

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

DIRECT GRADING & PAVING, L.L.C., a Nevada  
limited liability company,

Petitioner,

v.

THE EIGHTH JUDICIAL DISTRICT COURT, in and  
for the County of Clark, State of Nevada; and  
THE HONORABLE ROB BARE, District Judge,

Respondents,

and

CENTURY COMMUNITIES OF NEVADA, L.L.C, a  
Nevada limited liability company,

Real Party in Interest.

Case No. 81933

Electronically Filed  
District Court Case No. 2020-062139-C.  
Dept. No.: XX Elizabeth A. Brown  
Clerk of Supreme Court

**APPENDIX TO ANSWER TO PETITION FOR WRIT OF MANDAMUS**  
**VOLUME VII**

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6  
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9  
10 **PRIVATE ARBITRATION BEFORE**  
**DONALD WILLIAMS, ESQ., ARBITRATOR**

11 DIRECT GRADING & PAVING, LLC, a  
Nevada limited liability company,

12 Plaintiff,

13 v.

14 CENTURY COMMUNITIES OF NEVADA,  
LLC, a Delaware limited liability company,  
15 DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

16 Respondent.

17 CENTURY COMMUNITIES OF NEVADA,  
18 LLC, a Delaware limited liability company;

19 Counter Claimant,

20 v.

21 DIRECT GRADING & PAVING, LLC, a  
Nevada limited liability company; DOES I  
22 through X, and ROE CORPORATIONS I  
through X, inclusive,

23 Counter Respondent.

**RESPONSE TO CENTURY  
COMMUNITIES OF NEVADA, LLC'S  
FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

24  
25 TO: CENTURY COMMUNITIES OF NEVADA and  
TO: SANTORO WHITMIRE, its attorneys  
26

1 Direct Grading & Paving, L.L.C. ("DGP") in response to Century Communities of Nevada,  
2 LLC's First Set of Requests for Production of Documents propounded by Century Communities of  
3 Nevada, LLC ("Century") on the 12<sup>th</sup> day of September, 2017, states as follows:

4 **DEFINITIONS**

5 The following definitions apply to DGP's objections, all of which DGP incorporates in the  
6 below responses by reference:

7 A. "Nondiscoverable / Irrelevant" – The request in question concerns a matter that is  
8 irrelevant to the subject matter of this litigation and is not reasonably calculated to lead to the  
9 discovery of admissible evidence.

10 B. "Unduly burdensome" – The request in question seeks discovery which is unduly  
11 burdensome or expensive, taking into account the needs of the case, limitations on the parties'  
12 resources, and the importance of the issues at stake in the litigation.

13 C. "Vague" – The request in question contains a word or phrase which is not adequately  
14 defined, or the overall request is confusing or ambiguous, and Plaintiff is unable to reasonably  
15 ascertain what information or documents Defendant seeks in the request.

16 D. "Overly broad" – The request seeks information or documents beyond the scope of, or  
17 beyond the time relevant to, the subject matter of this litigation and, accordingly, seeks information  
18 or documents which are nondiscoverable/irrelevant and is unduly burdensome.

19 **GENERAL OBJECTIONS**

20 1. DGP objects to Century Communities of Nevada, LLC's First Set of Requests for  
21 Production of Documents ("Requests") to the extent that they seek information that is protected by  
22 any absolute or qualified privilege or exemption, including, but not limited to, the attorney-client  
23 privilege, the attorney work-product exemption, and the consulting-expert exemption.

24 2. DGP objects to Century's Requests on the grounds that they are excessively  
25 burdensome and overly broad, and that much of the information requested may be obtained by  
26 Century from other sources more conveniently, less expensively, and with less burden.

1           3.       Answers will be made on the basis of information and writings available to and  
2 located by DGP upon reasonable investigation of records and inquiry. There may be other and  
3 further documents respecting the Requests propounded by Century of which DGP, despite DGP's  
4 reasonable investigation and inquiry, are presently unaware. DGP reserves the right to modify or  
5 enlarge any response with such pertinent additional documents as may be subsequently discovered.

6           4.       DGP objects to any Request to the extent that it would impose on DGP greater duties  
7 than are set forth under the Nevada Rules of Civil Procedure.

8           5.       Each response will be subject to all objections as to competence, relevance,  
9 materiality, propriety and admissibility, and to any and all other objections on any ground which  
10 would require the exclusion from evidence of any statement herein if any such statements were  
11 made by a witness present and testifying at trial, all of which objections and grounds are expressly  
12 reserved and may be interposed at such hearings.

13          6.       DGP adopts by reference the above objections and incorporates each objection as if it  
14 was fully set forth in each of DGP's Responses.

15       **REQUEST NO. 1:**

16           For all individuals employed by DGP for the time period of June 29, 2010 through December  
17 22, 2016, produce all Documents evidencing the following:

- 18           a. The identity of the employee;  
19           b. The date the employee was hired;  
20           c. The date the employee was terminated;  
21           d. The position held by the employee; and  
22           e. All paystubs for the employee.

23           Personal information such as social security numbers and payroll amounts may be redacted.  
24 This request is intended to discover whether DGP had sufficient manpower in order to timely  
25 complete the work contemplated under the Agreement and the PWAs and to discover the identities of  
26 individuals who may have information relevant to these proceedings.

1     **RESPONSE NO. 1:**

2             DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3     this Request on the grounds that it is overly broad, proprietary, unnecessarily intrudes on the  
4     privacy of employees who have no knowledge of this action, and seeks information that is  
5     irrelevant. Further, DGP has performed many services for Century since 2010. DGP never received  
6     any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
7     2016. Thus, the request is overbroad and burdensome, for which DGP objects.

8             Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
9     terminated DGP for cause, Century inherently would know what the cause was and have proof of  
10    the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
11    Century did not have information when DGP was terminated for "cause", show that Century failed  
12    to mitigate its damages by failing to request this information from DGP before termination, to  
13    provide assurances. Without waiving this objection, DGP responds as follows: *See PLAINTIFF'S*  
14    INITIAL DISCLOSURES and any supplements thereto.

15    **REQUEST NO. 2:**

16            For all independent contractors and/or consultants engaged by DGP for the time period of  
17    June 29, 2010 through December 22, 2016, produce all Documents evidencing the following:

- 18            f. The identities of the independent contractors and/or consultants;  
19            g. The date the independent contractors and/or consultants were engaged and the date the  
20            engagements ceased;  
21            h. The services provided by the independent contractors and/or consultants; and  
22            i. The payments made to the independent contractors and/or consultants.

23    **RESPONSE NO. 2:**

24            DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
25    this Request on the grounds that it is overly broad, proprietary, unnecessarily intrudes on the  
26    privacy of contractors and/or consultants who have no knowledge of this action, and seeks

1 information that is irrelevant. Further, DGP has performed many services for Century since 2010.  
2 DGP never received any complaints concerning its services until Scott Pocopchuck left his  
3 employment with Century in 2016. Thus, the request is overbroad and burdensome, for which DGP  
4 objects.

5 Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
6 terminated DGP for cause, Century inherently would know what the cause was and have proof of  
7 the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
8 Century did not have information when DGP was terminated for "cause", show that Century failed  
9 to mitigate its damages by failing to request this information from DGP before termination, to  
10 provide assurances. Without waiving this objection, DGP responds: *See* PLAINTIFF'S INITIAL  
11 DISCLOSURES and any supplements thereto.

12 **REQUEST NO. 3:**

13 Produce all employment tax forms filed on a state, local or federal level for the years 2010  
14 through today.

15 Personal information such as social security numbers and payroll amounts may be redacted.  
16 This request is intended to discover whether DGP had sufficient manpower in order to timely  
17 complete the work contemplated under the Agreement and the PWAs and to discover the identities  
18 of individuals who may have information relevant to these proceedings.

19 **RESPONSE NO. 3:**

20 DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
21 this Request on the grounds that it is overly broad, proprietary, unnecessarily intrudes on the  
22 privacy of employees who have no knowledge of this action, and seeks information that is  
23 irrelevant. Further, DGP has performed many services for Century since 2010. DGP never received  
24 any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
25 2016. Thus, the request is overbroad and burdensome, for which DGP objects.



1 Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
2 terminated DGP for cause, Century inherently would know what the cause was and have proof of  
3 the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
4 Century did not have information when DGP was terminated for "cause", show that Century failed  
5 to mitigate its damages by failing to request this information from DGP before termination, to  
6 provide assurances. Without waiving this objection, DGP responds as follows: *See* PLAINTIFF'S  
7 INITIAL DISCLOSURES and any supplements thereto.

8 **REQUEST NO. 4:**

9 Produce any and all Documents evidencing any work performed by DGP for any entity or  
10 individual other than Century for the time period of January 1, 2014 through December 22, 2016.

11 **RESPONSE NO. 4:**

12 DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
13 this Request on the grounds that it is overly broad, proprietary, unnecessarily intrudes on the  
14 privacy of others who have no knowledge of this action, and seeks information that is irrelevant.  
15 Further, DGP has performed many services for Century since 2014. DGP never received any  
16 complaints concerning its services until Scott Pocopchuck left his employment with Century in  
17 2016. Thus, the request is overbroad and burdensome, for which DGP objects.

18 Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
19 terminated DGP for cause, Century inherently would know what the cause was and have proof of  
20 the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
21 Century did not have information when DGP was terminated for "cause", show that Century failed  
22 to mitigate its damages by failing to request this information from DGP before termination, to  
23 provide assurances. Without waiving this objection, DGP responds as follows: *See* PLAINTIFF'S  
24 INITIAL DISCLOSURES and any supplements thereto.  
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1     **REQUEST NO. 5:**

2             Produce any and all Communications with GeoTek relating to the Projects for the time period  
3 of January 1, 2014 through December 22, 2016.

4     **RESPONSE NO. 5:**

5             DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
6 this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
7 irrelevant. Further, DGP has performed many services for Century since 2014. DGP never received  
8 any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
9 2016. Thus, the request is overbroad and burdensome, for which DGP objects.

10            Further, DGP objects because this information may more easily be obtained by Century  
11 because Geotek was an independent contractor, hired by Century.

12            Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
13 terminated DGP for cause, Century inherently would know what the cause was and have proof of  
14 the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
15 Century did not have information when DGP was terminated for "cause", show that Century failed  
16 to mitigate its damages by failing to request this information from DGP before termination, to  
17 provide assurances. Without waiving this objection, DGP responds as follows: *See PLAINTIFF'S*  
18 *INITIAL DISCLOSURES* and any supplements thereto, including but not limited to Bates No.  
19 DGP00313.

20     **REQUEST NO. 6:**

21             Produce any and all Communications with NRC Concrete and Landscape relating to the  
22 Projects for the time period of January 1, 2014 through December 22, 2016.  
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1     **RESPONSE NO. 6:**

2             DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3     this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4     irrelevant. Further, DGP has performed many services for Century since 2014. DGP never received  
5     any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6     2016. Thus, the request is overbroad and burdensome, for which DGP objects.

7             Further, DGP objects because this information may more easily be obtained by Century  
8     because, on information and belief, NRC Concrete and Landscape was an independent contractor,  
9     hired by Century.

10            Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
11    terminated DGP for cause, Century inherently would know what the cause was and have proof of  
12    the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
13    Century did not have information when DGP was terminated for "cause", show that Century failed  
14    to mitigate its damages by failing to request this information from DGP before termination, to  
15    provide assurances. Without waiving this objection, DGP responds as follows: None. Nevertheless,  
16    see PLAINTIFF'S INITIAL DISCLOSURES and any supplements thereto. Discovery in this  
17    matter is continuing.

18     **REQUEST NO. 7:**

19            Produce any and all Communications with Patriot Contractors relating to the Projects for the  
20    time period of January 1, 2014 through December 22, 2016.

1     **RESPONSE NO. 7:**

2             DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3     this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4     irrelevant. Further, DGP has performed many services for Century since 2014. DGP never received  
5     any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6     2016. Thus, the request is overbroad and burdensome, for which DGP objects.

7             Further, DGP objects because this information may more easily be obtained by Century  
8     because Patriot Contractors, on information and belief, was an independent contractor, hired by  
9     Century.

10            Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
11    terminated DGP for cause, Century inherently would know what the cause was and have proof of  
12    the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
13    Century did not have information when DGP was terminated for "cause", show that Century failed  
14    to mitigate its damages by failing to request this information from DGP before termination, to  
15    provide assurances. Without waiving this objection, DGP responds as follows: None. Nevertheless,  
16    please *see* PLAINTIFF'S INITIAL DISCLOSURES and any supplements thereto. Discovery in  
17    this matter is continuing.

18     **REQUEST NO. 8:**

19            Produce any and all Communications with Western States Contracting relating to the Projects  
20    for the time period of January 1, 2014 through December 22, 2016.

1     **RESPONSE NO. 8:**

2             DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3     this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4     irrelevant. Further, DGP has performed many services for Century since 2014. DGP never received  
5     any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6     2016. Thus, the request is overbroad and burdensome, for which DGP objects.

7             Further, DGP objects because this information may more easily be obtained by Century  
8     because Western States Contracting, on information and belief, was an independent contractor,  
9     hired by Century.

10            Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
11    terminated DGP for cause, Century inherently would know what the cause was and have proof of  
12    the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
13    Century did not have information when DGP was terminated for "cause", show that Century failed  
14    to mitigate its damages by failing to request this information from DGP before termination, to  
15    provide assurances. Without waiving this objection, DGP responds as follows: None. Nevertheless,  
16    please *see* PLAINTIFF'S INITIAL DISCLOSURES and any supplements thereto. Discovery in  
17    this matter is continuing.

18     **REQUEST NO. 9:**

19            Produce any and all Communications with Wallace Morris Kline Surveying relating to the  
20    Projects for the time period of January 1, 2014 through December 22, 2016.

1     **RESPONSE NO. 9:**

2             DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3     this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4     irrelevant. Further, DGP has performed many services for Century since 2014. DGP never received  
5     any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6     2016. Thus, the request is overbroad and burdensome, for which DGP objects.

7             Further, DGP objects because this information may more easily be obtained by Century  
8     because Wallace Morris Kline Surveying, on information and belief, was an independent  
9     contractor, hired by Century.

10            Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
11    terminated DGP for cause, Century inherently would know what the cause was and have proof of  
12    the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
13    Century did not have information when DGP was terminated for "cause", show that Century failed  
14    to mitigate its damages by failing to request this information from DGP before termination, to  
15    provide assurances. Without waiving this objection, DGP responds as follows: None. Nevertheless,  
16    please *see* PLAINTIFF'S INITIAL DISCLOSURES and any supplements thereto. Discovery in  
17    this matter is continuing.

18     **REQUEST NO. 10:**

19            Produce any and all Communications with Freedom Underground relating to the Projects for  
20    the time period of January 1, 2014 through December 22, 2016.

1 **RESPONSE NO. 10:**

2 DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3 this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4 irrelevant. Further, DGP has performed many services for Century since 2014. DGP never received  
5 any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6 2016. Thus, the request is overbroad and burdensome, for which DGP objects.

7 Further, DGP objects because this information may more easily be obtained by Century  
8 because Freedom Underground, on information and belief, was an independent contractor, hired by  
9 Century.

10 Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
11 terminated DGP for cause, Century inherently would know what the cause was and have proof of  
12 the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
13 Century did not have information when DGP was terminated for "cause", show that Century failed  
14 to mitigate its damages by failing to request this information from DGP before termination, to  
15 provide assurances. Without waiving this objection, DGP responds as follows: None. Nevertheless,  
16 please *see* PLAINTIFF'S INITIAL DISCLOSURES and any supplements thereto. Discovery in  
17 this matter is continuing.

18 **REQUEST NO. 11:**

19 Produce any and all Communications YOU HAD WITH ANY EMPLOYEE OR AGENT OF  
20 Century for the time period of January 1, 2014 through December 22, 2016.

1     **RESPONSE NO. 11:**

2             DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3     this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4     irrelevant. Further, DGP has performed many services for Century since 2014. DGP never received  
5     any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6     2016. Thus, the request is overbroad and burdensome, for which DGP objects.

7             Further, DGP objects because this information may more easily be obtained by Century  
8     because Century requests documents related to persons actually employed or hired by Century.

9             Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
10    terminated DGP for cause, Century inherently would know what the cause was and have proof of  
11    the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
12    Century did not have information when DGP was terminated for "cause", show that Century failed  
13    to mitigate its damages by failing to request this information from DGP before termination, to  
14    provide assurances. Without waiving this objection, DGP responds as follows: *See PLAINTIFF'S*  
15    INITIAL DISCLOSURES and any supplements thereto, including but not limited to Bates Nos.  
16    DPG00189-218, 235-312.

17    **REQUEST NO. 12:**

18             Produce any and all notices or Communications from any governmental entity which in any  
19    way relate to the services performed by DGP for the benefit of Century.  
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1 **RESPONSE NO. 12:**

2 DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3 this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4 irrelevant. Further, DGP has performed many services for Century since 2010. DGP never received  
5 any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6 2016. Thus, the request is overbroad and burdensome, for which DGP objects.

7 Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
8 terminated DGP for cause, Century inherently would know what the cause was and have proof of  
9 the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
10 Century did not have information when DGP was terminated for "cause", show that Century failed  
11 to mitigate its damages by failing to request this information from DGP before termination, to  
12 provide assurances. Without waiving this objection, DGP responds as follows: *See* PLAINTIFF'S  
13 INITIAL DISCLOSURES and any supplements thereto, including but not limited to Bates Nos.  
14 DPG000092-140, 313. Further, Discovery in this matter is continuing. Plaintiff reserves the right to  
15 amend or supplement its answers.

16 **REQUEST NO. 13:**

17 Produce any and all Documents supporting the allegations contained in paragraphs 3, 10, 17,  
18 and 24 of the Statement of Facts Constituting a Lien submitted in this matter.  
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1 **RESPONSE NO. 13:**

2 DGP incorporates all of the objections above, as though stated herein. Further, DGP objects to  
3 this Request on the grounds that it is overly broad, proprietary, and seeks information that is  
4 irrelevant. Further, DGP has performed many services for Century since 2010. DGP never received  
5 any complaints concerning its services until Scott Pocopchuck left his employment with Century in  
6 2016. Thus, the request is overbroad and burdensome, for which DGP objects.  
7

8 Further, DGP objects because Century terminated DGP's services for "cause". Since Century  
9 terminated DGP for cause, Century inherently would know what the cause was and have proof of  
10 the cause. Alternatively, the fact that Century is requesting this information now, with the fact that  
11 Century did not have information when DGP was terminated for "cause", show that Century failed  
12 to mitigate its damages by failing to request this information from DGP before termination, to  
13 provide assurances. Without waiving this objection, DGP responds as follows: *See PLAINTIFF'S*  
14 *INITIAL DISCLOSURES* and any supplements thereto, including but not limited to Bates Nos.  
15 DPG000001-91, 141-161, 162-173, 221-234.  
16

17 DATED this 2<sup>nd</sup> day of October, 2017.

18 JOHNSON & GUBLER, P.C.

19 

20 Matthew L. Johnson, Esq.

21 Russell G. Gubler, Esq.

22 Ashveen S. Dhillon, Esq.

23 8831 West Sahara Avenue

24 Las Vegas, Nevada 89117

25 *Attorneys for Claimant/Counter Respondent*  
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CERTIFICATION OF SERVICE

I hereby certify that on ~~September~~ <sup>October</sup> 2, 2017, I caused a copy of RESPONSE TO  
CENTURY COMMUNITIES OF NEVADA, LLC'S FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS to be served via United States Postal Service as follows:

Santoro Whitmire  
10100 W. Charleston Blvd., Suite 250  
Las Vegas, Nevada 89135

*Attorneys for Century Communities of Nevada, LLC*

  
An employee of Johnson & Gubler, P.C.

# JOHNSON & GUBLER, P.C.

## Attorneys

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Board Certified in Business Bankruptcy Law By The American Board of Certification  
\*admitted in Utah and Nevada

March 9, 2018

Donald Williams, Arbitrator  
Williams and Associates  
612 S. 10<sup>th</sup> Street  
Las Vegas, NV 89101

**Re:   *Direct Grading v. Century Communities  
Motion to Compel, [Third] Renewed Motion to Set new Arbitration Schedule,  
Motion for Leave to File an Amended Counterclaim against Direct and Direct's  
owner, Mel Westwood, and Request for Immediate Hearing before the  
Arbitrator.  
Our File No. 1077-024***

Dear Mr. Williams:

This correspondence is Direct Grading & Paving, LLC's ("Direct") response to Century Communities of Nevada, LLC's ("Century") Motion to Compel, [Third] Renewed Motion to Set new Arbitration Schedule, Motion for Leave to File an Amended Counterclaim against Direct and Direct's owner, Mel Westwood, and Request for Immediate Hearing before the Arbitrator ("Motion"). Direct will discuss each of the points raised by Century in turn.

Further, in return, Direct requests that the Arbitrator further compel Century to produce documents to Direct. Moreover, Direct requests that the Arbitrator make an early ruling related to the "Master Subcontract Agreement" (MSA) which Century repeatedly mentions. Although Direct agreed to arbitration to settle this matter, the MSA is not clear and unequivocal, as required by law to be binding herein.

### **BLM Documents**

During the course of this litigation, Direct has produced well over 10,000 pages of documents. During one of the requests for production, Century requested information showing trucking tickets and contracts with the BLM. Mel Westwood, managing member of Direct, regularly works on the job sites, but instructed his office staff to pull the files that Direct had for production and to just verify that all of the numbers corresponded. Although Mr. Westwood did not intend for Direct's office staff to modify documents, one person did just that. The actual contract with the BLM was changed from 50,000 cubic yards to 100,000 cubic yards, with corresponding dollar amounts, without Mr. Westwood's knowledge or without Direct's

knowledge. Counsel for Century discovered the change and was gracious enough to call a meeting with counsel for Direct and explained that the documents with the BLM show that the contract quantity was for 50,000 cubic yards, instead of 100,000 cubic yards like the contract Direct produced. Upon close examination, the numbers in the contract and letter received from Direct looked modified. As a result, after the meeting, Matthew Johnson went to the BLM office and made copies of the record at the BLM office. Thereafter, counsel for Direct spoke with Mel Westwood, who made an inquiry with Direct's office employees about the BLM documents. In his conversations with one of his office staff, Linda Middleton, Mr. Westwood learned for the first time that someone at Direct had modified the BLM contract and letter. Upon learning of the modification, counsel for Direct called another meeting with counsel for Century and informed Century that, in fact, the BLM contract and letter had been changed, providing the same information now provided to the arbitrator. Counsel for Direct suggested on multiple occasions that the parties inform the Arbitrator of such modification, but Century preferred to place everything in a letter, which Century has now done.

Century does not believe Direct's story of what happened, and states that this evidence now calls into question all of the documents produced by Direct. However, Mel Westwood, the managing member of Direct, never told or intended for anyone at Direct to modify documents. Similarly, he never knew about the changes with the BLM documents. Century attempts to say that Direct only provided 33,395 cubic yards of material for the subject project,<sup>1</sup> and as a result, Century, through its expert, says that Direct overcharged Century. However, this cannot be true either, which Century knows. Century's own plans for the Inspirada project, which the expert says that he reviewed, calls for at least 122,744 cubic yards of fill.<sup>2</sup> See Exhibit "1", p. 2. Further, Century's expert does not account for compacted material versus embankment materials. All of the required materials, as provided in Century's own plans, were provided to the Inspirada project, plus more.

Nevertheless, in light of the foregoing, and as mentioned in the Motion, Direct's counsel agrees that a new schedule is needed, to allow Century to ask questions related to this document change. As a result, Direct believes that 30-60 days of additional discovery should be allowed.

### **Order to Compel**

Century says that Direct has refused to comply with the order to compel related to communications with Scott Prokopchuk. This isn't true. As the Arbitrator will remember, Direct was to certify that it had produced communications with various parties to Century, including with Scott Prokopchuk. Direct made the certifications, as required, with the exception of Scott Prokopchuk. With respect to Scott Prokopchuk, it could not make such a certification, and it didn't. Such an assertion would not be true. Instead, Direct stated:

DGP searched and found an old phone that had correspondence from Scott Prokopchuk. Unfortunately, because the server has changed, DGP is unable to produce the information from Scott Prokopchuk for this disclosure, but is seeking to

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<sup>1</sup>The materials from the BLM project were only used for the Inspirada project.

<sup>2</sup>Before filing its motion, counsel for Direct, showed Century's counsel Century's own plans, which require at least 122,744 cubic yards of fill. However, Century has failed to mention this.

produce the communications. DGP will produce the communications when they become available.

Supplemental Responses, Exhibit "2".

Direct attempted to produce the information on the phone on multiple occasions, but had been unable to do so. Recently, Direct has made another attempt to link to the phone, with help, and has been able to download the communications from the phone from Mr. Prokopchuk. These documents are forthcoming. Nevertheless, before Direct was able to download these communications, what Century seems to avoid and place in a small footnote is that counsel for the parties spoke, wherein counsel for Direct offered to produce the phone to Century that admittedly contained correspondence from Scott Prokopchuk, under certain conditions. *See* correspondence, attached as Exhibit "3", wherein Century's counsel acknowledges the conversation about the phone. Those conditions were that the parties would submit the phone to an IT professional and agree upon the terms that could search the phone. Direct wanted to have someone from both parties present with the IT professional while making those searches. Direct did not refuse to give the communications. On the contrary, Direct attempted to allow Century to hire someone to attempt to get the communications off of the phone, but Century refused and now seeks a motion to compel, stating that "***Direct has failed to produce a single piece of paper involving any communications with Mr. Prokopchuk while he was employed with Direct.***" Century's assertions are misleading as to what actually happened.

Century also argues that Direct has failed to provide anything to substantiate what Scott Prokopchuk was doing for DGP Holdings. However, this makes sense. Mr. Prokopchuk performed some consulting work, including an industrial property in Apex, for DGP Holdings, LLC. DGP Holdings is an asset holding company, which held an interest in industrial land that was prospectively going to be used for an element industrial park. Mr. Prokopchuk helped in the design and layout of the element industrial park held by DGP Holdings. To avoid tax liabilities, Mr. Prokopchuk wanted to be paid through a payroll, where taxes were withheld. However, because DGP Holdings did not have a payroll service, Direct invoiced DGP Holdings for Mr. Prokopchuk's time, and then paid Mr. Prokopchuk. No business relationship exists between Direct and DGP Holdings, other than they have the same owner, and DGP Holdings does sublease to Direct. Thus, Direct does not have the communications and work product of Mr. Prokopchuk for DGP Holdings. That has to come from DGP Holdings. In fact, yesterday, March 8, 2018, DGP Holdings produced the requested documentation related to the project.<sup>3</sup>

Century mentions an email address [pd@directgrading.com](mailto:pd@directgrading.com). This account was initially set up to allow foremen on a jobsite to communicate regarding payroll each week. "PD" was to represent "Pay Day". However, the system did not work, and Direct stopped using the account. Thereafter, Mr. Prokopchuk believed that he could use the account, if necessary. However, Direct had made a search of everyone's emails at Direct and cannot find where this account was used and do not remember this account being used by Mr. Prokopchuk. Another account was set up for Mr. Prokopchuk, but this account was not used either. Joe Morgan assisted in this process and could not find any emails past or current for Mr. Prokopchuk. Thus, the only emails found related to Mr. Prokopchuk or Century were located on the above-referenced phone. Again, these will be produced.

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<sup>3</sup>The documents from DGP Holdings were due on March 6, 2018. However, Oliver Pancheri gave an extension to March 8, 2018.

In June of 2016, Direct's server started having problems, and Direct was required to replace its server. The old server was thrown away, and Direct ultimately went to an online server in November of 2016. The only items backed up were Direct's quickbooks, which were backed up every week. At the time, Direct did not have any issues with Century, and had recently signed several contracts with Century. Thus, there is no intent at wrongdoing, and Direct is not flouting its discovery obligations. Again, Direct has produced well over 10,000 pages of documents.

### **Deposition of Scott Prokopchuk**

Century again attempts to argue that Direct was trying to hide Scott Prokopchuk's involvement with Direct, using the words "buried" or "secretly". As Century continues to assert, this was a complete "revelation" to Century. However, if Direct was truly trying to be dishonest in its discovery, or hide the fact that Mr. Prokopchuk was on the payroll for Direct, it would not have disclosed it. But Direct did – and it did so months ago.

Century attempts to argue that a great, impermissible conflict exists between Century, Direct, and Mr. Prokopchuk. Century cites the MSA which states that "Subcontractor shall exercise all reasonable care and diligence to prevent any actions or conditions that could result in conflict with Contractor's best interests." However, Direct disputes that the MSA applies in this case. Direct presents its argument below, and requests that the Arbitrator make an early ruling on this. Nevertheless, either way, Century cannot and will not be able to show that this is an action or condition that could result in conflict with Century's best interest. No conflict exists. Century develops residential home communities, while DGP Holdings held an interest in industrial land which was going to be used for an element industrial park. Further, the consultation work was done for DGP Holdings. No work was ever done for Direct. Direct already gave Century information about Mr. Prokopchuk and his relationship to DGP Holdings without requiring it to go through formal discovery. Century already long promulgated the written discovery regarding these issues on Direct.

Century tries to argue that Mr. Prokopchuk was responsible for great, unilateral approvals to Direct Grading. However, this is not true. Most of the contracts recently signed by Mr. Prokopchuk were also signed by another person at Century. Four of the contracts alone were signed by Rick Barron in 2016 – the guy that ultimately wrote the letter of default – during the very time that Century (and Rick Barron) claim that they had well given up on Direct because of its tardiness and did not trust Direct anymore. *See* Exhibit "4". This is nothing but a hoax. This is nothing more than Century trying to stall out the proceedings.

Similarly, the same Rick Barron signed a draw schedule in November of 2016, less than a month before he sent a notice of default to Direct, to release funds to Direct, even though Century (and Rick Barron) now claim that they had well given up on Direct because of its tardiness and did not trust Direct anymore.<sup>4</sup> *See* Exhibit "5".

Direct agrees that the parties need to take Mr. Prokopchuk's deposition and that it has been difficult to serve Mr. Prokopchuk, as he has been working out of town. Also, as stated above, the

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<sup>4</sup>On information and belief, Rick Barron held this same check well into December of 2016. Then, when Direct refused to incur more costs and pave on other job site until it had been paid on previous work, Rick Barron delivered the check, with the famous notice of default. Direct paved the very next day.

communications with Century or Mr. Prokopchuk, as found on the phone are forthcoming. Thus, 30-60 days is plenty of time to conduct discovery.

### **Responses to Century's Discovery**

Century again unbelievably comes crying foul to the Arbitrator without giving the full facts. Century's and Direct's counsel discussed each of the items that Century is seeking. Direct will discuss each one:

Production No. 2. In response to this request, Direct produced a lease, a quickbooks printout for the time requested, check stubs, and other invoices. Century demands the cancelled checks between Direct and DGP Holdings, along with the cancelled checks between Direct and Mr. Prokopchuk. However, as explained to Century's counsel, there are no checks between Direct and DGP Holdings. Although accounts and books are kept separate, there are generally credits or transfers between the companies, memorialized by invoices, because these companies are related. As for Mr. Prokopchuk, Direct does not have the cancelled checks in its immediate possession, and Direct is only allowed to retrieve cancelled checks up to 6 months old online. All checks to Mr. Prokopchuk are older than 6 months.

Production No. 4. Again, Direct does not have these checks in its possession. These checks are over 6 months old and are not available to Direct online. Further, Century has the documents from the BLM, stating what the BLM has been paid.

Production No. 14. As explained above, Mr. Prokopchuk performed some consulting work, including an industrial property in Apex, for DGP Holdings, LLC. Mr. Prokopchuk helped in the design and layout of the element industrial park held by DGP Holdings. To avoid tax liabilities, Mr. Prokopchuk wanted to be paid through a payroll, where taxes were withheld. However, because DGP Holdings did not have a payroll service, Direct invoiced DGP Holdings for Mr. Prokopchuk's time, and then paid Mr. Prokopchuk. Direct, on the other hand, does not have the communications and work product of Mr. Prokopchuk for DGP Holdings. That has to come from DGP Holdings. In fact, yesterday, March 8, 2018, DGP Holdings produced the requested documentation.

Production No. 15. Century again requests documents after a meet and confer, where the undersigned stated that this is all that Direct has. In response to this request, Direct disclosed 3 banker's boxes of truck tickets. Included in these boxes were over 9,400 pages of documents, most of which were truck tickets. This is all that Direct has left after about 2 years. In fact, during this time frame, Direct turned over its original truck tickets and loader sheets to Rick Baron at Century, as proof of the work. Century is again crying foul, when it does not have clean hands and has not produced the documentation that it received from Direct.

### **Amended Counterclaim**

Century wants to sue Mel Westwood personally under the agreement to arbitrate. However, Century's citations do not support this proposition. *Truck Ins. Exch. v. Palmer J. Swanson, Inc.*, 124 Nev. 629 (2008) teaches us that "'Nevada courts resolve all doubts concerning the arbitrability of the subject matter of a dispute in favor of arbitration.' However, '[i]f the court finds that there is no enforceable agreement, it may not . . . order the parties to arbitrate.'" Similar to the finding by the Supreme Court in *Truck Ins. Exch.*, there is no agreement to arbitrate



between Mel Westwood and Century in this case. Thus, this is the improper forum for Mr. Westwood to be sued.

As Century points out, *Truck Ins. Exch.* does mention exceptions, including an agency relationship, where an agent may be found to be subject to the arbitration agreement. However, the Court in *Truck Ins. Exch.* does not entertain or discuss that exception. Thus, there is no guidance in *Truck Ins. Exch.* related to agency relationships.

Consequently, the California court in *Westra*, cited by Century, does discuss this agency exception. However, this case does not help Century. The court in *Westra* held, “Generally speaking, one must be a party to an arbitration agreement to be bound by it or invoke it. ‘The strong public policy in favor of arbitration does not extend to those who are not parties to an arbitration agreement, and a party cannot be compelled to arbitrate a dispute that he has not agreed to resolve by arbitration.’” *Westra v. Marcus & Millichap Real Estate Investment Brokerage Co., Inc.*, 129 Cal. App. 4th 759, 763 (Cal.App. 2005).

Further, the court in *Westra* discusses its own facts, as well as the facts of another case, *Berman v. Dean Witter & Co., Inc.* 44 Cal. App. 3d 999 (1975), concerning agency relationships, which does not help Century either. In the actual *Westra* case, a broker was acting as an agent for both parties to a purchase agreement and its arbitration agreement, in a preexisting agency relationship. The language of the purchase agreement, as well as the arbitration provision itself, clearly stated that the buyer, seller, and broker agent agreed to arbitrate disputes involving the subject matter of the purchase agreement. Although the agent did not sign the document, it clearly was a third-party beneficiary under the agreement. That is not the case here. Mel Westwood is not a third-party beneficiary and was not a broker agent.

Further, in *Berman*, a husband purchased future contracts under his wife’s account through a broker. After the contracts did not do well, the husband and wife sued the broker agency and its employee. The husband and employee were not signatories under the account contract. Nevertheless, the court in *Berman* held that the employee could claim a right to arbitrate under the contract which the husband was already suing. The court also held that the husband’s rights were no greater than the contract under which he was suing (i.e., that his wife had signed). Thus, in *Berman*, after A & B sued C & D, the court bound A to the arbitration agreement under the contract he had sued, and also allowed D to benefit from the arbitration agreement in the contract. However, in the case at hand, Mel Westwood is not a broker agent. Further, Mel Westwood is not suing anyone, and yet Century is trying to sue Mel Westwood. In other words, in this case, A is suing B, yet B wants to sue C and claim a benefit under the arbitration agreement. The cases cited by Century are too distinguishable to allow Mr. Westwood to be sued under the arbitration agreement and leave should not be granted to sue Mel Westwood.

## MSA

Upon the filing of this matter, Direct agreed to arbitration, the parties set discovery dates, and the initial arbitration in this matter was supposed to be heard in early December of 2017. However, Century argued that because Direct argued that it was unsure whether or not the MSA applied in this matter, that Century needed additional time for discovery, through the middle part of March 2018 – asking for a 4-month continuance. Despite the objection by Direct, the time was granted. For the Arbitrator’s knowledge, nothing was ever requested by Century concerning this subject despite their request for an additional 4 months of discovery. Thus, the determination concerning the MSA is now ripe.

Just so that we are clear, the MSA repeatedly referenced by Century is the MSA between *Dunhill Homes* and Direct. It is “effective” June 29, 2010, but was actually dated in July of 2010.

Century claims that it is the assignee of this agreement. However, it is unclear whether the MSA is actually transferred to Century. It is never specifically listed. Further, under the agreement provided by Century, Dunhill Homes did not transfer its name. *See* excerpts from asset purchase agreement, attached as Exhibit “6”.

Nevertheless, assuming *arguendo*, that the MSA was transferred, the MSA still does not apply to the applicable PWA’s. The MSA would apply to previous contracts that would have also been transferred, and PWA’s that reference the MSA. The only PWA’s produced by Century in this matter are those PWA’s already attached hereto as Exhibit “4”. Each one of these PWA’s is dated and entered into after the alleged assignment took place. Thus, there are no preexisting contracts of concern. Further, each one of these PWA’s states, as follows:

This Project Work Authorization (“PWA”) is effective this [DATE], by and between CENTURY COMMUNITIES OF NEVADA, LLC, a Delaware limited liability company (**Contractor**) and Direct Grading and Paving (Subcontractor). All Work shall be performed in accordance with the terms and conditions set forth in the Master Subcontractor Agreement (MSA) between **Contractor** and Subcontractor dated 6/29/10, ***which is incorporated herein by reference.***

Exhibit “4” (emphasis added). Thus, any MSA referenced in a PWA is not the MSA that Century repeatedly quotes in this matter. The MSA repeatedly cited by Century is the MSA between Direct and Dunhill Homes. *See* Exhibit “7”. On the other hand, there is no MSA signed by Century and Direct on 6/29/10. Further, on information and belief, there was never an MSA signed between Century and Direct.

An essential element of any contract is consent. The consent must be mutual. Every contract requires mutual assent or consent. Consent is not mutual, unless the parties all agree upon the same thing in the same sense. The existence of mutual consent is determined by *objective* rather than subjective criteria, the test being what the outward manifestations of consent would lead a reasonable person to believe. Outward manifestations thus govern the finding of mutual consent. *Weddington Productions, Inc. v. Flick*, 60 Cal. App. 4th 793, 810-11 (1998).

Further, and specifically with contracts that incorporate by reference other documents, courts have held that parties may incorporate by reference into their contract the terms of some other document. Each case must turn on its facts. But for the terms of another document to be incorporated into the document executed by the parties the reference ***must be clear and unequivocal***, the reference must be called to the attention of the other party and he must consent thereto, and the ***terms of the incorporated document must be known*** or easily available ***to the contracting parties***. *Id.* at 814; *Avery v. Integrated Healthcare Holdings, Inc.*, 218 Cal. App. 4th 50, 66 (2013); *Satomi Owners Ass’n v. Satomi, LLC*, 167 Wn.2d 781, 801, 225 P.3d 213 (2009); *In re Premiera Blue Cross Customer Data Sec. Breach Litig.*, 2017 U.S. Dist. LEXIS 18322 \*34 (D.Ore Feb. 9, 2017).

“Unequivocal” is a strong word. “Unequivocal” means “[u]nambiguous; clear; ***free from uncertainty***.” BLACKS LAW DICTIONARY (2<sup>nd</sup> pocket ed.), West Group, 2001, 733 (emphasis added). In this case, the PWA’s cannot be “unequivocal”<sup>5</sup> as to the reference of the MSA because

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<sup>5</sup>Further, in the case of an ambiguity, the language is construed against the drafter. *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481 (2005). Because the language cannot

the PWA's reference a contract that does not exist. Similarly, because the MSA referenced does not exist, the terms cannot be known to the contracting parties. As a result, the MSA does not apply to this matter.

### **Direct's Motion to Compel**

Since the beginning of this matter, Century has maintained that Direct has untimely fulfilled its obligations under the contracts. In its first set of discovery requests, Direct requested the following: "For each of the Properties, please produce a copy of any document showing the deadlines, dates, or schedules by which DGP was to perform work at the Properties, but failed to perform. Please also produce any communication of these deadlines, dates, or schedules to DGP." Although Century has produced references to meeting calendars, letters involving purported issues at the properties, survey sheets and the infamous letter of default, it has never produced any contract showing a schedule. Direct believes that this is important to the case, and requests that the Arbitrator compel these productions. Counsel for Direct has requested these documents on several occasions, but Century has not been forthcoming.

### **Conclusion**

For the reasons provided herein, Direct requests that the Arbitrator deny the Motion, except to grant an additional 30-60 days. However, in doing so, Direct requests that the Arbitrator condition this extension on Century cooperating with the filing of a complaint and staying the matter, to preserve Direct's liens and bonds.

Further, Direct requests that the Arbitrator make an early ruling concerning the MSA, and find that the MSA does not apply herein.

Very truly yours,

JOHNSON & GUBLER, P.C.

*/s/ Russell G. Gubler*

Russell G. Gubler  
*For the Firm*

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be found unequivocal, the same language would also inherently be ambiguous. Because Century is the drafter of this language, this language is construed against Century, in favor of Direct.

1 PRIVATE ARBITRATION BEFORE  
2 DONALD WILLIAMS, ESQ., ARBITRATOR

3 DIRECT GRADING & )  
4 PAVING, LLC, a Nevada )  
5 limited liability )  
6 company, )

7 Claimant, )

8 vs. )

9 CENTURY COMMUNITIES OF )  
10 NEVADA, LLC, a Delaware )  
11 limited liability )  
12 company; DOES I through )  
13 X; and ROE CORPORATIONS )  
14 I through X, inclusive, )

15 Respondent. )

16 CENTURY COMMUNITIES OF )  
17 NEVADA, LLC, a Delaware )  
18 limited liability )  
19 company, )

20 Counter-Claimant, )

21 vs. )

22 DIRECT GRADING & )  
23 PAVING, LLC, a Nevada )  
24 limited liability )  
25 company; DOES I through )  
X; and ROE CORPORATIONS )  
I through X, inclusive, )

Counter-Respondent. )

22 VIDEO DEPOSITION of MEL WESTWOOD  
23 Taken on Monday, November 19, 2018  
24 At 10:05 a.m.  
25 At 10100 West Charleston Boulevard, Suite 250  
Las Vegas, Nevada

Reported by: Lori-Ann Landers, CCR 792, RPR

1 A P P E A R A N C E S:

2 For Plaintiff Direct Grading & Paving, LLC

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4 Johnson & Gubler, P.C.  
5 8831 West Sahara Avenue  
6 Las Vegas, Nevada 89117  
7 Email: rgubler@mjohnsonlaw.com

8 For Century Communities of Nevada, LLC

9 OLIVER J. PANCHERI, ESQ.  
10 Santoro Whitmire  
11 10100 West Charleston Boulevard, Suite 250  
12 Las Vegas, Nevada 89135  
13 Email: opancheri@santoronevada.com

14 ALSO PRESENT: CHRISTOPHER BAUGH - VIDEOGRAPHER

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1	I N D E X		
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**Mel Westwood - 11/19/2018**  
**Direct Grading & Paving, LLC vs. Century Communities of Nevada, LLC, et al.**

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1 P R O C E E D I N G S

2 (Defendant's Exhibit 16, Amended Notice of Taking  
3 Deposition of Person Most Knowledgeable at Direct Grading  
4 & Paving, LLC, was marked for identification as of this  
5 date.)

6 THE VIDEOGRAPHER: Good morning. Today is  
7 November 19th, 2018. The time is approximately 10:05  
8 a.m. This begins the video deposition of Mel Westwood.  
9 We are located at Santoro Whitmire, 10100 West Charleston  
10 Boulevard, Suite 250, Las Vegas, Nevada 89135.

11 My name is Christopher Baugh, court videographer  
12 with Las Vegas Legal Video. This is the private  
13 arbitration before Donald Williams, Esquire, in the  
14 matter of Direct Grading & Paving versus Century  
15 Communities of Nevada, et al. This video deposition is  
16 requested by attorneys for the  
17 respondent/counterclaimant.

18 Will counsel please state your appearances for  
19 the record.

20 MR. PANCHERI: Oliver Pancheri for Century  
21 Communities.

22 MR. GUBLER: Russ Gubler on behalf of Direct  
23 Grading & Paving, Mel Westwood.

24 THE VIDEOGRAPHER: The deponent may now be sworn  
25 in by Lori Landers with Depo International.



1 (Witness sworn.)

2 MEL WESTWOOD,

3 having been first duly sworn, was examined and  
4 testified as follows:

5 EXAMINATION

6 BY MR. PANCHERI:

7 Q. All right. Mr. Westwood, we've met before. My  
8 name is Oliver Pancheri. I am an attorney for Century  
9 Communities. I, along with Nick Santoro, represent  
10 Century in this action as well as in the action that's  
11 filed in -- in state court.

12 Do you understand that?

13 A. Yes.

14 Q. And you're represented by counsel today?

15 A. Yes.

16 Q. And that's Mr. Gubler?

17 A. Yes.

18 Q. And you just took an oath. It's the same oath  
19 that you'd take -- you'd take in a court of law. The  
20 penalty of perjury attaches. So the number one  
21 instruction to you here today is to tell the truth.

22 Does that make sense?

23 A. Yes.

24 Q. Now, just a few admonitions before we get into  
25 the deposition.

1 produce documents pertaining to Century Communities and  
2 the BLM haul. She was given invoice documents, trucking  
3 documents, and she was told to pull the BLM contract.  
4 She was told to make sure that she had all the stuff  
5 together, meaning invoicing, truck documents, everything  
6 else. And I told her, "Make sure everything matches up  
7 so that it's complete and then send that over."

8 And she took it upon herself to -- she couldn't  
9 find certain documents for the BLM. She couldn't get the  
10 numbers to match. And she took it upon herself to modify  
11 the BLM document to what she knew as true and correct  
12 quantities. And so instead of adjusting the invoicing to  
13 Century Communities, she adjusted the BLM contract  
14 document.

15 Q. Now, you recall she testified that she tried to  
16 reach you when she found this discrepancy. Do you recall  
17 that?

18 A. She said she'd tried calling and she didn't get  
19 any answer from myself or Don Mayhall.

20 Q. Do you recall getting a call from the office?

21 A. There was multiple calls that day that were  
22 missed. We were working in an area that didn't have  
23 phone service, and so I don't know if the phone didn't  
24 ring through or if it wasn't there.

25 I know that there was text messages when we come

1 up out of the hole, that there was text messages that  
2 popped through. And we contacted her, but she'd already  
3 gone home and said that she'd got everything sent over,  
4 and so that was basically the conversation.

5 Q. So where were you working that you didn't have  
6 the cell phone service?

7 A. I don't know if we were in Amargosa. I'm not  
8 positive what job site we were on.

9 Q. And you say that she texted you as well, though?

10 A. There was a text message that popped up after --  
11 when we come up in the hill, just to call her.

12 Q. So there was a text message from Linda Middleton  
13 to give -- to you for you to call her?

14 A. That is correct.

15 Q. And then you tried to call her back?

16 A. Yes.

17 Q. And she was gone?

18 A. Yes.

19 Q. Did you try her cell phone?

20 A. Yes.

21 Q. And you were calling from your cell phone?

22 A. That is correct.

23 Q. And so there would be a cell phone record of you  
24 trying to call Ms. Middleton on February 8th?

25 A. Yes.

1 Q. As well as the text message from her?

2 A. Yes.

3 Q. Do you know if that text message was produced in  
4 this case?

5 A. I couldn't tell you that.

6 Q. Do you know if you still have it?

7 A. I don't believe so.

8 Q. So you don't think it was preserved?

9 A. No.

10 Q. And that would have been around the date, the  
11 February 8th date, that -- when she said she was trying  
12 to gather the documents?

13 A. That is correct.

14 Q. Okay. Do you know if she sent a text to  
15 Mr. Mayhall as well?

16 A. That, I do not know.

17 Q. Okay. The next topic relates to emails between  
18 any employee of Direct and Scott Prokopchuk. What did  
19 you do to prepare for this topic today?

20 A. I produced most of the documents.

21 Q. When you say you "produced most of the  
22 documents," what are you referring to?

23 A. Most of the communications between Scott  
24 Prokopchuk and Century Communities and Direct Grading,  
25 Mel Westwood, were between us two. Don Mayhall was

REPORTER'S CERTIFICATE

STATE OF NEVADA     )  
                                      ) ss  
COUNTY OF CLARK    )

I, Lori-Ann Landers, a duly commissioned  
Notary Public, Clark County, State of Nevada, do hereby  
certify:

That I reported the taking of the deposition  
of the witness, MEL WESTWOOD, at the time and place  
aforesaid;

That prior to being examined, the witness  
was by me duly sworn to testify to the truth, the whole  
truth, and nothing but the truth;

That I thereafter transcribed my shorthand  
notes into typewriting and that the typewritten  
transcript of said deposition is a complete, true and  
accurate transcription of my said shorthand notes taken  
down at said time to the best of my ability.

I further certify that I am not a relative  
or employee of an attorney or counsel of any of the  
parties, nor a relative or employee of any attorney or  
counsel involved in said action, nor a person financially  
interested in the action; and that transcript review was  
requested.

IN WITNESS WHEREOF, I have hereunto set my  
hand in the County of Clark, State of Nevada, this 19th  
day of November 2018.

LORI-ANN LANDERS, CCR 792, RPR

1 DONALD H. WILLIAMS, ESQ.  
2 Nevada Bar No. 5548  
3 Dwilliams@dhwlawlv.com  
4 WILLIAMS ❖ STARBUCK  
5 612 South Tenth Street  
6 Las Vegas, Nevada 89101  
7 (702) 320-7755 (Phone)  
8 (702) 320-7760 (Facsimile)  
9 **Arbitrator**

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DISTRICT COURT

CLARK COUNTY, NEVADA

DIRECT GRADING & PAVING, LLC, )  
a Nevada limited liability company; )

Plaintiff, )

vs. )

CENTURY COMMUNITIES OF )  
NEVADA, LLC, a Delaware limited )  
liability company; DOES I through X; )  
and ROE CORPORATIONS I through )  
X, inclusive, )

Defendants. )

\_\_\_\_\_) )  
CENTURY COMMUNITIES OF )  
NEVADA, LLC; )

Defendant/ Counterclaimant, )

vs. )

DIRECT GRADING & PAVING, )  
LLC, )

Plaintiff/ Counterdefendant, )

**AMENDED ORDER REGARDING CENTURY'S MOTION FOR DISCOVERY**

**SANCTIONS AGAINST DIRECT REGARDING (1) FALSIFICATION OF**

DIRECT001416

**EVIDENCE; (2) SPOILIATION OF EVIDENCE; AND (3) FAILURE TO COMPLY  
WITH THE ARBITRATOR'S ORDERS AND MOTION TO EXPUNGE LIENS  
RECORDED AGAINST CENTURY'S PROPERTIES PURSUANT TO NRS 108.2275  
AND 108.2421.**

**TO: RUSSEL G. GUBLER, ESQ. and MATT JOHNSON, ESQ., JOHNSON  
& GUBLER, P.C.,** attorneys for Plaintiff/Counterdefendant Direct Grading &  
Paving, LLC.

**TO: NICHOLAS J. SANTORO, ESQ. and OLIVER J. PANCHERI, ESQ.,  
SANTORO WHITMIRE,** attorneys for Defendant/ Counterclaimant Century  
Communities of Nevada.

The above referenced Motion came before the undersigned Arbitration on April 5<sup>th</sup>,  
2019. Said Motion and Opposition has been properly briefed and argued. After a thorough  
review of the briefs and of the record in this case, the Arbitrator finds as follows.

The Arbitrator has authority to enforce Orders. The Arbitrator has specific authority  
to issue appropriate sanctions where a party has failed to comply with the Arbitrator's  
Orders. *CAA Construction Industry Rule 25(d), et. al.*

The Arbitrator does not feel compelled at this time to strike any of the claims in this  
case. The Arbitrator may revisit this issue upon completion of Discovery. Having said that,  
the Arbitrator is bothered, to say the least, regarding the conduct of Linda Middleton and the  
fraudulent billing practice related to the BLM documents. While the Arbitrator is not moved  
at this time to question all of the documentation provided by Direct in support of its claims,  
the alteration of said documentation by Ms. Middleton is an abomination. Ms. Middleton  
admitted she altered the subject BLM documents. *See Middleton deposition transcript at  
page 12.* Ms. Middleton was an employee of Direct at the time of the alteration. She  
remains employed at Direct. Direct is responsible for her actions under the Doctrine of  
respondeat superior.

///

1 Furthermore, Ms. Middleton and other Direct employees have seemingly failed to  
2 preserve evidence in this case. The Arbitrator will not make a ruling with regard to the failure  
3 to preserve evidence at this time, but reserves the right to Supplement this Order or make a  
4 further ruling on the same at the conclusion of Discovery.

5 When the issues of document preservation, etc., came up in this case, Century  
6 retained an independent third-party information technology specialist to perform a sweep of  
7 Ms. Middleton's computer, as well as other functions. Michael Holpuch discovered that Direct  
8 had upgraded Ms. Middleton's computer two (2) days after the March 2018 Order. The  
9 Arbitrator is disturbed, to say the least, that computers in this matter were being upgraded  
10 while in the midst of a discovery dispute.

11 The Arbitrator is not thoroughly convinced at this time that Direct engaged in a  
12 spoliation of evidence. At this time, as noted above, the Arbitrator is convinced, based on the  
13 admission of Ms. Middleton, that evidence has been altered.

14 Sanctions against Direct must be severe for failure to comply with the Arbitrators  
15 orders.

16 IS HEREBY ORDERED THAT Plaintiff/Counterdefendant pay the sum of  
17 \$130,000.00 as and for sanctions. Said sanction is to be paid within thirty (30) days from the  
18 date of this order. To the extent that said sanction is not timely paid, the Arbitrator will  
19 consider other appropriate sanctions.

20 IT SO ORDERED this 3<sup>rd</sup> day of May, 2019.

21 WILLIAMS ♦ STARBUCK

22   
23 DONALD H. WILLIAMS, ESQ.

24 Nevada Bar No. 5548  
25 612 South Tenth Street  
26 Las Vegas, Nevada 89101  
27 *Arbitrator*  
28



WILLIAMS ♦ STARBUCK  
Attorneys at Law  
612 South Tenth Street  
Las Vegas, NV 89101  
Telephone: (702) 320-7755 Facsimile: (702) 320-7760

DONALD H. WILLIAMS, ESQ.  
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612 South Tenth Street  
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(702) 320-7755 (Phone)  
(702) 320-7760 (Facsimile)  
*Arbitrator*

DISTRICT COURT  
CLARK COUNTY, NEVADA

DIRECT GRADING & PAVING, LLC, )  
a Nevada limited liability company; )  
Plaintiff, )  
vs. )  
CENTURY COMMUNITIES OF )  
NEVADA, LLC, a Delaware limited )  
liability company; DOES I through X; )  
and ROE CORPORATIONS I through )  
X, inclusive, )  
Defendants. )

CENTURY COMMUNITIES OF )  
NEVADA, LLC; )  
Defendant/ Counterclaimant, )  
vs. )  
DIRECT GRADING & PAVING, )  
LLC, )  
Plaintiff/ Counterdefendant, )

ORDER REGARDING CENTURY'S MOTION FOR CLARIFICATION AND  
RECONSIDERATION OF ARBITRATOR'S MAY 15, 2019 ORDER REGARDING

1 **CENTURY'S MOTION FOR DISCOVERY SANCTIONS AGAINST DIRECT**  
2 **REGARDING (1) FALSIFICATION OF EVIDENCE; (2) SPOILIATION OF**  
3 **EVIDENCE; AND (3) FAILURE TO COMPLY WITH THE ARBITRATOR'S**  
4 **ORDERS AND MOTION TO EXPUNGE LIENS RECORDED AGAINST**  
5 **CENTURY'S PROPERTIES PURSUANT TO NRS 108.2275 AND 108.2421;**  
6 **ARBITRATOR'S PROPOSED REVISED DISCOVERY ORDER AND ORDER FOR**  
7 **ARBITRATION HEARING**

8 **TO: RUSSEL G. GUBLER, ESQ. and MATT JOHNSON, ESQ., JOHNSON**  
9 **& GUBLER, P.C., attorneys for Plaintiff/Counterdefendant Direct Grading &**  
10 **Paving, LLC.**

11 **TO: NICHOLAS J. SANTORO, ESQ. and OLIVER J. PANCHERI, ESQ.,**  
12 **SANTORO WHITMIRE, attorneys for Defendant/ Counterclaimant Century**  
13 **Communities of Nevada.**

14 The Arbitrator having considered Century's Motion for Clarification with regard to  
15 the Arbitrator's Decision dated May 15, 2019, the Opposition filed by Direct, and the Reply  
16 filed by Century, rules as follows:

- 17 1) The Arbitrator's previous ruling was clear and unambiguous regarding the  
18 sanction against Direct, based upon the conduct of Ms. Middleton; the Arbitrator  
19 appropriately sanctioned Direct the sum of \$130,000.00 and ordered said  
20 sanctions to be paid within 30 days of that Order, and if not paid the arbitrator  
21 would consider other appropriate sanctions.
- 22 2) Expunging the entire lien, based upon what has been presented to date would be  
23 inappropriate at this juncture. But, to the extent that the abovementioned sanction  
24 is not paid within 30 days of the date of this Order, Direct's mechanic's lien will  
25 be reduced in the amount of \$130,000.00, which, of course will reduce the bond  
26 claim in the same amount. To the extent that such lien is reduced, the Arbitrator at  
27 that time will reconsider its previous ruling regarding the request of Century for  
28 attorneys fees and costs.

1 3) The parties have done an appropriate job in adequately briefing the issues, to date;  
2 the demand for an evidentiary hearing on the renewed Motion is therefore  
3 respectfully denied.

4 4) The parties are to prepare a Joint Recommendation for consideration by the  
5 Arbitrator with regard to proposed additional discovery. The Arbitrator Orders  
6 that the parties finish all additional discovery by May 15, 2020. The Arbitrator  
7 further Orders that the parties be prepared to Arbitrate this case by July 1, 2020.

8 IT SO ORDERED this 9 day of September, 2019.

9 WILLIAMS ❖ STARBUCK

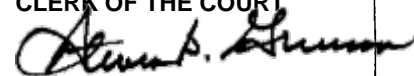
10  
11 DONALD H. WILLIAMS, ESQ.

12 Nevada Bar No. 5548

13 612 South Tenth Street

14 Las Vegas, Nevada 89101

15 *Arbitrator*  
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Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: rgubler@mjohnsonlaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,

Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, L.L.C., a Nevada limited  
liability company; ARGONAUT  
INSURANCE COMPANY; DOES I  
through X, and ROES  
CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

**NOTICE OF FORECLOSURE**

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

On or about June 26, 2018, Direct Grading & Paving, L.L.C. filed a complaint against  
Defendants with the Clerk of the Court, to foreclose the recorded lien, affecting the below  
mentioned real property.

NOTICE TO ANY AND ALL PERSONS holding or claiming interest in the real property,

DIRECT001422

1 including but not limited to those holding or claiming a lien or liens under the provisions of NRS  
2 108.221 through 108.246, described by the Clark County Assessor as the parcels known as APN  
3 176-05-222-001 through 176-05-222-076, 176-05-715-001 through 176-05-715-006, 176-05-  
4 223-001 through 176-05-223-037, 176-05-613-001 through 176-05-613-062, 176-05-117-001  
5 through 176-05-117-025, 176-05-610-001 through 176-05-610-029, 176-05-611-001 through  
6 176-05-611-049, 176-05-612-001 through 176-05-612-003, 176-05-511-001 through 176-05-  
7 511-034, and 176-05-202-002, and more particularly described as (See Exhibit A), are notified to  
8 file with the Clerk of the District Court of Clark County, Nevada and serve on Direct Grading &  
9 Paving, L.L.C., in care of Johnson & Gubler, P.C., 8831 W. Sahara Ave., Las Vegas, NV 89117,  
10 702-471-0065 (phone), 702-471-0075 (facsimile), Attorney for Direct Grading & Paving, L.L.C.,  
11 and Defendants, a written statement of facts constituting their liens, including the dates and  
12 amounts thereof, within ten (10) days after the last publication of this notice.  
13

14  
15 DATED this 10<sup>th</sup> day of February, 2020.

16  
17 JOHNSON & GUBLER, P.C.

18 

19 Matthew L. Johnson

20 Russell G. Gubler

21 Ashveen S. Dhillon

22 Lakes Business Park

23 8831 West Sahara Avenue

24 Las Vegas, Nevada 89117  
25  
26  
27  
28

## Exhibit A

### Parcel 1:

Lots One (1) through Thirty-Four (34), inclusive; Lots Fifty-Four (54) through Sixty-Three (63), inclusive and Lots Sixty-Five (65) through Ninety-Four (94), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 2:

Lots One Hundred Twenty (120) through One Hundred Twenty-Five (125), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 3:

Lots One Hundred Sixty-One (161) through One Hundred Ninety-Seven (197), inclusive of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 52, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 4:

Lots Two Hundred Thirty (230) through Two Hundred Ninety-One (291), inclusive of FINAL MAP OF FREEWAY 50 PHASE 5 & 7 as shown by map thereof on file in Book 151 of Plats, Page 92, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 5:

Lot Three Hundred Nine (309) through Three Hundred Thirty-Three (333), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 6:

Lot Thirty-Five (35) through Fifty-Three (53), inclusive; Lot Sixty Four (64); and Lots Ninety-Five (95) through One Hundred Three (103), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.

Parcel 7:

Lots One Hundred Four (104) through One Hundred Nineteen (119), inclusive; and Lots One Hundred Twenty-Six (126) through One Hundred Fifty-Eight (158), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 8:

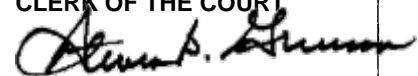
Lots One Hundred Fifty-Nine (159), One Hundred Sixty (160) and One Hundred Ninety-Eight (198) of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 9:

Lots Two Hundred Ninety-Two (292) through Three Hundred Eight (308), inclusive; and Lots Three Hundred Thirty-Four (334) through Three Hundred Fifty (350), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

Parcel 10:

The North Half (N  $\frac{1}{2}$ ) of the Northeast Quarter (NE  $\frac{1}{4}$ ) of the Southeast Quarter (SE  $\frac{1}{4}$ ) of the Northwest Quarter (NW  $\frac{1}{4}$ ) of Section 4, Township 22 South, Range 60 East, M.D.M.



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: rgubler@mjohnsonlaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,

Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, L.L.C., a Nevada limited  
liability company; ARGONAUT  
INSURANCE COMPANY; DOES I  
through X, and ROES  
CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

**NOTICE OF FORECLOSURE**

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

On or about June 26, 2018, Direct Grading & Paving, L.L.C. filed a complaint against  
Defendants with the Clerk of the Court, to foreclose the recorded lien, affecting the below  
mentioned real property.

NOTICE TO ANY AND ALL PERSONS holding or claiming interest in the real property,

DIRECT001426



1 including but not limited to those holding or claiming a lien or liens under the provisions of NRS  
2 108.221 through 108.246, described by the Clark County Assessor as the parcels known as APN  
3 191-23-515-001 through 191-23-515-082, and 191-23-516-001 through 191-23-516-086, and  
4 more particularly described as (See Exhibit A), are notified to file with the Clerk of the District  
5 Court of Clark County, Nevada and serve on Direct Grading & Paving, L.L.C., in care of Johnson  
6 & Gubler, P.C., 8831 W. Sahara Ave., Las Vegas, NV 89117, 702-471-0065 (phone), 702-471-  
7 0075 (facsimile), Attorney for Direct Grading & Paving, L.L.C., and Defendants, a written  
8 statement of facts constituting their liens, including the dates and amounts thereof, within ten (10)  
9 days after the last publication of this notice.  
10

11  
12 DATED this 10<sup>th</sup> day of February, 2020.

13 JOHNSON & GUBLER, P.C.

14 

15 Matthew L. Johnson

16 Russell G. Gubler

17 Ashveen S. Dhillon

18 Lakes Business Park

19 8831 West Sahara Avenue

20 Las Vegas, Nevada 89117

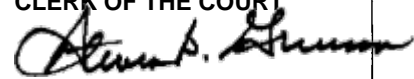
**Exhibit A**

**Parcel 1:**

Lot One (1) through Thirty (30), inclusive; and Lots One Hundred Seventeen (117) through One Hundred Sixty-Eight (168), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 1 as shown by map thereof on file in Book 151 of Plats, Page 7, in the Office of the County Recorder, Clark County, Nevada.

**Parcel 2:**

Lots Thirty-One (31) through One Hundred Sixteen (116), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 2 as shown by map thereof on file in Book 151 of Plats, Page 8, in the Office of the County Recorder, Clark County, Nevada.



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
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Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: rgubler@mjohnsonlaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,

Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, L.L.C., a Nevada limited  
liability company; ARGONAUT  
INSURANCE COMPANY; DOES I  
through X, and ROES  
CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

**NOTICE OF FORECLOSURE**

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

On or about June 26, 2018, Direct Grading & Paving, L.L.C. filed a complaint against  
Defendants with the Clerk of the Court, to foreclose the recorded lien, affecting the below  
mentioned real property.

NOTICE TO ANY AND ALL PERSONS holding or claiming interest in the real property,

DIRECT001429

1 including but not limited to those holding or claiming a lien or liens under the provisions of NRS  
2 108.221 through 108.246, described by the Clark County Assessor as the parcels known as APN  
3 160-27-119-001 through 160-27-119-011, 160-27-215-001 through 160-27-215-002, 160-27-  
4 614-001 through 160-27-614-009, 160-27-511-001 through 160-27-511-004, 160-27-214-001  
5 through 160-27-214-013, 160-27-612-001 through 160-27-612-005, 160-27-612-008 through  
6 160-27-612-013, and 160-27-214-016, and more particularly described as (See Exhibit A), are  
7 notified to file with the Clerk of the District Court of Clark County, Nevada and serve on Direct  
8 Grading & Paving, L.L.C., in care of Johnson & Gubler, P.C., 8831 W. Sahara Ave., Las Vegas,  
9 NV 89117, 702-471-0065 (phone), 702-471-0075 (facsimile), Attorney for Direct Grading &  
10 Paving, L.L.C., and Defendants, a written statement of facts constituting their liens, including the  
11 dates and amounts thereof, within ten (10) days after the last publication of this notice.  
12

13  
14 DATED this 10<sup>th</sup> day of February, 2020.  
15

16 JOHNSON & GUBLER, P.C.

17   
18 \_\_\_\_\_  
19 Matthew L. Johnson  
20 Russell G. Gubler  
21 Ashveen S. Dhillon  
22 Lakes Business Park  
23 8831 West Sahara Avenue  
24 Las Vegas, Nevada 89117  
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Exhibit A

Parcel 1:

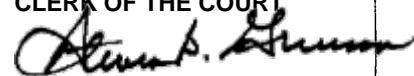
Lots Ten (10) through Twenty (20), inclusive; and Lots 25A and 26A of AMENDED PLAT OF A PORTION OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 152 of Page 5, in the Office of the County Recorder, Clark County, Nevada.

Parcel 2:

Lots 32A, 33A, 44A through 49A, inclusive and Common Elements D and E of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.

Parcel 3:

Lots 1 (One) through Nine (9), inclusive, Lots Twenty-One (21) through Twenty-Four (24), inclusive, Lots Twenty-Seven (27) through Thirty-One (31), inclusive, Lot Thirty-Four (34), Lots Thirty-Five (35) through Forty-Three (43), inclusive of of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: rgubler@mjohnsonlaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,

Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, L.L.C., a Nevada limited  
liability company; ARGONAUT  
INSURANCE COMPANY; DOES I  
through X, and ROES  
CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

**NOTICE OF FORECLOSURE**

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

On or about June 26, 2018, Direct Grading & Paving, L.L.C. filed a complaint against  
Defendants with the Clerk of the Court, to foreclose the recorded lien, affecting the below  
mentioned real property.

NOTICE TO ANY AND ALL PERSONS holding or claiming interest in the real property,

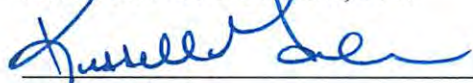
DIRECT001432



1 including but not limited to those holding or claiming a lien or liens under the provisions of NRS  
2 108.221 through 108.246, described by the Clark County Assessor as the parcels known as APN  
3 176-17-314-001 through 176-17-314-021, 176-17-314-023 through 176-17-314-024, 176-17-  
4 314-027 through 176-17-314-034, and 176-17-415-001 through 176-17-415-013, and more  
5 particularly described as (See Exhibit A), are notified to file with the Clerk of the District Court  
6 of Clark County, Nevada and serve on Direct Grading & Paving, L.L.C., in care of Johnson &  
7 Gubler, P.C., 8831 W. Sahara Ave., Las Vegas, NV 89117, 702-471-0065 (phone), 702-471-0075  
8 (facsimile), Attorney for Direct Grading & Paving, L.L.C., and Defendants, a written statement  
9 of facts constituting their liens, including the dates and amounts thereof, within ten (10) days after  
10 the last publication of this notice.  
11

12  
13 DATED this 10th day of February, 2020

14  
15 JOHNSON & GUBLER, P.C.

16 

17 Matthew L. Johnson

18 Russell G. Gubler

19 Ashveen S. Dhillon

20 Lakes Business Park

21 8831 West Sahara Avenue

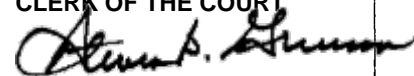
22 Las Vegas, Nevada 89117  
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**Exhibit A**

**Phase 5:**

**Lot One (1) through Forty-Four (44), inclusive; inclusive of FINAL MAP OF RHOADES RANCH SOUTH PHASE 5, as shown by map thereof on file in Book 153 of plats, Page 049, in the Office of the County Recorder, Clark County, Nevada.**





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Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
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CENTURY COMMUNITIES OF  
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liability company; ARGONAUT  
INSURANCE COMPANY; DOES I  
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CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

**NOTICE OF LIS PENDENS**

Please take notice that an action was commenced and is pending in the above-entitled court to enforce Direct Grading & Paving, L.L.C.'s claims alleged in its suit affecting certain real property and improvements, described by the Clark County Assessor as the parcels known as APN 176-05-222-001 through 176-05-222-076, 176-05-715-001 through 176-05-715-006, 176-05-223-001 through 176-05-223-037, 176-05-613-001 through 176-05-613-062, 176-05-117-001 through 176-05-117-025, 176-05-610-001 through 176-05-610-029, 176-05-611-001 through 176-05-611-049, 176-05-612-001 through 176-05-612-003, 176-05-511-001 through 176-05-

DIRECT001435

1 511-034, and 176-05-202-002.

2 And more particularly described as: See Exhibit A.

3 DATED this 10<sup>th</sup> day of February, 2020.

4  
5 JOHNSON & GUBLER, P.C.

6 

7 Matthew L. Johnson

8 Russell G. Gubler

9 Ashveen S. Dhillon

10 Lakes Business Park

11 8831 West Sahara Avenue

12 Las Vegas, Nevada 89117

## Exhibit A

### Parcel 1:

Lots One (1) through Thirty-Four (34), inclusive; Lots Fifty-Four (54) through Sixty-Three (63), inclusive and Lots Sixty-Five (65) through Ninety-Four (94), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 2:

Lots One Hundred Twenty (120) through One Hundred Twenty-Five (125), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 3:

Lots One Hundred Sixty-One (161) through One Hundred Ninety-Seven (197), inclusive of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 52, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 4:

Lots Two Hundred Thirty (230) through Two Hundred Ninety-One (291), inclusive of FINAL MAP OF FREEWAY 50 PHASE 5 & 7 as shown by map thereof on file in Book 151 of Plats, Page 92, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 5:

Lot Three Hundred Nine (309) through Three Hundred Thirty-Three (333), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 6:

Lot Thirty-Five (35) through Fifty-Three (53), inclusive; Lot Sixty Four (64); and Lots Ninety-Five (95) through One Hundred Three (103), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.

Parcel 7:

Lots One Hundred Four (104) through One Hundred Nineteen (119), inclusive; and Lots One Hundred Twenty-Six (126) through One Hundred Fifty-Eight (158), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 8:

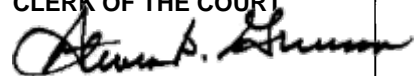
Lots One Hundred Fifty-Nine (159), One Hundred Sixty (160) and One Hundred Ninety-Eight (198) of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 9:

Lots Two Hundred Ninety-Two (292) through Three Hundred Eight (308), inclusive; and Lots Three Hundred Thirty-Four (334) through Three Hundred Fifty (350), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

Parcel 10:

The North Half (N  $\frac{1}{2}$ ) of the Northeast Quarter (NE  $\frac{1}{4}$ ) of the Southeast Quarter (SE  $\frac{1}{4}$ ) of the Northwest Quarter (NW  $\frac{1}{4}$ ) of Section 4, Township 22 South, Range 60 East, M.D.M.



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
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Lakes Business Park  
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Las Vegas, NV 89117  
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Fax: (702) 471-0075  
Email: rgubler@mjohnsonlaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,

Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, L.L.C., a Nevada limited  
liability company; ARGONAUT  
INSURANCE COMPANY; DOES I  
through X, and ROES  
CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

**NOTICE OF LIS PENDENS**

Please take notice that an action was commenced and is pending in the above-entitled court to enforce Direct Grading & Paving, L.L.C.'s claims alleged in its suit affecting certain real property and improvements, described by the Clark County Assessor as the parcels known as APN 191-23-515-001 through 191-23-515-082, and 191-23-516-001 through 191-23-516-086. And more particularly described as: See Exhibit A.

DIRECT001439

1 DATED this 10<sup>th</sup> day of February, 2020.  
2  
3

4 JOHNSON & GUBLER, P.C.  
5

6 Matthew L. Johnson  
7

8 Russell G. Gubler  
9

10 Ashveen S. Dhillon  
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12 Lakes Business Park  
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14 8831 West Sahara Avenue  
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16 Las Vegas, Nevada 89117  
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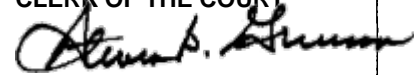
Exhibit A

Parcel 1:

Lot One (1) through Thirty (30), inclusive; and Lots One Hundred Seventeen (117) through One Hundred Sixty-Eight (168), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 1 as shown by map thereof on file in Book 151 of Plats, Page 7, in the Office of the County Recorder, Clark County, Nevada.

Parcel 2:

Lots Thirty-One (31) through One Hundred Sixteen (116), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 2 as shown by map thereof on file in Book 151 of Plats, Page 8, in the Office of the County Recorder, Clark County, Nevada.



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*Attorneys for Plaintiff*

**DISTRICT COURT**

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INSURANCE COMPANY; DOES I  
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Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

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DIRECT001442



1 160-27-612-013, and 160-27-214-016.

2 And more particularly described as: See Exhibit A.

3 DATED this 10<sup>th</sup> day of February, 2020.

4  
5 JOHNSON & GUBLER, P.C.

6 

7 Matthew L. Johnson

8 Russell G. Gubler

9 Ashveen S. Dhillon

10 Lakes Business Park

11 8831 West Sahara Avenue

12 Las Vegas, Nevada 89117

**Exhibit A**

**Parcel 1:**

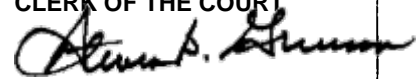
**Lots Ten (10) through Twenty (20), inclusive; and Lots 25A and 26A of AMENDED PLAT OF A PORTION OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 152 of Page 5, in the Office of the County Recorder, Clark County, Nevada.**

**Parcel 2:**

**Lots 32A, 33A, 44A through 49A, inclusive and Common Elements D and E of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.**

**Parcel 3:**

**Lots 1 (One) through Nine (9), inclusive, Lots Twenty-One (21) through Twenty-Four (24), inclusive, Lots Twenty-Seven (27) through Thirty-One (31), inclusive, Lot Thirty-Four (34), Lots Thirty-Five (35) through Forty-Three (43), inclusive of of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.**



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*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,

Plaintiff,

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Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

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And more particularly described as: See Exhibit A.

DIRECT001445

1 DATED this 10<sup>th</sup> day of February, 2020.

2 JOHNSON & GUBLER, P.C.

3 

4 Matthew L. Johnson

5 Russell G. Gubler

6 Ashveen S. Dhillon

7 Lakes Business Park

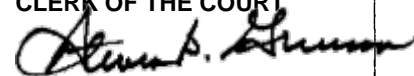
8 8831 West Sahara Avenue

9 Las Vegas, Nevada 89117

**Exhibit A**

**Phase 5:**

**Lot One (1) through Forty-Four (44), inclusive; inclusive of FINAL MAP OF RHOADES RANCH SOUTH PHASE 5, as shown by map thereof on file in Book 153 of plats, Page 049, in the Office of the County Recorder, Clark County, Nevada.**



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Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

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DIRECT001448

1 511-034, and 176-05-202-002.

2 And more particularly described as: See Exhibit A.

3 DATED this 10<sup>th</sup> day of February, 2020.

4  
5 JOHNSON & GUBLER, P.C.

6 

7 Matthew L. Johnson

8 Russell G. Gubler

9 Ashveen S. Dhillon

10 Lakes Business Park

11 8831 West Sahara Avenue

12 Las Vegas, Nevada 89117

## Exhibit A

### Parcel 1:

Lots One (1) through Thirty-Four (34), inclusive; Lots Fifty-Four (54) through Sixty-Three (63), inclusive and Lots Sixty-Five (65) through Ninety-Four (94), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 2:

Lots One Hundred Twenty (120) through One Hundred Twenty-Five (125), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

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Lots One Hundred Sixty-One (161) through One Hundred Ninety-Seven (197), inclusive of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 52, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 4:

Lots Two Hundred Thirty (230) through Two Hundred Ninety-One (291), inclusive of FINAL MAP OF FREEWAY 50 PHASE 5 & 7 as shown by map thereof on file in Book 151 of Plats, Page 92, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 5:

Lot Three Hundred Nine (309) through Three Hundred Thirty-Three (333), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

### Parcel 6:

Lot Thirty-Five (35) through Fifty-Three (53), inclusive; Lot Sixty Four (64); and Lots Ninety-Five (95) through One Hundred Three (103), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.



Parcel 7:

Lots One Hundred Four (104) through One Hundred Nineteen (119), inclusive; and Lots One Hundred Twenty-Six (126) through One Hundred Fifty-Eight (158), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 8:

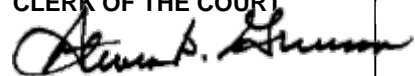
Lots One Hundred Fifty-Nine (159), One Hundred Sixty (160) and One Hundred Ninety-Eight (198) of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 9:

Lots Two Hundred Ninety-Two (292) through Three Hundred Eight (308), inclusive; and Lots Three Hundred Thirty-Four (334) through Three Hundred Fifty (350), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

Parcel 10:

The North Half (N ½) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section 4, Township 22 South, Range 60 East, M.D.M.



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
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**DISTRICT COURT**

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through X, and ROES  
CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

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DIRECT001452

1 DATED this 10<sup>th</sup> day of February, 2020.

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4 JOHNSON & GUBLER, P.C.

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Matthew L. Johnson  
Russell G. Gubler  
Ashveen S. Dhillon  
Lakes Business Park  
8831 West Sahara Avenue  
Las Vegas, Nevada 89117

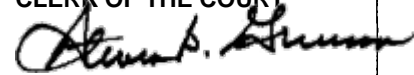
Exhibit A

Parcel 1:

Lot One (1) through Thirty (30), inclusive; and Lots One Hundred Seventeen (117) through One Hundred Sixty-Eight (168), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 1 as shown by map thereof on file in Book 151 of Plats, Page 7, in the Office of the County Recorder, Clark County, Nevada.

Parcel 2:

Lots Thirty-One (31) through One Hundred Sixteen (116), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 2 as shown by map thereof on file in Book 151 of Plats, Page 8, in the Office of the County Recorder, Clark County, Nevada.



Matthew L. Johnson (6004)  
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Defendant(s).

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Case No.: A-18-773139-C

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DIRECT001455

1 160-27-612-013, and 160-27-214-016.

2 And more particularly described as: See Exhibit A.

3 DATED this 10<sup>th</sup> day of February, 2020.

4  
5 JOHNSON & GUBLER, P.C.

6 

7 Matthew L. Johnson

8 Russell G. Gubler

9 Ashveen S. Dhillon

10 Lakes Business Park

11 8831 West Sahara Avenue

12 Las Vegas, Nevada 89117

**Exhibit A**

**Parcel 1:**

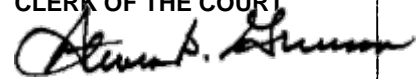
**Lots Ten (10) through Twenty (20), inclusive; and Lots 25A and 26A of AMENDED PLAT OF A PORTION OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 152 of Page 5, in the Office of the County Recorder, Clark County, Nevada.**

**Parcel 2:**

**Lots 32A, 33A, 44A through 49A, inclusive and Common Elements D and E of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.**

**Parcel 3:**

**Lots 1 (One) through Nine (9), inclusive, Lots Twenty-One (21) through Twenty-Four (24), inclusive, Lots Twenty-Seven (27) through Thirty-One (31), inclusive, Lot Thirty-Four (34), Lots Thirty-Five (35) through Forty-Three (43), inclusive of of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.**



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: rgubler@mjohnsonlaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,

Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, L.L.C., a Nevada limited  
liability company; ARGONAUT  
INSURANCE COMPANY; DOES I  
through X, and ROES  
CORPORATIONS I through X,  
inclusive,

Defendant(s).

ALL RELATED MATTERS.

Case No.: A-18-773139-C

Dept. No.: XXXII

**NOTICE OF LIS PENDENS**

Please take notice that an action was commenced and is pending in the above-entitled court to enforce Direct Grading & Paving, L.L.C.'s claims alleged in its suit affecting certain real property and improvements, described by the Clark County Assessor as the parcels known as APN 176-17-314-001 through 176-17-314-021, 176-17-314-023 through 176-17-314-024, 176-17-314-027 through 176-17-314-034, and 176-17-415-001 through 176-17-415-013.

And more particularly described as: See Exhibit A.

DIRECT001458



1 DATED this 10<sup>th</sup> day of February, 2020.

2 JOHNSON & GUBLER, P.C.

3 

4 Matthew L. Johnson

5 Russell G. Gubler

6 Ashveen S. Dhillon

7 Lakes Business Park

8 8831 West Sahara Avenue

9 Las Vegas, Nevada 89117

**Exhibit A**

**Phase 5:**

**Lot One (1) through Forty-Four (44), inclusive; inclusive of FINAL MAP OF RHOADES RANCH SOUTH PHASE 5, as shown by map thereof on file in Book 153 of plats, Page 049, in the Office of the County Recorder, Clark County, Nevada.**

Nicholas J. Santoro  
James E. Whitmire  
Andrew J. Glendon  
Oliver J. Pancheri  
Jason D. Smith  
Kyle M. Wyant

10100 W Charleston Blvd, Ste.250 Las Vegas, Nevada 89135  
(702) 948-8771 FAX (702) 948-8773



SANTORO WHITMIRE

March 11, 2020

***VIA E-MAIL***

Russell G. Gubler, Esq.  
Johnson & Gubler, P.C.  
8831 W. Sahara Avenue  
Las Vegas, Nevada 89117  
Email: [rgubler@mjohnsonlaw.com](mailto:rgubler@mjohnsonlaw.com)

**URGENT**

Re: ***Direct Grading & Paving, LLC v Century Communities of Nevada, LLC, et al.***  
**Case No. A-18-773139-C – Demand to Remove Improperly Recorded Lis  
Pendens and Slander of Title**

Dear Russ:

As I mentioned to you today on the telephone, Century recently discovered newly-recorded Notices of Lis Pendens and Foreclosure (the “Notices”) against the Inspirada, Parkview, Lake Las Vegas and Rhodes Ranch parcels. Our office was never served with the Notices, despite the fact that they were apparently filed with the Court on February 10, 2020. Anything filed with the Court should obviously been served on our office. The Notices never should have been filed with the Court or recorded against the properties.

As you know, bonds were recorded in April 2017 releasing the liens recorded against the Inspirada, Lake Las Vegas, and Parkview projects. Pursuant to NRS 108.2413-108.2415, the recording of the bonds released the liens. Thus, when Direct filed its action with the Court on April 19, 2018, the complaint should not have included any claims to foreclose on the liens for those projects.<sup>1</sup> Century had not bonded around the Rhodes Ranch lien at the time the Complaint was filed, but did subsequently record a bond for that lien as well on September 27, 2018. A copy of the Rhodes Ranch bond is enclosed.

To the extent Direct believed it needed to file and record notices of foreclosure or lis pendens when it filed the complaint nearly two years ago, such notices should have been filed at that time and should have been limited to the Rhodes Ranch lien. However, there was no basis to record the Notices against the properties in February 2020 as bonds had been recorded long before then to remove all of the liens. Direct’s recording of the Notices serves as a potential slander of title and may result in damages to both Century and third-party homebuyers who are

---

<sup>1</sup> Direct conceded as much by including claims against the bonds in the Complaint.

DIRECT001461

Russ Gubler, Esq.

March 11, 2020

Page 2

attempting to sell and/or refinance their homes. This improper action is highly detrimental to Century and must be rectified immediately.

This letter serves as a demand for Direct to immediately expunge and record appropriate releases of the Notices and to cease any and all communications with Century's homebuyers. **Please provide this office with evidence that the Notices have been prepared and submitted to the County for recording by no later than noon tomorrow.** If our office does not receive such evidence, it will be forced to seek emergency relief with the Court and sanctions. Nothing contained in this letter shall serve as a waiver of any right or claim on the part of Century, all of which are expressly reserved.

Very truly yours,

**SANTORO WHITMIRE**

*Oliver J. Pancheri*

Oliver J. Pancheri, Esq.

Enclosure

DIRECT001462



Debbie Conway  
Clark County Recorder  
(702) 455-4336

**Aptitude**  
Clark County, NV Transaction  
#: 3871448

Receipt #: 3522296  
Cashier Date: 9/27/2018 11:37:49 AM  
(DROY)



**Print Date:**  
9/27/2018 11:37:52 AM

Customer Information	Transaction Information	Payment Summary
RICK BARRON 6345 S JONES BLVD #400 LAS VEGAS, NV 89118	Received: FRONT COUNTER Returned: FRONT COUNTER Type: Recording Track #: Bin #:	Total Fees \$40.00 Total Payments \$40.00

### 1 Payments

CASH	\$40.00
------	---------

### 1 Recorded Items

(MISC) MISCELLANEOUS	Instrument #: 201809270001807 BK/PG: 0/0 Date: 9/27/2018 11:14:52 AM
Official Records Fee	7 \$40.00

### 0 Search Items

### 0 Miscellaneous Items

DIRECT001463

Inst #: 20180927-0001807

Fees: \$40.00

09/27/2018 11:14:52 AM

Receipt #: 3522296

Requestor:

RICK BARRON

Recorded By: DROY Pgs: 7

DEBBIE CONWAY

CLARK COUNTY RECORDER

Src: FRONT COUNTER

Ofc: MAIN OFFICE

## RECORDING COVER PAGE

(Must be typed or printed clearly in BLACK ink only  
and avoid printing in the 1" margins of document)

APN# 176-17-314-001 thru 021; 176-17-314-023 thru 024;  
176-17-314-027 thru 034; 176-17-415-001 thru 013

(11 digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>)

## TITLE OF DOCUMENT

(DO NOT Abbreviate)

Bond

Document Title on cover page must appear EXACTLY as the first page of the document  
to be recorded.

### RECORDING REQUESTED BY:

Century Communities

RETURN TO: Name Rick Barron

Address 6345 S. Jones Blvd., #400

City/State/Zip Las Vegas, NV 89118

### MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)

Name

Address

City/State/Zip

This page provides additional information required by NRS 111.312 Sections 1-2.

To print this document properly, do not use page scaling.

P:\Common\Forms & Notices\Cover Page Template Oct2017

DIRECT001464

176-17-314-001 through 176-17-314-021  
176-17-314-023 through 176-17-314-024  
176-17-314-027 through 176-17-314-034  
176-17-415-001 through 176-17-415-013

(Assessor's Parcel Numbers) Bond No. SU 1125385

WHEREAS, Century Communities of Nevada, LLC (name of Principal), located at 6345 S. Jones, Suite 400, Las Vegas, NV 89118 (address of Principal), desires to give a bond for releasing the following described property owned by Century Communities of Nevada, LLC (name of owners) from that certain notice of lien in the sum of Three Hundred Forty Four Thousand Nine Hundred Eighty Eight Dollars and 46/100 Dollars (\$ 344,988.46), recorded June (month) 9th (day) 2017 (year) in the office of the recorder in Clark County (name of county where the property is located):

See Attached Exhibit A

(Legal Description)

NOW THEREFORE, the undersigned Principal and Surety do hereby obligate themselves to the lien claimant named in the notice of lien, Direct Grading & Paving, LLC (name of lien claimant) under the conditions prescribed by NRS 108.2413 to NRS 108.2425, inclusive, in the sum of Five Hundred Seventeen Thousand Four Hundred Eighty Two Dollars and 69/100

(\$ 517,482.69  $\frac{1}{2}$  x lienable amount), from which sum they will pay the lien claimant that amount as a court of competent jurisdiction may adjudge to have been secured by his lien, including the total amount awarded pursuant to NRS 108.237.

IN TESTIMONY WHEREOF, the Principal and Surety have executed this bond at Birmingham, Alabama on the 31st day of the month of August of the year 2018

Century Communities of Nevada, LLC

By [Signature]  
(Signature of Principal)  
Robert M. Beville

Arch Insurance Company

Surety Corporation

By [Signature]

Mark W. Edwards, II Attorney-in-Fact

Nevada Non-Resident Agent:

By [Signature]  
Mark W. Edwards, II

**SIGNED IN COUNTERPART**

DIRECT001465

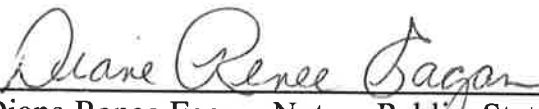
**AFFIDAVIT AND CERTIFICATE OF ACKNOWLEDGEMENT OF  
CORPORATE SURETY**

State of Alabama)

) ss

County of Jefferson)

On this 31st day of August, 2018, before me, appeared Mark W. Edwards, II, to me personally known, who, being by me duly sworn, did say that he is the Attorney-in-Fact of Arch Insurance Company, the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and said Mark W. Edwards, II, acknowledged said instrument to be the free act and deed of said corporation.

  
\_\_\_\_\_  
Diane Renee Eagan, Notary Public, State at Large

My commission expires: April 5, 2022

DIRECT001466



Acknowledgement:

STATE OF NEVADA )

) SS

COUNTY OF CLARK )

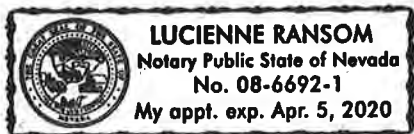
On September 26, 2018 before me, the undersigned, a NOTARY PUBLIC, in and for said County and State, personally appeared Robert M. Beville known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

Lucienne Ransom

Notary Public

My Commission Expires: 4/5/2020



DIRECT001467

**Exhibit A**

**Phase 5:**

**Lot One (1) through Forty-Four (44), inclusive; inclusive of FINAL MAP OF RHOADES RANCH SOUTH PHASE 5, as shown by map thereof on file in Book 153 of plats, Page 049, in the Office of the County Recorder, Clark County, Nevada.**

**DIRECT001468**

**THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON BLUE BACKGROUND.**

***This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.***

## POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Alisa B. Ferris, Anna Childress, Jeffrey M. Wilson, Mark W. Edwards II, Richard H. Mitchell, Robert R. Freel, Ronald B. Giadrosich of Birmingham, AL (EACH)

R. E. Daniels and Shelby E. Daniels of Pensacola, FL (EACH)

its true and lawful Attorney(s) in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (\$90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds In order to bring each such bond within the dollar limit of authority as set forth herein.

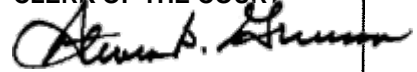
The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2011:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: rgubler@mjohnsonlaw.com  
*Attorneys for Plaintiff,*  
*Direct Grading & Paving, L.L.C.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING,  
L.L.C.,  
Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, LLC, a Nevada limited  
liability company; ARGONAUT  
INSURANCE COMPANY; ARCH  
INSURANCE COMPANY; DOES I  
through X, and ROE  
CORPORATIONS I through X,  
inclusive,  
Defendant.

Case No.: A-18-773139-C

Dept. No.: XXXII

**DIRECT GRADING & PAVING'S  
FIRST AMENDED STATEMENT  
OF FACTS CONSTITUTING LIEN  
AND COMPLAINT**

**NOW COMES** Direct Grading & Paving, L.L.C. ("Direct Grading"), by and through its attorneys, of JOHNSON & GUBLER, P.C., and pursuant to NRS 108.239 and NRS 108.2421 and files its Statement of Facts to support and enforce its Mechanic's Liens recorded with the Clark County Recorder's office as described below.

**STATEMENT OF FACTS**

**A. Inspirada**

1. On April 10, 2017, Direct Grading recorded a certain Notice of Lien in Book Number 20170410, Instrument Number 0000601 in the office of the Clark County Recorder (the "Inspirada Lien").

2. Direct Grading claimed the Inspirada Lien upon the property known as Inspirada, located at the South East Corner of Bicentennial Pkwy and Via Firenze, APN 191-

DIRECT001470

23-515-001 through 191-23-515-082 and 191-23-516-001 through 191-23-516-086 (the “Inspirada Property”). Pursuant to NRS 108.2413 and NRS 108.2415, Century posted a bond, bond number SUR0040824, of which Argonaut is the surety. (“Inspirada Bond”).

The particulars of the Inspirada Lien are as follows:

3. On or about April 12, 2016, Direct Grading and Century entered into an agreement for Direct Grading to complete Mobilization - Finish, Sub Grad Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II onsite, and 2" A/C Paving Onsite on the Inspirada Property.

4. The original amount of Inspirada Contract was \$928,573.84.

5. The total amount of additional or changed work, materials, and equipment was \$1,480,020.55.

6. The total amount of all payments received by Direct Grading for work performed pursuant to the Inspirada Contract was \$2,118,575.84.

7. The amount of the Inspirada Lien, after deducting all just credits and offsets, is \$290,018.55.

**B. Lakes Las Vegas**

8. On April 10, 2017, Direct Grading recorded a certain Notice of Lien in Book Number 20170410, Instrument Number 0000602 in the office of the Clark County Recorder (the “Lakes Las Vegas Lien”).

9. Direct Grading claimed the Lakes Las Vegas Lien upon the property known as Lakes Las Vegas, located at the South East corner of Lake Las Vegas Pkwy and Grand Mediterra Blvd, APN 160-27-119-001 through 160-27-119-011, 160-27-215-001 through 160-27-215-002, 160-27-614-001 through 160-27-614-009, 160-27-511-001 through 160-27-511-004, 160-27-214-001 through 160-27-214-013, 160-27-612-001 through 160-27-612-005, 160-27-612-008 through 160-27-612-013, and 160-27-214-016 (the “Lakes Las Vegas Property”). Pursuant to NRS 108.2413 and NRS 108.2415, Century posted a bond, bond number SUR0040823, of which Argonaut is the surety. (“Lakes Las Vegas Bond”).

1 The particulars of the Lakes Las Vegas Lien are as follows:

2 10. On or about September 3, 2015, Direct Grading and Century entered into an  
3 agreement for Direct Grading to complete Mobilization - Rough, Normal Excavation, Over  
4 Excavation, Hard Dig, Channel Excavation, Import Placement, Slope Excavation, Slope Finish,  
5 Retaining wall cut back, Pad Finish, Sub Grade Prep Parking Areas, and Rip Rap  
6 (D50=6"@12) on the Lakes Las Vegas Property.

7 11. The original amount of Lakes Las Vegas Contract was \$1,369,799.60.

8 12. The total amount of additional or changed work, materials, and equipment was  
9 \$288,713.92.

10 13. The total amount of all payments received by Direct Grading for work  
11 performed pursuant to the Lakes Las Vegas Contract was \$1,357,469.92.

12 14. The amount of the Lakes Las Vegas Lien, after deducting all just credits and  
13 offsets, is \$301,043.48.

14 **C. Freeway 50/Parkview**

15 15. On April 10, 2017, Direct Grading recorded a certain Notice of Lien in Book  
16 Number 20170410, Instrument Number 0000603 in the office of the Clark County Recorder  
17 (the "Freeway 50 Lien").

18 16. Direct Grading claimed the Freeway 50 Lien upon the property known as  
19 Freeway 50/Parkview, located at the North side of Maule at El Capitan, APN 176-05-222-001  
20 through 176-05-222-076, 176-05-715-001 through 176-05-715-006, 176-05-223-001 through  
21 176-05-223-037, 176-05-613-001 through 176-05-613-062, 176-05-117-001 through 176-05-  
22 117-025, 176-05-610-001 through 176-05-610-029, 176-05-611-001 through 176-05-611-049,  
23 176-05-612-001 through 176-05-612-003, 176-05-511-001 through 176-05-511-034, and 176-  
24 05-202-002 (the "Freeway 50 Property"). Pursuant to NRS 108.2413 and NRS 108.2415,  
25 Century posted a bond, bond number SUR0040822, of which Argonaut is the surety ("Freeway  
26 50 Bond").

27 The particulars of the Freeway 50 Lien are as follows:  
28

17. Between October 7, 2014 and June 27, 2016, Direct Grading and Century entered into a series of agreements for Direct Grading to complete the following on the Freeway 50 Property:

- A. Phase 1: mobilize, subgrade reprep curb, curb grade type II, subgrade reprep onsite, subgrade reprep offsite Maule, 4" type II onsite, 4" type II offsite Maule, sawcut ac haul off, 2" ac paving onsite, and 3" ac paving offsite Maule
- B. Phase 2: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, 2" A/C Paving Onsite
- C. Phase 3: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite
- D. Phase 4: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite
- E. Phases 6: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite
- F. Phase 7: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite On or about April 12, 2016, Direct Grading and Century entered into an agreement for Direct Grading to complete Mobilization - Finish, Sub Grad Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II onsite, and 2" A/C Paving Onsite.

18. The original amount of Freeway 50 Contract was \$2,244,232,64.

19. The total amount of additional or changed work, materials, and equipment was \$397,766.80.

20. The total amount of all payments received by Direct Grading for work performed pursuant to the Freeway 50 Contract was \$1,906,136.29.

21. The amount of the Freeway 50 Lien, after deducting all just credits and offsets, is \$735,863.15.

**D. Rhodes Ranch Phase 5**

22. On June 9, 2017, Direct Grading recorded a certain Notice of Lien in Book Number 20170609, Instrument Number 0002317 in the office of the Clark County Recorder (the "Rhodes Lien").

23. Direct Grading claimed the Rhodes Lien upon the property known as Rhodes Ranch Phase 5, located at the North East corner at S. Fort Apache Rd and Access Seeliger St., APN 176-17-314-001 through 176-17-314-021, 176-17-314-023 through 176-17-314-024, 176-17-314-027 through 176-17-314-034, and 176-17-415-001 through 176-17-415-013 (the "Rhodes Property"). Pursuant to NRS 108.2413 and NRS 108.2415, Century posted a bond, bond number SU1125385, of which Arch is the surety. ("Arch Bond").

The particulars of the Rhodes Lien are as follows:

24. On or about April 23, 2015, Direct Grading and Century entered into an agreement for Direct Grading to complete Normal Excavation, Over Excavation, Hard Dig, Pad Finish (49 lots), Sub Grade Prep Parking Areas, Sub Grade Reprep Curb, Curb grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, 2" A/C Paving Onsite, and Sawcut/AC Haul Off on the Rhodes Property.

25. The original amount of Rhodes Contract was \$344,988.46.

26. The total amount of additional or changed work, materials, and equipment was \$0.00.

27. The total amount of all payments received by Direct Grading for work performed pursuant to the Rhodes Contract was \$0.00.



1           28.     The amount of the Rhodes Lien, after deducting all just credits and offsets, is  
2     \$344,988.46.

3           29.     Inspirada Lien, Lakes Las Vegas Lien, Freeway 50 Lien and Rhodes Lien are  
4     collectively known as the "Liens". The Inspirada Property, Lakes Las Vegas Property, Freeway  
5     50 Property, and Rhodes Property are collectively known as the "Properties".

6           30.     The Inspirada Bond, the Lakes Las Vegas Bond, and the Freeway 50 Bond are  
7     collectively known as the "Argonaut Bonds."

8           **WHEREFORE**, Direct Grading prays as follows:

9           1.       That Direct Grading's Liens be enforced, including interest thereon and Direct  
10     Grading's attorney fees and costs;

11          2.       That payment from the aforementioned bonds be made, to pay for the Liens.

12          3.       That Direct Grading's Liens be determined to be superior in priority, if  
13     applicable, to any claims on the aforementioned bonds; and

14          4.       For such other relief deemed appropriate by the Court.

15                   **COMPLAINT**

16           **NOW COMES** Direct Grading, by and through its attorneys, of JOHNSON &  
17     GUBLER, P.C., and complains against the Defendants to support and enforce its Mechanic's  
18     Liens, to collect certain bonds, recorded with the Clark County Recorder's office as described  
19     below.

20                   **PARTIES**

21           31.     Direct Grading is a Nevada limited-liability company, properly doing business in  
22     Nevada.

23           32.     CENTURY COMMUNITIES OF NEVADA, LLC ("Century") is a Nevada  
24     limited liability company, doing business and owning some interest in real property, described  
25     herein in Clark County, Nevada.

26           33.     ARGONAUT INSURANCE COMPANY("Argonaut") was and is a surety  
27     licensed to provide bonds to release real property for certain notices of liens under the  
28     conditions of NRS 108.2413 to NRS 108.2425, inclusive, as well as under NRS 108.237 and

1 any other applicable statute, and did provide the Argonaut Bonds, for Defendant Century, in  
2 order to compensate entities like Plaintiff;

3 34. ARCH INSURANCE COMPANY ("Arch") was and is a surety licensed to  
4 provide bonds to release real property for certain notices of liens under the conditions of NRS  
5 108.2413 to NRS 108.2425, inclusive, as well as under NRS 108.237 and any other applicable  
6 statute, and did provide the Arch Bond for Defendant Century, in order to compensate entities  
7 like Plaintiff;

8 35. Upon information and belief, defendants were and are at all times relevant to this  
9 action, the principals and sureties in those certain bonds identified herein, as well as the owner  
10 in those certain real Properties or portions thereof located in Clark County, Nevada, described  
11 herein, upon which Defendants caused or allowed to be constructed certain improvements.

12 36. The true names and capacities, whether individual, corporate, associate, or  
13 otherwise, of Defendants DOES 1 through X, inclusive, and of Defendants ROE  
14 CORPORATIONS 1 through X, inclusive, are unknown to Plaintiff, who therefore sues these  
15 Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that  
16 each of the Defendants designated herein as a Does 1 through X, inclusive, and as Roe  
17 Corporations 1 through X, inclusive, are responsible in some manner for the events and  
18 happenings herein referred to and caused injury and damages proximately thereby to Plaintiff as  
19 herein alleged, and Plaintiff will ask leave of this Court to amend this Complaint to insert the  
20 true names and capacities of defendants DOE and ROE CORPORATIONS when the same have  
21 been ascertained by Plaintiff, together with appropriate charging allegations, and adjoin such  
22 defendants in this action.

23 37. Upon information and belief of Direct Grading, and at all relevant times herein,  
24 each defendant was acting as an agent, servant or representative of each of said other  
25 defendants, or was at all times mentioned herein acting within the scope and course of such  
26 agency, servitude or representation, and that all acts of the defendant, and each of them, were  
27 authorized, directed and ratified by each of the remaining defendants.

28 38. This Court has personal jurisdiction over all the parties.

40. Venue is appropriate in this Court because multiple defendants reside in this jurisdiction.

### A. Inspirada

42. The initial agreement to complete the Inspirada Work totaled \$928,573.84.

44. Initially, Century paid Direct Grading for the Inspirada Work performed by

45. Direct Grading has, in good faith, fully performed all conditions, covenants and obligations required on its part to be performed under the agreements, except for those conditions, covenants and obligations it has been prevented from performing or excused from performing by the contracting defendant.

DIRECT001-487-7

47. Regardless, Century submitted a "3-Day Notice" of default to Direct Grading on December 12, 2016. The letter stated that "Direct Grading [was] in default of the [Master Subcontract Agreement] for failure to timely perform its obligations under the Agreement." Without any other description, the letter stated that "Direct Grading must cure such default within three (3) days after receipt of this letter." A true and correct copy of the letter is attached hereto as Exhibit "1" and incorporated herein by reference.

48. All contractual obligations were completed at the Inspirada Project on or before December 13, 2016.

49. The contracting defendant has failed to pay for the Inspirada Work and other services contracted for by Direct Grading in an amount of \$203,049.35, exclusive of interests, fees, and costs, despite demands by Direct Grading.

50. Defendant benefitted by the Inspirada Work and other services contracted for by Direct Grading.

51. Pursuant to Nevada Revised Statute (NRS) Chapter 108, Direct Grading has a right to a lien on the Inspirada Bond for the Inspirada Project for which work, materials, or equipment were contracted for improvement of the Inspirada Property.

52. On or about April 10, 2017, Direct Grading recorded and duly served a Notice of Lien. A true and correct copy of the Notice of Lien is attached hereto as Exhibit "2" and incorporated herein by reference. The bond for the lien was recorded as instrument number 20170418-0001071. The extension agreement for the bond was recorded as instrument number 20171208-0000595, which extends the bringing of the action against the surety and principal to September 18, 2018, and which was previously brought.

**B. Lakes Las Vegas**

53. On or about September 3, 2015, Direct Grading and Century entered into an agreement for Direct Grading to complete Mobilization - Rough, Normal Excavation, Over Excavation, Hard Dig, Channel Excavation, Import Placement, Slope Excavation, Slope Finish, Retaining wall cut back, Pad Finish, Sub Grade Prep Parking Areas, and Rip Rap (D50=6"@12) (the "Lakes Las Vegas Work") on the project known as Lakes Las Vegas,

1 located at the South East corner of Lake Las Vegas Pkwy and Grand Mediterra Blvd, APN 160-  
2 27-119-001 through 160-27-119-011, 160-27-215-001 through 160-27-215-002, 160-27-614-  
3 001 through 160-27-614-009, 160-27-511-001 through 160-27-511-004, 160-27-214-001  
4 through 160-27-214-013, 160-27-612-001 through 160-27-612-005, 160-27-612-008 through  
5 160-27-612-013, and 160-27-214-016 (the "Lakes Las Vegas Project").

6 54. The initial agreement to complete the Lakes Las Vegas Work totaled  
7 \$1,369,799.60.

8 55. In addition to the initial agreement, Century submitted change orders for  
9 additional or changed work, materials and equipment for an additional \$288,713.92.

10 56. A substantial portion of the change orders was part of Change Order #5,  
11 submitted to Century on or about October 25, 2016, for an estimated price of \$220,000, for the  
12 "Haul Off of Excess Material."

13 57. No Change Order was ever signed by Century. Nevertheless, on or before  
14 November 11, 2017, Todd Winner contacted Direct Grading and authorized Direct Grading to  
15 begin the Haul Off of Excess Material, pursuant to Change Order #5. Further, NRS 624.610  
16 increased the value of the Lakes Las Vegas Work.

17 58. Under the direction of Todd Winners, Direct Grading began performance under  
18 Change Order #5, and performed approximately \$71,445.00 of the work in Change Order #5.

19 59. On or about November 29, 2016, Tim Wyatt of Century contacted Direct  
20 Grading and told Direct Grading to stop hauling at the end of the week to allow Century to  
21 perform a cost projection. Direct Grading stopped hauling material related to Change Order #5  
22 on December 2, 2016.

23 60. On December 6, 2017, Century hired another subcontractor to haul off the  
24 materials that were contracted for under Change Order #5.

25 61. Initially, Century paid Direct Grading for the Lakes Las Vegas Work performed  
26 by Direct Grading, but eventually stopped paying Direct Grading. Further, Century has never  
27 paid Direct Grading any amounts under Change Order #5. Century has failed to pay Direct  
28

1 Grading for the Lakes Las Vegas Work under the agreements described herein, in an amount in  
2 excess of \$15,000.

3 62. Direct Grading has, in good faith, fully performed all conditions, covenants and  
4 obligations required on its part to be performed under the agreements, except for those  
5 conditions, covenants and obligations it has been prevented from performing or excused from  
6 performing by the contracting defendant.

7 63. Pursuant to a field meeting with Century on or about November 21, 2016,  
8 Century and Direct Grading discussed the completion times for storm drains and sewer lines. At  
9 the time, it was discussed that the underground would need until December 6, 2016, to give  
10 access to Direct Grading to complete channel excavation and East side slope. Direct Grading  
11 informed Century that would need 6 business days to complete this work.

12 64. Direct Grading was scheduled to return to the Lakes Las Vegas Project on  
13 December 7, 2016 to complete channel excavation and slope work.

14 65. Direct Grading mobilized on December 7, 2016, but was unable to perform the  
15 work because Freedom Underground was not completed with the storm drain manholes.

16 66. On December 8, 2016, Direct Grading continued to complete the channel  
17 excavation and slope work at the Lakes Las Vegas Project.

18 67. Regardless, Century submitted a "3-Day Notice" of default to Direct Grading on  
19 December 12, 2016. The letter stated that "Direct Grading [was] in default of the [Master  
20 Subcontract Agreement] for failure to timely perform its obligations under the Agreement."  
21 Without any other description, the letter stated that "Direct Grading must cure such default  
22 within three (3) days after receipt of this letter." A true and correct copy of the letter is attached  
23 hereto as Exhibit "1" and incorporated herein by reference.

24 68. All work was on schedule at the Lakes Las Vegas Project on December 12, 2016  
25 – the date of the notice of default.

26 69. The contracting defendant has failed to pay for the Lakes Las Vegas Work and  
27 other services contracted for by Direct Grading in an amount of \$301,043.48, exclusive of  
28 interests, fees, and costs, despite demands by Direct Grading.

70. Defendant benefitted by the Lakes Las Vegas Work and other services contracted for by Direct Grading.

71. Pursuant to Nevada Revised Statute (NRS) Chapter 108, Direct Grading has a right to a lien on the Lakes Las Vegas Bond for the Lakes Las Vegas Project for which work, materials, or equipment were contracted for improvement of the Lakes Las Vegas Property.

72. On or about April 10, 2017, Direct Grading recorded and duly served a Notice of Lien. A true and correct copy of the Notice of Lien is attached hereto as Exhibit "3" and incorporated herein by reference. The bond for the lien was recorded as instrument number 20170419-0002001. The extension agreement for the bond was recorded as instrument number 20171208-0000594, which extends the bringing of the action against the surety and principal to September 19, 2018, and which was previously brought.

**C. Freeway 50/Parkview**

73. Between October 7, 2014 and June 27, 2016, Direct Grading and Century entered into a series of work agreements for Direct Grading to complete the following on the project known as Freeway 50/Parkview, located at the North side of Maule at El Capitan, APN 176-05-222-001 through 176-05-222-076, 176-05-715-001 through 176-05-715-006, 176-05-223-001 through 176-05-223-037, 176-05-613-001 through 176-05-613-062, 176-05-117-001 through 176-05-117-025, 176-05-610-001 through 176-05-610-029, 176-05-611-001 through 176-05-611-049, 176-05-612-001 through 176-05-612-003, 176-05-511-001 through 176-05-511-034, and 176-05-202-002 (the "Freeway 50 Project").:

- A. Phase 1: mobilize, subgrade reprep curb, curb grade type II, subgrade reprep onsite, subgrade reprep offsite Maule, 4" type II onsite, 4" type II offsite Maule, sawcut ac haul off, 2" ac paving onsite, and 3" ac paving offsite Maule
- B. Phase 2: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, 2" A/C Paving Onsite

C. Phase 3: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite

D. Phase 4: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite

E. Phases 6: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite

F. Phase 7: Mobilize - Finish, Sub Grade Reprep Curb, Curb Grade Type II, Sub Grade Reprep Onsite, 4" Type II Onsite, Saw Cut/AC Haul Off, and 2" A/C Paving Onsite

74. The agreement to complete the Freeway 50 Work totaled \$2,244,232.64.

75. In addition to the initial agreement, Century submitted change orders for additional or changed work, materials and equipment for an additional \$397,766.80.

76. Initially, Century paid Direct Grading for the Freeway 50 Work performed by Direct Grading, but eventually stopped paying Direct Grading. Century has failed to pay Direct Grading for the Freeway 50 Work under the agreements described herein, in an amount in excess of \$15,000.

77. Direct Grading has, in good faith, fully performed all conditions, covenants and obligations required on its part to be performed under the agreements, except for those conditions, covenants and obligations it has been prevented from performing or excused from performing by the contracting defendant.

78. All work was on schedule at the Freeway 50 Project on December 12, 2016.

79. Regardless, Century submitted a "3-Day Notice" of default to Direct Grading on December 12, 2016. The letter stated that "Direct Grading [was] in default of the [Master Subcontract Agreement] for failure to timely perform its obligations under the Agreement." Without any other description, the letter stated that "Direct Grading must cure such default



1 within three (3) days after receipt of this letter.” A true and correct copy of the letter is attached  
2 hereto as Exhibit “1” and incorporated herein by reference.

3 80. In response, Direct Grading attempted to learn what matters were not timely  
4 performed at the Freeway 50 Project. However, Century failed to give any further information.

5 81. The contracting defendant has failed to pay for the Freeway 50 Work and other  
6 services contracted for by Direct Grading in an amount of 735,863.15, exclusive of interests,  
7 fees, and costs, despite demands by Direct Grading.

8 82. Defendant benefitted by the Freeway 50 Work and other services contracted for  
9 by Direct Grading.

10 83. Pursuant to Nevada Revised Statute (NRS) Chapter 108, Direct Grading has a  
11 right to a lien on the Freeway 50 Bond for the Freeway 50 Project for which work, materials, or  
12 equipment were contracted for improvement of the Freeway 50 Property.

13 84. On or about April 10, 2017, Direct Grading recorded and duly served a Notice of  
14 Lien. A true and correct copy of the Notice of Lien is attached hereto as Exhibit “4” and  
15 incorporated herein by reference. The bond for the lien was recorded as instrument number  
16 20170417-0001549. The extension agreement for the bond was recorded as instrument number  
17 20171208-0000596, which extends the bringing of the action against the surety and principal to  
18 September 19, 2018, and which was previously brought.

19 **D. Rhodes Ranch Phase 5**

20 85. On or about April 23, 2015, Direct Grading and Century entered into work  
21 agreements for Direct Grading to complete Normal Excavation, Over Excavation, Hard Dig,  
22 Pad Finish (49 lots), Sub Grade Prep Parking Areas, Sub Grade Reprep Curb, Curb grade Type  
23 II, Sub Grade Reprep Onsite, 4" Type II Onsite, 2" A/C Paving Onsite, and Sawcut/AC Haul  
24 Off (the “Rhodes Work”) on the project known as Rhodes Ranch Phase 5, located at the North  
25 East corner at S. Fort Apache Rd and Access Seeliger St., APN 176-17-314-001 through 176-  
26 17-314-021, 176-17-314-023 through 176-17-314-024, 176-17-314-027 through 176-17-314-  
27 034, and 176-17-415-001 through 176-17-415-013 (the “Rhodes Project”).

28 86. The initial agreement to complete the Rhodes Work totaled \$344,988.46.

1           87.     Century never notified Direct Grading to proceed with the Rhodes Work, as  
2 Century previously had done through scheduling meetings.

3           88.     Instead, unknown to Direct Grading, Century hired a contractor to perform the  
4 Rhodes Work at the Rhodes Project.

5           89.     Century never paid Direct Grading for the Rhodes Work under the agreements  
6 described herein, in an amount in excess of \$15,000.

7           90.     Direct Grading has been ready, willing, and able to perform under the  
8 agreements described herein. Alternatively, Direct Grading has, in good faith, fully performed  
9 all conditions, covenants and obligations required on its part to be performed under the  
10 agreements, except for those conditions, covenants and obligations it has been prevented from  
11 performing or excused from performing by the contracting defendant.

12           91.     The contracting defendant has failed to pay for the Rhodes Work and other  
13 services contracted for by Direct Grading in an amount of \$344,988.46, exclusive of interests,  
14 fees, and costs, despite demands by Direct Grading.

15           92.     Pursuant to Nevada Revised Statute (NRS) Chapter 108, Direct Grading has a  
16 right to a lien on the Arch Bond for the Rhodes Project for which work, materials, or equipment  
17 were contracted for improvement of the Rhodes Property.

18           93.     On or about June 9, 2017, Direct Grading recorded and duly served a Notice of  
19 Lien. A true and correct copy of the Notice of Lien is attached hereto as Exhibit "5" and  
20 incorporated herein by reference. The bond for the lien was recorded as instrument number  
21 20180927-0001807. The extension agreement for the lien was recorded as instrument number  
22 20171208-0000597, which extends the bringing of this action on the lien, and which was  
23 previously brought. However, Century recently provided to Direct Grading's counsel a copy of  
24 the Arch Bond, and Direct Grading now amends its claim on the Arch Bond, pursuant to NRS  
25 108.2421.

26                               **FIRST CAUSE OF ACTION**

27                               (Breach of Contract)

28           94.     Direct Grading repeats and realleges all of the allegations set forth above.

1           95.     As set forth above, Direct Grading and Century entered into the agreements  
2 described above whereby Direct Grading agreed to provide the defendant with the Inspirada  
3 Work, Lakes Las Vegas Work, Freeway 50 Work, and Rhodes Work, including services,  
4 materials, and deliverables, and Century agreed to certain monetary obligations.

5           96.     Direct Grading has performed all conditions, covenants, and promises required  
6 on its part to be performed in accordance with the terms and conditions of the agreements.

7           97.     Direct Grading has demanded payment for the Inspirada Work, Lakes Las Vegas  
8 Work, Freeway 50 Work, and Rhodes Work, and services it has rendered pursuant to the terms  
9 and conditions of the agreements described herein, but the demanded amount has not been paid.

10          98.     Century has breached the agreements by failing to pay amounts owed under the  
11 agreement. As a result of Century's breaches of the agreements, Direct Grading has been  
12 damaged in an amount in excess of \$15,000, based on the facts alleged herein.

13          99.     As a result and cause of Century's breaches of contracts, Direct Grading has  
14 been forced to retain counsel to prosecute this action.

15                               **SECOND CAUSE OF ACTION**

16                               (Breach of Covenant of Good Faith and Fair Dealing)

17          100.     Direct Grading repeats and realleges all of the allegations set forth above.

18          101.     Pursuant to Nevada law, the agreements described herein include an implied  
19 covenant of good faith and fair dealing.

20          102.     Century has breached the covenant of good faith and fair dealing by failing to  
21 give proper notice of any alleged defaults, by removing Direct Grading from the various  
22 Properties to complete the work, and by failing to pay Direct Grading all moneys owed to  
23 Direct Grading per the agreements described herein.

24          103.     As a result and cause of Century's breach of the covenant of good faith and fair  
25 dealing, implied in the agreements, Direct Grading has been damaged in excess of \$15,000,  
26 plus interest, attorney fees and costs.

104. As a result and cause of Century's breaches of the covenant of good faith and fair dealing implied in the agreements described herein, Direct Grading has been forced to retain counsel to prosecute this action.

**THIRD CAUSE OF ACTION**  
(Unjust Enrichment)

105. Direct Grading repeats and realleges all of the allegations set forth above.

106. The Defendants benefitted from the Inspirada Work, Lakes Las Vegas Work, and Freeway 50 Work performed by Direct Grading on the various described projects above, which amount has not been paid to Direct Grading.

107. Direct Grading has a reasonable expectation of being compensated in full for the Inspirada Work, Lakes Las Vegas Work, and Freeway 50 Work and services on the various applicable projects described herein, and Century has been unjustly enriched should they be permitted to retain the benefit of Direct Grading's work and services without payment in full to Direct Grading.

108. Defendants accepted, used, and enjoyed the benefit of the Inspirada Work, Lakes Las Vegas Work, and Freeway 50 Work and services by Direct Grading in excess of \$15,000, and knew or should have known that Direct Grading expected to be paid for its Work and services.

109. Direct Grading has been forced to retain counsel to prosecute this action.

**FOURTH CAUSE OF ACTION**  
(Enforcement of Lien)

110. Direct Grading repeats and realleges all of the allegations set forth above.

111. Pursuant to the agreements described herein with Century, Direct Grading provided or was to provide services, materials, and/or equipment for the Inspirada Project, Lakes Las Vegas Project, Freeway 50 Project, and Rhodes Project, on the various applicable properties.

112. The Inspirada Work, Lakes Las Vegas Work, Freeway 50 Work and Rhodes Work, and services and materials performed/provided or to be performed/provided by Direct

1 Grading were actually integrated or contemplated to have been integrated into the various  
2 applicable projects by the parties herein.

3 113. Pursuant to the agreements between Direct Grading and Century, Direct Grading  
4 was to be paid \$928,573.84, plus an additional \$1,480,020.55 for additional or changed work,  
5 materials and equipment for the Inspirada Work, but to date, Direct Grading has only been paid  
6 \$2,118,575.84.

7 114. Pursuant to the agreements between Direct Grading and Century, Direct Grading  
8 was to be paid \$1,369,799.60, plus an additional \$288,713,.92 for additional or changed work,  
9 materials and equipment for the Lakes Las Vegas Work, but to date, Direct Grading has only  
10 been paid \$1,357,469.92.

11 115. Pursuant to the agreements between Direct Grading and Century, Direct Grading  
12 was to be paid \$2,244,232.64, plus an additional \$397,766.80 for additional or changed work,  
13 materials and equipment for the Freeway 50 Work, but to date, Direct Grading has only been  
14 paid \$735,863.15.

15 116. Pursuant to the agreements between Direct Grading and Century, Direct Grading  
16 was to be paid \$344,988.46, plus an additional \$0.00 for additional or changed work, materials  
17 and equipment for the Rhodes Work, but to date, Direct Grading has only been paid \$0.00.

18 117. Direct Grading has demanded payment.

19 118. To protect its lien rights, on or about April 10, 2017, Direct Grading recorded a  
20 Notice of Lien against the various properties for the Inspirada Work, Lakes Las Vegas Work,  
21 and Freeway 50 Work. Further, on or about June 9, 2017, Direct Grading recorded a Notice of  
22 Lien against the above-described property for the Rhodes Work. Thereafter, Century posted  
23 bonds for the work on the Properties.

24 119. Direct Grading has perfected the lien per the Nevada statutes.

25 120. The agreed price and reasonable value of the services performed by Direct  
26 Grading is in excess of \$15,000, according to proof, which is now due and owing to Direct  
27 Grading.  
28

121. Direct Grading is entitled to compensation from the Argonaut Bonds and Arch Bond, pursuant to NRS Chapter 108, to satisfy the liens.

122. The Argonaut Bonds and Arch Bond are necessary and required to satisfy the claims and liens set forth herein.

123. There may be lien claimants whose liens may be subordinate to the liens recorded by Direct Grading.

124. Direct Grading has been forced to retain counsel to prosecute this action.

#### **FIFTH CAUSE OF ACTION**

(Claim Against Argonaut Insurance Company and Arch Insurance Company)

125. Direct Grading repeats and realleges all of the allegations set forth above.

126. After the above-referenced notices of lien were recorded for the applicable Rhodes Property, Arch issued the Arch Bond in order to compensate entities like Plaintiff, in the amount of \$517,482.69, for the Rhodes Property.

127. After the above-referenced notices of liens were recorded for the applicable remaining properties, Argonaut issued the Argonaut Bonds in order to compensate entities like Plaintiff, in the amount of \$1,990,387.780, for the Inspirada Property, Lakes Las Vegas Property, and the Freeway 50 Property.

128. Pursuant to the terms of the Argonaut Bonds and Arch Bond, Argonaut and Arch, respectively, obligated themselves to Plaintiff under the conditions prescribed by NRS 108.2413 to NRS 108.2425, inclusive, as well as under NRS 108.237.

129. Demand for payment is made by Plaintiff to Argonaut and Arch in the amount of the Argonaut Bonds and Arch Bond, together with any amounts due and owing to Plaintiff, pursuant to NRS 108.237 and any other applicable statute.

130. Under the terms of the Argonaut Bonds and Arch Bond, Argonaut and Arch, respectively, are obligated to pay to Plaintiff the outstanding debt in the amount of the Argonaut Bonds and Arch Bond, together with any amounts due and owing to Plaintiff, pursuant to NRS 108.237, which exceeds \$15,000.

131. Direct Grading has been forced to retain counsel to prosecute this action.

**PRAYER**

**WHEREFORE**, Direct Grading prays for judgment in its favor as follows:

**FOR THE FIRST CAUSE OF ACTION**

1. For damages in excess of \$15,000.00; plus
2. For prejudgment interest;
3. For attorney fees and costs;
4. For such other relief as this Court deems proper.

**FOR THE SECOND CAUSE OF ACTION**

1. For damages in excess of \$15,000.00; plus
2. For prejudgment interest;
3. For attorney fees and costs;
4. For such other relief as this Court deems proper.

**FOR THE THIRD CAUSE OF ACTION**

1. For damages in excess of \$15,000.00; plus
2. For prejudgment interest;
3. For attorney fees and costs;
4. For such other relief as this Court deems proper.

**FOR THE FOURTH CAUSE OF ACTION**

1. For judgment in favor of Direct Grading and against Defendant for compensation on Direct Grading's liens from the Argonaut Bonds and Arch Bond, as well as on the sum and costs for preparation, verification, service, filing and enforcement of the lien;
2. That this Court declare, if applicable, the rank and priority of all lien claims on the aforementioned bonds, and that Direct Grading's lien be ascertained and adjudged to be a valid lien, if applicable;
3. That Direct Grading's lien be enforced according to law;
4. That this Court direct payment from the Argonaut Bonds and Arch Bond, and that said payment be applied to the sums found due and owing to Direct Grading;

5. That this Court enter such deficiency judgment against the Defendant, and each of them as may be proper;

6. For prejudgment interest;

7. For attorney fees and costs;

8. For such other relief as this Court deems proper.

**FOR THE FIFTH CAUSE OF ACTION**

1. For judgment adjudging the penal sum of the Argonaut Bonds and Arch Bond and for an order from the Court mandating said sum be paid directly to Plaintiff, which exceeds \$15,000;

2. For prejudgment interest;

3. For attorney fees and costs;

4. For any amounts due and owing to Plaintiff, pursuant to NRS 108.237.

5. For such other relief as this Court deems proper.

DATED this 31<sup>st</sup> day of April, 2020.

JOHNSON & GUBLER, P.C.

Matthew L. Johnson (6004)

Russell G. Gubler (10889)

Ashveen S. Dhillon (14189)

## Lakes Business Park

8831 W. Sahara Ave.

Las Vegas, NV 89117

Attorneys for Plaintiff,  
Direct Grading & Paving, L.L.C.



**JOHNSON & GUBLER, P.C.**  
LAKES BUSINESS PARK  
8831 WEST SAHARA  
LAS VEGAS, NEVADA 89117  
(702) 471-0065  
(702) 471-0075

  
An Employee of JOHNSON & GUBLER, P.C.

# EXHIBIT "1"

DIRECT001492



December 12, 2016

**BY CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED**

Direct Grading & Paving, L.L.C.  
Attn: Melvin Westwood

3741 Civic Center Drive  
N. Las Vegas, NV 89030

Re: **Master Subcontract Agreement ("Agreement") dated June 29, 2010, between Direct Grading & Paving, L.L.C. ("Direct Grading") and Century Communities of Nevada, LLC ("Century")—Default Notice**

Dear Mr. Westwood:

Please be advised that Direct Grading is in default of the Agreement for failure to timely perform its obligations under the Agreement.

This letter constitutes the "3-Day Notice" described in Section 2.5 of the Agreement. Pursuant to the Agreement, Direct Grading must cure such default within three (3) days after receipt of this letter. If Direct Grading fails to cure the default within such period, Century will be entitled to exercise the rights and remedies granted by the Agreement and by applicable law.

Sincerely,

Rick Barron  
Vice President of Land

DIRECT001493

# EXHIBIT “2”

(3)

APN:  
191-23-515-001 through 191-23-515-082  
191-23-516-001 through 191-23-516-086

Recording requested by and mail documents  
and tax statements, if applicable, to:  
Name: Direct Grading & Paving, LLC  
Address: 2222 W. Cheyenne Avenue  
City/State/Zip: North Las Vegas, NV 89032

Inst #: 20170410-0000601  
Fees: \$19.00  
N/C Fee: \$0.00  
04/10/2017 10:12:28 AM  
Receipt #: 3054047  
Requestor:  
DIRECT GRADING & PAVING LLC  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

**NOTICE OF LIEN**  
(Mechanic Lien)

The undersigned, Direct Grading & Paving, L.L.C. hereby 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:

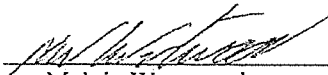
1. The amount of the original contract is: \$928,573.84.
2. The total amount of all additional or changed work, materials and equipment, if any, is: \$1,480,020.55.
3. The total amount of all payments received to date is: \$2,118,575.84.
4. The amount of the lien, after deducting all just credits and offsets is: \$290,018.55.
5. The name of the owner(s), if known, of the property is/are: Century Communities of Nevada, LLC, R/A National Registered Agents, Inc. of Nevada, 701 S. Carson St., Ste. 200, Carson City, Nevada 89701.
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: Century Communities of Nevada, LLC, 6345 S. Jones, Suite 400, Las Vegas, NV 89118.
7. A brief statement of the terms of payment of the lien claimant's contract: Net 30

////

////

8. A description of the property to be charged with the lien is: See Exhibit A.

DIRECT GRADING & PAVING, L.L.C.

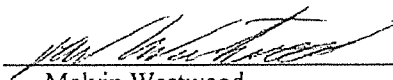
By:   
Melvin Westwood  
Its: Managing Member

State of Nevada            )  
                                      ) ss  
County of Clark            )

Melvin Westwood, Managing Member of Direct Grading & Paving, L.L.C., 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.

DIRECT GRADING & PAVING, L.L.C.

By:   
Melvin Westwood  
Its: Managing Member

Subscribed and sworn to before me  
this 10 day of April, 2017.

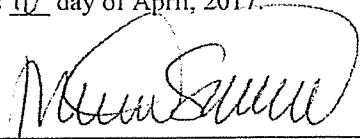
  
Notary Public in and for  
the County and State Nevada



Exhibit A

Parcel 1:

Lot One (1) through Thirty (30), inclusive; and Lots One Hundred Seventeen (117) through One Hundred Sixty-Eight (168), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 1 as shown by map thereof on file in Book 151 of Plats, Page 7, in the Office of the County Recorder, Clark County, Nevada.

Parcel 2:

Lots Thirty-One (31) through One Hundred Sixteen (116), inclusive of FINAL MAP OF INSPIRADA POD 3-2 UNIT 2 as shown by map thereof on file in Book 151 of Plats, Page 8, in the Office of the County Recorder, Clark County, Nevada.

# EXHIBIT “3”

DIRECT001498



3

APN:  
160-27-119-001 through 160-27-119-011  
160-27-215-001 through 160-27-215-002  
160-27-614-001 through 160-27-614-009  
160-27-511-001 through 160-27-511-004  
160-27-214-001 through 160-27-214-013  
160-27-612-001 through 160-27-612-005  
160-27-612-008 through 160-27-612-013  
160-27-214-016

Inst #: 20170410-0000602  
Fees: \$19.00  
N/C Fee: \$0.00  
04/10/2017 10:12:28 AM  
Receipt #: 3054047  
Requestor:  
DIRECT GRADING & PAVING LLC  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

Recording requested by and mail documents  
and tax statements, if applicable, to:  
Name: Direct Grading & Paving, LLC  
Address: 2222 W. Cheyenne Avenue  
City/State/Zip: North Las Vegas, NV 89032

**NOTICE OF LIEN**  
(Mechanic Lien)

The undersigned, Direct Grading & Paving, L.L.C. hereby 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:

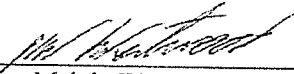
1. The amount of the original contract is: \$1,369,799.60.
2. The total amount of all additional or changed work, materials and equipment, if any, is: \$288,713.92.
3. The total amount of all payments received to date is: \$1,357,469.92.
4. The amount of the lien, after deducting all just credits and offsets is: \$301,043.48.
5. The name of the owner(s), if known, of the property is/arc: Century Communities of Nevada, LLC, R/A National Registered Agents, Inc. of Nevada, 701 S. Carson St., Ste. 200, Carson City, Nevada 89701.
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: Century Communities of Nevada, LLC, 6345 S. Jones, Suite 400, Las Vegas, NV 89118.
7. A brief statement of the terms of payment of the lien claimant's contract: Net 30

////

////

8. A description of the property to be charged with the lien is: See Exhibit A.

DIRECT GRADING & PAVING, L.L.C.

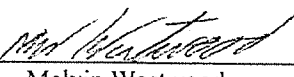
By:   
Melvin Westwood  
Its: Managing Member

State of Nevada       )  
                                  ) ss  
County of Clark       )

Melvin Westwood, Managing Member of Direct Grading & Paving, L.L.C., 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.

DIRECT GRADING & PAVING, L.L.C.

By:   
Melvin Westwood  
Its: Managing Member

Subscribed and sworn to before me  
this 10 day of April, 2017.

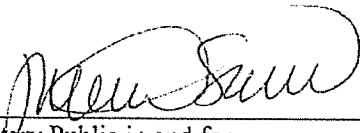
  
Notary Public in and for  
the County and State Nevada



Exhibit A

Parcel 1:

Lots Ten (10) through Twenty (20), inclusive; and Lots 25A and 26A of AMENDED PLAT OF A PORTION OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 152 of Page 5, in the Office of the County Recorder, Clark County, Nevada.

Parcel 2:

Lots 32A, 33A, 44A through 49A, inclusive and Common Elements D and E of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.

Parcel 3:

Lots 1 (One) through Nine (9), inclusive, Lots Twenty-One (21) through Twenty-Four (24), inclusive, Lots Twenty-Seven (27) through Thirty-One (31), inclusive, Lot Thirty-Four (34), Lots Thirty-Five (35) through Forty-Three (43), inclusive of of FINAL MAP OF LAKE LAS VEGAS LOT G-1 as shown by map thereof on file in Book 150 of Plats, Page 74, in the Office of the County Recorder, Clark County, Nevada.

# EXHIBIT “4”

DIRECT001502

4

APN: 176-05-222-001 through 176-05-222-076  
176-05-715-001 through 176-05-715-006  
176-05-223-001 through 176-05-223-037  
176-05-613-001 through 176-05-613-062  
176-05-117-001 through 176-05-117-025  
176-05-610-001 through 176-05-610-029  
176-05-611-001 through 176-05-611-049  
176-05-612-001 through 176-05-612-003  
176-05-511-001 through 176-05-511-034  
176-05-202-002

Inst #: 20170410-0000603  
Fees: \$20.00  
N/C Fee: \$0.00  
04/10/2017 10:12:28 AM  
Receipt #: 3054047  
Requestor:  
DIRECT GRADING & PAVING LLC  
Recorded By: MAYSM Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

Recording requested by and mail documents  
and tax statements, if applicable, to:  
Name: Direct Grading & Paving, LLC  
Address: 2222 W. Cheyenne Avenue  
City/State/Zip: North Las Vegas, NV 89032

#### NOTICE OF LIEN (Mechanic Lien)

The undersigned, Direct Grading & Paving, L.L.C. hereby 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: \$2,244,232.64.
2. The total amount of all additional or changed work, materials and equipment, if any, is: \$397,766.80.
3. The total amount of all payments received to date is: \$1,906,136.29.
4. The amount of the lien, after deducting all just credits and offsets is: \$735,863.15.
5. The name of the owner(s), if known, of the property is/are: Century Communities of Nevada, LLC, R/A National Registered Agents, Inc. of Nevada, 701 S. Carson St., Ste. 200, Carson City, Nevada 89701.
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: Century Communities of Nevada, LLC, 6345 S. Jones, Suite 400, Las Vegas, NV 89118.
7. A brief statement of the terms of payment of the lien claimant's contract: Net 30

////

////

8. A description of the property to be charged with the lien is: See Exhibit A.

DIRECT GRADING & PAVING, L.L.C.

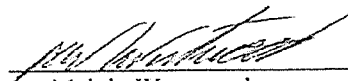
By:   
Melvin Westwood  
Its: Managing Member

State of Nevada       )  
                                  ) ss  
County of Clark       )

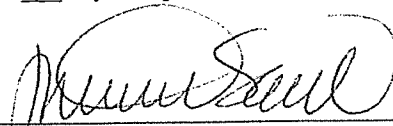
Melvin Westwood, Managing Member of Direct Grading & Paving, L.L.C., being first duly sworn on oath according to law, deposes and says:

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.

DIRECT GRADING & PAVING, L.L.C.

By:   
Melvin Westwood  
Its: Managing Member

Subscribed and sworn to before me  
this 10 day of April, 2017.

  
Notary Public in and for  
the County and State Nevada

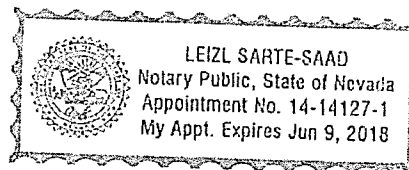


Exhibit A

Parcel 1:

Lots One (1) through Thirty-Four (34), inclusive; Lots Fifty-Four (54) through Sixty-Three (63), inclusive and Lots Sixty-Five (65) through Ninety-Four (94), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.

Parcel 2:

Lots One Hundred Twenty (120) through One Hundred Twenty-Five (125), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 3:

Lots One Hundred Sixty-One (161) through One Hundred Ninety-Seven (197), inclusive of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 52, in the Office of the County Recorder, Clark County, Nevada.

Parcel 4:

Lots Two Hundred Thirty (230) through Two Hundred Ninety-One (291), inclusive of FINAL MAP OF FREEWAY 50 PHASE 5 & 7 as shown by map thereof on file in Book 151 of Plats, Page 92, in the Office of the County Recorder, Clark County, Nevada.

Parcel 5:

Lot Three Hundred Nine (309) through Three Hundred Thirty-Three (333), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

Parcel 6:

Lot Thirty-Five (35) through Fifty-Three (53), inclusive; Lot Sixty Four (64); and Lots Ninety-Five (95) through One Hundred Three (103), inclusive of FINAL MAP OF FREEWAY 50 PHASE 1 as shown by map thereof on file in Book 151 of Plats, Page 29, in the Office of the County Recorder, Clark County, Nevada.

Parcel 7:

Lots One Hundred Four (104) through One Hundred Nineteen (119), inclusive; and Lots One Hundred Twenty-Six (126) through One Hundred Fifty-Eight (158), inclusive of FINAL MAP OF FREEWAY 50 PHASE 2 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 8:

Lots One Hundred Fifty-Nine (159), One Hundred Sixty (160) and One Hundred Ninety-Eight (198) of FINAL MAP OF FREEWAY 50 PHASE 3 as shown by map thereof on file in Book 151 of Plats, Page 32, in the Office of the County Recorder, Clark County, Nevada.

Parcel 9:

Lots Two Hundred Ninety-Two (292) through Three Hundred Eight (308), inclusive; and Lots Three Hundred Thirty-Four (334) through Three Hundred Fifty (350), inclusive of FINAL MAP OF FREEWAY 50 PHASE 6 as shown by map thereof on file in Book 152 of Plats, Page 24, in the Office of the County Recorder, Clark County, Nevada.

Parcel 10:

The North Half (N  $\frac{1}{2}$ ) of the Northeast Quarter (NE  $\frac{1}{4}$ ) of the Southeast Quarter (SE  $\frac{1}{4}$ ) of the Northwest Quarter (NW  $\frac{1}{4}$ ) of Section 4, Township 22 South, Range 60 East, M.D.M.



# EXHIBIT “5”

DIRECT001507

3

APN:

176-17-314-001 through 176-17-314-021  
176-17-314-023 through 176-17-314-024  
176-17-314-027 through 176-17-314-034  
176-17-415-001 through 176-17-415-013

Inst #: 20170609-0002317  
Fees: \$19.00  
N/C Fee: \$0.00  
06/09/2017 12:05:22 PM  
Receipt #: 3108544  
Requestor:  
DIRECT GRADING & PAVING LLC  
Recorded By: RYUD Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

Recording requested by and mail documents  
And tax statements, if applicable, to:  
Name: Direct Grading & Paving, LLC  
Address: 2222 W. Cheyenne Avenue  
City/State/Zip: North Las Vegas, NV 89032

**NOTICE OF LIEN**  
(Mechanic Lien)

The undersigned, Direct Grading & Paving, L.L.C. hereby 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: \$344,988.46
2. The Total amount of all additional or changed work, materials and equipment, if any, is:  
\$0.00
3. The total amount of all payments received to date is: \$0.00
4. The amount of the lien, after deducting all just credits and offsets is: \$344,988.46
5. The name of the owner(s), if know, of the property is/are: Century Communities of Nevada, LLC, R/A National Registered Agents, Inc. of Nevada 701 S. Carson St., Ste. 200, Carson City, Nevada 89701.
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: Century Communities of Nevada, LLC, 6345 S. Jones, Suite 400, Las Vegas, NV 89118
7. A brief statement of terms of payment of the lien claimants contract: Net 30

////

////

DIRECT001508

8. A description of the property to be charged with the lien is: See Exhibit A.  
DIRECT GRADING & PAVING, L.L.C.

By:   
Don Mayhall

State of Nevada )

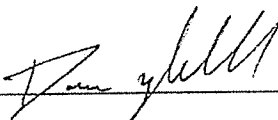
) ss

County of Clark )

Don Mayhall, of Direct Grading & Paving, L.L.C., being first duly sworn on oath according to law,  
deposes and says:

I have read the foregoing Notice if 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.

DIRECT GRADING & PAVING, L.L.C.

By:   
Don Mayhall

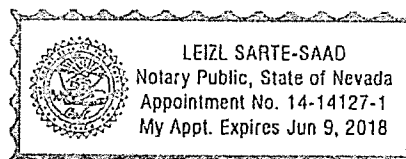
Subscribed and sworn to before me

This 4th day of June 2017.



Notary Public in and for Clark,

The County and State of Nevada

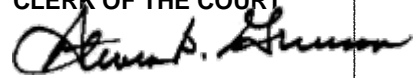


DIRECT001509

Exhibit A

Phase 5:

Lot One (1) through Forty-Four (44), inclusive; inclusive of FINAL MAP OF RHOADES RANCH SOUTH PHASE 5, as shown by map thereof on file in Book 153 of plats, Page 049, in the Office of the County Recorder, Clark County, Nevada.



Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: [mjohnson@mjohnsonlaw.com](mailto:mjohnson@mjohnsonlaw.com);  
[rgubler@mjohnsonlaw.com](mailto:rgubler@mjohnsonlaw.com)  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING, L.L.C. a  
Nevada limited liability company,  
  
Plaintiff,

vs.

CENTURY COMMUNITIES OF  
NEVADA, LLC, a Nevada limited liability  
company; ARGONAUT INSURANCE  
COMPANY; DOES I through X, and  
ROES CORPORATIONS I through X,  
inclusive,

Defendant(s)

Case No.: A-18-773139-C

Dept. No.: XXXII

**PLAINTIFF'S APPLICATION  
FOR ISSUANCE OF  
COMMISSION TO TAKE THE  
OUT OF STATE DEPOSITION  
OF TIM WYATT**

ALL RELATED MATTERS

TO: DISTRICT COURT OF CLARK COUNTY, NEVADA

Attorneys for Plaintiff, DIRECT GRADING & PAVING L.L.C., by and through its  
counsel of record, RUSSELL G. GUBLER of the law firm of JOHNSON & GUBLER, P.C.,  
pursuant to NRCP 28(a), hereby makes its Application to this Court of issuance of Commission  
to take the deposition of Tim Wyatt, outside the State of Nevada, on the 22<sup>nd</sup> day of October,  
2020, at 10:00 a.m. Pacific Time via video through Zoom, per the attached Zoom information in

DIRECT001511

1 Exhibits 1 and 2 – with the Court Reporter being in a different location of the deponent, and  
2 respectfully shows this Court as follows:

- 3 1. Applicant is the attorney of record for Plaintiff, DIRECT GRADING & PAVING, L.L.C.  
4 in the above-entitled case and cause.
- 5 2. The deponent, TIM WYATT, is located in the area or surrounding areas of Franklin,  
6 Tennessee.
- 7 3. Plaintiff, DIRECT GRADING & PAVING, L.L.C., will provide for the attendance of a  
8 court reporter that is authorized to administer oaths under the laws of the State of  
9 Tennessee, for the taking of the Deposition of TIM WYATT, concerning the above-  
10 referenced matter. The court reporter will be located in a different location from TIM  
11 WYATT.  
12 WYATT.
- 13 4. The Notice of Taking Deposition of TIM WYATT Outside the State of Nevada, by this  
14 reference incorporated as if set forth here in full. A copy is attached hereto as Exhibit 1.
- 15 5. The Subpoena Duces Tecum, is by this reference incorporated as if set forth here in full.  
16 A copy is attached hereto as Exhibit 2.

17  
18 Under Rule 28(a) of the Nevada Rules of Civil Procedure, upon application and proof that  
19 the Notice to take deposition out of the State of Nevada has been given as provided in NRCP  
20 30(b), the Clerk of this court is authorized to issue a Commission for the taking of deposition of  
21 witnesses outside of the State of Nevada.

22 WHEREFORE, Plaintiff, DIRECT GRADING & PAVING, L.L.C. prays that the Clerk  
23 of this Court issue a Commission to take the Deposition of TIM WYATT outside the State of  
24

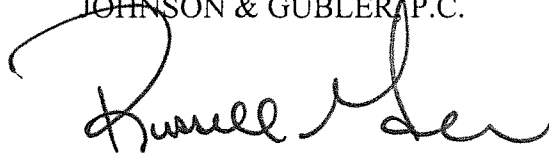
25 ///

26 ///

1 Nevada, to witness via ZOOM on October 22, 2020, at 10:00 a.m. Pacific Time.

2 DATED this 30<sup>th</sup> day of September, 2020.

3 JOHNSON & GUBLER, P.C.

4 

5 \_\_\_\_\_  
6 Russell G. Gubler, P.C. (10889)

7 8831 W. Sahara Avenue

8 Las Vegas, NV 89117

9 Telephone: (702) 471-0065

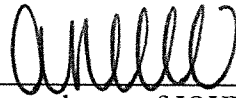
10 Fax: (702) 471-0075

11 [rgubler@mjohnsonlaw.com](mailto:rgubler@mjohnsonlaw.com)

12 *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30<sup>th</sup> day of September 2020, I served the foregoing *Plaintiff's Application for Issuance of Commission to Take the Out of State Deposition of Tim Wyatt* by the Eighth Judicial District Court's electronic filing system, to all the parties registered to receive electronic service in this matter.



\_\_\_\_\_  
An employee of JOHNSON & GUBLER, P.C.



Exhibit “1”

Exhibit “1”

Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: [mjohnson@mjohnsonlaw.com](mailto:mjohnson@mjohnsonlaw.com);  
[rgubler@mjohnsonlaw.com](mailto:rgubler@mjohnsonlaw.com)  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIRECT GRADING & PAVING, L.L.C. a ) Case No.: A-18-773139-C  
Nevada limited liability company, )  
 ) Dept. No.: XXXII  
Plaintiff, )

vs. )

CENTURY COMMUNITIES OF )  
NEVADA, LLC, a Nevada limited liability )  
company; ARGONAUT INSURANCE )  
COMPANY; DOES I through X, and )  
ROES CORPORATIONS I through X, )  
inclusive, )

Defendant(s) )

\_\_\_\_\_  
ALL RELATED MATTERS )

TO: ALL PARTIES; and )

TO: THEIR RESPECTIVE COUNSEL OF RECORD, )

NOTICE IS HEREBY GIVEN that on the 22<sup>nd</sup> day of October, 2020, at the hour of 10:00  
a.m. Pacific Time, PLAINTIFF/DIRECT GRADING & PAVING, L.L.C., will take the  
deposition of TIM WYATT, via Zoom, pursuant to the Zoom information attached.

Testimony shall be recorded stenographically before a Notary, or some other officer

DIRECT001516

**NOTICE OF DEPOSITION OF  
TIM WYATT**

1 authorized by law to administer oaths in the state of Tennessee. Oral examination will continue  
2 from day to day until completed.

3 The Court Reporter will be in a different location.

4 You are invited to attend and cross-examine.

5 DATED this 30<sup>th</sup> day of September, 2020.

6 JOHNSON & GUBLER, P.C.

7   
8

9 Russell G. Gubler, P.C. (10889)

10 8831 W. Sahara Avenue

11 Las Vegas, NV 89117

12 Telephone: (702) 471-0065

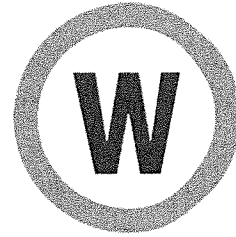
13 Fax: (702) 471-0075

14 [rgubler@mjohnsonlaw.com](mailto:rgubler@mjohnsonlaw.com)

15 *Attorneys for Plaintiff*

# CONFIRMATION OF SCHEDULING

Worldwide Litigation Services  
8275 South Eastern Avenue  
Suite 200-477  
Las Vegas, NV 89123  
Phone: (702) 799-9218  
Toll Free: (855) 614-6175  
calendar@worldwidelit.com



<b>Job No.</b>	<b>45392</b>		
<b>Attn</b>	<b>Annabelle Nudo</b>	<b>Attorney</b>	<b>Russell Gubler</b>
<b>Firm</b>	<b>Johnson &amp; Gubler, P.C.</b> Lakes Business Park 8831 W. Sahara Avenue Las Vegas, NV 89117 Phone: (702) 471-0065		

This is being sent as confirmation of the following scheduled assignment:

<b>Case Name</b>			
<b>Witness Name</b>	<b>Tim Wyatt</b>		
<b>Job Date</b>	<b>10/22/2020</b>	<b>Time</b>	<b>12:00PM - 2:00PM (GMT-06:00) Central Time (US &amp; Canada)</b>
<b>Location</b>	<b>REMOTE</b>  Phone: Detail:		
<b>Notes</b>	<b>Worldwide Lit is inviting you to a scheduled Zoom meeting.</b>  <b>Topic: Tim Wyatt Deposition</b> <b>Time: Oct 22, 2020 12:00 PM Central Time (US and Canada)</b>  <b>Join Zoom Meeting</b> <a href="https://worldwidelit.zoom.us/j/93779548570?pwd=M2JLbnFmTFU0emZzTFdCdEZJOE5RUT09">https://worldwidelit.zoom.us/j/93779548570?pwd=M2JLbnFmTFU0emZzTFdCdEZJOE5RUT09</a>  <b>Meeting ID: 937 7954 8570</b> <b>Passcode: 895581</b> <b>One tap mobile</b> +13126266799,,93779548570#,,,,,0#,,895581# US (Chicago) +13017158592,,93779548570#,,,,,0#,,895581# US (Germantown)  <b>Dial by your location</b> +1 312 626 6799 US (Chicago) +1 301 715 8592 US (Germantown) +1 929 205 6099 US (New York) +1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston)  <b>Meeting ID: 937 7954 8570</b> <b>Passcode: 895581</b> <b>Find your local number:</b> <a href="https://worldwidelit.zoom.us/j/abbGMmfRRx">https://worldwidelit.zoom.us/j/abbGMmfRRx</a>		

DIRECT001518

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Exhibit “2”

Exhibit “2”

Matthew L. Johnson (6004)  
Russell G. Gubler (10889)  
Ashveen S. Dhillon (14189)  
JOHNSON & GUBLER, P.C.  
Lakes Business Park  
8831 W. Sahara Ave.  
Las Vegas, NV 89117  
Phone: (702) 471-0065  
Fax: (702) 471-0075  
Email: [mjohnson@mjohnsonlaw.com](mailto:mjohnson@mjohnsonlaw.com);  
[rgubler@mjohnsonlaw.com](mailto:rgubler@mjohnsonlaw.com)  
*Attorneys for Plaintiff*

## DISTRICT COURT

## CLARK COUNTY, NEVADA

DIRECT GRADING & PAVING, L.L.C. a ) Case No.: A-18-773139-C  
Nevada limited liability company, )  
 ) Dept. No.: XXXII  
Plaintiff, )

VS.

CENTURY COMMUNITIES OF NEVADA, LLC, a Nevada limited liability company; ARGONAUT INSURANCE COMPANY; DOES I through X, and ROES CORPORATIONS I through X, inclusive,

**SUBPEONA – CIVIL**  
**[X] REGULAR [ ] DUCES**  
**TECUM**

Defendant(s)

## ALL RELATED MATTERS

THE STATE OF NEVADA SENDS GREETINGS TO:

TIM WYATT  
222 Watson View Drive  
Franklin, TN 37067

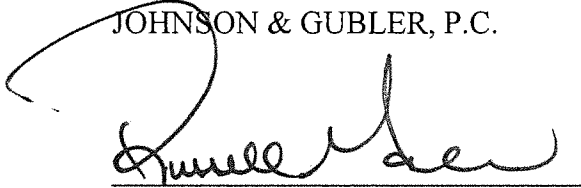
YOU ARE HEREBY COMMANDED, that all and singular, business and excuses set aside, to appear and attend your deposition on the 22<sup>nd</sup> day of October, 2020, at the hour of 10:00 a.m. Pacific Time, via Zoom, per the zoom information attached.

DIRECT001521

1 If you fail to attend, you will be deemed guilty of contempt of Court and liable to pay all  
2 losses and damages caused by your failure to appear and in addition forfeit ONE HUNDRED  
3 DOLLARS (\$100.00).

4 DATED this 30<sup>th</sup> day of September, 2020.

5 JOHNSON & GUBLER, P.C.

6   
7

8 Russell G. Gubler, P.C. (10889)

9 8831 W. Sahara Avenue

10 Las Vegas, NV 89117

11 Telephone: (702) 471-0065

12 Fax: (702) 471-0075

13 [rgubler@mjohnsonlaw.com](mailto:rgubler@mjohnsonlaw.com)

14 *Attorneys for Plaintiff*  
15  
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EXHIBIT A- NEVADA RULES OF CIVIL PROCEDURE RULE 45

(c) Protection of Persons Subject to Subpoena.

(1) A party of an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)

(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)

(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) Requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) Requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by

1 the subpoena, quash or modify the subpoena or, if the party in  
2 whose behalf the subpoena is issued shows a substantial need for  
3 the testimony or material that cannot be otherwise met without  
undue hardship and assures that the person to whom the subpoena  
is addressed will be reasonably compensated, the court may order  
appearance or production only upon specified conditions.

4 **(d) Duties in Responding to Subpoena.**

5 (1) A person responding to a subpoena to produce documents shall produce them as they  
6 are kept in the usual course of business or shall organize and label them to correspond with the  
categories in the demand.

7 (2) When information subject to the subpoena is withheld on a claim that it is privileged  
8 or subject to protection as trial preparation materials, the claim shall be made expressly and shall  
be supported by a description of the nature of the documents, communications, or things not  
produced that is sufficient to enable the demanding party to contest the claim.

# CONFIRMATION OF SCHEDULING

Worldwide Litigation Services  
8275 South Eastern Avenue  
Suite 200-477  
Las Vegas, NV 89123  
Phone: (702) 799-9218  
Toll Free: (855) 614-6175  
calendar@worldwidelit.com



<b>Job No.</b>	<b>45392</b>		
<b>Attn</b>	<b>Annabelle Nudo</b>	<b>Attorney</b>	<b>Russell Gubler</b>
<b>Firm</b>	<b>Johnson &amp; Gubler, P.C.</b> Lakes Business Park 8831 W. Sahara Avenue Las Vegas, NV 89117 Phone: (702) 471-0065		

This is being sent as confirmation of the following scheduled assignment:

<b>Case Name</b>			
<b>Witness Name</b>	<b>Tim Wyatt</b>		
<b>Job Date</b>	<b>10/22/2020</b>	<b>Time</b>	<b>12:00PM - 2:00PM (GMT-06:00) Central Time (US &amp; Canada)</b>
<b>Location</b>	<b>REMOTE</b>  Phone: Detail:		
<b>Notes</b>	<b>Worldwide Lit is inviting you to a scheduled Zoom meeting.</b>  <b>Topic: Tim Wyatt Deposition</b> <b>Time: Oct 22, 2020 12:00 PM Central Time (US and Canada)</b>  <b>Join Zoom Meeting</b> <a href="https://worldwidelit.zoom.us/j/93779548570?pwd=M2JLbnFmTFU0emZzTFdCdEZJOE5RUT09">https://worldwidelit.zoom.us/j/93779548570?pwd=M2JLbnFmTFU0emZzTFdCdEZJOE5RUT09</a>  <b>Meeting ID: 937 7954 8570</b> <b>Passcode: 895581</b> <b>One tap mobile</b> +13126266799,,93779548570#,,,,,0#,,895581# US (Chicago) +13017158592,,93779548570#,,,,,0#,,895581# US (Germantown)  <b>Dial by your location</b> +1 312 626 6799 US (Chicago) +1 301 715 8592 US (Germantown) +1 929 205 6099 US (New York) +1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston)  <b>Meeting ID: 937 7954 8570</b> <b>Passcode: 895581</b> <b>Find your local number:</b> <a href="https://worldwidelit.zoom.us/j/abbGMmfRRx">https://worldwidelit.zoom.us/j/abbGMmfRRx</a>		

DIRECT001525

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DISTRICT COURT

CLARK COUNTY, NEVADA

DIRECT GRADING & PAVING,	)	
LLC, a Nevada limited	)	
liability company;	)	
	)	
Plaintiffs,	)	Case No.: A-18-773139-C
	)	Dept. No.: XXXII
vs.	)	
	)	
CENTURY COMMUNITIES OF	)	
NEVADA, LLC, a Delaware	)	
limited liability company,	)	
ARGONAUT INSURANCE COMPANY,	)	
DOES I through X; and ROE	)	
CORPORATIONS I through X,	)	
inclusive,	)	
	)	
Defendants.	)	
_____	)	

VIDEOCONFERENCE VIDEOTAPED DEPOSITION

OF SCOTT PROKOPCHUK

WEDNESDAY, OCTOBER 28, 2020

Reported by: Monice K. Campbell, NV CCR No. 312

Job No.: 4936

VIDEOCONFERENCE VIDEOTAPED DEPOSITION OF SCOTT PROKOPCHUK, held on Wednesday, October 28, 2020, at 10:53 a.m., before Monice K. Campbell, Certified Court Reporter, in and for the State of Nevada.

**VIRTUAL APPEARANCES:**

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For the Century Communities of Nevada, LLC and Argonaut Insurance Company:

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**E X H I B I T S**

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\*\*\*\*\*

WEDNESDAY, OCTOBER 28, 2020; 10:53 A.M.

\*\*\*\*\*

**THE VIDEOGRAPHER:** Good morning. Today is October 28th of 2020, and the time is approximately 10:53 a.m. The deponent is Scott Prokopchuk.

This is Case Number A-18-773139C, filed in the District Court, Clark County, Nevada. The case is Direct Grading & Paving, LLC versus Century Communities of Nevada, LLC, et al.

My name is Jordan Leads of Envision Legal Solutions. I am the videographer. This deposition is taking place virtually on Zoom video conferencing.

Will all counsel present please identify themselves, state whom you represent, and agree on the record that there is no objection to the deposition officer administering a binding oath to the witness via Zoom.

We will start with the noticing attorney, Mr. Oliver Pancheri.

**MR. PANCHERI:** Oliver Pancheri for Century Communities, and no objection to administering the oath via Zoom.

<p style="text-align: right;">Page 6</p> <p>1 MR. DIXON: Steve Dixon on behalf of 2 Mr. Prokopchuk. No objection. 3 MR. GUBLER: Russ Gubler on behalf of 4 Direct Grading. No objection. 5 Whereupon, 6 SCOTT PROKOPCHUK, 7 having been sworn to testify to the truth, the whole 8 truth, and nothing but the truth, was examined and 9 testified under oath as follows: 10 11 EXAMINATION 12 BY MR. PANCHERI: 13 Q. All right. Mr. Prokopchuk, again, my 14 name is Oliver Pancheri. I'm an attorney for 15 Century Communities. We appreciate you taking the 16 time to sit down for the deposition. 17 I apologize for being late. We ran a 18 little late with a hearing this morning and then 19 ran into some technical difficulties logging in. 20 I'll do my best to try and get you out of here as 21 soon as I can. 22 First question, have you been deposed 23 before? 24 A. Yes, I have. 25 Q. How many times?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. You were at the time. 2 A. I was at the time. 3 Q. Okay. You were not a party to that case 4 in your individual -- 5 A. No. 6 Q. -- capacity? 7 All right. So it's been a while since 8 you've been deposed, so let me give you kind of the 9 ground rules for the deposition so we're on the 10 same page. In any deposition, it's important that 11 we don't talk at the same time because we have a 12 court reporter who's taking down everything as we 13 speak. And so if we speak at the same time, 14 especially via Zoom, it makes it nearly impossible 15 for her to take everything down. 16 So if you can pause before you answer any 17 questions, even if you anticipate what I might be 18 asking in the question, that will give the court 19 reporter time to take it down, but two, it will 20 prevent us from talking at the same time, and 21 three, it will give any counsel a chance to object 22 to the question. 23 Counsel can object to the question if 24 they think there was something improper about the 25 form of my question, and that's done for the record</p>
<p style="text-align: right;">Page 7</p> <p>1 A. I believe twice. 2 Q. Okay. When was the last time you were 3 deposed? 4 A. Oh, my goodness. I would say a minimum 5 of probably 20 years ago. 6 Q. Okay. So it's been a while? 7 A. Yes. 8 Q. And what type of case was that? 9 A. I think it was a construction defects 10 case regarding William Lyon Homes. 11 Q. Were you a witness in the case? 12 A. I worked for William Lyon Homes. 13 Q. So William Lyon Homes was a party to the 14 case, and you were a witness on behalf of William 15 Lyon Homes? 16 A. Yes. 17 Q. And then you mentioned two depositions. 18 What was the deposition before that one? 19 A. A deposition with Pacific Properties. 20 Q. What type of case was that? 21 A. Same thing. I think I worked 22 construction defects. 23 Q. And then you were an employee of Pacific 24 Properties? 25 A. I am or was?</p>	<p style="text-align: right;">Page 9</p> <p>1 so that that objection is preserved for trial. 2 Now, you still need to answer the question, even if 3 there is an objection put on the record, unless 4 your counsel instructs you not to answer on the 5 basis of privilege. 6 Does that make sense? 7 A. Yes. 8 Q. You are represented by counsel today; is 9 that correct? 10 A. Yes. 11 Q. And that's Mr. Dixon? 12 A. Yes. 13 Q. Okay. So if at some point you need to 14 take a break, we can take a break. I would just 15 ask you to not ask for a break while a question is 16 pending. If a question is pending, I would like to 17 get that answer, and then we can take a break 18 thereafter. 19 Does that make sense? 20 A. Yes. 21 Q. Now, are you under any medications that 22 would prevent you from giving your best testimony 23 today? 24 A. No. 25 Q. Have you done anything to prepare for</p>

<p style="text-align: right;">Page 10</p> <p>1 this deposition?</p> <p>2 A. No.</p> <p>3 Q. Have you reviewed any documents to</p> <p>4 prepare for the deposition?</p> <p>5 A. No.</p> <p>6 Q. Have you spoken to anyone to prepare for</p> <p>7 the deposition?</p> <p>8 A. No.</p> <p>9 Q. As I said before, we've got a court</p> <p>10 reporter who's taking everything down. She's going</p> <p>11 to create a transcript, which basically reads like</p> <p>12 a play. And so after the deposition, you'll have a</p> <p>13 chance to review that transcript and make sure that</p> <p>14 it's all been transcribed accurately.</p> <p>15 So if you feel like there's a change that</p> <p>16 needs to be made, either because of a mistake made</p> <p>17 in the transcription or you feel like maybe there</p> <p>18 was an answer that you didn't understand or didn't</p> <p>19 answer truthfully at the time, you'll have a chance</p> <p>20 to make that change if you opt to review the</p> <p>21 transcript.</p> <p>22 I do have to admonish you, though, if you</p> <p>23 make a change that's of substance to the</p> <p>24 deposition, it could be used to challenge your</p> <p>25 credibility at the time of the hearing.</p>	<p style="text-align: right;">Page 12</p> <p>1 attaches to that break if you ask for it, unless</p> <p>2 you're conferring counsel about whether or not a</p> <p>3 privilege applies. And so I just add that as an</p> <p>4 admonishment to this deposition.</p> <p>5 So if you feel like there's a question</p> <p>6 where you're not sure if you can answer without</p> <p>7 divulging an attorney/client privilege, you can ask</p> <p>8 for a break to confer with your counsel on that</p> <p>9 issue.</p> <p>10 Does that make sense?</p> <p>11 A. Yes.</p> <p>12 Q. Now, there's -- this deposition is a</p> <p>13 little unique because we've got a limited scope.</p> <p>14 This deposition is being taken in connection with</p> <p>15 an upcoming hearing, and really the scope of this</p> <p>16 deposition is just pertaining to the issues</p> <p>17 relating to that upcoming hearing as opposed to the</p> <p>18 entire case.</p> <p>19 So on behalf of Century Communities, we</p> <p>20 reserve the right to continue this deposition, if</p> <p>21 necessary, to get into more of the substance of the</p> <p>22 underlying dispute. Again, if necessary. I just</p> <p>23 want to make sure that's clear on the record.</p> <p>24 So let me start off with the first</p> <p>25 question. You previously worked for Dunhill Homes;</p>
<p style="text-align: right;">Page 11</p> <p>1 Does that make sense?</p> <p>2 A. Yes.</p> <p>3 Q. Now, just one question I always ask in</p> <p>4 any deposition because it goes to the issue of</p> <p>5 credibility: Have you ever been convicted of a</p> <p>6 felony?</p> <p>7 A. No.</p> <p>8 Q. Now, probably the most important thing</p> <p>9 with having your deposition taken is you've taken</p> <p>10 an oath. That's the same oath that would apply in</p> <p>11 a court of law, so the number one instruction to</p> <p>12 you is to tell the truth.</p> <p>13 Now, if there's a question that I ask and</p> <p>14 you don't understand it, I'd ask you just to tell</p> <p>15 me that so I can rephrase it so we make sure we</p> <p>16 have a clear record where you understand the</p> <p>17 questions before you answer them.</p> <p>18 Does that make sense?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And if, again, at some point you</p> <p>21 want to take a break and confer with your counsel</p> <p>22 regarding some issue that's come up during the</p> <p>23 deposition -- there's a case that came out here in</p> <p>24 Nevada a few years ago called Coyote Springs, which</p> <p>25 basically means that there is no privilege that</p>	<p style="text-align: right;">Page 13</p> <p>1 is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. What was your position with Dunhill?</p> <p>4 A. The land development manager.</p> <p>5 Q. And how long did you have that position?</p> <p>6 A. I think it was from 2014 to 2016.</p> <p>7 Q. That was with Dunhill?</p> <p>8 A. Yes, I believe. I'd have to -- I have my</p> <p>9 résumé handy but, you know, I -- I think that was</p> <p>10 the years. You kind of jumped out on that one</p> <p>11 there. I'd have to look.</p> <p>12 Q. No, I understand, and we might review</p> <p>13 some documents that might help refresh your</p> <p>14 recollection in that regard, and so I understand</p> <p>15 that it might be a little fuzzy in terms of dates,</p> <p>16 but is it fair to say that you worked for Dunhill</p> <p>17 prior to working for Century Communities?</p> <p>18 A. Yes.</p> <p>19 Q. And you held the same position at both</p> <p>20 companies?</p> <p>21 A. Yes.</p> <p>22 Q. And that again was land development</p> <p>23 manager?</p> <p>24 A. Correct.</p> <p>25 Q. Now, at some point, is it your</p>



<p style="text-align: right;">Page 14</p> <p>1 understanding that Century Communities acquired 2 Dunhill? 3 A. Yes. 4 Q. And is that how you went from working for 5 Dunhill to Century Communities? 6 A. Yes. 7 Q. Who did you report to when you were at 8 Dunhill? Can you tell me who your supervisor was? 9 A. Don Boettcher. 10 Q. Could you spell his last name, please? 11 A. Yes. B-o-e-t-t-c-h-e-r. 12 Q. And then when there was this transition 13 to Century Communities, who did you report to? 14 A. In the beginning, it was Don Boettcher, 15 and then Rick Barron. 16 Q. And that's B-a-r-r-o-n? 17 A. Correct. 18 Q. What did you understand Mr. Boettcher's 19 title to be at Century? 20 A. Division president. 21 Q. What did you understand Mr. Barron's 22 title to be? 23 A. I believe he was director of land 24 development. 25 Q. And then your position was land</p>	<p style="text-align: right;">Page 16</p> <p>1 objection? I didn't catch the entire objection 2 from Mr. Gubler. Was that objection as to form? 3 THE COURT REPORTER: I have, "I'm going 4 to object to the form. Assuming facts." 5 BY MR. PANCHERI: 6 Q. So again, Mr. Prokopchuk, and it's 7 natural, if you can just kind of pause before you 8 answer the question, that will give counsel a 9 chance to interject any objections they feel are 10 appropriate, but again, I would try and ask you to 11 pay attention to the question so that you can still 12 answer it after the objection is put on the record. 13 So again, I'd ask you the question, was 14 that a phone that was issued to you by Direct 15 Grading &amp; Paving? 16 A. Yes. 17 Q. Do you recall when that phone was issued 18 to you? 19 A. I do not. 20 Q. Do you recall if it was while you were 21 working for Dunhill? 22 A. I don't recall. 23 Q. Do you recall if it was while you were 24 working for Century? 25 A. Yes.</p>
<p style="text-align: right;">Page 15</p> <p>1 development manager at both communities? 2 A. Yes. 3 Q. Were your duties essentially the same at 4 both companies? 5 A. Yes. 6 Q. Now, just a little off topic, but tell me 7 if you recognize this telephone number. It's 8 (702)533-9344. 9 A. Yes. 10 Q. Was that your telephone number? 11 A. Yes. 12 Q. How did you obtain that telephone number? 13 A. I got that telephone number from 14 Mel Westwood. 15 Q. Was that in connection with the telephone 16 that was issued to you by Direct Paving &amp; Grading? 17 A. I believe it was -- I believe it was 18 DGP Holdings. I'm sorry? 19 THE COURT REPORTER: Counsel's trying to 20 object so hold on a moment, let him object, please. 21 MR. GUBLER: Thank you. 22 I'm going to object to the form. 23 Assuming facts. 24 MR. DIXON: I'll also join. 25 MR. PANCHERI: Monice, did you catch the</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. You believe it was when you were working 2 for Century? 3 A. I believe so. 4 Q. Can you give me your best estimation as 5 to kind of the timeframe for when you got that 6 phone? 7 A. I'm sorry, I cannot. I don't recall. 8 Q. Okay. And do you recall what type of 9 telephone it was? Was it an iPhone? Blackberry? 10 What type of phone? 11 A. It was, I believe, an iPhone. 12 Q. Do you still have that phone? 13 A. I do not. 14 Q. Do you know what happened to it? 15 A. It broke down or it -- it ceased to work. 16 Q. All right. Now, tell me a little bit how 17 you would describe your duties as the land 18 development manager at Century. What did those 19 duties include? 20 A. My duties were basically to purchase the 21 contractors or to hire the -- solicit bids and hire 22 the contractors and to watch over the work that 23 they performed, and also I did budgeting and 24 schedules. 25 Q. Okay. So did your job include obtaining</p>

1 job estimates from those various contractors?  
 2 A. Yes.  
 3 Q. Did it include awarding jobs to  
 4 contractors?  
 5 A. In conjunction with the department.  
 6 Q. When you say "the department," what are  
 7 you referring to?  
 8 A. The company made a decision. It was a  
 9 team effort of awarding contracts.  
 10 Q. So were you the one to initially review  
 11 the contracts and make a recommendation for the  
 12 award?  
 13 A. It was actually, again, a team effort.  
 14 Q. Okay. And that team was comprised of  
 15 whom?  
 16 A. What company? I'm sorry.  
 17 Q. Under Century.  
 18 A. Under Century. That would have been a  
 19 combination of myself and Rick Barron and  
 20 Don Boettcher.  
 21 Q. So in terms of presenting the potential  
 22 contracts for a potential award to a contractor,  
 23 was that your job to do the initial presentation  
 24 and then essentially make a recommendation to  
 25 either Mr. Barron or Mr. Boettcher for them to be

1 A. In conjunction with the team.  
 2 Q. When you reference "the team," who are  
 3 you referring to here?  
 4 A. Again, it was myself, Rick Barron, and  
 5 Don Boettcher.  
 6 Q. So how would you distinguish your role in  
 7 overseeing the work of the contractors to  
 8 Mr. Barron's role?  
 9 A. Well, we would both be out on-site,  
 10 driving around. Mr. Barron was maybe in the office  
 11 a little more than I was, but we had multiple  
 12 projects going on, and so I would -- we would all  
 13 oversee what was going on.  
 14 Q. Was Mr. Boettcher, was he typically in  
 15 the office? He wasn't necessarily out in the field  
 16 overseeing the work, was he?  
 17 A. As a division president, he actually did  
 18 do a lot of time out in the field.  
 19 Q. Okay. Who spent the most time out in the  
 20 field out of the three of you?  
 21 A. Might have been a toss-up between myself  
 22 and Rick Barron.  
 23 Q. Are you suggesting that you spent an  
 24 equal amount of time in the field overseeing the  
 25 work?

1 approved?  
 2 A. That was actually, again, a team effort.  
 3 Q. What I'm trying to distinguish is, if  
 4 there was a particular contractor out there that  
 5 could work in whatever trade it might be, were you  
 6 the one actually doing that interaction with the  
 7 contractor and recommended -- and recommending the  
 8 award to that contractor subject to the approval of  
 9 Mr. Barron and Mr. Boettcher?  
 10 A. Actually, the whole team would solicit  
 11 bids.  
 12 Q. Okay. So Mr. Barron would solicit bids  
 13 as well?  
 14 A. Yes.  
 15 Q. And would Mr. Boettcher solicit them too?  
 16 A. To a point. As division president, you  
 17 know, he would make recommendations if somebody had  
 18 contacted him from a company or something.  
 19 Q. Okay. And then the team would review  
 20 those bids and select which contractor to award the  
 21 contract to?  
 22 A. Yes.  
 23 Q. Again, going over your duties as the land  
 24 development manager, did you actually oversee the  
 25 work of the contractors?

1 A. Very slight percentage of myself more  
 2 than anyone else.  
 3 Q. So it was primarily you in the field  
 4 overseeing the work; is that fair to say?  
 5 A. No. Again, it was -- I think it was  
 6 myself and Rick Barron.  
 7 Q. Let me use a different word. Was it  
 8 predominantly you, so more than 50 percent you  
 9 compared to Mr. Barron?  
 10 A. Maybe slightly.  
 11 MR. GUBLER: Objection. Asked and  
 12 answered multiple times. Move on.  
 13 MR. DIXON: Join.  
 14 Go ahead and answer, Scott.  
 15 THE WITNESS: Yes. Myself was slightly  
 16 50 percent more than probably everyone else.  
 17 BY MR. PANCHERI:  
 18 Q. Okay. When you say you were out in the  
 19 field -- strike that.  
 20 Part of your job, did it also include  
 21 approving change orders and purchase orders from  
 22 contractors?  
 23 A. I was the first line of approvals.  
 24 Q. So you were the first line, and after you  
 25 approved it, how did it go from there?

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<p>1 A. It would go to accounting and get 2 approval from a department head, be it Rick Barron, 3 and then final approval through finance, through 4 the controller and then through finance. 5 Q. Okay. Do you remember who the controller 6 was at Century? 7 A. John Holden. 8 Q. Okay. Do you recall instances where the 9 controller refused to approve any payment that you 10 had -- that you had recommended? 11 A. I do not recall. 12 Q. Do you recall any instances where 13 Mr. Barron refused or rejected or challenged any 14 payment you had recommended to a contractor? 15 A. Yes. 16 Q. What do you recall? 17 A. I recall there are times that my -- some 18 of my contractors would look to be seeing why they 19 hadn't been paid and was told there was a hold on 20 payment by Rick Barron. 21 Q. Did that happen often? Was that 22 infrequent? 23 A. You know, it happened a few times. I 24 can't tell you exactly when, but I recall a few 25 times.</p>	<p>1 hierarchy, with you under Rick Barron? 2 A. Yes. 3 Q. Was there anyone that reported to you? 4 A. No. 5 Q. Was there anyone else out in the field 6 observing the work, other than you and possibly 7 Rick Barron and Mr. Boettcher? 8 A. Near the end of the time I was there, I 9 think Tim Wyatt was there. 10 Q. What was Mr. Wyatt's position? 11 A. He was a superintendent. 12 Q. And he reported to you? 13 A. No. 14 Q. Okay. Who did he report to? 15 A. Rick Barron. 16 Q. Okay. Did you report to him? 17 A. To who? 18 Q. To Mr. Wyatt. 19 A. Did I report to Mr. Wyatt? 20 Q. Correct. 21 A. No. 22 Q. Okay. So you were both basically on, I 23 guess, the same level, both reporting to 24 Rick Barron; is that a fair way to say it? 25 A. Different titles, but yes.</p>
Page 23	Page 25
<p>1 Q. Do you recall it ever happening with 2 Direct? And when I say "Direct," I'm referring to 3 Direct Grading &amp; Paving. 4 Does that make sense? 5 A. Yes. I do recall that there was times 6 with Direct Paving also. 7 Q. Can you give me any specific examples? 8 A. No, I can't. 9 Q. So nothing sticks out in your mind right 10 now? 11 A. No. 12 Q. Was it a few instances? One instance? 13 A. At least more than once. 14 Q. Okay. Would you say more than twice? 15 A. I don't recall. 16 Q. Would your best estimate be just a 17 handful of times, if that? 18 MR. DIXON: Asked and answered. 19 Go ahead and answer, Scott. 20 THE WITNESS: A few times. 21 BY MR. PANCHERI: 22 Q. Now, let's talk a little bit about the 23 chain of command at Century. You mentioned you 24 reported to Rick Barron. Was it Rick Barron and 25 then Don Boettcher as the president? Was that the</p>	<p>1 Q. Now, you're obviously familiar with 2 Direct Grading &amp; Paving. How long have you known 3 or interacted with Direct? 4 MR. DIXON: Form of the question. 5 Go ahead, Scott. 6 THE WITNESS: I'm sorry? 7 MR. DIXON: You can answer, Scott. 8 Oliver, you might have to repeat the 9 question. 10 BY MR. PANCHERI: 11 Q. Sure. So, Mr. Prokopchuk, my question 12 was, how long have you known and worked with Direct 13 Grading &amp; Paving? 14 A. And what do you mean by "known and 15 worked"? 16 Q. So if you can go back to the earliest 17 instance where you, in any capacity, I guess 18 working for any company, worked with Direct? 19 A. I guess I still don't understand. Are 20 you talking -- what do you mean exactly? 21 Q. What I'm asking about is, when was the 22 first time that you, in any capacity, whether 23 working for Dunhill, Century or somebody else, that 24 you worked with Direct? 25 A. Direct worked for William Lyon Homes when</p>

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<p>1 I was there.</p> <p>2 Q. Okay. And how long ago was that?</p> <p>3 A. Gosh, I don't recall exactly, but many</p> <p>4 years ago.</p> <p>5 Q. Can you give me your best estimate?</p> <p>6 A. Had to have been prior to 2008 because I</p> <p>7 left William Lyon before then.</p> <p>8 Q. And what was Direct's interaction with</p> <p>9 Willam Lyon? Was it acting as a subcontractor?</p> <p>10 A. Yes.</p> <p>11 Q. And what was your position with</p> <p>12 Willam Lyon?</p> <p>13 A. Land development manager.</p> <p>14 Q. So same or similar to what you had with</p> <p>15 Dunhill and with Century?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Just briefly, we don't need to get</p> <p>18 into a long history on this. Can you tell me about</p> <p>19 your qualifications for acting as a land develop</p> <p>20 manager? How long have you been in the</p> <p>21 construction industry, what certifications,</p> <p>22 licenses you hold, your education, et cetera.</p> <p>23 A. Just real quickly, I started land</p> <p>24 development in probably late 1980s, and I have</p> <p>25 been -- went from land development superintendent,</p>	<p>1 '14, '15, something like that.</p> <p>2 Q. Were you working for Dunhill at the time?</p> <p>3 A. I believe so.</p> <p>4 Q. And describe for me what you did as a</p> <p>5 consultant for Direct.</p> <p>6 A. Actually, it was for DGP Holdings is who</p> <p>7 I was doing the consulting for. And it was</p> <p>8 basically a piece of property in the Apex area in</p> <p>9 North Las Vegas, that they were looking for a --</p> <p>10 looking at doing feasibility on a renewable energy</p> <p>11 plant.</p> <p>12 Q. What is DGP Holdings?</p> <p>13 A. Direct Grading &amp; Paving Holdings, I</p> <p>14 guess, or Direct -- DGP, Direct Grading &amp; Paving</p> <p>15 Holdings.</p> <p>16 Q. Is that a company related to Direct?</p> <p>17 A. I think it was related to Mel Westwood</p> <p>18 rather than Direct. I don't know. I have no idea</p> <p>19 of what the -- how it works.</p> <p>20 Q. Do you have an understanding that</p> <p>21 Mel Westwood is the principal of Direct?</p> <p>22 A. Yes.</p> <p>23 Q. Did you have an understanding that</p> <p>24 Mel Westwood was also the principal of</p> <p>25 DGP Holdings?</p>
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<p>1 field superintendent, to land development manager,</p> <p>2 to director of land development.</p> <p>3 And education is basically I have -- I</p> <p>4 got my transcripts the other day -- associate's</p> <p>5 degree in business and construction management.</p> <p>6 Q. And where did you get from?</p> <p>7 A. Fullerton College, a junior college in</p> <p>8 California.</p> <p>9 Q. And when was that?</p> <p>10 A. 1971 to 1986.</p> <p>11 Q. And I don't know if you mentioned this,</p> <p>12 do you hold any licenses? Do you have a</p> <p>13 contractor's license?</p> <p>14 A. No.</p> <p>15 Q. Okay. Now, let me ask you this: Have</p> <p>16 you ever received payments from Direct?</p> <p>17 MR. DIXON: Form of the question, but go</p> <p>18 ahead and answer, Scott.</p> <p>19 THE WITNESS: Have I ever received</p> <p>20 payment for what?</p> <p>21 BY MR. PANCHERI:</p> <p>22 Q. For anything.</p> <p>23 A. I did consulting work for Direct.</p> <p>24 Q. When did that start?</p> <p>25 A. I don't recall exactly, but somewhere in</p>	<p>1 A. Yes.</p> <p>2 Q. Now, do you recall how much you were paid</p> <p>3 as a consultant?</p> <p>4 A. I think somewhere around -- no, total</p> <p>5 amounts, I don't remember the total amounts, but</p> <p>6 somewhere in the 8-, 900 range, I believe, a week.</p> <p>7 Q. How long did this consulting continue?</p> <p>8 You mentioned 2014 to 2015, until when?</p> <p>9 A. Sometime in 2016.</p> <p>10 Q. And why did it come to an end?</p> <p>11 A. I left -- I left and went to California.</p> <p>12 Q. You left Las Vegas and moved to</p> <p>13 California?</p> <p>14 A. Correct.</p> <p>15 Q. Now, did you move from Las Vegas and go</p> <p>16 to California shortly after you resigned from</p> <p>17 Century?</p> <p>18 A. Exactly after. That's the reason I</p> <p>19 resigned.</p> <p>20 Q. To take a job in California?</p> <p>21 A. Yes.</p> <p>22 MR. PANCHERI: Now, Monice, if we could</p> <p>23 pull up Exhibit A.</p> <p>24 (Exhibit A was marked.)</p> <p>25 THE COURT REPORTER: Oliver, are you</p>

1 going to want to mark it as A or mark it as 1?

2 MR. PANCHERI: A is fine. We can mark  
3 them as -- I think we sent them over with letters  
4 attached to them. We can mark them as identified.

5 THE COURT REPORTER: Okay. It's in the  
6 chat.

7 MR. PANCHERI: So I can just click on the  
8 link and it will pull it up?

9 THE COURT REPORTER: Correct.

10 BY MR. PANCHERI:

11 Q. Mr. Prokopchuk, can you see a document in  
12 front of you. In the top left corner it says  
13 "Employment Security Division"?

14 A. I cannot. I -- how do I pull this thing  
15 up?

16 THE COURT REPORTER: Let's go off the  
17 record for a minute at 11:24 a.m.

18 (Off the record at 11:24 a.m. and back on  
19 the record at 11:26 a.m.)

20 THE VIDEOGRAPHER: We're back on the  
21 record. The time is approximately 11:26 a.m.

22 BY MR. PANCHERI:

23 Q. All right. So, Mr. Prokopchuk, I'm  
24 showing you a document we've marked as Exhibit A.  
25 It's entitled "Employment Security Division." I'll

1 can just click the X at the top, we can close out  
2 of that particular document. And we'll bring up  
3 Exhibit B, please, Monice.

4 MR. DIXON: Sorry, Scott, did you say B?

5 MR. PANCHERI: B as in boy.

6 (Exhibit B was marked.)

7 BY MR. PANCHERI:

8 Q. Mr. Prokopchuk, the same drill. If  
9 you'll click on that link, let me know when the  
10 document is open.

11 A. Yes.

12 Q. And again, this is a similar document we  
13 marked as Exhibit B. I'll represent to you again  
14 this was produced by Direct and it again has the  
15 title in the top left corner, "Employment Security  
16 Division," and it appears to be for the second  
17 quarter of 2016.

18 Do you see that?

19 A. Yes.

20 Q. And then I'd ask you to scroll down until  
21 you see your name, and just confirm to me again  
22 that that appears to be the amount you were paid  
23 for this second quarter of 2016, which is \$15,600?

24 A. I have nothing to -- yes.

25 Q. Okay. And you can click out of that

1 represent to you that this is a document produced  
2 by Direct Grading & Paving, and you see that it's  
3 got a box in the right corner that says "Employer  
4 account number" and under that it says "Quarter  
5 ending date March 31st, 2016."

6 Do you see that?

7 A. Yes.

8 Q. And then if you scroll down, please,  
9 you'll see a list of employees and their total  
10 gross wages. And if you scroll down, in  
11 alphabetical order -- I just want you to scroll  
12 down until you see your name, which is about  
13 five pages down.

14 A. Yep.

15 Q. You see there there's an amount to the  
16 right under "Total Gross Wages and Tips" of  
17 \$14,400, and I just wanted to ask you, does that --  
18 is that accurate in terms of the amount that you  
19 were paid by Direct during this first quarter of  
20 2016?

21 A. As far as I know, yes.

22 Q. Okay. You don't have any reason to  
23 dispute it?

24 A. I do not.

25 Q. So we can close out of that one. If you

1 document. We'll go on to Exhibit C as in Charlie.  
2 (Exhibit C was marked.)

3 MR. PANCHERI: Monice, I don't mind if  
4 you go ahead and upload all of these exhibits to  
5 that chat or at least, you know, fill up as many as  
6 we can. I'm going to use them all.

7 BY MR. PANCHERI:

8 Q. So, Mr. Prokopchuk, if you would open  
9 that link to Exhibit C.

10 A. Yes.

11 Q. And then do you see where it indicates  
12 this is the same document but now for the third  
13 quarter of 2016?

14 A. Yes.

15 Q. And I would ask you to scroll down and  
16 tell me if you see your name and the amount of  
17 money that was paid to you for this third quarter  
18 of 2016?

19 A. Yes.

20 Q. So what is that amount of money?

21 A. It looks like 16-eight.

22 Q. Do you have a recollection as to why  
23 there were varying amounts of the amount of money  
24 that you were paid in different quarters?

25 A. I don't know, unless it was something to

1 do with weeks or whatever. I do not.  
 2 Q. Were you paid on an hourly basis?  
 3 A. No.  
 4 Q. How did you negotiate your payment with  
 5 Direct for the consulting services?  
 6 A. I didn't really negotiate. We just --  
 7 that was kind of the price.  
 8 Q. Was it a flat fee?  
 9 A. Yeah.  
 10 Q. Okay.  
 11 A. Something of that sort, yes.  
 12 MR. PANCHERI: Let's go to Exhibit D,  
 13 please.  
 14 (Exhibit D was marked.)  
 15 BY MR. PANCHERI:  
 16 Q. So, Mr. Prokopchuk, same question for  
 17 Exhibit D. Do you see this is for the final  
 18 quarter of 2016?  
 19 A. Yes.  
 20 Q. And again, if you scroll down to where  
 21 your name is listed and tell me the amount that you  
 22 were paid for the fourth quarter of 2016?  
 23 A. Fifteen-six.  
 24 Q. Okay. Close out of that.  
 25 And, you know, we will actually skip

1 Exhibit E. We can leave that blank. We can keep  
 2 the numbering though, Monice. Skip Exhibit E.  
 3 Now, why was it you were paid by Direct  
 4 as opposed to DGP Holdings?  
 5 A. Sorry. Please say that again.  
 6 Q. Why were you paid by Direct as opposed to  
 7 receiving payment from DGP Holdings?  
 8 A. My concern was being able to claim --  
 9 claim it in my taxes, and I don't know if there was  
 10 a method of doing that with DGP. But, you know, I  
 11 was working for DGP, and then I think it just --  
 12 somehow or another the costs got transferred over  
 13 to Direct Grading. I don't know exactly how they  
 14 did that or how that was working out.  
 15 Q. All right. So who came up with that idea  
 16 to have Direct pay you as opposed to DGP?  
 17 A. I don't know. I don't recall.  
 18 Q. Do you know if you were treated as an  
 19 employee of Direct for payroll purposes?  
 20 A. No, I don't think so.  
 21 Q. Well, let me ask it this way: Did you  
 22 receive a W-9?  
 23 A. I'm sorry?  
 24 Q. Let me ask, did you receive a 1099?  
 25 A. No.

1 Q. Okay. So you -- did you consider  
 2 yourself to be an independent contractor?  
 3 A. I considered the work being done as  
 4 independent contracting.  
 5 Q. But you didn't receive a 1099?  
 6 A. No.  
 7 Q. Okay. Do you know if Direct paid payroll  
 8 taxes for you as an employee?  
 9 A. I don't know.  
 10 Q. Okay. And you believe these payments --  
 11 do they start around the 2014/2015 timeframe?  
 12 A. As far as I can recall.  
 13 Q. Now, if it was -- if you were receiving a  
 14 payment of about \$15,000 a quarter, that would be  
 15 roughly \$5,000 a month. Do you agree with that?  
 16 A. I guess if that's the number that the  
 17 mathematics works out to, I guess. I don't know.  
 18 Q. Well, we just saw some, and it looked  
 19 like it was approximately 15,000 a quarter.  
 20 Three months in a quarter, dividing it by three,  
 21 that would be about 5,000 a month.  
 22 Does that make sense?  
 23 A. Per your math, yes.  
 24 Q. Okay. So do you recall how much you were  
 25 being paid by Century during that same time period

1 on a monthly basis?  
 2 A. No, I do not.  
 3 Q. Can you give me your best estimate?  
 4 A. Whatever -- I guess whatever 115 or --  
 5 was divided by 12.  
 6 Q. So that was your annual salary was  
 7 \$115,000?  
 8 A. Somewhere around there, yeah. Or 111,  
 9 111 to 115, something like that.  
 10 Q. Now, did you ever disclose to  
 11 Mr. Boettcher that you were being paid by Direct as  
 12 a consultant?  
 13 A. No.  
 14 Q. Did you ever disclose to Mr. Barron,  
 15 Rick Barron, that you were being paid by Direct to  
 16 act as a consultant for Direct or for DGP Holdings?  
 17 A. No.  
 18 Q. Did you ever disclose to anyone at  
 19 Century that you were being paid as a consultant by  
 20 Direct?  
 21 A. No.  
 22 MR. DIXON: Sorry, Oliver.  
 23 MR. PANCHERI: Go ahead.  
 24 MR. DIXON: I'll object to the line of  
 25 questioning on the basis of -- he believed he

1 worked for DGP, although I appreciate that he  
2 received checks from Direct, and so you can  
3 continue with your line of questioning. I just  
4 wanted to make that clear.

5 Scott, you can continue to answer.

6 BY MR. PANCHERI:

7 Q. And my question was, why not? Why did  
8 you not disclose that to anyone at Century?

9 A. I didn't feel like I had to.

10 Q. And why was that?

11 A. I didn't want to.

12 Q. You didn't want to?

13 A. No.

14 Q. Why didn't you want to disclose it?

15 A. I felt like I didn't need to disclose  
16 that I was doing extra work.

17 Q. Concerned that somebody at Century might  
18 have a problem with you receiving payments from  
19 Direct while you were working for Century and  
20 overseeing Direct?

21 A. Yes.

22 Q. Now, did you ever do consulting work for  
23 anyone else while you were working at Century?

24 A. No.

25 Q. It was just Direct?

1 A. Yes.

2 Q. Now, can you tell me about what it is you  
3 actually did for DGP Holdings as a consultant?

4 A. I looked at the feasibility of developing  
5 a piece of land. There was 650 acres with a  
6 crushing site, roads that needed to come into the  
7 site. There was a potential of possibly looking at  
8 doing work with a renewable energy company to  
9 produce a plant up there for basically burning  
10 combustibles, trash, things like that, to -- that  
11 would be able to provide utilities to a potential  
12 industrial park.

13 Q. Who did you work with at DGP on this  
14 project?

15 A. Mel.

16 Q. Just Mel? Anyone else?

17 A. Just Mel.

18 Q. And do you have any -- would there be any  
19 work product created by you evidencing the work  
20 that you did for DGP Holdings?

21 A. I don't think so.

22 Q. Would there be any plans, proposals,  
23 schedules, budgets, anything of that nature that  
24 you created?

25 A. I wouldn't have, no, but reviewed some

1 things that Mel had.

2 Q. Did you attend any meetings on behalf of  
3 DGP with any third parties?

4 A. Third parties, no.

5 Q. Were you provided the cell phone from  
6 Direct in connection with you acting as a  
7 consultant?

8 A. Yes.

9 Q. On that cell phone, would you have  
10 communicated with Mel through text messages?

11 A. I wasn't really a big text guy, but there  
12 could have been.

13 Q. Would you have communicated with  
14 Mr. Westwood regarding this Apex project relating  
15 to DGP through emails?

16 A. Possibly.

17 Q. And what email, I guess, address would  
18 you have used to communicate with Mr. Westwood  
19 regarding these consulting services?

20 A. I don't recall.

21 Q. It wouldn't have been a Century email,  
22 would it?

23 A. No.

24 Q. So during the time that you worked as a  
25 consultant for DGP Holdings, did you spend time at

1 the Direct offices?

2 A. Some.

3 Q. And do you recall where those offices  
4 were located?

5 A. There was one off of, I believe, Civic  
6 Center and -- both were in North Las Vegas. I'm  
7 sorry, I've been away a while. I don't remember  
8 the names of the streets. Cheyenne.

9 Q. Were there two separate offices at the  
10 same time, or was there one office and then they  
11 moved to a different one?

12 A. One office, and then they moved to a  
13 different one.

14 Q. You spent time at both offices, though?

15 A. Yes.

16 Q. Can you give me your best estimate as to  
17 how much time you would spend on a weekly basis  
18 working for DGP Holdings as a consultant?

19 A. It was always at night, so a few hours a  
20 night.

21 Q. When you say "a few hours," what is your  
22 best estimation as to what that might be?

23 A. Three or four hours.

24 Q. Was some of that time spent at the Direct  
25 offices?

1 A. Yes.  
 2 Q. Did you spend some time at the Direct  
 3 offices during the day as well?  
 4 A. No. I was -- no.  
 5 Q. Now, were you actually provided a desk  
 6 that you could utilize at the Direct offices?  
 7 A. I was provided an area I could share  
 8 with -- if I needed to.  
 9 Q. And who did you share that with?  
 10 A. I don't recall.  
 11 Q. Okay. Was it a specific desk, though,  
 12 that you would always use? Was it actually the  
 13 same one, or were you floating around using  
 14 different desks?  
 15 A. I would float around using different  
 16 desks.  
 17 Q. Were you provided a laptop by Direct or  
 18 DGP Holdings, either one?  
 19 A. No.  
 20 Q. Do you recall who the IT person was that  
 21 worked for Direct?  
 22 A. I don't recall his name.  
 23 Q. Okay. Now, did you ever utilize this  
 24 email address while you were working as a  
 25 consultant for DGP Holdings, pd@directgrading.com?

1 A. I don't recall.  
 2 Q. You don't know either way?  
 3 A. No, I don't remember.  
 4 Q. Do you recall using the email address DP,  
 5 so just reversed, dp@directgrading.com?  
 6 A. I do not recall.  
 7 Q. Do you recall using the email address  
 8 scott@directgrading.com?  
 9 A. No.  
 10 Q. You don't recall that?  
 11 A. No.  
 12 Q. For any of the three emails that you just  
 13 identified, is it your testimony that you just  
 14 don't recall using those, you may have, or are you  
 15 saying that you did not use them?  
 16 A. I don't recall.  
 17 Q. So you may have used them, you just don't  
 18 recall, sitting here today?  
 19 A. Yes.  
 20 Q. Now, did anyone at Direct or  
 21 DGP Holdings, did they ever give you the nickname  
 22 Payday?  
 23 A. I'm sorry, what was that again?  
 24 Q. So the question is, did anyone at Direct  
 25 Grading & Paving or DGP Holdings ever refer you to

1 by the nickname Payday?  
 2 A. I've never heard that before.  
 3 Q. Okay. Do you -- have you ever heard of  
 4 the Las Vegas Wine Warehouse project?  
 5 A. Say it again, I'm sorry.  
 6 Q. The Las Vegas Wine Warehouse project.  
 7 A. No.  
 8 Q. You're not familiar with that, okay.  
 9 A. No.  
 10 Q. So I'm going to go through just a few  
 11 different projects and contractors, and I just want  
 12 to find out if you're familiar with these or if  
 13 it's anything that you may have worked on either  
 14 with Century or with DGP Holdings or with Direct,  
 15 okay?  
 16 So RSL Construction, do you know what  
 17 that is?  
 18 A. No.  
 19 Q. How about a project called Durango and  
 20 Badura B-a-d-u-r-a, Badura?  
 21 A. No.  
 22 Q. Okay. How about an outfit called Momeni,  
 23 that's M-o-m-e-n-e-i, & Associates?  
 24 A. No.  
 25 Q. Cox Bonanza parking lot addition?

1 A. No.  
 2 Q. Sunset Ridge?  
 3 A. Sunset Ridge?  
 4 Q. Right.  
 5 A. No.  
 6 Q. Capital West?  
 7 A. No.  
 8 Q. Mount -- Mountrail, like mountain but the  
 9 word trail combined, Mountrail Williams storage  
 10 facility?  
 11 A. No.  
 12 Q. A Home Depot in North Dakota?  
 13 A. No.  
 14 Q. Russell and Grand Canyon?  
 15 A. No.  
 16 Q. Minard and Dickinson?  
 17 A. No.  
 18 Q. Parcel 33?  
 19 A. No.  
 20 Q. We're almost through this.  
 21 So Farm and Grand Canyon Teton, Fort  
 22 Apache?  
 23 A. No.  
 24 Q. Westcliff Heights?  
 25 A. No.



1 Q. Montrail Fleet Garage?  
 2 A. No.  
 3 Q. Augusta Course?  
 4 A. No.  
 5 Q. Did you ever utilize a video game called  
 6 Magmic Games Slot Kings? It's like magic but  
 7 M-a-g-m-i-c, Magmic Games and it's, again, called  
 8 Slot Kings.  
 9 A. No.  
 10 MR. PANCHERI: Okay. So let's go ahead  
 11 and pull up Exhibit F, please.  
 12 (Exhibit F was marked.)  
 13 BY MR. PANCHERI:  
 14 Q. Mr. Prokopchuk, if you could click on  
 15 that Exhibit F, the same way we did before.  
 16 A. Yes.  
 17 Q. And this is a document entitled  
 18 "Affidavit of Scott Prokopchuk." It consists of  
 19 four pages, including the California certificate,  
 20 and I'd ask you to scroll down to the third page.  
 21 Is that your signature on this affidavit?  
 22 A. Yes.  
 23 Q. And do you know who prepared this  
 24 affidavit?  
 25 A. Me.

1 if just put it together. I don't recall.  
 2 Q. Did you review something in order to put  
 3 this together? You said you were responding to  
 4 something. What were you responding to?  
 5 A. Yeah. And I don't recall. I don't have  
 6 all these documents. This thing's been going on  
 7 for three or four years now, and I do not recall  
 8 what it was that I addressed this to.  
 9 Q. Okay. All right. So were there various  
 10 drafts of this that went back and forth with either  
 11 Mr. Westwood or his counsel before you signed it?  
 12 A. I don't think so.  
 13 Q. Okay. You don't think so. Do you know,  
 14 sitting here today?  
 15 A. No, I don't believe there was any  
 16 additional -- any additional -- or any revisions or  
 17 anything like that.  
 18 Q. So you didn't send it to Mel Westwood or  
 19 his counsel and they made changes and sent it back  
 20 to you. That didn't happen?  
 21 A. I don't believe so.  
 22 Q. Okay. So if I could point you to  
 23 paragraph 5, we'll just start there, and if you  
 24 need a minute to review the whole affidavit, that's  
 25 fine, just let me know.

1 Q. You typed it up yourself?  
 2 A. Yes.  
 3 Q. And why did you do that?  
 4 A. I believe it was in answer to some -- one  
 5 of the -- I don't know what you would call it  
 6 legally, but I believe it was an answer to an  
 7 affidavit of -- just answering the lawsuit.  
 8 Q. Okay. Who asked you -- now, if it's your  
 9 counsel, I don't want to get into any  
 10 attorney-client communications, so who asked you to  
 11 prepare this affidavit?  
 12 A. I believe I felt like I needed to answer  
 13 the -- what was -- what was happening with the  
 14 lawsuit.  
 15 Q. I can represent to you this affidavit was  
 16 attached to a filing done by Direct in connection  
 17 with our lawsuit. Can you explain to me how it  
 18 came to be that you drafted this?  
 19 A. Yeah. That's right. I believe I  
 20 addressed or actually had created this and had sent  
 21 that to either Mel Westwood or his attorneys.  
 22 Q. Okay. And did Mel Westwood or his  
 23 attorneys -- did they ask you to put this together?  
 24 A. I don't recall who asked me to, but I  
 25 think it was -- I don't know if I was asked to or

1 But if you are ready, I just want to go  
 2 through a couple things starting in paragraph 5.  
 3 A. Okay.  
 4 Q. So here, if you look about halfway down,  
 5 there's a sentence that starts "Ultimately."  
 6 Do you see that?  
 7 A. Okay.  
 8 Q. It says, "Ultimately I would sign on a  
 9 contract as to content, and Don Boettcher or  
 10 Rick Barron would execute a contract." And then it  
 11 says, "I did not have authority to execute a  
 12 contract."  
 13 So just on that topic, the master  
 14 subcontract agreement, as an example, that was  
 15 signed with Direct, you're familiar with that,  
 16 aren't you?  
 17 A. Yes.  
 18 Q. Okay.  
 19 A. Except for -- which company, I guess?  
 20 Q. Well, I guess with Dunhill.  
 21 A. Yes, I believe that it was originally  
 22 done with Dunhill.  
 23 Q. And then there were project work  
 24 authorizations that were then subsequently signed  
 25 under that master subcontract agreement. Do you

<p style="text-align: right;">Page 50</p> <p>1 recall that?</p> <p>2 A. Yes.</p> <p>3 Q. And those had signature blocks for both</p> <p>4 you and either Mr. Boettcher or Mr. Barron; is that</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Is it fair to say that both of you, both</p> <p>8 you and either Mr. Barron or Mr. Boettcher would</p> <p>9 need to sign those contracts for them to be</p> <p>10 enforceable?</p> <p>11 A. Yes.</p> <p>12 Q. So then just skipping down a little bit,</p> <p>13 basically the next two sentences, it says, "There</p> <p>14 may or may not have been competitive bids. I was</p> <p>15 very rarely asked by Century Communities to acquire</p> <p>16 competitive bids."</p> <p>17 And so just on that topic, do you</p> <p>18 recall -- well, first of all, Direct was awarded</p> <p>19 various contracts under both Dunhill and Century;</p> <p>20 is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Do you recall ever getting competitive</p> <p>23 bids for paving or grading work?</p> <p>24 A. Yes. All the -- we would do that all the</p> <p>25 time. One of the -- yes. We would get them.</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Yes.</p> <p>2 Q. Then if we go down to paragraph 6, it</p> <p>3 references change orders, and you talk about this</p> <p>4 process, and if I can direct you to the second</p> <p>5 sentence that starts, "The subcontractors would</p> <p>6 submit a proposed change order."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. So it says, "The subcontractors would</p> <p>10 submit a proposed change order, after which I would</p> <p>11 process a work agreement and have the subcontractor</p> <p>12 sign."</p> <p>13 A. Yes.</p> <p>14 Q. Now, in terms of the proposed change</p> <p>15 order, is it fair to say that you would first</p> <p>16 evaluate it before taking it to Mr. Barron to have</p> <p>17 him sign off on it?</p> <p>18 A. Yes. And with the communications we</p> <p>19 always had anyway, everybody pretty much knew what</p> <p>20 was going on.</p> <p>21 Q. Okay. Was it your job to kind of</p> <p>22 initially evaluate the change orders to make sure</p> <p>23 that they were appropriate in terms of scope and</p> <p>24 the needs of the project?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. You would get them -- while you were</p> <p>2 working for Century, you would get competitive bids</p> <p>3 for grading and paving?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall any of the subcontractors</p> <p>6 or contractors from whom you received competitive</p> <p>7 bids for grading and paving?</p> <p>8 A. Yes. I know that we would get bids from</p> <p>9 American Grading and Paving at one time. We would</p> <p>10 get bids from Patriot Grading and Paving at one</p> <p>11 time. I believe we even potentially got bids from</p> <p>12 Las Vegas Paving, from Southern Nevada Paving.</p> <p>13 They were done on a -- timely, you know,</p> <p>14 every once in a while just to verify or to make</p> <p>15 sure that, you know, prices were there.</p> <p>16 Q. Were there ever instances where Direct</p> <p>17 was awarded contracts on projects without there</p> <p>18 being any other competitive bids for those</p> <p>19 projects?</p> <p>20 A. Sure.</p> <p>21 Q. Okay. Is that what you're referring to</p> <p>22 here towards the end of this paragraph where you</p> <p>23 say, "Often I would be authorized to process a</p> <p>24 contract without getting a secondary bid with the</p> <p>25 approval of the upper management"?</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Is it fair to say that Mr. Barron and</p> <p>2 Mr. Boettcher relied on you to evaluate change</p> <p>3 orders?</p> <p>4 A. In conjunction with their evaluation.</p> <p>5 Q. Okay. Now, if we can turn to the next</p> <p>6 page, please. Or I guess scroll down. I'm looking</p> <p>7 at a hard copy here. Scroll down to paragraph 8.</p> <p>8 Let me know when you're there.</p> <p>9 A. Yes.</p> <p>10 Q. That paragraph 8 says: "This protocol</p> <p>11 for original contracts and change orders was</p> <p>12 followed with Direct Grading as well, who was the</p> <p>13 subcontractor that Century and its predecessors had</p> <p>14 used for many years."</p> <p>15 When you say "predecessors," who are you</p> <p>16 referring to there?</p> <p>17 A. Dunhill Homes.</p> <p>18 Q. Okay. Would it be Rhodes Ranch as well?</p> <p>19 A. Rhodes Ranch was a project of Dunhill and</p> <p>20 Century.</p> <p>21 Q. When I say "Rhodes Ranch," I'm referring</p> <p>22 to the -- not just the project but the original</p> <p>23 developer. Do you know if Direct was doing work</p> <p>24 for Rhodes Ranch the entity?</p> <p>25 A. Rhodes Homes, I guess.</p>

1 Q. Yeah, Rhodes Homes. That's fair to say?  
 2 A. You know, I don't recall because I wasn't  
 3 there when they were doing work, as far as I know.  
 4 Q. On these change orders, is it fair to say  
 5 that the procedure was, for the change order to be  
 6 approved, the work to be completed before any  
 7 payment was made under that change order?  
 8 A. Yes.  
 9 Q. So in other words, it wasn't the proper  
 10 practice to make a payment prior to the work being  
 11 performed under a change order?  
 12 A. No.  
 13 Q. Okay. If we could go to paragraph 9, it  
 14 talks a little bit about the Inspirada project. Do  
 15 you recall the Inspirada project and that was one  
 16 of the projects that you worked on in connection  
 17 with Century Communities?  
 18 A. Yes.  
 19 Q. And is it fair to say that Inspirada was  
 20 a project that required the import of soil?  
 21 A. Yes.  
 22 Q. And is that what you're referring to in  
 23 terms of this first sentence, and I'm kind of  
 24 skipping about halfway through. I'm sorry, it's  
 25 the second sentence. "Rick Barron wanted

1 I'm sorry, let me -- yeah, that was it.  
 2 "Nevertheless, the contract between Direct and the  
 3 BLM was never a concern to Century Communities."  
 4 Why do you say that?  
 5 A. Because the materials were being tracked  
 6 on a weekly basis.  
 7 Q. You're not saying that  
 8 Century Communities wasn't concerned about how much  
 9 it was paying for the dirt, you're not saying that?  
 10 A. No. Just how much -- just the tracking  
 11 of the dirt, I believe.  
 12 Q. Okay. Now, if we go down to  
 13 paragraph 10, it talks about, "Change orders were  
 14 handled on a weekly basis for the Inspirada  
 15 project. Direct grading would submit truck tickets  
 16 and loader logs to Century Communities each week."  
 17 Were they provided to you directly?  
 18 A. They were -- I believe they were actually  
 19 sent to myself and possibly Rick, but whatever  
 20 would come in would be disbursed.  
 21 Q. When you say "disbursed" --  
 22 A. Well, we would talk about it -- well,  
 23 back then we were probably talking about this  
 24 almost every day because we were in -- because the  
 25 company really wanted to get the dirt in there and

1 2,000 cubic yards a day and 10,000 cubic yards a  
 2 week, on average"?  
 3 A. Yes.  
 4 Q. Do you recall what the timeframe was that  
 5 Mr. Barron wanted that quantity of dirt imported?  
 6 A. ASAP.  
 7 Q. I guess, do you recall what year that  
 8 was, though?  
 9 A. 2015/2016, somewhere in there.  
 10 Q. Can you recall how much dirt was needed  
 11 for the Inspirada project?  
 12 A. Not exactly. And it's never a for-sure  
 13 quantity, but I believe the engineer had somewhere  
 14 around 125,000 to 140,000 yards on the project  
 15 plans. I don't know for sure, but that sounds  
 16 somewhere in the range.  
 17 Q. Okay. And then still within that  
 18 paragraph 9, if we go down towards the end, that  
 19 second-to-last sentence that starts with,  
 20 "Nevertheless."  
 21 Do you see that?  
 22 A. Yes.  
 23 Q. It indicates, "Nevertheless, the contract  
 24 between Direct and the BLM was never a concern to  
 25 Century Communities."

1 get the work complete so that they could build  
 2 houses.  
 3 Q. Okay. So then if you go down a couple of  
 4 sentences to the sentence that starts, "The change  
 5 order draw schedule was itemized."  
 6 Do you see that?  
 7 A. Yes.  
 8 Q. So it says, "The change order draw  
 9 schedule was itemized. It would reference truck  
 10 tickets and other backup."  
 11 A. Yes.  
 12 Q. So is it fair to say that the change  
 13 orders were often documented as draw schedules,  
 14 that was the title for the document?  
 15 A. No. This was a separate spreadsheet, it  
 16 was not the draw schedule.  
 17 Q. Well, what are you referring to here --  
 18 A. Oh, I see. Okay. I get -- I'm sorry.  
 19 That actually would come in because it was itemized  
 20 by amount of dirt and by -- it was actually a  
 21 spreadsheet we were provided that would give us a  
 22 quantity of dirt and the price next to it, which  
 23 would -- as an Excel spreadsheet, would summarize  
 24 it, and then drop every day down to the bottom and  
 25 come up with a total.

1 Q. Okay. So then how was -- were those  
2 documents utilized to establish a change order or a  
3 draw schedule?

4 A. Just like that, they would have been  
5 created off of those work tickets. A draw schedule  
6 would have been created showing the quantity and  
7 the dollar amount.

8 Q. So I guess that's going back to my  
9 question. When you say "Change order draw  
10 schedules," I've seen documents that are just  
11 entitled "Draw Schedules." Is that the same --

12 A. Yes.

13 Q. -- thing as the change order you're  
14 referring to here in paragraph 10?

15 A. Yes, it is. Every company has a  
16 different verbiage for their contract documents.

17 Q. Okay. Now, if we go down a little bit  
18 more, it says, "At least once a week."

19 Do you see that sentence?

20 A. Yes.

21 Q. It says, "At least once a week, I would  
22 verify that the work had been completed, discuss  
23 the project with Don or Rick, process a change  
24 order and submit it to Direct Grading."

25 So once a week, does that mean you'd go

1 A. Yes.

2 Q. And that would have been either you or  
3 Rick or Tim Wyatt?

4 A. Yes.

5 Q. Okay. Were you there the entire -- was  
6 one of you there the entire time, or was it  
7 something where you would just come observe for a  
8 while and then go back to the office or go to  
9 another project?

10 A. We would -- you know, everybody was  
11 covering a lot of projects, but everybody was also  
12 very -- you know, trying to get that project done.  
13 So that was on the -- pretty much on the radar.

14 Q. Understood. But is it fair to say that  
15 there wasn't somebody from Century there every day,  
16 every minute of the work day observing every truck  
17 that came in and dumped its load at the Inspirada  
18 project?

19 A. No, there would not be.

20 Q. Okay. Now, if we go down a little bit  
21 further, it says, "No checks were issued unless it  
22 was verified and approved by Don and Rick."

23 Do you see that?

24 A. Yes.

25 Q. And my question is, what is the "it"

1 out to the field to actually see the dirt being  
2 imported?

3 A. I was actually in the field watching the  
4 dirt being imported every day.

5 Q. Okay.

6 A. Or somebody from the company was there  
7 every day, whether it was myself or Rick or -- I  
8 believe even Rick had Tim Wyatt verifying.

9 Q. And tell me about that process. How  
10 would that verification take place?

11 A. Well, it's just be on-site to see that  
12 the work was coming in, and you'd see the trucks  
13 coming in all day long.

14 Q. And when you say "on-site," are you  
15 referring to at the import location, the Inspirada  
16 project, or are you referring to where -- to the  
17 location from which the dirt was being taken?

18 A. Sometimes both.

19 Q. Okay. So --

20 A. But initially -- but, you know,  
21 preliminarily -- preliminarily, it would be the  
22 on-site and we would see the trucks being dumped,  
23 and you could see the piles on-site.

24 Q. When you say "on-site," you're talking  
25 about at the Inspirada project?

1 referring to in that sentence? What was being  
2 verified?

3 A. I guess any payment.

4 Q. So it says, "No checks" -- that would be  
5 the payment -- "were issued unless 'it' was  
6 verified and approved by Don and Rick." So you're  
7 saying the payment wasn't issued unless it was  
8 verified and approved by Don and Rick; is that how  
9 we should read that?

10 A. Well, it was actually approved by  
11 multiple people. You see the next line there, it  
12 says approved "by accounting and upper management."

13 Q. I just wanted to make sure that was  
14 clear. So "it" there is referencing the payment?

15 A. Yes.

16 Q. So then if we move down to paragraph 11,  
17 it says, "Other than materials from the BLM, Direct  
18 excavated, loaded, and hauled approximately  
19 40,000 yards, which Rick Barron had procured from  
20 KB Homes."

21 So out of the 120-, 140,000 cubic yards  
22 that were required, you're saying that 40,000 came  
23 from KB Homes, which was another project at  
24 Inspirada, correct?

25 A. Yes, it was.

1 Q. And then it says, "Additionally, Direct  
2 Grading hauled material from Rhodes Ranch for a few  
3 days." Was Rhodes Ranch another Century project?

4 A. Yes.

5 Q. Was it a project that had excess dirt  
6 that could be taken to the Inspirada project?

7 A. Yes.

8 Q. And when you say -- let me ask you this:  
9 How was Century being charged for the dirt being  
10 hauled by Direct from Rhodes Ranch to Inspirada?

11 A. It was by truckload. It was around  
12 20 yards or 23 yards per truck. And it was based  
13 on time. So at the end of the day, you would look  
14 at the amount of time it would take to haul it from  
15 Rhodes Ranch. I believe the trucks were a hundred  
16 plus per hour, and that's how you would back in the  
17 pricing on that stuff.

18 Q. I'll show you, though -- I've got some  
19 invoices for Rhodes Ranch, and I'll show you those  
20 documents.

21 But do you know if Direct actually  
22 provided any breakdown of the number of trucks, the  
23 yardage, the hours, that were being incurred in  
24 connection with the invoicing for hauling the dirt  
25 from Rhodes Ranch to Inspirada?

1 Q. Okay. So is it your understanding that  
2 Direct had to pay the BLM for that dirt?

3 A. Yes.

4 Q. And I'm sorry, Direct was then charging  
5 Century for the -- that dirt that it had to  
6 purchase from the BLM?

7 A. Yes.

8 Q. In addition to charges for loading,  
9 sweeping and hauling?

10 A. I don't recall if there was a BLM charge  
11 or if that was included in the unit pricing.

12 Q. Okay. Do you have an understanding as to  
13 whether Direct procured dirt from any other sources  
14 for Inspirada other than we talked about  
15 Rhodes Ranch, KB Homes, we talked about the BLM?

16 A. I don't recall because there was a lot of  
17 dirt hauled into there from various other -- well,  
18 there was some pool dirt pulled in every now and  
19 then from small contractors, very little but -- you  
20 know, very minimal, but there was other stuff that  
21 was brought in there.

22 Not anything -- including the -- in fact,  
23 the 40,000 yards that was hauled from KB Homes  
24 actually was only about 20,000 yards because the  
25 other 20,000 was basically rock that we couldn't

1 A. I believe yes, there would have to have  
2 been backup for everything.

3 Q. You believe so, or do you know? Sitting  
4 here today, do you actually recall that?

5 A. I believe so. I don't know, sitting here  
6 today four years later.

7 Q. Sure. Okay.

8 Then it says, "Ultimately, this material  
9 was determined to be more expensive because of the  
10 distance, and Century Communities determined that  
11 it preferred to have the material hauled from the  
12 BLM property."

13 And my question to you is, why was that  
14 the preference for Century?

15 A. The BLM property was closer, so the cost  
16 to haul it there was cheaper.

17 Q. Okay. Do you know, was Century obligated  
18 to pay Direct for the dirt being procured from the  
19 BLM on a cubic-yard basis?

20 A. What do you mean by "obligated"?

21 Q. Well, the BLM wasn't giving away the  
22 dirt, was it?

23 A. I don't think so.

24 Q. So --

25 A. I don't believe so.

1 use.

2 Q. My question is, do you recall there being  
3 any other source that you can identify here today  
4 of dirt that Direct hauled in to Inspirada?

5 A. I don't recall.

6 Q. Were you aware that Direct was hauling in  
7 dirt from the South Point?

8 A. It's very possible, but I don't recall.

9 Q. Okay. Did you ever authorize Direct to  
10 bill for the import of dirt from other locations  
11 like the South Point, as if it had been procured  
12 from the BLM?

13 A. As -- I'm sorry, could you restate that?

14 Q. Did you ever authorize Direct to bill  
15 Century for dirt that actually came from another  
16 source like the South Point as if it was being  
17 purchased from the BLM?

18 A. No.

19 Q. If that took place --

20 A. Not to my knowledge.

21 Q. If that took place, if Direct was  
22 actually billing Century for dirt like it came from  
23 the BLM when it was actually from another source,  
24 would you believe that to be inappropriate?

25 A. Yes.

1 MR. DIXON: I'll object to the last  
 2 two questions as they pertain to form.  
 3 Scott, you can answer.  
 4 THE WITNESS: Yes, I would -- yes, I  
 5 would -- I'm sorry, did you say -- what was your  
 6 comment on that?  
 7 BY MR. PANCHERI:  
 8 Q. My question was, would that have been  
 9 inappropriate, in your mind?  
 10 A. Yes.  
 11 Q. And why is that?  
 12 A. Well, there was no reason to do something  
 13 like that. Direct had never done anything like  
 14 that to us, ever, so I wouldn't expect him to ever  
 15 charge me for dirt from one place that was picked  
 16 up from some other place. They charge the company,  
 17 I believe.  
 18 Q. Sure. Under paragraph 12, it mentions --  
 19 well, let me just go back on that.  
 20 So that was never something that you  
 21 discovered while you were there working for  
 22 Century?  
 23 A. No.  
 24 Q. Now, what would you have done if you had  
 25 discovered that?

1 speculation.  
 2 MR. DIXON: Yeah, join.  
 3 Was there actually a question there?  
 4 Sorry, Oliver, or was that more of a statement?  
 5 BY MR. PANCHERI:  
 6 Q. No, that's just a -- I understand the  
 7 witness made a comment, so I'm just trying to give  
 8 you a hypothetical, Mr. Prokopchuk, whether there  
 9 could have been an incentive to do that.  
 10 So let me just ask it as a question. And  
 11 it may be that we need to show you some of these  
 12 records to get your recollection on it.  
 13 But do you recall -- we kind of went over  
 14 this -- Direct again was having -- I'm sorry,  
 15 Direct was having to pay the BLM for its dirt,  
 16 right, they weren't giving it away?  
 17 A. Yes.  
 18 Q. Okay. So in terms of an incentive, you  
 19 mentioned that there was no incentive for Direct to  
 20 do that. But one incentive could have been if  
 21 Direct was able to get dirt from another location  
 22 for free and charge Century as if it came from the  
 23 BLM, that could be a profit source for Direct?  
 24 MR. GUBLER: Same objections.  
 25 MR. DIXON: Join.

1 A. Well, I would have -- I probably -- I  
 2 would have said that we can't -- can't have that.  
 3 Q. Was there any -- I'm sorry. Did you want  
 4 to finish your answer?  
 5 A. No.  
 6 Q. Okay. So were there any checks and  
 7 balances in place to make sure that when Century  
 8 was being charged for dirt, you know, supposedly  
 9 coming from the BLM, that it was, in fact, coming  
 10 from the BLM as opposed to some other source?  
 11 A. Well, I think it would have been very  
 12 hard to come from another source when there was  
 13 more dirt at the BLM than was needed for the  
 14 overall project. So there was no reason to be  
 15 bringing dirt from somewhere else.  
 16 Q. But what if Direct had to pay the BLM for  
 17 that dirt, and I think the records show there was  
 18 about a buck 50 per yard and change, around that, a  
 19 buck 56 or something like that, a yard, and if  
 20 Direct was able to get that dirt from some other  
 21 location for free, then there could be an incentive  
 22 for Direct to charge Century as if it was coming  
 23 from the BLM because they're able to get it at  
 24 basically no cost from another source?  
 25 MR. GUBLER: Objection to form and

1 Go ahead, Scott.  
 2 THE WITNESS: Yeah, and that wouldn't be  
 3 something we would ever expect. If dirt came from  
 4 someplace other than the BLM, then Direct Grading  
 5 would have told us.  
 6 BY MR. PANCHERI:  
 7 Q. You mean they should have told you that?  
 8 A. They would have told us, I believe.  
 9 Q. Okay. Why do you say that?  
 10 A. We never had any sort of issues with  
 11 Direct Grading. Direct Grading was there for us in  
 12 the thick and thin, and that's the reason they were  
 13 working at Century.  
 14 Q. Because your relationship with Direct  
 15 goes back to at least prior to 2008, I think is  
 16 what you testified?  
 17 A. Yes, it did.  
 18 Q. Okay. Now, if we go to paragraph 13,  
 19 there it says -- it talks about your consulting  
 20 work for the element industrial park. And I just  
 21 wanted to ask you, there's a sentence where you  
 22 said, "I do not believe that I had a conflict of  
 23 interest in working for DGP Holdings or receiving a  
 24 payment from Direct Grading because I was working  
 25 on an element industrial park, which had nothing to

<p style="text-align: right;">Page 70</p> <p>1 do with developing residential properties or 2 anything remotely related to Century Communities." 3 Do you see that? 4 A. Yes. 5 Q. And I'll ask you a little bit more about 6 that here in a minute after we look at some other 7 documents. But again, I just want to confirm here, 8 here you actually state that you did not want to 9 receive a 1099 tax form. And why was that again? 10 A. I wanted to have my taxes taken out. I'm 11 very touchy about -- you know, I want to make sure 12 my taxes are correct. I don't have any issues. 13 Q. Sure. And then there it says, toward the 14 end, "I do not believe the work performed for 15 element industrial park affected in any manner my 16 decision making for Century. Again, Century had 17 multiple checks and balances that had to be 18 approved by upper management, including Rick Barron 19 and Don Boettcher." 20 Do you see that? 21 A. Yes. 22 Q. I guess the only point I make here 23 though, you would agree with me that Mr. Barron and 24 Mr. Boettcher, they relied on you to report to them 25 what was actually happening in the field. That was</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. DIXON: Oliver, we've been going 2 about an hour and a half. Is this a good point to 3 stop for five minutes? 4 MR. PANCHERI: Sure. Let's take a break. 5 We can go off for five minutes. We'll come back -- 6 I've got 12:21 on my computer. So why don't we 7 just call it -- we'll come back at 12:30, if that 8 works. 9 MR. DIXON: That works for me. 10 MR. PANCHERI: Okay. We can go off the 11 record. 12 THE VIDEOGRAPHER: The time is 13 approximately 12:21 p.m., and we're off the record. 14 (Recess had.) 15 THE VIDEOGRAPHER: We're back on the 16 record. The time is approximately 12:32 p.m. 17 BY MR. PANCHERI: 18 Q. Mr. Prokopchuk, we just had a short 19 break. I just wanted to follow up on a couple 20 questions that I had asked. 21 One is you had mentioned that you -- it's 22 possible that you communicated with Mr. Westwood 23 via email concerning the consulting work you did 24 for DGP Holdings. Do you recall that testimony? 25 A. Yes.</p>
<p style="text-align: right;">Page 71</p> <p>1 part of your job, correct? 2 MR. GUBLER: Objection. Asked and 3 answered. 4 MR. DIXON: Go ahead, Scott. 5 THE WITNESS: Whether or not they counted 6 on me rather than their own visual -- I don't know. 7 But I felt like that was my job. 8 BY MR. PANCHERI: 9 Q. You felt like that was your job to report 10 to them accurately -- 11 A. Yes. 12 Q. -- what was happening in the field? 13 A. Yes. 14 Q. Okay. 15 And if they testified, if they said that 16 they relied on you, as the land development 17 manager, to keep them apprized of what was 18 happening with the subcontractors, would you have 19 any reason to dispute that? 20 MR. GUBLER: Object. Hypothetical. 21 MR. DIXON: You can answer, Scott. 22 THE WITNESS: No. 23 BY MR. PANCHERI: 24 Q. All right. So we can set that exhibit to 25 the side for now.</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. And you testified that you don't think 2 that that would have been done on a Century email, 3 and my question to you, is it likely those 4 communications would have taken place on a Direct 5 email address? 6 A. I don't recall which email address it 7 would be, whether it was Direct or DGP Holdings. I 8 don't know. I don't remember. 9 Q. Would it have been an email address that 10 was issued to you by either Direct or DGP Holdings? 11 A. One that I could use, yes. 12 Q. Then we talked a little bit about the 13 dirt imported from the BLM. Do you know, sitting 14 here today, kind of roughly how much Direct 15 invoiced Century in terms of the amount of cubic 16 yards Direct claimed it procured from the BLM? 17 A. I'm sorry, no. 18 Q. So I'll just represent to you in this 19 litigation documents have been produced evidencing 20 that approximately 93,000 cubic yards were, I 21 guess, included in the invoices from Direct to 22 Century in terms of dirt allegedly procured from 23 the BLM. 24 And my question to you is if Direct 25 billed Century for approximately 93,000 cubic yards</p>

<p style="text-align: right;">Page 74</p> <p>1 from the BLM and then it separately reported to the</p> <p>2 BLM that it only took 33,395 cubic yards, do you</p> <p>3 have any explanation for that discrepancy?</p> <p>4 MR. DIXON: Form of the question.</p> <p>5 Go ahead and answer.</p> <p>6 THE WITNESS: I don't -- I guess I don't</p> <p>7 even understand your question.</p> <p>8 BY MR. PANCHERI:</p> <p>9 Q. So let me make sure I ask it in way you</p> <p>10 understand. So it appears from the documents</p> <p>11 produced in the case that Direct billed Century as</p> <p>12 if Direct obtained about 93,000 cubic yards of soil</p> <p>13 from the BLM. That's reflected in the invoices.</p> <p>14 Does that make sense?</p> <p>15 A. Okay.</p> <p>16 Q. Then separately Direct reported to the</p> <p>17 BLM and paid the BLM as if it only took out</p> <p>18 33,395 cubic yards. Are you tracking me so far?</p> <p>19 A. You're saying that the BLM is saying</p> <p>20 there was only 33,000 yards removed from the pile?</p> <p>21 Q. That's what the documents reflect,</p> <p>22 correct.</p> <p>23 A. Okay.</p> <p>24 Q. That's not just the BLM, that's what was</p> <p>25 reported by Direct to the BLM as to what they took</p>	<p style="text-align: right;">Page 76</p> <p>1 the end of the day, I believe there was about a</p> <p>2 140,000-yard import to come into Inspirada.</p> <p>3 BY MR. PANCHERI:</p> <p>4 Q. Okay. So if Direct only took</p> <p>5 approximately 33,000 cubic yards of dirt from the</p> <p>6 BLM, do you know where the rest of the dirt came</p> <p>7 from?</p> <p>8 A. No, I do not.</p> <p>9 Q. Okay. I want --</p> <p>10 MR. PANCHERI: Now, Monice, if we could</p> <p>11 pull up Exhibit G.</p> <p>12 (Exhibit G was marked.)</p> <p>13 BY MR. PANCHERI:</p> <p>14 Q. Mr. Prokopchuk, a link just popped up.</p> <p>15 If you can click on that, it's Exhibit G, and let</p> <p>16 me know when it appears on your screen.</p> <p>17 A. Yes.</p> <p>18 Q. I'll represent to you that these are</p> <p>19 documents that were produced by Direct in</p> <p>20 connection with this litigation, and you'll see on</p> <p>21 each page there's what's called a Bates stamp, but</p> <p>22 it's basically a page number in the bottom</p> <p>23 right-hand corner starting with the first document</p> <p>24 that is DPG000971.</p> <p>25 Do you see that?</p>
<p style="text-align: right;">Page 75</p> <p>1 out.</p> <p>2 A. Yeah, you've really got me confused now.</p> <p>3 Let me see if I can explain it.</p> <p>4 Q. Sure.</p> <p>5 A. You're saying that 93,000 was billed by</p> <p>6 Direct, and Direct reported 33,000 taking from BLM?</p> <p>7 Q. Right.</p> <p>8 A. I don't know how that works. That's new</p> <p>9 math on me.</p> <p>10 Q. Okay. So -- well, exactly. So there's a</p> <p>11 discrepancy there between the two numbers.</p> <p>12 My question to you is, do you have an</p> <p>13 explanation for why there's that discrepancy?</p> <p>14 A. No.</p> <p>15 Q. Would you agree with me that those</p> <p>16 numbers should match up; if Direct is billing</p> <p>17 Century for X amount of dirt taken from the BLM,</p> <p>18 Direct should be reporting to the BLM that that</p> <p>19 same amount was taken from the BLM?</p> <p>20 MR. GUBLER: Objection to form.</p> <p>21 MR. DIXON: Join.</p> <p>22 Go ahead and answer, Scott.</p> <p>23 THE WITNESS: I would think that it would</p> <p>24 match up, yes. I mean, it makes sense to me that</p> <p>25 there would be somewhat of that quantity because at</p>	<p style="text-align: right;">Page 77</p> <p>1 A. I see the Exhibit Number DGP000971.</p> <p>2 Q. Yes. So I just want to -- every page has</p> <p>3 that -- has a number on it. So if I tell you to go</p> <p>4 to like, for instance, 972, that would be just the</p> <p>5 next one.</p> <p>6 Do you see that?</p> <p>7 A. Oh, I got you. Okay, yeah.</p> <p>8 Q. So what I would like you to do is scroll</p> <p>9 down until you get to 976, please.</p> <p>10 A. Okay.</p> <p>11 Q. First of all, have you ever seen these</p> <p>12 invoices before that have the "Direct" heading at</p> <p>13 the top?</p> <p>14 A. No.</p> <p>15 Q. Okay. You see here on this one, 976,</p> <p>16 it's dated April 30th, 2016, and there's a</p> <p>17 reference to "Consultant fees, Scott, Prokopchuk,"</p> <p>18 and then in parenthesis there's "element." And is</p> <p>19 that that Apex project that you referenced</p> <p>20 previously?</p> <p>21 A. Yes.</p> <p>22 Q. So then underneath that there's -- seems</p> <p>23 to be another payment of \$1,200, and then there's a</p> <p>24 reference to a Sloan Investment in the</p> <p>25 parenthetical. What is your understanding as to</p>



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<p>1 what that refers to?</p> <p>2 A. I don't know.</p> <p>3 Q. Have you ever heard of that before, Sloan</p> <p>4 Investment?</p> <p>5 A. No.</p> <p>6 Q. And if I could have you scroll down to</p> <p>7 DPG986.</p> <p>8 A. Okay.</p> <p>9 Q. Do you see again there's a reference to</p> <p>10 "Element" and payment of \$4,800, and then there's a</p> <p>11 reference to "Final - Racetrack."</p> <p>12 My question to you is, do you know what</p> <p>13 that's in reference to?</p> <p>14 A. No.</p> <p>15 Q. Have you ever heard of a project called</p> <p>16 Racetrack?</p> <p>17 A. No.</p> <p>18 Q. Do you know why there would be a</p> <p>19 reference on an invoice of a payment of \$1,200 to</p> <p>20 you on or about December 31st, 2016, referencing</p> <p>21 "Final - Racetrack"?</p> <p>22 A. I do not.</p> <p>23 MR. PANCHERI: Monice, let's pull up</p> <p>24 Exhibit H, please.</p> <p>25 (Exhibit H was marked.)</p>	<p>1 Q. Right.</p> <p>2 A. Yes.</p> <p>3 Q. And are those your initials on the bottom</p> <p>4 of the first page?</p> <p>5 A. Yeah, below Don Boettcher's, correct.</p> <p>6 Q. Okay. So you recognize Don Boettcher's</p> <p>7 initials above yours?</p> <p>8 A. Yes.</p> <p>9 Q. And do you recognize the initials under</p> <p>10 "Subcontractor"?</p> <p>11 A. I believe that is Diane Raney.</p> <p>12 Q. And who is she?</p> <p>13 A. Diane Raney was, I guess, the -- I</p> <p>14 believe she was the finance person for Direct back</p> <p>15 when Dunhill -- back when -- the years of Dunhill.</p> <p>16 Q. So you understand the reference to</p> <p>17 subcontractor to be a reference to Direct in this</p> <p>18 agreement?</p> <p>19 A. Yes.</p> <p>20 Q. So let's go ahead and turn to</p> <p>21 paragraph 8.1. So if you scroll down to what is</p> <p>22 Bates-stamped CCN28. I just want to ask you a</p> <p>23 couple questions about that.</p> <p>24 A. Okay.</p> <p>25 Q. So this is a paragraph entitled "Good</p>
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<p>1 BY MR. PANCHERI:</p> <p>2 Q. Mr. Prokopchuk, if I could have you pull</p> <p>3 up the document which I've marked as Exhibit H.</p> <p>4 A. Yes.</p> <p>5 Q. Are you familiar with this? It's</p> <p>6 entitled "Master Subcontract Agreement."</p> <p>7 A. I am -- this is -- okay. Yeah. Dunhill.</p> <p>8 Q. And is this the Master Subcontract</p> <p>9 Agreement between Dunhill and Direct?</p> <p>10 A. Correct.</p> <p>11 Q. So if I could have you turn to -- well,</p> <p>12 first of all, if you just scroll down to the bottom</p> <p>13 of that first page, are those your initials under</p> <p>14 "Contractor"?</p> <p>15 A. Subcontractor?</p> <p>16 Q. No under, "Contractor." There's an SP,</p> <p>17 it looks like, and I just wanted to ask you if</p> <p>18 those are your initials?</p> <p>19 A. No, it looks like DB.</p> <p>20 Q. I see a DB, but do you see initials below</p> <p>21 that?</p> <p>22 A. On page 8?</p> <p>23 Q. I'm sorry, page 22 is the Bates stamp</p> <p>24 reference, the very first page.</p> <p>25 A. Oh, very first page.</p>	<p>1 Faith." Let me ask you first, had you had a chance</p> <p>2 to read this master subcontract agreement during</p> <p>3 your employment with either Dunhill or Century?</p> <p>4 A. I'm not sure that anybody ever did.</p> <p>5 Q. But you actually initialed the first page</p> <p>6 though, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And then under -- that 8.1</p> <p>9 references good faith, and here it says,</p> <p>10 "Subcontractor shall exercise all reasonable care</p> <p>11 and diligence to prevent any actions or conditions</p> <p>12 that could result in a conflict with contractor's</p> <p>13 best interest."</p> <p>14 Here again you understand subcontractor</p> <p>15 to have been Direct and the contractor here to have</p> <p>16 been initially Dunhill, correct?</p> <p>17 A. Yes.</p> <p>18 Q. You understand that this agreement was</p> <p>19 eventually assigned to Century; you understand</p> <p>20 that?</p> <p>21 A. You know, I don't recall. I'm sorry.</p> <p>22 MR. GUBLER: I'm objecting. Foundation.</p> <p>23 MR. DIXON: Join, but you can go ahead,</p> <p>24 Scott.</p> <p>25 THE WITNESS: Yeah. I'm not completely</p>

1 familiar with how that -- how that -- the MSA  
2 worked between Dunhill and Century, and I know when  
3 we were at Dunhill, that actually the lawyers or  
4 the in-house or the consultant lawyer that we had  
5 was actually working on these things because of --  
6 they were pretty old.

7 BY MR. PANCHERI:

8 Q. Okay. So then the next sentence says,  
9 "This obligation shall apply to the activities of  
10 the employees and agents of subcontractor in their  
11 relations with the employees and agents of  
12 contractor and owner."

13 Do you see that?

14 A. In 8.1?

15 Q. Yes. Still on 8.1.

16 A. Yes.

17 Q. Is it fair to say, reading 8.1, that  
18 Direct undertook an obligation to avoid conflicts  
19 of interest with the contractor?

20 MR. GUBLER: Objection. Calls for a  
21 legal conclusion.

22 MR. DIXON: Join.

23 You can go ahead and answer, Scott.

24 THE WITNESS: I guess, yes.

25 ///

1 A. I have not.

2 Q. Do you know who Ben Mifflin is?

3 A. Yes, I do.

4 Q. And who is Ben?

5 A. I believe that is an ex-employee of  
6 Direct Grading & Paving.

7 Q. Do you see in paragraph 1 it says that he  
8 was employed with Direct from 2000 to approximately  
9 2017. So about 17 years. Does that sound about  
10 right to you in terms of --

11 A. I don't know how many years, but I know  
12 who he is.

13 Q. So what types -- what was your  
14 understanding in terms of what position he held  
15 with Direct?

16 A. I think he was just a job foreman.

17 Q. Did you -- when you were at the offices  
18 of Direct from time to time, did you see Ben there?

19 A. Occasionally, yes.

20 Q. So you see in paragraph 3, Ben states:  
21 "During my time at Direct, I observed that Scott  
22 Prokopchuk had his own office within Direct's  
23 office located initially at 3741 Civic Center  
24 Drive, Las Vegas, Nevada, and then later at  
25 2222 West Cheyenne, North Las Vegas, Nevada 89032."

1 BY MR. PANCHERI:

2 Q. So that's your -- expressed in the  
3 contract, but would that be your understanding for  
4 any project, that subcontractors should avoid doing  
5 anything to create a conflict of interest with the  
6 contractor?

7 MR. GUBLER: Same objection.

8 BY MR. PANCHERI:

9 Q. Did you understand my question?

10 A. I thought I heard somebody say something.

11 Q. They put their objections on the record.  
12 So --

13 A. Oh, okay.

14 MR. DIXON: You can answer, Scott.

15 THE WITNESS: Yes.

16 MR. PANCHERI: Monice, can we pull up  
17 Exhibit I.

18 (Exhibit I was marked.)

19 BY MR. PANCHERI:

20 Q. Mr. Prokopchuk, let me know when you've  
21 got Exhibit I on your screen.

22 A. I have it there.

23 Q. So it's entitled "Declaration of Ben  
24 Mifflin." If you take a minute to look at it, and  
25 tell me if you've ever seen this before.

1 Do you see that?

2 A. Yes.

3 Q. Do you disagree with Ben's statement  
4 here?

5 A. Yeah, I never had my own office.

6 Q. Okay. Would it be fair to say, though,  
7 that Ben may have seen you occupying offices at  
8 these two locations?

9 A. Sure. I would have been working on  
10 either my own laptop or -- you know, on my laptop.

11 Q. Paragraph 4, he indicates,  
12 "Mr. Prokopchuk was often at Direct's offices  
13 during normal business hours."

14 Would you take issue with that?

15 A. I would. I would be there on occasion  
16 business-wise but nothing -- not often. I didn't  
17 have time to be.

18 Q. Okay. So is the issue that you're taking  
19 with it is the word "often"?

20 A. Yes.

21 Q. But you wouldn't dispute the fact that  
22 Ben may have seen you there at the Direct offices  
23 during normal business hours?

24 A. Sure. I was always at -- I was at all of  
25 my contractor's office during normal business

<p style="text-align: right;">Page 86</p> <p>1 hours.</p> <p>2 Q. Okay. Now, paragraph 5, it says, "During</p> <p>3 my time at Direct, I observed Mr. Prokopchuk had a</p> <p>4 cell phone provided" -- missing a D, "provide to</p> <p>5 him by Direct."</p> <p>6 You're not disputing that, are you?</p> <p>7 A. No.</p> <p>8 Q. Paragraph 6, "During my time at Direct, I</p> <p>9 observed Mr. Prokopchuk had a Direct email address,</p> <p>10 which I recall was pd@directgrading.com."</p> <p>11 You're not disputing that, are you;</p> <p>12 you're just saying you don't remember?</p> <p>13 A. I don't remember.</p> <p>14 Q. Okay. That statement by Mr. Mifflin at</p> <p>15 the end of that paragraph, "Mr. Prokopchuk used</p> <p>16 this email address regularly," are you disputing</p> <p>17 that? Or do you not remember?</p> <p>18 A. I don't know about regularly, but I may</p> <p>19 have used it.</p> <p>20 Q. Okay. Now, paragraph 7, it says, "During</p> <p>21 my time at Direct, Mr. Prokopchuk attended numerous</p> <p>22 internal meetings for Direct, including budget</p> <p>23 meetings."</p> <p>24 Do you agree or disagree with that?</p> <p>25 A. I do not recall -- I do not know what his</p>	<p style="text-align: right;">Page 88</p> <p>1 declaration of Timothy Wyatt.</p> <p>2 Do you see that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Do you have an understanding that</p> <p>5 Mr. Wyatt was an employee of Direct for some time</p> <p>6 period?</p> <p>7 A. Yes, a short time period, I believe.</p> <p>8 Q. Paragraph 4, he indicates he was employed</p> <p>9 with Direct from February 2015 to March of 2016, so</p> <p>10 just a little more than a year. Does that seem</p> <p>11 accurate?</p> <p>12 A. Could be.</p> <p>13 Q. Now, again in paragraph 6, he indicates</p> <p>14 that he observed you using -- and he says, "His own</p> <p>15 office with Direct's offices located at 222 West</p> <p>16 Cheyenne, North Las Vegas, 89032."</p> <p>17 Would your answer be the same with regard</p> <p>18 to Mr. Wyatt's statement as it was with</p> <p>19 Mr. Mifflin's statement?</p> <p>20 A. Yes.</p> <p>21 MR. PANCHERI: Mo, could you pull up</p> <p>22 Exhibit K, please.</p> <p>23 (Exhibit K was marked.)</p> <p>24 BY MR. PANCHERI:</p> <p>25 Q. Mr. Prokopchuk, if you could please open</p>
<p style="text-align: right;">Page 87</p> <p>1 meaning is on that, but I attended meetings related</p> <p>2 to Century projects and things like that.</p> <p>3 Q. Okay. Did you attend meetings relating</p> <p>4 to other projects that Direct was working on,</p> <p>5 non-Century projects?</p> <p>6 A. Well, at the time -- at the time, pretty</p> <p>7 much they were doing our work, so I don't know how</p> <p>8 much other projects they had. I don't recall other</p> <p>9 projects.</p> <p>10 Q. Well, in paragraph 8 he references</p> <p>11 "Projects for Raintree and Willam Lyon Homes."</p> <p>12 Do you recall attending internal</p> <p>13 scheduling meetings for Direct concerning Raintree</p> <p>14 and Willam Lyon Homes projects?</p> <p>15 A. I did not.</p> <p>16 Q. Are you saying you didn't or you just</p> <p>17 don't recall?</p> <p>18 A. I don't recall.</p> <p>19 Q. All right. We can set that to the side.</p> <p>20 MR. PANCHERI: Monice, can we pull up</p> <p>21 Exhibit J, please.</p> <p>22 (Exhibit J was marked.)</p> <p>23 BY MR. PANCHERI:</p> <p>24 Q. Mr. Prokopchuk, if you could take a look</p> <p>25 at what we've marked as Exhibit J. It's a</p>	<p style="text-align: right;">Page 89</p> <p>1 up what we have marked as Exhibit K.</p> <p>2 A. Yes.</p> <p>3 Q. And this is entitled "Employee Manual."</p> <p>4 Do you recall receiving an employee manual from</p> <p>5 Century at some point in time?</p> <p>6 A. You know, yeah. I vaguely remember. You</p> <p>7 mean -- other than this, you mean?</p> <p>8 Q. Yeah. Other than -- before today while</p> <p>9 you were employed with Century.</p> <p>10 A. Other than this form?</p> <p>11 Q. Well, my question to you is -- if you</p> <p>12 want to take a minute, you can scroll through it</p> <p>13 and see -- it goes on for several pages if you want</p> <p>14 to look at it.</p> <p>15 A. Yes, I've seen this.</p> <p>16 Q. And does it appear to be the employee</p> <p>17 manual you were provided when you were working for</p> <p>18 Century?</p> <p>19 A. Yeah. That was the -- they didn't really</p> <p>20 have an employee manual. I guess this was meant to</p> <p>21 be an employee manual, I guess.</p> <p>22 Q. That's the title on the first page. Do</p> <p>23 you see that, "Employee Manual"?</p> <p>24 A. Right. Yes.</p> <p>25 Q. And then if you scroll down to the very</p>

<p style="text-align: right;">Page 90</p> <p>1 bottom, let me know when you're there.  2 A. Yeah.  3 Q. Bates stamp CCN5132. Is that your  4 signature on the page entitled "Acknowledgment of  5 Receipt of Employee Handbook"?  6 A. Yes.  7 Q. And you signed that on or about  8 March 28th, 2014; is that correct?  9 A. It appears that is correct.  10 Q. Okay. You see that first paragraph, it  11 says, "I have received my copy of the company's"  12 personal handbook -- "personnel handbook, and have  13 read it, understand it, and agree to abide by the  14 provisions therein."  15 Do you see that?  16 A. Yes.  17 Q. Is that a true statement, you got a copy  18 of handbook and you agreed to abide by the  19 provisions contained in it?  20 A. If you're calling this a handbook, then  21 yes.  22 Q. Okay. So --  23 A. There was no separate handbook. It was  24 just this form.  25 Q. Oh, okay. So it's entitled "Manual" and</p>	<p style="text-align: right;">Page 92</p> <p>1 diminished after Mr. Barron came on?  2 A. That's correct.  3 Q. Okay. Now, here it states, in the first  4 sentence under "Loyalty," "The company insists on  5 the undivided loyalty of all employees, including  6 management and nonmanagement staff."  7 What is your understanding as to what  8 that term means, "undivided loyalty"?  9 MR. DIXON: I'll object that the document  10 speaks for itself, but, Scott, if you want to  11 provide an answer, you can try.  12 THE WITNESS: Exactly. I think it speaks  13 for itself.  14 BY MR. PANCHERI:  15 Q. That's your counsel's objection. My  16 question to you is, what is your understanding of  17 what that term means, "undivided loyalty"?  18 A. Just as -- you know, without reading  19 through it, then I can't -- I don't have my own  20 opinion of undivided loyalty. In fact, I lost it.  21 I'm sorry, 26?  22 Q. So it's the top of page Bates-stamped  23 5130, under paragraph A.  24 A. Okay. There we go.  25 "Avoid conflicts of interest and possible</p>
<p style="text-align: right;">Page 91</p> <p>1 then the acknowledgment says "Handbook," but you're  2 saying it was just this document that you have in  3 front of you?  4 A. Yes.  5 Q. And you agreed with the terms of this  6 document?  7 A. Yes.  8 Q. Okay. So if I could ask you to turn to  9 what is Bates-stamped 5130, and it's under the  10 heading "XXVI, Roman numeral XXVI, "Loyalty; Trade  11 Secrets."  12 A. Yes.  13 Q. Do you consider yourself to be part of  14 management in Century?  15 A. Yes and no.  16 Q. Your title was land development manager,  17 right?  18 A. Right.  19 Q. So when you say "yes and no," why do you  20 say "yes and no"?  21 A. It probably was before Rick Barron came  22 on board, but after that, I was basically a  23 superintendent.  24 Q. Oh, okay. You feel like your -- your  25 role in management was, I guess, somewhat</p>	<p style="text-align: right;">Page 93</p> <p>1 intentional or inadvertent abuse of their  2 position." I'm just reading the manual.  3 Q. Okay. So that's your understanding of --  4 I guess, that language from paragraph A -- let me  5 strike that.  6 That language from paragraph A that you  7 just referred to, you would understand that to fit  8 under the umbrella of undivided loyalty?  9 A. Sure.  10 Q. So it even says, "Each employee has the  11 personal responsibility to avoid conflicts of  12 interest and possible intentional or inadvertent  13 abuse of his/her position. Employees must not  14 engage in any conduct that would create an actual  15 or potential conflict of interest or create the  16 appearance of such conflict."  17 Reading this, would you agree that's a  18 pretty broad provision in terms of avoiding  19 conflicts of interest?  20 A. Yes.  21 MR. GUBLER: Objection. Calls for a  22 legal conclusion.  23 MR. DIXON: Same objection as before.  24 THE WITNESS: Yes, I would consider it to  25 be a broad explanation.</p>

1 BY MR. PANCHERI:

2 Q. And then if you go down to paragraph B,  
3 you see under the title "Solicitation of Customers,  
4 Vendors, Subcontractors, and Co-Workers,"  
5 "Employees should not approach customers, vendors,  
6 subcontractors, or co-workers with personal  
7 business propositions or to sell things to them."

8 Would you have understood Direct to have  
9 been a subcontractor?

10 A. Yes.

11 Q. And it states here, the next sentence,  
12 "Use of the company's business contacts for  
13 personal gain is a conflict of interest and may  
14 also interfere with the company's relationship with  
15 those contacts."

16 A. Yes.

17 Q. And you agreed to these provisions as  
18 part of becoming an employee at Century?

19 A. Yes.

20 MR. PANCHERI: Now, Monice, could we pull  
21 up Exhibit L, please.

22 (Exhibit L was marked.)

23 BY MR. PANCHERI:

24 Q. Mr. Prokopchuk, if you could click on the  
25 Exhibit L, please, and let me know when you have it

1 Communities Land Development Bid Award Cover  
2 Sheet." Are you familiar with the project  
3 referenced on that first line?

4 A. Yes.

5 Q. Is that one of the projects that Direct  
6 Grading had been working on?

7 A. Yes. I don't -- okay, go ahead. I'm  
8 sorry.

9 Q. Do you see there's a reference to the  
10 recommended bid winner being Direct Grading &  
11 Paving, about halfway down the page?

12 A. The justification, is that what you're --  
13 yeah, the bid winner, right.

14 Q. Okay. And then just in the table above,  
15 it references, under "Bidder," "Direct Grading &  
16 Paving." Would you agree with me, though there are  
17 no other bidders referenced in this table?

18 A. That's correct.

19 Q. If there were other bidders, would they  
20 be included in that table?

21 A. I'm sorry?

22 Q. If there had been other bidders, would  
23 they have been included in that table?

24 A. Yes.

25 Q. And then do you have an explanation as to

1 on your screen.

2 A. I do.

3 Q. We marked this letter dated  
4 September 17th, 2016, as Exhibit L. Is this your  
5 resignation letter?

6 A. Yes, it is.

7 Q. And this is dated again,  
8 September 17th, 2016, and you resigned on this  
9 date. Or you sent this resignation letter on this  
10 date in order to take this other job in California,  
11 I believe?

12 A. Yes.

13 MR. PANCHERI: Okay. Now, Monice, could  
14 we pull up the next exhibit, Exhibit M.

15 (Exhibit M was marked.)

16 BY MR. PANCHERI:

17 Q. Mr. Prokopchuk, if you would click on  
18 that link to Exhibit M, and let me know when it's  
19 up on your screen.

20 A. It is on my screen.

21 Q. Do you recognize this document?

22 A. No. To be honest with you, I don't.

23 Q. Is that your signature on it?

24 A. It is.

25 Q. And it's -- the title says "Century

1 why you're signing this bid award after providing  
2 your resignation? Do you see that? It's dated  
3 September 21st, 2016.

4 A. But I was there until October 7th, if  
5 you'll recall. Actually October 1.

6 Q. Okay.

7 A. So this was -- I think this was a cleanup  
8 thing to get done prior to me leaving. They had  
9 asked me to make sure we got things cleaned up  
10 and -- see, this is just a bid. This is not a  
11 contract or anything else. This is just a bid.  
12 And this is a form that Rick Barron had come up  
13 with that he started to use at the end.

14 Q. Okay. Would this have required the land  
15 VP and the division president to sign off before it  
16 would have been an enforceable contract with  
17 Direct?

18 A. This was no contract form at all. This  
19 is just a bid sheet.

20 Q. All right. So in order for there to have  
21 been an enforceable contract for this Phase 6 and 7  
22 of this project, there would have to have been a  
23 contract signed by both you and either Rick Barron  
24 or Don Boettcher; is that your understanding?

25 A. Well, this right here was a bid sheet

1 that at the end of the day was set up to allow --  
 2 or to actually put information in a contract.  
 3 Because a contract would, partially along with the  
 4 bid documents, be created from this bid  
 5 spreadsheet.

6 The theory was to have the vice  
 7 president, which I guess was Rick, and division  
 8 president, Don, sign before the contract would be  
 9 created.

10 Q. What's your understanding as to why that  
 11 was necessary?

12 A. Just -- it's just another form of  
 13 internal.

14 Q. Okay. So had they signed off on this,  
 15 going back to my question, would it have been your  
 16 expectation that there would have been a contract  
 17 signed by both you and/or Rick Barron or  
 18 Don Boettcher in order for there to have been an  
 19 enforceable contract with Direct?

20 A. Yes, it would have had to have been  
 21 signed -- I believe at that time, Rick Barron had  
 22 the authorization to sign, and Don Boettcher had  
 23 the authorization to sign, and if there was a  
 24 contract created, they would have to sign it.

25 Q. Okay. Do you know if that ever took

1 record at 1:08 p.m.

2 (Recess had.)

3 THE VIDEOGRAPHER: We're back on the  
 4 record. The time is approximately 1:11 p.m.

5 BY MR. PANCHERI:

6 Q. All right. Mr. Prokopchuk, if you could  
 7 click on that link to Exhibit N. And Exhibit N is  
 8 comprised with a series of emails that came from  
 9 Direct's server and/or devices, and so let's just  
 10 take a minute to go through them, and I want to ask  
 11 you a few questions about each one.

12 So the first one, you see there it's --  
 13 under the subject, it says, "Scott P. - DGP."

14 A. Mm-hmm.

15 Q. And then down at the bottom it says,  
 16 "Mobile telephone (702)533-9344." Again, that's  
 17 the number for the cell phone you were provided  
 18 from Direct, correct?

19 A. Yes.

20 Q. And then there's a "Display as (Email)."  
 21 There's a dp@directgrading.com email address.  
 22 Looking at this, does that refresh your  
 23 recollection as to whether that may have been an  
 24 email address that you utilized at Direct?

25 A. No, it doesn't recollect, but it may have

1 place?

2 A. I do not.

3 Q. Do you know if Direct ever performed any  
 4 work for Phases 6 and 7?

5 A. I believe they did the grading on 6 and  
 6 7. I do not know if they did the paving in there  
 7 or not.

8 Q. Is this contract for grading and paving  
 9 or just for paving?

10 A. Just paving. Paving curb subgrade.

11 Q. So let me ask it this way: Do you know  
 12 if Direct did any of the work contemplated under  
 13 this bid award cover sheet?

14 A. I do not know.

15 MR. PANCHERI: Okay. Monice, let's go  
 16 ahead and pull up Exhibit N.

17 (Exhibit N was marked.)

18 BY MR. PANCHERI:

19 Q. Mr. Prokopchuk, can you still hear me?

20 A. Yes.

21 MR. PANCHERI: Okay. You know what,  
 22 let's just go off the record for two minutes. I  
 23 just have got to switch my audio here. My  
 24 earphones are about to die.

25 THE COURT REPORTER: We're going off the

1 been.

2 Q. Are you familiar with the employees that  
 3 were at Direct during the timeframe when you were  
 4 doing your consulting services?

5 A. A couple.

6 Q. Do you know if there was anyone else  
 7 named Scott working for Direct?

8 A. I do not.

9 Q. So not as far as you know?

10 A. I do not know.

11 Q. Okay. I'll have you scroll down to the  
 12 next page, and this one is under "Projects  
 13 Calendar." And this is a reference to a meeting  
 14 that was going to start on, it says Monday,  
 15 June 2nd, 2014. It's a weekly general operations  
 16 meeting.

17 You see there's some individuals there  
 18 that are required attendees. They include  
 19 Ben Mifflin, Diane Raney, Don Mayhall,  
 20 Mel Westwood, PD, Terry Conk, Tracy Pollinger,  
 21 Victor Westwood, and then there's a Projects  
 22 Calendar.

23 Do you understand that each of these  
 24 persons was -- with the exception of PD, was an  
 25 employee of Direct?

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<p>1 A. I don't know all of them, but I know a 2 couple of them. 3 Q. Which ones don't you know? 4 A. I don't know who Terry Conk is or 5 Tracy Pollinger. 6 Q. Do you know Don Mayhall? 7 A. Yes. 8 Q. And what was his position at Direct? 9 A. He was the estimator. 10 Q. And do you know Victor Westwood? 11 A. That was Mel's brother, a mechanic. 12 Q. Okay. Now, here there's a reference to 13 PD attending this meeting. Sitting here today, do 14 you think that could have been you? 15 A. I do not know for sure, but could have 16 been. 17 Q. Same question for the next calendar 18 invite, which is just the next page, if I could 19 have you scroll down. It looks like an invite from 20 Tracy Pollinger about tonight's meeting. "Hello, 21 everyone. We will resume next Monday. Thanks. 22 Tracy." Again, could that have been a reference to 23 you, the pd@directgrading.com? 24 A. It could have been. 25 Q. And if we scroll down to the next one,</p>	<p>1 Q. And then there's a response to that, and 2 it says "Scott," and it's from that 3 pd@directgrading.com email. 4 And then if you keep going up, there's a 5 response from Tim, "Sorry, Scott, I did not 6 recognize the email. We will get the other stuff 7 cleaned up tomorrow," and then there's a response 8 at the top saying, "Thanks, Tim." 9 Reading this, is it your understanding 10 that this is a communication between you and Tim 11 Wyatt? 12 A. It looks like it, yes. 13 Q. If we could down to the next one, which 14 was marked as Exhibit 31, please. And this goes on 15 for a couple of pages from -- this is actually from 16 PD@directgrading.com to Tim and Mel. The subject 17 is "Master Schedule," and it's got what appears to 18 be a schedule attached to it. 19 I'd just ask you to take a look at that 20 schedule. And my question's going to be, do you 21 recall if this was an email from you to Tim and 22 Mel? 23 A. It probably could have been. I used to 24 do -- help them with their schedules and creating 25 schedules and things for them as just -- as a</p>
Page 103	Page 105
<p>1 same question, could this reference to PD have been 2 you? 3 A. Yes. 4 Q. If we can go down, there is one that's 5 marked Exhibit 29. Do you see there's stickers in 6 the bottom right-hand corner -- 7 A. Yes. 8 Q. -- there's one that says 29? 9 Same question here, could the reference 10 to PD at Direct Grading for this meeting have been 11 you as well? 12 A. Could be. 13 Q. Let's go to the next one in order, marked 14 as Exhibit 30. You have to read this from the 15 bottom up. There's an email from 16 pd@directgrading.com, on September 22nd, 2015, 17 and it states, "Tim, if there's anything you want 18 out of the desk you moved from and/or the boards on 19 the walls, please take them. If not, I'll just 20 toss it all. Thanks." 21 And then you see that if you go up, 22 there's a response from Tim, and it's right above 23 it, and it says, "Who is this?" 24 Do you see that? 25 A. Yeah.</p>	<p>1 helpful -- to help them out. They weren't very -- 2 they were not very good on Microsoft Project. 3 Q. So that schedule, it appears to you to 4 have been created with Microsoft Project? 5 A. Yes. 6 Q. And is this generally the type of 7 schedule that you would have created? 8 A. No. My contracts were -- or my schedules 9 were more infrastructure related. 10 Q. Oh, I see. You think this may have been 11 a schedule you helped them create? 12 A. Yes. 13 Q. And why do you say that? 14 A. Because I can see the items more related 15 to what they do. 16 Q. Did you help any other subcontractors 17 like this? 18 A. Always. 19 Q. Okay. And then if you go ahead and take 20 a look at Exhibit 32, it looks like you're 21 following up on the schedule. Is that a fair 22 statement? 23 A. Yes, yeah. Yes. 24 Q. And if we can scroll down, Exhibit 33, it 25 looks like it's an email from pd@directgrading.com</p>

<p style="text-align: right;">Page 106</p> <p>1 to Mel. And then the text says, "I put the current 2 timelines 12/9/15 for Century's projects and the 3 notice of violation of air quality for Horse and 4 Jones on my desk at your office. Also, the broken 5 fire hydrant meter needs to be taken to Marcia at 6 the Las Vegas Valley Water District." 7 Does this appear to be an email from you 8 to Mr. Westwood? 9 A. Yes, it does. 10 Q. Looking at this email, does this refresh 11 your recollection as to whether you had a desk at 12 the -- at Direct's offices? 13 A. I never had a desk. I had a place to put 14 my desk or put my stuff to work on. 15 Q. Okay. So that's what you're referring to 16 when it says "my desk at your office"? 17 A. Yes. 18 Q. Did you have a desk or a location to put 19 your stuff? 20 A. I'm sorry? 21 Q. Let me ask that differently. When you 22 say your office, are you referring to Direct's 23 office or are you referring specifically to Mel's 24 office? 25 A. I'm sorry, what -- are we on 32 still?</p>	<p style="text-align: right;">Page 108</p> <p>1 A. From Mel to PD, yes. 2 Q. Oh, I'm sorry. So this is from Mel to 3 you? 4 A. Or to PD, yeah. 5 Q. Okay. You understand that 6 pd@directgrading.com, though, that was you? 7 A. It was probably one of the emails, yes. 8 Q. You know what he's referring by, "I guess 9 payday is on Friday"? 10 A. I do not. 11 Q. Then if we go down to the next page, this 12 one doesn't have -- it's literally the next page. 13 This is a document that has -- looks like a similar 14 kind of contact information as what we saw on the 15 first page of this exhibit, and now you see the 16 email address is pd@directgrading.com? 17 A. Yes. 18 Q. And it references "DGP Scott." 19 Do you see that? 20 A. Yes. 21 Q. And there's the business phone 22 (702)533-9344. Again, that was your telephone 23 number, correct? 24 A. Yes. 25 Q. Is it your understanding that "DGP Scott"</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. I'm sorry. 33. 2 A. Okay. Oh, 33. The desk I was working 3 at. 4 Q. Yeah. My question was, was that a desk 5 located generally in Direct's building or their 6 office? 7 A. Yeah. Yes. Because I wouldn't have left 8 anything like that at my desk at Century for him. 9 Q. Okay. 10 A. And it was items that he needed to take 11 care of with the violation and the fire hydrant 12 meter. 13 Q. And these are relating to Century 14 projects, correct? 15 A. That's correct. 16 Q. And then if we go down to the next one, 17 which is Exhibit 34. 18 A. Mm-hmm. 19 Q. Previously marked as Exhibit 34 just to 20 clarify. This is all our Exhibit N, but it was 21 previously marked as Exhibit 34 in another 22 deposition. 23 But here, is this another email from you 24 to Mel referencing the same topic with an 25 additional statement about Rhodes Ranch?</p>	<p style="text-align: right;">Page 109</p> <p>1 is a reference to you? 2 A. Appears to be. 3 Q. All right. We could just set that aside 4 for now. 5 MR. PANCHERI: Monice, would you please 6 pull up Exhibit O. 7 (Exhibit O was marked.) 8 BY MR. PANCHERI: 9 Q. Before we go to Exhibit O, Mr. Prokopchuk 10 the phone, that was provided to you by Direct, did 11 it have Outlook on it to where you could actually 12 pull up emails from the Direct server? 13 A. No, I don't think so. I know so. 14 Q. Pardon? 15 A. I know so, no. 16 Q. So how would you access the emails? 17 Would you have to do it on laptop? Log in? 18 A. Oh, I'm sorry. Yes. Yes. I'm sorry. I 19 back up. Yes, I did have. My emails were on 20 there. 21 Q. Okay. So the -- the emails to you either 22 with the pd@directgrading.com mail or the 23 dp@directgrading.com email, those came to your 24 telephone that you were provided by Direct? 25 A. Yes, I believe so.</p>



<p style="text-align: right;">Page 110</p> <p>1 Q. Now, if you click on Exhibit O, please.</p> <p>2 A. Yes.</p> <p>3 Q. I guess just one more question. Was it</p> <p>4 your understanding that those emails, they came</p> <p>5 from the Direct server?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay. Let me know when you've got</p> <p>8 Exhibit O open.</p> <p>9 A. I do.</p> <p>10 Q. Okay. Now, this looks like it's an email</p> <p>11 from Mr. Westwood to you at your</p> <p>12 Century Communities email.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And I'll represent to you that Exhibit O</p> <p>16 is comprised of a few emails like this. There's an</p> <p>17 email, and then behind it are a series of documents</p> <p>18 that kind of look the same. Looks like a table</p> <p>19 with handwriting on them.</p> <p>20 And my question to you is, do you</p> <p>21 recognize what these are, these documents behind</p> <p>22 the emails?</p> <p>23 A. It looks like load sheets.</p> <p>24 Q. What are load sheets?</p> <p>25 A. Load sheets are documentation that they</p>	<p style="text-align: right;">Page 112</p> <p>1 with a sticker at the bottom that says 45. Let me</p> <p>2 know when you're there. It's about halfway down</p> <p>3 this collection of documents.</p> <p>4 A. Yeah, I believe I'm there. I'm just</p> <p>5 trying to get to the 45 behind there.</p> <p>6 Q. And you see that that's an email dated</p> <p>7 March 29th, 2016?</p> <p>8 A. Gosh, I know I have to go all the back up</p> <p>9 to the top.</p> <p>10 Q. No, no. So if you're on Exhibit 45 --</p> <p>11 A. Oh, where the 45 is? Okay.</p> <p>12 Q. Yeah. Just that same page, just the --</p> <p>13 A. Got it.</p> <p>14 Q. That was an email sent on March 29th,</p> <p>15 2016, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Again, that's from Mr. Westwood to you,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And it's copied Linda -- or</p> <p>21 linda@directgrading.com is copied on that. Do you</p> <p>22 know who Linda is?</p> <p>23 A. Yes.</p> <p>24 Q. And who is Linda?</p> <p>25 A. I think Linda is the accountant.</p>
<p style="text-align: right;">Page 111</p> <p>1 would do on every truck that -- as you can see, the</p> <p>2 company, Alpha, and then the truck number, an end</p> <p>3 dump, and then it would document the time, I</p> <p>4 believe the time that they left -- it says "BLM</p> <p>5 Dirt PYLE," so that's my understanding.</p> <p>6 Q. Do you know why Direct was providing</p> <p>7 these to you?</p> <p>8 A. They would provide every document that</p> <p>9 they had as it related to the dirt hauling.</p> <p>10 Q. Okay. And it's your understanding that</p> <p>11 Direct had one of its employees put this truck log</p> <p>12 together?</p> <p>13 A. Yeah. Except for I think they were</p> <p>14 created in the field. I can't tell you who created</p> <p>15 them, but they may have had somebody in the field</p> <p>16 documenting these, or then it may have been Mel, or</p> <p>17 it could have been one of their -- one of their --</p> <p>18 Q. I guess my question is, it wasn't anyone</p> <p>19 from Century that created these?</p> <p>20 A. No.</p> <p>21 Q. If I could ask you to -- these aren't</p> <p>22 Bates-stamped so it's going to be a little</p> <p>23 difficult to do this, but I'm going to ask you to</p> <p>24 scroll down until you get to an email that was</p> <p>25 marked as Exhibit 45. And so you'll see an email</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. Do you know her last name?</p> <p>2 A. I do not.</p> <p>3 Q. Now, if you could go down one, two,</p> <p>4 three -- five pages until you get to the truck log</p> <p>5 dated March 25th, 2016. Let me know when you're</p> <p>6 there.</p> <p>7 A. What document number?</p> <p>8 Q. So if you just scroll down from that</p> <p>9 email that we were just on, there's a truck log</p> <p>10 dated March 25th, 2016.</p> <p>11 A. Okay. So down five -- one, two --</p> <p>12 Q. If your computer -- it's page 30 of the</p> <p>13 PDF.</p> <p>14 A. What's the date on it again? I'm sorry.</p> <p>15 Q. March 25th, 2016.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. You see that?</p> <p>18 A. Yes.</p> <p>19 Q. All right. So are you familiar with</p> <p>20 these trucking companies that are listed, Werdco,</p> <p>21 Alpha, Direct?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know what -- there's a reference</p> <p>24 to CC, lines 5 through 7. Do you know who that is?</p> <p>25 A. CC, it was another trucking company, I</p>

<p style="text-align: right;">Page 114</p> <p>1 believe. I can't tell you exactly, but I believe</p> <p>2 it was another trucking company.</p> <p>3 Q. Do you know if it's -- was it a company</p> <p>4 that's separate and apart from Direct?</p> <p>5 A. Oh, yes. In fact, back then, they were</p> <p>6 trying to get -- they had the dirt and they were</p> <p>7 trying to get the other trucking companies to work</p> <p>8 for them so that they could -- remember, we needed</p> <p>9 to meet that 2,000 a day for five days.</p> <p>10 Q. So sitting here today, do you know what</p> <p>11 the CC stands for?</p> <p>12 A. The CC?</p> <p>13 Q. Yes.</p> <p>14 A. No, I do not.</p> <p>15 Q. Do you know who the principal is of CC?</p> <p>16 A. No.</p> <p>17 Q. Have you ever seen CC work on any other</p> <p>18 projects?</p> <p>19 A. I can't say that I have.</p> <p>20 Q. Did you personally ever witness any</p> <p>21 trucks from CC working on any of the projects?</p> <p>22 A. You know, I'm sorry, it's like four years</p> <p>23 ago. I do not recall that. There's a lot of</p> <p>24 companies in Las Vegas that trucks.</p> <p>25 Q. Let me ask you this: So there's a</p>	<p style="text-align: right;">Page 116</p> <p>1 worked out the deal as to, you know, if they -- if</p> <p>2 Direct paid them directly or -- or if they were a</p> <p>3 joint venture -- a joint check or what. I don't</p> <p>4 know that part of it. I'm sorry.</p> <p>5 Q. Okay. But you have never seen any</p> <p>6 paperwork relating to CC that you can recall</p> <p>7 sitting here today?</p> <p>8 A. I do not.</p> <p>9 Q. But you would expect there to be</p> <p>10 something, right, whether it be proof of payment,</p> <p>11 invoices, truck logs, something like that?</p> <p>12 A. Somewhere in -- and there must be a name</p> <p>13 to CC, too.</p> <p>14 MR. PANCHERI: All right. Monice, would</p> <p>15 you pull up Exhibit P, please.</p> <p>16 (Exhibit P was marked.)</p> <p>17 BY MR. PANCHERI:</p> <p>18 Q. Mr. Prokopchuk, when you have that link,</p> <p>19 if you could please pull up --</p> <p>20 A. I have it open.</p> <p>21 Q. -- P. So this is a subpoena duces tecum</p> <p>22 that we've had marked as Exhibit P. Do you recall</p> <p>23 receiving this?</p> <p>24 A. I do not recall.</p> <p>25 Q. Okay. This is from -- kind of a little</p>
<p style="text-align: right;">Page 115</p> <p>1 contention in this litigation that the CC trucking</p> <p>2 company didn't exist, essentially these are ghost</p> <p>3 trucks, is the term that we've heard. Would you</p> <p>4 have any reason to -- I guess would you have any</p> <p>5 evidence to rebut that, is my question?</p> <p>6 MR. DIXON: Calls for speculation.</p> <p>7 If you want to answer, you can, Scott.</p> <p>8 THE WITNESS: I have no reason to -- I'm</p> <p>9 sorry, how did you word that again?</p> <p>10 BY MR. PANCHERI:</p> <p>11 Q. I'm just trying to find out if you have</p> <p>12 any reason or if you have any evidence to rebut</p> <p>13 that assertion that these CC trucks didn't exist?</p> <p>14 A. I have no reason to believe they didn't</p> <p>15 exist.</p> <p>16 Q. So my question is, do you have any</p> <p>17 evidence -- I'm trying to find out. That's kind of</p> <p>18 the purpose of a deposition is --</p> <p>19 A. No. There should be some sort of</p> <p>20 accounting liens and releases type thing within</p> <p>21 Century, I would imagine.</p> <p>22 Q. Right. So if these were a trucking</p> <p>23 company hired by Direct, there should have been</p> <p>24 invoices, truck tickets from CC, correct?</p> <p>25 A. I guess it just depends on how they</p>	<p style="text-align: right;">Page 117</p> <p>1 while ago, back in 2018, proof of service at the</p> <p>2 end?</p> <p>3 A. 2008?</p> <p>4 Q. '18?</p> <p>5 A. Oh, I'm sorry.</p> <p>6 Okay. I mean, I just -- I don't know if</p> <p>7 this is one that -- I know I did receive a subpoena</p> <p>8 for -- for a deposition that was going to be done</p> <p>9 here in -- by video in Palm Springs.</p> <p>10 Q. Are you talking about this deposition or</p> <p>11 a couple years ago?</p> <p>12 A. I don't know. I don't know what this --</p> <p>13 this deposition -- or this -- no, a couple years</p> <p>14 ago. I'm sorry.</p> <p>15 Q. All right. So were you -- a couple of</p> <p>16 years ago were you residing at 3200 East Tahquitz</p> <p>17 Canyon Way? That's T-a-h-q-u --</p> <p>18 A. No, that's a courthouse.</p> <p>19 Q. Maybe I'm misreading this here, then.</p> <p>20 I'm looking at the proof of service on</p> <p>21 the last page. It says it was served on you on</p> <p>22 March 2nd, 2018.</p> <p>23 A. Sounds right.</p> <p>24 Q. Okay. All right. So my question to you,</p> <p>25 this is a subpoena asking for some documents, and</p>

<p style="text-align: right;">Page 118</p> <p>1 if you go up to page 4, you see what the documents 2 are that were requested? 3 A. Page 4. 4 Q. There is a 1, 2, 3. Let me know when 5 you're there. 6 A. I'm here right now I believe. That's 7 page 4. Okay. Oh, on page 4 or page -- 8 Q. Oh, here we go. Page 4, and then there 9 is a Number 1, a Number 2 and a Number 3. Do you 10 see that? 11 A. Okay. 12 Q. So my office, we didn't receive any 13 documents from you in response to the subpoena, and 14 really, I guess, what I would like it know is, I 15 want to make sure there aren't some documents that 16 you have that would have been responsive to the 17 subpoena, so let's go through these one by one. 18 The first is asking for documents 19 relating to any payments you received from 20 DGP Holdings. 21 A. No. 22 Q. There wouldn't be any, okay. 23 A. No. 24 Q. And then the next one is asking for 25 payments you received from Direct from</p>	<p style="text-align: right;">Page 120</p> <p>1 on this. So you don't have any emails or text 2 messages between you and Mr. Westwood? 3 A. No. 4 Q. You're not saying that there weren't 5 emails and text messages, because we've seen some 6 of them, you're just saying you don't have any 7 today in your possession? 8 A. No. I don't have anything related to -- 9 in my possession at all, right. 10 MR. PANCHERI: All right. Let's -- 11 Monice, could we pull up Exhibit Q, please. 12 (Exhibit Q was marked.) 13 BY MR. PANCHERI: 14 Q. All right. Mr. Prokopchuk, before we get 15 to Exhibit Q, we talked about the payments you 16 received from Direct relating to your consulting 17 work. Other than those payments, have you ever 18 received any other payments of any kind from 19 Mr. Westwood? 20 A. No. 21 Q. Have you received any payments of any 22 kind from any of Mr. Westwood's companies? 23 A. No. 24 Q. If you would pull up Exhibit Q, please. 25 Let me know when you've got it up.</p>
<p style="text-align: right;">Page 119</p> <p>1 January 1st, 2015, through today. 2 A. No. 3 Q. But you did receive payments from Direct, 4 though, we saw some of the checks? 5 A. Yes. 6 Q. Okay. So you would have -- I guess the 7 question is, do you still have any of those 8 documents in your possession? 9 A. I don't, and I think you have everything 10 there, right? 11 Q. Well, we have what Direct produced. So 12 then Number 3, "Produce all correspondence between 13 you and Mel Westwood from January 1st, 2015, 14 through today." 15 We didn't receive anything in response to 16 that. Do you still have -- 17 A. No, I don't have anything like that. I 18 don't have anything from back in those days. 19 Q. Well, do you have any correspondence with 20 Mr. Westwood that are more recent? 21 A. No. I mean, we talk on the phone on 22 occasion because we're -- we know each other. But 23 no -- no documents or no letters or emails or 24 anything like that. 25 Q. So I just want to make sure we're clear</p>	<p style="text-align: right;">Page 121</p> <p>1 A. I've got it up. 2 Q. This is an email dated October 5th, 3 2016, which we've marked as Exhibit Q. And this 4 appears to be an email from a 5 scott@directgrading.com to mel@directgrading.com. 6 Is it your understanding that this is an email from 7 you? 8 A. It looks like it. 9 Q. You don't have any reason to dispute 10 that? 11 A. No. 12 MR. PANCHERI: Monice, could we pull up 13 Exhibit R, please. 14 (Exhibit R was marked.) 15 THE WITNESS: Yep. 16 THE COURT REPORTER: The time is 17 1:43 p.m. We're off the record. 18 (Recess had.) 19 THE VIDEOGRAPHER: We're back on the 20 record. The time is approximately 1:53 p.m. 21 BY MR. PANCHERI: 22 Q. All right. So Mr. Prokopchuk, you were 23 pulling up Exhibit R. 24 A. Yes. 25 Q. For some reason, I don't have the link on</p>

1 the side.  
 2 THE COURT REPORTER: Now is it there?  
 3 MR. PANCHERI: I don't -- I just see the  
 4 video.  
 5 THE COURT REPORTER: Open up the chat at  
 6 the bottom.  
 7 MR. PANCHERI: I see the chat. It's  
 8 empty, though.  
 9 THE COURT REPORTER: I'll resend it.  
 10 BY MR. PANCHERI:  
 11 Q. Okay. So, Mr. Prokopchuk, you've got  
 12 what we've marked as Exhibit R on your screen; is  
 13 that correct?  
 14 A. Correct.  
 15 Q. Okay. So do you recognize this email?  
 16 A. Yes, I do.  
 17 Q. It looks like an email from you to  
 18 Mr. Westwood on or about October 2nd, 2016. So  
 19 this is about a couple weeks after you resigned  
 20 from Century; is that right?  
 21 A. That's correct.  
 22 Q. And you're giving him your cell phone,  
 23 but then you tell him, "I don't think I have to  
 24 tell you how much you mean to me and my family.  
 25 You've made our lives so much more. Thanks for

1 next line?  
 2 A. Yes.  
 3 MR. PANCHERI: And, Monice, if we could  
 4 pull up Exhibit S, please.  
 5 (Exhibit S was marked.)  
 6 BY MR. PANCHERI:  
 7 Q. Mr. Prokopchuk, if you could click on  
 8 that link and pull up Exhibit S. Let me know when  
 9 you've got that on your screen.  
 10 A. Yes.  
 11 Q. So Exhibit S appears to be an email  
 12 chain, and it starts at the bottom with an email  
 13 from Sue Alexander at Johnson & Gubler, to  
 14 Mr. Jorgensen. Do you know who Jorgensen is?  
 15 A. Yes, I do.  
 16 Q. And who is he?  
 17 A. He was the company in-house lawyer for  
 18 Dunhill.  
 19 Q. Okay. Did he also do legal work for  
 20 Century?  
 21 A. I don't know.  
 22 Q. You see the subject line is  
 23 "Century Communities/Direct Grading & Paving."  
 24 Do you see that?  
 25 A. Which one? The bottom line?

1 everything, my friend."  
 2 Is it fair to say you considered  
 3 Mr. Westwood to be a close friend?  
 4 A. I did consider him to be a friend.  
 5 Q. How long did you have that friendship  
 6 with him? How long does that go back?  
 7 A. Probably since early -- before 2008.  
 8 Q. Do you still consider him to be a friend  
 9 today?  
 10 A. I do.  
 11 Q. And you mentioned "how much you mean to  
 12 me and my family." What's that in reference to?  
 13 A. Because he was a friend. He was always  
 14 there for us when we needed to do stuff around the  
 15 house and whenever we needed something for -- you  
 16 know, somebody to help work on things, and I knew  
 17 he would be there for me and my family if I was  
 18 leaving.  
 19 I was leaving and going to California, so  
 20 my wife that I was separated from had the house,  
 21 and I let him know and another good friend of mine  
 22 in Vegas that they -- I knew they would watch out  
 23 for her if I ever needed to call them and she  
 24 needed some help.  
 25 Q. That's what you're referring to in that

1 Q. Yes. The email from Sue Alexander.  
 2 A. Okay. To -- yeah, the very bottom, I see  
 3 it.  
 4 Q. And then you see there's an email that  
 5 says, "Scott, see" Direct -- "Direct's response to  
 6 Rick's spreadsheet."  
 7 Do you see that?  
 8 A. No, I don't. Where is that?  
 9 Q. About halfway up, it says -- under  
 10 January 7th, 2017. It looks like --  
 11 A. Oh, January 7th?  
 12 Q. Do you see there is email from  
 13 Mel Westwood and it says, "Scott, see Direct's  
 14 response to Rick's spreadsheet"?  
 15 A. Oh, okay. Yeah. Okay.  
 16 Q. And then is that a response from you  
 17 above?  
 18 A. Yeah, I guess so.  
 19 Q. It says, "Mel, I'll review all this stuff  
 20 today and tomorrow and let you know what I think  
 21 and/or suggest."  
 22 A. I think before I left from Century, we  
 23 were trying to resolve all this, and we actually  
 24 had a -- what I thought was a conclusion to bring  
 25 Direct up to date, and actually had Rick agree to a

<p style="text-align: right;">Page 126</p> <p>1 couple things, Rick being Rick Barron, and there  2 was a couple of last things going on, I guess, and  3 it appears he sent me some of the -- maybe a --  4 comments that Rick had on the spreadsheet to  5 resolve or to bring everything to -- you know, to  6 settle everything.  7 Q. So Mel was sending you this?  8 A. It looks like it.  9 Q. Okay. And it looks like you respond,  10 "Mel, I'll review all this stuff today and tomorrow  11 and let you know what I think and/or suggest."  12 Did you, in fact, respond to Mel?  13 A. You know, I do not know. I cannot  14 recall. That was like three, four years ago.  15 Q. Were you trying to assist Direct in  16 resolving its dispute with Century?  17 A. I was trying to assist everyone to get  18 the resolve done.  19 Q. Okay. Were there separate communications  20 between you and Rick Barron regarding trying to  21 resolve it?  22 A. No. Rick and I left on not very good  23 terms.  24 Q. Okay. Why was that?  25 A. You know, it's a new guy -- new guy come</p>	<p style="text-align: right;">Page 128</p> <p>1 A. Of the -- just the observations, no.  2 Just the documentation that was provided us on load  3 counts and things like that.  4 Q. By Direct?  5 A. Yes.  6 Q. Okay.  7 MR. PANCHERI: Monice, can we pull up  8 Exhibit T.  9 (Exhibit T was marked.)  10 BY MR. PANCHERI:  11 Q. So, Mr. Prokopchuk, we've -- you have got  12 in front you what we've marked as Exhibit T, and  13 it's comprised of a few different pages, and I just  14 want you, first of all, to take a look at the  15 first -- let's see, one, two, three, four, five  16 pages, and I understand some are horizontal, some  17 are vertical, these tables.  18 My question to you is if you recognize  19 these tables?  20 A. You know, I am going to ask somebody, how  21 do I turn these things the correct direction?  22 THE COURT REPORTER: Let's go off the  23 record, please.  24 THE VIDEOGRAPHER: The time is 2:03 p.m.  25 We're off the record.</p>
<p style="text-align: right;">Page 127</p> <p>1 in, he wanted to build his department the way he  2 wanted it, and it was time for me to leave and  3 that's why I left, so we kind of left it at that.  4 Q. Now, you testified previously about  5 either you or Rick or Don Boettcher observing some  6 of the import of dirt to Inspirada. Do you recall  7 that testimony?  8 A. Yes.  9 Q. Was that just something that was  10 observed, or was there actually something that --  11 some sort of documentation created of those  12 observations of the trucks?  13 A. Just observations. You know, every  14 time -- the way it worked was everybody was able  15 to -- got out and kind of looked around the jobs on  16 a daily basis, and kind of, you know, told  17 everybody kind of what was going on, that they --  18 they would have seen somebody importing material on  19 on Inspirada. Obviously Inspirada was a hot point  20 to get the work done, and so everybody, I think --  21 somebody made a trip or visit to the job on a daily  22 basis.  23 Q. Okay. But there was no separate log or  24 document that was created by Century based on those  25 observations?</p>	<p style="text-align: right;">Page 129</p> <p>1 (Recess had.)  2 THE VIDEOGRAPHER: We are back on the  3 record. The time is approximately 2:12 p.m.  4 BY MR. PANCHERI:  5 Q. Mr. Prokopchuk, looking at the first -- I  6 guess the first five pages, you see some tables  7 here. My question to you is, do you know who  8 created these tables?  9 A. You know, it looks familiar. I think at  10 the beginning I was doing some of these and we may  11 have let the administrator or the admin coordinator  12 do them after a while, so it could have been, but  13 that does look like my writing down there, so I  14 think this group here I probably created.  15 Q. Okay. So would this have -- you would  16 have been utilizing the (interference).  17 A. I didn't hear that.  18 Q. So you would have utilized the truck logs  19 and the information provided by Direct to create  20 these tables?  21 A. Yes.  22 Q. When you get like, for instance, the  23 yards per load, 18 and 27, those would have come  24 from Direct?  25 A. Yeah, the 18 would have been based on a</p>

<p style="text-align: right;">Page 130</p> <p>1 single truck, and the 27 would have been based on  2 doubles, a truck with a trailer.  3 Q. Sure. Then if you scroll down to the  4 bottom, there's a different table. And same  5 question for that, do you recognize that table?  6 A. Yeah. I think that's probably a  7 summarization --  8 Q. Okay.  9 A. -- of everything. And we may have -- it  10 looks like we probably were provided the BLM fees  11 too.  12 Q. From Direct?  13 A. Yeah. And including the loader which  14 would have been loading the trucks at the BLM pile.  15 And sweeper service for cleaning around everything.  16 MR. PANCHERI: Okay. All right, so let's  17 go ahead and go to Exhibit U, please, Monice.  18 (Exhibit U was marked.)  19 BY MR. PANCHERI:  20 Q. Mr. Prokopchuk, if you could click on  21 Exhibit U, and let me know when you've got that on  22 your screen.  23 A. I do.  24 Q. On this first page -- and Exhibit U is a  25 compilation of a few different documents, but</p>	<p style="text-align: right;">Page 132</p> <p>1 orders?  2 A. Yes.  3 Q. And do you recognize the signature at the  4 bottom?  5 A. Mel Westwood.  6 Q. And then you scroll down, please, to the  7 invoice dated April 11th, 2016. It's  8 highlighted, and I -- I think that might have  9 happened in a deposition that we highlighted that,  10 so you can ignore that. I don't know that that was  11 on the original invoice.  12 A. The 4/11/2016, 2546?  13 Q. Right.  14 A. Yeah.  15 Q. So it looks like this is the same type of  16 invoice, and then my question to you is, if you  17 scroll down to the next page -- actually, I'm  18 sorry, a little bit further towards the bottom. If  19 you go down to the document that's Bates-stamped  20 4488. It's the 5/20/2016 invoice.  21 A. 5/20, down a lot farther.  22 Q. Yeah. Down about halfway.  23 A. Okay. 5/20/2016.  24 Q. Right.  25 A. Okay.</p>
<p style="text-align: right;">Page 131</p> <p>1 looking at the first page, which is Bates-stamped  2 CCN44, I think that's 53.  3 Do you recognize this to be an invoice  4 from Direct to Century relating to the BLM soil?  5 A. Yeah, it looks like it.  6 Q. Looking at this, is it your understanding  7 that Direct charged Century based on the quantity  8 of dirt acquired from the BLM, which would be that  9 first line item; the loading costs, which would be  10 the second line item; trucking costs, which would  11 be the third line item; and sweeping costs, which  12 would be the fourth line item?  13 A. Yes.  14 Q. And I think we talked about this before.  15 Do you see the price per unit for the cubic yards  16 acquired from the BLM?  17 A. The dollar 57?  18 Q. Yeah.  19 A. Yeah.  20 Q. Was that your understanding, that's how  21 much the BLM was charging per yard?  22 A. I believe I recall that.  23 Q. And then if you scroll down to the next  24 sheet, is this the draw schedule we talked about  25 previously when we were talking about change</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. My question to you is, do you know why  2 this changed in terms of the way it's calculated?  3 Instead of it being broken down by how many yards,  4 the cost per yard, there's just a quantity of one  5 and kind of a lump sum here.  6 A. My guess would be that there would be  7 another document that would have been included with  8 this that would have probably the fees or whatever.  9 Or, you know, the unit price -- the trucking -- the  10 trucking tickets. I'm just assuming. I don't know  11 why, no.  12 MR. PANCHERI: All right. So let's turn  13 to Exhibit V. Monice, if you would pull that one  14 up, please.  15 (Exhibit V was marked.)  16 BY MR. PANCHERI:  17 Q. All right. Mr. Prokopchuk, let me know  18 when you've got Exhibit V open in front of you.  19 A. Okay.  20 Q. Are you there?  21 A. Yes, I am.  22 Q. This looks like an invoice from Direct to  23 Century, and it references a change order, import  24 material to Inspirada at a price of \$23,900. Do  25 you see that?</p>

<p style="text-align: right;">Page 134</p> <p>1 A. Yes, I do.</p> <p>2 Q. And then references in the box above,</p> <p>3 "Project, 1504 - RR South," and then it says PH.</p> <p>4 Do you know what this is in reference to?</p> <p>5 A. Where is that again?</p> <p>6 Q. In the box above the charge of \$23,900,</p> <p>7 there's a box that says "Project" and it has 1504,</p> <p>8 look like a job code of 1504 - RR South and then</p> <p>9 it's got a PH and ellipses.</p> <p>10 A. I'm sorry, I don't see that. Maybe I --</p> <p>11 oh. Are you talking about on the -- no. I'm</p> <p>12 sorry. You're looking on the invoice, right?</p> <p>13 Q. Yeah. The first page of the invoice.</p> <p>14 A. Okay. Hold on.</p> <p>15 Q. Do you see --</p> <p>16 A. Oh, 1504- RR South PH. South phase</p> <p>17 something.</p> <p>18 Q. Right. My question is -- to you, is it</p> <p>19 your understanding that this is an invoice relating</p> <p>20 to the import of material from Rhodes Ranch to</p> <p>21 Inspirada?</p> <p>22 A. I could not tell you that, but it's a</p> <p>23 Direct code of some sort. Let me see. Is there</p> <p>24 any more indication --</p> <p>25 Q. Yeah, if you want to scroll through this</p>	<p style="text-align: right;">Page 136</p> <p>1 determined that it would too expensive to keep</p> <p>2 hauling from there. But we hauled some from there</p> <p>3 in the beginning, just to test it, I believe.</p> <p>4 Q. Do you know how much further it was from</p> <p>5 Rhodes Ranch --</p> <p>6 A. Not really. I couldn't tell you. I know</p> <p>7 it was -- a lot of it had to do with freeway</p> <p>8 driving and streets driving, et cetera, et cetera.</p> <p>9 Q. Mr. Prokopchuk, let me finish the</p> <p>10 question before you answer just so we have a clear</p> <p>11 record.</p> <p>12 A. I'm sorry.</p> <p>13 Q. So my question was, do you know how much</p> <p>14 further it was to haul dirt from Rhodes Ranch to</p> <p>15 Inspirada compared to the BLM site to Inspirada?</p> <p>16 A. I said no, I don't know.</p> <p>17 MR. PANCHERI: Then, Monice, could we</p> <p>18 pull up Exhibit W.</p> <p>19 THE WITNESS: I think that same document</p> <p>20 actually shows the approvals that were needed to</p> <p>21 get a check requested, on the bottom of that.</p> <p>22 THE COURT REPORTER: Can we go off the</p> <p>23 record for a minute.</p> <p>24 MR. PANCHERI: Sure.</p> <p>25 THE VIDEOGRAPHER: The time is</p>
<p style="text-align: right;">Page 135</p> <p>1 document, on the draw schedule about three pages</p> <p>2 down there's a reference to Rhodes Ranch?</p> <p>3 A. Yeah, it does. It looks like it says</p> <p>4 "Import material to Inspirada" --</p> <p>5 Q. Okay.</p> <p>6 A. -- "of 23-nine." Right.</p> <p>7 Q. I mean, I didn't see any backup for this.</p> <p>8 Would you have expected there to be some backup, or</p> <p>9 is there anything in this -- strike that.</p> <p>10 Let me ask you this: Is there anything</p> <p>11 in this collection of documents that shows you how</p> <p>12 much soil was imported from Rhodes Ranch?</p> <p>13 A. No.</p> <p>14 What's the date on this? This is 9/15.</p> <p>15 Okay.</p> <p>16 I can't tell who -- I am assuming there</p> <p>17 was other documentation that went with it when they</p> <p>18 created the change order.</p> <p>19 Q. You're assuming but do you know?</p> <p>20 A. I do not know.</p> <p>21 Q. And Rhodes Ranch south, Phase 5, that was</p> <p>22 again a Century project, correct?</p> <p>23 A. That's correct. I know there was extra</p> <p>24 dirt in Rhodes Ranch that needed to be hauled away</p> <p>25 but until they actually made a run, I believe we</p>	<p style="text-align: right;">Page 137</p> <p>1 approximately 2:24 p.m. We are off the record.</p> <p>2 (Recess had.)</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 approximately 2:24 p.m. We're back on the record.</p> <p>5 BY MR. PANCHERI:</p> <p>6 Q. So, Mr. Prokopchuk, I think we saw some</p> <p>7 documents where there was a charge to Century by</p> <p>8 Direct for singles at 18 cubic yards per truck, and</p> <p>9 doubles were at 27 cubic yards per truck. Do you</p> <p>10 remember seeing those documents?</p> <p>11 A. Yes.</p> <p>12 Q. Now, there are other documents that are</p> <p>13 the reporting from Direct to the BLM, which, I</p> <p>14 guess, first of all, did you ever see those</p> <p>15 documents, the logs that were created by Direct and</p> <p>16 provided to the BLM?</p> <p>17 A. I did not.</p> <p>18 Q. So on those logs, the truck size</p> <p>19 references 15 cubic yards for a single and 25 cubic</p> <p>20 yards for a double. And my question to you is,</p> <p>21 shouldn't those numbers be the same what was</p> <p>22 recorded to the BLM and what was charged to</p> <p>23 Century?</p> <p>24 MR. GUBLER: Objection. Foundation.</p> <p>25 MR. DIXON: Join. Go ahead and answer,</p>

<p style="text-align: right;">Page 138</p> <p>1 Scott.</p> <p>2 THE WITNESS: Yes.</p> <p>3 MR. PANCHERI: Let me just -- I'll check</p> <p>4 my notes. Russ, if you want to go ahead and ask</p> <p>5 your questions, I'll just reserve the right to ask</p> <p>6 a couple follow-up questions, and, Steve, I don't</p> <p>7 know if you have any questions as well, but same</p> <p>8 thing.</p> <p>9</p> <p>10 EXAMINATION</p> <p>11 BY MR. GUBLER:</p> <p>12 Q. Mr. Prokopchuk, I represent Direct</p> <p>13 Grading. I'm just going to ask you a few other</p> <p>14 questions. Okay?</p> <p>15 A. Okay.</p> <p>16 Q. Did Century ever have any dealings with</p> <p>17 the BLM before it contracted with Direct?</p> <p>18 A. Only -- I think there was a couple of</p> <p>19 dealings in Inspirada because there was a rule that</p> <p>20 said none of the dirt from Inspirada could leave</p> <p>21 the site. Once it got to the site, it couldn't</p> <p>22 leave the site, it needed to stay on-site, but I</p> <p>23 think that was the only thing we discussed with the</p> <p>24 BLM. I didn't personally, but I believe that</p> <p>25 Rick Barron had.</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. But it was Direct that introduced --</p> <p>2 introduced Century to the BLM; is that right?</p> <p>3 A. Yes. Yes.</p> <p>4 Q. You mentioned -- you mentioned an issue</p> <p>5 with the phone. You said that a phone was issued</p> <p>6 to you by Direct Grading; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. How do you know that was from Direct</p> <p>9 Grading?</p> <p>10 A. I could only assume.</p> <p>11 Q. So you don't know?</p> <p>12 A. I don't know directly.</p> <p>13 Q. You don't know who paid the bill for the</p> <p>14 phone?</p> <p>15 A. I do not.</p> <p>16 Q. Now, you also talked about consulting for</p> <p>17 DGP Holdings?</p> <p>18 A. Yes.</p> <p>19 Q. How long did you actually consult for</p> <p>20 DGP Holdings?</p> <p>21 A. It was a while because the project went</p> <p>22 on. I can't tell you exactly when, but it was a</p> <p>23 little while.</p> <p>24 Q. When you say "a while," I'm trying to</p> <p>25 kind of get an idea --</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. Are you aware of any other</p> <p>2 conversations -- strike that.</p> <p>3 Was there anything else in that</p> <p>4 conversation between Rick Barron and the BLM that</p> <p>5 you are aware?</p> <p>6 A. No.</p> <p>7 Q. How did Century even know about the BLM</p> <p>8 dirt?</p> <p>9 A. Actually, it was brought to us by</p> <p>10 Mel Westwood.</p> <p>11 Q. And did Century ever contract with the</p> <p>12 BLM directly?</p> <p>13 A. No.</p> <p>14 Q. And this conversation that you had</p> <p>15 mentioned with Rick Barron and the BLM, do you know</p> <p>16 when that took place?</p> <p>17 A. It would have been -- you know, and you</p> <p>18 know what? I have to back up. I do not believe</p> <p>19 that Rick Barron had the conversations. It was</p> <p>20 probably Don Boettcher during the feasibility for</p> <p>21 the project.</p> <p>22 Q. So that would have been before the</p> <p>23 project -- before Direct started hauling dirt to</p> <p>24 the project, the Inspirada project?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 141</p> <p>1 A. Years.</p> <p>2 Q. What's that?</p> <p>3 A. I think it was a couple of years, at</p> <p>4 least.</p> <p>5 Q. A couple of years?</p> <p>6 A. Maybe more.</p> <p>7 Q. Okay. And you think that you started</p> <p>8 consulting in 2014, I believe is what your</p> <p>9 testimony was?</p> <p>10 A. Yes, I believe so.</p> <p>11 Q. Did you actually ever get paid before</p> <p>12 2016?</p> <p>13 A. Yes.</p> <p>14 Q. You did. And do you have any</p> <p>15 documentation to show that?</p> <p>16 A. I do not.</p> <p>17 Q. I would like to look at Exhibit F again.</p> <p>18 F as in Frank. That's the affidavit of Scott</p> <p>19 Prokopchuk.</p> <p>20 A. Yes.</p> <p>21 Q. Towards the end of paragraph 9 -- forgive</p> <p>22 me, I keep looking over because that's where my</p> <p>23 screen is with your exhibits.</p> <p>24 Towards the end of paragraph 9, it talks</p> <p>25 about Century Communities being anxious to obtain</p>



<p style="text-align: right;">Page 142</p> <p>1 materials and then it says, "Century Communities 2 would keep in-house logs of spreadsheets on the 3 amount of the dirt coming into the Inspirada 4 property." 5 Do you see that? 6 A. Yes. 7 Q. Now, I believe that we had -- we looked 8 at Exhibit P, which were some spreadsheets. Is 9 that what you're referring to in your affidavit? 10 A. Yeah, I believe that was it. 11 Q. Was there anything else? 12 A. I don't recall. I know we had had copies 13 of all of the -- you know, the load tickets and 14 things like that, but these sheets were pretty 15 diligently to be updated as the tickets came in. 16 Q. Let me ask you this: Did Century ever go 17 out and verify otherwise how much dirt was hauled 18 into the Inspirada project? 19 A. No. 20 Q. So there's nobody out there taking a topo 21 or anything like that, quantifying that dirt? 22 A. I take that back. There was some 23 flyovers that Taney had done during the process of 24 the import coming in. That was done, I believe, on 25 a weekly basis for a while, and then I think we may</p>	<p style="text-align: right;">Page 144</p> <p>1 that somebody had and wanted to get rid of. Not 2 any major quantities, just hits and -- hits and 3 there. 4 Q. Do you know of anybody else that hauled 5 in dirt besides this pool contractor and Direct? 6 A. Alpha Landscaping is the only other one I 7 remember. 8 Q. So other than the pool contractor, Alpha 9 Landscaping, and Direct Grading, was there anybody 10 else that imported materials into the Inspirada 11 project? 12 A. I don't recall anybody else. Other 13 than -- 14 Q. Did Century -- 15 A. I'm sorry. Other than the ones that were 16 contracted to Direct Grading, which they were 17 contracted, so they were working for Direct 18 Grading, the Werdco and all of those, but no. 19 Nobody else. 20 Q. Did Century pay Alpha? 21 A. Yes, I believe so. I can't tell you for 22 sure. 23 Q. I'd like to look at Exhibit J. And this 24 is the declaration of Tim Wyatt. 25 A. Yes.</p>
<p style="text-align: right;">Page 143</p> <p>1 have gotten some inaccuracies on that and decided 2 it wasn't worth it, but there was some done. 3 Q. And do you know the timeframe of when 4 Taney would have done that? 5 A. I don't recall. I don't recall exactly 6 when. 7 Q. Did Century ever complete the project at 8 Inspirada? 9 A. I believe so. When I left, it was pretty 10 close to getting the second and last phase of the 11 project completed, I believe. 12 Q. Do you know if there's houses built out 13 on that project today? 14 A. Just only what I've heard from my family 15 and others. 16 Q. What have they told you? 17 A. That there's houses built on-site. 18 Q. Besides Direct, was there anybody else 19 that hauled materials, dirt into the Inspirada 20 project? 21 A. We had an occasional pool contractor from 22 around nearby that would bring materials in and 23 nothing that -- the only dirt that was accepted, 24 part of the reason being quality control, was not 25 paid for that was brought in. It was free dirt</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. And I want you to look at paragraph 16. 2 And this is Tim Wyatt saying that a Direct employee 3 informed him that he had been instructed -- 4 THE COURT REPORTER: I can't hear you. 5 BY MR. GUBLER: 6 Q. It's saying that a Direct employee 7 informed Tim Wyatt that he had been instructed by 8 Mel Westwood to falsify the truck logs, including 9 ghost trucks. Had you ever heard that before? 10 A. No. That is -- that's pretty -- I don't 11 know. I've never heard of such a thing. 12 Q. What were you going to say, that's pretty 13 what? 14 A. Just -- it's kind of unusual in the 15 industry, you know. It's too easy -- it would be 16 too easy to get caught doing something like that 17 and it's not worth it having large contracts and 18 being able to -- you know, have a large job and a 19 large contract, why would you jeopardize it? 20 Q. Now, Tim Wyatt had worked for Century at 21 this time, correct? 22 A. I don't know when this is. 2008? I'm 23 not sure he was there yet. Oh, wait a minute. I'm 24 sorry. I'm sorry. I'm looking at the date at the 25 bottom. What's the timeframe here? I guess I</p>

<p style="text-align: right;">Page 146</p> <p>1 don't know.</p> <p>2 Q. Well, look at paragraph 15. Maybe that</p> <p>3 helps.</p> <p>4 A. Okay. I guess Tim Wyatt was working</p> <p>5 there.</p> <p>6 Q. According to his statement anyway,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Did Tim Wyatt ever tell you, as another</p> <p>10 employee of Century, that Mel Westwood had told his</p> <p>11 employee at Direct Grading to falsify truck logs?</p> <p>12 A. No, he did not.</p> <p>13 Q. When was the first time you ever heard</p> <p>14 this allegation that Direct was falsifying truck</p> <p>15 logs?</p> <p>16 A. To be perfectly honest, just a couple</p> <p>17 hours ago.</p> <p>18 Q. Did you ever hear these allegations -- so</p> <p>19 you never heard these allegations around the office</p> <p>20 at Century either?</p> <p>21 A. I did not.</p> <p>22 Q. I would like you to look at Exhibit I,</p> <p>23 which is the declaration of Ben Mifflin.</p> <p>24 A. Yes.</p> <p>25 Q. And on paragraph 9, it says that you</p>	<p style="text-align: right;">Page 148</p> <p>1 FURTHER EXAMINATION</p> <p>2 BY MR. PANCHERI:</p> <p>3 Q. Mr. Prokopchuk, do you know if --</p> <p>4 following up on that last question from Mr. Gubler,</p> <p>5 do you know if Mr. Wyatt ever informed anyone at</p> <p>6 Century regarding this statement concerning the</p> <p>7 ghost trucks?</p> <p>8 A. I do not. I'm sorry.</p> <p>9 Q. Would that have been something that would</p> <p>10 have been reported to his supervisor, do you think?</p> <p>11 A. It could have been.</p> <p>12 Q. And the supervisor was not you, correct?</p> <p>13 A. No.</p> <p>14 Q. You just testified that you weren't sure</p> <p>15 who paid for the phone that was provided to you</p> <p>16 based on your prior testimony by Direct. Are you</p> <p>17 saying you don't know if DGP Holdings paid for it</p> <p>18 or if Direct paid for it?</p> <p>19 A. I don't know who paid for it. All I know</p> <p>20 is I was provided a phone.</p> <p>21 Q. By whom?</p> <p>22 A. By Mel Westwood.</p> <p>23 Q. Okay.</p> <p>24 MR. PANCHERI: I don't think I have</p> <p>25 anything further, so, Mr. Prokopchuk, I really</p>
<p style="text-align: right;">Page 147</p> <p>1 attended these meetings, referring to meetings at</p> <p>2 Direct, as an employee of Direct and not in your</p> <p>3 capacity as an employee of Century. Would you</p> <p>4 agree or disagree with that statement?</p> <p>5 A. I think I said earlier that I would</p> <p>6 disagree with that statement. I was there -- I</p> <p>7 always met with all my contractors either at their</p> <p>8 own projects or at their own offices or our office</p> <p>9 as an employee of Century.</p> <p>10 Q. Just a quick follow-up. If -- if an</p> <p>11 employee -- this is a follow-up with Tim Wyatt. If</p> <p>12 an employee knew about something concerning like,</p> <p>13 for example, ghost trucks, would you expect that</p> <p>14 they would have told somebody at Century?</p> <p>15 A. Yes.</p> <p>16 MR. GUBLER: All right. I'm going to</p> <p>17 pass the witness.</p> <p>18 MR. PANCHERI: I've got a few follow-up</p> <p>19 questions. Steve, I don't know if you want to ask</p> <p>20 anything.</p> <p>21 MR. DIXON: I don't have any questions.</p> <p>22 Thank you.</p> <p>23</p> <p>24</p> <p>25 ///</p>	<p style="text-align: right;">Page 149</p> <p>1 appreciate your time, and we can conclude the</p> <p>2 deposition.</p> <p>3 THE WITNESS: Okay. Thank you.</p> <p>4 THE VIDEOGRAPHER: Having heard the</p> <p>5 approval of both attorneys to go off the record at</p> <p>6 this time, this concludes the video deposition of</p> <p>7 Scott Prokopchuk. We're now going off the record.</p> <p>8 The time is approximately 2:41 p.m.</p> <p>9 (Whereupon, the deposition was concluded</p> <p>10 at 2:41 p.m. this date.)</p> <p>11 * * * * *</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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## 1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA )

3 ) SS:

4 COUNTY OF CLARK )

5  
6 I, Monice K. Campbell, a duly  
7 commissioned and licensed court reporter, Clark  
8 County, State of Nevada, do hereby certify: That I  
9 reported the taking of the deposition of the  
10 witness, SCOTT PROKOPCHUK, commencing on Wednesday,  
11 October 28, 2020, at 10:53 a.m.;

12  
13 That prior to being examined, the witness  
14 was, by me, duly sworn to testify to the truth.  
15 That I thereafter transcribed my said shorthand  
16 notes into typewriting and that the typewritten  
17 transcript of said deposition is a complete, true,  
18 and accurate transcription of said shorthand notes.

19  
20 I further certify that I am not a relative or  
21 employee of an attorney or counsel or any of the  
22 parties, nor a relative or employee of an attorney or  
23 counsel involved in said action, nor a person  
24 financially interested in the action; that a request  
25 ([X] has not) been made to review the transcript.

Page 151

1 IN WITNESS THEREOF, I have hereunto set my hand  
2 in my office in the County of Clark, State of Nevada,  
3 this 3rd day of November, 2020.



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Monice K. Campbell, CCR No. 312



# Invoice

Date	Invoice #
11/16/2016	2626

Bill To	
Century Communities 6345 S. Jones Suite 400 Las Vegas, NV 89118	

Project
1504 - RR South Ph...

Item Code	Description	Quantity	Price Each	Amount
Change Order	Import Material to Inspirada	1	23,900.00	23,900.00
		<b>Total</b>		<b>\$23,900.00</b>

2222 W. Cheyenne  
North Las Vegas, NV 89032  
Phone: 702-636-5377 Fax: 702-636-5378

DIRECT001566

# CCNVLLC

## Invoice Approval Page

Vendor: DIGRA - Direct Grading & Paving

InvoiceNo: 2626

Invoice Date: 11/16/2016 4:23:38 PM

Amount: 23900

Comment: RR20100U-054 import material

**RECEIVED**  
Nov 16, 2016 01:46:16 PM

TRACIE PITASSI

**ENTERED**  
Nov 16, 2016 05:08:56 PM

TRACIE PITASSI

**APPROVED**  
Nov 21, 2016 03:32:40 PM

RICK BARRON

**REVIEWED**  
Nov 22, 2016 08:55:40 AM

JOHN HOLDEN

**POSTED**  
Nov 22, 2016 08:58:03 AM

JOHN HOLDEN

DIRECT001567

**Draw Schedule**

To: Direct Grading & Paving  
2222 W. Cheyenne Avenue

Order #: RR20100U-054  
Date: 9/15/2016  
Job: RR20-100U Rhodes Ranch South Phase 4

Ship To:

Description: Import to Inspirada *INU# 2626*

Total Contract Amount	Total Amt Invoiced	Total Amount Paid	Total Retainage	% Complete
\$23,900.00	<i>23900.00</i>			

Job	Cost Code	Description	Amount	% Comp	Amt Invoiced	Balance To Draw	Completed
RR20-100U	2-01-0200	Import Material to Inspirada	23,900.00	<i>100</i>	<i>23900<sup>00</sup></i>	23,900.00	<i>23900.00</i>

Totals: 23,900.00 0.00 23,900.00

*[Signature]*  
Century Communities of Nevada, LLC

Date

Work Completed

Date

*[Signature]*  
Direct Grading & Paving

*11-15-16*  
Date

**DIRECT GRADING AND PAVING  
CONDITIONAL WAIVER AND RELEASE  
UPON PROGRESS PAYMENT**

Property Name: RR South Phase 4  
Project Number: RR20100U-054  
Undersigned's Customer: Century Communities.  
Invoice/Payment Application Number: 2626  
Payment Amount: \$23,900.00

Upon receipt by the undersigned of a check in the above-referenced progress Payment Amount, payable to the undersigned, and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release and the undersigned shall be deemed to waive 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 or invoiced after the Payment Period. Before any recipient of this document relies on it, he should verify evidence of payment to the undersigned. 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.

Dated: 11/15/2016

Direct Grading & Paving

By: Linda Middleton

Controller

DIRECT001569



## LABOR PAYMENT AFFIDAVIT

Property Name: Rhodes Ranch South Phase 4

Property Location: Ft. Apache & Sherwood Greens Drive - RR201000-054

Undersigned's Customer: Century Communities

Payment Period Through: November 12, 2016

The undersigned subcontractor declares under penalty of perjury that the signatures appearing herein constitute a complete list of all persons who have performed labor on behalf of the subcontractor for the project designated above during the specified period and whom the undersigned has paid for their labor performed on behalf of the subcontractor for said specified period, and provides the indemnity set forth below.

SUBCONTRACTOR: DIRECT GRADING AND PAVING

BY: Linda Middleton

(Signature of Person Authorized to Sign for Subcontractor)

The undersigned persons performing labor for the subcontractor represent warrant and affirm by signing this affidavit that each person has been paid in full for all labor supplied to the above designated project through the Payment Period. Each of the undersigned further represents warrants and affirms that there are no checks or other conditional instruments of payment that have not cleared the bank and payment has actually been received by each of the undersigned.

**IF YOU HAVE NOT BEEN PAID, DO NOT SIGN THIS AFFIDAVIT.**

The subcontractors and each of the undersigned indemnifies and agrees to defend all costs, losses, fees and expensed incurred by Direct Grading & Paving in the event that any representation or warranty or affirmation in this Labor Payment Affidavit is untrue.

**NOTICE: THIS DOCUMENT IS A REPRESENTATION AND WARRANTY BY YOU THAT YOU HAVE BEEN PAID. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT.**

LABORER'S NAME	DATE	LABORER'S SIGNATURE
WAYNE MORRISON	11.12.16	<u>Wayne Morrison</u>
<del>Jonathan Caporaso</del>	11.12.16	<del><u>Jonathan Caporaso</u></del>
<del>Chick Lock</del>	11.12.16	<del><u>Chick Lock</u></del>
FRED R. BLUTH	11.12.16	<u>Fred R. Bluth</u>
David L. Mauriello	11.12.16	<u>David L. Mauriello</u>
WAYNE MORRISON	11.12.16	<u>Wayne Morrison</u>
Ben Mitchell	11.12.16	<u>Ben Mitchell</u>
Tony Westray	11.12.16	<u>Tony Westray</u>

DIRECT001570



## OUT OF STOCK MATERIAL CERTIFICATION

**To:** Century Communities

**Project:** RR South – Phase 4

**Project#:** RR20100U-054

**Period Ending:** November 12, 2016

The undersigned Subcontractor hereby certifies that the equipment, materials and supplies used on the above Improvement/Project were not purchased or acquire from a Materialman or Supplier, but were furnished by the Subcontractor, from his own supplies or warehouse. In addition, the undersigned warrants that all materials and labor placed by him in the aforesaid premises are free from any claims, liens or encumbrances and that payment has been made by the undersigned to all people working on this job entitled to compensation and to all Materialmen who may have supplied and/or delivered thereto.

DATED this 16th day of November, 2016

### MATERIAL OUT OF PAID STOCK

**SUBCONTRACTOR**  
**DIRECT GRADING & PAVING**

Linda Middleton

**By:**  
**Title:** Controller

**Address:**  
**2222 W. Cheyenne**  
**North Las Vegas, NV 89032**  
**702-636-5377 Phone**  
**702-636-5378 Fax**

This signer of this document swears under penalty of perjury that he/she is authorized to sign this certification

DIRECT001571

## Direct Grading & Paving

**PLEASE DETACH AND RETAIN FOR YOUR RECORDS**

## Direct Grading & Paving

PLEASE DETACH AND RETAIN FOR YOUR RECORDS

● TO VERIFY AUTHENTICITY, SEE REVERSE SIDE FOR DESCRIPTION OF THE 11 SECURITY FEATURES

TAG (D) TRACER (D) HANDBOOK 2007-2011, 31.11.2011, 12.05.2012, 12.05.2012, 12.05.2012

*F. C. [Signature]*

~~DIRECT001572~~

0000003012 1:107006936: 0431

# Invoice



Date	Invoice #
11/15/2016	2625

Bill To	
6345 S. Jones Suite 400 Las Vegas, NV 89118	

Project
1505 - RR South Ph...

Item Code	Description	Quantity	Price Each	Amount
Change Order	Import Material to Inspirada	1	23,900.00	23,900.00
Total				\$23,900.00

2222 W. Cheyenne  
North Las Vegas, NV 89032  
Phone: 702-636-5377 Fax: 702-636-5378

DIRECT001573

# CCNVLLC

## Invoice Approval Page

Vendor: DIGRA - Direct Grading & Paving

InvoiceNo: 2625

Invoice Date: 11/15/2016 4:23:38 PM

Amount: 23900

Comment: RR20100V-035 import material

**RECEIVED**  
Nov 16, 2016 01:46:13 PM

TRACIE PITASSI

**ENTERED**  
Nov 16, 2016 05:08:56 PM

TRACIE PITASSI

**APPROVED**  
Nov 21, 2016 03:32:40 PM

RICK BARRON

**REVIEWED**  
Nov 22, 2016 08:55:40 AM

JOHN HOLDEN

**POSTED**  
Nov 22, 2016 08:57:58 AM

JOHN HOLDEN

DIRECT001574

**Draw Schedule**

To: Direct Grading & Paving  
2222 W. Cheyenne Avenue

Order #: RR20100V-035  
Date: 9/15/2016  
Job: RR20-100V Rhodes Ranch South Phase 5

Ship To:

Description: Import Material to Inspirada *INV # 2625*

Total Contract Amount	Total Amt Invoiced	Total Amount Paid	Total Retainage	% Complete
\$23,900.00	<i>23,900.00</i>			

Job	Cost Code	Description	Amount	% Comp	Amt Invoiced	Balance To Draw	Completed
RR20-100V	2-01-0200	Import Material to Inspirada	23,900.00	<i>100</i>	<i>23,900.00</i>	23,900.00	<i>23,900.00</i>

Totals: 23,900.00 0.00 23,900.00

*[Signature]*  
Century Communities of Nevada, LLC

Date

Work Completed

Date

*[Signature]*  
Direct Grading & Paving

Date



**DIRECT GRADING AND PAVING  
CONDITIONAL WAIVER AND RELEASE  
UPON PROGRESS PAYMENT**

Property Name: RR South Phase 5  
Project Number: RR20100V-035  
Undersigned's Customer: Century Communities.

Invoice/Payment Application Number: 2625

Payment Amount: \$ 23,900.00

Upon receipt by the undersigned of a check in the above-referenced progress Payment Amount, payable to the undersigned, and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release and the undersigned shall be deemed to waive 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 or invoiced after the Payment Period. Before any recipient of this document relies on it, he should verify evidence of payment to the undersigned. 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.

Dated: 11/15/2016

Direct Grading & Paving

By: Linda Middleton  
Controller

DIRECT001576



## LABOR PAYMENT AFFIDAVIT

Property Name: Rhodes Ranch South Phase 5

Property Location: Ft. Apache & Sherwood Greens Drive

Undersigned's Customer: Century Communities

Payment Period Through: November 12, 2016

The undersigned subcontractor declares under penalty of perjury that the signatures appearing herein constitute a complete list of all persons who have performed labor on behalf of the subcontractor for the project designated above during the specified period and whom the undersigned has paid for their labor performed on behalf of the subcontractor for said specified period, and provides the indemnity set forth below.

SUBCONTRACTOR: DIRECT GRADING AND PAVING

BY: Linda Middleton

(Signature of Person Authorized to Sign for Subcontractor)

The undersigned persons performing labor for the subcontractor represent warrant and affirm by signing this affidavit that each person has been paid in full for all labor supplied to the above designated project through the Payment Period. Each of the undersigned further represents warrants and affirms that there are no checks or other conditional instruments of payment that have not cleared the bank and payment has actually been received by each of the undersigned.

**IF YOU HAVE NOT BEEN PAID, DO NOT SIGN THIS AFFIDAVIT.**

The subcontractors and each of the undersigned indemnifies and agrees to defend all costs, losses, fees and expensed incurred by Direct Grading & Paving in the event that any representation or warranty or affirmation in this Labor Payment Affidavit is untrue.

**NOTICE: THIS DOCUMENT IS A REPRESENTATION AND WARRANTY BY YOU THAT YOU HAVE BEEN PAID. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT.**

LABORER'S NAME	DATE	LABORER'S SIGNATURE
<u>Jonathan LaFayette</u>	<u>11.12.16</u>	<u>[Signature]</u>
<u>WAYNE MORRISON</u>	<u>11.12.16</u>	<u>[Signature]</u>
<u>ALAN R. BLUTH</u>	<u>11.12.16</u>	<u>[Signature]</u>
<u>KEITH JONES</u>	<u>11.12.16</u>	<u>[Signature]</u>
<u>Ben Middleton</u>	<u>11.12.16</u>	<u>[Signature]</u>
<u>David L. [unclear]</u>	<u>11.12.16</u>	<u>[Signature]</u>

DIRECT001577

## OUT OF STOCK MATERIAL CERTIFICATION

**To:** Century Communities

**Project:** RR South – Phase 5

**Project#:** RR20100V-035

**Period Ending:** November 12, 2016

The undersigned Subcontractor hereby certifies that the equipment, materials and supplies used on the above Improvement/Project were not purchased or acquire from a Materialman or Supplier, but were furnished by the Subcontractor, from his own supplies or warehouse. In addition, the undersigned warrants that all materials and labor placed by him in the aforesaid premises are free from any claims, liens or encumbrances and that payment has been made by the undersigned to all people working on this job entitled to compensation and to all Materialmen who may have supplied and/or delivered thereto.

DATED this 16th day of November, 2016

### MATERIAL OUT OF PAID STOCK

**SUBCONTRACTOR**  
**DIRECT GRADING & PAVING**

Linda Maddux

**By:**  
**Title: Controller**

**Address:**  
**2222 W. Cheyenne**  
**North Las Vegas, NV 89032**  
**702-636-5377 Phone**  
**702-636-5378 Fax**

This signer of this document swears under penalty of perjury that he/she is authorized to sign this certification

DIRECT001578



## Direct Grading & Paving

PLEASE DETACH AND RETAIN FOR YOUR RECORDS

## Direct Grading & Paving

PLEASE DETACH AND RETAIN FOR YOUR RECORDS

**TO VERIFY AUTHENTICITY, SEE REVERSE SIDE FOR DESCRIPTION OF THE 11 SECURITY FEATURES.**

TAC (DO) TRACER IDENTIFIED 2374001, TBM# 37, 11/22/2018 13:05:48 2013 3350518

1100000301211 1:1070069361: 043111

**Employment Security Division**

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



0

<https://uitax.nvdetr.org>**Employer's Quarterly Report****Use BLACK INK only. Instructions on separate page.**

Please report any changes on the enclosed Employer's Report of Changes.

DIRECT GRADING &amp; PAVING, LLC

2222 W. Cheyenne

North Las Vegas NV 89032

1. EMPLOYER ACCOUNT NO.  REDACTED 6700	FEDERAL I.D. NO.  REDACTED 9775	YOUR RATES	
		UI	2.7000%
		CEP	0.0500%
QUARTER ENDING DATE  03/31/2016	DELINQUENT AFTER  05/02/2016		

**2. LABOR MARKET STATISTICS**

Enter for each month, the number of workers who worked during or received pay for the payroll period that includes the 12th of the month.

MONTH 1	MONTH 2	MONTH 3
43	47	42

**PAYMENT CALCULATION (Line 3 through Line 12)**

If no wages were paid in this quarter, enter 0.00 on Line 3. Sign report and return.

DOLLARS CENTS

**3. TOTAL GROSS WAGES (INCLUDING TIPS) PAID THIS QUARTER**

Enter Grand Total amount from Wage Report.

466,457.17

**4. LESS WAGES IN EXCESS OF 28200.00 PER INDIVIDUAL**

(Cannot exceed amount in Line 3.) (See instructions on separate page.)

0.00

**5. TAXABLE WAGES PAID THIS QUARTER**

(Line 3 less Line 4.)

466,457.17

**6. UI AMOUNT DUE THIS QUARTER**

Line 5 x the UI Rate shown above in "Your Rates."

+

12,594.34

**7. CEP AMOUNT DUE THIS QUARTER**

Line 5 x the CEP Rate shown above.

+

233.23

**8. PRIOR CREDIT**

(If applicable.)

-

**9. CHARGE FOR LATE FILING OF THIS REPORT**

(One or more days late add \$5.00 forfeit.)

+

**10. ADDITIONAL CHARGE FOR LATE FILING, AFTER 10 DAYS.**

Line 5 x 1/10% (.001) for each month or part of month delinquent.

+

**11. INTEREST ON PAST DUE UI CONTRIBUTIONS**

Line 6 x 1% (.01) for each month or part of month delinquent.

+

**12. TOTAL PAYMENT DUE**

Total Line 6 through Line 11.

12,827.57

☒ **Pay online** at <https://uitax.nvdetr.org> then select Employer Self Service (ESS).☐ **Enclosing check** payable to NEVADA EMPLOYMENT SECURITY DIVISION.  
(Include Employer Account Number on check.)

I certify that no part of the contribution was deducted from an employee's wages.

**Authorized Signature:****Print Signer's Name/Title:** Linda Middleton**Employer's Phone Number/Email:** 702-636-5377**If Other Than Employer****Print Preparer's Name:****Preparer's Phone Number/Email:**

(FOR DIVISION USE ONLY)

**EXHIBIT****A****Prokopchuk, 10-28-20**

REV 10/04/17 QB

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.



RPT3795

DGP000924

Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



0

https://uitax.nvdetr.org

Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

EMPLOYER ACCOUNT NO. REDACTED: 5700	FEDERAL I.D. NO. REDACTED: 9775	QUARTER ENDING DATE 03/31/2016	DELINQUENT AFTER 05/02/2016
--	------------------------------------	-----------------------------------	--------------------------------

Social Security Number

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS  
Total Gross Wages + Tips  
DOLLARS CENTS

REDACTED

Aguiniga Robert  
Alvarado Roberto  
Ayala Victor  
Barrera Frank  
Barry Albert  
Barry Leslie  
Barry Richard  
Brandt LeRoy  
Burns Marlin  
Chase Travis

9044 25  
3105 00  
11755 00  
8750 00  
3000 00  
6426 00  
8257 50  
11757 50  
3006 00  
629 00

NUMBER OF  
WORKERS REPORTED

65

TOTAL GROSS WAGES + TIPS THIS PAGE ..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES ..... \$

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

Authorized Signature:

Linda Middleton

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



NEW0098

Report suspected UI Fraud online at https://uifraud.nvdetr.org or call (775) 684-0475

DGP0000925



Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



0  
<https://uitax.nvdestr.org>

Wage Report

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 03/31/2016	DELINQUENT AFTER 05/02/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS  
Total Gross Wages + Tips  
DOLLARS CENTS

REDACTED

Compton	Owen				3608	50
Cushing	Joshua	R			1463	00
Duke	Jeffery				464	00
Dunham	Scott	J			7822	50
Frates	Bodie	C			18000	00
Fulkerson	Daniel				9600	00
Good	Aaron				6813	00
Guyton	Richard				11556	25
Harrison	Brian	B			2852	00
Herion	Robert				7878	75

NUMBER OF WORKERS REPORTED
----------------------------

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

65

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 2 OF 7 TOTAL PAGES

Authorized Signature:

*Linda Middleton*

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



Report suspected UI Fraud online at <https://uifraud.nvdestr.org> or call (775) 684-0475

NEW0098

DGP0000926

# Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



0

<https://uitax.nvdetr.org>

## Wage Report

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 03/31/2016	DELINQUENT AFTER 05/02/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

### Social Security Number

REDACTED

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS  
Total Gross Wages + Tips  
DOLLARS CENTS

Honish	Greig			560	00
Houseworth	Christopher			6110	00
Johnson	Solon	W		9400	00
Jones	Martha			570	00
Kakuska	Nicholas			9842	50
Kaufman	Kane			4687	50
Kiser	William	M		1736	50
Lockhoff	Michael			9193	50
Loynsbury	Dustin	M		10780	50
Lounsbury	Joshua	T		3888	00

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

65

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 3 OF 7 TOTAL PAGES

Authorized Signature:

*Linda Middleton*

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



Report suspected UI Fraud online at <https://uifraud.nvdetr.org> or call (775) 684-0475

NEW0098

DGP0000927



# Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdetr.org>

## Wage Report

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Social Security Number

REDACTED

(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Employee Name

Total Tips Reported  
DOLLARS CENTS

Total Gross Wages + Tips  
DOLLARS CENTS

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 03/31/2016	DELINQUENT AFTER 05/02/2016
--	--------------------------------------	--------------------------------------	-----------------------------------

Employee Name	Total Tips Reported	Total Gross Wages + Tips
(LAST NAME   FIRST NAME   MIDDLE INITIAL)	DOLLARS CENTS	DOLLARS CENTS
Marquez Gregory		1818 75
Mayhall Donald		18000 00
McAlpin Michael		6842 50
Middleton Linda		8990 41
Mifflin Ben		21000 01
Mifflin Kyler		9391 50
Miller Clinton		621 00
Morrison Wayne		9430 00
O'Rourke Shane		3540 00
Oliver Dylan		4792 50

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

65

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

Authorized Signature:

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



Report suspected UI Fraud online at <https://uifraud.nvdetr.org> or call (775) 684-0475

NEW0098

DGP0000928

Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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https://uitax.nvdetr.org

Wage Report

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DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 03/31/2016	DELINQUENT AFTER 05/02/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

REDACTED

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS  
Total Gross Wages + Tips  
DOLLARS CENTS

peterson	Timothy		13625	00
Pitta	Shaun		253	00
Pollinger	Tracy	A	12000	00
Pounders	Robert	E	3900	00
Prokopchuk	Scott		14400	00
Quiocho	Joseph	R	6668	00
Rodriguez	Clinton		5121	00
Rodriguez	Gary		8000	00
Saunders	Robert		7551	00
Sheldon	George		6981	25

NUMBER OF WORKERS REPORTED

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

78499 25

65

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 5 OF 7 TOTAL PAGES

Authorized Signature:

Linda Middleton

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



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NEW0098

DGP0000929



# Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdetr.org>

## Wage Report

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DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 03/31/2016	DELINQUENT AFTER 05/02/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS  
Total Gross Wages + Tips  
DOLLARS CENTS

REDACTED

Smith	James	4385	00
Taapa	Jonathon	589	00
Tackett	Rhonda	412	75
Tidwell	Robbie	8364	00
Walsh II	Daniel	6390	00
Westbay	Anthony	16200	00
Westbay	Cameron	126	00
Westbay	Coleman	133	00
Westwood	Holden	11047	50
Westwood	Kalib	14185	25

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

NUMBER OF WORKERS REPORTED

65

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

Authorized Signature:

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



NEW0098

Report suspected UI Fraud online at <https://uifraud.nvdetr.org> or call (775) 684-0475

DGP0000930



Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



0  
https://uitax.nvdetr.org

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Social Security Number

REDACTED

Employee Name

(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Westwood Victor  
Wilcox Jr. Donald  
Williams Ronald  
Wyatt Timothy  
Zaccheo Brian

Total Tips Reported  
DOLLARS CENTS

Total Gross Wages + Tips  
DOLLARS CENTS

18000 00  
3662 75  
6696 00  
11040 00  
9743 25

Wage Report

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

EMPLOYER ACCOUNT NO. REDACTED 5700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 03/31/2016	DELINQUENT AFTER 05/02/2016
--	--------------------------------------	--------------------------------------	-----------------------------------

NUMBER OF  
WORKERS REPORTED

65

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

49142 00  
466457 17

PAGE 7 OF 7 TOTAL PAGES

Authorized Signature:

*Linda Middleton*

Print Signer's Name/Title: Linda Middleton

If Other Than Employer  
Print Preparer's Name:

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



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NEW0098

DGP0000930A

Employment Security Division  
Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300

  
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<https://uitax.nvdetr.org>

### Employer's Quarterly Report

Use **BLACK INK** only. Instructions on separate page.

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DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas NV 89032

1. EMPLOYER ACCOUNT NO.  REDACTED 6700	FEDERAL I.D. NO.  REDACTED 9775	YOUR RATES	
		UI	2.7000%
		CEP	0.0500%
QUARTER ENDING DATE  06/30/2016	DELINQUENT AFTER  08/01/2016		

2. LABOR MARKET STATISTICS

Enter for each month, the number of workers who worked during or received pay for the payroll period that includes the 12th of the month.

MONTH 1	MONTH 2	MONTH 3
43	33	28

**PAYMENT CALCULATION** (Line 3 through Line 12)

If no wages were paid in this quarter, enter 0.00 on Line 3. Sign report and return.

DOLLARS CENTS

3. TOTAL GROSS WAGES (INCLUDING TIPS) PAID THIS QUARTER

Enter Grand Total amount from Wage Report.

465,848.32

4. LESS WAGES IN EXCESS OF 28200.00 PER INDIVIDUAL  
(Cannot exceed amount in Line 3.) (See instructions on separate page.)

56,460.27

5. TAXABLE WAGES PAID THIS QUARTER  
(Line 3 less Line 4.)

409,388.05

6. UI AMOUNT DUE THIS QUARTER  
Line 5 x the UI Rate shown above in "Your Rates."

+

11,053.48

7. CEP AMOUNT DUE THIS QUARTER  
Line 5 x the CEP Rate shown above.

+

204.69

8. PRIOR CREDIT  
(If applicable.)

-

9. CHARGE FOR LATE FILING OF THIS REPORT  
(One or more days late add \$5.00 forfeit.)

+

10. ADDITIONAL CHARGE FOR LATE FILING, AFTER 10 DAYS.  
Line 5 x 1/10% (.001) for each month or part of month delinquent.

+

11. INTEREST ON PAST DUE UI CONTRIBUTIONS  
Line 6 x 1% (.01) for each month or part of month delinquent.

+

12. TOTAL PAYMENT DUE

Total Line 6 through Line 11.

11,258.17

☒ **Pay online** at <https://uitax.nvdetr.org> then select Employer Self Service (ESS).

☐ **Enclosing check** payable to NEVADA EMPLOYMENT SECURITY DIVISION.  
(Include Employer Account Number on check.)

I certify that no part of the contribution was deducted from an employee's wages.

Authorized Signature: Linda Middleton

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

If Other Than Employer

Print Preparer's Name: \_\_\_\_\_

Preparer's Phone Number/Email: \_\_\_\_\_

(FOR DIVISION USE ONLY)									
<b>EXHIBIT</b> <b>B</b> Prokopchuk, 10-28-20									

REV 10/04/17 QB

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

DIRECT001588  
Report suspected UI Fraud online at <https://uifraud.nvdetr.org> or  
call (775) 684-0475

  
DGP000001  
RPT3795



Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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https://uitax.nvdetr.org

Wage Report

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DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 06/30/2016	DELINQUENT AFTER 08/01/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

REDACTED

DIRECT001589

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS

Total Gross Wages + Tips  
DOLLARS CENTS

Aguiniga	Robert	J	11433	25
Ayala	Victor		13605	00
Barrera	Frank		6310	00
Barrera	Ignacio	E	1404	00
Barry	Richard		2412	00
Carroll	Harlan	T	817	00
Castro	Carlos		720	00
Clayton	Shawn	A	4200	00
Compton	Owen		2838	50
Cox	Darrell	R	3190	50

NUMBER OF WORKERS REPORTED

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

55

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 1 OF 6 TOTAL PAGES

Authorized Signature:

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



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DGP000932

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



## Wage Report

North Las Vegas NV 89032

REDACTED

**Total Tips Reported**  
DOLLARS CENTS

**Total Gross Wages + Tips**

Duke	Jeffery		3168 00
Frates	Bodie	C	22100 01
Fulkerson	Daniel		10400 00
Garretson	Mark	D	4220 00
Good	Aaron		3627 00
Guyton	Richard		14118 75
Herion	Robert		10506 00
Jimenez	Oscar	O	1296 00
Johnson	Solon	W	10290 50
Kakuska	Nicholas		10345 00

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426
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**Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.**

**If Other Than Employer  
Print Preparer's Name:**

**Employer's Phone Number/Email:** 702-636-5377

Preparer's Phone Number/Email:

REV 10/04/17 QB



DGP-NEW00933



Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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https://uitax.nvdetr.org

Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Social Security Number

REDACTED

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Lockhoff	Michael
Lounsbury	Dustin
Marquez	Gregory
Mayhall	Donald
McAlpin	Michael
Middleton	Linda
Mifflin	Ben
Mifflin	Kyler
Morrison	Wayne
Oliver	Dylan

Total Tips Reported		Total Gross Wages + Tips	
DOLLARS	CENTS	DOLLARS	CENTS


NUMBER OF  
WORKERS REPORTED

55

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 3 OF 6 TOTAL PAGES

Authorized Signature:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



Report suspected UI Fraud online at https://uifraud.nvdetr.org or call (775) 684-0475

DGP000934

Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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https://uitax.nvdetr.org

Wage Report

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DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO.	FEDERAL I.D. NO.	QUARTER ENDING DATE	DELINQUENT AFTER
REDACTED 6700	REDACTED 9775	06/30/2016	08/01/2016

Social Security Number

REDACTED

DIRECT001592

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS

Total Gross Wages + Tips  
DOLLARS CENTS

Peterson	Timothy				
Pollinger	Tracy	A			13211 75
Pounders	Robert	E			6000 00
Prokopchuk	Scott				396 00
Quiocho	Joseph	R			15600 00
Robbins	Mark	H			8508 00
Rodriquez	Clinton				1125 00
Rodriquez	Gary				11161 00
Ruff	Jeremy	K			830 00
Saunders	Robert				1040 00
					10287 00

NUMBER OF  
WORKERS REPORTED

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

55

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 4 OF 6 TOTAL PAGES

Authorized Signature:

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



Report suspected UI Fraud online at https://uifraud.nvdetr.org or call (775) 684-0475

DGP000935



Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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https://uitax.nvdetr.org

Wage Report

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DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 06/30/2016	DELINQUENT AFTER 08/01/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

REDACTED

DIRECT001593

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Sheldon George  
Smith James  
Stokes Alton  
Tackett Rhonda  
Tidwell Robbie  
Walsh II Daniel  
Westbay Anthony  
Westbay Cameron  
Westbay Coleman  
Westwood Holden

Total Tips Reported  
DOLLARS CENTS  
Total Gross Wages + Tips  
DOLLARS CENTS

18742 50  
5200 00  
7642 50  
7109 40  
8809 50  
5359 50  
12000 00  
3188 50  
3195 50  
11875 00

NUMBER OF WORKERS REPORTED

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

55

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 5 OF 6 TOTAL PAGES

Authorized Signature:

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



Report suspected UI Fraud online at https://uifraud.nvdetr.org or call (775) 684-0475

DGP000936

Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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https://uifraud.nvdeir.org

Wage Report

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Please report any changes on the enclosed Employer's Report of Changes.

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 06/30/2016	DELINQUENT AFTER 08/01/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

REDACTED

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Employee Name	Total Tips Reported	Total Gross Wages + Tips
	DOLLARS	DOLLARS
	CENTS	CENTS
Westwood Kalib		17425 00
Westwood Victor		22100 00
Williams Ronald		13108 50
Wright Merlyn	D	530 00
Zaccheo Brian		6625 50

NUMBER OF WORKERS REPORTED

55

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 6 OF 6 TOTAL PAGES

Authorized Signature:

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



Report suspected UI Fraud online at https://uifraud.nvdeir.org or call (775) 684-0475

NEW00988  
DGP000937



**Employment Security Division**

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdetr.org>**Employer's Quarterly Report****Use BLACK INK only. Instructions on separate page.**

Please report any changes on the enclosed Employer's Report of Changes.

DIRECT GRADING &amp; PAVING, LLC

2222 W. Cheyenne

North Las Vegas NV 89032

1. EMPLOYER ACCOUNT NO.  REDACTED 6700	FEDERAL I.D. NO.  REDACTED 9775	YOUR RATES	
		UI	2.7000%
QUARTER ENDING DATE  09/30/2016		DELINQUENT AFTER  10/31/2016	CEP  0.0500%

**2. LABOR MARKET STATISTICS**

Enter for each month, the number of workers who worked during or received pay for the payroll period that includes the 12th of the month.

MONTH 1	MONTH 2	MONTH 3
26	27	25

**PAYMENT CALCULATION (Line 3 through Line 12)**

If no wages were paid in this quarter, enter 0.00 on Line 3. Sign report and return.

DOLLARS CENTS

**3. TOTAL GROSS WAGES (INCLUDING TIPS) PAID THIS QUARTER**

Enter Grand Total amount from Wage Report.

360,479.13

**4. LESS WAGES IN EXCESS OF 28200.00 PER INDIVIDUAL**

(Cannot exceed amount in Line 3.) (See instructions on separate page.)

199,610.06

**5. TAXABLE WAGES PAID THIS QUARTER**

(Line 3 less Line 4.)

160,869.07

**6. UI AMOUNT DUE THIS QUARTER**

Line 5 x the UI Rate shown above in "Your Rates."

+

4,343.46

**7. CEP AMOUNT DUE THIS QUARTER**

Line 5 x the CEP Rate shown above.

+

80.43

**8. PRIOR CREDIT**

(If applicable.)

-

**9. CHARGE FOR LATE FILING OF THIS REPORT**

(One or more days late add \$5.00 forfeit.)

+

**10. ADDITIONAL CHARGE FOR LATE FILING, AFTER 10 DAYS.**

Line 5 x 1/10% (.001) for each month or part of month delinquent.

+

**11. INTEREST ON PAST DUE UI CONTRIBUTIONS**

Line 6 x 1% (.01) for each month or part of month delinquent.

+

**12. TOTAL PAYMENT DUE**

Total Line 6 through Line 11.

4,423.89

☐ **Pay online** at <https://uitax.nvdetr.org> then select Employer Self Service (ESS).☐ **Enclosing check** payable to NEVADA EMPLOYMENT SECURITY DIVISION.  
(Include Employer Account Number on check.)

I certify that no part of the contribution was deducted from an employee's wages.

**Authorized Signature:** Linda Middleton**Print Signer's Name/Title:** Linda Middleton**Employer's Phone Number/Email:** 702-636-5377**If Other Than Employer****Print Preparer's Name:** \_\_\_\_\_**Preparer's Phone Number/Email:** \_\_\_\_\_

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(FOR DIVISION USE ONLY)

**EXHIBIT****C****Prokopchuk, 10-28-20**

REV 10/04/17 QB

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

DIRECT001595



RPT306P000938

# Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdeir.org>

## Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 09/30/2016	DELINQUENT AFTER 10/31/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

### Social Security Number

REDACTED

DIRECT001596

### Employee Name (LAST NAME | FIRST NAME | MIDDLE INITIAL)

	Employee Name (LAST NAME   FIRST NAME   MIDDLE INITIAL)	Total Tips Reported		Total Gross Wages + Tips	
		DOLLARS	CENTS	DOLLARS	CENTS
Aguiniga	Robert			6493	25
Aragon	Ricardo			3460	00
Brown	Danny			7020	00
DeLaCruz	Victor			260	00
Frates	Bodie			23800	00
Fulkerson	Daniel			11200	00
Gray	Noel			1150	00
Guyton	Richard			14175	00
Guzman	Mario			8870	00
Hanoun	Dustin			5545	00

NUMBER OF WORKERS REPORTED
----------------------------

40

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

Authorized Signature:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

Preparer's Phone Number/Email:

If Other Than Employer  
Print Preparer's Name:

REV 10/04/17 QB

Report suspected UI Fraud online at <https://uifraud.nvdeir.org> or call (775) 684-0475



NEW0098  
DGP000939



# Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdestr.org>

## Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

EMPLOYER ACCOUNT NO.	FEDERAL I.D. NO.	QUARTER ENDING DATE	DELINQUENT AFTER
REDACTED 6700	REDACTED 9775	09/30/2016	10/31/2016

Social Security Number

REDACTED

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Employee Name	Total Tips Reported	Total Gross Wages + Tips
(LAST NAME   FIRST NAME   MIDDLE INITIAL)	DOLLARS	DOLLARS
Herion		
Kakuska		
Mannion		
Marquez		
Mayhall		
McAlpin		
McShane		
Middleton		
Mifflin		
Mifflin		
Robert		
Nicholas		
Gregory		
Gregory		
Donald		
Michael		
Reno		
Linda		
Ben		
Kyler		
S		
E		
L		
J		
K		
B		

NUMBER OF WORKERS REPORTED

40

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

Authorized Signature:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

Preparer's Phone Number/Email:

REV 10/04/17 QB

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NEW0098  
DGP000940

DIRECT001597

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300

2222 W. Cheyenne

North Las Vegas

NV 89032

Social Security Number

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Employee Name

**Total Tips Reported**

**Total Gross Wages + Tips**

REDACTED

DIRECT001598

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

EMPLOYER ACCOUNT NO.	FEDERAL I.D. NO.	QUARTER ENDING DATE	DELINQUENT AFTER
REDACTED 6700	REDACTED 9775	09/30/2016	10/31/2016

Employee Name		Total Tips Reported		Total Gross Wages + Tips	
(LAST NAME   FIRST NAME   MIDDLE INITIAL)		DOLLARS	CENTS	DOLLARS	CENTS
Oliver	Dylan			3627	00
	James	L		2240	00
	Timothy			5130	00
	Scott			16800	00
Read	Eric	R		3625	00
Roanhorse	Sylverton	J		1440	00
Rodriguez	Clinton			4355	00
Saunders	Robert			10732	50
Sheldon	George			19177	50
Smith	Russell	D		220	00

NUMBER OF  
WORKERS REPORTED

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$

**GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$**

40

**Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.**

**Authorized Signature:**

*If Other Than Employer*

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



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NEW0098  
DGP000941



# Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdetr.org>

## Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 09/30/2016	DELINQUENT AFTER 10/31/2016
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

REDACTED

DIRECT001599

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS

Total Gross Wages + Tips  
DOLLARS CENTS

Swoboda	Michael	P	5762	50
Tackett	Rhonda		6117	51
Thompson	Robert	O	1060	00
Tidwell	Robbie		10545	00
Westwood	Holden		12755	00
Westwood	Kalib		19968	75
Westwood	Victor		23800	01
Wilcox	Zachary	J	760	00
Williams	Nalie (Rick)	R	1730	00
Williams	Ronald		7143	00

NUMBER OF WORKERS REPORTED

40

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 4 OF 4 TOTAL PAGES

Authorized Signature:

If Other Than Employer

Print Signer's Name/Title: Linda Middleton

Print Preparer's Name:

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



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NEW0098  
DGP000942

**Employment Security Division**

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdetr.org>**Employer's Quarterly Report****Use BLACK INK only. Instructions on separate page.**

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DIRECT GRADING &amp; PAVING, LLC

2222 W. Cheyenne

North Las Vegas NV 89032

1. EMPLOYER ACCOUNT NO.  REDACTED 6700	FEDERAL I.D. NO.  REDACTED 9775	YOUR RATES		
		UI	2.6500%	
QUARTER ENDING DATE  12/31/2016		DELINQUENT AFTER  01/31/2017	CEP	0.0500%

**2. LABOR MARKET STATISTICS**

Enter for each month, the number of workers who worked during or received pay for the payroll period that includes the 12th of the month.

MONTH 1	MONTH 2	MONTH 3
26	21	18

**PAYMENT CALCULATION (Line 3 through Line 12)**

If no wages were paid in this quarter, enter 0.00 on Line 3. Sign report and return.

DOLLARS CENTS

**3. TOTAL GROSS WAGES (INCLUDING TIPS) PAID THIS QUARTER**

Enter Grand Total amount from Wage Report.

285,690.28

**4. LESS WAGES IN EXCESS OF 28200.00 PER INDIVIDUAL**

(Cannot exceed amount in Line 3.) (See instructions on separate page.)

222,099.03

**5. TAXABLE WAGES PAID THIS QUARTER**

(Line 3 less Line 4.)

63,591.25

**6. UI AMOUNT DUE THIS QUARTER**

Line 5 x the UI Rate shown above in "Your Rates."

+

1,685.17

**7. CEP AMOUNT DUE THIS QUARTER**

Line 5 x the CEP Rate shown above.

+

31.80

**8. PRIOR CREDIT**

(If applicable.)

-

**9. CHARGE FOR LATE FILING OF THIS REPORT**

(One or more days late add \$5.00 forfeit.)

+

**10. ADDITIONAL CHARGE FOR LATE FILING, AFTER 10 DAYS.**

Line 5 x 1/10% (.001) for each month or part of month delinquent.

+

**11. INTEREST ON PAST DUE UI CONTRIBUTIONS**

Line 6 x 1% (.01) for each month or part of month delinquent.

+

**12. TOTAL PAYMENT DUE**

Total Line 6 through Line 11.

1,716.97

☐ **Pay online** at <https://uitax.nvdetr.org> then select Employer Self Service (ESS).☐ **Enclosing check** payable to NEVADA EMPLOYMENT SECURITY DIVISION.  
(Include Employer Account Number on check.)

I certify that no part of the contribution was deducted from an employee's wages.

**Authorized Signature:** Linda Middleton**Print Signer's Name/Title:** Linda Middleton**Employer's Phone Number/Email:** 702-636-5377**If Other Than Employer****Print Preparer's Name:** \_\_\_\_\_**Preparer's Phone Number/Email:** \_\_\_\_\_

(FOR DIVISION USE ONLY)									
<b>EXHIBIT</b> <b>D</b> <b>Prokopchuk, 10-28-20</b>									

REV 10/04/17 QB

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.





Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



0  
https://uitax.nvdetr.org

Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Use BLACK INK only. Instructions on separate page.  
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EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 12/31/2016	DELINQUENT AFTER 01/31/2017
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

REDACTED

DIRECT001601

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS  
Total Gross Wages + Tips  
DOLLARS CENTS

Aragon	Ricardo	M	6035	00
Brown	Danny	L	11380	00
DeLaCruz	Victor	A	3070	00
Frates	Bodie	C	22099	99
Fulkerson	Daniel		10400	00
Gray	Noel	D	3920	00
Guyton	Richard		13056	25
Guzman	Mario		8485	00
Hanoum	Dustin	J	1750	00
Herion	Robert		7832	75

NUMBER OF WORKERS REPORTED

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$

GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

28

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 1 OF 3 TOTAL PAGES

Authorized Signature:

If Other Than Employer

Print Signer's Name/Title: Linda Middleton

Print Preparer's Name:

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



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NEW0098  
DGP000944

Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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https://uitax.nvdetr.org

Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Use BLACK INK only. Instructions on separate page.  
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EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 12/31/2016	DELINQUENT AFTER 01/31/2017
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Total Tips Reported  
DOLLARS CENTS

Total Gross Wages + Tips  
DOLLARS CENTS

REDACTED

Kakuska  
Mannion  
Marquez  
Mayhall  
Middleton  
Mifflin  
Mifflin  
Penner  
Prokopchuk  
Read  
Nicholas  
Gregory  
Gregory  
Donald  
Linda  
Ben  
Kylar  
James  
Scott  
Eric

6070 00  
2020 00  
7526 25  
19500 00  
10625 03  
25350 00  
11845 00  
3050 00  
15600 00  
8440 00

NUMBER OF  
WORKERS REPORTED

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

28

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 2 OF 3 TOTAL PAGES

Authorized Signature:

If Other Than Employer  
Print Preparer's Name:

Print Signer's Name/Title: Linda Middleton

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 OB



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NEW0098  
DGP000945



# Employment Security Division

Contributions Section  
500 East Third Street  
Carson City, NV 89713-0030  
(775) 684-6300



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<https://uitax.nvdetr.org>

## Wage Report

DIRECT GRADING & PAVING, LLC

2222 W. Cheyenne

North Las Vegas

NV 89032

Use BLACK INK only. Instructions on separate page.  
Please report any changes on the enclosed Employer's Report of Changes.

EMPLOYER ACCOUNT NO. REDACTED 6700	FEDERAL I.D. NO. REDACTED 9775	QUARTER ENDING DATE 12/31/2016	DELINQUENT AFTER 01/31/2017
---------------------------------------	-----------------------------------	-----------------------------------	--------------------------------

Social Security Number

REDACTED

DIRECT001603

Employee Name  
(LAST NAME | FIRST NAME | MIDDLE INITIAL)

Saunders	Robert
Sheldon	George
Shephard	Scott
Swoboda	Michael
Tidwell	Robbie
Westwood	Holden
Westwood	Kalib
Westwood	Victor

Total Tips Reported  
DOLLARS CENTS

Total Gross Wages + Tips  
DOLLARS CENTS

8003 25
14722 50
900 00
4075 00
9229 25
12730 00
15875 00
22100 01

NUMBER OF WORKERS REPORTED

28

TOTAL GROSS WAGES + TIPS THIS PAGE..... \$  
GRAND TOTAL GROSS WAGES + TIPS ALL PAGES..... \$

Include the GRAND TOTAL on the Employer's Quarterly Report, Line 3.

PAGE 3 OF 3 TOTAL PAGES

Authorized Signature:

Print Signer's Name/Title: Linda Middleton

If Other Than Employer  
Print Preparer's Name:

Employer's Phone Number/Email: 702-636-5377

Preparer's Phone Number/Email:

NOTE: Information collected may also be provided to various federal and state agencies as required or permitted by federal and state law.

REV 10/04/17 QB



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NEW0098  
DGP000946