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

| | | |
|---|---|---|
| In re: | ) | Chapter 11 |
| ZACHRY HOLDINGS, INC., *et al.*[1] | ) | Case No. 24-90377 (MI) |
| Debtors. | ) | (Jointly Administered) |

**DEBTORS' SECOND MOTION FOR ENTRY OF AN ORDER EXTENDING THE EXCLUSIVE PERIODS TO FILE AND SOLICIT A PLAN**

**If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at https://ecf.txsb.uscourts.gov/ within twenty-one days from the date this application was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this application was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") state as follows in support of this motion (this "**Motion**"):

## PRELIMINARY STATEMENT

1. The Debtors commenced these chapter 11 cases approximately seven months ago with the goals of (i) continuing their operations in chapter 11 with as little disruption as possible, (ii) maintaining the confidence and support of their employees, customers and vendors, (iii) negotiating and implementing a structured exit from the role of lead contractor on the Golden Pass LNG Terminal project (the "**GPX Project**"), and (iv) confirming a plan of reorganization that pays all of their creditors in full.

[1] 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 www.veritaglobal.net/ZHI. The location of the Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

2. The Debtors have worked diligently to achieve these goals. During these chapter 11 cases, the Debtors successfully negotiated and implemented a settlement (the "**GPX Settlement**") that allowed the Debtors to exit the GPX Project on a consensual basis and ensured that all vendors working on the GPX Project would be paid in full. The GPX Settlement achieved a key objective of these chapter 11 cases and paved the way for the Debtors to develop a go-forward business plan and exit bankruptcy on an expedited basis.

3. Following this Court's approval of the GPX Settlement, the Debtors developed a business plan and initiated a process to raise the capital needed to fund their exit from bankruptcy. Then, on October 11, 2024, the Debtors filed the amended *Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and Its Debtor Affiliates* (as amended, supplemented or otherwise modified from time to time, the "**Plan**") [Docket No. 1133]. The Plan proposes to amend and restate the Debtors' existing prepetition secured debt on a consensual basis, pay unsecured creditors in full, provide for the assumption of all executory contracts that are not rejected by the Debtors, and allow the Debtors to emerge from bankruptcy well-situated to continue their operations and take advantage of favorable market conditions. On November 11, 2024, the Debtors filed the solicitation version of the Plan [Docket No. 1373].

4. On November 13, 2024, the Debtors obtained conditional approval of their Disclosure Statement (as defined below) with respect to the Plan and commenced soliciting votes to accept or reject the Plan shortly thereafter [Docket No. 1392]. The Court scheduled a confirmation hearing on the Plan for December 16. While the Debtors have continued to make progress towards confirmation of the Plan, the Debtors recently concluded that the search for capital necessary to implement the Plan will require more time. Accordingly, on December 10, 2024, the Debtors filed the *Debtors' Emergency Motion for Entry of an Order (I) Adjourning the*

*Combined Hearing Date and (II) Extending Certain Deadlines Related Thereto* (the "**Extension Motion**"), seeking the Court's approval to adjourn the Combined Hearing (as defined below) to January 23, 2025, with commensurate extensions of the deadlines to file the Plan Supplement (as defined below), for voting creditors to vote on the Plan, and for parties to object to confirmation of the Plan, among other things [Docket No. 1667]. On December 12, 2024, the Court entered an order approving the Extension Motion (the "**Extension Order**") [Docket No. 1680].

5. The Debtors have made significant progress in the short time they have been in chapter 11. The Debtors are aiming to confirm the Plan and pay their creditors in full. The Debtors require an additional extension of their exclusive periods to confirm and consummate the Plan (or, if that proves impractical, to propose and confirm a different plan of reorganization) and seek the relief requested herein in order to achieve these goals and bring these cases to a close.

## RELIEF REQUESTED

6. The Debtors seek entry of an order, substantially in the form attached hereto (the "**Order**"), extending (a) the period during which the Debtors have the exclusive right to file a chapter 11 plan (the "**Exclusive Filing Period**") by 90 days, through and including March 17, 2025, and (b) the period during which the Debtors have the exclusive right to solicit a plan (the "**Exclusive Solicitation Period**", and together with the Exclusive Filing Period, the "**Exclusive Periods**") by 90 days, through and including May 16, 2025, without prejudice to the Debtors' right to seek further extensions of the Exclusive Periods if necessary.[2] The Debtors' extended Exclusive Periods are currently set to expire on December 17, 2024 and February 15, 2025, respectively.

[2] Pursuant to paragraph 30 of the *Procedures for Complex Cases in the Southern District of Texas*, the Exclusive Periods are automatically extended until the Court rules on this Motion.

## Jurisdiction, Venue, and Predicates for Relief

7. The United States Bankruptcy Court for the Southern District of Texas (the "**Court**") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding under 28 U.S.C. § 157(b). The Debtors confirm their consent to the entry of a final order by the Court.

8. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

9. The predicate for the relief requested herein is section 1121 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "**Bankruptcy Code**").

## Background

10. On May 21, 2024 (the "**Petition Date**"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code commencing the above-captioned chapter 11 cases. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These chapter 11 cases are being jointly administered pursuant to Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these chapter 11 cases. On June 4, 2024, the Office of the United States Trustee for the Southern District of Texas appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the "**Committee**") [Docket No. 176].

11. A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to these chapter 11 cases, is set forth in the *Declaration of Mohsin Y. Meghji in Support of Debtors' Petitions and Requests for First Day Relief* (the "**First Day Declaration**") [Docket No. 7] and the Disclosure Statement.

12. On July 16, 2024, the Debtors filed their schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules and Statements**") [Docket Nos. 510-

552; 855-865]. On August 30, 2024, several of the Debtors filed amendments to their Schedules and Statements [Docket Nos. 855-865]. On December 2, 2024, the Debtors further revised their Schedules and Statements [Docket No. 1564].

13. On July 19, 2024, the Debtors filed a motion to establish bar dates and procedures for providing notice of the bar dates [Docket No. 589]. On July 26, 2024, the Court entered an order which established September 16, 2024 as the general deadline for holders of claims to file proofs of claims against the Debtors and November 18, 2024 as the deadline for governmental entities to file proofs of claim against the Debtors [Docket No. 636].

14. On July 19, 2024, the Debtors filed their *Emergency Motion for Interim and Final Order (I) Approving the Settlement by and Among the Debtors, Golden Pass LNG Terminal LLC, CB&I LLC, Chiyoda International Corporation, and CCZJV, (II) Authorizing the Parties to Perform Any and All Obligations Contemplated by the Settlement, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief* [Docket No. 587]. The Court entered an interim order approving the GPX Settlement on July 25, 2024, after a hearing on July 24, 2024. After a hearing on August 12, 2024, the Court entered a final order approving the GPX Settlement, allowing the Debtors to exit from their role as lead contractor for the GPX Project on a consensual basis and granting related relief [Docket No. 744].

15. On November 5, 2024, the Debtors filed the *Disclosure Statement for the Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and its Debtors Affiliates* (as amended, supplemented or otherwise modified from time to time, the "**Disclosure Statement**") [Docket Nos. 1134, 1320, 1374]. On November 13, 2024, after a hearing, the Court conditionally approved the Disclosure Statement and entered the *Order (I) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (II) Conditionally Approving the Disclosure*

*Statement, (III) Approving the Confirmation Timeline, Solicitation Procedures, Solicitation Package, and Notices, (IV) Establishing Procedures for Objecting to the Plan and Final Approval of the Disclosure Statement, and (V) Granting Related Relief* [Docket No. 1392]. The Debtors are in the process of soliciting votes to accept or reject the Plan.

16. On October 8, 2024, the Debtors filed an emergency application to retain Lazard Fréres & Co. LLC as their investment banker to raise certain exit financing in connection with the Plan [Docket No. 1102]. On October 15, 2024, the Court entered an order approving Lazard's retention by the Debtors [Docket No. 1159]. Lazard has engaged in a broad and comprehensive search for exit capital and is working with prospective lenders on the new debt terms.

17. Under the initial confirmation timeline, the deadline to file supplemental documents, schedules, and exhibits to the Plan (the "**Plan Supplement**") was December 5, the deadline to vote on the Plan, file objections to confirmation of the Plan, and opt-out of third-party releases was December 12, the deadline to file a final tabulation of ballots and submit a final voting report (the "**Voting Report**") and the Debtors' memorandum of law in support of final approval of the Disclosure Statement and confirmation of the Plan (the "**Confirmation Brief**") was December 14, and the combined hearing to consider final approval of the Disclosure Statement and confirmation of the Plan (the "**Combined Hearing**") was scheduled for December 16, 2024 [Docket No. 1392]. Pursuant to the Extension Order, the deadline to file the Plan Supplement has been extended to January 13, the voting, Plan objection, and opt-out deadlines have been extended to January 20, the deadline to file the Confirmation Brief and Voting Report has been extended to January 22, and the Combined Hearing has been rescheduled to January 23, 2025, outside of the current Exclusive Filing Period.

## Basis for Relief

### I. Section 1121(d) of the Bankruptcy Code Allows the Court to Extend the Exclusive Periods for "Cause"

18. The Bankruptcy Code provides for an initial period of 120 days after the commencement of a chapter 11 case during which the debtor has the exclusive right to file a chapter 11 plan. 11 U.S.C. § 1121(b). If the debtor files a plan within that 120 day period, it has the exclusive right to solicit acceptance of a plan for a period of 180 days after commencement of the chapter 11 case. 11 U.S.C. § 1121(c)(3). These exclusive periods afford a debtor the opportunity to propose and solicit acceptances of a chapter 11 plan, without the disruption that could be caused by competing plans being filed by creditors.

19. Section 1121(d) of the Bankruptcy Code allows the Court to extend the Exclusive Periods for "cause". 11 U.S.C. § 1121(d). Although the Bankruptcy Code does not define "cause" for the purposes of an extension under section 1121(d), the legislative history of section 1121 indicates that the term should be viewed flexibly, "in order to allow the debtor to reach an agreement" with its creditors. *See* H.R. Rep. No. 95–595, at 231–32 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5963, 6191. Bankruptcy courts are afforded broad discretion in determining whether "cause" exists based upon the facts and circumstances of the chapter 11 case. *In re Adelphia Commc'ns Corp.,* 352 B.R. 578, 587 (Bankr. S.D.N.Y. 2006).

20. Courts generally consider the following factors in determining whether "cause" exists to extend a debtor's Exclusive Periods under section 1121(d):

- the size and complexity of the case;
- the need for sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information;
- whether the debtor has made progress in negotiations with its creditors;
- the existence of good-faith progress toward reorganization;

- whether the debtor is seeking to extend exclusivity to pressure creditors to accede to the debtor's reorganization demands;
- whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- the fact that the debtor is paying its bills as they become due;
- the amount of time which has elapsed in the case; and/or
- whether an unresolved contingency exists.

*See In re New Millenium Mgmt., LLC*, No. 13-35719-H3-11 (LZP), 2014 Bankr. LEXIS 734, *18-19 (Bankr. S.D. Tex. Feb. 25, 2014) (citing *In re GMG Capital Partners III, L.P.*, 503 B.R. 596 (Bankr. S.D.N.Y. 2014)); *In re Express One Int'l, Inc.*, 194 B.R. 98, 100 (Bankr. E. D. Tex. 1996) (noting that the nine factors listed above have been used by courts to "determin[e] whether 'cause' exists"); *In re Adelphia Commc'ns Corp.*, 352 B.R. at 587. A debtor need not establish that each factor weighs in its favor, and courts may grant extension requests for "cause" in the absence of one or more of the factors. *In re Express One Int'l, Inc.*, 194 B.R. at 100 (finding that four of the factors were relevant in determining whether "cause" existed to extend exclusivity); *In re United Press Int'l, Inc.,* 60 B.R. 265, 269 (Bankr. D.D.C. 1986) (finding that the debtor showed "cause" to extend exclusivity based upon three of the factors).

## II. "Cause" Exists to Extend the Debtors' Exclusive Periods

21. There is ample cause to extend the Exclusive Periods pursuant to section 1121(d) of the Bankruptcy Code.

### A. The Debtors' chapter 11 cases are large and complex.

22. The size and complexity of a debtor's chapter 11 case is perhaps the most common justification for extending a debtor's exclusive periods. *In re Express One Int'l, Inc.*, 194 B.R. at 100; *In re Manville Forest Prods. Corp.,* 31 B.R. 991, 995 (S.D.N.Y. 1983). This factor alone justifies the requested extension of the Exclusive Periods and, by itself, can support a

determination that cause exists for an extension of exclusivity. *In re Express One Int'l, Inc.*, 194 B.R. at 100. There are 21 separate Debtor entities in these cases, with thousands of creditors, approximately $281 million of funded debt,[3] and over $5.4 billion in operating revenues[4] on a consolidated basis. The Debtors are involved in numerous large construction projects worth tens of billions of dollars and have existing business relationships with thousands of customers and vendors across the globe. These cases are unquestionably large and complex.

**B. The Debtors require sufficient time to confirm their plan of reorganization.**

23. This is the Debtors' second request for an extension of the Exclusive Periods. During their approximately seven months in bankruptcy, the Debtors have stabilized their business operations, secured the consensual use of cash collateral, and negotiated a consensual exit from the GPX Project. The Debtors have also proposed the Plan, obtained conditional approval of the Disclosure Statement, and commenced solicitation of votes to accept or reject the Plan. The Debtors are actively seeking exit financing that is needed to implement the Plan. The Debtors need additional time to confirm the Plan or, if that proves impractical, to propose and confirm a different plan of reorganization.

**C. The Debtors have made good-faith progress toward exiting chapter 11**

24. Since the Petition Date, the Debtors and their advisors have worked diligently on, among other things, (i) stabilizing the Debtors' business operations to maximize the value of the Debtors' estates, (ii) successfully entering into the GPX Settlement, (iii) preparing and filing the Schedules and Statements (as amended from time to time), (iv) engaging with critical vendors and maintaining active lines of communication with their employees, commercial counterparties,

[3] *See* Sixth Interim Cash Collateral Order at ¶ F(c) [Docket No. 1676].

[4] First Day Declaration at ¶ 27.

lenders, and other stakeholders, (v) developing a business plan for the reorganized Debtors, (vi) proposing the Plan, (vii) soliciting votes to accept or reject the Plan, (viii) seeking exit capital in connection with the Plan, and (ix) reconciling claims and filing objections to hundreds of claims. These efforts have required significant attention from the Debtors' and their advisors.

**D. The Debtors are not attempting to pressure or coerce creditors.**

25. The Debtors are not seeking an extension of the Exclusive Periods to pressure or coerce creditors. The Debtors have maintained an active dialogue with their creditors and are seeking an extension of time to confirm the Plan or to propose a different plan of reorganization that will maximize recoveries for the Debtors' stakeholders. The additional time will allow the Debtors to further engage with their creditors without the distraction that could be created by competing plans.

26. No creditors will be prejudiced by this extension. This extension will simply afford the Debtors additional time to secure exit financing and negotiate the treatment of their senior lenders' claims under the Plan. To the extent necessary, it will also give the Debtors the time needed to propose and confirm an alternative plan of reorganization.

**E. The Debtors have reasonable prospects for confirming a viable plan.**

27. The Debtors have filed a viable Plan and are in the process of soliciting and confirming that Plan. The extension will give the Debtors the time required to confirm the Plan without the distraction of competing plans. In addition, to the extent that the Debtors cannot consummate the Plan, the extension will give the Debtors the opportunity to propose and confirm an alternative plan of reorganization without the potential distraction of competing plans.

**F. The Debtors are paying their bills as they come due.**

28. Since the Petition Date, the Debtors have timely paid their vendors and creditors in the ordinary course of business or as otherwise authorized pursuant to orders of the Court.

**G. These cases are approximately seven months old.**

29. A relatively short amount of time has elapsed since the Petition Date. The Debtors have made significant progress and are working to reach a compromise with their creditors. The Debtors and their advisors continue to work diligently towards a successful restructuring. The Debtors' accomplishments during the short time they have spent in chapter 11 – including filing and soliciting votes on the Plan – weigh in favor of extending the Exclusive Periods.

**H. Unresolved contingencies exist.**

30. Despite the progress that the Debtors have made thus far, unresolved contingencies still exist, including securing the exit financing necessary to implement the Plan. The Debtors require additional time to secure the best possible exit financing terms and negotiate consensual modifications to the existing senior credit facility.

**Notice**

31. The Debtors will provide notice of this Motion to: (a) the United States Trustee for the Southern District of Texas; (b) counsel for the Committee; (c) counsel for the Prepetition Agent; (d) the United States Attorney's Office for the Southern District of Texas; (e) the state attorneys general for the states in which the Debtors operate; (f) the Internal Revenue Service; and (g) any party that has requested notice pursuant to Bankruptcy Rule 2002 and Bankruptcy Local Rule 9013-1(d). In light of the nature of the relief requested, no other or further notice need be provided.

The Debtors request that the Court enter the Order granting the relief requested in this Motion and such other and further relief as the Court deems appropriate under the circumstances.

Dated: December 13, 2024
Houston, Texas

/s/ *Charles R. Koster*

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*Counsel to the Debtors and*
*Debtors in Possession*

**Certificate of Service**

I certify that on December 13, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ *Charles R. Koster*
Charles R. Koster

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

| | | |
|---|---|---|
| In re: | ) | Chapter 11 |
| ZACHRY HOLDINGS, INC., *et al.*[1] | ) | Case No. 24-90377 (MI) |
| Debtors. | ) | (Jointly Administered) |
| | ) | **Re: Docket No. ___** |

**SECOND ORDER EXTENDING THE DEBTORS' EXCLUSIVE PERIODS TO FILE AND SOLICIT A PLAN**

Upon the motion (the "**Motion**")[2] of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") for entry of an order (this "**Order**"), further extending the periods during which the Debtors have the exclusive rights to file and solicit a chapter 11 plan, all as more fully set forth in the Motion, pursuant to 11 U.S.C. § 1121; 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 to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; 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 the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion and having heard the

[1] 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 www.veritaglobal.net/ZHI. The location of the Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

statements in support of the relief requested therein at a hearing before this Court, if any (the "**Hearing**"); and this Court having determined that the legal and factual bases set forth in the Motion, the First Day Declaration and at the Hearing, if applicable, establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The Debtors' Exclusive Filing Period is extended through and including March 17, 2025.

2. The Debtors' Exclusive Solicitation Period is extended through and including May 16, 2025.

3. Entry of this order shall be without prejudice to the Debtors' right to seek a further extension of the Exclusive Periods.

4. The Debtors are authorized, but not directed, to execute and deliver such documents and to take and perform all actions necessary to implement and effectuate the relief granted in this Order.

5. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

6. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

7. The terms and conditions of this Order are immediately effective and enforceable upon its entry.

8. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Order.

Dated: _____, 2024
Houston, Texas

THE HON. MARVIN P. ISGUR
UNITED STATES BANKRUPTCY JUDGE