

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Granite Re, Inc.,  
an Oklahoma corporation,

Plaintiff,

vs.

City of La Crescent, a Minnesota municipal  
corporation; MinnComm Utility Construction  
Co., a Minnesota corporation; Daniel J.  
Weidner; and Mary D. Weidner,

Defendants.

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Civil No. 08-441 (RHK/RLE)

**ORDER FOR JUDGMENT**

Based upon all the files, records, and proceedings herein, including the presentations of counsel, all pre-trial and post-trial submissions, and all relevant and admissible evidence, and the Court's Findings of Fact and Conclusions of Law (Doc. No. 149),

**IT IS ORDERED:**

1. On the breach of implied warranty of plans and specifications claim against defendant City of La Crescent (the "City"), judgment be entered in favor of defendant MinnComm Utility Construction Co. ("MinnComm).
2. On the breach of contract claims against the City, judgment be entered in favor of MinnComm.
3. On the defamation claim against the City, judgment be entered in favor of the City.
4. On the quantum meruit claim against the City, judgment be entered in favor of the City.
5. On the Prompt Payment Act claim against the City, judgment be entered in favor of the City.
6. On the breach of contract claims against MinnComm, judgment be entered in favor of MinnComm.

7. On the negligence claim against MinnComm, judgment be entered in favor of MinnComm.
8. On plaintiff Granite Re, Inc.'s ("Granite Re") declaratory judgment action, judgment be entered in favor of Granite Re.
9. On the City's surety claim against Granite Re, judgment be entered in favor of Granite Re.
10. MinnComm is entitled to damages from the City in the total amount of \$1,569,251.23 and prejudgment interest at the rate of 10% calculated from the following accrual dates:
  - A. November 13, 2007 – Bore #1 Expenses Incurred (\$631,821.89)
  - B. December 31, 2007 – Unpaid Pay Applications (\$149,467.47)
  - C. April 1, 2008 – Unpaid Retainage (\$36,968.67)
  - D. April 1, 2008 – Bore # 2 Expenses Incurred (\$266,722.20)
  - E. April 1, 2008 – 12" HDPE Pipe Bore 1 & 2 (\$60,768.00)
  - F. April 1, 2008 – Debeading Bore #2 1800' FM (\$12,600.00); and
  - G. January 1, 2009 – 2008 Lost Profits (\$410,903.00)
11. Based on the above accrual dates, and calculating prejudgment interest as of September 24, 2009, MinnComm is entitled to prejudgment interest in the total amount of \$229,636.35.
12. The Clerk of Court is directed to enter judgment in favor of MinnComm and against the City of La Crescent in the total amount of \$1,798,887.58.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: September 24, 2009

s/Richard H. Kyle  
RICHARD H. KYLE  
United States District Judge