

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

IN RE: KNIGHT ENERGY HOLDINGS, LLC, <i>ET AL</i> ¹ DEBTORS	CASE NO. 17-51014 (JOINTLY ADMINISTERED) CHAPTER 11 JUDGE ROBERT SUMMERHAYS
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**MOTION FOR ORDER APPROVING (I) THE SALE OF PROPERTY PURSUANT TO
BANKRUPTCY CODE SECTIONS 105 AND 363, (II) ASSUMPTION AND
ASSIGNMENT OF UNEXPIRED LEASES, AND (III) COMMISSION TO BROKER**

NOW INTO COURT, through undersigned counsel, comes Knight Energy Holdings, LLC; Knight Oil Tools, LLC; Knight Manufacturing, LLC; KDCC, LLC, f/k/a Knight Well Services, LLC; Tri-Drill, LLC; Advanced Safety & Training Management, LLC; Knight Security, LLC; Knight Information Systems, LLC; El Caballero Ranch, Inc.; Rayne Properties, LLC; Knight Aviation, LLC; Knight Research & Development, LLC; Knight Family Enterprises, LLC; HMC Leasing, LLC; and HMC Investments, LLC (collectively, the “Debtors”), who hereby moves (the “Motion”) this Court for entry of an order authorizing HMC Leasing, LLC (“HMC Leasing”) to sell certain real property located at the Southeast corner of Interstate 40 and Cimarron Road, Oklahoma City, Canadian County, State of Oklahoma and as more fully

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Knight Energy Holdings, LLC (1930) (Case No. 17-51014); Knight Oil Tools, LLC (2667) (Case No. 17-51015); Knight Manufacturing, LLC (0600) (Case No. 17-51016); KDCC, LLC, f/k/a Knight Well Services, LLC (4156) (Case No. 17-51017); Tri-Drill, LLC (4957) (Case No. 17-51018); Advanced Safety & Training Management, LLC, (0510) (Case No. 17-51019); Knight Security, LLC (0923) (Case No. 17-51020); Knight Information Systems, LLC (9787) (Case No. 17-51021); El Caballero Ranch, Inc. (7345) (Case No. 17-51022); Rayne Properties, LLC (7235) (Case No. 17-51023); Knight Aviation, LLC (3329) (Case No. 17-51024); Knight Research & Development, LLC (3760) (Case No. 17-51025); Knight Family Enterprises, LLC (7190) (Case No. 17-51026); HMC Leasing, LLC (0814) (Case No. 17-51027) and HMC Investments, LLC (8254) (Case No. 17-51029). The Debtors’ service address is 2727 SE Evangeline Thruway, Lafayette, Louisiana 70508 other than Knight Manufacturing, LLC and Advanced Safety & Training Management, LLC. Knight Manufacturing, LLC’s service address is 2810-A Melancon Road, Broussard, Louisiana 70518 and Advanced Safety & Training Management, LLC’s service address is 2725 SE Evangeline Thruway, Lafayette, Louisiana 70508.

described below (the “Property”) pursuant to Bankruptcy Code Sections 105 and 363, authorizing the assumption and assignment of certain unexpired leases which may or could be deemed to constitute unexpired leases, and approving as final compensation the commission of the Debtors’ broker, CBRE, Inc. (“CBRE”) In support of the Motion, the Debtors contend as follows:

JURISDICTION

1. Pursuant to 28 U.S.C. §§ 157(b) and 1334, this Court has jurisdiction: (i) to hear and determine the Motion; and (ii) over the persons and property affected. The subject matter of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (N). Venue for this proceeding is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND AND PROCEDURAL HISTORY

2. On August 8, 2017 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under Chapter 11 of title 11 of the U.S. Code (the “Bankruptcy Code”). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. HMC Leasing is the owner of the Property which is more fully described as follows:

Seller hereby agrees to sell to Purchaser and Purchaser hereby agrees to purchase from Seller, subject to all of the terms and conditions of this Agreement, the real property described as North Half (N/2) of the Southwest Quarter (SW/4) and the North Half (N/2) of the Southeast Quarter (SE/4) of Section 23, T12N, R6W of the Indian Meridian, Canadian County, Oklahoma, LESS AND EXCEPT the I-40 Right-of-Way, and LESS AND EXCEPT a tract described as follows: Beginning at the Northeast corner (NE/C) of said North Half of the Southeast Quarter (N/2 SE/4) of Section Twenty-Three (23), thence West along the North line of said N/2 SE/4 a distance of 890.54 feet; thence Easterly on a curve to the right having a radius of 10,560.96 feet a distance of 793.21 feet; thence South 22°31’08” East a distance of 175.73 feet; thence North 89°53’34” East a distance of 33 feet to a point on the East line of said N/2 SE/4; thence North along said East line a

distance of 221.40 feet to the point of beginning; together with all improvements thereon and all appurtenances and easements thereunto belonging, less and except the Mineral Interest as defined on Exhibit "A" of the Purchase Agreement.

4. On September 6, 2017, the Debtors filed an application [Dkt. No. 263] to employ CBRE as real estate broker in connection with the sale of the Property. On September 20, 2017, the Court entered an order [Dkt. No. 317] granting the retention of CBRE and approving the Listing Agreement entered into between HMC Leasing and CBRE. Pursuant to the Listing Agreement, the Debtors agreed to compensate CBRE with a commission of 6% of the gross sales price.

5. The Property is subject to the following mortgages/liens:

i. Multiple Indebtedness Mortgage dated March 28, 2011, made and executed by HMC Leasing, LLC, as successor to HMC Leasing, Inc., in favor of IberiaBank, and all future holders, encumbering the Property, filed and recorded on April 5, 2011 in the mortgage records of the County of Canadian, State of Oklahoma, as Document No. 2011 6415, Book 3752, Pages 258-275.

6. During the past two weeks, HMC Leasing received several offers on the Property from Capital Funding Investments, LLC ("Purchaser") and another competing bidder. The initial bid on the Property was \$1,000,000, and after several competing bids, the Purchaser made the highest cash offer in the amount of \$1,725,000 by the bid deadline. A copy of the Purchase Agreement is attached hereto as Exhibit "A".

7. Pursuant to the Purchase Agreement, the closing on the Property must occur within thirty (30) days of the execution of the Purchase Agreement, or by November 16, 2017.

8. Upon information and belief, HMC Leasing is a lessor under certain Lease Agreements dated August 1, 2004 (as amended, renewed, and/or supplemented, the "Billboard Leases") with The Lamar Companies, as Lessee. Pursuant to the Billboard Leases, HMC Leasing leases certain space to the Lessee on the Property for billboard advertisements. The Billboard

Leases contained a 10-year term; however, the Debtors believe the Billboard Leases may have been renewed or extended.

STATUTORY PREDICATES

9. This Motion is brought pursuant to the authority of 11 U.S.C. §§105 and 363(b)(1), 363(f) and 363(m) and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure.

RELIEF REQUESTED

10. Pursuant to Sections 105, 363(b)(1), 363(f) and 363(m) of the Bankruptcy Code, the Debtors are seeking an order authorizing HMC Leasing to sell the Property, for a total purchase price of \$1,725,000 to Purchaser, free and clear of all liens, claims, encumbrances and other interests, in accordance with the terms of the Purchase Agreement.

11. By this Motion, the Debtors also seek entry of an order authorizing HMC Leasing to assume and assign the Billboard Leases to Purchaser pursuant to Section 365 of the Bankruptcy Code to the extent the Billboard Leases are unexpired leases subject to Section 365.

12. Additionally, pursuant to 11 U.S.C. § 330(a), the Debtors request that this Court approve the commission sought by CBRE in the amount of 6% of the gross sales price received from the sale of the Property. Debtors submit that the commission sought is reasonable compensation for the actual and necessary services rendered by CBRE as required under the Bankruptcy Code.

BASIS FOR RELIEF REQUESTED

A. Sale of the Property Pursuant to Section 363

13. Section 363(b)(1) of the Bankruptcy Code provides that a debtor-in-possession - after notice and hearing - may “use, sell or lease, other than in the ordinary course of business,

property of the estate.”¹ Under section 363, a sale of property of the estate should be granted court approval when the sale is an exercise of the Debtors’ reasonable business judgment.² Bankruptcy courts have considerable discretion in determining whether a sale satisfies the business judgment rule.³ The Debtors’ business judgment should not be second guessed unless the judgment is clearly erroneous, too speculative or contrary to the provisions of the Bankruptcy Code.

14. The proposed sale of the Property is fair and reasonable and is the result of arm’s-length negotiations between the parties. The agreement represents the best offer received to date by the Debtors.

15. Under section 363(f) of the Bankruptcy Code, a trustee may sell property free and clear of any lien, claim, or interest in such property if, among other things:

- (i) applicable non-bankruptcy law permits sale of such property free and clear of such interest;
- (ii) such entity consents;
- (iii) such interest is a lien and the price at which the property is sold is greater than all liens on such property;
- (iv) such interest is in bona fide dispute; or
- (v) such entity could be compelled, in a legal or equitable proceeding, to accept money satisfaction of such interest.

11 U.S.C. §363(f).

16. Satisfaction of any of the requirements delineated in section 363(f) allows the sale of property free and clear of all liens, claims, encumbrances and other interests. The Debtors submit that any lien, claim, encumbrance or other interest will be satisfied by at least one of the five requirements of section 363(f).

³ See, e.g., *In re Crutcher Resources Corp.*, 72 B.R. 628, 631 (Bankr. N.D. Tex. 1987).

17. Section 363(f)(2) permits a debtor to sell property free and clear of any interests in property if “such entity consents....” 11 U.S.C. §363(f)(2). Therefore, if Iberia Bank, the only holder of a mortgage or lien against the Property, consents to the sale, the Debtors may sell the Property free and clear of any lien, claim, or interest in such property.

18. Additionally, 11 U.S.C. §363(f)(1) permits a debtor-in-possession to, “sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if – (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest....” 11 U.S.C. §363(f)(1). Under applicable nonbankruptcy law, the laws of the State of Oklahoma, the Property could be sold free and clear of all liens, mortgages and judgments, including all of the inferior liens and judgments. *See* Okla. Stat. Ann. tit. 42, § 22 (West) (“The sale of any property on which there is a lien, in satisfaction of the claim secured thereby...extinguishes the lien thereon.”).

19. Accordingly, the Debtors request that the Property be sold free and clear of all liens, claims, and encumbrances and other interests, with such claims attaching to the proceeds of the sale in their proper rank and order as set forth herein.

20. If a purchase is in good faith, section 363(m) protects the parties in the event of a reversal or modification on appeal of the authorization of a sale under section 363(b). In determining whether a purchaser has acted in good faith, courts look to the integrity of the purchaser’s conduct in the course of the sale proceedings.⁴ The Debtors submit that the Purchaser has acted in good faith and the transaction should be afforded protection under section 363(m).

⁴ *See, e.g., In re Abbots Dairies of Pa., Inc.*, 788 F.2d 143, 147-48 (3rd Cir. 1986).

B. Assumption and Assignment of Billboard Leases

21. Section 365(a) of the Bankruptcy Code provides in relevant part that a debtor, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” Bankruptcy courts use the business judgment standard to determine whether to approve assumption and rejection of contracts. *In re Food Barn Stores, Inc.*, 107 F.3d 558, 567, n. 16 (8th Cir. 1997); *see also In re Crystallin, LLC*, 293 B.R. 455, 463 (8th Cir. BAP 2003). This decision entails a “determination that the transaction is in the best interest of the estate.” *Id.*; *see also Crystallin*, 293 B.R. at 464.

22. Additionally, Section 365(f) of the Bankruptcy Code provides that, notwithstanding language in an unexpired lease to the contrary, a debtor is allowed to assign a lease if the debtor assumes such lease in accordance with the provisions of section 365 and provides adequate assurance of future performance by the assignee of the lease, whether or not there has been a default in the lease. 11 U.S.C. §365(f).

23. The Debtors have determined through an exercise of their business judgment that it is in the best interest of the Debtors’ estates to assume and assign the Billboard Leases to the Purchaser to the extent they are unexpired leases subject to Section 365. Once the sale closes, HMC will have no rights further rights to the Property and therefore, the Debtors believe the assumption and assignment of the Billboard Leases is necessary.

C. Approval of Commission

24. Section 330 governs the allowance and amount of compensation a bankruptcy court may award to a professional employed by a trustee or Chapter 11 debtor in possession. Amounts awarded must be limited to “reasonable compensation for actual, necessary services rendered” 11 U.S.C. § 330(a).

25. As set forth in the Listing Agreement, the Debtors seek to pay CBRE a commission of six (6%) percent of the gross sale price, or \$103,500.00. The Debtors submit that CBRE's were necessary to market and sell the Property and were instrumental in assisting with the competing bid process. Therefore, CBRE's services were necessary to the administration of the cases and beneficial to the cases at the time the services were rendered.

26. Further, it is the Debtors' understanding that the commission charged by CBRE is commensurate with commissions charged by CBRE in similar matters, and therefore, the six (6%) percent commission is fair and reasonable.

27. Based on the foregoing, the Debtors request that the Court grant CBRE final compensation of six (6%) percent commission of the gross sale price of the Property, or \$103,500.00.

WAIVER OF THE STAY UNDER BANKRUPTCY RULE 6004(h)

28. The Debtors requests a waiver of the stay that otherwise would be applicable to the order approving the proposed sale of Property pursuant to Bankruptcy Rules 6004(h).

WHEREFORE, the Debtors seek entry of an order (i) authorizing HMC Leasing to sell the Property, for a total purchase price of \$1,725,000 to Purchaser, free and clear of all liens, claims, encumbrances and other interests, in accordance with the terms of the Purchase Agreement, (ii) authorizing the assumption and assignment of the Billboard Leases to Purchaser to the extent they constitute unexpired leases under Section 365, (iii) granting CBRE final compensation of six (6%) percent commission of the gross sale price of the Property, or \$103,500.00 pursuant to 11 U.S.C. §330(a), and (iv) granting such other relief as is just and equitable.

Dated: October 17, 2017.

Respectfully submitted,

/s/ Cherie Dessauer Nobles

William H. Patrick, III (La. Bar No. 10359)

Tristan Manthey (La. Bar No. 24539)

Cherie Dessauer Nobles, (La. Bar No. 30476)

Heller, Draper, Patrick, Horn & Dabney, L.L.C.

650 Poydras Street, Suite 2500

New Orleans, Louisiana 70130-6175

Telephone: 504-299-3300

Fax: 504-299-3399

Counsel for Debtors

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS Agreement is made between HMC Leasing, LLC, whose notice address is P.O. Box 52688, Lafayette, LA 70505 (hereinafter referred to as the "Seller") and Capital Funding Investments, LLC, whose notice address is P.O. Box 851471, Yukon, OK 73085 (hereinafter referred to as the "Purchaser")

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the agreements herein contained, the parties agree as follows:

1. Sale Agreement. Seller hereby agrees to sell to Purchaser and Purchaser hereby agrees to purchase from Seller, subject to all of the terms and conditions of this Agreement, the real property described as North Half (N/2) of the Southwest Quarter (SW/4) and the North Half (N/2) of the Southeast Quarter (SE/4) of Section 23, T12N, R6W of the Indian Meridian, Canadian County, Oklahoma, LESS AND EXCEPT the I-40 Right-of-Way, and LESS AND EXCEPT a tract described as follows: Beginning at the Northeast corner (NE/C) of said North Half of the Southeast Quarter (N/2 SE/4) of Section Twenty-Three (23), thence West along the North line of said N/2 SE/4 a distance of 890.54 feet; thence Easterly on a curve to the right having a radius of 10,560.96 feet a distance of 793.21 feet; thence South 22°31'08" East a distance of 175.73 feet; thence North 89°53'34" East a distance of 33 feet to a point on the East line of said N/2 SE/4; thence North along said East line a distance of 221.40 feet to the point of beginning; together with all improvements thereon and all appurtenances and easements thereunto belonging, less and except the Mineral Interest as defined on Exhibit "A" (the "Property.").

2. Purchase Price. The total Purchase Price for the Property shall be ONE MILLION SEVEN HUNDRED TWENTY-FIVE THOUSAND AND NO/100 (\$1,725,000.00) DOLLARS. The Purchase Price shall be paid to Seller as follows:

2.1 Escrow Deposit. Upon execution of a definitive Purchase & Sale Agreement, Purchaser or assigns will deposit Twenty-Five Thousand and No/100 (\$25,000) Dollars in an escrow account held by the Title Company (see Section 4.2 below), until the transfer of title. The Escrow Deposit will be applied against the purchase price at Closing.

2.2 Cash Payment at Closing. At the Closing, the Purchaser shall pay, and/or cause to be paid to Seller a sum in cash (including the Escrow Deposit), equal to the total Purchase Price.

3. Conditions Precedent to Closing. The following conditions shall be satisfied prior to the Closing Date, as hereinafter defined.

3.1 Title Survey and Inspection. Immediately after the complete execution hereof, Seller shall obtain a commitment for the ALTA Policy of Owner's Title Insurance, together with copies of all documents which are tabulated therein as exceptions to this title (the "Title Commitment"), in the amount of the Purchase Price covering the Property, showing marketable record title to the Property to be in the name of the Seller, subject only to current ad valorem taxes

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not yet due and other matters approved or waived by Purchaser. Purchaser may, upon receipt of the Title Commitment, order a Survey of the Property from a surveyor licensed by the State of Oklahoma. Purchaser will pay the cost of the Survey.

3.1.1 Marketable Record Title. Record title to the Property shall be, at closing, marketable as that term is defined by the current title standards of the Oklahoma Bar Association, free and clear of all liens and encumbrances or other matters affecting the record title to the Property other than as accepted by Purchaser in Paragraph 3.1 above.

3.1.2 Defects in Record Title or Survey. Within five (5) business days after Purchaser's receipt of the later of the Title Commitment, or Survey if Purchaser obtains one, Purchaser shall furnish to Seller written notification of any objection to or defects in record title other than as accepted by Purchaser in Paragraph 3.1 above, as well as any objections Purchaser has to the Survey. Unless specifically provided by written notice to Seller, the title and survey conditions as shown by the Title Commitment and Survey shall be considered acceptable to Purchaser. Subject to the terms of Paragraph 3.1.3 hereof, Seller agrees to use Seller's best efforts to satisfy such objections of Purchaser to the Title Commitment and Survey and all requirements of the Title Commitment prior to the Closing date.

3.1.3 Failure to Cure Defects. In the event Seller fails to satisfy all requirements of the Title Commitment or to cure Purchaser's other objections to defects in record title or the Survey prior to the Closing Date, Purchaser may elect to waive such requirements or title objections, or Seller may extend the Closing Date for a period not to exceed fifteen (15) days in order to correct such defects. In the event such requirements or objections are not waived or cured within said fifteen (15) day extension, the Purchaser shall be entitled to declare this Agreement null and void, and shall be entitled to a full refund of the Escrow Deposit.

3.2 Inspection Period. In addition to Seller's performance of Seller's obligations hereunder, and in addition to Purchaser's approval of title and the survey as provided above, Purchaser's obligation to purchase the Property is expressly subject to Purchaser's satisfaction in its sole and absolute discretion, with any and all inspections and/or feasibility studies Purchaser deems necessary with respect to the Property, the condition of the Property, and any other matter(s) pertaining to the Property, within twenty (20) days of execution of this Agreement (the "Inspection Period"). If Purchaser is satisfied, in its sole and absolute discretion, with the results of its investigations and inspections of the Property, then it shall deliver a written notice of such fact to Seller on or prior to the expiration of the Inspection Period (an "Acceptance Notice"), after which the Earnest Money Deposit shall be non-refundable (except as expressly provided otherwise in this Agreement) and this Agreement shall remain in full force and effect. Upon delivery of such Acceptance Notice, Purchaser agrees to accept delivery of the Property in "as is" condition on the date of Closing, subject to Seller's representations, warranties and covenants contained in this Agreement and ordinary wear and tear. Seller agrees that prior to Closing, Seller shall not permit any deterioration or waste of the Property, acts of God excepted. If for any reason whatsoever in Purchaser's sole and absolute discretion Purchaser determines that the Property or any aspect thereof is unsuitable for Purchaser's acquisition, Purchaser shall have the right to terminate this Agreement at any time prior to the expiration of the Inspection Period. If this Agreement is terminated pursuant to the foregoing provisions of this paragraph, then neither party shall have any

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further rights or obligations hereunder (except for any indemnity obligations of either party pursuant to this Agreement), the Escrow Deposit shall be returned to Purchaser without any action required by Seller and each party shall bear its own costs incurred hereunder. If Purchaser fails to give Seller an Acceptance Notice on or prior to the expiration of the Inspection Period, then Purchaser shall be deemed to have elected to terminate this Agreement and the Earnest Money Deposit shall be returned to Purchaser without any action required by Seller.

3.2.1 Entry on Property. Purchaser, and Purchaser's agents, independent contractors, employees, and/or representatives, are hereby granted the immediate right, as of the date of Court Approval, and until the expiration of the Inspection Period (or until Closing if Purchaser submits the Acceptance Notice), at reasonable times and upon reasonable notice to Seller, to enter and remain upon all or any portion of the Property for the purpose of making any, engineering, geological, ecological, Phase I or other environmental, soil, surveying, or other tests and/or investigations as may be necessary or appropriate for the inspection of the Property or the preparation of any plans, surveys, reports, and/or applications for Purchaser's intended use and operation thereof. Except to the extent resulting from Seller's or its agents' negligence or willful misconduct, Purchaser agrees to indemnify and hold Seller harmless from and against all liabilities, damages, and claims arising out of injury to persons or property in connection with any such authorized entry by Purchaser, its agents, inspectors and employees, upon the Property (other than matters arising as a result of discovery of existing conditions within or beneath the Property, provided that Purchaser, its agents, inspectors and employees do not materially exacerbate such existing conditions), and to provide Seller with any lien waivers necessitated as a result of any such authorized Purchaser entry upon the Property.

3.3 Bankruptcy Court Approval. The terms of this agreement are subject to the approval ("Court Approval") of the United States Bankruptcy Court for the Western District of Louisiana, Lafayette Division ("Bankruptcy Court"). If such approval is not obtained within sixty (60) days of complete execution hereof, then this Agreement shall be null and void and neither party shall have any rights, claims, interests or obligations, provided that Purchaser shall be entitled to a return of its Escrow Deposit.

3.4 Release of Mortgage by IberiaBank. The Bankruptcy Court shall have approved the sale of the Property free and clear of all liens, claims, encumbrances, and other interests, including but not limited to, the Multiple Indebtedness Mortgage dated March 28, 2011, made and executed by HMC Leasing, LLC, as successor to HMC Leasing, Inc., in favor of IberiaBank, and all future holders, encumbering the Property, filed and recorded on April 5, 2011 in the mortgage records of the County of Canadian, State of Oklahoma, as Document No. 2011 6415, Book 3752, Pages 258-275.

3.5 Consent of the Consenting Lenders. HMC Leasing shall have received consent to sell the Property from the Consenting Lenders (as that term is defined in the Restructuring Support Agreement).

4. Closing. The purchase of the Property shall be consummated as follows:

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4.1 Closing Date. Subject to Bankruptcy Court approval, the Closing Date shall be a date designated by the parties hereto on or before thirty (30) days after the complete execution hereof, unless additional time is needed to cure title defects pursuant to Paragraph 3.1.3. hereof, in which case the Closing shall occur within five (5) days after meeting such requirements.

4.2 Place of Closing. The Closing shall be conducted at the offices of American Eagle Title Insurance Company located at 12801 NW 10th Street, Yukon, Oklahoma ("Title Company").

4.3 Warranty Deed. Title to the Property shall be conveyed by Warranty Deed, free and clear of all liens and encumbrances and subject only to those exceptions contained in the Title Commitment, which are approved by Purchaser. Furthermore, Purchaser shall purchase and accept the Property as of the Closing Date in its "As is" "Where is" condition with all faults and the Warranty Deed shall include such language.

4.4 Owner's Policy of Title Insurance. An Owner's Policy of Title Insurance issued pursuant to the Title Commitment described herein above will be furnished to the Purchaser or Purchaser's nominee at Closing.

4.5 Possession. Possession of the Property shall be given to Purchaser on the Closing Date. There shall be no leases, agreements, rights, written or verbal affecting the Property on the Closing Date, except the existing Billboard Sign Leases. The assumption and assignment of the existing Billboard Sign Leases to Purchaser shall be subject to Bankruptcy Court approval to the extent necessary.

4.6 Prorations of Taxes and Assessments. All property taxes, if any, for all calendar years preceding the year of Closing shall be paid by Seller. All property taxes for the calendar year of Closing shall be prorated to the Closing date based on the latest available information regarding property taxes assessed against the Property. At the Closing, the Seller shall pay or discharge any special assessments against the Property which are payable as of the Closing Date and for all years prior thereto and which are a lien on the Property as of the Closing Date. All the unpaid installments of any such assessment, including those which are to become due and payable after the Closing shall be deemed due and payable and liens upon the Property and shall be paid and discharged by Seller at the Closing.

4.7 Closing Costs. Purchaser and Seller shall each be responsible for their own costs and expenses of this transaction. Purchaser shall be responsible for payment of a Standard Owner's Title Policy for Purchaser. Seller shall be responsible for all abstracting and any and all sales commissions. Sales commission is 6% of the purchase price. Purchaser and Seller shall split escrow fees and closing costs on a 50/50 basis.

4.8 Brokerage Commission. Subject to Bankruptcy Court approval, Seller shall pay a 6% real estate commission to CBRE, Inc. at Closing. No other agents or brokers are involved in this transaction.

5. Seller's Warranties and Representations. Seller hereby warrants and represents as follows:

5.1 Ownership. Title to the Property is in the name of HMC Leasing, LLC.

5.2 Liens. At closing, the Property shall be subject to no liens or encumbrances, which are not shown by the Title Commitment.

5.3 Rights in Property. There will on the Closing Date be no options, purchase contracts, agricultural or other leases or other agreements of any kind or nature, written or oral, by which any person or entity has or could claim or assert any legal right, title, or interest in any of the Property, other than as set forth herein.

5.4 Zoning or Use Restrictions. The sale is contingent on the Property being zoned as moderate industrial by the appropriate zoning authority, except approximately 12 acres zoned light industrial in the northwest corner of the Interstate Hwy. 40 property.

5.5 Prior Leases & Easements. Seller shall assign and transfer its ownership or interest in any leases, easements, rights-of-way, agreements etc. which in any way affect the property, including billboard leases, utilities, water, railroads, etc.

6. Reports and Studies. Within 5 days of Opening of Escrow, Seller will provide Purchaser with any facts, billboard or other leases or rental agreements, studies, traffic reports, approvals, environmental reports, flood maps, proof of zoning, drawings, plans and permits in its possession related to the premises, along with a Title Insurance Commitment.

7. Survival of Agreements, Warranties, and Representations. All of the agreements, warranties, and representations contained in this Agreement shall survive the Closing Date, the transfer of the Property, the delivery of the Warranty Deed, and shall bind and inure to the benefit of the successors and assigns of the Seller and Purchaser.

8. Defaults and Remedies.

8.1 Purchaser Default. If Capital Funding Investments, LLC, wrongfully refuses to close the sale of the Property under the terms of this Agreement, Seller's sole remedy shall be limited to cancellation of this Agreement and the escrow, whereupon Seller shall be entitled to receive and retain the Escrow Deposit as consideration for entering into this Agreement and removing the Property from the market, with Title Company being instructed to immediately pay such earnest money to Seller. Seller's cancellation shall be effective immediately upon Seller giving written notice of cancellation to Buyer and Title Company.

8.2 Seller Default. If Seller defaults under this Agreement, Purchaser, as Purchaser's sole and exclusive remedy for such a default, may either (a) cancel this Agreement and the escrow, such cancellation to be effective immediately upon giving written notice of cancellation to Seller and Title Company, whereupon Purchaser shall be entitled to have

Escrow Deposit returned to Purchaser; or (b) seek specific performance of Seller's affirmative obligations under this Agreement.

8.3 IN NO EVENT SHALL SELLER OR PURCHASER BE LIABLE TO EACH OTHER OR TO ANY OTHER PERSON CLAIMING THROUGH THE OTHER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING ANY LOSS OF PROFITS, BUSINESS OR ANTICIPATED SAVINGS, WHETHER OR NOT SUCH CLAIMS HAVE ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN EITHER PARTY'S FAVOR). PURCHASER AND SELLER HEREBY WAIVE AND RELEASE ANY AND ALL CLAIMS FOR SUCH SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES AND AGREE NOT TO SUE UPON, ASSERT ANY THEORY OF LIABILITY FOR, OR OTHERWISE CLAIM OR SEEK ANY SUCH SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES.

8.4 Litigation Expense. In any action brought by a party here to enforce the obligations of any other party hereto, the prevailing party shall be entitled to collect from the other parties to such action such party's reasonable attorneys' fees, court costs and other expenses incidental to such litigation.

9. Miscellaneous. It is further understood and agreed as follows:

9.1 Escrow Instructions. The Escrow deposit shall be held by the Escrow Agent in a noninterest-bearing account.

9.2 Adverse Change. If, from the date of execution of this Agreement until the Closing Date, the Property shall be materially and adversely affected in any way as a result of any legislative or regulatory change or as a result of flood, earthquake, condemnation, or act of God, Purchaser, at its option, may refuse to close the purchase of the Property and shall be entitled to a refund of the Earnest Money Deposit, together with accrued interest thereon. If all or any material portions of the Property shall be taken by condemnation, prior to the Closing, Purchaser may, at its sole option, elect to (i) terminate this Agreement, (ii) reduce the Purchase Price in the amount of the condemnation award to be paid or payable with respect to such taking, or (iii) receive from Seller an assignment of the condemnation award payable with respect to such taking. Purchaser's election under this Section shall be exercised by written notice to Seller within ten (10) days after receipt of written notice from Seller of such taking, or of written notice of the amount of the condemnation award payable with respect to such taking, whichever is later. If Purchaser elects to terminate this Agreement under this Section, the Earnest Money paid hereunder shall be immediately refunded to Purchaser and Purchaser shall have no further obligations or liabilities hereunder. The property is being conveyed in its present condition, as is. Purchaser and Seller agree that the risk of loss with respect to the Property shall remain on Seller prior to the Closing of the sale and purchase of the Property.

9.3 Severability. If any provision of this Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby.

9.4 Time. Time is of the essence of this Agreement.
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9.5 Binding Effect. The provisions of this Agreement shall inure to the benefit and bind the successors and assigns of the parties hereto.

9.6 Section Headings. Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

9.7 Amendment and Waiver. This agreement may be amended at any time in all respects by, an instrument in writing executed by Seller and Purchaser. Either party may waive any requirement to be performed by the other, provided that said waiver shall be in writing and executed by the party waiving the requirement.

9.8 Integrated Agreement. This Agreement constitutes the entire agreement between Purchaser and Seller, and there are no agreements, understandings, restrictions, warranties, or representations with respect to the Property between Purchaser and Seller other than those set forth herein.

9.9 Choice of Law. It is the intention of Seller and Purchaser that the laws of Oklahoma shall govern the validity of this Agreement, the construction of its terms and interpretation of the rights and duties of Purchaser and Seller.

9.10 Notices. Wherever any notice or other communication is required or permitted hereunder, such notice or other communication shall be in writing and shall be delivered by overnight courier, by hand, by telecopy (if transmission is confirmed by the transmitting machine), or sent by U.S. registered or certified mail, return receipt requested, postage prepaid, to the addresses set out below or at such other addresses as are specified by written notice delivered in accordance herewith:

SELLER: HMC Leasing, LLC
P.O. Box 52688
Lafayette, LA 70505
Fax No. 337-233-0438

With copy to: Heller Draper et al.
650 Poydras St. Suite 2500
New Orleans, LA 70130

PURCHASER: Capital Funding Investments, LLC
P.O. Box 851471
Yukon, OK 73085
Attention: Dallas Williams
Fax No. (405) 350-7467

With copy to: Hartzog Conger Cason & Neville
1600 Bank of Oklahoma Plaza

201 Robert S. Kerr Avenue
Oklahoma City, Oklahoma 73102
Attention: Rick L. Warren
Fax No. 405-996-3403

Any notice or other communication mailed as hereinabove provided shall be deemed effectively given or received on the date of delivery, if delivered by telecopy, hand or by overnight courier, or otherwise on the third (3rd) business day following the postmark date of such notice or other communication.

9.11 Assignment. Purchaser may assign this Agreement to another party without the prior consent of Seller, provided that such consent does not relieve Purchaser of any obligations herein.

9.12 Signage. Seller grants permission to Purchaser, at Purchaser's expense, to erect one temporary sign on the Property announcing the location as the future home of its business.


9.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement.

9.14 Execution. This Agreement shall not be effective until executed by both parties hereto. Unless Purchaser and Seller have received fully executed counterpart originals of this Agreement on or before 5:00 p.m. on October __, 2017, then this Agreement shall be null and void.

16th IN WITNESS WHEREOF, the parties have executed this Agreement effective the 16th day of October, 2017.

“SELLER”

HMC LEASING, LLC

BY: 
GARY PITTMAN
Authorized Representative

“PURCHASER”

CAPITAL FUNDING INVESTMENTS, LLC

BY:  10-16-2017
DALLAS WILLIAMS
Authorized Manager

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STATE OF LOUISIANA)

) ss.

PARISH OF LAFAYETTE)

17th Before me, the undersigned, a Notary Public in and for said Parish and State on this day of October, 2017, personally appeared Gary Pittman, Authorized Representative of HMC Leasing, LLC, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary acts and deeds as the Authorized Representative for the uses and purposes therein set forth.

Dated this 17th day of October, 2017.

NOTARY



My Commission Expires:
Notary Number:

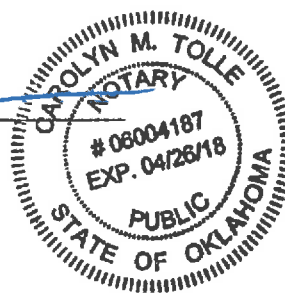
COLE J. GRIFFIN
NOTARY PUBLIC
STATE OF LOUISIANA
NOTARY NO. 81090
MY COMMISSION IS ISSUED FOR LIFE

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

Before me, the undersigned, a Notary Public in and for said County and State on this 16th day of October 2017, personally appeared Dallas Williams, authorized Manager of Capital Funding Investments, LLC, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary acts and deeds as Manager for the uses and purposes therein set forth.

Dated this 16th day of October, 2017.


NOTARY : Carolyn Tolle



My Commission Expires: 04-26-2018
Commission Number: 06004187

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EXHIBIT "A"

To Agreement for Purchase and Sale of Real Property

The parties hereto agree that the definition of "Mineral Interest", as used in this Agreement of is oil and gas and other minerals produced as oil or gas or a component or constituent thereof whether hydrocarbon or non-hydrocarbon and does not include any other mineral including, but not limited to gravel, rock, chat, cinder or other aggregate sand, soil or dirt.

Buyer's Initials DW

Seller's Initials BR