



Vero Beach | Tradition | Palm Beach Gardens

March 27, 2025

Robert S. Skok  
Capital Projects Manager  
IRC Building & Facility Services  
1800 27<sup>th</sup> Street  
Vero Beach, FL 32960

**RE: Notice of Claim for Additional Construction Funds**

Dear Mr. Skok,

Per our phone conversation Friday, March 21st regarding the Latent Defect Allowance fund exceeding \$60,000.00 and the executed Tripartite Tender Agreement Language.

The parties agreed in section 3.06 that the contractors' assumptions & clarifications will take precedence over all other contract documents in the case of any discrepancies.

Supplementary Conditions - 00800-3, section 3.06 Coordination of Plans, Specifications and Special Provisions

A. In case of discrepancy, the governing order of the documents shall be as follows:

1. Contractors' Assumptions & Clarifications
2. Written Interpretations
3. Addenda
4. Specifications
5. Supplementary Conditions to the General Conditions
6. General Conditions
7. Approved Shop Drawings
8. Drawings
9. Referenced Standards

1. Proctor Constructions Assumptions & Clarifications, 10/17/2024 Revised 11/13/2024

General

19. Proposal is valid for 30 days.

- i. PCC President, John Granath, signed the Tripartite Tender Agreement on 11/22/2024. PCC did not receive the executed Tripartite Tender Agreement until 1/2/2025. (41 Calendar days after PCC signed agreement)
- ii. The following subcontractors received price increases from their suppliers on 1/1/2025 resulting in an increase in their proposal price.
  - a. Division 05-5133 Metal Ladders: \$300 price increase
    - i. Tripartite Tender Agreement Budget: \$9,300.00
    - ii. Subcontractor Contract Price: 9,600.00
  - b. Division 23-0000 HVAC: \$5,485.00 price increase



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- i. Tripartite Tender Agreement Budget: \$61,550.00
- ii. Subcontractor Contract Price: \$67,035.00

2. Proctor Constructions Assumptions & Clarifications, 10/17/2024 Revised 11/13/2024

Division 1, Procurement and Contracting Requirements

- 1. We include a contingency of \$60,000 to cover the change orders provided with the Invitation to bid. We provide this contingency as the information provided is insufficient to provide an accurate price.
- 8. We assume contract will be awarded as a Cost Plus a fee without a Guaranteed maximum price. We also assume that general conditions are not fixed. The attached estimate should be treated as a cost control budget to complete buildout of the fire station.

The parties agreed there would be unforeseen latent defects and that providing an accurate price to fix all defects was incapable at the time of bidding. It was not until PCC started their scope of work that all latent defects started to show. To date, PCC has used \$58,379.69 of the \$60,000 Latent Defect Allowance leaving a remaining balance of \$1,620.31.

3. Proctor Constructions Assumptions & Clarifications, 10/17/2024 Revised 11/13/2024

Division 9, Finishes

- 4. We include an **ALLOWANCE of \$14,929** for countertops and shower surround. Countertops are priced as 3cm Group A Pompeii Quartz. Shower surrounds priced as 2cm Group A Pompeii Quartz

The parties agreed in Division 09, item 4 of the contractors Assumptions & Clarifications, that an allowance was carried for PCC to install Pompeii Quartz at the women's shower in lieu of cultured marble. A request for information (RFI #5) was submitted on 2/27/2025 requesting approval to move forward with Pompeii Quartz. The architect's response was to move forward per plans using cultured marble. There is a \$9,611 increase in price to install cultured marble, which will result in exceeding the \$60,000 Latent Defect Allowance by \$7,990.69. Proctor Construction cannot move forward with the procurement and installation of the women's restroom showers until a decision is made as to what direction to move forward in.

The two Work Change Directives supporting this claim are currently drafted and ready to be submitted for approval.

- 1. Work Change Directive #011 is for the additional cost to install cultured marble in the women's restroom in lieu of the Pompeii Quartz per Proctor Constructions Assumptions & Clarifications, Division 09, item #4 for \$11,052.65.
- 2. Work Change Directive #012 is for the price increase incurred at the first of the year resulting in budget overage of those two scopes of work per for \$6,652.75.

In summary, all parties accepted Proctor Constructions Assumptions & Clarifications dated 10/17/2024 revised 11/13/2024 during the bidding phase and agreed they are to take precedence over all other contract documents in the case of discrepancies when the Tripartite Tender Agreement was fully executed and distributed to all associated parties. Please understand this is a time sensitive matter and is impacting the substantial completion date daily.



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Respectfully,

A handwritten signature in blue ink that reads "Michael Topping". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

Michael Topping  
Project Manager

CC: Indian River County Capital Projects: Robert Skok, Bradley Mower  
Proctor Construction Company, LLC: John Granath, Rick MacDonald, Anderson Proctor