UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re: Chapter 11

KEEN EQUITIES LLC, Case No. 13-46782 (NHL)

Debtor.

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AMENDED DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE

THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR BANKRUPTCY COURT APPROVAL, BUT HAS NOT YET BEEN ACTUALLY APPROVED.

Keen Equities LLC (the ñDebtorò) hereby submits this Amended Disclosure Statement (the ñDisclosure Statementò), pursuant to §1125 of Title 11, United States Code (the ñBankruptcy Codeò), in connection with the Debtorôs accompanying Chapter 11 plan of reorganization of even date (the ñPlanò).

I. OVERVIEW

A. Overview. The centerpiece of the Plan is the restructuring of the mortgage debt encumbering the Debtorôs development property in Orange County consisting of approximately 860 acres of largely vacant land (the ñLake Anne Propertyò), utilizing principles of law recognized by the Supreme Court in Till v. SCS Credit Corp., 541 U.S. 465, 124 S.Ct. 1951 (2004) (ñTillò).

B. Mortgage Status. The Lake Anne Property is encumbered by a purchase money mortgage (the ñGreene Family Mortgageò) held by Hal J. Greene Living Trust, David A. Greene, and Trust underwritten M Greene f/b/o Sabrina Greene (the ñGreene Familyò), as successor to Lake Anne Realty Corp. The Greene Family Mortgage has a current principal balance of $3,924,645.20 and was given to the Debtor in the original amount of $10 million in connection with the Debtorôs acquisition of

the site in 2006. The Debtor originally paid $15 million for the Lake Anne Property and thereafter paid down the mortgage to around $4 million.

In bankruptcy, the Greene Family filed a secured claim in the total sum of $6,926,916.76, including alleged default interest and other costs. On January 20, 2015, the Debtor objected to the Greene Family Mortgage claim contending that the purported acceleration of the debt was improper due to defective notice negating the Greene Familyôs entitlement to pre-petition default interest (ECF No. 85). The Debtorôs objection recognizes the allowability of principal and accrued interest at the non-default rate and seeks to fix the claim in the sum of $5,035,979.70. The objection is pending and will run concurrently with the confirmation process. While the Debtor is sanguine about its prospects, whatever amount is ultimately allowed by the Bankruptcy Court shall be paid in full under the Plan, with post-confirmation interest at a rate of 4.25% consistent with a Till analysis.

C. Application of Till. Under the Plan, the Debtor shall pay the allowed amount of the Greene Familyôs secured mortgage claim as fixed by the Bankruptcy Court, in full, over an extended new term of no later than sixty-six (66) months (and perhaps a shorter period), including an immediate cash pay-down of $1,000,000 to reduce the principal debt. The remaining principal balance will be paid together with post-confirmation interest at a fixed rate of 4.25%. This is consistent with the Supreme Court principles in Till (Prime Rate of 3.25% plus 1% risk factor). Interest and amortization shall be paid monthly commencing thirty (30) days after the Effective Date in equal monthly installments of $100,000 per month. Two amortization schedules are annexed hereto as Exhibits ñAò and ñBò, respectively, reflecting the payments based on alternate scenarios: Scenario 1 projects payments if the Debtorôs claim objection is sustained, and Scenario 2 projects payments if the Debtorôs claim objection is overruled. As reflected in these exhibits,

the revised term could be as short as 43 months if the objection is sustained, and 66 months if the objection is overruled.

The proposed post-confirmation interest rate of 4.25% is based on the analysis of Till made by Judge Gropper in In re Campbell, 513 B.R. 846, 855 (Bankr. S.D.N.Y.), that calculating interest to be paid under a plan is a ñformula approachò, where:

> [t]he formula starts with the prime rate, ówhich reflects a financial marketôs estimate of the amount a commercial bank should charge a creditworthy commercial borrower,ô and then adjusts that amount for a risk of nonpayment posed by a bankrupt debtor. 541 U.S. at 479, 124 S.Ct. 1951. This adjustment for risk may require an evidentiary hearing on factors that impact it, including ñthe circumstances of the estate, the nature of the security, and the duration and feasibility of the reorganization plan.ò *Id*. The *Till* court noted that by starting with the *low* prime rate and adjusting *upward,* the evidentiary burden is placed ñsquarely on the creditorsò who would have easier access ñto any information absent from the debtor's filing (such as evidence about the óliquidity of the collateral market.ôò *Id.*

While Campbell was a Chapter 13 case, the same analysis of Till was applied by Judge Drain in the Chapter 11 case In re MPM Silicone, LLC, 2014 WL 4436335 *27-28 (Bankr. S.D.N.Y. 2014) *aff'd* 531 B.R. 321 (S.D.N.Y. May 4, 2015) (applying the formula approach, and holding that ñCertainly there is no meaningful difference between the chapter 11, corporate context and the chapter 13, consumer context to counter *Till's* guidance that courts should apply the same approach wherever a present value stream of payments is required to be discounted under the Code. *Id.* 541 U.S. at 474. The rights of secured lenders to consumers and secured lenders to corporations are not distinguished in *Till*, nor should they be. Nor does the relative size of the loan or the value of the collateral matter under *Till's* footnote 14, as it should not.ò).

In MPM, Judge Drain went on to explain how a Till rate of interest should be calculated:

> footnote 14 should not be read in a way contrary to Till and Valenti's first principles, which are, instead of applying a market-based approach, a present value cramdown approach using an interest rate that takes the profit out, takes the fees out, and compensates the creditor under a formula starting with a base rate that is essentially riskless, plus up to a 1 to 3 percent additional risk premium, if any, at least as against the prime rate, for the debtor's own unique risks in completing its plan payments coming out of bankruptcy.

Id., at *28. Judge Drain further explained that with respect to risk, ñClearly, the risk of default is an important risk to consider in this type of analysis, but the more important risk is the ultimate risk of non-payment.ò Id., at *31. Finally, Judge Drain states that ña formula of prime plus 1 to 3 percent . . . I believe is appropriate under Till and Valenti unless there are extreme risksò. Id. Notably, in affirming Judge Drain, the District Court found that ñJudge Drain considered whether to apply a risk premium higher than 3%, but decided not to do so. This Court will not disturb his well-reasoned determination of the proper rate to apply.ò In re MPM Silicones, LLC, supra 2015 WL 2330761 at *11.

D. Risk Factors. In keeping with the MPM analysis, the Plan proposes a fixed 4.25% interest rate, predicated on the current Prime Rate of 3.25% plus a risk factor of 1%. This risk factor recognizes that Greene Familyôs residual secured claim will be adequately secured by the Lake Anne Property, the value of which will only be enhanced as the development proceeds. Moreover, the Plan provides for an initial principal pay down of $1,000,000, and significant amortization each month creating an escalating equity cushion in favor of the Greene Family.

The Debtor has worked steadily on obtaining local village approval for a development of at least new homes. Although delays have been encountered in recent months

because of issues over accessibility to potable drinking water, the Debtor believes it has overcome these concerns with location of new wells, and anticipates that final approvals will be obtained by June, 2016. In the interim, the Debtor investors will fund the Plan and continue to pay all post-petition and post-confirmation debt service, taxes and insurance, plus the costs of the development.

In sum, given the level of its continuing investment of approximately $3.2 million since the filing, the Debtor submits that there is a very low risk of future mortgage defaults since it would be foolhardy to infuse millions of dollars to re-launch the project, only to allow the Greene Family Mortgage to again go into default.

The Greene Family has opposed the Debtorôs claim objection and moved for relief from the automatic stay to fix the amount of its claim in the state court based upon an unconfirmed Refereeôs report. This motion will be heard in conjunction with the initial hearings on the Debtorôs claim objection. In view of this opposition, the Debtor anticipates a stern challenge, to the Plan like involving an evidentiary hearing.

E. Voting. In accordance with section 1126(f) of the Bankruptcy Code, all classes of claims that are impaired may vote to accept or reject the Plan. A class of claims is impaired if the Plan modifies, alters or changes the Claimantôs legal, equitable or contractual rights against the Debtor. In this case, the Class 1 Secured Mortgage Claim of the Greene Family, the Class 3 Claims of security deposits, and the Class 4 Claims of General Unsecured Creditors are non-insider impaired classes eligible to vote on the Plan.

Ballots for acceptance or rejection of the Plan will accompany the Plan, and should be completed by all voting classes of creditors. After carefully considering this Disclosure

Statement and the Plan, please indicate your vote on the enclosed ballot and return same before the voting deadline to Goldberg Weprin Finkel Goldstein LLP, Attn Kevin J. Nash, 1501 Broadway, 22nd Floor, New York, New York 10036. Facsimile: (212) 422-6836. E-mail: KNash@GWFGlaw.com.

In order to be counted, your ballot must be actually received by Goldberg Weprin Finkel Goldstein LLP, Attn Kevin J. Nash, 1501 Broadway, 22nd Floor, New York, New York 10036, on or before _____, 2015 (the ñVoting Deadlineò). All forms of personal delivery of ballots including overnight delivery service, courier service, and delivery by hand are acceptable. Facsimile and electronic transmissions are acceptable as well. There is no need to file your Ballot with the Clerk of the Bankruptcy Court. If your ballot is damaged or lost, or if you do not receive a ballot to which you are entitled, you may request in writing a replacement by contacting Goldberg Weprin Finkel Goldstein LLP, Attn Kevin J. Nash, at the stated address.

Only actual votes will be counted. A failure to return a ballot will not be counted either as a vote for or against the Plan. If no votes to accept or reject the Plan are received with respect to a particular class, the class will be deemed to have voted to accept the Plan. If a creditor casts more than one ballot voting the same Claim before the Voting Deadline, the latest dated Ballot received before the Voting Deadline will be deemed to reflect the voterôs intent and thus to supersede any prior ballots.

F. Contested Confirmation. Your vote on the Plan is important. In order for the Plan to be accepted on a consensual basis, pursuant to 11 U.S.C. §1129 (a), each class must accept the Plan. Acceptance is based upon affirmative votes from each class of creditors of

at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of claims of those who actually vote.

Even if the Greene Family votes against the Plan, the Bankruptcy Court may still confirm the Plan over the Greene Familyôs objection if (a) at least one impaired class votes to accept the Plan and (b) the Court finds that the Plan (i) does not unfairly discriminate against the Greene Family, and (ii) accords fair and equitable treatment to the Greene Family.

The Bankruptcy Court has scheduled a hearing on confirmation of the Plan on _____, 2015 before the Hon. Nancy Hershey Lord in Courtroom 2529 of the United States Bankruptcy Court for the Eastern District of New York, 271 Cadman Plaza East, Brooklyn, NY. Any party in interest may object to confirmation of the Plan. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan, be served upon: counsel to the Debtor, Goldberg Weprin Finkel Goldstein LLP, Attn: Kevin J. Nash, 1501 Broadway, 22nd Floor, New York, New York 10036, on or before _____, 2015, in the manner described in the order scheduling hearing on confirmation accompanying the Disclosure Statement. The Confirmation Hearing may be adjourned from time to time without further notice other than by announcement in open court.

G. Disclaimer. The Bankruptcy Courtôs approval of this Disclosure Statement does not constitute an endorsement of the Plan. No representations other than those explicitly set forth in this Disclosure Statement are authorized concerning the terms of the Plan or the Debtorôs development plans, the scope of assets or the extent of the Debtorôs liabilities.

This Disclosure Statement contains summaries of certain provisions of the Plan, certain statutory provisions, certain documents related to the Plan, certain events in the case and

certain financial information. Although the Debtor believes that the Disclosure Statement is accurate, the terms of the Plan govern, and creditors are advised to review the Plan in its entirety.

II. EVENTS LEADING UP TO THE BANKRUPTCY FILING

The Lake Anne Property was purchased in 2006 for the intended development of residential homes to meet the growing needs of the Kiryas Joel community. For many years, the project stalled because of resistance from the Village of South Blooming Grove. At various times, the Debtor pursued litigation to challenge certain local action and ultimately the Lake Anne Property became subject to foreclosure proceedings. Despite these disappointments, the Debtorôs investors still believe strongly in the project and filed the Chapter 11 petition with a renewed focus to adopt a less adversarial approach in the hope that the project can proceed without controversy. The Debtor is currently comprised of eleven (11) investors. As noted throughout the bankruptcy case, the investors have made substantial ongoing capital contributions and will continue to do so. A list of the current investors is annexed hereto as Exhibit ñCò.

III. SIGNIFICANT EVENTS DURING THE BANKRUPTCY

A. Legal Proceedings.

The Debtor has primarily focused on two separate courses of action during the Chapter 11 case, dealing with the Greene Family and seeking the required approvals to begin construction at the Lake Anne Property.

With respect to the Greene Family, immediately after the petition was filed, the Greene Family moved for permission to proceed with the eviction of certain tenants who remained at the Lake Anne Property. The Debtor noted that most of the tenants had already left, and wanted at least one tenant to remain as a ñpresenceò so the Lake Anne Property would not be

completely vacant. Accordingly, the Debtor argued that the motion was effectively a disguised vehicle to retain the State Court receiver in bankruptcy. Ultimately, the Debtor was able to negotiate a consent order which partially lifted the automatic stay to permit the sheriff to continue agreed upon evictions, while insuring that the appointment of the receiver was terminated and that two people occupied the Property (ECF No. 32).

Section 362(d)(3) requires the Debtor to commence making adequate protection payments within 90 days of the Chapter 11 filing. The amount of the payment is fixed by a formula contained in the statute. In early January, 2014, and well within the 90 day period, the Debtor forwarded the first payment, in the amount of $21,258.50. The Debtor calculated the payment based on the non-default interest rate of 6.5% per annum, multiplied against the principal balance of $3,924,645.93, divided by 12 [(6.5% of $3,924,645.93 = $255,101.99) (255,101.99 divided by 12 = $21,258.50 per month)].

The Greene Family protested the amount of the payment, claiming that the formula required monthly installments of $37,520.80 and the non-default interest should be applied to the total allowed debt. To protect against a possible default, the Debtor moved to a clarification of the amount owed, following which a stipulation was negotiated for monthly payments of $31,000. (ECF No. 82)

In July, 2014, the Greene Family again moved to vacate the stay to permit it to continue the foreclosure action. The Debtor opposed the motion, citing the progress being made to obtain approvals for the development, and noting that the process was a lengthy one under the circumstances. The parties negotiated a stipulation pursuant to which the adequate protection payments were increased to $37,520.80, in return for the Greene Familyôs agreement to extend

the Debtorôs exclusive period to file a plan of reorganization under September 15, 2015 (later extended by agreement to September 18). This stipulation was approved by Order dated December 23, 2014.

Thereafter, the Debtor engaged in an in-depth analysis of the validity of the Greene Familyôs claim, filed in the amount of $6,926,916.76. The Debtor prepared a detailed objection to the claim, primarily challenging default rate interest of over $1.4 million, and $460,000 in late charges, legal fees and other add-ons. In seeking to reduce the claim to $5,060,979.70, the Debtor focused on the precise language of the loan documents, which permit acceleration of the debt and imposition of default rate interest only after proper written notice sent by certified mail, return receipt requested, to specifically identified addresses. In fact, the claim filed by the Greene Family included a written notice that was sent by regular mail, and was incorrectly addressed.

In its response, the Greene Family for the first time provided proof of a second mailing of the notice by certified mail. Notably, however, there was a return receipt from only one addressee, which was clearly not the same address for the Debtor as provided in the loan documents. There was no return receipt from the second required addressee, the Debtorôs then-attorney, who denied any record or recollection of receipt of the notice.

The Greene Family also raised issues of preclusion under the doctrines of res judicata, Rooker-Feldman, collateral estoppel and waiver, all of which generally bar parties from re-litigating issues in bankruptcy which were previously tried in the state court. The Debtor has filed a reply, pointing out that no final order was entered in the state court foreclosure proceeding, and that the notice issue was never directly addressed by the state court.

The Debtor also objected to the claim for legal fees as including services outside of the limited language in the loan documents for recovery of the costs of collection. The Debtor further objected on the ground that the supporting documents were incomplete and entirely deficient to support the requested fees.

A hearing on the objection to the claim is scheduled for October 22, 2015, so that the amount of the claim can be fixed in advance of the confirmation.

B. Status of Development.

The second area of focus for the Debtor has been working with a new team of professionals to re-launch the project, and to obtain all of the necessary permits and approvals so that construction can begin.

First, the Debtor addressed the need to create a fund from which to pay the carrying charges for the Lake Anne Property, including the adequate protection payments and real estate taxes, as well as the expenses and fees incurred in preparing and obtaining approval of new plans for the development of the project.

A series of meetings were held among the investors of the Debtor to arrange for bringing everyone current on their obligations under prior capital calls, and to budget and plan for future capital contributions. These meetings resulted in the adoption of five separate resolutions establishing a framework to provide future funding for operations. The resolutions were unanimously passed, and then approved by Order of the Bankruptcy Court entered August 25, 2014 (ECF No. 60) (the ñFunding Orderò) after a formal motion to approve the future funding of the Debtor pursuant to Section 364 of the Bankruptcy Code. Copies of the Funding Order and the resolutions are collectively attached hereto as Exhibit ñDò.

The Plan provides that the Funding Order will continue to govern going forward after confirmation, thereby establishing a source of funding for both the Plan payments to creditors, and for on-going carrying costs and operational expenses until the Lake Anne Properties can through off sufficient income to meet these obligations.

With that goal of completing the project in mind, the Debtor retained new professionals to assist in re-launching the project, and obtaining the necessary approvals to do so.

Attached hereto as Exhibit ñEò is a letter setting forth the various technical studies and analyses required as a prerequisite to completion of the environmental review of the project and issuance of project approvals. It is expected that the required public hearings will be held in the spring of 2016. The final issuance of environmental findings and project approvals are expected approximately 9 months from now, or mid-2016.

IV. THE PLAN

The Plan classifies pre-petition claims and equity interests involving the Debtor into various classes as outlined below.

Administrative expense claims (i.e. post-petition claims) are not classified and shall be paid in full as allowed by the Bankruptcy Court. Administrative Expense Claims primarily include the allowed fees and expenses incurred by the Debtorôs professionals, including bankruptcy counsel and special land development counsel. All professional fees and expenses remain subject to Bankruptcy Court approval, following the filing of a written application and additional notice to creditors. Once allowed, professional fees and expenses will be paid on the Effective Date or pursuant to such other terms as are mutually acceptable to the Debtor and its counsel.

All other post-petition debts and obligations, including quarterly fees due to the Office of the United States Trustee, are current and will continue to be paid by the Debtor in the ordinary course of business in maintaining and operating the Lake Anne Property without formal treatment under the Plan.

A. Summary of Classification and Treatment of Claims and Equity Interests

Class	Designation	Impaired
Class 1	Greene Family Claim	Yes
Class 2	Claims of Governmental Units	No
Class 3	Security Deposit Claims	Yes
Class 4	Unsecured Claims	Yes
Class 5	Claim of Erno Bodek	Yes
Class 5	Equity Interests	No

B. Classification, Treatment and Voting

Class 1: The Greene Family Mortgage Claim

Classification - Class 1 consists of the allowed secured claim of the Greene Family in such amount as finally determined by the Bankruptcy Court following resolution of the Debtorôs pending claim objection (ECF No. 85).

Treatment ï Once fixed and determined by entry of a Final Order, the Class 1 Greene Family Claim shall be restructured under a Till based mortgage restructuring. More particularly, the allowed secured claim shall be immediately paid-down by $1.0 million via the Initial Cash Pay Down to create the Revised Principal Balance, which shall then be memorialized by a revised note and mortgage (hereinafter the ñRevised Mortgage Noteò). The Revised Mortgage Note shall conform to the terms of the Plan and contain other customary terms and conditions. The Revised Mortgage Note shall be paid over a period of between 43 months and 66 months (the ñRevised Maturity Dateò), starting thirty (30) days after the Effective Date. The

Revised Maturity Date depends on the final amount of the Greene Familyôs allowed claim. If the claim is reduced, the term is shorter based on the equal monthly payments of $100,000. The Revised Principal Debt shall be paid with post-confirmation interest at a ñTillò rate equal to 4.25% per annum, in monthly payments of $100,000 for amortization and interest until the debt is paid. The Debtor shall have the right to prepay the Revised Mortgage Note without penalty at any time.

The Class 1 Secured claim of the Greene Family shall survive confirmation of the Plan as a first lien encumbering the Lake Anne Property; provided, however, the Debtor and Greene Family shall execute and file a modified mortgage instrument on the Effective Date conforming to the Plan and otherwise providing for partial release(s) of the modified mortgage by the Greene Family in the event of future sale(s) of individual lots. Additionally, upon the Effective Date, the pending foreclosure action commenced by the Greene Family in the Supreme Court, Orange County (Index No. 563-2011) shall be dismissed and discontinued and the pending notice of pendency shall be vacated. The entry of the Confirmation Order shall provide the Debtor with the requisite authority to take all necessary action to effectuate the recording of the modified mortgage and dismissal of the foreclosure action. To the extent that the Debtor refinances the Revised Mortgage Note prior to the Revised Maturity Date hereunder, the Greene Family shall assign the modified mortgage instrument to the Reorganized Debtorôs designated lender without additional fees or expenses other than reasonable attorneyôs fees for preparing the appropriate assignment documents.

Voting ï Because the allowed Class 1 Greene Family Claim is being restructured under a Till analysis, it is impaired and eligible to vote on the Plan. The Debtor can still confirm

the Plan over the Greene Familyôs anticipated objection because the Plan treats the allowed secured claim ñfairly and equitablyò within the meaning of 11 U.S.C. § 1129(b)(2)(B). Among other things, the Greene Family will receive deferred cash payments equal to the present value of its allowed secured claim.

Class 2: Claims of Taxing Authorities

Classification ï Class 2 consists of the allowed secured or priority tax claims held by governmental units, including State of New York and Orange County.

Treatment ï The Debtor shall pay all allowed Class 2 claims of governmental units in full on the Effective Date, totaling approximately $306,000, whereupon any pre-confirmation real estate tax liens held by Orange County shall be deemed satisfied and extinguished.

The City of New York filed a priority claim in the amount of $3,850 for alleged unpaid City unincorporated business taxes. The Debtor never operated in New York City, and does not believe that this claim is valid. If the City does not agree to voluntarily withdraw the claim, the Debtor intends to objection to the claim prior to Confirmation. To the extent that the City obtains an allowed claim, it will be paid in full on the Effective Date or under such other terms as the parties may agree.

Voting ï Class 2 tax liens are unimpaired.

Class 3: Claims of Former Tenants

Classification ï Class 3 consists of the allowed claims of former tenants for return of security deposits. There are two Class 3 creditors with claims totaling $2,615.

Treatment ï The Debtor shall pay all allowed Class 3 claims in full within one year of the Effective Date.

Voting ï Class 3 claims are impaired and entitled to vote on the Plan.

Class 4: Unsecured Claims

Classification ï Class 4 consists of the allowed Unsecured Claims of non-insider creditors. There are three Class 4 creditors with claims totaling $31,677.

Treatment ï The Debtor shall pay all allowed Class 4 claims in full within one year of the Effective Date.

Voting ï Class 4 claims are impaired and entitled to vote on the Plan.

Class 5: Claim of the Former Equity Interest Holder

Classification ï Class 5 consists of the allowed claim of Erno Bodek (ñBodekò), a former member of the Debtor, whose membership interest was diluted after Bodek failed to complete required capital contributions. Because the Bodek claim is predicated on a partial return of capital, it is being separately classified from general unsecured creditors.

Treatment ï Consistent with the Funding Order, the Debtor shall pay the Class 5 Bodek claim the total sum of $100,000, amounting to 10% of the filed proof of claim, in full settlement, satisfaction and discharge of all rights that Bodek has or may have against the Debtor, the Reorganized Debtor or the Lake Anne Property. The payments to Bodek shall be made in twelve (12) equal consecutive monthly installments commencing on the Effective Date. To the

extent necessary, the Debtor shall file objections to Bodekôs claim to reduce it consistent with the Funding Order.

Voting ï The Class 5 claim is impaired, but not entitled to vote on the Plan since Bodek is a former member of the Debtor and an insider within the meaning of the Bankruptcy Code.

Class 6: Equity Security Holders

Classification ï Class 6 consists of the current equity interests in the Debtor held by the eleven investors as noted in the Funding Order.

Treatment ï The current Class 6 Equity Interests (excluding Bodek) shall be treated in accordance with the Funding Order and each investor shall be eligible to retain his continuing membership interest in the Reorganized Debtor so long as the investor continues to timely make all required capital contributions pursuant to the Funding Order. Investors who fail to make necessity capital contributions are subject to dilution as set forth in the Funding Order. For avoidance of doubt, the Funding Order is hereby incorporated as part of the Plan and governs the future rights of the Debtorôs investors on a post-confirmation basis.

Voting ï As insiders, Class 6 equity holders are not eligible to vote on the Plan.

V. MEANS FOR IMPLEMENTATION OF THE PLAN

Funding. The Plan shall be financed through the New Value Contributions to be made by the Debtorôs investors, projected to aggregate approximately $1,800,000. Since the Chapter 11 filing, the Debtorôs investors have contributed total the sum of approximately $3.2 million to re-launch development of the Lake Anne Property and pay ongoing post-petition debt service to the Greene Family plus real estate taxes and insurance.

Vesting of Assets.

(a) **The Property**. All assets of the Debtorôs estate, including the Lake Anne Property, shall revest in the Reorganized Debtor, free and clear of all claims, liens, taxes and encumbrances, except that the Lake Anne Property shall remain subject to the modified mortgage instrument to be provided to the Greene Family pursuant to the Plan.

(b) **Preservation of Other Rights and Claims.** All other claims and causes of action belonging to the Debtor shall remain property of the Debtorôs estate and shall be vested in the Reorganized Debtor (i.e. the Debtor following Confirmation of the Plan).

Post-Confirmation Management. Pending completion of the development, the Reorganized Debtor shall continue to be managed by the Debtorôs steering committee headed by Y.C. Rubin.

Assumption of Executory Contracts. Any existing executory contracts, are hereby deemed assumed pursuant to 11 U.S.C. §365 without the necessity of the filing of a formal motion. The Debtor also reaffirms and ratifies its existing consulting agreement with CPC LLC, which shall continue to be in effect after confirmation of the Plan.

Retention of Jurisdiction. The Bankruptcy Court shall retain jurisdiction to consider the following matters after confirmation of the Plan: (a) to enforce, implement, interpret or modify the Plan under applicable provisions of the Bankruptcy Code; (b) to allow, disallow, determine, liquidate or classify, any secured or unsecured claim including, without limitation, the resolution of any request for payment of any Administrative Expenses, the resolution of any pending objections to the allowance any Claims, and the resolution of any pending adversary proceeding; (c) to grant or deny any and all applications for allowance of compensation and

reimbursement of expenses by the professionals retained during the bankruptcy case; (d) to resolve any motions or applications pending on the Effective Date of the Plan; and (e) to enter a final decree closing the bankruptcy case based upon substantial consummation of the Plan.

VI. BASIC REQUIREMENTS FOR CONFIRMATION OF THE PLAN

While § 1129(a) of the Bankruptcy Code lists a number of findings that need to be made prior to Confirmation, two of the requirements are worth highlighting for purposes of the Disclosure Statement:

A. Feasibility Of The Plan. As a prerequisite to confirmation, Bankruptcy Code § 1129(a)(11) requires that the Debtor and its equity interest holders demonstrate their ability to fund the Plan and establish that confirmation is not likely to be followed by the need for further financial reorganization or restructuring.

Going forward, the Debtor proposes to pay $100,000 per month on the Restructured Mortgage Debt for amortization and interest at the Till rate of 4.25% for between 43 and 66 months, depending on the final allowed amount of the Greene Family claim.

As is clear from these amortization charts annexed hereto as Exhibits ñAò and ñBò, respectively, the Debtorôs proposal to pay $100,000 is more than adequate to pay off the Restructured Mortgage Debt over the proposed period, regardless of the amount in which the claim of the Greene Family claim is finally allowed.

The Debtor believes that it will be able to demonstrate significant feasibility based upon its prior performance during this Chapter 11 case, and commitment of the equity interest holders to funding the Plan.

Moreover, the Debtor will need approximately $1,800,000 on the Effective Date to make the initial payment of $1.0 million to the Greene Family on the restructured mortgage, and pay all administration expenses and pre-petition real estate taxes. The investors will deposit the required New Value Contribution at least one day prior to the start of the confirmation hearing.

The New Value Contribution will continue thereafter under the Funding Order to provide additional working capital going forward. Annexed hereto as Exhibit ñFò is a budget showing the actual operating expenses for 2014 and the first eight and ½ months of 2015, which have been paid pursuant to the Funding Order, with a projected budget for remainder of 2015 and all of 2016.

B. Best Interests Of Creditors Test. The Plan must also be in the ñbest interests of creditorsò. This is a legal term of art which requires that the Plan provides a dividend to the class of creditors that vote against the Plan, which is equal to or greater than the distribution those creditors would realistically receive if the Debtor were to be liquidated under Chapter 7 of the Bankruptcy Code. Since the Debtor is paying all claims 100% of their respective allowed amounts, this requirement is readily met.

As alluded to above, the Plan can still be confirmed even if, as expected, the Greene Family does not vote favorably on the Plan, through the ñcramdownò provisions of Section 1129(b) of the Bankruptcy Code. This familiar section of the Bankruptcy Code permits confirmation if (i) all other requirements of section 1129(a) of the Bankruptcy Code are satisfied, (ii) at least one impaired Class of Claims votes to accept the Plan without regard to any vote cast on account of a Claim held by ñinsidersò (as defined in the Bankruptcy Code) and (iii) as to each

impaired Class which has not accepted the Plan, the Bankruptcy Court determines that the Plan ñdoes not discriminate unfairlyò and is ñfair and equitableò with respect to such non-accepting Class.

The Debtor anticipates that both the Class 3 security deposit creditors and the Class 4 general unsecured creditors will vote in favor of the Plan, providing the necessary accepting class for ñcramdownò purposes, even if the Greene Family votes against the Plan.

A plan ñdoes not discriminate unfairlyò if the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are intertwined with those of the non-accepting class, and no class receives payments in excess of that which it is legally entitled to receive for its Claims or Interests.

The Plan provides that the Class 1 Secured Claim of the Greene Family as finally allowed will be paid in full based upon the reduced amount fixed by the Court. Therefore, the Plan does not discriminate unfairly with respect to the Greene Family.

Whether the Plan is fair and equitable depends upon the application of the so-called ñabsolute priority rule.ò Subject to certain exceptions, this rule, codified in section 1129(b)(2) of the Bankruptcy Code, generally requires that an impaired Class of Claims or Interests that has not accepted the Plan must be paid in full if a more junior class receives any distribution under the Plan. However, one of the exceptions to the absolute priority rule is when equity holders have contributed new value. Here, the absolute priority rule would not be violated because of the significant New Value Contributions that have been and will continue to be made by the equity interest holders.

It is expected that the parties will brief the issues and ask the Court to resolve them as part of the contested Confirmation Hearing.

CONCLUSION

The Debtor believes the Plan should be confirmed even over the possible objection of the Greene Family.

Dated: New York, New York
September 18, 2015

Keen Equities LLC

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