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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
	:	
TROCOM CONSTRUCTION CORP.,	:	Case No. 15-42145 (NHL)
	:	
Debtor.	:	
	:	
	-----X-----	

**AMENDED DISCLOSURE STATEMENT FOR THE
AMENDED CHAPTER 11 PLAN OF LIQUIDATION FILED
BY TROCOM CONSTRUCTION CORP.**

IMPORTANT DATES

- Date by which Ballots must be received: _____, 2016 at 5:00 p.m. Eastern Time.
- Date by which objections to Confirmation of the Plan must be filed and served: _____, 2016 at 5:00 p.m. Eastern Time.
- Hearing on Confirmation of the Plan: _____, 2016 at _____ a.m. Eastern Time.

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THIS DISCLOSURE STATEMENT AND ITS RELATED DOCUMENTS ARE THE ONLY DOCUMENTS AUTHORIZED BY THE COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN, AND IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN , BUT TO AID AND SUPPLEMENT SUCH REVIEW. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED PROVISIONS SET FORTH IN THE PLAN. IN THE EVENT OF A CONFLICT BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE PROVISIONS OF THE PLAN WILL GOVERN. ALL HOLDERS OF CLAIMS ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND TO CAREFULLY READ THIS ENTIRE DISCLOSURE STATEMENT, INCLUDING ALL EXHIBITS HERETO, BEFORE DECIDING WHETHER TO VOTE TO ACCEPT THE PLAN.

HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH SUCH HOLDER SHOULD, THEREFORE, CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION, THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED AS AN ADMISSION OR STIPULATION, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS.

I. INTRODUCTION

A. General

Trocom Construction Corp. (the “Debtor”) files this Amended Disclosure Statement (the “Disclosure Statement”) with respect to the Amended Chapter 11 Plan of Liquidation filed by it, dated ~~July 1,~~August 15, 2016 (the “Plan”).

This Disclosure Statement is provided pursuant to section 1125 of the Bankruptcy Code to all the known creditors and interest holders of the Debtor. The purpose of this Disclosure Statement is to provide sufficient information to enable creditors and interest holders who are entitled to vote to make an informed decision on whether to accept or reject the Plan.

Most words or phrases used in this Disclosure Statement shall have their usual and customary meanings. Except as otherwise provided herein, capitalized terms not otherwise defined in this Disclosure Statement have the meanings ascribed to such terms in the Plan. FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THE DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY.

THE DEBTOR URGES CREDITORS AND INTEREST HOLDERS TO VOTE TO ACCEPT THE PLAN AS THE PLAN REPRESENTS THE BEST OPPORTUNITY FOR CREDITORS AND INTEREST HOLDERS TO OBTAIN THE GREATEST RECOVERIES IN RESPECT OF THEIR CLAIMS OR INTERESTS, AS APPLICABLE.

B. Voting

With respect to Claims in Classes that are “Impaired” (as defined below) under the Plan, but not deemed to have rejected the Plan, each holder of a Claim in such Classes will receive a copy of this Disclosure Statement, a Ballot for the acceptance or rejection of the Plan, and other related voting materials. Any holder of a Claim or Interest whose legal, contractual or equitable

rights are altered, modified or changed by the proposed treatment under the Plan or whose treatment under the Plan is not provided for in section 1124 of the Bankruptcy Code is considered “Impaired.”

Under the Plan, holders of Allowed Claims in Classes ~~2, 3 and 6 and holders of Interests in Class 72 and 3~~ are Impaired, and are therefore entitled to vote on the Plan (the “Voting Classes”). For a description of the Classes of Claims and Interests and their treatment under the Plan, see Section IV(C) below.

The date of entry of the Disclosure Statement Approval Order is fixed as the “Voting Record Date.” Only Persons who hold Claims on the Voting Record Date are entitled to receive a copy of this Disclosure Statement and all of the related materials. Only Persons who hold Claims on that date that are Impaired under the Plan and are not deemed to reject the Plan are entitled to vote on the Plan.

In voting on the Plan, please use only the Ballot sent to you with this Disclosure Statement. Please complete and sign your Ballot and return it in the enclosed pre-addressed envelope to the Balloting Agent:

Cullen and Dykman LLP
Attn: Bonnie L. Pollack, Esq.
100 Quentin Roosevelt Boulevard
Garden City, NY 11530

ALL PROPERLY COMPLETED BALLOTS RECEIVED BY THE BALLOTING AGENT PRIOR TO THE VOTING DEADLINE WILL BE COUNTED FOR PURPOSES OF DETERMINING WHETHER EACH CLASS OF IMPAIRED CLAIMS ENTITLED TO VOTE ON THE PLAN HAS ACCEPTED THE PLAN. ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED UNLESS OTHERWISE ORDERED BY

THE BANKRUPTCY COURT. The Balloting Agent will prepare and file with the Court a certification of the results of the balloting with respect to the Plan.

Your vote on the Plan is important. The Bankruptcy Code requires as a condition to confirmation of a plan of reorganization that each class that is impaired under a plan vote to accept such plan, unless the “cramdown” provisions of the Bankruptcy Code are employed. The Debtor reserves the right to seek to “cramdown” the Plan on non-accepting Classes of Claims and Interest holders. See Section VII below.

C. Confirmation Hearing

The Court will hold the Confirmation Hearing commencing at ____ a.m. (Eastern Time), on _____, 2016 at the United States Bankruptcy Court for the Eastern District of New York, 271-C Cadman Plaza East, Brooklyn, New York 11201-1800, before the Honorable Nancy Hershey Lord, United States Bankruptcy Judge. The Confirmation Hearing may be adjourned from time to time without further notice. At the Confirmation Hearing, the Court will (i) determine whether the requisite vote has been obtained from the Voting Classes, (ii) hear and determine objections, if any, to the Plan and to Confirmation of the Plan that have not been previously settled, withdrawn or overruled, (iii) determine whether the Plan meets the Confirmation requirements of the Bankruptcy Code, (iv) determine whether to confirm the Plan, and (v) grant such other and further relief as the Court deems reasonable and appropriate.

Any objection to Confirmation of the Plan must be in writing and filed with the Court and served in a manner so as to be received on or before _____, 2016 at 5:00 p.m. Eastern Time by: (1) counsel to the Debtor, Cullen and Dykman LLP, 100 Quentin Roosevelt Boulevard, Garden City, New York 11530, Attn: C. Nathan Dee, Esq. and Bonnie L. Pollack, Esq.; and (2)

the Office of the United States Trustee for the Eastern District of New York, 201 Varick Street, Suite 1006, New York, New York 10014.

D. Recommendations

THE DEBTOR RECOMMENDS THAT ALL HOLDERS OF CLAIMS IN THE VOTING CLASSES VOTE TO ACCEPT THE PLAN AS THE PLAN REPRESENTS THE BEST OPPORTUNITY FOR CREDITORS AND INTEREST HOLDERS TO OBTAIN THE GREATEST RECOVERIES IN RESPECT OF THEIR CLAIMS OR INTERESTS, AS APPLICABLE.

II. HISTORICAL INFORMATION

A. The Debtor's Business and Reason for Filing

The Debtor is in the heavy construction business. Its primary customer is the City of New York through its various agencies. In particular, the Debtor contracts with NYCDDC, NYCEDC and NYCDPR. Pursuant to its contracts with those agencies, the Debtor performs construction work involving the replacement of water mains, sewers, retaining walls and refurbishment of parks, amongst other things. At the time of the filing, the Debtor was providing services on eighteen (18) ongoing construction projects throughout the New York metropolitan area. Thirteen (13) of the projects were completed during the pendency of the case and many projects were completed prior to the Petition Date (all such projects, the "Completed Construction Projects"). Monies remain due and owing to the Debtor with respect to some of the Completed Construction Projects.

In connection with those projects, the Debtor's total receivables from the City agencies is estimated to amount to \$11,339,038.00 as of December 31, 2014. In addition, the Debtor has

filed or will soon be filing notices of claim against the City seeking the payment of more than \$~~19~~20 million in connection with certain prior construction projects.

The Debtor was experiencing severe cash flow issues primarily because of losses on certain projects and the City's failure to timely pay amounts due and owing to the Debtor. The Debtor's cash flow problems were impacting its operations because certain subcontractors were starting to lien projects, further exacerbating the Debtor's cash flow situation, and necessitating the bankruptcy filing.

III. THE CHAPTER 11 CASE

A. Ongoing Construction Projects

During the pendency of the bankruptcy case, the Debtor believes that it has completed all but the five (5) Ongoing Construction Projects. However, the City has asserted that not all the other projects have been completed, and in particular, NYCEDC's Springfield Garden project is not done. The Debtor vehemently disagrees.

The Clemente Project is for the reconstruction of Roberto Clemente Plaza in the Bronx including sewer, water main, street lighting and traffic signal work. It is expected that the Clemente Project will be completed by November 2016. The Forsyth Project is for the reconstruction of Forsyth Plaza in Manhattan. The Debtor expects to complete this project by the end of the summer of 2016 and is waiting for delivery of stone and steel to complete that project.

The West 125th Street Project is for streetscape improvements on West 125th Street in Manhattan including new roadways, sidewalks, curbs, drainage, water main and lighting. ~~It is expected~~The Debtor expects that this project will be completed in the

Spring of 2017. However, the City has asserted that it does not expect that the project will be completed until the end of 2017, at the earliest.

The Springfield Boulevard QED Project is for the installation of a trunk main on 216th Street in Queens. The Debtor expects this project to be completed in July 2017. The South Street Project is for the reconstruction of South Street in Manhattan. Utility interference work is progressing with respect to that project and contract work cannot resume until the utility interference work is completed. The Debtor expects the contract work to begin again in or around early September 2016 and to be completed in 2017.

B. Employment of Professionals and Other Entities

On June 10, 2015, the Court entered an order authorizing the retention of the law firm of Cullen and Dykman LLP as Debtor's counsel in connection with the Chapter 11 Case. Grassi & Co. was retained as the Debtor's accountants by order dated August 13, 2015. The Debtor also retained Goetz Fitzpatrick LLP as special counsel in connection with certain of its Causes of Action, and an order to that effect was entered on September 7, 2015.

C. Cash Collateral

During the pendency of the Debtor's case, the Debtor negotiated with its secured lender, M&T, for the use of cash collateral so that the Debtor could continue operating and providing services on its construction projects. The Debtor's ability to use cash collateral has been continued by various orders entered by the Bankruptcy Court. Under the parties' agreement and the Court's orders, adequate protection payments have been made to M&T and M&T was granted replacement liens in the Debtor's post-petition collateral.

The M&T Claim amounted to approximately \$6,720,883 as of the Petition Date.
The Debtor asserts that the Claim now amounts to approximately \$6,314,000 as a result
of post-petition payments made. M&T asserts that its claim amounts to \$6,676,454.20.
The M&T Claim therefore remains subject to objection by the Debtor.

It should be noted that while M&T has a blanket lien on all of the Debtor's assets, such lien does not extend to the proceeds of any construction project unless and until all Article 3A Claims are paid in full with respect to such project.

D. Surety Bond Program

During the Bankruptcy Case, the Debtor was authorized to maintain its surety bond program with Liberty Mutual and was authorized to provide cash collateral and/or letter of credit collateral to secure its surety bonds and execute all agreements required in connection with its surety bond program. The Debtor has maintained its surety bond program in the ordinary course since Court approval of the maintenance of the surety bond program and is not in default with respect to any surety bond.

E. DIP Financing

Also during the pendency of its case, the Debtor sought and obtained Court approval of Debtor-in-Possession financing. Pursuant to orders entered by the Bankruptcy Court, the Debtor was authorized to obtain a loan facility of up to \$5 million from Liberty Mutual in order to fund a shortfall in collections from its construction projects for operations, and to permit continuation of critical business operations and pay other costs incurred in connection with the Chapter 11 case while it pursued a reorganization or liquidation. That loan is repayable on August 1, 2021 and bears interest at the rate of 3.09% per annum. Payment of interest only are to be paid in each month for

the period of August 1, 2015 through July 1, 2016. Thereafter, and continuing through July 21, 2021, payment of interest plus \$75,000 per month would be made. As security for repayment of the DIP Facility, Liberty Mutual was allowed a super priority administrative claim in the Debtor's case senior to any super priority administrative expense asserted by M&T, and a lien against the Debtor's assets junior to M&T. In addition, various family members and related entities provided additional collateral to Liberty Mutual as security for repayment of the loan facility.

The Debtor has drawn down the entire \$5 million available on the loan facility.

F. Short Term Claims

The Short Term Claims consist of the Conner Street Contract Claim, Conner Street Litigation, and the Esplanade Contract Claim. The Debtor expects recovery on all of the Short Term Claims within a period of 6 months.

The Conner Street Contract Claim consist of that portion of the Conner Street Litigation seeking monies due and owing to the Debtor under the Debtor's contract with NYCDDC as well as costs associated with termination for convenience and retainage. The Debtor estimates that the Conner Street Contract Claim amounts to approximately ~~\$1,925,632~~1,700,000. The Debtor received a partial payment of ~~\$860,064.48~~793,921.51 on June 8, 2016. An additional ~~\$816,485~~793,921.51 of the Conner Street Contract Claim is expected to be recovered by the Debtor in ~~June-July~~August-September, 2016, with the remainder to be recovered by the end of 2016.

The remaining claims asserted in the Conner Street Litigation amount to approximately \$1.4 million for treatment and disposal of contaminated water and drilling

shafts for soldier piles. Those funds are expected to be received by the Debtor by the end of 2016.

The Esplanade Contract Claim consists of a claim for retainage under the Debtor's contract with NYCEDC in the net amount of approximately \$1.134 million. The Debtor anticipates payment of the Esplanade Contract Claim in or around ~~July, 2016.~~ August-September, 2016, which monies are needed for operations.

G. Long Term Claims

The Long Term Claims consist of litigations in which the Debtor expects recovery after a period of 6 months including the Beekman Litigation, the Columbia Litigation, the Fulton Litigation, the Liberty Litigation and the Lower Manhattan Parks Litigation.

The Beekman Litigation seeks \$523,998.42 in monies due and owing under the Debtor's contract with NYCDDC as well as delay claims and Flagperson Claims. Discovery in connection with that litigation is ongoing and once complete, depositions will be scheduled. It is anticipated that this litigation will conclude in 2017.

As to the Columbia Litigation, this claim seeks approximately \$6 million from the NYCDDC. Work was completed on the Columbia Street Project on March 19, 2016 and substantial completion was declared on May 9, 2016. It is anticipated that the Columbia Street Litigation will commence in the Bankruptcy Court in 2016 and assuming no settlement, will not be completed until 2017/2018.

As to the Fulton Litigation, that action seeks approximately \$4,978,947.95 in monies due and owing by the NYCDDC to the Debtor as well as a delay claim and a Flagperson Claim. This litigation is in the beginning stages and is not anticipated to be completed until 2018/2019, assuming no settlement.

The Liberty Litigation seeks approximately \$2,206,314.87 in contract sums due by the NYCDDC to the Debtor, delay claims and Flagperson Claims. Discovery is scheduled to be completed in June, 2016. It is not anticipated that recoveries on this litigation will be received by the Debtor until 2017, assuming no settlement.

Finally, the Lower Manhattan Parks Litigation amounts to approximately \$3,532,542 for monies due and owing under the Debtor's contract with NYCDPR and a delay claim. The Debtor anticipates a settlement meeting with the Comptroller within 90 days. Trial is scheduled for October 17, 2016. Assuming no settlement, the Debtor anticipates recovery on this litigation in late 2016.

H. Flagperson Claims

The Department of Labor has asserted claims in the amount of \$1,041,775.86 against the Debtor based upon the Debtor's alleged failure to pay prevailing wages to flagpersons in connection with certain of the Debtor's construction projects. ~~NYCDDC has acknowledged that the Debtor has paid all wages to its flagpersons as required by the Debtor's contracts with NYCDDC, and previously agreed in principle to indemnify the Debtor with respect to the Flagperson Claims. That indemnity is included in the Plan.~~ The Debtor intends to object to this claim and/or commence an action against its sub-contractor Network Patrols, who is liable for this obligation, and reserves the right to commence action against the City as well with respect to these claims.

I. Other Causes of Action

The Plan Administrator shall have full authority to investigate and commence any other Causes of Action which may exist, including preference and fraudulent conveyance actions.

J. Claims Administration

1. Filing of Schedules and Statements

On July 22, 2015, the Debtor filed its Schedules of Assets and Liabilities and its Statement of Financial Affairs. The Debtor's schedules were thereafter amended on December 4, 2015 and again on April 11, 2016 to add, delete and dispute certain debts listed therein.

2. Bar Dates for Pre-Petition Claims

By order dated August 4, 2015, the Court established October 1, 2015 (or November 4, 2015 for Governmental Units) as the last day by which proofs of claims arising prior to the Petition Date must have been filed with the Court (the "Claims Bar Date").

3. Bar Dates for Post-Petition Claims

Administrative Claims

Under the Plan, all holders of Administrative Claims arising subsequent to May 7, 2015 and before the Effective Date (not including Fee Claims (described below), and not paid prior to the Confirmation Date, must file with the Court proper requests for payment of such Administrative Claims, and serve copies upon the parties listed in Section XII(F) of the Plan, on or before the Administrative Claims Bar Date. Parties not complying with this deadline shall be forever barred from seeking payment of those Claims including, without limitation, against the Debtor, the Estate, the Plan Administrator or their property, or commencing or continuing any action, employment of process or act to collect, offset or recover any such Administrative Claim. The notice of Confirmation of the Plan to be delivered pursuant to Bankruptcy Rules 3020(c) and 2002(f) will include notice of the Administrative Claims Bar Date.

Fee Claims

All parties requesting compensation or reimbursement of Fee Claims pursuant to section 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code for services rendered or expenses incurred on behalf of the Debtor or prior to the Effective Date must file applications with the Court, with copies to the parties listed in Section XII(F) of the Plan, on or before the Fee Claims Bar Date or shall be forever barred from seeking payment of those Fee Claims. The notice of Confirmation of the Plan to be delivered pursuant to Bankruptcy Rules 3020(c) and 2002(f) will include notice of the Fee Claims Bar Date.

K. Exclusivity

The Debtor's initial exclusive period to file a Chapter 11 Plan in its case would have originally expired on September 4, 2015. Thereafter, the exclusive period was extended by

orders of the Court through and including May 31, 2016. The Debtor did not file the Plan before the expiration of the exclusive period. No other plans have been filed.

IV. SUMMARY OF THE PLAN

A. General

SET FORTH IN THIS SECTION IS A SUMMARY OF CERTAIN OF THE MATTERS CONTEMPLATED TO OCCUR EITHER PURSUANT TO OR IN CONNECTION WITH CONFIRMATION OF THE PLAN. THIS SUMMARY HIGHLIGHTS THE SUBSTANTIVE PROVISIONS OF THE PLAN AND IS NOT, NOR IS IT INTENDED TO BE, A COMPLETE DESCRIPTION OR A SUBSTITUTE FOR A FULL AND CAREFUL READING OF THE PLAN. STATEMENTS REGARDING PROJECTED AMOUNTS OF CLAIMS OR DISTRIBUTIONS (OR THE VALUE OF SUCH DISTRIBUTIONS) ARE ESTIMATES BY THE DEBTOR BASED ON AVAILABLE INFORMATION AND ARE NOT A REPRESENTATION AS TO THE ACCURACY OF THESE AMOUNTS.

B. Plan Overview/Plan Administrator

From and after Confirmation, the Debtor will continue in business for the purposes of completing the Ongoing Construction Projects. If work on any of the Ongoing Construction Projects is not substantially completed by November 30, 2016, at the option of Liberty Mutual the Debtor shall either assign its contract for such Project to a contractor of Liberty Mutual's choosing with the consent of the Project owner, or advise the Project owner that it is in default of its contract and seek to terminate the contract. "Substantial completion" shall be determined by Liberty Mutual in its sole and absolute discretion and shall not require a formal determination of "substantial completion" by the Project owner. However, in the event that the Project owner has

determined that the Project is substantially complete, such determination shall be binding on Liberty Mutual. The Debtor shall have the option to relet any or all of the Ongoing Construction Projects to Liberty Mutual, or Liberty Mutual's designee with the consent of Liberty Mutual, earlier than November 30, 2016 if it is in its financial best interest to do so. "Reletting" a job is when a surety puts in a replacement contractor to complete a job. It is the surety's sole decision, although the City must consent to the particular replacement contractor. No one else has a right to relet the jobs or to oppose a relet of the jobs. The financial impact is never known in advance, since it depends on the price to complete the job as agreed to between the surety and the replacement contractor. However, the Debtor has anticipated \$8 million in completion costs if the jobs were to be relet today. The Debtor shall advise M&T once any Ongoing Construction Project has been relet. Liberty Mutual has agreed to extend the Debtor's surety bonds to the benefit of the Debtor until November 30, 2016 or such later date as is agreed to in writing by Liberty Mutual in its sole and absolute discretion.

The proceeds of the Ongoing Construction Projects (including without limitation any amounts due to the Debtor on any Project it relets), together with monies owed to the Debtor on the Completed Construction Projects and the net proceeds of the Short Term Claims and the Long Term Claims, shall be used to make the distributions required under the Plan by the Plan Administrator. Upon completion of the Ongoing Construction Projects, ~~to the extent any of the Debtor's~~ the Plan Administrator shall retain an auctioneer to sell the equipment ~~or~~ and vehicles ~~are sold by the Plan Administrator, those~~ by further order of the Court, the proceeds of which shall also be used to make the Plan distributions. The Debtor believes that the market value of its equipment and vehicles amounts to approximately \$1,200,000. Any equipment or vehicles not liquidated by the Plan Administrator shall be abandoned to the Debtor.

The Plan Administrator shall open a bank account into which all proceeds other than from the Ongoing Construction Projects and the Completed Construction Projects shall be deposited, and all distributions set forth in Article IV(C)-(F) of the Plan shall be made. The Plan Administrator shall be the sole signatory on such account. The Plan Administrator shall have authority to prosecute and, if appropriate, settle the Short Term Claims and Long Term Claims and make distributions to all Claimants, including the authority to retain or replace attorneys with consultants in connection therewith. The Plan Administrator shall ~~have authority to settle~~ obtain Court approval of any settlement of the Short Term Claims and Long Term Claims ~~without further approval of the Bankruptcy Court provided that the Plan Administrator receives the consent of Liberty Mutual and M&T to such settlement; further provided, however, that the consent of Liberty Mutual and M&T to any settlement shall be presumed if the settlement is at least 85% of the amount of such claim. In the event any settlement is less than 85% of the amount of such claim and Liberty Mutual and M&T do not consent to the settlement, the settlement shall require approval of the Bankruptcy Court.~~

C. Treatment of Claims and Interests

The Plan separates Claims and Interests into three (3) unclassified categories and seven (7) Classes. A Claim or Interest is placed in a particular unclassified category or Class only to the extent that the Claim or Interest falls within the description of that category or Class. A Claim is also placed in a particular category or Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that category or Class and such Claim has not been paid, released or otherwise settled prior to the Effective Date.

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Fee Claims and Priority Tax Claims have not been classified and, subject to compliance with the

Administrative Bar Date and Fee Claims Bar Date, will be paid in full in Cash to the extent such Claims are Allowed. All other Claims and Interest have been classified. Each holder of a Claim or Interest should refer to Articles II and III of the Plan for a full description of the classification and treatment of Claims and Interests provided under the Plan.

1. Administrative Claims – Not Classified

Administrative Claims include a Claim for costs and expenses of administration of the Debtor's Estate pursuant to Sections 503(b) or 507(a)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses of preserving the Estate incurred after the Petition Date and through the Effective Date; and (b) fees and charges assessed against the Estate pursuant to chapter 123 of the Judicial Code, including the U.S. Trustee Fees.

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Plan Administrator, each Holder of an Allowed Administrative Claim (other than a Fee Claim), will receive in exchange for full and final satisfaction, settlement, release, and compromise of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim either: (1) on the Effective Date or as soon as practicable thereafter; (2) if the Administrative Claim is not Allowed as of the Effective Date, no later than five (5) business days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; or (3) if the Allowed Administrative Claim is based on liabilities incurred by the Debtor in the ordinary course of their business after the Petition Date, such Allowed Administrative Claims shall be paid pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims, without any further action by the Holders of such Allowed Administrative Claims and without any further notice to or action, order, or approval of the Bankruptcy Court. The Debtor estimates that any unpaid

United States Trustee Fees will be minimal and believes that other Administrative Claims will also be de minimus. United States Trustee Fees shall be paid until the earlier of the entry of a final decree, dismissal or conversion of the Debtor's case.

Estimated Percentage Recovery: 100% (see Section V)

2. Fee Claims – Not Classified

Fee Claims are defined under the Plan as all Claims for accrued fees and expenses for services rendered by a Professional through and including the Effective Date, to the extent such fees and expenses have not been paid pursuant to any order of the Bankruptcy Court or the Local Bankruptcy Rules and regardless of whether a fee application has been filed for such fees and expenses.

Each holder of a Fee Claim for services rendered through the Effective Date shall receive 100% of the Allowed amount of such Claim in Cash when and to the extent such Claims are allowed by Final Order.

This Class includes Cullen and Dykman LLP, Debtor's counsel, Grassi & Co., the Debtor's accountants and Goetz Fitzpatrick LLP, special counsel, for the non-contingency portion of its fees. It is anticipated that as of the Effective Date of the Plan, fees to Debtor's counsel will amount to approximately \$1,150,000.00, fees to Debtor's accountant will amount to approximately \$300,000.00 and that non-contingency fees to special counsel will amount to approximately \$5,000.00. All Professionals who incur fees and expenses in connection with the Chapter 11 Case and consummation of the Plan subsequent to the Effective Date shall submit bills to the Plan Administrator for payment [from the Operating Fund](#) without further notice to or action, order, or approval of the Bankruptcy Court.

Estimated Percentage Recovery: 100% (see Section V)

3. Priority Tax Claims-Not Classified

Priority Tax Claims are defined under the Plan as Claim of a Governmental Unit of the kind specified in Section 507(a)(8) of the Bankruptcy Code. Each Holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, in exchange for full and final satisfaction, settlement, release, and compromise of such Claim, Cash, payable on the latter of the Effective Date or as soon as reasonably practicable thereafter, or, if such Priority Tax Claim is not an Allowed Claim on the Effective Date, on the date such Allowed Priority Tax Claim becomes an Allowed Claim or as soon as reasonably practicable thereafter, in an amount equal to the amount of such Allowed Priority Tax Claim.

Priority Tax Claims in the amount of \$2,078,774 have been filed or scheduled. However, the Debtor believes that as a result of Claim objections which will be filed, Allowed Priority Tax Claims will amount to approximately \$160,000.

Estimated Percentage Recovery: 100% (see Section V)

4. Allowed Other Priority Claims-Class 1

Class 1 consists of Allowed Other Priority Claims against the Debtor's estate, which includes any Claim against the Debtor entitled to priority in right of payment under Section 507 of the Bankruptcy Code, other than: (a) an Administrative Claim, (b) a Fee Claim or (c) a Priority Tax Claim. In exchange for full and final satisfaction, settlement, release and compromise of each and every Allowed Other Priority Claim against the Debtor, each holder of an Allowed Other Priority Claim shall, at the option of the Plan Administrator (i) be paid in full in Cash on the later of the Effective Date and the date on which such Other Priority Claim becomes an Allowed Other Priority Claim, or as soon as reasonably practicable thereafter; or (ii) otherwise be

treated in any other manner such that the Allowed Other Priority Claims shall be rendered unimpaired on the later of the Effective Date and on the date on which such Other Priority Claim becomes an Allowed Other Priority Claim, or as soon as reasonably practicable thereafter.

Other Priority Claims in the amount of \$1,338,848 have been filed or scheduled. However, the Debtor believes that as a result of Claim Objections which will be filed, Allowed Other Priority Claims will amount to approximately \$568,039.

Estimated Percentage Recovery: 100% (See Section V)

5. Allowed M&T Claim – Class 2

Class 2 consists of the ~~Allowed~~ M&T Claim as Allowed. In exchange for full and final satisfaction, settlement, release and compromise of the M&T Claim, M&T shall be paid the distributions set forth in Article IV(B)-(F) of the Plan. M&T shall also continue to receive interest payments from the Operating Fund monthly or at such time as funds become available. This Claim is Impaired.

Estimated Percentage Recovery: 100% (see Section V)

6. Allowed Liberty Mutual Claim-Class 3

Class 3 under the Plan consists of the ~~Allowed~~ Liberty Mutual Claim as Allowed. In exchange for full and final satisfaction, settlement, release and compromise of the Allowed Liberty Mutual Claim as to the Debtor, Liberty Mutual shall be paid the distributions set forth in Article IV(B)-(F) of the Plan. This Claim is Impaired.

Estimated Percentage Recovery: TBD (see Section V)

7. Allowed Article 3A Claims – Class 4

Class 4 consists of any Allowed Article 3A Claims. Upon the Effective Date, the legal, equitable and contractual rights of a holder of an Allowed Article 3A Claim against the Debtor,

unless such Allowed Article 3A Claim was satisfied prior to the Effective Date, will be reinstated and paid, from and after the Effective Date, in the ordinary course of business, without acceleration based on the filing of the Chapter 11 Case, in accordance with the provisions of Article 3A and such agreements and terms as existed as of the Petition Date, which agreements will continue in full force and effect. To the extent the proceeds of any Completed Construction Project or Ongoing Construction Project is insufficient to pay all Article 3A Claims with respect to any such project, any unpaid Article 3A Claims with respect to such project shall be deemed to be General Unsecured Claims, shall be deemed reclassified as such and shall be paid in accordance with the distribution to Class 6 Claimants.

The Debtor estimates that valid, unpaid Article 3A Claims for Ongoing Construction Projects amount to \$2,501,577, and amount to \$908,497 for Completed Construction Projects.

Estimated Percentage Recovery: 100 % (see Section V)

8. Allowed Other Secured Claims – Class 5

Class 5 includes the Allowed Other Secured Claims, consisting of four (4) financed vehicles in the total amount of \$23,043.80 as of June 1, 2016 and one (1) financial piece of equipment. The Claim for the financed equipment will be satisfied in the ordinary course of business prior to the Effective Date. Upon the Effective Date, the legal, equitable and contractual rights of the holders of Allowed Other Secured Claims against the Debtor, unless such Claim was satisfied prior to the Effective Date, will be reinstated and paid, from and after the Effective Date, in the ordinary course of business, without acceleration based on the filing of the Chapter 11 Case, in accordance with such agreements and terms as existed as of the Petition Date.

In the event that the Plan Administrator sells collateral securing an Allowed Other Secured Claim or abandons such collateral, all expenses relating thereto, including but not limited to transportation, shipping, decommissioning and storage expenses, shall be borne by the Holder of the Allowed Other Secured Claim. In the event the Plan Administrator retains the collateral, the Other Secured Claim Holder shall retain its Lien upon its collateral until such Claim has been satisfied. The Plan Administrator reserves the right to challenge the validity, nature and perfection of such Liens, and further reserve the right to avoid such Liens related to the Other Secured Claim pursuant to the relevant provision of the Bankruptcy Code.

Estimated Percentage Recovery: 100% (see Section V)

9. Allowed General Unsecured Claims – Class 6

Class 6 consists of all Allowed General Unsecured Claims. Holders of Allowed General Unsecured Claims shall neither receive nor retain any property on account of such General Unsecured Claim under the Plan; provided; however, that in the event all Allowed Claims in Classes 1 through 5 have been satisfied in full in accordance with the Bankruptcy Code, the Plan or as otherwise agreed to by a holder of any Allowed Claim in Classes 1 through 5; in exchange for full and final satisfaction, settlement, release of Allowed General Unsecured Claims, Holders of Allowed General Unsecured Claims shall be paid any distributions as set forth in Article IV (B) –(F) of the Plan. General Unsecured Claims in the amount of \$191,375,975 have been filed or scheduled, which the Debtor believes will only amount to \$1,509,126 as a result of Claim Objections.

Estimated Percentage Recovery: 0% (see Section V)

10. Interests – Class 7

Class 7 includes equity securities, within the meaning of section 101(16) of the Bankruptcy Code, in the Debtor, including but not limited to stock in the Debtor. Holders of Allowed General Unsecured Claims shall neither receive nor retain any property on account of such Allowed Interests under the Plan; provided, however, that in the event that all Allowed Claims in Classes 1 through 6 have been satisfied in full in accordance with the Bankruptcy Code, Plan or as otherwise agreed by a holder of any Allowed Claim in Classes 1-6, in exchange for full and final satisfaction, settlement, release of Holders of the Allowed Interests shall be paid any distributions as set forth in Article IV(B)-(F) of the Plan.

Estimated Percentage Recovery: 0% (see Section V)

D. Distributions**(1) Distributions from Ongoing Construction Projects**

Upon Contract Completion of each Ongoing Construction Project, the proceeds and profits from each such Ongoing Construction Project shall be distributed by the Plan Administrator as follows:

- (i) First, payment in full of any valid, unpaid Article 3A Claims pertaining to such Ongoing Construction Project;
- (ii) Second, such amounts determined by the Plan Administrator to be necessary for continued operations, as approved in writing by Liberty Mutual on a Project by Project basis, shall be transferred by the Plan Administrator to the Operating Fund. Once the amounts in section D(1)(i) above and D(1)(iii) below have been paid in full, M&T shall also be consulted as to such amounts;

- (iii) Third, payment to Liberty Mutual on account of any Article 3A Claims paid by Liberty Mutual with respect to such Ongoing Construction Project, upon receipt by the Debtor of a detailed reconciliation of payments made by Liberty Mutual on account of Article 3A Claims with respect to such Ongoing Construction Project;
- (iv) Fourth, to the extent any proceeds of an Ongoing Construction Project remain after the payments set forth in (i), (ii) and (iii) above, payment to M&T up to the amount of the then remaining balance of the M&T Claim;
- (v) Fifth, to the extent any proceeds of an Ongoing Construction Project remain after the payments set forth in (i), (ii), (iii) and (iv) above, payment to Liberty Mutual up to the amount of the then remaining balance of the Liberty Mutual Claim;
- (vi) Sixth, to the extent any proceeds of an Ongoing Construction Project remain after the payments set forth in (i), (ii), (iii), (iv) and (v) above, Pro Rata to holders of Allowed General Unsecured Claims up to the amount of such Claims; and
- (vii) Seventh, to the extent any proceeds of an Ongoing Construction Project remain after the payments in (i), (ii), (iii), (iv), (v) and (vi) above, to the Holders of Interests.

(2) Distributions from Completed Construction Projects

Any monies received by the Debtor in connection with a Completed Construction Project shall be distributed by the Plan Administrator as follows:

- (i) First, payment in full of any valid, unpaid Article 3A Claims pertaining to such Completed Construction Project;
- (ii) Second, ~~such amounts determined by the Plan Administrator to be necessary for continued operations shall be transferred by the Plan Administrator to the~~

~~Operating Fund;~~ payment to Liberty Mutual on account of any Article 3A Claims paid by Liberty Mutual with respect to such Completed Construction Project, upon receipt by the Debtor of a detailed reconciliation of payments made by Liberty Mutual on account of Article 3A Claims with respect to such Completed Construction Project;

- (iii) Third, ~~payment to Liberty Mutual on account of any Article 3A Claims paid by Liberty Mutual with respect to such Completed Construction Project;~~ such amounts determined by the Plan Administrator to be necessary for continued operations, as approved in writing by Liberty Mutual on a Project by Project basis, shall be transferred by the Plan Administrator to the Operating Fund. Once the amounts in section D(2)(i) and (ii) above have been paid in full, M&T shall also be consulted as to such amounts;
- (iv) Fourth, to the extent any proceeds of an Completed Construction Project remain after the payments set forth in (i), (ii) and (iii) above, payment to M&T up to the amount of the then remaining balance of the M&T Claim;
- (v) Fifth, to the extent any proceeds of an Completed Construction Project remain after the payments set forth in (i), (ii), (iii) and (iv) above, payment to Liberty Mutual up to the amount of the then remaining balance of the Liberty Mutual Claim;
- (vi) Sixth, to the extent any proceeds of an Completed Construction Project remain after the payments set forth in (i), (ii), (iii), (iv) and (v) above, Pro Rata to holders of Allowed General Unsecured Claims up to the amount of such Claims; and

- (vii) Seventh, to the extent any proceeds of an Completed Construction Project remain after the payments in (i), (ii), (iii), (iv), (v) and (vi) above, to the Holders of Interests.

(3) Distributions from Short Term Claims

The Plan Administrator shall distribute the net proceeds of the Short Term Claims, after payment of legal fees and expenses associated with the prosecution of such Claims, as follows:

- (i) First, upon receipt of sufficient funds from the litigation or settlement of the Short Term Claims, holders of all Allowed Administrative Claims, Fee Claims, Priority Tax Claims and Other Priority Claims shall be paid in full (there is already \$750,000 as of June 30, 2016 being held in a segregated amount for use toward such payments);
- (ii) Second, upon receipt of sufficient funds from the litigation or settlement of the Short Term Claims, all monies awarded under the KERP Order shall be paid, Cure Obligations shall be paid and the Operating Fund shall be funded and the Effective Date shall occur; and
- (iii) Third, ~~the balance of the Short Term Claims shall be split equally by and between M&T and Liberty Mutual in reduction of their respective claims.~~ payment to Liberty Mutual on account of any Article 3A Claims paid by Liberty Mutual with respect to the project to which such Short Term Claim pertains, upon receipt by the Debtor of a detailed reconciliation of payments made by Liberty Mutual on account of Article 3A Claims with respect to such project;

- (iv) Fourth, to the extent any proceeds of Short Term Claims remain after the payments set forth in (i), (ii) and (iii) above, payment to M&T up to the amount of the then remaining balance of the M&T Claim;
- (v) Fifth, to the extent any proceeds of Short Term Claims remain after the payments set forth in (i), (ii), (iii) and (iv) above, payment to Liberty Mutual up to the amount of the then remaining balance of the Liberty Mutual Claim;
- (vi) Sixth, to the extent any proceeds of Short Term Claims remain after the payments set forth in (i), (ii), (iii), (iv) and (v) above, Pro Rata to holders of Allowed General Unsecured Claims up to the amount of such Claims; and
- (vii) Seventh, to the extent any proceeds of Short Term Claims remain after the payments in (i), (ii), (iii), (iv), (v) and (vi) above, to the Holders of Interests.

(4) Distribution from Long Term Claims

The Plan Administrator shall distribute the net proceeds of each Long Term Claim, after payment of legal fees and expenses associated with the prosecution of such Claims, as follows:

- (i) First, ~~such amounts determined by the Plan Administrator to be necessary for continued operations shall be transferred by the Plan Administrator to the Operating Fund;~~ payment in full of any valid, unpaid Article 3A Claims with respect to the project to which the Long Term Claim pertains;
- (ii) Second, payment to Liberty Mutual on account of any Article 3A Claims paid by Liberty Mutual with respect to the project to which such Long Term Care pertains, upon receipt by the Debtor of a detailed reconciliation of payments made by Liberty Mutual on account of Article 3A Claims with respect to such project;
- (iii) Third, such amounts determined by the Plan Administrator to be necessary for continued operations, as approved by in writing by Liberty Mutual on a Project by

Project basis, shall be transferred by the Plan Administrator to the Operating Fund. Once amounts in section D(4)(i) and (ii) above have been paid in full, M&T shall also be consulted as to such amounts;

(iv) ~~Fourth~~, payment to M&T up to the then outstanding balance of the M&T Claim;

(v) ~~(iii) Third~~Fifth, to the extent any net proceeds remain from such Long Term Claim after the payments in (i), (ii), (iii) and ~~(iv)~~(v) above, payment to Liberty Mutual up to the then outstanding balance of the Liberty Mutual Claim;

(vi) ~~(iv) Fourth~~Sixth, to the extent any net proceeds remain from such Long Term Claim after the payments in (i), (ii), (iii), (iv) and ~~(v)~~(vi) above, Pro Rata to Holders of Allowed General Unsecured Claims up to the then existing balance of Allowed General Unsecured Claims; and

(vii) ~~(v) Fifth~~Seventh, to the extent any net proceeds of any Long Term Claim remain after the payments in (i), (ii), (iii), (iv), (v) and ~~(vi)~~(vii) above, to the Holders of Interests.

(5) Distributions from Equipment or Vehicle Sales

Upon completion of all Ongoing Construction Projects, the Plan Administrator ~~may, but~~ shall ~~not be required to, retain an auctioneer to~~ sell the Debtor's equipment ~~or~~and vehicles. The net proceeds of such sales shall be distributed as follows:

- (i) First, if any Other Secured Claimant is owed money, the net proceeds of the sale of the particular equipment or vehicle securing such Claim shall be paid to such Claimant;
- (ii) Second, payment to M&T up to the then outstanding balance of the M&T Claim;

- (iii) Third, to the extent any funds remain from equipment sales after the payments in (i) and (ii) above, payment to Liberty Mutual up to the then outstanding balance of the Liberty Mutual Claim;
- (iv) Fourth, to the extent any proceeds remain from equipment sales after the payments in (i), (ii) and (iii) above, Pro Rata to Holders of Allowed General Unsecured Claims up to the then existing balance of Allowed General Unsecured Claims; and
- (v) Fifth, to the extent any proceeds of equipment sales remain after the payments in (i), (ii), (iii) and (iv) above, to the Holders of Interests.

~~(vi)~~ —

E. Treatment of Unexpired Leases of Real Property

1. Assumption of Unexpired Leases of Real Property

The Debtor is a party to several unexpired leases of real property, consisting of its headquarters and various field offices. ~~All such~~ The Debtor is required by the express terms of its public works contracts with the City to provide field offices on each of its projects. Once the project is complete, the Debtor closes its field office, and if a project is relet, the replacement contractor takes over the lease. Absent the assumption of its remaining field office leases, the Debtor would be in breach of its contracts for the Ongoing Construction Projects. The Debtor therefore intends to assume its four remaining field office leases for the QED, West 125th Street, Roberto Clemente and Forysth Projects (there is no lease at the fifth Ongoing Construction Project, South Street). The Debtor anticipates that any administrative claims resulting from rejection following assumption of the leases will be approximately \$10,500 based on the terms of the respective lease agreements. Specifically, the QED lease expires on February 28, 2017 so at

best it will be 3 months of rejection damages at \$3500 per month. All other leases are on a month to month basis or will be as of November 1, 2016, and there would be no rejection damages. The four (4) remaining leases shall, as of the Effective Date, be assumed, and all payments to be made thereunder shall continue to be made in the ordinary course of business.

Any Unexpired Leases of Real Property that are, or may be, alleged to be in default, shall be satisfied solely by the satisfaction of the Cure Obligations or by an agreed-upon waiver of the Cure Obligations on the distribution date set forth in Article IV(D) of the Plan or on such other terms as the Plan Administrator and the counterparties to each such Unexpired Lease of Real Property may otherwise agree. The Debtor believes that there are no Cure Obligations due under any Unexpired Lease of Real Property.

In the event of a dispute regarding: (1) the Cure Obligations; or (2) any other matter pertaining to assumption, then the applicable Cure Obligations shall be satisfied following the entry of a Final Order resolving the dispute and approving the assumption of such Unexpired Leases of Real Property or as may be agreed upon the Plan Administrator and the counterparty to such Unexpired Lease of Real Property; provided that the Plan Administrator may settle any dispute regarding Cure Obligations without any further notice to any party or any action, order, or approval of the Bankruptcy Court. Assumption of any Unexpired Lease of Real Property pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Obligations, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Unexpired Lease of Real Property at any time prior to the effective date of assumption. Anything in the Schedules and any Proofs of Claim Filed with respect to an Unexpired Lease of Real Property that has been

assumed shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

F. Summary of Claims Resolution Provisions

1. Objections to Claims

From and after the Effective Date, the Plan Administrator shall have the right to object to the allowance of any Claim, and may file with the Court any appropriate motion with respect thereto within 120 days of the Effective Date. From and after the Effective Date, the Plan Administrator may settle or compromise any Disputed Claim ~~against the Debtor without any further notice to or action, order, or approval of the Bankruptcy Court; provided, however, that settlement of Disputed Claims against the Debtor pursuant to which the Plan Administrator will pay \$10,000 or more shall require the approval of the Bankruptcy Court. From and after the Effective Date, the Plan Administrator shall have the sole authority to administer and adjust the Claims Register to reflect any such settlements or compromises of Claims against the Debtor without any further notice to or action, order, or~~ with approval of the Bankruptcy Court.

2. Estimation of Claims

The Plan Administrator may, at any time, and shall have the exclusive authority to, request that the Bankruptcy Court estimate (a) any Disputed Claim against the Debtor pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including Section 502(c) of the Bankruptcy Code, regardless of whether the Debtor or the Plan Administrator have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim against the Debtor, contingent Claim against the Debtor or unliquidated Claim against the Debtor, including during the litigation concerning any

objection to any Claim against the Debtor or during the pendency of any appeal relating to any such objection. Notwithstanding any provision otherwise in the Plan, a Claim against the Debtor that has been expunged from the Claims Register but that is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any Disputed Claim against the Debtor, contingent Claim against the Debtor, or unliquidated Claim against the Debtor, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim for all purposes under the Plan, including for purposes of distributions, and the Plan Administrator may elect to pursue additional objections to the ultimate distribution on such Claim. If the estimated amount constitutes a maximum limitation on such Claim, the Plan Administrator may elect to pursue any supplemental proceedings to object to any ultimate distribution on account of such Claim. Notwithstanding Section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim against the Debtor that has been estimated pursuant to Section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has filed a motion requesting the right to seek such reconsideration on or before twenty-one (21) days after the date on which such Claim is estimated. All of the aforementioned Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

3. Claims Filed After Bar Date.

Any Claim filed after any applicable Bar Date shall, unless such Claim amends a Claim filed before the Bar Date or unless the Court otherwise directs, be deemed Disallowed in full and

expunged without further order of the Court. Filed or Scheduled Claims may be amended or reconsidered only as provided in the Bankruptcy Code and Bankruptcy Rules. A Claim may be amended prior to the Effective Date only as agreed upon by the Plan Administrator and the holder of such Claim, or as otherwise permitted by the Court, the Bankruptcy Rules or applicable law. After the Effective Date, except as otherwise specifically set forth in the Plan, a Claim may not be filed or amended without the authorization of the Court or consent of the Plan Administrator.

4. Disallowance of Claims

All Claims against or Interests in the Debtor held by any Entity from which property is sought by the Plan Administrator under Section 542, 543, 550, or 553 of the Bankruptcy Code or that the Plan Administrator alleges is a transferee of a transfer that is avoidable under Section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if (1) the Entity, on the one hand, and the Plan Administrator on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turnover any property or monies under any of the aforementioned Sections of the Bankruptcy Code and (2) such Entity or transferee has failed to turnover such property by the date set forth in such agreement or Final Order.

5. Disputed Claims Reserve

Upon making each distribution as provided in Article IV(B)-(F) of the Plan, the Plan Administrator shall deposit in the Disputed Claims Reserve the amount of Cash that would have been distributed to the Holders of all Disputed Claims against the Debtor as if such Disputed Claims had been Allowed on such distribution date, with the amount of such Allowed Claims to be determined, solely for the purposes of establishing reserves and for maximum distribution

purposes, to be the lesser of (a) the asserted amount of the Disputed Claim filed with the Bankruptcy Court, (b) the amount, if any, estimated by the Bankruptcy Court pursuant to Section 502(c) of the Bankruptcy Code, or (c) amount otherwise agreed by the Plan Administrator and the Holder of such Disputed Claim for reserve purposes. To the extent the amount of Cash deposited in the Disputed Claims Reserve on account of Disputed Claims against the Debtor exceeds the amount of Disputed Claims against the Debtor (as of the funding of the Disputed Claims Reserve) that later become Allowed, the excess shall be distributed in accordance with the Plan.

6. Withholding Taxes and Expenses of Distribution

Any federal, state or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from distributions hereunder. All Persons holding Claims shall be required to provide any information necessary to effect the withholding of such taxes, and the Plan Administrator shall be authorized to withhold distribution on such Claims until the requisite information is received.

7. Disputed Payment

Notwithstanding anything to the contrary in the Plan, no distribution shall be made to the holder of any Claim, including by way of setoff or recoupment by any such claimant, if at any time before an otherwise applicable distribution is issued, the Plan Administrator has taken action to recover on any causes of action or defenses against or with regard to the holder of such Claim (or the direct or indirect transferor to, or transferee of, such holder), until such cause of action or defense is resolved by Final Order or agreement of the Plan Administrator.

Additionally, if any dispute arises as to the identity of a holder of an Allowed Claim who is entitled to receive any distribution, the Plan Administrator may, in lieu of making such

distribution to such Person, reserve for such distribution until the disposition thereof shall be determined by Court order or by written agreement among the interested parties to such dispute.

8. Setoffs and Recoupment

Except as otherwise provided in the Plan, the Confirmation Order, or in agreements previously approved by Final Order of the Court, the Plan Administrator may, pursuant to applicable law, set off or recoup against any Claim (for purposes of determining the Allowed amount of such Claim on which distribution shall be made and before any Distribution is made on account of such Claim), any and all of the claims, rights and causes of action of any nature that the Debtor or the Estate may hold against the holder of such Claim.

Neither the failure to affect such a setoff or recoupment, the allowance of any Claim hereunder, any other action or omission of the Plan Administrator, nor any provision of the Plan shall constitute a waiver or release by the Plan Administrator of any such claims, rights and causes of action that the Plan Administrator may possess against such holder. To the extent the Plan Administrator fails to setoff or recoup against a creditor and seeks to collect a claim from such creditor after a distribution to such creditor pursuant to the Plan, the Plan Administrator, if successful in asserting such claim, shall be entitled to full recovery against such creditor. The Plan Administrator may seek periodic Court approval for any such setoff or recoupment.

9. Interest on Claims.

Unless otherwise specifically provided for in the Plan or Confirmation Order, or required by applicable bankruptcy law, post-petition and post-confirmation interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim.

V. FUNDING OF PLAN

The Debtor estimates the following funds will be available for distribution to creditors:

Profits from Ongoing Construction Projects after payment of Article 3A Claims	\$341,000
Profits from Completed Construction Projects after payment of Article 3A Claims	\$1,655,000
Short Term Claims	
\$3,562,000 <u>3,100,000</u>	
Long Term Claims \$10,698.15 <u>net of contingent legal fees</u>	
\$14,430,602	
Equipment and Vehicle Sales	
\$200,000 <u>1,200,000</u>	
Total Available for Distribution	
\$16,645,015 <u>20,726,602</u>	

Claims to Be Paid:

Operating Fund (100%)	\$575,000
Cure Obligations (100%)	\$0
KERP (100%)	\$250,000
-167,000	
Administrative Claims (100%) [¶]	\$ de minimus
Fee Claims (100%)	\$1,455,000
Priority Tax Claims (100%)	\$160,000
Other Priority Claims (100%)	
\$566,176 <u>568,039</u>	
M&T Claim (100%)	\$6,314,000
Liberty Mutual Claim (TBD%) ¹	
\$10,000,000 <u>13,000,000</u>	
Article 3A Claims (100%)	Ordinary Course
Other Secured Claims (100%)	Ordinary Course
General Unsecured Claims (0%)	\$1,509,126 <u>0</u>
Equity Interests (0%)	\$0

THE AMOUNTS SET FORTH ABOVE REPRESENT THE DEBTOR'S BEST ESTIMATE OF RECOVERIES. ALTHOUGH THE DEBTOR BELIEVES THAT THE ESTIMATED PERCENTAGE RECOVERIES ARE REASONABLE, NO

¹ The amount of the Liberty Mutual Claim set forth herein is an estimated amount based on Liberty Mutual's losses to date and substantially less than the \$177,000,000 proof of claim filed by Liberty Mutual against the Debtor. The Debtor does anticipate that the final amount of the Liberty Mutual Claim will be higher than that amount set forth herein and reserves all of its rights to amend this ~~Disclosure~~ Disclosure Statement at a later date to reflect same.

REPRESENTATION CAN BE OR IS BEING MADE WITH RESPECT TO WHETHER THE ESTIMATED PERCENTAGE RECOVERIES SHOWN WILL BE REALIZED BY THE HOLDER OF AN ALLOWED CLAIM IN A PARTICULAR CLASS. THE ACTUAL RECOVERIES UNDER THE PLAN WILL DEPEND UPON A VARIETY OF FACTORS INCLUDING, BUT NOT LIMITED TO, THE AMOUNT RECEIVED FROM THE PROSECUTION OF CLAIMS AND LITIGATIONS.

VI. EFFECT OF CONFIRMATION

A. Injunction

Except as otherwise provided in the Plan or the Confirmation Order, all entities who have held, hold, or may hold claims, interests, causes of action, or liabilities, that: (1) are subject to compromise and settlement pursuant to the terms of the Plan; (2) have been released pursuant to the General Release pursuant to Article VIII(B) of the Plan, (3) are subject to exculpation pursuant to Article VIII(C) of the Plan; or (4) are otherwise stayed or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from: (a) commencing or continuing in any manner any action or other proceeding of any kind, including on account of any claims, interests, causes of actions, or liabilities that have been compromised or settled against the Debtor, the Plan Administrator, Property, or any other entity so released or exculpated (or the property or estate of any entity, directly or indirectly, so released or exculpated) on account of or in connection with or with respect to any released, settled, compromised, or exculpated claims, interests, causes of action, or liabilities; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against the Debtor, the Plan Administrator or any other entity so released or exculpated (or the

property or Estate of the Debtor, the Plan Administrator, or any other entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated claims, interests, causes of action, or liabilities; (c) creating, perfecting or enforcing any lien, claim, or encumbrance of any kind, against the Debtor, the Plan Administrator, or any other entity so released or exculpated (or the property of the Plan Administrator, the Estate, or any other entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated claims, interests, causes of action, or liabilities; (d) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from the Debtor, the Plan Administrator or any entity so released or exculpated (or the Property or Estate of the Debtor, the Plan Administrator, or any entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated claims, interests, causes of action, or liabilities unless such holder has filed a motion requesting the right to perform such setoff, subrogation, or recoupment on or before the confirmation date, and notwithstanding any indication in a proof of claim or interest or otherwise that such holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 of the Bankruptcy Code or otherwise; and (e) commencing or continuing in any manner any action or other proceeding of any kind against the Debtor, the Plan Administrator, or any entity so released or exculpated (or the property or Estate of the Debtor, the Plan Administrator or any entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated claims, interests, causes of action, or liabilities released, settled, or compromised pursuant to the Plan; provided that nothing contained

herein shall preclude an entity from obtaining benefits directly and expressly provided to such entity pursuant to the terms of the Plan; provided further that nothing contained herein shall be construed to prevent any entity from defending against claims objections or collection actions whether by asserting a right of setoff or otherwise to the extent permitted by law. Notwithstanding the foregoing, nothing shall prevent, limit or otherwise impair the right of any entity, with respect to any matter that is (a) not released by the Plan or (b) with respect to a matter subject to potential future release for which all conditions precedent to the effectiveness of such release shall not have yet occurred.

B. Release of Debtor Parties

Notwithstanding anything contained herein to the contrary, on the Effective Date and effective as of such Effective Date, for the good and valuable consideration provided by or on behalf of the Debtor, Plan Administrator, and each of their professionals, consultants, representatives, employees, officers, directors, managers and agents, together with their successors and assigns (the “Debtor Parties”), the adequacy of which is hereby confirmed, each Holder of a Claim or Interest, whether or not such Claim is Allowed and whether or not such Holder of a Claim or Interest has voted to accept or reject the Plan, to the maximum extent of applicable law, discharges and releases and shall be deemed to have provided a full discharge and release to each of the Debtor Parties and their respective property from any and all claims, interests, obligations, debts, rights, suits, damages, remedies, causes of action, liabilities whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or non-contingent, existing as of such Effective Date in law, equity or otherwise, whether for tort, ~~fraud,~~ contract, ~~violations of federal or state securities laws,~~ or otherwise, arising from or related in any way to the Debtor, the Estate,

the Plan Administrator, the Plan, the subject matter of, or the transactions or events giving rise to, any claims or interest that is comprised thereof, the business or contractual arrangements between any of the Debtor Parties and any of the Holders of Claims or Interests, the restructuring of claims and interests prior to or in the Chapter 11 Case, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, or related agreements, instruments, or other documents related to the Chapter 11 Case, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before such effective date, including the selection and appointment of the Plan Administrator and those that any of the releasors would have been legally entitled to assert in their own right (whether individually or collectively) or that any holder of a claim or an interest or other entity would have been legally entitled to assert on behalf of any of the releasing parties; the foregoing general release shall not operate to waive or release any claims, interests, obligations, debts, rights, suits, damages, remedies, causes of action, and liabilities of the releasors expressly set forth in and preserved by the Plan, or related documents (including the treatment of claims hereunder); provided that nothing in the Plan shall constitute a release of the Debtor Parties from claims based on fraud or securities law violations; provided further that nothing herein shall act as a release of any of the Debtor's officers or directors for any debts due and owing to M&T or Liberty Mutual on account of any guaranties executed by them in favor of M&T or Liberty Mutual including, but not limited to, a certain General Agreement of Indemnity dated December 4, 2007 given by, among others, the Debtor's officers or directors in favor of Liberty Mutual, and the three subsequent amendments thereto, a Memorandum of Understanding dated July 2, 2015, and/or the terms and conditions set forth in the Final DIP Order; provided

further nothing in the Plan shall release any non-Debtor from any liability to the New York State Department of Taxation and Finance; provided further that nothing herein shall limit the liability of any attorneys to their respective clients pursuant to N.Y. Comp. Codes R. & Regs. tit. 22 §1200.8 Rule 1.8(h)(1)(2009).

Notwithstanding the foregoing, Holders of Claims against the Debtor may elect to opt out of the foregoing release by indicating as such on either (a) the Ballot submitted by each Holder in a Voting Class, or (b) an opt-out ballot to be sent to Holders of General Unsecured Claims. Any Holder who fails to opt out shall be deemed to have consented to the foregoing release and shall be subject and bound by such release.

C. Discharge

The Debtor is not entitled to, and will not receive, a discharge since the Plan is a liquidating plan and the Debtor will not be engaging in business after completion of the Ongoing Construction Projects.

D. Exculpation

The Debtor, Plan Administrator and their professionals, consultants, representatives, employees, officers, directors, managers and agents, and each of their successors and assigns, shall neither have, nor incur, any liability (i) to any person or entity for any postpetition act taken or omitted to be taken in connection with, or related to formulating, negotiating, soliciting, preparing, disseminating, implementing, confirming, or effecting the consummation, the Plan, the Disclosure Statement, any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtor; provided that the foregoing “Exculpation” shall have no effect on the liability of any of

the parties that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct or limit the liability of any professional to its client pursuant to DR 6-102 of the Code of Professional Responsibility; provided, further, that the Debtor and Plan Administrator shall be entitled to rely upon the advice of counsel concerning their duties pursuant to, or in connection with Plan or any other related document, instrument, or agreement.

E. Indemnification of Plan Administrator

The Plan Administrator and each of his professionals, consultants, representatives, employees, principals, officers, directors, managers and agents, and each of their successors and assigns shall be indemnified and held harmless by the Debtor and the Estate, to the fullest extent permitted by law, solely from the Estate, including any Net Litigation Recoveries, for any losses, claims, damages, liabilities, and expenses, including, without limitation, reasonable attorneys' fees, disbursements, and related expenses which such indemnified parties may incur or to which such indemnified parties may become subject in connection with any action, suit, proceeding, or investigation brought or threatened against one or more of such indemnified parties on account of the acts or omissions in connection with any Exculpated Matter or any Released Matter; provided, however, that the Debtor and the Estate shall not be liable to indemnify any such indemnified party for any act or omission that has been determined by a Final Order as constituting gross negligence or willful misconduct. Notwithstanding any provision herein to the contrary, such indemnified parties shall be entitled to obtain advances from the Estate to cover their reasonable expenses of defending themselves in any action brought against them as a result of the acts or omissions, actual or alleged, of any such indemnified party in its capacity as such; provided, however, that the Entities indemnified pursuant to this Article receiving such advances

shall repay the amounts so advanced upon the entry of a Final Order finding that such indemnified parties were not entitled to any indemnity under the foregoing provisions.

~~F. Indemnification by NYCDDC~~

~~Upon Confirmation of the Plan, the Debtor Parties shall be indemnified and held harmless by the NYCDDC, to the fullest extent permitted by law, for any losses, claims, damages, liabilities, and expenses, including, without limitation, reasonable attorneys' fees, disbursements, and related expenses which such indemnified parties may incur or to which such indemnified parties may become subject in connection with any and all Flagperson Claims.~~

E. ~~G.~~ Post-Confirmation Management

Subsequent to Confirmation of the Plan, Joseph Trovato, the Debtor's president, will continue to run the Ongoing Construction Projects and participate in the collection process, all at his regular salary. All other aspects of management will be handled by the Plan Administrator. The Plan Administrator shall be removed by the Debtor for gross negligence or malfeasance, and a new Plan Administrator shall be appointed by the Debtor in consultation with Liberty Mutual and M&T.

G. ~~H.~~ Post-Confirmation Jurisdiction of the Court

Notwithstanding confirmation of the Plan or the occurrence of the Effective Date, the Court will retain such jurisdiction as is legally permissible, including, without limitation, for the following purposes:

1. To determine the allowability, classification, or priority of Claims upon objection by the Debtor or the Plan Administrator, and the validity, extent, priority and nonavoidability of consensual and nonconsensual liens and other encumbrances;

2. To issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Court, to issue such orders as may be necessary for the implementation, execution, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that may be pending before the Court in the Chapter 11 Case on or before the Effective Date with respect to any Person;

3. To protect the property of the Estate from claims against, or interference with, such property, including actions to quiet or otherwise clear title to such property or to resolve any dispute concerning liens, security interest or encumbrances on any property of the Estate;

4. To determine any and all applications for allowance of Fee Claims;

5. To determine any Priority Tax Claims, Other Priority Claims, Administrative Claims or any other request for payment of claims or expenses entitled to priority under section 507(a) of the Bankruptcy Code;

6. To determine any and all motions related to the assumption of Unexpired Leases of Real Property;

7. To determine all Causes of Action, applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted in and prior to the closing of the Chapter 11 Case, including any remands;

8. To enter a Final Order closing the Chapter 11 Case;

9. To modify the Plan under section 1127 of the Bankruptcy Code, remedy any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order so as to carry out their intent and purposes;

10. To issue such orders in aid of consummation of the Plan and the Confirmation Order notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Person, to the fullest extent authorized by the Bankruptcy Code;
11. To determine any tax liability pursuant to section 505 of the Bankruptcy Code;
12. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;
13. To resolve any dispute arising under or related to the implementation, execution, consummation or interpretation of the Plan, and the making of distributions thereunder;
14. To resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Case, any Bar Date, the hearing to consider approval of the Disclosure Statement or the Confirmation Hearing or for any other purpose;
15. To resolve any dispute or matter arising under or in connection with any order of the Court, whether entered in the Chapter 11 Case or after the Confirmation Date;
16. To resolve any disputes concerning any release of a Person hereunder whether or not such Person is a Debtor or the injunction against acts, employment of process or actions against such Person;
17. To approve any distributions, or objections thereto, under the Plan;
18. To approve any Claims settlement entered into or offset exercised by the Debtor or the Plan Administrator; and
19. To determine such other matters, and for such other purposes, as may be provided in the Confirmation Order, or as may be authorized under provisions of the Bankruptcy Code.

H. ~~I.~~ Retiree Benefits

Any retiree benefits (as that term is defined in Section 1114 of the Bankruptcy Code) required to be provided by the Debtor under its union contracts shall continue after the Effective Date for the duration of the period that the Debtor is obligated to provide such benefits.

VII. CONFIRMATION OF THE PLAN

A. Introduction

The Bankruptcy Code requires the Bankruptcy Court to determine whether a plan of reorganization complies with the technical requirements of chapter 11 of the Bankruptcy Code. It further requires that a plan proponent's disclosures concerning such plan have been adequate and have included information concerning all payments made or promised in connection with the plan.

To confirm the Plan, the Court must find that all of these and certain other requirements have been met. Thus, even if the requisite vote is achieved for each Class of impaired Claims, the Court must make independent findings respecting the Plan's conformity with the requirements of the Bankruptcy Code before it may confirm the Plan. Some of these statutory requirements are discussed below.

B. Conditions to Confirmation

It shall be a condition precedent to Confirmation of the Plan that the following conditions shall have been satisfied or waived by the Plan Administrator in his sole and absolute discretion:

1. The Bankruptcy Court shall have entered the Disclosure Statement Approval Order and it shall have become a Final Order; provided that in accordance with Bankruptcy Rules 3020(e), 6004(h), and 6006(d) (and notwithstanding any other

provision of the Bankruptcy Code or the Bankruptcy Rules), the Disclosure Statement Approval Order shall not be stayed and shall be effective immediately upon its entry; and

2. The Bankruptcy Court shall have entered the Confirmation Order and it shall have become a Final Order; provided that in accordance with Bankruptcy Rules 3020(e), 6004(h), and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), the Confirmation Order shall not be stayed and shall be effective immediately upon its entry.

C. Conditions to the Effective Date

It shall be a condition precedent to the occurrence of the Effective Date of the Plan that the following conditions shall have been satisfied or waived by the Plan Administrator in his sole and absolute discretion:

1. The Confirmation Date shall have occurred;
2. The Confirmation Order shall not be subject to any stay; and
3. Sufficient funds have been generated from the Short Term Claims to make the distributions required by Article IV(D)(i) of the Plan.

D. Voting Procedures and Standards

Holders of Claims in Classes that are “impaired” under the Plan (but not deemed to reject the Plan by virtue of receiving no distributions thereunder) will receive a Ballot with this Disclosure Statement for the acceptance or rejection of the Plan. Any Claim or Interest whose legal, contractual or equitable rights are altered, modified or changed by the proposed treatment under the Plan or whose treatment under the Plan is not provided for in section 1124 of the Bankruptcy Code is considered “impaired.” Instructions on how to complete a Ballot and the

deadline for voting on the Plan are contained in the solicitation materials accompanying this Disclosure Statement and the Plan.

The following procedures for allowance of Claims for purposes of voting on the Plan shall apply to votes upon the Plan:

(a) Disputed Filed Claims. With regard to a Claim that is the subject of an objection filed at least twenty (20) days prior to the Ballot Deadline, such Claim will be disallowed provisionally for voting purposes, except to the extent and in the manner that (i) the Plan Administrator agrees that the Claim should be allowed for voting purposes in its objection to such Claim; or (ii) such Claim is allowed temporarily for voting purposes in accordance with Bankruptcy Rule 3018.

(b) Claims Estimated for Voting Purposes. With respect to a Claim that has been estimated or otherwise allowed for voting purposes by order of the Bankruptcy Court, the amount and classification of such Claim will be that set by the Bankruptcy Court.

(c) Wholly Unliquidated Claims. A Claim recorded in the Schedules or in the Clerk's records as wholly unliquidated, contingent and/or undetermined will be accorded one vote, valued at \$10.00, for the purposes of section 1126(c) of the Bankruptcy Code, unless the Claim is disputed as set forth in (a) above.

(d) Late Claims. With respect to a Claim as to which a proof of claim has not been timely filed (i.e., was filed after the Bar Date), the voting amount of such Claim (subject to any applicable limitations set forth below) will be equal to the amount listed, if any, in respect of such Claim in the Schedules, to the extent such Claim is not listed as contingent, unliquidated, or disputed, unless the Claim is disputed as set forth in (a) above. If such Claim is either not listed

in the Schedules, or is listed as contingent, unliquidated or disputed, then the Claim respecting such proof of claim will be disallowed provisionally for voting purposes.

(e) Duplicate Claim. A creditor will not be entitled to vote its Claim to the extent such Claim duplicates or has been superseded by another Claim of such creditor.

(f) Undisputed Scheduled Claims. With respect to a Claim that appears on the Schedules as undisputed, noncontingent and liquidated, and as to which no objection has been filed at least twenty (20) days prior to the Ballot Deadline, the amount and classification of such Claim shall be that specified in the Schedules unless superseded by an undisputed proof of claim.

(g) Court Determined Claims. With respect to a Claim for which an order has been entered reducing, reclassifying or allowing, the amount and classification of the Claim shall be that specified in such order.

The Ballots of creditors will be tabulated in accordance with the following procedures:

- (i) For the purpose of voting on the Plan, the Balloting Agent will be deemed to be in constructive receipt of any Ballot timely delivered to the address set forth above as designated for the receipt of Ballots cast on the Plan;
- (ii) Any Ballot received by the Balloting Agent after the Ballot Deadline shall not be counted;
- (iii) Pursuant to Bankruptcy Rule 3018(a), whenever a holder of a Claim submits more than one Ballot voting the same Claim prior to the Ballot Deadline, the last such Ballot sent and received shall count unless such holder has sufficient cause within the meaning of Bankruptcy Rule 3018(a) to submit, or the Debtor consents to the submission of, a superseding Ballot;

- (iv) If a Ballot does not include a Claim amount, the Ballot shall be deemed filed in the amount of a filed Claim, and if no Claim has been filed, in the amount of the Claim as specified in the Schedules, as long as the Claim is listed in the Schedules as undisputed, non-contingent or liquidated; otherwise, the Ballot shall not be counted.
- (v) If a holder of a Claim casts simultaneous duplicative Ballots voted inconsistently, then such Ballots shall not be counted;
- (vi) The authority of the signatory of each Ballot to complete and execute the Ballot shall be presumed;
- (vii) Any Ballot that is not signed shall not be counted;
- (viii) Any Ballot received by the Balloting Agent by electronic communication (i.e. email) shall not be counted but signed Ballots received timely by the Balloting Agent by facsimile will be counted;
- (ix) A holder of a Claim must vote all of its Claims within a particular Class under the Plan either to accept or reject the Plan and may not split its vote. Accordingly, a Ballot that partially rejects and partially accepts the Plan, or that indicates both a vote for and against the Plan, will not be counted; and
- (x) Any Ballot that is timely received and executed but does not indicate whether the holder of the relevant Claim is voting for or against the Plan will be deemed a vote in favor of the Plan.

IF A BALLOT IS DAMAGED OR LOST OR IF YOU HAVE ANY QUESTIONS CONCERNING VOTING PROCEDURES, YOU MAY CONTACT THE BALLOTING AGENT.

A VOTE MAY BE DISREGARDED IF THE COURT DETERMINES, AFTER NOTICE AND A HEARING, THAT SUCH ACCEPTANCE OR REJECTION WAS NOT MADE OR SOLICITED OR PROCURED IN GOOD FAITH OR IN ACCORDANCE WITH THE PROVISIONS OF THE BANKRUPTCY CODE.

Any impaired Class of Claims that fails to achieve the requisite “accepted” vote will be deemed to have rejected the Plan.

E. Acceptance

The Bankruptcy Code defines acceptance of a plan by an impaired Class of Claims as acceptance by holders of at least two-thirds in dollar amount, and more than one-half in number, of Claims of that Class that actually vote. Acceptance of the Plan need only be solicited from holders of Claims whose Claims are “impaired” and not deemed to have rejected the Plan. Except in the context of a “cram down” (i.e., confirmation of a plan that has not been accepted by all impaired classes), as a condition to confirmation of the Plan, the Bankruptcy Code requires that, with certain exceptions, each Class of impaired Claims accepts the Plan.

The Plan is predicated on the Voting Classes voting to accept the Plan. In the event the requisite vote is not obtained, the Plan Proponents have the right, assuming that at least one Class of impaired Claims has accepted the Plan, to request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Section 1129(b) permits confirmation of a plan notwithstanding rejection by one or more Classes of impaired Claims or impaired Interests if the Bankruptcy Court finds that the plan does not discriminate unfairly and is “fair and equitable” with respect to the rejecting class or classes. This procedure is commonly referred to in

bankruptcy parlance as “cram down.” If the Voting Classes vote to reject the Plan, the Debtor will seek a cram down of any such Class at the Confirmation Hearing.

F. Confirmation and Consummation

At the Confirmation Hearing, the Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied with respect to the Plan. Section 1129(a) of the Bankruptcy Code requires that, among other things, for a plan to be confirmed:

- The plan complies with the applicable provisions of the Bankruptcy Code.
- The proponents of the plan have complied with the applicable provisions of the Bankruptcy Code.
- The plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or to be made by the proponents under the plan for services or for costs and expenses in, or in connection with, the chapter 11 case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable.
- The proponents have disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in the plan with the debtor, or a successor to the debtor under the plan. The appointment to, or continuance in, such office of such individual, must be consistent with the interests of creditors and equity security holders and with public policy and the proponents must have disclosed the identity of any insider that the reorganized debtors will employ or retain, and the nature of any compensation for such insider.
- With respect to each class of impaired claims or interests, either each holder of a claim or interest of such class has accepted the plan, or will receive or retain under the plan on account of such claim or interest, property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated on such date under chapter 7 of the Bankruptcy Code.
- Each class of claims or interests has either accepted the plan or is not impaired under the plan.
- 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 expenses and priority claims (other than tax claims) will be paid in full on the effective date and that priority tax claims will receive on account of such claims deferred cash

payments, over a period not exceeding five (5) years after the order for relief in a case, of a value, as of the effective date, equal to the allowed amount of such claim.

- If a class of claims is impaired, at least one (1) impaired class of claims has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim in such class.
- Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan (unless, as here, such liquidation or reorganization is proposed in the plan).

Subject to receiving the requisite votes in accordance with section 1129(a)(8) of the Bankruptcy Code and the “cram down” of Classes not receiving any distribution under the Plan, the Debtor believes that (i) the Plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code, (ii) the Debtor has complied or will have complied with all of the requirements of chapter 11, and (iii) the Plan has been proposed in good faith.

Set forth below is a more detailed summary of the relevant statutory confirmation requirements.

1. Best Interests of Holders of Claims and Interests

The “best interests of creditors” test requires that the Bankruptcy Court find either that all members of each impaired class have accepted the plan or that each holder of an allowed claim or interest of each impaired class of claims or interests will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date.

A liquidation analysis as to what creditors would receive if the Debtor’s case were converted to Chapter 7 is annexed hereto as Exhibit “A”. [Each day that the Debtor continues to progress the work on the Ongoing Construction Projects reduces the amount of its potential](#)

liability to Liberty Mutual (and the City) based upon the Debtor's surety bonds and public contracts. Absent an agreement with Liberty Mutual regarding the reletting of a particular project, should the Debtor fail to complete the Ongoing Construction Projects, any alleged funds available to pay creditor claims would be subsumed by the delay costs, damages and reletting costs on the Ongoing Construction Projects. Pursuant to the Debtor's liquidation analysis, the Debtor estimates that it would incur an additional \$8 million in costs should it fail to complete the Ongoing Construction Projects. Those additional costs would be absorbed by Liberty Mutual pursuant to its performance bonds. Pursuant to the surety bond program approved by the Court in the early stages of the case, and the plain terms of the surety bonds, Liberty Mutual would then recover payment for those costs from the profits of the Ongoing Construction Projects before any of the Debtor's creditors. Accordingly, it is to the benefit of the estate's creditors, including its administrative, priority, secured and general unsecured creditors, for the Debtor to complete as much of the work on the Ongoing Construction Projects as possible.

~~If~~ Thus, if this case was converted to Chapter 7, no creditors other than Liberty Mutual and holders of Article 3A Claims would be paid, so all creditors are benefiting by this Plan as opposed to conversion to Chapter 7. Moreover, even if additional creditors would receive a distribution in Chapter 7, it would result in even more administrative expenses potentially reducing recoveries to unsecured creditors. A Chapter 7 trustee would be appointed who would be entitled to commissions on all monies disbursed by or turned over to him. A trustee would also likely hire his own professionals who would engage in due diligence on the trustee's behalf. These added costs would result in less of a distribution in Chapter 7 than proposed by the Plan.

2. Financial Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation should not be likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor unless such liquidation or reorganization is proposed in the plan. The Plan is a liquidating plan, and claims are being paid in the order of priority. Accordingly, the Plan satisfies section 1129(a)(11) of the Bankruptcy Code.

3. Acceptance by Impaired Classes

A class is “impaired” under a plan unless, with respect to each claim or interest in such class, the plan: (i) leaves unaltered the legal, equitable and contractual rights to which the claim or interest entitles the holder of such claim or interest; or (ii) notwithstanding any contractual provision or applicable law which entitles the holder of such claim or interest to demand or receive accelerated payment on account of a default, cures any default, reinstates the original maturity of the obligation, compensates the holder for any damages incurred as a result of reasonable reliance on such provision or law and does not otherwise alter the legal, equitable or contractual rights of such holder based upon such claim or interest. A class that is not impaired under a plan of reorganization is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required.

4. Cram Down

THE DEBTOR RESERVES THE RIGHT TO CRAM DOWN THIS PLAN AGAINST NON-ACCEPTING CLASSES OF HOLDERS OF CLAIMS OR INTERESTS.

The Bankruptcy Code contains provisions for confirmation of a plan even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted the Plan. The “cram down” provisions of the Bankruptcy Code are set forth in section 1129(b) of the Bankruptcy Code. Under the “cram down” provisions, upon the request of a plan proponent

the Bankruptcy Court will confirm a plan despite the lack of acceptance by an impaired class or classes if the Bankruptcy Court finds that (i) the plan does not discriminate unfairly with respect to each non-accepting impaired class, (ii) the plan is fair and equitable with respect to each non-accepting impaired class, and (iii) at least one impaired class has accepted the plan. These standards ensure that holders of junior interests, such as stockholders, cannot retain any interest in the debtor under a plan of reorganization that has been rejected by a senior class of impaired claims or interests unless such impaired claims or interests are paid in full.

As used by the Bankruptcy Code, the phrases “discriminate unfairly” and “fair and equitable” have narrow and specific meanings unique to bankruptcy law. A plan does not discriminate unfairly if claims or interests in different classes but with similar priorities and characteristics receive or retain property of similar value under a plan. By establishing separate Classes for the holders of each type of Claim and by treating each holder of a Claim in each Class identically, the Plan has been structured so as to meet the “unfair discrimination” test of section 1129(b) of the Bankruptcy Code.

The Bankruptcy Code sets forth different standards for establishing that a plan is “fair and equitable” with respect to a dissenting class, depending on whether the class is comprised of secured or unsecured claims or interests. In general, section 1129(b) of the Bankruptcy Code permits confirmation notwithstanding non-acceptance by an impaired class if that class and all junior classes are treated in accordance with the “absolute priority” rule, which requires that the dissenting class be paid in full before any junior class may receive anything under the plan. In addition, case law surrounding section 1129(b) requires that no class senior to a non-accepting impaired class receives more than payment in full on its claims.

With respect to a class of unsecured claims that does not accept the Plan, either (i) each holder of an unsecured claim in the dissenting class receives or retains under such plan property of a value equal to the allowed amount of its unsecured claim, or (ii) the holders of claims or holders of interests that are junior to the claims of the holders of such unsecured claims will not receive or retain any property under the plan. Additionally, the holders of claims that are senior to the claims of the dissenting class of unsecured claims may not receive more than payment in full on their claims under the plan. The Plan is designed to satisfy these standards.

If all the applicable requirements for confirmation of the Plan are met as set forth in sections 1129(a)(1) through (13) of the Bankruptcy Code, except that one or more of Classes of impaired Claims or Interests have failed to accept the Plan pursuant to section 1129(a)(8) of the Bankruptcy Code, the Debtor will request that the Bankruptcy Court confirm the Plan over the dissenting votes of such Classes in accordance with section 1129(b) of the Bankruptcy Code. The Debtor believes that the Plan satisfies the “cram down” requirements of the Bankruptcy Code. The Debtor may seek confirmation of the Plan over the objection of dissenting Classes, as well as over the objection of individual holders of Claims or Interests who are members of an accepting Class.

5. Classification of Claims and Interests

The Debtor believes that the Plan meets the classification requirements of the Bankruptcy Code which require that a plan of reorganization place each claim or interest into a class with other claims or interests which are “substantially similar.”

VIII. CERTAIN RISK FACTORS TO BE CONSIDERED

**HOLDERS OF CLAIMS AGAINST THE DEBTOR SHOULD READ AND
CONSIDER CAREFULLY THE FACTORS SET FORTH BELOW, AS WELL AS THE**

OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT, PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN. THESE RISK FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

A. Risk That Distributions Will Be Less Than Estimated

The projected distributions and recoveries set forth in this Disclosure Statement are based on the Debtor's estimate of Allowed Claims and cash available for distribution. There can be no assurance that the estimates will prove accurate.

B. Bankruptcy Risks

a. Objection to Classifications

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class. The Debtor believes that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code. However, there can be no assurance that the Court would reach the same conclusion.

b. Risk of Non-Confirmation of the Plan

Even if the Voting Classes accept the Plan, the Plan might not be confirmed by the Court. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, that the confirmation of a plan of reorganization is not likely to be followed by the liquidation or the need for further financial reorganization unless, as here, such liquidation is proposed in the plan, and that the value of distributions to dissenting creditors and equity

security holders not be less than the value of distributions such creditors and equity security holders would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. The Debtor believes that the Plan satisfies all the requirements for confirmation of a liquidating plan of reorganization under the Bankruptcy Code. There can be no assurance, however, that the Court would also conclude that the requirements for confirmation of the Plan have been satisfied.

IX. TAX CONSEQUENCES

THE TAX CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. NO RULING HAS BEEN APPLIED FOR OR OBTAINED FROM THE INTERNAL REVENUE SERVICE WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN AND NO OPINION OF COUNSEL HAS BEEN REQUESTED OR OBTAINED BY THE DEBTOR WITH RESPECT THERETO.

NOTHING HEREIN CONSTITUTES TAX ADVICE OR A TAX OPINION CONCERNING THE MATTERS DESCRIBED HEREIN. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL, FOREIGN OR OTHER TAX CONSEQUENCES OF THE PLAN.

X. CONCLUSION

The Debtor believes that confirmation and implementation of the Plan will provide each creditor with a greater recovery than it would receive if the Debtor were to liquidate and distribute its assets under chapter 7, in which case there would likely be a delay in making distributions to creditors and many creditors would likely receive no distribution. Thus, the

Debtor recommends confirmation and implementation of the Plan as the best possible outcome for creditors.

The Debtor urges holders of impaired Claims to vote to accept the Plan and to evidence such acceptance by returning their Ballots so they will be received by the Ballot Deadline.

| DATED: ~~July 1,~~ August 15, 2016

TROCOM CONSTRUCTION CORP.

By: s/ Joseph Trovato _____

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