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

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

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

**MOTION SEEKING AUTHORITY TO SELL REAL PROPERTY AND AFFILIATED
WATER RIGHTS LOCATED IN TOOELE, UTAH OUT OF THE ORDINARY COURSE
OF BUSINESS AND FREE AND CLEAR OF ALL INTERESTS PURSUANT TO 11
U.S.C. § 363, AND TO PAY SECURED CREDITOR, TAXES AND COSTS OF SALE
FROM SALE PROCEEDS**

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 the private sale of certain real property and affiliated water rights located in Tooele, Utah, 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 authorize the Trustee to make certain payments associated with the sale as detailed below.

This Motion is supported by the *Declaration of D. Ray Strong* (the “Strong Declaration”) attached hereto as **Exhibit 1**. For the reasons set forth below, the Trustee maintains that this Motion should be granted.

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

The Property

5. Property of the Legacy Debtors and Legacy Trust includes certain real property and water rights located in Tooele, Utah. This property is comprised of several parcels. There are also several hundred acre feet of water.

6. Relevant to this Motion are two parcels of the Tooele property, generally known as parcels 4 and 5 (the "Parcels"), and 24 acre feet of water (the "Water") (collectively, the "Property").

7. The Property is located at approximately 2000 North Droubay Road, Tooele, UT 84074, with tax parcel ID numbers 03-024-0-0005 and 03-024-0-0007, and is more fully described in a Title Report attached to the Strong Declaration.¹

Marketing and Sale of the Property

8. Commerce Real Estate Solutions ("Commerce") has marketed the Property for private sale pursuant to a Court-approved Listing Agreement from June 29, 2012.² In February

¹ Strong Declaration at Exh. A (Title Report).

² See Docket Nos. 252 and 276 (employment papers and Listing Agreement).

2014, after entry of the Confirmation Order, the Trustee, as the Trustee of the Legacy Trust, entered into a new Listing Agreement with Dell Nichols Realty & Development, LLC (“Nichols Realty”) for the sale of the Property, which was retroactive to December 3, 2013. Commerce has no interest in this case at this point, and all work and commissions are owed to Nichols Realty.³

9. The Property has been actively marketed 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.⁴

10. On June 21, 2017, the Trustee entered into an agreement (the “Sale Agreement”) to sell the Property to Samuel D. Howard (the “Buyer”) for a total purchase price of \$480,000.00, subject to Court approval and higher and better offers.⁵ This price is based, in part, on Water being assigned a value of \$4,500.00 per acre foot. Therefore, \$108,000.00 of the total purchase price is attributed to the Water. A true and correct copy of the Sale Agreement is attached to the Strong Declaration.⁶

³ *Id.* at ¶ 5.

⁴ *Id.* at ¶ 6.

⁵ *Id.* at ¶ 7.

⁶ *Id.* at Exh. B (Sale Agreement).

11. Nichols Realty has continued to market the Property for sale since receiving the offer from the Buyer, and will continue to do so through the Higher and/or Better Deadline (defined below).⁷

The Sale Agreement

12. While the Sale Agreement must be reviewed to obtain full disclosure of all its material terms, the following is a summary of the terms most relevant to this Motion:

- a. The Sale Agreement is expressly condition on the Court's entry of an Order approving the Sale Agreement.
- b. The purchase price is \$480,000.00.
- c. The Buyer has made an earnest money deposit in the amount of \$25,000.00 which is being held in escrow.
- d. Settlement and close of the transaction will occur fifteen (15) days after entry of an Order approving the Sale Agreement.
- e. The sale is subject to higher and better offers.
- f. The sale of the Property is "AS IS" with no representations or warranties by the Trustee, except that he has authority to enter into the Sale Agreement with Court approval and will seek approval of the sale free and clear of liens and interests under 11 U.S.C. § 363(b) and (f).

⁷ *Id.* at ¶ 8.

Proposed Sale Procedures

13. The proposed sale of the Property is a private sale, and it is anticipated that it will close in accordance with the terms of the Sale Agreement.

14. However, the sale of the Property is expressly subject to higher and/or better offers.⁸

15. The Trustee will consider all written offers for the purchase of the Property made prior to the expiration of the deadline set forth in the *Notice of Hearing* filed concurrently herewith (the "Higher and/or Better Deadline").

16. Whether an offer is a higher and/or better offer will be determined by the Trustee is his sole discretion.

17. Upon closing of the sale, whether to the Buyer or to a person who has submitted a higher and/or better offer, the Trustee will file a *Notice of Sale* with the Court that provides information typically required under Federal Rule of Bankruptcy Procedure 6004(f).

18. In the event that a higher and/or better offer is received and accepted for the sale of the Property, approval of the sale to the Buyer herein will be deemed to be approval of the sale to the person submitting the higher and/or better offer, with the *Notice of Sale* providing an itemization of amounts obtained by the Legacy Trust, as well as all refunds to the Buyer.

Disbursements

19. Following close of the sale of the Property, the Trustee anticipates paying from the gross proceeds of the sale the costs of sale, which will include a 6% commission as set forth in the Listing Agreement.⁹

⁸ See Strong Declaration at Exh. B (Sale Agreement).

20. The Title Report shows that property taxes on the Property for 2008 through 2016 are due and payable. The Trustee anticipates paying the property taxes out of the gross sale proceeds.¹⁰

21. The gross sale proceeds less the costs of sale and taxes are referred to herein as the “Net Sale Proceeds.”

22. The Title Report also shows that ANB Venture, LLC (“ANB”) as having a lien recorded against the Parcels.¹¹ ANB has filed a proof of claim, asserting a secured claim in this case, and that claim has been transferred to Southern Properties in Northern Dollars, LLC (“Southern”).¹² Southern has an allowed secured claim in this case, but the amount of that claim has not been set as of this time.¹³ But, the Trustee recognizes that ANB’s lien will attach to the Net Sale Proceeds that attributed to the Parcels, and requests authority to pay Southern the amount of any allowed claim.

Notice

23. Notice of this Motion will also be served on all parties in interest in this case, and be posted on the estate’s website.¹⁴

⁹ Strong Declaration, ¶ 9.

¹⁰ See Strong Declaration, ¶ 10 & Exh. A (Title Report).

¹¹ *Id.*

¹² Proof of Claim 33; Docket No. 651.

¹³ See Docket No. 858 (*Order Approving Stipulation Regarding Claim of Southern Properties in Northern Dollars, LLC*).

¹⁴ Strong Declaration, ¶ 11.

RELIEF REQUESTED

24. By this Motion, the Trustee seeks the entry of an Order: (a) approving the Sale Agreement; (b) authorizing the sale of the Property pursuant to the Sale Agreement out of the ordinary course of business, free and clear of interests, and subject to higher and/or better offers, with valid liens, claims, encumbrances and interests in the Property attaching to the Net Sale Proceeds; and (c) authorizing the Trustee to pay actual and necessary costs of sale, including a commission to Nichols Realty, outstanding real property taxes, and the allowed claim of Southern.

25. The Trustee believes that the sale of the Property as set forth in the Sale Agreement is fair, reasonable, and in the best interests of the Legacy Trust and its beneficiaries.¹⁵ The Trustee thus maintains that this Motion should be granted.

ARGUMENT

The Proposed Sale Should Be Authorized Under 11 U.S.C. § 363(b)

26. 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).¹⁶

27. 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;

¹⁵ *Id.* at ¶ 12.

¹⁶ 11 U.S.C. § 363(b)(1).

- 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. the sale price is fair and reasonable; and
- d. the proposed buyer is proceeding in good faith.¹⁷

28. The Trustee has met all four parts of this test, and accordingly, respectfully requests that the Court grant this Motion.

Sound Business Purpose

29. Courts show great deference to a trustee's decision-making.¹⁸ Once a trustee articulates a valid business judgment for a sale, "a presumption of reasonableness attaches to a trustee's management decisions."¹⁹

30. In his business judgment, the Trustee believes that the proposed sale under the Sale Agreement is fair, reasonable, and will maximize the value of the Property, minimize the costs to the Legacy Trust, and produce a good-faith purchaser. 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 sale;
- b. the advice of Nichols Realty and those acting under its direction, who have experience in selling land similar to the Property;
- c. the arm's-length nature of the negotiations related to the terms of the Sale Agreement;
- d. the cash nature of the sale;

¹⁷ See *In re Medical Software Solutions*, 286 B.R. 431, 439-40 (Bankr. D. Utah 2002).

¹⁸ See *Summit Land Co. v. Allen (In re Summit Land Co.)*, 13 B.R. 310, 315 (Bankr. D. Utah 1981).

¹⁹ *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").

- e. the relatively quick closing of the sale, and the lack of any request due diligence period;
- f. the ability of the Trustee under the Sale Agreement to accept higher and/or better offers for the Property; and
- g. the cessation of continuing costs of administration of the Property.²⁰

Notice of the Proposed Sale and Higher and/or Better Offers

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

32. 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: (a) a general description of the Property; (b) the price that is offered by the Buyer; (c) a statement that the Trustee will accept higher and/or better offers for the Property, as well as the procedures for submitting a higher and/or better offer prior to the expiration of the Higher and/or Better Deadline; (d) procedures and the deadline for objecting to the sale of the Property; and (e) the date and time of any hearing on this Motion.

33. The Trustee will also post a copy of this Motion on his website, and Nichols Realty will provide notice of the proposed sale to any parties who have expressed an interest in the Property.²¹

²⁰ Strong Declaration, ¶ 12.

²¹ *Id.* at ¶ 13.

34. Nichols Realty will continue to market the Property for sale through the Higher and/or Better Deadline, and the Trustee will consider competing offers for the Property prior to the expiration of the Higher and/or Better Deadline.²²

35. Whether an offer is higher and/or better will be determined by the Trustee in his sole and absolute discretion, and to the extent the Trustee receives a competing offer for the Property prior to the Higher and/or Better Deadline that he considers higher and/or better, the Trustee will provide notice to the Buyer of the higher and/or better offer.²³

36. 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

37. For the reasons set forth above, as well as the fact that the Trustee can accept higher and/or better offers for the Property prior to the expiration of the Higher and/or Better Deadline, the Trustee respectfully submits the proposed sale price for the Property is fair and reasonable.²⁴

²² *Id.* at ¶ 14.

²³ *Id.* at ¶ 15.

²⁴ *Id.* at ¶ 12.

Good Faith Purchaser

38. The parties' negotiation of the Sale Agreement has been at arms' length and in good faith, and all acts culminating in the closing of the Sale Agreement will likewise be negotiated and conducted through arms' length transactions and in good faith.²⁵

39. 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."²⁶ 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."²⁷

40. Here, the good faith standard has been met because the Buyer is purchasing the Property in good faith and for fair value as part of a transparent process that affords all parties in interest and potential purchasers the opportunity to make a higher and/or better offer for the purchase of the Property. Additionally, the Buyer is an independent third party that has no connections to the Trustee, the Debtors, or the Legacy Trust, and there has been no fraud or collusion between the Buyer and the Trustee.²⁸

41. Specifically, the Property has been actively marketed since June 29, 2012. The parties entered into good-faith negotiations relating to the terms of the Sale Agreement. As a result of such negotiations, as well as other factors discussed above, the purchase price represents

²⁵ *Id.* at ¶ 16.

²⁶ *Tompkins v. Frey (In re Bel Air Assocs., Ltd.)*, 706 F.2d 301, 304 (10th Cir. 1983).

²⁷ *Id.* at 305 n.11 (citation omitted); see also *In re Lotspeich*, 328 B.R. 209 (10th Cir. BAP 2005).

²⁸ Strong Declaration, ¶ 17.

a fair and reasonable value for the Property. Finally, the material terms of the sale are being fully disclosed to the Court and parties in interest, and to the extent any party submits a higher and/or better offer for the Property prior to the expiration of the Higher and/or Better Deadline, the Trustee is able to accept such offer. Accordingly, the Trustee submits that the proposed sale is an arm's length transaction made to a good faith purchaser and requests that any order authorizing this sale so provide.

42. Accordingly, the Trustee requests that the Court enter an Order granting this Motion and approving the sale under 11 U.S.C. § 363(b) and (m).

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

43. 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.

44. 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.

45. With the exception of property taxes and ANB's lien against the Parcels, the Trustee is unaware of any other liens, encumbrances, or interests relating to the Property.²⁹ To the extent any such interests are asserted as being valid, however, such interests are protected because they will also attach to the Net Sale Proceeds.

46. Accordingly, the Trustee requests that the Court grant this Motion, including by authorizing the sale of the Property free and clear of liens, claims, encumbrances, and 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.

The Trustee Should Be Authorized to Make Payments

47. The Trustee is requesting authority to pay the costs of sale, including the sales commission, taxes and any allowed claim of Southern. Based on all of the statements above, the Trustee submits that he should be authorized to do so.

CONCLUSION

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

- A. Approving the Sale Agreement;
- B. Authorizing the sale of the Property to the Buyer or to the person whose higher and/or better offer is accepted by the Trustee 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;

²⁹ Strong Declaration, Exh. A (Title Report).

- C. Finding that the sale of the Property is a good faith sale under 11 U.S.C. § 363(m);
- D. Authorizing the Trustee to pay from the gross sale proceeds the costs of sale, including a 6% commission, and outstanding real property taxes, and to pay any allowed claim held by Southern; and
- E. Such other relief as the Court deems just and appropriate.

DATED this 30th day of June, 2017.

DORSEY & WHITNEY LLP

/s/ Peggy Hunt

Peggy Hunt

Nathan Seim

John J. Wiest

Attorneys for D. Ray Strong, Trustee

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

I hereby certify that on June 30th, 2017, I electronically filed the foregoing **MOTION SEEKING AUTHORITY TO SELL REAL PROPERTY AND AFFILIATED WATER RIGHTS LOCATED IN TOOELE, UTAH OUT OF THE ORDINARY COURSE OF BUSINESS AND FREE AND CLEAR OF ALL INTERESTS PURSUANT TO 11 U.S.C. § 363, AND TO PAY SECURED CREDITOR, TAXES AND COSTS OF SALE FROM 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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/s/ Candy Long

EXHIBIT 1

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*Attorneys for D. Ray Strong, Liquidating Trustee of the
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- Affects Only the Substantively
Consolidated Debtors
- Affects only Castle Arch
Opportunity Partners I, LLC
- Affects only Castle Arch
Opportunity Partners II, LLC

**DECLARATION OF D. RAY STRONG IN SUPPORT OF MOTION SEEKING
AUTHORITY TO SELL REAL PROPERTY AND AFFILATED WATER RIGHTS
LOCATED IN TOOELE, UTAH OUT OF THE ORDINARY COURSE OF BUSINESS
AND FREE AND CLEAR OF ALL INTERESTS PURSUANT TO 11 U.S.C. § 363, AND
TO PAY SECURED CREDITOR, TAXES AND COSTS OF SALE FROM SALE
PROCEEDS**

I, D. Ray Strong, being of lawful age, declare, certify, verify, and state as follows:

1. I am 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 the debtors in the above-captioned case.

2. I submit this Declaration in support of the *Motion Seeking Authority to Sell Real Property and Affiliated Water Rights Located in Tooele, Utah Out of the Ordinary Course of Business and Free and Clear of All Interests Pursuant to 11 U.S.C. § 363, and to Pay Secured Creditor, Taxes and Costs of Sale From Sale Proceeds* (the "Motion").¹

3. I make all of the following statements based on my personal knowledge.

4. I obtained the Title Report for the Property attached hereto as Exhibit A.

5. Commerce Real Estate Solutions ("Commerce") has marketed the Property for private sale pursuant to a Court-approved Listing Agreement from June 29, 2012. In February 2014, after entry of the Confirmation Order, I, as the Trustee of the Legacy Trust, entered into a new Listing Agreement with Dell Nichols Realty & Development, LLC ("Nichols Realty") for the sale of the Property, which was retroactive to December 3, 2013. I am informed that Commerce has no interest in this case at this point, and all work and commissions are owed to Nichols Realty. I have been working with Nicholas Realty and am familiar with the work they have done to market the Property.

6. The Property has been actively marketed for private sale, 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)

¹ All capitalized terms used herein but not defined shall have the meanings attributed to them in the Motion.

engaging the regional economic development community; (f) soliciting targeted category buyers; and (g) otherwise promoting the Property's availability to the national marketplace.

7. On June 21, 2017, I entered into an agreement (the "Sale Agreement") to sell the Property to Samuel D. Howard (the "Buyer") for a total purchase price of \$480,000.00, subject to Court approval and higher and better offers. A true and correct copy of the Sale Agreement is attached hereto as Exhibit B. This price is based, in part, on Water being assigned a value of \$4,500.00 per acre foot. Therefore, \$108,000.00 of the total purchase price is attributed to the Water.

8. Since receiving the Buyer's offer, I have instructed Nichols Realty to continue marketing the Property for sale through the Higher and/or Better Deadline.

9. Following close of the sale of the Property, I anticipate paying from the gross proceeds of the sale the costs of sale, which will include the 6% commission as set forth in the Listing Agreement.

10. There are outstanding property taxes on the Property, and I anticipate paying the property taxes out of the gross sale proceeds. *See Exhibit A.*

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

12. I believe that the sale of the Property as set forth in the Sale Agreement, including the total sales price, is fair, reasonable, and in the best interests of the Legacy Trust and its beneficiaries. The sale will maximize the value of the value of the Property, minimize the costs to the Legacy Trust, and produce a good-faith purchaser. My opinion is based on several factors, including but not limited to the following:

- a. the length of time the Property has been marketed for sale;
- b. the advice of Nichols and those acting under its direction, who have experience in selling land similar to the Property;
- c. the arm's-length nature of the negotiations related to the terms of the Sale Agreement;
- d. the cash nature of the sale;
- e. the relatively quick closing of the sale, and the lack of any request due diligence period;
- f. my ability under the Sale Agreement to accept higher and/or better offers for the Property; and
- g. the cessation of continuing costs of administration of the Property.

13. I will post a copy of this Motion on my website, and I have instructed Nichols Realty to provide notice of the proposed sale to any parties who have expressed an interest in the Property.

14. I have instructed Nichols Realty to continue to market the Property for sale through the Higher and/or Better Deadline, and I will consider competing offers for the Property, if any, prior to the expiration of the Higher and/or Better Deadline.


15. To the extent I receive a competing offer for the Property prior to the Higher and/or Better Deadline that I consider higher and/or better, I will cause notice of the offer to be provided to the Buyer. All offers will be negotiated at arm's length and in good faith.

16. The parties' negotiation of the Sale Agreement has been at arms' length and in good faith, and all acts culminating in the closing of the Sale Agreement will likewise be negotiated and conducted through arms' length transactions and in good faith.

17. To the best of my knowledge and belief, the Buyer is an independent third party that has no connections to me, the Debtors, or the Legacy Trust, and there has been no fraud or collusion between the Buyer and me.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

DATED this 28th day of June, 2017.



D. Ray Strong, *Liquidating Trustee*

EXHIBIT A

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REAL ESTATE PURCHASE CONTRACT FOR LAND



This is a legally binding Real Estate Purchase Contract ("REPC"). If you desire legal or tax advice, consult your attorney or tax advisor.

OFFER TO PURCHASE AND EARNEST MONEY DEPOSIT

On this 1st day of June, 2017 ("Offer Reference Date") Samuel D Howard ("Buyer") offers to purchase from Ray Strong, Trustee ("Seller") the Property described below and [] delivers to the Buyer's Brokerage with this offer, or [X] agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), Earnest Money in the amount of \$15,000 in the form of Certified Check. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

Buyer's Brokerage Equity Real Estate Phone: 801-790-4136

Received by: _____ on _____
(Signature above acknowledges receipt of Earnest Money) (Date)

OTHER PROVISIONS

1. **PROPERTY:** Approximately 2000 North Droubay Road, Tooele, UT 84074;

also described as: Specifically Lot 5 (APN:03-024-0-0005) and Lot 6 (APN: 03-024-0-0007)

City of Tooele, County of Tooele State of Utah, Zip 84074 (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, and 1.3.

1.1 **Included Items.** (specify) Water Rights to 24 Acre feet (Central Zone)

1.2 **Excluded Items.** (specify) _____

1.3 **Water Service.** The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: _____

2. **PURCHASE PRICE.** The Purchase Price for the Property is \$428,000. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2(a) through 2(d) below. Any amounts shown in 2(b) and 2(d) may be adjusted as deemed necessary by Buyer and the Lender.

\$15,000 (a) **Earnest Money Deposit.** Under certain conditions described in the REPC, this deposit may become totally non-refundable.

\$ _____ (b) **New Loan.** Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer.

\$ _____ (c) **Seller Financing.** (see attached Seller Financing Addendum)

\$413,000 (d) **Balance of Purchase Price in Cash at Settlement**

\$428,000 **PURCHASE PRICE.** Total of lines (a) through (d)

3. SETTLEMENT AND CLOSING.

3.1 **Settlement.** Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any money required to be paid by Buyer or Seller under these documents

Buyer's Initials SDH Date 06/01/2017 Seller's Initials DLS Date 6/2/17
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(except for the proceeds of any new loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

3.2 Prorations. All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 3.2 shall survive Closing.

3.3 Greenbelt. If any portion of the Property is presently assessed as "Greenbelt" the payment of any roll-back taxes assessed against the Property shall be paid for by: Seller Buyer Split Equally Between Buyer and Seller Other (explain)

3.4 Special Assessments. Any assessments for capital improvements as approved by the HOA (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by: Seller Buyer Split Equally Between Buyer and Seller Other (explain)

The provisions of this Section 3.4 shall survive Closing.

3.5 Fees/Costs/Payment Obligations. Unless otherwise agreed to in writing, Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Tenant deposits (including any prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Buyer agrees to be responsible for homeowners' association and private and public utility service transfer fees, if any, and all utilities and other services provided to the Property after the Settlement Deadline. The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 3.5 shall survive Closing.

3.6 Closing. For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder. The actions described in 3.6 (b) and (c) shall be completed within four calendar days after Settlement.

4. POSSESSION. Seller shall deliver physical possession of the Property to Buyer as follows: Upon Closing; ___ Hours after Closing; ___ Calendar Days after Closing; Other (explain)

Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property. Seller agrees to deliver the Property to Buyer free of debris and personal belongings. The provisions of this Section 4 shall survive Closing.

5. CONFIRMATION OF AGENCY DISCLOSURE. Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC:

Seller's Agent Dell Nicholls, represents Seller both Buyer and Seller as a Limited Agent;

Seller's Brokerage Dell Nicholls Commercial Real Estate, LLC, represents Seller both Buyer and Seller as a Limited Agent;

Buyer's Agent Ted F Bubert, II, represents Buyer both Buyer and Seller as a Limited Agent;

Buyer's Brokerage Equity Real Estate - Buckley Branch, represents Buyer both Buyer and Seller as a Limited Agent.

6. TITLE & TITLE INSURANCE.

6.1 Title to Property. Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8. Buyer also agrees to accept title to the Property subject to any existing leases rental and property management agreements affecting the Property not expiring prior to Closing which were provided to Buyer pursuant to Section 7(e). The provisions of this Section 6.1 shall survive Closing.

6.2 Title Insurance. At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment, the most current version of an ALTA standard coverage owner's policy of title insurance. Any additional title insurance coverage desired by Buyer shall be at Buyer's expense.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

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- (a) a written Seller Property Condition Disclosure (Land) for the Property, completed, signed and dated by Seller as provided in Section 10.2;
- (b) a Commitment for Title Insurance as referenced in Section 6.1;
- (c) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (d) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (e) a copy of any lease, rental, and property management agreements affecting the Property not expiring prior to Closing;
- (f) evidence of any water rights and/or water shares referenced in Section 1.3;
- (g) written notice of any claims and/or conditions known to Seller relating to environmental problems; and violation of any CC&R's, federal, state or local laws, and building or zoning code violations; and
- (h) Other (specify) _____

8. BUYER'S CONDITIONS OF PURCHASE.

8.1 DUE DILIGENCE CONDITION. Buyer's obligation to purchase the Property: IS IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply; otherwise they do not.

(a) **Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the Property; the costs and availability of flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property; and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

(b) **Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

(c) **Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(b), Buyer shall be deemed to have waived the Due Diligence Condition.

8.2 APPRAISAL CONDITION. Buyer's obligation to purchase the Property: IS IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply; otherwise they do not.

(a) **Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2(a), Buyer shall be deemed to have waived the Appraisal Condition.

8.3 FINANCING CONDITION. Buyer's obligation to purchase the property: IS IS NOT conditioned upon Buyer obtaining the Loan referenced in Section 2(b). This condition is referred to as the "Financing Condition." If checked in the affirmative, Sections 8.3(a) and 8.3(b) apply; otherwise they do not. If the Financing Condition applies, Buyer agrees to work diligently and in good faith to obtain the Loan.

(a) **Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to Seller or to the escrow/closing office as required under Section 3.6 of the REPC, then Buyer or Seller may cancel the REPC by providing written notice to the other party; whereupon the Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. In the event of such cancellation, Seller agrees to accept as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate,

Buyer's Initials SDH Date 06/01/2017 Seller's Initials DL Date 6/2/17

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and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

8.4 ADDITIONAL EARNEST MONEY DEPOSIT. If the REPC has not been previously cancelled by Buyer as provided in Sections 8.1, 8.2 or 8.3(a), then no later than the Due Diligence Deadline referenced in Section 24(b), or the Financing & Appraisal Deadline referenced in Section 24(c), whichever is later, Buyer: WILL WILL NOT deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$-_____. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

9. ADDENDA. There ARE ARE NOT addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference: Addendum No. 1 Seller Financing Addendum Other (specify) _____

10. AS-IS CONDITION OF PROPERTY.

10.1 Condition of Property/Buyer Acknowledgements. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property.

10.2 Condition of Property/Seller Acknowledgements. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller Property Condition Disclosure (Land) as stated in Section 7(a); and (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23. The provisions of Sections 10.1 and 10.2 shall survive Closing.

11. FINAL PRE-SETTLEMENT INSPECTION.

11.1 Pre-Settlement Inspection. At any time prior to Settlement, Buyer may conduct a final pre-Settlement inspection of the Property to determine only that the Property is "as represented", meaning that the items referenced in Sections 1.1, 1.3 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a pre-Settlement inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented. If the items are not as represented, Seller agrees to cause all applicable items to be corrected, repaired or replaced (the "Work") prior to the Settlement Deadline referenced in Section 24(d).

11.2 Escrow to Complete the Work. If, as of Settlement, the Work has not been completed, then Buyer and Seller agree to withhold in escrow at Settlement a reasonable amount agreed to by Seller, Buyer (and Lender, if applicable), sufficient to pay for completion of the Work. If the Work is not completed within thirty (30) calendar days after the Settlement Deadline, the amount so escrowed may, subject to Lender's approval, be released to Buyer as liquidated damages for failure to complete the Work. The provisions of this Section 11.2 shall survive Closing.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any leases, rental or property management agreements shall be made; (b) no new lease, rental or property management agreements shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; (d) no further financial encumbrances to the Property shall be made, and (e) no changes in the legal title to the Property shall be made.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

14. COMPLETE CONTRACT. The REPC together with its addenda, any attached exhibits, and Seller Disclosures (collectively referred to as the "REPC"), constitutes the entire contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties whether verbal or otherwise. The REPC cannot be changed except by written agreement of the parties.

15. MEDIATION. Any dispute relating to the REPC arising prior to or after Closing: SHALL MAY AT THE OPTION OF THE PARTIES first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this

Buyer's Initials



Date

06/01/2017

Seller's Initials

DWS

Date

6/20/17

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Section 15 prohibits any party from seeking emergency legal or equitable relief, pending mediation. The provisions of this Section 15 shall survive Closing.

16. DEFAULT.

16.1 Buyer Default. If Buyer defaults, Seller may elect one of the following remedies: (a) cancel the REPC and retain the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages; (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Buyer to specifically enforce the REPC; or (c) return the Earnest Money Deposit, or Deposits, if applicable, to Buyer and pursue any other remedies available at law.

16.2 Seller Default. If Seller defaults, Buyer may elect one of the following remedies: (a) cancel the REPC, and in addition to the return of the Earnest Money Deposit, or Deposits, if applicable, Buyer may elect to accept from Seller, as liquidated damages, a sum equal to the Earnest Money Deposit, or Deposits, if applicable; or (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Seller to specifically enforce the REPC; or (c) accept a return of the Earnest Money Deposit, or Deposits, if applicable, and pursue any other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

17. ATTORNEY FEES AND COSTS/GOVERNING LAW. In the event of litigation or binding arbitration to enforce the REPC, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15. This contract shall be governed by and construed in accordance with the laws of the State of Utah. The provisions of this Section 17 shall survive Closing.

18. NOTICES. Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.

19. NO ASSIGNMENT. The REPC and the rights and obligations of Buyer hereunder, are personal to Buyer. The REPC may not be assigned by Buyer without the prior written consent of Seller. Provided, however, the transfer of Buyer's interest in the REPC to any business entity in which Buyer holds a legal interest, including, but not limited to, a family partnership, family trust, limited liability company, partnership, or corporation (collectively referred to as a "Permissible Transfer"), shall not be treated as an assignment by Buyer that requires Seller's prior written consent. Furthermore, the inclusion of "and/or assigns" or similar language on the line identifying Buyer on the first page of the REPC shall constitute Seller's written consent only to a Permissible Transfer.

20. INSURANCE & RISK OF LOSS.

20.1 Insurance Coverage. As of Closing, Buyer shall be responsible to obtain such casualty and liability insurance coverage on the Property in amounts acceptable to Buyer and Buyer's Lender, if applicable.

20.2 Risk of Loss. If prior to Closing, any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Seller; provided however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the Purchase Price referenced in Section 2, Buyer may elect to either: (i) cancel the REPC by providing written notice to the other party, in which instance the Earnest Money, or Deposits, if applicable, shall be returned to Buyer; or (ii) proceed to Closing, and accept the Property in its "As-Is" condition.

21. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in the REPC. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in the REPC: (a) performance under each Section of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (e.g. Acceptance). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the REPC, except as otherwise agreed to in writing by such non-party.

22. ELECTRONIC TRANSMISSION AND COUNTERPARTS. Electronic transmission (including email and fax) of a signed copy of the REPC, any addenda and counteroffers, and the retransmission of any signed electronic transmission shall be the same as delivery of an original. The REPC and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. "Acceptance" occurs **only** when **all** of the following have occurred: (a) Seller or Buyer has signed the offer or counteroffer where noted to indicate acceptance; and (b) Seller or Buyer or their agent has communicated to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

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24. CONTRACT DEADLINES. Buyer and Seller agree that the following deadlines shall apply to the REPC:

- (a) Seller Disclosure Deadline June 09, 2017 (Date)
- (b) Due Diligence Deadline June 30, 2017 (Date)
- (c) Financing & Appraisal Deadline June 30, 2017 (Date)
- (d) Settlement Deadline July 10, 2017 (Date)

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 7 : 00 [] AM [X] PM Mountain Time on June 08, 2017 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

<i>Samuel David Howard</i>	<small>dotloop verified 06/01/17 11:23AM MDT KPYX-QQWJ-VY15-U010</small>	<u>06/01/2017</u>	
(Buyer's Signature)	(Offer Date)	(Buyer's Signature)	(Offer Date)

Samuel D Howard			
(Buyer's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)

(Buyer's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

- ACCEPTANCE OF OFFER TO PURCHASE: Seller Accepts the foregoing offer on the terms and conditions specified above.
- COUNTEROFFER: Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. 2.
- REJECTION: Seller rejects the foregoing offer.

➤ <i>SDH</i>	<u>7/21/17</u>				
(Seller's Signature)	(Date)	(Time)	(Seller's Signature)	(Date)	(Time)

(Seller's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)

(Seller's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)

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Buyer's Initials <u>SDH</u>	Date <u>06/01/2017</u>	Seller's Initials <u>DJS</u>	Date <u>6/21/17</u>
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dotloop signature verification: www.dotloop.com/my/verification/01-149509126-3-0371



ADDENDUM NO. 1
TO
REAL ESTATE PURCHASE CONTRACT



THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 1st day of June, 2017 including all prior addenda and counteroffers, between Samuel D Howard as Buyer, and Ray Strong, Trustee as Seller, regarding the Property located at Approximately 2000 North Droubay Road, Tooele, UT 84074 (Lot 5 and Lot 6). The following terms are hereby incorporated as part of the REPC:

1. This is a cash offer of \$428,000.
2. There are no additional contingencies.
3. Purchase price includes water rights to 24 acre feet of water (Central Zone).
4. Buyer will entertain the possibility of acquiring additional water shares if additional shares become available.
5. Buyer recognizes the unique nature and extended timelines inherent with the bankruptcy approvals and will authorize an addendum to the Real Estate Purchase Contract (REPC) to bring contract dates (namely, Seller's Acceptance) into compliance, as long as settlement occurs on or before July 31, 2017 as stipulated in Section 24 of the REPC.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): REMAIN UNCHANGED ARE CHANGED AS FOLLOWS: _____

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until 7 : 00 AM PM Mountain Time on July 10, 2017 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

<i>Samuel David Howard</i>	dotloop verified 06/01/17 11:23AM MDT IGSC-GG1P-WMQB-KHOC	06/01/2017	
<input checked="" type="checkbox"/> Buyer <input type="checkbox"/> Seller Signature	(Date)	(Time)	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

- ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.
- COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. 2

→ *Ray Strong* Trustee 6/2/17

(Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

Buyer's Initials SDH Seller's Initials RS
06/01/17 11:23AM MDT 6/2/17

dotloop signature verification:

**ADDENDUM #2
REAL ESTATE PURCHASE CONTRACT**

This is an [] ADDENDUM [X] COUNTER OFFER to that PURCHASE CONTRACT (the "Contract") with an Offer Reference Date of 1st day of June, 2017, including all prior addenda and counteroffers, between Sam D Howard as Buyer, and Legacy Trust Effective as of July 22, 2013 as successor in interest to Castle Arch Real Estate Investment Company, LLC., as Seller, regarding the property located in Tooele County, UT.

The following terms are hereby incorporated as part of the REPC, including as amended per Addendum #1, and to the extent these terms modify or conflict with any provisions of the REPC, these terms shall control. All other terms of the REPC not modified shall remain the same.

1. The Seller is Legacy Trust Effective as of July 22, 2013 as successor in interest to Castle Arch Real Estate Investment Company, LLC. It is understood and agreed that the U.S. Bankruptcy Court for the District of Utah (the "Bankruptcy Court") must approve the sale of the Property and this Contract, and any other items or personal property described within the REPC, and that the effectiveness of this Contract is expressly conditioned on the Bankruptcy Court's entry of an Order approving the same. This offer is subject to all approvals stated herein. If multiple offers are tendered, all offers are subject to the Seller's determination of the "highest or best offer" as approved by the Bankruptcy Court.
2. The purchase price of the land shall be \$381,307.00 (\$4,850 per acre) and the price of the water rights shall be \$108,675.00 (\$4,500 per acre foot) for a total purchase price of \$489,982.00.
3. Earnest money deposit shall be \$25,000.00 deposited with Metro National Title.
4. Section 6.1 shall read that "Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by "Trustee Deed". The sale of Property is "AS IS" with no representations or warranties by the Trustee, except that (a) he has the authority to enter into this Contract, subject to Bankruptcy Court approval, and (b) that he will seek approval of the sale free and clear of liens and interest under 11 U.S.C. § 363(b) and (f).
5. Section 7 and 10.2 of REPC: Sale is "AS IS WHERE IS" by a liquidating trustee in bankruptcy. Seller will provide Buyer documents in his possession that are relevant to the transaction, which may or may not include the items listed in Section 7 and 10.2 of the REPC. But in doing so, the Seller is not making any representations or warranties as to the Property or the accuracy of the information. No Seller Property Condition Disclosure will be executed or provided.
6. Contract Dates to be altered as follows: Seller Disclosures, as amended herein, to be provided to Buyer ten (10) days after acceptance of Counter Offer, Due Diligence Deadline shall be twenty (20) days after acceptance of Counter Offer, Settlement and closing fifteen (15) days after an Order by the Bankruptcy Court approving the sale and this agreement.
7. Upon expiration of the Due Diligence Period, if Contract has not been cancelled by Buyer, Seller will prepare and file with the Bankruptcy Court papers necessary to obtain Bankruptcy Court approval, and Buyer will reasonably cooperate in obtaining an order approving the Contract and the sale.
8. Buyer to deposit Earnest Money deposit to the Metro National Title Company's Trust Account within five (5) business days of acceptance. Closing of the transaction will be through Marisa Bouck at Metro National Title Company. At the end of the Due Diligence Period following Bankruptcy Court approval, the earnest money deposit will be non-refundable to Buyer, but applicable to purchase price.
9. Section 11 of the REPC: Deleted in its entirety. Seller will make the Property available for inspection on reasonable request.
10. Section 15 of REPC: Deleted in its entirety and all references to mediation and arbitration in the REPC are deleted. In the event of any dispute related to the REPC or the Property subject to the REPC, the parties agree that the dispute will be resolved in the Bankruptcy Court and the Buyer agrees to the jurisdiction of the Bankruptcy Court.
11. Section 19 of REPC: In the event of a Permissible Transfer, the Buyer shall give written notice to Seller of the Permissible Transfer no later than five (5) days prior to the Permissible Transfer.



DAS
6/30/17

dotloop signature verification:

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[] Seller [X] Buyer shall have until 5:00 [] A.M. [X] P.M. Mountain Time, June 7, 2017, to accept these terms in accordance with Section 23 of the REPC. Unless so accepted, this offer shall lapse.

Seller:

By:

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

Date:

6/5/17

ACCEPTANCE/REJECTION/COUNTER OFFER

CHECK ONE: [] Acceptance: [] Seller [] Buyer hereby accepts these terms.

(IF COMPANY SELLER/BUYER)

Company name: _____

By: _____

Its: _____

(IF INDIVIDUAL SELLER/BUYER)

Samuel David Howard

dotloop verified
06/05/17 9:16PM MDT
UE0T-SWNH-SUNX-OPMB


(Seller's/Buyer's Signature)

Samuel D Howard

(Print Seller's/Buyer's Name)

[] Rejection: [] Seller [] Buyer rejects these terms.

[X] Counter Offer: [] Seller [X] Buyer presents as a counter offer the terms set forth on the attached Counter Offer

[X] Buyer [] Seller  initials

[] Buyer [] Seller DL initials Date: 6/21/17

dnboop signature verification:



**ADDENDUM NO. 3A
TO
REAL ESTATE PURCHASE CONTRACT**



THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 06/01/2017 including all prior addenda and counteroffers, between Samuel D Howard as Buyer, and Ray Strong, Trustee as Seller, regarding the Property located at Lot 5 (APN:03-024-0-0005), Lot 6 (APN:03-024-0-0007). Water rights to 24 Acre feet of water. The following terms are hereby incorporated as part of the REPC:

1. Purchase price to be \$480,000.
2. Buyer accepts all other terms listed on Addendum #2
3. Seller is recognized as Legacy Trust Effective as of July 22, 2013 as successor in interest to Castle Arch Real Estate Investment Company, LLC.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): REMAIN UNCHANGED ARE CHANGED AS FOLLOWS: _____

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until 7 : 00 AM PM Mountain Time on June 08, 2017 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

Samuel David Howard dnboop verified
06/06/17 12:55PM MDT
FYL-JS-D UBERM-MC6M 06/06/2017

Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

- CHECK ONE:
 ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.
 COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. ____

Ray Strong 6/14/17
 (Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.
 (Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

dotloop signature verification:

**ADDENDUM #4
REAL ESTATE PURCHASE CONTRACT**

This is an ADDENDUM COUNTER OFFER to that PURCHASE CONTRACT (the "Contract") with an Offer Reference Date of 1st day of June, 2017, including all prior addenda and counteroffers, between Sam D Howard as Buyer, and Legacy Trust Effective as of July 22, 2013 as successor in interest to Castle Arch Real Estate Investment Company, LLC, as Seller, regarding the property located in Tooele County, UT.

The following terms are hereby incorporated as part of the REPC, including as amended per Addendum #1, and to the extent these terms modify or conflict with any provisions of the REPC, these terms shall control. All other terms of the REPC not modified shall remain the same.

- 1. The Seller, Legacy Trust, shall have until 5 PM MDT on June 14, 2017 to acceptance the terms outlined in Addendum 3A.

Seller Buyer shall have until 5:00 A.M. P.M. Mountain Time, June 8, 2017, to accept these terms in accordance with Section 23 of the REPC. Unless so accepted, this offer shall lapse.

Seller:

By:

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

Date:

6/7/17



ACCEPTANCE/REJECTION/COUNTER OFFER

CHECK ONE: Acceptance: Seller Buyer hereby accepts these terms.

(IF COMPANY SELLER/BUYER)

(IF INDIVIDUAL SELLER/BUYER)

Company name: _____

Samuel David Howard
dotloop verified 06/07/17 3:53PM MDT WFAM-PWYW-CSZB-RP61
(Seller's/Buyer's Signature)

By: _____

(Print Seller's/Buyer's Name)

Its: _____

Rejection: Seller Buyer rejects these terms.

Counter Offer: Seller Buyer presents as a counter offer the terms set forth on the attached Counter Offer

Buyer Seller *SDH* initials

Buyer Seller *DU* initials Date: 6/21/17

EXHIBIT B

Order Number: 57657

Escrow Officer: Marlisa Bouck at (801) 561-9166



PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

Types of Information

Depending on which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, but telephone or any other means;
- Information about your transaction with us, our affiliated companies, or other; and
- Information we receive a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any non affiliated party. Therefore, we will not release your information to non affiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purposes, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166



Chicago Title Insurance Company
COMMITMENT FOR TITLE INSURANCE

Issued by

Chicago Title Insurance Company

Chicago Title Insurance Company, a Missouri 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 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.

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.

Countersigned:
Metro National Title
345 East 300 South
Salt Lake City, UT
801-363-6633

Authorized Signatory

CHICAGO TITLE INSURANCE COMPANY



By:
President
ATTEST

Secretary

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166



Order Number: 57656

Client File Number:

1. Effective date: **June 1, 2017 at 7:45 AM**

2. Policy or Policies to be issued:	Amount of Insurance
(a) 2006 A.L.T.A. Owners	\$480,000.00
Owner's Premium	\$2,525.00

Proposed Insured:
Samual D Howard

(b) 2006 A.L.T.A. Loan (Extended)	Amount of Insurance
Loan Premium	\$0.00

Endorsements:

Endorsement Premium(s) **\$0.00**

Proposed Insured:

(c) Leasehold	\$
---------------	-----------

Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment and covered herein is:
FEE SIMPLE as to Parcels 1, 2, 3, 4, 5 and 6 and an easement interest as to Parcel 6A

4. Title to the estate or interest in said land is at the effective date hereof vested in:
D. Ray Strong, as Liquidating Trustee for the Consolidated Legacy Debtors Liquidating Trust, as assignee of the assets of the Consolidated Legacy Debtors, pursuant to that certain Order Confirming Chapter 11 Trustee's First Amended Plan of Liquidation Dated February 25, 2013 as Modified, Consolidated Bankruptcy Case No. 11-35082, U.S. Bankruptcy Court, District of Utah, Central Division

5. The land referred to in this Commitment is in the State of Utah, County of Tooele and is described as follows:

See attached Exhibit "A"

Purported Address:

**THIS COMMITMENT IS INVALID UNLESS SCHEDULE B AND COVER ARE ATTACHED
This Commitment may be subject to a Cancellation Fee**

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

Exhibit "A"

Parcel 4:

A parcel of land lying in the Northeast quarter of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian, Tooele County, Utah more particularly described as follows:

Commencing at the center quarter corner of said Section 15, said point also being the real point of beginning; thence North 00°17'13" West along the North-South mid Section line a distance of 1320.23 feet; thence North 89°44'29" East along the South line of the North half of the Northeast quarter a distance of 1320.93 feet; thence South 00°19'16" East along the East line of the Southwest quarter of the Northeast quarter of a distance of 1321.38 feet; thence South 89°47'28" West along the East-West mid Section a distance of 1321.72 feet to the real point of beginning.

Parcel 5:

A parcel of land lying in the Northeast quarter of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian, Tooele County, Utah, more particularly described as follows:

Commencing at the East quarter corner of said Section 15; thence South 89°47'28" West along the East-West mid Section line a distance of 33.00 feet to the real point of beginning; thence continuing along the East-West mid Section line South 89°47'28" West a distance of 1288.72 feet; thence North 00°19'16" West along the West line of the Southeast quarter of the Northeast quarter a distance 1321.38 feet; thence North 89°44'29" East along the North line of the Southeast quarter of the Northeast quarter a distance of 1287.93 feet to a point on the West right of line of Droubay Road; thence South 00°21'19" East along a line that is parallel and 33.00 feet West of the East line of Section 15; a distance of 1322.50 feet to the point of beginning.

Less and excepting therefrom that portion of the subject property as disclosed by that certain Special Warranty Deed recorded April 30, 2013 as Entry No. 383647 , being described as follows:

A parcel of land, lying and situate in the Northeast quarter of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian, Tooele County, Utah. Parcel being more particularly described as follows:

Commencing at the East quarter corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence South 89°47'28" West along the East/West midsection line a distance of 33.00 feet to the Point of Beginning; thence South 89°47'28" West along the East/West midsection line 150.00 feet; thence North 00°21'19" West 110.00 feet; thence North 89°47'28" East 150.00 feet to a point on the West right of way line of Droubay Road; thence South 00°21'19" East 110.00 feet along a line that is more or less parallel and 33.00 feet West of the East line of Section 15 to the Point of Beginning.

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

SCHEDULE B

Section 1

REQUIREMENTS

The following are the requirements to be complied with:

Item (a) Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

Item (b) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record.

TO-WIT:

NOTICE TO APPLICANT: The land covered herein may be serviced by districts, service companies and/or municipalities, which assess charges for water, sewer, electricity and any other utilities, etc. which are not covered by this report or insured under a title insurance policy.

NOTE: If the applicant desires copies of the documents underlying any exception to coverage shown herein, the Company will furnish the same request, if available, either with or without charge as appears appropriate.

NOTE: Any matter in dispute between you and the Company may be subject to arbitration as an alternative to court action pursuant to the Title Insurance Rules of the American Arbitration Association, a copy of which is available on request from the Company. Any decision reached by arbitration shall be binding upon both you and the Company. The arbitration award may include attorney's fees if allowed by state law and may be entered as a judgment in any court of proper jurisdiction.

1. Obtain and record from the Bankruptcy Court an Order to Sale the subject property free and clear , clearing Exception No(s). 23 and 24, shown herein.

2. Pay any charges and/or assessments due to clear Exception(s) No. 8, 9 and 10 shown herein.

3. Pay any charges and/or assessments due to clear Exception(s) No. 11 shown herein.

4. Warranty Deed from the vestee to the proposed insured.

5. Trust Deed to secure your loan.

Vesting Deed Image

Plat Map Image

NOTE: The following names have been checked for Judgments, Federal Tax Liens and Bankruptcies and none appear of record that attach to the herein described property, except as shown herein.

Samual D Howard

D. Ray Strong, as Liquidating Trustee for the Consolidated Legacy Debtors Liquidating Trust,

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

as assignee of the assets of the Consolidated Legacy Debtors, pursuant to that certain Order Confirming Chapter 11 Trustee's First Amended Plan of Liquidation Dated February 25, 2013 as Modified, Consolidated Bankruptcy Case No. 11-35082, U.S. Bankruptcy Court, District of Utah, Central Division

THE UNDERWRITER DESIGNATED FOR THIS FILE SHALL BE Chicago Title Insurance Company

PLEASE DIRECT ANY TITLE INQUIRES TO Randy Day at 801-363-6633

Escrow Officer: Marlisa Bouck at (801) 561-9166

END OF SCHEDULE B – Section 1

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

SCHEDULE B
Section 2

EXCEPTIONS FROM COVERAGE

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. (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, that are 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.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
7. 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 of record for the value the estate or interest or mortgage thereon covered by this Commitment.

The printed Exceptions 1 through 7 will be deleted from the ALTA Extended Loan Policy

8. The following affects Parcel 4:

Lien of Taxes, now accruing as a lien, but not yet due and payable
Year: 2017
Tax ID No.: 03-024-0-0005

The following affects Parcel 5:

Lien of Taxes, now accruing as a lien, but not yet due and payable
Year: 2017
Tax ID No.: 03-024-0-0009

9. The following affects Parcel 4:

DELINQUENT TAXES
Year: 2008
Tax ID No.: 03-024-0-0005
Amount: \$3,323.84, plus penalty and interest.

DELINQUENT TAXES
Year: 2009

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

Tax ID No.: 03-024-0-0005

Amount: \$3,479.04, plus penalty and interest.

DELINQUENT TAXES

Year: 2010

Tax ID No.: 03-024-0-0005

Amount: \$3,402.88, plus penalty and interest.

DELINQUENT TAXES

Year: 2011

Tax ID No.: 03-024-0-0005

Amount: \$3,336.96, plus penalty and interest.

DELINQUENT TAXES

Year: 2012

Tax ID No.: 03-024-0-0005

Amount: \$3,997.12, plus penalty and interest.

DELINQUENT TAXES

Year: 2013

Tax ID No.: 03-024-0-0005

Amount: \$4,140.80, plus penalty and interest.

DELINQUENT TAXES

Year: 2014

Tax ID No.: 03-024-0-0005

Amount: \$4,358.72, plus penalty and interest.

DELINQUENT TAXES

Year: 2015

Tax ID No.: 03-024-0-0005

Amount: \$4,288.00, plus penalty and interest.

DELINQUENT TAXES

Year: 2016

Tax ID No.: 03-024-0-0005

Amount: \$1,750.45, plus penalty and interest.

10. The following affects Parcel 5:

DELINQUENT TAXES

Year: 2013

Tax ID No.: 03-024-0-0007

Amount: \$4,037.28, plus penalty and interest.

DELINQUENT TAXES

Year: 2014

Tax ID No.: 03-024-0-0009

Amount: \$4,208.34, plus penalty and interest.

DELINQUENT TAXES

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

Year: 2015

Tax ID No.: 03-024-0-0009

Amount: \$4,140.06, plus penalty and interest.

DELINQUENT TAXES

Year: 201

Tax ID No.: 03-024-0-0009

Amount: \$1,713.29, plus penalty and interest.

11. The land described herein is located within the boundaries of Tax District 38 and is subject to any assessments levied thereby.

12. Resolution Proposing the Reorganization of the North Tooele County Fire Protection Service District from a Special Service District to a Local District.

Dated: September 03, 2013

Recorded: August 05, 2014

Entry No.: 401706

A Resolution 2013-18

Resolution reorganizing the North Tooele County Fire Protection Service District from a Special Service District to a Local District known as the North Tooele Fire Protection Service District

Recorded; August 5, 2014

Entry No; 401707

Resolution 2014-01

Resolution reorganizing the North Tooele County Fire Protection Service District from a Special Service District to a Local District

Recorded: August 5, 2014

Entry No: 401708

Resolution 2014-01

Certificate of Reorganization to a local district called, the North Tooele Fire Protection Service District dated March 13, 2014.

Dated: July 10, 2014

Recorded: August 5, 2014

Entry No.: 401705

13. Water Rights, claims or title to water, whether or not shown by the public records.

14. Easement, and the terms and conditions thereof:

Grantor: Wayne R. Shields and Carol N. Shields

Grantee: Pacificorp, a Oregon Corporation

Purpose: A perpetual easement and right of way for the erection, operation and continued maintenance, repair, alteration and replacement of the electric transmission distribution and telephone circuits of the Grantee and 0 guy anchors and 4 poles, with the necessary guys, stubs, crossarms, braces and other attachments affixed thereto.

Recorded: May 28, 1992

Entry No.: 47916

Book/Page: 332 / 572

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Escrow Officer: Marlisa Bouck at (801) 561-9166

15. Easement, and the terms and conditions thereof:

Grantor: Hotowen

Grantee: Pacificorp, an Oregon corporation

Purpose: A perpetual easement and right of way for the erection, operation and continued maintenance, repair, alteration and replacement of the electric transmission distribution and telephone circuits of the Grantee and 0 guy anchors and 3 poles, with the necessary guys, stubs, crossarms, braces and other attachments affixed thereto.

Recorded: August 11, 1992

Entry No.: 49342

Book/Page: 335 / 847

16. Road Easement, and the terms and conditions thereof:

Grantor: Tooele County

Grantee: ENS, LLC and their respective legal representatives, successors and assigns.

Purpose: An easement to use a county road for ingress and egress and incidental.

Recorded: August 28, 1997

Entry No.: 100207

Book/Page: 468 / 747

17. The following affects Parcel 3, 4 and 5:

Notice of Claim of Interest

Recorded: October 7, 1971

Entry No.: 295064

Book/Page: 106 / 391

Purpose: Notice of its intent to preserve and keep effective the interest it has by virtue of that certain perpetual easement created by That Easement and Option recorded November 18, 1908 in Book B at Page 488 and assignments thereof by deeds , which assigns the perpetual right, privilege and easement of operating its said smelter at said place, without incurring any liability whatsoever to the first parties, or either of them in respect to any damage, of whatever nature or kind, which it may do in consequence of such operations, either in respect to the matter aforesaid or to the said lands, or in respect to any personal property which the first parties or either of them may now own or may hereafter acquire, within a radius of five miles from said smelter, excluding, however, any lands, as well as the vegetation and trees grown thereon, which the first parties or either of them may hereafter acquire.

18. Easement, and the terms and conditions thereof:

Grantor: Hotowen Charitable Remainder Trust

Grantee: Pacificorp, an Oregon corporation

Purpose: A perpetual easement and right of way for the erection, operation and continued maintenance, repair, alteration and replacement of the electric transmission distribution and telephone circuits of the Grantee and including poles, with the necessary guys, stubs, crossarms, braces and other attachments affixed thereto.

Recorded: January 10, 2005

Entry No.: 234544

Book/Page: 995 / 730

19. Easement, and the terms and conditions thereof:

Grantor: Wayne R. Shields Family Limited Liability Company

Grantee: PacifiCorp, a Oregon corporation

Purpose: A perpetual easement and right of way for the erection, operation and continued maintenance, repair, alteration and replacement of the electric transmission distribution and telephone circuits of the

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Grantee and including poles, with the necessary guys, stubs, crossarms, braces and other attachments affixed thereto.

Recorded: January 10, 2005

Entry No.: 234542

Book/Page: 995 / 723

20. Easement, and the terms and conditions thereof:

Grantor: Francis Marion Shields, a widower, Wayne R. Shields and Carol Shields

Grantee: Mountain Fuel Supply Company, a corporation

Purpose: A right and easement feet in width to lay, maintain, operate, repair, inspect, protect, remove and replace pipelines, valves, valve boxes and other gas transmission and distribution facilities.

Recorded: May 11, 1971

Entry No.: 293025

Book/Page: 101 / 354

21. Subject to the rights of parties in possession of the subject property under unrecorded leases, rental or occupancy agreements and any claims thereunder.

22. A Deed of Trust, and the terms and conditions thereof:

Stated Amount: \$5,380,293.00

Trustor: Castle Arch Real Estate Investment Company, LLC

Trustee: Security Title Insurance

Beneficiary: ANB Financial N.A.

Dated: March 28, 2006

Recorded: March 31, 2006

Entry No.: 257274

Assignment of Real Estate Deed of Trust

Assigned to: ANB Venture, LLC, a Delaware limited liability company

Recorded: April 7, 2009

Entry No: 323661

Substitution of Trustee

Successor Trustee: First American Title Insurance Agency, LLC, a Delaware limited liability company

Recorded: December 14, 2009

Entry No: 336056

Deed of Trust Modification

Grantor: Lakeview Castle Arch Real Estate Investment Company LLC, a California limited liability company

Lender: ANB Venture, LLC, a Delaware limited liability company

Recorded: August 30, 2010

Entry No: 346294

Second Deed of Trust Modification

Grantor: Lakeview Castle Arch Real Estate Investment Company LLC, a California limited liability company

Lender: ANB Venture, LLC, a Delaware limited liability company

Recorded: September 24, 2010

Entry No: 347386

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

Notice of Default and Election to Sell

Trustee: First American Title Insurance Agency LLC, a Delaware limited liability company

Recorded: April 27, 2011

Entry No: 355822

The affect, if any, of the following described document:

Substitution of Trustee

Beneficiary: Southern Properties in Northern Dollars, LLC

Successor Trustee: U.S. Title Insurance Agency, LLC

Recorded: May 1, 2013

Entry No: 383674

Note: The signer of the document does not appear to be the beneficiary of record. Also the legal description appears to be in error.

The affect, if any of the following document:

Partial Reconveyance

Successor Trustee: US Title Insurance Agency, LLC

Recorded: May 1, 2013

Entry No: 383675

23. Open and Pending Bankruptcy:

Debtor: Castle Arch Real Estate Investment Company, LLC

Case Number: 11-35082

Filed: October 17, 2011

Filed Under Chapter: 11

24. Open and Pending Bankruptcy:

Debtor: Castle Arch Opportunity Partners I, LLC

Case Number: 11-35240

Filed: October 20, 2011

Filed Under Chapter: 11

END OF SCHEDULE B – Section 2

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166

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>>.*

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Escrow Officer: Marlisa Bouck at (801) 561-9166

Chicago Title Insurance Company

We recognize and respect the privacy expectations of today's consumers and the requirements of applicable federal and state privacy laws. We believe that making you aware of how we use your non-public personal information ("Personal Information"), and to whom it is disclosed, will form the basis for a relationship of trust between us and the public that we serve. This Privacy Statement provides that explanation. We reserve the right to change this Privacy Statement from time to time consistent with applicable privacy laws.

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

- From applications or other forms we receive from you or your authorized representative;
 - From your transactions with, or from the services being performed by, us, our affiliates, or others;
 - From our internet web sites;
 - From the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others;
- and
- From consumers or other reporting agencies.

Our Policies Regarding the Protection of the Confidentiality and Security of Your Personal Information

We maintain physical, electronic and procedural safeguards to protect your Personal Information from unauthorized access or intrusion. We limit access to the Personal Information only to those employees who need such access in connection with providing products or services to you or for other legitimate business purposes.

Our Policies and Practices Regarding the Sharing of Your Personal Information

We may share your Personal Information with our affiliates, such as insurance companies, agents, and other real estate settlement service providers. We also may disclose your Personal Information:

- to agents, brokers or representatives to provide you with services you have requested;
 - to third-party contractors or service providers who provide services or perform marketing or other functions on our behalf; and
- to others with whom we enter into joint marketing agreements for the products or services that we believe you may find of interest.

In addition we will disclose your Personal Information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

One of the important responsibilities of some of our affiliated companies is to record documents in the public domain. Such documents may contain your Personal Information.

Right to Access Your Personal Information and Ability To Correct Errors Or Request Changes Or Deletion

Certain states afford you the right to access your Personal Information and, under certain circumstances, to find out to whom your Personal Information has been disclosed. Also, certain states afford you the right to request corrections, amendment or deletion of your Personal Information. We reserve the right, where permitted by law, to charge a reasonable fee to cover the costs incurred in responding to such requests.

All requests must be made in writing to the following address:

Privacy Compliance Officer
Chicago Title Insurance Company
601 Riverside Avenue, 12th Floor
Jacksonville, FL 32204

Multiple Products or Service

If we provide you with more than one financial product or service, you may receive more than one privacy notice from us. We apologize for any inconvenience this may cause you.

Order Number: 57656

Escrow Officer: Marlisa Bouck at (801) 561-9166



PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

Types of Information

Depending on which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, but telephone or any other means;
- Information about your transaction with us, our affiliated companies, or other; and
- Information we receive a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any non affiliated party. Therefore, we will not release your information to non affiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purposes, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.