

COURT FILE NO. 1701-03799
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ROYAL BANK OF CANADA
DEFENDANTS GABRIEL CONSTRUCTION LTD., GABRIEL CONSTRUCTION (ALBERTA) LTD. and SASKALTA ENVIRONMENTAL SOLUTIONS INC.



IN THE MATTER OF THE RECEIVERSHIP OF
GABRIEL CONSTRUCTION LTD., GABRIEL
CONSTRUCTION (ALBERTA) LTD. and
SASKALTA ENVIRONMENTAL SOLUTIONS INC.

APPLICANT DELOITTE RESTRUCTURING INC. in its capacity as Court-appointed Receiver and Manager of the assets, undertakings and properties of GABRIEL CONSTRUCTION LTD., GABRIEL CONSTRUCTION (ALBERTA) LTD. and SASKALTA ENVIRONMENTAL SOLUTIONS INC.

I hereby verify that to the best of my knowledge the original [unclear] filed this [unclear] for Clerk of the Court
Order of June 18

DOCUMENT **APPROVAL AND VESTING ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Torys LLP
4600 Eighth Avenue Place East
525 - Eighth Ave SW
Calgary, AB T2P 1G1

Attention: Kyle Kashuba
Telephone: +1 403.776.3744
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Email: kkashuba@torys.com
File No. 39279-2001

DATE UPON WHICH ORDER WAS PRONOUNCED: Tuesday, June 26, 2018
NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice G.A. Campbell
LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Gabriel Construction Ltd., Gabriel Construction (Alberta) Ltd. and SaskAlta Environmental Solutions Inc. (collectively, the “**Gabriel Group**” or the “**Debtors**”), appointed under s. 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**PSA**”) between the Receiver on behalf of the Gabriel Group, and 624987 Saskatchewan Ltd. (the “**Purchaser**”), which is included and described in the unfiled Confidential Supplement to the Third Report of the Receiver dated June 12, 2018 (the “**Confidential Supplemental Report**”) in respect of the property located at 234 11th Avenue East, Regina, Saskatchewan (the “**Regina Property**”), and vesting in the Purchaser (or its nominee) all of the Debtors’ right, title, interest and estate, whether absolute or contingent, legal or beneficial, in and to the real property described in the PSA (the “**Lands**”); **AND UPON HAVING READ** the Application filed June 12, 2018, the Second Report of the Receiver filed August 22, 2017, and the Third Report of the Receiver, filed June 12, 2018, and any other material and evidence filed to date in the within proceedings, and the unfiled Confidential Supplemental Report; **AND UPON HEARING** the submissions of counsel for the Receiver, and from any other interested parties who may be present, with no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of the notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and the time for service of this Application is abridged to that actually given.

DEFINED TERMS

2. All capitalized terms not defined herein shall have the respective meanings ascribed to them in the PSA.

APPROVAL OF REGINA PROPERTY TRANSACTION

3. The PSA is hereby approved in its entirety. The Transaction relating to the Regina Property, municipally described as 234 11th Avenue East, Regina, Saskatchewan, which is collectively legally described as:

- (a) Surface Parcel Number: 107022989
(Title Number: 103554930, Lot 11, Block 94, Plan No. GC1279, Extension 0);
- (b) Surface Parcel Number: 111265084
(Title Number: 103554963, Lot 12, Block 94, Plan No. GC1279, Extension 0);
- (c) Surface Parcel Number: 107025230
(Title Number: 103554952, Lot 13, Block 94, Plan No. GC1279, Extension 0); and
- (d) Surface Parcel Number: 107022787
(Title Number: 103554941, Lot 14, Block 94, Plan No. GC1279, Extension 18)

is hereby approved, and the execution of the PSA by the Receiver is hereby authorized, ratified, confirmed and approved, and is deemed to be commercially reasonable and in the best interests of the receivership estate and the stakeholders affected thereby, with such minor amendments as the Receiver may deem necessary and as may be agreed upon by the Receiver and the Purchaser. The Receiver is hereby authorized and directed, subject to the terms and conditions of this Order and the PSA, to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Lands to the Purchaser (or its nominee).

- 4. The actions, conduct, activities and Statement of Receipts and Disbursements of the Receiver as reported in the Second Report, the Third Report and the Confidential Supplemental Report, are hereby authorized and approved.

VESTING OF THE REGINA PROPERTY

- 5. Upon the Receiver determining that the Transaction has closed to the satisfaction of the Receiver and on terms substantially as approved by this Honourable Court pursuant to this Order, the Receiver shall deliver a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**") confirming the closing of the Transaction contemplated by the PSA, all of the Debtors' right, title and interest in and to the Lands described in the PSA attached as Appendix "B" to the Confidential Supplemental Report hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, excursions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**", which term shall explicitly not include the Permitted Encumbrances (as defined below)) including, without limiting the generality of the foregoing:

- (a) all charges, security interests or claims evidenced by registration, filing, or publication pursuant to any or all of the following: (i) *The Personal Property Security Act* (Saskatchewan); or (ii) any other personal property, mineral, or real property registry system in Saskatchewan (collectively, the “**Registries**”),

for greater certainty, this Court orders that all of the Claims, other than the permitted encumbrances described in the PSA and listed on **Schedule “B”** hereto (the “**Permitted Encumbrances**”), if any, affecting or relating to the Lands are hereby expunged and discharged as against the Lands.

- 6. Upon the delivery of the Receiver’s Certificate, and upon the filing of a certified copy of this Order, together with any applicable registration fees, the Registrar of Titles for the Province of Saskatchewan (the “**Registrar**”) under *The Land Titles Act* (Saskatchewan), and all other applicable government ministries and authorities in Saskatchewan, exercising jurisdiction with respect to or over the Lands (collectively, the “**Governmental Authorities**”), as applicable, are hereby authorized, requested and directed to (in each case as applicable) accept an application to:

- (a) enter the Purchaser as the owner, lessee, and/or licensee of the Lands:
- (b) cancel the existing Certificates of Title to the Lands and issue new Certificates of Title for the Lands, in the name of the Purchaser (or its nominee);
- (c) cancel, delete or expunge from the existing title documents concerning the Lands all applicable Claims and any related encumbrances, other than the Permitted Encumbrances, if any; and
- (d) register such transfers, discharge statements, or conveyances, as may be required to convey clear title to the Lands to the Purchaser, subject only to the Permitted Encumbrances, if any.

- 7. This Order shall be registered and the steps set out in paragraph 6 shall be carried out by the applicable Registrar and/or Governmental Authorities notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.

CLOSING OF THE SALE TRANSACTION

- 8. The closing of the Transaction shall be effected in accordance with the terms of the PSA and such amendments to the PSA as may be agreed to in writing between the Purchaser and the Receiver.

9. For the purposes of determining the nature and priority of Claims against the Gabriel Group, the net proceeds from the sale of the Lands shall stand in the place and stead of the Lands, and from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Lands, with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
10. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtors, other than the Permitted Encumbrances, if any.
11. The Debtors and all persons who claim by, through or under the Debtors in respect of the Lands, save and except for the persons entitled to the benefit of the Permitted Encumbrances, if any, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Lands and, to the extent that any such persons remains in possession or control of any of the Lands, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
12. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Lands for its own use and benefit without any interference of or by the Debtors, or any person claiming by or through or against the Debtors.
13. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances, if any, shall have no claim whatsoever against the Receiver or the Debtors.
14. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).
15. Notwithstanding:
 - (a) The pendency of these proceedings;
 - (b) Any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
 - (c) Any assignment in bankruptcy made in respect of the Debtors,

the vesting of the Lands in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be

deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

16. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

MISCELLANEOUS MATTERS

17. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, and particularly in the Province of Saskatchewan, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
18. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
19. Service of this Order on any party not attending this Application is hereby dispensed with.

"G.A. CAMPBELL"

Justice of the Alberta Court of Queen's Bench

Schedule "A"
Form of Receiver's Certificate

COURT FILE NUMBER	1701-03799	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
PLAINTIFF	ROYAL BANK OF CANADA	
DEFENDANTS	GABRIEL CONSTRUCTION LTD., GABRIEL CONSTRUCTION (ALBERTA) LTD. and SASKALTA ENVIRONMENTAL SOLUTIONS INC.	
<p>IN THE MATTER OF THE RECEIVERSHIP OF GABRIEL CONSTRUCTION LTD., GABRIEL CONSTRUCTION (ALBERTA) LTD. and SASKALTA ENVIRONMENTAL SOLUTIONS INC.</p>		
APPLICANT	<p>DELOITTE RESTRUCTURING INC. in its capacity as Court-appointed Receiver and Manager of the assets, undertakings and properties of GABRIEL CONSTRUCTION LTD., GABRIEL CONSTRUCTION (ALBERTA) LTD. and SASKALTA ENVIRONMENTAL SOLUTIONS INC.</p>	
DOCUMENT	<p style="text-align: center;">RECEIVER'S CERTIFICATE</p>	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<p>Torys LLP 4600 Eighth Avenue Place East 525 - Eighth Ave SW Calgary, AB T2P 1G1</p>	

Attention: Kyle Kashuba
Telephone: + 1 403.776.3744
Fax: +1 403.776.3800
Email: kkashuba@torys.com
File No. 39279-2001

RECITALS

- A. On March 21, 2017, on Application by Royal Bank of Canada, the Court of Queen's Bench of Alberta appointed Deloitte Restructuring Inc. as receiver and manager (the "**Receiver**") over the assets, undertakings and properties of Gabriel Construction Ltd., Gabriel Construction (Alberta) Ltd. and SaskAlta Environmental Solutions Inc. (collectively, the "**Gabriel Group**" or the "**Debtors**"),

and the Receiver was tasked with amongst other things, identifying, securing, arranging for sale and monetizing the assets, undertakings and properties of the Gabriel Group.

- B. Pursuant to an Order of the Court dated June 26, 2018, the Court approved the agreement of purchase and sale made (the “PSA”) between the Receiver and 624987 Saskatchewan Ltd. (“Purchaser”), and provided, *inter alia*, for the vesting in the Purchaser of the Debtors’ right, title and interest in and to the Lands, which vesting is to be effective with respect to the Lands upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Lands; (ii) that the conditions to Closing as set out in Article 9 of the PSA have been satisfied or waived by the Receiver and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the PSA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Lands payable on the Closing Date pursuant to the PSA;
2. The conditions to Closing as set out in Article 9 of the PSA have been satisfied or waived by the Receiver and the Purchaser (or its nominee), as applicable; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [Time] on [Date].

Deloitte Restructuring Inc., in its capacity as Court-appointed Receiver and Manager of the assets, undertakings and properties of Gabriel Construction Ltd., Gabriel Construction (Alberta) Ltd. and SaskAlta Environmental Solutions Inc., and not in its personal capacity.

Per: _____

Name:

Title:

Schedule "B"
Permitted Encumbrances

Not Applicable.