

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

In re: § Chapter 11
§
ARMADA WATER ASSETS, INC., et al.¹ § 16-60056 (DRJ)
§
Debtors. § (Jointly Administered)

**DEBTORS' MOTION FOR AUTHORIZATION TO SELL
ESTATE PROPERTY FREE AND CLEAR OF INTERESTS**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

A HEARING HAS BEEN SCHEDULED FOR NOVEMBER 28, 2016 AT 1:45 P.M. (CST) BEFORE THE COURT, AT 515 RUSK, COURTROOM 400, HOUSTON, TEXAS 77002.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

To the Honorable David R. Jones, United States Bankruptcy Chief Judge:

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's tax identification number, are: (i) Armada Water Assets, Inc. (5999); (ii) Wes-Tex Vacuum Service, Inc. (2375); (iii) Summit Holdings, Inc. (3453); (iv) Barstow Production Water Solutions, LLC (0299); (v) Devonian Acquisition Corporation (1431); (vi) Western Slope Acquisition Corporation (7624); (vii) Summit Energy Services, Inc. (3453); (viii) ORL Equipment LLC (3242); and (ix) Harley Dome I, LLC (2293).

Armada Water Assets, Inc. and its subsidiaries, as debtors and debtors-in-possession in the above-captioned cases (collectively, the “Debtors”), hereby move for entry of an order, substantially in the form attached hereto, authorizing and approving the sale of certain property of the estate located near Odessa, in Ector County, Texas, as set forth in and pursuant to the terms of that certain *Real Estate Purchase Contract* (the “Purchase Agreement”) by and between debtor Wes-Tex Vacuum Service, Inc. (“Wes-Tex”) and Wildcat RE, Inc. (“Buyer”),² free and clear of all Interests (defined below), pursuant to sections 363 and 105(a) of the Bankruptcy Code. In support hereof, the Debtors respectfully submit:

PRELIMINARY STATEMENT

1. After examining the market, the Debtors made the business decision to sell 5 acres in Odessa, Texas for \$250,000 in cash, with an immediate close and no contingencies or commission. As a result of good-faith negotiations between the Debtors and the Buyer, the parties have executed the Purchase Agreement, subject to this Court’s approval. The Debtors seek approval of the proposed sale as further described in the Purchase Agreement (the “Sale”). The Sale represents the best practicable terms for sale of the Property within a reasonable timeframe. Approval of the Sale is thus in the best interests of the Debtors, their estates, creditors, and all parties in interest.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a “core” proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

² A true and correct copy of the Purchase Agreement is attached hereto as Exhibit A.

3. The statutory predicates for the relief sought herein are sections 105(a), 363(b) and 363(f) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rules 2002, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

RELIEF REQUESTED

4. By this Motion, the Debtors respectfully request that the Court approve the proposed sale of the Property under the terms of the Purchase Agreement, free and clear of all Interests, and authorize the Debtors to take all steps necessary to facilitate and consummate such Sale, pursuant to sections 363(b), 363(f) and 105(a) of the Bankruptcy Code.

BACKGROUND

A. These Chapter 11 Cases

5. On May 23, 2016 (the “Petition Date”), each of the Debtors filed in this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors’ cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b) (*see* Dkt. No. 18).

6. The Debtors continue to administer their assets as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed or requested in these cases.

7. The Office of the United States Trustee for the Southern District of Texas (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”) on August 18, 2016 (*see* Dkt. No. 183), and amended the Committee’s membership on September 6, 2016 (*see* Dkt. No. 222).

B. The Property and the Sale Process

8. The Property consists of a tract of land owned by debtor Wes-Tex near Odessa, in Ector County, Texas, more specifically described in Exhibit A to the Purchase Agreement, together with all rights and interests appurtenant thereto, including all of Wes-Tex's right, title, and interest in and to any and all water rights, adjacent roads, minerals, streets, alleys, easements, rights of way and appurtenances; any and all site plans, soil and substrata studies, architectural drawings, plans and specifications and engineering and environmental reports in Wes-Tex's possession; and any and all development rights, permits, licenses or other appraisals regarding the same; and any and all improvements located on the foregoing, as applicable. The real property comprises roughly five acres and includes an office building, temporary housing for truckers, and a trucking repair shop and yard.

9. Wes-Tex used the Property before the Petition Date to operate its business of providing water transportation, treatment and related services in Texas, but suspended its operations pending the infusion of new capital. Due in part to the unlikelihood of receiving such new capital, the Debtors determined in a sound exercise of their business judgment that the Property is not necessary to (and will not aid) a successful reorganization—except through liquidation. None of the trucks that Wes-Tex maintained at its Odessa facility remain.

10. Mr. Breen, the Debtors' CRO, contacted potential brokers and reviewed public information to assure the price eventually negotiated would be reasonable. The Buyer and the Debtor's CRO negotiated for several weeks on the price and arrived at the terms of the Purchase Agreement after arms-length negotiations.

11. Based on his informed business judgment regarding the pace of industrial real property sales in the Odessa area, initial asking prices, and avoided costs and discounts, Mr.

Breen believes that the Purchase Agreement reflects as good a result as the Debtors will likely achieve within a reasonable timeframe.

C. The Purchase Agreement

12. The Debtors have determined that the Sale represents their best opportunity to realize the value of the Property. The Purchase Agreement, which was entered into after good-faith, arm's-length negotiations between the Debtors, the Buyer, and their respective independent advisors, contemplates the sale of the Property on the following material terms:³

- Purchase Price. The Buyer shall pay Wes-Tex an aggregate all-cash purchase price of \$250,000.00 for the Property. Ten percent of the Purchase Price has been paid as Earnest Money, with the remainder being payable on the Closing Date. No commission or similar fee is payable to any broker or other third party.
- Sale of Property Free and Clear. Wes-Tex shall transfer to the Buyer by general warranty deed, and the Buyer shall accept and acquire, all of Wes-Tex's right, title and interest in and to the Property, free and clear of any and all liens, interests, obligations, rights, encumbrances, pledges, mortgages, deeds of trust, security interests, claims (including any "claim" as defined in Bankruptcy Code § 101(5)), leases, possessory leasehold interests, charges, options, rights of first refusal or options to purchase any real property, easements, servitudes, transfer restrictions under any agreement, judgments, hypothecations, demands, licenses, sublicenses, assignments, debts, guaranties, contractual commitments, restrictions, and environmental liabilities, in each case of whatever kind, nature, or description, in, against or with respect to any of the applicable Property, having arisen, existed or accrued prior to and through the Closing Date, whether direct or indirect, absolute or contingent, choate or inchoate, fixed or contingent, matured or unmatured, liquidated or unliquidated, asserted or unasserted, arising or imposed by agreement, understanding, law, equity, statute or otherwise and whether arising prior to, on or after the Petition Date (collectively, "Interests"), other than Permitted Exceptions, pursuant to sections 363(b) and 363(f) of the Bankruptcy Code.
- No Contingencies; Prompt Closing. Buyer's obligation to close is not subject to any contingencies. The proposed order approving the Sale, attached hereto, waives the 14-day stay imposed by Bankruptcy Rule 6004(h). Time being of the essence, the Buyer

³ All capitalized terms used but not otherwise defined in this summary have the meanings ascribed to them in the Purchase Agreement. This summary is qualified in its entirety by the actual terms and conditions of the Purchase Agreement, which shall control to the extent there is any conflict.

requires the Closing Date to occur promptly, and in no event later than 21 days after entry of such order.

- Cooperation and Further Assurances. The Debtors shall cooperate with the Buyer to effectuate the consummation of the Sale, including facilitating the conveyance to the Buyer of certain personal property of third parties situated in or on the Property (“Personal Property”) by paying up to \$2,000 in the aggregate to satisfy claims asserted against or relating to such Personal Property.

BASIS FOR RELIEF

A. Sale of the Property is a Product of the Debtors’ Reasonable Business Judgment, and Maximizes Value

13. Section 363(b)(1) of the Bankruptcy Code provides that a debtor “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C § 363(b). Additionally, section 105(a) of the Bankruptcy Code provides in relevant part that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C § 105(a).

14. Although section 363 does not specify a standard for determining when it is appropriate for a court to authorize the sale of estate property, courts routinely authorize such sales when based upon the reasonable business judgment of the debtor. *See Institutional Creditors of Cont’l Air Lines, Inc. v. Cont’l Air Lines, Inc. (In re Cont’l Air Lines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“for the debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”) (citing *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983)). Virtually all courts have held that approval of a proposed sale of the assets of a debtor under section 363 of the Bankruptcy Code outside the ordinary course of business and prior to the confirmation of a plan of reorganization is appropriate if a court finds that the transaction represents a reasonable business judgment on the part of the trustee or debtor-in-possession. *See In re Abbotts Dairies of Pa.*, 788

F.2d 143 (3d Cir. 1986); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991); *Titusville Country Club v. Pennbank (In re Titusville Country Club)*, 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991); *In re Indus. Valley Refrigeration & Air Cond. Supplies Inc.*, 77 B.R. 15, 21 (Bankr. E.D. Pa. 1987); *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983); *Stephens Indus., Inc. v. McClung*, 789 F.2d 386, 391 (6th Cir. 1986); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989); *In re Phoenix Steel Corp.*, 82 B.R. 334, 335-36 (Bankr. D. Del. 1987).

15. Factors that courts typically consider in applying the reasonable business judgment test include: (1) whether a sound business purpose justifies the sale of assets outside the ordinary course of business; (2) whether adequate and reasonable notice has been provided to interested persons; (3) whether the trustee has obtained a fair and reasonable price; and (4) whether the transaction has been proposed in good faith. *See In re Titusville Country Club*, 128 B.R. at 399; *see also Phoenix Steel Corp.*, 82 B.R. at 335-36 (stating that the elements necessary for approval are “that the proposed sale is fair and equitable, that there is a good business reason for completing the sale and the transaction is in good faith”); *Stephens Indus.*, 789 F.2d at 390; *In re Lionel Corp.*, 722 F.2d at 1071.

16. A sound business purpose justifies the Sale, inasmuch as retaining the Property is not necessary to a successful reorganization and its sale presents the best opportunity to realize the highest value for distribution to creditors. Also, the consideration offered by the Buyer is a fair and reasonable price for the Property, constituting not only reasonably equivalent value, fair saleable value, and fair consideration under the Bankruptcy Code and for purposes of all applicable laws of the United States and any state, territory, possession thereof and the District of Columbia, but also the best offer reasonably attainable for the Property under the circumstances. As a general matter, to obtain approval of a proposed sale of assets, a debtor must demonstrate

that the tendered price is the highest and best offer under the circumstances of the case. *See, e.g., Four B Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 564-65 (8th Cir. 1997) (holding that in bankruptcy sales, “a primary objective of the Code [is] to enhance the value of the estate”); *In re Integrated Resources*, 147 B.R. 650, 659 (S.D.N.Y. 1992) (“It is a well-established principle of bankruptcy law that the...Debtor’s duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.”) (quoting *Cello Bay Co. v. Champion Int’l Corp. (In re Atlanta Packaging Prods., Inc.)*, 99 B.R. 124, 131 (Bankr. N.D. Ga. 1988)). The Purchase Price and other terms reflected in the Purchase Agreement are a fair and reasonable overall outcome, locking in a sure benefit for the estate now over an only potentially higher *gross* sale price after languishing on the market for an extended time.

17. The proposed Agreement also meets the other factors of the requisite test. The Debtors submit that, the notice being given of this Motion satisfies the requirements of the Bankruptcy Rules and provides ample opportunity for parties in interest to consider the Sale and object if necessary. Furthermore, as discussed below, the Debtors and the Buyer have proceeded in good faith in all respects in connection with the Sale, the Purchase Agreement, and this proceeding. Accordingly, the Debtors submit that their decision to sell the Property to the Buyer at this time, pursuant to the Purchase Agreement, is appropriate as a sound exercise of their reasonable business judgment, and therefore ask the Court to approve the Sale and the Purchase Agreement and authorize them to take all actions necessary to consummate the transaction.

B. The Purchase Agreement is Not the Result of Collusive Bidding Under Bankruptcy Code Section 363(n), and the Buyer is a Good Faith Purchaser Who Should Be Granted the Full Protection of Bankruptcy Code Section 363(m)

18. The Purchase Agreement was negotiated, proposed, and entered into by the Debtors and the Buyer in good faith, without collusion, and through arm’s-length bargaining between parties represented by independent counsel. The consideration to be paid by the Buyer

is substantial, fair, and reasonable, and is not controlled by an agreement between potential or actual bidders within the meaning of section 363(n) of the Bankruptcy Code. Neither the Debtors nor the Buyer have engaged in any attempt to take unfair advantage of other parties in interest or in any other conduct that would cause or permit the Agreement to be avoided under section 363(n).

19. Further, the Debtors submit that the Purchase Agreement was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or any other law of the United States or any state, territory, possession thereof or the District of Columbia. The Buyer is neither an “affiliate” nor “insider” (as those terms are defined in Bankruptcy Code § 101) of any of the Debtors, nor a mere continuation or successor of any of the Debtors or their estates, and there is no continuity of enterprise between the Buyer and any of the Debtors.

20. The Buyer has invested significant time, effort and resources in the arms’-length negotiation of the Purchase Agreement with the Debtors, throughout which process the Buyer has acted in “good faith” within the meaning of section 363(m) of the Bankruptcy Code. The Buyer is a good faith purchaser of the Property under section 363(m), and will rely on entry of this Court’s order and its good faith determination in closing the Sale. As such, the Debtors ask the Court to find that the Buyer is entitled to all of the protections afforded by section 363(m).

C. Sale of the Property Should Be Free and Clear of Interests

21. The Debtors propose to sell the Property to Buyer, free and clear of all Interests, except for any Permitted Exceptions, with such Interests to attach to the net proceeds of the Sale. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear interests therein if:

(1) applicable non-bankruptcy law permits sale of such property free and clear of such interests; (2) such entity consents; (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (4) such interest is in bona fide dispute; or (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

22. Because section 363(f) is written in the disjunctive, a debtor is authorized to sell property free and clear of interests if any one of the five requirements is met. *See In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) (“if any of the five conditions are met, the debtor has the authority to conduct the sale free and clear of all liens”); *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (same).

23. One or more of the standards set forth in section 363(f)(1)–(5) apply to each holder of an Interest in, against, or with respect to the Debtors, their estates, or the Property. All such holders who either do not file an objection or who withdraw their objections to this Motion may be deemed to have consented to the relief requested herein pursuant to section 363(f)(2). All such holders who do file an objection and do not withdraw it can be compelled to accept a monetary satisfaction of such Interests within the meaning of section 363(f)(5), or are adequately protected by having such Interests attach to the net proceeds of the Sale with the same validity, enforceability, priority, force, and effect that they now have against the Property (subject to the rights, claims, defenses, and objections, if any, of the Debtors and all parties in interest with respect to such Interests).

24. Sale of the Property is required in order to maximize the value of the Property to the Debtors. If the Property were not to be sold free and clear of Interests, or the Buyer (or the Property once acquired) would or could be liable for such Interests, the Purchaser would not have entered into the Purchase Agreement, or would not be willing to pay the agreed Purchase

Price, and would not consummate the Sale. Therefore, the proposed Sale being free and clear of Interests is in the best interests of the Debtors, their estates, creditors, and all other parties in interest.

25. Accordingly, the Debtors ask the Court to approve the Sale and the transfer of the Property to Buyer, free and clear of all Interests pursuant to section 363(f) of the Bankruptcy Code.

WAIVER OF BANKRUPTCY RULE 6004(h)

26. Pursuant to Bankruptcy Rule 6004(h), unless the Court orders otherwise, all orders authorizing the sale of property under section 363 are stayed for 14 days after entry of the order. Fed. R. Bankr. P. 6004(h). The rule is intended to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Adv. Comm. Notes to Fed. R. Bankr. P. 6004(h). Although Rule 6004(h) and the Committee Notes are silent as to when a court should “order otherwise,” courts have waived the stay where there has been no objection or any objection has been overruled. *See e.g., In re N. Am. Techs. Grp., Inc.*, Nos. 10-20071, 10-20072, 10-20073, 2010 Bankr. LEXIS 5834, at *20 (U.S. Bankr. E.D. Tex. Aug. 16, 2010); *In re N. Am. Techs. Grp., Inc.*, Nos. 10-20071, 10-20072, 10-20073, 2010 Bankr. LEXIS 5976, at *7 (U.S. Bankr. E.D. Tex. July 21, 2010).

27. The Debtors submit that cause exists to waive the 14-day stay, as time is of the essence to the Buyer, and accordingly request that the proposed order approving the Sale be made immediately effective by providing that the 14-day stay is waived.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached hereto, approving the Sale and the Purchase Agreement in all respects, authorizing the Debtors to take all actions to consummate the transactions contemplated

thereby and to facilitate associated transactions as set forth herein, and granting such other and further relief as the Court may deem just and proper.

Dated: Houston, Texas
November 2, 2016

Respectfully submitted,

/s/ Hugh M. Ray

Hugh M. Ray, III

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Attorneys for the Debtors-in-Possession

CERTIFICATE OF SERVICE

The undersigned certifies that on November 2, 2016, a true and correct copy of this document was served via the ECF system to the parties on the ECF service list, including the United States Trustee, and to all parties on the Master Service List.

/s/ Hugh M. Ray

Hugh M. Ray, III

EXHIBIT 'A'

REAL ESTATE PURCHASE CONTRACT

This REAL ESTATE PURCHASE CONTRACT (this “*Contract*”) is entered into this 28th day of October, 2016 (the “*Effective Date*”), subject to approval of the Bankruptcy Court (defined below), between Wes-Tex Vacuum Service, Inc., a Texas corporation (“*Seller*”), and Wildcat RE, LLC, an Oklahoma limited liability company (“*Buyer*”). Buyer and Seller are also each referred to herein individually as a “*Party*” and collectively as the “*Parties*.” Lone Star Abstract & Title Co., Inc. (the “*Title Company*”) is a party to this Contract only to the extent of acknowledging receipt of the Earnest Money (defined below) and a fully executed copy of this Contract by Seller and Buyer.

WITNESSETH:

In consideration of the mutual covenants set forth herein and in consideration of the Purchase Price, as hereinafter defined, the receipt and sufficiency of which are hereby acknowledged by Seller, the Parties hereby agree as follows:

A. Sale and Purchase

Upon approval of the Bankruptcy Court for the Southern District of Texas, Victoria Division (“*Bankruptcy Court*”), Seller shall sell, convey, and assign to Buyer, free and clear of all liens, claims, easements, and encumbrances whatsoever, and Buyer shall purchase and accept from Seller, for the Purchase Price and on and subject to the terms and conditions herein set forth, the tracts or parcels of land situated in Ector County, Texas, described in Exhibit A hereto, together with all rights and interests appurtenant thereto, including all of Seller’s right, title, and interest in and to any and all water rights, adjacent roads, minerals, streets, alleys, easements, rights of way and appurtenances; any and all site plans, soil and substrata studies, architectural drawings, plans and specifications and engineering and environmental reports in Seller’s possession; and any and all development rights, permits, licenses or other appraisals regarding the same (all of the foregoing, collectively, the “*Land*”); and any and all improvements located on the Land, as applicable (the “*Improvements*” and together with the Land, collectively the “*Property*”).

B. Purchase Price

The price for which Seller shall sell and convey the Property to Buyer, and which Buyer shall pay to Seller, is Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) (the “*Purchase Price*”), payable by Buyer to Seller at Closing (as hereinafter defined).

C. Earnest Money

Within five (5) days of the Effective Date (the “*Earnest Money Deadline*”), Buyer shall cause Twenty-Five Thousand and No/100 Dollars (\$25,000.00) to be paid to, and held by, pursuant to the terms of this Contract, the Title Company (such amount, including any interest earned thereon, the “*Earnest Money*”). Notwithstanding anything herein to the contrary, if Buyer fails to deliver the Earnest Money to Title Company on or before the Earnest Money Deadline, this Contract shall automatically terminate, be of no further force and effect, and each

Party shall be relieved of any further obligation or liability to the other Party with respect to the terms of this Contract.

D. Title and Survey

1. *Review of Title.* The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction:

BUYER IS ADVISED THAT IT SHOULD EITHER HAVE THE ABSTRACT COVERING THE PROPERTY EXAMINED BY AN ATTORNEY OF BUYER'S OWN SELECTION AND/OR BE FURNISHED WITH OR OBTAIN A POLICY OF TITLE INSURANCE.

2. *Delivery of Survey.* Seller shall use commercially reasonable efforts to obtain the Survey, at Buyer's expense, as soon as is reasonably practicable after the Effective Date. The legal description of the Survey shall be used as the legal description of the General Warranty Deed to be executed by Seller and delivered to Buyer at Closing.

3. *Delivery of Title Commitment.* Buyer shall obtain a Title Policy at its own expense.

E. Inspection

1. *Entry onto the Property.* Buyer and its agents shall have the right to enter the Property at all reasonable times prior to Closing to inspect or survey the Property, subject to the following:

a. If any portion of the Property is altered because of Buyer's entry, Buyer shall return the Property to its prior condition promptly after the alteration occurs;

b. Buyer shall deliver to Seller copies of all inspection reports and Survey(s) that Buyer prepares or receives from third-party consultants or contractors within five (5) days of their preparation or receipt, as applicable; and

c. Buyer shall abide by any other reasonable entry rules imposed by Seller.

2. *Cooperation.* Seller shall cooperate with Buyer before Closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer.

3. *[Reserved].*

4. *Buyer's Indemnity.* **BUYER SHALL INDEMNIFY, DEFEND, AND HOLD SELLER HARMLESS FROM ANY LOSS, ATTORNEY'S FEES, EXPENSES, OR CLAIMS ARISING OUT OF BUYER'S INSPECTION OF THE**

PROPERTY, EXCEPT FOR (I) MATTERS THAT ARISE FROM THE GROSS NEGLIGENCE OF SELLER OR SELLER'S AGENTS; OR (II) REPAIR OR REMEDIATION OF EXISTING CONDITIONS DISCOVERED BY BUYER'S INSPECTION.

F. Representations

1. *Buyer's Representations, Warranties, and Covenants.* Buyer hereby represents and warrants to Seller as follows:

a. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Oklahoma.

b. The consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary company action on the part of Buyer, and this Contract is a valid and binding obligation of Buyer enforceable (subject to normal equitable principles) in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, debtor relief or similar laws affecting the rights of creditors generally.

c. No consent, approval or authorization of, or filing of a registration with, any governmental or regulatory authority, or any other person or entity is required to be made or obtained by Buyer in connection with the execution, delivery or performance of this Contract or the consummation of the transactions contemplated hereby.

d. All negotiations relative to this Contract and the transactions contemplated hereby have been carried on by Buyer and its counsel directly with Seller and its counsel, without the intervention by any other person as the result of any act of Buyer in such a manner as to give rise to any valid claim against any of the Parties hereto for any brokerage commission, finder's fee or any similar payments.

2. *Seller's Representations, Warranties, and Covenants.* Seller hereby represents and warrants to, and covenants with, Buyer that:

a. Seller, as a condition of this sale, will have first sought a final order from the Bankruptcy Court under 11 U.S.C. § 363, in substantially the same form attached hereto as Exhibit C, approving this Contract and authorizing the consummation of the transactions contemplated herein including, without limitation, the sale and conveyance of the Property to Buyer free and clear of any and all liens, claims, interests, and encumbrances, with any liens, claims, interests or encumbrances attaching to the net cash proceeds of the sale in the same amounts and order of priority, and with the same validity, force and effect, that they now have against the Property, subject to the rights, claims, defenses, and

objections, if any, of Seller and all parties in interest with respect thereto (the “*Sale Order*”).

b. Seller is currently undergoing restructuring under the applicable provisions of the United States Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

c. Upon entry of the Sale Order, this Contract is a valid and binding obligation of Seller enforceable (subject to normal equitable principles) in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, debtor relief or similar laws affecting the rights of creditors generally.

d. Upon entry of the Sale Order, Seller has full right, power, and authority to execute and deliver this Contract and to consummate the purchase and sale transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other actions with respect to, any other third parties.

e. Upon entry of the Sale Order, Seller will be able to transfer good, marketable and indefeasible title in fee simple to the Property, free and clear of all liens, claims, interests or encumbrances.

f. *[Reserved]*.

g. *[Reserved]*.

h. The copies of all documents delivered by or on behalf of Seller to Buyer pursuant to this Contract shall be true and complete in all material respects and, to the best of Seller’s knowledge and belief, the information contained therein shall be true and complete in all material respects.

i. *[Reserved]*.

j. *[Reserved]*.

k. Except as disclosed in Appendix 1:

i. *[Reserved]*.

ii. There are no pending or, to Seller’s knowledge, threatened Proceedings, liens, claims, encumbrances, other security interests, or other restrictions of any nature arising under or pursuant to any Environmental Law with respect to or affecting the Property.

iii. Seller has not, nor, to Seller’s knowledge, has any other Person for whose conduct Seller is or may be held responsible, received

any citation, directive, inquiry, notice, order, summons, warning or other communication that relates to hazardous activity, Hazardous Materials, or any alleged, actual, or potential violation or failure to comply with any Environmental Law, or of any alleged, actual, or potential obligation to undertake or bear the cost of any environmental liabilities with respect to the Property.

iv. [Reserved].

v. [Reserved].

vi. [Reserved].

vii. Seller has delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests, or monitoring possessed or initiated by Seller pertaining to Hazardous Materials or hazardous activities in, on, or under the Property, or concerning compliance by Seller or any other Person for whose conduct it is or may be held responsible, with Environmental Laws.

l. There is no condemnation, expropriation or other proceeding in eminent domain pending or, to Seller's knowledge, threatened, affecting the Property or any portion thereof or interest therein. There is no injunction, decree, order, writ or judgment outstanding, nor any claim, litigation, administrative action or similar proceeding pending, or to Seller's knowledge, threatened, relating to the ownership, lease, or use of the Property or any portion thereof.

m. [Reserved].

n. To the extent any manufactured housing or other property situated in or on the Property does not constitute Property being conveyed pursuant to this Contract ("Personal Property"), Seller shall do (or cause to be done) all further acts as may reasonably be necessary or desirable to facilitate the conveyance of such Personal Property from the applicable title holder to Buyer, including, without limitation, subject to the terms of the Sale Order as entered, paying up to \$2,000 in the aggregate to satisfy claims asserted against or relating to such Personal Property.

o. All negotiations relative to this Contract and the transactions contemplated hereby have been carried on by Seller and its counsel directly with the Buyer and its counsel, without the intervention by any other person as the result of any act of Seller in such a manner as to give rise to any valid claim against any of the Parties hereto for any brokerage commission, finder's fee or any similar payments.

p. Seller's representations, warranties and covenants stated in this Section F are true and correct as of the Effective Date and shall be true and correct

on the date of the entry of the Sale Order. All of Seller's representations and warranties shall survive Closing.

G. Condition of the Property until Closing; Condemnation

1. *Maintenance and Operation.* Until Closing, Seller shall (a) maintain the Property as it exists on the Effective Date, and (b) comply with all contracts and governmental regulations affecting the Property.

2. *Condemnation.* Seller shall notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken or revoked by any Governmental Body. Buyer may terminate this Contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within fifteen (15) days after receipt of Seller's notice to Buyer (or before Closing if Seller's notice is received less than fifteen (15) days before Closing). If Buyer does not terminate this Contract, (a) Buyer and Seller shall each have the right to appear and defend their respective interests in the Property in any condemnation proceedings, (b) any award in condemnation shall be assigned to Buyer, and (c) if the taking occurs before Closing, the description of the Property shall be revised to delete the portion taken.

3. *Claims; Hearings.* Seller shall notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before Closing that affects the Property.

H. Closing

The closing of the sale of the Property by Seller to Buyer ("**Closing**") shall occur on or as of a date within 21 days after entry of the Sale Order ("**Closing Date**"). Time is of the essence with regard to the Closing Date. The Closing shall occur at the offices of the Title Company, commencing at 10:00 a.m. on the Closing Date. Except as may be waived, each of the following, which are mutually concurrent conditions, shall occur at the Closing:

1. Buyer, at its sole cost and expense, shall deliver or cause to be delivered to Seller:

a. The Purchase Price (less the Earnest Money); and

b. Evidence of Buyer's authority to close the transaction contemplated by this Contract.

2. Seller, at its sole cost and expense, shall deliver or cause to be delivered to Buyer the following:

a. A General Warranty Deed in the form of Exhibit B hereto, fully executed and acknowledged by Seller, conveying to Buyer the Property;

- b. [Reserved];
- c. [Reserved];
- d. [Reserved];
- e. A Sale Order entered by the Bankruptcy Court in substantially the same form attached hereto as Exhibit C;
- f. [Reserved];
- g. [Reserved].

The documents referred to in 1 and 2 above are each referred to individually as a “*Closing Document*” and collectively, as the “*Closing Documents*.”

3. All normal and customarily proratable items, including without limitation real estate and personal property taxes, utility bills, rents, interest, and property agreement payments shall be prorated as of the Closing Date, Seller being charged and credited for all of same up to such date and Buyer being charged and credited for all of same on and after such date. If the actual amounts to be prorated are not known as of the Closing Date, the prorations shall be made on the basis of the best evidence then available, and thereafter, when actual figures are received, a cash settlement will be made between Seller and Buyer. The provisions of this Section H.3, shall survive Closing.

4. Seller shall pay all costs and liabilities relating to the Property that arise out of or are attributable to the period prior to the Closing Date. Seller shall have the right to receive all proceeds relating to the Property that are properly allocable to the period before the Closing Date, and Buyer shall have the right to receive all proceeds relating to the Property that are properly allocable to the period from and after the Closing Date. Buyer shall pay all costs and liabilities relating to the Property that arise out of or are attributable to the period from and after the Closing Date, except such costs and liabilities that arise out of or result from a breach by Seller of its representations and warranties set forth in Section F hereof. This Section H.4, shall survive Closing.

5. *Delivery of Property.* Upon completion of the Closing, Seller shall deliver to Buyer possession of the Property free and clear of all tenancies of every kind and parties in possession.

6. *Transaction Costs.*

a. *Seller's Costs.* Seller shall pay one-half of the escrow fee charged by Title Company; the costs to prepare the Warranty Deed; the costs to obtain, deliver, and record releases of all liens to be released at Closing; the costs, if any,

to obtain the certificates or reports of ad valorem taxes; and Seller's expenses and attorney's fees.

b. *Buyer's Costs.* Buyer shall pay the cost of the Survey; the cost of the Title Policy; the costs to deliver copies of the instruments described in Section D.3; one-half of the escrow fee charged by Title Company; the costs to obtain financing of the Purchase Price, if any, including the incremental premium costs of mortgagee's title policies and endorsements and deletions required by Buyer's lender; and Buyer's expenses and attorney's fees.

I. Default and Remedies

1. *Seller's Default.* If Seller fails to perform any of its obligations under this Contract or if any of Seller's representations are not true and correct as of the Effective Date or on the Closing Date ("***Seller's Default***"), Buyer may elect either of the following as its sole and exclusive remedy:

a. *Termination; Liquidated Damages.* Buyer may terminate this Contract by giving notice to Seller on or before the Closing Date and have the Earnest Money returned to Buyer.

b. *Specific Performance.* Buyer may enforce specific performance of Seller's obligations under this Contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

2. *Buyer's Default.* If Buyer fails to perform any of its obligations under this Contract, or if any of Buyer's representations are not true and correct in all material respects as of the Effective Date or on the Closing Date ("***Buyer's Default***"), Seller may as its sole and exclusive remedy terminate this Contract and have the Earnest Money paid to Seller.

3. *Attorney's Fees.* If either Party retains an attorney to enforce this Contract, the Party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

4. *Duties after Termination.* If this Contract is terminated, Buyer shall promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer and all copies that Buyer has made of any such documents. After return of the documents and copies, if any, neither Party will have further duties or obligations to the other under this Contract, except for those obligations that expressly or by context provide herein that they shall survive termination of this Contract.

J. Miscellaneous Provisions

1. *Definitions.*

a. As used in this Contract, each of the following capitalized words and phrases shall have the meaning set forth below:

i. “**Environmental Law**” shall mean any Legal Requirement relating to the protection of the air, surface water, groundwater or land, and/or governing the handling, use, generation, treatment, storage or disposal of Hazardous Materials, but not including any Legal Requirement enforced by the Occupational Safety and Health Administration (or by any state, provincial, local, domestic or foreign equivalent of the Occupational Safety and Health Administration).

ii. “**Governmental Body**” shall mean any federal, state, local, foreign or other governmental or administrative body, instrumentality, department or agency or any court, tribunal or administrative hearing.

iii. “**Hazardous Materials**” means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic by a Governmental Body or the release of which is regulated. Without limiting the generality of the foregoing, the term will include (a) “hazardous substances” as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“**CERCLA**”), 42 U.S.C. § 9601, as amended, and regulations promulgated thereunder, (b) “extremely hazardous substances” as defined in the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 11049, as amended, and regulations promulgated thereunder, (c) “hazardous waste” as defined in the United States Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6903, as amended, and regulations promulgated thereunder, (d) “hazardous materials” as defined in the United States Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5102, as amended, and regulations promulgated thereunder, (e) any “chemical substance or mixture” subject to the United States Toxic Substances Control Act, 15 U.S.C. §§ 2602, *et seq.*, as amended, and regulations promulgated thereunder, and (f) asbestos.

iv. [Reserved].

v. “**Person**” shall mean an individual, partnership, corporation, limited liability company, unincorporated organization, association, joint venture, estate, trust, association, organization, labor union, or other entity or Governmental Body.

vi. “**Proceeding**” shall mean any proceeding, action, claim, charge, appeal, complaint, arbitration, investigation, litigation, or suit (including any civil, criminal, administrative, investigative, or appellate proceeding) commenced, brought, conducted, or heard by or before any Governmental Body.

vii. “**Survey**” means an on the ground, staked plat of survey and metes and bounds description of the Land, prepared by a surveyor of Buyer’s choice, dated after the Effective Date showing all easements and encroachments on the Land, including whether there are any wetlands on the Land and whether any of the Land lies within the 100-year flood plain and showing the amount of square feet in and out of the flood plain.

viii. “**Title Commitment**” means a Commitment for Issuance of an Owner Policy of Title Insurance by the Title Company, as agent for Underwriter, stating the condition of title to the Land. The “effective date” stated in the Title Commitment must be after the Effective Date of this Contract.

ix. “**Title Policy**” means a TLTA Owner Policy of Title Insurance covering the Land issued by Title Company, as agent for Underwriter, in conformity with the last Title Commitment delivered to and approved by Buyer.

b. Other terms defined in this Contract shall have the meanings so given them.

2. *Notices.* Any notice required by or permitted under this Contract must be in writing. Any notice required by this Contract will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Contract. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein. Copies of each notice must be given by one of these methods to the attorney, if any, of the Party to whom notice is given. For purposes of notice, the addresses of the Parties shall be as follows:

If to Seller:

WES-TEX VACUUM SERVICE, INC.

Attn: Tom Breen

5807 W. 20th Street

Greeley, Colorado 80634

Phone: (970) 988-6300

With a copy to: **PILLSBURY WINTHROP SHAW PITTMAN LLP**
Attn: Hugh M. Ray, III
909 Fannin, Suite 2000
Houston, Texas 77010-1018
Phone: (713) 276-7600

If to Buyer: **WILDCAT RE, LLC**
Attn: Barry Hamlin
P.O. Box 455
Stigler, Oklahoma 74462
Phone: (918) 694-3390

With a copy to: **LYNCH CHAPPELL & ALSUP PC**
Attn: Travis H. Langdon
300 N. Marienfeld, Suite 700
Midland, Texas 79701
Phone: (432) 688-1348

If to Title Company: **LONE STAR ABSTRACT & TITLE CO., INC.**
Attn: _____
600 N. Loraine Street
Midland, Texas 79701
Phone: (432) 683-1818

3. *Entire Contract.* This Contract, together with its exhibits, and any Closing Documents delivered at Closing constitute the entire agreement of the Parties concerning the sale of the Property by Seller to Buyer. There are no oral representations, warranties, agreements, or promises pertaining to the sale of the Property by Seller to Buyer not incorporated in writing in this Contract.

4. *Captions.* The captions and headings used herein are for reference purposes only and shall not affect the meaning or interpretation of the terms and provisions of this Contract.

4. *Amendment.* This Contract may be amended only by an instrument in writing signed by the Parties.

5. *Assigns; Beneficiaries.* This Contract shall inure to the benefit of and be binding on the Parties hereto and their respective heirs, legal representatives, successors, and assigns. This Contract is for the sole benefit of Seller and Buyer, and no third party is intended to be a beneficiary of this Contract.

6. *[Reserved].*

7. *Survival.* The obligations of this Contract that cannot be performed before termination of this Contract or before Closing will survive termination of this Contract or

Closing, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents and this Contract, the Closing Document(s) shall control.

8. *Governing Law.* THIS CONTRACT SHALL BE GOVERNED, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS OTHERWISE APPLICABLE TO SUCH DETERMINATIONS. The Bankruptcy Court shall be the exclusive venue for resolution of any disputes regarding this Contract.

9. *Waiver of Default.* It is not a waiver of default if the nondefaulting Party fails to declare immediately a default or delays taking any action with respect to the default.

10. *Severability.* This is an entire contract and is not severable.

11. *Ambiguities Not to Be Construed Against Drafting Party.* The Parties having participated jointly in the negotiation and drafting of this Contract, no rule of construction that ambiguities in a document are to be construed against the party who drafted it will be applied in interpreting this Contract.

12. *No Special Relationship.* The Parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

13. *[Reserved].*

14. *Counterparts.* This Contract may be executed in a number of identical separate counterparts (including by facsimile transmission or by other electronic means showing execution by a Party), each of which for all purposes is to be (i) deemed an original; and (ii) as effective as delivery of a manually executed counterpart, but all of which shall constitute, collectively, one Contract.

15. *Post-Closing Access.* As additional consideration, Buyer grants to Seller the right to enter upon the Land, for a period of thirty (30) days after Closing, solely for the limited purpose of removing Seller's personal property (including, but not limited to, materials, vehicles, equipment, furniture and fixtures) from the Land, along with any and all improvements, equipment, furniture, and fixtures located in, on or about the house currently located on the Land. The terms of this Section 15 shall survive Closing.

[Remainder of Page Intentionally Left Blank]

[Signature Pages to Follow]

IN WITNESS WHEREOF, Buyer and Seller have executed this Contract as of the date first set forth above.

BUYER:

WILDCAT RE, LLC

By: *Barry Hamlin*
Name: *Barry Hamlin*
Title: *CEO*

SELLER:

WES-TEX VACUUM SERVICE, INC.

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, Buyer and Seller have executed this Contract as of the date first set forth above.


BUYER:

WILDCAT RE, LLC

By: _____
Name: _____
Title: _____

SELLER:

WES-TEX VACUUM SERVICE, INC.

By: 
Name: TOM BREEN
Title: CRO

1

Title Company acknowledges receipt of \$25,000.00 as Earnest Money and a copy of this Contract executed by both Buyer and Seller.

**TITLE COMPANY:
LONE STAR ABSTRACT & TITLE CO., INC.**

By: Deborah K. Blackaller
Name: Deborah K. Blackaller
Title: VP/Commercial Escrow Officer
Date: 11-1-16

EXHIBIT A

Land Description

All of that tract or parcel of land located in Ector County, Texas, and further described as follows:

BEING ALL OF LOTS EIGHT (8), NINE (9), TEN (10), FIFTEEN (15), SIXTEEN (16), AND SEVENTEEN (17), AND A PORTION OF LOTS ELEVEN (11), FOURTEEN (14), BLOCK TWO (2), WEST FREEWAY COMMERCIAL SUBDIVISION, Ector County, Texas, as shown on the plat of record in Volume 10, Page 28, Ector County Plat Records. Said portion of LOTS ELEVEN (11), AND FOURTEEN (14), are more completely described by metes and bounds as follows:

0.395 ACRE IN THE SOUTH PART OF LOT 11:

BEGINNING at a ½" iron rod set in the East line of FM Highway 1936 and West line of Lot 11, Block 2, West Freeway Commercial Subdivision, Ector County, Texas, as recorded in Volume 10, Page 28, Ector County Plat Records, for the Northwest corner of this tract, from which point the Northwest corner of Lot 11 bears N 14° 55' W 32.0 feet;

THENCE N 74° 43' 03" E. parallel to and 1.0 foot Northerly from a fence, 250.0 feet to a ½" iron rod set in the East line of Lot 11 and West line of an alley, for the Northeast corner of this tract; THENCE S 14° 55' E along the West line of alley, 69.6 feet to the Southeast corner of Lot 11 and this tract;

THENCE S 75° 05' W 250.0 feet to a point on the East line of FM Highway 1936 for the Southwest corner of Lot 11 and this tract;

THENCE N 14° 55' W 68.0 feet to the PLACE OF BEGINNING, CONTAINING 0.395 ACRE OF LAND.

0.323 ACRE IN THE SOUTH PART OF LOT 14:

BEGINNING at a ½" iron rod set in the West line of Peachtree Street and East line of Lot 14, Block 2, West Freeway Commercial Subdivision, Ector County, Texas, as recorded in Volume 10, Page 28, Ector County Plat Records, for the Northeast corner of this tract, from which point the Northeast corner of Lot 14 bears N 14° 55' W 29.0 feet;

THENCE S 14° 55' E along the West line of Peachtree Street, 71.0 feet to the Southeast corner of Lot 14 and this tract;

THENCE S 75° 05' W 200.0 feet to a point on the East line of an alley for Southwest corner of Lot 14 and this tract;

THENCE N 14° 55' W along East line of alley and West line of Lot 14, a distance of 69.72 feet to a ½" iron rod set for the Northwest corner of this tract;

THENCE N 74° 43' 03" E parallel to and 1.0 foot Northerly from a fence, 200.0 feet to the PLACE OF BEGINNING, CONTAINING 0.323 ACRE OF LAND.

EXHIBIT B

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GENERAL WARRANTY DEED

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF ECTOR §

THAT WES-TEX VACUUM SERVICE, INC., a Texas corporation (hereinafter referred to as "**Grantor**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration in hand paid by Wildcat RE, LLC, an Oklahoma limited liability company whose address is P.O. Box 455, Stigler, Oklahoma 74462 (hereinafter referred to as "**Grantee**"), the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, SOLD and CONVEYED and by these presents does GRANT, SELL and CONVEY unto Grantee all of those certain lots, tracts or parcels of real property located and lying in Glasscock County, Texas, and being more particularly described on **Schedule 1** attached hereto and incorporated herein by reference for all purposes (the "**Subject Property**").

This General Warranty Deed ("**Deed**"), however, is made and accepted by Grantee, subject to the restrictions, easements, covenants, encumbrances and other matters described on **Schedule 2** attached hereto and incorporated herein by reference for all purposes (collectively, the "**Permitted Exceptions**"). Grantee, by accepting delivery of this Deed, has assumed and agreed to pay the taxes and assessments on the Subject Property for the current year, prorated as

agreed in writing by Grantor and Grantee. Grantee's acceptance of delivery of this Deed is evidenced by its recordation.

TO HAVE AND TO HOLD the Subject Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee and Grantee's legal representatives, successors and assigns forever. And Grantor does hereby bind Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Subject Property, unto Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject to the Permitted Exceptions.

[Remainder of Page Left Blank Intentionally]

[Signature Page Follows]

EXECUTED on this the _____ day of _____, 20__.

GRANTOR:

WES-TEX VACUUM SERVICE, INC.

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 20__, by Michael Vick.

Notary Public in and for the
State of Texas

Printed Name of Notary

SCHEDULE 1

Property Description

BEING ALL OF LOTS EIGHT (8), NINE (9), TEN (10), FIFTEEN (15), SIXTEEN (16). AND SEVENTEEN (17). AND A PORTION OF LOTS ELEVEN (11), FOURTEEN (14), BLOCK TWO (2), WEST FREEWAY COMMERCIAL SUBDIVISION, Ector County, Texas, as shown on the plat of record in Volume 10, Page 28, Ector County Plat Records. Said portion of LOTS ELEVEN (11), AND FOURTEEN (14), are more completely described by metes and bounds as follows:

0.395 ACRE IN THE SOUTH PART OF LOT 11:

BEGINNING at a ½" iron rod set in the East line of FM Highway 1936 and West line of Lot 11, Block 2, West Freeway Commercial Subdivision, Ector County, Texas, as recorded in Volume 10, Page 28, Ector County Plat Records, for the Northwest corner of this tract, from which point the Northwest corner of Lot 11 bears N 14° 55' W 32.0 feet;

THENCE N 74° 43' 03" E. parallel to and 1.0 foot Northerly from a fence, 250.0 feet to a ½" iron rod set in the East line of Lot 11 and West line of an alley, for the Northeast corner of this tract; THENCE S 14° 55' E along the West line of alley, 69.6 feet to the Southeast corner of Lot 11 and this tract;

THENCE S 75° 05' W 250.0 feet to a point on the East line of FM Highway 1936 for the Southwest corner of Lot 11 and this tract;

THENCE N 14° 55' W 68.0 feet to the PLACE OF BEGINNING, CONTAINING 0.395 ACRE OF LAND.

0.323 ACRE IN THE SOUTH PART OF LOT 14:

BEGINNING at a ½" iron rod set in the West line of Peachtree Street and East line of Lot 14, Block 2, West Freeway Commercial Subdivision, Ector County, Texas, as recorded in Volume 10, Page 28, Ector County Plat Records, for the Northeast corner of this tract, from which point the Northeast corner of Lot 14 bears N 14° 55' W 29.0 feet;

THENCE S 14° 55' E along the West line of Peachtree Street, 71.0 feet to the Southeast corner of Lot 14 and this tract;

THENCE S 75° 05' W 200.0 feet to a point on the East line of an alley for Southwest corner of Lot 14 and this tract;

THENCE N 14° 55' W along East line of alley and West line of Lot 14, a distance of 69.72 feet to a ½" iron rod set for the Northwest corner of this tract;

THENCE N 74° 43' 03" E parallel to and 1.0 foot Northerly from a fence, 200.0 feet to the PLACE OF BEGINNING, CONTAINING 0.323 ACRE OF LAND.

SCHEDULE 2

Permitted Exceptions

None

EXHIBIT C

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

In re: § Chapter 11
§
ARMADA WATER ASSETS, INC., et al.¹ § 16-60056 (DRJ)
§
Debtors. § (Jointly Administered)

**ORDER AUTHORIZING THE SALE OF CERTAIN
ESTATE PROPERTY FREE AND CLEAR OF LIENS**

Upon this Court's consideration of the *Debtors' Motion for Authorization to Sell Estate Property Free and Clear of Interests* (the "Sale Motion")² filed by the above-referenced debtors, as debtors-in-possession (the "Debtors"), for entry of an order, *inter alia* authorizing the sale of that certain tract of land in Ector County, Texas (the "Property") by Debtor Wes-Tex Vacuum Service, Inc. ("Wes-Tex") to Wildcat RE, Inc. (the "Buyer") pursuant to the terms of that certain *Real Estate Purchase Contract* by and between the parties thereto, a copy of which is attached hereto as **Exhibit A** (the "Purchase Agreement"); and a hearing on the Sale Motion having been held on _____, 2016 (the "Sale Hearing"); the Court finds and determines that:³

A. This Court has jurisdiction to consider the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334, the consideration of the Sale Motion and the relief requested is a core proceeding pursuant to 28 U.S.C. § 157(b), and venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's tax identification number, are: (i) Armada Water Assets, Inc. (5999); (ii) Wes-Tex Vacuum Service, Inc. (2375); (iii) Summit Holdings, Inc. (3453); (iv) Barstow Production Water Solutions, LLC (0299); (v) Devonian Acquisition Corporation (1431); (vi) Western Slope Acquisition Corporation (7624); (vii) Summit Energy Services, Inc. (3453); (viii) ORL Equipment LLC (3242); and (ix) Harley Dome I, LLC (2293).

² All capitalized terms used but not otherwise defined herein have the meanings ascribed thereto in the Sale Motion.

³ In accordance with Bankruptcy Rule 7052, when appropriate, all findings of fact shall be construed as conclusions of law, and all conclusions of law shall be construed as findings of fact.

B. The statutory predicates for the relief sought in the Sale Motion are sections 105(a) and 363 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

C. As evidenced by certificates of service filed with this Court, notice of the Sale Motion, the Sale Hearing, and the relief granted in this Order was served in accordance with this Court’s *Order Establishing Notice Procedures* (Dkt. No. 31). The Court finds the scope and manner of notice and service to be proper, timely, adequate, and sufficient in accordance with Bankruptcy Code §§ 105(a) and 363 and Bankruptcy Rules 2002, 6004, and 9014. No other or further notice of the Sale Motion or the Sale Hearing is or shall be required.

D. A reasonable opportunity to object or to be heard regarding the relief requested in the Sale Motion has been afforded to all creditors and parties in interest.

E. Subject to approval of this Court, Wes-Tex has full power and authority to execute the Purchase Agreement and all other documents referenced in or contemplated by the Purchase Agreement or that are necessary or appropriate to effectuate the sale of the Property as contemplated under the Purchase Agreement.

F. All actions contemplated by the Purchase Agreement have been duly and validly authorized by all necessary action of Wes-Tex and, subject to the approval of this Court, Wes-Tex has the full power and authority to consummate the transactions contemplated by the Purchase Agreement. No further consents or approvals, other than entry of this Order, are required for Wes-Tex or the Buyer to consummate the transactions contemplated in the Purchase Agreement.

G. Approval of the Purchase Agreement and consummation of the transactions contemplated therein at this time are in the best interests of Wes-Tex, each of the Debtors’ estates, their creditors, and their interest holders.

H. The Debtors have demonstrated both (i) good, sufficient, and sound business purpose and justification for the sale of the Property to Buyer and (ii) compelling circumstances for approval of the sale transactions contemplated in the Purchase Agreement pursuant to Bankruptcy Code §§ 363(b) and (f).

I. The Purchase Agreement was negotiated, proposed, and entered into by Wes-Tex and the Buyer, in good faith, without collusion, and was the result of arm's-length bargaining with the parties represented by independent counsel. The consideration to be paid by the Buyer to Wes-Tex as described in the Purchase Agreement constitutes fair value for the Property. Neither the Debtors nor the Buyer have engaged in any conduct that would cause or permit the Purchase Agreement to be avoided under Bankruptcy Code § 363(n). The Buyer is not an "insider" of any of the Debtors, as that term is defined in Bankruptcy Code § 101.

J. The Buyer is a good faith purchaser of the Property under Bankruptcy Code § 363(m) and, as such, is entitled to all of the protections afforded thereby. The Buyer has acted in good faith within the meaning of Bankruptcy Code § 363(m) in negotiating the transactions contemplated by the Purchase Agreement and will rely on entry of this Order and this good faith determination in closing such transactions.

K. The Purchase Agreement was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or any other law of the United States or any state, territory, possession thereof or the District of Columbia.

L. The consideration provided by the Buyer for the Property (i) is fair and reasonable, (ii) is the highest and best offer for the Property, and (iii) constitutes reasonably equivalent value, fair saleable value, and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession thereof, or the District of Columbia.

M. The Buyer is not a mere continuation of any of the Debtors or their estates and there is no continuity of enterprise between the Buyer and any of the Debtors. The Buyer is not holding itself out to the public as a continuation of any Debtor. The Buyer is not a successor to any Debtor or its estate and the transactions contemplated by the Purchase Agreement do not amount to a consolidation, merger or de facto merger of the Buyer and any Debtor.

N. The sale of the Property outside a plan of reorganization pursuant to the Purchase Agreement is reasonable and appropriate under the circumstances and does not impermissibly dictate the terms of any future plan of reorganization or liquidation that may be filed by Wes-Tex, individually or together with any of the other Debtors, and is not a *sub rosa* plan.

O. Pursuant to Bankruptcy Code §§ 105(a), 363, and 365, the sale of the Property pursuant to this Order and the Purchase Agreement constitutes a legal, valid, and effective transfer of the Property and, except as may be expressly permitted by the Purchase Agreement, will vest the Buyer with all right, title, and interest of Wes-Tex and its estate in and to the Property, free and clear of all liens, interests, obligations, rights, encumbrances, pledges, mortgages, deeds of trust, security interests, claims (including any “claim” as defined in Bankruptcy Code § 101(5)), leases, possessory leasehold interests, charges, options, rights of first refusal or options to purchase any real property, easements, servitudes, transfer restrictions under any agreement, judgments, hypothecations, demands, licenses, sublicenses, assignments, debts, guaranties, contractual commitments, restrictions, and environmental liabilities, in each case of whatever kind, nature, or description, in, against or with respect to any of the applicable Property, having arisen, existed or accrued prior to and through the Closing Date, whether direct or indirect, absolute or contingent, choate or inchoate, fixed or contingent, matured or unmatured, liquidated or unliquidated, asserted or unasserted, arising or imposed by agreement, understanding, law, equity, statute or otherwise and whether arising prior to, on or after the

Petition Date (collectively, “Interests”), to the fullest extent permitted by and under Bankruptcy Code §§ 363(f) and 105, except for Permitted Exceptions as may be expressly provided in the Purchase Agreement, with all such Interests attaching to the net cash proceeds of the sale (the “Proceeds”) in the same order of their priority, with the same validity, force and effect that they now have against the Property, subject to the rights, claims, defenses, and objections, if any, of the Debtors and all parties in interest with respect thereto, because, in the case of each such Interest, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied.

P. All persons or entities that hold Interests in, against, or with respect to the Debtors, their estates, or the Property but that did not object to the relief requested in the Sale Motion, or that objected but withdrew such objection, are deemed to have consented to the sale of the Property free and clear of such Interests pursuant to Bankruptcy Code § 363(f)(2). All persons or entities that hold Interests in, against, or with respect to the Debtors, their estates, or the Property and objected to the relief requested in the Sale Motion, but did not withdraw any such objection, can be compelled to accept a monetary satisfaction of such Interests within the meaning of Bankruptcy Code § 363(f)(5), or are adequately protected by having such Interests attach to the net proceeds of the sale with the same validity, enforceability, priority, force, and effect that they now have against the Property (subject to the rights, claims, defenses, and objections, if any, of the Debtors and all parties in interest with respect to such Interests).

Q. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). To the extent necessary under Bankruptcy Rules 6004 and 9014, and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds that cause exists not to delay the implementation of this Order.

BASED ON THE FOREGOING FINDINGS, GOOD CAUSE EXISTS FOR ENTRY OF THE FOLLOWING ORDER. IT IS THEREFORE ORDERED:

1. The notice of the Sale Motion and Sale Hearing are approved as being fair, reasonable and adequate under the circumstances of these chapter 11 cases, and any additional notice as may otherwise be required under state and federal law is hereby deemed satisfied.

2. The Sale Motion is granted, and the sale of the Property is hereby authorized, as set forth herein.

3. All Objections to the Sale Motion that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby overruled on the merits.

Approval of the Purchase Agreement

4. The Purchase Agreement is hereby approved and all of the terms and conditions thereof are incorporated herein by reference.

5. Without need for any additional Court order, Wes-Tex and its officers, directors, employees and agents are authorized and directed to execute and deliver, and empowered to perform under, consummate, and implement, the Purchase Agreement and the transactions contemplated thereunder, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and the transactions contemplated thereunder, and to take all further actions as may be reasonably requested by the Buyer, or otherwise required under the Purchase Agreement, including, without limitation, paying up to \$2,000 in the aggregate to satisfy claims asserted against or relating to Personal Property to facilitate the conveyance of such property to the Buyer.

6. The consideration provided to Wes-Tex by the Buyer for the Property under the Purchase Agreement constitutes reasonably equivalent value, fair saleable value, and fair

consideration under the Bankruptcy Code and any other applicable state, federal or international law.

Transfer of the Property

7. Pursuant to Bankruptcy Code §§ 105(a), 363(b) and 363(f), the transfers of the Property to the Buyer shall vest the Buyer with all right, title, and interest in and to the Property and shall be free and clear of all Interests, with such Interests attaching to the Proceeds with the same force, validity, priority and effect as such Interests presently have against the Property, if any, subject to the rights, claims, defenses, and objections, if any, of the Debtors and all parties in interest with respect thereto. The Proceeds shall be paid to the Debtors on the Closing Date.

8. Without limiting any of the foregoing, any objection of a secured creditor or other holder of an Interest that did timely object to the sale of the Property and did not withdraw the objection is overruled, as one or more of the subsections of Bankruptcy Code § 363(f) is met with respect to such party, and in each case, such party is adequately protected by having its interest, if any, in the Property, attach to the Proceeds with the same validity and priority as its interest, if any, presently has in the Property.

9. This Order shall be the Court's determination that, on the Closing Date, all Interests in and to the Property have been unconditionally released, discharged, and terminated from the Property.

10. The Buyer shall have no liability or responsibility for any liability or other obligation of the Debtors arising under or related to the Property and in no event shall the Buyer have any liability or responsibility for any liabilities of the Debtors (including any unrecorded liabilities of the Debtors). Without limiting the effect or scope of the foregoing, the transfer of the Property from Wes-Tex to the Buyer does not and will not subject the Buyer or its affiliates, successors or assigns or their respective properties (including the Property) to any liability for

claims (as that term is defined in Bankruptcy Code § 101(5)) against the Debtors or the Property by reason of such transfer under the laws of the United States or any state, territory or possession thereof, or the District of Columbia, applicable to such transactions. Neither the Buyer nor its affiliates, successors, or assigns shall be deemed, as a result of actions taken in connection with the purchase of the Property: (i) to be a successor to any Debtor or (ii) to be a continuation or substantial continuation of any Debtor or any enterprise of any Debtor. Neither the Buyer nor its affiliates, successors, or assigns is acquiring or assuming any liability, warranty, or other obligation of the Debtors, including, without limitation, any tax incurred but unpaid by the Debtors prior to the Closing Date, any fine or penalty relating to a tax, or any addition to a tax, whether or not previously assessed, fixed or audited, whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction. On and after the Closing Date, all persons or entities holding Interests any kind and nature with respect to the Property shall be barred from asserting such Interests against the Buyer, its successors or assigns, or the Property.

Additional Provisions

11. Each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release any Interest it asserts in or to the Property, as such Interests may have been recorded or may otherwise exist.

12. Regardless of whether the Debtors' creditors execute the releases set forth in the above paragraph, this Order (a) shall be effective as a determination that all Interests of any kind or nature whatsoever existing with respect to the Property have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all persons and entities, including without limitation all filing agents, filing officers, title agents, title companies, recorders of mortgages,

recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Property.

13. Each and every federal, state, and local governmental agency or department is hereby directed to accept for filing and/or recording, and approve as necessary, any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

14. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing claims or interests with respect to any of the Debtors or the Property shall not have delivered to the Debtors prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all interests which the person or entity has with respect to the Debtor or the Property or otherwise, then (a) the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Property and (b) the Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Interests in the Property of any kind or nature whatsoever.

14. All persons and entities that presently are in possession of some or all the Property hereby are directed to surrender possession thereof to the Buyer at the Closing Date.

15. This Court retains exclusive jurisdiction to (i) enforce and implement the terms and provisions of this Order and (ii) determine as a core proceeding (by motion and without

necessity for an adversary proceeding if the Court deems appropriate) any proceeding, dispute, or controversy arising out of or related to the Sale Motion and this Order.

16. The transactions contemplated herein are undertaken by the Buyer in good faith, as that term is used in Bankruptcy Code § 363(m). Accordingly, the reversal or modification of the authorization provided herein to consummate the transactions contemplated herein shall not affect the validity of the sale of the Property to the Buyer, unless such authorization is duly stayed. The Buyer is a purchaser in good faith of the Property and, upon the occurrence of the Closing Date, is entitled to all of the protections afforded by Bankruptcy Code § 363(m).

17. Nothing contained in any chapter 11 plan confirmed in these chapter 11 cases (or any order of this Court confirming such plan) shall conflict with or derogate from the provisions of the Purchase Agreement or the terms of this Order, provided that the retention of jurisdiction under this Order following confirmation of such plan shall not be broader than jurisdiction permitted to be retained under an order of confirmation.

18. The terms and conditions of the Purchase Agreement and this Order shall be binding in all respects and shall inure to the benefit of the Debtors, their bankruptcy estates and their creditors and interest holders, successors, and assigns, and the Buyer and its respective affiliates, successors and assigns, notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, as to which trustee(s) such terms and provisions likewise shall be binding.

19. The Purchase Agreement and the transactions and instruments contemplated hereby shall be specifically performable and enforceable against and binding upon, and not subject to rejection or avoidance by, the Debtors and their respective affiliates, successors, and assigns, or any chapter 7 or chapter 11 trustee of any of the Debtors and their estates.

20. The failure specifically to include any particular provision of the Purchase

Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement be authorized and approved in its entirety.

21. The Purchase Agreement and any related agreements, documents or other instruments may be modified, amended, or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of this Court, provided that such modification, amendment, or supplement shall not have a material adverse effect on the Debtors' bankruptcy estates.

22. Notwithstanding Bankruptcy Rule 6004(h), this Order shall not be stayed thereunder and instead shall be effective and enforceable immediately upon entry.

23. The Court reserves the right to make additional findings of fact and conclusions of law.

Dated: _____

UNITED STATES BANKRUPTCY JUDGE

APPENDIX 1

None.