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December 23, 2025

LTR #28

City of Lake Elsinore

Attn: Yu Tagai, PE
130 S. Main Street
Lake Elsinore, CA 92530

Project: **Main Street Interchange Improvement Project**
Project No: **Z10017**

Subject: **Response to City Letter Dated 11.20.2025**

Dear Mr. Tagai:

Griffith is in receipt of the City of Lake Elsinore TRO (“Time Related Overhead”) response letter dated November 20, 2025. In this letter, the City of Lake Elsinore states “*We have urged the contracting team on several occasions to engage in substantive settlement discussions, but to no avail*”. Griffith Company disputes the position that the City of Lake Elsinore has taken an active role in attempting to engage in substantive settlement discussions. The following are **recent attempts by Griffith Company to engage in good faith settlement discussions** that have largely been **ignored** by the City of Lake Elsinore.

Marquis Johnson, Project Manager reached out to Remon Habib, PE:

- 1) February 7, 2025 @ 11:49am
- 2) March 6, 2025 @ 3:22pm
- 3) March 18, 2025 @ 10:05am
- 4) June 20, 2025 @ 10:52am
- 5) June 25, 2025 @ 3:25pm
- 6) July 23, 2025 @ 2:43pm

Marquis Johnson, Project Manager reached out to Yu Tagai, PE:

- 7) July 30, 2025 @ 12:50pm
- 8) September 4, 2025 @ 2:49pm
- 9) September 8, 2025 @ 8:40am
- 10) September 16, 2025 @ 4:37pm
- 11) September 22, 2025 @ 2:08pm
- 12) October 10, 2025 2:47pm

Jason Goldsbrough, Senior Project Manager reached out to Yu Tagai, PE:

- 13) October 9, 2025
- 14) October 13, 2025
- 15) October 14, 2025
- 16) October 28, 2025 @ 2:04pm

Dan Leeper, Regional Manager reached out to Jason Simpson, City Manager:

- 17) November 4, 2025
- 18) November 18, 2025

Dan Leeper, Regional Manager reached out to Yu Tagai, PE:

- 19) December 19, 2025



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Griffith Company acknowledges that there have been past attempts by the City to settle this matter. However, most attempts by the City were not substantive and in good faith as the City merely made arbitrary token offers unrelated to the scope of the issue, and completely void of reasoning, data or any substantive discussion. To further illustrate this, Griffith addresses four such efforts below.

1. Marquis Johnson received a letter from the City on July 22, 2024, responding to Griffith Company's request for TRO and open change orders. In the letter, the City offered \$164,977.29 to settle approximately \$1,460,666.44 in open change orders. The City did not agree to the requested TRO and cited the same three reasons cited in the City's recent correspondence. Griffith Company provided a detailed response with factual backup refuting the City's unfounded arguments. See Griffith Company letter dated September 5, 2024.
2. Marquis Johnson received a phone call from Remon Habib in October 2024 stating that the City was offering \$200,000 to settle the approximately \$1,460,666.67 in open change order requests. When questioned about the rationale for the offer, Remon stated it was the maximum he was authorized to offer. There was no substantive discussion about the content of the change order requests.
3. On June 25, 2025, Remon Habib communicated an offer of \$185,422.29 to settle approximately \$1,801,179.62 in TRO and open change orders. The increase in the change order amount was due to ongoing owner delays. In response, Griffith Company made a good faith offer to settle our change orders for \$475,030.65 less than previously requested for a total of \$1,326,148.97.
4. On September 24, 2025, Yu Tagai from the City of Lake Elsinore sent a final settlement agreement for \$100,000.00 for TRO, not charge LD's and the City would address the remaining change orders (COP's #31, 33, and 43). We understand this proposal to be for \$285,422.29

No Factual Basis for City's Rejection of Griffith Company Claims

The City of Lake Elsinore continues to provide the following four statements as the basis for why TRO compensation is not due to Griffith Company. These statements are not supported by any factual analysis, reasoning, or evidence. Further, Griffith Company has already previously refuted each statement.

- 1) *"Retaining walls work started much later than shown on the original schedule and after the submittal were approved; work was to be done by Griffith and Drilltech."*
 - a. Response: Griffith Company **agrees that the work started later than expected**. There are **durations specified in the contract** for the City's review of submittals and it **exceeded that duration** significantly. The retaining wall work was initially delayed due to the extended submittal review process for the retaining wall ground anchors. Notification of this was provided to the City of Lake Elsinore via Submittal #49 – Time Impact Analysis (TIA). The **City of Lake Elsinore authorized** the submittal which requested **additional days**. Its **approval** included comments. Griffith Company requests explanation from the City of Lake Elsinore why it continues to cite this argument when it has been previously acknowledged

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that it was the cause of the delay on August 22, 2023.

2) "Drilltech left the project several times or worked a few days per week while their work was the controlling operation of the critical path on the schedule.

- a. Response: The wall construction was built per the originally planned process. A process which included days that Drilltech would not be onsite. Accordingly, the City's statement is not indicative of a Contractor caused delay. It was always the plan, and is inherent in this type of work, that Drilltech would not be onsite every day. For the lift of each wall, the approved baseline schedule shows at least twelve (12) working days where Drilltech would stop work to allow the excavation to proceed in a safe manner and for the concrete to cure. The schedule below labels Drilltech's work activities as "Drill sub horizontal ground anchors", "Shotcrete sub horizontal ground anchors" and "Testing horizontal ground anchors". Between each lift of the retaining wall, the activity "Excavate sub horizontal ground anchors" Drilltech's work and has a duration of (5) working days. Also, there is a seven (7) calendar day activity labeled "Cure horizontal ground anchors" which takes place in between Drilltech's work. This is because each time "Excavate sub horizontal ground anchors" or "Cure horizontal ground anchors" occurs, Drilltech is not to be on site, and should be waiting for the activities to finish.

Activity ID	Activity Name	OD	Actual duration	Start	Finish
CO Lake Elsinore Main Street - Schedule Update July 2024					
	Pre-Construction Activities	1418	989	16-Nov-21 A	20-Aug-24
	Construction Activities - Stage 1	896	875	09-Mar-22 A	20-Aug-24
	Third Party Utility Relocations	271	261	31-Oct-22 A	18-Jul-23 A
	Mobilization & Job Site Preparations	23	25	09-Mar-22 A	14-Apr-22 A
	Retaining Wall - South			01-Aug-22 A	17-May-24 A
RWS-1000	Excavate Sub Horizontal Ground Anchors Lift #1 - South	5	4	01-Aug-22 A	05-Aug-22 A
RWS-1010	Drill Sub Horizontal Ground Anchors Lift #1 -South	5	10	09-Nov-22 A	23-Nov-22 A
RWS-1020	Shotcrete Sub Horizontal Ground Anchors Lift #1 - South	2	0	28-Nov-22 A	28-Nov-22 A
RWS-1030	Cure Horizontal Ground Anchors Lift #1 - South	7	6	29-Nov-22 A	05-Dec-22 A
RWS-1032	Testing Horizontal Ground Anchors Lift#1 - South	1	0	05-Dec-22 A	05-Dec-22 A
RWS-1040	Excavate Sub Horizontal Ground Anchors Lift #2 - South	5	10	07-Dec-22 A	23-Dec-22 A
RWS-1050	Drill Sub Horizontal Ground Anchors Lift #2 -South	5	6	27-Dec-22 A	13-Jan-23 A
RWS-1055	Erect Rebar at Lift #2-South	3	2	17-Jan-23 A	19-Jan-23 A
RWS-1070	Cure Horizontal Ground Anchors Lift #2 - South	7	7	20-Jan-23 A	27-Jan-23 A
RWS-1060	Shotcrete Sub Horizontal Ground Anchors Lift #2 - South	1	0	20-Jan-23 A	20-Jan-23 A
RWS-1072	Testing Horizontal Ground Anchors Lift #2 - South	1	0	27-Jan-23 A	27-Jan-23 A
RWS-1080	Excavate Sub Horizontal Ground Anchors Lift #3 - South	3	4	31-Jan-23 A	06-Feb-23 A
RWS-1090	Drill Sub Horizontal Ground Anchors Lift #3 - South	5	3	07-Feb-23 A	10-Feb-23 A
RWS-1095	Erect Rebar at Lift #3-South	3	3	07-Mar-23 A	09-Mar-23 A
RWS-1100	Shotcrete Sub Horizontal Ground Anchors Lift #3 - South	1	1	14-Mar-23 A	14-Mar-23 A
RWS-1110	Cure Horizontal Ground Anchors Lift #3 - South	7	7	15-Mar-23 A	21-Mar-23 A
RWS-1112	Testing Horizontal Ground Anchors Lift #3 - South	1	1	23-Mar-23 A	23-Mar-23 A

Additionally, the total duration originally planned for Drill-Tech's work was 105 working days. The actual total duration of Drilltech's work was 97 working days. **Drilltech actually beat its planned durations.** It did not abandon the job in any way as the City has tried to argue.

3) "Griffith Company did not effectively manage staffing the project to increase productivity, but instead, had fewer people working on critical path and other items".



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- a. Response: This statement is **unsubstantiated, vague, and not based in fact**. The as-built schedule does not indicate project delays were caused by Griffith Company not meeting originally anticipated productions. The as-built schedule and several Time Impact Analyses (TIA's) show that delayed review times and design issues caused the project delays. **Many of the delay days** for which Griffith Company is requesting Time Related Overhead **have been approved by the City** of Lake Elsinore previously. To help mitigate the Owner delays, Griffith Company did accelerate the schedule by resequencing construction of the north and south wall concurrently. This was changed from a sequential production that is shown in the approved baseline schedule. The City of Lake Elsinore was first notified of this effort in the approved October 2022 schedule update. The project suffered from poor design. The initial civil engineer was removed from the project early during the beginning stages. Griffith Company's productivity was impacted by the amount of design changes and RFI's needed to address inconsistencies in the project plans. A total of sixty-eight (68) out of one hundred and twenty-five (125) plan sheets were revised through **design changes**. At least half of the plan's sheets were not accurate at start of construction. Also, there were one hundred and forty-five(145) RFIs submitted on a three hundred (300) working day contract. Nearly one **(1) RFI for every two (2) contract working days**.

4) *"Also troubling is the fact that your claim was submitted with two employees that the City had no contact with: Mr. Wanum and Mr. Rivas. The inclusion of costs from two persons that did not work on the project has calls into question the authenticity of Griffith's data".*

- a. Response: It is common within the industry to have staff that work on the project that don't interact with the client directly. Nonetheless, there was interaction between the City's inspection staff and these personnel. Mr. Walnum was a Senior Project Manager that provided support for the structural portion of the project. Mr. Rivas was the Superintendent responsible for the structural portion of the project. Because Mr. Rivas was onsite routinely during the structural portion of the phase, your inspection staff will validate that he **was part of the project**. This comment was also previously addressed in Griffith Company's Letter #24 dated September 5, 2024.

///

Restatement of Facts

Griffith Company has provided multiple correspondence to the City of Lake Elsinore to substantiate its claim for owner caused delays and associated TRO costs. The project documents will show that the City of Lake Elsinore initiated Notice to Proceed on March 14, 2022, with a contract duration of three hundred (300) working days. The City of Lake Elsinore agreed and added sixty-four (64) working days to the contract via change orders #1-18 and added forty-seven (47) working days to the contract via change orders #19-24. These change orders (#1-24) added a total of 111 working days to our contract.

Griffith has provided submittal #124, which included TIA #9100. In this TIA Griffith

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requested an additional 199 working days and the Time Related Overhead (TRO) costs associated with the delay. The additional 199 working days, plus the 111 days already added to Griffith Company's contract brought the total number of additional working days to 310. The City rejected TIA #9100 for unsubstantiated reasons. As shown in Letter #26, the total requested amount is \$1,801,179.62 for all open change orders.

Griffith Company desires to find a mutually agreeable resolution to its Change Order Requests (COR) #21 TRO, COR #31 Additional Survey, COR #33 Material Price Adjustment & COR #43 Oil Index Price Adjustment. To that end, Griffith Company has attempted to meet with Remon Habib, Yu Tagai, and Jason Simpson multiple times to engage in substantive settlement discussions.

Regardless of our disagreement about the history of who has attempted to engage in substantive settlement discussions, we are encouraged by your expressed desire to do so now. Accordingly, the necessary next steps are to engage in substantive in-person settlement discussions. A written best and final proposal followed by closed door discussions will not be productive.

However, as a show of Good Faith, Griffith Company wants to comply with your request. Notwithstanding the position Griffith Company has set forth previously herein or otherwise, and preserving all rights Griffith Company has with respect to this matter and the actions of the City of Lake Elsinore, Griffith Company submits the following best and final offer of \$485,000.00. This amount is offered as a potential settlement of all matters discussed herein. Accordingly, the offer is subject to all protections applicable to settlement offers, including but not limited to any use of such offer as evidence that Griffith Company has waived any rights or claims. This offer is contingent on the City of Lake Elsinore's payment of this amount prior to February 1, 2026.

Lastly, Griffith Company requests an update on the status of retention release. As you know, Public Contract Code requires release of retention within 60 days of completion, which was achieved on November 10, 2025. Failure to do so can result in penalties of 2% per month.

I would gladly welcome a meeting or telephone call to discuss these matters further. You can reach me at (714) 334-4941

Respectfully,

Dan Leeper
Regional Manager

CC: Jason Simpson