

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

In re:	)	
	)	
JHL INDUSTRIAL SERVICES, LLC	)	Case No. 17-14141 JGR
d/b/a PLATT ROGERS CONSTRUCTION,	)	Chapter 11
	)	
Debtor.	)	

**DISCLOSURE STATEMENT FOR PLATT ROGERS CONSTRUCTION’S FOURTH  
AMENDED PLAN OF REORGANIZATION**

**I. INTRODUCTION**

This is the disclosure statement (the “Disclosure Statement”) in the Chapter 11 bankruptcy case of JHL Industrial Services, LLC d/b/a Platt Rogers Construction (“Debtor”). This Disclosure Statement contains information about the Debtor and describes the Fourth Amended Plan of Reorganization (the “Plan”) filed by the Debtor on September 20, 2018. A full copy of the Plan is attached to this Disclosure Statement as **Exhibit A**.

Pursuant to the terms of the United States Bankruptcy Code, this Disclosure Statement has been presented to and conditionally approved by the Bankruptcy Court. Approval of the Bankruptcy Court is required by statute but does not constitute a judgment by the Court as to the desirability of the Plan or as to the value or suitability of any consideration offered under the Plan.

**A. Purpose of this Document**

The Debtor has prepared this Disclosure Statement to provide information sufficient to permit a creditor to make a reasonably informed decision in exercising the right to vote upon the Plan. The material here presented is intended solely for that purpose and solely for the use of known creditors of the Debtor, and, accordingly, may not be relied upon for any purpose other than determination of how to vote on the Plan.

This Disclosure Statement describes:

- The Debtor and significant events during the bankruptcy case;
- How the Plan proposes to treat claims or equity interests of the type you hold (i.e., what you will receive on your claim or equity interest if the plan is confirmed);
- Who can vote on or object to the Plan;
- What factors the Bankruptcy Court (the “Court”) will consider when deciding

whether to confirm the Plan;

- Why the Debtor and Plan Proponent believe the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation; and,
- The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

**B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing**

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Plan will or will not be confirmed.

1. *Time and Place of the Hearing to Confirm the Plan*

The hearing at which the Court will determine whether to confirm the Plan and approve this Disclosure Statement will take place on October 17, 2018, at 10:00 a.m., in Courtroom B, Fifth Floor, U.S. Custom House, 721 19<sup>th</sup> Street, Denver, Colorado 80202.

2. *Deadline for Voting to Accept or Reject the Plan*

If you are entitled to vote to accept or reject the plan, vote on the enclosed ballot and return the ballot in the enclosed envelope on or before October 4, 2018 to Wadsworth Warner Conrardy, P.C., attn. David J. Warner, Esq., 2580 W. Main St., Ste. 200, Littleton, CO 80120 (counsel for the Debtor). See section V.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by July 6, 2018 or it will not be counted.

3. *Deadline for Objecting to Confirmation of the Plan*

Objections to the confirmation of the Plan must be filed with the Court and served upon counsel for the Debtor by October 4, 2018.

4. *Identity of Person to Contact for More Information*

If you want additional information about the Plan, you should contact David J. Warner, counsel for the Debtor, at (303) 296-1999 or [dwarner@wwc-legal.com](mailto:dwarner@wwc-legal.com).

**II. DEFINITIONS**

Unless otherwise defined herein, capitalized terms used herein have the meanings ascribed thereto in the Plan (see Article I of the Plan entitled “Definitions”).

### III. BACKGROUND

#### A. Description and History of the Debtor's Business

JHL Industrial Services, LLC doing business as Platt Rogers Construction is a Colorado limited liability company formed by John Hachmeister on May 2, 2007. The Debtor provides custom fuel installations, civil construction, integrated agricultural feed and water solutions, piping processes, new construction and renovation of facilities, demolition, environmental construction, fuel distribution, fuel management and energy economizing and alternative energy distribution system installation. The Debtor has industry expertise in agriculture, data centers, healthcare, aviation, government and military contracting, and mining and manufacturing. Jason Grubb purchased the Debtor in December of 2012 and is the Debtor's managing member and 100% owner.

#### B. Events Leading to Chapter 11 Filing

The Debtor was forced to seek bankruptcy protection after the Debtor was not paid on several large government projects, including fuel systems installed at Fort Carson military base and the Colorado VA medical center. After considerable delays, cost overruns, and disagreements between the general contractor and the VA, it has been reported that the overall cost for the VA project has ballooned from a projected initial cost of \$590 million to over \$1.7 billion. Several large contractors failed to compensate the Debtor for work it completed at the VA project and Fort Carson project, among others. The Debtor estimates that it is owed approximately \$1.5 million between the two projects alone.

Prior to the Petition Date, the Debtor employed Jon T. Bradley of Bradley Devitt Haas & Watkins, P.C. to attempt to collect certain amounts that were owed to the Debtor in connection with the Fort Carson project. The Debtor's financial obligations to Mr. Bradley were guaranteed by the Debtor and secured by a deed of trust against Mr. Grubb's personal residence. The Debtor initiated a lawsuit in the United States District Court, District of Colorado against Mass Service & Supply, LLC; Heartland Excavation, Inc.; Hartland/Mass Joint Venture, LLC; The Ohio Casualty Insurance Company; and Travelers Casualty and Surety Company of America, case number 1:14-cv-02758-KMT-MJW (the "Ft. Carson Project Lawsuit"). Trial was scheduled to occur in early May, 2017. In early March, 2017, the Debtor learned that its expert witness had passed away unexpectedly. Before his death, the Debtor's first expert witness on damages had opined that the defendants in the Ft. Carson Project Lawsuit owed at least \$560,000.00 to the Debtor or \$309,000.00 if there was cause to terminate the Debtor from the project. The Debtor was in the process of hiring a new expert when the defendants sought and obtained a continuance of the trial date to late 2017. Due in part from the financial hardship caused by the Fort Carson project, the Debtor could not afford to continue to prosecute the litigation and sought bankruptcy relief. The Debtor has requested that certain creditors that are owed money in connection with the Ft. Carson Project Lawsuit fund the Ft. Carson Project Lawsuit, but they have declined. The Debtor has not yet been able to find or afford another attorney (and necessary expert) to continue to prosecute the Ft. Carson Project Lawsuit.

### C. Significant Events During the Bankruptcy Case

During the pendency of this bankruptcy case, the Debtor has streamlined operations and focused on smaller construction projects. The Debtor has turned away larger contracts similar to those that led to its financial difficulties. While its efforts have been successful, there is a significant delay inherent in such organizational and strategic business changes. It generally takes 12 months from the time the Debtor bids a job until the project actually begins. The Debtor has used the breathing spell provided by the bankruptcy filing to obtain a new series of smaller contracts on projects that will allow it to fund its Plan of Reorganization. For instance, the Debtor has obtained the contracts listed in the chart below (Section F) during the pendency of this case. The Debtor has completed the following projects during this case:

- VA project (Fayetteville) (anticipated gross revenue of \$143,000.00); and
- United States Coast Guard Fuel Oil System Repairs (Hull, MA and Newport, RI) (anticipated gross revenue of approximately \$440,000.00).

Recently, Jon T. Bradley's law firm attempted to foreclose on Jason Grubb's personal residence for certain amounts owed to the firm for pre-petition litigation. Mr. Grubb was forced to pay the law firm's bill to avoid losing his home. The Debtor obtained approval to sell certain personal property on May 4, 2018 (Docket No. 178). The Debtor has also resolved the pending adversary proceeding and dispute with Komatsu Financial Limited Partnership ("Komatsu") and has obtained Bankruptcy Court approval of a settlement agreement. The Debtor and its principal, Mr. Jason Grubb, have also recently entered into settlement agreements with Old Republic Surety Company and Wells Fargo Bank, N.A. The Debtor's agreements with such creditors are included in such creditors' respective treatment under the Plan.

### D. Projected Recovery of Avoidable Transfers

The Debtor does not intend to pursue preference, fraudulent conveyance, or other avoidance actions because none exist.

### E. Claims Objections

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in Article X of the Plan.

### F. Current and Historical Financial Conditions

The identity and the Debtor's estimate of the fair market value of the estate's assets as of the Petition Date are listed in Debtor's Schedules A and B which were filed with the Bankruptcy Court. The most recent monthly operating report filed by the Debtor with the Bankruptcy Court is included as **Exhibit B**. The Debtor's five-year projections for income, expenses, payments, and distributions under the Plan are included as **Exhibit C**. A summary of current and upcoming projects upon which the Debtor's five-year projections are based is included in the following chart:

Project	Category	Estimated Start	Estimated Finish	Contract Value
8230 Hill AFB	Military	12/1/2018	6/20/2019	\$ 341,000.00
8231 THR Frisco	Hospital	4/25/2018	1/20/2019	\$ 284,665.26
8235 - Ralph Carr	Commercial	7/1/2018	9/25/2018	\$ 2,290.00
8236 - Naval Communication Center	Military	12/20/2018	12/20/2019	\$ 826,303.29
8237 - Hosting.com 18/19	Data Center	7/1/2018	6/31/2019	\$ 10,518.50
8238 - FCC Petersburg	Government	9/30/2018	1/30/2019	\$ 78,900.00
8239 - UAV Fuel Bowser	Military	7/5/2018	10/5/2018	\$ 207,785.70
8240 - VA Tucson	Hospital	11/1/2018	2/20/2019	\$ 394,794.00
8242 - Robins AFB	Military	11/15/2018	1/5/2019	\$ 129,067.68
<b>Total:</b>				<b>\$ 2,275,324.43</b>

During the year 2014, the Debtor's gross profits were \$7,120,691.00. In 2015, the Debtor's gross revenues were \$6,564,268.00. As mentioned in Section B above, in 2016, after the Debtor was not paid for its work on large government projects, the Debtor's gross revenues were \$4,024,878.00. The continued delay on the Colorado VA medical center project caused a significant difference in gross revenues between 2015 and 2016. The Debtor was under contract for almost two years on the VA project and was forced to forego other lucrative projects because of well-documented mismanagement by others at the VA hospital project. In 2017, during the pendency of this bankruptcy case, the Debtor's gross revenues were \$1,516,178.00. The Debtor anticipates gross revenues of \$1,500,000.00 in 2018. **Exhibit D** to this Disclosure Statement summarizes the Debtor's remaining pre-petition accounts receivable. Major changes and factors underlying the Debtor's projections can be found in **Exhibit E** hereto.

#### IV. SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

##### 1. What is the Purpose of the Plan of Reorganization?

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

##### A. Unclassified Claims

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may,

however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class:

1. *Administrative Expenses*

Administrative expenses are costs or expenses of administering the Debtor's Chapter 11 case which are allowed under § 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists the Debtor's estimated administrative expenses and their proposed treatment under the Plan:

Type	Estimated Amount Owed	Proposed Treatment
Expenses Arising in the Ordinary Course of Business After the Petition Date	The IRS alleges that the Debtor has accrued post-petition tax liabilities that remain unpaid. The Debtor has hired an accountant to resolve these issues. To the extent any taxes did accrue and are due and payable, they will be treated as an administrative claim.	Paid in full on the Effective Date of the Plan, or according to terms of agreement with creditor if later
Actual necessary expenses incurred by an equity security holder in making a substantial contribution to the Debtor	\$32,000.00 paid by Jason Grubb to Bradley Devitt Haas & Watkins, P.C.	Paid in full on the Effective Date of the Plan, or according to terms of agreement with creditor if later
The Value of Goods Received in the Ordinary Course of Business Within 20 Days Before the Petition Date	None	Paid in full on the Effective Date of the Plan, or according to terms of obligation if later

Professional Fees, as approved by the Court.	Wadsworth Warner Conrardy P.C. fees of approximately \$15,000.00.	Paid in full on the Effective Date of the Plan, or according to separate agreement, or according to court order if such fees have not been approved by the Court on the Effective Date of the Plan. The amounts owed to professionals may reduce the amount available to pay unsecured creditors.
Clerk's office fees	None	Paid in full on the Effective Date of the Plan
Other administrative expenses	None	Paid in full on the Effective Date of the Plan or according to separate written agreement
Office of the U.S. Trustee Fees	None	Paid in full on the Effective Date of the Plan
<b>TOTAL</b>	<b>\$47,000.00</b>	

## 2. *Priority Tax Claims*

Priority tax claims are unsecured income, employment, and other taxes described by § 507(a)(8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the Petition Date.

The following chart lists the Debtor's estimated § 507(a)(8) priority tax claims and their proposed treatment under the Plan:

Description (name and type of tax)	Estimated Amount Owed	Date of Assessment	Treatment
Department of the Treasury – Internal Revenue Service – Employee withholding taxes.	\$167,035.79	See Proof of Claim	100% of the Section 507(a)(8) Claims through monthly installment payments of a value, as of the Effective Date, equal to the amount of such claim, over a period of 5 years from the Petition Date at 4% interest
Colorado Department of Labor and Employment	\$2,927.98	See Proof of Claim	100% of the Section 507(a)(8) Claims through monthly installment payments of a value, as of the Effective Date, equal to the amount of such claim, over a period of 5 years from the Petition Date at 4% interest



## B. Classes of Claims and Equity Interests

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

### 1. *Classes of Secured Claims*

Allowed Secured Claims are claims secured by property of the Debtor's bankruptcy estate (or that are subject to setoff) to the extent the value of the collateral exceeds the creditor's claim as provided under § 506 of the Code. If the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

The following charts list all classes containing Debtor's secured prepetition claims and their proposed treatment under the Plan:

<b>Class 1</b>	
Creditor:	Colorado Department of Revenue
Collateral Description / Value:	All of the Debtor's personal property
Priority of Lien:	1st in all
Total Claim as of Petition Date:	\$25,148.00
Allowed Secured Amount:	\$25,148.00
Unsecured/Deficiency Amount:	\$0.00
Insider?	No
Impaired?	Yes
<b>Treatment</b>	
<p><b>Class 1.</b> (<i>Allowed Impaired Secured Claim of the Colorado Department of Revenue</i>). The Colorado Department of Revenue holds a first priority Allowed Impaired Secured Claim of \$25,148.00 against the Debtor's personal property except as set forth below. The Class 1 Claim of the Colorado Department of Revenue is fully Secured by the cash that was in the Debtor's bank account on the Petition Date, office equipment, vehicles, and other machinery and fixtures. The Debtor and the Colorado Department of Revenue obtained Bankruptcy Court approval of a Stipulated Order Authorizing Debtor's Use of Cash Collateral regarding the Colorado Department of Revenue's Claim on August 25, 2017 (Docket No. 85). Under the stipulated order, the Debtor will resolve the Colorado Department of Revenue's Claim by paying \$25,148.00 over 58 months with 7% interest. The Debtor has already made several payments under the payment schedule listed in the Plan and will receive credit for any such payment made prior to the Effective Date.</p>	

<b>Class 2</b>	
Creditor:	Old Republic Surety Company
Collateral Description / Value:	All of the Debtor's Pre-Petition Personal Property and



	Accounts Receivable on Jobs with Bond Claims
Total Claim as of Petition Date:	\$366,911.17
Allowed Secured Amount:	Variable
Unsecured/Deficiency Amount:	See below
Priority of Lien:	Variable
Insider?	No
Impaired?	Yes
<b>Treatment</b>	
<p><u>Class 2.</u> (<i>Allowed Impaired Secured and Unsecured Claim of Old Republic Surety Company</i>). Republic Surety Company asserts a Secured Claim against all the Debtor's pre-petition personal property including certain pre-petition accounts receivable. Such Secured Claim is junior to the Secured Claim of the State of Colorado and Wells Fargo Bank, N.A. However, Old Republic claims that it holds rights of equitable subrogation to receivables on bonded construction contracts on which Old Republic Surety Company has paid or may pay bond claims, which rights are superior to the claims of all other parties in this bankruptcy case as to those receivables under the United States Supreme Court authority of <i>Pearlman v. Reliance Insurance Company</i>, 371 U.S. 132 (1962). The value of any uncollected prepetition receivables (including those from bonded construction contracts for which Old Republic Surety Company has paid bond claims) is uncertain but secures Old Republic's claim to an unknown extent. In addition, Old Republic may still have liability under bonds issued for Debtor and to the extent it suffers additional losses, Old Republic asserts that Debtor's indemnity obligations apply to those additional losses are not waived. The value of any personal property that will remain with the Debtor after the sale approved by the Court on May 4, 2018 (Docket No. 178) is nominal after application of Wells Fargo's lien. Accordingly, the Debtor estimates that the Claim of Old Republic Surety Company is undersecured and no additional interest or attorneys fees have accrued in connection with the Class 2 Claim after the Petition Date pursuant to 11 U.S.C. § 506(b). Old Republic asserts that the Debtor's sole member, Jason Grubb, and his wife are also personally liable to Old Republic under an indemnity agreement.</p> <p>Mr. Grubb and his wife (the "Indemnitors") have reached a settlement agreement (the "O.R. Agreement") with Old Republic to resolve Old Republic's claims against the Indemnitors, effective upon certain payments being made to Old Republic. Pursuant to the O.R. Agreement, Mr. Grubb and his wife will cause Old Republic to be paid \$30,000.00 within five days of the O.R. Agreement and an additional \$22,500.00 within two years of the O.R. Agreement for a total of \$52,500.00. Upon timely payment of the \$52,500.00, Old Republic will release its claims against the Indemnitors and so long as the Reorganized Debtor has timely paid \$90,820.19 as set forth below, will also assign its Claim against the Reorganized Debtor to the Indemnitors or their assignee(s).</p>	

The Reorganized Debtor will pay Old Republic its net recovery for uncollected prepetition receivables for which Old Republic has paid bond claims in connection with the VA Medical Center in Aurora, Colorado and the Buckley AFB, Mountainview Project until Old Republic receives \$90,820.00. In the event that after one year from the Effective Date, the Reorganized Debtor has not paid \$90,820.00 to Old Republic in this manner, the Reorganized Debtor will pay Old Republic \$90,820.19 over 48 months (so that the total amount of \$90,820.19 must be paid within 5 years of the Effective Date).

Upon timely payment of the \$90,820.00 from the Reorganized Debtor and the Indemnitors' timely compliance with the O.R. Agreement, Old Republic will assign its Claim against the Reorganized Debtor to the Indemnitors or their assignee. After assignment of the Old Republic Claim to the Indemnitors, to the extent the Debtor collects any additional prepetition receivables on bonded construction contracts for which Old Republic has paid bond claims, such funds will be used to first satisfy the assigned Claim of Old Republic Surety Company. Any other prepetition receivables collected will be used first to satisfy the remaining Claims of the State of Colorado, then Wells Fargo Bank, N.A., and then the (assigned) claims of Old Republic Surety Company. To the extent it is Allowed, the remaining amount of Old Republic Surety Company's Claim (the amount that remains unpaid after collection and distribution of prepetition accounts receivable) is Unsecured and shall be treated as a general Unsecured Claim under Class 7. Other than prepetition accounts receivable, the Debtor shall take title to its property free and clear of the Class 2 Claim a upon confirmation of the Plan.

<b>Class 3</b>	
Creditor:	Wells Fargo Bank, N.A.
Collateral Description / Value:	All of the Debtor's Pre-Petition Personal Property
Total Claim as of Petition Date:	\$481,172.14
Allowed Secured Amount:	Variable
Unsecured/Deficiency Amount:	See below
Priority of Lien:	Variable
Insider?	No
Impaired?	Yes
<b>Treatment</b>	

**Class 3.** (*Allowed Impaired Secured and Unsecured Claim of Wells Fargo Bank, N.A.*). The Debtor has reached an agreement with Wells Fargo Bank, N.A. regarding the treatment of Wells Fargo's Claim under this Plan. Pursuant to such agreement, Wells Fargo will have a continuing security interest in the Debtor's pre-petition accounts receivable subject to any senior liens. The Debtor shall make quarterly payments of principal and interest to Wells Fargo in the amount of \$8,700.00 based on \$150,000.00 principal accruing interest at 6% amortized over 5-years commencing no later than December 31, 2018, and continuing until the \$150,000.00, plus accrued interest, is paid in full. To the extent the Debtor collects any prepetition receivables on bonded construction contracts for which Old Republic has paid bond claims, such funds will be used to first satisfy the remaining Claim of Old Republic Surety Company or its assignee(s). In addition to the payments to Wells Fargo set forth above, to the extent the Debtor collects any prepetition receivables for which Old Republic does not have a senior security interest, the Debtor's net recovery will be used first to satisfy the remaining Claims of the State of Colorado, then Wells Fargo Bank, N.A., and then Old Republic Surety Company, or its assignees. In no event will Wells Fargo's recovery exceed the amount of its Claim, with credit given for the amounts paid by the indemnitor under the settlement agreement referenced above.

An explanation of the priority of potential distributions to the Class 1, 2, and 3 Claimants is as follows:

<b>Class 4</b>	
Creditor:	US Bank
Collateral Description / Value:	First in the 2014 Jeep Grand Cherokee Motor Vehicle
Priority of Lien:	First
Total Claim as of Petition Date:	\$5,102.98
Allowed Secured Amount:	\$5,102.98
Unsecured/Deficiency Amount:	\$0.00
Insider?	No
Impaired?	No
<b>Treatment</b>	
<p><b>Class 4.</b> (<i>Allowed Secured Claim of US Bank</i>). US Bank holds a first priority Allowed Secured Claim of \$5,102.98 (as of the Petition Date) against the Debtor's 2014 Jeep Grand Cherokee motor vehicle pursuant to a purchase money security agreement. The Class 4 Claim of US Bank is fully secured.</p> <p>The Class 4 Claim shall be paid pursuant to the terms of the original financing agreement between the Debtor and U.S. Bank.</p>	

<b>Class 5</b>	
Creditor:	Komatsu
Collateral Description / Value:	Excavation Equipment ((Komatsu PC360LC-10 Hydraulic Excavator, Serial No. A33003)

Priority of Lien:	First in the Excavation Equipment
Total Claim as of Petition Date:	\$119,000.00
Allowed Secured Amount:	Unknown
Unsecured/Deficiency Amount:	Unknown
Insider?	No
Impaired?	Yes
<b>Treatment</b>	
<p><u>Class 5.</u> (<i>Allowed Impaired Secured and Unsecured Claim of Komatsu</i>). On the Petition Date, the Debtor was party to two separate financial transactions or agreements with Komatsu Financial Limited Partnership (“Komatsu”). One related to the Debtor’s purchase of an excavator using the proceeds of a loan from Komatsu and the other related to an equipment lease for a wheel loader. Regarding the secured loan for the Debtor’s purchase of the excavator, Komatsu has entered into a Stipulation and Settlement Agreement with the Debtor that was approved by the Court. The Stipulation and Settlement Agreement are attached to the Plan as Exhibit 1. Regarding the equipment lease for the wheel loader, the Debtor and Komatsu have entered into and obtained Bankruptcy Court approval of a Stipulation and Joint Motion for Entry of Order (i) Authorizing Rejection of Lease Agreement with Komatsu Financial Limited partnership; and (ii) Terminating the Automatic Stay with Respect to Certain Leased Equipment (“Stipulation and Joint Motion”). Under the order approving the Stipulation and Joint Motion, the equipment lease is rejected and the equipment has been returned to Komatsu. After effectuation of the terms of the Stipulation and Settlement Agreement and Stipulation and Joint Motion, any remaining Unsecured portion of Komatsu’s Claim shall be treated as a rejected lease under Class 6.</p>	

## 2. *Classes of Priority Unsecured Claims*

Certain priority claims that are referred to in §§ 507(a)(1), (4), (5), (6), and (7) of the Code are required to be placed in classes. The Code requires that each holder of such a claim receive cash on the Effective Date of the Plan equal to the allowed amount of such claim. However, a class of holders of such claims may vote to accept different treatment.

There are no claims under §§ 507(a)(1), (4), (5), (6), and (a)(7) of the Code or proposed treatment under the Plan.

## 3. *Classes of Executory Contract and Unexpired Leases (Class 6)*

Any unexpired leases or executory contracts not otherwise dealt with in the Plan shall be deemed rejected. Under the terms of any lease agreements, in the event that a lease is rejected, the equipment or property will be returned to the lessor, unless the Debtor and lessor otherwise agree.

Any Class 6 claimant asserting a claim for damages arising from rejection of a lease shall file a proof of claim with the Bankruptcy Court by the later of the Effective Date or thirty days after entry of the Order granting the motion to reject or the claim shall be forever barred. The claims held by holders of rejected leases or executory contracts shall be treated as a Class 7

unsecured claim subject to the limitations of Section 502 of the Bankruptcy Code. Unless otherwise disclosed in the Plan, any leases or executory contracts not explicitly assumed are deemed rejected.

4. *Classes of General Unsecured Claims*

General unsecured claims are not secured by property of the estate and are not entitled to priority under § 507(a) of the Code.

The following chart identifies the Plan’s proposed treatment of general unsecured claims against the Debtor:

<b>Class 7</b>	
Creditor:	General Unsecured Creditors
Description:	Unsecured
Impaired?	Yes
<b>Treatment</b>	
<p><i>Class 7. (Unsecured Claims).</i> Class 7 is comprised of creditors holding Allowed Unsecured Claims against the Debtor, including any allowed penalty Claims held by any taxing authority which are not related to actual pecuniary loss. Allowed Class 7 Claims shall receive their pro rata share of the Net Profits Fund. Distributions from the Net Profits Fund shall continue for 5 years following the Effective Date. Distributions to Class 7 claimants shall not exceed the amount of the Allowed Unsecured Claims plus interest calculated at two and a half percent (2.5%) per annum. Distributions to the Allowed Class 7 claimants shall be made annually on the anniversary of the Effective Date and shall begin in 2019. In the alternative, at any time during the term of the Plan and at its sole discretion, the Debtor may distribute \$40,000.00 (the approximate amount projected to be distributed to unsecured creditors under the Plan) less any payments already made to the Class 7 claimants under the Plan, as a lump-sum payment to the allowed Class 7 claimants on a pro-rata basis, in full, final, and complete satisfaction of their unsecured claims.</p> <ul style="list-style-type: none"> <li>• Wells Fargo Bank - \$12,551.58</li> <li>• Advantage Earth Products, Inc. - \$4,833.34 (disputed)</li> <li>• Bradley Devitt Haas &amp; Watkins, P.C. - \$37,242.70 (paid by personal guarantor)</li> <li>• Douglas Richter - \$128,499.61 (disputed)</li> <li>• RMS Cranes - \$24,813.39</li> <li>• ISP Automation, Inc. - \$144,124.24 (disputed, paid by general contractor)</li> <li>• Galloway &amp; Company, Inc. - \$15,985.72</li> </ul>	

- 10 til 2, LLC - \$8,209.59
- Chromalox, Inc. - \$9,425.03
- Komatsu - \$119,000.00
- Intermountain Testing Company - \$41,636.20 (disputed)
- Wagner Rents - \$12,194.31
- Golder Associates, Inc. - \$209,495.37 (settled)
- 361 Services, Inc. - \$15,942.58 (disputed)
- IRS - \$36,810.58
- Any other creditors listed on the Debtor's bankruptcy schedules with liquidated, noncontingent, undisputed claims.

"Net Profits" shall mean the Reorganized Debtor's revenues received from gross sales, reduced by cost of goods sold, operating and administrative expenses, all taxes, and all Plan payments. The net proceeds from any Litigation, after payment of legal fees and expenses, will be included in the calculation of Net Profits. Funds subject to the trust provisions of C.R.S. § 38-22-127 or C.R.S. § 38-26-109 shall not be included in the calculation of Net Profits. Such trust funds represent amounts paid to the Debtor by general contractors or owners for the benefit of separate companies that supply materials, equipment, and labor to projects under the Debtor's direction. Significant expenditures, such as the purchase of new construction equipment, will impact the Net Profits realized.

"Net Profits Fund" shall mean that fund established by the Debtor funded by 25% percent of its Net Profits, calculated annually for the prior 12 months (or any portion thereof), for each year of the Plan.

The Debtor projects that the return to unsecured creditors will be higher through a plan of reorganization than a liquidation sale: \$40,000.00 through the Plan versus no distribution to unsecured creditors in a liquidation.

The Debtor seek to retain 75% of the net profits to reinvest such amounts into the Debtor's business in order to improve the company and expand operations. The Debtor hopes that doing so early in the reorganization will increase net profits going forward. Additionally, the Debtor will use any profits to fund litigation to collect pre-petition receivables and increase returns to secured creditors.

##### 5. *Classes of Equity Interest Holders*

Equity interest holders are parties who hold an ownership interest (*i.e.*, equity interest) in the Debtor. In a corporation, entities holding preferred or common stock are equity interest

holders. In a partnership, equity interest holders include both general and limited partners. In a limited liability company (“LLC”), the equity interest holders are the members. Finally, with respect to an individual who is a debtor, the Debtor is the equity interest holder.

The following chart sets forth the Plan's proposed treatment of the class of equity interest holders:

<b>Class 8</b>	
Equity Interest Holders:	Jason Grubb 100%
Description of Interest:	Membership Interests in LLC
Impaired?	No
<b>Treatment</b>	
On the Effective Date, the member of the Debtor shall retain his Equity Interests. The “Absolute Priority Rule” of 11 U.S.C. § 1129(b) is not applicable where the class of unsecured creditors has accepted the Plan. “[I]f a class of creditors accepts the plan under section 1129(a)(8), the bankruptcy court may confirm the plan without showing that the plan satisfies the ‘unfair discrimination’ and ‘fair and equitable’ standards of section 1129(b).” <i>In re Ruti-Sweetwater, Inc.</i> , 836 F.3d 1263 (10 <sup>th</sup> Cir. 1988).	

### C. Means of Implementing the Plan

Payments and distributions under the Plan will be funded by the following: Debtor’s operations. The Debtor has reduced expenses and streamlined operations. As shown above, the Debtor anticipates that its gross revenues will continue to increase. If the Debtor has sufficient net income, the Debtor may continue to pursue claims against the general contractors and property owners that owed the Debtor money on the Petition Date. To the extent any amounts are recovered, they will go first to any secured claimants that hold claims against such recoveries.

### D. Risk Factors

#### 1. General Economic Risk

The Reorganized Debtor's business may be affected by the general conditions in the economy. If the highly specialized construction market that the Debtor is involved in does not continue to improve as expected, the Reorganized Debtor will be adversely affected.

In addition to these concerns, fuel costs, taxes, weather conditions as well as the general economy affect the Debtor’s business. If these fuel prices or taxes increase, the Reorganized Debtor will be adversely affected.

Finally, the Reorganized Debtor may be forced to expend more than expected to maintain and improve its equipment. If its equipment is damaged or an excessive amount of equipment needs to be replaced, the Reorganized Debtor will be adversely affected.



2. *No Guaranteed Payments*

The Debtor believes that it will generate profits for distributions as discussed herein. However, in the event that expenses exceed revenues, the Debtor will not generate profits for distributions to unsecured claimants under the Plan.

3. *Insufficient Funds to Pay Administrative and Other Claims Due After the Effective Date*

The Debtor will have sufficient funds to meet its Effective Date payment obligations to administrative claimants. The Debtor believes that it will generate profits for distributions as discussed herein. However, in the event that expenses greatly exceed revenues, the Debtor may not generate sufficient funds for distribution to administrative claimants under the Plan.

4. *Seasonality*

The Debtor's business is subject to seasonal concerns. There are risks that the Debtor's revenues will not be sufficient in the offseason to fund its operations, resulting in a reduction of its Net Profits. Specifically, during the months of November through March, weather concerns may restrict the Debtor's ability to function. Severe winter weather could lead to even lower revenues during certain months.

5. *Competition*

The construction industry is highly competitive. There are many other companies that directly compete with the Debtor. To the extent that these companies' operations improve and/or other companies enter the market, the Debtor will face increased competition and the Debtor's revenues may not be as estimated.

**E. Executory Contracts and Unexpired Leases**

All unexpired leases and executory contracts between the Debtor and any other Person (if any) which have not prior to the Effective Date of the Plan been affirmatively assumed by the Debtor, will be rejected. The Debtor is not aware of any executory contracts or leases not disclosed in Section IV(C)(3).

**F. Tax Consequences of Plan**

**Creditors and Equity Interest Holders Concerned with How the Plan May Affect Their Tax Liability Should Consult with Their Own Accountants, Attorneys, and/or Advisors.**

**V. CONFIRMATION REQUIREMENTS AND PROCEDURES**

To be confirmable, the Plan must meet the requirements listed in §§ 1129(a) or (b) of the Code. These include the requirements that: the Plan must be proposed in good faith; at least one

impaired class of claims must accept the plan, without counting votes of insiders; the Plan must distribute to each creditor and equity interest holder at least as much as the creditor or equity interest holder would receive in a chapter 7 liquidation case, unless the creditor or equity interest holder votes to accept the Plan; and the Plan must be feasible. These requirements are not the only requirements listed in § 1129, and they are not the only requirements for confirmation.

**A. Who May Vote or Object**

Any party in interest may object to the confirmation of the Plan if the party believes that the requirements for confirmation are not met.

Many parties in interest, however, are not entitled to vote to accept or reject the Plan. A creditor or equity interest holder has a right to vote for or against the Plan only if that creditor or equity interest holder has a claim or equity interest that is both (1) allowed or allowed for voting purposes and (2) impaired.

In this case, the Plan Proponent believes that Classes 1, 2, 3, 4, 5, 6, and 7 are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan. The Plan Proponent believes that Class 8 is unimpaired or comprised of insiders and that holders of claims in each of these classes, therefore, do not have the right to vote to accept or reject the Plan.

1. *What Is an Allowed Claim or an Allowed Equity Interest?*

Only a creditor or equity interest holder with an allowed claim or an allowed equity interest has the right to vote on the Plan. Generally, a claim or equity interest is allowed if either (1) the Debtor has scheduled the claim on the Debtor's schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated, or (2) the creditor has filed a proof of claim or equity interest, unless an objection has been filed to such proof of claim or equity interest. When a claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or equity interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

*The deadline for filing a proof of claim in this case was July 20, 2017.*

2. *What Is an Impaired Claim or Impaired Equity Interest?*

As noted above, the holder of an allowed claim or equity interest has the right to vote only if it is in a class that is *impaired* under the Plan. As provided in § 1124 of the Code, a class is considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class.

3. *Who is Not Entitled to Vote*

The holders of the following five types of claims and equity interests are *not* entitled

to vote:

- holders of claims and equity interests that have been disallowed by an order of the Court;
- holders of other claims or equity interests that are not “allowed claims” or “allowed equity interests” (as discussed above), unless they have been “allowed” for voting purposes.
- holders of claims or equity interests in unimpaired classes;
- holders of claims entitled to priority pursuant to §§ 507(a)(2), (a)(3), and (a)(8) of the Code;
- holders of claims or equity interests in classes that do not receive or retain any value under the Plan; and
- administrative expenses.

***Even If You Are Not Entitled to Vote on the Plan, You Have a Right to Object to the Confirmation of the Plan [and to the Adequacy of the Disclosure Statement].***

4. *Who Can Vote in More Than One Class*

A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject a Plan in each capacity, and should cast one ballot for each claim.

**B. Votes Necessary to Confirm the Plan**

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class of creditors has accepted the Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by “cram down” on non-accepting classes, as discussed later in Section [B.2.].

1. *Votes Necessary for a Class to Accept the Plan*

A class of claims accepts the Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the class, who vote, cast their votes to accept the Plan.

A class of equity interests accepts the Plan if the holders of at least two-thirds (2/3) in amount of the allowed equity interests in the class, who vote, cast their votes to accept the Plan.

2. *Treatment of Nonaccepting Classes*

Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner prescribed by § 1129(b) of the Code. A plan that binds nonaccepting classes is commonly referred to as a “cram down” plan. The Code allows the Plan to bind nonaccepting classes of claims or equity interests if it meets all the requirements for consensual confirmation except the voting requirements of § 1129(a)(8) of the Code, does not “discriminate unfairly,” and is “fair and equitable” toward each impaired class that has not voted to accept the Plan.

*You should consult your own attorney if a “cramdown” confirmation will affect your claim or equity interest, as the variations on this general rule are numerous and complex.*

C. **Liquidation Analysis**

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. A liquidation analysis is included in Section VI of this Disclosure Statement.

D. **Feasibility**

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor, unless such liquidation or reorganization is proposed in the Plan.

1. *Ability to Initially Fund Plan*

The Plan Proponent believes that the Debtor will have enough cash on hand on the Effective Date of the Plan to pay all the claims and expenses that are entitled to be paid on that date.

2. *Ability to Make Future Plan Payments And Operate Without Further Reorganization*

The Plan Proponent must also show that it will have enough cash over the life of the Plan to make the required Plan payments.

As shown in Exhibit C, the Debtor will have sufficient cash from its operating revenue to pay its secured and unsecured creditors as set forth in the Plan.

VI. **EFFECT OF CONFIRMATION OF PLAN**

A. **Discharge of Debtor.**

Discharge. On the Effective Date of the Plan, the Debtor shall be discharged from any debt

that arose before confirmation of the Plan, subject to the occurrence of the Effective Date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor shall not be discharged of any debt (i) imposed by the Plan, (ii) of a kind specified in § 1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure, or (iii) of a kind specified in § 1141(d)(6)(B). After the Effective Date of the Plan your claims against the Debtor will be limited to the debts described in clauses (i) through (iii) of the preceding sentence.

### B. Modification of Plan

The Plan Proponent may modify the Plan at any time before confirmation of the Plan. However, the Court may require a new disclosure statement and/or revoting on the Plan.

The Plan Proponent may also seek to modify the Plan at any time after confirmation only if (1) the Plan has not been substantially consummated *and* (2) the Court authorizes the proposed modifications after notice and a hearing.

### C. Final Decree

Once the estate has been fully administered, as provided in Rule 3022 of the Federal Rules of Bankruptcy Procedure, the Plan Proponent, or such other party as the Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.

## VII. LIQUIDATION ANALYSIS

### *Plan Proponent's Estimated Liquidation Value of Assets*

Description / Assets	Scheduled Value	Bankruptcy Scenarios	
		Chapter 11	Chapter 7 / Liquidation Value
Accounts Receivable	\$248,000.00	\$124,000.00	\$62,000.00
Office Equipment	\$6,000.00	\$6,000.00	\$6,000.00
Machinery, Equipment, and Vehicles	\$251,000.00	\$251,000.00	\$175,000.00
Lawsuits and Claims	\$1,500,000.00	Unknown <sup>1</sup>	\$0.00
<i>Total Assets at Liquidation Value</i>			\$319,000.00
Recoveries by Secured Creditors (Colorado Department of Revenue, Wells Fargo, US Bank, Komatsu)		(\$536,988.07)	(\$319,000.00)
Chapter 7 Trustee Fees and Expenses (estimate)			(\$20,000.00)
Chapter 11 Administrative Expenses (estimate)		(\$50,000.00)	
Priority Claims, Excluding		(\$169,963.77)	\$0.00

1. See Exhibit D to this Disclosure Statement for a discussion of the accounts receivable. Collection of the same will depend on many factors, including the Debtor's ability to hire counsel and fund litigation.

Administrative Expense Claims			
Balance for Unsecured Claims		\$40,000.00	\$0.00
Total Amount of Unsecured Claims (estimate)		(\$817,447.17)	(\$817,447.17)
Estimated Distributions to Unsecured Claimants		\$40,000.00	\$0.00

The Debtor believes that confirmation of the Plan is in the best interests of creditors as a liquidation would not result in any return to unsecured creditors or priority claimants. A liquidation would also result in additional administrative costs. The Debtor projects that the return to unsecured creditors will be significantly higher through a plan of reorganization than a liquidation sale.

Another alternative to conversion is dismissal of the bankruptcy case. Again, the Debtor does not believe that dismissal is in the best interests of creditors. Prior to filing, the State of Colorado had already seized the Debtor's assets. If the reorganization is dismissed, a liquidation of the Debtor's assets would almost certainly result in a lower return to unsecured creditors than the distribution proposed by the Debtor.

#### VIII. MANDATORY DISCLOSURES

The Bankruptcy Code requires disclosure of certain facts:

(a) There are no payments made or promises of the kind specified in Section 1129(a)(4)(A) of the Bankruptcy Code which have not been disclosed to the Court.

(b) The Reorganized Debtor will remain in control of the assets after confirmation of the Plan for the purpose of operating the business of the Reorganized Debtor. The current management of the Debtor, Jason Grubb, will remain in control of the Reorganized Debtor. The monthly salary of Jason Grubb will remain at \$12,000.00 per month during the pendency of the Reorganized Debtor's Plan. The Debtor believes that their continued control is in the best interest of all creditors as described in Section 1129(a)(5) of the Bankruptcy Code.

#### IX. CONCLUSION

The materials provided in this Disclosure Statement are intended to assist you in voting on the Plan of Reorganization in an informed fashion. Since, if the Plan is confirmed, you will be bound by its terms, you are urged to review this material and make such further inquiries as you may deem appropriate and then cast an informed vote on the Plan.

DATED September 20, 2018.

JHL Industrial Services, LLC  
d/b/a Platt Rogers Construction



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By: Jason Grubb  
Its: Managing Member

WADSWORTH WARNER CONRARDY, P.C.

*/s/ David J. Warner*

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