



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:
DORCHESTER RESOURCES, L.P.,
Debtor.

Case No. 21-10840-SAH
(Chapter 11)

NOTICE OF TELEPHONIC HEARING ON DEBTOR'S SECOND AMENDED MOTION FOR ORDER (A) ESTABLISHING BIDDING PROCEDURES, (B) MANNER AND FORM OF NOTICE FOR SALE OF A SIGNIFICANT PORTION OF DEBTOR'S ASSETS (C) SCHEDULING DATES FOR AN AUCTION, AND (D) AUTHORIZING AND APPROVING THE FORM OF A STALKING HORSE ASSET PURCHASE AGREEMENT, WITH BRIEF, WITH NOTICE OF OPPORTUNITY FOR HEARING
[Dkt. #64]

PLEASE TAKE NOTICE that on April 15, 2021, Debtor filed its Second Amended Motion for Order (A) Establishing Bidding Procedures, (B) Manner and Form of Notice for Sale of a Significant Portion of Debtor's Assets (C) Scheduling Dates for an Auction, and (D) Authorizing and Approving the Form of a Stalking Horse Asset Purchase Agreement, with Brief, with Notice of Opportunity for Hearing [Dkt #64].

PLEASE TAKE FURTHER NOTICE that a telephonic hearing on this Motion is scheduled for **May 5, 2021, at 9:30 a.m. prevailing Central Time** before the Honorable Sarah A. Hall, United States Bankruptcy Judge. Participating or responding parties are hereby notified they may participate using the call-in information as follows: Phone Number: 866-590-5055, Access Code, 4489321. All counsel and parties are directed as follows: (1) all participants shall mute their phone when it is not their case, (2) no participant shall use a "speaker," function and (3) no participant shall place the call on hold

(in order for the Court and other participants to avoid hearing hold music or other noises that detract from the proceeding and audio recording of same).

/s/ J. Clay Christensen
J. Clay Christensen (OBA #11789)
Jeffrey E. Tate (OBA #17150)
Jonathan M. Miles (OBA #31152)
Brock Z. Pittman (OBA #32853)
CHRISTENSEN LAW GROUP, P.L.L.C.
The Parkway Building
3401 N.W. 63rd Street, Ste. 600
Oklahoma City, Oklahoma 73116
Telephone: (405) 232-2020
Facsimile: (405) 228-1113
clay@christensenlawgroup.com
jeffrey@christensenlawgroup.com
jon@christensenlawgroup.com
brock@christensenlawgroup.com

PROPOSED ATTORNEYS FOR DEBTOR

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE:

DORCHESTER RESOURCES, L.P.,

Debtor.

Case No. 21-10840-SAH
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SECOND AMENDED MOTION FOR ORDER (A) ESTABLISHING BIDDING PROCEDURES, (B) MANNER AND FORM OF NOTICE FOR SALE OF A SIGNIFICANT PORTION OF DEBTOR'S ASSETS (C) SCHEDULING DATES FOR AN AUCTION, AND (D) AUTHORIZING AND APPROVING THE FORM OF A STALKING HORSE ASSET PURCHASE AGREEMENT, WITH BRIEF, WITH NOTICE OF OPPORTUNITY FOR HEARING

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

The 14-day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).

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Dorchester Resources, L.P., the Debtor-In-Possession, (“Debtor”), pursuant to sections 105(a) and 363 of the United States Bankruptcy Code (the “Bankruptcy Code”), and Rules 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), files this Motion (the “Bidding Procedures Motion”) requesting that the Court enter its Order establishing certain BIDDING AND SALE PROCEDURES (the “Bidding Procedures”) for the proposed sale of certain assets of Debtor (the “Bidding Procedures Order”).

A. Jurisdiction and Venue.

1. Debtor filed its petition under Chapter 11 of the Bankruptcy Code on April 5, 2021 (the “Petition Date”). Debtor continues to operate its remaining business and manage its affairs as debtor in possession pursuant to 11 U.S.C. §§ 1107 and 1108.
2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334. This matter presents a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is properly in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 105(a) and 363 of the Bankruptcy Code. In addition, the relief requested in the Motion is appropriate under Bankruptcy Rules 2002 and 6004.

B. Background.

4. Debtor engages in all phases of the oil and gas business including: (i) exploration for and production of oil, gas and other hydrocarbons; (ii) buying, selling, owning, managing, operating, financing, producing and developing ownership interests;

(iii) marketing and transporting oil, gas and other hydrocarbons; and (iv) investing in or being connected with entities engaged in the oil and gas business.

5. Debtor's business has declined due to long term pricing declines, as well as the depression of energy prices during the past 12 months, in part as a result of the COVID-19 pandemic and the related quarantines, travel restrictions, and reduced manufacturing outputs. Further, production in certain areas in which Debtor holds interests may be economical for the operator, but is uneconomical for Debtor and other non-operating interest owners in light of the current pricing environment and low production volumes. Therefore, Debtor cannot continue in its business or rehabilitate its operations.

6. The only way for Debtor to realize any value for its assets is to sell the assets identified on the purchase agreement described below (the "Designated Assets").

7. Prior to filing bankruptcy, Debtor entered into an Asset Purchase Agreement (the "Purchase Agreement") with DRIL, LLC (together with its successors and assigns, the "Stalking Horse Purchaser"), under which Stalking Horse Purchaser will acquire the Designated Assets for the base purchase price of \$10,000,000.00 (the "Purchase Price"), plus the assumption of certain agreements of the Debtor which amount to over \$800,000.00, subject to certain adjustments and carve-outs upon Bankruptcy Court approval of the transaction (the "Sale").

8. A copy of the Purchase Agreement is attached hereto as Exhibit I.

12. Capitalized terms used in this Bidding Procedures Motion without definition have the meanings given to them in the proposed Bidding Procedures Order.

13. In addition to this Motion, Debtor has filed, or will shortly file, a *Motion for an Order (A) Approving the Sale of the Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests to the Winning Bidders; and (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases of the Debtor and Notice of Opportunity for Hearing* (the "Sale Motion").

14. The procedures governing the Sale will be governed by the Bidding Procedures Order sought by this Bidding Procedures Motion, establishing certain staking horse bidding and sale procedures for the proposed Sale of the Designated Assets.

15. The Purchase Agreement provides for the sale and transfer of the Designated Assets free and clear of all liens, claims, encumbrances and other interests pursuant to 11 U.S.C. § 363(b) and (f). The Designated Assets do not include cash, accounts, avoidance actions or other claims and causes of action belonging to the Debtor's estate.

C. Relief Requested.

16. This Bidding Procedures Motion seeks approval of the form of the Purchase Agreement; however, the request for authority to consummate the Sale is requested pursuant to the Sale Motion.

17. Regarding this Bidding Procedures Motion, the Debtor requests that the Court enter the proposed Bidding Procedures Order:

(a.) Granting and approving (i) the relief requested in this Bidding Procedures Motion as it relates to the Bidding Procedures; (ii) the Bid Protections (as defined in the

Bidding Procedures Order); (iii) the scheduling and notice with respect to the sale process; and (iv) the Auction (as defined below).

(b.) Approving the "Bidding Procedures," which are attached as **Exhibit 1** to the Bidding Procedures Order, in their entirety, and authorizing Debtor to take any and all actions necessary to implement the Bidding Procedures.

(c.) Authorizing Debtor to pursue a sale (or sales) of certain Designated Assets and enter into the transactions contemplated by the Purchase Agreement by conducting an Auction in accordance with the Bidding Procedures.

(d.) Ordering that the Auction shall take place, in compliance with the Bidding Procedures, on June 18, 2021, at 10:00 a.m. (prevailing Central Time) at the offices of the Auctioneer or Debtor's counsel, or such other place and time as the Debtor shall notify all Qualified Bidders (as defined in the Bidding Procedures Order), including, but not limited to, the Stalking Horse Purchaser, any official committee of unsecured creditors appointed in this case, counsel for the Stalking Horse Purchaser and other invitees.

(e.) Ordering a final, telephonic hearing to consider the Sale Motion and any auction results, to be held before the Court on June 24, 2021 at 9:30 a.m. (prevailing Central Time) (the "Sale Hearing"), with Debtor to provide notice thereof.

(f.) Ordering that objections, if any, to the Sale or any other relief requested in the Bidding Procedures Motion must: (a) be in writing; (b) comply with, and be filed in accordance with, the Bankruptcy Rules and Local Rules of the United States Bankruptcy Court for the Western District of Oklahoma, on a day certain (the "Sale Objection Deadline"); and (c) be served upon (i) counsel for the Debtor, Christensen Law Group,

P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (ii) counsel to the Committee, if any; (iii) counsel for the Stalking Horse Purchaser, Michael R. Perri, Perri Dunn P.L.L.C., 100 N. Broadway Avenue, Suite 3280, Oklahoma City, Oklahoma 73102; and (iv) the Office of the United States Trustee, in each case, so as to be received no later than 4:00 p.m. (prevailing Central Time) on the same day.

(g.) Omitted.

(h.) Ordering that on or before five (5) business days after entry of this Bidding Procedures Order, the Debtor will cause the Sale Notice to be sent by first-class mail postage prepaid, to the following: (a) all creditors or their counsel known to the Debtor to assert a lien (including any security interest), claim, right, interest or encumbrance of record against the Debtor or all or any portion of the Designated Assets; (b) the Office of the United States Trustee; (c) all applicable federal, state and local taxing and regulatory authorities of the Debtor or recording offices or any other governmental authorities that, as a result of the sale of the Designated Assets, may have claims, contingent or otherwise, in connection with the Debtor's ownership of the Designated Assets or have any known interest in the relief requested by the Motion; (d) the state and local environmental agencies in the jurisdictions where the Debtor owns or leases real property; (e) counsel to the Stalking Horse Purchaser; (f) counsel to any prepetition and postpetition secured lenders; (g) the United States Attorney's office; (h) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; (i) counsel to the Committee, if any; (j) all counterparties to any executory contract or unexpired lease of the Debtor; (k) all

other known creditors and interest holders of Debtor; and (l) all potential bidders previously identified or otherwise known to the Debtor.

(i.) Order that the Auction and/or Sale Hearing may be continued, by the Debtor, from time to time, with the consent of the Stalking Horse Purchaser (which consent will not unreasonably be withheld), without further notice to creditors or other parties in interest other than by announcement of said continuance before the Court on the date scheduled for such hearing.

(j.) Order that the Bid Protections and Sections 13 and 15 of the Purchase Agreement are hereby approved, authorized and binding upon the Debtor and its estate.

(k.) Order that the Debtor's obligation to pay the Bid Protections shall survive termination of the Purchase Agreement and shall constitute a superpriority administrative expense claim in favor of the Stalking Horse Purchaser having superpriority under (i) section 364(c) of the Bankruptcy Code over any and all administrative expenses of the kind specified in sections 503(b) and 507(c) of the Bankruptcy Code and (ii) sections 503(b)(1)(A) and 507(a)(2), and shall be senior to any and all claims of any creditors of or holders of equity interests in Seller, including prepetition and postpetition amounts owing to Seller's prepetition and postpetition senior secured lenders, and which, in accordance with the bidding procedures, shall be a "carve out" from the collateral securing the obligations owed to the Debtor's prepetition and postpetition senior secured lenders (provided a sale closes at a purchase price of \$10,000,000.00 or higher) and which shall be payable solely as provided in the Purchase Agreement. To the extent that the Stalking Horse Purchaser is not the Successful Bidder, other than as a result of breach

of the Stalking Horse Purchaser's obligations under the Purchase Agreement, the Stalking Horse Purchaser is entitled to receive, and the Seller is hereby authorized and directed to promptly pay the Bid Protections directly to the Stalking Horse Purchaser by wire transfer of immediately available good funds to an account specified by the Stalking Horse Purchaser at the Closing of any Successful Overbid Transaction for an amount equal to or greater than \$10,250,000.00 with the Successful Bidder; provided, however, that for the avoidance of any doubt, the Seller shall pay the Bid Protections to the Stalking Horse Purchaser solely from the proceeds it receives from the Successful Bidder in accordance with the terms of the Purchase Agreement.

(l.) Ordering that, except for the Stalking Horse Purchaser, no other party submitting an offer or Bid for the Designated Assets or a Qualified Bid for the Designated Assets shall be entitled to any expense reimbursement or breakup, termination or similar fee or payment.

(m.) Ordering that, except as otherwise provided in the Purchase Agreement or this Bidding Procedures Order, the Debtor's rights are reserved, as it may reasonably determine to be in the best interests of its estate, in consultation with Simmons Bank and the Committee, if any, to: (a) determine which bidders are Qualified Bidders; (b) determine which Bids are Qualified Bids; (c) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (d) reject any Bid (other than the Stalking Horse Bid) that is (i) inadequate or insufficient; (ii) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code; or (iii) contrary to the best interests of the Debtor and its estate; (e)

remove some or all of the Designated Assets from the Auction to the extent permitted in the Purchase Agreement; (f) waive terms and conditions set forth herein with respect to all potential bidders; (g) impose additional terms and conditions with respect to potential bidders; (h) extend the deadlines set forth herein; (i) postpone the Auction and/or Sale Hearing in open court without further notice; and (j) modify the Bidding Procedures as they may determine to be in the best interests of the estate.

(n.) Ordering that the Stalking Horse Purchaser shall have standing to contest the Debtor's selection of the Successful Bid for the Designated Assets; provided, however, that such standing shall not be interpreted as an admission by the Debtor or any other parties in interest that any such contest by the Stalking Horse Purchaser is valid or otherwise has merit, and the rights of the Debtor and all other parties in interest with respect to any such contest are expressly reserved.

(o.) Order that, to the extent that any Chapter 11 plan confirmed in this case or any order confirming any such plan or any other order in this case (including any order entered after any conversion of this case to a case under Chapter 7 of the Bankruptcy Code) alters, conflicts with or derogates from the provisions of this Bidding Procedures Order, the provisions of the Bidding Procedures Order shall control. The Debtor's obligations under the Bidding Procedures Order, the provision of the Bidding Procedures Order, and the portions of the Purchase Agreement pertaining to the Bidding Procedures (including all obligations to pay the Bid Protections) shall survive confirmation of any plan in this Chapter 11 case or discharge of claims thereunder and shall be binding upon the Debtor, and the reorganized or reconstituted Debtor, as the case may, after the

effective date of a confirmed plan or plans in the Debtor's case (including any order entered after any conversion of this case to a case under Chapter 7 of the Bankruptcy Code).

(p.) Ordering that the stays provided for in Bankruptcy Rules 6004(h) and 6006(d) are hereby waived and the Bidding Procedures Order shall be effective immediately upon its entry.

(q.) Ordering that Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to the Bidding Procedures Order.

(r.) Ordering that the Court shall retain jurisdiction over any matters related to or arising from the implementation of the Bidding Procedures Order.

D. The Procedures.

18. The proposed Bidding Procedures seek to establish certain Stalking Horse Purchaser protections and bidding procedures in connection with the solicitation of higher and/or better offers, including a Breakup Fee (defined below), an Expense Reimbursement (defined below) of legal and due diligence expenses, qualification of Competing Bidders (as defined in Exhibit 1 to the proposed Bidding Procedures Order) and qualified competing Bids, as well as rules regarding incremental bidding.

19. By this Motion, the Debtor seeks approval of the Bidding Procedures.

20. The Debtor, subject to the bidding process provided herein, has agreed and accepted the Purchase Agreement, and seeks to maximize the possibility of other potential bidders making competing Bids to ensure that the Sale will maximize the value of the Designated Assets.

21. The terms of the Purchase Agreement and the Bidding Procedures for which this Bidding Procedures Motion seeks approval are presented in good faith.

22. Accordingly, Debtor requests approval of a competitive bidding process that includes Stalking Horse Purchaser protection provisions and other specific bidding procedures typical for transactions of this nature, all of which are designed to ensure a fair and efficient process that will facilitate the submission of easily comparable Bids while at the same time providing the Stalking Horse Purchaser with reasonable protections for assuming the role of a prequalified purchaser of the Designated Assets. The primary proposed Bidding Procedures are summarized herein.

23. The Debtor seeks approval for the payment of a fee (the "Breakup Fee") to Stalking Horse Purchaser in the amount of \$200,000.00, and payment of up to \$50,000.00 in reimbursement of proven legal and due diligence expenses (the "Expense Reimbursement"), in the event that the Court approves the Purchase Agreement with Stalking Horse Purchaser and the Designated Assets are then sold to another purchaser for a higher price, all as more fully described in the Purchase Agreement. The purpose of the Breakup Fee and Expense Reimbursement is: (a) to induce Stalking Horse Purchaser to incur the cost associated with its due diligence; (b) to reimburse the Stalking Horse Purchaser for the legal and other expenses it has incurred and will continue to incur in connection with the proposed Sale; and (c) to compensate Stalking Horse Purchaser for the substantial time and effort it has expended and will continue to expend as a prequalified purchaser to establish a safety net against which competing Bids can be measured. The Breakup Fee and Expense Reimbursement are the Stalking Horse

Purchaser's exclusive remedy in the event a sale is consummated with a party other than the Stalking Horse Purchaser as contemplated in the Purchase Agreement.

24. The Breakup Fee and Expense Reimbursement represent only 2% of the \$10,000,000.00 Purchase Price, and are, therefore, well within the range of reasonable fees that have been approved by courts in connection with similar transactions. Moreover, the increased Purchase Price required of the next highest Bid will offset the Breakup Fee and Expense Reimbursement payment. Thus, Debtor's request for approval of the Breakup Fee and the Expense Reimbursement is an appropriate exercise of Debtor's business judgment.

25. The Debtor proposes that any initial competing Bid must be at least \$10,250,000.00 (the "Initial Overbid").

26. The purpose of the Initial Overbid amount is two-fold: (i) to protect the Stalking Horse Purchaser from having its offer topped by a *de minimis* amount by a Competing Bidder, who would in effect be piggy-backing on the Stalking Horse Purchaser's due diligence investigation and other efforts in seeking to acquire the Designated Assets and (ii) to provide Debtor with funds more than sufficient to cover the Breakup Fee and Expense Reimbursement payable to the Stalking Horse Purchaser in the event of a successful overbid.

27. Further, subsequent competing Bids must be made in increments of not less than \$100,000.00 more than the Initial Overbid.

28. Any competing Bid must be documented in a form substantially identical to the Purchase Agreement (except as to purchase price and necessary conforming changes

to reflect a different purchaser), and such Bid shall not be subject to any further due diligence review or financing contingencies.

29. All initial competing Bids must be received by the Debtor on or before 4:00 p.m. (prevailing Central Time) on June 15, 2021 (the "Bid Deadline"). Bids must be submitted to (1) the Debtor, Dorchester Resources, L.P., c/o counsel for the Debtor, Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (ii) Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (iii) counsel to the Committee, if any; (iv) counsel for the Stalking Horse Purchaser, Michael R. Perri, Perri Dunn P.L.L.C., 100 N. Broadway Avenue, Suite 3280, Oklahoma City, Oklahoma 73102; and (v) counsel for Simmons Bank. This requirement is necessary to (a) ensure comparability of Bids; (b) preserve an extensively negotiated and complex sale structure that Debtor believes is favorable to the Debtor's estate and meets the needs of the various constituents; (c) reduce the risk of delaying the closing date; (d) avoid lengthy negotiations with a Competing Bidder as to different terms of sale; and (e) eliminate the imposition of contingencies or conditions by a Competing Bidder that are not present in the Purchase Agreement.

30. In addition to the foregoing, Debtor proposes that Sale be conducted as an auction by counsel for Debtor at the offices of the Auctioneer or Debtor's counsel at 10:00 a.m., on June 18, 2021 (prevailing Central Time) (the "Auction") and that all competing Bids for the particular Designated Assets be governed by the following procedures:

(a.) Each offer, solicitation or proposal (each, a "Bid") must be irrevocable through the Auction, and must be subject to all "Backup Bid" and "Backup Bidder" requirements set forth in Exhibit I to the Bidding Procedures Order.

(b.) To participate in the bidding process and to receive access to due diligence (the "Diligence Materials"), a party must submit to the Debtor an executed confidentiality agreement in the form and substance satisfactory to the Debtor and evidence satisfactory to the Debtor demonstrating the party's financial capability to consummate a competing transaction for the Designated Assets. Diligence Materials shall be obtained through the Debtor's noticing and administrative agent, Omni Agent Solutions, LLC.

(c.) Each Bid must be accompanied by a deposit in the amount of \$1,250,000.00 to a non-interest-bearing escrow account to be identified and established by the Debtor and an acceptable, unconditional and irrevocable letter of credit on a financial institution approved by Debtor evidencing the ability to close at an amount equal to at least \$10,250,000.00 (the "Good Faith Deposit"). Such Good Faith Deposit shall be non-refundable in the event that such bidder is the successful bidder at the sale hearing but fails to close its purchase of the Designated Assets, unless such failure is the result of a non-curable material breach by Debtor under an agreement approved by the Court. Except as provided herein, all Good Faith Deposits shall be refunded to all unsuccessful bidders, but each bidder will agree to become a back-up bidder if not the winning bidder. The Stalking Horse Purchaser shall be permitted to credit bid the full amount of the Breakup Fee pursuant to any Overbid in connection with each round of bidding in the Auction.

(d) All competing Bids that satisfy these procedures shall be reviewed at the Auction.

(e) After the initial competing Bid has been submitted, all subsequent Bids shall be made in cash increments of not less than \$100,000.00. Bidding shall continue until there are no further Bids, at which time the counsel for Debtor shall close the bidding process. The successful bidder at the Auction shall become the "Purchaser" for purposes of the Sale.

(f) After conclusion of the auction, Debtor shall appear for the telephonic Sale Hearing described in Paragraph 17(e) above, to present the Court with the results of the auction, and shall petition for entry of a final Order granting the Sale Motion.

(g) If the winning bidder fails to consummate the proposed transaction on or before the Closing Date, Debtor shall be authorized to consummate the proposed sale transaction with the Stalking Horse Bidder for \$10,000,000.00 (the "Backup Purchase Price") without the need for an additional hearing or order of Court.

(h) Provided the Purchase Agreement has not been terminated in accordance with its terms thereof, in the event that (1) a Competing Bidder other than the Stalking Horse Purchaser is determined to be the winning bidder at the Sale Hearing; (2) the winning Bid is approved by the Bankruptcy Court; and (3) Debtor and Competing Bidder successfully consummate a transaction resulting in the actual sale of the Designated Assets to said Competing Bidder, the Stalking Horse Bidder shall be entitled to, and shall receive from the Seller, payment of the Breakup Fee and potential Expense Reimbursement as set forth in Sections 13 and 16 of the Purchase Agreement.

31. Debtor submits that the foregoing bidding procedures provide a fair and reasonable means of insuring that the Designated Assets are transferred for the highest and best terms attainable, and that such procedures should be approved by this Court.

E. Legal Authority.

32. The Debtor seeks entry of an order approving the Bidding Procedures for the sale of the Designated Assets. The Debtor also seeks authority to pay the Breakup Fee and the Expense Reimbursement to the Stalking Horse Purchaser as provided in the Purchase Agreement.

33. The proposed Bidding Procedures serve the interests of the Debtor, its estate and creditors. The Bidding Procedures themselves are fair, reasonable and productive because they will permit the Debtor to conduct an orderly sale and obtain the best possible price on acceptable terms for the Designated Assets.

34. The Bidding Procedures have been carefully crafted to ensure that maximum return is achieved from the sale of the Designated Assets. The Bidding Procedures will also ensure that all Bids will be comparable by requiring all Bids to be on substantially the same terms and conditions. If Competing Bidders appear, counsel for Debtor will need to determine which Bid is the highest and best. The comparability requirements of the Bidding Procedures will make it possible to accomplish this task.

35. The Bidding Procedures require that potential bidders demonstrate their capacity to complete the transaction. It would be a serious loss if the Debtor surrendered its opportunity to sell the Designated Assets to the Stalking Horse Purchaser only to discover that the Competing Bidder is incapable of consummating the transaction.

36. The payment of termination fees such as the Breakup Fee and the potential Expense Reimbursement as part of a sale process is a generally accepted practice. Such fees and expense payments encourage an initial purchaser to invest the time, effort and money necessary to consummate the purchase of a debtor's assets, despite the possibility that such purchaser may not ultimately acquire the property. As such, they are important tools to be used to encourage bidding. The determination of whether a termination fee should be allowed is made based on whether the payment of said fees and expenses are necessary to preserve the value of the estate. *In re O'Brien Environmental Energy, Inc.*, 181 F.3d 527, 534 (3rd Cir. 1999). The considerations that underlie the Debtor's business judgment to pay the Breakup Fee and the Expense Reimbursement are relevant to the Bankruptcy Court's determination on the request. *Id.* Indeed, many courts have evaluated termination fee arrangements under the business judgment rule standard. *Collie v. Storer Communications, Inc.*, 849 F.2d 570 (11th Cir. 1988); *In re Integrated Resources, Inc.*, 147 B.R. 650, 657 (S.D.N.Y. 1992), appeal dismissed by 3 F.3d 49 (2nd Cir. 1993).

37. A business judgment rule standard is applied to validate a debtor's decision to enter into a termination fee to the extent the following three questions are answered in the negative:

- (i) Is the relationship of the parties who negotiated a breakup fee tainted by self-dealing or manipulation?
- (ii) Does the fee hamper bidding?
- (iii) Is the amount of the fee unreasonable relative to the proposed purchase price?

Integrated Resources, supra, 147 B.R. at 657.

38. In turn, in order to determine whether a termination fee encourages rather than hampers bidding, courts consider whether an agreement to pay such a fee:

- (i) attracts or retains a potentially successful Bid;
- (ii) establishes a Bid standard or minimum for other bidders to follow; or
- (iii) attracts additional bidders.

Integrated Resources, supra, 147 B.R. at 662. A termination fee should constitute a fair and reasonable percentage of the proposed purchase price, and should be reasonably related to the prospective purchaser's risk, effort and expenses. *Id.*; see also, *In re 995 Fifth Ave. Assoc., L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989).

39. Application of the business judgment test, as set forth above, illustrates that the Debtor should be authorized to pay the Breakup Fee and Expense Reimbursement as provided above in connection with the sale of the Designated Assets. The Stalking Horse Purchaser has invested a substantial amount of time and money in evaluating the Designated Assets and negotiating the Purchase Agreement. Without provision for the Breakup Fee and the Reimbursement Expense in the event a third party comes forward and offers more for the Designated Assets, the Stalking Horse Purchaser would not have agreed to purchase the Designated Assets. The Breakup Fee comprises only 2.0% of the purchase price, and the potential Expense Reimbursement 0.5% of the purchase price, if proven, and clearly should be approved under the standards articulated by the Third

Circuit Court of Appeals in its decision in *In re O'Brien Environmental Energy, Inc.*, 181 F.3d 527 (3rd Cir. 1999).

40. The Breakup Fee and Expense Reimbursement are fair and reasonable in amount, particularly in view of the Stalking Horse Purchaser's agreement to serve as a "safety net" for the bidding process.

41. The Purchase Agreement was negotiated at arm's length between the Debtor and the Stalking Horse Purchaser.

42. By this Bidding Procedures Motion, the Debtor seeks approval of the form of the Purchase Agreement because the form of the agreement should be approved prior to the bidding process. Debtor submits the form and content of the Purchase Agreement is reasonable and customary considering the facts and circumstances in this case. Therefore, the Debtor requests the Bidding Procedures Order approve the form and content of the Purchase Agreement.

WHEREFORE, Debtor prays that this Court enter its Order granting the relief requested above, and for such further relief as the Court deems just and equitable.

Respectfully Submitted,

/s/ J. Clay Christensen
J. Clay Christensen (OBA # 11789)
Jeffrey E. Tate (OBA #17150)
Jonathan M. Miles (OBA #31152)
Brock Z. Pittman (OBA #32853)
Emily J. Irwin (OBA #33880)
CHRISTENSEN LAW GROUP, P.L.L.C.
The Parkway Building
3401 N.W. 63rd Street, Suite 600
Oklahoma City, Oklahoma 73116
Telephone: (405) 232-2020
Facsimile: (405) 228-1113
clay@christensenlawgroup.com
jeffrey@christensenlawgroup.com
jon@christensenlawgroup.com
brock@christensenlawgroup.com
emily@christensenlawgroup.com

PROPOSED ATTORNEYS FOR DEBTOR

approving Bidding Procedures and notice of the Auction relating to the sale of certain Assets of Debtor, approving the Breakup Fee and Expense Reimbursement of the Stalking Horse Purchaser pursuant to the terms of the Purchase Agreement, and granting related relief; and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and objections (if any) to the Motion having been withdrawn, resolved or overruled on the merits; and a hearing having been held to consider the relief requested in the Motion and upon the record of the hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interest of the Debtor, its estate, its creditors and all other parties-in-interest; and the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor found that:

A. The statutory basis for the relief requested in the Motion is (i) Sections 105 and 363 of the Bankruptcy Code and (ii) Bankruptcy Rules 2002(a)(2), 6004, 6006 and 9014.

B. Good and sufficient notice of the Motion and the relief sought therein has been given under the circumstances, and no other or further notice is required except as set forth herein with respect to the Sale Hearing. A reasonable opportunity to object or be heard regarding the relief provided herein has been afforded to parties in interest.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE: Debtor.
DORCHESTER RESOURCES, L.P.,
Case No. 21-10840-SAH
(Chapter 11)

ORDER (A) ESTABLISHING BIDDING PROCEDURES, (B) MANNER AND FORM OF NOTICE FOR SALE OF A SIGNIFICANT PORTION OF DEBTOR'S ASSETS (C) SCHEDULING DATES FOR AN AUCTION, AND (D) AUTHORIZING AND APPROVING THE FORM OF A STALKING HORSE ASSET PURCHASE AGREEMENT

Upon the motion (the "Motion")¹ of the above-captioned debtor and debtor in possession (the "Debtor") for the entry of an order (the "Bidding Procedures Order")

¹ Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion, the Purchase Agreement, and/or the Bidding Procedures, as applicable.

C. The Debtor’s proposed notice of the Bidding Procedures is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction and the sale of certain Assets of the Debtor, the Bidding Procedures to be employed in connection therewith, and the Sale Hearing.

D. The Debtor has articulated good and sufficient reasons for the Court to: (i) approve the Bidding Procedures; (ii) set the Sale Hearing and approve the manner of notice of the Motion and the Sale Hearing; and (iii) with respect to the sale of certain Assets, grant certain bid protections as provided in the Purchase Agreement and in this Bidding Procedures Order.

E. The entry of this Bidding Procedures Order is in the best interests of the Debtor, its estate, its creditors and other parties in interest.

F. The Bidding Procedures are reasonably designed to maximize the value to be achieved for the Assets.

G. The Breakup Fee and the Expense Reimbursement (collectively, the “Bid Protections”) set forth in the Purchase Agreement shall be paid in accordance with the Purchase Agreement, and (i) if triggered, shall be deemed an actual and necessary cost and expense of preserving the Debtor’s estate, within the meaning of Sections 364(c)(1) and 503(b)(1) of the Bankruptcy Code, payable as provided in Section 13 of the Purchase Agreement; (ii) are of substantial benefit to the Debtor’s estate; (iii) are reasonable and appropriate in light of the size and nature of the sale and the efforts that have been or will be expended by the Stalking Horse Purchaser; (iv) was presented in good faith; and (v) are necessary to ensure that the Stalking Horse Purchaser will continue to pursue its proposed acquisition of the Assets contemplated by the Purchase Agreement.

H. The proposed sale of the Assets does not implicate the provisions of section 363(b)(1)(A) of the Bankruptcy Code.

IT IS HEREBY ORDERED THAT:

1. The relief requested in the Motion as it relates to the Bidding Procedures, the Bid Protections, and the scheduling and notice with respect to the sale process, the Auction, and the Sale Hearing, is granted and approved as set forth in this Bidding Procedures Order.
2. Any and all objections and responses to the Motion that have not been withdrawn, waived, settled or resolved, and all reservations of rights included therein, are hereby overruled and denied.
3. The Bidding Procedures, attached hereto as Exhibit 1, are hereby approved in their entirety. The Debtor is authorized to take any and all actions necessary to implement the Bidding Procedures.
4. The Debtor may pursue a sale (or sales) of the Assets and enter into the transactions contemplated by the Purchase Agreement by conducting an Auction in accordance with the Bidding Procedures.
5. The Auction shall take place on June 18, 2021, at 10:00 a.m. (prevaling Central Time) at the offices of the Auctioneer or Debtor’s counsel, or such other place and time as the Debtor shall notify all Qualified Bidders (as defined in the Bidding Procedures Order), including, but not limited to, the Stalking Horse Purchaser, any official committee of unsecured creditors appointed in these chapter 11 cases, counsel for the Stalking Horse Purchaser and other invitees. The Auction shall be conducted in accordance with the Bidding Procedures.

6. The Sale Hearing shall be conducted telephonically before the Court on June 24, 2021 at 9:30 a.m. (prevailing Central Time) (the "Sale Hearing"), with Debtor to provide notice thereof.

7. Objections, if any, to the sale of the Assets and the transactions contemplated by the Purchase Agreement or any other relief requested in the Motion must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the Western District of Oklahoma; (c) be filed with the clerk of the Bankruptcy Court for the Western District of Oklahoma (or filed electronically via CM/ECF), on or before 4:00 p.m. (prevailing Central Time) ___ days before the date of the Sale Hearing (the "Sale Objection Deadline"); and (d) be served upon (i) counsel for the Debtor, Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116, Oklahoma City, Oklahoma 73116; (ii) counsel for the Committee, if any; (iii) counsel for the Stalking Horse Purchaser, Michael R. Perri, Perri Dunn P.L.L.C., 100 N. Broadway Avenue, Suite 3280, Oklahoma City, Oklahoma 73102; and (iv) the Office of the United States Trustee, in each case, so as to be received no later than 4:00 p.m. (prevailing Central Time) on the same day.

8. The notice of the proposed Sale, substantially in the form attached hereto as **Exhibit 2** (the "Sale Notice"), is hereby approved. On or before five (5) business days after entry of this Bidding Procedures Order, the Debtor will cause the Sale Notice to be sent by first-class mail postage prepaid, to the following: (a) all creditors or their counsel known to the Debtor to assert a lien (including any security interest), claim, right, interest or encumbrance of record against the Debtor or all or any portion of the Designated Assets; (b) the Office of the United States Trustee; (c) all applicable federal, state and local taxing

and regulatory authorities of the Debtor or recording offices or any other governmental authorities that, as a result of the sale of the Designated Assets, may have claims, contingent or otherwise, in connection with the Debtor's ownership of the Designated Assets or have any known interest in the relief requested by the Motion; (d) the state and local environmental agencies in the jurisdictions where the Debtor owns or leases real property; (e) counsel to the Stalking Horse Purchaser; (f) counsel to any prepetition and postpetition secured lenders; (g) the United States Attorney's office; (h) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; (i) counsel to the Committee, if any; (j) all counterparties to any executory contract or unexpired lease of the Debtor; (k) all other known creditors and interest holders of Debtor; and (l) all potential bidders previously identified or otherwise known to the Debtor.

9. In addition to the foregoing, as soon as practicable, but in any event no later than five (5) business days after the entry of this Bidding Procedures Order, the Debtor shall publish the Sale Notice (modified for publication, as necessary) in a national or series of regional papers, as determined in consultation with the Stalking Horse Purchaser, the Debtor's marketing agent, and Debtor's secured creditor, Simmons Bank.

10. The Auction and/or Sale Hearing may be continued by the Debtor, from time to time, with the consent of the Stalking Horse Purchaser (which consent will not unreasonably be withheld), without further notice to creditors or other parties in interest other than by announcement of said continuance before the Court on the date scheduled for such hearing.

11. The Bid Protections and Sections 13 and 16 of the Purchase Agreement are hereby approved, authorized and binding upon the Debtor and its estate. The Debtor's

obligation to pay the Bid Protections shall survive termination of the Purchase Agreement and shall constitute a superpriority administrative expense claim in favor of the Stalking Horse Purchaser having superpriority under (i) section 364(c) of the Bankruptcy Code over any and all administrative expenses of the kind specified in sections 503(b) and 507(c) of the Bankruptcy Code and (ii) sections 503(b)(1)(A) and 507(a)(2), and shall be senior to any and all claims of any creditors of or holders of equity interests in Seller, including prepetition and postpetition amounts owing to Seller's prepetition and postpetition senior secured lenders, and which, in accordance with the bidding procedures, shall be a "carve out" from the collateral securing the obligations owed to the Debtor's prepetition and postpetition senior secured lenders (provided a sale closes at a purchase price of \$10,000,000.00 or higher) and which shall be payable solely as provided in the Purchase Agreement. To the extent that the Stalking Horse Purchaser is not the Successful Bidder, other than as a result of breach of the Stalking Horse Purchaser's obligations under the Purchase Agreement, the Stalking Horse Purchaser is entitled to receive, and the Seller is hereby authorized and directed to promptly pay the Bid Protections directly to the Stalking Horse Purchaser by wire transfer of immediately available good funds to an account specified by the Stalking Horse Purchaser at the Closing of any Successful Overbid Transaction for an amount equal to or greater than \$10,250,000.00 with the Successful Bidder; provided, however, that for the avoidance of any doubt, the Seller shall pay the Bid Protections to the Stalking Horse Purchaser solely from the proceeds it receives from the Successful Bidder-in accordance with the terms of the Purchase Agreement.

12. Except for the Stalking Horse Purchaser, no other party submitting an offer or Bid for the Designated Assets or a Qualified Bid for the Designated Assets shall be entitled to any expense reimbursement or breakup, termination or similar fee or payment.
13. Except as otherwise provided in the Purchase Agreement or this Bidding Procedures Order, the Debtor's rights are reserved, as it may reasonably determine to be in the best interests of its estate, in consultation with Simmons Bank and the Committee, if any, to: (a) determine which bidders are Qualified Bidders; (b) determine which Bids are Qualified Bids; (c) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (d) reject any Bid (other than the Stalking Horse Bid) that is (i) inadequate or insufficient; (ii) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code; or (iii) contrary to the best interests of the Debtor and its estate; (e) remove some or all of the Designated Assets from the Auction to the extent permitted in the Purchase Agreement; (f) waive terms and conditions set forth herein with respect to all potential bidders; (g) impose additional terms and conditions with respect to potential bidders; (h) extend the deadlines set forth herein; (i) postpone the Auction and/or Sale Hearing in open court without further notice; and (j) modify the Bidding Procedures as they may determine to be in the best interests of the estate.
14. The Stalking Horse Purchaser shall have standing to contest the Debtor's selection of the Successful Bid for the Designated Assets; provided, however, that such standing shall not be interpreted as an admission by the Debtor or any other parties in interest that any such contest by the Stalking Horse Purchaser is valid or otherwise has

merit, and the rights of the Debtor and all other parties in interest with respect to any such contest are expressly reserved.

15. To the extent that any Chapter 11 plan confirmed in this case or any order confirming any such plan or any other order in this case (including any order entered after any conversion of this case to a case under Chapter 7 of the Bankruptcy Code) alters, conflicts with or derogates from the provisions of this Bidding Procedures Order, the provisions of this Bidding Procedures Order shall control. The Debtor's obligations under this Bidding Procedures Order, the provision of this Bidding Procedures Order, and the portions of the Purchase Agreement pertaining to the Bidding Procedures (including all obligations to pay the Bid Protections) shall survive confirmation of any plan in this Chapter 11 case or discharge of claims thereunder and shall be binding upon the Debtor, and the reorganized or reconstituted Debtor, as the case may, after the effective date of a confirmed plan or plans in the Debtor's case (including any order entered after any conversion of this case to a case under Chapter 7 of the Bankruptcy Code).

16. The stays provided for in Bankruptcy Rules 6004(h) and 6006(d) are hereby waived and this Bidding Procedures Order shall be effective immediately upon its entry.

17. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Bidding Procedures Order in accordance with the Motion.

18. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Bidding Procedures Order.

APPROVED:

/s/ J. Clay Christensen
J. Clay Christensen (OBA #11789)
Jeffrey E. Tate (OBA #17150)
Jonathan M. Miles (OBA #31152)
Brock Z. Pittman (OBA #32853)
Emily J. Irwin (OBA #33880)
CHRISTENSEN LAW GROUP, P.L.L.C.
The Parkway Building
3401 N.W. 63rd Street, Suite 600
Oklahoma City, Oklahoma 73116
Telephone: (405) 232-2020
Facsimile: (405) 228-1113
Clay@christensenlawgroup.com
Jeffrey@christensenlawgroup.com
Jon@christensenlawgroup.com
Brock@christensenlawgroup.com
Emily@christensenlawgroup.com

PROPOSED ATTORNEYS FOR DEBTOR

**EXHIBIT 1
BIDDING PROCEDURES**

On April 5, 2021, Dorchester Resources, L.P. (the “Debtor”) filed a motion (the “Motion”) in the United States Bankruptcy Court for the Western District of Oklahoma (the “Bankruptcy Court”) seeking, among other things, authority to conduct an auction and sale of certain Assets (the “Designated Assets”). On _____, the Bankruptcy Court entered an order (the “Bidding Procedures Order”), which, among other things, authorized the Debtor to proceed with its proposed sale and auction process as set forth in more detail below (the “Bidding Procedures”). Accordingly, the Debtor is soliciting bids for the Debtor’s Designated Assets as follows:

With respect to the Designated Assets, the Debtor entered into a Stalking Horse Purchase Agreement by and between DRLL, LLC (the “Stalking Horse Purchaser”), and the Debtor, dated as of April 2, 2021, (the “Purchase Agreement”), a copy of which is attached to the Motion as **Exhibit 1**. The Debtor is soliciting bids for the Designated Assets based on the terms of the Purchase Agreement and, if competing bids are received, the Debtor will conduct an auction to determine the highest and otherwise best bid for the Designated Assets.

At the conclusion of the auction process, the Debtor in consultation with Simmons Bank and the Committee, if any, will determine which bid constitutes the highest and best offer for the Assets. The purchaser of the Assets may exclude certain of the assets from the purchase. The unpurchased portion of the Assets shall remain with the Debtor and the purchase price shall not be reduced by any failure or desire of the successful purchaser to take fewer than all of the Designated Assets.

Marketing Process

Contact Parties.

The Debtor, in consultation with its Auctioneer Dakl Auctioneers, Inc. (the “Auctioneer”), has developed a list of parties whom the Debtor believes may potentially be interested in and whom the Debtor reasonably believes would have the financial resources to consummate a competing transaction for the Designated Assets (any such transaction, a “Successful Overbid Transaction”), which list includes both potential strategic investors and potential financial investors (each, individually, a “Contact Party”, and collectively, the “Contact Parties”). The Debtor and the Auctioneer are already in the process of contacting the Contact Parties to explore their interest in pursuing a Successful Overbid Transaction. The Contact Parties may include parties whom the Debtor or its advisors have previously contacted regarding a transaction, regardless of whether such parties expressed any interest, at such time, in pursuing a transaction. The Debtor will continue to discuss and may supplement the list of Contact Parties throughout the marketing process, as appropriate.

The Debtor may distribute to each Contact Party an “Information Package”, comprising:

- (a) A cover letter;
- (b) A copy of these Bidding Procedures and the Motion;
- (c) A copy of a confidentiality agreement; and
- (d) Such other materials as the Debtor and the Auctioneer deem appropriate under the circumstances.

Access to Diligence Materials.

To participate in the bidding process and to receive access to the diligence (the “Diligence Materials”), a party must submit to the Debtor an executed confidentiality agreement in the form and substance satisfactory to the Debtor and evidence satisfactory to the Debtor demonstrating the party’s financial capability to consummate a Successful Overbid Transaction, as determined by the Debtor.

A party who qualifies for access to Diligence Materials shall be a “Preliminary Interested Investor.” All due diligence requests must be directed to the Auctioneer.

The Debtor reserves the right to withhold any Diligence Materials that the Debtor, in its sole discretion, determines are business-sensitive or otherwise not appropriate for disclosure to such Preliminary Interested Investor.

Due Diligence from Bidders.

Each Preliminary Interested Investor and Qualified Bidder (as defined below) shall comply with all reasonable requests for additional information and due diligence access by the Debtor or its advisors regarding such Bidder and its contemplated transaction. Failure by a Preliminary Interested Investor to comply with requests for additional information and due diligence access will be a basis for the Debtor to determine that such bidder is not a Qualified Bidder. Failure by a Qualified Bidder (other than the Stalking Horse Purchaser) to comply with requests for additional information and due diligence access will be a basis for the Debtor to determine that a bid made by such Qualified Bidder is not a Qualified Bid.

Auction Qualification Process

To be eligible to participate in the Auction (defined below), each offer, solicitation or proposal (each, a “Bid”), and each party submitting such a Bid (each, a “Bidder”), must be determined by the Debtor to satisfy each of the conditions set forth below. A Bid may not be considered qualified for the Auction if such Bid does not satisfy each of the following conditions:

Bids for the Designated Assets.

- (a) Good Faith Deposit: Each Bid must be accompanied by a deposit in the amount of \$1,250,000.00 to a non-interest bearing escrow account to be identified and established by the Debtor and an acceptable, unconditional and irrevocable letter of credit on a financial institution approved by Debtor evidencing the ability to close at an amount equal to at least \$10,250,000.00 (the "Good Faith Deposit").
- (b) Same or Better Terms: Each Bid solely for the Designated Assets must be on terms that, in the Debtor's business judgment, are the same or better than the terms of the Purchase Agreement and must be for all or substantially all of the Designated Assets as identified in the Purchase Agreement.
- (c) Executed Agreement: Each Bid must be based on the Purchase Agreement and include executed transaction documents, signed by an authorized representative of such Bidder, pursuant to which the Bidder proposes to effectuate a Successful Overbid Transaction (the "Modified Purchase Agreement"). A Bid shall also include a copy of the Purchase Agreement marked against the Modified Purchase Agreement to show all changes requested by the Bidder (including those related to purchase price and to remove all provisions that apply only to the Stalking Horse Purchaser as the stalking horse bidder such as the Breakup Fee and Expense Reimbursement provisions that are contained in the Purchase Agreement).
- (d) Minimum Bid: Each Bid must propose a minimum cash purchase price equal to or greater than \$10,250,000.00 (the "Minimum Cash Amount"), which is the aggregate of the sum of (i) the purchase price under the Purchase Agreement; (ii) the full dollar value of the Breakup Fee and expenses payable to the Stalking Horse Purchaser, together with an amount to cover the Debtor's related expenses and proceeds to the Secured Lender.
- (e) Corporate Authority: Each Bid must include written evidence reasonably acceptable to the Debtor demonstrating appropriate corporate authorization to consummate the proposed Successful Overbid Transaction; provided, however, that if the Bidder is an entity specially formed for the purpose of effectuating the Successful Overbid Transaction, then the Bidder must furnish written evidence reasonably acceptable to the Debtor of the approval of the Successful Overbid Transaction by the equity holder(s) of such Bidder.
- (f) Proof of Financial Ability to Perform: Each Bid must include written evidence that the Debtor reasonably concludes demonstrates that the Bidder has the necessary financial ability to close the Successful Overbid Transaction. Such information must include, inter alia, the following:
 - (i) contact names and numbers for various sources;

- (ii) evidence of the Bidder's internal resources and proof of unconditional debt or equity funding commitments, from a recognized banking institution in the amount of the cash portion of such Bid or the posting of an irrevocable letter of credit from a recognized banking institution issued in favor of the Debtor in the amount of the cash portion of such Bid, in each case, as are needed to close the Successful Overbid Transaction;
- (iii) the Bidder's current financial statements (audited, if they exist); and
- (iv) any other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor demonstrating that such Bidder has the ability to close the Successful Overbid Transaction; provided, however, that the Debtor shall determine, in its reasonable discretion, in consultation with the Debtor's advisors, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Bidder's financial qualifications.
- (g) Contingencies: Each Bid (i) may not contain representations and warranties, covenants, termination rights materially more onerous in the aggregate to the Debtor than those set forth in the Purchase Agreement and (ii) may not be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy in all material respects of specified representations and warranties at the Closing.
- (h) Irrevocable: Each Bid must be irrevocable through the Auction; provided, however, that if such Bid is accepted as the Successful Bid or the Backup Bid (each as defined herein), such Bid shall continue to remain irrevocable, subject to the terms and conditions of the Bidding Procedures.
- (i) Bid Deadline: The following parties must receive a Bid for the Designated Assets in writing, on or before June 15, 2021 at 4:00 p.m. (**prevailing Central Time**) or such earlier date as may be agreed to by the Debtor (the "Bid Deadline"); (i) the Debtor, Dorchester Resources, L.P., c/o counsel for the Debtor, Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (ii) counsel for the Debtor, Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (iii) counsel to the Committee, if any; (iv) counsel for the Stalking Horse Purchaser, Michael R. Perri, Perri Dunn P.L.L.C., 100 N. Broadway Avenue, Suite 3280, Oklahoma City, Oklahoma 73102; and (v) counsel for Simmons Bank.

Qualified Bids.

A Bid received from a Bidder before the Bid Deadline that meets the above requirements shall constitute a "Qualified Bid", and such Bidder shall constitute a "Qualified Bidder". Notwithstanding anything herein to the contrary, the Purchase

Agreement submitted by the Stalking Horse Purchaser shall be deemed a Qualified Bid, and the Stalking Horse Purchaser a Qualified Bidder. In addition, the Stalking Horse Purchaser will receive, from each Bidder, a copy of any Bids at the time such Bid is submitted to the Debtor. The Debtor shall use reasonable efforts to inform counsel to the Stalking Horse Purchaser whether the Debtor will consider such Bids to be Qualified Bids or three (3) days prior to the Auction (and in any event will inform the Stalking Horse Purchaser of any ongoing Bid negotiations by or before such time) but in any event no later than one (1) day prior to the Auction.

Auction

Auction for the Designated Assets.

If one or more Qualified Bids (other than the Purchase Agreement submitted by the Stalking Horse Purchaser) are received by the Bid Deadline, the Debtor will conduct an auction (the "Auction") to determine the highest and best Qualified Bid. This determination shall take into account any factors the Debtor reasonably deems relevant to the value of the Qualified Bid to the estate and may include, among other things, the following: (a) the amount and nature of the consideration; (b) the number, type and nature of any changes to the Purchase Agreement requested by each Bidder; (c) the extent to which such modifications are likely to delay closing of the sale of the Designated Assets and the cost to Seller of such modifications or delay; (d) the total consideration to be received by Seller; (e) the likelihood of the Bidder's ability to close a transaction and the timing thereof; and (f) the net benefit to the estate, taking into account the Stalking Horse Purchaser's rights to the Breakup Fee and Expense Reimbursement (collectively, the "Bid Assessment Criteria"). For avoidance of doubt, the Successful Bid must include cash in an amount no less than the Minimum Cash Amount (it being agreed that the Minimum Cash Amount required of the Stalking Horse Purchaser shall be reduced by the dollar value of the Expense Reimbursement and Breakup Fee). If no Qualified Bid (other than the Purchase Agreement) is received by the Bid Deadline, the Debtor may determine not to conduct the Auction. Unless otherwise agreed to by the Stalking Horse Purchaser in its sole discretion, only Qualified Bidders may participate in the Auction.

Procedures for Auction

The Auction shall take place on June 28, 2021 at 10:00 a.m. (prevailing Central Time) at the offices of the Auctioneer or Debtor's counsel, or such other place and time as the Debtor shall notify all Qualified Bidders, including, without limitation, the Stalking Horse Purchaser, the Committee, counsel for the Stalking Horse Purchaser and other invitees. The Auction shall be conducted according to the following procedures:

Only the Debtor and their counsel, members of the Committee (if any) and its counsel, the Stalking Horse Purchaser and any other Qualified Bidder, in each case, along with their representatives, shall attend the Auction in person, and only the Stalking Horse Purchaser and such other Qualified Bidders will be entitled to make any additional Bids at the Auction.

The Auctioneer Shall Conduct the Auction.

The Auctioneer, at the direction of the Debtor and its counsel, shall direct and preside over the Auction. Other than as expressly set forth herein, the Debtor may have the Auction conducted in the manner it determines will result in the highest, best, or otherwise financially superior offer for the Designated Assets that are the subject of the Auction. At the start of the Auction, the Auctioneer shall describe the terms of the highest and best Qualified Bid or Qualified Bids (each such highest and best Qualified Bid, the "Auction Baseline Bid"). Each Qualified Bidder participating in the Auction must confirm that it has not engaged in any collusion with respect to the bidding or sale of any of the Designated Assets.

Terms of Overbids.

An "Overbid" is any bid made at the Auction subsequent to the Auctioneer's announcement of the respective Auction Baseline Bid. To submit an Overbid for purposes of this Auction, a Bidder must comply with the following conditions:

- (a) **Minimum Overbid Increments Applicable to Respective Auction.**
 - (i) Auction: Any Overbid after and above the respective Auction Baseline Bid shall be made in increments valued at not less than \$100,000.00. Additional consideration in excess of the amount set forth in the respective Auction Baseline Bid may include cash and/or non-cash consideration and, in the case of a Bid by the Stalking Horse Purchaser, a credit bid of the Expense Reimbursement and the Breakup Fee.
 - (ii) Stalking Horse Purchaser May Credit Bid Protections: The Stalking Horse Purchaser shall be permitted to bid at the Auction, if any, and shall be permitted to credit bid the full amount of the Expense Reimbursement and the Breakup Fee pursuant to any Overbid in connection with each round of bidding in the Auction.
- (b) Remaining Terms Are the Same as for Qualified Bids: Except as modified herein, an Overbid at any Auction must comply with the conditions for a Qualified Bid set forth above; provided, however, that the Bid Deadline shall not apply. Any Overbid must remain open and binding on the Bidder until and unless the Debtor accepts a higher Overbid.
- (c) At the Debtor's discretion, to the extent not previously provided (which shall be determined by the Debtor), a Bidder submitting an Overbid at any Auction must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtor) demonstrating such Bidder's ability to close the Successful Overbid Transaction proposed by such Overbid.

Announcement and Consideration of Overbids.

- (a) **Announcement of Overbids:** At each respective Auction, the Auctioneer shall announce at the Auction the material terms of each Overbid and the basis for calculating the total consideration offered in each such Overbid.
- (b) **Consideration of Overbids:** The Debtor reserves the right, in its reasonable business judgment, to make one or more continuances of any Auction to, among other things: facilitate discussions between the Debtor and individual Bidders; allow individual Bidders to consider how they wish to proceed; and give Bidders the opportunity to provide the Debtor with such additional evidence as the Debtor in its reasonable business judgment may require, that the Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed Successful Overbid Transaction at the prevailing Overbid amount.

Backup Bidder.

Notwithstanding anything in the Bidding Procedures to the contrary, if an Auction is conducted, the party or combination of parties with the next highest or otherwise best Qualified Bid or combination of Qualified Bids at the Auction, as determined by the Debtor, in the exercise of its business judgment, will be designated as the potential backup bidder (each a "Potential Backup Bidder"). In the event that a Qualified Bidder is identified by the Debtor as a Potential Backup Bidder, such party shall be required to serve as the backup bidder if selected to do so (each a "Backup Bidder" and, collectively, the "Backup Bidders").

Each Backup Bidder shall be required to keep its initial Bid (or if the Backup Bidder submitted one or more Overbids at the Auction, its final Overbid) (the "Backup Bid") open and irrevocable until the earlier of 5:00 p.m. (prevailing Central Time) on the date that is thirty (30) days after the date of the Auction (the "Outside Backup Date") or the closing of the transaction with the Successful Bidder (defined herein). Following the Sale Hearing, if any Successful Bidder (defined herein) fails to consummate an approved transaction, because of a breach or failure to perform on the part of such Successful Bidder (defined herein) within twenty (20) days following the entry of an order approving such transaction and satisfaction of all closing conditions applicable to the Successful Bidder, the Debtor may designate one or more Backup Bidders to be the new Successful Bidders (defined herein), and the Debtor will be authorized, but not required, to consummate the transaction, with each designated Backup Bidder without further order of the Bankruptcy Court. In such case, the defaulting Successful Bidder's deposit shall be forfeited to the Debtor, and the Debtor specifically reserves the right to seek all available damages from the defaulting Successful Bidder (defined herein). The deposit of the Backup Bidder shall be held by the Debtor until the earlier of 72 hours after (i) the closing of the transaction with the Successful Bidder (defined herein) for the Designated Assets bid upon by such Backup Bidder and (ii) the Outside Backup Date.

Additional Procedures.

The Auctioneer or Debtor may announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction so long as such rules are not inconsistent in any material respect with these Bidding Procedures or the Purchase Agreement.

Consent to Jurisdiction as Condition to Bidding.

The Stalking Horse Purchaser, all Qualified Bidders, and all Bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to these Bidding Procedures, the Purchase Agreement, the Auction or the construction and enforcement of any Successful Overbid Transaction Documents.

Closing the Auction.

The Auction shall continue until there is only one Qualified Bid that the Debtor determines in its reasonable business judgment, after consultation with their financial and legal advisors and the Committee, is the highest and best Qualified Bid/Overbid at the Auction (the "Successful Bid", and the Bidder submitting such Successful Bid, the "Successful Bidder"). In making this decision, the Debtor, in consultation with its financial and legal advisors, shall consider the Bid Assessment Criteria.

The Auction shall not close unless and until all Bidders who have submitted Qualified Bids for such Designated Assets have been given a reasonable opportunity to submit an Overbid at the Auction to the then-existing Overbid. The Auction shall not be deemed closed until the Successful Bidder has submitted fully executed sale and transaction documents memorializing the terms of its Successful Bid.

The Debtor shall not consider any Bids submitted after the conclusion of the Auction.

Bid Protections

Pursuant to the Bidding Procedures Order, the Stalking Horse Purchaser is entitled to: (a) the Breakup Fee in the amount of \$200,000.00; and (b) the Expense Reimbursement, in an amount of up to \$50,000.00, in each case, pursuant to the terms of the Purchase Agreement and the Bidding Procedures Order.

Pursuant to the Bidding Procedures Order, except for the Stalking Horse Purchaser, no other party submitting an offer or Bid solely for the Designated Assets or a Qualified Bid solely for the Designated Assets shall be entitled to any expense reimbursement, breakup fee, termination or similar fee or payment.

Sale Hearing

The Debtor has procured a *telephonic* hearing (the "Sale Hearing") on June 24, 2021 at 9:30 a.m. (CST) at which the Debtor will seek approval of the transactions contemplated by the Purchase Agreement and/or any Successful Bid. Objections, if any, to the sale of the Designated Assets to any Successful Bidder, the transactions contemplated by the Purchase Agreement, and/or the relief requested in the Motion must be in writing and filed with the Court no later than 4:00 p.m. (prevailing Central time) on _____ and be served such that they are actually received by (i) the Debtor, Dorchester Resources, L.P., c/o counsel for the Debtor, Christiansen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (ii) counsel for the Debtor, Christiansen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (iii) counsel to the Committee, if any; (iii) counsel for the Stalking Horse Purchaser, Michael R. Perri, Perri Dunn P.L.L.C., 100 N. Broadway Avenue, Suite 3280, Oklahoma City, Oklahoma 73102; and (v) the Office of the United States Trustee.

Return of Good Faith Deposits

The Good Faith Deposits of all Qualified Bidders shall be held in one or more escrow accounts by the Debtor, but shall not become property of the Debtor's estate absent further order of the Court. Any fees of escrow will be subtracted from the escrow proceeds. The Good Faith Deposit of any Qualified Bidder that is neither a Successful Bidder nor a Backup Bidder shall be returned to such Qualified Bidder not later than two (2) business days after the Sale Hearing. The Good Faith Deposit of each Backup Bidder, if any, shall be returned to the respective Backup Bidder on the date that is the earlier of 72 hours after (a) the closing of the transaction with the Successful Bidder for the Assets bid upon by such Backup Bidder and (b) the Outside Backup Date. Upon the return of the Good Faith Deposits, their respective owners shall receive any and all interest that will have accrued thereon. If a Successful Bidder timely closes its winning transaction, its Good Faith Deposit shall be credited towards its purchase price.

Reservation of Rights

Except as otherwise provided in the Purchase Agreement, the Bidding Procedures or the Sale Order, the Debtor further reserves the right as it may reasonably determine to be in the best interest of its estate, in consultation with the Committee, to: (a) determine which bidders are Qualified Bidders; (b) determine which Bids are Qualified Bids; (c) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (d) reject any Bid that is (i) inadequate or inefficient, (ii) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code or (iii) contrary to the best interests of the Debtor and its estate; (e) remove some or all of the Assets from the Auction; (f) waive terms and conditions set forth herein with respect to all potential bidders; (g) impose additional terms and conditions with respect to all potential bidders; (h) extend the deadlines set forth herein; (i) continue or cancel the Auction and/or Sale Hearing in open court without further notice; and (j) modify the Bidding Procedures as it may determine to be in the best interests of its estate or to withdraw the Motion at any time with or without prejudice.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE: _____ Case No. 21-10840-SAH
DORCHESTER RESOURCES, L.P., (Chapter 11)
Debtor.

NOTICE OF AUCTION AND SALE HEARING

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On April 5, 2021, Dorchester Resources, L.P., the Debtor-in-Possession (the "Debtor") filed its Motion for entry of an order (the "Bidding Procedures Order"), among other things, (a) approving bid procedures (the "Bidding Procedures"), as well as certain bid protections, for the sale of all or substantially all of the Debtor's Assets (the "Sale"); (b) approving the form and manner of notice of the Sale; (c) scheduling an auction (the "Auction") and a sale hearing (the "Sale Hearing") to consider approval of the proposed Sale; and (d) approving the execution of the Purchase Agreement for the Sale with DRLL, LLC (the "Stalking Horse Purchaser"), approving the proposed break-up fee and expense reimbursement for the benefit of the Stalking Horse Purchaser in connection therewith, and authorizing the Debtor to perform such obligations in connection therewith which arise prior to the Sale Hearing. The Motion additionally requests entry of an order (the "Sale Order") approving (i) the Sale free and clear of liens, claims, encumbrances and interests; and (ii) certain related relief.

2. On _____, the United States Bankruptcy Court for the Western District of Oklahoma entered the Bidding Procedures Order [Dkt. # X]. Pursuant to the Bidding Procedures Order, the Auction shall take place on _____ at _____ (prevailing Central Time) at the offices of Christiansen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116. Only parties that have submitted a Qualified Bid in accordance with the Bidding Procedures, attached to the Bidding Procedures Order as Exhibit 1, by no later than _____ at _____ (prevailing Central Time) (the "Bid Deadline") may participate at the auction. Any party that wishes to take part in this process and submit a bid in connection with the Sale must submit a competing bid prior to the Bid Deadline and in accordance with the Bidding Procedures. Parties interested in receiving information regarding the sale of the Assets should contact the Debtor's Auctioneer, Dakli Auctioneers, Inc.

3. The telephonic Sale Hearing to consider approval of the Sale to the Stalking Horse Purchaser and/or such other Successful Bidder (as defined in the Bidding Procedures) free and clear of all liens, claims and encumbrances will be held before the Honorable Sarah A. Hall United States Bankruptcy Judge on _____ at _____ (**prevailing Central Time**), or at such earlier date as counsel may be heard. The Sale Hearing may be continued from time to time without further notice to creditors or parties in interest other than by announcement of the continuance in open court on the date scheduled for the Sale Hearing. Additional instructions regarding the hearing will be provided at a later date.

4. Objections, if any, to the Sale, or the relief requested in the Motion (including with respect to cure amounts and, solely with respect to the Stalking Horse Purchaser, adequate assurance) must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) be filed with the clerk of the Bankruptcy Court for the Western District of Oklahoma, on or before _____ (**prevailing Central Time**) on _____, or such earlier date and time as the Debtor may agree and (d) be served so as to be received no later than 4:00 p.m. (prevailing Central Time) on the same day, u, c/a(i) the Debtor, Dorchester Resources, L.P., c/o counsel for the Debtor, Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (ii) counsel for the Debtor, Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116; (iii) [counsel to the Committee, if any; (iii) counsel for the Stalking Horse Purchaser, Michael R. Perri, Perri Dunn P.L.L.C., 100 N. Broadway Avenue, Suite 3280, Oklahoma City, Oklahoma 73102; and (v) the Office of the United States Trustee.

5. This Notice and the Sale Hearing are subject to the fuller terms and conditions of the Motion, the Bidding Procedures Order and the Bidding Procedures, which shall control in the event of any conflict, and the Debtor encourages parties in interest to review such documents in their entirety. Copies of the Motion, the Purchase Agreement, the Bidding Procedures, and/or the Bidding Procedures Order may be obtained by written request to counsel to the Dorchester Resources, L.P., Christensen Law Group, P.L.L.C., 3401 N.W. 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116. In addition, copies of the aforementioned pleadings may be viewed free of charge at [Omni Agent Services, LLC's website](https://omniagentsolutions.com/DorchesterResources), with the address of <https://omniagentsolutions.com/DorchesterResources>.

Respectfully Submitted,

/s/ J. Clay Christensen
 J. Clay Christensen (OBA # 11789)
 Jeffrey E. Tate (OBA #17150)
 Jonathan M. Miles (OBA #31152)
 Brock Z. Pittman (OBA #32853)
 Emily J. Irwin (OBA #33880)
 CHRISTENSEN LAW GROUP, P.L.L.C.
 The Parkway Building
 3401 N.W. 63rd Street, Suite 600
 Oklahoma City, Oklahoma 73116
 Telephone: (405) 232-2020
 Facsimile: (405) 228-1113
 clay@christensenlawgroup.com
 jeffrey@christensenlawgroup.com
 jon@christensenlawgroup.com
 brock@christensenlawgroup.com
 emily@christensenlawgroup.com

PROPOSED ATTORNEYS FOR DEBTOR

