Docket #1897 Date Filed: 12/05/2022

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
WELDED CONSTRUCTION, L.P., *et al.*,	)	Case No. 18-12378 (LSS)
	)	(Jointly Administered)
Debtors.	)	**Re. Docket No. ____**

ORDER REGARDING STIPULATION BETWEEN THE POST-EFFECTIVE DATE DEBTORS, BECHTEL CORPORATION AND ZURICH AMERICAN INSURANCE COMPANY

Upon consideration of the *Stipulation Between the Post-Effective Date Debtors, Bechtel Corporation and Zurich American Insurance Company* (the "**Stipulation**"), a copy of which is attached hereto as **Exhibit 1**; and the Court having determined that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; (b) venue is proper in this district pursuant to 28 U.S.C. § 1409; (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and (d) notice of the Stipulation was sufficient under the circumstances; and after due deliberation, the Court, having determined that good and adequate cause exists for approval of the Stipulation:

[Remainder of Page Intentionally Left Blank]

1812378221205000000000002

IT IS HEREBY ORDERED THAT:

1. The Stipulation is approved.

2. This Court retains jurisdiction over any and all issues arising from or related to the implementation of this order.

Dated: December 5th, 2022
Wilmington, Delaware

LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1
Stipulation

Execution Version

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
WELDED CONSTRUCTION, L.P., *et al.*,[1]	)	Case No. 18-12378 (LSS)
	)	(Jointly Administered)
Debtors.	)	

STIPULATION BETWEEN THE POST-EFFECTIVE DATE DEBTORS, BECHTEL CORPORATION AND ZURICH AMERICAN INSURANCE COMPANY

Following the July 31, 2020, Effective Date of the *Amended Plan* (the "Plan")[2] *of Welded Construction, L.P.* ("Welded") *and Welded Construction Michigan, LLC* (together with Welded, collectively, the "Debtors," and after the Effective Date, the "Post-Effective Date Debtors"), the Post-Effective Date Debtors, through Cullen D. Speckhart, solely in her capacity as Plan Administrator, Bechtel Corporation ("Bechtel") and Zurich American Insurance Company ("Zurich") (together with Post-Effective Date Debtors and Bechtel, each a "Party" and collectively the "Parties"), hereby enter into this stipulation ("Stipulation") with respect to the settlement of a dispute between the Parties over the reconciliation of amounts owed under the Zurich Policies (defined below).

WHEREAS, on October 22, 2018 (the "Petition Date"), each Debtor filed with the Bankruptcy Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

[2] Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Plan.

WHEREAS, prior to and after the Petition Date, Zurich provided insurance policies to one or more Debtors, or their affiliates or predecessors, as named insureds (the "Zurich Policies") and entered into one or more related agreements with respect to the Zurich Policies (collectively, the "Non-Policy Agreements", and together with the Policies, the "Zurich Insurance Program Agreements");

WHEREAS, pursuant to the Zurich Insurance Program Agreements, Debtors were required to pay Zurich certain amounts, including, but not limited to, premiums, deductibles, expenses, and taxes (collectively the "Zurich Obligations").

WHEREAS, to secure the payment of the Zurich Obligations, Debtors posted a letter of credit (the "LOC") in an amount of $4,746,500.00. The LOC was paid for by Bechtel and/or its affiliates.

WHEREAS, after the Petition Date, Zurich drew down the full amount of the LOC. Bechtel filed a request for payment of an administrative expense claim number 790 in Debtors' Cases (the "Bechtel LOC Claim") for the full amount of the amount of the LOC, which the Debtors disputed.

WHEREAS, the Zurich Policies remained in effect after the Petition Date. Through the Effective Date of the Debtors' Plan, the Zurich Obligations were either paid by the Debtors in the ordinary course or by Zurich using LOC proceeds.

WHEREAS, Bechtel and Debtors previously reached a global settlement (the "Plan Settlement Agreement") of all outstanding disputes between them, including, without limitation, the Bechtel LOC Claim, as part of the confirmed Plan. See ECF No. 1505. Thereunder, Debtors agreed in pertinent part that: (i) any "residual proceeds of the letter of credit" left after the Zurich Obligations were paid in full were not property of the Debtors' Estates and would be the sole and

exclusive property of Bechtel; and (ii) any residual LOC proceeds that are refunded to Post-Effective Date Debtors would be forwarded to Bechtel by the Plan Administrator. Further, under the Plan Settlement Agreement, Bechtel agreed to withdraw and release all claims against Post-Effective Date Debtors and Debtors' Estates, including, without limitation, the Bechtel LOC Claim.

WHEREAS, Zurich filed three proofs of claim against the Debtors numbered 140, 787 and 788 (collectively, the "Zurich Claims") on account of the Zurich Obligations.

WHEREAS, pursuant to a Bankruptcy Court-approved stipulation between Zurich and Post-Effective Date Debtors (the "Zurich Stipulation") [ECF No. 1707], with notice to Bechtel, Zurich agreed to finalize, process and wind down the Zurich Policies under certain terms and conditions set forth more fully therein. In pertinent part, under the Zurich Stipulation: (i) Zurich withdrew the Zurich Claims and released any and all other claims against the Debtors' Estates, (ii) Zurich agreed that any further obligations under the Zurich Policies were to be paid from proceeds of the LOC or other collateral held by Zurich, provided that Zurich retained certain setoff and recoupment rights as set forth more fully therein; (iii) Post-Effective Date Debtors reaffirmed that any residual LOC proceeds were to be sent on to Bechtel, and (iv) Zurich agreed to pay any such LOC proceeds directly to Bechtel.

WHEREAS, in December 2021, counsel for Zurich, for settlement purposes only, advised Post-Effective Date Debtors and Bechtel that:

(i) Zurich was holding $1,352,565.00 in excess premiums collected over the lifetime of the Zurich Policies (the "Excess Premiums");

(ii) Zurich was then holding LOC proceeds totaling $1,127,852.00 the ("LOC Proceeds");

(iii) Zurich was also holding $35,000.00 in other collateral funds unrelated to the LOC (the "Non-LOC Collateral"); and

(iv) Zurich was willing to pay a total of $1,685,123 (the " Settlement Payment") to the Post-Effective Date Debtors and/or Bechtel in exchange for a release from both the Post-Effective Date Debtors and Bechtel;

WHEREAS, Zurich requested that Bechtel and Post-Effective Date Debtors determine the amount of the Settlement Payment that would be paid to the Post-Effective Date Debtors and the amount of the Settlement Payment that would be paid to Bechtel;

WHEREAS, the Parties engaged in extensive, good faith, and arms' length negotiations and have reached an agreement on the terms and conditions set forth more fully below.

AGREEMENT

NOW, **THEREFORE**, with the foregoing background incorporated by reference, the Parties, intending to be bound in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby stipulated and agreed to by and between the Parties as follows:

1. This Stipulation becomes effective upon the date that it is approved by a Final Order of the Bankruptcy Court (the "Stipulation Date").

2. Within thirty (30) days of the Stipulation Date, Zurich shall pay Bechtel by wire transfer $712,704.50, pursuant to wire instructions to be provided to Zurich by Bechtel.

3. Within thirty (30) days of the Stipulation Date, Zurich shall pay the Post-Effective Date Debtors by wire transfer $972,417.50, pursuant to wire instructions to be provided to Zurich by Post-Effective Date Debtors.

4. Except as provided herein, the Post-Effective Date Debtors, the Debtors' Estates and Bechtel hereby release and forever discharge Zurich and all its affiliates, subsidiaries, officers, directors, partners, employees, agents, attorneys, shareholders, successors, assigns, and other representatives (the "Zurich Released Parties") from liability for any and all claims, controversies, actions, causes of action, demands, debts, damages, costs, attorneys' fees, monies due on account, obligations, judgments and liabilities of any nature whatsoever at law or in equity, past or present, in contract, in tort or otherwise, whether or not now or heretofore known, suspected, or claimed, which the Debtors or the Debtors' Estates had, has, or may have against the Zurich Released Parties arising out of or in any way related to the Zurich Insurance Program Agreements, the LOC, the LOC Proceeds or the Non-LOC Collateral, including those arising from or related to the administration of, and the reserving, pricing, billing or calculation and collection of premiums and other changes under the Zurich Insurance Program Agreements; provided, however, that Zurich will continue to defend and pay all claims insured under the Zurich Policies in accordance with the terms of the Zurich Policies and applicable law; and provided further, that this section shall not release Zurich from any obligations or liabilities created by this Stipulation.

5. Except as provided herein, Zurich hereby releases and forever discharges each of the Post-Effective Date Debtors, the Debtors' Estates, the Plan Administrator, Bechtel, and each of the foregoing's partners, employees, agents, attorneys, successors, assigns, and other representatives (the "Released Parties") from liability for any and all claims, controversies, actions, causes of action, demands, debts, damages, costs, attorneys' fees, monies due on account, obligations, judgments and liabilities of any nature whatsoever at law or in equity, past or present, in contract, in tort or otherwise, whether or not now or heretofore known, suspected, or claimed, which Zurich had, has, or may have against the Released Parties arising out of or in any way related

to the Zurich Insurance Program Agreements, the LOC, the LOC Proceeds or the Non-LOC Collateral, including those arising from or related to the administration of, and the reserving, pricing, billing or calculation and collection of premiums and other changes under the Zurich Insurance Program Agreements; provided, however, this section shall not release the Post-Effective Date Debtors or Bechtel from any obligations or liabilities created by this Stipulation.

6. To the extent required under the Zurich Insurance Program Agreements and only so long as the Chapter 11 Cases remain open, the Post-Effective Date Debtors, to the extent reasonably practicable, will continue to cooperate with Zurich and provide Zurich with the necessary information required from the Debtors under the Zurich Policies, including, but not limited to, providing claims information and documentation, to the extent such information and documentation exists and to the extent that the Post-Effective Date Debtors have access to same. For avoidance of doubt, the Post-Effective Date Debtors agree that Zurich will assume sole control of management of all claims allegedly insured under the Zurich Policies. Except for providing information necessary to enable the Post-Effective Date Debtors to complete reconciliation of disputed proofs of claim asserted against the Debtors, Zurich shall have no further duties or obligations to the Post-Effective Date Debtors, the Debtors, or any successors to or affiliates of the Debtors, including any obligation to consult with, or provide reports or other information to the Post-Effective Date Debtors, and the Post-Effective Date Debtors will have no further payment obligations to Zurich with respect to such claims and the Zurich Insurance Program Agreements. Further, nothing in this Stipulation will in any way impair the Post-Effective Debtors' or Debtors' Estates' or Zurich's rights under the Zurich Policies including each such parties' rights, defenses, and obligations concerning claims and coverage, which will be determined under the Zurich

Policies and applicable non-bankruptcy law, or Zurich's rights against or recoveries from entities who are not parties to this Stipulation or beneficiaries thereof.

7. This Stipulation is the entire agreement between the Parties hereto with respect of the subject matter hereof. This Stipulation supersedes any and all agreements, whether written or oral, that may have previously existed between the Parties with respect to the matters set forth in this Stipulation, provided, however, except as set forth herein, nothing herein is intended to or shall be deemed to amend or otherwise alter the terms of the Plan, the Zurich Stipulation, or the Zurich Insurance Program Agreements. No statements, promises, or representations have been made by any Party to any other, or relied upon, and no consideration has been offered, promised, expected, or held out other than as may be expressly provided herein.

8. Any ambiguities are not to be construed against any Party solely due to the identity of the drafter.

9. This Stipulation shall not be modified, altered, or amended without the proper written consent of all Parties hereto.

10. This Stipulation shall be binding upon the successors and assigns of the Parties hereto.

11. It is understood and agreed that this Stipulation is being made in connection with the settlement and compromise of disputed claims and that such settlement is not to be construed as an admission or concession of liability by any Party.

12. Each person signing this Stipulation represents and warrants that s/he has been duly authorized and has the requisite authority to execute and deliver this Stipulation on behalf of such Party and to bind her/his respective Party to the terms and conditions of the Stipulation.

13. This Stipulation may be executed in counterparts by counsel, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Stipulation. Delivery of an executed counterpart of a signature page of this Stipulation by telecopy or electronic mail in PDF shall be as effective as delivery of a manually executed copy of this Stipulation.

14. The Bankruptcy Court shall retain jurisdiction to enforce the terms and conditions of this Stipulation to the full extent allowed under law.

[Remainder of Page Intentionally Left Blank]

AGREED TO IN SUBSTANCE AND FORM THIS 30th DAY OF NOVEMBER, 2022:

BLANK ROME LLP

/s/ Josef W. Mintz
Josef W. Mintz (DE No. 5644)
Jose F. Bibiloni (DE No. 6261)
B. Nelson Sproat (DE No. 6925)
1201 Market Street, Suite 800
Wilmington, Delaware 19801
Telephone: (302) 425-6400
Facsimile: (302) 425-6464
Josef.Mintz@blankrome.com
Jose.Bibiloni@blankrome.com
Nelson.Sproat@blankrome.com

and-

Michael B. Schaedle *(pro hac vice)*
John E. Lucian (*pro hac vice*)
One Logan Square
130 N. 18th Street
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-5500
Facsimile: (215) 569-5555
Mike.Schaedle@blankrome.com
John.Lucian@blankrome.com

Counsel to the Post-Effective Date Debtors

BECHTEL CORPORATION

/s/ Michael A. Rosenthal
Michael A. Rosenthal
Matthew J. Williams
Michael K. Gocksch
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
Telephone: (212) 351-4000
MRosenthal@gibsondunn.com
MJWilliams@gibsondunn.com
MGocksch@gibsondunn.com

Counsel to Bechtel

FOX SWIBEL LEVIN & CARROLL LLP

/s/ Margaret M. Anderson
Margaret M. Anderson, Esquire
200 W. Madison Street, Suite 3000
Chicago, IL 60606
Telephone: (312) 224-1200
Fax: (312) 224-1201
Email: panderson@foxswibel.com

Counsel to Zurich American Insurance Company