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February 6, 2025

VIA EMAIL ONLY

Logan Carpenter
locarpenter@nd.gov

Re: Additional Information from CJ Schorsch
Our File No.: 058351.22000

Dear Mr. Carpenter:

I write in response to your letter of January 27, 2025, in which you ask for clarification on who hired the architect for the remodel and new construction completed as part of the lease agreement between Stealth Properties and the North Dakota Attorney General.

Here are the facts as Stealth understands them:

1. The Attorney General, sometime prior to April 2020, hired architect Joe Larivee to complete plans for the Attorney General for a proposed new building to accommodate BCI and possibly other AG divisions.
2. The Attorney General provided Larivee with significant details as to the Attorney General's needs and requirements including the details concerning the special needs of BCI. BCI's needs are not normal for commercial space.
3. In April 2020 Stealth entered in a lease agreement (attached) with the Attorney General. The agreement was approved by John Boyle from OMB. Under the lease, the parties agreed that Stealth would remodel the leased premises and add new construction. The lease does not include any agreed terms on the details of either. There was no agreed upon final design or price. Rather, the parties agreed the Attorney General would be responsible for the additional cost above \$220 per square foot on the new construction and \$50.00 per square foot on the remodel of the current space.
4. The parties agreed that Stealth would build out the remodeled space and new construction as directed by the Attorney General, with the Attorney General making all of the decisions on what it wanted done.

5. Stealth believes John Boyle from OMB suggested that Joe Larivee complete the plans and designs because of his familiarity with the Attorney General's needs.
6. Mr. Larivee was at that time employed at Bartlett and West.
7. The Attorney General requested that Stealth pay for Mr. Larivee's services and include the costs in the construction/remodel costs reimbursed by the AG's office.
8. Stealth is unsure why the Attorney General did not want to directly hire Bartlett and West, but believes it was because of concerns about restrictions on the use of state funds.
9. Representatives of the Attorney General and C.J. Schorsch, on behalf of Stealth, then jointly worked with Larivee and his team to complete the remodel and new construction. Although paid by Stealth, Larivee is properly considered the Attorney General's architect as the final decisions concerning his work were made by the Attorney General.

During the interview with Mr. Schorsch, Ms. Monson asked about "change orders." As Stealth attempted to explain during the interview reference to change orders is not appropriate as part of this project. Stealth believes it is important for members of the commission to understand that Stealth did not contract with the Attorney General to complete the remodel and new construction for a fixed amount. There was no agreement on the plans of the remodel or new construction, the materials, or the cost. There was only agreement that Stealth would complete the remodel and new construction to the Attorney General's specifications with a cost split as set out in the lease.

A "change order" is a "written order to the contractor signed by the owner authorizing an addition, deletion, or revision in the work, or an adjustment in the contract price or the contract time issued after execution of the agreement." 2A Nichols Cyc. Legal Forms § 35:249. Here there were no "change orders" as there was no contractual agreement on the scope of the remodel, scope or size of new construction, or costs. There was never any "addition, deletion, or revision in the work, or an adjustment in the contract price" after execution of the lease. It was always the parties' agreement that the Attorney General would decide all changes as the project moved forward with the cost paid as indicated in the lease.

The parties discussed an estimated budget, based on the estimated cost of materials, cost of labor, and the Attorney General's initial thoughts concerning what it wanted done as part of the remodel and what new construction it wanted added. The project cost more than these projections because of increased input costs and because of the decisions made by the Attorney General. The project did not cost more because of "change orders." No one has ever contended that the Attorney General did not direct the construction or that the Attorney General did not make all of the final decisions concerning the construction.

February 6, 2025
Page 3

Please let me know if you have any additional questions.

Sincerely,

A handwritten signature in black ink, reading "Monte L. Rogneby". The signature is written in a cursive style with a large, sweeping initial "M".

Monte L. Rogneby

MLR:cjt

Enclosure