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5 Attorneys for Defendants
 Michael R. Neely, Perry J. Neely and Gary Neely

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 7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 PALMTREE ACQUISITION
 CORPORATION, a Delaware corporation,

12 Plaintiff,

13 vs.

14
 15 MICHAEL R. NEELY, an individual,
 PERRY J. NEELY, an individual; GARY
 16 NEELY, an individual; MICHAEL R.
 NEELY, PERRY J. NEELY and GARY
 17 NEELY dba MIKE'S ONE HOUR
 CLEANERS; CHARLES FREDERICK
 18 HARTZ dba PAUL'S SPARKLE
 CLEANERS; CHARLES F. HARTZ, an
 19 individual; MULTIMATIC
 CORPORATION, a New Jersey
 20 corporation; WESTERN STATES
 DESIGN, a California corporation;
 21 MCCORDUCK PROPERTIES
 LIVERMORE, LLC, a Delaware limited
 22 liability company individually and as the
 successor to JOHN MCCORMICK,
 23 KATHLEEN MCCORDUCK, PAMELA
 MCCORDUCK, SANDRA
 24 MCCORDUCK MARONA, and IMA
 FINANCIAL CORPORATION, a
 25 California corporation; STARK
 INVESTMENT COMPANY, a California
 26 general partnership; GRUBB & ELLIS
 REALTY INCOME TRUST,
 27
 28

Case No. CV 08 3168 EMC

**STIPULATION AND [PROPOSED]
 ORDER RE CONTINUANCE OF
 MEDIATION AND CONTINUANCE OF
 INITIAL CASE MANAGEMENT
 CONFERENCE**

(Currently Scheduled CMC: 3/18/09)

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 Oakland, CA 94607-4036

1 LIQUIDATING TRUST, a California trust;
2 and DOES 1-20, inclusive,
3 Defendants.

4
5 **RECITALS**

6 A. Plaintiff Palmtree Acquisition Corporation filed this action (“Action”) as a “re-
7 opener” of a prior action that was conditionally settled, which prior action was filed on February
8 3, 1993 in the United States District Court for the Northern District of California, entitled *Grubb*
9 *& Ellis Realty Trust v. Catellus Development Corp., et al.*, and related cross-actions, Case No.
10 C93-0383 SBA.

11 B. The parties to the Action stipulated and requested that the Court grant a
12 continuance of the Initial Case Management Conference to allow the parties to engage in
13 mediation. The Court issued its order approving the stipulation and granting the continuance on
14 September 15, 2008. (“Stipulation”)

15 C. Pursuant to the Stipulation, the mediation was to occur by February 2, 2009, and
16 the Initial Case Management Conference was continued to March 18, 2009.

17 D. However, while the parties to the Action have jointly retained an environmental
18 consultant to respond to the California Regional Water Quality Control Board (“RWQCB”)
19 directives to investigate the extent and source of the environmental contamination, the completion
20 of the work has been delayed, due in part to technical difficulties in obtaining access to test the
21 public municipal supply wells. The joint environmental consultant has requested that the
22 RWQCB approve an extension until April 30, 2009 to complete the “field work” and a further
23 delay to complete the technical analysis (site conceptual groundwater flow modeling) and to
24 submit a draft environmental report. It is now estimated that the draft environmental report will
25 be completed in June, 2009. Approval by the RWQCB, while anticipated, is currently pending.

26 E. The parties to the Action have held period meetings and regular conference calls to
27 discuss the status of the environmental response. At our February 2, 2009, conference call, the
28 parties agreed that mediation should be scheduled after the environmental report has been

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1 completed, and that the mediation should be scheduled no later than September 1, 2009.

2 F. The parties also discussed naming additional defendants and/or cross
3 defendants/third party defendants to the Action.

4 Therefore, in the interest of judicial economy, pursuant to Local Rule 6-1(b) and 7-12, the
5 parties below hereby agree and stipulate, and requests that the Court modify the previous
6 Stipulation as follows:

7 **STIPULATION**

8 1. The parties to this Action agree to commence settlement discussions with a private
9 mediator, to be scheduled no later than September 1, 2009 ("Mediation"). The Mediation may
10 cover multiple days and may be continued from time to time and will be deemed to have
11 concluded at such time as: (a) a settlement is reached, or (b) the mediator issues a letter
12 concluding that a settlement has not been reached and the Mediation is concluded.

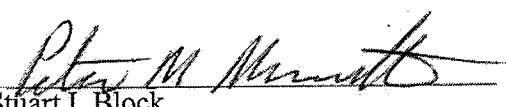
13 2. In order to allow the parties to proceed with Mediation, the parties to the Action
14 request that the Court continue the Initial Case Management Conference now scheduled for
15 March 18, 2009, to September 16, 2009; the parties shall submit a joint case management
16 conference statement advising the Court as to the status of the Mediation no later than September
17 9, 2009.

18 3. The parties further agree that in all other respects the Stipulation approved by the
19 Court on September 15, 2008, remains in effect.

20 Wherefore, the Parties respectfully request that the Court approve this Stipulation.

21
22 DATED: 2/2/2009

Cox, Castle & Nicholson LLP


23
24 By: 
25 Stuart I. Block
26 Peter M. Morrisette
27 Attorneys for Palmtree Acquisition
28 Corporation f/k/a Catellus Development

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DATED: 2/2/09

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By: 

Christine K. Noma
Attorneys for Michael R. Neely, Perry J. Neely, and
Gary Neely, dba Mike's One Hour Cleaners

DATED: _____

Rogers Joseph O'Donnell

By: _____

Robert C. Goodman, Esq.
Attorneys for Charles Frederick Hartz, dba Paul's
Sparkle Cleaners

DATED: _____

Dongell Lawrence Finney, LLP

By: _____

Thomas F. Vandenburg, Esq.
Attorneys for Multimatic Corporation

DATED: _____

Foley McIntosh Frey & Claytor

By: _____

Kenneth W. Pritikin, Esq.
Attorneys for Western State Design

DATED: _____

Gordon, Watrous, Ryan, Langley, Bruno &
Paltenghi

By: _____

Bruce C. Paltenghi, Esq.
Attorneys for McCorduck Properties Livermore,
LLC

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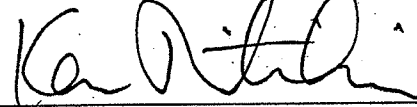
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By: _____

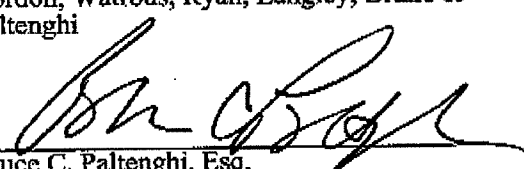
Bruce C. Paltenghi, Esq.
Attorneys for McCorduck Properties Livermore,
LLC

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GORDON WATROUS

PAGE 02/02

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 6 Attorneys for Michael R. Neely, Perry J. Neely, and
 7 Gary Neely, dba Mike's One Hour Cleaners
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 12 By: _____
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 14 Attorneys for Charles Fredrick Hartz, dba Paul's
 15 Sparkle Cleaners
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DATED: 2/3/2009

Gonsalves & Kozachenko



By: _____
Paul Kozachenko, Esq.
Attorneys for Stark Investment Company

DATED: _____

The Costa Law Firm

By: _____
Daniel P. Costa, Esq.
Attorneys for Stark Investment Company

DATED: _____

Ellis Partners, LLC

By: (deceased – successor entity not yet ascertained)
Harold A. Ellis Jr., Trustee for
Grubb & Ellis Realty Income Trust, Liquidating
Trust

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 4, 2009

Edward M. Chen
Magistrate District
Court



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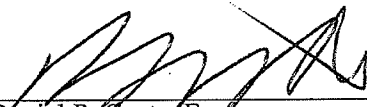
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Paul Kozachenko, Esq.
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Harold A. Ellis Jr., Trustee for
Grubb & Ellis Realty Income Trust, Liquidating
Trust

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Edward M. Chen
Magistrate Judge of the United States District
Court