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and Counter-Defendant STEADFAST INSURANCE COMPANY

12 **UNITED STATES DISTRICT COURT**

13 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

14 LENNAR MARE ISLAND, LLC,
15 Plaintiff,
16 vs.
17 STEADFAST INSURANCE COMPANY,
18 Defendant.

Case No. 2:12-cv-02182-KJM-KJN

**STIPULATED CONFIDENTIALITY
AGREEMENT; PROPOSED ORDER**

19 AND RELATED COUNTER-CLAIMS.
20

21
22 **CONFIDENTIALITY AGREEMENT**

23 Plaintiff and Counterdefendant Lennar Mare Island, LLC (“LMI”), Defendant,
24 Counterclaimant and Counterdefendant Steadfast Insurance Company (“Steadfast”), and
25 Counterdefendant and Counterclaimant CH2M HILL Constructors, Inc. (“CH2M HILL”)
26 enter into this Confidentiality Agreement for the purpose of assuring the confidentiality
27 and protection of certain information that may be disclosed by third party Marsh, Inc.
28 (“Marsh”) to any party in the course of this litigation.

1 1. As used in this Confidentiality Agreement, the term “Confidential Information”
2 includes any material or information that is disclosed by Marsh in the course of this
3 litigation that is deemed in good faith by Marsh to be confidential or proprietary, and that
4 has been designated as “Confidential” in the following way:

5 a. Information contained in any document, summary or part thereof may be so
6 designated by marking the word “Confidential” on the document and all
7 copies of it delivered to counsel for the receiving party, or by giving written
8 notice to counsel for the receiving party, describing the document or part
9 thereof either specifically or by category.

10 2. Confidential Information designated as “Confidential” that is disclosed by Marsh to
11 any party during the course of this litigation:

12 a. shall only be used by the parties, their counsel, any independent expert
13 witnesses, advisors and consultants retained by a party in connection with
14 the prosecution and defense of this litigation and for no other purpose;

15 b. shall not be published to the general public in any form by any party, their
16 counsel, or any independent expert witnesses, advisors and consultants
17 retained by a party to this litigation, nor used by any party, their counsel, or
18 any independent expert witnesses, advisors and consultants retained by the a
19 party for any business or commercial purpose; and

20 c. may be disclosed by counsel to the parties only to the following persons
21 insofar as it is reasonably necessary to the prosecution or defense of this
22 litigation:

23 i. attorneys of record for the parties to this litigation, including any
24 attorneys employed by a law firm of record that represents a party;

25 ii. secretarial, clerical and paralegal or student personnel employed full-
26 time or part-time by attorneys or a law firm that represents a party;

27 iii. a party or independent expert witnesses, advisors and consultants
28 retained by a party in connection with this litigation;

- 1 iv. technical, secretarial, clerical or other personnel employed full-time or
- 2 part-time by independent expert witnesses, advisors and consultants of
- 3 a party;
- 4 v. the Court overseeing this litigation;
- 5 vi. court reporters or stenographers engaged to record deposition
- 6 testimony, and their employees; and
- 7 vii. deposition witnesses at the time of deposition, in which case the party
- 8 seeking to use the Confidential Information must take appropriate
- 9 measures to ensure that the relevant portions of the deposition and
- 10 deposition exhibits are marked Confidential;
- 11 viii. witnesses at trial, but specifically subject to the requirements of notice
- 12 to counsel for Marsh as outlined in Paragraph 4, below;
- 13 ix. such other persons as may be authorized by agreement of the parties
- 14 or by the Court upon motion of any party pursuant to the provisions of
- 15 Paragraph 3, below. Nothing in this Confidentiality Agreement shall
- 16 preclude a disclosure of information to any person who offered,
- 17 prepared, previously had legal access to, was an addressee of,
- 18 received a copy of such information prior to the date of this
- 19 Confidentiality Agreement, or participated in the creation,
- 20 compilation or production of such information.

21 3. In the event that any party desires that information designated as “Confidential” be
22 disclosed, communicated, discussed, or made available to any person not otherwise
23 authorized by this Confidentiality Agreement, the party wishing to disclose, communicate,
24 discuss, or make available such information must submit to counsel for Marsh a written
25 notice specifically identifying the information to be disclosed, and the name, title, and
26 business relationship of the persons to whom counsel wishes to make such disclosure.
27 Counsel for Marsh shall have 10 business days from the date of receipt of the notification
28 to object to the disclosure to any person identified therein. If counsel for Marsh does not

1 respond in writing to the written notice of disclosure within 10 business days after receipt
2 thereof, the persons named in the notice, subject to the terms and conditions of this
3 Confidentiality Agreement, shall be entitled to receive the information specified in the
4 notice, but no other materials subject to this Confidentiality Agreement. If any counsel for
5 Marsh responds and objects to the disclosure request, and the parties subsequently are
6 unable to agree on the terms and conditions of the requested disclosure, the party seeking
7 disclosure may file a motion with the Court, served on counsel for all other parties and
8 Marsh, setting forth the basis for seeking such disclosure, in which case, the requested
9 disclosure shall only be made upon such terms as the Court shall provide.

10 4. A copy of this Confidentiality Agreement, together with the Acknowledgment
11 agreeing to be bound by its terms in the form annexed hereto as Exhibit A, shall be
12 delivered to each person identified in Paragraph 2(c) above to whom disclosure of
13 Confidential Information will be made. The provisions of this Confidentiality Agreement
14 shall be binding upon each such person to whom disclosure is made. Counsel disclosing
15 the information to an authorized person(s) under Paragraph 2(c) above shall obtain and
16 retain a signed copy of said Acknowledgment before any such person receives any
17 Confidential Information.

18 5. If any party disputes the designation of information as “Confidential,” the party
19 disputing the designation shall serve counsel for Marsh a written notice specifically
20 identifying the challenged designation and the factual and legal basis for the challenge.
21 Counsel for Marsh shall have 10 business days from the date of receipt of the notification
22 to respond to the challenge. If counsel for Marsh does not respond in writing to the written
23 notice of challenge of designation, then the party seeking to remove the designation may
24 request relief from the Court upon notice to counsel for all parties and Marsh. Until the
25 Court resolves the dispute, all materials designated as “Confidential” shall be treated
26 according to their designation. The party in whose favor such application or motion is
27 resolved by the Court may, in the Court’s discretion, be entitled to recover attorneys’ fees
28 and costs incurred in connection with such application or motion.

1 6. The provisions of this Confidentiality Agreement, specifically including Paragraph
2 2, shall not be construed as preventing any disclosure or use of Confidential Information
3 by Marsh in any way.

4 7. Before filing with the Court any pleading, motion, application, memorandum of
5 law, or other paper that in any manner quotes, paraphrases, attaches as an exhibit or
6 otherwise discloses information that has been designated by Marsh as Confidential
7 Information, the party that intends to file such pleading, motion, application, memorandum
8 of law or other paper, shall do so under seal or provide counsel for Marsh 10 days prior
9 written notice specifically identifying the Confidential Information intended to be
10 disclosed so that Marsh may make a sealing application to the Court if Marsh deems that
11 one is necessary.

12 8. The inadvertent production of information or documents by Marsh to any party for
13 inspection and copying shall not itself be deemed to waive any claim of attorney-client
14 privilege, or attorney work product protection that might exist with respect to such
15 document or other documents or communication, written or oral, including with limitation,
16 other communications referred to in the documents or information produced.

17 9. In the event any Confidential Information of Marsh is the subject of a subpoena or
18 order requiring its disclosure, the recipient of the subpoena or order will provide
19 immediate notice to Marsh through its counsel. The recipient of the subpoena or order
20 shall not object to Marsh's appearance to protect its interest in maintaining the information
21 as confidential. The recipient of the subpoena or order will not respond to any such
22 subpoena or order until Marsh has a reasonable opportunity to seek appropriate relief from
23 the Court, including but not limited to, a motion for a protective order; however, nothing in
24 this paragraph shall preclude the recipient of a subpoena from complying with the
25 subpoena or a court order to produce should Marsh not secure relief from the Court by the
26 last day the recipient has to comply with the subpoena or order.

27 10. All materials, including, but not limited to, materials designated as "Confidential",
28 and all copies thereof, shall be either destroyed or returned to Marsh, per Marsh's

1 instructions, within thirty (30) days after the conclusion of this litigation including any
2 appeals. Counsel for the receiving party shall certify in writing to counsel for Marsh that
3 said materials have been destroyed or returned per Marsh's instructions, or otherwise
4 disposed of as ordered by the Court, within thirty (30) days after the conclusion of this
5 litigation including any appeals.

6 Dated: September 4, 2014

Respectfully submitted,

7 **SINNOTT, PUEBLA, CAMPAGNE &
8 CURET, APLC**

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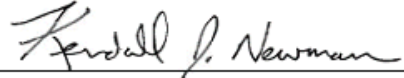
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ORDER

IT IS SO ORDERED:

Dated: September 8, 2014



KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE