

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

9 HOUSTON LLC,

DEBTOR.

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CASE NO.: 17-35614-H4-11

CHAPTER 11

**DISCLOSURE STATEMENT WITH RESPECT TO
DEBTOR'S PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

DATED: December 29, 2017

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**DISCLOSURE STATEMENT WITH RESPECT TO
DEBTOR'S PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY
CODE**

9 Houston LLC, the debtor and debtor-in-possession in the above referenced chapter 11 case ("Debtor"), submits this Disclosure Statement with Respect to Debtor's Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code (the "Disclosure Statement"), in connection with the solicitation of acceptances of the Debtor's Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code (the "Plan") that is attached hereto as Exhibit "A".

Section 1: DEFINITIONS, INTERPRETATION AND COMPUTATION OF TIME

A Definitions

Except as otherwise defined in this Plan, in the terms and conditions set forth below, and as used in the Plan, capitalized terms have the meanings set forth and defined immediately below; or, as defined in the text of the Plan. Any term that is not otherwise defined herein, but that is used in the Bankruptcy Code or the Bankruptcy Rules, will have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

<i>Administrative Claim</i>	Means any right to payment constituting a cost or expense of administration of the Chapter 11 Case under Sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, (a) any actual and necessary costs and expenses of preserving the Estate or operating the business of the Debtor, (b) all compensation and reimbursement of expenses to the extent Allowed by the Bankruptcy Court under Sections 330, 331 or 503 of the Bankruptcy Code, and (c) fees or charges assessed against the estate of the Debtor under Section 1930 of Chapter 123 of Title 28 of the United States Code.
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<i>Administrative Claim Bar Date</i>	Means the date set by the Court by which Administrative Claims entitled to priority under 11 U.S.C. §§ 326, 327, 330, 503(b), 506(c) or 1103 asserted in this case, including substantial contribution Claims, must be filed.
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<i>Allowed Claim</i>	Means, with respect to Claims, (a) any Claim against the Debtor, proof of which is timely filed, or by order of the Bankruptcy Court is not or will not be required to be filed, (b) any Claim that
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has been or is hereafter listed in the Schedules as neither disputed, contingent or unliquidated, and for which no timely filed proof of claim has been filed, or (c) any Claim allowed pursuant to the Plan; provided, however, that with respect to any Claim described in clauses (a) or (b) above, such Claim shall be allowed only if (i) no objection to allowance thereof has been interposed within the applicable period of time fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules or the Bankruptcy Court, or (ii) such an objection is so interposed and such Claim shall have been allowed by a Final Order (but only if such allowance was not solely for the purpose of voting to accept or reject the Plan). Unless otherwise specified in the Plan or in a Final Order of the Bankruptcy Court allowing such claim, “Allowed” in reference to a Claim shall not include (a) interest on the amount of such Claim accruing from and after the Petition Date, (b) punitive or exemplary damages, or (c) any fine, penalty or forfeiture.

<i>Allowed Class ... Claim</i>	Means an Allowed Claim in the particular Class described.
<i>Ballot</i>	Means the form distributed to impaired classes of Claims and Equity Interests to indicate acceptance or rejection of the Plan.
<i>Bankruptcy Code</i>	Means Title 11 of the United States Code, as amended from time to time, as applicable to the Chapter 11 Case.
<i>Bankruptcy Court</i>	Means the United States District Court for the Southern District of Texas having jurisdiction over the Chapter 11 Case and, to the extent of any reference under Section 157 of Title 28 of the United States Code, the unit of such District Court under Section 151 of Title 28 of the United States Code, known as the United States Bankruptcy Court for the Southern District of Texas.
<i>Bankruptcy Estate</i>	Means the estate created under 11 U.S.C. § 541 upon the filing of this bankruptcy case. It also includes post-petition property acquired by the Debtor pursuant to provisions of 11 U.S.C. § 1115(a).
<i>Bankruptcy Rules</i>	Means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under Section 2075 of Title 28 of the United States Code, and any Local Rules of the Bankruptcy Court.

<i>Bar Date</i>	Means February 5, 2018 for all creditors except governmental units and April 10, 2018 for governmental units.
<i>Business Day</i>	Means any day other than a Saturday, Sunday or any “Legal Holiday” as defined in the Bankruptcy Code.
<i>Cash</i>	Means legal tender of the United States of America and equivalents thereof.
<i>CC3</i>	Means CC3 Post Oak Park Holdings, LLC, a Secured Claim Holder of the Debtor.
<i>Chapter 11 Case</i>	Means the case under Chapter 11 of the Bankruptcy Code, styled <i>In re 9 Houston, LLC</i> , Case No. 17-35614, currently pending in the United States Bankruptcy Court for the Southern District of Texas, Houston Division.
<i>Claim</i>	Has the meaning set forth in Section 101(5) of the Bankruptcy Code.
<i>Claims Registry</i>	Means the official list of Claims and Interests in this Chapter 11 Case maintained by the Debtor.
<i>Claim Holder</i>	Means the Holder of an Allowed Claim.
<i>Claims Objection Bar Date</i>	Means, for all Claims, sixty (60) days after the Effective Date or such later date as provided for by Final Order of the Bankruptcy Court, which Final Order may be entered without further notice.
<i>Class</i>	Means a category of Holders of Claims or Interests as set forth in the Plan.
<i>Class 1 Claim</i>	Means the Secured Claim of CC3
<i>Class 2 Claim</i>	Means the Allowed, secured tax claim of Harris County
<i>Class 3 Claim</i>	Means the General Unsecured Claims of Creditors.
<i>Class 4 Equity Interests</i>	Means the ownership interests held by Asenya of Texas, LLC
<i>Collateral</i>	Means any property of the Debtor that is subject to a valid and enforceable lien to secure a Claim.
<i>Confirmation</i>	Means the entry of the Confirmation Order on the docket of the Bankruptcy Court.

<i>Confirmation Date</i>	Means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket, within the meaning of Bankruptcy Rules 5003 and 9021.
<i>Confirmation Hearing</i>	Means the hearing held by the Bankruptcy Court to consider Confirmation of the Plan pursuant to Section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.
<i>Confirmation Order</i>	Means the order of the Bankruptcy Court Confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.
<i>Creditor</i>	Means the Holder of a Claim against the Debtor or the Estate.
<i>Debtor</i>	Means 9 Houston, LLC, in its capacity as a pre-petition Debtor in Possession in this Chapter 11 Case.
<i>Debtor's Counsel</i>	Means Nathan Sommers Jacobs, A Professional Corporation.
<i>Disallowed Claim</i>	Means a Claim, or any portion, that (a) has been disallowed by a Final Order; (b) is Scheduled at zero or as contingent, disputed, or unliquidated and as to which a proof of Claim bar date has been established but no proof of Claim has been filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order or otherwise deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order or otherwise deemed timely filed under applicable law; or (c) is not Scheduled and as to which a proof of Claim bar date has been established but no proof of Claim has been filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order or otherwise deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order or otherwise deemed timely filed under applicable law.
<i>Effective Date</i>	The effective date of this Plan is the first business day following the date that is fourteen days after the entry of the order of confirmation. If, however, a stay of the confirmation order is in effect on that date, the effective date will be the first business day after the date on which the stay of the confirmation order expires or is otherwise terminated.

<i>Estate</i>	Means all property of the bankruptcy estate of the Debtor in its Chapter 11 Case pursuant to Bankruptcy Code Section 541.
<i>File, Filed, or Filing</i>	Means file, filed, or filing with the Bankruptcy Court in the Chapter 11 Case, in accordance with the provisions of Rule 5005 of the Bankruptcy Rules.
<i>Final Distribution</i>	Means the last distribution of Cash or other proceeds from the liquidation of the Property of the Estate to Creditors under the Plan.
<i>Final Order</i>	Means a final appealable order of the Bankruptcy Court that has not been stayed or superseded. The right to file an appeal or the pendency of an appeal absent a stay shall not cause such order not to be a Final Order.
<i>General Unsecured Claim</i>	Means a Claim that is a Class 3 General Unsecured Claim.
<i>Governmental Unit</i>	Means a governmental unit as such term is defined in Bankruptcy Code Section 101(27).
<i>Harris County</i>	Means the following taxing authorities: Harris County, Harris County Flood Control District, Port of Houston Authority, Harris County Hospital District, Harris County Department of Education, Houston Community College System, the City of Houston, and Houston Independent School District
<i>Holder</i>	Means a person or entity that asserts a Claim against the Debtor's Estate or asserts an Interest in the Debtor
<i>Impaired</i>	Means, with respect to any Claim, "impaired," as defined in Bankruptcy Code Section 1124.
<i>Interest</i>	Means (a) the legal, equitable, contractual and other rights of any Person with respect to the Debtor or any other equity interest in the Debtor and (b) the legal, equitable, contractual or other rights of any Person to acquire or receive any of the foregoing.
<i>Interest Holder</i>	Means a holder of an Interest.
<i>Lien</i>	Has the meaning set forth in Section 101(37) of the Bankruptcy Code.

<i>Other Priority Non-Tax Claim</i>	Means Claims which are entitled to priority in accordance with Section 507(a) of the Bankruptcy Code (other than Administrative Expense Claims, Employee Wage Claims and Priority Tax Claims).
<i>Person</i>	Means a natural person, or any legal entity or organization including, without limitation, any corporation, partnership (general or limited), limited liability company, business trust, unincorporated organization or association, joint stock company, trust, association, governmental body (or any agency, instrumentality or political subdivision thereof), or any other form of legal entity.
<i>Petition Date</i>	Means September 30, 2017, the date on which the Debtor commenced its Chapter 11 Case.
<i>Plan</i>	Means the Debtor's Plan of Reorganization attached as Exhibit A.
<i>Plan Documents</i>	Means any documents referenced in the Plan that are intended to be executed pursuant to the Confirmed Plan.
<i>Plan Expenses</i>	Shall mean all actual and necessary costs and expenses incurred in connection with the administration of the Plan, and, to the extent authorized by the Plan, the Claims of any Professionals retained by the Reorganized Debtor.
<i>Plan Proponent</i>	Means the Debtor.
<i>Postpetition Interest</i>	<i>Means interest accruing after the Petition Date until the payment of an Allowed Claim</i>
<i>Professional</i>	Means any professional person employed in the Chapter 11 Case pursuant to Bankruptcy Code Sections 327 or 1103 or any professional or other entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to Bankruptcy Code Section 503(b)(4), or any attorney, accountant, appraiser, or broker engaged by the Reorganized Debtor for the purpose of assisting the Debtor in administering the Plan.
<i>Professional Fee Claim</i>	Means a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services after the Petition Date and prior to or on the Effective Date

<i>Property</i>	Means all property of the Estate of any nature whatsoever, real or personal, tangible or intangible, previously or now owned by the Debtor, or reacquired by the Estate, as defined in Bankruptcy Code Section 541.
<i>Purchaser</i>	Means Martin Fein Interests, Ltd.
<i>Reorganized Debtor</i>	Means Debtor 9 Houston, LLC as it will exist on and after the Effective Date and pursuant to the Plan.
<i>Retained Land</i>	Means the 2.019 acres of land retained by the Debtor after the sale of 3.378 acres to the Purchaser.
<i>Schedules</i>	Means the schedules of assets and liabilities, the list of Holders of Equity Interests, and the statements of financial affairs filed by the Debtor under Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, and all amendments and modifications thereto through the Confirmation Date.
<i>Scheduled</i>	Means, with respect to any Claim or Interest, the status and amount, if any, of such Claim or Interest as set forth in the Schedules
<i>Secured Claim</i>	Means a Claim that is secured by a lien on property in which the Estate has an interest or that is subject to setoff under Bankruptcy Code Section 553 of the Bankruptcy Code, to the extent of the value of the interest of the Holder of such a Claim in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code Sections 506(a) and, if applicable, 1129(b).
<i>Secured Tax Claim</i>	Means a Claim for property taxes that is secured by a lien on property in which the Estate has an interest to the extent of the value of the interest of the Holder of such a Claim in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code Sections 506(a) and, if applicable, 1129(b).
<i>Sold Land</i>	Means 3.378 acres of land sold pursuant to the bankruptcy court's oral ruling on December 12, 2017.
<i>Substantial Consummation</i>	Shall have the meaning given to that term in 11 U.S.C. § 1101(2). Substantial Consummation shall occur when the Sold Land is sold to the Purchaser.

<i>Unimpaired</i>	Means, with respect to any Claim or Equity Interest, that such Claim or Equity Interest is not Impaired.
<i>Unsecured Claim</i>	Means any Claim against the Debtor other than an Administrative Expense Claim, an Employee Wage Claim, an Other Priority Non-Tax Claim, a Priority Tax Claim, or a Secured Claim, including, but not limited to, Rejection Claims.
<i>Unsecured Creditor</i>	Means any creditor holding an Unsecured Claim.
<i>Voting Deadline</i>	Means the date set by the Bankruptcy Court as the last date on which Ballots may be submitted.
<i>Voting Record Date</i>	Means 5:00 p.m. on the Business Day immediately preceding the Voting Deadline.

B Interpretation; Application of Definitions and Rules of Construction

For purposes of the Plan, unless otherwise provided herein: (i) whenever from the context it is appropriate, each term, whether stated the singular or the plural, will include both the singular and the plural; (ii) unless otherwise provided in the Plan, any reference in the Plan to a contract, instrument, release, or other agreement or document being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions; (iii) a reference in the Plan to an existing document or exhibit Filed or to be Filed means such document or exhibit, as it may have been or may be amended, modified, or supplemented pursuant to the Plan; (iv) any reference to an entity as a Holder of a Claim includes that entity's successor assigns, and affiliates; (v) all references in the Plan to sections, articles, and exhibits are references to sections, articles, and exhibits of or to the Plan; (vi) the words "herein," "hereunder," and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan; (vii) captions and headings to articles and sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (viii) subject to the provisions of any contract, articles of incorporation, code of regulations, similar constituent documents, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules, and (ix) the rules of construction set forth in Bankruptcy Code Section 102 shall apply.

C Computation of Time

In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

D Incorporation of Documents by Reference

This Disclosure Statement incorporates by reference certain documents relating to the Debtor that are not presented herein. The following documents are incorporated by reference in their entirety:

- Debtor's Schedules filed on September 30, 2017 ECF Doc. 1 including all amendments filed prior to the date set for confirmation;
- Debtor's Statement of Financial Affairs ("SOFA") filed on September 30, 2017 ECF Doc 1, including all amendments thereto filed prior to the date set for confirmation;
- Debtor's Monthly Operating Reports filed to the date set for confirmation.

Section 2: INTRODUCTION AND SUMMARY

The following introduction and summary is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this disclosure statement. The Plan contemplates that the Debtor will pay its creditors 100% of the Allowed Amount of their Claims. Funds for such payments will come from the sale of a portion of the Debtor's real property, and funds from the refinancing on the remaining portion of the Debtor's Property.

The Allowed Class 2 Claim of certain taxing authorities will be paid at closing of the sale to the Purchaser.

The Claims of General Unsecured Creditors shall be paid in full, with interest. Funds for such payments will come from the sale of a portion of the Debtor's real property, and funds from the refinancing on the remaining portion of the Debtor's Property.

I.

NOTICE TO HOLDERS OF CLAIMS

The purpose of this Disclosure Statement is to enable you, as the holder of a claim against the Debtor, to make an informed decision with respect to the Plan prior to exercising your right to accept or reject the Plan.

The United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “Bankruptcy Court”) has set a hearing on _____, 2018, at _____ a. m. Central Standard Time to consider the adequacy and approval of this Disclosure Statement (the “Disclosure Statement Hearing”). You have until 5:00 o’clock p.m. Central Standard (Houston) Time on _____, 2018, to file a written objection to this Disclosure Statement. If you file a written objection to this Disclosure Statement, you must also serve a copy of the written objection on counsel for the Debtor, Jarrod B. Martin of Nathan Sommers Jacobs, and your objection must be received by Mr. Martin on or before _____, 2018, at 5:00 p.m. Central Standard (Houston) Time. You may send your written objection to Mr. Martin via delivery or mail at 2800 Post Oak Boulevard, 61st Floor, Houston, Texas 77056, via facsimile at (713) 892-4800, or via email at jmartin@nathansommers.com.

At the Disclosure Statement Hearing, the Court will determine whether this Disclosure Statement contains information, of a kind and in sufficient detail, adequate to enable the holders of claims against the Debtor to make an informed judgment with respect to acceptance or rejection of the Plan. **THE BANKRUPTCY COURT’S APPROVAL OF THIS DISCLOSURE STATEMENT, IF APPROVAL IS GRANTED, DOES NOT CONSTITUTE EITHER A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.**

You should read this Disclosure Statement in its entirety prior to voting on the Plan. No solicitation of votes may be made except pursuant to this Disclosure Statement, and no person has been authorized to utilize any information concerning the Debtor or its business other than the information contained in this Disclosure Statement. You should not rely on any information relating to the Debtor and its estate, other than that contained herein.

The sources of the information in this Disclosure Statement are the Debtor and its officers, the financial documents of the Debtor, and various pleadings and claims in the Debtor’s Chapter 11 case. The accounting method used in this Disclosure Statement and its supporting documents is the cash method of accounting, unless specifically noted.

READ THIS DOCUMENT CAREFULLY IF YOU WANT TO KNOW:

- Who can vote or object.
- The treatment of your claim is (*i.e.*, what your claim will receive if the plan is confirmed).
- The history of the debtor and significant events during the bankruptcy.
- How the court will decide whether to confirm the plan.
- The effect of plan confirmation.

- Whether this plan is feasible.

II.

GENERAL INFORMATION ABOUT THE DEBTOR

A. Description and History of the Debtor's Business.

The Debtor is a single asset real estate entity with a single owner, Asenya of Texas, LLC.

In June of 2013, the Debtor was formed to pursue the acquisition of property in Houston, Texas. The two asset classes pursued were: (1) sites for a master planned communities; and (2) sites inside the 610 loop that would allow for high rise construction. Ultimately, the Debtor acquired the Property, utilizing loan proceeds obtained from CC3. The purchase included a four-month due diligence period and 60 day closing period.

In accordance with the Debtor's loan agreement, the Debtor was required to demolish the 102 town homes by the end of February 2015. Demolition began in January 2015 after the issuance of the demolition permit on January 13th, and was completed approximately March 3, 2015.

As the Debtor moved through the condominium design process between 2014 and the beginning of 2016, the project slowed due to the drop in the price of oil. The Debtor determined it was not feasible to take the condominium development to market. The Debtor researched alternative development opportunities. In the spring of 2016, the Debtor began initial discussions with Interfin, a prominent Houston based development company with over 30 years of experience in the industry. During this 6-month process, the Debtor began the design of a 32 story multi-family high rise. The schematic design phase was completed and received initial construction bids in early 2017. The Debtor intended to complete the construction drawings and begin construction in the first quarter of 2018.

B. Insiders of the Debtor and Management of the Debtor Before and During the Bankruptcy.

The Debtor's current management is comprised of David Schmidt, the manager of the Debtor. Mr. Schmidt was the pre-petition manager of the Debtor. The Debtor anticipates that Mr. Schmidt will continue to act in this role until and after the Effective Date. The Debtor is a single asset real estate entity with a single owner, Asenya of Texas, LLC. Mr. Schmidt and Asenya of Texas, LLC constitute insiders of the Debtor.

C. Default of Loan.

In June of 2014, CC3 and the Debtor began negotiations regarding a loan to purchase the Property. Subsequently, on August 11, 2014, the Debtor obtained a \$21,000,000.00 loan from CC3 that consisted of the following:

1. \$17,000,000 land acquisition loan
2. \$2,000,000 Interest Reserve Holdback
3. \$2,000,000 Design Expense Holdback

The loan provided an initial loan period of 2 years, with a 6-month extension. On August 31, 2016, the Debtor and CC3 entered into the First Loan Modification and Loan Extension Agreement, which extended the maturity to February 11, 2017. On February 11, 2017, both parties entered into the 2nd Loan Modification and Extension Agreement, extending the maturity date to February 28, 2018. The Debtor was unable to meet the full obligations set forth in the 2nd Loan Modification and Extension Agreement. In April of 2017, CC3 received partial payments from the Debtor totaling \$1 Million, with no additional payments made thereafter. On June 26, 2017, the lender's asset manager requested a meeting in Houston with the Debtor's representative. The Debtor was advised CC3 would pursue all available remedies if the economic default was not cured by June 30, 2017. The Debtor did not make the requisite payments, and on July 7, 2017, CC3 notified the Debtor of its default. On August 11, 2017, CC3 provided a notice of foreclosure to the Debtor, with a foreclosure sale scheduled for September 5, 2017. Between July 23, 2017 and August 23, 2017, CC3 withdrew guaranty funds held by 603 Company LLC, an affiliate of the Debtor, which was governed by a Controlled Deposit Agreement dated August 11, 2014. These funds were used to offset outstanding interest and expenses. Due to Hurricane Harvey, CC3 postponed the Foreclosure sale and on September 12th, CC3 set another foreclosure sale for October 3rd, 2017. On September 30th, the Debtor filed its chapter 11 bankruptcy petition.

D. Pre-Petition Litigation.

On September 16, 2016, the Debtor filed its original petition against Harris County Appraisal District ("HCAD"), Cause No. 2016-68055 in the 164th District Court of Harris County, Texas. The petition constituted an appeal of the Harris County Appraisal Review Board's August 22, 2016 Order Determining Protest concerning the Property. On January 1, 2016, the Debtor owned the Property, which is carried on HCAD's appraisal rolls under account number 0985710000005, with a property description of LT. 2A, Blk. 1 POST OAK PARK SEC. 1.

HCAD's noticed value was \$23,508,900 for the Property. The Harris County Appraisal Review Board's value totaled \$23,508,900. Through this suit, the Debtor sought to reduce HCAD's appraised value, thus reducing the Debtor's tax liability. The Debtor is retaining this cause of action pursuant to the Plan. The Debtor intends to retain Vinson & Elkins, LLP, its prepetition tax counsel, to pursue this litigation.

III.

THE DEBTOR'S PROPERTY

A. 5.396 Acres of Undeveloped Real Property

The Property consists of a tract of land containing approximately 5.396 acres in size and located just inside the 610 loop in Houston, Texas. An aerial map of the Property is attached as Exhibit G. The common address is 1317 Post Oak Park Drive and is abutted to the north by Buffalo Bayou, the South by River Hollow Lane, the east by residential town homes, and the west by Post Oak Park Drive. The site was the location of the Post Oak Park Town Home Association, which consisted of 102 town homes. These have since been demolished with only the paving and foundations remaining. The site has unobstructed views of the downtown Houston skyline above 60'.

IV.

CLAIMS AGAINST THE DEBTOR

The Debtor's liabilities are broken down and summarized in Sections A through D below.

A. Secured Claims.

The Debtor listed CC3 on Schedule D of its schedules with a secured claim in the amount of \$17,474,382.16. The debt is secured by 5.397 acres of undeveloped property located at 1317 Post Oak Park Drive in Houston, Texas.

The Debtor listed Harris County on Schedule D of its schedules with a secured claim in the amount of \$494,448.96 for tax years 2015 and 2016. The total estimated tax debt (assuming a hypothetical sale in June of 2018) is \$1,335,323.46, which includes 2017 taxes and estimated pro-rated 2018 taxes. The Debtor disputes these liabilities via pre-petition litigation initiated against Harris County Appraisal District, so the final amount owed may be reduced.

B. Non-Priority Unsecured Claims.

The Debtor has listed unsecured creditors on its Schedule F totaling \$685,325.25.

V.

DEBTOR'S CHAPTER 11

A. Proceedings in the Case.

On September 30, 2017, the Debtor filed its voluntary petition under Chapter 11 of the United States Code. On October 24, 2017, the Debtor filed its Application for Employment of Nathan Sommers Jacobs as Attorneys for the Debtor-in-Possession [Docket No. 10], which was granted on October 27, 2017. On November 6, 2017, the Debtor filed its Application to Employ Jones Lang LaSalle Brokerage, Inc. as Real Estate Broker. [Docket No. 16]. The application was granted on December 4, 2017. On November 27, 2017, the Debtor filed an Emergency Motion to Sell Approximately 3.378 Acres of Land Located in Houston, Harris County, Texas, free and clear of liens, claims and encumbrances. [Docket No. 18]. The Court set an emergency hearing on this motion, the objection of CC3, and the related supplements. An evidentiary hearing was held on the motion to sell 3.378 acres. The Court approved the sale of the property to Martin Fein Interests, Ltd. effective December 12, 2017.

On December 20, 2017, the Court issued a memorandum opinion relating to the sale of the Property. A copy of the opinion is attached as Exhibit E.

B. Sale of the Property

The Debtor seeks to sell approximately 3.378 acres of land to Martin Fein Interests, Ltd. for \$19,865,000. The executed sale agreement is attached as Exhibit F. The proceeds of the sale will fund the plan. The sale agreement includes the following pertinent provisions:

- The sale price is \$19,865,000.
- Martin Fein Interests, Ltd. has a 90-day due diligence period. Martin Fein Interests, Ltd. may unilaterally terminate the agreement and receive a refund of its \$150,000 earnest money deposit, forfeiting \$100. Upon the expiration of the due diligence period, the \$150,000 becomes non-refundable. An additional \$150,000 in earnest money becomes due, and is also non-refundable. The buyer must then close within 30 days.
- Martin Fein Interests, Ltd. may extend the closing date from 120 days for two 30-day periods by making additional \$100,000 non-refundable deposits. Under this scenario, the closing date on the sale would be, at the latest, June 11, 2018.

The Debtor has confidence that the sale to Martin Fein Interests, Ltd. will close. At the hearing on the sale, Martin Fein, owner of Martin Fein Interests, Ltd., testified that when his company goes under contract to purchase property, they close 98% of the time. The buyer anticipates spending \$300,000 to \$500,000 in due diligence expenses, and could have as much as \$1 million at stake in the sale prior to closing.

VI.

SUMMARY OF PLAN

A. What is the Purpose of the Plan of Reorganization?

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

B. Classification of Claims.

There are four classes of claims and/or interests under the Plan as follows:

- | | |
|----------------|--|
| <u>Class 1</u> | This class consists of the allowed, secured claim of CC3. |
| <u>Class 2</u> | This class consists of the allowed, secured tax claim of Harris County taxing authorities. |
| <u>Class 3</u> | This class consists of the allowed non-priority unsecured claims. |
| <u>Class 4</u> | This class consists of the allowed equity security holder. |

Classes 1 - 4 are impaired under the plan. Class 4 consists of equity security holders. Thus, Class 4 will not be entitled to vote on the plan.

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class. One category of such claims are administrative expenses are costs or expenses of administering the Debtor's chapter 11 case, which are allowed under § 507(a)(2) of the Code. Fees owed to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) are another category of such administrative expenses. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment. The administrative expenses will be paid on the Effective Date.

C. Treatment of Classes of Claims.

Class 1 – Allowed Secured Claim of CC3 Post Oak Park Holdings, LLC: Class 1 is impaired. The Allowed Secured Claim of CC3, as determined by the Court, will be paid as follows:

(a) The Allowed Claim of CC3, including all accrued but unpaid post-petition interest and any fees or costs allowed by the Court under 506(b) of the Bankruptcy Code shall be added to the amount of the Allowed Secured Claim of CC3.

(b) The Reorganized Debtor may, but is not required to, make monthly interest only payments at a rate of 11% per annum.

(c) The Allowed Claim of CC3 shall be paid at closing from the sale proceeds from the sale of the Property to the Purchaser. CC3's lien shall either be extinguished if its debt is paid in full from the sale proceeds, or remain attached to the Retained Land if not paid in full.

(d) If the Debtor fails to pay the Allowed Claim of CC3 in full by July 1, 2018, CC3 may post for foreclosure sale the Retained Land or the Property for a foreclosure date of August 7, 2018 without further order of the Court. Any proceeds received from a foreclosure sale shall constitute full satisfaction of its debt. In the event CC3 conducts a foreclosure sale of the Property and the sale price exceeds the amount of the allowed claim of CC3, those funds shall be remitted to the Debtor. The Debtor will use those funds to pay administrative claims first, and then pay unsecured creditors.

Class 2 – Allowed Secured Ad Valorem Tax Claim of Harris County Tax Authorities: Class 2 is impaired and pertains to the allowed secured claim of Harris County. Harris County's allowed secured claim will be paid in full at closing of the sale of the Property. Post-petition interest will accrue at the rate of twelve percent (12%) per annum from the Petition Date until the confirmation date and thereafter, plan interest at the rate of twelve percent (12%) per annum shall accrue on the entire balance until the tax debt is paid in full. The 2018 taxes relating to the sold property will be paid by the Purchaser when such taxes ordinarily come due.

In the event the Property does not close by August 7, 2018 and the property is foreclosed upon, the taxes may be paid at any foreclosure sale or paid by CC3 directly. If, for whatever reason, CC3 chooses not to foreclose, the Debtor shall begin making equal, consecutive monthly installments, together with post-petition interest at the rate of twelve percent (12%) per annum, with the first payment being made on September 1, 2018 and continuing until such time as the tax debt is paid in full; however, the monthly payments cannot extend beyond five years from the Petition Date as provided in the Bankruptcy Code.

The Debtor shall have sixty (60) days from the Effective Date to object to Harris County's claim; otherwise, Harris County's claim shall be deemed as an allowed secured claim in the amount of its Proof of Claim. Harris County shall retain its statutory lien securing its pre-petition and post-petition tax debts until such time as the tax debt is paid in full. Debtor shall pay all post-petition ad valorem tax liabilities (tax year 2018 and subsequent tax years) owing to Harris County in the ordinary course of business as such tax debt comes due and prior to said ad valorem taxes becoming delinquent without the need of Harris County to file an administrative expense claim and/or request for payment.

Should the Debtor fail to make any payments as required in this Plan, Harris County shall provide written notice of that default by sending written notice by certified mail to Debtor and Debtor's attorney advising of that default, and providing the Debtor with a period of fifteen (15) days to cure the default. In the event that the default is not cured within fifteen (15) days, Harris County may, without further order of this Court or notice to the Debtor, pursue all of their rights and remedies available to them under the Texas Property Tax Code to collect the full amount of all taxes, penalties and interest owed. Additionally, the failure to timely pay post-petition and/or post-confirmation taxes while the Debtor is still paying any pre-petition debt, shall be considered an event of default. Harris County shall provide Debtor with written notice of that default and a fifteen (15) day opportunity to cure said default. In the event that the Debtor fails to timely cure the post-petition and/or post-confirmation default, Harris County may, without further order of this court or notice to the Debtor, pursue all of their rights and remedies available to them under the Texas Property Tax Code to collect the full amount of all taxes, penalties and interest owed. The Debtor shall be entitled to no more than three (3) Notices of Default. In the event of a fourth (4th) default, Harris County may pursue all rights and remedies available to it under the Texas Property Tax Code in state district court without further order of this court or further notice to the Debtor.

Class 3 – Allowed Non-Priority Unsecured Claims: Holders of allowed, Class 3 Claims will receive payment in full in cash on the date of closing on a loan by a third party lender sufficient to pay off the balance of all allowed Class 3 Claims, but no later than August 6, 2018. In the event CC3 conducts a foreclosure sale and there are surplus funds, after the payment of administrative claims, the Debtor shall pay Allowed Class 3 Claims any surplus funds up to the amount of the Allowed Class 3 Claims, Class 3 claims will accrue interest at the federal judgment interest rate.

Class 4 – Allowed Equity Security Holders: The holders of allowed equity interests will retain their equity in the Reorganized Debtor.

D. Implementation of the Plan.

On the Effective Date, the Debtor will execute all other documents necessary to the implementation of the Plan and the Order of Confirmation. The primary documents to be executed are an amendment to the Debtor's articles of organization as required by 11 U.S.C. § 1123(a)(6). The Reorganized Debtor will continue in its attempts to consummate the sale of the Property and take out financing to pay all classes in full. In the event that the Reorganized Debtor is unable to either obtain take out funding or sell the Property in order to pay off the Allowed Class 1, Class 2, and Class 3 Claims in full in accordance with the terms of this Plan, CC3 shall be entitled to exercise its state law rights under its deed of trust, and may set a foreclosure sale for August 7, 2018 without further order of the Court. In the event the sale of the Property exceeds the payoff for Class 1 and Class 2 claims, the remaining surplus shall be distributed to the Debtor. The Debtor shall then immediately pay administrative expense claims until paid in full, with any remaining amounts paid to Class 3 Claims. If there is any remaining surplus, it shall be paid to Allowed Class 4 Claims.

The purchase and sale agreement for the sale of approximately 3.378 acres of land in Houston, Harris County, Texas, is incorporated by reference into the Plan. A copy of the Purchase and the sale agreement includes the following pertinent provisions:

- The sale price is \$19,865,000.
- Martin Fein Interests, Ltd. has a 90-day due diligence period. Martin Fein Interests, Ltd. may unilaterally terminate the agreement and receive a refund of its \$150,000 earnest money deposit, forfeiting \$100. Upon the expiration of the due diligence period, the \$150,000 becomes non-refundable. An additional \$150,000 in earnest money becomes due, and is also non-refundable. The buyer must then close within 30 days.
- Martin Fein Interests, Ltd. may extend the closing date from 120 days for two 30-day periods by making additional \$100,000 non-refundable deposits. Under this scenario, the closing date on the sale would be, at the latest, June 11, 2018.

The Debtor secured a commitment for a loan from Eider Capital for up to \$4.5 million, although the Debtor has the option to borrow less if necessary. This amount includes holdbacks for interest payments, property taxes, and insurance. The loan with Eider Capital is subject to the following contingencies: (1) loan proceeds must be used to repay CC3 in full, to the extent necessary; (2) approval of a plan of reorganization; (3) a consummated sale to the Purchaser; (4) dismissal of this bankruptcy case; and (5) execution of loan documents mutually acceptable to the Debtor and Eider Capital. This is without prejudice to the Debtor seeking other sources of funding in addition to, or in alternative to, the loan commitment of Eider Capital.

E. Other Provisions of the Plan.

1. Provisions Governing Distribution.

- (a) Requirement for Allowance of Claims and Equity Interests. No payment or other distribution will be made on account of any claim or Equity Interest that is not “allowed”. The plan defines an “Allowed Claim” as: (i) a Claim which has been allowed by Final Order of the Court; (ii) a Claim timely filed with the Clerk of the Court or scheduled as other than unliquidated, disputed or contingent by the Debtor in its Schedules and Statement of Financial Affairs or Amended Schedules and Amended Statement of Affairs filed with the Court, as to which Claim no objection to the allowance thereof has been timely filed, or as to which Claim either an objection to the Claim or an application to amend the Schedules with respect to such Claim has resulted in the allowance of the Claim, in whole or in part, by Final Order of the Court; (iii) a Claim whose amount is established as a provision of the Plan; or (iv) a right to payment from the Estate Property for compensation or reimbursement as approved by the Court by Final Order. The Plan defines “Final Order” as an order or judgment which is no longer subject to appeal or review. Any order or judgment which is pending a timely filed motion to correct or amend the order or judgment pursuant to F.R.B.P. 7052 or 9023 or which is pending a timely filed notice of appeal pursuant to F.R.B.P. 8002 shall not be considered a Final Order until

after all such motions and appeals are exhausted. The bar date deadline for filing proofs of claim is set at February 5, 2018 for all creditors except governmental units and April 10, 2018 for governmental units, and these will serve as the bar dates.

- (b) Date and Delivery of Distribution. Distributions of cash under the plan will be made by the Reorganized Debtor on the later of the date provided for such distribution under the Plan or the date upon which a claim becomes an Allowed Claim (the “Distribution Date”).
- (c) Means of Cash Payment and Time Bar. Cash payments to be made by the Reorganized Debtor pursuant to the Plan will be made in U.S. funds by check drawn on a domestic bank, or by wire transfer. Checks issued in respect of Allowed Claims will be null and void if not cashed within 90 days of the date of issuance thereof. Any claim in respect of such a voided check must be made on or before the later of the first anniversary of the distribution date or 90 days after the date of issuance of such check. After such date, all claims in respect of void checks will be discharged and forever barred.

2. Provisions for Resolving Contested Claims.

- (a) Objection Deadline. Creditors must have filed their proofs of claims on or before the applicable Bar Dates, after which date any proof of claim filed will have no effect on the Plan and no right to participate with other creditors under the Plan. Objections to claims shall be filed with the Bankruptcy Court and served upon the holders of each of the claims to which objections are made as soon as practicable, but in no event later than ninety (90) days after the applicable Bar Dates or the filing of the proof of claim, whichever is later.
- (b) Notwithstanding any other provision of the Plan, the Holders of contested claims that are in dispute and pending allowance shall receive no payment or distribution until and unless this Court enters an order allowing such claim in a liquidated sum and any post-judgment motions and appeals with respect to such order are resolved and exhausted.

3. Miscellaneous Provisions.

- (a) Recognition of Guarantee and Subordination Rights. The classification and manner of satisfying all claims under this plan takes into consideration (a) the existence of guarantees by the Debtor of obligations of other persons, (b) the fact that the Debtor may be a joint obligor with another person or persons with respect to the same obligation, and (c) any contention by holders of claims against the Debtor that the Claims of other holders are subordinated by contract or otherwise to their Claims. All Claims against the Debtor are based upon the express requirement and terms of this Plan that any such guarantees,

subordination claims or joint obligations shall be discharged in the manner provided in this Plan, and which holders of such Claims shall be entitled to only one distribution with respect to any obligation of the Debtor. All Claims against the Debtor, and all rights and claims between or among holders of Claims relating in any manner whatsoever to Claims against the Debtor, based upon any claimed subordination rights or rights to avoid payments or transfers of property pursuant to any provision of the Bankruptcy Code or other applicable law, shall be deemed satisfied by the distributions under this Plan to holders of claims hereunder and shall not be subject to levy, garnishment, attachment, or like legal process by any holder of a Claim by reason of any claim subordination rights or otherwise, except as otherwise provided herein, so that each holder of a Claim shall have and receive the benefits of the distributions in the manner set forth in this plan.

- (b) Injunction and Stay of Proceedings. Unless otherwise specified in the Plan, all Entities who have held, hold, or may hold Claims and all Entities who have held, hold, or may hold Interests against the Debtor are permanently enjoined on and after the Effective Date from: (a) commencing or continuing in any manner any action or other proceeding of any kind against the Debtor and/or the Reorganized Debtor with respect to any such Claim against the Debtor; (b) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Debtor and/or the Reorganized Debtor with respect to any such Claim; (c) creating, perfecting, or enforcing any encumbrance of any kind against the Debtor and/or the Reorganized Debtor or against property of the Debtor and/or the Reorganized Debtor with respect to any such Claim; (d) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Debtor and/or the Reorganized Debtor or against property of the Debtor and/or the Reorganized Debtor with respect to any such Claim; (e) conducting any form of discovery from the Debtor and/or the Reorganized Debtor with respect to any such Claim; and/or (f) harassing the Debtor and/or the Reorganized Debtor. Unless otherwise provided in the Plan, all injunctions or stays set forth in Sections 105 and 362 of the Bankruptcy Code (11 U.S.C. §§ 105 and 362) shall remain in full force and effect until the Effective Date of the Plan rather than the Confirmation Date. However, this shall not be construed as a limitation of the permanent injunctions provided for in the Plan.
- (c) Discharge of the Debtor. If the Plan is confirmed, the provisions of the Plan will bind the Debtor, the Reorganized Debtor, and all holders of Claims against the Debtor and Reorganized Debtor, whether they accept the plan. The distributions provided for in the Plan will be in exchange for and in complete satisfaction, discharge and release of all Claims, including any Claim or interest after the petition date against the Debtor, the Estate Property, or any of the Debtor's assets or properties. Upon the Effective Date, the Debtor shall receive a chapter 11 discharge under the Plan.

- (d) **Property of the Estate/Payments.** Only those assets transferred to the Reorganized Debtor by the Debtor under the terms of the Plan shall constitute Property of the Estate, and no other. The payments required under the Plan are the only payments to be made to the Holders of Allowed Claims, and no others, in satisfaction of such Allowed Claims.
- (e) **U.S. Trustee Requirements.** Until this Case is closed, the Reorganized Debtor shall be responsible for timely payment of fees incurred pursuant to 28 U.S.C.
- (f) **§ 1930(a)(6) as provided for in the Plan.** After confirmation, the Reorganized Debtor shall file with the Court and serve upon the United States Trustee a quarterly financial report for each quarter or portion thereof that the case remains open in a format prescribed by the United States Trustee and provided to the Debtor by the United States Trustee.
- (g) **Retained Causes of Action.** The Plan provides for the retention of all causes of action relating to any dispute with Harris County. In accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor shall retain (or shall receive from the Debtor, as applicable) and may enforce all rights to commence and pursue any and all causes of action belonging to the Estate, whether arising before or after the Petition Date. The Reorganized Debtor may pursue such causes of action, as appropriate, in accordance with the best interests of the Reorganized Debtor. The Reorganized Debtor shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any cause of action against Harris County, and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

4. Consummation of the Plan.

- (a) **Retention of Jurisdiction.** The plan provides that the Court shall retain exclusive jurisdiction over the Debtor's chapter 11 case to determine, among other things, all disputes relating to claims, adversary proceedings, all issues presented by, arising or stated in the plan, and all matters pending on the Effective Date.
- (b) **Modification of the Plan.** The Debtor and/or the Reorganized Debtor may amend or modify the plan before or after confirmation in accordance with the provisions of Section 1127 of the Bankruptcy Code.
- (c) **Revocation of the Plan.** The Debtor may revoke and withdraw the plan at any time prior to confirmation.

F. Federal Income Tax Consequences of the Plan on the Debtor and the Creditors.

1. Introduction.

The following discussion summarizes certain significant U.S. federal income tax consequences of the transactions that are described herein and in the Plan that affect holders of Claims or Interests and the Debtor. This summary is based upon the Internal Revenue Code of 1986, as amended (the “Tax Code”), the Treasury Department regulations promulgated thereunder (the “Treasury Regulations”), judicial authority and current administrative rulings and practice now in effect. These authorities are all subject to change at any time by legislative, judicial or administrative action, and such change may be applied retroactively in a manner that could adversely affect holders of Claims or Interests and the Debtor. The federal income tax consequences to any particular holder of a Claim or Interests may be affected by matters not discussed below. For example, the impact of the Plan under any foreign, state or local law is not discussed. Further, this summary generally does not address the tax consequences to Claim holders who may have acquired their Claims from the initial holders nor does it address the tax considerations applicable to Claim holders or Interest holders that may be subject to special tax rules such as financial institutions, insurance companies, dealers in securities or currencies, tax-exempt organizations or taxpayers subject to the alternative minimum tax. To the extent that the summary of payments to Claimholders in this section conflicts with other parts of this Disclosure Statement or the Plan, the discussion in such other parts of the Disclosure Statement or the Plan shall govern.

NO RULING WILL BE SOUGHT FROM THE INTERNAL REVENUE SERVICE (the “IRS”), AND NO OPINION OF COUNSEL HAS BEEN OR WILL BE SOUGHT, WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN. THE DISCUSSION SET FORTH BELOW IS FOR GENERAL INFORMATION ONLY. THIS DESCRIPTION DOES NOT COVER ALL ASPECTS OF FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO THE DEBTOR OR HOLDERS OF CLAIMS OR INTERESTS. EACH CLAIM AND INTEREST HOLDER IS URGED TO CONSULT WITH ITS OWN TAX ADVISER REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN.

2. Federal Income Tax Consequences to Debtor.

Generally, a taxpayer recognizes cancellation of indebtedness (“COD”) income upon satisfaction of its outstanding indebtedness for less than its adjusted issue price. The amount of COD income is, in general, the excess of (i) the adjusted issue price of the indebtedness satisfied, over (ii) the issue price of any new indebtedness issued by the taxpayer, the amount of cash and the fair market value of any other consideration (including stock of the taxpayer) given in exchange for the indebtedness satisfied. However, COD income is not included in gross income to a debtor if the discharge occurs in a Title 11 case or the discharge occurs when the debtor is insolvent. Rather the debtor generally must, after determining its tax for the taxable year of

discharge, reduce its net operating losses (“NOL(s)”) and any capital loss carryovers first and then, as of the first day of the next taxable year, reduce the tax basis of its assets by the amount of COD income excluded from gross income by this exception. The Debtor does not expect there to be any tax effect to the Debtor as a result of the Plan.

3. Consequences to Holders of Claims.

The federal income tax consequences of the implementation of the Plan to a holder of a Claim will depend, among other things, upon the origin of the holder’s Claim, when the holder’s Claim becomes an Allowed Claim, when the holder receives payment in respect of such Claim, whether the holder reports income using the accrual or cash method of accounting, whether the holder has taken a bad debt deduction or worthless security deduction with respect to such Claim and whether the holder’s Claim constitutes a “security” for federal income tax purposes. Generally, a holder of an Allowed Claim will realize gain or loss on the exchange under the Plan of its Allowed Claim for stock and other property (such as Cash and new debt instruments), in an amount equal to the difference between (i) the sum of the amount of any Cash, the issue price of any debt instrument, and the fair market value on the date of the exchange of any other property received by the holder (other than any consideration attributable to a Claim for accrued but unpaid interest) and (ii) the adjusted basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the holder’s taxable income). The treatment of accrued but unpaid interest and amounts allocable thereto varies depending on the nature of the holder’s claim and is discussed below.

Whether or not such realized gain or loss will be recognized (i.e., taken into account) for federal income tax purposes will depend in part upon whether such exchange qualifies as a recapitalization or other “reorganization” as defined in the Tax Code, which may in turn depend upon whether the Claim exchanged is classified as a “security” for federal income tax purposes. The term “security” is not defined in the Tax Code or in the Treasury Regulations. One of the most significant factors considered in determining whether a particular debt instrument is a security is the original term thereof. In general, the longer the term of an instrument, the greater the likelihood that it will be considered a security. As a general rule, a debt instrument having an original term of 10 years or more will be classified as a security, and a debt instrument having an original term of fewer than five years will not. Debt instruments having a term of at least five years but less than 10 years are likely to be treated as securities, but may not be, depending upon their resemblance to ordinary promissory notes, whether they are publicly traded, whether the instruments are secured, the financial condition of the debtor at the time the debt instruments are issued and other factors. Each holder of an Allowed Claim should consult his or her own tax advisor to determine whether his or her Allowed Claim constitutes a security for federal income tax purposes.

The Debtor intends to take the position that all payments in respect of Allowed Claims will be first allocated to the principal amount of the Allowed Claim, with any excess allocated to accrued unpaid interest. However, there is no assurance that such allocation would be respected by the IRS for federal income tax purposes. In general, to the extent any amount received by a holder of an Allowed Claim is received in satisfaction of accrued interest during

its holding period, such amount will be taxable to the holder as interest income (if not previously included in the holder's gross income). Conversely, a holder generally will recognize a deductible loss to the extent any accrued interest claimed was previously included in gross income and is not paid in full. Each holder of an Allowed Claim is urged to consult its tax advisor regarding the allocation of consideration and deductibility of unpaid interest for tax purposes. A holder, who, under his

accounting method, was not previously required to include in income, accrued but unpaid interest attributable to its existing Claims, and who exchanges its interest Claim for cash, or other property, pursuant to the Plan will be treated as receiving ordinary interest income to the extent of any consideration so received allocable to such interest, regardless of whether that holder realizes an overall gain or loss as a result of the exchange of its existing Claims.

- (a) Holders of Allowed Administrative Expenses. .Holders of allowed Administrative Expenses will be paid in full on or promptly after the Effective Date or the date of allowance. Holders of Administrative Expenses should recognize ordinary income upon receipt of payment to the extent that the Expense arose in connection with the performance of services and such amount had not previously been included in income. To the extent that the Expense did not arise in connection with the performance of services, the holder should recognize gain or loss in an amount equal to the difference between the amount received and his or her tax basis in the Claim. The gain or loss should be capital gain or loss under Section 1221 of the Tax Code to the extent that the Expense did not arise in the ordinary course of a trade or business or from the sale of inventory, in which case such gain or loss should generally be treated as ordinary. Any capital gain or loss recognized by a holder of an Expense should be long-term capital gain or loss with respect to an Expense held for more than one year.
- (b) Holders of Secured Claims (Classes 1 and 2). The Holder of the Allowed Class 1 Claim is CC3, based on a promissory note secured by a deed of trust and security agreement, among other documents. The Holder of the Class 1 Claim will be paid in full. The Holder of the Class 1 Claim will accrue interest at 11% per annum. CC3 may post any property of the Debtor secured by its lien for a foreclosure sale on August 7, 2018 (be it the Retained Land or the Property). If the Reorganized Debtor consummates the sale to the Purchaser, CC3's lien shall remain attached to the Retained Land, unless such lien has been paid in full from the sale proceeds. If the Debtor is unable to pay the remaining sums due to CC3, the Holder of the Class 1 Claim will receive under the Plan the indubitable equivalent of its claim, namely the Property or the Retained Land, in exchange for satisfaction of its Allowed Secured Claim with respect to the Property, by foreclosure sale.

The Holders of Allowed Class 2 Claims are secured ad valorem tax claims. The Holders of Allowed Class 2 Claim will receive payment of their Allowed Claims in cash in full plus interest at a rate of 12% per annum at the closing of the sale to Purchaser.

The Debtor does not know whether this will result in the recognition of gain or loss upon consummation of the Plan. Holders of secured claims (other than those that are exempt from U.S. federal income tax) should recognize gain or loss upon consummation of the Plan in an amount equal to the difference between the amount of cash and their tax basis in the Claim, plus interest income for any interest paid. A Claimholder's tax basis in a Claim should generally equal the amount advanced to the Debtor or amount included in income as a result of the provision of goods or services to the Debtors, except to the extent that a bad debt loss had been previously claimed. The gain or loss should be capital gain or loss under Section 1221 of the Tax Code to the extent that the Claim did not arise in the ordinary course of trade or business for services rendered or from the sale of inventory to the Debtor, in which case such gain or loss should generally be ordinary. Any capital gain or loss recognized by a Claimholder should be long-term capital gain or loss with respect to Claims held for more than one year.

- (c) Holders of Allowed Unsecured Claims (Class 3). The Holders of the Allowed Claims in Class 3 are unsecured claims. The Allowed Class 3 Claims are unsecured, non-priority claims of general unsecured creditors. Holders of allowed, Class 3 Claims will receive payment in full in cash on the date of closing on a loan by a third-party lender sufficient to pay off the balance of all allowed Class 3 Claims, but no later than August 6, 2018. In the event CC3 conducts a foreclosure sale and there are surplus funds, the Debtor shall pay Allowed Class 3 Claims any surplus funds up to the amount of the Allowed Class 3 Claims, after payment of administrative claims.

A Claimholder's tax basis in a Claim should generally equal the amount included in income as a result of the provision of goods or services to the debtor, except to the extent that a bad debt loss had previously been claimed. The gain or loss should be capital gain or loss under Section 1221 of the Tax Code to the extent that the Unsecured Claim did not arise in the ordinary course of trade or business for services rendered or from the sale of inventory to the Debtor, in which case such gain or loss should generally be ordinary. Any capital gain or loss recognized by a holder of a Claim should be long-term capital gain or loss with respect to Claims held for more than one year.

- (d) Holders of Allowed Interests (Class 4). The Holders of the Allowed Interests in Class 4. Equity will be retained.

4. Withholding and Reporting.

The Debtor and the Reorganized Debtor will withhold all amounts required by law to be withheld and will comply with all applicable reporting requirements of the Tax Code. Under the Tax Code, interest, dividends and other “reportable payments” may under certain circumstances be subject to “backup withholding” at a rate equal to the fourth lowest rate of tax under Section 1(c) of the Tax Code. Backup withholding generally applies if the Holder (i) fails to furnish his social security number or other taxpayer identification number (“TIN”), (ii) furnishes an incorrect TIN, (iii) fails to report interest or dividends or (iv) under certain circumstances fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is his correct number and the Holder is not subject to backup withholding. Your ballot contains a place to indicate your TIN.

AS INDICATED ABOVE, THE FOREGOING IS INTENDED TO BE A SUMMARY ONLY AND NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH HIS OR HER OWN TAX ADVISER REGARDING THE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF THE PLAN WITH RESPECT TO THAT ENTITY.

VII.

VOTING PROCEDURES AND REQUIREMENTS

A. Ballots and Voting Deadline.

A ballot to be used for voting to accept or reject the plan together with postage paid return envelope, is enclosed with all copies of this Disclosure Statement. BEFORE COMPLETING YOUR BALLOT, PLEASE READ CAREFULLY THE VOTING INSTRUCTION SHEET THAT ACCOMPANIES THE BALLOT.

As indicated above, the Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the plan must be received by the Debtor’s counsel no later than 5:00 p.m., Central Standard Time, on _____, 2018, at the following address:

Nathan Sommers Jacobs
2800 Post Oak Boulevard, 61st Floor
Houston, Texas 77056
Telephone No.: (282) 242-0303
Fax No.: (713) 892-4800
Email: jmartin@nathansommers.com

YOUR BALLOT WILL NOT BE COUNTED IF IT IS RECEIVED AT THE ABOVE ADDRESS AFTER 5:00 P.M. CENTRAL STANDARD TIME, ON _____, 2018.

B. Parties in Interest Entitled to Vote.

Any holder of a claim against in the Debtor whose claim or interest is impaired under the plan is entitled to accept or reject the plan if either (i) its claim has been scheduled by the Debtor and such claim is not scheduled as disputed, contingent or unliquidated, or (ii) it has filed a timely proof of claim, on or before the last date set by the Bankruptcy Court for such filings, such date being August 3, 2017 for all creditors except governmental units and October 9, 2017 for governmental units, and the Debtor has not filed an objection to that proof of claim or (iii) the Debtor has agreed to the amount and treatment of such claim as provided under the Plan. Any claim which the Debtor has listed as disputed, contingent, or unliquidated or as to which an objection has been filed is not entitled to vote, unless the Bankruptcy Court, upon application of the holder whose claim has been so listed or objected to, temporarily allows the claim in an amount that it deems proper for the purpose of accepting or rejecting the plan. A vote may be disregarded if the Bankruptcy Court determines that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code. IF YOU HAVE ANY QUESTIONS REGARDING THE PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT THE OFFICE OF THE DEBTOR'S COUNSEL.

Jarrold B. Martin
Nathan
Sommers Jacobs
2800 Post Oak Boulevard, 61st Floor
Houston, Texas 77056
Telephone No.: (713) 892-4842
Fax No.: (713) 892-4800
Email: jmartin@nathansommers.com

C. Definition of Impairment.

A class of claims and equity interests is impaired under a plan of reorganization unless, as set forth in section 1124 of the Bankruptcy Code, with respect to each claim or equity interest of such class, the plan:

1. Leaves unaltered the legal, equitable, and contractual rights of the holder of such claim or interest.

2. Notwithstanding any contractual provision or applicable law that entitles the holder of the claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default;
3. cures any default that occurred before or after the commencement of the case under this title other than the default of the kind specified in section 365(b)(2) of the Bankruptcy Code;
 - (a) reinstates the maturity of such claim or interest as such maturity existed before such default;
 - (b) compensate the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; and
 - (c) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interests; or
4. Provides that, on the Effective Date of the plan, the holder of such claim or interest receives, on account of such claim or interest, cash equal to:
 - (a) with respect to a claim, the allowed amount of such claim; or
 - (b) with respect to an interest, if applicable, the greater of:
 - any fixed liquidation preference to which the terms of any security representing such interest entitle the holder of such interest; or
 - any fixed price at which the Debtor, under the terms of the security, may redeem such security from such holder.

D. Classes Impaired Under the Plan.

Classes 1 - 4 are impaired classes of claims under the Debtor's Plan.

E. Vote Required for Class Acceptance.

The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by holders of at least 2/3 in amount, and more than 1/2 in number, of the claims of that class that actually casts ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if 2/3 in amount and a majority in number of the holders of claims voting cast their ballots in favor of acceptance.

The Bankruptcy Code defines acceptance of a plan by a class of Equity Interests as acceptance by holders of at least 2/3 in amount of the Equity Interests of that class that actually cast ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if 2/3 in amount of the holders of Equity Interests voting casts their ballots in favor of acceptance.

VIII.

CONFIRMATION OF THE PLAN

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the plan. By order of the Bankruptcy Court, the hearing on confirmation of the plan has been scheduled for _____, 2018, _____ at o'clock __.m., Central Standard (Houston) Time, in Courtroom 401, United States Courthouse, at 515 Rusk Street, 4th Floor, Houston, Texas. The confirmation may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the confirmation hearing or any adjournment thereof.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the plan. Any objection to confirmation of the plan must be made in writing and filed with the Bankruptcy Court and served upon the Debtor, the United States Trustee, and those parties requesting notice, together with proof of service, on or before 5:00 p.m., Central Standard (Houston) Time, on _____, 2018.

Objections to confirmation of the plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

A. Requirements for Confirmation of the Plan.

At the confirmation hearing the Bankruptcy Court shall determine whether the Bankruptcy Code's requirements for confirmation of the plan have been satisfied, in which event the Bankruptcy Court shall enter an order confirming the plan. As set forth in Section 1129 of the Bankruptcy Code, these requirements are as follows:

1. The plan complies with the applicable provisions of the Bankruptcy Code.
2. The proponent of the plan complies with the applicable provisions of the Bankruptcy Code.
3. The plan has been proposed in good faith and not by any means forbidden by law.
4. Any payment made or to be made by the proponent, by the Debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in, or in connection with the 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.
5. (a) (i) the proponent of the plan has 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 a joint plan with the Debtor, or a successor to the Debtor under the plan;
and
 - (ii) the appoint to, or continuance in, such office of such individual, is consistent with the interests of creditors and the equity security holder and with public policy; and
 - (b) The proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized Debtor, in the nature of any compensation for such insider.
6. Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the Debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.
7. With respect to each class of impaired claims or Equity Interests;
- (a) Each holder of a claim or interest of such class:
 - (i) has accepted the plan; or
 - (ii) will receive or retain under the plan on account of such claim or interest property of the 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; or
 - (b) If section 1111 (b) (2) of the Bankruptcy Code applies to the claims of such class, the holder of the claim of such class will receive or retain under the plan on account of such claim property of a value, as of the Effective Date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.
8. With respect to each class of claims or interests:
- (a) Such class has accepted the plan; or
 - (b) Such class is not impaired under the plan;
9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that:
- (a) With respect to a claim of the kind specified in section 507(a)(2) or 507(a)(3) of the Bankruptcy Code, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;
 - (c) With respect to a class of claims of the kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, each holder of the claim of such class will receive:
 - (i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
 - (ii) if such class has not accepted the plan, cash on the Effective Date of the plan equal to the allowed amount of such claim; and
 - (d) With respect to a claim of the kind specified in section 507(a)(8) of the Bankruptcy Code, the holder of a claim will receive on account of such claim regular installment payments in cash of a total value, as of the Effective Date of the Plan, equal to the allowed amount of such claim, over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303, and in a manner not less favorable than the most favored nonpriority

unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)).

10. If a class of claims is impaired under the plan, at least one class of claims that is impaired has accepted the plan, determined without including any acceptance of the plan by any insider.
11. 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 such liquidation or reorganization is proposed to the plan.
12. All fees payable under section 1930 of title 28, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan.
13. The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.
14. If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order of such statute for such obligation that first become payable after the date of the filing of the petition.
15. All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.
 - (a) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or
 - (b) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.

The Debtor believes that the plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code, that it has complied or will have complied with all of the requirements of Chapter 11, and that the proposal of the plan is made in good faith.

The Debtor believes that the holders of all claims impaired under the plan will receive payments or distributions under the plan having a present value as of the Effective Date in

amounts not less than the amounts likely to be received by such holders if the Debtor were liquidated in a case under chapter 7 of the Bankruptcy Code. At the confirmation hearing, the Bankruptcy Court will determine whether holders of claims would receive greater distributions under the plan than they would receive in liquidation under chapter 7. A discussion of the Debtor's liquidation analysis is provided in Section IX below.

The Debtor also believes 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 under the plan.

B. Cramdown.

In the event that any impaired class of claims or Equity Interests does not accept the plan, the Bankruptcy Court may still confirm the plan at the request of the Debtor if, as to each impaired class which has not accepted the plan, the plan "does not discriminate unfairly" and is "fair and equitable." The plan of reorganization does not discriminate unfairly which in the meaning of the Bankruptcy Code if no class receives more than it is legally entitled to receive for its claims.

"Fair and equitable" has different meanings with respect to the treatment of secured and unsecured claims. As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as follows:

1. With respect to a class of secured claims:

- (a) (i) The plan provides that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the Debtor or transferred to another entity, to the extent of the allowed amount of such claims; and (ii) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the Effective Date of the plan, of at least the value of such holder's interest in the estate's interest in such property;
- (b) for the sale, subject to section 363 (k) of the Bankruptcy Code, of any property that is subject to the lien securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a) and (b) of this subparagraph; or
- (c) for the realization by such holders of the indubitable equivalent of such claims.

2. With respect to a class of unsecured claims:

- (a) the plan provides that each holder of a claim of such class receive or retain on the account of such claim property of a value, as of the Effective Date of the plan, equal to the allowed amount of such claim; or
 - (b) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property.
- 3. with respect to a class of interests:
 - (a) the plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the Effective Date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price which such holder is entitled, or the value of such interest; or
 - (b) the holder of any interest that is junior to the interest of such class will not receive or retain under the plan on account of such junior interests any property.

In the event that one or more classes of impaired claims rejects the plan, the Bankruptcy Court will determine at the confirmation hearing whether the plan is fair and equitable with respect to and does not discriminate unfairly against any rejecting impaired class of claims.

IX.

ALTERNATIVES TO CONFIRMATION AND CONSUMATION OF PLAN

The Plan proposes to pay the Holders of all Allowed Claims the full amount of their Allowed Claims in cash and/or property. The Debtor believes that the Plan is feasible and will not lead to further reorganization or liquidation. Liquidation Analysis. The Holders of the Allowed Unsecured Claims are receiving more under the Plan than they would under a liquidation under a Chapter 7 of the Bankruptcy Code.

X.

CONCLUSION

All holders of claims against the Debtor are urged to vote to accept the plan and to evidence such acceptance by returning their ballots so that they will be received by , 2018.

9 HOUSTON LLC

By: _____



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