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January 7, 2019

CERTIFIED MAIL RECEIPT NO: 7013 2250 0000 0197 3037

Mr. Lou Munilla
Munilla Construction Management, LLC (MCM)
8951 Cypress Waters, Suite 160
Dallas, Texas 75019

INTENT TO DEFAULT

CSJ: 2054-02-015, Etc.
Project: STP 1702(730)
Highway: FM 2181
County: Denton

Dear Mr. Munilla:

This letter is to notify MCM, LLC that the Texas Department of Transportation's (TxDOT's) intent to declare the Contractor in default because of the issues defined below.

We have discussed with you and representatives of your company on several occasions the issues experienced on this contract since the inception of work. Your recent focus on improving field operations are appreciated, but we continue to experience underperformance as well as non-compliance on this contract. Missing, inaccurate or late monthly reports (non-DBE, DBE, Prompt Pay, Payrolls, Material on Hand, Monthly Schedule Updates), continual lack of progress on the project, daily miscommunications between TxDOT and MCM project leaders, a lack of resources, failure to address Barricade deficiencies, not timely addressing SWPPP issues that would potentially negatively affect the environment as well contractual compliance, and continual claims of non-payment are the issues currently plaguing the project. Under Item 8, Prosecution and Progress, Article 7.1 Default of Contract in the 2014 Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges states that the Engineer may declare the Contractor to be in default of the Contract if the Contractor:

- Fails to prosecute the work to assure completion within the number of days specified
- Fails to complete the work in accordance with the Contract requirements
- Discontinues the prosecution of the work without the Engineer's approval
- Fails to conduct the work in acceptable manner
- Fails to resume work that has been discontinued within a reasonable number of days after notice to do so

There have been Thirty Four (34) non-payment notifications received from subs and suppliers; and there are currently still eight (8) outstanding liens. Therefore, we herewith notify you that MCM shall submit all late or inaccurate monthly reports listed above, correct the prompt pay reports previously submitted, submit releases of lien (or claim) for the outstanding claims of non-payment, assign sufficient resources to

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the project in order to complete the work within the Contract time, address any deficient personnel issues that continually cause miscommunication on the Contract within ten (10) days from the date of this Letter. Additionally, any SWPPP or Barricade issues that arise on the project are to be addressed immediately. Failure to fulfill these requirements within the time frames specified within this paragraph will cause MCM to be declared in default in accordance with Item 8, Article 7.1. All submitted documents must meet all contractual requirements.

Currently, 47% of the contract time has been used with only 15% of the work completed. This lack of progress is severely impacting the overall project progress and requires the Department to take immediate action. For instance, current critical path items (per the April 2018 MSU, with a Data Date of December 18, 2018) 01005 and 01009 were scheduled by MCM to be completed in April 2018 and still have not been completed. Additionally, the entire phases 1A and 1B were scheduled to be completed in June 2018 and have not been completed, according to the Baseline Schedule. Items 01005 and 01009 must be completed within ten (10) days.

Within ten (10) calendar days, submit a schedule acceptable to the Department, reflecting completion of the remaining work that meets all contractual requirements.

MCM has ten (10) days from the date of this letter take corrective action on these contractual deficiencies.

If you do not resolve all issues as stated in this letter, TxDOT will continue with the default process in accordance with Article 8.7 of the Standard Specifications.

Should you have any questions concerning this matter, please contact Mr. Angel Karr at, P.E. at (970) 480-8950.

Sincerely,



Tina Massey, P.E.
Denton Area Engineer

Attachments: March 2018 MSU Critical Path Only R1, FM 2181 Baseline Rev 01-23-2018 Complete Schedule

cc: Dallas District Construction Office Construction Section,
TxDOT Construction Division,
Berkshire Hathaway Specialty Insurance, Bond #47SUR3000046010007,
100 Federal Street, 20th Floor, Boston, MA 02110