

Joyce W. Lindauer
8140 Walnut Hill Lane
Suite 301
Dallas, Texas 75231
Tel: 972.503.4034
Fax: 972.503.4034
Email: courts@joycelindauer.com
COUNSEL FOR THE DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN RE:

**WHITESTONE HOUSTON LAND,
LTD.,**

DEBTOR.

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Case No. 11-42400

Chapter 11

**MOTION FOR AN ORDER AUTHORIZING (A) THE SALE OF
THE DEBTOR'S RIGHT, TITLE AND INTEREST IN, TO AND UNDER
SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS FREE AND
CLEAR OF CLAIMS, ENCUMBRANCES, LIENS, AND INTERESTS, (B) THE
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES, AND (C) RELATED RELIEF**

**NO HEARING WILL BE CONDUCTED ON THIS
MOTION/OBJECTION/APPLICATION UNLESS A WRITTEN OBJECTION IS
FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT
AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN
TWENTY-ONE (21) DAYS FROM DATE OF SERVICE UNLESS THE COURT
SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF
NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL
BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN
ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED
AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER
SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR
OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO
SET A HEARING ON ANY MATTER.**

TO THE HONORABLE BRENDA T. RHOADES, UNITED STATES BANKRUPTCY JUDGE:

The above-referenced debtor and debtor in possession (collectively, the “Debtor”) files this *Motion for an Order Authorizing (A) the Sale of the Debtor’s Right, Title and Interest In, To and Under Substantially All of the Debtors’ Assets Free and Clear of Claims, Encumbrances, Liens, and Interests, (B) the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Related Relief* (the “Sale Motion”), and in support thereof, the Debtor respectfully states as follows:

JURISDICTION AND PROCEDURAL BACKGROUND

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This Sale Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. On August 1, 2011 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), thereby commencing the above-captioned case (the “Case”).
4. Since the Petition Date, the Debtor has continued to operate and manage its business as a debtor in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

STATEMENT OF FACTS

Debtor’s Background

5. Debtor is a special purpose entity that owns vacant real property. The Debtor acquired the property in June 2004. The property constitutes substantially all of the assets of the Debtor.

The Marketing Process

6. The Debtor has extensively marketed the asset for the past 6 years. The following details those efforts that have resulted in potential purchasers entering into negotiations and/or due diligence: Debtor has marketed the Whitestone property for 6 years. In 2006 the property was listed with Land Advisors, a national land brokerage firm with offices in Houston. As a result of that listing, in mid-2006, three groups indicated interest in Whitestone. The groups were Avanti, a capital investment group, Robson, an active adult developer and Vernal Properties LLC which entered into a term sheet and due diligence but did not close. Subsequent to these efforts, the property was marketed extensively under the EarthQuest moniker in 2009 thru 2011. The ensuing real estate recession did not allow for successful consummation of those marketing endeavors.

The Purchase Agreement

7. Subject to receipt of higher or better offer(s), the Debtor proposes to effectuate the transactions contemplated by a definitive term sheet or a definitive asset purchase agreement (as amended from time to time, the "Purchase Agreement") to be entered into by and among D.R. Horton, Inc. and its permitted successors and assigns (the "Potential Buyer") and the Debtor (the "Transaction") in the Potential Buyer's sole discretion. A copy of the Term Sheet is attached hereto as **Exhibit A**. The Term Sheet provides for, among other things, the sale of the Debtor's right, title and interest in, to and under substantially all of the Debtor's assets (collectively, the "Property") free and clear of any and all liens, encumbrances, claims and other interests, except as otherwise set forth in the Purchase Agreement. The Transaction is subject to higher or better offers as more particularly set forth in this Motion and the Bid Procedures. In consideration for the Property, the Potential Buyer has agreed to provide consideration at the closing of the Transaction comprised of cash in the amount of (i) \$10,000,000.00 to Debtor, (ii) \$500,000.00 to cure defaults under the Desired 365 Contracts (as defined below), (iii)

\$43,765.84 to be paid to the Debtor's estate for the benefit of creditors, and (iv) the payment of \$171,447.98 of past due ad valorem taxes on the Property (subject to certain adjustments as set forth in the Purchase Agreement) (the "Purchase Price"). The Potential Buyer has agreed to assume all of the obligations under the Desired 365 Contracts from and after the closing date of the Transaction. Under the Purchase Agreement, the Potential Buyer has the right prior to the end of the Designation Period (as defined below) to exclude from the Property transferred to the Potential Buyer any assets that the Potential Buyer determines in its sole and absolute discretion that it does not desire to purchase.

8. The Debtor and the Potential Buyer have agreed that in the event that the Purchase Agreement consists of a term sheet rather than a signed asset purchase agreement prior to the Bid Procedures Hearing, the Debtor shall enter into a binding asset purchase agreement with the Potential Buyer prior to five (5) business days after entry of the Bid Procedures Order (as defined in the Purchase Agreement) unless otherwise consented to in writing by the Potential Buyer in its sole and absolute discretion (the "APA Deadline"). In the event that the Potential Buyer extends or waives the APA Deadline, such extension or waiver will not impair the Potential Buyer's right to the Break-Up Fee (as defined in the Bid Procedures Motion (as defined below)) or to compel the Debtor to sell the Property to the Potential Buyer in accordance with the Purchase Agreement (regardless of whether the Purchase Agreement is a term sheet or signed asset purchase agreement).

9. The Debtor has extensively explored various sale and reorganization alternatives, including, without limitation, the sale of assets and property of the Debtor. After extensive review and consideration of the proposals received from prospective buyers to date and the prospects for receipt of a higher or better offer the Debtor has determined in the exercise of its

business judgment to request the Court's approval of the Potential Buyer as the "stalking-horse" bidder to set a minimum price in connection with a proposed auction process as described below.

10. The Debtor has previously filed its *Motion to (A) Approve the Debtors' Entry into Purchase Agreement; (B) Approve the Procedures for the Solicitation of Other Offers to Purchase the Debtors' Assets; (C) Approve the Form and Manner of Notice Thereof; (D) Approve Procedures for Determining Cure Amounts for Executory Contracts and Unexpired Leases; (E) Approve the Bid Protections and Procedures; and (F) Approve a Break-Up Fee in Connection with the Transaction Contemplated by the Purchase Agreement* (the "Bid Procedures Motion"), the terms of which the Debtor incorporates herein by reference) by which it seeks authority to implement, among other things, certain sale, auction, and notice procedures in connection with the Transaction (the "Bid Procedures"). Certain key terms of the Purchase Agreement are provided in the table below for summary and notice purposes only. To the extent any of the terms described below are inconsistent with the Purchase Agreement, the Purchase Agreement shall control.

Purchase Consideration:	(i)\$10,715,214.00 (subject to certain adjustments set forth in the Term Sheet and/or Purchase Agreement)
Other Adjustments to the Purchase Consideration	(i) \$10,000,000.00 to Debtor, (ii) \$500,000.00 to cure defaults under the Desired 365 Contracts (as defined below), (iii) \$43,765.84 to be paid to the Debtor's estate for the benefit of creditors, and (iv) the payment of \$171,447.98 of past due ad valorem taxes on the Property (subject to certain adjustments as set forth in the Purchase Agreement)
Escrow Amount:	\$500,000 to be held in escrow pursuant to a mutually acceptable escrow agreement
Closing Conditions:	Entry of the Sale Order and Bid Procedures Order in form and substance acceptable to the Potential Buyer in its sole discretion, accuracy of representations and warranties, assumption and assignment of Desired 365 Contracts, title, environmental, no material adverse change, closing deliveries, no default, and such others as determined by the Potential

	Buyer in its sole and absolute discretion.
Termination Rights:	Inspection period, Potential Buyer is not the Successful Bidder, Debtor breaches covenants or Purchase Agreement, failure to close before deadline, and such others as determined by the Potential Buyer in its sole and absolute discretion.
Break-Up Fee:	\$300,000
Key Representations and Warranties:	No litigation, accuracy of documents and deliveries, organization and authority, no conflicts, access, environmental, employees, information not misleading, and such others as determined by the Potential Buyer in its sole and absolute discretion.
Certain Key Covenants:	Deliveries of diligence items, maintenance of property, access to property, support of bankruptcy process, assumption of contracts, and such others as determined by the Potential Buyer in its sole and absolute discretion.

11. In addition, the Consulting Agreement with Marlin Atlantis White, Ltd. (as may be amended, the “Consulting Agreement”) to manage the Property will be assumed by the Purchaser. The (“Option Purchaser”) will be owned by the Seller with the prior consent of the Purchaser, with such consent not to be unreasonably withheld, at the time of the execution of the Agreement (as defined in the Purchase Agreement), the Option Purchaser shall enter into a Purchase Option Agreement (the “PO Agreement”), upon the terms and conditions described in the Purchase Agreement. Under the PO Agreement, Option Purchaser shall agree to purchase 500 acres west of Highway 59.

12. To induce the Potential Buyer to enter into the Purchase Agreement, the Debtor afforded certain bid protections to the Potential Buyer in the Purchase Agreement and the Bid Procedures. The Bid Protections are an integral part of the Transaction, and the Potential Buyer would not enter into the Purchase Agreement without the Bid Protections, including, but not limited to, the Break-Up Fee. If an order authorizing the bid protections and the other relief requested in this motion is not entered by April 6, 2012, the stay will lift and the Potential Buyer

may terminate the Purchase Agreement. To preserve the transaction negotiated under the Purchase Agreement and to enable the Debtor to take the steps contemplated under the Purchase Agreement and the Bid Procedures, the Debtor has requested approval of the Bid Protections.

13. The Consulting Agreement is a Desired 365 Contract.

14. In consultation with its financial advisors, the Debtor has determined that it is in the best interests of the Debtor's estate to sell the Property at this time. The Debtor believes that the Transaction, subject to a market test through the auction process more fully described in the Bid Procedures, will serve to maximize the value received by the Debtor for the Property. The consideration to be provided by the Potential Buyer or Successful Bidder for the Property (i) is fair and reasonable, (ii) is the highest and best offer for the Property after a thorough marketing process, and (iii) constitutes reasonably equivalent value, fair value, and fair consideration therefore. Accordingly, the Debtor, in the exercise of its business judgment, is requesting the Court's approval of the Transaction or an Alternative Transaction (as defined in the Purchase Agreement) with the Potential Buyer or other Successful Bidder, as applicable.

RELIEF REQUESTED

Introduction

15. Pursuant to Bankruptcy Code §§ 105(a), 363, and 365 and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the Debtor seeks an Order (a) authorizing the sale of the Property to the Potential Buyer or such other Successful Bidder free and clear of all claims, encumbrances, liens, and interests (other than as set forth in the Purchase Agreement or other definitive agreement to effectuate an Alternative Transaction), (b) authorizing the assumption and assignment of executory contracts and unexpired leases and rights thereunder, and (c) granting such other relief to which the Debtors may be entitled.

Sale of Property Free and Clear of Interests

16. Pursuant to Bankruptcy Code § 105(a), a bankruptcy court “may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” *See* 11 U.S.C. § 105(a). Bankruptcy Code § 363(b)(1) provides, “The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1).

17. The proposed use, sale or lease of property of the estate may be approved under Bankruptcy Code § 363(b) if it is supported by sound business justification. *See e.g. Institutional Creditors of Continental Air Lines, Inc. v. Continental Air Lines, Inc. (In re Continental Air Lines)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“[F]or a debtor-in-possession or trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business.”); *see also In re Crutcher Resources Corp.*, 72 B.R. 628, 631 (Bankr. N.D. Tex. 1987) (“A Bankruptcy Judge has considerable discretion in approving a § 363(b) sale of property of the estate other than in the ordinary course of business, but the movant must articulate some business justification for the sale.”); *In re Terrace Gardens Park Partnership*, 96 B.R. 707, 714 (Bankr. W.D. Tex. 1989). In reviewing a proposed sale of assets, a bankruptcy court should give deference to the business judgment of a debtor in possession when it deems the sale to be appropriate. *See Esposito v. Title Ins. Co. (In re Fernwood Mkts.)*, 73 B.R. 616, 621 n.2 (Bankr. E.D. Pa. 1987).

18. The Debtor has determined in the sound exercise of its business judgment that consummation of the Transaction (or an Alternative Transaction in the event the Potential Buyer is not the Successful Bidder) is in the best interest of its estate and its creditors. After evaluating various alternatives and conducting an extensive marketing process, the Debtor has

concluded that the Transaction (or an Alternative Transaction in the event the Potential Buyer is not the Successful Bidder) will maximize the value of its estate and will be in the best interests of its creditors. The Debtor has thoroughly marketed the Real Property for sale and it believes that the Potential Buyer's proposed purchase price is reasonable and satisfactory per the terms of the Purchase Agreement. Further, the Debtor anticipates that an auction, as proposed in the Bid Procedures Motion, will result in a transaction that represents fair market value. The Debtor further submits that the sale of the Property outside a plan of reorganization pursuant to the Purchase Agreement or a definitive agreement for an Alternative Transaction is reasonable and appropriate under the circumstances and does not impermissibly dictate the terms of any future plan of reorganization or liquidation that may be filed by the Debtor, and is not a *sub rosa* plan. The sale affords the unsecured creditors the opportunity to realize money from what is actually a short sale scenario.

19. Pursuant to Bankruptcy Code § 363(f), a debtor may sell property free and clear of all claims, encumbrances, liens, and other interests if (i) applicable nonbankruptcy law permits the sale of such property free and clear of such interest; (ii) the lienholder or claimholder consents; (iii) 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; (iv) such interest is a bona fide dispute; or (v) the lienholder could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. *See* 11 U.S.C. § 363(f). These five conditions are written in the disjunctive, permitting the sale of estate assets upon the satisfaction of any one of the five conditions, including consent of the lienholders. *See Pelican Homestead v. Wooten (In re Gabel)* 61 B.R. 661, 667 (Bankr. W.D. La. 1985) (stating that a trustee may sell property of the estate for purposes other than in the ordinary course of business free and clear of all existing

liens and encumbrances provided that any one of the conditions of § 363(f) are met); *In re Taxi Holders, Inc.*, 307 B.R. 525, 528-29 (Bankr. E.D. Va. 2004).

20. Furthermore, it is well established that a bankruptcy court has the power, pursuant to section 363(f) of the Bankruptcy Code, to approve the sale of a debtor's assets free and clear of any claims against the debtor. *In re TWA, Airlines, Inc.*, 322 F.3d 283, 288-90 (3d Cir. 2003) (holding that successor liability claims are “interests in property” within the meaning of §363(f)); *United Mine Workers of Am. Benefit Plan v. Leckie Smokeless Coal Co. (In re Leckie Smokeless Coal Co.)*, 99 F.3d 573 (4th Cir. 1996) (same).

21. The Debtor will demonstrate that at least one of the five conditions of Bankruptcy Code § 363(f) is satisfied with respect to any other interest asserted by any other party in the Property. Parties asserting any interest in the Property will be adequately protected by such interest attaching to the proceeds of the Transaction with the same nature, validity and priority that such interest encumbered the Property prior to the proposed Transaction.

22. Having exercised sound business judgment in determining to sell the Property, the sale of the Property to the Potential Buyer or the Successful Bidder, free and clear of all claims (other than certain assumed obligations), encumbrances, liens (other than permitted liens), and interests, with any holder's lien, claim, interest or encumbrance attaching to the proceeds of the Transaction (or an Alternative Transaction, as applicable) with the same nature, validity and priority that such interest encumbered the Property prior to the proposed Transaction (or an Alternative Transaction, as applicable), as set forth in the Purchase Agreement or definitive agreement for an Alternative Transaction (as applicable), should be approved.

Good Faith Sale

23. Bankruptcy Code § 363(m) states, in relevant part:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

24. The Purchase Agreement is the result of an arm's length, good faith negotiation between the Debtor and the Potential Buyer. The Debtor and the Potential Buyer have retained legal counsel, conducted due diligence, and have negotiated and agreed upon the terms of the Purchase Agreement. The Debtor believes the Potential Buyer is a "good faith" purchaser within the meaning of Bankruptcy Code § 363(m). Further, to the Debtor's knowledge, no party has engaged in any conduct that would cause or permit the Purchase Agreement to be set aside under section 363(n) of the Bankruptcy Code.

25. The Debtor also submits that the Successful Bidder (if not the Potential Buyer), will be a "good faith" purchaser within the meaning of Bankruptcy Code §363(m) as such Successful Bidder will have participated in the auction in accordance with the Bid Procedures. Accordingly, Debtor requests findings and protections pursuant to Bankruptcy Code § 363(m).

Assumption and Assignment of Executory Contracts and Unexpired Leases

26. Pursuant to Bankruptcy Code § 365, the Debtor requests authority to assume certain executory contracts and/or unexpired leases (collectively, the "Desired 365 Contracts") and to assign the Debtor's right, title and interest in, to and under those contracts and leases and rights thereunder to the Potential Buyer or Successful Bidder, subject to, and at the time of, the closing of the Purchase Agreement or a definitive agreement for an Alternative Transaction. A list of the potential Desired 365 Contracts that the Debtor may seek to assume and assign to the

Potential Buyer or Successful Bidder, as applicable, is attached hereto as Exhibit "B". The Debtor's inclusion of any contract or lease on Exhibit "B" shall not be deemed to be an admission by the Debtor that such contract or lease is an "executory contract" or "unexpired lease" within the meaning of section 365 of the Bankruptcy Code, and the Debtor reserves all rights in connection with same.

27. Bankruptcy Code § 365(f)(2) provides:

The trustee may assign an executory contract or unexpired lease of the debtor only if—

- (A) the trustee assumes such contract or lease in accordance with the provisions of this section; and
- (B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

11 U.S.C. § 365(f)(2).

28. Bankruptcy Code § 365(a) authorizes a trustee to "assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). Although Bankruptcy Code § 365 does not set forth standards for courts to apply in determining whether to approve a debtor's decision to assume an executory contract or unexpired lease, it is well-established that the decision to assume or reject an executory contract or unexpired lease is a matter within the "business judgment" of the debtor. *See In re Taylor*, 913 F.2d 102, 107 (3rd Cir. 1990); *Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp.*, 872 F.2d 36, 39 (3rd Cir. 1989). Accordingly, assumption or rejection of any executory contract is appropriate where the assumption or rejection would benefit the estate. *Sharon Steel*, 872 F.2d at 40; *see also In re FCX, Inc.*, 60 B.R. 405, 411 (Bankr. E.D.N.Y. 1986).

29. Pursuant to Bankruptcy Code § 365(b)(1), a debtor must cure, or provide adequate assurance that it will promptly cure, certain defaults prior to the assumption and/or assignment

of executory contracts or unexpired leases. 11 U.S.C. § 365(b)(1). Bankruptcy Code § 365(b)(1) provides, in relevant part:

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

- (A) cures, or provides adequate assurance that the trustee will promptly cure, such default. . . ;
- (B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and
- (C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(1).

30. The Potential Buyer has indicated that it may desire to acquire the benefit of certain executory contracts and unexpired leases and rights thereunder to be determined prior to the closing of the Purchase Agreement. Under the Purchase Agreement, the Potential Buyer agrees to satisfy at the closing any requirements regarding cure to the extent set forth in the Purchase Agreement, including the payment of cure amounts owed to third parties, that may be imposed under Bankruptcy Code § 365(b) or applicable state law in connection with the proposed assumption and assignment of any Desired 365 Contract (the “Cure Amounts”). In addition, in the event that the Potential Buyer determines that any contract subject to assumption and assignment under Bankruptcy Code § 365 exists that is not listed on the Purchase Agreement on or prior to the end of the Designation Period (i) the Potential Buyer shall have the right to designate any such contract as a Desired 365 Contract, (ii) the Debtor shall assume and assign such additional Desired 365 Contract to the Potential Buyer within 21 days thereafter by order of the court in form and substance acceptable to the Potential Buyer in its sole discretion, and (iii) the Potential Buyer, in its sole discretion, may elect to pay the cure

costs associated with such additional Desired 365 Contract. The making of any cure payments, as directed by the Court, will be in full and final satisfaction of all obligations to cure defaults and will compensate the respective counterparties to the Desired 365 Contracts for any pecuniary losses under such contracts or leases pursuant to Bankruptcy Code § 365(b)(1).

31. The Potential Buyer or Debtor (in the event of an Alternative Transaction) will pay from proceeds of the sale of the Property to each of the counterparties to the Desired 365 Contracts, or such other party as is necessary to cure defaults, the Cure Amounts related to the Desired 365 Contracts, unless otherwise ordered by the Court.

32. As set forth in the Purchase Agreement or a definitive agreement for an Alternative Transaction, the Potential Buyer and/or Successful Bidder is responsible for providing evidence of “adequate assurance of future performance” to the extent required in connection with the assumption and assignment of any Desired 365 Contract. The meaning of “adequate assurance of future performance” for the purpose of the assumption of executory contracts and unexpired leases pursuant to Bankruptcy Code § 365 depends on the facts and circumstances of each case, but should be given “practical, pragmatic construction.” See *Carlisle Homes, Inc. v. Arrar (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1989); see also *In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (adequate assurance of future performance does not mean an absolute assurance that the debtor will thrive or pay rent); *In re Bon Ton Rest. & Pastry Shop, Inc.*, 53 B.R. 789, 803 (Bankr. N.D. Ill. 1985). If necessary, the Potential Buyer or Successful Bidder will demonstrate that the Potential Buyer or other Successful Bidder has the financial ability to perform under the Desired 365 Contracts at the hearing to approve this Sale Motion.

Waiver of 14-Day Stay

33. Because the parties intend to close the sale of the Property as soon as practicable after the entry of a final order approving this Sale Motion, the Debtor requests that the Court waive the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d).

PRAYER

The Debtor respectfully requests that this Court enter an Order (a) authorizing the sale of the Property to the Potential Buyer or the Successful Bidder free and clear of all claims, encumbrances, liens, and interests (other than as set forth in the Purchase Agreement or other definitive agreement to effectuate an Alternative Transaction), (b) authorizing the assumption and assignment of executory contracts and unexpired leases, and (c) granting such other relief to which the Debtor may be entitled.

Dated: March 13, 2012

Respectfully submitted,

/s/ Joyce W. Lindauer

Joyce W. Lindauer

8140 Walnut Hill Lane

Suite 301

Dallas, Texas 75231

Tel: 972.503.4034

Fax: 972.503.4034

Email: courts@joycelindauer.com

COUNSEL FOR THE DEBTOR

CERTIFICATE OF SERVICE

I certify that on March 16, 2012, a copy of the foregoing document was served by the Electronic Case Filing system for the United States Bankruptcy Court for the Eastern District of Texas on those parties receiving electronic notice therefrom and first Class U.S. Mail to those on the service list attached hereto.

/s/ Joyce R. Lindauer

Counsel for Debtor