

**SOUTH DAKOTA BOARD OF REGENTS**

**Committee on Budget and Finance**

**AGENDA ITEM: I – E**

**DATE: June 10-11, 2015**

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**SUBJECT: Public Improvement Lien Notice – Roby, Quintal & Everson – Northern State University Johnson Fine Arts Center Renovation Project**

On May 8, 2015, Roby, Quintal & Everson, a subcontractor of Baldrige & Associates Architects and Engineers, Inc., a/k/a Baldrige & Nelson Architects and Engineers of Sioux Falls, South Dakota, filed a lien for \$18,030.00 plus \$10,510.64 for fees and expenses over and above the contract, plus interest, pursuant to SDCL ch 5-22 on monies held by the Board of Regents relating to the Northern State University Johnson Fine Arts Center Renovation Project, OSE#R0112-13X (Attachment I).

The funds required to cover the lien against the Baldrige & Associates contract have been segregated from other funds held for the project.

No action is required by the Board at this time. Inclusion of the present report and of the attached lien filing complies with the mandate of SDCL § 5-22-3.

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**RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR**

Information only.

LAW OFFICES

**TINAN, SMITH & BUCHER**

305 NORTH KIMBALL

POST OFFICE BOX 488

MITCHELL, SOUTH DAKOTA 57301-0488

(605) 996-5542

Fax (605)996-5543

Writer's email: [ess.tsb@midconetwork.com](mailto:ess.tsb@midconetwork.com)

FRED A. TINAN (1907-1988)

E. STEEVES SMITH  
DONNA L. BUCHER

JUSTIN M. JOHNSON

**RECEIVED**

**MAY 08 2015**

**SD Board of Regents**

May 7, 2015

Ms. Kristi Honeywell, P.E., State Engineer  
Office of the State Engineer  
Joe Foss Building  
523 East Capital Avenue  
Pierre, SD 57501-3182

South Dakota Board of Regents  
306 East Capital Street, Suite 200  
Pierre, SD 57501

Re: Roby, Quintal & Everson Lien for Services  
Johnson Fine Arts Center at Northern State University  
OSE#R0112-13X

Dear Sir/Madam:

Enclosed please find a true and correct copy of the Notice of Lien for Services Supplied under Contract for Public Improvement which I have prepared on behalf of Roby, Quintal & Everson. This pertains to engineering services performed in conjunction with renovation and addition to the Johnson Fine Arts Center at Northern State University in Aberdeen, South Dakota. My client's involvement was pursuant to a written agreement between the State of South Dakota and Baldrige & Associates Architects and Engineers, Inc., a/k/a Baldrige & Nelson Architects and Engineers of Sioux Falls, South Dakota under date of January 2, 2013.

As you will note by the enclosed Lien, the balance owing my client at the present time is \$18,030.00 plus \$10,510.64 for fees and expenses over and above the contract, plus interest. This is the amount of fees for services rendered to date based upon the percentage of the construction that has been completed. There will still be due an additional \$32,520.00, but this sum will not be due until the work has been completed. Therefore, it has been neither billed for


Ms. Kristi Honeywell  
SD Board of Regents  
Page 2  
May 7, 2015

nor due at the present time, but your attention is called to the fact that it will be due at a later date so that at least this sum will be held back from the architect pending the completion of the job.

This Notice of Lien is being sent to you pursuant to the provisions of SDCL 5-22-1 and 2. As provided under SDCL 5-22-3, I would appreciate your endorsing upon the account being filed herewith the date of the filing so that it can be reported to the next meeting of your governing board. I am also making demand, as provided by statute, for a receipt showing such date of filing.

In the event there is anything further that you feel you need from either me or my client in order to perfect our lien under the above cited statute, I would certainly appreciate your so advising me. Thank you very much for your assistance and cooperation with regard to this matter.

Yours truly,



E. Steeves Smith

ESS/mf

Enclosure

cc Roby, Quintal & Everson  
Jeff Nelson, Baldrige & Associates Architects & Engineers, Inc.

## NOTICE OF LIEN FOR SERVICES SUPPLIED

## UNDER CONTRACT FOR PUBLIC IMPROVEMENT

TO: South Dakota Board of Regents  
306 East Capital Street, Suite 200  
Pierre, SD 57501  
OSE #R0112—13X

and

Kristi Honeywell, P.E., State Engineer  
Office of the State Engineer  
Joe Foss Building  
523 East Capital Avenue  
Pierre, SD 57501-3182

## PLEASE TAKE NOTICE:

1. Roby, Quintal & Everson, a corporation, lien claimant, whose post office address is 2000 North Kimball Street, P. O. Box 368, Mitchell, South Dakota 57301 has and asserts a lien for engineering services provided in conjunction with the renovation and addition to the Johnson Fine Arts Center at Northern State University in Aberdeen, South Dakota, under a written agreement between the State of South Dakota and Baldrige & Associates Architects and Engineers, Inc. under date of January 2, 2013.
2. The name and the address of the architectural firm for whom the engineering services were performed are: Baldrige & Associates Architects and Engineers, Inc., a/k/a Baldrige & Nelson Architects and Engineers, 408 West Lotta Street, Suite 2, Sioux Falls, South Dakota 57105.
3. The services provided with respect to this project were provided as the result of a Contract with the aforesaid Baldrige & Associates Architects and Engineers, Inc. for an agreed upon lump sum fee of One Hundred Sixty-two Thousand Six Hundred Dollars (\$162,600.00) as evidenced by its acceptance of a proposal by the lien claimant as detailed in a letter dated June 4, 2013, a copy of which is hereto attached as Exhibit B. The lien claimant commenced work on this project on or about June 24, 2013. In addition, the lien claimant is entitled to be paid for its reasonable reimbursable expenses which is the sum of Ten Thousand Five Hundred Ten Dollars Sixty-four Cents (\$10,510.64) on this project (Exhibit E).

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4. The engineering services were performed at the office of the lien claimant in Mitchell, South Dakota, as well as at the job site of said public improvement, and were actually employed therein.

5. A general description was for mechanical and electrical engineering fees due to the lien claimant for design and supervision of the mechanical and electrical components in the renovation and addition to the Johnson Fine Arts Center located on the campus of Northern State University in Aberdeen, South Dakota for a lump sum flat fee of \$147,300.00 plus an additional \$15,300.00 per the quoted additional fee for the design of a complete fire protection sprinkler system for the entire building, new and existing, for a lump sum total amount of (\$162,600.00).

6. That a just and true account of the amount due at the present time is the sum of Eighteen Thousand Thirty Dollars (\$18,030.00) plus Ten Thousand Five Hundred Ten Dollars Sixty-four Cents (\$10,510.64) for reimbursable expenses as shown by the Itemized and Verified Statement of Account attached hereto as Exhibit A. The balance as aforesaid is long past due and is summarized by the letter from the Lien Claimant to the architect and State Engineer's office dated April 20, 2015, a copy of said letter being hereto attached as Exhibit C. As shown by Exhibit D, which is a bill sent by the lien claimant on September 23, 2014, the aforesaid amount of \$18,030.00 was due and payable at that time. Inasmuch as it was not paid, the lien claimant claims interest at the rate of 10% per annum on that amount from the date of the bill, September 23, 2014, until paid. As shown by Exhibit E, a bill for the reimbursable expenses was also sent on November 14, 2014 and therefore the lien claimant is also claiming interest at the rate of 10% per annum on that amount from the date of that bill, November 14, 2015, until paid. That in addition to the aforesaid total amount presently owing and unpaid, the final 20% of the total contract, which is the amount of \$32,520.00, will be due upon completion of the contract, all as set forth in the aforesaid letter from the Lien Claimant to the Architect and State Engineer's office dated April 20, 2015, Exhibit C as hereto attached. That these amounts are due after allowing all credits, and that attached hereto and made a part hereof as though set forth at length is a just and true account of said amounts due or to become due verified by the Affidavit of the lien claimant.

Dated at Mitchell, South Dakota, this 1st day of May, 2015.

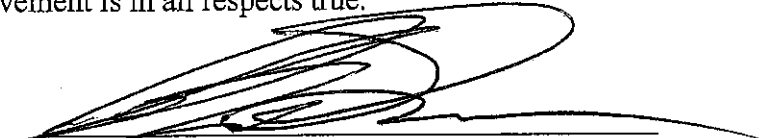
ROBY, QUINTAL & EVERSON,  
a corporation

By 


R. Bruce Everson, President

STATE OF SOUTH DAKOTA )  
 : SS  
COUNTY OF DAVISON )

R. Bruce Everson, being first duly sworn, says that he is the President of Roby, Quintal & Everson, a corporation, the lien claimant mentioned in the foregoing Notice of Lien for Services Supplied under Contract for Public Improvement; that he has read the aforesaid Notice of Lien for Services Supplied under Contract for Public Improvement and knows the contents thereof; that he has knowledge of all of the facts therein stated, and that said Notice of Lien for Services Supplied under Contract for Public Improvement is in all respects true.

  
R. Bruce Everson

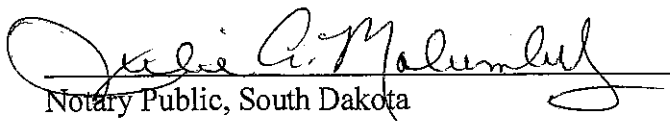
Subscribed and sworn to before me this 1st day of May, 2015.

My Comm. Expires: 4/23/2021  
(SEAL)   
Notary Public, South Dakota

STATE OF SOUTH DAKOTA )  
 : SS  
COUNTY OF DAVISON )

On this the 1st day of May, 2015, before me, Julie A. Malumby, the undersigned officer, personally appeared R. Bruce Everson, who acknowledged himself to be the President of Roby, Quintal & Everson, a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

In Witness Whereof, I hereunto set my hand and official seal.

My Comm. Expires: 4/23/2021  
(SEAL)   
Notary Public, South Dakota

## EXHIBIT A

## ITEMIZED AND VERIFIED STATEMENT OF ACCOUNT

R. Bruce Everson, President of Roby, Quintal & Everson, a corporation, of Mitchell, South Dakota, lien claimant is entitled to engineering fees based upon a flat sum fee of \$147,300.00 plus an additional \$15,300.00 per the quoted additional fee for the design of a complete fire protection sprinkler, for the renovation and addition to the Johnson Fine Arts Center located on the campus of Northern State University in Aberdeen, South Dakota, as follows:

Total amount of Contract	\$162,600.00
Less payments received	<u>112,050.00</u>
Balance	50,550.00
Current balance due (Exhibits C & D)	18,030.00
Reimbursable expenses (Exhibits C & E)	10,510.64
Balance due upon completion (Anticipatory breach)	32,520.00
Plus interest @ 10% from September 23, 2014 on \$18,030.00 and on \$10,510.64 from from November 14, 2014 until paid	?

ROBY, QUINTAL & EVERSON,  
a corporation

By   
Its President

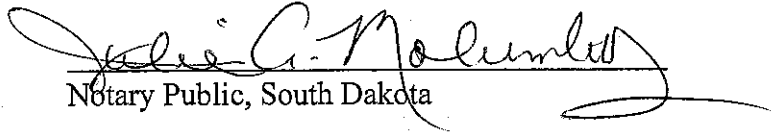
STATE OF SOUTH DAKOTA )  
 : SS  
COUNTY OF DAVISON )

R. Bruce Everson, being first duly sworn, says that he is the President of Roby, Quintal & Everson, a corporation, the lien claimant mentioned in the foregoing statement; that he has read said itemized statement and knows the contents thereof; that he has knowledge of all of the facts therein stated, and that said itemized statement is in all respects true.



R. Bruce Everson

Subscribed and sworn to before me this 1st day of May, 2015.

  
Notary Public, South Dakota

My Comm. Expires: 4/23/2021

(SEAL)



## EXHIBIT B

**ROBY, QUINTAL & EVERSON**  
CONSULTING ENGINEERS

2000 N. KIMBALL — P.O. BOX 368 — MITCHELL, SOUTH DAKOTA 57301  
rqe@rqece.com (605) 996-7543

June 4, 2013

Jeff Nelson  
Baldrige Nelson Architects  
408 West Lotta St. — Suite 2  
Sioux Falls, SD 57105

RE: M&E Engineering Fees  
Renovation & Additions  
Johnson Fine Arts Center  
NSU  
Aberdeen, SD

Dear Jeff:

We have been reviewing the work effort involved with the mechanical and electrical engineering services for the Johnson Fine Arts Center Addition, NSU. It appears, with the construction as proposed, the electrical, heating, and communication services will need to be addressed and relocated to accommodate the building addition. It would appear the primary electrical service will need to be replaced from the existing sectionalizing switch to the relocated building transformer. Existing air conditioning units will need to be addressed and relocated.

In reviewing the correspondence from your Theater and Acoustical Consultant, it appears they will be providing the information on their systems, and it will require reproduction on the electrical drawings, addressing their selections, locations, and electrical requirements.

The existing unit ventilators in the existing building have air intakes in the areas which will be new addition, and modification of the heating, cooling, and ventilation systems in these areas will need to be addressed.

We assume that your theatrical consultants are providing lighting fixture selection and layout in the addition and existing building which will comply with LEED requirements that will not require verification and calculations showing compliance. This would be provided by your theatrical consultants.

We have taken these items into consideration when providing a proposal for the mechanical and electrical engineering services on this project. During discussion, you mentioned that this was to be a LEED project, and the extent of modifications for LEED can address the refrigerant systems

in the existing facility and building energy usage. On other state projects which were LEED, the OSE has accepted design which complied with LEED as far as energy usage and other requirements, however, renovation of the entire existing facility was waived.

This proposal is based on providing drawings in AutoCAD format and specifications on bonded paper for reproduction and distribution by Baldrige Nelson Architects.

This proposal does not provide for energy modeling.

This proposal includes the complete design, review of shop drawings and contractor submittals, review of construction as it proceeds, and review of the final project with comments provided to Baldrige Nelson for distribution to the contractors.

This proposal is based upon the AIA Standard Agreement Between Architects and Engineers for Consulting Services.

We propose to provide you the aforementioned services for the Lump Sum of \$147,300. This does not include sales tax on services if a Certificate of Exception is provided to us by Baldrige Nelson for the project.

This proposal does not include design of a complete fire protection sprinkler system for the entire building, new and existing. If design of the fire protection sprinkler system is required, Add \$15,300.

This proposal does not include "LEED" submittal services. If engineering services are required for "LEED" submittal, including "LEED Informational Forms", Add \$20,000. These services can be provided on an hourly basis if requested.

Appreciate the opportunity to provide you a proposal for this work. If you have any further questions, please feel free to contact us at your convenience.

Sincerely yours,

ROBY, QUINTAL & EVERSON  
CONSULTING ENGINEERS

Bruce Everson, E.E.

RBE:jm

**ROBY, QUINTAL & EVERSON**  
CONSULTING ENGINEERS

2000 N. KIMBALL — P.O. BOX 368 — MITCHELL, SOUTH DAKOTA 57301  
rqe@rqece.com (605) 996-7543

April 20, 2015

Jeff Nelson  
Baldrige Nelson Architects  
408 West Lotta Street – Suite 2  
Sioux Falls, SD 57105

Kristi Honeywell, State Engineer  
Office of the State Engineer  
523 East Capitol  
Pierre, SD 57501

RE: Renovations  
Johnson Fine Arts Center  
NSU  
Aberdeen, SD  
RO112—13X

Dear Jeff and Kristi:

For the above addressed recipients, please be informed this is a summary of our contract/sub-contract with Baldrige Nelson Architects for this project, regarding past due payments.

<b>Engineering Fee</b>	<b>\$162,600</b>	
4/3/14 Billed		\$36,585.00
5/29/14 Billed		73,170.00
6/5/14 Payment Rec'd		<u>- 36,585.00</u>
		\$73,170.00
6/23/14 Billed (Thru CD)		<u>12,195.00</u>
		\$85,365.00
8/18/14 Payment Rec'd		- 75,465.00
9/23/14 Billed (Thru Bidding)		<u>8,130.00</u>
<b>PAST DUE AMOUNT DUE TODATE</b>		<b>\$18,030.00</b>

Unbilled Portion of Contract = \$32,520.00 (Remaining Final 20%)

Also included is an unpaid bill for reimbursable expenses through 10/30/14, in the amount of \$10,510.64, sent on 11/14/14.

Sincerely yours,

ROBY, QUINTAL & EVERSON  
CONSULTING ENGINEERS

Bruce Everson, E.E.

RBE:jm  
Attachments (Copies of Billings)

## EXHIBIT D

# ROBY, QUINTAL & EVERSON

## CONSULTING ENGINEERS

2000 N. KIMBALL — P.O. BOX 368 — MITCHELL, SOUTH DAKOTA 57301  
 rqe@rqece.com (605) 996-7543

JFAC ADDITIONS AND RENOVATIONS  
 NSU  
 ABERDEEN, SD

September 23, 2014

SCHEMATIC DESIGN

MEP Consultant	\$ 14,730	100% Complete	\$14,730
MEP Fire Protection	\$ 1,530	100% Complete	\$ 1,530

DESIGN DEVELOPMENT

Mep Consultant	\$ 22,095	100% Complete	\$22,095
MEP Fire Protection	\$ 2,295	100% Complete	\$ 2,295

CONTRACT DOCUMENTS

MEP Consultant	\$ 73,650	100% Complete	\$73,650
MEP Fire Protection	\$ 7,650	100% Complete	\$ 7,650

BIDDING

MEP Consultant	\$ 7,365	100% Complete	\$ 7,365
MEP Fire Protection	\$ 765	100% Complete	\$ 765

CONTRACT ADMINISTRATION

MEP Consultant	\$ 29,460	0% Complete	--
MEP Fire Protection	\$ 3,060	0% Complete	--
	\$162,600	Total Amount Billed	\$130,080
		Payments Received	<u>-112,050</u>

AMOUNT DUE \$ 18,030

**ROBY, QUINTAL & EVERSON**  
**CONSULTING ENGINEERS**

2000 N. KIMBALL — P.O. BOX 368 — MITCHELL, SOUTH DAKOTA 57301  
 rqe@rqece.com (605) 996-7543

DATE: November 14, 2014

IN ACCOUNT WITH:

Baldrige Nelson Architects  
 408 West Lotta St. — Suite 2  
 Sioux Falls, SD 57105

PROJECT:

Addition/Renovation  
 Johnson Fine Arts  
 NSU  
 Aberdeen, SD

FOR PROFESSIONAL SERVICES: Expenses for discussion with CM relating to changes to JFA

Aberdeen - 9/8/14 Bruce Everson	8 Hours @ \$110/Hr	\$ 880.00
	Mileage 288 Miles @ .54/Mile	155.52
	Expenses	28.00
Aberdeen - 9/16/14 Bob Everson	8 Hours @ \$110/Hr	880.00
	Mileage 288 Miles @ .54/Mile	155.52
	Expenses	28.00
Aberdeen - 10/1/14 Bruce Everson	8 Hours @ \$110/Hr	880.00
	Mileage 288 Miles @ .54/Mile	155.52
	Expenses	28.00
Aberdeen - 10/1/14 Bob Everson	8 Hours @ \$110/Hr	880.00
	Mileage 288 Miles @ .54/Mile	155.52
	Expenses	28.00

Sioux Falls - 10/2/14 Bruce Everson	5 Hours @ \$110/Hr	550.00
	Mileage 150 Miles @ .54/Mile	81.00
	Expenses	22.00
Sioux Falls - 10/2/14 Bob Everson	5 Hours @ \$110/Hr	550.00
	Mileage 150 Miles @ .54/Mile	81.00
	Expenses	22.00
Aberdeen - 10/15/14 Bruce Everson	8 Hours @ \$110/Hour	880.00
	Mileage 288 Miles @ .54/Mile	155.52
	Expenses	28.00
Aberdeen - 10/15/14 Bob Everson	8 Hours @ \$110/Hour	880.00
	Mileage 288 Miles @ .54/Mile	155.52
	Expenses	28.00
Aberdeen - 10/29/14 Bruce Everson	8 Hours @ \$110/Hour	880.00
	Mileage 288 Miles @ .54/Mile	155.52
	Expenses	28.00

In-Office Expenses

10/27/14 & 10/28/14 Bruce Everson	Electrical Load Evaluation	
	8 Hours @ \$110/Hour	880.00
10/28/14 Bruce Everson	Theatrical Load Evaluation	
	4 Hours @ \$110/Hour	440.00
10/30/14 Bruce Everson	Data Wiring & Raceway Evaluation	
	4 Hours @ \$110/Hour	<u>440.00</u>

EXPENSES AMOUNT DUE TODATE \$10,510.64