



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Office of the City Attorney

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February 18, 2014

Via Hand Delivery

Mr. Jason A. Pendegraft
Pendo's Construction, Inc.
1511 Rocker Drive
Rapid City, SD 57703

RE: Notice of Intent to Terminate Contract for Cause
2011 Storm Damage Recovery Project, Schedule C dated 1/31/2013

Dear Mr. Pendegraft

This letter is to serve notice that the City of Rapid City intends to terminate the above-referenced contract with Pendo's Construction, Inc. for cause. This letter is intended to serve as the notice required by § 14.2 of AIA Document A201™-2007, made a part of the contract documents by Article 7 of the Agreement. Enclosed herewith are copies of the following:

- November 18, 2013 Letter from Upper Deck Architects to the City
- January 31, 2014 Letter from Sheffield Metals re: warranty
- February 4, 2014 Letter from Upper Deck Architects to the City.

As required by §14.2, Upper Deck Architects, as the Initial Decision Maker, has provided certification that sufficient cause exists to justify termination of the contract by the City.


As certified by Upper Deck, the City asserts the following reasons for termination of the contract for cause: repeatedly refusing or failing to supply enough properly skilled workers; failing to make payment to subcontractors for materials; and breaching a provision of the Contract Documents, to wit: failing to install standing seam metal roofs according to the manufacturer's requirements, which resulted in disqualification of the City from obtaining the manufacturer's 15-year warranty.

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Termination of the contract will be placed on the February 25, 2014 Public Works Committee agenda for the committee's review and recommendation. The committee meets at 12:30 p.m. that afternoon. It will likely be forwarded to the March 3, 2014 City Council meeting for action on the termination. The Council meets at 6:30 p.m. that evening.

In addition, a copy of this letter is being forwarded to Granite Re, Inc., as the City intends to collect on the surety provided to ensure performance of the contract.

Sincerely,


Wade Nyberg
Assistant City Attorney

WEN/

Encs.

cc: Granite Re, Inc.
Mayor Sam Kooiker
Rapid City Common Council
Terry Wolterstorff, Public Works Director
Dale Tech, City Engineer
Rod Johnson, Project Manager
Jerry Eisenbraun, Upper Deck Architects