

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

In re:	§	
	§	
UTSA APARTMENTS 8, LLC,	§	CASE NO. 15-52941
	§	(Chapter 11)
Debtor	§	
	§	Jointly Administered

**DISCLOSURE STATEMENT FOR THE
PLAN OF REORGANIZATION DATED JULY 25, 2016,
FILED BY WOODLARK UTSA APARTMENTS, LLC
AND UTSA APARTMENTS, LLC**

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IN THE UNITED STATES BANKRUPTCY COURT
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In re: §
§ CHAPTER 11
UTSA APARTMENTS 8, LLC §
Debtor. § CASE NO. 15-52941-rbk

Jointly Administered

**DISCLOSURE STATEMENT FOR THE PLAN OF REORGANIZATION
DATED JULY 25, 2016 FILED BY WOODLARK UTSA APARTMENTS, LLC AND
UTSA APARTMENTS, LLC**

**ARTICLE I
INTRODUCTION**

This Disclosure Statement is submitted by Woodlark UTSA Apartments, LLC (“Woodlark”) and UTSA Apartments, LLC (“UTSA”)(collectively “Plan Proponents”) in connection with the Plan of Reorganization dated July 25, 2016 (“Plan”), filed by these entities for the nineteen (19) Chapter 11 Debtors whose cases are being jointly administered with and under *In Re UTSA Apartments 8, LLC*, Case No. 15-52941-rbk. Capitalized terms used herein, but not expressly defined, are defined in Article I of the Plan, the form of which is enclosed herewith.

A. *Identity of the Debtor*

“The Reserve” is a student apartment complex located at 13903 Babcock Road, San Antonio, Texas 78249 (“The Reserve” or “Property”). It is currently owned by twenty-seven (27) Delaware limited liability companies as tenant in common (“TIC”). Of these twenty-seven (27) TICs, nineteen have filed petitions for relief or relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (“Code”) and their cases are being jointly administered under this case, *In re UTSA Apartments 8, LLC*, (Bankr. W.D. Tex., Case No. 15-52941). The following chart lists the nineteen (19) TIC owners which have filed bankruptcy, their ownership interest in The Reserve, the original case number for each, and their respective filing dates.

Entity	Ownership Percentage	Original Case No.	Petition Date
UTSA Apartments 1, LLC	2.18%	Debtor in 16-50186	1/26/16
UTSA Apartments 4, LLC	2.47%	Debtor in 15-52956	12/2/15
UTSA Apartments 5,	5.01%	Debtor in 16-	2/1/16

LLC		50236	
UTSA Apartments 6, LLC	5.01%	Debtor in 16-50240	2/1/16
UTSA Apartments 8, LLC	5.75%	Debtor in 15-52941	12/2/15
UTSA Apartments 9, LLC	4.44%	Debtor in 15-52942	12/2/15
UTSA Apartments 12, LLC	2.87%	Debtor in 15-52941	12/2/15
UTSA Apartments 13, LLC	3.00%	Debtor in 15-52944	12/2/15
UTSA Apartments 15, LLC	2.86%	Debtor in 15-52941	12/2/15
UTSA Apartments 16, LLC	5.01%	Debtor in 16-50341	2/11/16
UTSA Apartments 18, LLC	2.35%	Debtor in 15-52941	12/3/15
UTSA Apartments 19, LLC	2.34%	Debtor in 15-52947	12/2/15
UTSA Apartments 23, LLC	4.76%	Debtor in 15-52948	12/2/15
UTSA Apartments 24, LLC	4.38%	Debtor in 15-52949	12/2/15
UTSA Apartments 25, LLC	1.50%	Debtor in 15-52950	12/2/15
UTSA Apartments 27, LLC	4.41%	Debtor in 15-52951	12/2/15
UTSA Apartments 28, LLC	2.01%	Debtor in 15-52952	12/2/15
UTSA Apartments 30, LLC	1.33%	Debtor in 15-52953	12/2/15
UTSA Apartments 34, LLC	1.34%	Debtor in 15-52959	12/3/15

The above cases are jointly administered under Case No. 15-52941. Under joint administration papers related to multiple entities are filed under a single case number. However, each entity remains a separate Debtor-in-Possession.

B. Purpose of Disclosure Statement; Source of Information

The purpose of this Disclosure Statement, filed pursuant to 11 U.S.C. § 1125, is to enable the Creditors and holders of Interests in Debtor to make an informed decision with respect to the Plan prior to voting on it. After notice and a hearing, the Court approved this Disclosure Statement as containing information, of a kind and in sufficient detail, adequate to enable Creditors and holder of Interests in the Debtor to make an informed judgment with respect to acceptance or rejection of the Plan. THE COURT’S APPROVAL OF THIS DISCLOSURE

STATEMENT DOES NOT CONSTITUTE EITHER A GUARANTY OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR AN ENDORSEMENT OF THE PLAN.

The Disclosure Statement should be read in its entirety prior to voting on the Plan. The voting process is discussed in Section I.E herein. The Disclosure Statement describes various transactions contemplated under the Plan. No solicitation of any vote for or against the Plan may be made except pursuant to this Disclosure Statement and 11 U.S.C. § 1125. No person has been authorized to utilize any information concerning Debtor or its business other than the information contained in this Disclosure Statement. Each Creditor or holder of Interest is urged to study the Plan in full and to consult with legal counsel about the Plan and its effect.

C. *Explanation of Chapter 11*

Chapter 11 is the principal reorganization chapter of the Code. Upon the commencement of a Chapter 11 case, Section 362 of the Bankruptcy Code provides for an automatic stay of all attempts to collect from a debtor claims that arose prior to the bankruptcy filing. Generally speaking, the automatic stay prohibits interference with a debtor's property or business during the pendency of its case.

Under Chapter 11, a debtor is authorized to reorganize its business for its own benefit and that of its creditors and equity interest holders. Formulation of a plan of reorganization is the primary purpose of a reorganization under Chapter 11 of the Bankruptcy Code. A plan of reorganization sets forth the means for satisfying the claims against, and interests in, a debtor. Generally, a claim against a debtor arises from a normal debtor/creditor transaction such as a promissory note or a trade creditor. An interest in the debtor is held by a party that owns equity of the debtor, such as a partner in a partnership case or a shareholder in a corporate case.

Before a plan can be approved by the Court, it must be accepted by holders of certain claims against, or interests in, the debtor. Section 1125 of the Bankruptcy Code requires a plan proponent to fully disclose to its creditors and interest holders sufficient information about the debtor, its assets and the plan of reorganization before acceptances of that plan may be solicited. This Disclosure Statement is being provided to the creditors and holders of Interests in the Debtor to satisfy the requirements of 11 U.S.C. § 1125.

The Bankruptcy Code provides that claimants and interest holders are to be grouped into "classes" under a plan and that they will vote to accept or reject a plan by class. While bankruptcy courts have expressed various methods to be used in classifying amounts, a general rule of thumb is that creditors and interest holders with similar legal rights are placed together in the same class. For example, all creditors entitled to priority under the Bankruptcy Code might be placed in one class, while all creditors holding general unsecured claims might be placed in a separate class.

The Bankruptcy Code does not require that each holder of a Claim against the Debtor vote in favor of the Plan in order for the Court to confirm the Plan. Rather, the Plan must be accepted by each *class* of creditors (subject to an exception discussed below). In order for the

Plan to be accepted by a class of creditors, those creditors holding at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of Allowed Claims actually voting on the Plan in such Class must vote for the Plan. For example, if a class has ten creditors that vote and the total amount of those ten creditors' claims is \$1,000,000, then six (6) or more of those creditors with claims exceeding \$666,667.00 (a 2/3 majority) must have voted to accept the Plan in order for the class to be deemed to have accepted the Plan.

The court may confirm a plan even though fewer than all classes of Claims and Interests vote to accept the Plan. If that is the case, the Plan must be accepted by at least one "impaired class of Claims, without including any acceptance of the Plan by an insider. Section 1124 of the Bankruptcy Code defines "impairment" and generally provides that a claim which will not be repaired in full or as to which legal rights are altered under a plan is deemed to be "impaired." An interest that is adversely affected under a plan is deemed to be "impaired." Under Debtor's Plan, all classes except Classes 1 and 2 are impaired.

Independent of the acceptance of the Plan by all classes of Claims and Interests, the Court in order to confirm the Plan must determine that the requirements of 11 U.S.C. §1129(a) have been satisfied. *See* section titled "Requirements for Confirmation of the Plan (Article I(F))" below, for a complete discussion of the legal requirements for confirmation of a plan of reorganization. The Proponents believe that the Plan satisfies each of the requirements of Section 1129(a) for confirmation.

A plan upon confirmation becomes binding on the debtor, its creditors and all holders of Interests in the debtor as well as other parties-in-interest, whether or not they have accepted the plan.

D. *Filing Proofs of Claim or Interest*

In order to participate in the payments and other distributions under the Plan, a Creditor or Interest Holder must have an Allowed Claim against, or Interest in, the debtor. Generally, the first step in obtaining an Allowed Claim or Interest is filing a Proof of Claim or a Proof of Interest.

A Proof of Claim or Proof of Interest is deemed filed for a Claim or Interest that appears in the Schedules, except a Claim or Interest that is scheduled as disputed, contingent or unliquidated in an unknown amount. In other words, if a creditor or Interest Holder agrees with the amount of the Claim or Interest as scheduled by the Debtor and that Claim or Interest is not listed in the Schedules as being disputed, contingent or unliquidated, it is not necessary that a separate Proof of Claim or Interest be filed.

Claims or Interests that are unscheduled or that are scheduled as disputed, contingent or unliquidated or which vary in amount from the amount claimed by the Creditor or Interest Holder shall be recognized and allowed only if a Proof of Claim or Proof of Interest is timely filed. Schedules for this case are on file with the Clerk of the Bankruptcy Court and are available for inspection during regular Court hours. The Court set deadlines for the filing Proofs

of Claim or Proofs of Interests based on when the cases were filed. The deadline for filing claims has now passed for each debtor.

E. Voting on the Plan

The Proponents are soliciting acceptance of the Plan from Creditors and holders of Interests in Classes 2,4,5,6 and 7. Each of these classes is impaired under the Plan. All other classes consist of Creditors whose treatment is payment in full and who are not entitled to vote under the Plan because they are unimpaired. Pursuant to the Bankruptcy Code and Bankruptcy Rules, such unimpaired classes are deemed to have accepted the Plan.

Each Creditor or Interest Holder entitled to vote on the Plan as of the date the Court approves this proposed Disclosure Statement may vote by completing, dating and signing a ballot enclosed with this Disclosure Statement as instructed below. Any holder of an Allowed Claim or Interest in Classes 2,4,5,6 and 7 is entitled to vote to accept or reject the Plan.

Any Claim as to which an objection is filed is not entitled to vote, unless the Court, upon application or motion of the creditor whose Claim has been 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 or disallowed if the Court determines that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

After completing, dating and signing the ballot, your ballot must be delivered to counsel for Debtor at the following address:

Barbara M. Barron/Stephen W. Sather
Attn: UTSA Balloting
BARRON & NEWBURGER, P.C.
1212 Guadalupe St., Suite 104
Austin, Texas 78701
Tel: (512) 476-9103 Ext. 220
Fax: (512) 476-9253
bbarron@bn-lawyers.com; ssather@bn-lawyers.com

Ballots may be cast by hand delivery, United States mail First Class, electronic mail or facsimile transmission to counsel for the Debtor at the address, facsimile or email addresses shown above, *provided:*

- any such electronic mail or facsimile transmission is actually received and time-stamped **prior** to the Voting Deadline; and
- in the case of any such hand-delivered or First-Class mailed ballot, the original signed ballot is **actually received** by counsel for the Debtor prior to the voting deadline.

IN ORDER TO AVOID THE POSSIBILITY OF YOUR FACSIMILE VOTE BEING BACKED UP IN TRANSMISSION AND NOT BEING COUNTED, YOU ARE REQUESTED

TO DISPATCH YOUR TRANSMISSION PRIOR TO 5:00 O’CLOCK P.M., CENTRAL TIME, ON THE DATE BEFORE THE VOTING DEADLINE.

IN ORDER TO BE COUNTED YOUR BALLOT MUST BE ACTUALLY RECEIVED NO LATER THAN 5:00 P.M. CENTRAL TIME, ON _____. IF YOUR BALLOT IS ACTUALLY RECEIVED AFTER THAT DATE AND/OR TIME, IT MAY OR MAY NOT BE COUNTED AT THE OPTION OF THE DEBTOR.

Ballots that are signed and timely returned to one of the addresses indicated above but which do not expressly indicate a vote either to accept or reject the Plan will be counted by the Debtor as an acceptance of the Plan.

F. Confirmation Hearing on the Plan.

1. Section 1128(a) of the Bankruptcy Code requires the Court, after notice, to hold a hearing on confirmation of a plan of reorganization. As previously indicated, the Court has scheduled the Confirmation Hearing on Debtor’s Plan for _____, 2016, at _____ o’clock, a.m. before the Honorable Ronald B. King, United States Bankruptcy Judge, , 615 E. Houston Street, San Antonio, TX 78205.

2. Section 1128(b) of the Bankruptcy Code provides that any party-in-interest may object to confirmation of a plan. Any objection to confirmation of the Plan must be made in writing. Written objections to confirmation of the Plan, if any, must be filed with the Court and a copy of such written objections must be actually received by counsel for the Debtor at one of the above addresses at or before 5:00 p.m., Central Daylight Time, on _____. Objections not timely filed and *actually received* by counsel will not be considered by the Court.

3. At the confirmation hearing, the Bankruptcy Court must determine whether the Bankruptcy Code’s requirements for confirmation of the Plan have been satisfied, in which event it will enter an order confirming the Plan. As set forth in 11 U.S.C. § 1129, these requirements are as follows:

- a. The Plan complies with the applicable provision of the Bankruptcy Code.
- b. The proponents of the Plan comply with the applicable provisions of the Bankruptcy Code.
- c. The Plan has been proposed in good faith and not by any means forbidden by law.
- d. Any payment made or promised by the Debtor, by the plan proponents, 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 approval of the Bankruptcy Court as reasonable.

- e. 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 under the plan. Additionally, the appointment to, or continuance in, such office of such individual, is consistent with the interests of Creditors and equity security holders and with public policy; and
- f. The proponent of the Plan has disclosed the identity of any insider that will be employed or retained by the reorganized Debtor and the nature of any compensation for such insider.
- g. 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.
- h. 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.
- i. With respect to each impaired class of claims or interests, each holder of a claim or interest of such class has (a) accepted the Plan; or (b) will receive or retain under the Plan on account of such claim or interest property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would so receive or retain if the Debtor was liquidated on such date under chapter 7 of the Bankruptcy Code; or (c) if 11 U.S.C. § 1111(b)(2) applies to the claims of such class, the holder of a 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 interests in the estate's interest in the property that secures such claims.
- j. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the Plan provides that with respect to a claim of a kind specified in 11 U.S.C. § 507(a) (1) or 507(a) (2), the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim on the Effective Date of the Plan
- k. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that with respect to a claim of a kind specified in 11 U.S.C. §§ 507(a)(3), 507(a)(4), 507(a)(5) or 507(a)(6), the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim on the Effective Date of the Plan; and
- l. Except to the extent that the holder of a particular claim has agreed to a

different treatment of such claim, the plan provides that with respect to a claim of a kind specified in 11 U.S.C. § 507(a)(7), the holder of a claim will receive on account of such claim deferred cash payments, over a period not exceeding six (6) years after the date of assessment of such claim, of a value, equal to the allowed amount of such claim as of the Effective Date of the Plan

- m. 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 holding a claim of such class.
- n. 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 in the plan.
- o. All fees payable under 20 U.S.C. § 1930, as determined by the Bankruptcy Court at the hearing on confirmation of the Plan, have been paid or the plan provides for the payments of all such fees on the effective date of the plan.
- p. The Plan provides for the continuation after its Effective Date of payment of all retiree benefits, as that term is defined in 11 U.S.C. § 1114, at the level established pursuant to 11 U.S.C. § 1114(e) (1) (B) or (g), at any time prior to confirmation for the plan, for the duration of the period the Debtor has obligated itself to provide such benefits.
- q. The Plan satisfies all the statutory requirements of chapter 11 of the Bankruptcy Code, the Debtor has complied with or will have complied with all the requirements of chapter 11, and that the plan is proposed in good faith.

4. *Best Interests of Creditors.* Section 1129(a) (7) of the Bankruptcy Code requires that each impaired class of claims or interests accept the Plan or receive or retain under the Plan on account of such claim or interest, property of a value as of the Effective Date of the Plan that is not less than the amount that such holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. If 11 U.S.C. § 1111(b) (2) applies to the claims of such class, each holder of a 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. In order to confirm a plan, the Court must determine that the Plan is in the best interests of the Debtor's Creditors. Accordingly, the proposed plan must provide that holders of allowed claims or allowed Interests will receive greater distributions under the Plan than they would receive in a Chapter 7 liquidation.

ARTICLE II
REPRESENTATIONS

NO REPRESENTATIONS OR OTHER STATEMENTS CONCERNING THE DEBTORS ARE AUTHORIZED OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS DISCLOSURE STATEMENT.

ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE, WHICH ARE OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT, SHOULD NOT BE RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION. ANY SUCH ADDITIONAL REPRESENTATIONS OR INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE PROPONENTS, STEPHEN W. SATHER, BARRON & NEWBURGER, P.C., 1212 GUADALUPE ST., SUITE 104, AUSTIN, TEXAS 78701, WHO SHALL DELIVER SUCH INFORMATION TO THE COURT WHICH MAY TAKE SUCH ACTION AS IT DEEMS APPROPRIATE.

THE INFORMATION CONTAINED HEREIN HAS NOT BEEN INDEPENDENTLY AUDITED. THE RECORDS KEPT BY DEBTOR RELY ON THEIR ACCURACY UPON BOOKKEEPING PERFORMED BOTH INTERNALLY AND BY OUTSIDE SERVICES RETAINED BY DEBTOR. FOR THIS REASON, DEBTOR DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS CORRECT, ALTHOUGH EVERY REASONABLE EFFORT HAS BEEN MADE TO BE ACCURATE. THIS DISCLOSURE STATEMENT CONTAINS ONLY A BRIEF SUMMARY OF THE PLAN AND IS QUALIFIED IN ITS ENTIRETY BY TERMS AND PROVISIONS OF THE PLAN. EACH CREDITOR, INTEREST HOLDER AND PARTY-IN-INTEREST IS URGED TO REVIEW THE PLAN IN FULL PRIOR TO VOTING ON THE PLAN TO INSURE A COMPLETE UNDERSTANDING OF THE PLAN AND DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT IS INTENDED FOR THE SOLE USE OF CREDITORS, INTEREST HOLDERS AND PARTIES-IN-INTEREST TO MAKE AN INFORMED DECISION ABOUT THE PLAN. ALL REPRESENTATIONS HAVE BEEN MADE AS OF THE DATE HEREOF, AND THERE SHALL BE NO IMPLICATION THAT THERE HAS NOT BEEN OR CANNOT BE A CHANGE IN CIRCUMSTANCES SINCE THE DATE HEREOF.

THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

THE COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE COURT OF THIS PLAN OR GUARANTEE THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN.

THE PROPONENTS BELIEVE THAT THE PLAN WILL PROVIDE CLAIMANTS WITH AN OPPORTUNITY TO ULTIMATELY RECEIVE MORE THAN THEY WOULD RECEIVE IN A LIQUIDATION OF THE DEBTORS' ASSETS. CONSEQUENTLY, THE PROPONENTS URGE THAT CLAIMANTS ACCEPT THE PLAN AND CAST THEIR VOTES FOR THE PLAN.

ARTICLE III **INFORMATION CONCERNING THE DEBTORS**

3.01 Overview of the Debtors. As previously discussed, Debtors in this jointly administered case are each Delaware limited liability companies which each own a fractional interest as tenants in common of The Reserve. The Reserve is a 249 unit, 753 bed student housing apartment complex for the University of Texas San Antonio ("UTSA").

3.02 Management of the Debtors.

Upon information and belief, each of the Debtor TICs is managed by the principal designated as the "contact" for each particular TIC. A list of each of the Debtor TICs and their apparent principals is listed in Exhibit "A". The Debtor TICs were all organized between January and March of 2008 to invest in The Reserve. Woodlark is not in possession of a comprehensive history on each of the principals of each of the Debtor TICs.

Woodlark UTSA Apartments, LLC is a Delaware limited liability company formed on December 7, 2007 for the purpose of being the property manager for The Reserve. Its manager is Harold Rosenblum. Its member is Woodlark Capital, LC. UTSA Apartments, LLC (UTSA) is a Delaware limited liability company formed on December 7, 2007 for the purpose of owning an interest in The Reserve as a tenant in common. Its manager is Harold Rosenblum. Its member is Woodlark Capital, LLC. Woodlark is a privately owned real estate investment company specializing in the acquisition, financing and ownership of institutional income producing multi-family housing for its own account and on behalf of its investors.

The Reserve was managed by Woodlark from the commencement of formation of the TICs for the purchase of The Reserve in or about February of 2008. Approximately three years later, the TIC owners demanded that Woodlark bring in International Realty Management ("IRM") as a subcontractor to manage The Reserve and Woodlark did so. By April 17, 2015, however, it became necessary to remove IRM as property manager after it made a series of decisions detrimental to both the Property and the TIC owners (which included making payments that compromised the ability of The Property to meet the debt service on the Property). Woodlark has operated as both Asset Manager and Property manager since that time.

Under Plan A of the Plan, all the interests of all the TICs, both Debtor and non-Debtor, will be sold to an unrelated party that will not require the management services of Woodlark or any other the Asset manager. Under Plan B, Woodlark and/or UTSA will be purchasing, *inter alia*, the TIC interests of all the Debtors and will continue as Asset Manager.

3.03 Significant Transactions Prior to Bankruptcy.

3.03.01 Formation and Financing

On or about March 5, 2008, UTSA executed a Deed of Trust Note (“Note”) in the original principal amount of \$30 million, payable to John Hancock Life Insurance Company. At the same time, it also executed a Deed of Trust to secure all obligations payable under the Note as well as various additional lien and guarantee instructions. On August 19, 2011, John Hancock executed an Assignment of Mortgage and Assignment of Leases and Rents, assigning all right, title and interest to the Note, Deed of Trust, Rental Assignment and all other loan and security documents and instruments to FST Reserve, LLC (“FST”). FST was the holder of the Note and appurtenant documents as of the Petition Date and continues as such.

Subsequent to the execution of the Note and other documents, UTSA sold tenant-in-common interests in the Property to Delaware limited liability companies created specifically for this purpose, nineteen (19) of which are the Debtors currently being jointly administered in this case (or their successors-in-interest). These interests were taken subject to the Note, Deed of Trust, Rent Assignment, and other loan documents discussed above. As part of its investment, each TIC signed identical copies of the following documents which were to govern the operations of the partnership/joint venture and the operation of The Reserve itself:

- Declaration of Tenants in Common Agreement (“Declaration”);
- Asset Management Agreement (“AMA”);
- Declaration of Call Agreement (“Call Agreement”)

3.03.02 Disputes with TICS and Events Leading to Bankruptcy

The Reserve was generally profitable from the time it was purchased by the current ownership group. By September of 2014, however, it became apparent that the Property was experiencing cash flow shortfalls. Proponents believe that these shortfalls were due almost exclusively due to leasing and management decisions made by IRM which includes taking its management fees in each during its tenure notwithstanding cash flow issues. Woodlark ceased to draw its management fees beginning in 2015 and has not done so since. However, the savings resulting from this hold-back was not sufficient.

On or about December 15, 2014, Woodlark sent a request to all the TIC Owners to cover the shortfalls (“First Request”). Of the thirty-five TIC Owners at the time, 78.52% responded to this request and funded same. On or about February 4, 2015, Woodlark was forced to send a second request for additional funds (“Second Request”). The result of the Second Request for additional funds fared far less well than the First Request with only 48.77% responding and funding same.

Shortly thereafter, on or about April 13, 2015, while Woodlark and the TIC Owners were still attempting to address the shortfalls and other issues confronting the Property, Woodlark received an offer to purchase the property from an entity named “ShopOff.” At or about the same time, the TIC Owners created a self-styled “steering committee” to address its issues with Woodlark

on behalf of the entirety of the ownership group. Despite not being a legal or official entity, the Steering Committee dealt directly with ShopOff but no agreement was reached between the Steering Committee on (allegedly) behalf of the Seller and the potential Buyer.

Woodlark and many of the TIC Owners continued at odds over the next several months. The disputes included, but by no means were limited to, the demand of some of the TIC Owners to be bought out by Woodlark at an amount well above the valuation of their interests based on the financial circumstances of the property. During this time, Woodlark actually had to start advancing funds in order to meet the expenses of the Property and pay the debt service on the Property.

On or about July 15, 2015, Woodlark sent notice to the TIC Owners pursuant to the terms of the various interrelated agreements demanding payment of each owner's *pro-rata* share of the shortfall in revenues related to the property ("Third Request"). Only UTSA and UTSA11 tendered their payments in response to the Third Request. On or about September 22, 2015, Woodlark provided further notice to the TIC Owners pursuant to the terms of the various interrelated agreements demanding payment of each owner's *pro-rata* share of the shortfall resulting from the payment of expenses on the Property ("Fourth Request"). No payments were made in response to the Fourth Request beyond those previously made by UTSA and UTSA11 to the Third Request.

On or about September 29, 2015, Woodlark sent notice to the TIC Owners pursuant to the terms of the various interrelated agreements (including Call Agreement, ¶1) that it intended to exercise the Call Rights provided therein. By virtue of the foregoing, all of the TIC Owners with the exception of UTSA and UTSA11 became subject to the forced sale provision of their respective interests in The Reserve as defaulting TIC Owners. In response to the exercise of Call Rights by Woodlark, UTSA timely exercised its right to purchase the remaining TIC Owners interests.

On or about November 4, 2015, Woodlark provided to each TIC Owner a detailed analysis of the terms of the sale of its interest in the property, including but not limited to, an independent third party appraisal. It further gave notice of the closing date for November 20, 2015. Because the appraised value of The Reserve less liens and other payables was negative, the actual purchase price for each TIC Owners' respective interest in the Property was set at \$0. In response thereto, UTSA 20 executed a Special Warranty Deed transferring its interest in the property pursuant to the Call Agreement. The other TIC Owners did not respond.

On November 19, 2015, twelve of the TIC Owners filed Case No. 2015-CI-19374 in the District Court of Bexar County, Texas, against Woodlark, styled *UTSA Apartments 5, LLC et al vs. Woodlark UTSA Apartments, LLC* under Cause No. 2015-CI-19374 ["TIC State Court Suit"]. The TIC State Court Suit asserted claims for breach of fiduciary duty, negligence and breach of contract and sought injunctive relief preventing Woodlark from conveying the defaulting TIC Owners' interests to UTSA. On the same day, the District Court of Bexar County granted a temporary restraining order.

On November 30, 2015, Woodlark and UTSA submitted a Demand for Arbitration to the American Arbitration Association ("Arbitration Demand") pursuant to Declaration, ¶10.3, AMA, ¶13 and Call Agreement ¶6. The Arbitration Demand asserted claims for breach of contract and

declaratory relief allowing Woodlark to exercise its rights as power of attorney to convey the interests of the defaulting TIC Owners.

Presumably to avoid to arbitration to which they had contractually agreed, UTSA8 and twelve (12) other TICS filed voluntary petitions under chapter 11 of title 11 of December 2, 2015. Two more of the TICS filed on December 3, 2015. (*See* Section I(A), *supra*.) Four (4) additional TICs filed between January 16, 2016, and February 11, 2016.

3.04 Significant Events Since Filing Bankruptcy.

The first bankruptcy cases were filed by thirteen of the TICs on December 2, 2015. On the same day, the Debtors removed the TIC State Court Suit to Bankruptcy Court where it was given Adv. No. 15-5093 (First Adversary).

On January 11, 2016, the Bankruptcy Court entered its first order providing for joint administration of the TIC bankruptcy cases. Eventually, the Court entered orders providing for all of the TIC cases to be jointly administered under Case No. 15-52941.

On February 2, 2016, Woodlark filed a Motion for Relief from Automatic Stay seeking permission to proceed with its arbitration proceeding as well as a Motion to Stay the First Adversary pending arbitration. On February 8, 2016, Woodlark filed a motion to dismiss the bankruptcy cases.

After an initial hearing on February 10, 2016, Woodlark and the Debtors agreed to attempt mediation before proceeding with the hearings on the motions. Mediation was conducted by the Hon. Leif M. Clark, a former bankruptcy judge on March 9, 2016. The mediation was not successful.

On March 15, 2016, Woodlark filed a Motion to Compel Payment of Administrative Expense Claim.

On March 31, 2016, the Bankruptcy Court conducted hearings on the Motion for Relief from Stay, the Motion to Stay Adversary Proceeding and the Motion to Dismiss. The Court denied the motions, although the Court indicated that its denial of the Motion to Dismiss was without prejudice.

On April 1, 2016, the Debtors filed a Motion to Extend Time to File Plan of Reorganization.

On April 25, 2016, the Debtors filed a Motion for Sale Free and Clear of Liens. The motion was based on a letter of intent received from Jacobsen Co. proposing to purchase The Reserve for \$32,500,000. The Jacobsen Co. letter of intent did not result in a purchase and sale agreement.

On May 19, 2016, the Debtors filed an Amended Motion for Sale Free and Clear of Liens. The amended motion was based upon a letter of intent received from Vesper Acquisition

Corp. proposing to purchase The Reserve for \$33,000,000. However, the interests of the non-Debtor TICs were also a part of the offer and Debtors could not acquire consent from all of entities to go forward on its Motion for Sale. They filed Adv. No. 16-5047 on May 31, 2016, seeking permission to sell the interest of the non-Debtor TICs along with the interests held by the Debtors ("Sale Adversary"). On June 12, 2016, Vesper Acquisition Corp. signed a purchase and sales agreement with all of the TICs except for UTSA. Since most of the TICs signed the agreement prior to Vesper signing, it is unknown whether the document they signed is the same as the one signed by Vesper.

The court conducted hearings on the sale motions on May 26, 2016, June 1, 2016 and June 15, 2016. At the hearings on June 1, 2016, and June 15, 2016, the Court ruled that it could not approve the sale to Vesper without a judgment entered in the Sale Adversary. It also set a deadline of June 30, 2016, for the Debtors to raise objections to any of the proofs of claim filed in their cases as well as the fees that Woodlark and FST Reserve would be charging if there were a sale. The Court also offered to arrange for a second mediation with the Hon. Tony M. Davis, a United States Bankruptcy Judge in Austin, Texas.

The second mediation took place in Austin, Texas on June 22, 2016. The attorneys for the Debtors and Woodlark entered into a Mediation Settlement Agreement ("MSA") which was executed by Woodlark and its client; the attorneys for the Debtors signed stating that they would recommend the substance of the MSA to their clients but the enforceability of the MSA was subject to approval by the Debtors themselves. The attorneys for the Debtors have indicated that their clients will not sign without changes to the MSA, to which Woodlark is not willing to agree at this time. The MSA also requires the agreement of Vesper to implement some of its provisions to which Vesper has not agreed. As of this date, the agreement has not been consummated or implemented in any way.

On June 10, 2016, Woodlark filed Notices of Intent to Take Rule 2004 examination seeking to depose each of the Debtor TICs. On June 30, 2016, the Debtors filed an Objection to Notice of Deposition and Motion to Quash. The Motion was heard on July 11, 2016: the Court ordered that the depositions be taken by Skype or televideo and that the documents already produced by the Debtor would be sufficient at this time if the form of production was modified. The depositions will be rescheduled.

On July 5, 2016, Woodlark filed a Motion to Show Authority. The Motion to Show Authority related to the retention of a professional by the Debtor TICs to protest the ad valorem tax valuation of The Reserve for 2016. Woodlark had also retained a professional to protest the taxes and believed that it had the sole authority to do so. This motion was heard on July 11, 2016, and the Court ordered that Woodlark be the responsible entity for tax protests going forward.

While the bankruptcy cases were pending, UTSA acquired the interests of several of the non-Debtor TICs, bringing its total interest in the Reserve to 21.7%.

On July 21, 2016, the Court entered an order dismissing the First Amended Motion for Sale Free and Clear of Liens.

ARTICLE IV
FINANCIAL INFORMATION CONCERNING THE DEBTOR

4.01 Financial Results Prior to Bankruptcy

The following chart summarizes the financial results of The Reserve for the years 2013-2015. Each of the Debtors has an undivided interest in the income and expense of The Reserve.

	2013 ¹	2014 ²	2015 ³
Revenue	\$4,586,377	\$4,133,701	\$3,771,884
Expenses			
Real estate taxes	\$944,744	\$1,016,715	\$1,874,152
Payroll and related costs	\$285,882	\$256,333	\$327,073
Operating and maintenance	\$17,625 ⁴ \$255,455 ⁵ \$56,800 ⁶	\$188,664	\$276,718
Utilities	\$190,350	\$221,835	\$197,396
Cable and internet		\$176,694	\$197,453
Management fees	\$114,659	\$158,387	\$115,075
General and administrative	\$33,647	\$43,221	\$146,875
Insurance	\$22,291	\$37,774	\$40,735
Transportation		\$28,000	
Advertising	\$19,450	\$13,225	\$18,961
Pool maintenance and supplies		\$4,540	
Professional fees		\$1,041	
Total Operating Expenses	\$1,940,903	\$2,146,429	\$3,267,161

¹ Based on 2013 Financial Reports prepared by International Realty. This statement was prepared on a cash basis. Because the financials for 2014 and 2015 were prepared on an accrual basis, the information presented is not necessarily comparable.

² Based on Financial Statements-Income Tax Basis (Together with Independent Auditor's Report) Year Ended December 31, 2014

³ Based on Accrual Profit & Loss Statement prepared by Woodlark UTSA Apartments, LLC for year ending December 31, 2015

⁴ Repairs and maintenance.

⁵ Service Expense.

⁶ Cleaning and decorating.

Net Operating Income ⁷	\$2,645,473		
Income before interest (income), expense and amortization ⁸		\$1,987,272	\$504,723
Replacements	\$23,180 ⁹		
Interest Income		\$(1,325)	
Interest Expense	\$1,719,762	\$1,719,762	\$1,721,255
Principal Payments ¹⁰	\$457,171		
Net Replacement Reserve ¹¹	\$7,870		
Income before amortization ¹²		\$268,835	\$(1,216,532)
Amortization expense ¹³		\$134,028	\$134,028
Ownership Expenses	\$96,096		\$73,565
Cash Flow from Operations ¹⁴	\$341,395		
Net Income ¹⁵		\$134,807	\$(1,424,125)

⁷ Net Operating Income is only used in the cash basis presentation.

⁸ Used on accrual basis financials only.

⁹ Replacements paid of \$102,550 less reimbursement from replacement reserve of \$79,370.

¹⁰ Principal reduction is included in cash basis financial but not accrual basis statement.

¹¹ This category is included on cash basis financials but not accrual.

¹² This category is included in accrual financials but not cash basis.

¹³ Amortization is included in accrual financial but not cash basis.

¹⁴ This category is included in the cash financials but not the accrual financials.

¹⁵ This category is included in the accrual financials but not the cash basis.

4.02 **Financial Results since Filing Bankruptcy¹⁶**

The following results are those from the Reserve. Each debtor has a pro-rata share of The Reserve's income and expense attributable to it; none appear to have any other operations or expenses other than those directly attributable its bankruptcy filing.

	Dec. 2015	Jan. 2016	Feb. 2016	Mar.2016	Apr. 2016	May 2016	Jun 2016
Revenue	\$343,438	\$326,849	\$344,402	\$341,167	\$336,605	\$341,609	\$335,519
Operating Expenses							
Payroll & Benefits	\$27,105	\$33,476	\$27,277	\$28,265	\$45,731	\$33,584	\$32,659
Utilities	\$36,427	\$42,659	\$31,995	\$36,283	\$41,308	\$44,568	\$57,107
Repairs & Maint.	\$3,425	\$10,745	\$7,158	\$9,891	\$10,518	\$7,809	\$10,827
Leasing & Marketing	\$1,804	\$5,156	\$4,889	\$2,784	\$6,700	\$2,669	\$5,678
General & Admin.	\$6,027	\$14,268	\$18,700	\$11,334	\$8,293	\$12,779	\$6,367
Management Fees	\$10,578	\$11,233	\$10,588	\$10,235	\$10,098	\$10,109	\$10,062
Insurance	\$5,750	\$5,750	\$5,925	\$5,925	\$5,925	\$5,925	\$10,095
Taxes	\$65,047	\$(63,044)	\$(45,907)	\$75,799	\$75,799	\$75,799	\$75,799
Total Operating Exp.	\$156,162	\$60,243	\$60,225	\$180,517	\$204,372	\$193,242	\$208,954
Net Operating Income (Loss)	\$187,276	\$279,331	\$284,177	\$160,645	\$132,233	\$148,367	\$126,925
Non-Operating Expenses							
Mortgage Interest	\$139,797	\$139,586	\$139,374	\$139,161	\$138,947	\$138,732	\$138,516
Amortization	\$11,169	\$11,169	\$11,169	\$11,169	\$11,169	\$11,169	\$11,169
Ownership Expense	\$7,326	\$3,744	\$3,641	\$3,412	\$3,366	\$3,370	\$3,354
Total Non-Operating Expense	\$158,292	\$154,499	\$154,184	\$153,742	\$153,482	\$153,271	\$153,039
Net Income (Loss)	\$28,984	\$124,832	\$129,992	\$6,903	\$(21,249)	\$(4,904)	\$(26,114)

¹⁶ These numbers are taken from Woodlark's internal profit & loss statements and are presented on an accrual basis.

The financial reports for the Reserve were affected by a large ad valorem tax refund received in January and February 2016. The results for these months are not typical.

4.03 Estimated Future Income and Expenses

Because this is a liquidating plan, it does not depend upon payment of cash flow from future income.

ARTICLE V
ANALYSIS AND VALUATION OF PROPERTY

5.01 Real Property

Property	Scheduled Value	Appraisal District Value	Appraisals	Encumbrances
Undivided interest in The Reserve	\$33,801,704 ¹⁷	\$34,400,000 ¹⁸	\$31,300,000 ¹⁹ \$28,100,000 ²⁰	Bexar County Taxing Authorities \$909,585 ²¹ FST Reserve, LLC \$27,720.75 ²²

On November 17, 2014, Woodlark received a “Self-Contained Appraisal Report” which it had commissioned from Multifamily Appraisal Specialists “MAS”) effective January 1, 2013. Based on its collection of available historical data as well as investigation and analyses, MAS offered an opinion of value of The Reserve as of January 1, 2013 of \$31,300,000.

The last MAI appraisal on The Reserve was prepared by CBRE for SAFANAD, Inc. on or about October 27, 2015. This appraisal provided an “as is” market value as of October 16, 2015, of \$ 28,100,000 and a “stabilized” market value of \$34,400,000. The difference in these two numbers, according to this appraisal, was the result of: (i) an inadequate repair and replacement program for several years; (ii) below market occupancy level for several years; and (iii) occupancy at the time of the appraisal of 95% but at below market rental rates which would be in place for an additional ten (10) months.²³

¹⁷ In their schedules, each Debtor valued its undivided interest in The Reserve by applying their percentage interest against a value of \$33,801,704 but did not indicate where this value came from or how it was derived. The undivided interests were not discounted for being minority interests.

¹⁸ This is the value determine by the Bexar County Appraisal District following a protest. This number is not final at the present time.

¹⁹ This is based on the MAS appraisal discussed below.

²⁰ This is based on the CBRE appraisal discussed below.

²¹ This amount is based on the Proof of Claim filed by Bexar County. It represents taxes for 2016 which will last be payable without penalty on February 28, 2017.

²² This amount is taken from the Proof of Claim filed by FST Reserve, LLC. It does not include post-petition fees and charges.

²³ Both the MAS and CRPB appraisals included furniture, fixtures and equipment (FF&E) as part of their appraisals of the real property as they were deemed to be “an integral part of the subject student housing operation.”

The Bexar County Appraisal District attempted to assess the Property for purposes of 2016 *ad valorem* taxes at \$38,000,000. At a hearing held on July 3, 2016, it reduced the assessed value to \$34,400,000. The protest giving rise to this hearing and reduced assessment is not final and final assessment may be even lower.

There is a pending offer to purchase all the ownership interests in The Reserve for \$33,000,000, although this number would be reduced by certain terms in the Purchase and Sale Agreement (“PSA”) currently being circulated.

Each Debtor TIC in its schedules represented the value of its interest in real property as its fractional interest in real property worth \$33,801,704 and its interest in personal property as its fractional interest in the furniture, fixtures and equipment. There is no indication in the schedules of the source of its valuation numbers.

The outstanding balance owed to FST on the Property as of the Petition Date, per its Proof of Claim, was \$27,720,950.75. It is also claiming that it will be owed a pre-payment penalty upon the sale of The Property to a third party of approximately \$2,725,475.46. While the Debtor TICs are not personally liable on this debt, FST is secured and its debt must be satisfied prior to any other distributions in this case to other creditors or equity.

5.02 Personal Property. The following chart describes the personal property which Debtors scheduled along with its scheduled value. Again, there was no indication as to where the number for this calculation came from or from where it was derived. No valuation of The Reserve, including the Bexar County Appraisal District, has valued the personal property located at The Reserve independent of the real property.

Debtor	Percent Interest	Personal Property— Value of % Interest in Reserve Personal Property ²⁴	Assets Other than Fractional Interest in Reserve Real & Personal Property ²⁵
UTSA Apartments 1, LLC	2.18%	\$15,389.45	\$10.00
UTSA Apartments 4, LLC	2.47%	\$17,436.67	\$0.00
UTSA Apartments 5, LLC	5.01%	\$35,367.49	\$0.00
UTSA Apartments 6, LLC	5.01%	\$35,367.49	\$0.00
UTSA Apartments 8, LLC	5.75%	\$40,591.44	\$2,045.38
UTSA Apartments 9, LLC	4.44%	\$31,343.65	\$203.85
UTSA Apartments 12, LLC	2.87%	\$20,260.42	\$0.00
UTSA Apartments 13, LLC	3.00%	\$21,178.34	\$0.00
UTSA Apartments 15, LLC	2.86%	\$20,189.83	\$0.00
UTSA Apartments 16, LLC	2.67%	\$18,548.54	\$0.00
UTSA Apartments 18, LLC	2.35%	\$16,589.54	\$0.00

²⁴ The schedules filed by the Debtors listed a pro-rata share of the total furniture and fixtures of the Reserve. The Proponents contend that this property is subsumed within the value of the real estate.

²⁵ Value per schedules.

UTSA Apartments 19, LLC	2.34%	\$16,518.95	\$100.00
UTSA Apartments 23, LLC	4.76%	\$33,602.65	\$501.00
UTSA Apartments 24, LLC	4.38%	\$30,920.08	\$0.00
UTSA Apartments 25, LLC	1.50%	\$10,589.07	\$0.00
UTSA Apartments 27, LLC	4.41%	\$31,131.87	\$152.84
UTSA Apartments 28, LLC	2.01%	\$14,189.35	\$875.36
UTSA Apartments 30, LLC	1.33%	\$9,388.98	\$0.00
UTSA Apartments 34, LLC	1.34%	\$9,459.57	\$0.00

As set forth above, each of the Debtor TICs represented that it had a fractional percentage in the personal property of The Reserve. However, the FF&E has been included in all the real property valuations of the Property. Woodlark therefore believes that none of the Debtor TICs have any ownership interest in the furniture, fixtures and equipment associated with The Reserve.

5.03 Liquidation Value of Assets.

One of the requirements to confirm a plan is that creditors receive more than they would in a chapter 7 liquidation. Attached as Exhibit C is the Proponents' liquidation analysis. The liquidation analysis is the Proponents' attempt to predict what would happen if the Debtor's assets were liquidated by a chapter 7 trustee. The liquidation analysis is based upon the values for the Debtor's assets adjusted to reflect what they might bring in liquidation. After that, claims are subtracted out based upon their order of priority to see what assets would be left to pay unsecured creditors. The factual assumptions were provided by the Proponents' management, while the legal assumptions are based on the experience of Debtor's counsel who has practiced bankruptcy law for over 25 years.

The Proponents have prepared two scenarios. Scenario 1 assumes that a chapter 7 trustee would sell the property based on the current contract but would not pursue claims and causes of action. It assumes that: (i) a purchaser would discount the current sales price by 10% to take advantage of the trustee's lack of bargaining power and need for a quick sale; (ii) a sale taking place at the end of September of 2016; (iii) the following amounts would be taken as adjustments at closing--closing costs, property payables, security deposits and prepaid rent; (iv) FST Reserve would be allowed its yield maintenance premium and reasonable attorneys' fees; and (v) Woodlark would receive its disposition fee. In this scenario, the sales proceeds would not be sufficient to cover all costs of sale and there would be a shortfall of over \$1.3 million.

In Scenario 2, the purchaser only demands a discount of 5%, FST reduces its yield maintenance premium by 25% and Woodlark does not receive its asset disposition fee. Under these assumptions, there would be net proceeds of \$2,346,230.69 to distribute. Before any funds could be distributed through the estates, it would be necessary to pay the non-debtor TICs their share of the proceeds which would be equal to 39.77% of the net. After this, it would be necessary to pay chapter 7 administrative expenses as well as chapter 11 administrative expenses. The distribution would cover chapter 7 and 11 administrative expenses and would leave \$72,471.67 for distribution to the TICs. Thus, under the most aggressive assumptions, the Debtor TICs would only receive a small distribution in a chapter 7 liquidation.

In contrast, the Proponents’ Plan guarantees the Debtor TICs \$550,000.00 in the event that the sale does not close.

This liquidation analysis relies on multiple assumptions and is only a forecast of what could happen. Reasonable minds could reach different conclusions.

ARTICLE VI
SUMMARY OF THE PLAN

6.01. **Generally.** The Plan is based upon the sale of the Reserve to Vesper Acquisition Group or the buyout of the Debtor TICs by Woodlark.

6.02. **Classification and Treatment of Claims**

Class 1—Administrative Expense Claims

Administrative claims consist of expenses incurred during the Chapter 11 proceeding prior to confirmation which are approved by the Court and expenses incurred in operating the Debtor’s business. Most administrative expense claims consist of claims by professionals employed by the Bankruptcy Estate. The Proponents are aware of the following Class 1 Administrative Claims:

Langley & Banack	Attorneys’ Fees
Charles Gorham	Attorneys’ Fees
KFORD Group	Accounting/Expert Witness Fees
Woodlark	<i>Pro-rata</i> Share of Advances for post-petition shortfalls in operations
U.S. Trustee	Statutory Fees

The amounts payable to the two law firms and the accountant represent professional fees incurred during the bankruptcy and must be approved by the court. The Court has previously approved interim fee applications in the amounts of \$87,167.50 through March 11, 2016 for Langley & Banack and \$80,316.03 for Charles Gorham through March 11, 2016. The Proponents do not have information as to the amounts accrued subsequently or anything that may be due the accounting firm over and above the retainer. The amount payable to the U.S. Trustee is a required fee for chapter 11 Debtor.

The Court has approved an administrative expense claim for Woodlark in the amount of \$146,898.59 through March 31, 2016.

No Administrative Expense Claims shall be allowed except pursuant to Court order, except for U.S. Trustee fees which shall be payable as provided by law.

U.S. Trustee fees shall be paid as incurred on a quarterly basis.

Under both plans, no Administrative Expense Claims shall be allowed except pursuant to Court Order, except for U.S. Trustee fees which shall be payable as provided by law.

Under both plans, U.S. Trustee fees shall be paid as incurred on a quarterly basis until the case is closed, converted or dismissed. These fees will be paid only from the Debtor TICs *pro-rata* portion of proceeds net of closing costs and claims according to their percentage interests.

Under both plans, Attorneys fees and accountants' fees which are allowed by the Court shall be paid on the later of the Effective Date or when approved by the Court unless otherwise agreed by the parties. These fees will be paid only from the TIC Debtors *pro-rata* portion of proceeds net of closing costs and adjustments according to their percentage interests.

Under Plan A, an administrative expense claim allowed by the Court prior to the Closing of the sale may be paid at Closing.

Under Plan A, Woodlark will be paid the following in full at the Closing of a sale: (a) Allowed Administrative Expense Claims; and (b) the Asset Disposition Fee to which it is entitled under the operating documents of The Reserve, which fee is dependent on the sales price (estimated at \$1.485 million on a \$33 million sales price). If an objection is still pending at the time of Closing to the Asset Disposition Fee or any of Woodlark's administrative claims or there are additional outstanding payables still to be approved by the Court, the full amount of these claims will be held by the Title Company pending a resolution of same. When a final order is presented to the Title Company, it shall remit the amount due Woodlark and forward any remainder *pro-rata* to the other TICs through their attorneys.

Under Plan B, no Asset Disposition Fee will be due to Woodlark and will therefore not be paid.

Class 1 is not impaired.

Class 2—Priority Claims

Class 2 consists of Priority Claims. According to the Debtors schedules and the proofs of claim filed, there do not appear to be any priority claims.

Under Plan A, any Allowed Priority Claims which are owed jointly and severally by all the TICs will be paid at Closing. **Under Plan B,** any Allowed Priority Claims which are owed jointly and severally by all the TICs will be paid as they come due.

Under both Plans, any Allowed Priority Claims which are owed solely by an individual Debtor TIC will be paid from the TICs *pro-rata* portion of proceeds net of closing costs according to their percentage interests within the later of fourteen (14) days after distribution of these proceeds or when the claim is Allowed.

Class 2 is impaired.

Class 3—Secured Claims of *Ad Valorem* Taxing Authorities

Class 3 consists of the Secured Claims of *Ad Valorem* Taxing Entities with respect to The Reserve. The *ad valorem* taxes were paid by Woodlark for the benefit of all the TICs through 2015. Tax liens attached on the Property on January 1, 2016 for the *ad valorem* taxes which are not yet due for 2016. None of the Debtors appear to have listed these taxes in their Schedules²⁶ and Bexar County has filed Proofs of Claim in only some of the cases filed. However, the liens for *ad valorem* taxes attach to all the interests held by all the TICs in The Reserve. Proponents are aware of the following Claims in this category:

Creditor	Schedules	POC ²⁷	Current BCAD ²⁸	Comments
Bexar County	Not listed	\$909,585.26	\$34,400,000.00	Protest pending

Pursuant to State Law, the Allowed Claim will not accrue interest if paid on or before January 31, 2017 [and will accrue interest at the statutory rate of 12% after that date if not paid.

Plan A. The amount of the *ad valorem* taxes owed for 2016 will be pro-rated between the Seller and the Buyer as of the date of Closing and the amount owed by the Seller credited against the Purchase Price. The Reserve will be sold subject to the lien of the Class 3 Claimant and Buyer will be responsible for the payment of the 2016 *ad valorem* taxes. The Class 3 Creditor will retain its lien for these taxes until they are paid.

Plan B. The assignee of the Debtor TICs’ interests in The Reserve, Woodlark or UTSA or assign(s), will continue to pay these taxes as they come due. The assignment will be subject to the lien of the Class 3 creditor, which will remain in place until the taxes are paid in full.

Class 3 is not impaired.

Class 4—Secured Claims of FST Reserve, LLC

Class 4 consists of the Secured Claim of FST Reserve, LLC.

FST has filed Proofs of Claim in the Debtors cases asserting a claim as of the Petition Date in the amount of \$27,720,950.75. In connection with the initial hearing on the Debtors’ Motion for Sale on May 26, 2016, it represented that it was owed \$27,381,295, excluding attorneys’ fees and expenses (approximately \$42,000 as of that date). It also stated that it would

²⁶ This omission is particularly interesting in light of the fact the Schedules for the Debtor TICs do list a proportionate amount of the tax refund alleged to be owed on The Reserve.

²⁷ Where filed

²⁸ Listed on Bexar County Appraisal District website as of July 2, 2016 and reduced at the formal hearing on a protest filed to \$34,400,000. This number is subject to further appeal.

assert its right to a pre-payment penalty in the amount of approximately \$2,725,475.00 in the event of a sale to a third party. Payments to FST are current through June of 2016.

FST's Note is secured by a lien on the real property comprising The Reserve and a blanket lien on the personalty on the property as well as an assignment of leases and rents.

There does not appear to be any dispute as to the amortization of FST's Note. Debtor TICs are disputing the pre-payment penalty in Adversary Proceeding No. 16-5047, but the Complaint does not state on what grounds.

Under Plan A, The Reserve will be sold free and clear of the liens of FST, which will be paid in full at Closing. FST's pre-payment penalty will also be paid at Closing in full or in the amount ordered by the Court in Adversary No. 16-5047. If there has been no final order on the Debtors' objection to the pre-payment penalty, the full amount of the pre-payment penalty will be retained in an interest-bearing account at the Title Company closing the sale until an Order on the objection has been entered and become final. Upon presentation of a final Order by the Court, the Title Company shall release the amount of the allowed pre-payment penalty plus interest to FST. Any funds remaining after payment to FST shall be remitted *pro-rata* to each of the TICs still retaining an interest in The Reserve at that time. If a TIC is represented by counsel, the remittance shall be made to counsel in trust for his/her client and disbursed on behalf of Debtor TICs according to the terms of this Plan.

Under Plan B, the interests of the Debtor TICs will be transferred to Woodlark or UTSA. No pre-payment premium shall arise from this transfer as UTSA is the original maker under the FST Note. UTSA will continue making the payments under the Note as they come due and FST's liens on The Reserve (both real and personal property) as well as the Assignment of Leases and Rents shall remain in place until the Note is paid in full, at which time FST shall promptly release them.

Class 4 is impaired.

Class 5—Unsecured Claims of Woodlark UTSA Apartments, LLC

Class 5 consists of the unsecured pre-petition claims of Woodlark, which fall into to three categories:

Advances. Since the latter part of 2014, the sum of the expenses arising from the operation of and the debt service on The Reserve have regularly exceeded the revenues generated from rents. In order to avoid termination of critical services to the property or defaulting on the Note, Woodlark has advanced the shortfall as required. The amount owed as of the first Petition Date was \$470,109.92 without interest to which it is entitled under paragraph 7.3 of the Asset Management Agreement.

Unpaid Asset Management Fees. Woodlark as Asset Manager is entitled to an Asset management fee of 5% of the annual effective gross income from the Reserve, or approximately \$12,000 per month. It ceased to pay itself these sums on or about May of 2015,

as The Reserve was experiencing cash flow difficulties. It was owed \$117,065.10 in Unpaid Asset Management Fees as of the first Petition Date.

Other Expenses Incurred in the Course of Management. Pursuant to sections 7.1, 14.4 and 14.10 of the Asset Management Agreement, Woodlark is entitled to expenses incurred in connection with The Reserve, which include the attorneys' fees it has incurred in representing the interests of the Asset Manager and other TICS in this Case, arbitration proceedings that were commenced prior to the Petition Date, and related matters. Woodlark does not have a final numbers as to the amount of this portion of its claim.

Satisfaction of Class 5 Claims. Woodlark's Pre-Petition Claims will be given alternate treatment, depending on whether there is a sale to a third party or Debtors' interests in The Reserve are assigned to UTSA.

Under Plan A, the Pre-Petition Claim of Woodlark will be deemed Allowed and paid in full at Closing *unless* there is a final Order allowing a different amount or an objection is still pending. If there is no final order on the objection to its claim on file by the Debtor TICs, the full amount stated in its Proof of Claim will be held in escrow with the Title Company and remitted with interest from the Effective Date upon the entry of a Final Order to the Title Company. If the sum being held is less than the sum remitted, the remainder shall be remitted by the Title Company to the Debtors through their attorney but shall not be distributed without further order of the Court.

Under Plan B, the amount of Woodlark's pre-petition claim will be considered an element of its offer—either as a waiver of same or cash to be paid that will be offset against the Pre-Petition Claim. In either case, no cash will be exchanged and its Pre-Petition Claim will be deemed to have been withdrawn.

Class 5 is impaired.

Class 6—Other General Unsecured Claims

Class 6 consists of Allowed Other Unsecured Claims against The Reserve or individual Debtor TICs. No claims other than those related to The Reserve were listed by any of the Debtor TICs.

To the extent any other unsecured claim arising from the operation of The Reserve that has been filed and not objected to on or before June 30, 2016 or a final order allowing the Claim has been entered, it will be paid in full at Closing **under Plan A** and will be satisfied in the ordinary course of business **under Plan B**.

To the extent any other unsecured claim is Allowed that is related to a particular Debtor TIC or TICs, said claim will be paid from the net *pro-rata* proceeds to that particular TIC **under both Plans**.

Class 6 is impaired.

Class 7—Ownership Interest of the TICs

Class 7 consists of the ownership interests of the nineteen (19) TICs whose case are being jointly administered hereunder and the seven (7) non-Debtor TICs. Detailed information on each of these TICs, including the ownership of each, can be found in Exhibit A attached hereto.

Plan A. The bankruptcy estate in this case shall receive the Debtor TICs *pro-rata* share of the net proceeds after closing costs and adjustments and payments anticipated to be made as part of the sale (*e.g.* Woodlark's Asset Disposition Fee; secured debt to FST). Their portion of all payments due under the Plan to Classes 1 through 6 that remain to be paid will be paid from this sum. After these payments have been made, each TIC will receive its *pro-rata* portion of any sums that may remain upon entry of an Order by this Court. It is anticipated at this time that, without any adjustments to the pre-payment penalty to FST and the Asset Disposition Fee due Woodlark, this amount would be approximately \$358,556.64 prior to reimbursement to Woodlark for the approximately \$200,000 in attorneys fees incurred in disputes with the TICs to which it is entitled reimbursement pursuant to the Asset Management Agreement.

Plan B. The TICs will receive a total of \$550,000.00. The only debts for which they will be responsible after the assignment of their interests to Woodlark will be the Allowed fees of their professionals and expenses associated with their bankruptcies. The amount to each Debtor TIC will depend on the allowed fees and expenses of the bankruptcy.

Class 7 is not impaired.

6.03. Means for Implementing Plan

The Plan will be funded virtually *in toto* from one of two sources. Under Plan A, the Property will be sold to a third party for \$33 million (or whatever amount is sought and approved by the Court). All allowed claims will be paid in full and any remaining proceeds will be distributed to TICs according to their ownership interests in The Reserve. Woodlark has prepared a Disposition Analysis based on a \$33 million sale, which shows an estimated distribution to the Debtor TICs of \$414,023.74. *See* Exhibit B, attached hereto. This number could increase if the Debtor TICs successfully challenge all or a portion of Woodlark's Asset Disposition Fee or FST's pre-payment penalty. It will decrease, depending on how long it takes a sale to close, the shortfalls during this period, and any attorneys' fees and expenses Woodlark may be awarded.

Under Plan B, if the Debtor TICs are unable to obtain Court approval and close a sale to a third party on or before September 30, 2016 (or any extension of this date agreed to by all the parties), then the interests of all the TICs in The Reserve will be assigned to Woodlark or UTSA. As consideration for this assignment, Woodlark will: (a) withdraw its pre-petition proofs of claim in the amount of \$433,878.40; (b) withdraw its post-petition claims, which are estimated to be at least \$300,000.00 (c) assume the FST indebtedness and all outstanding payables due at the time of the assignment; and (d) tender a cash payment of \$550,000 to the TICs, all of which will

go to the bankruptcy estates being jointly administered herein. The total value of this transaction to the Debtor TICs is approximately \$28,536,849.91 and the net to their bankruptcy estates is in excess to what the Disposition Analysis reflects they would receive under Plan A if the Asset Disposition Fee and Pre-Payment Penalty are not reduced.

Under Plan A, the estates may retain its two adversary proceedings currently pending against Woodlark and UTSA and arguably could continue to prosecute same. The sums received from a judgment against Woodlark in their favor could increase the amount of funds that would ultimately be received by each Debtor TIC. However, Debtor TICs have produced no evidence of any damages in that case and the cost of prosecuting would be significant. **Under Plan B**, Woodlark will own the Debtors' interests and, concurrent with the closing on the assignment, will dismiss the adversary proceedings with prejudice. **Under both Plans**, Proponents do not believe there will be a net to the estates.

6.04. Remedies for Default.

In the event of default by the Proponents under the Plan and to the extent the treatment of a particular class does not conflict with the provisions of this paragraph, parties may exercise any rights granted to them under documents executed in connection with the Plan or any rights available to creditors under applicable non-bankruptcy contract law. In the absence of documents executed to consummate or otherwise evidence the Plan, the Plan itself may be enforced as a contract. Notwithstanding any other provision, any party alleging a default shall give the Proponents twenty-eight days (28 days) notice and an opportunity to cure before exercising any rights available upon default.

In the event of a default by a non-Proponent, the Proponents may enforce this Plan as a contract in a court of competent jurisdiction. The Proponents may escrow payments to any party which defaults under the Plan until the default is cured. The Proponents shall give the party twenty-eight days (28 days) notice and an opportunity to cure before exercising this provision.

Conversion to chapter 7 is available as a remedy for default in the event that the Proponents fail to substantially consummate the Plan. However, once consummation occurs, conversion to chapter 7 is no longer available as a remedy for default. When the plan is confirmed and is substantially consummated, to the extent any assets of the Debtors still belong to the Debtors, they will vest in the Proponents subject to all liens and claims provided for under the Plan. In the event that the Debtors' cases are converted to chapter 7 after consummation of the plan, these assets will revert in the Bankruptcy Estate.

6.05. Claims Allowance Procedure.

No Administrative Expense Claims shall be allowed except pursuant to Court Order. Any application for allowance of an Administrative Expense Claim which has not been filed as of the Effective Date shall be filed within twenty-eight (28) days after the Effective Date or shall be barred. Any claims for reimbursement of fees and expenses pursuant to 11 U.S.C. § 506(b) shall be filed within twenty-eight (28) after the Effective Date or shall be barred.

Any claims for rejection of an executory contract or unexpired lease shall be filed by the later of twenty-eight (28) days after the Effective Date or the date set forth in the Order rejecting the lease or contract. Likewise, cure claims shall be filed within twenty-eight (28) days after the Effective Date or shall be barred unless agreed otherwise.

A person who is found to have received a voidable transfer shall have twenty-eight (28) days following the date from which the order ruling that such transfer is avoidable or approving the settlement of a suit on a voidable transfer becomes a Final Order in which to file a Claim in the amount of the settlement or the avoided transfer, whichever is less. Similarly, the claim of any party relating to contribution or indemnity against the Debtor which is contingent as of the Effective Date shall not be allowed unless: (a) the party makes a payment which gives rise to a right of contribution or after the Effective Date; and (b) files a proof of claim within twenty-eight (28) days of performing.

Any party in interest may file an objection to a claim on or before the later of twenty-eight (28) days from the Effective Date or from the date such claim is filed.

A claim to which an objection has been made shall at the request of the Creditor be estimated by the Court for the purposes of voting on the Plan and for determining the amount required to be segregated by the Proponents under the plan pending determination of the objection.

If any claim has been objected to, the Proponents shall segregate and set aside funds sufficient to satisfy the payment otherwise due on the claim according to the provisions of the plan. Funds not so segregated shall be distributed in accordance with the Plan. In the event that the dispute is resolved favorably to the parties asserting the claims, then the segregated funds shall be paid to the Creditor so as to be *in pari passu* with the others Creditors in its class and future payments shall be made to the Creditor, if any remain due, pursuant to plan as if no objection had been raised. In the event the disputed claim is disallowed, the funds segregated for payment of the claim shall be released to the Proponents.

6.06. Assumption and Rejection of Leases and Contracts

Under the Bankruptcy Code, the plan proponent must assume or reject any leases or contracts to which the Debtors are a party.

6.06.01 The Proponents will assume the following executory contracts and unexpired leases:

- The Call Agreement
- The Declaration
- The AMA

Woodlark contends that there are substantial amounts owing to it under these agreements as disclosed elsewhere in this Disclosure Statement.

6.06.02 The Proponents will reject all other leases and executory contracts.

6.07. Third Party Claims.

To the extent that any third party is jointly liable with the Debtors upon a Claim, whether by contract or by operation of law, such obligation shall remain in force with respect to the Claim as modified by this Plan but not otherwise. (To the extent that a Claim is classified in more than one class, the liability of the third party shall extend to the obligations under each applicable class.) All guarantees and other obligations shall be deemed modified to reflect the restructuring of the primary obligations under this Plan. If the Plan is confirmed, a Creditor may not enforce liability under a guaranty or other third party claim unless the Debtor defaults under the Plan. In the event of default, only the amount owing under the Plan shall be recovered from the guarantor. This provision is intended to apply even to Creditors who have previously recovered judgments against the guarantor.

6.08. Retention of Jurisdiction.

After confirmation of the Plan, the Court will retain jurisdiction to the extent provided by 28 U.S.C. § 1334. Basically, this means that the Court will retain jurisdiction over matters relating to the Plan and to rule on any matters which are still pending in the case. However, any new litigation matters will be brought in a state or federal court of appropriate jurisdiction.

6.09. Post-Confirmation Procedure.

After confirmation of the Plan, the Court will rule upon any timely filed objections to claims and applications for compensation of professionals. Once the Court has ruled upon these matters, the Proponents will file an application for final decree. The Plan requires the Proponents to file its application for final decree within six (6) months after confirmation, although the Proponents anticipate that this will occur sooner. The Proponents will be required to pay U.S. Trustee fees and file quarterly post-confirmation reports until such time as a final decree is entered and the case is closed.

ARTICLE VII
FEASIBILITY OF THE PLAN AND RISK TO CREDITORS

7.01 In General. Feasibility of the Plan and Risk to Creditors measures the likelihood that creditors will receive the payments promised to them.

7.02 Risk Factors. The principal risk factors under the Proponents' Plan is that Vesper Acquisition Group will not close upon the proposed sale and Woodlark will not perform upon the proposed buyout of the Debtor TICs. While the Proponents have no control over whether Vesper performs, Woodlark represents that it has both the cash to fund the buyout and the willingness to perform.

ARTICLE VIII
ALTERNATIVES TO DEBTOR'S PLAN

8.01 **In General.** If the Proponents' Plan is not confirmed, there are a limited number of alternatives for Creditors. These include conversion of the case to chapter 7, proposal of a liquidating plan and dismissal of the bankruptcy case.

8.02 **Conversion to Chapter 7.** If the Debtors' cases were converted to chapter 7, a trustee would be appointed to liquidate the Debtor's assets. In its liquidation analysis in section 5.03 above, the Proponents estimate that equity would not receive any substantial distributions on its interests.

8.03 **Reorganization Plan.** A reorganization plan is one where the Debtors propose to operate their business and make payments from cash flow. An operating reorganization plan is not feasible for the reason that Woodlark remains as the asset manager and the Debtor TICs refuse to fund shortfalls from operation of the property.

8.04 **Dismissal of Case.** If the Debtors' cases were dismissed, Woodlark would continue to pursue its call rights and join the Debtor TICs into the arbitration. This would necessarily result in more litigation and the possible result that the Debtor TICs would be compelled to transfer their interests to UTSA Apartments, LLC and receive no distributions on same.

ARTICLE IX
RELATIONSHIP OF DEBTOR WITH AFFILIATES

9.01 **Definition of Affiliate.** Under the Bankruptcy Code, the term affiliate refers to an entity that directly or indirectly controls with power to vote twenty (20) percent or more of the securities of the Debtor, a corporation twenty (20) percent or more of whose outstanding voting securities are directly or indirectly controlled by the Debtor, a person whose business is operated under a lease or operating agreement by a Debtor or a person substantially all of whose property is operated under an operating agreement with the Debtor or an entity that operates the business or substantially all of the property of the Debtor under a lease or operating agreement. Under this definition, the individuals who are the equity owners of the Debtor TICs constitute affiliates. Additionally, because Woodlark operates the property owned by the Debtor TICs, Woodlark constitutes an affiliate as well.

9.02 **Transactions with Affiliates.** The Proponents lack information as to any transactions between the Debtor TICs and their owners.

As disclosed elsewhere, the Debtor TICs and Woodlark are parties to the Declaration, the Call Agreement and the AMA. Woodlark has filed unsecured claims against the Debtor TICs and has asserted post-petition administrative expense claims as well.

ARTICLE X
TAX CONSEQUENCES

10.01 **Tax Consequences.** Implementation of the Plan may result in federal income tax consequence to holders of Claims, to the Equity Interest Holder, and to the Debtor. Tax consequences to a particular Creditor or Equity Interest Holder may depend on the particular circumstances or facts regarding the claim of the Creditor or the interests of the Equity Interest Holder. In this particular case there may also be consequences to the Debtors as a result of a past or future 1031 tax-deferred exchange. **CLAIMANTS ARE URGED TO CONSULT THEIR OWN TAX ADVISOR AS TO THE CONSEQUENCES OF THE PLAN TO THEM UNDER FEDERAL AND APPLICABLE STATE AND LOCAL LAW. Proponents make no warranty or representation as to the outcome of any 1031 exchanges as a result of this Plan or that may be attempted by Debtors in connection with this Plan.**

ARTICLE XI
PENDING AND POTENTIAL LITIGATION

11.01 **Pending Litigation.** The following litigation is currently pending:

11.01.01 Adv. No. 15-5093, *UTSA Apartments 5, et al v. Woodlark UTSA Apartments, LLC*.

On November 19, 2015, twelve of the TICs filed suit against Woodlark UTSA Apartments, LLC in the 150th District Court of Bexar County in Case No. 2015-CI-19374. The suit brought claims for breach of fiduciary duty and negligence and requested injunctive relief. The plaintiffs obtained a TRO to prevent Woodlark from exercising its call rights under the Declaration of Call Agreement.

On December 2, 2015, the state court suit was removed to bankruptcy court where it was assigned Adv. No. 15-5093.

Woodlark filed a Motion to Stay Adversary Proceeding which was denied by the Bankruptcy Court. Woodlark appealed this order to the United States District Court where the appeal is pending under Case. No. 5-16-cv-00524-XR.

On April 14, 2016, the nineteen Debtor TICs filed their Third Amended Original Complaint against Woodlark. The Complaint alleged causes of action for breach of fiduciary duty, negligence, breach of contract and for injunctive relief. Woodlark has answered the Third Amended Original Complaint.

On June 28, 2016, the nineteen Debtor TICs filed a Fourth Amended Original Complaint. The Fourth Amended Original Complaint added UTSA Apartments, LLC and Harold Rosenblum as Defendants and added a cause of action for conspiracy. Woodlark filed a Motion to Strike the

Fourth Amended Original Complaint because it was filed without leave of court. That motion is pending.

The disposition of these cases will depend on whether Plan A or Plan B herein is consummated. If it is the latter, Adv. No. 15-5093 and Case No. 5-16-cv-00524-XR will each be dismissed with prejudice.

11.01.02 Case No. 2015 CI 19187, *Woodlark UTSA Apartments, LLC v. UTSA Apartments 28, LLC*

On November 16, 2015, Woodlark Apartments UTSA, LLC filed suit against UTSA Apartments 28, LLC to recover a debt in the amount of \$16,543.97 plus interest and attorneys' fees. The suit was stayed by the filing of the bankruptcy petition. If the plan is confirmed, this suit will be dismissed with prejudice.

11.01.03 Case No. 2015-CI-20779, *Woodlark UTSA Apartments, LLC and UTSA Apartments, LLC vs. UTSA Apartments 1, LLC, et al.*

On December 17, 2015, Woodlark Apartments, LLC and UTSA Apartments, LLC filed suit against seventeen of the TICs to compel arbitration. Subsequently, UTSA Apartments 1, 5, 6 and 16 filed bankruptcy and were dismissed from the suit. On February 11, 2016, the District Court of Bexar County, Texas entered a Partial Default Judgment against eight (8) of the TICs, as well as an Agreed Partial Declaratory Judgment against six (6) of the TICs ordering them to participate in binding arbitration.

Woodlark UTSA Apartments, LLC and UTSA Apartments, LLC had previously filed a Demand for Arbitration before the American Arbitration Association against all but two of the TICs. The arbitration proceeding was assigned Case No. 01-15-0005-7886. The arbitration proceeding sought to enforce the call provisions against the TICs with the exception of UTSA Apartments 11, LLC, which had remained current on its cash calls, and UTSA Apartments 20, LLC, which had assigned its interest to UTSA Apartments, LLC. Subsequently, the nineteen Debtor TICs were dismissed from the arbitration. An additional six TICs were dismissed after they conveyed their interests to UTSA Apartments, LLC. At the present time, the only TICs remaining in the arbitration proceeding are UTSA Apartments 2, 7, 14, 21, 26, 29 and 31. If the sale contemplated by Plan A is consummated, these TICs will receive their pro-rata share of the sales proceeds and the arbitration will be dismissed. If the sale does not close and Woodlark executes Plan B, the arbitration will continue.

11.01.04 Adv. No. 16-5047, *UTSA Apartments 8, LLC, et al vs. Woodlark Apartments, LLC, UTSA Apartments, LLC, UTSA Apartments 2, LLC, UTSA Apartments 7, LLC, UTSA Apartments 11, LLC, UTSA Apartments 14, LLC, UTSA Apartments 21, LLC, UTSA Apartments 26, LLC, UTSA Apartments 28, LLC, UTSA Apartments 34, LLC and FST Reserve, LLC*

On May 31, 2016, the Debtor TICs filed Adv. No. 16-5047 seeking an order compelling the sale of the interest of the non-Debtor TICs under 11 U.S.C. §363(h). On June 20, 2016, the

Debtor TICs filed an Amended Complaint which added UTSA Apartments, LLC, which had been omitted as party from the initial adversary proceeding and added claims to determine the amounts owing to Woodlark UTSA Apartments, LLC and FST Reserve, LLC. Woodlark has filed a Motion to Dismiss and for More Definite Statement, which will be heard on August 1. This action remains pending.

11.02 **Potential Litigation.**

11.02.01 **Avoidance Actions**

Under the Bankruptcy Code, there are three types of avoidance actions: actions to recover avoidable preferences under 11 U.S.C. § 547, actions to recover fraudulent conveyances under 11 U.S.C. § 548 and actions to recover unauthorized post-petition transfers under 11 U.S.C. § 549.

Section 547 of the Bankruptcy Code allows a Debtor-in-Possession to recover certain payments known as "voidable preferences." A "voidable preference" is a payment made within ninety (90) days prior to bankruptcy on an antecedent debt while the Debtor is insolvent which allows a creditor to recover more than it would have if the payment had not been made and the Debtor's assets were liquidated under Chapter 7. Payments made to insiders of the Debtor may be preferences if made within one year prior to bankruptcy. Certain payments are protected from recovery as preferences. These include payments made in the ordinary course of business and upon ordinary business terms, payments representing a substantially contemporaneous exchange and payments on business debts for less than \$6,225. Section 548 of the Bankruptcy Code allows a Debtor-in-Possession to recover certain payments known as "fraudulent conveyances." A fraudulent conveyance is a transfer made within one year of bankruptcy while the Debtor was insolvent which either was made with fraudulent intent or was made without receiving reasonably equivalent value. Section 549 of the Bankruptcy Code allows a Debtor-in-Possession to recover transfers which were made without court approval.

The Statements of Financial Affairs filed by the Debtor TICs do not disclose any payments during either the 90-day or one-year preference periods. The Proponents are not aware of any avoidance actions which should be brought for the benefit of the estates.

11.02.02 **Other Litigation.** The Proponents are not aware of any other litigation which should be disclosed.

ARTICLE XII
SOLICITATION OF VOTES

The Proponents have devoted substantial efforts in proposing this Plan of Reorganization. The Proponents believe that the disruption, distractions and diversion of resources caused by the litigation have prevented the business from reaching its potential. The Proponents believe that the proposed plan of reorganization provides the relief necessary to allow for the implementation of a strong business plan which will benefit creditors. The Proponents believe that the Plan represents a fair proposal for payment of the claims in this case. The Proponents believe that the Plan is superior to the alternatives. Therefore, the Proponents request that all parties approve the Plan of Reorganization.

Dated: July 25, 2016.

Respectfully submitted,

WOODLARK UTSA APARTMENTS, LLC

By: _____
Derrick Milam

Its: _____

UTSA APARTMENTS, LLC

By: _____
Derrick Milam

Its: _____

BARRON & NEWBURGER, P.C.

1212 Guadalupe, Suite 104

Austin, Texas 78701

(512) 476-9103 Ext. 220

(512) 476-9253 (Facsimile)

By: /s/ Stephen W. Sather

Stephen W. Sather

State Bar No. 17657520

Barbara M. Barron

State Bar No. 01817300

ATTORNEYS FOR DEBTOR-IN-POSSESSION

EXHIBIT A

Debtor	Percentage Interest	Principal
UTSA Apartments 1, LLC	2.18%	Charles R. Betz 4334 Mammoth #10 Sherman Oaks, CA 91423
UTSA Apartments 4, LLC	2.47%	John T. Shanta 1853 Lemon Grove St. Henderson, NV 89052
UTSA Apartments 5, LLC	5.01%	Daniel C. Booye 1663 Keleka Koloa, HI 96756
UTSA Apartments 6, LLC	5.01%	Lynette L. Booye 1663 Keleka Koloa, HI 96756
UTSA Apartments 8, LLC	5.75%	C. Richard Yonge 8515 SE 72 nd Ave. Ocala, FL 34772
UTSA Apartments 9, LLC	4.44%	Ian H. Linton 19204 N. Cathedral Point Court Surprise, AZ 85387
UTSA Apartments 12, LLC	2.87%	John H. Coogan 3814 Channel Place Newport Beach, CA 92663
UTSA Apartments 13, LLC	3.00%	Krishna N. Patel 440 Campana Pl Arroyo Grande, CA 93420
UTSA Apartments 15, LLC	2.86%	Isaac Kliger 3530 Mystic Point Dr Aventura, FL 33180
UTSA Apartments 16, LLC	5.01%	Lance Moore 3 Doone Dr. Syosset, NY 11791
UTSA Apartments 18, LLC	2.35%	William Dale Lewis 190 US Route 1 Falmouth, ME 04105
UTSA Apartments 19, LLC	2.34%	Leslie Addiego 10109 Janetta Way Sunland, CA 91040
UTSA Apartments 23, LLC	4.76%	John Hoping Lin 3567 Benton St, PMB #201 Santa Clara, CA 95051
UTSA Apartments 24, LLC	4.38%	Joseph Howard 343 Paseo Pacifica Encinitas, CA 92024

UTSA Apartments 25, LLC	1.50%	Betty P. Tang 9036 Mustang Road Rancho Cucamonga, CA 91701
UTSA Apartments 27, LLC	4.41%	Kerry Mistretta 840 Flora Vista Dr Santa Barbara, CA 93109
UTSA Apartments 28, LLC	2.01%	Jane Hagen 6105 Newstead Court Greenacres, FL 33463
UTSA Apartments 30, LLC	1.33%	Benjamin Poston 8521 Hatham Park Ave. Raleigh, NC 27616
UTSA Apartments 34, LLC	1.34%	Michael Harder 110 N. Kenosha Dr. Madison, WI 53705

The Reserve Disposition analysis * (PROJECTIONS, ALL NUMBERS SUBJECT TO CHANGE WITH EFFECT OF ADDITIONAL INFORMATION AND ACTUAL

NEGOTIATION OF THE

Assumes a Sale Closing on September 31, 2016

Sale Price	\$	33,000,000.00
Loan Payoff	\$	(27,252,971.51)
(1) Prepayment Clause		(\$2,154,840.38)
(2) Woodlark Transaction Fee (in accordance with Asset Management agreement dated 2/29/2008	\$	(1,485,000.00)
(3) Woodlark Accrued Unpaid Management Fees 12/1/15-7/31/16	\$	(147,540.18)
(4) Woodlark Accrued Unpaid Management Fees through 11/30/15	\$	(104,228.14)
(5) Woodlark Other Payables Owed	\$	(40,760.28)
(6) Actual Unpaid Payables at time of Filing (less Management fee Payable)	\$	(247,376.22)
(7) Additional Payable balance increase post filing (Less management Fee Payable)	\$	(50,179.70)
(8) Tax Escrow Balance after 7/1/16 debt service payment	\$	828,702.90
(9) Replacement Reserve Escrow Balance after 7/1/16 debt service payment	\$	118,570.41
(10) Cash on Hand 7/5/16	\$	147,911.29
(11) Less Debt Service for August and September	\$	(544,320.16)
(12) Tax Proration Credit Estimate (based on accrued real estate tax liability calculations on financials)	\$	(712,500.00)
(13) Estimate for the Closing of all TIC entities and payment of outstanding bills to Registered Agents	\$	(50,000.00)
(14A) Estimated Cash collection for remainder of July	\$	45,000.00
(14B) Estimated Cash Collection for August	\$	400,000.00
(14C) Estimated Cash Collection for September	\$	400,000.00
(14D) Estimated expenses for July	\$	(119,035.10)
(14E) Estimated expenses for August	\$	(303,107.06)
(14F) Estimated expenses for September	\$	(119,794.82)
(14) Reserve for additional expenses	\$	(75,000.00)
(15) Estimated Closing title cost (For transfer of title and escrow cost, subject to change)	\$	(150,000.00)
(16) Security Deposits Liability	\$	(23,275.00)
(17) Current Prepaid Rent balance	\$	(55,545.67)
(18) Insurance payment due June 1st - still has not been paid, but needs to be asap.	\$	(119,038.54)
(19) Audit	\$	(50,000.00)
Net Equity (estimate subject to final adjustments closer to closing)	\$	1,135,671.83

(5) Woodlark Advances outstanding \$ 433,042.33

	Loan amount	Interes on loan	Sales proceeds before loan	Net proceeds after loan
UTSA Apartments 2, LLC - 1.79%	\$ (9,644.52)	\$ (817.23)	\$ 20,328.53	\$ 9,866.78
UTSA Apartments 7, LLC - 2.86%	\$ (25,952.63)	\$ (2,408.86)	\$ 32,480.21	\$ 4,118.72
UTSA Apartments 14, LLC - 2.34%	\$ (21,230.09)	\$ (1,970.52)	\$ 26,570.18	\$ 3,369.57
UTSA Apartments 21, LLC - 2.17%	\$ (11,675.89)	\$ (989.36)	\$ 24,587.30	\$ 11,922.05
UTSA Apartments 26, LLC - 1.86%	\$ (16,892.12)	\$ (1,567.88)	\$ 21,140.53	\$ 2,680.53
UTSA Apartments 29, LLC - 1.34%	\$ (7,209.92)	\$ (610.93)	\$ 15,182.80	\$ 7,361.95
UTSA Apartments 31, LLC - 2.93%	\$ (15,789.73)	\$ (1,337.95)	\$ 33,275.18	\$ 16,147.50
UTSA Apartments 1, LLC - 2.18%	\$ (11,770.20)	\$ (997.35)	\$ 24,766.73	\$ 11,999.18
UTSA Apartments 11, LLC - 2.86%			\$ 32,480.21	\$ 32,480.21
UTSA Apartments 12, LLC - 2.87%	\$ (15,501.33)	\$ (1,313.51)	\$ 32,642.62	\$ 15,827.78

UTSA Apartments 13, LLC - 3.00%	\$ (16,179.07)	\$ (1,370.94)	\$ 34,070.15	\$ 16,520.14
UTSA Apartments 15, LLC - 2.86%	\$ (15,424.04)	\$ (1,306.96)	\$ 32,480.21	\$ 15,749.21
UTSA Apartments 16, LLC - 2.67%	\$ (14,419.85)	\$ (1,221.87)	\$ 30,365.59	\$ 14,723.87
UTSA Apartments 18, LLC - 2.35%	\$ (12,668.59)	\$ (1,073.48)	\$ 26,678.07	\$ 12,936.00
UTSA Apartments 19, LLC - 2.34%	\$ (12,617.37)	\$ (1,069.14)	\$ 26,570.18	\$ 12,883.67
UTSA Apartments 23, LLC - 4.76%	\$ (25,689.04)	\$ (2,176.77)	\$ 54,096.59	\$ 26,230.78
UTSA Apartments 24, LLC - 4.38%	\$ (23,612.50)	\$ (2,000.81)	\$ 49,723.12	\$ 24,109.81
UTSA Apartments 25, LLC - 1.50%	\$ (8,089.53)	\$ (685.47)	\$ 17,035.08	\$ 8,260.08
UTSA Apartments 27, LLC - 4.41%	\$ (23,792.75)	\$ (2,016.08)	\$ 50,103.57	\$ 24,294.74
UTSA Apartments 28, LLC - 2.01%	\$ (18,197.22)	\$ (1,689.02)	\$ 22,773.63	\$ 2,887.39
UTSA Apartments 30, LLC - 1.33%	\$ (7,173.87)	\$ (607.88)	\$ 15,104.44	\$ 7,322.69
UTSA Apartments 34, LLC - 1.34%	\$ (7,209.92)	\$ (610.93)	\$ 15,182.80	\$ 7,361.95
UTSA Apartments 4, LLC - 2.47%	\$ (13,338.36)	\$ (1,130.23)	\$ 28,088.57	\$ 13,619.98
UTSA Apartments 5, LLC - 5.01%	\$ (27,037.21)	\$ (2,291.00)	\$ 56,935.77	\$ 27,607.56
UTSA Apartments 6, LLC - 5.01%	\$ (27,037.21)	\$ (2,291.00)	\$ 56,935.77	\$ 27,607.56
UTSA Apartments 8, LLC - 5.75%	\$ (31,002.67)	\$ (2,627.02)	\$ 65,286.37	\$ 31,656.68
UTSA Apartments 9, LLC - 4.44%	\$ (23,971.98)	\$ (2,031.27)	\$ 50,480.61	\$ 24,477.36
			\$	414,023.74
UTSA Apartments, LLC - 21.16%			\$ 240,308.16	\$ 240,308.16

This disposition waterfall excludes attorney's fees of approximately \$200,000 incurred by Woodlark.

If additional advances need to be made to carry property to closing, such as coverage of August and September debt service short fall, July, August and September operating Expenses and possible to cover items not covered by cash collections from now till closing. These possible advances are not listed above and will change the equity position available to distribute.

Notes:

- (1) Prepayment clause is calculated in accordance with comments on Prepayment Analysis Tab. See Tab for details.
- (2) Woodlark UTSA Apartments, LLC (asset manager) is entitled to a transaction fee per clause 9.3 of the asset management agreement dated 2/29/2008
- (3) Unpaid asset management fees from 12/1/15-6/30/16 (see ap ledger tab for details)
- (4) Unpaid asset management fees as of 11/30/15 (see ap ledger tab for details)
- (5) Woodlark Advances as of 5/25/2016 (sources is loan schedule provided to owners prior).
- (6) account payables balance as of 12/2/15 less the amount due for unpaid asset management fees listed separately
- (7) Change in accounts payable balance from 12/2/15 to date of projection (5/25/16) subject to change for new bills not yet recorded
- (8) Estimated tax escrow balance after 6/1/16 debt service payment (not guaranteed to be paid, subject to cash in bank account, which is based on collection from now till may 5th
- (9) Estimated Replacement reserve escrow balance after 6/1/16 debt service payment (not guaranteed to be paid, subject to cash in bank account, which is based on collection from now till June 5th the due date of next debt service payment
- (10) Cash on Hand as of 5/25/16 (this amount is prior to debt service payment on 6/1 which as of this analysis the bank balance would not cover)
- (11) Less Debt Service to be paid June 1st (subject to cash collection to make payment, as the amount on hand per note 10 is not sufficient to cover debt service)
- (12) estimated Tax proration Credit for closing
- (13) estimated cost to Close all entities in both state of Delaware and Texas (excludes any franchise tax payment possible owed) includes payment to registered agent both past due invoices and close out of entity filings for services through 8.31.16
- (14) Reserve number for possible missed accruals and payables (if advances are made to cover these expenses, this number would be reduced and owed advance amount would increase)
- (15) Estimated closing title cost (subject to actual calculations by title company)
- (16) Current Security Deposit liability (subject to change as a result of new move in or move out prior to closing)

(17) Current Prepaid Rent balance. Will change as a result of collections and recognition of rent in MAY

(18) Insurance payment due for new policy on June 1st as old policy expires as of 5/31/16.

(19) no calculations have been made rent, prepaid rent, and security deposit. All subject to calculation once closing date is set.

(20) Although the bank accounts have not been fully reconciled for the month of May, the balance is net of outstanding checks as of 5/25/16. When the bank account is reconciled upon the end of the month these balances can change as a result an items not recorded as a result of the reconciliation process.

Exhibit C

The Reserve Liquidation Analysis

	Scenario 1	Scenario 2
Gross Sales Price	\$ 33,000,000.00	\$ 33,000,000.00
Less Discount for Quick Sale (1)	\$ 3,300,000.00	\$ 1,650,000.000
Less Costs of Sale (2)	\$ 150,000.00	\$ 150,000.00
Net Sale Price	\$ 29,550,000.00	\$ 31,200,000.00
Plus Cash as of 7/5/16	\$ 147,911.29	\$ 147,911.29
Plus Additional Cash Generated July-Sept. (3)	\$ 228,063.02	\$ 228,063.02
Less Secured Claims		
Bexar County (3)	\$ 712,500.00	\$ 712,500.00
FST Reserve Principal	\$ 27,252,971.51	\$ 27,252,971.51
FST Attorneys' Fees (4)	\$ 50,000.00	\$ 50,000.00
FST Yield Maintenance	\$ 2,154,840.38	\$ 1,616,130.29
Add Back in Reserves	\$ (947,273.31)	\$ (947,273.31)
Less Property Expenses		
Payables(5)	\$ 466,594.46	\$ 466,594.46
Woodlark Disposition Fee	\$ 1,485,000.00	0
Security Deposits	\$ 23,275.00	\$ 23,275.00
Prepaid Rent	\$ 55,545.67	\$ 55,545.67
Net Sales Proceeds	\$ (1,327,479.40)	\$ 2,346,230.69
Less Procees to Non-Debtor TICS		\$ 933,095.95
Net to Estates		\$ 1,413,134.75
Less Chapter 7 Admin Exp.		
Trustee's Commission(7)		\$ 355,250.00
Trustee's Accountant		\$ 5,000.00
Trustee's Attorney		\$ 10,000.00
Less Chapter 11 Admin Exp.		
US Trustee(8)		\$ 6,175.00
Langley & Banack(9)		\$ 199,240.00
Charles Gorham(9)		\$ 183,579.50
Woodlark(10)		\$ 147,540.18
Net Before Unsecured Claims	\$ (375,974.31)	\$ 506,350.07
Less Unsecured Claims (11)		\$ 433,878.40
Net to TICS	\$ (375,974.31)	\$ 72,471.67

Notes

(1) Assumes that in a Chapter 7 liquidation, Vesper or another purchaser would discount its offer by 10% to take advantage of reduced bargaining power by chapter 7 trustee in scenario 1 or by 5% in scenario 2

(2) Cost of title policy and other seller closing costs

- (3) Taken from disposition analysis. Does not deduct any payables from prior periods.
- (4) Assumes that sale is closed by September 30 with taxes pro-rated.
- (5) FST's counsel has stated that they have incurred fees of \$45,000 as of approximately a month ago.
- (6) Payables as of filing date of \$247,376.22 + post-petition payables of \$50,179.20 + insurance due of \$119038.54 + cost of audit of \$50,000.
- (7) Under 11 U.S.C. Sec. 326, a trustee is entitled to a maximum commission of 25% of the first \$5,000.00, 10% of distributions between \$5,000-\$50,000, 5% of amounts between \$50,000-\$1 million and 3% above \$1 million. For purposes of this analysis it was assumed that trustee's commission for proceeds above \$1 million would be capped at 1%
- (8) Assumes nineteen cases x a minimum U.S. Trustee fee of \$325.00.
- (9) Assumes that fees for first 3.5 months are averaged and applied over eight months before conversion.
- (10) Limited to post-petition management fees.
- (11) Based on Proofs of Claim filed by Woodlark.