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*Attorneys for D. Ray Strong, Liquidating Trustee of the  
Consolidated Legacy Debtors Liquidating Trust*

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

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In re:

CASTLE ARCH REAL ESTATE  
INVESTMENT COMPANY, LLC; CAOP  
MANAGERS, LLC; CASTLE ARCH  
KINGMAN, LLC; CASTLE ARCH  
SECURED DEVELOPMENT FUND, LLC;  
CASTLE ARCH SMYRNA, LLC; CASTLE  
ARCH STAR VALLEY, LLC; *and*

CASTLE ARCH OPPORTUNITY  
PARTNERS I, LLC; CASTLE ARCH  
OPPORTUNITY PARTNERS II, LLC,

Debtors.

Case Nos. 11-35082, 11-35237,  
11-35243, 11-35242 and 11-35246  
(Substantively Consolidated)

Case Nos. 11-35241 and 11-35240  
(Jointly Administered)

(Chapter 11)  
The Honorable Joel T. Marker

- Affects All Debtors
- Affects Only the Substantively  
Consolidated Debtors
- Affects only Castle Arch  
Opportunity Partners I, LLC
- Affects only Castle Arch  
Opportunity Partners II, LLC

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**MOTION SEEKING (1) AUTHORIZATION OF PUBLIC SALE OF REAL PROPERTY  
LOCATED IN MOHAVE COUNTY, ARIZONA OUT OF THE ORDINARY COURSE  
OF BUSINESS AND FREE AND CLEAR OF ALL INTERESTS PURSUANT TO 11  
U.S.C. § 363, (2) APPROVING PROCEDURES FOR PUBLIC SALE, AND (3)  
AUTHORIZING TRUSTEE TO PAY AUCTIONEER AND REAL PROPERTY TAXES  
FROM GROSS SALE PROCEEDS**

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D. Ray Strong (the “Trustee”), as the duly appointed Liquidating Trustee of the Consolidated Legacy Debtors Liquidating Trust (the “Legacy Trust”) and the Chapter 11 Trustee and post-confirmation estate representative for the consolidated bankruptcy estates of Castle Arch Real Estate Investment Company, LLC (“CAREIC”), CAOP Managers, LLC, Castle Arch Kingman, LLC, Castle Arch Smyrna, LLC, Castle Arch Secured Development Fund, LLC, and Castle Arch Star Valley, LLC (“CASV”) (collectively, the “Legacy Debtors”), by and through his undersigned counsel, moves this Court for entry of an Order authorizing a public sale of certain real property known in this case as the “Kingman Property” which is described in further detail below out of the ordinary course of business, free and clear of all interests pursuant to 11 U.S.C. § 363(b), (f), and (m), as well as Rules 2002, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure. As part of this request, the Trustee requests that the Court approve the proposed procedures for public sale, and authorize the Trustee to pay costs of sale and real property taxes from the gross sale proceeds.

This Motion is supported by the *Declaration of D. Ray Strong* (the “Strong Declaration”) filed concurrently herewith. For the reasons set forth below, the Trustee maintains that this Motion should be granted. In further support hereof, the Trustee states as follows:

#### **JURISDICTION AND VENUE**

1. On October 17, 2011, CAREIC filed a petition for relief under Chapter 11 of the Bankruptcy Code, and on October 20, 2011, the other Legacy Debtors, other than CASV, also filed petitions seeking relief under Chapter 11 of the Bankruptcy Code.

2. The Court has subject matter jurisdiction of this proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

3. On June 7, 2013, the Bankruptcy Court entered an *Order Confirming Chapter 11 Trustee's First Amended Plan of Liquidation Dated February 25, 2013 as Modified* [Docket No. 705] (the "Confirmation Order"), thus confirming the *Second Amended Chapter 11 Trustee's Plan of Liquidation Dated February 25, 2013* [Docket No. 701] (the "Confirmed Plan"), pursuant to which the Court retains jurisdiction over this matter.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1409.

### **BACKGROUND**

#### *Case Background and the Property*

5. On May 3, 2012, the Court entered an Order appointing the Trustee as the Chapter 11 bankruptcy Trustee for CAREIC [Docket No. 215], and in that capacity he managed each of the other Legacy Debtors.

6. On February 8, 2013, the Court entered an Order substantively consolidating the Legacy Debtors [Docket No. 590].

7. On June 7, 2013, the Court entered the Confirmation Order which, among other things: (a) designated the Trustee as the post-confirmation estate representative for the Legacy Debtors; (b) approved the Liquidating Trust Agreement for the Legacy Trust; (c) appointed the Trustee as the Liquidating Trustee for the Legacy Trust; and (d) authorized the Trustee to administer the Legacy Debtors' post-confirmation estates pursuant to the Confirmed Plan.

8. Property of the Legacy Debtors and Legacy Trust includes certain real property located in Mohave County, Arizona, including interests related to such land which is referred to in the Legacy Debtors' consolidated case as the "Kingman Property" (hereinafter the "Property"). The Property is comprised of approximately 546.08 total acres of raw land and

related interests, and is more fully described in preliminary Title Report attached hereto as

**Exhibit A**. The total acreage is comprised of eight (8) parcels.<sup>1</sup>

9. Upon the Effective Date of the Confirmed Plan, the Property, including all interests related thereto, were transferred to the Legacy Trust to be administered by the Trustee.<sup>2</sup>

*Marketing of the Property for Private Sale*

10. Commerce Real Estate Solutions (“Commerce”) has marketed the Property for private sale pursuant to a Court-approved Listing Agreement from June 29, 2012.<sup>3</sup> In February 2014, after entry of the Confirmation Order, the Trustee, as the Trustee of the Legacy Trust, entered into a new Listing Agreement with Nichols Realty for the sale of the Property, which was retroactive to December 3, 2013.<sup>4</sup>

11. Since June 29, 2012, Commerce, and then Nichols Realty, has continuously and actively marketed the Property for private sale pursuant to industry standards, including by: (a) creating marketing flyers and postcards; (b) HTML email broadcasts; (c) posting on national real estate website; (d) launching campaigns to real estate brokers and national home builders; (e) engaging the regional economic development community; (f) soliciting targeted category buyers; and (g) otherwise promoting the Property’s availability to the national marketplace.<sup>5</sup>

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<sup>1</sup> Strong Declaration, ¶ 4.

<sup>2</sup> Confirmed Plan, § 6.2.

<sup>3</sup> See Docket Nos. 252 and 276 (Commerce employment papers and Listing Agreement).

<sup>4</sup> Strong Declaration, ¶ 5.

<sup>5</sup> *Id.* at ¶ 6.

12. The Property was initially marketed for sale in the amount of approximately \$2.1 million, but at this time it is being offered for \$1,638,240.<sup>6</sup>

*Previous Purchase Offers Received Through Private Sale Marketing*

13. As a result of the marketing efforts described above, the Trustee initially received offers to purchase portions of the Property from Lingenfelter Investments, Ltd. and Greenstone AZ Land I, LLC, but the Trustee did not accept offers from those entities.<sup>7</sup>

14. In or about January, 2015, the Trustee entered into an agreement to sell 236.57 acres of the Property and interests related to those acres to UNS Electric, Inc. (“UNS”), subject to higher and better offers. A higher and better offer was received from Greenstone Renewables LLC (“Greenstone Renewables”) and, after UNS declined to make a counter offer, the Trustee agreed to sell the Property to Greenstone Renewables. This sale did not close because Greenstone Renewables cancelled the contract prior to the expiration of its due diligence period. The Trustee then re-offered the Property to UNS, but UNS declined to renew its offer to purchase the Property.<sup>8</sup>

15. Subsequently, in or about July 2015, the Trustee entered into a *Vacant Land/Lot Purchase Contract* to sell 533 acres of the Property to Verde Agribusiness LLC. This sale did not close because the potential buyer cancelled the contract prior to the expiration of its due diligence period.<sup>9</sup>

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<sup>6</sup> *Id.* at ¶ 7.

<sup>7</sup> *Id.* at ¶ 8.

<sup>8</sup> *Id.* at ¶ 9.

<sup>9</sup> *Id.* at ¶ 10.

16. Thereafter, in or about September 2016, the Trustee entered into a *Vacant Land/Lot Purchase Contract* to sell the Property to Lipsa Patel. This sale did not close because the potential buyer cancelled the contract prior to the expiration of its due diligence period.<sup>10</sup>

17. Since that time, despite continued marketing of the Property for private sale, the Trustee has received no meaningful offers to purchase the Property.<sup>11</sup>

*Proposed Auction of the Property and Employment of Statewide*

18. In an exercise of his business judgment, the Trustee has determined that it is in the best interests of creditors to sell the Property at public auction at this time. This decision is based primarily on the fact that the Property has been market for private sale since 2012 and it has not sold. The Trustee believes that a public sale will renew interest in the Property and bring the highest and best price for the Property.<sup>12</sup>

19. The Trustee has engaged Statewide Auction Company (“Statewide”) to conduct a public sale of the Property, and a copy of the *Real Estate Auction Agreement* is attached hereto as **Exhibit B** and incorporated herein by reference (the “Statewide Agreement”).<sup>13</sup>

20. Statewide is an experienced, active, and licensed auctioneering firm, it maintains appropriate insurance policies, and it has posted a bond with the office of the United States Trustee. It has been appointed by the Court as a standing auctioneer under Local Rule 6005-1 and it regularly engages in the auction of real and personal property in bankruptcy cases. The

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<sup>10</sup> *Id.* at ¶ 11.

<sup>11</sup> *Id.* at ¶ 12.

<sup>12</sup> *Id.* at ¶ 13.

<sup>13</sup> *Id.* at ¶ 14

Trustee has chosen Statewide primarily because of its experience in the area of public sales of real property.<sup>14</sup>

*Proposed Procedures*

21. The Trustee proposes to sell the Property at a public auction to be conducted by Statewide at a date, time, and place to be agreed to by the Trustee and Statewide so as to maximize participation in and the price that may be obtained for the Property (the “Auction Sale”).<sup>15</sup>

22. The proposed procedures for conducting the Auction Sale are set forth in the Statewide Agreement attached hereto without exhibits as **Exhibit B** and which is incorporated herein (the “Auction Procedures”). In order to participate at the Auction Sale, bidders will be required to provide a deposit and execute a “Deposit and Obligation Agreement” substantially in the form of the document attached hereto without exhibits as **Exhibit C** and which is incorporated herein by reference.

23. The Property will be sold “as is, where is,” with no representations or warranties of any kind.

24. The public sale of the Property for which approval is sought herein is contingent on the highest and best bid at the Auction Sale being within a “Reserve Range.”<sup>16</sup> The Reserve Range will not be made public and will not be known to Statewide, but rather will only be

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<sup>14</sup> *Id.* at ¶ 15.

<sup>15</sup> *Id.* at ¶ 16.

<sup>16</sup> Exh. B (Statewide Agreement ¶ 4(c)(6)).

provided to the Court for purposes of evaluating this Motion.<sup>17</sup> If the Auction Sale brings a price within the Reserve Range or greater, the Trustee may close the sale without any further Court approval. The final price obtained for the Property will be set forth in the *Report of Sale* to be filed by Statewide pursuant to Fed. R. Bankr. P. 6004(f).<sup>18</sup>

*Sale Costs and Net Sale Proceeds*

25. Provided that the Auction Sale concludes and the resulting sale is closed, the Trustee anticipates paying from the gross proceeds of the sale the costs of sale, which will include Statewide's 6% commission as set forth in the Statewide Agreement, and outstanding real property taxes.<sup>19</sup> The gross sale proceeds less the costs of sale and taxes are referred to herein as the "Net Sale Proceeds."

26. In the event that the Auction Sale is cancelled by the Trustee or the sale to a Successful Bidder at the Auction Sale does not close, the Trustee has agreed to pay Statewide its actual, reasonable, and necessary out-of-pocket expenses related to the Auction Sale and the request for approval to pay these expenses is also requested herein.<sup>20</sup>

27. At the conclusion of the Auction Sale, Statewide will file a Report of Auction as required under Fed. R. Bankr. P. 6004(f).<sup>21</sup>

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<sup>17</sup> Strong Declaration, ¶ 17.

<sup>18</sup> Exh. B (Statewide Agreement ¶ 4(c)(6) and (d)).

<sup>19</sup> See Exh. B (Statewide Agreement, ¶ 6).

<sup>20</sup> See *id.*, ¶ 7.

<sup>21</sup> *Id.*, ¶ 3(d).



Notice

28. The Trustee has obtained a preliminary Title Report for the Property, a copy of which is attached hereto as **Exhibit A**.<sup>22</sup>

29. Notice of this Motion is being served on all parties that are listed on the Title Report as having an interest in the Property.

30. Notice of this Motion will also be served on all parties in interest in this case, and be posted on the Trustee's website.

**RELIEF REQUESTED**

31. By this Motion, the Trustee seeks the entry of an Order of this Court granting this Motion and authorizing the public sale of the Property free and clear of all interests pursuant to 11 U.S.C. § 363(b) and (f), with any interests attaching to the Net Sale Proceeds.

32. The Trustee also requests a finding that, based on the representations below and the Strong Declaration, the sale is a good faith sale under 11 U.S.C. § 363(m).

33. The Trustee also requests approval of the Auction Procedures set forth herein.

34. Finally, the Trustee requests authority to pay from the gross sale proceeds the costs of sale, including Statewide's 6% commission, and outstanding real property taxes; or alternatively, Statewide's expenses as provided for in ¶ 7 of the Statewide Agreement.

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<sup>22</sup> Strong Declaration, ¶ 18.

**ARGUMENT**

*The Trustee Has Established Grounds for Approval of the Sale Procedures and Authorization of the Sale Out of the Ordinary Course of Business*

35. The Bankruptcy Code provides that the “trustee, after notice and a hearing, may use, sell, lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1).<sup>23</sup>

36. In order to approve a sale of assets outside the ordinary course of business, the Trustee must show that:

- a. a sound business reason exists for the sale;
- b. there has been adequate and reasonable notice to interested parties, including full disclosure of the sale terms and the Debtor’s relationship with the buyer;
- c. that the sale price is fair and reasonable; and
- d. that the proposed buyer is proceeding in good faith.<sup>24</sup>

37. The Trustee has met all four parts of this test, and accordingly, respectfully requests that the Court grant the relief requested in this Motion thereby approving the sale procedures and authorizing the proposed sale free and clear of interests.

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<sup>23</sup> 11 U.S.C. § 363(b)(1).

<sup>24</sup> See *In re Medical Software Solutions*, 286 B.R. 431, 439-40 (Bankr. D. Utah 2002)

Sound Business Purpose

38. Courts show great deference to a trustee's decision-making.<sup>25</sup> Once a trustee articulates a valid business judgment for a sale, “a presumption of reasonableness attaches to a trustee's management decisions.”<sup>26</sup>

39. The Auction Sale will take place after extensive marketing by Statewide as set forth in the Statewide Agreement and only after adequate and reasonable notice is given to all interested parties.<sup>27</sup>

40. In his business judgment, the Trustee believes that the proposed Auction Sale will maximize the value of the Property, minimize the costs to the Legacy Trust, and produce a good-faith purchaser, and therefore should be authorized. The Trustee's opinion is based on several factors, including but not limited to the following:

- a. the length of time the Property has been marketed for private sale without producing a viable sale;
- b. the possibility that a heavily-marketed and competitive auction will renew interest in the Property and bring a reasonable bid for the Property that is within the Reserve Range by a good faith purchaser;
- c. the cash nature and finality of the Auction Sale; and
- d. the cessation of continuing costs of administration of the Property.<sup>28</sup>

Notice of the Procedures and the Proposed Sale is Appropriate

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<sup>25</sup> See *Summit Land Co. v. Allen (In re Summit Land Co.)*, 13 B.R. 310, 315 (Bankr. D. Utah 1981).

<sup>26</sup> *In re Johns-Manville Corp.*, 60 B.R. 612, 615–16 (Bankr. S.D.N.Y. 1986) (stating the trustee enjoys “a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action was in the best interests of the company”).

<sup>27</sup> See Exh. B (Statewide Agreement, ¶ 4).

<sup>28</sup> Strong Declaration, ¶ 20.

41. Adequate and reasonable notice of this Motion and the proposed public sale of the Property will be made to interested parties.

42. Concurrent with the filing of this Motion, the Trustee will serve a *Notice of Hearing* upon all creditors and parties-in-interest in the above-captioned bankruptcy case and all parties whose interests might be affected by the sale contemplated herein. The Notice of Hearing provides notice of the hearing on this Motion, the nature of the sale, and the nature of the Auction Procedures.

43. The Trustee will also post a copy of this Motion on his website and provide notice of the Auction Sale to any parties who have expressed an interest in the Property.<sup>29</sup>

44. Finally, the public sale will be marketed by Statewide in the manner set forth in the Statewide Agreement.<sup>30</sup>

45. Such procedures are fair, reasonable and are intended to obtain the highest and best price for the Property as well as afford notice as required under 11 U.S.C. § 363 and Federal Rules of Bankruptcy Procedure 2002 and 6004.

*Fair and Reasonable Price*

46. A proposed sale is only appropriate if the sale price is fair and reasonable.

47. The auction process is being utilized in hopes of creating a competitive bidding process that will produce a sale of the Property to a disinterested party at the highest and best

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<sup>29</sup> *Id.* at ¶ 19.

<sup>30</sup> Exh. B (Statewide Agreement ¶4(a)).

price. In the Trustee's business judgment, based on the facts known to him at this time, this environment will be the best way to obtain a price for the Property that is fair and reasonable.<sup>31</sup>

48. At this time, the Trustee believes that the Auction Sale is the best method to obtain the highest and best price for the Property, and the Auction Procedures were negotiated and are being proposed by the Trustee with the intent of attempting to obtain the highest and best price for the Property.<sup>32</sup>

*Good Faith Purchaser*

49. The last prong of the four-part test has been met in this case because by selling the Property at a public sale, the Property will be purchased by a good faith purchaser.

50. Although the Bankruptcy Code does not define "good faith," the Tenth Circuit has determined in the context of 11 U.S.C. § 363(m) that a "good faith" purchaser is "one that buys in good faith, and for value."<sup>33</sup> Actions that destroy a purchaser's good faith include "fraud, collusion between the purchaser and other bidders or trustee, or an attempt to take grossly unfair advantage of other bidders."<sup>34</sup>

51. Here, the Trustee has engaged Statewide, a disinterested and Court-approved standing auctioneering firm, to sell the Property at public sale. He has negotiated the terms of the Statewide Agreement in good faith and at arm's length.<sup>35</sup> The auction process will solicit open, competitive bidding after full marketing and notice, and Statewide will be required to

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<sup>31</sup> Strong Declaration, ¶ 21.

<sup>32</sup> *Id.*, ¶¶ 14, 20-22.

<sup>33</sup> *Tompkins v. Frey (In re Bel Air Assocs., Ltd.)*, 706 F.2d 301, 304 (10th Cir. 1983).

<sup>34</sup> *Id.* at 305 n.11 (citation omitted); *see also In re Lotspeich*, 328 B.R. 209 (10th Cir. BAP 2005).

<sup>35</sup> Strong Declaration, ¶ 14.

provide an accounting to the Trustee and the Court.<sup>36</sup> These procedures will produce good faith buyers that will purchase the Property for a fair and reasonable value.

52. Accordingly, for all of these reasons, the Trustee has established that the Auction Sale should be approved pursuant to 11 U.S.C. § 363(b) and that the sale will be to a good faith purchaser under 11 U.S.C. § 363(m).

*The Sale of the Property Free and Clear Pursuant to 11 U.S.C. § 363(f) Is Warranted*

53. 11 U.S.C. § 363(f) states that a trustee may sell estate property free and clear of interests, if:

- a. applicable non-bankruptcy law permits the sale of such property free and clear of such interest;
- b. such entity consents;
- c. 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;
- d. such interest is in bona fide dispute; or
- e. such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

54. Because Section 363(f) is in the disjunctive, the satisfaction of any one of the alternative requirements enumerated therein will warrant the Trustee's proposed sale of the Property free and clear of interests.

55. The Trustee is seeking to sell the Property free and clear of all financial interests. Other than taxes that will be paid from the gross sale proceeds of the Property at close of the sale, the Trustee knows of no other valid financial interests on the Property.<sup>37</sup> To the extent any

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<sup>36</sup> Exh. B (Statewide Agreement ¶ 4(d)).

<sup>37</sup> Exh. A (Preliminary Title Report).

such interests are asserted as being valid, such interests are adequately protected because they will attach to the Net Sale Proceeds.

56. Accordingly, the Trustee requests that the Court grant this Motion, including by authorizing the sale of the Property free and clear of the interests pursuant to 11 U.S.C. § 363(f), with any interest that might be asserted in the Property attaching to the Net Sale Proceeds, subject to any claims and defenses that the Trustee, the Legacy Debtors or the Legacy Trust possess with respect thereto.

57. Based on the facts known to him at this time, the Trustee believes that the Auction Sale is in the best interests of creditors and the Legacy Trust and that the Motion should be granted.<sup>38</sup>

*The Procedures Should Be Approved and the Trustee Should Be Authorized to Make Payments*

58. The Auction Procedures outlined in the Statewide Agreement attached hereto as **Exhibit B** are reasonable and are meant to obtain the highest and best price for the Property in the most cost effective manner.<sup>39</sup> Accordingly, the Trustee requests that they be approved.

59. The Trustee also requests that he be authorized to pay the costs of sale and property taxes from the gross sale proceeds; or to pay Statewide its expenses as provided for in the Statewide Agreement.

**CONCLUSION**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order granting this Motion, and:

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<sup>38</sup> Strong Declaration, ¶ 23.

<sup>39</sup> See *id.*, ¶ 14.

- A. Authorizing the public sale of the Property free and clear of all interests pursuant to 11 U.S.C. § 363(b) and (f), with any interests attaching to the Net Sale Proceeds;
- B. Finding that the public sale of the Property is a good faith sale under 11 U.S.C. § 363(m);
- C. Approving the Auction Procedures set forth herein and in the Statewide Agreement;
- D. Authorizing the Trustee to pay from the gross sale proceeds the costs of sale, including Statewide's 6% commission, and outstanding real property taxes; or alternatively, Statewide's expenses as provided for in ¶ 7 of the Statewide Agreement; and
- E. Such other relief as the Court deems just and appropriate.

DATED this 29th day of March, 2017.

**DORSEY & WHITNEY LLP**

/s/ Peggy Hunt  
Peggy Hunt  
John J. Wiest  
*Attorneys for D. Ray Strong, Trustee*



**CERTIFICATE OF SERVICE – BY NOTICE OF ELECTRONIC FILING (CM/ECF)**

I hereby certify that on March 29, 2017, I electronically filed the foregoing **MOTION SEEKING (1) AUTHORIZATION OF PUBLIC SALE OF REAL PROPERTY LOCATED IN MOHAVE COUNTY, ARIZONA OUT OF THE ORDINARY COURSE OF BUSINESS AND FREE AND CLEAR OF ALL INTERESTS PURSUANT TO 11 U.S.C. § 363, (2) APPROVING PROCEDURES FOR PUBLIC SALE, AND (3) AUTHORIZING TRUSTEE TO PAY AUCTIONEER AND REAL PROPERTY TAXES FROM GROSS SALE PROCEEDS** (the “Motion”) with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users and will be served through the CM/ECF system.

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- Stephen G. Stoker sgstoker@stokerswinton.com, sgstokerlc@gmail.com
- D. Ray Strong tr rstrong@s3advisory.com
- Gerald H. Suniville gsuniville@fabianvancott.com, nnelson@fabianvancott.com
- Gerald H. Suniville gsuniville@vancott.com, nnelson@fabianvancott.com
- Marca Tanner marca.tanner@gmail.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov

- Russell S. Walker [rwalker@wklawpc.com](mailto:rwalker@wklawpc.com), [ckirk@wklawpc.com](mailto:ckirk@wklawpc.com)
- Kim R. Wilson [bankruptcy\\_krw@scmlaw.com](mailto:bankruptcy_krw@scmlaw.com)
- Richard L. Wynne [rlwynne@jonesday.com](mailto:rlwynne@jonesday.com)

/s/ John J. Wiest

# Exhibit A

**ALTA COMMITMENT FOR TITLE INSURANCE**

Commitment Number:

**CTM16032795**

Issued By:



CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate ninety (90) days after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

**Chicago Title Insurance Company**

By:

\_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

Countersigned By:

\_\_\_\_\_  
Authorized Officer or Agent



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**CHICAGO TITLE INSURANCE COMPANY**

**COMMITMENT NO. CTM16032795**

ISSUING OFFICE:	FOR SETTLEMENT INQUIRIES, CONTACT:
Chicago Title Agency, Inc., an AZ corporation 2699 E. Andy Devine Avenue Kingman, AZ 86401 Main Phone: (928)753-5581 Email: <a href="mailto:Jack.Pozenel@fnf.com">Jack.Pozenel@fnf.com</a>	Escrow Officer: Elizabeth Garcia Chicago Title Agency, Inc., an AZ corporation 2699 E. Andy Devine Ave. Kingman, AZ 86401 Phone: 928-263-6331 Fax: 928-753-6321 Email: <a href="mailto:Elizabeth.Garcia@ctt.com">Elizabeth.Garcia@ctt.com</a>

**SCHEDULE A**

**ORDER NO. CTM16032795**

1. Effective Date: September 20, 2016 at 07:30 AM
2. Policy or (Policies) to be issued:
  - a. ALTA Standard Owner's Policy 2006  
Proposed Insured: Lipsa Patel  
Policy Amount: \$1,398,565.00
3. The estate or interest in the land described or referred to in this Commitment is:  
A Fee
4. Title to the estate or interest in the land is at the Effective Date vested in:  
Castle Arch Kingman, LLC, a Nevada limited liability company, as to Parcel No. 1; Castle Arch Real Estate Investment Co., a California limited liability company, as to Parcel Nos. 2, 3, 4, 5, 6 and 7; D. Ray Strong, in his capacity as Chapter 11 Trustee of the consolidated bankruptcy estates of Castle Arch Real Estate Investment Company, LLC, CAOP Managers, LLC, Castle Arch Kingman, LLC, Castle Arch Smyrna, LLC, Castle Arch Secured Development Fund, LLC and Castle Arch Star Valley, LLC, in the bankruptcy case styled In re Castle Arch Real Estate Investment Company, LLC et al., Case No. 11-35082, pending in the United States Bankruptcy Court for the District of Utah
5. The land referred to in this Commitment is described as follows:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

**END OF SCHEDULE A**

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**EXHIBIT "A"**  
Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MOHAVE, STATE OF ARIZONA AND IS DESCRIBED AS FOLLOWS:

Parcel No. 1: (331-31-010)

Parcel No. 189, as shown on Record of Survey Map recorded September 1, 1978, in Book 1 of Records of Surveys, page 78, at Fee No. 78-26495 in the office of the County Recorder of Mohave County, Arizona, and situate in Section 29, Township 23 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

EXCEPT all coal, oil, gas and mineral deposits as reserved in instrument recorded in Book 91 of Deeds, page 51.

Parcel No. 2: (310-30-006)

That portion of Parcel "C1", as shown on Record of Survey Plat recorded June 6, 2005, in Book 28 of Records of Surveys, Page 60, records of Mohave County, Arizona, and being a division of Section 15, Township 22 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona, and being more particularly described as follows:

Beginning at the Southwest Section Corner of said Section 15 and running thence, North 00 degrees 10 minutes 00 seconds East, along the West Line of said Section 15, a distance of 2640.81 feet to the West one-quarter Section Corner of said Section 15;

Thence, South 89 degrees 49 minutes 06 seconds East along the East-West Center Line of said Section 15, a distance of 2643.25 feet to the Northeast corner of the Southwest quarter of said Section 15;

Thence, South 00 degrees 09 minutes 54 seconds West, along the North-South Center Line of said Section 15, a distance of 2640.91 feet to the South one-quarter Section Corner of said Section 15;

Thence, North 89 degrees 48 minutes 58 seconds West, along the South Line of said Section 15, a distance of 2643.34 feet to the Point of Beginning;

EXCEPT that parcel of land located within the parcel of land described above and being described as follows:

Commencing at the Southwest Section Corner of said Section 15 and running thence, North 00 degrees 10 minutes 00 seconds East, along the West Line of said Section 15, a distance of 42.00 feet;

Thence, South 89 degrees 48 minutes 58 seconds East, 42.00 feet to the True Point of Beginning;

Thence, North 00 degrees 10 minutes 00 seconds East, along a line lying 42.00 feet East of and parallel with the West Line of said Section 15, a distance of 465.00 feet;

Thence, South 89 degrees 48 minutes 58 seconds East, 465.00 feet;

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**EXHIBIT "A"**  
Legal Description

Thence, South 00 degrees 10 minutes 00 seconds West, 465.00 feet;

Thence, North 89 degrees 48 minutes 58 seconds West, along a line lying 42.00 feet North of and parallel with the South Line of said Section 15, a distance of 465.00 feet to the Point of Beginning.

Parcel No. 3: (310-15-018)

That portion of Parcel "D", as shown on Record of Survey Plat recorded November 14, 2005 in Book 29 of Records of Surveys, Pages 98-98A, records of Mohave County, Arizona and being a division of Section 22, Township 22 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona, and being more particularly described as follows:

Beginning at the Northwest Section Corner of said Section 22 and running thence, South 89 degrees 48 minutes 58 seconds East, along the North Line of said Section 22, a distance of 1883.92 feet;

Thence, South 00 degrees 08 minutes 31 seconds West, 1271.71 feet;

Thence, North 89 degrees 48 minutes 58 seconds West, 1417.22 feet;

Thence, South 00 degrees 08 minutes 31 seconds West, 466.68 feet;

Thence, North 89 degrees 48 minutes 58 seconds West, 466.70 feet to a point on the West Line of said Section 22;

Thence, North 00 degrees 08 minutes 31 seconds East, along the West Line of said Section 22, a distance of 1738.39 feet to the Point of Beginning.

EXCEPT an undivided 1/2 interest in and to all oil, gas, hydrocarbons, coal, minerals and mineral rights, as reserved in instrument recorded in Book 2512, Page 68 of Official Records.

Parcel No. 4: (310-30-009)

A PARCEL OF LAND BEING A PORTION OF PARCEL C1 AS SHOWN ON A RECORD OF SURVEY PLAT RECORDED ON JUNE 6, 2005 IN BOOK 28, RECORD OF SURVEYS, PAGE 60, RECORDS OF MOHAVE COUNTY, ARIZONA AND SITUATE WITHIN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 22 NORTH, RANGE 16 WEST OF THE GILA AND SALT RIVER MERIDIAN, MOHAVE COUNTY, ARIZONA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST SECTION CORNER OF SAID SECTION 15 AND RUNNING THENCE, SOUTH 89°49'43" EAST, ALONG THE NORTH LINE OF SAID SECTION 15, A DISTANCE OF 1649.56 FEET;

THENCE, SOUTH 00°07'39" WEST, 2640.86 FEET TO A POINT ON THE SOUTH BOUNDARY OF THE NORTHWEST QUARTER OF SAID SECTION 15;

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**EXHIBIT "A"**  
Legal Description

THENCE, NORTH 89°49'06" WEST, ALONG THE SOUTH BOUNDARY OF THE NORTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 1649.56 FEET TO THE WEST ONE-QUARTER SECTION CORNER OF SAID SECTION 15;

THENCE, NORTH 00°07'39" EAST, ALONG THE WEST LINE OF SAID SECTION 15, A DISTANCE OF 2640.56 FEET TO THE POINT OF BEGINNING.

AS SET FORTH IN DEED OF PARTIAL RELEASE AND PARTIAL RECONVEYANCE RECORD AS FEE NO. 208029160, BOOK 7181, PAGE 947.

Parcel No. 5: (310-28-013)

Parcel 10-13 (LONG MOUNTAIN RANCHES), as shown on Record of Survey plat recorded September 30, 1992, in Book 9 of Records of Surveys, Pages 44-44D, records of Mohave County, Arizona, and being a division of Section 10, Township 22 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

Parcel No. 6: (310-28-019)

Parcel B2, as shown on Amended Record of Survey Plat recorded November 10, 2004, in Book 27 of Records of Surveys, Page 16, records of Mohave County, Arizona, and being a division of Section 10, Township 22 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

Parcel No. 7: (310-15-020)

That portion of Parcel "D", as shown on Record of Survey Plat recorded November 14, 2005 in Book 29 of Records of Surveys, Pages 98-98A, records of Mohave County, Arizona and being a division of Section 22, Township 22 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona, described as follows:

Commencing at the Northwest section corner of said Section 22 and running thence. South 89 degrees 48 minutes 58 seconds East, along the North Line of said Section 22, a distance of 1883.92 feet to the True Point of Beginning;

Thence. South 89 degrees 48 minutes 58 seconds East, along the North Line of said Section 22. a distance of 759.42 feet to the North quarter section corner of said Section 22;

Thence, South 89 degrees 48 minutes 59 seconds East, along the North line of said Section 22, a distance of 2643.43 feet to the Northeast corner of said Section 22;

Thence, South 00 degrees 08 minutes 57 seconds West, along the East line of said Section 22, a distance of 2641.18 feet to the East quarter section corner of said Section 22;

Thence, North 89 degrees 49 minutes 49 seconds West, 1354.95 feet to a point on a curve concave to the Northwest, the radius point of which bears North 70 degrees 56 minutes 26 seconds West, 617.17

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**EXHIBIT "A"**  
Legal Description

feet;

Thence, Southwesterly 183.15 feet, along the arc of said curve through a central angle of 17 degrees 00 minutes 12 seconds to the point of tangent of said curve;

Thence, South 36 degrees 03 minutes 46 seconds West, 574.88 feet;

Thence, North 53 degrees 56 minutes 14 seconds West, 670.73 feet to the point of curvature of a tangent curve to the left having a radius of 1234.99 feet;

Thence, Northwesterly 366.29 feet, along the arc of last said curve through a central angle of 16 degrees 59 minutes 37 seconds to a point;

Thence, North 00 degrees 08 minutes 51 seconds West, 66.58 feet;

Thence, North 89 degrees 49 minutes 49 seconds West, 759.16 feet;

Thence, North 00 degrees 08 minutes 31 seconds East, 2642.01 feet to the POINT OF BEGINNING.

Except all coal and other minerals, as reserved in instrument recorded in Book 41 of Deeds, Page 29. (Affects that portion thereof lying within the East half of said Section 22)

Except an undivided 1/2 interest in and to all oil, gas, hydrocarbons, coal, minerals and mineral rights, as reserved in instrument recorded in Book 2512, Page 68 of Official Records.

EXCEPT That portion of Parcel "D" as shown on Record of Survey Plat recorded November 14, 2005 in Book 29, Record of Surveys, Pages 98-98A, records of Mohave County, Arizona and being a division of Section 22, Township 22 North, Range 16 West of the Gila and Salt River Meridien, Mohave County, Arizona and being more particularly described as follows:

Commencing at the Northwest Section Corner of said Section 22 and running thence, South 89°48'58" East, along the North Line of said Section 22, a distance of 1883.92 feet;

thence, South 00°08'31" West, 1953.50 feet to the true POINT OF BEGINNING;

Thence, South 89°49'49" East, 759.23 feet to a point on the East boundary of the Northwest quarter of said Section 22;

Thence, South 00°08'51" West, along the East boundary of the Northwest quarter of said Section 22, a distance of 688.52 feet to a point being the Southeast corner of the Northwest quarter of said Section 22;

Thence, North 89°49'49" West, along the South boundary of the Northwest quarter of said Section 22, a distance of 759.16 feet;

Thence, North 00°08'31" East, 688.52 feet to the POINT OF BEGINNING.

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**EXHIBIT "A"**  
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EXCEPT That portion of Parcel "D", as shown on Record of Survey Plat recorded November 14, 2005 in Book 29 of Records of Surveys, Pages 98-98A, records of Mohave County, Arizona and being a division of Section 22, Township 22 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona, described as follows:

Commencing at the Northeast Section Corner of said Section 22 and running thence North 89 degrees 48 minutes 59 seconds West, along the North line of said Section 22, a distance of 2643.43 feet to the North One-quarter Section Corner of said Section 22;

thence South 00 degrees 08 minutes 51 seconds West along the West boundary of the East half of said Section 22, a distance of 982.39 feet to the True Point of Beginning;

thence South 89 degrees 49 minutes 24 seconds East, 1321.70 feet to a point on the East boundary of the West half of the Northeast quarter of said Section 22;

thence South 00 degrees 08 minutes 54 seconds West, along the East boundary of the West half of the Northeast quarter of said Section 22, a distance of 1659.27 feet to the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 22;

thence North 89 degrees 49 minutes 49 seconds West, along the South boundary of the Southwest quarter of the Northeast quarter of said Section 22, a distance of 33.27 feet to a point on a curve being concave to the Northwest, the radius point of which bears North 70 degrees 56 minutes 26 seconds West, 617.17 feet;

thence Southwesterly 183.15 feet, along the arc of said curve through a central angle of 17 degrees 00 minutes 12 seconds to the point of tangent of said curve;

thence South 36 degrees 03 minutes 46 seconds West, 574.88 feet to a point on the centerline of Grace Neal Parkway;

thence North 53 degrees 56 minutes 14 seconds West, along the centerline of Grace Neal Parkway, a distance of 670.73 feet to the point of curvature of a tangent curve to the left having a radius of 1234.99 feet;

thence Northwesterly 366.29 feet, along the centerline of Grace Neal Parkway and along the arc of last said curve through a central angle of 16 degrees 59 minutes 37 seconds to a point on the West boundary of the East half of said Section 22;

thence North 00 degrees 08 minutes 51 seconds East, along the West boundary of the East half of said Section 22, a distance of 1762.02 feet to the Point of Beginning.

EXCEPT That portion of Parcel "D", as shown on Record of Survey Plat recorded November 14, 2005 in Book 29 of Records of Surveys, Pages 98-98A, records of Mohave County, Arizona and being a division of Section 22, Township 22 North, Range 16 West of the Gila and Salt River Base and Meridian, Mohave County, Arizona, described as follows:

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**EXHIBIT "A"**  
Legal Description

Commencing at the Northeast Section Corner of said Section 22 and running thence, South 00 degrees 08 minutes 57 seconds West along the East Line of said Section 22, a distance of 1443.28 feet to the True Point of Beginning;

Thence, South 00 degrees 08 minutes 57 seconds West, along the East Line of said Section 22, a distance of 1197.90 feet to the East One-quarter Section Corner of said Section 22;

Thence, North 89 degrees 49 minutes 49 seconds West, along the East-West Center Line of said Section 22, a distance of 1200.00 feet;

Thence, North 00 degrees 08 minutes 57 seconds East, 1197.90 feet;

Thence, South 89 degrees 49 minutes 49 seconds East, 1200.00 feet to the Point of Beginning.

Parcel No. 8: (310-15-022)

That portion of Parcel "D" as shown on Record of Survey Plat recorded November 14, 2005 in Book 29, Record of Surveys, Pages 98-98A, records of Mohave County, Arizona and being a division of Section 22, Township 22 North, Range 16 West of the Gila and Salt River Meridien, Mohave County, Arizona and being more particularly described as follows:

Commencing at the Northwest Section Corner of said Section 22 and running thence, South 89°48'58" East, along the North Line of said Section 22, a distance of 1883.92 feet;

thence, South 00°08'31" West, 1953.50^feet to the true POINT OF BEGINNING;

Thence, South 89°49'49" East, 759.23 feet to a point on the East boundary of the Northwest quarter of said Section 22;

Thence, South 00°08'51" West, along the East boundary of the Northwest quarter of said Section 22, a distance of 688.52 feet to a point being the Southeast corner of the Northwest quarter of said Section 22;

Thence, North 89°49'49" West, along the South boundary of the Northwest quarter of said Section 22, a distance of 759.16 feet;

Thence, North 00°08'31" East, 688.52 feet to the POINT OF BEGINNING.

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**SCHEDULE B - SECTION I  
REQUIREMENTS**

1. Institute proceedings in the bankruptcy court where a petition was filed:

Name of Debtor: Castle Arch real Estate Investment Company, LLC, a California limited liability company  
Date of Filing: 10/17/2011  
U.S. District Court: Second Judicial District Court  
Case No. 11-35082

Leading to the entry of a Final Non-appealable Order

Authorizing the transaction to be insured.

Authorizing the sale and conveyance of said Land free and clear of all liens discharging the Debtor.

Abandoning said Land as burdensome property

Lifting the Automatic Stay and authorizing foreclosure proceedings under the Mortgage/Deed of Trust recorded:

Authorizing the encumbrance of said Land by the Debtor as contemplated in this transaction.

Provide a certified copy of the Order called for above.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

2. Furnish for recordation a deed as set forth below:

Type of deed: Warranty  
Grantor(s): Castle Arch Kingman, LLC, a Nevada limited liability company, as to Parcel No. 1; Castle Arch Real Estate Investment Co., a California limited liability company, as to Parcel Nos. 2, 3, 4, 5, 6 and 7; D. Ray Strong, in his capacity as Chapter 11 Trustee of the consolidated bankruptcy estates of Castle Arch Real Estate Investment Company, LLC, CAOP Managers, LLC, Castle Arch Kingman, LLC, Castle Arch Smyrna, LLC, Castle Arch Secured Development Fund, LLC and Castle Arch Star Valley, LLC, in the bankruptcy case styled In re Castle Arch Real Estate Investment Company, LLC et al., Case No. 11-35082, pending in the United States Bankruptcy Court for the District of Utah  
Grantee(s): Lipsa Patel, a \_\_\_ man

Note: ARS 11:1133 may require the completion and filing of an Affidavit of Value.

3. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-28-019  
Year: 2010 through 2016, inclusive  
Total: \$10,271.28

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## SCHEDULE B - SECTION I REQUIREMENTS

(continued)

4. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-28-013  
Year: 2009 through 2016, inclusive  
Total: \$16,310.67

5. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-30-009  
Year: 2010 through 2016, inclusive  
Total: \$46,247.16

6. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-30-008  
Year: 2009  
Total: \$3,478.53

### PARENT PARCEL

7. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-30-006  
Year: 2010 through 2016, inclusive  
Total: \$108,642.82

8. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-15-018  
Year: 2010 through 2016, inclusive  
Total: \$50,580.38

9. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-15-020  
Year: 2010 through 2016, inclusive  
Total: \$95,025.21

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**SCHEDULE B - SECTION I  
REQUIREMENTS**

(continued)

10. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 310-15-022  
Year: 2015 and 2016  
Total: \$626.01

11. Note: Property taxes for the current fiscal year shown below HAVE NOT BEEN PAID. (Please refer to Default/Delinquent information shown above.) For proration purposes the amounts were:

Tax Identification No.: 331-31-010  
Year: 2010 through 2016, inclusive  
Total: \$8,421.82

12. Furnish proof of redemption of the following tax certificate(s) under Tax Assessor's Parcel No.310-28-019:

Certificate No.: 2009008039  
For Tax year: 2009

13. Furnish proof of redemption of the following tax certificate(s) under Tax Assessor's Parcel No.310-15-018:

Certificate No.: 2009008020  
For Tax year: 2009

14. Furnish proof of redemption of the following tax certificate(s) under Tax Assessor's Parcel No.310-15-020:

Certificate No.: 2009008021  
For Tax year: 2009

15. Furnish proof of redemption of the following tax certificate(s) under Tax Assessor's Parcel No.310-15-022:

Certificate No.: 2016-205901  
For Tax year: 2014

16. Furnish proof of redemption of the following tax certificate(s) under Tax Assessor's Parcel No.331-31-010:

Certificate No.: 2009014569  
For Tax year: 2009

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**SCHEDULE B - SECTION I  
REQUIREMENTS**

(continued)

- 17. Furnish for recordation a partial release/reconveyance of deed of trust:
  - Amount: \$3,325,892.81
  - Dated: June 30, 2009
  - Trustor/Grantor: Castle Arch Kingman, LLC, a Nevada limited liability company
  - Trustee: First American Title Ins. Co.
  - Beneficiary: Castle Arch Secured Development Fund, LLC, a Nevada limited liability company
  - Recording Date: July 2, 2009
  - Recording No.: Docket 7523 Page 934, of Official Records

Thereafter, a partial release recorded December 28, 2009 in Book 7662 of Official Records, page 529.

- 18. Furnish for recordation a full release of the mortgage
  - Amount: \$3,200,000.00
  - Dated: July 2, 2008
  - Mortgagor: Castle Arch Kingman, LLC, a Nevada limited liability company
  - Mortgagee: Castle Arch Secured Development Fund, LLC, a Nevada limited liability company
  - Loan No.:
  - Recording Date: July 9, 2008
  - Recording No.: Book 7253 of Official Records, page 128

- 19. Furnish for recordation a full release of the mortgage
  - Amount: \$1,280,000.00
  - Dated: March 25, 2008
  - Mortgagor: Castle Arch Kingman, LLC, a Nevada limited liability company
  - Mortgagee: Castle Arch Secured Development Fund, LLC, a Nevada limited liability company
  - Loan No.:
  - Recording Date: April 28, 2008
  - Recording No.: Book 7184 of Official Records, page 219

Note: Property address is purported to be known as: VACANT LAND, KINGMAN, AZ.

**END OF SCHEDULE B - SECTION I**

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### SCHEDULE B - SECTION II EXCEPTIONS

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by the Commitment.
2. Any American Land Title Association Policy issued pursuant hereto (except extended coverage) will contain under Schedule B the standard exceptions set forth at the inside cover hereof.
3. The liabilities and obligations against said land by reason of its inclusion within the boundaries of the following district: KINGMAN UNIFIED SCHOOL DISTRICT, HUALAPAI VALLEY FIRE DISTRICT and WESTERN ARIZONA VOCATIONAL EDUCATION DISTRICT.
4. Easements, set-backs, reservations and restrictions, as shown on the Records of Survey plats recorded in Book 9, page 44 and in Book 13, page 75, and in Book 25, page 6, in Book 28, page 60 and in Book 29, page 98.
5. Rights of way for roads, transmission lines, canals, laterals and ditches.
6. The reservation of all oil, gas, coal and other minerals in said land, together with the right to prospect for, mine and remove the same, all as set forth in Deed recorded in Book 78 of Deeds, page 143.
7. The reservation of all oil, gas, coal and other minerals in said land, together with the right to prospect for, mine and remove the same, all as set forth in Deed recorded in Book 91 of Deeds, page 51.
8. The reservation of all oil, gas, coal and other minerals in said land, together with the right to prospect for, mine and remove the same, all as set forth in Deed recorded in Book 591 of Official Records, page 200.
9. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:  
 Purpose: sewer line  
 Recording No: Dockets 211, page 368, and Book 2147 of Official Records, page 240
10. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:  
 Purpose: gas line  
 Recording No: Book 10 of Official Records, page 457
11. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:  
 Purpose: water line  
 Recording No: Book 23 of Official Records, page 119 & Book 45 of Official Records, page 402

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AMERICAN  
LAND TITLE  
ASSOCIATION



**SCHEDULE B - SECTION II  
EXCEPTIONS**

(continued)

12. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: sewer line  
Recording No: Book 5770 of Official Records, page 434

13. Terms and conditions of the Castle Arch Kingman LLC - Kingman 2100 Development Agreement Mohave County, Arizona as recorded October 7, 2008 in Book 7321 of Official Records, page 600.

14. Terms and Conditions of the District Development Financing Participation, Waiver and Intergovernmental Agreement as recorded November 13, 2008 in Book 7347 of Official Records, page 111.

Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.

**END OF SCHEDULE B - SECTION II**

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**CONDITIONS**

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org>.*

**END OF CONDITIONS**

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**FIDELITY NATIONAL FINANCIAL, INC.  
 PRIVACY NOTICE  
 Effective: April 1, 2016**

**Order No.:** CTM16032795EG

At Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF", "our" or "we"), we value the privacy of our customers. This Privacy Notice explains how we collect, use, and protect your information and explains the choices you have regarding that information. A summary of our privacy practices is below. We also encourage you to read the complete Privacy Notice following the summary.

<p><b><u>Types of Information Collected.</u></b> You may provide us with certain personal information, like your contact information, social security number (SSN), driver's license, other government ID numbers, and/or financial information. We may also receive information from your Internet browser, computer and/or mobile device.</p>	<p><b><u>How Information is Collected.</u></b> We may collect personal information directly from you from applications, forms, or communications we receive from you, or from other sources on your behalf, in connection with our provision of products or services to you. We may also collect browsing information from your Internet browser, computer, mobile device or similar equipment. This browsing information is generic and reveals nothing personal about the user.</p>
<p><b><u>Use of Your Information.</u></b> We may use your information to provide products and services to you (or someone on your behalf), to improve our products and services, and to communicate with you about our products and services. We do not give or sell your personal information to parties outside of FNF for their use to market their products or services to you.</p>	<p><b><u>Security Of Your Information.</u></b> We utilize a combination of security technologies, procedures and safeguards to help protect your information from unauthorized access, use and/or disclosure. We communicate to our employees about the need to protect personal information.</p>
<p><b><u>Choices With Your Information.</u></b> Your decision to submit personal information is entirely up to you. You can opt-out of certain disclosures or use of your information or choose to not provide any personal information to us.</p>	<p><b><u>When We Share Information.</u></b> We may disclose your information to third parties providing you products and services on our behalf, law enforcement agencies or governmental authorities, as required by law, and to parties with whom you authorize us to share your information.</p>
<p><b><u>Information From Children.</u></b> We do not knowingly collect information from children under the age of thirteen (13), and our websites are not intended to attract children.</p>	<p><b><u>Privacy Outside the Website.</u></b> We are not responsible for the privacy practices of third parties, even if our website links to those parties' websites.</p>
<p><b><u>Access and Correction.</u></b> If you desire to see the information collected about you and/or correct any inaccuracies, please contact us in the manner specified in this Privacy Notice.</p>	<p><b><u>Do Not Track Disclosures.</u></b> We do not recognize "do not track" requests from Internet browsers and similar devices.</p>
<p><b><u>The California Online Privacy Protection Act.</u></b> Certain FNF websites collect information on behalf of mortgage loan servicers. The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through those websites.</p>	<p><b><u>International Use.</u></b> By providing us with your information, you consent to the transfer, processing and storage of such information outside your country of residence, as well as the fact that we will handle such information consistent with this Privacy Notice.</p>
<p><b><u>Your Consent To This Privacy Notice.</u></b> By submitting information to us and using our websites, you are accepting and agreeing to the terms of this Privacy Notice.</p>	<p><b><u>Contact FNF.</u></b> If you have questions or wish to contact us regarding this Privacy Notice, please use the contact information provided at the end of this Privacy Notice.</p>

## FIDELITY NATIONAL FINANCIAL, INC. PRIVACY NOTICE

FNF respects and is committed to protecting your privacy. We pledge to take reasonable steps to protect your Personal Information (as defined herein) and to ensure your information is used in compliance with this Privacy Notice.

This Privacy Notice is only in effect for information collected and/or owned by or on behalf of FNF, including collection through any FNF website or online services offered by FNF (collectively, the "Website"), as well as any information collected offline (e.g., paper documents). The provision of this Privacy Notice to you does not create any express or implied relationship, nor create any express or implied duty or other obligation, between FNF and you.

### **Types of Information Collected**

We may collect two (2) types of information: Personal Information and Browsing Information.

**Personal Information.** The types of personal information FNF collects may include, but are not limited to:

- contact information (e.g., name, address, phone number, email address);
- social security number (SSN), driver's license, and other government ID numbers; and
- financial account or loan information.

**Browsing Information.** The types of browsing information FNF collects may include, but are not limited to:

- Internet Protocol (or IP) address or device ID/UDID, protocol and sequence information;
- browser language;
- browser type;
- domain name system requests;
- browsing history;
- number of clicks;
- hypertext transfer protocol headers; and
- application client and server banners.

### **How Information is Collected**

In the course of our business, we may collect *Personal Information* about you from the following sources:

- applications or other forms we receive from you or your authorized representative, whether electronic or paper;
- communications to us from you or others;
- information about your transactions with, or services performed by, us, our affiliates or others; and
- information from consumer or other reporting agencies and public records that we either obtain directly from those entities, or from our affiliates or others.

We may collect *Browsing Information* from you as follows:

- **Browser Log Files.** Our servers automatically log, collect and record certain Browsing Information about each visitor to the Website. The Browsing Information includes only generic information and reveals nothing personal about the user.
- **Cookies.** From time to time, FNF may send a "cookie" to your computer when you visit the Website. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. When you visit the Website again, the cookie allows the Website to recognize your computer, with the goal of providing an optimized user experience. Cookies may store user preferences and other information. You can choose not to accept cookies by changing the settings of your Internet browser. If you choose not to accept cookies, then some functions of the Website may not work as intended.

### **Use of Collected Information**

Information collected by FNF is used for three (3) main purposes:

- To provide products and services to you, or to one or more third party service providers who are performing services on your behalf or in connection with a transaction involving you;
- To improve our products and services; and
- To communicate with you and to inform you about FNF's products and services.

### **When We Share Information**

We may share your Personal Information (excluding information we receive from consumer or other credit reporting agencies) and Browsing Information with certain individuals and companies, as permitted by law, without first obtaining your authorization. Such disclosures may include, without limitation, the following:

- to agents, representatives, or others to provide you with services or products you have requested, and to enable us to detect or prevent criminal activity, fraud, or material misrepresentation or nondisclosure;
- to third-party contractors or service providers who provide services or perform other functions on our behalf;
- to law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders; and/or
- to other parties authorized to receive the information in connection with services provided to you or a transaction involving you.

We may disclose Personal Information and/or Browsing Information when required by law or in the good-faith belief that such disclosure is necessary to:

- comply with a legal process or applicable laws;
- enforce this Privacy Notice;
- investigate or respond to claims that any information provided by you violates the rights of a third party; or
- protect the rights, property or personal safety of FNF, its users or the public.

We make efforts to ensure third party contractors and service providers who provide services or perform functions on our behalf protect your information. We limit use of your information to the purposes for which the information was provided. We do not give or sell your information to third parties for their own direct marketing use.

We reserve the right to transfer your Personal Information, Browsing Information, as well as any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of our bankruptcy, reorganization, insolvency, receivership or an assignment for the benefit of creditors. You expressly agree and consent to the use and/or transfer of this information in connection with any of the above described proceedings. We cannot and will not be responsible for any breach of security by any third party or for any actions of any third party that receives any of the information that is disclosed to us.

#### **Choices With Your Information**

Whether you submit your information to FNF is entirely up to you. If you decide not to submit your information, FNF may not be able to provide certain products or services to you. You may choose to prevent FNF from using your information under certain circumstances ("opt out"). You may opt out of receiving communications from us about our products and/or services.

#### **Security And Retention Of Information**

FNF is committed to protecting the information you share with us and utilizes a combination of security technologies, procedures and safeguards to help protect it from unauthorized access, use and/or disclosure. FNF trains its employees on privacy practices and on FNF's privacy and information security policies. FNF works hard to retain information related to you only as long as reasonably necessary for business and/or legal purposes.

#### **Information From Children**

The Website is meant for adults. The Website is not intended or designed to attract children under the age of thirteen (13). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian.

#### **Access and Correction**

To access your Personal Information in the possession of FNF and correct inaccuracies, please contact us by email at [privacy@fnf.com](mailto:privacy@fnf.com) or by mail at:

Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, Florida 32204  
Attn: Chief Privacy Officer

#### **Your Consent To This Privacy Notice**

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of information by FNF in compliance with this Privacy Notice. We reserve the right to make changes to this Privacy Notice. If we change this Privacy Notice, we will post the revised version on the Website.

#### **Privacy Outside the Website**

The Website may contain links to other websites, including links to websites of third party service providers. FNF is not and cannot be responsible for the privacy practices or the content of any of those other websites.

#### **International Users**

Because FNF's headquarters is located in the United States, we may transfer your Personal Information and/or Browsing Information to the United States. By using our website and providing us with your Personal Information and/or Browsing Information, you understand and consent to the transfer, processing and storage of such information outside your country of residence, as well as the fact that we will handle such information consistent with this Privacy Notice.

#### **Do Not Track Disclosures**

Currently, our policy is that we do not recognize "do not track" requests from Internet browsers and similar devices.

#### **The California Online Privacy Protection Act**

For some websites which FNF or one of its companies owns, such as the Customer CareNet ("CCN"), FNF is acting as a third party service provider to a mortgage loan servicer. In those instances, we may collect certain information on behalf of that mortgage loan servicer, including:

- first and last name;
- property address;
- user name and password;
- loan number;
- social security number - masked upon entry;
- email address;
- security questions and answers; and
- IP address.

The information you submit is then transferred to your mortgage loan servicer by way of CCN. **The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through this website. For example, if you believe that your payment or user information is incorrect, you must contact your mortgage loan servicer.**

CCN does not share consumer information with third parties, other than those with which the mortgage loan servicer has contracted to interface with the CCN application. All sections of this Privacy Notice apply to your interaction with CCN, except for the sections titled Choices with Your Information, and Access and Correction. If you have questions regarding the choices you have with regard to your personal information or how to access or correct your personal information, contact your mortgage loan servicer.

#### **Contact FNF**

Please send questions and/or comments related to this Privacy Notice by email at [privacy@fnf.com](mailto:privacy@fnf.com) or by mail at:

Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, Florida 32204  
Attn: Chief Privacy Officer

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EFFECTIVE AS OF APRIL 1, 2016

**ATTACHMENT ONE (01-01-08)**

**AMERICAN LAND TITLE ASSOCIATION  
RESIDENTIAL TITLE INSURANCE POLICY (06-01-87)**

**EXCLUSIONS**

In addition to the Exceptions in Schedule B, YOU are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:

- land use
- improvements on the Land
- land division
- environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at policy date.

This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:

- a notice of exercising the right appears in the public records on the Policy Date
- the taking happened prior to the Policy Date and is binding on you if you bought the land without knowledge of the taking

3. Title Risks:

- that are created, allowed, or agreed to by you
- that are known to you, but not to us, on the Policy Date-unless they appeared in the public records
- that result in no loss to you
- that first affect your title after the Policy Date – this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks

4. Failure to pay value for your title.

5. Lack of a right:

- to any land outside the area specifically described and referred to in Item 3 of Schedule A
- or
- in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

In addition to the Exclusions, you are not insured against loss, costs, attorneys' fees, and the expenses resulting from:

1. Any rights, interests, or claims of parties in possession of the land not shown by the public records.
2. Any easements or liens not shown by the public records. This does not limit the lien coverage in Item 8 of Covered Title Risks.
3. Any facts about the land which a correct survey would disclose and which are not shown by the public records. This does not limit the forced removal coverage in Item 12 of Covered Title Risks.
4. Any water rights or claims or title to water in or under the land, whether or not shown by the public records.

**FORMERLY AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)  
WITH A.L.T.A. ENDORSEMENT-FORM 1 COVERAGE**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to
  - (i) the occupancy, use, or enjoyment of the land;
  - (ii) the character, dimensions or location of any improvement now or hereafter erected on the land;
  - (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or
  - (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.



**2006 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06)**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
  - (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records;
- (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims;
- (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof;
- (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

**FORMERLY AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10-17-92)**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to
  - (i) the occupancy, use, or enjoyment of the land;
  - (ii) the character, dimensions or location of any improvement now or hereafter erected on the land;
  - (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or
  - (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy, or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims;
- (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof;
- (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

**ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (10-22-03)**

**EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
    - a. building
    - b. zoning
    - c. Land use
    - d. improvements on Land
    - e. Land division
    - f. environmental protection
- This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date. This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
  3. The right to take the Land by condemning it, unless:
    - a. notice of exercising the right appears in the Public Records at the Policy Date; or
    - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
  4. Risks:
    - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
    - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
    - c. that result in no loss to You; or
    - d. that first occur after the Policy Date — this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24 or 25.
  5. Failure to pay value for Your Title.
  6. Lack of a right:
    - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
    - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 14:	1.00% of Policy Amount or \$2,500.00 (whichever is less)	<u>\$10,000.00</u>
Covered Risk 15:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	<u>\$25,000.00</u>
Covered Risk 16:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	<u>\$25,000.00</u>
Covered Risk 18:	1.00% of Policy Amount or \$2,500.00 (whichever is less)	<u>\$5,000.00</u>

**ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (01-01-08)**

**EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
  - a. building;
  - b. zoning;
  - c. land use;
  - d. improvements on the Land;
  - e. land division; and
  - f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19 and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount or \$2,500.00 (whichever is less)	<u>\$10,000.00</u>
Covered Risk 18:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	<u>\$25,000.00</u>
Covered Risk 19:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	<u>\$25,000.00</u>
Covered Risk 21:	1.00% of Policy Amount or \$2,500.00 (whichever is less)	<u>\$5,000.00</u>

**ALTA RESIDENTIAL LOAN POLICY (10-13-01)**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions or location of any improvements now or hereafter erected on the Land;
  - (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or
  - (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
  - (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the existence of which are Known to the Insured at:
  - (a) The time of the advance; or
  - (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

# Exhibit B

## **REAL ESTATE AUCTION AGREEMENT**

This Real Estate Auction Agreement (“Agreement”) is made and entered on March 23, 2017 by and between Consolidated Legacy Debtors Liquidating Trust Effective as of July 22, 2013, as successor in interest to Castle Arch Real Estate Investment Company, LLC and Castle Arch Kingman, LLC (“Seller”), and Statewide Auction Company, whose primary business address is 155 North 1000 West, Salt Lake City, Utah 84116 (“Statewide”) (collectively, the “Parties”).

### **AGREEMENT**

NOW THEREFORE in consideration of the mutual promises contained in this Agreement, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **ENGAGEMENT OF AUCTIONEER.** Seller hereby engages Statewide as auctioneer to assist in the marketing and sale of certain real property comprised of approximately 546.08 acres of raw land and interests related to that land located in Mohave County, Arizona (together all acres and interests are referred to herein as the “Property”). The Property is comprised of eight (8) parcels (the “Parcels”), and the Property is more particularly described by Seller and acknowledged by Statewide in the document attached hereto as Exhibit “A”. Upon execution of this Agreement, Statewide shall be engaged as the auctioneer for the Property subject to the terms of this Agreement. Statewide accepts the auction engagement in accordance with the terms and conditions set forth in this Agreement and applicable law.

2. **COURT APPROVAL REQUIRED.** The public sale of the Property described herein (the “Auction Sale”) is wholly contingent on the United States Bankruptcy Court for the District of Utah (the “Court”) granting the *Trustee’s Motion Seeking (1) Authorization of Public Sale of Real Property Located in Mohave County, Arizona Out of the Ordinary Course of Business and Free and Clear of Interests Pursuant to 11 U.S.C. § 363, (2) Approving Procedures For Public Sale, and (3) Authorizing Trustee to Pay Auctioneer and Real Property Taxes From Gross Sale Proceeds.* Until the Court enters a final order approving the Auction Sale, Statewide operates at its own risk. Notwithstanding ¶ 7 below, the Seller shall not be responsible for any expense associated with the Auction Sale unless and until the Court enters a final order approving the Auction Sale, and then such expenses will be incurred only as allowed pursuant to this Agreement.

3. **DATE, TIME AND PLACE OF SALE.** The Auction Sale shall be held on the date(s) and at the time(s) determined by the Parties. The Auction Sale may be conducted at the Property, or at another location as agreed to by the Parties. The date(s), time(s) and place of the Auction Sale will be clearly and prominently advertised by Statewide.

4. **DUTIES AND AUTHORITY OF AUCTIONEER.** Statewide has a duty to use its best efforts to sell the Property at the highest and best price achievable.

a. **Marketing.** Statewide shall use its diligent efforts to promote, market and advertise the Auction Sale in at least the following manner:

(1) Information Management: Statewide will obtain and organize information about the Property to provide to prospective bidders in a manner to be approved by the Seller. This will include obtaining (i) information about the Property that is in the Seller's possession from the Seller, and (ii) if necessary, capturing photos and videos of the Property, and records about the Property from third party sources.

(2) Website: Statewide will advertise the Auction Sale on its website, and have specific information about the Property and the Auction Sale posted on its website, including the date(s), times(s) and location of the Auction Sale, terms of the Auction Sale, and bidding requirements and procedures. The website and links to information about the Auction Sale will be prominently advertised by Statewide.

(3) Property Signs: Statewide will design, produce, and place auction signs at the Property. The signs will provide information about the Auction Sale and provide contact information for Statewide, including through Statewide's designated website.

(4) Telephone/Direct Mail Campaigns: Statewide shall create (i) brochures and flyers about the Property and the Auction Sale, and (ii) marketing lists of prospective buyers. After obtaining the Seller's approval, Statewide will use this information to conduct a sales campaign for the Property, including a telephone and direct mail/e-mail campaign.

(5) Advertisements: Statewide shall purchase classified advertisements in local newspapers, industry specific periodicals, online channels/classifieds, and other outlets that have been found to best maximize exposure to the Property within the community as well as in major markets in neighboring cities, counties, and states.

(6) E-Mail: Statewide will send notifications to, among others, their existing customer e-mail distribution list consisting of thousands of prior buyers that have requested to be alerted of Statewide's upcoming auctions. Beyond the e-mail, Statewide may personally contact prior customers recorded as having history of bidding on similar real property at auction. Statewide will send e-mails about the Auction Sale to those persons who have previously expressed an interest to the Seller in the Property, and persons on the marketing list discussed above.

(7) On-Site Visits. Statewide will accommodate and facilitate, with prior notice to Seller, reasonable requests for inspection of the Property by interested parties prior to the "Bid Deadline" (defined below).



b. **Pre-Auction Sale Procedures.**

(1) Qualified Bidders. Statewide agrees that only "Qualified Bidders" may participate at the Auction Sale. No person will be deemed to be a Qualified Bidder, unless the person:

(i) Delivers to Statewide a deposit, which shall be a cashier's check in an amount not less than \$50,000.00 ("Auction Deposit").

(ii) Executes a *Deposit and Obligation Agreement*, in a form to be approved in advance by the Seller, which will require the bidder to agree to at least the following:

- a. that the bidder represents and warrants that bidder has the ability to perform at the Auction Sale and has cash readily available to pay the bidder's highest bid, less the Auction Deposit, within 30-days of close of the Auction Sale, and that bidder will provide proof of such ability prior to the close of the Auction Sale if requested by Statewide or the Seller;
- b. that bidder understands that the Auction Deposit of the bidder(s) making the highest and best bid ("Successful Bidder(s)") shall be wholly non-refundable;
- c. that bidder agrees to be bound by any auction procedures approved by the Seller that will be provided to the bidder prior to or contemporaneously with the Deposit and Obligation Agreement, including that any disputes related any aspect of the Auction Sale will be resolved by the Court;
- d. that bidder understands that the sale of the Property is AS IS WHERE IS with no representations or warranties of any kind;
- e. that bidder agrees that bidder's last offer made at each phase of the Auction Sale is irrevocable, and that upon becoming the Successful Bidder(s) or "Back-Up Bidder(s)" (as defined below), the bid is irrevocable until the "Sale Closing Date" (defined below); and
- f. that bidder understands that, unless otherwise agreed to in advance by the Seller, bidder must be present at the Auction Sale, or be represented by a qualified agent who has provided proof satisfactory to the Seller of the representative's ability to act on behalf of the bidder at the Auction Sale.

(2) Management of Auction Deposits. Statewide shall collect each Auction Deposit and deposit each Auction Deposit in financial account specific for this matter and not co-mingled with any other funds. Statewide will separately account for each Auction Deposit received.

(3) Report of Auction Deposits. Statewide will maintain a written report of Auction Deposits received and shall provide it to the Seller upon request.

**c. Conduct of Auction Sale.**

(1) Staffing. Statewide shall provide experienced auction staff to conduct the Auction Sale and related activities, including auctioneer and ringmen, who shall conduct the sale under the supervision of the Seller.

(2) Terms of Sale. The Property shall be sold "AS IS, WHERE IS," without warranty or representation of any kind, expressed or implied. The sale of the Property is also being made under 11 U.S.C. § 363(b) and (f), and thus is free and clear of financial interests against the Property, with any financial interests attaching to the sale proceeds. Statewide will make this aspect of the sale clear in all pre-sale advertising and at the start of the Auction Sale.

(3) Two-Phase Auction. Unless otherwise instructed by the Seller, Statewide will conduct the Auction Sale in two phases as follows: (i) "Bulk Sale"—Statewide will obtain the highest and best bid for all of the Property, including all Parcels, in bulk; and then (ii) "Parcel Sale"—Statewide will obtain the highest and best bid for each one of the eight Parcels, with each of the Parcels being subject to separate auction. For purposes of clarity, the term "Auction Sale" means both phases as described herein, through the close of the entire Auction Sale as discussed in subpart (5) below.

(4) Successful Bidders. Provided that a Two-Phase Auction as provided for in subpart (3) above occurs, Statewide shall call the highest and best bid for the Bulk Sale at the conclusion of the Bulk Sale, and that bidder shall be registered as the holder of the "Successful Bulk Bid," which Bid shall be irrevocable. Statewide shall call the highest and best bid made for each of the eight (8) Parcels at the conclusion of each of the eight (8) phases of the Parcel Sale, and each such bidder shall be registered as a holder of a "Successful Parcel Bid" for the relevant Parcel, which Bids shall be irrevocable. At the close of the Auction Sale as provided for in subpart (5) below, the bidder(s) making the highest and best offer, as determined by the Seller in his sole discretion, will be the "Successful Bidder(s)."

(5) Close of Auction Sale. Subject only to subpart (6) below, Statewide shall close the Auction Sale after calling the Successful Bidder(s). In the event of a Two-Phase Auction as provided for in subpart (3) above, this will occur after (i) Statewide has registered the Successful Bulk Bid and the

Successful Parcel Bids, and (ii) consulted with the Seller as to which bids the Seller deems, in his sole discretion, to be the highest and best bid(s).

(6) Reserve Range. The sale of the Property at the Auction Sale is contingent on the total sales price being within a "Reserve Range," which Reserve Range will be known only to the Seller, Seller's counsel and the Court. If the total sales price is less than the Reserve Range, the Seller may in his sole and total discretion cancel the Auction Sale.

(7) Back-Up Bids. Statewide may accept, with approval from the Seller, a "Back-Up Bid" for the sale of the Property from a "Back-Up Bidder." Each Back-Up Bid must be accompanied by a written agreement from the Back-Up Bidder (i) stating the amount of its Back-Up Bid, which shall not be less than the last bid the Back-Up Bidder made during the Auction Sale, (ii) agreeing that its Back-Up Bid is irrevocable through the Sale Closing Date, (iii) agreeing that its Auction Deposit will be held pending the Sale Closing Date and become non-refundable if the Back-Up Bidder becomes a Successful Bidder, and (iv) agreeing to be obligated in the event that the Auction Sale to the Successful Bidder(s) does not close.

**d. Post-Auction Sale Duties.**

(1) Auction Deposits Pre-Closing. Statewide shall hold, in accordance with this Agreement, all Auction Deposit(s) of the Successful Bidder(s) and Back-Up Bidders pending the "Sale Closing Date" as defined below. All other Auction Deposits should be returned to the bidders at the close of the Auction Sale.

(2) Sale Closing Date. The date of closing of the sale(s), whether to the Successful Bidder(s) or to Back-Up Bidders, is the "Sale Closing Date," and in the event that the Property is sold in Parcels, the closing date of each Parcel sale shall be the "Sale Closing Date."

(3) Failure of Auction Sale. In the event that the sale to the Successful Bidder(s) does not close, Statewide (i) shall deliver the Auction Deposit(s) of the Successful Bidder(s) to the Seller as damages, and (ii) register the Back-Up Bidder(s) who made the next highest and best offer at the Auction Sale as the Successful Bidder(s). If the Back-Up Bid(s) that are registered are for a total sales price that is less than the Reserve Range, the Seller may in its sole discretion, cancel the sale.

(4) Auction Deposits Post-Closing. Except to the extent that Auction Deposit(s) are non-refundable, Statewide must return the Auction Deposits within fifteen (15) business days of the Sale Closing Date. Statewide will provide written notice to the Seller of its intent to return the Auction Deposits, and the Seller will be afforded at least five (5) business days to contest the same.

(5) Report of Auction. Within five (5) business days of the close of the Auction Sale, Statewide will submit to the Seller a written *Report of Auction*,

which must include at least the following: (i) for each Successful Bidder(s)--the name, address and telephone number of the Bidder, the amount of the Auction Deposit(s) collected, and the and the accepted bid amount(s); and (ii) the same information of each of the Back-Up Bidders.

(6) **Report of Sale.** Within ten (10) business days of the Sale Closing Date, Statewide will submit to the Seller any accounting necessary for the Seller to make any necessary reports to the Court or to taxing authorities. Statewide will also file a Report of Sale with the Court in accordance with Fed. R. Bankr. P 6004.

e. **Warranty.** Neither Statewide nor its representatives, employees or agents, makes any representation or promise, oral or written, to any person, including without limitation, prospective bidders or purchasers, which is contrary to the terms and conditions of sale contained in this Agreement and any Court order.

f. **Performance of Auctioneer's Services.** Statewide shall perform its services under this Agreement in a reasonable and prudent manner and in such a way as to assure the highest and best price practicably obtainable for the Property. However, Statewide cannot guarantee a sale and is not responsible in the event the Seller and/or any bidder at the Auction Sale does not close the sale.

#### 5. **DUTIES AND AUTHORITY OF SELLER.**

a. **Seller Discretion.** The Seller has the right to control all aspects of the Auction Sale, including but not limited to the method of sale, closing or cancelling the Auction Sale, method of payment, acceptance of Back-Up Bids, and enforcement of the Auction Sale and Successful Bid(s) made at the Auction Sale. Whether a bid is the highest and best bid is within the sole discretion of the Seller.

b. **Closing.** The Seller will close the sale of the Property to the Successful Bidder(s) within thirty (30) days of the close of the Auction Sale.

c. **Title Insurance.** The Seller will provide a title insurance policy to the Successful Bidder(s). Seller will only provide a basic policy with the Successful Bidder(s) assuming responsibility for any policy upgrades.

6. **COMPENSATION.** Seller agrees to pay Statewide 6% of the gross sale proceeds received upon the closing of a sale of the Property ("Commission"). Other than as provided for in ¶ 7 below, the Commission is Statewide's complete and entire compensation for all services rendered and all expenses incurred related to the Auction Sale.

7. **EXPENSES.** Except as otherwise stated herein, Statewide shall pay all expenses related to the Auction Sale, and reimbursement of such expenses shall be included within the Commission provided for in ¶ 6 above; *provided however*, if Statewide is not entitled to a Commission because there are no gross sale proceeds, whether because the Auction Sale is cancelled as a result of failure to meet the Reserve

Range or no Successful Bidder closes, Seller agrees to reimburse Statewide for its actual, reasonable and necessary out-of-pocket expenses related to the Auction Sale.

8. **RELATIONSHIP OF PARTIES.** Statewide is an independent contractor for all purposes under this Agreement. All persons, corporations and other legal entities engaged by Statewide shall be regarded as agents of or contractors with Statewide and have no privity of contract with the Seller, the Legacy Debtors Trust, or the bankruptcy estate that the Seller administers. Nothing in this Agreement shall be construed as creating any partnership or joint venture between the Parties.

9. **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the Parties, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement.

10. **MODIFICATION OF AGREEMENT.** Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement shall be binding only if in writing signed by each Party or an authorized representative of each Party.

11. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

12. **WAIVER.** The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

13. **GOVERNING LAW.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of Utah.


14. **ATTORNEY'S FEES.** If any action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful parties' attorney's fees.

15. **ASSIGNMENT OF RIGHTS.** The rights of each Party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express and written consent of the other Party.


16. **HEADINGS.** The headings to the sections of this Agreement are solely for the convenience of the Parties, and shall not be used to explain, modify, simplify or aid in the interpretation of the provisions of this Agreement.

This Agreement is executed by the Seller and Statewide as of the day and year first above written.

**SELLER**

By:   
D. Ray Strong as Liquidating Trustee  
for the Consolidated Legacy Debtors  
Liquidating Trust Effective as of  
July 22, 2013 and as successor in interest  
to Castle Arch Real Estate Investment  
Company, LLC and Castle Arch  
Kingman, LLC

**STATEWIDE  
AUCTION COMPANY**

By:   
Aaron Shelton  
Its: PARTNER

# Exhibit C

**DEPOSIT AND OBLIGATION AGREEMENT**

**Seller**

Consolidated Legacy Debtors  
Liquidating Trust Effective as  
of July 22, 2013, as successor in  
interest to Castle Arch Real  
Estate Investment Company, LLC  
and Castle Arch Kingman, LLC

**Bidder (All information is required)**

Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
E-mail: \_\_\_\_\_

This *Deposit and Obligation Agreement* (“Agreement”) is entered into between the Seller and the Bidder stated above, and together the Seller and Bidder are the “Parties.” This Agreement governs the public sale of the real property discussed below (the “Auction”) being conducted by Statewide Auction Company (“Statewide”).

**RECITALS**

A. Seller has engaged Statewide to sell by public auction certain real property comprised of approximately 546.08 acres of raw land and interests related to said land located in Mohave County, Arizona (together all acres and interests are referred to herein as the “Property”). The Property is comprised of eight (8) parcels (the “Parcels”), and the Property is more particularly described by Seller in the preliminary Title Report attached hereto as Exhibit “A”.

B. The Seller is a liquidating trust established pursuant to a Plan of Liquidation confirmed by the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”) in the case styled as *In re Castle Arch Real Estate Investment Company, LLC*, Case No. 11-35082 (Bankr. D. Utah). The Seller has obtained authority from the Bankruptcy Court to sell the Property to the highest and best bidder at public auction, provided that the sales price is within or greater than a “Reserve Range”. This Reserve Rand is known, in relevant part, by the Seller and not Statewide.

C. The sale of the Property at the Auction is a sale of the Property (a) “AS IS WHERE IS” without any representations or warranties by the Seller of any kind; and (b) being made free and clear of any financial interests against the Property pursuant to section 363(b) and (f) of the United States Bankruptcy Code (title 11 United States Code).

D. Pursuant to the Order entered by the Bankruptcy Court authorizing this sale, only “Qualified Bidders” may be bidders at the Auction. To be a Qualified Bidder, the Bidder must



provide the Seller a cashier’s check in an amount not less than \$50,000.00 (the “Auction Deposit”), and execute this Agreement prior to the Auction.

E. The bidder at the Auction submitting the highest and best bid is the “Successful Bidder”.

**AGREEMENT**

The Bidder has provided the Auction Deposit and the Parties hereby agree is follows:

1. Representations and Warranties of Bidder. The Bidder represents and warrants as follows:

- (a) The contact information provided by the Bidder above is true and correct;
- (b) The Bidder has the ability to perform at the Auction;
- (c) The Bidder will not make any bid that is greater than the amount the Bidder has the ability to pay in cash, less the Auction Deposit, within 30 days of the Auction;
- (d) The Bidder has the ability to pay in cash any bid made by the Bidder at Auction, less the Auction Deposit, within 30-days of the Auction, and that any documents provided by the Bidder to the Seller to prove ability to pay, if requested, are true and correct; and
- (e) The Bidder understands that the Property is being sold “AS IS WHERE IS” with no representations or warranties of any kind, and Bidder has done any and all due diligence Bidder has deemed necessary related to the Property prior to the Auction.

2. Representations and Warranties of Person Executing Agreement. If the Bidder is not an individual, the person executing this Agreement represents and warrants that he/she (a) has authority to enter into this Agreement on behalf of the Bidder, (b) has personal knowledge of the Bidder’s ability to pay as set forth in paragraph 1 above, and (c) has authority to make a bid at the Auction on behalf of the Bidder.

3. Auction Deposit. Bidder agrees that if the Bidder is the Successful Bidder, the Auction Deposit is non-refundable and will be applied to the purchase price of the Property. If the Bidder is not a Successful Bidder, the Auction Deposit will be returned to the Bidder at the close of the Auction, unless the Bidder agrees that the Bidder’s last bid will serve as a “Back-Up Bid.” If the Bidder opts to submit a Back-Up Bid, the Auction Deposit will either (a) be applied to the purchase price of the Property if the Bidder becomes the Successful Bidder with its Back-Up Bid, or (b) be returned to the Bidder if the Back-Up Bid is not accepted.

4. Auction Procedures. Bidder agrees to the terms of the procedures for the Auction and Closing included herein and any further terms that may be provided to Bidder at the Auction.

(a) Two-Phase Auction. Unless otherwise instructed by the Seller, Statewide will conduct the Auction in two phases as follows: (i) "Bulk Sale"—Statewide will obtain the highest and best bid for all of the Property, including all Parcels, in bulk; and then (ii) "Parcel Sale"—Statewide will obtain the highest and best bid for each one of the eight Parcels, with each of the Parcels being subject to separate auction.

(b) Successful Bulk Bid. Statewide shall call the highest and best bid for the Bulk Sale at the conclusion of the Bulk Sale, and the bidder making that bid shall be registered as the holder of the "Successful Bulk Bid," which Bid shall be irrevocable.

(c) Successful Parcel Bid. Statewide shall call the highest and best bid made for each of the eight (8) Parcels at the conclusion of each of the eight (8) phases of the Parcel Sale, and each such bidder shall be registered as a holder of a "Successful Parcel Bid" for the relevant Parcel, which Bids shall be irrevocable.

(d) Reserve Range. The sale of the Property at Auction is contingent on the total sales price being within a "Reserve Range." If the total sales price is less than lowest point of the Reserve Range, the Seller may in its sole and total discretion cancel the Auction.

(e) Successful Bidder. After Statewide has registered the Successful Bulk Bid and the Successful Parcel Bids, Statewide will consult with the Seller to determine if the Reserve Range has been met; and if so, which Bids the Seller deems, in his sole and absolute discretion to be the highest and best Bid(s). Statewide will then call the "Successful Bid" and close the Auction. If the bids are less than the lowest point in the Reserve Range, the Auction will be cancelled. Immediately upon the call of the Successful Bid, Auction Deposits of the Successful Bidder and any Back-Up Bidders are non-refundable as provided for in ¶ 3 above.

(f) Back-Up Bids. Bidder agrees that Statewide may accept, with approval from the Seller, a Back-Up Bid for the sale of the Property from a "Back-Up Bidder." In the event that a Back-Up Bid is accepted by the Seller, the Back-Up Bidder is the "Successful Bidder" for all purposes under this Agreement. Bidder further agrees that if it acknowledges a Back-Up Bid below, said Bid is irrevocable, Bidder's Auction Deposit will be treated as set forth in ¶ 3 above, and Bidder is obligated under this Agreement as the Successful Bidder in the event that the Successful Bid at the close of Auction does not close.

(g) Bid Irrevocable. Bidder agrees that the Bidder's last bid made at the Auction is irrevocable in all instances.

(h) Acknowledgement. Bidder agrees that to be a valid Successful Bidder or Back-Up Bidder, the Bidder must sign the "Acknowledgement of

(i) Thirty-Day Close. The Successful Bidder must pay the purchase price, less the amount of its Auction Deposit, to the Seller in cash within 30 days of the close of the Auction.

5. Closing. The closing of the purchase of the Property must take place within 30-days of the close of the Auction at the time and place to be designated by the Parties, unless that deadline is extended by the Seller in writing, which the Seller has no obligation to do and may decline to do in Seller's sole and absolute discretion.

6. Title. Title to the Property will transfer to the Successful Bidder upon payment of the purchase price at the Closing provided for in ¶ 5 above. Seller will transfer the Property by Trustee's Deed. The Seller has obtained an Order of the Bankruptcy Court authorizing the Seller's sale of the Property at the Auction to be free and clear of all financial interests against the Property. In addition, Seller shall pay for and provide the Successful Bidder with a Standard Owner's Title Insurance Policy. Buyer may acquire extended coverage at its own expense.

7. Taxes and Costs. Real property taxes for 2017 will be pro-rated, with the Seller paying all taxes accrued as of the date of the closing at the Closing, and the Successful Bidder paying all taxes thereafter. Seller will pay Statewide's fee. Any incidental costs of closing will be split by the Seller and the Successful Bidder.

8. Breach. Bidder is in material breach of this Agreement if any of the following occur: (a) Bidder's representations and warranties in paragraphs 1 or 2 above are not true and correct; and/or (b) Bidder, as a Successful Bidder, fails to pay to the Seller in cash the full purchase price in the amount of the Successful Bidder's bid at Auction within 30 days of the close of the Auction. In the event of breach of this Agreement, the Seller will cancel the auction sale as to the breaching party immediately, and that party's non-refundable Auction Deposit will be forfeited to the Seller. The Auction Deposit may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept the Auction Deposit as Seller's sole right to damages. If a claim is made as a result of the Bidder's breach and the Seller prevails, the Seller will be entitled to reasonable attorney fees and costs.

9. Jurisdiction. The Parties agree that any dispute related to this Agreement will be resolved in the Bankruptcy Court.

10. Documents. A fully executed facsimile or electronic copy of this Agreement shall be treated as an original of the Agreement. This Agreement and any other documents required by this Agreement may be executed by facsimile or other electronic means and in any number of counterparts, which shall become effective upon delivery as provided for herein. All counterparts shall be deemed to constitute one instrument, and each counterpart shall be deemed an original.

11. Entire Agreement. This Agreement shall constitute the entire agreement between the Parties and supersedes any other written or oral agreements between the Parties. Modifications to this Agreement may only be made in writing executed by the Parties.

The foregoing is agreed to on the above date by the Buyer and the Seller as evidenced by their authorized signatures below.

*[Signature Page To Follow]*

Date: \_\_\_\_\_

**Seller:** \_\_\_\_\_  
D. Ray Strong, as Liquidating Trustee of the Consolidated Legacy Debtors Liquidating Trust Effective as of July 22, 2013, as successor in interest to Castle Arch Real Estate Investment Company, LLC and Castle Arch Kingman, LLC

Date: \_\_\_\_\_

**Bidder:** \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Its: \_\_\_\_\_

**BIDDER ACKNOWLEDGMENT**

Bidder acknowledges the information below is true, correct and accurate:

**I.**

I have been called at the close of Auction as the Successful Bidder, as that term is defined in the Deposit and Obligation Agreement, and my Successful Bid amount is as stated below.

**SUCCESSFUL BID AMOUNT:** \$ \_\_\_\_\_

Date: \_\_\_\_\_

**Bidder:** \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Its: \_\_\_\_\_

**OR**

**II.**

I agree to be a Back-Up Bidder, as that term is defined in the Deposit and Obligation Agreement, and my Back-Up Bid amount is stated below.

**BACK-UP BID AMOUNT:** \$ \_\_\_\_\_

Date: \_\_\_\_\_

**Bidder:** \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Its: \_\_\_\_\_