



November 29, 2022

NOTICE REGARDING MECHANICS LIENS

ARIZONA INDUSTRIAL DEVELOPMENT AUTHORITY

<b>\$212,960,000</b> <b>ARIZONA</b> <b>INDUSTRIAL</b> <b>DEVELOPMENT</b> <b>AUTHORITY</b> <b>Economic</b> <b>Development</b> <b>Revenue Bonds,</b> <b>Tax-Exempt</b> <b>Series 2020A</b> <b>(Legacy Cares,</b> <b>Inc. Project)</b>	<b>\$6,810,000</b> <b>ARIZONA</b> <b>INDUSTRIAL</b> <b>DEVELOPMENT</b> <b>AUTHORITY</b> <b>Economic</b> <b>Development</b> <b>Revenue Bonds,</b> <b>Taxable</b> <b>Series 2020B</b> <b>(Legacy Cares,</b> <b>Inc. Project)</b>	<b>\$31,000,000</b> <b>ARIZONA</b> <b>INDUSTRIAL</b> <b>DEVELOPMENT</b> <b>AUTHORITY</b> <b>Economic</b> <b>Development</b> <b>Revenue Bonds,</b> <b>Tax-Exempt</b> <b>Turbo Redemption</b> <b>Series 2020C</b> <b>(Legacy Cares,</b> <b>Inc. Project)</b>	<b>\$32,425,000</b> <b>ARIZONA</b> <b>INDUSTRIAL</b> <b>DEVELOPMENT</b> <b>AUTHORITY</b> <b>Economic</b> <b>Development</b> <b>Revenue Bonds,</b> <b>Tax-Exempt</b> <b>Series 2021A</b> <b>(Legacy Cares,</b> <b>Inc. Project)</b>	<b>\$575,000</b> <b>ARIZONA</b> <b>INDUSTRIAL</b> <b>DEVELOPMENT</b> <b>AUTHORITY</b> <b>Economic</b> <b>Development</b> <b>Revenue Bonds,</b> <b>Taxable Series</b> <b>2021B</b> <b>(Legacy Cares,</b> <b>Inc. Project)</b>
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<u>Series</u>	<u>Maturity (July 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP<sup>1</sup></u>
Series 2020A	2024	\$ 8,450,000	6.250%	040523 AA0
Series 2020A	2025	8,980,000	6.375%	040523 AB8
Series 2020A	2026	9,550,000	6.500%	040523 AC6
Series 2020A	2027	10,175,000	6.625%	040523 AD4
Series 2020A	2028	10,845,000	6.750%	040523 AE2
Series 2020A	2050	164,960,000	7.750%	040523 AF9
Series 2020B	2030	6,810,000	9.000%	040523 AG7
Series 2020C	2030	31,000,000	6.750%	040523 AH5
Series 2021A	2031	2,760,000	5.500%	040523 AK8
Series 2021A	2051	29,665,000	6.000%	040523 AL6
Series 2021B	2030	575,000	8.000%	040523 AM4

THIS NOTICE CONTAINS IMPORTANT INFORMATION THAT IS OF INTEREST TO THE REGISTERED AND BENEFICIAL OWNERS OF THE ABOVE REFERENCED BONDS. IF YOU RECEIVE THIS NOTICE AND ARE ACTING FOR A BENEFICIAL OWNER OF THE BONDS, PLEASE SEND THIS NOTICE TO THE BENEFICIAL OWNER(S) IMMEDIATELY.

The Arizona Industrial Development Authority (the “Issuer”) previously issued the (i) Economic Development Revenue Bonds, Tax-Exempt Series 2020A (Legacy Cares, Inc. Project) (the “Series 2020A Bonds”), (ii) Economic Development Revenue Bonds, Taxable Series 2020B (Legacy Cares, Inc. Project) (the “Series 2020B Bonds,”) and (iii) Economic Development Revenue Bonds, Tax-Exempt Turbo

<sup>1</sup> The CUSIP numbers are inserted for the convenience of the Holders only. No representation is made as to the correctness or accuracy of the foregoing CUSIP numbers or the CUSIP numbers printed on the Bonds.

Redemption Series 2020C (Legacy Cares, Inc. Project) (the “Series 2020C Bonds” together with the Series 2020A Bonds and the Series 2020B Bonds, the “2020 Bonds”) pursuant to a Trust Indenture dated as of August 1, 2020 (the “2020 Indenture”).

The Bonds are special limited obligations of the Issuer, payable solely from and secured by a pledge of loan repayments under notes issued pursuant to the terms of a Loan Agreement, dated as of August 1, 2020 (the “2020 Loan Agreement”), by and between the Issuer and Legacy Cares, Inc. (the “Borrower”), and from other amounts derived from the Trust Estate, as defined herein.

The Issuer also issued the (i) Economic Development Revenue Bonds, Tax-Exempt Series 2021A (Legacy Cares, Inc. Project) (the “Series 2021A Bonds”), and (ii) Economic Development Revenue Bonds, Taxable Series 2021B (Legacy Cares, Inc. Project) (the “Series 2021B Bonds,” and together with the Tax-Exempt Series 2021A Bonds, the “2021 Bonds”) pursuant to and secured by the First Supplemental Indenture of Trust, dated as of June 1, 2021 (the “First Supplemental Indenture,” and together with the Original Indenture, the “Indenture”).

The 2021 Bonds are special limited obligations of the Issuer, payable solely from and secured by a pledge of loan repayments under notes issued under the terms of the First Amended Loan Agreement, dated as of June 1, 2021 (the “First Amendment to Loan Agreement,” and together with the Original Loan Agreement, the “Loan Agreement”), by and between the Issuer and the Borrower, and from other amounts derived from the Trust Estate.

The Borrower applied the proceeds of the sale of the 2020 Bonds to finance a portion of the cost of acquiring, constructing, renovating, improving, equipping and operating a multi-sports park facility in Mesa, Arizona (the “Facilities”), funding required reserves under the Indenture, paying capitalized interest, operating costs and working capital costs and paying costs of issuance of the 2020 Bonds (the “2020 Project”).

The Borrower applied the proceeds of the sale of the 2021 Bonds in order to finance or refinance a portion of the cost of installing synthetic turf, adding to Buildings A and B at the Facilities, expanding on-site roadways and parking, and increasing lighting, funding any required reserve fund, paying capitalized interest, operating costs and providing working capital related to the 2021 Bonds and paying costs of issuance (collectively, the “2021 Project,” and together with the 2020 Project, the “Project”).

The Bonds are payable solely from the Trust Estate, which consists of: (i) the rights, title and interests of the Issuer under the Loan Agreement, except the Issuer's Unassigned Rights; (ii) the rights, title and interests of the Issuer in Legacy Sports Park (the “Facilities”), subject to Permitted Encumbrances, except the Issuer's Unassigned Rights; (iii) the Revenues and all rights, title and interests of the Issuer in the Pledged Revenues, subject to Permitted Encumbrances, except the Issuer's Unassigned Rights; (iv) the rights, title and interests of the Issuer and the Borrower under the Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Leases, and Fixture Filing (Series 2020) dated as of August 1, 2020 (the “Original Leasehold Deed of Trust”), between the Borrower, as trustor, and the Trustee, as beneficiary, subject to Permitted Encumbrances, and the Promissory Bonds, as amended and restated by the First Amended Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Leases, and Fixture Filing dated as of June 1, 2021 (the “Amended Leasehold Deed of Trust,” and together with the Original Leasehold Deed of Trust, the “Leasehold Deed of Trust”), from the Borrower in favor of the Trustee by adding as obligations secured by the Amended Leasehold Deed of Trust, the 2021 Bonds, and correcting the legal description, including carving out certain property from the legal description for nonqualified uses under the Internal Revenue Code of 1986, as amended, (the “Code”); (v) all Funds created in the Indenture (other than the Cost of Issuance Fund, the Tax and Insurance Escrow Fund and the Rebate Fund); (vi) the Collateral Assignment of Contracts, Permits, Licenses and Plans, dated as of August 1, 2020 (the “Original



Project Document Collateral Assignment”), between the Borrower and the Trustee, as amended by the First Amendment to Collateral Assignment of Contracts, Permits, Licenses and Plans, dated as of June 1, 2021 (the “Amended Document Collateral Assignment,” and together with the Original Project Document Collateral Assignment, the “Project Document Collateral Assignment”) (vii) the Deposit Account Control Agreement, dated April 14, 2021 (the “Replacement Deposit Account Control Agreement”), among UMB, Bank, N.A., as depository bank, Legacy Sports USA, LLC (the “Legacy Sports”), an Arizona limited liability company (as the depository bank customer), and the Trustee, and (viii) any and all other interests in real or personal property of every name and nature from time to time specifically mortgaged or pledged, as and for additional security by the Issuer under the Indenture.

All capitalized terms used but not otherwise defined herein, shall have the same meanings as assigned to them in the Indenture.

### **Notice Regarding Mechanics Liens**

*Trustee notices.* UMB Bank NA, as the Trustee previously provided a notice regarding certain events of default, dated November 11, 2022 as well as a prior notice of defaults dated October 4, 2022. These notices included, in part, a section on certain mechanics liens.

*Mechanics’ Liens.* Section 1.19 of the Leasehold Deed of Trust requires that the Borrower pay and discharge, at the expense of the Borrower, all liens, encumbrances and charges upon the Facilities and other assets pledged under the Leasehold Deed of Trust (the “Mortgaged Estate”), with the exception of certain customary Permitted Encumbrances. The Trustee has actual notice that the Borrower is alleged to have failed to pay for certain labor, materials and services provided by contractors, subcontractors, and material suppliers (the “Mechanic’s Lien Claimants”) in connection with the acquisition, construction, and equipping of the Facilities. Certain of the Mechanic’s Lien Claimants recorded liens and lis pendens against the Mortgaged Estate (the “Mechanic’s Liens”) and one of the Mechanic’s Lien Claimants has initiated a legal proceeding to enforce its claim (the “Mechanic’s Lien Litigation”) and has named the Borrower and other Mechanic’s Lien Claimants as defendants, all as permitted by Arizona statute. The Trustee engaged Spencer Fane LLP to represent the interests of the Trustee and the Registered Owners in connection with the Mechanics’ Liens and the Mechanic’s Lien Litigation.

The Trustee, in a Notice of Defaults, dated October 4, 2022, provided formal notice to the Borrower and the Issuer that the Borrower had failed to pay or otherwise remedy the Mechanics Liens. The Borrower is required to cause the Mechanic’s Liens to be removed from the Facilities within a cure period of forty-five (45) days from the date of written notice (November 18, 2022).

*Motion and Court Order.* The Borrower and the Manager have been working with certain of the Mechanics Lien Claimants to consolidate and stay the Mechanic’s Lien Litigation until January 31, 2023. See the attached Preliminary Order from the Superior Court of Arizona, Maricopa County, dated November 23, 2022 in Case No. CV2022-013494 as well as the underlying Joint Motion filed with the Court for details.





**Continuing Discussions  
Regarding a Proposed Refunding**

Representatives of the Borrower continue to pursue the prospect of a refunding of the Bonds with Loop Capital, an investing banking firm (the "Investment Bank"). The Borrower and the Manager referred the Investment Bank to certain members of the Directing Holders Group. The Investment Bank has had several preliminary discussions with members of the Directing Holders Group about their level of interest in participating in a future refunding of the Bonds.

As part of these discussions, the Investment Bank has indicated that a potential future refinancing could be executed on a tax exempt basis through the Issuer. The Investment Bank has indicated they are working on a term sheet for the proposed refunding that will be provided to the Borrower. The Investment Bank is working through Bond Counsel to develop a tentative financing schedule.

**LEGACY CARES, INC.**



6321 S Ellsworth Rd Suite 146,  
Mesa, AZ 85212-3301



[legacycaresinc.org](http://legacycaresinc.org)



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Attorneys for Defendant Okland Construction  
 Company, Inc.

**SUPERIOR COURT OF ARIZONA**

**MARICOPA COUNTY**

WHOLESALE FLOORS, LLC, a Delaware  
 limited liability company,

Plaintiff,

vs.

LEGACY CARES, INC., an Arizona  
 corporation; PACIFIC PROVING, LLC., a  
 Delaware limited liability company; UMB  
 BANK,  
 NATIONAL ASSOCIATION, a foreign  
 corporation; LIBERTY MUTUAL  
 INSURANCE COMPANY, a Massachusetts  
 corporation; OKLAND CONSTRUCTION  
 COMPANY, INC., a Utah corporation;  
 WALTERS & WOLF CONSTRUCTION  
 SPECIALTIES, INC., an Arizona  
 corporation; SITEWORKS LANDSCAPE  
 DEVELOPMENT, LLC, an Arizona limited  
 liability company; RKS PLUMBING &  
 MECHANICAL, INC., an Arizona  
 corporation; JOHNSON STATEWIDE  
 CAULKING, LP, an Arizona limited  
 partnership; JFK ELECTRICAL  
 CONTRACTING ENTERPRISES, INC., an  
 Arizona corporation; B&F CONTRACTING,  
 INC., an Arizona corporation; E&K OF  
 PHOENIX, INC., a Nebraska corporation;  
 IMAGE BUILDING SYSTEMS, LLC, an

Case No.: CV2022-013494

**PRELIMINARY ORDER**

1 Arizona limited liability company; SUN  
2 VALLEY MASONRY, INC., an Arizona  
3 corporation; SPECTRUM MECHANICAL  
4 & PLUMBING CONTRACTORS, LLC  
5 aka SPECTRUM MECHANICAL AND  
6 SERVICE CONTRACTORS, LLC, AN  
7 Arizona limited liability company;  
8 KEARNEY ELECTRIC, INC., an Arizona  
9 corporation; D. H. PACE COMPANY, INC.,  
10 a Delaware corporation; HAYDON  
11 COMPANIES, LLC, an Arizona limited  
12 liability company; R.H. DUPPER  
13 LANDSCAPING, INC., an Arizona  
14 corporation; AERO AUTOMATIC  
15 SPRINKLER COMPANY, a Delaware  
16 corporation; ELITE SPORTS BUILDERS,  
17 LLC dba SUNLAND SPORTS, an Arizona  
18 limited liability company; SPRAYFOAM  
19 SOUTHWEST, INC. dba ROOFING  
20 SOUTHWEST, GLOBAL ROOFING  
21 GROUP, an Arizona corporation;  
22 ARCHITECTURAL MILLWORK DESIGN,  
23 INC. dba AMD, and Arizona corporation;  
24 and NORCON INDUSTRIES, INC., an  
25 Arizona corporation,  
26

Defendants.

16 The Court having considered the Joint Motion of Plaintiff Wholesale Floors LLC, along  
17 with defendants Okland Construction Company, Inc., Haydon Companies, LLC, Legacy Cares,  
18 Inc., Pacific Proving, Inc., UMB Bank, National Association R.H. Dupper Landscaping and  
19 Elite Sports Builders LLC, and good cause appearing, it is Ordered as follows:

- 20 (1) The deadline to foreclose a mechanics' lien is not stayed and is not tolled by this  
21 Order. Nothing contained in this Order should be read as extending the deadline to  
22 file a mechanics' lien foreclosure action. A party seeking to allege and assert an  
23 affirmative claim for recovery must file its pleading asserting such claim by the  
24 statutory deadline.  
25  
26

- 1 (2) The deadline to file a motion to dismiss, answer, or other responsive pleading to  
2 another party's lien foreclosure claim is continued to and including January 31, 2023  
3 or as otherwise ordered by the Court. Until further order of the Court, all mechanics'  
4 lien claims will be considered to hold the priority allowed by law, and each  
5 mechanics' lien claimant will be considered to be asserting a claim for payment from  
6 any proceeds of sale as allowed by law.
- 7 (3) The deadline to serve disclosure statements pursuant to Rule 26.1 of the Arizona  
8 Rules of Civil Procedure is continued until the earlier of March 1, 2023 or upon  
9 further order of the Court. Nothing contained in this Order is intended to discourage  
10 the voluntary exchange of information.
- 11 (4) To allow the parties time to appear, present their affirmative claims, form committees  
12 or working groups and otherwise prepare to participate in this action, the early  
13 meeting and joint report requirements under the Arizona Rules of Civil Procedure are  
14 continued until further order of the Court.
- 15 (5) No motion to dismiss, motion for summary judgment, or other dispositive motion  
16 shall be filed prior to the earlier of January 31, 2023 or further order of the Court.
- 17 (6) No written discovery shall be served prior to the earlier of January 31, 2023 or further  
18 order of the court. Nothing contained in this Order is intended to discourage the  
19 voluntary exchange of information.
- 20 (7) Defendant Okland Construction Company, Inc., itself or jointly with other parties,  
21 shall provide the Court with a status report on the first business day of each month  
22 starting with December 1, 2022. The report should include the status of service or  
23 joinder of the parties and such other information as may be useful to the Court. The  
24 status report shall be no more than three pages of text. Within five days, excluding  
25 weekends and holidays, after Okland files its status report, any other party may  
26

1 supplement Okland's report with a supplemental status report of not more than one  
2 page of text.

- 3 (8) The Court will set this matter for a virtual status conference on February 16, 2023, at  
4 8:30 a.m. for a further update on the status of this matter, any possible resolution, for  
5 setting dates for early meeting and joint report deadlines, and for addressing other  
6 procedural issues the parties may require the Court's assistance with. An auto-  
7 generated email has been sent to local counsel of record to attend this hearing via  
8 Court Connect and Microsoft TEAMS. Should any of the parties not have an updated  
9 email address on file with the Clerk of Court or not receive the email, please advise  
10 the Court. You may join the hearing using the following link: [tinyurl.com/jbazmc-](https://tinyurl.com/jbazmc-cvj08)  
11 [cvj08](https://tinyurl.com/jbazmc-cvj08) or you may appear via telephone by calling: 1-917-781-4590 Access Code: 335  
12 045 922#. If an earlier status conference is needed, any party may file a Motion for  
13 Status Conference.

14 DATED this \_\_\_\_ day of November, 2022.

16 \_\_\_\_\_  
17 Hon. Dewain Fox  
18 *Judge of the Superior Court*  
19  
20  
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23  
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25  
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# eSignature Page 1 of 1

Filing ID: 15165129 Case Number: CV2022-013494  
Original Filing ID: 15121407

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Granted with Modifications



/S/ Dewain Fox Date: 11/22/2022  
Judicial Officer of Superior Court

**ENDORSEMENT PAGE**

CASE NUMBER: CV2022-013494

SIGNATURE DATE: 11/22/2022

E-FILING ID #: 15165129

FILED DATE: 11/23/2022 8:00:00 AM

ANDREW ABRAHAM

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HAYDON COMPANIES L L C  
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JESSICA GALE

IMAGE BUILDING SYSTEMS L L C  
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JOHN G RYAN

J F K ELECTRICAL CONTRACTING ENTERPRISES INC  
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KAREN A PALECEK

JOHNSON STATEWIDE CAULKING L P  
TERRY SCOTT JOHNSON STATUTORY AGENT 4165 S  
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MICHAEL CHARLES BROWN

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ROBERT H MCKIRGAN

PACIFIC PROVING INC  
ANDREW ABRAHAM STATUTORY AGENT 1850 N  
CENTRAL AVE STE 1700  
PHOENIX AZ 85004

AERO AUTOMATIC SPRINKLER COMPANY  
C T CORPORATION SYSTEM 3800 N CENTRAL AVE  
STE 46  
PHOENIX AZ 85012

R K S PLUMBING & MECHANICAL INC  
ADAM TATE STATUTORY AGENT 3030 N 3RD ST STE  
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PHOENIX AZ 85012

B & F CONTRACTING INC  
BRUCE BALLS STATUTORY AGENT 1717 W  
MANDALAY LN  
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SITWORKS LANDSCAPE DEVELOPMENT L L C  
M H SERVICE L L C STATUTORY 2555 E CAMELBACK  
RD # 1050  
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D H PACE COMPANY INC  
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U M B BANK NATIONAL ASSOCIATION  
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WALTERS & WOLF CONSTRUCTION SPECIALTIES INC  
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**SUPERIOR COURT OF ARIZONA**

**MARICOPA COUNTY**

WHOLESALE FLOORS, LLC, a Delaware  
limited liability company,

Plaintiff,

vs.

LEGACY CARES, INC., an Arizona  
corporation; PACIFIC PROVING, LLC., a  
Delaware limited liability company; UMB  
BANK, NATIONAL ASSOCIATION, a  
foreign corporation; LIBERTY MUTUAL  
INSURANCE COMPANY, a Massachusetts  
corporation; OKLAND CONSTRUCTION  
COMPANY, INC., a Utah corporation;  
WALTERS & WOLF CONSTRUCTION  
SPECIALTIES, INC., an Arizona  
corporation; SITEWORKS LANDSCAPE  
DEVELOPMENT, LLC, an Arizona limited  
liability company; RKS PLUMBING &  
MECHANICAL, INC., an Arizona  
corporation; JOHNSON STATEWIDE

Case No.: CV2022-013494

**JOINT MOTION FOR PRELIMINARY  
ORDER**

1 CAULKING, LP, an Arizona limited  
2 partnership; JFK ELECTRICAL  
3 CONTRACTING ENTERPRISES, INC., an  
4 Arizona corporation; B&F CONTRACTING,  
5 INC., an Arizona corporation; E&K OF  
6 PHOENIX, INC., a Nebraska corporation;  
7 IMAGE BUILDING SYSTEMS, LLC, an  
8 Arizona limited liability company; SUN  
9 VALLEY MASONRY, INC., an Arizona  
10 corporation; SPECTRUM MECHANICAL  
11 & PLUMBING CONTRACTORS, LLC  
12 aka SPECTRUM MECHANICAL AND  
13 SERVICE CONTRACTORS, LLC, AN  
14 Arizona limited liability company;  
15 KEARNEY ELECTRIC, INC., an Arizona  
16 corporation; D. H. PACE COMPANY, INC.,  
17 a Delaware corporation; HAYDON  
18 COMPANIES, LLC, an Arizona limited  
19 liability company; R.H. DUPPER  
20 LANDSCAPING, INC., an Arizona  
21 corporation; AERO AUTOMATIC  
22 SPRINKLER COMPANY, a Delaware  
23 corporation; ELITE SPORTS BUILDERS,  
24 LLC dba SUNLAND SPORTS, an Arizona  
25 limited liability company; SPRAYFOAM  
26 SOUTHWEST, INC. dba ROOFING  
SOUTHWEST, GLOBAL ROOFING  
GROUP, an Arizona corporation;  
ARCHITECTURAL MILLWORK DESIGN,  
INC. dba AMD, and Arizona corporation;  
and NORCON INDUSTRIES, INC., an  
Arizona corporation,

Defendants.

Plaintiff Wholesale Floors LLC (“Wholesale Floors”), along with defendants Okland Construction Company, Inc. (“Okland”), Haydon Companies, LLC (“Haydon”), Legacy Cares, Inc. (“Legacy Cares”), Pacific Proving, Inc. (“Pacific Proving”), UMB Bank, National Association (“UMB Bank”), R.H. Dupper Landscaping (“R.H. Dupper”) and Elite Sports Builders LLC (“Elite Sports”) jointly move the Court for a preliminary order that will allow an orderly and cost-effective method to join all parties. The parties have lodged a formal order

1 with the filing of this joint motion. This Motion is supported by the accompanying  
2 Memorandum.

### 3 MEMORANDUM

#### 4 A. The Project

5 This litigation involves the project now known as Bell Bank Park, a 320-acre sports and  
6 entertainment park located in Mesa, Arizona (the "Project"). The Project was built by the prime  
7 contractors and subcontractors named in this action, all of which claim to be owed for unpaid  
8 work. Plaintiff is a flooring subcontractor working under prime contractor Okland and filed this  
9 action for the purpose of foreclosing a mechanics lien and bringing claims for breach of contract  
10 under the payment bond. Haydon is also a prime contractor on the Project. Most of the other  
11 defendants are also contractors, subcontractors, or material suppliers who assert mechanics liens  
12 against this Project. In addition to mechanics lien claimants, the listed defendants also include  
13 the landowner (Pacific Proving), the tenant under a land lease (Legacy Cares), the construction  
14 lender represented by UMB Bank (trustee), and other parties claiming an interest in the property  
15 or Project.

16 The moving parties are Pacific Proving, Legacy Cares, Okland, and Haydon, as well as  
17 subcontractors R. H. Dupper, Elite Sports and Wholesale Floors. Also joining in this Motion is  
18 UMB Bank, the trustee identified in the Deed of Trust recorded with the Maricopa County  
19 Recorder's Office at Instrument No. 2020-0765331 securing the existing construction loan.

#### 20 B. The New Loan

21 The project owner, Legacy Cares is in negotiation with a new lender and intends to  
22 procure a new source of funds that will be raised by issuing industrial development bonds (the  
23 "New Loan"). This New Loan will refinance the current debt, which is in excess of \$280 million.  
24 It will also allow Legacy Cares to devote additional cash to pay pending claims, including claims  
25 of the contractors. Under the refinance schedules, if the transaction proceeds between Legacy  
26 Cares and the investment bank, Loop Capital, a New Loan of approximately \$400 million or

1 more will be under contract by as early as January, 2023, and scheduled to close shortly  
2 thereafter. If the closing occurs, payment to the contractors and subcontractors would resolve  
3 all (or at least almost all) of the claims to be asserted in this action.

4 **C. Short Mechanic's Lien Deadlines**

5 Each of the mechanic's lien claimant defendants is under a relatively short deadline to  
6 assert its foreclosure claim. The deadline is six-months after the date the Notice and Claim of  
7 Lien was recorded. Many of the mechanic's lien claimants have liens that must be the subject  
8 of foreclosure actions filed in the November 2022 through February 2023 timeframe. As such,  
9 these claimants cannot sit idle while Legacy Cares pursues the New Loan.

10 Because some of the mechanics' lien claimants face deadlines to file foreclosure actions  
11 between November 2022 and February 2023, this lien foreclosure action must proceed to allow  
12 those who decide to pursue foreclosure an opportunity to perfect their claims. At the same time,  
13 if Legacy Cares goes under contract with its New Loan on or about January 2023 and closes  
14 within a reasonable time thereafter, the lien claimants would be paid out of escrow or closing,  
15 allowing the lien claimants and other parties will avoid unnecessary attorney's fees and costs.

16 **D. The Loan Might Not Close**

17 The parties recognize that Legacy Cares' pursuit of a new lender and loan could fail. For  
18 example, during the scheduled December 15, 2022 meeting of the Arizona Industrial  
19 Development Authority ("AIDA"), the AIDA might reject the pending application for new  
20 bonds. There are many other steps between now and the closing of the loan that have to be  
21 successfully achieved. Representatives from Okland, Legacy Cares, UMB Bank, and others are  
22 meeting weekly to receive updates on the proposed financing from bond counsel to the  
23 transaction, Timothy Stratton. If the loan application process is cancelled or the loan is not  
24 funded, Okland and UMB Bank, both parties to this litigation, will report this failure to the  
25 Court.

1 Currently, Legacy Cares and UMB Bank are optimistic and hold the belief that Legacy  
2 Cares can obtain its new loan by the scheduled December 22, 2022 close date or within a  
3 reasonable time thereafter. The moving parties believe that, by pausing this foreclosure action  
4 while the New Loan continues to develop and close, the parties in this action will likely avoid  
5 significant attorney's fees and costs.

6 **E. Priority Date of Mechanics' Lien Claimants**

7 This litigation involves over 20 parties that must be joined to allow the Court to resolve  
8 lien priorities and lien amounts. The parties listed in the caption include multiple prime  
9 contractors, with each prime contractor having a different priority date. Each prime contractor's  
10 subcontractors share the prime contractor's priority date. Some subcontractors worked for  
11 multiple prime contractors and will or have split their mechanics' lien claims pursuant to the  
12 work done under each prime contractor. As the parties join, stipulations will likely be reached  
13 regarding which subcontractors worked under which prime contractors. Such stipulations will  
14 allow groups of lien claimants to form, with each group holding a separate priority date. It is  
15 also likely that claimant groups will be formed to allow for more efficient preparation of joint  
16 reports and scheduling orders.

17 **F. Requested Preliminary Order**

18 For the next two months or longer, as each of party is served, the parties will appear and  
19 assert their affirmative claim for foreclosure along with other affirmative claims. Some will file  
20 amended claims (such as Plaintiff's First Amended Complaint, filed October 26, 2022). The  
21 process of joining each of the defendants and having them assert their claims will take time.

22 As each mechanics' lien claimant files its answer, cross-claim, and counterclaim for  
23 foreclosure, each other party would typically feel obligated to answer each of the Cross-Claims  
24 and Counterclaims. If each of the 20 parties files an answer to each other's cross-claim, or  
25 counterclaim, over 360 separate answers would be filed.



1 To avoid or at least delay this wasted effort, save thousands of dollars of attorney's fees,  
2 and to otherwise streamline the joinder of the parties and their ability to assert their affirmative  
3 claims, the moving parties ask the Court to enter a preliminary order, subject to change by further  
4 order of the Court, as follows:

- 5 (1) The deadline to foreclose a mechanics' lien is not stayed and is not tolled by this  
6 Order. Nothing contained in this Order should be read as extending the deadline to  
7 file a mechanics' lien foreclosure action. A party seeking to allege and assert an  
8 affirmative claim for recovery must file its pleading asserting such claim by the  
9 statutory deadline.
- 10 (2) The deadline to file a motion to dismiss, answer, or other responsive pleading to  
11 another party's lien foreclosure claim is continued to and including January 31, 2023  
12 or as otherwise ordered by the Court. Until further order of the Court, all mechanics'  
13 lien claims will be considered to hold the priority allowed by law, and each  
14 mechanics' lien claimant will be considered to be asserting a claim for payment from  
15 any proceeds of sale as allowed by law.
- 16 (3) The deadline to serve disclosure statements pursuant to Rule 26.1 of the Arizona  
17 Rules of Civil Procedure is continued until the earlier of March 1, 2023 or upon  
18 further order of the Court. Nothing contained in this Order is intended to discourage  
19 the voluntary exchange of information.
- 20 (4) To allow the parties time to appear, present their affirmative claims, form committees  
21 or working groups and otherwise prepare to participate in this action, the early  
22 meeting and joint report requirements under the Arizona Rules of Civil Procedure are  
23 continued until further order of the Court.
- 24 (5) No motion to dismiss, motion for summary judgment, or other dispositive motion  
25 shall be filed prior to the earlier of January 31, 2023 or further order of the Court.
- 26 (6) No written discovery shall be served prior to the earlier of January 31, 2023 or further  
order of the court. Nothing contained in this Order is intended to discourage the  
voluntary exchange of information.
- (7) Defendant Okland, itself or jointly with other parties, shall provide the Court with a  
status report on the first business day of each month starting with December 1, 2022.  
The report should include the status of service or joinder of the parties and such other  
information as may be useful to the Court. The status report shall be no more than  
three pages of text. Within five days, excluding weekends and holidays, after Okland  
files its status report, any other party may supplement Okland's report with a  
supplemental status report of not more than one page of text.

1 (8) The Court will set this matter for a status conference on \_\_\_\_\_ [insert  
2 date on or after February 15, 2023] for a further update on the status of this matter,  
3 any possible resolution, for setting dates for early meeting and joint report deadlines,  
4 and for addressing other procedural issues the parties may require the Court's  
5 assistance with. If an earlier status conference is needed, any party can file a Motion  
6 for Status Conference.

7 To be clear, the moving parties are not asking this Court to stay the filing of affirmative  
8 claims or toll the statute of limitations regarding any affirmative claims, including the short  
9 statute of limitations applicable to the mechanics lien foreclosure claims. These claims must  
10 still be filed timely in order to be valid.

11 Likewise, the moving parties are not seeking to defeat any of the parties' right to file a  
12 motion or conduct discovery because all such rights exist pending further order of the Court.

13 The procedure described in the accompanying Order lodged herewith will save the parties  
14 from unnecessary costs and attorney's fees, which will be helpful in the event Legacy Cares  
15 closes on the New Loan and is ready to issue payment for the construction work performed. The  
16 proposed Order will also be less burdensome to the Court and the Court's clerk.

17 For the following reasons, the moving parties respectfully request the court enter an Order  
18 as lodged herewith.

19 DATED this 11th day of November, 2022.

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