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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re  
  
FSG-R, LLC, a Nevada limited liability  
company,  
  
Debtor.

Case No. BK-S-09-30126-BAM

Chapter 11

**DISCLOSURE STATEMENT TO  
ACCOMPANY DEBTOR’S PLAN  
OF REORGANIZATION DATED  
OCTOBER 31, 2011**

**OST REQUEST PENDING**

Hearing Date: November 4, 2011  
Hearing Time: 1:00 p.m.

THIS DISCLOSURE STATEMENT IS SUBMITTED FOR APPROVAL IN CONNECTION WITH DEBTOR’S PLAN OF REORGANIZATION DATED OCTOBER 31, 2011 (THE “PLAN”), ATTACHED HERETO AS **EXHIBIT A**, FILED BY FSG-R, LLC (“DEBTOR”), DEBTOR AND DEBTOR IN POSSESSION IN THE ABOVE-CAPTIONED CHAPTER 11 BANKRUPTCY PROCEEDING (THE “CHAPTER 11 CASE”). **THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT, THE SECURITIES AND EXCHANGE COMMISSION, OR ANY OTHER REGULATORY AUTHORITY.**

1 This Disclosure Statement (the “Disclosure Statement”) has been prepared by Debtor in  
2 connection with the solicitation of acceptances of Debtor’s Plan of Reorganization dated October 31,  
3 2011 (the “Plan”). The purpose of this Disclosure Statement is to provide adequate information of a  
4 kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of  
5 Debtor and the condition of Debtor’s books and records, that would enable a hypothetical reasonable  
6 investor, typical of holders of Claims and equity interests, to make an informed judgment about the  
7 Plan. An acceptance or rejection of the Plan must be in writing and may only be made by  
8 completing the ballot that accompanies the Plan.

9 In order for your vote to be counted, the actual ballot must be *received* no later than 5:00  
10 p.m. (prevailing Pacific Time) on December 5, 2011, at the following address:

11 Fox Rothschild LLP  
12 c/o Anne M. Loraditch, Esq.  
3800 Howard Hughes Parkway, Suite 500  
13 Las Vegas, Nevada 89169

14 Debtor reserves the right, but not the obligation, to extend the voting deadline and to count any votes  
15 received thereafter. Except as otherwise noted, the ballots being solicited (the “Ballots”) by this  
16 Disclosure Statement will not be used by Debtor for any purpose other than to determine votes for  
17 acceptance or rejection of the Plan (and any permitted non-materially modified version thereof)  
18 under Chapter 11 of the Bankruptcy Code.

19 This Disclosure Statement includes (among other things), a summary of the Chapter 11 Case,  
20 a description of the Claims against and equity interests in Debtor, a summary of the Plan, a  
21 discussion of the Plan’s feasibility, and a liquidation analysis setting forth what holders of a Claim  
22 against or equity interest in Debtor would recover if Debtor was liquidated immediately under  
23 Chapter 7 of the Bankruptcy Code.

24 **UPON BANKRUPTCY COURT APPROVAL OF THE PLAN, THE PLAN WILL BE**  
25 **BINDING UPON ALL CREDITORS AND HOLDERS OF EQUITY INTERESTS.**

26 Debtor requests that you vote promptly for the Plan upon carefully reviewing the Plan.

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1 Capitalized terms utilized in this Disclosure Statement, if not defined herein, shall have the  
2 meaning used or defined in the Plan, the Bankruptcy Code or the Bankruptcy Rules as applicable  
3 unless the context hereof requires a different meaning.

4 This Disclosure Statement is being provided to Holders of Impaired Claims, in connection  
5 with the solicitation of their votes on the Plan, in order to provide adequate information to enable  
6 such creditors to make reasonably informed decisions in the exercise of their rights to vote on the  
7 Plan. In making a decision in connection with the Plan, Holders of Impaired Claims must rely on  
8 their own examination of the Debtor's financial situation and the terms of the Plan, including the  
9 merits and risks involved. HOLDERS OF IMPAIRED CLAIMS ARE URGED TO REVIEW ALL  
10 OF THE TERMS AND CONDITIONS OF THE PLAN CAREFULLY, AND NOT RELY  
11 SOLELY ON THE SUMMARY IN THIS DISCLOSURE STATEMENT. HOLDERS OF  
12 IMPAIRED CLAIMS ALSO SHOULD CAREFULLY REVIEW THE VOTING INSTRUCTIONS  
13 SET FORTH IN ARTICLE VI, SECTION B OF THIS DISCLOSURE STATEMENT.

14 HOLDERS OF CLAIMS AND ANY OTHER PARTIES IN INTEREST SHOULD NOT  
15 CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY  
16 LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH SUCH HOLDER SHOULD,  
17 THEREFORE, CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX  
18 ADVISORS AS TO ANY MATTERS CONCERNING THE SOLICITATION, THE PLAN AND  
19 THE TRANSACTIONS CONTEMPLATED THEREBY.

20 THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BASED  
21 UPON FINANCIAL AND OTHER INFORMATION DEVELOPED BY DEBTOR. ALTHOUGH  
22 DEBTOR HAS REASONABLY ENDEAVORED TO OBTAIN AND SUPPLY ALL MATERIAL  
23 INFORMATION, THE INFORMATION PROVIDED HAS NOT BEEN SUBJECT TO  
24 CERTIFIED AUDIT OR INDEPENDENT REVIEW EXCEPT WHERE EXPRESSLY  
25 INDICATED. ACCORDINGLY, DEBTOR IS UNABLE TO WARRANT OR REPRESENT  
26 THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY OR IS  
27 COMPLETE. NO REPRESENTATION CONCERNING DEBTOR IS AUTHORIZED OTHER  
28 THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.

1 **ARTICLE I.**

2 **INTRODUCTION**

3 The information presented in this Disclosure Statement includes forward-looking statements  
4 in addition to historical information. These statements involve known and unknown risks and relate  
5 to future events, future financial performance or projected business results. In some cases, you can  
6 identify forward-looking statements by terminology such as “may,” “will,” “should,” “expects,”  
7 “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “targets,” “potential” or “continue” or the  
8 negative of these terms or other comparable terminology. Forward-looking statements are only  
9 predictions. Actual events or results may differ materially from any forward-looking statement as a  
10 result of various factors, including those contained in the section entitled “Risk Factors” and other  
11 sections of this Disclosure Statement, including the documents incorporated by reference herein.  
12 Although Debtor believes that the expectations reflected in the forward-looking statements are  
13 reasonable, Debtor cannot guarantee future results, events, levels of activity, performance or  
14 achievements. Debtor expressly disclaims a duty to update any of the forward-looking statements.

15 **AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER**  
16 **ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL**  
17 **NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR**  
18 **LIABILITY, STIPULATION, OR WAIVER, BUT RATHER (IF AT ALL) AS A**  
19 **STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE**  
20 **STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY**  
21 **PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON**  
22 **THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO**  
23 **HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS OR**  
24 **ANY OF THEIR AFFILIATES.**

25 The following introductory statements are qualified in their entirety by the more detailed  
26 information contained in the Plan and elsewhere in this Disclosure Statement.

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1 **A. Plan Overview.**

2 The Plan separates Claims against Debtor into four (4) classes based on their level of  
3 priority under the Bankruptcy Code and the legal nature of the Claims. There is also one (1) class  
4 of Equity Interests. Administrative Claims and certain other Claims are not classified because the  
5 Bankruptcy Code requires that they receive specific treatment. The Plan provides for the reduction  
6 in taxes assessed against Debtor's Real Property and for the return of the Real Property, which  
7 serves as the secured Lenders' collateral, to the Lenders. The Plan also provides for the Lenders, as  
8 holders of Allowed General Unsecured Claims to a Pro Rata Share in a Cash payment of any  
9 monies remaining after payment of all Administrative Claims and other reserves and payments to  
10 Classes 1 and 2 under the Plan in addition to the Membership Units in Debtor. Debtor's existing  
11 Equity Interests will receive no distribution under the Plan.

12 **B. Debtor's Principal Assets and Indebtedness.**

13 Debtor has no operations, no employees and no executory contracts or unexpired leases. Its  
14 assets consist of certain real property, parcel numbers 191-23-210-003 and 191-22-310-001, totaling  
15 approximately 72.61 acres located in an unfinished master planned community known as "Inspirada"  
16 located in the T-18 LID within the City of Henderson (the "Real Property") and, pursuant to recent  
17 Bankruptcy Court order, the forthcoming Settlement Payment Amount that is described below.

18 Debtor's Chapter 11 Case and the related adversary proceeding pending before the  
19 Bankruptcy Court are inextricably intertwined with the bankruptcy proceeding of Debtor affiliate,  
20 South Edge, LLC ("South Edge"), which is also pending before the Bankruptcy Court. South Edge  
21 has been the developer of Inspirada and the entity responsible for building major infrastructure for  
22 the benefit of the Real Property. From approximately February of 2008 until now the project was  
23 substantially stalled and the planned infrastructure that was to serve the Real Property was not  
24 provided. As a result, currently the Real Property has no access to major infrastructure, and Debtor  
25 has been unable to develop, sell or refinance the Real Property as expected.

26 In October 2008, Debtor purchased the Real Property from South Edge with financing from  
27 the Lenders and, in exchange, gave the Deed of Trust recorded against the Real Property in favor of  
28 the Lenders, attached hereto as **Exhibit B**, securing that certain promissory note dated October 25,

1 2007, in the original principal amount of \$25,560,000 issued by Debtor prior to the Petition Date in  
2 favor of Lender and attached hereto as **Exhibit C**. Lender's Deed of Trust was subordinate to an  
3 existing local improvement district lien (the "T-18 LID"), in the original principal amount of  
4 approximately \$6,775,303.71. As of the date of this Disclosure Statement, interest assessments on  
5 the T-18 LID, including late fees, penalties and interest, total approximately \$1,684,208.26, with  
6 additional assessments of approximately \$250,000 due on December 1, 2011.

7 Consequently, Debtor has been saddled with substantial T-18 LID Assessments to pay for  
8 major infrastructure that it did not receive, and with loan payments that it cannot pay absent  
9 development of its Real Property. In addition, Debtor owes Clark County Real Property Taxes,  
10 which are secured by statutory lien senior to the Deed of Trust and which, as of the date of the Plan,  
11 total approximately \$544,548.76 in the aggregate, including penalties and interest, now due and  
12 owing with the next installment of \$12,206.46 becoming due and payable on January 2, 2012.

13 As a result of this situation, in March of 2011, Debtor and Focus filed an adversary  
14 proceeding (the "City of Henderson Adversary Proceeding") in this seeking a declaration that the T-  
15 18 LID Assessments are unenforceable or otherwise, should be eliminated or substantially reduced.  
16 In addition, the Debtor sought an injunction to prohibit the City from foreclosing pursuant to the T-  
17 18 LID. Ultimately, the Court denied Debtor's motion for an injunction. The Court also denied the  
18 City's motion to dismiss the Adversary Proceeding. Absent an injunction, on October 25, 2011, the  
19 City held a foreclosure auction. Having received no bids at the auction, the City now holds a  
20 Certificate of Sale which, if not redeemed during the redemption period, the City or a subsequent  
21 purchaser of the Certificate of Sale may convert into a deed for the Real Property.

### 22 **C. The Settlement.**

23 Prior to recent Bankruptcy Court approval of the Settlement, Debtor was administratively  
24 insolvent and although it asserted claims against the City of Henderson, prosecuting those claims  
25 was anticipated to be difficult and expensive and Debtor and its parent, Focus South Group, LLC  
26 ("Focus" or "Debtor's Parent"), have precious few resources to devote to such litigation. Further,  
27 the Inspirada project itself remained mired in litigation involving no less than three separate forums,  
28 and, until recently, it was unclear whether or when the Inspirada project would recommence. Such

1 litigation included litigation brought by JPMorgan Chase Bank, in its capacity as Administrative  
2 Agent under that certain Credit Agreement entered into on November 1, 2004 (as amended) (the  
3 “Administrative Agent”) in the United States District Court for the District of Nevada (the “District  
4 Court”) to enforce various completion guarantees issued in connection with the Inspirada project and  
5 to enforce certain of South Edge’s rights against the Builders, litigation brought by the Builders  
6 against Focus in the District Court in connection with the Administrative Agent’s complaint on  
7 various indemnity theories, litigation brought by Focus against the Builders to compel arbitration  
8 and the ensuing arbitration, an appeal of the \$36.8 million arbitration award to the Ninth Circuit,  
9 and, recently, litigation between Focus, Cynthia Nelson, the chapter 11 trustee for the bankruptcy  
10 estate of South Edge (the “South Edge Trustee”) and JPMorgan concerning ownership of a \$26  
11 million fund known as the “MI Deposit,” as well as the South Edge Trustee’s claims against Focus  
12 for purported fraudulent transfer received by Focus in the amount of \$4.5 million on a fraudulent  
13 transfer theory. The Trustee had also recently informed Focus that it intended to file a motion to  
14 amend the Adversary Proceeding to allege other claims for relief and damages related to Inspirada

15 The Parties, however, subsequently reached an agreement, referred to herein as the  
16 “Settlement,” that has resolved all of the aforementioned litigation, provide a framework for  
17 restarting the Inspirada project and provides Debtor with the resources it needs to provide its  
18 creditors with significant recoveries. On October 7, 2011, Debtor and Focus filed a the Motion  
19 Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure for Entry of an Order  
20 Approving the Settlement Agreement [Docket No. 140] (the “Settlement Motion”) and related  
21 pleadings, as supplemented by the Notice of Filing of Final Settlement Agreement [Docket No. 147]  
22 (the “Notice of Submission,” and together with the Settlement Motion, the “Settlement Pleadings”).  
23 On October 18, 2011, the Court entered an order granting the Settlement Motion and approving the  
24 Settlement as memorialized in the final form of the Agreement attached to the Notice of Submission.  
25 Put simply, the Settlement greatly improves the Debtor’s situation, including in ways that likely  
26 cannot be achieved through litigation.

27 In short, under the Settlement, the Debtor will receive \$2.8 million on or before the later of:  
28 (a) November 30, 2011, or (b) thirty days after the confirmation of the plan of reorganization on file

1 in the South Edge bankruptcy case, but in no event later than December 30, 2011. Conversely, the  
2 Debtor will dismiss the City of Henderson Adversary Proceeding.<sup>1</sup>

3 **D. Classification and Treatment of Claims and Interests.**

4 In light of the foregoing, Debtor plunged into the process of formulating a plan of  
5 reorganization it believes will maximize recoveries for its creditors and its estate and will be  
6 acceptable to all parties in interests. Debtor is currently negotiating with its creditors and although it  
7 has not yet reached an agreement with any of them, Debtor drafted the Plan, including the timeline  
8 contemplated thereby, in anticipation of what its creditors will require.

9 The Plan's classification and treatment of Claims and Equity Interests is summarized below:

| Class     | Description   | Estimated Amount of Claims <sup>2</sup>   | Treatment  |
|-----------|---|---|--|
| Class 1-A | T-18 LID Assessment Claims – Delinquent assessments plus penalties and interest | Class 1-A: \$1.93 million in the aggregate (includes penalties and interest now due and owing and the next installment of \$250,000 becoming due and payable on December 1, 2011) | In the event the holder of the Allowed T-18 LID Assessment Claims votes to accept the Plan, then – <ul style="list-style-type: none"> <li>• Class 1-A. The holder of the Class 1-A Allowed T-18 LID Assessment Claim shall receive, in complete and full satisfaction, settlement, release and discharge of, and in exchange for the full amount of such Class 1-A Allowed T-18 LID Assessment Claim, a Cash payment equal to Fifty Percent (50%) of the total amount of the Class 1-A Allowed T-18 LID Assessment Claim on the</li> </ul> |
| Class 1-B | T-18 LID Assessment Claims – Semiannual assessments due in the ordinary course  | Class 1-B: \$6.78 million (initial principal amount of assessments in the aggregate)  |  |

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23 <sup>1</sup> The Settlement is part of and in conjunction with a global settlement between KB Home Nevada, Inc.,  
24 Coleman-Toll Limited Partnership, Beazer Homes Holding Corp., and Pardee Homes of Nevada (the  
25 “Settling Builders”), the South Edge Trustee, JPMorgan and various Focus-related entities fully resolving all  
26 disputes between such parties, including Focus, John A. Ritter, Holdings Manager, LLC, Landtek, LLC, FSG-  
27 26A, FSG-26B, FSG-27B, FSG-C, FSG-S, and FSG-4. Under this global settlement, the Settling Builders  
28 will pay these various Focus-related entities a total of \$35.4 million and an additional \$5 million will be  
released from the MI Deposit. It is from this global settlement that the Debtor will receive a cash payment of  
\$2.8 million. Importantly, Debtor's receipt of the Settlement Payment Amount will enable Debtor to fund the  
Plan and the administrative costs attendant thereto.

<sup>2</sup> These amounts were compiled by combining the undisputed Claims listed on Debtor's Schedules, as  
amended, Lender's Claim No. 1 on file in the Chapter 11 Case and attached hereto as **Exhibit D** and  
information in the public record. As such, these amounts are estimates only, and may change as additional  
Claims are filed (e.g., Administrative Claims) and as the adjudication of such Claims occurs.



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|         |                          |  | <p>Effective Date, plus a Cash payment equal to Fifty Percent (50%) of the total amount of the Class 1-A Allowed T-18 LID Assessment Claim on the Second Distribution Date.</p> <ul style="list-style-type: none"> <li>• Class 1-B. On the Effective Date, the holder of the Class 1-B Allowed T-18 LID Assessment Claim shall retain all rights and liens upon the Real Property for the remaining amount of the Allowed T-18 LID Assessment Claims after application of the Cash payment described in the immediately preceding Section 4.1.2.1 is made.</li> </ul> <p>In the event the holder of the Allowed T-18 LID Assessment Claims votes to reject the Plan, then the holder of Allowed T-18 LID Assessment Claims shall not receive any Cash payments under the Plan but shall retain all rights and remedies under the Nevada Revised Statutes and liens upon the Real Property for the full amount of the Class 1-A and Class 1-B Allowed T-18 LID Assessment Claims.</p> <p><b><i>T-18 LID Assessment Claims are Impaired. The holder of Allowed T-18 LID Assessment Claims are entitled to vote to accept or reject the Plan.</i></b></p> |
| Class 2 | Real Property Tax Claims | \$556,755.22 in the aggregate (includes penalties, interest and fees totaling \$130,744.09 now due and owing, and the next installment of \$12,206.46 becoming | On the Effective Date, the holder of the Allowed Real Property Tax Claims shall receive, in complete and full satisfaction, settlement, release and discharge of, and in exchange for, Cash payment of One Hundred Percent (100%) of the principal amount of the   |

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| 1  |         | due and payable on<br>January 2, 2012) | Allowed Real Property Tax<br>Claims; provided, however, that<br>upon acceptance of the Cash<br>payment such holder of the<br>Allowed Real Property Tax<br>Claims shall be deemed to have<br>forever thereafter waived all of<br>its right, title and interest in and<br>to any and all penalties, interest<br>and fees accrued on such<br>Allowed Real Property Tax<br>Claims.  |
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| 9  |         |  | <b><i>Real Property Tax Claims are<br/>Impaired. The holder of<br/>Allowed Real Property Tax<br/>Claims are entitled to vote to<br/>accept or reject the Plan.</i></b>  |
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| 12 | Class 3 | Secured Lender<br>Claims               | \$23.3 million  |
| 13 |         |  | On the Effective Date, each<br>holder of an Allowed Secured<br>Lender Claim shall receive, in<br>complete and full satisfaction,<br>settlement, release and discharge<br>of, and in exchange for, the full<br>amount of such Allowed Secured<br>Lender Claim and any Liens<br>under the Deed of Trust securing<br>such Allowed Secured Lender<br>Claim, its Pro Rata Share of the<br>beneficial interest in the Deed,<br>which Debtor shall execute<br>and record in the official records<br>of Clark County and thereafter<br>deliver to Lender. |
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| 25 |         |  | <b><i>Secured Lender Claims are not<br/>Impaired. Holders of Allowed<br/>Secured Lender Claims are not<br/>entitled to vote and are<br/>conclusively deemed to have<br/>accepted the Plan.</i></b>  |
| 26 | Class 4 | General Unsecured<br>Claims            | \$8.579 million   |
| 27 |         |  | In the event the holders of<br>Allowed General Unsecured<br>Claims vote to accept the Plan,<br>then on the Second Distribution<br>Date, each holder of an Allowed   |
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|  |  |  | <p>General Unsecured Claim shall receive, in complete and full satisfaction, settlement, release and discharge of, and in exchange for, the full amount of such Allowed General Unsecured Claim, its Pro Rata Share of (a) the Membership Units as transferred pursuant to the Operating Agreement from Debtor's Parent; (b) a Cash payment equal to all amounts, if any, paid to Pre-Effective Date Professionals and held in trust for Pre-Effective Date Professional Fees that are not subsequently allowed and approved by the Bankruptcy Court; and (c) a Cash payment equal to all amounts, if any, remaining from the Settlement Payment Amount after all Cash Distributions provided under this Plan have been made.</p> <p>In the event the holders of the Allowed General Unsecured Claims vote to reject the Plan, then on the Second Distribution Date, (a) each holder of an Allowed General Unsecured Claim shall receive, in complete and full satisfaction, settlement, release and discharge of, and in exchange for, the full amount of such Allowed General Unsecured Claim, its Pro Rata Share of (i) a Cash payment equal to all amounts, if any, paid to Pre-Effective Date Professionals and held in trust for Pre-Effective Date Professional Fees that are not subsequently allowed and approved by the Bankruptcy Court; and (ii) a Cash payment equal to all amounts, if any, remaining from the Settlement Payment Amount after all Cash</p> |
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|         |                  |  | <p>Distributions provided under this Plan have been made; and (b) the Manager shall, being so authorized without further order of the Bankruptcy or corporate approval, take all actions necessary to dissolve the Reorganized Debtor once all Distributions under the Plan have been made.</p> <p><b><i>General Unsecured Claims are Impaired and the holders of Allowed General Unsecured Claims are entitled to vote to accept or reject the Plan.</i></b></p>   |
| Class 5 | Equity Interests |  | <p>On the Second Distribution Date, provided the Distributions contemplated by the Plan to holders of Allowed Claims in Classes 1, 2 and 3 occurred on the First Distribution Date, unless such condition is waived by the Manager, the Membership Units shall be transferred pursuant to the Operating Agreement from Debtor's Parent to the holders of Allowed General Unsecured Claims; each of which shall receive its Pro Rata Share of such Membership Units being transferred.</p> <p>Debtor's Parent shall execute and deliver whatever Plan Documents may be necessary to effectuate the transfer described in Plan section 4.5.2 to the Manager who shall, in turn, deliver copies of such Plan Documents to the transferees. Each such holder of an Allowed General Unsecured Claim that receives its Pro Rata Share of the Membership Units on the Second Distribution Date shall have all of the rights and obligations set forth in the</p> |

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|  |  |  | <p>Operating Agreement.</p> <p><i>Equity Interests are Impaired.<br/>         Holders of Equity Interests are not<br/>         entitled to vote and are conclusively<br/>         deemed to have rejected the Plan.</i></p> |
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**ARTICLE II.**

**EXPLANATION OF CHAPTER 11**

**A. Overview of Chapter 11.**

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to chapter 11, a debtor in possession attempts to reorganize its business for the benefit of the debtor, its creditors and other parties in interest.

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor as of the date the petition is filed. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor in possession” unless the Bankruptcy Court orders the appointment of a trustee. Here, Debtor has remained in possession of its assets throughout its Chapter 11 Case.

The filing of a chapter 11 petition triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, among other things, for an automatic stay of all attempts to collect or recover prepetition claims from the debtor or to otherwise interfere with, or exercise control over, the debtor’s property or business. Except as otherwise ordered by the Bankruptcy Court, the automatic stay remains in full force and effect until the effective date of a confirmed plan of reorganization.

**B. Plan of Reorganization.**

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case, which sets forth the means for satisfying claims against and interests in the debtor. Debtor believes that this Disclosure Statement provides information 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

1 Debtor's books and records, that would enable a hypothetical investor to make an informed  
2 judgment about the Plan. *Your vote on the Plan will be binding.*

3 **C. Confirmation of a Plan of Reorganization.**

4 If all classes of claims and interests accept a plan of reorganization, the bankruptcy court may  
5 confirm the plan if the bankruptcy court independently determines that the requirements of section  
6 1129 of the Bankruptcy Code have been satisfied. Section 1129 of the Bankruptcy Code sets forth  
7 the requirements for confirmation of a plan and, among other things, requires that a plan meet the  
8 "best interests" of creditors test and be "feasible." The "best interests" test generally requires that  
9 the value of the consideration to be distributed under a plan to the holders of claims or interests in  
10 the debtor is not less than those parties would receive if the debtor were liquidated pursuant to a  
11 hypothetical liquidation occurring under chapter 7 of the Bankruptcy Code. Under the "feasibility"  
12 requirement, a bankruptcy court generally must find that there is a reasonable probability that the  
13 debtor will be able to meet its obligations under its plan without the need for further financial  
14 reorganization. **With the exception of approval of the Plan by all impaired classes, Debtor**  
15 **believes that the Plan satisfies all of the applicable requirements of section 1129(a) of the**  
16 **Bankruptcy Code, including, in particular, the best interests of creditors test and the feasibility**  
17 **requirement.**

18 Chapter 11 does not require that each holder of a claim or interest in a particular class vote in  
19 favor of a plan of reorganization in order for a bankruptcy court to determine that the class has  
20 accepted the plan. Rather, a particular class will be determined to have accepted the plan if the  
21 bankruptcy court determines that the plan has been accepted by a majority in number and two-thirds  
22 in amount of those claims actually voting in such class. **Importantly, only the holders of Impaired**  
23 **Claims who are entitled to vote and who actually vote will be counted as either accepting or**  
24 **rejecting the Plan.**

25 In addition, classes of claims or interests in the debtor that are not "impaired" under a plan of  
26 reorganization are conclusively presumed to have accepted the plan and thus are not entitled to vote.  
27 Conversely, classes that are to receive no distribution under the plan are conclusively deemed to  
28 have rejected the plan. Accordingly, acceptances of a plan will generally be solicited only from

1 those persons who hold claims or equity interests in an impaired class. A class is “impaired” if the  
2 legal, equitable, or contractual rights associated with the claims or equity interests of that class are  
3 modified in any way under the plan. Modification for purposes of determining impairment,  
4 however, does not include curing defaults and reinstating maturity or payment in full in cash on the  
5 effective date of the plan. **Except for Class 3 – Secured Lender Claims, which are not Impaired**  
6 **under the Plan and therefore are deemed to unanimously accept the Plan, and Class 5 – Equity**  
7 **Interests, which will not receive a distribution under the Plan and therefore is deemed to**  
8 **unanimously reject the Plan, all other Classes of Claims are entitled to vote on the Plan.**

9 The bankruptcy court may also confirm a plan of reorganization even though fewer than all  
10 classes of impaired claims and equity interests accept it. For a plan of reorganization to be  
11 confirmed despite its rejection by a class of impaired claims or equity interests, the proponent of the  
12 plan must show, among other things, that the plan does not “discriminate unfairly” and that the plan  
13 is “fair and equitable” with respect to each impaired class of claims or equity interests that has not  
14 accepted the plan.

15 Under section 1129(b) of the Bankruptcy Code, a plan is “fair and equitable” as to a rejecting  
16 class of claims or equity interests if, among other things, the plan provides: (a) with respect to  
17 secured claims, that each such holder will receive or retain on account of its claim property that has a  
18 value, as of the effective date of the plan, in an amount equal to the allowed amount of such claim or  
19 such other treatment as accepted by the holder of such claim; and (b) with respect to unsecured  
20 claims and equity interests, that the holder of any claim or equity interest that is junior to the claims  
21 or equity interests of such class will not receive or retain on account of such junior claim or equity  
22 interest any property at all unless the senior class is paid in full.

23 A plan does not “discriminate unfairly” against a rejecting class of claims or equity interests  
24 if (a) the relative value of the recovery of such class under the plan does not differ materially from  
25 that of any class (or classes) of similarly situated claims or equity interests, and (b) no senior class of  
26 claims or equity interests is to receive more than 100% of the amount of the claims or equity  
27 interests in such class. **Debtor believes that the Plan has been structured so that it will satisfy**  
28

1 the foregoing requirements as to any rejecting Class of Claims or equity interests, and can  
2 therefore be confirmed, if necessary, over the objection of such of Class.

3 **ARTICLE III.**

4 **BACKGROUND**

5 **A. General Background.**

6 **1. South Edge and Inspirada.**

7 In 2004, Focus along with the Builders and two companies that have filed chapter 11  
8 proceedings, Kimball Hill Homes Nev., Inc. and Alameda Investments, LLC, formed South Edge  
9 for the purpose of purchasing approximately 1,940 acres of real property (the "South Edge  
10 Property") in Henderson, Nevada from the Bureau of Land Management (the "BLM"). Later, the  
11 members of South Edge (collectively, the "South Edge Members," and each a "South Edge  
12 Member") agreed that they would also develop the "Major Infrastructure" required to sustain the  
13 Inspirada project through South Edge.

14 The Inspirada development was to be essentially a small city, comprised of seven residential  
15 villages (each a "Village," and, collectively, the "Villages") of approximately 200 acres each, and  
16 an almost 400-acre "Town Center." The total projected cost of the Inspirada project, including land  
17 acquisition, development and financing costs, was expected to be approximately \$1.2 billion. The  
18 Villages were to be built sequentially, with "Village 1" to be built first and "Village 7" to be built  
19 last. The Town Center was to be built as Village development progressed.

20 On or about May 3, 2004, the South Edge Members entered into the Amended and Restated  
21 Operating Agreement of South Edge, LLC (as amended by the First Amendment thereto as of  
22 October 29, 2004, and the Second Amendment thereto as of March 8, 2007, the "Operating  
23 Agreement"), and various other related agreements, including certain "Acquisition Agreements."

24 Generally, pursuant to the Operating Agreement and the Acquisition Agreements, the South  
25 Edge Members agreed to cause South Edge to: (a) make a bid for the Property; (b) upon a  
26 successful bid, to (i) formulate a conceptual plan for the development of the Property, (ii) obtain  
27 necessary approvals and authorizations for the subdivision of the Property into "Pods," (iii) design  
28 and install certain Major Infrastructure improvements, (iv) allocate and convey the Property to the



1 Members in proportion to their respective percentage interests in South Edge, and (v) obligate each  
2 Member to take down its Pods from South Edge in “Phases” at a pre-determined price pursuant to a  
3 pre-determined schedule; (c) provide a mechanism for sharing the costs of developing Inspirada  
4 among the Members; and (d) prepare and record appropriate design and architectural guidelines and  
5 CC&R documents to govern the Inspirada development.

6 The South Edge Property was auctioned by the BLM in May of 2004. South Edge was the  
7 prevailing bidder at the auction and closed the sale of the South Edge Property on November 1,  
8 2004.

9 **2. The Credit Agreement and T-18 LID.**

10 In order to finance the purchase and development of the Property, South Edge obtained loans  
11 (the “South Edge Loans”) in the amount of \$535 million from a syndicate of lenders (the “South  
12 Edge Lenders”) for which JPMorgan Chase acts as administrative agent. The Loans were obtained  
13 under the terms of a Credit Agreement (the “Original Credit Agreement”) dated November 1, 2004,  
14 and certain other loan documents by each South Edge Member and its respective parent.  
15 Subsequently, South Edge entered into an Amended and Restated Credit Agreement dated as of  
16 March 9, 2007, increasing the principal amount of the Loans to \$585 million (the “Amended and  
17 Restated Credit Agreement” and, together with the Original Credit Agreement, the “Credit  
18 Agreement”). The funds generated by takedowns are used to pay the Loans.

19 In addition to the Loans, South Edge obtained further financing for the project in the form of  
20 bonds (the “Bonds”) issued by the City in connection with a limited improvement district. The City  
21 of Henderson created the local improvement district known as T-18 LID on April 4, 2006, and sold  
22 Bonds with a principal amount of \$102 million. The Bonds are payable from assessments made by  
23 the City of Henderson on the land located within the T-18 LID (*i.e.*, the land to be used to construct  
24 the Villages). At the time the assessments were made, the City of Henderson contemplated that the  
25 “Inspirada” project would be completed as originally envisioned and that all of the property located  
26 in the Villages would have access major infrastructure, including roads and utilities. Unfortunately,  
27 that is not how things worked out.

28 ///

1 The net proceeds from the sale of Bonds were put in an “LID Account” held by the City of  
2 Henderson to be used to reimburse South Edge for the costs of various “segments” of major  
3 infrastructure built in connection with the development of the Inspirada project. Once a segment of  
4 major infrastructure was completed, the City of Henderson was to “purchase” such segment from  
5 South Edge with proceeds located in the LID Account. At the time the development of the project  
6 was halted, only a small portion of those funds had been drawn by South Edge. Indeed, Debtor  
7 believes that there are approximately \$93 million in funds currently being held in the LID Account.

8 Importantly, in order to obtain the LID financing, South Edge and each of the South Edge  
9 Members projected to the City that they expected all development segments to be reimbursed with  
10 LID funds to be completed within three years. That time has come and gone, and major  
11 infrastructure has not been completed.

12 Pursuant to the terms of its Acquisition Agreement, Debtor’s Parent, Focus, took down all of  
13 its land on October 25, 2007, at cost of \$91.7 million, and deposited approximately \$30.7 million  
14 into an “MI Deposit” on account of its pro rata share of future major infrastructure costs. The total  
15 cost to Focus to do so was approximately \$122 million. By doing so, and by paying in other capital  
16 of almost \$50 million, Focus fully complied with all of its obligations under the Operating  
17 Agreement and the Acquisition Agreement to fully fund South Edge and the development of the  
18 Inspirada project. Among other things, Focus took down land in Villages 5 and 6 (the “Village  
19 Land”), and Debtor, a wholly owned subsidiary of Focus, was created as a special purpose vehicle to  
20 purchase the Village Land. Debtor, however, is not a party to the Operating Agreement or the Focus  
21 Acquisition Agreement. The purchase of the Village Land was funded, in part, with approximately  
22 \$25 million in loans from Lender to Debtor. Lender’s loans are secured with a security interest in  
23 the Village Land.

24 The project essentially halted in February of 2008 and the other South Edge Members did  
25 not complete any other take downs as of April 2008. As a result, South Edge defaulted on its  
26 obligations under the Credit Agreement and other loan documents to its South Edge Lenders. At the  
27 time construction stopped, the major infrastructure segments for Village 1 that were supposed to be  
28 financed by LID proceeds had been substantially completed, and some of the Builders are currently

1 building and selling homes in Village 1. Major infrastructure segments for Village 2 that were  
2 supposed to be financed by the LID proceeds had been commenced but were not near completion,  
3 and, except for a distribution main in Village 5 (which constitutes only a very small portion of the  
4 infrastructure needed to make the land in Village 5 usable for development purposes), no major LID  
5 infrastructure had been built in any of the remaining Villages, including Villages 5 and 6. In  
6 addition, the land in Villages 4 through 7 currently derives no benefit from the major infrastructure  
7 segments built for the benefit of Village 1 and Village 2, because land located in Villages 4 through  
8 7 has no access to such major infrastructure segments, and, in any event, cannot use such  
9 infrastructure due to its own lack of major infrastructure. The Inspirada project remains stalled  
10 today.

11 Thereafter, significant litigation ensued between the various Members of South Edge, as well  
12 as JPMorgan as Administrative Agent for the Credit Facility, including:

13 (a) litigation brought by JPMorgan Chase Bank, N.A., in its capacity as  
14 Administrative Agent under that certain Credit Agreement entered into on November  
15 1, 2004 (as amended) in the United States District Court for the District of Nevada  
16 (the "District Court") to enforce various completion guarantees issued in connection  
with the Inspirada project and to enforce certain of South Edge's rights against the  
Builders;

17 (b) litigation brought by the Builders against Focus in the District Court in  
18 connection with the Administrative Agent's complaint on various indemnity theories;  
and

19 (c) litigation between Focus, Cynthia Nelson, the chapter 11 trustee for the  
20 bankruptcy estate of South Edge (the "South Edge Trustee") and JPMorgan  
21 concerning ownership of a \$26 million fund known as the "MI Deposit", as well as  
22 the South Edge Trustee's claims against Focus for purported fraudulent transfer  
23 received by Focus in the amount of \$4.5 million on a fraudulent transfer theory. The  
Trustee had also recently informed Focus that it intended to file a motion to amend  
the Adversary proceeding to allege other claims for relief and damages related to  
Inspirada.

### 24 **3. The Arbitration and Award.**

25 Focus commenced an arbitration proceeding on behalf of itself and South Edge primarily  
26 seeking specific performance of the Builders' obligations under the Operating Agreement or, in the  
27 alternative, damages. Focus hoped that the arbitration proceeding would force the Builders to  
28 restart the Inspirada project. The Builders contested Focus's right to any form of arbitration. The

1 District Court, ordered the parties to arbitration on July 15, 2009. The arbitration involved  
2 significant discovery, numerous motions for summary disposition, all of which were denied, and a  
3 lengthy evidentiary hearing that lasted approximately two weeks. At the conclusion of the process,  
4 the arbitration panel issued a 75-page award, denying specific performance but awarding Focus  
5 \$36.8 million.

6 The District Court entered an order confirming the Award on November 2, 2010. The  
7 Builders appealed the Award to the Ninth Circuit Court of Appeals.

8 **4. The Involuntary South Edge Bankruptcy Petition.**

9 On December 9, 2010, JPMorgan Chase Bank, N.A., in its capacity as a South Edge Lender,  
10 and two other South Edge Lenders filed an involuntary chapter 11 petition against South Edge. On  
11 February 3, 2011, after a significant trial, the Bankruptcy Court entered an order for relief under  
12 chapter 11 of the Bankruptcy Code in respect of South Edge.

13 **5. The South Edge Trustee.**

14 On February 20, 2011, the Bankruptcy Court entered an order appointing Cynthia Nelson as  
15 the chapter 11 trustee for the South Edge estate.

16 Debtor is informed and believes that, at the behest of the Builders, the South Edge Trustee  
17 unnecessarily commenced Adversary Proceeding No. 11-01141 (the "Focus Adversary  
18 Proceeding") against Focus in order to establish control of the MI Deposit and seek damages of \$4.5  
19 million against Focus on a fraudulent transfer theory. The Focus Adversary Proceeding remains  
20 pending, although it would be resolved by the Settlement.

21 **B. Debtor's Chapter 11 Filing.**

22 The stoppage of the Inspirada project left the Village Land without significant major  
23 infrastructure. As a result, Debtor was unable to develop its Real Property and became delinquent  
24 on its T-18 LID Assessments. Currently, Debtor owes approximately \$1.68 million in T-18 LID  
25 Assessments. Further, Debtor was unable to pay its obligations to Lender. On October 26, 2009,  
26 Debtor commenced these proceedings. Due to South Edge's bankruptcy, development on the  
27 Inspirada project in general, and Villages 5 and 6, in particular, remains stalled. As a result, Debtor  
28 received none of the benefits that the T-18 LID Assessments were intended to provide.

1           **1. The Relief from Automatic Stay Motion.**

2           On February 10, 2011, the City of Henderson filed a motion for relief from the automatic  
3 stay (the “Stay Relief Motion”) in this Chapter 11 Case to foreclose on Debtor’s Real Property for  
4 non-payment of multiple installments of the T-18 LID Assessments. Debtor, Focus and Lender  
5 opposed the Stay Relief Motion arguing that the T-18 LID Assessments are not enforceable under  
6 Nevada law because Debtor never received the infrastructure that the T-18 LID Assessments were  
7 intended to provide. At a hearing held on April 12, 2011, the Bankruptcy Court granted the Stay  
8 Relief Motion.

9           **2. The City of Henderson Adversary Proceeding.**

10           On March 17, 2011, Debtor and Focus filed an adversary proceeding (the “City of Henderson  
11 Adversary Proceeding”) in this Chapter 11 Case to obtain a declaration that the T-18 LID  
12 Assessments are unenforceable in addition to an elimination or reduction of the T-18 LID  
13 Assessments in light of the collapse of the Inspirada project. On April 25, 2011, Debtor and Focus  
14 filed an Amended Complaint adding injunctive relief as a count. Shortly thereafter, Debtor filed a  
15 motion for preliminary injunction to prevent the City of Henderson from conducting a tax sale  
16 regarding the Real Property, and the City of Henderson filed a motion to dismiss the City of  
17 Henderson Adversary Proceeding. The Bankruptcy Court ultimately denied Debtor’s motion for  
18 preliminary injunction finding, among other things, that Debtor had not established a likelihood of  
19 success on the merits, but also denied the City of Henderson’s motion to dismiss the Debtor’s  
20 complaint.

21           **C. The South Edge Plan and the Settlement Agreement.**

22           **1. The South Edge Plan Support Agreement.**

23           On June 8, 2011, the South Edge Trustee consented to the “Plan Support Agreement” and  
24 “Plan Term Sheet” executed by KB Home Nevada, Inc., Coleman-Toll Limited Partnership, Beazer  
25 Homes Holding Corp., and Pardee Homes of Nevada (the “Settling Builders”) and the  
26 Administrative Agent. On August 1, 2011, the Administrative Agent and the Settling Builders filed  
27 a joint plan of reorganization (the “South Edge Plan”) and an accompanying disclosure statement  
28 based on the South Edge Plan Support Agreement and the Plan Term Sheet. Focus objected to the

1 South Edge Plan. The Bankruptcy Court approved the South Edge disclosure statement on  
2 September 8, 2011 [South Edge Docket No. 1024], and set a confirmation hearing to commence on  
3 October 17, 2011. After three days of hearing and arguments, on October 27, 2011, the Bankruptcy  
4 Court entered an order confirming the South Edge Plan.

5 **2. The Settlement Agreement.**

6 In August of 2011, the Focus Parties, including Debtor, and the Settling Builders began  
7 settlement negotiations to resolve their long running disputes. The South Edge Trustee and the  
8 Administrative Agent also joined those negotiations. The negotiations resulted in the Settlement  
9 comprehensively resolved all of the disputes among the Parties, allowed the South Edge Plan to be  
10 confirmed without objection from the Focus Parties, and resulted in a significant forthcoming  
11 distribution to Debtor. The principal terms of the Settlement as they relate to Debtor are as  
12 follows:<sup>3</sup>

13 (a) Conditions: The Settlement was contingent upon the Parties' entry of a  
14 long form binding Settlement Agreement and approval of the Settlement by the  
15 Bankruptcy Court in both this Chapter 11 Case and the South Edge bankruptcy case.  
16 The parties did enter into such long form Settlement Agreement, a copy of which is  
17 attached to this Disclosure Statement as **Exhibit E**, and the Bankruptcy Court  
18 approved the Settlement Agreement in both cases by entry of orders in the respective  
19 cases on October 18, 2011.

20 (b) Settlement Payment: As set forth above, the Settling Builders shall pay  
21 the aggregate sum of \$35.4 million, of which \$2.8 million will be paid to Debtor  
22 (referred to in the Plan as the Settlement Payment Amount). Debtor's allocation is  
23 based on its ratable share of the total investments made by and claims of the Focus  
24 Parties in the Inspirada project. Debtor's allocation is based on a formula that  
25 apportions the Settlement Payment based on the investment and risk of the various  
26 Focus Parties in the Inspirada project. South Edge also will pay \$5 million pursuant  
27 to the final judgment in the Focus Adversary Proceeding.

28 (c) Releases: The South Edge Trustee, on behalf of South Edge and the  
South Edge Estate, and the Focus Parties, including Debtor, shall enter into a broad  
release of claims against one another; provided that Debtor will retain all of its rights  
as a land owner in Inspirada on the terms set forth in the Settlement Agreement.

(d) Dismissal of the City Adversary Proceeding: The City Adversary  
Proceeding shall be dismissed with prejudice by Debtor.

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<sup>3</sup> This summary is qualified in its entirety by reference to the Settlement Agreement, which controls.

**ARTICLE IV.****ANTICIPATED COURSE OF THIS CHAPTER 11 CASE**

1  
2  
3 Debtor carefully developed the Plan as an efficient and equitable means to reorganize its  
4 financial affairs in the most expeditious manner possible while maximizing creditor recoveries.  
5 Debtors' goal is to move the Plan forward quickly so that it can emerge from chapter 11 by the end  
6 of 2011, as it believes that is what its creditors will require. With that goal in mind, Debtor filed  
7 contemporaneously herewith a motion seeking conditional approval of this Disclosure Statement,  
8 approval of solicitation procedures, the setting of a combined hearing on the adequacy of this  
9 Disclosure Statement and confirmation of the Plan as well as approval of the form and manner of  
10 notice of such combined hearing (the "Motion for Conditional Approval"). In addition, Debtor  
11 filing contemporaneously herewith an ex parte motion requesting an expedited hearing on the  
12 Motion for Conditional Approval be set for Friday, November 4, 2011, at 1:00 p.m. The  
13 Bankruptcy Court granted Debtor's requests and a copy of that order (the "Solicitation Order") is  
14 enclosed with the package that includes this Disclosure Statement.

15 Pursuant to the Solicitation Order, Debtor mailed solicitation materials seeking votes from  
16 its Creditors and Equity Interest holders to accept or reject the Plan on November 7, 2011, and will  
17 commence a combined hearing on the adequacy of this Disclosure Statement and confirmation of  
18 the Plan on December 12, 2011, at 2:00 p.m. prevailing Pacific Time. Under the Plan, the Effective  
19 Date and First Distribution Date would occur on or around December 29, 2011, and the Second  
20 Distribution Date would occur on or around 90 days later. Debtor intends to proceed on a prompt,  
21 yet prudent, schedule towards Confirmation of the Plan in order to minimize the administrative cost  
22 of its Chapter 11 Case and maximize recoveries to its Creditors.

**ARTICLE V.****SUMMARY OF PLAN**

25 THIS ARTICLE PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR  
26 IMPLEMENTATION OF THE PLAN AND OF THE CLASSIFICATION AND TREATMENT OF  
27 CLAIMS AND INTERESTS UNDER THE PLAN. IT IS QUALIFIED IN ITS ENTIRETY BY  
28 REFERENCE TO THE PLAN, WHICH IS ANNEXED TO THIS DISCLOSURE STATEMENT

1 AS **EXHIBIT A**<sup>4</sup> AND WHICH SHALL CONTROL IN THE EVENT THAT IT VARIES FROM  
2 THE TERMS OF THIS DISCLOSURE STATEMENT.

3 THE PLAN, SUBJECT TO THE PROVISIONS OF THE BANKRUPTCY CODE,  
4 PROVIDES FOR THE TREATMENT OF ALL CREDITORS THAT HOLD CLAIMS ARISING  
5 PRIOR TO THE CONFIRMATION DATE OF THE PLAN AND FOR THE PAYMENT OF  
6 ADMINISTRATIVE CLAIMS.

7 THE SUMMARIES OF THE PLAN AND OF OTHER DOCUMENTS REFERRED TO  
8 HEREIN DO NOT PURPORT TO BE PRECISE OR COMPLETE STATEMENTS OF ALL THE  
9 TERMS AND PROVISIONS OF THOSE DOCUMENTS. REFERENCE IS MADE TO THE  
10 PLAN AND THE OTHER DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS  
11 OF THEIR TERMS AND PROVISIONS.

12 SINCE THE PLAN DEALS WITH SOPHISTICATED LEGAL CONCEPTS, AND  
13 INCORPORATES THE DEFINITIONS AND REQUIREMENTS OF THE BANKRUPTCY  
14 CODE, YOU MAY WISH TO CONSULT WITH COUNSEL OF YOUR CHOICE IN MAKING  
15 YOUR DECISION REGARDING YOUR VOTE ON THE PLAN. TO THE EXTENT THAT THE  
16 TERMS OF THIS DISCLOSURE STATEMENT VARY FROM THE TERMS OF THE PLAN OR  
17 ANY OTHER OPERATIVE DOCUMENT, THE TERMS OF THE PLAN OR SUCH OTHER  
18 OPERATIVE DOCUMENT SHALL BE CONTROLLING.

19 **A. Overall Structure of the Plan.**

20 Under the Plan, Claims against and Equity Interests in Debtor are divided into Classes  
21 according to their relative seniority and other criteria. If the Plan is confirmed by the Bankruptcy  
22 Court and consummated, the Allowed Administrative Claims (unclassified) will receive  
23 Distributions equal to the full Allowed amount of the Claims as required by the Bankruptcy Code  
24 (unless otherwise agreed by the Holder(s) of such Claim(s)). If the holder of Class 1 Allowed T-18  
25 LID Assessment Claims votes to accept the Plan, it will receive Cash payments equal to the  
26 assessments due and payable prior to the Petition Date, including the next installment becoming due

27 \_\_\_\_\_  
28 <sup>4</sup> For convenience, a list of Exhibits attached hereto is set forth on Schedule 1 to this Disclosure Statement.



1 on December 1, 2011; alternatively, if the holder of Class 1 Allowed T-18 LID Assessment Claims  
2 votes to reject the Plan, it will retain all rights and remedies under the Nevada Revised Statutes and  
3 liens upon the Real Property for the full amount of the T-18 LID Assessment Claims. The holder of  
4 Class 2 Allowed Real Property Tax Claims will receive a Cash payment equal to the principal  
5 amount of the delinquent assessments. The holders of Class 3 Allowed Secured Lender Claims will  
6 receive a Pro Rata Share in the Real Property that serves as collateral to their loan to Debtor,  
7 pursuant to a conveyance by deed. The Class 4 Allowed General Unsecured Claims will receive a  
8 Pro Rata Share in (a) the Membership Units of Debtor, and (b) a Cash payment equal to all amounts  
9 remaining from the Settlement Payment Amount, if any, after all Administrative Claims and certain  
10 reserves had been paid in full. Class 5 Equity Interests will not receive any Distribution under the  
11 Plan but will transfer its Membership Units in the Debtor to the holders of Class 4 Allowed  
12 Unsecured Claims so that each such holder will receive a Pro Rata Share of such Membership Units.

13 **B. Classification and Treatment of Claims and Interests Under the Plan.**

14 Section 1123 of the Bankruptcy Code provides that a plan must classify the claims and  
15 interests of a debtor's creditors and interest holders. In accordance with section 1123 of the  
16 Bankruptcy Code, the Plan divides Claims and Interests into Classes and sets forth the treatment for  
17 each Class (other than Administrative and certain other Claims which, pursuant to section 1123(a)(1)  
18 of the Bankruptcy Code, need not be and have not been classified). Section 1122 of the Bankruptcy  
19 Code requires that each Class contain only Claims or Interests that are substantially similar to the  
20 other Claims or Interests in such Class.

21 A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest  
22 falls within the description of that Class and is classified in other Classes to the extent that any  
23 portion of the Claim or Interest falls within the description of such other Classes. A Claim or  
24 Interest is also placed in a particular Class for the purpose of receiving Distributions pursuant to the  
25 Plan only to the extent that such Claim or Interest is an Allowed Claim in that Class and such Claim  
26 has not been paid, released or otherwise settled prior to the Effective Date.

27 ///

28 ///

1           **1.     Unclassified Claims.**

2                   **a.     Administrative Claims.**

3           Administrative Claims are Claims for costs and expenses of administration, pursuant to  
4 Bankruptcy Code sections 503(b), 507(a)(2), 507(b) or 546(c)(2), including, but not limited to: (a)  
5 the actual and necessary costs and expenses incurred after the Petition Date and through the  
6 Effective Date of preserving the estate; (b) compensation and reimbursement of expenses for legal,  
7 financial advisory, accounting, and other services, including but not limited to, Allowed Professional  
8 Fees, pursuant to Bankruptcy Code sections 328, 330(a) or 331 or otherwise for the period  
9 commencing on the Petition Date and ending on the Effective Date; (c) all fees and charges assessed  
10 against the estate, pursuant to chapter 123 of the Judicial Code and 28 U.S.C. § 1930; and (d) all  
11 Bankruptcy Court approved requests for compensation or expense reimbursement for making a  
12 substantial contribution in the Chapter 11 Case, pursuant to Bankruptcy Code sections 503(b)(3), (4)  
13 and (5).

14           The Holder of an Administrative Claim, other than a Professional Fee Claim, must file with  
15 the Bankruptcy Court and serve on Debtor and its counsel, notice of such Administrative Claim on  
16 or before the Administrative Claim Bar Date. Such notice must include, at minimum, (i) the name of  
17 the holder of such Claim, (ii) the basis of the Claim, including why it is entitled to administrative  
18 priority, and (iii) the amount of the Claim. Failure to file such notice timely and properly shall result  
19 in the Administrative Claim being forever barred and discharged.

20           Each Administrative Claim other than a Claim for Professional Fees shall be paid in full in  
21 Cash by Debtor on the later to occur of (a) the Effective Date; (b) the tenth (10th) day after such  
22 Administrative Claim is Allowed; or (c) such date as the holder of any such Administrative Claim  
23 and Debtor may agree. The Reorganized Debtor shall reserve the sum of \$25,000 from the  
24 Settlement Payment Amount for payment of such Allowed Administrative Claims.

25           All requests for payment of Administrative Claims, other than requests for payment of  
26 Claims for Professional Fees, must be filed with the Bankruptcy Court and served upon Debtor and  
27 Debtor's counsel by the Administrative Claim Bar Date or the holders thereof shall be forever barred  
28 from asserting such Administrative Claims against Debtor.

1                   **b. United States Trustee Fees.**

2                   On the Effective Date, the Office of the United States Trustee shall receive a single Cash  
3 payment in the amount of Nine Thousand Seven Hundred Fifty and 00/100 (\$9,750) Dollars, as  
4 amount calculated pursuant to 28 U.S.C. § 1930(a)(6) on the Settlement Payment Amount, which  
5 comprises the total Cash payments to be made under the Plan.

6                   **c. Claims for Professional Fees.**

7                   Generally. Each Person seeking an award by the Bankruptcy Court of Professional  
8 Fees: (a) must file a final application for allowance of compensation for services rendered and  
9 reimbursement of expenses incurred through the Effective Date within thirty (30) days of the  
10 Effective Date; and (b) if the Bankruptcy Court grants such an award, must be paid in full in Cash by  
11 Debtor in such amounts as are allowed by the Bankruptcy Court as soon thereafter as practicable.  
12 All final applications for allowance and disbursement of Professional Fees must be in compliance  
13 with all of the requirements of the Bankruptcy Code, the Bankruptcy Rules and any applicable  
14 guidelines and with all of the terms and conditions set forth in any applicable order of the  
15 Bankruptcy Court, including, without limitation, the Confirmation Order, and all other orders  
16 governing payment of Professional Fees.

17                   Pre-Effective Date Professional Fees. On the Effective Date, the Reorganized Debtor  
18 shall make Distributions in Cash to the Pre-Effective Date Professionals in the amounts set forth in  
19 **Exhibit F** attached hereto, which amounts reflect the estimated fees and expenses for which the Pre-  
20 Effective Date Professionals will file a final application for allowance and payment pursuant to the  
21 Plan; provided, however, that the Pre-Effective Date Professionals receiving such Distributions shall  
22 hold the Cash received in trust until the Bankruptcy Court enters an order that becomes a Final Order  
23 approving each Pre-Effective Date Professional's respective application at which time such Pre-  
24 Effective Date Professional may apply the Cash received in the amount allowed and approved the  
25 Bankruptcy Court in full payment and satisfaction of such Pre-Effective Date Professional's  
26 Professional Fees. To the extent such application is denied or the Final Order with respect thereto is  
27 less than the Cash payment made and held in trust, then the Pre-Effective Date Professional shall  
28 promptly return to the Reorganized Debtor that amount of the Cash payment held in trust but not

1 approved for payment of Professional Fees for further distribution to the holders of Allowed Claims  
2 in Class 4.

3 Post-Effective Date Professional Fees. All Professional Fees for services rendered in  
4 connection with the Chapter 11 Case and the Plan after the Effective Date may be paid by the  
5 Reorganized Debtor upon receipt of an invoice for such services, or on such other terms to which  
6 Debtor or the Reorganized Debtor and the relevant Professional may agree, without the need for  
7 further Bankruptcy Court authorization or entry of a Final Order. Debtor shall reserve the sum of  
8 \$25,000 from the Settlement Payment Amount for payment of such Post-Effective Date Professional  
9 Fees by the Reorganized Debtor.

10 **2. Classified Claims.**

11 **a. Class 1 – T-18 LID Assessment Claims.**

12 Impairment and Voting. Class 1 consists of T-18 LID Assessment Claims divided  
13 into two sub-classes, each of which is held by the City of Henderson. Class 1-A consists of that  
14 portion of the T-18 LID Assessment Claims that are delinquent and are comprised of the delinquent  
15 assessments plus penalties and interest. Class 1-B consists of that portion of the T-18 LID  
16 Assessment Claims that are due and owing in the ordinary course of the T-18 LID Assessment. T-18  
17 LID Assessment Claims are impaired by the Plan; thus, the holder of the T-18 LID Assessment  
18 Claims is entitled to vote to accept or reject the Plan.

19 Treatment. In the event the holder of the Allowed T-18 LID Assessment Claims  
20 votes to accept the Plan, then –

21 (1) Class 1-A. The holder of the Class 1-A Allowed T-18 LID  
22 Assessment Claim shall receive, in complete and full satisfaction, settlement, release and discharge  
23 of, and in exchange for the full amount of such Class 1-A Allowed T-18 LID Assessment Claim, a  
24 Cash payment equal to Fifty Percent (50%) of the total amount of the Class 1-A Allowed T-18 LID  
25 Assessment Claim on the Effective Date, plus a Cash payment equal to Fifty Percent (50%) of the  
26 total amount of the Class 1-A Allowed T-18 LID Assessment Claim on the Second Distribution  
27 Date.

28 ///

1 (2) On the Effective Date, the holder of the Class 1-B Allowed T-18 LID  
2 Assessment Claim shall retain all rights and liens upon the Real Property for the remaining amount  
3 of the Allowed T-18 LID Assessment Claims after application of the Cash payment described in the  
4 immediately preceding Section 4.1.2.1 is made.

5 In the event the holder of the Allowed T-18 LID Assessment Claims votes to reject  
6 the Plan, then the holder of Allowed T-18 LID Assessment Claims shall not receive any Cash  
7 payments under the Plan but shall retain all rights and remedies under the Nevada Revised Statutes  
8 and liens upon the Real Property for the full amount of the Class 1-A and Class 1-B Allowed T-18  
9 LID Assessment Claims.

10 **b. Class 2 – Real Property Taxes.**

11 Impairment and Voting. Class 2 consists of Real Property Tax Claims. Real Property  
12 Tax Claims are impaired by the Plan; thus, the holder of the Real Property Tax Claims is entitled to  
13 vote to accept or reject the Plan.

14 Treatment. On the Effective Date, the holder of the Allowed Real Property Tax  
15 Claims shall receive, in complete and full satisfaction, settlement, release and discharge of, and in  
16 exchange for, Cash payment of One Hundred Percent (100%) of the principal amount of the Allowed  
17 Real Property Tax Claims; provided, however, that upon acceptance of the Cash payment such  
18 holder of the Allowed Real Property Tax Claims shall be deemed to have forever thereafter waived  
19 all of its right, title and interest in and to any and all penalties, interest and fees accrued on such  
20 Allowed Real Property Tax Claims.

21 **c. Class 3 – Secured Lender Claims.**

22 Impairment and Voting. Class 3 consists of Secured Lender Claims. Secured Lender  
23 Claims are unimpaired by the Plan; consequently, the holders of Secured Lender Claims are  
24 conclusively deemed to have accepted the Plan.

25 Treatment. On the Effective Date, each holder of an Allowed Secured Lender Claim  
26 shall receive, in complete and full satisfaction, settlement, release and discharge of, and in exchange  
27 for, the full amount of such Allowed Secured Lender Claim and any Liens under the Deed of Trust  
28 securing such Allowed Secured Lender Claim, its Pro Rata Share of the interest in the Real Property

1 conveyed by the Deed, which Debtor shall execute and record in the official records of Clark  
2 County and thereafter deliver to Lender.

3 **d. Class 4 – General Unsecured Claims.**

4 Impairment and Voting. Class 4 consists of the General Unsecured Claims. General  
5 Unsecured Claims are impaired by the Plan; consequently, the holders of General Unsecured Claims  
6 are entitled to vote to accept or reject the Plan.

7 Treatment. In the event the holders of Allowed General Unsecured Claims vote to  
8 accept the Plan, then on the Second Distribution Date, each holder of an Allowed General Unsecured  
9 Claim shall receive, in complete and full satisfaction, settlement, release and discharge of, and in  
10 exchange for, the full amount of such Allowed General Unsecured Claim, its Pro Rata Share of (a)  
11 the Membership Units as transferred pursuant to the Operating Agreement from Debtor’s Parent; (b)  
12 a Cash payment equal to all amounts, if any, paid to Pre-Effective Date Professionals and held in  
13 trust for Pre-Effective Date Professional Fees that are not subsequently allowed and approved by the  
14 Bankruptcy Court; and (c) a Cash payment equal to all amounts, if any, remaining from the  
15 Settlement Payment Amount after all Cash Distributions provided under this Plan have been made.

16 In the event the holders of the Allowed General Unsecured Claims vote to reject the  
17 Plan, then on the Second Distribution Date, (a) each holder of an Allowed General Unsecured Claim  
18 shall receive, in complete and full satisfaction, settlement, release and discharge of, and in exchange  
19 for, the full amount of such Allowed General Unsecured Claim, its Pro Rata Share of (i) a Cash  
20 payment equal to all amounts, if any, paid to Pre-Effective Date Professionals and held in trust for  
21 Pre-Effective Date Professional Fees that are not subsequently allowed and approved by the  
22 Bankruptcy Court; and (ii) a Cash payment equal to all amounts, if any, remaining from the  
23 Settlement Payment Amount after all Cash Distributions provided under this Plan have been made;  
24 and (b) the Manager shall, being so authorized without further order of the Bankruptcy or corporate  
25 approval, take all actions necessary to dissolve the Reorganized Debtor once all Distributions under  
26 the Plan have been made.

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1           **e.       Class 5 – Equity Interests.**

2           Impairment and Voting. Class 5 consists of Equity Interests. Equity Interests are  
3 impaired by the Plan; however, Equity Interests are not entitled to vote and are conclusively deemed  
4 to have rejected the Plan.

5           Treatment. On the Second Distribution Date, provided the Distributions  
6 contemplated by this Plan to holders of Allowed Claims in Classes 1, 2 and 3 occurred on the First  
7 Distribution Date, unless such condition is waived by the Manager, the Membership Units shall be  
8 transferred pursuant to the Operating Agreement from Debtor's Parent to the holders of Allowed  
9 General Unsecured Claims; each of which shall receive its Pro Rata Share of such Membership  
10 Units being transferred. Debtor's Parent shall execute and deliver whatever Plan Documents may be  
11 necessary to effectuate the transfer described in this section 4.5.2 to the Manager who shall, in turn,  
12 deliver copies of such Plan Documents to the transferees. Each such holder of an Allowed General  
13 Unsecured Claim that receives its Pro Rata Share of the Membership Units on the Second  
14 Distribution Date shall have all of the rights and obligations set forth in the Operating Agreement  
15 attached hereto as **Exhibit G**.

16 **C.       Plan Implementation.**

17           **1.       Distributions.**

18           All Cash Distributions contemplated by the Plan will be made from the Settlement Payment  
19 Amount. On the Effective Date, which shall be the First Distribution Date, the Reorganized Debtor  
20 shall make the Distributions to holders of Allowed Claims in Classes 1, 2 and 3, as applicable,  
21 pursuant to the Plan, without further order of the Bankruptcy Court or need for corporate approval.  
22 On the Second Distribution Date, Debtor's Parent shall execute and deliver whatever Plan  
23 Documents may be necessary to effectuate the transfer described in Plan to the Manager who shall,  
24 in turn, deliver copies of such Plan Documents to the transferees. Additionally, on the Second  
25 Distribution Date, the Manager shall make all remaining Cash Distributions, if any, pursuant to this  
26 Plan.

27           In the event the holder of Allowed Claims in Class 1 votes to accept the Plan, the estimated  
28 Cash Distributions from the Settlement Payment Amount would be as follows:

| Action on Effective Date | Description  | Estimated Distribution Amount | Last Date Payable        | Estimated Settlement Remaining |
|--------------------------|--|-------------------------------|--------------------------|--------------------------------|
| Receipt                  | Settlement Proceeds  |                               | On or before 12/30/2011  | \$2,800,000                    |
| Distribution             | U.S. Trustee Fees (pursuant to 26 U.S.C. § 1930(a)(6))                                       | \$9,750                       | First Distribution Date  | \$2,790,250                    |
| Distribution             | Pre-Effective Date Professional Fees (to be held in trust pending Bankruptcy Court approval) | \$150,000                     | First Distribution Date  | \$2,640,250                    |
| Reserve                  | Allowed Administrative Claims (other than Professional Fees)                                 | \$25,000                      | Second Distribution Date | \$2,615,250                    |
| Distribution             | Class 1 – T-18 LID Assessments   | \$967,104                     | First Distribution Date  | \$1,648,146                    |
| Distribution             | Class 2 – Real Property Taxes  | \$426,011                     | First Distribution Date  | \$1,222,135                    |
| Reserve                  | Post-Effective Date Professional Fees  | \$25,000                      | Second Distribution Date | \$1,197,135                    |
| Reserve                  | Class 1 – T-18 LID Assessments   | \$967,104                     | Second Distribution Date | \$230,031                      |
| Reserve                  | Management Fee   | \$20,000                      | Second Distribution Date | \$210,031                      |



| <b>Last Action</b> | <b>Description</b>                         | <b>Minimum Distribution Amount</b> | <b>Last Date Payable</b> | <b>Estimated Settlement Remaining</b> |
|--------------------|--|------------------------------------|--------------------------|---------------------------------------|
| Distribution       | Class 4 – Allowed General Unsecured Claims | \$210,031                          | Second Distribution Date | \$0                                   |

In the event the holder of Allowed Claims in Class 1 votes to reject the Plan, the estimated Cash Distributions from the Settlement Payment Amount would be as follows:

| <b>Action on Effective Date</b> | <b>Description</b>   | <b>Estimated Distribution Amount</b> | <b>Last Date Payable</b> | <b>Estimated Settlement Remaining</b> |
|---------------------------------|--|--------------------------------------|--------------------------|---------------------------------------|
| Receipt                         | Settlement Proceeds  |                                      | On or before 12/30/2011  | \$2,800,000                           |
| Distribution                    | U.S. Trustee Fees (pursuant to 26 U.S.C. § 1930(a)(6))                                       | \$9,750                              | First Distribution Date  | \$2,790,250                           |
| Distribution                    | Pre-Effective Date Professional Fees (to be held in trust pending Bankruptcy Court approval) | \$150,000                            | First Distribution Date  | \$2,640,250                           |
| Reserve                         | Allowed Administrative Claims (other than Professional Fees)                                 | \$25,000                             | Second Distribution Date | \$2,615,250                           |
| Distribution                    | Class 2 – Real Property Taxes  | \$426,011                            | First Distribution Date  | \$2,189,239                           |
| Reserve                         | Post-Effective Date Professional Fees  | \$25,000                             | Second Distribution Date | \$2,164,239                           |
| Reserve                         | Management Fee   | \$20,000                             | Second Distribution Date | \$2,144,239                           |

| Last Action  | Description                                | Minimum Distribution Amount | Last Date Payable        | Estimated Settlement Remaining |
|--------------|--|-----------------------------|--------------------------|--------------------------------|
| Distribution | Class 4 – Allowed General Unsecured Claims | \$2,144,239                 | Second Distribution Date | \$0                            |

2. **Adoption of Operating Agreement.**

On and after the Effective Date, and without further order of the Bankruptcy Court or need for corporate approval, the Reorganized Debtor shall continue to be governed by the Operating Agreement, which shall have been modified to provide that the Manager shall at all times have authority to oversee and implement Debtor's operations until the later of: (a) the Second Distribution Date, or (b) the date upon which all Administrative Claims and other Cash Distribution under the Plan have been paid in full pursuant to Final Orders of the Bankruptcy Court, as necessary, and such agreement shall supersede all other operating agreements in respect of Debtor.

3. **Management.**

On and after the Effective Date, the Reorganized Debtor shall be managed by the Manager who shall have sole authority to oversee and implement operations as provided in the Operating Agreement, which shall be modified as necessary pursuant to the Plan without further order of the Bankruptcy Court or corporate approval. Further, without limiting the generality of the foregoing, the Manager shall be entitled to receive the Management Fee, which amount shall be reserved from the Settlement Payment Amount, payable in Cash on the Second Distribution Date without further order of the Bankruptcy Court or corporate approval. The entry of the Confirmation Order shall ratify and approve all actions taken by Debtor prior to the date thereof.

4. **Merger of Deed of Trust and Release of Obligation Thereunder.** On the Effective Date, all Liens granted under the Deed of Trust shall be deemed extinguished and satisfied as of the Effective Date without further order of the Bankruptcy Court by operation of merger upon recordation of the Deed. For the avoidance of doubt by third parties not familiar with this Chapter 11 Case, recordation of the Confirmation Order shall be deemed to constitute a full reconveyance of

1 the Deed of Trust without further order of Bankruptcy Court to evidence the automatic cancellation  
2 and satisfaction of the Deed of Trust as of the Effective Date.

3 **5. Certain Tax Provisions.** Pursuant to Bankruptcy Code section 1146(a), the making  
4 or delivery of an instrument of transfer as part of a transaction authorized by the Plan, including,  
5 without limitation, any transfers of Property shall not be taxed under any law imposing a stamp tax  
6 or similar tax.

7 **6. Transfer of Membership Units.** Pursuant to Bankruptcy Code section 1145(a),  
8 section 5 of the Securities Act of 1933 and any state or local law requiring registration for the offer  
9 or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in,  
10 a security shall not apply to the transfer of the Membership Interests from Debtor's Parent to holders  
11 of Allowed Claims in Class 4 pursuant to the Plan. Notwithstanding the foregoing, the Post-  
12 Distribution Membership Interests, once transferred, shall not be publicly traded and may only be  
13 transferred on the terms and conditions set forth in the Operating Agreement. In addition, pursuant  
14 to Bankruptcy Code section 1125(e), any Persons that solicit the acceptance or rejection of the Plan,  
15 including, Debtor, Debtor's Parent, and the Manager, in good faith and in compliance with the  
16 Bankruptcy Code, or that participate, in good faith and in compliance with the applicable provisions  
17 of this title, in the offer, issuance, sale or purchase of a security, offered or sold under the Plan, shall  
18 not be liable, on account of such solicitation or participation, for violation of any applicable law,  
19 rule, or regulation governing solicitation of acceptance or rejection of a plan or the offer, issuance,  
20 sale or purchase of securities.

21 **D. Miscellaneous Provisions.**

22 **1. Post-Confirmation Matters.**

23 **a. Responsibilities of the Reorganized Debtor.** On and after the Effective  
24 Date, up to and including the Second Distribution Date, without need for further action by the  
25 members or managers of Debtor, and without further order of the Bankruptcy Court, the Manager  
26 shall be appointed estate representative under section 1123 of the Bankruptcy Code and shall be  
27 solely responsible for and shall have authority to: (a) make all Distributions required to be made on  
28 or after the Effective Date to the holders of Allowed Claims, including Distributions of the

1 Membership Interests; (b) settle, resolve and object to Claims; (c) retain, employ and utilize such  
2 Professionals as may be necessary without further approval of the Bankruptcy Court; (d) do all  
3 things necessary and appropriate to fulfill the duties and obligations of Debtor under the Plan, the  
4 Confirmation Order, the Bankruptcy Code and the Bankruptcy Rules; (e) pay all fees payable under  
5 28 U.S.C. § 1930; (f) file any post-Confirmation reports required by the Bankruptcy Code or the  
6 Bankruptcy Court; and (g) move for the entry of a Final Decree and prepare and file any pleadings as  
7 may be required by the Bankruptcy Court in connection with the Final Decree and the closing of the  
8 Chapter 11 Case. Manager, in its capacity as estate representative, shall comply with all withholding  
9 and reporting requirements imposed upon it by any Governmental Unit under applicable law and all  
10 Distributions shall be subject to such withholding and reporting requirements, if any. In the event  
11 the holders of Allowed Claims in Class 4 vote to reject the Plan, the Manager shall, being so  
12 authorized without further order of the Bankruptcy or corporate approval, take all actions necessary  
13 to dissolve the Reorganized Debtor once all Distributions under the Plan have been made.

14 **b. Responsibilities of Debtor's Parent.** On and after the Effective Date, and  
15 without further order of the Bankruptcy Court, Debtor's Parent shall and deliver to the Manager such  
16 Plan Documents as may be necessary to effectuate the transfer the Membership Units to holders of  
17 Allowed Claims in Class 4 or, in the event the holders of such Claims vote to reject the Plan, shall  
18 execute and deliver to the Manager such Plan Documents as may be necessary to effectuate the  
19 dissolution of the Reorganized Debtor.

20 **2. Release of Claims by Lenders.**

21 On the Effective Date, each Lender receiving a Distribution under the Plan (each a  
22 "Releasing Lender") and Agent, on behalf of itself and each of its agents, successors, assigns and  
23 representatives of any kind (collectively, the "Releasing Lender Parties"), shall voluntarily forever  
24 release and discharge Debtor, any other obligors under the Note, and each of such Person's  
25 respective agents, successors, assigns and representatives of any kind (collectively, the "Debtor  
26 Parties") from any and all claims, demands, causes of action and rights of every kind, nature or  
27 character arising or existing on or before the Effective Date arising out of or in any way related to  
28 the Note, or the Property; whether absolute, inchoate or contingent; whether determined or

1 undetermined, known or unknown, proven or unproven; whether held individually, jointly, or jointly  
2 and severally; whether arising directly, indirectly, derivatively, or by way of any legal or equitable  
3 right of subrogation, contribution, indemnity, estoppel, marshalling of assets or otherwise; whether  
4 for compensation, relief, protection, punishment or any other remedy or result of any kind, character  
5 or nature; whether based upon any intentional or negligent conduct, strict liability, any tort of any  
6 kind, upon any breach of any contract or upon any other grounds or upon any other theory  
7 whatsoever; whether asserted or subject to assertion by complaint, cross-complaint, counterclaim,  
8 affirmative defense, or other pleading, by motion, by notice or otherwise; whether asserted or subject  
9 to assertion in any jurisdiction, in any court or other forum or with any federal, state, county,  
10 municipal or other governmental authority, agency or official; and whether arising at law, in equity  
11 or otherwise.

12 *Notwithstanding the foregoing, the Note is held by more than one natural person and*  
13 *section 645B.340 of the Nevada Revised Statutes, provides, among other things, that, in such*  
14 *cases, persons holding 51% or more of the beneficial interests in a note may be able to bind the*  
15 *remaining holders to a release of any or all of the obligations relating to such note. Here, if*  
16 *Lenders holding more than 51% of the beneficial interests in the Note accept the Plan and release*  
17 *the Debtor Parties, the Nevada Revised Statutes may permit Debtor to argue that the releases*  
18 *contained in the Plan are binding upon each and every Lender, including those that did not*  
19 *accept the Plan. There is no guarantee that 51% of the beneficial interests in the Note will vote to*  
20 *accept the Plan and, even if that is the case, the Plan does not affect and the Bankruptcy Court*  
21 *will not adjudicate any rights that Debtor or the Lenders may have under the Nevada Revised*  
22 *Statutes. Accordingly, any determination of whether the Nevada Revised Statutes binds Lenders*  
23 *that did not accept the Plan to the releases will be determined, if necessary, in a forum other than*  
24 *the Bankruptcy Court, most likely in a Nevada state court. The substance of any such*  
25 *determination is unclear and cannot be predicted with certainty.*

26 **3. Release of Claims by Debtor Parties.**

27 On the Effective Date, each Debtor Party hereby forever releases and discharges each  
28 Releasing Lender Party from any and all claims, demands, causes of action and rights of every kind,

1 nature or character arising or existing on or before the Effective Date arising out of or in any way  
2 related to the Note, or the Property; whether absolute, inchoate or contingent; whether determined or  
3 undetermined, known or unknown, proven or unproven; whether held individually, jointly, or jointly  
4 and severally; whether arising directly, indirectly, derivatively, or by way of any legal or equitable  
5 right of subrogation, contribution, indemnity, estoppel, marshalling of assets or otherwise; whether  
6 for compensation, relief, protection, punishment or any other remedy or result of any kind, character  
7 or nature; whether based upon any intentional or negligent conduct, strict liability, any tort of any  
8 kind, upon any breach of any contract or upon any other grounds or upon any other theory  
9 whatsoever; whether asserted or subject to assertion by complaint, cross-complaint, counterclaim,  
10 affirmative defense, or other pleading, by motion, by notice or otherwise; whether asserted or subject  
11 to assertion in any jurisdiction, in any court or other forum or with any federal, state, county,  
12 municipal or other governmental authority, agency or official; and whether arising at law, in equity  
13 or otherwise.

#### 14 **ARTICLE VI.**

#### 15 **CONFIRMATION OF THE PLAN**

16 The Bankruptcy Court may confirm the Plan only if it determines that the Plan complies with  
17 the technical requirements of Chapter 11, including, among other things, that (a) the Plan properly  
18 classifies Claims and Equity Interests (b) the Plan complies with applicable provisions of the  
19 Bankruptcy Code, (c) Debtor has complied with applicable provisions of the Bankruptcy Code,  
20 (d) Debtors has proposed the Plan in good faith and not by any means forbidden by law,  
21 (e) disclosure of “adequate information,” as required by section 1125 of the Bankruptcy Code has  
22 been made, (f) the Plan has been accepted by the requisite votes of Creditors in Impaired Classes (or  
23 the non-accepting Impaired Classes have been successfully crammed-down under section 1129(b) of  
24 the Bankruptcy Code), (g) the Plan is in the “best interests” of all holders of Claims or Interests in  
25 each Impaired Class that has not unanimously accepted the Plan, and (h) all fees and expenses  
26 payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation  
27 Hearing, have been paid or the Plan provides for the payment of such fees on the Effective Date.

28 ///

1 **A. Voting Eligibility.**

2 Under the Bankruptcy Code, only Classes of Claims and Equity Interests that are “Impaired”  
3 (as that term is defined in section 1124 of the Bankruptcy Code) under the Plan are entitled to vote to  
4 accept or reject the Plan. Generally speaking, a Class is Impaired if the Plan modifies the legal,  
5 equitable or contractual rights of holders of Claims or Equity Interests in the Class (other than by  
6 curing defaults and reinstating debt). Under section 1126(f) of the Bankruptcy Code, Classes of  
7 Claims and Equity Interests that are unimpaired are conclusively presumed to have accepted the Plan  
8 and are not entitled to vote on the Plan. Under section 1126(g) of the Bankruptcy Code, Classes of  
9 Claims and Equity Interests whose holders will neither receive nor retain any property under the  
10 Plan are deemed to have rejected the Plan and are not entitled to vote on the Plan. An Impaired  
11 Class of Claims will have accepted the Plan if (a) the holders (other than any holder designated  
12 under section 1126(e) of the Bankruptcy Code) of at least two-thirds (2/3) in amount of the Allowed  
13 Claims actually voting in such Class have voted to accept the Plan and (b) the holders (other than  
14 any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half (1/2) in  
15 number of the Allowed Claims actually voting in such Class have voted to accept the Plan. As noted  
16 above, the Plan utilizes four Classes of Claims and one Class of Equity Interests. Class 3 is not  
17 Impaired and is not entitled to vote to accept or reject the Plan. Classes 1, 2 and 4 are Impaired and  
18 are entitled to vote to accept or reject the Plan. Class 5 is deemed to reject the Plan.

19 The procedures for soliciting votes with respect to the Plan, as requested in the Motion for  
20 Conditional Approval filed contemporaneously herewith, established criteria by which holders of  
21 Claims in Classes 1, 2 and 4 will be entitled to vote to accept or reject the Plan and in what  
22 amount(s).

23 A Ballot to be used to accept or reject the Plan is enclosed with all copies of this Disclosure  
24 Statement mailed to holders of Claims in Classes 1 and 2. With respect to the Ballot to be used to  
25 accept or reject the Plan by holders of Claims in Class 4, Agent shall no later than noon on  
26 November 7, 2011, either (a) provide Debtor with a list of addresses so that Debtor may mail a  
27 separate Ballot to each of the Lenders, or (b) replicate the form of Ballot provided by Debtor to  
28 Agent and mail a separate Ballot to each of the Lenders, so that each of the Lenders may vote

1 separately to accept or reject the Plan in accordance with and pursuant to the balloting procedures  
2 and deadlines as ordered by the Bankruptcy Court.

3 **B. Voting Instructions.**

4 THE PERIOD DURING WHICH BALLOTS WITH RESPECT TO THE PLAN WILL BE  
5 ACCEPTED BY DEBTOR WILL TERMINATE AT **[5:00] P.M. PREVAILING PACIFIC**  
6 **TIME, ON MONDAY, DECEMBER 5, 2011** (THE “VOTING DEADLINE”). EXCEPT TO THE  
7 EXTENT DEBTOR SO DETERMINES OR AS PERMITTED BY THE BANKRUPTCY COURT,  
8 BALLOTS THAT ARE RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE  
9 ACCEPTED OR USED BY DEBTOR IN CONNECTION WITH DEBTOR’S REQUEST FOR  
10 CONFIRMATION OF THE PLAN (OR ANY PERMITTED MODIFICATION THEREOF).

11 TO BE COUNTED, YOUR BALLOT MUST BE COMPLETELY FILLED IN, SIGNED,  
12 AND TRANSMITTED IN THE MANNER SPECIFIED IN THE BALLOT SO THAT IT IS  
13 RECEIVED BY THE VOTING DEADLINE. PLEASE CAREFULLY FOLLOW ALL  
14 INSTRUCTIONS CONTAINED IN THE BALLOT. ANY BALLOTS RECEIVED WHICH DO  
15 NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN WILL BE  
16 COUNTED AS ACCEPTING THE PLAN.

17 If you have any questions about the procedure for voting, or if you did not receive a Ballot,  
18 received a damaged Ballot, or have lost your Ballot, or if you would like any additional copies of  
19 this Disclosure Statement, please contact:

20 Fox Rothschild LLP  
21 c/o Anne M. Loraditch, Esq.  
22 3800 Howard Hughes Parkway, Suite 500  
Las Vegas, Nevada 89169  
Telephone: (702) 262-6899

23 BALLOTS MUST BE DELIVERED BY FIRST CLASS MAIL, OVERNIGHT  
24 DELIVERY OR HAND DELIVERY AT THE FOLLOWING ADDRESS:

25 Fox Rothschild LLP  
26 c/o Anne M. Loraditch, Esq.  
27 3800 Howard Hughes Parkway, Suite 500  
28 Las Vegas, Nevada 89169



1 In the event that Claims or Equity Interests may be (or have been) transferred among  
2 different parties, Rule 3018 of the Federal Rules of Bankruptcy Procedure authorizes the Bankruptcy  
3 Court to fix a date (the "Voting Record Date") upon which the holder of a particular Claim or Equity  
4 Interest as of that Voting Record Date is identified as the party entitled to vote such Claim or Equity  
5 Interest to accept or reject the Plan. For example, if the Voting Record Date is Wednesday, and  
6 Party A (as the current holder of Claim 1) transfers Claim 1 to Party B on Thursday, then Party A  
7 (and not Party B) is entitled to vote Claim 1 to accept or reject the Plan. Conversely, if the Voting  
8 Record Date was Friday instead, and Party A still transfers Claim 1 to Party B on Thursday, then  
9 Party B is entitled to vote Claim 1 to accept or reject the Plan. Consistent with the provisions of  
10 Bankruptcy Rule 3018, Debtor requested that the Voting Record Date be fixed as 5:00 P.M.,  
11 Prevailing Pacific Time, on December 5, 2011.

12 **C. Combined Hearing on Disclosure Statement and Plan Confirmation.**

13 Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold  
14 a hearing on Confirmation of the Plan after the Ballots have been cast. Section 1128(b) of the  
15 Bankruptcy Code provides that any party in interest may object to Confirmation of the Plan. Rule  
16 3017(c) provides a procedure by which the Bankruptcy Court may conditionally approve this  
17 Disclosure Statement and set a combined hearing on the conditionally approved disclosure  
18 statement and confirmation of the Plan (the "Combined Hearing"). By its Motion for Conditional  
19 Approval contemporaneously filed herewith, Debtor made such a request, and the Bankruptcy Court  
20 subsequently entered the Solicitation Order, a copy of which is enclosed with this package.

21 THE BANKRUPTCY COURT HAS SCHEDULED THE COMBINED HEARING TO  
22 COMMENCE ON **DECEMBER 12, 2011, AT 2:00 P.M. PREVAILING PACIFIC TIME**  
23 **BEFORE THE HONORABLE BRUCE A. MARKELL, UNITED STATES BANKRUPTCY**  
24 **JUDGE IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF**  
25 **NEVADA, IN COURTROOM C, FOLEY FEDERAL BUILDING, 300 LAS VEGAS**  
26 **BOULEVARD SOUTH, LAS VEGAS, NEVADA 89101.** THE COMBINED HEARING ON  
27 THE ADEQUACY OF THIS DISCLOSURE STATEMENT AND CONFIRMATION OF THE  
28 PLAN MAY BE CONTINUED FROM TIME TO TIME BY THE BANKRUPTCY COURT

1 WITHOUT FURTHER NOTICE EXCEPT FOR AN ANNOUNCEMENT OF THE CONTINUED  
2 HEARING DATE MADE AT THE COMBINED HEARING OR ANY CONTINUATION  
3 THEREOF.

4 OBJECTIONS TO THE ADEQUACY OF THIS CONDITIONALLY APPROVED  
5 DISCLOSURE STATEMENT AND CONFIRMATION OF THE PLAN MUST BE FILED AND  
6 SERVED ON OR BEFORE **5:00 P.M. PREVAILING PACIFIC TIME ON DECEMBER 5,**  
7 **2011,** IN ACCORDANCE WITH THE ORDER. UNLESS OBJECTIONS TO CONFIRMATION  
8 ARE TIMELY SERVED AND FILED IN COMPLIANCE WITH THE SOLICITATION ORDER,  
9 THEY MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

10 At the Combined Hearing, the Bankruptcy Court will determine, among other things,  
11 whether the information contained in this Disclosure Statement is adequate as required in section  
12 1125 of the Bankruptcy Code and whether the following Confirmation requirements specified in  
13 section 1129 of the Bankruptcy Code have been satisfied:

- 14 (a) The Plan complies with the applicable provisions of the Bankruptcy Code.
- 15 (b) Debtor has complied with the applicable provisions of the Bankruptcy  
16 Code.
- 17 (c) The Plan has been proposed in good faith and not by any means  
18 proscribed by law.
- 19 (d) Any payment made or promised by Debtor for services or for costs and  
20 expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan  
21 and incident to the Chapter 11 Cases, has been disclosed to the Bankruptcy Court, and  
22 any such payment made before the confirmation of the Plan is reasonable or, if such  
23 payment is to be fixed after the Confirmation of the Plan, such payment is subject to the  
24 approval of the Bankruptcy Court as reasonable.
- 25 (e) Each holder of an Impaired Claim either has accepted the Plan or will  
26 receive or retain under the Plan on account of such holder's Claims, property of a value,  
27 as of the Distribution Date, that is not less than the amount that such Holder would  
28 receive or retain if Debtors were liquidated on such date under chapter 7 of the  
Bankruptcy Code.
- (f) Each Class of Claims has either accepted the Plan or is not Impaired under  
the Plan. As to Classes that are deemed to reject the Plan, see "Cramdown," Section  
D(5), below.
- (g) Except to the extent that the holder of a particular Claim has agreed to a  
different treatment of such Claim, the Plan provides that Allowed Administrative Claims,  
Allowed Priority Claims and Allowed Priority Tax Claims, if any, will be paid in full.

1 (h) At least one Class of Claims has accepted the Plan, determined without  
including any acceptance of the Plan by any insider holding a Claim in such Class.

2 (i) Confirmation of the Plan is not likely to be followed by the need for  
3 further financial reorganization or liquidation of Reorganized Debtor, unless such further  
reorganization or liquidation is proposed in the Plan.

4 (j) All fees payable under section 1930 of title 28 as determined by the Court  
5 at the Confirmation Hearing have been paid or the Plan provides for payment of all such  
fees on the Plan Effective Date.

6 (k) The Plan addresses payment of retiree benefits, if any, in accordance with  
7 section 1114 of the Bankruptcy Code.

8 Debtor submits that it has complied or will have complied with its obligations as debtor in  
9 possession, and that the Plan is being proposed and has been submitted to the Bankruptcy Court in  
10 good faith. Certain of the requirements for confirmation of the Plan under section 1129 of the  
11 Bankruptcy Code are discussed in greater detail below.

12 **D. Confirmation Requirements.**

13 **1. Classification.**

14 Section 1122 of the Bankruptcy Code sets forth the requirements relating to classification of  
15 claims. Section 1122(a) of the Bankruptcy Code provides that claims or equity interests may be  
16 placed in a particular class only if they are substantially similar to the other claims or equity interests  
17 in that class. Debtor believes that all Classes under the Plan satisfy the requirements of section  
18 1122(a) of the Bankruptcy Code because none of the Classes under the Plan contain Claims or  
19 Equity Interests that are not substantially similar to each other.

20 **2. Acceptance by Impaired Classes.**

21 Debtor will be responsible for tabulating all validly executed Ballots received prior to the  
22 Voting Deadline for purposes of determining whether each Impaired voting Class has accepted or  
23 rejected the Plan. Bankruptcy Rule 3018(b) prescribes the conditions that must be satisfied in order  
24 to count the ballots cast with respect to a plan prior to the commencement of a Chapter 11 case. The  
25 rule requires that for the ballot of a creditor to count (i) a Chapter 11 plan and a disclosure statement  
26 must be distributed to substantially all creditors of the same class, (ii) the time prescribed for voting  
27 on such a plan must not be unreasonably short, and (iii) the solicitation must be conducted in  
28 compliance with section 1126 of the Bankruptcy Code, which section requires that the solicitation be

1 conducted in compliance with all applicable nonbankruptcy laws, rules, or regulations or, if there are  
2 no such applicable laws, rules, or regulations, that the disclosure statement for such plan contains  
3 “adequate information.” Under section 1125 of the Bankruptcy Code, “adequate information” is  
4 defined as information of a kind and in sufficient detail to the extent it is reasonably practicable in  
5 light of the nature and history of a company and the condition of such company’s books and records,  
6 that would enable a hypothetical reasonable investor typical of holders of claims or equity interests  
7 of the relevant class to make an informed judgment about the plan.

8 Debtor submits that all the requirements of Bankruptcy Rule 3018(b) will be satisfied.  
9 Debtor are soliciting votes from the holders of Impaired Claims as of the Voting Record Date in  
10 Classes 1, 2 and 4 pursuant to the Solicitation Order. Holders of Claims in Class 3 is not Impaired  
11 and is not entitled to vote to accept or reject the Plan. Holders of Equity Interests in Class 5 neither  
12 receive nor retain anything under the Plan and are deemed to reject the Plan. Debtor further submits  
13 that this Disclosure Statement contains adequate information within the meaning of section 1125 of  
14 the Bankruptcy Code and that solicitation of votes in connection with the Plan will be in accordance  
15 with section 1126 of the Bankruptcy Code pursuant to the Solicitation Order.

16 **3. Best Interests Test.**

17 In order for the Plan to be confirmed, the Bankruptcy Court must find with respect to any  
18 Impaired Class that has not unanimously voted to accept the Plan that any holder of a Claim who  
19 votes to reject the Plan will receive or retain under the Plan on account of such Claim property that  
20 has a value, as of the Effective Date of the Plan, that is not less than the value of the distribution  
21 each such holder would receive or retain if Debtor was, on the Effective Date, liquidated under  
22 Chapter 7 of the Bankruptcy Code. To make this finding, the Bankruptcy Court must: (a) evaluate  
23 the estimated Cash proceeds (the “Liquidation Proceeds”) that a chapter 7 trustee would generate  
24 from liquidating each Debtor’s assets if its Chapter 11 Case was converted to a case under chapter 7  
25 of the Bankruptcy Code; (b) evaluate the estimated distribution (“Liquidation Distribution”) that  
26 each non-accepting holder of a Claim or Interest would receive from the Liquidation Proceeds under  
27 the priority scheme dictated in, inter alia, sections 725 and 726 of the Bankruptcy Code and after  
28 consideration of the additional layer of administrative expenses necessitated by a chapter 7 trustee

1 and its counsel; and (c) compare each rejecting holder's Liquidation Distribution to the distribution  
2 under the Plan ("Plan Distribution") that such holder would receive if the Plan is confirmed and  
3 consummated.

4 Allowed Claims in Class 3 are not Impaired and are therefore deemed to accept the Plan  
5 unanimously (thereby rendering the "best interests" test inapplicable). Allowed Claims in Class 1  
6 will either receive a Cash payment equivalent to a portion of the total Claims in Class 1 while  
7 retaining all rights and remedies with respect to the balance of the total Claims (resulting in a  
8 Liquidation Distribution less than the contemplated Cash payment) or no Cash payment and full  
9 retention of all rights and remedies with respect to the total Claims in Class 1, essentially "passing  
10 through" this Chapter 11 Case (thereby rendering the "best interests" test inapplicable). Allowed  
11 Claims in Class 2 will receive a Cash payment equivalent to a portion of the total Claims in Class 2  
12 but still resulting in a Liquidation Distribution less than the contemplated Cash payment. Only a  
13 negligible (at best) Liquidation Distribution would be made to holders of Allowed Claims in Class 4  
14 (given (i) the joint and several nature of the Secured Lender Claims, (ii) the size of the Lender's  
15 unsecured deficiency Claim pursuant to Section 506(a) of the Bankruptcy Code, and (iii) the fact that  
16 but for the compromises crafted into the Plan for Classes 1 and 2, Class 4 Claims would not be  
17 entitled to any Distribution in a chapter 7 liquidation). No Liquidation Distribution would be made  
18 to Class 5 since holders of Equity Interests are not entitled to receive anything when general  
19 unsecured claims are not paid in full (as would be the case in a chapter 7 liquidation).

20 Therefore, as more specifically demonstrated by the liquidation analysis attached hereto as  
21 **Exhibit H**, Debtor submits that the Plan satisfies the "best interests" test encompassed by  
22 section 1129(a)(7) of the Bankruptcy Code.

23 **4. Feasibility of the Plan.**

24 Section 1129(a)(11) of the Bankruptcy Code requires a finding that confirmation of a plan is  
25 not likely to be followed by the liquidation, or the need for further financial reorganization, of the  
26 debtor or any successor-in-interest.

27 Because Debtor has no operations and the Plan provides for the funding of certain reserves  
28 from the Settlement Payment Amount, including but not limited to, a Management Fee and Post-

1 Effective Date Professional Fees, Debtor submits that the Reorganized Debtor will have the financial  
2 capability to satisfy its respective obligations following the Effective Date of the Plan, including the  
3 payment of all Cash distributions contemplated by the Plan. Therefore, Debtor submits that the Plan  
4 is feasible as required by section 1129(a)(11) of the Bankruptcy Code.

5 **5. Confirmation Without Acceptance of All Impaired Classes - "Cramdown."**

6 The Bankruptcy Code contains provisions that could enable the Bankruptcy Court to confirm  
7 the Plan, even though the Plan has not been accepted by all Impaired Classes, provided that the Plan  
8 has been accepted by at least one Impaired Class of Claims. Debtor believes that the Plan will be  
9 able to meet the statutory standards set forth in the Bankruptcy Code.

10 Section 1129(b)(1) of the Bankruptcy Code states:

11 Notwithstanding section 510(a) of this title, if all of the applicable  
12 requirements of subsection (a) of this section other than paragraph (8) are met  
13 with respect to a plan, the court, on request of the proponent of the plan, shall  
14 confirm the plan notwithstanding the requirements of such paragraph if the  
plan does not discriminate unfairly, and is fair and equitable, with respect to  
each class of claims or interests that is impaired under, and has not accepted  
the plan.

15 This section makes clear that a plan must be confirmed notwithstanding the failure of an  
16 impaired class to accept the plan, so long as the plan "does not discriminate unfairly" and it is "fair  
17 and equitable" with respect to each rejecting class.

18 **a. No Unfair Discrimination.**

19 A plan does not "discriminate unfairly" if (a) the plan does not treat any rejecting class of  
20 claims or equity interests in a manner that is materially less favorable than the treatment afforded to  
21 another class with similar legal claims against or equity interests in a debtor, and (b) no class  
22 receives payments in excess of that which it is legally entitled to receive for its claims or equity  
23 interests. However, a plan also may satisfy this requirement even if classes of claims or equity  
24 interests that are of equal priority are receiving different treatment. The test does not require that  
25 the classes of equal priority receive identical treatment, but instead only that if there is a difference  
26 in treatment that such difference be "fair."

27 No Class of Claims will receive payments or property with an aggregate value greater than  
28 the aggregate value of the Allowed Claims in such Class. Therefore, Debtor submits that if there

1 are any rejecting Classes of Claims, the Plan nevertheless satisfies the “no unfair discrimination”  
2 requirement.

3 **b. Fair And Equitable Test.**

4 The Bankruptcy Code sets forth three different standards for establishing that a plan is “fair  
5 and equitable” with respect to a rejecting class, depending on whether the class is comprised of  
6 secured or unsecured claims or equity interests. In general, section 1129(b) of the Bankruptcy Code  
7 permits confirmation notwithstanding non-acceptance by an impaired class if that class and all  
8 classes junior to it are treated in accordance with the “absolute priority” rule, which requires either  
9 that the dissenting class be paid in full, or if it is not, that no junior class receives or retains property  
10 under the plan. In addition, the “fair and equitable” standard has been interpreted to prohibit any  
11 class senior to a rejecting class from receiving under a plan more than 100% of its allowed claims.

12 Since Holders of Equity Interests in Class 5 are neither entitled to receive nor retain  
13 anything under the Plan on behalf of such Equity Interests, the Plan is fair and equitable as to  
14 Classes 1, 2 and 4. Class 3 is not Impaired, and therefore their treatment must be deemed to be fair  
15 and equitable. Therefore, Debtor submits that the Plan satisfies the “fair and equitable” requirement  
16 with respect to any rejecting Class(es).

17 **ARTICLE VII.**

18 **CERTAIN RISK FACTORS TO BE CONSIDERED**

19 Although Debtor believes that the Plan is confirmable and feasible, there are some risks that  
20 should be considered. Certain specific risk factors are described below. Parties in interest should  
21 read and carefully consider the following factors, as well as the other information set forth in this  
22 Disclosure Statement (and the documents delivered together herewith and/or incorporated by  
23 reference herein), before deciding whether to vote to accept or to reject the Plan.

24 **A. Debtor Has Not Yet Received the Settlement Payment Amount.**

25 Although the Settlement Agreement was approved by order of the Bankruptcy Court and,  
26 thereunder, the Settlement Payment Amount is to be paid to Debtor on or before December 30, 2011,  
27 Debtor has no control over when the remittance of the Settlement Payment Amount will occur, if at  
28

1 all. Because the funding of the Plan is predicated entirely on the receipt of the Settlement Payment  
2 Amount, if such payment does not occur Debtor has no other means to implement the Plan.

3 **B. Acceptances of the Plan Are Uncertain.**

4 Holders of Class 1 T-18 LID Assessment Claims may vote to accept the Plan, in which case  
5 recoveries to Class 4 General Unsecured Claims will be negligible. The amount (or lack) of  
6 recovery by General Unsecured Claims will be significantly impacted by whether Holders of Class  
7 1-A T-18 LID Assessment Claims vote to accept or reject the Plan.

8 **C. Development of the Inspirada Project is Uncertain.**

9 There can be no certainty whether the new developer of Inspirada will continue to develop  
10 the project, or the manner in which it might be developed.

11 **ARTICLE VIII.**

12 **CERTAIN UNITED STATES FEDERAL INCOME TAX**  
13 **CONSIDERATIONS OF THE PLAN**

14 **A. Introduction.**

15 TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230,  
16 HOLDERS OF CLAIMS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF  
17 FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR  
18 WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY HOLDERS OF  
19 CLAIMS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON  
20 HOLDERS OF CLAIMS UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION  
21 IS BEING USED IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN  
22 THE MEANING OF CIRCULAR 230) BY DEBTORS OF THE TRANSACTIONS OR  
23 MATTERS ADDRESSED HEREIN; AND (C) HOLDERS OF CLAIMS SHOULD SEEK  
24 ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT  
25 TAX ADVISOR.

26 A summary description of certain material United States federal income tax consequences of  
27 the Plan is provided below. This description is for informational purposes only and, due to a lack of  
28 definitive judicial or administrative authority or interpretation, substantial uncertainties exist with



1 respect to various tax consequences of the Plan as discussed herein. Only the principal  
2 consequences of the Plan for Holders of Claims who are entitled to vote to accept or reject the Plan  
3 are described below. No opinion of counsel has been sought or obtained with respect to any tax  
4 consequences of the Plan. No rulings or determinations of the Internal Revenue Service (“IRS”) or  
5 any other tax authorities have been or will be sought or obtained with respect to any tax  
6 consequences of the Plan, and the discussion below is not binding upon the IRS or such other  
7 authorities. No representations are being made regarding the particular tax consequences of the  
8 confirmation or implementation of the Plan as to any Holder of a Claim. No assurance can be given  
9 that the IRS would not assert, or that a court would not sustain, a different position from any  
10 discussed herein.

11 The discussion of United States federal income tax consequences below is based on the  
12 Internal Revenue Code of 1986, as amended (the “IRC”), the Treasury Regulations promulgated  
13 thereunder, judicial authorities, published positions of the IRS, and other applicable authorities, all  
14 as in effect on the date hereof and all of which are subject to change or differing interpretations  
15 (possibly with retroactive effect).

16 The following discussion does not address foreign, state or local tax consequences of the  
17 Plan, nor does it purport to address the United States federal income tax consequences of the Plan to  
18 special classes of taxpayers (e.g., banks and certain other financial institutions, insurance  
19 companies, tax-exempt organizations, Holders of Claims who are (or who hold their Claims  
20 through) pass-through entities, persons whose functional currency is not the United States dollar,  
21 foreign persons, dealers in securities or foreign currency, and persons holding claims that are a  
22 hedge against, or that are hedged against, currency risk or that are part of a straddle, constructive  
23 sale or conversion transaction). The following discussion assumes that Holders of Claims hold their  
24 Claims as capital assets for United States federal income tax purposes. Furthermore, the following  
25 discussion does not address United States federal taxes other than income taxes.

26 For purposes of the following discussion, a “United States person” is any of the following:

- 27 • an individual who is a citizen or resident of the United States;
- 28 • a corporation created or organized under the laws of the United States or  
any state or political subdivision thereof;

- 1 • an estate, the income of which is subject to federal income taxation regardless of its source; or
- 2 • a trust that (a) is subject to the primary supervision of a United States court and which has one or more United States fiduciaries who have the
- 3 authority to control all substantial decisions of the trust, or (b) has a valid
- 4 election in effect under applicable United States Treasury regulations to be
- 5 treated as a United States person.

6 As used herein, the term “U.S. Holder” means a Holder of a Claim that is a United States  
7 person, the term “non-U.S. person” means a person other than a United States person and the term  
8 “Non-U.S. Holder” means a Holder of a Claim that is a non-U.S. person.

9 **Each Holder of a Claim is strongly urged to consult its own tax advisor regarding the**  
10 **United States federal, state, local and any foreign tax consequences of the transactions**  
11 **described herein or in the Plan.**

12 **B. Certain United States Federal Income Tax Consequences To Debtors.**

13 Debtor is a Nevada limited liability company that is a wholly owned subsidiary of Focus who  
14 owns all of the Equity Interests in Debtor. As such, Debtor is a disregarded entity for purposes of  
15 United States federal income tax. All such tax consequences to Debtor will pass through to Focus.

16 **C. Tax Consequences To Creditors.**

17 The United States federal income tax consequences of the transactions contemplated by the  
18 Plan to holders of Allowed Claims generally will be as follows. These consequences (including the  
19 character, timing and amount of income, gain or loss recognized) will depend upon, among other  
20 things: (1) the manner in which a holder acquired a Claim; (2) the length of time the Claim has been  
21 held; (3) the holder’s method of tax accounting; (4) whether the holder of a Claim has taken a bad  
22 debt deduction with respect to the Claim (or any portion of the Claim) in the current or prior years;  
23 and (5) (a) whether the Claim was acquired at a discount, (b) whether the holder of a Claim has  
24 previously included accrued but unpaid interest with respect to the Claim, (c) whether the Claim is  
25 an installment obligation for United States federal income tax purposes and (d) whether the Claim  
26 constitutes a “security” for United States federal income tax purposes. Therefore, holders of Claims  
27 should consult their own tax advisors for information that may be relevant to their particular  
28

1 situations and circumstances and the particular tax consequences to them of the transactions  
2 contemplated by the Plan.

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

12 **ARTICLE IX.**

13 **FURTHER INFORMATION**

14 If you have any questions or require further information about the voting procedures for  
15 voting your Claim, or about the packet of material you received, or if you wish to obtain an  
16 additional copy of the Plan, the Disclosure Statement, or any Exhibits to such documents (at your  
17 own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d)), please contact:

18 Fox Rothschild LLP  
19 c/o Anne M. Loraditch, Esq.  
20 3800 Howard Hughes Parkway, Suite 500  
21 Las Vegas, Nevada 89169  
22 Telephone: (702) 262-6899

23 Additional information about the Chapter 11 Case, including the full docket of all pleadings  
24 filed with the Bankruptcy Court, is available at: <http://www.nvb.uscourts.gov>, the Court's internet  
25 site, through an account obtained from the PACER service center at 1-800-676-6856, or (210) 301-  
26 6440, or <http://pacer.psc.uscourts.gov>.

27 **ARTICLE X.**

28 **ALTERNATIVE TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

If the Plan is not confirmed and consummated, there can be no assurance that the Chapter 11  
Case will not be converted to a Chapter 7 liquidation. In fact, Debtor believe that absent

1 Confirmation of the Plan, the likely result could be that any value that could be generated from  
2 Debtor's assets would go to satisfy its obligations to the City of Henderson, Clark County and the  
3 Administrative Claims of a chapter 7 trustee. If that were to occur, the General Unsecured Creditors  
4 likely would receive no recovery. See Article VI, Section D(3) above.

5         If the Plan is not confirmed, any other party in interest can formulate a different plan of  
6 reorganization. Such a plan of reorganization might involve either a reorganization and  
7 continuation of the existence of or the sale of Debtor as a holding company or an orderly liquidation  
8 of the properties and interests in property of Debtor. With respect to an alternative plan of  
9 reorganization, Debtor has examined various other alternatives in connection with the process  
10 involved in the formulation and development of the Plan. Debtor believes that the Plan, as described  
11 herein, enables holders of Claims to realize the best recoveries under the present circumstances. In a  
12 liquidation of Debtor under chapter 11, the properties and interests in property likely would be sold  
13 in a more orderly fashion and over a more extended period of time than in a liquidation under  
14 chapter 7, probably resulting in marginally greater recoveries. Further, if a trustee were not  
15 appointed, since one is not required in a chapter 11 case, the expenses for professional fees would  
16 most likely be lower than in a chapter 7 case. However, although preferable to a chapter 7  
17 liquidation, Debtor believe that its liquidation under chapter 11 is a much less attractive alternative  
18 because the recovery realized by holders of Allowed Claims under the Plan is likely to be greater  
19 than their recovery under a chapter 11 liquidation simply as a function of the time and costs  
20 involved in a sale. As crafted, the Plan provides for a quick Distribution of Property in an  
21 accelerated but orderly fashion that maximizes recoveries for Creditors.

22         Alternatively, if no plan can be confirmed, Debtor's Chapter 11 Case may be dismissed. In  
23 such event, Class 1 likely would receive all of the value generated from Debtor's assets.  
24 Administrative Claims, Claims in Class 4 and Equity Interests (Class 5) could be wiped out and  
25 receive no distribution.

26         DEBTOR BELIEVES THAT CONFIRMATION AND IMPLEMENTATION OF THE  
27 PLAN IS PREFERABLE BECAUSE IT IS EXPECTED TO PROVIDE GREATER RECOVERIES  
28 AND INVOLVE LESS DELAY AND UNCERTAINTY AND LOWER ADMINISTRATIVE

1 COSTS. ACCORDINGLY, DEBTOR URGES HOLDERS OF CLAIMS IN CLASSES 1, 2 AND 4  
2 TO VOTE TO ACCEPT THE PLAN BY SO INDICATING ON THEIR BALLOTS AND  
3 RETURNING THEM AS SPECIFIED IN THE NOTICE.

4 **ARTICLE XI.**

5 **RECOMMENDATION AND CONCLUSION**

6 Debtor believes that the Plan provides the best possible recoveries for Creditors that can be  
7 achieved in any reasonable time frame and that possible alternatives are likely to result in delayed  
8 Distributions for all and diminished recoveries for other holders of Claims or Interests. Therefore,  
9 Debtor urges all holders of Claims in Classes 1, 2 and 4 to vote to accept the Plan.

10 DATED this 31st day of October, 2011.

11 **FSG-R, LLC**, a Nevada limited liability company

12 By: Focus South Group, LLC, a Nevada limited liability  
13 company

14 Its: Manager

15 By: Focus Investment Manager, LLC, a Nevada  
16 limited liability company

17 Its: Manager

18 BY /s/ Thomas J. DeVore  
THOMAS J. DEVORE

19 Its: MANAGER

20 Prepared and respectfully submitted by:

21 By /s/ Brett A. Axelrod

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26 *[Proposed] Counsel for FSG-R, LLC*  
27  
28

**SCHEDULE 1****LIST OF EXHIBITS**

|   |  |
|---|--|
| A | Debtor's Chapter 11 Plan of Reorganization     |
| B | Deed of Trust                                  |
| C | Promissory Note                                |
| D | Proof of Claim                                 |
| E | Settlement Agreement                           |
| F | Pre-Effective Date Professionals Fee Estimates |
| G | Operating Agreement                            |
| H | Liquidation Analysis                           |

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