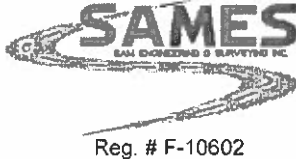


SAM Engineering and Surveying, Inc.



200 South Cage Blvd, Pharr, Texas 78577, (P.O. Box 3353 Edinburg, Texas 78540)

June 1, 2011

Mayor Marcos Ochoa
City of Peñitas
1 Mile South FM 1427
Peñitas, Texas 78576

Re: Peñitas Urban County – Street Improvements
Española Heights Subdivision and Barcelona Heights Subdivision

Mayor Ochoa,

Construction for the Barcelona and Española Heights project began in November 2010. As of May 24, 2011, construction of Granite Drive at Barcelona Heights has been mostly completed and Española Drive is approximately 80% completed.

However, construction has been delayed numerous times due to an ongoing and separate sanitary sewer line project installed within the limits of this project. Although it was necessary for the sewer project to be installed before the street improvements, this delay has presented a problem for this project's contractor – Total Commitment, LLC. Specifically, Total Commitment, LLC has incurred liquidated damages for not completing the street improvements project within 90 consecutive calendar days, as specified in the construction contract between the City of Peñitas, Hidalgo County, and Total Commitment, LLC.

Through the attached Change Order, we are requesting that one-hundred-and-fifty (150) calendar days be added to the said contract to relieve Total Commitment, LLC of the liquidated damages incurred due to the delays. This extension will allow Total Commitment to complete the construction of the project and nullify any liquidated damages incurred during the coordination and construction of both projects.

Should you have any comments and/or questions, I make myself available at your earliest convenience to discuss this matter.

Respectfully Submitted,

Saul D. Maldonado, P.E.,
Principal

SAM Engineering and Surveying, Inc.



200 South Cage Blvd, Pharr, Texas 78577, (P.O. Box 3353 Edinburg, Texas 78540)

The following is an approximate timeline of events that forced the contractor to delay the project and thus, failed to complete the project within the required 90 consecutive calendar days, as stipulated on the construction contract, after the "Notice to Proceed" was issued.

- ❖ Nov. 2010
 - Total Commitment was issued a Notice to Proceed.
- ❖ Dec. 2010
 - Total Commitment was instructed to stop all operations due to upcoming sanitary sewer line installation at Española Heights and Barcelona Heights.
- ❖ Dec. 2010
 - Meeting was conducted at City of Peñitas; Agreement between Total Commitment and M.F. Site Construction was proposed, but never agreed to by M.F. Site Construction and J.F. Fontaine and Associates. Total Commitment was instructed to resume construction of the project except for asphalt paving. This would allow M.F. Site Construction to install sanitary sewer line and restore subgrade to pre-installation conditions.
- ❖ Jan. 2011
 - Total Commitment was instructed to stop all operations to allow M.F. Site Construction to install sanitary sewer line at Española Heights and Barcelona Heights.
- ❖ Feb. 2011
 - Total Commitment was instructed to resume construction due to the completion of the sanitary sewer line at Barcelona Heights.
- ❖ Mar. 2011
 - Total Commitment was instructed to stop all operations due to sanitary sewer line pressure testing at Barcelona Heights.
- ❖ Apr. 2011
 - Total Commitment was instructed to resume construction due to completed sanitary sewer line pressure testing at Barcelona Heights. Construction at Barcelona as shown on plans has been completed. An official inspection of the site will be conducted before project closeout.
- ❖ May 2011
 - Total Commitment has resumed construction at Española Heights and is approximately 80% completed.

**CONSTRUCTION
CONTRACT**

This Agreement, entered into this the 28th day of September 2010 by and between Hidalgo County joined by the City of Peñitas hereinafter called the "OWNER", acting herein through Urban County Program, and Total Commitment, LLC (a corporation) of Mission, State of Texas, hereinafter called "CONTRACTOR".

WITNESSETH

That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

PROJECT NAME: City of Peñitas Street Improvements
BID NO.: 5005-09-60-0311-5000-6000
PROJECT DESCRIPTION: Street and drainage improvements in Barcelona Heights Subdivision and Espanola Heights Subdivision.

hereinafter called the project, for the sum of \$357,792.50 three hundred fifty-seven thousand seven hundred ninety-two dollars and fifty cents and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the Contract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, Supplemental General Conditions and Special Conditions of the contract, the plans, which include all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by Urban County Program, and as enumerated in Paragraph 1 of the Supplemental General Conditions, all of which are made a part hereof and collectively evidence and constitute the contract.

The CONTRACTOR hereby agrees to commence work under this contract on or after a date to be specified in a written "Notice to Proceed" of the OWNER and to fully complete the project within 90 consecutive calendar days thereafter. The CONTRACTOR further agrees to pay, as liquidated damages, the sum of \$250.00 for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

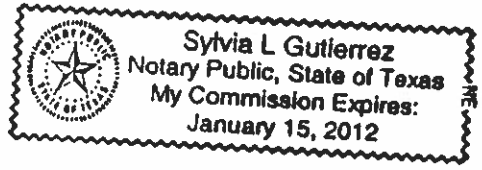
The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the contract, and to make payments on account thereof as provided in Paragraph 25, "Payments to Contractor", of the General Conditions.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in four (4) counterparts, each of which shall be deemed an original, in year and day first above mentioned.

Signature: [Signature]
Contractor
Name of Firm: Total Commitment, LLC
Address: 11435 North Bryan Road
Mission, Texas 78573
Fed. I.D.# or S.S.#: Fed. I.D. #84-1657330

STATE OF TEXAS :
:
COUNTY OF HIDALGO :

This instrument was acknowledged before me on this the 1st day of Nov, 2010,
by Pedro A. Gutierrez Jr. Member of and on behalf of Total Commitment, LLC.
(name) (title) (a corporation) (a partnership) (an individual)



[Signature]
Notary Public - Signature



ATTEST:
Dina Garcia
City Secretary

CITY OF PENITAS
[Signature]
City Mayor

WITNESS:
[Signature]

URBAN COUNTY PROGRAM
[Signature]
Diana R. Serna
Urban County Director