

COPY

1 **Guttilla Murphy Anderson, P.C.**
2 **Patrick M. Murphy** (Ariz. No. 002964)
3 City North
4 5415 E. High St., Suite 200
5 Phoenix, Arizona 85054
6 Email: pmurphy@gamlaw.com
7 Phone: (480) 304-8300
8 Fax: (480) 304-8301

9 Attorneys for the Receiver

10 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

11 IN AND FOR THE COUNTY OF MARICOPA

12 STATE OF ARIZONA ex rel. LAUREN)
13 KINGRY, Superintendent of the Arizona)
14 Department of Financial Institutions,)

15 Plaintiff,

16 v.

17 LANDMARC CAPITAL &)
18 INVESTMENT COMPANY,)
19 Defendant.)

Cause No. CV2009-020595

ORDER RE: PETITION NO. 76

(Assigned to Judge Lisa Flores)

Guttilla Murphy Anderson, P.C.
City North
5415 E. High Street, Suite 200
Phoenix, AZ 85054
(480) 304-8300

20 The Receiver having filed *Petition No. 76, Petition to Confirm Sale of Approximately*
21 *37 Acres of the Presidio West Tract ("Petition No. 76"), Landmarc Capital Partners, LLC*
having ~~filed~~ ^{withdrawn its} Landmarc Capital Partners' Objection to Petition No., 76 and TBM Associates
having filed *TBM Associates, LLC's Statement of No Opposition, Clarification and*
Reservation of Rights, and the Receiver having filed the *Receiver's Supplement to Petition*
No. 76 and Response to Objections Filed by Landmarc Capital Partners, LLC, and
competing offers having been submitted to the Receiver and the Court, and the Court having
considered same:

Garcia Murphy Anderson, P.C.
City North
5415 E. High Street, Suite 200
Phoenix, AZ 85054
(480) 304-8300

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Confirming the sale of the real property of approximately 37 acres of the Presidio West Tract and legally described in the attached Exhibit "1" ("Property") to Breckenridge GP, LLC in accordance with the terms set forth in Purchase and Sale Agreement agreed to by the parties and attached as Exhibit C to the *Receiver's Supplement to Petition No. 76 and Response to Objections Filed by Landmarc Capital Partners, LLC.*

2. Directing the Receiver to hold the net proceeds derived from the sale in trust until all claims to the Property have been finally resolved by the Court and any interests that those claimants are determined to have in the Property will attach to the proceeds of the sale approved herein, except that the Receiver is authorized to use funds that become available to the Receiver pursuant to the Purchase Agreement to pay obligations for real estate taxes and insurance regarding the Property.

3. Authorizing Thomas Giallanza, as Deputy Receiver, to execute all necessary documents in connection with the sale of the Property confirmed by the Court.

4. Pursuant to Rule 54(b), Ariz.R.Civ.P., the Court makes the express determination that there is no just reason for delay and makes the express determination directing entry of this Order at this time as a final judgment.

Dated August 30, 2013.

Lisa Daniel Flores

Judge of the Superior Court

1157-001

Exhibit A

A parcel of land being a portion of the "Presidio West Tract" as said Tract is described in that certain Warranty Deed (Deed) recorded as Instrument No. 3226602, records of Coconino County, Arizona, wherein said "Presidio West Tract" is comprised of Parcel Nos. 1D, 3, 4, 5B, 6 and 8, which are situated in the East half of Section 24, Township 21 North, Range 6 East and in Section 19, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, said parcel of land being more particularly described as follows:

COMMENCING at the Northeast corner of said Section 24 as described in said Deed from which the North quarter corner of said Section 19, as described in said Deed, lies North 88° 31' 49" East, a distance of 2,834.20 feet;

Thence from said Northeast corner of Section 24, South 01° 56' 25" East, a distance of 1,718.05 feet along the line common to said Sections 24 and 19, to a point on the North boundary of said "Presidio West Tract" from which the West quarter corner of said Section 19, as described in said Deed, lies South 01° 54' 02" East, a distance of 916.83 feet;

Thence along said North boundary, South 72° 44' 49" East, a distance of 1,413.88 feet to the beginning of an offset spiral;

Thence along said North boundary, being a line curved to the left, that is offset 68.00 feet Southerly from the centerline of the right of way of said U.S. Highway 66, said centerline being a clothoid spiral defined by the elements Theta = 3° 00' 00", Xs = 299.92 feet, Ys = 5.23 feet and Ls = 300.00 feet, the long chord bearing and length of said curved line of the North boundary are South 73° 47' 13" East - 303.42 feet, and said curved line of the North boundary runs to an offset Point of Spiral to Curve;

Thence along said North boundary, being a simple curve to the left that is offset 68.00 feet Southerly from said centerline of the right of way of U.S. Highway 66, said simple curve having a radius of 2,930.79 feet, chord bearing and length of South 78° 01' 53" East - 332.31 feet and central angle of 6° 30' 00", an arc distance of 332.49 feet to an offset Point of Curve to Spiral;

Thence along said North boundary, being a line curved to the left that is offset 68.00 feet Southerly from said centerline of the right of way of U.S. Highway 66, said centerline being a clothoid spiral defined by the elements Theta = 3° 00' 00", Xs = 299.92 feet, Ys = 5.23 feet and Ls = 300.00 feet, the long chord bearing and length of said curved line of the North boundary are South 84° 16' 33" East - 303.42 feet, and said curved line of the North boundary runs to the end of said offset spiral;

Thence along said North boundary, South 88° 16' 49" East, a distance of 203.51 feet to a ½" rebar with plastic cap stamped "LS 14184" set at the POINT OF BEGINNING;

Thence departing said North boundary of the "Presidio West Tract", South 00° 42' 05" West, a distance of 1,107.38 feet to a ½" rebar with plastic cap stamped "LS 14184" (set);

Thence South 43° 42' 33" West, a distance of 785.63 feet to a ½" rebar with plastic cap stamped "LS 14184" (set);

Thence South 54° 55' 26" East, a distance of 708.84 feet to a ½" rebar with plastic cap stamped "LS 14184" set at the beginning of a nontangent curve on the West boundary of that certain parcel of land granted to the City of Flagstaff for public right of way per Instrument Number 3397514, records of Coconino County, Arizona;

Thence Northeasterly along said West boundary, being a nontangent curve to the right, having a radius of 83.00 feet, chord bearing and length of North 68° 57' 32" East - 88.24 feet and central angle of 63° 48' 00", an arc distance of 103.60 feet to a ½" rebar with plastic cap stamped "LS 14184" set on said East boundary of the "Presidio West Tract";

Thence Northeasterly along said East boundary, being a nontangent curve to the left, having a radius of 5,679.58 feet, chord bearing and length of North 40° 18' 29" East ~ 108.64 feet and central angle of 1° 05' 45", an arc distance of 108.64 feet to a Point of Tangency;

Thence along said East boundary, North 39° 45' 38" East, a distance of 350.46 feet;

Thence along said East boundary, South 50° 13' 40" East, a distance of 50.01 feet;

Thence along said East boundary, North 40° 18' 19" East, a distance of 281.46 feet to the beginning of a Point of Curvature;

Thence Northerly along said East boundary, being a tangent curve to the left, having a radius of 716.20 feet, chord bearing and length of North 19° 59' 01" East ~ 497.46 feet and central angle of 40° 38' 37", an arc distance of 508.05 feet to a Point of Tangency;

Thence along said East boundary, North 00° 20' 18" West, a distance of 992.42 feet to the Northeast corner of said "Presidio West Tract" per said Deed;

Thence along said North boundary of the "Presidio West Tract", North 85° 16' 49" West, a distance of 782.95 feet to the POINT OF BEGINNING.

EXCEPT all oil, gas and other hydrocarbon substances, helium or other substances of a gaseous nature, coal, metals, minerals, fossils, fertilizer of every name and description, and except all materials which may be essential to the production of fissile material as reserved in Arizona Revised Statutes.