

To: [Gary Johnson](#)
Subject: FW: From State Bar of Texas member directory: REPRESENTATION

Mr. Johnson:

The check was received this morning, via UPS.

To: Gary Johnson <gj82129@gmail.com>
Subject: RE: From State Bar of Texas member directory: REPRESENTATION

Mr. Johnson:

Your instructions are received and understood.

From: Gary Johnson <gj82129@gmail.com>
Subject: Re: From State Bar of Texas member directory: REPRESENTATION

I am writing to update you that I have released the funds as promised, the check will definitely reach you today hopefully, The amount on it will cover your fees and the balance released to the seller, the amount on the check is **\$221,500.00** and the name on the check is: , please watch out for it and let me know when it reaches you.

Kindly acknowledge this message to let me know my instructions are clear.

Gary Johnson
461 13th St, Modesto,
CA 95354

T. 209-248-1434

Mr. Johnson:

The name and address are as follows:

From: [Gary Johnson](#)
Subject: Re: From State Bar of Texas member directory: REPRESENTATION

I m in receipt of your email that you have reviewed the documents,anyway i want you to act as the escrow agent,Your retainer fee at \$1500.00 is accepted,it will be paid along with the down deposit,the check for your fee and the down deposit will be delivered to you by courier before I leave for my inspection of the equipment, with this development I want you to confirm your receiving address and most importantly name to issue the payment to avoid mistakes or wrong issuance.

Name to issue payment:.....

Current address:.....

Below is the breakdown of the payment:

1)Down deposit:**\$220,000.00**

2)Your fee:**\$1500.00**

Total amount due:**\$221,500.00**

Kindly confirm the above for more details

Gary L.Johnson
461 13th Street, Modesto, CA 95354
T.209-248-1434

Mr. Johnson:

I've reviewed the documents you sent.

While it does not have a name in the Escrow Agreement, I assume you wish for me to serve as the Escrow Agent.

My retainer will be \$1,500.00.

From: Gary Johnson <gj82129@gmail.com>

Subject: Re: From State Bar of Texas member directory: REPRESENTATION

Find attached the Sales purchase agreement, the Trust instruction and the purchase invoice. The purchase price and all details of the purchase are outlined in the attached documents for your review. kindly let me know in your next email after reviewing your service or retainer charge for our deliberation.

We intend to proceed with the purchase as soon as possible

Gary Johnson
461 13th St, Modesto, CA 95354
T. 209-248-1434

Mr. Johnson:

Yes, please do.

From: Gary Johnson <gj82129@gmail.com>

Subject: Re: From State Bar of Texas member directory: REPRESENTATION

Thank you for your response back to my request that you can help, I will scan and email the purchase agreement documents for your review and to enable you to have a better understanding of what is required, the location of the parties involved and all details of the purchase are outlined in the purchase sales agreement documents for your conflict of interest check.

Acknowledge this message and let me know if it is okay for me to forward the purchase sales agreement to you for your review.

Thanks we look forward to working with your firm.

Gary Johnson
461 13th St, Modesto, CA 95354
T. 209-248-1434

Mr. Johnson:

I'd be happy to help.

From: gj82129@gmail.com <gj82129@gmail.com>

Subject: From State Bar of Texas member directory: REPRESENTATION

This is a pending transaction due to the Covid 19,I am purchasing a used excavator in your state and the purchase agreement requires your services to represent me, I want to know if you can provide closing service for this purchase. Let me know if this is within your service capacity and I can email a copy of the purchase invoice, Trust instruction and purchase agreement to you for your review, if you cannot provide the service for this purchase I appreciate your effort to recommend who can. Thank you while I await your response, Gary Johnson 461 13th St, Modesto, CA 95354 T. 209-248-1434

This email was generated through the State Bar of Texas online member directory by the sender.

INSTRUCTION TO TRUST

Date: **July 20th, 2020**

Mr. Gary Johnson whose contact is **461 13th St, Modesto, CA 95354** hereafter referred to as Buyer and **Mr. Bryant Ames** whose address and contact **1140 Rio Grande Street Austin, TX 78701** hereinafter referred to as Seller do hereby agree as follow:

1. Buyer will purchase excavator from Seller described as **follow s (i) 2007 HITACHI ZX800 EXCAVATOR \$135,000 (ii) HITACHI EX200-4 EXCAVATOR \$90,000 (iii) 2005 HITACHI ZX160W WHEEL EXCAVATOR \$95,000** total amount **\$320,000.00**.
2. Buyer shall make an initial Good Faith deposit to Trust as deposit on the equipment prior to inspection of said product.
3. Upon receipt of said funds, Trust Holder will notify Buyer and Seller that said funds have been sent into the Trust.
4. Upon receipt of written notice from the buyer of a satisfactory inspection of said equipment, Trust Holder will release the Good faith deposit to an account provided by Seller.
5. The fees and costs due Trust for complete of this trust shall be payable by Buyer concurrent with execution of this agreement.

Trust Holder shall have no further duties except as outlined in these instructions. Should Trust Holder be asked to perform other duties than as outline herein additional fees and /or cost will be incurred.

Please acknowledge your agreement to and acceptance of these instructions by signing a copy of this instruction and forwarding a copy to Trust Holder.

By: 
_____ **Mr. Bryant R.Ames**

BY: 
_____ **Gary Johnson, Buyer**

PURCHASE OF USED EXCAVATOR ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement") is entered into as of this **20th** day of **July, 2020** (the "Effective Date") by and among **Mr. Gary Johnson** whose address is **461 13th Street, Modesto, CA 95354** ("Buyer"), **Mr. Bryant R. Ames** whose address **1140 Rio Grande Street Austin, TX 78701** { 'Seller' }

WITNESSETH:

WHEREAS, Buyer and Seller have entered into an Equipment Purchase Agreement (the "Purchase Agreement of three (3) excavators (the "Equipment") for a total purchase price of Three Hundred Twenty Thousand and 00/100 Dollars (**\$320,000.00**) (the "Purchase Price"); and

WHEREAS, The Seller and Buyer have agreed to escrow the Purchase Price (hereafter, the "Escrowed Funds") while Buyer inspects the Equipment; and.

WHEREAS, the Escrowed Funds shall be held in escrow pursuant to the terms of this Agreement; and

WHEREAS, in accordance with the provisions of this Agreement, the Escrow Agent is designated to act as Escrow Agent for the parties hereto under the terms of this Agreement, and pursuant to the terms of the Purchase Agreement, the pertinent provisions of which are incorporated herein by reference.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Appointment of Escrow Agent: Buyer and Sellers hereby appoint the Escrow Agent to serve as escrow agent, pursuant to the terms of this Agreement.

2. Deposit of Escrowed Funds. Buyer shall deposit, transfer and deliver all of the Escrowed Funds and the Escrow Agent shall hold the Escrowed Funds pursuant to the terms of this Agreement and the Purchase Agreement.

3. Retention of Escrowed Funds. The Escrow Agent agrees to receive and hold in escrow the Escrowed Funds pursuant to the terms of this Agreement and to perform the acts and duties imposed upon it under the terms and conditions of this Agreement. The Escrow Agent shall not be obligated to keep the Escrowed Funds in an interest-bearing account,

4. Disbursement of Escrowed Funds; Termination of This Agreement.

Buyer agrees to make a good faith deposit of **Two Hundred Twenty Thousand and 00/100 Dollars (\$220,000.00)** (the "Good Faith Deposit") of the Escrowed Funds, along with the Service Fee (as hereafter defined) prior to inspecting the Equipment. Upon receipt of the Good Faith Deposit and the Fee, the Escrow Agent shall notify Buyer and Seller. After inspecting the Equipment, Buyer shall then notify Escrow Agent in writing whether he is satisfied or dissatisfied with the Equipment (the "Inspection Notice"). Buyer agrees to inspect the Equipment.

and provide the Inspection Notice to Escrow Agent within thirty (30) days of the Effective Date, or this Agreement shall terminate and Escrow Agent shall return the Good Faith Deposit to Buyer less the Service Fee. If Buyer states in the Inspection Notice that he is dissatisfied with the Equipment, the Escrow Agent shall within three (3) business days of its receipt of the Inspection Notice return the Good Faith Deposit to Buyer (less the Fee) and this Agreement shall terminate. If Buyer states in the Inspection Notice that he is satisfied with the Equipment, Escrow Agent shall release and disburse the Good Faith Deposit to Seller, which shall be applied to the purchase price. The balance of the Escrowed Funds shall then be paid/disbursed as follows: (a) upon proof of the shipment of the Equipment, Buyer shall deliver one half of the balance of the Escrowed Funds to Escrow Agent, or Fifty Thousand and 00/100 Dollars (\$50,000); and (b) upon receipt of the Equipment, Buyer shall deliver to Escrow Agent the remaining balance of Fifty Thousand and 00/100 Dollars (\$50,000). Buyer's delivery of the remaining balance shall be deemed notice to Escrow Agent to disburse the remaining Escrowed Funds to Seller. The Escrow Agent shall then disburse to Seller the balance of the Escrowed Funds and this Agreement shall be terminated and the Escrow Agent discharged of all responsibility hereunder.

5. Provisions Concerning Escrow Agent.

5.1 The Escrow Agent shall, for all purposes of this Agreement, be treated as and considered legally as custodian. The Escrow Agent shall be entitled to rely, and shall be protected in acting or refraining from acting, upon any instruction, document or instrument furnished to it hereunder and believed by it to be genuine and believed by it to have been signed or presented by Buyer or Seller. Nothing herein contained shall be deemed to impose upon the Escrow Agent any duty to exercise discretion, it being the intention hereof that the Escrow Agent shall not be obligated to act except upon written instructions or direction. The Escrow Agent shall not be liable for any action (or refraining from any action) taken by it in good faith and believed by it to be authorized or within the rights or powers conferred upon it in this Agreement, The Escrow Agent may consult with counsel of its choice and shall be fully protected and indemnified in acting or refraining to act in good faith in accordance with the opinion of such counsel.

5.2 Buyer and Seller each agree to indemnify and hold the Escrow Agent harmless from and against any and all loss, damage, liability or expense incurred arising out of or in connection with the acceptance of its position as Escrow Agent and the administration of this Agreement, including the costs and expenses of defending against any claim in connection with the performance of its duties hereunder; provided, however, that the Escrow Agent shall not be indemnified for any loss, damage, liability or expense caused by or arising out of such Escrow Agent's gross negligence, willful misconduct or failure to act in good faith.

5.3 It shall be the Escrow Agent's responsibility for the safekeeping of the Escrowed Funds, and the disbursement and delivery of such Escrowed Funds in accordance with this Agreement. The Escrow Agent shall not be required to take any other action with reference to any matters which might arise in connection with the Escrowed Funds or this Agreement.

5.4 If any disagreement arises among Buyer and Seller with respect to this Agreement or the Escrowed Funds, the Escrow Agent, upon notice to the parties, shall have the

right to retain the Escrowed Funds until the Escrow Agent shall have received (i) a non-appealable order of a court of competent jurisdiction directing delivery of the Escrowed Funds, or (ii) a written agreement executed by Buyer and Seller directing delivery of the Escrowed Funds, in which event the Escrow Agent shall disburse the Escrowed Funds in accordance with such order or agreement. The Escrow Agent may also, at any time, file a suit in interpleader and obtain an order from a court of appropriate jurisdiction, requiring all persons involved to litigate in such court their respective claims arising out of or in connection with the Escrowed Funds. Upon filing a suit in interpleader and obtaining such an order, the Escrow Agent shall have no further obligations or liabilities to any other party hereto.

5.5 The Escrow Agent may, at any time, resign as such by delivering the Escrowed Funds to any successor Escrow Agent designated by all parties hereto in writing or by any court of competent jurisdiction (the Escrow Agent may petition a court of competent jurisdiction to name a successor). The resignation of the Escrow Agent will take effect on the earlier of (i) the appointment of a successor (including a court of competent jurisdiction), or (ii) the day which is thirty (30) days after the date of delivery of the Escrow Agent's written notice of resignation to the other parties hereto. If, at that time, the Escrow Agent has not received a designation of a successor Escrow Agent, the Escrow Agent's sole responsibility after that time shall be to retain and safeguard the Escrowed Funds until receipt of a designation of successor Escrow Agent or a joint written disposition instruction by the other parties hereto or a final non-appealable order of a court of competent jurisdiction.

6. **No Conflict of Interest.** It is understood and acknowledged by the parties hereto that the Escrow Agent has not represented either party with respect to the negotiation of the Purchase Agreement or any related documents and has given no advice to either party regarding the provisions of the same.

7. **Amendment.** No amendment or modification of this Agreement shall be effective unless in writing and signed by the parties. This Agreement may not be terminated except in a written document signed by the parties.

8. **Parties in Interest.** This Agreement shall bind, benefit, and be enforceable by and against each party hereto and their successors, assigns, heirs, administrators and personal representatives. No party shall in any manner assign any of its rights or obligations under this Agreement without the express prior written consent of the other parties.

9. **No Waivers.** No waiver with respect to this Agreement shall be enforceable unless in writing and signed by the party against whom enforcement is sought. Except as otherwise expressly provided herein, no failure to exercise, delay in exercising, or single or partial exercise of any right, power or remedy by any party, and no course of dealing between or among any of the parties, shall constitute a waiver of, or shall preclude any other or further exercise of, the same or any other right, power or remedy.

10. **Severability.** If any provision of this Agreement is construed to be invalid, illegal or unenforceable, then the remaining provisions hereof shall not be affected thereby and shall be enforceable without regard thereto.

11. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Texas.

12. **Miscellaneous.**

12.1 All notices and communications hereunder shall be in writing and shall be deemed to be duly given if delivered in accordance with the notice requirements set forth in the SPA.

12.2 This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original and all of which together shall constitute one and the same document, binding upon all, the parties hereto notwithstanding that all such parties are not signatories to the same, counterpart. This Agreement shall become effective when all parties hereto have executed a counterpart hereof. A signature of a party by facsimile or other electronic transmission shall be deemed to constitute an original and fully effective signature of such party.

12.3 Time shall be of the essence for all purposes in construing and applying this Agreement.

12.4 This Agreement shall terminate and the Escrow Agent shall be discharged of all responsibility hereunder at such time as the Escrow Agent has completed its duties hereunder as provided above.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the Effective Date.

BUYER:



Mr. Gary L. Johnson

SELLER:



Mr. Bryant R. Ames

BRYANT AMES (SELLER)
1140 Rio Grande Street Austin,
TX 78701
bonnevilleec@hotmail.com

INVOICE

DATE: 7/20/2020
INVOICE#: 7906501

BILL TO: GARY JOHNSON (BUYER)
46113th St, Modesto ,
CA 95354
T. 209-248-1434

FOR: Domestic Transaction

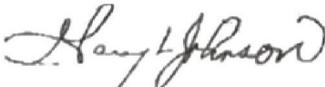
| Item | Description | Unit Price | Total |
|---------|-------------------------------------|------------|--------------|
| R94776 | 2007 HITACHI Zx800 EXCAVATOR | 1 | \$135,000.00 |
| R83422 | HITACHI EX200-4 EXCAVATOR | 1 | \$90,000.00 |
| R729140 | 2005 HITACHI ZX160W WHEEL EXCAVATOR | 1 | \$95,000.00 |

Total Amt \$320,000.00

3

Balance Due \$320,000.00

BRYANT R.AMES (SELLER)



GARY L. JOHNSON (BUYER)

