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DOC# _____
DATE FILED: 3/2/11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

WILLIAM A. GROSS CONSTRUCTION ASSOCIATES,
INC.,

Plaintiff,

07-CV-10639 (LAK)(AJP)

-against-

**STIPULATION AND ORDER
OF PARTIAL SETTLEMENT
AND VOLUNTARY
DISCONTINUANCE**

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Defendant,

And Subsequent Actions.

----- X

WHEREAS, the Dormitory Authority of the State of New York ("DASNY") and Hugh O'Kane Electric Co., LLC ("HOK") entered into a contract dated October 18, 2001 (the "Contract") for electrical, power, lighting and fire alarm work at the Bronx County Hall of Justice (the "BCHJ") by HOK; and

WHEREAS, this litigation arose in 2007 from various disputed issues concerning the design and construction of the BCHJ (the "BCHJ Project") and includes a main action, a third-party action, a fourth-party action, a fifth-party action, and a sixth-party action (collectively, the "Action"); and

WHEREAS, DASNY, in an amended fifth-party complaint dated September 22, 2008 and filed on September 23, 2008 as ECF Document No. 171 in this Action, interposed claims against HOK and other parties; and



WHEREAS, HOK, in an answer dated and filed on September 26, 2008 as ECF Document No. 204 in this Action, asserted defenses to DASNY's claims, and interposed counterclaims against DASNY; and

WHEREAS, DASNY, in an answer to counterclaims dated and filed on October 20, 2008 as ECF Document No. 223 in this Action, asserted defenses to HOK's counterclaims; and

WHEREAS, HOK, in an amended answer dated and filed on November 25, 2008 as ECF Document No. 268 in this Action, asserted cross-claims against Rafael Vinoly Architects P.C., DMJM H&N, Inc., the Successor-in-interest to DMJM, Architects and Engineers, and Rafael Vinoly Architects/DMJM, Architects and Engineers, a joint venture (collectively "RVA"), Bovis Lend Lease LMC, Inc. ("Bovis") and other parties; and

WHEREAS, DASNY and HOK have conducted discovery with respect to the other's respective claims, counterclaims and defenses in this Action; and

WHEREAS, following mediation sessions conducted at JAMS, DASNY and HOK reached a full and comprehensive provisional settlement of their respective claims against the other in connection with the BCHJ Project and the Contract, subject to the approval of the City of New York (the "City"), which operates the BCHJ; and

WHEREAS, the City has approved the provisional settlement between DASNY and HOK on the terms set forth below; and

WHEREAS, DASNY and HOK wish to amicably resolve all issues and disputes with the other in connection with HOK's work on the BCHJ Project and under the Contract,

NOW, THEREFORE, IT IS STIPULATED AND AGREED as follows:

1. Subject to the conditions set forth below, DASNY shall pay to HOK, and HOK shall accept, the sum of \$5,187,500.00 in full settlement of any and all claims by HOK against DASNY, and by DASNY against HOK, in connection with BCHJ Project and/or the Contract, including any set-offs and interest (the "Settlement Payment").

2. DASNY's delivery and HOK's acceptance of the Settlement Payment shall fully resolve any and all causes of action which have been, or could have been, asserted in this Action against the other in connection with the BCHJ Project and/or the Contract, including but not limited to any statutory interest attributable to those causes of action.

3. Each party shall deliver to the other an originally executed Limited Release, substantially in the form set forth at Exhibits A and B attached hereto, which shall be held in escrow by counsel for the releasee pending both: (a) dismissal of the claims of each against the other pursuant to paragraph 4 below, and (b) DASNY's delivery and HOK's acceptance of the Settlement Payment as set forth above.

4. Promptly after execution of this Stipulation, DASNY and HOK shall jointly submit it to the Court to be So-Ordered, along with the proposed Order attached hereto as Exhibit C, under which all of DASNY's claims against HOK, all of HOK's counterclaims against DASNY, and all causes of action asserted by HOK against parties other than DASNY, and all causes of action asserted by all parties other than DASNY against HOK, are hereby dismissed with prejudice, without costs to any party.

5. Until this Action is finally concluded, HOK shall in good faith provide to DASNY all reasonably requested assistance and cooperation in connection with both DASNY's prosecution of its causes of action interposed against the other parties to the Action, and DASNY's defense against any other parties' causes of action asserted against DASNY. HOK's assistance and cooperation shall extend to any subsequent action or proceeding brought with regard to the BCHJ Project regarding claims discontinued or dismissed without prejudice in this Action.

6. HOK expressly acknowledges that DASNY has no ability to compel the other parties to the Action to discontinue any cross-claims asserted by those parties against HOK, or to prevent any party from asserting against HOK claims for indemnification or contribution as to any amounts claimed and/or recoverable against those parties by DASNY. Accordingly, it is expressly understood and agreed that this settlement is in no way contingent upon the discontinuance or waiver of any such actual or potential cross-claims by those parties against HOK.

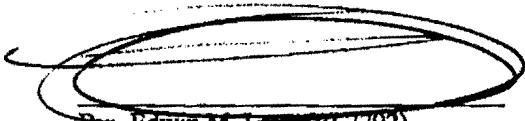
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7. A facsimile signature on this Stipulation shall have the same force and effect as an original signature.

Dated: New York, New York
March 1, 2011

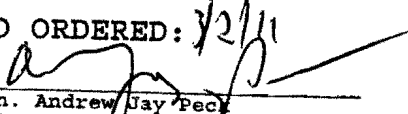
Dated: Jericho, New York
March 1, 2011

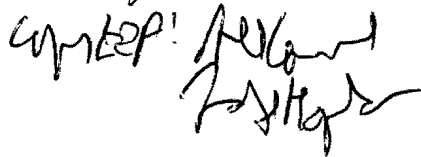


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SO ORDERED: 3/2/11

Hon. Andrew Jay Pech
United States Magistrate Judge



BY ECF

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EXHIBIT A

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LIMITED RELEASE


The DORMITORY AUTHORITY OF THE STATE OF NEW YORK (the "Releasor"), for Ten Dollars and other valuable consideration, the sufficiency and acceptance of which the Releasor acknowledges, does, for the Releasor, and the Releasor's successors and assigns, fully and irrevocably remise, remit, release and forever discharge HUGH O'KANE ELECTRIC CO., LLC and its employees, officers, principals, shareholders, representatives and agents both past and present (collectively, the "Releasee"), and the Releasee's heirs, estates, executors, and administrators, successors and assigns, of and from any and all actions, causes of action, suits, debts, sums of money, damages, claims and demands, in law and equity, which against the Releasee, the Releasor and/or the Releasor's successors and assigns, ever had, now have or hereafter can, shall or may have for, upon or by reason of any matter, cause or thing whatsoever only arising from: (i) the design and construction of the Bronx County Hall of Justice, (ii) the contract dated October 18, 2001 by and between the Releasor and the Releasee in connection with the Bronx County Hall of Justice, and (iii) all claims, counterclaims and cross-claims which have been or could have been asserted against the Releasee (and/or against any individual or entity of which the Releasee is comprised) in the lawsuit captioned as *William A. Gross Construction Associates, Inc. v. American Manufacturers Mutual Insurance Co., et al.*, presently pending in the United States District Court, Southern District of New York as Case No. 07-CV-10639 (LAK)(AP).

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IN WITNESS WHEREOF, the Releasor has executed this Release on this 24th day of February, 2011.

DORMITORY AUTHORITY
OF THE STATE OF NEW YORK

By: 
Stephen D. Curro
Managing Director of Construction

ACKNOWLEDGEMENT

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On this 24th day of February, 2011, before me, the undersigned, personally appeared STEPHEN D. CURRO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the instrument in his duly authorized corporate capacity as Managing Director of Construction for the DORMITORY AUTHORITY OF THE STATE OF NEW YORK, and that by his signature on the instrument, he, on behalf of the DORMITORY AUTHORITY OF THE STATE OF NEW YORK, executed the instrument.

KIMBERLY A. DOLIN
Notary Public, State of New York
Qualified in Columbia County
No. 4296258
Commission Expires July 5, 2014


NOTARY PUBLIC

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EXHIBIT B

LIMITED RELEASE

HUGH O'KANE ELECTRIC CO., LLC (the "Releasor"), for Ten Dollars and other valuable consideration, the sufficiency and acceptance of which the Releasor acknowledges, does, for the Releasor, and the Releasor's successors and assigns, fully and irrevocably remise, remit, release and forever discharge the DORMITORY AUTHORITY OF THE STATE OF NEW YORK, the CITY OF NEW YORK, and all departments, officials, officers, employees, representatives and agents both past and present, respectively, of the DORMITORY AUTHORITY OF THE STATE OF NEW YORK and the CITY OF NEW YORK (collectively, the "Releasee"), and the Releasee's heirs, estates, executors, and administrators, successors and assigns, of and from any and all actions, causes of action, suits, debts, sums of money, damages, claims and demands, in law and equity, which against the Releasee, the Releasor and/or the Releasor's successors and assigns, ever had, now have or hereafter can, shall or may have for, upon or by reason of any matter, cause or thing whatsoever only arising from (i) the design and construction of the Bronx County Hall of Justice, (ii) the contract dated October 18, 2001 by and between the Releasor and the DORMITORY AUTHORITY OF THE STATE OF NEW YORK in connection with the Bronx County Hall of Justice, and (iii) all claims, counterclaims and cross-claims in connection with the Bronx County Hall of Justice which have been or could have been asserted against the Releasee (and/or against any individual or entity of which the Releasee is comprised) in the lawsuit captioned as *William A. Gross Construction Associates, Inc. v. American Manufacturers Mutual Insurance Co., et al.*, presently pending in the United States District Court, Southern District of New York as Case No. 07-CV-10639 (LAK)(AP).

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IN WITNESS WHEREOF, the Releasor has executed this Release on this _____ day of January 4, 2011.

HUGH O'KANE ELECTRIC CO., LLC.

By: Kevin O'Kane
Kevin O'Kane
Managing Member

ACKNOWLEDGEMENT

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On this 4th day of January, 2011, before me, the undersigned, personally appeared Kevin O'Kane personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the instrument in his duly authorized corporate capacity as Managing Member of HUGH O'KANE ELECTRIC CO., LLC, and that by his signature on the instrument, he, on behalf of HUGH O'KANE ELECTRIC CO., LLC, executed the instrument.

Anne R. McDonough
NOTARY PUBLIC

ANNE R. McDONOUGH
Commissioner of Deeds
City of New York - 5-1583
Certificate Filed in New York County
Commission Expires Aug. 01, 2011

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EXHIBIT C

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

WILLIAM A. GROSS CONSTRUCTION ASSOCIATES,
INC.,

Plaintiff,

07-CV-10639 (LAK)(AJP)

-against-

ORDER

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Defendant,

And Subsequent Actions.

----- X

ANDREW J. PECK, United States Magistrate Judge

The Dormitory Authority of the State of New York ("DASNY"), the fourth-party defendant and fifth-party plaintiff in this action, and HUGH O'KANE ELECTRIC CO., LLC ("HOK"), a fifth-party defendant, having effectuated the terms set forth in a Stipulation and Order of Partial Settlement and Voluntary Discontinuance so-ordered on _____, 2011 (ECF Document No. ____), it is hereby

ORDERED that all causes of action asserted by DASNY against HOK, and all causes of action asserted by HOK against DASNY, are hereby voluntarily discontinued with prejudice, without costs to either party; and it is further

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ORDERED that all causes of action asserted by HOK against parties other than DASNY, and all causes of action asserted by parties other than DASNY against HOK, are dismissed with prejudice, without costs to any party.

Dated: New York, New York

_____, 2011

Andrew J. Peck
United States Magistrate Judge