



TEXAS TECH UNIVERSITY SYSTEM

Office of General Counsel

October 19, 2018

VIA ELECTRONIC
AND CERTIFIED MAIL

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Re: Corrective Costs for MSB II

Gentlemen,

The Office of General Counsel of Texas Tech University System has been advised by the Texas Tech University System's Office of Facilities, Planning, and Construction of your involvement in the professional services and/or construction of the Medical Science Building II, which is a part of the Texas Tech University Health Sciences Center El Paso campus ("TTUHSC El Paso").

Although litigation in this matter can hopefully be avoided by the parties working together, as a precautionary measure, Texas Tech University System on behalf of TTUHSC El Paso (hereinafter collectively referred to as "TTUS") has retained the services of Winstead, PC. If you have internal counsel, or have likewise retained outside counsel in this matter, I respectfully request you forward this letter to those individuals and inform me of who is representing you so I can communicate with them in the future.

As you are no doubt aware, most of the construction on this building has been suspended to address structural concerns that first became apparent in connection with obvious concrete deflection. TTUS has now incurred, and will continue to incur, substantial cost to investigate and evaluate these issues, including retaining Wiss, Janney, Elstner Associates, Inc. (“WJE”) to evaluate the causes for the deflection, perform peer reviews of repairs, and perform construction period services. At this point, the estimated costs for services performed and to be performed by WJE is approximately \$450,000. WJE’s analysis determined that the cause was due to issues with both the structural design and its construction.¹

The contracts and agreements entered into between TTUS and the various parties associated with this project provided for definitive costs for both the design and construction of MSB II. Accordingly, TTUS expects and requires that the requirements in the contracts and agreements be honored. Based on the report prepared by WJE, TTUS also requires that the responsibility for costs associated with WJE’s services, the remedial and corrective measures necessary to complete the project in a safe manner for its original purpose, as well as any additional quality control, oversight costs, and other costs/damages incurred by TTUS will be borne by the erring parties (cumulative referred to herein as “Corrective Costs”).

TTUS will not be responsible for any of the Corrective Costs associated with the structural issues we are encountering. Consequently, I ask that each of you work together to determine how you will divide up the responsibility for the Corrective Costs. I am optimistic that we can amicably resolve this and avoid the time and expense of litigation. To the extent there are additional costs recoverable pursuant to the terms of the contracts and agreements, TTUS reserves its rights to seek those costs at a later date.

Please feel free to contact me should have you have any additional questions or concerns.

Respectfully yours,



Eric Bentley
Vice Chancellor and General Counsel
Texas Tech University System

Cc: Billy Breedlove, Vice Chancellor for Facilities Planning and Construction, Texas Tech System

Stewart Whitehead, Managing Shareholder, Winstead PC

¹ If you have not received a copy of WJE’s analysis, we will be happy to provide you one.