

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
WELDED CONSTRUCTION, L.P., <i>et al.</i> , ¹)	Case No. 18-12378 (KG)
)	(Jointly Administered)
Debtors.)	Ref. Docket Nos. 12, 13, 15, 42, 43, & 211
)	

**CERTIFICATION OF COUNSEL REGARDING PROPOSED
SUPPLEMENTAL ORDER APPROVING VENDOR AGREEMENT AND RELEASES**

The undersigned hereby certifies as follows:

1. On October 22, 2018, the Debtors filed with this Court the *Debtors’ Motion for Entry of an Order, Pursuant to Sections 105(a), 363(b), 503(b)(1), 1107(a) and 1108 of the Bankruptcy Code, Authorizing, But Not Directing (I) the Debtors to Pay Certain Prepetition Claims, Conditioned Upon Prior Customer Payment, (II) the Debtors to Honor Customer Obligations, (III) the Debtors to Implement Control Procedures for Customer Project Funding and Completion, and (IV) Granting Related Relief* [D.I. 12 (sealed), 13 (redacted)] (the “**Customer Programs Motion**”) and the *Debtors’ Motion for Entry of an Order Authorizing the Debtors to File Under Seal the Columbia Gas Sub-Contractor Lists Attached as Schedules to Exhibit I to Exhibit C of the Debtors’ Customer Program Motion and Similar Future Lists* [D.I. 15].

2. On October 23, 2018, the Court entered an order approving the Customer Programs Motion [D.I. 42] (the “**Customer Programs Order**”) and authorizing the Debtors to,

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 26933 Eckel Road, Perrysburg, OH 43551.



among other things, (i) enter into agreements with their customers to pay certain pre-petition and post-petition obligations under various project completion agreements and (ii) establish control procedures for implementing the funding and completion of the Debtors' construction projects.

3. On October 23, 2018, the Court entered an order [D.I. 43] (the "**Columbia Gas Agreement Order**") authorizing the Debtors to enter into a project completion agreement with Columbia Gas Transmission, LLC ("**Columbia Gas**"), whereby Columbia Gas would fund the completion of two pipeline projects (the "**Columbia Gas Projects**"), including certain overhead costs and various expenses.

4. On November 14, 2018, the Court entered an order authorizing the Debtors to file under seal certain sub-contractor lists and any subsequently-filed similar lists or pleadings that reference the information contained therein, such as the names of certain critical sub-contractors and/or the amounts owed to them, to preserve the confidentiality of such information [D.I. 211] (the "**Sub-Contractor List Seal Order**").

5. Pursuant to the authority described above and in an effort to efficiently resolve all claims by and between Ohio Machinery Company, d/b/a Ohio CAT ("**Sub-Contractor**") and the Debtors (collectively with Sub-Contractor, the "**Parties**") with respect to the Debtors' various construction projects, including the Columbia Gas Projects and the Atlantic Sunrise pipeline (the "**ASR Project**"), the Parties have entered into that certain *Settlement Agreement and Mutual Release*, dated July 15, 2019 (the "**Ohio CAT Sub-Contractor Projects Agreement**"), which is annexed hereto as Exhibit 1 to the proposed form of order attached hereto as **Exhibit A** (the "**Proposed Order**"). The Ohio CAT Sub-Contractor Projects Agreement will enable the Debtors to realize maximum value for the Debtors' estates by utilizing various customer project

funding sources to efficiently pay Sub-Contractor's claims and to consensually resolve all outstanding issues between the Parties.

6. In accordance with the authority under the Customer Programs Order, Columbia Gas Agreement Order, and the Sub-Contractor List Seal Order; and in consultation with the Sub-Contractor, counsel for the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), and the official committee of unsecured creditors (the "**Committee**"); the Debtors hereby seek entry of the Proposed Order approving the Ohio CAT Sub-Contractor Projects Agreement and the filing of such agreement under seal.

7. The Debtors submit that the Proposed Order is appropriate and consistent with the Debtors' discussions with the Sub-Contractor and other interested parties, and that entry of the Proposed Order is in the best interests of the Debtors and their estates. The U.S. Trustee, Committee, and Sub-Contractor have, through counsel, informed the Debtors that they do not object to the Court's entry of the Proposed Order.

8. In accordance with and supplemental to the Sub-Contractor List Seal Order, the Debtors have also provided an unsealed version of the Ohio CAT Sub-Contractor Projects Agreement to counsel to the Committee and the U.S. Trustee. The Debtors further reserve the right to provide an unsealed version of the Ohio CAT Sub-Contractor Projects Agreement to such other parties as deemed necessary by the Debtors, in their business judgment, and subject to the agreement of Sub-Contractor.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order at its earliest convenience without further notice or hearing.

Dated: September 4, 2019
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Allison S. Mielke

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EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
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**SUPPLEMENTAL ORDER APPROVING VENDOR
AGREEMENTS AND RELEASES**

Upon consideration of the *Certification of Counsel Regarding Proposed Supplemental Order Approving Vendor Agreement and Releases* (the “**Certification of Counsel**”)² and pursuant to and in accordance with the Customer Programs Order, Columbia Gas Agreement Order, and Sub-Contractor List Seal Order; and upon consideration of the Ohio CAT Sub-Contractor Projects Agreement attached hereto as **Exhibit 1**; and this Court having found that the relief requested herein is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and after due deliberation and good and sufficient cause shown and appearing therefor; it is

HEREBY ORDERED THAT:

1. The Ohio CAT Sub-Contractor Projects Agreement attached hereto as **Exhibit 1**, including any releases contained therein, is approved.

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² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Certification of Counsel.

2. The Debtors are authorized to execute and deliver all instruments and documents, and take such other actions as may be necessary or appropriate, to implement and effectuate the relief granted by this Order, including entry into agreements necessary to effectuate and relieve the conditions to the Ohio CAT Sub-Contractor Projects Agreement on terms not less favorable to the Debtors estates and creditors.

3. The *Motion of Ohio Machinery Company Seeking an Order (I) Compelling Debtors to Perform Their Obligation Under Their Insurance Policies to Obtain Coverage and Turn Over Proceeds; (II) Determining That Certain Insurance Policies Are Not Property of Debtors' Estates; (III) Granting Relief from or Modifying the Automatic Stay as to Insurers; and (IV) Allowing Administrative Claims and Directing Immediate Payment Thereof* [D.I. 364], and the *Motion of Ohio Machinery Company for Order Directing Examination of Debtors and Production of Documents Pursuant to Fed. R. Bankr. P. 2004* [D.I. 365], and the *Objection of Ohio Machinery Company to Debtors' Second Omnibus Motion for Entry of an Order, Pursuant to Sections 105(a) and 365(a) of the Bankruptcy Code, Authorizing the Debtors to Reject Certain Unexpired Leases Nunc Pro Tunc to the Lease Rejection Date and Certain Executory Contracts* [D.I. 367] shall be deemed to be withdrawn without prejudice.

4. Sub-Contractor's claim that is assigned to Federal Insurance Company ("**Surety**") shall be an allowed claim that is not subject to challenge, objection, offset, or reduction for any reason, upon full payment of such claim by Surety.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

EXHIBIT 1

[Filed Under Seal]