

Laramie County Government

Laramie County Clerk
Debbye Lathrop

February 23, 2004

Mr. Robert R. Carlson
White and Steel
21st Floor
950 17th Street
Denver, CO 80202-2804

Dear Mr. Carlson:

Enclosed are the originals of the Settlement Agreement and Release of Claims. Please obtain necessary signatures and return the "Copy of Record" to our office.

Sincerely,

Rhonda Reed
Chief Deputy

enclosures

13

LAW OFFICES

ROBERT R. CARLSON

rcarlson@wsteele.com

WHITE AND STEELE

PROFESSIONAL CORPORATION

21ST FLOOR

950 SEVENTEENTH STREET

DENVER, COLORADO 80202-2804

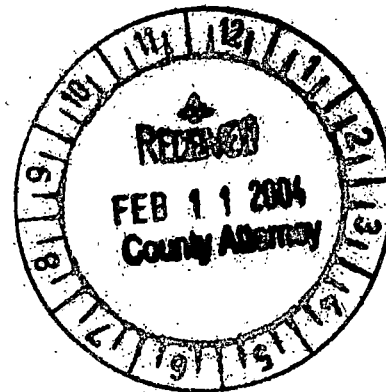
TELEPHONE (303) 296-2828

TELECOPIER (303) 296-3131

FEBRUARY 10, 2004

Via Federal Express

Peter H. Froelicher, Esq.
Laramie County Attorney's Office
310 West 19th Street, Suite 320
Cheyenne, Wyoming 82001



RE: **Laramie County Complex Settlement Agreement**
Claim No.: AE-189620
Our File No.: 10085-65715

Dear Peter:

Enclosed please find a clean copy of the Settlement Agreement and Release of Claims in the above matter. Once I have received signature pages from all parties, I will forward the settlement proceeds as indicated in the Agreement.

Very truly yours,

Robert R. Carlson

RRC:ca
Encl.

**LARAMIE COUNTY CLERK
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM PROCES**

1. DATE OF PROPOSED ACTION: February 17, 2004

2. AGENDA ITEM: ☐ Appointments ☐ Bids/Purchases ☐ Claims
☒ Contracts/agreements/leases ☐ Grants ☐ Land Use: Variances/Board App/Plats
☐ Proclamations ☐ Public Hearings/Rules & Regs ☐ Reports & Public Petitions
☐ Resolutions ☐ Other _____

3. DEPARTMENT: LARAMIE COUNTY COMMISSIONERS

4. APPLICANT: Noel Griffith Jr. & Associates **AGENT:** Laramie County Attorney

5. DESCRIPTION: Consideration of a Settlement Agreement and Release of Claims with Noel Griffith, Jr. and Associates

Amount From: \$ _____ to \$ _____

6. DOCUMENTATION: (1) Original(s) and (4) four copies

<i><u>Clerks Use Only:</u></i>	
<u>Commissioner</u>	<u>Signatures</u>
Humphrey _____	Co Attny _____
Knudson _____	Assist Co Attny _____
Ketcham _____	Grants Manager _____
Action _____	Outside Agency _____
Postponed/Tabled _____	

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("AGREEMENT") is entered into by and among the LARAMIE COUNTY COMMISSIONERS ("LARAMIE COUNTY"), REIMAN CORPORATION ("REIMAN"), NOEL GRIFFITH JR. AND ASSOCIATES ("GRIFFITH"), ROYAL GLASS ("ROYAL"), and KAWNEER, INC. ("KAWNEER") (collectively referred to as "PARTIES").

RECITALS

WHEREAS, the PARTIES hereto desire to compromise and settle certain disputes arising out of or relating to the design and construction of the Laramie County Government Complex located at 309 West 20th Street, Cheyenne, Wyoming ("the PROJECT").

WHEREFORE, in consideration of the mutual promises made herein, and intending to be legally bound hereby, the PARTIES hereto agree as follows:

1. **DEFINITIONS**

1.1 The RELEASING PARTIES:

- (a) LARAMIE COUNTY;
- (b) REIMAN, their assigns and successors;
- (c) ROYAL, their assigns and successors; and
- (d) KAWNEER, their assigns and successors.

1.2 The RELEASED PARTY:

- (a) GRIFFITH, their officers, directors, attorneys, insurers, past and present employees, attorneys, agents, assigns and successors;

1.3 "CLAIMS" shall mean any and all claims, demands, actions, causes of action, liability, and suits at law or equity, arising out of or related to the alleged failure of the curtain wall system, joint sealers and the aluminum framed punched opening windows. The term "CLAIMS" shall include any CLAIMS which may arise in the future, and which may not currently be anticipated or known.

1.4 "DAMAGES" shall mean any and all damages of any kind whatsoever, including, but not limited to, compensatory damages; punitive and/or exemplary damages; special damages; general damages, interest; litigation expenses; and attorney's fees arising out of or related to the CLAIMS. The term "DAMAGES" shall include any damages which may arise in the future, and which may not currently be anticipated or known.

2. **CONSIDERATION**

2.1 In consideration for the agreements and covenants contained in this AGREEMENT, the GRIFFITH and/or their insurers hereby agree to pay as follows:

- (a) GRIFFITH shall pay TWO HUNDRED THOUSAND AND NO/00 DOLLARS (\$200,000.00) to LARAMIE COUNTY.

2.2 GRIFFITH shall pay FIVE THOUSAND and NO/00 DOLLARS (\$5,000) to the trust account of Jones, Jones, Vines & Hunkins towards GRIFFITH's one-fifth (1/5th) share of the mold survey to be conducted pursuant to the Memorandum of Agreement entered by the PARTIES, December 15, 2003 and attached hereto as Exhibit A. GRIFFITH's share shall not exceed \$5,000,

however any unused share shall be returned to counsel for GRIFFITH payable to the "White and Steele, P.C. Trust Account".

2.3 GRIFFITH shall pay FIVE THOUSAND AND NO/00 DOLLARS (\$5,000) to the trust account of Jones, Jones, Vines & Hunkins as GRIFFITH's share of the cost of any Proof of Concept testing performed pursuant to the Memorandum of Agreement.

2.4 The above-described payments may be made by one or more drafts within 14 days after receipt by counsel for GRIFFITH of the fully executed AGREEMENT.

2.5 An additional payment of the remaining available policy limit, reduced for claim expenses ("REMAINING POLICY LIMIT") if any, shall be made to LARAMIE COUNTY not later than April 30, 2004.

3. **RELEASES OF ALL CLAIMS**

3.1 RELEASING PARTIES hereby release and do hereby acquit and forever discharge all RELEASED PARTIES from any and all past, present and future CLAIMS and DAMAGES. GRIFFITH hereby releases the RELEASING PARTIES from any and all past, present and future CLAIMS and DAMAGES.

3.2 The PARTIES agree that the "Amount Paid" pursuant to paragraphs 2.1(a) and 2.5 shall serve to reduce the total amount of damages awarded against REIMAN; KAWNEER or ROYAL and in favor of LARAMIE COUNTY in any litigation concerning the CLAIMS.

3.3 The Parties agree that REIMAN, KAWNEER and ROYAL are not waiving their right to have the contributing fault of GRIFFITH assessed by a court or jury in any litigation concerning the CLAIMS so that their percentages of fault, if any, can be properly determined.

4. **ADDITIONAL CONDITIONS**

4.1 All PARTIES hereby agree that the payment described above is made in good faith and constitutes a reasonable sum for the settlement of CLAIMS and DAMAGES. The consideration stated above is contractual and not a mere recital.

4.2 This AGREEMENT constitutes the entire agreement of the PARTIES. All prior or contemporaneous written or oral communications are merged herein.

4.3 All PARTIES agree that this AGREEMENT and any dispute concerning its interpretation, scope or effect shall be determined in accordance with Wyoming law. If there is any dispute regarding the interpretation of this AGREEMENT at any time, the resolution of such disputes shall be made pursuant to the rules of the AAA (American Arbitration Association) and such proceeding shall be commenced and take place in Cheyenne, Wyoming, before a mutually agreeable arbiter.

4.4 This agreement may be executed in any number of duplicate counterparts.

4.5 The persons executing this AGREEMENT expressly warrant that they are authorized to do so.

4.6 LARAMIE COUNTY warrants that it is the real party in interest with regard to the CLAIMS.

4.7 All PARTIES hereby declare and represent that no other person, firm or corporation that is not a party to this settlement has received any assignment, subrogation or other right of substitution to their or its CLAIMS and/or DAMAGES.

4.8 All PARTIES state that they have read this AGREEMENT and that they have had advice of legal counsel concerning the same, and do understand the same. All PARTIES state that

they have been advised of their right to consult additional professionals of their choice regarding any and all known and unknown, foreseen and unforeseen DAMAGES, losses, injuries, costs, expenses, liabilities, CLAIMS and the consequences thereof, of whatever kind and nature, they may have or will incur, whether suspected or unsuspected. The PARTIES further expressly understand and agree that the signing of this AGREEMENT shall be forever binding, and no recission, modification or release of the undersigned from the terms and acceptance of this AGREEMENT will be made for any mistakes.

4.9 If any provision of this AGREEMENT or the application thereof is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provision or application of this AGREEMENT to the extent that such other provision or application can be given affect without the invalid or unenforceable provision or application. The provisions of this AGREEMENT are declared to be severable.

WHEREFORE, the undersigned execute this AGREEMENT:

LARAMIE COUNTY

Name: Jack Frudson
Title: Chairman
Address: _____

Attest: Debra K. Squire

NOEL GRIFFITH JR., AND ASSOCIATES

Name: _____
Title: _____
Address: _____

REIMAN CORPORATION

Name: _____
Title: _____
Address: _____

ROYAL GLASS

Name: _____
Title: _____
Address: _____

Received And Approved
As To Form Only
By The County Attorney

RAJH 2/12/04

they have been advised of their right to consult additional professionals of their choice regarding any and all known and unknown, foreseen and unforeseen DAMAGES, losses, injuries, costs, expenses, liabilities, CLAIMS and the consequences thereof, of whatever kind and nature, they may have or will incur, whether suspected or unsuspected. The PARTIES further expressly understand and agree that the signing of this AGREEMENT shall be forever binding, and no rescission, modification or release of the undersigned from the terms and acceptance of this AGREEMENT will be made for any mistakes.

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WHEREFORE, the undersigned execute this AGREEMENT:

LARAMIE COUNTY

REIMAN CORPORATION

Name: _____
Title: _____
Address: _____

Name: _____
Title: _____
Address: _____

NOEL GRIFFITH JR., AND ASSOCIATES

ROYAL GLASS

Name: *John R. Griffith*
Title: *Owner/Architect*
Address: *2515 W. ARABIAN St. #25*
Cheyenne, Wyoming 82001

Name: _____
Title: _____
Address: _____

they have been advised of their right to consult additional professionals of their choice regarding any and all known and unknown, foreseen and unforeseen DAMAGES, losses, injuries, costs, expenses, liabilities, CLAIMS and the consequences thereof, of whatever kind and nature, they may have or will incur, whether suspected or unsuspected. The PARTIES further expressly understand and agree that the signing of this AGREEMENT shall be forever binding, and no rescission, modification or release of the undersigned from the terms and acceptance of this AGREEMENT will be made for any mistakes.

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LARAMIE COUNTY

REIMAN CORPORATION

Name: _____
Title: _____
Address: _____

Name: _____
Title: _____
Address: _____

NOEL GRIFFITH JR., AND ASSOCIATES

ROYAL GLASS

Name: Noel Griffith Jr.
Title: OWNER/ARCHITECT
Address: 2515 W. ARCADE STREET
Cheyenne, WY 82001

Name: Ken Boyce
Title: _____
Address: P.O. Box 2632
Chey. WY. 82003

KAWNEER, INC.

Name: Richard M. Kieren
Title: V.P. Finance
Address: 555 GUTHRIE CT
MORCROSS, GA 30092

they have been advised of their right to consult additional professionals of their choice regarding any and all known and unknown, foreseen and unforeseen DAMAGES, losses, injuries, costs, expenses, liabilities, CLAIMS and the consequences thereof, of whatever kind and nature, they may have or will incur, whether suspected or unsuspected. The PARTIES further expressly understand and agree that the signing of this AGREEMENT shall be forever binding, and no rescission, modification or release of the undersigned from the terms and acceptance of this AGREEMENT will be made for any mistakes.


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WHEREFORE, the undersigned execute this AGREEMENT:

LARAMIE COUNTY

Name: _____
Title: _____
Address: _____

REIMAN CORPORATION

Name:  REIMAN T.R. Reiman
Title: PRESIDENT
Address: P.O. Box 1007
Cheyenne, Wyoming 82003

NOEL GRIFFITH JR., AND ASSOCIATES

Name: _____
Title: _____
Address: _____

ROYAL GLASS

Name: _____
Title: _____
Address: _____

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- (d) KAWNEER, their assigns and successors.

1.2 The RELEASED PARTY:

- (a) GRIFFITH, their officers, directors, attorneys, insurers, past and present employees, attorneys, agents, assigns and successors;

1.3 "CLAIMS" shall mean any and all claims, demands, actions, causes of action, liability, and suits at law or equity, arising out of or related to the alleged failure of the curtain wall system, joint sealers and the aluminum framed punched opening windows. The term "CLAIMS" shall include any CLAIMS which may arise in the future, and which may not currently be anticipated or known.

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WHEREFORE, the undersigned execute this AGREEMENT:

LARAMIE COUNTY

Name: Jack Erickson
Title: Chairman
Address: _____

Attest: Debra K. Squire

NOEL GRIFFITH JR., AND ASSOCIATES

Name: _____
Title: _____
Address: _____

REIMAN CORPORATION

Name: _____
Title: _____
Address: _____

ROYAL GLASS

Name: _____
Title: _____
Address: _____

Received And Approved
As To Form Only
By The County Attorney

PHH 2/12/04

KAWNEER, INC.

Name: _____

Title: _____

Address: _____
