

PRIVATE ARBITRATION

Re: 01538.00002

In the Matter of the Arbitration between:

Tully Construction Company, Inc./ A.J. Pegno Construction Corp., J.V. ("Claimant")
and
Canam Steel Corporation ("Respondent")

FINAL AWARD OF ARBITRATOR

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the Arbitration Agreement (**Parties-1**) entered into between the parties and dated April 23, 2012, and having duly heard the proofs and allegations of the Parties, do hereby, FIND, as follows:

This dispute arises out of agreements between the parties, Tully Construction Company, Inc./ A.J. Pegno Construction Corp., J.V. (hereinafter "Claimant") and Canam Steel Corporation (hereinafter "Respondent") made subsequent to the July 16, 2007 Asset Purchase Agreement (**R-29, Tab D**) and the dispute is in connection with the construction of certain portions of the Whitestone Expressway, Queens County, New York.

This FINAL AWARD OF ARBITRATOR is limited pursuant to the terms of the Arbitration Agreement (**Parties-1**) to those claims of Claimant, Tully Construction Company, Inc./ A.J. Pegno Construction Corp., J.V. solely against Respondent, Canam Steel Corporation; and Respondent's counterclaims.

On its claims, Claimant is granted, for

Contract Overpayment	\$ 0.00
Projected Liquidated Damages and Engineering Charges	0.00
Cornell Liquidated Claim (C-478)	2,831,703.00
Labor Escalation	1,174,667.00
Concrete Escalation	0.00
Winter Provisions (C-478)	155,523.00
Home Office Overhead	563,714.00
Field Overhead and Field Staff	2,158,329.00
Miscellaneous Backcharges	<u>0.00</u>
Claimant Total	\$ 6,883,936.00

On its counterclaims, RESPONDENT is granted, for

Material	\$ 0.00
Detailing	0.00
Miscellaneous and other (testing, etc.) (R-20, pg. 15)	156,202.00
Fabrication and Equipment Rental	0.00
Painting (R-20, pg. 16)	210,712.00
Trucking	0.00
Direct Labor & Indirect Costs	<u>0.00</u>
Respondent Total	\$ 366,914.00

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FINAL AWARD OF ARBITRATOR - CONTINUED

Accordingly, I AWARD as follows:

Within thirty (30) days from the date of transmittal of this Award to the Parties, RESPONDENT shall pay to CLAIMANT, the "initial award" (C-536, TPJV 000 25888) sum of **SIX MILLION, FIVE HUNDRED SEVENTEEN THOUSAND, TWENTY-TWO DOLLARS AND NO CENTS (\$6,517,022.00)**; less the amount that Claimant may now reimburse itself from escrow (approximately \$961,100.00), with interest on the remaining amount; i.e., \$6,517,022.00 - approximately \$961,100.00, at 9% per annum, without compounding, from September 19, 2008 (R-20, pg. 17, fn. 12; Canam Post Hearing Memorandum, pg. 14), until payment.

The Attorney's Fees and Expenses of each party shall be borne as incurred.

The compensation and expenses of the arbitrator shall be borne equally.

The Parties are to arrange to obtain all drawings or exhibits in the possession of the Arbitrator by August 12, 2013, after which date said documents shall be destroyed.

If any provision of this Final Award or the application of any such provision to any person or circumstance is held invalid, the remainder of this interim award, and the application of such provision other than the extent to which it is held invalid, will not be invalidated or affected thereby.

This Final Award is after full and complete consideration and in full and complete settlement of all claims, offsets, or counterclaims which were submitted or which could have been submitted in this Arbitration. All claims or counterclaims between the parties not expressly granted herein are hereby denied.

This Final Award shall be enforceable under the provisions of New York State law, CPLR Article 75; the Federal Arbitration Act, 9 USC Section 1 *et seq.*; and the United Nations Convention on Contracts for the International Sale of Goods as applicable.