



Jodie Clark McDougal
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Des Moines Office

July 1, 2019

Via Email

Attorney Sarah Johnson
Attorney Jamie Cucci
Attorneys for Pearl Insurance
(Insurer for Sebern Structural Service, PLLC)
Email: sjohnson@KARBALLAW.com
Email: jcucci@karballaw.com

Attorney Hal Shillingstad
Attorney for Wells + Associates, PC
Email: hal.shillingstad@ogletree.com

RE: Plumwood Terrace Condominium Association (“Association”)
Building D Rebuild Construction Project (“Project”)

Counsel:

I am writing to follow up with you on our conversations that have taken place since my prior June 11, 2019 demand letter to you.

While the Association appreciates that you have each expressed a desire to move things along and resolve the structural design defect issue that caused the Project to stall, that has not happened, and no concrete actions have been taken by Wells + Associates, PC (“Wells”), Sebern Structural Service, PLLC (“Sebern”), and/or the respective insurers of Wells and Sebern since my June 11, 2019 letter demanding that actions be taken to promptly resolve the design defect issue. In particular, Wells has neither accepted Rochon’s proposed Change Order regarding the structural steel modifications, nor formally rejected it in writing with a detailed explanation as to any such rejection. To date, Wells, through counsel, has verbally expressed to me that Wells cannot accept the proposed Change Order because it has some question/uncertainty about the proposed extension of the Contract Time requested by Rochon, but Wells has not clearly articulated to the Association or Rochon the basis for such uncertainty/questions. Sebern’s insurer, Pearl Insurance, continues to suffer from the type of inaction, including claiming that it has questions or needs further information from Rochon, but not providing any list of questions after repeated requests by myself and my co-counsel (Katelynn McCollough) for multiple weeks. The Association simply cannot wait any longer, particularly in light of the continued lack of action from Wells, Sebern, and their respective insurers, which is extremely disappointing and equates to Wells’ continued breach of its duties to the Association.

While the Association, per my advice, has not been comfortable signing off on Rochon’s proposed Change Order exceeding \$317,000 without Wells, as the prime architect, approving and signing off on it, I have come up with a workable solution to get the Project back moving, for which the Association does not need Wells or Sebern’s cooperation. Per my request, Rochon has now submitted a materials-only Change Order No. 5, which the Association, per my advice, is comfortable signing without Wells’ approval and which will allow Rochon to order the necessary materials for the structural steel modification work. Change Order No. 5 is enclosed herein. Per advice of counsel, the Association will be signing Change Order No. 5 on Monday, July 1st, and submitting it to Rochon such that Rochon will be ordering the materials immediately. The Association hereby demands that

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DAVIS BROWN KOEHN SHORS & ROBERTS P.C.

Wells immediately review Change Order No. 5 and approve and sign it, or otherwise provide the Association with a written response setting forth Wells' objections and/or comments to such change order.

Also enclosed is Change Order No. 6, which is for the remainder of the change order costs for the structural steel modification work. In other words, former Change Order No. 4 has been split, per my request, into Change Order Nos. 5 and 6. Please note that Change Order No. 6 has a further breakdown of the extended general conditions, and accompanying Change Order No. 6 is an updated Project Schedule from Rochon providing further information as to Rochon's proposed extension of the Contract Time on account of the structural design defect. The Association hereby demands that, by no later than the end of the day on Wednesday, July 3, 2019, Wells also review Change Order No. 6 and either approve and sign it or otherwise provide the Association with a written response setting forth Wells' objections and/or comments to such change order.

Likewise, if Pearl Insurance continues to insist that it has questions or needs further information from Rochon, the Association demands that Pearl Insurance provide such questions or requests for further information to Rochon, Wells, and the Association no later than by the end of the day on Wednesday, July 3, 2019.¹

Finally, please be advised that the above-demanded actions will *not* result in, or include, the Association waiving any rights against any party for any damages stemming from any past, present, or future delay, breach of contract, negligence, or other misconduct by Wells and Sebern and any other resulting damages incurred by the Association and its owners.

Thank you.

Sincerely,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.



Jodie McDougal

CC via email: Rochon Corporation

Enclosures:

- Change Order No. 5 submitted by Rochon
- Change Order No. 6 submitted by Rochon
- Updated Project Schedule submitted by Rochon

¹ Pearl Insurance's suggestion of a direct payment to the steel material supplier is not agreeable to the Association, and, likewise, Pearl Insurance's suggestion of making a separate payment for materials under a joint payee check to Rochon and its supplier is not agreeable to Rochon.



**Rochon Corporation
of Iowa**

3401 - 106th Circle - Urbandale, IA 50322
Office 515.278.9446 • Fax 515.278.9767 • www.rochonia.com
General Contractor / Design Build / Construction Services

CHANGE ORDER

SUBSTITUTE
AIA DOCUMENT G701-1987

OWNER
ARCHITECT
CONTRACTOR
FIELD

X
X
X

PROJECT:
Plumwood Terrace Fire Rebuild
4837 86th Street
Urbandale Iowa 50322

CHANGE ORDER NUMBER: 5

DATE: June 28, 2019

TO CONTRACTOR:
Rochon Corporation of Iowa
3401 106th Circle
Urbandale, IA 50322

ARCHITECT'S PROJECT NO:

CONTRACT DATE: September 14, 2018

CONTRACT FOR:

The Contract is changed as follows: Structural Steel Modifications, Includes **bid** amounts only.
Budgeted items will be included in a change order and approved after the scope of work is determined.

General Conditions	\$	1,200.00
Steel Beams and Connection Plates	\$	38,247.00
Labor to Field verify beam lengths	\$	2,100.00
Contractors Fee at 15%	\$	6,232.00

Not valid until signed by the Owner, Architect and Contractor.

The original (Contract Sum) was.....	\$	4,334,483.00
Net change by previously authorized Change Orders.....	\$	245,167.70
The (Contract Sum) prior to this Change Order was.....	\$	4,579,650.70
The (Contract Sum) will be increased by this Change Order in the amount of.....	\$	47,779.00
The new (Contract Sum) including this Change Order will be.....	\$	4,627,429.70

The Contract Time will be increased by

TBD

The date of Substantial Completion as of the date of this Change Order is April 15th, 2020

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum which have been authorized by Construction Change Directive(s).

Well + Associate, PC

ARCHITECT

520 42nd Street

ADDRESS

Des Moines, IA 50312

BY

DATE

Rochon Corporation of Iowa

CONTRACTOR

3401 106th Circle

ADDRESS

Urbandale, IA 50322

BY

DATE

Plumwood Terrace Condo, INC

OWNER

4837 86th Street

ADDRESS

Urbandale, Iowa 50322

BY

DATE



**CHANGE
ORDER**

*SUBSTITUTE
AIA DOCUMENT G701-1987*

OWNER	<input checked="" type="checkbox"/>
ARCHITECT	<input checked="" type="checkbox"/>
CONTRACTOR	<input checked="" type="checkbox"/>
FIELD	<input type="checkbox"/>

PROJECT:
Plumwood Terrace Fire Rebuild
4837 86th Street
Urbandale Iowa 50322

CHANGE ORDER NUMBER: 6

DATE: June 28, 2019

TO CONTRACTOR:
Rochon Corporation of Iowa
3401 106th Circle
Urbandale, IA 50322

ARCHITECT'S PROJECT NO:

CONTRACT DATE: September 14, 2018

CONTRACT FOR:

The Contract is changed as follows: Structural Steel Modifications, Includes **bid** amounts only.
Budgeted items will be included in a change order and approved after the scope of work is determined.

General Conditions, Supervision, Insurance, Inspections, Temporary Facilities, Heat and Temperature Control, Clean Up, Dumpsters, Temporary Fence, SWPPP Inspections	\$	110,495.00
Steel Beams and Connection Plates, in change order #5	\$	-
Shore Floor Deck and set new steel beams	\$	85,900.00
Framing check	\$	8,280.00
Drop Ceiling Framing 3" for plumbing clearance	\$	15,000.00
Extra Fire Sprinkler Work	\$	3,700.00
Extra Plumbing Piping	\$	10,950.00
Contractors Fee at 15%	\$	35,148.80

Not valid until signed by the Owner, Architect and Contractor.

The original (Contract Sum) was.....	\$	4,334,483.00
Net change by previously authorized Change Orders.....	\$	292,946.70
The (Contract Sum) prior to this Change Order was.....	\$	4,627,429.70
The (Contract Sum) will be increased by this Change Order in the amount of.....	\$	269,473.80
The new (Contract Sum) including this Change Order will be.....	\$	4,896,903.50

The Contract Time will be increased by **149 Days**
The date of Substantial Completion as of the date of this Change Order is **April 15th, 2020**

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum which have been authorized by Construction Change Directive(s).

Well + Associate, PC

ARCHITECT

520 42nd Street

ADDRESS

Des Moines, IA 50312

BY

DATE

Rochon Corporation of Iowa

CONTRACTOR

3401 106th Circle

ADDRESS

Urbandale, IA 50322

BY

DATE

Plumwood Terrace Condo, INC

OWNER

4837 86th Street

ADDRESS

Urbandale, Iowa 50322

BY

DATE



STRUCTURAL MODIFICATIONS COST

May 28th , 2019

The following cost breakdown is an estimated cost for the corrective work to reinforce the floor deck at the Plumwood Terrace Fire Rebuild project. Attached are copies of our subcontractor's scope of work and price for your review along with Rochon cost for General Conditions and FEE.

This cost estimate specifically outlines the work we have determined is needed to complete the structural repairs. This proposal includes the scope of work outlined by this proposal and the subcontractor's scope of work. Additional work may be needed as we do the work to lift the floor deck to the correct elevation.

		CO #4
General Conditions		\$111,695.00
1. Supervision	\$ 57,000.00	
2. Insurance, GL and Builders Risk	\$ 9,202.00	
3. Special Inspections	\$ 3,546.00	
4. Temporary Facilities	\$ 4,562.00	
5. Winter Heat, Temperature Control	\$ 29,685.00	
6. Job Site Clean Up	\$ 1,500.00	
7. Dumpster	\$ 900.00	
8. Temporary Fence Rental	\$ 4,500.00	
9. SWPPP Inspections	\$ 800.00	
• New Steel Beams per Structural Engineer design	\$ 38,247.00	
• Shore floor deck and set new steel beams	\$ 88,000.00	
• Complete framing check to verify that the framing is accurate and level	\$ 8,280.00	
• Frame drywall Ceiling, extra to hang the 7/8" channel in lieu of attaching it to the underside of the steel joist.	\$ 15,000.00	
•		
• Fire Sprinkler work	\$ 3,700.00	
• Plumbing work	\$ 10,950.00	
• Contractors FEE at 15%	<u>\$ 41,380.80</u>	
TOTAL		\$317,252.80



