VHS, OCH, SLRH, SFMC, SVMC, and SMC (collectively,
14 the “Obligated Group”) in respect of the 2005 Bonds and the Working Capital Notes are
15 collectively referred to as the “MTI Obligations.” Wells Fargo serves as bond indenture trustee
16 under the bond indentures relating to the 2005 Bonds. U.S. Bank serves as the note indenture
17 trustee and as the collateral agent under each of the note indentures relating to the 2015 Working
18 Capital Notes and the 2017 Working Capital Notes, respectively. The MTI Obligations are secured
19 by, *inter alia*, security interests granted to the Master Trustee in the prepetition accounts of, and
20 mortgages on the principal real estate assets of, the members of the Obligated Group. Certain of
21 the collateral securing the foregoing obligations has been sold by the Obligated Parties, with the
22 Sales Proceeds (as defined in the Final DIP Order)² being held in the Escrow Deposit Accounts

23 _____
24 ¹ All references to “§” herein are to sections of the Bankruptcy Code, 11 U.S.C. §§101, *et seq.*
25 unless otherwise noted. All references to “Rules” are to the Federal Rules of Bankruptcy
26 Procedure. All references to the “LBR” are to the Local Bankruptcy Rules of the United States
27 Bankruptcy Court for the Central District of California.

28 ² The “Final DIP Order” refers to the *Final Order (I) Authorizing Postpetition Financing, (II)*
Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority

1 as required by the Final DIP Order and the relevant sale orders, including the SCC Sale Order³ and
2 the SGM Sale Order.⁴

3 (ii) In addition to the security provided to the Master Trustee to secure the MTI
4 Obligations, U.S. Bank, as Note Trustee for the 2015 Working Capital Notes and the 2017
5 Working Capital Notes is secured by, *inter alia*, prepetition first priority liens upon and security
6 interests in the Obligated Group's accounts and by deeds of trust on the principal real estate assets
7 of Saint Louise Regional Hospital and St. Francis Medical Center. U.S. Bank as Notes Trustee for
8 the 2017 Working Capital Notes was also granted a deed of trust, dated as of December 1, 2017,
9 by Holdings in certain real property located in San Mateo, California to further secure the 2017
10 Working Capital Notes. Certain of the collateral securing the foregoing obligations has been sold
11 by the Obligated Parties, with the proceeds thereof currently being held in the Escrow Deposit
12 Accounts as required by the Final DIP Order.

13 (iii) The MOB Lenders hold security interests in Holdings' accounts, including
14 rents arising from the prepetition MOB Financing, and mortgages on medical office buildings
15 owned by Holdings (the "MOB Financing"). The Debtors sold certain of the collateral securing
16 the MOB Financing, and the proceeds thereof are currently held in the Escrow Deposit Accounts
17 as required by the Final DIP Order. The Master Trustee, Wells Fargo as bond indenture trustee
18 for the 2005 Notes, U.S. Bank as indenture trustee for the Working Capital Notes, and the MOB

19 _____
20 *Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying Automatic Stay,*
21 *and (VI) Granting Related Relief, dated October 4, 2018 [Docket No. 409]. Capitalized terms used*
22 *herein and not otherwise defined shall have the meaning ascribed in the Final DIP Order.*

23 ³ The "SCC Sale Order" refers to that certain *Order (A) Authorizing the Sale of Certain of the*
24 *Debtors' Assets to Santa Clara County Free and Clear of Liens, Claims, Encumbrances, and Other*
25 *Interests; (B) Approving the Assumption and Assignment of an Unexpired Lease Related Thereto;*
26 *and (C) Granting Related Relief* dated December 27, 2018 [Docket No. 1153].

27 ⁴ The "SGM Sale Order" refers to that certain *Order (A) Authorizing the Sale of Certain of the*
28 *Debtors' Assets to Strategic Global Management, Inc. Free and Clear of Liens, Claims,*
29 *Encumbrances, and Other Interests; (B) Approving the Assumption and Assignment of an*
30 *Unexpired Lease Related Thereto; and (C) Granting Related Relief* dated May 2, 2019 [Docket
31 No. 2306].

1 Lenders are each referred to herein as a “Prepetition Secured Creditor,” the MTI Obligations, the
2 Obligated Group’s loan obligations with respect to the Working Capital Notes, and the MOB
3 Financing are each referred to herein as a “Prepetition Secured Obligation,” the prepetition
4 interests (including the liens and security interests) of each Prepetition Secured Creditor in the
5 property and assets of the Debtors are each referred to herein as such Prepetition Secured
6 Creditor’s “Prepetition Lien,” and the documents, writings and agreements evidencing the
7 Prepetition Secured Obligations of each Prepetition Secured Creditor are hereinafter referred to as
8 the “Prepetition Secured Documents.”

9 D. **The DIP Financing.** On the Petition Date, the Debtors filed the *Emergency Motion*
10 *of Debtors for Interim and Final Orders (A) Authorizing the Debtors to Obtain Post Petition*
11 *Financing (B) Authorizing the Debtors to Use Cash Collateral and (C) Granting Adequate*
12 *Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 105, 363, 364, 1107 and*
13 *1108* (the “DIP Financing Motion”). Pursuant to the DIP Financing Motion, the Debtors sought,
14 among other things, entry of an order authorizing the Debtors to enter into a senior secured,
15 superpriority debtor in possession financing facility (the “DIP Facility”) with Ally Bank, a
16 subsidiary of Ally Financial, Inc. (in its capacity as agent, the “DIP Agent”) and, in its capacity as
17 lender, the “DIP Lender”) under the Debtors In Possession Revolving Credit Agreement, dated as
18 of September 7, 2018, (as amended, supplemented, or otherwise modified and in effect from time
19 to time, the “DIP Credit Agreement,” and, together with all other agreements, documents, notes
20 certificates, and instruments executed and/or delivered with, to or in favor of the DIP Lender, the
21 “DIP Financing Agreements”). On October 4, 2018, the Court entered the Final DIP Order
22 granting the DIP Financing Motion on a final basis.

23 E. **The Supplemental Cash Collateral Order.** On August 28, 2019, the Debtors
24 filed the *Debtors’ Notice of Motion and Motion for Entry of an Order (A) Authorizing the Debtors*
25 *to Use Cash Collateral and (B) Granting Adequate Protection to Prepetition Secured Creditors*
26 [Docket No. 2962] (as modified by Docket No. 2968, the “Cash Collateral Motion”). As set forth
27 more fully in the Cash Collateral Motion, the Debtors sought, pursuant to the terms of a consensual
28

1 proposed order (the “Cash Collateral Agreement”), authority to, among other things, (i) continue
2 use of “Escrowed Cash Collateral” (defined below), (ii) grant liens on postpetition accounts and
3 inventory as adequate protection to the Prepetition Secured Creditors, and (iii) pay off the DIP
4 Financing. On September 6, 2019, the Court entered the *Final Order (A) Authorizing Continued*
5 *Use of Cash Collateral, (B) Granting Adequate Protection, (C) Modifying the Automatic Stay, and*
6 *(D) Granting Related Relief* [Docket No. 3022] (the “Supplemental Cash Collateral Order”)
7 granting the Cash Collateral Motion and approving the terms of the Cash Collateral Agreement.

8 F. **Request for Use of Cash Collateral.** The Debtors have advised the Prepetition
9 Secured Creditors that they have an immediate and continuing need to use cash collateral in order
10 to continue their operations, continue to serve the Debtors’ mission to provide vital, lifesaving
11 patient care for vulnerable populations, to administer and preserve the value of their estates until
12 the anticipated sale and transfer of the remainder of their facilities to one or more acquirers, and
13 to distribute the assets of the Debtors’ estates to their creditors. The Debtors have requested the
14 Prepetition Secured Creditors consent to their continuing use of cash collateral under the Final
15 DIP Order and additional use of Escrowed Cash Collateral, the use of which is restricted by the
16 Final DIP Order and the Supplemental Cash Collateral Order. The Prepetition Secured Creditors
17 have advised that they are willing to consent to continuing use of cash collateral conditioned upon
18 the additional adequate protection and terms of a First Amended Supplemental Cash Collateral
19 Order attached hereto as **Exhibit “A”** and compliance with certain Disposition Milestones
20 attached hereto as **Exhibit “B”** and filed under seal.

21 **AGREEMENT**

22 **NOW, THEREFORE,** pursuant to the agreements reached in connection herewith, and in
23 consideration of the mutual covenants, agreements and promises set forth herein, and for other
24 good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged,
25 the Parties, intending to be legally bound as provided for herein, hereby agree as follows:

26 1. Subject to the continuing protections of the Final DIP Order, Supplemental Cash
27 Collateral, the SCC Sale Order, the Prepetition Secured Creditors consent to the Debtors’
28

1 continued use of Cash Collateral subject the terms and conditions of the proposed order attached
2 hereto as **Exhibit “A”** amending and supplementing the terms of the Supplemental Cash Collateral
3 Order (the “First Amended Supplemental Cash Collateral Order”).

4 2. In the event of any inconsistency between the terms of this Stipulation and the First
5 Amended Supplemental Cash Collateral Order, the terms of the First Amended Supplemental Cash
6 Collateral Order shall govern.

7 3. The Prepetition Secured Creditors expressly reserve all rights and remedies set forth
8 in the Final DIP Order, including without limitation the Prepetition Replacement Liens and other
9 adequate protection provided therein, the Supplemental Cash Collateral Order and the Intercreditor
10 Agreement. The Prepetition Secured Creditors have entered into this Stipulation in reliance upon
11 paragraph 28 of the Final DIP Order.

12 Dated: December 28, 2019

DENTONS US LLP

13
14 By: /s/ Tania M. Moyron

15 Samuel R. Maizel
16 Tania M. Moyron
17 Claude D. Montgomery

18 Counsel to the *Debtors and Debtors In Possession*

19 Dated: December ___, 2019

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.

20
21 By: _____

22 Paul J. Ricotta
23 Daniel S. Bleck

24 Co-Counsel to *UMB Bank, N.A., as Master*
25 *Indenture Trustee and Wells Fargo Bank,*
26 *National Association, as Indenture Trustee*

1 continued use of Cash Collateral subject the terms and conditions of the proposed order attached
2 hereto as **Exhibit “A”** amending and supplementing the terms of the Supplemental Cash Collateral
3 Order (the “First Amended Supplemental Cash Collateral Order”).

4 2. In the event of any inconsistency between the terms of this Stipulation and the First
5 Amended Supplemental Cash Collateral Order, the terms of the First Amended Supplemental Cash
6 Collateral Order shall govern.

7 3. The Prepetition Secured Creditors expressly reserve all rights and remedies set forth
8 in the Final DIP Order, including without limitation the Prepetition Replacement Liens and other
9 adequate protection provided therein, the Supplemental Cash Collateral Order and the Intercreditor
10 Agreement. The Prepetition Secured Creditors have entered into this Stipulation in reliance upon
11 paragraph 28 of the Final DIP Order.

12 Dated: December __, 2019

DENTONS US LLP

14 By: _____

15 Samuel R. Maizel
16 Tania M. Moyron
17 Claude D. Montgomery

18 Counsel to the *Debtors and Debtors In Possession*

19 Dated: December 27, 2019

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.

21 By: Paul J. Ricotta

22 Paul J. Ricotta
23 Daniel S. Bleck

24 Co-Counsel to *UMB Bank, N.A., as Master Indenture Trustee and Wells Fargo Bank, National Association, as Indenture Trustee*

1 Dated: December 28, 2019

JONES DAY

2
3 By: 

4 Bruce S. Bennett
5 Benjamin Rosenblum
6 Peter S. Saba

7 Counsel to *Verity MOB Financing, LLC* and
8 *Verity MOB Financing II, LLC*
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Dated: December 27, 2019

U.S. BANK NATIONAL ASSOCIATION solely in its capacities, as the note indenture trustee and as the collateral agent under the note indentures relating to the 2015 Working Capital Notes and the 2017 Working Capital Notes

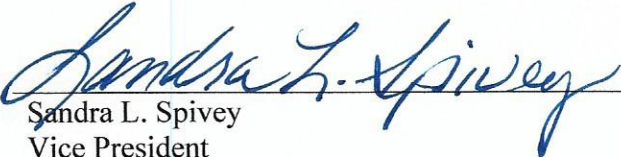
By: 
Sandra L. Spivey
Vice President

Exhibit A

First Amended Supplemental Cash Collateral Order

1 SAMUEL R. MAIZEL (Bar No. 189301)
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2 TANIA M. MOYRON (Bar No. 235736)
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7 Attorneys for the Chapter 11 Debtors
and Debtors In Possession

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

10 In re

11 VERITY HEALTH SYSTEM OF CALIFORNIA,
INC., *et al.*,

12 Debtors and Debtors In
13 Possession.

- 14 Affects All Debtors
- 15 Affects O'Connor Hospital
- 16 Affects Saint Louise Regional Hospital
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- 22 Affects St. Francis Medical Center of Lynwood
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- 23 Affects St. Vincent Foundation
- 24 Affects St. Vincent Dialysis Center, Inc.
- 25 Affects Seton Medical Center Foundation
- 26 Affects Verity Business Services
- 27 Affects Verity Medical Foundation
- 28 Affects Verity Holdings, LLC
- Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose Dialysis, LLC

24 Debtors and Debtors In
25 Possession.

Lead Case No. 18-20151
Jointly Administered With:
CASE NO.: 2:18-bk-20162-ER
CASE NO.: 2:18-bk-20163-ER
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CASE NO.: 2:18-bk-20179-ER
CASE NO.: 2:18-bk-20180-ER
CASE NO.: 2:18-bk-20171-ER

Chapter 11 Cases

Hon. Ernest M. Robles

**FINAL ORDER APPROVING STIPULATION TO
(A) AMEND CASH COLLATERAL
AGREEMENT AND SUPPLEMENTAL CASH
COLLATERAL ORDER, (B) AUTHORIZE
CONTINUED USE OF CASH COLLATERAL, (C)
GRANT ADEQUATE PROTECTION, (D)
MODIFY AUTOMATIC STAY, AND (E) GRANT
RELATED RELIEF**

1 On December 28, 2019, the Debtors (defined below) filed the *Stipulation to (A) Amend*
2 *Cash Collateral Agreement and Supplemental Cash Collateral Order, (B) Authorize Continued*
3 *Use of Cash Collateral, (C) Grant Adequate Protection, (D) Modify Automatic Stay, and (E) Grant*
4 *Related Relief* [Docket No. _____], (the “**Stipulation**”)¹ entered into by and among Verity Health
5 System of California, Inc. (“**VHS**”), O’Connor Hospital (“**OCH**”), Saint Louise Regional Hospital
6 (“**SLRH**”), St. Francis Medical Center (“**SFMC**”), St. Vincent Medical Center (“**SVMC**”), Seton
7 Medical Center (“**SMC**”), Verity Holdings, LLC (“**Holdings**”), Verity Medical Foundation
8 (“**VMF**”), O’Connor Hospital Foundation, Saint Louise Regional Hospital Foundation, St. Francis
9 Medical Center of Lynwood Medical Foundation, St. Vincent Foundation, St. Vincent Dialysis
10 Center, Inc., Seton Medical Center Foundation, Verity Business Services, DePaul Ventures, LLC,
11 and DePaul Ventures-San Jose Dialysis, LLC (collectively, the “**Debtors**”), as debtors and debtors
12 in possession in the above captioned chapter 11 cases (collectively, the “**Chapter 11 Cases**”), on
13 the one hand, and UMB Bank, N.A., (“**UMB Bank**”) as successor Master Trustee (in such capacity,
14 the “Master Trustee”) under the Master Indenture of Trust dated as of December 1, 2001, as
15 amended and supplemented (the “**Master Indenture**”), Wells Fargo Bank National Association
16 (“Wells Fargo”) as bond indenture trustee under the bond indentures relating to the 2005 Bonds
17 (defined below), U.S. Bank National Association (“**U.S. Bank**”) as the note indenture trustee and
18 as the collateral agent under each of the note indentures relating to the 2015 Working Capital Notes
19 (defined below) and the 2017 Working Capital Notes (defined below), respectively (collectively,
20 the “**Working Capital Notes**”), and Verity MOB Financing, LLC and Verity MOB Financing II,
21 LLC (together, the “**MOB Lenders**”) (collectively, the “**Prepetition Secured Creditors**,” and,
22 together with the Debtors, the “**Parties**”), on the other hand.

23 As set forth more fully in the Stipulation, the Parties agreed to, among other things, entry
24 of this order (the “**First Amended Supplemental Cash Collateral Order**”) (i) approving the
25 Stipulation; (ii) amending and supplementing the Cash Collateral Agreement; and (iii) amending

26 _____
27 ¹ Capitalized terms used herein and not otherwise defined shall have the meaning ascribed in the
28 Stipulation and the Final DIP Order.

1 and supplementing the *Final Order (A) Authorizing Continued Use of Cash Collateral, (B)*
2 *Granting Adequate Protection, (C) Modifying the Automatic Stay, and (D) Granting Related Relief*
3 [Docket No. 3022] (the “**Supplemental Cash Collateral Order**”) pursuant to §§ 105, 361, 362, 363
4 and 507 of title 11 of the United States Code (the “**Bankruptcy Code**”),² Rules 2002 and 4001 of
5 the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 4001-2 of the
6 Local Bankruptcy Rules for the United States Bankruptcy Court for the Central District of
7 California (the “**Local Rules**” or “**LBR**”).

8 The Court, having considered the Stipulation, and the exhibits attached thereto, the record
9 established in connection with the Final DIP Order and Supplemental Cash Collateral Order, the
10 evidence submitted by declaration or testimony adduced and the arguments of counsel made at the
11 hearings on the Final DIP Order and Supplemental Cash Collateral Order; and due and proper
12 notice of the Stipulation having been provided in accordance with Bankruptcy Rules 2002, 4001(b)
13 and (d), and Bankruptcy Rule 9014, and LBR 4001-2, and no other or further notice being required
14 under the circumstances; and, pursuant to Bankruptcy Rule 4001(d)(4), the Court having found
15 that the procedures described in Bankruptcy Rule 4001(d)(1)-(3) shall not apply and that the
16 Stipulation may be approved without further notice because notice of the Stipulation was sufficient
17 to afford reasonable notice of the material provisions of the Stipulation and the First Amended
18 Supplemental Cash Collateral Order and an opportunity for a hearing; and it appearing that
19 approval of the relief requested in the Stipulation is necessary to avoid immediate and irreparable
20 harm to the Debtors and is otherwise fair and reasonable and in the best interests of the Debtors,
21 their estates and their creditors, and is essential for the preservation of the value of the Debtors’
22 assets; and all objections, if any, to the entry of this First Amended Supplemental Cash Collateral
23 Order having been withdrawn, resolved or overruled by the Court; and after due deliberation and
24 consideration, and for good and sufficient cause appearing therefor:

25
26 _____
27 ² Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11
28 U.S.C. §§ 101, et seq., as amended.

1 **BASED UPON THE RECORD OF THESE BANKRUPTCY CASES, THE COURT**
2 **MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**³

3 A. **Petition Date.** On August 31, 2018 (the “*Petition Date*”), each of the Debtors filed
4 a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States
5 Bankruptcy Court for the Central District of California (the “*Court*”). The Debtors have
6 continued in the management and operation of their businesses and properties as debtors in
7 possession pursuant to §§ 1107 and 1108. On September 17, 2018, an official committee of
8 unsecured creditors (the “*Committee*”) was appointed in these Chapter 11 Cases.

9 B. **Jurisdiction and Venue.** This Court has jurisdiction over the Chapter 11 Cases,
10 the Stipulation, and the Parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and
11 1334(b), and over the persons and property affected hereby. Consideration of the Stipulation
12 constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue for these Chapter 11
13 Cases and the proceedings on the Stipulation is proper before this district pursuant to 28 U.S.C.
14 §§ 1408 and 1409.

15 C. **Prepetition Secured Credit Facilities.** As of the Petition Date, the Debtors were
16 indebted and liable to the Prepetition Secured Creditors as follows:

17 (i) The Master Trustee with respect to the MTI Obligations (defined below)
18 securing the repayment by the Obligated Group (defined below) of its loan obligations with respect
19 to (1) the California Statewide Communities Development Authority Revenue Bonds (Daughters
20 of Charity Health System) Series 2005, A, G, and H (the “*2005 Bonds*”), (2) the California Public
21 Finance Authority Revenue Notes (Verity Health System) Series 2015 A, B, C and D (the “*2015*
22 *Working Capital Notes*”), and (3) the California Public Finance Authority Revenue Notes (Verity
23 Health System) Series 2017 A and B (the “*2017 Working Capital Notes*” and, collectively with
24

25 ³ The findings and conclusions set forth herein constitute the Court’s findings of fact and
26 conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant
27 to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute
28 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.

1 the 2015 Working Capital Notes, the “**Working Capital Notes**”). The joint and several obligations
2 issued under the Master Indenture by VHS, OCH, SLRH, SFMC, SVMC, and SMC (collectively,
3 the “**Obligated Group**”) in respect of the 2005 Bonds and the Working Capital Notes are
4 collectively referred to as the “**MTI Obligations.**” Wells Fargo serves as bond indenture trustee
5 under the bond indentures relating to the 2005 Bonds. U.S. Bank serves as the note indenture
6 trustee and as the collateral agent under each of the note indentures relating to the 2015 Working
7 Capital Notes and the 2017 Working Capital Notes, respectively. The MTI Obligations are secured
8 by, *inter alia*, security interests granted to the Master Trustee in the prepetition accounts of, and
9 mortgages on the principal real estate assets of, the members of the Obligated Group. Certain of
10 the collateral securing the foregoing obligations has been sold by the Obligated Parties, with the
11 Sales Proceeds (as defined in the Final DIP Order) being held in the Escrow Deposit Accounts as
12 required by the Final DIP Order and the sale order [Docket No. 2306] (the “**Sale Order**”).

13 (ii) In addition to the security provided to the Master Trustee to secure the MTI
14 Obligations, U.S. Bank, as Note Trustee for the 2015 Working Capital Notes and the 2017
15 Working Capital Notes is secured by, *inter alia*, prepetition first priority liens upon and security
16 interests in the Obligated Group’s accounts and by deeds of trust on the principal real estate assets
17 of Saint Louise Regional Hospital and St. Francis Medical Center. U.S. Bank as Notes Trustee for
18 the 2017 Working Capital Notes was also granted a deed of trust, dated as of December 1, 2017,
19 by Holdings in certain real property located in San Mateo, California to further secure the 2017
20 Working Capital Notes. Certain of the collateral securing the foregoing obligations has been sold
21 by the Obligated Parties, with the proceeds thereof currently being held in the Escrow Deposit
22 Accounts as required by the Final DIP Order.

23 (iii) The MOB Lenders hold security interests in Holdings’ accounts, including
24 rents arising from the prepetition MOB Financing, and mortgages on medical office buildings
25 owned by Holdings (the “**MOB Financing**”). The Debtors sold certain of the collateral securing
26 the MOB Financing, and the proceeds thereof are currently held in the Escrow Deposit Accounts
27 as required by the Final DIP Order. The Master Trustee, Wells Fargo as bond indenture trustee
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1 for the 2005 Notes, U.S. Bank as indenture trustee for the Working Capital Notes, and the MOB
2 Lenders are each referred to herein as a “**Prepetition Secured Creditor**,” the MTI Obligations, the
3 Obligated Group’s loan obligations with respect to the Working Capital Notes, and the MOB
4 Financing are each referred to herein as a “**Prepetition Secured Obligation**,” the prepetition
5 interests (including the liens and security interests) of each Prepetition Secured Creditor in the
6 property and assets of the Debtors are each referred to herein as such Prepetition Secured
7 Creditor’s “**Prepetition Lien**,” and the documents, writings and agreements evidencing the
8 Prepetition Secured Obligations of each Prepetition Secured Creditor are hereinafter referred to as
9 the “**Prepetition Secured Documents**.”

10 D. **Prepetition Collateral.** In order to secure each Prepetition Secured Creditor’s
11 Prepetition Secured Obligations, the Debtors, excluding the Philanthropic Foundations, granted
12 the Prepetition Liens to the Prepetition Secured Creditors as provided and described in each of
13 the Prepetition Secured Creditor’s respective Prepetition Secured Documents. The assets subject
14 to the Prepetition Liens (the “**Prepetition Collateral**”) constitute substantially all of the assets of
15 the Debtors, excluding cash and assets of the Philanthropic Foundations.

16 E. **Intercreditor Agreement.** Pursuant to § 510(a) and the Final DIP Order, the
17 Second Amended and Restated Intercreditor Agreement, dated December 1, 2017 (the
18 “**Intercreditor Agreement**”), and any other applicable intercreditor or subordination provisions
19 contained in any of the Prepetition Secured Documents (i) shall remain in full force and effect
20 with respect to the prepetition and post-petition assets of the Debtors as provided thereunder,
21 including the Escrowed Cash Collateral, (ii) shall continue to govern the relative priorities, rights
22 and remedies of the Prepetition Secured Creditors, including with respect to their Prepetition
23 Liens, all liens granted to them pursuant to the Final DIP Order, the Supplemental Cash Collateral
24 Lien granted pursuant to the terms of the Supplemental Cash Collateral Order and this First
25 Amended Supplemental Cash Collateral Order, and (iii) shall not be deemed to be amended,
26 altered or modified by the terms of this First Amended Supplemental Cash Collateral Order, the
27 Final DIP Order, or the Supplemental Cash Collateral Order. No party has waived any rights or
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1 remedies under the Intercreditor Agreement by virtue of the entry of this First Amended
2 Supplemental Cash Collateral Order.

3 F. **Escrow Deposit Account Balances.** As a result of the Court’s approval of the
4 sales of certain assets by OCH, SLRH, VHS, Holdings, and VMF, and the deposit of the related
5 Sales Proceeds into the Escrow Deposit Accounts, as of December 27, 2019, five Escrow Deposit
6 Accounts held an aggregate amount of \$55,893,021.28 as follows: (1) OCH Santa Clara Sales
7 Proceeds—\$0; (2) SLRH Santa Clara Sales Proceeds—\$36,979,277.86; (3) VH Santa Clara Sales
8 Proceeds—\$15,916,689.16; (4) VMF Sales Proceeds—\$2,270,123.31 and (5) VHS Santa Clara
9 Sales Proceeds—\$726,930.95 (collectively, the amount of the Debtors’ “*Escrowed Cash*
10 *Collateral*”). No portion of the Escrowed Cash Collateral constitutes the proceeds of any of the
11 Debtors’ accounts receivable, including pre or postpetition QAF. Notwithstanding the foregoing,
12 nothing in this paragraph or this First Amended Supplemental Cash Collateral Order shall waive
13 or limit the rights of the Prepetition Secured Creditors or the Committee to challenge the allocation
14 of the Sale Proceeds held in the Escrow Deposit Accounts (including the right to seek a reallocation
15 thereof), and this First Amended Supplemental Cash Collateral Order shall be subject to the
16 reservations of rights in Paragraph 4 of the Final DIP Order.

17 G. **Establishment of VHS-Disbursement Account.** Pursuant to the terms of the DIP
18 Financing, the Debtors established a deposit account at Bank of America for the purpose of
19 receiving draws under the DIP Credit Agreement denominated the “VHS - DIP Loan Proceeds
20 Account.” Such deposit account did not exist on the Petition Date. In connection with the Cash
21 Collateral Agreement, the Debtors determined in their reasonable business judgement that, upon
22 funding of the Payoff Amount pursuant to the Supplemental Cash Collateral Order, the account
23 should be renamed the “VHS-Disbursement Account.” Also as a result of the DIP Financing, the
24 Debtors established a concentration deposit account for purposes of remitting cash receipts from
25 each Debtor to the DIP Agent denominated the “VHS - Concentration Account.” The Debtors
26 determined in the reasonable exercise of their business judgment that, following the transfer of
27 funds from the OCH Escrow Deposit Account to satisfy the Payoff Amount, the VHS -
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1 Disbursement Account is the appropriate deposit account into which (i) all Permitted Withdrawals
2 from the Escrow Deposit Accounts, and (ii) all collections on pre and postpetition accounts
3 receivables, including but not limited to patient receivables, governmental receivables and lease
4 rents should be deposited. In connection with the Cash Collateral Agreement, the Prepetition
5 Secured Creditors requested use of a single disbursement account to trace intercompany advances
6 using cash collateral and have consented to the above described modifications of the Final DIP
7 Order and the Cash Management Order.⁴ The Court approved this request and modifications by
8 entry of the Supplemental Cash Collateral Order. As of December 27, 2019, the VHS-
9 Disbursement Account held \$1.978 million.

10 H. **Satisfaction of the DIP Obligations and Consent to Use of Escrowed Cash**
11 **Collateral.**

12 (i) **Termination Date Under the Supplemental Cash Collateral Order.**

13 Pursuant to the terms of the Supplemental Cash Collateral Order, Debtors' authority to use
14 Escrowed Cash Collateral terminates on the earliest of: (i) December 31, 2019; (ii) the date of any
15 stay, revocation, reversal, amendment or other modification, in whole or in part, of the Final DIP
16 Order or the Supplemental Cash Collateral Order; (iii) the occurrence of an Event of Default (as
17 defined in the Supplemental Cash Collateral Order); (iv) the substantial consummation (as defined
18 in § 1101 and which for purposes hereof shall be no later than the "effective date") of a plan of
19 reorganization filed in the Chapter 11 Cases that is confirmed pursuant to an order entered by the
20 Court; and (v) the date the Court orders the conversion of the Chapter 11 Cases to a Chapter 7
21 liquidation or the dismissal of the Chapter 11 Cases or the appointment of a trustee or examiner
22 with expanded power in the Chapter 11 Cases.

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24 ⁴ "Cash Management Order" refers to the *Final Order Granting Emergency Motion of the Debtors*
25 *to Authorize (1) Continued Use of Existing Cash Management System, Bank Accounts and*
26 *Business Forms; (2) Implement Changes to the Cash Management System in the Ordinary Course*
27 *of Business; (3) Continue Intercompany Transactions; (4) Provide Administrative Expense*
28 *Priority for Postpetition Intercompany Claims and (5) Obtain Related Relief* entered October 31,
2018 [Docket No. 738].

1 I. **Use of Cash Collateral.** The Cash Collateral of the Prepetition Secured Creditors,
2 including the Escrowed Cash Collateral, is to be used by the Debtors until the occurrence of a
3 Termination Date (as defined herein) in accordance with that certain budget, as modified from
4 time to time as permitted herein, attached hereto as *Exhibit A* (the “*Cash Collateral Budget*”).
5 The Cash Collateral Budget shall be deemed to include any variances set forth therein or as
6 permitted by the terms of the DIP Credit Agreement as in effect immediately prior to the payment
7 of the Payoff Amount, including but not limited to the Maximum Budget Variance as follows: the
8 Debtors shall not permit (a) the aggregate actual disbursements under the Cash Collateral Budget
9 for any consecutive four (4) week period ending on the then most recent Saturday (taken as one
10 accounting period), as tested weekly (the “*Test Period*”), to exceed the aggregate budgeted
11 disbursements for such Test Period by more than seven and one half percent (7.5%) of the
12 aggregate budgeted amount for such Test Period; provided that with respect to the foregoing clause
13 (a), the amount by which the actual disbursements thereunder during such period are less than the
14 relevant budgeted disbursements may be carried forward to reduce the disbursements under clause
15 (a) in the next succeeding periods until used in full; or (b) aggregate actual cash receipts under the
16 Cash Collateral Budget for any Test Period (as tested weekly) to be less ninety-two and one half
17 percent (92.5%) of the aggregate budgeted cash receipts for such Test Period; provided further,
18 that, with respect to the foregoing clause (b), the amount by which the actual cash receipts
19 thereunder during such period are greater than the relevant budgeted cash receipts may be carried
20 forward to increase the cash receipts under clause (b) in the next succeeding periods until used in
21 full. For the avoidance of doubt, the aggregate cash receipts and the aggregate cash disbursements
22 carryforward balances (each as defined in the DIP Credit Agreement) existing immediately prior
23 to December 27, 2019 will continue to carryforward for purposes of the Cash Collateral Budget
24 under this First Amended Supplemental Cash Collateral Order.

25 J. **Supplemental Adequate Protection for Use of Escrowed Cash Collateral.**

26 Each of the Prepetition Secured Creditors is entitled to Supplemental Adequate Protection (as
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1 defined below) pursuant to §§ 361 and 363 for its respective interest in each dollar of the
2 Escrowed Cash Collateral that is withdrawn from the VHS-Disbursement Account.

3 K. **Continuation of Existing Adequate Protection Under the Final DIP Order.** In
4 addition to Supplemental Adequate Protection, as provided in this First Amended Supplemental
5 Cash Collateral Order, the Prepetition Secured Creditors remain entitled to adequate protection,
6 as set forth in the Final DIP Order and the Supplemental Cash Collateral Order, pursuant to §§
7 361 and 363, for any Diminution in Value of their respective interests in the Prepetition Collateral,
8 including, without limitation, their respective interests in the Escrowed Cash Collateral and
9 Replacement Cash Collateral.

10 L. **Relief Essential; Best Interest; Good Cause; Good Faith.** The relief requested
11 in the Stipulation (and as provided in this First Amended Supplemental Cash Collateral Order) is
12 necessary, essential, and appropriate for the preservation of the Debtors' assets, business and
13 property, or the disposition thereof, and is in the best interest of the Debtors' estates. Good cause
14 has been shown for the relief requested in the Stipulation (and as provided in this First Amended
15 Supplemental Cash Collateral Order). The Supplemental Adequate Protection has in all respects
16 been negotiated in good faith by the Debtors and the Prepetition Secured Creditors.

17 **NOW, THEREFORE**, on the terms of the Stipulation and the record before this Court
18 with respect to the Stipulation, and with the consent of the Debtors and the Prepetition Secured
19 Creditors to the form and entry of this First Amended Supplemental Cash Collateral Order, and
20 good and sufficient cause appearing therefor,

21 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

22 1. **Stipulation Approved.** The Stipulation is APPROVED on a final basis in
23 accordance with the terms and conditions set forth in this First Amended Supplemental Cash
24 Collateral Order. The terms of the Cash Collateral Agreement and Supplemental Cash Collateral
25 Order are hereby amended and supplemented solely to the extent set forth herein. In the event of
26 any inconsistency between the terms of this Stipulation and this First Amended Supplemental Cash
27 Collateral Order, the terms of the First Amended Supplemental Cash Collateral Order shall govern.

1 **2. Objections Overruled.** Any objections to the Stipulation with respect to entry of
2 this First Amended Supplemental Cash Collateral Order to the extent not withdrawn, waived or
3 otherwise resolved, and all reservations of rights included therein, are hereby denied and overruled.

4 **3. Authorization to Use Cash Collateral.** The Debtors are authorized to use Cash
5 Collateral, Escrowed Cash Collateral, and Replacement Cash Collateral⁵ in the amounts and at the
6 times specified in, and strictly in compliance with, the Cash Collateral Budget, as modified from
7 time to time as permitted herein until the occurrence of the Termination Date; provided, that, the
8 Debtors shall first use funds from cash receipts other than Escrowed Cash Collateral and then, if
9 such cash receipts are insufficient to pay amounts permitted by the Cash Collateral Budget, draw
10 funds from the Escrow Deposit Accounts in the following order: (i) OCH; (ii) SLRH; (iii) VHS;
11 (iv) Holdings; and (v) VMF. Prior to any use of Cash Collateral, Escrowed Cash Collateral, or
12 Replacement Cash Collateral, the Debtors shall transfer to the VHS-Disbursement Account all pre
13 and postpetition cash receipts, including but not limited to all collected patient receivables,
14 governmental receivables and lease rents.

15 **4. Adequate Protection for Use of Escrowed Cash Collateral and Replacement**
16 **Cash Collateral.** Nothing contained in this First Amended Supplemental Cash Collateral Order
17 shall terminate, restrict or modify the adequate protection granted to the Prepetition Secured
18 Creditors pursuant to the Final DIP Order or the Supplemental Cash Collateral Order (the
19 *“Existing Adequate Protection”*) on account of the use of Cash Collateral, Escrowed Cash
20 Collateral, or Replacement Cash Collateral. In addition to the Existing Adequate Protection
21 provided to the Prepetition Secured Creditors in the Final DIP Order and the Supplemental Cash
22 Collateral Order, and in consideration for the Prepetition Secured Creditors’ consent to the
23 continued use of Cash Collateral, Escrowed Cash Collateral, and Replacement Cash Collateral, the
24 Prepetition Secured Creditors shall also be entitled to the following rights and benefits as adequate

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26 ⁵ *“Replacement Cash Collateral”* means cash collateral, to the extent not already Cash Collateral
27 (as defined in the Final DIP Order), that is the subject of a Prepetition Replacement Lien or a
28 Supplemental Cash Collateral Lien of the Prepetition Secured Creditors.

1 protection (“*Supplemental Adequate Protection*”) pursuant to §§ 361 and 363 on account of the
2 use of the Escrowed Cash Collateral pursuant to the terms of this First Amended Supplemental
3 Cash Collateral Order as follows:

4 (a) To the extent of its interests in any Escrowed Cash Collateral that is withdrawn
5 from the Escrow Deposit Accounts (which interests shall be determined in accordance with
6 the Final DIP Order, the Supplemental Cash Collateral Order, and any applicable Sale
7 Order, and fully subject to the rights of the parties to the Intercreditor Agreement) on and
8 after the date of entry of this First Amended Supplemental Cash Collateral Order, each of
9 the Prepetition Secured Creditors shall be granted a fully perfected, first priority lien and
10 security interest (the “*Supplemental Cash Collateral Lien*”) in all property and assets of
11 the Debtors, of any kind or nature, whether now existing or hereafter arising, excluding the
12 proceeds of any Avoidance Actions; provided, however, such Supplemental Cash
13 Collateral Lien (i) shall have the same relative scope, validity, priority, force and effect as
14 the Supplemental Cash Collateral Liens as have been granted by the Supplemental Cash
15 Collateral Order (ii) shall be subject and subordinate to any Prepetition Lien held by any
16 of the Prepetition Secured Creditors in respect of each such creditors’ respective
17 Prepetition Collateral, (iii) shall be subject to the Carve Out (as defined in the Supplemental
18 Cash Collateral Order and as set forth below), and, (iv) for the avoidance of doubt, shall be
19 subject to subparagraphs 4(b), (c), and (d), below.

20 (b) The Supplemental Cash Collateral Lien granted herein to any of the Prepetition
21 Secured Creditors hereunder shall, for each dollar of the Escrowed Cash Collateral
22 withdrawn from any of the Escrow Deposit Accounts, have the same relative priority
23 among them as the Prepetition Replacement Liens as and to the same extent set forth in
24 Paragraph 5 of the Final DIP Order.

25 (c) The interest of each Prepetition Secured Creditor in the Supplemental Cash
26 Collateral Lien shall be equal in dollar amount to the interest of each such Prepetition
27 Secured Creditor in the Escrowed Cash Collateral as such interest existed immediately
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1 prior to withdrawal of the Escrowed Cash Collateral from the Escrow Deposit Accounts,
2 and the relative rights and priorities of such interests shall be determined and governed by
3 the rights, priorities, and obligations between or among such Prepetition Secured Creditors
4 as set forth in the Final DIP Order (including, but not limited to, Paragraph 5 thereof) and
5 the Intercreditor Agreement.

6 (d) Nothing contained in paragraph 4(a)-(c) herein or otherwise in this First Amended
7 Supplemental Cash Collateral Order or the Stipulation is intended to, or shall constitute a
8 modification of the rights, obligations, or priorities of any Prepetition Secured Creditor as
9 they exist under the Final DIP Order (including, but not limited to, with respect to the
10 Prepetition Replacement Liens and other adequate protections granted pursuant to
11 Paragraph 5 thereof), the Supplemental Cash Collateral Order, and the Intercreditor
12 Agreement.

13 **5. Continuation of Existing Adequate Protection Pursuant to the Final DIP**
14 **Order and the Supplemental Cash Collateral Order.** All Existing Adequate Protection granted
15 to the Prepetition Secured Creditors in the Final DIP Order and in the Supplemental Cash
16 Collateral Order, whether on account of the use of Cash Collateral, the Escrowed Cash Collateral
17 or Replacement Cash Collateral, or on account of any other right or entitlement, shall continue
18 pursuant to the terms of the Final DIP Order and the Supplemental Cash Collateral Order, and shall
19 remain in full force in effect, subject to any limitations that may arise from any authorized and
20 timely Challenge within the meaning of the Final DIP Order; provided, however, the restrictions
21 contained in paragraph 4 of the Final DIP Order that prohibit the withdrawal of amounts from the
22 VHS-Disbursement Account shall be deemed to be modified solely to the extent necessary to
23 permit the use of Escrowed Cash Collateral pursuant to the terms of this First Amended
24 Supplemental Cash Collateral Order. The scope, validity, perfection, priority, and the amount of
25 the Supplemental Cash Collateral Lien shall not now, and shall not become, the subject of any
26 Challenge within the meaning of paragraph 5 of the Final DIP Order.

1 **6. Budget Maintenance.** The use of Cash Collateral, Escrowed Cash Collateral and
2 Replacement Cash Collateral shall be subject to, and in accordance with, the terms and conditions
3 of the Cash Collateral Budget. The Cash Collateral Budget has been approved by the Prepetition
4 Secured Creditors. Following entry of the First Amended Supplemental Cash Collateral Order,
5 the Cash Collateral Budget may be modified by the Debtors by giving the Prepetition Secured
6 Creditors at least five (5) business days written notice of the proposed modification, which
7 modification shall be deemed approved unless objected to by one or more of the Prepetition
8 Secured Creditors. Any modified Cash Collateral Budget shall be delivered to counsel for the
9 Committee and the U.S. Trustee no later than three (3) business days prior to the effective date of
10 such modified Cash Collateral Budget.

11 **7. Disposition Milestones.** The use of Cash Collateral (as defined in the Final DIP
12 Order), Escrowed Cash Collateral and Replacement Cash Collateral shall be conditioned upon,
13 and subject to, the Debtors' compliance with the "Disposition Milestones" attached as Exhibit "B"
14 to the Stipulation and filed under seal pursuant to an order of this Court.

15 **8. Carve Out.** Paragraph 7 of the Supplemental Cash Collateral Order is modified
16 and restated in its entirety as follows: "The Prepetition Liens, the Prepetition Replacement Liens,
17 and the Prepetition Superpriority Claims are subordinate only to the following (collectively, the
18 "*Carve Out*"):

19 (a) all fees required to be paid to the clerk of the Bankruptcy Court and to the Office
20 of the United States Trustee under § 1930(a) of title 28 of the United States Code plus
21 interest, if any, at the statutory rate (without regard to the notice set forth in (c) below);

22 (b) to the extent allowed at any time, whether by interim order, procedural order or
23 otherwise, all allowed claims for unpaid fees, costs and expenses incurred by persons or
24 firms retained by the Debtors or the Committee if any, whose retention is approved by the
25 Bankruptcy Court pursuant to any one or more of §§ 327, 363, and 1103 ("*Estate*
26 *Professionals*"), to the extent such claims for fees, costs and expenses are (i) allowed by
27 the Bankruptcy Court pursuant to a final order at any time, and (ii) in accordance with, and
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1 solely up to the total respective amounts set forth in, the Cash Collateral Budget for the
2 applicable timeframe prior to the Debtors' receipt of a Carve Out Trigger Notice
3 (the "*Carve-Out Expenses*"); provided that the aggregate amount of such Carve-Out
4 Expenses shall not exceed (i) \$3,000,000 with respect to persons or firms retained by the
5 Debtors, and (ii) \$300,000 with respect to persons or firms retained by the Creditors'
6 Committee (collectively, the "*Carve-Out Amount*"). Any payment or reimbursement
7 made after the Carve Out Trigger Date in respect of any Carve-Out Expenses shall
8 permanently reduce the Carve-Out Amount on a dollar-for-dollar basis. The Debtors also
9 shall be permitted to use Cash Collateral after the Carve Out Trigger Date on account of
10 Pre-Trigger Date services by Estate Professionals that (i) appear in the Cash Collateral
11 Budget, (ii) for which fee applications have been timely made and allowed by the Court,
12 and (iii) have not been paid prior to the Carve Out Trigger Date, which use shall not reduce
13 the Carve Out Amount.

14 (c) Upon the occurrence of the Termination Date (as defined herein), any one or more
15 of the Prepetition Secured Creditors may give notice to the Debtors that the Carve Out
16 Trigger Date has occurred (the "*Carve Out Trigger Notice*").

17 **9. Financial Reporting.** The Debtors shall continue to provide the same financial
18 reporting to each of the Prepetition Secured Creditors, the Committee and the U.S. Trustee as they
19 were required to provide pursuant to paragraph 8 of the Supplemental Cash Collateral Order.

20 **10. Postpetition Lien Perfection.** This First Amended Supplemental Cash Collateral
21 Order shall be sufficient and conclusive evidence of the validity, perfection and priority of the
22 Supplemental Cash Collateral Lien granted herein without the necessity of any filing or recording
23 of any financing statement, deeds of trust, mortgages, or other instruments or documents which
24 may otherwise be required under the law of any jurisdiction or the taking of any other action
25 (including, for the avoidance of doubt, entering into any deposit account control agreement or
26 obtaining possession of any possessory collateral) to validate or perfect the Supplemental Cash
27 Collateral Lien, or to entitle the Supplemental Cash Collateral Lien the priority granted herein.

1 **11. Payment of Compensation.** Nothing herein shall be construed as consent to the
2 allowance of any professional fees or expenses of any of the Debtors or the Committee or shall
3 affect the right of the Prepetition Secured Creditors to object to the allowance and payment of such
4 fees and expenses or to permit the Debtors to pay any such amounts not set forth in the Cash
5 Collateral Budget. In addition, except as expressly set forth herein, nothing contained herein shall
6 be deemed to be a consent or authorization to use Cash Collateral, Escrowed Cash Collateral or
7 Replacement Cash Collateral, for any purpose that is restricted, prohibited or limited by the terms
8 of the Final DIP Order, the Supplemental Cash Collateral Order or this First Amended
9 Supplemental Cash Collateral Order, all of which restrictions, prohibitions and limitations shall
10 continue and shall be applicable to the Cash Collateral, Escrowed Cash Collateral and
11 Replacement Cash Collateral.

12 **12. Section 506(c) Claims; Equities of the Case.** Nothing contained in this First
13 Amended Supplemental Cash Collateral Order shall be deemed a consent by any Prepetition
14 Secured Creditor to any charge, lien, assessment or claim against the Escrowed Cash Collateral or
15 Replacement Cash Collateral under § 506(c) or otherwise. The “equities of the case” exception
16 under § 552(b) and surcharge powers under § 506(c) were waived pursuant to the Final DIP Order,
17 which waivers are not modified pursuant to this First Amended Supplemental Cash Collateral
18 Order.

19 **13. Termination Date.** Debtors’ authority to use the Cash Collateral, including
20 Escrowed Cash Collateral and Replacement Cash Collateral shall cease on the date (the
21 “*Termination Date*”) that is the earliest to occur of: (i) January 31, 2020; (ii) the date of any stay,
22 revocation, reversal, amendment or other modification, in whole or in part, of the Final DIP Order,
23 the Supplemental Cash Collateral Order, or this First Amended Supplemental Cash Collateral
24 Order; (iii) the occurrence of an Event of Default (as defined below); (iv) the substantial
25 consummation (as defined in § 1101 and which for purposes hereof shall be no later than the
26 “*effective date*”) of a plan of reorganization filed in the Chapter 11 Cases that is confirmed pursuant
27 to an order entered by the Court; and (v) the date the Court orders the conversion of the Chapter
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1 11 Cases to a Chapter 7 liquidation or the dismissal of the Chapter 11 Cases or the appointment of
2 a trustee or examiner with expanded power in the Chapter 11 Cases.

3 **14. Events of Default.** The occurrence of the following shall constitute an event of
4 default (an “*Event of Default*”) under this First Amended Supplemental Cash Collateral Order,
5 unless expressly waived in writing by the Prepetition Secured Creditors:

- 6 (i) the failure of the Debtors to be in compliance with any term or provision of
7 this First Amended Supplemental Cash Collateral Order, the Supplemental
8 Cash Collateral Order or the Final DIP Order, including, without limitation,
9 the failure of the Debtors to make any payments to the Prepetition Secured
10 Creditors as required by the Final DIP Order, and the failure of the Debtors
11 to be in compliance with the Cash Collateral Budget or the Disposition
12 Milestones;
- 13 (ii) the amendment or other modification of the Stipulation or this First
14 Amended Supplemental Cash Collateral Order in any respect, in whole or
15 in part;
- 16 (iii) the dismissal of the Chapter 11 Case, conversion of the Chapter 11 Case to
17 a chapter 7 case, or suspension of the Chapter 11 Case under § 305;
- 18 (iv) in the event of a closing of any sale transaction of the Debtors’ remaining
19 assets, solely to the extent necessary to avoid an adverse determination of
20 taxability as to the holders of (x) the 2005 Bonds, (y) the 2015 Working
21 Capital Notes or (z) the 2017 Working Capital Notes, failure of the Debtors
22 to timely defease such Bonds or Working Capital Notes; and
- 23 (v) any event that would constitute an Event of Default under Section 9.1(q) of
24 the of the DIP Credit Agreement, excluding therefrom items 9.1(q) (i), (vi),
25 (viii),(xv), (xviii) and (xxi).

26 **15. Rights and Remedies Upon Termination Date.**

- 27 (a) Upon the occurrence of a Termination Date, (i) the Debtors’ ability to
28 withdraw Cash Collateral from the VHS-Disbursement Account, or Escrowed Cash Collateral or
Replacement Cash Collateral and utilize such Cash Collateral, Escrowed Cash Collateral, or
Replacement Cash Collateral shall immediately terminate without further order of the Court, and
(ii) any one or more of the Prepetition Secured Creditors may move the Court for relief from the
automatic stay (the “Relief from Stay Motion”), on not less than five (5) days’ notice, to exercise

1 rights and remedies under this First Amended Supplemental Cash Collateral Order, the
2 Supplemental Cash Collateral Order, the Final DIP Order and the Prepetition Secured Documents,
3 and any other Prepetition Secured Creditor may support or object to such motion. Nothing in this
4 paragraph shall preclude or affect (i) the Debtors' right to file an emergency motion requesting
5 further use of cash collateral, and (ii) the rights of the Debtors, the Committee or other interested
6 parties from opposing the Relief from Stay Motion.

7 (b) Nothing included herein shall prejudice, impair, or otherwise affect the
8 Prepetition Secured Creditors' rights to seek any other or supplemental relief in respect of the
9 Prepetition Secured Creditors' rights, as provided in the Prepetition Secured Documents.

10 **16. Cross Default with Final DIP Order.** The Final DIP Order and the Supplemental
11 Cash Collateral Order are hereby amended to provide that the occurrence of the Termination Date
12 under this First Amended Supplemental Cash Collateral Order shall constitute a "Scheduled
13 Termination Date" under the Final DIP Order.

14 **17. Limitation on Lender Liability.** Nothing in this First Amended Supplemental
15 Cash Collateral Order shall in any way be construed or interpreted to impose or allow the
16 imposition upon the Prepetition Secured Creditors of any liability for any claims arising from any
17 activities by the Debtors in the operation of their businesses or in connection with the
18 administration of these Chapter 11 Cases. The Prepetition Secured Creditors shall not be deemed
19 in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or
20 operator" with respect to the operation or management of the Debtors (as such terms, or any similar
21 terms, are used in the United States Comprehensive Environmental Response, Compensation and
22 Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute).
23 Nothing in this First Amended Supplemental Cash Collateral Order shall in any way be construed
24 or interpreted to impose or allow the imposition upon any of the Prepetition Secured Creditors of
25 any liability for any claims arising from the prepetition or postpetition activities of any of the
26 Debtors.

1 **18. Continued Applicability of Final DIP Order and Supplemental Cash**
2 **Collateral Order.** This First Amended Supplemental Cash Collateral Order supplements, is in
3 addition to, and does not replace the Final DIP Order or the Supplemental Cash Collateral Order,
4 and nothing contained herein shall constitute a release, termination, waiver, suspension,
5 replacement, substitution or modification of the Final DIP Order or Supplemental Cash Collateral
6 Order except as expressly provided herein, including, without limitation, all findings of fact and
7 conclusions of law contained in the Final DIP Order and Supplemental Cash Collateral Order, the
8 granting of all adequate protection to the Prepetition Secured Creditors in the Final DIP Order and
9 Supplemental Cash Collateral Order (including, but not limited to, the Existing Adequate
10 Protection), and the granting of, and the priority, interest, and right of the Prepetition Secured
11 Creditors in, Prepetition Replacement Liens, Supplemental Cash Collateral Liens and
12 administrative claims, the stipulations, waivers and releases by the Debtors, and the obligation of
13 the Debtors to make Prepetition Adequate Protection Payments, all of which shall continue in full
14 force and effect. The Final DIP Order and Supplemental Cash Collateral Order shall apply to the
15 Escrowed Cash Collateral and, except as modified by this First Amended Supplemental Cash
16 Collateral Order, to the use thereof by the Debtors; and the Supplemental Adequate Protection
17 provided to the Prepetition Secured Creditors herein with respect to the Escrowed Cash Collateral
18 shall be in addition to, and not in substitution or replacement for, the adequate protection provided
19 to the Prepetition Secured Creditors with respect to the Escrowed Cash Collateral in the Final DIP
20 Order and Supplemental Cash Collateral Order (including the Existing Adequate Protection).

21 **19. Binding Effect.** The provisions of this First Amended Supplemental Cash
22 Collateral Order shall be binding upon the Debtors, the Prepetition Secured Creditors, the
23 Committee, all other Parties in Interest, and all creditors, and each of their respective successors
24 and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative
25 of the Debtors or with respect to the property of the estates of the Debtors) whether in the Chapter
26 11 Cases, in any Successor Cases, or upon dismissal of any such chapter 11 or chapter 7 case.

1 **20. No Waiver by Inaction.** The failure of any Prepetition Secured Creditor to seek
2 relief or otherwise exercise its rights and remedies under this First Amended Supplemental Cash
3 Collateral Order or otherwise, as applicable, shall not constitute a waiver of the Prepetition Secured
4 Creditor’s rights hereunder. The entry of this First Amended Supplemental Cash Collateral Order
5 is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise
6 impair any of the rights of the Prepetition Secured Creditors under the Bankruptcy Code or under
7 non-bankruptcy law, including without limitation, the rights of the Prepetition Secured Creditors
8 to (i) request conversion of the Chapter 11 Cases to cases under Chapter 7, dismissal of the Chapter
9 11 Cases, or the appointment of a trustee in the Chapter 11 Cases, (ii) propose, subject to the
10 provisions of § 1121 , a plan of reorganization, or (iii) exercise any of the rights, claims or
11 privileges (whether legal, equitable or otherwise) the Prepetition Secured Creditor may have
12 pursuant to this First Amended Supplemental Cash Collateral Order, or applicable law.

13 **21. No Third Party Rights.** Except as explicitly provided for herein, this First
14 Amended Supplemental Cash Collateral Order does not create any rights for the benefit of any
15 third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

16 **22. No Marshaling.** The Prepetition Secured Creditors shall not be subject to the
17 equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the
18 Prepetition Collateral or the Postpetition Collateral.

19 **23. Survival of First Amended Supplemental Cash Collateral Order.** The
20 provisions of this First Amended Supplemental Cash Collateral Order and any actions taken
21 pursuant hereto shall survive entry of any order in these Chapter 11 Cases, including, without
22 limitation, an order (i) confirming any Plan in the Chapter 11 Cases, (ii) converting any of the
23 Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code or any Successor Cases, (iii)
24 to the extent authorized by applicable law, dismissing any of the Chapter 11 Cases, (iv)
25 withdrawing of the reference of any of the Chapter 11 Cases from this Court, or (v) providing for
26 abstention from handling or retaining of jurisdiction of any of the Chapter 11 Cases in this Court.
27 The terms and provisions of this First Amended Supplemental Cash Collateral Order, including
28

1 any protections granted to the Prepetition Secured Creditors, shall continue in full force and effect
2 notwithstanding the entry of such order, and such protections for the Prepetition Secured Creditors
3 shall maintain their priority as provided in this First Amended Supplemental Cash Collateral Order
4 until all the obligations of the Debtors to the Prepetition Secured Creditors have been discharged.

5 **24. Enforceability.** This First Amended Supplemental Cash Collateral Order shall
6 constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall
7 take effect immediately upon entry of this First Amended Supplemental Cash Collateral Order.
8 Notwithstanding Bankruptcy Rules 4001(a)(3), 9024, or any other Bankruptcy Rule, or Rule 62(a)
9 of the Federal Rules of Civil Procedure, this First Amended Supplemental Cash Collateral Order
10 shall be immediately effective and enforceable upon its entry and there shall be no stay of
11 execution or effectiveness of this First Amended Supplemental Cash Collateral Order.

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Exhibit B

Disposition Milestones

FILED UNDER SEAL