

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Quarterly Period Ended March 31, 2024

or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Transition Period from _____ to _____

Commission file number: 000-41286

VIVAKOR, INC.

(Exact name of registrant as specified in its charter)

Nevada

(State or other Jurisdiction of
Incorporation or Organization)

26-2178141

(I.R.S. Employer
Identification No.)

**5220 Spring Valley Road, Suite LL20
Dallas, TX**

(Address of Principal Executive Offices)

75242

(Zip Code)

(949) 281-2606

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading symbol(s)	Name of exchange on which registered
Common Stock, \$0.001 par value	VIVK	The Nasdaq Stock Market LLC (Nasdaq Capital Market)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a small reporting company. See the definitions of "large accelerated filer," "accelerated filer," a "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act: ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of May 6, 2024, there were 27,710,253 shares of the registrant's common stock outstanding.

VIVAKOR, INC.
FORM 10-Q
FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2024

TABLE OF CONTENTS

	Page
PART I. FINANCIAL INFORMATION	1
ITEM 1. Financial Statements	1
<u>Condensed Consolidated Balance Sheets as of March 31, 2024 (unaudited) and December 31, 2023</u>	1

Condensed Consolidated Statements of Operations for the Three Months ended March 31, 2024 and 2023 (unaudited)	2
Condensed Consolidated Statements of Changes in Stockholders' Equity for the Three Months ended March 31, 2024 and 2023 (unaudited)	3
Condensed Consolidated Statements of Cash Flows for the Three Months ended March 31, 2024 and 2023 (unaudited)	4
Notes to Condensed Consolidated Financial Statements (unaudited)	5
ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations	14
ITEM 3. Quantitative and Qualitative Disclosures about Market Risk	26
ITEM 4. Controls and Procedures	26
PART II. OTHER INFORMATION	28
ITEM 1. Legal Proceedings	28
ITEM 1A. Risk Factors	28
ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds	29
ITEM 3. Defaults Upon Senior Securities	29
ITEM 4. Mine Safety Disclosures	29
ITEM 5. Other Information	29
ITEM 6. Exhibits	30
SIGNATURES	31

PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

VIVAKOR, INC. CONDENSED CONSOLIDATED BALANCE SHEETS

	March 31, 2024 (Unaudited)	December 31, 2023
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 767,273	\$ 744,307
Accounts receivable	4,026,076	2,458,730
Accounts receivable- related party	158,227	174,083
Prepaid expenses	166,269	74,876
Marketable securities	413,188	495,826
Inventories	57,780	44,632
Other assets	1,233,930	1,118,188
Total current assets	6,822,743	5,110,642
Other investments	4,000	4,000
Notes receivable	215,475	213,168
Property and equipment, net	26,555,136	24,299,317
Right of use assets- operating leases	1,444,994	1,534,870
License agreements, net	1,621,117	1,651,324
Intellectual property, net	22,785,452	23,437,654
Goodwill	14,984,768	14,984,768
Total assets	\$ 74,433,685	\$ 71,235,743
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	\$ 16,957,365	\$ 16,578,642
Accounts payable and accrued expenses- related parties	3,686,483	1,933,817
Accrued compensation	1,741,854	1,968,063
Operating lease liabilities, current	308,036	435,906
Finance lease liabilities, current	722,925	963,900
Loans and notes payable, current	4,725,703	2,477,970
Loans and notes payable, current- related parties	15,629,061	15,626,168
Total current liabilities	43,771,427	39,984,466
Operating lease liabilities, long term	1,230,622	1,193,915
Finance lease liabilities, long term	1,977,177	1,852,178
Loans and notes payable, long term	1,163,898	856,034

Loans and notes payable, long term- related parties	5,590,007	5,590,008
Long-term debt (working interest royalty programs)	4,672,300	4,433,630
Deferred tax liability	88,323	88,323
Total liabilities	<u>58,493,754</u>	<u>53,998,554</u>
Stockholders' equity:		
Preferred stock, \$0.001 par value; 15,000,000 shares authorized, none outstanding		
Common stock, \$0.001 par value; 200,000,000 shares authorized; 26,520,508 and 26,220,508 were issued and outstanding as of March 31, 2024 and December 31, 2023, respectively	26,521	26,221
Additional paid-in capital	83,710,538	83,097,553
Treasury stock, at cost	(20,000)	(20,000)
Accumulated deficit	(67,790,641)	(65,908,406)
Total Vivakor, Inc. stockholders' equity	15,926,418	17,195,368
Noncontrolling interest	13,513	41,821
Total stockholders' equity	<u>15,939,931</u>	<u>17,237,189</u>
Total liabilities and stockholders' equity	<u>\$ 74,433,685</u>	<u>\$ 71,235,743</u>

See accompanying notes to consolidated financial statements

1

VIVAKOR, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(UNAUDITED)

	March 31,	
	2024	2023
Revenues		
Product revenue - third parties	\$ 12,913,165	\$ 11,194,467
Product revenue - related party	3,108,226	4,350,405
Total revenues	16,021,391	15,544,872
Cost of revenues	14,953,254	14,031,714
Gross profit	1,068,137	1,513,158
Operating expenses:		
Sales and marketing	11,040	589
General and administrative	1,664,966	1,852,921
Amortization and depreciation	1,009,053	784,520
Total operating expenses	2,685,059	2,638,030
Loss from operations	(1,616,922)	(1,124,872)
Other income (expense):		
Unrealized loss on marketable securities	(82,638)	(495,826)
Gain on deconsolidation of subsidiary	177,550	-
Interest income	2,307	-
Interest expense	(444,040)	(451,294)
Interest expense- related parties	-	(754,375)
Other income	54,000	10,000
Total other income (expense)	(292,821)	(1,691,495)
Loss before provision for income taxes	(1,909,743)	(2,816,367)
Provision for income taxes	(800)	(800)
Consolidated net loss	(1,910,543)	(2,817,167)
Less: Net loss attributable to noncontrolling interests	(28,308)	(282,575)
Net loss attributable to Vivakor, Inc.	<u>\$ (1,882,235)</u>	<u>\$ (2,534,592)</u>
Basic and diluted net loss per share	<u>\$ (0.07)</u>	<u>\$ (0.14)</u>
Basic weighted average common shares outstanding	<u>26,391,937</u>	<u>18,064,838</u>

See accompanying notes to consolidated financial statements

2

VIVAKOR, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY

	Series A Preferred Stock		Common Stock		Additional Paid-in	Treasury	Accumulated	Non- controlling	Total
	Shares	Amount	Shares	Amount	Capital	Stock	Deficit	Interest	Stockholders' Equity
December 31, 2023	-	\$ -	26,220,508	\$ 26,221	\$83,097,553	\$ (20,000)	\$ (65,908,406)	\$ 41,821	\$ 17,237,189
Issuance of common stock for a reduction of liabilities	-	-	300,000	300	285,000	-	-	-	285,300
Stock based compensation	-	-	-	-	327,985	-	-	-	327,985
Net loss	-	-	-	-	-	-	(1,882,235)	(28,308)	(1,910,543)
March 31, 2024 (unaudited)	-	<u>\$ -</u>	<u>26,520,508</u>	<u>\$ 26,521</u>	<u>\$83,710,538</u>	<u>\$ (20,000)</u>	<u>\$ (67,790,641)</u>	<u>\$ 13,513</u>	<u>\$ 15,939,931</u>

	Series A Preferred Stock		Common Stock		Additional Paid-in Capital	Treasury Stock	Accumulated Deficit	Non- controlling Interest	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount					
December 31, 2022	-	\$ -	18,064,838	\$ 18,065	\$ 74,026,163	\$ (20,000)	\$ (55,169,781)	\$ 8,206,614	\$ 27,061,061
Distributions by noncontrolling interest	-	-	-	-	-	-	-	(289,002)	(289,002)
Issuance of noncontrolling interest for a reduction of debt	-	-	-	-	-	-	-	710,000	710,000
Net loss	-	-	-	-	-	-	(2,534,592)	(282,575)	(2,817,167)
March 31, 2023 (unaudited)	-	\$ -	18,064,838	\$ 18,065	\$ 74,026,163	\$ (20,000)	\$ (57,704,373)	\$ 8,345,037	\$ 24,664,892

See accompanying notes to consolidated financial statements

VIVAKOR, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(UNAUDITED)

	March 31,	
	2024	2023
OPERATING ACTIVITIES:		
Consolidated net loss	\$ (1,910,543)	\$ (2,817,167)
Adjustments to reconcile net income to net cash used in operating activities:		
Depreciation and amortization	1,009,053	784,520
Forgiveness of liabilities	-	(10,000)
Stock-based compensation	327,985	-
Unrealized loss- marketable securities	82,638	495,826
Gain on deconsolidation of variable interest entity	(177,550)	-
Changes in operating assets and liabilities:		
Accounts receivable	(1,551,490)	1,191,512
Prepaid expenses	(91,393)	(59,109)
Inventory	(13,148)	(22,818)
Other assets	(115,742)	(70,531)
Right of use assets- finance leases	-	261,939
Right of use assets- operating leases	89,876	84,616
Financing lease liabilities	-	(41,985)
Operating lease liabilities	(91,163)	(502,914)
Accounts payable and accrued expenses	426,581	(1,775,681)
Interest on notes receivable	(2,307)	-
Interest on notes payable	187,524	1,205,669
Net cash used in operating activities	(1,829,679)	(1,276,123)
INVESTING ACTIVITIES:		
Purchase of equipment	(1,028,885)	(883,819)
Net cash used in investing activities	(1,028,885)	(883,819)
FINANCING ACTIVITIES:		
Payment on financing lease liabilities	(115,976)	-
Proceeds from loans and notes payable	3,002,192	1,988,797
Proceeds from loans and notes payable- related party	-	345,000
Payment of notes payable- related party	(4,686)	(367,727)
Distributions to noncontrolling interest	-	(289,002)
Net cash provided by financing activities	2,881,530	1,677,068
Net increase (decrease) in cash and cash equivalents	22,966	(482,874)
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	744,307	3,182,793
CASH AND CASH EQUIVALENTS, END OF PERIOD	\$ 767,273	\$ 2,699,919
SUPPLEMENTAL CASHFLOW INFORMATION:		
Cash paid during the year for:		
Interest	\$ 2,193	\$ 851,005
Income taxes	\$ -	\$ -
Noncash transactions:		
Accounts payable on purchase of equipment	\$ 1,207,577	\$ 406,653
Noncontrolling interest issued for a reduction in liabilities	\$ -	\$ 710,000
Capitalized interest on construction in process	\$ 318,447	\$ 237,978
Equity issued with debt	\$ 285,300	\$ -
Note receivable received in exchange for sale of subsidiary	\$ 7,500,000	\$ -

See accompanying notes to consolidated financial statements

VIVAKOR, INC.
NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

Note 1. Basis of Presentation

Interim Financial Information

The accompanying unaudited condensed consolidated financial statements were prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim financial information and pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC"). Certain information and disclosures normally included in consolidated financial statements prepared in accordance with U.S. GAAP have been condensed or omitted. Accordingly, these condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and the related notes for the year ended December 31, 2023 that were filed with our Form 10-K. The unaudited condensed consolidated financial statements have been prepared on a basis consistent with that used to prepare the audited annual consolidated financial statements and include, in the opinion of management, all adjustments, consisting of normal and recurring items, necessary for the fair presentation of the condensed consolidated financial statements. The operating results for the three months ended March 31, 2024 are not necessarily indicative of the results expected for the full year ending December 31, 2024.

Deconsolidation of VivaSphere

On September 7, 2023 we entered into an Acquisition Agreement (the "Agreement") to sell 100% of the common stock of VivaSphere, Inc. ("VivaSphere") and its assets, which were completely impaired by the Company in the fiscal year 2022, to a private buyer. The transaction closed on February 15, 2024. Under the terms of the Agreement, the purchase price of approximately \$7.5 million consists of a promissory note payable (the "Convertible Note") to the Company payable in full four years after the closing date, and the note is convertible into shares of the buyer's common stock after it becomes a public company. In the event the buyer does not close a transaction with a public company within one year from the close of the transaction, then the Company has the right to foreclose on and repossess the assets. The Convertible Note is convertible into common shares, which has a ceiling of 17.99% of the total number of shares outstanding. The "Conversion Price" shall equal the greater of (a) \$0.75 per share or (b) the lesser of (i) 90% of the volume weighted average price for the Common Stock trade occurring during the ten (10) consecutive trading days of the Common Stock immediately preceding the applicable Conversion Date on which the Company elects to convert all or part of this Note or (ii) \$2.25 per share. Due to uncertainty of the collectability of the principal amount of the Convertible Note, we have established an allowance for the entire amount, and we have not accrued any interest receivable in connection with the Convertible Note.

In accordance with ASC 810, as of October 1, 2023, we deconsolidated Viva Wealth Fund I, LLC (VWFI), recognizing a gain on deconsolidation of \$438,099 in the fourth quarter of fiscal year 2023, and as of February 15, 2024 we deconsolidated Vivasphere, Inc. (Vivasphere), recognizing a gain of \$177,550 for the three months ended March 31, 2024. The assets, liabilities and equity related to VWFI and Vivasphere were removed from our financial statements on their respective deconsolidation dates, resulting in the gains on deconsolidation.

Long Lived Assets

The Company reviews the carrying values of its long-lived assets for possible impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. If the expected future cash flow from the use of the asset and its eventual disposition is less than the carrying amount of the asset, an impairment loss is recognized and measured using the fair value of the related asset. For the three months ended March 31, 2024, the Company continued to build its wash plant to commence operations at its Houston, Texas site. The Company evaluated, and determined that there was no trigger event, and therefore there was no impairment incurred during the three months ended March 31, 2024. There can be no assurance that market conditions will not change or demand for the Company's services will continue, which could result in impairment of long-lived assets in the future.

Intangible Assets and Goodwill

We account for intangible assets and goodwill in accordance with ASC 350 "*Intangibles-Goodwill and Other*" ("ASC 350"). We assess our intangible assets in accordance with ASC 360 "*Property, Plant, and Equipment*" ("ASC 360"). Impairment testing is required when events occur that indicate an asset group may not be recoverable ("triggering events"). As detailed in ASC 360-10-35-21, the following are examples of such events or changes in circumstances (sometimes referred to as impairment indicators or triggers): (a) A significant decrease in the market price of a long-lived asset (asset group) (b) A significant adverse change in the extent or manner in which a long-lived asset (asset group) is being used or in its physical condition. (c) A significant adverse change in legal factors or in the business climate that could affect the value of a long-lived asset (asset group), including an adverse action or assessment by a regulator (d) An accumulation of costs significantly in excess of the amount originally expected for the acquisition or construction of a long-lived asset (asset group) (e) A current-period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset (asset group) (f) A current expectation that, more likely than not, a long-lived asset (asset group) will be sold or otherwise disposed of significantly before the end of its previously estimated useful life. The term more likely than not refers to a level of likelihood that is more than 50 percent. We performed an analysis and assessed no triggering event has occurred, and no impairment for the three months ended March 31, 2024.

Revenue Recognition

For the three months ended March 31, 2024, our sales consist of storage services and the sale of crude oil or like products. For the three months ended March 31, 2024, disaggregated revenue by customer type was as follows: \$12,913,165 in crude oil sales and \$2,657,906 in product related to natural gas liquids sales.

Related Party Revenues

We sell crude oil or like products and provide storage services to related parties under long-term contracts. We acquired these contracts in our August 1, 2022 acquisition of Silver Fuels Delhi, LLC and White Claw Colorado City, LLC. Our revenue from related parties for 2024 and 2023 was \$2,657,906 and \$4,350,405.

Major Customers and Concentration of Credit Risk

The Company has two major customers, which account for approximately 100% of the balance of accounts receivable as of March 31, 2024 and 2023. Our two major customers (one of which is a related party) account for approximately 99% of the Company's revenues for the three months ended March 31, 2024 and 2023.

Advertising Expense

Advertising costs are expensed as incurred. The Company did not incur advertising expense for the three months ended March 31, 2024 and 2023.

Net Income/Loss Per Share

Basic net income (loss) per share is calculated by subtracting any preferred interest distributions from net income (loss), all divided by the weighted-average number of common shares outstanding for the period, without consideration for common stock equivalents. Diluted net income (loss) per common share is computed by dividing the net income (loss) by the weighted-average number of common share equivalents outstanding for the period determined using the treasury stock method if their effect is dilutive. Potential dilutive instruments have been excluded from the calculation of the weighted-average number of common shares outstanding when the Company is in a net loss position. For the three months March 31, 2024 and 2023 our potential dilutive instruments were excluded from the weighted-average calculation as they were antidilutive. Potential dilutive instruments as of March 31, 2024 and 2023 include the following: convertible notes payable convertible into approximately 224,560 and 14,560 shares of common stock, stock options and awards granted to previous and current employees of 2,281,673 and 1,421,760 shares of common stock, stock options and awards granted to Board members or consultants of 690,304 and 395,139 shares of common stock. The Company issued free standing stock options to purchase 1,000,000 shares of our common stock to a third party in a bundled transaction with debt during 2023 (see Note 9). The Company also has a warrant outstanding to purchase 80,000 shares of common stock as of March 31, 2024 and 2023.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates, judgments, and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. We believe our critical accounting estimates relate to the following: Recoverability of current and noncurrent assets, stock-based compensation, income taxes, effective interest rates related to long-term debt, lease assets and liabilities, valuation of stock used to acquire assets, derivatives, and fair values of the intangible assets and goodwill.

While our estimates and assumptions are based on our knowledge of current events and actions we may undertake in the future, actual results may ultimately differ from these estimates and assumptions.

Fair Value of Financial Instruments

The Company follows Accounting Standards Codification ("ASC") 820, "Fair Value Measurements and Disclosures" ("ASC 820"), for assets and liabilities measured at fair value on a recurring basis. ASC 820 establishes a common definition for fair value to be applied to existing generally accepted accounting principles that requires the use of fair value measurements, establishes a framework for measuring fair value, and expands disclosure about such fair value measurements. The adoption of ASC 820 did not have an impact on the Company's financial position or operating results but did expand certain disclosures.

ASC 820 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Additionally, ASC 820 requires the use of valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs. These inputs are prioritized below:

Level 1: Applies to assets or liabilities for which there are quoted prices in active markets for identical assets or liabilities.

Level 2: Applies to assets or liabilities for which there are inputs other than quoted prices that are observable for the asset or liability such as quoted prices for similar assets or liabilities in active markets; quoted prices for identical assets or liabilities in markets with insufficient volume or infrequent transactions (less active markets); or model-derived valuations in which significant inputs are observable or can be derived principally from, or corroborated by, observable market data.

Level 3: Applies to assets or liabilities for which there are unobservable inputs to the valuation methodology that are significant to the measurement of the fair value of the assets or liabilities.

The Company analyzes all financial instruments with features of both liabilities and equity under the Financial Accounting Standard Board's ("FASB") accounting standard for such instruments. Under this standard, financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The carrying amounts reported in the consolidated balance sheets for marketable securities are classified as Level 1 assets due to observable quoted prices for identical assets in active markets. The carrying amounts reported in the consolidated balance sheets for cash, prepaid expenses and other current assets, accounts payable and accrued expenses approximate their estimated fair market values based on the short-term maturity of these instruments. The recorded values of notes payable approximate their current fair values because of their nature, rates, and respective maturity dates or durations.

Note 2. Going Concern & Liquidity

We have historically suffered net losses and cumulative negative cash flows from operations, and as of March 31, 2024, we had an accumulated deficit of approximately \$67.8 million. As of March 31, 2024 and 2023, we had a working capital deficit of approximately \$37 million and \$6.4 million, respectively. As of March 31, 2024, we had cash of approximately \$767 thousand. As of March 31, 2024, we have current obligations to pay approximately \$20.4 million of debt. Of the \$20.4 million, \$15.3 million can be satisfied through the issuance of registered common stock under the terms of the debt. These conditions raise substantial doubt about the Company's ability to continue as a going concern.

During the three months ended March 31, 2024, subject to available cash flows, the Company continued to develop its technologies, its strategy to monetize its intellectual properties and execute its business plan. To date we have financed our operations primarily through debt financing, private and public equity offerings and our working interest agreements. For the fiscal year 2023 we raised approximately \$3 million through debt financings with individual investors, \$2.2 million through a sale lease back agreement, and during the three months ended March 31, 2024, we raised an additional \$3 million through additional debt financing (Note 9). The Company entered into merger and acquisition agreements with anticipated closing dates in 2024, which were disclosed with our Form 10-K. Even though these merger and acquisition transactions are projected to close in 2024 and yield substantial cash flow that may provide adequate working capital to finance its day-to-day operations and current obligations, these events were not considered probable as of March 31, 2024 because they have not closed as of the date of our filing.

Based on the above, we believe there is substantial doubt about the Company's ability to continue as a going concern. The Company has prepared the consolidated financial statements on a going concern basis. If the Company encounters unforeseen circumstances that place constraints on its capital resources, management will be required to take various measures to conserve liquidity. Management cannot provide any assurance that the Company will be able to execute its plans to raise additional capital, close its merger and acquisitions, or that its operations or business plan will be profitable.

Note 3. Accounts receivable

As of March 31, 2024 and December 31, 2023, an allowance for doubtful accounts of none was deemed necessary. As of March 31, 2024 and December 31, 2023, trade accounts receivable of \$82,227 and \$152,083 are with a vendor of which our CEO is a beneficiary. In 2023 we began subleasing office space to a tenant where the officers of WealthSpace, LLC, Fund Manager of Viva Wealth Fund I, LLC, also manage the tenant of our sublease. The tenant owes rent of \$76,000 to the Company as of March 31, 2024.

Note 4. Prepaid Expenses and Other Assets

As of March 31, 2024 and December 31, 2023, we had other assets of \$ 1,233,930 and \$1,118,188. Our other assets consist of various deposits with vendors, professional service agents, or security deposits on office and warehouse leases, including operating lease deposits in the amount of \$292,249 and \$214,500 as of March 31, 2024 and December 31, 2023, a deposit for a reclamation bond with the Utah Division of Oil, Gas and Mining in the amount of \$14,288 as of March 31, 2024 and December 31, 2023, and finance lease deposits of \$ 941,680 and \$889,400 as of March 31, 2024 and December 31, 2023, which will be returned at the end of the finance leases after we have complied with the terms of the lease.

As of March 31, 2024 and December 31, 2023, our prepaid expenses of \$ 166,269 and \$74,876 mainly consists of prepaid insurances.

Note 5. Inventories

As of March 31, 2024 and December 31, 2023 and 2022, inventories of \$ 57,780 and \$44,632 consist of crude oil. The crude oil is related to our oil gathering facility in Delhi, Louisiana.

Note 6. Property and Equipment

The following table sets forth the components of the Company's property and equipment at March 31, 2024 and December 31, 2023:

	March 31, 2024			December 31, 2023		
	Gross Carrying Amount	Accumulated Depreciation	Net Book Value	Gross Carrying Amount	Accumulated Depreciation	Net Book Value
Office furniture	\$ 14,998	\$ 8,301	\$ 6,697	\$ 14,998	\$ 7,823	\$ 7,175
Vehicles	36,432	35,218	1,214	36,432	33,396	3,036
Equipment	942,880	470,111	472,769	942,880	435,260	507,620
Property	17,000	-	17,000	17,000	-	17,000
Finance lease- Right of use assets	3,579,544	1,746,263	1,833,281	3,579,544	1,484,324	2,095,220
Construction in process:						
Wash Plant Facilities	4,534,723	-	4,534,723	3,344,968	-	3,344,968
Cavitation device	72,201	-	72,201	72,201	-	72,201
Remediation Processing Unit 1	4,506,664	-	4,506,664	4,464,513	-	4,464,513
Remediation Processing Unit 2	8,477,631	-	8,477,631	8,187,425	-	8,187,425
Remediation Processing Unit System A	2,875,502	-	2,875,502	2,795,391	-	2,795,391
Remediation Processing Unit System B	2,875,502	-	2,875,502	2,795,391	-	2,795,391
WCCC Tank Expansion	881,952	-	881,952	9,377	-	9,377
Total fixed assets	<u>\$ 28,815,029</u>	<u>\$ 2,259,893</u>	<u>\$ 26,555,136</u>	<u>\$ 26,260,120</u>	<u>\$ 1,960,803</u>	<u>\$ 24,299,317</u>

For the three months ending March 31, 2024 and 2023, depreciation expense was \$ 37,151. Equipment that is currently being manufactured is considered construction in process and is not depreciated until the equipment is placed into service. Equipment that is temporarily not in service is not depreciated until placed into service.

Note 7. Intangible Assets, Net and Goodwill

The following table sets forth the components of the Company's intangible assets at March 31, 2024 and December 31, 2023:

	March 31, 2024			December 31, 2023		
	Gross Carrying Amount	Accumulated Amortization	Net Book Value	Gross Carrying Amount	Accumulated Amortization	Net Book Value
Extraction Technology patents	\$ 113,430	\$ 20,573	\$ 92,857	\$ 113,430	\$ 18,905	\$ 94,525
Extraction Technology	16,385,157	7,509,864	8,875,293	16,385,157	7,305,049	9,080,108
Acquired crude oil contracts	16,788,760	2,971,458	13,817,302	16,788,760	2,525,739	14,263,021
Total intangible assets	<u>\$ 33,287,347</u>	<u>\$ 10,501,895</u>	<u>\$ 22,785,452</u>	<u>\$ 33,287,347</u>	<u>\$ 9,849,693</u>	<u>\$ 23,437,654</u>

The changes in the carrying amount of goodwill are as follows:

	Goodwill
January 1, 2023	\$ 12,678,108
Business combination acquisition ⁽¹⁾	2,306,660
December 31, 2023	<u>\$ 14,984,768</u>
March 31, 2024	<u>\$ 14,984,768</u>

(1) The measurement of assets acquired and liabilities assumed in the business combination is based on preliminary estimates made by management and subject to adjustment within twelve months. Management hired a valuation expert who performed a valuation study to calculate the fair value of the acquired assets, assumed liabilities and goodwill within twelve months. Based on the valuation study, we increased the fair value of goodwill and decreased the value of the acquired contracts by \$2.3 million in 2023.

Note 8. Accounts Payable and Accrued Expenses

Accounts payable and accrued expenses consist of the following:

	March 31, 2024	December 31, 2023
Accounts payable	\$ 5,442,670	\$ 5,226,071
Unearned revenue	9,107,297	9,107,297
Accrued interest (various notes and loans payable)	256,825	178,999
Accrued interest (working interest royalty programs)	1,480,026	1,396,528
Accrued tax penalties and interest	670,547	669,747
Accounts payable and accrued expenses	<u>\$ 16,957,365</u>	<u>\$ 16,578,642</u>

	March 31, 2024	December 31, 2023
Accounts payable and accrued expenses- related parties	\$ 3,686,483	\$ 1,933,817
Accrued compensation	<u>\$ 1,741,854</u>	<u>\$ 1,968,063</u>

As of March 31, 2024 and December 31, 2023, our accounts payable are primarily made up of trade payable for the purchase of crude oil. Trade accounts payables in the amount of \$3,433,706 and \$1,933,817 is with a vendor who our CEO is a beneficiary of. As of March 31, 2024 and December 31, 2023, accounts payable related to services rendered of \$252,777 and \$178,325, which are not trade payables, are with a vendor who our CEO is a beneficiary of.

As of March 31, 2024, accrued compensation to current employees includes \$ 109,467 in accrued vacation pay due to our Chief Executive Officer, which may be payable in cash or stock if unused, and \$1,176,491 due to our Chief Financial Officer, with \$ 62,260 in accrued sick and vacation pay that may be payable in cash if unused, and the remainder paid in cash. On March 8, 2024, we gave our Chief Financial Officer formal notice that his current employment agreement will terminate on June 8, 2024 in accordance with its terms. We are currently negotiating with him regarding extending his employment beyond June 8, 2024. If we are not able to successfully negotiate a new employment agreement with Mr. Nelson then the non-renewal of his employment agreement constitutes a termination for good reason under Mr. Nelson's employment agreement and triggers the following payment/performance obligations under the employment agreement: 1. Monthly severance payments of the executive's then base salary for 12 months commencing June 9, 2024. 2. All accrued, unused vacation and accrued compensation (or \$1,176,491 as of March 31, 2024) is due and payable in one lump sum cash payment to the executive on June 8, 2024. 3. We will continue to reimburse the executive for his executive healthcare benefits for 12 months or pay for COBRA coverage until the earlier of the expiration of 12 months, the expiration of COBRA coverage, or the date when the executive becomes eligible for substantially equivalent healthcare coverage with new employment. 4. We will pay for the executive's benefit for outplacement services for 12 months with an outplacement firm selected by the executive. 5. 100% of the executives then unvested stock option shares vest and become fully exercisable for a period of 3 years following the termination date.

Note 9. Loans and Notes Payable

Loans and notes payable and their maturities consist of the following:

Third party debt:

	March 31, 2024	December 31, 2023
Various promissory notes and convertible notes	\$ 50,960	\$ 50,960
Novus Capital Group LLC Note (a)	-	171,554
National Buick GMC	13,556	13,556
Blue Ridge Bank (d)	410,200	410,200
Small Business Administration	349,579	299,900
Al Dali International for Gen. Trading & Cont. Co.	1,048,411	974,594
RSF, LLC	500,000	500,000
Keke Mingo	934,930	913,240
Cedarview Opportunities Master Fund LP (c)	2,581,965	-
Total notes payable	<u>\$ 5,889,601</u>	<u>\$ 3,334,004</u>
Loans and notes payable, current	\$ 4,725,703	\$ 2,477,970
Loans and notes payable, long term	\$ 1,163,898	\$ 856,034

Related party debt:

	March 31, 2024	December 31, 2023
Various variable interest promissory notes- related parties	\$ -	\$ -
Jorgan Development, LLC (b)	20,838,558	20,841,052
Triple T Notes	380,510	375,124
Total notes payable- related parties	<u>\$ 21,219,068</u>	<u>\$ 21,216,176</u>
Loans and notes payable, current- related parties	\$ 15,629,061	\$ 15,626,168
Loans and notes payable, long term- related parties	\$ 5,590,007	\$ 5,590,008

2024	\$ 19,525,220
2025	7,244,251
2026	37,007
2027	17,232
2028	17,232
Thereafter	267,727
Total	\$ 27,108,669

- (a) As of the date of this report, this note encumbered our ammonia synthesis assets, which were sold on February 15, 2024, and the Company was released by the lender from this liability.
- (b) On August 1, 2022, we closed a Membership Interest Purchase Agreement, (the "MIPA"), with Jorgan Development, LLC, ("Jorgan") and JBAH Holdings, LLC ("JBAH"), as the equity holders of Silver Fuels Delhi, LLC ("SFD") and White Claw Colorado City, LLC ("WCCC") whereby, the Company acquired all of the issued and outstanding membership interests in each of SFD and WCCC, making SFD and WCCC wholly owned subsidiaries of the Company. On March 31, 2024, we entered into an agreement with the lender, who is controlled by our Chief Financial Officer, that the Threshold Payment date, which was originally February 1, 2024, was extended to February 1, 2025. Additionally, the Threshold Payment as defined in the MIPA, and the corresponding right of the sellers in the MIPA transaction to unwind the MIPA transaction, will expire upon the earliest to occur of (a) payment of the Threshold Payment in full on or before February 1, 2025, (b) the closing of the proposed merger transaction with Empire, or (c) the closing of the proposed acquisition of the Endeavor entities.
- (c) On February 5, 2024, we issued a secured promissory note to Cedarview Opportunities Master Fund LP, in the principal amount of \$3,000,000, in relation to a Loan and Security Agreement by and between the Company, its subsidiaries, and the lender. The Company will use the proceeds of the Note for general working capital purposes and to repay certain indebtedness. The Company received the funds on February 6, 2024, minus a 3% origination fee. To secure repayment of the note, the Company issued the lender a security interest in the assets of the Company and its subsidiaries. The Company also issued an irrevocable letter to its transfer agent to reserve 3,000,000 shares of its common stock until the note is repaid. If the Company defaults on the repayment of the note then the transfer agent will transfer the shares to the Lender for the lender to sell until the amounts due under the note are repaid in full and return any remaining shares. The Company will repay the amounts due under the note as follows: first three months are interest only payments, which the Company prepaid at closing, and then twelve equal monthly installment payments of interest plus \$250,000, which must be made on or before May 5, 2025 (the maturity date). The Company's obligation to repay the funds is guaranteed by the Company's subsidiaries, which are signatories to the Agreement and a corresponding Guaranty. As additional consideration for the lender loaning us the principal amount, Jorgan Development, LLC ("Jorgan"), an entity controlled by James Ballengee, our Chief Executive Officer, and James H. Ballengee as an individual executed a Subordination Agreement under which Jorgan and Mr. Ballengee agreed to subordinate the security interest they have in our assets securing obligations due to them to the security interest granted to the lender under the agreement. The Company paid a finder \$70,000 in relation to obtaining the loan and issued the lender 300,000 shares of its common stock at \$0.951 per share, restricted in accordance with Rule 144, as additional consideration for the loan, which was recorded as a discount against the face amount of the note.
- (d) The Company is no longer seeking forgiveness of these loans and will repay these loans in cash.

Note 10. Share-Based Compensation & Warrants

Stock Options & Awards

Generally accepted accounting principles require share-based payments to employees, including grants of employee stock options, warrants, and common stock to be recognized in the income statement based on their fair values at the date of grant, net of estimated forfeitures.

The Company has granted stock-based compensation to employees, including stock awards in conjunction with the CEO's October 2022 employment agreement. We issued additional stock awards of 245,536 that vest between quarterly for 12 months to cliff vesting in 12 and 18 months in conjunction with another employee's contract, which we entered into in July 2023. For the three months ended March 31, 2024, stock-based compensation was \$327,985. In January 2023, a new Board of Directors was nominated and approved. Two new independent Board members were each issued stock non-statutory stock awards, which renewed in January 2024 in the amount of 48,082. Non-statutory stock-based compensation was \$23,076 for the three months ended March 31, 2024.

There were no other options or awards granted during the three months ended March 31, 2024. The following table summarizes all stock option activity of the Company for the three months ended March 31, 2024 and 2023:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)
Outstanding, December 31, 2023	2,816,900	\$ 2.03	4.08
Granted	-	-	-
Exercised	-	-	-
Forfeited	-	-	-
Outstanding, March 31, 2024	2,816,900	\$ 2.03	4.08
Outstanding, December 31, 2022	1,833,566	\$ 2.59	6.47
Granted	-	-	-
Exercised	-	-	-
Forfeited	(16,667)	12.00	-
Outstanding, March 31, 2023	1,816,899	\$ 2.50	6.26
Exercisable, December 31, 2023	2,720,221	\$ 2.05	3.93
Exercisable, March 31, 2024	2,768,559	\$ 2.04	3.76

Exercisable, December 31, 2022	1,526,869	\$ 2.65	5.94
Exercisable, March 31, 2023	1,526,869	\$ 2.65	5.69

As of March 31, 2024 and 2023, the aggregate intrinsic value of the Company's outstanding options was approximately none. The aggregate intrinsic value will change based on the fair market value of the Company's common stock.

Note 11. Income Tax

The Company calculates its quarterly tax provision pursuant to the guidelines in ASC 740 Income Taxes. ASC 740 requires companies to estimate the annual effective tax rate for current year ordinary income. In calculating the effective tax rate, permanent differences between financial reporting and taxable income are factored into the calculation, and temporary differences are not. The estimated annual effective tax rate represents the Company's estimate of the tax provision in relation to the best estimate of pre-tax ordinary income or loss. The estimated annual effective tax rate is then applied to year-to-date ordinary income or loss to calculate the year-to-date interim tax provision.

The Company recorded a provision for income taxes of \$800 for the three months ended March 31, 2024 and 2023, respectively. The Company is projecting a (-0.83%) effective tax rate for the year ending December 31, 2024, which is primarily the result of permanent book to tax differences, increase in the valuation allowance, and the change in the naked credit deferred tax liability. The Company's effective tax rate for the year ending December 31, 2023 was (-0.87%), which was primarily the result of prior year true-ups and permanent adjustments.

Note 12. Related Party Transactions

In 2023 we subleased office space to Spectra Global Cuisine, LLC (Spectra), which shares officers with WealthSpace, LLC (the Fund Manager of VWFI). For the three months ended March 31, 2024, we realized \$54,000 in office sublease lease revenue from Spectra. As of March 31, 2024, the Company is carrying accounts receivable of \$76,000 related to this sublease.

In 2023, in connection with our Consulting Agreement with Matthew Nicosia, we advanced Mr. Nicosia \$ 21,000 for a business expenses related to a trip to Kuwait for the Company and have requested evidence of his business expenses. We have received evidence of business expenses of approximately \$16,254 to date and are awaiting documents and evidence for the remaining expense amount.

On June 15, 2022, we entered into a Membership Interest Purchase Agreement (the "MIPA"), with Jorgan Development, LLC, ("Jorgan") and JBAH Holdings, LLC, ("JBAH" and, together with Jorgan, the "Sellers"), as the equity holders of Silver Fuels Delhi, LLC ("SFD") and White Claw Colorado City, LLC ("WCCC") whereby, at closing, which occurred on August 1, 2022, we acquired all of the issued and outstanding membership interests where the consideration included secured three-year promissory notes issued by us in favor of the Sellers (the "Notes"). At the time of the closing of these transactions Jorgan, JBAH, and our newly hired CEO, James Ballengee were not considered related parties. As James Ballengee is now our Chief Executive Officer and is the beneficiary of Jorgan and JBAH, and the Sellers are significant shareholders, certain transactions, as noted below, related to Jorgan, JBAH, and James Ballengee are now considered related party transactions. As of March 31, 2024 and 2023, we have accrued interest of approximately of none and \$190,609. For the three months ended March 31, 2024 and 2023, we made cash payments of \$ 2,493 and \$1,161,540.

In the business combination of acquiring WCCC we also acquired WCCC's Oil Storage Agreement with White Claw Crude, LLC ("WC Crude"), who shares a beneficiary, James Ballengee, with Jorgan and JBAH. Under this agreement, WC Crude has the right, subject to the payment of service and maintenance fees, to store volumes of crude oil and other liquid hydrocarbons at a certain crude oil terminal operated by WCCC. WC Crude is required to pay \$150,000 per month even if the storage space is not used. The agreement expires on December 31, 2031. For the three months ended March 31, 2024 and 2023, we realized tank storage revenue of approximately \$450,000.

In the business combination of acquiring SFD, we acquired an amended Crude Petroleum Supply Agreement with WC Crude (the "Supply Agreement"), under which WC Crude supplies volumes of Crude Petroleum to SFD, which provides for the delivery to SFD a minimum of 1,000 sourced barrels per day, and includes a guarantee that when SFD resells these barrels, if SFD does not make at least a \$5.00 per barrel margin on the oil purchased from WC Crude, then WC Crude will pay to SFD the difference between the sales price and \$5.00 per barrel. In the event that SFD makes more than \$5.00 per barrel, SFD will pay WC Crude a profit-sharing payment in the amount equal to 10% of the excess price over \$5.00 per barrel, which amount will be multiplied by the number of barrels associated with the sale. The Supply Agreement expires on December 31, 2031. For the three months ended March 31, 2024 and 2023, we have made crude oil purchases from WC Crude of \$11,620,447 and \$11,123,530. In addition, SFD entered into a sales agreement on April 1, 2022 with WC Crude to sell a natural gas liquid product to WC Crude. We produced and sold natural gas liquids to WC Crude in the amount of \$2,657,906 and 3,580,601 for the three months ended March 31, 2024 and 2023.

In the business combination of acquiring SFD and WCCC we also entered into a Shared Services Agreement with Endeavor Crude, LLC ("Endeavor"), who shares a beneficiary, James Ballengee, with Jorgan and JBAH. Under this agreement, we have the right, but not the obligation to use Endeavor for consulting services. For the three months ended March 31, 2024 and 2023, Endeavor rendered services in the amount of \$36,252 and \$74,644.

We have an existing note payable issued to Triple T, which is owned by Dr. Khalid Bin Jabor Al Thani, the 51% majority-owner of Vivakor Middle East LLC. The note is interest free, has no fixed maturity date and will be repaid from revenues generated by Vivakor Middle East LLC. As of March 31, 2024 and 2023, the balance owed was \$380,510 and \$351,626.

Note 13. Subsequent Events

The Company has evaluated subsequent events through the date the financial statements were available to issue.

On April 4, 2024, we issued 1,189,745 shares of common stock at approximately \$ 0.79 per share for a \$483,292 reduction of liabilities and \$706,453 in stock based compensation for executives, members of the Board of Directors and certain third party service providers. These shares were issued under our S-8 Registration Statement filed with the Securities and Exchange Commission (the "SEC") on February 9, 2024.

On May 14, 2024, we issued a promissory note (the "Note") due as described below, to our Chief Executive Officer and Chairman of the Board, in the principal amount of up to \$1,500,000, for which loan advances will be made to the Company as requested. The Company will use the proceeds of the Note for general working capital purposes and to repay certain indebtedness. The intent of the Note is to be short term in nature and be repaid in 30 days. Any amounts that are not repaid in 30 days will bear interest thereafter at a rate of 11% per annum. As of the date of this filing, approximately \$ 100,000 has been advanced to the Company under this Note. Each advance matures after six months from the date the Company receives the funds.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q includes a number of forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") that reflect management's current views with respect to future events and financial performance. These statements are based upon beliefs of, and information currently available to, the Company's management as well as estimates and assumptions made by the Company's management. Readers are cautioned not to place undue reliance on these forward-looking statements, which are only predictions and speak only as of the date hereof. When used herein, the words "anticipate," "believe," "estimate," "expect," "forecast," "future," "intend," "plan," "predict," "project," "target," "potential," "will," "would," "could," "should," "continue" or the negative of these terms and similar expressions as they relate to the Company or the Company's management identify forward-looking statements. Such statements reflect the current view of the Company with respect to future events and are subject to risks, uncertainties, assumptions, and other factors, including the risks relating to the Company's business, industry, and the Company's operations and results of operations. Should one or more of these risks or uncertainties materialize, or should the underlying assumptions prove incorrect, actual results may differ significantly from those anticipated, believed, estimated, expected, intended, or planned.

Although the Company believes that the expectations reflected in the forward-looking statements are reasonable, the Company cannot guarantee future results, levels of activity, performance, or achievements. Except as required by applicable law, including the securities laws of the United States, the Company does not intend to update any of the forward-looking statements to conform these statements to actual results.

Our financial statements are prepared in accordance with accounting principles generally accepted in the United States ("GAAP"). These accounting principles require us to make certain estimates, judgments and assumptions. We believe that the estimates, judgments and assumptions upon which we rely are reasonable based upon information available to us at the time that these estimates, judgments and assumptions are made. These estimates, judgments and assumptions can affect the reported amounts of assets and liabilities as of the date of the financial statements as well as the reported amounts of revenues and expenses during the periods presented. Our financial statements would be affected to the extent there are material differences between these estimates and actual results. The following discussion should be read in conjunction with our financial statements and notes thereto appearing elsewhere in this report. The forward-looking statements made in this report are based only on events or information as of the date on which the statements are made in this report. Except as required by law, we undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise, after the date on which the statements are made or to reflect the occurrence of unanticipated events. You should read this report and the documents we refer to in this report and have filed as exhibits to this report completely and with the understanding that our actual future results may be materially different from what we expect.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, or performance. Readers are urged to carefully review and consider the various disclosures made by us in this report and in our other reports filed with the SEC. We undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or changes in the future operating results over time except as required by law. We believe that our assumptions are based upon reasonable data derived from and known about our business and operations. No assurances are made that actual results of operations or the results of our future activities will not differ materially from our assumptions.

As used in this Quarterly Report on Form 10-Q and unless otherwise indicated, the terms "Company," "we," "us," and "our" refer to Vivakor, Inc., its wholly owned and majority-owned active subsidiaries, or joint ventures (collectively, the "Company"). Intercompany balances and transactions between consolidated entities are eliminated. Vivakor has the following wholly and majority-owned subsidiaries: Silver Fuels Delhi, LLC, a Louisiana limited liability company, White Claw Colorado City, LLC, a Texas limited liability company, RPC Design and Manufacturing LLC ("RDM"), a Utah limited liability company, Vivaventures Remediation Corp., a Texas corporation, Vivaventures Management Company, Inc., a Nevada corporation, Vivaventures Oil Sands, Inc., a Utah corporation. We have a 99.95% ownership interest in Vivaventures Energy Group, Inc., a Nevada Corporation; the 0.05% minority interest in Vivaventures Energy Group, Inc. is held by a private investor unaffiliated with us. We also have an approximate 49% ownership interest in Vivakor Middle East Limited Liability Company, a Qatar limited liability company. Vivakor manages and consolidates RPC Design and Manufacturing LLC, which includes a noncontrolling interest investment from Vivaopportunity Fund, LLC, which is also managed by Vivaventures Management Company, Inc. In accordance with ASC 810, as of October 1, 2023, we deconsolidated Viva Wealth Fund I, LLC (VWFI), recognizing a gain on deconsolidation of \$438,099 in the fourth quarter of fiscal year 2023, and as of February 15, 2024 we deconsolidated Vivasphere, Inc. (Vivasphere), recognizing a gain of \$177,550 for the three months ended March 31, 2024. The assets, liabilities and equity related to VWFI and Vivasphere were removed from our financial statements on their respective deconsolidation dates, resulting in the gains on deconsolidation.

Business Overview

Vivakor, Inc. is a socially responsible operator, acquirer and developer of technologies and assets in the oil and gas industry, as well as related environmental solutions. Currently, our efforts are primarily focused on operating crude oil gathering, storage and transportation facilities, as well as contaminated soil remediation services.

One of our facilities sells crude oil in amounts up to 60,000 barrels per month under agreements with a large energy company. A different facility owns a 120,000 barrel crude oil storage tank near Colorado City, Texas. The storage tank is presently connected to the Lotus pipeline system and we plan to further connect the tank to major pipeline systems.

Our soil remediation services specialize in the remediation of soil and the extraction of hydrocarbons, such as oil, from properties contaminated by or laden with heavy crude oil and other hydrocarbon-based substances utilizing our Remediation Processing Centers (RPCs). Our patented process allows us to successfully recover the hydrocarbons which we believe could then be used to produce asphaltic cement and/or other petroleum-based products. We are currently focusing our soil remediation efforts on our project in Kuwait and our upcoming project in the Houston, Texas area.

Recent Developments

Loan and Security Agreement and Issuance of a Secured Promissory Note

On February 5, 2024, we issued a secured promissory note (the "Note") due as described below, to Cedarview Opportunities Master Fund LP (the "Lender"), in the principal amount of \$3,000,000 (the "Principal Amount"), in relation to a Loan and Security Agreement by and between the Company, its subsidiaries, and the Lender (the "Agreement"). The Company will use the proceeds of the Note for general working capital purposes and to repay certain indebtedness. The Company received the funds on February 6, 2024, minus a 3% origination fee.

To secure repayment of the Note, the Company issued the Lender a security interest in the assets of the Company and its subsidiaries. The Company also issued an irrevocable letter to its transfer agent to reserve 3,000,000 shares of its common stock until the Note is repaid. If the Company defaults on the repayment of the Note, then the transfer agent will transfer the shares to the Lender for the Lender to sell until the amounts due under the Note are repaid in full and return any remaining shares.

The Company will repay the amounts due under the Note as follows: first three months are interest only payments, which the Company prepaid at Closing, and then twelve equal monthly installment payments of interest plus \$250,000, which must be made on or before May 5, 2025 (the Maturity Date).

The Company paid a finder \$70,000 in relation to obtaining the loan and issued the Lender 300,000 shares of its common stock, restricted in accordance with Rule 144, as additional consideration for the loan.

This summary is not a complete description of all of the terms of the Agreement and the Note and is qualified in its entirety by reference to the full text of the Agreement and the Note, which are filed as Exhibit 10.45 hereto, which are incorporated by reference into the Company's Form 10-K for the year ended December 31, 2023, filed with the SEC on April 17, 2024.

Merger Agreement with Empire

The Merger Agreement

On February 26, 2024 (the "Execution Date"), we (the "Parent"), entered into an Agreement and Plan of Merger (the "Merger Agreement") with Empire Energy Acquisition Corp., a Delaware corporation and wholly owned subsidiary of the Parent ("Merger Sub"), and Empire Diversified Energy, Inc., a Delaware corporation ("Empire" and collectively with the Parent and Merger Sub, the "Parties"). Pursuant to the Merger Agreement, on the Closing Date, subject to the terms and conditions set forth in the Merger Agreement, Merger Sub will merge with and into Empire (the "Merger"), with Empire surviving the Merger as a wholly owned subsidiary of the Parent (the "Surviving Company"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Merger Agreement.

15

As a result of the Merger, at Closing, all shares of Empire's common stock, par value \$0.00001 per share (the "Empire Common Stock"), on a fully diluted and as converted basis, shall be converted into and exchanged for the right to receive an aggregate of 67,200,000 shares (the "Consideration Shares") of the Parent's common stock, par value \$0.001 per share (the "Parent Common Stock"), stipulated to be \$1.00 per share of Parent Common Stock for an aggregate value equal to \$67,200,000.

Representations and Warranties; Covenants

Pursuant to the Merger Agreement, the Parties made customary representations and warranties for transactions of this type; *provided*, that the Parties agreed that each of the Parent and Empire shall deliver fully completed copies of their respective disclosure schedules as soon as reasonably practicable, but in no event later than 14 days following the Execution Date. Both Parties shall have sixty (60) days from the Execution Date (the "Diligence Expiration Date") to conduct due diligence review of the other Party, giving rise to the termination right by either Party until the Diligence Expiration Date.

Net Cash Minimum

Pursuant to the Merger Agreement, at the Closing, Empire is required to have a minimum of \$2,500,000 of unrestricted net cash on its books ("Net Minimum Cash"), which Net Minimum Cash shall be available to the Parent following the Closing.

Registration Statement and Proxy

As promptly as practicable following the date the Net Minimum Cash is obtained pursuant to the Merger Agreement, but in no event after the later of the (i) 45th day following the Execution Date and (ii) 10th day following the date the Net Minimum Cash is obtained, so long as the Parent has received all necessary information from Empire, the Parent shall file with the U.S. Securities and Exchange Commission (the "SEC") a registration statement on Form S-4 (the "Registration Statement") relating to, among other things, the registration of the Consideration Shares issuable to the Empire Stockholders pursuant to the Merger Agreement, including the Proxy Statement portion thereof relating, among other things, to the approval of the Proposals (as defined below) to be voted on at the Parent Stockholders Meeting (as defined below).

Parent Stockholders Meeting

As promptly as practicable following the date on which the Registration Statement is declared effective by the SEC pursuant to the Securities Act of 1933, as amended (the "Securities Act"), and after reasonable consultation with Empire, the Parent shall establish the record date, and duly call, give notice of, convene and hold a special meeting of the stockholders of the Parent (the "Parent Stockholders Meeting") in accordance with Nevada law (and in any event within 10 Business Days after the date of effectiveness of the Registration Statement, unless otherwise required by applicable Laws). At such Parent Stockholders Meeting, the Parent's board of directors (the "Board") is to recommend that the Parent Stockholders approve and adopt the following proposals (the "Proposals"): (i) the Merger Agreement, the Merger, the Ancillary Agreements and the Transactions; (ii) for purposes of complying with Nasdaq listing Rule 5635(a), (b) and (d), the issuance of the Consideration Shares to the Empire Stockholders as contemplated in the Merger Agreement; (iii) the adjournment of such Parent Stockholders Meeting as permitted by Section 5.08 of the Merger Agreement; and (iv) any other proposal or proposals that the Parent reasonably deems necessary or desirable to consummate the transactions contemplated by the Merger Agreement (collectively, the "Parent Board Recommendations").

Board of Directors and Officers

Upon the Closing, (i) the number of members of the Board shall be fixed at seven, and (ii) the members of the Board shall be (A) James Ballengee, who shall serve as Chairman, (B) three (3) members to be chosen by Empire, (C) two (2) members to be chosen by the Parent, and (D) one (1) member to be chosen by both the Parent and Empire. At least four (4) of the individuals identified in (B), (C), and (D) shall qualify as independent directors under the rules of the Nasdaq Stock Market LLC ("Nasdaq"). If any individual identified in (B) of the foregoing clause (ii) is unable or unwilling to serve in such capacity, Empire may choose a successor but not less than five (5) days in advance of the Closing or such earlier period as may be required by disclosure requirements under applicable Law. If any individual identified in (C) of the foregoing clause (ii) is unable or unwilling to serve in such capacity, the Parent may choose a successor but not less than five days in advance of the Closing or such earlier period as may be required by disclosure requirements under applicable Law.

From and after the Effective Time, James Ballengee shall continue to serve as the Parent's Chief Executive Officer until the earlier of the Board's appointment of a successor or Mr. Ballengee's death, resignation, termination or removal.

16

Conditions to Each Party's Obligations to Consummate the Transactions

The respective obligation of each Party to effect, or cause to be effected, the Transactions, including the Merger, is subject to the satisfaction on or before the Closing Date of each of the following conditions, unless waived in writing by each of Parent and the Parent: (a) the Parent Board Recommendations have been approved by the required Parent Stockholders at the Parent Stockholders Meeting; (b) the Merger Agreement and the Merger shall have been duly adopted by the required Empire Stockholders; (c) the Registration Statement shall have become effective; (d) the Parties shall have received all approvals with any Governmental Authority necessary to consummate the Transactions, including, but not limited to, the expiration or termination of the waiting period under the HSR Act, if applicable; (e) there shall not have been enacted, promulgated or made effective after the Execution Date any Law or Orders by a Governmental Authority of competent jurisdiction that enjoins or otherwise prohibits or makes illegal, or any Legal Action by any Governmental Authority seeking to enjoin or prohibit or make illegal, consummation of the Transactions and there shall not be in effect any injunction (whether temporary, preliminary or permanent) by any Governmental Authority of competent jurisdiction that enjoins or otherwise prohibits consummation of the Transactions; (f) the Parent shall have obtained a Fairness Opinion concluding that the Merger and the related Transactions are fair to the Parent Stockholders from a financial point of view; (g) the executed Lock-Up Agreement has been delivered to the Parent; (h) the Lock-Up Extension has been delivered to Empire; and (i) all of the Convertible Securities of Empire have been exercised, converted or exchanged for Empire Common Stock and the Parties shall have mutually agreed as to the treatment of warrants exercisable for shares of Empire Common Stock (the "Empire Warrants") at Closing provided that if the Empire Warrants have been terminated or exercised into Empire Common Stock prior to the Closing, this condition shall have been deemed satisfied.

Conditions to Obligations of the Parent

The obligations of the Parent to effect, or cause to be effected, the Transactions, including the Merger, are subject to the satisfaction on or before the Closing Date of the following conditions, unless waived in writing by the Parent (subject to certain qualifications and exceptions as set forth in the Merger Agreement for each): (A) the representations and warranties of Empire regarding the capitalization of Empire shall be true and correct as of the Closing as though made on such date; (B) the representations and warranties of Empire set forth in Section 3.01 (Organization and Power), Section 3.04 (Corporate Authorizations), Section 3.06 (Capitalization) (other than subsections (a), and (b) and (g)), and Section 3.24 (Brokers) shall be true and correct in all material respects as of the Closing as though made on such date; (C) the remaining representations and warranties of Empire contained in Article III shall be true and correct, in each case as of the Closing as though made on such date; (D) each of the covenants of Empire to be performed as of or prior to the Closing shall have materially been performed; (E) there shall not have been a Company Material Adverse Effect (as defined in the Merger Agreement); (F) the Parent shall have received the Company Officer's Certificate (as defined in the Merger Agreement); (G) Empire shall have the Net Cash Minimum on hand; and (H) the Parent shall have received each of the agreements, instruments and other document set forth in Section 1.11(b) of the Merger Agreement.

Conditions to Obligations of Empire

The obligations of Empire to effect, or cause to be effected, the Transactions, including the Merger, are subject to the satisfaction on or before the Closing Date of the following conditions, unless waived in writing by Empire (subject to certain qualifications and exceptions as set forth in the Merger Agreement for each): (A) the representations and warranties of the Parent regarding the capitalization of the Parent shall be true and correct as of the Closing as though made on such date; (B) the representations and warranties of the Parent set forth in in Section 4.01 (Organization and Power), Section 4.04 (Corporate Authorizations), Section 4.06 (Capitalization) (other than subsections (a) and (b) and (g)), Section 4.08 (Business Operations), Section 4.24 (Takeover Statutes), Section 5.22 (Opinion of Financial Advisor) and Section 4.28 (Brokers) shall be true and correct in all material respects as of the Closing as though made on such date; (C) the remaining representations and warranties of the Parent contained in Article IV shall be true and correct, in each case as of the Closing as though made on such date; (D) each of the covenants of the Parent to be performed as of or prior to the Closing shall have materially been performed; (E) there shall not have been a Parent Material Adverse Effect (as defined in the Merger Agreement); (F) Empire shall have received the Parent Officer's Certificate (as defined in the Merger Agreement); (G) the Parent Common Stock (i) shall be listed on Nasdaq and (ii) shall not have been suspended, as of the Closing Date, by the SEC or Nasdaq from trading on Nasdaq nor shall (x) the Parent have received any notice or communication from Nasdaq noting noncompliance with listing requirements or threatening suspension or delisting of the Parent Common Stock or (y) the Parent fails to meet any of the continued listing requirements applicable to it in order to be in compliance with all such listing and maintenance requirements; (H) the transactions referenced in Section 6.03(f) of the Merger Agreement have been consummated or terminated; and (I) Empire shall have received each of the agreements, instruments, and other documents set forth in Section 1.11(a) of the Merger Agreement.

Indemnification; Limits

Pursuant to Article VIII of the Merger Agreement, and subject to the limitations set forth therein from the date that is twelve (12) months after the Closing, each Party agreed to indemnify and hold harmless the other party for any all Damages incurred or suffered as a result of (a) any inaccuracy in or breach of any representation or warranty or in any certificate or instrument delivered pursuant to the Merger Agreement and (b) any breach of any covenant or agreement of such Party as set forth in the Merger Agreement. Section 8.04(a) of the Merger Agreement (i) limits Empire's ability to assert claims for Damages against the Parent unless and until the aggregate amount of all such Damages exceeds \$250,000 (the "Parent Threshold") and (ii) caps Parent's liability for any indemnification payments at \$500,000 (the "Parent Cap").

Section 8.04(b) of the Merger Agreement limits the Parent's ability to assert claims for Damages against Empire unless and until the aggregate amount of all such Damages exceeds \$250,000 (the "Empire Threshold"). Notwithstanding anything in the Merger Agreement to the contrary, the Parent Threshold, the Parent Cap and the Empire Threshold shall not apply to Damages that arise from, relate to or are accrued, suffered or incurred as a result of claims relating to fraud or intentional misrepresentation.

Except for claims relating to fraud or intentional misrepresentation, the sole remedy of the Parent under the Merger Agreement shall be the Escrow Shares held pursuant to the Escrow Agreement (discussed below).

Termination

The Merger Agreement may be terminated and the transactions therein may be abandoned: (A) by mutual written consent of the Parties; (B) by the Parent or Empire (i) within sixty (60) days from the Execution Date as a result of the terminating Party's due diligence review of the other Party, (ii) at any time before the Effective Time if the Closing has not occurred on or before the date that is nine (9) months from the Execution Date (the "Termination Date"), (iii) at any time before the Effective Time the Parent fails to obtain the vote required to pass the proposals presented at the Parent Stockholders Meeting, (iv) at any time before the Effective Time if Empire fails to obtain the vote required to pass the proposals presented at the special meeting of Empire's stockholders as set forth in the Merger Agreement (the "Empire Stockholder Meeting"), or (v) at any time before the Effective Time if any Law or Order is enacted, issued, promulgated or entered by a Governmental Authority of competent jurisdiction (including Nasdaq) that permanently enjoins, or otherwise prohibits the consummation of the Transactions, and (in the case of any Order) such Order has become final and non-appealable; (C) by Empire if, among other things, (i) there has been a Parent Adverse Recommendation Change (as defined in the Merger Agreement), (ii) if the Board recommends a Superior Proposal (as defined in the Merger Agreement) to the Parent Stockholders or if a tender offer, exchange offer, or other transaction for any outstanding shares of the Parent's capital stock is commenced before obtaining the required vote at the Parent Stockholders Meeting and if the Board fails to recommend against any such Superior Proposal within ten (10) Business Days after commencement; (iii) if there is a material breach of Section 5.05 of the Merger Agreement, (iv) if the Parent or any of its subsidiaries breach any of its representations, warranties, covenants or

agreements in the Merger Agreement, subject to Parent's ability to cure such breach within the timeframe set forth in the Merger Agreement, (v) if the obligations in Section 6.01 and 6.02 of the Merger Agreement have been satisfied and the Parent has failed to fulfill its respective obligations and consummate the Closing within three (3) Business Days following written notice that Empire is willing and able to consummate the Closing, (iv) the Parent fails to pass the proposals at the Parent Stockholders Meeting by the Termination Date solely due to the action or inaction of the Parent and such action or inaction constitutes a material breach of the Merger Agreement, or (vii) if Empire's board of directors approves termination and Empire has concurrently with such termination entered into a definitive agreement, arrangement or understanding providing for the implementation of a Superior Proposal (Parent) (as defined in the Merger Agreement); or (D) by the Parent if, among other things, (i) Empire breaches any of its representations, warranties, covenants or agreements contained in the Merger Agreement, subject to Empire's ability to cure such breach within the timeframe set forth in the Merger Agreement, (ii) if the obligations in Section 6.01 and 6.02 of the Merger Agreement have been satisfied and Empire has failed to fulfill its respective obligations and consummate the Closing within three (3) Business Days following written notice that Empire is willing and able to consummate the Closing; (iii) if Empire fails to pass the proposals presented at the Empire Stockholder Meeting by the Termination Date, or (iv) if the Board approves termination and the Parent has concurrently with such termination entered into a definitive agreement, arrangement or understanding providing for the implementation of a Superior Proposal (Parent) (as defined in the Merger Agreement).

Ancillary Agreements to Merger Agreement

Voting and Support Agreements

Within 30 days of the Execution Date, the Parent agreed to deliver the written agreement of certain directors and executive officers and certain Parent Stockholders holding at least 51% of the voting power of Parent Common Stock (the "Relevant Parent Insiders"), to enter into, in their capacity as stockholders, a voting and support agreement with the Parent, Empire and Merger Sub (the "Parent Voting and Support Agreement"), pursuant to which such Relevant Parent Insiders agree to vote in favor of the adoption of the Merger Agreement and the Transactions and to take (and refrain from taking) certain other actions in connection with the Transactions, including the Merger, in each case, on the terms set forth in the Parent Voting and Support Agreement.

Within 30 days of the Execution Date, Empire agreed to deliver the written agreement of certain directors, executive officers and certain Empire Stockholders holding at least 51% of the voting power of shares of Empire Common Stock (the "Relevant Empire Insiders"), to enter into, in their capacity as stockholders, a voting and support agreement with Empire, the Parent and Merger Sub (the "Empire Voting and Support Agreement"), pursuant to which the Relevant Empire Insiders agree to vote in favor of the adoption of the Merger Agreement and the Transactions and to take (and refrain from taking) certain other actions in connection with the Transactions, including the Merger, in each case, on the terms set forth in the Empire Voting and Support Agreement.

Lock-Up Agreements

As a condition to the Parent's obligations to consummate the Transactions, at Closing, one or more Empire Stockholders representing, individually or collectively, such number of shares of Empire Common Stock that represent not less than 65% of the issued and outstanding shares of Empire Common Stock, in the aggregate, on a fully diluted and as-converted basis, shall enter into a lock-up agreement (the "Lock-Up Agreement") whereby such Empire Stockholders agree to a lock-up of their respective Consideration Shares for a period of 12 months following the Closing.

As a condition to Empire's obligations to consummate the Transactions, at or prior to Closing, the Parent shall cause the lock-up period contained in the lock-up agreement dated August 1, 2022 by and between the Parent and JBAH Holdings, LLC to be amended or extended to February 1, 2025 (the "Lock-Up Extension").

Escrow Agreement and Escrow Shares

The Parties agreed to enter into an Escrow Agreement (the "Escrow Agreement"), pursuant to which certain of the Empire Stockholders (the "Indemnifying Empire Stockholders") are to deposit with the Escrow Agent, at Closing, an aggregate of 5,040,000 Consideration Shares otherwise issuable to such Indemnifying Empire Stockholders (the "Escrow Shares") as security for the obligations of the Parent, its members, shareholders, partners, managers, directors, officers, employees and agents, and its and their respective Affiliates (including, after the Closing, the Surviving Company), successors and permitted assigns (each, an "Indemnified Acquiror" and together, the "Indemnified Acquirors"). The Escrow Agreement shall become effective on the Closing Date and terminate on the 12-month anniversary thereof (the "Escrow Termination Date"). On the Escrow Termination Date, any Escrow Shares not previously released or distributed to cover the obligations of the Indemnified Acquirors as set forth in the Merger Agreement shall be released to the Indemnifying Empire Stockholders.

The foregoing descriptions of the Merger Agreement, the Parent Voting and Support Agreement, the Empire Voting and Support Agreement, the Lock-Up Agreement and the Escrow Agreement do not purport to be complete and are qualified their entirety by reference to the Merger Agreement, the form of Parent Voting and Support Agreement, the form of Empire Voting and Support Agreement, the form of Lock-Up Agreement and the form of Escrow Agreement attached to our Current Report on Form 8-K as Exhibits 2.1, 10.1, 10.2, 10.3 and 10.4, respectively, filed with the SEC on March 1, 2024.

Promissory Note

On December 5, 2023, the Company received a loan from an individual lender in the principal amount of one million dollars (\$1,000,000) (the "Loan") and, in connection therewith, the Company and agreed to issue 100,000 restricted shares of the Company's common stock. The Loan bears interest at the rate of 10% per annum, matures on December 31, 2024, has been personally guaranteed by James Ballengee, the Company's Chief Executive Officer. The lender is not a related party or affiliate of the Company.

The foregoing is only a brief description of the material terms of and does not purport to be a complete description of the rights and obligations of the parties to the agreements in connection with the Loan (the "Agreements"), and such description is qualified in its entirety by reference to the full text of the Agreements, which are attached hereto as Exhibits 10.56 and 10.57.

Acquisition Agreement with Endeavor

Membership Interest Purchase Agreement

Effective March 21, 2024 (the "Execution Date"), Vivakor, Inc., (the "Company" or "Purchaser") entered into a Membership Interest Purchase Agreement, a copy of which is filed herewith as Exhibit 2.3 (the "Endeavor MIPA") and incorporated by reference herein, with Jorgan Development, LLC, a Louisiana limited liability company ("Jorgan") and JBAH Holdings, LLC, a Texas limited liability company ("JBAH" and, together with Jorgan, the "Sellers"), as the

equity holders of Endeavor Crude, LLC (f/k/a Meridian Transport, LLC), a Texas limited liability company ("Endeavor"), Equipment Transport, LLC, a Pennsylvania limited liability company ("ET"), Meridian Equipment Leasing, LLC, a Texas limited liability company ("MEL"), and Silver Fuels Processing, LLC, a Texas limited liability company ("SFP" and, together with Endeavor, ET, and MEL, the "Acquirees") whereby, at closing, subject to the conditions set forth in the Endeavor MIPA, the Company will acquire all of the issued and outstanding membership interests in each of the Acquirees (the "Membership Interests") making Endeavor, ET, MEL and SFP wholly owned subsidiaries of the Company. The purchase price for the Membership Interests is \$120 million (the "Purchase Price"), subject to post-closing adjustments, payable by the Company in a combination of Company common stock, \$0.001 par value per share ("Common Stock") and Company Series A Preferred Stock \$0.001 par value per share ("Preferred Stock"). The Preferred Stock will have the terms set forth in the Form of Series A Preferred Stock Certificate of Designations filed herewith as Exhibit 3.6 and incorporated by reference herein, including, but not limited to, the payment of a cumulative six percent (6%) annual dividend per share payable quarterly in arrears and conversion rights following the first anniversary of their issuance at a price of one dollar (\$1) per share of Common Stock.. The Sellers are beneficially owned by James Ballengee, the Company's chairman, chief executive officer and principal shareholder. At a meeting held on March 20, 2024 the Company's board of directors authorized and approved the Endeavor MIPA and the transactions contemplated thereby. Mr. Ballengee recused himself from the vote. Subject to satisfaction of all closing conditions, the acquisitions are anticipated to be completed within approximately 90 days of the Execution Date.

At closing of the acquisitions ("Closing"), the Company will issue to the Sellers, (i) a number of shares of Common Stock equal to an undivided nineteen and ninety-nine hundredths percent (19.99%) of all of the Company's issued and outstanding Common Stock immediately prior to Closing, or lesser percentage, if such issuance would result, when taking into consideration the percentage of Common Stock owned by Sellers prior to such issuance, in Sellers owning in excess of 49.99% of the Common Stock issued and outstanding on a post-Closing basis, valued at \$1.00 per share (the "Common Stock Consideration"), and (ii) a number of shares of Preferred Stock equal to the Purchase Price, less the value of the Common Stock Consideration (the "Preferred Stock Consideration"). Sellers will enter into 18-month lock-up agreements, in the form filed herewith as Exhibit 10.53 and incorporated by reference herein, at Closing, with regard to the Common Stock Consideration and any Common Stock they receive during the lock-up period in connection with conversions of Preferred Stock or the payment of dividends on the Preferred Stock.

As set forth in the Endeavor MIPA, the Purchase Price is subject to a post-Closing working capital adjustment. The Purchase Price is based, in part, on the assumption that the Net Working Capital (as such term is defined in the Endeavor MIPA) of the Acquirees, in the aggregate and as of Closing will be equal to One Hundred Fifty Thousand and No/100s Dollars (\$150,000.00) (the "Target Working Capital Amount"). If the aggregate net working capital of the Acquirees is lower than the Target Working Capital Amount (a "Working Capital Deficit") then the Purchase Price will be decreased by an amount equal to the Working Capital Deficit. If the aggregate net working capital of the Acquirees is higher than the Target Working Capital Amount (a "Working Capital Surplus") then the Purchase Price will be increased by an amount equal to the Working Capital Surplus. The amount of any Working Capital Deficit will be payable by Sellers to the Company in shares of Preferred Stock and the amount of any Working Capital Surplus will be payable by the Company to Sellers Company in shares of Preferred Stock. A Net Working Capital Sample Calculation is filed herewith as Exhibit 10.54 and incorporated by reference herein.

As set forth in the Endeavor MIPA, the Purchase Price is also subject to a post-Closing earn-out adjustment.

20

If the EBITDA (as such term is defined in the Endeavor MIPA) of the Acquirees for the Company's 2024 fiscal year (the "Actual Earnings") is equal to or exceeds Twelve Million and No/100s. Dollars (\$12,000,000.00) (the "Earnings Target"), the positive difference between the Actual Earnings less the Earnings Target will be multiplied by ten (10) and the product thereof remitted to Sellers (the "Seller Earn-Out Payment"), up to a maximum not to exceed Forty-Nine Million and No/100s. Dollars (\$49,000,000.00). The Seller Earn-Out Payment will be payable to Sellers in Preferred Stock no later than March 31, 2025, Conversely, if the Actual Earnings are less than the Earnings Target, the positive difference between the Earnings Target less the Actual Earnings will be multiplied by ten (10) and the product thereof remitted to the Company (the "Company Earn-Out Payment"), up to a maximum not to exceed Forty-Nine Million and No/100s. Dollars (\$49,000,000.00). Based upon the foregoing, the Purchase Price, as adjusted for the earn-out, can be increased to as much as One Hundred Sixty-Nine Million and No/100s Dollars (\$169,000,000.00) or can be reduced to as little as Seventy-One Million and No/100s. Dollars (\$71,000,000.00). The Company Earn-Out Payment will be treated and accounted for as an immediate and automatic reduction in the Common Stock Consideration, and each Seller shall thereafter promptly transfer to the Company an amount of Common Stock equal to the Company Earn-Out Payment valued at the volume-weighted average price for the Purchaser Common Stock on the Nasdaq during the five (5) trading days immediately preceding the determination of the Company Earn-Out Payment.

The Company has agreed to file a registration statement for the resale of the shares of Common Stock comprising the Common Stock Consideration and the shares of Common Stock issuable upon conversion of the Preferred Stock or upon payments of dividends on the Preferred within 45 days of the closing under the Endeavor MIPA and to use its best efforts to have the registration statement declared effective as soon thereafter as is practical.

The Endeavor MIPA contains customary representations and warranties, pre- and post-closing covenants of each party and customary Closing condition. The Closing conditions include, but are not limited to, (i) the Company's receipt of a fairness opinion from a reputable financial advisor to the Company which concludes that the Purchase Price is fair to the stockholders of the Company, (ii) delivery of all required governmental approvals, including approval and satisfaction of all waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976; (iii) fully executed copies of all consents required under any contract or agreement of the Company or Sellers, as applicable, in connection with the transactions contemplated by the Endeavor MIPA, and (iv) resignation letters of Acquirees' officers, directors and managers, as applicable;

In conjunction with the Closing, the Shared Services Agreement dated August 1, 2022, by and among Endeavor, Silver Fuels Delhi LLC, a Louisiana limited liability company ("SFD"), and White Claw Colorado City, LLC, a Texas limited liability company ("WCCC"), and the Company, will be terminated.

In conjunction with the Closing, the August 1, 2022 Master Netting Agreement among the Company, Sellers, Endeavor, SFD, WCCC and White Claw Crude, LLC, a Texas limited liability company, will be amended and restated, in the form filed as Exhibit 10.55 hereto (the "Netting Agreement") and incorporated by reference herein, to add MEL, SFP and CPE Gathering Midcon, LLC, a Delaware limited liability company and wholly owned subsidiary of MEL ("CPE"), as parties and to update and ratify certain net-out obligations of the parties to the Netting Agreement and procedures for the same.

The Endeavor MIPA contains representations, warranties, covenants and other terms, provisions and conditions that the parties thereto made to each other as of specific dates. The assertions embodied therein were made solely for purposes of the Endeavor MIPA and may be subject to important qualifications and limitations agreed to by the parties thereto in connection with negotiating their respective terms. Moreover, they may be subject to a contractual standard of materiality that may be different from what may be viewed as material to stockholders, or may have been used for the purpose of allocating risk between the parties thereto rather than establishing matters as facts. For the foregoing reasons, no person should rely on such representations, warranties, covenants or other terms, provisions or conditions as statements of factual information at the time they were made or otherwise. Unless required by applicable law, the Company undertakes no obligation to update such information.

The Sellers and Purchaser will bear their own expenses incurred in connection with the Endeavor MIPA and the transactions therein contemplated whether or not such transactions shall be consummated, including, without limitation, all broker's fees and fees of their legal counsels, financial advisers and accountants.

Endeavor is an interstate crude oil carrier headquartered in Dallas, Texas and presently operates 132 tractors which are leased from Meridian. Endeavor presently operates in Texas, Louisiana, Oklahoma, New Mexico, Colorado, and North Dakota.

ET is an active freight carrier which hauls produced water and other water products for the oil industry and operates primarily in Texas.

MEL owns various trucking equipment which it leases directly to Endeavor and/or Endeavor's independent owner-operators.

CPE operates an approximate 40 mile oil gathering pipeline, and oil storage and logistics facility in Oklahoma.

SFP operates multiple truck pipeline injection stations located in multiple regions of Texas, New Mexico, and North Dakota.

Survival of Representations and Warranties

The representations and warranties, of Sellers contained in the Endeavor MIPA will survive for a period of twelve (12) months following the Closing, except for (i) the Fundamental Representations (as defined in the Endeavor MIPA) which will survive until the expiration of the applicable statute of limitations. All covenants and agreements of the Sellers contained therein will survive the Closing indefinitely or for the period explicitly specified therein as will claims involving fraud, willful misconduct or intentional misrepresentation on the part of Sellers.

The representations and warranties, of Purchaser contained in the Endeavor MIPA will survive until Closing. All covenants and agreements of the Purchaser contained therein will survive the Closing indefinitely or for the period explicitly specified therein as will claims involving fraud, willful misconduct or intentional misrepresentation on the part of Purchaser.

Indemnification

By Sellers

Subject to the provisions and limitations set forth in the Endeavor MIPA, from and after the date of Closing, each Seller, severally and not jointly, will indemnify and hold harmless Purchaser and its affiliates (the "Purchaser Indemnified Parties") from and against any and all Damages (as defined in the Endeavor MIPA) suffered by Purchaser Indemnified Parties resulting from or arising out of (i) any inaccuracy or breach of any of the representations or warranties made by either Seller in the Endeavor MIPA or in any transaction document executed in connection therewith, (ii) any breach or nonfulfillment of any covenants or agreements made by either Seller in the ENDEAVOR MIPA or in any transaction document executed in connection therewith, (iii) any taxes owed by either Seller and any taxes owed by any of the Acquirees for or relating to the period prior to the Closing, (iv) any indebtedness or selling expenses not fully paid by either Seller on the date of Closing or not taken as a reduction to the Purchase Price at the Closing, save and except for indebtedness disclosed on the Endeavor MIPA Disclosure Schedules, (v) any fraud or willful misconduct or intentional misrepresentations or omissions by either Seller (each claim made by the Purchaser Indemnified Parties are hereafter referred to as a "Purchaser Claim").

Except as set forth in the last sentence of this paragraph, Sellers will not have any liability for indemnification pursuant to the above for any individual Purchaser Claim under clause (i) of the preceding paragraph for which indemnification is provided thereunder unless the amount of all Purchaser Claims arising under clause (i) of the preceding paragraph exceeds fifty thousand dollars (\$50,000) in the aggregate (the "Basket Amount"). Once the amount of all Purchaser Claims arising under clause (i) of the preceding paragraph exceed the Basket Amount in the aggregate, Sellers will be severally and not jointly responsible for the full amount of Purchaser Claims with respect to clause (i) of the preceding paragraph including the Basket Amount. Notwithstanding the foregoing, the maximum aggregate liability of Sellers for Purchaser Claims under clause (i) of the preceding paragraph, other than Fundamental Representation, and the accounts receivable representations set forth in Section 4.8 of the ENDEAVOR MIPA, will not exceed, in the aggregate, an amount equal to twenty percent (20%) of the Purchase Price. Furthermore, the maximum aggregate liability of Sellers for Purchaser Claims under the preceding paragraph will not exceed, in the aggregate, an amount equal to the Purchase Price. The limitations set forth in this paragraph do not apply to any Purchaser Claim related to clauses (iii) through (v) of the preceding paragraph.

By Purchaser

Subject to the provisions and limitations set forth in the Endeavor MIPA, from and after the date of Closing, Purchaser will indemnify and hold harmless Sellers, and their respective affiliates (the "Seller Indemnified Parties") from and against any and all Damages (as defined in the Endeavor MIPA) suffered by Seller Indemnified Parties resulting from or arising out of (i) any breach or nonfulfillment of any covenants or agreements made by Purchaser therein or any document executed in connection therewith, or (ii) any fraud or willful misconduct or intentional misrepresentations or omissions by Purchaser.

Termination

The ENDEAVOR MIPA may be terminated and the transactions contemplated thereby abandoned: (A) by mutual written consent of the parties at any time prior to Closing; (B) by Purchaser (i) at any time on or before the later of (a) sixty (60) days from the Execution Date or (b) ten (10) business days following Seller's delivery to Purchaser of the 2023 audited financial statements of the Acquirees for any reason as a result of Purchaser's ongoing due diligence review of the Acquirees or (ii) at any time prior to Closing, if Sellers materially breach any of their representations, warranties, covenants or agreements contained in the Endeavor MIPA, if such breach would give rise to the failure to satisfy the Closing conditions applicable to Sellers and such breach cannot be cured, or, if curable, has not been cured by the Sellers within fifteen (15) days after Sellers' receipt of written notice of such breach from the Purchaser; provided that Purchaser will not have the right to terminate the Endeavor MIPA if Purchaser is then in breach of any of its representations, warranties, covenants or agreements contained in the Endeavor MIPA that would result in the conditions precedent to Closing applicable to Purchaser not being satisfied; or (C) by Sellers, at any time prior to Closing, if Purchaser materially breaches any of its representations, warranties, covenants or agreements contained in the Endeavor MIPA, if such breach would give rise to the failure to satisfy the Closing conditions applicable to Purchaser and such breach cannot be cured, or, if curable, has not been cured by Purchaser within fifteen (15) days after Purchaser's receipt of written notice of such breach from the Sellers; provided that Sellers will not have the right to terminate the Endeavor MIPA if Sellers are then in breach of any of their representations, warranties, covenants or agreements contained in the Endeavor MIPA that would result in the conditions precedent to Closing applicable to Sellers not being satisfied;

The foregoing descriptions of the Endeavor MIPA and the related Exhibits do not purport to be complete and are subject to, and qualified by, the full text of the Endeavor MIPA and the Exhibits, copies of which are filed as Exhibits 2.3, 3.6, 10.53, 10.54 and 10.55 hereto and incorporated herein by reference.

Results of Operations for the Three Months ended March 31, 2024 and 2023

Revenue

For the three months ended March 31, 2024 and 2023 we realized revenues of \$16,021,391 and \$15,544,872, respectively, representing an increase of \$476,519 or 3.07%. The increase in revenue is primarily attributed to an average monthly increase in sales for our oil and natural gas liquid sales.

Cost of Revenue

For the three months ended March 31, 2024, our cost of revenues consisted primarily of costs associated with selling oil and natural gas liquid through the operations from our business in SFD and WCCC.

For the three months ended March 31, 2024 and 2023 costs of revenue were \$14,953,254 and \$14,031,714, respectively, representing an increase of \$921,540 or 6.57%. The increase in the cost of revenue is primarily attributed to industry oil pricing increases in the cost of goods sold for our oil and natural gas liquid products.

Gross Profit and Gross Margin

For the three months ended March 31, 2024 and 2023 we realized gross profit of \$1,068,137 and \$1,513,158, respectively, representing a decrease of \$445,021 or 29.41%. The gross profit decreased in proportion to the revenue and costs of revenue related to the purchase and sale of our oil and natural gas liquid products.

Operating Expenses

For the three months ended March 31, 2024 and 2023, we realized operating expenses of \$2,685,059 and \$2,638,030, which represents an increase of \$47,029, or 1.78%. The increase in operating expenses is attributed to the net effect of increased amortization expense related to our leases and our transition in reducing consulting expense to hiring full-time employees.

Interest Expense

For the three months ended March 31, 2024 and 2023, we realized interest expense of \$444,040 and \$1,205,669, which represents a decrease of \$761,629, or 63.17%. The decrease in interest expense is mainly attributable to our amendment of our note issued as consideration in the MIPA approved by the shareholders on November 10, 2023. As the amendment was accounted for as a troubled debt restructuring under ASC 470 – *Debt* ("ASC 470"), the note was thus written down to the amount of the undiscounted future cash flows on the note to maturity, and therefore no interest expense is realized for the remainder of the note to maturity.

Unrealized Loss on Marketable Securities

For the three months ended March 31, 2024 and 2023, we reported an unrealized loss of \$82,638 and \$495,826. Our marketable securities were considered to be traded on an active market and were accounted for at a fair value based on the quoted prices in the active markets resulting in aggregate unrealized gains or losses as noted above.

Gain on Deconsolidation of Subsidiary

In accordance with ASC 810, as of February 15, 2024, we deconsolidated Vivasphere, Inc. (Vivasphere), recognizing a gain on deconsolidation of \$177,550. The assets, liabilities, and equity related to Vivasphere was removed from our financial statements (Note 1), resulting in a gain on deconsolidation.

Cash flows

The following table sets forth the primary sources and uses of cash and cash equivalents for the three months ended March 31, 2024 and 2023 as presented below:

	March 31,	
	2024	2023
Net cash used in operating activities	\$ (1,829,679)	\$ (1,276,123)
Net cash used in investing activities	(1,028,885)	(883,819)
Net cash provided by financing activities	2,881,530	1,677,068

Liquidity and Capital Resources

We have historically suffered net losses and cumulative negative cash flows from operations, and as of March 31, 2024, we had an accumulated deficit of approximately \$67.8 million. As of March 31, 2024 and 2023, we had a working capital deficit of approximately \$37 million and \$6.4 million, respectively. As of March 31, 2024, we have current obligations to pay approximately \$20.4 million of debt. Of the \$20.4 million, \$15.3 million can be satisfied through the issuance of registered common stock under the terms of the debt. These conditions raise substantial doubt about the Company's ability to continue as a going concern.

As of March 31, 2024 and December 31, 2023, we had cash and cash equivalents of \$767,273 and \$744,307, respectively.

During the three months ended March 31, 2024, subject to available cash flows, we continued to develop our technologies, strategy to monetize our intellectual properties and execute our business plan. To date we have financed our operations primarily through debt financing, private and public equity offerings and our working interest agreements. For the fiscal year 2023 we raised approximately \$3 million through debt financings with individual investors, \$2.2 million through a sale lease back agreement, and during the three months ended March 31, 2024, we raised an additional \$3 million through additional debt financing (Note 9). The Company entered into merger and acquisition agreements with anticipated closing dates in 2024. Even though these merger and acquisition transactions are projected to close in 2024 and yield substantial cash flow that may provide adequate working capital to finance its day-to-day operations and current obligations, these events were not considered probable as of March 31, 2024 because they have not closed as of the date of our filing.

For the three months ended March 31, 2024 and 2023, our net cash used in operating activities was mainly comprised of net effect of the consolidated

net loss of \$1,910,543 and \$2,817,167, and our depreciation and amortization of \$1,009,053 and \$784,520. For the three months ended March 31, 2024 and 2023, stock-based compensation of \$327,985 and none in lieu of using cash. We also realized interest expense on loans and notes payable of \$187,524 and \$1,205,669, a decrease (increase) in accounts receivable of (\$1,551,490) and \$1,191,512, and an increase (decrease) in accounts payable and accrued expenses of \$426,581 and (\$1,775,681).

For the three months ended March 31, 2024 and 2023, our net cash used in investing activities was mainly attributed to our purchase of equipment of \$1,028,885 and \$883,819 related to the manufacturing of our RPCs and our wash plant facilities.

Our net cash provided by our financing activities was mainly attributed to the net effect of the following events:

For the three months ended March 31, 2024 and 2023, and we received proceeds of \$3,002,192 and \$1,988,797 related to the issuance of notes and other loans. For the three months ended March 31, 2023 we also received proceeds from related party notes and loans of \$345,000. For the three months ended March 31, 2024 and 2023, we paid down notes payable and lease liabilities by \$120,662 and \$367,727. For the three months ended March 31, 2023, we made distributions to Viva Wealth Fund I, LLC (which was deconsolidated later on October 1, 2023) unit holders of \$289,002.

Capitalized interest on construction in process was \$318,447 and \$237,998 for the three months ended March 31, 2024 and 2023. There are no further existing firm obligations; however, we anticipate further construction costs of approximately \$1.5 million in connection with our construction of our Texas remediation and wash plant facilities; and construction for each Nanosponge costs approximately \$200,000, and we intend to manufacture and add a Nanosponge to our current and future RPCs.

Our ability to continue to access capital could be affected adversely by various factors, including general market and other economic conditions, interest rates, the perception of our potential future earnings and cash distributions, any unwillingness on the part of lenders to make loans to us and any deterioration in the financial position of lenders that might make them unable to meet their obligations to us. If we cannot raise capital through public or private debt financings, equity offerings, or other means, our ability to grow our business may be negatively affected. In such case, we may need to suspend site and plant construction or further acquisitions until market conditions improve.

Contractual Obligations

Our contractual obligations as of March 31, 2024 for finance lease liabilities are for the sale and leaseback of certain land, property, plant, and equipment that were acquired in the closing of our business combination, which acquired SFD and WCCC on August 1, 2022, which leases end in 2025 and 2026. Finance lease obligations as of March 31, 2024 are as follows:

2024	\$ 722,925
2025	594,792
2026	471,756
Total	<u>\$ 1,789,473</u>

Our contractual obligations as of March 31, 2024 for operating lease liabilities are for office and warehouse space, which leases end in 2024 and 2025, and a land lease which ends in 2042. Operating lease obligations as of March 31, 2024 are as follows:

2024	\$ 308,035
2025	162,545
2026	136,975
2027	153,089
2028	143,237
Thereafter	2,856,226
Total	<u>\$ 3,760,107</u>

Interest Rate and Market Risk

Interest rate risk is the potential for reduced net interest income and other rate-sensitive income resulting from adverse changes in the level of interest rates. We do not have variable interest rate-sensitive income agreements. We do have financing arrangements that were issued on August 1, 2022 as consideration for the business combination and acquisition of SFD and WCCC, in which the three year notes have variable interest rates based on the prime rate, which exposes us to further interest expense if the prime rate increases.

Market Risk - Equity Investments

Market risk is the potential for loss arising from adverse changes in the fair value of fixed-income securities, equity securities, other earning assets, and derivative financial instruments as a result of changes in interest rates or other factors. We own equity securities that are publicly traded. Because the fair value of these securities may fall below the cost at which we acquired them, we are exposed to the possibility of loss. Equity investments are approved, monitored, and evaluated by members of management.

Inflation

Prolonged periods of slow growth, significant inflationary pressures, volatility and disruption in financial markets, could lead to increased costs of doing business. Inflation generally will cause suppliers to increase their rates, and inflation may also increase employee salaries and benefits. In connection with such rate increases, we may or may not be able to increase our pricing to consumers. Inflation could cause both our investment and cost of revenue to increase, thereby lowering our return on investment and depressing our gross margins.

Off Balance Sheet Arrangements

None.

Critical Accounting Policies & Use of Estimates

There have been no material changes to our critical accounting policies and the use of estimates from these disclosures reported in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023 filed with the SEC on April 17, 2024.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

As a smaller reporting company, we are not required to provide the information required by this Item.

ITEM 4. CONTROLS AND PROCEDURES

The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, refers to controls and procedures that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company’s management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact there are resource constraints and management is required to apply judgment in evaluating the benefits of possible controls and procedures relative to their costs.

26

Our management, with the participation of our Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer), evaluated the effectiveness of our disclosure controls and procedures pursuant to Rules 13a-15(e) and 15d-15(e) under the Exchange Act. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs.

Based on management’s evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as a result of the material weaknesses described below, as of March 31, 2024, our disclosure controls and procedures are not designed at a reasonable assurance level and are ineffective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. The material weaknesses, which relate to internal control over financial reporting, that were identified are: (1) We did not have enough personnel in our accounting and financial reporting functions. Due to insufficient personnel in our accounting department, we were not able to achieve adequate segregation of duties, and, as a result, we did not have adequate review controls surrounding: (i) our technical accounting matters in our financial reporting process, and (ii) the work of specialists involved in the estimation process. Due to new relationships with a small banking institution and consultants in 2023, we were not able to achieve adequate controls surrounding the review and dual authorization of certain treasury transactions and fixed assets. (2) We did not always follow certain review and authorization procedures related to corporate governance. Due to a vacancy of an independent audit committee chairman with financial expertise, and failing to adhere to certain corporate governance administrative procedures, we did not achieve adequate review at the independent Board of Director level over subjective and complex accounting and risk assessment. These control deficiencies, which are pervasive in nature, result in a reasonable possibility that material misstatements of the financial statements will not be prevented or detected on a timely basis. Management believes that the hiring of additional personnel who have the technical expertise and knowledge with the non-routine or technical issues we have encountered in the past will result in both proper recording of these transactions and a much more knowledgeable finance department as a whole. Since our assessment as of March 31, 2024, we have continued to hire additional external accounting staff with expertise in research and technical guidance, and we are working to retain additional qualified valuation experts that report on their internal controls. We have also begun to implement further review controls and processes surrounding treasury and fixed assets.

We will continue to monitor and evaluate the effectiveness of our disclosure controls and procedures and our internal controls over financial reporting on an ongoing basis and are committed to taking further action and implementing additional enhancements or improvements, as necessary and as funds allow.

Changes in Internal Control Over Financial Reporting

As noted above, we continue to contract with additional external accounting staff in order to attempt to remediate our material weaknesses. Such changes include multiple additional reviewers of financial information before it is submitted for filing with the SEC. We have also instituted further internal controls surrounding treasury, so that proper dual authorization is required by our banking institutions to process capital expenditures in 2024. There were no other changes in our internal controls identified in connection with the evaluation required by paragraph (d) of Rule 13a-15 or 15d-15 under the Exchange Act that occurred during the three months ended March 31, 2024 that have materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

27

PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, we may become involved in various legal actions that arise in the normal course of business. We intend to defend vigorously against any future claims and litigation. We are not currently involved in any material disputes and do not have any material litigation matters pending.

ITEM 1A. RISK FACTORS

Our business, financial condition, results of operations, and cash flows may be impacted by a number of factors, many of which are beyond our control, including those set forth in our most recent Annual Report on Form 10-K and in our other filings with the SEC, the occurrence of any one of which could have a material adverse effect on our actual results. There have been no material changes to the Risk Factors previously disclosed in our Annual Report on Form 10-K and our other filings with the SEC.

28

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

The following sets forth information regarding all unregistered securities sold by us in transactions that were exempt from the requirements of the Securities Act. Except where noted, all of the securities discussed in this Item 2 were all issued in reliance on the exemption under Section 4(a)(2) of the

On February 5, 2024, Vivakor, Inc. (the "Company"), as the borrower; Vivaventures Management Company, Inc., Vivaventures Oil Sands, Inc., Silver Fuels Delhi, LLC, White Claw Colorado City, LLC, Vivaventures Remediation Corporation and Vivaventures Energy Group, Inc., which are the Company's subsidiaries, as guarantors (collectively, the "Guarantors" or "Subsidiaries"); Cedarview Opportunities Master Fund LP, as the lender (the "Lender"); and Cedarview Capital Management, LLC, as the agent (the "Agent"), entered into a Loan and Security Agreement (the "Loan and Security Agreement"). Pursuant to the Loan and Security Agreement, the Company issued a secured promissory note (the "Note") in the principal amount of \$3,000,000, and the Lenders agreed to provide a \$3,000,000 term loan to the Company (the "Term Loan"). On February 6, 2024 (the "Closing Date"), the Company received the net proceeds from the Term Loan, less a 3% origination fee. The transaction documents were signed on February 5, 2024, and became effective as of the Closing Date. The amounts borrowed under the Loan and Security Agreement bear interest at a rate per annum of 22%. The Company also paid certain fees and transaction expenses in connection with the release of the funds in connection with the Term Loan. The principal amounts due under the Term Loan are payable as follows: (i) for the first three (3) months, the Company shall make an interest only payment of \$165,000, which the Company prepaid on the Closing Date, and (ii) for the following twelve (12) months, the Company shall make monthly installment payments of \$250,000 plus interest, which must be made on or before May 5, 2025 (the "Maturity Date"). The Company issued to the Lender 300,000 shares of the Company's common stock, restricted in accordance with Rule 144, as additional consideration for the Term Loan.

As previously disclosed by us in a Current Report on Form 8-K filed with the SEC on February 2, 2024, we received a loan from a non-affiliated individual lender in the principal amount of \$1,000,000 (the "Loan") and, in connection therewith, we agreed to issue 100,000 restricted shares of the Company's common stock. The Loan bears interest at the rate of 10% per annum, matures on December 31, 2024. We issued a promissory note dated December 5, 2023 in connection with the Loan (the "Original Note"). On April 8, 2024, the lender returned an executed amended and restated convertible promissory note for the Loan (the "Amended Note"). The convertible promissory note replaces the Original Note, but maintains the same interest rate and maturity date of the Original Note, and the obligation to issue 100,000 shares of our restricted stock remains in effect. Pursuant to the terms of the Amended Note the holder can convert the outstanding principal and interest due under the Amended Note into shares of our common stock at price equal to 90% of the average closing price of our common stock for the previous three (3) trading days prior to the conversion date, with a floor conversion price of \$0.75 per share. The holder may not convert amounts owed under the Amended Note if such conversion would cause him to own more than 4.99% of our common stock after giving effect to the issuance, which limitation may be raised to 9.99% upon no less than 61 days notice to us regarding his desire to increase the conversion limitation percentage.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not Applicable.

ITEM 5. OTHER INFORMATION

In previous filings we reported the Paycheck Protection Program ("PPP") loans we obtained may be forgivable according to the CARES Act and that we had applied for forgiveness under the CARES Act, and at the time we believed a substantial portion of the loans may not be forgiven. The Company has now made the decision not to continue to apply for forgiveness of the PPP loans and, as a result, we will be responsible for repaying the PPP loans in cash.

ITEM 6. EXHIBITS

EXHIBIT INDEX

Exhibit No.	Exhibit Description	Incorporated by Reference			Filed or Furnished Herewith
		Form	Date	Number	
2.1	Agreement and Plan of Merger dated February 26, 2024 by and among Vivakor, Inc., Empire Energy Acquisition Corp., and Empire Diversified Energy, Inc.	8-K	3/1/24	2.1	
2.2	Membership Interest Purchase Agreement dated as of March 21, 2024, by and among the Registrant, Jorgan Development, LLC and JBAH Holdings LLC re Endeavor Entities	8-K	3/25/24	2.1	
3.1	Certificate of Amendment to Amended and Restated Articles of Incorporation, filed with the Secretary of State of the State of Nevada on January 5, 2024	8-K	1/11/24	3.1	
3.2	Form of Certificate of Designation-Series A Preferred Stock	8-K	3/25/24	3.1	
4.1	Vivakor, Inc. Promissory Note dated February 5, 2024, in the principal amount of \$3,000,000 issued to Cedarview Opportunities Master Fund LP	8-K	2/12/24	4.1	
10.1*	Vivakor, Inc. 2023 Equity and Incentive Plan	S-8	2/9/24	99.1	
10.2	Loan and Security Agreement dated February 5, 2024, by and among Vivakor, Inc., as borrower, subsidiaries of Vivakor, Inc., as guarantors, the lenders party thereto, and Cedarview Opportunities Master Fund LP, as agent for the lenders	8-K	2/12/24	10.1	
10.3	Pledge Agreement dated February 5, 2024, by and among Vivakor, Inc., each of Vivakor, Inc.'s subsidiaries party thereto and Cedarview Opportunities Master Fund LP, as agent for the lenders	8-K	2/12/24	10.2	
10.4	Guaranty dated February 5, 2024, by and among subsidiaries of Vivakor, Inc. and Cedarview Opportunities Master Fund LP	8-K	2/12/24	10.3	
10.5	Security Agreement dated February 5, 2024, between Vivakor, Inc., and Cedarview Opportunities Master Fund LP	8-K	2/12/24	10.4	
10.6	Form of Parent Voting and Support Agreement re Empire Merger Agreement	8-K	3/1/24	10.1	
10.7	Form of Empire Voting and Support Agreement re Empire Merger Agreement	8-K	3/1/24	10.2	
10.8	Form of Lock-Up Agreement re Empire Merger Agreement	8-K	3/1/24	10.3	
10.9	Form of Escrow Agreement re Empire Merger Agreement	8-K	3/1/24	10.4	
10.10	Form of Lockup Agreement re Endeavor MIPA	8-K	3/25/24	10.1	
10.11	Net Working Capital Sample Calculation re Endeavor MIPA	8-K	3/25/24	10.2	
10.12	Form of First Amended and Restated Master Netting Agreement re Endeavor MIPA	8-K	3/25/24	10.3	
10.13	Convertible Promissory Note dated March 29, 2024 with Keke Mingo	8-K	4/12/24	4.1	
31.1	Certification of Principal Executive Officer, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				Filed

31.2	Certification of Principal Financial Officer, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed
32.1	Certification of Principal Executive Officer, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Furnished**
32.2	Certification of Principal Financial Officer, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Furnished**
101.INS	Inline XBRL Instance Document	Filed
101.SCH	Inline XBRL Taxonomy Extension Schema Document	Filed
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document	Filed
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document	Filed
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document	Filed
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document	Filed
104	Cover Page Interactive Data File (formatted in IXBRL, and included in exhibit 101).	

* Management contract or compensatory plan or arrangement.

** These exhibits are being furnished rather than filed and shall not be deemed incorporated by reference into any filing, in accordance with Item 601 of Regulation S-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

VIVAKOR, INC.

By: /s/ James Ballengee
James Ballengee
Chief Executive Officer (Principal Executive Officer)

Date: May 20, 2024

VIVAKOR, INC.

By: /s/ Tyler Nelson
Tyler Nelson
Chief Financial Officer (Principal Financial and Accounting Officer)

Date: May 20, 2024

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO RULES 13a-14(a) AND 15d-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934**

I, James Ballengee, Chief Executive Officer of Vivakor, Inc. (the "Company"), certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q for the fiscal period ended March 31, 2024;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods represented in this report;

(4) The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:

(a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the report is being prepared;

(b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and

(5) The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and to the audit committee of the board of directors (or persons fulfilling the equivalent function):

(a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

May 20, 2024

/s/ James Ballengee
James Ballengee
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO RULES 13a-14(a) AND 15d-14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934**

I, Tyler Nelson, Chief Financial Officer of Vivakor, Inc. (the "Company"), certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q for the fiscal period ended March 31, 2024;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods represented in this report;

(4) The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:

(a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the report is being prepared;

(b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and

(5) The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and to the audit committee of the board of directors (or persons fulfilling the equivalent function):

(a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

May 20, 2024

/s/ Tyler Nelson
Tyler Nelson
Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Vivakor, Inc. (the "Company") for the period ended March 31, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, James Ballengee, Chief Executive Officer of the Company hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ James Ballengee
James Ballengee
Chief Executive Officer
(Principal Executive Officer)

May 20, 2024

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Vivakor, Inc. (the "Company") for the period ended March 31, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Tyler Nelson, Chief Financial Officer of the Company hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Tyler Nelson

Tyler Nelson

Chief Financial Officer

(Principal Financial Officer and Principal Accounting Officer)

May 20, 2024
