

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re)	Chapter 11
)	
NNN CYPRESSWOOD DRIVE 25, LLC)	Case No. 12-50952
)	
Debtor.)	Hon. Carol A. Doyle
)	

**Disclosure Statement to
Plan of Reorganization**

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**Summary of Nature of the Plan Pursuant to
Local Bankruptcy Rule 3016-1**

The Plan of Reorganization (the “Plan”) is filed by the debtor and debtor in possession, NNN Cypresswood Drive 25, LLC (the “Debtor”). The Plan provides for the “roll-up” of the tenant-in-common (a “TIC”) interests of thirty-three single purpose limited liability companies, including the Debtor (collectively, the “TICs”), in improved real property located in Houston, Texas, into membership interests in a single limited liability company. This Disclosure Statement provides information as required under 11 U.S.C. § 1125 related to the Plan, including, but not limited to, details on voting, confirmation, distributions and claim determinations within the Plan.

The Claims against the Debtor consist of:

- Administrative Expense Claims
- WBCMT¹ Secured Claims – the secured Claim of WBCMT determined to be \$8,600,000.00 pursuant to 11 U.S.C. § 506.
- Jemm Investments, Inc. – the secured purchase money security interest of Jemm Investments, Inc. in the amount of \$6,636.00.
- General Unsecured Claims – all unsecured claims other than deficiency claim of WBCMT, and including potential Claims from the Rejected Contracts.
- WBCMT Deficiency Claim – the unsecured claim of WBCMT determined to be \$8,900,000.00.
- TICs Claims – the allowed Claims and Interests of the TIC owners, other than the Debtor.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.

The following table summarizes the classes of Claims and Interests and the treatment of each Class under the Plan.

Class	Class Composition	No. of Claimants (Approx.)	Amount of Claims (Approx.)	Amount and Timing of Distributions	Impaired or Unimpaired
Unclassified	Administrative Claims	Unknown	Unknown	Allowed Claims to be paid in full, as soon as practicable after the Effective Date	Not applicable
1	WBCMT	1	\$8,600,000	Monthly payments of interest and principal beginning on the tenth day of the month after the Effective Date with the balance to be paid in full on the Balloon Date.	Impaired
2	Jemm Investments, Inc.	1	\$6,636.00	Allowed Claim to be paid fifty percent (50%) within twelve (12) months of the Effective Date and the other fifty percent (50%) within twenty-four (24) months of the Effective Date	Impaired
3	General Unsecured Claims	22	\$8,305.93	Allowed Claims to be paid fifty percent (50%) within six (6) months of the Effective Date and the other fifty percent (50%) within twelve (12) months of the Effective Date.	Impaired
4	Unsecured Claim of WBCMT	1	\$8,600,000	Allowed Claim will receive Cash payments in the aggregate of \$1,111,340.00 during years five through ten of the Plan. On the Balloon Date, WBCMT will be paid the balance of 60.4% of the Allowed Claim.	Impaired

Class	Class Composition	No. of Claimants (Approx.)	Amount of Claims (Approx.)	Amount and Timing of Distributions	Impaired or Unimpaired
5	Non-Debtor TIC Unsecured Claims and Interests	32	\$17,500,000	Allowed Claims will receive general limited liability company membership interests in the Reorganized Debtor consistent with the proportion of their interests in the Property prior to the Effective Date.	Impaired
6	Interests	1	N/A	The Holder of Interests shall receive general limited liability company membership interests in the Reorganized Debtor in exchange for new value	Impaired

The Plan provides for payment to the holders of Claims for Classes 2 through 6 in an amount greater than the amount such claimants would receive in a liquidation of the Debtor's assets under chapter 7 of the Bankruptcy Code. The Debtor believes that the holders Class 2, 3, 4, 5 and 6 Claims would receive no dividend in a chapter 7 liquidation.

A copy of the Plan is attached to this Disclosure Statement as **Exhibit A**

I. INTRODUCTION

On December 31, 2012, (the "Petition Date"), NNN Cypresswood Drive 25, LLC (the "Debtor") filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the "Bankruptcy Code"), with the United States Bankruptcy Court for the Northern District of Illinois—Eastern Division (the "Bankruptcy Court"). As required by § 1125 of the Code, the Debtor submits this Disclosure Statement for the Bankruptcy Court's approval, along with the Plan dated February 27, 2013. The Plan is hereby submitted to the Court for approval and distribution to holders of claims or interests with respect to the Debtor and its assets.

A copy of the Plan accompanies this Disclosure Statement as Exhibit A. The purpose of the Disclosure Statement is to provide holders of claims and interest with adequate information about the Debtor and the Plan to enable them to make an informed judgment about acceptance or rejection of the Plan. Pursuant to the provisions of the Bankruptcy Code and in conjunction with the confirmation process for the proposed Plan, the Debtor has prepared and filed this Disclosure Statement (the "Disclosure Statement") designed to contain:

[I]nformation of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan....

11 U.S.C. § 1125(a)(1). The provisions of this Disclosure Statement include a summary of the events which caused the filing of the chapter 11 petition, a summary of the significant events that have taken place during the Chapter 11 Case, an analysis of the terms of the Plan and the means for implementing the Plan. Unless otherwise defined herein, all of the capitalized terms used in the Disclosure Statement are defined in the Plan, and the definitions contained therein are

applicable in this Disclosure Statement.

This Disclosure Statement should be read in its entirety prior to voting on the Plan. No solicitation of votes will be made except pursuant to this Disclosure Statement. Therefore, for purposes of voting on the Plan, parties in interest should not rely on any information relating to the Debtor other than the information contained in this Disclosure Statement. You are urged to study the Plan in full and to consult with your own legal and financial advisors about the Plan and its impact, including but not limited to possible tax consequences, upon your legal rights. Please read the Disclosure Statement carefully before voting on the Plan.

The Plan, a copy of which is attached hereto as Exhibit A, is incorporated in and made a part of this Disclosure Statement. This overview and any summary contained herein are qualified in their entirety by the more detailed information contained in this Disclosure Statement and in the Plan.

The Debtor is furnishing this Disclosure Statement and ballots to holders of claims in impaired classes, pursuant to the requirements of § 1125 of the Bankruptcy Code and Rule 3017 of the Federal Rules of Bankruptcy Procedure ("FRBP" or "Bankruptcy Rules"). Under § 1122 of the Bankruptcy Code, substantially similar claims are placed in classes. Under § 101(5) of the Bankruptcy Code, a "claim" means a right to payment or a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment. Generally, in the context of voting for confirmation of a plan of reorganization, a claim or interest is deemed impaired unless one of three conditions is met, namely, (i) the legal, equitable, and contractual rights of the holder are left unaltered by the Plan; (ii) the Plan provides for curing defaults occurring before or after commencement of the case; or, (iii) the holder receives cash for the allowed amount of his or her claim or for the fixed redemption price or liquidated value of his interest.

Unimpaired claims are more specifically defined in § 1124 of the Bankruptcy Code. This Disclosure Statement and the Plan identifies the classes and whether these classes are deemed impaired or unimpaired under the Plan.

A holder of a claim or interest in an impaired class is entitled to vote to accept or reject the Plan if such claim or interest has been allowed pursuant to § 502 of the Bankruptcy Code or temporarily allowed for voting pursuant to FRBP 3018.

YOUR VOTE IS IMPORTANT. Confirmation of the Plan and implementation of the proposed provisions and transactions under the Plan depends upon receipt of a sufficient number of votes in favor of the Plan. If the Debtor has received a sufficient number of votes in favor of the Plan upon expiration of the solicitation period, the Debtor intends to seek confirmation of the Plan.

The Plan sets forth the proposed treatment of each class of Claims and Interests. This Introduction and any summary contained herein is intended as an aid in understanding the Plan and should not be used as a substitute for careful review of this Disclosure Statement and the Plan. Again, you are urged to study this Disclosure Statement and the Plan in full and to consult with your own legal and financial advisors about the Plan and its impact, including but not limited to possible tax consequences, upon your legal rights.

No representations concerning the Debtor, particularly as to Debtor's financial condition, or the value of their property, are authorized by Debtor except as set forth in this Disclosure Statement. Although great effort has been made by Debtor to be accurate, the information contained herein or appended hereto as exhibits, has not been subject to a certified audit. Therefore, the Debtor is unable to warrant or represent that the

information contained herein is without any inaccuracy.

Furthermore, while any dividend or distribution offered to any person or entity pursuant to the Plan may not meet the reader's understanding of the definition of "securities," such dividend may be deemed a "security" pursuant to federal or state securities laws. Accordingly, the Plan should be evaluated in much the same manner as the purchase of a security would be evaluated. The advice and assistance of competent professionals should be sought.

The Court has set _____, 2013, at ___:___ .m., in Courtroom 742, in the United States Bankruptcy Court for the Northern District of Illinois—Eastern Division, at the Dirksen Federal Courthouse located at 219 S. Dearborn St., Chicago, Illinois, for a hearing on confirmation of the Plan.

THE HOLDERS OF CLAIMS MAY VOTE TO ACCEPT OR REJECT THE PLAN BY COMPLETING THE ACCOMPANYING BALLOT. TO BE COUNTED, YOUR BALLOT MUST BE PROPERLY COMPLETED, EXECUTED AND FILED OR RECEIVED BY THE CLERK FOR THE BANKRUPTCY COURT BY 4:00 P.M. ON MARCH __, 2013, AT THE FOLLOWING ADDRESS:

Mr. Kenneth S. Gardner
Clerk of the U.S. Bankruptcy Court
U.S. Bankruptcy Court
Dirksen Federal Building
219 S. Dearborn St. - Room 713
Chicago, IL 60604

YOU ARE URGED TO RETURN YOUR BALLOTS SOONER, IF POSSIBLE. UNLESS YOUR BALLOT IS PROPERLY COMPLETED AND RECEIVED BY THE BANKRUPTCY CLERK BY SUCH DATE AND TIME, YOUR VOTE WILL NOT BE COUNTED.

Pursuant to the Bankruptcy Code, the Court may not confirm the Plan pursuant to 11 U.S.C. § 1129(a) unless it receives the acceptance of more than one-half of the voting claimants in each impaired class who hold at least two-thirds in dollar amount of the claims voting in that class. If one or more classes fail to accept the Plan, the Debtor nonetheless intends to ask the Court to confirm the

Plan by invoking the provisions of 11 U.S.C. § 1129(b), which provide that the court may confirm a plan even though one or more of the classes of claims or interests fail to vote to accept the plan, so long as the plan meets certain requirements.

READ THIS DISCLOSURE STATEMENT CAREFULLY IF YOU WANT TO

KNOW ABOUT:

- (1) Who can vote or object to the Plan;
- (2) The treatment of your claim (*i.e.*, what your claim will receive if the Court confirms the Plan) and how this treatment compares to the alternatives;
- (3) The history of the Debtor and significant events during the bankruptcy;
- (4) What the Court will consider in deciding whether to confirm the Plan;
- (5) The impact of confirmation; and
- (6) Whether the Plan is feasible.

This Disclosure Statement cannot tell you everything about your rights. You should consult your own lawyer to obtain more specific advice on how this Plan will affect you and what is the best course of action for you.

II. EVENTS LEADING UP TO THE CHAPTER 11 FILING

To facilitate the tax-free exchanges pursuant to 26 U.S.C. § 1031, starting in the early 2000s, parties started creating real estate syndication networks. These syndication networks were designed to own real property and were structured as tenancy-in-common interests. The use of the tenant in common structure allows the individual owners of the tenants in common to use section 1031 of the Internal Revenue Code (“IRC”) for financial planning purposes. Section 1031 of the IRC permits a “like kind” exchange, which provides for the gains from the sale of property to be deferred by an adjustment in the tax basis of a newly acquired property. See 26

U.S.C. § 1031(a)(1). The IRC currently does not provide such “like kind” exchange benefits when property is owned by limited liability companies or partnership because those ownership interests are in personal property. The Internal Revenue Service permits a maximum of thirty-five (35) co-tenants in the ownership of real property. Rev. Rul. 2002-22, 2002 WL 417295.

With these networks, the owners of TIC interests were usually single purpose limited liability companies that individually owned an interest in a parcel of real estate. Accordingly, an ownership interest of a tenant in common contains significant differences from ownership interests in other business entity forms, such as limited partnerships or limited liability companies. Each of the thirty-three TICs is entitled to the undivided possession or right to possession of the Property. See In re Sturman, 222 B.R. 694, 709 (Bankr. S.D.N.Y. 1998). Unlike a partnership or limited liability company, where each member owns an interest in personal property, the TICs own an interest in the Property. Therefore, regardless of each TIC’s percentage of ownership, each has an equal right to possession and an undivided interest in the entire Property.

A. TIC Formation

In the instant case, the TICs’ formation involved a “sponsor”. See Rev. Proc. 2002-22, 2002 WL 417295. NNN Cypresswood Drive, LLC was responsible for acquiring the Property, packaging the other thirty-two co-ownership interests in the Property for sale and arranging for the financing of the Property. Id. In this capacity, NNN Cypresswood Drive, LLC was the “sponsor” of the TICs (“TIC 0”). TIC 0 also retained a 1.412% interest in the Property. The manager of TIC 0 was Triple Net Properties Realty, Inc. (“TNP”).

The Debtor is one of the TICs. James Love (“Mr. Love”) owns the Interests in the Debtor from his home in Western Springs, Illinois. The other TICs differ in name just by the

number after “NNN Cypresswood Drive” (i.e., NNN Cypresswood Drive 1, LLC; NNN Cypresswood Drive 3, LLC) and the percentage interest owned in the entire Property. The Debtor was created to hold a 3.305% interest in the entire Property.

Before selling the Property to the TICs, TIC 0 purchased the Property from an unrelated party for \$17.5 million. Next, TIC 0 sold it to the TICs, including the Debtor owned by Mr. Love, for a total of \$22.3 million on or shortly after June 20, 2007. In the process, the TICs became subject to the acquisition secured financing provided originally by Wachovia Bank, N.A. The secured debt, in the principal amount of \$17.5 million, was a ten (10) year loan (secured by the Property) intended to mature on July 15, 2017 (the “Secured Debt”). The Secured Debt was structured with interest-only payments for the first eight (8) years at the rate of 5.68% per annum, with limited amortization for the final two-year period of its term. WBCMT 2007-C33, LLC (“WBCMT”), by a series of assignments, is now servicing and administering the Secured Debt.

B. The Property

The Property consists of a four-story office building containing approximately 82,000 square feet (the “Office Building”) and an adjacent one-story building zoned for restaurant use containing approximately 11,000 square feet (the “Restaurant”). Construction of the Property was completed in 2005, and the TICs purchased the Property in 2007. The Office Building has a common address of 9720 Cypresswood Drive. The adjacent Restaurant has a common address of 9730 Cypresswood Drive and is entirely occupied and operated by Perry’s Grille & Steakhouse. The Office Building and Restaurant offer parking to accommodate a total of 465 vehicles at the Property.

C. Economic Downturn and Foreclosure Proceeding

After the 2007 acquisition, in a story that is now all too familiar, the value and occupancy of the Property declined. The Property continued to decline in value until 2012. In 2007, at the time of the TICs' acquisition, the Property had a vacancy rate of 9%, but it is now approximately 30%. The commercial real estate market in Houston, Texas is slowly starting to recover and prospective leases are currently in negotiation.

The loss of tenants caused the effective rental rate of the Property to drop. Prior to the Petition Date, between August 2012 and December 2012, twenty-nine (29) of the TICs, including the Debtor, engaged Breakwater Equity Partners ("Breakwater") to negotiate a settled workout or restructuring of the Property. Breakwater will receive a "success fee" of either 15% or 90% of the engaged TICs' equity in the Property, depending on the TICs' election at the time of engagement, at the successful completion of a debt restructuring. On November 30, 2012, WBCMT notified the TICs that certain amounts due under the Secured Debt were past due and unpaid. WBCMT then instituted a "lockbox" for the receipt of all rental payments and control of the funds. Prior to the institution of the lockbox, TNP, and now its successor by merger Daymark Realty Advisors ("Daymark"), was appointed joint property and asset manager. Daymark currently remains in the position of property and asset manager subject to dispute (described in detail below) by the majority of the TIC owners.

On December 11, 2012, pursuant to Texas law, WBCMT sent the TICs a letter advising the TICs that because of the failure to cure the default under the Secured Debt, WBCMT would be exercising its right to accelerate the outstanding principal indebtedness and the right to foreclose on the Property under Texas law. The letter provided the required 20-day notice of the January 1, 2013 foreclosure sale of the Property (the "Foreclosure Proceeding"). The Debtor

filed its petition for relief on December 31, 2012.

D. Property Management and Termination of Daymark

The TICs' collective ownership of the Property is controlled by a Tenants In Common Agreement (the "TIC Agreement"). In June 2007, the thirty-three separate limited liability companies entered into and executed the TIC Agreement. The TIC Agreement establishes the relationship between the thirty-three TICs and for the management of the Property. The TIC Agreement provides that any individual tenant in common has the authority to terminate a property manager or asset manager. The unanimous consent of the TICs is required to hire a new property manager or asset manager.

At the TICs' inception in June 2007, in addition to serving as manager of TIC 0, TNP was appointed joint property and asset manager. The Property Management Agreement between TNP and the TICs (the "TNP Agreement") allowed for termination of the agreement for cause due to: (a) gross management or fraud; (b) willful misconduct or willful breach of the agreement; (c) bankruptcy, insolvency or inability of the property manager to meet its obligations; or (d) a criminal conviction. The TNP Agreement further provided any TIC "the right to terminate this Agreement without cause within thirty (30) days of the end of each calendar year . . . by giving written notice to the Property Manager and to each of the other Tenants in Common . . ."

The TNP Agreement also stated that TNP "may not assign this Agreement without the prior written consent of each of the Tenants in Common, which consent may be withheld in each Tenant in Common's sole and absolute discretion."

Shortly after the TICs inception, in December 2007, TNP's parent company, NNN Realty Advisors, Inc., purchased Grubb & Ellis Company ("G&E") through a "reverse merger," after which NNN Realty Advisors, Inc. used the G&E name. G&E purported to become the property

manager and asset manager of the Property, and was then the manager of TIC 0. On August 10, 2011, a joint venture controlled by Sovereign Capital Management Group and Infinity Urban Century acquired the assets of the former TNP from G&E.² As a result, Daymark Realty Advisors (“Daymark”) purported to become the property manager and asset manager of the TICs and the manager of TIC 0. The TICs never approved or voted on the assignment of the TNP Agreement to G&E or Daymark.

On December 5, 2012, one of the non-debtor TICs, NNN Cypresswood Drive 15, LLC (“TIC 15”), terminated the employment of Daymark because, among other reasons, (i) Daymark was not a valid successor in interest to the rights of TNP, as original property and asset manager; and (ii) even if Daymark was the proper successor, cause also existed for the termination based on Daymark’s ineffective management of the Property (the “Termination Letter”). The Termination Letter also terminated Daymark’s employment without cause pursuant to section 10.1 of the TNP Agreement.

Daymark has refused to accept the termination or turn over control of the Property and TICs. The TNP Agreement expressly provides that a “Property Manager . . . that owns a tenant in common interest in the Property or a membership interest in [TIC 0] shall not participate in any vote to terminate this Agreement.” Stated another way, Section 10.2 of the TNP Agreement provides that an incurably conflicted property manager, such as Daymark, has waived its right to vote on the termination of the property manager. Likewise, Daymark’s conflict of interest should preclude its vote on the appointment of a new property manager.

Twenty-seven TICs have expressly agreed to employ Boxer Property Management

² Six months later, on February 20, 2012, G&E filed a liquidating Chapter 11 bankruptcy in the Southern District of New York (Case No. 12 B 10685).

Corporation (“Boxer”) as the new property manager and Fameco Management Services Associates, L.P. (“Fameco”) as the new asset manager. The Debtor executed the agreements to employ Boxer and Fameco (respectively, the “Boxer Agreement” and “Fameco Agreement”) prior to the Petition Date with an effective date postpetition.

III. SUMMARY OF SIGNIFICANT EVENTS DURING THE BANKRUPTCY

A. Bankruptcy Proceedings

Since the filing of the Chapter 11 Case, the Debtor opened a debtor-in-possession account to handle any estate financial business, and filed all required schedules of assets, liabilities and financial transactions. The Debtor also employed Michael L. Gesas, Kevin H. Morse and Arnstein & Lehr LLP as its bankruptcy counsel, and the Court approved that application. The Court also approved the employment of Mubeen Aliniazee and Highpoint Management Solutions, LLC (“Highpoint”) as its financial consultant. Mr. Love and the estate representatives all attended the meeting of creditors held pursuant to 11 U.S.C. § 341(a). The Debtor subsequently filed Amended Bankruptcy Schedules and Statement of Financial Affairs after the meeting of creditors.

1. The Property Management Motion

On January 11, 2013, after Daymark’s refusal to step down as property and asset manager, the Debtor a Motion for Authority to Enter in Property Management and Asset Management Agreement and, if necessary, to Reject the TNP Property Management Agreement [Dkt. #14] (the “Property Management Motion”). The Property Management Motion sought this Court’s authority to enforce the Boxer Agreement and Fameco Agreement and to require Daymark to cooperate with the replacement of the property manager.

Since the Petition Date, at least twenty-four (24) of the co-tenant, non-debtor TICs have

obtained counsel and appeared in the Chapter 11 Case (collectively, the “Participating TICs”). The Participating TICs filed a Joinder to the Property Management Motion [Dkt. #49].

WBCMT filed an opposition to the Property Management Motion [Dkt. #22] and the Debtor subsequently filed a reply in support of the replacement of Daymark [Dkt. #42]. Daymark appeared on the Property Management Motion but did not file any written opposition to the motion. The Property Management Motion has been continued for resolution until March 6, 2013.

2. WBCMT’s Relief from Stay Motion

On January 15, 2013, WBCMT filed a Motion for Relief from the Automatic Stay as to Non-Debtor Affiliates [Dkt. #16] (the “WBCMT Motion”). The WBCMT sought to continue the Foreclosure Proceeding against all of the non-Debtor TICs, including the Participating TICs, under the guise that co-tenant interests were not property of the Debtor’s bankruptcy estate and none of the Debtor’s property rights in the Property or otherwise would be affected by the Foreclosure Proceeding.

On February 6, 2013, the Debtor filed a Response in Opposition to the WBCMT Motion [Dkt. #44] (the “Response”). The Debtor’s response focused on the significant impact the WBCMT Motion would have on the Debtor’s estate and ability to reorganize and restructure the Property. The Response highlighted that the Foreclosure Proceeding would impair the Debtor’s equitable right of redemption under Texas law and also destroy the “going concern” value of the Property, thereby irreparably harming the Debtor’s estate. The Participating TICs filed a Joinder to the Response [Dkt. #48]. WBCMT filed a reply in support of the WBCMT Motion [Dkt. #53]. The Bankruptcy Court has taken the WBCMT Motion and related filings under advisement and continued the hearing until March 6, 2013 for ruling.

3. Daymark's Comfort Order

On February 6, 2013, Daymark filed a Joint Motion with the Debtor Authorizing the Continued Use of Rents in Accordance with the Budget, Loan Documents, and WBCMT's Rights under the Loan Documents [Dkt. #47] (the "Joint Motion"). The Joint Motion requested an order pursuant to 11 U.S.C. § 105(a) allowing Daymark to continue to use the rents in accordance with the budget and loan documents. The purpose of the Joint Motion was to prevent disruptions in the management of the Property during the Chapter 11 Case and preserve the value of the Property. The Bankruptcy Court granted the Joint Motion without hearing.

B. Current Financial Condition

The Debtor has not had to make any independent expenditure for operation of the Property and the occupancy of the Property continues to improve. A copy of the Debtor's December 31, 2012/January Monthly Operating Report is attached as Exhibit B.

Under the Plan, the Reorganized Debtor will supplement the Property's cash flow with an additional cash contribution of at least \$250,000 (the "New Value Contribution"). The New Value Contribution will be supplied from non-Debtor parties, including Breakwater and some or all of the non-Debtor TICs or their interest holders, in exchange for preferred equity in the Reorganized Debtor. The Reorganized Debtor will use the New Value Contribution to satisfy Allowed Administrative Claims and Class 4 Claims, and to provide reserves for the Property to ensure that all Claims are paid even if the net operational profits of the Property cannot do so. The parties contributing the New Value Contribution will have preferred equity in the Reorganized Debtor in proportion to their contribution of the New Value Contribution.

The New Value Contribution and the rents from the Property will be used over a ten (10) year period to pay the operational and related expenses of the Property (including improving and

repairing it to better its income-production ability), and to service the payments required under the Plan. At the end of that period, the Property will either be refinanced or sold outright to complete the payment in full of WBCMT's remaining secured claim and 60% of WBCMT's deficiency claim.

C. Assets and Secured Liabilities

The Debtor's primary asset is its tenancy-in-common ownership of 3.305% of the Property. As of the Effective Date, in return for both the satisfaction of their Class 5 Claims and the cancellation of their ownership interests in the Property, the TIC owners, including those holding Class 6 Interests in the Debtor, will receive general limited liability company membership interests in the Reorganized Debtor consistent with the proportion of their interests in the Property prior to the Effective Date. For example, if a TIC owns 10% of the Property prior to the Effective Date, then that TIC would own 10% of the general membership interests in the Reorganized Debtor. The general membership interests in the Reorganized Debtor will retain no management responsibilities or authority except as described below.

The Debtor has two secured liabilities. First, is the claim of WBCMT in the amount of \$8.6 million. In addition, the Debtor is indebted to Jemm Investments, Inc. in the amount of \$6,636.00 for debt associated with the purchase of a closed circuit security system for the Property. Jemm Investments, Inc. is an affiliate of Breakwater Equity Partners. Neither of these secured creditors has filed a proof of claim.

IV. THE PLAN OF REORGANIZATION

The following summary of the principal provisions of the Plan is qualified in its entirety by reference to the provisions of the Plan, a copy of which is annexed to this Disclosure Statement as "Exhibit A" and which is incorporated herein by reference. This

summary should not be used as a substitute for actually studying the Plan itself.

A. General Background

A “creditor” is defined in the Bankruptcy Code, as an "entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor". The term “claim” is defined in the Bankruptcy Code as a “right to payment . . . [or a] right to an equitable remedy for breach of performance if such breach gives rise to a right to payment” The term “interest” is not defined in the Bankruptcy Code but is used to describe proprietary rights, which in corporate cases such as these means the common stock of the Debtor.

On January 29, 2013, the Debtor filed schedules of its creditors as of the Petition Date. Thereafter, certain of the schedules were amended. Some of the creditors identified on Debtor’s schedules have been listed as holding contingent, unliquidated, disputed, or undetermined claims. Any references in this Disclosure Statement or the accompanying Plan to any such contingent, unliquidated, disputed, or undetermined claim or a creditor holding such a claim shall not be construed or deemed as an admission of the validity, enforceability, or amount of any such claims.

Generally, a chapter 11 plan (i) divides claims and interests into classes, (ii) specifies the property or treatment each class will receive under the plan, and (iii) otherwise provides for the adjustment of liabilities of the debtor.

Under a chapter 11 plan, "claims" and "interests" are classified rather than classifying "creditors" and "equity security holders" because a creditor or equity security holder may have various claims or interests which fall into more than one classification. For example, a secured creditor may be undersecured, and under §506(a) of the Bankruptcy Code that creditor's claim would be treated as secured to the extent of the value of the security and unsecured as to the

remainder of the claim. Each creditor or equity security holder then votes his or her claim or interest to accept or reject the plan of reorganization.

B. Unclassified Claims

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims have not been classified. Holders of Administrative Expense Claims do not have a right to vote to accept or reject the Plan. However, Administrative Expense Claims are identified in this Disclosure Statement and the accompanying Plan, and their treatment is described, to promote "enabl[ing] a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan[.]"

1. Administrative Expenses

Administrative expenses are claims for costs or expenses of administering the Debtor's Chapter 11 case which are allowed pursuant to 11 U.S.C. § 507(a)(1). The Code requires that all administrative claims be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment.

No claimant has agreed otherwise, except as specified herein. As of this date, the Debtor's estate is not subject to any unpaid administrative liabilities, other than: (1) quarterly fees for the Office of the United States Trustee for the current quarter and which have not come due yet (and shall be paid when due); and (2) any allowed, unpaid claims of the bankruptcy counsel for the Debtor. After the entry of the Confirmation Order, Arnstein & Lehr LLP will apply to the Court for final approval of its fees pursuant to 11 U.S.C. § 330. To the extent that any compensation is awarded in excess of the prepetition retainer, Arnstein & Lehr LLP will be paid in full on the Effective Date of the Plan.

C. Classification of Claims and Interests

The Plan proposes six (6) classes of Claims and Interests for purposes of voting on the Plan and making distributions thereunder, namely:

- Class 1 – WBCMT Secured Claim
- Class 2 – Jemm Investments, Inc. Secured Claim
- Class 3 – General Unsecured Claims
- Class 4 – WBCMT Unsecured Claim
- Class 5 – Non-Debtor TIC Claims and Interests
- Class 6 – Interests

D. Treatment of Classified Claims and Interests

1. Class 1 – WBCMT Secured Claim

Class 1 consists of the allowed Secured Claim of WBCMT, which is equal in value to the value of the Property as a whole, which has been appraised to be \$8.6 million and to be determined by the Court at or prior to the confirmation of this Plan. This claim is based upon the bifurcation of WBCMT's pre-petition claim pursuant to 11 U.S.C. §506(a).

This claim will accrue simple interest on its unpaid balance at the rate of 4.5% per annum. It will be paid through monthly payments of interest and principal amortized over ten (10) years and beginning on the tenth day of the month after the Effective Date. All payments will be made by the tenth (10th) Business Day of that month. Monthly payments will be in the amount of \$43,574.92. The interest to be paid and the monthly payment amount may be adjusted by the Court in the Confirmation Order if and to the extent that the Court determines that it is required under 11 U.S.C. §§ 1129(a)-(b). WBCMT will retain its existing lien against the Property to secure payment of the allowed Class 1 Claim. The Class 1 Claim will balloon and be fully due and payable one hundred twenty (120) months from the Effective Date, to the extent that it has not been paid in full prior to that date (120 months from the Effective Date is the "Balloon Date"). On the Balloon Date, if the Class 1 Claim has not been paid in full, WBCMT

will receive the balance of the Class 1 Claim. Class 1 is impaired.

2. Class 2 – Jemm Investments, Inc. Claim

Class 2 consists of the allowed Secured Claim of Jemm Investments, Inc., which is allowed in the amount of \$6,636.00. The TICs entered into a contract with Jemm Investments, Inc. for the financing of a closed circuit security system. The contract is a financing agreement with Jemm Investments, Inc., which took a purchase money security interest in the closed circuit security system. The Reorganized Debtor will pay fifty percent (50%) of the allowed Class 2 Claim within twelve (12) months of the Effective Date and the other fifty percent (50%) within twenty-four (24) months of the Effective Date. Class 2 is impaired.

3. Class 3 – General Unsecured Claims

Class 3 consists of the General Unsecured Creditors under this Plan. The Class 3 Claims total approximately \$46,468.00, not including any Allowed Claims from the Rejected Contracts as defined herein, and are primarily those of utility and trade vendor creditors related to the operation of the Property. Any Allowed Rejection Claims shall become part of Class 3. Class 3 claims will be paid 100% of their allowed claim within twelve (12) months of the Effective Date. The Reorganized Debtor will pay fifty percent (50%) of the allowed Class 3 Claims within six (6) months of the Effective Date and the other fifty percent (50%) within twelve (12) months of the Effective Date. Class 3 is impaired.

4. Class 4 – WBCMT Unsecured Claim

Class 4 consists of the unsecured claim of WBCMT, based upon the bifurcation of WBCMT's pre-petition claim pursuant to 11 U.S.C. § 506(a). The amount of this Claim will be the total allowed value of WBCMT's Claim against the Debtor, less the \$8.6 million allocated to treatment under Class 1. WBCMT will be paid 60% of its Class 4 Claim. WBCMT will receive

Cash payments of greater than \$1,000,000.00 during years five through ten of the Plan. On the Balloon Date, WBCMT will be paid the balance of 60% of its Class 3 Claim to bring the total paid to WBCMT on account of its Class 1 and Class 3 Claims to \$17,500,000, with a present value of the payments of \$10,793,294. Class 3 is impaired.

5. Class 5 – Non-Debtor TIC Claims and Interests

Class 5 consists of all allowed unsecured claims against the Debtor which are the claims and Interests of the other, non-Debtor TICs, the co-owners of the Property and limited liability companies jointly and severally liable on Class 1, Class 2, Class 3, and Class 4 Claims, either those arising before the Effective Date or those which arise under this Plan in exchange for their Interests in the Property. On the Effective Date, Class 5 Claims will be deemed satisfied, as discussed below. Class 5 is impaired.

6. Class 6 – Interests

Class 6 consists of the equity Interests in the Debtor, including that Interest held as of the Petition Date and all such Interests acquired thereafter through the Effective Date. Class 6 equity Interests will be cancelled.

V. MEANS FOR IMPLEMENTING THE PLAN OF REORGANIZATION

A. Funding for the Plan; Structure of Reorganized Debtor

The monthly payments due on account of the allowed Claims will be made from the net operational profits (positive cash flow) of the entire Property, after allowance for operational expenses (vendor costs, taxes) and reserves (to cover extraordinary repairs). Attached as **Exhibit C** is the projected cash flow and anticipated income and expenses, including plan payments, over the life of the Plan. The Reorganized Debtor will supplement the cash flow with an additional cash contribution of at least \$250,000, in satisfaction of the requirements of *Bank of Am. Nat 'l*

Trust & Sav. Ass 'n v. 203 N. LaSalle St. P'ship, 526 U.S. 434 (1999), in "new value" cash (the "New Value Contribution"). The New Value Contribution will be supplied from non-Debtor parties, including Breakwater and some or all of the non-Debtor TICs or their interest holders, in exchange for preferred equity in the Reorganized Debtor. The Reorganized Debtor will use the New Value Contribution to satisfy Allowed Administrative Claims and Class 4 Claims, and to provide reserves for the Property to ensure that all Claims are paid even if the net operational profits of the Property cannot do so. The parties contributing the New Value Contribution will have preferred equity in the Reorganized Debtor in proportion to their contribution of the New Value Contribution.

On the Effective Date, in return for both the satisfaction of their Class 5 Claims and the cancellation of their ownership interests in the Property, the TICs, including those holding Class 6 Interests in the Debtor, will receive general limited liability company membership interests in the Reorganized Debtor consistent with the proportion of their interests in the Property prior to the Effective Date. For example, if a TIC owns 10% of the Property prior to the Effective Date, then that TIC would own 10% of the general membership interests in the Reorganized Debtor. The general membership interests in the Reorganized Debtor will retain no management responsibilities or authority except as described below.

Over the term of the Plan, after ten years, the Property will either be refinanced (if possible) or sold (if necessary) to pay off any remaining Class 1 Claim owed to WBCMT.³ Surplus funds will then be applied against any outstanding Class 4 Claim for a cumulative payout to WBCMT of \$17,500,000.

³ The anticipated ability for the Reorganized Debtor to fund the Plan comes from the projected filling of vacant rental space and an increase in rental rates because of (1) a general area-wide recovery from recession; (2) the termination of the foreclosure proceeding brought by WBCMT; and (3) that the Property will be much more attractive once it is no longer under a "lockbox" system, connected to Daymark Realty Advisors and a debtor-in-possession.

B. Post-confirmation Management; Disbursing Agent

Pursuant to 11 U.S.C. § 1123(b)(3), the Reorganized Debtor by a simple majority vote pursuant to the general membership interests of its members will designate a management team of three members (the "Managers"). The Managers shall have the right to assert for the estate any and all causes of action, post-confirmation, in accord with applicable law. All such causes of action and related legal, equitable and contractual rights and benefits, which are property of the Debtor's bankruptcy estate, including without limitation Avoidance Actions created pursuant to bankruptcy law, are vested in the Reorganized Debtor upon confirmation, and may be prosecuted and/or settled at the Managers' direction. The Managers will serve as the disbursing agent for the purpose of making all distributions provided for under the Plan. The Managers shall serve without bond, and shall not receive any compensation for management and/or disbursement services rendered and expenses incurred pursuant to the Plan. The various duties of the Managers may be delegated to a new property manager or asset manager retained by the Reorganized Debtor upon the Effective Date.

C. Risk Factors

If the Property does not to operate as profitably or appreciate in value as is currently projected, the Reorganized Debtor would be hampered in its ability to make the monthly payments called for under the Plan on account of the Class 1 Claim, and to raise additional funds, through sale and/or refinancing, to pay off any remaining Plan obligations (primarily Class 1 and Class 4 Claims, as allowed). While the Debtor believes that the projections of future positive cash flow and appreciation are valid, especially when supported with the New Value Contribution, any projection of economic activity and value is, to some extent, speculative, and should be considered as an educated projection and not a guaranty.

D. Executory Contracts and Unexpired Leases

All unexpired leases and executory contracts not explicitly mentioned below are assumed. With regard to the other contracts, the TIC Agreement is rejected as of the Effective Date. The leasing agreement with Regal Properties is rejected (the “Regal Agreement”) as of the Effective Date. The property management agreement with Daymark (the TNP Agreement) is rejected as of the Effective Date. Daymark’s position as property manager and asset manager is terminated as of the Effective Date. The TIC Agreement, Regal Agreement and TNP Agreement are, individually, a “Rejected Contract,” and, collectively, the “Rejected Contracts.” **All parties to a Rejected Contract, shall file a proof of claim within thirty (30) days of the Effective Date (each a “Rejection Claim”). If a Rejection Claim is filed, the Reorganized Debtor shall file any objection to such Rejection Claim within sixty (60) days of the Effective Date or the Rejection Claim shall become an Allowed Claim and included as a Class 3 Claim.**

The Debtor anticipates that the Reorganized Debtor shall enter into the Boxer Agreement on the Effective Date to be effective immediately. As property manager, Boxer will be responsible for, *inter alia*, the leasing of the Property, rent collection and tenant administration, the maintenance of the bank accounts and books and records, and the maintenance, construction and repair of the Property. Boxer’s compensation will consist of (i) a management fee of \$0.041667 per month per net rentable square foot; (ii) reimbursement for all direct costs that Boxer incurs; (iii) reimbursement for lease and billing related services; (iv) and \$75/hour for all non-standard accounting services, such as responding to outside auditors. The majority of TICs have expressly approved the terms of the Boxer Agreement and the Debtor and Participating TICs believe that the employment of Boxer is in the best interests of the Property and all TICs.

The Debtor anticipates that the Reorganized Debtor shall also enter into the Fameco

Agreement on the Effective Date to be effective immediately. As asset manager, Fameco will be responsible for, *inter alia*, the oversight of Boxer on behalf of the TICs, obtaining approval of all TIC owners when required, monitoring loan compliance and any property tax appeal, create property risk analysis and asset risk analysis, the preparation of financial analysis of current returns with suggestions for potential improvements, and the preparation and maintenance of a website to provide the TICs real-time access to information relating to the Property. Fameco's compensation will consist of (i) the greater of \$3,000 or 1.75% of gross monthly receipts; (ii) a leasing oversight fee equal to 0.75% of lease value on all new leases or 0.25% on all renewal transactions; (iii) a construction oversight management fee of 0.75% on all non-leasing related capital expenditure projects in excess of \$50,000.00; (iv) a disposition fee if the property is sold during the term of the Fameco Agreement or one year after; and (v) all of Fameco's direct out of pocket expenses specifically associated with the Property. The majority of TICs have approved the terms of the Fameco Agreement and the Debtor and Participating TICs believe that the employment of Fameco is in the best interests of the Property and all TICs.

E. Additional Plan Provisions

1. Retention of Jurisdiction

Until the Chapter 11 Case is closed, the Court retains jurisdiction to ensure that the purpose and intent of this Plan are carried out, to hear and determine all Claims against the Debtor, and to enforce all causes of action which may exist on behalf of the Debtor or the Reorganized Debtor, over which the Court had or would have had jurisdiction prior to confirmation of the Plan. In addition, the Court retains jurisdiction to amend or modify the Plan to the extent and under the circumstances that the Court deems appropriate, as permitted by the Court and the Federal Rules of Bankruptcy Procedure.

Notwithstanding confirmation of the Plan or the occurrence of the Effective Date, the Court also retains jurisdiction for the following purposes:

- a. To hear and determine any dispute arising under the Plan or any disputes with respect to distributions made pursuant to the Plan;
- b. To adjudicate any adversary proceedings or contested matters that may be commenced or maintained by the Debtor or the Reorganized Debtor pursuant to the Case or the Plan, including, without limitation, any adversary proceeding or contested matter with respect to an Avoidance Action, proceedings to adjudicate the allowance of Disputed Claims, and all controversies and issues arising from or related to any of the foregoing;
- c. To make such orders as are necessary or appropriate to carry out the provisions of the Plan;
- d. To make such other orders or give such direction as may be appropriate under Section 1142 of the Code;
- e. To adjudicate all Claim objections or estimations filed by the Debtor or the Reorganized Debtor, and to determine the Allowed amount of any Claims;
- f. To consider and order any amendments to the Plan as may be requested pursuant to the appropriate section of the Plan;
- g. To hear and determine all Rejection Claims arising from the rejection of Rejected Contracts;
- h. To hear and determine all applications or requests for payment of Administrative Claims, including fee applications or fee disputes involving the fee applications of professionals employed during the Chapter 11 Case for services rendered prior to confirmation of the Plan;
- i. To enforce all orders previously entered by the Court;
- j. To implement the provisions of the Plan and enter orders in aid of confirmation and consummation of the Plan, including such orders as may be requested by the Debtor or the Trust under the Plan; and
- k. To enter a final decree closing the Chapter 11 Case.

Nothing contained herein shall limit the Court's power to abstain or decline to exercise jurisdiction

over any matter described above, and if the Court exercises such power, any such matter may be heard before any State or Federal Court which may otherwise have competent jurisdiction over such matter.

2. Retention and Assignment of Claims

Except as expressly provided to the contrary in this Plan, or any other contract, instrument, release, indenture or other agreement entered into in connection with this Plan, in accordance with Section 1123(b) of the Bankruptcy Code, all Claims and causes of action of the Debtor, including, but not limited to, Avoidance Actions, together with the proceeds thereof, are reserved for, assigned to, and shall be and remain property of the Reorganized Debtor.

F. Injunctions

As of the Effective Date, until the Plan is fully performed and all assets have been distributed, abandoned or otherwise disposed of, all entities shall be enjoined from: (a) prosecuting any claim, demand, debt, right, cause of action, liability or interest against or with respect to the Debtor, the Reorganized Debtor or the Property which has been released, waived or terminated pursuant to this Plan; (b) enforcing, attaching, collecting or recovering in any manner, any judgment, award, decree or order against the Debtor, the Reorganized Debtor or the Property; (c) creating, perfecting or enforcing any Lien or encumbrance against the Debtor or the Property; (d) commencing or continuing any action, in any manner or in any place, that does not comply with, or is inconsistent with, the provisions of the Plan, including the Foreclosure Proceeding; and (e) commencing or continuing, in any manner, any action or other proceeding against the Debtor, Reorganized Debtor or the Property.

G. Release Relating to Plan and Disclosure Statement

Neither the Debtor, Participating TICs nor any of the respective partners (general and limited), employees, attorneys, agents, advisors or representatives of or for the Debtor or the

Participating TICs (as defined in the Disclosure Statement), shall have or incur any liability or obligation of any kind to any Creditor, any Debtor, or any other Person or entity for any act, omission or other occurrence taking place on or prior to the Effective Date in connection with or arising out of the formulation, preparation, approval or dissemination of the Disclosure Statement or the formulation, preparation, dissemination, implementation, confirmation, consummation or administration of the Plan or the property to be distributed under the Plan, except to the extent any such liability or obligation arises out of such Person's or entity's failure to act in good faith, provided, however, that nothing in this Section shall in any way affect the rights of any party to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered thereunder. Notwithstanding anything to the contrary contained herein, no release granted by this Plan or the Confirmation Order shall apply to the Debtor's or Participating TICs' officers, partners, agents and employees for conduct that occurred prior to the Petition Date.

H. Changes in Rates Subject to Regulatory Commission Approval

The Debtor is not subject to governmental regulatory commission approval of any rates charged.

I. Tax Consequences of Plan

The Debtor has not sought or obtained rulings from the Internal Revenue Service or any state or local taxing authority with respect to the tax consequences, if any, of the Plan and the transactions contemplated thereby. Debtor is a limited liability company and is taxed as a partnership and, therefore, does not incur any income tax liability that can adversely affect the amount of dividends to be paid under the Plan. The Plan may, however, affect the tax treatment of various claimants.

CREDITORS AND HOLDERS OF INTERESTS ARE URGED TO CONSULT THEIR OWN

TAX ADVISORS ABOUT THE CONSEQUENCES TO THEM UNDER FEDERAL AND APPLICABLE STATE AND LOCAL TAX LAWS OF THE CONSUMMATION OF THE PLAN.

VI. VOTING PROCEDURE

A. Voting Procedure and Ballots

All votes to accept or reject the Plan must be cast using the accompanying Ballot attached as **Exhibit D** (the "Ballot"). The Ballot must: (a) be properly completed in accordance with the instructions thereon; (b) indicate the Claim Class under which the Ballot is being cast and whether the vote is cast to accept or reject the Plan; (c) be signed by the Creditor or the Creditor's authorized agent; and (d) be filed electronically or received by the Bankruptcy Clerk on or before the Voting Deadline at the address set forth below. Any Creditor holding a Claim in more than one Class that is entitled to vote on the Plan must cast a separate Ballot within each Class. If a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation or other person acting in a fiduciary or representative capacity, such person should indicate such capacity when signing, and should attach proper evidence of his or her authority to so act.

ANY BALLOT NOT PROPERLY COMPLETED OR THAT IS NOT RECEIVED BEFORE THE VOTING DEADLINE WILL NOT BE COUNTED.

B. Voting Deadline

The Court has fixed : .m. (C.S.T.) on _____, 2013 (the "Voting Deadline") as the date and time by which Ballots to accept or reject the Plan be filed electronically or received by the Bankruptcy Clerk at the following address:

Mr. Kenneth S. Gardner
Clerk of the U.S. Bankruptcy Court
U.S. Bankruptcy Court
211 South Court Street, Room 110
Rockford, IL 61101

UNLESS YOUR BALLOT IS PROPERLY COMPLETED AND RECEIVED BY THE BANKRUPTCY CLERK BY THE VOTING DEADLINE ABOVE, YOUR VOTE WILL NOT BE COUNTED.

C. Withdrawal of Ballots or Changing Votes

Pursuant to Federal Rule of Bankruptcy Procedure 3018(a), the Bankruptcy Court, after notice and a hearing, may permit a creditor or equity security holder to change or withdraw an acceptance or rejection for cause.

VII. ACCEPTANCE AND CONFIRMATION OF PLAN

As a condition to confirmation, the Bankruptcy Code requires that each impaired class of claims or interests accept the Plan, with the exceptions described below. The Bankruptcy Code defines acceptance of the plan by a class of claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of claims of that class. However, for purposes of this calculation, only claimants who actually vote to accept or reject the plan are counted. Holders of claims who fail to vote are not counted as either accepting or rejecting the Plan.

Classes of claims or interests that are not "impaired" under the Plan are deemed by the Bankruptcy Code to have accepted the Plan, and those classes are not entitled to cast Ballots. A class is "impaired" if the legal, equitable or contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults and reinstating maturities, or by payment in full in cash. In this Chapter 11 Case, all classes are impaired and are entitled to vote.

In determining whether the Plan has been accepted by the requisite number of Creditors, votes will be counted only with respect to Claims: (a) with respect to which the holder of a Claim has filed a proof of claim pursuant to 11 U.S.C. § 501 prior to the applicable time fixed by the Court; or (b) that are "deemed allowed" because the claims are listed in the Debtor's bankruptcy schedules and are not

listed as contingent, unliquidated or disputed; and (c) which have not been disallowed, or disallowed for voting purposes, by the Court prior to the confirmation hearing. **THE BALLOT FORM PROVIDED WITH THIS DISCLOSURE STATEMENT IS NOT A PROOF OF CLAIM.**

This Plan may be confirmed even if it is not accepted by all impaired classes, as long as at least one impaired class of claims has voted to accept it. The Debtor will seek confirmation of the Plan pursuant to 11 U.S.C. § 1129(b) if the Plan is rejected by any impaired Class of Creditors. The process by which non-accepting classes are forced to be bound by the terms of the Plan is commonly referred to as “cramdown.” The Bankruptcy Code allows the “cram down” of the Plan on non-accepting Classes of Claims or Interests: (1) if the Plan meets all consensual requirements except the voting requirements of 11 U.S.C. § 1129(a)(8); and (2) if the Plan (a) does not “discriminate unfairly” and (b) is “fair and equitable” toward each impaired class that has not voted to accept the Plan as referred to in 11 U.S.C. § 1129(b) and applicable case law.

The Debtor will ask the Court to confirm this Plan by cramdown on impaired classes 1, 2, 3, 4, 5 and 6 if any of these classes do not vote to accept the Plan. The Debtor expects that cramdown will be required with regard to Class 1 and Class 4, but not with regard to any other Class of Creditors or equity Interest holders.

The Court will set a hearing to determine whether the Plan has been accepted by the requisite number of holders of Claims and whether the other requirements for confirmation of the Plan have been satisfied. Each holder of a Claim or Interest will receive, either with this Disclosure Statement or separately, the Court's notice of hearing on confirmation of the Plan.

VIII. LIQUIDATION ANALYSIS

Another confirmation requirement is the “Best Interests Test,” which requires a liquidation analysis. Under the Best Interests Test, if a claimant or interest holder of an impaired

class does not vote to accept the Plan, then that claimant or interest holder must receive or retain under the Plan property of a value not less than the amount that such holder would receive or retain if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code.

In a Chapter 7 case, a debtor's assets are usually sold by an appointed Chapter 7 trustee. Secured creditors are paid first from the sales proceeds of properties on which the secured creditor has a lien. Administrative claims are paid next. Next, unsecured creditors are paid from any remaining sales proceeds, according to their rights to priority. Unsecured creditors with the same priority share in proportion to the amount of their allowed claim in relationship to the amount of total allowed unsecured claims. Finally, interest holders receive the balance that remains after all creditors are paid, if any.

For the Court to be able to confirm this Plan, the Court must find that all creditors and interest holders who do not accept the Plan will receive at least as much under the Plan as such holders would receive under a Chapter 7 liquidation. The Debtor maintains that this requirement is met.

The Class 1 Claim, projected to be paid in full, will retain its lien on the Property, which is equivalent in value (by definition) to the claim balance. If the Property is liquidated, then the Debtor, a "single-asset" entity, will not have any funds with which to make any payments to any other Classes. Class 1 would receive the value of the Property, in this case valued at \$8,600,000. None of the other classes would receive any payment. Any nominal cash assets would be absorbed through payment of allowed administrative and priority claims. The Plan thus satisfies the "best interests" test for all Creditors, including WBCMT. Creditors will receive significantly greater value than it would under a Chapter 7 case: Class 1, 2 and 3 Claims will be paid in full; Class 4 will receive \$1,111,340.00 during years five through ten of the Plan and a balloon

payment on the Balloon Date; and Class 5 and 6 holders will receive membership interests in the Reorganized Debtor in proportion to their prepetition TIC Interests in the Property.

IX. FEASIBILITY

For the Court to confirm the Plan, it must also be feasible. Feasibility means that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or the Reorganized Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan.

There are at least two important aspects of a feasibility analysis. The first aspect considers whether the Debtor will have enough Cash on hand on the Effective Date of the Plan to pay all the claims and expenses which are entitled to be paid on such date. The Debtor maintains that this aspect of feasibility is satisfied. First, the Debtor will only be subject to the quarterly fees owed to the Office of the United States Trustee, and to the allowed fees and expenses of Arnstein & Lehr LLP. All additional amounts needed to satisfy any other Claims will come from the operations of the Property and the New Value Contribution. As such, the Debtor will have enough Cash to pay its Effective Date obligations.

Second, a feasibility analysis considers whether the Debtor will have enough Cash over the life of the Plan to make the required payments. The data stated in Exhibit C shows that (1) with the New Value Contribution, the Property will generate net revenues sufficient to make the monthly Plan payments due on account of all Claims; and (2) the Property will, over the life of the Plan, yield enough funds to fully satisfy the Plan payments to all classes as provided herein.

In summary, the Plan proposes to pay the allowed Class 1 Claim \$43,574.92 per month for the ten (10) year term of the Plan with a balloon payment of \$6,887,691 on the Balloon Date. The Class 2 Claim will be paid in full by the end of year two of the Plan and Class 3 Claims will

be paid in full by the end of year one. Class 4 Claims will receive \$1,111,340.00 during years five through ten of the Plan and a balloon payment of \$4,271,977 on the Balloon Date. WBCMT will receive an aggregate payment on account of its Class 1 and 4 Claims of \$17,500,000. The Debtor's financial projections show that the Reorganized Debtor will be able to make these payments. As such, the Debtor will be able to comply with its obligations under the Plan and the Plan is feasible.

X. EFFECT OF PLAN CONFIRMATION

A. Discharge

Under the Plan, the Debtor shall be discharged of liability for payment of debts incurred before confirmation of the Plan, to the greatest extent possible as specified in 11 U.S.C. § 1141, unless such liabilities are specified for treatment under the Plan, and then only to the extent of the treatment hereunder. Discharge will be entered with regard to each claim upon the substantial consummation of the Plan.

B. Modification of the Plan

The Debtor may modify the Plan at any time prior to confirmation. The Debtor may modify the Plan at any time after confirmation and before substantial consummation, but only if circumstances warrant and after notice and a hearing. Once the Plan has been substantially consummated and the estate fully administered, as referred to in FRBP 3022, the Debtor may move the Court for entry of a final decree, the effect of which would be to close this bankruptcy case. After such closure, a party seeking any type of relief relating to a Plan provision may seek such relief in any court of competent jurisdiction.

C. Quarterly Fees

Quarterly fees accruing pursuant to 28 U.S.C. § 1930(a)(6) to date of confirmation shall

be paid to the UST on or before the Effective Date. Quarterly fees accruing pursuant to 28 U.S.C. § 1930(a)(6) after confirmation shall be paid to the UST in accordance with 28 U.S.C. § 1930(a)(6) until entry of a final decree, or entry of an order of dismissal or conversion to chapter 7.

XI. RECOMMENDATIONS AND CONCLUSION

This Disclosure Statement, which must be read in conjunction with the Plan, contains a detailed summary of the history of the Debtor, the principal causes of the financial difficulties for the Property, a summary of the Plan, and a discussion of the process for confirming this Plan. Creditors and parties in interest are cautioned, however, that reference should be made to the Plan itself for a proper understanding and analysis of its terms and provisions. **ALL HOLDERS OF CLAIMS ARE URGED TO READ THE PLAN CAREFULLY.** The Debtor believes that the Plan is fair, equitable and reasonable. Accordingly, the Debtor urges holders of impaired claims to vote to accept the Plan by returning their properly completed ballots to the Bankruptcy Clerk by : 0 .m., on _____, _____.

Respectfully submitted,
NNN Cypresswood Drive 25, LLC

By: /s/ Kevin H. Morse

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