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COUNSEL FOR DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**IN RE:** §  
§  
**SAPPHIRE ROAD DEVELOPMENT, LLC** § **Case No. 15-32376-BJH**  
§  
**Debtor.** § **Chapter 11**

**DEBTOR’S DISCLOSURE STATEMENT**

**TO: Creditors and Equity Security Holders of Sapphire Road Development, LLC (the “Debtor”)**

Contained in the packet of documents which has been sent to you by Debtor are the Disclosure Statement (the “Disclosure Statement”), the Plan of Reorganization (the “Plan”), the Ballot for Voting on the of Reorganization (the “Ballot”) and the Order Approving Disclosure Statement and Fixing Time for Filing Acceptance or Rejection of Plan, Combined with Notice Thereof. Please read all of these materials carefully. Please note that in order for your vote to be counted, you must 1) include your name and address, 2) fill in, date, and sign the enclosed Ballot, and 3) return it to the respective attorney for Debtors by the date and time specified on the Ballot.

**ARTICLE I - INTRODUCTORY STATEMENT**

The Debtor has filed contemporaneous hereto with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) their Plan in the above-captioned cases (the “Bankruptcy Cases”). Pursuant to the terms of the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the “Bankruptcy Code”) this Disclosure Statement must be approved by the Bankruptcy Court. Such approval is required by statute and will not constitute a judgment by the Bankruptcy Court as to the desirability of the Plan or as to the value or suitability of any consideration offered thereby.

Any terms not defined herein shall have the meaning set forth in the Plan.

**A. DISCLAIMERS**

ONLY THOSE REPRESENTATIONS SET FORTH IN THIS DISCLOSURE STATEMENT ARE AUTHORIZED BY THE DEBTOR. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE OR REJECTION OF THE PLAN OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION.

THE STATEMENTS CONTAINED HEREIN ARE MADE AS OF THE DATE OF THIS DISCLOSURE STATEMENT UNLESS ANOTHER DATE IS SPECIFIED. THE DELIVERY OF THIS DISCLOSURE STATEMENT SHALL NOT UNDER ANY CIRCUMSTANCES CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE FACTS SET FORTH HEREIN SINCE THE DATE HEREOF. THE DEBTOR IS UNABLE TO GUARANTEE THAT THE INFORMATION CONTAINED IN THE PLAN AND THIS DISCLOSURE STATEMENT IS ENTIRELY WITHOUT ERROR, BUT ALL REASONABLE EFFORTS HAVE BEEN MADE TO ENSURE THAT ALL REPRESENTATIONS ARE AS ACCURATE AS POSSIBLE.

THE SOURCE OF INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS THE DEBTOR OR ITS AGENTS AND EMPLOYEES AND HAS NOT BEEN SUBJECT TO AN AUDIT UNLESS OTHERWISE SPECIFICALLY NOTED. THE STATEMENTS MADE HEREIN LIKEWISE HAVE NOT BEEN VERIFIED BY DEBTOR'S COUNSEL, ALTHOUGH AN ATTEMPT HAS BEEN MADE TO BE CONSERVATIVE AND REALISTIC. NEITHER DEBTOR NOR THEIR COUNSEL REPRESENT OR WARRANT THE ACCURACY OF DISCUSSIONS CONTAINED HEREIN REGARDING EVENTS.

AS STATED PREVIOUSLY, YOU ARE URGED TO REVIEW THE PLAN AND THIS DISCLOSURE STATEMENT IN THEIR ENTIRETY PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN TO ENSURE A COMPLETE UNDERSTANDING OF THE TRANSACTIONS CONTEMPLATED UNDER THE PLAN AND HOW THOSE TRANSACTIONS WILL AFFECT YOUR CLAIM AGAINST, OR INTEREST IN THE DEBTOR.

IF ANY IMPAIRED CLASS VOTES TO ACCEPT THE PLAN, BUT NOT ALL CLASSES ACCEPT THE PLAN, THE DEBTOR WILL SEEK CONFIRMATION UNDER THE CRAM DOWN PROVISION OF § 1129(B) OF THE BANKRUPTCY CODE AND HEREBY GIVES NOTICE OF INTENT TO INVOKE THE CRAM DOWN PROVISIONS OF § 1129(B) IN THAT EVENT.

**B. BRIEF EXPLANATION OF CHAPTER 11**

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Upon the commencement of a Chapter 11 case, § 362 of the Bankruptcy Code provides for an automatic stay of all attempts to collect from a debtor any claims which arose prior to the bankruptcy filing or otherwise to interfere with a debtor's property or business.

Under Chapter 11, a debtor attempts to reorganize its business for the benefit of the debtor, its creditors, and equity security holders in the formulation of a plan of reorganization. For the first 120 days after the filing of a Chapter 11 bankruptcy petition, the debtor is the only party who may file a plan of reorganization in the bankruptcy case, which is generally referred to as “exclusivity.” Once exclusivity ends, any party in interest may file a plan of reorganization. The legal requirements for court approval, called “confirmation,” of a plan are discussed on Pages 4-5 of this Disclosure Statement.

### **C. THIS DISCLOSURE STATEMENT**

Why You Have Received This Disclosure Statement. You have received this Disclosure Statement because Debtors have proposed a Plan with the Bankruptcy Court in order to satisfy their debts and provide for a reorganization of the Debtors’ businesses. The Bankruptcy Court held a hearing and approved this Disclosure Statement on \_\_\_\_\_, 2015. A copy of the Plan is enclosed with the materials that you have received. This Disclosure Statement, as required by 11 U.S.C. § 1125, is being provided to all known Creditors<sup>1</sup> and other parties-in-interest whose claims are impaired in connection with the solicitation and acceptance of the Plan proposed by Debtors.

Purpose of this Disclosure Statement. The purpose of this Disclosure Statement is to provide such information as will enable a hypothetical, reasonable investor typical of the holders of Claims against Debtors to make an informed judgment in exercising their right either to accept or reject the Plan.

Purpose of the Plan. The purpose of Debtors’ Plan is to provide a mechanism for the reorganization of Debtors’ assets and for the payment of Debtors’ Creditors. The Plan was developed by Debtors. Debtors believe that the Plan is more attractive than other alternatives, such as conversion to Chapter 7 liquidation or dismissal of the Chapter 11 Case. **EACH CREDITOR IS URGED TO READ THE PLAN PRIOR TO VOTING.**

Bankruptcy Court Approval of this Disclosure Statement. After a hearing on notice, the Bankruptcy Court approved this Disclosure Statement as containing information of a kind in sufficient detail, adequate to enable a hypothetical, reasonable investor typical of the Classes being solicited to make an informed judgment about the Plan.

Sources of Information. The information contained in this Disclosure Statement has been submitted by Debtors unless specifically stated to be from other sources. Certain of the materials contained in this Disclosure Statement are taken directly from other, readily accessible instruments or are digests of other instruments. While Debtors have made every effort to retain the meaning of such other instruments or the portions transposed, Debtors urge that any reliance on the contents of such other instrument should depend on a thorough review of the instruments themselves.

Only Authorized Disclosure. No representations concerning the Plan are authorized by

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<sup>1</sup> Terms used in this Disclosure Statement are defined in Article II of the Plan, and the terms should be read together with those definitions.

Debtor or the Bankruptcy Court other than as set forth in this Disclosure Statement. Any representations or inducements made by any person to secure your vote which are other than herein contained should not be relied upon, and such representations or inducements should be reported to counsel for Debtor, who shall deliver such information to the Bankruptcy Court.

Voting on the Plan. **YOUR ACCEPTANCE OF THE PLAN IS IMPORTANT.** In order to vote on the Plan, a creditor or interest holder must have filed a proof of claim or interest on or before the Bar Date, unless scheduled by Debtor as not disputed, liquidated or contingent. Any creditor scheduled as not disputed, liquidated and not contingent is, to the extent scheduled, deemed to have filed a claim and, absent objection, such claim is deemed allowed. A creditor or interest holder may vote to accept or reject the Plan by filling out and mailing to counsel for Debtor the Ballot that has been provided in this package of information.

In order for the Plan to be accepted by a class of creditors, more than one half in number and at least two-thirds in amount of such class of Claims must vote to accept the Plan. Only those claim holders that actually vote are considered in the calculations. In order for the Plan to be accepted by interest holders, at least two-thirds in amount of interests must vote to accept the plan. Again, only voting interest holders are considered in the calculation. You are, therefore, urged to fill in, date, sign and promptly mail and/or fax the enclosed Ballot, which has been furnished to you, to counsel for Debtors as follows:

**SAPPHIRE ROAD DEVELOPMENT**

**Kevin S. Wiley, Sr.**

**The Wiley Law Group, PLLC**

**325 N. St. Paul Street, Suite 2750**

**Dallas, TX 75201**

**469-513-4020 Phone**

**469-513-4021 Facsimile**

**Email: [kwiley@mahomesbolden.com](mailto:kwiley@mahomesbolden.com); [kevinwiley@lkswj.com](mailto:kevinwiley@lkswj.com)**

**Please be sure to complete properly the form and identify legibly the name of the claimant or interest holder.**

The Bankruptcy Court has fixed \_\_\_\_\_, 2015 as the last date by which Ballots must be served on counsel for Debtors. Except to the extent allowed by the Bankruptcy Court, Ballots that are received after such time will not be counted. Ballots of holders of impaired Claims received pursuant to this solicitation and which are signed but are not expressly voted for acceptance or rejection of the Plan will be counted as Ballots for accepting the Plan. A Ballot accepting the Plan may not be revoked, except by a Final Order of the Bankruptcy Court.

**ARTICLE II – BANKRUPTCY SUMMARY**

**A. HISTORY OF THE DEBTORS**

The Debtor is a Texas limited liability company formed on August 1, 2009 for the purpose of managing and constructing a real estate development project (the “Project”) on an

approximately seven acre tract located across from the Regional U.S. Veteran's Hospital on Lancaster Road at 4500 S. Lancaster Street in Dallas, Texas (the "Property"). The Debtor is a single member domestic limited liability company currently owned 100% by Yigal H. Lelah. Prior to the Petition Date, Debtor was unable to access capital to complete its vision for developing low-income housing on the Property which resulted in a default with the City of Dallas (the "City") as its main secured creditor. As a result, this Bankruptcy Case was filed to stay any and all claims against the Debtor while the Debtor obtained third party financing to complete the Project through a reorganized entity.

## **B. EVENTS LEADING UP BANKRUPTCY**

Debtor's Project was initiated on April 22, 2009 with the City authorizing the City Manager to enter into an economic development loan agreement with the Debtor to acquire real property for the Project in the area adjacent to the U.S. Veterans Hospital in Dallas, Texas. This initial loan agreement advanced \$2,000,000.00 for the acquisition of property and included costs for demolition and clearing the property site. As the Debtor acquired parcels of property, the advances from the City were secured by the parcels under a recorded Deed of Trust. These Deeds of Trust also included restrictive covenants.

The loan agreements with the City (the "Loan Agreements") obligated the Debtor to commence development on the Project within two years of the first advance to acquire property. Thereafter, the Debtor was to complete construction of the Project within five years of the first advance. The Loan Agreements further provided that as the Debtor completed construction of each of the buildings constituting the improvements upon the Property within a five year deadline date, the advances would be forgiven and Debtor would be released from such portion of the indebtedness evidenced by the a Note held by the City as part of the Loan Agreements.

Despite the zero interest terms and forgiveness of the of debt on the Loan Agreements, the City benefitted from deal under the auspices the Debtor and its principal would take on all the risk for obtaining permitting for construction, construction costs, obtaining environmental, and federal licensure for the Project. In turn, the City would also benefit from the development of low-income housing on empty plots of land to comport with the City's desire for such development.

After making the initial advance, on September 24, 2009 the Debtor executed and delivered a Real Estate Lien Note to the City in the amount of \$2,000,000.00. The Dallas City Council passed a resolution on May 12, 2010, authorizing the City Manager to enter into an agreement with the Debtor to advance an additional \$700,000.00 which increased the loan amount to \$2,700,000.00. Subsequently, the parties modified the loan agreement on June 8, 2010 to reflect the increased loan of \$2,700,000.00.

On October 26, 2010, the City authorized the Dallas City Manager to enter into another modification agreement with the Debtor, to increase the loan amount by \$1,300,000.00 to \$4,000,000.00. On November 30, 2010, the City received an amended Real Estate Lien Note reflecting the increased loan amount of \$4,000,000.00.

After reviewing the Debtor's proposal to acquire properties for the Project and incorporate low income housing, on June 22, 2011 the City authorized the City Manager to enter into another modification agreement with the Debtor, increasing the loan amount by \$300,000.00 to \$4,300,000.00. The maturity of the note was extended from five to seven years from the date of the initial advance. The deadline to commence development was extended from two to five years from the date of the initial advance, and the deadline to complete the improvements and obtain a certificate(s) of occupancy was extended from five to seven years from the date of the initial advance. This brought the deadline for completion of construction to August, 2016.

With the new loan amount and deadline dates to commence development of the Project, the parties entered into their third modification agreement reflecting both the changed terms and the new loan amount of \$4,300,000.00. Subsequently, the City also acquired a second revised Real Estate Lien Note for the new loan amount of \$4,300,000.00 on June 22, 2011.

Again, after reviewing the Debtors application for additional expenditures on the Project, on February 8, 2012, the City approved an increase of the loan amount by \$100,000.00 to \$4,400,000.00. This approval was followed by a fourth loan modification agreement of same date. Pursuant to this modification, the original principal amount of \$2,000,000.00 was increased to \$4,400,000.00 and again, the City received security on the modified loan agreement through a Real Estate Lien Note for \$4,400,000.00

In total and over of the course of the initial stage of the Project, the Debtor acquired 33 lots with the funds advanced from the City subject to the aforementioned deeds of trust. As described by the Debtor's Schedules, the City remains a secured creditor with the amount owing of \$4,400,000.00 from the terms of the modified loan agreements and Real Estate Lien Note.

On August 18, 2014, the Debtor notified the City that it would timely commence construction on the Project on or before August 19, 2014. On August 21, 2014, the City sent the Debtor a notice of default advising the Debtor was in default of section 4.12(b) of the Loan Agreement. The letter further advised that the Debtor failed to secure permits and commence construction by the required deadline in August 2014.

In addition to the notice of default regarding the failure to timely commence construction on the Project, on August 27, 2014, the City notified the Debtor that it was in default of section 5.01(i) of the loan agreement which prohibited a lien for the performance of work to be filed against the Property and to remain unsatisfied for a period of thirty days after the date of filing thereof. The notice also referenced a Mechanic's Lien in the amount of \$103,482.14 which has been listed in the Debtor's schedules.

The Debtor responded to the City's default notice by letter dated September 26, 2014, disputing the allegation that the Debtor failed to timely commence construction on the Project. At that point in time, the Debtor had commenced construction by clearing the Property and obtaining permitting for the building of improvements. The Debtor also disputed the validity of the Mechanics Liens that the City alleged clouded title to the Property. The City took no other

action in 2014 after receiving Debtor's responses disputing the alleged violations to the Loan Agreements.

The Debtor represented and the City understood that the \$4.4 million advanced was to be utilized merely for acquisition and preparation costs for construction on the Property. Accordingly, additional capital would be required for the actual construction of the improvements. Between 2012 and 2104, the Debtor sought the additional funds either through additional advances from the City or by applications for financing through federal low income housing programs.

The City authorized support of Debtor's application to the Texas Department of Housing and Community Affairs ("TDHCA") 2013 Low Income Housing Tax Credit Program ("LIHTC"). As a condition for being considered, the Debtor committed to a Low Income Housing multifamily project on the Property. Subsequently, the City executed a new loan agreement in the amount of \$1,350,000.00 to the Debtor paid for by the federal HOME Partnership Program Funds conditioned upon additional financing.

With the City's conditional commitment of another loan for \$1.35 million, the Debtor also conditionally obtained approximately \$13 million through THDCA mortgage revenue bonds, \$10,489,200 in a HUD 221d4 federal loan, \$8.5 million in 4% low income housing tax credits from the TDHCA, and other financing by January 2015. The approximated \$25 million in funds was to be utilized for construction of 162 low income housing units on the Property. Unfortunately, final execution for the TDHCA and HUD loans were delayed as poor publicity towards the project were compounded with the City's efforts to remove Mr. Lelah from the Project. As a result, the City posted the Property for foreclosure set for June 2, 2015 which, as previously noted, compelled the Debtor to file this Chapter 11 bankruptcy.

### **C. ASSETS AND LIABILITIES AT THE TIME OF THE FILING**

Attached hereto as **Exhibit A** are Debtor's Schedules, reflecting Debtor's estimation of their assets and liabilities as of the Petition Date.

### **D. SIGNIFICANT EVENTS IN CHAPTER 11**

Petition for Relief. On June 1, 2015, the Debtor filed its Chapter 11 petition for relief to commence this case.

Amendment of Petition. On June 23, 2015, the Debtor amended its petition for relief to reflect that it is a single asset real estate case.

Initial § 341 Meeting of Creditors. On July 8, 2015, the initial meeting of creditors for Debtor was held and concluded pursuant to 11 U.S.C. § 341.

Employment of Legal Counsel. On July 16, 2015, the Court entered its order approving Debtor's application to employ the Wiley Law Group, PLLC as counsel for Sapphire Road Development, LLC.

Post-Petition Operations of Debtor. Debtor's July, 2015 Monthly Operating Report reflecting post-petition operations through July 31, 2015 is attached hereto as **Exhibit B**, and incorporated by reference herein.

### **ARTICLE III - SUMMARY OF THE PLAN**

#### **A. OVERVIEW OF THE PLAN**

THE FOLLOWING DISCUSSION IS A GENERAL OVERVIEW OF THE PLAN ONLY. IT IS NOT INTENDED TO MODIFY THE TERMS OF THE PLAN IN ANY WAY. THE PLAN IS ENCLOSED WITH THIS DISCLOSURE STATEMENT. CREDITORS ARE URGED TO READ THE PLAN IN ITS ENTIRETY IN DECIDING WHETHER TO VOTE FOR OR AGAINST THE PLAN.

The Plan provides for a reorganization of all liabilities owed by Debtors, as described herein.

#### **B. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

The Plan classifies and treats various classes of creditors of the Debtors' Estates. The following is a summary of classification and treatment of creditors' claims under the Plan:

For the purpose of satisfaction of all Claims against and Interests in Debtors, the Claims and Equity Interests are divided into the following classes:

##### Class 1: Administrative Claims

Class 1 Administrative Claims consist of any claim for payment of any cost or expense of administration of the Bankruptcy Case entitled to priority in accordance with §§ 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the Debtor's Estate and operating their businesses from and after the Petition Date to and including the Confirmation Date and all allowances of compensation and reimbursement approved by the Bankruptcy Court in accordance with the Bankruptcy Code and any fees or charges assessed against the Debtor's Estate under the Bankruptcy Code. Except to the extent that the holder of an Administrative Claim may otherwise agree in writing, Administrative Claims which are Allowed Claims prior to the Effective Date of the Plan shall be paid in full within ten (10) days of the Effective Date of the Plan. Administrative Claims that become Allowed Claims after the Effective Date of the Plan shall be paid in full in cash within ten (10) business days following the date the Administrative Claim becomes an Allowed Claim by Final Order of the Bankruptcy Court. For purposes of payment of Administrative Claims, any person desiring to have their Claim paid as an Administrative Claim under the Plan, must file an application for allowance of that Administrative Claim on or before thirty (30) days after the Confirmation Date or such person shall be barred from asserting an Administrative Claim.



Class 2: Priority Tax Claims

Class 2 Priority Tax Claims consist of any claim that is entitled to priority in payment under § 507(a)(8) of the Bankruptcy Code. Priority Tax Claims shall be paid by the Reorganized Debtors, up to the Allowed amount of such Claim, plus interest at the rate of 4.5% per annum accrued thereon on a quarterly basis on October 1, January 1, April 1 and July 1 of each year over a period not exceeding six (6) years after the date of assessment of the Claims, as provided in § 1129(a)(9)(C) of the Bankruptcy Code commencing after the first full quarter following the Effective Date.

Class 3: Secured Claims

The Class 3 Claims shall be treated as fully Secured Claims in amounts to be determined by the Bankruptcy Court pursuant to 11 U.S.C. § 506(b) at the Confirmation Hearing. The Class 3 Claims shall be treated as follows:

Class 3A – The City of Dallas: The Lien that secures Class 3A Allowed Secured Claim of the City of Dallas as to the Property used in Phase I as described herein will be released or subordinated upon the close of financing of Phase I construction as described herein. The balance of the liens on the Property shall be released or subordinated upon close of financing of Phase II construction with respect to the property used in Phase II and Phase III construction with respect to the property used in Phase III. The lien will be released, if not already released and just subordinated, upon completion of construction of Phases I-III. Class 1 is impaired.

(a). Assumption and cure of defaults under the Covenants and Obligations Under Funded Loan Agreements with respect to Class 3A. The covenants and obligations under the funded Loan Agreements shall be fully assumed pursuant to Bankruptcy Code § 365(a). Under the Loan Agreement, there is no further obligation of the City of Dallas to make additional funding. Therefore, this assumption and cure is not precluded under 11 U.S.C. § 365(c)(2).

(b) Plan Default Interest/Penalties/Charges. Except as provided by this Plan, no default interest, late charges, or other penalties arising or accruing after the Petition Date shall be required to be paid to the City of Dallas in connection with the treatment provided under this Plan for Allowed Class 3A Claims.

(c) Collateral. The City of Dallas shall retain all of its liens and security interests in the tracts of land constituting the Property secured under the Loan Agreements with the Debtor, with the same validity, enforceability, attachment, perfection, priority, and legal rights that existed on the Petition Date, save and except as modified herein with respect to subordination for construction financing during the financing and construction stages and release after completion (if not earlier) of Phases I-III as aforementioned. The Class 3A claim is impaired.

Class 3B – 5-G Studio: The Class 3B Secured Claim of 5-G Studio in the amount of \$103,482.14 will be paid 100% of the Allowed Claim in full on the Effective Date. The Class 2 Allowed Claim holder shall release the mechanic's lien on the Property upon receipt of the payment.

(a) Plan Default Interest/Penalties/Charges. Except as provided by this Plan, no default interest, late charges, or other penalties arising or accruing after the Petition Date shall be required to be paid to 5-G Studio in connection with the treatment provided under this Plan for Allowed Class 3B Claims

(b) Collateral. 5-G Studio shall retain all of its liens and security interests in the Property with the same validity, enforceability, attachment, perfection, priority, and legal rights that existed on the Petition Date until payment. The Class 3B Claim is not impaired.

#### Class 4: General Unsecured Claims

The Class 4 Claims shall be treated as Allowed Unsecured Claims in amounts to be determined by the Bankruptcy Court pursuant to 11 U.S.C. § 502(b) at the Confirmation Hearing. Class 4 Allowed General Unsecured Claims consist of all other Allowed Claims against the Debtor not placed in any other Class including the claims listed on Schedule F or creditors filing a proof of claim, or the special class of creditors for claims of Yigal Lelah individually. The Class 4 Allowed Unsecured Claims in the amount of \$307,343.11 shall be paid 100% of the Allowed Claim in full, one-half on the Effective Date and the other one-half within ninety (90) days thereafter with interest at prime rate plus 2%. Class 4 is impaired. The total list of claims in this class is as follows:

- Darrel G. Jack. \$4,500.00. Market Data Study.
- MRL Construction Co. \$775.11. Pre-Development Expense.
- Neighborhood Builders CDC. \$56,635.05. Pre-Development Expense.
- Next Stop, LLC. \$80,111.85. Pre-Development Expense.
- Pacheco Koch. \$91,608.60. Engineering Services.
- Parkin-Perkins-Olsen. \$30,187.50. Engineering Services.
- Paul J. Glenn. \$875.00. Texas Register Accessibility Services.
- PHA Consulting. \$42,650.00. Mechanical Engineering.

Class 5 Claims – Yigal Lelah, Class 5 unsecured advances to the Debtor by Yigal Lelah and/or affiliates shall receive payment of \$600,000.00 with respect to these unsecured advances. 30% will be paid at the close of financing of Phase I construction as described herein; 60% will be paid at the close of financing of Phase II construction as described herein; and the 10% balance will be paid at the close of financing of Phase III. Class 5 is impaired.

Class 6 – Equity Interests. Class 6 Equity held by Yigal Lelah in the Debtor shall receive no distribution. As required under the absolute priority rule applicable to the Confirmation Order, no junior class will receive distribution unless all senior classes have been paid in full, or consented to the terms of the Plan, absent “new value” proposed by the junior class under rules providing that other third parties have the right to match the “new value” contribution. The rule will be complied by 100% payment of senior classes or no distribution to Class 6. Class 6 is impaired.

### C. IMPLEMENTATION OF THE PLAN

The Debtor and ITEX Group, LLC, a Texas limited liability company (“ITEX”) shall initiate the development by ITEX’s investment and/or identification, coordination, and closing of required funds for the development described herein (the “Development”) on the Property.

The Development will be completed by a reorganized debtor as a transferee of all the terms and obligations of the Loan Agreements with the City to complete the Development of the Property. The reorganized debtor to be formed under the terms of the Plan of Reorganization (the “Plan”) and will be either an incorporated, formed, or organized Texas or Delaware business entity (the “NEWCO”) at the discretion of ITEX to be owned 100% by ITEX under the terms of the Plan of Reorganization outlined herein.

Debtor will transfer all of its rights, title and interest in the assets and liabilities pursuant to the terms of the Plan to NEWCO upon entry of a final, non-appealable order of confirmation of the Plan outlined herein (the “Confirmation Order”).

#### Development of the Property

Phase 1 – ITEX will immediately upon Plan Confirmation begin to assist a Texas-based, non-profit, Permanent Supportive Housing (PSH) provider with the requisite approvals of financing of the Phase 1 PSH development as described herein. The Development Agreement and Related Agreements shall contain terms consistent with the terms of a proposed letter of intent and term sheet attached herein as **Exhibit C** (the “LOI”) and shall contain other customary covenants, representations, warranties and closing conditions as mutually agreed by the parties. ITEX along with the PSH provider shall develop, finance, and construct a new mixed-use PSH development of approximately 175 apartments on a 1.5 acre part of the Property. The PSH non-profit is highly regarded and some of its major donors live in the Dallas area. These donors have encouraged the non-profit to expand its operations to Dallas. ITEX anticipates developing both Phase I and Phase II in parallel with each other. Construction financing will close and construction of Phase 1 will commence within one (1) year of the Effective Date.

Phase II – ITEX will immediately upon the Plan Confirmation engage third party experts, including the aforementioned Humphries Partners Architects at its own expense to conduct market studies and develop a new comprehensive design plan for the balance of the Development site excluding the HUD Site. ITEX anticipates that Phase II will include the development of additional affordable housing, market-rate housing, parking for at least 450 spaces as requested by the U.S. Veterans Administration, and retail, as well as other income-producing assets. The site build-out plan will be responsive to market opportunities and conditions but will likely occur in the near term of two years or at such time as the area fully absorbs existing vacancies in its higher value commercial developments.

Phase III – Either ITEX or Debtor will develop the HUD Site as either the HUD project or a mixed commercial/residential tract.

#### **D. DISPOSITION OF CAUSES OF ACTION**

Debtors have not yet concluded their analysis of existing claims and Causes of Action and expressly reserve the right to continue such analysis. All Claims and Causes of Action owned by Debtors, Causes of Action that could have been brought by a Creditor on behalf of Debtors, and all Causes of Action created by the Bankruptcy Code not expressly waived or released under the Plan may be pursued by the Reorganized Debtors for the benefit of the Creditors, as provided herein, including, but not limited to Causes of Action arising in and under Chapter 5 of the Bankruptcy Code. The Reorganized Debtors shall have the exclusive right to settle or compromise all such Causes of Action subject to Bankruptcy Court approval.

#### **E. EXECUTORY CONTRACTS AND LEASES**

General Assumption and Assignment. Debtors anticipate, but do not guarantee, that all unexpired executory contracts will be assumed at Confirmation. All assumed contracts will be paid in the ordinary course of business on a going forward basis after Confirmation. All executory contracts and unexpired leases of Debtors (including, but not limited to, those listed on the Debtors' Schedules) which are not expressly rejected on or before ninety (90) days after the Confirmation Date or not otherwise specifically treated in the Plan or in the Confirmation Order shall be deemed to have been assumed by Debtors on the Confirmation Date. Debtors reserve the right to file an exhibit with the Bankruptcy Court prior to the Confirmation Date rejecting any executory contract or lease.

Cure of Assumed Executory Contracts and Unexpired Leases. To the extent necessary, Debtors shall cure all defaults existing under any assumed executory contract or unexpired lease by paying the amount, if any, claimed by any party to such executory contract or unexpired lease as set forth in a proof of claim, which shall be filed with the Bankruptcy Court within fifteen (15) days after the Confirmation Date and shall be titled "Assumption Cure Proof of Claim." Alternatively, Debtors may pay such amount as may be agreed upon between Debtors and any party to such executory contract or unexpired lease, provided an Assumption Cure Proof of Claim is timely filed within fifteen (15) days after the Confirmation Date.

Debtors shall have the right to file within sixty (60) days of the filing of an Assumption Cure Proof of Claim an objection in writing to the amount set forth in the Assumption Cure Proof of Claim and the Bankruptcy Court shall determine the amount actually due and owing in respect of the defaults.

Payment of such Claims shall be made by the Reorganized Debtors on the later of: (i) ten (10) Business Days after the expiration of the sixty day period for filing an objection in respect of any Assumption Cure Proof of Claim filed pursuant to this section; or (ii) when a timely objection is filed, ten (10) Business Days after an order of the Bankruptcy Court allowing such Claim becomes a Final Order.

#### **F. RESOLUTION OF DISPUTED CLAIMS**

Only Allowed Claims will be paid by Debtors according to the Plan. An Allowed Claim

is any claim against Debtors for which a proof of claim was timely and properly filed or is deemed to have been timely and properly filed because the Debtors have or hereafter do list such Claim on their schedules as liquidated and not disputed or contingent.

Within sixty (60) days from the Effective Date, unless such date is extended by Order of the Bankruptcy Court after notice and hearing, the Reorganized Debtors may file with the Bankruptcy Court objections to Claims and Interests.

If the Reorganized Debtors file an objection to a proof of claim (“Undetermined Claim”), then an Allowed Claim shall be the amount of the claim allowed by order of the Bankruptcy Court. Thereafter, only upon entry of an order determining the amount of the Allowed Claim and to the extent that an Undetermined Claim becomes an Allowed Claim, such Allowed Claim shall be entitled to such distributions as provided under the Plan. Such distributions shall be made in the manner provided for by the Plan and the terms of any Final Order of the Bankruptcy Court with respect to such Allowed Claim. In the event that Debtors make any distributions to creditors at any time prior to a determination of allowance of an Undetermined Claim, payments on such Undetermined Claim will commence and be due and payable on the first quarterly payment date following the date of the order allowing such claim, and shall be re-amortized to equal an amount sufficient to fully pay the Allowed Claim.

Unless and until an Undetermined Claim becomes an Allowed Claim, no creditor holding such a claim shall have any claim against the distribution held by Debtors and/or Reorganized Debtors with respect to such claim.

#### **ARTICLE IV - CONDITIONS PRECEDENT TO CONFIRMATION OF THE PLAN**

Conditions to Confirmation. Confirmation of the Plan cannot occur unless each of the following conditions precedent has occurred:

1. The Bankruptcy Court shall have approved the Disclosure Statement; and
2. The Confirmation Order is entered by the Bankruptcy Court.

#### **ARTICLE V - MODIFICATION OF THE PLAN**

Section 1127(a) of the Bankruptcy Code permits Debtors to amend or modify a plan at any time prior to confirmation. Post-confirmation modifications of a plan are allowed under § 1127(b) of the Bankruptcy Code, if the proposed modification is offered before a plan has been substantially consummated or pursuant to an article of the confirmed plan authorizing the intended modification. Debtors reserve the right to amend or modify the Plan at any time at which such modification is permitted under the Bankruptcy Code.

In the event Debtors propose to modify the Plan prior to the Confirmation Order, further disclosures pertaining to the proposed modification will be required only if the Bankruptcy Court finds, after a hearing, that the pre-confirmation modifications adversely change the treatment of any creditor or equity security interest holder who has previously accepted the Plan. If the proposed pre-confirmation modification is material and adverse, or if a post-confirmation

modification is sought, Debtors intend to supplement this Disclosure Statement as necessary to describe the changes made in the Plan and the reasons for any proposed modifications.

## **ARTICLE VI - CONSIDERATIONS IN VOTING ON THE PLAN**

### **A. ALTERNATIVES TO THE PLAN**

Although the Disclosure Statement is intended to provide information to assist in the formation of a judgment as to whether to vote for or against the Plan and although creditors are not being offered through that vote an opportunity to express an opinion concerning alternatives to the Plan, a brief discussion of alternatives to the Plan may be useful. Debtors believe the proposed Plan to be in the best interests of creditors and Debtors, and do not favor any alternative to the proposed Plan. In arriving at that conclusion, Debtors assess the alternatives as follows:

Chapter 7 Liquidation Analysis. Debtors could convert the case to Chapter 7 and allow a bankruptcy trustee to be appointed to liquidate and distribute assets. In the event that the Bankruptcy Court does not confirm a plan of reorganization in this case, conversion to Chapter 7 will ultimately result. Debtors believe this alternative to be unsatisfactory for the reasons stated in Article VII. B., below, and that Unsecured Creditors would receive no money or significantly less money than proposed in the Plan in the event that the Debtors' assets are liquidated under Chapter 7 of the Bankruptcy Code.

Dismissal of the Case. Dismissal of the Bankruptcy Case would most likely lead to the same unsatisfactory result as Chapter 7 liquidation.

Debtors have attempted to set forth alternatives to the proposed Plan. However, Debtors must caution creditors that a vote must be for or against the Plan. The vote on the Plan does not include a vote on alternatives to the Plan. There is no assurance what turn the proceedings will take if the Plan fails to be accepted. If you believe one of the alternatives referred to is preferable to the Plan and you wish to urge it upon the Bankruptcy Court, you should consult counsel.

### **B. LIQUIDATION ANALYSIS**

The likely result of a conversion of the Bankruptcy Case to Chapter 7 liquidation would be a lifting of the automatic stay of 11 U.S.C. § 362(a) to permit repossession of the Debtor's equipment by Debtor's secured creditors. This would leave the Debtor with an inability to provide construction services and therefore, no prospect for the repayment to any other creditor. In the absence of any adversary proceedings, there would be no other source of funds, which would lead to smaller distributions to claim classes than would the Plan.

### **C. SPECIFIC CONSIDERATIONS IN VOTING**

All of the foregoing give rise in the instant case to the following implications and risks concerning the Plan.

While the Plan provides for certain payments at confirmation, such payments will only apply to Allowed Claims including Claims arising from defaults. Under the Bankruptcy Code, a Claim may not be paid until it is allowed. A Claim will be allowed in the absence of objection.

A Claim, including a Claim arising from default, which has been objected to will be heard by the Bankruptcy Court at a regular, evidentiary hearing and allowed in full or in part or disallowed. While Debtors bear the principal responsibility for Claim objections, any interested party, including creditors, may file claim objections. Accordingly, payment on some Claims, including Claims arising from defaults, may be delayed until objections to such Claims are ultimately settled.

#### **D. DISCLOSURES REQUIRED BY THE BANKRUPTCY CODE**

The Bankruptcy Code requires disclosure of certain facts:

- 1) There are no payments made or promises of the kind specified in § 1129(a)(4) of the Bankruptcy Code which have not been disclosed to the Bankruptcy Court.
- 2) Counsel to the Debtor have advised Debtor that it will require legal services in connection with this case after confirmation which will require reimbursement. Debtor may continue to use the Wiley Law Group, PLLC as counsel after confirmation.

#### **E. DESCRIPTION OF MANAGEMENT AND CONTROL PERSONS OF DEBTOR**

There will be no changes to the management and control persons of the Debtor as of the date of filing of the Plan, as a result of the Plan.

### **ARTICLE VII - PROVISIONS GOVERNING DISTRIBUTION**

Claims. Claims are defined in the Plan. The Plan is intended to deal with all Claims against the Debtors' estates of whatever character, whether or not contingent or liquidated, and whether or not allowed by the Bankruptcy Court pursuant to § 502(a) of the Bankruptcy Code; however, only those Claims Allowed pursuant to § 502(a) of the Bankruptcy Code will be entitled to and receive payment under the Plan.

Compliance with Plan. Any Person, including a Creditor, which has not, within the time provided in the Plan, performed any act required in the Plan or in the Confirmation Order, shall not be entitled to participate in any distribution under the Plan.

Provisions Covering Distributions. All payments required by the Plan shall be made by Reorganized Debtors, their successor, assign or designee. Payments to be made in cash pursuant to the Plan shall be made by check drawn on a domestic bank or by wire transfer from a domestic bank, such mode of payment to be at the sole discretion of Reorganized Debtors.

Distributions and deliveries to holders of an Allowed Claim shall be made to the holder at the address set forth on the latest-filed proof of claim filed by such holder or at the address listed on Debtors' Schedules of such holder if no proof of claim is filed. If any holder's distribution is returned as undeliverable, Reorganized Debtors shall hold the distribution until notified of such holder's new address or the first anniversary of the Effective Date occurs, at which time the undelivered distribution shall revert and become the property of Reorganized Debtors and the Claim shall be discharged and forever barred.

Checks issued in respect of Allowed Claims shall be null and void if not cashed within ninety (90) days of the date of issuance thereof. Requests for re-issuance shall be made directly to Reorganized Debtors at the Notice Address(es) listed herein in Article XI by the Holder of the Allowed Claim with respect to which such check originally was issued. Any Claim in respect of such voided check shall be made on or before the later of the first anniversary of the Effective Date or ninety (90) days after the date of issuance of such check. After such date, all Claims in respect of such checks shall be discharged and forever barred.

### **ARTICLE VIII - RETENTION OF JURISDICTION**

Purposes. Notwithstanding entry of the Confirmation Order, the Bankruptcy Court shall retain jurisdiction in the following matters after confirmation of the Plan:

- i. to determine any and all objections to the allowance of Claims or Interests, both before and after the Confirmation Date, including any objections to the classification of any claim or interest;
- ii. to determine any and all applications for fees and expenses authorized to be paid or reimbursed in accordance with § 503(b) of the Bankruptcy Code or the Plan;
- iii. to determine any and all pending applications for the assumption or rejection of executory contracts or for the rejection or assumption and assignment, as the case may be, of unexpired leases to which Debtors are a party or with respect to which they may be liable; to hear and determine any actions to void or terminate unexpired contracts or leases; and to hear and determine and, if need be, to liquidate any and all claims arising therefrom;
- iv. to hear and determine any and all actions initiated by Debtors and/or Reorganized Debtors, whether by motion, complaint or otherwise;
- v. to determine any and all applications, motions, adversary proceedings and contested matters pending before the Bankruptcy Court on the Confirmation Date or filed or instituted after the Confirmation Date;



- vi. to modify the Plan, the Disclosure Statement or any document created in connection with the Plan or remedy any defect or omission or reconcile any inconsistency in any Order of the Bankruptcy Court, the Plan, the Disclosure Statement or any document created in connection with the Plan, in such manner as may be necessary to carry out the purposes and effects of the Plan to the extent authorized by the Bankruptcy Code;
- vii. to ensure that the distribution is accomplished in accordance with the provisions of the Plan;
- viii. to allow, disallow, determine, liquidate or estimate any claim or interest and to enter or enforce any order requiring the filing of any such claim or interest before a particular date;
- ix. to enter such orders as may be necessary to interpret, enforce, administer, consummate, implement and effectuate the operative provisions of the Plan, the Confirmation Order and all documents and agreements provided for herein or therein or executed pursuant hereto or thereto including, without limitation, entering appropriate orders to protect Debtors from creditor actions;
- x. to hear any other matter not inconsistent with Chapter 11 of the Bankruptcy Code and/or applicable bankruptcy law;
- xi. to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked or vacated;
- xii. to determine such other matters as may arise in connection with the Plan, this Disclosure Statement or the Confirmation Order;
- xiii. to enforce all orders, judgments, injunctions, and rulings entered in connection with the Chapter 11 Case;
- xiv. to determine all issues relating to the Claims of any taxing authorities, state or federal;
- xv. to determine any avoidance actions brought pursuant to the provisions of the Bankruptcy Code; and
- xvi. to enter a Final Order and final decree closing the Chapter 11 Case.

Exclusive Jurisdiction. The Bankruptcy Court shall have exclusive jurisdiction to resolve all controversies, suits and disputes that may arise in connection with the interpretation,

enforcement, consummation, implementation or administration of the Plan, the Confirmation Order or the Disclosure Statement and all entities shall be enjoined from commencing any legal or equitable action or proceeding with respect to such matters in any other court or administrative or regulatory body.

Abstention. If the Bankruptcy Court abstains from exercising jurisdiction or is otherwise without jurisdiction over any matter arising out of the Chapter 11 Case, including the matters set forth in this Article VIII, Article VIII of the Plan shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

Closing of Case. The Reorganized Debtors shall file an application for final decree and to close the Bankruptcy Case and promptly set a hearing no later than twelve (12) months after the Effective Date, or show cause to the Bankruptcy Court within such period why the Bankruptcy Court should not enter a final decree. Any adversary proceeding that is a Cause of Action shall survive the entry of a final decree and closing of the Chapter 11 Case, and jurisdiction shall be retained over such proceeding.

#### **ARTICLE IX - MISCELLANEOUS PROVISIONS**

Certain Rights Unaffected. Except as otherwise provided in the Plan, any rights or obligations which the Debtors' creditors may have amongst them as to their respective claims or the relative priority or subordination thereof are unaffected.

Binding Effect. As of the Effective Date, the Plan shall be binding upon and inure to the benefit of Debtors, Reorganized Debtors, the holders of the Claims, and their respective successors and assigns.

Discharge of Claims. Except as otherwise provided in the Plan or in the Confirmation Order, the rights afforded in the Plan and the payments and distributions to be made hereunder shall discharge all existing debts and Claims of any kind, nature, or description whatsoever against Debtors or any of their assets or properties to the extent permitted by § 1141 of the Bankruptcy Code. Upon the Effective Date, all existing Claims against Debtors shall be deemed to be discharged and all holders of Claims shall be precluded from asserting against the Debtors' assets or properties, any other or further Claim based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder filed a proof of claim.

Discharge of Debtors. Any consideration distributed under the Plan shall be in exchange for and in complete satisfaction, discharge, and release of all Claims of any nature whatsoever against Debtors or any of their assets or properties. Upon the Effective Date, Debtors shall be deemed discharged and released to the extent permitted by § 1141 of the Bankruptcy Code from any and all Claims, including but not limited to demands and liabilities that arose before the Effective Date, whether or not (a) a proof of claim based upon such debt is filed or deemed filed under § 501 of the Bankruptcy Code; (b) a claim based upon such debt is allowed under § 502 of the Bankruptcy Code; or (c) the holder of the claim based upon such debt has accepted the Plan.

The Confirmation Order shall be a judicial determination of discharge of all liabilities of Debtors. Pursuant to § 524 of the Bankruptcy Code, such discharge shall void any judgment against Debtors at any time obtained to the extent it relates to a claim discharged, and operates as an injunction against the prosecution of any action against Debtors or the property of Debtors, to the extent it relates to a claim discharged.

Exculpations. Debtors' professionals shall not have or incur any liability to any Holder of a Claim for any act, event, or omission in connection with, or arising out of, the confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence.

Injunctive Relief. Except as provided herein, on and after the Confirmation Date, all Creditors and persons acting in concert with them are enjoined and restrained pursuant to § 105 of the Bankruptcy Code from taking any action to correct or enforce any Claim directly or indirectly against the Debtor's assets or properties in any manner inconsistent with the terms contained in the Plan. The discharge granted by this Plan voids any judgment at any time obtained with respect to any debt discharged.

Notices. All notices, requests or demands in connection with the Plan shall be in writing and shall be deemed to have been given when received or, if mailed, five (5) days after the date of mailing, provided such writing shall have been sent by registered or certified mail, postage prepaid, return receipt requested, and sent to the following parties, addressed to:

**Debtor:**

Sapphire Road Development, LLC

**Debtor's Counsel:**

The Wiley Law Group, PLLC  
325 N. St. Paul Street, Suite 2750  
Dallas, TX 75201

All notices and request to Holders of Claims and Interests shall be sent to them at the address listed on the last-filed proof of claim and if no proof of claim is filed, at the address listed in Debtors' Schedules.

**ARTICLE X - CONCLUSION**

Debtors respectfully submit that the Plan satisfies all of the statutory requirements of Chapter 11 of the Bankruptcy Code, including the "best interest of creditors" and "feasibility" requirements and that it should be confirmed even in the event a class of claims does not vote for acceptance of the Plan. Debtors believe that the Plan "is fair and equitable" and "does not discriminate unfairly." Additionally, Debtors believe that the Plan has been proposed in good faith.

Debtors respectfully request that this Disclosure Statement be approved for circulation to the creditors of Debtors and that they be permitted to solicit votes for acceptance of the Plan.

Dated: August 27, 2015

Sapphire Road Development, LLC

By: \_\_\_\_\_  
Yigal Lelah, President

Respectfully submitted,

**THE WILEY LAW GROUP, PLLC**

/s/ Kevin S. Wiley, Sr.

Kevin Stuart Wiley, Sr., Esq.

State Bar No. 21470700

Kevin Stuart Wiley, Jr., Esq.

State Bar No. 24029902

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Fax: 469/513-4021

**COUNSEL FOR DEBTOR**

**SAPPHIRE ROAD DEVELOPMENT, LLC**

**CERTIFICATE OF SERVICE**

The undersigned certifies that true and correct copies of the Disclosure Statement were forwarded to the Office of the U.S. Trustee, 1100 Commerce Street, Room 9C60, Dallas, TX via electronic case filing and all parties on the attached mailing list via U.S. Mail this 27th day of August, 2015.

/s/ Kevin S. Wiley, Jr.

Kevin S. Wiley, Jr.