

1 Adam B. Nach – 013622
2 Helen K. Santilli – 032441
3 **LANE & NACH, P.C.**
4 2001 E. Campbell Ave., Suite 103
5 Phoenix, AZ 85016
6 Telephone No.: (602) 258-6000
7 Facsimile No.: (602) 258-6003
8 Email: adam.nach@lane-nach.com
9 Email: helen.santilli@lane-nach.com

10 *Attorneys for David A. Birdsell, Case Trustee*

11 **IN THE UNITED STATES BANKRUPTCY COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 In re:
14 NGU CONTRACTING, INC.,
15 Debtor.

(Chapter 7 Case)

No. 2:19-bk-14289-BKM

**NOTICE OF HEARING ON
TRUSTEE’S MOTION TO:**

- 16 (1) **SELL REAL PROPERTY OF THE
ESTATE FREE AND CLEAR OF
LIENS; AND**
- 17 (2) **COMPENSATE REAL ESTATE
BROKER**

18 **Time: 1:30 p.m.**
19 **Date: September 10, 2020**
20 **Number: 877.366.1829**
21 **Access Code: 5564497**

22 **TO: ALL CREDITORS AND PARTIES-IN-INTEREST**

23 **NOTICE IS HEREBY GIVEN** that on August 5, 2020, David A. Birdsell, Chapter 7
24 Trustee (“**Trustee**”), by and through undersigned counsel, filed his *Motion to: (1) Sell Real
25 Property of the Estate Free and Clear of Liens; and (2) Compensate Real Estate Broker (“Sale
26 Motion”)*. A complete copy is available upon written request to the Trustee’s counsel as indicated
27 above. The pertinent provisions of the Sale Motion are set forth below.

28 **HEARING AND AUCTION INFORMATION AND DEADLINE TO OBJECT**

The Court has scheduled a Hearing for **September 10, 2020 at 1:30 p.m.** such hearing to
be held before the Honorable Brenda K. Martin by calling 877.336.1829 and entering access code
5564497. A copy of the Sale Motion is available from counsel for the Trustee by written request
to deborah.mckernan@lane-nach.com or via fax to 602-258-6003. **The failure to appear at the
Hearing or to timely object may result in the Real Property being sold free and clear of any
and all liens (as further described in the Sale Motion) and interests without further notice to
you.**

1 Any objection should be filed in writing no later than **September 9, 2020**, with the U.S.
 2 Courthouse and Federal Building, as follows: (a) mail or hand-delivery to 230 N. 1st Ave., Suite
 3 101, Phoenix, AZ 85003; or (b) electronically at the Court's website: ecf.azb.uscourts.gov using
 4 the Court's electronic filing procedures, with a copy to: Lane & Nach, P.C., 2001 E. Campbell
 Ave., Ste. 103, Phoenix, AZ 85016. Failure to appear or timely object may result in the requested
 relief being granted without further notice to you.

<p>5 Property to be Sold:</p>	<p>The Estate's interest in the real property located at 24639 North 11th Avenue, Phoenix, AZ 85085 ("Maricopa County Real Property").</p> <p>The legal description of the Maricopa County Real Property is specifically defined in Exhibit "A" attached to the Sale Motion.</p>
<p>6 7 8 9 10 11 12 13 14 Terms of Sale:</p>	<p>Interested buyers must do their own due diligence to determine the extent of the Estate's interest in the Maricopa County Real Property.</p> <p>The Maricopa County Real Property will be sold As-Is, Where-Is, with No Representations, Guarantees or Warranties, and free and clear of all liens (as further defined in the Sale Motion), claims, encumbrances and interests in accordance with 11 U.S.C. § 363, with any valid and enforceable liens to attach to the net sale proceeds and be paid from escrow.</p> <p>The sale is expected to close on or before <u>September 19, 2020</u>.</p>
<p>15 Bidding/Over Bids:</p>	<p>The sale is subject to higher and better bids at sale hearing.</p> <p>To the extent that other parties wish to bid on the Maricopa County Real Property, Trustee requests that interested bidders match the \$25,000.00 earnest money deposit of the Buyer and deliver \$25,000.00 in certified funds, made payable to "David A. Birdsell, Trustee" to the Trustee's broker, Greg Vanlerberghe of Levrose Commercial Real Estate ("Broker") at 4414 N. Civic Center Plaza, Suite 100, Scottsdale, Arizona 85251 at least one (1) business day prior to the sale hearing, evidencing the bidder's access to immediately available funds to purchase the Maricopa County Real Property.¹</p> <p>The Broker may be contacted at 480.289.4222 or via email at gvanlerberghe@levrose.com.</p>
<p>16 17 18 19 20 21 22 Proposed Purchaser(s):</p>	<p>Arizona Trench Company and/or Charles and Kelly Sanders ("Buyers") made the offer to purchase the Property in the amount of <u>\$650,000.00</u> (\$25,000.00 Earnest Money and \$625,000.00 at close of escrow) subject to higher and better offers at sale hearing. A copy of the purchase contract and associated counter offers/addenda are attached to the Sale Motion as Exhibit "B".</p>
<p>23 24 25 26 27 Insider:</p>	<p>Buyers are not insiders and are good faith purchasers and are entitled to the benefits provided by 11 U.S.C. § 363(m).</p>

28 ¹ To the extent the Sale Motion and his Notice present contradicting terms, interested bidders are to bring their \$25,000.00 deposit to **Broker's office**, not Lane & Nach, P.C.

To View the Property or Obtain More information:	For more information contact Greg Vanlerberghe of Levrose Commercial Real Estate at 480.289.4222 or via email at gvanlerberghe@levrose.com
Description of Interest(s) in the Property:	<p>Trustee is not aware of any liens or encumbrances on the Maricopa County Real Property except for the following:</p> <ul style="list-style-type: none"> • Real property taxes in the approximate amount of \$3,115.47 owed to the Maricopa County Assessor plus the prorated amount for 2020 (“Real Property Taxes”); and • A mortgage owed to Carlson (as defined in the Sale Motion) in the approximate amount of \$251,243.31, plus interest and fees (POC 1-2) pursuant to the <i>Application to Compromise Claim with Carlson 5, LLC</i>. <p><i>The Maricopa County Real Property is being sold “as is”/“where is” with no warranties express or implied to Buyer or anyone submitting a higher and better offer at a hearing to approve the sale of the Maricopa County Real Property</i></p>
Appraisals:	The Trustee is not aware of any recent appraisals of the Maricopa County Real Property being sold.
Compensation/Fees:	Trustee also seeks approval to pay Broker’s commission of five percent (5%) and not more than six percent (6%) in the event a co-broker is utilized (as is customary), and such a commission is subject to Bankruptcy Court approval. Scott McGill of MCG Commercial is the co-broker on behalf of the proposed buyer. Therefore, a 6% commission shall be split evenly between Broker (3%) and Scott McGill (3%).
Waiver of 14-Day Stay:	Trustee respectfully requests that the Court in the discretion provided to it under Bankruptcy Rule 6004(h), waive the fourteen-day stay of the Order approving the sale of the Real Property.
Deadline to Object:	Any objection shall be filed no later than September 9, 2020
Motion for Stay Relief:	Carlson (as defined in the Sale Motion) filed a <i>Motion for Relief from the Automatic Stay</i> seeking to lift the stay as it relates to the Maricopa County Real Property. (DCKT. 20). The Trustee filed an objection to the motion. (DCKT. 32). Subsequently, the Trustee and Carlson executed the Carlson Application (as defined in the Sale Motion), which was approved by the Court on July 9, 2020. (DCKTS. 147 and 155). Pursuant to the Carlson Application, in exchange for Carlson’s receipt of sales proceeds sufficient to pay the Carlson Mortgage (as defined in the Sale Motion) in full, Carlson will withdraw its <i>Motion for Relief from the Automatic Stay</i> and release its Deed of Trust.

1 RESPECTFULLY SUBMITTED this 7th day of August, 2020.

2 **LANE & NACH, P.C.**

3 By: /s/ Adam B. Nach – 013622
4 Adam B. Nach
5 Helen K. Santilli
6 *Attorney for Trustee*

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28