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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

CCA Construction, Inc.,¹

Debtor.

Chapter 11

Case No. 24-_____ (___)

DEBTOR’S MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTOR TO PAY AND HONOR CERTAIN PREPETITION WAGES, BENEFITS AND OTHER OBLIGATIONS, AND (II) GRANTING RELATED RELIEF

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The above-captioned debtor and debtor in possession (“CCA” or the “Debtor”) respectfully states as follows in support of this motion:

¹ The last four digits of CCA’s federal tax identification number are 4862. CCA’s service address for the purposes of this chapter 11 case is 445 South Street, Suite 310, Morristown, NJ 07960.



Relief Requested

1. CCA seeks entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** (the “**Interim Order**”) and **Exhibit B** (the “**Final Order**”), (i) authorizing CCA to pay and honor certain prepetition wages, benefits and other obligations, and (ii) granting related relief. In addition, CCA requests that the Court schedule a final hearing approximately 28 days after the commencement of this chapter 11 case to consider entry of an order approving the relief requested herein on a final basis.

Jurisdiction and Venue

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b), and CCA consents to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105, 362, 363, 507, 541, 1107, and 1108 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”), rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and rules 2002-1, 9013-1 and 9013-5 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (the “**Local Rules**”).

Background

5. CCA is headquartered in New Jersey and provides construction management, program management, and general contracting services for public and private clients through its non-debtor operating subsidiaries (the “**Non-Debtor Subsidiaries**” and, together with CCA, the “**CCA Group**”). CCA supports its Non-Debtor Subsidiaries by providing them with key shared services to enable them to deliver large-scale projects in civil, commercial, residential, and public infrastructure sectors.

6. On the date hereof (the “**Petition Date**”), CCA filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. CCA is operating its business and managing its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in this chapter 11 case and no statutory committees have been appointed or designated.

7. Additional information regarding CCA, the events leading up to the Petition Date, and the facts and circumstances supporting the relief requested in this motion is set forth in the *Declaration of Yan Wei, Chairman and Chief Executive Officer of the Debtor, in Support of Chapter 11 Petition* (the “**Wei Declaration**”) and the *Declaration of Evan Blum in Support of First Day Pleadings and Debtor-in-Possession Financing* (the “**BDO Declaration**” and, together with the Wei Declaration, the “**First Day Declarations**”) ¹ which are filed contemporaneously herewith and incorporated herein by reference.

Overview of CCA’s Work Force

8. As of the Petition Date, CCA employs 39 employees (collectively, the “**Employees**”), all of whom are full-time Employees. In the ordinary course of business,

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the First Day Declarations.

CCA’s workforce includes certain individuals seconded from affiliates and occasionally independent contractors. None of the Employees is party to a collective bargaining agreement or similar labor agreement. The Employees primarily consist of senior management, accounting, human resources, legal and information technology staff that are necessary to support the operations of the CCA Group as well as certain other affiliates of CCA through shared services agreements described in more detail below and in the First Day Declarations.

9. CCA’s authorization to continue to pay and honor, in its discretion, prepetition obligations owing to the Employees is necessary to preserve operations in the ordinary course and to maintain Employee morale and focus during this critical time, which in turn is necessary to preserve the value of CCA’s estate. The Employees perform critical functions in support of the CCA Group’s businesses, and their knowledge, skills, and understanding of the operations of CCA and its affiliates are essential to preserve value for the benefit of all stakeholders. Without the continued service and dedication of the Employees, it would be difficult, if not impossible, to operate the CCA Group’s businesses. Moreover, the vast majority of the Employees rely on their compensation and benefits to pay their daily living expenses. These workers will be unfairly harmed if CCA is not permitted to continue paying compensation and providing health insurance and other benefits during this chapter 11 case.

10. As more fully described herein, CCA seeks authority to pay the following prepetition accrued obligations on an interim and final basis:

| Prepetition Obligations | Interim Relief Requested | Final Relief Requested |
|--------------------------------|---------------------------------|-------------------------------|
| Compensation Obligations | \$0 | \$0 |
| Employee Benefit Obligations | \$37,000 | \$73,000 |
| Employer 401(k) Contributions | \$0 | \$210,000 |

11. Importantly, no party in interest will be prejudiced by the relief requested herein because most, if not all, prepetition claims arising from the Employee Obligations (as defined below) constitute priority claims under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. As priority claims, the Employee Obligations up to the statutory cap must be paid in full before any general unsecured obligations of CCA may be satisfied. Accordingly, the relief requested herein seeks to alter only the timing, not the amount or priority, of the payment of these claims.

Employee Obligations

12. In the ordinary course of business, CCA incurs and pays obligations (the “**Compensation Obligations**”) relating to the Employees’ wages and salaries, including stipends and commissions for certain Employees, as described in greater detail below. The Compensation Obligations include federal and state withholding taxes and other withheld amounts. In addition, CCA incurs other obligations related to the Employees, such as health and dental benefits, paid time off, life and accidental death and dismemberment insurance, 401(k) contributions, expense reimbursements and other benefits that CCA has historically provided in the ordinary course of business. CCA’s compensation and benefit obligations to the Employees are collectively referred to herein as the “**Employee Obligations**” and are more fully described below.²

13. As of the Petition Date, CCA believes that certain prepetition amounts owed on account of the Employee Obligations remain outstanding due to, among other things, the timing

² The summary of the Employee Obligations provided herein is qualified entirely by CCA’s official policies or other practices, programs or agreements, whether written in the official employee handbook or unwritten, evidencing an arrangement among CCA and the Employees (each, an “**Official Policy**”). In the event of any inconsistency or ambiguity between this summary and an Official Policy, the terms of the Official Policy shall govern but, for the avoidance of doubt, in no event shall CCA make any payments or honor any prepetition obligations other than what is authorized by the Court after consideration of this motion.

of CCA's payroll, the terms of CCA's paid time off policies, and the processing of Employee-related payments and expense reimbursements.

I. Compensation Obligations

14. In the ordinary course of business, CCA generally pays Compensation Obligations on a bi-weekly basis every other Thursday. CCA pays the Employees through direct deposit or a manually issued check if requested by an Employee. On average, CCA's estimated bi-weekly payroll for the Employees is approximately \$325,000. To facilitate payment of the Compensation Obligations, CCA calculates payroll and other obligations for the Employees with the help of Paychex, Inc. (the "**Payroll Processor**"). Among other things, the Payroll Processor calculates gross-to-net wages and tax obligations and provides payroll tax filing and human capital management services for CCA. Generally, two business days before each pay date, CCA funds its payroll account and the Payroll Processor confirms receipt of the required payments. The Payroll Processor then draws the funds from CCA's account before the pay date and satisfies payroll by distributing net pay to the Employees on the pay date from its own account.

15. As of the Petition Date, CCA does not believe that there are any outstanding prepetition Compensation Obligations because they have all been paid to the Payroll Processor, which has drawn the funds from CCA's payroll account prior to the Petition Date.³ CCA requests authority to pay any prepetition amounts, if any, and to continue to pay Compensation Obligations, whether accrued prepetition or postpetition, in the ordinary course of business during this chapter 11 case. For the avoidance of doubt, CCA will not satisfy prepetition Compensation Obligations

³ Under the terms of the contract with the Payroll Processor, CCA has no right to cancel, amend or reverse a payment instruction once submitted to the Payroll Processor. CCA expects the Payroll Processor to make the payments to the Employees on Tuesday, December 24, 2024, prior to Christmas, and, out of an abundance of caution, is seeking Court authority to the extent necessary for the Payroll Processor to complete those payments to the Employees.

owed to any single Employee that exceeds the \$15,150 statutory cap provided for under section 507(a)(4) of the Bankruptcy Code pending entry of the Final Order.

16. CCA pays on average \$350 per month to the Payroll Processor for payroll-related services (the “**Payroll Processor Fees**”), and CCA does not believe that there are any prepetition Payroll Processor Fees outstanding as of the Petition Date.

17. CCA is required by law to withhold from the Employees’ paychecks amounts related to federal, state and local income taxes, as well as social security and Medicare taxes (collectively, the “**Withholding Taxes**”) and to remit the same to the appropriate taxing authorities (collectively, the “**Taxing Authorities**”). In addition, CCA is required to make matching payments from its own funds on account of social security and Medicare taxes and to pay, based on a percentage of gross payroll and subject to state-imposed limits, additional amounts to the Taxing Authorities for, among other things, state and federal unemployment and disability insurance (together with the Withholding Taxes, the “**Payroll Taxes**”). Depending on the time of year, CCA remits on average between \$70,000 and \$100,000 to the Taxing Authorities each pay period. CCA does not believe there are any prepetition Payroll Taxes outstanding as of the Petition Date because all amounts have been paid to the Payroll Processor prior to the Petition Date for payment to the applicable Taxing Authorities.

18. By this motion, CCA requests the authority, but not the obligation, to pay all prepetition Compensation Obligations, if any, including authorizing, but not directing, CCA to continue to collect and remit their Payroll Taxes, and to pay any outstanding prepetition Payroll Processor Fees, in both cases in the ordinary course of business consistent with prepetition practices.

II. Expense Reimbursements

19. CCA reimburses Employees for approved, legitimate business expenses incurred in the scope of their employment on behalf of CCA. These expenses include travel, meals, certain internet and cellular phone expenses, car mileage reimbursements, and other miscellaneous business expenses. It is also CCA's policy to reimburse Employees for the cost of job-related education and training programs and professional certifications, licenses and memberships, provided certain conditions are met. To the extent these expenses are incurred in furtherance of CCA's business, they are reimbursed in full, other than education and tuition expenses, which are only reimbursed up to 85% with a \$20,000 per calendar year cap per Employee (the "**Expense Reimbursement Obligations**") after submission of appropriate documentation.

20. CCA pays the Expense Reimbursement Obligations to the Employees through direct deposit or by issuing checks. CCA estimates that it pays approximately \$120,000 per month on account of all Expense Reimbursement Obligations. Accordingly, CCA requests that the Court authorize, but not direct, CCA to continue to honor their Expense Reimbursement Obligations and to pay any prepetition claims with respect thereto in the ordinary course of business consistent with prepetition practices.

III. Non-Insider Severance

21. CCA has a historical practice of periodically paying severance to full-time Employees (the "**Severance Practice**"). The Severance Practice, which is discretionary, generally provides Employees whose positions are eliminated due to reduction in force, restructuring or reorganization with payments to assist the affected Employee in transitioning to other employment. To be eligible to receive payments under the Severance Practice, certain terminated Employees must sign a separation agreement containing a general release of CCA.

22. In general, the Severance Practice provides that qualifying terminated Employees are entitled to receive payments that are generally determined based on a certain number of weeks of their base compensation level (the “**Severance Pay**”). Severance Pay is typically paid in a lump sum within 14 days of CCA’s receipt of a signed separation agreement. In addition to Severance Pay, the Severance Practice provides qualifying terminated Employees with the opportunity to receive other benefits, such as outplacement assistance and the ability to continue medical insurance in accordance with the requirements of the Consolidated Omnibus Budget Reconciliation Act of 1985 (“**COBRA**”) and subsidies in connection with the continuation of such benefits (the “**COBRA Obligations**”).

23. As of the Petition Date, CCA does not believe there are any outstanding prepetition obligations in respect of Severance Pay. However, CCA believes that approximately \$300,000 is owed under the Severance Practice in connection with COBRA Obligations. Former employees are responsible for reimbursing CCA within 30 days for their COBRA benefits, or else their COBRA benefits will be terminated. Therefore, CCA expects to be reimbursed for all COBRA Obligations approved by the Court. CCA’s maintenance of the Severance Practice and payment of COBRA Obligations is critical to maintaining Employee morale and loyalty. Failure to maintain the Severance Practice may result in increased instability in CCA’s workforce, which will undermine CCA’s ability to maintain its operations during the chapter 11 case for the benefit of all stakeholders. Moreover, honoring CCA’s COBRA Obligation is required by law.

24. For the avoidance of doubt, CCA does not seek authority to pay any prepetition Severance Pay pursuant to this motion. Rather, CCA solely seeks to continue to honor all outstanding COBRA Obligations and to continue its Severance Practice for Severance Pay and

COBRA Obligations on a postpetition basis in the ordinary course of business consistent with prepetition practices.⁴

IV. Employee Benefit Obligations

25. In the ordinary course of business, CCA has established several benefit plans and policies for the Employees and certain of the Employees' spouses, dependents and beneficiaries, which can be divided into the following categories: (a) medical insurance (including prescription drugs), dental insurance, vision care, basic and supplemental life insurance, business travel accident insurance, flexible spending accounts, an employee assistance program, and an employee service award program (collectively, the "**Health and Welfare Plans**"); (b) paid time off plans, including personal, vacation and sick time (collectively, the "**PTO Plans**"); (c) a 401(k) plan for Employees (the "**401(k) Plan**"); (d) a workers' compensation insurance program (the "**Workers' Compensation Program**"); (e) an employee referral program (the "**Employee Referral Program**"); (f) a safety incentive program, a project-specific performance incentive program, and a discretionary annual bonus program (the "**Incentive Programs**"); and (g) a visa sponsorship program (the "**Visa Program**," and together with the Health and Welfare Plans, the PTO Plans, the 401(k) Plan, the Workers' Compensation Program, the Employee Referral Program, and the Incentive Programs, the "**Employee Benefit Obligations**").

A. Health and Welfare Plans

26. CCA sponsors several Health and Welfare Plans to provide benefits to Employees, including medical, dental, vision, and life insurance. Historically, CCA has paid approximately \$120,000 per month in connection with its medical dental, vision and life insurance plans to

⁴ For the avoidance of doubt, CCA does not seek to make any payments to insiders (as such term is defined in section 101(31) of the Bankruptcy Code) under the Severance Practice above the cap set forth in section 503(c)(2) of the Bankruptcy Code.

eligible Employees. Payroll deductions in connection with the Health and Welfare Plans are administered by the Payroll Processor. CCA's Health and Welfare Plans provide benefits to the Employees, as well as employees of certain of CCA's affiliates.

27. CCA's Health and Welfare Plans include the plans listed below. A portion of the costs described in the Health and Welfare Plans applies to employees of certain of CCA's affiliates that participate in the Shared Services Program.⁵

- (a) Medical Coverage: CCA's primary medical plans for its eligible Employees are administered by United Healthcare Oxford, (the "**Medical Plans**"). The Medical Plans and the coverage in the Medical Plans differ depending on the level of coverage an Employee elects to receive, and monthly health care premiums differ depending on the Medical Plan in which the Employee is enrolled and whether the Employee has a spouse or dependents covered by the applicable plan. CCA covers 100% of the cost of individual Medical Plans and 85% of the cost for a spouse or dependents enrolled in a family Medical Plan. CCA pays approximately \$1.2 million a year on account of the Medical Plans, plus an additional \$100 per month in administrative fees to C&M First Services Inc. (CCA's broker for the Medical Plans). Eligible employee contributions to the Medical Plans average approximately \$2,600 per bi-weekly payroll. As of the Petition Date, CCA does not believe there are any outstanding amounts on account of the Medical Plans.
- (b) Dental Plan: In addition to the Medical Plans, CCA offers dental coverage to its eligible Employees, and their spouses, dependents and beneficiaries through Aetna (the "**Dental Plan**"). CCA covers 100% of the cost of the individual Dental Plan and 85% of the cost for a spouse or dependents enrolled in a family Dental Plan. CCA pays annual premiums of approximately \$95,000. As of the Petition Date, CCA does not believe there are any outstanding amounts on account of the Dental Plan.
- (c) Vision Plan: CCA also offers its eligible Employees, and their spouses, dependents and beneficiaries vision coverage through EyeMed (the "**Vision Plan**"). CCA covers 100% of the cost of the individual Vision Plan and 85% of the cost for a spouse or dependents enrolled in a family Vision Plan. CCA pays annual premiums of approximately \$13,000. As of the Petition Date, CCA does not believe there are any outstanding amounts on account of the Vision Plan.

⁵ On average, coverage for Employees accounts for 70% of the cost of the Medical Plan, the Dental Plan and the Vision Plan, while 30% of the cost covers employees of certain of CCA's affiliates. For Life Insurance, 56% of the cost covers Employees and 44% of the cost covers employees of certain of CCA's affiliates. CCA invoices the participating affiliates for their allocation of costs in accordance with its shared services agreements.

- (d) Life Insurance: CCA provides all eligible Employees with basic life insurance and accidental death and dismemberment (AD&D) coverage (collectively, the “**Life Insurance**”) through MetLife. CCA provides a range of Life Insurance coverage options, under which certain Employees may be eligible for up to \$50,000 in coverage. CCA pays approximately \$5,500 per year on account of premiums for the Life Insurance. As of the Petition Date, CCA does not believe there are any outstanding amounts on account of the Life Insurance.
- (e) Flexible Spending Accounts: Eligible Employees can enroll in benefit spending accounts using pre-tax dollars, including medical flexible spending accounts, dependent care flexible spending accounts and a commuter benefit plan for work-related transportation expenses through Benefit Mall (collectively, the “**FSAs**”). CCA deducts employee elected amounts of pre-tax dollars from their paychecks and authorizes Benefit Mall to draw the money from CCA’s payroll account and deposit them into the applicable Employees’ corresponding FSA accounts. Current Employee deductions per pay period are approximately \$2,000. CCA pays an annual fee of approximately \$3,500. As of the Petition Date, CCA estimates that it owes approximately \$220 to Benefit Mall.
- (f) Employee Assistance Program: Eligible Employees have access to mental health support, legal and financial consultation, and other resources (collectively, the “**Employee Assistance Program**”) through National EAP. CCA pays an annual fee of approximately \$2,500 for this program, which is billed quarterly. As of the Petition Date, CCA estimates that it owes approximately \$300 in outstanding premiums in relation to the Employee Assistance Program.
- (g) Employee Service Award Program: Eligible Employees typically receive a tiered monetary service award ranging from \$1,000 to \$3,500 when they reach a milestone of years of service, generally after an increment of five years (the “**Employee Service Award Program**”). CCA pays approximately \$50,000 per year on account of the Employee Service Award Program, which are only paid to Employees that remain with CCA in December of the applicable year. As of the Petition Date, CCA does not believe that there are any amounts outstanding on account of the Employee Service Award Program.

28. As described above, failure to continue the Health and Welfare Plans could cause Employees to experience severe hardship and make it difficult to retain CCA’s workforce. CCA Group’s operations (CCA’s primary assets) would suffer as a result of a dwindling workforce. Accordingly, CCA requests that the Court authorize, but not direct, CCA to continue to honor their Health and Welfare Plans and to pay any prepetition claims with respect thereto in the ordinary course of business consistent with prepetition practices.

B. PTO Plans

29. CCA has outstanding obligations to its Employees under the PTO Plans (the “**PTO Obligations**”), the majority of which are not current cash-pay obligations. In particular, under the PTO Plans, CCA provides paid vacation, personal, and sick time to its Employees. Length of employment generally determines the amount of vacation time available to each eligible Employee and the rate at which vacation time accrues. The total number of vacation days that may accrue in each case depends on the number of completed years of service of the Employee. Employees hired after January in any given year are eligible to receive a prorated amount of vacation time for that fiscal year based on their date of hire. Earned and unused vacation time, if any, is generally paid out at termination to Employees.

30. As of the Petition Date, CCA estimates that eligible Employees have accrued and outstanding paid vacation time with a value of approximately \$325,000. Certain Employees have accrued substantial vacation time that has not yet been used and has a value which exceeds the \$15,150 priority cap under 11 U.S.C. § 507. However, because CCA only pays out Employees for accrued and unused vacation time at the time of termination, a significant portion of the outstanding prepetition obligations related to vacation time is expected to be satisfied in the form of non-cash obligations of CCA.

31. Under the PTO Plans, eligible Employees are also entitled to up to five days of sick time accruing on January 1 of every year and three personal days. The Employees are also eligible for up to 12 paid holidays per calendar year. These holidays are not a form of accrued leave and are not paid upon termination of employment. Additionally, Employees are entitled to bereavement leave, which provides three days of paid leave for funerals within the United States

and five days for funerals outside of the United States. Earned and unused sick, holiday, bereavement, and personal time, if any, is not paid out at termination to Employees.

32. By this motion, CCA is seeking authority to honor all accrued prepetition PTO Obligations and to continue the PTO Plans on a post-petition basis in the ordinary course of business.

C. The 401(k) Plan

33. CCA sponsors a 401(k) Plan for the benefit of its Employees, provided they satisfy certain hour requirements. Approximately 30 Employees currently participate in the 401(k) Plan, which is administered by Fidelity Investments (the “**401(k) Plan Administrator**”). CCA deducts approximately \$20,000 in the aggregate per bi-weekly pay period from the Employees’ paychecks on account of the Employees’ contributions to the 401(k) Plan. As of the Petition Date, CCA believes that all amounts deducted from the Employees’ payroll for contributions to the 401(k) Plan have been remitted to the 401(k) Plan Administrator.⁶

34. CCA also has a dollar-for-dollar matching program under the 401(k) Plan pursuant to which CCA matches an Employee’s contribution up to 4% of the Employee’s base compensation (the “**Employer 401(k) Contributions**”). Employer 401(k) Contributions are paid in the first quarter of the following year. On average, CCA contributes approximately \$220,000 per year as Employer 401(k) Contributions. As of the Petition Date, CCA believes approximately \$210,000 in prepetition obligations on account of the Employer 401(k) Contributions have accrued and remain unpaid. CCA intends to make the Employer 401(k) Contributions for the Employees in the ordinary course of business in the first quarter of 2025. CCA requests that the Court

⁶ While the payment to the 401(k) Plan Administrator was initiated prior to the Petition Date, as of the filing of this motion the funds are still reflected on CCA’s bank account.

authorize, but not direct, CCA to continue to honor their Employer 401(k) Contributions and to pay any prepetition claims with respect thereto in the ordinary course of business consistent with prepetition practices.

C. Workers' Compensation Program

35. Under applicable state law, the CCA Group is required to maintain the Workers' Compensation Program, which provides the Employees with workers' compensation insurance coverage for claims arising from or related to their employment. CCA Group maintains fully insured workers' compensation policies through New Jersey Casualty Insurance Company and Starr Indemnity and Liability Company. The annual cost of the Workers' Compensation Program varies upon the annual audit and is approximately \$485,000.

36. To ensure that claims incurred under the Workers' Compensation Program are resolved, CCA must pay outstanding prepetition liabilities of approximately \$71,000 associated with the Workers' Compensation Program, of which \$35,500, related to outstanding policy premiums, will become due in 30 days. To ensure that CCA complies with state law requirements, the Workers' Compensation Program must continue in the ordinary course of business. Moreover, because the CCA Group is statutorily or contractually obligated to maintain the Workers' Compensation Program, its inability to do so may result in adverse legal consequences that could create additional claims, reduce available value, and otherwise disrupt the reorganization process.

37. To the extent any Employees assert claims arising under the Workers' Compensation Program, CCA requests that the Court modify the automatic stay under section 362 of the Bankruptcy Code to permit the Employees to proceed with such claims. This requested modification of the automatic stay pertains solely to claims under the Workers' Compensation Program.

38. Therefore, CCA requests authority, but not direction, to (a) pay prepetition amounts due on account of the Workers' Compensation Program and consistent with past practice, (b) continue the Workers' Compensation Program in the ordinary course of business, and (c) to the extent applicable, modify the automatic stay solely to allow Employees to assert claims under the Workers' Compensation Program.

D. Employee Referral Program

39. CCA maintains the Employee Referral Program in which eligible Employees may qualify for a \$2,000 bonus if they refer a candidate who becomes a full-time employee and remains employed by CCA for a certain period of time. Thus far in 2024, CCA has not paid any amounts related to the Employee Referral Program, and CCA does not believe there are any outstanding amounts on account of the Employee Referral Program as of the Petition Date.

40. While CCA is not seeking any relief with respect to any prepetition claims under the Employee Referral Program, CCA requests that the Court authorize, but not direct, CCA to continue to maintain its Employee Referral Program and to pay any postpetition obligations with respect thereto in the ordinary course of business consistent with prepetition practices.

E. Bonus and Incentive Programs

41. CCA maintains a safety incentive program in which certain Employees are entitled to receive a bonus when certain safety criteria are satisfied. CCA also maintains a project-specific incentive program in which certain Employees are entitled to receive a bonus if a project is completed ahead of the agreed-upon target dates.

42. In addition, in the ordinary course of business, CCA maintains an annual discretionary bonus program for eligible Employees. The discretionary bonus program is generally decided in March of each year. Historically, CCA pays approximately \$350,000 per

year on account of the annual ordinary-course discretionary bonus program on years that it has paid these bonuses to Employees. As of the Petition Date, CCA does not believe there are any outstanding amounts on account of any of the Incentive Programs.

43. While CCA is not seeking any relief with respect to any prepetition claims under the Incentive Programs, it requests that the Court authorize, but not direct, CCA to continue to maintain its Incentive Programs and to pay any postpetition obligations with respect thereto in the ordinary course of business consistent with prepetition practices.

F. Visa Program

44. CCA sponsors Employees' visas, including H1, L1, and Green Card visas, for existing and anticipated employees hired to fill in certain specialized areas and to maintain a strong workforce. CCA covers all costs related to H1 and L1 visas, while CCA and the relevant Employee splits the costs related to Green Card sponsorship. CCA pays approximately \$240,000 per year on account of the Visa Program. As of the Petition Date, CCA does not believe there are any outstanding amounts on account of the Visa Program.

45. CCA requests that the Court authorize, but not direct, CCA to continue to maintain its Visa Program and to pay any prepetition and postpetition obligations with respect thereto in the ordinary course of business consistent with prepetition practices.

Basis for Relief

I. Certain of the Employee Obligations Are Entitled to Priority Treatment

46. CCA seeks the relief requested herein because any delay in paying or otherwise honoring the Employee Obligations could severely disrupt CCA's relationship with the Employees and irreparably impair the Employees' morale at a time when the workforce's continued dedication, confidence and cooperation are most critical to CCA and the success of the chapter 11 case. A substantial disruption to the operations of CCA and its affiliates would, in all likelihood,

accompany CCA's failure to pay the Compensation Obligations and Employee Benefit Obligations in the ordinary course of business, which would be detrimental to the success of the chapter 11 case to preserve value for the benefit of all stakeholders. Absent the requested relief, CCA's stability would be undermined by the potential threat that otherwise loyal Employees at all levels would seek other employment, which could cause significant harm to the CCA Group.

47. Pursuant to section 507(a)(4)(A) of the Bankruptcy Code, claims of the Employees for "wages, salaries, or commissions, including vacation, severance, and sick leave pay" earned within 180 days before the Petition Date are afforded priority unsecured status for up to \$15,150 per Employee. Similarly, section 507(a)(5) of the Bankruptcy Code provides that Employees' claims for contributions to certain employee benefit plans also are afforded priority unsecured status to the extent of \$15,150 per Employee covered by such plan, less any amount paid pursuant to section 507(a)(4).

48. CCA believes that certain of the Employee Obligations relating to the period prior to the Petition Date constitute priority claims under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. As priority claims, the Employee Obligations must be paid in full before any general unsecured obligations of CCA may be satisfied.

49. CCA also believes that payment of these obligations will enhance value for the benefit of all interested parties because it will help ensure that the Employees, which are central to CCA's operations, continue to provide vital services to the CCA Group at this critical time. CCA firmly believes that honoring the Employee Obligations is critical to maintaining positive Employee morale and loyalty during the chapter 11 case. Indeed, CCA's failure to honor the Employee Obligations would cause severe personal hardship to the Employees and likely would

result in attrition at a time when CCA needs the Employees to perform at peak efficiency to maximize the overall value for all constituents.

II. Payment of Certain of the Employee Obligations is Required by Law

50. CCA also seeks authority to honor and pay any unremitted Payroll Taxes or other Employee contributions to the Health and Welfare Plans or the 401(k) Plan to the appropriate third-party entities when such obligations are owed. These amounts principally represent Employee earnings that governments and Employees have designated for withholding from Employees' wages. Indeed, certain of the deductions from the Employees' wages, including contributions to the Health and Welfare Plans and the 401(k) Plan, are not property of CCA's estate because they have been withheld from Employees' wages on another party's behalf. *See* 11 U.S.C. § 541(b). Accordingly, continued payment of these unremitted amounts will not harm or prejudice CCA's creditors, including unsecured creditors.

51. Additionally, federal, state and local laws exist that require CCA and its officers to make certain tax payments that have been withheld from the Employees' paychecks. *See* 26 U.S.C. §§ 6672 and 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95-97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *DuCharmes & Co. v. State of Mich. (In re DuCharmes & Co.)*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes).

52. Similarly, state laws require the CCA Group to maintain the Workers' Compensation Program. If the CCA Group fails to maintain the Workers' Compensation Program, state laws may prohibit CCA or its affiliates from operating. Payment of all obligations related to

the Workers' Compensation Program is therefore crucial to the CCA Group's continued operations and the success of this chapter 11 case.

53. CCA, therefore, submits that the Withholding Taxes, Payroll Taxes and any other deductions, are not property of CCA's estate, regardless of whether CCA collected the amounts prior to the Petition Date, and it should be authorized to transmit such monies to the proper parties in the ordinary course of business.

III. Payment of the Employee Obligations Is a Sound Exercise of CCA's Business Judgment and Should Be Authorized under the Bankruptcy Code and the Doctrine of Necessity

54. The relief requested in this motion is supported by several provisions of the Bankruptcy Code that authorize a debtor to pay or honor prepetition obligations in certain circumstances, especially where necessary to preserve a debtor's ongoing business operations.

55. First, section 363 of the Bankruptcy Code provides, in relevant part, that "[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Courts have relied upon section 363(b) to authorize the payment of certain prepetition claims. *See, e.g., In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (referring to the court's earlier order authorizing payment of prepetition wages pursuant to section 363(b) of the Bankruptcy Code); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (relying on section 363 of the Bankruptcy Code to allow a contractor to pay prepetition claims of suppliers). To do so, "the debtor must articulate some business justification, other than mere appeasement of major creditors...." *In re Ionosphere Clubs*, 98 B.R. at 175; *see also Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983). Courts in the Third Circuit have consistently declined to interfere with corporate decisions absent a showing of bad faith, self-interest, or gross negligence, and have upheld a board's decisions as

long as such decisions were made in good faith. *See In re Federal Mogul Global, Inc.*, 293 B.R. 124, 126 (D. Del. 2003) (explaining that under the business judgment standard, a court should approve a debtor’s business decision unless it was the product of bad faith or a gross abuse of discretion); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that “[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

56. In addition, sections 1107(a) and 1108 of the Bankruptcy Code authorize a debtor in possession to continue to operate its business. 11 U.S.C. §§ 1107(a), 1108. Indeed, a debtor in possession operating a business under section 1108 of the Bankruptcy Code has a duty to “protect and preserve the estate, including an operating business’s going-concern value.” *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). The *CoServ* court specifically noted that “[t]here are occasions when this duty can only be fulfilled by the preplan satisfaction of a prepetition claim.” *Id.*

57. To supplement these provisions, section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Numerous courts in this and other jurisdictions have recognized that payments to prepetition creditors are appropriate pursuant to section 105(a) of the Bankruptcy Code under the “doctrine of necessity” or the “necessity of payment” rule where such payments are necessary to the continued operation of the debtor’s business. *See, e.g., In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that if “payment of a claim which arose prior to reorganization is essential to the continued operation of the [business] during reorganization, payment may be authorized even if it is made out of [the] corpus”); *In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code

provides a statutory basis for payment of prepetition claims under the doctrine of necessity and noting that “[t]he Supreme Court, the Third Circuit and the District of Delaware all recognize the court’s power to authorize payment of pre-petition claims when such payment is necessary for the debtor’s survival during chapter 11.”); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is standard for enabling a court to authorize payment of prepetition claims prior to confirmation of a reorganization plan). As one court noted:

a Bankruptcy Court [may] authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor. This is commonly referred to as either the “doctrine of necessity” or the “necessity of payment” rule, which recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor.

GLM DFW, Inc. v. Windstream Holdings, Inc. (In re Windstream Holdings, Inc.), 614 B.R. 441, 456-57 (S.D.N.Y. 2020) (internal citations omitted).

58. As discussed herein, CCA has substantial business justification for continuing to pay the Employee Obligations in the ordinary course of business, including (a) maintaining Employee morale, (b) disincentivizing Employees to pursue other employment opportunities and (c) reassuring Employees that CCA intends to honor its obligations to Employees.

59. It is also clear that without the requested relief, the Employees would suffer undue hardship and, in many instances, serious financial difficulties, as the amounts in question are necessary for the Employees to be able to meet their own personal financial obligations. The loss of benefits would result in considerable hardship and anxiety for Employees (and likely attrition) at a time when the CCA Group needs the Employees to focus on preserving value for the benefit of all stakeholders. The loss of valuable Employees and the recruiting efforts that would be required to replace such Employees would be a costly distraction at a time when CCA should be

focusing on its restructuring. Accordingly, CCA must be able to pursue all reasonable measures to retain the Employees by, among other things, continuing to honor all wages, benefits and related obligations, including those that accrued before the Petition Date, and to pay outstanding prepetition Employee Obligations.

61. Courts in this district have repeatedly recognized the importance of a debtor's employees and supplemental workforce to its operations and have granted relief similar to that requested herein. *See, e.g., In re BowFlex Inc.*, No. 23-12364 (ABA) (Bankr. D.N.J. Mar. 28, 2024) (authorizing debtors to continue employee compensation and benefit programs and pay certain prepetition obligations related thereto); *In re Rite Aid Corp.*, No. 23-18993 (MBK) (Bankr. D.N.J. Jan. 30, 2024) (same); *In re Careismatic Brands, LLC*, No. 24-10561 (VFP) (Bankr. D.N.J. Feb. 29, 2024) (same); *In re WeWork Inc.*, No. 23-19865 (JKS) (Bankr. D.N.J. Dec. 6, 2023) (same); *In re Cyxtera Tech., Inc.*, No. 23-14853 (JKS) (Bankr. D.N.J. June 29, 2023) (same); *In re Bed Bath & Beyond Inc.*, No. 23- 13359 (VFP) (Bankr. D.N.J. May 18, 2023) (same).⁷

Cause Exists to Authorize Financial Institutions to Honor and Process Checks and Transfers

62. Due to the commencement of the chapter 11 case, and in the absence of an order of the Court providing otherwise, CCA's checks, wire transfers, direct deposit transfers, and electronic fund transfers in respect of the obligations sought to be paid by this motion may be dishonored or rejected by financial institutions. CCA has sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of the proposed debtor-in-possession financing. Under CCA's accounting and cash management system, CCA can readily identify checks or transfers relating to an authorized payment. Accordingly, CCA believes that prepetition

⁷ Because of the voluminous nature of the orders cited herein, such order have not been attached to this motion. Copies of these orders are available upon request to CCA's proposed counsel.

checks and transfers other than those relating to authorized payments will not be honored inadvertently. CCA submits that any financial institution should be authorized to rely on the representations of CCA with respect to whether any check drawn or transfer request issued by CCA before the Petition Date should be honored pursuant to this motion, and this Court should authorize all applicable financial institutions, when requested by CCA, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested herein.

CCA has Satisfied Bankruptcy Rule 6003(b)

63. Bankruptcy Rule 6003(b) empowers a court to issue an order granting a motion to use property of the estate within the first 21 days of a case if the relief is “necessary to avoid immediate and irreparable harm.” Immediate and irreparable harm exists where the absence of relief would impair a debtor’s ability to reorganize or threaten the debtor’s future as a going concern.

64. As set forth in this motion and the BDO Declaration, CCA believes an immediate and orderly transition into chapter 11 is critical to the viability of its operations and that any delay in granting the relief requested herein could hinder the CCA Group’s operations and cause irreparable harm to CCA and its subsidiaries, to the detriment of all stakeholders. Specifically, the failure to receive the requested interim relief during the first 21 days of the chapter 11 case would severely disrupt CCA’s operations at this critical juncture. The requested relief is necessary for CCA to operate its business in the ordinary course, preserve the ongoing value of its operations, and maximize the value of its estate for the benefit of all stakeholders. Accordingly, CCA submits that it has satisfied the requirements of Bankruptcy Rule 6003 with respect to the interim relief requested.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

65. To successfully implement the foregoing, CCA requests that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that CCA has established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h). As described above, the relief requested is needed immediately for CCA's business operations to continue without interruption and to preserve value for CCA's estate.

Waiver of Memorandum of Law

66. CCA respectfully requests that the Court waive the requirement to file a separate memorandum of law pursuant to Local Rule 9013-1(a)(3) because the legal basis upon which CCA relies is set forth herein and the motion does not raise any novel issues of law.

Reservation of Rights

67. Nothing in this motion or any action taken by CCA pursuant to relief granted in relation to this motion is intended to be or should be construed as: (a) an admission as to the amount, basis, or validity of any particular claim against CCA; (b) a waiver of CCA's rights to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission relating to any lien, security interest or other encumbrance on property of CCA's estate; or (g) a waiver or limitation of CCA's rights under the Bankruptcy Code or other applicable law. CCA expressly reserves all rights with respect to the foregoing matters.

No Prior Request

68. No prior request for the relief sought in this motion has been made to this Court or any other court.

Notice

69. CCA will provide notice of this motion to: (a) the Office of the United States Trustee for the District of New Jersey; (b) the entities listed on the *List of Creditors Holding the 20 Largest Unsecured Claims*; (c) the Internal Revenue Service; (d) the Office of the United States Attorney for the District of New Jersey; and (e) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, CCA respectfully submits that no further notice is necessary.

[Remainder of page intentionally left blank]

WHEREFORE, CCA respectfully requests that the Court (a) enter the Interim Order and Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, granting the relief requested herein and (b) grant such other and further relief as is just and proper.

Dated: December 22, 2024

/s/ Michael D. Sirota

COLE SCHOTZ P.C.

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Proposed Co-Counsel for the Debtor and Debtor in Possession

EXHIBIT A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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Proposed Co-Counsel to the Debtor and Debtor in Possession

In re:

CCA Construction, Inc.,¹

Debtor.

Case No. 24-_____ (____)

Chapter 11

Judge:

¹ The last four digits of CCA’s federal tax identification number are 4862. CCA’s service address for the purposes of this chapter 11 case is 445 South Street, Suite 310, Morristown, NJ 07960.

Debtor: CCA Construction, Inc.
Case No.: 24-____ (____)
Caption of Order: Interim Order (I) Authorizing the Debtor to Pay and Honor Certain
Prepetition Wages, Benefits and Other Obligations, and
(II) Granting Related Relief

**INTERIM ORDER (I) AUTHORIZING THE DEBTOR TO
PAY AND HONOR CERTAIN PREPETITION WAGES, BENEFITS
AND OTHER OBLIGATIONS, AND (II) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through eight (8), is
ORDERED.

Debtor: CCA Construction, Inc.
Case No.: 24-____ (____)
Caption of Order: Interim Order (I) Authorizing the Debtor to Pay and Honor Certain Prepetition Wages, Benefits and Other Obligations, and (II) Granting Related Relief

Upon CCA’s motion filed on the Petition Date [Docket No. ____] (the “**Motion**”)² pursuant to sections 105, 362, 363, 503, 507, 541, 1107, and 1108 of the Bankruptcy Code, for entry of an order (i) authorizing CCA to pay and honor certain prepetition wages, benefits and other obligations, and (ii) granting related relief, all as more fully set forth in the Motion; and upon consideration of the First Day Declarations; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that CCA’s notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, and the relief requested is necessary to avoid immediate and irreparable harm to CCA and its estate; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The Final Hearing on the Motion will be held on [●], 2025, at [●] (**Eastern Time**).

Any objections or responses to the Motion and entry of the Final Order shall be in writing, filed with

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

Debtor: CCA Construction, Inc.
Case No.: 24-____ (____)
Caption of Order: Interim Order (I) Authorizing the Debtor to Pay and Honor Certain
Prepetition Wages, Benefits and Other Obligations, and
(II) Granting Related Relief

the Court on or before **January [●], 2025 at 4:00 p.m. (Eastern Time)**, and served on: (a) proposed co-counsel to CCA, Debevoise & Plimpton LLP, 66 Hudson Boulevard, New York, NY 10001 (Attn: M. Natasha Labovitz, Sidney P. Levinson, Elie J. Worenklein and Rory B. Heller) and Cole Schotz P.C., 25 Main Street Hackensack, NJ, 07601 (Attn: Michael D. Sirota, Warren A. Usatine, Felice Yudkin and Ryan T. Jareck) (b) the Office of the United States Trustee, One Newark Center, 1085 Raymond Boulevard, Suite 2100, Newark, NJ 07102 (Attn: Fran B. Steele and Peter J. D'Auria), and (c) counsel to any statutory committee appointed in this chapter 11 case. If no objections or responses are filed and served, this Court may enter the Final Order without further notice or hearing.

3. CCA is hereby authorized, but not directed, to honor and pay, in the ordinary course of business, in accordance with CCA's prepetition policies and practices and in CCA's sole discretion, prepetition amounts (if any) outstanding on account of the following Employee Obligations and to continue the following Employee Obligations postpetition in the ordinary course of business: (a) Compensation Obligations; (b) Payroll Processor Fees; (c) Expense Reimbursement Obligations; (d) Payroll Taxes; (e) Severance Practice; (f) Health and Welfare Plans; (g) the PTO Plan; (h) the 401(k) Plan and the Employer 401(k) Contributions; (i) Workers' Compensation Program; (j) Employee Referral Program; (k) Incentive Programs; and (l) Visa Program; *provided, however*, notwithstanding anything to the contrary contained herein, that, pending entry of the Final Order, and subject to paragraph 7 below, the relief granted in this order shall be subject to the caps as set forth under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code.

4. CCA is authorized in its discretion, to maintain, and continue to honor and pay all amounts with respect to, the Compensation Obligations and Employee Benefit Obligations as such

Debtor: CCA Construction, Inc.
Case No.: 24-____ (____)
Caption of Order: Interim Order (I) Authorizing the Debtor to Pay and Honor Certain Prepetition Wages, Benefits and Other Obligations, and (II) Granting Related Relief

were in effect as of the commencement of the chapter 11 case and as such may be modified, amended, or supplemented from time to time, in the ordinary course of business and to honor and pay any fees, costs, and expenses incident to the Compensation Obligations and Employee Benefit Obligations, including amounts owed to third-party administrators.

5. Pursuant to section 362(d) of the Bankruptcy Code, the automatic stay is modified, without further order of this Court, if and solely to the extent necessary to authorize: (a) Employees to proceed with their claims (whether arising before or after the Petition Date) under the Workers' Compensation Program in the appropriate judicial or administrative forum, and Employees are authorized to so proceed; (b) CCA to continue the Workers' Compensation Program and pay all prepetition and postpetition amounts relating thereto in the ordinary course of business, consistent with prepetition practices, and (c) insurers and third-party administrators to handle, administer, defend, settle, or pay workers' compensation claims. The modification of the automatic stay set forth in this paragraph pertains solely to claims under the Workers' Compensation Program.

6. Nothing in this Interim Order authorizes CCA to accelerate any payment not otherwise due prior to the date of the Final Hearing.

7. CCA is authorized, but not directed, to pay and honor all COBRA Obligations, if any, whether arising prepetition or postpetition, on account of the Severance Practice and to continue to comply with its Severance Practice postpetition in the ordinary course of business consistent with prepetition practices; *provided* that pending entry of the Final Order, CCA shall not make any payment to, or on account of, any individual with respect to any prepetition claim in excess of \$15,150 as set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code; and *provided, further*, that nothing in the Motion or this Interim Order shall be construed as approving any payment

pursuant to 503(c) of the Bankruptcy Code, and a separate motion will be filed for any requests that are governed by section 503(c) of the Bankruptcy Code and that CCA shall not make any severance payments to any Insiders (as that term is defined in section 101(31) of the Bankruptcy Code) without further order of this Court. Nothing in the Motion or this Interim Order shall constitute a determination by the Court as to whether any individual seeking payment pursuant to this Interim Order is or is not an “insider” as that term is defined in section 101(31) of the Bankruptcy Code.

8. CCA is authorized to forward any unpaid amounts on account of any Employee deductions or Payroll Taxes to the appropriate third-party recipients or Taxing Authorities, as applicable, in the ordinary course of business, consistent with prepetition practices.

10. All applicable banks and financial institutions are authorized, when requested by CCA, to receive, process, honor, and pay, any and all checks or electronic payment requests when presented for payment from CCA’s accounts to the extent of available funds, whether those checks or requests were presented or initiated before or after the Petition Date, and all such banks and financial institutions are authorized to rely on CCA’s designation of any particular check or electronic payment request as approved by this Interim Order.

11. CCA is authorized to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests in respect of the any payments dishonored or rejected as a consequence of the commencement of CCA’s chapter 11 case.

12. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute: (a) an admission as to the amount, basis, or validity of any particular claim against CCA; (b) a waiver of CCA’s rights to dispute any particular claim on

Debtor: CCA Construction, Inc.
Case No.: 24-____ (____)
Caption of Order: Interim Order (I) Authorizing the Debtor to Pay and Honor Certain
Prepetition Wages, Benefits and Other Obligations, and
(II) Granting Related Relief

any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission relating to any lien, security interest or other encumbrance on property of CCA's estate; or (g) a waiver or limitation of any of CCA's rights under the Bankruptcy Code or other applicable law.

14. Under the circumstances of this chapter 11 case, notice of the Motion is adequate, and the notice requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

15. Any party may move for modification of this Order in accordance with Local Rule 9013-5(e).

16. A copy of this Interim Order shall be served on all required parties pursuant to Local Rule 9013-5(f) within two business days after the entry of this Interim Order.

17. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby satisfied by the contents of the Motion or otherwise waived.

18. The requirements set forth in Bankruptcy Rule 6003(b) have been satisfied.

19. Notwithstanding any applicability of Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

20. CCA is authorized and empowered to take all actions as may be necessary and appropriate to implement the terms of this Interim Order.

Debtor: CCA Construction, Inc.

Case No.: 24-_____ (___)

Caption of Order: Interim Order (I) Authorizing the Debtor to Pay and Honor Certain
Prepetition Wages, Benefits and Other Obligations, and
(II) Granting Related Relief

21. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

EXHIBIT B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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Proposed Co-Counsel to the Debtor and Debtor in Possession

In re:

CCA Construction, Inc.,¹

Debtor.

Case No. 24-_____ (___)

Chapter 11

Judge:

¹ The last four digits of CCA’s federal tax identification number are 4862. CCA’s service address for the purposes of this chapter 11 case is 445 South Street, Suite 310, Morristown, NJ 07960.

Debtor: CCA Construction, Inc.
Case No.: 24-_____ (____)
Caption of Order: Final Order (I) Authorizing the Debtor to Pay and Honor Certain
Prepetition Wages, Benefits and Other Obligations, and
(II) Granting Related Relief

**FINAL ORDER (I) AUTHORIZING THE DEBTOR TO PAY
AND HONOR CERTAIN PREPETITION WAGES, BENEFITS AND
OTHER OBLIGATIONS, AND (II) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through seven (7), is
ORDERED.

Upon CCA’s motion filed on the Petition Date [Docket No. ____] (the “**Motion**”)¹ pursuant to sections 105, 362, 363, 503, 507, 541, 1107, and 1108 of the Bankruptcy Code, for entry of an order (i) authorizing CCA to pay and honor certain prepetition wages, benefits and other obligations, and (ii) granting related relief, all as more fully set forth in the Motion; and upon consideration of the First Day Declarations; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that CCA’s notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, and that such relief is in the best interests of CCA, its estate, its creditors, and all parties in interest, and the relief requested is necessary to avoid immediate and irreparable harm to CCA and its estate; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

Debtor: CCA Construction, Inc.
Case No.: 24-____ (____)
Caption of Order: Final Order (I) Authorizing the Debtor to Pay and Honor Certain
Prepetition Wages, Benefits and Other Obligations, and
(II) Granting Related Relief

2. CCA is hereby authorized, but not directed, to honor and pay, in the ordinary course of business, in accordance with CCA's prepetition policies and practices and in CCA's sole discretion, prepetition amounts (if any) outstanding on account of the following Employee Obligations and to continue the following Employee Obligations postpetition in the ordinary course of business: (a) Compensation Obligations; (b) Payroll Processor Fees; (c) Expense Reimbursement Obligations; (d) Payroll Taxes; (e) Severance Practice; (f) Health and Welfare Plans; (g) PTO Plans; (h) the 401(k) Plan and the Employer 401(k) Contributions; (i) Workers' Compensation Programs; (j) Employee Referral Program; (k) Incentive Programs; and (l) Visa Program.

3. CCA is authorized in its discretion, to maintain, and continue to honor and pay all amounts with respect to, the Compensation Obligations and Employee Benefit Obligations as such were in effect as of the commencement of the chapter 11 case and as such may be modified, amended, or supplemented from time to time, in the ordinary course of business and to honor and pay any fees, costs, and expenses incident to the Compensation Obligations and Employee Benefit Obligations, including amounts owed to third-party administrators.

4. Pursuant to section 362(d) of the Bankruptcy Code, the automatic stay is modified, without further order of this Court, if and solely to the extent necessary to authorize: (a) Employees to proceed with their claims (whether arising before or after the Petition Date) under the Workers' Compensation Program in the appropriate judicial or administrative forum, and Employees are authorized to so proceed; (b) CCA to continue the Workers' Compensation Program and pay all prepetition and postpetition amounts relating thereto in the ordinary course of business, consistent with prepetition practices, and (c) insurers and third-party administrators to handle, administer,

defend, settle, or pay workers' compensation claims. The modification of the automatic stay set forth in this paragraph pertains solely to claims under the Workers' Compensation Program.

5. Nothing contained herein is intended or should be construed to create an administrative priority claim on account of any Employee Obligations.

6. CCA is authorized, but not directed, to pay and honor all COBRA Obligations, if any, whether arising prepetition or postpetition, on account of the Severance Practice and to continue to comply with its Severance Practice postpetition in the ordinary course of business consistent with prepetition practices (including payments to individuals on account of prepetition claims in excess of \$15,150 as set forth in sections 507(a)(4) and 507(a)(5) (the "**Statutory Cap**")); *provided that* nothing in the Motion or this Final Order shall be construed as approving any payment pursuant to 503(c) of the Bankruptcy Code, and a separate motion will be filed for any requests that are governed by section 503(c) of the Bankruptcy Code and that CCA shall not make any severance payments to any "insiders" (as that term is defined in section 101(31) of the Bankruptcy Code) without further order of this Court. Nothing in the Motion or this Final Order shall constitute a determination by the Court as to whether any individual seeking payment pursuant to this Final Order is or is not an "insider" as that term is defined in section 101(31) of the Bankruptcy Code.

7. Before satisfying any prepetition payments to any non-insider Employee due and payable under the Severance Practice in excess of the Statutory Cap, CCA shall provide five business days' advance notice to the Office of the United States Trustee and counsel to any statutory committee appointed in this chapter 11 case. The Office of the United States Trustee or any committee may file an objection to any proposed payment within three business days' advance notice, which objection shall be subject to mutual resolution of the Office of the United States

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Trustee or the statutory committee and CCA or, if no such mutual resolution can be reached, resolution by the Court.

8. CCA is authorized to forward any unpaid amounts on account of any Employee deductions or Payroll Taxes to the appropriate third-party recipients or Taxing Authorities, as applicable, in the ordinary course of business, consistent with prepetition practice.

9. All applicable banks and financial institutions are authorized, when requested by CCA, to receive, process, honor, and pay, any and all checks or electronic payment requests when presented for payment from CCA's accounts to the extent of available funds, whether those checks or requests were presented or initiated before or after the Petition Date, and all such banks and financial institutions are authorized to rely on CCA's designation of any particular check or electronic payment request as approved by this Final Order.

10. CCA is authorized to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests in respect of the any obligations dishonored or rejected as a consequence of the commencement of CCA's chapter 11 case.

11. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Final Order or any payment made pursuant to this Final Order shall constitute, nor is it intended to constitute: (a) an admission as to the amount, basis, or validity of any particular claim against CCA; (b) a waiver of CCA's rights to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission relating to any lien, security interest or other encumbrance on property of

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CCA's estate; or (g) a waiver or limitation of any of CCA's rights under the Bankruptcy Code or other applicable law.

12. Under the circumstances of this chapter 11 case, notice of the Motion is adequate, and the notice requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

13. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby satisfied by the contents of the Motion or otherwise waived.

14. Notwithstanding any applicability of Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

15. CCA is authorized and empowered to take all actions as may be necessary and appropriate to implement the terms of this Final Order.

16. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.