

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

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| In Re: | § | |
| | § | |
| HARBORWALK, L.P.; | § | Case No. 10-80043 |
| HARBORWALK MARINA OPERATING | § | |
| COMPANY, LTD.; | § | Case No. 10-80044 |
| HABRORWALK SALES CORPORATION | § | Case No. 10-80045 |
| | § | (Jointly Administered under 10-80043) |
| Debtors. | § | Chapter 11 |

**FIRST AMENDED JOINT DISCLOSURE STATEMENT FOR THE DEBTORS'
PROPOSED JOINT PLAN OF REORGANIZATION**

IMPORTANT DATES

- Date by which Ballots must be received: 3:00 p.m., prevailing Central Time, August 12, 2010.
- Deadline by which objections to Confirmation of the Plan must be Filed and served: 3:00 p.m., prevailing Central Time, August 12, 2010.
- Hearing on Confirmation of the Plan 11:15 a.m., prevailing Central Time, August 17, 2010.

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| <p>THIS IS A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN, BUT THIS SOLICITATION IS SUBJECT TO APPROVAL OF THE DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT HAS BEEN SUBMITTED FOR APPROVAL BUT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT. IN THE EVENT THE DISCLOSURE STATEMENT IS NOT APPROVED, THE DEBTORS WILL BE REQUIRED TO RE-SOLICIT ACCEPTANCE OR REJECTION OF THE PLAN.</p> |
|--|

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Dated July 20, 2010

Attorneys for the Debtors and Debtors in Possession

THE PLAN VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN DESCRIBED HEREIN IS AUGUST 12, 2010 AT 3:00 P.M., PREVAILING CENTRAL TIME, UNLESS THE DEBTORS EXTEND THIS DATE PRIOR TO THE PLAN VOTING DEADLINE. TO BE COUNTED, THE VOTING AGENT MUST RECEIVE YOUR BALLOT OR MASTER BALLOT ON OR BEFORE THE PLAN VOTING DEADLINE.

THE DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN AND CERTAIN OTHER DOCUMENTS AND FINANCIAL INFORMATION. THE INFORMATION INCLUDED IN THE DISCLOSURE STATEMENT IS PROVIDED FOR THE PURPOSE OF SOLICITING ACCEPTANCES OF THE PLAN AND SHOULD NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER AND HOW TO VOTE ON THE PLAN. THE SUMMARIES OF THE FINANCIAL INFORMATION AND THE DOCUMENTS WHICH ARE ATTACHED TO, OR INCORPORATED BY REFERENCE IN, THE DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO SUCH INFORMATION AND DOCUMENTS AND THE STATEMENTS REFLECTED HEREIN OR THEREIN, RESPECTIVELY. IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THE DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN, OR THE OTHER DOCUMENTS AND FINANCIAL INFORMATION INCORPORATED IN THE DISCLOSURE STATEMENT BY REFERENCE, THE PLAN OR THE OTHER DOCUMENTS AND FINANCIAL INFORMATION, AS THE CASE MAY BE, SHALL GOVERN FOR ALL PURPOSES.

THE STATEMENTS AND FINANCIAL INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT HAVE BEEN MADE AS OF THE DATE OF THE DISCLOSURE STATEMENT UNLESS OTHERWISE SPECIFIED. HOLDERS OF CLAIMS AND INTERESTS REVIEWING THE DISCLOSURE STATEMENT SHOULD NOT INFER AT THE TIME OF SUCH REVIEW THAT THERE HAVE BEEN NO CHANGES IN THE FACTS SET FORTH IN THE DISCLOSURE STATEMENT SINCE THE DATE OF THE DISCLOSURE STATEMENT OR THE DATES OTHERWISE NOTED. EACH HOLDER OF A CLAIM OR INTEREST ENTITLED TO VOTE ON THE PLAN SHOULD CAREFULLY REVIEW THE PLAN, THE DISCLOSURE STATEMENT, AND THE PLAN SUPPLEMENT IN THEIR ENTIRETY BEFORE CASTING A BALLOT. THE DISCLOSURE STATEMENT DOES NOT CONSTITUTE LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. ENTITIES DESIRING SUCH ADVICE OR ANY OTHER ADVICE SHOULD CONSULT WITH THEIR OWN ADVISORS.

NO ONE IS AUTHORIZED TO GIVE ANY INFORMATION WITH RESPECT TO THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THE DISCLOSURE STATEMENT. NO REPRESENTATIONS CONCERNING THE DEBTORS OR THE VALUE OF THEIR PROPERTY HAVE BEEN AUTHORIZED BY THE DEBTORS OTHER THAN AS SET FORTH IN THE DISCLOSURE STATEMENT AND THE DOCUMENTS ATTACHED TO THE DISCLOSURE STATEMENT. ANY INFORMATION, REPRESENTATIONS, OR INDUCEMENTS MADE TO OBTAIN AN ACCEPTANCE OF THE PLAN THAT ARE OTHER THAN AS SET FORTH, OR INCONSISTENT WITH THE INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT OR THE DOCUMENTS ATTACHED TO THE DISCLOSURE STATEMENT AND THE PLAN, SHOULD NOT BE RELIED UPON BY ANY HOLDER OF A CLAIM OR INTEREST.

WITH RESPECT TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER PENDING, THREATENED, OR POTENTIAL LITIGATION OR OTHER ACTIONS, THE DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER,

BUT RATHER AS A STATEMENT MADE IN THE CONTEXT OF SETTLEMENT NEGOTIATIONS PURSUANT TO RULE 408 OF THE FEDERAL RULES OF EVIDENCE. THE DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED IN THE DISCLOSURE STATEMENT.

THE FINANCIAL INFORMATION CONTAINED IN OR INCORPORATED BY REFERENCE INTO THE DISCLOSURE STATEMENT HAS NOT BEEN AUDITED, EXCEPT AS SPECIFICALLY INDICATED OTHERWISE.

THE PROJECTIONS PROVIDED IN THE DISCLOSURE STATEMENT, WHILE PRESENTED WITH NUMERICAL SPECIFICITY, ARE NECESSARILY BASED ON A VARIETY OF ESTIMATES AND ASSUMPTIONS THAT, THOUGH CONSIDERED REASONABLE BY THE DEBTORS AND THEIR PROFESSIONALS, MAY NOT BE REALIZED, AND ARE INHERENTLY SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, COMPETITIVE, INDUSTRY, REGULATORY, MARKET, AND FINANCIAL UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE BEYOND THE DEBTORS' CONTROL. THE DEBTORS CAUTION THAT NO REPRESENTATIONS CAN BE MADE AS TO THE ACCURACY OF THESE PROJECTIONS OR TO THE ABILITY TO ACHIEVE THE PROJECTED RESULTS.

THE BANKRUPTCY COURT HAS SCHEDULED THE CONFIRMATION HEARING TO COMMENCE ON AUGUST 17, 2010, AT 11:15 A.M. PREVAILING CENTRAL TIME BEFORE THE HONORABLE LETITIA Z. PAUL, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, 515 RUSK STREET, HOUSTON, TEXAS 77002. THE CONFIRMATION HEARING MAY BE ADJOURNED FROM TIME TO TIME BY THE BANKRUPTCY COURT WITHOUT FURTHER NOTICE EXCEPT FOR AN ANNOUNCEMENT OF THE ADJOURNED DATE MADE AT THE CONFIRMATION HEARING OR ANY ADJOURNMENT OF THE CONFIRMATION HEARING.

TO BE COUNTED, THE BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE PLAN MUST BE RECEIVED BY BRACEWELL & GIULIANI, LLP, VOTING AGENT FOR THE DEBTORS IN THESE CHAPTER 11 CASES, NO LATER THAN 3:00 P.M. PREVAILING CENTRAL TIME, ON AUGUST 12, 2010.

OBJECTIONS TO CONFIRMATION OF THE PLAN MUST BE FILED AND SERVED ON OR BEFORE 3:00 P.M. PREVAILING CENTRAL TIME ON AUGUST 12, 2010. UNLESS OBJECTIONS TO CONFIRMATION ARE TIMELY SERVED AND FILED IN COMPLIANCE WITH THE ORDER APPROVING THE DISCLOSURE STATEMENT, THEY MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

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TABLE OF EXHIBITS¹

| <u>Exhibit</u> | <u>Name</u> |
|----------------|--|
| A | Plan of Reorganization |
| B | Balance Sheets |
| C | Post-Petition Settlement Agreements |
| D | Liquidation Analysis |
| E | Order Approving Combined Hearing on Plan and Disclosure Statement |
| F | Payments/Transfers to Creditors within 90 Days (or One Year for Insiders) |

¹ To the extent the referenced Exhibits are not attached to the Disclosure Statement, they will be filed as part of the Plan Supplement.

SUMMARY OF PLAN

On July 16, 2010, the Debtors filed a Joint Plan of Reorganization² which proposes to deliver a large portion of the assets of the Debtors to its secured creditor, Compass, and to transfer all of the remaining assets of each Debtor to the Reorganized Debtors for the benefit of the Holders of Allowed Claims and Interests. Pursuant to the terms of the Plan, the Reorganized Debtors will distribute the net proceeds of all these remaining assets to Creditors and Interest Holders in order of the priority of their Claims and Interests until they are paid in full or the remaining assets have been exhausted.

Under the Plan, the Debtors are not consolidated for distribution or voting purposes. Each Debtor is treated separately.

Under the Plan, each Allowed Secured Claim will receive Collateral and/or Cash with a value equal to the amount of their Allowed Claim. All Allowed Administrative Claims will be paid in full in Cash on or promptly after the Effective Date. All Holders of Allowed Priority Tax Claims will retain their Liens securing such Claims and will be paid in full in Cash on or promptly after the Effective Date or will be entitled to enforce their Lien rights with respect to their Collateral. Holders of Allowed General Unsecured Claims will either be paid in full in Cash on or promptly after the Effective Date, or will be paid in full over time from the proceeds of the HWLP Reimbursables. Holders of Allowed Interests against each Debtor will share in a cash distribution from any remaining proceeds of the remaining assets of the Debtors (including any net proceeds obtained by liquidating any retained assets and Causes of Action), after payment of prior classes of Claims, on or as soon as practicable after the Effective Date of the Plan.

ARTICLE I

BACKGROUND

Section 1.01 Introduction

Harborwalk, L.P., a Texas limited partnership, and the other debtors in the above-captioned Chapter 11 Cases (collectively, the "Debtors") submit the following Disclosure Statement pursuant to Bankruptcy Code section 1125 for the purpose of soliciting votes to accept or reject the Debtors' Plan. A copy of the Plan is attached hereto as **Exhibit A**. The Disclosure Statement describes certain aspects of the Plan, including the treatment of holders of Claims and Interests, and also describes certain aspects of the Debtors' operations, financial projections, and other related matters.

On the Petition Date, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. By order of the Bankruptcy Court, the Chapter 11 Cases are being jointly administered for procedural purposes only. Pursuant to Bankruptcy

² Capitalized terms used in this Disclosure Statement and not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

Code sections 1107 and 1108, the Debtors are continuing to operate their businesses and manage their properties as debtors in possession in these Chapter 11 Cases.

Section 1.02 Sources of Information

THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECTED TO A CERTIFIED AUDIT AND IS BASED, IN PART, UPON INFORMATION PREPARED BY PARTIES OTHER THAN THE DEBTORS. THEREFORE, ALTHOUGH THE DEBTORS HAVE MADE EVERY REASONABLE EFFORT TO BE ACCURATE IN ALL MATERIAL MATTERS, THE DEBTORS ARE UNABLE TO WARRANT OR REPRESENT THAT ALL THE INFORMATION CONTAINED HEREIN IS COMPLETELY ACCURATE.

Except as otherwise expressly indicated, the portions of this Disclosure Statement describing the Debtors, their businesses, properties and management, and the Plan, have been prepared from information furnished by the Debtors.

Certain of the materials contained in this Disclosure Statement are taken directly from other readily accessible documents or are digests of other documents. While the Debtors have made every effort to retain the meaning of such other documents or portions that have been summarized, the Debtors urge that any reliance on the contents of such other documents should depend on a thorough review of the documents themselves. In the event of a discrepancy between this Disclosure Statement and the actual terms of a document, the actual terms of such document shall apply.

The authors of the Disclosure Statement have compiled information from the Debtors without professional comment, opinion or verification and do not suggest comprehensive treatment has been given to matters identified herein. Each Creditor and Holder of an Interest is urged to independently investigate any such matters prior to reliance.

No statements concerning the Debtors, the value of their property, or the value of any benefit offered to the Holder of a Claim or Interest in connection with the Plan should be relied upon other than as set forth in this Disclosure Statement. In arriving at your decision, you should not rely on any representation or inducement made to secure your acceptance or rejection that is contrary to information contained in this Disclosure Statement, and any such additional representations or inducements should be reported to counsel for the Debtors, Bracewell & Giuliani LLP, 711 Louisiana Street, Suite 2300, Houston, Texas 77002, Attention: Marcy E. Kurtz.

Section 1.03 Description of Debtors' Business and Assets

As of the Petition Date, the Debtors were engaged primarily in the business of developing and selling luxury residential real property (as a master-planned community) consisting of approximately 625 acres on the north shore of West Galveston Bay in Galveston County, Texas (the "Property" or the "Project"). The Property now offers luxury waterfront living and is composed of approximately 380 residential lots, a 150-slip marina, and a yacht club. The Debtors sell vacant lots to builders and individual buyers. Because the Property offers many

recreational opportunities, it is particularly attractive to prospective buyers in the market for second homes.

Harborwalk, L.P. ("HWLP") is the owner of the Property. HWLP also has the contractual right to receive receivables associated with the development of the Property. These receivables are the (1) Flamingo Municipal Utility District ("MUD") receivables with a face value of \$19,303,567; and (2) City of Hitchcock Tax Incremental Reinvestment Zone Number One ("TIRZ") receivables with a face value of \$7,432,004. The total face value of the MUD and TIRZ receivables combined is therefore \$26,735,571. Based on an appraisal dated January 27, 2010 and conducted by the Gerald A. Teel Company, Inc., the value (based on a discounted cash flow analysis) of the combined receivables is \$21,146,000.

The Debtors' balance sheets as of June 30, 2010³ is attached hereto as **Exhibit B**.

As of the Petition Date, the Debtors employed a total of six (6) contract employees. HMOC and HSC hired these employees through Unique Staffing Solutions, LLC ("Unique"), a company specializing in providing temporary and long-term staffing. HMOC employs five (5) contract employees through Unique and HSC employs one (1) contract employee through Unique. Subsequent to the Petition Date, HMOC hired additional employees, and as of June 30, 2010, HMOC had 23 contract employees and HSC had 1 contract employee.

Further information regarding the Debtors' businesses can be found in the Affidavit of Evan Watkins in Support of First Day Motions at docket number 12 in Case No. 10-80043.

Section 1.04 Debtors' Corporate Structure

HWLP is a Texas limited partnership, with Harborwalk GP, LLC⁴, a non-debtor, holding 1% as the general partner, and Harborwalk Investments, LLP⁵, a non-debtor, holding 99% as limited partner.

HSC is Texas Corporation and a wholly-owned subsidiary of HWLP. HSC holds a license with the Texas Real Estate Commission and operates the developer sales and re-sales operation.

HMOC is a Texas limited partnership with Harborwalk Marina GP, LLC⁶, a non-debtor, holding 1% as the general partner, and HWLP holding 99% as the limited partner. HMOC operates the yacht club, store, and marina located on the Property. HWLP owns these facilities and is obligated (as the limited partner of HMOC), pursuant to the HMOC limited partnership agreement, to make all cash contributions.

³ The balance sheet of HMOC is as of May 31, 2010.

⁴ Harborwalk GP, LLC is wholly owned by Harborwalk Investments, LLP. *See* footnote 5, *infra*.

⁵ Harborwalk Investments, LLP is a general partnership electing to operate as a limited liability partnership with sixteen (16) partners.

⁶ Harborwalk Marina GP, LLC is a limited liability company owned by Lynn, Evan, Alan, and Amy Watkins.

Section 1.05 The Debtors' Pre-Petition Indebtedness

As of the Petition Date, certain of the Debtors were parties to the following credit facilities and accompanying loan documents:

(a) The Development Loan Agreement dated as of December 20, 2002, by and among HWLP, as Borrower, and Texas State Bank, as Lender (as amended and restated from time to time, the "Development Loan"). Compass Bank d/b/a BBVA Compass ("Compass") is the successor-in-interest to Texas State Bank. The Development Loan is secured by the Property, and the Debtors believe that as of the Petition Date, the amount outstanding under the Development Loan is approximately \$27,042,980.

(b) The Modification Agreement (the "Note") dated as of December 13, 2006, by and among HWLP, as Maker, and Texas State Bank, as Payee, with principal amount of \$30 million. The Note is secured by the Property.

(c) As security for the Note, HWLP executed the following: (1) the Deed of Trust dated as of December 20, 2002, by and among HWLP, as Grantor, and Texas State Bank, as Beneficiary; (2) the Assignment of Development and Financing Agreement dated as of December 20, 2002, by and among HWLP, as Debtor, and Texas State Bank, as Secured Party; (3) the Assignment of Municipal Utility District Reimbursables dated as of May 14, 2003, by and among HWLP, as Debtor, and Texas State Bank, as Secured Party; (4) the Deed of Trust dated as of March 18, 2005, by and among HWLP, as Grantor, and Texas State Bank, as Beneficiary; (5) the Assignment of Contracts dated as of March 18, 2005, by and among HWLP, as Grantor, and Texas State Bank, as Beneficiary; and (6) the Assignment of Leases dated as of March 18, 2005, by and among HWLP, as Grantor, and Texas State Bank, as Beneficiary.

Section 1.06 Debtors' Management

The following persons are employed as officers/directors and/or management (collectively, the "Governors") of the Debtors:

HWLP

Lynn B. Watkins, Manager and President of Harborwalk GP, LLC (Harborwalk GP, LLC is the General Partner of HWLP).

HMOC

Evan Watkins, Manager of Harborwalk Marina GP, LLC (Harborwalk Marina GP, LLC is the General Partner of HMOC)

HSC

Evan Watkins, Director and President

Lynn B. Watkins, Director

Alan Watkins, Director and Secretary and Treasurer

Under the Plan, the winding up of the estates after Confirmation of the Plan will be managed by the Governors, subject to Bankruptcy Court approval.

Section 1.07 Non-Bankruptcy Litigation

The Debtors are involved in the following disputes incidental to their business operations:

(a) *Compass Lawsuit*

Caption: *Harborwalk, L.P. v. BBVA Compass*, previously pending as Cause No. #10-CV-0023 in the District Court of Galveston County, 10th Judicial District, and purportedly removed by Compass to the Bankruptcy Court on February 8, 2010, and pending now (subject to remand) as adversary proceeding No. 10-08017 in the Bankruptcy Court.

Claims: HWLP initiated the Compass Lawsuit based on Compass' refusal to fund a draw request submitted by HWLP on December 7, 2009 under the Development Loan. HWLP asserted causes of action against Compass for breach of contract, breach of fiduciary duty and duty of good faith, fraud, and negligent misrepresentation. As part of the Compass Lawsuit, HWLP sought the recovery of all actual damages, punitive damages, interest, and attorneys' fees to the extent allowed by law. Additionally, HWLP sought the cancellation of its debt and rescission of the Development Loan as equitable remedies.

Status: HWLP and Compass have, subject to Court approval⁷, reached a settlement with respect to the Compass Lawsuit that forms the basis for the Plan. The terms of the settlement are attached hereto as Exhibit C-1.

(b) *Roadways Litigation*

Caption: *Harborwalk Development, Ltd. et al. v. Bandy & Associates and S.S. Bandy, Ph.D., P.E.*, Cause No. 07-CV-0949, in the 405th Judicial District Court of Galveston County, Texas;

Claims: The Roadways litigation arises out of the construction of the two Roadways that lead into the Property. The Roadways are critical to the Property because they are the only means of ingress and egress to the residents living on the Property. W.T. Byler Company, L.P. ("Byler") was awarded the construction contract (the "Roadways Contract") dated August 11, 2003 to complete construction of the Roadways at a price of \$1,632,550.00. LJA Engineering & Surveying, Inc. ("LJA") was the project engineer in charge of overseeing the construction of the Roadways. Bandy & Associates, Inc. ("Bandy") were the geotechnical experts that established the design parameters of the Roadways. S.S. Bandy, Ph.D., P.E. ("Dr. Bandy"), is an engineer and an officer and employee of Bandy who investigated, designed and participated in the construction of the Roadways.

⁷ The terms of the settlement agreement with Compass have been incorporated into the Plan; therefore court approval of the Plan will effectively constitute court approval of the settlement.

Construction of the Roadways began in September 2003 and was essentially completed in January 2004, but no certificate of substantial completion was issued by LJA because the Roadways were defective. The Roadways, immediately after construction, showed signs of failure in the form of asphalt cracking and pooling water. Due to the defective condition of the Roadways, the City of Hitchcock rejected final approval of the Roadways, and to date, the Roadways have not been approved as specifically required by the Roadways Contract. An independent report recently prepared by Terracon Consultants, Inc. concluded that the Roadways suffered from a deficient pavement section, poor drainage, excessive traffic loading, defective construction material, poor workmanship, and poor quality control.

On May 24, 2006, as a result of the defective condition of the Roadways, HWLP initiated a formal arbitration proceeding (the "Arbitration Proceeding") against Byler after an amicable solution with Byler could not be reached. In addition to the Arbitration Proceeding against Byler, HWLP, on August 16, 2007, filed its original petition (the "Original Petition") against Bandy and Dr. Bandy, in the 405th Judicial District Court of Galveston County, Texas, Cause No. 07CV0949 (the "Roadways Litigation"). HWLP has asserted negligence and breach of contract as causes of action against Bandy and Dr. Bandy. In addition, HWLP is asserting fraud as a cause of action against Dr. Bandy. Fowler Rodriguez Valdes-Fauli is HWLP's special counsel in the Roadways Litigation.

On March 30, 2008, HWLP amended the Original Petition to add LJA as a defendant. The causes of action asserted by HWLP against LJA are negligence and breach of contract. On September 3, 2008, defendants Bandy and LJA filed a third-party petition against Byler, thereby adding Byler as a third-party defendant in the Roadways Litigation. Thereafter, Byler and HWLP agreed to stay the Arbitration Proceeding in an effort to save costs and resolve all matters in the Roadways Litigation. On September 15, 2009, HWLP further amended its petition to add Byler as a direct defendant in the Roadways Litigation. HWLP is asserting negligence and breach of contract as causes of action against Byler. Byler has since filed a counterclaim against HWLP seeking approximately \$76,000.00 for money allegedly owed under the Roadways Contract.

HWLP is seeking damages in excess of \$1 million as well as reimbursement of attorneys' fees and other costs in the Roadways Litigation. An independent party has estimated that the cost to repair the Roadways is approximately \$990,000.00. HWLP will benefit from a prompt resolution of the Roadways Litigation because HWLP may be entitled to receive a reimbursement of approximately \$1.4 million from the City of Hitchcock TIRZ No. 1 once the Roadways have been repaired and approved by the City of Hitchcock pursuant to the Roadways Contract and once those funds are available to the City of Hitchcock Tax Increment Reinvestment Zone Number One.

Status: Although the parties attended mediation on June 2, 2010, they have not yet been able to successfully resolve their claims. Trial is scheduled to commence on September 27, 2010.

(c) Dispute with William and Nannette Ring

Caption: *William Ring and Nannette Ring v. Harborwalk Development LTD, and Harborwalk GP, LLC, et al.*, Cause No. 10-CV-0622, in the 56th District Court of Galveston County, Texas.

William Ring and Nannette Ring (the "Rings") initiated a lawsuit against HWLP and several non-debtor parties post-petition on March 2, 2010, however the Rings have non-suited HWLP to avoid further violations of the automatic stay. HWLP's dispute with the Rings arises out of a land purchase agreement between the Rings and HWLP that was executed in 2006. The Rings allege that their causes of action against HWLP include fraud and breach of contract. On June 2, 2010, the Rings filed a proof of claim asserting \$522,635.24 in damages. The parties attended mediation in 2009 in an effort to resolve the dispute, but no resolution was reached. The Rings requested relief from the automatic stay to initiate litigation in Galveston state court against Harborwalk, L.P.

Status: HWLP, Compass and the Rings have reached a settlement subject to Court approval.⁸ The basic terms of the settlement are: (1) mutual releases between the parties; (2) the Rings convey the lot they purchased (Lot 15, Block 2, Section 6) to Compass free and clear of all liens, claims, and encumbrances; (3) the Debtors convey two lots (Lot 20, Block 1, Section 2 and Lot 23, Block 1, Section 2) from the Property to the Rings free and clear of all liens, claims, and encumbrances; (4) the proof of claim filed by the Rings is disallowed; (5) the lawsuit initiated by the Rings is dismissed with prejudice; and (6) the Rings pay \$40,000 in cash to the Debtors. A copy of an agreement that is substantially similar to the settlement agreement that the Debtors intend to execute with the Rings is attached hereto as **Exhibit C-2**.⁹

Section 1.08 Events Precipitating the Reorganization Cases

The Debtors have completed approximately 380 lots in the Property and approximately 285 lots have been sold since the Project's inception. However, in 2007 the real estate market began to suffer, and in 2008, lot sales slowed. At the same time, HWLP continued to incur expenses in connection with building the yacht club and marina on the Property. The costs of these improvements coupled with low sales made it necessary for HWLP to draw down all of the funds under the Development Loan with Compass.

In anticipation of a long-term depression of real estate prices and demand, HWLP and Compass reached an agreement whereby HWLP would contribute \$10 million in equity to be used to reduce the principal amount of the Development Loan to \$20 million. In consideration of this equity contribution and pay-down, HWLP requested that Compass (i) extend the Development Loan for five years; (ii) reduce the interest rate; and (iii) allow HWLP to make draws on the loan up to a \$30 million cap. HWLP communicated to Compass that its willingness

⁸ The terms of the settlement agreement with the Rings have been incorporated into the Plan; therefore court approval of the Plan will effectively constitute court approval of the settlement.

⁹ To the extent the executed settlement agreement is materially different from the unexecuted version attached hereto as Exhibit C-2, the Debtors will file the executed version as a supplement to the Disclosure Statement.

to make such an equity contribution was contingent on these terms. Compass accepted this offer and a refinancing on substantially these terms was closed in June 2008. At that time, Compass engaged an appraiser who opined that the fair market value of the Property collateralizing the Development Loan was \$62 million.

On September 10, 2008, the Property suffered substantial damage as a result of Hurricane Ike striking the Houston-Galveston area. Although the physical damage to the Property was quickly repaired, the effect of Hurricane Ike and the real estate exigency greatly depressed the market for the sale of the Property's individual lots.

Since the re-financing in June 2008, HWLP has complied with all terms contained in the Development Loan documents and has drawn approximately \$7 million of the \$10 million available. All of these draws have been approved by Compass and the last draw was funded on December 4, 2009.¹⁰ However, when HWLP submitted a draw on December 7, 2009, Compass refused to fund the draw based on Compass' allegation that a "material adverse change" had occurred and that the Development Loan was in default because the Property had allegedly drastically declined in value since the refinancing in 2008.¹¹

As a result of Compass' refusal to fund the draw request, the Debtors were forced to discontinue the bulk of the operations with regard to the Property and file for bankruptcy protection. Prior to the Petition Date, on January 7, 2010, HWLP initiated the Compass Lawsuit which is discussed in more detail in Section 1.07 above.

ARTICLE II

THE CHAPTER 11 CASES

Section 2.01 Overview of Chapter 11

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Chapter 11 authorizes a debtor to reorganize its business for the benefit of its creditors, equity interest holders, and other parties in interest. Commencing a chapter 11 case creates an estate that comprises all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession."

¹⁰ During the course of the development of the Property, HWLP has advanced funds on behalf of Hitchcock TIRZ #1 and Flamingo Isles MUD of Galveston County to which it is entitled to reimbursement pursuant to certain terms and conditions. As of January 7, 2010, the amount owed to HWLP as reimbursement for the advances is \$7.4 million and \$19.3 million, respectively (these are face value amounts (i.e. not necessarily present value) and do not account for accrued interest). The rights to these reimbursements are collaterally assigned to Compass as additional security for the Development Loan.

¹¹ The appraisal relied upon by Compass was performed by CB Richard Ellis and is dated September 21, 2009. The appraisal opined that the value of the remaining parcels of the Property owned by HWLP was \$25.2 million. The appraisal expressly excludes more than \$26.7 million in receivables due and owing from TIRZ and MUD that are described in footnote 10, *supra*, and also excludes certain buildings and parcels of real estate on which Compass has a lien.

The principal objective of a chapter 11 case is to consummate a plan of reorganization. A plan of reorganization sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization by a bankruptcy court binds a debtor, any issuer of securities thereunder, any person acquiring property under the plan, any creditor or equity interest holder of a debtor, and any other person or entity the bankruptcy court may find to be bound by such plan. Chapter 11 requires that a plan treat similarly situated creditors and similarly situated equity interest holders equally, subject to the priority provisions of the Bankruptcy Code.

Subject to certain limited exceptions, the bankruptcy court order confirming a plan of reorganization discharges a debtor from any debt that arose prior to the date of confirmation of the plan and provides for the treatment of such debt in accordance with the terms of the confirmed plan of reorganization.

Prior to soliciting acceptances of a proposed plan of reorganization, Bankruptcy Code section 1125 requires a debtor to prepare a disclosure statement containing information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the plan of reorganization. This Disclosure Statement is submitted in accordance with Bankruptcy Code section 1125.

Section 2.02 Administration of the Chapter 11 Cases

(a) First-day Motions

On the Petition Date, or soon thereafter, the Debtors filed numerous first-day motions, the object of which was to streamline the transition to operating under chapter 11, to stabilize operations, and to preserve their relationships with vendors, customers, employees and utility providers. These first-day motions requested, among other things, authority to (i) pay pre-petition compensation, wages, salaries and other reimbursable employee expenses, as well as to continue certain workers' compensation programs and insurance programs (and pay outstanding pre-petition amounts necessary to continue such insurance programs); and (ii) obtain post-petition debtor in possession financing and grant security interests and superpriority claims related to such financing. The debtors also filed motions seeking relief from certain administrative requirements of the Bankruptcy Code and to establish procedures to resolve adequate assurance requests for their utility accounts. In addition, the Debtors filed an application seeking orders authorizing the retention of counsel to the Debtors.

(b) No Appointment of Committee

On March 5, 2010, the United States Trustee notified the Bankruptcy Court, the Debtors and other interested parties that the United States Trustee was unable to solicit sufficient interest in serving on an Official Committee of Unsecured Creditors in these Chapter 11 Cases. As a result, no Official Committee of Unsecured Creditors has been appointed in these Chapter 11 Cases.

(c) Retention of Professionals

The Debtors have filed, and the Court has granted, several applications to retain professionals in these Cases. Specifically, the Debtors have retained (a) Bracewell & Giuliani LLP, as their general bankruptcy and restructuring counsel and (b) Fowler Rodriguez Valdes-Fauli as special counsel to HWLP. The Debtors have also filed an application to retain the Camberg Law Firm, P.C. as special counsel to HWLP for purposes of litigating the Compass Lawsuit, however, the Court has not yet entered an order approving this retention.

As of the date hereof, the Debtors estimate that, as of the Effective Date, the total amount of Allowed Administrative Claims, including Professional Fees, will be approximately \$600,000.

(d) Preference Analysis and Other Potential Avoidance Actions

The Bankruptcy Code preserves the Debtors' rights to prosecute claims and causes of action which exist outside of bankruptcy, and also empowers the Debtors to prosecute certain claims which are established by the Bankruptcy Code, including claims to avoid and recover preferential transfers and fraudulent conveyances. As described below, the Plan preserves all of the Debtors' rights in respect of all Avoidance Actions, transfers the Debtors' rights in respect of such Avoidance Actions to the Reorganized Debtors, and empowers the Reorganized Debtors to prosecute, collect, and/or settle the Avoidance Actions as deemed appropriate.

To date, the Debtors and other parties have not conclusively identified and/or investigated any potential Avoidance Actions.

IN REVIEWING THIS DISCLOSURE STATEMENT AND THE PLAN, AND IN DETERMINING WHETHER TO VOTE IN FAVOR OF OR AGAINST THE PLAN, HOLDERS OF CLAIMS AND INTERESTS (INCLUDING PARTIES THAT RECEIVED PAYMENTS FROM THE DEBTORS WITHIN NINETY (90) DAYS PRIOR TO THE PETITION DATE) SHOULD CONSIDER THAT A CAUSE OF ACTION MAY EXIST AGAINST THEM, THAT THE PLAN PRESERVES ALL CAUSES OF ACTION, AND THAT THE PLAN AUTHORIZES THE REORGANIZED DEBTORS TO PROSECUTE THE SAME. PARTIES RECEIVING PAYMENTS FROM THE DEBTORS WITHIN NINETY (90) DAYS PRIOR TO THE PETITION DATE ARE IDENTIFIED ON EXHIBIT F.

(e) Exclusivity

As of the Petition Date, the Debtors had the exclusive right to file a plan in their bankruptcy cases until May 25, 2010, and the exclusive right to solicit acceptances until July 23, 2010. On May 18, 2010, the Debtors obtained an order from the Bankruptcy Court extending their exclusive right to file a plan until July 23, 2010, and extending their exclusive right to solicit acceptances until September 21, 2010. Although there is always a possibility that Confirmation of the Plan will not occur, at this time, the Debtors do not contemplate the need to further extend these dates.

Section 2.03 Post-Petition Settlement Agreements

Since the Petition Date, the Debtors have been negotiating with various creditors and parties-in-interest to resolve certain disputes and claims in an effort to formulate a consensual plan for the benefit of the Debtors' creditors and the Debtors' estates. Below is a list of the settlement agreements executed by the Debtors (the terms of which have been incorporated in the Plan and are thus subject to Court approval via the Confirmation process).

(a) Compass Settlement

The Compass settlement agreement was executed between and among the following parties: Debtors, Compass, Watkins Hospitality, LLC (a non-debtor) and Lynn B. Watkins. Since the Petition Date, Compass and the Debtors have been negotiating a settlement in an effort to resolve the Compass Lawsuit and facilitate the formulation of a joint plan of reorganization in that will maximize the benefit to the Debtors' creditors and interest holders. After several months of negotiations, Compass and the Debtors have reached an agreement that the Debtors believe will maximize the return to creditors and interest holders in these chapter 11 cases. A copy of the executed Compass settlement agreement is attached hereto as **Exhibit C-1**.

(b) Ring Settlement

The Ring settlement agreement was executed between and among the following parties: the Debtors, Compass, the Rings, Evan Watkins, Lynn B. Watkins, and Harborwalk GP, LLC (a non-debtor entity). The events leading up to the Ring settlement agreement are discussed above in Section 1.07(c). A copy of an agreement that is substantially similar to the settlement agreement that the Debtors intend to execute with the Rings is attached hereto as **Exhibit C-2**.¹²

(c) Lucas Settlement

The Lucas settlement agreement was executed between and among the following parties: the Debtors, Compass, and Lucas Construction Co., Inc. ("Lucas"). Prior to the Petition Date, Lucas provided materials, labor and equipment for the purpose of providing paving and appurtenances construction services on the Property (the "Services"). On June 1, 2010, Lucas filed a secured proof of claim, Claim No. 20-1, against HWLP in the amount of \$238,390.17 based on (i) the Services performed and (ii) allegations of breach of contract (the "Lucas Claim"). On June 11, 2010, Compass filed an Emergency Motion for Relief from the Automatic Stay on Debtors' Real Property (the "Motion for Relief"), requesting relief from the automatic stay in order to foreclose on the Property, thereby extinguishing any junior lien claim alleged by Lucas. On June 14, 2010, Lucas filed an Objection to the Motion for Relief (the "Lucas Objection"). The Debtors, Compass, and Lucas entered into a settlement agreement, subject to court approval, for purposes of resolving the Lucas Claim, the Lucas Objection and avoiding

¹² To the extent the executed settlement agreement is materially different from the unexecuted version attached hereto as Exhibit C-2, the Debtors will file the executed version as a supplement to the Disclosure Statement.

further litigation between the parties, together with avoiding all associated costs and expenses. A copy of the executed Lucas settlement agreement is attached hereto as **Exhibit C-3**.

Section 2.04 Foreclosure of Harborwalk, L.P.'s Real Property

On June 29, 2010, the Court entered an order granting Compass' Motion for Relief from the Automatic Stay to allow Compass to exercise its state law foreclosure rights with respect to the Real Property owned by HWLP. On July 6, 2010, Compass acquired ownership of HWLP's Real Property as a result of the foreclosure proceeding which took place on that same day. Compass has employed Midway Companies¹³, a real estate development and investment firm, as its agent to manage the operations associated with the Real Property.

As a result of the foreclosure proceeding initiated by Compass on July 6, 2010, the Debtors' property now consists of (1) cash; (2) certain personal property (e.g., and without limitation, computers, inventory, and other property not including cash) associated with maintaining and managing the development of the Real Property (the "Personal Property"); and (3) certain MUD and TIRZ Reimbursables¹⁴ whose values are dependant on the development and assessed value of the Real Property (the "Reimbursables"). Accordingly, the primary asset of the Debtors available to satisfy creditor claims after July 6 will be the Reimbursables.

In order to preserve the value of the Reimbursables (whose values are directly related to the value of the Real Property), the Debtors obtained Court authority on July 6, 2010 to allow Compass and its agents (e.g. Midway Companies) to use the Debtors' Personal Property to assist them in managing and operating the Real Property from July 6, 2010 until the date the Debtors are able to obtain confirmation of the Plan (after which all of the Personal Property will be conveyed to Compass pursuant to Section 4.03). The Debtors will provide assistance to Compass its agents during this "transition" period in an effort to maximize value for the Debtors' estates.

ARTICLE III

CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

Section 3.01 Introduction

The categories of Claims and Interests set forth below classify Claims and Interests for all purposes, including for purposes of voting, Confirmation and distribution pursuant to the Plan and Bankruptcy Code sections 1122 and 1123(a)(1). A Claim or Interest shall be deemed

¹³ Midway Companies is a Houston, Texas based company. More information regarding their company profile can be found by visiting their website at www.midwaycompanies.com.

¹⁴ "MUD Reimbursables" are receivables associated with the development of the Real Property that are paid or to be paid from the Flamingo Municipal Utility District. The "TIRZ Reimbursables" are receivables associated with the development of the Real Property that are paid or to be paid from the City of Hitchcock Tax Increment Reinvestment Zone Number One. The potential value of the Reimbursables is briefly discussed in Section 1.03 above.

classified in a particular Class only to the extent that it qualifies within the description of such Class, and shall be deemed classified in other Classes to the extent that any portion of such Claim or Interest qualifies within the description of such other Classes. Notwithstanding anything to the contrary in the Plan, a Claim or Interest shall be deemed classified in a Class only to the extent that such Claim or Interest has not been paid, released, or otherwise settled prior to the Effective Date.

All Claims (except for Administrative Claims and Priority Tax Claims, which are not classified pursuant to Bankruptcy Code section 1123(a)(1)) are classified in Section 3.05 through Section 3.07 below.

Section 3.02 Voting; Acceptance by Impaired Classes

Each Impaired Class of Claims that will (or may) receive or retain property or any interest in property under the Plan shall be entitled to vote to accept or reject the Plan. An Impaired Class of Claims shall have accepted the Plan if (i) the Holders (other than any Holder designated under Bankruptcy Code section 1126(e)) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (ii) the Holders (other than any Holder designated under Bankruptcy Code section 1126(e)) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan. An Impaired Class of Interests shall have accepted the Plan if the Holders (other than any Holder designated under Bankruptcy Code section 1126(e)) of at least two-thirds in amount of the Allowed Interests actually voting in such Class have voted to accept the Plan. All classes are Impaired under this Plan except for Classes A1, B1, B2, C1 and C2.

Section 3.03 Administrative Claims

Except as otherwise provided for in the Plan, and subject to the requirements of Section 12.01 of the Plan, each Holder of an Allowed Administrative Claim shall receive from the Reorganized Debtors in full satisfaction, release, settlement, and discharge of and in exchange for such Allowed Administrative Claim the amount of such Allowed Administrative Claim, in Cash on or as soon as practicable after the later of (i) the Effective Date; (ii) the date that is ten (10) Business Days after the date such Claim is Allowed; or (iii) such other date as may be agreed upon in writing by the holder of such Claim and the Debtors, or, after the Effective Date, the Reorganized Debtors.

Section 3.04 Priority Tax Claims

Each Holder of an Allowed Priority Tax Claim shall receive from the Reorganized Debtors in full satisfaction, release settlement, and discharge of and in exchange for such Allowed Priority Tax Claim, the amount of such Allowed Priority Tax Claim, in Cash, on or as soon as practicable after the later of (i) the Effective Date, (ii) the date that is ten (10) Business Days after the date such Claim is Allowed, or (iii) such other date as may be agreed upon in writing by the Holder of such Claim and the Debtors, or, after the Effective Date, the Reorganized Debtors. Each Holder of an Allowed Priority Tax Claim shall not receive any Cash or other distribution on account of a penalty on, with respect to, or arising in connection with,

such Allowed Priority Tax Claims. All penalties on, with respect to, or arising in connection with, any Priority Tax Claim shall be disallowed.

Section 3.05 Harborwalk, L.P.

(a) Class A1: Priority Non-Tax Claims

Classification: Class A1 consists of all Allowed Priority Non-Tax Claims against Harborwalk, L.P.

Treatment: Except to the extent that a Holder of an Allowed Claim in Class A1 has agreed in writing with the Debtors (or the Reorganized Debtor) to a different treatment (in which event such other writing will govern), each Holder of an Allowed Claim in Class A1 shall receive in full satisfaction, release and discharge of and in exchange for, such Claim, Cash equal to the amount of such Allowed Claim in Class A1 in accordance with Bankruptcy Code section 1129(a)(9), on the later of (a) the Effective Date (or as soon as reasonably practicable thereafter) or (b) the date such Claim in Class A1 becomes an Allowed Claim in Class A1 (or as soon as reasonably practicable thereafter).

Voting: Claims in Class A1 are Unimpaired. Each Holder of an Allowed Claim in Class A1 shall be conclusively deemed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f), and, therefore, shall not be entitled to vote to accept or reject the Plan.

(b) Class A2: Secured Claim of Compass Bank

Classification: Class A2 consists of the Secured Claim of Compass Bank against Harborwalk, L.P.

Treatment: The Holder of the Class A2 Claim shall receive, in full satisfaction, release and discharge of, and in exchange for the Class A2 Claim the following treatment (a) delivery to the Holder of the Class A2 Claim of the Compass Property securing the Class A2 Claim before or as soon as reasonably practicable after the Effective Date in accordance with Section 4.03; (b) assignment to the Holder of the Class A2 Claim of the Compass Contracts in accordance with Section 10.01; (c) the Holder of the Class A2 Claim shall have a remaining Allowed Claim in an amount equal to the Compass Deficiency Amount (including interest at the Compass Contract Rate) (the "Remaining Class A2 Claim") secured by a Lien on the HWLP Reimbursables; and (d) payment of the Remaining Class A2 Claim in full in Cash from the HWLP Reimbursables with the following priority: (i) following payment of (a) the reasonable and necessary expenses of collecting the HWLP Reimbursables, including payment of any tax liabilities incurred by the Debtors and/or any of the Debtors' Related Persons in connection with the HWLP Reimbursables; and (b) any unpaid Administrative Claims, \$365,000.00 of the Remaining Class A2 Claim to be paid on a pro rata basis together with \$23,839.01 of the Lucas Claim¹⁵; (ii)

¹⁵ A portion of the Lucas Claim is being paid prior to General Unsecured Creditors as part of a compromise and settlement with respect to the lien claim filed by Lucas Construction Co., Inc ("Lucas"). In an effort to avoid further litigation between the parties and thereby avoid all associated costs and expenses, the Debtors agreed to propose a

payment of the Remaining Class A2 Claim in an amount equal to the amount of the Compass Roadways Cost; and (iii) the remainder of the Remaining Class A2 Claim to be paid on a pro rata basis together with all Claims in Classes A4, B2, B3, C2 and C3 (including the Lucas Claim). Payment in Cash from the HWLP Reimbursables shall be made after the later of (a) the Effective Date; or (b) on or as soon as practicable after the date on which the Reorganized Debtor determines Cash distributions from the HWLP Reimbursables are practicable and appropriate.

Voting: The Class A2 Claim is Impaired. The Holder of the Claim in Class A2 shall be entitled to vote to accept or reject the Plan.

(c) Class A3: Other Secured Claims

Classification: Class A3 consists of all Allowed Other Secured Claims against Harborwalk, L.P.

Treatment: Each Holder of an Allowed Class A3 Claim shall not receive any payment on account of their Secured Claim pursuant to 11 U.S.C. § 506 because the value of the Collateral securing Class A3 Claims is not sufficient to pay in full all senior Allowed Secured Claims that are secured by the same Collateral. Accordingly, except with respect to the Lucas Claim as provided in Section 3.05(b)¹⁶, Allowed Class A3 Claims shall be treated as Allowed Class A4 General Unsecured Claims.

Voting: The Holder(s) of Claims in Class A3 shall be deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

(d) Class A4: General Unsecured Claims

Classification: Class A4 consists of all Allowed General Unsecured Claims against Harborwalk, L.P.

Treatment: Each Holder of an Allowed Class A4 Claim shall receive in full satisfaction, release and discharge of, and in exchange for such Claim, payment of the Allowed Class A4 Claim in full in Cash from the Available Cash and the HWLP Reimbursables. Payment of Allowed Class A4 Claims (together with Allowed Claims in Classes B3 and C3) from the HWLP Reimbursables shall be made on pro rata basis together with Class A2 after: (a) payment of (i) the reasonable and necessary expenses of collecting the HWLP Reimbursables, including payment of any tax liabilities incurred by the Debtors and/or any of the Debtors' Related Persons in connection with the HWLP Reimbursables; and (ii) any unpaid Administrative Claims; (b) the Remaining Class A2 Claim is reduced by \$365,000.00 and the Lucas Claim is reduced by \$23,839.01 in accordance with Section 3.03(2); (c) the Remaining Class A2 Claim is reduced by the amount of the Compass Roadways Cost in accordance with Section 3.03(2); and (d) Allowed

plan that provides for approximately 10% of Lucas' asserted lien claim to be paid prior to the Allowed Claims of General Unsecured Creditors.

¹⁶ See *supra* note 15.

Claims in Classes B2 and C2 have been paid in full. Holders of Allowed Class A4 Claims shall receive interest from the Petition Date to the date on which their claim is paid at the Plan Rate. Payment from Available Cash and/or the HWLP Reimbursables shall be made after the later of (a) the Effective Date; (b) the date that is ten (10) Business Days after the date such Claim is Allowed; (c) on or as soon as practicable after the date on which the Reorganized Debtor determines Cash distributions are practicable and appropriate; or (d) such other date as may be agreed upon in writing by the Holder of such Claim and the Debtors, or after the Effective Date, the Reorganized Debtor.

Voting: Class A4 Claims are Impaired. Each Holder of an Allowed Claim in Class A4 shall be entitled to vote to accept or reject the Plan.

(e) Class A5: Interests

Classification: Class A5 consists of all Allowed Interests in Harborwalk, L.P.

Treatment: On the Effective Date, all of the Class A5 Interests outstanding as of the Effective Date shall be extinguished, cancelled and discharged as of the Effective Date and each Holder of an Allowed Class A5 Interest shall receive in full satisfaction, release and discharge of, and in exchange for such Interest, from the Reorganized Debtor on or as soon as reasonably practicable after the Effective Date, its Pro Rata share of the Reorganized Assets of HWLP after payment of all Allowed Administrative Claims and all Allowed Priority Tax Claims against HWLP and all Allowed Claims in Classes A1, A2 and A4.

Voting: Class A5 Interests are Impaired. Each Holder of an Allowed Claim in Class A5 shall be entitled to vote to accept or reject the Plan.

Section 3.06 Harborwalk Marina Operating Company, Ltd.

(a) Class B1: Priority Non-Tax Claims

Classification: Class B1 consists of all Allowed Priority Non-Tax Claims against Harborwalk Marina Operating Company, Ltd.

Treatment: Except to the extent that a Holder of an Allowed Claim in Class B1 has agreed in writing with the Debtors (or the Reorganized Debtor) to a different treatment (in which event such other writing will govern), each Holder of an Allowed Claim in Class B1 shall receive in full satisfaction, release and discharge of and in exchange for such Claim, Cash equal to the amount of such Allowed Claim in Class B1 in accordance with Bankruptcy Code section 1129(a)(9), on the later of (a) the Effective Date (or as soon as reasonably practicable thereafter) or (b) the date such Claim in Class B1 becomes an Allowed Claim in Class B1 (or as soon as reasonably practicable thereafter).

Voting: Claims in Class B1 are Unimpaired. Each Holder of an Allowed Claim in Class B1 shall be conclusively deemed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f), and, therefore, shall not be entitled to vote to accept or reject the Plan.

(b) Class B2: Secured Claims

Classification: Class B2 consists of all Allowed Secured Claims against Harborwalk Marina Operating Company, Ltd.

Treatment: Each Holder of an Allowed Class B2 Claim shall receive in full satisfaction, release and discharge of, and in exchange for such Allowed Class B2 Claim (including interest, fees and charges as are Allowed under section 506 of the Bankruptcy Code), (i) payment of the Allowed Class B2 Claim in full in Cash from the Available Cash on the later of (a) the Effective Date; (b) the date that is ten (10) Business Days after the date such Claim is Allowed; or (c) such other date as may be agreed upon in writing by the Holder of such Claim; (ii) delivery to the Holder of the Allowed Class B2 Claim of the collateral securing such Allowed Class B2 Claim; or (iii) such other treatment as may be agreed to by the applicable Debtor or Reorganized Debtor and the Holder of the Allowed Class B2 Claim.

Voting: Claims in Class B2 are Unimpaired. Each Holder of an Allowed Claim in Class B2 shall be conclusively deemed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f), and, therefore, shall not be entitled to vote to accept or reject the Plan.

(c) Class B3: General Unsecured Claims

Classification: Class B3 consists of all Allowed General Unsecured Claims against Harborwalk Marina Operating Company, Ltd.

Treatment: Each Holder of an Allowed Class B3 Claim shall receive in full satisfaction, release and discharge of, and in exchange for such Claim, payment of the Allowed Class B3 Claim in full in Cash from the Available Cash and the HWLP Reimbursables. Payment of Allowed Class B3 Claims (together with Allowed Claims in Classes A4 and C3) from the HWLP Reimbursables shall be made on a pro rata basis together with Class A2 after: (a) payment of (i) the reasonable and necessary expenses of collecting the HWLP Reimbursables, including payment of any tax liabilities incurred by the Debtors and/or any of the Debtors' Related Persons in connection with the HWLP Reimbursables; and (ii) any unpaid Administrative Claims; (b) the Remaining Class A2 Claim is reduced by \$365,000.00 and the Lucas Claim is reduced by \$23,839.01 in accordance with Section 3.03(2); (c) the Remaining Class A2 Claim is reduced by the amount of the Compass Roadways Cost in accordance with Section 3.03(2); and (d) Allowed Claims in Classes B2 and C2 have been paid in full. Holders of Allowed Class B3 Claims shall receive interest from the Petition Date to the date on which their claim is paid at the Plan Rate. Payment from the Available Cash and/or the HWLP Reimbursables shall be made after the later of (a) the Effective Date; (b) the date that is ten (10) Business Days after the date such Claim is Allowed; (c) on or as soon as practicable after the date on which the Reorganized Debtor determines Cash distributions are practicable and appropriate; or (d) such other date as may be agreed upon in writing by the Holder of such Claim and the Debtor, or after the Effective Date, the Reorganized Debtor.

Voting: Class B3 Claims are Impaired. Each Holder of an Allowed Claim in Class B3 shall be entitled to vote to accept or reject the Plan.

(d) Class B4: Interests

Classification: Class B4 consists of all Allowed Interests in Harborwalk Marina Operating Company, Ltd.

Treatment: On the Effective Date, all of the Class B4 Interests outstanding as of the Effective Date shall be extinguished, cancelled and discharged as of the Effective Date and each Holder of an Allowed Class B4 Interest shall receive in full satisfaction, release and discharge of, and in exchange for such Interest, from the Reorganized Debtor on or as soon as reasonably practicable after the Effective Date, its Pro Rata share of any remaining Reorganized Assets of HMOC after payment of all Allowed Administrative Claims and all Allowed Priority Tax Claims against HMOC and all Allowed Claims in Classes B1, B2 and B3.

Voting: Class B4 Interests are Impaired. Each Holder of an Allowed Claim in Class B4 shall be entitled to vote to accept or reject the Plan.

Section 3.07 Harborwalk Sales Corporation

(a) Class C1: Priority Non-Tax Claims

Classification: Class C1 consists of all Allowed Priority Non-Tax Claims against Harborwalk Sales Corporation.

Treatment: Except to the extent that a Holder of an Allowed Claim in Class C1 has agreed in writing with the Debtors (or the Reorganized Debtor) to a different treatment (in which event such other writing will govern), each Holder of an Allowed Claim in Class C1 shall receive in full satisfaction, release and discharge of and in exchange for such Claim, Cash of HSC equal to the amount of such Allowed Claim in Class C1 in accordance with Bankruptcy Code section 1129(a)(9), on the later of (a) the Effective Date (or as soon as reasonably practicable thereafter) or (b) the date such Claim in Class A1 becomes an Allowed Claim in Class C1 (or as soon as reasonably practicable thereafter).

Voting: Claims in Class C1 are Unimpaired. Each Holder of an Allowed Claim in Class C1 shall be conclusively deemed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f), and, therefore, shall not be entitled to vote to accept or reject the Plan.

(b) Class C2: Secured Claims

Classification: Class C2 consists of all Allowed Secured Claims against Harborwalk Sales Corporation.

Treatment: Each Holder of an Allowed Class C2 Claim shall receive in full satisfaction, release and discharge of, and in exchange for such Allowed Class C2 Claim (including interest, fees and charges as are Allowed under section 506 of the Bankruptcy Code), (i) payment of the Allowed Class C2 Claim in full in Cash from the Available Cash on the later of (a) the Effective Date; (b) the date that is ten (10) Business Days after the date such Claim is Allowed; or (c) such other date as may be agreed upon in writing by the Holder of such Claim; (ii) delivery to the Holder of the Allowed Class C2 Claim of the collateral securing such Allowed Class C2 Claim;

or (iii) such other treatment as may be agreed to by the applicable Debtor or Reorganized Debtor and the Holder.

Voting: Claims in Class C2 are Unimpaired. Each Holder of an Allowed Claim in Class C2 shall be conclusively deemed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f), and, therefore, shall not be entitled to vote to accept or reject the Plan.

(c) Class C3: General Unsecured Claims

Classification: Class C3 consists of all Allowed General Unsecured Claims against Harborwalk Sales Corporation.

Treatment: Each Holder of an Allowed Class C3 Claim shall receive in full satisfaction, release and discharge of, and in exchange for such Claim, payment of the Allowed Class C3 Claim in full in Cash from the Available Cash and the HWLP Reimbursables. Payment of Allowed Class C3 Claims (together with Allowed Claims in Classes A4 and C3) from the HWLP Reimbursables shall be made on a pro rata basis together with Class A2 after: (a) payment of (i) the reasonable and necessary expenses of collecting the HWLP Reimbursables, including payment of any tax liabilities incurred by the Debtors and/or any of the Debtors' Related Persons in connection with the HWLP Reimbursables; and (ii) any unpaid Administrative Claims; (b) the Remaining Class A2 Claim is reduced by \$365,000.00 and the Lucas Claim is reduced by \$23,839.01 in accordance with Section 3.03(2); (c) the Remaining Class A2 Claim is reduced by the amount of the Compass Roadways Cost in accordance with Section 3.03(2); and (d) Allowed Claims in Classes B2 and C2 have been paid in full. Holders of Allowed Class C3 Claims shall receive interest from the Petition Date to the date on which their claim is paid at the Plan Rate. Payment from the Available Cash and/or the HWLP Reimbursables shall be made after the later of (a) the Effective Date; (b) the date that is ten (10) Business Days after the date such Claim is Allowed; (c) on or as soon as practicable after the date on which the Reorganized Debtor determines Cash distributions are practicable and appropriate; or (d) such other date as may be agreed upon in writing by the Holder of such Claim and the Debtors, or after the Effective Date, the Reorganized Debtor.

Voting: Class C3 Claims are Impaired. Each Holder of an Allowed Claim in Class C3 shall be entitled to vote to accept or reject the Plan.

(d) Class C4: Interests

Classification: Class C4 consists of all Allowed Interests in Harborwalk Sales Corporation.

Treatment: On the Effective Date, all of the Class C4 Interests outstanding as of the Effective Date shall be extinguished, cancelled and discharged as of the Effective Date and each Holder of an Allowed Class C4 Interest shall receive in full satisfaction, release and discharge of, and in exchange for such Interest, from the Reorganized Debtor on or as soon as reasonably practicable after the Effective Date, its Pro Rata share of any remaining Reorganized Assets of HSC after payment of all Allowed Administrative Claims and all Allowed Priority Tax Claims against HSC and all Allowed Claims in Classes C1, C2 and C3.

Voting: Class C4 Interests are Impaired. Each Holder of an Allowed Claim in Class C4 shall be entitled to vote to accept or reject the Plan.

ARTICLE IV

MEANS FOR IMPLEMENTATION OF THE PLAN

Section 4.01 No Substantive Consolidation

The Plan is a joint plan that does not provide for substantive consolidation of the Debtors' estates, and on the Effective Date, the Debtors' estates shall not be deemed to be substantively consolidated for purposes hereof. Except as specifically set forth herein, nothing in this Plan, the Disclosure Statement or otherwise shall constitute or be deemed to constitute an admission that any one of the Debtors is subject to or liable for any Claim against any other Debtor. Additionally, Creditors holding Claims against multiple Debtors, to the extent Allowed in each Debtor's Chapter 11 Case, will be treated as holding a separate Claim against each Debtor's estate, provided, however, that no holder of an Allowed Claim shall be entitled to receive more than payment in full of such Allowed Claim (plus post-petition interest, if and to the extent provided the relevant Plan), and such Claims will be administered and treated in the manner provided in the relevant Plan.

Section 4.02 Vesting of Property of the Estate in the Reorganized Debtors

Subject to the delivery of the Compass Property in accordance with Section 3.05(b) above, and except as otherwise provided in the Plan, on the Effective Date, all remaining property of the Debtors and of their respective Estates, including, but not limited to, Available Cash, the HWLP Reimbursables, all rights to object to Claims, all Avoidance Actions, Causes of Action, alter-ego rights, derivative claims, breach of fiduciary duty claims, veil piercing rights, the right to pursue such claims and all other remaining property of the Estates as defined in Bankruptcy Code section 541 (the "Reorganized Assets"), shall vest in each respective Reorganized Debtor, free and clear of liens, claims and encumbrances.

Section 4.03 Conveyance of the Compass Property

The Plan contemplates that the Debtors will transfer and/or deliver the Compass Property to Compass to the extent not previously transferred.

The Plan and/or Confirmation Order provide:

(1) that the Debtors convey the Compass Property to Compass free and clear of all liens, claims, charges, interests and encumbrances pursuant to 11 U.S.C. § 363, except for the 2010 ad valorem tax lien, which shall remain on the Real Property;

(2) that all junior lien claims on the Real Property will be terminated as a result of the foreclosure by Compass of its interest in the Real Property. The Remaining Class A2 Claim of Compass shall be secured by a first priority lien on the HWLP Reimbursables. To the extent any liens, claims or encumbrances survive such foreclosures by Compass, those liens, claims or encumbrances, other than the 2010 ad valorem tax lien related to the Real Property which shall

continue to attach to the Real Property, shall attach to the HWLP Reimbursables in a position junior to Compass' Remaining Class A2 Claim in the order of their existing priority and with the same validity, force and effect which they now have against such assets, subject to any claim or defense the Debtors or the Debtors' estates may possess with respect thereto;

(3) that the transactions contemplated between Compass and the Debtors under the Plan are undertaken by Compass and the Debtors in good faith, as that term is used in 11 U.S.C. § 363(m), and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate these transactions shall not affect the validity of the conveyances to Compass, unless such authorization is duly stayed pending such appeal prior to the closing. Compass is a purchaser in good faith of the Compass Property, and Compass is entitled to all of the protections afforded by 11 U.S.C. § 363(m); and

(4) that pursuant to 11 U.S.C. § 1146(a), any transfers from the Debtors to the Compass under the Plan, including, without limitation, the issuance, transfer, or exchange of debt or equity securities under the Plan or the creation of any mortgage, lien, deed of trust or other security interest under the Plan, shall not be subject to any tax under any law imposing a stamp tax or similar tax.

Conveyance of the Compass Property to Compass is not sufficient to satisfy the Secured Claim of Compass. The amount of Compass' Remaining Class A2 Claim (the "Compass Deficiency Amount") is equal to (i) the outstanding balance under the Development Loan for pre- and post-Petition advances (including pre- and post-petition interest at the Contract Rate) on July 6, 2010; less (ii) \$26,000,000.00; plus (iii) the Pro-Rated 2010 Ad Valorem Taxes on the Compass Property; plus (iv) any costs incurred by Compass to secure approval of the Roadways from the City of Hitchcock or any other governmental entity (unless such costs create the right of Compass to additional TIRZ Reimbursable(s), in which event Compass shall only be compensated from the HWLP Reimbursable(s) thereby created) (the "Compass Roadways Costs"); plus (v) any Additional Financing; less (vi) the pro-rated 2010 Property Owners Association Special and Annual Assessments that have been paid by the Debtors.

Section 4.04 Conveyance of Property to and from the Rings

The Confirmation Order shall provide that Harborwalk, L.P. conveys its interest in Lot 20, Block 1, Section 2 and Lot 23, Block 1, Section 2 of the Real Property (collectively, the "Ring Exchange Lots") to the Rings free and clear of all liens, claims and encumbrances, except for any tax liens arising by virtue of any unpaid 2010 ad valorem taxes associated with the conveyed property.¹⁷

As part of the settlement agreement with the Rings (see Exhibit C-2), the Rings will convey Lot 15, Block 2, Section 6 (the "Ring Lot") by warranty deed to Compass free and clear

¹⁷ The Ring Exchange Lots are being conveyed to the Rings with the consent of Compass as part of a compromise and settlement of the Ring Claim. The Ring Exchange Lots constitute property that would otherwise be delivered to Compass as a result of Compass' Class A2 Claim, and accordingly, the Debtors' conveyance of the Ring Exchange Lots does not reduce the property available to satisfy Allowed Claims of General Unsecured Creditors.

of all liens, claims and encumbrances, except for any tax liens arising by virtue of any unpaid 2010 ad valorem taxes associated with the Ring Lot. HWLP shall be responsible for the 2010 ad valorem taxes and any 2010 property owners' association assessments associated with the Ring Exchange Lots through the date of the closing of such lots. The Rings shall be responsible for the 2010 ad valorem taxes and any 2010 property owners' association assessments associated with the Ring Lot through the date of the closing of such lot.

Section 4.05 Management

On the Effective Date, all current directors, or in the case of a governing body created by a limited partnership agreement or similar agreement, the members of such governing body (such persons and the corporate directors collectively, the "Governors") of each Debtor shall remain and continue to exist with respect to the Reorganized Debtors and shall continue to have, to the fullest extent permitted by applicable law, the rights, powers, and duties of the current Governors.

The Governors shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

Section 4.06 Continued Corporate Existence

From and after the Effective Date, each Reorganized Debtor is authorized to (i) take such action as is necessary to complete an orderly wind-down of its operations, including completing all audits by the Internal Revenue Service; (ii) file claim objections; (iii) make distributions in accordance with the Plan; (iv) prosecute causes of action owned by the Estate, including all claims and causes of action arising under the Bankruptcy Code; (v) pursue, liquidate and administer Estate property; (vi) file tax returns; and (vii) take such other action as provided for under the Plan.

After the final distribution for each Estate, and the preparation and filing of any tax returns required of each Estate, the Governors shall effectuate the dissolution of each Reorganized Debtor in accordance with the Plan, be discharged and have no further responsibilities for that Reorganized Debtor.

Section 4.07 General Powers of the Reorganized Debtors

The Reorganized Debtors are authorized and shall have the obligation to take all such actions as in its judgment are necessary and appropriate to effectuate the purposes of the Plan, including, but not limited to the following: (i) making all distributions contemplated under the Plan; (ii) administering the liquidation of the Reorganized Assets; (iii) controlling and managing the consideration received from the liquidation of the Reorganized Assets; (iv) filing, prosecuting and settling Claim objections; (v) prosecuting and settling any Estate causes of action transferred to the Reorganized Debtors pursuant to this Plan; (vi) pursuing any applicable insurance proceeds; (vii) making distributions and creating reserves in accordance with the terms of this Plan; (viii) winding-up and closing the Estates; (ix) abandoning any of the assets of the Reorganized Debtors if the Governors conclude that such assets are of no benefit to the

Creditors; (x) enforcing the payment of notes or other obligations of any Person; (xi) opening and maintaining bank accounts on behalf of or in the name of the Debtors or the Reorganized Debtors; (xii) paying all lawful expenses, debts, charges and liabilities of the Reorganized Debtors; (xiii) purchasing insurance with coverage and limits as it deems desirable including, insurance covering liabilities of the Governors and employees and agents or employees or agents of the Debtors incurred in connection with their services to the Reorganized Debtors; (xiv) appointing, engaging, employing, supervising, and compensating officers, employees, and other Persons as may be necessary or desirable, including managers, consultants, accountants, technical, financial, real estate, or investment advisors or managers, attorneys, agents or brokers, corporate fiduciaries, or depositories; (xv) delegating any or all of the discretionary power and authority conferred with respect to all or any portion of the Estates' property to any one or more reputable individuals or recognized institutional advisers or investment managers without liability for any action taken or omission made because of any such delegation except for such liability as is provided in the Plan; (xvi) executing, delivering, and performing such other agreements and documents and to take or cause to be taken any and all such other actions as may be necessary or desirable to effectuate and carry out the purposes of the Plan; (xvii) undertaking any action necessary to maintain the corporate existence and/or dissolve, the Reorganized Debtors; (xviii) undertaking any action necessary to ensure that the Reorganized Debtors are and remain in good standing and compliance with applicable federal, state, and local laws; (xix) filing any federal, state, or local tax returns and provide for the payment of any related taxes; and (xx) undertaking any action or performing any obligation provided for or required under the Plan. The Governors will be authorized to employ legal and accounting professionals employed by the Debtors pre-confirmation, as well as such other professionals as the Governors may deem necessary and appropriate, including without limitation employment of professionals on a contingent fee basis. In case of the resignation or inability to serve as Governors, successor Governors shall be appointed by the Bankruptcy Court.

Section 4.08 Cancellation of Existing Secured Claims

Upon the full payment or other satisfaction of an Allowed Secured Claim, or promptly thereafter, the Holder of such Allowed Secured Claim shall deliver to the applicable Debtor any Collateral or other property of any Debtor held by such Holder, and any termination statements, instruments of satisfactions, or releases of all security interests with respect to its Allowed Secured Claim that may be reasonably required in order to terminate any related financing statements, mortgages, mechanic's liens, or lis pendens.

Section 4.09 Employee Benefit Plans

Prior to the Effective Date, all Employee Benefit Plans shall be terminated in accordance with the applicable provisions of the state and federal law. The Reorganized Debtors shall have no liability for any obligations under any Employee Benefit Plan.

Section 4.10 Dismissal of Compass Litigation and Related Releases

On or as soon as reasonably practicable after the Effective Date of the Plan, HWLP shall dismiss the Compass Lawsuit with prejudice. Each party to the Compass Lawsuit shall bear its own costs and attorneys' fees associated with the Compass Lawsuit.

Except as otherwise provided in the Plan, HWLP, HMOC and HSC on behalf of themselves and each of their successors, assigns, trustees, agents, receivers, directors, officers, employees, executives, attorneys, advisors, accountants, representatives, partners and equity holders of each of the foregoing (collectively, the "Debtor Releasing Compass Parties") forever release and discharge Compass and (i) each of its respective successors, assigns, trustees, agents and (ii) the directors, officers, employees, executives, attorneys, advisors, accountants, representatives, and equity holders of each of the foregoing (the persons and/or entities listed in the foregoing clauses (i) and (ii) being herein collectively called "Compass Released Parties") from any and all claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, matters, indemnification claims, and any claims acquired as a result of subrogation or assignment, that relate to (x) the Development Loan, (y) the Bankruptcy Cases and (z) the facts alleged in the Compass Lawsuit.

Except as otherwise provided in the Plan, Compass, on behalf of itself and each of its affiliates and associated and related entities and each of its successors, assigns, trustees, agents, receivers, directors, officers, employees, executives, attorneys, advisors, accountants, representatives and equity holders of each of the foregoing (collectively, the "Compass Releasing Parties") forever release and discharge HWLP, HMOC and HSC and (i) each of their respective successors, assigns, trustees, agents and (ii) the directors, officers, employees, executives, attorneys, advisors, accountants, representatives, and equity holders of each of the foregoing (the persons and/or entities listed in the foregoing clauses (i) and (ii) being herein collectively called "Debtor-Compass Released Parties") from any and all claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, matters, indemnification claims, and any claims acquired as a result of subrogation or assignment, that relate to (x) the Development Loan, (y) the Bankruptcy Cases and (z) the facts alleged in the Compass Lawsuit. In addition to the foregoing release, the Compass Releasing Parties also forever release and discharge Lynn B. Watkins from any and all claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, matters, indemnification claims, and any claims acquired as a result of subrogation or assignment in connection with any and all guarantees executed by Lynn B. Watkins prior to January 25, 2010.

From and after the Effective Date, all creditors and Interest Holders in the Debtors or the Compass Property, including without limitation, Holders of Claims under any successor liability theory or any other similar theory or remedy arising under state or federal law, are permanently restrained, barred and enjoined from taking any of the following actions against Compass, including the Compass Property, on account of any Claim or Interest: (a) commencing or continuing in any manner any action or other proceeding of any kind; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order; (c) creating, perfecting, or enforcing any encumbrance or lien of any kind; (d) except to the extent permitted under the Bankruptcy Code or applicable non-bankruptcy law, asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Debtor or its assets or any of the Compass Property; and (e) performing any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; provided, however, that each creditor of a disputed claim may continue to prosecute its Proof of Claim in the Court and all Creditors shall be entitled to enforce their rights against the Debtors under the Plan and any agreements executed or delivered pursuant to or in connection with the Plan. The foregoing injunction shall extend to Compass and its affiliates, officers, directors, employees,

agents, attorneys, and advisors and its property and interests in Compass Property. If allowed by the Court, any entity injured by any willful violation of such injunction shall recover actual damages, including costs and attorneys' and experts' fees and disbursements, and, in appropriate circumstances, may recover punitive damages, from the willful violator.

Except as otherwise provided in the Plan, to the fullest extent permitted by law, each creditor or interest holder of the Debtors shall, in consideration for the obligations of the Debtors under the Plan and the consideration, to be paid in connection with the Plan, be deemed to have forever released, waived and discharged as of the Effective Date, Compass and its affiliates, officers, directors, employees, attorneys, agents and advisors from all Claims, demands, debts, rights, causes of action or liabilities (other than (a) the right to enforce the Debtors' obligations under the Plan, and the contracts, instruments, release, agreements and documents delivered, reinstated or assumed under the Plan, (b) any Claims or causes of action arising out of willful misconduct or gross negligence as determined by a final order), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date (including prior to the Petition Date) in any way relating to the Debtor, the Compass Property, the Bankruptcy Cases, the Plan, or the conveyances contemplated herein.

Section 4.11 Disallowance of Ring Claim and Related Releases

The Ring Claim shall be a Disallowed Claim and no distributions shall be made on account of the Ring Claim.

Except as otherwise provided in the Plan, the Debtors, Harborwalk GP, LLC, Evan Watkins and Lynn B. Watkins, on behalf of themselves and each of their successors, assigns, trustees, agents, receivers, directors, officers, employees, executives, attorneys, advisors, accountants, representatives and equity holders of each of the foregoing (collectively, the "Debtor Releasing Ring Parties") forever release and discharge the Rings and (i) each of their respective successors, assigns, trustees, agents and (ii) the directors, officers, employees, executives, attorneys, advisors, accountants, representatives, and equity holders of each of the foregoing (the persons and/or entities listed in the foregoing clauses (i) and (ii) being herein collectively called "Ring Released Parties") from any and all claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, matters, indemnification claims, and any claims acquired as a result of subrogation or assignment, that relate to the Ring Claim and the lot purchase agreement entered into between the Rings and Harborwalk, L.P. on or about April 25, 2006.

The Rings make no warranty regarding the impact or satisfaction of the U.S. Army Corps of Engineers' ("COE") restrictions or requirements in connection with the Ring Lot, and the Rings will not indemnify any Party for any past, present or future infraction of the COE's restrictions or requirements in connection with the Ring Lot.

The Rings, on behalf of themselves and each of their successors, assigns, trustees, agents, receivers, directors, officers, employees, executives, attorneys, advisors, accountants, representatives and equity holders of each of the foregoing (collectively, the "Ring Releasing

Parties") forever release and discharge the Debtors, HWGP, Evan Watkins, Lynn B. Watkins, and Compass and (i) each of their respective successors, assigns, trustees, agents and (ii) the directors, officers, employees, executives, attorneys, advisors, accountants, representatives, and equity holders of each of the foregoing (the persons and/or entities listed in the foregoing clauses (i) and (ii) being herein collectively called the "Compass and Debtor-Related Released Parties") from any and all claims, demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, matters, indemnification claims, and any claims acquired as a result of subrogation or assignment, that relate to the Ring Claim and the lot purchase agreement entered into between the Rings and Harborwalk, L.P. on or about April 25, 2006.

The Rings shall, on or before ten days after the Effective Date of the Plan, dismiss with prejudice the lawsuit styled as *William Ring and Nannette Ring v. Harborwalk Development LTD, and Harborwalk GP, LLC, et al.*, pending in the 56th District Court of Galveston County, Texas as Cause No. 10-CV-0622.

The Rings shall pay to the estate of HWLP the \$40,000.00 in cash on or before the date of occurrence of the conveyances outlined in Section 4.04. Such sum shall be first used to pay any closing costs other than taxes associated with the conveyances outlined in Section 4.04 with the balance to be turned over to Compass post closing.

Section 4.12 Exclusivity Period

The Debtors shall retain the exclusive right to amend or modify the Plan, and to solicit acceptances of any amendments to or modifications of the Plan, through and until the earlier of (i) the Effective Date or (ii) the expiration of the Debtors' exclusive period to solicit acceptances of the Plan under Bankruptcy Code section 1121(d).

Section 4.13 Exemption from Certain Transfer Taxes

Pursuant to Bankruptcy Code section 1146(c), the issuance, transfer, or exchange of a security, or the making of delivery of an instrument of transfer, including any transfers effected by mergers, provided under the Plan, from the Debtors to the Reorganized Debtors or any other Person or Entity pursuant to the Plan may not be taxed under any law imposing a stamp tax or similar tax, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for Filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

Section 4.14 Closing of the Debtors' Chapter 11 Cases

When all Disputed Claims or Interests filed against a Debtor have become Allowed Claims or Interests or have been Disallowed by Final Order or otherwise pursuant to the Plan, and all appropriate Plan Distributions have been made pursuant to the Plan, the Reorganized Debtors shall seek authority from the Bankruptcy Court to close such Debtor's Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

ARTICLE V

THE SOLICITATION; VOTING PROCEDURES

Section 5.01 Solicitation Package

Accompanying this Disclosure Statement for the purpose of soliciting votes on the Plan are copies of (i) the Plan; (ii) the notice of, among other things, the time for submitting Ballots to accept or reject the Plan, the date, time, and place of the hearing to consider Confirmation of the Plan and related matters, and the time for filing objections to Confirmation of the Plan; and, as applicable, (iii) a Ballot or Ballots (and return envelope(s)) that you may use in voting to accept or to reject the Plan, or a notice of non-voting status, (collectively the "Solicitation Package"). Only Holders eligible to vote in favor of or against the Plan will receive a Ballot(s) as part of their Solicitation Package. If you did not receive a Ballot and believe that you should have, please contact the Debtors' counsel at the address or telephone number set forth in Section 17.14. The procedures for the Solicitation of votes is outlined in the order approving the combined hearing on the Plan and Disclosure Statement which is attached hereto as **Exhibit E**.

Section 5.02 Voting Instructions

After carefully reviewing the Plan and this Disclosure Statement, and the Exhibits thereto, and the detailed instructions accompanying your Ballot, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed Ballot. Please complete and sign your Ballot and return it in the envelope provided so that it is RECEIVED by the Voting Agent on or before the Plan Voting Deadline set forth on the Ballot.

Each Ballot has been coded to reflect the Class of Claims it represents. Accordingly, in voting to accept or reject the Plan, you must use only the coded Ballot or Ballots sent to you with this Disclosure Statement. The amount of your Claim and/or Interest and the classification of your Claim and/or Interest on the Ballot you receive, if any, is for voting purposes only and the Debtors reserve the right to object to any Proof of Claim.

If you have any questions about the procedure for voting your eligible Claim or with respect to the Solicitation Package that you have received, please contact the Voting Agent:

Harborwalk, L.P. Ballot Processing
c/o Bracewell & Giuliani LLP
711 Louisiana Street, Suite 2300
Houston, TX 77002
Attn: Marcy E. Kurtz
Telephone: 713-223-2300

IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR VOTE MUST BE ACTUALLY RECEIVED BY THE VOTING AGENT FOR THE DEBTORS ON OR BEFORE 3:00 P.M., PREVAILING CENTRAL TIME, ON AUGUST 12, 2010, AT THE ABOVE ADDRESS. EXCEPT TO THE EXTENT ALLOWED BY THE BANKRUPTCY COURT OR DETERMINED OTHERWISE BY THE DEBTORS, BALLOTS RECEIVED

AFTER THE PLAN VOTING DEADLINE WILL NOT BE ACCEPTED OR USED IN CONNECTION WITH THE DEBTORS' REQUEST FOR CONFIRMATION OF THE PLAN OR ANY MODIFICATION THEREOF.

ONLY BALLOTS WITH ORIGINAL SIGNATURES WILL BE COUNTED. BALLOTS WITH COPIED SIGNATURES WILL NOT BE ACCEPTED OR COUNTED. YOU MAY NOT SUBMIT A BALLOT ELECTRONICALLY, INCLUDING VIA EMAIL OR FACSIMILE. ONLY ORIGINAL BALLOTS (INCLUDING BALLOTS FORWARDED BY MASTER BALLOTING AGENTS) RECEIVED BY THE VOTING AGENT BY THE PLAN VOTING DEADLINE WILL BE COUNTED.

Section 5.03 Voting Tabulation

Under the Bankruptcy Code, for purposes of determining whether the requisite acceptances have been received, only Holders who actually vote will be counted. The failure of a Holder to deliver a duly executed Ballot will be deemed to constitute an abstention by such Holder with respect to voting on the Plan and such abstentions will not be counted as votes for or against the Plan.

Unless otherwise ordered by the Bankruptcy Court, Ballots that are signed, dated, and timely received, but on which a vote to accept or reject the Plan has not been indicated, will not be counted. The Debtors, in their sole discretion, may request that the Voting Agent attempt to contact such voters to cure any such defects in the Ballots.

Except as provided below, unless the applicable Ballot is timely submitted to the Voting Agent before the Plan Voting Deadline, together with any other documents required by such Ballot, the Debtors may, in their sole discretion, reject such Ballot as invalid and decline to utilize it in connection with seeking Confirmation of the Plan.

A vote may be disregarded if the Bankruptcy Court determines, pursuant to Bankruptcy Code section 1126(e), that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

If a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or another acting in a fiduciary or representative capacity, such Person should indicate such capacity when signing and, unless otherwise determined by the Debtors, must submit proper evidence satisfactory to the Debtors of authority to so act.

The period during which Ballots with respect to the Plan will be accepted by the Debtors will terminate on the Plan Voting Deadline. Except to the extent permitted by the Bankruptcy Court, Ballots that are received after the Plan Voting Deadline will not be counted or otherwise used by the Debtors in connection with the Debtors' request for Confirmation of the Plan (or any permitted modification thereof). **IN NO CASE SHOULD A BALLOT BE DELIVERED TO ANY ENTITY OTHER THAN THE VOTING AGENT.**

Section 5.04 Agreements upon Furnishing Ballots

The delivery of an accepting Ballot to the Voting Agent by a Holder pursuant to one of the procedures set forth above will constitute the agreement of such Holder to accept (i) all of the terms of, and conditions to, the solicitation and voting procedures and (ii) the terms of the Plan; provided, however, all parties in interest retain their right to object to Confirmation of the Plan pursuant to Bankruptcy Code section 1128.

ARTICLE VI**FEASIBILITY, BEST INTEREST OF THE CREDITORS
AND LIQUIDATION****Section 6.01 Feasibility of the Plan**

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successors to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan. The Plan proposed by the Debtors provides for the conveyance of certain assets to Compass, and a liquidation of the Debtors' remaining assets and a distribution of Cash to creditors in accordance with the priority scheme of the Bankruptcy Code and the terms of the Plan. The ability of the Reorganized Debtors to make the Distributions described in the Plan depends on the amount and timing of cash distributions the Reorganized Debtors receive on account of the HWLP Reimbursables. Although the value of the HWLP Reimbursables may not be fully realized for fifteen (15) or more years, the Debtors believe that the HWLP Reimbursables have sufficient value to pay all unsecured creditors in full. The Debtors believe that the Plan is feasible and meets the requirements of section 1129(a)(11) of the Bankruptcy Code.

Section 6.02 Best Interest of Creditors Test

Before the Plan may be confirmed, the Bankruptcy Court must find (with certain exceptions) that the Plan provides, with respect to each Class, that each Holder of a Claim or interest in such Class either: (a) has accepted the Plan; or (b) will receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the amount that such person would receive or retain if the Debtors liquidated under chapter 7 of the Bankruptcy Code. In chapter 7 liquidation cases, unsecured creditors and interest holders of a debtor are paid from available assets generally in the following order, with no junior Class receiving any payments until all amounts due to senior Classes have been paid fully or any such payment is provided for:

- Secured creditors (to the extent of the value of their collateral);
- Administrative and other priority creditors;
- Unsecured creditors;
- Debt expressly subordinated by its terms or by order of the Bankruptcy Court; and

- Interest holders.

As described in the liquidation discussion set forth in Section 9.01 hereof, the Debtors believe that the value of any distributions in a chapter 7 case would be less than the value of distributions under the Plan because, among other reasons, distributions in a chapter 7 case may not occur for a longer period of time, thereby reducing the present value of such distributions. In this regard, the distribution of the proceeds of a liquidation would be delayed until a chapter 7 trustee and its professionals became knowledgeable about the Chapter 11 Cases and the Claims against the Debtors. Specifically, while the Reorganized Debtors already have specialized knowledge that will allow them to maximize the recovery from the HWLP Reimbursables, any chapter 7 trustee would lack such specialized knowledge and would be required to invest significant time and resources in educating him/herself regarding the reimbursables, thereby minimizing the realizable value for creditors. In addition, proceeds received in a chapter 7 liquidation are likely to be significantly discounted due to the distressed nature of the sale, and the Debtors' estates would have to pay the fees and expenses of a chapter 7 trustee in addition to the Professionals' pre- conversion fees and expenses (thereby further reducing cash available for distribution).

ARTICLE VII

CONFIRMATION PROCEDURES

Section 7.01 The Confirmation Hearing

Bankruptcy Code section 1128(a) requires the Bankruptcy Court, after notice, to hold a Confirmation Hearing. Bankruptcy Code section 1128(b) provides that any party in interest may object to Confirmation of the Plan.

The Bankruptcy Court has scheduled the Confirmation Hearing for August 17, 2010, at 11:15 a.m., prevailing Central Time, before the Honorable Letitia Z. Paul, United States Bankruptcy Judge, Courtroom 401, United States Bankruptcy Court for the Southern District of Texas at the United States Courthouse, 515 Rusk Street, Houston, Texas 77002.

Objections to Confirmation of the Plan must be filed and served on the Debtors and the certain other parties by no later than August 12, 2010, at 3:00 p.m. prevailing Central Time, in accordance with the order approving a combined hearing on the Plan and Disclosure Statement (attached hereto as **Exhibit E**). THE BANKRUPTCY COURT MAY NOT CONSIDER OBJECTIONS TO CONFIRMATION OF THE PLAN IF ANY SUCH OBJECTIONS HAVE NOT BEEN TIMELY SERVED AND FILED IN COMPLIANCE WITH THE ORDER APPROVING THE DISCLOSURE STATEMENT.

The notice of the Confirmation Hearing will contain, among other things, the deadline to object to Confirmation of the Plan, the Plan Voting Deadline, and the date and time of the Confirmation Hearing.

Section 7.02 Statutory Requirements for Confirmation of the Plan

At the Confirmation Hearing, the Bankruptcy Court shall determine whether the requirements of Bankruptcy Code section 1129 have been satisfied. The Debtors believe that the Plan satisfies or will satisfy the applicable requirements, as follows:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors, as Plan proponent, will have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the case, has been disclosed to the Bankruptcy Court, and any such payment: (a) made before the Confirmation of the Plan is reasonable; or (b) is subject to the approval of the Bankruptcy Court as reasonable if it is to be fixed after the Confirmation of the Plan.
- The Debtors, as Plan proponent, have disclosed the identity and affiliations of any individual proposed to serve, after Confirmation of the Plan, as a director, officer, or voting trustee of the Debtors, an Affiliate of the Debtors participating in the Plan with the Debtors, or a successor to the Debtors under the Plan, and the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity security holders and with public policy.
- The Debtors, as Plan proponent, have disclosed the identity of any insider (as defined in Bankruptcy Code section 101) that will be employed or retained by the Reorganized Debtors, and the nature of any compensation for such insider.
- The Plan does not propose any rate change that is subject to approval by a governmental regulatory commission.
- Either each Holder of an Impaired Claim or Interest has accepted the Plan, or will receive or retain under the Plan on account of that Claim or Interest, property of a value, as of the Effective Date of the Plan, that is not less than the amount that the Holder would receive or retain if the Debtors were liquidated on that date under chapter 7 of the Bankruptcy Code.
- Each Class of Claims that is entitled to vote on the Plan has either accepted the Plan or is not Impaired under the Plan, or the Plan can be confirmed without the approval of each voting Class pursuant to Bankruptcy Code section 1129(b).
- Except to the extent that the Holder of a particular Claim will agree to a different treatment of its Claim, the Plan provides that Administrative Claims, Priority Tax

Claims and, Priority Non-Tax Claims will be paid in full, in Cash, on the Effective Date, or as soon thereafter as practicable.

- At least one Class of Impaired Claims will accept the Plan, determined without including any acceptance of the Plan by any insider holding a Claim of that Class.
- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successors thereto under the Plan unless such a liquidation or reorganization is proposed in the Plan.
- All fees of the type described in 28 U.S.C. § 1930, including the fees of the United States Trustee, will be paid as of the Effective Date.
- The Debtors have no retirement benefit obligations except for simple IRAs, and such plans are expected to be terminated.

The Debtors believe that: (a) the Plan satisfies or will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code; (b) the Debtors have complied or will have complied with all of the requirements of chapter 11; and (c) the Plan has been proposed in good faith.

(a) Acceptance by Impaired Classes

The Bankruptcy Code requires, as a condition to Confirmation, that, except as described in the following section, each Class of Claims or Equity Interests that is Impaired under the Plan accept the Plan. A class that is not impaired under a plan of reorganization is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. A class is Impaired unless the plan: (a) leaves unaltered the legal, equitable and contractual rights to which the claim or interest entitles the holder of that claim or equity interest; or (b) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest after the occurrence of a default—(1) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title or of a kind that section 365(b)(2) expressly does not require to be cured; (2) reinstates the maturity of such claim or interest as such maturity existed before such default; (3) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; and (4) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and (5) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest.

(b) Confirmation Without Acceptance by All Impaired Classes

Bankruptcy Code section 1129(b) allows a bankruptcy court to confirm a plan, even if an Impaired class entitled to vote on the plan has not accepted it, provided that the plan has been

accepted by at least one Impaired Class. No Classes are deemed to reject the Plan. However, the Debtors cannot guarantee that all Impaired Classes will accept the Plan. If any Impaired Class does not accept the Plan, the Debtors intend to seek confirmation of the Plan pursuant to Bankruptcy Code section 1129(b). Bankruptcy Code section 1129(b) states that, notwithstanding an Impaired class's failure to accept a plan of reorganization, the plan shall be confirmed, at the plan proponent's request, in a procedure commonly known as "cram down," so long as the plan does not "discriminate unfairly" and is "fair and equitable" with respect to each class of claims or equity interests that is Impaired under, and has not accepted, the plan.

The condition that a plan be "fair and equitable" with respect to a non-accepting class of secured creditors includes the following requirements that either: (a) the plan provides that holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims and that each holder of a claim of such class receive on account of such claims deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property; (b) the plan provides for the sale, subject to 363(k) of this title, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under (a) or (c) of this paragraph; or (c) the plan provides for the realization by such holders of the indubitable equivalent of such claims.

The condition that a plan be "fair and equitable" with respect to a non-accepting class of unsecured claims includes the following requirement that either: (a) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (b) the holder of any claim or equity interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or equity interest any property.

The Debtors reserves the right to alter, amend, modify, revoke or withdraw the Plan or any Exhibit or Schedule, including to amend or modify it to satisfy Bankruptcy Code section 1129(b), if necessary.

Section 7.03 Identity of Persons to Contact for More Information

Any interested party desiring further information about the Plan should contact the Voting Agent at the phone number and/or address listed in Section 5.02 of this Disclosure Statement.

ARTICLE VIII

CERTAIN RISK FACTORS AFFECTING CERTAIN OF THE DEBTORS

PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN, ALL HOLDERS OF IMPAIRED CLAIMS SHOULD READ AND CAREFULLY CONSIDER THE FACTORS SET FORTH BELOW, AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT. THESE FACTORS

SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

Section 8.01 Certain Bankruptcy Law Considerations

Although the Debtors believe that the Plan will satisfy all requirements necessary for Confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion. Moreover, there can be no assurance that modifications to the Plan will not be required for Confirmation or that such modifications would not necessitate the re-solicitation of votes. Although the Debtors believe that the Effective Date will occur soon after the Confirmation Date, there can be no assurance as to such timing. In the event the conditions precedent to Confirmation of the Plan have not been satisfied or waived (to the extent possible) by the Debtors or applicable party (as provided in the Plan) as of the Effective Date, then the Confirmation Order will be vacated, no distributions under the Plan will be made, and the Debtors and all Holders of Claims and Interests will be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though such Confirmation Date had never occurred.

ARTICLE IX

ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

If the Plan is not confirmed and consummated, the alternatives to the Plan include: (a) liquidation of the Debtors under chapter 7 of the Bankruptcy Code; and (b) an alternative plan of reorganization.

Section 9.01 Liquidation Under Chapter 7

If no plan can be confirmed, the Debtors' Chapter 11 Cases may be converted to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be appointed (or elected) to liquidate the Debtors' assets for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effects that a chapter 7 liquidation would have on the recoveries of Holders of Claims and Interests is set forth below. The Debtors believe that liquidation under chapter 7 would result in smaller distributions to creditors than those provided for in the Plan because of: (a) property, including primarily the HWLP Reimbursables, that is available for distribution to General Unsecured Creditors under chapter 11 would likely not be available to General Unsecured Creditors under chapter 7 because such property would, absent the settlement with Compass under the Plan, be delivered to Compass to satisfy Compass' secured claim; (b) the likelihood that the assets of the Debtors would have to be sold or otherwise disposed of in a less orderly fashion over a shorter period of time with a less knowledgeable trustee in charge of such disposition; and (c) additional administrative expenses involved in the appointment of a trustee.

Specifically, the Debtors' costs of liquidation under chapter 7 of the Bankruptcy Code would include the fees payable to a chapter 7 trustee, as well as those fees that might be payable to attorneys and other Professionals that such a trustee might engage.

With respect to the property available for distribution under either chapter 7 or chapter 11, the Debtors acknowledge that other than the Available Cash, which will likely only be sufficient to cover Allowed Administrative Claims, the only property available for distribution to the Holders of General Unsecured Claims is (a) the HWLP Reimbursables; and (b) proceeds from any of the Debtors' litigation claims. Under chapter 7, absent successful prosecution of the Compass Lawsuit, it is very likely that a significant portion (potentially all) of the HWLP Reimbursables would have to be paid to Compass on account of its Secured Claim, thereby leaving little or no assets available for distribution to General Unsecured Creditors. However, under the Plan, and pursuant to the settlement with Compass, likely only a portion of the HWLP Reimbursables will be used to pay Compass on account of its Secured Claim. The Debtors therefore believe that General Unsecured Creditors are much more likely to receive larger distributions under the Plan than they would receive under chapter 7. Although the Debtors would retain their claims against Compass under chapter 7, including any claims asserted in the Compass Lawsuit (*see* Section 2.03(a) above), the Debtors believe that the Plan and its settlement of those claims maximizes value for all Creditors and Interest Holders in light of the uncertainties and costs associated with the Debtors pursuing such litigation.

To determine if the Plan is in the best interests of each Impaired Class, the value of the distributions from the proceeds of a liquidation of the Debtors' unencumbered assets and properties, after subtracting the amounts attributable to the foregoing claims, are then compared with the value of the property offered to such Classes of Claims and Interests under the Plan.

After considering the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to the Holders of Claims and Interests in the Chapter 11 Cases, including (i) the reduction in property available for distribution to General Unsecured Creditors; (ii) the increased costs and expenses of a liquidation under chapter 7 of the Bankruptcy Code arising from fees payable to a trustee in bankruptcy and professional advisors to such trustee; and (iii) the likely erosion in value of assets in a chapter 7 case in the context of an expeditious liquidation and the "forced sale" atmosphere that would prevail under a chapter 7 liquidation, the Debtors have determined that Confirmation of the Plan will provide each holder of an Allowed Claim or Interest with a recovery that is not less than such holder would receive pursuant to a liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

The Debtors' Liquidation Analysis is attached hereto as **Exhibit D**. The information set forth in Exhibit D provides a summary of the liquidation values of the Debtors' assets, assuming a chapter 7 liquidation in which a trustee appointed by the Bankruptcy Court would liquidate the assets of the Debtors' estates. The liquidation analysis was prepared by the Debtors.

Underlying the liquidation analysis are a number of estimates and assumptions that, although developed and considered reasonable by management, are inherently subject to significant economic and competitive uncertainties and contingencies beyond the control of the Debtors and their management. The liquidation analysis is also based on assumptions with regard to liquidation decisions that are subject to change. Accordingly, the values reflected might not be realized if the Debtors were, in fact, to undergo such a liquidation. The chapter 7 liquidation period is assumed to be a period of six (6) months, allowing for, among other things, the (i) discontinuation of the Debtors' operations, (ii) sale of assets, and (iii) collection of receivables.

Section 9.02 Alternative Plan of Reorganization

If the Plan is not confirmed, the Bankruptcy Court could confirm a different plan. A different plan might involve either a reorganization and continuation of the Debtors' businesses or an orderly liquidation of the Debtors' assets, or some combination of the two. The Debtors believe that the Plan, as described herein, enables Holders of Claims and Interests to realize the highest and best value under the circumstances. The Debtors believe that any alternative form of chapter 11 plan is a much less attractive alternative to creditors than the Plan because of the far greater returns and certainty provided by the Plan. Other alternatives could involve diminished recoveries, significant delay, uncertainty, and substantial additional administrative costs.

ARTICLE X

EXECUTORY CONTRACTS, UNEXPIRED LEASES, AND OTHER AGREEMENTS

Section 10.01 Assumption/Rejection

On the Effective Date, and to the extent permitted by applicable law, all of the Debtors' executory contracts and unexpired leases will be rejected unless such executory contract or unexpired lease: (a) is being assumed pursuant to the Plan; (b) is the subject of a motion to assume Filed on or before the Confirmation Date; or (c) has been previously rejected or assumed.

The Debtors will File, as part of the Plan Supplement, a list of executory contracts and unexpired leases, if any, that will be assumed by the Reorganized Debtors and/or assumed by the Reorganized Debtors and assigned to Compass. The entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of any such assumptions and/or assumptions and assignments pursuant to sections 365 and 1123 of the Bankruptcy Code.

HMOC intends to reject its concession agreement with Watkins Hospitality, LLC, a non-debtor entity which owns the liquor license that permits the sale of alcohol on the Property. To facilitate a smooth transition of Property ownership, Watkins Hospitality, LLC has agreed to enter into a new concession agreement with Compass, the new owner of the Property, until the earlier of (i) December 31, 2010; and (ii) the date Compass or any new management company hired by Compass to manage the Property, applies for, and obtains, a liquor license.

Section 10.02 Cure Amounts

The Debtors will File, as part of the Plan Supplement, a list of executory contracts and unexpired leases, if any, that will be assumed by the Reorganized Debtors and/or assumed and assigned to Compass. The foregoing list will include the cure amount for each executory contract or unexpired lease, if any, that will be assumed. Any party taking exception to the proposed Cure Costs shall File a detailed statement setting forth its reason and the Bankruptcy Court shall determine the proper amount of the Cure Costs at the Confirmation Hearing. Compass shall pay any Cure Costs associated with contracts that are assumed by the Debtors and assigned to Compass.

Section 10.03 Assumed Executory Contracts and Unexpired Leases

Each executory contract and unexpired lease that is assumed will include (a) all amendments, modifications, supplements, restatements, or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affect such executory contract or unexpired lease; and (b) with respect to any executory contract or unexpired lease that relates to the use, ability to acquire, or occupancy of real property, all executory contracts or unexpired leases and other rights appurtenant to the property, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, powers, uses, usufructs, reciprocal easement agreements, vaults, tunnel or bridge agreements or franchises, and any other equity interests in real estate or rights in rem related to such premises, unless any of the foregoing agreements have been rejected pursuant to an order of the Bankruptcy Court or are the subject of a motion to reject Filed on or before the Confirmation Date.

Amendments, modifications, supplements, and restatements to prepetition executory contracts and unexpired leases that have been executed by the Debtors during their Chapter 11 Cases shall not be deemed to alter the prepetition nature of the executory contract or unexpired lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

Section 10.04 Insurance Policies

All insurance policies pursuant to which the Debtors have any obligations in effect as of the date of the Confirmation Order shall be deemed and treated as executory contracts pursuant to the Plan and shall be rejected by the Reorganized Debtors unless expressly assumed as part of the Plan Supplement.¹⁸

Section 10.05 Pass-through

Except as otherwise provided in the Plan, any rights or arrangements necessary or useful to the administration of the Reorganized Debtors but not otherwise addressed as a Claim or Interest, and other executory contracts not assumable under Bankruptcy Code section 365(c), shall, in the absence of any other treatment under the Plan or Confirmation Order, be passed through the Chapter 11 Cases for the benefit of the Reorganized Debtors and the counterparty unaltered and unaffected by the bankruptcy Filings or Chapter 11 Cases.

Section 10.06 Claims Based on Rejection of Executory Contracts and Unexpired Leases

Unless otherwise provided by a Bankruptcy Court order, any proofs of Claim asserting Claims arising from the rejection of the Debtors' executory contracts and unexpired leases pursuant to the Plan or otherwise must be Filed no later than thirty (30) days after the later of the Effective Date or the effective date of rejection. Any proofs of Claim arising from the rejection of the Debtors' executory contracts or unexpired leases that are not timely Filed shall be

¹⁸ To the extent the insurance policies run with, or are related to, the Real Property conveyed to Compass in accordance with Section 4.03, such policies may be assigned to Compass, and such assignment, if it occurs, will be noticed in accordance with Section 10.01.

disallowed automatically, forever barred from assertion, and shall not be enforceable against any Debtor or any Reorganized Debtor without the need for any objection by any Person or further notice to or action, order, or approval of the Bankruptcy Court, and any Claim arising out of the rejection of the executory contract or unexpired lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtors' executory contracts and unexpired leases shall be classified as General Unsecured Claims for the particular Debtor in question and shall be treated in accordance with the particular provisions of the Plan for such Debtor; provided however, if the Holder of an Allowed Claim for rejection damages has an unavoidable security interest in any Collateral to secure obligations under such rejected executory contract or unexpired lease, the Allowed Claim for rejection damages shall be treated as an Other Secured Claim to the extent of the value of such Holder's interest in the Collateral, with the deficiency, if any, treated as a General Unsecured Claim.

Section 10.07 Reservation of Rights

Nothing contained in the Plan shall constitute an admission by the Debtors or Reorganized Debtors that any such contract or lease is in fact an executory contract or unexpired lease or that any Debtor or Reorganized Debtor has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors or the Reorganized Debtors, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

Nothing in this Disclosure Statement shall constitute an admission by any Creditor.

Section 10.08 Nonoccurrence of Effective Date

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request by the Debtors to extend the deadline for assuming or rejecting unexpired leases pursuant to Bankruptcy Code section 365(d)(4).

ARTICLE XI

PROVISIONS GOVERNING DISTRIBUTIONS

Section 11.01 Distribution Procedures

Any payments or distributions to be made by the Reorganized Debtors to Claimants as required by the Plan shall be made only to the holders of Allowed Claims and Interests. Any payments or distributions to be made by the Reorganized Debtors pursuant to the Plan shall be made on or about the Effective Date of such Plan, or as soon thereafter as practicable, except as otherwise provided for in the Plan. Any payment, delivery or distribution by the Reorganized Debtors pursuant to the Plan, to the extent delivered by the United States mail, shall be deemed made when deposited by the Reorganized Debtors into the United States mail. Distributions or deliveries required to be made by the Plan on a particular date shall be deemed to have been made on such date if actually made on such date or as soon thereafter as practicable taking into account the need to establish reserves and account for Disputed Claims. No payments or other

distributions of property shall be made on account of any Claim or Interest or portion thereof unless and until such Claim or Interest or portion thereof is allowed. The Reorganized Debtors, in their discretion, may establish reserves for Disputed Claims, and defer or delay distributions to ensure an equitable and ratable distribution to holders of Allowed Claims and Interests, in accordance with the terms of the Plan. The Reorganized Debtors and the Governors will make no distributions upon a Claim held by a party against whom a Reorganized Debtor or the Governors asserts any avoidance action until resolution of the avoidance action by settlement or judgment or as otherwise provided by Bankruptcy Court order. Avoidance actions are retained as property of the Reorganized Debtors under the Plan and such actions may be pursued solely by the Debtors or, after the Effective Date, the Reorganized Debtors.

Section 11.02 Delivery of Distributions to Holders of Allowed Claims

Subject to Bankruptcy Rule 9010, distributions to Holders of Allowed Claims will be made at the address of each such holder as set forth on the proofs of claim filed by such holders, or at the last known address of such holder if no proof of claim is filed, unless the holder of the Allowed Claim has otherwise notified the Debtor/Reorganized Debtor in writing of a change of address. If any Holder's distribution is returned as undeliverable, no further distributions to such Holder will be made unless and until the Debtor/Reorganized Debtor is notified in writing of such Holder's then current address.

Section 11.03 Delivery of Distributions to Holders of Allowed Interests

Distributions to Holders of Allowed Interests, to the extent they are entitled to distributions under the Plan, will be made at the address of the holder of each Allowed Interest as set forth in the relevant books and records of each Debtor.

Section 11.04 Method of Cash Distributions

Any Cash payment to be made pursuant to the Plan may be made by Cash, draft, check, wire transfer, or as otherwise required or provided in any relevant agreement or applicable law at the option of and in the sole discretion of the Reorganized Debtor.

Section 11.05 Failure to Negotiate Checks

Checks issued in respect of distributions under the Plan shall be null and void if not negotiated within sixty (60) days after the date of issuance. The Reorganized Debtors shall hold any amounts returned in respect of such non-negotiated checks. The Holder of an Allowed Claim or Interest with respect to which such check originally was issued shall make requests for reissuance for any such check directly to the Reorganized Debtors. All amounts represented by any voided check will be held until the later of one (1) year after (x) the Effective Date or (y) the date that a particular Claim or Interest is Allowed, and all requests for reissuance by the Holder of the Allowed Claim or Interest in respect of a voided check are required to be made prior to such date. Thereafter, all such amounts shall be deemed to be "Unclaimed Property," and all Claims or Interests in respect of void checks and the underlying distributions shall be forever barred, estopped and enjoined from assertion in any manner against the Reorganized Debtors.

Section 11.06 Compliance with Tax Requirements

In connection with each distribution with respect to which the filing of an information return (such as an Internal Revenue Service Form 1099 or 1042) or withholding is required, the Reorganized Debtors shall file such information return with the Internal Revenue Service and provide any required statements in connection therewith to the recipients of such distribution or effect any such withholding and deposit all moneys so withheld as required by law. With respect to any Person from whom a tax identification number, certified tax identification number or other tax information required by law to avoid withholding has not been received by the Reorganized Debtors within thirty (30) days from the date of such request, the Reorganized Debtors may, at their option, withhold the amount required and distribute the balance to such Person or decline to make such distribution until the information is received.

Section 11.07 De Minimis Distributions

No Cash payment of less than five (\$5.00) dollars shall be made to the Holder of any Claim or Interest on account of its Allowed Claim or Interest

Section 11.08 Setoffs

Except for any Claim that is Allowed in an amount set forth in the Plan, the Debtors or the Reorganized Debtors may, but shall not be required to, set off against any Claims and the payments or distributions to be made pursuant to the Plan in respect of such Claims, any and all debts, liabilities and claims of every type and nature whatsoever that the Estate or a Debtor may have against the Holder of any Claim, but neither the failure to do so nor the Allowance of any such Claims, whether pursuant to the Plan or otherwise, shall constitute a waiver or release by any Debtor of any such claims the Debtor may have against such Holder of any Claim, and all such claims shall be reserved for and retained by the Reorganized Debtors

Section 11.09 Distribution Record Date

As of the date on which the Bankruptcy Court enters its order approving the Disclosure Statement (the "Distribution Record Date"), all transfer ledgers, transfer books, registers and any other records maintained by the designated transfer agents with respect to ownership of any Claims or Interest will be closed and, for purposes of the Plan, there shall be no further changes in the record holders of such Claims or Interests. The Reorganized Debtors shall have no obligation to recognize the transfer of any Claims or Interests occurring after the Distribution Record Date, and will be entitled for all purposes to recognize and deal only with the Holder of any Claim or Interest as of the close of business on the Distribution Record Date, as reflected on such ledgers, books, registers or records.

ARTICLE XII

PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT, AND UNLIQUIDATED CLAIMS

Section 12.01 Objections to Claims

(a) Authority

The Debtors or the Reorganized Debtors, as applicable, shall have the exclusive authority to File objections to Claims, and to withdraw any objections to such Claims that they File. The Debtors or the Reorganized Debtors, as applicable, shall have the exclusive authority to settle, compromise, or litigate to judgment any objections to such Claims. The Debtors or the Reorganized Debtors, as applicable, shall have the exclusive authority to File, settle, compromise, withdraw, or litigate to judgment any objections to other Claims. From and after the Effective Date, the Reorganized Debtors may settle or compromise any Disputed Claim without approval of the Bankruptcy Court. The Reorganized Debtors also shall have the right to resolve any Disputed Claim outside the Bankruptcy Court under applicable governing law.

(b) Objection Deadline

As soon as practicable, but no later than the Claims Objection Deadline, the Reorganized Debtors may File objections with the Bankruptcy Court and serve such objections on the Creditors holding the Claims to which such objections are made. Nothing contained herein, however, shall limit the right of the Reorganized Debtors to object to Claims, if any, Filed or amended after the Claims Objection Deadline. The Claims Objection Deadline may be extended by the Bankruptcy Court upon motion by the applicable Debtor or the Reorganized Debtors, without notice or hearing.

For the avoidance of doubt, no Claim is or shall be deemed Allowed until the later of the Claims Objection Deadline or the expiration of some other applicable period of limitation fixed by the Bankruptcy Code, Bankruptcy Rules, or Bankruptcy Court, unless otherwise ordered by a Final Order of the Bankruptcy Court.

Section 12.02 Disallowance of Late Filed Proofs of Claim

Except as otherwise agreed, any and all Proofs of Claim Filed after the Bar Date shall be deemed Disallowed and expunged as of the Effective Date without any further notice or action, order or approval of the Bankruptcy Court, and Holders of such Claims may not receive distributions on account of such Claims, unless on or before the Confirmation Hearing the Bankruptcy Court has entered an order deeming such Claim to be timely filed.

Section 12.03 Estimation of Claims

The Reorganized Debtors may at any time request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Bankruptcy Code section 502(c), regardless of whether the Reorganized Debtors or any Debtor has previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation

concerning any objection to any Claim, including during the pendency of any appeal related to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Reorganized Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned objection, estimation and resolution procedures are cumulative and are not necessarily exclusive of one another.

Section 12.04 No Distributions Pending Allowance

Notwithstanding any other provision of the Plan, no payments or distributions shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim, or some portion thereof, has become an Allowed Claim.

Section 12.05 Distributions After Allowance

The Reorganized Debtors shall make payments and distributions from a distribution reserve to each Holder of a Disputed Claim that has become an Allowed Claim in accordance with the provisions of the Plan governing the class of Claims to which such Holder belongs. As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court allowing all or part of any Disputed Claim becomes a Final Order, the Reorganized Debtors shall distribute to the Holder of such Claim the distribution (if any) that would have been made to such Holder on the Distribution Date had such Allowed Claim been allowed on the Distribution Date. After a Disputed Claim is Allowed or otherwise resolved, the excess Cash or other property that was reserved on account of such Disputed Claim, if any, shall become property of the Reorganized Debtors for the benefit of other Allowed Claims of the Class or Classes for which the distribution reserve was created.

Section 12.06 Reduction of Claims

Notwithstanding the contents of the Schedules, Claims listed therein as undisputed, liquidated and not contingent shall be reduced by the amount, if any, that was paid by the Debtors prior to the Effective Date, including pursuant to orders of the Bankruptcy Court. To the extent such payments are not reflected in the Schedules, such Schedules will be deemed amended and reduced to reflect that such payments were made. Nothing in the Plan shall preclude the Reorganized Debtors from paying Claims that the Debtors or Reorganized Debtors were authorized to pay pursuant to any Final Order entered by the Bankruptcy Court prior to the Effective Date.

Section 12.07 Compliance with Tax Requirements/Allocations

In connection with the Plan, to the extent applicable, the Reorganized Debtors shall comply with all tax withholding and reporting requirements imposed on it by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtors shall be authorized to take all actions necessary or appropriate to comply with such

withholding and reporting requirements, including liquidating a portion of a distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes with respect to such distribution, withholding distributions pending receipt of information necessary to facilitate such distribution, or establishing any other mechanisms it believes are reasonable and appropriate. The Reorganized Debtors reserve the right to use income from the HWLP Reimbursables to satisfy the Debtors' and/or the Debtors' Related Parties' tax obligations arising in any way from the HWLP Reimbursables. The Reorganized Debtors also reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens and encumbrances.

ARTICLE XIII

CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

Section 13.01 Conditions Precedent to Confirmation

The following are conditions precedent to the occurrence of Confirmation, each of which must be satisfied or waived in accordance with Section 13.04 below:

(a) The Bankruptcy Court shall have entered an order, in form and substance reasonably acceptable to the Debtors, approving the adequacy of the Disclosure Statement, and such order shall have become a Final Order.

(b) The Confirmation Order approving and confirming the Plan, as such Plan may have been modified, amended or supplemented, shall (i) be in form and substance reasonably acceptable to the Debtors; and (ii) include a finding of fact that the Debtors, and their respective present and former members, officers, directors, managers, employees, advisors, attorneys and agents, acted in good faith within the meaning of and with respect to all of the actions described in Bankruptcy Code section 1125(e) and are therefore not liable for the violation of any applicable law, rule, or regulation governing such actions.

Section 13.02 Conditions Precedent to Effective Date

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in accordance with Section 13.04 below:

The following are condition precedent to the occurrence of the Effective Date, which must be satisfied or waived in accordance with Section 8.04 below:

The Confirmation Order shall have been entered in form and substance reasonably acceptable to the Debtors, and such order shall have become a Final Order.

Section 13.03 Substantial Consummation

On the Effective Date, the Plan shall be deemed to be substantially consummated under Bankruptcy Code sections 1101 and 1127(b).

Section 13.04 Waiver of Conditions

Each of the conditions set forth in Section 13.01 and Section 13.02 hereof may be waived in whole or in part by the Debtors. The failure to satisfy or waive any condition to Confirmation or the Effective Date may be asserted by the Debtors regardless of the circumstances giving rise to the failure of such condition to be satisfied.

Section 13.05 Revocation, Withdrawal, or Non-consummation

The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to File subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation of the Plan does not occur, then (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Class of Claims) unless otherwise agreed to by the Debtors and any counterparty to such settlement or compromise, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (iii) nothing contained in the Plan, and no acts taken in preparation for Consummation of the Plan, shall (a) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors or any other Person, (b) prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or (c) constitute an admission of any sort by the Debtors or any other Person.

ARTICLE XIV**AMENDMENTS AND MODIFICATIONS**

The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to File subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation of the Plan does not occur, then (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Class of Claims) unless otherwise agreed to by the Debtors and any counterparty to such settlement or compromise, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (iii) nothing contained in the Plan, and no acts taken in preparation for Consummation of the Plan, shall (a) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors or any other Person, (b) prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or (c) constitute an admission of any sort by the Debtors or any other Person.

ARTICLE XV**RETENTION OF JURISDICTION**

Under Bankruptcy Code sections 105(a) and 1142, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

- (A) Allow, disallow, determine, liquidate, classify, estimate or establish the priority or Secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the Secured or unsecured status, priority, amount or allowance of Claims or Interests;
- (B) Hear and determine all applications for compensation and reimbursement of expenses of Professionals under Bankruptcy Code sections 327, 328, 330, 331, 503(b), 1103 or 1129(a)(4); provided, however, that from and after the Effective Date, the payment of fees and expenses of professionals retained by the Debtors shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;
- (C) Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which one or more of the Debtors are parties or with respect to which one or more of the Debtors may be liable, including, if necessary, the nature or amount of any required cure or the liquidating of any claims arising therefrom;
- (D) Hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Cases;
- (E) Enter and enforce such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;
- (F) Hear and determine disputes arising in connection with the interpretation, implementation, Consummation, or enforcement of the Plan, including disputes arising under agreements, documents or instruments executed in connection with the Plan;
- (G) Consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- (H) Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with implementation, Consummation, or enforcement of the Plan or the Confirmation Order;
- (I) Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;
- (J) Hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any other contract,

instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

- (K) Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases or pursuant to the Plan;
- (L) Recover all assets of the Debtors and property of the Estates, wherever located;
- (M) Hear and determine matters concerning state, local, and federal taxes in accordance with Bankruptcy Code sections 346, 505, and 1146;
- (N) Hear and determine all disputes involving the existence, nature, or scope of Debtors' discharge or any releases granted in the Plan;
- (O) Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code;
- (P) Enter an order or final decree concluding or closing the Chapter 11 Cases; and
- (Q) Enforce all orders previously entered by the Bankruptcy Court.

ARTICLE XVI

COMPROMISES AND SETTLEMENTS

Pursuant to Bankruptcy Code section 363 and Bankruptcy Rule 9019, and in consideration for the classification, distribution and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims, Interests and controversies resolved pursuant to the Plan, including, without limitation, all Claims arising prior to the Petition Date, whether known or unknown, foreseen or unforeseen, asserted or unasserted, arising out of, relating to or in connection with the business or affairs of, or transactions with, the Debtors. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the foregoing compromises or settlements, and all other compromises and settlements provided for in the Plan, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtors, the Estates, Creditors and other parties in interest, and are fair, equitable and within the range of reasonableness.

ARTICLE XVII

MISCELLANEOUS PROVISIONS

Section 17.01 Bar Dates for Certain Actions

(a) Administrative Claims; Substantial Contribution Claims

The Confirmation Order will establish a Bar Date for Filing of all Administrative Claims, including substantial contribution claims (but not including Professional Fee Claims and Administrative Claims in section (b) or (c) below), which date will be forty-five (45) days after the Effective Date (the "Administrative Claims Bar Date"). Holders of asserted Administrative Claims, other than Professional Fee Claims, claims for U.S. Trustee fees under 28 U.S.C. §1930, administrative tax claims and administrative ordinary case liabilities described in section (b) below, must submit proofs of Administrative Claim on or before such Administrative Claims Bar Date or forever be barred from doing so. A notice prepared by the Debtors will set forth such date and constitute notice of this Administrative Claims Bar Date. The Reorganized Debtors shall have forty-five (45) days (or such longer period as may be allowed by order of the Bankruptcy Court) following the Administrative Claims Bar Date to review and object to such Administrative Claims before a hearing for determination of allowance of such Administrative Claims.

(b) Administrative Ordinary Course Liabilities

Holders of Administrative Claims that are based on liabilities incurred and paid by any Debtor in the ordinary course of the applicable Debtor's business (other than Claims of governmental units for taxes and for interest and/or penalties related to such taxes) on and after the Petition Date shall not be required to File any request for payment of such Administrative Claims. For the avoidance of doubt, Holders of Administrative Claims pursuant to Bankruptcy Code section 503(b)(9) shall be required to File a proof of Administrative Claim on or before the Administrative Claims Bar Date.

(c) Administrative Tax Claims

All requests for payment of Administrative Claims by a governmental unit for taxes (and for interest and/or penalties related to such taxes) for any tax year or period, all or any portion of which occurs or falls within the period from and including the Petition Date through and including the Effective Date, and for which no Bar Date has otherwise been previously established, must be Filed and served on the Debtors or Reorganized Debtors and any other party specifically requesting a copy in writing on or before the later of (a) thirty (30) days following the Effective Date; and (b) one hundred and twenty (120) days following the Filing of the tax return for such taxes for such tax year or period with the applicable governmental unit. Any Holder of any such Claim that is required to File a request for payment of such taxes and does not File and properly serve such a claim by the applicable Bar Date shall be forever barred from asserting any such claim against the Debtors, the Reorganized Debtors or their property, regardless of whether any such Claim is deemed to arise prior to, on, or subsequent to the Effective Date. Any interested party desiring to object to an Administrative Claim for taxes must

File and serve its objection on counsel to the Debtors and the relevant taxing authority no later than ninety (90) days after the taxing authority Files and serves its application.

(d) Professional Fee Claims

All final requests for compensation or reimbursement of professional fees pursuant to Bankruptcy Code sections 327, 328, 330, 331, 363, 503(b) or 1103 for services rendered to or on behalf of the applicable Debtors prior to the Effective Date (other than substantial contribution claims under Bankruptcy Code section 503(b)(4)) must be Filed and served on the Reorganized Debtors and their counsel no later than forty-five (45) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such Professionals or other entities for compensation or reimbursement of expenses must be Filed and served on the Debtors and their counsel and the requesting Professional or other entity no later than forty-five (45) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable application for compensation or reimbursement was served.

Section 17.02 Payment of Statutory Fees

The Debtors or Reorganized Debtors shall be responsible for timely payment of United States Trustee quarterly fees incurred pursuant section 1930 of title 28 of the United States Code. Any fees due as of the date of Confirmation of the Plan will be paid in full on the Effective Date. After Confirmation, the Debtors or Reorganized Debtors shall pay United States Trustee quarterly fees as they accrue until these Chapter 11 Cases are closed by the Bankruptcy Court. The Debtors or Reorganized Debtors shall file with the Bankruptcy Court and serve on the United States Trustee a quarterly financial report for each quarter (or portion thereof) that the Chapter 11 Cases remain open in a format prescribed by the United States Trustee.

Section 17.03 Severability of Plan Provisions

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

Section 17.04 Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in the Plan, including any Holder of a Claim, shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

Section 17.05 Exculpation

The Released Parties SHALL NOT BE LIABLE TO ANY PERSON FOR ANY cause of action, arising on or after the Petition Date, in connection with or out of the administration of the Chapter 11 Cases, the formulation, negotiation or implementation of the Plan, the solicitation of acceptances of the Plan, pursuit of Confirmation of the Plan, the Consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for gross negligence or willful misconduct as determined by a Final Order of the Bankruptcy Court. All Holders of Claims and Interests are enjoined from asserting or prosecuting any Claim or cause of action against any Released Party as to which such Released Party has been exculpated from liability pursuant to the preceding sentence or any other order of this Court.

Section 17.06 Indemnification

The Reorganized Debtors shall indemnify each Person identified as a Released Party against any and all costs and expenses (including attorneys' fees) incurred by any of them in defending against post-Confirmation Date claims that are based on actions allegedly taken (or not taken) by them in their respective capacities for which they are exculpated under Section 17.05; provided, however, that no Released Party shall be entitled to indemnification under this Plan for the costs and expenses of defending a cause of action in which it is ultimately judicially determined that such Released Party was grossly negligent or acted fraudulently or with willful misconduct in performing such Released Party's duties hereunder or under any Final Order of the Bankruptcy Court or applicable law. Any Released Party entitled to indemnification under this section shall have a priority distribution right that is senior to the holders of Allowed Claims in every classified Class. The Reorganized Debtors may use the Reorganization Assets (as an expense of consummating this Plan) to purchase indemnification insurance to satisfy any potential indemnification claims.

Section 17.07 Discharge of Liabilities

Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan or the Confirmation Order, the distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of all Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtors prior to the Effective Date and that arise from a termination of employment or a termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (a) a Proof of Claim or Interest based upon such debt, right, Claim, or Interest is Filed or deemed Filed pursuant to section 501 of the

Bankruptcy Code; (b) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (c) the Holder of such a Claim or Interest has accepted the Plan. Subject to the terms of the Plan and the Confirmation Order, any default by the Debtors with respect to any Claim or Interest that existed immediately prior to or on account of the Filing of the Chapter 11 Cases shall be deemed satisfied on the Effective Date. Subject to the terms of the Plan, the Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the Effective Date occurring. Subject to the terms of the Plan, the Confirmation Order shall be a judicial determination of discharge of all liabilities of the Debtors, their Estates and all successors thereto. As provided in section 524 of the Bankruptcy Code, subject to the terms of the Plan, such discharge shall void any judgment against the Debtors, their Estates, or any successors thereto at any time obtained to the extent it relates to a Claim or Interest discharged, and operates as an injunction against the prosecution of any action against the Reorganized Debtors or their respective property and assets to the extent it relates to a discharged Claim or Interest.

Section 17.08 Permanent Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, all Persons who have held, hold or may hold Claims against, or Interests in, the Debtors are permanently enjoined, on and after the Effective Date, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, from (a) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Interest; (b) the enforcement, attachment, collection, or recovery by any manner or means of judgment, award, decree or order against any Released Party on account of any such Claim or Interest; (c) creating, perfecting, or enforcing any encumbrance of any kind against any Released Party or against the property or interests in property of such Released Party on account of any such Claim or Interest; and (d) asserting any right of setoff, recoupment or subrogation of any kind against any obligation due from any Released Party or against the property or interests in property of any Released Party on account of any such Claim or Interest. The foregoing injunction will extend to successors of any Released Party and their respective property and interests in the property.

Section 17.09 Bankruptcy Rule 3016 Compliance

The Debtors' compliance with the formal requirements of Bankruptcy Rule 3016(c) shall not constitute an admission that the Plan provides for an injunction against conduct not otherwise enjoined under the Bankruptcy Code.

Section 17.10 Term of Injunctions or Stay

Unless otherwise provided in the Plan or Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under Bankruptcy Code sections 105 or 362 or otherwise, and in existence on the Confirmation Date (excluding any injunctions or stays contained in the Plan or Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or Confirmation Order shall remain in full force and effect in accordance with their terms.

Section 17.11 Integral to Plan

Each of the injunctions provided in the Plan is an integral part of the Plan and is essential to its implementation. Each of the Released Parties and any other Persons protected by the injunctions set forth in this Plan shall have the right to independently seek the enforcement of such injunctions.

Section 17.12 Preservation of Rights of Action; Settlement

Except to the extent such rights, claims, causes of action, defenses, and counterclaims are otherwise dealt with in the Plan or are expressly and specifically released in connection with the Plan, the Confirmation Order or in any settlement agreement approved during the Chapter 11 Cases, or otherwise provided in the Confirmation Order or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, in accordance with Bankruptcy Code section 1123(b): (1) any and all rights, claims, causes of action (including Avoidance Actions), defenses, and counterclaims of or accruing to the Debtors or their Estates shall become assets of and vest in the Reorganized Debtors, whether or not litigation relating thereto is pending on the Effective Date, and whether or not any such rights, claims, causes of action, defenses and counterclaims have been listed or referred to in the Plan, the Schedules, or any other document Filed with the Bankruptcy Court; and (2) the Reorganized Debtors do not waive, relinquish, or abandon (nor shall it be estopped or otherwise precluded from asserting) any right, claim, cause of action, defense, or counterclaim that constitutes property of the Estates: (a) whether or not such right, claim, cause of action, defense, or counterclaim has been listed or referred to in the Plan or the Schedules, or any other document Filed with the Bankruptcy Court; (b) whether or not such right, claim, cause of action, defense, or counterclaim is currently known to the Reorganized Debtors; and (c) whether or not a defendant in any litigation relating to such right, claim, cause of action, defense or counterclaim Filed a Proof of Claim in the Chapter 11 Cases, Filed a notice of appearance or any other pleading or notice in the Chapter 11 Cases, voted for or against the Plan, or received or retained any consideration under the Plan. Without in any manner limiting the generality of the foregoing, notwithstanding any otherwise applicable principle of law or equity, without limitation, any principles of judicial estoppel, *res judicata*, collateral estoppel, issue preclusion, or any similar doctrine, the failure to list, disclose, describe, identify, or refer to a right, claim, cause of action, defense, or counterclaim, or potential right, claim, cause of action, defense, or counterclaim, in the Plan, the Schedules, or any other document Filed with the Bankruptcy Court shall in no manner waive, eliminate, modify, release, or alter the Debtors' right to commence, prosecute, defend against, settle, and realize upon any rights, claims, causes of action, defenses, or counterclaims that the Reorganized Debtors have, or may have, as of the Effective Date.

The Reorganized Debtors and the Governors explicitly reserve any and all claims and rights against any and all third parties, regardless of when such claims arose, including, without limitation, any and all Causes of Action and/or claims for relief the Debtors or the Reorganized Debtors may have against W.T. Byler Company, L.P., Bandy & Associates, S.S. Bandy, Ph. D., P.E., and LJA Engineering & Surveying, Inc. The entry of the Confirmation Order shall not constitute *res judicata* or otherwise bar, estop or inhibit

any actions by the Debtors or the Reorganized Debtors relating to any claims or Causes of Action referred to in this Section, or otherwise. The Governors shall constitute the representatives for the Reorganized Debtors and their Estates for purposes of retaining, asserting and/or enforcing actions under § 1123(b)(3)(B) of the Bankruptcy Code. On the Effective Date, the Reorganized Debtors shall be substituted as a party of record in all pending litigation brought by or against the Debtors without need for further order of the Bankruptcy Court. The claims and rights against parties listed in this paragraph and preserved in the Disclosure Statement, the Plan and any Confirmation Order are not limited to claims and rights arising under the Bankruptcy Code, but also include claims and rights arising under any other applicable law, whether international or domestic, state or federal, statutory or common, whether or not such claims and causes of action are currently alleged or plead by any party or are currently known by the Debtors. Specifically, and without limiting any other provision in the Disclosure Statement, Plan or Confirmation Order, the Debtors and the Reorganized Debtors explicitly reserve any and all claims and causes of action against the parties described in this paragraph, as well as any entity affiliated with or controlled by such parties, including but not limited to claims for fraud, breach of fiduciary duty, unjust enrichment, negligence, corporate waste, abuse, mismanagement, vicarious liability, illegal dividend, shareholder oppression, fraudulent transfer, breach of contract, subordination, and recharacterization (as well as any and all attendant claims and causes of action related to the foregoing, e.g. aiding and abetting the same, conspiracy to commit the same, violation of other laws (such as the RICO statute) in furtherance of the same, etc.).

Likewise, as of the filing of this Disclosure Statement, the Debtors have not yet completed their review of all Secured Claims, and therefore, unless otherwise stated in the Disclosure Statement or Plan, the Debtors and the Reorganized Debtor explicitly reserve any and all claims and causes of action, whether arising pre-petition or post-petition, against any Holder of any Secured Claim.¹⁹ Such reservation explicitly includes, without limitation, any causes of action related to the extent, validity and priority of any and all Liens asserted by such parties including all causes of action related to the amount of all fees and expenses (including attorney fees and expenses and other third party consultant, agent and advisor fees and expenses), subordination, recharacterization, lender liability, breach of contract, fraud, interference, negligence, good faith, fiduciary duty, direct liability, control, duress, and surcharge.

Likewise, as of the filing of this Disclosure Statement, the Debtors have not yet completed their review of accounts receivable owned by the Debtors, and therefore, without limiting any other provision in the Disclosure Statement, Plan or Confirmation Order, the Debtors and the Reorganized Debtors explicitly reserve any and all claims and causes of action related to all accounts receivable and the work giving rise to same. Without limiting the foregoing preservation of rights, either as to claims, causes of action, or parties, the Debtors explicitly reserve all of their rights (whether for breach of contract, quantum meruit or otherwise) against the Person(s) listed on Exhibit C to the Plan.

¹⁹ For the avoidance of doubt, this reservation of rights does not apply to the Secured Claim of Compass Bank and the Allowed Lucas Claim.

Likewise, as of the filing of this Disclosure Statement, the Debtors have not yet completed their review of potential claims against former employees and former professionals (e.g. financial advisers, attorneys, accountants, investment bankers, consultants and agents), and therefore, without limiting any other provision in the Disclosure Statement, Plan or Confirmation Order, the Debtors and the Reorganized Debtors explicitly reserve any and all claims and causes of action (including but not limited to all Avoidance Actions, all claims for breach of contract, breach of fiduciary duty, negligence, fraud, malpractice, malfeasance) that the Debtors may have against such Persons and their Related Persons.

The Debtors and Reorganized Debtors reserve the right to amend and supplement the preservation of rights described in this Section, and such reservation includes, but is not limited to, the right to supplement this section via attachment to the Plan.

Section 17.13 Binding Effect

The Plan shall be binding upon and inure to the benefit of the Debtors, all present and former Holders of Claims against and Interests in the Debtors, their respective successors and assigns, including, but not limited to, the Debtors, and all other parties-in-interest in these Chapter 11 Cases.

Section 17.14 Notices

Any notice, request, or demand required or permitted to be made or provided under the Plan to or upon the Debtors or the Liquidating Trust shall be (i) in writing; (ii) served by (a) certified mail, return receipt requested, (b) hand delivery, (c) overnight delivery service, (d) first class mail, or (e) facsimile transmission; and (iii) deemed to have been duly given or made when actually delivered or, in the case of facsimile transmission, when received and telephonically confirmed, addressed as follows:

To the Debtors:

Harborwalk, L.P., *et al.*
Attention: Evan Watkins
P.O. Box 2328
League City, TX 77574

With a copy to (which shall not constitute notice):

Marcy E. Kurtz
Bracewell & Giuliani LLP
711 Louisiana, Suite 2300
Houston, TX 77002
Phone: (713) 223-2300
Fax: (713) 221-1212

Section 17.15 Setoffs

Except as otherwise expressly provided for in the Plan, pursuant to the Bankruptcy Code (including Bankruptcy Code section 553), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim or Interest, each Debtor or each Reorganized Debtor may setoff against any Allowed Claim or Interest and the distributions to be made pursuant to the Plan on account of such Allowed Claim or Interest (before such distribution is made), any Claims, rights, and Causes of Action of any nature that such Debtor or the Reorganized Debtor, as applicable, may hold against the Holder of such Allowed Claim or Interest, to the extent such Claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim or Interest pursuant to the Plan shall constitute a waiver or release by such Debtor or the Reorganized Debtors of any such Claims, rights, and Causes of Action that such Debtor may possess against such Holder. **In no event shall any Holder of Claims or Interests be entitled to setoff any Claim or Interest against any Claim, right, or cause of action of the Debtor or the Reorganized Debtors, as applicable, unless such Holder has Filed a motion with the Bankruptcy Court requesting the authority to perform such setoff on or before the Confirmation Date, and notwithstanding any indication in any Proof of Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to Bankruptcy Code section 553 or otherwise.**

Section 17.16 Recoupment

Except as provided in the Plan, any Holder of a Claim or Interest shall not be entitled to recoup any Claim or Interest against any Claim, right, or cause of action of the Debtors or the Reorganized Debtors, as applicable, unless such Holder actually has performed such recoupment and provided notice thereof in writing to the Debtors on or before the Confirmation Date, notwithstanding any indication in any Proof of Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of recoupment.

Section 17.17 Release of Liens

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Debtors' Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the applicable Debtor and its successors and assigns.

Section 17.18 Request for Expedited Tax Review

The Reorganized Debtors shall have the right to request an expedited determination under Bankruptcy Code section 505(b) with respect to tax returns filed, or to be filed, for any and all taxable periods ending after the Petition Date through the Effective Date.

Section 17.19 No Admissions

Notwithstanding anything herein to the contrary, nothing in the Plan shall be deemed as an admission by the Debtors with respect to any matter set forth herein, including liability on any Claim.

Section 17.20 Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of the State of Texas, without giving effect to the principles of conflicts of law thereof, shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control) as well as corporate governance matters with respect to the Debtors; provided, however, that corporate governance matters relating to the Debtors or the Reorganized Debtors, as applicable, not organized under Texas law shall be governed by the laws of the state of organization of such Debtor.

ARTICLE XVIII**CERTAIN MATERIAL FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

The following discussion summarizes certain material federal income tax consequences of the implementation of the Plan to the Debtors and to certain holders of Allowed Claims. This summary does not address the federal income tax consequences to (i) holders of Claims who are deemed to have rejected a Plan in accordance with the provisions of section 1126(g) of the Bankruptcy Code, (ii) holders whose Claims are entitled to payment in full in cash or are otherwise unimpaired under the Plan (i.e., holders of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, any Secured Claims), or (iii) holders whose Claims are extinguished without distribution in exchange therefore.

This summary is based on the Internal Revenue Code of 1986, as amended (the "IRC"), existing and proposed treasury regulations promulgated thereunder ("Treasury Regulations"), judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service ("IRS") as in effect on the date hereof, all of which are subject to change, possibly on a retroactive basis. Any such change could significantly affect the federal income tax consequences described below.

The federal income tax consequences of the Plan are complex and are subject to significant uncertainties. The Debtors have not requested a ruling from the IRS or an opinion of counsel with respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation that the IRS will adopt. In addition, this summary does not address state, local or foreign income or other tax consequences of the Plan, nor does it purport to address the federal income tax consequences of the Plan to special classes of taxpayers (such as foreign taxpayers, broker-dealers, banks, mutual funds, insurance companies, financial institutions, thrifts, small business investment companies, regulated investment companies, tax-exempt organizations, certain expatriates, or former long term residents of the United States, or pass-through entities or investors in pass-through entities).

ACCORDINGLY, THE FOLLOWING SUMMARY OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE PARTICULAR CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM. EACH HOLDER OF A CLAIM IS URGED TO CONSULT ITS OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES APPLICABLE TO IT UNDER THE PLANS.

IRS CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH IRS CIRCULAR 230, HOLDERS OF CLAIMS AND EQUITY INTERESTS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY HOLDERS OF CLAIMS AND EQUITY INTERESTS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THEM UNDER THE TAX CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING BY THE DEBTORS OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

Section 18.01 Consequences to the Debtors

Each of HWLP and HMOC is treated as a partnership for U.S. federal income tax purposes. Accordingly, the U.S. federal income tax consequences of the Plan generally will not be borne by HWLP or HMOC, and instead will be borne by the holders of equity interests in each such entity. HSC is treated as a corporation for U.S. federal income tax purposes, and, as such, the U.S. federal income tax consequences of the Plan will be borne by HSC.

In connection with the implementation of the Plan, certain of the Debtors may incur income from the cancellation of debt ("COD") for U.S. federal income tax purposes. COD is the amount by which the indebtedness discharged (reduced by any unamortized discount) exceeds any consideration given in exchange therefor.

HMOC's share of such COD income will be allocated to the holders of equity interest in HMOC in accordance with the terms of the HMOC partnership agreement and applicable Treasury Regulations. HWLP's share of such COD income (which will include any COD income allocated to it in its capacity as a partner of HMOC) will be allocated to the holders of equity interests in HWLP in accordance with the HWLP partnership agreement and applicable Treasury Regulations. Certain statutory or judicial exceptions may apply to limit the amount of COD income. However, such exclusions generally apply at the partner (and not the partnership) level. Accordingly, whether a holder of an equity interest in either HMOC or HWLP will be able to avail itself of any such exclusions depends on the facts and circumstances applicable to such holder. **Holders of equity interests in HMOC and HWLP should consult their own tax advisors regarding the application to them of the COD rules, including any possible exclusions to COD income that may apply.**

Any COD income realized by HSC as a result of the implementation of the Plan should be excluded from income pursuant to an exception for indebtedness discharged in a title 11 case. The amount of COD income so excluded would then be applied to reduce HSC's tax basis in its assets and its other tax attributes (if any) by the amount of any COD income. Any reduction in tax attributes in respect of excluded COD income does not occur until the end of the taxable year in which the COD income is incurred.

Section 18.02 Consequences to the Holders of Certain Claims

Pursuant to and in accordance with the implementation of the Plan, holders of Allowed Unsecured Claims will receive cash in respect of their Allowed Unsecured Claims. The following discusses the potential federal income tax consequences to the holders of such Claims.

(a) *Consequences to Holders of Allowed Unsecured Claims.*

(i) Gain or Loss – Generally.

In general, holders of Allowed Unsecured Claims will recognize gain or loss in an amount equal to the difference between (i) such holder's "amount realized" in respect of its Claim, which is the amount of cash and the fair market value of any property received by the holder in satisfaction of its Claim, and (ii) the holder's adjusted tax basis in its Claim (other than any Claim for accrued but unpaid interest). Refer to Section B.2., "Distributions in Discharge of Accrued But Unpaid Interest" for a discussion of the federal income tax consequences of any Claim for accrued interest.

(ii) Gain or Loss – Character.

Where gain or loss is recognized by a holder of an Allowed Unsecured Claim, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the holder, whether the Claim constitutes a capital asset in the hands of the holder and how long it has been held, whether the Claim was acquired at a market discount and whether and to what extent the holder had previously claimed a bad debt deduction. A holder of such a claim that purchased its Claim from a prior holder at a market discount may be subject to the market discount rules of the IRC. Under those rules, assuming that the holder has made no election to amortize the market discount into income on a current basis with respect to any market discount instrument, any gain recognized on the exchange of such Claim (subject to a *de minimis* rule) generally would be characterized as ordinary income to the extent of the accrued market discount on such Claim as of the date of the exchange. Holders of Allowed Unsecured Claims are urged to consult their tax advisors to determine the character of any gain or loss recognized in connection with the implementation of the Plan.

(iii) Property Received – Tax Basis.

In general, a holder's tax basis in any property received will equal the fair market value of such property on the date of distribution. The holding period for such property generally will begin the day following the date of distribution.

(iv) Gain or Loss – Imputed Interest.

If distributions are made to a holder of an Allowed Unsecured Claim subsequent to the Effective Date or on multiple dates, the imputed interest provisions of the IRC may apply to treat a portion of such distributions as interest for federal income tax purposes. Holders of such Claims are urged to consult their tax advisors regarding the possible application of these imputed interest rules.

(v) Gain or Loss – Effect of Potential Future Distributions.

The possibility that a holder of an Allowed Unsecured Claim will receive distributions after the Effective Date can have tax consequences to such holders. As previously described, holders of Allowed Unsecured Claims will receive cash in respect of their Claims. All distributions (whether or not received on the Effective Date) to a holder of an Allowed Unsecured Claim should be taxable to such holder in accordance with the principles discussed above in "Gain or Loss – Generally." As noted in "Gain or Loss – Imputed Interest" above, the imputed interest provisions of the IRC may apply to treat a portion of any subsequent distribution as imputed interest. It is possible that recognition of any loss realized by a holder of an Allowed Unsecured Claim may be deferred until such holder can no longer receive future distributions under the Plan from the Debtors.

Each holder of a Claim is urged to consult its tax advisor regarding the recognition of gain or loss for tax purposes in respect of the implementation of the Plan.

(b) Distributions in Discharge of Accrued But Unpaid Interest.

In general, to the extent that any distribution to a holder of a Claim is received in satisfaction of accrued interest or amortized original issue discount ("OID") during its holding period, such amount will be taxable to the holder as interest income (if not previously included in the holder's gross income). Conversely, a holder generally recognizes a deductible loss to the extent any accrued interest claimed or amortized OID was previously included in its gross income and is not paid in full. It is unclear whether a holder of a Claim with previously included OID that is not paid in full would be required to recognize a capital loss rather than an ordinary loss.

Each holder of a Claim is urged to consult its tax advisor regarding the tax consequences related to the deductibility and character of accrued interest or amortized OID that is not paid in full in respect of the implementation of the Plan.

Section 18.03 Information Reporting and Withholding

All distributions to holders of Allowed Claims under the Plan are subject to any applicable tax withholding, including employment tax withholding. Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at the then applicable withholding rate (currently 28%). Backup withholding generally applies if the holder (a) fails to furnish its social security number or other taxpayer identification number, (b) furnishes an incorrect taxpayer identification number, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the tax identification number provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an

additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

Section 18.04 Importance of Obtaining Professional Tax Assistance

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A CLAIM HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE, AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

ARTICLE XIX

CONCLUSION AND RECOMMENDATION

The Debtors believe that the Plan is in the best interests of all Holders of Claims, and urge those Holders of Claims entitled to vote to accept the Plan and to evidence such acceptance by returning their Ballots so they will be RECEIVED by the Voting Agent no later than 3:00 p.m., prevailing Central Time on August 12, 2010. If the Plan is not confirmed, or if Holders in those Classes do not vote to accept the Plan, the Holders in those Classes may not receive a distribution.

(Signature Page Immediately Follows)

Dated: July 20, 2010

HARBORWALK, L.P.

By: /s/ Lynn B. Watkins
Name: Lynn B. Watkins
Title: Manager of Harborwalk GP, LLC,
general partner of Harborwalk, L.P.

Dated: July 20, 2010

HARBORWALK MARINA OPERATING
COMPANY, LTD.

By: /s/ Evan Watkins
Name: Evan Watkins
Title: Manager of Harborwalk Marina GP,
LLC, general partner of Harborwalk
Marina Operating Company, Ltd.

Dated: July 20, 2010

HARBORWALK SALES CORPORATION

By: /s/ Evan Watkins
Name: Evan Watkins
Title: Director and President