



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed March 2, 2017

Mark X. Mullin

United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re:

HIDALGO INDUSTRIAL SERVICES, INC.,

Debtor.

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Chapter 11 Case

Case No. 17-40735-mxm-11

INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL

Came on for consideration the *Debtor's Motion for Entry of Interim and Final Orders (1) Authorizing the Use Cash Collateral and (2) Granting Adequate Protection to Secured Creditors* [Docket Nos. 4 and 10] (the "Motion")¹ filed by Hidalgo Industrial Services, Inc. (the "Debtor"). The Court conducted an expedited, interim hearing on the Motion on March 2, 2017. Having considered the Motion, the evidence, and the arguments of counsel, the Court finds and concludes that good cause exists to enter the following interim order and that the use of Cash Collateral

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

authorized herein is necessary to avoid immediate and irreparable harm to the Debtor's bankruptcy estate.

As used in this Order, the following terms have the respective meanings set forth below:

- (a) The term "IRS" shall mean the Internal Revenue Service.
- (b) The term "Prepetition Lender" shall mean Frost Bank.
- (c) The term "Cash Collateral" shall be deemed to include, without limitation, all "cash collateral" as defined in section 363(a) of the Bankruptcy Code, and all deposits, rents and all cash arising from the collection or conversion into cash of property of the Debtor in which the IRS and/or Prepetition Lender has a valid prepetition security interest, lien or mortgage;
- (d) The term "Collateral" shall mean, with respect to the IRS or Prepetition Lender, all property of the Debtor in which such entity has a prepetition security interest, lien, or mortgage; and
- (e) The term "Term" shall mean the Petition Date through, and including, the earlier to occur of (i) March 31, 2017, and (ii) the date on which a final hearing on the Motion is conducted.

Accordingly, it is hereby ORDERED that:

1. The Motion is hereby granted on an interim basis as set forth below. Any subsequent modification, vacation or stay of this Order, or any part thereof, including at the final hearing on the Motion, shall not affect any action or transfer made pursuant to this Order, including without limitation the use of the Cash Collateral by the Debtor.
2. This Order shall be effective during the Term.
3. During the Term of this Order, the Debtor is authorized to use Cash Collateral to pay expenses in accordance with the Budget attached hereto as **Exhibit A**. The Debtor shall have

a 10% variance for items reflected in the Budget; provided, however, that the total cumulative variance for all items in the Budget shall not exceed 5%. Thus, absent the approval of the Court or the consent of the IRS and Prepetition Lender, the Debtor's actual expenses with respect to any line item entry on the Budget shall not deviate by 10% negatively from the projected line item entry (i.e., actual expenses shall not be greater than budgeted expenses by more than 10%), and the cumulative actual expenses for all line items shall not deviate by more than 5% negatively from the overall budget amount.

4. The Debtor shall open a debtor-in-possession bank account ("DIP Account") as soon as reasonably practicable and shall deposit all income in excess of the expenses reflected in the Budget (the "Excess Cash"), if any, in the DIP account. The Debtor shall be prohibited from spending such Excess Cash without either the advance written consent of the IRS and Prepetition Lender or an order of this Court authorizing such use; *provided, however*, that the Debtor shall be permitted to use Excess Cash to make required payments to the United States Trustee for quarterly fees owing to the United States Trustee during the pendency of the Debtor's chapter 11 case.

5. As adequate protection for any diminution in the value of the IRS's and/or Prepetition Lender's interest in the IRS's and/or Prepetition Lender's Collateral, as the case may be, if any, caused by the use of Cash Collateral by the Debtor, the IRS and Prepetition Lender shall have and are hereby granted valid, perfected and enforceable new liens and security interests upon any property of the Debtor, whether now existing or hereafter acquired or arising, upon which the IRS and Prepetition Lender held prepetition liens and security interests and all proceeds, rents, products or profits thereof, and specifically including any property acquired by the Debtor after the Petition Date which is of the same nature, kind and character as IRS's and/or Prepetition Lender's Collateral, and all proceeds and products thereof. The post-petition liens granted to the

IRS and the Prepetition Lender shall extend to the same Collateral and have the same relative priority as the IRS's and Prepetition Lender's respective prepetition liens. The grant of the liens to the IRS and Prepetition Lender as to property of the Debtor shall only act as adequate protection for the diminution in value caused by the Debtor's use of Cash Collateral, if any. The security interests and liens granted to the IRS and Prepetition Lender shall at all times be senior to the rights of the Debtor and any successor trustee in these or any subsequent proceedings under the Bankruptcy Code to the extent the IRS's and/or Prepetition Lender's prepetition security interests and liens are senior to the rights of the Debtor. The security interests, liens and mortgages herein granted (i) are and shall be in addition to all security interests, liens, mortgages, and rights to set off existing in favor of IRS and/or Prepetition Lender on the Petition Date; (ii) shall be in the same priority as prepetition to the extent that the prepetition liens, security interests, and mortgages are valid, perfected, enforceable and non-avoidable and shall not prime any prepetition liens or security interests in any property of the Debtor's estate that had priority over the IRS's and Prepetition Lender's prepetition liens and security interests therein; (iii) are and shall be valid, perfected, enforceable, and effective as of the Petition Date without any further action by the Debtor or the IRS or Prepetition Lender and without the execution, filing, or recordation of any financing statements, security agreements, mortgages, or other documents; and (iv) shall secure payment of principal as well as any interest, costs, or other charges to which the IRS or Prepetition Lender may be entitled post-petition. Nothing in this Order shall limit the IRS's or the Prepetition Lender's rights to assert post-petition liens under Section 552 of the Bankruptcy Code. The IRS and Prepetition Lender shall not be afforded a lien in any Chapter 5 causes of action pursuant to this Order. Notwithstanding any other provision of this Order, the Debtor shall be authorized to

use Cash Collateral to pay all quarterly fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6).

6. This Order shall be sufficient and conclusive evidence of the priority, perfection, and validity of the liens granted herein, effective as of the date and time of entry of this Order, without any further act and without regard to any other federal, state or local requirements of law requiring notice, filing, registration, recording, or possession of the collateral or other act to validate or perfect such security interest or lien. Nothing in this Order shall in any way restrict the scope of the IRS's or Prepetition Lender's prepetition liens, security interests, mortgages, rights of set-off or claims with respect to the IRS's or Prepetition Lender's Collateral, and all liens, security interests, and mortgages on the IRS's or Prepetition Lender's respective collateral shall extend to the fullest extent permitted by Section 552(b) of the Bankruptcy Code.

7. The post-petition liens in favor of the IRS and/or Prepetition Lender shall be prior and senior to any other security interest, interest, encumbrance, right or lien, subject only to: (i) the valid and perfected prepetition liens and security interests of the IRS in the IRS's Collateral and the Prepetition Lender in the Prepetition Lender's Collateral existing as of the Petition Date; (ii) valid and perfected liens and security interests, if any, of other creditors (including creditors holding ad valorem tax liens) in any specific piece of property and proceeds that existed as of the Petition Date and that are senior and prior to any prepetition lien and security interest of the IRS and/or Prepetition Lender in such property; and (iii) fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6).

End of Order

Exhibit “A”

Hidalgo Industrial Services
Authorization to Spend

Week of	Week 1	Week 2	Week 3	Week 4	Week 5
	02/26/17	03/05/17	03/12/17	03/19/17	03/26/17
Receipts	233,930	175,739	49,108	42,000	315,212
Less:					
Joint Checks & COD	(119,452)		-	(15,000)	(133,033)
Net Receipts	114,478	175,739	49,108	27,000	182,179
Salaries	61,049	45,000	45,000	45,000	45,000
Unpaid Payroll Ck Date 2/17	5,639		-		
Unpaid Payroll Ck Date 2/24	25,757	11,560			
Payroll Taxes	18,315	13,500	13,500	13,500	13,500
Officer Life Ins		1,850			
Copier Lease					750
Equipment Lease		354			
State Taxes					5,000
Health Ins		41,800			
Liability Ins		9,900			
Workers Comp Ins		5,046			
Bank of Texas Note					
Telephone & Utilities			3,500	600	1,500
Janitor			450		450
Rent-Sorage Blg		210			
Road Tolls	500	500			500
Bank & Cr Card Fees	1,500	1,500			
Office Supplies		250	250	250	250
All Other	1,500	1,500	1,500	1,500	1,500
Total Disbursements	114,260	132,970	64,200	60,850	68,450
Net	218	42,769	(15,092)	(33,850)	113,729