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

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

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In re:

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

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

Debtors.

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

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

(Chapter 11)

The Honorable Joel T. Marker

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

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**MOTION SEEKING AUTHORITY TO SELL REAL PROPERTY 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  
TAXES AND COSTS OF SALE FROM SALE PROCEEDS**

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D. Ray Strong (the “Trustee”), as the duly appointed Liquidating Trustee of the Consolidated Legacy Debtors Liquidating Trust (the “Legacy Trust”) and the Chapter 11 Trustee and post-confirmation estate representative for the consolidated bankruptcy estates of Castle Arch Real Estate Investment Company, LLC (“CAREIC”), CAOP Managers, LLC, Castle Arch Kingman, LLC, Castle Arch Smyrna, LLC, Castle Arch Secured Development Fund, LLC, and Castle Arch Star Valley, LLC (“CASV”) (collectively, the “Legacy Debtors”), by and through his undersigned counsel, moves this Court for entry of an Order authorizing the private sale of certain real property 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 located in Tooele, Utah. This property is comprised of several parcels.

6. Relevant to this Motion is one parcel of the Tooele property (hereinafter the "Property").

7. The Property is located at approximately 2000 North Droubay Road, Tooele, UT 84074, with tax parcel ID number 03-014-0-0020, and is more fully described in a Title Report attached to the Strong Declaration.<sup>1</sup>

#### *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.<sup>2</sup> In February 2014, after entry of the Confirmation Order, the Trustee, as the Trustee of the Legacy Trust,

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<sup>1</sup> Strong Declaration at Exh. A (Title Report).

<sup>2</sup> See Docket Nos. 252 and 276 (Commerce employment papers and Listing Agreement).

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.<sup>3</sup>

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.<sup>4</sup>

10. On July 5, 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 \$38,901.00, subject to Court approval and higher and better offers.<sup>5</sup> A true and correct copy of the Sale Agreement is attached to the Strong Declaration.<sup>6</sup>

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).<sup>7</sup>

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<sup>3</sup> Strong Declaration at ¶ 5.

<sup>4</sup> *Id.* at ¶ 6.

<sup>5</sup> *Id.* at ¶ 7.

<sup>6</sup> *Id.* at Exh. B (Sale Agreement). This same Parcel was previously under contract with Dan Blanchette. *See* Docket No. 1354 (Motion to Sell). But, that buyer passed away prior to the closing of the sale, and the Trustee has been informed that that sale is terminated. Strong Declaration at n. 2.

<sup>7</sup> *Id.* at ¶ 8.

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 \$38,901.00.
- 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 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).

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.<sup>8</sup>

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<sup>8</sup> See Strong Declaration at Exh. B (Sale Agreement).

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.<sup>9</sup>

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.<sup>10</sup>

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<sup>9</sup> Strong Declaration, ¶ 9.

<sup>10</sup> See Strong Declaration, ¶ 10 & Exh. A (Title Report).

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

Notice

22. Notice of this Motion will also be served on all parties in interest in this case, and be posted on the Trustee’s website.<sup>11</sup>

**RELIEF REQUESTED**

23. 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 payment of actual and necessary costs of sale, including a commission to Nichols Realty, and outstanding real property taxes.

24. 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.<sup>12</sup> The Trustee thus maintains that this Motion should be granted.

**ARGUMENT**

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

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<sup>11</sup> Strong Declaration, ¶ 11.

<sup>12</sup> *Id.* at ¶ 12.

25. The Bankruptcy Code provides that the “trustee, after notice and a hearing, may use, sell, lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1).<sup>13</sup>

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

- a. a sound business reason exists for the sale;
- b. there has been adequate and reasonable notice to interested parties, including full disclosure of the sale terms and the Debtor’s relationship with the buyer;
- c. the sale price is fair and reasonable; and
- d. the proposed buyer is proceeding in good faith.<sup>14</sup>

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

Sound Business Purpose

28. Courts show great deference to a trustee’s decision-making.<sup>15</sup> Once a trustee articulates a valid business judgment for a sale, “a presumption of reasonableness attaches to a trustee’s management decisions.”<sup>16</sup>

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<sup>13</sup> 11 U.S.C. § 363(b)(1).

<sup>14</sup> See *In re Medical Software Solutions*, 286 B.R. 431, 439-40 (Bankr. D. Utah 2002).

<sup>15</sup> See *Summit Land Co. v. Allen (In re Summit Land Co.)*, 13 B.R. 310, 315 (Bankr. D. Utah 1981).

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



29. 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;
- e. the relatively quick closing of the sale, and the lack of any requested 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.<sup>17</sup>

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

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

31. 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

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<sup>17</sup> Strong Declaration, ¶ 12.

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.

32. 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.<sup>18</sup>

33. 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.<sup>19</sup>

34. 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.<sup>20</sup>

35. 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

36. 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

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<sup>18</sup> *Id.* at ¶ 13.

<sup>19</sup> *Id.* at ¶ 14.

<sup>20</sup> *Id.* at ¶ 15.

Deadline, the Trustee respectfully submits the proposed sale price for the Property is fair and reasonable.<sup>21</sup>

Good Faith Purchaser

37. The parties' negotiation of the Sale Agreement has been at arms' length and in good faith, and the parties agree that all acts culminating in the closing of the Sale Agreement will likewise be negotiated and conducted through arms' length transactions and in good faith.<sup>22</sup>

38. Although the Bankruptcy Code does not define "good faith," the Tenth Circuit has determined in the context of 11 U.S.C. § 363(m) that a "good faith" purchaser is "one that buys in good faith, and for value."<sup>23</sup> Actions that destroy a purchaser's good faith include "fraud, collusion between the purchaser and other bidders or trustee, or an attempt to take grossly unfair advantage of other bidders."<sup>24</sup>

39. 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, other than entering into a contract to purchase other property from the Trustee, has no connections to the

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<sup>21</sup> *Id.* at ¶ 12.

<sup>22</sup> *Id.* at ¶ 16.

<sup>23</sup> *Tompkins v. Frey (In re Bel Air Assocs., Ltd.)*, 706 F.2d 301, 304 (10th Cir. 1983).

<sup>24</sup> *Id.* at 305 n.11 (citation omitted); see also *In re Lotspeich*, 328 B.R. 209 (10th Cir. BAP 2005).

Trustee, the Debtors, or the Legacy Trust, and there has been no fraud or collusion between the Buyer and the Trustee.<sup>25</sup>

40. 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 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.

41. Accordingly, the Trustee requests that the Court enter an Order granting this Motion and (a) 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*

42. 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;

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<sup>25</sup> Strong Declaration, ¶ 17. See Docket No. 1357(Motion to Sell).

- 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.

43. 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.

44. With the exception of property taxes, the Trustee is unaware of any liens, encumbrances, or interests relating to the Property.<sup>26</sup> 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.

45. 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*

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

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<sup>26</sup> Strong Declaration, Exh. A (Title Report).

**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;
- 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
- E. Such other relief as the Court deems just and appropriate.

DATED this 12th day of July, 2017.

**DORSEY & WHITNEY LLP**

/s/ Peggy Hunt  
Peggy Hunt  
Nathan S. 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 July 12, 2017, I electronically filed the foregoing **MOTION SEEKING AUTHORITY TO SELL REAL PROPERTY 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 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  
Consolidated Legacy Debtors Liquidating Trust*

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

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The Honorable Joel T. Marker

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

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**DECLARATION OF D. RAY STRONG IN SUPPORT OF MOTION SEEKING  
AUTHORITY TO SELL REAL PROPERTY 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 TAXES AND COSTS OF  
SALE FROM SALE PROCEEDS**

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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 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 Taxes and Costs of Sale from Sale Proceeds* (the "Motion").<sup>1</sup>

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)

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<sup>1</sup> 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 July 5, 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 \$38,901.00, subject to Court approval and higher and better offers. A true and correct copy of the Sale Agreement is attached hereto as Exhibit B.<sup>2</sup>

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 a 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 my website.

12. I believe 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. 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:

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<sup>2</sup> This same Parcel was previously under contract with Dan Blanchette, who passed away prior to the closing of the sale. I have been informed that that sale is terminated.

- 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 requested 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.

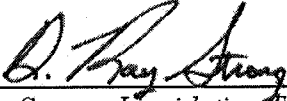
16. The parties' negotiation of the Sale Agreement has been at arms' length and in good faith, and all acts culminating in the close of the Sale Agreement will likewise be negotiated and conducted through arms' length transactions and in good faith.

17. To the best of my knowledge and belief, the Buyer is an independent third party that, other than entering into a contract to purchase other property from me, 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 7<sup>th</sup> day of July, 2017.

  
\_\_\_\_\_  
D. Ray Strong, *Liquidating Trustee*

# Exhibit B



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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 5th day of July, 2017 ("Offer Reference Date") Samuel D Howard ("Buyer") offers to purchase from Legacy Trust Effective as of July 22, 2013 as successor in interest to Castle Arch Real Estate Investment Company, LLC ("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 \$25,000, in the form of Cashier's 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 \_\_\_\_\_ Phone: \_\_\_\_\_

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

## OTHER PROVISIONS

1. PROPERTY: Specifically Lot 1 (APN: 03-014-0-0020) containing 7.58 acres

also described as: Approximately 2000 North Droubay Road, Tooele, UT 84074

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) \_\_\_\_\_

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 \$38,901. 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.

\$25,000 (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)

\$13,901 (d) Balance of Purchase Price in Cash at Settlement

\$38,901 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

Buyer's Initials SDH Date 07/05/2017 Seller's Initials DRS Date 7/6/17

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instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents (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: [X] 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: [X] 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: [X] 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 [X] Seller [ ] both Buyer and Seller as a Limited Agent;

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

Buyer's Agent Ted F Buhert, II, represents [X] Buyer [ ] both Buyer and Seller as a Limited Agent;

Buyer's Brokerage Equity Real Estate - Buckley-Branch, represents [X] 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.

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**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":

- (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 \_\_\_\_\_ exclusive remedy, the Earnest Money Deposit, or Deposits, if

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applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, 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. \_\_\_\_  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  appoint 07/05/2017 mediator and share equally in the cost

Buyer's Initials SDH Date 07/05/2017 Seller's Initials DNS Date 7/6/17

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of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this 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.

Buyer's Initials SDH Date 07/05/2017 Seller's Initials OWS Date 7/6/17  
07/05/17 12:40PM MDT

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

- (a) Seller Disclosure Deadline July 14, 2017 (Date)
- (b) Due Diligence Deadline July 14, 2017 (Date)
- (c) Financing & Appraisal Deadline \_\_\_\_\_ (Date)
- (d) Settlement Deadline August 30, 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  PM Mountain Time on July 12, 2017 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

<i>Samuel David Howard</i>	dotloop verified 07/05/17 12:20PM MDT 9DNE-NSMG-THBU-KND7	<u>07/05/2017</u>
(Buyer's Signature)	(Offer Date)	(Buyer's Signature)

<u>Samuel D Howard</u>				
(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. 1.

**REJECTION:** Seller rejects the foregoing offer.

<i>Phil Taylor</i>	<u>7/6/17</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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**ADDENDUM #1  
REAL ESTATE PURCHASE CONTRACT**

This is an [ ] ADDENDUM [ X ] COUNTER OFFER to that PURCHASE CONTRACT (the "Contract") with an Offer Reference Date of 5th day of July, 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 at approximately 2000 North Droubay Road, Tooele County, UT, specifically, Lot 1 (APN: 03-014-0-0020) containing 7.58 acres.

The following terms are hereby incorporated as part of the REPC, 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. 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. 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).
3. 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. No Seller Property Condition Disclosure will be executed or provided.
4. 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 non-applicable, Settlement and closing fifteen (15) days after an Order by the Bankruptcy Court approving the sale and this agreement.
5. Within five days of the acceptance of Counter Offer, 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.
6. 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 Marlisa Bouck at Metro National Title Company. The earnest money deposit will be non-refundable to Buyer, but applicable to purchase price.
7. Section 11 of the REPC: Deleted in its entirety. Seller will make the Property available for inspection on reasonable request.
8. 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.
9. 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.

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[ ] Seller [ X ] Buyer shall have until 5:00 [ ] A.M. [ X ] P.M. Mountain Time, July 10, 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*

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:

7/6/17

ACCEPTANCE/REJECTION/COUNTER OFFER

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

(IF COMPANY SELLER/BUYER)

Company name: \_\_\_\_\_

(IF INDIVIDUAL SELLER/BUYER)

*Samuel David Howard*

dotloop verified  
07/06/17 4:50PM MDT  
GDFF-ZWXT-KN1N-WXZ1

(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 DRS Initials

Buyer [ ] Seller

*SDH*  
07/06/17  
4:50PM MDT

Initials Date: 07/06/2017