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)

OBJECTION TO THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF ZACHRY HOLDINGS, INC. AND ITS DEBTOR AFFILIATES BY D. REYNOLDS COMPANY, D/B/A THE REYNOLDS COMPANY, INCLUDING ELECTION TO OPT-OUT OF THIRD-PARTY RELEASES

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW D. Reynolds Company, d/b/a The Reynolds Company ("Reynolds"), and files this *Objection to the First Amended Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and Its Debtor Affiliates by D. Reynolds Company, d/b/a The Reynolds Company, Including Election to Opt-out of Third-Party Releases* ("Objection").

I. Factual Background

1. This Objection relates to the *First Amended Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and its Debtor Affiliates* ("Plan") [Docket no. 1952].

2. The Reynolds Company ("Reynolds") is a supplier of electrical equipment and goods to Zachry Industrial Inc. ("ZII").

3. The claims asserted by Reynolds against ZII include the following:

a) ZII did work on a project with the Omaha Public Power District ("OPPD"). Reynolds has provided goods to ZII in connection with the OPPD project ("OPPD Project") pursuant to a Purchase Agreement. Reynolds' pre-petition claim relating to the OPPD Project are reflected in proof of claim no. 64-1 in the amount of $17,970,574.04. This includes an

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

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administrative claim pursuant to section 503(b)(9) of the Bankruptcy Code in the amount of $2,031,951.44;

b) Reynolds has also furnished goods to BMZ Third Coast Partners ("BMZ"), a joint venture consisting of ZII and Burns & McDonald Engineering Company, Inc. ("Burns & McDonald"). ZII is liable, as a joint venturer, for all goods furnished by Reynolds to the BMZ joint venture. Reynolds has filed proof of claim no. 65-1 against ZII in an unliquidated amount relating to goods provided by Reynolds to the BMZ joint venture on a pre-petition basis;

c) Reynolds has continued to furnish goods to BMZ post-petition based upon ZII's position as a joint venturer, it will continue to be liable for payment of goods provided by Reynolds to BMZ post-petition; and

d) Reynolds anticipates that it will continue to provide goods to BMZ after the Effective Date of the proposed plan. Likewise, as a joint venturer, ZII will be liable for the payment of these goods and services.

4. Travelers Casualty and Insurance Company of America and Pacific Indemnity Company (collectively, the "Sureties") have issued performance and payment bond no. 107261753/824555022 ("Bond") which relates to the OPPD Project. Reynolds asserts that it is entitled to recourse against the Bond to the extent it is not paid in full by ZII for goods furnished by Reynolds to ZII in connection with the OPPD Project.

5. In addition, in connection with BMZ, both the joint venture and Burns & McDonald, as the other joint venturer, are both jointly and severally liable, along with ZII, for all goods furnished by Reynolds in connection with the joint venture.

6. The Debtors have objected to POC 64-1 in the *Twenty-third Omnibus Objection to Claims* [Docket No. 1543]. Reynolds has timely responded to the objection. The accounting staffs of Reynolds and ZII have worked together and have been able to liquidate the pre-petition claim at $9,459,022.55. This is reflected in the *Order Sustaining Debtors'*

Twenty-Third Omnibus Objection to Certain Proofs of Claim (Reduced Claim)("Claims Order") [Docket No. 2141, p. 5 of 7].

II. Assumption of the Reynolds' Contract

7. *The Notice of Filing of the Second Plan Supplement* ("Second Plan Supplement") [Docket No. 2150. Pp. 42 and 43 of 51] provides that the Debtors will assume the Purchase Agreements with Reynolds. The Second Plan Supplement accurately reflects the total Cure Claim which is consistent with the Claims Order. Article V.C. of the Plan provides that Cure Claims will be paid "on the Effective Date or as soon as reasonably possible thereafter."

8. However, until the Cure Claim is actually paid, Reynolds cannot relinquish its security for the obligation based upon its claim against the Sureties.

III. Plan – Third Party Release

9. The Plan provides for a Third-Party Release (Article VIII.D of the Plan). Reynolds has opted-out of the Third-Party Release by returning a ballot opting out. A copy of Reynolds' ballot opting out of the Third-Party Release, and which was received by the claims agent on or about February 7, 2025, is attached hereto as **Exhibit "1"**. The opt-out form was sent to the notice agent both through physical delivery of a hard copy and through an electronic filing on the claims agent's website.

10. In addition, by this Objection, Reynolds hereby opts out of the Third-Party Releases contained in Article VIII.D of the Plan.

11. The discharge provision (Article VIII.A) includes the following provision:

> For the avoidance of doubt, the discharge provided herein shall discharge release, and extinguish any right of any Holder of any Claims against any of the Holder of any Claim to file, assert, levy, or attach any Liens or initiate any claim against any bonds or the Sureties on account of any Claims against any of the Debtors that are discharged or released pursuant to this Plan, or otherwise enforce, collect, or recover on account of any such Claims, Liens, or bonds.

12. Pursuant to Article I.A.138 of the Plan, the term "Sureties" is defined to mean Travelers Casualty and Insurance Company of America and Pacific Indemnity Company. The above provision purports to discharge Reynolds' Claim against the Sureties on the Bond.

13. Reynolds and the Sureties have entered into a Tolling Agreement pursuant to which Reynolds has agreed not to pursue any claims against the Sureties prior to June 1, 2025.

IV. Objection to the Plan

14. Section 524(e) provides that, in the circumstances here applicable, "the discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt." In the *Purdue Pharma* case, the U.S. Supreme Court held that "the bankruptcy code does not authorize a release and injunction that, as a part of a plan of reorganization under Chapter 11, effectively seeks to discharge claims against a non-debtor without the consent of affected claimants."[2]

15. Reynolds objects to the Plan to the extent it proposes in the Third-Party Release, the discharge provision, or the plan injunction to release, impair, or affect the rights, claims and remedies relating to any portion of the Reynolds' Claim against any non-debtor, including with regard to the Sureties, BMZ, and Burns & McDonald.

16. Reynolds has appropriately opted out of the Third-Party Release and should not be bound by it in any manner. Moreover, by this Objection, Reynolds hereby elects to opt-out of the Third-Party Releases.

17. Reynolds objects to the discharge provision (Article VIII.A.) and the plan injunction (Article VIII.F.) to the extent that these provisions purport to discharge, release, impair, or enjoin any portion of the Reynolds' Claim against any non-debtor, or enjoin Reynolds from pursuing its rights, claims, or remedies against any non-debtors, or otherwise

[2] *Harrington v. Purdue Pharma, L.P.*, 144 S. Ct. 2071, 219 L. Ed. 2d 721, 740 (2024).

impairs, affects, or releases Reynolds' rights, claims, and remedies against any non-debtors, including as against the Sureties, BMZ, and Burns & McDonald.

18. Reynolds has proposed the language reflected in the attached **Exhibit "2"** to resolve this Objection.

19. Reynolds requests that its Objection be sustained and that no provision of the Plan or to the Confirmation Order may release, impair, or affect its rights, claims, and remedies against any non-debtor, including the Sureties, BMZ, and Burns & McDonald.

PRAYER FOR RELIEF

ACCORDINGLY, Reynolds prays that its Objection above be sustained, and for all such relief to which Reynolds may be entitled.

Dated: February 17, 2025.

Respectfully submitted,

/s/ J. Robert Forshey

J. Robert Forshey
State Bar No. 07264200
Suzanne K. Rosen
State Bar No. 00798518
Emily S. Chou
State Bar No. 24006997
VARTABEDIAN HESTER & HAYNES, LLP
301 Commerce Street, Suite 3635
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emily.chou@vhh.law

ATTORNEY FOR THE REYNOLDS COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via ECF electronic Notice on February 17, 2025.

/s/ J. Robert Forshey
J. Robert Forshey

https://vhhlawyers.sharepoint.com/sites/bankruptcy/Shared Documents/BForshey/The Reynolds Company (Zachry) CrR #6484/Pleadings - 24-90377/Objection to First Amd Plan of Reorg 2.17.25.docx

Exhibit “1”

VARTABEDIAN HESTER & HAYNES LLP

Bank of America Tower
301 Commerce Street, Suite 3635
Fort Worth, Texas 76102
817.214.4990

J. Robert Forshey **Direct Dial: 817-877-4212** **Email: bobby.forshey@vhh.law**

February 7, 2025

Zachry Ballot Processing Center
c/o KCC d/b/a Verita
222 N. Pacific Coast Highway, Suite 300
El Segundo, California 90245

Via Federal Express

Re: Zachry Holdings, Inc., Case No. 24-90377 in the United States Bankruptcy Court for the Southern District of Texas

Gentlemen:

D. Reynolds Company, d/b/a The Reynolds Company ("Reynolds") holds Class 5 (General Unsecured Claims) against one or more of the Zachry Debtors. Attached is the Class 5 Ballot ("Ballot") provided by the Zachry Debtors to Reynolds. Based on this Ballot, Reynolds hereby elects to opt-out of the Third-Party Release as to all Claims asserted by Reynolds against any of the Zachry Debtors.

Sincerely,

J. Robert Forshey

JRF/jag

cc: LaVonda Harrison (lharrison@reynco.com)
Park Smith (park@dparksmithlaw.com)

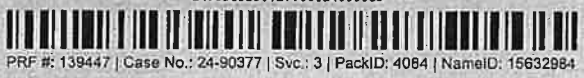
https://vhhlawyers.sharepoint.com/sites/bankruptcy/Shared Documents/BForshey/The Reynolds Company (Zachry) CrR #6484/Correspondence/Ballot Processing Cntr ltr re Opt-Out Third Party Releases 2.7.25.docx

Zachry Holdings, Inc., et al.
c/o KCC dba Verita
222 N Pacific Coast Highway, Ste. 300
El Segundo, CA 90245

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Legal Notice Enclosed.
Direct to Attention of Addressee, President or Legal Department.

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PRF #: 139447 | Case No.: 24-90377 | Svc.: 3 | PackID: 4084 | NameID: 15632984

D. Reynolds Company d/b/a The Reynolds Co.
c/o J. Robert Forshey
Vartabedian Hester & Haynes LLP
Bank of America Tower
301 Commerce Street, Suite 3635
Fort Worth, TX 76102

IMPORTANT
Opt Out Form Attached

Your form can be filed electronically on Verita's website at https://www.veritaglobal.net/ZHI.

Your unique login information is:

ID: 26324286
PIN: zBxU3pr8

If you have any questions regarding these documents, please call
(866) 479-8211 (U.S./Canada) or +1 (781) 575-2037 (International),
or visit https://www.veritaglobal.net/ZHI to submit an inquiry.

THIRD-PARTY RELEASE OPT-OUT FORM

You are receiving this opt-out form (the "**Opt-Out Form**") because you are or may be a Holder of a Claim or Interest that is not entitled to vote on the *Modified First 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**"). Except as otherwise set forth in the Plan, Holders of Claims and Interests are deemed to grant the Third-Party Release set forth in **Article VIII.D** (the "**Third-Party Release**"), unless a Holder affirmatively opts out or timely objects to the Third-Party Release as described below.

PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING THIS OPT-OUT FORM CAREFULLY **BEFORE** COMPLETING THIS OPT-OUT FORM.

THIS OPT-OUT FORM MUST BE COMPLETED, EXECUTED, AND RETURNED SO AS TO BE ACTUALLY RECEIVED BY VERITA GLOBAL, LLC (THE "CLAIMS AND NOTICING AGENT") ON OR BEFORE 4:00 P.M. PREVAILING CENTRAL TIME ON FEBRUARY 20, 2025 (THE "OPT-OUT DEADLINE"). YOU WILL BE HELD TO FOREVER RELEASE THE RELEASE PARTIES IN ACCORDANCE WITH THE PLAN UNLESS YOU CHECK THE BOX ON THIS OPT-OUT FORM AND FOLLOW ALL INSTRUCTIONS, OR UNLESS YOU PROPERLY SUBMITTED AN OPT-OUT FORM DURING THE SOLICITATION OF THE DEBTORS' INITIAL PLAN OF REORGANIZATION, IN WHICH CASE SUCH OPT-OUT FORM REMAINS VALID AND EFFECTIVE.

If you believe you have received this Opt-Out Form in error, please contact the Claims and Noticing Agent immediately by calling (866) 479-8211 (US or Canada) or +1 (781) 575-2037 (International) and requesting to have a member of the Solicitation Team contact you, or submitting an inquiry at https://www.veritaglobal.net/zhi/inquiry.

Before completing this Opt-Out Form, please read and follow the enclosed "Instructions for Completing this Opt-Out Form" carefully to ensure that you complete, execute, and return this Opt-Out Form properly.

Item 1. Optional Third-Party Release.

AS A HOLDER OF A CLAIM OR INTEREST, YOU WILL BE A "RELEASING PARTY" UNDER THE PLAN AND DEEMED TO PROVIDE THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE VIII.D OF THE PLAN, AS SET FORTH BELOW. YOU MAY, HOWEVER, CHECK THE BOX BELOW TO ELECT NOT TO GRANT THE RELEASE CONTAINED IN ARTICLE VIII.D OF THE PLAN. YOU WILL NOT BE CONSIDERED A "RELEASING PARTY" UNDER THE PLAN ONLY IF YOU (A) CHECK THE BOX BELOW AND SUBMIT THE OPT-OUT FORM BY THE OPT-OUT DEADLINE; (B) TIMELY OBJECT TO THE RELEASES CONTAINED IN ARTICLE VIII.D OF THE PLAN AND SUCH OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION OF THE PLAN; OR (C) PROPERLY SUBMITTED AN OPT-OUT FORM DURING THE SOLICITATION OF THE DEBTORS' INITIAL PLAN OF REORGANIZATION, IN WHICH CASE SUCH OPT-OUT FORM REMAINS VALID AND EFFECTIVE. THE ELECTION TO WITHHOLD CONSENT TO GRANT THE THIRD-PARTY RELEASE IS AT YOUR OPTION.

☒ **By checking this box, you elect to opt out of the Third-Party Release set forth below.**

Article VIII.D of the Plan contains the following Third-Party Release.

Except as otherwise expressly set forth in the Plan or the Confirmation Order, and except for the rights that remain in effect from and after the Effective Date to enforce the Plan, and the obligations contemplated by the Restructuring Transactions or as otherwise provided in any order of the Bankruptcy Court, on and after the Effective Date, the Released Parties shall be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, by each Releasing Party, in each case on behalf of itself and its respective successors, assigns, and representatives and any and all other Persons that may purport to assert any Cause of Action derivatively, by or through the foregoing Persons, in each case solely to the extent of the Releasing Parties' authority to bind any of the foregoing, including pursuant to agreement or applicable non-bankruptcy law, from any and all claims and Causes of Action whatsoever (including any derivative claims, asserted or assertable on behalf of the Debtors or the Estates), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that such Holders or their estates, Affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors or the Estates, the Chapter 11 Cases, the Restructuring Transactions, the GPX Settlement, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated under the Plan, the business or contractual arrangements or interactions between any Debtor and any Released Party, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among a Debtor or an Affiliate of a Debtor and another Debtor or an Affiliate of a Debtor, the restructuring of any Claim or Interest before or during the Chapter 11 Cases, the negotiation, formulation, preparation, Filing, or consummation of the Plan, the Plan Supplement, the Confirmation Order, the Restructuring Transactions, the A&R Credit Facility, the GUC Trust, the Parent Capital Contribution, the GPX Settlement Documents, the Cash Collateral Order, the Disclosure Statement, and all related agreements, instruments, and other documents, and the solicitation of votes with respect to the Plan, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date.

Notwithstanding anything to the contrary in the foregoing, the releases set forth in the preceding paragraph shall not release any Released Party (other than a Released Party that is a Reorganized Debtor, Debtor, or a director, officer, or employee of any Debtor as of the Petition Date), from any claim or Cause of Action arising from an act or omission that is determined by a Final Order to have constituted actual fraud, willful misconduct, or gross negligence.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the foregoing Third-Party Release, which includes by reference each of the related provisions and definitions contained in the Plan, and, further, shall constitute the Bankruptcy Court's finding that the Third-Party Release is: (1) consensual; (2) essential to the confirmation of the Plan; (3) given in exchange for the good and valuable consideration provided by the Released Parties; (4) a good faith settlement and compromise of the Claims released by the Third-Party Release; (5) in the best interests of the Debtors and their Estates; (6) fair, equitable, and reasonable; (7) given and made after due notice and opportunity for hearing; and (8) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Third-Party Release.

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Certain defined terms with respect to the Third-Party Release are set forth below:

"**Affiliate**" means, with respect to any Entity, all Entities that would fall within the definition assigned to such term in section 101(2) of the Bankruptcy Code if such Entity was a debtor in a case under the Bankruptcy Code.

"**Cause of Action**" means, without limitation, any Claim, Interest, claim, damage, remedy, cause of action, controversy, demand, right, right of setoff, action, cross claim, counterclaim, recoupment, claim for breach of duty imposed by law or in equity, action, Lien, indemnity, contribution, reimbursement, guaranty, debt, suit, class action, third-party claim, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, matured or unmatured, direct or indirect, choate or inchoate, liquidated or unliquidated, suspected or unsuspected, disputed or undisputed, secured or unsecured, assertable or existing directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, statutory or otherwise, under the Bankruptcy Code or applicable non-bankruptcy law, or pursuant to any other theory of law. For the avoidance of doubt, Causes of Action include: (a) all rights of setoff, counterclaim, or recoupment and claims on contracts or for breaches of duties imposed by law; (b) the right to object to or otherwise contest Claims or Interests; (c) claims pursuant to sections 362, 510, 542, 543, 544, 545, 546, 547, 548, 549, 550, or 553 of the Bankruptcy Code or similar non-U.S. or state law; and (d) such claims and defenses as fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code.

"**Chapter 11 Cases**" means (a) when used with reference to a particular Debtor, the case pending for that Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court and (b) when used with reference to all the Debtors, the procedurally consolidated chapter 11 cases pending for the Debtors in the Bankruptcy Court.

"**Confirmation Order**" means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, which shall be in form and substance acceptable to the Debtors.

"**Debtor Release**" means the release set forth in **Article VIII.C** of the Plan.

"**Holder**" means a Person or an Entity holding a Claim against, or an Interest in, any Debtor, as applicable, including any Person or Entity that is the record or beneficial owner, nominee, investment advisor, sub-advisor, or manager of discretionary accounts that hold any Claim against or Interest in any Debtor.

"**Plan**" means the joint plan of reorganization under chapter 11 of the Bankruptcy Code, either in its present form or as it may be altered, amended, supplemented, or otherwise modified from time to time, including all exhibits, schedules, supplements, appendices, annexes, and attachments hereto, as may be altered, amended, supplemented, or otherwise modified from time to time in accordance with **Article IX.A** the Plan, including the Plan Supplement (as altered, amended, supplemented, or otherwise modified from time to time), which is incorporated by reference herein and made part of the Plan as if set forth herein.

"**Plan Supplement**" means the compilation of documents and forms of documents, agreements, schedules, and exhibits to the Plan (in each case, as may be altered, amended, modified, or supplemented from time to time in accordance with the terms in the Plan and in accordance with the Bankruptcy Code and the Bankruptcy Rules), the initial drafts of certain of such documents to be Filed by the Debtors no later than seven (7) calendar days before the deadline to object to confirmation of the Plan to the extent available, or such later date as may be approved by the Bankruptcy Court, including the following, as applicable: (a) the Organizational Documents (solely to the extent that the Debtors determine, in their sole discretion, that any amendments to such Organizational Documents are necessary to effectuate the Restructuring Transactions on the Effective Date); (b) the Assumption List; (c) the Rejection List; (d) the Schedule of Retained Causes of Action; (e) the A&R Credit Facility Term Sheet; (f) the GUC Trust Unsecured Note Term Sheet; (g) the

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GUC Trust Agreement; and (h) the Restructuring Steps Memorandum (which shall, for the avoidance of doubt, remain subject to modification until the Effective Date and may provide for certain actions to occur prior to the Effective Date).

"**Related Party**" means with respect to an Entity, collectively, (a) such Entity's current and former Affiliates and (b) such Entity's current and former Affiliates' respective directors, managers, officers, shareholders, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, predecessors, participants, successors, assigns (whether by operation of law or otherwise), subsidiaries, current, former, and future associated entities, managed or advised entities, accounts or funds, partners, limited partners, general partners, principals, members, management companies, fund advisors, managers, fiduciaries, trustees, employees, agents (including any disbursing agent), advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, other representatives, and other professionals, representatives, advisors, predecessors, successors, and assigns, each solely in their capacities as such (including any other attorneys or professionals retained by any current or former director or manager in his or her capacity as director or manager of an Entity), and the respective heirs, executors, estates, and nominees of the foregoing.

"**Released Party**" means, collectively, the following Entities, in each case in their capacities as such: (a) the Debtors; (b) the Reorganized Debtors; (c) each member of the Committee; (d) the Prepetition Credit Facility Agent; (e) the A&R Credit Facility Agent; (f) the Released Prepetition Lenders; (g) Golden Pass, but solely with respect to the Debtors, the Debtors' Related Parties, and Holders of Claims related to the GPX Project, consistent with the GPX Settlement; (h) the Sureties; (i) all Releasing Parties; and (j) each Related Party of each Entity in clause (a) through (i); *provided*, *however*, in each case, an Entity shall not be a Released Party if it: (i) elects to opt out of the Third-Party Release or (ii) Files with the Bankruptcy Court an objection to the Plan, including with respect to the Third-Party Release, that is not consensually resolved before Confirmation or otherwise supports any such objection or objector.

"**Releasing Party**" means, collectively, the following Entities, in each case in their capacities as such: (a) the Debtors; (b) the Reorganized Debtors; (c) each member of the Committee; (d) the Prepetition Credit Facility Agent; (e) the A&R Credit Facility Agent; (f) the Released Prepetition Lenders; (g) Golden Pass, but solely with respect to the Debtors and the Debtors' Related Parties consistent with the GPX Settlement; (h) the Sureties; (i) all Holders of Claims who vote to accept the Plan and who do not affirmatively opt out of the Third-Party Release provided by the Plan by checking the box on the applicable ballot indicating that they opt not to grant the Third-Party Release provided in the Plan; (j) all Holders of Claims or Interests who are deemed to accept the Plan and who do not affirmatively opt out of the Third-Party Release provided by the Plan by checking the box on the applicable notice of non-voting status indicating that they opt not to grant the Third-Party Release provided in the Plan; (k) all Holders of Claims or Interests who are deemed to reject the Plan and who do not affirmatively opt out of the Third-Party Release provided by the Plan by checking the box on the applicable notice of non-voting status indicating that they opt not to grant the Third-Party Release provided in the Plan; (l) all Holders of Claims who abstain from voting on the Plan and who do not affirmatively opt out of the Third-Party Release provided by the Plan by checking the box on the applicable ballot indicating that they opt not to grant the Third-Party Release provided in the Plan; (m) all Holders of Claims who vote to reject the Plan and who do not affirmatively opt out of the Third-Party Release provided by the Plan by checking the box on the applicable ballot indicating that they opt not to grant the Third-Party Release provided in the Plan; and (n) each Related Party of each Entity in clause (a) through (m) for which such Entity is legally entitled to bind such Related Party to the releases contained in the Plan under applicable law; *provided*, *however*, notwithstanding anything to the contrary in the Plan, current employees of the Debtors as of the Voting Record Date shall not be Releasing Parties under the Plan.

"**Restructuring Transactions**" means the transactions described in **Article IV.C** of the Plan.



Item 2. Certifications.

By signing this Opt-Out Form, the undersigned certifies to the Bankruptcy Court and the Debtors:

a. that, as of January 22, 2025, either: (i) the undersigned is the Holder of a Claim or an Interest; or, (ii) the undersigned is an authorized signatory for an Entity or Person that is the Holder of a Claim or an Interest;

b. that the Holder has received a copy of the *Notice of (A) Non-Voting Status to Holders or Potential Holders of (I) Unimpaired Claims or Equity Interests Conclusively Presumed to Accept the Plan and (II) Impaired Claims or Equity Interests Conclusively Deemed to Reject the Plan and (B) Opportunity for Holders of Claims and Equity Interests to Opt-Out of the Third-Party Release* and that this Opt-Out Form is made pursuant to the terms and conditions set forth therein;

c. that the undersigned has made the same election with respect to all Claims or Interests held by the undersigned; and

d. that no other Opt-Out Form has been cast with respect to the Holder's Claims or Interests, or, if any other Opt-Out Forms have been cast with respect to such Claims or Interests, such Opt-Out Forms are hereby revoked.

YOUR RECEIPT OF THIS OPT-OUT FORM DOES NOT SIGNIFY THAT YOUR CLAIM OR INTEREST HAS BEEN OR WILL BE ALLOWED.

Name of Holder:	D. Reynolds Company d/b/a The Reynolds Co.
Signature:	
Signatory Name (if other than the Holder):	**LaVonda Harrison**
Title:	**Director of Credit**
Address:	c/o J. Robert Forshey Vartabedian Hester & Haynes LLP Bank of America Tower 301 Commerce Street, Suite 3635 Fort Worth, TX 76102
Email Address:	**bobby.forshey@vhh.law**
Date Completed:	**February 5, 2025**

If your address or contact information has changed, please note the new information here.

Class: Unimpaired
CID: 26324286



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IF YOU WISH TO OPT OUT, PLEASE COMPLETE, SIGN, AND DATE THIS OPT-OUT FORM AND RETURN PROMPTLY VIA FIRST CLASS MAIL, OVERNIGHT COURIER, OR HAND DELIVERY TO:

ZACHRY BALLOT PROCESSING CENTER
C/O VERITA
222 N. PACIFIC COAST HWY., STE. 300
EL SEGUNDO, CA 90245

OR VIA THE ONLINE FORM AT: HTTPS://WWW.VERITAGLOBAL.NET/ZHI

ID Number 26324286

Passcode zBxU3pr8

If you have any questions, please call the Claims and Noticing Agent at (866) 479-8211 (US and Canada), +1 (781) 575-2037 (International) and request to have a member of the Solicitation Team contact you, or submit an inquiry at www.veritaglobal.net/zhi/inquiry.

IF THE CLAIMS AND NOTICING AGENT DOES NOT **ACTUALLY RECEIVE THIS OPT-OUT FORM ON OR BEFORE 4:00 P.M., PREVAILING CENTRAL TIME, ON FEBRUARY 20, 2025**, THEN THE ELECTIONS TRANSMITTED HEREBY WILL NOT BE EFFECTIVE.

OPT-OUT FORMS SENT BY FACSIMILE OR EMAIL WILL **NOT** BE ACCEPTED.

Class: Unimpaired
CID: 26324286



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INSTRUCTIONS FOR COMPLETING THIS FORM

1. Capitalized terms used in the Opt-Out Form or in these instructions (the "**Instructions**") but not otherwise defined therein or herein shall have the meaning set forth in the Plan.

2. You will be held to forever release the Release Parties in accordance with the Plan unless you properly submit the Opt-Out Form, or unless you properly submitted an Opt-Out Form during the solicitation of the Debtors' initial plan of reorganization, in which case such Opt-Out Form remains valid and effective.

3. To complete this Opt-Out Form, take the following steps: (a) clearly indicate your decision to "opt out" of the Third-Party Release set forth in the Plan in Item 1 above; (b) make sure that the information required by Item 2 above has been correctly inserted; and (c) sign, date and return an original of your Opt-Out Form in accordance with paragraph 3 directly below.

4. **Return of Opt-Out Form:** Your Opt-Out Form MUST be returned to the Claims and Noticing Agent so as to be **actually received** by the Claims and Noticing Agent on or before the Opt-Out Deadline, which is **4:00 p.m. (prevailing Central Time), on February 20, 2025**.

5. If an Opt-Out Form is received by the Claims and Noticing Agent after the Opt-Out Deadline, it will not be effective. Additionally, the following Opt-Out Forms will **NOT** be counted:

   a. Any Opt-Out Form that is illegible or contains insufficient information to permit the identification of the Holder of the Claim or Interest;

   b. Any Opt-Out Form cast by or on behalf of an Entity that is not entitled to opt out of the Third-Party Release;

   c. Any Opt-Out Form sent to any party other than the Claims and Noticing Agent;

   d. Any Opt-Out Form transmitted by facsimile or email;

   e. Any unsigned Opt-Out Form; or

   f. Any Opt-Out Form not completed in accordance with the procedures approved in the Disclosure Statement Order and described herein.

6. The method of delivery of Opt-Out Forms to the Claims and Noticing Agent is at the election and risk of each Holder of a Claim or Interest. Except as otherwise provided herein, such delivery will be deemed made to the Claims and Noticing Agent only when the Claims and Noticing Agent **actually receives** the executed Opt-Out Form. Holders should allow sufficient time to assure timely delivery.

7. If multiple Opt-Out Forms are received from the same Holder with respect to the same Claim or Interest prior to the Opt-Out Deadline, the last Opt-Out Form timely received will supersede and revoke any earlier received Opt-Out Forms.

8. The Opt-Out Form is not a letter of transmittal and may not be used for any purpose other than to opt-out of the Third-Party Release. Accordingly, at this time, Holders of Claims or Interests should not surrender certificates or instruments representing or evidencing their Claims or Interests, and neither the Debtors nor the Claims and Noticing Agent will accept delivery of any such certificates or instruments surrendered together with an Opt-Out Form.

9. The Opt-Out Form does **not** constitute, and shall not be deemed to be, (a) a Proof of Claim, (b) proof of interest, or (c) an assertion or admission of a Claim or Interest.

10. **Please be sure to sign and date your Opt-Out Form**. If you are signing an Opt-Out Form in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when



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signing and, if required or requested by the Claims and Noticing Agent, the Debtors, or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Opt-Out Form.

PLEASE RETURN YOUR OPT-OUT FORM PROMPTLY

IF YOU HAVE ANY QUESTIONS REGARDING THIS OPT-OUT FORM OR THE INSTRUCTIONS OR PROCEDURES, PLEASE CONTACT THE CLAIMS AND NOTICING AGENT AT: (866) 479-8211 (US OR CANADA), +1 (781) 575-2037 (INTERNATIONAL) AND REQUEST TO HAVE A MEMBER OF THE SOLICITATION TEAM CONTACT YOU OR SUBMIT AN INQUIRY AT HTTPS://WWW.VERITAGLOBAL.NET/ZHI/INQUIRY

IF THE CLAIMS AND NOTICING AGENT DOES NOT ACTUALLY RECEIVE THIS OPT-OUT FORM OPT-OUT FORM FROM YOU BEFORE THE OPT-OUT DEADLINE—WHICH IS 4:00 P.M., PREVAILING CENTRAL TIME ON FEBRUARY 20, 2025—THEN THE OPT-OUT ELECTIONS TRANSMITTED THEREBY WILL NOT BE EFFECTIVE.

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE DOCUMENTS MAILED HEREWITH.



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Attachment to Opt-Out Form

This Opt-Out Form is executed on behalf of D. Reynolds Co., d/b/a The Reynolds Co. ("Reynolds"). Reynolds has filed two proofs of claim against Zachry Industrial, Inc. ("ZII").

a) Proof of Claim No. 64-1; and

b) Proof of Claim No. 65-1.

Reynolds hereby opts out of the Third-Party Release as to all claims asserted against ZII or any other affiliated debtor, both as to the above proofs of claim and any other claim which Reynolds may have as to any third party, including the following:

a) The "Sureties" which includes Travelers Casualty & Surety Company of America and Chubb Indemnity Insurance Company; and

b) Any entity in which ZII or any affiliated debtor or entity is a partner or joint venturer, including any such claim against BMZ Third Coast Partners ("BMZ") or any partner or venturer in BMZ, including Burns & McDonnell Engineering Company.

From: FedEx Tracking
To: Julie Gonzalez
Subject: Your shipment was delivered 771943313784
Date: Monday, February 10, 2025 6:51:33 PM

Your shipment was delivered.

Delivery Date

Mon, 02/10/2025
4:42pm

Delivered to

222 N SEPULVEDA BLVD, EL SEGUNDO, CA 90245

Received by

G.Jennifer

Report missing package

How was your delivery?

Tracking details

Tracking ID	771943313784
From	Vartabedian Hester & Haynes LLP 301 Commerce St 3635 Fort Worth, TX, US 76102

To	Zachry Ballot Processing Center 222 N. Pacific Coast Hwy, Suite 300 EL SEGUNDO, CA, US 90245
Ship date	Fri 2/07/2025 07:20 PM
Number of pieces	1
Total shipment weight	0.50 LB
Service	FedEx Standard Overnight
Reference	#7532 - The Reynolds Co.
Shipper reference	#7532 - The Reynolds Co.

TRACK SHIPMENT

FedEx



More control in the palm of your hand

Enroll for free and get more visibility and control for your deliveries from start to finish. And if you need to make a return, our network of 10,000+ locations makes drop off easy.

ENROLL NOW

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All weights are estimated.

To track the latest status of your shipment, click on the tracking number above.

Standard transit is the date and time the package is scheduled to be delivered by, based on the selected service, destination and ship date. Limitations and exceptions may apply. Please see the FedEx Service Guide for terms and conditions of service, including the FedEx Money-Back Guarantee, or contact your FedEx Customer Support representative.

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Exhibit “2”

ZACHRY – CONFIRMATION ORDER

Provisions Regarding Reynolds. Notwithstanding anything to the contrary in this Confirmation Order, the Plan, the Plan Supplement, the Restructuring Transactions, or any related documents (the "**Plan Documents**"), (i) D. Reynolds Company, d/b/a The Reynolds Company ("**Reynolds**") is hereby deemed, as of the Effective Date, to have affirmatively opted out of the Third-Party Release provisions of the Plan and is not bound by the Third-Party Release; (ii) confirmation of the Plan shall not release, discharge, impair, or enjoin Reynolds' rights, Claims, or remedies against any non-debtor, including BMZ Third Coast Partners ("**BMZ**"), Burns & McDonald Engineering Company, Inc., and the Sureties (Travelers Casualty and Surety Company of America and Pacific Indemnity Company); (iii) as set forth in **Article II.A** of the Plan, any Administrative Claims of Reynolds that accrued in the ordinary course of business after the Petition Date may be paid by the Debtors or Reorganized Debtors, as applicable, in the ordinary course of business, to the extent not otherwise paid as Cure Claims on the Effective Date; and (iv) confirmation of the Plan shall not release, discharge, impair, or enjoin Reynolds' rights, claims, or remedies against any Person accruing on or after the Effective Date. On the Effective Date, as a Cure Claim, the Debtors shall pay to Reynolds the sum of $9,459,022.55 which payment shall be deemed to fully satisfy: (a) Proof of Claim no. 64 filed by Reynolds, and (b) any Claim which Reynolds may have or assert against the Sureties, whether based on the Claim reflected in Proof of Claim no. 64 or otherwise. Proof of Claim no. 65 relating to BMZ shall be deemed as withdrawn based upon the terms of this provision.

PRIVILEGED & CONFIDENTIAL
SUBJECT TO FRE 408
BF/W&C DRAFT 2/~~11~~13/25

ZACHRY – CONFIRMATION ORDER

Provisions Regarding Reynolds. Notwithstanding anything to the contrary in this Confirmation Order, the Plan, the Plan Supplement, the Restructuring Transactions, or any related documents (the "**Plan Documents**"), (i) D. Reynolds Company, d/b/a The Reynolds Company ("**Reynolds**") is hereby deemed, as of the Effective Date, to have affirmatively opted out of the Third-Party Release provisions of the Plan and is not bound by the Third-Party Release; (ii) confirmation of the Plan shall not release, discharge, impair, or enjoin Reynolds' rights, ~~claims~~Claims, or remedies against any non-debtor, including BMZ Third Coast Partners ("**BMZ**~~") and~~"), Burns & McDonald Engineering Company, Inc., ~~except that Reynolds shall be bound by **Article XIII.A** of the Plan and shall be barred from seeking payment from~~ and the Sureties ~~for any Claims against the Debtors, all of which are to be satisfied in full under the Plan~~(Travelers Casualty and Surety Company of America and ~~as Cure Claims on the Effective Date;~~Pacific Indemnity Company); (iii) as set forth in **Article II.A** of the Plan, any Administrative Claims of Reynolds that accrued in the ordinary course of business after the Petition Date may be paid by the Debtors or Reorganized Debtors, as applicable, in the ordinary course of business, to the extent not otherwise paid as Cure Claims on the Effective Date; and (iv) confirmation of the Plan shall not release, discharge, impair, or enjoin Reynolds' rights, claims, or remedies ~~accruing on or after the Effective Date~~against any Person accruing on or after the Effective Date. On the Effective Date, as a Cure Claim, the Debtors shall pay to Reynolds the sum of $9,459,022.55 which payment shall be deemed to fully satisfy: (a) Proof of Claim no. 64 filed by Reynolds, and (b) any Claim which Reynolds may have or assert against the Sureties, whether based on the Claim reflected in Proof of Claim no. 64 or otherwise. Proof of Claim no. 65 relating to BMZ shall be deemed as withdrawn based upon the terms of this provision.

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