ORDERED ACCORDINGLY.

Dated: June 28, 2011

George B. Nielsen, Bankruptcy Judge

UNITED STATES BANKRUPTCY CO
DISTRICT OF ARIZONA

In re	Case No. 2:09-bk-1298-GBN
FULTON HOMES CORPORATION	Chapter 11
Debtor.	**FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING DEBTOR'S FOURTH AMENDED PLAN OF REORGANIZATION**

Upon the request of Fulton Homes Corporation (the "**Debtor**"), debtor and debtor-in-possession in the above-captioned Chapter 11 Case[1], for entry of an order (the "**Confirmation Order**") under § 1129 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the "**Bankruptcy Code**") confirming the "*Debtor's Fourth Amended Plan of Reorganization*" (including all exhibits attached thereto, the "**Plan**"), as amended to resolve the Bank Group Objection and attached as Exhibit 1 to the Confirmation Order, and based upon the Court's review of: (i) the Confirmation Brief; (ii) the Solicitation Materials (as defined below); (iii) the Confirmation Pleadings (as defined below); (iv) the Confirmation Objections (as defined below); (v) the Competing Plan Materials (as defined below); (vi) the Settlement Materials (as defined below); (vii) all of the testimonial and documentary evidence offered or adduced at, objections filed in connection with, and arguments of counsel made at, the Confirmation Hearings (as defined below); and (viii) the entire record in this Chapter 11 Case; and after due deliberation thereon and good and sufficient cause appearing therefor, the Court hereby makes the following findings of fact and conclusions of law ("**Findings and Conclusions**") pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"):

[1] All capitalized terms used in these Findings and Conclusions that are not defined herein shall have the same meaning ascribed to them in the Plan.

THE COURT FINDS AND CONCLUDES THAT:

1. Confirmation Hearings. Pursuant to Bankruptcy Code § 1128 and Bankruptcy Rule 3020(b)(2), the Court conducted evidentiary hearings to consider confirmation of the Plan on November 8, 2010, November 17, 2010, December 2, 2010, December 3, 2010, January 5, 2011, January 19, 2011, January 26, 2011 and June 28, 2011 (collectively, the "**Confirmation Hearings**").

2. Solicitation Materials. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the following documents relating to the solicitation of votes to accept or reject the Plan (collectively, the "**Solicitation Materials**"):

a. The *Amended and Supplemented Disclosure Statement Concerning the Debtor's Fourth Amended Plan of Reorganization*, as supplemented (the "**Disclosure Statement**") [DE # 506];

b. The *Order (A) Approving Disclosure Statement; (B) Authorizing Solicitation of Votes on the Plan; (C) Approving Solicitation Procedures; (D) Scheduling an Evidentiary Hearing on Confirmation of the Plan; and (E) Approving Form, Manner and Sufficiency of Notice* entered by the Court on September 17, 2010 (the "**Solicitation Order**") [DE # 521]; and

c. The *Declaration of Karen Graves Regarding Tabulation of Ballots In Connection with the Debtor's Plan of Reorganization* filed by the Debtor on October 26, 2010 (the "**Ballot Report**") [DE # 610].

3. Supplemental Plan Materials. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the following documents and pleadings

supplementing and/or amending the Plan and the implementation of the Plan (collectively, the "**Supplemental Plan Materials**"):

a. The *Order Allowing Debtor to Supplement Disclosure Statement to Reflect Modifications to Fourth Amended Plan of Reorganization* entered by the Court on October 19, 2010 [DE # 584]; and

b. The *Emergency Motion to: (1) Supplement Plan to Address Court Comments Raised at Plan Confirmation Hearing; and (2) File Related Information under Seal* filed by the Debtor on January 14, 2011 (the "**Motion to Supplement**") [DE # 746].

4. Confirmation Pleadings. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the following pleadings concerning and/or relating to the factual and legal bases supporting confirmation and implementation of the Plan (collectively, the "**Confirmation Pleadings**"):

a. The Plan, as amended, attached as Exhibit 1 to the Confirmation Order;

b. The "*Debtor's Brief In Support of Confirmation of Fourth Amended Plan of Reorganization*" filed by the Debtor on November 3, 2010 (the "**Confirmation Brief**") [DE # 651], and all briefs, responses and replies filed in connection therewith; and

c. Exhibits A, B, C and D to the *Declaration of G. Grant Lyon In Support of Debtor's Fourth Amended Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code* filed by the Debtor on October 11, 2010 (the "**Lyon Declaration**") [DE # 558].

5. Confirmation Objections. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the following objections and related pleadings contesting confirmation of the Plan (collectively, the "**Confirmation Objections**"):

a. The *Maricopa County Treasurer's Objection to Debtor's Fourth Amended Plan of Reorganization* filed by the Maricopa County Treasurer (the "**Maricopa Treasurer**") on October 20, 2010 (the "**Maricopa County Objection**") [DE # 587];

b. The *Objection to Debtor's Fourth Amended Plan of Reorganization, as Modified*, and all briefs, responses and replies filed in connection therewith (the "**Bank Group Objection**") [DE # 588], filed by Bank of America, N.A., on its own and as administrative agent for JPMorgan Chase Bank, N.A., Compass Bank, on its own and as successor-in-interest to Guaranty Bank, and Well Fargo Bank, as successor-in-interest to Wachovia Bank (collectively, the "**Bank Group**") on October 21, 2010;

c. The *Motion to Strike Ballot of Ira A. Fulton* filed by the Bank Group on October 27, 2010 (the "**Motion to Strike Ballot**") [DE # 616];

d. The *Order Granting Motion to Strike* Ballot of Ira A. Fulton entered by the Court on November 15, 2010 (the "**Order to Strike Ballot**") [DE # 675];

6. Related Pleadings. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the following pleadings, and all objections, briefs, responses and replies associated therewith, that have requested relief to facilitate the confirmation and/or implementation of the Plan (collectively, the "**Related Pleadings**"):

a. The *Plan Supplement* filed by the Debtor on August 23, 2010 [DE # 466];

b. The *Revisions to Plan Supplement* filed by the Debtor on September 15, 2010 [DE # 508];

c. The *Emergency Motion for an Order under Sections 105(a) and 363 of the Bankruptcy Code Authorizing Debtor to Enter Into Transition Services Agreement with Fulton Sales In Aid of Confirmation and Consummation of Debtor's Reorganization Plan* filed by the Debtor on October 22, 2010 (the "**TSA Motion**") [DE # 592];

d. The *Emergency Motion to Vacate Order (A) Approving Disclosure Statement; (B) Authorizing Solicitation of Votes on the Plan; (C) Approving Solicitation Procedures; (D) Scheduling an Evidentiary Hearing on Confirmation of the Plan; and (E) Approving Form, Manner and Sufficiency of Notice* filed by the Debtor on October 28, 2010 [DE # 619]

e. The *Objection to Emergency Motion for an Order under Sections 105(a) and 363 of the Bankruptcy Code Authorizing Debtor to Enter Into Transition Services Agreement with Fulton Sales In Aid of Confirmation of Debtor's Reorganization Plan* filed by the Bank Group on November 1, 2010 (the "**TSA Objection**") [DE # 631];

f. The *Motion to Reject Option Agreements Between Debtor and Fulton Homes Sales Corporation* filed by the Debtor on January 4, 2011 (the "**Motion to Reject**") [DE # 731];

g. The *Debtor's Motion to: (1) Limit Confirmation Hearings on Debtor's Fourth Amended Plan of Reorganization; (2) Schedule Oral Argument; and (3) Issue*

Ruling on Debtor's Fourth Amended Plan filed by the Debtor on January 18, 2011 (the "**Motion to Limit**") [DE # 757]; and

h. The *Initial Objection to Motion to Reject Option Agreements Between Debtor and Fulton Home Sales Corporation* filed by the Bank Group on January 26, 2011 [DE # 780].

7. Confirmation Witnesses. During the Confirmation Hearings, the Court received testimony from several witnesses, all of whom testified under oath. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the testimony of the following witnesses (collectively, the "**Confirmation Witnesses**"):

a. Mr. G. Grant Lyon, expert witness for the Debtor ("**Mr. Lyon**");

b. Mr. Douglas S. Fulton, Chief Executive Officer of the Debtor;

c. Mr. Norman L. Nicholls, President of the Debtor;

d. Mr. Steven W. Walters, Chief Financial Officer of the Debtor;

e. Mr. Tom Abraham, Controller of the Debtor;

f. Mr. Jim Ameduri, Principal of Green Street Capital Group, financial advisor for the Debtor;

g. Ms. Tamara Frederick, Senior Portfolio Manager and Senior Vice President of Bank of America, N.A.;

h. Mr. John Taylor, expert witness for the Bank Group;

i. Mr. John Maddox, Partner at Deloitte & Touche, LLP;

j. Ms. Tiffany Young, Partner at Deloitte Tax; and

k. Mr. Michael Jacobsen, Senior Manager at Moss Adams, LLP.

8. Competing Plan Materials. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the following documents concerning and/or relating to the competing plan of reorganization filed by the Bank Group, including objections thereto (collectively, the "**Competing Plan Materials**"):

a. The Creditors' Plan of Reorganization filed by the Bank Group on September 28, 2010, as amended and supplemented on October 5, 2010, October 13, 2010, October 18, 2010 and January 14, 2011, and all documents and exhibits filed therewith (together, the "**Competing Plan**") [DE #s 525, 540, 565, 578 and 744];

b. *The Objection to Confirmation of Bank Group's Plan of Reorganization and Joinder In Fulton Homes' Objection to Plan* filed by the Town of Queen Creek on November 18, 2010 (the "**Queen Creek Objection**") [DE # 679];

c. The *Debtor's Objection to Bank Group's Plan of Reorganization* filed by the Debtor on November 18, 2010 (the "**Debtor's Objection to Bank Group Plan**") [DE # 680];

d. The *Joinder In Debtor's Objection to Bank Group's Plan of Reorganization* filed by Fulton Home Sales Corporation ("**Fulton Sales Corp.**") on November 18, 2010 (the "**Fulton Sales Joinder**") [DE # 683];

e. The *Joinder By The Ira A. Fulton and Mary Lou Fulton Trust to Debtor's Objection to Bank Group's Plan of Reorganization* filed by the Fulton Family Trust on November 18, 2010 (the "**Trust Joinder**") [DE # 684];

f. The *Expert Report of Mr. John A. Taylor* filed by the Bank Group on November 20, 2010 (the "**Taylor Report**") [DE # 686]; and

g. The *Revised Expert Report of Mr. John A. Taylor* filed by the Bank Group on November 30, 2010 (the "**Revised Taylor Report**") [DE # 695].

9. No Confirmation Hearings Devoted Solely to Competing Plan. Although argument and testimony was presented during the Confirmation Hearings related to issues relevant to the Court's analysis of issues under Bankruptcy Code § 1129(c), and the parties agreed that evidence and testimony relevant to both the Debtor's Plan and the Bank Group's Competing Plan did not need to be introduced into the record twice, the Bank Group had not begun alternative presentation of its evidence in support of its Competing Plan.

10. Settlement Materials. In connection with the entry of these Findings and Conclusions, the Court has reviewed and considered the following pleadings encompassing the global resolution of the Confirmation Objections and other claims and disputes among and between the Debtor, the Administrative Agent and the Bank Group (collectively, the "**Settlement Materials**"):

a. The *Motion to Approve Settlement Agreement Between the Debtor, Fulton Home Sales Corporation, Certain of their Officers and Directors and Related Persons, and Bank of America, N.A.* filed by the Debtor on June 20, 2011 (the "**Settlement Motion**") [DE # 858];

b. the *Settlement Agreement, dated June 15, 2011*, attached as Exhibit A to the Settlement Motion (the "**Settlement Agreement**"); and

c. The *Order Approving Settlement Agreement Between the Debtor, Fulton Home Sales Corporation, Certain of Their Officers and Directors and Related Persons and entities, and Bank of America, N.A.*, entered by the Bankruptcy Court on or about June 28, 2011 (the "**Settlement Order**").

11. Solicitation Order. On September 17, 2010, the Court entered the Solicitation Order which, among other things, approved the Disclosure Statement. The Debtor used the Disclosure Statement to solicit votes to accept or reject the Plan from those Creditors and Equity Interest holders who are impaired and entitled to vote under the Plan - (i) Class 1 Secured Vendor Claims; (ii) Class 2 Secured Tax Claims; (iii) Class 3 Bank Group Claims; (iv) Class 4 General Unsecured Claims; (v) Class 5 Queen Creek Claims; (vi) Class 7 Fulton Unsecured Claim; and (vii) Class 8 Equity Interests. The Solicitation Order: (i) set October 21, 2010 as the deadline for submission of Ballots to accept or reject the Plan (the "**Voting Deadline**"); (ii) approved the form and method of notice of the Confirmation Hearings (the "**Confirmation Hearings Notice**"); (iii) set October 21, 2010, as the deadline for submitting objections to confirmation of the Plan (the "**Confirmation Objection Deadline**"); and (iv) established certain procedures for soliciting and tabulating votes with respect to the Plan.

12. Transmittal of Solicitation Packages. The Debtor mailed Solicitation Packages, which included, among other things: 1) copies of the Disclosure Statement and Plan; 2) notice of the pre-trial status hearing to commence on October 28, 2010, and notice of the final, evidentiary Confirmation Hearings to commence on November 8, 2010; 3) the Solicitation Order; and 4) appropriate class ballots (the "**Ballots**") in the form approved in the Solicitation Order to holders of Claims in Classes 1, 2, 3, 4, 5, 7 and 8. The transmittal of the foregoing materials was conducted in accordance with Bankruptcy Rule 3017(d) and the Solicitation Order.

13. Ballot Report. The Debtor filed the Ballot Report on October 26, 2010, which certifies the method and results of the Ballot tabulation for each Class entitled to vote to accept or reject the Plan. Classes 1, 4, 5 and 8 voted to accept the Plan. Class 3 voted to reject the Plan. As noted above, the Ballot Report indicated that Class 7 - the Fulton Unsecured Claim - voted to

accept the Plan; however, subsequent to filing the Ballot Report, the Bank Group filed the Motion to Strike Ballot which asserted that the Bank Group was the sole entity entitled to vote the Class 7 claim, and that the Bank Group voted to have Class 7 reject the Plan. On November 15, 2010, the Court entered the Order to Strike Ballot, which modified the Ballot Report to reflect that Class 7 voted to reject the Plan. The Creditor in Class 2 did not submit a Ballot either accepting or rejecting the Plan. Thus, all Classes entitled to vote under the Plan voted to accept the Plan, except for Classes 2, 3 and 7.

14. Jurisdiction and Venue. The Court has jurisdiction over this Chapter 11 Case under 18 U.S.C. §§ 157 and 1334. This matter constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue in this Court is proper under 28 U.S.C. §§ 1408 and 1409.

15. Judicial Notice. The Court takes judicial notice of the docket of this Chapter 11 Case maintained by the Clerk of the Court and/or its duly-appointed agent, including, without limitation, all pleadings and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at, the hearings held before the Court during the pendency of this Chapter 11 Case.

16. Oral Findings of Fact Incorporated. All oral findings of fact and conclusions of law entered by the Court at the Confirmation Hearings are incorporated herein by this reference, in accordance with Bankruptcy Rule 7052(a).

17. Confirmation Witnesses Available for Examination. Each of the Confirmation Witnesses provided testimony on direct examination at the Confirmation Hearings and either provided testimony on cross-examination or were made available for cross-examination by counsel for the opposing party.

18. Transmittal and Mailing of Materials; Notice. In accordance with Bankruptcy Rule 2002, the Court finds and concludes that adequate and sufficient notice of the time for filing objections to the Disclosure Statement and Plan was provided to the holders of Claims and Equity Interests in accordance with the procedures set forth in the Solicitation Order. The Disclosure Statement, Plan, Ballots, Solicitation Order, and Confirmation Hearings Notice were transmitted and served in substantial compliance with the Solicitation Order and the Bankruptcy Rules, and such transmittal and service were adequate and sufficient. Adequate and sufficient notice of the Confirmation Hearings, the Voting Deadline, and the Confirmation Objection Deadline was given in compliance with the Solicitation Order and the Bankruptcy Rules, and no other or further notice is required.

19. Solicitation. In accordance with Bankruptcy Code § 1126(b), the Court finds and concludes that: (a) the solicitation of votes to accept or reject the Plan complied with all applicable non-bankruptcy law, rules and regulations governing the adequacy of disclosure in connection with the solicitation; and (b) the solicitation was conducted after disclosure of adequate information, as defined in Bankruptcy Code § 1125(a).

20. Plan Modifications; No Further Solicitation Required. The modifications to the Plan as set forth in the Plan attached as Exhibit 1 to the Confirmation Order, the Settlement Materials, and these Findings and Conclusions: (i) only impact the treatment of the Claims of the Bank Group, Maricopa County Treasurer, and Mr. Ira A. Fulton, all of whom have agreed and consented to such modifications and treatment; (ii) do not materially affect the classification or treatment of the Claims of any other Creditors; and (iii) comply with Bankruptcy Code §§ 1122 and 1123. Accordingly, the Court finds and concludes that such modifications to the Plan

comply with Bankruptcy Code § 1127(a), and that no further or additional solicitation of votes to accept or reject the Plan is required under Bankruptcy Code § 1125(a).

21. Withdrawal of Competing Plan. Pursuant to the consummation of the agreements described in the Settlement Materials and the resolution of the Bank Group Objection, the Bank Group has agreed to withdraw the Competing Plan. The withdrawal of the Competing Plan shall be effective as of the Effective Date of the Debtor's Plan.

22. Modified Plan Is Sole Plan. Pursuant to Bankruptcy Code § 1127(a), the Plan, as amended and attached as Exhibit 1 to the Confirmation Order, the Settlement Materials, and these Findings and Conclusions, is the sole Plan of the Debtor. All prior and inconsistent plans of reorganization of the Debtor, and all actual and proposed amendments, modifications and supplements to the Plan, other than those reflected in the Plan attached as Exhibit 1 to the Confirmation Order, within the Confirmation Order itself, and in these Findings and Conclusions, are of no force or effect.

23. Ballots. All procedures used to distribute Solicitation Packages to the holders of Claims and Equity Interests and to tabulate Ballots were fair and conducted in accordance with the Solicitation Order, the Bankruptcy Code, the Bankruptcy Rules, the local rules of the United States Bankruptcy Court, District of Arizona, and all other applicable laws, rules, and regulations.

24. Impaired Classes under the Plan. As set forth more fully in the Solicitation Order, Classes 1, 2, 3, 4, 5, 7 and 8 (collectively, the "**Impaired Classes**") are impaired under the Plan as that term is defined in Bankruptcy Code § 1124. Classes 1, 2, 3, 4, 5, 7 and 8 are entitled to submit votes to accept or reject the Plan.

25. Unimpaired Classes under the Plan. As set forth more fully in the Solicitation Order, only Class 6 (the "**Unimpaired Class**") is unimpaired under the Plan as that term is defined in Bankruptcy Code § 1124. Accordingly, the Unimpaired Class is deemed to accept the Plan, and is not entitled to vote on the Plan.

26. Impaired Classes That Have Voted to Accept the Plan. The Ballot Report, as modified by the Order to Strike Ballot, indicates that Classes 1, 4, 5 and 8 voted to accept the Plan. The Creditor in Class 2 did not submit a Ballot either accepting or rejecting the Plan. Thus, 4 of the 7 Impaired Classes entitled to vote under the Plan voted to accept the Plan. Thus, at least one Impaired Class of Claims, determined without including any acceptance by an insider of the Debtor, has voted to accept the Plan.

27. Impaired Class That Voted to Reject the Plan. The Ballot Report, as modified by the Order to Strike Ballot, indicates that Classes 3 and 7 voted to reject the Plan. The Creditor in Class 2 did not submit a Ballot either accepting or rejecting the Plan. Accordingly, the Court finds that the provisions of Bankruptcy Code § 1129(b) must be satisfied to confirm the Plan.

28. Burden of Proof. The Debtor, as proponent of the Plan, has met its burden of proving all elements of Bankruptcy Code § 1129(b). First, as set forth below, the Plan complies with the provisions of Bankruptcy Code § 1129(a) other than the provisions of § 1129(a)(8).

29. The Plan Complies with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)). As detailed below, the Plan complies with all applicable provisions of the Bankruptcy Code, thereby satisfying Bankruptcy Code § 1129(a)(1).

a. Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)). In addition to Administrative Claims, Preserved Ordinary Course Administrative Claims, Professional Claims, Priority Tax Claims, and Other Priority Claims (which are not required to be classified), Article III of the Plan designates seven Classes of Claims and one Class of Equity Interests in the Debtor. The Claims and Equity Interests placed in each Class are substantially similar to other Claims or Equity

Interests in such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between holders of Claims or Equity Interests. Accordingly, the Plan satisfies Bankruptcy Code § 1122 and 1123(a)(1).

b. Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)). Section 5.2 of the Plan specifies the Classes of Claims and Equity Interests that are Unimpaired under the Plan. Accordingly, the Plan satisfies Bankruptcy Code § 1123(a)(2).

c. Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). Article V of the Plan specifies the Classes of Claims that are Impaired under the Plan. Article IV of the Plan specifies the treatment of Claims in all such Impaired Classes. Accordingly, the Plan satisfies Bankruptcy Code § 1123(a)(3).

d. No Discrimination (11 U.S.C. § 1123(a)(4)). The Plan provides for the same treatment for each Claim in each respective Class unless the holder of a particular Claim has agreed to less favorable treatment with respect to such Claim. Accordingly, the Plan satisfies Bankruptcy Code § 1123(a)(4).

e. Implementation of Plan (11 U.S.C. § 1123(a)(5)). The Plan provides adequate and proper means for implementation of the Plan, including, without limitation: (a) the reconstitution of the Debtor as of the Effective Date (the "**Reorganized Debtor**"); (b) execution of the New Loan Documents; (c) procedures for making distributions; and (d) the execution, delivery, filing or recording of all contracts, instruments, releases, indentures, and other agreements or documents relating to the foregoing. Accordingly, the Plan satisfies Bankruptcy Code § 1123(a)(5).

f. Prohibition Against Issuance of Non-Voting Equity Securities and Provisions for Voting Power of Classes of Securities (11 U.S.C. § 1123(a)(6)). Section 6.2.B of the Plan prohibits the issuance of non-voting equity securities as of the Effective Date. After the Effective Date, the Reorganized Debtor may amend its respective organizational documents as permitted by applicable law. Accordingly, the Plan satisfies Bankruptcy Code § 1123(a)(6).

g. Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)). Exhibit I to the Plan properly and adequately discloses the identity and affiliations of all individuals proposed to serve on or after the Effective Date as Officers and Directors of the Reorganized Debtor. The appointment of such Officers and Directors is consistent with the interests of the holders of Claims against and Equity Interests in the Debtor, and with public policy. Accordingly, the Plan satisfies Bankruptcy Code § 1123(a)(7).

h. Additional Plan Provisions (11 U.S.C. § 1123(b)). The Plan's provisions are appropriate and consistent with the applicable provisions of the Bankruptcy

Code, including, without limitation, provisions for: (a) distributions to holders of Claims; (b) the disposition of executory contracts and unexpired non-residential real property leases; (c) the retention and/or transfer of, and right to enforce, sue on, settle, or compromise (or refuse to do any of the foregoing) certain claims or causes of action against third parties, to the extent not waived or released under the Plan; (d) resolution of Disputed Claims; (e) resolution of indemnification obligations; and (f) certain releases by the Debtor and holders of certain Claims.

i. Bankruptcy Rule 3016(a). The Plan is dated and identifies the entities submitting it, thereby satisfying Bankruptcy Rule 3016(a).

30. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)). The Debtor has complied with the applicable provisions of the Bankruptcy Code, thereby satisfying Bankruptcy Code § 1129(a)(2). The Debtor has complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Order in transmitting the Plan, the Disclosure Statement, the Ballots, and related documents and notices, and in soliciting and tabulating votes on the Plan.

31. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying Bankruptcy Code § 1129(a)(3). In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case and the formulation of the Plan. The Plan was proposed, with the legitimate and honest purpose of maximizing the value of the Debtor and the recovery to Claim holders under the circumstances of this Chapter 11 Case.

32. Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). Any payment made or to be made by the Debtor for services or for costs and expenses in connection with this Chapter 11 Case, including all Administrative Expense Claims under Bankruptcy Code § 503, or in connection with the Plan and incident to this Chapter 11 Case,

have been approved by, or are subject to the approval of, the Court as reasonable, thereby satisfying Bankruptcy Code § 1129(a)(4).

33. Directors and Officers (11 U.S.C. § 1129(a)(5)). The Debtor, as proponent of the Plan, has complied with Bankruptcy Code § 1129(a)(5) by disclosing the identity and affiliations of all individuals and entities proposed to serve, after confirmation of the Plan, as the Officers and Directors of the Reorganized Debtor. Such appointment is consistent with the interests of the Creditors and with public policy, thereby satisfying Bankruptcy Code § 1129(a)(5).

34. No Government Regulation of Rates (11 U.S.C. § 1129(a)(6)). Bankruptcy Code § 1129(a)(6) is satisfied because the business of the Debtor is not subject to governmental regulation of rates.

35. Best Interests Test (11 U.S.C. § 1129(a)(7)). The Plan satisfies Bankruptcy Code § 1129(a)(7). The Disclosure Statement, the expert testimony of Mr. Lyon presented at the Confirmation Hearings, the liquidation analysis attached as an exhibit to the Disclosure Statement, Exhibits A, B, C and D to the Lyon Declaration, and the evidence adduced at the Confirmation Hearings by the Confirmation Witnesses testifying for the Debtor: (a) are persuasive, credible and accurate as of the dates they were prepared, presented, or proffered; (b) either have not been controverted by other persuasive evidence or have not been challenged; (c) are based upon reasonable and sound assumptions; and (d) establish that each holder of a Claim in an Impaired Class that has not accepted the Plan will receive or retain under the Plan, on account of such Claim, property of a value, as of the Effective Date, that is not less than the amount that it would receive if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date.

36. Bankruptcy Code § 1129(a)(8) Need Not Be Satisfied under § 1129(b). Because the Plan is being confirmed under Bankruptcy Code § 1129(b), the requirements of § 1129(a)(8) need not be satisfied.

37. Treatment of Administrative and Priority Tax Claims and Other Priority Claims (11 U.S.C. § 1129(a)(9)). The treatment of Administrative Claims and Other Priority Claims under the Plan satisfies the requirements of Bankruptcy Code §§ 1129(a)(9)(A) and (B), and the treatment of Priority Tax Claims under the Plan satisfies Bankruptcy Code § 1129(a)(9)(C).

38. Acceptance by Impaired Classes (11 U.S.C. § 1129(a)(10)). Classes 1, 2, 3, 4, 5, 7 and 8 are Impaired Classes. As described with particularity in the Ballot Report and in these Findings and Conclusions, Classes 1, 4, 5 and 8 voted to accept the Plan. Classes 3 and 7 voted to reject the Plan. Class 2 did not submit a Ballot either accepting or rejecting the Plan. The Impaired Classes that voted to accept the Plan do not contain "insiders" of any significant magnitude. Accordingly, the Plan satisfies Bankruptcy Code § 1129(a)(10).

39. Feasibility (11 U.S.C. § 1129(a)(11)). The Plan satisfies Bankruptcy Code § 1129(a)(11). The Plan implements a reorganization of the Debtor. The Disclosure Statement, Exhibits A, B, C and D to the Lyon Declaration, the expert testimony of Mr. Lyon presented at the Confirmation Hearings, and evidence adduced or proffered at the Confirmation Hearings: (a) are persuasive, credible and accurate as of the dates they were prepared, presented, or proffered; (b) either have not been controverted by other persuasive evidence or have not been challenged; (c) are based upon reasonable and sound assumptions; and (d) establish that the Plan is feasible and that confirmation of the Plan is not likely to be followed by further financial reorganization of the Reorganized Debtor. Further Plan modifications filed or represented on the

record through the final Confirmation Hearings are consistent with the prior evidence presented regarding feasibility of the Plan.

40. Payment of Fees (11 U.S.C. § 1129(a)(12)). To the extent that all fees payable to the United States Trustee under 28 U.S.C.§ 1930(a)(6) have not been paid, the Plan provides for the payment of all such fees on the Effective Date of the Plan and as they come due after the Effective Date. Accordingly, the Plan satisfies Bankruptcy Code § 1129(a)(12).

41. Retiree Benefits (11 U.S.C. § 1129(a)(13)). No retiree benefits, as that term is defined in Bankruptcy Code § 1114, exist in this Chapter 11 Case, making Bankruptcy Code § 1129(a)(13) inapplicable. The Plan thus satisfies Bankruptcy Code § 1129(a)(13).

42. Domestic Support Obligation (11 U.S.C. § 1129(a)(14)). The Debtor is not subject to any judicial or administrative order, or by statute, to pay any domestic support obligation. The Plan thus satisfies Bankruptcy Code § 1129(a)(14).

43. Individual Debtor (11 U.S.C. § 1129(a)(15)). The Debtor is not an individual. The Plan thus satisfies Bankruptcy Code § 1129(a)(15).

44. Transfers Under Nonbankruptcy Law (11 U.S.C. § 1129(a)(16). There are no provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust that apply to the Debtor since the Debtor is a commercial business. The Plan thus satisfies Bankruptcy Code § 1129(a)(16).

45. Fair and Equitable (11 U.S.C. § 1129(b)(2)). The Plan provides "fair and equitable" treatment to Classes 3 and 7 which voted to reject the Plan, and to Class 2 which did not submit a Ballot either accepting or rejecting the Plan. Under Bankruptcy Code § 1129(b)(2)(C), a plan is fair and equitable to a class of equity interests who did not vote to accept the plan if the plan provides that the holder of any interest that is junior to the interests of

such class will not receive or retain under the plan any property on account of such junior interest. As described herein, the Debtor has resolved the Confirmation Objections filed by the Bank Group, which voted the Claims in Classes 3 and 7, and the Maricopa County Treasurer, which is the sole Creditor in Class 2. Furthermore, the Plan and Settlement Agreement provide that the Class 7 Fulton Unsecured Claim will be released and discharged upon the occurrence of the Effective Date. Finally, as set forth herein, the Court finds and concludes that the present value of the Debtor's assets exceeds its liabilities, and that all Creditors holding allowed Claims will receive the present value of such Claims under the Plan with appropriate interest. As a result, the retention of Equity Interests in the Debtor by Class 8 Equity Holders is appropriate, fair and equitable to senior Creditors. Therefore, the Court finds Classes 2, 3 and 7 are treated fairly and equitably under Bankruptcy Code § 1129(b)(2).

46. Principal Purpose of Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933, and there has been no objection filed by any governmental unit asserting such avoidance. Accordingly, the Plan complies with Bankruptcy Code § 1129(d).

47. Good Faith Solicitation (11 U.S.C. § 1125(e)). The Debtor and its respective attorneys, accountants and advisers have solicited votes to accept or reject the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Order, and are, therefore, entitled to the protections afforded by Bankruptcy Code § 1125(e).

48. Valuation of Debtor. The Disclosure Statement, Exhibits A, B, C and D to the Lyon Declaration, the expert testimony of Mr. Lyon presented at the Confirmation Hearings, the feasibility analysis and liquidation analysis attached as exhibits to the Disclosure Statement, and

the evidence adduced at the Confirmation Hearings by the Confirmation Witnesses testifying for the Debtor: (a) are persuasive, credible and accurate as of the dates they were prepared, presented, or proffered; (b) either have not been controverted by other persuasive evidence or have not been challenged; (c) are based upon reasonable and sound assumptions; and (d) establish that, as of the Confirmation Date, the present value of the Debtor's assets exceeds the present value of the Debtor's liabilities.

49. Tax Reorganization. The transactions necessary to implement, or related to the implementation of, the Tax Reorganization, including, without limitation, the Tax Reorganization Plan, the Trust Contribution, the Fulton Sales Stock Contribution and the Q-Sub Election, are in the best interests of the Debtor and Reorganized Debtor, as such transactions will minimize the tax consequences to the Debtor and its Equity Interest holders of the confirmation of the Plan and related transactions, without impacting or impairing the treatment or satisfaction of the Claims of any Creditors or parties in interest. The Debtor, Reorganized Debtor, Fulton Sales Corp., Ira A. Fulton, Mary Lou Fulton, the Fulton Family Trust and any other Person needed to implement the Tax Reorganization, are authorized and directed to take any actions and execute any documents necessary to implement the Tax Reorganization.

50. Fulton Sales Reimbursement Payment. The Fulton Sales Reimbursement Payment is in the best interests of the Debtor and Reorganized Debtor. The Debtor, the Reorganized Debtor and Fulton Sales Corp. are authorized and directed to take any actions and execute any documents necessary to implement the Fulton Sales Reimbursement Payment.

51. Timing of Transactions on Effective Date. The Tax Reorganization and Tax Reorganization Plan (as those terms are defined in the Plan) are approved. On the Effective

Date, the following transactions and/or events will be deemed to occur in the following sequence:

a. Ira A. Fulton and Mary Lou Fulton will make the Trust Contribution to the Fulton Family Trust;

b. Fulton Sales Corp. will pay the Fulton Sales Reimbursement Payment to the Debtor;

c. The Fulton Family Trust will make the Fulton Sales Stock Contribution to the Debtor;

d. The Debtor shall receive its discharge under the Bankruptcy Code, as set forth in the Confirmation Order;

e. The Borrowers and Administrative Agent shall execute all New Loan Documents necessary to implement the New Credit Facility;

f. The Debtor, or Reorganized Debtor, as applicable, will make the Q-Sub Election with respect to Fulton Sales Corp.;

g. The Debtor, or Reorganized Debtor, as applicable, will assume under Bankruptcy Code § 365 the Option Agreements (as that term is defined in the Plan), as amended and restated to reflect the current business practices and policies between the Debtor and Fulton Sales Corp., in accordance with the Plan, the Confirmation Order, the Settlement Agreement and these Findings and Conclusions; and

h. The Debtor fully and forever settles, releases, waives and discharges all claims it has against Fulton Sales Corp. in connection with any deferred purchase price

resulting from Fulton Sales Corp.'s acquisition of Lots or Units from the Debtor under the Option Agreements prior to the Effective Date.

52. Executory Contracts. The Debtor has exercised reasonable business judgment in determining whether to assume or reject each of its executory contracts and unexpired non-residential real property leases.

53. Option Agreements. The assumption by the Debtor of the Option Agreements, as amended and restated, to reflect the current business practices and policies between the Debtor and Fulton Sales Corp., is in the best interests of the Debtor and its Estate, and is a valid and proper exercise of the Debtor's business judgment. No monetary payments or other cure costs are necessary for the Debtor to assume the amended and restated Option Agreements.

54. Fulton Unsecured Claim. The contribution agreement between Ira A. Fulton the Fulton Family Trust, whereby Ira A. Fulton will contribute the Fulton Unsecured Claim to the Fulton Family Trust and, subsequently thereafter, the Fulton Family Trust will contribute the Fulton Unsecured Claim to the Reorganized Debtor as a capital contribution, which will result in the satisfaction of the Fulton Unsecured Claim and thus its full release and discharge, is in the best interests of the Debtor and its Estate, and is a valid and proper exercise of the Debtor's business judgment. No monetary payments or other cure costs are necessary for the Debtor to receive the Fulton Unsecured Claim as a contribution of capital.

55. Land Acquisition. The transactions necessary to implement, or related to the implementation of, the Land Acquisition, including, without limitation, (i) Ira A. Fulton's loan agreement whereby Ira A. Fulton will loan the Ironwood Purchase Price to the Ironwood Subsidiary; (ii) the Ironwood Subsidiary's use of the loan proceeds to purchase 893 lots in Ironwood Crossings from the Debtor; and (iii) the Debtor's inclusion of the entire Ironwood

Purchase Price in the Bank Group Effective Date Cash Payment, is in the best interests of the Debtor and its Estate, and is a valid and proper exercise of the Debtor's business judgment. The Debtor, Reorganized Debtor, Ira A. Fulton, Mary Lou Fulton, and the Ironwood Subsidiary are authorized and directed to take any actions and execute any documents necessary to implement the Land Acquisition.

56. Conditions to Confirmation. The conditions to confirmation set forth in Section 12.1 of the Plan have been satisfied, waived, or will be satisfied by entry of the Confirmation Order, provided, however, that the occurrence of the Effective Date is subject to satisfaction or waiver, as applicable, of the conditions to the Effective Date set forth in the Plan and the Confirmation Order, including, but not limited to, the Debtor's payment of the Bank Group Effective Date Cash Payment pursuant to the terms of the Plan.

57. Conditions to Effectiveness. Each of the conditions to the Effective Date, as set forth in Section 12.2 of the Plan, is reasonably likely to be satisfied, and the Reorganized Debtor shall file, no earlier than the Effective Date, a notice when substantial consummation of the Plan (within the meaning of Bankruptcy Code § 1127) has occurred.

58. Waiver of Stay of Confirmation Order Under FRBP 3020(3). Good cause exists for waiving and eliminating the stay of the Confirmation Order set forth in Bankruptcy Rule 3020(e). In particular, the Plan represents a fair and equitable compromise by and among the major parties-in-interest in the Chapter 11 Case and should be consummated as expeditiously as possible. If the stay is not waived and eliminated, the ability of the Debtor to consummate the Plan by July 31, 2011, could be delayed.

59. Retention of Jurisdiction. The Court's retention of jurisdiction as set forth in Article XIII of the Plan comports with the parameters contained in 28 U.S.C. § 157.

60. Agreements and other Documents. The Debtor has made adequate and sufficient disclosure of: (a) the distributions to be made under the Plan; (b) the execution of the New Loan Documents to treat the Allowed Bank Group Claims, in accordance with the terms of the Plan; and (c) the adoption, execution, delivery and implementation of all contracts, leases, instruments, indentures, releases and other agreements or documents related to the any of the foregoing.

61. Preservation of Causes of Action. It is in the best interests of Claim holders and Equity Interest holders that causes of action not expressly released under the Plan be retained by the Reorganized Debtor pursuant to Article XI of the Plan, in order to maximize the value of the Debtor's Estate.

62. Election Pursuant to 11 U.S.C. § 1111(b). No Secured Creditor has elected the treatment provided by Bankruptcy Code § 1111(b).

63. Related Motions. The resolution of the Bank Group Objection pursuant to the Settlement Materials, the New Loan Documents and the modifications to the Plan made consistent therewith, has rendered moot (i) the Bank Group's objections to prior versions and the Debtor's proposed alternative provisions of the Plan; and (ii) the relief requested in the TSA Motion and the Motion to Reject. The Debtor has agreed to withdraw the Related Pleadings as moot upon the occurrence of the Effective Date of the Plan.

64. Status of Objections. As set forth above, and described more fully in the Confirmation Order, all Confirmation Objections filed to the Plan have been resolved.

65. Tax Objection. The Maricopa County Objection has been resolved by way of incorporating certain agreed language regarding treatment of Class 2 and the vesting of assets into the Plan, as modified, and the Confirmation Order.

66. Bank Group Objection. The Bank Group Objection has been resolved by way of incorporating certain agreed-upon terms and conditions concerning the treatment of the Allowed Bank Group Claims into the Plan, the New Loan Documents, the Settlement Agreement and the Confirmation Order.

67. Allowance of Bank Group's Claims. The agreement between the Debtor and the Bank Group regarding the amount, allowance and treatment of the Allowed Bank Group Claims includes a resolution of the amount of fees, costs and charges to which the Bank Group is entitled under the Bankruptcy Code, including but not limited to Bankruptcy Code § 502 thereof, which shall constitute a final resolution pursuant to the terms of the Plan, the Confirmation Order, the Settlement Agreement and the Settlement Order, that is not subject to future challenge or objection by the Debtor, the Reorganized Debtor, or any other Person or party-in-interest.

###