

**WILLIAM SACKERSON  
CONSTRUCTION CO., INC.**

**GENERAL CONTRACTOR**

**4749 S. WHITNALL AVE.**

**PO BOX 100318**

**CUDAHY, WI 53110**

April 25, 2015

Committee on Transportation, Public Works and Transit  
901 N. 9<sup>th</sup> Street, Room 105  
Milwaukee, WI 53233

Attn: Ms. Shanin R. Brown

**In Re: Appeal of Non-Responsible Declaration  
Project No. O433-13447  
Protective Glass Barrier, Criminal Justice Facility**

Dear Ms. Brown:

The following is our position and response to the Assistant Corporation Counsel, Paul Kuglitsch's, Letter dated March 27, 2015 with Exhibits 1 - 10.

Mr. Kuglitsch's letter states that we have "not provided any clear legal arguments as to why it believes DAS-A&E's decision is erroneous and should be set aside." We are not attorneys, we do not have any legal background to make a legal argument nor do we have any knowledge of case law. We are simply requesting this declaration be set aside to preserve our reputation that we have worked extremely hard to establish and preserve for the past 68 years. It is our position that this declaration of Non-Responsible is based on misinformation and exaggeration, if not misrepresentation, of the facts. We will show that our company is in-fact not responsible for the delays on the stated projects and we will show that they are in-fact the responsibility of Milwaukee County. We will also show that the claim of poor workmanship are totally unfounded and are not based on the facts.

**Domestic Violence Unit Renovation – Project No. C070-11421.**

Our letter of February 19, 2015 (Exhibit 2 of Mr. Kuglitsch's Letter) states the basic facts about this project and facts included within our letter have not been disputed.

Exhibit # 10 of Mr. Kuglitsch's Letter states "WM Sackerson has been given satisfactory rating by the people we have questioned. They state that the work was satisfactory but that they were way off on their timetable."

It appears that the construction delays and the completion schedule are the sole argument for this project. There have been a series of delay requests / claims from our company and counter claims made by Milwaukee County. The resolution of which was determined by the Boer Architects' Letter of April 3, 2014, contained within Exhibit 8. Milwaukee County attempted to assess Liquidated Damages (Claim 6) on this project. Below is the final determination made by Boer Architects.

"Clearly, the courthouse fire delayed the work of this contractor. Also, untimely Owner requests for changes to the work which could be construed of "acts of Owner" also caused significant delays to the project which could not be foreseen at the time of execution of the Contract for Construction. Assessment of Liquidated Damages for this project appears to be harsh and punitive as significant delays to the project schedule were clearly not caused solely by the contractor, and were, in many cases, out of his control.

Therefore, pursuant to a part of Claim 6, contractor shall be relieved of burden of payment of Liquidated Damages being assessed by the County."

Boer Architects' determination is that the delays on this project were not the responsibility of our company but that of Milwaukee County. Therefore, the Declaration of Non-Responsible for this project is totally unwarranted, unjust and must be set aside.

The second project is Martin Luther King Jr. Community Center (MLK), Waterproof Membrane Repair Contract B, P172-10457. Despite several attempts, made by me, to Phillip Schmidt requesting he divulge the identity and issues of the second project, he refused to reveal that MLK was in-fact that project. The first time we were aware that MLK was part of the Non-Responsible Decoration was upon receipt of Mr. Kuglitsch's, Letter dated March 27, 2015. I will address, at some length, the MLK Project.

### **Martin Luther King Jr. Community Center (MLK), Waterproof Membrane Repair – Contract B Project No. P172-10457**

Our Original Contract for this project was \$235,200.00. To date, there have been 3 Change Orders for a total of \$31,640.69; to date, there have been 6 Allowance Authorizations with 10 separate items for a total of \$7,965.88; resulting in a revised contract of \$266,840.69. To date, we have issued 20 RFI's and have received 9 Construction Bulletins.

The following is brief synopsis of this project: At the Weight Room Area - Removal and replace approximately 2' of top soil from the top of the existing roof of the Weight Room; Remove the existing waterproof membrane and replace with a new waterproof system on top of a 4" to 9" new Light-Weight Concrete Tapered Topping Slab, bonded to the existing concrete slab; Remove the existing timber retaining walls and replace with a Segmental Block Retaining Wall; Remove and replace of approximately 90 feet of sidewalk to the south of the Weight Room. Within the Existing Garage – Remove delaminated area of existing 1" to 2" topping slab; install a new 2" Polymer-Modified Concrete Topping; Raise the existing garage door; Install New FRP Door & Frame and install a new waterproof membrane under the new concrete at the garage door.

The sole reason for this project is that the roof of the Weight Room, which is below grade, has been leaking for decades. There is also significant evidence that the wall that separates this Weight Room from the Gymnasium, which extends above grade to the roof above, has been leaking also for decades. The repair this wall is not part of our contract. We have a picture of standing water on the Weight Room Floor prior to the start of construction.

It is alleged that our construction methods damaged this facilities and resulted in significant delays. It is our opinion that this allegation is a totally false statement.

In reference to Exhibit 9:

One of the issues is the Pressure Washing of the existing concrete topping slab. This slab was buried beneath 2 feet of ground. Part of our contract was to pour a 4" to 9" Light Weight Concrete Tapered Topping Slab on top of this existing concrete slab. The two slabs are specified to be bonded together with a bonding agent. Weld Crete Bonding Agent was the approved product. Weld Crete requires that the existing slab be totally clean - free of all mud, dirt, dust and foreign materials. To this date, I know of no other method to accomplish the required degree of cleanliness without Pressure Washing the existing slab.

Prior to this Pressure Washing we caulked all the exposed construction joints. This Pressure Washing Process took over 4 hours and at no time did anyone from this facility or from Milwaukee County, though they both were on-site, inform us that there was a problem with leaking in the Weight Room. It was not until after this process was totally completed was it brought to our attention.

There have been a lot of allegations of damage to this facility and its contents due to this Pressure Washing. We have attended numerous meetings pertaining to this situation and Milwaukee County has brought in outside contractors/consultants to inspect the existing flooring. The end result of all these meetings and investigations is that there was no damage to this facility or its contents. We were directed and perform a thorough cleaning of the existing flooring and wash the walls. We were also directed to glue down some loose edges of the existing floor tile. We contend these existing loose edges were not due to the water leakage but due to improper installation of the original flooring. This has all been accomplished is no longer an issue. This situation had no impact on the completion schedule.

Another issue that is referred to is the fact that our Demolition Contractor inadvertently punched some small holes through the existing Precast Structural Tee Section during the removal of the exterior topping slab. The top slab of the Tee Section is only about 1 ½" thick. Punching through this top slab Tee Section should have been avoided and there is no excuse for this situation. A Structural Engineer was brought in to review this situation and his conclusion was that these are very minor holes and we should simply patch these holes with concrete patching product. We submitted a product for this repair, Dayton Superior - Recrete 20 Minute, it was approved and the patch was accomplished. This situation had absolutely no impact on the completion schedule as alleged.

Another issue that seems to be highlighted is the fact that we did hit some buried electrical wires within the garage floor slab. Part of our contract was to remove and replace the delaminated areas of the existing garage floor. This topping slab ranged from 1" to 2" thick. The existing conduit

that originally encased these electrical wires where totally corroded and in-fact no longer existed. These electrical wires were totally exposed running in this 1" to 2" concrete topping. It is highly unusual to bury an electrical conduit in this type of topping slab, in-fact, it is our information that, it is totally contrary to the building codes. It is the responsibility of Milwaukee County to mark all buried wires within their facility.

The allegation that this project lacked supervision from our company, in our opinion, is totally false and unsubstantiated. We were on-site with all of our subcontractors and reviewed their scope of work; we attended every meeting whether scheduled in advance or at a moment's notice. If there were any issues what-so-ever and if we were not already on-site, we were on-site within minutes. Upon discovery of any problems or discrepancy with the contract document we immediately issued a RFI, waited for the resolution and immediately acted upon the resolution upon receiving the required authorization. It is our opinion that this allegation is a total fabrication.

It appears that the major issue is the completion of this project and the delays. The delays on this project are totally the responsibility of Milwaukee County.

Upon the removal of the existing waterproof membrane it was discovered the existing basketball backboards, within the Gymnasium, were supported by thru-bolts through the existing CMU wall and would interfere with the proposed new topping slab and the new waterproof membrane. We issued RFI #6 on July 17, 2014 notifying Milwaukee County of this situation and requesting directions on to how to proceed. We received CB #3 on July 21, 2014 and Allowance Authorization #1 to perform this work on August 15, 2014. This is a delay of 29 days. During this period absolutely no work could be accomplished on this project. The critical path item of pouring the Light Weight Concrete Topping Slab was delayed until this situation was resolved. This impacted the entire project. This situation exposed our company to increased liability and this facility to potential damage.

On July 23, 2014 we issued RFI #10 pertaining to an existing corner block that was broken prior to this project. This impacted the building of the small retaining wall, the installation of the new waterproof membrane, the pouring of the new slab outside of Door 243 and the ultimate completion of this project. We received a Response from Phil Schmidt on August 22, 2014 that requested in order to fully assess the existing condition some additional plaster veneer should be removed. We immediately performed the requested work. Upon further review it was determined that this area of block had to be repaired. We received a verbal authorization to perform this work on September 2, 2014 & performed this work that same day. However, we did not receive Allowance Authorization #3 to perform this work until October 11, 2014. This was a very minor repair that totaled \$365.88. This further delayed this project a minimum of 41 days.

At our Progress Meeting of September 24, 2014 we reviewed the scope of work within the Garage Area. Milwaukee County Parks expressed concerns about the scope of work. We were directed to suspend all work in this area until this situation is resolved. On October 13, 2014 we received CB #6 which total changed the scope of work within the Garage. We received Change Order #2, dated November 12, 2014 to proceed with the scope of work per CB #6. This is a delay on this project of 49 days. This delay subjected our company to further liability and having to perform exterior concrete work under winter conditions.

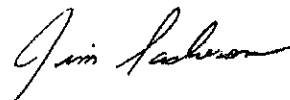
On October 10, 2014 we issued RFI #16 pertaining to the fact that the existing grades differ from the grades indicated on the contract documents by 2 feet. This resulted in CB #7 dated October 20, 2014, which impacted the height of the new Segmented Retaining Wall and added a Segmented Retaining Wall Outside of Door 243. We received a Change Order #1 for this work on November 6, 2014. The materials had to be ordered, obtained and our Subcontract was not able to mobilize for this work until November 26, 2014. This is a delay of 47 days.

At our Progress Meeting of July 2, 2014, Milwaukee County Parks requested that Door #243 be totally replaced in lieu trying to salvage the existing Door Frame, Door & Hardware as stated in the original contract documents. This frame was totally corroded through and could not be salvaged as indicated. We received CB #2 on July 11, 2015 to replace this door system with a FRP Door & Frame. We received a T&M Not-To-Exceed Change Order on August 20, 2015 to perform this work. No work could be accomplished on this change order until the FRP Door & Frame was received. This FRP System was not received until November 20, 2014 due to the Shop Drawing Process and the long lead time required for this type of Door, Frame & Hardware. This CB #2 work still has not been able to be completed because it required exterior finish work that could not be completed until the weather permitted. We are currently scheduling this exterior work. This CB #2 has significantly delayed the completion of this project. We were scheduled and ready to perform the original work at this frame on July 17th. This situation, up to this date, has delayed completion of this project 288 days.

There are several other issues, RFI's, CB's & Change Orders that have further delayed this project, all the responsibility of Milwaukee County. The Items listed above total 454 days of delays caused by Milwaukee County. These delays have subject our company to increased liability; increased uncompensated overhead; impacts our bonding capacity; subjected our company and our subcontractors to additional mobilizations and have subjected both our company and our subcontractors to perform work during the winter months. In early November the temperatures changed to the point that a significant amount of the remaining exterior work had to be suspended until the weather permitted in spring. The final exterior concrete walks, site restoration, exterior painting, exterior plaster patching and completion of waterproof flashing had to be delayed until the weather and temperatures permitted. We have just been able to resume this work. This delayed the completion of this project 5 months. We are now in conflict with another project that is now occurring within this park.

The above are the undisputable facts of the MLK Project. Any claims from Milwaukee County that the delays on the Martin Luther King Jr. Community Center are remotely the responsibility of our company are totally false and without merit. Therefore, the Declaration of Non-Responsible for this project is totally unwarranted, unjust and must be set aside.

Sincerely,



Jim Sackerson, PE  
WM. SACKERSON CONSTR. CO., INC.