UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: BY HOTEL SPE-3 LLC, a Delaware Limited Liability Company, 1101 WABASH DEVELOPMENT MEZZ, LLC, a Delaware Limited Liability Company, WABASH 11TH MEZZ LLC, a Delaware Limited Liability Company, PACIFIC TAI MEZZ LLC, a Delaware Limited Liability Company, 1101 WABASH DEVELOPMENT SPE LLC, a Delaware Limited Liability Company, WABASH 11TH LLC, an Illinois Limited Liability Company, 1101 WABASH DEVELOPMENT LLC, an Illinois Limited Liability Company, PACIFIC TAI, LLC, an Illinois Limited Liability Company, SB YEN'S MANAGEMENT GROUP, INC, an Illinois Corporation, **Debtors.**[1]	Chapter 11 Case No. 26-10324 (JKS) (Joint Administration Requested)

EMERGENCY MOTION FOR ENTRY OF A FINAL ORDER (A) AUTHORIZING PAYMENT OF CERTAIN PREPETITION WORKFORCE CLAIMS, INCLUDING WAGES, SALARIES, AND OTHER COMPENSATION; (B) AUTHORIZING PAYMENT OF CERTAIN EMPLOYEE BENEFITS AND CONFIRMING RIGHT TO CONTINUE EMPLOYEE BENEFITS ON POSTPETITION BASIS; (C) AUTHORIZING PAYMENT OF WITHHOLDING AND PAYROLL-RELATED TAXES; (D) AUTHORIZING PAYMENT OF WORKERS' COMPENSATION OBLIGATIONS; AND (E) AUTHORIZING PAYMENT OF PREPETITION CLAIMS OWING TO ADMINISTRATORS AND THIRD PARTY PROVIDERS

The above-captioned debtors and debtors in possession (collectively, the "Debtors") hereby move the Court (this "Motion") for entry of a final order, substantially in the form attached hereto as Exhibit A (the "Proposed Order"), pursuant to sections 105(a), 363(b), 507, 1107(a), and 1108 of

[1] The Debtors in these chapter 11 cases and the last four digits of their respective identification numbers are By Hotel SPE-3 LLC (3619); 1101 Wabash Development Mezz, LLC (9294); Wabash 11th Mezz LLC (4278); Pacific Tai Mezz LLC (3717); 1101 Wabash Development SPE LLC (9201); Wabash 11th LLC (3098); 1101 Wabash Development LLC (3365); Pacific Tai, LLC (9675); and SB Yen's Management Group, Inc. (1132). The location of the Debtors' corporate headquarters and the Debtors' service address is 806 N York Rd., Hinsdale, IL 60521.

title 11 of the United States Code (the "Bankruptcy Code"), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), (a) authorizing, but not directing, the Debtors, in accordance with their stated policies and in their discretion, to (i) pay prepetition employee wages, salaries and other accrued compensation, (ii) pay prepetition employee business expenses, (iii) make contributions to prepetition benefit programs and continue such programs in the ordinary course of their business, (iv) honor workers' compensation obligations, (v) make payments for which prepetition payroll deductions were made, (vi) pay processing costs and administrative expenses relating to the foregoing payments and contributions, and (vii) make payments to third parties incident to the foregoing payments and contributions, and (b) authorizing banks and other financial institutions to honor and process check and electronic transfer requests related to the foregoing. In support of this Motion, the Debtors rely upon and incorporate by reference the *Declaration of Su-Mei Yen in Support of Debtors' First Day Motions, Cash Collateral, and Debtor in Possession Financing Motions* (the "First Day Declaration"), filed contemporaneously herewith. In further support of this Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with

Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested herein are sections 105(a), 363(b), 507, 1107(a), and 1108 of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Local Rule 9013-1.

BACKGROUND

A. General Background

2. On March 8, 2026 (the "Petition Date"), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to manage their financial affairs as debtors in possession. The Debtors' chapter 11 cases (collectively, the "Chapter 11 Cases") are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. No trustee, examiner, or official committee of unsecured creditors has been appointed in the Chapter 11 Cases.

3. Information regarding the Debtors' history and business operations, capital structure and primary secured indebtedness, and the events leading up to the commencement of the Chapter 11 Cases can be found in the First Day Declaration.

B. The Debtors' Workforce and Related Obligations

4. In connection with operating their business, the Debtors currently employ approximately 106 employees (collectively the "Employees") in the State of Illinois. The Debtors' Employees consist of: (i) approximately 4 corporate support personnel, who are primarily located in Chicago, Illinois; and (ii) 102 hotel staff located at Debtors' hotels in Chicago, Illinois.

5. The Employees are invaluable to the Debtors' business. The institutional knowledge, experience, and skills of the Employees are essential to the Debtors' ability to continue

business operations during the Chapter 11 Cases. If the Debtors cannot assure Employees that they will promptly pay prepetition Employee Obligations to the extent allowed under the Bankruptcy Code, and continue to honor, as applicable, Employee Benefits Obligations, certain Employees will likely seek employment elsewhere. The loss of Employees at this critical juncture would have a material adverse impact on the Debtors' business and ability to maximize value through the prosecution of the Chapter 11 Cases.

6. In the ordinary course of business, the Debtors incur payroll and other compensation obligations for their Workforce. The Debtors also provide other benefits to Employees for the performance of services. These benefits and obligations are customary within the industry in which the Debtors operate and are described in more detail below.

(1) Workforce Compensation Obligations

a. Employee Compensation Obligations

5. In the ordinary course of business, the Debtors incur payroll obligations to Employees, comprised generally of salaries and wages, including on a salaried and hourly basis. The Debtors pay all of their Employees on a bi-weekly basis, in arrears, on Fridays, via direct deposit and paper checks. Approximately 90% of the Debtors' Employees receive direct deposit, and the remaining 10% of Employees receive a live paper check.

6. The Debtors' bi-weekly gross payroll on account of the Employees averages approximately $295,000 ($195,000 for Employees located at Hilton properties and $100,000 for Employees located at Best Western properties). The last date Employees were compensated prior to the Petition Date was March 6, 2026, with such Employees receiving payment primarily for salaries and wages earned from February 15, 2026 through February 28, 2026. The next scheduled payroll date is March 20, 2026, which will include salaries and wages earned from March 1, 2026

through March 14, 2026, and thus it will necessarily include salaries and wages earned prepetition. The following scheduled payroll date is April 6, 2026, which will be comprised entirely of postpetition wages.

7. The Debtors estimate that, as of the Petition Date, they owe approximately $295,000 on account of accrued and unpaid prepetition salaries and wages (collectively, the "Employee Compensation Obligations"). To the best of the Debtors' understanding, none of the Employees are owed more than $17,150 in accrued and unpaid Employee Compensation Obligations.

8. The Debtors seek authorization, but not direction, to pay any unpaid Employee Compensation Obligations. In addition, the Debtors seek authority to cause any prepetition checks (if any) or electronic payment requests that were given in payment of Employee Compensation Obligations to be honored and to reissue any check (if any) or electronic payment request that is not cleared by the applicable bank or other financial institution, to the extent necessary.

b. Withholding Obligations

9. For each appliable pay period, the Debtors routinely deduct certain amounts directly from Employees' pay, including, without limitation, (a) garnishments, child support, service charges, and other similar deductions; and (b) other pre- and after-tax deductions payable pursuant to certain of the Employees' benefit plans (such as an Employee's share of health care benefits and insurance premiums and 401(k) contributions), legally-ordered deductions, and miscellaneous deductions (collectively, the "Deductions").

10. In connection with the salaries and wages paid to Employees, the Debtors are required by law to withhold from Employees' wages amounts related to federal, state, and local income taxes, as well as social security and Medicare taxes (collectively, the "Employee Withholding Taxes"), and to remit the same to the applicable taxing authorities. IN addition, the

Debtors are required to make matching payments from their own funds for, among other things, social security and Medicare taxes and to pay, based on a percentage of gross payroll, state and federal unemployment insurance, employment training taxes, and state disability insurance contributions (together with the Employee Withholding Taxes, the "Payroll Tax Obligations"). Each pay cycle, the Debtors withhold any applicable Employee Withholding Taxes from the Employees' wages, and remit the same to the applicable taxing authorities.

11. The Debtors submit that, as of the Petition Date, the Debtors have withheld all legally required amounts in Deductions and Payroll Tax Obligations (collectively, the "Withholding Obligations") to be remitted to the appropriate third-party recipients. The Debtors seek authorization, but not direction, to continue to make the Deductions and satisfy the Payroll Tax Obligations and to remit amounts withheld on behalf of third parties post-petition in the ordinary course of business.

(2) PTO

12. The Debtors offer certain Employees paid time off ("PTO") in the form of sick pay and vacation pay (such employees, the "Eligible Employees"). Full-time Employees become eligible for paid sick leave after twenty-nine (29) days of continuous service, and part-time employees accrue one hour of sick leave for every thirty-five (35) hours worked up to the maximum o the applicable law per anniversary year. Eligible Employees are entitled to forty (40) hours of sick leave per calendar year. In addition, Eligible Employees become eligible for paid leave following eighty-nine (89) days of continuous service. Full-time employees accrue forty (40) hours of paid leave each calendar year, and part-time employees accrue one hour of paid leave for every thirty-five (35) hours worked, up to the maximum of the applicable law per calendar year. Subject to compliance with applicable state law, Eligible Employees are entitled to cash payment for accrued but unused paid

leave upon termination. No cash payments are payable to Employees for accrued and unused sick leave, unless required by applicable law. Employees are entitled to carry over accrued but unused sick leave from year to year up to a maximum of eighty (80) hours. These PTO programs are typical and customary, and continuing to offer them is necessary for the Debtors to retain Employees during the chapter 11 process.

13. Because PTO is accrued and used by Employees on a continuous basis, it is difficult to precisely quantify the cost of accrued PTO as of the Petition Date. However, the Debtors estimate that as of the Petition Date, the value of accrued and unpaid PTO is approximately $310,000 (approximately $190,000 for Eligible Employees employed at Hilton properties and $120,000 for Eligible Employees employed at Best Western properties). By this Motion, the Debtors request authority, but not direction, from the Court to continue to honor their PTO policies in the ordinary course of business, and to pay, in their discretion, prepetition amounts related thereto. Pending entry of the Proposed Final Order, (i) no individual Employee will be paid more that $17,150, in the aggregate, for prepetition PTO and Employee Compensation Obligations, and (ii) the Debtors will not pay prepetition PTO, in the aggregate, in excess of $300,000.

(3) Employee Benefit Plans

14. In the ordinary course of business, the Debtors implement various benefit plans and policies for Employees that can be divided into the following categories (collectively, the "Employee Benefits Plans"): (a) prescription and medical benefits (collectively the "Medical Plans"), dental care (the "Dental Plan"), vision care (the "Vision Plan," and together with the Medical Plans and the Dental Plan, the "Health Plans"); (b) basic life and accidental death and dismemberment insurance, optional supplemental life and accidental death and dismemberment insurance (collectively, the "Income Protection Plans"); (c) a retirement savings 401(k) plan (the

"401(k) Plan"); and (d) a health savings account plan (the "HSA Plan"). In certain instances, the Debtors deduct specified amounts from the participating Employees' wages in connection with the Employee Benefits Plans. All obligations with respect to the Employee Benefits Plans are referred to in this Motion as collectively the "Employee Benefits Obligations."

a. Health Plans

15. The Debtors primarily offer the Health Plans to full-time salaried Employees and to hourly Employees who have been employed with the Debtors for at least sixty (60) days and work thirty (30) or more hours per week. Any Employee contributions to the Health Plans have been and are collected through payroll deductions from participating Employees. The Debtors believe that it is necessary and appropriate to continue to honor their obligations to current Employees under the Health Plans. The Debtors request authority, but not direction, to pay all prepetition amounts due under the Health Plans. The Debtors also request authority, but not direction, to continue to offer the Health Plans and honor their obligations thereunder in the ordinary course during the administration of the Chapter 11 Cases.

(i) **Medical Plans**

16. The Debtors offer five (5) Medical Plans with varying levels of deductibles through BlueCross BlueShield of Illinois. Approximately 44 Employees are enrolled in the Medical Plans. The Debtors pay BlueCross BlueShield of Illinois approximately $35,016.50 per month for the Medical Plans, including for administrator services, and, as of the Petition Date, the Debtors do not owe BlueCross BlueShield of Illinois anything in connection with the Medical Plans.

(ii) **Dental Plans**

17. The Debtors offer the Dental Plan to eligible Employees through Sun Life. The Debtors generally do not subsidize eligible Employees' participation in the Dental Plan,

although two corporate employees have a subsidized Dental Plan. Eligible employees pay for the Dental Plan through payroll deductions. The Debtors estimate that, as of the Petition Date, they do not owe any Withholding Obligations in connection with the Dental Plan.

(iii) **Vision Plan**

18. The Debtors generally do not subsidize eligible Employees' participation in the Vision Plan, although two corporate employees have a subsidized Vision Plan. Eligible Employees may pay for the Vision Plan through payroll deductions. The Debtors estimate that, as of the Petition Date, they do not owe any Withholding Obligations in connection with the Vision Plan.

b. Income Protection Plans

19. The Debtors maintain certain Income Protection Plans, including primary and optional supplemental life and accidental death and dismemberment insurance (the "Life and AD&D Insurance") through Sun Life, for eligible Employees. Life and AD&D Insurance costs the Debtors approximately $2,791.03 per month. The Debtors estimate that, as of the Petition Date, they do not owe any amounts on account of Life and AD&D Insurance, including for related Withholding Obligations.

20. The Debtors request authority, but not direction, to maintain the Income Protection Plans in the ordinary course during the administration of the Chapter 11 Cases and honor their obligations thereunder, including any prepetition obligations.

c. The 401(k) Plan

21. The Debtors maintain the 401(k) Plan, a retirement savings plans for eligible Employees pursuant to section 401 of the Internal Revenue Code. Generally speaking, all Employees are eligible to participate in the 401(k) Plan after 3 months of services with the Debtors. The Debtors seek authorization, but not direction, to continue to pay in the ordinary course of

business amounts associated with the 401(k) Plan, including prepetition amounts and amounts owed to the 401(k) Plan fiduciaries.

d. The HSA Plan

22. Under the Debtors' HSA Plan, the Debtors offer eligible Employees the ability to contribute a portion of their pre-tax compensation to health savings accounts to pay for qualified medical and dependent care expenses. As of the Petition Date, the Debtors do not owe any Withholding Obligations related to the HSA Plan.

23. The Debtors request authority, but not direction, to continue to pay all prepetition amounts due under the HSA Plan as and when they come due, and to continue to honor their obligations thereunder in the ordinary course during the Chapter 11 Cases.

(4) Workers' Compensation Program

24. Under applicable state law, the Debtors are required to maintain worker's compensation insurance programs to provide their Employees with workers' compensation insurance coverage for claims arising from or related to their employment with the Debtors (the "Workers' Compensation Program"). To implement the Workers' Compensation Program, the Debtors maintain a workers' compensation policy with Travelers, primary insured Debtor S.B. Yen Management Group, Inc. (the "Workers' Compensation Policy"). The annual net cost of the Workers' Compensation Policy is approximately $337,311 (including a $19,618 premium discount and $3,640 in taxes and surcharges), which is paid annually. The current policy period for the Workers' Compensation Policy runs from November 15, 2025 to November 15, 2026, and as of the Petition Date, no payments remain outstanding. The Debtors' deductible under the Workers' Compensation Policy is $1,000 for each accident.

25. The Debtors seek authority, but not direction, to continue to pay all amounts associated with the Workers' Compensation Program, including related premium amounts and deductibles (as applicable), in the ordinary course, and honor any payments owed with respect to the Workers' Compensation Program, regardless of when such obligations arose.

RELIEF REQUESTED

26. By this Motion, the Debtors seek entry of an order authorizing, but not directing, the Debtors, in their discretion, to (a) pay claims and honor obligations incurred or related to the Compensation Obligations, the Withholding Obligations, PTO, the Employee Benefits Obligations, and the Workers' Compensation Program, and all fees and costs incident to the foregoing, including amounts owed to third-party administrators (collectively, the "Employee Obligations"), in the ordinary course of business, including any related prepetition amounts, and (b) maintain, continue and honor, in the ordinary course of business, the Bonus Programs, PTO, the Car Allowance Obligations, the Employee Benefit Plans, and the Workers' Compensation Program and all obligations incurred in connection therewith (collectively, the "Employee Plans and Programs").

27. A summary of the Employee Obligations and the proposed maximum prepetition amounts the Debtors seek to pay with respect thereto under this Motion is as follows:

Employee Obligation	Aggregate Amount
Employee Compensation Obligations	$295,000
Withholding Obligations	No accrued, ordinary course
PTO	$300,000 (if cashed out, otherwise ordinary course)
Medical Plans	$0 (Current)
Life and AD&D Insurance	$0 (Current)
401(k) Plan	$0 (Current)
Worker's Compensation Policy	$0 (Current)

28. To enable the Debtors to carry out the relief requested, the Debtors also request that the Court authorize all applicable banks and financial institutions (collectively, the "Banks") to

receive, process, honor, and pay all checks presented for payment and all electronic payment requests made by the Debtors relating to the Employee Obligations and the Employee Plans and Programs, whether such checks were presented or electronic-payment requests were submitted prior to or after the Petition Date.

BASIS FOR RELIEF

29. The Debtors' ability to successfully operate is contingent on a reliable and loyal Workforce. Thus, it is essential to assure the Employees that the Debtors will honor the Employee Obligations and continue and maintain the Employee Plans and Programs in the ordinary course of business throughout the Chapter 11 Cases. A failure to promptly do so will create concern and discontent among the Employees and could lead to resignations. Loss of even a few key personnel would immediately and irreparably harm the Debtors' ability to maintain operations to the detriment of all interested parties.

30. Therefore, the Debtors seek authority to pay the Employee Obligations, in their discretion, and to maintain and continue the Employee Plans and Programs, in their discretion, and in the ordinary course of business. This relief is necessary to retain the Workforce, the loss of which would disable the Debtors' business operations.

A. A Significant Portion of the Employee Obligations is Entitled to Priority Treatment

31. Section 507(a)(4)(A) of the Bankruptcy Code grants priority status to up to $17,150 for each employee's claims for "wages, salaries, or commission, including vacation, severance, and sick leave pay" earned within 180 days before the Petition Date. 11 U.S.C. § 507(a)(4)(A). Similarly, section 507(a)(5) of the Bankruptcy Code grants priority to contributions to employee benefit plans, up to an aggregate amount of $17,150 multiplied by the number of employees covered, less any amounts paid to such employees under section 507(a)(4) of the Bankruptcy Code.

32. Indeed, "[w]age priority has been a feature of the bankruptcy law since 1898." *In re Garden Ridge Corp.*, No. 04-10324 (KJC), 2006 WL 521914, at *2 (Bankr. D. Del. Mar. 2, 2006) (citing 4 Alan N. Resnick & Henry J. Sommer, *Collier on Bankruptcy* ¶ 507.05[1] (15th ed. 2005)). Its purpose is to "alleviate hardship on workers . . .who may have no other source of income and "to encourage employees to stand by an employer in financial difficulty." *Id.* (citing *Collier on Bankruptcy* ¶ 507.05[1]). This priority extends to certain other "benefits that are considered akin to compensation, such as vacation, severance and sick leave pay." *Id.*

33. A significant amount of the Employee Obligations relating to the period prior to the Petition Date, particularly the Employee Compensations Obligations, constitutes priority claims under sections 507(a)(4) and (5) of the Bankruptcy Code. Amounts that are paid on account of priority claims for the majority of the Employee Obligations would not otherwise be available for distribution to unsecured creditors. Therefore, the Debtors' unsecured creditors will not be prejudiced by permitting priority obligations to be satisfied in the ordinary course of business during the Chapter 11 Cases rather than at the conclusion of the cases. Indeed, the Debtors submit that payment of Employee Obligations at this time enhances value for the benefit of the Debtors and all interested parties by retaining the Workforce.

B. The Debtors Should be Authorized to Pay the Employee Obligations Under Sections 1107(a) and 1108 of the Bankruptcy Code

34. The Debtors, operating their businesses as debtors in possession under sections 1107(a) and 1108 of the Bankruptcy Code, are fiduciaries "holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners." *In re CoServ, LLC*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). "Implicit in the duties" of a chapter 11 debtor in possession is the duty "to protect and preserve the estate, including an operating business's going-concern value." *Id.*

35. Courts have noted that there are instances in which a debtor in possession can fulfill its fiduciary duty "only . . . by the preplan satisfaction of a prepetition claim." *Id*. The *CoServ* court specifically noted that preplan satisfaction of prepetition claims is a valid exercise of a debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate." *Id*. The court provided a three-pronged test for determining whether a preplan payment on account of a prepetition claim is a valid exercise of a debtor's fiduciary duty:

> First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor's going concern value, which is disproportionate to the amount of the claimant's prepetition claim. Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

Id. at 498.

36. Payment of the Employee Obligations as set forth herein meets each element of the *CoServ* court's standard. The Debtors' operations are complex, and rely on the skill and expertise of their Employees. Many Employees possess unique knowledge regarding specific aspects of the Debtors' operations, which would be virtually irreplaceable should such Employees be lost through a failure to pay their obligations. In addition, any failure by the Debtors to pay the Employee Obligations as set forth herein would negatively impact the morale of the Workforce at a critical time for the Debtors and their businesses when the Workforce is most needed. The Workforce is also critical to the Debtors' ability to maintain their operations consistent with past practices, which would be impossible without the continued efforts of the Workforce. The damage to the value of the Debtors' business and, hence, the costs to creditors as a whole, would be immediate and irreparable if the Employee Obligations were not met. In short, the potential harm and economic

disadvantage that would stem from the failure to pay the Employee Obligations as set forth herein greatly outweighs the amount of any prepetition claims that the Debtors are seeking authorization to pay.

37. After careful consideration, the Debtors have determined, in their business judgment, that to avoid significant disruption to their business operations there exists no practical or legal alternative to the payment of the Employee Obligations as set forth herein. Therefore, the Debtors can meet their fiduciary duties as debtors-in-possession under sections 1107(a) and 1108 of the Bankruptcy Code only by payment of the Employee Obligations as set forth herein.

C. Payment of the Employee Obligations is Warranted Pursuant to Section 363 of the Bankruptcy Code

38. Section 363(b)(1) of the Bankruptcy Code provides that a debtor may "after notice and a hearing, use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). A debtor's decision to use, sell, or lease assets outside the ordinary course of business must be based upon the sound business judgment of that debtor. *See Official Comm. of Unsecured Creditors of LTV Aerospace & Def. Co. v. LTV Co. (In re Chateaugay Corp.)*, 973 F.2d 141, 143 (2d Cir. 1992) (holding that a court determining an application pursuant to section 363(b) must find from the evidence a good business reason to grant such application); *see also In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989) (standard for determining a section 363(b) motion is whether the debtor has a "good business reason" for the requested relief). "Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct." *Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). Consistent with a debtor's fiduciary duties, where there is a sound business purpose for the

payment of prepetition obligations, and where the debtor is able to "articulate some business justification, other than the mere appeasement of major creditors," courts have authorized debtors to make such payments under section 363(b) of the Bankruptcy Code. *See, e.g., In re Ionosphere Clubs*, 98 B.R. at 175 (accepting debtor's argument that payment of employee wage claims was "critical . . . in order to preserve and protect its business and ultimately reorganize, retain its currently working employees and maintain positive employee morale," and finding that the debtor had "clearly demonstrated sound business reasons to justify such payments.").

39. In addition, the Debtors pay the Employee Obligations in the ordinary course of business, as permitted by section 363(c) of the Bankruptcy Code. However, to the extent that the Court finds that approval is necessary and in an abundance of caution, the Debtors request that the Court grant the relief requested herein and enter an order authorizing them to pay the Employee Obligations, consistent with their compensation, vacation, and other benefit policies and plans, and to permit, but not require, the Debtors, in their discretion, to maintain and continue the Employee Plans and Programs for their Employees as those practices, programs, policies, and plans were in effect as of the Petition Date, as such may be modified, terminated, amended, or supplemented from time to time hereafter.

D. Payment of Certain Withholding Obligations is Appropriate Under Section 541 of the Bankruptcy Code

40. The Debtors also seek authority to pay the Withholding Obligations to the appropriate entities. These amounts principally represent, among other things, the Employees' earnings that governments, the Employees, and judicial authorities have designated for deduction from the Employees' paychecks. Indeed, certain Withholding Obligations are not property of the Debtors' estates because the Debtors have withheld such amounts from Employees' paychecks on another party's behalf. *See* 11 U.S.C. § 541; *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d

92, 95 (3d Cir. 1994) (observing the "well-settled principle that debtors do 'not own an equitable interest in property . . . [they] hold[] in trust for another,' and that therefore funds held in trust are not 'property of the estate.'") (quoting *Begier v. IRS*, 496 U.S. 53, 59 (1990)).

41. Further, federal and state laws require the Debtors to withhold certain tax payments from Employees' paychecks and to pay such amounts to the appropriate taxing authority. *See* 26 U.S.C. §§ 6672 and 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95-97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *In re DuCharmes & Co.*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). A failure to pay over these amounts could subject the Debtors and their officers and directors to liability. *See, e.g.*, John F. Olson, *et al.*, *Director & Officer Liability: Indemnification and Insurance* § 3:21 (2003). To avoid the potential of such liability, and because the Withholding Obligations are not property of the Debtors' estates, the Debtors request that the Court authorize them to remit these amounts to the appropriate parties in the ordinary course of business.

E. Payment of the Employee Obligations is Warranted Pursuant to Section 105(a) of the Bankruptcy Code and Under the Doctrine of Necessity

42. Courts have also authorized payment of prepetition claims in appropriate circumstances pursuant to section 105(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code, which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Under section 105(a), courts may permit pre-plan payments of prepetition obligations when such payments are essential to the continued operation of the debtor's business and, in particular, where nonpayment of a prepetition obligation

would trigger a withholding of goods or services essential to the debtors' business reorganization plan. *See, e.g.*, *In re Ionosphere Clubs*, 98 B.R. at 177 (finding that section 105 empowers bankruptcy courts to authorize payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor).

43. Numerous courts have used their section 105(a) powers under the "doctrine of necessity" to authorize payment of prepetition obligations where, as here, such payment is an essential element of the preservation of the debtor-in-possession's potential for rehabilitation. *See In re CoServ, L.L.C.,* 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (reasoning that because the debtor-in-possession has fiduciary duties it must meet, it is logical that the bankruptcy court may "use Section 105(a) of the [Bankruptcy] Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate"); *In re Synteen Techs., Inc.,* No. 00-02203-W, 2000 WL 33709667, at *2 (Bankr. D.S.C. Apr. 14, 2000) (courts have permission to "allow payment of a prepetition claim when essential to the continued operation of the debtor" (citation omitted)); *In re Just For Feet, Inc.,* 242 B.R. 821, 824 (D. Del. 1999) ("courts have used their equitable power under section 105(a) . . . to authorize the payment of pre-petition claims when such payment is deemed necessary to the survival of a debtor in a chapter 11 reorganization"); *In re NVR L.P.,* 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) ("Under [section 105] the court can permit pre-plan payment of a prepetition obligation when essential to the continued operation of the debtor"); *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (approving payment of prepetition unsecured claims of tool makers as "necessary to avert a serious threat to the Chapter 11 process"); *In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) ("[P]ayment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of reorganization is generally prohibited by the Bankruptcy Code," but "[a] general practice has developed . . . where

bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. § 105, where the debtor will be unable to reorganize without such payment.").

44. The "doctrine of necessity" is frequently invoked early in chapter 11 cases, during the so-called "breathing spell," when preservation of the estate is most critical and often extremely difficult. *See* 2 *Collier on Bankruptcy* ¶ 105.02[4][a] (16th ed.) (discussing cases in which courts have relied upon the "doctrine of necessity" or the "necessity of payment" rule to pay prepetition claims immediately). For example, in *In re Structurlite Plastics Corp.,* the court embraced "the principle that a bankruptcy court may exercise its equity powers under section 105(a) to authorize payment of prepetition claims where such payment is necessary to 'permit the greatest likelihood of survival of the debtor . . . .'" 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) (quoting *In re Chateaugay Corp.,* 80 B.R. 279, 287 (S.D.N.Y. 1987). The court explained that "a *per se* rule proscribing the payment of prepetition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code." *Id.* at 932. Flexibility of payment is particularly critical when the prepetition creditor provides vital goods or services to the debtor.

45. Here, the majority of the Employees rely on their compensation and benefits to satisfy their daily living expenses and maintain their health and well-being. Consequently, these Employees will be exposed to significant financial hardships if the Debtors are not permitted to honor the Employee Obligations in the ordinary course of business. If the Debtors are unable to satisfy such obligations, Employee morale and loyalty will suffer at a time when Employee support is critical. Further, if the Court does not authorize the Debtors to honor their various obligations under the Employee Benefits Plans, the Employees' health coverage could be threatened, potentially burdening individual Employees with the costs of health care. At a minimum, the loss of health care coverage, or uncertainty regarding coverage, would result in considerable anxiety for the

Employees at a time when the Debtors need their Employees to perform their jobs at peak efficiency. For all of the foregoing reasons, a sound business purpose exists to pay the Employee Obligations.

46. In the absence of such payments, the Debtors believe that their Employees may seek alternative employment opportunities. Such a development would deplete the Workforce, hinder the Debtors' ability to service the needs of their customers, and likely diminish creditor and counterparty confidence in the Debtors. Moreover, the loss of valuable Employees and the recruiting efforts that would be required to replace such Employees would be a substantial and costly distraction at a time when the Debtors must focus on sustaining their operations. Thus, the Debtors must be able to pursue all reasonable measures to retain the Employees by, among other things, continuing to honor wages, benefits, and related obligations, including those that accrued prior to the Petition Date, consistent with the terms set forth in the order attached hereto.

47. Taken together, the nature of the Employee Obligations, the substantial harm to the Debtors' business that would be caused if those obligations were not honored, the related potential for loss of value in the Debtors' estates, and the fact that a significant portion of the obligations in question relates to priority wage claims, lead to the conclusion that the Employee Obligations fall well within the scope of obligations whose payments may be authorized pursuant to the doctrine of necessity.

48. Accordingly, for all of the foregoing reasons, the relief requested herein will benefit the Debtors' estates and creditors by allowing the Debtors' business operations to continue without interruption and should therefore be approved.

F. The Court Should Authorize the Banks to Honor Checks and Electronic Fund Transfers in Accordance with the Motion.

49. In connection with the foregoing, the Debtors respectfully request that the Court (a) authorize the Banks to receive, process, honor, and pay all checks and transfers issued by the Debtors in accordance with this Motion, without regard to whether any checks or transfers were issued before or after the Petition Date; (b) provide that the Banks may rely on the representations of the Debtors with respect to whether any check or transfer issued or made by the Debtors before the Petition Date should be honored pursuant to this Motion; and (c) authorize the Debtors to issue replacement checks or transfers to the extent any checks or transfers that are issued and authorized to be paid in accordance with this Motion are dishonored or rejected by the Banks.

G. Immediate Relief is Justified

50. Pursuant to Bankruptcy Rule 6003, the Court may grant relief within 21 days after the filing of the petition regarding a motion to "use, sell, lease, or otherwise incur an obligation regarding property of the estate" only if such relief is necessary to avoid immediate and irreparable harm. Fed. R. Bankr. P. 6003(b). Immediate and irreparable harm exists where the absence of relief would impair a debtor's ability to reorganize or threaten the debtor's future as a going concern. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 36 n.2 (Bankr. S.D.N.Y. 1990) (discussing the elements of "immediate and irreparable harm" in relation to Bankruptcy Rule 4001).

51. Moreover, Bankruptcy Rule 6003 authorizes the Court to grant the relief requested herein to avoid harm to the Debtors' customers and other third parties. Unlike Bankruptcy Rule 4001, Bankruptcy Rule 6003 does not condition relief on imminent or threatened harm to the estate alone. Rather, Bankruptcy Rule 6003 speaks of "immediate and irreparable harm" generally. *Cf.* Fed. R. Bankr. P. 4001(b)(2), (c)(2) (referring to "irreparable harm to the estate"). Indeed, the "irreparable harm" standard is analogous to the traditional standards governing the issuance of preliminary junctions. *See* 9 *Collier on Bankruptcy* ¶ 4001.07[b][3] (discussing source of

"irreparable harm" standard under Rule 4001(c)(2)). Courts will routinely consider third-party interests when granting such relief. *See, e.g., Capital Ventures Int'l v. Argentina*, 443 F.3d 214, 223 n.7 (2d Cir. 2006); *see also Linnemeir v. Bd. of Trs. of Purdue Univ.*, 260 F.3d 757, 761 (7th Cir. 2001).

52. As described herein, the Debtors will suffer immediate and irreparable harm without Court authorization to pay the Employee Obligations and other related relief requested herein. The Debtors believe that, among other things, the success of their chapter 11 efforts will require the continued focus and dedication of, among others, the Employees, as any deterioration in employee morale or significant loss in workforce will have an adverse impact on the Debtors' ability, among other things, to continue to operate their business without any unexpected or inopportune interruption and to successfully prosecute the Chapter 11 Cases. Thus, if the relief requested herein is not granted, the failure to satisfy the Employee Obligations would cause the Debtors' estates immediate and irreparable harm by detracting from, and potentially derailing the Debtors' chapter 11 efforts. Accordingly, Bankruptcy Rule 6003 has been satisfied and the relief requested herein should be granted.

REQUEST FOR A WAIVER OF STAY

53. To implement the foregoing, the Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), any "order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Debtors submit that the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors for the reasons set forth herein. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h).

54. To implement the foregoing immediately, the Debtors respectfully request a waiver of the notice requirements of Bankruptcy Rule 6004(a) to the extent that they are deemed applicable.

DEBTORS' RESERVATION OF RIGHTS

55. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors and their estates, a waiver of the rights of the Debtors and their estates to dispute any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors and their estates expressly reserve their rights to dispute any claim asserted by a member of the Workforce under applicable law, and to assume or reject any Workforce agreements in accordance with the applicable provisions of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission to the validity of any claim or a waiver of the rights of the Debtors and their estates to dispute such claim subsequently.

NOTICE

56. The Debtors have provided notice of this Motion to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Office of the United States Attorney General for the District of Delaware; (iii) the Internal Revenue Service; (v) counsel for Agent and the Senior Creditors (as such terms are defined in the Debtors' Cash Collateral Motion); (vi) those creditors holding the twenty (20) largest unsecured claims against the Debtors' estates (on a consolidated basis); and (vii) those parties, as of the filing of this Motion, requesting notice pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered on this Motion

will be served as required by Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Orders, granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: March 8, 2026
Wilmington, Delaware

LEWIS BRISBOIS
BISGAARD & SMITH LLP

By: */s/ Rafael X. Zahralddin-Aravena*
Rafael X. Zahralddin-Aravena(No. 004166)
Minyao Wang (*pro hac vice* pending)

500 Delaware Avenue, Suite 700
Wilmington, Delaware 19801
302.985.6000
Rafael.Zahralddin@lewisbrisbois.com
Minyao.Wang@lewisbrisbois.com

Proposed Attorneys for the Debtors and the Debtors in Posession

EXHIBIT A

(Proposed form of Order)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: BY HOTEL SPE-3 LLC, a Delaware Limited Liability Company, 1101 WABASH DEVELOPMENT MEZZ, LLC, a Delaware Limited Liability Company, WABASH 11TH MEZZ LLC, a Delaware Limited Liability Company, PACIFIC TAI MEZZ LLC, a Delaware Limited Liability Company, 1101 WABASH DEVELOPMENT SPE LLC, a Delaware Limited Liability Company, WABASH 11TH LLC, an Illinois Limited Liability Company, 1101 WABASH DEVELOPMENT LLC, an Illinois Limited Liability Company, PACIFIC TAI, LLC, an Illinois Limited Liability Company, SB YEN'S MANAGEMENT GROUP, INC, an Illinois Corporation, **Debtors.**[1]	Chapter 11 Case No. 26-10324 (JKS) (Joint Administration Requested)

FINAL ORDER (A) AUTHORIZING PAYMENT OF CERTAIN PREPETITION WORKFORCE CLAIMS, INCLUDING WAGES, SALARIES AND OTHER COMPENSATION, (B) AUTHORIZING PAYMENT OF CERTAIN EMPLOYEE BENEFITS AND CONFIRMING RIGHT TO CONTINUE EMPLOYEE BENEFITS ON POSTPETITION BASIS, (C) AUTHORIZING PAYMENT OF WITHHOLDING AND PAYROLL-RELATED TAXES, (D) AUTHORIZING PAYMENT OF WORKERS' COMPENSATION OBLIGATIONS, AND (E) AUTHORIZING PAYMENT OF PREPETITION CLAIMS OWING TO ADMINISTRATORS AND THIRD PARTY PROVIDERS

Upon consideration of the motion filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of a final order, pursuant to sections 105(a), 363(b), 507, 1107(a), and 1108 of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Local

[1] The Debtors in these chapter 11 cases and the last four digits of their respective identification numbers are By Hotel SPE-3 LLC (3619); 1101 Wabash Development Mezz, LLC (9294); Wabash 11th Mezz LLC (4278); Pacific Tai Mezz LLC (3717); 1101 Wabash Development SPE LLC (9201); Wabash 11th LLC (3098); 1101 Wabash Development LLC (3365); Pacific Tai, LLC (9675); and SB Yen's Management Group, Inc. (1132). The location of the Debtors' corporate headquarters and the Debtors' service address is 806 N York Rd., Hinsdale, IL 60521.

Rule 9013-1, (a) authorizing, but not directing, the Debtors, in the ordinary course of business, to pay, honor or otherwise satisfy the Employee Obligations and the Employee Plans and Programs, including amounts and obligations related to the period prior to the Petition Date, and (b) authorizing the Banks to receive, process, honor, and pay all checks and transfers issued by the Debtors related to the foregoing; and upon consideration of the First Day Declaration; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having found that venue of these cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given, except as otherwise set forth herein; and a hearing having been held to consider the relief requested in the Motion on a final basis; and upon the record of the hearing and all of the proceedings had before this Court; and this Court having found and determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

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

2. The Debtors are authorized, in their discretion, to pay, honor, or otherwise satisfy amounts and obligations on account of the Employee Obligations and the Employee Plans and Programs in the ordinary course of their business, including, without limitation, any amounts and obligations related to the period prior to the Petition Date, provided, however, that: (a) no payment to any

Employee on account of Employee Compensation Obligations shall exceed, in the aggregate, the $17,150 statutory cap provided for under section 507(a)(4) of the Bankruptcy Code; (b) the Debtors shall not pay, in the aggregate, any prepetition obligations on account of the Employee Obligations in excess of the aggregate amounts set forth in the table immediately below; and (c) the Debtors shall not cash out any prepetition sick leave obligations unless applicable state law requires such cash payment (prepetition paid leave may be cashed out in accordance with the Debtors' policies).

Employee Obligation	**Aggregate Amount**
Employee Compensation Obligations	$295,000
Withholding Obligations	No accrued, ordinary course
PTO	$300,000 (if cashed out, otherwise ordinary course)
Medical Plans	$0 (Current)
Life and AD&D Insurance	$0 (Current)
401(k) Plan	$0 (Current)
Worker's Compensation Policy	$0 (Current)

3. Nothing in this Order shall be deemed to authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code.

4. Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors and their estates, an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code, or a waiver of the rights of the Debtors and their estates, or shall impair the ability of the Debtors and their estates, or any other party in interest, to the extent applicable, to contest the validity and amount of any payment made pursuant to this Order.

5. Each of the Banks is authorized to receive, process, honor, and pay all checks and transfers issued or requested by the Debtors, to the extent that sufficient funds are on deposit in the applicable accounts, in accordance with this Order and any other order of this Court.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests in connection with any Employee Obligations that are dishonored or rejected.

7. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied by the contents of the Motion.

8. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

10. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: March ____, 2026
Wilmington, DE

____
The Honorable J. Kate Stickles