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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 (1) AUTHORIZATION OF PUBLIC SALE OF REAL PROPERTY AND WATER RIGHTS LOCATED IN TOOELE COUNTY, UTAH OUT OF THE ORDINARY COURSE OF BUSINESS AND FREE AND CLEAR OF ALL INTERESTS PURSUANT TO 11 U.S.C. § 363, (2) APPROVAL OF PROCEDURES FOR PUBLIC SALE, AND (3) AUTHORIZATION FOR TRUSTEE TO PAY AUCTIONEER AND REAL PROPERTY TAXES FROM GROSS 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 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, Castle Arch Star Valley, LLC (“CASV”) (collectively, the “Legacy Debtors”), by and through his undersigned counsel, moves this Court for entry of an Order authorizing a public sale of certain real property and water rights located in Tooele County, Utah, out of the ordinary course of business, free and clear of all interests pursuant to 11 U.S.C. § 363(b), (f), and (m), as well as Rules 2002, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure. As part of this request, the Trustee requests that the Court approve the proposed procedures for public sale, and authorize the Trustee to pay costs of sale and real property taxes from the gross sale proceeds.

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

JURISDICTION AND VENUE

1. On October 17, 2011, CAREIC filed a petition for relief under Chapter 11 of the Bankruptcy Code, and on October 20, 2011, the other 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 at Issue and Prior Attempts to Sell at Private Sale

5. Relevant to this Motion is certain real property and water rights located in Tooele County, Utah (collectively, the "Property"), which Property is property of the Legacy Trust.

6. The Property is comprised of four parcels of real property totaling 272.71 acres of raw land (the "Land") and 16 acre-feet of water, with a water right number of 15-4962 and change application number of a-34412. The Land is more fully described in the preliminary Title Report attached hereto as **Exhibit A**.¹

7. The Trustee initially determined that the best way to maximize the value of the Property was to offer it for sale through private sale. Commerce Real Estate Solutions and then Nichols Realty were employed with Court approval to serve as the Trustee's real estate broker.²

8. The Property was actively marketed for sale from June 2012 through the last quarter of 2017.³

¹ Strong Declaration, ¶ 4.

² *Id.* at ¶ 5.

³ *Id.* at ¶ 6.

9. During this period, the Trustee received numerous offers to purchase the Land and/or the Water, but none of those offers resulted a closed sale.⁴

Proposed Auction of the Property and Employment of Statewide

10. In an exercise of his business judgment, the Trustee has determined that at this time it is in the best interests of creditors to sell the Property at public auction. This decision primarily is based on the fact that the Property has been marketed for private sale since 2012 and it has not sold.⁵

11. The Trustee believes that a public sale will renew interest in the Property and bring the highest and best price for the Property.⁶

12. The Trustee has engaged Statewide Auction Company (“Statewide”) to conduct a public sale of the Property, and a copy of the *Real Estate Auction Agreement* is attached hereto as **Exhibit B** and incorporated herein by reference (the “Statewide Agreement”).⁷

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

14. The Trustee has chosen Statewide primarily because of its experience in the area of public sales of real property and interests related to real property, such as water rights.

⁴ *Id.* at ¶ 7.

⁵ *Id.* at ¶ 8.

⁶ *Id.* at ¶ 9.

⁷ *Id.* at ¶ 10.

Furthermore, Statewide has assisted the Trustee with the sale of other real property in this case, which public sale was successful.⁸

15. The sale of the Property will be marketed by Statewide and the Trustee, including in the manner set forth in the Statewide Agreement.⁹

Proposed Procedures

16. The Trustee proposes to sell the Property at a public auction to be conducted by Statewide at a date, time, and place to be agreed to by the Trustee and Statewide so as to maximize participation in and the price(s) that may be obtained for the Property (the “Auction Sale”). At this time, it is anticipated that the Auction Sale will take place on March 13, 2018.¹⁰

17. The proposed procedures for conducting the Auction Sale of the Property (the “Auction Procedures”) are included in the Statewide Agreement attached hereto without exhibits as **Exhibit B** and which is incorporated herein.

18. In order to participate at the Auction Sale, potential bidders will be required to provide a deposit and execute a “Deposit and Obligation Agreement” substantially in the form of the document attached hereto without exhibits as **Exhibit C** and which is incorporated herein by reference.

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

⁸ *Id.* at ¶ 12.

⁹ Strong Declaration, ¶ 13 & Exh. B (Statewide Agreement ¶ 4(a)).

¹⁰ Strong Declaration, ¶ 14.

20. The final price(s) obtained for the Property will be set forth in the *Report of Sale* to be filed by Statewide pursuant to Fed. R. Bankr. P. 6004(f).¹¹

Sale Costs and Net Sale Proceeds

21. Provided that the Auction Sale concludes and is closed, the Trustee anticipates paying from the gross proceeds of the sale the costs of sale, which will include Statewide's 6% commission as set forth in the Statewide Agreement, and outstanding real property taxes.¹² The gross sale proceeds less the costs of sale and taxes are referred to herein as the "Net Sale Proceeds."

22. In the event that the Auction Sale is cancelled by the Trustee or the sale to a Successful Bidder at the Auction Sale does not close, the Trustee has agreed to pay Statewide its actual, reasonable, and necessary out-of-pocket expenses related to the Auction Sale and the request for approval to pay these expenses is also requested herein.¹³

23. At the conclusion of the Auction Sale, Statewide will file a Report of Auction as required under Fed. R. Bankr. P. 6004(f).¹⁴

Notice

24. The Trustee has obtained a preliminary Title Report for the Property, a copy of which is attached hereto as **Exhibit A**.¹⁵

¹¹ Exh. B (Statewide Agreement ¶ 4(c)(6) and (d)).

¹² Strong Declaration, ¶ 15 and Exh. B (Statewide Agreement, ¶ 6).

¹³ Strong Declaration, ¶ 16 and Exh. B (Statewide Agreement, ¶ 7).

¹⁴ Exh. B (Statewide Agreement, ¶ 3(d)).

¹⁵ Strong Declaration, ¶ 17.

25. Notice of this Motion is being served on, among others, all parties that are listed on the Title Report as having an interest in the Property.¹⁶

26. Notice of this Motion will also be served on all parties in interest in this case, and be posted on the Trustee's website.¹⁷

RELIEF REQUESTED

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

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

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

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

¹⁶ *Id.* at ¶ 18

¹⁷ *Id.* at ¶ 19

ARGUMENT

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

31. 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).¹⁸

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

- a. a sound business reason exists for the sale;
- b. there has been adequate and reasonable notice to interested parties, including full disclosure of the sale terms and the Debtor’s relationship with the buyer;
- c. that the sale price is fair and reasonable; and
- d. that the proposed buyer is proceeding in good faith.¹⁹

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

¹⁸ 11 U.S.C. § 363(b)(1).

¹⁹ See *In re Medical Software Solutions*, 286 B.R. 431, 439-40 (Bankr. D. Utah 2002)

Sound Business Purpose

34. Courts show great deference to a trustee's decision-making.²⁰ Once a trustee articulates a valid business judgment for a sale, “a presumption of reasonableness attaches to a trustee's management decisions.”²¹

35. The Auction Sale will take place after extensive marketing by Statewide as set forth in the Statewide Agreement and only after adequate and reasonable notice is given to all interested parties.²²

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

- a. the length of time the Property has been marketed for private sale without producing a viable sale;
- b. the possibility that a heavily-marketed and competitive auction will renew interest in the Property and bring a reasonable bid for the Property by a good faith purchaser;
- c. the cash nature and finality of the Auction Sale; and
- d. the cessation of continuing costs of administration of the Property.²³

²⁰ See *Summit Land Co. v. Allen (In re Summit Land Co.)*, 13 B.R. 310, 315 (Bankr. D. Utah 1981).

²¹ *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”).

²² See Exh. B (Statewide Agreement, ¶ 4).

²³ Strong Declaration, ¶ 20.

Notice of the Procedures and the Proposed Sale is Appropriate

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

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

39. The Trustee will also post a copy of this Motion on his website and provide notice of the Auction Sale to any parties who have expressed an interest in the Property.²⁴

40. Finally, the public sale will be marketed by Statewide in the manner set forth in the Statewide Agreement.²⁵

41. 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

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

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

²⁴ *Id.* at ¶ 19.

²⁵ Exh. B (Statewide Agreement ¶ 4(a)).

price. In the Trustee's business judgment, based on the facts known to him at this time, this environment will be the best way to obtain a price for the Property that is fair and reasonable.²⁶

44. At this time, the Trustee believes that the Auction Sale is the best method to obtain the highest and best price for the Property, and the Auction Procedures were negotiated and are being proposed by the Trustee with the intent of attempting to obtain the highest and best price for the Property.²⁷

Good Faith Purchaser

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

46. 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."²⁸ 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."²⁹

47. Here, the Trustee has engaged Statewide, a disinterested and Court-approved standing auctioneering firm, to sell the Property at public sale. He has negotiated the terms of the Statewide Agreement in good faith and at arm's length.³⁰ The auction process will solicit

²⁶ Strong Declaration, ¶ 20.

²⁷ *Id.* at ¶¶ 8, 9, 11, and 20.

²⁸ *Tompkins v. Frey (In re Bel Air Assocs., Ltd.)*, 706 F.2d 301, 304 (10th Cir. 1983).

²⁹ *Id.* at 305 n.11 (citation omitted); *see also In re Lotspeich*, 328 B.R. 209 (10th Cir. BAP 2005).

³⁰ Strong Declaration, ¶ 11.

open, competitive bidding after full marketing and notice, and Statewide will be required to provide an accounting to the Trustee and the Court.³¹ These procedures will produce good faith buyers that will purchase the Property for a fair and reasonable value.

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

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

49. 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.

50. 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.

51. The Trustee is seeking to sell the Property free and clear of all financial interests. According to the Title Report, property taxes from 2008 to 2017 are liens that are due and payable.

³¹ Exh. B (Statewide Agreement ¶ 4(d)).

Property taxes will be paid from the gross sale proceeds of the Property at close of the sale, and any other financial interests, to the extent any such interests are asserted as being valid, are adequately protected because they will attach to the Net Sale Proceeds.

52. The Title Report also lists deeds of trust on the Property in favor of Southern Properties in Northern Dollars, LLC and ANB Venture, LLC.³² These claims were paid in full pursuant to an earlier sale involving the related collateral. Out of an abundance of caution, however, the Trustee will provide notice of this Motion to these former creditors.³³

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

54. Based on the facts known to him at this time, the Trustee believes that the Auction Sale is in the best interests of creditors and the Legacy Trust and that the Motion should be granted.³⁴

³² Exh. A (Title Report).

³³ Strong Declaration, ¶ 18.

³⁴ *Id.* at ¶¶ 8 and 20.

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

55. The Auction Procedures outlined in the Statewide Agreement attached hereto as **Exhibit B** are reasonable and are meant to obtain the highest and best price for the Property in the most cost effective manner.³⁵ Accordingly, the Trustee requests that they be approved.

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

CONCLUSION

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

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

³⁵ See Strong Declaration, ¶ 20.

alternatively, Statewide's expenses as provided for in ¶ 7 of the Statewide Agreement; and

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

DATED this 26th day of December, 2017.

DORSEY & WHITNEY LLP

/s/ Peggy Hunt

Peggy Hunt

John J. Wiest

Attorneys for D. Ray Strong, Trustee

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

I hereby certify that on December 26, 2017, I electronically filed the foregoing 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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- Richard L. Wynne rlwynne@jonesday.com

/s/ John J. Wiest

Exhibit A

Order Number: 58496

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

Order Number: 58496

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

SCHEDULE A

Order Number: 58496

Client File Number:

1. Effective date: August 18, 2017 at 4:45 AM

2. Policy or Policies to be issued:	Amount of Insurance
(a) 2006 A.L.T.A. Owners	\$1,312,600.00
Owner's Premium	\$4,382.00

Proposed Insured:
PMJ, Inc.

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

Endorsements:

Endorsement Premium(\$0.00)

Proposed Insured:

(c) Leasehold	\$
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Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment and covered herein is:
FEE SIMPLE

4. Title to the estate or interest in said land is at the effective date thereof 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 as to Parcels 1, 2 and 3 and Castle Arch Opportunity Partners I, LLC, subject to the pending proceedings of the U.S. Bankruptcy Court as to Parcel 4

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: 58496

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

Exhibit "A"

Parcel 1:

The Westhalf of the Southeast quarter and the East half of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331824 in Book 173 at Page 373, being described as follows:

Beginning on the Southeasterly right of way line of the Southern Pacific Los Angeles and Salt Lake Railroad, which point is 2229.34 feet West from the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence running South 44°27' West 42.02 feet along said railway right of way; thence East 280.17 feet; thence North 44°27' East 18.91 feet; thence East 645.36 feet; thence North 16.50 feet; thence West 909.34 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded March 12, 1979 as Entry No. 329560 in Book 169 at Page 430, being described as follows:

Beginning on the Southeasterly right of way line of the SPLA & SL RR, which point is 33 feet South and 2257.30 feet West from the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 44°27' West 600 feet along said RR right of way; thence South 45°33' East 200 feet; thence North 44°27' East 796.2 feet; thence West 280.17 feet to the point of beginning.

Also Less and excepting therefrom that portion of the subject property being described as follows:

The Northwest quarter of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and that portion the Northeast quarter of the Southwest quarter and the Northwest quarter of the Southeast quarter and that portion of the Northwest quarter of the Southeast quarter of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian lying Northwesterly of the North right of way line of the San Pedro, Los Angeles & Salt Lake Railroad.

Also less and excepting therefrom that portion lying within the County Roads.

Parcel 2:

The East half of Southeast quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and Excepting therefrom that portion of subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331826 in Book 173 at Page 375, being described as follows:

Beginning on the West right of way line of Droubay Road, which point is 33.00 feet West of the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian and running thence South 33.00 feet along said right of way; thence West 16.50 feet; thence North 213.50 feet to a point of curvature on a 100 foot radius curve to the left; thence Northwesterly 157.08 feet along the

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arc of said 100foot radius curve; thence West 1170.50 feet; then North 16.50 feet to the quarter Section line; thence East 1287.00 feet to the point of beginning.

Also Less and Excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331826 in Book 173 Page 375, being described as follows:

Beginning at a point which lies 33.00 feet North and 33.00 feet West of the Southeast corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence West 16.50 feet; thence North 200.00 feet; thence East 16.50 feet; thence South 200.00 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property lying within the County Roads.

Less and excepting any and all well rights, water rights, and water right of way and water shares, including, but not limited to well structures and improvements.

Parcel 3:

The North half of the Northeast quarter of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331824 in Book 173 at Page 373, being described as follows:

Beginning at a point which lies 33.00 feet South and 33.00 West of the Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 200.00 feet; thence West 16.50 feet; thence North 200.00 feet; thence East 16.50 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded November 26, 1926 in Book 3M at Page 121, being described as follows:

Beginning 12.74 chains South and 50 links West of Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence South 3.02 chains; thence West 3.25 chains; thence North 3.02 chains; thence East 3.25 chains to the point of beginning.

Also less and excepting therefrom that portion of the subject property lying within the County Roads.

Parcel 4:

Beginning 12.74 chains South and 50 links West of Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence South 3.02 chains; thence West 3.25 chains; thence North 3.02 chains; thence East 3.25 chains to the point of beginning.

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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/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 insured under a title insurance policy.

NOTE: If the applicant desires copies of the documents underlying exceptions 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). 36 and 37, shown herein.

2. Pay any charges and/or assessments due to clear Exception(s) No. 9, 10, 11 and 12 shown herein.

3. Pay any charges and/or assessments due to clear Exception(s) No. 13 shown herein.

4. Partial Deed of Reconveyance, clearing Exception No(s). 27, 28 and 29, shown herein.

5. Resolution of the Board of Directors of PMJ, Inc. authorizing the transaction contemplated herein.

Said Resolution should be duly certified by an officer of the corporation and be properly acknowledged.

6. Warranty Deed from the 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 to the proposed insured as to Parcels 1, 2 and 3.

7. Warranty Deed from D. Ray Strong, as Chapter 11 Trustee Castle Arch Opportunity Partners I, LLC to the proposed insured as to Parcel 4.

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[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.

PMJ, Inc.

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 as to Parcels 1, 2 and 3 and Castle Arch Opportunity Partners LLC, subject to the pending proceedings of the U.S. Bankruptcy Court to Parcel 4

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: 58496

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, 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 encumbrances, or claims thereof, that are not shown by the Public Records.
4. Any encroachment, encumbrance, violation, 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 Acts authorizing the issuance thereof; (c) water rights, claims 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 on mortgage thereon covered by this Commitment.

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

8. The following affects Parcel 1:

Lien of Taxes, now accruing as a lien, but not yet due and payable
Year: 2017
Tax ID No.: [03-014-0-0002](#)

The following affects Parcel 2:

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 3:

Lien of Taxes, now accruing as a lien, but not yet due and payable
Year: 2017
Tax ID No.: [03-024-0-0003](#)

The following affects Parcel 4:

Lien of Taxes, now accruing as a lien, but not yet due and payable

Order Number: 58496

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

Year: 2017

Tax ID No.: [03-024-0-0006](#)

9. The following affects Parcel 1:

DELINQUENT TAXES

Year: 2008

Tax ID No.: [03-014-0-0002](#)

Amount: \$9,087.38, plus penalty and interest.

DELINQUENT TAXES

Year: 2009

Tax ID No.: [03-014-0-0002](#)

Amount: \$9,511.70, plus penalty and interest.

DELINQUENT TAXES

Year: 2010

Tax ID No.: [03-014-0-0002](#)

Amount: \$9,303.47, plus penalty and interest.

DELINQUENT TAXES

Year: 2011

Tax ID No.: [03-014-0-0002](#)

Amount: \$9,123.25, plus penalty and interest.

DELINQUENT TAXES

Year: 2012

Tax ID No.: [03-014-0-0002](#)

Amount: \$10,928.13, plus penalty and interest.

DELINQUENT TAXES

Year: 2013

Tax ID No.: [03-014-0-0002](#)

Amount: \$11,320.95, plus penalty and interest.

DELINQUENT TAXES

Year: 2014

Tax ID No.: [03-014-0-0002](#)

Amount: \$11,916.74, plus penalty and interest.

DELINQUENT TAXES

Year: 2015

Tax ID No.: [03-014-0-0002](#)

Amount: \$11,723.39, plus penalty and interest.

DELINQUENT TAXES

Year: 2016

Tax ID No.: [03-014-0-0002](#)

Amount: \$3,618.31, plus penalty and interest.

10. The following affects Parcel 2:

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

DELINQUENT TAXES

Year: 2011

Tax ID No.: [03-014-0-0005](#)

Amount: \$6,361.91, plus penalty and interest.

DELINQUENT TAXES

Year: 2012

Tax ID No.: [03-014-0-0005](#)

Amount: \$7,620.51, plus penalty and interest.

DELINQUENT TAXES

Year: 2013

Tax ID No.: [03-014-0-0005](#)

Amount: \$7,894.44, plus penalty and interest.

DELINQUENT TAXES

Year: 2014

Tax ID No.: [03-014-0-0005](#)

Amount: \$8,309.90, plus penalty and interest.

DELINQUENT TAXES

Year: 2015

Tax ID No.: [03-014-0-0005](#)

Amount: \$8,175.07, plus penalty and interest.

DELINQUENT TAXES

Year: 2016

Tax ID No.: [03-014-0-0005](#)

Amount: \$2,726.93, plus penalty and interest.

11. The following affects Parcel 3:

DELINQUENT TAXES

Year: 2008

Tax ID No.: [03-024-0-0003](#)

Amount: \$6,310.31, plus penalty and interest.

DELINQUENT TAXES

Year: 2009

Tax ID No.: [03-024-0-0003](#)

Amount: \$6,604.96, plus penalty and interest.

DELINQUENT TAXES

Year: 2010

Tax ID No.: [03-024-0-0003](#)

Amount: \$6,460.37, plus penalty and interest.

DELINQUENT TAXES

Year: 2011

Tax ID No.: [03-024-0-0003](#)

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

Amount: \$6,335.22, plus penalty and interest.

DELINQUENT TAXES

Year: 2012

Tax ID No.: [03-024-0-0003](#)

Amount: \$7,588.53, plus penalty and interest.

DELINQUENT TAXES

Year: 2013

Tax ID No.: [03-024-0-0003](#)

Amount: \$8,275.03, plus penalty and interest.

DELINQUENT TAXES

Year: 2014

Tax ID No.: [03-024-0-0003](#)

Amount: \$8,275.03, plus penalty and interest.

DELINQUENT TAXES

Year: 2015

Tax ID No.: [03-024-0-0003](#)

Amount: \$8,140.77, plus penalty and interest.

DELINQUENT TAXES

Year: 2016

Tax ID No.: [03-024-0-0003](#)

Amount: \$2,718.31, plus penalty and interest.

12. The following affects Parcel 4:

DELINQUENT TAXES

Year: 2015

Tax ID No.: [03-24-024-0006](#)

Amount: \$105.06, plus penalty and interest.

DELINQUENT TAXES

Year: 2016

Tax ID No.: [03-24-024-0006](#)

Amount: \$740.58, plus penalty and interest.

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

14. 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

Order Number: 58496

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

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](#)

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

16. 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, cross arms, braces and other attachments affixed thereto.
Recorded: May 28, 1992
Entry No.: [47916](#)
Book/Page: 332 / 572

17. 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, cross arms, braces and other attachments affixed thereto.
Recorded: August 11, 1992
Entry No.: [49342](#)
Book/Page: 335 / 847

18. Easement and the terms and conditions thereof:
Grantor: William R. Mueller
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 8 poles, with the necessary guys, stubs, cross arms, braces and other attachments affixed thereto.
Recorded: October 13, 1992
Entry No.: [51424](#)
Book/Page: 340 / 239

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

19. 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

20. Easement and the terms and conditions thereof:

Grantor: Tooele County

Grantee: Pacificorp

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

Recorded: January 10, 2005

Entry No.: [234545](#)

Book/Page: 995 / 733

21. The following affects Parcel 3 and 4:

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.

22. The following affects Parcel 1:

Notice of Claim of Interest

Recorded: October 7, 1971

Entry No.: [295081](#)

Book/Page: 106 / 425

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 9, 1908 in [Book B at Page 482](#) 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

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thereon, which the first parties or either of them may hereafter acquire.

23. The following affects Parcel 1:

Notice of Claim of Interest

Recorded: October 14, 1971

Entry No.: [295225](#)

Book/Page: 107 / 96

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 April 17, 1916 in [Book E at Page 13](#) 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.

24. Reservations in favor of the Grantor:

Grantor: International Smelting and Refining Company

Dated: November 5, 1947

Recorded: November 17, 1947

Entry No.: [223663](#)

Book/Page: 4B / 458

Reserving: 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.

25. 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

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

27. 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

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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](#)

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 doesn't 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: U.S. Title Insurance Agency, LLC
Recorded: May 1, 2013
Entry No: [383675](#)

28. A Deed of Trust, and the terms and conditions thereof:
Stated Amount: \$1,479,339.00

Order Number: 58496

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

Trustor: Castle Arch Real Estate Investment Company, LLC

Trustee: First American Title Insurance Company

Beneficiary: ANB Financial N.A.

Dated: June 20, 2006

Recorded: June 28, 2006

Entry No.: [262608](#)

Assignment of Real Estate Deed of Trust

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

Recorded: April 7, 2009

Entry No: [323664](#)

Substitution of Trustee

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

Recorded: December 14, 2009

Entry No: [336046](#)

Note: Document appears to contain an incorrect document number.

Substitution of Trustee- Corrective

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

Recorded: April 27, 2011

Entry No: [355820](#)

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: [346293](#)

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: [347385](#)

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: [355821](#)

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

Stated Amount: \$1,479,339.00

Trustor: Castle Arch Real Estate Investment Company, LLC

Trustee: First American Title Insurance Company

Beneficiary: ANB Financial N.A.

Dated: June 20, 2006

Recorded: June 28, 2006

Entry No.: [262609](#)

Assignment of Real Estate Deed of Trust

Order Number: 58496

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

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

Recorded: April 7, 2009

Entry No: [323662](#)

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: [346293](#)

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: [347385](#)

30. Open and Pending Bankruptcy:

Debtor: Castle Arch Real Estate Investment Company, LLC

Case Number: 11-35082

Filed: October 17, 2011

Filed Under Chapter: 11

31. 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: 58496

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~~ 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/>>.

Order Number: 58496

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 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, 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 access in connection with providing products or services 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 with services you have requested;
 - to third-party contractors or service providers who provide services 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, 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 limit 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 your 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: 58496

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 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;
- Information we receive from 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 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) 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 insurance, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, some 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 that 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 will maintain physical, electronic, and procedural safeguards that comply with federal regulations that protect your nonpublic personal information.

Exhibit B

REAL ESTATE AUCTION AGREEMENT

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

AGREEMENT

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

1. **Engagement of Auctioneer.** Seller hereby engages Statewide as auctioneer to assist in the marketing and sale of certain real property and water rights located in Tooele County, Utah comprised of four parcels of real property totaling 272.71 total acres of raw land (the "Land") and 16 acre-feet of water rights (the "Water") (collectively, referred to herein as the "Property"). The Land is more particularly described by Seller and acknowledged by Statewide in the document attached hereto as Exhibit 1. The Water is described as follows: 16 acre-feet of water, with a water right number of 15-4962 and change application number of a-34412. Upon execution of this Agreement, Statewide shall be engaged as the auctioneer for the Property subject to the terms of this Agreement. Statewide accepts the auction engagement in accordance with the terms and conditions set forth in this Agreement and applicable law.

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

3. **Date, Time, and Place of Sale.** The Auction Sale, or any component of the Auction Sale, shall be held on the date(s) and at the time(s) determined by the Parties. The Auction Sale may be conducted at the Property, or at another location as agreed to by the Parties. The date(s), time(s), and place of the Auction Sale will be clearly and prominently advertised by Statewide.

4. **Duties and Authority of Auctioneer.** Statewide has a duty to use its best efforts to sell the Property at the highest and best price achievable.

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

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

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

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

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

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

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

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

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

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

(i) Delivers to Statewide a deposit, which shall be a cashier's check in an amount not less than \$25,000.00 ("Auction Deposit").

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

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

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

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

c. Conduct of Auction Sale.

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

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

(3) Auction. Based on the discretion of the Seller, Statewide may conduct the Auction in either one or two phases that may include: (i) a "Bulk Sale"—Statewide will obtain the highest and best bid for all of the Property, including all Land and Water in bulk; and/or (ii) a "Parcel Sale"—Statewide will obtain the highest and best bid for each one of the four (4) parcels of the Land, and for the Water, with each component of the Parcel Sale being subject to separate auction. For purposes of clarity, the term "Auction Sale" means either a Bulk Sale or a Parcel Sale or any combination of both, through the close of the entire Auction Sale as discussed in subpart (5) below.

(4) Successful Bidders. Provided that a two-phase Auction Sale occurs, Statewide shall call the highest and best bid for the Bulk Sale at the conclusion of the Bulk Sale, and that bidder shall be registered as the holder of the "Successful Bulk Bid," which Bid shall be irrevocable. Statewide shall call the highest and best bid made for each of the four (4) of Land and the Water at the conclusion of each of the phases of the Parcel Sale, and each such bidder shall be registered as a holder of a "Successful Parcel Bid" for the relevant Parcel, which Bids shall be irrevocable. At the close of the Auction Sale as provided for in subpart (5) below, the bidder(s) making the highest and best offer, as determined by the Seller in his sole discretion, will be the "Successful Bidder(s)." If a two-phase Auction Sale does not occur (i.e., the Seller elects in his sole discretion to only hold a Bulk Sale or a Parcel Sale, but not both), the Successful Bidders will be the holder of the Successful Bulk Bid or the holders of the Successful Parcel Bids.

(5) Close of Auction Sale. Subject only to subpart (6) below, Statewide shall close the Auction Sale after calling the Successful Bidder(s). In the event of a two-phase Auction Sale, this will occur after (i) Statewide has registered the Successful Bulk Bid and the Successful Parcel Bids, and (ii) consulted with the Seller as to which bids the Seller deems, in his sole discretion, to be the highest and best bid(s).

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

d. Post-Auction Sale Duties.

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

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

(3) Failure of Auction Sale. In the event that the sale to the Successful Bidder(s) does not close, Statewide (i) shall deliver the Auction Deposit(s) of the Successful Bidder(s) to the Seller as damages, and (ii) register the Back-Up Bidder(s) who made the next highest and best offer at the Auction Sale as the Successful Bidder(s).

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

(5) Report of Auction. Within five (5) business days of the close of the Auction Sale, Statewide will submit to the Seller a written *Report of Auction*, which must include at least the following: (i) for each Successful Bidder(s)--the name, address and telephone number of the Bidder, the amount of the Auction Deposit(s) collected, and the and the accepted bid amount(s); and (ii) the same information of each of the Back-Up Bidders.

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

e. Warranty. Neither Statewide nor its representatives, employees or agents, makes any representation or promise, oral or written, to any person, including without limitation,

prospective bidders or purchasers, which is contrary to the terms and conditions of sale contained in this Agreement and any Court order.

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

5. **Duties and Authority of Seller.**

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

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

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

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

7. **Expenses.** Except as otherwise stated herein, Statewide shall pay all expenses related to the Auction Sale, and reimbursement of such expenses shall be included within the Commission provided for in ¶ 6 above; *provided however*, if Statewide is not entitled to a Commission because no Successful Bidder closes and there are no gross sale proceeds, Seller agrees to reimburse Statewide for its actual, reasonable, and necessary out-of-pocket expenses related to the Auction Sale.

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

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

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

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

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

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

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


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

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

[The remainder of this page is intentionally left blank.]

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

SELLER

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

**STATEWIDE
AUCTION COMPANY**

By: 
Aaron Shelton
Its: PARTNER

EXHIBIT 1

Parcel 1:

The West half of the Southeast quarter and the East half of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331824 in Book 173 at Page 373, being described as follows:

Beginning on the Southeasterly right of way line of the Southern Pacific Los Angeles and Salt Lake Railroad, which point is 2229.34 feet West from the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence running South 44°27' West 42.02 feet along said railway right of way; thence East 280.17 feet; thence North 44°27' East 18.91 feet; thence East 645.36 feet; thence North 16.50 feet; thence West 909.34 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded March 12, 1979 as Entry No. 329560 in Book 169 at Page 430, being described as follows:

Beginning on the Southeasterly right of way line of the SPLA & SL RR, which point is 33 feet South and 2257.30 feet West from the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 44°27' West 600 feet along said RR right of way; thence South 45°33' East 200 feet; thence North 44°27' East 796.2 feet; thence West 280.17 feet to the point of beginning.

Also Less and excepting therefrom that portion of the subject property being described as follows:

The Northwest quarter of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and that portion the Northeast quarter of the Southwest quarter and the Northwest quarter of the Southeast quarter and that portion of the Northwest quarter of the Southeast quarter of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian lying Northwesterly of the North right of way line of the San Pedro, Los Angeles & Salt Lake Railroad.

Also less and excepting therefrom that portion lying within the County Roads.

Parcel 2:

The East half of Southeast quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and Excepting therefrom that portion of subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331826 in Book 173 at Page 375, being described as follows:

Beginning on the West right of way line of Droubay Road, which point is 33.00 feet West of the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 33.00 feet along said right of way; thence West 16.50 feet; thence North 213.50 feet to a point of curvature on a 100 foot radius curve to the left; thence Northwesterly 157.08 feet along the arc of said 100 foot radius curve; thence West 1170.50 feet;

thence North 16.50 feet to the quarter Section line; thence East 1287.00 feet to the point of beginning.

Also Less and Excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331826 in Book 173 at Page 375, being described as follows:

Beginning at a point which lies 33.00 feet North and 33.00 feet West of the Southeast corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence West 16.50 feet; thence North 200.00 feet; thence East 16.50 feet; thence South 200.00 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property lying within the County Roads.

Less and excepting any and all well rights, water rights, and water right of way and water shares, including, but not limited to well structures and improvements.

Parcel 3:

The North half of the Northeast quarter of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331824 in Book 173 at Page 373, being described as follows:

Beginning at a point which lies 33.00 feet South and 33.00 West of the Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 200.00 feet; thence West 16.50 feet; thence North 200.00 feet; thence East 16.50 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded November 26, 1926 in Book 3M at Page 121, being described as follows: Beginning 12.74 chains South and 50 links West of Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence South 3.02 chains; thence West 3.25 chains; thence North 3.02 chains; thence East 3.25 chains to the point of beginning.

Also less and excepting therefrom that portion of the subject property lying within the County Roads.

Parcel 4:

Beginning 12.74 chains South and 50 links West of Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence South 3.02 chains; thence West 3.25 chains; thence North 3.02 chains; thence East 3.25 chains to the point of beginning.

Exhibit C

DEPOSIT AND OBLIGATION AGREEMENT

Seller

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

Bidder (All information is required)

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

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

RECITALS

A. Seller has engaged Statewide to sell by public auction certain real property and water rights located in Tooele County, Utah comprised of four parcels of real property totaling approximately 272.71 total acres of raw land (the “Land”) and 16 acre-feet of water rights (the “Water”) (collectively referred to herein as the “Property”). The Land is more particularly described by Seller and acknowledged by Statewide in the document attached hereto as Exhibit 1. The Water is described as follows: 16 acre-feet of water, with a water right number of 15-4962 and change application number of a-34412.

B. The Seller is a liquidating trust established pursuant to a Plan of Liquidation confirmed by the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”) in the case styled as *In re Castle Arch Real Estate Investment Company, LLC*, Case No. 11-35082 (Bankr. D. Utah). The Seller has obtained authority from the Bankruptcy Court to sell the Property to the highest and best bidder at public auction.

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

D. Pursuant to the Order entered by the Bankruptcy Court authorizing this sale, only “Qualified Bidders” may be bidders at the Auction. To be a Qualified Bidder, the Bidder must provide the Seller a cashier’s check in an amount not less than \$25,000.00 (the “Auction Deposit”), and execute this Agreement prior to the Auction.

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

AGREEMENT

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

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

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

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

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

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

(a) Auction. Based on the discretion of the Seller, Statewide may conduct the Auction Sale in either one or two phases that may include: (i) a “Bulk Sale”—Statewide will obtain the highest and best bid for all of the Property, including all Land and Water in bulk; and/or (ii) a “Parcel Sale”—Statewide will obtain the highest and best bid for each one of the four (4) parcels of the Land, and for the Water, with each component of the Parcel Sale being subject to separate auction. For purposes of clarity, the term “Auction Sale” means either a Bulk Sale or a Parcel Sale or any combination of both.

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

(c) Successful Parcel Bid. Statewide shall call the highest and best bid made for each of the four (4) Parcels at the conclusion of each of the four (4) phases of the Parcel Sale, and each such bidder shall be registered as a holder of a “Successful Parcel Bid” for the relevant Parcel, which Bids shall be irrevocable.

(d) Successful Bidder. After Statewide has registered the Successful Bulk Bid and the Successful Parcel Bids, Statewide will then call the “Successful Bid” and close the Auction. Immediately upon the call of the Successful Bid, Auction Deposits of the Successful Bidder and any Back-Up Bidders are non-refundable as provided for in ¶ 3 above.

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

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

(g) Acknowledgement. Bidder agrees that to be a valid Successful Bidder or Back-Up Bidder, the Bidder must sign the “Bidder Acknowledgement” attached hereto as Exhibit 2.

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

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

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

7. Taxes and Costs. Property taxes for 2018 will be pro-rated, with the Seller paying all taxes accrued as of the date of the closing at the Closing, and the Successful Bidder paying all taxes thereafter. Seller will pay Statewide's fee. Any incidental costs of closing will be split by the Seller and the Successful Bidder.

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

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

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

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

[The remainder of this page is intentionally left blank.]

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

Date: _____

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

Date: _____

Bidder: _____

(Print Name)

Its: _____

EXHIBIT 1

Parcel 1:

The West half of the Southeast quarter and the East half of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331824 in Book 173 at Page 373, being described as follows:

Beginning on the Southeasterly right of way line of the Southern Pacific Los Angeles and Salt Lake Railroad, which point is 2229.34 feet West from the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence running South 44°27' West 42.02 feet along said railway right of way; thence East 280.17 feet; thence North 44°27' East 18.91 feet; thence East 645.36 feet; thence North 16.50 feet; thence West 909.34 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded March 12, 1979 as Entry No. 329560 in Book 169 at Page 430, being described as follows:

Beginning on the Southeasterly right of way line of the SPLA & SL RR, which point is 33 feet South and 2257.30 feet West from the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 44°27' West 600 feet along said RR right of way; thence South 45°33 East 200 feet; thence North 44°27' East 796.2 feet; thence West 280.17 feet to the point of beginning.

Also Less and excepting therefrom that portion of the subject property being described as follows:

The Northwest quarter of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and that portion the Northeast quarter of the Southwest quarter and the Northwest quarter of the Southeast quarter and that portion of the Northwest quarter of the Southeast quarter of the Southwest quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian lying Northwesterly of the North right of way line of the San Pedro, Los Angeles & Salt Lake Railroad.

Also less and excepting therefrom that portion lying within the County Roads.

Parcel 2:

The East half of Southeast quarter of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and Excepting therefrom that portion of subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331826 in Book 173 at Page 375, being described as follows:

Beginning on the West right of way line of Droubay Road, which point is 33.00 feet West of the East quarter corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 33.00 feet along said right of way; thence West 16.50 feet; thence North 213.50 feet to a point of curvature on a 100 foot radius curve to the left; thence Northwesterly 157.08 feet along the arc of said 100 foot radius curve; thence West 1170.50 feet; thence North 16.50 feet to the quarter Section line; thence East 1287.00 feet to the point of beginning.

Also Less and Excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331826 in Book 173 at Page 375, being described as follows:

Beginning at a point which lies 33.00 feet North and 33.00 feet West of the Southeast corner of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence West 16.50 feet; thence North 200.00 feet; thence East 16.50 feet; thence South 200.00 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property lying within the County Roads.

Less and excepting any and all well rights, water rights, and water right of way and water shares, including, but not limited to well structures and improvements.

Parcel 3:

The North half of the Northeast quarter of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian.

Less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded July 13, 1979 as Entry No. 331824 in Book 173 at Page 373, being described as follows:

Beginning at a point which lies 33.00 feet South and 33.00 West of the Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; and running thence South 200.00 feet; thence West 16.50 feet; thence North 200.00 feet; thence East 16.50 feet to the point of beginning.

Also less and excepting therefrom that portion of the subject property as disclosed by that certain Warranty Deed recorded November 26, 1926 in Book 3M at Page 121, being described as follows: Beginning 12.74 chains South and 50 links West of Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence South 3.02 chains; thence West 3.25 chains; thence North 3.02 chains; thence East 3.25 chains to the point of beginning.

Also less and excepting therefrom that portion of the subject property lying within the County Roads.

Parcel 4:

Beginning 12.74 chains South and 50 links West of Northeast corner of Section 15, Township 3 South, Range 4 West, Salt Lake Base and Meridian; thence South 3.02 chains; thence West 3.25 chains; thence North 3.02 chains; thence East 3.25 chains to the point of beginning.

EXHIBIT 2

BIDDER ACKNOWLEDGMENT

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

I.

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

SUCCESSFUL BID AMOUNT: \$ _____

Date: _____

Bidder: _____

(Print Name)

Its: _____

OR

II.

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

BACK-UP BID AMOUNT: \$ _____

Date: _____

Bidder: _____

(Print Name)

Its: _____