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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

CAPITOL INFRASTRUCTURE, LLC, et al.,¹

Debtors.

Chapter 11

Case No. 12-11362-KG

(Jointly Administered)

Related Docket Nos.: 844, 846

Hearing Date: September 6, 2012 at 11:00 a.m. (ET)
Objection Deadlines: August 30, 2012 at 4:00 p.m. (ET)

NOTICE OF MOTION OF THE DEBTORS FOR AN ORDER (I) AUTHORIZING THE SALE OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) AUTHORIZING AND APPROVING PURCHASE AGREEMENT THERETO; (III) APPROVING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES RELATED THERETO; (IV) APPROVING A BREAK-UP FEE AND EXPENSE REIMBURSEMENT AND (V) GRANTING RELATED RELIEF

PLEASE TAKE NOTICE that on August 20, 2012, the above-captioned debtors and debtors-in-possession ("Debtors") filed the *Motion of the Debtors for an Order (I) Authorizing the Sale of Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Authorizing and Approving Purchase Agreement Thereto; (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto; (IV) Approving a Break-Up Fee and Expense Reimbursement and (V) Granting Related Relief* (Docket No. 844; the "Additional Sale Motion"). A copy of the Additional Sale Motion may be obtained by contacting the undersigned counsel for the Debtors.

PLEASE TAKE FURTHER NOTICE that by the Additional Sale Motion, the Debtors are seeking, pursuant to the terms of an asset purchase agreement (the "Purchase Agreement")² with Hotwire Communications, Ltd. ("Hotwire") or another bidder (a "Potential Bidder") submitting a higher or better offer (the "Successful Purchaser"), to sell free and clear of all liens, claims, encumbrances and interests, other than Permitted Encumbrances (as defined in the Purchase Agreement), certain assets related to two residential communities known as Las Olas Beach Club and Westside - DRI - Bahamas Bay II (the "Assets"). The purchase price

¹ The Debtors are the following entities (last four digits of EIN in parentheses): Accelera Services, LLC (6589); Amenity Broadband, LLC (7012); BA Infrastructure SPE, LLC (6610); Baldwin County Internet/DSSI Service, L.L.C. (8858); Broadstar, LLC (8917); Capitol Broadband Development Company, LLC (4515); Capitol Broadband Management Corporation (4260); Capitol Broadband Ventures, LLC (3976); Capitol Infrastructure, LLC (0323); Capitol Infrastructure CP Funding, LLC (1008); CB Infrastructure SPE, LLC (4470); Infrastructure SPE, LLC (1144); and SMARTRESORT CO., L.L.C. (3706). The Debtors' corporate headquarters is located at 111 Coming Road, Suite 250, Cary, NC 27518.

² Terms not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

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under the Purchase Agreement is \$87,500 (allocated \$70,000 for Las Olas Beach Club and \$17,500 for Westside – DRI – Bahamas Bay II). Under the Purchase Agreement, Hotwire is responsible for payment of all Taxes related to the Assets. The proposed Sale Order includes a finding that there are no Taxes due, owing and unpaid for the period before January 1, 2011.

PLEASE TAKE FURTHER NOTICE that on August 20, 2012, upon prior motion of the Debtors, the Court entered the *Order Granting Motion for an Order to Shorten Time for Notice of the Hearing On, and the Deadline to Respond To, the Motion of the Debtors for an Order (I) Authorizing the Sale of Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Authorizing and Approving Purchase Agreement Thereto; (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto; (IV) Approving a Break-Up Fee and Expense Reimbursement and (V) Granting Related Relief* (Docket No. 846; the “Order Shortening Time”).

BREAK-UP FEE AND EXPENSE REIMBURSEMENT

PLEASE TAKE FURTHER NOTICE that to compensate Hotwire for serving as a “stalking horse” whose bid will be subject to higher or better offers, the Debtors seek authority to pay Hotwire a combined break-up fee and expense reimbursement in the aggregate amount of \$9,000.00 (the “Break-Up Fee and the Expense Reimbursement”) pursuant to the terms of the Purchase Agreement. The Break-Up Fee and Expense Reimbursement, when earned, will constitute an administrative claim under sections 503(b) and 507(a)(2) of the Bankruptcy Code and be due and payable at the time of Closing of a sale to a Successful Purchaser other than Hotwire.

ALTERNATIVE BID

PLEASE TAKE FURTHER NOTICE that under the Additional Sale Motion, any Potential Bidder may submit a bid (an “Alternative Bid”) for the Assets so as to be delivered by **August 30, 2012 at 4:00 p.m. (prevailing Eastern Time)** (the “Bid Deadline”). A Potential Bidder that desires to submit an Alternative Bid for the Assets shall deliver written copies of its bid to: (i) counsel to the Debtors, Wyrick Robbins Yates & Ponton LLP, 4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607, Attn: Larry E. Robbins; (ii) counsel to the Debtors, Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, Wilmington, DE 19801, Attn: Evelyn J. Meltzer; (iii) counsel to UniCredit Bank AG, Mayer Brown LLP, 1675 Broadway, New York, New York 10019-5820, Attn: Howard S. Beltzer; (iv) counsel to UniCredit Bank AG, Richards, Layton & Finger, P.A., 920 N. King Street, Wilmington, DE 19801, Attn.: Mark D. Collins; (v) counsel to the Official Committee of Unsecured Creditors, if any and (vi) counsel to Hotwire, Pachulski Stang Ziehl & Jones, LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801, Attn: Bradford J. Sandler.

PLEASE TAKE FURTHER NOTICE that any Alternative Bid shall (i) be in writing; (ii) set forth an irrevocable offer for the Assets; (iii) state that the Potential Bidder offers to consummate the sale pursuant to an agreement that has been marked to show amendments and modifications to the Purchase Agreement, including the price and terms, that are being proposed by the Potential Bidder, as applicable, (the “Marked Purchase Agreement”) and (iv) enclose a copy of the proposed Marked Purchase Agreement.

ASSUMPTION AND ASSIGNMENT OF CONTRACTS

PLEASE TAKE FURTHER NOTICE that the Debtors have requested, among other things, the authority to assume and assign executory contracts and unexpired leases (the "Executory Contracts and Leases") associated with the Assets to the Successful Purchaser.

PLEASE TAKE FURTHER NOTICE that the Debtors hereby provide notice of (i) the Executory Contracts and Leases that the Debtors may assume and assign pursuant to the Additional Sale Motion and (ii) the cure costs, if any, under section 365 of the Bankruptcy Code (the "Cure Amounts"), associated with the Executory Contracts and Leases, as listed on Exhibit A hereto (the "Cure Schedule"). Under the Purchase Agreement, Hotwire is responsible for payment of all Cure Amounts.

If the Bankruptcy Court determines that the cure amount required to assume and assign an Executory Contract or Lease exceeds the Cure Amount listed on Exhibit A with respect to such Executory Contract or Lease, the Successful Purchaser may elect not to take an assignment of such Executory Contract or Lease.

PLEASE TAKE FURTHER NOTICE that objections to the Cure Amount and whether Hotwire can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code must be filed with the Bankruptcy Court and served by **August 30, 2012 at 4:00 p.m. (prevailing Eastern Time)** upon: (i) counsel to the Debtors, (a) Wyrick Robbins Yates & Ponton LLP, 4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607, Attn.: Larry E. Robbins, and (b) Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, Wilmington, DE 19801, Attn.: Evelyn J. Meltzer; (ii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801, Attn.: David L. Buchbinder; (iii) counsel to UniCredit Bank AG, (a) Mayer Brown LLP, 1675 Broadway, New York, New York 10019-5820, Attn: Howard S. Beltzer, and (b) Richards, Layton & Finger, P.A., 920 N. King Street, Wilmington, DE 19801, Attn.: Mark D. Collins; (iv) counsel to Capital Bank, N.A., (a) Ward and Smith, P.A., Post Office Box 8088, Greenville, NC 27835-8088, Attn.: Michael P. Flanagan, and (b) Archer and Greiner, P.C., 300 Delaware Avenue, Suite 1370, Wilmington, DE 19801, Attn.: Jennifer L. Dering; (v) counsel to Bank of America, N.A., Gebhardt & Smith LLP, 901 Market Street, Suite 451, Wilmington, Delaware 19801, Attn.: Michael G. Gallerizzo; (vi) counsel to the Official Committee of Unsecured Creditors, if any; and (vii) counsel to Hotwire, Pachulski Stang Ziehl & Jones, LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801, Attn: Bradford J. Sandler (collectively, the "Objection Notice Parties").

PLEASE TAKE FURTHER NOTICE that if the Successful Purchaser is an entity other than Hotwire, the Debtors will provide prompt notice of the same to any counterparty to an Executory Contract or Lease listed on the Cure Schedule.

SALE HEARING AND HEARING ON OBJECTIONS

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order Shortening Time, a hearing to consider approval of the sale to the Successful Purchaser will take place on **September 6, 2012 at 11:00 a.m. (prevailing Eastern Time)** (the "Sale Hearing").



PLEASE TAKE FURTHER NOTICE that, pursuant to the Order Shortening Time, any other objections or responses to the Additional Sale Motion must be (i) filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **August 30, 2012 at 4:00 p.m. (prevailing Eastern time)** (the "**Sale Objection Deadline**") and (ii) served so as to be actually received no later than the Sale Objection Deadline by the Objection Notice Parties.

PLEASE TAKE FURTHER NOTICE that if an objecting non-bankruptcy party and the Debtors are not able to resolve such party's objection prior to the Sale Hearing, the Debtors will seek resolution of the matter at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE THAT, IF YOU FAIL TO RESPOND TO THE ADDITIONAL SALE MOTION IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE ADDITIONAL SALE MOTION WITHOUT FURTHER NOTICE OR OPPORTUNITY FOR A HEARING.

Dated: August 20, 2012
Wilmington, Delaware

Respectfully submitted,

PEPPER HAMILTON LLP

/s/ John H. Schanne II

David B. Stratton (DE No. 960)
David M. Fournier (DE No. 2812)
James C. Carignan (DE No. 4230)
John H. Schanne II (DE No. 5260)
Hercules Plaza, Suite 5100
1313 N. Market Street
P.O. Box 1709
Wilmington, DE 19899-1709
Telephone: (302) 777-6500
Facsimile: (302) 421-8390

Attorneys for the Debtors and Debtors in Possession

EXHIBIT A

<u>Debtor Party</u>	<u>Other Party</u>	<u>Contract Name</u>	<u>Cure Amount</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
Capitol Infrastructure, LLC; SmartResort Co., LLC	Bahama Bay II Condominium Association, Inc. c/o Sutherland Management	Clearinghouse Agreement	\$0.00	107 North Line Drive	Apopka	FL	32703
Capitol Infrastructure, LLC	Bahama Bay II Condominium Association, Inc. c/o Sutherland Management	Service Provider Designation Agreement	\$0.00	107 North Line Drive	Apopka	FL	32703
SmartResort Co., LLC	Bahama Bay II Condominium Association, Inc. c/o Sutherland Management	Bulk Services Agreement for Bahama Bay II & First Amendment to Bulk Services Agreement	\$0.00	107 North Line Drive	Apopka	FL	32703
Capitol Infrastructure, LLC	Capitol Infrastructure CP Funding, LLC	Assignment of Easement	\$0.00	N/A	N/A	N/A	N/A
Capitol Infrastructure, LLC	Las Olas Beach Club Condominium	License Agreement and First Amendment to License Agreement	\$0.00	101 South Ft. Lauderdale Beach Blvd	Ft. Lauderdale	FL	33316
Capitol Infrastructure, LLC	Las Olas Beach Club Condominium	Service Provider Designation Agreement	\$0.00	1946 Tyler Street	Hollywood	FL	33020
Capitol Infrastructure, LLC	Maesbury Homes, Inc.	Master Community Infrastructure Agreement	\$0.00	3050 Michigan Ave	Kissimmee	FL	34744
Capitol Infrastructure, LLC	TRG&S Las Olas Beach Club, Ltd	Master Community Infrastructure Agreement	\$0.00	101 South Ft. Lauderdale Beach Blvd	Ft. Lauderdale	FL	33316

Each contract listed above includes all amendments, addendums, assignments, easements, licenses, royalties and grants of rights related thereto.

