

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)**

In re:)	
)	
MODERN CONTINENTAL CONSTRUCTION CO., INC.,)	Chapter 11
)	
Debtor.)	Case No. 08-14558-WCH
)	

**INTERIM AGREEMENT AND CONSENT ORDER APPROVING USE OF CASH
COLLATERAL AND RELATED RELIEF, AND SETTING FINAL HEARING
PURSUANT TO BANKRUPTCY RULE 4001(C)**

Following the filing of the Motion for Entry of an Order (I) Authorizing the Use of Cash Collateral, (II) Granting Adequate Protection, (III) Scheduling a Hearing on the Further Use of Cash Collateral, and (IV) Granting Other Relief (the "Motion") filed by the debtor and debtor-in-possession Modern Continental Construction Co., Inc. (the "Debtor"), the Debtor and Seaboard Surety Company, St. Paul Fire and Marine Insurance Company,¹ St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Underwriters, Inc. and Fidelity and Guaranty Insurance Company (collectively, the "Lender") have reached agreement concerning the authorization of the Debtor to use the Lender's cash collateral and grant adequate protection liens.

The Debtor and the Lender hereby STIPULATE AND AGREE as follows:

A. The Debtor filed its petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") on June 23, 2008 (the "Petition Date"). Pursuant to

¹ St. Paul Fire and Marine Insurance Company consists of St. Paul Fire and Marine Insurance Company individually and as agent for the Lender as defined *infra* (the "Surety Agent").

Sections 1107 and 1108 of the Bankruptcy Code, the Debtor remains in possession of its assets and has continued the operation and management of its business in this reorganization case.

B. The Motion was filed on June 23, 2008. The Debtor has provided actual notice by mail of the terms of the Motion and the relief requested to all entities claiming an interest in the collateral and cash collateral affected by the Motion including (a) the twenty (20) largest unsecured creditors for the Debtor, (b) the Office of the United States Trustee, (c) the Internal Revenue Service, (d) the Massachusetts Department of Revenue, (e) counsel for the BNH Group (as defined below), (f) the Other Sureties (as defined below), (g) counsel for the Lender, and (h) parties requesting notice and other parties-in-interest in this matter. Consequently, the Court concludes that (a) adequate notice of the Motion and an opportunity for a hearing have been given in accordance with the provisions of Sections 102, 105, 361 and 363 of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, (b) the Lender and the Debtor have agreed to the terms of this Interim Agreement and Consent Order Approving Secured Use Of Cash Collateral And Related Relief, And Setting Final Hearing Pursuant To Bankruptcy Rule 4001(c) (the "Interim Order") pursuant to Fed. R. Bankr. P. 4001(d) as a resolution of the issues raised by the Motion, and (c) no further notice relating to this proceeding is necessary or required.

C. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (G), (M), and (O), involving matters concerning the use of cash collateral under Section 363 of the Bankruptcy Code. Venue is proper in this district pursuant to 28 U.S.C. § 1408.

D. The Debtor is a closely-held Massachusetts corporation formed in 1967 by Lelio Marino ("Mr. Marino") and Kenneth Anderson ("Mr. Anderson") to perform general contracting services. The Debtor's first project was a sidewalk construction project in Peabody,

Massachusetts. Over time, the Debtor's operations substantially increased and it became the largest heavy civil construction company in the northeastern United States and one of the largest in the country. The Debtor served as the largest contractor (in terms of the dollar amount of contracts awarded), on the historic "Big Dig" Central Artery/Tunnel project in Boston, Massachusetts (the "CA/T Project").

E. The Debtor and certain of its affiliates and subsidiaries (collectively, the "Affiliates"),² are parties to certain credit agreements including inter alia (a) that certain Amended and Restated July Credit and Security Agreement (and Guaranty Agreement), dated February 12, 2004, and as further amended to the date hereof (as amended, the "July Surety Credit Agreement"), among the Lender and Surety Agent³ and (b) that certain Amended and Restated October Credit and Security Agreement (and Guaranty Agreement), dated February 12, 2004, and as further amended through the date hereof (as amended, the "October Surety Credit Agreement," and together with the July Surety Credit Agreement, the "Surety Credit Agreements") among the Lender, the Debtor and certain of the Affiliates.

F. Pursuant to that certain Fourth Amended and Restated Term Loan Agreement dated as of February 12, 2004 (the "Bank Credit Agreement") among Fleet National (now Bank of America, N.A., successor by merger to Fleet National Bank), KeyBank National Association, Sovereign Bank and other financial institutions from time to time a party thereto (collectively, the "Banks"), the Debtor and certain of the Affiliates, the Banks extended a credit facility to the

² The Affiliates include Modern Continental Companies, Inc., Modern Continental Construction Holding Co., Inc., Mystic Landing, LLC, Modern Continental South, Inc., Modern Continental Industries Holding Co., Inc., Ristorante Marino, Inc., Modern Continental Enterprises, Inc., Modern Continental Enterprises (St. Lucia) Limited, MCE-MCC Joint Venture, LLC, Modern Continental 600 Memorial, Inc., Independent Equipment Leasing, LLP, Modern Continental Construction Co. of California, Inc., Modern Continental Construction Co. of New York, Inc., Modern Continental Construcoes Ltda and Modern Continental Parque Do Brazil Ltda.

³ St. Paul Fire and Marine Insurance Company is the agent for the Lender (the "Surety Agent") pursuant to the Surety Credit Agreements (as defined *infra*).

Debtor and certain of the Affiliates. The Debtor and certain of the Affiliates are also parties to a Second Amended and Restated Note Purchase Agreement dated as of February 12, 2004 (the "Note Purchase Agreement") among Nationwide Life Insurance Company, Nationwide Life and Annuity Insurance Company, Provident Life and Accident Insurance Company and The Paul Revere Life Insurance Company (collectively, the "Noteholders", and together with the Banks the "BNH Group").

G. Prior to the Petition Date, the Debtor was a party to surety and/or indemnity agreements with Firemans' Fund Insurance Company, The American Insurance Company, National Surety Corporation, Lumbermens Mutual Casualty, Associated Indemnity Corporation, American Automobile Insurance Corporation, and other affiliates of Fireman's Fund Insurance Company (collectively, "FFIC"), National Union Fire Ins. Co. of Pittsburg, Continental Casualty and AIG (collectively, with FFIC, the "Other Sureties"). The Debtor does not believe that it will collect money on any projects on which the Other Sureties provided bonds and, in any case, the Other Sureties did not provide bonds on the projects that generated the Cash Collateral (as defined below).

H. As of the Petition Date, the Debtor owes the Lender an aggregate amount of \$634,565,786 in principal under the Surety Credit Agreements, which amount does not include approximately \$261,000,000 in accrued and unpaid interest (the "Pre-Petition Indebtedness").

I. The obligations of the Debtor to the Lender under the Surety Credit Agreements are secured by, among other things, first priority liens (the "Surety Liens") on the Debtor's accounts receivables and contract rights, and all proceeds of the foregoing (the "Prepetition Collateral").

J. The Lender is the Debtor's secured lender pursuant to the terms and conditions of the Surety Credit Agreements with the power, subject to the restrictions imposed by the Bankruptcy Code, to initiate, conduct, or otherwise prosecute the enforcement of the Lender's rights and remedies with respect to the Debtor in accordance with the Surety Credit Agreements and applicable law. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Surety Credit Agreements.

K. The Lender asserts that it has properly perfected its security interests in and liens on the Prepetition Collateral by, inter alia, filing financing statements in appropriate jurisdictions and locations, taking possession of certain of the Prepetition Collateral or documents evidencing title thereto and/or by taking other appropriate action.

L. By virtue of the foregoing and subject to paragraph 17 below, the Lender asserts that, (a) all of the Pre-petition Indebtedness pursuant to the Surety Credit Agreements is due and owing, is a legal, binding and enforceable obligation of the Debtor, among others, and is not subject to any offset, defense, claim, counterclaim or any other diminution of any type, kind or nature whatsoever; (b) all of the Surety Credit Agreements with respect to the Lender and the Debtor are valid and enforceable against the Debtor in accordance with their terms, are not subject to any offset, defense, claim, counterclaim or diminution of any type, kind or nature whatsoever, and are not subject to avoidance pursuant to applicable state or federal laws; (c) the Lender's liens and security interests in, to and against all of the Prepetition Collateral are valid, enforceable and properly perfected, and are not subject to avoidance under applicable state and federal law; and (d) there are no existing claims, causes of action of the Debtor, breaches of contract or other liabilities, whether liquidated or unliquidated, direct or indirect, and whether arising under state or federal law (including the Bankruptcy Code) against the Lender or its

affiliates, predecessors, agents, representatives, employees or attorneys, arising from the business relationships between the Debtor on the one hand and the Lender or its affiliates, predecessors, agents, representatives, employees or attorneys on the other hand.

M. A need exists for the Debtor to obtain emergency use of cash collateral to fund critical business operations. A schedule of the Debtor's imminent cash requirements is set forth in the budget (the "Budget") attached hereto as Exhibit "A" and incorporated by reference herein.

N. In order to continue the operation of the Debtor's business operations and to preserve the value of its assets and the Prepetition Collateral, the Debtor requires the use of certain of its cash proceeds on hand in accordance with the Budget. In particular, the Debtor requires, and the Lender agrees, that the Debtor may use the cash proceeds on hand and the receivables that have been generated and continue to be generated from the Fountain Avenue and Route 3 construction projects (collectively, the "Projects"). In the event that all or a portion of the funds from the Route 3 construction project are not timely received, the Debtor and Lender agree that the Debtor may use \$1,000,000.00 of the accounts receivable currently being held in escrow related to the Modern/Obayashi Joint Venture (as more fully set forth in the Motion at Paragraph 31) ("Escrow Funds") (the Projects and Escrow Funds along with the proceeds and profits therefrom shall be collectively referred to as the "Cash Collateral").⁴ No other Cash Collateral shall be used by the Debtor without the Lender's prior express written consent or order of the Court. In return for the use of the Cash Collateral derived from the Projects, the Lender shall receive a first priority post-petition lien on any cash, retainage, contract rights, accounts receivable and any other proceeds and/or profits (collectively the "Post-Petition Collateral")

⁴ Any cash collateral arising out of other bonded jobs will be addressed at a later date through a subsequent cash collateral agreement or other court approved financing arrangement. The Debtor shall not have the right to use any of this cash collateral at this time absent the entry of an order of the Court or the Lender's prior written consent.

from the Debtor's projects as to which the Lender issued surety bonds . Any such liens shall be subject to the limitations in paragraph 3, below.

O. Good cause has been shown for the entry of this Interim Order. Among other things, entry of this Interim Order will minimize the disruption of the Debtor's existing business and is in the best interests of the Debtor, its creditors and other parties-in-interest.

Based upon the foregoing stipulations of the parties which are incorporated by reference into this Interim Order, and following a hearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Authorization to Use Cash Collateral/Weekly Monitoring/Termination. The Debtor is authorized to use Cash Collateral in the amounts and for the purposes set forth in the Budget for the period from June 23, 2008 through and including July 4, 2008, subject to a ten percent (10%) overall variance in the cumulative expenditures set forth in the Budget. The Debtor shall only use Cash Collateral in accordance with the time period and category limits set forth in the Budget and only for the periods set forth in the Budget, subject to the 10% overall variance. The amount of such Cash Collateral used during the period shall not exceed \$1,500,000. Notwithstanding the foregoing, the Debtor shall not be authorized to make any payments to insiders, or related persons or entities (or for the benefit of said persons or entities), during the period covered by this Interim Order, except for wages and related benefits earned in the ordinary course of business and excluding inter-company transactions in the ordinary course of business. On a weekly basis, the Debtor shall provide the Lender with a compliance report in the same spreadsheet form as the Budget, certified in writing under penalties of perjury as true and accurate by an authorized representative of the Debtor, that documents the Debtor's *actual* use of cash for the prior week and cumulative *actual* cash use since the Petition Date as to each

line item and category of the Budget (“Budget Compliance Report”). The authorization granted to the Debtor under this Interim Order shall terminate upon the earlier of: (i) July 4, 2008, (ii) entry by the Court of a final order authorizing use of the Lender’s Cash Collateral pursuant to the Motion that expressly supercedes this Interim Order, (iii) entry by the Court of an order denying the Debtor’s authorization to use Cash Collateral; or (iv) at the option of the Lender, upon the occurrence of an Event of Default under paragraph 8 below after notice to the Debtor and the expiration of a two (2) business day cure period. Notwithstanding any such termination, the rights and obligations of the Debtor and the rights, claims, security interests, liens and priorities of the Lender with respect to all transactions which occurred prior to the occurrence of any termination, including, without limitation, all replacement liens granted to the Lender as adequate protection and priority claims under Bankruptcy Code Section 507(b) which are provided under this Interim Order, shall remain unimpaired and unaffected by any termination of the Interim Order, shall survive any such termination of the Interim Order, and shall be binding upon the Debtor, any and all successors-in-interest to the Debtor, including any Chapter 11 trustee or any Chapter 7 trustee, all creditors and other parties in interest, and the Debtor’s Estate (the “Estate”).

2. Disbursements from Cash Collateral Account. The Debtor is strictly prohibited from making any disbursements from the Cash Collateral Account except as provided for in the Budget or consistent herewith, or as hereafter authorized in writing by the Lender, or as provided for in any order of this Court entered after notice to the Lender and an opportunity for hearing.

3. Adequate Protection Liens and Payments in Favor of Lender. As adequate protection for any diminution in the Lender’s interest after the Petition Date in Cash Collateral, the Lender is hereby granted, pursuant to Sections 361 and 363 of the Bankruptcy Code, valid,

choate, perfected, enforceable and non-avoidable first priority security interests in and liens upon (the "Replacement Liens") any and all of Post-Petition Collateral and Prepetition Collateral owned by the Debtor as of the Petition Date and all proceeds, or profits thereof (collectively, the Post-Petition Collateral together with the Prepetition Collateral, the "Collateral"); provided that, to the extent that the Pre-Petition Collateral is subject to any senior liens, the Replacement Lien shall be subject to such senior liens to the same extent, priority and validity as existed on the Petition Date. The Replacement Liens shall be recognized only to the extent of the diminution in value of the Lender's pre-petition collateral (the "Prepetition Collateral") after the Petition Date resulting from the Debtor's use of the Cash Collateral during the bankruptcy case. The Replacement Liens shall at all times be senior to the rights of the Debtor and any successor chapter 11 trustee, any examiner or any responsible person in this or any subsequent proceedings under the Bankruptcy Code and shall be superior in priority to the security interests and liens of the Lender existing prior to the Petition Date. Other than as specifically set forth herein, the liens, security interests, rights, and remedies granted to the Lender pursuant to this Interim Order shall not be modified, altered or impaired in any manner by any plan of reorganization or order of confirmation for the Debtor, or by any other financings of, extensions of credit to, or incurring of debt by the Debtor, whether pursuant to Section 363 or 364 of the Bankruptcy Code, or otherwise. The liens and security interests granted to the Lender shall not be subject or subordinate to any lien or security interest that is avoided and preserved for the benefit of the Debtor pursuant to Section 551 of the Bankruptcy Code.

4. Extent of Grant of Security Interests. The Replacement Liens shall secure payment of (a) Prepetition Indebtedness in an amount equal to any diminution in value of the Lender's interests in the Prepetition Collateral which occurs during the pendency of the Debtor's

bankruptcy case, whether such diminution is a consequence of (i) the Debtor's use of Collateral (including the Debtor's consumption of Cash Collateral), (ii) depreciation or price fluctuation in the Collateral, (iii) the conversion of such Prepetition Collateral into Postpetition Collateral, or (iv) any other action, event or circumstance; and (b) to the extent allowable pursuant to Section 506(b) of the Bankruptcy Code, all fees, costs and expenses of the Lender arising on or after the Petition Date or in connection with the Motion, this Interim Order, the relief sought herein or therein, or the Debtor's bankruptcy case (collectively, the "Adequate Protection Obligation").

5. No Filing or Recording Necessary. All agreements, rights, licenses, security interests and liens contemplated or granted by this Interim Order are effective, attach and are perfected as of the commencement of the reorganization case without the necessity of any further filing or recording by the Lender. Notwithstanding any otherwise applicable requirements under any state or federal law, the Lender shall not be required to file financing statements or any other documents in any jurisdiction or take any other action in order to perfect its security interests and liens granted under or pursuant to this Interim Order, provided however that nothing in this Interim Order shall be deemed to prohibit the Lender's filing of any such documents;

6. Prepetition Loans. Nothing in this Interim Order shall in any way restrict the scope of the Lender's prepetition liens, security interests, rights of set-off or claims with respect to the Prepetition Indebtedness or the Prepetition Collateral, or the proceeds, rents, products or profits thereof, and the Lender's lien and security interests on the Prepetition Collateral and the proceeds, rents, products and profits thereof shall extend to the fullest extent permitted by Section 552(b) of the Bankruptcy Code.

7. Events of Default. The Lender may terminate the Debtor's use of Cash Collateral if: (a) the Debtor pays any expenses not authorized for payment in the Budget; (b) the

expenditures of the Debtor exceed the expenditures set forth in the Budget by more than ten percent (10%) on a cumulative basis; (c) the Debtor fails to abide by any other terms or conditions set forth in this Interim Order; (d) this Interim Order is modified, stayed, or amended without the consent of the Lender; (e) a claim or action is instituted by the Debtor, the purpose of which is to seek or obtain any relief (i) invalidating, setting aside, avoiding or subordinating, the Prepetition Indebtedness or the Lender's liens or security interests in the Collateral; or (ii) otherwise seeking relief against the Lender without its consent; (f) the Debtor's bankruptcy case is converted or dismissed; or (g) the Debtor institutes an action seeking the granting or imposition, under Section 364 of the Bankruptcy Code or otherwise, of liens, security interests, or mortgages on any of the Collateral equal or superior to the Lender's interest on that property. The termination based upon these events will occur at 8:00 a.m. on the second business day after the day on which the Lender gives notice (the "Termination Notice") to the Debtor of the termination event (except for subsection (c) of this paragraph above which may occur immediately), unless such termination event is non-monetary in nature and the Debtor cures such default by 8:00 a.m. on the third business day after the day on which the Lender issues the Termination Notice. In addition to the above termination events, the Debtor must continue to comply with those terms of the Surety Credit Agreements as set forth in this Interim Order.

8. Binding Effect of Order. Unless otherwise provided herein, the terms and conditions of this Interim Order relating to the liens and priorities granted to the Lender during the period covered by this Interim Order shall be binding upon the Debtor, its creditors, all other parties-in-interest and all successors-in-interest thereof including, without limitation, any Chapter 11 trustee that may be appointed in the reorganization case or any trustee in a case under Chapter 7 of the Bankruptcy Code into which the reorganization case may be converted. This

binding effect is an integral part of the agreement evidenced hereby. Nothing herein shall divest the Lender of the adequate protection granted herein for the period covered by this Interim Order.

9. Access to Books and Records. In addition to the foregoing protections, the Debtor shall fully comply with its obligations, and shall not breach any material representation or warranty with respect to the Lender as set forth in the Surety Credit Agreements, with respect to (a) access to the Debtors' books and records and the Prepetition Collateral, which provisions shall be deemed to also apply to the Postpetition Collateral, (b) financial and other reporting, (c) inspections and audits (other than an annual accounting audit), and (d) maintenance and preservation of the Prepetition Collateral, which provisions shall be deemed to also apply to the Postpetition Collateral, except that the Debtor needs not comply with representations as to the absence of any proceeding such as the Debtor's bankruptcy case, or provisions requiring the payment of money to the Lender (except as required by this Interim Order) or establishing any financial covenants. Further, the Debtor shall deliver to the Lender such financial and other information concerning the businesses and financial affairs of the Debtor as the Lender may reasonably request from time to time (other than an annual accounting audit).

10. Effect of Order. Nothing contained in this Interim Order shall be deemed a finding with respect to adequate protection (as that term is defined in Section 361 of the Bankruptcy Code) of the interests of the Lender. In addition, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair, any of the rights, claims or privileges of the Lender or the Debtor.

11. Additional Relief. The Lender may at any time file a motion with this Court seeking any such additional protection as either may reasonably require with respect to the

Debtor's continued use of the Lender's Cash Collateral or otherwise, including, without limitation, modification or termination of this Interim Order or any Final Order authorizing the Debtor's continued use of Cash Collateral. Nothing herein shall prevent the Debtor or any other party-in-interest from opposing such a motion. Nothing contained herein shall or shall be deemed to constitute an admission by the Lender that its interests in the Prepetition Collateral and the Postpetition Collateral are adequately protected within the meaning of Section 361 of the Bankruptcy Code now or at some future time. The Lender and the Debtor retain all rights available pursuant to the Bankruptcy Code or any other applicable law, including their right to seek different or additional forms of adequate protection.

12. Effect of Future Modification of Order. No subsequent stay, modification, termination, failure to extend the term of or vacation of this Interim Order shall affect, limit or modify any claim, right or lien granted hereunder to the Lender incurred pursuant to this Interim Order or otherwise, nor shall any such stay, modification, or vacation limit, affect or modify the validity, enforceability or perfection of any security interest, lien or priority granted or reaffirmed in connection therewith.

13. No Requirement to Lend. Nothing contained in this Interim Order, shall require or be deemed to require the Lender to make any additional loan or loans or to extend further credit or other financial accommodations to or for the benefit of the Debtor.

14. Effect of Dismissal. In the event that the reorganization case is dismissed, converted, otherwise superseded or substantively consolidated, neither the entry of this Interim Order nor the dismissal or conversion of the reorganization case shall affect the rights of the Lender under the Surety Credit Agreements or the terms and conditions of this Interim Order, including the security interests and liens granted herein, and all the rights and remedies of the

Lender hereunder shall be and remain in full force and effect as if the reorganization case had not been filed or the reorganization case had not been dismissed, converted or superseded.

15. No Effect on Other Rights. This Interim Order shall not operate to modify, alter, impair, affect, abrogate, amend, restrict or nullify any rights of the Lender with respect to any person or entity other than the Debtor, nor to release, alter, impair, affect or abrogate any debts, claims, demand, actions and causes of action in law and equity, whether known or unknown, that the Lender may have as to any person or entity other than the Debtor. Each of the parties, including the Lender, in whatever capacity, reserves all rights, remedies and interests that they have or may have under agreements, documents or circumstances other than the Surety Credit Agreements.

16. Effect of Order. In light of the stipulations of the parties as set forth above, the Court finds that the Lender has acted in “good faith” in all respects within the meaning of Section 363(m) of the Bankruptcy Code and on terms as would otherwise be found in an arm’s length transaction and in the event of any appeal of this Interim Order, any cash collateral used shall, pursuant to Section 363(m) of the Bankruptcy Code, shall be final and nonappealable, unless the party to such appeal shall have obtained a stay of this Interim Order pursuant to the Bankruptcy Code and the applicable Bankruptcy Rules.

17. Budget. In accepting the Budget, in making decisions to release Cash Collateral and by taking any other actions pursuant to this Interim Order, the Lender shall have no liability to any third party, and such parties shall not be deemed to be in control of the operation of the Debtor or to be acting as a “responsible person” or “owner” or “operator” with respect to the operation or management of the Debtor. No third party is intended to be or shall be deemed to be a third party beneficiary of the provisions of this Interim Order.

18. Waiver of Prepetition Defaults. (a) The entry of this Interim Order shall not constitute a waiver of any Prepetition default or of any right or remedy of the Lender under applicable non-bankruptcy law, (b) the Debtor may not sell Prepetition Collateral other than in the ordinary course of business without the Lender's prior written consent or order of this Court after notice and opportunity for a hearing and (c) to the extent expressly provided in this Interim Order, the provisions of the Surety Credit Agreements shall remain in full force and effect, and the Lender shall be entitled to all rights and privileges thereunder.

19. Signature of Debtor. The signature of any officer of the Debtor submitted in writing and accepted by the Lender in writing, whether by letter, facsimile or e-mail to the Lender or appearing on any one or more of the aforesaid security agreements, instruments or documents, shall bind the Debtor with respect to documents executed and other actions taken pursuant to this Interim Order.

20. Core Matters. The subject of this Interim Order is a "core" proceeding within the meaning of 28 U.S.C. § 157. This Interim Order shall be valid and fully effective, shall be binding upon and inure to the benefit of the Lender, the Debtor, the Estate, and their respective successors and assigns (including, without limitation, any trustee, examiner, or responsible person in this or any subsequent proceeding under the Bankruptcy Code), immediately upon its entry and during the pendency of the Debtor's bankruptcy proceedings, subject to the right of the Lender to terminate their consent to the Debtor's use of Cash Collateral as provided in this Interim Order or the expiration of such consent on the date set forth herein.

21. Modification of Automatic Stay. The automatic stay provisions of Section 362 of the Bankruptcy Code are hereby vacated as to the Lender to the extent necessary to permit the

Lender at its option to, as appropriate, file any financing statements or other instruments and documents, if any, evidencing the Replacement Liens.

22. Vacating of Order. The Debtor shall not seek to modify, vacate, or amend this Interim Order without the written consent of the Lender. If any or all of the provisions of this Interim Order are hereafter modified, vacated or stayed by subsequent order of this or any other Court, such stay, modification or vacation shall not affect (a) the validity of any benefit granted to the Lender pursuant to this Interim Order with respect to any Cash Collateral released by the Lender to the Debtor prior to the later of (i) the effective date of such stay, modification, or vacation, or (ii) the date of receipt of written notice thereof by counsel to the Lender at each of the addresses listed at the end of this Interim Order (the "Effective Time"), or (b) the validity and enforceability of any lien, security interest or priority authorized hereby. Notwithstanding any such stay, modification, or vacation, any release of Cash Collateral made pursuant to this Interim Order by the Lender prior to the Effective Time shall be governed in all respects by the original provisions of this Interim Order.

23. Financial and Business Reports. In addition to the reports required by this Interim Order and the Surety Credit Agreements, on or before the twentieth (20th) day of each month, the Debtor shall deliver to the Lender a copy of the actual monthly operating report the Debtor is required to file with the Court. The Debtor also shall deliver to the Lender on a weekly basis, at the same time as the Budget Compliance Report and covering the same period, a copy of the Debtor's current accounts receivable aging report and accounts payable aging report certified in writing under penalties of perjury as true and accurate by an authorized representative of the Debtor.

24. Books and Records. In addition to the inspection of records permitted by the Surety Credit Agreements, the Debtor shall allow the Lender to review and copy, upon prior reasonable written request, (i) all vouchers, invoices, contracts and other writings relating to any and all disbursements made or obligations incurred by the Debtor with respect to the maintenance and operation of their businesses and (ii) any and all other books and records of the Debtor pertaining to the Debtor's use of the Lender's Cash Collateral.

25. Notice. Any notice which may be required to be given by the Lender to the Debtor or vice versa shall be sufficient if notice is given by facsimile transmission, hand delivery, or regular, certified or registered United States mail to:

As to the Debtor:

Modern Continental Construction Co., Inc.
260 Milton St
Dedham, MA 02026-2913
Attention: John H. Pastore, President

With copies to:

Harold B. Murphy, Esq.
Hanify & King, P.C.
One Beacon Street
Boston, MA 02108
Fax: (617) 423-0498
Phone: (617) 423-0400

As to the Lender:


Richard R. Deshais Esquire
Managing Director
St. Paul Travelers Companies, Inc.
One Tower Square
2S1A
Hartford, CT 06183
Phone: (860) 954-0704
rdeshais@stpaultravelers.com

With a copy to:

Michael D. Vhay
Matthew J. Iverson
DLA Piper US LLP
33 Arch Street, 26th Floor
Boston, MA 02110
Fax: (617) 406-6100
Phone: (617) 406-6000
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Baltimore, MD 21209
Fax: (410) 580-3191
Phone: (410) 580-4191
Richard.kremen@dlapiper.com
Jodie.buchman@dlapiper.com

29. Notice. The notice given by the Debtor of the Motion and of the interim hearing constitutes adequate notice under Bankruptcy Rule 4001(c)(2). Within two business days of the entry of this Interim Order, the Debtor shall promptly serve by overnight mail for next morning delivery or telecopy copies of a notice of entry of this Interim Order and notice of a final hearing (which notice shall state, among other things, that the Debtor may seek approval at the final hearing of a waiver of rights under Section 506(c) of the Bankruptcy Code), together with a copy of this Interim Order, to the Lender, its counsel at each of the addresses set forth at the end of this Interim Order, the twenty (20) largest unsecured trade creditors of the Debtor as set forth on schedules filed by the Debtor pursuant to Bankruptcy Rule 1007(d), the United States Trustee, any other persons which the Debtor knows is entitled to notice under Bankruptcy Rule 4001(b) as of such date, and any other party-in-interest which counsel to the Debtor has received a written request in this case before 2:00 p.m. (EDT) on such date to receive such pleadings. The

notice of entry of this Interim Order shall state that any party-in-interest objecting to the entry of a final order on the Motion shall file a written objection with the United States Bankruptcy Court Clerk for the District of Massachusetts no later than 4:00 p.m. (EDT) on ~~July 1~~ ^{June 30}, which objection shall be served so that the same is received on or before 4:00 p.m. (EDT) on such date by the United States Trustee and counsel for the Debtor and counsel for the Lender set forth at the end of this Interim Order (at each of the addresses set forth therein). If an objection is timely filed, served and received, a written reply thereto shall not be required but may be filed and served so that it is received by the objecting party and the other parties set forth above no later than 4:00 p.m. (EDT), on July 1. A final hearing shall be held on the Motion and objections thereto before this Court on July 2 at 1.30 pm. The provisions of this Interim Order shall remain in full force and effect unless modified or vacated (i) at the final hearing, or (ii) by other subsequent order of this Court. If any or all of the provisions of this Interim Order are hereafter modified, vacated, or stayed by subsequent order of this or any other Court, such stay, modification, or vacation shall be subject to the provisions of paragraph 25. ~~Subject to the entry of an order approving this Interim Order on _____, 2008, further extensions of this Order shall be permitted without a hearing subject to notice and no objection being raised.~~ 

DATED:

Consented and Agreed To:

HANIFY & KING, Professional Corporation

By: /s/ Harold B. Murphy
Harold B. Murphy (BBO #326610)
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END OF ORDER

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