

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

<hr/> In re:  CBL & ASSOCIATES PROPERTIES, INC., <i>et al.</i> , <sup>1</sup>  Debtors.	§ § § § § § § §	Chapter 11  Case No. 20-35226 (DRJ)  (Jointly Administered)
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**COVER SHEET TO FOURTH INTERIM AND FINAL APPLICATION OF  
MCDERMOTT WILL & EMERY LLP FOR ALLOWANCE OF COMPENSATION  
FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES  
INCURRED AS COUNSEL TO THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF CBL & ASSOCIATES PROPERTIES, INC., *ET AL.*,  
FOR (I) THE FOURTH INTERIM PERIOD FROM  
AUGUST 1, 2021 THROUGH NOVEMBER 1, 2021  
AND (II) THE FINAL COMPENSATION PERIOD  
FROM NOVEMBER 17, 2020 THROUGH NOVEMBER 1, 2021**

<b>Name of Applicant:</b>	McDermott Will & Emery LLP	
<b>Applicant's Role in Case:</b>	Counsel for the Official Committee of Unsecured Creditors	
<b>Docket No. of Employment Order(s):</b>	792	
<b>Interim Application (X) 4th</b>  <b>Final Application (X)</b>	Indicate whether this is an interim or final Application. If interim, indicate the number (1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> , etc.)	
	<b>Beginning Date</b>	<b>End Date</b>
<b>Time period (the “<u>Interim Period</u>”) covered by this Application for which interim</b>	08/01/21	11/01/21

<sup>1</sup> A complete list of the Debtors in these Chapter 11 Cases may be obtained on the website of the Debtors' claims and noticing agent at <https://dm.epiq11.com/CBLProperties>. The Debtors' service address for the purposes of these Chapter 11 Cases is 2030 Hamilton Place Blvd., Suite 500, Chattanooga, Tennessee 37421.

<b>compensation has not previously been awarded:<sup>2</sup></b>		
<b>Were the services provided necessary to the administration of or beneficial at the time rendered toward the completion of the case? ( Y ) Y/N</b>		
<b>Were the services performed in a reasonable amount of time commensurate with the complexity, importance and nature of the issues addressed? ( Y ) Y/N</b>		
<b>Is the requested compensation reasonable based on the customary compensation charged by comparably skilled practitioners in other non-bankruptcy cases? ( Y ) Y/N</b>		
<b>Do expense reimbursements represent actual and necessary expenses incurred? ( Y ) Y/N</b>		
<b>Compensation Breakdown for Time Period Covered by this Application<sup>3</sup></b>		
<b>Total professional fees requested in this Application:</b>	<b>\$4,021,037.00</b>	
<b>Total professional hours covered by this Application:</b>	<b>4,051.40</b>	
<b>Average hourly rate for professionals:</b>	<b>\$992.51</b>	
<b>Total paraprofessional fees requested in this Application:</b>	<b>\$301,607.50</b>	
<b>Total paraprofessional hours covered by this Application:</b>	<b>599.20</b>	
<b>Average hourly rate for paraprofessionals:</b>	<b>\$503.35</b>	

<sup>2</sup> To conserve resources, McDermott Will & Emery LLP (“McDermott”) has not filed a separate interim fee application for the period from August 1, 2021 through and including November 1, 2021. Accordingly, the fees and expenses for the Interim Period have not yet been approved by this Court. This fee application constitutes in part an interim and final request for the payment of such fees and expenses. After November 1, 2021, McDermott professionals rendered additional services in preparing and filing this fee application. Amounts relating to such services are not included in this fee application. Under § 12.14 of the Plan (defined below) and paragraph 1 of the *Agreed Order Regarding the Dissolution of the Official Committee of Unsecured Creditors with Respect to Debtor Brookfield Square Anchor S, LLC* [ECF No. 1570], the Reorganized Debtors are responsible for the payment of fees and expenses in connection with the provision of such services.

<sup>3</sup> Professional fees requested for the Interim Period total \$555,882.00, comprising (i) 545.80 professional hours at an average hourly rate of \$1,018.47, and (ii) 84.70 paraprofessional hours at an average hourly rate of \$519.28. Expense reimbursements requested for the Interim Period total \$3,529.86.

<b>Total fees requested in this Application:</b>	\$4,322,644.50
<b>Total expense reimbursements requested in this Application:</b>	\$76,660.02
<b>Total fees and expenses requested in this Application:</b>	\$4,399,304.52
<b>Total fees and expenses awarded in all prior Applications:</b>	\$3,795,909.66
<p><b>Plan Status:</b> On August 11, 2021, the Court entered its <i>Findings of Fact, Conclusions of Law, and Order (I) Confirming Third Amended Joint Chapter 11 Plan of CBL &amp; Associates Properties, Inc. and Its Affiliated Debtors and (II) Granting Related Relief</i> [ECF No. 1397] confirming the <i>Third Amended Joint Chapter 11 Plan of CBL &amp; Associates Properties, Inc. and its Affiliated Debtors (with Technical Modifications)</i> [ECF No. 1369] (as amended, supplemented, and modified, including pursuant to the <i>Order Authorizing Modification of the Third Amended Joint Chapter 11 Plan of CBL &amp; Associates Properties, Inc. and Its Affiliated Debtors (With Technical Modifications) Pursuant to Section 1127(c) of the Bankruptcy Code</i> [ECF No. 1521], the “<u>Plan</u>”). The Effective Date<sup>4</sup> of the Plan, occurred on November 1, 2021.<sup>5</sup></p>	
<p><b>Primary Benefits:</b> During the Interim Period, McDermott rendered significant professional services to the Committee in connection with (i) the Plan confirmation process, (ii) matters related to the Debtors’ proposed post-confirmation modification to the Plan, (iii) satisfaction of the conditions precedent to the Effective Date of the Plan, and (iv) matters related to the Debtors’ Trade Agreement Process. During the Application Period, McDermott worked diligently on behalf of the Committee in connection with, among other things, the litigation, negotiation process and mediation that resulted in the confirmation of a consensual Plan providing for (i) full payment (in four quarterly installments) of the Allowed amount of Ongoing Trade Claims, provided holders of such Claims have executed a Trade Agreement with the Debtors, and (ii) recovery for holders of Allowed Unsecured Claims of approximately 54-56% of their respective Claims via the Pro Rata distribution of the Unsecured Claims Recovery Pool. Throughout these cases, McDermott kept the Committee apprised of case developments in real time, allowing for fully informed decisions – made in conjunction with the Committee’s professionals’ recommendations – to further the interests of all unsecured creditors.</p>	

<sup>4</sup> Capitalized terms used but not otherwise defined in this Cover Sheet shall have the meanings ascribed to them in the Plan.

<sup>5</sup> See Notice of (I) Entry of Order Confirming Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors (With Technical Modifications), (II) Occurrence of Effective Date, and (III) Administrative Expense Claims Bar Date [ECF No. 1545].

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

<hr style="border: 0.5px solid black;"/> <div style="display: flex; justify-content: space-between;"><div style="width: 80%;"><p>In re:</p>  <p>CBL &amp; ASSOCIATES PROPERTIES, INC., <i>et al.</i>,<sup>1</sup></p> <p style="text-align: center;">Debtors.</p></div><div style="width: 10%; text-align: center;"><p>§</p><p>§</p><p>§</p><p>§</p><p>§</p><p>§</p><p>§</p><p>§</p></div><div style="width: 10%; vertical-align: top;"><p>Chapter 11</p>  <p>Case No. 20-35226 (DRJ)</p> <p>(Jointly Administered)</p></div></div>	
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**FOURTH INTERIM AND FINAL APPLICATION OF  
MCDERMOTT WILL & EMERY LLP  
FOR ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED  
AND REIMBURSEMENT OF EXPENSES INCURRED AS COUNSEL  
TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
OF CBL & ASSOCIATES PROPERTIES, INC., *ET AL.*,  
FOR (I) THE FOURTH INTERIM PERIOD FROM AUGUST 1, 2021 THROUGH  
NOVEMBER 1, 2021 AND (II) THE FINAL COMPENSATION PERIOD  
FROM NOVEMBER 17, 2020 THROUGH NOVEMBER 1, 2021**

**THIS APPLICATION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE APPLICATION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE APPLICATION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE APPLICATION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE APPLICATION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

McDermott Will & Emery LLP (“McDermott”), as counsel to the Official Committee of Unsecured Creditors (the “Committee”) appointed in the above-captioned cases (the “Chapter 11”

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<sup>1</sup> A complete list of the Debtors in these Chapter 11 Cases (defined herein) may be obtained on the website of the Debtors’ claims and noticing agent at <https://dm.epiq11.com/CBLProperties>. The Debtors’ service address for the purposes of these Chapter 11 Cases is 2030 Hamilton Place Blvd., Suite 500, Chattanooga, Tennessee 37421.

Cases” or the “Cases”) of CBL & Associates Properties, Inc. and the affiliated debtors and debtors in possession (collectively, the “Debtors”), hereby files its application (the “Application”) for (a) allowance and approval of compensation for professional services performed by McDermott in the amount of \$599,685.00 and for reimbursement of its actual and necessary expenses in the amount of \$3,529.86 incurred from August 1, 2021 through November 1, 2021 (the “Interim Application Period”) and (b) final allowance and approval of compensation for professional services performed by McDermott in the amount of \$4,322,644.50 and for reimbursement of its actual and necessary expenses in the amount of \$76,660.02 incurred from November 17, 2020 through November 1, 2021 (the “Application Period”) pursuant to sections 330 and 331 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rules 2016-1 and 9013-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Southern District of Texas (the “Local Rules”), the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* (the “Interim Compensation Order”),<sup>2</sup> and the *Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors (with Technical Modifications)*<sup>3</sup> (as amended, supplemented, and modified, including pursuant to the *Order Authorizing Modification of the Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors (With Technical Modifications) Pursuant to Section 1127(c) of the Bankruptcy Code*,<sup>4</sup> the “Plan”).<sup>5</sup> In support of this Application, McDermott submits the Declaration of Charles R. Gibbs (the “Gibbs Declaration”), attached hereto as **Exhibit 1** and a

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<sup>2</sup> ECF No. 350.

<sup>3</sup> ECF No. 1369.

<sup>4</sup> ECF No. 1521.

<sup>5</sup> Capitalized terms used but not otherwise defined in this Application shall have the meanings ascribed to them in the Plan.

proposed order granting the Application, attached hereto as **Exhibit 2**. In further support of this Application, McDermott respectfully states as follows:

### **JURISDICTION AND VENUE**

1. The United States Bankruptcy Court for the Southern District of Texas (this “Court”) has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are sections 330, 331 and 1103 of the Bankruptcy Code, Bankruptcy Rule 2016, and Local Rules 2016-1 and 9013-1.

3. McDermott consents to the entry of a final judgment or order with respect to this Application if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties.

### **BACKGROUND**

4. Beginning on November 1, 2020 (the “Petition Date”), each of the Debtors commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code.<sup>6</sup>

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<sup>6</sup> On May 26, 2021, Debtor Laredo Outlet Shoppes, LLC (“Laredo”) commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code [Case No. 21-31717, ECF No. 1]. On June 1, 2021, this Court issued an order directing the joint administration of the Laredo chapter 11 case with the above-captioned Cases [Case No. 21-31717, ECF No. 13]. On August 19, 2021, this Court entered an order approving settlement agreement and dismissing the Laredo chapter 11 case [ECF No. 1417].

On October 18, 2021, Debtor Brookfield Square Anchor S, LLC (“Brookfield”) commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code [Case No. 21-90014, ECF No. 1]. On October 19, 2021, this Court issued an interim order directing the joint administration of the Brookfield chapter 11 case with the above-captioned Cases [Case No. 21-90014, ECF No. 14]. On November 19, 2021, Brookfield and Associated Bank, National Association filed their joint motion for approval of settlement agreement and agreed dismissal the Brookfield chapter 11 case [ECF No. 1595] (the “Joint Settlement Motion”). As of the date of this Application, the Court has not ruled on the parties’ Joint Settlement Motion.

5. On November 13, 2020, the Office of the United States Trustee for Region 7 (the “U.S. Trustee”) appointed a three-member Committee consisting of: (i) Delaware Trust Company, in its capacity as successor indenture trustee for the 5.25% Senior Notes due 2023, the 4.60% Senior Notes due 2024, and the 5.95% Senior Notes due 2026 (“Delaware Trust Company”); (ii) ERMCo, LLC; and (iii) SecurAmerica, LLC.<sup>7</sup> On March 19, 2021, the U.S. Trustee appointed an amended Committee consisting of (i) Delaware Trust Company, (ii) ERMCo TN LLC, and (iii) SecurAmerica TN LLC.<sup>8</sup>

6. The Committee selected McDermott as its counsel. The Committee also selected AlixPartners, LLP (“AlixPartners”) to serve as its financial advisor.<sup>9</sup>

7. On December 17, 2020, the Committee filed the *Application of the Official Committee of Unsecured Creditors for Entry of an Order Authorizing the Employment and Retention of McDermott Will & Emery LLP as Counsel Effective November 17, 2020* [ECF No. 336] (the “Retention Application”). On January 12, 2021, the Court entered the *Order Authorizing the Employment and Retention of McDermott Will & Emery LLP as Counsel to the Official Committee of Unsecured Creditors Effective November 17, 2020* (the “Retention Order”).<sup>10</sup>

8. The Retention Order authorizes the Debtors to compensate and reimburse McDermott in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and such other procedures as may be fixed by the Court, including those provided for in the Interim Compensation Order.

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<sup>7</sup> See ECF No. 204.

<sup>8</sup> See ECF No. 975.

<sup>9</sup> See ECF No. 766.

<sup>10</sup> ECF No. 792.

9. On August 11, 2021, the Court entered its *Findings of Fact, Conclusions of Law and Order (I) Confirming Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors and (II) Granting Related Relief*<sup>11</sup> confirming the Plan.

10. The Effective Date of the Plan occurred on November 1, 2021.<sup>12</sup> On the Effective Date, in accordance with each of § 12.14 of the Plan and paragraph 1 of the *Agreed Order Regarding the Dissolution of the Official Committee of Unsecured Creditors with Respect to Debtor Brookfield Square Anchor S, LLC* (the “Brookfield Dissolution Order”),<sup>13</sup> the Committee dissolved other than in respect of certain enumerated limited purposes. Such limited purposes, with respect to which the Committee continues in existence and has standing and a right to be heard, include filing and prosecuting applications for allowance of Fee Claims.

**SUMMARY OF PROFESSIONAL COMPENSATION  
AND REIMBURSEMENT OF EXPENSES REQUESTED**

11. McDermott seeks final allowance of (i) \$4,322,644.50 in fees, including \$555,882.00 in fees for actual, reasonable and necessary services that McDermott provided during the Interim Period, calculated at the hourly billing rates of McDermott’s professionals who worked on these Cases, and (ii) \$76,660.02 in expenses incurred by McDermott while providing services to the Committee during the Application Period, including \$3,529.86 in expenses incurred by McDermott while providing services during the Interim Period. During the Application Period, McDermott attorneys and paraprofessionals expended a total of 4,650.60 hours for which compensation is requested.

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<sup>11</sup> ECF No. 1397.

<sup>12</sup> See *Notice of (I) Entry of Order Confirming Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors (with Technical Modifications), (II) Occurrence of Effective Date, and (III) Administrative Claims Bar Date* [ECF No. 1545].

<sup>13</sup> ECF No. 1570.



12. From and after its appointment, the Committee played an active and important role in these Chapter 11 Cases. Among the many projects undertaken during the Application Period, McDermott:

- i. Worked diligently to address general and administrative matters regarding these Chapter 11 Cases, such as the Debtors' motions, Plan, operating reports, and business plans, and communicated these issues and concerns through regular and as-needed meetings with the Committee members, AlixPartners, the Debtors' counsel, and counsel to the Ad Hoc Bondholder Group (defined below);
- ii. Analyzed and monitored the Debtors' disposition of certain assets, including certain de minimis assets, to ensure these transactions benefitted all parties-in-interest, including the Committee and all unsecured creditors;
- iii. Intervened in and participated in the Adversary Proceeding (defined below) between the Debtor and Wells Fargo Bank, National Association, to support the Debtors' position and legal arguments while concurrently supporting a measured approach to litigation in these Chapter 11 Cases;
- iv. Participated in and monitored the Debtors' two successful mediation proceedings with the Honorable Marvin Isgur related to both the Adversary Proceeding, which included issues surrounding the Debtors' RSA (defined below) and the Plan term sheet, and the Laredo chapter 11 case;
- v. Researched and evaluated potential avoidance actions in these Chapter 11 Cases, including reviewing financing documents and security instruments related to the Laredo and Brookfield chapter 11 cases;
- vi. Responded on behalf of the Committee to multiple requests to appoint an equity committee in these Chapter 11 Cases;
- vii. Supported the confirmation of the Debtors' Plan by preparing a letter in support of the Plan on behalf of the Committee that was distributed to all unsecured creditors; and
- viii. Cooperated with all constituencies in these Chapter 11 Cases to resolve post-confirmation issues, including with respect to conditions precedent to the Effective Date, the Trade Agreement process, and the *Emergency Motion of Debtors for Entry of Order Authorizing Modification of Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors (With Technical*

*Modifications) Pursuant to Section 1127(c) of the Bankruptcy Code (the “Plan Modification Motion”).<sup>14</sup>*

13. In addition, to keep each of the Committee members informed of case issues on a timely basis in the context of the complex nature of the Debtors’ business and attendant issues that arose throughout these Chapter 11 Cases, McDermott held weekly calls with the Committee or provided weekly e-mail updates in lieu of a call. McDermott also communicated with individual Committee members and other unsecured creditors as needed.

14. McDermott’s efforts throughout the Application Period contributed to the confirmation of a consensual Plan providing for, among other things, (i) full payment (in four quarterly installments) of the Allowed amount of Ongoing Trade Claims, provided holders of such Claims have executed a Trade Agreement with the Debtors, and (ii) recovery for holders of Allowed Unsecured Claims of approximately 54-56% of their respective Claims via the Pro Rata distribution of the Unsecured Claims Recovery Pool. The accomplishments of the Committee required significant resources of McDermott for the benefit of the Committee and unsecured creditors. McDermott respectfully submits that its services during the Application Period warrant approval of its requested fees and expenses.

15. Pursuant to the Interim Compensation Order, during these Chapter 11 Cases, McDermott has served monthly fee statements for services rendered and expenses incurred during the Application Period to the Fee Notice Parties (as defined in the Interim Compensation Order) for the following periods:

- i. November 17, 2020 through and including November 30, 2020 (the “November Fee Statement”);
- ii. December 1, 2020 through and including December 31, 2020 (the “December Fee Statement”);

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<sup>14</sup> ECF No. 1502.

- iii. January 1, 2021 through and including January 31, 2021 (the “January Fee Statement”);
- iv. February 1, 2021 through and including February 28, 2021 (the “February Fee Statement”);
- v. March 1, 2021 through and including March 31, 2021 (the “March Fee Statement”);
- vi. April 1, 2021 through and including April 30, 2021 (the “April Fee Statement”);
- vii. May 1, 2021 through and including May 31, 2021 (the “May Fee Statement”);
- viii. June 1, 2021 through and including June 30, 2021 (the “June Fee Statement”);
- ix. July 1, 2021 through and including July 31, 2021 (the “July Fee Statement”);
- x. August 1, 2021 through and including August 31, 2021 (the “August Fee Statement”);
- xi. September 1, 2021 through and including September 30, 2021 (the “September Fee Statement”); and
- xii. October 1, 2021 through and including November 1, 2021 (the “October Fee Statement”).

McDermott did not receive any objections to the November Fee Statement, the December Fee Statement, the January Fee Statement, the February Fee Statement, the March Fee Statement, the April Fee Statement, the May Fee Statement, the June Fee Statement, the July Fee Statement or the August Fee Statement. In accordance with the Interim Compensation Order, the deadlines for any Fee Notice Party to object to (i) the September Fee Statement is December 8, 2021 and (ii) the October Fee Statement is December 13, 2021.

16. As of the date of this Application, McDermott has received payment of 100% of fees and 100% of expenses for services rendered and expenses incurred from November 17, 2020 through July 31, 2021. A summary of the amounts paid to McDermott in accordance with the Interim Compensation Order for monthly fee statements relating to the Application Period is set forth below:

Date Submitted to Fee Notice Parties	Period Covered	Fees & Expenses Incurred		Fees & Expenses Paid		20% Holdback
		Fees	Expenses	Fees	Expenses	
January 19, 2021	November 17, 2020 – November 30, 2020	\$177,471.00	\$128.70	\$141,976.80	\$128.70	\$35,494.20
February 4, 2021	December 1, 2020 – December 31, 2020	\$631,270.50	\$18,338.01	\$505,016.40	\$18,338.01	\$126,254.10
March 9, 2021	January 1, 2021 – January 31, 2021	\$670,366.00	\$16,716.97	\$536,292.80	\$16,716.97	\$134,073.20
April 5, 2021	February 1, 2021 – February 28, 2021	\$563,167.00	\$3,843.07	\$450,533.60	\$3,843.07	\$112,633.40
April 30, 2021	March 1, 2021 – March 31, 2021	\$393,921.50	\$7,976.22	\$315,137.20	\$7,976.22	\$78,784.30
June 4, 2021	April 1, 2021 – April 30, 2021	\$461,069.00	\$17,909.82	\$368,855.20	\$17,909.82	\$92,213.80
July 7, 2021	May 1, 2021 – May 31, 2021	\$321,214.00	\$2,599.51	\$256,971.20	\$2,599.51	\$64,242.80
August 16, 2021	June 1, 2021 – June 30, 2021	\$295,189.00	\$4,699.62	\$236,151.20	\$4,699.62	\$59,037.80
September 13, 2021	July 1, 2021 – July 31, 2021	\$209,111.50	\$918.24	\$167,289.20	\$918.24	\$41,822.30
October 19, 2021	August 1, 2021 – August 31, 2021	\$237,609.50	\$1,471.91	Objection Deadline was November 2, 2021 <sup>15</sup>	Objection Deadline was November 2, 2021	N/A
November 24, 2021	September 1, 2021 – September 30, 2021	\$113,020.00	\$918.24	Objection Deadline is December 8, 2021	Objection Deadline is December 8, 2021	N/A
November 29, 2021	October 1, 2021 – November 1, 2021	\$249,235.50	\$1,139.71	Objection Deadline is December 13, 2021	Objection Deadline is December 13, 2021	N/A
<b>Totals:</b>		\$4,322,644.50	\$76,660.02	\$2,978,223.60 <sup>16</sup>	\$73,130.16	\$744,555.90 <sup>17</sup>

<sup>15</sup> The objection deadline has passed with respect to the August Fee Statement. While no Fee Notice Party objected to the August Fee Statement, McDermott has yet to be paid any amounts with respect thereto.

<sup>16</sup> The amounts in this column have been paid pursuant to the Interim Compensation Order.

<sup>17</sup> The amounts in this column have been paid pursuant to the *Order Approving First Interim Application of McDermott Will & Emery LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred as Counsel to the Official Committee of Unsecured Creditors of CBL & Associates Properties, Inc., et al. for the Period from November 17, 2020 through January 31, 2021* [ECF No. 1045], the *Order Approving Second Interim Application of McDermott Will & Emery LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred as Counsel to the Official Committee of Unsecured Creditors of CBL & Associates Properties, Inc., et al. for the Period from February 1, 2021 through and including April 30, 2021* [ECF

17. Pursuant to this Application, McDermott seeks final allowance of all fees and expenses incurred from November 17, 2020 through and including November 1, 2021. McDermott further seeks payment of: (i) the 20% holdback amount in connection with the August Fee Statement, and (ii) to the extent not yet paid, 100% of fees and expenses in connection with the September Fee Statement and the October Fee Statement.

18. The fees charged by McDermott in these Chapter 11 Cases are billed in accordance with McDermott's agreed billing rates and procedures in effect during the Application Period.<sup>18</sup> McDermott charged its standard hourly rates for engagements of this type for all attorneys, legal assistants, and staff who provide services to the Committee in these Chapter 11 Cases. Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable bankruptcy and non-bankruptcy cases in a competitive national legal market. Attached hereto as **Exhibit 3** is McDermott's customary Comparable Compensation Disclosures.

19. Attached hereto as **Exhibits 4-A and 4-B** are McDermott's Compensation by Timekeeper, a summary breakdown of hours and amounts billed by timekeeper during the Interim Period and the Application Period, respectively. The exhibits list those McDermott professionals and paraprofessionals who performed services for the Committee during the Interim Period and the Application Period, as applicable; the capacities in which each individual is employed by McDermott; the practice area in which each individual practices; the year in which each attorney was admitted to practice law, where applicable; the hourly billing rate charged by McDermott for

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No. 1304], and the *Order Approving Third Interim Application of McDermott Will & Emery LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred as Counsel to the Official Committee of Unsecured Creditors of CBL & Associates Properties, Inc., et al. for the Period from May 1, 2021 through and including July 31, 2021* [ECF No. 1566], respectively.

<sup>18</sup> As disclosed in the *Supplemental Declaration of Charles R. Gibbs* [ECF No. 808], in the ordinary course of McDermott's business and in keeping with its established billing practices and procedures, McDermott's billing rates were adjusted firm wide on January 1, 2021. No party objected to McDermott's adjusted rates.

services performed by such individual; and the aggregate number of hours expended in this matter during the Interim Period or the Application Period, as applicable, and fees billed therefor.

20. Attached hereto as **Exhibits 5-A and 5-B** are McDermott's Compensation by Category, a summary breakdown of hours and amounts billed by project category during the Interim Period and the Application Period, respectively.

21. Attached hereto as **Exhibits 6-A and 6-B** are McDermott's Expense Summary, a summary of McDermott's expenses incurred during the Interim Period and the Application Period, respectively.

22. McDermott maintains computerized records of the time spent by all McDermott attorneys and paraprofessionals in connection with these Chapter 11 Cases. As described above, copies of these computerized records were served with McDermott's monthly fee statements in the format and by the procedure specified by the Interim Compensation Order. Copies of the monthly fee statements for November 17, 2020 through November 1, 2021, together with the applicable time records, are attached hereto as **Exhibit 7**.

23. McDermott reserves the right to amend this Application to request additional compensation for the Application Period to the extent that it is later determined that time or disbursement charges for services rendered or disbursements incurred during such time period have not yet been submitted. Moreover, after November 1, 2021, McDermott professionals rendered additional services in preparing and filing this Application. Amounts relating to such services are not included in this Application. Under § 12.14 of the Plan and paragraph 1 of the Brookfield Dissolution Order, the Reorganized Debtors are responsible for the payment of fees and expenses in connection with the provision of such services.

### **SUMMARY OF SERVICES RENDERED**

24. The following narrative provides a summary of the services rendered by McDermott on behalf of the Committee, organized by project category. The summary that follows is not intended to be a detailed description of the work performed by McDermott during the Application Period, as those day-to-day services and the time expended in performing such services are fully set forth in the contemporaneous time records that are attached hereto as **Exhibit 7**. Rather, the following summary highlights those areas in which services were rendered to the Committee.

#### **Case Administration**

**McDermott Billing Code: B110**

**Interim Period Fees: \$79,697.00/Hours Billed: 91.70**

**Application Period Fees: \$516,544.50/Hours Billed: 599.80**

25. This category represents time spent by McDermott addressing general and administrative matters regarding these Chapter 11 Cases. Throughout the Application Period, McDermott conducted weekly internal meetings to discuss case status, work streams, open case issues and strategies to effectively address the same. McDermott also conferred with AlixPartners regarding various diligence matters and the Debtors' business operations. In connection therewith McDermott coordinated with Debtors' counsel on a weekly basis. McDermott also maintained and continuously updated a critical dates memo to track case progress and deadlines.

#### **Asset Analysis and Recovery**

**McDermott Billing Code: B120**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$2,732.50 /Hours Billed: 3.70**

26. This category represents time spent by McDermott related to the analysis and disposition of the Debtors' assets. In connection therewith, McDermott analyzed the Debtors' reports filed pursuant to Bankruptcy Rule 2015.3 and conferred with AlixPartners concerning the same.

**Asset Disposition**

**McDermott Billing Code: B130**

**Interim Period Fees: \$12,617.50/Hours Billed: 12.20**

**Application Period Fees: \$45,013.00/Hours Billed: 43.80**

27. This category represents time spent by McDermott related to the analysis and disposition of the Debtors' assets. In connection therewith, McDermott reviewed and analyzed documents provided in connection with the Debtors' proposed sale(s) of certain de minimis assets, and conferred with AlixPartners, Debtors' counsel, and the Debtors' financial advisor regarding the same.

**Relief From Stay/Adequate Protection Proceedings**

**McDermott Billing Code: B140**

**Interim Period Fees: \$3,559.00/Hours Billed: 3.70**

**Application Period Fees: \$50,694.50/Hours: 54.80**

28. This category represents time spent by McDermott reviewing and analyzing the Debtors' multiple motions to extend the automatic stay to certain directors and officers in connection with pending securities litigation. Specific to the Interim Period, McDermott reviewed and analyzed motions to lift stay filed by various tort claimants and a lift stay stipulation with the Utah Department of Transportation. In connection therewith, McDermott conferred with Debtors' counsel and provided comments on the proposed orders and stipulation.

**Creditor Meetings and Communication**

**McDermott Billing Code: B150**

**Interim Period Fees: \$122,529.50/Hours Billed: 128.60**

**Application Period Fees: \$548,102.00/Hours Billed: 567.40**

29. This category represents time spent by McDermott (i) preparing for and conducting regular Committee meetings; (ii) communicating with the Committee members on an individual basis from time to time; and (iii) responding to inquiries regarding the Cases from individual creditors as such inquiries are received. McDermott prepared for and conducted weekly meetings with the Committee, and prepared email updates regarding Committee business, case status and



various outstanding matters. McDermott also coordinated with AlixPartners to prepare for the weekly Committee calls, including preparing, discussing and reviewing Committee presentations on a number of topics including case status, routine motions, additional chapter 11 cases filed and the related mediation proceedings, the Debtors' operations and financial results, the Debtors' key employee retention plan, the Debtors' sales of outparcels and other properties, the adversary proceeding styled *CBL & Associates Properties, Inc. v. Wells Fargo Bank, National Association*, Adv. Proc. No. 20-03454 (the "Adversary Proceeding") and related mediation, the feasibility of the Plan, the Debtors' operations and financial results, and the Debtors' post-confirmation progress with respect to the conditions precedent to the Effective Date.

30. In addition, McDermott regularly updated the Committee on recent case developments, including routine motions, the Debtors' motion to authorize performance under the Restructuring Support Agreement (the "RSA"), the Adversary Proceeding, the Debtors' Plan and related *Disclosure Statement for the Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and its Affiliated Debtors* [ECF No. 1164] (the "Disclosure Statement"), the Debtors' presentation to McDermott concerning the special committee investigation into potential claims against the Debtors' estates and/or the Debtors' officers and directors, the Debtors' sales of de minimis assets, the Debtors' settlement of de minimis claims, the Debtors' trade agreements, the Debtors' property-level negotiations and settlements, the Debtors' objection to certain preferred shareholders' motions to appoint an equity committee, and filings in the Laredo and Brookfield chapter 11 cases.

**Court Hearings**

**McDermott Billing Code: B155**

**Interim Period Fees: \$40,784.50/Hours Billed: 40.40**

**Application Period Fees: \$271,515.50/Hours Billed: 260.30**

31. This category represents time spent by McDermott preparing for and attending the second-day hearing on the use of cash collateral, several hearings regarding the Debtors' requested use of proceeds of directors and officers liability insurance policies, a hearing on the Debtors' key employee retention plan, the trial in the Adversary Proceeding, several other hearings regarding the further extension of the automatic stay to certain directors and officers, a hearing on the authorization for the Debtors to perform under the RSA, hearings on the Debtors' Plan and Disclosure Statement, the hearings on certain preferred shareholders' motion to appoint an equity committee, hearings in the Laredo chapter 11 case, and related status conferences. Specific to the Interim Period, McDermott prepared for and attended the hearings on Plan confirmation, the hearing on the Plan Modification Motion, and the first-day hearing held in connection with the Brookfield chapter 11 case.

**Fee/Employment Applications**

**McDermott Billing Code: B160**

**Interim Period Fees: \$67,084.50/Hours Billed: 90.80**

**Application Period Fees: \$381,680.50/Hours Billed: 525.00**

32. This category represents time spent by McDermott related to the fee and employment applications of McDermott and other professionals. During the Application Period, McDermott prepared McDermott's First, Second, and Third Interim Fee Applications, McDermott's monthly fee statements and coordinated with the Debtors' professionals in connection with the same. McDermott also began preparing this Application and its most recent monthly fee statements. McDermott reviewed AlixPartners' First, Second, and Third Interim Fee Applications and monthly fee statements and coordinated with the Debtors' professionals in connection with the same. McDermott prepared and filed certificates of no objection to

McDermott's and AlixPartners' fee applications. McDermott also drafted and filed supplemental declarations for Charles R. Gibbs in connection with McDermott's employment application, coordinated with Debtors' counsel in connection with the Debtors' proposed employment of ordinary course professionals and the Committee's final fee application and estimated post-Effective Date Fee Claim.

**Fee/Employment Objections**

**McDermott Billing Code: B170**

**Interim Period Fees: \$3,482.00/Hours Billed: 3.40**

**Application Period Fees: \$14,076.50/Hours Billed: 13.90**

33. This category represents time spent by McDermott related to fee requests of other estate professionals. During the Application Period, McDermott reviewed the Debtors' proposed employment of ordinary course professionals and conferred with Debtors' counsel in connection with the same. McDermott also reviewed the Debtors' notice of hiring additional ordinary course professionals, monthly fee statements, and interim fee applications of the Debtors' professionals.

**Avoidance Action Analysis**

**McDermott Billing Code: B180**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$49,144.50/Hours Billed: 56.00**

34. This category represents time spent by McDermott related to the evaluation of potential avoidance actions in these Chapter 11 Cases. During the Application Period, McDermott reviewed the Debtors' lenders' financing documents and security instruments in connection with the Laredo chapter 11 case, and conducted legal research regarding fraudulent transfers in the relevant jurisdiction in connection with its analysis and evaluation of whether any such claims may exist in the Debtors' cases.

**Assumption/Rejection of Leases**

**McDermott Billing Code: B185**

**Interim Period Fees: \$1,241.50/Hours Billed: 1.30**

**Application Period Fees: \$6,884.00/Hours Billed: 6.60**

35. This category represents time spent by McDermott related to the Debtors' potential assumption, assignment, and rejection of leases. During the Application Period, McDermott reviewed the Debtors' motions to extend and further extend time to assume or reject leases and conferred with AlixPartners and the Debtors' professionals in connection with the same.

**Other Contested Matters**

**McDermott Billing Code B190**

**Interim Period Fees: \$27,315.50/Hours Billed: 25.80**

**Application Period Fees: \$1,274,388.00/Hours Billed: 1,324.40**

36. This category represents time spent by McDermott analyzing, monitoring, and participating in the Adversary Proceeding, as well as analyzing the Debtors' motions to pay tenant obligations, continue using their existing cash management system, and use proceeds of directors and officers liability insurance policies.

37. In connection with the Adversary Proceeding, McDermott prepared the Committee's intervention motion, reviewed the intervention motions of other parties, engaged in discovery including document review, attended depositions, prepared for trial, participated in each day of trial, participated in the related mediation, and prepared the Committee's mediation statement and trial brief. McDermott also engaged with the Debtors' professionals and AlixPartners in connection with the RSA and Plan term sheet.

38. McDermott also prepared for and participated in the preferred shareholders' motions to appoint an equity committee and the hearings in the Laredo and Brookfield chapter 11 cases. In connection with the motion to appoint an equity committee, McDermott conducted legal research, prepared an objection on behalf of the Committee, and conferred with Debtors' counsel and AlixPartners concerning the same. In connection with the Laredo chapter 11 case, McDermott

analyzed pleadings, provided markups of the same to Debtors' counsel, conducted legal research in connection with the joint motion to dismiss, conferred with Debtors' counsel and AlixPartners, and participated in the related mediation. In connection with the Brookfield chapter 11 case (and specific to the Interim Period), McDermott analyzed pleadings and conferred with Debtors' counsel and AlixPartners.

39. McDermott also engaged with the Debtors' professionals in connection with document requests related to the Committee's investigation of the acts, conduct, assets, liabilities, and financial condition of the Debtors.

**Non-Working Travel**

**McDermott Billing Code B195**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$0.00 /Hours Billed: 0.00**

40. McDermott did not provide services related to Non-Working Travel during the Application Period.

**Business Operations**

**McDermott Billing Code B210**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$7,977.00/Hours Billed: 6.30**

41. This category represents time spent by McDermott analyzing the Debtors' cash flow and business operations. During the Application Period, McDermott reviewed the Debtors' draft consulting agreement with their retiring Chief Operating Officer and the Debtors' monthly operating reports and business plan. As an administrative matter, there is some overlap between work recorded under the project category "Business Operations" and work recorded under the project category "Case Administration."

**Employee Benefits and Pensions**

**McDermott Billing Code B220**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$17,665.50 /Hours Billed: 17.80**

42. This category represents time spent by McDermott addressing the Debtors' various employment matters. During the Application Period, McDermott analyzed Debtors' proposed key employee retention plan. McDermott coordinated with AlixPartners on analysis of key employee retention plans in comparable cases. McDermott also conducted research into the standards for approval in this jurisdiction and elsewhere, reviewed board materials and employment agreements, conferred with Debtors' counsel, worked with AlixPartners in connection with its presentation on the proposed terms and propriety of same, and reviewed the Court's order approving the Debtors' key employee retention plan.

43. During the Application Period, McDermott also reviewed documents relating to payments made in connection with the Debtors' prepetition employee retention plan and potential executive payouts, prepared additional diligence lists, and conferred with AlixPartners regarding the same.

**DIP, Cash Collateral and Financing Issues**

**McDermott Billing Code B230**

**Interim Period Fees: \$5,539.00/Hours Billed: 5.80**

**Application Period Fees: \$57,008.00/Hours Billed: 60.30**

44. This category represents time spent by McDermott related to the review and analysis of the Debtors' cash collateral motion, the related proposed order, and the cash collateral budget. During the Application Period, McDermott conferred with Debtors' counsel and provided comments on the proposed final cash collateral order. McDermott, with the assistance of AlixPartners, continued to monitor the Debtors' cash collateral budget. McDermott also reviewed, analyzed, and conducted diligence on the Debtors' extension of loans from U.S. Bank and conferred with Debtors' counsel in connection with the same.

45. McDermott reviewed and analyzed Laredo's cash collateral motion, the related proposed order, the cash collateral budget, and the related objection by U.S. Bank. McDermott conferred with AlixPartners, Debtors' counsel, and counsel to U.S. Bank and also provided comments on the proposed interim cash collateral order for Laredo. In addition (and specific to the Interim Period), McDermott reviewed and analyzed the Brookfield joint administration order, which included cash collateral, the related proposed order, and the cash collateral budget. McDermott conferred with AlixPartners and Debtors' counsel and also provided comments on the proposed interim order for Brookfield.

46. As an administrative matter, there is some overlap between work recorded under the project category "DIP, Cash Collateral and Financing Issues" and work recorded under the project category "Real Estate."

#### **Tax Issues**

**McDermott Billing Code B240**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$0.00 /Hours Billed: 0.00**

47. McDermott did not provide services related to Tax Issues during the Application Period.

#### **Real Estate**

**McDermott Billing Code B250**

**Interim Period Fees: \$191.00/Hours Billed: 0.20**

**Application Period Fees: \$40,226.50 /Hours Billed: 42.00**

48. This category represents time spent by McDermott reviewing and analyzing the Debtors' real estate holdings. During the Application Period, McDermott conducted a review of loan documents, lien instruments, and other financing documents, and prepared tracking and diligence charts and checklists. McDermott also reviewed various loan extensions requested by the Debtors. In connection therewith, McDermott conferred internally, with AlixPartners, and Debtors' counsel.

49. As an administrative matter, there is some overlap between work recorded under the project category “DIP, Cash Collateral and Financing Issues” and work recorded under the project category “Real Estate.”

**Board of Directors Matters**

**McDermott Billing Code B260**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$0.00 /Hours Billed: 0.00**

50. McDermott did not provide services related to Board of Directors Matters during the Application Period.

**Utilities**

**McDermott Billing Code B270**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$805.00 /Hours Billed: 0.80**

51. This category represents time spent by McDermott related to the review of the Debtors’ treatment of utility providers.

**Vendor Matters**

**McDermott Billing Code B280**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$0.00 /Hours Billed: 0.00**

52. McDermott did not provide services related to Vendor Matters during the Application Period.

**Insurance**

**McDermott Billing Code B290**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$13,434.50/Hours: 13.70**

53. This category represents time spent by McDermott related to the payment of director and officer liability insurance proceeds to Debtors’ counsel and McDermott’s analysis of other various insurance issues arising in these Chapter 11 Cases. During the Application Period, McDermott reviewed and analyzed the Debtors’ emergency motion seeking authorization to use



proceeds of directors' and officers' liability insurance policies. In connection therewith, McDermott conferred with Debtors' counsel and provided comments to the proposed order.

**Claims Administration and Objections**

**McDermott Billing Code B310**

**Interim Period Fees: \$382.00/Hours Billed: 0.40**

**Application Period Fees: \$42,367.50/Hours Billed: 41.20**

54. This category represents time spent by McDermott related to the analysis of claims against the Debtors' estates. During the Application Period, McDermott analyzed the Debtors' schedules of assets and liabilities and financial statements to assess the scope of general unsecured claims, reviewed the Debtors' draft bar date motion, and provided comments to the proposed order and the bar date notice. McDermott reviewed the proposed order approving de minimis claim settlement procedures, and conferred with Debtors' counsel regarding the same. McDermott also reviewed the Debtors' notices of de minimis settlement. In addition, McDermott conferred with the Committee concerning the claims bar date and conferred with AlixPartners in connection with AlixPartners' claims analysis process and also reviewed filings relating to various claims transfer agreements.

**Plan and Disclosure Statement**

**McDermott Billing Code B320**

**Interim Period Fees: \$208,477.50/Hours Billed: 196.10**

**Application Period Fees: \$816,633.50/Hours Billed: 821.80**

55. This category represents time spent by McDermott related to the Debtors' Disclosure Statement and Plan. During the Application Period, McDermott reviewed the Debtors' Plan including drafts and accompanying term sheets, RSA related solicitation materials, plan supplement documents, property-level guarantee claim settlements, drafts of formation and governing documents for the reorganized Debtors, drafts of exhibits to the Disclosure Statement, the draft proposed Disclosure Statement approval order, the Debtors' liquidation and valuation analyses, various objections to the RSA, Plan and Disclosure Statement filed by preferred

shareholders, securities class action plaintiffs, and tenants, and analyzed and researched potential issues for unsecured creditors in connection with the same.

56. In addition, McDermott conferred with AlixPartners concerning feasibility of the Plan. McDermott also prepared a letter in support of the Plan on behalf of the Committee to unsecured creditors, reviewed the Debtors' motion to extend exclusivity and related objections, and reviewed and provided comments on the draft convertible notes election procedures. Specific to the Interim Period, McDermott reviewed drafts of the trade vendor agreements, prepared for the confirmation hearing, and conferred with Debtors' counsel concerning each of the foregoing.

57. During the Interim Period, McDermott also addressed post-confirmation matters, including conditions precedent to the Plan's effective date, trade agreements, the convertible notes allocation formula, the Plan Modification Motion, and the dissolution of the Committee. McDermott conferred with Debtors' counsel and AlixPartners on each of the foregoing.

#### **General Bankruptcy Advice and Opinions**

**McDermott Billing Code B410**

**Interim Period Fees: \$22,484.50/Hours Billed: 23.50**

**Application Period Fees: \$144,701.50/Hours Billed: 166.20**

58. This category represents time spent by McDermott related to general bankruptcy advice given to the Committee that is not applicable to any other project category. Throughout the Application Period, McDermott routinely reviewed and kept a record of summaries of pleadings as they were filed on the docket and also separately conferred with each of AlixPartners, Debtors' counsel, and counsel to the Ad Hoc Bondholder Group<sup>19</sup> on a weekly basis or as otherwise needed.

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<sup>19</sup> The "Ad Hoc Bondholder Group" is the informal group of certain holders, or investment managers, advisers or subadvisers acting on behalf of funds and/or accounts or their respective subsidiaries that are holders of (i) 5.25% Senior Notes due 2023, issued pursuant to that certain Indenture, dated as of November 26, 2013, among CBL &

**Restructurings**

**McDermott Billing Code B420**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$0.00 /Hours Billed: 0.00**

59. McDermott did not provide services related to Restructurings during the Application Period.

**Internal Investigation**

**McDermott Billing Code B430**

**Interim Period Fees: \$0.00/Hours Billed: 0.00**

**Application Period Fees: \$4,717.50 /Hours Billed: 4.40**

60. This category represents time spent by McDermott conducting diligence on the special committee investigation into potential claims against the Debtors' estates and/or the Debtors' officers and directors. During the Application Period, McDermott reviewed materials provided by Debtors' counsel and conferred with Debtors' counsel concerning the same.

**Securities Law Issues**

**McDermott Billing Code B450**

**Interim Period Fees: \$4,480.00/Hours Billed: 6.60**

**Application Period Fees: \$16,332.50/Hours Billed: 20.50**

61. This category represents time spent by McDermott in connection with researching and analyzing the Debtors' public filings. McDermott reviewed the filings and consulted with AlixPartners in connection with the same.

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Associates Limited Partnership, as issuer, CBL & Associates Properties, Inc., as limited guarantor, and Delaware Trust Company, as successor trustee, as amended, modified or supplemented from time to time (the "Indenture"), (ii) 4.60% Senior Notes due 2024, issued pursuant to the Indenture, and (iii) 5.95% Senior Notes due 2026, issued pursuant to the Indenture. *See generally, Verified Statement of the Ad Hoc Noteholder Group Pursuant to Bankruptcy Rule 2019* [ECF No. 254].

**General Corporate**  
**McDermott Billing Code B460**  
**Interim Period Fees: \$0.00/Hours Billed: 0.00**  
**Application Period Fees: \$0.00 /Hours Billed: 0.00**

62. McDermott did not provide services related to General Corporate during the Application Period.

**SUMMARY OF ACTUAL AND NECESSARY EXPENSES**

63. During the Application Period, McDermott incurred \$76,660.02 in expenses on behalf of the Committee, including \$3,529.86 in expenses incurred during the Interim Period. It is McDermott's policy to charge its clients in all areas of practice for out-of-pocket expenses incurred in connection with the client's case. These customary items include, among other things, photocopying, facsimiles, travel, business meals, computerized research, postage, witness fees, and other fees related to trials and hearings. Internal costs or overhead cost and document production services (including regular secretarial and word processing time) are not charged for separately. McDermott charges for these expenses in a manner and at rates consistent with charges made generally to its other clients. A summary of McDermott's expenses incurred during the Application Period is provided in Exhibit 6.

**BASIS FOR THE RELIEF REQUESTED**

64. Section 331 of the Bankruptcy Code provides for interim compensation of professionals once every 120 days after the commencement of the Cases and incorporates the substantive standards of section 330 to govern the Court's award of such compensation. 11 U.S.C. § 331. Section 330 provides that a Court may award a professional employed under section 327 of the Bankruptcy Code "reasonable compensation for actual, necessary services rendered . . . ; and reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1).

65. Section 330 sets forth the following criteria for the award of such compensation and reimbursement:

In determining the amount of reasonable compensation to be awarded to . . . [a] professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

- A. the time spent on such services;
- B. the rates charged for such services;
- C. whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- D. whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- E. with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- F. whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.<sup>20</sup>

66. As a supplement to the factors enumerated in section 330, courts within the Fifth Circuit consider the twelve factors identified in *Johnson v. Ga. Highway Express, Inc.* to determine the reasonableness of compensation incurred by a professional based upon the particular circumstances of a given case.<sup>21</sup> These factors include: (1) the time and labor required; (2) the novelty and difficulty of the questions presented; (3) the skill requisite to perform the legal services; (4) the preclusion of employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client

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<sup>20</sup> 11 U.S.C. § 330(a)(3).

<sup>21</sup> See *Johnson v. Ga. Highway, Inc.*, 488 F.2d 714, 717 (5th Cir. 1974).

or the circumstances of the case; (8) the amount involved and the results obtained; (9) the experience, reputation and ability of the attorneys; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.<sup>22</sup>

67. Utilizing these factors and the standards customarily applied to fee awards under sections 330 and 331 of the Bankruptcy Code, McDermott respectfully submits that its request for compensation and reimbursement of expenses is reasonable and proper, and that such request should be allowed in the amounts sought herein. The following analysis of the *Johnson* factors supports the reasonableness of McDermott's requested fees and expenses:

- i. *The Time and Labor Required.* The foregoing summary, together with the Exhibits attached hereto, detail the time, nature and extent of the professional services rendered by McDermott for the benefit of the Committee during the Application Period. The total number of hours expended – 4,650.60, including 630.50 during the Interim Period – indicates that McDermott devoted substantial time to these matters on a wide variety of legal issues presented in these Cases. McDermott regularly communicated with the Committee to ensure that the rights of unsecured creditors were protected and that the Committee judiciously proceeded with motion practice only when appropriate.
- ii. *The Novelty and Difficulty of Questions.* The issues presented by these Cases demanded a high level of skill during a short period of time. McDermott spent considerable time analyzing difficult restructuring issues exacerbated by the COVID-19 pandemic, preparing relevant pleadings as necessary and negotiating with the relevant interested parties to protect the interests of, and maximize value for, unsecured creditors.
- iii. *The Skill Required to Perform the Legal Services Properly.* In rendering services to the Committee, McDermott demonstrated substantial legal skill and expertise in the areas of bankruptcy, corporate law, commercial law, debtor-creditor rights, real estate law, secured transactions and litigation.
- iv. *The Preclusion of Other Employment by Applicant Due to Acceptance of these Cases.* Given the size and depth of McDermott's restructuring practice, McDermott's representation of the Committee has not precluded it from seeking

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<sup>22</sup> See *In re First Colonial Corp. of America*, 544 F.2d 1291, 1298–99 (5th Cir. 1977), *cert. denied*, 431 U.S. 904 (1977) (applying the twelve-factor test to an analysis of fee awards in bankruptcy cases).

other engagements. However, McDermott's devotion of time to one matter inevitably detracts from its ability to seek out other employment opportunities.

- v. *The Customary Fee.* McDermott agreed to perform its services for the Committee during the pendency of these Cases pursuant to its customary compensation practices for engagements of this type and regular hourly billing practices. McDermott is normally compensated on an hourly basis and bills clients on a periodic basis, which is most often monthly.
- vi. *Whether the Fee is Fixed or Contingent.* The fees charged in this Application are based on McDermott's standard hourly rates for engagements of this type.
- vii. *Time Limitations Imposed by Client or other Circumstances.* Although these Cases did not necessarily proceed on an expedited timeline, there were numerous instances that necessitated McDermott's provision of capable legal services on short notice and under significant time constraints in order to address complex legal issues.
- viii. *The Amount Involved and Results Obtained.* For the reasons described in this Application, McDermott respectfully submits that the amount of fees for which compensation is sought is reasonable under the circumstances given the size of the Debtors' operations, the amount of secured debt, and the number and complexity of the issues addressed. McDermott conducted extensive research and analysis on various issues impacting the Debtors' business including but not limited to the use of cash collateral, the Debtors' key employee retention plan, the Adversary Proceeding and related mediation, the extension of the automatic stay to certain of the Debtors' directors and officers, various tort claimants' motions to lift stay, potential avoidance actions, the Debtors' Plan and Disclosure Statement, the request for appointment of an official committee of preferred shareholders, and contested matters related to each of the Laredo and Brookfield chapter 11 cases.
- ix. *The Experience, Reputation and Ability of the Attorneys.* McDermott is a well-known law firm, and has proven substantial ability in the fields of bankruptcy, litigation, corporate, tax, and real estate, among others. Charles R. Gibbs and Kristin Going, both partners at McDermott, along with Stacy Lutkus, employee counsel at McDermott, had primary responsibility for these Cases. Mr. Gibbs, Ms. Going, and Ms. Lutkus all have a wide breadth of experience in bankruptcy matters, particularly with respect to representing creditor interests and official creditor committees, enabling them to effectively render services to the Committee in an efficient manner. In addition, McDermott's restructuring & insolvency attorneys were supported by partners from the litigation practice group at McDermott.
- x. *The Undesirability of the Cases.* While this engagement is not "undesirable," these Cases are challenging given the pandemic, the complexity of the Debtors' restructuring, the Adversary Proceeding, the contested nature of the Laredo and Brookfield chapter 11 cases, and the mediation proceedings in which the Committee participated.

- xi. Nature and Length of Professional Relationship. McDermott had no relationship with the Committee prior to being retained in these Cases, subject to the disclosures set forth in the Retention Application and accompanying *Declaration of Charles R. Gibbs* attached thereto as Exhibit B,<sup>23</sup> and the Second,<sup>24</sup> Third,<sup>25</sup> Fourth,<sup>26</sup> Fifth,<sup>27</sup> and Sixth<sup>28</sup> Supplemental Declarations of Charles R. Gibbs.
- xii. Awards In Similar Cases. The fees and expenses for which McDermott seeks compensation and reimbursement are not excessive and are substantially similar to those awarded in similar cases for similar services rendered and results obtained.

68. This is McDermott's fourth interim and final fee application. This Application complies with the requirements of section 331 of the Bankruptcy Code that a professional only apply for compensation once every 120 days.<sup>29</sup>

69. In sum, the services rendered by McDermott were reasonable, necessary, and intended to benefit and preserve the Debtors' estates and the interests of unsecured creditors. These services required a high level of professional competence and expertise, and McDermott believes that the services were performed efficiently and effectively. Accordingly, approval of the compensation for professional services and reimbursement of the expenses sought herein is warranted.

70. No previous application for the relief sought herein has been made to this or any other Court.

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<sup>23</sup> ECF No. 336.

<sup>24</sup> See ECF No. 981.

<sup>25</sup> See ECF No. 1085.

<sup>26</sup> See ECF No. 1106.

<sup>27</sup> See ECF No. 1255.

<sup>28</sup> See ECF No. 1609

<sup>29</sup> See 11 U.S.C. § 331.



71. In accordance with the Interim Compensation Order, this Application will be served upon (i) the Fee Notice Parties (as defined in the Interim Compensation Order); and (ii) all parties requesting notice pursuant to Bankruptcy Rule 2002.

**WHEREFORE**, McDermott respectfully requests that the Court:

(a) approve on a final basis the allowance of \$4,322,644.50 for compensation for professional services rendered by McDermott to the Committee during the Application Period, including \$555,882.00 for compensation for professional services rendered during the Interim Period;

(b) approve on a final basis the reimbursement of \$76,660.02 of out-of-pocket expenses incurred by McDermott in connection with the rendering of such services to the Committee during the Application Period, including \$3,529.86 of out-of-pocket expenses incurred by McDermott in connection with the rendering of services during the Interim Period;

(c) authorize and direct the Debtors to immediately pay to McDermott the unpaid portion of such allowed and approved fees and expenses; and

(d) award such other relief as the Court deems just and proper.

*[Signature Page Follows]*

Dated: December 1, 2021

Respectfully submitted,

**MCDERMOTT WILL & EMERY LLP**

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*Bankruptcy Counsel to the Official Committee of  
Unsecured Creditors*

**CERTIFICATE OF SERVICE**

I certify that on December 1, 2021, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas. Additionally, pursuant to the Interim Compensation Order, a copy of the foregoing document has been served upon:

- (i) the Debtors c/o CBL & Associates Properties, Inc., Attn.: Jeff Curry, Esq. (jeff.curry@cblproperties.com);
- (ii) counsel to the Debtors, Weil Gotshal & Manges LLP, Attn.: Ray C. Schrock, P.C., Alfredo R. Perez, Esq. and Garrett A. Fail, Esq. (ray.schrock@weil.com, alfredo.perez@weil.com, and garrett.fail@weil.com);
- (iii) Office of the U.S. Trustee for the Southern District of Texas, Attn.: Hector Duran and Stephen Statham (hector.duran.jr@usdoj.gov, and stephen.statham@usdoj.gov);
- (iv) counsel for the Ad Hoc Bondholder Group, Akin Gump Strauss Hauer & Feld LLP, Attn: Michael Stamer, Esq., Meredith Lahaie, Esq. and Kevin Zuzolo, Esq. (mstamer@akin.com, mlaiaie@akin.com, and kzuzolo@akin.com); and
- (v) counsel for Wells Fargo Bank, National Association, Jones Day LLP, Attn: David Paulson, Esq., Brett Barragate, Esq. and Benjamin Rosenblum, Esq., (dipaulson@jonesday.com, bpbarragate@jonesday.com, and brosenblum@jonesday.com).

/s/ Charles R. Gibbs  
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