

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

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

**ORDER ON
MOTION FOR (A) APPROVAL OF SETTLEMENTS RELATING TO
CENTRAL ARTERY/TUNNEL PROJECT, AND (B) RELATED RELIEF
[Re: Docket No. 503]**

This matter having come before this Court on the *Motion For (A) Approval of Settlements Relating to Central Artery/Tunnel Project, And (B) Related Relief* (the “Motion to Approve”) [docket no. 503] filed by Modern Continental Construction Co., Inc. (the “Debtor”); and the Court having reviewed the Motion to Approve¹; and the Court having conducted a hearing on notice of the Motion to Approve; and the Court having determined that the legal and factual bases establish just cause for the relief granted in this order;

THIS COURT HEREBY FINDS THAT:

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. The Motion to Approve is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
- B. The Motion to Approve seeks the approval of settlements (collectively the “Settlements”) concerning claims by and against the Debtor with respect to the Central

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

Artery/Tunnel construction project (the "CA/T Project"). The Settlements provide, among other things, for the compromise of claims belonging to the Debtor's bankruptcy estate (the "Estate").

C. In the Motion to Approve, the Debtor seeks, among other things, the authority to assign its rights in the Subcontractor Warranties to the State Parties.

D. The Debtor has provided appropriate notice of the Motion to Approve, the Settlements and the compromises of claims described in the Settlements.

E. Any objections to the Motion to Approve have been withdrawn or are overruled.

F. The settlements and compromises of claims in the Settlements fall well above the lowest point on the continuum of reasonableness.

G. The objections filed by Architectural Paving & Stone, Inc. and City Lights Electrical Co., Inc. and City Lights Electrical Co., Inc./Tri-State Signal, Inc., a Joint Venture, were withdrawn in open Court.

H. Good and sufficient cause exists for the entry of this Order.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. The notice of the Motion to Approve given by the Debtor is approved.
2. The Motion to Approve is granted.
3. The parties to the Settlements are authorized and directed to implement the terms of the Settlements and to sign such documents as are necessary to effectuate the Settlements.
4. The Debtor is authorized to assign the Subcontractor Warranties to the State Parties.

5. This Order, and the rights and responsibilities of each party to the Settlements, shall remain effective and binding in all respects notwithstanding any future order converting or dismissing the Debtor's bankruptcy case.

6. Anything in this order, or in the Settlements or the Motion to Approve to the contrary notwithstanding, the Settling Sureties, as sureties for the Debtor, in connection with the CA/T Project and/or the Route 3 project (hereinafter, together with the CA/T Project the "Projects"), agree and stipulate with the Official Committee of Unsecured Creditors, for and on behalf of the unsecured creditors of the Debtor, that the failure of any subcontractor, supplier, or creditor of the Debtor that asserts a payment bond claim to object to the settlements between the Debtor and the owners in connection with the Projects shall not constitute a waiver or compromise of any claims pursuant to any payment bond, all of which bond claims are expressly reserved, nor shall such failure to object to such settlements form the basis for, or result in any estoppel whatsoever of such subcontractors, suppliers, or creditors of the Debtor in connection with the prosecution of any payment bond claims. By this stipulation, the Settling Sureties are not waiving and/or compromising any defenses, rights, set-offs and/or claims of any type whatsoever, all of which are expressly reserved, other than the right to contend that the failure to object constitutes a waiver or compromise of any such payment bond claim(s), or should be construed as an estoppel of any kind. The Settling Sureties further stipulate and agree that Bankruptcy Court approval would not per se constitute a pay-if-paid defense to any subcontractor's claim.


Honorable William C. Hillman
UNITED STATES BANKRUPTCY JUDGE

Dated: December 18, 2008