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May 13, 2024

VIA E-MAIL:

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
ctappfilings@sccourts.org

RECEIVED

MAY 13 2024

SC Court of Appeals

Re: *Balfour Beatty Construction, LLC v. Library Associates, LLC, et al.*
Trial Court Case No.: 2019-CP-10-01108

Dear Mrs. Kitchings:

Enclosed for filing in the *Balfour Beatty Construction, LLC v. Library Associates, LLC, et al.*, please find one copy of Appellant Balfour Beatty Construction, LLC's Notice of Appeal, copies of the orders being appealed and a Proof of Service. Copies of same are being provided to all counsel of record via e-mail.

Balfour Beatty Construction, LLC is appealing the following orders:

1. The Order, filed October 6, 2023;
2. The Order granting, in part, and denying in part, Balfour's Motion to Alter or Amend the Order Awarding Punitive Damages and Motion for Election of Remedy, filed April 29, 2024;
3. The Order entering Judgment in favor of Library Associates, LLC against Balfour Beatty Construction, LLC, filed May 6, 2024.

Additionally, please accept this letter as Balfour's notice to the Clerk of the Court of Appeals that an ambiguity exists as to whether the Circuit Court has ruled upon the Rule 59(e) Motion to Alter or Amend the October 6, 2023 Order filed by Balfour on October 16, 2023. The Circuit Court's April 29, 2024 Order is ambiguous and inconsistent in identifying the motions decided therein. The opening paragraph of that Order indicates that the matter is before the

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Circuit Court on Balfour's Motion to Alter or Amend the April 12, 2024 Order Awarding Punitive Damages and Election of Remedy that was filed April 22, 2024. However, thereafter, in the remaining text of the Order, the Circuit Court references are all to "the Motion to Alter or Amend the October 6, 2023 Order."

On April 29, 2024, Balfour wrote a letter to Judge Scarborough requesting clarification of the scope of the April 29, 2024 Order. Judge Scarborough's law clerk acknowledged receipt of the letter; however, Balfour received no substantive response to its request for clarification. Thereafter, Balfour filed a Motion to Alter or Amend the May 6, 2024 Order entering Judgment and the April 29, 2024 Order. That motion to alter or amend remains pending in the Circuit Court.

Due to the unique posture of this case and the lack of clarity regarding the Circuit Court's rulings on Balfour's Motions to Alter or Amend, Balfour is filing the enclosed Notice of Appeal to protect its right to appeal all of the underlying orders in this case.

Additionally, please find enclosed Check No. 513773 in the amount of \$250.00 which covers our filing fee.

Should you have any questions or need anything further, please do not hesitate to contact me.

Sincerely,

s/Katon E. Dawson, Jr.

Katon E. Dawson, Jr.

KED/tlc

Enclosures

cc: All Counsel of Record on Proof of Service