



2. No trustee or examiner has been appointed, and no official committee of unsecured creditors has been appointed in this case. The Debtor continues to operate its business and manage its property as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

## **II. REQUESTED RELIEF**

3. As is described in the Second Cash Collateral Motion, without the use of the Cash Collateral (as defined in the Second Cash Collateral Motion), the Debtor will be unable to meet its post-petition obligations to its employees and other creditors and will likely be forced to cease operations.

4. The Debtor previously negotiated a two-week agreement with the Lender (as defined in the Second Cash Collateral Motion) for the use of cash collateral on an interim and consensual basis. The Court entered an order granting the use of specified cash collateral (the "First Cash Collateral Order") and establishing a hearing on the further use of cash collateral for July 2, 2008, at 1:30 p.m. The First Cash Collateral Order established July 1, 2008 at 4:00 p.m. as the deadline for the filing of any objections to the further use of cash collateral by the Debtor. No objections to the further use of cash collateral were filed.

5. The Debtor has negotiated an agreement for the further use of the Second Cash Collateral for a three week period, ending July 25, 2008. A copy of the agreement is attached to the Second Cash Collateral Motion. The agreement negotiated by the Debtor provides, as did the prior agreement for the use of cash collateral, that the Debtor would use only the proceeds of Bonded Receivables (as defined in the Second Cash Collateral Motion). The Debtor believes the Lender holds the only security interest in the Bonded Receivables.

6. The Debtor is in the process of negotiating debtor-in-possession financing from the Lender, and requires the use of the Cash Collateral pursuant to the Second Cash Collateral Motion in order to operate during the Budget Period. Due to, among other things, conflicting schedules and the occurrence of a mediation relating to the Debtor's dispute relating to the Central Artery Tunnel project, the Debtor and the Lender were unable to complete their discussions regarding the debtor-in-possession financing prior to the expiration of the current cash collateral order. The Debtor expects to file a motion seeking authority to enter into such financing and further use of cash collateral.

7. Thus, the Debtor's need for a hearing on an emergency basis is urgent and is required to preserve the value of the Debtor's assets and its bankruptcy estate.

8. For the foregoing reasons, the Debtor submits that no interested party will be prejudiced by the Court's holding an emergency hearing on the Second Cash Collateral Motion on July 2, 2008 at 1:30 p.m.

#### **NOTICE**

9. The Debtor has or will serve this Motion by overnight mail, facsimile, by this Court's ECF System, and/or by e-mail, and will serve the notice of the hearing on this Motion in the same manner, on the Office of the United States Trustee, each taxing authority that has a claim in this case, the Debtor's 20 largest unsecured creditors, all parties known by the Debtor claiming to have liens on or security interests in any of the Debtor's assets, and all parties who have filed a notice of appearance in this case. The Debtor submits that such service provides sufficient notice in light of the nature of the relief requested and request that the Court approve such notice.

**WHEREFORE**, the Debtor respectfully requests that this Court enter an Order:

- (i) Finding notice and service of this Motion to be appropriate;
- (ii) Scheduling an emergency hearing on the Second Cash Collateral Motion for July 2, 2008 at 1:30 p.m.; and
- (iii) Granting to the Debtor such other relief as the Court deems just and proper in the circumstances.

Respectfully submitted,

MODERN CONTINENTAL  
CONSTRUCTION CO., INC.,

By its proposed counsel,

/s/ Harold B. Murphy

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