

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

YONKERS CONTRACTING COMPANY INC.

Index No.: 61442/2014

Plaintiff,

-against-

K.J.C. WATERPROOFING INC. and SUPERIOR
GUNITE, ZURICH AMERICAN INSURANCE
COMPANY, NICHOLSON CONSTRUCTION CO.,
NATIONAL WELDING AND FABRICATION.,
KENSEAL CONSTRUCTION, BARKER STEEL LLC,
STRUCTURE TECH NEW YORK INC., CITI
STRUCTURE LLC,

**DEFENDANT KJC'S
NOTICE OF DISCOVERY
AND INSPECTION TO
PLAINTIFF**

Defendants.

SIRS:

PLEASE TAKE NOTICE, that pursuant to Article 31 of the CPLR, plaintiff shall produce at the offices of BAHNMULTER, LLP, 555 Fifth Avenue, NY, NY 10017 on or before April 8, 2016 for photocopying and inspection, the documents set forth below, in defendants' possession, custody and/or control, or the possession, custody or control of defendant's attorneys, accountants, agents, managing agents, officers, directors and affiliated persons.

DEFINITIONS AND INSTRUCTIONS

- 1 Unless otherwise specifically stated, this request shall cover the period from February 1, 2011 through and including the date of your response to this production request.
- 2 In responding to this request, those requested documents in your "possession, custody or control" are to be produced. This includes documents in the possession, custody or control of your attorneys or their investigators or of any third-party or parties to whom you have surrendered

possession, custody or control, or who are acting in your behalf, or who have otherwise obtained possession, custody or control, or who, upon your request, would surrender possession, custody or control to you.

3 As used herein, the term "document" or "documents" includes, without limitation, the original or any copies, regardless of origin or location, of any correspondence, book, pamphlet, periodical, letter, email, calendar or diary entry, memorandum, message, telegram, cable, report, record, study, stenographic or handwritten note, working paper or draft, invoice, voucher, check, statement, chart, graph, map, diagram, blueprint, table, index, picture, voice recording, tape, microfilm, tape-data sheet or data processing card or disk computer hard drive, computer floppy disk, tape backup, or any other written, typed, printed, recorded, transcribed, punched, taped, filmed, photographed or graphic matter, however produced or reproduced, to which you have or have had access, and copies or reproductions of any of the above that differ in any respect from the original, such as copies containing marginal notations or other variations, and all other records or writings, however produced or reproduced, to which you have or have had access. Designated documents are to be taken as including all attachments, exhibits, enclosures, appendices and other documents that relate to or refer to such designated documents. The enumeration of various specific items as included within the definition of the word "documents" shall not be taken to limit the generality of this word, and the requests herein are directed and intended to obtain all "documents" in the broadest and most comprehensive sense and meaning of this word.

4 Each request herein for documents to be produced, whether memoranda, reports, letters, emails or other documents of any description, contemplates production of the document in its entirety, without abbreviation or expurgation.

5 If you cannot produce a document after exercising due diligence to secure it, so state in writing and produce whatever portion of said document possible, specifying your inability to answer the remainder and stating whether information or knowledge you have concerning the document you are unable to produce including, but not limited to, the content of such document. If any such document was, but is no longer in your possession, custody or control, state what disposition was made of it and the reason for such disposition.

6 In the event that any document called for by this request has been destroyed, that document is to be identified in writing as follows: addresser, addressee, indicated or blind copies, date, subject matter, number of pages, attachments, exhibits or appendices, all persons to whom distributed, shown or explained, date of destruction, manner of destruction, reason for destruction, person who authorized destruction and person who destroyed the document.

7 This request shall be deemed continuing so as to require further and supplement production if you receive or generate additional documents between the time of original production and the time of trial.

8 In the event that any document called for by this request is to be withheld on the basis of a claim or privilege, that document is to be identified in writing as follows: addresser, addressee, indicated or blind copies, date, subject matter, number of pages, attachments, exhibits or appendices, all persons to whom distributed, shown or explained, present custodian and nature of the privilege asserted.

9 The terms “you,” “your,” and “plaintiff” refer to plaintiff Yonkers Contracting Company., and any agent or representative acting on Yonkers’ behalf and their officers, directors, board members, shareholders, subsidiaries, divisions, parent corporations, predecessors and

predecessors in interest, successors and successors in interest, attorneys, employees, agents and related entities.

10. Each request herein for documents to be produced, whether memoranda, reports, letters or other documents of any description, contemplates production of the document in its entirety, without abbreviation or expurgation.

DOCUMENTS TO BE PRODUCED

1. Documents relating to the pending settlement discussions/negotiations between plaintiff and MTA/MTACC, including, but not limited to, as they pertain to one or more of the following: late charges, liquidated damages, retainage, grouting, leaks and leak remediation.

Dated: New York, NY
March 17, 2016

BAHN MULTER, LLP

/s/
By: **MARTIN I. GOLD**
Attorneys for Defendant K.J.C., Inc.
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