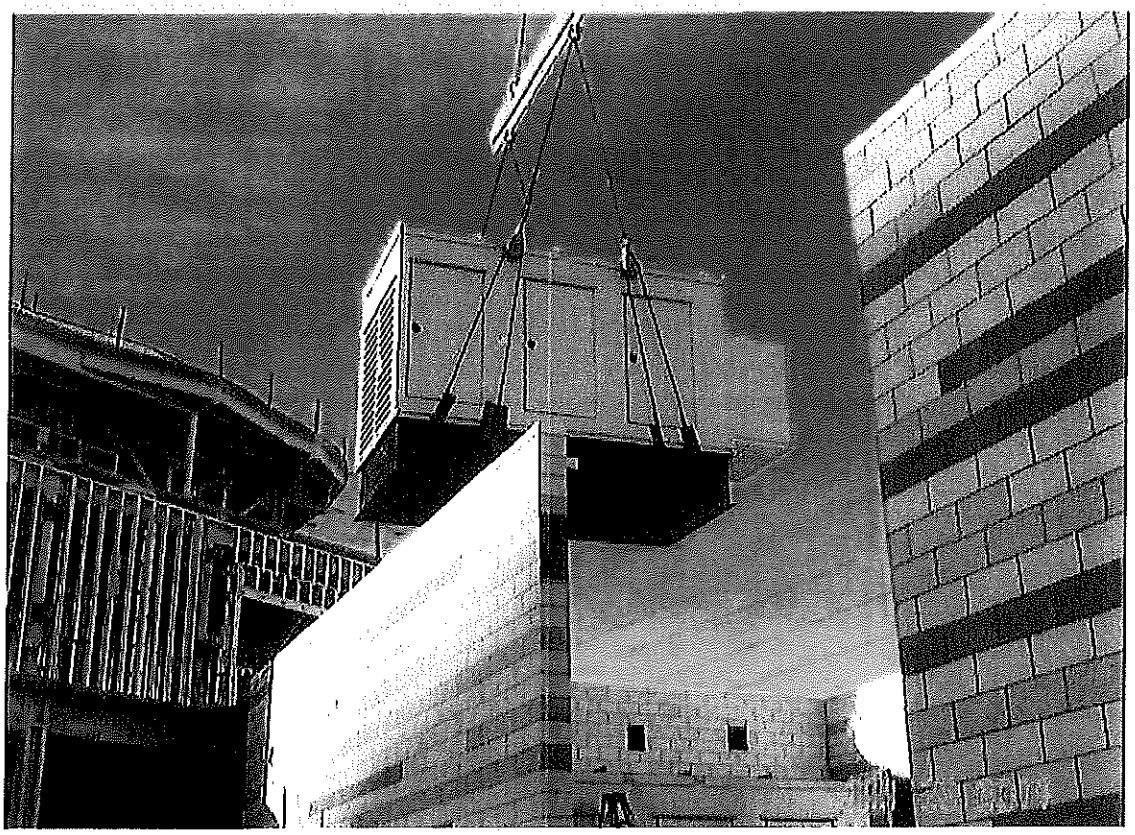
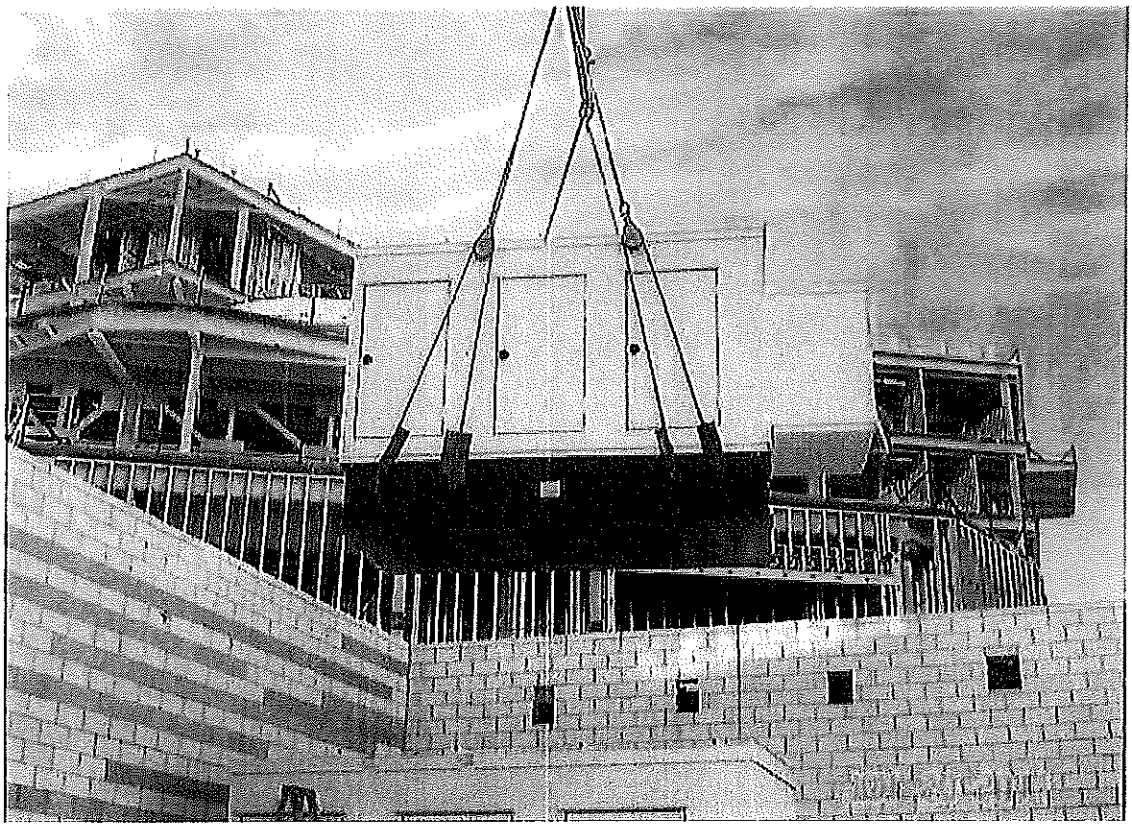
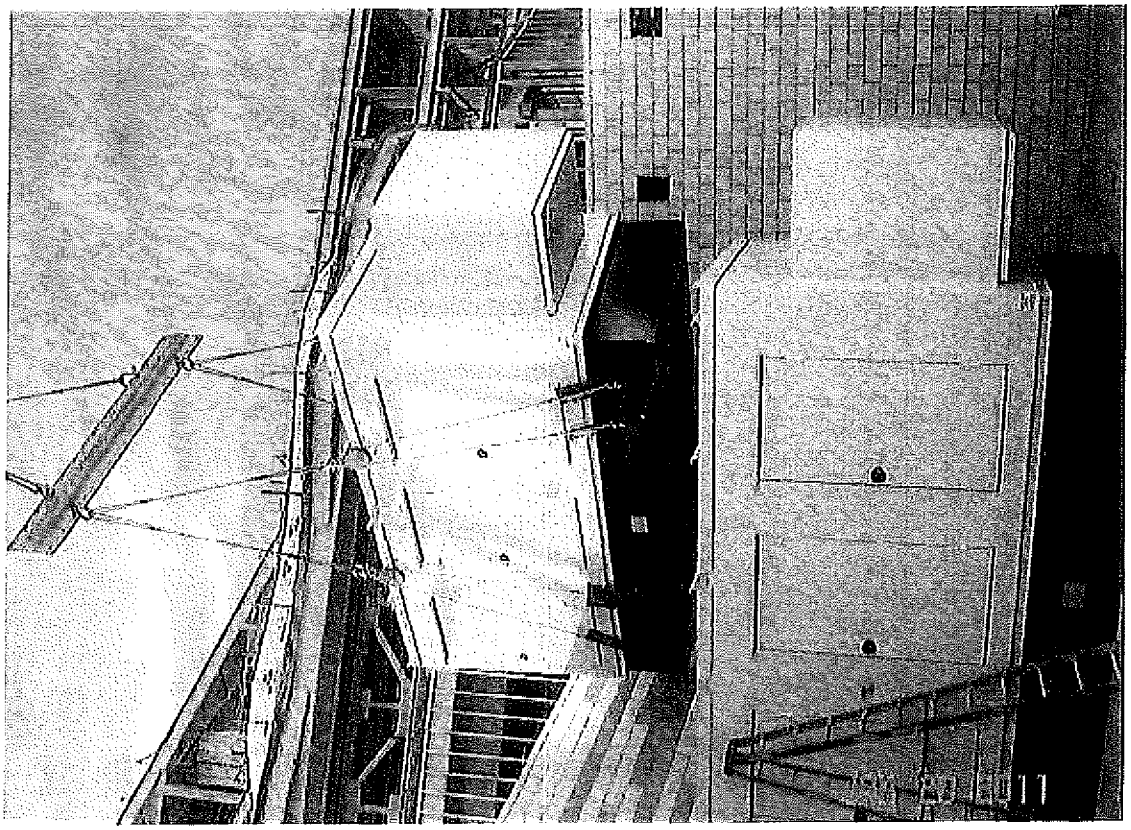
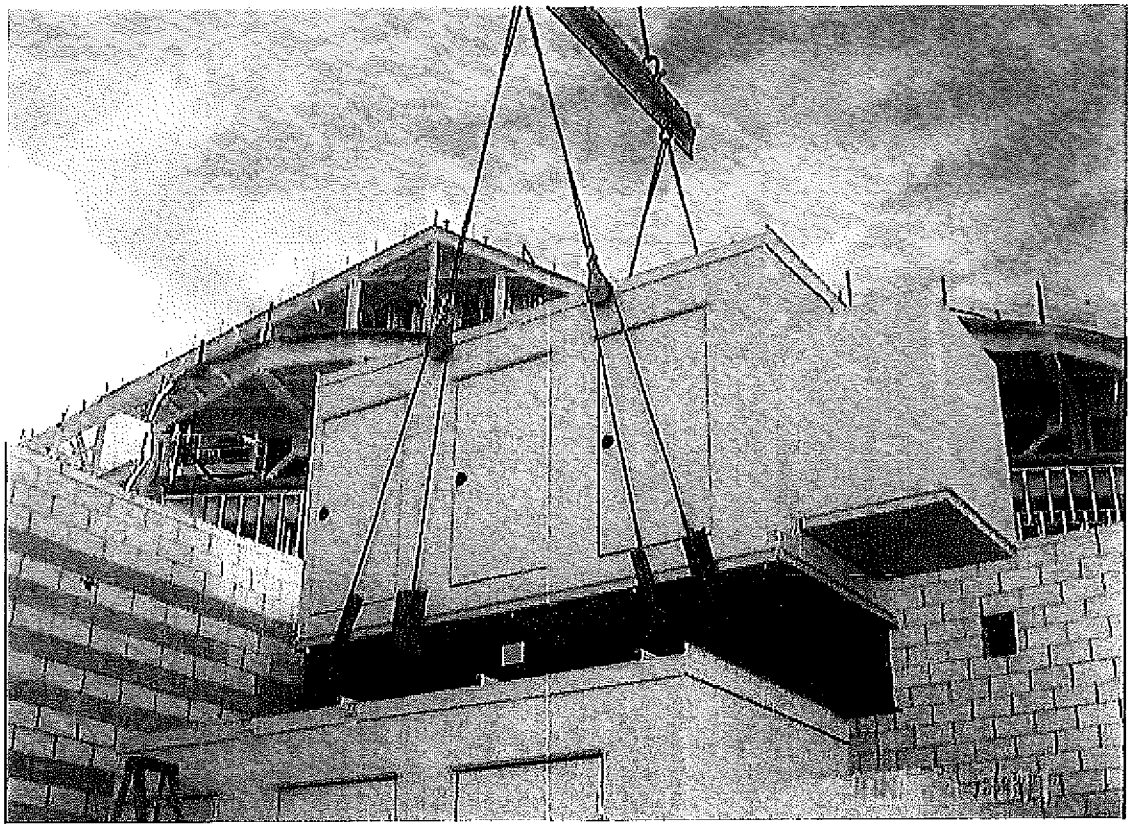


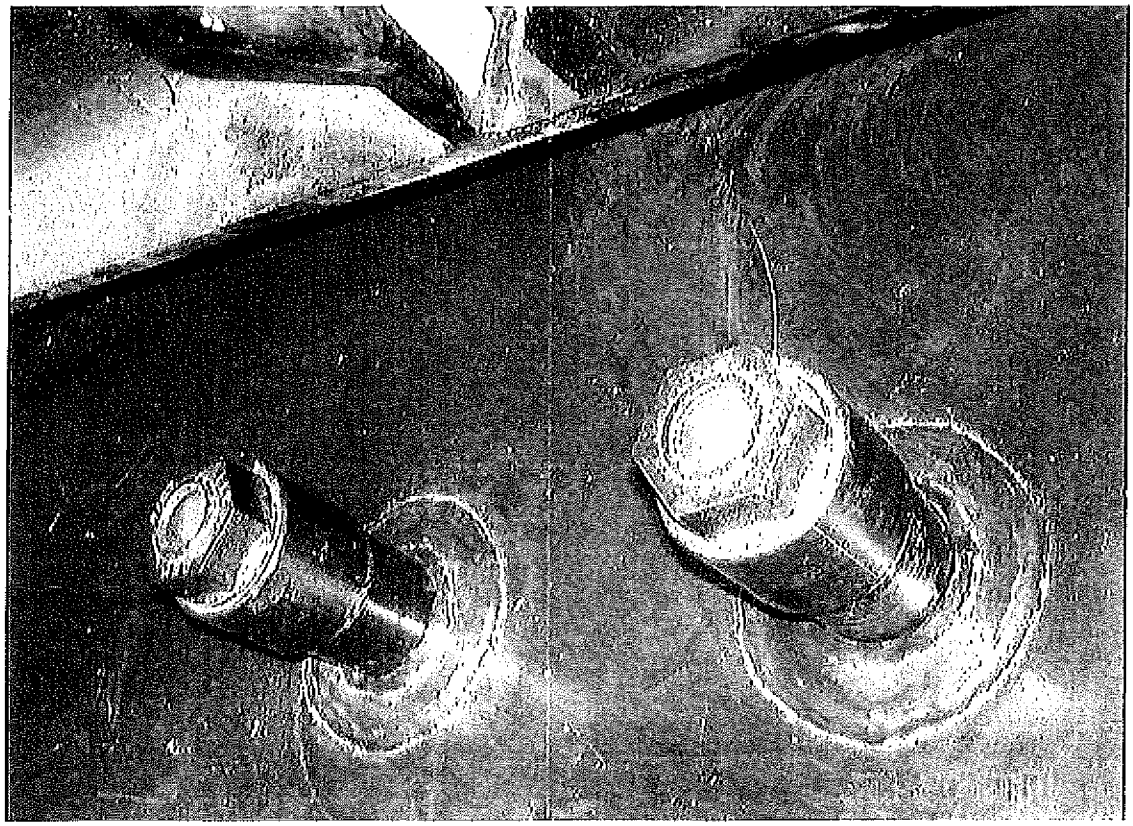


J16-009
CASH1682

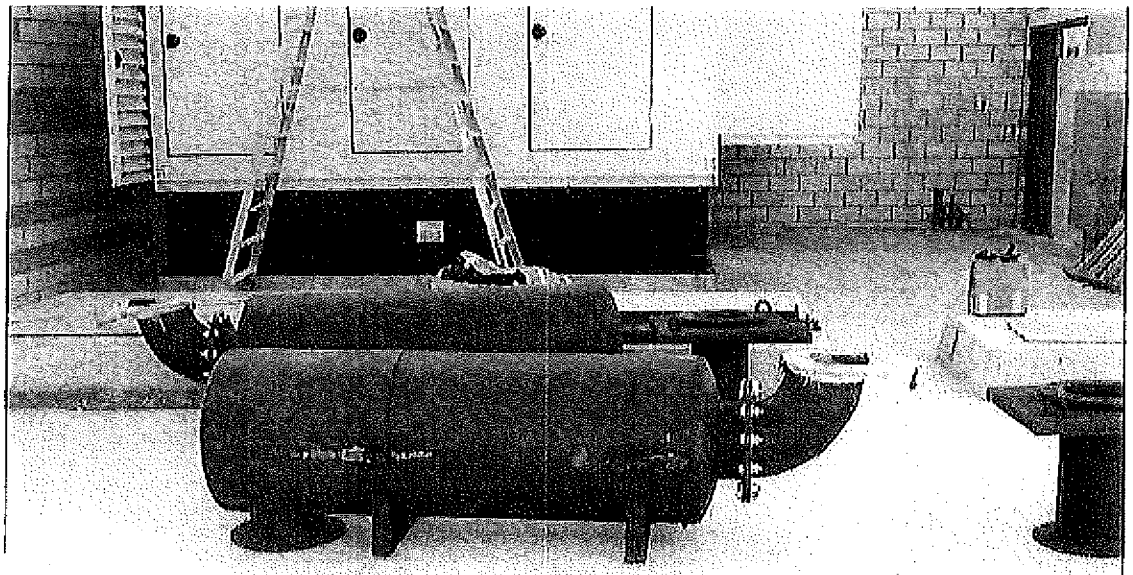


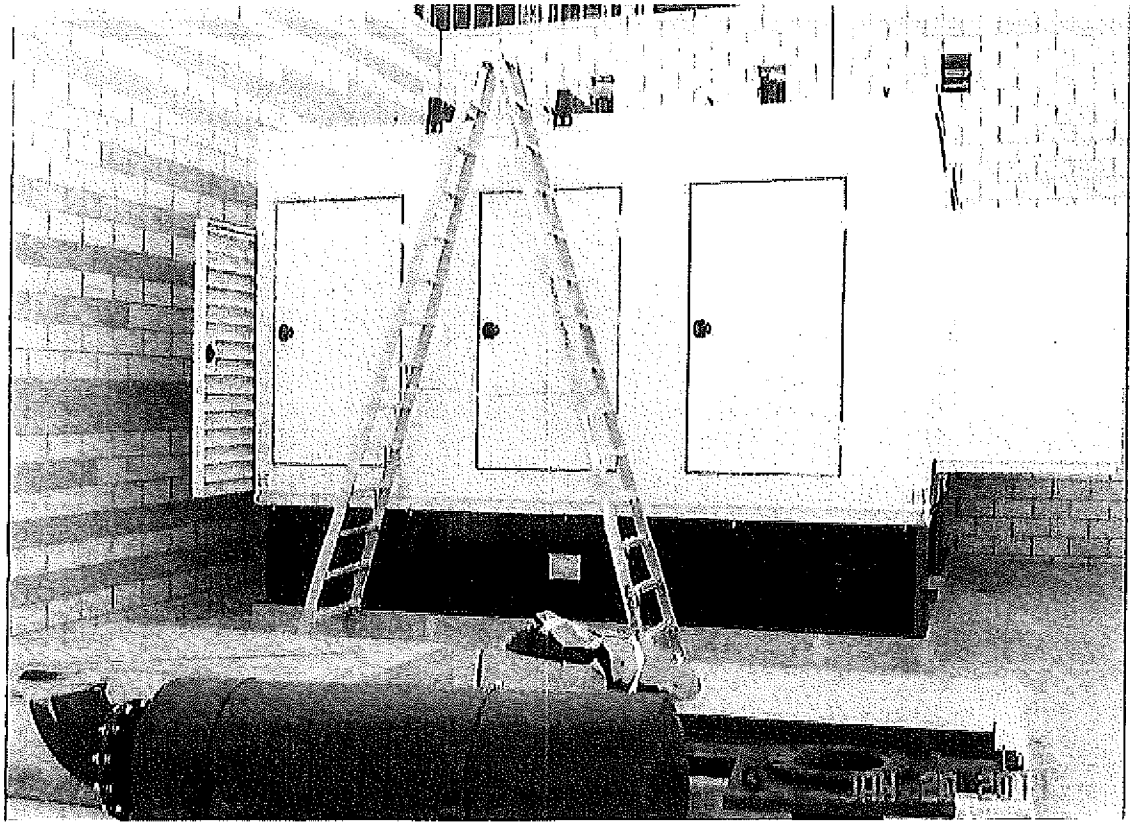


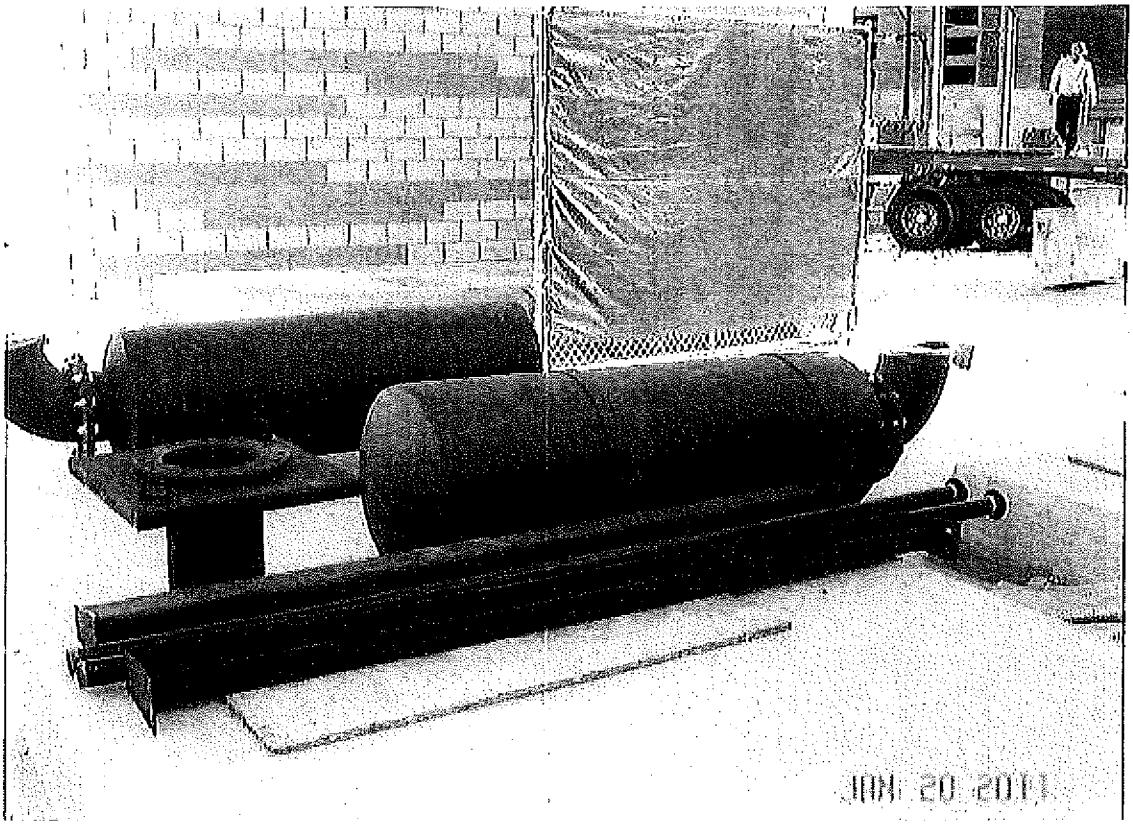
J16-010
CASH1683



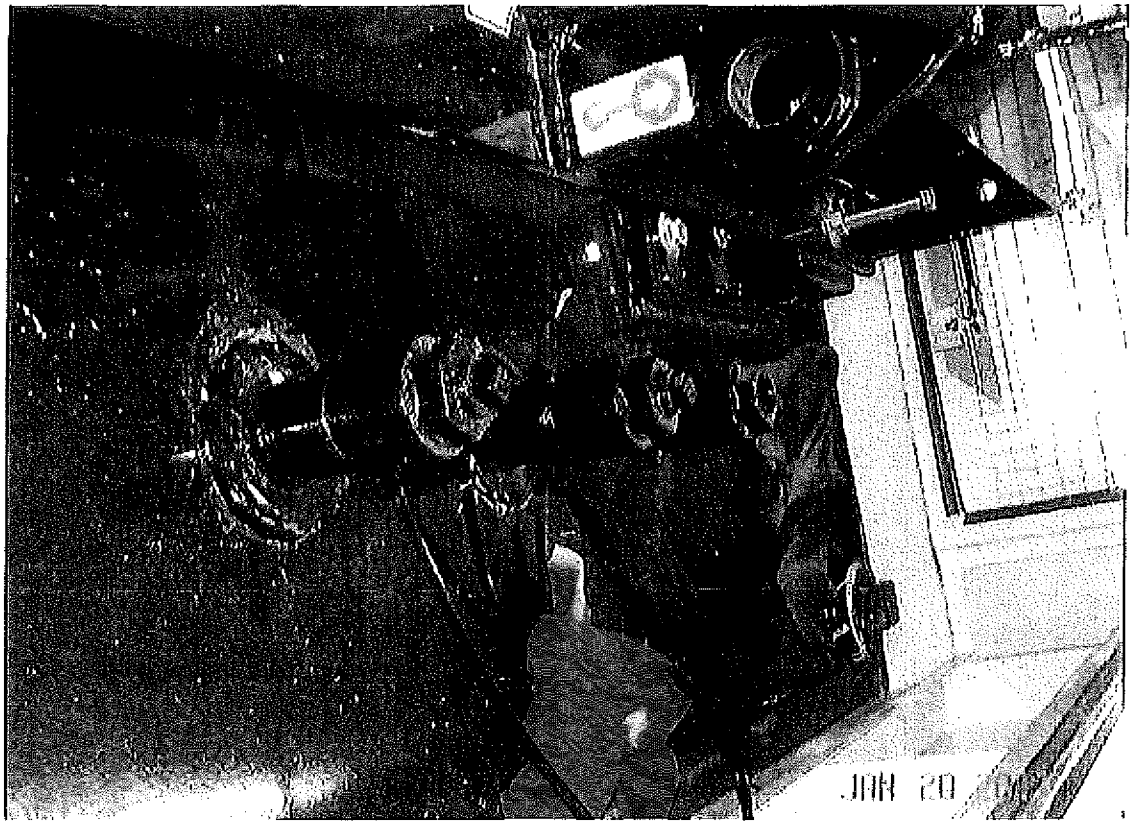
J16-011
CASH1684



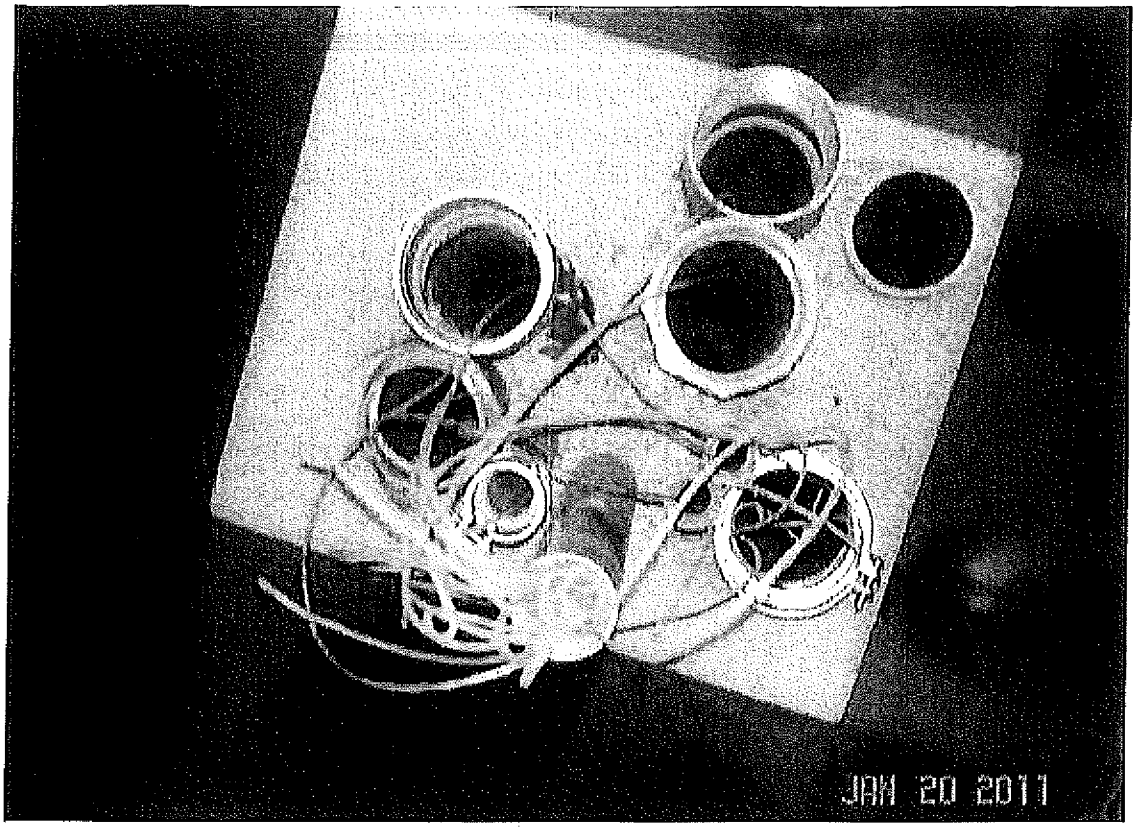




J16-013
CASH1686



J16-014
CASH1687



J16-015
CASH1688

EXHIBIT 92.J17

Anderson, Donna

From: Anderson, Donna
Sent: Thursday, July 07, 2011 3:55 PM
To: Phillips, David
Cc: Stary, Gerald; Louttit, Eric
Subject: RE: CASHMAN LIEN

Thanks, David. Sounds like someone along the chain is holding onto money that's not theirs. If it doesn't resolve quickly, you can probably ask Whiting-Turner to get Mojave to bond it off the title.

Donna

From: Phillips, David
Sent: Thursday, July 07, 2011 3:55 PM
To: Anderson, Donna
Cc: Stary, Gerald; Louttit, Eric
Subject: RE: CASHMAN LIEN

Donna:
Here is the complete story:
Whiting-Turner Contracting contracted Mojave Electric to install the complete electrical systems at the new City Hall.
Mojave retained CAM Consulting to purchase the Generators. CAM Consulting purchased the Generators from Cashman Equipment Company.
Whiting-Turner paid Mojave for the Generators and received Unconditional Releases from Mojave, CAM Consulting and Cashman Equipment.
Whiting-Turner has turned this issue over to its Legal Council.

Contact me with any additional questions or concerns.
Thanks

David R. Phillips CSI
FOREST CITY COMMERCIAL CONSTRUCTION
Vice President
518 South First Street
Las Vegas, Nevada 89101
Phone: 702-851-3460
Fax: 702-851-3464
Cell: 702-493-4744
davidphillips@forestcity.net

From: Anderson, Donna
Sent: Thursday, July 07, 2011 8:08 AM
To: Phillips, David
Cc: Stary, Gerald
Subject: CASHMAN LIEN

Good morning!

Cam Consulting retained Cashman Equipment Company to provide equipment for FC/LW Vegas LLC's project. Cashman hasn't been paid any of its $755,893.89 contract. The contract was COD and Cam didn't pay on delivery.

So Cashman recorded a mechanic's lien on June 22 (see attachment).

Bummer.

Please let me know if there is something I can do to assist.

Donna

Inst #: 201106220002156
Fees: $15.00
N/C Fee: $0.00
06/22/2011 10:52:02 AM
Receipt #: 820247
Requestor:
PEZZILLO ROBINSON
Recorded By: MSH Pgs: 2
DEBBIE CONWAY
CLARK COUNTY RECORDER

APN: 139-34-311-021

Recording Requested By:
Jennifer R. Lloyd-Robinson, Esq.
Pezzillo Robinson
6750 Via Austi Parkway, Suite. 170
Las Vegas, Nevada 89119

NOTICE OF LIEN

The undersigned, Cashman Equipment Company ("Lien Claimant"), claims a lien upon the property described in this notice for work, materials, or equipment furnished or to be furnished for the improvement of the property:

1. The amount of the original contract is: $755,893.89.
2. The total amount of all additional or changed work, materials and equipment, if any, is: $0.
3. The total amount of all payments received to date is: $0.
4. The amount of the lien, after deducting all just credits and offsets, is: $755,893.89.
5. The name of the owner, if known, of the property is: FC/LW Vegas LLC and LWTIC Successor LLC, care of Forest City Enterprises.
6. The name of the person by whom the Lien Claimant was employed or to whom the Lien Claimant furnished or agreed to furnish work, materials or equipment is: Cam Consulting, Inc.
7. A brief statement of the terms of payment of the Lien Claimant's contract is: Lien Claimant was to be paid upon delivery.
8. A description of the property to be charged with the lien is: 518 S. 1st St., Las Vegas, Nevada, Assessor's Parcel Number 139-34-311-021.

Dated: June 21, 2011

Cashman Equipment Company

By: _____
Shane Norman, Credit Manager

J17-003
CASH1730

STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

I, Shane Norman, being first duly sworn on oath, according to law, deposes and says:

I have read the foregoing Notice of Lien, know the contents thereof and state that the same is true of my own personal knowledge, except those matters stated upon information and belief, and, as to those matters, I believe them to be true.

Shane Norman

SUBSCRIBED AND SWORN to before me
this 2nd day of June, 2011.

NOTARY PUBLIC in and for said County and State

TERRI L. MOLINARO
Notary Public, State of Nevada
Appointment No. 93-0665-1
My Appt. Expires July 31, 2013

J17-004
CASH1731

EXHIBIT 92.J18

Recording Requested by and Return to:
CASHMAN EQUIPMENT
3300 ST ROSE PKWY Credit Dept
HENDERSON, NV 89052
Phone 800 937-2326 Fax 702 633-4695

Customer Name MOJAVE ELECTRIC
Project / Job J1771 LAS VEGAS CITY HALL
PO # 603410-017
Agreement # R16743
Agreement Date 3/9/2010
Cert No 7009 1410 0001 4014 5685

101381 015
4/29/2010
CLARK County

PRELIMINARY NOTICE OF RIGHT TO LIEN AND REQUEST FOR RECEIPT OF NOTICE OF COMPLETION

Customer contracting for said Equipment or Labor: R16743 General

MOJAVE ELECTRIC
3755 W HACIENDA AVE
LAS VEGAS NV 89118
Phone: (702) 798-2970

Owner: 7009 1410 0001 4014 5678 nder, Surely or Bonding Co:
FOREST CITY ENTERPRISES INC
TERMINAL TOWER #1410, 50 PUBLIC S
CLEVELAND OH 44113-2202
Phone:

The undersigned notifies you that they have supplied equipment for the improvements of the property identified as:

R16743

JobNum:	J1771	**Agreement #:**	R16743
Address:	495 MAIN ST		/E CLARK
City / State:	LAS VEGAS NV	**county:**	CLARK
Job Info:	LAS VEGAS CITY HALL		

This is not a notice that the undersigned has not or does not expect to be paid, but a notice required by law that the undersigned may, at a future date, claim a lien as provided by law against the property if the undersigned is not paid.

REQUEST IS HEREBY MADE: The Owner is hereby requested, pursuant to NRS 108.228(4), to provide this claimant with a copy of any Notice of Completion recorded on this construction project.

Customer is required to immediately advise Cashman Equipment should this piece of equipment or any other piece of equipment designated for use on this project be moved to another project.

Prepared by: Karen Lee McClain 4/29/2010
KAREN LEE McCLAIN, CREDIT ASSISTANT Phone: (800) 937-2326 ext 4603 Fax: (702) 633-4695

For more information regarding this notice or to obtain a release, please contact your account representative:

DIANN BOWIE
Phone: (800) 937-2326
Fax: (702) 633-4695

EXHIBIT 92.J19

10138
PRELIM
R16743
issue prelim

M.W. Schofield, Assessor

REAL PROPERTY PARCEL RECORD

Click Here for a Print Friendly Version

GENERAL INFORMATION	
PARCEL NO.	139-34-201-022
OWNER AND MAILING ADDRESS	P Q LAS VEGAS L L C %FOREST CITY ENTPRS INC TERMINAL TOWER #1410 50 PUBLIC SQUARE CLEVELAND OH 44113-2202
LOCATION ADDRESS CITY/UNINCORPORATED TOWN	495 S MAIN ST LAS VEGAS
ASSESSOR DESCRIPTION	PARCEL MAP FILE 117 PAGE 14 LOT 1 SEC 34 TWP 20 RNG 61
RECORDED DOCUMENT NO.	# 20091210:03372
RECORDED DATE	12/10/2009
VESTING	NO STATUS

*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND SUPPLEMENTAL VALUE	
TAX DISTRICT	203
APPRAISAL YEAR	2009
FISCAL YEAR	09-10
SUPPLEMENTAL IMPROVEMENT VALUE	0
SUPPLEMENTAL IMPROVEMENT ACCOUNT NUMBER	N/A

REAL PROPERTY ASSESSED VALUE		
FISCAL YEAR	2009-10	2010-11
LAND	0	0
IMPROVEMENTS	0	0

J19-001
CASH1735

EXHIBIT 92.J20

Recording Requested by and Return to:
CASHMAN EQUIPMENT
3300 ST ROSE PKWY Credit Dept
HENDERSON, NV 89052
Phone 800 937-2326 Fax 702 633-4695

Customer # 101381 MOJAVE ELECTRIC
Project / Job LAS VEGAS CITY HALL
PO # 603410-017 015
Agreement # R16743 12/7/2010
Agreement Date 3/9/2010 CLARK County
Cert No 7009 1410 0001 4015 0290

PRELIMINARY NOTICE OF RIGHT TO LIEN AND REQUEST FOR RECEIPT OF NOTICE OF COMPLETION

Customer contracting for said Equipment or Labor: R16743
MOJAVE ELECTRIC
3755.W HACIENDA AVE
LAS VEGAS NV 89118
Phone: (702) 798-2970

General: 7009 1410 0001 4015 0276
WHITING TURNER CONTR CO - 6720
6720 VIA AUSTI PKWY STE 300
LAS VEGAS NV 89119
Phone: (702) 660-0700

Owner: 7009 1410 0001 4015 0283
OH LAS VEGAS LLC
50 PUBLIC SQUARE STE 1005
CLEVELAND OH 44113
Phone:

ler, Surely or Bonding Co:

The undersigned notifies you that they have supplied equipment for the improvements of the property identified as:

Agreement #:	R16743			R16743
Address:	495 MAIN ST		/E CLARK	
City / State:	LAS VEGAS	NV	**county:** CLARK	
Job Info:	LAS VEGAS CITY HALL			

This is not a notice that the undersigned has not or does not expect to be paid, but a notice required by law that the undersigned may, at a future date, claim a lien as provided by law against the property if the undersigned is not paid.

REQUEST IS HEREBY MADE: The Owner is hereby requested, pursuant to NRS 108.228(4), to provide this claimant with a copy of any Notice of Completion recorded on this construction project.

Customer is required to immediately advise Cashman Equipment should this piece of equipment or any other piece of equipment designated for use on this project be moved to another project.

Prepared by: Karen Lee McClain 12/7/2010
KAREN LEE McCLAIN, CREDIT ASSISTANT Phone: (800) 937-2326 ext 4603 Fax: (702) 633-4695

For more information regarding this notice or to obtain a release, please contact your account representative:

KAREN LEE McCLAIN
Phone: (800) 937-2326
Fax: (702) 633-4695

J20-001
CASHI736

EXHIBIT 92.J21

JOB INFORMATION SHEET

PROJECT INFORMATION

City of Las Vegas New City Hall
495 Main Street
Las Vegas Nevada 89101

ELECTRICAL CONTRACTOR

MOJAVE ELECTRIC
3755 W. Hacienda Avenue
Las Vegas, Nevada 89118
PHONE: (702) 798-2970
FAX: (702) 798-3740

PRIME CONTRACTOR

Whiting - Turner
6720 Via Austi Parkway, Suite 300
Las Vegas Nevada 89119
PHONE: 650-0700 0
FAX: 650-2650

OWNER

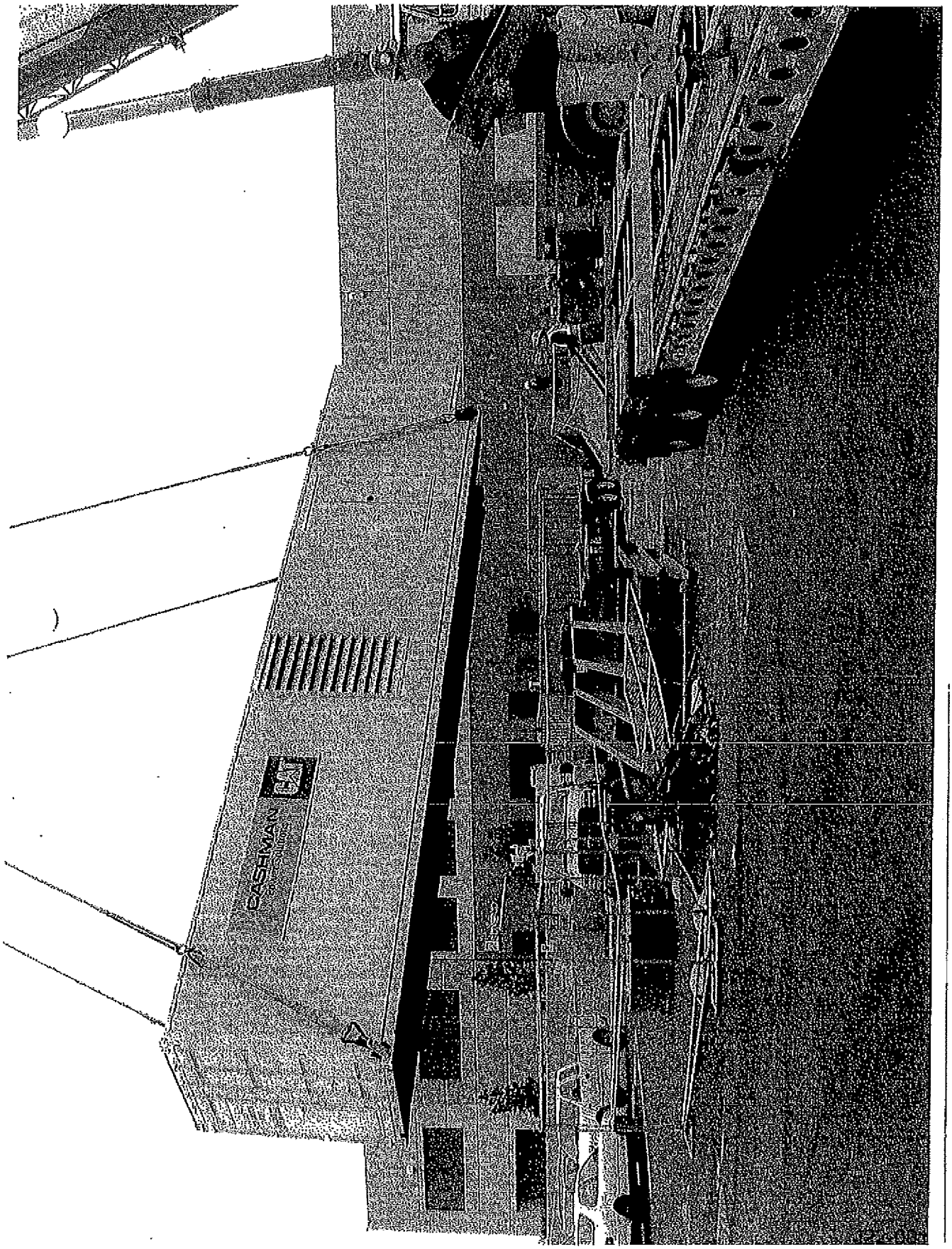
OH Las Vegas LLC
50 Public Square, Suite 1005
Cleveland Ohio 44113
PHONE:
FAX:

FROM:

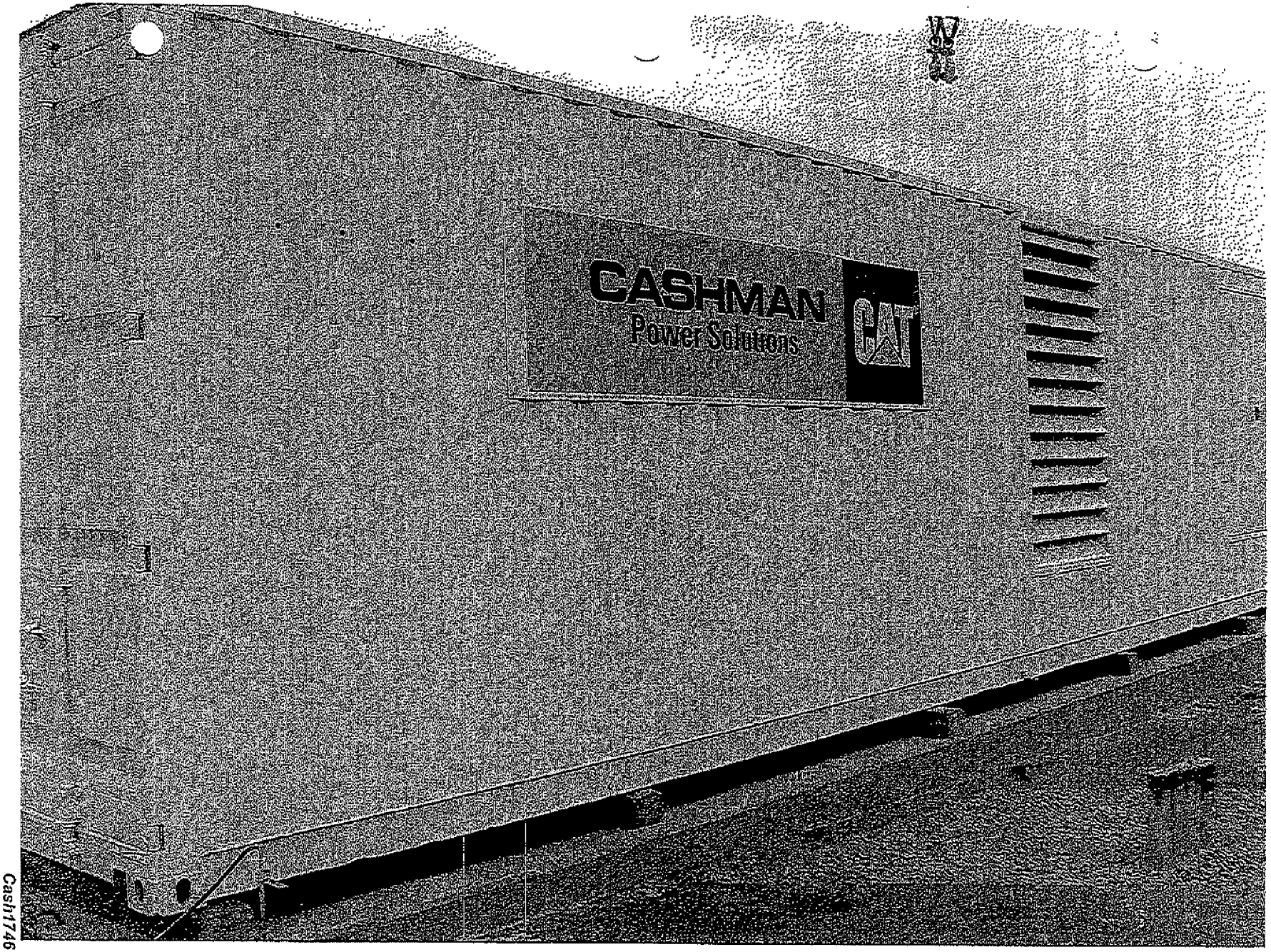
Mojave Electric

J21-001
CASH1737

EXHIBIT 92.J22



Cash1745



Cash1746

EXHIBIT 92.J23

CASHMAN CAT

POWER SOLUTIONS

3300 St. Rose Parkway
Henderson, NV 89052

Main (702) 649-6777
Fax (702) 639-5090

August 31, 2009
QUOTE EXPIRES AFTER THIRTY (30) DAYS.

(Revised)

Attention: Estimating

Project Name: Las Vegas City Hall
QUOTE KS08310901

We are pleased to provide pricing per the following quote and bill of materials. Specification 260548, 263213, 263353, 263500, 263600 & drawings E5.00, E5.01, E5.02 & E5.03 were reviewed to complete this quote.

Current lead time on new order for gen set 20-22 weeks after release. Current lead time on CAT switchgear is 20-22 weeks after release. Current lead time on Mitsubishi UPS is 8-10 weeks after release. Current lead time on ATS is 4-6 weeks after release.

2-Caterpillar C32 900kW diesel generator set & 3 ATS	$ 418,844+tax
Cat Switchgear	$ 279,208+tax
Mitsubishi 600Kva UPS w/ 17 minutes of battery backup	$ 157,415+tax

$698,052

Clarification: On the ATS feeding the fire pump, the ATS is integral with pump controls and needs to be provided by pump supplier.

Third Party LEED inspection/certification by others.

Price includes freight to site, start up, commissioning, load bank testing at site, and owner training on equipment provided by Cashman Equipment. Also includes CAT parts and labor warranty from date of startup and 2 year service and maintenance agreement.

Please add applicable tax.

NOT INCLUDED: CRANE TO OFFLOAD, INSTALLATION, FUEL, TAXES.

Fuel is estimated at $4.60 per gallon. Price is subject to change at time of delivery.

Thank you for the opportunity to quote this equipment.

Sincerely yours,

CASHMAN POWER

Kim Symons
Kim Symons
Power Systems Sales Representative

Tel 702-639-5012
Cel 702-326-6596

J23-001
CASH1747

EXHIBIT 92.J24

10-504

Mojave Electric, Inc.

UPS

Please Send Invoices and Statements To:
3755 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 798-2970
Fax (702) 739-1419

PURCHASE ORDER

767810 UPS - 10011
P.O. NO. & JOB NO. MUST APPEAR ON ALL INVOICES, DEL. TICKETS AND BILLS OF LADINGS.

Date 4/23/2010

Page 1 of 4

Ship Via DELIVER

TO CAM Consulting c/o Cashman Equipment
ATTN.: Angelo Carvalho / Keith Lozeau
PHONE # 702-325-0032 / 702-839-5018
MUST NOTIFY 24 HOURS BEFORE DELIVERY.
FOR EXACT MATERIAL DELIVERY LOCATION

Job No. City of Las Vegas New City 767810
Ship To SHOP ATTN# 767810
City LAS VEGAS State NV 89118
F.O.B. Job Site ☐ Full Freight Allowed ☐ Freight Excluded ☐

#	QUANTITY	TYPE	DESCRIPTION	PRICE	PER	TRADE DISC	EXTENSION NET
1	1		400 KW, 277/480V 3 PHASE WITH BATTERIES AS SHOWN ON CONTRACT DRAWINGS DATED 11/05/08 MGE Model # EPS6000	157,415.00	E		157,415.00
2	1		Shunt Trip Station	-	E		$ -
3	1		Extra Materials are required per 263353-1.8	-	LT		$ -
*	FROM THE DATE OF THIS PURCHASE ORDER ALL CORRESPONDENCE IS TO BE SENT TO THE ATTENTION: Chris Meiers						
*	ALL FREIGHT IN INCLUDED IN THE PURCHASE ORDER						
*	IT IS THE SELLERS RESPONSIBILITY TO INSURE MOJAVE'S PROJECT MANAGER IS NOTIFIED OF ALL BACK ORDERS AND SHIPPING SCHEDULES OF ALL EQUIPMENT IN WRITING IN A TIMELY FASHION						
*	VENDOR HAS 30 DAYS FROM THE DATE OF COMPLETION OF THEIR WORK AND/OR DELIVERY OF MATERIALS TO SUBMIT ALL COSTS RELATED TO THIS PURCHASE ORDER AND SUBSEQUENT CHANGE ORDERS. ANY INVOICES SUBMITTED AFTER THE 30 DAYS WILL BE CONSIDERED WAIVED AND NOT BILLABLE BY MOJAVE ELECTRIC						
*	DELIVER MATERIALS TO: MOJAVE ELECTRIC, INC. ATTENTION: 767810-UPS-10011 3755 W HACIENDA AVE LAS VEGAS NEVADA 89118						
*	DELIVERY LOCATION MAY BE CHANGED TO JOBSITE AT THE TIME OF RELEASE						
*	TERMS: THIS IS A PAID WHEN PAID PO. INVOICES ARE TO BE INTO MOJAVE NOT LATER THAN THE 15TH OF THE MONTH AND PROJECTED THRU THE END OF THE MONTH.						

VENDOR PLEASE NOTE

After release, starting within ten (10) days a written expediting report will be given to this office on the first and fifteenth of each month. This report is to include the delivery date for each item and any changes from the previous report. A detailed packing list is to be included with each shipment and a copy attached to each invoice.

Send all invoices to the attention of: Kathy Gaverson. Send all expediting reports to the attention of: Nancy Geovron.

SHIP ALL MATERIAL ON THIS P.O. AS FREIGHT IF POSSIBLE.
•ALL MATERIAL TO INCLUDE ALL SALES TAXES IN THE LUMP SUM PRICE.
•MARK ALL BOXES, ETC. WITH THE JOB NUMBER.

THE 1% 2% 25th PROX. INVOICES RECEIVED AFTER 25th CONSIDERED NEXT MONTH'S BUSINESS.

SUB TOTAL	157,415.00
TAX	
CASH DISC	
TOTAL PRICES FIRM	

ACCEPTED FOR VENDOR

BY _____

Angelo Carvalho / Keith L CAM Consulting c/o Cashman Equipment

MOJAVE ELECTRIC, INC.

BY _____

Hollis Fangon, VP Project Development

J24-001
CASH1752

PURCHASE ORDER

Mojave Electric, Inc.

Please Send Invoices and Statements To:
3755 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 798-2970
Fax (702) 739-1419

Gensets

767810 GEN- 10010
P.O. NO. & JOB NO. MUST APPEAR ON ALL INVOICES, DEL. TICKETS AND BILLS OF LADINGS.

Date 4/23/2010
Page 1 of 4
Ship Via DELIVER

TO CAM Consulting c/o Cashman Equipment
ATTN.: Angelo Carvalho / Keith Lozeau
PHONE # 702-325-9032 / 702-839-5018
MUST NOTIFY 24 HOURS BEFORE DELIVERY FOR EXACT MATERIAL DELIVERY LOCATION

Job No. City of Las Vegas New City 767810
Ship To SHOP ATTN# 707010
City LAS VEGAS State NV 89118
F.O.B. Job Site ☐ Full Freight Allowed ☐ Freight Excluded ☐

#	QUANTITY	TYPE	DESCRIPTION	PRICE	PER	TRADE DISC	EXTENSION NET
			Supply Generator System as required by the Contract Specifications and Drawings dated November 24, 2008 including addendas 1 thru 4 and as directed by Project Manager to include but not be limited to the below listed material.				
1	1	GEN#	900KW, 480/277V, 4P, 4W, N3R Enclosed Generator	163,618.00	E		$ 163,618.00
2	1	GEN#1&2	Shunt Trip Station	600.00	E		$ 600.00
3	1	GEN#2	900KW, 480/277V, 4P, 4W, N3R Enclosed Generator	163,618.00	E		$ 163,618.00
4	1	PSG	3000A, 480/277V, 3P, 4W, N3R Paralleling Switchgear	246,100.00	E		$ 246,100.00
5	1	ATS-X2	800A, 480/277V, 4P, 4W, N3R Automatic Transfer Switch	7,711.00	E		$ 7,711.00
6	1	ATS-E	1200A, 480/277V, 4P, 4W, N3R Automatic Transfer Switch	10,867.00	E		$ 10,867.00
7	1	ATS-X1	1000A, 480/277V, 4P, 4W, N3R Automatic Transfer Switch	10,267.00	E		$ 10,267.00
8	1	ATS#	Remote Annunicator		E		$ -
9	1	Spares	Extra Materials as called for in 263213-1.12	2,366.00	E		$ 2,366.00
10	1	CSA	2 year maintenance agreement	7,500.00	E		$ 7,500.00
11	1	Fuel	Diesel Fuel for each tank - Billed at cost budget 4.50 per gal	7,860.00	E		$ 7,860.00

* FROM THE DATE OF THIS PURCHASE ORDER ALL CORRESPONDENCE IS TO BE SENT TO THE ATTENTION: Chris Melero
* THE ELECTRICAL STUB UP AREA IS TO HAVE A FACTORY INSTALLED ELECTRICAL WIREWAY FROM THE TERMINALS TO THE FINISHED FLOOR - AT ALL LOCATIONS
* ANY INVOICE THAT IS BILLED DUE TO A CHANGE ORDER TO THIS PO SHALL BE DESIGNATED AS PART OF SAID CHANGE ORDER NUMBER - THIS NUMBER CAN BE FOUND IN THE UPPER RIGHT HAND CORNER OF MOJAVE'S CHANGE ORDER. IF NO NUMBER IS PRESENT THEN THE DATE OF THE CHANGE ORDER SHALL BE LISTED
* NO VERBAL DIRECTION OR INFORMATION IS TO BE ACCEPTED FROM BUYER OR SELLER

*SHIP ALL MATERIAL ON THIS P.O. APD FREIGHT IF POSSIBLE.
*ALL MATERIAL TO INCLUDE ALL SALES TAXES IN THE LUMP SUM PRICE.
*MARK ALL BOXES, ETC. WITH THE JOB NUMBER.

'% 2% 25th PROX. INVOICES RECEIVED AFTER 25th CONSIDERED MONTH'S BUSINESS.

SUB TOTAL	
TAX	$ 600,196.00
CASH DISC	

TOTAL PRICES FIRM

ACCEPTED FOR VENDOR

BY _____

Angelo Carvalho / Keith L CAM Consulting c/o Cashman Equipment

MOJAVE ELECTRIC, INC.

BY _____

Peter Fatman, VP Project Development

J24-002
CASH1753

Mojave Electric, Inc.

Please Send Invoices and Statements To:
3755 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 798-2970
Fax (702) 739-1419

PURCHASE ORDER

767810 GEN 10010
P.O. NO. & JOB NO. MUST APPEAR ON ALL INVOICES, DEL. TICKETS AND BILLS OF LADINGS.

Date 4/23/2010

Page 2 of 4

Ship Via DELIVER

TO CAM Consulting c/o Cashman Equipment
ATTN.: Angelo Carvalho / Keith Lozeau
PHONE #: 702-326-3032 / 702-839-6018
MUST NOTIFY 24 HOURS BEFORE DELIVERY FOR EXACT MATERIAL DELIVERY LOCATION

Job City of Las Vegas New City No. 767810
Ship To SHOP ATTN# 767810
City LAS VEGAS State NV Zip 89118
F.O.B. Job Site ☐ Full Freight Allowed ☐ Freight Excluded ☐

#	QUANTITY	TYPE	DESCRIPTION	PRICE	PER	TRADE DISC	EXTENSION NET
*			ALL FREIGHT IN INCLUDED IN THE PURCHASE ORDER				
*			IT IS THE SELLERS RESPONSIBILITY TO INSURE MOJAVE'S PROJECT MANAGER IS NOTIFIED OF ALL BACK ORDERS AND SHIPPING SCHEDULES OF ALL EQUIPMENT IN WRITING IN A TIMELY FASHION				
*			SELLER'S INVOICES MUST COINCIDE WITH MOJAVE PURCHASE ORDER - ITEM #, DESCRIPTION, AND UNIT PRICE BREAKDOWN				
*			EQUIPMENT TO BE ON SITE 20 WEEKS AFTER TRANSMITTAL OF APPROVED SUBMITTALS AND PROPER WRITTEN RELEASE BY MOJAVE ELECTRIC PROJECT MANAGER				
*			VENDOR HAS 30 DAYS FROM THE DATE OF COMPLETION OF THEIR WORK AND/OR DELIVERY OF MATERIALS TO SUBMIT ALL COSTS RELATED TO THIS PURCHASE ORDER AND SUBSEQUENT CHANGE ORDERS. ANY INVOICES SUBMITTED AFTER THE 30 DAYS WILL BE CONSIDERED WAIVED AND NOT BILLABLE BY MOJAVE ELECTRIC				
*			TERMS: THIS IS A PAID WHEN PAID PO - INVOICES ARE TO BE INTO MOJAVE NOT LATER THAN THE 15TH OF THE MONTH AND PROJECTED THRU THE END OF THE MONTH.				
*			SUBMITTALS - WHEN DELIVERED TO MOJAVE WILL BE SEPERATED BY SECTION, SUBSECTION AND 3 HOLE PUNCHED AND DELIVERED TO OUR OFFICE WITHIN 15 WD OF RELEASE. ALL SUBMITTAL INFORMATION IS TO BE SENT TO PETER FERGEN.				
			14 paper copies + 2 Electronic copies of submittals to be supplied as required by Specifications				
			7 paper copies + 2 Electronic copies of O&M Manuals to be supplied as required by Specifications				
			ALL required Assistance from supplier and Manufacturer as needed for BIM Process				

VENDOR PLEASE NOTE:

After release, starting within ten (10) days a written expediting report will be given to this office on the first and fifteenth of each month. This report is to include the delivery date for each item and any changes from the previous report. A detailed packing list is to be included with each shipment and a copy attached to each invoice.

Send all invoices to the attention of: Accounts Payable. Send all expediting reports to the attention of: Nancy Goodson.

•SHIP ALL MATERIAL ON THIS P.O. APB FREIGHT IF POSSIBLE.
•ALL MATERIAL TO INCLUDE ALL SALES TAXES IN THE LUMP SUM PRICE.
•MARK ALL BOXES, ETC. WITH THE JOB NUMBER.

* 1% 2% 25th PROX. INVOICES RECEIVED AFTER 25th CONSIDERED MONTH'S BUSINESS.

SUB TOTAL	$ 600,186.00
TAX	
CASH DISC	

TOTAL PRICES FIRM

ACCEPTED FOR VENDOR

BY _____

Angelo Carvalho / Keith L CAM Consulting c/o Cashman Equipment

MOJAVE ELECTRIC, INC.

BY _____

Ratax Fergen, VP Project Development

J24-003
CASH1754

EXHIBIT 92.J25

CAT Rental Power

CASHMAN CAT

POWER SOLUTIONS

May 24, 2010

Cashman Power Solutions
3300 St. Rose Pkwy.
Henderson, NV 89052

Mojave Electric
3755 W. Hacienda
Las Vegas, NV 89118

Subject: Las Vegas City Hall Submittal review

Pete,
We have completed our review of the Las Vegas City Hall submittal with the following responses for re-submittal:

Div 263213- Packaged Generator Systems

1. 9kw jacket heaters require circuit revisions to the drawings.
   a. Jacket heaters are designed to work on either 240V or 208V.
2. Generators shall be furnished with upturn radiator exhaust scoops.
   a. Upturn scoops will be provided. Revised drawings are being produced.
3. *Shop drawings of the generator yard not in the Cashman scope.*

Div 263353- Static uninterruptible power supply

1. Furnish with network monitoring via Ethernet cable connection
   a. Item D in the UPS BOM and Section 5 in the UPS submittal references the NETCOM UPS monitoring equipment.

Div 263600- Transfer switches

1. Provide information for remote status panel.
   a. Cashman will provide a remote status panel for the Fire Command indicating ATS switch position.
2. *Equipment room layouts not in the Cashman scope.*
3. Indicate automatic transfer switch features as indicated in specifications.
   a. Transfer switches meet the scope of the specification.

Thank you,

Kim Symons
Account Manager
Cashman Power Solutions

Las Vegas
3300 St. Rose Pkwy
Henderson, NV 89052
PH: 702-649-8777
FAX: 702-639-5090

Reno
600 Glendale Ave.
Sparks, NV. 89431
PH: 775-358-5111
FAX: 775-358-0433

Elko
5010 Idaho Street
Elko, NV. 89801
PH: 775-738-9871
FAX: 775-738-7865

J25-001
CASH1762

EXHIBIT 92.J26

Mojave Electric

TRANSMITTAL

MOJAVE JOB # 767810

DATE: 06/16/10

JOB NAME: City of Las Vegas New City Hall
ADDRESS: 495 Main Street
Las Vegas Nevada 89101

TO: CAM Consulting c/o Cashman Equipment

ATTN: Angelo Carvalho / Keith Lozeau

WE ARE SENDING

- [ ] SHOP DRAWINGS
- [ ] LETTER
- [ ] DRAWINGS
- [X] SUBMITTALS
- [ ] SAMPLES
- [ ] SUB CONTRACT

SUBMITTED FOR

- [ ] APPROVAL
- [X] YOUR RECORDS
- [ ] CORRECTION AND RESUBMITTAL
- [ ] IMMEDIATE RELEASE TO JOBSITE
- [ ] IMMEDIATE RELEASE TO SHOP
- [ ] _____

ACTION TAKEN

- [X] APPROVED
- [ ] APPROVED AS NOTED
- [ ] REVISE AND RESUBMIT
- [ ] REJECTED
- [ ]
- [ ] _____

SPEC. SECT.	ITEMS SUBMITTED	MANUFACTURER	COPIES SENT	COPIES TO BE RETURNED
263600	ATS Product Data	Cataplilar	1	0
263213	Generator Installation	Cataplilar	1	0
263600	Generator Drawing	Cataplilar	1	0

RESUBMITTAL DUE BY: _____

REMARKS: Documents given directly to Cashman Power Systems

RECEIVED BY: _____

DATE: _____

3755 W. Hacienda Avenue Las Vegas, Nevada 89118-1755 FAX 702-798-3740

J26-001
CASH1763

EXHIBIT 92.J27

Mojave Electric
3755 W. Hacienda Avenue
Las Vegas, Nevada 89118-1755
(702) 798-2970 - FAX (702) 798-3740

MATERIAL RELEASE ORDER

DATE: August 11, 2010

TO: CAM CONSULTING C/O CASHMAN I
ATTN: ANGELO CARVALHO / KEITH LOZE
FAX #:

RE: NEW CITY HALL
PO #: 767810-GEN-10010
From: Julie Vavrek

PER APPROVED SUBMITTALS FOR THE ABOVE PROJECT, PLEASE MAKE ANY CORRECTIONS NOTED AND RELEASE THE ITEMS AS LISTED BELOW.

PLEASE RELEASE THE FOLLOWING:

LINE ITEM	QTY	TYPE	DESCRIPTION
1	1	GEN#1	900KW, 480/277V, 4P, 4W, N3R Enclosed Generator
2	1	GEN# 1&2	Shunt Trip Station
3	1	GEN#2	900KW, 480/277V, 4P, 4W, N3R Enclosed Generator
4	1	PSG	3000A, 480/277V, 3P, 4W, N3R Paralleling Switchgear
5	1	ATS-X2	800A, 480/277V, 4P, 4W, N3R Automatic Transfer Switch
6	1	ATS-E1	1200A, 480/277V, 4P, 4W, N3R Automatic Transfer Switch
7	1	ATS-X1	1000A, 480/277V, 4P, 4W, N3R Automatic Transfer Switch
8	1	ATS#1	Remote Annunicator

Please contact us ahead of time to make sure the site is prepped. Thank you!

FOR IMMEDIATE RELEASE TO **MOJAVE JOBSITE**
518 South First Street Las Vegas, NV 89101

1) CALL MOJAVE ELECTRIC 24 HRS PRIOR TO DELIVERIES (WHEN APPLIES) NOTIFY Chris (702) 798-2970
2) MARK ALL CARTONS, ETC. WITH JOB NAME, PO #, ITEM# AND TYPE !!
3) MAKE SURE ALL ITEMS COMPLY WITH PLANS, SPECS AND ADDENDA !!
4) DOUBLE CHECK ALL VOLTAGES WITH THIS OFFICE !!

THANK YOU

BY: Julie Vavrek
JULIE VAVREK PM ASSISTANT

ORIGINAL: SUPPLIER *COPY: D.N., L.P.O. FILE (RED FOLDER, PM ASSISTANTS*

J27-001
CASH1766

Mojave Electric
3755 W. Hacienda Avenue
Las Vegas, Nevada 89118-1756
(702) 798-2970 - FAX (702) 798-3740

MATERIAL RELEASE ORDER

DATE: August 11, 2010

TO: CAM CONSULTING C/O CASHMAN I
ATTN: ANGELO CARVALHO / KEITH LOZE
FAX #:

RE: NEW CITY HALL
PO #: 767810-UPS-10011
From: Julie Vavrek

PER APPROVED SUBMITTALS FOR THE ABOVE PROJECT, PLEASE MAKE ANY CORRECTIONS NOTED AND RELEASE THE ITEMS AS LISTED BELOW.

PLEASE RELEASE THE FOLLOWING:

LINE ITEM	QTY	TYPE	DESCRIPTION
1	1		400 KW, 277/480V 3 PHASE WITH BATTERIES AS SHOWN
			ON CONTRACT DRAWINGS DATED 11/06/09
			MGE Model # EPS6000
2	1		Shunt Trip Station

Please contact us ahead of time to make sure the site is prepped. Thank you!

FOR IMMEDIATE RELEASE TO **MOJAVE JOBSITE**
518 South First Street Las Vegas, NV 89101

1) CALL MOJAVE ELECTRIC 24 HRS PRIOR TO DELIVERIES (WHEN APPLIES) NOTIFY Chris (702) 798-2970
2) MARK ALL CARTONS, ETC. WITH JOB NAME, PO #, ITEM # AND TYPE !!
3) MAKE SURE ALL ITEMS COMPLY WITH PLANS, SPECS AND ADDENDA !!
4) DOUBLE CHECK ALL VOLTAGES WITH THIS OFFICE !!

THANK YOU

BY: Julie Vavrek
JULIE VAVREK PM ASSISTANT

ORIGINAL: SUPPLIER *COPY: D.N., L.P.O. FILE (RED FOLDER, PM ASSISTANTS*

J27-002
CASH1767

EXHIBIT 92.J28

Submittal Transmittal

Project Name : Las Vegas New City Hall
Project Number : 12600
Package Name: Engine Generator Systems Parts List & Installation Manual

WHITING-TURNER

Mojave Electric, Inc.
3755 W. Hacienda Ave.
Las Vegas, NV 89118
Tel: 702-798-2970
Fax: 702-798-0547

The Whiting-Turner Contracting Company
6720 Via Austi Parkway
Suite 300
Las Vegas, NV 89119
Tel: 702-650-0700
Fax: 702-650-2650

Attn: Chris Meiers
Delivered Via:

From: Elliott Lloyd
Tracking Number:

Spec Section	Submittal Number	Title	Type	Copies	Sent Date	Due Date	Action
263213	0766	Package: Engine Generator Systems Installation Instructions	Product Data	2	09/21/2010	09/21/2010	Approved

Subcontractor : Mojave Electric, Inc.

Contractor Comments:

Transmittal Remarks:

Package Reviewers					
To Company	To:	From	Date Rcv'd	Date Sent	Action Taken
JMA Architects	Robert Messiana	Elliott Lloyd	09/16/2010	09/07/2010	Approved
Mojave Electric, Inc.	Chris Meiers	Elliott Lloyd	09/16/2010	09/21/2010	Approved

A/E Remarks
:

Copies To:

J28-001
CASH1768

EXHIBIT 92.J29

MITSUBISHI ELECTRIC POWER PRODUCTS, INC.

520 Keystone Drive
Dock A
Warrendale, PA 15086

Packing Slip

Packing Slip No: 6812
Ship Date: 11/11/10
Page 1 of 1

ATTN: Tom
From BRANDON RAL
218-2185

Bill To:
C085393

CASHMAN EQUIPMENT CO.
P.O. BOX 271630
LAS VEGAS, NV 89127-1630
UNITED STATES

Ship To:
7
CHRIS MEIERS
MOJAVE ELECTRIC
3480 W. HACIENDA
LAS VEGAS, NV 89118
USA

Order #	PO Number	Total Cases	Ship Via	Weight
SU06197	7402	5	R&L CARRIER	8,134.00

Item	Description	U/M	Qty Ordered	Qty Packed	Qty BO
M98AE-60024-44B00	98AE 500KVA 480V IN/OUT UPS	EA	1	1	0
S/N: 10-7M73354-01					
WB973-CDP-800-480E	MBP; WALL MNT (3)800A SKRU 2)KK PB CPT	EA	1	1	0
S/N: PU5664-1					
NETCOM2 SEC	NETCOM2 SEC FOR 2033C,G,D 9800 AND 9900 Consists of the following items	EA	1	1	0
NETCOM-PH	SNMP IP ETHERNET INTERFACE CARD	EA	1	1	0
HDW90001	CABLE; 6 FOOT DB9 TO RJ45 GRAY CABLE	EA	1	1	0
DL-CABLE-6	COMMUNICATION CABLE	EA	1	1	0
HDW90003	CD; FOR NETCOM2 KITS	EA	1	1	0
MCP-104-10005-S	MUCM; MODBUS FOR 9800AB Consists of the following items	EA	1	1	0
MCP-104	MUCM+102/MUCM-002, METH-001, MU1, TR121S	EA	1	1	0
COMITSU KIT SEC	DB9-RJ45 ADAPTERS FOR NETCOM-S	EA	1	1	0
KIT10005	PSAU60-KIT 12V 1.3A POWER KIT FOR 9800AE	EA	1	1	0
KIT10010	KIT; MISC HARDWARE FOR MUCM	EA	2	2	0
CAP00259	LNX2W842MSMCMK 450V 8400uF	EA	2	2	0
FAN20012	UPS FAN	EA	1	1	0
AE-ENP00014	MBS; PROCEDURE REV * AE-ENP00014	EA	1	1	0

BEST WAY
MUST NOTIFY 24HRS BEFORE DELIVERY
CHRIS 702-798-2970

Thank you for your order.

Tom Received 11/18/10

J29-001
CASH1769

EXHIBIT 92.J30

[illegible] [illegible]

TRANSPORTATION CO.

[illegible]

[illegible]

BILL OF LADING – SHORT FORM – NOT NEGOTIABLE

SHIP FROM	SHIP TO
[illegible]	[illegible]
THIRD PARTY FREIGHT CHARGES BILL TO	BILL OF LADING
[illegible] Transportation Co.	[illegible]

CUSTOMER ORDER INFORMATION

Description	# of Packages	Weight
[illegible] INDOOR SWITCHGEAR SECTION 1 WITH ONE BREAKER INSTALLED	1	[illegible]
[illegible] INDOOR SWITCHGEAR SECTION 2 & 3 WITH SIX BREAKER INSTALLED	1	[illegible]
[illegible] ENCLOSURE	1	[illegible]
[illegible]	1	[illegible]
[illegible]	1	[illegible]
Battery Rack		

Special Remarks

[illegible]

		Total Weight: [illegible]

[illegible]

24 hour notification required – Please call Chris [illegible] 24 hours prior arrival of equipment at job site.

[illegible]

Shipper Signature/Date [illegible]

Carrier Signature/Pickup Date

Consignee Signature/Printed Name

[illegible]

CASHMAN CAT
POWER SOLUTIONS

CASHMAN POWER SOLUTIONS
3300 SAINT ROSE PARKWAY
HENDERSON, NV 89052
PHONE: (702) 649-8777
FAX: (702) 639-5090

To	Mohave Electric 3480 W. Hacienda Las Vegas, NV	Date	January 5, 2011
		PO No.	767810-GEN-10010
		Material	ATS's and batteries
Att	Tom Ceravolo	Project	LV City Hall

IF ENCLOSURES ARE NOT AS NOTED, PLEASE ADVISE IMMEDIATELY.

- [ ] Submittal / Resubmittal
- [x] Product Specification Sheets / Brochures
- [ ] Specifications / Plans
- [ ] Operation & Maintenance Manuals
- [ ] Shop Drawings-Wiring Diagrams
- [ ] Other

No of Copies	Manufacturer	Description
2	CAT	batteries for switchgear
1	CAT	800A tansfer switch #ZEN1598823
1	CAT	1000A tansfer switch #ZEN1598824
1	CAT	1200A tansfer switch #ZEN1598825

- [ ] As Requested
- [ ] Review / Comment / Clarification
- [ ] Information / Other

Additional Notes and Comments

Received By: Tom Ceravolo Tim Title: purchasing manager

Date Received: _____

Submitted By: _____ Date: 01-5-11

J30-002
CASH1771

EXHIBIT 92.J31

CASHMAN CAT

INVOICE

1.800.937.2326
www.cashmanequipment.com

NEW CAT INVENTORY-PD
1@JOEL_LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

PLEASE REMIT TO:
Cashman Equipment Company
PO BOX 843397
Los Angeles, CA 90084-3397

Need your invoices as soon as they are available?
Get electronic invoices sent directly to YOU!
It's quick and easy to sign up at
www.cashmanequipment.com/onlinestatementrequest-form.htm

INVOICE NUMBER	INVOICE DATE	CUSTOMER #
INWO0605340	01-31-11	B12100E
AMOUNT		
546.98		

***** To ensure proper credit, please detach this portion and return with remittance. *****

INVOICE NUMBER	INVOICE DATE	CUSTOMER #	CUSTOMER ORDER #	STORE	DIV	SALESMAN	TERMS	PAGE
INWO0605340	01-31-11	B12100E		73	E	815	2	1

PSDWO NUMBER	DOC DATE	AC	PO	TO	MOS	SHIP VIA	INV DEO NUMBER
LE23883	01-12-11		20	2H	20		2959745

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACHINE NUMBER
AA	C32	0JSJ01013			10-082

QUANTITY	ITEM	NR	DESCRIPTION	UNIT PRICE	EXTENSION
			SET UP GENERATOR SET		
			SEE SWA FOR SPECIFIC DIRECTIONS		
			TOTAL LABOR SEG. 01		465.98 *
			SEGMENT 01 TOTAL		465.98 T
			TRAVEL TO/FROM GENERATOR SET		
			TOTAL LABOR SEG. 99		81.00 *
			SEGMENT 99 TOTAL		81.00 T
		* * *	INVOICE COPY * * *		

PLEASE PAY THIS AMOUNT	546.98
AMOUNT CREDITED	

SOLD TO:

NEW CAT INVENTORY-PD
1@JOEL_LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

SHIP TO/REFERENCE:

CASHMAN Power Solutions CAT

Computer Protection Systems CPS

Terms: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

Rob Mayer

From: Rob Mayer
Sent: Wednesday, January 12, 2011 2:02 PM
To: Mike Bellino; Mike Thomle; Jessica Reed
Cc: Kim Symons; CeeCee Carter
Subject: SWA #10-082- LV CITY HALL C32

LE23883-01-99

REQUEST DATE: 1-19-2011 8AM- ON SITE

HOUSE# 10-082

SERIAL JSJ01013 C32 480VAC

LOCATION 400 S. MAIN STREET DOWNTOWN, LAS VEGAS

POC RICHARD CHRISTENSEN- 205-3318 KIM SYMONS-326-6596

SERVICE ASSIST WITH SETTING GENET ON PAD & INSTALL MUFFLER/ SECURE SHIP LOOSE ITEMS/ ASSIST KIM

CHG ACT B12100E

Rob Mayer
Project Manager
Cashman Power Solutions
3300 St. Rose Parkway
Henderson Nv. 89052
tel 702/326-3693
fax 702/639-5090
rob_mayer@cashmanequipment.com

CASHMAN CAT

INVOICE

1.800.937.2326
www.cashmanequipment.com

NEW CAT INVENTORY-PD
1@JOEL LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

PLEASE REMIT TO:
Cashman Equipment Company
PO BOX 843397
Los Angeles, CA 90084-3397

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www.cashmanequipment.com/onlinestatementrequest-form.htm

INVOICE NUMBER	INVOICE DATE	CUSTOMER #
INW00605341	01-31-11	B12100E
AMOUNT		
546.98		

***** To ensure proper credit, please detach this portion and return with remittance. *****

INVOICE NUMBER	INVOICE DATE	CUSTOMER #	CUSTOMER ORDER #	STORE	DIV.	SALESMAN	ITEMS	PAGE
INW00605341	01-31-11	B12100E		73	E		2	1

PO/WO NUMBER	DOC DATE	PD	LO	MC	SHIP VIA	INV/REQ NUMBER
LE23884	01-12-11	20	2H	20		2959746

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACH. ID NUMBER
AA	C32	0JS701016			10-081

QUANTITY	ITEM	NM	DESCRIPTION	UNIT PRICE	EXTENSION
SET UP GENERATOR SET					
SEE SWA FOR SPECIFIC DIRECTIONS					
			TOTAL LABOR SEG. 01		465.98 *
			SEGMENT 01 TOTAL		465.98 T
TRAVEL TO/FROM GENERATOR SET					
			TOTAL LABOR SEG. 99		81.00 *
			SEGMENT 99 TOTAL		81.00 T
		* * *	INVOICE COPY * * *		

PLEASE PAY THIS AMOUNT	546.98
AMOUNT CREDITED	

SOLD TO:

NEW CAT INVENTORY-PD
1@JOEL LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

SHIP TO/REFERENCE:

CASHMAN Power Solutions CAT

Computer Protection Systems CPS
VIRUS SOFTWARE IS NOT AN OPTION

Terms: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

Jessica Reed

From: Rob Mayer
Sent: Wednesday, January 12, 2011 2:02 PM
To: Mike Bellino; Mike Thomle; Jessica Reed
Cc: Kim Symons; CeeCee Carter
Subject: SWA #10-081- LV CITY HALL C32

LE23884-01-99

REQUEST DATE: 1-19-2011 8AM- ON SITE

HOUSE# 10-081

SERIAL JSJ01016 C32 480VAC

LOCATION 400 S. MAIN STREET DOWNTOWN, LAS VEGAS

POC RICHARD CHRISTENSEN- 205-3313 KIM SYMONS-326-6596

SERVICE ASSIST WITH SETTING GENET ON PAD & INSTALL MUFFLER/ SECURE SHIP LOOSE ITEMS/ ASSIST KIM

CHG ACT B12100E

Rob Mayer
Project Manager
Cashman Power Solutions
3300 St. Rose Parkway
Henderson Nv, 89052
tel 702/326-3693
fax 702/689-5090
rob_mayer@cashmanequipment.com

1-20-11
1-21-11

CASHMAN CAT

INVOICE

1.800.937.2326
www.cashmanequipment.com

COMMRL ENG CAT INV
POWER DIVISION
1@KEITH_LOZEAU
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

PLEASE REMIT TO:
Cashman Equipment Company
DEPT 3397
Los Angeles, CA 90084-3397

INVOICE NUMBER	INVOICE DATE	CUSTOMER #
INWO0620966	05-24-11	B12100E
AMOUNT		
513.45		

THANK YOU!

***** To ensure proper credit, please detach this portion and return with remittance. *****

INVOICE NUMBER	INVOICE DATE	CUSTOMER #	CUSTOMER ORDER #	AT/OR #	DIV #	SALESMAN	TERMS	PAGE
INWO0620966	05-24-11	B12100E		73	E		2	1

PSO/WO NUMBER	DOC DATE	PO #	SALO	MO	SHIP VIA	INVT REG NUMBER
LE24664	04-20-11	20	2H	20		3032202

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	ATACHED NUMBER
AA	SWITCHGEAR	SWGR36267			10-040

QUANTITY	ITEM #	N/R	DESCRIPTION		UNIT PRICE	EXTENSION
			GENERATOR SET			
MEETING AT CITY HALL						
			TOTAL LABOR	SEG.	01	343.35 *
			SEGMENT 01 TOTAL			343.35 T
TRAVEL TO/FROM						
			TOTAL LABOR	SEG.	99	102.60 *
30.00			TRAVEL MILEAGE			67.50
			TOTAL MISC CHGS	SEG.	99	67.50 *
			SEGMENT 99 TOTAL			170.10 T

PLEASE PAY THIS AMOUNT	513.45
AMOUNT CREDITED	

SOLD TO:

COMMRL ENG CAT INV
POWER DIVISION
1@KEITH_LOZEAU
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

SHIP TO/REFERENCE:

CASHMAN PowerSolutions CAT

Computer Protection Systems CPS

Terms: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

CASHMAN CAT

INVOICE

1.800.937.2320
www.cashmanequipment.com

NEW CAT INVENTORY-PD
1@JOEL_LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

PLEASE REMIT TO:
Cashman Equipment Company
PO BOX 843397
Los Angeles, CA 90084-3397

Need your invoices as soon as they are available?
Get electronic invoices sent directly to YOU!
It's quick and easy to sign up at
www.cashmanequipment.com/onlinestatementrequest-form.htm

INVOICE NUMBER	INVOICE DATE	CUSTOMER #
INW00625457	06-27-11	B12100E
AMOUNT		
CONT'D		

***** To ensure proper credit, please detach this portion and return with remittance. *****

INVOICE NUMBER	INVOICE DATE	CUSTOMER #	CUSTOMER ORDER #	STORE	DIV.	SALESMAN	TERMS	PAGE
INW00625457	06-27-11	B12100E	10-081 / 10-082	73	E	815	2	1

PO/WO NUMBER	DOC DATE	PO	LO	MO	SHIP VIA	INV SEQ NUMBER
LE24687	04-25-11	20	2H	20		3054164

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACHINE NUMBER
AA	C32	0JSJ01016		1.0	10-081

START-UP OF 10-081 / 10-082
CITY HALL

INSTALL EXHAUST PIECES- (ROB HAS), FILL BATTERIES- (ROB HAS ACID), CHECK COOLING SYSTEM, ENERGIZE JACKET WATER HEATER AND BATTERY CHARGER, ASSIST CUSTOMER WHERE HE NEEDS TO LAND CONTROL WIRING, LOCKOUT & TAGOUT GENSETS FOR NO STARTING

PERFORM MISCELLANEOUS

10-081
0JSJ01016 / C32

QUANTITY	ITEM	DESCRIPTION	NO	UNIT PRICE	EXTENSION
20	AC210	AA BATTERY	N	4.43	88.60
100	B-8-50-0-C	CABLE TIE	N	.04	4.00
10	BC25	BEAM CLAMP	N	1.06	10.60
100	FW14	FLAT WASHER	N	.06	6.00
25	LT9050	FLEX CONNECTOR	N	2.66	66.50
100	LW14	LOCK WASHER	N	.03	3.00
100	MB1412	MACHINE BOLT	N	.11	11.00
4	PLFN-WHT-1	NYLON TAPE	N	36.56	146.24
6	PLHS-WHT-1/2	HEAT SHRK TUBING	N	48.14	288.84
6	PLHS-WHT-3/4	HEAT SHRK TUBING	N	51.35	308.10
1	PL200	PORT LABELER	N	254.99	254.99
100	UALT050	GRAY LIQ-TITE	N	1.43	143.00
10	2010	BREAKAWAY SWITCH	N	.38	3.80
250	51012-05-03	ORANGE WIRE	N	.14	35.00
250	51012-05-08	BLACK WIRE	N	.14	35.00

PLEASE PAY THIS AMOUNT	CONT'D
AMOUNT CREDITED	

SOLD TO:

NEW CAT INVENTORY-PD
1@JOEL_LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

SHIP TO/REFERENCE:

CASHMAN Power Solutions CAT

Computer Protection Systems CPS

Terms: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

CASHMAN CAT

INVOICE

1,800.937.2326
www.cashmanequipment.com

NEW CAT INVENTORY-PD
1@JOEL_LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

PLEASE REMIT TO:
Cashman Equipment Company
PO BOX 843397
Los Angeles, CA 90084-3397

Need your invoices as soon as they are available?
Get electronic invoices sent directly to YOU!
It's quick and easy to sign up at
www.cashmanequipment.com/onlinestatementrequest-form.htm

INVOICE NUMBER	INVOICE DATE	CUSTOMER #
INW00625457	06-27-11	B12100E
AMOUNT		
CONT'D		

***** To ensure proper credit, please detach this portion and return with remittance. *****

INVOICE NUMBER	INVOICE DATE	CUSTOMER #	CUSTOMER ORDER #	STORE	DIV.	SALESMAN	TERMS	PAGE
INW00625457	06-27-11	B12100E	10-081 / 10-082	73	E	815	2	2

PO/WO NUMBER	DOC DATE	PG	LO	LNO	SHIP VIA	INV/REQ NUMBER
LE24687	04-25-11	20	2H	20		3054164

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACH. ID NUMBER
AA	C32	0JSJ01016		1.0	10-081

QUANTITY	ITEM	UM	DESCRIPTION		UNIT PRICE	EXTENSION
			TOTAL PARTS	SEG.	01	1404.67 *
			TOTAL LABOR	SEG.	01	3286.35 *
			SEGMENT 01 TOTAL			4691.02 T
PERFORM DELIVERY						
10-082						
0JSJ01013 / C32						
			TOTAL LABOR	SEG.	02	2624.18 *
			SEGMENT 02 TOTAL			2624.18 T
TRAVEL TO/FROM GENERATOR SET						
			TOTAL LABOR	SEG.	99	786.60 *
180.00			TRAVEL MILEAGE			405.00

PLEASE PAY THIS AMOUNT	CONT'D
AMOUNT CREDITED	

SOLD TO:

NEW CAT INVENTORY-PD
1@JOEL_LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

SHIP TO/REFERENCE:

CASHMAN Power Solutions CAT

Computer Protection Systems
RISK MANAGEMENT IS NOT AN OPTION

Terms: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

CASHMAN CAT

INVOICE

1.800.937.2326
www.cashmanequipment.com

NEW CAT INVENTORY-PD
1@JOEL LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

PLEASE REMIT TO:
Cashman Equipment Company
PO BOX 843397
Los Angeles, CA 90084-3397

Need your invoices as soon as they are available?
Get electronic invoices sent directly to YOU!
It's quick and easy to sign up at
www.cashmanequipment.com/onlinestatementrequest-form.htm

INVOICE NUMBER	INVOICE DATE	CUSTOMER #
INWO0625457	06-27-11	B12100E
AMOUNT		
8506.80		

***** To ensure proper credit, please detach this portion and return with remittance. *****

INVOICE NUMBER	INVOICE DATE	CUSTOMER #	CUSTOMER ORDER #	STORE	DIV.	SALESMAN	TERMS	PAGE
INWO0625457	06-27-11	B12100E	10-081 / 10-082	73	E	815	2	3

PO/WO NUMBER	DOC DATE	PO #	LC	MO	SHIP VIA	INV REG NUMBER
LE24687	04-25-11	20	2H	20		3054164

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	MACH I.D. NUMBER
AA	C32	0JSJ01016		1.0	10-081

QUANTITY	ITEM	NM	DESCRIPTION	UNIT PRICE	EXTENSION
			TOTAL MISC CHGS SEG. 99		405.00 *
			SEGMENT 99 TOTAL		1191.60 T
		* * *	INVOICE COPY * * *		

PLEASE PAY THIS AMOUNT	8506.80
AMOUNT CREDITED	

SOLD TO:

NEW CAT INVENTORY-PD
1@JOEL LARSON
PRIME PRODUCT COMMERCIAL ENGINE
HENDERSON NV 89052

SHIP TO/REFERENCE:

CASHMAN Power Solutions CAT

Computer Protection Systems. CPS

Terms: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

Service Report

CATERPILLAR

CASHMAN CAT

Report Header Information					
Work Order	LE24687	Dealer Code	H070	Manufacturer	Caterpillar Inc.,
Employee ID	9741	Service Date	4/25/2011	Model	C32
Customer	COMMRL ENG CAT INV	Customer Equipment Number	10-081	Serial Number	DSJ01016
SMU	1 Hours	Equipment Location			
IN Date	4/25/2011	Promise Date	4/25/2011	OUT Date	4/25/2011
Instructions					

Segment Info			
Segment No:	01		
Segment Description:	PERFORM MISCELLANEOUS		
Job Code	540	Description	PERFORM
Component Code	7950	Description	MISCELLANEOUS
Start Date	5/24/2011	End Date	5/24/2011
Instructions	10-081		

Segment No:	02		
Segment Description:	PERFORM DELIVERY		
Job Code	540	Description	PERFORM
Component Code	7590	Description	DELIVERY
Start Date	5/24/2011	End Date	5/24/2011
Instructions	10-082		

Segment No:	99		
Segment Description:	TRAVEL TO/FROM GENERATOR SET		
Job Code	056	Description	TRAVEL TO/FROM
Component Code	7002	Description	GENERATOR SET
Start Date	5/24/2011	End Date	5/24/2011
Instructions			

SIMS / Part Causing Failure

Segment No	Part Number	Part Name	Qty	SMCS	Desc.Code Primary	Desc.Code Secondary	Group Number Containing Part	Group Name	Product Inoperable?	CAT Item

Repair Background

Segment No:	011
Customer Complaint	
Cause of Failure	
Resultant Damage	
Repair Process Comments	5-03-11__9741***Installed muffler on roof 5-04-11__9741***finished installinf muffle on roof note bolts for muffler to pipe was wrong need 3/4 by 1 3/4 long. 5-17-11__9741***filled batteryies with acid. started on interconnection wiring. 5-18-11__9741***interconnection wiring. 5-19-11__9741***interconnection wiring/ran wiring for battery charger failure. 5-20-11__9741***interconnection wiring. at switch gear 5-23-11__9741***interconnection wiring. and paper work.

Segment No:	02:
Customer Complaint	
Cause of Failure	
Resultant Damage	
Repair Process Comments	5-03-11__9741***Installed muffler on roof 5-04-11__9741***finished installinf muffle on roof note bolts for muffler to pipe was wrong need 3/4 by 1 3/4 long. 5-17-11__9741***filled batteryies with acid. started on interconnection wiring. 5-18-11__9741***interconnection wiring. 5-19-11__9741***interconnection wiring.ran wiring for battery charger failure. 5-20-11__9741***interconnection wiring. at switch gear

Segment No:	99:
Customer Complaint	
Cause of Failure	
Resultant Damage	
Repair Process Comments	

Customer Signature	Technician Signature

Workorder Closing	
No Answer	Is the Job Completed?
No Answer	Are unused parts being restocked?
No Answer	Is a Reman core being returned?
No Answer	Are warranty parts being returned?
No Answer	Are checked-out tools being returned?
No Answer	Has the information been entered to SIMS?

Additional Opportunities	
No Answer	Is there Additional Service to be done?
No Answer	Did the customer request a quote for additional service?
No Answer	Did the customer request a PSSR to contact them?
Comment	

Parts

Application Data

Application	Report	Created

File Attachments

Name	Size	Modified	Title	Description

EXHIBIT 92.J32

EXHIBIT 2

Assessor

Michele W. Shafe, Assessor

'ARCEL OWNERSHIP HISTORY

Assessor Map | Aerial View | Comment Codes | Current Ownership | New Search

ssessor Description
rcel Map File 117 Page 14 Lot 1 c 34 Twp 20 Rng 61

CURRENT PARCEL NO.	CURRENT OWNER	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DISTRICT	ESTIMATED SIZE
139-34-201-022	CITY OF LAS VEGAS Comments: SF 186-40	20120217:01875	02/17/2012	NO STATUS	203	2.71 AC

PARCEL NO.	PRIOR OWNER(S)	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DISTRICT	ESTIMATED SIZE
139-34-201-022	P Q LAS VEGAS L L C	20091210:03372	12/10/2009	NO STATUS	203	2.71 AC
139-34-201-022	LIVEWORK L L C ETAL	20070622:04071	06/22/2007	NO STATUS	203	2.71 AC
139-34-201-022	LIVEWORK L L C ETAL	20070622:04071	06/22/2007	NO STATUS	203	2.44 AC

Note: Only documents from September 15, 1999 through present are available for viewing.

NOTE: THIS RECORD IS FOR ASSESSMENT USE ONLY. NO LIABILITY IS ASSUMED AS TO THE ACCURACY OF THE DATA DELINEATED HEREON.

GENERAL INFORMATION	
PARCEL NO.	139-34-201-022
OWNER AND MAILING ADDRESS	CITY OF LAS VEGAS %OFFICES BUS DEV %DIRECTOR 400 STEWART AVE 2ND FLR LAS VEGAS NV 89101-2913
LOCATION ADDRESS CITY/UNINCORPORATED TOWN	495 S MAIN ST LAS VEGAS
ASSESSOR DESCRIPTION	PARCEL MAP FILE 117 PAGE 14 LOT 1 SEC 34 TWP 20 RNG 61
RECORDED DOCUMENT NO.	* 20120217:01875
RECORDED DATE	02/17/2012
VESTING	NO STATUS
COMMENTS	SF 186-40

*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND SUPPLEMENTAL VALUE	
TAX DISTRICT	203
APPRAISAL YEAR	2012
FISCAL YEAR	12-13
SUPPLEMENTAL IMPROVEMENT VALUE	0
SUPPLEMENTAL IMPROVEMENT ACCOUNT NUMBER	N/A

REAL PROPERTY ASSESSED VALUE		
FISCAL YEAR	2011-12	2012-13
LAND	908970	743702
IMPROVEMENTS	0	0
PERSONAL PROPERTY	0	0
EXEMPT	0	743702
GROSS ASSESSED (SUBTOTAL)	908970	743702
TAXABLE LAND+IMP (SUBTOTAL)	2597057	2124863
COMMON ELEMENT ALLOCATION ASSD	0	0
TOTAL ASSESSED VALUE	908970	743702
TOTAL TAXABLE VALUE	2597057	2124863

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION	
ESTIMATED SIZE	2.71 Acres
ORIGINAL CONST. YEAR	0
LAST SALE PRICE MONTH/YEAR	0
LAND USE	0-00 VACANT

Inst #: 201202170001875
Fees: $0.00 N/C Fee: $0.00
RPTT: $0.00 Ex: #002
02/17/2012 11:16:14 AM
Receipt #: 1070223
Requestor:
FIRST AMERICAN TITLE HOWARD
Recorded By: KGP Pgs: 6
DEBBIE CONWAY
CLARK COUNTY RECORDER

Affix R.P.T.T.: $ Exempt 02

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:
City of Las Vegas
c/o Office of Business Development
400 Stewart Avenue, 2nd Floor
Las Vegas, Nevada 89101
Attn: Director

MAIL TAX STATEMENTS TO:
City of Las Vegas
c/o Office of Business Development
400 Stewart Avenue, 2nd Floor
Las Vegas, Nevada 89101
Attn: Director

APNs: 139-34-201-022
386052 565
(Space above line for Recorder's use only)

GRANT, BARGAIN AND SALE DEED

PQ LAS VEGAS, LLC, a Delaware limited liability company, as "GRANTOR," do hereby Grant, Bargain, Sell and Convey to the CITY OF LAS VEGAS, NEVADA, a political subdivision of the State of Nevada, as "GRANTEE" the real property located in County of Clark, State of Nevada bounded and described as follows:

See Exhibit "A" attached hereto and incorporated herein by this reference;

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or otherwise appertaining.

SUBJECT TO:

1. General taxes for the current fiscal tax year not yet due and payable.
2. All matters of record.

{Signature Page Follows}

LV 416,978,2260v1 12-9-09

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on the date set forth below.

Dated as of February 16, 2012

"GRANTOR"

PQ LAS VEGAS, LLC,
a Delaware limited liability company

By: _____
Name: Dimitri Vazelakis
Title: Authorized Representative

Dimitri Vazelakis

Recorder's Copy

STATE OF Nevada
COUNTY OF Clark } ss.

This instrument was acknowledged before me on Dec. 14, 2009 by Dimitri Vazelakis as Auth. Rep. of PQ LAS VEGAS, LLC, a Delaware limited liability company.

S. Renee Hoban
NOTARY PUBLIC

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
S. RENEE HOBAN
No: 94-2190-1
My Appointment Expires Oct. 26, 2010

S. RENEE HOBAN
#94-2190-1
EXP. 10-26-10

LV 418,978,226v1 12-9-09

J32-005

EXHIBIT A
Legal Description of Land

EXPLANATION
THIS DESCRIPTION DESCRIBES THE REMAINING BLOCK 6 OF CLARK'S LAS VEGAS TOWNSITE, CITY OF LAS VEGAS, NEVADA.

LEGAL DESCRIPTION
BEING A PORTION OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M.D.M., IN THE CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, BEING A PORTION OF LOTS 1 THROUGH 16 INCLUSIVE AND ALL OF LOTS 17 THROUGH 32 INCLUSIVE AND ALL OF THAT CERTAIN VACATED 20' ALLEY THAT LIES BETWEEN LEWIS AVENUE AND CLARK AVENUE WITHIN A PORTION OF BLOCK 6 AS SHOWN ON THE PLAT OF CLARK'S LAS VEGAS TOWNSITE, ON FILE IN BOOK 1, PAGE 37 OF PLATS OF CLARK COUNTY, NEVADA RECORDS AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE FOUND ALUMINUM CAP MARKING THE INTERSECTION OF MAIN STREET AND CLARK AVENUE ON THE NEVADA DEPARTMENT OF TRANSPORTATION "O" CENTERLINE; THENCE NORTH 27°54'11" EAST, ALONG SAID CENTERLINE, A DISTANCE OF 80.03 FEET; THENCE SOUTH 62°05'49" EAST, A DISTANCE OF 49.00 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF MAIN STREET;

THENCE NORTH 27°54'11" EAST, ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 330.72 FEET (330.00' RECORD) TO THE BEGINNING OF A 10.00 FOOT RADIUS TANGENT CURVE, CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE, HAVING A CENTRAL ANGLE OF 90°01'00", A CURVE LENGTH OF 15.71 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF LEWIS AVENUE; THENCE SOUTH 62°04'49" EAST, ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 275.10 FEET (275.00' RECORD) TO THE BEGINNING OF A 10.00 FOOT RADIUS TANGENT CURVE, CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG SAID CURVE, HAVING A CENTRAL ANGLE OF 89°59'04", A CURVE LENGTH OF 15.71 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF FIRST STREET; THENCE SOUTH 27°54'15" WEST, ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 330.52 FEET (330.00' RECORD) TO THE BEGINNING OF A 10.00 FOOT RADIUS TANGENT CURVE, CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ALONG SAID CURVE, HAVING A CENTRAL ANGLE OF 89°59'27", A CURVE LENGTH OF 15.70 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF CLARK AVENUE; THENCE NORTH 62°07'16" WEST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 275.10 FEET (275.00' RECORD) TO THE BEGINNING OF A 10.00 FOOT RADIUS TANGENT CURVE, CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE, HAVING A CENTRAL ANGLE

90°01'29", A CURVE LENGTH OF 15.71 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 2.71 ACRES OF LAND.

BASIS OF BEARING

SOUTH 27°54'30" WEST, BEING THE CENTERLINE OF CASINO CENTER BOULEVARD BETWEEN STEWART AVENUE AND COOLIDGE AVENUE AS SHOWN BY THAT CERTAIN MAP IN FILE 67, PAGE 79 OF SURVEYS IN THE CLARK COUNTY RECORDER'S OFFICE, CLARK COUNTY, NEVADA.

MARK D. HERZIG
PROFESSIONAL LAND SURVEYOR
NEVADA LICENSE NO. 18982
POGGEMEYER DESIGN GROUP, INC.
6960 SMOKE RANCH ROAD, SUITE 110
LAS VEGAS, NEVADA 89148

PROFESSIONAL LAND SURVEYOR
MARK D. HERZIG
Exp. 6-30-11
No. 18982
STATE OF NEVADA

07-14-09

ALSO DESCRIBED AS FOLLOWS:

LOT 1 AS SHOWN BY MAP THEREOF ON FILE IN FILE 117 OF PARCEL MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)
   a) 139-34-201-022
   b)
   c)
   d)

2. Type of Property
   a) [ ] Vacant Land b) [ ] Single Fam. Res.
   c) [ ] Condo/Twnhse d) [ ] 2-4 Plex
   e) [ ] Apt. Bldg. f) [X] Comm'l/Ind'l
   g) [ ] Agricultural h) [ ] Mobile Home
   i) [ ] Other

FOR RECORDERS OPTIONAL USE ONLY
Book _____ Page: _____
Date of Recording: _____
Notes: _____

3. a) Total Value/Sales Price of Property: $ N/A
   b) Deed in Lieu of Foreclosure Only (value of property) ($ N/A)
   c) Transfer Tax Value: $ N/A
   d) Real Property Transfer Tax Due $ N/A

4. **If Exemption Claimed:**
   a. Transfer Tax Exemption, per 375.090, Section: 2
   b. Explain reason for exemption: Transfer to a government entity.

5. Partial Interest: Percentage being transferred: ____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: _____ Capacity: Grantor
Signature: Elizabeth N Fretwell Capacity: Grantee

SELLER (GRANTOR) INFORMATION (REQUIRED) Elizabeth N Fretwell	BUYER (GRANTEE) INFORMATION (REQUIRED)
Print Name: PQ LAS VEGAS, LLC	Print Name: CITY OF LAS VEGAS, NEVADA
Address: Terminal Tower, Ste. 1410, 50 Public Sq.	Address: 400 Stewart Avenue, 2nd Floor
City: Cleveland	City: Las Vegas
State: Ohio 44113	State: Nevada Zip: 89101

APPROVED AS TO FORM

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)
Print Name: First American Title File Number: 386052
Address 2490 Paseo Verde Pkwy 3860522
City: Henderson State: NV Zip: 89074

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

LV 419,070,201v1

J32-008

EXHIBIT 92.J33

EXHIBIT 18

J33-001

LIONEL SAWYER & COLLINS

ATTORNEYS AT LAW

1700 BANK OF AMERICA PLAZA
300 SOUTH FOURTH STREET
LAS VEGAS, NEVADA 89101
(702) 383-8888

FAX (702) 383-8845
lsc@lionelsawyer.com
www.lionelsawyer.com

August 8, 2011

WRITER'S DIRECT DIAL NUMBER
(702) 383-8825
TTOUTON@LIONELSAWYER.COM

Jennifer R. Lloyd-Robinson, Esq.
PEZILLO ROBINSON
6750 Via Austi Parkway, Suite 170
Las Vegas NV 89119

Re: Cashman Equipment Company/Las Vegas City Hall
CAM Consulting Equipment Purchase

Dear Madam:

This office represents The Whiting-Turner Contracting Company ("Whiting-Turner"). Reference is made to the Amended Complaint filed on July 25, 2011 *Cashman Equipment Company, Plaintiff v. Cam Consulting, Inc.*, Case No. A-11-642583-C. Whiting-Turner is the general contractor on the Las Vegas City Hall construction project.

Accordingly, on behalf of Whiting-Turner, demand is made to forthwith expunge the lien you referred to in your lawsuit. I have enclosed an Unconditional Waiver and Release Upon Final payment executed by Cashman Equipment April 27, 2011, referring specifically to the $755,893.89; the exact balance Cashman has now liened. Additionally, I have enclosed a copy of the Unconditional Waiver and Release Upon Progress Payment executed by Mojave Electric on May 9, 2011, which includes the payment made to Mojave, the subject of Cashman's claim.

Cashman directly represented to Whiting-Turner in the form of the Unconditional Release that it had been paid and it gave up any right to notice a lien on the property or to make a claim against any bond. Whiting-Turner relied upon Mojave's release which was supported with Cashman's conditional waiver (which was then superceded with Cashman's unconditional release).

Whiting-Turner will seek an affirmative dissolution of this lien if in ten (10) days you have not fully expunged the lien, dismissed claims asserted against Whiting-Turner, L/W TIC Successor LLC and FC/LW Vegas, LLC (the owner surviving limited liability company), and Fidelity and Deposit Company of Maryland and withdraw any bond demand that may have been initiated.

Your immediate attention to this matter is required.

Sincerely,

Todd M. Touton

TMT: jrs

Enc.

767810
FINAL

UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

(NRS 108.2457)

Property Name: Las Vegas City Hall

Property Location: 495 S. Main Street, Las Vegas, NV 89101

Undersigned's Customer: Cons Consulting

Invoice/Payment Application Number: TNSS 12366010, 12367010, 12388010

Payment Amount: $755,893.89

Payment Period: 4-26-11

Amount of Disputed Claim: Ø

The undersigned has been paid in full for all work, materials and equipment furnished to his Customer for the above-described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property, except for the payment of Disputed Claims, if any, noted above. The undersigned warrants that he either has already paid or will use the money he receives from this final payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials and equipment that are the subject of this waiver and release.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.

Dated 4/28/11

Cochran Equipment
(Company Name)

By
(Signature)

Title Credit Manager

NOTARY:

Subscribed and sworn to before the undersigned, a Notary Public for the State of NEVADA

County of CLARK This 27th day of April, 2010.

Notary Public Signature: Halynn K. Cooper
Commission Expires: December 1, 2013

Notary Public - State of Nevada
County of Clark
HALYNN K. COOPER
My Appointment Expires
No: 00-66201-1 December 1, 2013

J33-004

UNCONDITIONAL WAIVER AND RELEASE
UPON PROGRESS PAYMENT
(NRS 108.2457)

Property Name: Las Vegas City Hall

Property Location: 495 S Main Street

Las Vegas, NV 89101

Undersigned's Customer: Whiting – Turner Contracting

Invoice/Payment Application Number: Invoice #61981

Payment Amount: $908,859.00

Payment Period: March 31, 2011

The undersigned has been paid and has received a progress payment in the above-referenced Payment Amount for all work, materials and equipment the undersigned furnished to his Customer for the above-described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property to the following extent:

This release covers a progress payment for the work, materials and equipment furnished by the undersigned to the Property or to the Undersigned's Customer which are the subject of the Invoice or Payment Application, but only to the extent of the Payment Amount or such portion of the Payment Amount as the undersigned is actually paid, and does not cover any retention withheld, any items, modifications or changes pending approval, disputed items and claims, or items furnished that are not paid. The undersigned warrants that he either has already paid or will use the money he receives from this progress payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials or equipment that are the subject of this waiver and release.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT TO THE EXTENT OF THE PAYMENT AMOUNT OR THE AMOUNT RECEIVED. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.

Dated: May 9, 2011

Mojave Electric
Company Name

By: [signature]

Its: Troy Nelson, President

NOTARY:
Subscribed and sworn to before the undersigned, a Notary Public for the State of Nevada
County of: Clark This 9th day of May, 2011.

Notary Public Signature: Halynn K Cooper
Commission Expires: December 1, 2013

Notary Public - State of Nevada
County of Clark
HALYNN K. COOPER
My Appointment Expires
No: 00-66207-1 December 1, 2013

J33-005

EXHIBIT 92.J34

EXHIBIT 19

LIONEL SAWYER & COLLINS

ATTORNEYS AT LAW
1700 BANK OF AMERICA PLAZA
300 SOUTH FOURTH STREET
LAS VEGAS, NEVADA 89101
(702) 383-8888
FAX (702) 383-8845
lsc@lionelsawyer.com
www.lionelsawyer.com

WRITER'S DIRECT DIAL NUMBER
(702) 383-8825
TTOUTON@LIONELSAWYER.COM

August 25, 2011

Jennifer R. Lloyd-Robinson, Esq.
PEZZILLO ROBINSON
6750 Via Austi Parkway, Suite 170
Las Vegas NV 89119

Re: Cashman Equipment Company/Las Vegas City Hall
CAM Consulting Equipment Purchase
Cashman Equipment Company, Plaintiff v. Cam Consulting, Inc., et al.,
Case No. A-11-642583-C

Dear Jennifer:

I am writing to confirm our conversation concerning the above-referenced matter. As you know, we represent The Whiting-Turner Contracting Company, L/W TIC Successor LLC, FC/LW Vegas LLC, and the Whiting-Turner license bond.

As communications are ongoing as to have Mojave and Mojave's Payment Bond step into defend these entities, you indicated that you could confirm a two-week extension to answer or otherwise appear in relation to Whiting-Turner's answer in this matter. I am unaware of the service dates on the other entities. The two weeks was going to run from your filing of an amended complaint. It is my understanding you still intend to file an amended complaint, but the date and timing of that is uncertain.

. . . .

. . . .

. . . .

Thank you for your attention to the above-referenced information. Please let me know the date of the filing of the amended pleading.

Sincerely,

Todd M. Touton

TMT: jrs

EXHIBIT 92.J35

SUBCONTRACT

THE WHITING-TURNER CONTRACTING COMPANY

Address Reply to: 6720 Via Austi Parkway, Suite 300
Las Vegas, NV 89119

Phone: 702-650-0700
Fax: 702-650-2650

SUBCONTRACT NO. 12600-26A

SUBCONTRACT FOR: Electrical, Fire Alarm, and Low Voltage

SUBCONTRACTOR: Mojave Electric
Address: 5755 W. Hacienda Avenue
Las Vegas, NV 89118
(P) 702-798-2970
(F) 702-798-7917
Remittance Address: Same as above

License # 19512

OWNER: QH Las Vegas, LLC
50 Public Square, Suite 1005
Cleveland, OH 44113

PROJECT: City of Las Vegas New City Hall
495 Main Street
Las Vegas, NV 89101

This agreement, made this 11th day of February, 2010, by and between Mojave Electric hereinafter called the Subcontractor, and THE WHITING-TURNER CONTRACTING COMPANY, of Baltimore, Maryland, with its principal office located at 300 Hampton Road, Baltimore, Maryland, a body corporate of the State of Maryland, hereinafter called the Contractor,

WITNESSETH, that the Subcontractor and Contractor for the consideration hereinafter named, agree as follows:

ARTICLE I DEFINITIONS

(a) As used herein, the following terms shall have the meanings indicated:

"Architect" or "Engineer" means the architect or engineer directing the work as agent of the Owner, or any other person authorized by the General Contract to direct or pass upon any matter or filing connected with the performance of the General Contract.

"Contract Documents" means (a) the General Contract, (b) all general, supplementary and other conditions applicable to the Project, (c) the Drawings and Specifications, and (d) all bulletins and addenda issued in connection with the Project.

"Drawings and Specifications" means the drawings and specifications described in Article 2 hereof, and all addenda and/or revisions thereto.

"General Contract" means the contract executed or to be executed by the Owner and the Contractor in connection with the construction of the Project and any amendments thereto.

SC1

Rev. 12/08

Initiated by: Contractor: _____ Subcontractor: _____

MOJ00001

J35-001

Where the contract entered into between Owner and Contractor is a Construction Management Agreement, the term "Contractor" shall be deemed to mean "Construction Manager".

"Subcontract" means this document and all of the Contract Documents which shall be made a part of this Subcontract and are incorporated herein by reference.

(b) Where the term "Contractor" is used in the Specifications, insofar as it has application to the work required to be done by the Subcontractor as provided herein, it shall be deemed for the purposes hereof to refer to the Subcontractor. The term "Contractor" or "General Contractor" when used in the Contract Documents shall be deemed to make reference to the Subcontractor insofar as it has application to the work covered by this Subcontract. The term "Subcontractor" may be referred to as "it" whether Subcontractor is incorporated or not.

ARTICLE 2. SCOPE OF WORK–The work to be performed and materials to be furnished by the Subcontractor are as specified in Article 1 hereof and in accordance with Drawings and Specifications prepared by IMA Architecture, dated "Exhibit C Document Log dated 11-24-09" and as set forth in Exhibit B.

ARTICLE 3. PROVISION OF LABOR AND MATERIALS.

(a) The Subcontractor agrees to furnish and pay for all labor and supervision, tools, apparatus, supplies, equipment, and services, and also to furnish, deliver, install, and pay for all materials necessary for the performance and completion of the work described under the Scope of Work, free from all claims and liens of materialmen, suppliers, laborers, truckers, subcontractors, and others making claims through the Subcontractor. All such work shall be done to the satisfaction of the Owner, the Architect and/or Engineers, and the Contractor in accordance with the Contract Documents. Subcontractor agrees to submit daily work reports and monthly progress reports and schedule updates upon request by the Contractor. The Subcontractor agrees that with respect to the Scope of Work hereunder it will stand in the Contractor's shoes with respect to the Contractor's obligations to the Owner under the Contract Documents and will perform all work and obligations as set forth on the Contract Documents to the satisfaction of the Owner. At all times that Subcontractor has personnel at the Project site, it shall also have present an authorized representative of Subcontractor who shall supervise and direct Subcontractor's personnel and be responsible for their actions. Such representative shall be authorized to act on behalf of the Subcontractor and communications to such representative shall be binding upon Subcontractor.

(b) In the event any deviations from the Contract Documents are incorporated in any shop drawings of or by the Subcontractor, such deviations and the reasons therefore shall be fully explained in writing by separate letter to the Contractor and Owner at the time the shop drawings are submitted to the Contractor and Owner. Failure to so specify and explain any such deviation will automatically void any inadvertent approval of the same by the Contractor, Architect, Engineer and/or Owner.

(c) The Subcontractor represents and warrants that it is an expert in the particular line or lines of work herein contracted to be done and that it is competent to know whether the materials, methods and apparatus specified for this work are sufficient and suitable to secure the results contemplated by the Contract Documents. The Subcontractor shall be responsible for fulfilling the requirements of the Contract Documents. Subcontractor agrees to cooperate in carrying out Contractor's quality assurance program including, but not limited to, furnishing necessary documentation and facilitating inspections and quality checks.

(d) In the event that Subcontractor employs union labor the Subcontractor agrees to be bound by the terms and provisions of the agreement establishing the Impartial Jurisdictional Disputes Board, any such successor Board, or any subsequent machinery agreed to by employers and the unions affiliated with the Building and Construction Trades Department, AFL-CIO, for the settlement of jurisdictional disputes. The Subcontractor also agrees that any assignments of disputed work shall be made in accordance with any agreement of record between the disputing trades, or any published decision of record compiled and published by the Building and Construction Trades Department, AFL-CIO in Agreements and Decisions Rendered Affecting the Building Industry.

ARTICLE 4. DILIGENT PERFORMANCE.

(a) Subcontractor agrees to commence, pursue diligently and complete the work in such sequence and order and according to such schedules as Contractor shall establish from time to time during the course of the work, and shall perform the work so as not to delay any other trades or contractors, time being of the essence of this Subcontract. Any written dates furnished by the Subcontractor and approved by Contractor and Owner for delivery of materials, samples, shop drawings, etc., shall become a part of this Subcontract. Subcontractor shall furnish information requested by the Contractor in connection with monitoring and updating the Project schedule and shall immediately notify Contractor in writing of any interruption of the work or late delivery which causes or may cause a delay in Subcontractor's performance. No extension of completion date shall be permitted unless approved in writing by the Contractor and Owner, and Subcontractor shall be responsible for any losses or penalties incurred by Contractor as a result of delays in completing Subcontractor's work. If Contractor determines that the Subcontractor is behind schedule or will not be able to maintain the schedule, Subcontractor shall submit a remedial plan to recover, shall work overtime, shift work, or work in an altered sequence, if deemed necessary, in the judgment of the Contractor to maintain the progress of the work. Any such overtime, acceleration, shift or altered sequence work required to maintain progress or to complete the work on a timely basis shall be at Subcontractor's expense and shall not entitle Subcontractor to an extension of time or additional compensation. Contractor may supplement Subcontractor's forces, at Subcontractor's expense, if deemed necessary by the Contractor to maintain the Project schedule. Subcontractor shall be liable to the Contractor for any delay or damages, including consequential or liquidated damages, threatened or assessed against the Contractor to the extent caused by the Subcontractor.

(b) To the fullest extent permitted by applicable law, Contractor shall have the right at any time to delay or

suspend the work or any part thereof without incurring liability therefore. An extension of time shall be the sole and exclusive remedy of Subcontractor for any delays or suspensions suffered by Subcontractor but only to the extent that a time extension is obtained from the Owner, and Subcontractor shall have no right to seek or recover from Contractor any damages or losses, whether direct or indirect, arising from or related to any delay or acceleration to overcome delay, and/or any impact or effect of such delays on the Work.

(c) Subcontractor shall cooperate fully with Contractor in providing promptly any information requested by Contractor in connection with preparation of schedules for the Project, including, but not limited to, detailed information concerning the sequence, beginning and ending dates of activities, cost breakdowns related to such activities, and any information requested for Critical Path Method scheduling if used for the Project. The costs of all such activities on the part of Subcontractor are included in the Subcontract Amount.

(d) In the event of any dispute under this Subcontract or as to the work to be performed, Subcontractor shall continue to diligently perform the work as directed by Contractor without interruption, deficiency or delay.

ARTICLE 5. PAYMENT.

(a) Payment of amounts due under the Subcontract shall be made as follows: The Contractor shall pay to the Subcontractor an amount equal to ninety percent (90%) or such higher percentage as required by applicable law of the value of the work performed by the Subcontractor as determined by the Architect and approved by the Contractor during any calendar month within fifteen (15) days after payment therefor has been received by the Contractor from the Owner, or within such shorter period specified by applicable law, statute or regulation. The Contractor shall be under no obligation to make any payment to the Subcontractor except to the extent that the Contractor has received funds from the Owner for the work invoiced by the Subcontractor; that is to say, the Subcontractor shall not be entitled to payment if for any reason, the Owner fails to pay the Contractor in accordance with the General Contract, such payment from the Owner being a condition precedent to any obligation of Contractor to Subcontractor. Retainage and any other balance of the Contract Amount shall be payable fifteen (15) days or within such shorter period specified by applicable law, after the work under this Subcontract has been completed and accepted by the Owner, Architect, and Contractor and following approval by the Architect of the final application for payment and delivery of all claims, if any, under this Agreement, provided that Subcontractor has fully performed all of its obligations hereunder. The Contractor is hereby authorized to deduct and offset from any payment an amount equal to any and all sums or obligations owing by the Subcontractor to the Contractor and costs necessary to complete the work to be performed under this Subcontract, and any and all claims liquidated or unliquidated, by the Contractor against the Subcontractor, arising hereunder, under any other contract or agreement between the Subcontractor and the Contractor or from any other liability or obligation of the Subcontractor to the Contractor whether under this Subcontract or otherwise.

(b) The Subcontractor agrees to submit to the Contractor applications for payment by the 25th of each month, or at such other time as provided in the Contract Documents so as to enable the Contractor to timely apply to the Owner for payment. As a condition precedent to the payment of any application, the Subcontractor shall (1) produce waivers of mechanics lien rights and claim releases in the form required by Contractor by Subcontractor and all persons supplying labor or materials to the Subcontractor on the Project through the period covered by the application, or (2) exhibit such other evidence as the Contractor may require that charges for all labor and material have been paid. Any payments made by Contractor to Subcontractor are to be held in trust by Subcontractor for the payment of any lower tier Subcontractor or supplier. The Contractor shall have the right to contact Subcontractor's suppliers and subcontractors of any tier, direct or indirect, to determine the current status of indebtedness and Subcontractor authorizes them to provide such information. Contractor in its discretion may make checks payable jointly to Subcontractor and the supplier or subcontractor or directly to the supplier or subcontractor for the account of the Subcontractor.

(c) Payment by the Contractor to the Subcontractor or for its account shall not be deemed to be an admission or approval by the Contractor of the sufficiency of the work covered by the payments.

(d) Notwithstanding any other provisions of this Agreement, Contractor shall be under no obligation to make any payment to the Subcontractor under any provision hereof except to the extent that Contractor has received funds from Owner, payment by Owner being a condition precedent to payment of the Subcontractor. Notwithstanding the foregoing, nothing in this Subcontract shall be construed to prohibit Subcontractor from pursuing its rights, if any, to a mechanic's lien or statutory bond claim in the event that non-payment of the Subcontractor was caused by the failure of the Owner to pay Contractor amounts legally due. Subcontractor further agrees that, prior to exercising its rights or filing any claims, if any, against the Contractor or any surety for non-payment caused by the failure of the Owner to pay Contractor amounts legally due, Subcontractor shall first timely exercise and exhaust any rights and remedies that may exist with respect to enforcing a mechanic's lien on the Project.

(e) Contractor may apply any payments otherwise due Subcontractor hereunder to any other indebtedness, liability or obligation of Subcontractor to Contractor whether under this Subcontract or any other agreement or circumstance.

ARTICLE 6. ADDITIONAL OR OMITTED WORK.

(a) In the event that the Contractor directs Subcontractor to perform additional work, Subcontractor agrees that it will promptly perform and diligently complete such work whether or not Contractor and Subcontractor have agreed on the cost of such work. Subcontractor shall submit to Contractor a lump sum proposal for such work, which proposal shall include a detailed cost breakdown for each component of the work, indicating both quantities and unit prices, and such proposal shall be submitted to Contractor not later than 7 days after Contractor directs Subcontractor to perform extra or additional work or such lesser period if required by the Contract between Owner and Contractor. If a lump sum price or unit price for the additional work cannot be agreed upon, or Subcontractor fails to submit such proposal within 7 days after Contractor directs Subcontractor to perform extra or additional work, Subcontractor agrees to do the work on the basis of its actual cost plus percentage fees for overhead and profit as set forth in Article 10. The Contractor shall not be liable for payment for any additional work performed by the Subcontractor unless such work is first expressly authorized by the Contractor in writing and payment is made by the Owner to the Contractor for such

extra work, payment by Owner to Contractor being a condition precedent for Contractor to pay Subcontractor for such work. Both authorization in writing by the Contractor and actual payment by the Owner to the Contractor for such extra work shall be conditions precedent to Contractor's obligation to pay Subcontractor for such additional work. Any additional compensation or time to be given to Subcontractor shall be set forth in a contract supplement and shall constitute a full and final equitable adjustment of compensation, time or any other alleged entitlement, known or unknown, arising in connection with the facts and circumstances described in and which gave rise to such contract supplement and Subcontractor waives all damages, direct, indirect and consequential, relating to such facts and circumstances, including, but not limited to, impact, reduced productivity, interference by other trades, lack of coordination of the work by Contractor, inefficiencies, acceleration, delays, extended overhead, diminished bonding capacity or lost profits.

(b) In the event that the Subcontractor performs any such authorized additional work on the actual cost plus basis, it shall furnish each day to the representative of the Contractor, duplicate payroll sheets, timesheets, material tickets, equipment charges, and a statement or slips for all other charges, retaining a copy of each thereof, and securing on each thereof the signature of the duly accredited representative of the Contractor. Such signed copies of payroll sheets, timesheets, material tickets, statements and slips shall accompany the application for payment.

(c) Should the Contractor during the execution of this Contract require the Subcontractor to omit any work commenced within the terms of this Subcontract, said omission being for the account of the Owner, the Contractor or any other subcontractor on the work, the Subcontractor agrees to omit such work, and the Contractor will deduct from any monies due the Subcontractor the value of such omitted work as reasonably determined by Contractor.

(d) In the event of any dispute, controversy or claim for additional compensation or time extensions, except for payment for extra or additional work expressly directed by Contractor in accordance with Section 6 (a) of this Subcontract, the compensation for which shall be fully and finally governed by Section 6 (a) of this Subcontract and for which no further claim can or shall be made, notice in writing shall be given to the Contractor no later than seven (7) days following the occurrence on which such claim is based, unless the notice provision in the General Contract between the Owner and Contractor is less than seven (7) days, in which case, Subcontractor shall give notice to Contractor within 2 days less than the time required for Contractor to give notice to the Owner according to the notice provision in the General Contract. Such notice shall describe the dispute, controversy or claim in detail so as to allow Contractor to review its merits. Such notice shall also provide detailed information to substantiate such claim including supporting documentation and calculations, and including any information requested by Contractor. Any claim not presented within such time period shall be deemed waived by Subcontractor.

(e) If the Subcontractor shall make any claim against the Contractor for extra work or additional compensation for which the Owner or its agents may be liable, the Contractor may present such claim or claims to the Architect and/or Owner for determination and decision provided (1) such claim is not, in the judgment of the Contractor, made in bad faith, (2) Subcontractor has given notice in accordance with Article 6 (d) and in the form required by the General Contract, and has presented the claim to Contractor within the time required by Article 6 (d); (3) Subcontractor has both requested in writing that Contractor present the claim and has agreed in writing, in terms satisfactory to Contractor, to pay all costs of Contractor in presenting and pursuing such claim. Further, if Contractor requires that Subcontractor execute a liquidating agreement or similar agreement on terms satisfactory to Contractor further memorializing the understanding of the parties in connection with the presentation of such claims, Subcontractor shall execute such agreement as a precondition for Contractor to submit such claim. Presentation of the claim by Contractor shall not be construed as an acknowledgment of the validity thereof, or a waiver of any right of the Contractor, and such action shall be without prejudice to its rights. If the claim is presented by the Contractor to the Architect and the Owner, the decision of the Architect and/or Owner shall be final and binding upon the Subcontractor to the same extent and purpose that it is final and binding on the Contractor.

(f) No additional time or compensation will be allowed for weather delays or difficulties or inconveniences arising from mud, dust, water, ice, snow, wind, heat or cold or similar natural or physical conditions unless permitted under the General Contract and a claim therefore is made as set forth in Section 6(e). Contractor assumes no responsibility for material received, unloaded or stored for or by Subcontractor. Materials, tools, supplies, equipment, etc. belonging to or leased to Subcontractor are its responsibility and no claim for missing or stolen property will be allowed. Contractor shall not be required to provide hoisting facilities or temporary power, water or heat unless otherwise provided herein.

(g) Contract may direct Subcontractor to work overtime or premium time and Subcontractor shall comply with such direction. If approved in advance in writing by Contractor's authorized representative, Subcontractor may be reimbursed for such work but only for the difference between regular time and overtime for direct payroll cost and their related payroll taxes, insurance, and benefits, and shall not be entitled to any additional compensation for overhead or profit or for inefficiencies or declines in productivity or other impacts. Subcontractor shall be responsible for the costs of overtime work caused by failure of Subcontractor to provide sufficient manpower, maintain the progress of the Work, or otherwise meet its obligations hereunder.

ARTICLE 7. DEFAULT

(a) In the event the Subcontractor shall, in the judgment of the Contractor, (1) become unable to fulfill its financial obligations, become insolvent, or file or have filed against it any petition in bankruptcy, make an assignment for the benefit of creditors, or commence or have commenced against it or enter into any other proceeding or arrangement for relief of debtors, reorganization or deferral or discharge of debts; (2) fail to pay when due, for materials, supplies, labor, taxes, or other items purchased or used in connection with the work; (3) fail to pursue the work in accordance with this Subcontract and the schedules established by the Contractor; (4) fail to supply a sufficiency of properly skilled supervisors, workmen, or of materials, tools, equipment, or supplies of the proper quality (including failure occasioned by a strike, picketing, boycott, or other cessation of work by Subcontractor's employees); (5) interfere with or disrupt, or threaten to interfere with or disrupt the operations of the Contractor, the Owner, or any other laborer, materialmen, supplier, subcontractor, or other person working on the job, whether by reason of any labor dispute, picketing, boycotting, or by any other reason; (6) violate any applicable federal, state, or local laws or

regulations, (7) advise Contractor or demonstrate to Contractor that Subcontractor will be unable to timely and adequately perform any of its obligations under this Subcontract, or (8) commit any other breach of this Subcontract, then any such event shall immediately with no further action or notice required on the part of the Contractor constitute a default by the Subcontractor under this Subcontract, and any such event shall be deemed to be a breach of this Subcontract. The Contractor will give the Subcontractor written notice of default. Upon receipt of such notice, Subcontractor shall have two (2) days in which to cure any such default provided; however, that if, in the judgment of the Contractor, such default cannot be cured within a two (2) day period after such notice, or Subcontractor has advised Contractor or Contractor has otherwise determined that Subcontractor is unable to cure or remedy said default, the Contractor will notify the Subcontractor of default but the Subcontractor will not have any right to cure such default and the Subcontractor may be terminated immediately. In the event of a default for which there is no right to cure as provided hereinabove, or in the event of the expiration of the 2-day cure period set forth hereinabove without all such defaults having been fully cured, the Contractor may terminate this Subcontract, take possession of all or any materials, fabricated items wherever located, supplies, equipment and tools pertaining to the Project, whether on the Project site, in the Subcontractor's premises or in transit, and may make independent arrangements for completion of the work. Subcontractor grants to Contractor a right of entry into any premises owned or leased by Subcontractor for the foregoing purposes. The amount of completion costs as well as any other costs, damages, or expenses, including Contractor's legal fees and expense, incurred as a result of such default shall be charged against any unpaid balance due to the Subcontractor under this Agreement or under any other agreement between Contractor and Subcontractor and, if said total costs, damages or expenses shall exceed the balance due, the Subcontractor agrees to pay the amount of said excess immediately upon demand of the Contractor. The materials, supplies, equipment and tools taken by the Contractor may be used in completing the Project and may be incorporated into the improvements being contracted. With respect to any of such items incorporated into the Project, or consumed in the job, the net reasonable value of the same as of the date of taking shall be taken into account in the calculation of the aforesaid total completion costs, damages, and expenses. With respect to any such items which are not so incorporated or consumed, or which have a salvage value, the Contractor may, at its option (1) assume title to the same or any part of the same, as of the date of default and take into account the net reasonable value thereof as of the date of taking in the calculation of the total completion cost, damages, and expenses or (2) return the same to Subcontractor and take into account the net reasonable value of the use thereof by Contractor in the calculation of the said total completion cost, damages, and expenses.

(b) In addition to, and not in substitution of, the remedies herein above specified, Contractor may immediately, in the event of default or failure of Subcontractor to perform its obligations hereunder, provide or arrange for such workmen and materials necessary to continue and complete the work contracted for hereunder for the account of the Subcontractor and at Subcontractor's cost and expense; and apply any and all funds due or to become due to the Subcontractor thereto, all without terminating, rescinding or voiding this Subcontract or releasing the Subcontractor from any liability hereunder or from any damages caused by Subcontractor's failure to perform.

(c) In the event of a default by the Subcontractor under this Subcontract, all sums and obligations owing to the Contractor by the Subcontractor in any right or capacity, whether under this Subcontract or otherwise, immediately shall become due and payable to the Contractor.

(d) In the event the Contractor does not terminate this Subcontract, but assents to delayed completion of the work by the Subcontractor, such assent shall not be construed as a waiver of the Subcontractor's obligation to reimburse the Contractor for any costs, damages, or expenses incurred as a result of such delay; and all such costs, damages, and expenses shall be paid or reimbursed to Contractor upon demand.

(e) In the event that Contractor wrongfully exercises any of its rights under this Article 7, Subcontractor's sole and exclusive remedy shall be payment of the Subcontract Amount for the portion of the Subcontract performed by Subcontractor, and Subcontractor hereby waives any and all other rights, claims and remedies under this Subcontract and/or at law.

ARTICLE 8 RELEASES OF CLAIMS AND WAIVER OF LIENS

Subcontractor agrees to provide to Contractor, and to provide and obtain from its subcontractors and suppliers of all tiers, executed releases of claims and/or waivers of liens and lien rights in the form required by Contractor and at such times as may be requested by Contractor. Subcontractor shall hold all monies paid by Contractor in trust for the payment of lower tier subcontractors and suppliers, promptly apply all payments made hereunder to Subcontractor's cost for labor and materials for the Project, and shall further take any and all necessary actions to keep the Project free and clear of all claims for liens and any and all claims against Contractor or Owner or any bonds posted by either of them in connection with the Project. In the event that any person furnishing labor or materials to the Subcontractor files a notice of intent to place a lien on the Project or files a lien on the Project or files a notice of claim or makes a claim against the Contractor or Owner or any bonds posted by either of them in connection with the Project, Subcontractor shall promptly but in no event later than any time required for a release bond to be posted under the General Contract take all necessary steps to have such notice or lien or claim withdrawn, including, if requested by Contractor, the posting of a bond. In the event that Subcontractor does not fulfill its obligations under this Article 8, Contractor may take all actions which it deems reasonable or necessary to protect the Project from liens and claims and the costs of any such actions including the cost of posting a release bond and attorney's fees, shall be deducted from amounts payable by Contractor to Subcontractor under this Agreement or any other agreement or circumstances. Subcontractor shall remain liable in the event that monies payable to it are insufficient to pay any damages or expenses arising from such liens.

ARTICLE 9 MISCELLANEOUS

(a) The Subcontractor shall not sublet, assign or transfer this Contract or any part thereof, or the money due or to become due under it, without the written consent of Contractor; and any assignment or transfer without such consent shall be void. Subcontractor hereby assigns to Contractor, upon termination of this Subcontract for any reason prior to its complete performance, all of Subcontractor's rights in and to any agreements or purchase orders for labor or

materials, equipment or services related to the Project, as well as any shop drawings, plans, specifications, or other documents prepared by or on behalf of the Subcontractor and such assignment shall create no rights in any other person unless accepted by Contractor. Contractor may assign this Subcontract, including but not limited to the Owner, the Owner's lender, or other entities as required by the Owner, to another contractor upon termination of the General Contract, or to any other persons or entities as required by the General Contract.

(b) The Subcontractor shall not cause any unnecessary interference with or delay to the Contractor or to other subcontractors on said Project and shall repair promptly and be responsible for all damage done to the work of the Contractor or other subcontractors by Subcontractor, its agents, employees, subcontractors, or suppliers. Subcontractor shall be directly responsible to the Contractor or other subcontractors whose work is so damaged. The Contractor shall be responsible to the Subcontractor for physical damage to Subcontractor's work only if such damage is directly and proximately caused by the sole negligence of the Contractor.

(c) The Subcontractor shall clean up and remove daily from the job site dirt, trash and debris arising from its work as directed by the Contractor. In the event the Subcontractor fails to clean up and remove such dirt, trash and debris, the Contractor may, at its discretion, arrange for the same at Subcontractor's expense.

(d) To the fullest extent permitted by applicable law, Subcontractor agrees to defend, indemnify and hold harmless the Contractor and/or Owner, their officers, directors, agents and employees, from and against any and all claims, suits, liens, judgments, damages, losses and expenses, including, but not limited to, attorney's fees, arising in whole or in part and in any manner from the acts or omissions of the Subcontractor, its officers, directors, agents, employees or subcontractors, in the performance of this Contract, regardless of whether such loss, claim, suit, judgment damage, loss or expense is caused in part by a party indemnified hereunder. Nothing herein shall be construed to require Subcontractor to indemnify Contractor and Owner and/or their respective officers, directors, agents and employees from the sole negligence of Contractor or Owner, and/or their respective officers, directors, agents and employees. That Subcontractor shall defend and bear all costs of defending any actions or proceedings brought against the Contractor and/or Owner, their officers, directors, agents and employees, arising in whole or in part out of any such acts or omissions provided, however, that the Contractor and/or Owner shall have the right to approve counsel to conduct such defense. Nothing herein shall be construed to create an indemnity obligation prohibited by applicable law or to waive Subcontractor's rights against any other subcontractor or supplier which may have contributed to causing the injury or damage in claims against any person or entity indemnified under this Section by an employee of the Subcontractor or Sub-Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, the indemnification obligation under this Section shall not be limited by a limitation in amount or types of damages, compensation or benefits payable by or for the Subcontractor or Sub-Subcontractors under workers' compensation acts, disability benefits, acts or other employee benefit acts.

(e) Subcontractor acknowledges that, before executing this Agreement, it has carefully examined this Agreement, the Contract Documents and the Project site, has made such investigation of the Work required to be done and the material required to be furnished and, based upon such examination and investigation, Subcontractor represents that it fully understands and can perform all requirements of the Contract Documents.

(f) With regard to the subject matter of this Subcontract: (1) Subcontractor shall have no greater rights and/or remedies against Contractor with respect to any matter (including, but not limited to, omissions, alterations, extra work and additional compensation) than Contractor has against Owner pursuant to the Contract Documents; (2) Subcontractor assumes all obligations, duties and responsibilities by which Contractor is bound to Owner pursuant to the Contract Documents; (3) Subcontractor shall be bound to Contractor to the same extent that Contractor is bound to Owner by all of the terms, provisions and conditions set forth in the Contract Documents; and (4) Owner shall have all rights and remedies against Subcontractor that Owner has against Contractor pursuant to the Contract Documents.

(g) The Contractor shall have the right at any time, and for any or no reason, including for convenience, to terminate this Subcontract and require the Subcontractor to cease work thereon. The Subcontractor, in such event, shall be entitled to further payment only as provided in Article 5. The Subcontractor agrees to be bound by any and all provisions in the General Contract respecting termination as well as termination for any reason.

(h) Subcontractor agrees to clearly note on each payment check to, and related invoice of, its subcontractors and material suppliers which exceed One Thousand Dollars ($1,000.00), as being for work or materials provided pursuant to this Agreement for this Project, by name, all to be subject to Contractor's inspection upon request. Subcontractor also agrees to submit promptly to Contractor, upon request, the name, address and telephone number of each subcontractor or supplier of any tier to Subcontractor for labor, materials, or equipment used on this Project. Contractor may contact any such subcontractors and suppliers and Subcontractor authorizes them to provide Contractor with any requested information.

(i) The Subcontractor warrants its workmanship and materials furnished against any defects, faults or damages arising therefrom during the period of construction and for a period of one year from the date of final completion of the Project (or for such longer period of time as may be required herein or by the Contract Documents). The Subcontractor shall remedy such defective workmanship, material, or damages at the request of the Contractor, at times convenient to the Owner and to the satisfaction of Owner, Architect and Contractor.

(j) Subcontractor shall comply with all applicable federal, state, and local laws and regulations by which it is bound and shall perform this Subcontract in strict conformity with applicable laws, codes, ordinances, rules, regulations and requirements of Federal, State, County and Municipal authorities and of the National Board of Fire Underwriters and any local fire underwriters and any local fire insurance exchange now or hereafter in effect. In the event of any discrepancy between the present requirements of such laws or authorities and the provisions of this Subcontract, the former shall govern, and the Subcontractor shall perform the work as required thereby at no extra cost. Should the Subcontractor incur additional costs because of any future change in such requirements, additional compensation therefor shall be subject to Articles 5 and 6 hereof. If the Subcontractor performs any work or is otherwise in violation of any such laws, codes, ordinances, rules, regulations or requirements, it shall bear all costs arising or resulting therefrom.

(k) Subcontractor shall be represented on the job site during the course of its work by qualified, full-time supervisor acceptable to Contractor. The Contractor shall have the right to require at any or all progress meetings,

whether called by the Owner, the Contractor, or others, the presence of a representative of the Subcontractor authorized to act in its behalf. All work hereunder shall be performed by persons well qualified and experienced in the kind of work to be performed and licensed as required by law. Subcontractor shall enforce discipline and good order among its employees, suppliers, and subcontractors engaged in the work. Contractor may require Subcontractor to remove from the project any such employees, suppliers, or subcontractors or others employed on the work that Contractor may deem incompetent, improper, or in hindrance to progress of any work on the Project, whereupon any such employee, supplier, or subcontractor shall be so removed and shall not again be employed on any part of the work without written consent of the Contractor.

(l) The Subcontractor agrees that it shall not engage in discriminatory employment practices in violation of any Federal, State, or local law, or Owner requirements regarding employment discrimination, including any order or regulation of any agency authorized to enforce any such law. To the extent applicable, the Subcontractor agrees to comply with Title VII of the Civil Rights Act of 1964, Executive Order 11246, and all additional orders, regulations, amendments, etc., pertaining thereto, including certification of non-segregated facilities. The Subcontractor agrees to furnish such additional information, certifications, and policies as may be required by the Contract Documents. The Subcontractor agrees to comply with all applicable rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974, and the Americans With Disabilities Act of 1990.

(m) Subcontractor shall comply with all applicable federal, state and local laws, regulations and orders relating to occupational safety and health, and related procedures established by Contractor and shall, to the extent permitted by law, indemnify and hold Contractor and Owner, their directors, officers, agents and employees, harmless from any and all liability, public or private, penalties, contractual or otherwise, losses, damages, costs, attorney's fees, expenses, causes of action, claims or judgments resulting from a claim filed by anyone in contravention of the aforementioned acts, or any rule, regulation or order promulgated thereunder, arising out of this Agreement or any subcontract hereunder. Subcontractor further agrees in the event of a claim of violation of any such rules, regulations, orders or procedures arising out of or in any way connected with the performance of this Agreement, Contractor may immediately take whatever action is deemed necessary by Contractor to remedy the claim of violation. Any and all costs or expenses paid or incurred by Contractor in taking such action shall be borne by Subcontractor, and may be deducted by Contractor from any payments due Subcontractor. Subcontractor shall have the primary responsibility to safeguard and protect its employees on the Project from injuries as well as any other persons or property which could be affected by Subcontractor's operations on the Project. In addition but not in substitution for Subcontractor's primary responsibility for safety, the Subcontractor agrees to (1) comply with all safety rules and regulations and work practices and procedures established by the Contractor and/or the Owner; (2) take all necessary steps to promote safety and health on the Job Site; (3) cooperate with Contractor and other contractors in preventing and eliminating safety and health hazards; (4) train, instruct and provide adequate supervision to assure that its employees are aware of, and comply with applicable Federal and State safety and health laws, standards, regulations and rules, safe and healthful work practices and all applicable safety rules, regulations, and work practices and procedures of the Contractor; (5) not create any hazards or expose any of its employees, employees of the Contractor or employees of contractors to any hazards; (6) immediately abate all hazards within its control regardless of whether it created such hazard; and (7) where the Subcontractor is aware of the existence of a hazard not within its control, notify the Contractor of the hazard as well as warn exposed persons to avoid the hazard.

(n) In the event of variations, conflicts, ambiguities or inconsistencies between or among the terms, provisions or conditions of this Subcontract and any other Contract Documents, the terms, provisions and conditions which grant greater rights or remedies to Contractor or impose higher standards with regard to the obligations, responsibilities and scope of work of the Subcontractor shall control. Notwithstanding any other provisions of this Subcontract or of the Contract Documents, no provision herein shall be construed to permit Subcontractor to pursue against the Contractor rights and remedies available to the Owner against the Contractor in the General Contract unless such rights and remedies are specifically and explicitly made available to the Subcontractor herein. In particular, disputes hereunder shall not be resolved by arbitration, but rather shall be resolved by litigation unless Contractor directs Subcontractor in writing to arbitrate a specific dispute. In the event that arbitration is provided in the General Contract for disputes between Owner and Contractor or Contractor otherwise chooses, at its sole discretion to submit a matter to arbitration, Subcontractor agrees, upon request of Contractor to submit any disputes as determined by Contractor in its sole discretion to arbitration, and, if necessary, consolidation of said disputes with any arbitration or administrative proceedings between Contractor and Owner or any other party.

(o) The Subcontractor agrees to provide and furnish prior to commencing work, certificates of insurance covering its work under this Contract for Workers Compensation, General Liability Insurance to include Bodily Injury and Property Damage Insurance, and other insurance with limits and coverages as set forth in the Contract Documents or in Exhibit A attached hereto, whichever is greater. All policies of insurance shall be in "occurrence" form and with companies and in amounts acceptable to the Contractor, and shall not be subject to modifications or cancellation during the terms of the work hereunder without thirty (30) days prior written notice to the Contractor by certified or registered mail. Subcontractor will not change or terminate said policies without the written consent of the Contractor. The Subcontractor accepts exclusive liability for contribution tax or premiums for Unemployment Compensation, Social Security, Withholding Tax and Worker's Compensation.

(p) The Subcontractor agrees to furnish a bond guaranteeing its performance of this Subcontract and the payment of its subcontractors and suppliers, if so requested by the Contractor, in amount and form and with such surety as are acceptable to the Contractor. The cost of the bond shall be paid by Subcontractor unless otherwise provided herein. Subcontractor shall be deemed not to have provided a bond meeting the requirements of this Subcontract in the event that the bond is conditioned upon the payment of monies due Subcontractor hereunder to an escrow agent or other third party who will disburse payment to subcontractors, material suppliers or other creditors of the Subcontractor.

(q) The Subcontractor understands and agrees that it shall not deal directly with representatives of the Owner, but shall handle all matters connected with this Subcontract, the work, or the furnishing of the materials or payment therefor, exclusively through the Contractor, unless otherwise directed in writing by the Contractor.

Rev. 12/08

Initiated by: Contractor: _____ Subcontractor: _____

Nevada

(c) This Subcontract shall be governed by the laws of the State of Maryland, without regard to principles of conflict of laws. Any action or suit arising hereunder shall be brought in the jurisdiction where Contractor's principal office is located without regard to principles of conflict of laws or forum non conveniens. In the event of litigation between them, Contractor and Subcontractor waive trial by jury. If requested by Contractor, Subcontractor agrees to submit any dispute under this Subcontract to arbitration under the Construction Industry Rules of the American Arbitration Association, or pursuant to any Arbitration procedure and rules governing the General Contract, if any.

(e) Neither party hereto may waive or release any of its rights under this Agreement, except in writing. The waiver by either party hereto of any breach of any provision of this Subcontract shall not be construed as, or constitute, a continuing waiver, or a waiver of any other breach of any provision of this Subcontract.

(f) If any provision of this Agreement is held by a Court of competent jurisdiction or arbitrator(s) to be invalid or unenforceable, whether in whole or in part, such provision shall be ineffective only to that extent without invalidating or rendering unenforceable any valid portions of the provision and/or any other provision of this Subcontract.

(h) The Parties agree that they have both had the opportunity to obtain the assistance of counsel in reviewing the terms of this Subcontract prior to execution, and as such this Subcontract shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

(v) Owner shall be considered a third party beneficiary of all rights under the Contract, but not the obligations. Subcontractor shall have no rights or claims directly against Owner except to the extent of any mechanic's lien rights available by statute. All other legal or equitable claims by Subcontractor, including claims against Owner of quantum meruit or unjust enrichment, are hereby waived and released. This Subcontract and the exhibits attached hereto and incorporated by reference herein contain the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede all prior negotiations, agreements and understandings with respect thereto. This Subcontract may be amended only in writing signed by both Contractor and Subcontractor.

ARTICLE 10. SUBCONTRACT AMOUNT—The Contractor agrees to pay the Subcontractor for the performance of its work hereunder the following sum or sums, which shall unless otherwise specified, include all taxes, insurance premiums, charges for permits and all other fees and charges, and shall be firm and binding on the Subcontractor for the work and not conditioned upon a firm completion date or on any labor increases or material escalation costs which might occur during the course of construction: TEN MILLION NINE HUNDRED NINETY-SIX THOUSAND SIX HUNDRED SIXTY-NINE DOLLARS ---------- $10,969,669

Percentage fees for overhead and profit for extra work, subject to the provisions of Article 6 hereof, shall be: 10% for work performed by Subcontractor's own forces and 5% for work performed by its subcontractors and suppliers. Subcontractor shall likewise be entitled to 10% for work performed by their own forces and 5% for work performed by their contractors and suppliers. No fee will be allowed on overtime premiums. Such percentages include all office overhead and supervision above the foreman level.

ARTICLE 11. CONTRACT ALTERATIONS AND OMISSIONS—Any terms and conditions, to the extent inserted or added as part of an exhibit hereto by Contractor into this Subcontract, are hereby acknowledged by both parties to form a part of this Subcontract. In the event any terms and conditions are inserted or added as part of an exhibit hereto by Subcontractor, such terms and conditions shall only become part of this Subcontract if, and only if, each such term or condition is initialed by both Parties. In the event of conflict between any such properly added terms and conditions, and the standard terms in this Subcontract, the added terms and conditions shall prevail. In the event any such changes to this Subcontract form, including alterations and omissions noted thereon, are inconsistent with the requirements of the second sentence of Article 3(a), the requirements of the second sentence of Article 3 (a) shall prevail in all respects.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

SUBCONTRACTOR:	CONTRACTOR:
Mojave Electric	THE WHITING-TURNER CONTRACTING COMPANY
BY: SIGNATURE	BY: SIGNATURE
Troy Nelson, President	Paul Schmitt, Vice President
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
DATE: 2/11/10	DATE: 2/11/10
WITNESS:	WITNESS:

SGB

Rev. 12/08

Initialed by: Contractor: ___ Subcontractor: ___

MOJ00008

J35-008

JA 00002750

OPEN ACCOUNT TERMS AND CONDITIONS (continued)

CASHMAN EQUIPMENT (CECO): Applicant agrees to the following rights and responsibilities if credit is extended:

1. OPEN ACCOUNT PAYMENT TERMS: Applicant agrees to pay for goods, services, leases, and other items charged to its open account upon receipt of invoice. Payment is late if not received by CECO c/o File 55761, Los Angeles, CA 90074-5761 within 30 (thirty) days of invoice date. If no invoice is issued or received, Applicant agrees to pay upon receipt of the monthly statement of within thirty days of delivery of goods, rendering of services or on the lease payment due date, whichever occurs first. All amounts charged to the open account are Applicant's responsibility. In the event a credit account is not approved or credit terms have been rescinded, all goods and services must be paid for at the time of delivery or order. All machine sales are due and payable 10 days from date of invoice. A late charge of 1.5% per month will be assessed on the past due balance until it is paid in full. Applicant is required to advise CECO of any disputed transactions or statements within 10 days of receipt. Failure to notify CECO of any dispute with respect to defective goods or billing shall constitute a waiver of all such disputes.

2. OTHER AGREEMENTS: Applicant agrees to be bound by the terms and conditions of each underlying sale, lease or other written agreement with CECO, which is intended to be incorporated herein by this reference and construed in conjunction herewith. Neither this agreement nor any other may be modified except in writing, signed by both parties.

3. DEFAULT: Payment shall be made when due. Failure to make a timely payment shall result in a default under the open account agreement and under the underlying agreement with CECO. In the event of a default under any of the terms of this or the underlying agreement, Applicant agrees to reimburse and pay CECO for all expenses, costs, collection agency costs, and attorney's fees incurred or expended by CECO in enforcing its rights, whether or not suit is commenced. Applicant agrees that the laws of the State of Nevada shall govern all transactions and agreements between CECO and Applicant and any enforcement or lawsuit relating to said transactions and agreements shall be in the state or federal courts of Nevada. Applicant expressly waives sovereign immunity and its venue rights and consents to the exclusive enforcement of this and any other agreement with CECO in Clark County, Nevada. If Applicant becomes insolvent during the period covered by CECO or if Applicant breaches any term or condition herein, or in any invoice or other writing between CECO and Applicant, or if for any reason CECO deems itself insecure, CECO may terminate the agreement and close the credit account immediately.

4. INDEMNITY: Applicant shall indemnify and hold CECO harmless from any and all liability, claims, losses, damages or expenses, including without limitation attorney fees and costs, arising by reason of the death or injury of any person, or by reason of the damage or destruction of any property, caused or allegedly caused by any goods, machinery, parts, tools or services sold, leased or delivered by CECO, except as expressly otherwise agreed in writing by CECO and Applicant. Applicant agrees that in no event shall Applicant or any person claiming by, through or under Applicant, have the right to claim or recover consequential damages, including but not limited to lost profits or loss of use, concerning goods, machinery, parts, tools or services sold, leased or delivered by CECO. CECO makes no warranties, either expressed or implied, as to any goods, machinery, parts, tools or services whatsoever, except as may be contained in a separate writing signed by an authorized agent of CECO, including without limitation the condition of the equipment, its merchantability, or its fitness for any particular purpose. Operator training is the applicant's responsibility.

5. PURCHASE ORDERS: Issuance of a purchase order by Applicant shall be deemed an acceptance of CECO's terms and conditions, notwithstanding anything to the contrary in Applicant's purchase order documents. Applicant acknowledges and agrees that placement of a purchase order creates no burden on the part of CECO to verify its accuracy or validity and goods, services or leases which are provided to Applicant pursuant to a purchase order shall be the full responsibility and obligation of Applicant.

6. NON-WAIVER: Nothing contained herein shall be construed as a waiver by CECO of any lien rights or any rights which it may now have, or hereafter acquire, by law nor shall anything stated herein be construed as an obligation to extend credit to Applicant under any circumstances. No waiver or modification hereof shall be valid unless expressed in writing and executed by Applicant and CECO.

7. INSURANCE & RISK OF LOSS: Applicant, at its expense, shall keep leased/rented equipment insured for the form of any leasehold and any renewals or extensions thereof, for the full retail fair market value thereof, against all risk of loss or damage including without limitation public liability and property damage. Applicant shall on request of CECO deliver to CECO the policies or evidence of insurance. All insurance policies must provide that no cancellation thereof shall be effective without 30 days prior written notice to CECO. Risk of loss of goods shall pass to Applicant as soon as the goods are properly loaded on the carrier. CECO's responsibility for shipment ceases upon delivery of the goods to a transportation company. Applicant shall carry such fire and other insurance as necessary to protect its interest and the interest of CECO. Any claim by Applicant for shortage in shipment shall be made within 10 days after receipt of the shipment. It is specifically agreed that no risk of loss shall not be altered by the fact that the conduct of either party hereto may constitute a default or breach.

8. SECURITY INTEREST: To secure payment and performance of all obligations, Applicant hereby grants CECO continuing security interest in all (including but not limited to) all assets, inventory, equipment, machinery attachments, materials, chattel paper, contract rights, any proceeds, furniture, fixtures, and any other goods or services distributed by CECO to or for the benefit of the Applicant.

9. ASSIGNMENT: No right or interest in this agreement shall be assigned by Applicant without the written permission of CECO, and no delegation of any obligation owed or of the performance of any obligation by Applicant shall be made without written permission of CECO. Any attempted assignment or delegation by Applicant shall be wholly void and totally ineffective for all purposes unless made in conformity shtad. Applicant agrees that CECO may assign, sell or encumber all or any part of this account, note, payments, or any portion thereof with or without notice to Applicant.

10. RENTAL/LEASE REPAIRS: Applicant, at its own cost, shall keep rented/leased equipment in good repair and working order. If Applicant fails to properly maintain and repair the equipment, CECO, whether during or after the rental/lease, may repair the equipment without prior notice to Applicant. Applicant shall be responsible for all damages to said equipment beyond normal wear and tear and for the cost of repair. Rent shall continue until the equipment is returned in good repair.

11. CHANGE OF TERMS: The terms and conditions of Applicant's accounts may be changed by CECO at any time, without written notice to Applicant.

12. MISCELLANEOUS: Any and all contracts, certificates, invoices and other writings signed on behalf of Applicant by any employee of Applicant shall be deemed to have been executed on behalf of Applicant with full authority. Applicant shall furnish to CECO, from time to time, promptly upon request, a) complete financial statements pertaining to Applicant's operations and financial condition, in such form and detail as CECO shall request and b) all other information and documents that CECO may reasonably request. Applicant acknowledges that by transmitting a facsimile copy, electronic copy or photocopy of this document to CECO, Applicant, and the Guarantor (if applicable) agree to be bound by the terms and conditions contained in this document to the same extent as if an original were transmitted to CECO. Applicant agrees to an inactivity fee of $250.00 per year against any credit balance presumed abandoned (no activity for 12 months) by Applicant. Applicant must notify CECO in writing of any change of ownership, the name of the business or structure of the business under which credit is established. CECO reserves the right to cancel its agreement to extend credit and to reevaluate the credit worthiness of the Applicant under its new name, ownership or structure. If CECO denies Applicant's application for business credit, Applicant has the right to a written statement for the specific reasons for the denial. To obtain such statement, please send a written request to CECO, 3300 St Rose Parkway, Henderson NV 89052 within 60 days from the date on which Applicant was notified of the denial. CECO will send Applicant a written statement with reason for the denial with 30 days from receiving Applicant's written request.

CATERPILLAR FINANCIAL SERVICES CORPORATION: If CFSC denies Applicant's application for business credit, Applicant has the right to a written statement for the specific reasons for the denial. To obtain such statement, please send a written request to CFSC, PO Box 24001, Nashville, TN 37203 within 60 days from the date on which Applicant was notified of the denial. CFSC will send Applicant a written statement with reason for the denial with 30 days from receiving Applicant's written request.

CATERPILLAR ACCESS/ACCOUNT CORPORATION: If CAA denies Applicant's application for business credit, Applicant has the right to a written statement for the specific reasons for the denial. To obtain such statement, please send a written request to CFSC, PO Box 24001, Nashville, TN 37203 within 60 days from the date on which Applicant was notified of the denial. CAA will send Applicant a written statement with reason for the denial with 30 days from receiving Applicant's written request.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit Applicants on the basis of race, color, religion, national origin, sex marital status, age (provided the Applicant has the capacity to enter into a binding contract); because all or part of the Applicant's income derives from any public assistance program; or because the Applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers our compliance with this law is the FTC Regional Office for the region in which we operate or the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

→ Signed: [signature] Print name: Angela Carrillo Title: President Date: 6-3-11

CONTINUING GUARANTY

Generally required for LLC's, Partnerships, Proprietorships and most Corporations. If an Account is opened in response to the foregoing application, in consideration of CECO, CAA and / or its assigns granting to Applicant the Account, the undersigned guarantor ("Guarantor") hereby unconditionally, absolutely and irrevocably guarantees the prompt and full payment and performance of all of Applicant's obligations under the agreement establishing the Account (the "Agreement"), and further agrees, in the event of any default under the Agreement, to pay the total balance due on the Account upon demand, without requiring CECO and / or CAA or their respective assignees to make demand and / or proceed first to enforce the Agreement against Applicant. Guarantor waives presentment, demand, protest, and notice of any kind, including but not limited to, notice of any modifications, amendments, or extensions of the Agreement, and of Applicant's nonperformance or breach of the Agreement. The payment obligations of Guarantor are the direct, primary, and continuing obligations of Guarantor and Guarantor's heirs, successors and assigns, and not merely a guaranty of collection. If there is more than one Guarantor, their obligations are joint and several. By signing below, the Guarantor also agrees, individually and not on behalf of Applicant, that CECO, CFSC, and / or CAA or their respective designees may obtain credit reports on Guarantor from credit reporting agencies, and otherwise investigate the credit of Guarantor, and hereby instructs all credit reporting agencies to provide CECO, CFSC and / or CAA with such credit reports upon request. Each of the terms of the Open Account Terms & Conditions are incorporated herein by this reference.

→ Signed: _____ Signed: _____ Date: _____

→ Signed: _____ Signed: _____ Date: _____

EXHIBIT 92.J02

CASHMAN CAT

INVOICE

1.800.937.2326
www.cashmanequipment.com

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

PLEASE REMIT TO:
Cashman Equipment Company
File # 56751
Los Angeles, CA 90074-6751

INVOICE NUMBER	INVOICE DATE	CUSTOMER NUMBER
S1236701	02-01-11	109502

AMOUNT

THANK YOU!

**** To ensure proper credit, please detach this portion and return with remittance. ****

INVOICE NUMBER	INVOICE DATE	CUSTOMER	INVOICE MODEL	MODEL	SALES	SALES MAN	SITE	PAY
S1236701	02-01-11	109502	767810-GEN10010	00	E	815	4	.1

REN NUMBER	RENTAL DATE	RENTAL			INVOICE REFERENCE	INVOICE NUMBER
S12367	02-01-11			10		206227

MAKE	MODEL	SERIAL NUMBER	INVOICE PARTS TABLE	INVOICE LABOR TABLE	INVOICE MODEL
AA	C32	JSJ01016		.0	10-081

QUANTITY	DESCRIPTION	PRICE
	CUSTOMER CONTACT: ANGELO CARVALHO	
1.0	EQUIPMENT SALE CATERPILLAR INC. MODEL C32 900 KW, 4580/277V, 4P, 4W, N3R ENCLOSED GENERATOR ID NO: 10-081 SERIAL NO: JSJ01016	152649.91
1.0	EQUIPMENT SALE CATERPILLAR INC. MODEL C32 900 KW, 4580/277V, 4P, 4W, N3R ENCLOSED GENERATOR ID NO: 10-082 SERIAL NO: JSJ01013	152649.91
1.0	EQUIPMENT SALE **800A, 480/277V, 4P, 4W, N3R CATERPILLAR INC. MODEL TRANSWITCH TRANSWITCH ID NO: 10-037 SERIAL NO: TSG03509	7672.45
1.0	EQUIPMENT SALE **1000A, 480/277V, 4P, N3R CATERPILLAR INC. MODEL TRANSWITCH TRANSWITCH ID NO: 10-038 SERIAL NO: TSG033510	10215.66
1.0	EQUIPMENT SALE **1200A, 480/277V, 4P, 4W, N3R CATERPILLAR INC. MODEL TRANSWITCH TRANSWITCH ID NO: 10-039 SERIAL NO: TSG03511	10812.66
1.0	EQUIPMENT SALE **3000A, 480/277V, 3P, 4W, N3R CATERPILLAR INC. MODEL SWITCHGEAR PARALLELING SWITCHGEAR ID NO: 10-040 SERIAL NO: SWGR36267	244869.50

COD

PLEASE PAY THIS AMOUNT	
PAY AMOUNTS CREDITED	

SOLD TO:

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

SHIP TO/REFERENCE:

CITY OF LAS VEGAS NEW CITY
MOJAVE ELECTRIC INC
3755 W HACIENDA AVE
LAS VEGAS NV 89118

CASHMAN Power Solutions CAT

Computer Protection Systems

TERMS: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

J2-001
CASH003

CASHMAN CAT

INVOICE

1.800.937.2326
www.cashmanequipment.com

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

PLEASE REMIT TO:
Cashman Equipment Company
File # 56751
Los Angeles, CA 90074-6751

INVOICE NUMBER	INVOICE DATE	CUSTOMER NUMBER
S1236701	02-01-11	109502
TOTAL	TOTAL AMOUNT DUE	
	598936.26	

THANK YOU!

**** To ensure proper credit, please detach this portion and return with remittance. ****

INVOICE NUMBER	INVOICE DATE	CUSTOMER NUMBER	CUSTOMER ORDER	STORE	DIV	SALESMAN	STATE	PAGE
S1236701	02-01-11	109502	767810-GEN10010	00	E	815	4	2

SHIPPING NUMBER	SHIP DATE						INVOICE TOTAL
S12367	02-01-11			10			206227

MAKE	MODEL	CUSTOMER UNIT	EQUIPMENT MODEL	METER READING	UNIT NUMBER
AA	C32	JSJ01016		.0	10-081

QUANTITY	DESCRIPTION	PRICE
	FUEL	7611.75
	SPARE PARTS	2353.17
	SHUNT TRIP STATION	497.50
	TRUCK LAY OVER	1741.25
	CUST SRV AGRMT	7462.50
	COD	

PLEASE PAY THIS AMOUNT	598936.26
AMOUNT DUE CREDITED	

SOLD TO:

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

SHIP TO/REFERENCE:

CITY OF LAS VEGAS NEW CITY
MOJAVE ELECTRIC INC
3755 W HACIENDA AVE
LAS VEGAS NV 89118

CASHMAN Power Solutions CAT

Computer Protection Systems CPS

TERMS: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

J2-002
CASH004

CASHMAN CAT

INVOICE

1.800.937.2328
www.cashmanequipment.com

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

PLEASE REMIT TO:
Cashman Equipment Company
File # 56751
Los Angeles, CA 90074-6751

INVOICE NUMBER	INVOICE DATE	CUSTOMER
S1236601	02-01-11	109502

TOTAL AMOUNT
156627.92

THANK YOU!

**** To ensure proper credit, please detach this portion and return with remittance. ****

INVOICE NUMBER	INVOICE DATE	CUSTOMER	PURCHASE ORDER	DIV	TYPE	PAYMENT TERMS	LINE	PAGE
S1236601	02-01-11	109502	767810-GEN10010	00	E	815	4	1

SHIPPING NOTE	SHIPPED						INVOICE TOTAL
S12366	02-01-11			10			206228.

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	METER READING	EQUIPMENT NUMBER
XX	98AE500244	10-71M73354-01		.0	10-504

QUANTITY	DESCRIPTION	AMOUNT
	CUSTOMER CONTACT: ANGELO CARVALHO	
	EQUIPMENT SALE MISC UPS	
1.0	ID NO: 10-504 MODEL 98AE500244 SERIAL NO: 10-71M73354-01 400 KW 277/480V 3 PHASE W/BATTERIES MGE MODEL EPS60[illegible] SHUNT TRIP STATION	156627.92

COD

THIS AMOUNT	156627.92
AMOUNT ATTACHED	

SOLD TO:

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

SHIP TO/REFERENCE:

CITY OF LAS VEGAS NEW CITY
MOJAVE ELECTRIC INC
3755 W HACIENDA AVE
LAS VEGAS, NV 89118

CASHMAN Power Solutions CAT

Computer Protection Systems CPS

TERMS: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

J2-003
CASH005

CASHMAN

INVOICE

1.800.937.2326
www.cashmanequipment.com

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

PLEASE REMIT TO:
Cashman Equipment Company
DEPT 3397
Los Angeles, CA 90084-3397

INVOICE NUMBER	INVOICE DATE	CUSTOMER #
S1238901	03-25-11	109502
AMOUNT		
329.71		

THANK YOU!

**** To ensure proper credit, please detach this portion and return with remittance. ****

INVOICE NUMBER	INVOICE DAY	CUSTOMER #	CONTROL NUMBER	SUFFIX	CODE	AMOUNT	TERMS	PAGE
S1238901	03-25-11	109502	767810GEN-10010	00	E	815	4	1

REFERENCE NUMBER	INVOICE DATE	PO	DIVISION	SALESMAN		INVOICE TOTAL
S12389	03-25-11			10		208546

MAKE	MODEL NUMBER	EQUIPMENT NUMBER	EQUIPMENT NUMBER	METER READING	CACHES NUMBER
AA		XXXXX		.0	MISC-PD

QUANTITY	DESCRIPTION	PRICE
	CUSTOMER CONTACT: ANGELO CARVALHO	
1.0	EQUIPMENT SALE CATERPILLAR INC. MODEL ID NO: MISC-PD SERIAL NO: XXXXX	
	LUGS 6 RA[illegible] 6 E[illegible] 00[illegible]URI[illegible]A360[illegible]	305.00
	NV [illegible] CLARK	24.71

COD

PLEASE PAY THIS AMOUNT	329.71
AMOUNT CREDITED	

SOLD TO:

CAM CONSULTING
3874 CIVIC CENTER DR
NORTH LAS VEGAS NV 89030-7524

SHIP TO/REFERENCE:

LV CITY HALL

CASHMAN Power Solutions

Computer Protection Systems

TERMS: DUE UPON RECEIPT OF INVOICE. A 1.5% PER MONTH LATE CHARGE WILL BE ASSESSED ON PAST DUE INVOICES.

J2-004
CASH006

EXHIBIT 92.J03

STRAIGHT BILL OF LADING—SHORT FORM ORIGINAL – NOT NEGOTIABLE

Shipper's No.

Carrier's Name: RST

Carrier's No.

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of lading,

at 93944 Pinto (Date) 1-17-11 FROM JBI, LLC

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its own railroad, water line, highway route or routes, or within the territory of its highway operations, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the terms and conditions of the Uniform Domestic Straight Bill of Lading set forth (1) in the Uniform Freight Classification in effect on the date hereof, if this is a rail or rail-water shipment, or (2) in the applicable motor carrier classification or tariff if this is a motor carrier shipment. Shipper hereby certifies that he is familiar with all the terms and conditions of the said bill of lading, including those on the back thereof, set forth in the classification or tariff which governs the transportation of this shipment, and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his assigns.

Consigned To Cashman Empl / LV City Hall (Mail or street address for purposes of notification only)

On Collect on Delivery Shipments, the letters "COD" must appear before consignee's name or as otherwise provided in Item 430, Sec. 1.

Destination 518 South Street 1st St City

County State Zip

Route Las Vegas, NV Delivery Address* Same

(*To be filled in only when shipper desires and governing tariffs provide for delivery thereof.)

Delivering Carrier Car or Vehicle Initials and No.

Collect on Delivery $ Kim @ cashman And Remit to

702-326-6596

Street City State

No. Packages	H.M.	Kind of Package, Description of Articles, Special Marks, and Exceptions	*Weight (Subject to Correction)	Class or Rate	Check Column
1		Encl / Sent / Tank			
		#-42206-2			
		Project - Las Vegas City Hall			
1		mulber			
2		Pallets -			
		Chris Myers			
		cell 702-205-3311			

*If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is carrier's or shipper's weight.
NOTE—Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding

Shipper, Per

Permanent post-office address of shipper.

Per

Per

Agent

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignee, the consignee shall sign the following statement:
"The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges."

(Signature of consignee)

C. O. D. Charges to be Paid by ☐ Shipper ☐ Consignee

If charges are to be prepaid, write or stamp here, "To be Prepaid."

Received $ to apply in prepayment of the charges on the property described hereon.

Agent or Cashier

Per (The signature here acknowledges only the amount prepaid)

Charges Advanced:

$

†"The flat condition used for this shipment conforms to the specifications set forth in the box maker's certificate thereon, and all other requirements of Rule 41 of the Uniform Freight Classification and Rule 5 of the National Motor Freight Classification."
†Shipper's imprint in lieu of stamp; not a part of Bill of lading approved by the Interstate Commerce Commission.

1

THIS SHIPPING ORDER must be legibly filled in, in ink, in indelible Pencil, or in Carbon, and retained by the Agent.

Shipper's No.

Carrier's Name: RST

Carrier's No.

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of lading,

at 20394 N. [illegible] (Date) 1-17-11 FROM IBILLC

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its own railroad, water line, highway route or routes, or routes in connection therewith, or within the territory of its highway operation, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the terms and conditions of the Uniform Domestic Straight Bill of Lading set forth (1) in the Uniform Freight Classification in effect on the date hereof, if this is a rail or rail-water shipment, or (2) in the applicable motor carrier classification or tariff if this is a motor carrier shipment. Shipper hereby certifies that he is familiar with all the terms and conditions of the said bill of lading, including those on the back hereof, set forth in the classification or tariff which governs the transportation of this shipment, and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his assigns.

Consigned TO Cushman Egan / LV City Hall (Mail or street address for purposes of delivery only)

On Collect on Delivery Shipments the terms "COD" mean prepaid for consignee's account or as otherwise provided in Item 45b, Sec. 1.

Destination 51 S. South Street 1st St. City

County State Zip

Route Las Vegas, NV 89101 Delivery Address*

(*To be filled in only when shipper desires and governing tariff provides for delivery thereof.)

Delivering Carrier Car or Vehicle Initials and No.

Collect on Delivery $ Ken O Cushman And Remit to

702-326-6596

Street City State

No. Packages	HM	Kind of Package, Description of Articles, Special Marks, and Exceptions	*Weight (Subject to Correction)	Class or Rate	Check Column
1		Weather Pro / Dent Tank			
		# 42706-1			
		Dropped - Las Vegas City			
		Hall	On Delivery		
1		Motor parts	1-19-11	8:00 am	
2		Chris Meyers - 702-205-3311			

NOTE—Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____ per _____

Shipper, Per

Permanent post-office address of shipper,

Agent must detach and retain this Shipping Order and must sign the Original Bill of Lading.

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

(Signature of consignor)

C. O. D. Charges to be Paid by ☐ Shipper ☐ Consignee

If charges are to be prepaid, write or stamp here, "To be Prepaid."

Received $ _____ to apply in prepayment of the charges on the property described hereon.

Agent or Cashier

Per (The signature here acknowledges only the amount prepaid.)

Charges Advanced:

$

†"The rates, classifications and tariffs in effect on the date hereof, when applicable to this shipment, are those lawfully filed with the Interstate Commerce Commission."

*Shipper's imprint in lieu of stamp not a part of bill of lading approved by the Interstate Commerce Commission.

2

J3-002
CASH008

JA 00002593

CASHMAN CAT POWER SOLUTIONS

CASHMAN POWER SOLUTIONS
3300 SAINT ROSE PARKWAY
HENDERSON, NV 89052
PHONE: (702) 649-8777
FAX: (702) 639-5090

To	Mojave Electric	Date	November 19, 2011
		PO No.	
		Material	
Att		Project	Las Vegas City Hall

IF ENCLOSURES ARE NOT AS NOTED, PLEASE ADVISE IMMEDIATELY.

☐ Submittal / Resubmittal ☐ Product Specification Sheets / Brochures ☐ Specifications / Plans
☐ Operation & Maintenance Manuals ☐ Shop Drawings-Wiring Diagrams ☐ Other

No of Copies	Manufacturer	Description
2	CAT	C32 Generators S/N JSJ01016, JSJ01013

☐ As Requested ☐ Review / Comment / Clarification ☐ Information / Other

Additional Notes and Comments

Received By: [signature] Title: Project Manager

Date Received: 1-20-11

Submitted By: _____ Date: _____

J3-003
CASH009

EXHIBIT 92.J04

UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

(NRS 108.2457)

Property Name: Las Vegas City Hall

Property Location: 495 S. Main Street, Las Vegas, NV 89101

Undersigned's Customer: Cashman Equipment

Invoice/Payment Application Number: INSS 1236610, 12367010, 12389010

Payment Amount: $755,893.89

Payment Period: 4-26-11

Amount of Disputed Claim: Ø

The undersigned has been paid in full for all work, materials and equipment furnished to his Customer for the above-described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property, except for the payment of Disputed Claims, if any, noted above. The undersigned warrants that he either has already paid or will use the money he receives from this final payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials and equipment that are the subject of this waiver and release.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.

Dated 4-26-11

Cashman Equipment
(Company Name)

By Arturo Prince
(Signature)

Title Collector

NOTARY:

Subscribed and sworn to before the undersigned, a Notary Public for the State of NEVADA

County of CLARK This 26 day of April, 2011.

Notary Public Signature: Debra Colwell

Commission Expires: 6-15-11

DEBRA COLWELL
NOTARY PUBLIC - STATE OF NEVADA
COUNTY OF CLARK
APPT. No. 99-37828-1
MY APPT. EXPIRES JUNE 15, 2011

UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

(NRS 108.2457)

Property Name: Las Vegas City Hall

Property Location: 495 S. Main Street, Las Vegas NV 89101

Undersigned's Customer: Cashman Equipment

Invoice/Payment Application Number: INSS 12366010, 12367010, 12389010

Payment Amount: $ 755,893.89

Payment Period: 4-26-11

The undersigned has been paid and has received a progress payment in the above-referenced Payment Amount for all work, materials and equipment the undersigned furnished to his Customer for the above-described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property to the following extent:

This release covers a progress payment for the work, materials and equipment furnished by the undersigned to the Property or to the Undersigned's Customer which are the subject of the Invoice or Payment Application, but only to the extent of the Payment Amount or such portion of the Payment Amount as the undersigned is actually paid, and does not cover any retention withheld, any items, modifications or changes pending approval, disputed items and claims, or items furnished that are not paid. The undersigned warrants that he either has already paid or will use the money he receives from this progress payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials or equipment that are the subject of this waiver and release.

NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT TO THE EXTENT OF THE PAYMENT AMOUNT OR THE AMOUNT RECEIVED. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.

Dated: 4-26-11

Cashman Equipment
Company Name

By: Atlebon Prince

Its: Collector

NOTARY:
Subscribed and sworn to before the undersigned, a Notary Public for the State of Nevada
County of: Clark This 26 day of April, 2010

Notary Public Signature: Debra Colwell
Commission Expires: 6-15-11

DEBRA COLWELL
NOTARY PUBLIC - STATE OF NEVADA
COUNTY OF CLARK
APPT. No. 99-37029-1
MY APPT. EXPIRES JUNE 15, 2011

EXHIBIT 92.J05

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
Phone: 702-633-4648 Fax: 702-633-4671

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

CASHMAN EQUIPMENT COMPANY
3300 ST ROSE PARKWAY
HENDERSON NV, 89052

27284989
NVNV

8352 -
File with: Secretary of State, NV

CT Lien Solutions
Representation of filing

This filing is Completed
File Number : 2011003977-7
File Date : 16-FEB-2011

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME
CAM CONSULTING INC.

OR 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS: 3874 CIVIC CENTER DR | CITY: NORTH LAS VEGAS | STATE: NV | POSTAL CODE: 89030 | COUNTRY: USA

1d. SEE INSTRUCTIONS | ADDL INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION: CORPORATION | 1f. JURISDICTION OF ORGANIZATION: NV | 1g. ORGANIZATIONAL ID #, if any: E0061632009-1 [ ] NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

2d. SEE INSTRUCTIONS | ADDL INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any [ ] NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME
CASHMAN EQUIPMENT COMPANY

OR 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS: 3300 ST ROSE PARKWAY | CITY: HENDERSON | STATE: NV | POSTAL CODE: 89052 | COUNTRY: USA

4. This FINANCING STATEMENT covers the following collateral:
UPS MODEL 98AE500244 SERIAL NUMBER 10-71M73354-01
TWO (2) CATERPILLAR MODEL C32 900KW ENCLOSED GENERATOR SERIAL NUMBER JSJ01016, JSJ01013
THREE (3) CATERPILLAR TRANSWITCH SERIAL NUMBER TSG03509, TSG033510; TSG03511
ONE (1) CATERPILLAR SWITCHGEAR SERIAL NUMBER SWGR36267

Together with all substitutions, replacements, additions, and accessions thereto now owned or hereafter acquired and proceeds thereof.

5. ALTERNATIVE DESIGNATION [if applicable]: [ ] LESSEE/LESSOR [ ] CONSIGNEE/CONSIGNOR [ ] BAILEE/BAILOR [ ] SELLER/BUYER [ ] AG. LIEN [ ] NON-UCC FILING

6. [ ] This FINANCING STATEMENT is to be filed [for record] [or recorded] in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] [ ] All Debtors [ ] Debtor 1 [ ] Debtor 2

8. OPTIONAL FILER REFERENCE DATA
27284989 10-504 10-981 PJ

Prepared by CT Lien Solutions [3.23.0]

FILING OFFICE COPY - UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

EXHIBIT 92.J06

File:0 [NV][PRIVATE][COPY:EST]
Recording Requested by and Return to:
CASHMAN EQUIPMENT COMPANY

3300 St. Rose Pkwy
HENDERSON, NV 89052

Customer: CAM CONSULTING
P.O. #:
Project: CITY OF LAS VEGAS NEW CITY HALL
Rec ID: AB206643-B5B2-42EE-A808-1868806420 78
Job #: S1236701
Cert No.: _____

NOTICE OF RIGHT TO LIEN (PRIVATE WORK)

(Nevada Revised Statues)

TO: GENERAL CONTRACTOR
MOJAVE ELECTRIC INC

3755 W HACIENDA AVE
LAS VEGAS, NV 89118-2905

TO: OWNER OR REPUTED OWNER
FQ LAS VEGAS LLC

50 PUBLIC SQ-TH #1410
CLEVELAND, OH 44113-2202

The undersigned notifies you that he has supplied materials or performed work or services for improvement of your real property as follows: Equipment Rental. The project is commonly known as: CITY OF LAS VEGAS NEW CITY HALL. The project is located at: 495 MAIN STREET, LAS VEGAS, NV 89101.

The person contracting for said labor or materials is: CAM CONSULTING, 3074 CIVIC CENTER DR, N LAS VEGAS, NV 89030-7524.

Said labor, materials or services were first furnished or worked performed on 02/01/2011.

This is not a notice that the undersigned has not or does not expect to be paid, but a notice required by law that the undersigned may, at a future date, claim a lien as provided by law against the property if the undersigned is not paid.

REQUEST IS HEREBY MADE that the Owner or Public Entity, pursuant to Nevada's Mechanic's Lien Statutes serve on the Undersigned, by certified mail, a copy or copies of any and all Notices of Completion the Owner or Public Entity, its agents or its assigns, causes to be recorded with the County Recorder's Office where the property is located with respect to the improvements to be made.

I declare that I am authorized to file this claim on behalf of the claimant. I have read the foregoing document and know the contents thereof; the same is true of my own knowledge. I declare under penalty of perjury that the foregoing is true and correct. Executed at HENDERSON, Nevada on 04/20/2011 for CASHMAN EQUIPMENT COMPANY.

Prepared by: CMA FORMS FILING SERVICE
LUPE GALLEGOS, REPRESENTATIVE FOR, CREDIT MANAGEMENT ASSOCIATION Phone: (702) 259-2622 Fax: (702) 259-9908

PROOF OF SERVICE BY MAIL AFFIDAVIT

I declare that I served a copy of the above document, and any related documents, by certified or registered mail, postage prepaid, or other certified delivery, addressed to the above named parties, at the addresses listed above, on 04/20/2011. I declare under penalty of perjury that the foregoing is true and correct. Executed at HENDERSON, Nevada on 04/20/2011.

Prepared by: CMA FORMS FILING SERVICE
LUPE GALLEGOS, REPRESENTATIVE FOR, CREDIT MANAGEMENT ASSOCIATION

CC: TO LENDER, SURETY OR BONDING CO.

EXHIBIT 92.J07

091000019
05/04/2011
3351163946

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RETURN REASON-C
STOP PAYMENT

1095 02

STOP PAYMENT
Do Not Re-deposit

DAM CONSULTING INC
5974 CWO CENTER DR PH 702-528-6232
NORTH LAS VEGAS, NV 89030-7861

1036

DATE 22-April-11

PAY TO THE ORDER OF Cashman Equipment $7,558.93

Seven Fifty Five Eight Ninety Three 89 DOLLARS

NEVADA STATE BANK
7755 S. Eastern Avenue
Las Vegas, Nevada 89123

For invoice # 67445 & 67446

⑈001036⑈ ⑆122400779⑆ 26203403 2⑈ ⑈0075589389⑈

122400779 05/02/2011
0036 0 4424 0962
12200 0 1 6 5 0 79 05/09/2011 RR
0 15 22 6 4 3 5 0 79 05/05/2011 RR
0 15 1 1 0 0 0 0 0 0 79 05/09/2011 RR
*0 5 1 0 0 0 1 7 3 7 1 05/09/2011 RR
3 3 5 1 1 6 3 9 4 6

CASHMAN EQUIPMENT COMPANY
4121434596
FOR DEPOSIT ONLY
WELLS FARGO BANK
121000248

>051000019<
09494 0962 05/02/2011

↓Do not endorse or write below this line.↓

J7-001
CASH014

WELLS FARGO BANK N.A. 182
P.O. BOX 5169
SIOUX FALLS, SD 57104

WELLS FARGO

CASHMAN EQUIPMENT COMPANY
3300 SAINT ROSE PKWY
HENDERSON NV 89052-3985

ITEMS ENCLOSED: 1

PAGE 1 OF 1 ACCOUNT CHARGED 4121484596 DATE: 05-04-2011

YOUR ACCOUNT HAS BEEN CHARGED FOR THE FOLLOWING ITEM(S) RETURNED UNPAID.

	REASON FOR NON-PAYMENT	SEQUENCE #	AMOUNT
DEPOSITORY ACCOUNT NUMBER:	4121484596		
CHARGES FOR PAPER RETURNS			
	Stop Pay	3351153946	755,893.89
TOTAL CHARGES FOR PAPER RETURNS			755,893.89

TOTAL CHARGES FOR PAPER RETURNS 755,893.89

SHOULD YOU HAVE ANY QUESTIONS OR REQUIRE ADDITIONAL INFORMATION, PLEASE CALL THE PHONE NUMBER THAT IS LISTED ON YOUR BANK STATEMENT.

J7-002
CASH015

EXHIBIT 92.J08

Cashman Equipment

3300 St. Rose Parkway
Henderson, Nevada 89052
800.937.2326 tel
702.633.4699 fax

Send to Bill Allen Have Allen Email

10-Day Notice Letter

5/18/2011

Cam Consulting Inc
3874 Civic Center Drive
North Las Vegas, NV 89030

Re: Your check #1036, drawn on Nevada State Bank, dated 4/29/11, in the amount of $755,893.89, payable to Cashman Equipment.

Dear Mr. Carvallo:

This above listed check, drawn on your account, has been returned to us by your bank marked "Stop Payment." Pursuant to NRS 205.130, issuing or passing a check, knowing that there are not sufficient funds in the account to pay the check is a criminal offense.

This letter constitutes your ten (10) day written notice that your check was returned and marked "Stop Payment" as provided by Nevada law. Unless you make restitution on this check by 5/28/11, we will submit this matter to the Clark County District Attorney for legal action. Restitution within the next ten (10) day should be made directly to the undersigned.

Sincerely,

Shane Neyman
Credit Mgr-Cashman Equipment
3300 St Rose Pkwy
Henderson, NV 89052

J8-001
CASH016

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Sent To: Angelo Carvallo
Street, Apt. No.; or PO Box No.: 6316 Little Elm St.
City, State, ZIP+4: N. Las Vegas, NV 89031

PS Form 3800, August 2006 — See Reverse for Instructions

ATTN: CAT

Elaine Newman
Cashman Equipment
3300 St. Rose Parkway
Henderson, NV 89052

7007 2680 0000 4138 8019

UNITED STATES POSTAGE
02 1M $ 05.54⁰
0004274730 MAY13 2011
MAILED FROM ZIP CODE 89052

Angelo Carvallo
6316 Little Elm St
N Las Vegas, NV 89031

J8-002
CASH017

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Sent To: Cam Consulting
Street, Apt. No.; or PO Box No.: 3874 Civic Center Dr
City, State, ZIP+4: N Las Vegas, NV 89030

PS Form 3800, August 2006 — See Reverse for Instructions

Shane Nomas
Cashman Equipment
3300 St. Rose Parkway
Henderson, NV 89052

CERTIFIED MAIL

7007 2680 0000 4138 8026

Cam Consulting
3874 Civic Center Dr
N Las Vegas, NV 89030

UNITED STATES POSTAGE
PITNEY BOWES
02 1M
0004274790
$ 05.54[0]
MAY 18 2011
MAILED FROM ZIPCODE 89052

J8-003
CASH018

EXHIBIT 92.J09

Cashman Equipment

3300 St. Rose Parkway
Henderson, Nevada 89052
800.937.2326 tel
702.633.4699 fax

5/31/11

To: District Attorney's office

Re: Cam Consulting/Angelo Carvalho bad check

I received a check dated 4/29/11 in the amount of $755,893.89 from Angelo Carvalho for payment on a generator sold to him as a disadvantaged business owner (DBE) on the new Las Vegas City Hall project. On 5/4/11 that check was returned due to a stop payment order issued by Mr. Carvalho.

Mr. Carvalho states that he is presently serving our country and as a result of unspecified duties and assignments is rarely in Las Vegas to conduct business. I was told by our contact at Mojave Electric (Francis McCombs 978-2970) that Angelo stated to her in a meeting (on or near 4/29/11) she had with him that he wouldn't be back in the country for another 45 days. I tracked another business associate down of his down on 5/17 (John Heinaman 949-254-9037) who had just met with him here in Las Vegas the day previous. I then met Angelo at his residence the next morning (5/18) and in turn he wrote me another check to replace the first in the same amount. He stated that he had just got in from an overseas assignment that same morning at 1 a.m. I promptly went to the nearest Nevada State Bank (on Craig Road) and attempted to convert the check to a cashiers check. The staff informed me the check was not written correctly—the written portion excluded words thousands and hundreds. I went to another Nevada State Bank on Simmons and Ann (Allante) and the staff there would not convert it as the account did not have sufficient funds to cover the check.

I returned to Angelo's residence and he made a call to the bank and found there to be approximately $800 in the account. I gave this check back to him in hopes to get a correctly written check for what was in the account but after finding only $800 was there Angelo allegedly went to the bank (he didn't allow let me to accompany him). I received a text message from him later that evening at 7:26pm stating the funds were somehow transferred to a Wells Fargo account and not by his own hand. This is the last communication I have had from him despite numerous attempts in various methods. His phone number was disconnected last week.

Cashman Equipment respectfully requests help from the DA's office to track the funds out of the NV State bank account to where the funds presently reside if at all possible. Secondly, as we have no way of confirming Angelo's assignment with the Military (he states Army Rangers-special operations) nor way of contacting his commanding officer to aide us in locating his whereabouts and to inform him of the events of the past month, we need your help and authorization in acquiring this information.

If you have any additional questions whatsoever, please do not hesitate to call me.

Thanks,
Shane Norman—Cashman Eq
702-633-4549
shane_norman@cashmanequipment.com

Bad Check/Marker Complaint Form
Clark County District Attorney

FILED
2011 MAY 31 P 3:49

Bad Check Diversion Unit
200 Lewis Avenue #00246, Las Vegas, NV 89101
(702) 671-4701 Fax (702) 455-6410

Any "yes" answer indicates that this matter should be handled through the appropriate civil courts. ⇒

	Yes	No
Does this complaint involve a post-dated check?	☐	☐
Does this complaint involve a two party check?	☐	☐
Was partial payment received on this account?	☐	☐
Does this complaint involve an extension of credit?	☐	☐

DAS Office Use Only: Case # 2011-374492

2011-374492

Information Regarding Issuer

First Name: Angelo	Middle Name:	Last Name: Carvalho	Suffix (if any):
SSN: 1359	Date of Birth: 9/24/67	Race: (if known)	☐ Female ☑ Male
Address 1: 6316 Little Elm St.			
Address 2:			
City: N. Las Vegas	State: NV	Zip: 89031	Country: Clark
Phone #: 702-384-2022	Driver's License #:		State Where Issued:
Picture ID Type:	ID #:		State Where Issued:
Passport #:	Country:	Hair: / Eyes:	Height: / Weight:

Check/Marker Information

Check/Marker #: 1036	Date: 4/29/11	Check/Marker Amount: 755,893.89	Returned Item Fee:	Certified Mail Costs:

Name & Address of Person Accepting Check/Marker: Shane Norman / Cashman Equipment 3320 St. Rose Pkwy Henderson, NV 89052 — Still Employed: ☑ yes ☐ no

Purpose of Check/Marker (required): (wages, rent, merchandise, services, gaming, etc.) payment for ~~[illegible]~~ Las Vegas City Hall generator

Physical location where check was passed: Mojave Electric ~~[illegible]~~ 3755 W. Hacienda Las Vegas, NV 89118

Institute or Bank Check Drawn On: Nevada State Bank — Account number: 1220079 0 26 2031032

Victim Information

Victim or Business Name: Cashman Equipment		Corporate Name (if different):	
Mailing Address: 3320 St. Rose Pkwy			
City: Henderson		State: NV	Zip: 89052
Contact Name (please print): Shane Norman		Phone #: 435-4549	Fax #:
Contact E-mail Address: shane_norman@cashmanequipment.com			

** Attach original check/marker here **

I (WE) hereby authorize the Clark County District Attorney or his designee as my agent to endorse and cash any negotiable instrument tendered by or on behalf of the drawer of the check presented for collection by this request and to obtain any bank or financial institution information regarding the drawer of this check to which we may be entitled.

I (WE) hereby certify that all information in this complaint is true and accurate to the best of my knowledge.

X Signature:	Print Name: Shane Norman	Date: 5/31/11

*Complaint must be signed and dated when submitted

J9-002
CASH020

EXHIBIT 92.J10

Inst #: 201107290003247
Fees: $16.00
N/C Fee: $0.00
07/29/2011 03:00:48 PM
Receipt #: 863321
Requester:
PEZZILLO ROBINSON
Recorded By: ANI Pgs: 3
DEBBIE CONWAY
CLARK COUNTY RECORDER

APN: 139-34-311-021

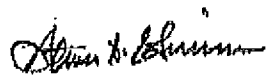
Recording Requested by/ Mail to:

Cashman Equipment Company
c/o Pezzillo Robinson
6750 Via Austi Pkwy., Ste. 170
Las Vegas, NV 89119

LIS PENDENS

J10-001
CASH021

Electronically Filed
07/25/2011 05:37:27 PM



CLERK OF THE COURT

LISP
Jennifer R. Lloyd-Robinson, Esq.
Nevada Bar No. 9617
FEZZILLO ROBINSON
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119
Tel: (702) 233-4225
Fax: (702) 233-4252
Attorneys for Plaintiff,
Cashman Equipment Company

DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a Nevada corporation, Plaintiff, vs. CAM CONSULTING INC., a Nevada corporation; ANGELO CARVALHO, an individual; JANEL RENNIE aka JANEL CARVALHO, an individual; MOJAVE ELECTRIC LV LLC, a Nevada limited liability company; WESTERN SURETY COMPANY, a surety; FC/LW VEGAS, LLC, a Delaware limited liability company; L W T I C SUCCESSOR LLC, an unknown limited liability company; THE WHITING TURNER CONTRACTING COMPANY, a Maryland corporation; DOES 1 - 10, inclusive; and ROE CORPORATIONS 1 - 10, inclusive; Defendants.	CASE NO. A642583 DEPT NO. 32 **LIS PENDENS**

TO: ALL PERSONS CLAIMING AN INTEREST OR HOLDING MECHANICS LIENS UPON THE PROPERTY AS DESCRIBED HEREIN:

PLEASE TAKE NOTICE that an action has been commenced in the above entitled Court by CASHMAN EQUIPMENT COMPANY, Plaintiff herein, named against Defendants herein named, which suit is now pending, that the subject of this action affects the title and/or possession of the real property described as:

518 S. 1st St.
Las Vegas, Nevada
Assessor's Parcel Number 139-34-311-021

Therefore, Plaintiff hereby places this Lis Pendens against the same.

DATED: July 25, 2011

PEZZILLO ROBINSON

By: _____
Jennifer R. Lloyd-Robinson, Esq.
Nevada State Bar No. 9617
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119
Attorneys for Plaintiff
Cashman Equipment Company

Pezzillo Robinson
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119
Tel. 702-233-0225

EXHIBIT 92.J11

STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

I, Shane Norman, being first duly sworn on oath, according to law, deposes and says:

I have read the foregoing Notice of Lien, know the contents thereof and state that the same is true of my own personal knowledge, except those matters stated upon information and belief, and, as to those matters, I believe them to be true.

Shane Norman

SUBSCRIBED AND SWORN to before me
this 2nd day of June, 2011.

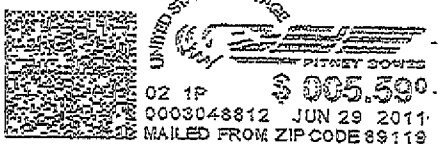
NOTARY PUBLIC in and for said County and State

TERRI L. MOLINARO
Notary Public, State of Nevada
Appointment No. 93-0686-1
My Appt. Expires July 31, 2013

J11-002
CASH028

Pezzillo Robinson
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119

7010 1870 0000 4101 1175



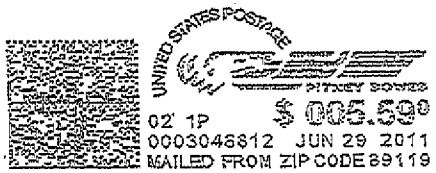
J11-003
CASH029

CAM Consulting, Inc.
c/o Angelo Carvalho, Registered Agent
3874 Civic Center Dr.
North Las Vegas, NV 89030

CERTIFIED MAIL

Pezzillo Robinson
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119

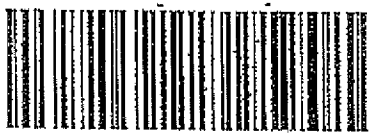
7010 1870 0000 4101 1162



FC/LW Vegas, LLC
LWTIC Successor, LLC
c/o Forest City Enterprises
50 Public SQ.
Terminal Tower, #1410
Cleveland, OH 44113-2202

CERTIFIED MAIL

Pezzillo Robinson
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119



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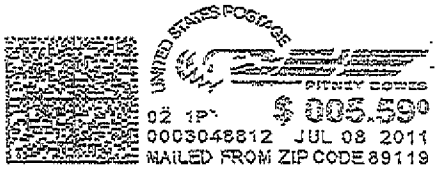
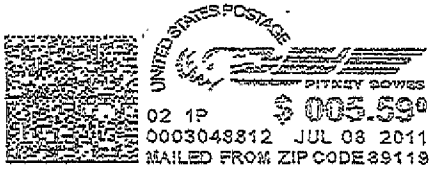


Whiting Turner Contracting Company
6720 Via Austi Pkwy., Ste. 300
Las Vegas, NV 89119

CERTIFIED MAIL

Pezzillo Robinson
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119

7010 1870 0000 4101 1434



Mojave Electric, LLC
c/o Francis Howard, Registered Agent
7 Commerce Center Dr., Ste. A
Henderson, NV 89014

J11-004
CASH030

UNITED STATES POSTAL SERVICE

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Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: 7010 1870 0000 4101 1176
Service(s): Certified Mail™
Status: Delivered

Your item was delivered at 12:46 pm on July 05, 2011 in LAS VEGAS, NV 89119.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- Delivered, July 05, 2011, 12:46 pm, LAS VEGAS, NV 89119
- Processed through Sort Facility, July 04, 2011, 11:29 pm, LAS VEGAS, NV 89199
- Processed through Sort Facility, July 03, 2011, 5:23 am, LAS VEGAS, NV 89199
- Notice Left, June 30, 2011, 11:10 am, NORTH LAS VEGAS, NV 89030
- Processed through Sort Facility, June 30, 2011, 2:30 am, LAS VEGAS, NV 89199

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. Go >

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UNITED STATES POSTAL SERVICE

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Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: 7010 1870 0000 4101 1182
Service(s): Certified Mail™
Status: Delivered

Your item was delivered at 10:01 am on July 01, 2011 in CLEVELAND, OH 44113.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- Delivered, July 01, 2011, 10:01 am, CLEVELAND, OH 44113
- Arrival at Unit, July 01, 2011, 7:07 am, CLEVELAND, OH 44113
- Processed through Sort Facility, July 01, 2011, 1:59 am, CLEVELAND, OH 44101

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. Go >

EXHIBIT 92.J12

NOTICE TO GENERAL CONTRACTOR OF CLAIM ON PAYMENT AND PERFORMANCE BOND

TO: Whiting Turner Contracting Company
6720 Via Austi Pkwy #300
Las Vegas, NV 89119

Claimant, **Cashman Equipment Company** hereby notifies you that it has supplied materials and performed work within the last 90 days as follows:

Generators

The total amount owed to Cashman Equipment Company for equipment supplied and work performed is $755,893.89.

The above referenced materials were supplied and work was performed on and for the improvement of real property identified as the New Las Vegas City Hall located at 518 S. 1st St., Las Vegas, Nevada.

CLAIMANT HEREBY NOTIFIES YOU THAT UNLESS PAYMENT IS MADE PROMPTLY HEREAFTER FOR THE MATERIALS SUPPLIED AND/OR WORK PERFORMED BY CLAIMANT, CLAIMANT INTENDS TO SEEK PAYMENT FROM YOU AND THE PAYMENT BOND PROVIDED BY YOU ON THE PROJECT.

Dated: June 24, 2011

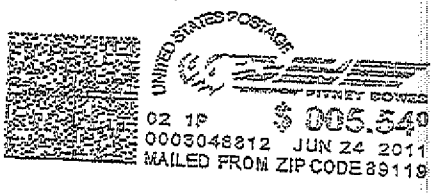
By: _____
Jennifer R. Lloyd-Robinson, Esq.
Attorney-in-fact for Cashman Equipment Company

J12-001
CASH033

Pezzillo Robinson
6750 Via Austi Parkway, Suite 170
Las Vegas, Nevada 89119

CERTIFIED MAIL

7010 1870 0000 4101 0871



Whiting Turner Contracting Company
6720 Via Austi Pkwy., Ste. 300
Las Vegas, NV 89119

J12-002
CASH034

EXHIBIT 92.J13

NEVADA STATE BANK

CHECKING DEPOSIT

DEPOSITED CHECKS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

FOR DEPOSIT TO THE ACCOUNT OF

DATE 6-April-11 20

NAME Cam Consulting

ADDRESS 3847 Civic Center Dr.

ACKNOWLEDGE RECEIPT OF CASH RETURNED BY SUB AND ABOVE (PERSONAL ACCOUNTS / SOLE PROPRIETORSHIPS ONLY)

ACCOUNT NUMBER

0262031032

CASH ▶ 5866.03 AC

DOLLARS CENTS

CHECKS 079924

ON REVERSE SIDE

SUB TOTAL ▶

LESS CASH RECEIVED

NET DEPOSIT $ 5866.03 AC

DDA-0002 (Rev. 03/09)

⑆5454⑈0018⑆

SUB TOTAL			
INCLUDE THIS TOTAL IN TOTAL DEPOSIT ON FRONT SIDE OF DEPOSIT SLIP.			

List Each Separately Or Attach List

Teller DDA Dep 04/06/11 - G
Account Number 262031032
ID
Deposit Amt $5,866.03
074 01 0329114120

Date:04/06/11 Sequence Num:94588862 Account:262031032 Serial:- Amount:$5,866.03 Dep Seq#:94588862

ORIGINAL CHECK HAS A BORDER AND BORDER WITH THE SIGNATURE LINE. CARE IS TAKEN WHILE PRINTING THIS CHECK TO ENSURE THE ABOVE INFORMATION IS PRINTED IN BLACK INK.

Mojave Electric
LIC. #19512

GENERAL ACCOUNT
3755 W. Hacienda Ave.
Las Vegas, Nevada 89118
(702) 700-2970

NEVADA STATE BANK
P.O. BOX 930
LAS VEGAS, NV 89125-0930

94-77-1224

079929

Vendor No.	Check No.	Check Date
CAC004	079929	03/14/11

FIVE THOUSAND EIGHT HUNDRED SIXTY SIX DOLLARS AND 03 CENTS**********

$5,866.03

Pay
CAM CONSULTING INC
C/O QED
3847 CIVIC CENTER DRIVE
NORTH LAS VEGAS NV 89030

Troy Nelson
President

⑈079929⑈ ⑆122400779⑆0920055534⑈

ENDORSE HERE
X

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

Date:04/06/11 Sequence Num:94588863 Account:692005534 Serial:79929 Amount:$5,866.03 Dep Seq#:94588862

J13-002
CASH468

GENERAL ACCOUNT

Mojave Electric
LIC. #19512

3756 W. Hacienda Ave.
Las Vegas, Nevada 89118
(702) 798-2970

NEVADA STATE BANK
PO BOX 99
LAS VEGAS, NV 89125-0099

Vendor No. CAC004

Check No. 080153

Check Date 04/08/11

080153

$136,269 DOLLARS AND 00 CENTS**********

$136,269.00

Pay CAM CONSULTING INC

3074 CIVIC CENTER DRIVE
NORTH LAS VEGAS NV 89030

Troy Nelson
President

⑈080153⑈ ⑆122400779⑆692005534⑈

ENDORSE HERE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

Date:04/26/11 Sequence Num:94449659 Account:692005534 Serial:80153 Amount:$136,269.00 Dep Seq#:94449658

ORIGINAL DOCUMENT HAS MOTTLING AND THE SIGNATURE BEGINS TO APPEAR WHEN COPIED. THIS DOCUMENT MAY BE ACCEPTED AS A TRUE COPY

Mojave Electric
LIC. #19512

GENERAL ACCOUNT
3755 W. Hacienda Ave.
Las Vegas, Nevada 89118
(702) 798-2970

NEVADA STATE BANK
PO BOX 530
LAS VEGAS, NV 89125-0530
91-77-1234

080336

Vendor No.	Check No.	Check Date
CACO04	080336	04/26/11

$820,261 DOLLARS AND 75 CENTS**********

$ 820,261.75

Pay CAM CONSULTING INC

3874 CIVIC CENTER DRIVE
NORTH LAS VEGAS NV 89030

Troy Nelson
President

⑈080336⑈ ⑆122400779⑆692005534⑈

ENDORSE HERE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

Date:04/26/11 Sequence Num:94449660 Account:692005534 Serial:80336 Amount:$820,261.75 Dep Seq#:94449658

NEVADA STATE BANK

CHECKING DEPOSIT

UNPOSTED CHECKS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

FOR DEPOSIT TO THE ACCOUNT OF

DATE 4-26 20 11

NAME CAM Consulting

ADDRESS

ACKNOWLEDGE RECEIPT OF CASH RETURNED BY SIGNING ABOVE (PERSONAL ACCOUNTS / SOLE PROPRIETORSHIPS ONLY)

ACCOUNT NUMBER

262031032

✓ CASH (INCLUDING COIN) ▶	0.
CHECKS	820261.75
CHECKS (AUTHORIZATION ATTACHED)	136269.00
SUB TOTAL ▶	
LESS CASH RECEIVED ▶	0.
NET DEPOSIT $	956530.75

DDA-0002 (Rev. 04/09)

⑆54540018⑆

CHECKS LIST EACH SEPARATELY OR ATTACH LIST	DOLLARS	CENTS
Teller DDA Dep		
Account Number 262031032		
Deposit Not ID		
04/26/11		
TOTAL	956,530	75

INCLUDE THIS TOTAL IN TOTAL DEPOSIT ON FRONT SIDE OF DEPOSIT SLIP.

Date:04/26/11 Sequence Num:94449658 Account:262031032 Serial:- Amount:$956,530.75 Dep Seq#:94449658

J13-005
CASH471

NEVADA STATE BANK

CHECKING DEPOSIT

DEPOSITED CHECKS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

FOR DEPOSIT TO THE ACCOUNT OF

DATE 28 Apr 11 20 11

NAME Cian Consulting

ADDRESS 3474 Civic Center Dr
NLV NV 89030

ACKNOWLEDGE RECEIPT OF CASH PROVIDED BY SIGNING ABOVE (PERSONAL ACCOUNTS / SOLE PROPRIETORSHIPS ONLY)

ACCOUNT NUMBER

262031032

DDA-0002 (Rev. 0409)

☑ CASH ▶ INCLUDING COIN	
CHECKS	81,119.18
DEPOSIT TICKET BACK	
SUB TOTAL ▶	
LESS CASH RECEIVED ▶	
NET DEPOSIT $	81,119.18

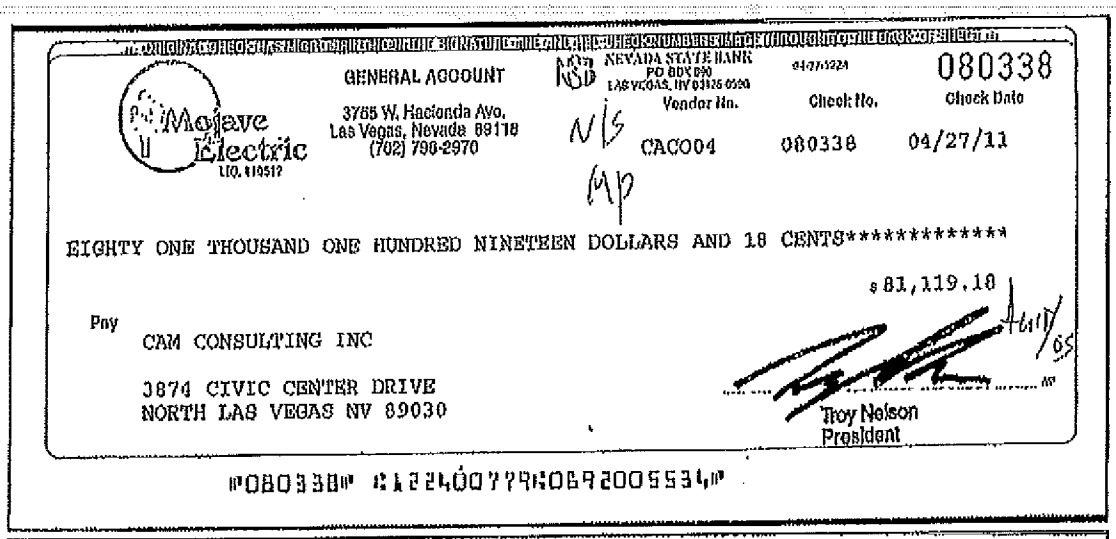
⑆54,54⑈0018⑆

CHECKS LIST EACH SEPARATELY OR ATTACH LIST	DOLLARS	CENTS
	Teller DDA Dep 04/28/11 C	
	Account Number 262031032	
	ID	
	Deposit Amt 81,119 18	
	930 01 8543 14 41	
SUB TOTAL		

INCLUDE THIS TOTAL IN TOTAL DEPOSIT ON FRONT SIDE OF DEPOSIT SLIP.

Date:04/28/11 Sequence Num:94523547 Account:262031032 Serial:- Amount:$81,119.18 Dep Seq#:94523547

J13-006
CASH472



Mojave Electric
LIC. 010517

GENERAL ACCOUNT
3765 W. Hacienda Ave.
Las Vegas, Nevada 89118
(702) 798-2970

NSB NEVADA STATE BANK
PO BOX 990
LAS VEGAS, NV 89125-0990

Vendor No.	Check No.	Check Date
CAC004	080338	04/27/11

080338

N/S
MP

EIGHTY ONE THOUSAND ONE HUNDRED NINETEEN DOLLARS AND 18 CENTS**********

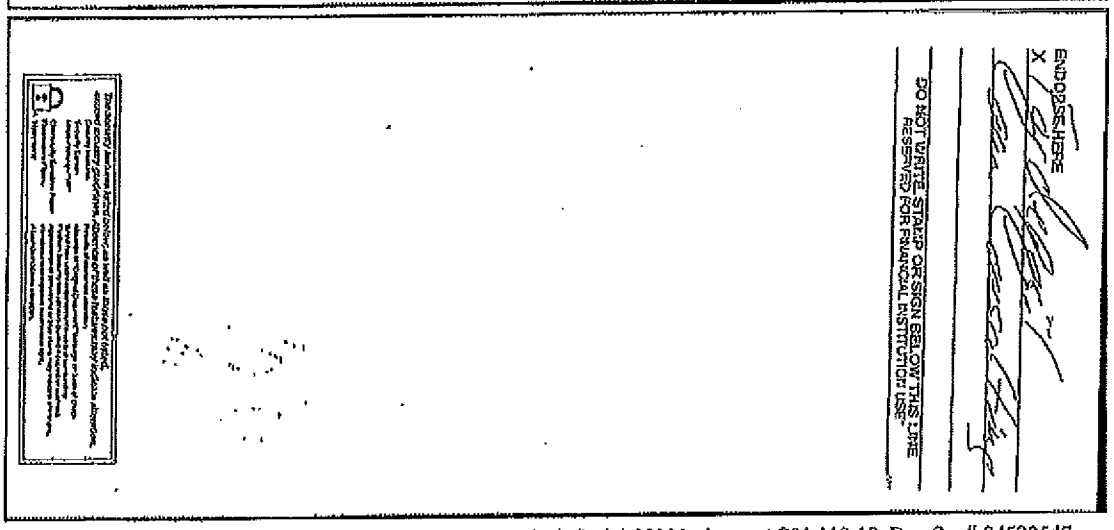
$81,119.18

Pay
CAM CONSULTING INC

3874 CIVIC CENTER DRIVE
NORTH LAS VEGAS NV 89030

Troy Nelson
President

⑈080338⑈ ⑆122400779⑆692005534⑈



DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

ENDORSE HERE
X

Date:04/28/11 Sequence Num:94523548 Account:692005534 Serial:80338 Amount:$81,119.18 Dep Seq#:94523547

EXHIBIT 92.J14

CAM CONSULTING INC | CAMCO3
3874 CIVIC CENTER DR PH 702-325-8032
NORTH LAS VEGAS, NV 89030-7624

1032

DATE 27-April-11

PAY TO THE ORDER OF Majave Electric $139367.70

One Thirty nine thousand Sixty seven 70/100 DOLLARS

NEVADA STATE BANK
THE DOOR TO YOUR FUTURE

For invoice # 51445 / 9344.10

⑈001032⑈ ⑆122400779⑆026203103 20⑈

PAY TO THE ORDER OF NEVADA STATE
BANK LAS VEGAS, NV 89125 122400779
FOR DEPOSIT ONLY WEST EDNA
ASSOCIATES LTD/MOJAVE ELECTRIC
692005534

Date:04/27/11 Sequence Num:94373639 Account:262031032 Serial:1032 Amount:$139,367.70 Dep Seq#:94373636

934410

51445 - 6,047.55
51651 130,221.45

CAM CONSULTING INC CAMC03
3874 CIVIC CENTER DR PH 702-325-9032
NORTH LAS VEGAS, NV 89030-7524

1033

DATE 28-April-11

PAY TO THE ORDER OF Mojave Electric $136,269.00

One Hundred Thirty six two sixty nine & 00/100 ~~DOLLARS~~

NEVADA STATE BANK
THE DOOR TO YOUR FUTURE

For invoice # 51446

⑈001033⑈ ⑆122400779⑆026203103 20⑈

PAY TO THE ORDER OF NEVADA STATE
BANK LAS VEGAS, NV 89125 122400779
FOR DEPOSIT ONLY WEST EDNA
ASSOCIATES LTD/MOJAVE ELECTRIC
692005534

Date:04/28/11 Sequence Num:94315536 Account:262031032 Serial:1033 Amount:$136,269.00 Dep Seq#:94315534

EXHIBIT 92.J15

Mojave Electric

TRANSMITTAL

MOJAVE JOB # 767810

DATE: 06/16/10

JOB NAME: City of Las Vegas New City Hall
ADDRESS: 495 Main Street
Las Vegas Nevada 89101

TO: CAM Consulting c/o Cashman Equipment

ATTN: Angelo Carvalho / Keith Lozeau

WE ARE SENDING

- [ ] SHOP DRAWINGS
- [ ] LETTER
- [ ] DRAWINGS
- [X] SUBMITTALS
- [ ] SAMPLES
- [ ] SUB CONTRACT

SUBMITTED FOR

- [ ] APPROVAL
- [X] YOUR RECORDS
- [ ] CORRECTION AND RESUBMITTAL
- [ ] IMMEDIATE RELEASE TO JOBSITE
- [ ] IMMEDIATE RELEASE TO SHOP
- [ ] _____

ACTION TAKEN

- [X] APPROVED
- [ ] APPROVED AS NOTED
- [ ] REVISE AND RESUBMIT
- [ ] REJECTED
- [ ] _____

SPEC. SECT.	ITEMS SUBMITTED	MANUFACTURER	COPIES SENT	COPIES TO BE RETURNED
263600	ATS Product Data	Catapillar	1	0
263213	Generator Installation	Catapillar	1	0
263600	Generator Drawing	Catapillar	1	0

RESUBMITTAL DUE BY: _____

REMARKS: Documents given directly to Cashman Power Systems

RECEIVED BY: _____

DATE: _____

3755 W. Hacienda Avenue Las Vegas, Nevada 89118-1755 FAX 702-798-3740

J15-001
CASH1019

Submittal Transmittal

Project Name : Las Vegas New City Hall
Project Number : 12600
Package Name: Engine Generator Systems Parts List & Installation Manual

WHITING-TURNER

Mojave Electric, Inc.
3755 W. Hacienda Ave.
Las Vegas, NV 89118
Tel: 702-798-2970
Fax: 702-798-0547

The Whiting-Turner Contracting Company
6720 Via Austi Parkway
Suite 300
Las Vegas, NV 89119
Tel: 702-650-0700
Fax: 702-650-2650

Attn: Chris Meiers
Delivered Via:

From: Elliott Lloyd
Tracking Number:

Spec Section	Submittal Number	Title	Type	Copies	Sent Date	Due Date	Action
263213	0766	Packaged Emergency Generator Systems Installation Instructions	Product Data	2	09/21/2010	09/21/2010	Approved

Subcontractor : Mojave Electric, Inc.

Contractor Comments:

Transmittal Remarks:

Package Reviewers					
To Company	To:	From	Date Rcv'd	Date Sent	Action Taken
JMA Architects	Robert Messiana	Elliott Lloyd	09/16/2010	09/07/2010	Approved
Mojave Electric, Inc.	Chris Meiers	Elliott Lloyd	09/16/2010	09/21/2010	Approved

A/E Remarks
:

Copies To:

J15-002
CASH1020

jma

elevated architecture

TRANSMITTAL
No. 00418

PROJECT: City of Las Vegas City Hall

DATE: 9/13/2010

TO: The Whiting-Turner Contracting Co.
518 South 1st Street

Las Vegas, NV 89101

REF: Sub 26 32 13-0766

JMA Project number: 2007315

ATTN: Elliott Lloyd

Phone: 702-851-4190 Fax: 702-851-4198

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
☑ Shop Drawings	☐ Approval	☐ Approved as Submitted
☐ Letter	☐ Your Use	☐ Approved as Noted
☐ Prints	☑ As Requested	☐ Returned After Loan
☐ Change Order	☐ Review and Comment	☐ Resubmit
☐ Plans		☐ Submit
☐ Samples	SENT VIA:	☐ Returned
☐ Specifications	☑ Attached	☐ Returned for Corrections
☑ Other: Made from Submittal	☐ Separate Cover Via: Mail	☐ Due Date:

ITEM NO.	COPIES	DATE	ITEM	NUMBER	REV. NO.	DESCRIPTION	STATUS
0766	3	9/13/2010	SUT	26 32 13-0766	001	Dwg: Title: Packaged Engine Generator Systems Desc: Installation Instructions	APP

CC:

Signed: BCHB FOR
Robert Messiana

10150 Covington Cross Drive Las Vegas NV 89144 702-731-2033 T 702-731-2039 F www.jmaarch.com

J15-003
CASH1021

jba
consulting engineers

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SEP 13 2010
JMA

September 13, 2010

JMA Architecture Studios
10150 Covington Cross
Las Vegas, NV 89144

Attention: Mr. Robert Messiana

Subject: Las Vegas City Hall
Our Project No. 08.0214

Dear Robert:

We have completed our review of submittal #263213-0766 for the subject project. Our comments follow:

Submittal #263213-0766- Packaged Engine Generator System- Reviewed

We are retaining one (1) copy for our files and returning the balance of four (4).

If you should have any questions or concerns, please do not hesitate to call.

Very truly yours,

JBA CONSULTING ENGINEERS

Clint Gordon

Clint Gordon
Senior Project Manager- Electrical Engineering

CRG\kw
F:\2008 PROJECTS\08.0200 - 08.0359\08.0214 - CITY OF LAS VEGAS CITY HALL\Documents\Submittals\JMA Submittal 263213-0766.crg.doc

RECEIVED
SEP 09 2010
JMA

Submittal Transmittal

WHITING-TURNER

Project Name : Las Vegas New City Hall
Project Number : 12600
Package Name: Engine Generator Systems Parts List & Installation Manual

JMA Architects
10150 Covington Cross Drive
Las Vegas, NV 89144
Tel: 702-731-2033
Fax: 702-731-2039

Attn: Robert Messiana
Delivered Via:

The Whiting-Turner Contracting Company
6720 Via Austi Parkway
Suite 300
Las Vegas, NV 89119
Tel: 702-650-0700
Fax: 702-650-2650

From: Elliott Lloyd
Tracking Number:

ENTERED

Spec Section	Submittal Number	Title	Type	Copies	Sent Date	Due Date	Action
263213	0766	Packaged Engine Generator Systems: Installation Instructions-	Product Data-	5	09/07/2010	09/21/2010	Submitted

Subcontractor : Mojave Electric, Inc.

Contractor Comments:

Transmittal Remarks:

Package Reviewers

To Company	To:	From	Date Rcv'd	Date Sent	Action Taken
JMA Architects	Robert Messiana	Elliott Lloyd		09/07/2010	Submitted

A/E Remarks :

Copies To:

J15-005
CASH1023

☒ REVIEWED ☐ REVISE AND RESUBMIT
☐ REJECTED ☐ FURNISH AS CORRECTED

Corrections or comments made on the shop drawings during this review do not relieve contractor from compliance with requirements of the drawings and specifications, this check is only for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. This review is not a complete and thorough check of all details, quantities, dimensions, weights, gauges, fabricating processes, construction methods, coordination of trades and technique of assembly. Contractor is responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of assembly, coordinating his work with that of all other trades and performing his work in a satisfactory manner.

Date 9/13/10 By CRG
Job Engineer / Architect

Mojave Electric

MOJAVE JOB # 767810

26 32 13 - Engine Generator Systems

FOR

City of Las Vegas New City Hall

1.05E - Installation Manual

SUBMITTED 9/8/2010

REVIEWED BY
THE WHITING TURNER CONTRACTING CO
W-T SUBMITTAL NO.

26 32 13 - 0766.

J15-006
CASH1024

CAT Rental Power

CASHMAN CAT

POWER SOLUTIONS

Las Vegas City Hall
Division 26 32 13 – 1.05E
Mounting information

See following pages.

Las Vegas
3300 St. Rose Pkwy
Henderson, NV 89052
PH: 702-649-8777
FAX: 702-639-5090

Reno
600 Glendale Ave.
Sparks, NV. 89431
PH: 775-358-5111
FAX: 775-358-0433

Elko
5010 Idaho Street
Elko, NV. 89801
PH: 775-738-9871
FAX: 775-738-7865

J15-007
CASH1025

Foundations

The major functions of a foundation are to:

- Support total weight of equipment, accessory equipment and fluids (coolant, oil and fuel)
- Maintain alignment between engine, driven equipment, and accessory equipment
- Isolate equipment vibration from surrounding structures.

Responsibility

The equipment foundation and the driven equipment attachment to the foundation are not the responsibility of Caterpillar. The customer or customer's agent, familiar with local site conditions and application requirements, bears foundation design responsibility. Foundation comments published herein are intended only as general guidelines for consideration. Further engine foundation general guidelines can be found in the appropriate Engine Data Sheet.

Ground Loading

Initial considerations include equipment weight and material supporting this weight. The wet weight of the total package must be calculated. This includes accessory equipment and weight of all liquids (coolant, oil, and fuel) supported by the foundation. Dry weights of engine and attachments can be found in the price list. Liquid densities are given in the following table.

Liquid	kg/m³	lb/US gal	lb/ft³	Specific Gravity
Water, Fresh	1994.6	8.31	62.1	1.001
Water, Sea	1018.3	8.51	63.6	1.021
Water/ Glycol	1024.4	8.55	64.0	1.031
Diesel Fuel	1850.7	7.11	53.1	0.855
Lube Oil	1909.7	7.61	56.8	0.916
Kerosene	1802.7	6.71	50.1	0.807

Material supporting the foundation must carry the total weight. The table below shows the bearing load capabilities of common materials.

Material	Safe Bearing Pressure kPa (psi)
Rock, Hardpan	482.6 (70)
Hard Clay, Gravel and Coarse Sand	386 (56)
Loose Medium Sand and Medium Clay	193 (28)
Loose Fine Sand	96.5 (14)
Soft Clay	0-96.5 (0-14)

Firm level soil, gravel, or rock provides satisfactory support for single-bearing generator sets used in stationary or portable service. This support can be used where the weight-bearing capacity of the supporting material exceeds pressure exerted by the equipment package, and where alignment with external machinery is unimportant.

If a concrete foundation is required, minimum design guidelines include:

- Strength must support wet weight of units plus dynamic loads. The dynamic load can be calculated using the allowable centerline vibration limits and the equipment mass.
- Depth sufficient to attain a minimum weight equal to equipment wet weight (only if large mass, i.e. inertia block, is specified for vibration control).
- The mass of the foundation should be no less than the mass of the equipment.
- Outside dimensions exceed that of the equipment, a minimum of 305 mm (12 in) on all sides.
- When effective vibration isolation equipment is used, figure depth of floor concrete needed for structural support of the static load. If isolators are not used, dynamic loads transmit to the facility floor and require the floor to support 125 percent of the generator set weight.
- If generator sets are paralleled, possible out-of-phase paralleling and resulting torque reactions demand stronger foundations. The foundation must withstand twice the wet weight of the generator set. Bolting the set to the foundation is recommended.

Estimate foundation depth that will accommodate equipment weight using the formula:

$$FD = W \div (D \times B \times L)$$

Where:

FD = Foundation depth in m (ft)

W = Total wet weight of equipment in kg (lb)

D = Density of concrete in kg/m^2 (lb/ft^2)

Note: Use 2402.8 for metric units and 150 for English units.

B = Foundation width in m (ft)

L = Foundation length in m (ft)

Suggested concrete mixture by volume is 1:2:3 of cement, sand, aggregate, with maximum 102 mm (4 in) slump and 28-day compressive strength of 21 mPa (3000 psi).

Reinforce concrete with No. 8 gauge steel wire mesh, or equivalent, horizontally placed on 152 mm (6 in) centers. An alternative method places No. 6 reinforcing bars on 305 mm (12 in) centers horizontally. Bars must clear foundation surfaces 76 mm (3 in) minimum. Refer to Figure 37.

Bases

Purpose and Function

The most important function of an engine base is rigidity. It must maintain alignment between the engine and its driven equipment. The major cause of misalignment is flexing of the base due to lack of torsional rigidity. Other causes are poor installation methods and incorrect alignment procedures.

The base must offer rigidity adequate to oppose the twist due to torque reaction on drives where the driven equipment is mounted on the base assembly, but not bolted directly to the engine flywheel housing.

In general, Caterpillar engine bases will:

- Protect the engine block, drive train couplings, and driven equipment (generator gear reducer, or pump) from bending forces during shipment. The entire package must be able to withstand normal handling during transportation without permanently distorting the base or causing misalignment of the driven equipment.
- Limit torsional and bending moment forces caused by torque reaction and flexing of the foundation or substructure under the base.
- Be free of torsional or linear vibration in the operating speed range of the engine, and have a natural frequency such that resonance does not occur during the machinery's normal work.
- Make proper alignment easy, and maintain this alignment under all operational and environmental conditions, thus eliminating the need for frequent, periodic realignment of the engine and driven equipment. Allow sufficient space for shimming in the alignment process.
- Provide proper mounting holes for the engine and all other base mounted components.

Note: Bases designed and fabricated by dealers, or others, must meet the design requirements of Caterpillar supplied bases to assure strength and vibration resistance.

Caterpillar Base Design

Ease of initial installation, vibration isolation, and need for isolation from flexing mounting surfaces are major reasons for using fabricated bases. No base of any type should be rigidly connected to a flexing mounting surface.

The type of load will also determine specific design features required in an engine base. Caterpillar offers different bases for close-coupled units (such as single bearing generators) and for remote mounted units (such as two bearing generators).

Base for Foot Mounted Engine with Close Coupled Load

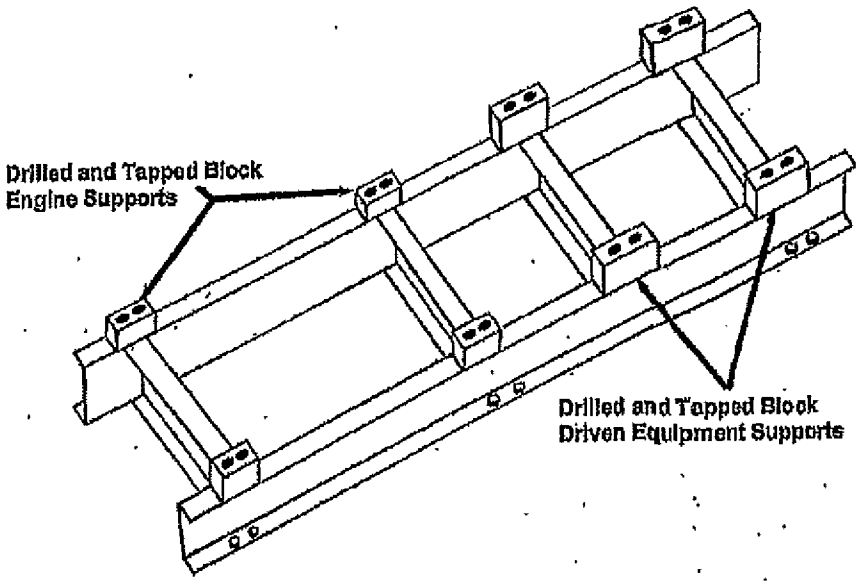

Figure 40

Foot-Mounted Engines

Bases for foot-mounted engines should have cross members as substantial as the longitudinal beams. Place these cross members beneath each engine and driven unit support location.

Do not fasten the engine and driven unit mounting feet to the base by welding.

Use drilled and tapped steel mounting blocks between the engine/driven equipment and the base. Refer to Figure 40. Bolt these blocks to the engine/driven equipment first and then weld to the base providing a flat surface for shimming and mounting. Mounting holes drilled into the structural members of the base are not recommended.

There should be sufficient space for shimming between the mounting blocks and the engine/driven equipment mounting surfaces.

Flexible mounts are not allowed between the mounting blocks and the engine/load mounting foot surfaces.

Base for Engines with Remote Mounted Driven Equipment

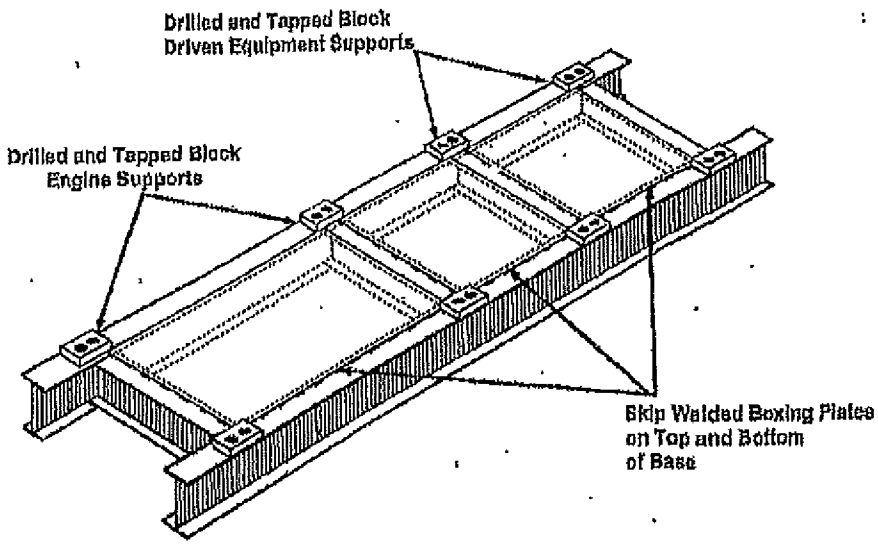

Figure 42

Bases for Engines with Remote-Mounted Loads

The design requirements for bases used on engines with close-coupled units also apply to bases used for engines with remote-mounted units. Bases for use with remote-mounted units must be more rigid. The base must absorb the full-load torque between the engine and driven unit without causing excessive deflection in the coupling.

The base shown in Figure 42 is a boxed beam design that provides a torsionally rigid base.

Boxing consists of welding steel plates on top and bottom surfaces of machinery base girders. Skip-weld the plates to prevent excessive base distortion during welding. Boxing is done to make the base structure stiffer.

The additional stiffness is necessary to resist torque loads between the engine and remote-mounted driven equipment and to resist possible vibration loads. Vibration-induced base loads are difficult to predict.

Experience has shown boxing is effective in preventing base cracking and misalignment.

Caterpillar Special Duty Bases

Offshore Power Modules

The Caterpillar petroleum offshore base consists of a base-within-a-base. The inner base is three-point mounted, with integral spring

Land Rig Power Module

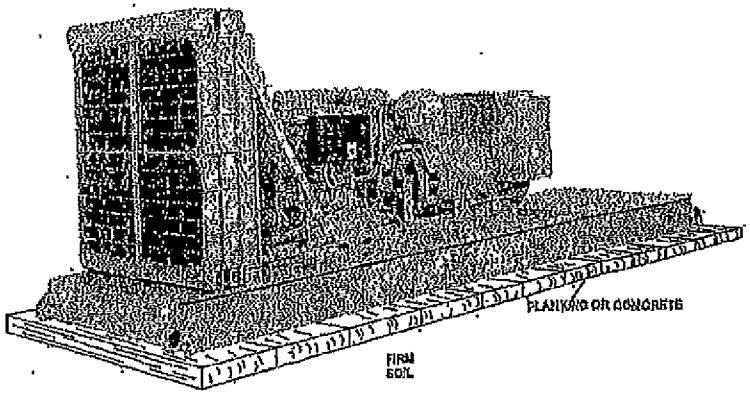

Figure 44

Land Rig Power Module

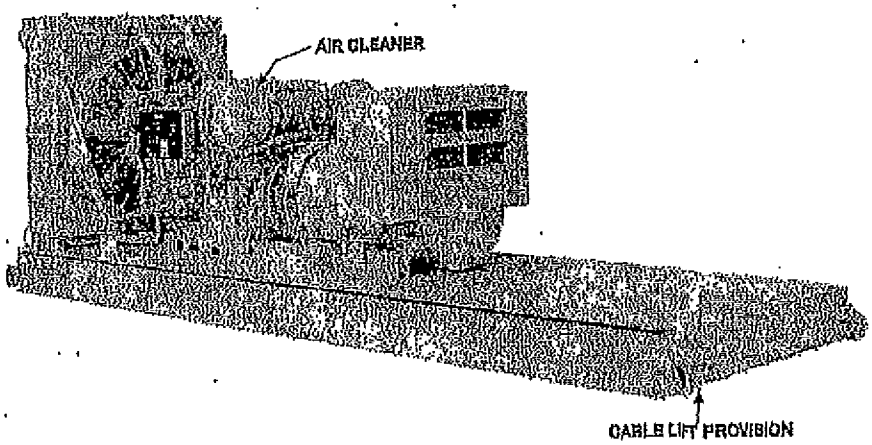

Figure 45

Reference Material

The following information is provided as an additional reference to subjects discussed in this guide.

SEHS8700
Special Instruction - Installation of Flexible Mounting Groups

SEHS9162
Special Instruction - Spring Isolator Group Installation and Adjustment Procedure

Submittal Transmittal

Project Name : Las Vegas New City Hall
Project Number : 12600
Package Name: ATS Product Data

WHITING-TURNER

Mojave Electric, Inc.
3755 W. Hacienda Ave.
Las Vegas, NV 89118
Tel: 702-798-2970
Fax: 702-798-0547

The Whiting-Turner Contracting Company
6720 Via Austi Parkway
Suite 300
Las Vegas, NV 89119
Tel: 702-650-0700
Fax: 702-650-2650

Attn: Chris Meiers
Delivered Via:

From: Elliott Lloyd
Tracking Number:

Spec Section	Submittal Number	Title	Type	Copies	Sent Date	Due Date	Action
263600	0776	[redacted]	Product Data	3	09/21/2010	09/21/2010	[redacted]

Subcontractor : Mojave Electric, Inc.

Contractor Comments:

Transmittal Remarks:

Package Reviewers

To Company	To:	From	Date Rcv'd	Date Sent	Action Taken
JMA Architects	Robert Messiana	Elliott Lloyd	09/16/2010	09/03/2010	Approved
Mojave Electric, Inc.	Chris Meiers	Elliott Lloyd	09/21/2010	09/21/2010	Approved

A/E Remarks :

Copies To:

J15-015
CASH1033

jma

elevated architecture

TRANSMITTAL
No. 00409

PROJECT: City of Las Vegas City Hall

DATE: 9/9/2010

TO: The Whiting-Turner Contracting Co.
518 South 1st Street

Las Vegas, NV 89101

REF: Sub 26 36 00-0776
Transfer Switches

JMA Project number: 2007315

ATTN: Elliott Lloyd

Phone: 702-851-4190 Fax: 702-851-4198

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
☑ Shop Drawings	☐ Approval	☐ Approved as Submitted
☐ Letter	☐ Your Use	☐ Approved as Noted
☐ Prints	☑ As Requested	☐ Returned After Loan
☐ Change Order	☐ Review and Comment	☐ Resubmit
☐ Plans		☐ Submit
☐ Samples	SENT VIA:	☐ Returned
☐ Specifications	☑ Attached	☐ Returned for Corrections
☑ Other: Made from Submittal	☐ Separate Cover Via: Mail	☐ Due Date:

ITEM NO.	COPIES	DATE	ITEM	NUMBER	REV. NO.	DESCRIPTION	STATUS
0776	4	9/9/2010	SUT	26 36 00-0776	001	Dwg: Title: Transfer Switches Desc: Transfer Switches	APP

CC:

Signed: BLAINE PEAR
Robert Messiana

10150 Covington Cross Drive Las Vegas NV 89144 702-731-2033 T 702-731-2039 F www.jmaarch.com

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SEP 09 2010
JMA

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consulting
engineers

September 9, 2010

JMA Architecture Studios
10150 Covington Cross
Las Vegas, NV 89144

Attention: Mr. Robert Messiana

Subject: Las Vegas City Hall
Our Project No. 08.0214

Dear Robert:

We have completed our review of submittal #263600-0776 for the subject project. Our comments follow:

Submittal #263600-0776- Transfer Switches- Reviewed

We are retaining one (1) copy for our files and returning the balance of four (4).

If you should have any questions or concerns, please do not hesitate to call.

Very truly yours,

JBA CONSULTING ENGINEERS

Clint Gordon

Clint Gordon
Senior Project Manager- Electrical Engineering

CRG\kw
F:\2008 PROJECTS\08.0200 - 08.0399\08.0214 - CITY OF LAS VEGAS CITY HALL\Documents\Submittals\JMA Submittal 263600-0776.rtp.doc

Submittal Transmittal

Project Name : Las Vegas New City Hall
Project Number : 12600
Package Name: ATS Product Data

WHITING-TURNER

JMA Architects
10150 Covington Cross Drive
Las Vegas, NV 89144
Tel: 702-731-2033
Fax: 702-731-2039

The Whiting-Turner Contracting Company
6720 Via Austi Parkway
Suite 300
Las Vegas, NV 89119
Tel: 702-650-0700
Fax: 702-650-2650

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SEP 02 2010
JMA

Attn: Robert Messiana
Delivered Via:

From: Elliott Lloyd
Tracking Number:

Spec Section	Submittal Number	Title	Type	Copies	Sent Date	Due Date	Action
263600	0776	Transfer Switches	Product Data	5	09/03/2010	09/17/2010	Submitted

Subcontractor : Mojave Electric, Inc.

ENTERED

Contractor Comments:

Transmittal Remarks:

Package Reviewers

To Company	To:	From	Date Rcv'd	Date Sent	Action Taken
JMA Architects	Robert Messiana	Elliott Lloyd		09/03/2010	Submitted

A/E Remarks
:

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CASH1036

Submittal Transmittal

Project Name : Las Vegas New City Hall
Project Number : 12600
Package Name: Electrical Submittals Vol 2 of 4

WHITING-TURNER

Mojave Electric, Inc.
3755 W. Hacienda Ave.
Las Vegas, NV 89118
Tel: 702-798-2970
Fax: 702-798-0547

The Whiting-Turner Contracting Company
6720 Via Austi Parkway
Suite 300
Las Vegas, NV 89119
Tel: 702-650-0700
Fax: 702-650-2650

Attn: Chris Meiers
Delivered Via:

From: Elliott Lloyd
Tracking Number:

Spec Section	Submittal Number	Title	Type	Copies	Sent Date	Due Date	Action
260924	0734	Lighting Control Panels	Product Data	2	09/21/2010	09/21/2010	Approved as Noted
260925	0737	Dimming Lighting Control Panels: Complete Shop Drawings and 1-Line Diagrams	Shop Drawing	2	09/21/2010	09/21/2010	Approved as Noted
260526	0715	Grounding and Bonding For Electrical	Product Data	2	09/21/2010	09/21/2010	Approved
263213	0764	Packaged Engine Generator Systems	Shop Drawing	2	09/21/2010	09/21/2010	Approved

Subcontractor : Mojave Electric, Inc.

Contractor Comments:

Transmittal Remarks:

Package Reviewers					
To Company	To:	From	Date Rcv'd	Date Sent	Action Taken
JMA Architects	Robert Messiana	David Kortekaas	05/18/2010	04/16/2010	Submitted
Mojave Electric, Inc.	Chris Meiers	David Lee	05/19/2010	05/19/2010	Revise and Resubmit
JMA Architects	Robert Messiana	Elliott Lloyd	09/21/2010	08/30/2010	Approved
Mojave Electric, Inc.	Chris Meiers	Elliott Lloyd	09/21/2010	09/21/2010	Approved

A/E Remarks
:

Copies To:

J15-019
CASH1037

jma

elevated architecture

TRANSMITTAL
No. 00411

PROJECT: City of Las Vegas City Hall

DATE: 9/9/2010

TO: The Whiting-Turner Contracting Co.
518 South 1st Street

Las Vegas, NV 89101

REF: Electrical Sub Vol. 2 of 4

JMA Project number: 2007315

ATTN: Elliott Lloyd

Phone: 702-851-4190 Fax: 702-851-4198

WE ARE SENDING:	SUBMITTED FOR:	ACTION TAKEN:
☑ Shop Drawings	☐ Approval	☐ Approved as Submitted
☐ Letter	☐ Your Use	☐ Approved as Noted
☐ Prints	☑ As Requested	☐ Returned After Loan
☐ Change Order	☐ Review and Comment	☐ Resubmit
☐ Plans		☐ Submit
☐ Samples	SENT VIA:	☐ Returned
☐ Specifications	☑ Attached	☐ Returned for Corrections
☑ Other: Made from Submittal	☐ Separate Cover Via: Mail	☐ Due Date:

ITEM NO.	COPIES	DATE	ITEM	NUMBER	REV. NO.	DESCRIPTION	STATUS
0715	3	9/9/2010	SUT	26 05 26-0715	003	Dwg: Title: Grounding & Bonding for Electrical Desc: Product Data	APP
0734	3	9/9/2010	SUT	26 09 24-0734	003	Dwg: Title: Lighting Control Panels Desc: Product Data	AAN
0737	3	9/9/2010	SUT	26 09 25-0737	002	Dwg: Title: Complete Shops & 1-Line Diagrams Desc: Shop Drawings	AAN
0764	3	9/9/2010	SUT	26 32 13-0764	002	Dwg: Title: Packaged Engine Generator Systems Desc: Shop Drawings	APP

CC:

Signed: ELAINE Fob
Robert Messlana

10150 Covington Cross Drive Las Vegas NV 89144 702-731-2033 T 702-731-2039 F www.jmaarch.com

jba consulting engineers

RECEIVED
SEP 09 2010
JMA

September 9, 2010

JMA Architecture Studios
10150 Covington Cross
Las Vegas, NV 89144

Attention: Mr. Robert Messiana

Subject: Las Vegas City Hall
Our Project No. 08.0214

Dear Robert:

We have completed our review of submittal #260526-0715, 260924-0734, 260925-0737 and 263213-0764 for the subject project. Our comments follow:

Submittal #263213-0764- Packaged Engine Generator System- Reviewed

Submittal #260526-0715- Grounding and Bonding- Reviewed

Submittal #260925-0737- Dimming Control Panel- Furnish as Corrected

1. Dimmer modules for fixture types PC1 and PP1 shall be dimmable.

Submittal #260924-0734- Lighting Control Panel- Furnish as Corrected

1. Reprint single line shop drawing full size.

We are retaining one (1) copy for our files and returning the balance of four (4).

If you should have any questions or concerns, please do not hesitate to call.

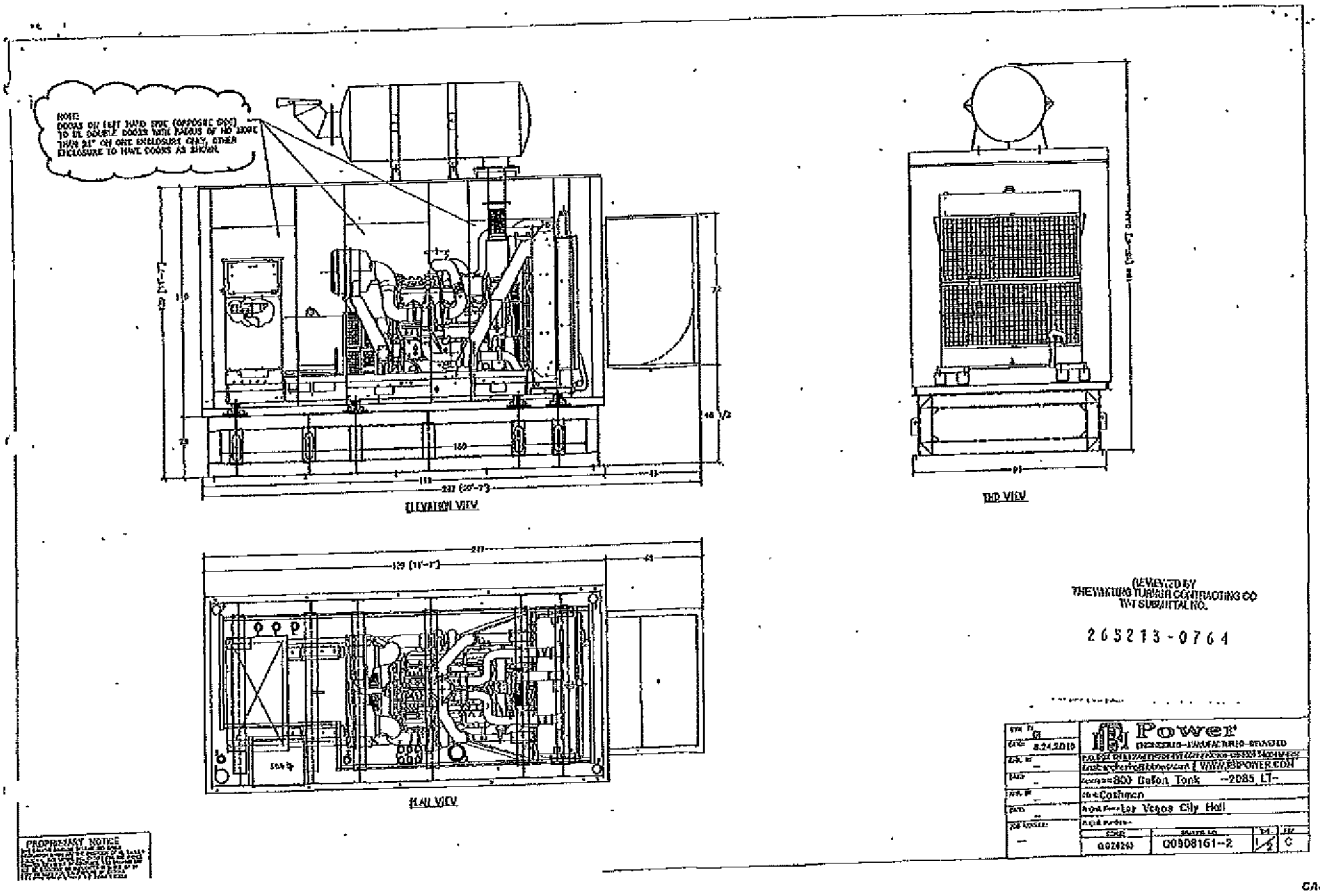
Very truly yours,

JBA CONSULTING ENGINEERS

Clint Gordon

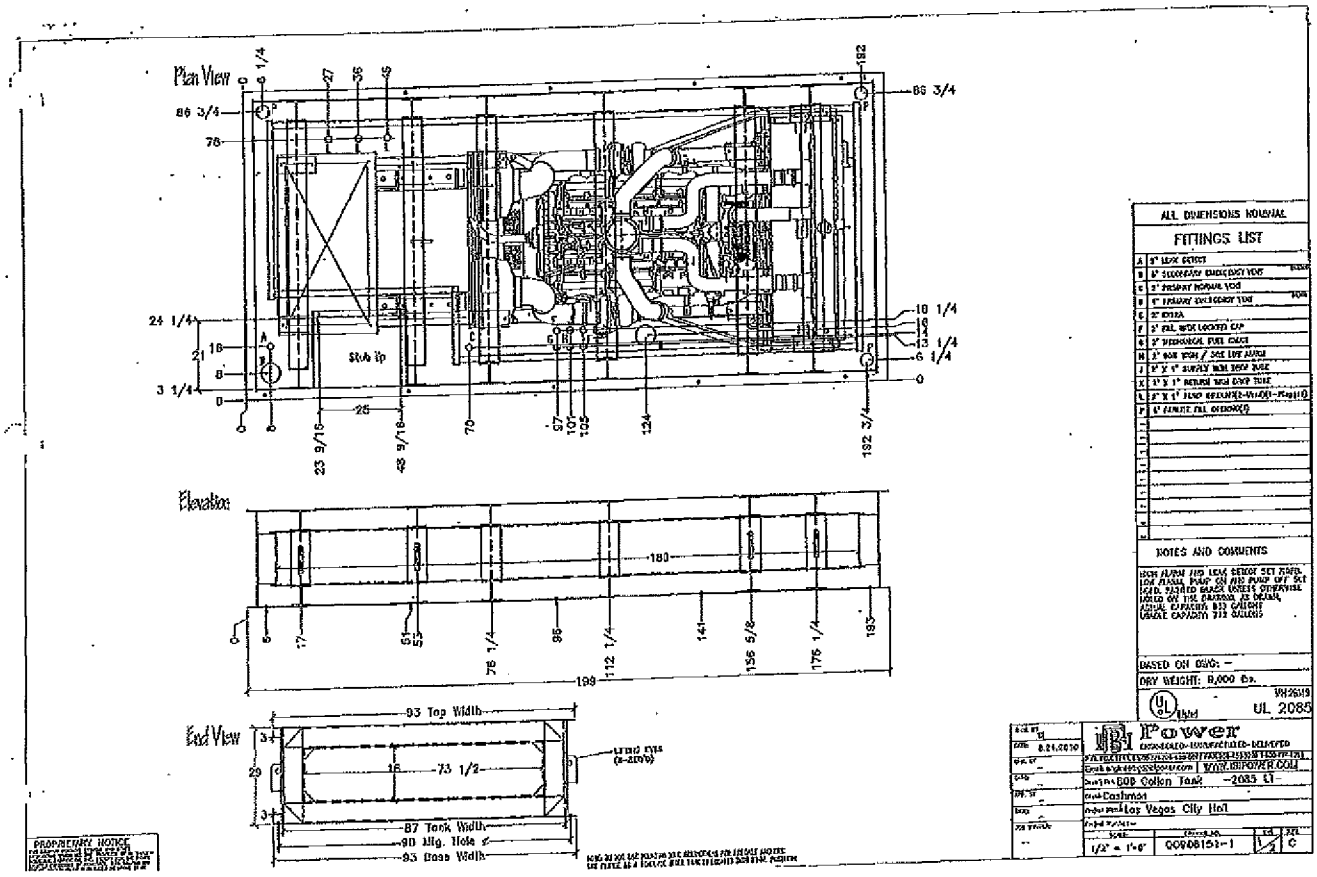
Clint Gordon
Senior Project Manager- Electrical Engineering

CRG\kw
F:\2003 PROJECTS\08.0200 - 08.0399\08.0214 - CITY OF LAS VEGAS CITY HALL\Documents\Submittals\JMA Submittal 260526-0715, 260924-0734, 260925-0737 and 263213-0764.crg.doc



CASH1040

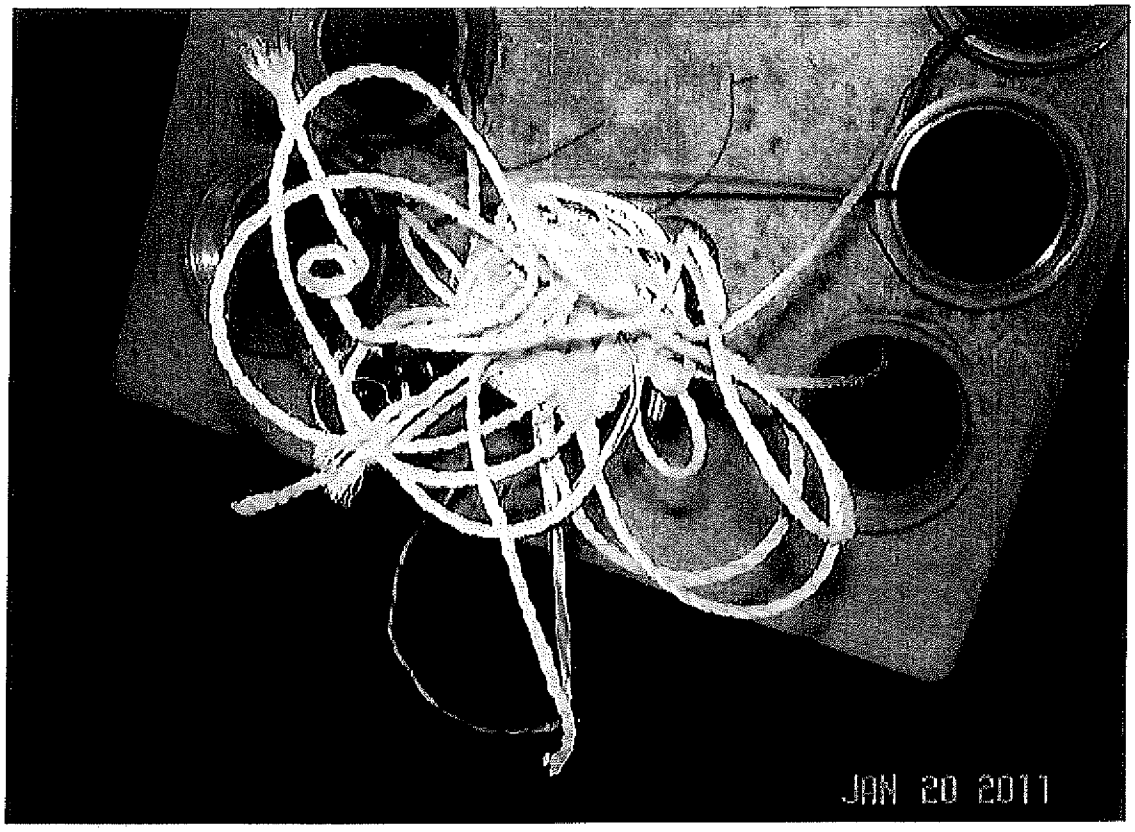
J15-022

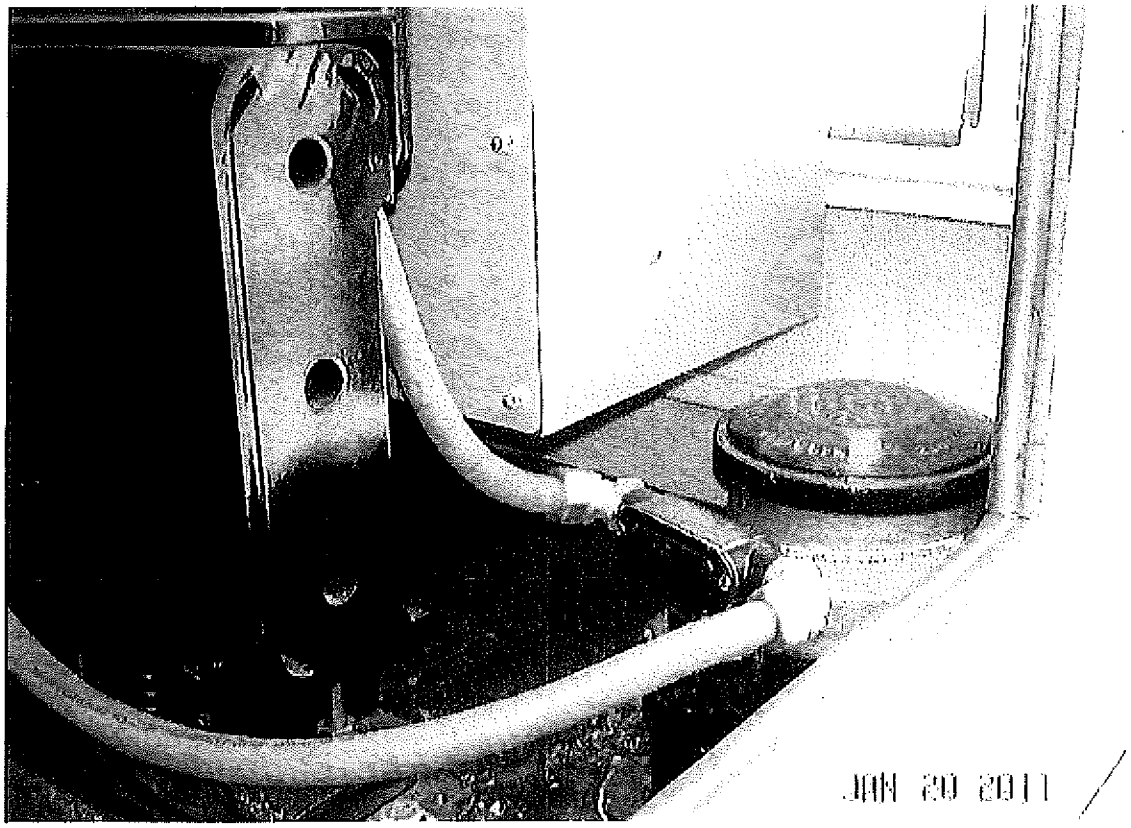


CASH1041

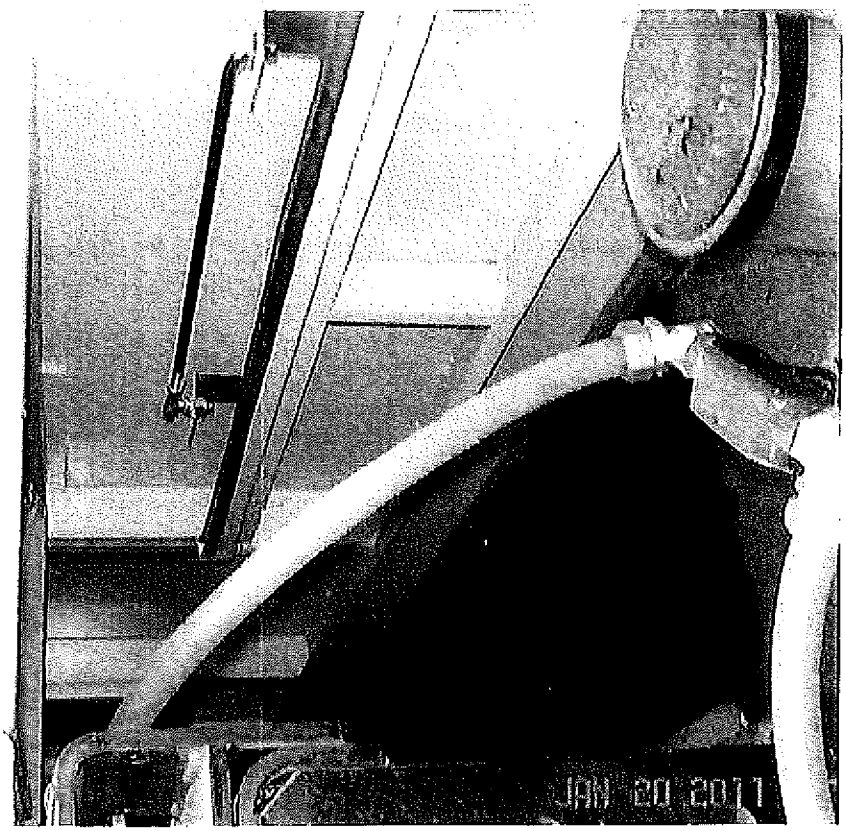
J15-023

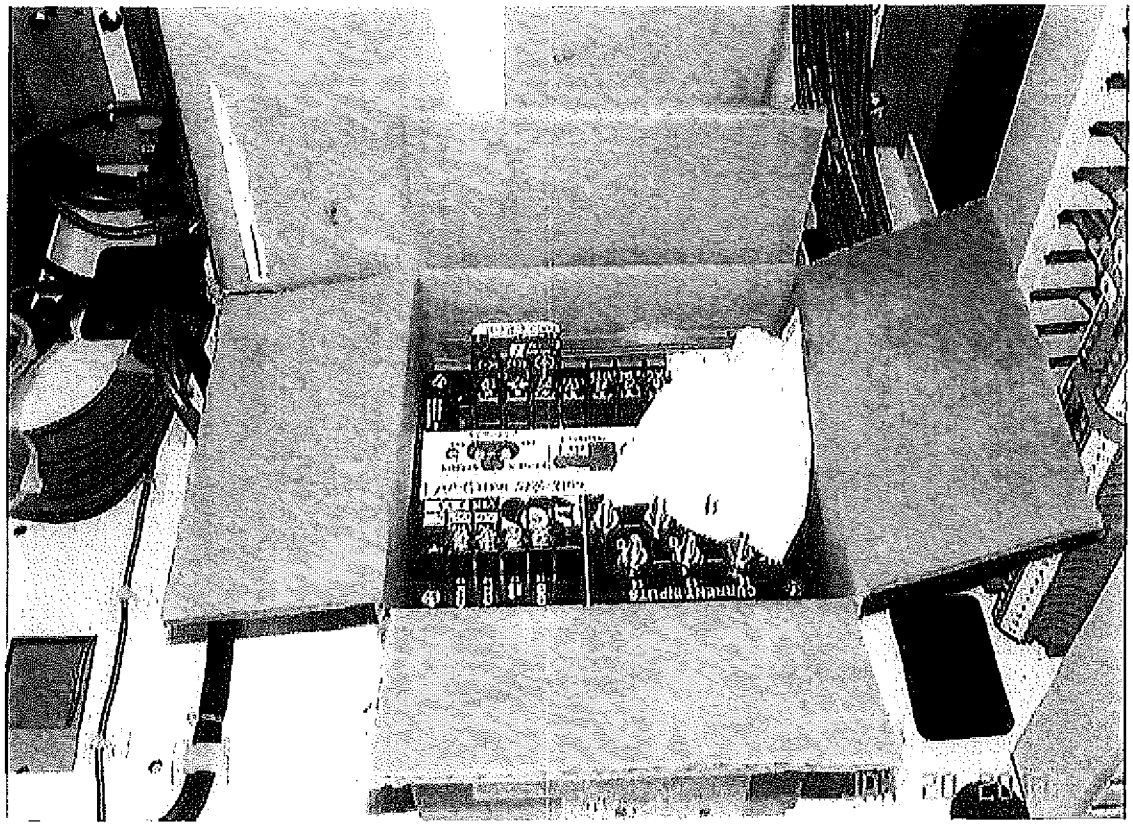
EXHIBIT 92.J16



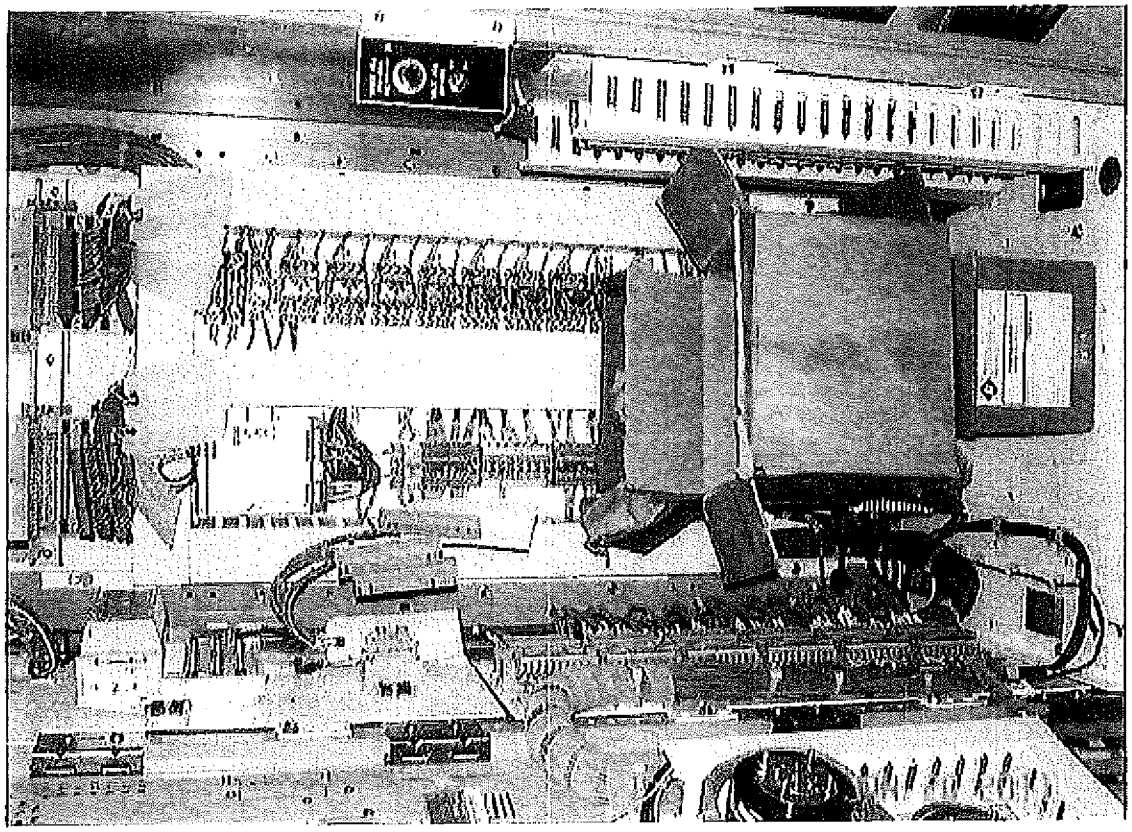


J16-001
CASH1674





J16-002
CASH1675



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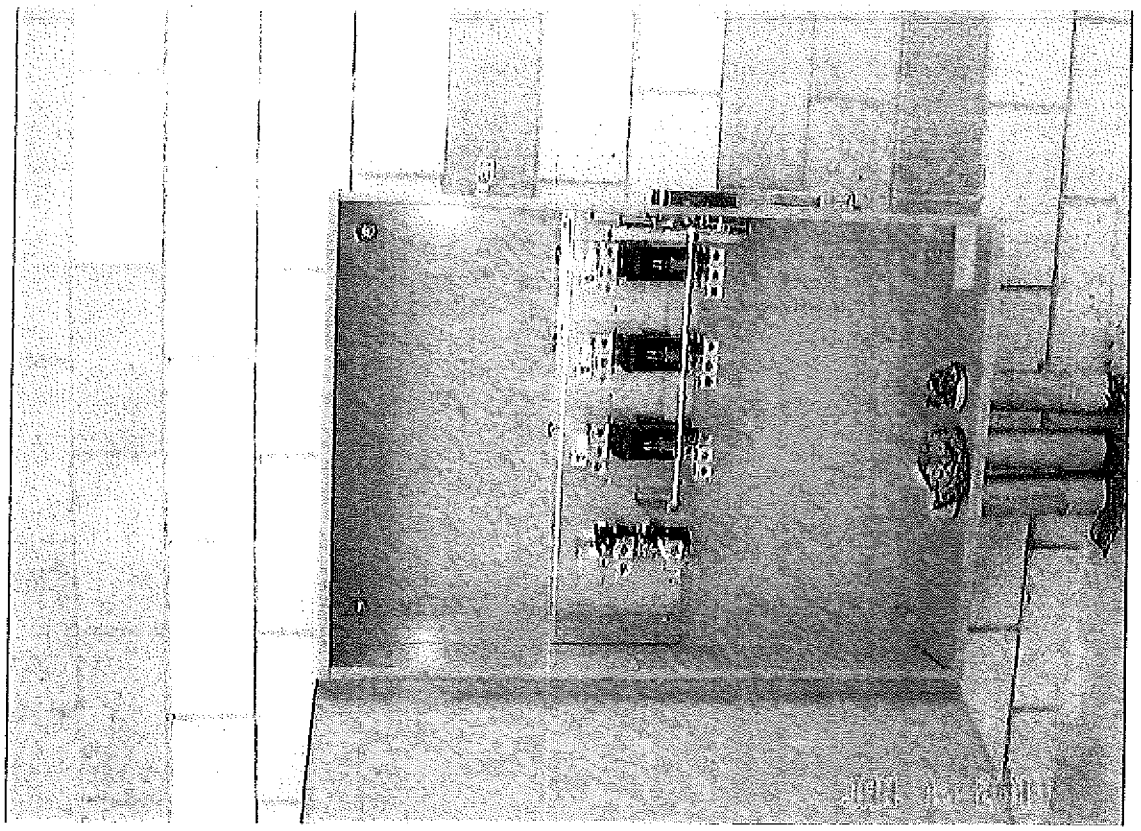

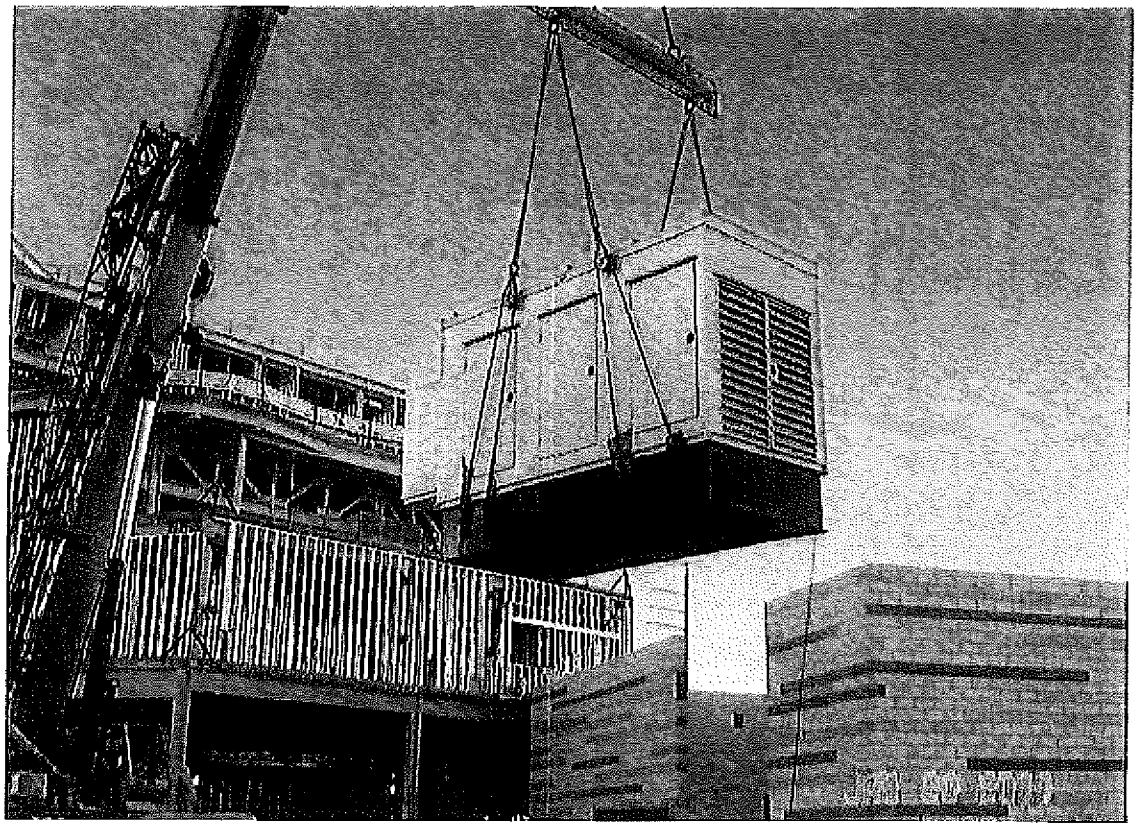

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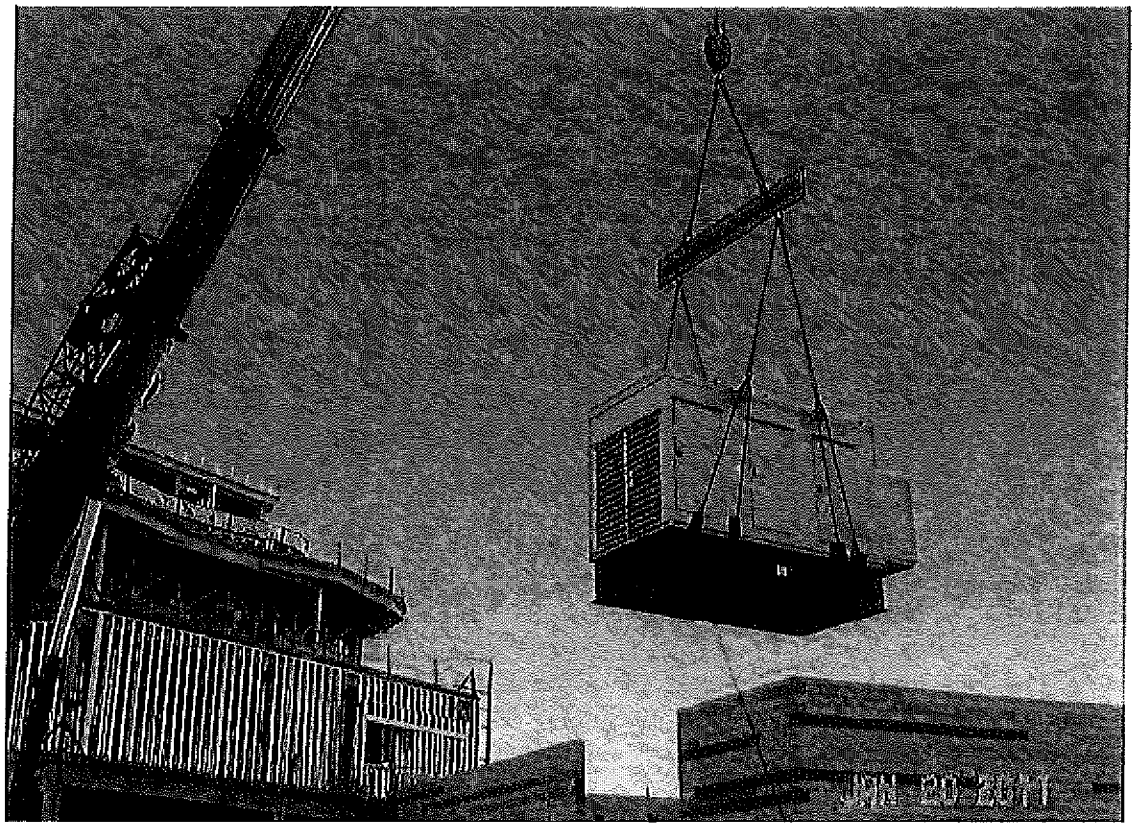

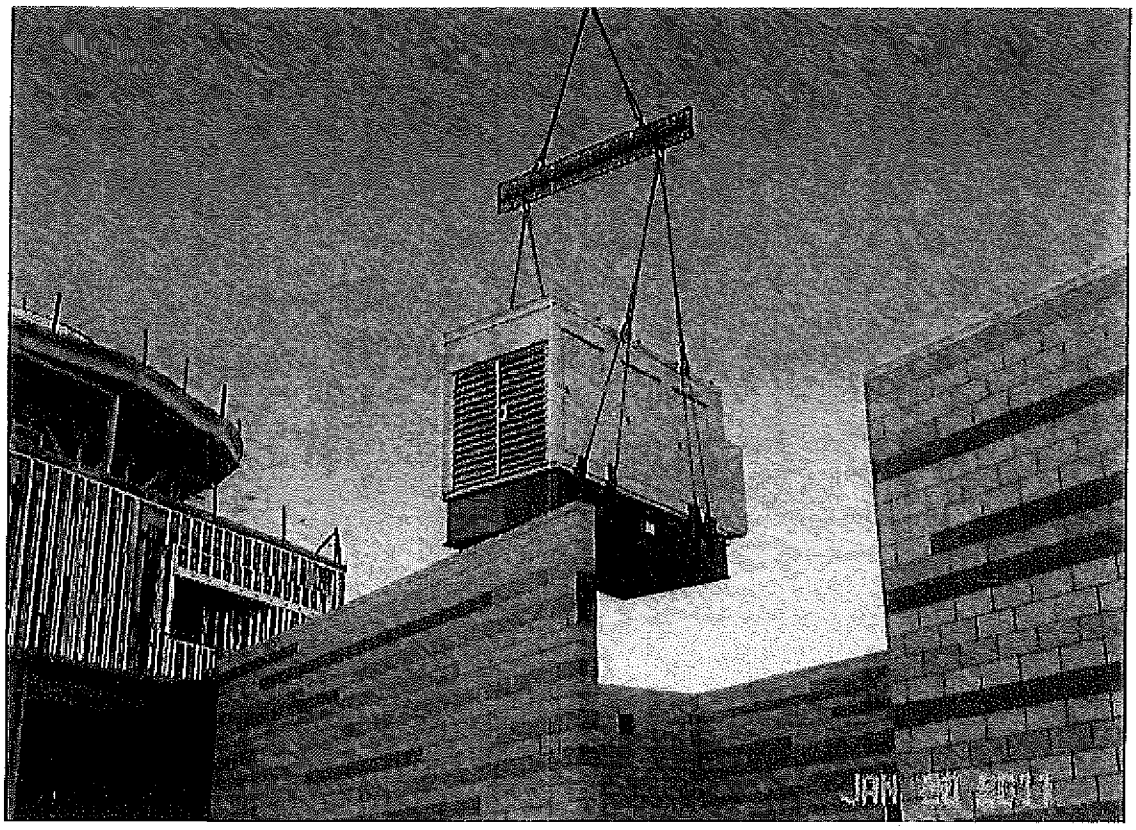

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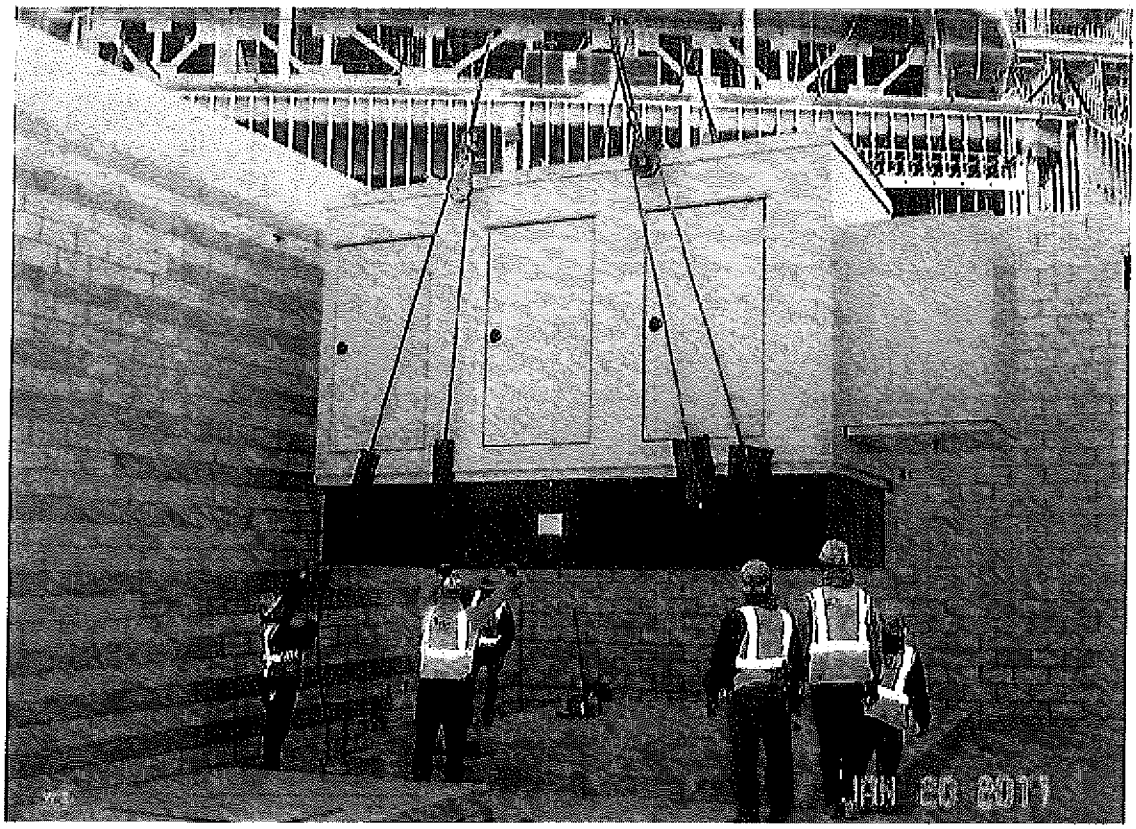

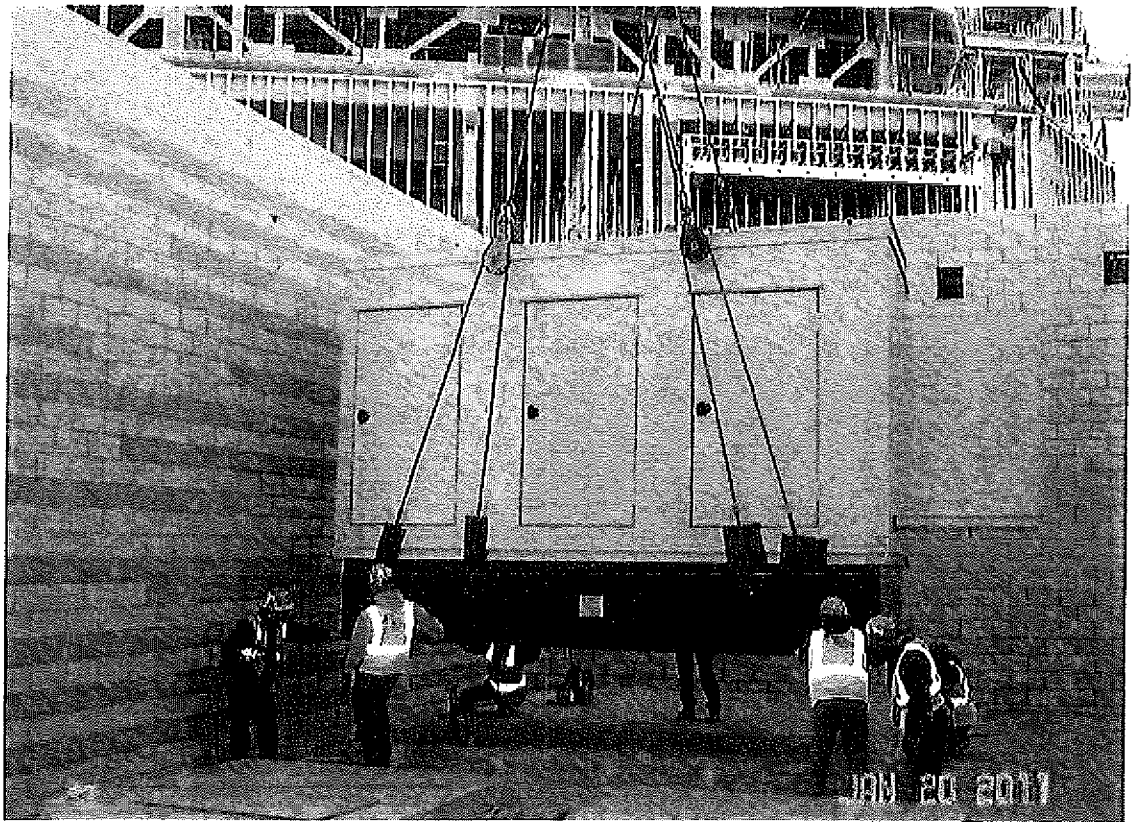

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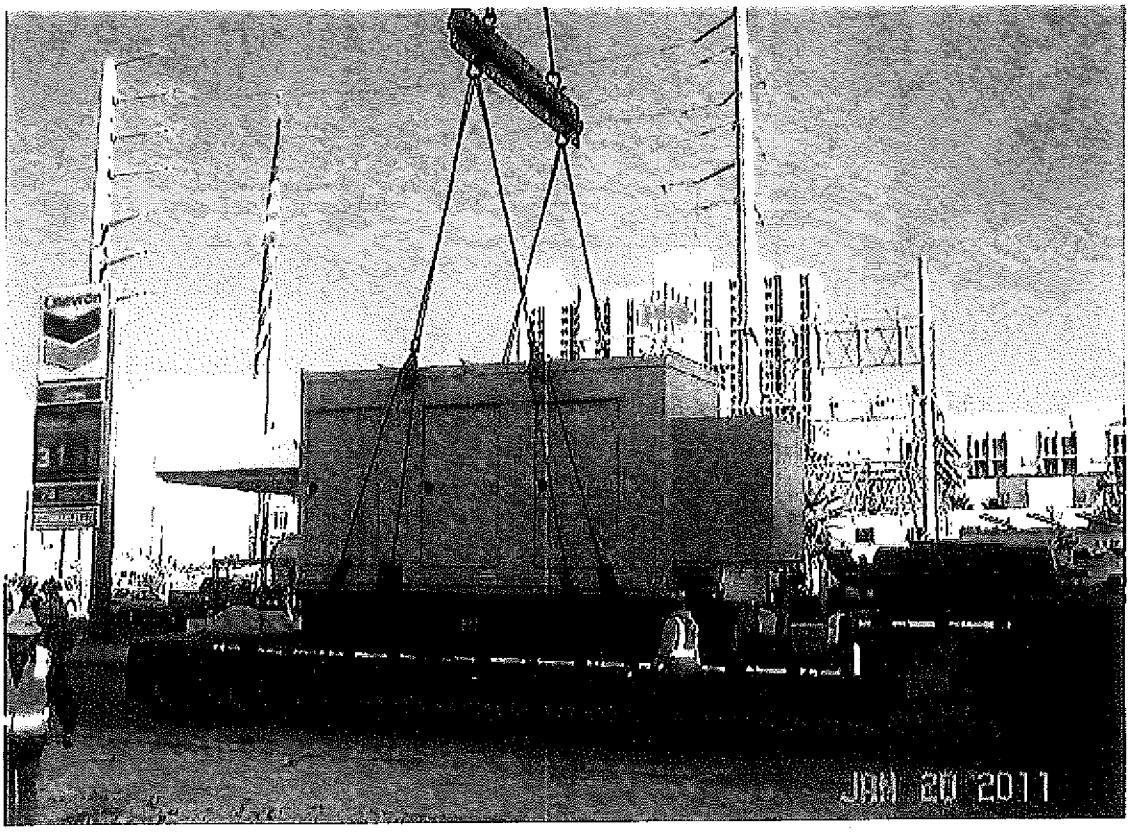

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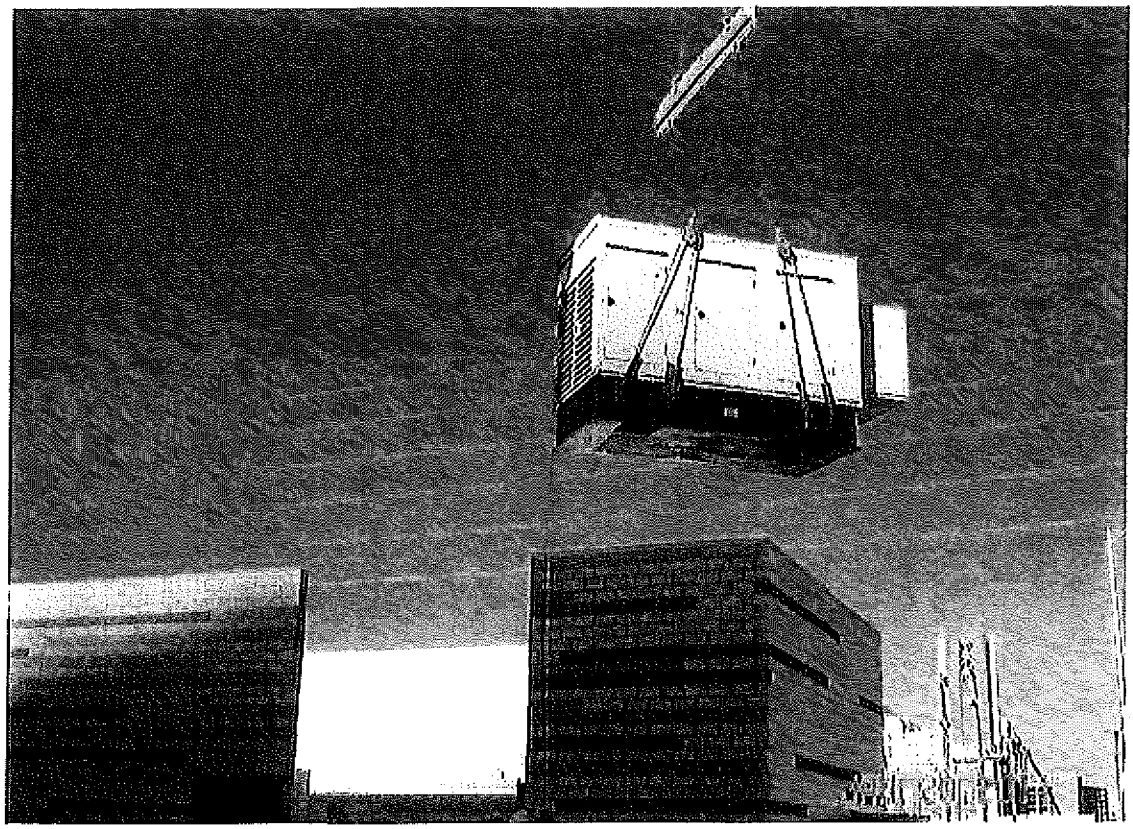

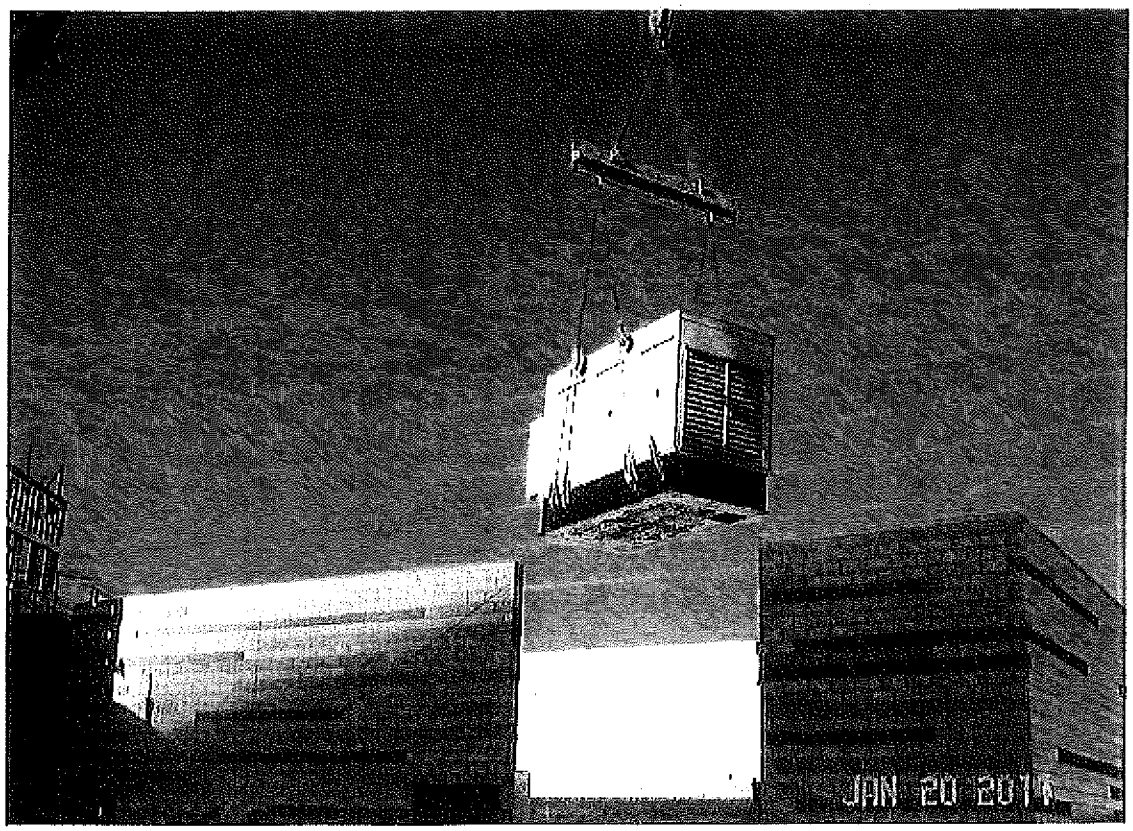

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CLERK OF THE COURT

ORDR
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Attorneys for Plaintiff,
Cashman Equipment Company

DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a Nevada corporation, Plaintiff, vs. CAM CONSULTING INC., a Nevada corporation; ANGELO CARVALHO, an individual; JANEL RENNIE aka JANEL CARVALHO, an individual; WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC, a Nevada corporation; WESTERN SURETY COMPANY, a surety; THE WHITING TURNER CONTRACTING COMPANY, a Maryland corporation; FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a surety; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a surety; QH LAS VEGAS LLC, a foreign limited liability company; PQ LAS VEGAS, LLC, a foreign limited liability company; L W T I C SUCCESSOR LLC, an unknown limited liability company; FC/LW VEGAS, a foreign limited liability company; DOES 1 - 10, inclusive; and ROE CORPORATIONS 1 - 10, inclusive; Defendants.	CASE NO.: A642583 DEPT. NO.: 32 **ORDER GRANTING CASHMAN EQUIPMENT COMPANY'S MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 108.2275**

AND ALL RELATED MATTERS.

ORDER GRANTING CASHMAN EQUIPMENT COMPANY'S MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 108.2275

CASHMAN EQUIPMENT COMPANY'S MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 108.2275, having been heard by the Court on July 11, 2013 at 9:00 a.m.; Brian J. Pezzillo, Esq., appearing on behalf of Plaintiff, CASHMAN EQUIPMENT COMPANY; and Brian Boschee, Esq., appearing on behalf of Defendants WHITING TURNER CONTRACTING, WEST EDNA ASSOCIATES, LTD, dba MOJAVE ELECTRIC LV, LLC, WESTERN SURETY COMPANY, FIDELITY AND DEPOSIT COMPANY OF MARYLAND, QH LAS VEGAS, LLC, PQ LAS VEGAS, LLC, LWTIC SUCCESSOR LLC AND FC/LW VEGAS. The Court having reviewed the Motion, Opposition and Reply, and having heard argument and being fully advised finds as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that CASHMAN EQUIPMENT COMPANY'S MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 108.2275 is GRANTED in the amount of $9,513.25 for attorneys' fees and $651.91 in costs, for a total of $10,165.16.

DATED this 19 day of Sept, 2013.

District Court Judge

ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

Submitted by:

PEZZILLO LLOYD

By: _____

Jennifer R. Lloyd, Esq.
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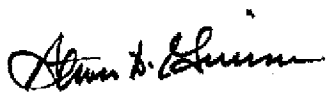


CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a Nevada corporation, Plaintiff, vs. CAM CONSULTING INC., a Nevada corporation; ANGELO CARVALHO, an individual; JANEL RENNIE aka JANEL CARVALHO, an individual; WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC, a Nevada corporation; WESTERN SURETY COMPANY, a surety; THE WHITING TURNER CONTRACTING COMPANY, a Maryland corporation; FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a surety; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a surety; QH LAS VEGAS LLC, a foreign limited liability company; PQ LAS VEGAS, LLC, a foreign limited liability company; L W T I C SUCCESSOR LLC, an unknown limited liability company; FC/LW VEGAS, a foreign limited liability company; DOES 1 - 10, inclusive; and ROE CORPORATIONS 1 - 10, inclusive; Defendants.	)	Case No. A642583 Dept No. 32

ORDER SETTING CIVIL NON-JURY TRIAL, PRE-TRIAL/CALENDAR CALL

IT IS HEREBY ORDERED THAT:

A. The above entitled case is set for trial on a five week stack to begin, on **Tuesday, November 12, 2013**, at **1:30** P.M.

B. A Pre-Trial/Calendar Call with the designated attorney and/or parties in proper person will be held on **Thursday, October 31, 2013**, at **11:00** A.M. As a courtesy to counsel and

parties, please note that Calendar Call for Department 32 is scheduled to be held in **courtroom 3C,** however, please check courthouse monitors for any change in location.

C. The Pre-trial Memorandum must be filed prior to the Pre-Trial/Calendar Call, with a courtesy copy delivered to Department 32 Chambers. All parties, (Attorneys and parties in Proper Person) must comply with EDCR 2.67.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order.

E. Pursuant to EDCR 2.35, a motion to continue trial due to any discovery issues or deadlines must be made before the Discovery Commissioner.

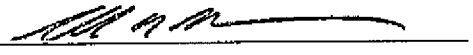
F. Pursuant to EDCR 2.47, all motions in limine to exclude or admit evidence must be in writing and filed not less than **45 days** prior to the date set for trial and must be heard not less than **14** days prior to trial.

Orders shortening time will not be signed except in extreme emergencies and an upcoming trial date is not considered an extreme emergency in this context.

Failure of the designated trial attorney or any party appearing in proper person to appear for any court appearances or to comply with this Order shall result in any of the following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial date; and/or any other appropriate remedy or sanction.

Counsel must advise the Court immediately when the case settles or is otherwise resolved prior to trial. A Stipulation which terminates a case by dismissal shall also indicate whether a Scheduling Order has been filed and if a trial date has been set, and the date of that trial. A copy should be given to Chambers.

DATED: September 30, 2013



Rob Bare
Judge, District Court, Department 32

CERTIFICATE OF SERVICE

I hereby certify that on or about the date e-filed, this was mailed or a copy of this Order was placed in the attorney's folder in the clerk's Office or mailed to the proper person as follows:

Jennifer Lloyd-Robinson, Esq.
Brian Boshee, Esq.
Edward Coleman, Esq.
Keen Ellsworth, Esq.

Tara Duenas
Judicial Executive Assistant

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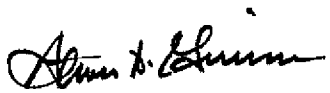

CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a Nevada corporation, Plaintiff, v. CAM CONSULTING, INC., a Nevada corporation; ANGELO CARVALHO, an individual; JANEL RENNIE aka JANEL CARVALHO, an individual; WEST EDNA ASSOCIATES, LTD. dba MOJAVE ELECTRIC, a Nevada corporation; WESTERN SURETY COMPANY, a surety; THE WHITING TURNER CONTRACTING COMPANY, a Maryland corporation; FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a surety; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a surety; DOES 1-10, inclusive; and ROE CORPORATIONS 1-10 inclusive; Defendants. AND RELATED MATTERS.	Case No.: A642583 Dept. No.: 32 (Consolidated with Case No. A653029)

DEFENDANTS' TRIAL BRIEF

Defendants/Counterclaimants WESTERN SURETY COMPANY, a surety ("Western"), THE WHITING TURNER CONTRACTING COMPANY ("Whiting Turner"), FIDELITY AND

DEPOSIT COMPANY OF MARYLAND ("Fidelity"), TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA ("Travelers"), WEST EDNA ASSOCIATES, LTD. dba MOJAVE ELECTRIC, a Nevada corporation ("Mojave"), QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC, and FC/LW Vegas (collectively "Defendants"), by and through their attorney of record, Brian W. Boschee, Esq., hereby submits, pursuant to EDCR 7.27, this Civil Trial Memorandum, for consideration by the Court.

Dated this 16 day of January, 2014.

COTTON, DRIGGS, WALCH, HOLLEY, WOLOSON & THOMPSON

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POINTS AND AUTHORITIES

I. INTRODUCTION

The Court likely knows the facts and circumstances of this case from memory given all of the briefing and argument. At the end of the day, this Court is going to have to make a decision as to whether Mojave has to pay for the equipment supplied for the City Hall Project (the "Project") twice, or whether Cashman Equipment Company ("Cashman" or "Plaintiff") is going to have to suffer some loss, which has been mitigated by recovery against other Defendants earlier in this case, as a result of its conduct. Against that backdrop, and with more

detail to follow in the statement of facts and legal argument, Defendants submit to this Court that Cashman, not Mojave, should be accountable in this case for the following reasons:

- Cashman selected CAM Consulting, Inc. ("CAM") to be the disadvantaged business owner for this particular job. Cashman made this election knowing that CAM had virtually no credit history and very little work history because Cashman wanted to save money and put more profit in its pockets. The amount paid to the disadvantaged business owner made no real difference to the Defendants.
- Mojave paid, in full, for the equipment and installation even though the installation was not yet complete.
- Cashman provided Defendants with an unconditional, final lien release because it knew that Mojave had tendered full payment for the equipment and installation.
- Cashman, knowing that CAM had no credit and having no prior history with CAM, nonetheless accepted a post-dated check from CAM and agreed to wait a few days before trying to deposit it. Cashman could have made CAM sign over Mojave's check and then written CAM a small check for the difference, or could have insisted on immediate payment and gone to the bank with CAM, but instead, accepted a post-dated check that would eventually be refused by Cashman's bank as having insufficient funds because CAM and its owner, Angelo Carvalho, absconded with the funds. In taking this step, Cashman created what amounted to a side deal with CAM and put itself in jeopardy of not getting paid for the equipment even though it knew full payment had been made by Mojave and Cashman accepted the full payment.
- Cashman never actually finished the work that Mojave tendered full payment for. In fact, the Defendants ended up having to hire other subcontractors to finish the installation and the codes that allow the systems to communicate have never been installed because Cashman is the only party that knows the codes and has refused to provide them, despite being ordered to by this Court.
- Cashman also has no evidence that it ever served its statutory pre-lien notice on

the owners of the Project or that the owners knew Cashman was performing work. In fact, the owners' representative on the Project site had no idea that Cashman was supplying anything. Additionally, the pre-lien notice that Cashman has produced in this case is woefully insufficient to identify what work it was actually performing on the Project.

- Cashman also has no evidence that any of the Defendants were unjustly enriched or that Mojave and CAM were engaged in nefarious conduct supporting a fraudulent transfer claim.
- Mojave had to tender $142,431.84 to other subcontractors to finish the work that Cashman refused to do after CAM did not pay Cashman. Part of this $142,431.84 is a payment of $79,721.31 to Codale Energy Services and Supply, LLC ("Codale"). This payment was to purchase UPS batteries for the Project that Codale had purchased from Cashman for the same amount. Mojave then used these batteries, which it had now paid twice for, in the Project. Despite receiving this $79,721.31 payment for batteries that were already part of their lien and bond claims, Cashman has not reduced the lien or the damages sought accordingly.
- Since the outset of this lawsuit, Cashman has recovered property from CAM, Carvalho and Janel Rennie, including a house and a car that Carvalho paid for in cash, thus presumably meaning both still have substantial equity.

The bottom line in this case is that, per the agreements, the relevant statutes, and Nevada law, the Defendants, and especially Mojave, did everything they were supposed to do and did it correctly. Mojave had to tender payment to CAM under their contract. Mojave tendered payment in full, even though Cashman had not yet completely performed. Mojave did not choose CAM or choose to accept a post-dated check from CAM. Cashman, not Mojave, decided to enter into a new agreement with CAM with respect to accepting a post-dated check, which under Nevada law is akin to accepting a promissory note. Mojave was provided an unconditional, final lien release from Cashman, and yet has had to fight this mechanic's lien suit for years. Mojave finished the job, using other subcontractors at considerable expense to

Mojave, after Cashman refused to complete the installation due to not getting paid, even though the fault for Cashman not getting paid lies almost entirely at the feet of Cashman, not the Defendants. Finally, Cashman is seeking full payment on lien and bond claims in this action that it knows, even on its best day with the best possible outcome for it from this Court, it is not entitled to. Cashman did not finish the work, never supplied the installation codes, has recovered other assets from CAM and its related Defendants, and yet Cashman comes to this Court seeking full payment on its lien and bond claims.

When the Court weighs the evidence, fully examines the elements Cashman needs to establish in order to prevail on its claims, and weighs the equities and conduct of Cashman and Mojave, the Defendants are confident that this Court will rule in their favor, dismiss the Plaintiff's claims, and enter judgment for the Defendants.

II. STATEMENT OF FACTS

The facts of this case are largely not in dispute between the parties. There is no dispute that Mojave entered into a contract with CAM to provide materials pursuant to Mojave's subcontract with Whiting Turner. There is also no dispute that CAM entered into a separate contract with Cashman for supply of said materials for the Project. Both of those contracts will be introduced by both parties as evidence in this case.

It is also undisputed by the parties that CAM's involvement in the Project was mandated by the City of Las Vegas and the owners of the Project, who required participation by disadvantaged business owners. Cashman bid $755,893.89 to supply the aforementioned materials and labor to the Project, and that bid included the batteries for the UPS system. There is also no dispute that Cashman provided most, but not all, of the materials and labor for the Project. The Defendants will present evidence that they had to expend considerable resources to other subcontractors to attempt to complete the work after Cashman stopped working and refused to return to the Project.

The evidence is also clear that Mojave tendered payment to CAM, as required by its contract with CAM, in the full amount of $755,893.89, despite the fact that Cashman had not yet completed the work. None of the parties will dispute that this payment was made, and there is

also no factual dispute that Mojave's check to CAM had sufficient funds. Likewise, Cashman has no evidence that Mojave did not tender the full payment to CAM. Within minutes of CAM's receipt of Mojave's payment, CAM provided Cashman with a post-dated check in the amount Mojave had just tendered to CAM. The post-dated check will be presented as evidence in this case, and Cashman's representative has already testified, and will presumably testify again at trial, that he accepted this check from CAM and that Angelo Carvalho asked Cashman to wait a few days to deposit the check. Under Nevada law, the acceptance of a post-dated check essentially amounted to Cashman accepting a promissory note from CAM and entering into a new agreement with CAM with respect to payment. This new agreement put Cashman in jeopardy of not getting paid, a position Cashman should have never been in but was due solely to its own fault and dealing.

Notably, the evidence will also show that Cashman did not simply ask CAM to sign over the check from Mojave, nor did Cashman ask for immediate tender of the funds CAM owed Cashman pursuant to the contract between CAM and Cashman. Cashman will likely present evidence that it asked for a joint check, but the evidence will also show that a joint check was not possible given that it would have defeated the purpose of the City's requirement of a disadvantaged business owner being part of the process. Cashman accepted a post-dated check from CAM and then issued an unconditional, final lien release to Mojave as to the materials and labor provided. The evidence is also going to clearly show that Cashman took this unusual step of accepting a post-dated check and then waiting despite the fact that Cashman's credit manager, Shane Norman, the man who actually accepted the check and agreed to wait, had serious concerns about even contracting with CAM due to the fact that neither the company nor its owner had any credit to speak of.

As the Court now knows, CAM's check to Cashman bounced as a result of CAM removing most of the money from its bank account prior to Cashman depositing the check. Cashman took efforts to try to collect the money, and Mojave will concede that Cashman asked if it was possible for Mojave to stop payment. Had the request been made immediately, it is possible that a stop-payment request could have been granted by the bank. However, after the

passage of several days, it was too late. So, Cashman, having accepted the post-dated check and having taken absolutely no steps to ensure that CAM had not transferred the funds prior to Cashman depositing the check, decided to attempt to seize the equipment and then recorded a mechanic's lien on the property for the full amount of the contract, $755,893.89. Cashman recorded this lien in this amount despite the fact that it had not finished the work required under the contract and also knowing that it did not have any evidence that its pre-lien information had ever been received by the owners of the Project. To this day, Cashman does not have a receipt for the certified mail it allegedly sent to the owners, which is the entire reason why the lien statutes require ***certified mail, return receipt requested.***

In an effort to protect the Project and allow City Hall to open, Defendants, and Mojave specifically, issued a payment bond to remove the lien and hired subcontractors to attempt to finish Cashman's work. The evidence will demonstrate that Mojave expended approximately $142,431.84 paying these other subcontractors, and while that completed ***most*** of the outstanding work, the installation codes were never actually provided and are still in the sole possession of Cashman. The evidence is also going to show that part of that $142,431.84 was paid directly to Cashman, because Cashman sold the batteries for the UPS portion of its work and materials, again part of the $755,893.89 that it is claiming in this case, to Codale for approximately $79,721.31. Those batteries were eventually re-purchased by Mojave and used in the Project, but Cashman is still trying to recover money owed for these batteries when it knows that they were sold and Cashman has failed to reconcile this $79,721.31 payment with the lien and bond claims.

In addition to recording a mechanic's lien in an amount in excess of the work actually performed on the Project, a fact that Cashman really cannot dispute and has not disputed, Cashman has made claims on the payment bonds for this Project. However, the evidence will show that the payment bonds stopped applying to Cashman as soon as Mojave tendered sufficient funds. In fact, the very language of the Mojave payment bond states, clearly and unambiguously, that if the Principal, in this case Mojave, "shall promptly make payments to all persons supplying labor, material, rental equipment, supplies, or services in the performance of

the said Contract and any and all modifications of said Contract that may hereafter be made, then this obligation shall be null and void; otherwise it remains in full force and effect."

Additionally, since the outset of this litigation, it is undisputed that Cashman has obtained assets of other Defendants that offset the amount that it tendered for the equipment and work supplied to the Project. Cashman has obtained real property that Defendants Carvalho and Rennie purchased in April of 2011 for $165,000, apparently in an all-cash transaction. Presumably, the house is worth more now than in April of 2011, but in any event, it certainly is not worth less than $165,000, an amount that should be deducted from any claim Plaintiff asserts either from its mechanic's lien or against any payment bonds. Also, those same Defendants purchased a Honda Pilot in the same time frame for $38,931.65, a vehicle with Cashman now also has title to per order of his Court. Taking into account the $142,431.84 in work that Defendants had to pay other subcontractors to attempt to finish the Project, which includes the $79,721.31 that Cashman received for the UPS batteries, the $165,000 house that Cashman now has, and the $38,931.65 vehicle that Cashman has obtained (which presumably, even with extreme driving, should be worth at least $20,000), Cashman's claims, even if the Court completely disregards all of the valid defenses that Defendants have to paying **anything** on the claims, must be reduced by a minimum of $327,431.84.

However, in order to get to that point, the Court is going to have to ignore some other key, material facts. Cashman has no evidence that any pre-lien notice was ever actually received by the owners of the Project, and the owner's representative, David Phillips, has testified under oath that he had no idea that Cashman was working on the Project. Thus, there was not proper service of the pre-lien notice or actual owner notice of the work, both of which are fatal to Plaintiff's lien claim.

Cashman also has no evidence that it had employees on the Project later than February 1, 2011, which would make both its lien claim and bond claims untimely. Cashman defeated summary judgment on these issues by supplying the Court with an unsubstantiated declaration that Cashman employees were on the Project as late as May 23, 2011, but Cashman has no actual evidence of any employees being on the Project that late, and common sense would clearly

indicate that Cashman would not have employees on the Project in May of 2011 since that was a month ***after*** CAM's check was returned for insufficient funds. Cashman's representatives have been clear, and will again presumably testify truthfully at trial, that after CAM did not pay it for the equipment, and after Mojave refused Cashman's demand to pay for the equipment and work a ***second*** time, Cashman refused to do any additional work. This is why Mojave had to hire the other subcontractors and why the codes are still not installed. Thus, either Cashman is lying about refusing to perform work after CAM did not pay it or it is lying about having employees on site on May 23, 2011. Mojave's project manager will testify at trial that not only were there no Cashman employees on the Project on May 23, 2011, there would have been no reason for them to be on the site at that time, because the only work left to be completed was work that Cashman had already indicated it would not finish.

Additionally, Cashman does not dispute that Mojave tendered sufficient funds for the equipment and work to the party it was contractually obligated to pay, CAM. What transpired after that was completely the fault of Cashman, for accepting a post-dated check when the funds were available for immediate payment, and CAM, for taking advantage of Cashman and stealing the money. Further, the payment bonds in dispute contain specific language that defeats Cashman's claim against those bonds, namely, that the obligations go away upon timely payment, which was made by Mojave.

The payment bond issue illustrates the real truth behind this entire case. This is a dispute between CAM, and its principals, and Cashman. There is no dispute that CAM is the "bad guy" under these facts, but there is also no dispute that everyone on the Defendants' side did what they were supposed to do, and the entire mess that ensued happened because of Cashman's acceptance of the post-dated check and CAM's conduct in stealing the money thereafter. In all of the briefing in this action, Cashman keeps referencing the fundamental lack of "fairness" in making it pay for the equipment without compensation from the Defendants, but Cashman completely ignores the undisputed fact that the Defendants, and specifically Mojave, **did** pay for the equipment already. Cashman is asking this Court to make Mojave pay for the equipment a second time, all because Cashman took affirmative steps, steps that are not denied or disputed by

Cashman, which resulted in it not getting paid for the work and equipment provided. Aside from the legal failings of Cashman's claims in this case, a verdict in favor of Cashman would yield a patently unfair result against parties who did nothing wrong in this process.

III. LEGAL ARGUMENT

A. PLAINTIFF FAILED TO COMPLY WITH THE REQUIREMENTS FOR A MECHANIC'S LIEN AND THUS THE LIEN FORECLOSURE CLAIM MUST BE DISMISSED

As has been noted throughout the proceedings, Cashman failed to comply with several aspects of NRS Chapter 108 with respect to its mechanic's lien. Cashman now claims to have served the Owners of the Project, not just once, but three separate times, with pre-lien notices with respect to the work performed. However, the pre-lien notices that Cashman will present to this Court contain several problems, all of them fatal to the notice requirements of NRS §108.245. First, a quick review of the plain language and requirements of NRS §108.245 is insightful with respect to the deficiencies in the notices purportedly sent by Cashman and attached to the Supplement. The statute provides:

> **NRS 108.245 Notice of right to lien: Form; service; effect.**
>
> 1. Except as otherwise provided in subsection 5, every lien claimant, other than one who performs only labor, who claims the benefit of NRS 108.221 to 108.246, inclusive, shall, at any time after the first delivery of material or performance of work or services under a contract, ***deliver in person or by certified mail to the owner of the property*** a notice of right to lien in substantially the following form:
>
> NOTICE OF RIGHT TO LIEN
>
> To: .....
>
> (Owner's name and address)
>
> The undersigned notifies you that he or she has supplied materials or equipment or performed work or services as follows:
>
> (General description of materials, equipment, work or services)
>
> for improvement of property identified as (property description or street address) under contract with (general contractor or subcontractor). This is not a notice that the undersigned has not been or does not expect to be paid, but a notice required by law that the undersigned may, at a future date, record a notice of lien as provided by law against the property if the undersigned is not paid.

(Claimant)

> A subcontractor or equipment or material supplier who gives such a notice must also deliver in person or send by certified mail a copy of the notice to the prime contractor for information only. The failure by a subcontractor to deliver the notice to the prime contractor is a ground for disciplinary proceedings against the subcontractor under chapter 624 of NRS but does not invalidate the notice to the owner.
>
> 2. Such a notice does not constitute a lien or give actual or constructive notice of a lien for any purpose.
>
> 3. No lien for materials or equipment furnished or for work or services performed, except labor, may be perfected or enforced pursuant to NRS 108.221 to 108.246, inclusive, unless the notice has been given.
>
> 4. The notice need not be verified, sworn to or acknowledged.
>
> 5. A prime contractor or other person who contracts directly with an owner or sells materials directly to an owner is not required to give notice pursuant to this section.
>
> 6. A lien claimant who is required by this section to give a notice of right to lien to an owner and who gives such a notice has a right to lien for materials or equipment furnished or for work or services performed in ***the 31 days before*** the date the notice of right to lien is given and for the materials or equipment furnished or for work or services performed anytime thereafter until the completion of the work of improvement.

NEV. REV. STAT. §108.245 (emphasis added).

The first requirement is that the pre-lien notice must be sent to the owner via certified mail or personally served. The evidence in this case will be clear that none of the owners were ever personally served with a pre-lien notice or even aware that Cashman was working on the Project. Further, while Cashman will likely attempt to introduce evidence that they sent the pre-lien notices to the owners in Ohio, Cashman will have no evidence at trial that these notices were ever actually received. In fact, the opposite is true. Cashman does not have a certified mail receipt, the entire point of sending something certified mail, and when Cashman subpoenaed the owners for documents relating to this action, the owners did not produce any pre-lien notices. So, absent ***any*** evidence of proper service upon the owners of the Project or actual knowledge by the owners that Cashman was working on the Project, Cashman's lien claim is fatally flawed.

Similarly, any pre-lien notice must be sent within 31 days after the first delivery of

material or performance of work. The evidence in this case is going to be clear, from Cashman's documents and testimony, that the first delivery of material did not occur until late December of 2010. So, when the Plaintiff offers into evidence the pre-lien notices that were allegedly sent in April of 2010, those notices clearly will not comply with the "delivery of material" portion of the statutory requirement. The purpose of the pre-lien notice requirements provided by NRS 108.245 is to put the owner on notice of work and materials furnished by third persons with whom the owner has no direct contact. See In re Stanfield, 6 B.R. 265, 269 (Bankr. D. Nev. 1980). Nevada Statutes require that all persons who desire to claim a lien in accordance with the statutes must provide a Notice of Right to Lien to the owner at any time after the first delivery of material or first performance of work. See NEV. REV. STAT. §108.245.

The lien claimant must give such a notice for materials or equipment furnished or for work or services performed in the 31 days before the date the notice in order to include those amounts within its mechanic's lien. See id. The last pre-lien notice was purportedly sent on April 29, 2011, which is more than 31 days after Cashman acknowledges it delivered material to the Project (January 19, 2011), and more than 31 days after the last invoice, March 25, 2011, and the Owner, Forrest City, had no knowledge of Cashman's work on this project as a sub-subcontractor to Mojave.

So, from a pure timing standpoint, the purported pre-lien notices that Cashman now claims were sent, with no proof of receipt despite allegedly being certified mail, were either sent too soon or too late with respect to delivery of the material.

Cashman will attempt to avoid this fatal defect by claiming that it "started work" in April of 2010, despite not delivering materials to the Project until late December. In this instance, the definition of "work" from NRS Chapter 108 is helpful. First, "work" is defined as:

> **NRS 108.22184** "Work" defined. "Work" means the planning, design, geotechnical and environmental investigations, surveying, labor and services provided by a lien claimant for the construction, alteration or repair of any improvement, property or work of improvement whether the work is completed or partially completed.

NEV. REV. STAT. §108.22184.

In this case, Cashman has absolutely no evidence that it provided any "work" prior to late December of 2010. On April 23, 2010, Mojave issued the purchase orders for purchase of the materials to be eventually supplied by Cashman. There was no "planning" required by Cashman, nor was there any "labor" or "services" required of Cashman at that point. Literally, Mojave had put Cashman on notice that it would be purchasing equipment to be ultimately supplied by Cashman, equipment that, by Cashman's own admission, was not supplied or installed until "late December" of 2010. So, even giving Cashman the benefit of the doubt that these pre-lien notices were properly served, which they clearly were not, the notices would be defective because they were not timely.

While the two deficiencies noted above should be fatal to Cashman's lien claim, it should also be noted that the language of the pre-lien notices themselves do not comply with the requirements articulated in NRS §108.245. The form memorialized in the statute clearly requires that the potential lien claimant provide at least a general description of the work or materials it is providing for a given project that are subject to the pre-lien notice. The reason for this requirement is pretty straight-forward – to make sure that all of the parties have some idea what the lien claimant is going to provide and, more importantly, the amount of work or materials the lien claimant is going to provide.

As the Court will be able to plainly see from the three pre-liens that were allegedly sent, Cashman provides absolutely no description of what it is actually providing for the Project, other than the standard "equipment for the improvement of the property" that is also cited in the statute before the portion where the subcontractor is supposed to provide a general description of the work or materials it is providing. There is no mention of the monetary amount of the work and materials Cashman was to provide (even though that number was set by the purchase orders), or what portion of the Project these pre-lien notices applied to. Cashman supplied equipment for other subcontractors on other portions of the Project, notably Stetson Electric for the underground work, and these pre-liens could have applied to that work as well. Absent some explanation as to what work or what monetary amount the pre-lien notices related to on the Project, even if the Court were to give Cashman the benefit of the doubt as to every other

deficiency identified with respect to the pre-lien notices and the service, the Owners would still not have actual notice of what Cashman was supplying to the Project from the notices attached to the Supplement.

Further, the April and December notices identify Mojave as the "Customer contracting for said Equipment and Labor." There is no dispute between the parties at this point that Cashman did not have a contract with Mojave with respect to the equipment provided to the Project. Mojave was not the "customer" or the "contracting" party with Cashman, yet this was the information purportedly sent with the first two pre-lien notices. Again, had the Owners actually received these pre-lien notices, they would have had no idea what work Cashman was giving them notice of, and they would have had the impression that Cashman had contracted with Mojave, which it did not.

So, the pre-lien notices that will be presented by Cashman at trial are defective on their face, were never properly served on the Owners as required by NRS §108.245, and even had they been properly sent via certified mail, the notices would have been untimely because two were sent before Cashman began its "work" and the last was sent more than 31 days after the last invoice date. Thus, having failed to comply with NRS §108.245, the Defendants' claims for foreclosure of mechanic's lien and foreclosure of mechanic's lien bond must be dismissed with prejudice and judgment entered in favor of the Defendants.

Even if the Court were to ignore the blatant and fatal failures to comply with the technical requirements of the lien statutes, as Cashman will ask the Court to do because of its "substantial compliance" with the requirements, the Court should still dismiss the lien and lien bond foreclosure claims. Cashman is going to argue extensively that the bond and lien statutes are designed to protect contractors and suppliers who do not get paid for the work performed or materials supplied, and on a certain level, Cashman is correct. However, it is also important for the Court to remember that Cashman ***was*** paid in full for the work and equipment performed. Mojave tendered full payment, despite the work not being done, and after that money was tendered, Cashman issued an unconditional, final lien release to Mojave. It was only at this point, after the money was tendered in full, that Cashman worked out a different arrangement

with CAM accepting a post-dated check and agreeing to wait to deposit the funds. The remaining Defendants, including Mojave, should not be punished because Cashman elected to enter into a bad financial arrangement with CAM.

In Nevada, and other jurisdictions, a post-dated check acts as a promissory note under the law. See Lowe v. Dep't of Commerce, 89 Nev. 488, 490, 515 P.2d 388, 389 (1973) (a post-dated check is in essence a promissory note); see also Freiberger v. St. of Florida, 343 So. 2d. 57, 58 (1977) ("It was proved she wrote post-dated checks which are promissory notes under the law"); see also Walton v. Clark, 454 B.R. 537, 542 (Bankr. M.D. Fla. 2011) ("A post-dated check is, in effect, the functional equivalent of a promissory note"). A post-dated check is nothing more than a promise to pay a certain sum of money at the specified time, because ordinarily a check is payable on demand. See Walton, 454 B.R. at 542.

Cashman's argument that all Defendants are liable for payment should fail, because Cashman chose to enter a separate agreement with CAM. A post-dated check is akin to a separate contract for payment, because a post-dated check is not immediately payable, but is a promise to pay on the date shown. See Alvarez v. Alvarez, 800 So. 2d. 280, 284 (Fla. Dist. Ct. App. 2001). When Cashman accepted the post-dated check from CAM, and then agreed to wait a few days before depositing the check, it agreed to payment at a later date. That promise never materialized, and unfortunately Cashman remains largely unpaid. However, that separate arrangement should not be used to punish the remaining Defendants, especially Mojave, when those Defendants were not part of the arrangement between CAM and Cashman and especially when Mojave tendered payment in full.

Additionally, based upon the circumstances that transpired and the actions of Cashman, under Nevada law, there was likely an accord and satisfaction with respect to the amount owed on the equipment. In order for there to be an accord and satisfaction, three elements must be present: 1) a bona fide dispute over an unliquidated amount; 2) payment tendered in full settlement of the entire dispute; and 3) an understanding by the creditor of the transaction as such, and acceptance of the payment. See Pierce Lathing Co. v. ISEC, Inc., 114 Nev. 291, 297, 956 P.2d 93, 97 (1998). Central to the issue of an accord and satisfaction is a meeting of the

minds with regard to the resolution. See id.; see also Mountain Shadows v. Kopsho, 92 Nev. 599, 601, 555 P.2d 841, 842 (1976).

In this case, Mojave was presented invoices from CAM for work and materials for the Project, and based upon those invoices, Mojave tendered payment in full. The payment was made to CAM, as it needed to be under the respective contracts, but Cashman submitted the amounts it expected to be paid and Mojave paid that amount. After Mojave tendered the amount, which was accepted both by CAM and by Cashman, Mojave was provided with an unconditional, final lien release, a clear showing that there was a meeting of the minds as to whether Mojave had paid the amount Cashman believed it was owed and also that the Defendants' payment obligation had been satisfied. It was only after the accord and satisfaction between Mojave, CAM and Cashman that Cashman entered into the subsequent agreement with CAM to accept a post-dated check and wait to deposit Mojave's payment. So, again, the accord and satisfaction between Cashman and Mojave puts this dispute squarely where is should be, namely, between Cashman and CAM, and thus Plaintiff's claims to foreclose on its lien and the lien bond should be dismissed.

B. IF PLAINTIFF'S LIEN FORECLOSURE CLAIM IS NOT DISMISSED, THE AMOUNT OF THE LIEN MUST BE REDUCED

A lien claimant pursuant to NRS 108.245 bears the burden of proving the amount of the lien claim. See Sherman Gardens Co. v. Longley, 87 Nev. 558, 566, 491 P. 2d. 48, 54 (1971). Based on the foregoing, Cashman bears the burden of proving to the Court that the amount of its Lien is not excessive and lienable under Nevada law. Based upon the work that Mojave had to pay other subcontractors to perform to finish the work Cashman now seeks under its lien, the money Cashman received for the batteries, as well as the assets Cashman has already collected from other Defendants mitigating its "loss," including a house and an automobile, Cashman cannot meet this burden.

The burden of establishing good faith in filing a lien claim that is grossly exaggerated is upon the claimant. See R&L Supply, LTD v. Evangelical Lutheran Good Samaritan Soc'y, 462 N.W. 2d 515, 518 (S.D. 1990); see also Legge Indus. v. Joseph Kusner Hebrew Acad./JKHA,

756 A. 2d 608,622 (N.J. Super Ct. App. Div. 2000) ("a willful overstatement connotes an intent to recover that to which the claimant knows he is not entitled; in other words, a claim made in bad faith").

Defendants submit to this Court that the amount of work or materials supplied by Cashman has a value of considerably less than the approximately $755,893.89 claimed. Cashman has admitted that the work is incomplete and there have been multiple motions filed related to that work. "Where there is any willful exaggeration in the amount of the lien . . . the entire lien is forfeited." Goodman v. Del-Sa-Co Foods, Inc., 205 N.E. 2d 288, 289 (N.Y. 1965). Cashman's Lien is overstated. See Wolters Vill. Mgmt Co. v. Merchs. and Planters Nat'l Bank of Sherman, 223 F.2d 793, 801-802 (5th Cir. 1955) (where lien claims included a substantial amount of work never performed it was invalid); see also Wigham Excavating Co. v. Colorado Fed. Sav. and Loan Assn., 796 P.2d 23, 25 (Colo. Ct. App. 1990) (a lien statement which included amounts not due to construction efforts was a fraudulent lien statement which required forfeiture).

In this instance, we know that there is at least $142,431.84 worth of work that the Plaintiff did not perform, because that was the amount that Mojave had to pay other subcontractors to finish the work at the Project that Cashman refused to complete. We also now know that out of the $142,431.84, Cashman was paid $79,721 for the UPS batteries by Codale, a fact that will be admitted by Cashman witness Keith Lozeau since he was the key figure in procuring the payment for the batteries. These batteries were then re-purchased by Mojave and supplied to the Project. Despite that refusal, Cashman has willfully and deliberately sought the full amount of its invoices, $755,893.89, even though it is an undisputed fact that Cashman never finished its work.

Additionally, per prior order of this Court, we know that Cashman now owns real property Defendants Carvalho and Rennie paid $165,000 in April of 2011. We also know that per order of this Court, Cashman now has title to a Honda Pilot which those same Defendants purchased in the same time frame for $38,931.65. Without actually taking the car in for an inspection, it is reasonable to assume that it held at least half of its value in the 2+ years that the

Carvalho and Rennie owned it, and it likely held more value than that, but for purposes of this offset, Defendants will value the equity in the vehicle at approximately $20,000.

So, if the Court believes that the Plaintiff has somehow overcome all of the aforementioned defenses to its lien and lien bond claims, there is absolutely no dispute that any lien that this Court may choose to foreclose must be reduced. Taking into account the $142,431.84 in work that Defendants had to pay other subcontractors to attempt to finish the Project, including the approximately $79,721.31 that Cashman was paid for the batteries, the $165,000 house that Cashman now has, and the approximately $20,000 worth of vehicle that Cashman has obtained, Cashman's lien and lien bond claims must be reduced by a minimum of $327,431.84.

Given that Cashman willingly and knowingly has pursued a lien claim in an amount it clearly knew was not accurate, Defendants submit that Cashman has willingly pursued its lien and lien bond claims in bad faith and thus the claims should be dismissed.[1] Further, now that Cashman has mitigated its loss even more by obtaining a house and vehicle with a cumulative value likely in excess of $185,000, along with selling the batteries for $79,721.31, Cashman should have reduced the amount sought in this action accordingly. However, as of the date of this filing, Cashman is still seeking the full amount of its lien, despite not finishing the work and obtaining assets mitigating any loss it suffered. Based upon Nevada law, Defendants respectfully submit that Cashman's decision to proceed in bad faith should lead to complete dismissal of its claims to the lien and the lien bond, but in any event, both claims must be reduced by, at a very minimum, $327,431.84.

C. PLAINTIFF'S CLAIM FOR UNJUST ENRICHMENT IS IMPROPER AS TO ANY DEFENDANTS BECAUSE NONE OF THE DEFENDANTS WERE UNJUSTLY ENRICHED

"Unjust enrichment is the unjust retention . . . of money or property of another against the fundamental principles of justice or equity and good conscience." Topaz Mut. Co. Inc. v. Marsh, 108 Nev. 845, 856, 839 P.2d 606, 613 (1992); see also Coury v. Robison, 115 Nev. 84, 90, 976

[1] The surety Defendants want to make clear that they are not pursuing a bad faith claim against Cashman or anyone else in this litigation.

P.2d 518, 521 (1999) (citations omitted) ("[u]njust enrichment occurs whenever a person has and retains a benefit which in equity and good conscience belongs to another. Unjust enrichment is the unjust retention of a benefit to the loss of another."). This cause of action "exists when the plaintiff confers a benefit on the defendant, the defendant appreciates such benefit, and there is 'acceptance and retention by the defendant of such benefit under circumstances such that it would be inequitable for him to retain the benefit without payment of the value thereof.'" Certified Fire Prot., Inc. v. Precision Constr., Inc., __ Nev. __, 283 P.3d 250, 257 (2012) (citations omitted).

In this case, the Plaintiff's claim against the Defendants for unjust enrichment fails because the Defendants have not unjustly retained a benefit bestowed upon them by Plaintiff. Conversely, the Defendants paid Cashman in full even though the work was not, and is still not, complete. Plaintiff took a postdated check from CAM that was not honored. However, those funds were already appropriated to Mojave for its subcontractors, including CAM, and paid out by the owners of the Project and Whiting Turner. The owner's representative, David Phillips, testified under oath that work supplied by Plaintiff has already been paid off by the owner. As noted now several times, Plaintiff is really seeking to make the Defendants, and particularly Mojave, make payment twice for the same work because of CAM's misdeeds and Plaintiff's misplaced trust.

Plaintiff is going to have no evidence at trial that any of the Defendants have been unjustly enriched by any conduct of the Plaintiff. The Defendants paid the full value of the invoices submitted by Cashman, even though the work has not been completed and the codes have still never been supplied by Cashman, and thus the Defendants have retained no benefit which in law or equity belongs to the Plaintiff. If anything, a judgment in the amount the Plaintiff seeks would result in the Plaintiff obtaining a benefit that it does not deserve, because, as detailed above, the Plaintiff is seeking the full value of its invoices even though it did not complete the work and has obtained assets of other Defendants. Such an outcome would result in a windfall for the Plaintiff, but under no circumstances can any outcome of this case result in any unjust enrichment or quantum meruit to the Defendants, thus that claim should be dismissed.

D. PLAINTIFF'S PAYMENT BOND CLAIMS MUST BE DISMISSED BECAUSE DEFENDANTS DISCHARGED THEIR DUTIES UNDER THE PAYMENT BONDS AND PLAINTIFF FAILED TO PROVIDE TIMELY NOTICE OF ITS CLAIM

Cashman's entire argument in support of the claim on the payment bonds is premised upon the contested facts that: a) Mojave failed to pay for the labor and materials provided for the Project; and b) that Cashman provided labor and materials in the amount of $755,893.89 for the Project. Both of those facts are simply untrue.

First, there is no dispute between the parties that Cashman failed to complete the work that CAM contracted with Cashman to provide. As noted above, Mojave expended approximately $142,431.84 paying other subcontractors to complete Cashman's work, including the $79,721.31 Cashman was paid for batteries that were included in the $755,893.89. Additionally, Cashman has collected over $185,000 worth of assets from other Defendants. Thus, even if the Court ultimately determines that Cashman is owed something in this action, there is no real dispute that it will not be owed the full $755,893.89.

However, before the Court even gets to a determination of any amount owed to Cashman under the payment bond, the Court has to determine that Cashman is owed anything by anyone other than CAM. The Mojave/Western Surety payment bond clearly states that:

> [i]f the Principal shall promptly make payments to all persons supplying labor, material, rental equipment, supplies or services in the performance of said Contract and any and all modifications of said Contract that may hereafter be made, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

In this case, Mojave was contractually obligated to tender payment to the entity that it had an agreement with to supply labor and materials, CAM. By the same token, CAM had a contractual obligation with its supplier, Cashman. There is no dispute in this case that Mojave tendered payment to CAM, and that Mojave, the Principal on the payment bond, "promptly made payments" to CAM for "supplying labor, material, rental equipment supplies or services." As the Court is well aware, Mojave promptly made the payments required under the bond, and Cashman would have received those payments had it not entered into a separate arrangement with CAM to accept delayed funds.

Further, all of the reasons that the doctrine of accord and satisfaction applied to the lien and lien bond claims also apply to the claims with respect to the payment bonds. Cashman supplied invoices to Mojave, the parties reached a meeting of the minds as to the amount owed for those invoices, Mojave, Whiting and the owners tendered payment in full for those invoices, and Cashman supplied an unconditional, final lien release. The lien release, upon receipt of payment, clearly evidences that Cashman and Mojave believed that an accord was reached and ultimately satisfied, and it was only after this event that Cashman and CAM made a new payment arrangement. Thus, under the language of the Mojave/Western payment bond, Mojave, as principal, was discharged of its duty upon payment and thus that claim should be dismissed.

E. PLAINTIFF'S CLAIM TO FORECLOSE ITS SECURITY INTEREST SHOULD BE DISMISSED BECAUSE PAYMENT WAS MADE AND REMOVAL OF EQUIPMENT WOULD CREATE A HEALTH HAZZARD

Again, as noted earlier in the brief, the doctrine of accord and satisfaction should apply here. Cashman recorded its UCC with respect to the equipment that was ultimately delivered to the Project and installed. That equipment was paid for, in full, by the Defendants, and Cashman clearly accepted that payment because it provided an unconditional, final lien release in exchange. So, the parties agreed on the value of the equipment, and that value was tendered and accepted, and only then did Cashman endeavor to make a side deal with CAM that ultimately resulted in Cashman not getting paid.

Further, there is no conceivable way to pull the equipment out of City Hall should the Court determine that Cashman is actually owed money. First, as noted, Cashman will not be awarded the full amount of its claim (due to the assets awarded by this Court and the Defendants' valid offsets), so someone would need to figure out what pieces of equipment were going to be secured and thus removed. Second, the equipment supplied relates to a power generator, not exactly the kind of equipment someone could simply disassemble with no impact on the building and its employees. Finally, if the Court determines that Cashman is somehow owed money, despite all of the deficiencies and defenses raised in this case, any of the Defendants would simply pay the amount, or the money would be paid out of one of the bonds, before the Defendants would allow City Hall to be compromised by removal of vital equipment.

Thus, Defendants respectfully submit that the claim to foreclose the security interest should be dismissed as not feasible or practical.

F. THERE WAS NO FRAUDULENT TRANSFER BETWEEN CAM AND MOJAVE BECAUSE THE AMOUNTS TENDERED WERE FOR OTHER PROJECTS THE PARTIES WERE WORKING ON

The evidence is going to be clear at trial that the two payments from CAM to Mojave were the result of other Projects that the parties were working on together. The timing of the payments, which presumably is the real basis of the claim, was merely coincidental because Angelo Carvalho was at Mojave's office to accept the now infamous payment for the Project and then tender funds to Cashman's representative, who was also there. Plaintiff has no evidence to refute the fact that these payments were for other jobs, and the Plaintiff has no evidence that somehow Mojave and CAM were in some type of conspiracy to deprive Cashman of the money it was owed. The money was for work performed on other Projects, a fact that the evidence and testimony will clearly bear out.

In order to prevail on this claim, the Plaintiff is first going to have to tell the Defendants, and this Court, precisely which type of fraudulent transfer it is alleging under the Uniform Fraudulent Transfer Act (NRS Chapter 112). If the Plaintiff is pursuing an "actual fraudulent transfer," then it will have to prove:

> 1. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:
>
> (a) With actual intent to hinder, delay or defraud any creditor of the debtor

NEV. REV. STAT. §112.180(1)(a).

In determining "actual intent" under the statute and applicable Nevada law, the Court should consider the following factors, to whether:

> (a) The transfer or obligation was to an insider;
>
> (b) The debtor retained possession or control of the property transferred after the transfer;
>
> (c) The transfer or obligation was disclosed or concealed;

(d) Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

(e) The transfer was of substantially all the debtor's assets;

(f) The debtor absconded;

(g) The debtor removed or concealed assets;

(h) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

(i) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

(j) The transfer occurred shortly before or shortly after a substantial debt was incurred; and

(k) The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

NEV. REV. STAT. §112.180(2).

In this case, Cashman has no evidence that Mojave engaged in any conduct with actual intent to harm, hinder or delay Cashman. Mojave certainly was not an "insider" with respect to CAM, and Mojave retained nothing out of the funds tendered by CAM. There was no way for Mojave to know that CAM was transferring any substantial portion of its assets, and nothing about the transaction was concealed. While CAM ultimately absconded with money, there was no way for Mojave to know that CAM was going to engage in nefarious conduct, and truthfully, CAM's conduct would not have mattered at all had Cashman been more diligent and not accepted post-dated funds from CAM. The transfer took place at the same time CAM was to write a large check to Cashman, but this should not have been "debt" because all of the funds for the supplied equipment had been tendered to CAM, per the contract, and thus should have been available to Cashman. The fact that Cashman made a bad deal with CAM after the tender of funds that ultimately allowed CAM to steal the money owed to Cashman has nothing to do with the funds tendered for other projects between CAM and Mojave. Thus, there is no evidence of an "actual fraudulent transfer" and thus the claim has no merit.

If the Plaintiff wants to pursue a claim of "constructive fraudulent transfer," then it will need to establish:

> A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:
>
> (b) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:
>
> (1) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or
>
> (2) Intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond his or her ability to pay as they became due.

NEV. REV. STAT. §112.180(1)(b).

There is no evidence that there was insufficient consideration for the money CAM tendered to Mojave for the other projects, nor is there any evidence that Mojave had any reason to believe that CAM was going to incur debt that it would not be able to re-pay. Quite the contrary, Mojave paid Cashman's invoices in full, and had Cashman taken any number of steps (requiring CAM to sign the check over, going to the bank with CAM right then and there, demanding immediate payment) instead of agreeing to hold off on depositing CAM's check for several days, none of this would have happened, regardless of what CAM tendered to Mojave for the other projects.

As with its other claims, the Plaintiff wants to absolve itself of responsibility for its own questionable decision-making in dealing with a contractor that had no credit history and no prior relationship with Cashman by making a ludicrous claim, completely unsupported by any evidence, against the parties who did everything properly, namely, the Defendants. Therefore, this claim must also be dismissed.

G. PLAINTIFF CLEARLY MADE A MISREPRESENTATION UPON WHICH DEFENDANTS RELIED WHEN IT PROVIDED THE UNCONDITIONAL, FINAL LIEN RELEASE

Under Nevada law, the elements of the tort of negligent misrepresentation are:

> (a) A representation that is false;
>
> (b) This representation was made in the course of the defendant's business, or in any action in which he has a pecuniary interest;

(c) The representation was for the guidance of others in their business transactions;

(d) The representation was justifiably relied upon;

(e) This reliance resulted in pecuniary loss to the relying party; and

(f) The defendant failed to exercise reasonable case or competence in obtaining or communicating the information.

Ideal Elec. Co. v. Flowserve Corp., 357 F.Supp.2d 1248, 1255 (D. Nev. 2005).

In this case, Cashman, upon the tendering of the entire amount of Cashman's invoices by the Defendants, provided an unconditional, final lien release. This release was provided in the course of both parties' business, and it was provided to give the Defendants assurance, and guidance, that the Defendants would not end up engaged in a lien dispute despite tendering full payment. The Defendants justifiably relied upon the release, and in particular upon the idea that because the payment had been made in full, the Plaintiff would finish the work and not lien the Project. Obviously, this reliance has now led to pecuniary loss to the Defendants, as Mojave had to retain new subcontractors to finish the Project, eventually had to "re-pay" for the UPS batteries it had already paid for, and has had to fight the instant suit for several years due to no fault of the Defendants. Finally, if Cashman had any doubt that it was not going to be actually releasing its lien rights or that it was planning to engage in some side deal with CAM, then it should not have represented otherwise. Instead, Cashman accepted the funds from Mojave, provided the unconditional, final lien release, then cut its side deal with CAM, which resulted in Cashman not getting paid and ultimately not finishing its work on the Project, all to the detriment of the Defendants.

Based upon this misrepresentation and the ensuing issues and damages it caused, Defendants respectfully submit that the Plaintiff should be responsible for the damages incurred both in completing Plaintiff's work and also in having to defend this action.

. . .

. . .

. . .

IV. CONCLUSION

At the end of this trial, Defendants would request that the Court ask itself, "What could/should these Defendants have done differently?" and also, "What could/should Cashman have done differently?" Cashman started the ball rolling by selecting CAM as the disadvantaged business to begin with, opting to work with CAM over several other, better-known, more reliable, but also more expensive, options. CAM entered into this agreement despite knowing from its credit check that neither the company nor its officers had any credit to speak of.

Cashman continued the problem by accepting a post-dated check from CAM and agreeing to wait a few days to deposit it. The Defendants had processed Cashman's invoices and paid the full amount, even though the work was not complete, which was their responsibility. Cashman accepted this payment, as evidenced by their deliver of the unconditional, final lien release. Upon accepting full payment for the work and equipment, Cashman inexplicably decided to delay processing the payment from CAM, even though it knew CAM had no credit and had no reason to trust CAM or Carvalho. It was at this vital stage, after Defendants had fully performed and paid for the work and equipment, that Cashman ended up suffering its damages.

Had Cashman acted immediately, Mojave could have stopped payment on its check and avoided this dispute. Had Cashman simply had CAM sign the check from Mojave over, none of this would have transpired. However, it was Cashman's series of poor decisions that led to its damages, not any conduct of the Defendants. Yet, Cashman has come to this Court asking for relief in the form of the Defendants having to pay for the equipment **a second time through no fault of theirs**. Defendants submit that this cannot be the outcome of this case.

Then, as if the foregoing was not enough, Plaintiff has pursued a damage amount that it knows, because it has collected assets from CAM, Carvalho and Rennie and because it never finished its work on the Project, is not owed. Plaintiff knows, even if this Court disregards all of the other valid defenses denoted above, that it is not owed anywhere close to $755,000, yet that is what it continues to seek in this action. Plaintiff's bad faith in pursuing this inflated claim makes sense in light of the real truth of this case, namely, that the Plaintiff wants this Court to hold innocent Defendants responsible for its mistakes and CAM's bad acts. This is not the

purpose of the bond or lien statutes, and such would be a wholly inequitable and unfair result as to parties who did everything required of them under their contracts and Nevada law.

Therefore, Defendants respectfully request that the Court award nothing to the Plaintiff by way of any of its claims and dismiss the same with prejudice and award the Defendants damages from their counterclaim as well as an award of reasonable attorneys' fees and costs.

Dated this 16 day of January, 2014.

COTTON, DRIGGS, WALCH, HOLLEY, WOLOSON & THOMPSON

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 16 day of January, 2014 and pursuant to NRCP 5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing DEFENDANTS' TRIAL BRIEF, postage prepaid and addressed to:

Jennifer R. Lloyd, Esq.
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PEZZILLO LLOYD
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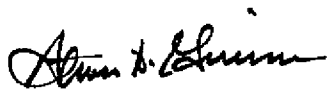

CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a Nevada corporation, Plaintiff, vs. CAM CONSULTING INC., a Nevada corporation; ANGELO CARVALHO, an individual; JANEL RENNIE aka JANEL CARVALHO, an individual; WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC, a Nevada corporation; WESTERN SURETY COMPANY, a surety; THE WHITING TURNER CONTRACTING COMPANY, a Maryland corporation; FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a surety; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a surety; QH LAS VEGAS LLC, a foreign limited liability company; PQ LAS VEGAS, LLC, a foreign limited liability company; L W T I C SUCCESSOR LLC, an unknown limited liability company; FC/LW VEGAS, a foreign limited liability company; DOES 1 - 10, inclusive; and ROE CORPORATIONS 1 - 10, inclusive; Defendants. AND ALL RELATED MATTERS.	CASE NO.: A642583 DEPT.: 32 Consolidated with Case No.: A653029 **PLAINTIFF'S TRIAL BRIEF** **Trial Date: January 21, 2013**

PLAINTIFF'S TRIAL BRIEF

COMES NOW, Plaintiff, CASHMAN EQUIPMENT COMPANY (hereinafter "Cashman" or "Plaintiff"), by and through its attorneys of record, Pezzillo Lloyd, and respectfully submits the following Trial Brief.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Cashman is entitled to judgment in this matter for the full amount it remains owed for materials supplied to the New Las Vegas City Hall Project (the "Project"). Cashman performed as required, delivering the materials to WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave") and the Project until it failed to receive payment from CAM CONSULTING, INC. ("Cam"), the party with which it contracted. Cashman is owed $755,893.89, (less payments of $5,200 received from two defendants in settlement of claims brought by Cashman in this litigation), which is the amount Cashman was to be paid for the materials installed at the Project. Cashman remains unpaid while Mojave has received full payment for its work on the Project.

The evidence at the time of trial will demonstrate that Cashman properly perfected its mechanic's lien against the Project pursuant to NRS Chapter 108 and is entitled to judgment on its lien claim in the full amount owed. Cashman will further establish that it has asserted and is entitled to recover against the payment bond obtained by Mojave in conjunction with Mojave's contractual responsibilities, as Cashman supplied the materials in the performance of Mojave's contract and Mojave failed to ensure payment to Cashman even though it had the responsibility and ability to easily do so. Cashman also seeks recovery for the fraudulent transfers made by Cam to Mojave contemporaneously with the failed payment made to Cashman and alternatively seeks to enforce its perfected security interest on the materials against Mojave for its failure to ensure that Cashman, the secured party, received payment for materials. Cashman also seeks recovery against the Owner of the Project in unjust enrichment as the Owner is holding funds that were to be used to pay for the materials supplied by Cashman.

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II.

STATEMENT OF FACTS

A. The Project

The project at the center of this litigation, the New Las Vegas City Hall Project (the "Project"), was privately owned at the time of construction by QH Las Vegas LLC, from December 2009 until February 17, 2012, when the building was transferred to the City of Las Vegas, Nevada. **J19, J32.** QH Las Vegas LLC is part of a conglomerate of private entities which include PQ Las Vegas, LWTIC Successor LLC and FC/LW Las Vegas, which are part of parent company Forest City Enterprises and will hereinafter be collectively referred to as "Owner").

B. The Contracts

1. Owner Contracts with The Whiting Turner Contracting Company

Defendant, THE WHITING TURNER CONTRACTING COMPANY ("Whiting Turner") was awarded the contract by Owner to serve as the general contractor on the Project, as will be testified to by Nancy Briseno-Rivera of Whiting Turner.

2. Whiting Turner Contracts with Mojave

Defendant, WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave") was the electrical subcontractor hired by general contractor, Whiting Turner. Mojave's contract with Whiting Turner, dated February 11, 2010, is identified as Subcontract No. 12600-26A. **J35, J40.** The contract outlines Mojave's scope of work (Exhibit B to the Contract, J40-012 thru 027). Id. The contract identifies the General Contract as the contract executed between the Owner (identified as QH Las Vegas, LLC) and the Contractor, Whiting Turner. Id.

The contract also required Mojave to obtain a payment bond on the Project (J40-007, para. (p)). Id. The Mojave Payment Bond was issued to Mojave on March 2, 2010 by Western in the amount of $10,969,669.00 ("the Mojave Payment Bond"). **J49.** The Mojave Payment Bond states that Mojave, as Principal, and Western, as surety, are bound unto Whiting Turner, as Obligee, in the amount of $10,996,669.00, and references Contract No. 12600-26A between Mojave and Whiting Turner for the Project. Id.

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3. Mojave Selects Cashman to Supply Materials for the Project But Then Requires that the Materials be Supplied Through a Disadvantaged Business Entity.

Cashman provided bids to Mojave directly to supply equipment and materials to the Project. Keith Lozeau, Cashman's sales and rental manager, will testify at trial that Mojave selected Cashman to provide the materials. Cashman initially submitted a revised quote to Mojave on or about January 11, 2010 for the materials at issue and according to owner requirements with a total price of $855,467.00. **J23**. The Quote from Cashman to Mojave details the materials to be supplied as two Caterpillar diesel generators, Caterpillar switchgear and Mitsubishi battery backup. Id. As part of supplying the materials for this price, Cashman also agreed to ship the materials to the Project, perform start up functions, commission the equipment, perform load bank testing and provide training to users. Id. Cashman was also to provide a parts and labor warranty from startup and two years of service and maintenance. Id.

Shortly thereafter, Mojave informed Cashman that the materials would need to be supplied through a DBE in order to fulfill Mojave's requirements under its contract with Whiting Turner. The Mojave/Whiting Turner contract required that Mojave utilize MBE/WBE/DBE vendors and suppliers to comply with the project's diversity program. **J40-013 and 022.** Keith Lozeau will testify at trial that Mojave suggested that the materials be supplied through Cam, a disadvantaged business entity, to satisfy this requirement and that Mojave introduced Cam to Cashman at Mojave's office. Mojave and Cam had a previous relationship, as Cam worked for Mojave on two projects in addition to the Project at issue: the Nevada Energy Project and the Las Vegas Metro Project, as will be testified to by Brian Bugni.

On April 23, 2010, Mojave issued two purchase orders to purchase the materials supplied to Cashman to the Project for a total price of $757,611.00. **J24, J37.** The purchase orders were issued to "CAM Consulting c/o Cashman Equipment." Id.

C. Cashman Performs Pursuant to the Contract

Cashman agreed to supply materials comprised of generators and switchgear equipment and associated items. **J23, J25**. Cashman's scope of work on the Project included preparing submittals for approval of the materials, as required by the Mojave purchase orders. **J24**. The submittals were given by Mojave to Whiting Turner who in turn provided them to the JMA, the executive architect

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hired by the Owner, as testified to by David Phillips, the owner representative. Mr. Phillips also testified that JMA and Whiting Turner were responsible for approving the submittals for the materials to be supplied by Cashman to the Project. Cashman provided submittals for the materials on January 25, 2010, March 9, 2010 and April 12, 2010. **J54.**

Cashman received correspondence forwarded by Mojave requesting revisions to certain items included in the submittals and provided its response on May 24, 2010. **J25.** Cashman received notice of approval for certain materials from Mojave directly on June 16, 2010. **J26.** Cashman received the Materials Release Order from Mojave directing it to begin procuring the materials for delivery to the Project on August 11, 2010. **J27.** Cashman began procuring the materials shortly thereafter. Cashman received notice of approval for certain materials from Mojave directly on September 21, 2010 and delivery of the materials began on November 18, 2010. **J28.** The Mitsubishi uninterrupted power supply was delivered to Mojave on November 18, 2010. **J29.** The Caterpillar switchgear was delivered to Mojave on December 27, 2010. **J30.** The three automatic transfer switches and the two batteries for the switchgear were provided to Mojave on January 5, 2011. Id. Cashman coordinated delivery of the two Caterpillar diesel generators with Mojave directly to the Project. The two Caterpillar diesel generators were delivered to the Project on January 19, 2011. **J03.** Delivery of the generators required the use of a crane and that the generators were installed into the Project by Mojave upon delivery. Cashman's scope of work included putting the exhaust system together after delivery and performing start-up functions and that the installation of the materials supplied by Cashman would be completed over a couple months. Cashman personnel were last at the Project performing work required for the materials on May 23, 2011. **J31.**

D. Cashman Issues Invoices to Cam

On February 1, 2011, after delivery of all materials had occurred but prior to Cashman completing its work on the materials, Cashman issued two invoices for the materials supplied totaling $755,893.89. **J02.**

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E. Cam Invoices Mojave for the Materials Supplied by Cashman

On January 31, 2011, Cam issued an invoice to Mojave, which included the amount owed to Cashman for the equipment and materials provided, along with Cam's consulting fee. Cam was to have received ½% consulting fee totaling $3,796.69 for his role on the Project. **J57.**

F. Cam Fails to Pay Cashman

Pursuant to the invoices, Cam agreed to pay Cashman upon delivery of the equipment and materials. Cam did not do so. Cashman requested that a Joint Check be issued to Cashman and Cam; however Mojave refused the request, even though it was not prohibited by Whiting Turner. Cam received payment from Mojave on or about April 26, 2011 for the full amount due and owing Cashman. **J13.** Cam issued payment in the form of a check to Cashman on the same day. Cashman provided an Unconditional Waiver and Release in the statutory form required in exchange for the check from Cam in the amount of $755,893.89 in Mojave's office. **J04.** Cam subsequently stopped payment on that check without cause and it was returned unpaid. **J07.** Cashman's Shane Norman will testify at trial that Cashman received a second check from Cam, which was immediately presented to the bank at which the account was located, Nevada State Bank, and that the bank refused to cash the check as there were insufficient funds in the account. Cashman did not receive any other payment for the materials it supplied to the Project.

G. Cashman's Mechanic's Lien

After failing to receive payment, Cashman caused a mechanic's lien to be recorded on the Project on June 22, 2011 in the amount of $755,893.89, and served the lien as required by NRS 108.227. **J11.** Cashman had served preliminary notices as outlined in detail below and as required by NRS 108.245.

III.

ARGUMENTS AND AUTHORITIES

A. <u>Cashman is Entitled to Judgment on its Claim on the Payment Bond, Obtained by Mojave and Western.</u>

Mojave, as a subcontractor on the Project, was required to obtain a Payment Bond pursuant to its contract with Whiting Turner, Contract No. 12600-26A. **J35, J40.** The contract states that "the

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Subcontractor agrees to furnish a bond guaranteeing its performance of this Subcontract, and the payment of its subcontractors and suppliers, if so requested by the Contractor, in amount and form and with such surety as are acceptable to the Contractor." Id. Brian Bugni, Mojave's Vice President of Finance, will testify at trial to confirm that Whiting Turner required Mojave to obtain the Payment Bond, and that the Payment Bond Mojave obtained from Western on March 2, 2010 was for the Project. Cashman asserts a claim against this Payment Bond.

1. The Mojave Payment Bond is Governed by its Own Terms.

The Payment Bond obtained by Mojave, as Principal, and Western, as Surety, specifically references Contract No. 12600-26A and incorporates it into the Bond. **J35, J40 and J49.** The Payment Bond was provided by Mojave to protect Whiting Turner from claims for payment from "persons supplying labor, material, rental equipment, supplies or services" in the performance of Mojave's Contract on this Project and allows those persons to "maintain independent actions" upon the Payment Bond. Id. Mojave's liability on the Payment Bond is only extinguished where Mojave "promptly make[s] payments to **all** persons supplying labor, material, rental equipment, supplies, or services in the performance of the said Contract…" Id. (Emphasis added).

The Payment Bond states:

> The said Principal and the said Surety agree that this Bond shall inure to the benefit of all persons supplying labor, material, rental equipment, supplies, or services in the performance of the said Contract, as well as to the Obligee, and that such persons may maintain independent actions upon this Bond, in their own names.

J49. The Payment Bond contains no other requirements for a claimant to fulfill prior to enforcing a claim against it. Id.

"A surety bond is a contract and should be construed as such." John McShain, Inc. v. Eagle Indem. Co., 180 Md. 202, 205 (Md. 1942). The interpretation of a contract is a question of law, where the facts in a case are not in dispute. Lehrer McGovern Bovis, Inc. v. Bullock Insulation, Inc., 124 Nev. 1103, 1115 (Nev. 2008). The provisions of the Payment Bond govern the requirements for making a claim and set forth the procedure to be followed in prosecuting such a claim. Where a bond is a private bond and not statutory, the bond language must be examined in order to determine who

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can make a claim and the procedure for making that claim. Norquip Rental Corporation v. Sky Steel Erectors, Inc., 175 Ariz. 199, 202 (Ariz. Ct. App. 1993); see also Robinson Explosives, Inc. v. Dalon Contracting Co., 209 S.E.2d 264 (where a bond is a private, voluntary bond, the issue of who can make a claim on the bond must be determined by the intent of the parties).

2. Cashman is a Proper Claimant on the Mojave Payment Bond.

Cashman will establish at trial that it is a claimant under the Payment Bond and has fulfilled all requirements to make a claim on the Payment Bond. It will be shown that Cashman supplied materials to the Project which were used by Mojave in the performance of the Contract, making Cashman one of the persons for which the Payment Bond provides coverage in the event of non-payment. Cashman contracted to supply the materials that comprise the Emergency Generator and UPS System for the Project which were included in Mojave's scope of work within its Contract with Whiting Turner. **J40, J23, J24**. Cashman caused the materials to be delivered to Mojave and to the Project and said materials were incorporated into the Project by Mojave. Cashman completed all required work until it was excused from further performance after failing to receive payment for the materials. Mojave did not ensure payment to Cashman for the materials supplied; therefore, it is liable under the bond.

A payment bond creates liability where it may not independently exist. This is to provide additional incentive to ensure that those persons supplying under Mojave's contract are paid. Here, upon learning of the existence of this bond, Cashman promptly made a claim on the bond by filing a Motion to Amend Complaint in order to include a cause of action against Mojave and Western on the payment bond. Therefore, Cashman is entitled to judgment against Mojave and Western on its Payment Bond claim in the amount of $755,893.89 (less payments received) for these materials. As such, Cashman is a covered claimant on this Payment Bond.

Mojave will make the argument that Cashman is not entitled to collect on the Mojave Payment Bond since Mojave was contractually obligated to tender payment to Cam, and not Cashman, and that the language of the Payment Bond discharges Mojave upon Mojave's payment to Cam. This argument is unreasonable, as the Payment Bond was issued for the benefit of all persons supplying labor, material, rental equipment, supplies, or services in the performance of the Contract.

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Here, Mojave did not make payment to Cashman, nor did Mojave ensure that Cashman received payment in full. Mojave could have issued a joint check but simply refused to do so even after Cashman requested payment from Mojave. Mojave knew that Cam did not have the independent ability to pay Cashman for these materials, which means that Mojave knew that Cashman had not received the funds the day the payment was exchanged in Mojave's office. Any claim to the contrary will not be shown at trial.

B. Cashman is Entitled to Judgment on its Mechanic's Lien Against the Lien Release Bond Posted by Mojave and Western.

Cashman has complied with the requirements of NRS Ch. 108 to hold and enforce its mechanic's lien and is entitled to judgment in its favor and against the Lien Release Bond, issued to Mojave by Western, on September 8, 2011, and recorded on September 13, 2011 in the amount of $1,133,840.84. **J39.** Cashman asserted a claim on Mojave's Lien Release Bond on September 30, 2011 when Cashman filed its Amended Complaint.

The requirements to hold a mechanic's lien are set forth in NRS Chapter 108 and outlined below:

NRS 108.2214	A lien claimant is defined as "any person who provides work, material or equipment with a value of $500 or more to be used in or for the construction, alteration, or repair of any improvement, property or work of improvement."
NRS 108.222	A lien claimant has a lien upon the property and any improvements for which the work, materials and equipment were furnished or to be furnished, where there is an agreed upon price, for "the unpaid balance of the price agreed upon for such work, material or equipment...whether performed, furnished or to be performed or furnished at the instance of the owner or his agent."
NRS 108.245	Where the claimant did not contract with the owner of the property, the claimant is required to send a notice of right to lien at any time after the first delivery of material or performance of work occurs. Upon the giving of the notice of right lien, the lien claimant has a "right to lien for materials or equipment furnished or for work or services performed in the 31 days before the date the notice of right to lien is given" and for those supplied thereafter until the project is complete. The notice must be delivered in person or served by certified mail.

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NRS 108.226	The notice of lien must be recorded within 90 days after the date on which the latest of the following occurs: the completion of work improvement, the last delivery of material or furnishing of equipment by the lien claimant for the work of improvement, or the last performance of work by the lien claimant for the work of improvement.
NRS 108.227	The lien must be served on the owner within 30 days of recording.
NRS 108.233	The action to enforce the lien must be filed before the expiration of 6 months from the date the lien was recorded.
NRS 108.2421	Where a lien release bond is obtained pursuant to NRS 108.2415, the lien claimant is entitled to bring an action against the principal and surety on the lien release bond.
NRS 108.2421(6)	In addition to recovery of the lienable amount due to the lien claimant, a claimant is entitled to an award of interest, attorneys' fees and costs pursuant to NRS 108.237(1) and (2).

First, Cashman is a proper lien claimant, as defined in NRS 108.2214, as it contracted with Cam to provide equipment to the Property for an amount greater than $500.00. Cashman provided the materials pursuant to the terms of its contract with Cam. Invoices for the equipment were issued on February 1, 2011 and March 25, 2011 for amounts owed under the Contract. **J02.**

For ease of reference, Cashman has incorporated the undisputed facts surrounding its work on this Project and its compliance with the notice requirements of NRS Chapter 108 in the table included below:

DATE	ACTION RELEVANT TO CASHMAN'S WORK ON PROJECT
April 23, 2010	Mojave issues two purchase orders to purchase materials to be supplied by Cashman. **J24**
April 29, 2010	Cashman serves first Notice of Right to Lien. **J18**
May 24, 2010	Cashman responds to Mojave concerning issues with submittals. **J25**
June 16, 2010	Cashman receives notice from Mojave that materials are approved. **J26.**
August 11, 2010	Cashman receives Material Release Order from Mojave and shortly

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	thereafter begins procuring the materials. **J27**
November 18, 2010	Mitsubishi uninterrupted power supply delivered to Mojave. **J29.**
December 7, 2010	Cashman serves second Notice of Right to Lien. **J61 & J62**
December 27, 2010	Caterpillar switchgear delivered to Mojave. **J30**
January 5, 2011	Three automatic transfer switches and the two batteries for the switchgear were provided to Mojave. **J30**
January 19, 2011	Two Caterpillar diesel generators delivered to Project. **J03**
Beginning January 20, 2011	Cashman personnel at Project as needed to perform functions included in scope of work related to startup and installation. **Testimony of Shane Norman**
April 20, 2011	Cashman serves third Notice of Right to Lien. **J63**
April 28, 2011	Cashman serves fourth Notice of Right to Lien. **J64**
May 23, 2011	Cashman personnel last on Project. **J31**

Cashman timely served its Notice of Right to Lien on the Owner in compliance with NRS 108.245, which requires that a claimant who did not contract with the owner of the Property where the work is to be performed, serve a notice of right to lien at any time after the first delivery of material or performance of work occurs in person or by certified mail. Cashman served a total of four (4) Notices of Right to Lien:

Date of Notice	**Description of Notice**
Preliminary Notice #1 April 29, 2010 **J18**	The first Notice of Right to Lien was served on Mojave and on the record owner. **J18.** The assessor's page record ownership information at the time listed the owner of the Project as PQ Las Vegas, LLC, c/o Forest City Entrprs, Inc., with the mailing address of: Terminal Tower #1410, 50 Public S., Cleveland, OH 44113-2202. **J19.** This Notice was served by certified mail.
Preliminary Notice #2 December 7, 2010	Cashman served a second Notice of Right to Lien on December 7, 2010 to Mojave, Whiting Turner, and QH Las

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J20, J61 & J62	Vegas, LLC at 50 Public Square, Ste 1005, Cleveland, OH, 44113. **J20, J61 & J62.** This Notice was served by certified mail. Cashman received a job information sheet from Mojave for this Project, which listed the owner of the Project as QH Las Vegas, LLC. **J21.** The Whiting Turner/Mojave Contract also lists the owner as QH Las Vegas LLC. **J40.** David Philips testified at his deposition regarding this specific Notice of Right to Lien, stating that if a notice was served on the address listed that is the Forest City Construction Services or Forest City Commercial Construction suite numbers, records of preliminary notices would have been kept there. **J61 and J62** evidence receipt of this notice by the Owner and Whiting Turner, as the documents are stamped "RECEIVED". This notice was served within 31 days after the first delivery of materials under the purchase order and the first delivery occurred November 18, 2010. As the delivery of the materials falls within the time allowed by statute, Cashman would have the right to lien for the full value of the materials supplied and work performed under its Contract. The second Notice of Right to Lien fulfills the requirements of NRS 108.245, and Cashman has the right to lien for all materials supplied and work performed on this Project.
Preliminary Notice #3 April 20, 2011 **J06, J63**	Cashman served its third Notice of Right to Lien via certified mail addressed to Mojave and to owner PQ Las Vegas, LLC at: 50 Public Sq-TT #1410, Cleveland, OH, 44113-2202. **J06, J63.** J63 evidences receipt of this notice by Forest City, as the document is stamped "RECEIVED".
Preliminary Notice #4 April 29, 2011 **J64**	A fourth and final Notice of Right to Lien was served via certified mail to Cam and owner PQ Las Vegas, LLC at: at 50 Public Sq-TT #1410, Cleveland, OH, 44113-2202. **J64.** J64 evidences receipt of this notice by Forest City, as the document is stamped "RECEIVED".

Although express statutory language only requires that Cashman serve one Notice of Right to Lien, out of an abundance of caution, Cashman served the additional notices throughout the course of its work on the Project. Defendants cannot assert that these Notices were not properly served, as all notices were received by the Owner, which is established by the stamp "RECEIVED" found on each one. **J61, J63 and J64.**

Next, after failing to obtain payment for the materials provided, Cashman recorded its Notice of Lien against the Project on June 22, 2011 in accordance with NRS 108.226, and served its lien on

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the Owner on June 29, 2011 as required per NRS 108.227(1). **J11.** The lien was recorded within the time required by NRS 108.226 as the Project was not completed until February 2012. **J31.**

Further, the amount of Cashman's lien is proper. Pursuant to NRS 108.222, a lien can include "the unpaid balance of the price agreed upon for such work, material or equipment...whether performed, furnished or to be performed or furnished at the instance of the owner or his agent." Cashman's lien is for the agreed upon price of $755,893.89, which is the amount Cashman included on its lien pursuant to NRS 108.222.

Finally, Cashman complied with NRS 108.233(1) by commencing foreclosure proceedings within six months of recording its lien. The lien was recorded by Cashman on June 22, 2011, and the Amended Complaint which included a lien foreclosure claim was filed on July 25, 2011. Mojave and Western subsequently obtained a Lien Release Bond pursuant to NRS 108.2415 on September 13, 2011, to which the mechanic's lien now attaches. **J39.**

Cashman perfected its mechanic's lien claim by complying with the requirements of NRS 108.221, et seq. as set forth herein; therefore Cashman is entitled to judgment in the amount of $755,893.89 (less payments received) against the Lien Release Bond, Bond No. 58685401z.

Defendants will argue that Cashman is not entitled to judgment on its mechanic's lien claim against the Lien Release Bond, arguing that the Owner did not receive proper notice of the Notice of Right to Lien. This argument is not supported by the evidence, as Exhibits J06, J18, J20, J61, J62, J63 and J64 clearly show that Cashman had notified the Owner on more than one occasion that it was providing labor and/or materials to the Project. The Notices of Right to Lien served to the Owner by Cashman (1) were all sent by certified mail; (2) were timely sent within 31 days after the first delivery of materials or performance of work, as detailed above; and (3) all included the requisite language as required by NRS §108.245. Further, Exhibits J61, J63 and J64 evidence that the Notices were received by the Owner, as they are stamped "Received" by Forest City.

Defendants will also argue that the Unconditional Waiver and Release Upon Final Payment provided by Cashman to Mojave establishes that Mojave fulfilled its duties and was released by Cashman. **J4.** However, pursuant to NRS 108.2457(5)(e):

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> Notwithstanding any language in any waiver and release form set forth in this section, if the payment given in exchange for any waiver and release of lien is made by check, draft or other such negotiable instrument, and the same **fails to clear the bank on which it is drawn for any reason, then the waiver and release shall be deemed null, void and of no legal effect whatsoever** and all liens, lien rights, bond rights, contract rights or any other right to recover payment afforded to the lien claimant in law or equity will not be affected by the lien claimant's execution of the waiver and release.

(Emphasis added). Defendants cannot rely on this Release, as the payment made to Cashman for the materials supplied to the Project failed to clear. The Release was provided by Cashman in exchange for the check. Mojave required that the transaction pass through Cam. Mojave knew Cam did not have the means to pay Cashman and that Cam needed payment from Mojave in order to pay Cashman. Mojave knew the payment from Cam was exchanged for the Release as it occurred in Mojave's office. Mojave refused to issue a joint check even though it knew Cam did not have funds to pay Cashman. Had Mojave issued a joint check, it would have ensured that the payment given in exchange for the Release was good and that the Release was enforceable. Mojave had the power to avoid this situation but chose not to. The Release is void and of no legal effect, Cashman is, by statute, afforded the right to recovery against its lien.

It is anticipated that the Defendants will also attempt to argue accord and satisfaction. This argument will fail, as the evidence shows that Cashman is the only party in this litigation that did not receive payment for work performed or materials supplied to the Project. Cashman's generators, switchgear and uninterrupted power source are installed at the Project and are in use by the current owner of the Project even though Cashman has not been paid for those materials. Cashman performed as required until Cam, the party with which it contracted who failed to pay. Cashman made demands upon Mojave for payment and offered to complete performance if payment was received and Mojave refused.

In Nevada, "the party availing himself of a plea of accord and satisfaction must bear the burden of proof and must establish clearly that there was a meeting of the minds of the parties, accompanied by a sufficient consideration." Pierce Lathing Co. v. ISEC, Inc., 114 Nev. 291, 297 (1998) quoting Walden v. Backus, 81 Nev. 634, 637, 408 P.2d 712, 713 (1965). See also Pederson v. First Nat'l Bank of Nevada, 93 Nev. 388, 392, 566 P.2d 89 (1977); Wolf v. Humboldt County, supra

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36 Nev. at 31, 131 P. at 965. It can never be implied from language of doubtful meaning. It must clearly appear from the evidence that there was in fact and in reality a meeting of the minds before we will consider an agreement an accord and satisfaction. Adelman v. Arthur, 83 Nev. 436, 433 P.2d 841 (1967).; see also Matthews v. Collman, 110 Nev. 940, 948 (1994). An accord is an "agreement whereby one of the parties undertakes to give or perform, and the others to accept, in satisfaction of a claim, liquidated or in dispute, and arising either from contract or from tort, something other than or different from what he is, or considers himself, entitled to." Id. at 636-637 (internal citations omitted). An accord and satisfaction should not be maintained as a "pitfall into which the unwary may fall by some act wholly unintended to express his acquiescence in a transaction, wherein his lack of experience or lack of knowledge of technical law might debar him from a right of action." Western Nat'l Ins. Co. v. Trent, 69 Nev. 239, 244, 247 P.2d 208 (1952), citing Wolf v. Humboldt County, 36 Nev. 26, 131 P. 964 (1913).

Cashman did not reach an accord and satisfaction with Cam. Cam had an existing duty to pay Cashman for the materials Cashman supplied to the Project. This duty was not in dispute, nor did Cam dispute the amount that was owed to Cashman. Cam tendered a check to Cashman to pay the amount Cam owed to Cashman under the existing contract: $755,893.89. In exchange for that payment, Cashman provided an unconditional release, a release that would not be enforceable if the check did not clear as expressly stated in NRS 108.2457(5)(e). The facts of this matter establish that no accord and satisfaction could have occurred as the parties to the underlying obligation did not have a meeting of the minds wherein Cashman agreed to accept something different than that to which it was entitled to receive from Cam. Cashman was entitled to full payment and Cam tendered full payment, only to subsequently stop payment on the check and as is now clear, convert the money.

Finally, Defendants will likely argue in the alternative that the amount of the lien must be reduced dramatically because not only has Cashman admitted that its work on the Project is incomplete but also, Cashman has already recovered certain assets of other defendants in this action. NRS 108.222(1)(a) specifically states that a lien claimant can lien for the unpaid balance of the price agreed upon for such work, material or equipment. Here, Cashman is owed $755,893.89 (less payments received) for equipment and materials it supplied to the Project for which it was not paid

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for. This amount was agreed to by Mojave and Cashman is entitled to claim a lien for the full amount of this unpaid balance. Any offset Mojave believes exists for any work not complete should be against Cam, the party with which Mojave contracted. Cam breached its contract with Mojave and Mojave made claims against Cam in this litigation for that breach.

The purpose of mechanic's lien law in Nevada is to protect suppliers like Cashman who provide materials to construction projects and then fail to receive payment. Such public policy would be subverted if Defendant are permitted to escape liability be claiming that the payment made to Cam should somehow be considered payment to Cashman, or that a release Cashman gave in exchange for a check that did not clear the bank should somehow be enforced against Cashman. Cashman did nothing more than perform as required, and for that Cashman has had to endure over two years of litigation, while the other parties in this matter received and benefitted from the materials supplied by Cashman. Therefore, Cashman is entitled to judgment on its lien claim.

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C. <u>Cashman is Entitled to Judgment Against Mojave on its Fraudulent Transfer Claim.</u>

The following facts evidence the fraudulent transfer from Cam to Mojave:

1. Between April 26, 2011 – April 28, 2011, Cam received $901,380.93 from Mojave. **J13**.

2. On or about April 26, 2011, Cam issued payment to Cashman in the amount of $755,893.89. **J07**

3. Cam issued two checks to Mojave in the amount of $275,636.70 on or about April 26, 2011. **J14**.

4. Cam stopped payment on the check issued to Cashman and then failed to pay for the materials Cashman provided to the Project. **J07**

5. Cashman has identified funds Cam and Angelo Carvalho ("Carvalho"), the owner and principal of Cam, received that were to be paid to Cashman and has shown the transfer of those funds to Mojave.

The transfer of money from Cam to Mojave is a fraudulent transfer pursuant to either NRS 112.180 or 112.190, and the transfers must be avoided pursuant to NRS 112.210.

The Uniform Fraudulent Transfer Act (UFTA) was adopted by Nevada and codified in NRS Ch. 112. Herup v. First Boston Fin., LLC, 1 bn23 Nev. 228, 231 (2007). Three types of transfers mare to be set aside under the UFTA: (1) actual fraudulent transfers (NRS 112.180(1)(a)); (2) constructive fraudulent transfers (NRS 112.180(1)(b)); and (3) certain transfers by insolvent debtors (NRS 112.190). Id.

NRS 112.180 states:

> 1. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:
>
> (a) With actual intent to hinder, delay or defraud any creditor of the debtor, or
>
> (b) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:
>
> (1) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or
>
> (2) Intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond his or her ability to pay as they became due.

Further, NRS 112.190 states:

> 1. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.
>
> 2. A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

NRS 112.210(1) provides the remedy for a creditor seeking relief against a transfer. Specifically, a creditor may obtain:

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(a) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;
(b) An attachment or garnishment against the asset transferred or other property of the transferee pursuant to NRS 31.010 to 31.460, inclusive; and
(c) Subject to applicable principles of equity and in accordance with applicable rules of civil procedure:
(1) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;
(2) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or
(3) Any other relief the circumstances may require.
ct to adjustment as the equities may require.

While the Plaintiff bears the initial burden of "tracing the fraudulently transferred funds by a preponderance of the evidence," the burden does not require "dollar-for-dollar accounting."" Henry v. Rizzollo, et al., 2012 U.S. Dist. LEXIS 131895 *quoting In re Int'l Admin Serv., Inc.*, 408 F.3d. 689, 708 (11th Cir. 2005). This burden may be met by identifying the relevant pathways. Id.

Cashman is a creditor of Cam, and Cam's obligation to pay Cashman for the materials Cashman supplied to the Project arose in January, 2011 upon delivery of the materials, as referenced in the invoices. As such, all actions taken by Cam subsequent to that delivery were taken while Cashman was a creditor of Cam, placing Cam's actions at issue here directly within the purview of the Uniform Fraudulent Transfer Act.

1. <u>The Transfer of Money to Mojave Was an Actual Fraudulent Transfer because it was Made by Cam with the Actual Intent to Defraud Cashman.</u>

Pursuant to 112.180(1)(a), Cam made the transfers with intent to defraud. The test is not what Mojave knew, but what Cam did with the funds that were to be paid to Cashman.

As set forth above, NRS 112.180(1)(a) states that a transfer is fraudulent if a debtor made the transfer with the actual intent to hinder, delay or defraud any creditor of the debtor. See also Herup v. First Boston Fin., LLC, 123 Nev. 228. Subsection (2) sets forth specific factors to help the Court determine whether actual intent existed, including the following:

a. The transfer or obligation was to an insider;
b. The debtor retained possession or control of the property transferred after the transfer;
c. The transfer or obligation was disclosed or concealed;

d. Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
e. The transfer was of substantially all the debtor's assets;
f. The debtor absconded;
g. The debtor removed or concealed assets;
h. The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;
i. The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;
j. The transfer occurred shortly before or shortly after a substantial debt was incurred; and
k. The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

Cam's actual intent to defraud Cashman is evidenced by the actions he took after obtaining the payment from Mojave, which included the transfer of funds in the amount of $275,636.70 back to Mojave. First, Cam converted a portion of the funds to Mojave. Cam's payments to Mojave contemporaneously with payment to Cashman evidences Cam was unable to pay Cashman out of the funds received. After the transfer of the money to Mojave, Cam ceased operating. See 112.180(2)(f). After fraudulently obtaining the payment from Mojave, Cam and Carvalho both changed their phone numbers and could not be located. Brian Bugni of Mojave will testify at trial that after Cam failed to pay Cashman, Cam did not complete performance on a separate contract Mojave had with Cam, further evidencing that Cam ceased operations after its fraudulent transfer of these funds. Carvalho's closing of Cam shows that he was not ever going to pay Cashman for the materials. Cam converted the remaining money and immediately shut down, evidencing actual intent to defraud Cashman which included transferring the funds to Mojave.

Carvalho and Cam were insolvent prior to converting the funds to be paid to Cashman and using those funds to pay Mojave. See 112.180(2)(i). Cam and Carvalho each had under $300.00 in their bank accounts. **J58, J60.** The fee Cam was to receive for the materials supplied by Cashman to the Project was $3,796.69, not the $600,000.00 he converted. **J57.**

The evidence of Cam's fraud in transferring assets to Mojave with the intent to defraud Cashman is overwhelming. Cashman has identified the fraudulently transferred funds and the source of these funds. Cam's intent to defraud in making these transfers to Mojave is demonstrated by his

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actions when analyzed in light of the factors the Court is to consider and the circumstances that gave rise to Cashman's claims in this matter. Cam and Carvalho transferred $600,000.00, which was to be paid to Cashman for materials supplied to the Project, from the company banking account at Nevada State Bank to his personal account at Wells Fargo, when his agreed upon fee was only $3,796.69. **J57.** Carvalho issued payment to Cashman and Mojave contemporaneously and then stopped payment on the check he presented to Cashman to pay for the materials. Cam knew the check would not clear as he had already transferred the funds and then ceased all contact with Cashman, apparently closing Cam. **J07.** The Court should therefore declare the transfer of the money fraudulent pursuant to NRS 112.180(1)(a) as Cam made the transfers to Mojave with the intent to defraud Cashman.

2. The Transfers to Mojave were also Constructive Fraudulent Transfers because They Were Made Without Receipt of Anything of Value in Exchange and Carvalho knew He would be Unable to Pay Cashman the Amount Owed.

The transfer of the money to Mojave also falls under construction fraudulent transfers. In order to determine whether a constructive fraudulent transfer was made by Cam to Mojave, the Court must determine whether the transfer was made without receiving a reasonably equivalent value in exchange for the transfer, and whether the debtor "intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond his or her ability to pay as they became due." See NRS 112.180(1)(b)(2). It appears that Mojave gave nothing in value to Cam or Carvalho in exchange for the money it received. Further, it will be shown from Cam's actions that it had no intent to pay Cashman and had incurred debt beyond its ability to pay. As such, Carvalho made the transfer without receiving a reasonably equivalent value in exchange, satisfying the first requirement for a constructive fraudulent transfer.

3. The Transfers at Issue also Falls Under NRS 112.190 as Cam and Carvalho were Insolvent when the Transfers was Made and Received Nothing of Value in Exchange.

The transfer of the money to Mojave occurred when Cam and Carvalho were insolvent; therefore NRS 112.190 also applies. The Court must find that Cam and Carvalho made the transfer without receiving a reasonably equivalent value in exchange for the transfer and Cam and Carvalho were insolvent at that time or became insolvent as a result of the transfer. See NRS 112.190. See also Herup v. First Boston Fin., LLC, 123 Nev. at 233.

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A fraudulent conveyance under NRS Chapter 112.190 does not require proof of intent to defraud. Sportsco Enters. v. Morris, 112 Nev. 625, 631 (1996). "Generally, the creditor bears the burden of proof both with respect to the insolvency of the debtor and the inadequacy of consideration." Id. at 632. However, "where the creditor establishes the existence of certain indicia or badges of fraud, the burden shifts to the defendant to come forward with rebuttal evidence that a transfer was not made to defraud the creditor." Id. "The defendant must show either that the debtor was solvent at the time of the transfer and not rendered insolvent thereby or that the transfer was supported by fair consideration." Id.

Further, NRS 112.160 provides in part: (1) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation; and (2) A debtor who is generally not paying his debts as they become due is presumed to be insolvent. Sportsco Enters. v. Morris, 112 Nev. at 632.

First, it appears that Cam and Carvalho made the transfers without receiving a reasonably equivalent value in exchange for the transfer. Second, the evidence establishes that Cam and Carvalho were insolvent at the time of the transfer. Specifically, prior to the receipt and deposit of the Mojave funds on April 26, 2011, Cam's corporate bank account balance was $274.51 and Carvalho's personal bank account balance was $232.82. **J58, J60.** Carvalho did not have the ability to pay the debt incurred to Cashman at the time it was due, raising a presumption of insolvency under NRS 112.160. After receipt of the funds that were to be used to pay Cashman, Carvalho stopped payment on the check he had issued to pay Cashman for the materials and instead of paying Cashman, converted the funds and provided two checks totaling $275,636.70 to Mojave. **J07, J14.** Those converted funds were essentially Carvalho's only assets. Therefore, pursuant to NRS 112.190(1), the transfers should be deemed fraudulent and void.

It will be Defendant's position at trial that the two payments Mojave received from Cam were related to other projects Mojave and Cam were working on together. Even if that is true, the transfer should be avoided pursuant to NRS 112 as the evidence will show that Cam made the transfers with actual intent to defraud. Mojave's conduct or knowledge is not relevant to this inquiry, but rather

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Cam's conduct and the evidence will show that Cam made the transfer of money to Mojave with the intent to hinder or delay.

D. Cashman is Entitled to Judgment Against Mojave on its Foreclosure of Security Interest Claim.

Cashman filed a UCC Financing Statement with the Nevada Secretary of State on February 16, 2011 pursuant to the credit agreement between Cashman and Cam, which granted Cashman a continuing security interest in the materials sold to Cam pursuant to NRS 104, et seq. **J05**. The UCC Financing Statement specifically identifies the materials Cashman supplied to the Project and all proceeds thereof. Id.

Mojave did not make payment to Cashman, the secured party, or ensure that Cashman had released its security interest. Cashman perfected its security interest in the materials and therefore attaches to the proceeds received by Mojave for the materials as the proceeds were received subsequent to delivery of the materials to the Project and subsequent to Cashman's filing of the UCC Financing Statement placing all persons on notice of its security interest. Cashman is entitled to judgment against Mojave on this claim in the amount of $755,893.89 (less payments received).

Defendants will argue that Cashman was paid in full for the equipment provided to the Project, as evidenced by the Unconditional Waiver and Release Upon Final Payment provided by Cashman, barring Cashman from recovery pursuant to the doctrine of accord and satisfaction. This argument will fail. As discussed supra, for accord and satisfaction to apply, it must be clearly established that there was a meeting of the minds of the parties, accompanied by a sufficient consideration. Here, Cashman did not accept payment from Cam in accord and satisfaction. Cam had an existing duty to pay Cashman for the materials Cashman supplied to the Project. This duty was not in dispute. It is undisputed that Cashman has not been paid for the materials provided. The evidence shows that no accord and satisfaction could have occurred as the parties to the underlying obligation did not have a meeting of the minds wherein Cashman agreed to accept something different than that to which it was entitled to receive from Cam. The Waiver and Release provided by Cashman cannot be relied on as it is void and of no legal effect pursuant to NRS 108.2457(5)(e).

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Defendants may also argue that Cashman cannot succeed on this claim since it is impractical to retrieve the equipment from the Project. Cashman is not seeking to extract the actual equipment and materials from the Project; rather, as Cashman perfected its security interest in the materials, the interest attaches to the proceeds received by Mojave for the materials and Cashman is entitled to judgment against Mojave on this claim in the amount of $755,893.89 (less payments received).

E. <u>Cashman is Entitled to Judgment Against Owners on its Unjust Enrichment Claim.</u>

Cashman has a valid claim against Owners for unjust enrichment, as Cashman conferred a benefit on Owners, that was retained by Owners and for which Owners have not paid full value. Unjust enrichment "exists when a plaintiff confers a benefit on the defendant, the defendant appreciates such benefit, and there is "'acceptance and retention by the defendant of such benefit under circumstances such that it would be inequitable for him to retain the benefit without payment of the value thereof.'"" Certified Fire Prot. Inc. v. Precision Constr. Inc., 283 P.3d 250, 257 (Nev. 2012), citing Unionamerica Mtg. v. McDonald, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981) (quoting Dass v. Epplen, 162 Colo. 60, 424 P.2d 779, 780 (Colo. 1967)). To support a claim for unjust enrichment, the plaintiff must show a benefit to defendant. Id.

Nevada allows for the Plaintiff to proceed on a claim for unjust enrichment against a Defendant where there is no written contract with that Defendant even if a written contract existed with another party. In LeasePartners Corp. v. The Robert Brooks Trust Dated Nov. 12, 1975,113 Nev. 747, 942 P.2d 182 (1997), LeasePartners agreed to provide financing to Danzig Corp. for equipment installed on the property Danzig Corp. leased from Brooks Trust, the owner. Danzig Corp. breached its lease agreement with Brooks Trust, then breached its financing agreement with LeasePartners. Id. at 751-52. LeasePartners brought claims for unjust enrichment against Brooks Trust, alleging Brooks Trust, the owner, was unjustly enriched by the equipment paid for by LeasePartners, as that equipment was installed on the property owned by Brooks Trust, and LeasePartners was not paid by Danzig for the equipment. Id. at 752. The District Court granted judgment in favor of Brooks Trust. Id. LeasePartners appealed and the Supreme Court of Nevada reversed the decision, holding that "unjust enrichment occurs 'when ever [sic] a person has and retains a benefit which in equity and good conscience belongs to another.'" Id. at 756, citing

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Unionamerica Mtg. v. McDonald, 97 Nev. 210, 212, 626 P.2d 1272, 1273. The Court held that LeasePartners' claim for unjust enrichment against Brooks Trust was not barred as there was no written agreement between LeasePartners and Brooks Trust, even though there was a written agreement between LeasePartners and Danzig Corp. related to the equipment. Id.

It is undisputed that Owners either owned or had an ownership interest in the Project at the time of construction. **J32**. It is further undisputed that Cashman supplied materials to the Project which have been incorporated into the Project, and that Cashman has not received payment even though construction is complete. Nancy Briseno-Rivera, Whiting Turner's Lead Project Manager for this Project, will testify at trial that the Owners are still withholding construction funds from Whiting Turner on the Project, and had specifically withheld funds that were related to the materials supplied by Cashman to the Project. According to Ms. Briseno, Defendants' were withholding the entire cost of the Cashman materials.

Additionally, the owner representative, David Phillips, testified that the Project is not closed out and that the Whiting Turner contract is still open "because there is payments still within that – their [Mojave's] line items or schedule of values for the generator, which I held after – it was pretty much paid out, but it was the completion portion that's there.." Mr. Phillips admitted Owners are at least withholding approximately $30,000.00 related to the Cashman materials in addition to Whiting Turner's retention.

The Owners retained the materials, as they are incorporated into the Project, and the majority of the materials supplied by Cashman, including the generators, are operational. The completion of the Project, which included the materials supplied by Cashman, enabled the Defendants to complete the land swap with the City of Las Vegas, evidencing the benefit received by Defendants. Defendants will offer no evidence in support of their claim that they have paid in full for these materials as there is none. Therefore, Cashman seeks to recover payment from Owners for the materials it supplied to the Project, as the Owners have received the benefit of the materials supplied by Cashman without having made payment for those materials.

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Any argument by the Defendants that the withholding of any funds by the Owner is due to Cashman's failure to provide the installation of the codes must be disregarded. Any offset sought for the work remaining to be done is properly asserted against Cam, the defaulting party.

F. Cashman is Entitled to Judgment Against Mojave and Whiting Turner on its Unjust Enrichment Claims.

In order for Cashman to succeed on its claims for unjust enrichment against Mojave and Whiting Turner, Cashman must show that Defendants accepted the benefit of the materials supplied to the Project by Cashman and that they appreciated that benefit.

First, Cashman's claim against Mojave for Unjust Enrichment is proper. Cashman supplied materials to the Project at the request of Mojave and pursuant to its Contract with Cam. The evidence will show that these materials were accepted by Mojave. Mojave appreciated the benefit, which allowed Mojave to complete its contractual responsibilities to Whiting Turner and accepted payment from Whiting Turner. Mojave retained a benefit from the materials supplied by Cashman, while Cashman remains unpaid.

Further, Cashman's claim for unjust enrichment against Whiting Turner is also valid. Whiting Turner appreciated and accepted the materials supplied by Cashman to the Project, which enabled Whiting Turner to complete its contractual responsibilities to the Owners of the property. Whiting Turner received payment from the Owners and it would be inequitable under the facts of this matter to allow Whiting Turner to retain the benefit without payment of the amount owed to Cashman for the materials Cashman supplied to the Project.

Defendants will argue that they have not retained any benefit from Cashman since Cashman's work was not complete, causing Cashman's claims for unjust enrichment against Mojave and Whiting Turner to fail. Defendants will also argue that they paid the full value of the invoices even though the codes were not supplied by Cashman, conferring no benefit on Defendants. Even without the codes, the materials supplied by Cashman conferred a substantial benefit to the Project and to Mojave and Whiting Turner.

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Defendants will also argue that by granting judgment in favor of Cashman will result in a windfall for Cashman; however, Cashman is the only party not paid in this matter and as previously discussed, Mojave chose to not pay Cashman when it could have done so and avoided this issue.

IV.

CONCLUSION

For the reasons set forth above, Cashman respectfully requests the Court to award Cashman a verdict in its favor and against Defendants for the relief requested.

DATED: January 16, 2014 PEZZILLO LLOYD

By: /s/ Jennifer R. Lloyd
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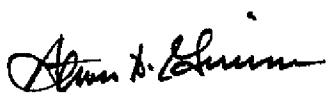

CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a Nevada corporation, Plaintiff, vs. CAM CONSULTING INC., a Nevada corporation; ANGELO CARVALHO, an individual; JANEL RENNIE aka JANEL CARVALHO, an individual; WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC, a Nevada corporation; WESTERN SURETY COMPANY, a surety; THE WHITING TURNER CONTRACTING COMPANY, a Maryland corporation; FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a surety; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a surety; QH LAS VEGAS LLC, a foreign limited liability company; PQ LAS VEGAS, LLC, a foreign limited liability company; L W T I C SUCCESSOR LLC, an unknown limited liability company; FC/LW VEGAS, a foreign limited liability company; DOES 1 - 10, inclusive; and ROE CORPORATIONS 1 - 10, inclusive; Defendants.	CASE NO.: A642583 DEPT.: 32 Consolidated with Case No.: A653029 **JOINT PRETRIAL MEMORANDUM**

AND ALL RELATED MATTERS.

Pursuant to EDCR 2.67, Plaintiff, CASHMAN EQUIPMENT COMPANY ("Cashman"); and Defendants WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave"); WESTERN SURETY COMPANY ("Western"), THE WHITING TURNER CONTRACTING COMPANY ("Whiting-Turner"), FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("Fidelity"), TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA ("Travelers"), and QH LAS VEGAS LLC, PQ LAS VEGAS, LLC, L W T I C SUCCESSOR LLC, and FC/LW VEGAS (hereinafter collectively Owners" and collectively with the rest of the aforementioned defendants, "Defendants"), hereby submit their Joint Pretrial Memorandum. The parties held their pretrial conference pursuant to EDCR 2.67(a) on November 14, 2013, with Jennifer Lloyd, Esq. attending on behalf of Cashman, and Brian Boschee, Esq. attending on behalf of Defendants.

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1. Brief statement of the facts of the case:

Cashman supplied materials comprised of generators, switchgear and associated items pursuant to a purchase order issued by CAM CONSULTING, INC., ("Cam") that were incorporated into the New Las Vegas City Hall Project (the "Project"). Cashman has not been paid for these materials and is owed $755,893.89. Cashman supplied these materials through Cam after having been selected to supply the materials by Mojave. Mojave was the electrical subcontractor on the Project, contracting with Whiting Turner, the general contractor, to perform all electrical work, which included providing the materials supplied to the Project by Cashman. Mojave accepted Cashman's bid on or about January 11, 2010, and Cashman began work shortly thereafter on the submittal required for approval of the materials. Mojave issued a purchase order to Cam for the materials provided by Cashman on April 23, 2010. Mojave issued a Material Release Order on August 11, 2010 to Cashman and Cashman began procuring the materials. The materials were delivered in a series of shipments to Mojave with the final shipment of two generators being delivered directly to the Project and set in place by crane beginning on January 20, 2011. Cashman's work required some startup functions that could not be completed at delivery but were to be scheduled later. Cashman exchanged an

unconditional waiver and release upon final payment in the statutory form for the check issued by Cam in the amount of $755,893.89 dated April 29, 2011. Cam stopped payment on that check. Not all startup functions were completed due to Cam's stopping payment on the check it issued to Cashman notice of which was provided to Cashman on or about May 5, 2011. Cam then subsequently issued another check for which there were not sufficient funds to pay Cashman. Shortly thereafter Cam ceased operations and Cashman was unable to collect the amount owed from Cam.

Cam worked for Mojave on two projects in addition to the Project at issue: the Nevada Energy Project and the Las Vegas Metro Project. Cam made two payments to a division of Mojave, Mojave Systems: check no. 1032 dated April 27, 2011 in the amount of $139,367.70 and check no. 1033 dated April 28, 2011 in the amount of $136,269.00.

The agreement between Mojave and Whiting Turner is contained in a subcontract. This subcontract required Mojave to obtain a payment bond and Mojave obtained the Payment Bond, Bond No. 929490974 on March 2, 2010 as security for the protection of unpaid claimants who supply labor, material, rental equipment, supplies and services used in the performance of Mojave's contract for this Project. The Project was a private construction project. Cashman was not aware of this bond until Whiting Turner produced the bond in its disclosures. Immediately upon receiving the bond, Cashman sought to amend its complaint to seek recovery from this Payment Bond.

Prior to supplying these materials to Cam, Cashman required Cam to execute a credit application. The credit application grants a security interest to Cashman. Cashman filed the UCC Financing Statement evidencing this security interest with the Nevada Secretary of State on February 16, 2011, specifically identifying the materials supplied to this Project and all proceeds thereof.

On June 22, 2011, Cashman recorded a mechanic's lien against the Project as it had not received payment for the materials supplied. Thereafter, Mojave obtained a Lien Release Bond from Defendant Western on September 8, 2011. Cashman amended its complaint to seek recovery on its lien claim from this bond.

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2. **List of all claims for relief designated by reference to each claim or paragraph of a pleading and a description of the claimant's theory of recovery with each category of damage requested.**

   a. Cashman's remaining claims as stated in its Fourth Amended Complaint are:

      i. Foreclosure of Security Interest against Mojave (Third Cause of Action)

      ii. Enforcement of Lien Release Bond against Mojave and Western (Ninth Cause of Action)

      iii. Unjust Enrichment against Mojave (Tenth Cause of Action)

      iv. Unjust Enrichment against Whiting Turner (Twelfth Cause of Action)

      v. Claim on Payment Bond against Mojave and Western (Fourteenth Cause of Action)

      vi. Unjust Enrichment against Owners (Fifteenth Cause of Action)

      vii. Fraudulent transfer (consolidated case)

   b. Mojave's remaining claims as states in its Counterclaim is:

      i. Misrepresentation against Cashman (Third Claim)

3. **List of affirmative defenses:**

<u>Defendants' affirmative defenses as provided in its Answer to Cashman's Fourth Amended Complaint:</u>

1) Plaintiff fails to state a claim for relief against Defendants upon which relief can be granted.

2) At all material times, Defendants acted in good faith and exercised lawful rights in dealing with Plaintiff.

3) Plaintiff, by its own conduct or otherwise, is estopped from making any claim against Defendants.

4) Plaintiff has waived, but conduct or otherwise, any claim against Defendants.

5) The loss, injuries, damages, costs and attorneys' fees, if any, suffered by Plaintiff, are the result of its own acts, omissions, or wrongdoing.

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6) Defendants relied upon representations by the Plaintiff as to the Unconditional Release for payment and would not have made payment to Plaintiff's agent absent such representations.

7) Plaintiff is barred from obtaining any relief from any claim by operation of the doctrine of accord and satisfaction.

8) Plaintiff has failed to mitigate its damages, if any exist or were incurred, the existence of which is expressly denied by Defendant.

9) By virtue of the acts, conduct, mismanagement and/or omissions to act of the Plaintiff under the circumstances, Defendants are released and discharged from any liability whatsoever to Plaintiff, which liability is expressly denied.

10) Plaintiff ratified, approved, or acquiesced in the actions of Defendants.

11) Defendant, CAM Consulting, Inc., acted as agent for Plaintiff.

12) Plaintiff has failed to satisfy conditions precedent to bringing any action against Defendants.

13) Plaintiff's claims are barred by the Doctrines of Mutual Mistake, Impossibility or Impracticability.

14) Any damages which Plaintiff may have sustained by reason of the allegations of the Complaint were proximately caused, in whole or in part, by sets of persons other than Defendants and therefore, Plaintiff is not entitled to any relief from Defendant.

15) To the extent Plaintiff's claims are based in whole or in part on alleged oral promises or statements, such claims are barred by the lack of acceptance, lack of mutuality, and failure of consideration.

16) Plaintiff is not entitled to the damages that it is seeking.

17) The claims of Plaintiff fail for want or lack of consideration.

18) Plaintiff's pursuit of these claims against Defendant under the circumstances presented in this case is, in and of itself, a violation of the covenant of good faith

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and fair dealing implied in all of their agreements, barring it from any recovery against them in this action.

19) Damages and injuries suffered by Plaintiff, if any, are not attributable to any act, conduct or omission on the part of Defendants.

20) Plaintiff's alleged damages, if any, should be offset by monies due and owing by CAM to Plaintiff.

21) The conduct of Defendants alleged to be wrongful was induced by Plaintiff's own wrongful conduct.

22) Plaintiff's claims for relief are barred on the grounds that Defendants have a valid justification for any alleged nonperformance of the alleged agreement.

23) Plaintiff materially breached the agreement between the parties, thereby excusing the future performance thereof by Defendants.

24) Defendants Mojave and Whiting only hereby state Plaintiff brings its claims in bad faith, with an ulterior motive to harass Defendants, abuse the litigation process and otherwise raise frivolous and unfounded claims against Defendants causing Defendants to incur damages. Remaining Defendants do not raise this defense.

25) Plaintiff is barred from recovery by virtue of its unclean hands.

26) Defendants have been forced to retain counsel to defend against Plaintiff's Complaint, and Defendants are entitled to an award of reasonable attorneys' fees.

<u>Owners' affirmative defenses as provided in its Answer to Cashman's Fourth Amended Complaint</u>:

1) Plaintiff fails to state a claim for relief against Defendants upon which relief can be granted.

2) At all material times, Defendants acted in good faith and exercised lawful rights in dealing with Plaintiff.

3) Plaintiff, by its own conduct or otherwise, is estopped from making any claim against Defendants.

4) Plaintiff has waived, by conduct or otherwise, any claim against Defendants.

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5) The loss, injuries, damages, costs and attorneys' fees, if any, suffered by Plaintiff, are the result of its own acts, omissions, or wrongdoing.

6) Plaintiff is barred from obtaining any relief from any claim by operation of the doctrine of accord and satisfaction.

7) Plaintiff has failed to mitigate its damages, if any exist or were incurred, the existence of which is expressly denied by Defendants.

8) By virtue of the acts, conduct, mismanagement and/or omissions to act of the Plaintiff under the circumstances, Defendants are released and discharged from any liability whatsoever to Plaintiff, which liability is expressly denied.

9) Plaintiff ratified, approved, or acquiesced in the actions of Defendants.

10) Plaintiff has failed to satisfy conditions precedent to bringing any action against Defendants.

11) Plaintiff's claims are barred by the Doctrines of Mutual Mistake, Impossibility or Impracticability.

12) Any damages which Plaintiff may have sustained by reason of the allegations of the Complaint were proximately caused, in whole or in part, by sets of persons other than Defendants and therefore, Plaintiff is not entitled to any relief from Defendants.

13) To the extent Plaintiff's claims are based in whole or in part on alleged oral promises or statements, such claims are barred by the lack of acceptance, lack of mutuality, failure of consideration and/or the statute of frauds.

14) Plaintiff is not entitled to the damages that it is seeking.

15) The claims of Plaintiff fail for want or lack of consideration.

16) Plaintiff's pursuit of these claims against Defendants under the circumstances presented in this case is, in and of itself, a violation of the covenant of good faith and fair dealing implied in all of their agreements, barring it from any recovery against them in this action.

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17) Damages and injuries suffered by Plaintiff, if any, are not attributable to any act, conduct or omission on the part of Defendants.

18) Plaintiff's alleged damages, if any, should be offset by monies due and owing by CAM to Plaintiff.

19) The conduct of Defendants alleged to be wrongful was induced by Plaintiff's own wrongful conduct.

20) Plaintiff's claims for relief are barred on the grounds that Defendants have a valid justification for any alleged nonperformance of the alleged agreement.

21) Plaintiff materially breached the agreement between the parties, thereby excusing the future performance thereof by Defendants.

22) Plaintiff brings its claims in bad faith, with an ulterior motive to harass Defendants, abuse the litigation process, and otherwise raise frivolous and unfounded claims against Defendants causing Defendants to incur damages.

23) Plaintiff is barred from recovery by virtue of its unclean hands.

24) Plaintiff's claims are barred because they did not incur any injury or damages cognizable at law.

25) Plaintiff's claims are barred by the doctrine of laches.

26) Plaintiff is barred from obtaining any relief from any claim by operation of the doctrine of waiver.

27) Plaintiff's claims are barred by the statute of limitations.

28) Defendants hereby incorporate by reference those affirmative defenses enumerated in NRCP 8 as though fully set forth herein. Such defenses are herein incorporated by reference for the specific purpose of not waiving the same.

29) Defendants have been forced to retain counsel to defend against Plaintiff's Complaint, and Defendants are entitled to an award of reasonable attorneys' fees.

30) Claims for unjust enrichment are improper as to Defendants pursuant to applicable Nevada law.

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Cashman's affirmative defenses as provided in its Answer to Mojave's Counterclaims:

1) The Counterclaim, and each and every allegation thereof, fails to state facts sufficient to constitute a claim against this answering Counterdefendant.
2) There is no contract between Counterclaimant and Counterdefendant.
3) Defendant Cam Consulting Inc. acted as agent of Counterclaimant Mojave.
4) Counterclaimant's claims and damages, if any, are proximately and legally caused by parties over whom Counterdefendant had no control.
5) Counterclaimant's claims are barred under the equitable theory of unclean hands.
6) The Counterclaim is barred by the doctrine of waiver.
7) Counterclaimant's claims are barred under the equitable theory of estoppel.
8) Counterclaimant's claims are barred under the equitable theory of laches.
9) Counterclaimant's claims and damages, if any, have been willfully and intentionally overstated and Counterclaimant's claims are therefore barred by Counterclaimant's own malfeasance and misfeasance.
10) Counterclaimant's damages, if any, are caused by their own actions, errors or omissions, thereby releasing and discharging Counterdefendant from any liability whatsoever to Counterclaimant.
11) Counterclaimant is not entitled to the damages that it is seeking.
12) Counterclaimant's damages, if any, are subject to offset.
13) Counterclaimant's pursuit of its claims against Counterdefendant, under the circumstances of this matter, is a violation of the covenant of good faith and fair dealing implied in all of their agreements, barring it from recovery against them in this action.
14) Counterclaimant brings forth its claims in bad faith, with an ulterior motive to harass Counterdefendants, abuse the litigation process and raise frivolous and

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unfounded claims against Counterdefendants causing damage to Counterdefendant.

4. List of all claims or defenses to be abandoned:

a. Cashman's Claim on Whiting Turner's Payment Bond (Thirteenth Cause of Action)

b. Mojave's Breach of Contract against Cashman (First Claim)

c. Mojave's Breach of Implied Covenant of Good Faith and Fair Dealing against Cashman (Second Claim)

5. List of all exhibits, including those which may be used for impeachment, and a specification of any objections each party may have to the admissibility of the exhibits of an opposing party. If no objection stated, it will be presumed that counsel has no objection to the introduction into evidence of these exhibits.

a. The parties are jointly submitting exhibits. The parties also designate all pleadings filed in this matter, all discovery responses served and all deposition transcripts.

6. Any agreements as to the limitation or exclusion of evidence.

a. None.

7. A list of witnesses and the address of each witness which each party intends to call. Failure to list a witness, including impeachment witnesses, may result in the court's precluding the party from calling the witness.

a. Cashman intends to call the following witnesses:

i. Shane Norman

ii. Keith Lozeau

iii. Peter Fergen

iv. David Phillips

v. Nancy Briseno-Rivera

vi. Brian Bugni

vii. Christopher Meiers

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b. Defendants/Owners intend to call the following witnesses:

i. Brian Bugni

ii. Christopher Meiers

iii. Keith Lozeau

iv. Shane Norman

8. A brief statement of each principal issue of law which may be contested at the time of trial. This statement shall include with respect to each principal issue of law the position of each party.

a. Whether Cashman is entitled to judgment on its mechanic's lien claim against the lien release bond.

i. Cashman is entitled to judgment on its mechanic's lien claim against the Lien Release Bond, Bond No. 58685401. Cashman is a lien claimant as defined in NRS 108.2214, as it supplied materials to the Project with a value of more than $500 and has not been paid for those materials. Cashman served three preliminary notices providing notice to the owner that it was supplying to the Project. The preliminary notices were served on April 29, 2010, December 7, 2010 and April 29, 2011. Mojave accepted Cashman's quote on or about January 11, 2010 and Cashman began work shortly thereafter preparing the necessary submittals for approval. Delivery of most of the materials occurred over approximately two months, beginning in November, 2010 and ending with the delivery of the two largest items, the generators on or about January 19, 2011. The materials were incorporated into the Project by Mojave. Cashman timely recorded its lien against the Project on June 22, 2011 as required by NRS 108.226, serving it as required by NRS 108.227, and filed suit to foreclose its lien pursuant to NRS 108.239. The unconditional waiver and release upon final payment provided by Cashman in exchange for the check issued by Cam is unenforceable pursuant to NRS 108.2457(e), which provides that "if the payment given in exchange for any waiver and release of lien is

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made by check, draft or other such negotiable instrument, and the same fails to clear the bank on which it is drawn for any reason, then the waiver and release shall be deemed null, void and of no legal effect whatsoever.." As Cashman perfected its lien claim, Cashman is entitled to judgment in the amount that remains unpaid for the materials supplied and incorporated into the Project.

ii. Mojave and Western assert that Cashman is not entitled to judgment on its mechanic's lien claim against the Lien Release Bond, because Cashman failed to comply with several aspects of NRS Chapter 108 with respect to its mechanic's lien, including, but not limited to: (1) failing to properly serve the Owners with a pre-lien notice (and thus, the Owners never had actual notice of Cashman's work on the Project); (2) failing to timely send a pre-lien notice within thirty one (31) days after the first delivery of material or performance of work, as required by NRS §108.245; and (3) the language of the pre-lien notices do not comply with NRS §108.245 and are defective on their face. Further, after Mojave tendered payment in full to Cam relating to the Project, which was accepted by both Cam and Cashman, Mojave was provided with an unconditional, final lien release, a clear showing that Mojave had fulfilled its duties to Cashman and was subsequently released in full by Cashman. Thus, since Mojave tendered payment, Cashman accepted this payment, and subsequently Cashman provided Mojave with an unconditional, final lien release, Cashman is barred from recovery pursuant to the doctrine of accord and satisfaction. Additionally, even if this Court believes that Cashman has a lien claim, the amount of the lien must be reduced dramatically because not only has Cashman admitted that its work on the Project is incomplete but also, Cashman has already recovered certain assets of other defendants in this action.

b. Whether Cashman is entitled to judgment against the Payment Bond obtained by Mojave from Western

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i. Cashman is entitled to judgment on this Payment Bond pursuant to its terms, as Cashman is within the group of claimants for which the payment bond was obtained and Cashman remains unpaid in the amount of $755,893.89 for the materials it supplied in the performance of Mojave's contract on the Project. The Payment Bond obtained by Mojave is a *private* payment bond governed only by its terms and not subject to the requirements of NRS Ch. 339. Mojave's Contract No. 12600-26A with Whiting Turner sets forth Mojave's scope of work on the Project. This Contract is the Contract for which the Payment Bond was obtained, as the Payment Bond specifically references Contract No. 12600-26A and incorporates it into the Bond. The Payment Bond states that it is for the benefit of all persons supplying labor, material, rental equipment supplies and services used in the performance of Mojave's Contract and that those persons may maintain an action an independent action against the Payment Bond. The Payment Bond contains no other requirements for a claimant to fulfill prior to enforcing a claim against it. Mojave's Contract included the materials supplied by Cashman, as such Cashman's materials were used in the performance of Mojave's Contract entitled Cashman to claim against the bond should Cashman not receive payment for those materials. Cashman remains unpaid in the amount of $755,893.89 and is entitled to recover against this Payment Bond in that amount.

ii. Mojave and Western assert that Cashman is not entitled to the Payment Bond. Under this bond, Mojave was contractually obligated to tender payment to the entity that it had an agreement with to supply labor and materials, Cam. By the same token, Cam had a contractual obligation with its supplier, Cashman. There is no dispute that Mojave tendered payment to Cam, and that Mojave, the principal on the payment bond, "promptly made payments" to Cam for "supplying labor, material, rental equipment supplies or services." Thus, Mojave promptly made the payments required under the payment bond, and

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Cashman would have received those payments had it not entered into a separate arrangement with Cam to accept delayed funds. Additionally, under the language of the Payment Bond, Mojave, as principal, was discharged of its duty upon payment to Cam, which it made, and thus that claim should be dismissed. Moreover, since Mojave tendered payment, Cashman accepted this payment, and subsequently Cashman provided Mojave with an unconditional, final lien release, Cashman is barred from recovery pursuant to the doctrine of accord and satisfaction.

c. Whether Mojave was unjustly enriched by: i) accepting the benefit of the materials Cashman supplied to the Project; ii) appreciating that benefit; and iii) accepting full payment from the general contractor, Whiting Turner, such that it would be inequitable under the facts of this matter to allow Mojave to retain the benefit without payment of the amount owed to Cashman for materials Cashman supplied to the Project.

i. Cashman asserts that Mojave appreciated and accepted the materials and equipment supplied by Cashman to the Project, which enabled Mojave to complete its contractual responsibilities to the general contractor, Whiting Turner. Mojave received payment in full on the Project from the general contractor and it would be inequitable under the facts of this matter to allow Mojave to retain the benefit without payment of the amount owed to Cashman for materials Cashman supplied to the Project. Further, Cam made payment to Mojave in the amount of $275,636.70 contemporaneously with the failed payment to Cashman resulting in Mojave's unjust enrichment in at least that amount.

ii. Mojave asserts that Cashman's claim against it for unjust enrichment fails because Mojave, and the other Defendants, have not unjustly retained a benefit bestowed upon them by Cashman. In fact, the Defendants paid Cashman in full even though the work was not, and is still not (even to date), complete.

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Further, Cashman is going to have no evidence at trial that any of the Defendants have been unjustly enriched by any conduct of Cashman. As the evidence will demonstrate, the Defendants paid the full value of the invoices submitted by Cashman, even though the work has not been completed and the codes have still never been supplied by Cashman. Thus, the Defendants have retained no benefit which in law or equity belongs to the Cashman. A judgment in the amount Cashman seeks would result in the Plaintiff obtaining a benefit that it does not deserve, because, among other things, Cashman is seeking the full value of its invoices even though it did not complete the work and has obtained other assets in this action. Such an outcome would result in a windfall for Cashman, but under no circumstances can any outcome of this case result in any unjust enrichment to the Defendants. Therefore Cashman's claim for unjust enrichment cannot survive.

d. Whether Whiting Turner was unjustly enriched by: i) accepting the benefit of the materials Cashman supplied to the Project; ii) appreciating that benefit; and iii) accepting payment from the Owner of the Project such that it would be inequitable under the facts of this matter to allow Whiting Turner to retain the benefit without payment of the amount owed to Cashman for materials Cashman supplied to the Project.

i. Cashman asserts that Whiting Turner appreciated and accepted the materials supplied by Cashman to the Project, which enabled Whiting Turner to complete its contractual responsibilities to the Owners of the property. Whiting Turner received payment from the Owners and it would be inequitable under the facts of this matter to allow Whiting Turner to retain the benefit without payment of the amount owed to Cashman for the materials Cashman supplied to the Project.

ii. Whiting Turner asserts that Cashman's claim against it for unjust enrichment fails because Whiting Turner, and the other Defendants, have not unjustly

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retained a benefit bestowed upon them by Cashman. In fact, the Defendants paid Cashman in full even though the work was not, and is still not (even to date), complete. Further, Cashman is going to have no evidence at trial that any of the Defendants have been unjustly enriched by any conduct of Cashman. As the evidence will demonstrate, the Defendants paid the full value of the invoices submitted by Cashman, even though the work has not been completed and the codes have still never been supplied by Cashman. Thus, the Defendants have retained no benefit which in law or equity belongs to the Cashman. A judgment in the amount Cashman seeks would result in the Plaintiff obtaining a benefit that it does not deserve, because, among other things, Cashman is seeking the full value of its invoices even though it did not complete the work and has obtained other assets in this action. Such an outcome would result in a windfall for Cashman, but under no circumstances can any outcome of this case result in any unjust enrichment to the Defendants. Therefore Cashman's claim for unjust enrichment cannot survive.

e. Whether Owners were unjustly enriched by: i) accepting the benefit of the materials Cashman supplied to the Project; ii) appreciating that benefit; and iii) failing to pay for the materials supplied.

i. Cashman asserts that the Owners of the Project are withholding payment for the materials supplied by Cashman to the Project. The Owners received the materials and they were incorporated into the Project, allowing the Owners to complete their contractual responsibilities to the City of Las Vegas in completing the Project, as such the Owners have accepted and appreciated the benefit Cashman conveyed to the Project with the materials supplied. As the Owners have not paid for the materials, they have been unjustly enriched and it would be inequitable to allow the Owner to retain both the benefit of the materials and the money it was to use to pay for those materials. As such, the

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Owners should be required to pay Cashman for the materials Cashman supplied to the Project.

ii. The Owners assert that Cashman's claim against it for unjust enrichment fails because the Owners, and the other Defendants, have not unjustly retained a benefit bestowed upon them by Cashman. In fact, the Defendants paid Cashman in full even though the work was not, and is still not (even to date), complete. Further, Cashman is going to have no evidence at trial that any of the Defendants have been unjustly enriched by any conduct of Cashman. As the evidence will demonstrate, the Defendants paid the full value of the invoices submitted by Cashman, even though the work has not been completed and the codes have still never been supplied by Cashman. Thus, the Defendants have retained no benefit which in law or equity belongs to the Cashman. A judgment in the amount Cashman seeks would result in the Plaintiff obtaining a benefit that it does not deserve, because, among other things, Cashman is seeking the full value of its invoices even though it did not complete the work and has obtained other assets in this action. Such an outcome would result in a windfall for Cashman, but under no circumstances can any outcome of this case result in any unjust enrichment to the Defendants. Moreover, any money being withheld by the Owners has been withheld due to the benefit that Cashman did not confer on the Project, namely the supply and installation of the codes. Therefore Cashman's claim for unjust enrichment cannot survive.

f. Whether Cashman is entitled to judgment on its claims for Fraudulent Transfer against Mojave pursuant to NRS 112.180

i. Cashman is entitled to judgment against Mojave in the amount of $275,636.70, the amount Mojave received from Cam Consulting, Inc. ("Cam"), as Cam fraudulently transferred the assets of Cam to Mojave with actual intent to hinder, delay and defraud Cashman, a creditor of Cam. Further, even if the

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court does not find that the assets were transferred with actual intent to defraud, Cam transferred assets to Mojave without receiving a reasonably equivalent value in exchange for the transfer and Cam incurred debts beyond his ability to pay. Contemporaneous with the failed payment to Cashman, Mojave received payments from Cam totaling $275,636.70. This amount was fraudulently transferred to Mojave by Cam and should be avoided.

ii. Mojave asserts that the evidence demonstrates that the two payments from Cam to Mojave were the result of other projects that the parties were working on together. The timing of the payments was merely coincidental because Angelo Carvalho was at Mojave's office to accept the payment for the Project and then tendered funds to Cashman's representative, who was also there. Cashman will have no evidence to refute the fact that these payments were for other jobs, and Cashman has no evidence that somehow Mojave and Cam were in some type of conspiracy to deprive Cashman of the money it was owed. The money was for work performed on other projects, a fact that the evidence and testimony will clearly bear out. Further, Cashman's claim for fraudulent transfer fails: (1) pursuant to NRS §112.180(1)(a) since Cashman has no evidence that Mojave engaged in any conduct with actual intent to harm, hinder, or delay Cashman; and (2) pursuant to NRS §112.180(1)(b) since Cashman has no evidence that there was insufficient consideration for the money Cam tendered to Mojave for the other projects, nor is there any evidence that Mojave had any reason to believe that Cam was going to incur debt that it would not be able to re-pay. Therefore, this claim must be dismissed.

g. Whether Cashman is entitled to judgment on its claim for Foreclosure of Security Interest against Mojave

i. Cashman asserts that Cam executed a credit agreement with Cashman granting Cashman a continuing security interest in the materials sold to Cam and

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incorporated into the Project. Cashman perfected this security interest in the materials by filing a UCC Financing Statement with the Nevada Secretary of State that specifically identifies the materials Cashman supplied to the Project and all proceeds thereof. Mojave received the materials at the Project, billed for the materials thereafter, and received payment for the materials from Whiting Turner. Mojave did not make payment to Cashman, the secured party, or ensure that Cashman had released its security interest. As such, Cashman's security interest attaches to the proceeds received by Mojave for the materials as the proceeds were received subsequent to delivery of the materials to the Project and subsequent to Cashman's filing of the UCC Financing Statement placing all persons on notice of its security interest. Therefore, Cashman is entitled to judgment against Mojave on this claim in the amount of $755,893.89.

ii. Defendants assert that Cashman recorded its UCC with respect to the equipment that was ultimately delivered to the Project and installed. That equipment was paid for, in full, by the Defendants, and Cashman clearly accepted that payment because it provided an unconditional, final lien release to Mojave. Since Mojave tendered payment, Cashman accepted this payment, and subsequently Cashman provided Mojave with an unconditional, final lien release, Cashman is barred from recovery pursuant to the doctrine of accord and satisfaction. Thus, Cashman is not entitled to its claim for foreclosure of a security interest. Further, there is no conceivable way to pull the equipment out of City Hall should this Court determine that Cashman is actually owed money, even though the Defendants assert that Cashman is not entitled to anything. Thus, Defendants respectfully submit that the claim to foreclose the security interest should be dismissed as not feasible or practical.

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9. **An estimate of the time required for trial**

   a. 3-4 days.

10. **Any other matter which counsel desires to bring to the attention of the court prior to trial.**

   a. None.

DATED: January 16, 2014

PEZZILLO LLOYD

By: _____

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Marisa L. Maskas, Esq. (NBN 10928)
6725 Via Austi Parkway, Suite 290
Las Vegas, Nevada 89119
Attorneys for Plaintiff,
Cashman Equipment Company

DATED: January 16, 2014

COTTON, DRIGGS, *et al.*

_____

Brian W. Boschee, Esq. (NBN 7612)
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Las Vegas, NV 89101
Attorneys for Whiting Turner Contracting, Mojave Electric LV, LLC, Western Surety Co., Fidelity and Deposit Co. of Maryland, QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor LLC and FC/LW Vegas

Exhibit No.	Description	Bates No.	Date Offered	Objection	Date Admit
J 01	Cashman Credit Application	CASH 001–002			
J 02	Cashman Invoices	CASH 003–006			
J 03	Cashman Shipping Orders	CASH 007-009			
J 04	Cashman's Unconditional Waiver & Release Upon Final Payment	CASH 010-011			
J 05	Cashman's UCC Filing	CASH 012			
J 06	Cashman's Preliminary Notice of Right to Lien	CASH 013			
J 07	Wells Fargo Stop Notice	CASH 014-015			
J 08	Cashman's demand letter to CAM	CASH 016-018			
J 09	Cashman's letter to DA and Bad Check Complaint	CASH 019-020			
J 10	Lis Pendens	CASH 021-023			
J 11	Mechanic's Lien and Service doc	CASH 027-032, WTUR0001197			
J 12	Whiting Turner Bond Claim	CASH 033--34			
J 13	Checks from Mojave to CAM	CASH 467-473			
J 14	Checks from CAM to Mojave	CASH 479-480			
J 15	Transmittals	CASH 1019-1041			
J 16	Photographs	CASH 1674-1688			
J 17	Emails to/from Phillips and Anderson of Forest City - 7/7/11	CASH 1728-1731			
J 18	Cashman's Preliminary Notice of Right to Lien to Forest City, 4/29/10	CASH 1734			
J 19	Assessor Property Information	CASH 1735			
J 20	Cashman's Preliminary Notice of Right to Lien to QH Las Vegas, 12/7/10	CASH 1736			
J 21	Job information sheet from Mojave	CASH1737			
J 22	Photographs	CASH 1745-46			
J 23	Cashman Quote 8/31/09	CASH 1747			
J 24	Clear Copy - Mojave Purchase Order (re: MOJ 35 - 36)	CASH 1752-1754			
J 25	Cashman Submittal - 5/24/10	CASH 1762			
J 26	Mojave Transmittal - 6/16/10	CASH 1763			
J 27	Material Release Order from Mojave to Cam - 8/11/10	CASH 1766-67			
J 28	Whiting Turner Submittal - 9/21/10	CASH 1768			
J 29	Delivery/ Packing Slip - 11/11/10	CASH 1769			
J 30	Delivery	CASH 1770-1771			
J 31	SWAs and Internal Billings re: Service Tech & Project Meeting	CASH 1773-1782			
J 32	Property records from City Hall project	from Cashman's Opp/MSJ @ Ex. 2			

Exhibit No.	Description	Bates No.	Date Offered	Objection	Date Admit
J 33	Letter to J. Lloyd from T. Touton - Aug. 8, 2011	from Cashman's Opp/MSJ @ ex 18			
J 34	Letter to J. Lloyd from T. Touton - Aug. 25, 2011	from Cashman's Opp/MSJ @ ex 19			
J 35	Mojave Contract	MOJ 00001 - 32			
J 36	Terms & Conditions - Mojave to CAM - 4/23/10	MOJ 33- 34			
J 37	Mojave PO to CAM	MOJ 35 - 36			
J 38	Whiting Turner Payment Bond	MOJ 170-176			
J 39	Mojave Lien Release Bond	MOJ 453-455			
J 40	Whiting Turner & Mojave Contract	WTC 1 -28			
J 41	Misc. Emails	WTC 38 - 40, 42, 48, 56, 58-59, 61, 63-64			
J 42	Whiting Turner Payment Documents	WTUR 1 - 134			
J 43	Mojave - Generator Parallelling Switchgear submittal & Engineering Drawings	WTUR 170 - 722			
J 44	Email from WT (Hooley) to Frances McCombs re: request for unconditional releases - 5.16.11	WTUR 2562-63			
J 45	WT Detail job Cost Ledger & Misc. Documents	WTUR 2604 - 2829			
J 46	Email from Meiers to WT (Burch) re: lighting - 2/13/12	WTUR 3226			
J 47	Misc. Correspondence: between Whiting Turner, Forest City and Mojave	WTUR 6763-6777, 1457			
J 48	Generator Expense Chart, Cashman invoices and Cost detail sheets from Mojave	WTUR 9443-9457			
J 49	Mojave Payment Bond	WTUR 1153-55			
J 50	Payment Application 30 & Certification for Payment	CONFID FC - 1 - 6			
J 51	Full Service Agreement for LV City Hall	CONFID FC - 7 - 46			
J 52	Letter to PR from FC - 7/10/12	CONFID FC - 47			
J 53	Emails between Anderson and Louttit - 7/10/12 and 7/11/12	CONFID FC - 48 - 49			
J 54	Cashman Job File	CASH 523-1178			

Exhibit No.	Description	Bates No.	Date Offered	Objection	Date Admit
J 55	Emails/Invoices/Unconditional Waiver and Release/Bond for Release/Payments	MOJ 37-169			
J 56	Mojave Electric's Job File	MOJ 185 - 1402			
J 56.1	Mojave Electric's Job File	MOJ 1403 - 2221			
J 57	Mojave's Invoices from CAM	MOJ 2222-2270			
J 58	Wells Fargo Documents	CASH 246-389, 486-522, 1220-1251			
J 59	Bank of America Documents	CASH 35-245			
J 60	Nevada State Bank Documents	CASH 390-485, 1693-1720			
J 61	Cashman's Preliminary Notice of Right to Lien, 12/7/10, stamped received by Forest City	WTUR0001204			
J 62	Cashman's Preliminary Notice of Right to Lien, 12/7/10, stamped received by Whiting Turner	WTUR0001218			
J 63	Cashman's Preliminary Notice of Right to Lien, 4/20/11, stamped received by Forest City	WTUR0001221			
J 64	Cashman's Preliminary Notice of Right to Lien, 4/28/11, stamped received by Forest City	WTUR0001199			
J 65	Misc. Invoices to Mojave	From Mojave's MSJ, filed on 3/9/2012, Exhibit A-3			

EXHIBIT 92.J01

109502

SYMONS 815

CASHMAN CAT

APPLICATION FOR CREDIT

3300 St Rose Pkwy, Henderson NV 89052
Phone: (800) 937-2326 ext 4603
Credit Dept Fax: (702) 683-4696

CAT Financial — Cat AccessAccount

ALL new applications for a line of credit at Cashman Equipment will be facilitated through Caterpillar's CAT Access dealer line of credit unless otherwise indicated here [ ]. For info regarding the line of credit see caterpillarcaccessaccount.com

GENERAL INFORMATION

Applicant Name: Cam Consulting Inc Trade Name (if different):

Physical Address: 3874 Civic Center Dr (City) LVV (State) NV (Zip) 89030 (County) Clark

Billing Address: (City) (State) (Zip) (County)

Business #: (702) 325-9032 Cell #: (702) 524-0022 Fax #: (702) 895-9661 Business Start Date: 2009

Business Contact: Angelo Carvalho Title: President Phone #: (702) 524-0022 Email: angelo4wards@aol.com

Billing Contact: Title: Phone #: ( ) Email:

Description of Business: Construction Consulting Invoice Method: ☐ Regular Mail ☒ Email angelo4wards@aol.com

Type of Business: ☐ Sole Proprietorship ☒ Corporation ☐ General Partnership ☐ LLC ☐ Other

Prime Authorized Users: Name: Angelo Carvalho Name: Janel Carvalho Name:

Has business or any principal ever declared bankruptcy? ☐ Yes ☒ No Are there any outstanding liens or judgments? ☐ Yes ☒ No
If yes, date filed:

Federal ID Number: 26-4320652 Sales Tax Exempt? ☐ Yes ☒ No (If yes, please attach copy of exemption certificate) Number of Employees: Ø Requested Limit:

Bonding Company: Contact Name: Phone #: ( )

Insurance Company: Assurance LTD Contact Name: David H. Lee Phone #: (702) 798-8700

When renting/leasing please provide us with an insurance certificate adhering to Cashman's insurance requirements. If unavailable, you will be assessed an equipment surcharge.

FINANCIAL INFORMATION

Bank / Finance Co Reference: Current balances	Checking:	Savings:	Loan:
(1) Nevada State Bank	☒	☐	☐
(2) Wells Fargo Bank	☒	☐	☐

Trade References	Contact	Address	Phone #	Acct
(1) Mojave Electric	Peter Fergen	3755 W. Harmon, LV, NV 89118	(702) 798-2970	
(2) QED		5975 S. Decatur Blvd. LV NV 89118	Scott Macdonald 702-871-4108	

INFORMATION ON OWNER/PRINCIPALS/GUARANTORS

The undersigned provides instruction to us, our designees, and/or assignees, authorizing review of his/her personal credit profile and periodic review in connection with credit extended.

Name/Title (1): Angelo Carvalho President Birthdate: 24-Sep-67 SSN#: 1359
Home Address: 6316 Little Elm St. LVV, NV 89031 Phone #: (702) 524-0022 Percent of Ownership: 100% Time as Owner:
Net Worth $: Annual Income $: Monthly House Payments $: Signature:

Name/Title (1): Birthdate: SSN#:
Home Address: Phone #: ( ) Percent of Ownership: Time as Owner:
Net Worth $: Annual Income $: Monthly House Payments $: Signature:

OPEN ACCOUNT TERMS AND CONDITIONS

Applicant, its guarantors, agents and assigns (hereinafter collectively referred to as "APPLICANT") acknowledge that in the event this Application for Business Credit is accepted and approved by CASHMAN EQUIPMENT COMPANY and affiliates (hereinafter collectively referred to as CECO), a credit account will be opened in the name of Applicant. APPLICANT agrees to each and every term and condition set forth below in consideration of the opening of a credit account by CECO. Applicant and each other person signing this application warrants and represents that the information given on this application is complete and accurate, and is provided for the purpose of obtaining credit in an amount set by our credit policies and procedures. Applicant authorizes CASHMAN EQUIPMENT (CECO), Caterpillar, Inc, Caterpillar Financial Services Corporation (CFSC) and/or Caterpillar AccessAccount Corporation (CAA) and / or assignees or designees, (these entities referred to as "we" "us" or "our") to obtain from banks, credit bureaus, trade references and other creditors and requests each of the aforementioned to advise us of its credit experience with, and to express an opinion as to the credit record of Applicant or other such person as such party may deem appropriate and release any credit information, including but not limited to Applicant's balance sheet, cash flow statement, and income statement to us, which we may share among ourselves. Further, Applicant and each other person signing below on behalf of Applicant and / or as Guarantor (defined below), agrees that we may obtain personal and/or business credit reports with respect to Applicant and each such person, in assisting in making a credit decision, in connection with the continuation of the credit provided herein, or pursuant to a subsequent application or request, reviewing applicant's account, or assisting in taking collection activity. Applicant understands that any decision to grant or deny credit by CECO will be made by CECO, that any decision to grant or deny credit by CFSC will be made by CFSC, and that any decision to grant or deny credit by CAA will be made by CAA. The fact that this application contains reference to "amount of credit applied for" shall not be deemed a limitation of liability by Applicant or Guarantor, if applicable. Applicant acknowledges and agrees that the extension of credit based on this application does not obligate the others to extend credit to Applicant. Applicant also acknowledges, agrees and understands that any of us may, in its sole discretion, refuse to extend credit to Applicant in connection with any credit transaction. — continued on page 2

IN THE SUPREME COURT OF THE STATE OF NEVADA

CASHMAN EQUIPMENT COMPANY, a Nevada corporation,

Appellant,

vs.

WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC, a Nevada corporation; WESTERN SURETY COMPANY, a surety; THE WHITING TURNER CONTRACTING COMPANY, a Maryland corporation; FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a surety; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a surety; QH LAS VEGAS LLC, a foreign limited liability company; PQ LAS VEGAS, LLC, a foreign limited liability company; L W T I C SUCCESSOR LLC, an unknown limited liability company; FC/LW VEGAS, a foreign limited liability company;

Respondents.

Case No: 66452
Case No: 61715
Case No: 65819

Electronically Filed
Jun 17 2015 11:54 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

District Court Case Nos.: **A642583 & A653029**

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9	Errata to Amended Answer to Second Amended Complaint, Counterclaim and Crossclaim	11/10/2011	1	JA00098-99
10	Cashman's Response to Mojave's Counterclaim	11/21/2011	1	JA000100-03
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67	Cashman's Motion for Summary Judgment on the Payment Bond Claim	02/25/2013	7	JA0001356-1520
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