



The resulting damage to TransAmerica's finished or nearly finished work resulted in a never ending battle with the Project Team where TransAmerica would complete their work, they would announce they are done with a particular item and by the time Lend Lease and/or SHP had gone back into a dormitory to confirm the work as being complete it was damaged again.

TransAmerica expended hundreds of hours of drywall repair, re-painting and finish carpentry repairs in virtually every building which is defined in the Damages Section of this report.

**G. Extended Punchlist Process**

The General Conditions included in the Project Manual are very specific as to the process, timeframes and expectations when the Project or a portion of the Project was ready for inspection and punchlist.

**10.1 CONTRACTOR'S PUNCH LIST**

**10.2.1** When the Contractor considers the Work, or designated portion thereof, nearly complete, the Contractor shall inspect the Work and prepare a list of defective, incomplete, or unworkable Work (the "Contractor's Punch List"). The Contractor shall list all items of Work not in compliance with the Contract Documents, including items the Contractor is requesting to be deferred.

**10.2.2** The Contractor shall proceed to correct all items listed on the Contractor's Punch List and certify that the incomplete items listed on the Contractor's Punch List are to its knowledge an accurate and complete list by signing said Punch List.

**10.2.3** The Contractor's failure to include an item on the Contractor's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.

**10.2.4** The Contractor shall submit the signed Contractor's Punch List to the Construction Manager and the Architect, together with a copy of the Architect's Review of the Work.

**10.3 ARCHITECT'S REVIEW**

**10.3.1** Within seven (7) days of receipt of the signed Contractor's Punch List, the Architect and the Construction Manager shall jointly conduct an inspection or review of the Work, taking account of any deferrals.

**10.3.2** Within seven (7) days of their acceptance of the Contractor's request, the Architect and the Construction Manager shall conduct the Architect's Review to determine whether the Work, or the designated portion thereof, is in conformity with the Contract Documents. The Construction Manager shall notify the Contractor, the Architect and the Commission scheduled time of the Architect's Review.

**10.3.2.1** The Architect and the Construction Manager shall include comments from the Commission in the Architect's Review.

**10.3.3** Within seven (7) days of the Architect's Review, the Construction Manager shall submit to the Commission a list of items to be corrected, in accordance with the Contract Documents.

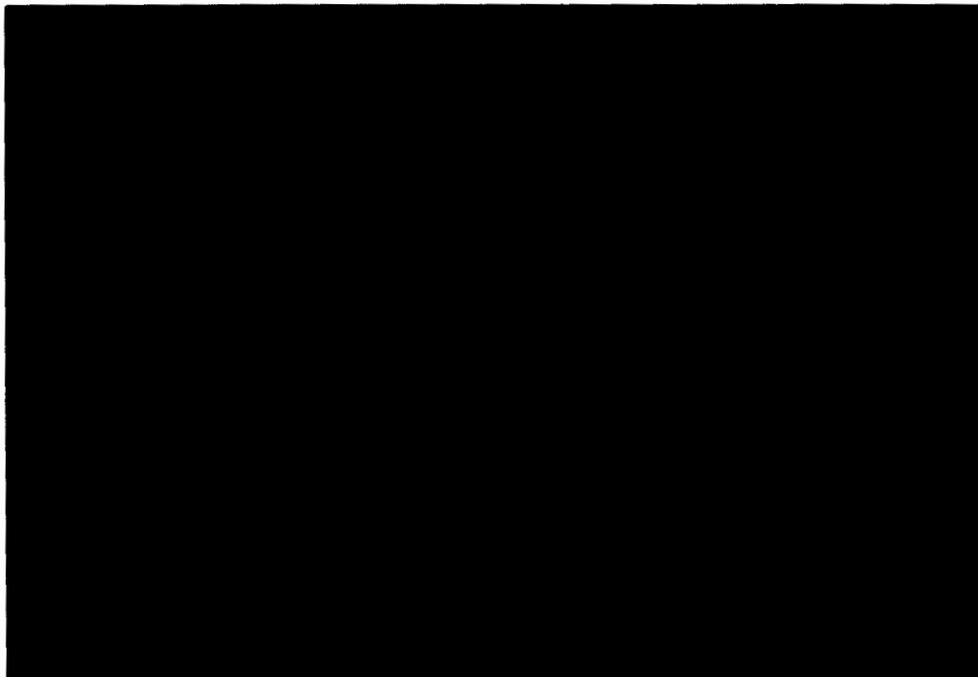
Instead of the punchlist process being a mechanism to ensure compliance with the Contract Documents, it became a weapon to be used by SHP and Lend Lease to have TransAmerica perform work not included in their scope, delay TransAmerica's ability to move on with the

next phase of work because required inspections by the State of Ohio could not be scheduled, or to have TransAmerica perform repair/rework to their finished elements that had become damaged by others.

An example of the punchlist process being used to force TransAmerica to perform work not in their scope and not required by the Contract Documents is shown on the excerpt from the framing punchlist for OSD Dorm #7 – item #7 below. The punchlist item was created before the exterior siding was installed and several locations where the prefabricated sheathing panels butted together you could see some daylight from the interior side. SHP created this punchlist item.

4		8/24/2011	OSD #7	General	Above Ceiling	Finish insulation install for end gables.
5		8/24/2011	OSD #7	General	Above Ceiling	Fire caulk all top plate penetrations in rated walls.
6		8/24/2011	OSD #7	General	Above Ceiling	Close all gaps and holes in exterior gable end walls (lifting tabs?).
7						
8		8/24/2011	OSD #7	General	Above Ceiling	All wood above bearing must be non-combustible (many instances of standard wood framing used for blocking/all the catchers for drywall).
9		8/24/2011	OSD #7	General	Above Ceiling	Install draftstopping per PR 18.

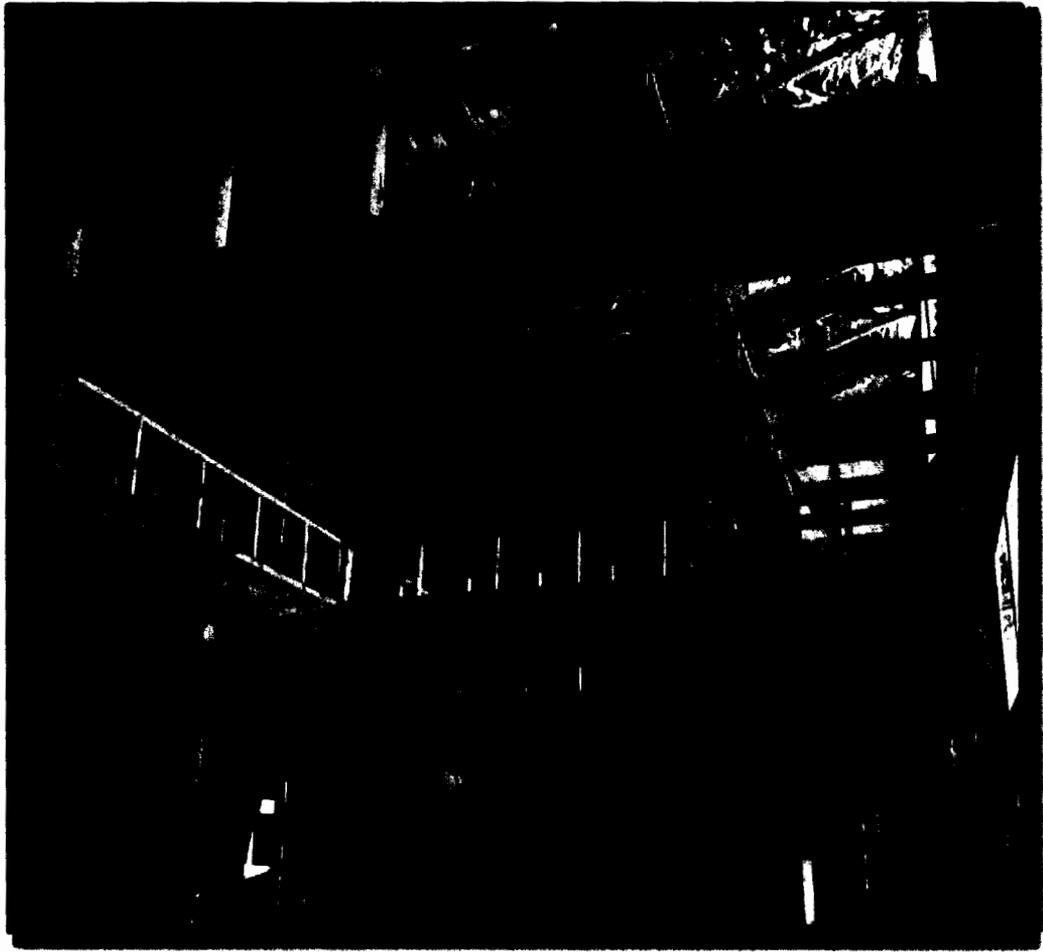
TransAmerica went back to the area in question on three (3) different occasions in an attempt to satisfy SHP and Lend Lease who were demanding additional caulking be applied each time a re-inspection was called for by TransAmerica. Finally TransAmerica just caulked every joint and connection point as shown on the attached photo.



This caulking end result then became the standard by which all other calls for inspection of exterior framing were compared against. It resulted in virtually every connection point of all building being caulked in this manner going forward.



Rough carpentry inspections were called in by TransAmerica. SHP and Lend Lease spent considerable effort to find fault with the alignment of the work being done by TransAmerica. SHP and Lend Lease began to work together to find a reason to reject the framing done by TransAmerica.



**Joshua L. Predovich**

**From:** Josh Predovich <jpredovich@shp.com>  
**Sent:** Monday, February 27, 2012 11:45 AM  
**To:** Frank, Jr.; Greg; Greg Smith  
**Subject:** OOCB Dam CA walls out of plumb

**Guy:**  
**There are a couple of different lines of thought out there. NAMB is referenced in the spec., but is written by home builders and is biased.**

From the National Association of Home Builders Performance Guidelines:

"1. Basement Walls - Concrete block or poured concrete

Walls shall not be out of plumb greater than 1 1/2 inches in 8 feet when measured from the base to the top of the wall.

2. Structural - Wood frame wall is out of plumb

Wood framed walls shall not be more than 3/8 inch out of plumb for every 32 inches in any vertical measurement.

3. Structural - The wall is bowed

All interior and exterior walls have slight variances in their finished surfaces. Walls shall not bow more than 1/2 inch out of line within 32 inch horizontal measurement or 1/2 inch within any 8 foot vertical measurement."

Another standard that is used, but not referenced in the spec. is RS Means "Residential & Light Commercial Construction Standards" From Means chapter on Wood Framing -- Allowable Tolerances:

"...Plumbness tolerance is important because out-of-plumb walls and partitions can be noticeable and can affect the successful application of many finish materials. The 'Quality Standards for the Professional Remodeler' and the Insurance/Warranty Documents require that walls be plumb to within 1/4 inch in any 32 inches vertical measurement."

**The NAMB would allow up to 1 1/2 inches in a typical 8 foot high wall.  
RS Means says a max of 3/8 inches in an 8 foot wall is ok.  
I know that isn't a definitive answer, but at least gives us a place to start.**

Josh

Several days after this e-mail exchange noted above, SHP sent Lend Lease the following letter rejecting the installed work and stating the walls were out of alignment, out of square, and out of plumb.



March 6, 2011

Mr. Clay Keith  
Sr. Project Manager  
Lend Lease (US) Construction Inc.  
502 Morse Road  
Columbus, OH 43214

Re: **OSDB Rejection of Defective Work**

Dear Clay,

~~On Tuesday, March 6, 2012, SHP & Lend Lease toured OSD Dorm 1, 6 & 7 with Chris Simonson, Chris Schmitt for the Dept of Defense, and Madison Dolen, OSFC. The tour was organized as a review of the fit and finish of the interior drywall walls. For our system, there were numerous areas which were out of alignment, out of square and out of plumb.~~

Section 061000 & 061753 of the bid set specifications reference tolerance as defined by the American Forest & Paper Association "Details for Conventional Wood Frame Construction" and "National Design Specifications for Wood Construction" and it's "Supplement" (which reference the American Home Builders Associate tolerances):

"Structural - Wood frame wall is out of plumb

Wood framed walls shall not be more than 3/8 inch out of plumb for every 32 inches in any vertical measurement.

Structural - The wall is bowed

All interior and exterior walls have slight variances in their finished surfaces. Walls shall not bow more than 1/2 inch out of line within 32 inch horizontal measurement or 1/2 inch within any 8 foot vertical measurement."

Per the tolerances outlined above, please consider this letter a notification of Rejection of Defective Work as defined by Article 3.1 of the General Conditions from the bid set specifications.

~~SHP is requesting framing with tolerances of OSDB, OSFC, Lend Lease and TransAmerica to ensure work complies with the bid set OSDB to correct the defective work.~~

Please let me know if you have any questions in regards to the above.

Sincerely,  
SHP LEADING DESIGN

Joshua L. Predovich, Assoc. AIA, LEED AP

Cc: Madison Dolen, OSFC

Chris Simonson, OSDB

Andrew Maletz, SHP

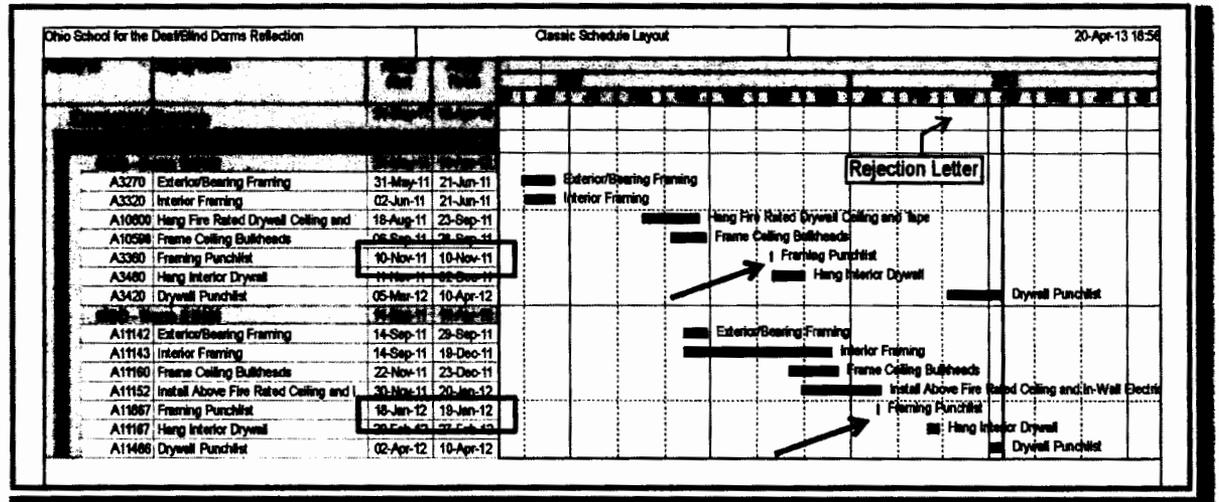
<b>COLUMBUS</b> 4808 Montgomery Road Suite 400 Columbus, Ohio 43226 613.361.2112 main 613.361.6101 fax	<b>HAMILTON</b> 296 High Street Hamilton, Ohio 43011 613.863.9441 main 613.863.5595 fax	<b>COLUMBUS</b> 290 Civic Center Drive Suite 200 Columbus, Ohio 43215 614.223.2124 main 614.223.2192 fax	<b>DENVER</b> 1679 Brookview Suite 1300 Denver, Colorado 80202 303.209.7086 main 303.209.7883 fax
--	---	--	---

Steve Hancock Post Inc.

TransAmerica challenged this rejection of their work and forced SHP and Lend Lease to demonstrate where the cited specifications and referenced standards actually are contractual obligations.

It is important to note that the letter was sent on March 6, 2012 (date on letter incorrect as noted above, see the first sentence of the letter for correct date). A review of the schedule from that time period shows that TransAmerica completed the punchlist for OSD Dorm 7 on

November 10, 2011. The rejection letter issued by SHP was issued on March 6, 2012, nearly 4 months after the work was completed and punchlisted.



This issue ultimately went away quietly after a TransAmerica requested building by building tour on March 12, 2012 with SHP and Lend Lease in which they took a level and square to check every wall in question.

This pattern of delaying issuance of punchlist items, adding items on the punchlist that were not part of TransAmerica's scope, using the punchlist as a weapon to gain compliance, or using the disapproval of certain work to mask the inability of the Project Team to get necessary inspections that were still tied up with the State of Ohio plans examination process went on for the entire Project.

## V. TransAmerica Notices

Prior to mobilizing on site in early March 2011, TransAmerica provided written notice on February 17, 2011 stating additional costs and requests for time would be forthcoming because the complete and coordinated Construction Sets of plans had not been issued as promised.

Ohio School for the Deaf & Ohio School for the Blind

February 27, 2011

Clay Keith  
Project Manager  
Bovis Lend Lease, Inc.  
Ohio State School for the Blind and Ohio State School for the Deaf  
502 Morse Rd, Columbus OH 43214  
T: 614.732.5275 | F: 614.732.5295  
Clayton.Keith@bovislendlease.com

**RE: Issues - Contract Drawings**

As you are aware, our primary work is to provide and coordinate the production of drawings for the project. The drawings have been provided to the architect. It has impeded our ability to produce accurate shop drawings, complicated the submittal process, and resulted in many of our RFI answers being tied to the new drawings. Additionally, we are increasingly concerned that materials anticipated to be ordered and delivered per the Construction Schedule will be late and may subject us to costs due to material escalation. Ultimately, the lack of drawings will prevent us from performing as required. Thus, per section 8.1.1 of the contract we are required to notify you, and the Architect (Through you); that our ability to execute the project per the contract schedule is being hindered.

8.1.2.1 At this time we are unable to anticipate the costs. However an adjustment of the Contract Schedule and prompt issuance of the drawings would greatly reduce the potential for more costs.

8.1.2.2 The circumstances responsible for causing impact are the lack of completed drawings. Starting approximately January 10, 2011, disruption is ongoing.

8.1.2.3 We must be afforded time to review and coordinate with our subcontractors any changes in the drawings. This will impact all activities, primarily the framing and trusses. However, due to the anticipated start date on site, coordinating a new set of drawing with even "unchanged" areas of the work will require some time, approximately 2 weeks. Additional changes, unknown changes, may cause other impacts.

8.1.2.4 The anticipated duration is unknown at this point.

8.1.2.5 In addition to the delay, we request that the Contract Schedule be revised to reflect the delay, promptly with cooperation to shop drawings, materials, and subcontractors.

Regards,

Joshua Wilhelm  
Project Manager  
TransAmerica Building Company, Inc.  
2000 W. Henderson Road #500  
Columbus, Ohio 43220  
Tel: (614) 457-8322  
Fax: (614) 457-2078  
jwilhelm@TAbuilding.com  
www.TAbuilding.com

TransAmerica followed up the February 17, 2011 written notice letter with another letter on February 23, 2011.

Ohio School for the Deaf & Ohio School for the Blind

February 23, 2011

Clay Keith  
Project Manager  
Hovis Lend Lease, Inc.  
Ohio State School for the Blind and Ohio State School for the Deaf  
502 Morse Rd, Columbus OH 43214  
T: 614.732.5275 | F: 614.732.5295  
Clayton.Keith@hovisten.lease.com

RE: Notice - Revised Drawings

~~As discussed in the previous notice letter to the State OSD&B, I am re-issuing this notice originally issued January 19, 2011 with~~  
~~small. As of today, February 23, 2011, no response has been received. A duplicate will also be sent via U.S. Mail.~~

Per your conversation yesterday (2-16-11) with Bill Kowlewich and as we have discussed at the previous program meetings (January 24<sup>th</sup> and February 7<sup>th</sup>) we have not yet received the revised / corrected / updated drawings for use on the OSD&B project. These drawings have been pending for 6+ weeks. It has impeded our ability to produce accurate shop drawings, complicated the submittal process, and resulted in many of our RFI answers being tied to the new drawings. Additionally, we are increasingly concerned that materials anticipated to be ordered and delivered per the Construction Schedule will be late and may subject us to costs due to material escalation. Ultimately, the lack of drawings will prevent us from performing as required. Thus, per section 8.1.1 of the contract we are required to notify you, and the Architect (Through you); that our ability to execute the project per the contract schedule is being hindered.

8.1.2.1 At this time we are unable to anticipate the costs. However an adjustment of the Contract Schedule and prompt issuance of the drawings would greatly reduce the potential for more costs.

8.1.2.2 The circumstances responsible for causing impact are the lack of completed drawings. Starting approximately January 10, 2011, disruption is ongoing.

8.1.2.3 We must be afforded time to review and coordinate with our subcontractors any changes to the drawings. This will impact all activities, primarily the framing and trusses. However, due to the anticipated start date on site, coordinating a new set of drawing with even "unchanged" areas of the work will require some time, approximately 2 weeks. Additional changes, unknown changes, may cause other impacts.

8.1.2.4 The anticipated duration is unknown at this point.

8.1.2.5 To minimize the impact, we suggest adjusting the Contract Schedule to reflect the delay, promptly make corrections to shop drawings to incorporate any changes, and issue drawings promptly.

Regards,  
  
Joshua Wilkerson  
Project Manager  
TransAmerica Building Company, Inc.  
2000 W. Henderson Road #300  
Columbus, Ohio 43220  
Tel: (614) 457-8322  
Fax: (614) 457-2078  
jrwilkin@TAbuilding.com  
www.TAbuilding.com

Lend Lease responded to TransAmerica's notice letters on March 1, 2011 by stating that there was no contractual requirement for updated Construction Sets of plans even though commitments had been made by the Project Team to provide such plans and that these requests were reasonable given the current state of the plans. Lend Lease went on to state that updated Construction Sets of plans would be available the same day as their letter. As previously noted these revised or updated Construction Sets of plans were never provided.

TransAmerica and the other Prime Contractors made repeated requests for these documents to be provided. The Project Team continued to promise they would be forthcoming for weeks and months after the initial notice letters provided by TransAmerica. These repeated requests were ignored. The Project Team acknowledged that the Project had exposure because of the state of the design documents being used to construct the dormitories and the fact that these revised Construction Sets of plans were promised to the Prime Contractor many times.

**Joshua L. Predovich**

**From:** Keith, Clayton <Clayton.Keith@lendlease.com>  
**Sent:** Friday, May 06, 2011 4:39 PM  
**To:** 'Josh Predovich'  
**Cc:** Kirlangitis, Karin  
**Subject:** FW: OSD&B, Construction Drawings

Josh

~~See message below, we are going to get hit with costs for many wall that is being on OSD 5 and it will come back to confusion on the drawings.~~

You stated in last weeks' meeting that drawings were going to be done Wednesday the 4<sup>th</sup> and be at Key for printing on Thursday the 5<sup>th</sup>. What is the status??

Clay

---

**From:** Josh Wilhelm [mailto:jwilhelm@tabuilding.com]  
**Sent:** Friday, May 06, 2011 4:36 PM  
**To:** Keith, Clayton; Kirlangitis, Karin  
**Cc:** Smith, Jr., Jim  
**Subject:** OSD&B, Construction Drawings

Clay,

As we discussed, we are working on wall panels and lay-outs and still running into dimensional issues in the Architectural drawings. ~~We are not sure the Construction Set of drawings is ready.~~ We are concerned that we will continue to have these problems as we begin erecting the buildings next week. At this point we plan to lay out off of the "Known" walls. Bearing walls shown on the approved truss and construction foundation drawings we have corrected in RFIs and with our surveyor.

~~The final solution is to have the corrected construction set ready.~~

Please advise.

The Project Team knew precisely the impact the lack of complete, buildable and permitable plans was having on the Prime Contractors, but instead of providing the required information the Project Team chose to redirect the focus of their failures to TransAmerica and blame them for the problems with the Project.

The failure of the OSFC and its agents to provide the revision Construction Sets of plans as they represented on at least a dozen occasions prevented TransAmerica from submitting any further detailed claim information and fully recognizing the impact of all the delays and disruptions taking place on the Project until much later in time. The OSFC, through the actions of its agents SHP and Lend Lease, waived reliance on the thirty-day (30) time period under paragraph 8.3.1 of the General Conditions for a Contractor to submit its certified claim. The OSFC did so when it allowed its agents, SHP and Lend Lease, to withhold the promised revised Construction Sets of plans to TransAmerica. This fact prevented TransAmerica from even beginning to quantify the impacts and damages during the thirty (30) day required period. TransAmerica attempted to quantify its damages with submission of its first certified claim on March 8, 2012. However, the full magnitude of the design and management problems was not fully realized until after a series of public records

request were made that TransAmerica began to understand the full and complete impact the lack of permittable and buildable plans had on their firm. TransAmerica issued a Supplemental Certified Claim for \$3,048,294.13 on November 7, 2012 which included additional costs for delay damages not previously understood at the time of its initial Certified Claim.

Lend Lease denied the March 8, 2012 Supplemental Certified Claim based on the failure to comply with the written notice provisions stated in paragraph 8.1.1 of the General Conditions.

## VI. Damages

### a. Time Based Cost Background Information

On September 25, 2011 Change Order #682-11087-023R-013 was fully executed. This Change Order extended the completion date for the Project Completion date to February 14, 2012. TransAmerica's time based costs are a result of the Project being extended beyond February 14, 2012 for reasons not associated with TransAmerica. TransAmerica is claiming certain time related costs incurred from February 14, 2012 through August 31, 2012. TransAmerica is not claiming any time related costs after August 31, 2012 even though TransAmerica maintained a presence on site through October 4, 2012.

### b. Extended General Condition Costs

The costs included in this section relate to certain time related costs that TransAmerica incurred between February 14, 2012 and August 31, 2012. These costs are substantiated by the September 2012 Job Cost Report.

Description	Actual Costs	Category Total
<b>Extended General Conditions</b>		
Start of Delay Period	February 14, 2012	
Conclusion of Delay Period	August 31, 2012	
Total Calendar Days	199	
Cost Code - 01-040 - Clean Up/Building	\$ 90,915.49	
Cost Code - 01-080 - Temporary Construct/Security	\$ 22,033.38	
Cost Code - 01-120 - Safety	\$ 4,920.35	
Cost Code - 01-130 - Temporary Electric	\$ 1,962.32	
Cost Code - 01-320 - Office & Sheds	\$ 2,636.80	
Cost Code - 01-470 - Toilets	\$ 4,440.00	
Cost Code - 01-490 - Trash Remove/Load/Haul	\$ 9,136.39	
Cost Code - 01-520 - Temporary Water	\$ 192.81	
	<b>Subtotal GC's</b>	
	\$ 136,237.54	
Overhead (10%)	\$ 13,623.75	
	\$ 149,861.29	
Profit (5%)	\$ 7,493.06	
	\$ 157,354.36	
Bond (2%)	\$ 3,147.09	
<b>Category Total</b>		<b>\$ 160,501.45</b>

**C. Additional & Extended Trade Supervision Costs**

The costs included in this section relate to certain additional supervision costs dictated by the schedule compression and acceleration of various work activities prior to February 14, 2012 as well as the extension of all related supervision that TransAmerica incurred between February 14, 2012 and August 31, 2012. These costs are substantiated by the September 2012 Job Cost Report.

Description	% of Time	Hourly Rate	Hours	Calculation	Category Total
<b>Additional &amp; Extended Trade Supervision</b>					
Jason Kuhn (11/15/11 to 8/31/12)	70%	\$ 44.70	1,891.50	\$ 59,185.04	
Jack Fowler (12/20/11 to 8/31/12)	70%	\$ 39.00	708.00	\$ 19,328.40	
K.C. Saint (12/20/11 to 8/31/12)	70%	\$ 39.00	1,589.50	\$ 43,393.35	
Bruce Bowman (2/14/12 to 6/19/12)	100%	\$ 47.54	497.50	\$ 23,651.15	
				Subtotal PM Labor	\$ 145,557.94
Overhead (10%)					\$ 14,555.79
				Subtotal	\$ 160,113.73
Profit (5%)					\$ 8,005.69
				Subtotal	\$ 168,119.41
Bond (2%)					\$ 3,362.39
<b>Category Total</b>					<b>\$ 171,481.80</b>

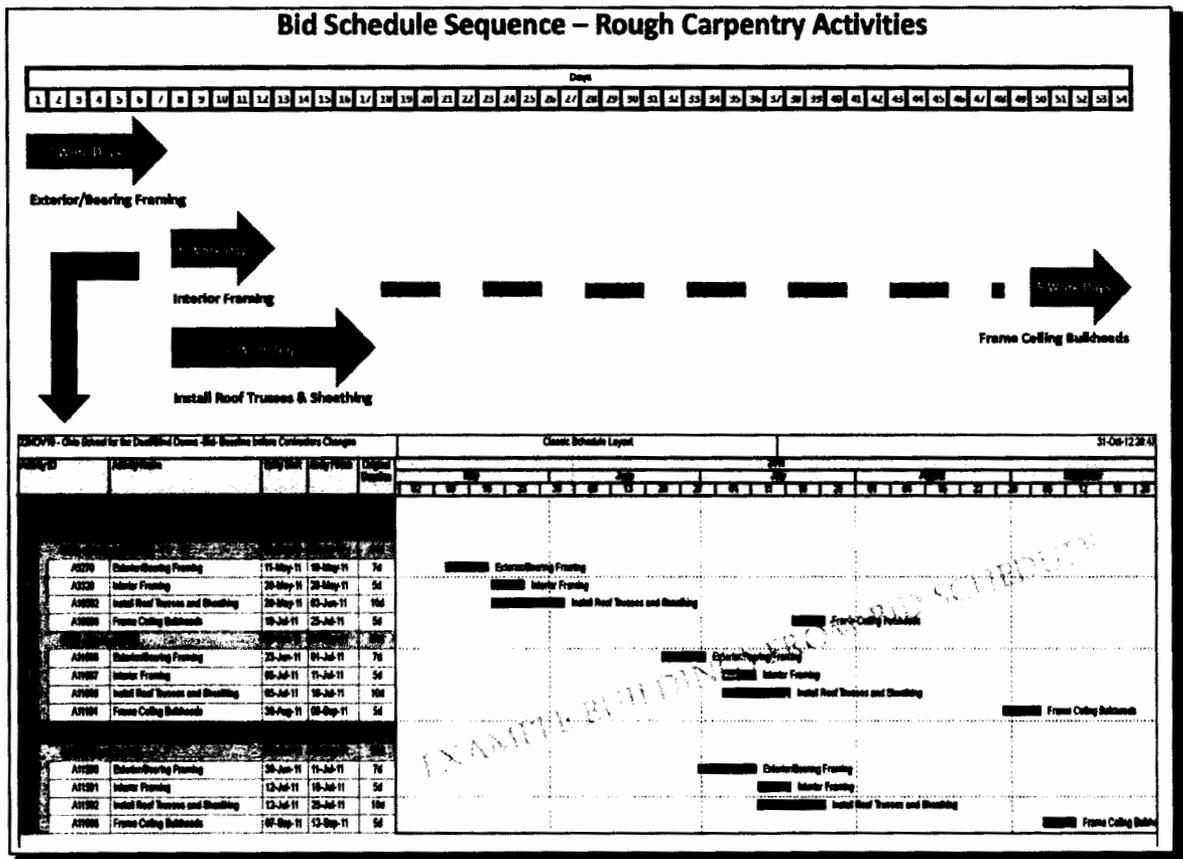
**d. Extended Project Management Costs**

The costs included in this section relate to certain additional Project Management costs dictated by the problems TransAmerica encountered on the Project, increased and extended Project Management time related to all TransAmerica management personnel incurred between February 14, 2012 and August 31, 2012. These costs are substantiated by the September 2012 Job Cost Report.



**g. Loss Of Productivity For Rough Carpentry**

The construction activities associated with this section of damages are exterior/bearing framing, interior framing, installation of roof trusses & sheathing, and framing of ceiling bulkheads. The Bid Schedule showed a sequence for the three of these rough carpentry activities.



TransAmerica developed an Estimate/Buy Out sheet during the bidding process of the Project. They utilized sub input, their own experience in similar projects, and the Bid Schedule information noted above to develop their estimate of the total rough carpentry costs for the Project.

**TransAmerica Rough Carpentry Labor & Equipment Estimate**

Crew Size	Duration	Hours	Wage Rate	Labor Cost	Bonus	Total Labor Cost	Equipment	Total Building Cost	Total Project Cost
6.00	2 weeks	480	41.77	20,047.70	2,100.00	22,147.70	2,000.00	24,147.70	144,886.20
6.00	2.5 weeks	600	41.77	25,059.62	2,400.00	27,459.62	2,000.00	29,459.62	176,757.74
									<u>321,643.94</u>

TransAmerica Buy Out Sheet

CHS SCHOOL FOR THE DEAF / CHS STATE SCHOOL FOR THE BLIND RESIDENTIAL DORMITORIES OFFERS TO / SCHEDULE VALUES	CHS 26, 2012	ARRANGEMENTS	NET G/L	FINAL VALUE	Cost Code
<b>GENERAL CONDITIONS</b>					
Clean up - general building	16,700.00			16,700.00	
Final clean up	10,047.70			10,047.70	
Temporary construction / security	40,000.00			40,000.00	
Safety	3,000.00			3,000.00	
Temporary electric	3,100.00			3,100.00	
Temporary heat	1,000.00			1,000.00	
Lights	10,000.00		(1,700.00)	10,000.00	
Temporary office / admin	11,000.00		(1,070.00)	11,000.00	
Plumbing / gas	1,000.00			1,000.00	
Superintendence	100,000.00			100,000.00	
Temporary phone	4,070.00			4,070.00	
Toilet	10,000.00			10,000.00	
Temporary toilet	11,000.00			11,000.00	
Structural reinforcement	1,000.00			1,000.00	
Tooth removal	17,000.00			17,000.00	
Temporary water	600.00			600.00	
Steel	400.00			400.00	
Hand		20,100.00		20,100.00	
Project Manager		40,000.00		40,000.00	
			20,270.00	20,270.00	
<b>IT / IT SERVICE</b>	1,000.00			1,000.00	CP20
<b>CONCRETE GRADE</b>	20,000.00			20,000.00	CP20
<b>CONCRETE FOUNDATION</b>	20,000.00		(2,000.00)	20,000.00	
<b>CONCRETE</b>	271,000.00		(2,100.00)	270,000.00	
<b>STRUCTURAL STEEL</b>	1,000.00		1,000.00	1,000.00	
<b>ROUGH CARPENTRY</b>					
Asst	10,000.00		10,000.00	10,000.00	
Carpenter	20,000.00		20,000.00	20,000.00	
Painter	10,000.00			10,000.00	
	40,000.00			40,000.00	
<b>ROUGH CARPENTRY</b>					
Window sills (labor and materials)	40,000.00			40,000.00	
Block construction - labor	67,000.00			67,000.00	
Block construction - materials	10,000.00		(1,000.00)	10,000.00	
	117,000.00			117,000.00	
<b>CRUISE</b>	11,000.00		(1,000.00)	10,000.00	
<b>INSULATION</b>	70,000.00			70,000.00	
<b>ROOFING / SHEET METAL</b>					
1 - LAB	10,000.00			10,000.00	
1 - ALTA	140,000.00	137,000.00		140,000.00	
			1,000.00	140,000.00	
<b>EXTERIOR WALL</b>					
Roofing	10,000.00		1,000.00	10,000.00	
Labor	240,700.00	240,700.00		240,700.00	CP20

As you can see from the diagrams above, the estimated labor costs for each Middle School/Elementary School dormitory was \$20,047.70 and the estimated total labor costs for each High School dormitory was \$25,059.52. The total estimated labor for Rough Carpentry was \$321,644.00. The total estimated value of this work (labor and materials) by TransAmerica was \$663,494.00. It is important to note that these labor estimate totals are not used when calculating the Measured Mile for the damages associated with this section.

As additional information to help substantiate the TransAmerica estimate the Lend Lease rough carpentry estimate for the second round of bidding was reviewed. Their total estimated cost (labor and materials) for all twelve (12) dormitories was \$658,290.00. When comparing the TransAmerica estimated total for this work (\$663,494.00) and the Lend Lease estimated total (\$658,290.00), the variance between the two estimates is \$5,204.00.

The Measured Mile for a typical Elementary Dorm was calculated by identifying the specific work hours during the periods noted on the provided schedule for the rough carpentry activities for OSD Elementary Dorm #2 and #3. For the Exterior/Bearing Framing & Interior Framing work activities OSD Dorm 3 was selected because this dorm had the least amount of impacts to the "as-planned" work for these activities. The TransAmerica September 14, 2012 Detailed Job Cost Report was used for this analysis.

## Deaf Dorm 3 Exterior/Bearing Framing & Interior Framing Actual Cost Analysis

Activity Name		Actual Start	Actual Finish	Original Subject	Actual Duration
A10074	Exterior/Bearing Framing	28-Jun-11	08-Jul-11	74	42
A10075	Interior Framing	28-Jun-11	08-Jul-11	52	42
A10076	Install Roof Trusses and Sheathing	08-Jul-11	11-Jul-11	100	32
A10082	Frame Ceiling Bulkheads	27-Sep-11	19-Nov-11	64	40d

ACTUAL COSTS – Deaf Dorm 3

Deaf 3 (ES/MIS)														
NAME/EMPLOYEE	MON 27-Jun	TUE 28-Jun	WED 29-Jun	THU 30-Jun	FRI 1-Jul	SAT 2-Jul	SUN 3-Jul	MON 4-Jul	TUE 5-Jul	WED 6-Jul	THU 7-Jul	FRI 8-Jul	SAT 9-Jul	SUN 10-Jul
Mike Cook			2.00	18.50	8.00					9.50				
Joseph Matthews				3.00						9.50				
Kevin Smith		4.00												
James Deering		8.50	2.00	10.25	10.25					9.50				
Gerald Bahbert		5.50		10.50	8.00									
Angel Rodriguez		5.50	4.50	10.50	10.00					9.50				
Chanel Espinosa		5.50	4.50	10.50	10.00					9.50				
Jeffrey Middleton		9.50	4.00	10.25	10.25					9.50				
Gerald Deering										9.50				
Jacob Way										9.50				
Brian Kmetz										9.50				
<b>Total Hours</b>	0.00	38.50	17.00	65.50	56.50	0.00	0.00	0.00	85.50	0.00	0.00	0.00	0.00	
<b>Hourly Rate - \$41.77</b>	\$ -	\$ 1,608.15	\$ 710.09	\$ 2,735.94	\$ 2,360.01	\$ -	\$ -	\$ -	\$ 3,571.34	\$ -	\$ -			
<b>Total Costs</b>	\$ -	\$ 10,985.51												

Two sections were created to compare the estimated costs and manhours to the actual costs and manhours for the Exterior/Bearing and Interior Framing activities in OSD Dorm 3.

## Estimate vs. Actual Costs Exterior/Bearing & Interior Framing Deaf Dorm 3

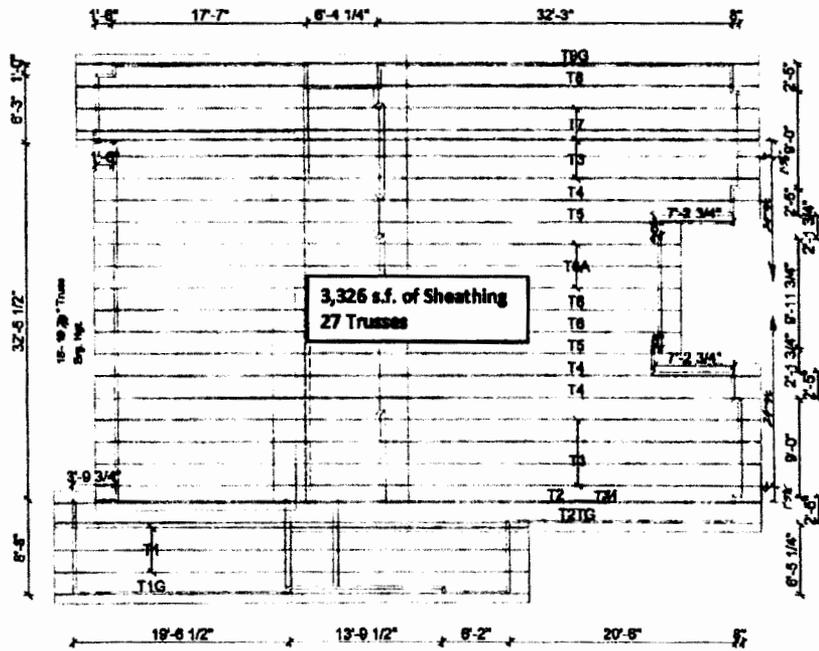
Cost Code	Description (Labor Only)	Estimated Cost	Estimated Manhours	Estimated Units	Estimated Productivity /Unit	Estimated Unit Cost
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 8,354.00	200	375 If of wall panel	1.88	\$ 22.28
	ES/MS School - Rough Carpentry - Interior Framing	\$ 3,007.44	72	262 If of wall panel	3.64	\$ 11.48
	Combined Costs - Exterior/Bearing & Interior Framing	\$ 11,361.44	272	637 If of wall panel	2.34	\$ 17.84

Deaf Dorm 3						
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 10,985.51	283	637 If of wall panel	2.42	\$ 17.25
	ES/MS School - Rough Carpentry - Interior Framing	Included above	Included above	Included above	Included above	Included above

For the Install Roof Trusses & Sheathing and Frame Ceiling Bulkheads work activities OSD Dorm 2 was selected because this dorm had the least amount of impacts to the "as-planned" work for these specific activities.

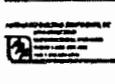
In order to assess the original scope of the roof truss and sheathing activities an estimate of the work involved with a typical Middle School/Elementary School roof system was completed using the approved shop drawings for roof trusses/sheathing.

## Install Roof Trusses & Sheathing Elementary/Middle School Type 1 (Deaf #3)



**NOTES:**

- \* RAFTERS, VALLEYS, HEADERS AND OVERFRAMING BY CONTRACTOR
- \* CONTRACTOR TO VERIFY ALL DIMENSIONS. ALL DIMENSIONS ARE OUT TO OUT OF STUD U.N.O.
- \* TYPICAL TRUSS BEARING HEIGHTS = 10'-10 3/4" U.N.O.
- \* TRUSSES MAY BE PIGGY-BACKED FOR SHIPPING PURPOSES.
- \* FIELD ERECTION, HANDLING, SAFETY PRECAUTIONS AND BRACING OF THESE TRUSSES ARE NOT THE RESPONSIBILITY OF THE TRUSS MANUFACTURER, DESIGNER OR THE METAL CONNECTOR PLATE MANUFACTURER, AND THEREFORE, THE COVERAGE OF THESE ITEMS IS NOT A PART OF THESE ENGINEERED DRAWINGS. PROFESSIONAL ADVICE SHOULD BE SOUGHT RELATIVE TO ERECTION, HANDLING AND BRACING.



TRANSAMERICA BLDG. CO.  
OHIO SCHOOL FOR THE DEAF  
(ELEMENTARY BUILDING #3)  
COLUMBUS, OH.

Roof Loading  
TC Load: 20.00 psf  
TD Dead: 10.00 psf  
SC1 live: 8.00 psf  
SC2 Dead: 10.00 psf  
TC Snow Inc: 15.00  
Spacing: 2'-0" o.c.

Asmt#: JMB 2027193  
Designer:  
Checker:  
Date: 02-28-14

Two sections were again created to compare the estimated costs and manhours to the actual costs and manhours for the Install Roof Trusses & Sheathing activities in OSD Dorm 3.

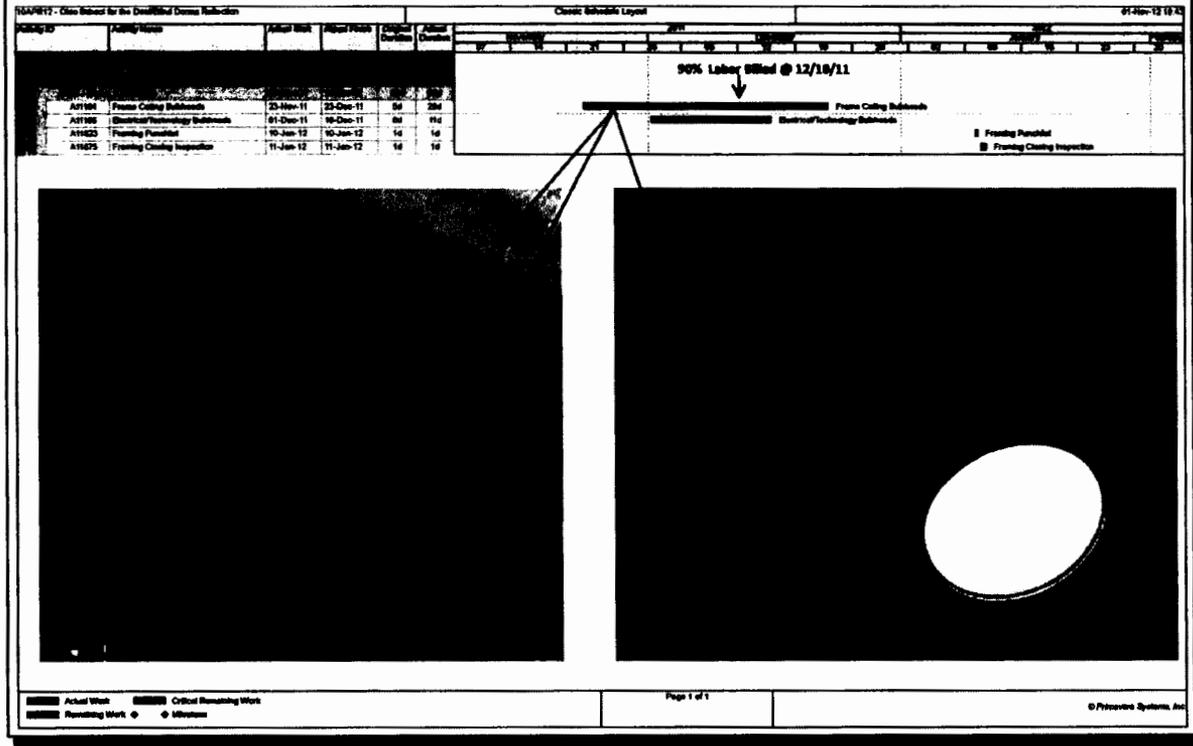
## Estimate vs. Actual Costs Install Roof Trusses & Sheathing Deaf Dorm 3

Cost Code	Description (Labor Only)	Estimated Cost	Estimated Manhours	Estimated Units	Estimated Productivity /Unit	Estimated Unit Cost
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 8,354.00	200	375 lf of wall panel	1.88	\$ 22.28
	ES/MS School - Rough Carpentry - Interior Framing	\$ 3,007.44	72	262 lf of wall panel	3.64	\$ 11.48
	Combined Costs - Exterior/Bearing & Interior Framing	\$ 11,361.44	272	637 lf of wall panel	2.34	\$ 17.84
	ES/MS School - Rough Carpentry - Install Roof Trusses & Sheathing	\$ 5,346.56	128	3,326 sf of sheathing	25.98	\$ 1.61
		\$ 1,670.80	40	27 Trusses	0.675	\$ 61.88

Deaf Dorm 3						
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 10,985.51	263	637 lf of wall panel	2.42	\$ 17.25
	ES/MS School - Rough Carpentry - Interior Framing	Included above	Included above	Included above	Included above	Included above
	ES/MS School - Rough Carpentry - Install Roof Trusses & Sheathing	\$ 5,336.12	127.75	3,326 sf of sheathing	26.04	\$ 1.60
		\$ 1,879.65	45	27 Trusses	0.68	\$ 68.62

In order to assess the original scope of the Frame Ceiling Bulkhead activities the OSD Dorm 2 was selected because it had the most reasonable flow of work for this scope that was not severely impacted by stacking of trades, rework forced by changes and damage, added scope not originally contemplated, etc. Because of the previously mentioned schedule updating and Schedule of Values linkage of percent complete the 90% point in the billed to date period was selected as the completion point for this work. This is shown on the chart below.

# Deaf Dorm 2 Frame Ceiling Bulkheads Actual Cost Analysis



Two sections were again created to compare the estimated costs and manhours to the actual costs and manhours for the Frame Ceiling Bulkhead activities in OSD Dorm 2.

## Estimate vs. Actual Costs Frame Ceiling Bulkheads Deaf Dorm 2

Cost Code	Description (Labor Only)	Estimated Cost	Estimated Manhours	Estimated Units	Estimated Productivity /Unit	Estimated Unit Cost
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 8,354.00	200	375 If of wall panel	1.88	\$ 22.28
	ES/MS School - Rough Carpentry - Interior Framing	\$ 3,007.44	72	262 If of wall panel	3.64	\$ 11.46
	Combined Costs Exterior/Bearing & Interior Framing	\$ 11,361.44	272	637 If of wall panel	2.34	\$ 17.84
	ES/MS School - Rough Carpentry - Install Roof Trusses & Sheathing	\$ 5,346.56	128	3,326 If of sheathing	25.98	\$ 1.61
		\$ 1,670.80	40	27 Trusses	0.675	\$ 61.88
	ES/MS School - Rough Carpentry - Frame Ceiling Bulkheads	\$ 1,670.80	40	309 If of bulkheads	7.73	\$ 5.41

Deaf Dorm 2						
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 10,985.51	263	637 If of wall panel	2.42	\$ 17.25
	ES/MS School - Rough Carpentry - Interior Framing	Included above	Included above	Included above	Included above	Included above
	ES/MS School - Rough Carpentry - Install Roof Trusses & Sheathing	\$ 5,306.12	127.75	3,326 If of sheathing	26.04	\$ 1.60
		\$ 1,879.65	45	27 Trusses	0.60	\$ 69.62
	ES/MS School - Rough Carpentry - Frame Ceiling Bulkheads	\$ 3,675.76	88	309 If of bulkheads	3.51	\$ 11.90

Using the information analyzed and collected from the above sections, a Measured Mile comparison was created for the Rough Carpentry work for a typical Middle School/Elementary School and High School. This Measured Mile compared the actual costs for labor and overall productivity of the work for each type of dormitory unit. A line item was added for equipment allocation to each dormitory type and an overall cost per school dormitory was created.

## Loss of Productivity – Carpentry Measured Mile Typical

Typical High School						
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 17,681.24	423.3	1,025 lf of wall panel	2.42	\$ 17.25
	ES/MS School - Rough Carpentry - Interior Framing	Included above	Included above	Included above	Included above	Included above
	ES/MS School - Rough Carpentry - Install Roof Trusses & Sheathing	\$ 9,118.39	218.3	5,684 sf of sheathing	26.04	\$ 1.60
		\$ 2,993.66	71.67	43 Trusses	0.60	\$ 69.62
	ES/MS School - Rough Carpentry - Frame Ceiling Bulkheads	\$ 5,950.14	142.45	500 lf of bulkheads	3.51	\$ 11.90
	Equipment Per Building	\$ 2,000.00				
	<b>Total High School</b>	<b>\$ 37,743.42</b>				

Typical ES/MS School						
06-010	ES/MS School - Rough Carpentry - Exterior/Bearing Framing	\$ 10,985.51	263	637 lf of wall panel	2.42	\$ 17.25
	ES/MS School - Rough Carpentry - Interior Framing	Included above	Included above	Included above	Included above	Included above
	ES/MS School - Rough Carpentry - Install Roof Trusses & Sheathing	\$ 5,336.12	127.75	3,326 sf of sheathing	26.04	\$ 1.60
		\$ 1,879.65	45	27 Trusses	0.60	\$ 69.62
	ES/MS School - Rough Carpentry - Frame Ceiling Bulkheads	\$ 3,675.76	88	309 lf of bulkheads	3.51	\$ 11.90
	Equipment Per Building	\$ 2,000.00				
	<b>Total ES/MS School</b>	<b>\$ 23,877.04</b>				

A summary of the actual costs incurred by OSSB and OSD school was created. Each dormitory's actual costs were compared to the Measured Mile calculation and the resulting total was created as noted below.

Description	Actual Cost By Dorm	Measured Mile	Calculation	Category Total
<b>Loss of Productivity - Carpentry</b>				
<b>Blind High Schools</b>				
Blind Dorm #5 - HS (labor & equipment costs)	\$ 199,526.54	\$ 37,743.42		
Blind Dorm #6 - HS (labor & equipment costs)	\$ 160,667.18	\$ 37,743.42		
Blind Dorm #7 - HS (labor & equipment costs)	\$ 117,795.35	\$ 37,743.42		
Subtotal Labor	\$ 477,989.07	\$ 113,230.26	\$ 364,758.81	
<b>Deaf High Schools</b>				
Deaf Dorm #7 - HS (labor & equipment costs)	\$ 153,154.75	\$ 37,743.42		
Deaf Dorm #6 - HS (labor & equipment costs)	\$ 129,721.78	\$ 37,743.42		
Deaf Dorm #5 - HS (labor & equipment costs)	\$ 125,811.64	\$ 37,743.42		
Subtotal Labor	\$ 408,688.17	\$ 113,230.26	\$ 295,457.91	
<b>Blind Elementary Schools</b>				
Blind Dorm #1 - ES (labor & equipment costs)	\$ 119,945.95	\$ 23,877.04		
Blind Dorm #2 - ES (labor & equipment costs)	\$ 111,068.67	\$ 23,877.04		
Blind Dorm #3 - ES (labor & equipment costs)	\$ 100,859.50	\$ 23,877.04		
Subtotal Labor	\$ 331,874.12	\$ 71,631.12	\$ 260,243.00	
<b>Deaf Elementary Schools</b>				
Deaf Dorm #3 - ES (labor & equipment costs)	\$ 108,449.13	\$ 23,877.04		
Deaf Dorm #2 - ES (labor & equipment costs)	\$ 82,950.69	\$ 23,877.04		
Deaf Dorm #1 - ES (labor & equipment costs)	\$ 80,474.40	\$ 23,877.04		
Subtotal Labor	\$ 271,874.22	\$ 71,631.12	\$ 200,243.10	
<b>Loss of Productivity - Carpentry All Schools</b>			\$ 1,120,702.82	
<b>Overhead (10%)</b>			\$ 112,070.28	
<b>Subtotal</b>			\$ 1,232,773.10	
<b>Profit (5%)</b>			\$ 61,638.66	
<b>Subtotal</b>			\$ 1,294,411.76	
<b>Bond (2%)</b>			\$ 25,888.24	
<b>Category Total</b>				\$ 1,320,299.99

#### h. Additional Drywall Costs

The costs included in this section relate to additional drywall work, repairs due to excessive damage of finished work by Others, and an extended punchlist process that TransAmerica incurred between February 14, 2012 and August 31, 2012. These costs are substantiated by the September 14, 2012 Detailed Job Cost Report.

Description	Actual Costs	Category Total
<b>Additional Drywall Costs For Out-Of-Sequence Work, Excessive Construction Damage, and Extended Punchlist</b>		
Start of Delay Period	February 14, 2012	
Conclusion of Delay Period	August 31, 2012	
Total Calendar Days	199	
Cost Code - 09-010 - Drywall	\$ 422,717.85	
Subtotal	\$ 422,717.85	
Overhead (10%)	\$ 42,271.79	
Profit (5%)	\$ 464,989.64	
Bond (2%)	\$ 23,249.48	
	\$ 488,239.12	
	\$ 9,764.78	
<b>Category Total</b>		\$ 498,003.90

**i. Additional Painting Costs**

The costs included in this section relate to additional painting work, repairs required because of excessive damage to finished work by Others, and an extended punchlist process that TransAmerica incurred between February 14, 2012 and August 31, 2012. These costs are substantiated by the September 14, 2012 Detailed Job Cost Report.

Description		Actual Costs	Category Total
<b>Additional Painting Costs For Out-Of-Sequence Work, Excessive Construction Damage, and Extended Punchlist</b>			
Start of Delay Period	February 14, 2012		
Conclusion of Delay Period	August 31, 2012		
Total Calendar Days	199		
Cost Code - 09-660 - Paint		\$ 413,159.04	
	Subtotal	\$ 413,159.04	
Overhead (10%)		\$ 41,315.90	
		\$ 454,474.94	
Profit (5%)		\$ 22,723.75	
		\$ 477,198.69	
Bond (2%)		\$ 9,543.97	
<b>Category Total</b>			<b>\$ 486,742.67</b>

**j. Extended Home Office Costs**

The ODOT HOOP (Home Office Overhead Payment) recovery method is an accepted method for recovering unabsorbed home office overhead due to a compensable delay beyond the original or in this case revised completion date. TransAmerica has applied the ODOT HOOP recovery method exactly as defined by ODOT.

Description	Category Total
Extended Home Office Overhead	
Overhead Factor/Rate	8.00%
Start Date of Delay Period	February 14, 2012
Conclusion of Delay Period	August 31, 2012
Total Calendar Days	199
Original Contract Sum	\$ 3,975,000.00
Original Contract Period	405
Extended Overhead Calculation	\$ 156,251.85
Profit (5%)	\$ 7,812.59
	\$ 164,064.44
Bond (2%)	\$ 3,281.29
<b>Category Total</b>	<b>\$ 167,345.73</b>

k. **Summary Of Damages**

TransAmerica has incurred massive losses on this Project that exceed \$3.4 million dollars. The costs included in their Supplemental Certified Claim do not include any costs that were their responsibility during the execution of their scope of work for this Project. TransAmerica is seeking a lesser amount than its total Project loss to account for the costs that are their responsibility.

## Damages

Description	Amount
Extended General Condition Costs	\$160,501.45
Additional and Extended Trade Supervision Costs	\$171,481.80
Extended Project Management Costs	\$183,557.40
Extended Equipment Rental Costs	\$38,331.52
Unprocessed Change Order & Scope Adjustments	\$22,029.67
Loss of Productivity for Rough Carpentry	\$1,320,299.99
Additional Drywall Costs For Out-of-Sequence Work, Excessive Construction Damage, and Extended Punchlist.	\$498,003.90
Additional Painting Costs For Out-of-Sequence Work, Excessive Construction Damage, and Extended Punchlist.	\$486,742.67
Extended Home Office Overhead	\$167,345.73
<b>TOTAL CLAIM AMOUNT</b>	<b>\$3,048,294.13</b>

It should also be pointed out that over \$600,000 in discrete changes not included in a formal Change Order have been reviewed by TransAmerica. These costs are not included in the Supplemental Certified Claim total as noted above.

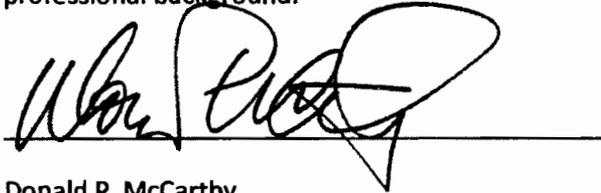
## **VII. Conclusions**

Based on the foregoing, and to a reasonable degree of construction certainty, I have made the following conclusions:

- The OSFC failed to meet its obligations under Chapter 153.01 to provide “full and accurate” plans drawn to scale and “so drawn as to be easily understood”.
- The OSFC through the actions and inactions of its agents, SHP and Lend Lease, delayed and adversely affected TransAmerica’s work and caused it significant losses.
- SHP did not meet the requirements defined in their agreement for providing design documents that were “complete and unambiguous” and that could be used to suitably construct the facilities.
- The OSFC through the actions or inactions of its agents, SHP and Lend Lease, did materially misrepresent to TransAmerica on at least a dozen occasions that revised Construction Sets of plans required by the State of Ohio would be timely provided, but they were not. A reasonable contractor would have relied upon those promises.
- The OSFC failed to compel its agents, SHP and Lend Lease, to design, bid, permit, and award in a timely fashion the Campus-wide Bid Packages that were critical components to the dormitories being constructed logically.
- SHP did not complete their design services in a timely fashion to support the construction phase of the Project.
- SHP and Lend Lease masked the true status of the plans examination and permitting process in such a fashion that made efficient work impossible, notice difficult or impossible, and forced TransAmerica to incur unnecessary additional costs.
- Lend Lease failed to meet the requirements in the General Conditions and Specification Section 013200 for developing a proper CPM schedule for the Project that could be relied upon by TransAmerica. This failure forced TransAmerica to incur unnecessary additional costs.
- Lend Lease failed to include in the CPM schedules all interrelated components of work such as the Campus-wide Bid Packages necessary to plan and execute the work in an organized and orderly fashion.
- Lend Lease managed the Project in an adversarial and unprofessional manner. The prime example of this was the purposeful manipulation of CPM schedule for the Roof and Window Enclosure Complete milestones and related assessment of liquidated damages against TransAmerica. Lend Lease’s mismanagement of the construction phase adversely impacted the cost of the Project and caused TransAmerica’s damages.
- SHP and Lend Lease mismanaged the punchlist process that resulted in increased costs by TransAmerica.

- Lend Lease's performance fell below the standard of care with respect to its scheduling and administration of the Project.
- TransAmerica has incurred damages as reflected in its November 7, 2012 Supplemental Claim and this report due to the failure of the OSFC to comply with the terms of the contract, its agreements with SHP and Lend Lease, and R.C. 153.01.
- TransAmerica's damages properly take into account damages it is responsible for.

Discovery is still on-going at this time. I reserve the right to amend and supplement the information and opinions expressed in this report should new information come to light. The analysis, opinions and conclusions provided in this report are based on the undersigned's 30+ years of commercial and industrial construction experience, education, training and professional background.



Donald P. McCarthy  
President  
Mccarthy Consulting, LLC

## **VIII. Attachments**

- a. Donald P. McCarthy Resume

84 West Riverglen Drive  
Worthington, Ohio 43085

Phone: 614-846-7111  
Fax: 614-846-7131  
E-mail: [dmccarthy@columbus.rr.com](mailto:dmccarthy@columbus.rr.com)

## Donald P. McCarthy

### Summary of Experience, Firms and Positions

Over thirty years of experience overseeing and managing commercial, industrial and heavy civil construction projects throughout the United States as well as providing construction consulting/dispute resolution services on numerous projects as noted below. In addition to overseeing and managing construction projects he has provided CPM schedule analysis, project management analysis, contract dispute resolution services, assistance in negotiating settlements regarding construction disputes, and providing critical cost/schedule assistance to Owners, Contractors and Design team members to resolve issues with problem projects.

#### **McCarthy Consulting, LLC – January 2002 to Present**

President

#### **ESCO Electrical Contractors, Inc. – November 2000 to April 2002**

Chief Operating Officer/Manager of Field Operations

#### **Columbus Blue Jackets – February 2000 to November 2000**

Owner's Representative/Project Manager

#### **Gilbane Building Company – September 1985 to February 2000**

Project Executive  
Sr. Project Manager  
Project Manager  
Sr. Project Engineer  
Project Engineer  
Project Superintendent  
Manager of Business Development  
Scheduling Engineer

#### **Stone & Webster Engineering Co. – May 1983 to September 1985**

Scheduling Engineer

**Education & Professional Memberships**

**Bachelor of Science in Construction Management, 1983**  
Utica College of Syracuse University, Syracuse, New York, 13501

Associate of Science in Building Construction, 1981  
Dean College, Franklin, Massachusetts, 02038

Project Management Institute – Member, Scheduling Community of Practice

**Highlights of Professional Experience**

**McCarthy Consulting, LLC**  
Worthington, Ohio  
April 2002 to Present

Operating a small, specialty consulting firm specializing providing its clients with specific pre-project planning, design phase management, budget development & control, overall program management, construction & construction management, project close-out, claims/dispute management, owner's representative, dispute resolution and litigation/expert witness services on a wide variety of public and private projects that range in size from \$50,000 to \$4.5 billion.

**Current projects & assignments include:**

American Municipal Power (AMP)

Ohio River Hydro-Electric Power Plants (in progress)

Ohio/Kentucky/West Virginia Border

Scheduling/Project Management Consultant – Working with AMP to oversee the construction of \$2.5 billion in new hydro-electric power plants along the Ohio River. Responsibilities include development of "program-wide" policies and procedures for schedule management and development by the Powerhouse & Owner Furnished Equipment Contractors at each construction site. Ensure consistency and accuracy of the reporting and updating process for large, manpower/resource loaded CPM schedule networks. Mitigate all potential claim exposure for the Owner during the construction and start-up phases.

Hawken Lower School

Phase B – Early Childhood Learning Center Project (in close out phase)

Lyndhurst, Ohio

Owner's Representative – Acting as the Owner's Representative for a 12,000 sf addition and renovation to an existing private lower school facility to incorporate additional classrooms, upgrade mechanical/electrical/data systems, and overall upgrade to all finishes.

Science & Technology Campus Corporation (SciTech)

Various Projects (on-going)

Columbus, Ohio

Tenant Coordinator/Owner's Representative – Overall responsibility for program hiring consultants, architects, engineers, and contractors for a variety of renovation and build-out projects at the SciTech Campus. Responsible to manage the program development, design phases, procurement, construction, close-out and commissioning of all projects with a heavy focus on science and research facilities

affiliated with The Ohio State University.

Community Housing Network

Various Sites/Buildings (on-going)

Central, Ohio

Owner's Representative – Acting as the Owner's Representative for a 1,000+ apartment unit renovation program to upgrade various single and multi-family dwellings for low income, disabled and special needs tenants. This program is a multi-phase program with three (3) phases being completed and two (2) phases remaining.

Ohio University

Various Projects (GMP negotiations only)

Athens, Ohio

Owner's Representative – Acting as the Owner's Representative during the selection process to guide them through the new State of Ohio Construction Reform process and assist with contract negotiations as well as finalization of Guaranteed Maximum Price (GMP) Amendments for the Indoor Multi-Purpose Practice Facility (\$11.5mm), the Housing Development Plan Project (\$92 mm) and a new Cogeneration Power Plant (\$70 mm).

**Completed project include:**

*Campus Partners*

*South Campus Gateway Project*

*Various Projects (2008 to 2013)*

*Columbus, Ohio*

Tenant Coordinator/Owner's Representative – Overall program, design, construction and close out coordination for the completion of a major mixed use retail development project near The Ohio State University. This public/private partnership project houses many large and small mixed use businesses. These include many restaurants and diverse retail shops to service the campus community.

*Tansky Sawmill Toyota*

*New Car Dealership & Renovation of Used Car Dealership*

*Columbus, Ohio*

Owner's Representative – Overseeing all contract negotiations, hiring of the construction manager, scheduling, owner equipment coordination, interfacing with Toyota Corporate and Regional Offices, and other duties as required for this \$9.0 mm New Car Dealership addition/renovation while keeping the existing dealership operational at all times. The Used Car Dealership was purchased and renovated for under \$1.0 mm.

*Capital University*

*Various Campus Core Projects (2008 to 2012)*

*Columbus, Ohio*

Owner's Representative – Working with the Capital University Facilities Department to implement multiple large and small scale projects throughout the main campus and at the Law School. Projects included ADA/toilet room renovations, HVAC upgrades, exterior building restorations, energy management modifications, dormitory renovations, elevator modernizations, fire alarm and security system renovations, and administrative/office renovations. Annual construction renovation/upgrade efforts were budgeted between \$3.0 and \$5.0 mm. Also assisted the Facilities Department in

creating standardized contracting formats, procurement strategies, and project filing systems.

*Hawken Lower School*

*Phase A – Early Childhood Learning Center Project*

*Lyndhurst, Ohio*

Owner's Representative – Acting as the Owner's Representative for a 15,000 sf addition and renovation to an existing private lower school facility to incorporate an early childhood learning center, motor skills teaching area, creation of additional classrooms, upgrade of mechanical/electrical/data systems, and overall upgrade to all finishes.

*Franklin County*

*Job & Family Services Office Relocation Project*

*Northland Office Complex*

*Columbus, Ohio*

Owner's Representative – Hired very late in the construction process to assist Franklin County with managing the completion and transition to a developer/turn-key project that was struggling to complete as planned. Interfaced daily with the Developer, coordinated communication between the parties, assisted in coordinating the relocation of staff and contents to the new facility, overall project oversight and quality management control, assisted with recommendations to the Developer to expedite certain elements of the project, and mitigated potential claims by both parties.

*The Wellington School*

*Phase III – New Academic Building*

*Columbus, Ohio*

Owner's Representative – Acted as the Owner's Representative for a 74,000 sf addition and renovations to an existing K-12 school. Negotiated a GMP contract with the construction manager, oversaw all work during the construction phase, and coordinated all Owner moves and relocations. The project included the creation of new classroom and public spaces as well as significant site work. The existing school operations and safety of students, staff, and visitors had to be maintained at all times during construction.

*Interstate Gas Supply, Inc.*

*New Headquarters Project*

*Dublin, Ohio*

Owner's Representative – Oversaw the planning, programming, design, construction, close-out and commissioning phases of a 134,000 sf corporate headquarters facility. This facility achieved LEED Platinum status. The initial phase of the planned campus is built on 16 acres. The Owners charged the Project Team with employing the latest state-of-the-art materials and engineering to achieve the most energy efficient facility in the Midwest.

*Science & Technology Campus Corporation (SciTech)*

*New Wireless Communication/RF Research Building*

*Columbus, Ohio*

Owner's Representative – for the design and construction of a 40,500 sf office and research facility on the SciTech Campus. The facility houses the offices and small lab

areas for the OSU Electro-science Laboratory division.  
*Hawken Middle School – Pool Building Reconstruction*  
*Gates Mills, Ohio*

Owner's Representative – Overseeing the reconstruction of a pool facility that was constructed in 2003 but develop serious mechanical and roofing related problems. McCarthy Consulting, LLC assisted with the legal case against the parties and then was hired to oversee the reconstruction process.

*Quadax, Inc.*

*New Corporate Headquarters Project*  
*Cleveland, Ohio*

Owner's Representative – Overseeing the programming, design and renovation to an existing 80,000 sf facility that will be turned into the corporate headquarters for a national firm specializing in accounting assistance to the healthcare industry. The work envisioned during this \$9.0 million renovation includes demolition, hazardous material abatement, upgrading mechanical/electrical/plumbing/fire protection systems, inserting a partial second and third floor addition, various site improvements, and a complete upgrade of all interior elements to house over 550 employees.

*Ohio Department of Job & Family Services*  
*New Office/Headquarters Building*  
*Columbus, Ohio*

Project Manager/Owner's Representative – Overall design, procurement and construction oversight for the owner during an \$18.0 million, 202,384 sf renovation to an eight floor building constructed in 1962. The work includes demolition, hazardous material abatement, upgrading mechanical/electrical/plumbing/fire protection/data systems, exterior building envelope improvements, and a complete upgrade of all interior elements to house over 500 agency employees at their headquarters building.

*Peer/Constructability Review Studies*  
*Various Projects*

Complete design document peer review and constructability reviews for various owners and clients to ensure their design documents are complete, clear, buildable, and biddable before issuing for bidding. Reports have been completed for the \$120.0 million Ohio State University Student Union Replacement Project, the Aviation Canopy Project for the Ohio Department of Transportation, the Licking County Rest Area Project for the Ohio Department of Transportation, and numerous other clients.

*Ohio Public Employees Retirement System (OPERS)*  
*Tower Expansion Project*  
*Columbus, Ohio*

Owner's Representative/Board Liaison - \$92.0 million office tower expansion and renovation to their existing facility in downtown Columbus, Ohio.

*Columbus Blue Jackets*  
*Various Projects (2002 to 2012)*  
*Columbus, Ohio*

Owner's Representative/Project Manager – Oversight and management of on-going expansions and renovation projects to Nationwide Arena. To date the value of the renovation and expansion projects exceeds \$3.0 million.

*Nationwide Realty Investors (NRI)*  
*Various Projects (2002 to 2005)*  
*Columbus, Ohio*

Owner's Representative/Project Manager – Oversight and day-to-day coordination of various tenant improvement projects varying in size and complexity. Tenant improvement projects completed totaled over \$3.5 million and nearly 100,000 sf of space during a 3 year period.

*Chiller LLC*  
*Chiller North Project*  
*Lewis Center, Ohio*

Owner's Representative – Oversight and coordination of the entire program to construct a new \$7.3 million ice rink facility with two sheets of ice, locker rooms, public spaces, concession areas, and retail spaces.

*The Buggyworks Loft Development, LLC*  
*Buggyworks Project – Phase I*  
*Columbus, Ohio*

Owner's Representative – Oversight and coordination for the construction of a \$21.0 million mixed use facility in a wood frame structure built in 1900. Converted the old buggy manufacturing facility into 68 unique condominium units of varying size along with other retail/office spaces. Also provided dispute resolution services during the close out process of the project.

*Ozanne Hammond Gilbane Joint Venture*  
*Cleveland Municipal School District Project*  
*Cleveland, Ohio*

Project Director – Overall management and responsibility of the Joint Venture partnership hired by the Ohio School Facilities Commission (OSFC) and Cleveland Municipal School District (CMSD) to stabilize, renovate, rebuild and construct new schools throughout the City of Cleveland. This 10 year, \$1.5 billion program started in 2002 and will not be complete until 2012.

*Hawken Middle School*  
*New Middle School Addition/Renovation Project*  
*Lyndhurst, Ohio*

Owner's Representative – Oversight, coordination, monitoring and management of \$12.0 million expansion, addition and renovation to the historic middle school campus of Hawken School. The Project involved the construction of a new classroom wing, relocation of a bus maintenance facility, construction of new ball fields and renovation to the existing facility.

*Ohio Department of Transportation (ODOT)*  
*Various Training Programs*  
*Columbus, Ohio*

Owner's Representative/Staff Training Manager – Oversight and staff training for the ODOT Facilities Staff who are responsible for managing over \$25.0 million in new construction facility projects each year throughout the State of Ohio. This work involved establishing training modules and programs, conducting the training, following staff out to the field to assist in their development and assistance as required to solve project related problems.

*1800 Fifth Avenue Holdings, LLC*

*Design Market Place Project*

*Columbus, Ohio*

Owner's Representative – Responsible to assemble the project team and implement the complex renovation and change of use for a 274,000 sf warehouse into a manufacturing/retail space which featured the new manufacturing and showroom for Columbus Wood Products.

*National Church Residences*

*Canton Residence Construction Dispute*

*Canton, Michigan*

Construction Claim/Dispute Coordinator – Assisted in the forensic analysis of a design/construction failure for a 6 story assisted living care facility in Michigan. The building was completed in 1998 and deemed uninhabitable by the City of Canton in 2001. The Owner hired a team of professionals to pursue the architect and contractor in recovery of damages.

*State of Ohio, Attorney General's Office*

*Ohio Police Officer Training Academy (OPOTA) Project*

*London, Ohio*

Expert Witness/Claim Consultant – Hired by the State of Ohio to provide expert witness analysis and contract analysis on a design/build guaranteed maximum price contract dispute between the State of Ohio and the Design/Build Contractor.

*The Wellington School*

*New Cafeteria Complex*

*Upper Arlington, Ohio*

Specialty Consultant/Project Auditor – The Wellington School, a private K-12 school in Upper Arlington, required someone to complete an operational and contractual audit of a project under construction. The audit was completed and a series of issues were raised. Recommendations were made and then implemented as a result of the audit to ensure all parties operated per the contractual agreements in place.

*SWIMINC.*

*Worthington Hydro Dome Project*

*Worthington, Ohio*

Feasibility Study – The owners required an analysis and feasibility study for a dome concept to be proposed over an existing outdoor pool complex. The analysis required review of other such facilities throughout the Midwest, development of a projected budget and a series of recommendations regarding the implementation of the Project.

**ESCO Electrical Contractors, Inc.**

Gahanna, Ohio

November 200 to April 2002

*Chief Operating Officer/Manager of Field Operations*

Completely managed all facets, P/L and operations for a small, commercial union electrical contractor based in Central Ohio. Refocused the firm from primarily a public sector, lump sum bid focus to a private sector, negotiated contract basis. The Company revenues grew from \$1.7

million in 2000 to \$3.6 million in 2001. The workforce went from 8 electricians in 2000 to a peak workforce of 36 electricians in September 2002.

**Columbus Blue Jackets**

Columbus, Ohio

February 2000 to November 2002

*Owner's Representative/Project Manager*

Represented the Columbus Blue Jackets of the National Hockey League in all matters associated with the construction of a new multi-purpose, state of the art arena called Nationwide Arena. This 18,000 seat, \$150 million arena required that the Blue Jackets be responsible for the design, bidding and construction of an additional \$24.0 million worth of concession areas, restaurants, practice facility, office and retail spaces throughout the arena. This work needed to be constructed in conjunction with the construction of the main arena requiring very close coordination with all parties.

**Gilbane Building Company**

Providence, Rhode Island

September 1985 to February 2000

*Project Executive*

Columbus, Ohio

Had overall P/L responsibility for multiple projects totaling over \$500 million for a two year period. Project responsibility began during the design phases of each project and included contract negotiations, design team & consultant coordination/management, estimating coordination, development of bidding strategies, procurement, manpower coordination, staff assignments, schedule development, construction oversight & management, and close out responsibilities. Major projects included the following:

Public Employees Retirement System of Ohio

Columbus, Ohio - \$92.0 million

State Teachers Retirement System of Ohio

Columbus, Ohio - \$70.0 million

Huntington National Bank Operations Center

Columbus, Ohio - \$72.0 million

Ohio School Facilities Commission (OSFC)

Southern Ohio Grouping - \$200.0 million

Ohio School Facilities Commission (OSFC)

Northern Ohio Grouping - \$85.0 million

Chemical Abstracts Service Data Center

Columbus, Ohio - \$16.0 million

*Sr. Project Manager/Project Manager*

Columbus, Ohio & Chicago, Illinois

Represented the Gilbane Building Company in all on site matters and obligations associated with the construction of various projects ranging from negotiated Guaranteed Maximum Price (GMP) work to Cost Plus and Agency Construction Management contracts. Major projects included:

Hilltop Development Project – State of Ohio

Ohio Department of Transportation & Ohio Department of Public Safety Headquarters

Columbus, Ohio - \$120.0 million

Elgin Community College Business Conference Center

Elgin, Illinois - \$7.0 million  
Elgin Community College Visual Performing Arts Center  
Elgin, Illinois - \$23.0 million  
Glencoe Public Schools Renovation Program  
Glencoe, Illinois - \$1.0 million

*Manager of Business Development*  
Chicago, Illinois

Responsible for developing business prospects, evaluating project requirements, analyzing sales strategies, submitting proposals, developing interview strategies, negotiating contracts, and maintaining client interface and relationships during and after projects were completed. In 1998 was responsible for selling over \$62.0 million worth of new construction projects for the Chicago Regional office of Gilbane.

*Scheduling Engineer*  
Detroit, Michigan

Responsible for all project scheduling, manpower tracking and analysis, project engineering and cash flow projections for a \$400.0 million retrofit program for the General Motors Truck Plant in Pontiac, Michigan.

**Stone & Webster Engineering Co.**  
Waterford, Connecticut  
May 1983 to September 1985  
*Scheduling Engineer*

Responsible for all mechanical, electrical, controls and system turnover scheduling efforts during the construction of a \$5.0 billion nuclear power plant.

**EXHIBIT Z**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

IN THE COURT OF CLAIMS OF OHIO

- - -

TransAmerica Building Co.,	:	
Inc.,	:	
	:	
Plaintiff,	:	
	:	Case No.
vs.	:	2013-00349
	:	
Ohio School Facilities	:	
Commission,	:	
	:	
Defendant.	:	

- - -

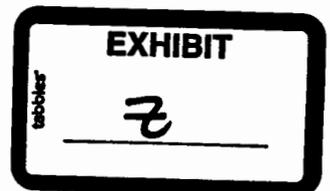
DEPOSITION OF DONALD PATRICK MCCARTHY

Taken at Kegler, Brown, Hill & Ritter  
65 East State Street, Suite 1800  
Columbus, Ohio 43215-4294

Tuesday, February 4, 2014  
10:18 a.m.

- - -

Taken by: Laurel A. Aurigema, RPR



1 comparison in terms of being able to measure  
2 productivity. Were we ever productive anywhere on  
3 the project? And I think it kind of grew, Bill,  
4 from those conversations, me challenging the  
5 TransAmerica team.

6 Q We'll get into the detail of your loss  
7 productivity claim, but right now what I'd like you  
8 to do is explain to me how you created your measured  
9 mile just generally.

10 A When you say created, selected --

11 Q How you went about performing a measured  
12 mile analysis of loss productivity for carpentry.

13 A Okay. Do you want to follow along in the  
14 way that I've presented it in the report, or you  
15 just want me to explain --

16 Q Right now I just want you to explain it to  
17 me generally.

18 A Okay. The first thing that I had to do  
19 was I had to understand what carpentry meant. The  
20 cost report had dollars in it for carpentry, so the  
21 first thing I needed to do was understand what  
22 TransAmerica meant when they said carpentry; and  
23 they explained to me what their interpretation and  
24 what their cost report said in terms of carpentry,

1 which was the exterior framing, the interior  
2 framing, and the soffits or the bulkheads. That was  
3 their interpretation of carpentry.

4 I needed to understand then that they kept  
5 the what I would call other carpentry related tasks  
6 that they ended up self-performing on the roof --  
7 sheathing, setting roof trusses -- separate, which  
8 they did. They said they did.

9 So once we -- once I understood that there  
10 were clear delineations between interior and  
11 exterior framing, bulkheads, I then went to the  
12 schedule to see what the schedule showed. Well, the  
13 schedule has those activities defined as well. I  
14 went to the pay applications, and those activities  
15 are defined. So it seemed to me as I began to just  
16 kind of think this through and logically try to  
17 assemble the puzzle, that we had dollars; we had  
18 schedule-related information, good or bad; and we  
19 had pay-application-related information, good or  
20 bad. So I began to feel comfortable that we had the  
21 components to do -- to kind of study this. And  
22 that's -- that's exactly what we did.

23 I then began to pluck out of the schedules  
24 the activities related to each building for those

1 components and see what was being shown in those  
2 schedule activities and from there began to focus on  
3 the time periods, then went to the time sheets, the  
4 time sheets went to the cost report; and it all kind  
5 of -- just kind of came together in terms of data at  
6 that point.

7 Q Okay. At the end of the day the measured  
8 mile is a comparison between what was productively  
9 performed on the project and then what wasn't,  
10 correct?

11 A It's supposed to be that, yes.

12 Q Well, and it was in your application, was  
13 it not?

14 A No. What we -- what I said was the least  
15 impacted. So there was never a building -- there  
16 was never a window where they were not somehow  
17 impacted by something that was going on outside of  
18 their control on the carpentry side. So we -- I  
19 took the least impacted scenario, which was Deaf 3  
20 and Deaf 2.

21 Q Looking at the entire dorm for --

22 A Looking at the carpentry.

23 Q -- carpentry purposes?

24 A Correct.

**EXHIBIT AA**

IN THE OHIO COURT OF CLAIMS

- - - - -

TransAmerica Building :  
 Company, Inc., :  
 :  
 Plaintiff, :  
 :  
 vs. : Case No. 2013-00349  
 :  
 Ohio School Facilities :  
 Commission, nka OFCC, :  
 :  
 Defendant. :

- - - - -

DEPOSITION OF JOSHUA PREDOVICH

VOLUME 1

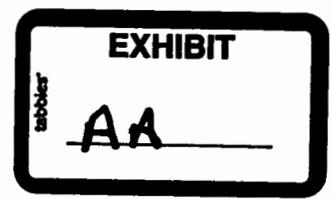
- - - - -

Taken at Kegler, Brown, Hill & Ritter Co. LPA  
 65 East State Street, Ste. 1800  
 Columbus, OH 43215-4294  
 February 28, 2014, 9:58 a.m.

- - - - -

Spectrum Reporting LLC  
 333 Stewart Avenue, Columbus, Ohio 43206  
 614-444-1000 or 800-635-9071  
 www.spectrumreporting.com

- - - - -



1 there were changes made to the design of the  
2 project, any change that was made that any of the  
3 contractors, TransAmerica included, felt had  
4 either a cost implication or a time implication,  
5 those would have been issued as a proposal request  
6 or memorialized as a change order.

7 Q. Okay. What I want to understand is is  
8 it your testimony that TransAmerica's entitled to  
9 zero on its claim, or is it your testimony that  
10 TransAmerica is entitled to something, but you  
11 just don't know what?

12 A. My testimony would be that I think that  
13 TransAmerica is probably owed something, but that  
14 to date I have not seen any documentation that  
15 proves what they're owed.

16 - - - - -

17 Thereupon, Deposition Exhibit 2 is marked  
18 for purposes of identification.

19 - - - - -

20 Q. I've just -- the reporter's just handed  
21 you Exhibit No. 2, which is TransAmerica's  
22 November 7th, 2012, Supplemental Certified Claim.

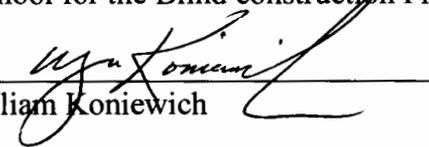
23 Have you seen that claim before?

24 A. Yes, I have.

**EXHIBIT BB**

**CERTIFICATION OF RECORD**

I, William Koniewich, President of TransAmerica Building Company, Inc. ("TransAmerica"), certify that the attached document is TransAmerica's November 7, 2012 Certified Claim (excluding the referenced exhibits due to their size) as it appears in the project files for the Ohio School for the Deaf and Ohio State School for the Blind construction Project.

  
\_\_\_\_\_  
William Koniewich

November 07, 2012

Lend Lease  
Attn: Clay Keith  
502 Morse Road  
Columbus, OH 43214

SHP Leading Design  
Attn: Josh Predovich  
250 Civic Center Drive, Suite 200  
Columbus, OH 4315

Ohio School Facilities Commission  
Attn: Madison Dowlen  
10 West Broad Street, Suite 1400  
Columbus, OH 43215

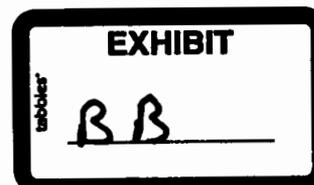
Re: TransAmerica's Supplemental Certified Claim for the Ohio School for the Deaf and Ohio State School for the Blind Project

Members of the Project Team:

As we previously indicated would be forthcoming, TransAmerica Building Company, Inc. ("TA") provides its Supplemental Certified Claim and further written substantiation for the additional costs caused by the deficient design, differing job site conditions, and significant delays that occurred at the Ohio School for the Deaf and Ohio State School for the Blind Project (the "Project"). Additionally, TA continues to dispute the on-going assessment of liquidated damages on the Project, as these delays are the result of the OSFC's (including those under its control) failure to fulfill its own contract obligations and state law requirements. The basis for TA's Supplemental Certified Claims is summarized by the problems noted below along with the issues noted in its March 2012 Certified Claim, all of which occurred due to the OSFC's actions or inactions.

**Lack of a Buildable Design by SHP**

- The Project was bid and construction commenced with a design that was far from full and accurate, which was a requirement under R.C §153.01. There is no possible way TA could have realized the significant design problems that would be encountered as the Project Team did not reveal the status of the plan review by the Plans Examiner (Ohio Department of Commerce) during the bid period. It was only after TA made a series of public records requests, including to the Plans Examiner, did it fully realize the substandard state of the design when construction commenced. Additionally the Project Team represented to TA during the post-bid period that a full and coordinated set of plans would be issued.
- In support that the Project lacked a buildable design, TA points to the thirteen (13) months that elapsed from July 2010 to August 2011 where SHP failed to timely resolve the issues noted in correction letters issued from the Plans Examiner. Additionally, TA points to the failure of the Project Team to obtain the final plan approvals as TA has learned such approval was not obtained as of July 2012, which was over five (5) months after the February 14, 2012 Project Completion Date.
- Recognizing the impact that the deficient design could have on the Project, TA provided numerous notices on this issue and, in particular, on February 17, 2011. At bid time, and even after TA had provided its notices, the Project Team represented to TA that a full and coordinated set reflecting all of the changes that had taken place (some of which were value engineering items) would be provided. Unfortunately, a full set of coordinated plans was never provided to TA despite the numerous representations to the contrary from members of the Project Team.



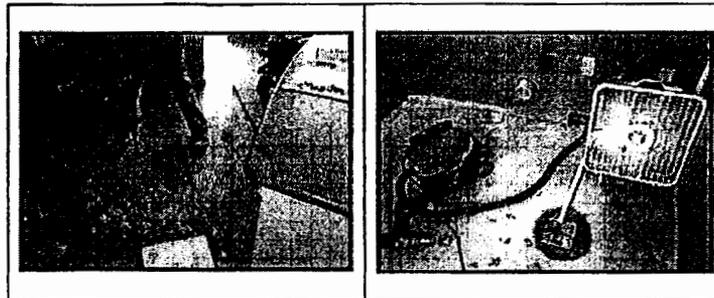
- As a result of the deficient design at the Project's early stages, TA incurred significant cost overruns with its rough carpentry activities as it either waited for direction, inspections, or had to "figure out the framing design on the fly."

**Lack of Proper Scheduling and Coordination by Lend Lease**

- To further compound the problems attributable to the lack of a buildable design, Lend Lease failed to demand that the Project Team provide TA and the other prime contractors with a full and coordinated set of plans. Instead, Lend Lease attempted to mask the true impact that the incomplete design was having on the Project by manipulating the schedule to the detriment of TA and the other prime contractors. An example is the flawed schedule that Lend Lease used as the basis to assess liquidated damages.

**Excessive Construction Damage and Extended Punchlist Process**

- The lack of a sufficient and buildable design throughout the Project, along with the lack of scheduling and coordination, resulted in excessive construction damage. Much of this construction damage was the result of out-of-sequence work that took place on the Project after TA had completed most of its finish activities, as evident from the pictures below.



- A prime example of the out-of-sequence work was the installation of the fire alarm and security systems after the finishes were substantially complete. Another example was the changing of plumbing fixtures after TA completed its final punchlist pass for certain dormitories.
- As a result of the construction damage, TA spent considerable time and encountered significant extra costs going back and repairing the damage caused by others.
- Additionally, TA encountered an extended punchlist process. The number and time period to resolve these issues was far in excess of what one would reasonably expect on a Project of this size.
- The Punchlist Process on this Project did not proceed as envisioned under Article 10.2-10.4 of the General Conditions, which defines the respective parties' responsibilities. With respect to the dormitories, neither Lend Lease nor SHP notified TA as to when SHP would be conducting its review so that TA could also attend the review as envisioned under Article 10.3.2. By being precluded from attending SHP's review, TA was not provided an opportunity to better understand SHP's expectations or perhaps mutually agree on a different course of action that addressed the jobsite conditions that SHP may not have appreciated at the time of its review.
- Additionally, the time for SHP's punchlists to be issued after TA provided its punchlist exceeded the time limits provided in 10.3.3. The added time waiting on SHP to complete its punchlist obligations allowed other trades to damage work that was properly completed, which was not the responsibility of TA, yet TA was forced to repair much of this damage or face the risk of additional backcharges.

- Finally, TA was not provided with sufficient access to the various buildings after SHP had completed its punchlist, which hampered TA's efforts to complete its remaining work through no fault of its own.

**Other Differing Jobsite Conditions That TA Unexpectedly Encountered**

- Environmental conditions of the buildings, including those related to the condition of the floor slabs.
- Lack of exterior aluminum doors due to ongoing hardware delays.
- Lack of complete information to locate numerous additional access panels.
- Lack of information required to finish the fire department connection chases.
- Additional time needed to accommodate the delayed casework installation being performed by others.

**Significant Delays Extending the Project's Completion Date from February 14, 2012 to August 31, 2012**

- TA also experienced delays relating to inspections and other predecessor activities for it to complete its finish work. Notably this would include items relating to the electrical, data, fire alarm, and security activities.
- The net effect of all of the issues identified above is that the Project was extended over six (6) months.
- During this time, TA devoted considerable staff and resources to the Project in order to resolve the numerous issues that were predominantly caused by the failures of the OSFC and those under its control, including, SHP and Lend Lease.

**TA's Damages**

TA has provided the following breakdown of its claim, which is further supported in the referenced exhibits. It should be noted that TA has incurred losses in excess of \$3.4 million dollars on the Project, which does not take into account any assessment of liquidated damages. TA is seeking a lesser amount than its total Project loss to account for the additional costs that are its responsibility (such as the roofing rework that took place on the Project but that had no impact on the other trades).

Description	Amount	Calculation Method	See Exhibit for Further Detail
Extended General Condition Costs	\$160,501.45	TA's Time Based Costs	1
Additional and Extended Trade Supervision Costs	\$171,481.80	TA's Time Based Costs	2
Extended Project Management Costs	\$183,557.40	TA's Time Based Costs	3
Extended Equipment Rental Costs	\$38,331.52	TA's Time Based Costs	4
Unprocessed Change Order & Scope Adjustments	\$22,029.67	Direct Costs	5
Loss of Productivity for Rough Carpentry	\$1,320,299.99	Measured Mile	6
Additional Drywall Costs For Out-of-Sequence Work, Excessive Construction Damage, and Extended Punchlist.	\$498,003.90	TA's Time Based Costs	7
Additional Painting Costs For Out-of-Sequence Work, Excessive Construction Damage, and Extended Punchlist.	\$486,742.67	TA's Time Based Costs	8
Extended Home Office Overhead	\$167,345.73	ODOT HOOP Calculation	9
<b>TOTAL CLAIM AMOUNT</b>	<b>\$3,048,294.13</b>		



TA's Time Based Costs

TA's time based costs are the result of the Project being extended from February 14, 2012 thru August 31, 2012. These delays are attributable to the issues noted above and in particular to the lack of a buildable design, excessive construction damage, and the extended punchlist. It should be pointed out that TA is not claiming costs after August 31, 2012 even though TA still had a presence on the jobsite up until at least October 4, 2012, because the magnitude and type of items TA was working on after August 31, 2012 was consistent with what TA had originally expected to occur after the previously agreed upon completion date of February 14, 2012. This further reinforces that TA took a conservative approach to calculating its damages as TA reasonably could have concluded it would not have been necessary to devote additional resources to this Project after February 14, 2012 because that date was described to be the "Contract Completion" date.

Most of TA's time based costs are from its September 30, 2012 job cost report (such report reflects costs thru September 14, 2012), which is being submitted with this claim. Exceptions to this would be TA's cost for portions of its Additional and Extended Supervision Costs and its Extended Project Management Costs, which are not included in TA's job cost report for the time periods being claimed.

TA's Additional and Extended Supervision Costs arise from the added staff it first had to supply to the Project in order to handle the multitude of issues that were arising due, at least in part, to the deficient design documents. As with TA's other time based costs, the extension costs arise from TA's field staff being on the Project longer than the previously agreed upon February 14, 2012 construction completion date.

With respect to TA's additional costs for Drywall and Painting, these costs are attributable to the extended time period after February 14, 2012 that TA had its labor force on the Project dealing with issues relating to construction damage and then the extended punchlist. Based on the last agreed upon completion date, the Project was to be completed by February 14, 2012, but TA expended costs attributable to both drywall and painting repair costs well after February 14, 2012 for reasons beyond its control or responsibility. It should be pointed out that a portion of the construction damage and extended punchlist were attributable to the chaotic pace of the Project, which all started with the flawed design encountered at the Project's early stages. The construction damage and extended punchlist problems were then compounded by the OSFC's decision to sequence other activities, notably the installation of the fire alarm, data, and security systems, after completion of the finish activities.

TA's Unprocessed Change Order & Scope Adjustments

These costs arise from scope changes related to hardware and the dispute over the size of deduct attributable to the labor for the floor tile installation. With respect to any claim that TA's work forces needed to be supplemented, TA disputes this allegation and further refuses to accept any associated backcharge. Additionally, the Project Team failed to properly notify TA that its work was being supplemented in accordance with the terms of the General Conditions, and Ohio law.

TA's Measured Mile for its Loss of Productivity for Rough Carpentry Costs

TA incurred significant additional costs due to the inefficiencies with its rough carpentry activities, which arose from the failure of the OSFC to provide a full and accurate set of plans. In particular, TA had significant problems with framing and devoted a considerable amount of time first identifying these problems only to then wait on a resolution, which often required reworking sections that it had previously installed. When TA encountered a layout or framing problem on one dormitory, it was simply directed to proceed with the next dormitory in the schedule until that issue



was resolved. As directed, TA would proceed with the next building only to then identify another issue that prevented it from framing the dormitories as it had intended and as represented in the previously agreed upon construction schedule. Because of the multitude of problems encountered on the Project, all of the dormitories progressed in a sporadic and out-of-sequence fashion, which was an extremely costly and inefficient method of completing the framing activities. Eventually, as the issues were resolved, TA would have to go back (on multiple occasions) to the same dormitory it had started to either resume construction or rework what had previously been installed. It is important to note that the OSFC could have stopped construction and demanded that SHP provide a complete and full set of plans, but instead the OSFC permitted the rough framing to proceed in this sporadic and inefficient manner knowing full well that TA was being damaged after TA provided various notices on these same issues.

Compounding the problem was that TA's framing progress was further hampered by having to coordinate its inspections with Lend Lease prior to the building inspector performing his/her inspection. TA had previously expected to coordinate its inspections directly with the building inspector, which is typical and would have speeded up the framing activities. Instead, all inspections were required to be coordinated through Lend Lease, who seemed to be of little help with resolving the framing issues and keeping the Project moving forward. It should also be pointed out that when TA was encountering the various framing issues, it was not aware (nor informed) of the status of the plan approval and the various correction letters that were still pending with the design. Instead the Project Team pushed TA to complete as much of its activities under these inefficient conditions knowing full well that additional changes would be issued that would further hamper TA's ability to finish its work. Adding to these inefficiencies was that TA waited on MEP related activities to be completed, presumably because of the same design issues, along with spending additional time and labor to install much more blocking than previously represented in the bid documents.

TA's measured mile reflects the following four rough carpentry activities, which are were being tracked by Lend Lease on the Project Schedule.

- o Exterior/Bearing Framing
- o Interior Framing
- o Install Roof Trusses & Sheathing
- o Frame Ceiling Bulkheads.

Using schedule updates provided by Lend Lease during the Project, TA was able to identify points in time when the impacts encountered with its carpentry activities were minimal or "least impacted" when compared to more impacted time periods. TA was then able to identify the labor (with some equipment) costs incurred during these "least impacted periods" of time through its job cost report and time tickets for the four (4) carpentry activities referenced above. When analyzing these "least impacted periods," it is apparent that TA's activities proceeded at an efficiency close to the progress reasonably anticipated in previously agreed upon schedules. Additionally, the progress TA achieved during these "least impacted periods" was comparable to what TA had reasonably expected to achieve based on its estimate. This supports TA's assertion that much of TA's carpentry inefficiencies were caused by the OSFC and had it not been for the design deficiencies, TA would have been able to achieve the productivity it had reasonably expected. TA then compared its measured mile or "least impacted time period," which represents what it should have cost to frame each dorm, to the much higher actual costs incurred-- with the difference being its loss of productivity costs.

With respect to previous change orders that TA executed, these change orders related to other components of the construction (such as fire ratings) and not to the framing components of the walls where TA encountered its inefficiencies that is the basis of its rough carpentry loss of productivity claim.

**TA's Extended Home Office Overhead**

With respect to its Home Office Overhead component, TA calculated such damages using ODOT's HOOP method. The HOOP method is applicable here because ODOT, a public owner that administers billions of dollars in construction projects, uses this method to calculate home office overhead damages. It is also important to note that ODOT's HOOP method does not require a complete shutdown of the work, and there is additional authority that permits a contractor to recover home office overhead even when the work is not completely shutdown.

**Release of TA's Contract Balance Being Withheld for Liquidated Damages**

In addition to the delay and inefficiency damages noted above, TA demands that its contract balance be released immediately. TA has previously demonstrated that the OSFC's claim for liquidated damages has no merit based on the flawed schedule Lend Lease used as its basis to assert liquidated damages, along with the underlying progress of the Project where it was evident that TA was not holding up other prime contractors. TA also points to the concession in Lend Lease's September 5, 2012 recommendation that holding an amount above \$2,000 per day of liquidated damages was not permitted by the contract and that the corresponding amount would be returned to TA. No such payment has been made to date and TA continues to argue any assessment of liquidated damages is wrongful. Accordingly, TA's current outstanding contract balance (not including its claim) is noted below.

Original Contract Amount	\$3,975,000.00
Executed Change Orders	\$211,163.93
Revised Contract Amount	\$4,186,163.93
Less Amount Paid to Date	(\$3,121,558.51)
Contract Amount Outstanding	\$1,064,605.42

In addition, TA intends to seek interest on these payments that have been wrongfully withheld, as well as the claim itself.

**Relevant Correspondence and Other Related Information**

With this Supplemental Certified Claim, TA is providing additional documentation referenced as exhibits. Additionally, TA references the past notices it has provided on this Project, including those relating to the excessive construction damage and the extended punchlist.

**Copies of TA's Job Cost Report**

With this Supplemental Certified Claim, TA is providing its job cost report dated September 30, 2012 to Lend Lease, which is the basis of many of the costs stated in this claim. TA is providing this information to the OSFC with the understanding it will not be treated as a public record. TA is requesting this information be treated as a "Trade Secret," which is permitted by paragraph 15.1.4 of the General Conditions, and will only be shared with those necessary for the evaluation of TA's claim. If these parameters cannot be met, please contact the undersigned to discuss other possible solutions. It is also important to point out that TA has already provided previous job cost information along with its bid documents.

**Article 8 Process**

On September 18, 2012, TA appealed the Lend Lease recommendation to deny its March 2012 Certified Claim, which was issued on September 5, 2012. The parties, through counsel, have agreed to stay the Article 8 process pending the submission of this Supplemental Claim. With this certified claim submission, TA expects the Project Team to proceed



www.TAbuilding.com

with the remaining steps of the Article 8 process and schedule a meeting with the Commission within thirty (30) days as described in Article 8.9.3 of the General Conditions. Should no such meeting be scheduled within thirty (30) days, TA will presume the OSFC has waived the remaining Article 8 provisions and is free to enforce its full legal rights. As an alternative to scheduling the Article 8 meeting, TA would be agreeable to meeting with a neutral facilitator with Project Management Consultants routinely used by the OSFC for disputes like this.

Sincerely,

A handwritten signature in black ink, appearing to read 'W.J.N. Koniewich', written over a horizontal line.

William J.N. Koniewich - President

The undersigned Contractor certifies that the claim is made in good faith; that the supporting data is accurate and complete to the best of the Contractor's knowledge and belief; that the supporting data fully complies with all of the requirements stated in subparagraph 8.3.3 of the General Conditions; that the amount requested is a fair, reasonable, and necessary adjustment for which the Contractor believes the State is liable; and that the undersigned is duly authorized to certify the Claim on behalf of the Contractor.

A handwritten signature in black ink, appearing to read 'W.J.N. Koniewich', written over a horizontal line.  
William J.N. Koniewich President  
TransAmerica Building Company, Inc.