

Dated: November 22, 2023



Daniel P. Collins
 Daniel P. Collins, Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
 DISTRICT OF ARIZONA**

In re:	)	
Legacy Cares, Inc.,	)	Chapter 11
	)	
Debtor.	)	Case No. 2:23-bk-02832-DPC
	)	Re: Docket No. 335

**ORDER (I) AUTHORIZING AND APPROVING THE SALE OF SUBSTANTIALLY
 ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS,
 ENCUMBRANCES, AND INTERESTS; (II) AUTHORIZING THE ASSUMPTION AND
 ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED
 LEASES IN CONNECTION THEREWITH; (III) AUTHORIZING THE
SALE TRANSACTION; AND (IV) GRANTING RELATED RELIEF**

Upon the motion [Dkt. No. 335] (the “**Motion**”)¹ of Legacy Cares, Inc. (the “**Debtor**”) for entry of an order (this “**Order**”), pursuant to sections 105(a), 363, 365, and 503 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules 6004-1 and 6006-1 (collectively,]the “**Bankruptcy Rules**”) (i) approving the sale of substantially all assets of the Debtor in the above-captioned chapter 11 case (the “**Chapter 11 Case**”) free and clear of all liens, claims, encumbrances and interests in accordance with and subject to the terms and conditions contained in that certain Asset Purchase Agreement, dated as of November 21, 2023 (as amended, supplemented, amended and restated or otherwise modified from time to time, including the

¹ Capitalized terms used but not defined herein shall have the meanings given to them in the Motion or the Asset Purchase Agreement (as defined below).

amendments thereto, as set forth in the schedules attached to this Order, and including the exhibits and schedules thereto, the “**Asset Purchase Agreement**”), by and among the Debtor and Elite Sports Group, LLC (“**Manager**”); (ii) authorizing the assumption and assignment of certain executory contracts and unexpired leases (the “**Assumed Contracts**”) ² and pursuant to the designation rights set forth in section 2.7 of the Asset Purchase Agreement; (iii) authorizing the consummation of the sale and each of transactions contemplated by the Asset Purchase Agreement and this Order (the “**Sale Transaction**”); and (iv) granting related relief; and the United States Bankruptcy Court for the District of Arizona (the “**Court**”) having entered an order on September 8, 2023 [Dkt. No. 453] (the “**Bidding Procedures Order**”) approving, among other things, the dates, deadlines, and bidding procedures (the “**Bidding Procedures**”) with respect to, and notice of, the proposed sale of substantially all the assets of the Debtor (the “**Assets**”); and this Court having entered an order on October 25, 2023 scheduling a final hearing on the Sale Transaction and granting exclusivity to Burke Operating Partners or its designee (collectively, the “**Buyer**”); and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and the Court having held a hearing on November 20, 2023 (the “**Sale Hearing**”) to approve the Sale Transaction; and the Court having reviewed and considered (a) the Motion, (b) the objections to the Motion or the Sale Transaction, if any, (c) the *Declaration of James Doak in Support of Debtor’s Motion for an Order (I) Approving (A) Bidding Procedures for the Sale of Substantially all of Debtor’s Assets, (B) Procedures for Debtor’s Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (C) the Form and Manner of Notice of the Sale Hearing, Assumption*

² The Assumed Contracts expressly includes the Debtor’s interest in the Ground Lease (the “**Ground Lease**”) with Pacific Proving, LLC relating to the facility known as Legacy Park, a 320-acre sports and entertainment complex located at the intersection of State Route 24 and Ellsworth Road in Mesa, Arizona (the “**Real Property**”)

Procedures, and Auction Results, (D) Dates for an Auction and Sale Hearing, (E) the Sale of Substantially all of Debtor's Assets Free and Clear of All Claims, Liens, Liabilities, Rights, Interests and Encumbrances, and (F) Debtor's Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Authorizing Debtor to provide Bid Protections, and (III) Granting Related Relief [Dkt. No. 405] (the “**First Doak Declaration**”); (d) the *Declaration of James Doak in Support of Proposed Sale* [Dkt. No. 603] (the “**Second Doak Declaration**” and, together with the First Doak Declaration, the “**Doak Declarations**”); (e) the *Declaration of Keith B. Bierman, CPA in Support of Proposed Sale* [Dkt. No. 604] (the “**Bierman Declaration**”); (f) the *Declaration of Michael Burke in Support of Proposed Sale* [Dkt. No. 612] (the “**Burke Declaration**”); (g) all other pleadings filed in support of the Motion, and (h) the arguments of counsel, and the evidence proffered or adduced at the Sale Hearing and any other hearing related to the Motion; and all parties in interest having been heard, or having had the opportunity to be heard, regarding the approval of the Sale Transaction and the other relief requested in the Motion; and it appearing that the relief requested in the Motion is in the best interests of the Debtor, its estate, creditors and other parties in interest; and upon the record of the Sale Hearing and the Chapter 11 Case; and after due deliberation thereon; and good cause appearing therefore, it is hereby,

FOUND, DETERMINED, AND CONCLUDED THAT:³

A. Jurisdiction and Venue. This Court has jurisdiction to consider the Motion and approve the Sale Transaction under 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C.

³ The findings, determinations, and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

§ 157(b). Venue of these Chapter 11 Case and this Motion is proper in this district and Court under 28 U.S.C. §§ 1408 and 1409.

B. Final Order. This Order constitutes a final order within the meaning of 28 U.S.C. §158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Order, and expressly directs entry of judgment as set forth herein.

C. Property of the Estate. The Purchased Assets constitute property of the Debtor's estate and title thereto is vested in the Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code.

D. Legal Predicates. The predicates for the relief requested by this Motion are sections 105, 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9007, and 9014 and applicable Bankruptcy Local Rules.

E. Petition Date. On May 1, 2023 (the "**Petition Date**"), the Debtor commenced its case by filing a petition for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtor has continued to operate its business and manage its affairs as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

F. Committee. On May 15, 2023, the United States Trustee for the District of Arizona appointed the Official Committee of Unsecured Creditors in this Chapter 11 Case [Dkt. No. 91] (the "**Committee**").

G. Bidding Procedures Order. On September 7, 2023, this Court entered the *Order (I) Approving Bidding Procedures, (II) Authorizing Debtor to Provide Bid Protections, and (III)*

Granting Related Relief. No appeal, motion to reconsider or similar pleading has been filed with respect to the Bidding Procedures Order, and the Bidding Procedures Order is a final order of the Court. The Bidding Procedures Order has not been vacated, withdrawn, rescinded or amended and remains in full force and effect.

H. Compliance with Bidding Procedures Order. As demonstrated by the testimony and other evidence proffered or adduced at the Sale Hearing and the representations of counsel made on the record at the Sale Hearing, the Debtor has marketed the Assets and conducted the sale process in compliance with the Bidding Procedures Order. The Buyer has acted in good faith and in compliance with the terms of the Bidding Procedures. In accordance with the Bidding Procedures, the Debtor determined that the bid submitted by the Buyer and memorialized by the Asset Purchase Agreement is the Successful Bid (as defined in the Bidding Procedures). The Asset Purchase Agreement constitutes the highest and best offer for the Purchased Assets, and will provide a greater recovery for the Debtor's estate than would be provided by any other available alternative. The Debtor's determination that the Asset Purchase Agreement constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtor's business judgment.

I. Notice. As evidenced by the affidavits of service and publication previously filed with the Court [Dkt. No. 340, 458, 472, 476, 503, 554, 574], and based on the record at the Sale Hearing, (i) proper, timely, adequate and sufficient notice of the Motion, the Bidding Procedures, the Auction, the Sale Hearing, the Sale Transaction, the relevant objection deadlines, the Assumption and Assignment Procedures (including the objection deadline with respect to any Cure Amount and the assumption and assignment of the Assumed Contracts), the designation rights set forth in section 2.7 of the Asset Purchase Agreement, and the Cure Amounts has been provided in

accordance with sections 102(l), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007 and 9014, and applicable Bankruptcy Local Rules, and in compliance with the Bidding Procedures Order to each party entitled to such notice, (ii) such notice was good and sufficient, and appropriate under the particular circumstances, and (iii) no other or further notice of the Motion, the Bidding Procedures, the Auction, the Sale Hearing, the Sale Transaction, the relevant objection deadlines, the Assumption and Assignment Procedures (including the objection deadline with respect to any Cure Amount), the assumption and assignment of the Assumed Contracts (through designation rights set forth in section 2.7 of the Asset Purchase Agreement), or the Cure Amounts is or shall be required. With respect to entities whose identities are not reasonably ascertained by the Debtor, publication of the Sale Notice in *USA Today (National Edition)* on September 13, 2023, was sufficient and reasonably calculated under the circumstances to reach such entities. [Dkt. Nos. 475].

J. Notice of the Debtor's assumption, assignment, transfer, and/or sale to the Buyer of the Assumed Contracts has been provided to each non-Debtor party thereto, together with a statement therein from the Debtor with respect to the Cure Amount. As to each Assumed Contract, the Cure Amount, as applicable, is sufficient for the Debtor to comply fully with the requirements of sections 365(b)(1)(A) and (B) of the Bankruptcy Code, subject, in the case of the Assumed Contracts, to the applicable Assignment Objection Deadline. Each of the non-Debtor parties to the Assumed Contracts has had a fair and reasonable opportunity to object to the Cure Amounts set forth in the *Notice of (I) Executory Contracts and Unexpired Leases That May Be Assumed and Assigned in Connection with a Sale of Debtor's Assets and (II) the Proposed Cure Amounts with Respect Thereto* [Dkt. No. 461].

K. Company Authority. The Debtor, by and through its Court-appointed Chief

Restructuring Officer, Keith Bierman (i) has full power and authority to execute the Asset Purchase Agreement and all other documents contemplated thereby and hereby, including the Acquisition Documentation (collectively, the “**Transaction Documents**”), and the Sale Transaction has been duly and validly authorized by all necessary action of the Debtor, (ii) has all of the power and authority necessary to consummate the transactions contemplated by this Order and the Transaction Documents, (iii) has taken all action and formalities necessary to authorize and approve the Transaction Documents and the Debtor’s consummation of the transactions contemplated thereby and hereby, (iv) has duly executed and delivered the Asset Purchase Agreement, and (v) no government, regulatory or other consents or approvals, other than those expressly provided for in the Transaction Documents, are required for the Debtor to enter into the Transaction Documents, to consummate the Sale Transaction, or to perform their obligations under the Transaction Documents. The consummation of the Sale Transaction and performance under the Transaction Documents do not violate or conflict with any applicable law.

L. Opportunity to Object. A fair and reasonable opportunity to object and to be heard with respect to the Motion and the relief requested therein, has been given to all interested persons and entities, including the following: (i) all counterparties to any potential Assumed Contracts (including in connection with the Designation Rights Procedures (as defined herein), (ii) all known parties holding or asserting Interests (as this term is defined below) on, in, or against the Purchased Assets, (iii) all parties that have requested notice pursuant to Bankruptcy Rule 2002 as of the time of service, and (iv) all applicable federal, state and local taxing and regulatory authorities.

M. Sale in Best Interest. Consummation of the sale of the Purchased Assets pursuant to the Asset Purchase Agreement at this time is in the best interests of the Debtor, its creditors, its estate, and other parties in interest.

N. Business Justification. Sound business reasons exist for the Sale Transaction. Entry into the Transaction Documents, and the consummation of the transactions contemplated thereby, including the Sale Transaction and the assumption and assignment of the Assumed Contracts (through the Designation Rights Procedures described in section 2.7 of the Asset Purchase Agreement), constitutes an exercise of the Debtor's sound business judgment and such acts are in the best interests the Debtor, its estate, and all parties in interest. The Court finds that Debtor has articulated good and sufficient business reasons justifying the Sale Transaction. Such business reasons include, but are not limited to, the following: (i) the Asset Purchase Agreement constitutes the highest and best offer for the Purchased Assets; (ii) the Buyer has agreed to assume the Assumed Obligations; (iii) the Sale Transaction maximizes the going concern value of the Business and Purchased Assets; and (iv) unless the Sale Transaction and all of the other transactions contemplated by the Transaction Documents are concluded expeditiously, as provided for in the Motion, the Bidding Procedures, and pursuant to the Asset Purchase Agreement, recoveries to creditors may be diminished.

O. The Debtor and its professionals actively marketed the Assets to potential purchasers, as set forth in the Motion and in accordance with the Bidding Procedures Order. The bidding and auction process set forth in the Bidding Procedures Order and the Bidding Procedures afforded a full and fair opportunity for any entity to make a higher or otherwise better offer to purchase the Purchased Assets than the offer memorialized by the Asset Purchase Agreement. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective bidders have been afforded a reasonable and fair opportunity to bid for the Purchased Assets.

P. No other person or entity or group of persons or entities has offered to purchase the

Purchased Assets for an amount that would give equal or greater economic value to the Debtor and its estate in the aggregate than the value being provided pursuant to the Asset Purchase Agreement. Among other things, the Sale Transaction is the best alternative available to the Debtor to maximize the return to its estate. The terms and conditions of the Asset Purchase Agreement, including the consideration to be realized by the Debtor and the settlement of claims among parties-in-interest, are fair and reasonable. Given all of the circumstances of this Chapter 11 Case and the adequacy and fair value of the consideration provided under the Asset Purchase Agreement, approval of the Motion, the Asset Purchase Agreement, and the transactions contemplated thereby and hereby, including the Sale Transaction and the assumption and assignment of the Assumed Contracts, is in the best interest of the Debtor, its estate and creditors, and all other parties in interest.

Q. Arms-Length Sale. The Transaction Documents were negotiated, proposed, and entered into by the Debtor, Manager and the Buyer without collusion, in good faith, and at arm's-length. None of the Debtor, Manager or the Buyer, or any of their respective representatives has engaged in any conduct that would cause or permit the Transaction Documents, or the consummation of the Sale Transaction, to be avoidable or avoided, or for costs or damages to be imposed, under 11 U.S.C. § 363(n), or has acted in bad faith or in any improper or collusive manner with any entity in connection therewith. Specifically, the Purchaser Parties (as defined below) have not acted in a collusive manner with any person or entity and the Purchase Price was not controlled by any agreement among bidders.

R. Good Faith Purchaser. The Buyer is a good faith buyer for value and, as such, is entitled to all of the protections afforded under 11 U.S.C. § 363(m) and any other applicable or similar bankruptcy and non-bankruptcy law. Furthermore, none of the Purchaser Parties is an

“insider” (as defined under section 101(31) of the Bankruptcy Code) of the Debtor, and, therefore, each Purchaser Party is entitled to the full protections of section 363(m) of the Bankruptcy Code and has otherwise proceeded in good faith in all respects in connection with this Chapter 11 Case and the Sale Transaction. Without limiting the foregoing: (i) each of the Purchaser Parties recognized that the Debtor was free to deal with any other party interested in purchasing the Purchased Assets; (ii) each of the Purchaser Parties complied in all respects with the provisions in the Bidding Procedures Order; (iii) the Buyer agreed to subject its bid to the competitive Bidding Procedures set forth in the Bidding Procedures Order; (iv) all consideration to be provided by the Buyer and all other agreements or arrangements entered into by the Buyer in connection with the Sale Transaction have been disclosed; (v) no common identity of directors, officers or controlling stockholders exists among the Buyer and the Debtor; (vi) the negotiation and execution of the Transaction Documents were at arm’s-length and in good faith, and at all times each of the Purchaser Parties and the Debtor was represented by competent counsel of their choosing; and (vii) the Purchaser Parties have not acted in a collusive manner with any person or entity. The Purchaser Parties will be acting in good faith within the meaning of 11 U.S.C. § 363(m) in closing the transactions contemplated by the Asset Purchase Agreement and the other Transaction Documents.

S. Free and Clear Sale. The Debtor and Manager may sell the Purchased Assets free and clear of all encumbrances, claims (including any “claims” as defined in section 101(5) of the Bankruptcy Code), rights, obligations, Liabilities, and other interests of any kind or nature whatsoever against either Debtor, Manager or the Purchased Assets (other than Assumed Obligations), including, without limitation, other than Assumed Obligations, any Liabilities, debts, or obligations arising under or out of, in connection with, or in any way relating to, any acts or

omissions, indentures, loan agreements, instruments, leases, agreements, collective bargaining agreements, conditional sale or other title retention agreements, suits, judgments, demands, guaranties, contractual commitments, licenses, restrictions, options, rights of first refusal, offsets, Contracts, recoupment rights, rights of recovery, claims for reimbursement, contribution, indemnity, exoneration, products liability, breach of warranty, alter- ego, environmental liabilities, labor and employment claims (whether or not under a labor agreement), employee pension or benefit plan claims (including multiemployer benefit plan claims), including any withdrawal or termination liability thereunder, workers' compensation claims, retiree medical benefits claims, liabilities related to the Employee Retirement Income Security Act of 1974, liabilities related to the Worker Adjustment and Retraining Notification Act of 1988, liabilities related to the Internal Revenue Code, or any other liability relating to either Debtor's or Manager's current and former employees, claims for taxes of or against the either Debtor or Manager or their assets, any derivative, vicarious, transfer or successor liability claims, and any other rights or causes of action (whether in law or in equity, under any law, statute, rule or regulation of the United States, any state, territory, or possession thereof or the District of Columbia), whether arising prior to or subsequent to the Closing Date, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, asserted or unasserted, material or non-material, disputed or undisputed, matured or unmatured, liquidated or unliquidated, or contingent or non-contingent, and whether imposed by agreement, understanding, law, equity or otherwise, including, without limitation, any and all claims otherwise arising under doctrines of successor liability, in each case, arising under or out of, in connection with, or in any way related to the Debtor or Manager (or their respective predecessors), the Debtor's and Manager's interests in the Purchased Assets, the operation of

the Debtor's or Manager's business before to Closing, or the transfer of the Debtor's and Manager's interests in the Purchased Assets to the Buyer, and all Excluded Liabilities, including without limitation the liens and other interests set forth on **Schedule 2** (collectively, and excluding any Assumed Obligations, the "**Interests**"), because, with respect to each person or entity asserting an Interest, one or more of the standards set forth in sections 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Each person or entity with an Interest in the Purchased Assets: (i) has, subject to the terms and conditions of this Order, consented to the Sale Transaction or is deemed to have consented to the Sale Transaction; (ii) could be compelled in a legal or equitable proceeding to accept money satisfaction of such Interest; or (iii) otherwise falls within one or more of the other subsections of section 363(f) of the Bankruptcy Code. Those holders of Interests who did not object or withdrew objections to the Sale Transaction are deemed to have consented to the Sale Transaction pursuant to section 363(f)(2) of the Bankruptcy Code.

T. With regards to the property that OVG Facilities LLC ("**OVG**") asserts title to as described in OVG's *Objection to Sale and Relief Sought in Sale Notice and Request for Adequate Protection Pursuant to 11 U.S.C. § 363(e)* [Dkt. No. 589](the "**OVG Objection**"), OVG has failed to carry its burden under section 363(p)(2) of the Bankruptcy Code of proving it has a valid interest in such property. Accordingly, OVG is not entitled to any adequate protection under section 363(e) of the Bankruptcy Code. Assuming OVG could prove any interest in this property, that interest is in bona fide dispute and thus the property can be conveyed to Buyer free and clear of any such interest pursuant to section 363(f)(4).

U. The Buyer would not have entered into the Asset Purchase Agreement and would not consummate the transactions contemplated thereby, including the Sale Transaction and the assumption and assignment of the Assumed Contracts, (i) if the transfer of the Purchased Assets was

not free and clear of all Interests, including rights or claims based on any successor or transferee liability, of any kind or nature whatsoever (except as expressly set forth in the Asset Purchase Agreement or this Order with respect to Assumed Obligations) or (ii) if the Buyer or any Affiliates of the Buyer, or any past, present or future members, partners, principals, or equityholders (or equivalent), whether direct or indirect, lenders, subsidiaries, parents, divisions, funds, agents, representatives, insurers, attorneys, successors, or assigns of the Buyer or any Affiliates of the Buyer, or any of the directors, managers, officers, employees, agents, representatives, attorneys, contractors, subcontractors, independent contractors, owners, or insurance companies of any of the foregoing (collectively, and each in their capacity as such, “**Purchaser Parties**”) would, or in the future could, be liable for any such Interests. The Buyer will not consummate the transactions contemplated by the Asset Purchase Agreement, including the Sale Transaction and the assumption and assignment of the Assumed Contracts, unless this Court expressly orders that none of the Buyer, the other Purchaser Parties, or the Purchased Assets will have any Liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Interest.

V. Not transferring the Purchased Assets to the Buyer free and clear of all Interests would adversely impact the Debtor’s efforts to maximize the value of its estate, and the transfer of the Purchased Assets to the Buyer other than pursuant to a transfer that is free and clear of all Interests would be of substantially less benefit to the Debtor’s estate. The total consideration to be provided under the Asset Purchase Agreement reflects the Buyer’s reliance on this Order to provide the Buyer, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Purchased Assets free and clear of all Interests.

W. Assumption of Executory Contracts and Unexpired Leases. The Debtor has

demonstrated that it is an exercise of its sound business judgment to assume and assign the Assumed Contracts to the Buyer in connection with the consummation of the Sale Transaction, and the assumption and assignment of the Assumed Contracts (including the designation rights set forth in section 2.7 of the Asset Purchase Agreement) is in the best interests of the Debtor and its estate. The Assumed Contracts being assigned to the Buyer are an integral part of the Asset Purchase Agreement and the Sale Transaction and, accordingly, such assumption and assignment of the Assumed Contracts is reasonable, enhances the value of the Debtor's estate, and does not constitute unfair discrimination.

X. Cure/Adequate Assurance. The Debtor and the Buyer will provide adequate assurance of cure, of any default existing prior to the date hereof under any of the Assumed Contracts, within the meaning of 11 U.S.C. §§ 365(b)(1)(A) and 365(f)(2)(A), and (ii) provide compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default under any of the Assumed Contracts within the meaning of 11 U.S.C. § 365(b)(1)(B). The Buyer will provide adequate assurance of future performance of and under the Assumed Contracts within the meaning of 11 U.S.C. §§ 365(b)(1)(C) and 365(f)(2)(B).

Y. Prompt Consummation. The sale of the Purchased Assets must be approved and consummated promptly to preserve the value of the Purchased Assets. Therefore, time is of the essence in consummating the Sale Transaction, and the Debtor and the Buyer intend to close the Sale Transaction as soon as reasonably practicable upon the satisfaction of the conditions precedent set forth in the Asset Purchase Agreement on or after December 8, 2023. The Debtor has demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the Asset Purchase Agreement, the other Transaction Documents and this Order, including the

Sale Transaction. The Buyer, being a good faith purchaser under section 363(m) of the Bankruptcy Code, may close the Sale Transaction contemplated by the Asset Purchase Agreement at any time after entry of this Order, subject to the terms and conditions of the Asset Purchase Agreement. There is cause to lift the stay contemplated by Bankruptcy Rules 6004 and 6006 with regards to the transactions contemplated by this Order.

Z. No Fraudulent Transfer. The Transaction Documents were not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession or the District of Columbia, and none of the parties to the Transaction Documents are consummating the Sale Transaction for any other fraudulent or otherwise improper purpose.

AA. The consideration provided by the Buyer for the Purchased Assets pursuant to the Asset Purchase Agreement (i) is fair and reasonable, (ii) is the highest and best offer for the Purchased Assets, (iii) will provide a greater recovery for the Debtor's creditors than would be provided by any other available alternative, and (iv) constitutes reasonably equivalent value, fair consideration and fair value under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia (including the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, and the Uniform Voidable Transactions Act), and any other applicable law.

BB. Buyer Not an Insider and No Successor Liability. Prior to the Closing Date, the Buyer was not an "insider" or "affiliate" of either Debtor or Manager, as those terms are defined in the Bankruptcy Code, and no common identity of incorporators, directors or stockholders existed between the Buyer and either Debtor or Manager. The transfer of the Purchased Assets to the Buyer, the assumption of the Assumed Obligations by the Buyer and the consummation of the

Sale Transaction (including any individual elements of the Sale Transaction), except as otherwise set forth in the Asset Purchase Agreement, do not, and will not, subject the Purchaser Parties to any Liability whatsoever, with respect to the operation of the businesses of either Debtor or Manager prior to the Closing or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, in any theory of law or equity including any laws imposing antitrust, successor, transferee or vicarious liability. Pursuant to the Asset Purchase Agreement, the Buyer is not purchasing all of Debtor's and Manager's assets in that the Buyer is not purchasing any of the Excluded Assets or assuming the Excluded Liabilities, and the Buyer is not holding itself out to the public as a continuation of either Debtor or Manager. The Buyer, as a result of any action taken in connection with the Sale Transaction (including by consummating the Sale Transaction), is not a successor to or a mere continuation of any of either Debtor or Manager or Debtor's estate and there is no continuity or common identity between the Buyer and either Debtor or Manager. The Sale Transaction does not amount to a consolidation, merger or *de facto* merger of the Buyer and either Debtor or Manager and/or Debtor's estate. There is not substantial continuity between the Buyer and either Debtor or Manager, and there is no continuity of enterprise between either Debtor or Manager and the Buyer. The Buyer does not constitute a successor to either Debtor or Manager or Debtor's estate. None of the Purchaser Parties shall assume or in any way be responsible for any obligations or Liability of either Debtor or Manager or Debtor's estate, except as expressly provided in the Asset Purchase Agreement or this Order.

CC. Binding Agreement. The Transaction Documents are, or upon the execution thereof by the parties thereto, will be valid and binding contracts between the Debtor, Manager and the Buyer and shall be enforceable pursuant to their terms. Notwithstanding anything

contained herein, the Transaction Documents or any further order of the Court to the contrary, the Transaction Documents and consummation of the Sale Transaction shall be, to the extent provided in the Transaction Documents, specifically enforceable against and binding upon the Debtor, Manager and any estate representative, including any chapter 7 trustee or chapter 11 trustee appointed in the Debtor's case, any plan administrator, litigation trustee or liquidation trustee appointed in the Chapter 11 Case or any successor case, creditors and all other parties-in-interest, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person or entity.

DD. Legal, Valid Transfer. Each of Debtor and Manager has full power and authority (i) to perform all of their obligations under the Transaction Documents and (ii) to consummate the Sale Transaction. The transfer of the Purchased Assets to the Buyer will be a legal, valid, and effective transfer of the Purchased Assets, and will vest the Buyer with all right, title, and interest of the Debtor and Manager in and to the Purchased Assets free and clear of all Interests (except as set forth in the Asset Purchase Agreement). The Purchased Assets constitute property of the Debtor's estate and good title to the Purchased Assets is vested in the Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code. The Debtor and Manager are the sole and rightful owners of the Purchased Assets, and no other person or entity has any ownership right, title, or interests therein.

EE. Not a Sub Rosa Plan. The Sale Transaction does not constitute a *sub rosa* chapter 11 plan or an element of such plan for the Debtor, for which approval has been sought without the protections that a disclosure statement would afford. The Sale Transaction does not (i) impermissibly restructure the rights of the Debtor's creditors or equity interest holders, (ii) impair or circumvent voting rights with respect to any future plan proposed by the Debtor, (iii)

impermissibly dictate a plan of reorganization for the Debtor; or (iv) classify claims or equity interests, compromise controversies, or extend debt maturities. Without limiting the generality of the foregoing, with regards to the payments out of escrow to be made to the ML Claimants (as defined below), these payments are not distributions on any claims the ML Claimants have in this Chapter 11 Case. Rather, these payments are agreed “cure” payments made pursuant to section 365(b)(1)(A) of the Bankruptcy Code to allow the Debtor to assume and assign the Debtor’s leasehold interest under the Ground Lease to the Buyer. In exchange, the ML Claimants will release their liens and claims against Debtor, the estate, property of the estate, the leasehold interest in the Ground Lease, and the fee interest in the Real Property, as provided herein.

FF. Consummation is Legal, Valid and Binding. The consummation of the Sale Transaction is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including sections 105(a), 363(b), 363(f), 363(m) and 365 of the Bankruptcy Code, and all of the applicable requirements of the Bankruptcy Code have been complied with in respect of the transactions contemplated by the Asset Purchase Agreement and the other Transaction Documents. The transactions contemplated under the Transaction Documents and this Order (including the Sale Transaction) are inextricably linked and collectively constitute a single, integrated transaction.

GG. Global Settlement. The Debtor, UMB Bank, N.A., solely in its capacity as the indenture trustee under that certain Indenture of Trust Agreement dated August 1, 2020 (“**Bond Trustee**”), holders of certain mechanic’s liens (the “**ML Claimants**”) related to the Debtor’s assets and other parties-in-interest, together with their respective representatives, agents and professionals (the “**Settlement Parties**”) have agreed to the terms of a global settlement (the “**Global Settlement**”), upon the terms set forth in the Asset Purchase Agreement and **Schedule**

1 hereto, (the “**Memorandum of Understanding**”). The terms of the Global Settlement have been negotiated in good faith and at arm’s length among the Settlement Parties, are fair and reasonable, and are in the best interests of the Debtor’s estate.

HH. Legal and Factual Bases. The legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

General Provisions

1. The Sale Transaction contemplated by the Motion and the Asset Purchase Agreement is approved, in each case, as set forth in this Order.

2. This Court’s findings of fact and conclusions of law set forth in the Bidding Procedures Order are incorporated herein by reference.

3. Objections to the Motion or the relief requested therein, the Transaction Documents, the Sale Transaction, the entry of this Order, or the relief granted herein that have not been withdrawn, waived, or settled, or not otherwise resolved pursuant to the terms hereof, if any, are hereby **DENIED** and **OVERRULED** on the merits with prejudice. All withdrawn objections are deemed withdrawn with prejudice. Those parties, including those holders of Interests, who did not object to the Motion or the entry of this Order in accordance with the Bidding Procedures Order, or who withdrew their objections thereto, are deemed to have consented to the relief granted herein for all purposes, including, without limitation, pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Interests that have an Interest in the Purchased Assets and who did object could be compelled in a legal or equitable proceeding to accept money satisfaction of such Interest pursuant to section 363(f)(5) of the Bankruptcy Code or fall within one or more of

the other subsections of section 363(f) of the Bankruptcy Code and, therefore, are adequately protected by having their Interests that constitute Interests in the Purchased Assets, if any, attach solely to the proceeds of the Sale Transaction ultimately attributable to the property in which they have an Interest, in the same order of priority and with the same validity, force and effect that such holders had prior the Sale Transaction, subject to any claims, setoffs, deductions, offsets and defenses of the Sellers to such Interests.

Approval of the Sale of the Purchased Assets

4. The Asset Purchase Agreement, including any amendments, supplements and modifications thereto, all other Transaction Documents, and all of the terms and conditions therein, are hereby **APPROVED** in all respects.

5. Pursuant to 11 U.S.C. §§ 363(b) and (f), the sale of the Purchased Assets to the Buyer pursuant to the Asset Purchase Agreement free and clear of all Interests is approved in all respects.

Sale and Transfer of the Purchased Assets

6. The consideration provided by the Buyer for the Purchased Assets under the Asset Purchase Agreement is fair and reasonable and shall be deemed for all purposes to constitute reasonably equivalent value, fair value, and fair consideration under the Bankruptcy Code and the laws of the United States, any state, territory, possession, or the District of Columbia, including without limitation the Uniform Fraudulent Transfer Act, the Uniform Voidable Transactions Act, the Uniform Fraudulent Conveyance Act, and any other applicable law. The Sale Transaction may not be avoided or rejected by any person or entity, nor may any costs or damages be imposed or awarded against the Purchaser Parties, under section 363(n) or any other provision of the Bankruptcy Code.

7. The Sale Transaction authorized herein shall be of full force and effect, regardless of the Debtor's lack or purported lack of good standing in any jurisdiction in which the Debtor is formed or authorized to transact business. The automatic stay imposed by section 362 of the Bankruptcy Code is modified to the extent necessary, without further order of this Court, to implement the Sale Transaction and the provisions of this Order, including, without limitation, to allow the Buyer to: (a) deliver any notice provided for in the Asset Purchase Agreement and any of the other Transaction Documents; (b) take any and all actions permitted under the Asset Purchase Agreement and any of the other Transaction Documents in accordance with the terms and conditions thereof; and (c) take any and all actions necessary or appropriate to implement the Sale Transaction.

8. Subject to the terms, conditions, and provisions of this Order, all persons and entities are hereby forever prohibited and barred from taking any action that would adversely affect or interfere, or that would be inconsistent (a) with the ability of the Debtor and Manager to sell and transfer the Purchased Assets to the Buyer, and assume and assign the Assumed Contracts, in accordance with the terms of the Transaction Documents and this Order, (b) with the ability of the Buyer to acquire, take possession of, use and operate the Purchased Assets and the Assumed Contracts and to conduct the Business in accordance with the terms of the Transaction Documents and this Order and (c) with the ability of the Debtor, Manager and Buyer to consummate the transactions contemplated by the Transaction Documents or to perform their respective obligations under any of the Transaction Documents; provided, however, that the foregoing restriction shall not impair the right of any party in interest with the requisite standing to appeal this Order in accordance with applicable law, including section 363(m) of the Bankruptcy Code, or opposing any appeal of this Order.

9. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtor is hereby authorized, empowered and directed to, and shall, take any and all actions necessary or appropriate to (a) sell the Purchased Assets to the Buyer, (b) consummate the Sale Transaction in accordance with, and subject to the terms and conditions of, this Order and the Transaction Documents, and (c) transfer and assign to the Buyer all right, title and interest (including common law rights) to all property, licenses and rights to be conveyed in accordance with and subject to the terms and conditions of the Transaction Documents, in each case without further notice to or order of this Court. The Debtor is further authorized and directed to execute and deliver, and are empowered to perform under, consummate and implement, the Transaction Documents, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Asset Purchase Agreement, including the related documents, exhibits and schedules, and to take all further actions as may be reasonably requested by the Buyer for the purposes of assigning, transferring, granting, conveying and conferring to the Buyer or reducing to possession, the Purchased Assets, or as may be necessary or appropriate to the performance of the Debtor's obligations as contemplated by the Transaction Documents without further notice to or order of this Court. Neither the Buyer, Debtor nor Manager shall have any obligation to proceed with consummating the Sale Transaction until all conditions precedent to their obligations to do so under the applicable Transaction Documents have been met, satisfied or waived.

10. Pursuant to sections 363(b), 363(f) and 365 of the Bankruptcy Code, the Purchased Assets shall be transferred to the Buyer at Closing free and clear of all Interests. On and after the Closing Date, any person or entity that has an Interest against or in the Purchased Assets is authorized and directed to execute such documents and take all other actions as may be necessary or reasonably requested by the Buyer to release its Interests in or against the Purchased Assets, if

any, as such Interests may have been recorded or otherwise exist. If any such person or entity shall not have delivered to the Buyer prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfactions or releases of all Interests that such person or entity has with respect to the Purchased Assets, or otherwise, then the Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Interests in the Purchased Assets of any kind or nature; provided that, notwithstanding anything in this Order, the Asset Purchase Agreement or other Transaction Documents to the contrary, the provisions of this Order authorizing and approving the transfer of the Purchased Assets free and clear of all Interests shall be self-executing, and neither the Debtor, Manager nor Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Order, the Asset Purchase Agreement or any of the other Transaction Documents.

11. Following the Closing, the Buyer may, but shall not be required to, file or record a certified copy of this Order in any filing or recording office in any federal, state, county, or other jurisdiction in which either Debtor or Manager is formed or has real or personal property, or with any other appropriate clerk or recorder, and such filing or recording shall be accepted and shall be sufficient to release, discharge, and terminate any of the Interests as set forth in this Order as of the Closing and/or to transfer and assign any of the Purchased Assets to the Buyer as of the Closing free and clear of any and all Interests. Subject to the occurrence of the Closing, this Order will be construed, and constitute for any and all purposes, a full and complete general assignment, conveyance and transfer to the Buyer of the Purchased Assets or a bill of sale transferring good and marketable title in the Purchased Assets to the Buyer. Subject to the occurrence of the Closing,

this Order also shall be construed, and constitute for any and all purposes, a complete and general assignment of all right, title and interest of the Debtor and its estate to the Buyer in the Assumed Contracts. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by this Order, the Asset Purchase Agreement and the other Transaction Documents.

12. All persons and entities who are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets are hereby directed to surrender possession of the Purchased Assets to the Buyer on the Closing Date.

13. Except as expressly permitted by the Asset Purchase Agreement or this Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, dealers, employees, litigation claimants, parties to executory contracts and unexpired leases, customers, licensors, current and former employees and other creditors, and all holders of Interests against or in any of the Debtor, Manager or any of the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, any of the Debtor, the Manager, the Purchased Assets, the operation of the Purchased Assets before the Closing, or the transactions contemplated by the Asset Purchase Agreement, including the Sale Transaction, the transfer of the Purchased Assets and the assumption and assignment of the Assumed Contracts, are forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such persons' or entities' Interests against the Buyer, the other Purchaser Parties, or any of their respective successors or assigns, or any of the their respective assets or property (including,

without limitation, the Purchased Assets), whether by payment, setoff, or otherwise, directly or indirectly, including, without limitation, taking any of the following actions: (a) commencing or continuing in any manner any action or other proceeding; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order; (c) creating, perfecting, or enforcing any Interest; (d) asserting an Interest as a setoff, right of subrogation or recoupment of any kind against any obligation due; (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order or the agreements or actions contemplated or taken in respect thereof; or (f) interfering with, preventing, restricting, prohibiting or otherwise enjoining the consummation of the Sale Transaction). Following the Closing, no party shall interfere with the Buyer's title to or use, enjoyment and operation of the Purchased Assets based on or related to any such Interest or based on any action or failure to act of the Debtor in the Chapter 11 Case or any successor case.

14. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to renew any permit, license or similar grant relating to the business or the operation of the Purchased Assets on account of the filing or pendency of the Chapter 11 Case or the consummation of the transactions contemplated by the Asset Purchase Agreement or any of the other Transaction Documents, including the Sale Transaction, the transfer of the Purchased Assets and the assumption and assignment of the Assumed Contracts. Each and every federal, state, and local governmental agency or department is hereby authorized and directed to accept any and all documents and instruments necessary and appropriate to consummate the Sale Transaction.

15. The Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Debtor with respect to the

business or the Purchased Assets, and, to the extent provided for under the Asset Purchase Agreement, all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are directed to be, transferred to the Buyer as of the Closing Date. Any dispute with respect to any such transfer or the vesting of any such license, permit, registration or government authorization or approval in the Buyer not raised by the Sale Objection Deadline is hereby waived.

16. Subject to the terms and conditions of this Order, the transfer of the Purchased Assets to the Buyer pursuant to the Asset Purchase Agreement and the consummation of the Sale Transaction and any related actions contemplated hereby and thereby constitute a legal, valid, and effective transfer of the Purchased Assets, do not require any consents of any Person or entity other than as specifically provided for in the Asset Purchase Agreement, and shall vest the Buyer with all right, title, and interest of the Debtor and Manager in and to the Purchased Assets free and clear of all Interests of any kind or nature whatsoever.

Releases and No Successor Liability

17. None of the Purchaser Parties is a “successor” to either the Debtor or Manager or the Debtor’s estate by reason of any theory of law or equity, and, except as otherwise expressly provided in the Asset Purchase Agreement, none of the Purchaser Parties shall assume, or be deemed to assume, or in any way be responsible for any Liability or obligation of any of either the Debtor or Manager and/or the Debtor’s estate with respect to the Purchased Assets or otherwise (other than, in the case of the Buyer, the Assumed Obligations), including, but not limited to, under any bulk sales law, doctrine or theory of successor liability, or similar theory or basis of liability or responsibility for any claim against either the Debtor, the Manager or against an insider of either the Debtor or Manager, or similar liability. Except to the extent the Buyer assumes Assumed

Obligations pursuant to the Asset Purchase Agreement, neither the purchase of the Purchased Assets by the Buyer nor the fact that the Buyer is using any assets previously operated by either the Debtor or Manager will cause any of the Purchaser Parties to be deemed a successor in any respect to either the Debtor's or Manager's business or, except for the Assumed Obligations, incur any Liability derived therefrom of any kind or character, including, but not limited to, an Interest or Liability arising under: (a) any employment or labor agreements or the termination thereof; (b) any pension, welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan of or related to any of either the Debtor or Manager or any of the predecessors of either the Debtor or Manager or any current or former employees of any of the foregoing, or the termination of any of the foregoing; (c) the Debtor's or Manager's business operations or the cessation thereof; (d) any litigation involving either the Debtor or Manager; (e) any claims of any former employees of either the Debtor or Manager; and (f) any employee, workers' compensation, occupational disease or unemployment or temporary disability related law, including, without limitation, claims that might otherwise arise under or pursuant to: (i) the Employee Retirement Income Security Act of 1974, as amended; (ii) the Fair Labor Standards Act; (iii) Title VII of the Civil Rights Act of 1964; (iv) the Federal Rehabilitation Act of 1973; (v) the National Labor Relations Act; (vi) the Worker Adjustment and Retraining Notification Act of 1988; (vii) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended; (viii) the Americans with Disabilities Act of 1990; (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985; (x) the Multiemployer Pension Plan Amendments Act of 1980; (xi) state and local discrimination laws; (xii) state and local unemployment compensation laws or any other similar state and local laws; (xiii) state workers' compensation laws; (xiv) any other state, local or federal employee benefit laws,

regulations or rules or other state, local or federal laws, regulations or rules relating to wages, benefits, employment or termination of employment with any or all of either the Debtor or Manager or any of either the Debtor's or Manager's predecessors; (xv) any antitrust laws; (xvi) any product liability or similar laws, whether state, federal or otherwise; (xvii) any environmental laws, rules, or regulations, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, or similar state statutes; (xviii) any bulk sales or similar laws; (xix) any federal, state or local tax statutes, regulations or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; or (xx) any common law doctrine of *de facto* merger or successor or transferee liability, successor-in-interest liability theory or any other theory of or related to successor liability, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, or liquidated or unliquidated with respect to either the Debtor or Manager or any obligations of any of either the Debtor or Manager arising prior to the Closing, including, but not limited to, liabilities on account of any taxes arising, accruing or payable under, out of, in connection with, or in any way relating to, the Purchased Assets (except as expressly set forth in the Asset Purchase Agreement with respect to Assumed Obligations).

18. The Buyer and the Purchaser Parties will be providing substantial consideration under the Asset Purchase Agreement and the Transaction Documents, which consideration shall constitute valid and valuable consideration for the releases of any potential claims of successor liability against the Purchaser Parties and which shall be deemed to have been given in favor of the Purchaser Parties by all holders of Interests in or against either the Debtor or Manager, or the Purchased Assets. Upon consummation of the Sale Transaction, none of the Purchaser Parties shall be deemed to (a) be the successor to the Debtor or Manager or any assets of either the Debtor

or Manager, (b) have, *de facto* or otherwise, merged with or into either the Debtor, Manager or the Debtor's estate, (c) have a common identity with either the Debtor or Manager, (d) have a continuity of enterprise with either the Debtor or Manager or (e) be a mere continuation, alter ego or substantial continuation of either the Debtor or Manager.

19. Except to the extent the Buyer has specifically agreed in the Asset Purchase Agreement, the Buyer shall not have any liability, responsibility or obligation for any Interests, claims, Liabilities or other obligations of either the Debtor, Manager or the Debtor's estate, including any Interests, claims, Liabilities or other obligations related to the Purchased Assets prior to Closing. Under no circumstances shall the Buyer be deemed a successor of or to either the Debtor or Manager for any Interests against, in or to either the Debtor or Manager or the Purchased Assets. For the purposes of this paragraph of this Order, all references to the Buyer shall also include the Purchaser Parties.

20. Upon entry of this Order, subject to the occurrence of the Closing, to the fullest extent permitted under applicable law, the Buyer and each of the current or former officers, directors, employees, equityholders, partners, stockholders, members, direct and indirect owners, managers, advisors, predecessors, successors and assigns of any of the Buyer, (collectively, and each in their capacity as such, the "**Buyer Releasing Parties**") shall be deemed to release and discharge the Debtor, the Debtor's estate, the Manager and each of the current officers, directors, employees, equityholders, partners, members, managers, advisors, predecessors, successors and assigns of either the Debtor or the Manager (collectively, and each in their capacity as such, the "**Seller Released Parties**,") from any and all claims, interests, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, including any derivative claims that such Buyer Releasing Party (or someone on its behalf) would have been legally entitled to assert, whether

known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that such Buyer Releasing Party would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of a holder of any claim against a Seller Released Party, based on or relating to, or in any manner arising from, in whole or in part, the Chapter 11 Case, or the Sale Transaction and any transaction contemplated by any of the foregoing arising on or before the Closing Date; provided that this paragraph shall not (i) release any Seller Released Party from any claims or liabilities arising out of or relating to any act or omission of a Seller Released Party that constitutes actual fraud, willful misconduct, or gross negligence, each solely to the extent as determined by a final order of a court of competent jurisdiction or (ii) release any Seller Released Party from any claims, liabilities or obligations arising under or related to the Asset Purchase Agreement and the other Transaction Documents or any documents related thereto (other than claims and liabilities).

21. Upon entry of this Order, subject to the occurrence of the Closing, to the fullest extent permitted under applicable law, the Debtor, Debtor's estate and the Manager, and each of the current or former officers, directors, employees, equityholders, partners, stockholders, members, direct and indirect owners, managers, advisors, predecessors, successors and assigns of any of the Debtor or Manager, (collectively, and each in their capacity as such, the "**Seller Releasing Parties**") shall be deemed to release and discharge the Buyer and each of the current officers, directors, employees, equityholders, partners, members, managers, advisors, predecessors, successors and assigns of the Buyer (collectively, and each in their capacity as such, the "**Buyer Released Parties**,") from any and all claims, interests, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, including any derivative claims that such Seller Releasing Party (or someone on its behalf) would have been legally entitled to assert,

whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that such Seller Releasing Party would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of a holder of any claim against a Buyer Released Party, based on or relating to, or in any manner arising from, in whole or in part, the Chapter 11 Case, or the Sale Transaction and any transaction contemplated by any of the foregoing arising on or before the Closing Date; provided that this paragraph shall not (i) release any Buyer Released Party from any claims or liabilities arising out of or relating to any act or omission of a Buyer Released Party that constitutes actual fraud, willful misconduct, or gross negligence, each solely to the extent as determined by a final order of a court of competent jurisdiction or (ii) release any Buyer Released Party from any claims, liabilities or obligations arising under or related to the Asset Purchase Agreement and the other Transaction Documents or any documents related thereto (other than claims and liabilities).

Good Faith

22. The transactions contemplated by the Transaction Documents are undertaken by the Purchaser Parties without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein by this Order to consummate the Sale Transaction shall not alter, affect, limit, or otherwise impair the validity of the sale of the Purchased Assets to the Buyer, including the transfer of the Purchased Assets and the assumption, assignment (including pursuant to the Designation Rights Procedures), and/or transfer of the Assumed Contracts. The Buyer is a good faith purchaser of the Purchased Assets within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to, and is hereby granted, the full rights, benefits, privileges and protections of section 363(m) of the Bankruptcy Code. The Debtor and the Buyer have acted, and will be acting,

in good faith if they proceed to consummate the Sale Transaction at any time after the entry of this Order.

23. As a good faith purchaser of the Purchased Assets, the Buyer has not entered into an agreement with any other potential bidders, and has not colluded with any of the other bidders, potential bidders or any other parties interested in the Purchased Assets, and, therefore, neither of the Debtor or the Manager nor any representative of or successor in interest to either the Debtor, the Manager or the Debtor's estate nor any other party in interest shall be entitled to bring any claim or cause of action against the Buyer or the other Purchaser Parties, and the Sale Transaction may not be avoided, in each case, pursuant to section 363(n) of the Bankruptcy Code, and no party shall be entitled to any damages or other recovery pursuant to section 363(n) of the Bankruptcy Code in respect of the Asset Purchase Agreement, any of the other Transaction Documents or the Sale Transaction.

Assumption and Assignment of Assumed Contracts

24. If, following the date hereof, and only to the extent permitted under the Asset Purchase Agreement, the Buyer designates a contract or lease as an Assumed Contract and not previously rejected by the Debtor, the Debtor will promptly serve a supplemental notice of potential assumption and assignment by electronic transmission, hand delivery, or overnight mail on the counterparty to the Assumed Contract (each, a "Assumed Contract Counterparty") to each impacted Assumed Contract, and its attorney, if known, at the last known address available to the Debtor (a "Supplemental Cure Notice"). Each Supplemental Cure Notice will include the same information with respect to listed Assumed Contracts as was included in the Cure Notice.

25. Any Assumed Contract Counterparty may file an objection (a "Supplemental Assumed Contract Objection") to, as applicable, the proposed assumption and assignment of such

Purchased Contract, the proposed Cure Costs (if any), or adequate assurance of future performance by the Buyer; or the modified Cure Costs. All Assumed Contract Objections must: (a) state, with specificity, the legal and factual basis for the objection and, if applicable, what Cure Costs are required; (b) include appropriate documentation in support of the objection; and (c) be filed and served no later than ten (10) days from the date of service of such Supplemental Cure Notice, which date will be set forth in the Supplemental Cure Notice.

26. If a Assumed Contract Counterparty files a Assumed Contract Objection in a manner that is consistent with the requirements set forth above, and the parties are unable to consensually resolve the dispute, the Debtor will seek an expedited hearing before the Court, and such dispute will be resolved at such expedited hearing or, in the Debtor's discretion, adjourned to a later hearing. If there is no such objection, then (a) such Assumed Contract shall be deemed assumed and assigned pursuant to the Sale Order, without further order of the Court and the Assumed Contract Counterparty will be deemed to have consented to the assumption and assignment of the Purchased Contract; and (b) the Cure Costs, if any, set forth on the Supplemental Cure Notice shall be controlling, notwithstanding anything to the contrary in any Assumed Contract or any other document.

27. The Buyer shall be responsible for paying any Cure Amount for an Assumed Contract that is assumed and assigned and for satisfying any requirements regarding adequate assurance of future performance that may be imposed under section 365(b) of the Bankruptcy Code in connection with the proposed assignment of any Assumed Contract, and the failure to provide adequate assurance of future performance to any counterparty to any Assumed Contract shall not excuse the Buyer from performance of any and all of its obligations pursuant to the Asset Purchase Agreement. Cure Amounts disputed by any counterparty will be resolved by the Court

at the Sale Hearing or such later date as may be agreed to or ordered by the Court. Nothing herein shall restrict the ability of the Debtor to reject or terminate a contract or lease that has not been designated as a Assumed Contract as of the Closing Date, except to the extent provided Asset Purchase Agreement (the procedures described in paragraphs 24-27 herein, the “Designation Rights Procedures”).

28. The Debtor is hereby authorized and directed in accordance with sections 105(a), 363 and 365 of the Bankruptcy Code to (a) assume and assign to the Buyer, effective upon the Closing Date (or such later date as provided in the Asset Purchase Agreement), the Assumed Contracts free and clear of all Interests of any kind or nature whatsoever and (b) execute and deliver to the Buyer such documents or other instruments as may be necessary to assign and transfer the Assumed Contracts to the Buyer.

29. The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Buyer in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Debtor shall be relieved from any further liability with respect to the Assumed Contracts after such assignment to and assumption by the Buyer, except as provided in the Asset Purchase Agreement.

30. Upon the Closing Date or such other date as set forth in the Asset Purchase Agreement, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and irrevocably vested in all right, title, and interest of the Debtor in each Assumed Contract free and clear of Interests of any kind or nature whatsoever. The Debtor shall cooperate with, and take all actions reasonably requested by, the Buyer to effectuate the foregoing, as further provided

in the Asset Purchase Agreement.

31. Upon the Closing, the Buyer shall be deemed to be substituted for all purposes as a party to all Assumed Contracts in the place of the Debtor, and shall have any and all rights and benefits of the Debtor under all such Assumed Contracts without interruption or termination of any kind, and all terms thereof applicable to the Debtor shall apply to such entity as if such Assumed Contracts were amended to replace the Debtor with such entity and all references in an Assumed Contract to one or more of the Debtor or an affiliate of a Debtor shall be deemed modified to be a reference to Buyer or its applicable Affiliate.

32. All counterparties to the Assumed Contracts shall be deemed to have consented to such assumption and assignment under section 365(c)(1)(B) of the Bankruptcy Code and any other applicable law, and the Buyer shall enjoy all of the Debtor's rights, benefits, and privileges under each such Assumed Contract as of the applicable date of assumption and assignment without the necessity to obtain any non-Debtor parties' written consent to the assumption or assignment thereof.

33. Upon the Debtor's assumption and assignment of the Assumed Contracts, no default shall exist under any Assumed Contract and no counterparty to any such Assumed Contract shall be permitted to declare or enforce a default by the Debtor or the Buyer thereunder or otherwise take action against the Buyer relating to any of the Debtor's financial condition, change in control, bankruptcy or failure to perform any of its obligations under the relevant Assumed Contract. Any provision in an Assumed Contract that prohibits or conditions the assignment or sublease of such Assumed Contract (including the granting of a lien therein) or allows the counterparty thereto to terminate, recapture, impose any penalty, declare a default, condition a renewal or extension, or modify any term or condition upon any assignment or sublease of such

Assumed Contract, or upon the consummation or occurrence of any change of control of any of the Debtor, constitutes an unenforceable anti-assignment provision that is void and of no force and effect only in connection with the assumption and assignment of such Assumed Contract to the Buyer. The failure of the Debtor (prior to Closing) or the Buyer (subsequent to Closing) to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtor's and the Buyer's rights to enforce every term and condition of the Assumed Contract. Nothing in this Order, the Motion, or in any notice or any other document is or shall be deemed an admission by the Debtor that any Assumed Contract is an executory contract or unexpired lease under section 365 of the Bankruptcy Code or, subject to the terms of the Asset Purchase Agreement, must be assumed and assigned pursuant to the Asset Purchase Agreement in order to consummate the Sale Transaction.

34. Pursuant to section 365(f) of the Bankruptcy Code, the assignment by the Debtor to the Buyer of the Assumed Contracts shall not be a default thereunder. All defaults or other obligations of the Debtor under the Assumed Contracts arising or accruing prior to the Closing Date (required to be cured under Bankruptcy Code section 365(b) and without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be cured by the Buyer (as provided in the Asset Purchase Agreement) on the Closing Date or as soon thereafter as reasonably practicable (or as otherwise agreed with the counterparty to such Assumed Contract), and the Buyer shall have no liability or obligation arising or accruing under the Assumed Contracts prior to the Closing, except as otherwise expressly provided in the Asset Purchase Agreement.

35. As applicable, the Sale Transaction and assumption and assignment of the Assumed Contracts approved herein (including pursuant to the designation rights set forth in section 2.7 of

the Asset Purchase Agreement) includes the conveyance of all beneficial rights, easements, permits, licenses, servitudes, rights-of-way, surface leases and other surface rights, and all contracts, agreements, and instruments by which they are bound, appurtenant to, and used or held for use in connection with the Assumed Contracts.

36. All counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable requests of the Buyer, and shall not charge the Buyer for, any instruments, applications, consents, or other documents which may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the Sale Transaction.

37. Each non-Debtor party to an Assumed Contract hereby is forever barred, estopped, and permanently enjoined from raising or asserting against (a) the Debtor, the Buyer, the Purchaser Parties, or the property of such parties, any fee, acceleration, default, loss of rights, increase in obligations, breach or claim of loss, penalty, or condition to assignment, existing, arising under or related to the Assumed Contracts, existing as of the date that such Assumed Contracts are assumed, or arising by reason of the consummation of transactions contemplated by the Asset Purchase Agreement (including the Sale Transaction and the assumption and assignment of the Assumed Contracts or any state of facts, events, circumstances or occurrences resulting therefrom), including, without limitation, any breach related to or arising out of change-in-control provisions in such Assumed Contracts, or any purported written or oral modification to the Assumed Contracts and (b) the Buyer (or its property, including the Purchased Assets) any claim, counterclaim, defense, breach, condition, or setoff asserted, or assertable against the Debtor existing prior to the Closing or arising by reason of the Closing except for the Assumed Obligations. Each non-Debtor party to an Assumed Contract is forever barred, estopped and

permanently enjoined from setting off any amounts owed by them to the Buyer under an Assumed Contract against amounts owed or asserted to be owed to them by any of the Debtor under any Contract that is not assigned to the Buyer or any other Claim held by such counterparty against the Debtor. Any party that may have had the right to consent to the assignment of an Assumed Contract or a change of control with respect to the Debtor, or to assert or claim any default or violation under an Assumed Contract as a result of or related to the assignment of an Assumed Contract or a change of control with respect to the Debtor, is deemed to have consented to such assignment for purposes of section 365 of the Bankruptcy Code or change of control, or is deemed to have irrevocably waived any such default or violation, if such party failed to timely object to the assumption and assignment of such Assumed Contract.

38. The Buyer shall not be required, pursuant to section 365(l) of the Bankruptcy Code or otherwise, to provide any additional deposit or security with respect to any of the Assumed Contracts to the extent not previously provided by the Debtor.

39. To the extent a party is to receive a cure payment pursuant to the Order and such party has asserted a lien against the Debtor's or its customer's assets or work such party shall be required to execute a lien release, and provide evidence thereof to both the Debtor and the Buyer, as a condition to receiving such cure payment.

40. The Cure Amounts represent the amounts owed that accrued but were unpaid, and any other amounts to cure any defaults existing, under the Assumed Contracts as of the Petition Date. Any undisputed amounts that accrue, become due and owing under an Assumed Contract in accordance with its terms from the period following the Petition Date to the date the applicable Assumed Contract is assumed and which remain unpaid at the date on which such Assumed Contract is assumed (the "**Post-Petition Cure Amounts**"), shall be satisfied by the Buyer in

accordance with the terms of the Assumed Contract or as otherwise agreed to between the Buyer and the counterparty to the Assumed Contract. The payment of the applicable Cure Amounts (if any) and the Post-Petition Cure Amounts shall effect a cure of all defaults existing as of the date that the applicable Assumed Contracts are assumed and shall compensate for any actual pecuniary loss to such contract counterparty resulting from such default, provided that each such contract counterparty's rights to assert and reconcile Post-Petition Cure Amounts against the Buyer, and any rights and defenses of the Buyer thereto, are preserved.

Memorandum of Understanding/Payments Out of Escrow

41. The Global Settlement set forth in the Memorandum of Understanding is approved and authorized in its entirety.

42. The terms and conditions of the Memorandum of Understanding are approved and authorized in their entirety, provided, that, to the extent any term or condition of the Memorandum of Understanding conflicts with the terms of this Order, this Order shall govern.

43. At Closing, and except as to the Holdback (as defined below), the following distributions will be made directly out of escrow:

- (i) Subject to the ML Conditions (as defined below), \$19,142,000.00 will be distributed to the ML Claimants as set forth in table attached as Table 3 (“**MOU Table 3**”) to the Memorandum of Understanding.
- (ii) \$2,400,000.00 will be paid to the Bond Trustee.
- (iii) \$1,060,797 will be paid to the Debtor's estate, to be held in anticipation of paying administrative claims in this Chapter 11 Case.
- (iv) \$1,250,000 will be paid to Miller Buckfire in full and complete satisfaction of the “Transaction Fee” due Miller Buckfire under its Engagement Letter

with Debtor as such was approved by the Court in its Order of May 30, 2023 [ECF No. 155] approving Miller Buckfire's employment.

- (v) \$325,023 will be paid to Shamrock Foods Company in full and complete satisfaction of any secured claim in this Chapter 11 Case.
- (vi) \$1,078,203 will be paid to Landlord in full satisfaction of Debtor's real property taxes for 2021 and for the period from January 1, 2023 through June 30, 2023.
- (vii) \$511,000 will be held in escrow until the amount of the speculative builder tax for the City of Mesa, Arizona that is due in connection with the consummation of the transactions contemplated by the Asset Purchase Agreement is determined, at which point such amount shall be paid out of escrow to City of Mesa, Arizona to satisfy such tax and the remaining amount shall be paid to the Debtor for distribution on account of administrative claims.

44. The "**ML Conditions**" are as follows:

- (i) Each of the mechanic's lien claimants identified on MOU Table 3 will be referred to as an "**ML Claimant**" and collectively as the "**ML Claimants**".
- (ii) Oakland Construction Company, Inc. ("**Okland**") and the ML Claimants who are identified as "Okland Subs" on MOU Table 3 will be collectively referred to as the "**Okland ML Claimants**", and each will be referred to as an "**Okland ML Claimant**". Each of the "Okland Subs" on MOU Table 3 will be referred to as an "**Okland Sub**" and, collectively, as the "**Okland Subs**".

- (iii) The ML Claimants on MOU Table 3 who are not Okland ML Claimants will be referred to as the “**Non-Okland ML Claimants**”.
- (iv) At Closing, Okland will deliver releases by the Okland ML Claimants of all mechanic’s liens and lien claims against the Debtor, the Debtor’s bankruptcy estate, the Debtor’s leasehold interest under its Ground Lease with Landlord and the Landlord’s fee interest in the property that is the subject of the Ground Lease.
- (v) In the event Okland is unable to obtain a release from any Okland Sub as required above (a “**Non-Consenting Sub**”) Okland will bond around the lien of such Non-Consenting Sub.
- (vi) No later than two business days prior to Closing, Okland will provide a schedule of amounts to be paid to each Okland Sub at Closing and payment instructions for each Okland Sub to be paid out of escrow (except for any Non-Consenting Sub).
- (vii) Okland will further indemnify Landlord for claims arising from the liens of the Okland ML Claimants and related payment of claims to the Okland ML Claimants.
- (viii) At Closing, each Non-Okland ML Claimant will deliver a release of their mechanic’s lien and lien claims against the Debtor, the Debtor’s bankruptcy estate, the Debtor’s leasehold interest under its Ground Lease with Landlord and Landlord’s fee interest in the property that is the subject of the Ground Lease.

45. Notwithstanding the foregoing,

- (i) Upon Closing, and subject to mutually agreeable instructions provided by Kearney Electric, Inc. (“**Kearney**”) and Okland, \$500,000 (the “**Holdback**”) of the sale proceeds that are earmarked for Okland and Kearney on account of their respective lien claims shall be (a) distributed pursuant to Kearney’s and Okland’s joint instructions and, if no joint instructions are received, (b) held in escrow pending resolution of the dispute between Kearney and Okland.
- (ii) The Holdback shall be funded from Okland’ portion of the \$15,129,271 payment scheduled to be made on account of the Okland ML Claimants.
- (iii) The Holdback shall not impact the payments scheduled to be made to any other mechanic lienholder or stakeholder at Closing, nor shall it impact or reduce the payment Kearney shall receive at closing on account of (a) its direct lien of \$2,155,990, and (b) the amount Kearney would receive if its lien claim under Okland is calculated at \$2,669,953.
- (iv) Prior to Closing, Kearney shall deposit in escrow a release of lien for its two mechanic’s liens, which may be recorded upon compliance with the terms of the escrow and this Order.
- (v) Prior to Closing, Okland shall direct the escrow agent to issue payment from escrow of the amount of Okland’s pro rata calculations of Kearney’s unpaid balance of \$2,669,953.
- (vi) After the payment from escrow described in the immediately preceding paragraph, Kearney shall retain its claim to the balance based on Kearney’s pro rata calculations of its unpaid balance of \$3,169,965.

- (vii) Subject to scheduling, Kearney and Okland agree to mediate their dispute as soon as possible.
- (viii) In the event mediation is unsuccessful, upon notice, Kearney and Okland will request the Court schedule an evidentiary hearing on the dispute with pre-trial discovery deadlines as may be appropriate.
- (ix) The Holdback shall not be released unless and until the dispute between Kearney and Okland is either settled or fully and finally adjudicated.

46. Effective upon Closing, Debtor, Landlord, Buyer, Mechanic's Lien Holders⁴ and the Bond Trustee mutually release each other and their respective officers, directors, affiliates, representatives and funding sources (including without limitation Burke Operating Partners, RMR, Michael Burke, Jonathan Ma and Chad Brownstein) from any and all claims, causes of action and liabilities of every name and nature, known or unknown, suspected or unsuspected, both in law or in equity that they may have or claim to have against each other, which arises based on events that have occurred or are claimed to occur at any time on or before the date hereof, provided however that this mutual release will not release the following: (1) any claims Bond Trustee may have against Debtor, including without limitation any pre-petition indebtedness or obligations related to the DIP loan; (2) any rights or claims the Bond Trustee may have under that Indenture of Trust Agreement dated August 1, 2020 (the "**Indenture**") and/or that First Supplemental Indenture of Trust dated as of June 1, 2021 (the "**Supplemental Indenture**") and, together with the Indenture, the "**Indentures**") to the extent such rights or claims are not compromised by the sale of the Purchased Assets (as that term is defined in Section 2.1 of the APA) free and clear of any liens,

⁴ This release does not encompass any claims by Earthscapes, Inc.'s (a wholly owned subsidiary of Haydon), including, but not limited to, its unsecured claim at proof of claim no. 15.

claims encumbrances and interests pursuant to the Sale Order to which this Order is attached; (3) any claims arising out of any obligations contemplated by this Order; (4) any claims between Kearney Electric, Inc., and Okland Construction Company in connection with the “Dispute” as defined in the Joint Conditional Non-Opposition et al. filed at Docket No. 590 in the Debtor’s bankruptcy case; (5) any claims that individual bondholders may have, including without limitation, any and all claims or potential claims arising out of or in connection with the offering and sale of all those Bonds to which the Indentures relate (including, without limitation, those claims asserted in Legacy Cares Acquisition of AZ, LLC v. B.S. Ziegler Company, Inc., et al., Case No. CV2023-017231, pending in the Arizona Superior Court, Maricopa County and additional lawsuits that have not yet been filed regarding the Bonds); and (6) any rights and causes of action arising under Bankruptcy Code §§ 544, 545, 547, 548, 549 and 550. Neither the sale of the Purchased Assets, nor the giving of the releases set forth above, nor any other action taken or not taken by the Bond Trustee or the bondholders in relation thereto, shall be deemed to be, or deemed to result in, the modification, surrender, transfer, redemption, retirement, waiver, settlement or resolution of any of the Bonds to which the Indentures relate (the “**Bonds**”). The Bonds, and all claims related thereto, shall be preserved in all respects

Personally Identifiable Information

47. The Purchased Assets do not include any Personal Information held by third parties other than Manager.

48. The Purchased Assets do not include any Personal Information initially collected from consumers by third parties other than Manager; Legacy Sports USA; and Event Connect Software LLC and/or Event Connect Inc. (“Event Connect”). With respect to any Personal Information initially collected by Event Connect, the Purchased Assets do not include Personal

Information knowingly collected from children under 13 (or via online properties directed to children under 13) or Personal Information that is considered sensitive under applicable Privacy Laws (e.g., health, sexual orientation, national origin).

49. With respect to the use of Personal Information that constitutes Purchased Assets, Buyer shall engage in substantially the same general line of business as Debtor and/or Manager.

50. With respect to Personal Information that constitutes Purchased Assets, Buyer shall materially adhere to the terms in the Manager's Privacy Policy and, to the extent applicable, any other Privacy Policy under which the data was collected, if any (collectively, "Privacy Representations"); provided, however, that Buyer may make material changes to its privacy practices from those described in the Privacy Representations where such changes are made in compliance with applicable Privacy Laws, including with respect to any conditions precedent to such changes.

51. Buyer shall use commercially reasonable efforts to ensure that all Processing of Personal Information conveyed as Purchased Assets complies with applicable Privacy Laws.

Additional Provisions

52. Commencing on the Closing Date, the Debtor and the Buyer are authorized to take such actions as may be necessary or appropriate to obtain a release of any and all Interests in, on or against the Purchased Assets, if any, and to the extent contemplated hereby and by the Asset Purchase Agreement. This Order (a) shall be effective as a determination that, as of the Closing Date, all Interests of any kind or nature whatsoever existing as to the Purchased Assets prior to the Closing have been, and are, unconditionally released, discharged and terminated, and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all persons and entities, including all filing agents, filing officers, title agents, title

companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law or by reason of the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Purchased Assets. Each and every federal, state and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement and the other Transaction Documents. Subject to the satisfaction of the conditions precedent set forth in the Asset Purchase Agreement, the Debtor, the Manager and the Buyer shall take such further steps and execute such further documents, assignments, instruments and papers as shall be reasonably requested by the other to implement and effectuate the transactions contemplated in this paragraph. All Interests of record as of the date of this Order shall be forthwith deemed removed and stricken as against the Purchased Assets. All persons and entities described in this paragraph are authorized and specifically directed to strike all such recorded Interests against the Purchased Assets from their records, official and otherwise.

53. If any person or entity that has filed statements or other documents or agreements evidencing Interests in, on or against any of the Purchased Assets does not deliver to the Buyer prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all interests and other interests that the person or entity has or may assert with respect to any of the Purchased Assets in any required jurisdiction, the Buyer is hereby authorized to execute and file such statements,

instruments, releases and other documents on behalf of such person or entity with respect to any of the Purchased Assets in any required jurisdiction. This Order constitutes authorization under all applicable jurisdictions and versions of the Uniform Commercial Code and other applicable law for the Buyer to file UCC and other applicable termination statements with respect to all Interests in, on, or against the Purchased Assets.

54. The Debtor and Manager will cooperate with the Buyer and the Buyer will cooperate with the Debtor and Manager, in each case to ensure that the transactions contemplated in the Asset Purchase Agreement and the other Transaction Documents are consummated, and the Debtor or Manager will make such modifications or supplements to any bill of sale or other document executed in connection with the Closing to facilitate such consummation as contemplated by the Transaction Documents.

55. The terms and provisions of the Transaction Documents and this Order shall be binding in all respects upon, and shall inure to the benefit of, each of the Debtor and Manager and its respective affiliates, successors and assigns, its estates, and its creditors and equityholders, the Buyer, and its respective affiliates, successors and assigns, and any affected third parties including, but not limited to, all persons or entities asserting Interests in, on or against the Purchased Assets (including all counterparties to the Assumed Contracts), notwithstanding any subsequent appointment of any trustee(s) (including without limitation any plan administrators, litigation or liquidation trustees appointed during the pendency of, or upon confirmation of a chapter 11 plan in, this Chapter 11 Case), examiner(s) or other fiduciary under any chapter of the Bankruptcy Code, as to which trustee(s) (including without limitation any plan administrators, litigation or liquidation trustees appointed during the pendency of, or upon confirmation of a chapter 11 plan in, this Chapter 11 Case), examiner(s) or other fiduciary such terms and provisions likewise shall

be binding.

56. The failure specifically to include any particular condition or other provisions of the Asset Purchase Agreement or any other Transaction Documents in this Order shall not diminish or impair the effectiveness of such condition or other provision, it being the intent of the Court that the Asset Purchase Agreement and the other Transaction Documents be authorized and approved in their entirety.

57. Following entry of this Order, the Transaction Documents may be modified, amended or supplemented by the parties thereto, in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtor's estates. To the extent that any provision of the Asset Purchase Agreement conflicts with or is, in any way, inconsistent with any provision of this Order, this Order shall govern and control. To the extent that this Order is inconsistent with any prior order or pleading with respect to the Motion, the terms of this Order shall govern.

58. Neither the Purchaser Parties nor the Debtor or Manager shall have an obligation to close the Sale Transaction until all conditions precedent in the Asset Purchase Agreement to each of their respective obligations to close the Sale Transaction have been met, satisfied, or waived in accordance with the terms of the Asset Purchase Agreement.

59. Nothing in this Order shall modify or waive any closing conditions or termination rights set forth in the Asset Purchase Agreement, and all such conditions and rights shall remain in full force and effect in accordance with their terms.

60. Nothing contained in any plan of reorganization or liquidation confirmed in this Chapter 11 Case, any order of this Court confirming such plans, any order dismissing any of this Chapter 11 Case or any other order in this Chapter 11 Case, including any order entered after any

conversion of this Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, shall alter, conflict with, or derogate from, the provisions of the Asset Purchase Agreement or the terms of this Order. The provisions of this Order, the Asset Purchase Agreement and the other Transaction Documents, and any actions taken pursuant hereto or thereto, shall survive entry of any order which may be entered confirming or consummating any chapter 11 plan of the Debtor, or which may be entered converting the Chapter 11 Case from chapter 11 to chapter 7 of the Bankruptcy Code or dismissing the Chapter 11 Case, and the terms and provisions of the Asset Purchase Agreement and the other Transaction Documents, as well as the rights and interests granted pursuant to this Order, the Asset Purchase Agreement and the other Transaction Documents, shall continue in this Chapter 11 Case or any superseding case and shall be specifically performable and enforceable against and binding upon the Debtor, its estates, all creditors, all holders of equity interests in the Debtor, all holders of claim(s) (whether known or unknown) against the Debtor, all holders of Interests (whether known or unknown) against, in or on all or any portion of the Purchased Assets, the Buyer and their respective successors and permitted assigns, and any trustee, responsible officer or other fiduciary hereafter appointed or elected as a legal representative of the Debtor under chapter 7 or chapter 11 of the Bankruptcy Code, including without limitation plan fiduciaries, plan administrators, litigation or liquidation trustees appointed during the pendency of, or upon confirmation of a chapter 11 plan in, this Chapter 11 Case.

61. Any and all valid and perfected Interests in the Purchased Assets arising prior to the Closing Date, other than any such Interests related to the Assumed Obligations shall attach to any proceeds of the Sale Transaction immediately upon receipt of such proceeds by the Debtor in the order of priority, and with the same validity, force and effect which they may have against such Purchased Assets as of immediately prior to the Closing Date, subject to any rights, claims, and

defenses of the Debtor, the Debtor's estate or any trustee for the Debtor, as applicable, may possess with respect thereto; provided, however, that setoff rights shall be extinguished to the extent there is no longer mutuality after the consummation of the Sale Transaction in addition to any limitations on the use of such proceeds pursuant to any provision of this Order.

62. The provisions of this Order are nonseverable and mutually dependent.

63. No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Sale Transaction.

64. The Debtor and each other person or entity having duties or responsibilities under the Transaction Documents or this Order, and their respective agents, representatives, and attorneys, are authorized and empowered to carry out all of the provisions of the Asset Purchase Agreement and the other Transaction Documents, to issue, execute, deliver, file and record, as appropriate, the Asset Purchase Agreement, the other Transaction Documents and any related agreements, and to take any action contemplated by the Asset Purchase Agreement, the other Transaction Documents or this Order, and to issue, execute, deliver, file and record, as appropriate, such other certificates, documents, contracts, instruments, releases, deeds, bills of sale, assignments, or other agreements, and to perform such other acts as are consistent with, and necessary, desirable or appropriate to, implement, effectuate and consummate the Transaction Documents and this Order and the transactions contemplated thereby and hereby, all without further application to, or order of, the Court. Without limiting the generality of the foregoing, this Order shall constitute all approvals and consents, if any, required by applicable business corporation, trust and other laws of applicable governmental units with respect to the implementation and consummation of the Asset Purchase Agreement, the other Transaction Documents and this Order and the transactions contemplated thereby and hereby. The transfer of

the Purchased Assets to the Buyer pursuant to the Transaction Documents do not require any consents other than specifically provided for in the Asset Purchase Agreement or as provided for herein.

65. Nothing in this Order or the Asset Purchase Agreement (i) releases, nullifies, precludes, or enjoins the enforcement of any police or regulatory liability of an entity to a governmental unit (as defined in section 101(27) of the Bankruptcy Code (a “**Governmental Unit**”)) under any police or regulatory statutes or regulations that such entity would be subject to as the owner or operator of the Purchased Assets after the Closing; provided, however, for the avoidance of doubt, nothing herein shall subject the Buyer to any liability to a Governmental Unit for penalties for days of violation prior to the Closing, response costs incurred by a governmental unit prior to the Closing, or other matters not related to conditions existing on or at the Purchased Assets on or after the Closing that require remediation or compliance under applicable non-bankruptcy law by the owner or operator regardless of who is responsible for the condition or when it arose. Nothing in this paragraph should be construed to create for any governmental unit any substantive right that does not already exist under law; (ii) authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization, or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law; or (iii) divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Order or to adjudicate any defense asserted under this Order.

66. The Settlement Parties each agree to the terms of the Global Settlement upon the terms set forth herein and in the Memorandum of Understanding attached hereto; *provided, however*, that to the extent any provisions of the Global Settlement are to be implemented in a plan

of reorganization filed by the Debtor (the “**Plan**”), such provisions shall be incorporated into the Plan. The Settlement Parties are authorized and directed to take all actions necessary and appropriate to implement the Global Settlement and the Memorandum of Understanding, and the Settlement Parties shall negotiate in good faith any documentation required to implement the Global Settlement.

67. This Court shall retain exclusive jurisdiction to enforce and implement the terms and provisions of this Order, the Asset Purchase Agreement and the other Transaction Documents, and all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connections therewith in all respects, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Purchased Assets to the Buyer free and clear of all Interests, or compel the performance of other obligations owed by either the Debtor or Manager, (b) compel delivery of the purchase price or performance of other obligations owed to the Debtor or any other party entitled to payment out of escrow at Closing, (c) resolve any disputes arising under or related to the Asset Purchase Agreement, or any of the other Transaction Documents except as otherwise provided therein, (d) interpret, implement, and enforce the provisions of this Order, and (e) protect the Buyer and Purchaser Parties against (i) claims made related to any of the Excluded Liabilities, (ii) any claims of successor or vicarious liability related to the Purchased Assets or Assumed Contracts, or (iii) any Interests (other than Assumed Obligations) asserted in, on, or against either the Debtor or Manager or the Purchased Assets, of any kind or nature whatsoever.

68. To the extent either the Debtor or Manager or any trustee(s), receiver(s), responsible officer(s) or other fiduciary appointed or elected, in this Chapter 11 Case or any successor case, receive, hold, or otherwise come into possession after the Closing of any payment

or asset that constitutes Purchased Assets, such payment or asset shall be held in trust for the benefit of the Buyer and the Debtor or Manager and any such trustee(s), receiver(s), responsible officer(s) or other fiduciary shall promptly deliver or otherwise turn over such payment or asset to the Buyer.

69. Notwithstanding any provision to the contrary in either the Asset Purchase Agreement or the Memorandum of Understanding, the Buyer shall make the full \$500,000 deposit into escrow required by Section 3.4(c) of the Asset Purchase Agreement no later than three (3) business days following the entry of this Order, subject to the return/distribution conditions set forth in that Section 3.4(c) of the Asset Purchase Agreement.

70. Notwithstanding anything to the contrary in that certain Order (I) Setting Sale Hearing and (II) Providing Exclusivity Rights to Proposed Buyer which was entered on October 25, 2023 (the “**Exclusivity Order**”), the Exclusivity Period set forth in (and defined in) the Exclusivity Order is hereby extended through December 8, 2023.

71. On December 1, 2023, Buyer shall pay to Debtor \$150,000 to cover expenses incurred by Debtor between December 1, 2023 and December 8, 2023. Such funds shall not be subject any lien granted to the Bond Trustee (either under the Credit Agreement or the DIP Credit Facility) and does not constitute cash collateral of Bond Trustee.

72. Debtor is authorized to use Cash Collateral in respect of the indebtedness evidenced by the DIP Credit Facility and in respect of the pre-petition indebtedness held by the Bondholders through December 8, 2023.

73. The Maturity Date of the DIP Credit Facility is extended through December 8, 2023.

74. Notwithstanding anything in this Order, the Asset Purchase Agreement, or any

Transaction Document to the contrary (including any schedules to any of the preceding documents): (i) none of the equipment (the “**Insight Equipment**”) leased to Seller by Insight Investments, LLC (“**Insight**”) under *Master Lease Agreement No. 9586*, including any schedule thereto (the “**Insight Agreement**”), constitutes a Purchased Asset; and (ii) *Master Lease Agreement No. 9586* between Seller and Insight and any schedules thereto are not, and may not be designated in the future to be, an Assumed Contract. Any sale or transfer of Insight Equipment will, if at all, be subject to separate documentation in form and substance agreeable to each of Seller, Buyer, and Insight; provided, however, that in the event (a) Seller, Buyer and Insight agree to (and document) the transfer of the Insight Equipment to Buyer, and (b) the Sale Transaction closes, then, effective as of Closing, (y) the Insight Agreement shall be deemed rejected pursuant to section 365(a) of the Bankruptcy Code, and (z) Insight shall be deemed to have waived and released any and all claims against Debtor and Debtor’s estate, including but not limited to any pre-petition or administrative claim or expense allowable under sections 502 or 503 of the Bankruptcy Code, or arising under section 365 of the Bankruptcy Code.

75. Notwithstanding anything in this Order, the Asset Purchase Agreement, or any Transaction Document to the contrary (including any schedules to any of the preceding documents), \$325,023 of the Cash Component shall be paid directly to Shamrock on Closing.

76. Notwithstanding anything to the contrary in this Order, the Asset Purchase Agreement, or any Transaction Document (including any schedules to any of the preceding documents or instruments), none of the equipment or other assets (hereinafter, the “**Macrolease-Collateral**”) that are subject to that certain *Master Equipment Financing Agreement* at Contract No. 5030563, including the corresponding Schedules 1 through 21 thereto, between Legacy Sports USA, LLC and Eastern Funding, LLC, as successor in interest to Macrolease Corporation

(“**Macrolease**”), are not, and shall not constitute, a Purchased Asset (as defined in the Asset Purchase Agreement). Any sale, transfer or assignment of the Macrolease-Collateral shall, if at all, be subject to separate documentation in form and substance agreeable to the Buyer and Macrolease.

77. Notwithstanding anything in the Asset Purchase Agreement to the contrary, the only assets of Manager that are part of the Purchased Assets and are being transferred to Buyer as part of the Sale Transaction are those assets that Manager holds for the benefit of (or on behalf of) Debtor or that are related to the Debtor, the Park or the business or operations conducted thereon.

78. Any stay of this Order pursuant to Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedure is hereby waived and this Order is effective immediately upon entry

79. The Debtor is authorized to take all actions necessary or appropriate to effectuate the relief granted pursuant to this Order in accordance with the Motion.

DATED AND SIGNED ABOVE.

SCHEDULE 1

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

Legacy Cares, Inc. Memorandum of Understanding

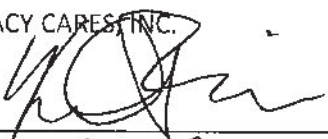
Legacy Cares, Inc. memorandum of understanding ("MoU"), dated as of November 20, 2023, by and among (a) Legacy Cares, Inc. (the "Debtor"), (b) AZ Athletic Associates LLC ("Buyer"), (c) Pacific Proving, LLC (the "Landlord"), (d) Mechanic's Lien Holders¹, and (e) UMB Bank, N.A., solely in its capacity as the indenture trustee under that certain Indenture of Trust Agreement dated August 1, 2020 ("Bond Trustee"). The signatories hereto are referred to hereafter collectively as the "Parties" or individually as a "Party".

The MoU sets forth the Parties' understanding of the key terms of the sale of Legacy Park to Buyer pursuant to Section 363 of the Bankruptcy Code and the compromise and settlement of asserted claims and liens against the Debtor and Landlord.

This Agreement is intended to and shall be effective and binding upon the execution and delivery of this Agreement by the Parties listed on the signature pages hereto. This Agreement is intended to, and shall be deemed to, bind and inure to the benefit of the Parties and their respective successors, assigns, administrators, constituents and representatives.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

LEGACY CARES, INC.

By: 

Name: Kate Bierman
Title: Chief Restructuring Officer

PACIFIC PROVING, LLC

By: _____

Name: _____

Title: _____

OKLAND CONSTRUCTION COMPANY, INC.

By: _____

Name: _____

Title: _____

AZ ATHLETIC ASSOCIATES LLC

¹ Mechanic's Lien Holders include Okland Construction Company, Inc. ("Okland") for itself and the Okland Subs, and other lien holders as reflected in Table 3.

By: _____

Name: _____

Title: _____

UMB BANK, N.A., SOLELY IN ITS CAPACITY AS
THE INDENTURE TRUSTEE UNDER THAT
CERTAIN INDENTURE OF TRUST AGREEMENT
DATED AUGUST 1, 2020

By: _____

Name: _____

Title: _____

Legacy Cares, Inc. (Debtor)
Burke Operating Partners Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

Legacy Cares, Inc. Memorandum of Understanding

Legacy Cares, Inc. memorandum of understanding ("MoU"), dated as of November 20, 2023, by and among (a) Legacy Cares, Inc. (the "Debtor"), (b) AZ Athletic Associates LLC ("Buyer"), (c) Pacific Proving, LLC (the "Landlord"), (d) Mechanic's Lien Holders¹, and (e) UMB Bank, N.A., solely in its capacity as the indenture trustee under that certain Indenture of Trust Agreement dated August 1, 2020 ("Bond Trustee"). The signatories hereto are referred to hereafter collectively as the "Parties" or individually as a "Party".

The MoU sets forth the Parties' understanding of the key terms of the sale of Legacy Park to Buyer pursuant to Section 363 of the Bankruptcy Code and the compromise and settlement of asserted claims and liens against the Debtor and Landlord.

This Agreement is intended to and shall be effective and binding upon the execution and delivery of this Agreement by the Parties listed on the signature pages hereto. This Agreement is intended to, and shall be deemed to, bind and inure to the benefit of the Parties and their respective successors, assigns, administrators, constituents and representatives.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

LEGACY CARES, INC.

By: _____

Name: _____

Title: _____

AZ ATHLETIC ASSOCIATES LLC

By: _____

Michael Burke

Name: Michael Burke

Title: Authorized Signatory

PACIFIC PROVING, LLC

By: _____

Name: _____

Title: _____

UMB BANK, N.A., SOLELY IN ITS CAPACITY AS
THE INDENTURE TRUSTEE UNDER THAT
CERTAIN INDENTURE OF TRUST AGREEMENT
DATED AUGUST 1, 2020

By: _____

Name: _____

Title: _____

OKLAND CONSTRUCTION COMPANY, INC.

By: _____

Name: _____

Title: _____

¹ Mechanic's Lien Holders include Okland Construction Company, Inc. ("Okland") for itself and the Okland Subs, and other lien holders as reflected in Table 3.

Legacy Cares, Inc. (Debtor)
Burke Operating Partners Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

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LEGACY CARES, INC.

By:

Name:

Title:

PACIFIC PROVING, LLC

By:

Name:

Title:

OKLAND CONSTRUCTION COMPANY, INC.

By:

Name:

Title:

AZ ATHLETIC ASSOCIATES LLC

By:

Name:

Title:

UMB BANK, N.A., SOLELY IN ITS CAPACITY AS
THE INDENTURE TRUSTEE UNDER THAT CERTAIN
INDENTURE OF TRUST AGREEMENT DATED
AUGUST 1, 2020

By:



Name: Michael G. Slade

Title: Senior Vice President

JFK ELECTRICAL CONTRACTING ENTERPRISES,
INC.

¹ Mechanic's Lien Holders include Okland Construction Company, Inc. ("Okland") for itself and the Okland Subs, and other lien holders as reflected in Table 3.

Legacy Cares, Inc. (Debtor)
Burke Operating Partners Sale
Confidential Settlement Communication
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11/20/2023

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

LEGACY CARES, INC.

By:

Name:

Title:

PACIFIC PROVING, LLC

By:

 _____

Name:

Title: Andrew M. Cohn
Authorized Rep.

OKLAND CONSTRUCTION COMPANY, INC.

By:

Name:

Title:

AZ ATHLETIC ASSOCIATES LLC

By:

Name:

Title:

UMB BANK, N.A., SOLELY IN ITS CAPACITY AS
THE INDENTURE TRUSTEE UNDER THAT
CERTAIN INDENTURE OF TRUST AGREEMENT
DATED AUGUST 1, 2020

By:

Name:

Title:

¹ Mechanic's Lien Holders include Okland Construction Company, Inc. ("Okland") for itself and the Okland Subs, and other lien holders as reflected in Table 3.

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
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11/20/2023

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The MoU sets forth the Parties' understanding of the key terms of the sale of Legacy Park to Buyer pursuant to Section 363 of the Bankruptcy Code and the compromise and settlement of asserted claims and liens against the Debtor and Landlord.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

LEGACY CARES, INC.

By:

Name:

Title:

PACIFIC PROVING, LLC

By:

Name:

Title:

OKLAND CONSTRUCTION COMPANY, INC.

By:

Name: Rob Fisher

Title: Director of Finance

AZ ATHLETIC ASSOCIATES LLC

By:

Name:

Title:

UMB BANK, N.A., SOLELY IN ITS CAPACITY AS
THE INDENTURE TRUSTEE UNDER THAT
CERTAIN INDENTURE OF TRUST AGREEMENT
DATED AUGUST 1, 2020

By:

Name:

Title:

¹ Mechanic's Lien Holders include Okland Construction Company, Inc. ("Okland") for itself and the Okland Subs, and other lien holders as reflected in Table 3.

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

JFK ELECTRICAL CONTRACTING ENTERPRISES,
INC.

By: _____

Name:

Title:

RKS PLUMBING & MECHANICAL, INC.

By: _____

Name:

Title:

SPECTRUM MECHANICAL & PLUMBING
CONTRACTORS LLC

By: _____

Name:

Title:

HAYDON COMPANIES LLC

By: _____

Name:

Title:

KEARNEY ELECTRIC, INC.

By: _____

Name:

Title:

SITEWORKS LANDSCAPE DEVELOPMENT LLC

By: _____

Name:

Title:

Digitally signed by Les
Keeble
Date: 2023.11.20
18:44:59-07'00'

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

JFK ELECTRICAL CONTRACTING ENTERPRISES,
INC.

By: _____

Name: _____

Title: _____

RKS PLUMBING & MECHANICAL, INC.

By:  _____

Name: JOE R. STACHEL

Title: PRESIDENT

SPECTRUM MECHANICAL & PLUMBING
CONTRACTORS LLC

By: _____

Name: _____

Title: _____

HAYDON COMPANIES LLC

By: _____

Name: _____

Title: _____

KEARNEY ELECTRIC, INC.

By: _____

Name: _____

Title: _____

SITWORKS LANDSCAPE DEVELOPMENT LLC

By: _____

Name: _____

Title: _____

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

JFK ELECTRICAL CONTRACTING ENTERPRISES,
INC.

By: _____

Name: _____

Title: _____

RKS PLUMBING & MECHANICAL, INC.

By: _____

Name: _____

Title: _____

SPECTRUM MECHANICAL & PLUMBING
CONTRACTORS LLC

By: _____

Name: _____

Title: _____

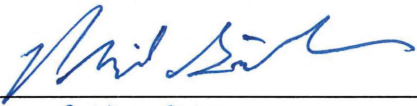
HAYDON COMPANIES LLC

By: _____

Name: _____

Title: _____

KEARNEY ELECTRIC, INC.

By: 

Name: *Philip Giles*

Title: *Attorney*

SITEWORKS LANDSCAPE DEVELOPMENT LLC

By: _____

Name: _____

Title: _____

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

JFK ELECTRICAL CONTRACTING ENTERPRISES,
INC.

By:

Name:

Title:

RKS PLUMBING & MECHANICAL, INC.

By:

Name:

Title:

SPECTRUM MECHANICAL & PLUMBING
CONTRACTORS LLC

By:

Name:

Title:

HAYDON COMPANIES LLC

By:

Name:

Title:

KEARNEY ELECTRIC, INC.

By:

Name:

Title:

SITWORKS LANDSCAPE DEVELOPMENT LLC

By: *Sarah Sladick*

Name: Sarah Sladick

Title: Attorney for Siteworks Landscape
Development LLC

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

JFK ELECTRICAL CONTRACTING ENTERPRISES,
INC.

By: _____

Name: _____

Title: _____

RKS PLUMBING & MECHANICAL, INC.

By: _____

Name: _____

Title: _____

SPECTRUM MECHANICAL & PLUMBING
CONTRACTORS LLC

By: 

Name: *Richard B. Murphy*

Title: *Attorney for Spectrum*

HAYDON COMPANIES LLC

By: _____

Name: _____

Title: _____

KEARNEY ELECTRIC, INC.

By: _____

Name: _____

Title: _____

SITWORKS LANDSCAPE DEVELOPMENT LLC

By: _____

Name: _____

Title: _____

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

JFK ELECTRICAL CONTRACTING ENTERPRISES,
INC.

By:

Cody Krecek

Digitally signed by Cody Krecek
DN: cn=Cody Krecek,
o=JFK Electrical, cn=Cody Krecek
Date: 2023.11.21 13:21:08-0700

Name:

Title:

RKS PLUMBING & MECHANICAL, INC.

By:

Name:

Title:

SPECTRUM MECHANICAL & PLUMBING
CONTRACTORS LLC

By:

Name:

Title:

HAYDON COMPANIES LLC

By:

Name:

Title:

KEARNEY ELECTRIC, INC.

By:

Name:

Title:

SITEWORKS LANDSCAPE DEVELOPMENT LLC

By:

Name:

Title:

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
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FRE 408 & Other Applicable Rules
11/20/2023

TRANSACTION	
Transaction Structure	• Sale pursuant to Section 363 • Buyer is not purchasing any causes of action, including any that exist under Chapter 5 of the Bankruptcy Code
Buyer	• AZ Athletic Associates LLC • Principal: Mike Burke
Buyer Affiliates / Supporting Entity	• Rocky Mountain Resources (“RMR”) • Principal: Chad Brownstein
Closing Date	• No later than December 8, 2023 (“Close”)
Acquiring Entity	• AZ Athletic Associates LLC
Consideration	• \$25,767,023 cash – \$19,725,023 provided by Buyer - \$500,000 to be placed into hard escrow within three business days of entry of the Sale Order. - Escrow to secure payment of estate professional fees in the event Transaction does not close. – \$6,042,000 provided by Pacific Proving, LLC (“Landlord”) • Bondholders will receive preferred equity in AZ Athletic Holdings, LLC, a Delaware limited liability company (HoldCo), the direct parent of Buyer. The terms and conditions for the preferred equity interest are as set forth in the Limited Liability Company Agreement circulated by Paul Hastings to Spencer Fane on November 20, 2023 at 6:44 pm pt, subject to any updates to the common equity required to be funded at closing (the “Agreed LLC Agreement”; and the preferred equity interest described therein and above, the “Preferred Equity Interest”). • All consideration provided by Buyer, Landlord, or Debtor, shall be fully disclosed to all Parties, including all agreements (whether subject to Court approval or not) contemplated by the Transaction, including without limitation the Revised Lease and any pre-or post-closing agreements contemplated by and between Buyer, Landlord, or any affiliates or insiders of Landlord.
Proof of Funds	• Debtor believes that Buyer has provided adequate proof of funds.
Exclusivity	• The terms of the exclusivity are set forth in the Court’s order dated 10/25/23 at Docket 552 which are incorporated herein by reference; provided that parties to this MOU hereby consent to the extension of the exclusivity period set forth therein through the closing of the Transaction as contemplated in this MOU.

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

Documentation	The effectiveness of the Transaction is subject to a Sale Order that memorializes and confirms the terms and conditions of this MOU and the asset purchase agreement. The foregoing to the contrary notwithstanding, Bond Trustee hereby acknowledges and agrees that (x) the Agreed LLC Agreement has been approved by the Bond Trustee and (y) the Bond Trustee or a special purpose vehicle formed by the Bond Trustee will execute and deliver the Agreed LLC Agreement in connection with the closing of the Transactions.
Representations/Warranties	- Buyer represents and warrants that the funds allocated for the Transaction belong to Buyer, are available for use in connection with the Transaction. - Buyer, Debtor, and Landlord represent and warrant that there are no other economic deals or arrangements among the Buyer, the Debtor or the Debtor's creditors as part of this Transaction that, prior to the closing date with respect to the Transaction, have not been previously disclosed. - Buyer represents and warrants that Chad and Randy Miller or business entities affiliated therewith are not involved in any way with the Transaction or the Park moving forward. This representation and warranty does not encompass any agreement between Buyer and Elite Sports Group to manage the Park during a transitional period.
ALLOCATION OF SALE PROCEEDS	
Mechanics Liens	\$19,142,000 cash - Claimants that have deposited their liens into escrow to be paid directly out of escrow at closing - Distribution to Mechanic's Lien Holders per Table 3
Bond Trustee / DIP Lender(s)	\$2,400,000 cash to be paid directly out of escrow - The Preferred Equity Interests
Administrative Claims	\$3,900,000 cash - Buyer to place \$500,000 into hard escrow within three business days of entry of the Sale Order - Miller Buckfire Transaction Fee to be paid directly out of escrow
Shamrock Claim	\$325,023 cash to be paid directly out of escrow
INCREMENTAL FUNDING	
Use of Ground Lease Rent Deposit	- Landlord to provide Debtor use of Debtor's \$750,000 deposit to fund Park operations only \$750,000 deposit will be funded by Buyer at Close

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

Deferral of November and December Rent	- Landlord to waive its claim against the Debtor and its estate for the November and December rent payments, each of ~\$310K/month due under the Ground Lease - November and December Rent will be paid at Close by Buyer
Other Required Funding	- Extension of DIP Loan maturity through December 8, 2023 - Continued use of cash collateral for the DIP Loan and/or the pre-petition indebtedness held by Bond Trustee, in each case, through December 8, 2023 - Buyer to fund \$150,000 to the estate no later than December 1, 2023

GROUND LEASE AND EQUIPMENT LESSORS	
Revised Lease	- Agreed separately between Buyer and Landlord but shall be disclosed to the Parties on the Closing Date - Includes key provisions on extension of term, return of specific land (and subsequent property taxes), collaboration on certain infrastructure improvements and certain expanded allowable Buyer activities, access, subletting and development
Operating Lessors / Other	- Buyer to lead negotiations with equipment lessors through Close - IFS: ongoing negotiations; Buyer to negotiate settlement, including administrative rent claim, or reject "lease" - Macrolease / Eastern Funding: ongoing negotiations; Buyer to negotiate settlement or reject lease and allow lessor to take back equipment post-Close - NSOP/ Kuntz: ongoing negotiations; Buyer to negotiate settlement or reject lease and allow lessor to take back equipment post-Close - Buyer may assume liabilities for certain equipment leases - Buyer to negotiate a transition services agreement with Elite Sports Group

KEY DATES	
October 23, 2023	\$750,000 funded to Debtors account
October 25, 2023	Court entered Order setting hearing on Sale and Approving Buyer exclusivity
November 3, 2023	Qualified Bid Accepted by Debtor and on file
November 15, 2023	Deadline to file any Sale Objection
November 20 and 21, 2023	Hearing on Motion to Approve the Sale and settlements
November 22, 2023	Final Date for Court Approval of Sale
December 8, 2023	Final date for Closing

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

TREATMENT OF PARTIES	
Administrative Claims	• \$3,900,000 cash Buyer to pay \$500,000 into a hard escrow within three business days of entry of the Sale Order.
Landlord	• Amended and restated lease acceptable to Landlord and Buyer to be executed at Close
Shamrock Claim	• \$325,023 cash
Bond Trustee / DIP Lender / Bondholders	• \$2,400,000 in cash as partial repayment of their indebtedness owed, which shall be applied in the Bond Trustee's sole discretion, and the Preferred Equity Interest • Bond Trustee releases all liens on Debtor's assets that Buyer is purchasing • Bond Trustee retains all claims and causes of action, which it owns and retains all liens which it may have on Debtor's causes of action • Effective upon final approval of the Court of the transaction contemplated herein (the "Sale Order"), Debtor, Landlord, Buyer, Mechanic's Lien Holders² and the Bond Trustee mutually release each other and their respective officers, directors, affiliates, representatives and funding sources (including without limitation Burke Operating Partners, RMR, Michael Burke, Jonathan Ma and Chad Brownstein) from any and all claims, causes of action and liabilities of every name and nature, known or unknown, suspected or unsuspected, both in law or in equity that they may have or claim to have against each other, which arises based on events that have occurred or are claimed to occur at any time on or before the date hereof, provided however that this mutual release will not release the following: (1) any claims Bond Trustee may have against Debtor, including without limitation any pre-petition indebtedness or obligations related to the DIP loan; (2) any rights or claims the Bond Trustee may have under that Indenture of Trust Agreement dated August 1, 2020 (the "Indenture") and/or that First Supplemental Indenture of Trust dated as of June 1, 2021 (the "Supplemental Indenture" and, together with the Indenture, the "Indentures") to the extent such rights or claims are not compromised by the sale of the Purchased Assets (as that term is defined in Section 2.1 of the APA) free and clear of any liens, claims encumbrances and interests pursuant to the Sale Order to which this MOU is attached; (3) any claims arising out of any obligations contemplated by this MOU; (4) any claims between Kearney Electric, Inc., and Okland Construction Company in connection with the "Dispute" as defined in the <i>Joint</i>

² This release does not encompass any claims by Earthscapes, Inc.'s (a wholly owned subsidiary of Haydon), including, but not limited to, its unsecured claim at proof of claim no. 15.

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

	<i>Conditional Non-Opposition et al.</i> filed at Docket No. 590 in the Debtor's bankruptcy case; and (5) any claims that individual bondholders may have, including without limitation, any and all claims or potential claims arising out of or in connection with the offering and sale of all those Bonds to which the Indentures relate (including, without limitation, those claims asserted in <i>Legacy Cares Acquisition of AZ, LLC v. B.S. Ziegler Company, Inc., et al.</i>, Case No. CV2023-017231, pending in the Arizona Superior Court, Maricopa County and additional lawsuits that have not yet been filed regarding the Bonds); and any rights and causes of action arising under Bankruptcy Code §§ 544, 545, 547, 548, 549 and 550. Neither the sale of the Purchased Assets, nor the giving of the releases set forth above, nor any other action taken or not taken by the Bond Trustee or the bondholders in relation thereto, shall be deemed to be, or deemed to result in, the modification, surrender, transfer, redemption, retirement, waiver, settlement or resolution of any of the Bonds to which the Indentures relate (the "Bonds"). The Bonds, and all claims related thereto, shall be preserved in all respects. Debtor, Landlord, Buyer, RMR, Mechanic's Lien Holders and the Bond Trustee each hereby agree that no fact, event, circumstance, evidence or transaction which now exists or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above.
Mechanics Liens	\$19,142,000 cash - Distribution to Mechanic's Lien Holders per Table 3 (Recovery to Mechanic's Lien column) - Okland delivers release of all mechanic liens and lien claims against fee and leasehold and will bond mechanic liens necessary to deliver release(s) and will provide to Debtor a proposed schedule of amounts to pay Okland Subs (as mutually agreed between Okland and its subs) out of escrow at closing and payment instructions. Okland to indemnify the Landlord for claims arising from the liens and related payment of claims - Okland to deliver release by Okland and Okland Subs of all claims against Debtor and Landlord - Debtor and Landlord provide releases to Okland and other Mechanic's Lien Holders (other than the indemnity or other obligations listed above) - All other Mechanic's Lien Holders to deliver release of mechanic liens against fee and leasehold and a release of all claims against Debtor and Landlord

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

Table 1: Sources and Uses

Illustrative Sources		Illustrative Uses	
Burke Capital / Rocky Mountain Resources	\$19,725,023	Administrative Expenses (Excl. IFS Admin Rent Claim)	\$3,900,000
Pacific Proving, LLC	6,042,000	Shamrock UCC Lien	325,023
Total Sources	\$25,767,023	Bondholder Claims	2,400,000
Plus: Post-Close Capital Contribution from NewCo	1,059,685	Mechanic's Lien Claims	19,142,000
Total Sources After Deposit & Rent	\$26,826,708	Total Uses Before Deposit & Rent	\$25,767,023
		Ground Lease Security Deposit After Close	750,000
		November Deferred Rent Payment After Close	309,685
		Total Uses After Deposit & Rent	\$26,826,708

Table 2: Administrative Expenses

Administrative Expenses	
Professional Fees (Including MB Transaction Fee)	1,992,500
Unpaid Property Taxes	1,078,203
City of Mesa Speculative Builder's Tax	511,340
Macrolase November Equipment	60,000
U.S. Trustee Quarterly Fees	50,000
U.S. Trustee Sale Fee	204,536
Total Administrative Claims Before IFS	\$3,896,580
IFS Admin Rent Claim	1,883,742
Total Administrative Claims After IFS	\$5,780,322

Legacy Cares, Inc. (Debtor)
AZ Athletic Associates LLC Sale
Confidential Settlement Communication
FRE 408 & Other Applicable Rules
11/20/2023

Table 3: Mechanic's Lien Claims⁽¹⁾

Contract and Sub-Contract	Grand Total (Principal Claim Amounts)	Recovery to Mechanic's Liens (\$ Actuals)
OKLAND PARENT & SUBS⁽²⁾	\$19,768,412	\$15,129,271
OKLAND CONSTRUCTION COMPANY, INC.	\$10,294,437	
OKLAND SUBS⁽¹⁾	\$9,473,975	
AERO AUTOMATIC SPRINKLER	226,447	
B&F CONTRACTING, INC.	64,000	
D H PACE COMPANY INC.	367,877	
E&K OF PHOENIX INC.	1,750,743	
ELITE SPORTS BUILDERS LLC	213,938	
IMAGE BUILDING SYSTEMS LLC	909,000	
JOHNSON STATEWIDE CAULKING L.P.	162,920	
KEARNEY ELECTRIC, INC.	3,169,965	
R.H. DUPPER LANDSCAPING, INC.	382,022	
RKS PLUMBING & MECHANICAL, INC.	652,625	
SPECTRUM MECHANICAL & PLUMBING CONTRACTORS LLC	660,000	
SPRAYFOAM SOUTHWEST, INC.	38,000	
SUN VALLEY MASONRY, INC.	276,439	
WALTERS & WOLF CONSTRUCTION SPECIALITIES	265,000	
WHOLESALE FLOORS	335,000	
NSOP or US Development	\$489,968	\$368,175
JFK ELECTRICAL CONTRACTING ENTERPRISES, INC.	126,623	95,148
RKS PLUMBING & MECHANICAL, INC.	68,345	51,356
SPECTRUM MECHANICAL & PLUMBING CONTRACTORS LLC	295,000	221,671
LEGACY CARES	\$5,060,643	\$3,644,553
HAYDON COMPANIES LLC	2,078,078	1,403,369
KEARNEY ELECTRIC, INC.	2,155,990	1,620,071
SITWORKS LANDSCAPE DEVELOPMENT LLC	826,576	621,112
Grand Total (Principal Amounts)	\$25,319,023	\$19,142,000

(1) Okland to provide release or bond over and to indemnify Pacific Proving from claims arising from the liens and related payment claims.

(2) Pursuant to the Joint-Conditional Non-Opposition to the Proposed § 363 Sale filed by Okland Construction Company and Kearney Electric, Inc. (Docket #590), upon closing, and subject to mutually agreeable instructions provided by Kearney and Okland, \$500,000 (the "Holdback") of the sale proceeds that are earmarked for Okland and Kearney on account of their respective lien claims shall be (1) distributed pursuant to Kearney's and Okland's joint instructions and if no joint instructions are received, (2) held in escrow pending resolution of the dispute. The Holdback shall be funded from Okland's portion of the \$15,129,271 distribution scheduled to be made on account of Okland's and its subcontractor's liens.

Schedule 2

MECHANIC'S LIENS

OKLAND CONSTRUCTION COMPANY, INC.
AERO AUTOMATIC SPRINKLER
B&F CONTRACTING, INC.
D H PACE COMPANY INC.
E&K OF PHOENIX INC.
ELITE SPORTS BUILDERS LLC
IMAGE BUILDING SYSTEMS LLC
JOHNSON STATEWIDE CAULKING L.P.
KEARNEY ELECTRIC, INC.
R.H. DUPER LANDSCAPING, INC.
RKS PLUMBING & MECHANICAL, INC.
SPECTRUM MECHANICAL & SERVICE CONTRACTORS LLC
SPRAYFOAM SOUTHWEST, INC.
SUN VALLEY MASONRY, INC.
WALTERS & WOLF CONSTRUCTION SPECIALITIES
WHOLESALE FLOORS, LLC
JFK ELECTRICAL CONTRACTING ENTERPRISES
RKS PLUMBING & MECHANICAL, INC.
SPECTRUM MECHANICAL & SERVICE CONTRACTORS LLC
HAYDON COMPANIES LLC
KEARNEY ELECTRIC, INC.
SITEWORKS LANDSCAPE DEVELOPMENT LLC

SECURED LIENS

UMB BANK, N.A., AS BOND TRUSTEE
SHAMROCK FOODS COMPANY

OTHER INTERESTS

ARETE RECOVERY INSTITUTE, LLC
OVG FACILITIES, LLC
NATIONAL SPORTS OPPORTUNITY PARTNERS LLC