

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
ZACHRY HOLDINGS, INC., <i>et al.</i> <sup>1</sup>	)	
	)	Case No. 24-90377 (MI)
Debtors.	)	(Joint Administration Requested)
	)	<b>Re: Docket No. 8</b>

**INTERIM ORDER (I) AUTHORIZING  
THE DEBTORS TO PAY CERTAIN PREPETITION CLAIMS OF  
(A) CRITICAL VENDORS, (B) LIEN CLAIMANTS, (C) FOREIGN CLAIMANTS,  
AND (D) 503(B)(9) CLAIMANTS, (II) CONFIRMING ADMINISTRATIVE EXPENSE  
PRIORITY OF OUTSTANDING ORDERS AND AUTHORIZING THE DEBTORS  
TO SATISFY SUCH OBLIGATIONS, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of an interim order (this “**Interim Order**”), pursuant to sections 105(a), 363, 503(b), 1107(a), 1108, and 1129 of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Bankruptcy Local Rule 9013-1, (a) authorizing the Debtors to pay in the ordinary course of business and consistent with their prepetition practice certain prepetition claims held by (i) Critical Vendors, (ii) Lien Claimants, (iii) Foreign Claimants, and (iv) 503(b)(9) Claimants, (b) confirming the administrative expense priority status of the Outstanding Orders; (c) scheduling a hearing to consider approval of the Motion on a final basis, and (d) granting related relief, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant

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<sup>1</sup> The last four digits of Zachry Holdings, Inc.’s tax identification number are 6814. A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://www.kcellc.net/zhi>. The location of the Debtors’ service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



to 28 U.S.C. § 157(b)(2); 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 due, sufficient, and proper notice of the Motion having been provided under the circumstances and in accordance with the Bankruptcy Rules and the Bankruptcy Local Rules, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “**Hearing**”); and upon consideration of the First Day Declaration and the record of the Hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors, their stakeholders, and all other parties in interest, and that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The final hearing (the “**Final Hearing**”) on the Motion shall be held on June 17, 2024 at 2:00 p.m., prevailing Central Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Central Time, on June 10, 2024. In the event no objections to entry of the Final Order on the Motion are timely received, this Court may enter such Final Order without need for the Final Hearing.

2. The Debtors are authorized, pursuant to sections 105(a), 363(b), 503(b), 1107(a), 1108, and 1129 of the Bankruptcy Code, in the reasonable exercise of their business judgment, and subject to the terms of this Order, to honor, pay, or otherwise satisfy, in the ordinary course of business and in accordance with the Debtors’ prepetition practice, the prepetition Trade Claims (or a portion thereof) comprising Critical Vendor Claims, Lien Claims, Foreign Claims, and 503(b)(9) Claims, as described in the motion, in an aggregate amount not to exceed \$4,500,000 on an interim basis, and in each instance, subject to and in accordance with the Cash Collateral Order (defined

below). In the event the Debtors will exceed the aggregate amounts in any category as detailed in the Motion during the interim period, the Debtors shall file a notice with the Court describing the category and overage amount prior to payments. If no objections are filed with the Court and served on the Debtors within five (5) business days, such overage shall be authorized to be paid.

3. Prior to entry of a Final Order, the Debtors shall not pay any obligations under this Interim Order unless they are due or are deemed necessary to be paid in the Debtors' reasonable business judgment to ensure ongoing provision of goods or services or otherwise to avoid an adverse effect on operations.

4. Any party that accepts payment from the Debtors on account of any prepetition Trade Claims (or a portion thereof) comprising Critical Vendor Claims, Lien Claims, Foreign Claims, and 503(b)(9) Claims shall (i) be deemed to have agreed to the terms and provisions of this Interim Order and shall be deemed to have waived, to the extent so paid, any and all prepetition claims, of whatever type, kind or priority, against the Debtors, their properties and estates up to the paid amount; provided that, prior to making any payment pursuant to this Interim Order, the Debtors shall provide such party with a copy of this Interim Order (unless previously provided to such party); and (ii) at the Debtors' request, take all actions necessary to remove any mechanics' liens, possessory liens, or similar state law trade liens on the Debtors' assets such party may have based upon such Trade Claims at such party's sole expense.

5. As a condition to receiving payment pursuant to this Interim Order on account of a Trade Claim, the Debtors shall condition payment of Trade Claims upon each Trade Claimant's Trade Agreement, which may be obtained via email, to continue providing goods and services to the Debtors in accordance with Customary Trade Terms during the pendency of the chapter 11 cases that are at least as favorable as those existing in the twelve months prior to the Petition Date.

The Debtors reserve the right to require additional favorable trade terms with any Trade Claimant as a condition to payment of any Trade Claim. Any party that accepts payment from the Debtors on account of a Trade Claim shall be provided with a copy of this Interim Order and are deemed to have agreed to the terms and provisions of this Interim Order.

6. In the event that a Trade Claimant that receives payment pursuant to this Interim Order does not maintain or reinstate trade terms at least as favorable as those existing in the twelve months prior to the Petition Date during the pendency of the chapter 11 cases, regardless of whether a Trade Agreement has been executed, the Debtors shall have all remedies available at law or in equity with respect to such Trade Claimant and the payment made to such Trade Claimant.

7. The undisputed obligations of the Debtors arising under the Outstanding Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code; *provided* that any such administrative expense status claim shall be junior and subordinate to the carve out and approved superpriority administrative expense claims provided for in any order, including a Cash Collateral Order.

8. The Debtors shall maintain a matrix/schedule of all amounts directly or indirectly paid under the terms and conditions of this Interim Order (the “**Vendor Matrix**”), including the following information: (i) the category of Trade Claims for amount paid, applied, offset or setoff, as further described and classified in the Motion; (ii) the amount of the payment, application, offset or setoff by category; (iii) the Debtor or Debtors that made the payment, application, offset or setoff; (iv) the recipient of the payment, application, offset or setoff; and (v) the date of the payment, application, offset or setoff. The Debtors shall provide a copy of such Vendor Matrix on a confidential basis to the U.S. Trustee and counsel to any statutory committee appointed in this case no later than ten business days following the last day of each calendar month.

9. The Debtors are authorized, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Outstanding Orders consistent with their customary past practice, subject to and in accordance with the Cash Collateral Order.

10. The Debtors are authorized to execute and deliver such documents and to take and perform all actions necessary to implement and effectuate the relief granted in this Interim Order.

11. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

12. The Debtors are authorized to issue postpetition checks or effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are inadvertently dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

13. Notwithstanding anything to the contrary contained in the Motion or this Interim Order, any payment to be made and any relief or authorization granted hereunder shall be limited by, and shall be subject to, the requirements imposed on the Debtors in any orders entered by this Court authorizing the Debtors' use of cash collateral (any such order, a "**Cash Collateral Order**"), including, for the avoidance of doubt, the approved cash collateral budget. To the extent of any

conflict (but solely to the extent of such conflict) between the terms of this Interim Order and the terms of any Cash Collateral Order, the terms of the Cash Collateral Order will govern.

14. Nothing contained in the Motion or this Interim Order, nor any action taken pursuant thereto, nor any payment made pursuant to the authority granted thereby, is intended to be or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion; (e) a waiver of any claims or causes of action that may exist against any creditor or interest holder; (f) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (g) a waiver or limitation of the Debtors' rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the Motion are valid and the Debtors expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens.

15. The Debtors shall not make any payments on account of prepetition amounts owed to an Insiders (as such term is defined in section 101(31) of the Bankruptcy Code) pursuant to this Interim Order.

16. Further, nothing herein shall prejudice the Debtors' ability to seek a further order from this Court authorizing the Debtors to exceed the aggregate amounts of any Vendor category as set forth herein during the interim period.

17. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

18. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

19. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

20. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: \_\_\_\_\_, 2024  
Houston, Texas

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UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
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AND (D) 503(B)(9) CLAIMANTS, (II) CONFIRMING ADMINISTRATIVE EXPENSE  
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<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); 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 due, sufficient, and proper notice of the Motion having been provided under the circumstances and in accordance with the Bankruptcy Rules and the Bankruptcy Local Rules, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “**Hearing**”); and upon consideration of the First Day Declaration and the record of the Hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors, their stakeholders, and all other parties in interest, and that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The final hearing (the “**Final Hearing**”) on the Motion shall be held on June 17, 2024 at 2:00 p.m., prevailing Central Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Central Time, on June 10, 2024. In the event no objections to entry of the Final Order on the Motion are timely received, this Court may enter such Final Order without need for the Final Hearing.

2. The Debtors are authorized, pursuant to sections 105(a), 363(b), 503(b), 1107(a), 1108, and 1129 of the Bankruptcy Code, in the reasonable exercise of their business judgment, and subject to the terms of this Order, to honor, pay, or otherwise satisfy, in the ordinary course of business and in accordance with the Debtors’ prepetition practice, the prepetition Trade Claims (or a portion thereof) comprising Critical Vendor Claims, Lien Claims, Foreign Claims,

and 503(b)(9) Claims, as described in the motion, in an aggregate amount not to exceed \$4,500,000 on an interim basis, and in each instance, subject to and in accordance with the Cash Collateral Order (defined below). In the event the Debtors will exceed the aggregate amounts in any category as detailed in the Motion during the interim period, the Debtors shall file a notice with the Court describing the category and overage amount prior to payments. If no objections are filed with the Court and served on the Debtors within five (5) business days, such overage shall be authorized to be paid.

3. Prior to entry of a Final Order, the Debtors shall not pay any obligations under this Interim Order unless they are due or are deemed necessary to be paid in the Debtors' reasonable business judgment to ensure ongoing provision of goods or services or otherwise to avoid an adverse effect on operations.

4. Any party that accepts payment from the Debtors on account of any prepetition Trade Claims (or a portion thereof) comprising Critical Vendor Claims, Lien Claims, Foreign Claims, and 503(b)(9) Claims shall (i) be deemed to have agreed to the terms and provisions of this Interim Order and shall be deemed to have waived, to the extent so paid, any and all prepetition claims, of whatever type, kind or priority, against the Debtors, their properties and estates up to the paid amount; provided that, prior to making any payment pursuant to this Interim Order, the Debtors shall provide such party with a copy of this Interim Order (unless previously provided to such party); and (ii) at the Debtors' request, take all actions necessary to remove any mechanics' liens, possessory liens, or similar state law trade liens on the Debtors' assets such party may have based upon such Trade Claims at such party's sole expense.

5. As a condition to receiving payment pursuant to this Interim Order on account of a Trade Claim, the Debtors shall condition payment of Trade Claims upon each Trade

Claimant's Trade Agreement, which may be obtained via email, to continue providing goods and services to the Debtors in accordance with Customary Trade Terms during the pendency of the chapter 11 cases that are at least as favorable as those existing in the twelve months prior to the Petition Date. The Debtors reserve the right to require additional favorable trade terms with any Trade Claimant as a condition to payment of any Trade Claim. Any party that accepts payment from the Debtors on account of a Trade Claim shall be provided with a copy of this Interim Order and are deemed to have agreed to the terms and provisions of this Interim Order.

6. In the event that a Trade Claimant that receives payment pursuant to this Interim Order does not maintain or reinstate trade terms at least as favorable as those existing in the twelve months prior to the Petition Date during the pendency of the chapter 11 cases, regardless of whether a Trade Agreement has been executed, ~~any payments made pursuant to this Interim Order after the Petition Date shall be, in the Debtors' reasonable discretion, deemed applied to postpetition amounts payable~~ the Debtors shall have all remedies available at law or in equity with respect to such Trade Claimant ~~or treated as an unauthorized postpetition transfer recoverable by the Debtors under section 549 of the Bankruptcy Code or other applicable law~~ and the payment made to such Trade Claimant.

7. The undisputed obligations of the Debtors arising under the Outstanding Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code; *provided* that any such administrative expense status claim shall be junior and subordinate to the carve out and approved superpriority administrative expense claims provided for in any order, including a Cash Collateral Order.

8. The Debtors shall maintain a matrix/schedule of all amounts directly or indirectly paid under the terms and conditions of this Interim Order (the "**Vendor Matrix**"), including the

following information: (i) the category of Trade Claims for amount paid, applied, offset or setoff, as further described and classified in the Motion; (ii) the amount of the payment, application, offset or setoff by category; (iii) the Debtor or Debtors that made the payment, application, offset or setoff; (iv) the recipient of the payment, application, offset or setoff; and (v) the date of the payment, application, offset or setoff. The Debtors shall provide a copy of such Vendor Matrix on a confidential basis to the U.S. Trustee and counsel to any statutory committee appointed in this case no later than ten business days following the last day of each calendar month.

9. The Debtors are authorized, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Outstanding Orders consistent with their customary past practice, subject to and in accordance with the Cash Collateral Order.

10. The Debtors are authorized to execute and deliver such documents and to take and perform all actions necessary to implement and effectuate the relief granted in this Interim Order.

11. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

12. The Debtors are authorized to issue postpetition checks or effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are inadvertently

dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

13. Notwithstanding anything to the contrary contained in the Motion or this Interim Order, any payment to be made and any relief or authorization granted hereunder shall be limited by, and shall be subject to, the requirements imposed on the Debtors in any orders entered by this Court authorizing the Debtors' use of cash collateral (any such order, a "**Cash Collateral Order**"), including, for the avoidance of doubt, the approved cash collateral budget. To the extent of any conflict (but solely to the extent of such conflict) between the terms of this Interim Order and the terms of any Cash Collateral Order, the terms of the Cash Collateral Order will govern.

14. Nothing contained in the Motion or this Interim Order, nor any action taken pursuant thereto, nor any payment made pursuant to the authority granted thereby, is intended to be or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion; (e) a waiver of any claims or causes of action that may exist against any creditor or interest holder; (f) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (g) a waiver or limitation of the Debtors' rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the

Motion are valid and the Debtors expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens.

15. ~~Nothing herein shall impair or prejudice the rights of the U.S. Trustee and any statutory committee appointed in these chapter 11 cases, which are expressly reserved, to object to any payment made pursuant to this Order to an insider.~~ The Debtors shall not make any payments on account of prepetition amounts owed to an Insiders (as such term is defined in section 101(31) of the Bankruptcy Code), ~~or an affiliate of an insider, of the Debtors. To the extent the Debtors intend to make a payment to an insider or an affiliate of an insider of the Debtors, the Debtors shall, to the extent reasonably practicable, provide three (3) business days' advance notice to, and opportunity to object by the U.S. Trustee and any statutory committee appointed in these chapter 11 cases; provided, that if any party objects to the payment, the Debtors shall not make such payment without further order of this Court.~~ pursuant to this Interim Order.

16. Further, nothing herein shall prejudice the Debtors' ability to seek a further order from this Court authorizing the Debtors to exceed the aggregate amounts of any Vendor category as set forth herein during the interim period.

17. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

18. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

19. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

20. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: \_\_\_\_\_, 2024  
Houston, Texas

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UNITED STATES BANKRUPTCY JUDGE

<b>Summary report:</b>	
<b>Litera Compare for Word 11.6.0.100 Document comparison done on 5/21/2024 10:00:41 PM</b>	
<b>Style name:</b> 2 WC StandardSet	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://americasdms.whitecase.com/AMERICAS/127048700/1	
<b>Modified DMS:</b> iw://americasdms.whitecase.com/AMERICAS/127048700/2	
<b>Changes:</b>	
<u>Add</u>	8
<del>Delete</del>	8
<del>Move From</del>	1
<u>Move To</u>	1
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>18</b>