

1 BRETT A. AXELROD, ESQ.
 Nevada Bar No. 5859
 2 MICAELA RUSTIA MOORE, ESQ.
 Nevada Bar No. 9676
 3 **FOX ROTHSCHILD LLP**
 3800 Howard Hughes Parkway, Suite 500
 4 Las Vegas, Nevada 89169
 Telephone: (702) 262-6899
 5 Facsimile: (702) 597-5503
 Email: baxelrod@foxrothschild.com
 6 mmoore@foxrothschild.com
 7 *Counsel for Debtor*

Electronically Filed May 29, 2012

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

10 In re

11 AMERICAN WEST DEVELOPMENT,
 INC., a Nevada corporation,

- 12 fdba Castlebay 1, Inc.
- 13 fdba Development Management, Inc.
- 14 fdba Fairmont 1, Inc.
- 15 fdba Glen Eagles 3, Inc.
- 16 fdba Heritage 1, Inc.
- 17 fdba Inverness 5, Inc.
- 18 fdba Kensington 1, Inc.
- 19 fdba Kingsbridge 1, Inc.
- 20 fdba Promontory Estates, LLC
- 21 fdba Promontory Point 4, Inc.
- 22 fdba Silverado Springs 1, Inc.
- 23 fdba Silverado Springs 2, Inc.
- 24 fdba Tradition, Inc.
- 25 fdba Windsor 1, Inc.

26 Debtor.

Case No. BK-S-12-12349-MKN

Chapter 11

**SHORT FORM HOME OWNER
 DISCLOSURE STATEMENT PREPARED
 IN CONNECTION WITH DEBTOR'S
 27 FIRST AMENDED CHAPTER 11 PLAN
 OF REORGANIZATION**

Hearing Date: ~~July~~ December 10, 2012

Hearing Time: ~~1:30 p.m.~~ 10:00 a.m.

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INTRODUCTION
- ABOUT THE DISCLOSURE STATEMENT AND VOTING -

WHAT IS THIS DOCUMENT? This document is a "Disclosure Statement" prepared specifically for persons or entities ("Home Owners") who assert claims against American West based on their ownership of a home built by American West ~~from 1999 through 2012~~ Development, Inc. ("Debtor"). It contains (and constitutes) a summary of Debtor's First Amended Chapter 11 Plan of Reorganization (as it may have been or may be amended, the "Plan") filed by Debtor ~~(defined below)~~.

WHAT IS THE PURPOSE OF THIS DISCLOSURE STATEMENT? The purpose of this Disclosure Statement is to provide Home Owners with adequate information to make an informed judgment regarding whether they should vote to accept or reject the Plan.

WHAT DO I NEED TO DO WITH THIS DISCLOSURE STATEMENT? You should review this Disclosure Statement (and any additional information you find helpful) and decide whether you will vote to accept or reject the Plan.

HOW DO I VOTE TO ACCEPT OR REJECT THE PLAN? To vote to accept or reject the Plan, you must fill out and return a Ballot. You should use only the Ballot sent to you with the is Disclosure Statement to cast your vote for or against the Plan. If you are eligible to vote to accept or reject the Plan and did not receive a Ballot, or if your Ballot is damaged or lost you may request a replacement by contacting The Garden City Group, Inc. ("GCG"), who has been appointed by the Bankruptcy Court as the Noticing, Claims and Balloting Agent in ~~this Debtor'~~ Chapter 11 Case, at: AW Bankruptcy Administration, c/o GCG, Inc., PO Box 9748, Dublin, OH 43017-5648; Telephone Hotline: (877) 604-9532.

To be counted, your vote indicating acceptance or rejection of the Plan must be properly completed in accordance with the instruction on the Ballot and returned to GCG, no later than **3:00 p.m., prevailing Pacific Time, on ~~September 11~~ January 4, 2012** (the "Voting Deadline"). Ballots received after that time will not be counted, except to the extent Debtor so determines or as permitted by the Bankruptcy Court pursuant to Bankruptcy Rule 3018.

IN ORDER TO BE COUNTED, BALLOTS MUST BE COMPLETED, SIGNED, AND RECEIVED BY THE VOTING DEADLINE, AT THE FOLLOWING ADDRESS:

By First Class Mail:
AW Bankruptcy Administration
c/o GCG, Inc.
PO Box 9748
Dublin, OH 43017-5648

By First Class Mail:
AW Bankruptcy Administration
c/o GCG, Inc.
PO Box 9748
Dublin, OH 43017-5648

By Overnight Delivery or Hand

PLEASE CAREFULLY FOLLOW THE DIRECTIONS CONTAINED ON EACH ENCLOSED BALLOT. VOTES THAT ARE CAST IN ANY MANNER OTHER THAN BY USING A BALLOT WILL NOT BE COUNTED AND ONLY BALLOTS RETURNED WITH ORIGINAL SIGNATURES WILL BE COUNTED. FACSIMILE BALLOTS WILL NOT BE ACCEPTED.

IN ADDITION TO PROVIDING THE OPPORTUNITY TO VOTE TO ACCEPT OR REJECT THE PLAN, THE CLASS 4 BALLOT FOR HOME OWNERS ASSERTING CONSTRUCTION DEFECT CLAIMS ALSO PROVIDES THE OPTION TO MAKE THE CASH OUT ELECTION (DESCRIBED BELOW).

WHERE CAN I GET A COPY OF THE PLAN AND MORE INFORMATION ABOUT THE PLAN? Article III of this Home Owner Disclosure Statement identifies sources of additional information about the Plan, including a where to get a copy of the Plan and a more detailed "Master Disclosure Statement."

INTRODUCTION - ABOUT THE PLAN -

WHO FILED THE PLAN? The Plan was filed by American West Development, Inc. (~~“the Debtor”~~), ~~the debtor~~ and debtor in possession in the above-captioned Chapter 11 Case. Debtor is successor by merger to certain American West home-selling entities and other affiliated entities. **See Article I, Section C, below.**

WHAT WILL THE PLAN DO? The purpose of the Plan is to generate maximum value from Debtor’s assets and to distribute this value equitably and efficiently to Debtor’s creditors. **See Article II, Section A below.**

HOW WILL THE PLAN DO THIS? The Plan will be funded by Debtor’s assets (consisting primarily of receivables owed from affiliated entities for development and construction worked performed by Debtor, insurance policies/proceeds and causes of action against third parties) and a New Capital Contribution from the DIP Lender or its assignee(s) (one or more entities affiliated with Debtor). Debtor will use the New Capital Contribution to establish a Construction Defect Trust for the holders of Class 4 Construction Defect Claims, and to fund distributions to the holders of other (non-Construction Defect) claims. **See Article II, Section D below.**

WHERE DO HOME OWNERS FIT IN THE PLAN STRUCTURE? The Plan places Home Owner claims either in Class 3 (non-Construction Defect Claims) or in Class 4 (Construction Defect Claims). Home Owners who assert Class 3 non-Construction Defect Claims against Debtor (such as claims based on Price Promises or Price Guarantees) ~~will have an~~ had the opportunity to submit their claims to the Bankruptcy Court ~~and (if the claim is, Their allowed)~~ claims will receive a pro rata share of a \$1,500,000 fund. Class 4 Construction Defect Claims will be handled by the Construction Defect Trust. **See Article II, Section A below.**

HOW WILL THE CONSTRUCTION DEFECT TRUST HANDLE CONSTRUCTION DEFECT CLAIMS?

Construction Defect Claims will be handled in a two stage process. First, each Home Owner ~~who timely asserts a Construction Defect Claim~~ will receive a Class 4 Ballot in the package with this Home Owner Disclosure Statement, which will be used to (i) vote to accept or reject the Plan, and (ii) if voting to accept the Plan, make or decline an optional Cash Out Election. **Only Home Owners who timely return a properly completed Ballot will be eligible to vote, and only Home Owners who vote to accept the Plan will be eligible to make the Cash Out Election.** The optional Cash Out Election enables a Home Owner to choose to receive a one-time Cash Out Payment from the Construction Defect Trust, regardless of whether any construction defects have arisen in the Home Owner’s residence to date, in return for a comprehensive release of the Home Owner’s ability to assert liability for Class 4 Construction Defect Claims against Debtor and ~~certain other parties~~ Reorganized Debtor. Home Owners who make the Cash Out Election will not participate in the second stage of the process described below, and will not receive any further distributions beyond the Cash Out Payment. **NOTE: THE CASH OUT ELECTION BECOMES VOID IF LESS THAN EIGHTY PERCENT (80%) IN NUMBER OF THE HOLDERS OF CLASS 4 CONSTRUCTION DEFECT CLAIMS ACTUALLY VOTE TO ACCEPT THE PLAN.**

In the second stage, Home Owners who ~~timely asserted~~ Class 4 Construction Defect Claim, but who do not make the Cash Out Election (or all Home Owners if the Cash Out Election becomes void), will have their Class 4 Construction Defect Claims processed by the Construction Defect Trust for payment according to the Construction Defect Trust Distribution Procedures (“TDP”). Under the TDP, Home Owners will have an opportunity to submit detailed information in support of their Class 4 Construction Defect Claims to the Construction Defect Trustee, who will perform a review and make a determination regarding the allowed Class 4 Construction Defect Claim amount. The Home Owner can then either accept this determination or seek further review. Home Owners who do not make the Cash Out Election (or all such Home Owners if the Cash Out Election becomes void) and who are determined to have allowed Class 4 Construction Defect Claims will receive pro rata distributions from the Construction Defect Trust as funds become available. **See Article II, Section B below.**

HOW MUCH WILL THE CASH OUT PAYMENT BE AND WHEN WILL IT BE MADE? The exact amount of the Cash Out Payment will depend on how many Home Owners ~~assert~~ asserted Class 4 Construction Defect Claims (but it will not depend on how many Home Owners make the Cash Out Election versus how many do

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

1 not). The Cash Out Payment will not be less than \$200 and is not likely to be more than \$300. The Cash Out
2 Payment will be mailed to Home Owners who make the Cash Out Election within sixty (60) days of the Plan
3 Effective Date at the address to which the Class 4 Ballot was mailed unless a different address is provided on
4 a Home Owner's completed Class 4 Ballot. NOTE: THE CASH OUT ELECTION BECOMES VOID IF LESS
5 THAN EIGHTY PERCENT (80%) IN NUMBER OF THE HOLDERS OF CLASS 4 CONSTRUCTION DEFECT
6 CLAIMS ACTUALLY VOTE TO ACCEPT THE PLAN. See Article II, Section B below.

7 **WHAT PERCENTAGE WILL THE CONSTRUCTION DEFECT TRUST PAY TO HOME OWNERS WITH
8 CLASS 4 CONSTRUCTION DEFECT CLAIMS WHO DO NOT MAKE THE CASH OUT ELECTION, AND
9 WHEN WILL A DISTRIBUTION BE MADE?** It is not yet possible to predict the percentage and timing of
10 payments to Home Owners with allowed Class 4 Construction Defect Claims who do not make the Cash Out
11 Election. The Construction Defect Trust may make periodic interim distributions or it may make a one-time
12 final distribution to these Home Owners. The percentage and timing of payments from the Construction
13 Defect Trust (other than Cash Out Payments) will depend on (i) the number and amount of allowed Class 4
14 Construction Defect Claims, and (ii) the ability of the Construction Defect Trust to recover value from
15 insurance proceeds and other claims and causes of action. It may take years for the Construction Defect
16 Trust to process these Class 4 Construction Defect Claims for payment, and the distribution(s) may be a
17 fraction of the allowed Class 4 Construction Defect Claim amount. **See Article II, Section B below.**

18 **WHAT ABOUT HOMEOWNERS WHO HAVE NON-CONSTRUCTION DEFECT CLAIMS?** The percentage
19 and timing of payments to Home Owners with allowed non-Construction Defect Claims will depend on the
20 total number and amount of non-Construction Defect Claims that are allowed. In general, distributions for
21 non-Construction Defect Claims should be made sooner than for Class 4 Construction Defect Claims because
22 they can be processed more quickly. **See Article II, Section D&E below. Sections D & E below.**

23 **WHAT HAPPENS IF I DO NOT SUBMIT A VOTE?** Holders of Class 4 Construction Defect Claims who have
24 not filed a Proof of Claim and who do not vote will effectively be delegating to the Futures Representative their
25 right to vote to accept or reject the Plan. The Futures Representative intends to vote in favor of the Plan on
26 behalf of the Holders of Class 4 Construction Defect Claims who have not voted themselves, thereby granting
27 the non-debtor release set forth in Section 12.4(b) of the Plan on behalf of such Holders. If you did not file a
28 Proof of Claim and you do not submit a Ballot, then the Futures Representative will vote your Claim in favor of
the Plan. If the Futures Representative votes your Claim in favor of the Plan and the Plan is confirmed, then
your sole remedy for any Class 4 Construction Defect Claims will be against the Construction Defect Trust
and you will be precluded from asserting your Claim against Debtor, Reorganized Debtor and certain non-
Debtor parties (including affiliates of Debtor).

WHY SHOULD I VOTE IN FAVOR OF THE PLAN? Your vote on the Plan is important. Debtor believes
that the Plan provides the best available method for resolving the Chapter 11 Case and maximizing the value
of the Debtor's assets for distribution to Home Owners and other creditors. No other plan has been proposed
for satisfying the claims of Home Owners and other creditors against Debtor. If the Plan is not confirmed,
then there may not be any value to satisfy Home Owners' claims. If less than eighty percent (80%) in number
of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan, then the Construction
Defect Trust will be funded with only \$500,000 in cash instead of \$1,500,000 in cash that will be funded if at
least eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to
accept the Plan. See Article III, Section 4 below. Accordingly, Debtor urges you to vote to accept the
Plan by completing/returning your Ballot(s) no later than 3:00 p.m. Pacific on September 11, January 4,
2012.

ARTICLE I
BACKGROUND INFORMATION

A. History and Anticipated Course of the Chapter 11 Case.

On March 1, 2012 (the "Petition Date"), Debtor¹ filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Nevada (the "Bankruptcy Court").

Debtor commenced this chapter 11 case (the "Chapter 11 Case") in order to reorganize its financial affairs, restructure its institutional secured debt obligations and address certain legacy contingent liabilities that may have arisen during the 144-month period (or longer) that precedes the Petition Date in connection with the construction, marketing and sale of homes.

1. **Overview and History of Debtor's Business Operations.**

AWDI was founded on July 31, 1984. Initially, AWDI was known as CKC Corporation, but shortly after its formation (on December 13, 1984) its name was changed to AWDI. The initial shareholders of AWDI were Lawrence Canarelli, E.A. Collins, M.M. Collins, and Frank Kocvara. By July 1, 1994, Lawrence Canarelli had become the sole shareholder of AWDI, and on October 6, 2003, Lawrence Canarelli transferred all of his interest in AWDI to the Canarelli Family Trust, of which he is currently the sole trustee.

In January and February of 2012, AWDI and certain affiliated companies consummated a series of transactions to reorganize and recapitalize the company. In the initial series of transactions, Development Management, Inc. ("DMI") and several housing entity affiliates were merged with and into AWDI with AWDI remaining as the surviving company following the mergers.

Following the consummation of the mergers, AWDI was recapitalized in accordance with the terms of a capital contribution agreement pursuant to which the shareholders of AWDI received additional shares of common stock in consideration of certain advances made by the shareholders to AWDI, or to third parties on its behalf, in repayment of certain debts previously incurred by AWDI.

~~In~~ Since 2003, AWDI ~~became~~ has served as the licensed contractor for certain non-debtor parties.² AWDI continues to serve as the licensed contractor and homebuilder entity for certain non-debtor parties.³

¹ Prior to the Petition Date, the following former affiliates of AWDI merged with and into AWDI: Castlebay 1, Inc., Development Management, Inc., Fairmont 1, Inc., Glen Eagles 3, Inc., Heritage 1, Inc., Inverness 5, Inc., Kensington 1, Inc., Kingsbridge 1, Inc., Promontory Estates, LLC, Promontory Point 3, Inc., Promontory Point 4, Inc., Silverado Springs 1, Inc., Silverado Springs 2, Inc., Tradition, Inc., and Windsor 1, Inc.

² Prior to 2003, American West Homes, Inc. was the licensed general contractor, land owner and construction manager for various non-debtor land owning and home selling entities.

³ Currently, Debtor is the contractor and homebuilder for the following non-debtor affiliates: Woodbridge 1, Inc., Silverado Summit LLC, Silverado Springs 3, LLC, Silverado Springs 2, LLC, Reserve 1, LLC, Newcastle 1, LLC, Lexington 1, LLC, Kingsbridge 2, LLC, Kensington 2, Inc., Inverness 2010, LLC, Fairmont 2, LLC, Carmel Hills LLC, and Brookside I, LLC.

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

1 AWDI built homes and developed lots, which were sold through respective affiliated non-debtor
2 home seller entities.⁴ Debtor received design-build and marketing/administrative services fee income
3 associated with this activity.

4 Only at the closing of a home sale is AWDI paid for all of the development work performed for
5 the landowners during the lot development phase, the construction work performed for the home seller
6 entities during the home construction phase, and its marketing and administrative services. The home
7 seller entities reimburse AWDI for its costs in performing the lot development work (which obligation
8 the home seller entities assume from the land owners when they build the lots). Pursuant to the Design-
Build Agreements, the home seller entities pay AWDI a flat fee of \$22,000 per home and reimburse
AWDI for its costs in performing the construction work for such home. Pursuant to the Marketing and
Administrative Services Agreements, the home seller entities pay AWDI a flat fee of \$44,000 per home.

9 2. Financial Information.

10 Debtor's book asset value was \$88,127,550, as of February 29, 2012, and \$88,944,336 as of
11 August 31, 2012. The book asset value as of August 31, 2012 consists of the following assets: (1)
12 \$2,645,030—cash and cash equivalents (\$1,575,498); (2) \$1,057,726—fixed and other assets
13 (\$177,714); (3) \$66,410,315—work in process (\$67,679,783); (4) \$13,115,095—prepaid expenses
14 (\$12,352,681); (5) \$2,797,471—refundable deposits (\$2,903,675); and (6) \$2,101,912—capitalized
15 model costs (\$2,644,768); and (7) Intercompany Receivable (\$1,610,216). Upon the merger date of
16 January 19, 2012, Debtor also recorded an impairment reserve of \$28,542,000. ~~The~~ Thus, the book
17 asset value less the impairment reserve was \$59,585,550 as of February 29, 2012 and \$60,402,336 as of
18 August 31, 2012.

19 Debtor's total liabilities were \$195,122,011.65, as of February 29, 2012, and \$198,263,057 as of
20 August 31, 2012. The total liabilities ~~consist~~ as of August 31, 2012 consisted of the following: (1)
21 \$177,506,450.25—Term Loan \$164,339,200; (2) \$20,910—commissions payable (\$79,021); (3)
22 \$16,488,263—amount drawn from AWH Ventures, Inc. ("AWHV-") revolving line of credit
23 (\$30,666,530); (4) \$42,488—trade payables; and (5) \$1,063,990—~~Price Promises or Price Guarantees~~
24 (\$250,428); (5) Accrued professional fees and OUST fees (\$1,284,586); (6) Accrued Liabilities
25 (\$124,799); and (7) DIP Loan (\$1,518,493).

26 **B. Events Leading to Commencement of the Chapter 11 Case.**

27 Debtor's principal assets consist of (i) the Receivable owing from certain Affiliates for lot
28 development and home construction services performed by Debtor, (ii) insurance policies/proceeds,
and (iii) causes of action against third parties. Due to the economic downturn that has dramatically
affected the housing market in Las Vegas and across the country, the reduced sale prices for homes has
significantly impacted the collectible value of the Receivable. Debtor estimates that the collectible
value of the Receivable totals approximately \$49,635,000.

⁴ Following is a list of the non-debtor affiliates for which Debtor built homes that were sold in
2011: Fairmont 2, LLC, Kensington 2, Inc., Kingsbridge 1, Inc. (now merged with Debtor),
Kingsbridge 2, LLC, Lexington 1, LLC, Newcastle 1, LLC, Reserve 1, LLC, Silver Springs 2, LLC,
Silver Springs 3, LLC, Windsor 1, Inc. (now merged with Debtor), and Woodbridge 1, Inc.

1 The Receivable (and all of Debtor's other personal property assets) are collateral for the Term
 2 Loan owed to the Secured Lenders, the principal balance of which ~~totaled~~ has been reduced from
 3 \$177,506,450.25 as of the Petition Date to \$162,047,145 as of October 9, 2012 due to principal
 4 payments made since the Petition Date by non-Debtor borrowers. Debtor is jointly and severally liable
 5 for the Term Loan, as are the bulk of Debtor's non-debtor Affiliates. In addition, Debtor ~~faces~~
 6 ~~potential exposure to (i) Construction Defect Claims, and (ii) has settled certain~~ Claims based on Price
 7 Promises and Price Guarantees related to the sale of homes built by Debtor for an aggregate total of
 8 approximately \$1,800,000. Debtor's ~~also faces potential~~ exposure to ~~these types of~~ Construction
 9 Defect Claims that is contingent and highly uncertain—it could be as low as a few tens or hundreds of
 10 thousands of dollars or as high as ~~nearly \$100,000,000~~ 80,000,000.

11 C. Debtor's Reorganization Efforts.

12 Debtor filed its Chapter 11 Case with the intent to proceed immediately down the path to
 13 presenting a chapter 11 plan to its Creditors for their acceptance or rejection and to the Bankruptcy
 14 Court for confirmation. Prior to the Petition Date, Debtor negotiated a Restructuring, Lock-Up and
 15 Settlement Letter Agreement (the "Lock-Up and Settlement Letter Agreement") with the Secured
 16 Lenders to ensure their support. The Bankruptcy Court approved the Lock-Up and Settlement Letter
 17 Agreement. Debtor filed its initial Chapter 11 Plan of Reorganization dated May 29, 2012 (the "Initial
 18 Plan") on May 29, 2012. A hearing on confirmation of the Initial Plan took place on September 25,
 19 2012. Although the Initial Plan was overwhelmingly accepted by Holders of Claims in each of the
 20 three Impaired Classes designated in the Initial Plan, the Bankruptcy Court entered an order denying
 21 confirmation of the Initial Plan based upon certain objections asserted by the Office of the United
 22 States Trustee ("OUST"). The two primary grounds upon which the Bankruptcy Court denied
 23 confirmation of the Initial Plan were: (i) inadequate disclosure of (x) self-insured retention amounts
 24 under Debtor's insurance policies, and (y) the terms of the Construction Defect Trust; and (ii)
 25 injunctions, exculpations and releases of non-debtor parties contained in Article XII of the Initial Plan
 26 that the Bankruptcy Court found to be impermissible under current Ninth Circuit law.

27 Debtor drafted the current Plan in order to address these two primary aspects of the Bankruptcy
 28 Court's ruling on the Initial Plan. Attached to the Master Disclosure Statement as Exhibit H is a copy
 29 of the Construction Defect Trust Declaration and TDP, and attached to this Disclosure Statement as
 30 Exhibit 1 is a list of Debtor's self-insured retention amounts. Expanded discussion of Debtor's
 31 insurance matters can be found in Article III, Section A(2) of this Disclosure Statement. In addition,
 32 Debtor modified the injunction, exculpation and release provisions contained in Article XII of the Plan.

33 D. The Futures Representative.

34 Claims against Debtor arising out of allegations of construction defect in homes and
 35 developments built by Debtor can be categorized as follows: (i) claims currently in litigation;
 36 (ii) claims that have not yet been asserted in litigation but are known to the claimants; and
 37 (iii) contingent, unliquidated claims of persons who have not yet asserted claims because they do not
 38 yet have claims or have claims that are as yet unknown to them, but who would be members of a
 39 potential class of claimants against Debtor for claims asserted at some point in the future.

1 To resolve potential construction defect exposure in categories (ii) and (iii), Debtor requested
2 that the Bankruptcy Court appoint a Futures Representative to represent that class of homeowners in
3 Clark County, Nevada, whose homes were built by Debtor or Debtor’s subsidiaries and may have
4 construction defect claims against Debtor, but who have not yet brought those claims (“Future
5 Construction Defect Claimants”) and are not barred from doing so by any applicable limitations statute.
6 The appointment of a futures representative to act as the legal representative for, and to protect the
7 interests of, future construction defect claimants in the chapter 11 case of a debtor facing potential class
8 action tort litigation is well established. This course of action was pioneered in the asbestos cases and
9 ultimately codified as to asbestos claims under Bankruptcy Code section 524(g), and was also followed
10 in recent bankruptcy cases involving Catholic Church Dioceses

11 The Bankruptcy Court granted Debtor’s motion and appointed James L. Moore as the Futures
12 Representative in the Chapter 11 Case. The Court also granted an application to employ Field Law
13 Ltd. as counsel for Mr. Moore. As authorized by the Bankruptcy Court, the Futures Representative
14 filed proofs of claim in Debtor’s case on behalf of Future Construction Defect Claimants (the “FCR
15 POC”).

16 In connection with the Initial Plan, Debtor entered into a stipulation with the Futures
17 Representative providing that the Futures Representative shall be entitled to vote the claims set forth in
18 the FCR POC as follows:

- 19 a. The Futures Representative is only entitled to submit a Class 4 Construction Defect Claim
20 ballot on behalf of Home Owners (“Non-Responding Home Owners”) who (i) did not file
21 their own proof of claim, and (ii) did not complete and submit their own ballot;
- 22 b. Any such ballot(s) submitted by the Futures Representative shall be tabulated (i) as a
23 single, separate vote for each residence owned by the applicable Non- Responding Home
24 Owner(s), and (ii) in the amount of \$1,000 for each such Non-Responding Home Owner;
25 and
- 26 c. The foregoing provisions are solely for the purpose of voting on the Plan and shall have no
27 effect on the allowance or disallowance of any Class 4 Construction Defect Claim, whether
28 asserted by or on behalf of Non- Responding Home Owners or otherwise, and the rights of
all parties with respect thereto were expressly reserved.

The Bankruptcy Court approved Debtor’s stipulation with the Futures Representative.
In accordance therewith, the Futures Representative submitted a ballot voting to accept the Initial Plan
on behalf of approximately 2,684 Non-Responding Home Owners. In connection with the current
Plan, Debtor is seeking (1) to keep the voting stipulation with the Futures Representative in full force
and effect, so that the Futures Representative will be entitled to submit a vote on the current Plan on
behalf of Non-Responding Home Owners according to the same terms, and (2) clarify that a vote by
the Futures Representative to accept the Plan on behalf of Non-Responding Home Owners will be
effective to bind the Non-Responding Home Owners to the release set forth in Section 12.4(b) of the
Plan.

**ARTICLE II
SUMMARY OF THE PLAN**

THE FOLLOWING SUMMARY OF CERTAIN PRINCIPAL PROVISIONS OF THE PLAN IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN ITSELF, WHICH IS ALSO SEPARATELY FILED AND ATTACHED AS EXHIBIT A TO THE MASTER DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS HOME OWNER DISCLOSURE STATEMENT DO NOT PURPORT TO BE PRECISE OR COMPLETE STATEMENTS OF ALL THE TERMS AND PROVISIONS OF THE PLAN OR DOCUMENTS REFERRED TO THEREIN, AND REFERENCE IS MADE TO THE PLAN AND TO SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF SUCH TERMS AND PROVISIONS. IN THE EVENT OF ANY DISCREPANCY BETWEEN THIS HOME OWNER DISCLOSURE STATEMENT, INCLUDING THE FOLLOWING SUMMARY DESCRIPTION, AND ANY PROVISION OF THE PLAN, THE PLAN OR ORDER CONFIRMING THE PLAN WILL CONTROL.

A. Classification and Treatment of Claims.

As described above, Debtor's financial obligations as of the Petition Date can be separated into four main categories: (1) secured debt obligations to the Secured Lenders under the Term Loan (for which Debtor and certain other affiliates are jointly and severally liable); (2) Construction Defect Claims; (3) other unsecured claims (which include claims under Price Promises and Price Guarantees); and (4) Bond Claims.

The Plan separates Claims against Debtor into five (5) classes based on their level of priority under the Bankruptcy Code and the legal nature of the Claims. Certain kinds of Claims are not classified because the Bankruptcy Code requires that they receive specific treatment. There is also one (1) class of Equity Interests. The Plan provides for a consensual restructuring of the Term Loan owed to the Secured Lenders pursuant to (and subject to the terms of) a pre-petition Lock-Up and Settlement Agreement. The Plan also provides for Holders of Allowed Class 3 General Unsecured Claims (which exclude Class 4 Construction Defect Claims, and certain other eClaims) to share Pro-Rata in a \$1,500,000 cash pool, up to the Allowed principal amount of the eClaim. Importantly, the Plan provides that the Secured Lenders will waive their General Unsecured Deficiency Claims in Class 3 if and only if the Holders of Class 3 General Unsecured Claims vote, as a Class, to accept the Plan.

Liability for Allowed Construction Defect Claims, if any, will be channeled to the Construction Defect Trust, the corpus of which will consist primarily of ~~\$1,500,000 in cash, claims against insurance proceeds and other causes of action contributed by Debtor and certain of its Affiliates. Debtor's existing Equity Interests will be canceled and ownership of Reorganized Debtor will be vested in the DIP Lender or its assignee(s), each of which is an existing Affiliate. In return, the DIP Lender will provide \$10,000,000 in funding to make payments under the Plan, provide the cash portion of the funding of the Construction Defect Trust as well as:~~

(i) cash in the amount of either (x) \$1,500,000 (if at least eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan), a portion of which shall initially be used to make any Cash Out Payments, or (y) \$500,000 (if less than eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan, and the Cash Out Election is therefore not available);

(ii) claims against insurance proceeds; and

(iii) other causes of action contributed by Debtor and certain of its Affiliates.

Debtor’s existing Equity Interests will be canceled and ownership of Reorganized Debtor will be vested in the DIP Lender or its assignee(s), each of which is an existing Affiliate. In return, the DIP Lender will provide \$10,000,000 in funding to make payments under the Plan, provide the cash portion of the funding of the Construction Defect Trust as well as contribute thereto causes of action against subcontractors, and provide working capital for Reorganized Debtor. This funding amount will not change depending on the voting results for Class 4—if less than eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan, then the additional \$1,000,000 that otherwise would have gone into the Construction Defect Trust will instead go to Reorganized Debtor to provide Reorganized Debtor with a further increase in working capital.

The Plan’s classification and treatment of Claims and Equity Interests is summarized as follows:

Class	Description	Treatment	Estimated Amount of Claims ⁵
Class 1	Other Priority ⁶ Claims	Each Holder of an Allowed Priority Claim shall either: (i) be paid the Allowed amount of such Claim in Cash on the Effective Date; or (ii) receive such other treatment as is agreed to by the Holder of such Allowed Other Priority Claim, and Debtor or Reorganized Debtor, as the case may be. <i>Other Priority Claims are not Impaired. Holders of Allowed Other Priority Claims are not entitled to vote and are conclusively determined to accept the Plan.</i>	\$100,000
Class	Secured	On the Effective Date, each	\$177,506,450.25 \$162,047,145 ⁷

⁵ ~~These~~ Except as otherwise noted, these amounts were compiled by combining the undisputed claims listed on ~~each~~ Debtor’s bankruptcy schedules. As such, these amounts are estimates only, and may change as Proofs of Claims are filed and as the adjudication or other resolution of pending contingent, unliquidated and/or Disputed Claims occurs.

⁶ Section 507 of the Bankruptcy Code provides for certain unsecured claims existing on the Petition Date to receive priority, such as tax claims, employee wage claims (subject to certain limits) and consumer deposit claims. These priority claims are entitled to be paid in full before non-priority unsecured claims receive any distribution. Priority Tax Claims must receive specific treatment as set forth in the Bankruptcy Code, so they are not classified. The remaining priority claims (other than Priority Tax Claims) make up Class 1 under the Plan.

Class	Description	Treatment	Estimated Amount of Claims ⁵
2	Claims (the Debtor's obligations to the Secured Lenders under the Term Loan)	Secured Lender, as a Holder of an Allowed Secured Claim, shall receive, in full satisfaction, settlement, release and exchange for its Allowed Secured Claim, payments from and performance by Reorganized Debtor under the New Secured Loan according to the terms and conditions of the New Secured Loan Documents. The New Secured Loan will be evidenced by the New Secured Notes, which will be executed by Reorganized Debtor and be payable to the order of each Secured Lender according to such Secured Lender's pro rata interest in the New Secured Loan. The New Secured Notes will be in the aggregate principal amount of \$49,635,000, maturing on December 31, 2015 (the " <u>Maturity Date</u> "). The New Secured Loan shall be secured by Liens on the Secured Lenders' collateral pursuant to the New Secured Loan Documents. Pursuant to the terms of the Lock-Up and Settlement Letter Agreement, the Secured Lenders shall waive any respective entitlement to receive or recover from Debtor or Reorganized Debtor any interest accruing at the default rate under the Term Loan Documents prior to the Effective Date to the extent (and only to the extent) that such default rate interest would be triggered under the Term Loan Documents by the commencement of the Chapter 11 Case.	

⁷ This is the balance as of October 9, 2012. The balance as of the Petition Date was \$177,506,450.25, which has been reduced due to principal payments made since the Petition Date by non-Debtor borrowers.

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Class	Description	Treatment	Estimated Amount of Claims ⁵
		<p>The New Secured Notes provide that the Secured Lenders will receive interest on the principal amounts of the New Secured Notes at either (a) a fixed rate of interest based on reserve-adjusted LIBOR rate plus the Applicable Margin for interest periods of one (1), two (2), three (3) or six (6) months or (b) a variable rate of interest based on the “prime rate” as announced from time to time by California Bank & Trust plus the Applicable Margin. If a fixed rate is selected, then upon expiration of the applicable interest period the variable rate will become applicable unless a new fixed rate interest period is selected in accordance with the New Secured Loan Documents. The variable rate will change with each change in the applicable “prime rate.”</p> <p>The New Secured Notes further provide that: (i) accrued interest shall be due and payable on the first Business Day of each month, beginning with the first day of the first month after the month in which the Effective Date occurs, with interest being calculated based on the actual number of days that principal is outstanding over a year of 360 days; and (ii) the entire outstanding principal balance of the New Secured Notes plus any accrued and unpaid interest shall be immediately due and payable in one balloon payment on the Maturity Date. The New Secured Notes shall be secured, pursuant to the New Secured Loan Documents, by the Secured Lenders’ collateral and shall be in a form acceptable to and approved by the Secured</p>	

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Class	Description	Treatment	Estimated Amount of Claims ⁵
		<p>Lenders, which form is annexed as an exhibit to the Disclosure Statement. In the event of a default by Reorganized Debtor under the New Secured Loan Documents, the full amount of the obligation owed by Debtor’s co-borrowers under the Term Loan shall, at the option of a designated percentage of the Secured Lenders, become immediately due and payable in full. In the event of any conflict between the New Secured Loan Documents and this Plan, the terms and conditions of the New Secured Loan Documents shall control.</p> <p>Upon the Effective Date: (i) Debtor’s obligations as co-borrower under the Term Loan shall be deemed replaced by its obligations as borrower under the New Secured Loan; (ii) Reorganized Debtor shall be deemed to be the sole owner of all of Debtor’s re-vested assets, including the Receivable and contract rights under each of the Design-Build Agreements and the Marketing and Administrative Services Agreements, free and clear of all Liens and interests except the Secured Lenders’ Liens and interests under the New Secured Loan Documents; and (iii) all Liens and security interests in the Receivable shall automatically be deemed to secure only Reorganized Debtor’s obligations to the Secured Lenders under the New Secured Loan Documents. In addition, the Term Loan provides that Reorganized Debtor may become a co-borrower thereunder under</p>	

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

Class	Description	Treatment	Estimated Amount of Claims ⁵
		certain conditions as set forth therein. <i>Secured Claims are Impaired and the Holder(s) of Allowed Secured Claims are entitled to vote to accept or reject the Plan.</i>	
Class 3	General Unsecured Claims	Unless otherwise agreed to by the Holder, each Holder of an Allowed Class 3 General Unsecured Claim shall receive on the Effective Date in full satisfaction, settlement, release and exchange of such Allowed <u>Class 3</u> General Unsecured Claim, its Pro Rata share of one million five hundred thousand dollars (\$1,500,000), provided, however, that such Holder may not receive more than one hundred percent (100%) of the principal amount of its Allowed Claim. Holders of Allowed <u>Class 3</u>	\$1 <u>14,6,021</u> <u>98,9572.25</u> ⁷ <u>54</u> ⁸

~~⁷ This \$146,021,972.25 amount includes the Secured Lenders' Deficiency Claims totaling \$127,871,450.25, as to which the Secured Lenders have agreed to waive any distribution if Class 3 votes in favor of the Plan. In addition, this \$146,021,972.25 amount also includes over \$18,000,000 for other Class 3 Claims (i.e. exclusive of the Secured Lenders' Deficiency Claims), which is the aggregate maximum of such Claims that Debtor estimates possibly could be asserted. Debtor believes that the actual aggregate amount of Allowed Class 3 Claims (other than the Secured Lenders' Deficiency Claims) will be significantly lower than \$18,000,000.~~

⁸ This \$114,698,572.54 amount is calculated as of October 9, 2012 and includes (i) the Secured Lenders' Deficiency Claims totaling \$112,412,145.37, as to which the Secured Lenders have agreed to waive any distribution if Class 3 votes in favor of the Plan, (ii) approximately \$1,834,028.94 in settled pricing commitment claims, and (iii) approximately \$452,398.23 in other claims that remain subject to review and potential dispute by Debtor. This amount excludes an intercompany payable owing to AWHV in the amount of \$30,666,530 as of August 31, 2012, which will be eliminated in connection with the Plan. Debtor estimates that the distribution to Holders of Allowed Class 3 General Unsecured Claims will be between sixty-six percent (66%) and eighty-two percent (82%), based upon (a) the assumption that Class 3 votes in favor of the Plan, thereby triggering the Secured Lenders' waiver of their Deficiency Claims, (b) the prior payment of approximately \$350,000 in "critical vendor" claims, and (c) the resolution of any disputed Class 3 General Unsecured Claims. As of the Petition Date the Secured Lenders' Deficiency Claims totaled \$127,871,450.25, the balance of which has been reduced due to principal payments made since the Petition Date by non-Debtor borrowers.

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

Class	Description	Treatment	Estimated Amount of Claims ⁵
		<p>General Unsecured Claims are not entitled to interest on account of their claims. Distribution to Holders of Allowed Class 3 General Unsecured Claims will be made pursuant to Section 8.2(b) of the Plan.</p> <p>On the Effective Date, assuming that Class 3 votes in favor of the Plan, the Secured Lenders shall waive any distribution on account of their Class 3 General Unsecured Claims, which are Deficiency Claims, as established or determined by the 9019 Order or otherwise.</p> <p><i>Class 3 General Unsecured Claims are Impaired and Holders of Allowed Class 3 General Unsecured Claims are entitled to vote to accept or reject the Plan.</i></p>	
Class 4	Construction Defect Claims	Liability for payment of all Construction Defect Claims shall be the exclusive responsibility of the Construction Defect Trust and, except as provided in Section 2.3(d) of the Plan regarding Construction Defect Claims for which the Cash Out Election is made, shall be processed, liquidated and paid pursuant to the terms and provisions of the Construction Defect Trust Distribution Procedures (“TDP”), and the Construction Defect	\$80,000,000 ⁸⁹

⁸⁹ ~~This~~ \$80,000,000 amount is the aggregate maximum amount of Class 4 [Construction Defect](#) Claims that Debtor estimates [could](#) possibly ~~could~~ be asserted. Debtor believes the actual aggregate amount of Allowed Class 4 [Construction Defect](#) Claims will be significantly lower and is ~~not likely~~ [very unlikely](#) to exceed ~~approximately \$20,000,000~~ [approximately \\$8,000,000](#). [Only seven \(7\) Claims alleging construction defect liability were filed as of the Bar Date, several of which appear to relate to home construction in which Debtor was not involved.](#)

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Class	Description	Treatment	Estimated Amount of Claims ⁵
		Trustee will determine, subject to the terms of the Construction Defect Trust Declaration and the TDP, whether a Construction Defect Claim is an Allowed Claim for purposes of distributions on account thereof from the Construction Defect Trust. Pursuant to a channeling injunction, the sole recourse of the Holder of a Construction Defect Claim shall be against the corpus of the Construction Defect Trust, and such Holder shall have no rights whatsoever at any time to assert such Construction Defect Claim against Debtor, the Estate, Reorganized Debtor or the Assets vested in Reorganized Debtor upon confirmation of the Plan. On the Effective Date, all Holders of Construction Defect Claims shall be permanently and forever stayed, restrained and enjoined from taking any actions against Reorganized Debtor or its Affiliates , Debtor or its Affiliates , the Estate, the Assets, the Distribution Agent, <u>and</u> the Professionals and any of their Related Persons or their respective assets and property for the purpose of, directly or indirectly, collecting, recovering or receiving payment of, on or with respect to any Construction Defect Claim. On the Effective Date, the Construction Defect Trust will be funded with (i) a Construction Defect Trust Contribution in the amount of \$1,500,000 in cash <u>(or \$500,000 if less than eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan)</u> ,	

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Class	Description	Treatment	Estimated Amount of Claims ⁵
		<p>plus (ii) various rights and causes of action contributed by Debtor and its Affiliates that could augment the corpus of the Construction Defect Trust and the amount ultimately distributed to Holders of Allowed Construction Defect Claims.</p> <p>The Class 4 Ballot provided to Home Owners includes the option to make the Cash Out Election. Each Home Owner who makes the Cash Out Election will be <u>subject to eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually voting to accept the Plan,</u> receive a one-time cash payment in an amount that will not be less than \$200 and is not likely to be greater than \$300 (the <u>actual</u> amount depends <u>will depend</u> on the number of Home Owners asserting <u>Class 4</u> Construction Defect Claims), regardless of whether any construction defects have arisen in the Home Owner's residence to date, in return for a comprehensive release of the Home Owner's ability to assert liability for <u>Class 4</u> Construction Defect Claims against Debtor and certain other parties. <u>If the Plan is not accepted by at least eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims, there shall be no Cash Out Election available and the Claims of all Holders of Claims in Class 4 shall be processed, liquidated and paid pursuant to the terms and provisions of the TDP.</u></p> <p><u>Class 4</u> Construction Defect</p>	

FOX ROTHSCHILD LLP
 3800 Howard Hughes Parkway, Suite 500
 Las Vegas, Nevada 89169
 (702) 262-6899
 (702) 597-5503 (fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Class	Description	Treatment	Estimated Amount of Claims ⁵
		<p>Claims asserted by Home Owners who do not make the Cash Out Election will undergo further processing in accordance with the TDP. The remaining balance of the Construction Defect Trust Contribution (after payment of the Cash Out Payments, <u>if any</u>) will be used to fund the administration and distribution for these <u>Class 4</u> Construction Defect Claims, with <u>sixty percent (60%-)</u> of the remaining balance, to be earmarked for administration costs.</p> <p><u><i>Class 4 Construction Defect Claims are Impaired. Holders of Class 4 Construction Defect Claims who make the Cash Out Election will be deemed to have Allowed Claims for purposes of voting on the Plan and are entitled to vote to accept or reject the Plan. The votes of Holders of Class 4 Construction Defect Claims who do not make the Cash Out Election must seek temporary allowance of their Claims will be tabulated for purposes of voting on the Plan in the amount of \$1.00 unless the Bankruptcy Court enters an order pursuant to Bankruptcy Rule 3018(a) or they will not be entitled to vote to accept or reject the Plan temporarily allowing any such Claims in a different amount. Holders of Class 4 Construction Defect Claims who have not Filed a Proof of Claim and who do not vote will effectively be delegating to the Futures Representative their right to vote to accept or reject the Plan. The Futures</i></u></p>	

Class	Description	Treatment	Estimated Amount of Claims ⁵
		<u><i>Representative intends to vote in favor of the Plan on behalf of the Holders of Class 4 Construction Defect Claims who have not voted themselves, thereby granting the non-debtor release set forth in Section 12.4(b) of the Plan on behalf of such Holders.</i></u>	
Class 5	Bond Claims	Paid in the ordinary course of Reorganized Debtor's business. <i>Bond Claims are not Impaired. Holders of Allowed Bond Claims are not entitled to vote and are conclusively deemed to have accepted the Plan.</i>	\$178,744,349 ⁰⁰
Class 6	Old Equity Interests	Upon the Effective Date, all Old Equity Interests shall be extinguished and canceled. Holders of Old Equity Interests shall not receive or retain any property on account thereof under the Plan. <i>Old Equity Interests are Impaired. The Holders of Old Equity Interests are not entitled to vote and are conclusively deemed to have rejected the Plan.</i>	N/A

For a more detailed description of the treatment of the foregoing Classes of Claims and Interests, see Article V, Section B of the Master Disclosure Statement and Article II of the Plan.

B. The Construction Defect Trust.

If the Plan is confirmed and becomes effective, then the Construction Defect Trust will be formed to administer Class 4 Construction Defect Claims. The Construction Defect Trustee will be in charge of managing the Construction Defect Trust. Debtor ~~intends to propose~~ is proposing to have James L. Moore serve as the Construction Defect Trustee, whose annual compensation shall be \$100,000. Mr. Moore holds a Masters in Business Administration and is a Certified Public Accountant and has extensive experience in the real estate industry, particularly in homebuilding. The Construction Defect Trustee does not have any prior connection to Debtor or its Affiliates. The Construction Defect Trustee will consult with a three (3) member Construction Defect Trust Advisory Board, ~~who will be identified no later than fourteen (14) days prior to the Confirmation Hearing in the Construction Defect Trust Declaration. The appointment of the initial Construction Defect Trustee and~~

~~Construction Defect Trust Advisory Board shall be subject to Bankruptcy Court approval.~~ the initial members of which will be David N. Keys for a five-year term, Lance W. Johns for a four-year term and Jerry McGuire for a three-year term. Entry of the Confirmation Order shall constitute approval of the foregoing.

The primary functions of the Construction Defect Trust will be to (1) disburse cash payments to Home Owners who make the Cash Out Election (if at least eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan), (2) identify the remaining Home Owners who assert Class 4 Construction Defect Claims, (3) determine the allowed amount (if any) of each Class 4 Construction Defect Claim asserted by a Home Owner who does not make the Cash Out Election (or all such Home Owners if the Cash Out Election becomes void because less than eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan), (4) generate maximum value from insurance and claims against third parties that will be contributed to the Construction Defect Trust by Debtor and certain of its Affiliates, and (5) distribute on a Pro Rata basis the value generated from these assets to Home Owners who hold allowed Class 4 Construction Defect Claims (and who did not ~~make the~~ receive a Cash Out ~~Election~~ Payment).

The Construction Defect Trust will function pursuant to the TDP. You can review the TDP at <http://www.awdevelopmentreorg.com>. The TDP includes provisions for:

- When and where to submit Construction Defect Claims;
- What information to submit in support of Construction Defect Claims;
- The order in which Construction Defect Claims will be reviewed;
- The criteria for reviewing Construction Defect Claims;
- How to appeal a determination regarding the validity of a Construction Defect Claim; and
- Allocating value for distribution to the Holders of Construction Defect Claims.

IF THE PLAN IS CONFIRMED, THE CONSTRUCTION DEFECT TRUST WILL BE THE ONLY SOURCE OF RECOVERY FOR CONSTRUCTION DEFECT CLAIMS, AND HOLDERS OF CLASS 4 CONSTRUCTION DEFECT CLAIMS WILL BE BARRED FROM ASSERTING THESE CLAIMS AGAINST REORGANIZED DEBTOR, ITS AFFILIATES, OR ANY OTHER PERSON OR ENTITY AND ITS ESTATE. See Section F, below.

Article VI of the Plan describes in greater detail terms and conditions of the Construction Defect Trust.

C. Price Promises, Price Guarantees, and Warranties.

Section 365 of the Bankruptcy Code authorizes a debtor in possession to assume, assume and assign, or reject executory contracts and unexpired leases, subject to certain conditions. Generally speaking, an “executory contract” is an agreement under which material obligations remain to be performed by the debtor and the other party(ies) to the agreement.

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

To the extent that the Price Promises and Price Guarantees are executory contracts, the Bankruptcy Court authorized rejection of such agreements. Accordingly, neither Debtor nor Reorganized Debtor will continue to honor or perform under such agreements. A party to a Price Promise or Price Guarantee agreement ~~may file~~ could have filed a claim for damages based on the rejection up to the bar date of June 29, 2012 at 5:00 p.m. prevailing Pacific Time. ~~Any~~ All allowed claims for rejection damages ~~will be~~ are classified in Class 3 of the Plan and will receive a Pro Rata share of the \$1,500,000 pool to be funded for Class 3.

~~Except as set forth in the Plan Supplement, upon~~ Upon the Effective Date of the Plan, Reorganized Debtor will assume the Debtor's warranty obligations pursuant to the Warranty Program.

Article IV of the Plan sets forth in detail provisions for the treatment of executory contracts.

D. Plan Implementation.

The Plan will be funded by a "New Capital Contribution," which refers to a cash infusion of approximately \$10,000,000 that will be made by the DIP Lender or its assignee(s), each of which is an existing Affiliate. The New Capital Contribution will be used to fund: (1) the Construction Defect Trust with either (a) \$1,500,000 for distributions to Home Owners who make the Cash Out Election, the administration of the Construction Defect Trust and distributions to Home Owners with Allowed Class 4 Construction Defect Claims who do not make the Cash Out Election, if at least eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan, or (b) \$500,000 for the administration of the Construction Defect Trust and distributions to Home Owners with Allowed Class 4 Construction Defect Claims if less than eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan; (2) the \$1,500,000 pool for distributions to ~~Class 3 Holders of~~ Allowed Class 3 General Unsecured Claims; (3) distributions to Class 1 Other Priority Claims and other non-classified claims (such as Administrative Claims); and (4) working capital for Reorganized Debtor. The DIP Lender will receive a one hundred percent (100%-) direct ownership interest in Reorganized Debtor in return for the New Capital Contribution. The DIP Lender agreed to provide financing to Debtor in advance of Plan confirmation. A portion of the New Capital Contribution will be made via forgiveness of such financing.

The current officers of AWDI shall continue in such positions after the Effective Date with Reorganized Debtor.

Article V of the Plan sets forth in detail the means by which the Plan will be implemented.

E. Non-Construction Defect Claim Resolution and Distribution.

Reorganized Debtor will have the opportunity to object to any Disputed Claim (other than a Class 4 Construction Defect Claim, which will be adjudicated according to the TDP). An objection to claim filed by Reorganized Debtor may be resolved (1) by consent of the parties, or (2) by the Bankruptcy Court. Holders of Disputed Claims will receive notice of any objection and an opportunity to respond.

Distributions to Holders of Allowed Class 3 General Unsecured Claims will be made once all objections to disputed Class 3 General Unsecured Claims have been resolved by settlement or order of the Court. The Plan establishes a deadline of 120 days after the Effective Date to complete the Disputed Claims resolution process for Class 3 General Unsecured Claims, which deadline may be

1 extended by order of the Bankruptcy Court (without notice or a hearing) upon a motion by Reorganized Debtor.

2 Subject to certain exceptions and requirements, distributions shall be made: (a) in accordance
3 with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004;
4 (b) to the signatory set forth on any of the Proofs of Claim filed by such Holder or other representative
5 identified therein (or at the last known addresses of such Holder if no Proof of Claim is filed or if
6 Debtor has been notified in writing of a change of address); (c) at the addresses set forth in any written
7 notices of address changes delivered to Debtor after the date of any related Proof of Claim; (d) at the
8 addresses reflected in the Schedules if no Proof of Claim has been filed and the Distribution Agent has
9 not received a written notice of a change of address; or (e) on any counsel that has appeared in the
10 Chapter 11 Case on the Holder’s behalf.

11 Articles VII and VIII of the Plan contain more information about non-Construction Defect
12 Claim resolution and distribution.

13 **F. Effect of Confirmation.**

14 Several conditions must be satisfied in order for the Plan to become effective, including
15 approvals by the Bankruptcy Court, execution of certain documents, and receipt of sufficient funding.
16 Article X of the Plan sets forth in detail the conditions to the Plan’s effectiveness.

17 Upon becoming effective, the Plan will affect Claims asserted against Debtor and certain other
18 parties as follows:

- 19 • The treatment of Claims and Equity Interests under the Plan will be in exchange for, and
20 in complete satisfaction, discharge and release of, such Claims or Equity Interests
21 against (or in) Debtor;
- 22 • Except as otherwise provided in the Plan, Debtor and Reorganized Debtor will be
23 discharged from any and all Claims that arose before the Plan Effective Date;
- 24 • Parties will be precluded from asserting claims that arose before the Plan Effective Date
25 against Debtor, Reorganized Debtor, their successors or any of their assets;
- 26 • Parties will be permanently enjoined from commencing or continuing any action or
27 process to collect on claims against Debtor that arose before the Plan Effective Date;
- 28 • The Exculpated Parties (which include Debtor, the Secured Lenders, Reorganized
Debtor, the DIP Lender and certain other participants in the Chapter 11 Case) will be
relieved of any liability for acts or omissions in connection with the Chapter 11 Case
except to the extent of any fraud, gross negligence or willful misconduct;
- Debtor and Holders of Claims that vote to accept the Plan will release the Released
Parties (which include the Secured Lenders, Reorganized Debtor, the DIP Lender and
certain other participants in the Chapter 11 Case) from claims relating to Debtor and/or
the Chapter 11 Case arising prior to the Plan Effective Date; and
- **All parties will be permanently and forever stayed from taking actions to recover
Construction Defect Claims against ~~any party or source other than the~~**

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

Construction Defect Trust Reorganized Debtor, Debtor, the Estate, the Assets, the Distribution Agent, the Professionals and their respective assets and property.

In addition, upon the Plan becoming effective, Reorganized Debtor will be re-vested with all property of Debtor’s Estate free and clear of all claims, liens and interests (except to the extent specifically permitted by the Plan). Reorganized Debtor will retain all rights to commence and pursue causes of action. Article XII of the Plan sets forth in detail the effects of confirmation of the Plan.

Even after the Plan becomes effective, the Bankruptcy Court will retain jurisdiction over a wide range of matters related to Debtor, Reorganized Debtor, the Chapter 11 Case, and the Plan. Article XI of the Plan sets forth in detail the matters for which the Bankruptcy Court will retain jurisdiction.

**ARTICLE III
GUIDE TO FURTHER EVALUATION**

In addition to background information and a summary of plan terms, a disclosure statement typically contains certain additional information to assist creditors in their evaluation of a plan. This additional information often includes a list of risk factors for the plan and an explanation of the Bankruptcy Code requirements that the plan must satisfy in order to be confirmed (i.e. approved) by the Bankruptcy Court. Set forth below are: (A) an outline of the Plan’s risk factors; (B) an outline of the Bankruptcy Code requirements to confirm the Plan; (C) a list of sources of additional information that may be helpful for evaluation of the Plan; and (D) important disclaimers regarding this Home Owner Disclosure Statement.

A. Risk Factors.

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

1. The Prevalence of Construction Defects and the Extent of any Defectiveness is Undetermined.

Other than a very small number of lawsuits pending as of the Petition Date, Debtor ~~has-is~~ not been able to identify which (if any) homes built or sold by Debtor may contain ~~any~~ construction defect(s). Debtor ~~does-is~~ not have any way able to predict or estimate the extent of defectiveness (if any) or the cost to remediate any such defectiveness. As a result, the number and amount of potential Class 4 Construction Defect Claims that could be asserted based on construction defects, is uncertain and could vary within a very large range. In addition, there may be other products or conditions that could give rise to Class 4 Construction Defect Claims, of which Debtor is not yet aware. The total amount of Class 4 Construction Defect Claims and the total liability for such claims will have a significant impact on recoveries for any Home Owners with Allowed Class 4 Construction Defect Claims.

2. Insurance Recoveries are Uncertain.

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

1 The success of the Construction Defect Trust in recovering proceeds of insurance policies is
 2 uncertain. Debtor's insurance policies are subject to numerous terms and conditions, including
 3 deductibles or self-insured retention ("SIR") amounts that may be determined on a "per occurrence"
 4 basis. For the insurance policy in place as of the Petition Date, the applicable SIR is \$500,000 per
 5 occurrence up to an aggregate total of \$500,000. For certain prior years, the per occurrence SIR
 6 amounts per policy year are as high as \$3,000,000, with no aggregate limit. A chart identifying
 7 Debtor's per occurrence SIR amounts is attached hereto as Exhibit 1. The insurers may contest claims
 8 made by the Construction Defect Trust on a number of grounds, including that insurance proceeds will
 9 not be made available unless and until actual payment in the amount of the applicable SIR has been
 10 made. The Construction Defect Trust may not have sufficient funds to pay any applicable SIR amount,
 11 and resolving any such disputes may involve significant expense and delay. The amount (or lack) of
 12 success in recovering insurance proceeds could have a significant impact on recoveries for any Home
 13 Owners with Allowed Class 4 Construction Defect Claims.

14 **3. Litigation Recoveries and Results are Highly Speculative and Uncertain.**

15 The success of the Construction Defect Trust in pursuing claims and causes of action by way of
 16 litigation is highly speculative and uncertain. Litigation may be complex and involve significant
 17 expense and delay. Furthermore, even if the Construction Defect Trust is successful in obtaining a
 18 judgment or settlement of a claim or cause of action, it may be difficult or impossible to collect. The
 19 amount (or lack) of success in litigation could have a significant impact on recoveries for any Home
 20 Owners with Allowed Class 4 Construction Defect Claims.

21 **4. Inherent Uncertainty of Financial Projections.**

22 Projections for Reorganized Debtor and the Trust are attached to the Master Disclosure
 23 Statement as **Exhibits "C" and "D,"** respectively. These projections are based on numerous
 24 assumptions, including the timing, confirmation and consummation of the Plan in accordance with its
 25 terms, the anticipated future performance of Reorganized Debtor, industry performance, general
 26 business and economic conditions and other matters, many of which are beyond the control of
 27 Reorganized Debtor and the Construction Defect Trust and some or all of which may not materialize.
 28 In addition, unanticipated events and circumstances occurring subsequent to the date that this
 Disclosure Statement (and/or the Master Disclosure Statement) is approved by the Bankruptcy Court
 may affect the actual financial performance of the Construction Defect Trust or Reorganized Debtor's
 operations.

These variations may be material and may adversely affect the ability of Reorganized Debtor to
 make payments with respect to post-Effective Date indebtedness, or the ability of the Construction
 Defect Trust to make distributions to any Home Owners with Allowed Class 4 Construction Defect
 Claims. Because the actual results achieved throughout the periods covered by the projections may
 vary from the projected results, the projections should not be relied upon as a guaranty, representation
 or other assurance of the actual results that will occur.

Except with respect to the projections and except as otherwise specifically and expressly stated herein,
 neither this Disclosure Statement nor the Master Disclosure Statement reflects any events that may
 occur subsequent to the date hereof and that may have a material impact on the information contained
 herein or therein. Neither Debtor nor Reorganized Debtor intends to update the projections for the
 purposes hereof; thus, the projections will not reflect the impact of any subsequent events not already
 accounted for in the assumptions underlying the projections.

~~5. No Assurance of the Occurrence of the Effective Date.~~

~~Debtor firmly believes that its Affiliates are entitled to the protection of the permanent injunction against suits by Class 4 members given their making the DIP Loan, converting that loan to equity if the Plan is confirmed and contributing their causes of action against subcontractors to the Construction Defect Trust to the corpus thereof. However, no assurance can be given that a final Bankruptcy Court Order extending the protections of said permanent injunction to the Affiliates will be extant since they are not debtor entities and, in such event, there is no assurance that said condition to the occurrence of the Effective Date would be waived.~~

B. Bankruptcy Code Procedures and Requirements.

The Bankruptcy Court may confirm the Plan only if it determines that the Plan complies with the technical requirements of chapter 11 of the Bankruptcy Code. The Bankruptcy Code also specifies certain procedures to be followed in connection with these requirements, including with respect to the opportunity for certain parties to vote to accept or reject the Plan. The following is a brief summary of some of the key procedures and requirements under the Bankruptcy Code for approval of the Plan. The Master Disclosure Statement contains a more in-depth discussion of these matters.

1. Voting Eligibility.

Under the Bankruptcy Code, only Classes of Claims and Interests that are “Impaired” (as that term is defined in section 1124 of the Bankruptcy Code) under the Plan are entitled to vote to accept or reject the Plan. Generally speaking, a Class is Impaired if the Plan modifies the legal, equitable or contractual rights of Holders of Claims or Interests in the Class (other than by curing defaults and reinstating debt).

If the copy of this Home Owner Disclosure Statement that you received was accompanied by a Ballot, then you may be eligible to vote to accept or reject the Plan.

2. Voting Instructions.

THE PERIOD DURING WHICH BALLOTS WITH RESPECT TO THE PLAN WILL BE ACCEPTED BY DEBTOR WILL TERMINATE AT **3:00 P.M. PREVAILING PACIFIC TIME, ON ~~SEPTEMBER 11~~ JANUARY 4, 2012** (THE “VOTING DEADLINE”). EXCEPT TO THE EXTENT DEBTOR SO DETERMINES OR AS PERMITTED BY THE BANKRUPTCY COURT, BALLOTS THAT ARE RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE ACCEPTED OR USED BY DEBTOR IN CONNECTION WITH DEBTOR’S REQUEST FOR CONFIRMATION OF THE PLAN (OR ANY PERMITTED MODIFICATION THEREOF).

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

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

1 If you have any questions about the procedure for voting, or if you did not receive a Ballot,
2 received a damaged Ballot, or have lost your Ballot, or if you would like any additional copies of this
Disclosure Statement, please write to GCG, at:

3 AW Bankruptcy Administration
4 c/o GCG, Inc.
5 PO Box 9748
6 Dublin, OH 43017- 5648
7 Telephone Hotline: (877) 604-9532

8 **BALLOTS MUST BE DELIVERED BY FIRST CLASS MAIL, OVERNIGHT DELIVERY
9 OR HAND DELIVERY AT THE FOLLOWING ADDRESSES:**

10 **By First Class Mail:**
11 AW Bankruptcy Administration
12 c/o GCG, Inc.
13 PO Box 9748
14 Dublin, OH 43017-5648

15 **By Overnight Delivery or Hand Delivery:**
16 AW Bankruptcy Administration
17 c/o GCG, Inc.
18 5151 Blazer Parkway, Suite A
19 Dublin, OH 43017-9306

20 In the event that Claims or Interests may be (or have been) transferred between different
21 parties, Bankruptcy Rule 3018 authorizes the Bankruptcy Court to fix a date (the "Voting Record
22 Date") upon which the Holder of a particular Claim or Interest as of that Voting Record Date is
23 identified as the party entitled to vote such Claim or Interest to accept or reject the Plan. For example,
24 if the Voting Record Date is Wednesday, and Party A (as the current Holder of Claim 1) transfers
25 Claim 1 to Party B effective on Thursday, then Party A (and not Party B) is entitled to vote Claim 1 to
26 accept or reject the Plan. Conversely, if the Voting Record Date was Friday instead, and Party A still
27 transfers Claim 1 to Party B effective on Thursday, then Party B is entitled to vote Claim 1 to accept or
28 reject the Plan. Consistent with the provisions of Bankruptcy Rule 3018, Debtor is seeking to fix the
Voting Record Date as **5:00 P.M., Prevailing Pacific Time, on ~~August 10~~December 3, 2012**.
Therefore, if you are the Holder of an Impaired Claim as of the Voting Record Date, you are entitled to
vote the Claim to accept or reject the Plan, regardless of whether you transfer your Claim after the
Voting Record Date.

23 **3. Confirmation Hearing.**

24 Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a
25 hearing on confirmation of the Plan after the Ballots have been cast. Section 1128(b) of the
26 Bankruptcy Code provides that any party in interest may object to confirmation of the Plan.

27 THE BANKRUPTCY COURT HAS SCHEDULED THE CONFIRMATION HEARING TO
28 COMMENCE ON ~~SEPTEMBER 25~~JANUARY 15, 2012 AT 10:00 ~~Aa~~Mm. PREVAILING
PACIFIC TIME BEFORE THE HONORABLE MIKE K. NAKAGAWA, UNITED STATES
BANKRUPTCY JUDGE IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF NEVADA, IN COURTROOM 2, FOLEY FEDERAL BUILDING AND U.S.

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

COURTHOUSE, 300 LAS VEGAS BOULEVARD SOUTH, LAS VEGAS, NEVADA 89101.

1 THE CONFIRMATION HEARING MAY BE ADJOURNED FROM TIME TO TIME BY THE
2 BANKRUPTCY COURT WITHOUT FURTHER NOTICE EXCEPT FOR AN ANNOUNCEMENT
3 OF THE ADJOURNED DATE MADE AT THE CONFIRMATION HEARING OR ANY
ADJOURNMENT THEREOF.

4 OBJECTIONS TO CONFIRMATION OF THE PLAN MUST BE FILED AND SERVED ON
5 OR BEFORE ~~SEPTEMBER 11~~**DECEMBER 28, 2012 AT 5:00 p.m. PREVAILING PACIFIC**
6 **TIME** IN ACCORDANCE WITH THE SOLICITATION ORDER. UNLESS OBJECTIONS ARE
7 TIMELY SERVED AND FILED IN COMPLIANCE WITH THE SOLICITATION ORDER, THEY
8 MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

9 **4. Confirmation Requirements.**

10 At the Confirmation Hearing, the Bankruptcy Court will determine, among other things, whether
11 the confirmation requirements specified in section 1129 of the Bankruptcy Code have been satisfied.
12 These requirements are listed in the Master Disclosure Statement. Debtor submits that the Plan will
13 satisfy all of the applicable statutory requirements of Chapter 11 of the Bankruptcy Code, that Debtor
14 has complied or will have complied with its obligations as debtor in possession, and that the Plan is
15 being proposed and will be submitted to the Bankruptcy Court in good faith. Certain of the
16 requirements for confirmation of the Plan under section 1129 of the Bankruptcy Code are discussed in
17 greater detail below.

18 a. Classification.

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

25 b. Acceptance by Impaired Classes.

26 The Bankruptcy Code generally requires, as a condition to confirmation, that each class of
27 claims or interests that is impaired under the plan accept the plan (an exception to this requirement
28 called “cramdown” is discussed below). Pursuant to section 1126(c) of the Bankruptcy Code, a class
of claims has accepted the plan if the plan has been accepted by holders of claims that hold at least two-
thirds (2/3) in dollar amount and more than one-half (1/2) in number of the allowed claims of such class
that actually vote to accept or reject the plan. Holders of claims that fail to vote are not counted as
either accepting or rejecting the Plan.

Debtor is soliciting votes from the Record Date Holders of Impaired Claims in Classes 2, 3 and
4. Holders of Claims in Classes 1 and 5 are not Impaired and not entitled to vote to accept or reject the
Plan. Holders of Old Equity Interests in Class 6 neither receive nor retain anything under the Plan and
are deemed to reject the Plan.

As noted above, Debtor has addressed the concerns articulated by the Bankruptcy Court regarding inadequate disclosure of self-insured retention amounts and the provisions of the Construction

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

1 Defect Trust by: (i) attaching a copy of the Construction Defect Trust Declaration and the TDP to the
2 Master Disclosure Statement as Exhibit H; (ii) attaching a list of Debtor's self-insured retention
3 amounts to this Disclosure Statement as Exhibit I; and (iii) expanding the discussion of Debtor's
4 insurance matters in Article III, Section A(2) below.

5 c. Best Interests Test.

6 The Bankruptcy Code requires that each Home Owner that is the Holder of a General Unsecured
7 Claim in Class 3 or a Construction Defect Claim in Class 4 must either (i) vote to accept the Plan, or
8 (ii) receive or retain under the Plan cash or property of a value, as of the Effective Date of the Plan, that
9 is not less than the value such Home Owner would receive or retain if Debtor's Estate was liquidated
10 under chapter 7 of the Bankruptcy Code. The Bankruptcy Court will determine whether this
11 requirement (the "Best Interests Test") is met.

12 To determine the value that Home Owners would receive if Debtor's Estate was liquidated
13 under chapter 7, the Bankruptcy Court must determine the aggregate dollar amount that would be
14 generated from the liquidation of the assets available to satisfy a Home Owner's Claims if the Chapter
15 11 Case had been converted to a chapter 7 liquidation case and Debtor's assets were liquidated by a
16 chapter 7 trustee (the "Liquidation Value"). The Liquidation Value would consist of the net proceeds
17 generated from Debtor's non-cash assets, plus any additional cash held by Debtor's Estate and reduced
18 by certain increased costs and claims that arise in a chapter 7 liquidation case that do not arise in a
19 chapter 11 case.

20 As illustrated by the hypothetical chapter 7 liquidation analysis (the "Liquidation Analysis")
21 attached to the Master Disclosure Statement as Exhibit B, the Liquidation Value of Debtor's assets
22 would be reduced by the costs, fees and expenses of the liquidation under chapter 7, which would
23 include disposition expenses and the compensation of one or more trustees and its counsel and other
24 retained professionals. Furthermore, **the Liquidation Analysis concludes that a negligible**
25 **distribution (at best) would be made to Home Owners in a chapter 7 liquidation due to (i) the**
26 **joint and several nature of the Secured Lenders' Secured Claims, (ii) the size of the Secured**
27 **Lenders' unsecured deficiency claim, and (iii) the fact that the Secured Lenders' settlement of**
28 **their Secured Claim amount and waiver of distribution on their Unsecured Deficiency Claim**
(assuming Class 3 votes, as a Class, to accept the Plan) pursuant to the Lock-Up and Settlement
Agreement would not be effective in a chapter 7 liquidation.

21 Moreover, the Plan provides a superior opportunity for recovery by Holders of Class 4
22 Construction Defect Claims by (i) establishing the Construction Defect Trustee as a fiduciary with the
23 dedicated duty to maximize returns to the Holders of Class 4 Construction Defect Claims as
24 beneficiaries of the Construction Defect Trust; (ii) providing at least \$500,000 in cash (increasing up to
25 \$1,500,000 in cash if at least eighty percent (80%) in number of the Holders of Class 4 Construction
26 Defect Claims actually vote to accept the Plan) to fund the administration of the Construction Defect
27 Trust; (iii) providing for the assignment to the Construction Defect Trust of the Insurance Coverage
28 Actions, Insurance Recoveries and Construction Defect Actions, which will be pursued for the benefit
of the Holders of Allowed Class 4 Construction Defect Claims; and (iv) making the Cash Out Election
available (if at least eighty percent (80%) in number of the Holders of Class 4 Construction Defect
Claims actually vote to accept the Plan), which affords the flexibility to choose an immediate cash
disbursement rather than having any potential Class 4 Construction Defect Claims liquidated pursuant
to the TDP (or some other process if the Plan was not confirmed).

1 Although the Plan does not conclusively determine the availability of insurance coverage for
2 Class 4 Construction Defect Claims or the applicability of any self-insured retention amounts, it does
3 provide the Construction Defect Trustee with the authority and funding to address these issues in an
4 organized and consolidated fashion on behalf of the Holders of Allowed Class 4 Construction Defect
5 Claims. Without the establishment of the Construction Defect Trust, each Holder of a Class 4
6 Construction Defect Claim would be left to its own devices to pursue its Claim and obtain any recovery,
7 potentially in competition with other Holders of similar Claims. Accordingly, Debtor and the Futures
8 Representative have concluded that the Plan provides the best available opportunity for the satisfaction
9 of Class 4 Construction Defect Claims.

10 For the reasons set forth in the Liquidation Analysis, Debtor submits that the Plan provides a
11 superior recovery for the Home Owners than a liquidation under chapter 7, and that the Plan therefore
12 meets the requirements of the Best Interests Test.

13 d. Feasibility of the Plan.

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

17 Based on the projections set forth in Exhibits C and D to the Master Disclosure Statement and
18 the operational, business and other assumptions set forth therein, Debtor submits that Reorganized
19 Debtor and the Construction Defect Trust will have the financial capability to satisfy their respective
20 obligations following the Effective Date pursuant to the Plan, including the payment of all Cash
21 distributions contemplated by the Plan. Therefore, Debtor submits that the Plan is feasible as required
22 by section 1129(a)(11) of the Bankruptcy Code.

23 e. Confirmation Without Acceptance of All Impaired Classes - "Cramdown."

24 The Bankruptcy Code authorizes the Bankruptcy Court to confirm a plan, even if it is not
25 accepted by all impaired classes, provided that the plan has been accepted by at least one impaired
26 class of claims and the requirements of section 1129(b) of the Bankruptcy Code are satisfied.
27 Confirmation of a plan notwithstanding rejection by an impaired class is referred to as "cramdown."

28 Section 1129(b)(1) of the Bankruptcy Code imposes two requirements for a cramdown, both of
which are applicable to the rejecting class: (1) the plan must be "fair and equitable;" and (2) the plan
must not "discriminate unfairly."

A plan does not "discriminate unfairly" if the plan does not treat the applicable rejecting class
in a manner that is materially less favorable than the treatment afforded to another class with similar
legal claims against or interests in a debtor. However, a plan also may satisfy this requirement even if
classes of claims or equity interests that are of equal priority are receiving different treatment. The test
does not require that the classes of equal priority receive identical treatment, but instead only that if
there is a difference in treatment that such difference be "fair."

Under the Plan, Holders of Claims in Classes 3 and 4 receive different treatment even though
they are of the same priority under the Bankruptcy Code (non-priority unsecured claims)—Holders of
Allowed Claims in Class 3 (General Unsecured Claims) receive a Pro Rata share of \$1,500,000,
whereas Holders of Allowed Claims in Class 4 (Construction Defect Claims) will receive payment form

1 the Construction Defect Trust. Other than Classes 3 and 4, the Plan does not separate any other
 2 creditors of equal priority into different Classes. However, Debtor submits that this difference is fair
 3 based on (1) the different nature of the claims, in that most (if not all) Class 3 General Unsecured
 4 Claims will already have been liquidated and Allowed or Disallowed as of the Effective Date, whereas
 5 Class 4 Construction Defect Claims (generally speaking) do not may have long term contingencies with
 6 wide ranges of potential size and number of allowed claims (and therefore are susceptible to prompt
 7 adjudication and payment as provided in the Plan), whereas Construction Defect Claims (generally
 8 speaking) may have long term contingencies with wide ranges of potential size and number of allowed
 9 Allowed claims (and therefore are better suited for adjudication and payment over time by the
 10 Construction Defect Trust in accordance with the TDP); although the voluntary Cash Out Election has
 11 also been made available to all Class 4 members if at least eighty percent (2) 80% in number of the
 12 Holder of Class 4 Construction Defect Claims actually vote to accept the Plan); (2) Class 3 General
 13 Unsecured Claims (generally speaking) are not covered by insurance, whereas Class 4 Construction
 14 Defect Claims (generally speaking) are covered by insurance; and (subject to any applicable self-
 15 insured retention amount); (3) the Plan provides for funding of equal amounts (\$1,500,000 to each
 16 Class) to be allocated for the benefit of Holders of Class 3 General Unsecured Claims and Construction
 17 Defect Claims Class 4 Construction Defect Claims (as long as at least eighty percent (80%) in number of
 18 the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan); and (4) regardless
 19 of whether eighty percent (80%) in number of the Holders of Class 4 Construction Defect Claims
 20 actually vote to accept the Plan, the Construction Defect Trust will also receive rights to Insurance
 21 Coverage Actions, Insurance Recoveries and Construction Defect Actions. Moreover, the Cash Out
 22 Election, which is similar to the option offered to a traditional unsecured convenience class, provides
 23 instant liquidity to those members of Class 4 that make the Cash Out Election if at least eighty percent
 24 (80%) in number of the Holders of Class 4 Construction Defect Claims actually vote to accept the Plan.
 25 Finally, no Class of Claims will receive payments or property with an aggregate value greater than the
 26 aggregate value of the Allowed Claims in such Class. Therefore, Debtor submits that if there were any
 27 rejecting Classes, the Plan nevertheless satisfies the “no unfair discrimination” requirement.

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

22 Since Holders of Equity Interests in Class 6 are neither entitled to receive nor retain anything
 23 under the Plan on behalf of such Equity Interests, the Plan is fair and equitable as to Home Owners in
 24 Classes 3 and 4. Classes 1 and 5 are not Impaired, and therefore their treatment must be deemed to be
 25 fair and equitable. The Secured Lenders comprising Class 2 have unanimously agreed to support and
 26 vote in favor of the Plan pursuant to (and subject to the terms of) the Lock-Up and Settlement
 27 Agreement. Moreover, no Class of Claims will receive payments or property with an aggregate value
 28 greater than the aggregate value of the Allowed Claims in such Class. Therefore, Debtor submits that
 the Plan satisfies the “fair and equitable” requirement with respect to any rejecting Class(es).

27 **C. Additional Information.**

1 In addition to this Home Owner Disclosure Statement, Debtor prepared the Master Disclosure
2 Statement, which contains a great deal of additional detail and information regarding the Plan and the
3 Chapter 11 Case. The Master Disclosure Statement is available at
4 <http://www.awdevelopmentreorg.com>. The Master Disclosure Statement has several exhibits attached
5 to it, including the Construction Defect Trust Declaration (and the TDPs attached as Exhibit 1 to the
6 Declaration).

7 In addition to being attached as Exhibit "A" to the Master Disclosure Statement, a complete
8 copy of the Plan is available at <http://www.awdevelopmentreorg.com>. The Plan contains detailed
9 provisions for how Debtor's assets will be used to satisfy creditor claims.

10 ~~Copies of certain supplemental documents related to the Plan, including the TDP, will be filed~~
11 ~~no later than fourteen (14) days prior to the date of the Confirmation Hearing and made available at~~
12 ~~<http://www.awdevelopmentreorg.com>.~~

13 You may also obtain copies of these documents by contacting GCG at:

14 AW Bankruptcy Administration
15 c/o GCG, Inc.
16 PO Box 9748
17 Dublin, OH 43017- 5648
18 Telephone Hotline: (877) 604-9532

19 The federal courts have prepared a summary of the chapter 11 process that is available at:
20 <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics/Chapter11.aspx>.

21 **PLEASE NOTE -- THERE ARE SIGNIFICANT TAX CONSEQUENCES OF THE**
22 **PLAN. THE MASTER DISCLOSURE STATEMENT CONTAINS EXTENSIVE DISCUSSION**
23 **OF THESE TAX CONSEQUENCES. THE TAX CONSEQUENCES DISCUSSION IN THE**
24 **MASTER DISCLOSURE STATEMENT IS INTENDED ONLY AS A SUMMARY OF**
25 **CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN, AND IS NOT A**
26 **SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE**
27 **DISCUSSION THEREIN IS FOR INFORMATION PURPOSES ONLY AND IS NOT TAX**
28 **ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY**
VARY DEPENDING ON A HOME OWNER'S PARTICULAR CIRCUMSTANCES.
ACCORDINGLY, EACH HOME OWNER IS STRONGLY URGED TO CONSULT ITS TAX
ADVISOR REGARDING THE FEDERAL, STATE, AND LOCAL INCOME TAX
CONSEQUENCES, AND NON-U.S. INCOME AND OTHER TAX CONSEQUENCES OF THE
PLAN.

29 **D. Disclaimers.**

30 THIS HOME OWNER DISCLOSURE STATEMENT IS SUBMITTED FOR APPROVAL IN
31 CONNECTION WITH THE PLAN. THIS HOME OWNER DISCLOSURE STATEMENT HAS
32 NOT BEEN APPROVED BY THE BANKRUPTCY COURT, THE SECURITIES AND EXCHANGE
33 COMMISSION, OR ANY OTHER REGULATORY AUTHORITY.

34 This Home Owner Disclosure Statement has been prepared in accordance with section 1125 of
35 the Bankruptcy Code and Rule 3016(c) of the Federal Rules of Bankruptcy Procedure (the
36 "Bankruptcy Rules") and not necessarily in accordance with federal or state securities laws or other

1 laws governing disclosure outside the context of chapter 11. This Home Owner Disclosure Statement
2 has been neither approved nor disapproved by the Securities and Exchange Commission (the “SEC”),
nor has the SEC passed judgment upon the accuracy or adequacy of the statements contained herein.

3 This Home Owner Disclosure Statement is being provided to Home Owners, in connection with
4 the solicitation of their votes on the Plan, in order to provide adequate information to enable such
5 creditors to make reasonably informed decisions in the exercise of their rights to vote on the Plan. In
6 making a decision in connection with the Plan, Home Owners must rely on their own examination of
7 Debtor’s financial situation and the terms of the Plan, including the merits and risks involved. HOME
8 OWNERS ARE URGED TO REVIEW ALL OF THE TERMS AND CONDITIONS OF THE PLAN
CAREFULLY, AND NOT RELY SOLELY ON THE SUMMARY IN THIS HOME OWNER
DISCLOSURE STATEMENT. **HOME OWNERS SHOULD CAREFULLY REVIEW THE
VOTING INSTRUCTIONS SET FORTH IN ARTICLE III, SECTION B(2) OF THIS HOME
OWNER DISCLOSURE STATEMENT.**

9 Capitalized terms utilized in this Home Owner Disclosure Statement, if not defined herein, shall
10 have the meaning used or defined in the Glossary of Defined Terms attached as Exhibit “A” to the
11 Plan, the Bankruptcy Code or the Bankruptcy Rules, as applicable, unless the context hereof requires a
different meaning.

12 HOME OWNERS SHOULD NOT CONSTRUE THE CONTENTS OF THIS HOME OWNER
13 DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX
14 ADVICE. EACH SUCH HOME OWNER SHOULD, THEREFORE, CONSULT WITH ITS OWN
15 LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY MATTERS
CONCERNING SOLICITATION, THE PLAN AND THE TRANSACTIONS CONTEMPLATED
THEREBY.

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

22 Except as otherwise noted, the ballots being solicited (the “Ballots”) hereby will not be used by
23 Debtor for any purpose other than to determine votes for acceptance or rejection of the Plan (and any
permitted non-materially modified version thereof) under chapter 11 of the Bankruptcy Code.

24 The information presented in this Home Owner Disclosure Statement includes forward-looking
25 statements in addition to historical information. These statements involve known and unknown risks
26 and relate to future events, future financial performance or projected business results. In some cases,
27 you can identify forward-looking statements by terminology such as “may,” “will,” “should,”
“expects,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “targets,” “potential” or
28 “continue” or the negative of these terms or other comparable terminology. Forward-looking
statements are only predictions. Actual events or results may differ materially from any forward-

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

1 looking statement as a result of various factors, including those contained in the section entitled "Risk
2 Factors" and other sections of this Home Owner Disclosure Statement, including the documents
3 incorporated by reference herein. Although Debtor believes that the expectations reflected in the
4 forward-looking statements are reasonable, Debtor cannot guarantee future results, events, levels of
activity, performance or achievements. Debtor expressly disclaims a duty to update any of the
forward-looking statements.

5 **AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER**
6 **ACTIONS OR THREATENED ACTIONS, THIS HOME OWNER DISCLOSURE**
7 **STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF**
8 **ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER (IF AT ALL) AS**
9 **A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS HOME OWNER**
10 **DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY**
11 **PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE**
12 **TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF**
13 **CLAIMS AGAINST, OR EQUITY INTERESTS IN, DEBTOR OR ANY OF ITS AFFILIATES.**

14 **ARTICLE IV**
15 **RECOMMENDATION AND CONCLUSION**

16 Debtor believes that the Plan provides the best possible recoveries for Home Owners that can be
17 achieved in any reasonable time frame and that possible alternatives are likely to result in diminished
18 (or zero) recoveries for Home Owners. Therefore, Debtor urges all Home Owners to vote to accept the
19 Plan.

20 DATED this 29th day of ~~May~~ October 2012.

21 **AMERICAN WEST DEVELOPMENT, INC., a**
22 **Nevada corporation**

23 By _____
24 Robert M. Evans, President

25 Respectfully submitted by:
26 **FOX ROTHSCHILD LLP**

27 By /s/Brett A. Axelrod
28 BRETT A. AXELROD, ESQ.
Nevada Bar No. 5859
MICAELA RUSTIA MOORE, ESQ.
Nevada Bar No. 9676
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Counsel for Debtor

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

EXHIBIT 1
DEBTOR'S SELF-INSURED RETENTION AMOUNTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)