

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

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TUESDAY, THE 31ST DAY

JUSTICE NEWBOULD

OF MAY, 2016

BETWEEN:



CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990, c.
C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

APPOINTMENT ORDER
(Appointing Receiver & Construction Lien Trustee)

THIS APPLICATION made by the Canadian Imperial Bank of Commerce (“**CIBC**” or the “**Applicant**”) for an Order pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30 (the “**CLA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as

amended (the “**CJA**”) appointing Alvarez & Marsal Canada Inc. (**A&M**) as receiver and manager (in such capacity, the “**Receiver**”), without security, and Construction Lien Trustee (in such capacity, the “**Construction Lien Trustee**”) of all of the property, assets, and undertakings, of (a) Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), (b) Urbancorp (Riverdale) Developments Inc. (“**UC Riverdale**”); and (c) Urbancorp (The Beach) Developments Inc. (“**UC Beach**”, together with UC Riverdale, the “**Guarantors**”, and the Guarantors, together with UC Leslieville, the “**Debtors**”) acquired for, or used in relation to the Debtors’ business, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Paul Montgomery, sworn May 25, 2016 (the “**Montgomery Affidavit**”), and the Exhibits thereto, and on hearing the submissions of counsel for CIBC, and those other counsel and parties listed on the Counsel Slip, no one else on the Service List appearing although duly served as appears from the Affidavit of Service of Fiorella Sasso sworn May 26, 2016, filed, and the Affidavit of Service of Delna Contractor sworn May 30, 2016, and on reading the Consent of A&M to act as the Receiver and Construction Lien Trustee,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

CAPITALIZED & DEFINED TERMS

2. **THIS COURT ORDERS** that any capitalized and/or defined terms not defined herein this Appointment Orders shall have the meanings and definitions ascribed to them in the Montgomery Affidavit.

APPOINTMENT OF RECEIVER

3. **THIS COURT ORDERS** that pursuant to section 243 of the BIA and section 101 of the CJA, A&M is hereby appointed Receiver and Construction Lien Trustee (in its capacities as Receiver and Construction Lien Trustee jointly, the “**Construction Receiver**”), without security,

of all of the assets, undertakings, and property of the Debtors acquired for, or used in relation to the Debtors' business including all proceeds thereof (the "**Property**").

APPOINTMENT OF CONSTRUCTION LIEN TRUSTEE

4. **THIS COURT ORDERS** that pursuant to section 68 of the CLA, A&M is hereby appointed Construction Lien Trustee, without security, of the Property of the Debtors.

RECEIVER'S & CONSTRUCTION LIEN TRUSTEE'S POWERS

5. **THIS COURT ORDERS** that the Receiver and Construction Lien Trustee are hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Construction Receiver is hereby expressly empowered and authorized to do any of the following where the Construction Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts, and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the power to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage contractors, trades, architects, engineers, consultants, construction consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Construction Receiver's powers and duties, including without limitation those conferred by this Order, and in this

regard the Construction Receiver is specifically authorized to retain counsel for the Applicant to advise and represent it save and except on matters upon which the Construction Receiver in its judgment determines it requires independent advice, in which case the Receiver shall retain ~~Blake, Cassels & Graydon LLP~~ ^{Independent counsel} HT.

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend, or compromise any indebtedness owing to the Debtors;
- (h) to deal with any lien claims, trust claims, and trust funds that have been or may be registered or which arise in respect of the Property, including any part or parts thereof, and, with approval of this Court, to make any required distribution(s) to any contractor or subcontractor of the Debtors or to or on behalf of any beneficiaries of any such trust funds pursuant to section 85 of the CLA;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Construction Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Construction Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) with the approval of this Court, to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts

thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (l) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to undertake environmental or worker's health and safety assessments of the Property and the operations of the Debtors;
- (o) to report to, meet with and discuss with such affected Persons (as defined below) as the Construction Receiver deem appropriate on all matters relating to the Property and the receivership and trusteeship, and to share information, subject to such terms as to confidentiality as the Construction Receiver deem advisable;
- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Construction Receiver, in the name of the Debtors and to execute any agreements required in connection with or as a result of such permits, licences, approvals, or permissions (but solely in its capacity as Construction Receiver and not in its personal or corporate capacity);
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to

enter into occupation agreements for any property owned or leased by the Debtors;

- (s) to make payments, as required, under any contract in relation to the Projects, without assuming any liability or obligations thereunder;
- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (u) to exercise the powers provided by section 68(2) of the CLA;
- (v) to repudiate such contracts or agreements to which a Debtor is a party or in respect of the Property, provided that with respect to contracts between the Debtors and residential real estate purchasers, this power to repudiate shall not be exercised pending further Order of the Court; and
- (w) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Construction Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER & CONSTRUCTION LIEN TRUSTEE

6. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, (iii) Urbancorp Toronto Management Inc. (“**Urbancorp Management**”), and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Construction Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Construction Receiver, and shall deliver all such Property to the Construction Receiver upon the Construction Receiver’s request.

7. **THIS COURT ORDERS** that all Persons, including, without limitation, Urbancorp Management, shall forthwith advise the Construction Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Construction Receiver or permit the Construction Receiver to make, retain and take away copies thereof and grant to the Construction Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Construction Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure. The Construction Receiver is authorized to take possession and control of the Records of the Debtors located at the offices of Urbancorp Management and Urbancorp Management shall cooperate and shall provide reasonable assistance to the Construction Receiver with respect to such Records and information contained in such Records with respect to the Property, including the Project and the Project Lands.

8. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records, including, without limitation, Urbancorp Management, shall forthwith give unfettered access to the Construction Receiver for the purpose of allowing the Construction Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Construction Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Construction Receiver. Further, for the purposes of this paragraph, all such Persons, including, without limitation, Urbancorp Management, shall provide the Construction Receiver with all such assistance in gaining immediate access to the information in the Records as the Construction Receiver may in its discretion require including providing the Construction Receiver with instructions on the use of

any computer or other system and providing the Construction Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Construction Receiver except with the written consent of the Construction Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Construction Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Construction Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Construction Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver, Construction Lien Trustee, or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Construction Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety, or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE CONSTRUCTION RECEIVER

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Construction Receiver or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility, or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Construction Receiver, and that the Construction Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Construction Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Construction Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, including trust funds, monies, cheques, instruments, and other forms of payments received or collected by the Construction Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the Construction Lien Trustee (the "**Post Construction Lien Trustee Accounts**") and the monies standing to the credit of such Post Receivership Accounts and Post Construction Lien Trustee Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver and the Construction Lien Trustee to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

15. **THIS COURT ORDERS** that all employees of the Debtors, if any, shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related

liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) and 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Construction Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the Canadian *Environmental Protection Act*, the Ontario *Environmental Protection Act*, the Ontario *Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall

exempt the Receiver and Construction Lien Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Construction Receiver shall not, as a result of this Order or anything done in pursuance of the Construction Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

18. **THIS COURT ORDERS** that the Receiver and Construction Lien Trustee shall incur no liability or obligation as a result of their appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part, or in respect of their obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA and the Construction Lien Trustee by the provisions of the CLA, including but not limited to sections 68 and 78(7) of the CLA, or by any other applicable legislation.

RECEIVER'S ACCOUNTS

19. **THIS COURT ORDERS** that the Construction Receiver and counsel to the Construction Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, provided that the said accounts shall be presented based on the fees and expenses incurred in respect of each of the Projects (as defined in the Montgomery Affidavit), and for fees and expenses incurred for general administration and that the Construction Receiver and counsel to the Construction Receiver shall be entitled to and are hereby granted a charge (the **"Construction Receiver's Charge"**) on all of the Property, as security for all such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Construction Receiver's Charge shall form a first charge on all of the Property in priority to all security interests, trusts, liens, construction liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the Construction Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Construction Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Construction Receiver be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Construction Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP & CONSTRUCTION LIEN TRUSTEESHIP

22. **THIS COURT ORDERS** that the Receiver and the Construction Lien Trustee be at liberty and are hereby empowered to borrow by way of a revolving credit or otherwise, from any one or more members of the Syndicate or such other entity as deemed appropriate by the Receiver and Construction Lien Trustee in their sole discretion (the “**Receivership/Trusteeship Borrowing Lender**”), such monies from time to time as they may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$3,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as they deem advisable for such period or periods of time as they may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Construction Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**” and the “**Construction Lien Trustee’s Borrowing Charge**”) as security for the payment of the monies borrowed from the Receivership/Trusteeship Borrowing Lender (but only if the Receivership/Trusteeship Borrowing Lender is the Syndicate or any member thereof), together with interest and charges thereon, in priority to all security interests, trusts, liens, construction liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Construction Receiver’s Charge and the other amounts and/or charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA and the provisions of the CLA.

23. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the Receivership/Trusteeship Borrowing Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record, or perfect the Receiver's Borrowing Charge and Construction Lien Trustee's Borrowing Charge.

24. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge, Construction Lien Trustee's Borrowing Charge, nor any other security granted by the Receiver or Construction Lien Trustee in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. **THIS COURT ORDERS** that the Receiver and Construction Lien Trustee are at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**" or the "**Construction Lien Trustee's Certificates**", as applicable) for any amount borrowed by it pursuant to this Order.

26. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver and/or Construction Lien Trustee from the Receivership/Trusteeship Borrowing Lender pursuant to this Order or any further order of this Court and any and all Receiver's Certificates and Construction Lien Trustee's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates or Construction Lien Trustee's Certificates.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at www.ontariocourts.ca/scl/en/commercialist) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL www.alvarezandmarsal.com/urbancorp.

28. **THIS COURT ORDERS** that the Construction Receiver be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or notice by courier, personal delivery or electronic mail or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

29. **THIS COURT ORDERS** that the Applicant, the Construction Receiver, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsel's email addresses as recorded on the Service List from time to time, and the Construction Receiver may post a copy of any or all such materials on its website at www.alvarezandmarsal.com/urbancorp.

GENERAL

30. **THIS COURT ORDERS** that the Construction Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

31. **THIS COURT ORDERS** that nothing in this Order shall prevent the Construction Receiver from acting as a trustee in bankruptcy of any or all of the Debtors.

32. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Construction Receiver and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory, and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Construction Receiver, as officers of this Court, as may be necessary or desirable to give effect to this Order or to assist the Construction Receiver and its agents in carrying out the terms of this Order.

33. **THIS COURT ORDERS** that the Construction Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory, or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of

this Order, and that the Construction Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

34. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis, to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

35. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Construction Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 3 1 2016

PER / PAR: *Rw*

SCHEDULE "A"

**RECEIVER'S CERTIFICATE /
CONSTRUCTION LIEN TRUSTEE'S CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that Alvarez & Marsal Canada Inc. ("**A&M**"), the Receiver (the "**Receiver**") and Construction Lien Trustee of the assets, undertakings, and property of (a) Urbancorp (Leslieville) Developments Inc. ("**UC Leslieville**"), (b) Urbancorp (Riverdale) Developments Inc. ("**UC Riverdale**"); and (c) Urbancorp (The Beach) Developments Inc. ("**UC Beach**", together with UC Riverdale, the "**Guarantors**", and the Guarantors, together with UC Leslieville, the "**Debtors**") acquired for, or used in relation to the Debtors' business, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 31st day of May, 2016 (the "**Order**") made in an action having Court file number CV16-11409-00CL, has received as such Receiver and Construction Lien Trustee from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver and Construction Lien Trustee is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Canadian Imperial Bank of Commerce from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver and Construction Lien Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the

Bankruptcy and Insolvency Act, and the right of the Receiver and Construction Lien Trustee to indemnify themselves out of such Property in respect of their remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver and Construction Lien Trustee to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver and Construction Lien Trustee to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver and Construction Lien Trustee do not undertake, and are not under any personal liability, to pay any sum in respect of which they may issue certificates under the terms of the Order.

DATED the ____ day of _____, 201_.

Alvarez & Marsal Canada Inc. solely in its capacity
as Receiver and Construction Lien Trustee of the
Property (as defined in the Order), and not in its
personal or corporate capacity

Per: _____

Name:

Title:

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

- and -

URBANCORP (LESLIEVILLE DEVELOPMENTS) INC. et al.

- Applicant -

- Respondents -

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

(PROCEEDING COMMENCED AT TORONTO)

APPOINTMENT ORDER

(Appointing Receiver & Construction Lien Trustee)

GOWLING WLG (CANADA) LLP

Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario, Canada, M5X 1G5

Clifton P. Prophet / Frank Lamie
LSUC No.: 34845K / 54035S

Telephone: (416) 862-3509 / (416) 862-3609
Facsimile: (416) 862-7661

**Solicitors for the Applicant,
Canadian Imperial Bank of Commerce**