

February 1, 2023

Timmons Construction Inc.
Brad Timmons
1306 Western Avenue
Brookings, SD 57006

RE: Highway 212 Reconstruction - Watertown, South Dakota

Timmons Construction Inc.:

As you are aware, this project did not meet the intended schedule or completion date, set for October 28, 2022. The general scope of work Timmons Construction Inc. was to provide included all cement concrete pavement and associated work. The expected total extended price for all subcontract work equaled \$4,256,175.75, before any change orders.

It is of our opinion that the subcontractor failed to comply with the progress schedule, which caused delays to the prime contract work. We offered help on several occasions, including bringing in additional subcontracts, but were rejected by you. It was also confirmed on numerous occasions that you had crews on different jobs around the state. We feel this directly caused delays to this project. To prevent further delays, we did not pursue the termination of this subcontract.

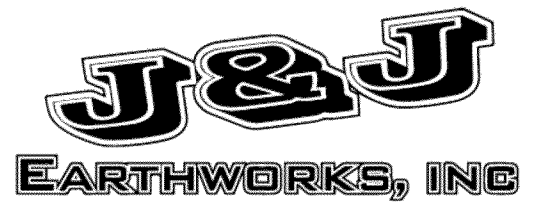
As of today, February 1, 2023, the total block rental days being assessed for the first phase of the project totals 313 days, which is 163 days over anticipated. Each day is assessed at \$2,500 per day, equaling \$782,500. The total disincentive for this project stands at \$407,500. Based on the progress schedule and the notes from the Department of Transportation (DOT) on block rental days, we feel this sum should be divided between Timmons Construction Inc. and J&J Earth Works, Inc., with approximately \$300,000 being assessed to you and the remaining being assessed to us.

There are also 33 days of Liquidated Damages (LD's) currently being assessed, with more to come as work continues this spring. It is anticipated that this amount could double, based on the amount of work yet to complete. Each day is assessed at \$2,400, bringing the total to-date to \$79,200. We feel that if we were allowed to bring in other subcontractors, the work would have been completed by the expected completion date. Therefore, we feel you are responsible for the full amount of LD's.

As everything sits today and based on the information above, we are currently withholding \$458,400 from the subcontract amount. This amount is being withheld to not only ensure the project is completed this spring, but to cover these costs that we feel are the responsibility of the subcontractor. This letter does not address possible other damages, including PCCP Smoothness. It also does not take into account the possibility of negotiating lower damages with the DOT at the end of the project. If that occurs, that number will be reflected in the final payment.

1002 S. Madison Street
Milbank, SD 57252
Office: 605-432-7966 Fax: 605-432-6715 Jeremy Cell: 320-761-3908 Jamie Cell: 605-924-0496

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We are trying to avoid too much of a conflict here. I have tried to contact you a few times to sit down and discuss this issue and will look forward to that meeting soon. We have enjoyed working with you on the numerous other projects we have had with you and want to continue a working relationship going into the future.

If you have any questions or concerns, please do not hesitate to contact me or the office.

Sincerely,

Colin A. Paulsen /S/
Superintendent of Project Operations