

priority claim. Of the \$195,366.94, the Comptroller asserts that \$15,277.78 is for interest and \$3,273.38 is for penalty fees. The second proof of claim, assigned Claim No. 930 (“Claim #2”) is asserted in the amount of \$46,939.90 as a request for priority payment of administrative expenses incurred during the tax period of June 15, 2004, through September 30, 2004. Of the \$46,939.90, the Comptroller asserts that \$3,707.41 is for interest and \$46.31 is for penalty fees;

WHEREAS, on December 30, 2004, the Bankruptcy Court entered an order confirming The Debtors’ Third Amended Joint Plan Of Reorganization Under Chapter 11 Of The Bankruptcy Code, dated December 29, 2004 (the “Plan”), and such Plan became effective pursuant to its terms on January 28, 2005;

WHEREAS, on February 28, 2005, the Reorganized Debtors filed their Debtors’ Objection to Proofs of Claim Filed by the Texas Comptroller of Public Accounts Pursuant to 11 U.S.C. §§ 105(a), 502(b), 505(a) and Fed. R. Bankr. P. 3007 (the “Objection,” CM/ECF#1341);

WHEREAS, a hearing on the Objection is currently scheduled for November 1, 2005, at 3:00 p.m. (EST);

WHEREAS, both the Claimant and the Debtors desire to resolve the Objection;

WHEREAS, as set forth in Article VIII(A)(1) of the Plan, the Reorganized Debtors have the exclusive authority to settle and compromise any and all Claims; and

WHEREAS, the Parties have negotiated a settlement of the Objection as is set forth hereafter;

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, agree as follows:

- i. The Claimant shall be and hereby is granted a priority tax claim in these Chapter 11 Cases in the amount of Eighty-Eight Thousand, Six-Hundred and Ninety-Seven Dollars and Thirty-Four Cents (\$88,697.34);
- ii. Within five (5) business days after the full execution of this Stipulation, the Reorganized Debtors shall tender to the Claimant by ordinary check the sum of Eighty-Eight Thousand, Six-Hundred and Ninety-Seven Dollars and Thirty-Four Cents (\$88,697.34), which shall be in full satisfaction of such priority tax claim. The check shall be made payable to “Comptroller of Public Accounts of the State of Texas” and mailed to: Bankruptcy & Collections Division, Comptroller of Public Accounts of the State of Texas, P.O. Box 12548, Austin, Texas 78711-2548 c/o Kay D. Brock;

- iii. The Claimant shall also be and hereby is granted a non-priority claim in the amount of \$8,165.46 (Eight-Thousand, One-Hundred and Sixty-Five Dollars and Forty-Six Cents), which shall be treated as a non-priority Allowed Class 7 Anthony Crane General Unsecured Claim as described in Article III of the Debtors' Plan;
- iv. Any remaining balance of Claims #929 and #930 shall hereby be disallowed and expunged in its entirety;
- v. Any and all other claims filed by the Claimant in the Debtors' Chapter 11 bankruptcy cases shall be disallowed in their entirety;
- vi. Except as set forth in paragraphs i-v above, the Claimant hereby releases the Debtors (including the Reorganized Debtors), their directors, officers, employees, affiliates, successors and assigns from all claims of liability for sales and use taxes, whether known or unknown, arising from and/or related to pre-petition taxable periods which the Claimant could have asserted against any of the Debtors or their officers in their capacity as officers of the Debtors;
- vii. The Debtors hereby release the Claimant from all claims of liability (including claims for refund) for sales and use taxes, whether known or unknown, arising from and/or related to pre-petition taxable periods which the Debtors could have asserted against the Claimant;
- viii. The Debtors' Objection to Claim #929 and #930 shall hereby be deemed withdrawn;
- ix. The Claimant shall forthwith notify all relevant taxing authorities that the tax liabilities underlying Claims #929 and 930 are deemed to have been paid in full by the Debtors.

[continued on next page]

IN WITNESS WHEREOF the Parties have caused this Stipulation to be executed and delivered by their respective duly authorized representatives as of this 17th day of October, 2005.

COMPTROLLER OF PUBLIC ACCOUNTS OF
THE STATE OF TEXAS

Dated: Oct. 14, 2005

By: Kay Brock
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Counsel for the Claimant

THE REORGANIZED DEBTORS

Dated: Oct. 17, 2005

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