**UNITED STATES BANKRUPTCY COURT**
**DISTRICT OF SOUTH CAROLINA**

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| In re:<br><br>F.I.G. DAUFUSKIE 1, LLC[1], *et al*.<br><br>Debtors. | Case No. 17-01143-jw<br>(Jointly Administered)<br><br>Chapter 11 |

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**DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF REORGANIZATION DATED AUGUST 29, 2017**

Filed by the Plan Proponent Opportunity Fund I-SS on August 29, 2017

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**THIS PLAN INCLUDES A RELEASE, INJUNCTIVE RELIEF, AND EXCULPATION OF THE PLAN PROPONENT, OPPORTUNITY FUND I-SS AND ITS INVESTORS, OFFICERS, DIRECTORS, REPRESENTATIVES AND PROFESSIONALS, WHO ARE PROVIDING SUBSTANTIAL CONSIDERATION TO THE ESTATE IN PROPOSING THIS PLAN. THE RELEASES ARE FURTHER DESCRIBED AND DEFINED IN ARTICLE IX OF TH\E PLAN. IF THE PLAN IS CONFIRMED, THE PARTIES IDENTIFIED IN THESE PROVISIONS OF THE PLAN WILL BE RELEASED FROM THE CLAIMS OF ANY CREDITORS OR CURRENT EQUITY HOLDERS.**

[1] Jointly administered with F.I.G. Beach Cottages, LLC, Case No, 17-01144; F.I.G. Beach Club, LLC, Case No 17-01145; and Daufuskie Embarkment, LLC, Case No. 17-01146, pursuant to the Order Granting Motion for Joint Administration (Doc. No. 16).

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# I. INTRODUCTION

The Debtor, F.I.G. Daufuskie 1, LLC, and related entities (a "Debtor" or "F.I.G. Daufuskie 1, LLC" or "FIG" and collectively with the entities described in footnote 1, the "Debtors") filed its petition for relief under Chapter 11 of the Bankruptcy Code on March 7, 2017 and is the debtor and debtor-in-possession in the chapter 11 case number 17-01143-jw.

Opportunity Fund I-SS ("Opportunity Fund I-SS" or "Proponent"), a creditor of Debtors by virtue of the assignment of the claims of prepetition creditors Mark Burton, MJC Holdings, LLC, Mark Cummings, and John Cummings, files this Disclosure Statement in support of its Plan of Reorganization (the "Plan"), filed concurrently herewith. Opportunity Fund I-SS has filed its Plan to enable the restructure of the Debtors' financial obligations and the completion of the real estate development project begun by the Debtors. The Plan will enable all secured creditors to ultimately be paid in full. Unsecured creditors will be paid a pro rata distribution from a litigation trust, in an amount to be determined.

## A. Purpose of this Disclosure Statement

Chapter 11 of the United States Code (the "Bankruptcy Code") requires that Opportunity Fund I-SS, as the Plan proponent, submit to creditors and holders of interests a copy of that Plan or a summary thereof, and a written disclosure statement that has been approved by the Bankruptcy Court after a noticed hearing as containing adequate information. Adequate information is defined in section 1125(a) of the Code.

This Disclosure Statement contains information about the Debtors and describes the Plan. A full copy of the Plan is attached to this Disclosure Statement as Exhibit A. ***Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.***

The proposed distributions under the Plan are discussed at pages 10-15 of this Disclosure Statement.

This Disclosure Statement describes:

- The Debtors, their business, and the significant events leading to filing this bankruptcy;
- How the Plan proposes to treat claims or equity interests of the type you hold (i.e., what you will receive on your claim or equity interest if the plan is confirmed);
- Who can vote on or object to the Plan;
- What factors the Bankruptcy Court (the "Court") will consider when deciding whether to confirm the Plan;
- Why the Proponent believes the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation; and
- The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

## B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures involved in Plan confirmation.

### 1. Time and Place of the Hearing to Confirm the Plan

The hearing at which the Court will determine whether to confirm the Plan with take place at the King and Queen Building, 145 King Street, Room 225, Charleston, SC 29401 at the date and time set forth in the Order Approving Disclosure Statement accompanying this Disclosure Statement.

### 2. Deadline for Voting to Accept or Reject the Plan

If you are entitled to vote to accept or reject the plan, vote on the enclosed ballot and return the ballot in accordance with the instructions contained on the Ballot issued by the Bankruptcy Court and accompanying this Disclosure Statement and Plan.

### 3. Deadline for Objecting to the Confirmation of the Plan

Objections to the confirmation of the Plan must be filed with the Court and served upon

the parties as set forth in the Order Approving Disclosure Statement accompanying this Disclosure Statement.

**4. Identity of Person to Contact for More Information**

The Plan Proponent fully welcomes questions and conversation about the Plan. If you want additional information about the Plan, you should contact counsel for Opportunity Fund I-SS as set forth below:

| **Mailing Address:** | **Phone No.:** |
|---|---|
| Jamie Dreher<br>Kelly Pope<br>Downey Brand LLP<br>621 Capitol Mall, 18th Floor<br>Sacramento, CA 95814<br>jdreher@downeybrand.com<br>kpope@downeybrand.com | (916) 444-1000 |
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**C. Disclaimer**

***The Court has approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted.***

## II. BACKGROUND

The Debtors are affiliates, and are under common ownership and management. The Debtors own real property with improvements and personal property on Daufuskie Island, in

Beaufort County, South Carolina. The property owned by F.I.G. Daufuskie 1, LLC ("FIG Daufuskie"), F.I.G. Beach Cottages, LLC ("FIG Beach Cottages"), and F.I.G. Beach Club, LLC ("FIG Beach Club") is located in the Melrose Planned Unit Development, also known as Melrose Plantation, on Daufuskie Island. The property owned by Daufuskie Embarkment, LLC ("Daufuskie Embarkment") includes both parcels in Melrose Plantation and the dock and landing property on the island commonly known as Melrose Landing, which is located on the Intracoastal Waterway (the Cooper River). These properties were previously owned by Daufuskie Island Properties, LLC, and the Debtors acquired the properties in 2011 and 2012 in the aftermath of a bankruptcy liquidation of Daufuskie Island Properties, LLC's assets.[2]

The real property consists of approximately 420 acres. Improvements on the property include a hotel, a golf course, an equestrian center, a conference center, fifteen beach cottages (seven duplexes and one single unit), a restaurant and bar, a wellness facility, a pool, and a marina and embarkment facility.

The Debtors' properties were not operating when they acquired them. The properties were in poor condition, and the Debtors and their affiliates set about the task of repairing, renovating, and improving the properties. Although progress was made in restoring and improving the properties, since the Debtors' acquisition the properties have generated only limited income and significant work remains to be done. Furthermore, the Debtors encountered delays in their plans for renovation, new improvements and development, which increased costs and exhausted the funding the Debtors had obtained. The Debtors were able to obtain additional funding for a time, but ultimately the Debtors were not able to obtain sufficient funding to repay debt obligations, maintain operations on the property, complete renovations and restoration of the properties, and proceed with development.

There is currently no business activity on the Debtors' property. Hurricane Matthew caused much damage along the South Carolina coast in October 2016, including to Daufuskie

[2] The bankruptcy case was In re Daufuskie Island Properties, LLC, Case No. 09-00389-jw in the United States Bankruptcy Court for the District of South Carolina.

Island. In addition, the late Fall and Winter months historically have been periods of light activity and little revenue from the property, resulting in operating losses. Accordingly, the Plan Proponent is informed that the Debtors deemed it best not to reopen the property for business soon after the hurricane, and instead deemed it better to wait until the Spring of 2017 to restart business activity on the property, and then initially on a limited basis.

Odeon Singapore Limited, assignee of Kuikawa Holding, BV, as assignee of Kuikawa, BV, f/k/a Lex Van Hessen Holding, BV (collectively, "Odeon"), holds first priority mortgages and liens on the Debtors' properties securing loans it made to each of the Debtors. Odeon is the successor in interest to Lex Van Hessen Holding, BV ("LVHH"), which previously held first priority debt, mortgages and liens on the Debtors' properties securing loans it made to each of the Debtors. Specifically, Plan Petitioner is informed that FIG Daufuskie obtained a loan from LVHH in the principal amount of $11 million on or about May 6, 2011; FIG Beach Cottages obtained a loan from LVHH in the principal amount of $2.25 million on or about December 8, 2011; FIG Beach Club obtained a loan from LVHH in the principal amount of $3.2 million on or about December 8, 2011; and Daufuskie Embarkment obtained a loan from LVHH in the principal amount of $1.2 million on or about June 21, 2013. These loans are cross-collateralized such that each of the Debtors' properties secures all of the loans, and the loan documents include cross-default provisions.

The Debtors defaulted under the terms of the loans, and LVHH filed a foreclosure action and on April 9, 2014. The Master-in-Equity for Beaufort County filed his Master's Decree and Judgment of Foreclosure and Sale (Deficiency Demanded) granting judgment to LVHH in the total amount of $27,540,856.51 and ordering the sale of the Debtors' property. Interest at the default rate has continued to accrue, unpaid, on that amount for the three years prepetition since that order, and the amount that is now owed is in excess of $44 million. Subsequently, the rights and interests formerly held by LVHH were assigned to Odeon. The properties were sold at an initial foreclosure sale on February 6, 2017, subject to the 30-day period for upset bids and a final sale on March 8, 2017 (as required under South Carolina law where the plaintiff seeks a

deficiency judgment). The filing of the Debtors' bankruptcy petitions stayed the final sale of the property.

Additionally, the Debtors' properties were sold at a tax sale by the Beaufort County Tax Collector on December 5, 2016, for non-payment of ad valorem taxes due on the properties for calendar year 2015. The aggregate payment due to redeem the properties (avoid loss of them) is presently $532,085.54. Pursuant to South Carolina law, the Debtors have one year from the date of the tax sale, *i.e.*, until December 5, 2017, in which to make payment to redeem the properties and terminate the tax sale. In addition, ad valorem taxes are due on the properties for calendar year 2016 in the aggregate amount of $445,202.96. Thus, the Plan must be confirmed, and payment to the County Tax Collector (in the aggregate amounts set forth in this paragraph) made by, December 5, 2017.

## III. SUMMARY OF THE PLAN

The Plan proposes to pay all secured creditors in full over time through at least $15.0 million in new Financing which will be used to begin making Plan payments to creditors, to reposition and re-brand the Debtors' properties, make necessary capital improvements and repairs, and to market the properties for full market value sales (as opposed to the current proposed credit bid 363 sale, which will wipe out all creditors and equity, and result in no distributions to any creditor class).

All creditors and equity security holders should refer to Articles III and IV of the Plan for information regarding the precise treatment of their claims. If you do not have an attorney, you may wish to consult one.

All capitalized terms shall have the meanings as defined in Article II of the Plan. Any term used in the Plan or this Disclosure Statement that is not defined herein, but that is defined in the Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Code or the Bankruptcy Rules.

**A. Treatment of Administrative Expense Claims, U.S. Trustees Fees, and Priority Tax Claims**

1. Unclassified Claims. Pursuant to Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims are not classified under the Plan.

2. Administrative Claims. Except as otherwise agreed to by the Proponent and the Holder of an Allowed Administrative Expense Claim, each such Holder shall be paid in full in Cash on the later of (i) the date such Allowed Administrative Expense Claim becomes due in accordance with its terms, and (ii) the Effective Date.

3. United States Trustee Fees. The Debtor before the Effective Date or, on or after the Effective Date, Opportunity Fund I-SS will pay all U.S. Trustee's Fees in full without prior approval under 28 U.S.C. § 1930 and will continue to pay all U.S. Trustee's Fees until the Case is closed, dismissed, or converted to another chapter of the Bankruptcy Code.

4. Tax Claims. Each holder of an Allowed Priority Tax Claim shall be paid in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Tax Claim either (i) upon such terms as may be agreed to between Opportunity Fund I-SS and such holder of an Allowed Priority Tax Claim or (ii) in full in Cash on the later of the Effective Date or the date that such Allowed Priority Tax Claim would have been due if the chapter 11 cases had not been commenced.

**B. Classification of Claims and Interests**

Class 1. The secured super priority secured claim of the new lender providing exit financing.

Class 2. All priority non-tax claims, which consist of all Allowed Claims entitled to priority under section 507(a) of the Bankruptcy Code other than Administrative Expense Claims and Priority Tax Claims.

Class 3. The secured claim of the Beaufort County Treasurer for unpaid 2015 and 2016 property taxes. The Plan Proponent is informed that the total amount owing to the County is $977,288.50.

Class 4. The secured claim of Odeon Singapore Limited, assignee of Kuikawa Holding,

BV, as assignee of Kuikawa, BV, f/k/a Lex Van Hessen Holding, BV. As explained above, Odeon holds first priority mortgages and liens on all of the Debtors' properties securing loans it made to each of the Debtors. Odeon filed proofs of claim asserting the total amount owing to Odeon of $44,359,810.17.

Class 5. The secured claim of Coastal Pipe & Fire Solutions, LLC, which has not filed a proof of claim. The Debtors schedule $23,299.63 as the amount owing to this creditor.

Class 6. The secured claim of Daufuskie North 1, LLC, which has not filed a proof of claim. The Debtors scheduled $2,000,000.00 as the amount owing to this creditor.

Class 7. The secured claim of ACP South Carolina LLC. ACP filed proofs of claim asserting it is owed $3,497,604.88 as the assignee of former lenders Mezz II, LLC, HM SC, LLC, and Deare, LLC; and further asserting pursuant to a Loan Modification Agreement dated August 29, 2017 that the claim is secured by the Debtors' real properties.

Class 8. The secured claim of Hoppe Electric, Inc., which has not filed a proof of claim. The Debtors scheduled $58,900.45 as the amount owing to this creditor.

Class 9. The secured claim of George Lee. George Lee filed a proof of claim asserting he is owed $5,486,136.99, secured by real property of the Debtors, on a loan made to F.I.G. Daufuskie 1, LLC.

Class 10. The secured claim of Neil Dawson Architect, P.C., which has not filed a proof of claim. The Debtors scheduled $10,500.00 as the total amount owing to this creditor.

Class 11. The secured claim of Rockby, Inc., which has not filed a proof of claim. The Debtors scheduled $611,615.15 as the amount owing to this creditor.

Class 12. The secured claim of South Atlantic Forest Products, Inc., dba Gaster Lumber & Hardware, which has not filed a proof of claim. The Debtors scheduled the amount of this claim as unknown.

Class 13. The secured claim of Fabrication Design Concepts, Inc., which has not filed a proof of claim. The Debtors scheduled $6,500.00 as the amount owing to this creditor.

Class 14. The secured claim of PIA Anderson Dorius Reynard & Moss, LLC, which has

not filed a proof of claim. The Debtors scheduled $116,608.49 as the amount owing to this creditor.

Class 15. The secured claim of Action Commercial Park, LLC, which has not filed a proof of claim. The Debtors scheduled the amount of this claim as unknown.

Class 16. The secured claim of Cannon Consultants, LLC, which has not filed a proof of claim. The Debtors scheduled the amount of this claim as unknown.

Class 17. The secured claim of Beacon Sales Acquisition, Inc., which has not filed a proof of claim. The Debtors scheduled the amount of this claim as unknown.

Class 18. The secured claim of DCO, Inc., dba Dalton Carpet One, which has not filed a proof of claim. The Debtors scheduled $129,595.00 as the amount owing to this creditor.

Class 19. The secured claim of the Plan Proponent, as assignee of Brenda Burton and Mark Burton, Trustees of The Brenda Burton Trust. Brenda and Mark Burton filed proofs of claim asserting they are owed $5,786,887.16 on loans made to the Debtors. The Plan Proponent is the assignee of these claims.

Class 20. The secured claim of MJC Holdings, LLC. MJC Holdings, LLC filed proofs of claim asserting it is owed $1,202.584.86, secured by persona property, non-debtor real property located in Utah, and membership interests in the Debtors.

Class 21. The secured claim of SunBelt Rentals, which has not filed a proof of claim. The Debtors schedule $9,966.45 as the amount owing to this creditor.

Class 22. The secured claim of Coastal Door Systems, Inc., which has not filed a proof of claim. The Debtors schedule $3,785.00 as the amount owing to this creditor.

Class 23. The unsecured claim of the U.S. Securities and Exchange Commission ("SEC"). The SEC filed proofs of claim for disgorgement, prejudgment interest, and civil penalties arising from possible violations of the federal securities laws by the Debtors and/or others. The proofs of claim list the amounts owed as "to be determined."

Class 24. General unsecured claims

Class 25. Equity interests

**C. Treatment of Classes of Claims and Interests**

The following summarizes the treatment of each Class of Claims and Interests:

Class 1. Class 1 is unimpaired under the Plan. In full and final satisfaction, settlement, release, and discharge of and in exchange for the Super Priority Secured Claim for exit Financing, pursuant to the terms of the loan documents, or as soon thereafter, each Holder of such Super Priority Lien Claim will be paid in full in Cash. The loan documents will be filed with the Plan Supplement, and provide for repayment of the Super Priority Secured Claim (Exit Financing) over three (3) years, and in accordance with the agreed treatment under the loan documents.

Class 2. Class 2 is unimpaired under the Plan. In full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Non-Tax Claim, on the later of (a) the Effective Date and (b) the date on which such Priority Non-Tax Claim becomes Allowed, or as soon thereafter, each Holder of such Allowed Priority Non-Tax Claim will be paid in full in Cash.

Class 3. Class 3 is unimpaired under the Plan. Except to the extent that the County agrees to a less favorable treatment in writing, the County will be paid in full in Cash on the Effective Date.

Class 4. Class 4 is impaired under the Plan. Except to the extent that Odeon agrees to a less favorable treatment in writing, Odeon's lien against the Collateral will remain. Subject to being an Allowed Claim, and within ten (10) business days of the closing of the Financing, Odeon will receive an initial payment of $4.0 million ("Initial Senior Debt Paydown"). The remainder of Odeon's Allowed Claim will paid on a thirty (30)-year amortized basis, with such amortized payments made quarterly to Odeon, will accrue interest at a rate of 5.0%, and will mature and be due and payable in full ten (10) years after the Effective Date. NOTE: This interest rate is reduced from the current contract rate. NOTE ALSO: This claim will be primed by the Super Priority Secured Claim of Class 1, in the amount of $15.0 million. Other potential financing arrangements are being pursued, and if approved by the Bankruptcy Court, may result in Odeon being primed in an amount greater than $15.0 million.

Class 5. Class 5 is impaired under the Plan. Except to the extent that Coastal Pipe & Fire Solutions, LLC agrees to a less favorable treatment in writing, Coastal Pipe & Fire Solutions, LLC's lien against the Collateral will remain; and Coastal Pipe & Fire Solutions, LLC will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 6. Class 6 is impaired under the Plan. Except to the extent that Daufuskie North 1, LLC agrees to a less favorable treatment in writing, Daufuskie North 1, LLC's lien against the Collateral will remain; and Daufuskie North 1, LLC will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 7. Class 7 is impaired under the Plan. Except to the extent that ACP South Carolina LLC agrees to a less favorable treatment in writing, ACP South Carolina LLC's lien against the Collateral will remain. ACP South Carolina LLC will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 8. Class 8 is impaired under the Plan. Except to the extent that Hoppe Electric, Inc. agrees to a less favorable treatment in writing, Hoppe Electric, Inc.'s lien against the Collateral will remain; and Hoppe Electric, Inc. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 9. Class 9 is impaired under the Plan. Except to the extent that George Lee agrees to a less favorable treatment in writing, George Lee's lien against the Collateral will remain; and George Lee will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 10. Class 10 is impaired under the Plan. Except to the extent that Neil Dawson

Architect, P.C. agrees to a less favorable treatment in writing, Neil Dawson Architect, P.C.'s lien against the Collateral will remain; and Neil Dawson Architect, P.C. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 11. Class 11 is impaired under the Plan. Except to the extent that Rockby, Inc. agrees to a less favorable treatment in writing, Rockby, Inc.'s lien against the Collateral will remain; and Rockby, Inc. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 12. Class 12 is impaired under the Plan. Except to the extent that South Atlantic Forest Products, Inc. agrees to a less favorable treatment in writing, South Atlantic Forest Products, Inc.'s lien against the Collateral will remain; and South Atlantic Forest Products, Inc. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 13. Class 13 is impaired under the Plan. Except to the extent that Fabrication Design Concepts, Inc. agrees to a less favorable treatment in writing, Fabrication Design Concepts, Inc.'s lien against the Collateral will remain; and Fabrication Design Concepts, Inc. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 14. Class 14 is impaired under the Plan. Except to the extent that PIA Anderson Dorius Reynard & Moss, LLC agrees to a less favorable treatment in writing, PIA Anderson Dorius Reynard & Moss, LLC's lien against the Collateral will remain; and PIA Anderson Dorius Reynard & Moss, LLC will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 15. Class 15 is impaired under the Plan. Except to the extent that Action Commercial Park, LLC agrees to a less favorable treatment in writing, Action Commercial Park, LLC's lien against the Collateral will remain; and Action Commercial Park, LLC will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 16. Class 16 is impaired under the Plan. Except to the extent that Cannon Consultants, LLC agrees to a less favorable treatment in writing, Cannon Consultants, LLC's lien against the Collateral will remain; and Cannon Consultants, LLC will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 17. Class 17 is impaired under the Plan. Except to the extent that Beacon Sales Acquisition, Inc. agrees to a less favorable treatment in writing, Beacon Sales Acquisition, Inc.'s lien against the Collateral will remain; and Beacon Sales Acquisition, Inc. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 18. Class 18 is impaired under the Plan. Except to the extent that DCO, Inc. agrees to a less favorable treatment in writing, DCO, Inc.'s lien against the Collateral will remain; and DCO, Inc. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 19. Class 19 is impaired under the Plan. In exchange for the vesting of the equity interests in the Proponent, as described in the Plan, and subject to confirmation of this Plan, the Proponent will disclaim any distribution on account of the Proponent Claim.

Class 20. Class 20 is impaired under the Plan. In exchange for the vesting of the equity

interests in the Proponent, as described in the Plan, and subject to confirmation of this Plan, the Proponent will disclaim any distribution on account of the Proponent Claim.

Class 21. Class 21 is impaired under the Plan. Except to the extent that SunBelt Rentals agrees to a less favorable treatment in writing, SunBelt Rentals' lien against the Collateral will remain; and SunBelt Rentals will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 22. Class 22 is impaired under the Plan. Except to the extent that Coastal Door Systems, Inc. agrees to a less favorable treatment in writing, Coastal Door Systems, Inc.'s lien against the Collateral will remain; and Coastal Door Systems, Inc. will receive annual payments on account of its Allowed Claim, on a thirty (30)-year amortized basis, will accrue interest at 5.5%, and will mature and be due and payable in full ten (10) years after the Effective Date.

Class 23. Class 23 is impaired under the Plan. Except to the extent that U.S. Securities and Exchange Commission agrees to a less favorable treatment in writing, U.S. Securities and Exchange Commission's lien or claim or interest shall be paid from net recoveries of the Litigation Trust, in an amount on a pro-rata basis with other unsecured creditors, subject to Litigation Trust net recoveries and paid on the basis described in the Litigation Trust.

Class 24. Class 24 is impaired under the Plan. Except to the extent that General Unsecured Claims class agrees to a less favorable treatment in writing, General Unsecured Claims shall be paid from net recoveries of the Litigation Trust, in an amount on a pro-rata basis with other unsecured creditors, subject to Litigation Trust net recoveries and paid on the basis described in the Litigation Trust.

Class 25. Class 25 is impaired under the Plan. On the Effective Date, all existing Equity Interests in Debtors shall be cancelled, and extinguished.

Cramdown. In the event that any Impaired Class entitled to vote on the Plan does not accept the Plan in accordance with section 1129(a) of the Code, the Plan Proponent shall request that the Court confirm the Plan in accordance with section 1129(b) of the Code.

## IV. MEANS OF IMPLEMENTING THE PLAN

### A. Source of Payments

The Plan will be funded initially by at least $15,000,000.00 in exit financing obtained by Opportunity Fund I-SS. Shatar Capital Inc. ("Shatar") has already committed to provide $15,000,000.00 in new financing pursuant to the attached letter term sheet. Opportunity Fund I-SS is also pursuing potential financing from other interested lenders, all of whom provided term sheets for financing shortly before this bankruptcy case was filed (see attached exhibits). Opportunity Fund I-SS will secure the financing from Shatar or one of these other lenders to provide initial exit financing in the short-term to satisfy certain of the Debtors' existing claims, begin making payments on secured debt, and to develop the project to satisfy the remainder. The Financing will be secured by a super-priority priming lien on all of the Debtors' assets.

Within 5 years of the Effective Date, after making capital improvements and repairs necessary to make the properties marketable, Opportunity Fund I-SS will secure permanent capital either through a refinance of existing debt or through the public markets in order to complete the remaining Plan payments. With the Plan Supplement the Proponent will submit release prices for the Debtors' various real property parcels, in amounts in an appropriate value, and to ensure Secured Creditors remain adequately protected following payment to Secured Creditors on account of a specific parcel, and Secured Creditors' concurrent release of that parcel from its deed of trust.

### B. Post-Confirmation Management

Upon the Effective Date, all existing equity Interests in the Debtor shall be cancelled and extinguished, and Holders of existing equity shall not retain any Interests under the Plan. The Reorganized Debtor will be managed by Opportunity Fund I-SS. Opportunity Fund I-SS intends to take advantage of existing project expertise among current equity holders through developer and/or consulting agreements. Opportunity Fund I-SS also hereby discloses that it intends to enter into a management and consulting agreement with JT Bramlette and/or affiliates, who is currently managing the Debtor, for assistance in managing the assets.

**C. Risk Factors**

The Plan Proponent believes that the infusion of at least $15,000,000.00 from new exit financing will provide sufficient capital to insure the success of the Plan based on its reasonable assumptions. The Plan is conditioned upon Opportunity Fund I-SS securing financing to complete construction of the project once the Plan is confirmed, and there is a risk that Opportunity Fund I-SS will not secure the necessary exit financing.

**D. Executory Contracts and Unexpired Leases**

Opportunity Fund I-SS shall assume and take assignment of the following executory contracts or unexpired leases effective as of the Effective Date of this Plan, with the following cure amounts payable on the Effective Date of this Plan: the list of assumed executory contracts and unexpired leases shall be provided with the Plan Supplement.

Opportunity Fund I-SS will be fully obligated on such assumed contracts from and after the Effective Date, and all counterparties shall be likewise obligated on such assumed contracts under section 365 of the Bankruptcy Code.

**ANY NON-DEBTOR PARTY TO ANY EXECUTORY CONTRACT OBJECTING TO THE CURE AMOUNTS OR ADEQUATE ASSURANCE OF FUTURE PERFORMANCE AND THE ASSUMPTION AND ASSIGNMENT TO THE PROPONENT OF SUCH EXECUTORY CONTRACT OR UNEXPIRED LEASE MUST FILE AN OBJECTION IN THE BANKRUPTCY COURT AND SERVE IT ON THE DEBTOR AND THE PROPONENT AT LEAST FOURTEEN (14) DAYS BEFORE THE CONFIRMATION HEARING.**

Any counterparty to the executory contracts or unexpired leases listed in the Plan Supplement who fails to file an objection to the proposed cure amounts, adequate assurance, assumption or assignment prior to the entry of the Confirmation Order will be deemed to have accepted such cure amount in full satisfaction and cure of all defaults and other amounts due through and including the Effective Date, and will have no further claim against the Debtor or Opportunity Fund I-SS therefor; further such counterparties are deemed to accept the assumption

and have adequate assurance of future performance of their executory contract or unexpired lease by Opportunity Fund I-SS.

In the event of a dispute regarding (i) the amount of any payments to cure such a default, (ii) the ability of Opportunity Fund I-SS or any assignee to provide "adequate assurance of future performance," within the meaning of Bankruptcy Code section 365, under the executory contract or unexpired lease to be assumed, or (iii) any other matter pertaining to assumption, the cure payments required by Bankruptcy Code section 365(b)(1) shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. Assumption of any executory contract or unexpired lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, arising under any assumed executory contract or unexpired lease at any time before the effective date of the assumption.

If any executory contract has been inadvertently left off of the list of executory contracts to be assumed, the Proponent reserves the right to modify the Plan to cause Debtor to assume and assign to Opportunity Fund I-SS any such executory contract on appropriate notice to the counterparty to such contract, by filing an amended list of assumed executory contracts at any time up to and including the Effective Date.

## E. Tax Consequences of Plan

Subject to the limitations noted below, the following discussion is a summary of certain U.S. federal income tax consequences expected to result from the implementation of the Plan relevant to holders of Claims entitled to vote with respect to adoption of the Plan. This discussion is based on the Internal Revenue Code of 1986, as amended (the "Revenue Code"), in effect on the date of this Disclosure Statement, on U.S. Treasury Regulations in effect (or in certain cases, proposed) on the date of this Disclosure Statement, and on judicial and administrative interpretations thereof available on or before such date. All of the foregoing is subject to change, which change could apply retroactively and could affect the tax consequences described below. There can be no assurance that the Internal Revenue Service (the "IRS") will not take a contrary view with respect to one or more of the issues discussed below, and no ruling

from the IRS or opinion of counsel has been sought with respect to any issues that may arise under the Plan.

The following summary is for general information only and does not purport to address all of the U.S. federal income tax consequences that may be applicable, including to any particular Claim holder or Equity Interest. The tax treatment of a holder of a Claim or a Claim of Interest will vary depending upon such holder's particular situation. The following discussion does not address state, local or foreign tax considerations that may be applicable to the Debtor or to a holder of a Claim or an Equity Interest. This summary does not address tax considerations applicable to holders that may be subject to special tax rules.

No statement in this Disclosure Statement should be construed as legal or tax advice. The Debtor and its professionals do not assume any responsibility or liability for tax consequences that the holder of a Claim or an Equity Interest may incur as a result of the treatment afforded a Claim or Equity Interest under the Plan.

EACH HOLDER OF A CLAIM OR AN INTEREST IS URGED TO CONSULT ITS OWN TAX ADVISOR WITH RESPECT TO THE PLAN, INCLUDING ANY APPLICABLE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY HOLDERS OF CLAIMS OR EQUITY INTERESTS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED UNDER THE REVENUE CODE; (B) SUCH DISCUSSION IS BEING USED IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE DEBTOR; AND (C) HOLDERS OF CLAIMS OR EQUITY INTERESTS SHOULD SEEK ADVICE OF AN INDEPENDENT TAX ADVISOR BASED ON THEIR PARTICULAR CIRCUMSTANCES.

A. Federal Tax Consequences to the Debtor

As a limited liability company, the Debtor is a pass through entity for federal income tax purposes. As a result, any income tax liabilities or other attributes arising as a result of or in

connection with the execution of the Plan will generally flow through to the Debtor's members ("Shareholders").

Subject to certain limitations, any losses reported on previous tax returns were passed through to the Shareholders. These losses and any refunds or tax benefits attributable thereto are personal to the Shareholders, and are not available to creditors as an asset of the Debtor.

Some of the Debtor's debts may not be paid in full under the Plan and will therefore likely be deemed partially discharged for tax purposes even though the Plan does not provide for a bankruptcy discharge. As a result, the Debtor could recognize cancellation of indebtedness ("COD") income in an amount equal to any effectively discharged debt, to the extent the accrual of such debt has generated a tax deductible expense for, or was capitalized and included in the tax basis of assets of, the Debtor. Any such income (a) would likely be excluded from the Debtor's taxable income under Section 108(a)(1)(A) of the Code, (b) would not be passed through to the Shareholder, and (c) would not generate increases in the Shareholder's basis in their stock under Section 1367 of the Revenue Code. At the close of any year in which a forgiveness of any debt occurs, the Debtor would be required to reduce certain tax attributes by an amount up to the COD income excluded from taxable income. The tax attributes subject to reduction include: (a) certain net operating losses for the taxable year of the discharge and any net operating loss carryovers to that year (i.e., the aggregate amount of shareholders losses or deductions that are disallowed under Section 1366(d)(1) of the Code); and (b) the basis in the Debtors' assets. Holders of Interests with shares of Debtors that are subchapter S corporations should consult with their tax advisor regarding the cancellation of indebtedness and the possible reduction of the tax attributes of the Debtors under the Plan.

B. Federal Tax Consequences to Holders of Claims or Equity Interests

The federal income tax consequences of the implementation of the Plan to the holders of Allowed Claims or Equity Interests will depend on, among other things, the consideration to be received by the Claim holder, whether the Claim or Interest holder reports income on the accrual or cash method, whether the Claim or Interest holder receives distributions under the Plan in

more than one taxable year, and whether the Claim holder has previously taken any bad debt deduction or a worthless security deduction with respect to its Claim.

In general, a holder of an Allowed Claim should recognize gain or loss equal to the amount realized under the Plan in respect of its Claim less the holder's tax basis in the Claim. Any gain or loss recognized may be long-term or short-term capital gain or loss or ordinary income or loss, depending upon the nature of the Allowed Claim and the holder, the length of time the holder held the Claim and whether the Claim was acquired at a market discount. If the holder realizes a capital loss, the holder's deduction of the loss may be subject to limitation. The holder's tax basis for any property received under the Plan generally will equal the amount realized. The holder's amount realized should equal the sum of the Cash and the fair market value of any other property received by the holder under the Plan, less the amount (if any) treated as interest, as discussed below.

Because certain holders of Allowed Claims may receive Cash distributions after the Effective Date, the imputed interest provisions of the Code may apply and cause a portion of the subsequent distributions to be treated as interest. Additionally, because holders may receive distributions with respect to an Allowed Claim in a taxable year or years following the year of the initial distribution, any loss and a portion of any gain realized by the holder may be deferred. All holders of Allowed Claims are urged to consult their tax advisors regarding the possible application of (or ability to elect out of) the "installment method" of reporting with respect to their Claims.

Holders of Allowed Claims will recognize ordinary income to the extent that they receive Cash or property that is allocable to accrued but unpaid interest that the holder has not yet included in its income. If an Allowed Claim includes interest, and if the holder receives less than the amount of the Allowed Claim pursuant to the Plan, the holder must allocate the Plan consideration between principal and interest. Holders of Allowed Claims should consult their own tax advisors in this regard. If the Plan consideration allocable to interest with respect to an Allowed Claim is less than the amount that the holder has previously included as interest income,

the previously included but unpaid interest may be deducted, generally as a loss.

A holder who receives in respect of a Claim or an Interest an amount less than the holder's tax basis in the Claim or Interest may be entitled in the year of receipt (or in an earlier or later year) to a bad debt deduction in some amount under Section 166(a) of the Code, a loss under Section 165(a), or a worthless securities deduction under Section 165(g) of the Code. The rules governing the character, timing and amount of bad debt, loss, and worthless securities deductions place considerable emphasis on the facts and circumstances of the holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Claims or Interests, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

C. Backup Withholding Tax and Information Reporting Requirements

U.S. federal backup withholding tax and information reporting requirements generally apply to certain payments to certain non-corporate Claim holders. Information reporting generally will apply to payments under the Plan, other than payments to an exempt recipient. The Debtor may be required to withhold backup withholding tax from any payments made under the Plan, other than payments to an exempt recipient, if such Claim holder fails to furnish its correct taxpayer identification number or otherwise fails to comply with, or establish an exemption from, such backup withholding tax requirements.

THE ABOVE SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THIS DISCLOSURE STATEMENT IS NOT INTENDED, AND SHOULD NOT BE CONSTRUED, AS LEGAL OR TAX ADVICE TO ANY CREDITOR OR EQUITY INTEREST HOLDER. ALL HOLDERS OF CLAIMS OR INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS WITH RESPECT TO THE U.S. FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE IMPLEMENTATION OF THE PLAN.

### F. Valuation of the Debtors' Real Property

The Debtors real properties with improvements thereon are located on Daufuskie Island, SC, and consist of approximately 420 acres. Improvements on the properties include a hotel, a golf course, an equestrian center, a conference center, fifteen beach cottages (seven duplexes and one single unit), a restaurant and bar, a wellness facility, a pool, and a marina and embarkment facility. The properties are in need of significant repair, renovation, and improvement, and are currently not operating. Accordingly, valuation is difficult. The Proponent believes that the properties are worth more than the $19,000,000.00 that Odeon has indicated it will credit bid for the properties pursuant to the currently scheduled 363 sale. The Proponent will obtain an appraisal of the properties and submit a copy with the Plan Supplement.

## V. CONFIRMATION REQUIREMENTS AND PROCEDURES

### A. Who May Vote or Object

Any party in interest may object to the confirmation of the Plan if the party believes that the requirements for confirmation are not met.

A creditor or equity interest holder has a right to vote for or against the Plan only if that creditor or equity interest holder has a claim or equity interest that is both (1) allowed or allowed for voting purposes and (2) impaired.

In this case, the Plan Proponent believes that classes 4 – 25 are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan. The Plan Proponent believes that classes 1 – 3 are unimpaired and that holders of claims in these classes, therefore, do not have the right to vote to accept or reject the Plan.

#### 1. What is an Allowed Claim or an Allowed Equity Interest?

Only a creditor or equity interest holder with an allowed claim or an allowed equity interest has the right to vote on the Plan. Generally, a claim or equity interest is allowed if either (1) the Debtor has scheduled the claim on the Debtor's schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated, or (2) the creditor has filed a proof of claim or equity interest, unless an objection has been filed to such proof of claim or equity interest.

When a claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or equity interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

**2. What is an Impaired Claim or Impaired Equity Interest?**

As noted above, the holder of an allowed claim or equity interest has the right to vote only if it is in a class that is impaired under the Plan. As provided in § 1124 of the Code, a class is considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class.

**3. Who is Not Entitled to Vote?**

The holders of the following five types of claims and equity interests are not entitled to vote:

- holders of claims and equity interests that have been disallowed by an order of the Court;
- holders of other claims or equity interests that are not "allowed claims" or "allowed equity interests" (as discussed above), unless they have been "allowed" for voting purposes;
- holders of claims or equity interests in unimpaired classes;
- holders of claims entitled to priority pursuant to §§ 507(a)(2), (a)(3), and (a)(8) of the Code;
- holders of claims or equity interests in classes that do not receive or retain any value; and
- administrative expenses.

***Even If You Are Not Entitled to Vote on the Plan, You Have a Right to Object to the Confirmation of the Plan and to the Adequacy of the Disclosure Statement.***

**4. Who Can Vote in More than One Class?**

A creditor whose claim has been allowed in part as a secured claim and in part as an

unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject a Plan in each capacity, and should cast one ballot for each claim.

## B. Votes Necessary to Confirm the Plan

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class of creditors has accepted the Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by a cramdown on non-accepting classes, as discussed later in Section V.B.2.

### 1. Votes Necessary for a Class to Accept the Plan

A class of claims accepts the Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the class, who vote, cast their votes to accept the Plan.

A class of equity interests accepts the Plan if the holders of at least two-thirds (2/3) in amount of the allowed equity interests in the class, who vote, cast their votes to accept the Plan.

### 2. Treatment of Nonaccepting Classes

Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner prescribed by § 1129(b) of the Code. A plan that binds nonaccepting classes is commonly referred to as a cramdown plan. The Code allows the Plan to bind nonaccepting classes of claims or equity interests if it meets all the requirements for consensual confirmation except the voting requirements of § 1129(a)(8) of the Code, does not discriminate unfairly, and is fair and equitable toward each impaired class that has not voted to accept the Plan.

## C. Liquidation Analysis

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. The Plan provides for the payment of

all Secured Claims in full. Therefore, a liquidation analysis is not germane to secured creditors, although under the proposed Plan, they will be paid over time.

Furthermore, the Proponent believes that in a liquidation in chapter 7, none of the properties could be sold for more than is owed on the Odeon obligations encumbering these properties. The Debtors did not value the properties in their schedules. However, the current 363 sale process, in which Odeon has indicated its intent to credit bid $19 million, strongly suggests that the properties in their current condition could not be sold for more than is owed to Odeon. Thus, the Proponent believes that the result of a liquidation would be no recovery by any creditor other than Odeon.

### D. Feasibility

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor, unless such liquidation or reorganization is proposed in the Plan. With the Plan Supplement, or by filing in support of approval of this Disclosure Statement, the Proponent will provide financial and plan payment projections demonstrating how each of the creditors will be paid, how much, and when.

## VI. EFFECT OF CONFIRMATION OF PLAN

### A. No Discharge of Debtors

In accordance with § 1141(d)(3) of the Code, the Debtors will not receive any discharge of debt in this bankruptcy case.

### B. Modification of Plan

The Proponent may modify the Plan at any time before confirmation of the Plan. However, the Court may require a new disclosure statement and/or revoting on the Plan. The Proponent may also seek to modify the Plan at any time after confirmation only if (1) the Plan has not been substantially consummated and (2) the Court authorizes the proposed modifications after notice and a hearing.

**C. Final Decree**

Once the estate has been fully administered, as provided in Rule 3022 of the Federal Rules of Bankruptcy Procedure, the Plan Proponent, or such other party as the Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

## VII. OTHER PLAN PROVISIONS

**A. Retention of Jurisdiction**

Following Confirmation of the Plan, the Court shall retain and have all authority and jurisdiction as is allowed under the Code and other applicable law to enforce the provisions, purposes and intent of this Plan, including, without limitation, the Court shall retain jurisdiction over the Debtor, its property, and all other parties appearing in this Case as provided by this Plan or by further Order of the Court. The Court shall retain jurisdiction as provided in the Bankruptcy Code until entry of the final decree closing the bankruptcy Case and as set forth thereafter in the final decree. To the extent that may be necessary, Debtor may request that the Court enter a final order closing the Case but retaining jurisdiction for a limited purpose, including, but not limited to, presiding over any adversary proceedings or claim objections that may be pending at the time of the closing of the bankruptcy Case.

RESPECTFULLY SUBMITTED on this the 29th day of August 2017, at Columbia, South Carolina.

MCCARTHY, REYNOLDS, & PENN, LLC

By: /s/ Daniel J. Reynolds, Jr.

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