City of North Bay Village

Administrative Offices
1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

OFFICIAL AGENDA
SPECIAL CITY COMMISSION MEETING

CITY OF NORTH BAY VILLAGE
1700 KENNEDY CAUSEWAY, #132
NORTH BAY VILLAGE, FL 33141

THURSDAY, SEPTEMBER 13, 2012

IMMEDIATELY FOLLOWING 6:30 P.M.
BUDGET PUBLIC HEARING

NOTICE IS HEREWITH GIVEN TO ALL INTERESTED PARTIES THAT IF ANY PERSON SHOULD DECIDE TO APPEAL ANY DECISION MADE AT THE FORTHCOMING MEETING OF THE CITY COMMISSION, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

CITY COMMISSION MEETINGS ARE BROADCAST LIVE ON CHANNEL 20 FOR ATLANTIC BROADBAND SUBSCRIBERS.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMMODATION OR A SIGN LANGUAGE INTERPRETER TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT (305) 756-7171 NO LATER THAN FOUR DAYS PRIOR TO THE PROCEEDING. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS AT (800) 955-8771 (TDD) OR (800) 955-8700 (VOICE) FOR ASSISTANCE.

---

1. **CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL**

2. **RESOLUTION – ITEM 11L (DEFERRED FROM SEPTEMBER 11, 2012)**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE A COMPLETION CONRACT WITH VALLEYCREST LANDSCAPE DEVELOPMENT, INC. ("VALLEYCREST") FOR REDEVELOPMENT OF J. F. KENNEDY CAUSEWAY AND IMPROVEMENTS TO DR. PAUL VOGEL PARK ("PROJECT"); WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 36.25 OF THE CITY CODE TO UTILIZE THE SERVICES OF VALLEYCREST; AND AUTHORIZING EXPENDITURES TO VALLEYCREST AND SOUTHEAST UNDERGROUND UTILITIES CORP. ("SOUTHEAST") NOT TO EXCEED $235,999.00 FOR PREVIOUSLY PERFORMED WORK ON THE PROJECT;

AUTHORIZING EXPENDITURES NOT TO EXCEED $174,001.00 FOR VALLEYCREST AND SOUTHEAST TO COMPLETE THE PROJECT; APPROVING PAYMENT TO OTHER UNPAID SUBCONTRACTORS AND SUPPLIERS OF M. VILA AND ASSOCIATIES, INC. ("VILA") NOT TO EXCEED $114,332.00; AUTHORIZING KIMLEY-HORN & ASSOCIATES, INC. ("KIMLEY-HORN") TO PROCEED WITH WORK ORDER NO. 06- 12 FOR A COST NOT TO EXCEED $23,000.00; AUTHORIZING THE APPROPRIATE OFFICIALS TO EXECUTE THE NECESSARY DOCUMENTS; AUTHORIZING THE APPROPRIATION AND BUDGETING OF APPROXIMATELY $281,789.00 TOWARD THE COMPLETION OF THIS PROJECT AND AUTHORIZING THE CITY MANAGER TO EXPEND THE BALANCE OF THE BUDGETED FUNDS AND NEWLY APPROPRIATED FUNDS TO COMPLETE THE PROJECT; AND PROVIDING AN EFFECTIVE DATE. ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)***

1.) Commission Action

3. <u>ADJOURNMENT</u>

City of North Bay Village
Administrative Offices
1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

MEMORANDUM
City of North Bay Village

TO: Mayor Connie Leon-Kreps
Vice Mayor Eddie Lim
Commissioner Richard Chervony
Commissioner Stuart Blumberg

FROM: Dennis Kelly, City Manager

SUBJECT: Special Meeting of the City Commission

DATE: September 13, 2012

Pursuant to §30.03 of the City of North Bay Village Code of Ordinances, a Special Meeting of the City Commission is called for **SEPTEMBER 13, 2012 IMMEDIATELY FOLLOWING THE 6:30 P.M. BUDGET PUBLIC HEARING**, in the City Commission Chambers at 1700 Kennedy Causeway, #132, North Bay Village, Florida. The purpose of this meeting shall be to consider the following:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE A COMPLETION CONRACT WITH VALLEYCREST LANDSCAPE DEVELOPMENT, INC. ("VALLEYCREST") FOR REDEVELOPMENT OF J. F. KENNEDY CAUSEWAY AND IMPROVEMENTS TO DR. PAUL VOGEL PARK ("PROJECT"); WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 36.25 OF THE CITY CODE TO UTILIZE THE SERVICES OF VALLEYCREST; AND AUTHORIZING EXPENDITURES TO VALLEYCREST AND SOUTHEAST UNDERGROUND UTILITIES CORP. ("SOUTHEAST") NOT TO EXCEED $235,999.00 FOR PREVIOUSLY PERFORMED WORK ON THE PROJECT;

Mayor **Connie Leon-Kreps** | Vice-Mayor **Eddie Lim** | Commissioner **Stuart Blumberg** | Commissioner **Dr. Richard Chervony**

AUTHORIZING EXPENDITURES NOT TO EXCEED $174,001.00 FOR VALLEYCREST AND SOUTHEAST TO COMPLETE THE PROJECT; APPROVING PAYMENT TO OTHER UNPAID SUBCONTRACTORS AND SUPPLIERS OF M. VILA AND ASSOCIATIES, INC. ("VILA") NOT TO EXCEED $114,332.00; AUTHORIZING KIMLEY-HORN & ASSOCIATES, INC. ("KIMLEY-HORN") TO PROCEED WITH WORK ORDER NO. 06-12 FOR A COST NOT TO EXCEED $23,000.00; AUTHORIZING THE APPROPRIATE OFFICIALS TO EXECUTE THE NECESSARY DOCUMENTS; AUTHORIZING THE APPROPRIATION AND BUDGETING OF APPROXIMATELY $281,789.00 TOWARD THE COMPLETION OF THIS PROJECT AND AUTHORIZING THE CITY MANAGER TO EXPEND THE BALANCE OF THE BUDGETED FUNDS AND NEWLY APPROPRIATED FUNDS TO COMPLETE THE PROJECT; AND PROVIDING AN EFFECTIVE DATE. ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)***

DK:yph

City of North Bay Village

Administrative Offices
1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

CITY OF NORTH BAY VILLAGE
RECOMMENDATION MEMORANDUM

DATE: September 5, 2012

TO: Mayor Connie Leon-Kreps
Vice Mayor Eddie Lim
Commissioner Stuart Blumberg
Commissioner Richard Chervony

FROM: Dennis Kelly, City Manager
Nina Boniske and Gary Brown, City Attorneys

SUBJECT: Completion of and Payment for JFK 79th Street Causeway Redevelopment/ Dr. Paul Vogel Park Improvements ("Project")

RECOMMENDATION:

It is recommended that the City Commission approve the attached Resolution and authorize the appropriate City officials to:

1) Negotiate and make payment to various subcontractors and suppliers of M. Vila & Associates, Inc. ("Vila") for the above Project for a cost not to exceed $114,332.00;

2) Waive the competitive bidding process pursuant to Section 36.25 of the City Code to approve negotiation of a Completion Contract with Valley Crest Landscape Development, Inc. ("Valley Crest"), a general contractor (who was also a main subcontractor under the original agreement with Vila) to complete the Project utilizing the services of the existing electrical subcontractor, Southeast Underground Utilities Corp ("Southeast");

11 L(1)

3) Authorize payment to Valley Crest and Southeast in an amount not to exceed $410,000.00 ($235,999.00 for previously performed work on the Project under Vila and $174,001.00) to complete the Project);

4) Authorize Kimley-Horn to proceed with construction phase services under Work authorization No. 06-12 for a cost not to exceed $23,000.00; and

5) Bring the negotiated Completion Contract back to the City Commission for approval.

As discussed in more detail below, payment of the forgoing amounts, as well as costs incurred and to be incurred by the City in connection with the termination of Vila and hiring of a Completion Contractor, will require appropriation by the City Commission of approximately $281,789.00 (recommended from the CITT Fund, GO Bonds for Vogel Park, and the General Fund Reserve).

BACKGROUND:

After competitive procurement, the City awarded a design-build contract to Vila for certain roadway and landscaping improvements to JFK 79th Street Causeway ("Agreement"). In connection with the Agreement, Vila was required to procure payment and performance bonds to secure payment/performance of the Project by Vila (the "Bonds"). Work under the Agreement was released in phases pursuant to certain work orders (Work Orders 1 and 2). Pursuant to a Change Order to the Agreement, the work was expanded to include certain improvements to Dr. Paul Vogel Park and was included in an additional work order (Work Order 3). The total cost of the Project, as set forth in the Work Orders, and including Change Orders to the Agreement, was $2,464,283.89 (*See* Resolution No.'s 2009-74, 2010-32, 2011-49, and 2011-56).

Vila abandoned the Project prior to completion, and the City terminated Vila for cause on or about May 31, 2012. At the time of termination, the contract balance, including retainage, remaining in the City's budget for this Project was $305,913.75. At that time staff sought and obtained direction from the City Commission to work towards completion of the Project. During our due diligence to determine default and effectuate termination, we discovered that Vila had not provided all of the required Bonds. Vila had initially procured a payment and performance bond from Suretec Insurance Company ("Surety") totaling $60,000.00. Formal demand was made on the Surety to complete the Project under the performance bond; however, the Surety denied coverage and has taken the position that this small bond was only for a portion of the initial work under the Agreement and was essentially released when this initial work was completed. Subcontractors on the Project also made claims for payment under the payment bond, which were also denied by the Surety on the same basis.

Although the City has the option to file suit against Vila for breach of contract for failure to obtain the required bonds, for practical purposes it appears that Vila is no longer a viable business and is likely judgment proof. Certainly, the City could further explore filing litigation against Vila, however, at the present time the recommendation is to obtain completion of the Project and address litigation at a later date. As this time the City does have the Project balance available to use towards completion of the Project.

To compound Vila's default, the City subsequently received written notices of non-payment from Vila's subcontractors and suppliers for completed work on the Project totalling approximately $373,510.66. ("Claimants") (this amount is currently being verified by City staff and the City Attorney) Further, two of the Claimants have filed litigation for unpaid work and/or materials; Valley Crest, whose claim at this time is against Vila and Suretec (but they have advised the City they intend to add it to the litigation if their claim is not resolved); and Central Concrete Supermix, Inc. Another Claimant, Cemex Construction Materials Florida LLC, has retained counsel and threatened to file suit against the City if payment is not made within the next several weeks (counsel's last correspondence provided a deadline of August 16, 2012 but counsel has since provided an extension of this date). The City Attorney has been in contact with all Claimants and/or their attorneys to attempt to work towards a resolution of their claims without the City having to be involved in the expense of protracted litigation. As part of the resolution of these Claimant's claims, the City Attorney will ensure that each Claimant releases the City from any further liability and any litigation is dismissed and, to the extent possible, obtain an assignment of rights by Claimants against Vila.

Without the security of the Bonds, the City's only real viable option is to negotiate payment to each of the Claimants and to hire a contractor to complete the balance of the Project. The City has been working with Valley Crest to obtain a workable proposal to serve as the City's Completion Contractor (staff did obtain proposals to complete the work from other contractors; however, their prices exceeded Valley Crest's and this contractor is already familiar with this Project). The Project completion would be supervised by Kimley Horn, the City's Consulting Engineers (pursuant to Kimley-Horn's construction phase services work authorization No. 06-12). The City would also negotiate and arrange for payment of verified amounts to unpaid Claimants. Based on discussions with staff and the City Attorney, Valley Crest and Southeast have offered to accept a negotiated and discounted lump sum total amount of $410,000.00 as payment for their unpaid work performed for Vila and to also complete all remaining work on the Project. It is estimated that payment to other unpaid Claimants will amount to approximately $114,332.00.

Consulting Engineering and Legal expenses are anticipated to be approximately $57,870.00 (already incurred and estimated to complete, noting that these are estimates and total expenses will depend upon the cooperation of the Claimants, litigants and Valleycrest in negotiating a Completion Contract). Miscellaneous expenses to be incurred by City staff in connection with self-performance of minor remaining work items amount to approximately $5,500.00.

Based upon information presently available to the City, the total cost of completion of the work using Valley Crest and Southeast, payment to other unpaid Claimants, and termination-related expenses incurred and to be incurred by the City, is approximately $587,702.00. This amount exceeds the remaining balance under Vila's contract by approximately $281,789.00, and is currently unfunded in the City's budget. For ease of reference, the below table reflects an accounting of the above figures:

M. Vila Contract balance reconciliation	
M. Vila Contract	$2,464,283
Payments to M. Vila	$2,158,370
Contract balance available	$ 305,913
Project completion expenses	
Valley Crest/Southeast completion proposal	$ 410,000
Other unpaid Claimants	$ 114,332
Engineering fees	$ 26,500
Legal fees	$ 31,370
Miscellaneous expenses	$ 5,500
Total completion costs	$ 587,702
Balance needed to complete the Project	($281,789)
Available funds	
CITT Fund	$ 125,184
GO Bonds for Vogel Park expenses	$ 74,382
General Fund Reserves	$ 82,223
Total	$ 281,789

11L(4)

BUDGETARY IMPACT:

There will be an approximate impact of $281,789.00, since the additional funds needed to complete the Project, pay Claimants, and cover termination-related expenses is presently unbudgeted. However, the City Manager and City Attorney will attempt to minimize this impact by reducing claims where possible. Any cost savings realized will be allocated back to the General Reserve Fund.

PERSONNEL IMPACT:

No additional personnel are required, as the Work will be completed by Valley Crest using its forces and one or more subcontractors. However, staff will have time and effort expended to coordinate with the City's Consulting Engineers, Valleycrest and the City Attorneys.

ATTACHMENTS:

Default and Termination letters to MVila from City Manager
Vila's Payment Requisition #20
Spreadsheet of unpaid Vila subcontractors (Claimants) and other expenses for Causeway/Park
Letter from Surety to City refusing claim
Proposal from Valley Crest to complete Project
Complaint filed by Valley Crest
Complaint filed by Central Concrete
Correspondences from Cemex's Attorney
Kimley-Horn Work Authorization No. 06-12

CONTACT:

Dennis Kelly, City Manager
Sam Zamacona, Public Works Director

11L(5)

City of North Bay Village
JFK Causeway Project
M Vila Contractor

Subcontractor	Current amounts due to subcontractors	To Complete Causeway	To Complete Park	Total To Complete Entire Project
Valley Crest *	$ 137,323	$ 53,336		Causeway
Southeast Underground *	$ 98,676	$ 118,030		Causeway
Cemex Concrete	$ 10,610			Causeway
Central Concrete Supermix	$ 8,326			Causeway
C3TS (Permits expire in August 2012).	$ 2,700			Causeway
AECOM (Subcontractor to C3TS).	$ 9,750			Causeway
Safety Systems Barricades Corp.	$ 4,193			Causeway
Signs For You Inc. dba:SFY Architectural Signs & Displays	$ 11,570			Causeway
Subtotal Causeway	$ 283,148	$ 171,366	$ -	$ 454,513
G.C. (French Drain West of Playground)	$ -		$ 2,500	
Adonel Concrete	$ 4,283			Park
Bennet Electrical	$ 16,058		$ 135	Park
Allied Trucking	$ 6,167		$ -	Park
GameTime (Dominica Recreation Products)	$ 29,175			Park
Research Irrigation, Inc.	$ 11,500			Park
Subtotal Park	$ 67,183	$ -	$ 2,635	$ 69,818
Subtotal Due and to Complete Project	$ 350,331	$ 171,366	$ 2,635	**$ 524,331**

Additional Costs to Complete Project				
Legal				$ 31,370
Engineering Oversight & Inspections				$ 26,500
Miscellaneous City costs				$ 5,500
Subtotal Additional Costs				$ 63,370

Total Costs to complete JFK Causeway Project	**$ 587,701**

* This is the negoiated price for these 2 sub contractors

Prepared by Bert Wrains September 7, 2012

III.(6)

City of North Bay Village

Administrative Offices
1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

May 10, 2012

Via Certified Mail #7011 3500 0000 2124 7928
and Fax (305) 826-0004

Mr. Miguel Vila, V.P.
M. Vila & Associates, Inc.
12097 NW 98th Avenue
Hialeah Gardens, Florida 33018

Via Certified Mail #7011 3500 0000 2124 7935
and Fax (512) 732-2663

Mr. Jimmy Sparks
SureTec Insurance Company
9737 Great Hills Trail, Suite 320
Austin, Texas 78759

RE: City of North Bay Village RFQ #2009-001-CP ("City")
Design Build Contract Dated October 13, 2009 ("Contract")
Performance Bond No. 5072120 Dated March 31, 2010 ("Bond")
Design/Build of John F. Kennedy Causeway ("Project")

CONTRACTUAL NOTICE OF INTENT TO DECLARE CONTRACTOR DEFAULT AND TERMINATION

Dear Msrrs. Vila and Sparks:

On or about May 1, 2012, the City received written notice that Vila had ceased operations. Pursuant to Section 15.1.5 of the Contract, we construe this communication as an abandonment of the Project, as a contractual default, and grounds for termination of the Contract. Pursuant to Section 15 of the Contract, failure to cure the default within seven (7) days will result in termination of the Contract.

As you are aware, the Project is behind schedule, there remain outstanding items in the Work that need to be completed to obtain Substantial Completion and defective installed Work needs to be corrected. It is apparent from your May 1st communication that Vila will be unable to timely complete the Project and no longer has the resources to complete the Project. Also included as part of Project completion will be the delivery of all close out documents, warranties and as-builts, as well as any other deliverables required by the Contract Documents.

By correspondence from SureTec to the City dated April 30, 2012 (actually delivered to the City on May 7, 2012), the City was advised by the Surety to make no further payments to Vila. The City also received notices of non-payment from several of Vila's subcontractors totaling at this time in excess of $100,000. Additionally, please be advised that pursuant to Section 4.1 of the Contract, the City is entitled to liquidated damages in the amount of $1,000.00 per day due to Vila's failure to timely achieve Substantial Completion of the Work.

In accordance with Section 14.6 of the Contract, the City has the right to withhold payment to Vila to protect itself from defective work not remedied, liquidated damages, reasonable evidence that the Work cannot be completed for the Contract balance, reasonable evidence that Work cannot be completed

Mayor **Connie Leon-Kreps** | Vice-Mayor **Eddie Lim** | Commissioner **Stuart Blumberg** | Commissioner **Dr. Richard Chervony** | Commissioner **Dr. Paul Vogel**

11C(7)

within the Contract time, and failure to carry out the work per the Contract Documents. In light of the foregoing, and as contractually permitted, the City will not be releasing any further payment to Vila until such time as the above issues has been adequately addressed by Vila and/or SureTec.

Although we have made informal contact with SureTec and anticipate the Surety's timely assistance with the completion of the Work necessary to complete the Project, we have included SureTec in this correspondence to provide formal notice to the Surety in accordance with Section 2 of the Bond, of the City's intention to declare Vila in default and terminate the Contract.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

Sincerely,

Dennis Kelly
City Manager

cc: Nina Boniske, City Attorney
Gary Brown, City Attorney
Sam Zamacona, Public Works Director

11C(8)

City of North Bay Village

Administrative Offices
1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

May 31, 2012

Via Certified Mail #7011 3500 0000 2124 7416
and Facsimile (305) 826-0004

Mr. Miguel Vila, V.P.
M. Vila & Associates, Inc.
12097 NW 98th Avenue
Hialeah Gardens, Florida 33018

Via Certified Mail #7011 3500 0000 2124 7423
and Facsimile (512) 732-2663

Mr. Jimmy Sparks
Suretec Insurance Company
9737 Great Hills Trail, Suite 320
Austin, TX 78759

RE: City of North Bay Village ("City")
RFQ #2009-001-CP
Contract Dated October 13, 2009 ("Contract")
Performance Bond No. 5072120 Dated March 31, 2010 ("Bond")
Design & Construction of John F. Kennedy Causeway Redevelopment ("Project")

NOTICE OF TERMINATION

Dear Messrs. Vila and Sparks:

By letter dated May 10, 2012, the City notified M. Vila & Associates ("Vila") of its abandonment of the Project, contractual default, and the City's intention to terminate the Contract if the default was not timely cured. A copy of the default notice is attached. Despite notice, Vila has failed to adequately or timely correct and complete its work, has failed to pay its subcontractors, and has otherwise failed to cure its default.

Therefore, in accordance with Section 15.1 of the Contract, Vila is hereby terminated. In the event the Contract balance is insufficient to complete the Project, including payment due to unpaid subcontractors, and also including accrued liquidated damages, the City will have no alternative but to pursue any and all legal avenues of recovery against Vila and its Surety to recover the City's damages.

Pursuant to Section 2 of the Bond, we have included Suretec in this correspondence to formally notify the Surety of the City's termination of the Contract. Further, the City will look to the Surety to complete the Project and compensate the City for any damages it may sustain due to Vila's default. Should the Surety deny coverage under the Bond, the City will seek enforcement of its contractual remedies against both Vila and Suretec under the Contract and Bond, and as otherwise permitted by law.

PLEASE GOVERN YOURSELVES ACCORDINLY.

Sincerely,

Dennis Kelly,
City Manager

cc: Nina Boniske, City Attorney
Gary Brown, City Attorney
Sam Zamacona, Public Works Director

Mayor **Connie Leon-Kreps** | Vice-Mayor **Eddie Lhn** | Commissioner **Stuart Blumberg** | Commissioner **Dr. Richard Chervony** | Commissioner **Dr. Paul Vogel**

APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702

PAGE ONE OF PAGES

TO OWNER: North Bay Village
1700 Kennedy Causeway
N. Bay Village, Fl 33141

PROJECT: J.F. Kennedy Causeway Design Buil

APPLICATION NO: 00020
PERIOD TO: 3/28/2012
PROJECT NOS.:

Distribution to:
☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR
☐
☐

FROM CONTRACTOR: M Vila & Associates Inc.
12097 NW 98th Avenue
Hialeah Gardens, FL 33018

VIA ARCHITECT: Corzo Castella Carballo Thompso
901 Ponce de Leon Boulevard, Su
Coral Gables, Florida 33134

CONTRACT DATE:

CONTRACT FOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the contract.
Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM		$577,814.00
2. Net change by Change Orders		$1,886,469.89
3. CONTRACT SUM TO DATE (Line 1 ±2)		$2,464,283.89
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)		$2,383,456.51
5. RETAINAGE:		
a. 5.000 % of Completed Work (Columns D + E on G703)	$119,172.83	
b. 0 % of Stored Material (Columns F on G703)	$0.00	
Total Retainage (Line 5a + 5b or Total in Columns I on G703)		$119,172.83
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)		$2,264,283.68
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)		$2,158,370.14
8. CURRENT PAYMENT DUE		$105,913.54
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	$200,000.21	

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	$1,920,923.89	$800.00
Total approved this Month	$0.00	$33,654.00
TOTALS	$1,920,923.89	$34,454.00
NET CHANGES by Change Order		$1,886,469.89

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: M Vila & Associates Inc.

By: _____ Date: 4/19/12

State of:
County of:
Subscribed and sworn to before me this day of

Notary Public:
My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED $105,913.54

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT: North Bay Village

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

AIA DOCUMENT G702• APPLICATION AND CERTIFICATE FOR PAYMENT • 1992 EDITION • AIA® • ©1992 • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5292 • WARNING: Unlicensed photocopying violates U.S. copyright laws and will subject the violator to legal prosecution.
"This document has been reproduced electronically with the permission of The American Institute of Architects under License #7003 to Primavera Systems, Inc. Reproduction of this document without project-specific information is not permitted. Contact The American Institute of Architects to verify the current version of this document and license status."

G702-1992

CONTINUATION SHEET

AIA DOCUMENT G703

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.
In tabulations below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00020
APPLICATION DATE:
PERIOD TO: 3/28/2012
ARCHITECT'S PROJECT NO.:

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED: FROM PREVIOUS APPLICATION (D + E)	WORK COMPLETED: THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
0000010	Engineering Survey	$18,112.00	$18,112.00	$0.00	$0.00	$18,112.00	100.000	$0.00	$0.00
	$18,112.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000020	Underwater Assesment	$10,292.00	$10,292.00	$0.00	$0.00	$10,292.00	100.000	$0.00	$0.00
	$10,292.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000030	Pavement Testing	$5,060.00	$5,060.00	$0.00	$0.00	$5,060.00	100.000	$0.00	$0.00
	$5,060.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000040	Traffic/Access Management Study	$30,475.00	$30,475.00	$0.00	$0.00	$30,475.00	100.000	$0.00	$0.00
	$30,475.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000050	Design Development (Entire Corridor)	$170,200.00	$170,200.00	$0.00	$0.00	$170,200.00	100.000	$0.00	$0.00
	$170,200.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000060	Phase 1 Construction Documents	$189,750.00	$189,750.00	$0.00	$0.00	$189,750.00	100.000	$0.00	$0.00
	$189,750.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000070	Phase 1 Permitting	$33,925.00	$33,925.01	$0.00	$0.00	$33,925.01	100.000	($0.01)	$0.00
	$33,925.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000080	Constructability Review	$60,000.00	$60,000.00	$0.00	$0.00	$60,000.00	100.000	$0.00	$0.00
	$60,000.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000100	Mobilization	$78,959.51	$78,959.51	$0.00	$0.00	$78,959.51	100.000	$0.00	$0.00
	$78,959.51 PER LS	1.000	1.000	0	0	1.000		0	0
0000110	MOT	$16,810.00	$16,810.00	$0.00	$0.00	$16,810.00	100.000	$0.00	$0.00
	$16,810.00 PER LS	1.000	1.000	0	0	1.000		0	0
0000120	Clearing & Grubbing	$14,413.78	$14,413.78	$0.00	$0.00	$14,413.78	100.000	$0.00	$0.00
	$14,413.78 PER LS	1.000	1.000	0	0	1.000		0	0
0000130	Demo Sidewalk	$18,207.70	$18,207.70	$0.00	$0.00	$18,207.70	100.000	$0.00	$0.00
	$1.85 PER SF	9842.000	9842.000	0	0	9842.000		0	0
0000140	Demo Curbs	$6,230.00	$6,230.00	$0.00	$0.00	$6,230.00	100.000	$0.00	$0.00
	$7.00 PER LF	890.000	890.000	0	0	890.000		0	0
0000150	Demo Asphalt/Base	$11,896.50	$11,896.50	$0.00	$0.00	$11,896.50	100.000	$0.00	$1,189.65
	$5.15 PER SY	2310.000	2310.000	0	0	2310.000		0	231.000
0000160	Demo Guardrail	$829.50	$829.50	$0.00	$0.00	$829.50	100.000	$0.00	$0.00
	$11.85 PER LF	70.000	70.000	0	0	70.000		0	0
0000170	Demo Exist. Wall	$18,101.60	$18,101.60	$0.00	$0.00	$18,101.60	100.000	$0.00	$0.00
	$20.57 PER LF	880.000	880.000	0	0	880.000		0	0
0000180	Remove Exist Trees	$51,644.30	$51,644.30	$0.00	$0.00	$51,644.30	100.000	$0.00	$0.00
	$607.58 PER EA	85.000	85.000	0	0	85.000		0	0

AIA DOCUMENT G703 • APPLICATION AND CERTIFICATE FOR PAYMENT • 1992 EDITION • AIA® • ©1992 • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5292 • WARNING: Unlicensed photocopying violates U.S. copyright laws and will subject the violator to legal prosecution.
"This document has been reproduced electronically with the permission of The American Institute of Architects under license #7003 to Primatech Systems, Inc. Reproduction of this document without project-specific information is not permitted. Contact The American Institute of Architects to verify the current version of this document and license status."

CONTINUATION SHEET

AIA DOCUMENT G703

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT,
containing Contractor's signed Certification, is attached.
In tabulations below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00020
APPLICATION DATE:
PERIOD TO: 3/28/2012
ARCHITECT'S PROJECT NO.:

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED: FROM PREVIOUS APPLICATION (D + E)	WORK COMPLETED: THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
0000190	Type F Colored Curb	$16,275.35	$16,275.35	$0.00	$0.00	$16,275.35	100.000	$0.00	$0.00
	$35.77 PER LF	455.000	455.000	0	0	455.000		0	0
0000200	4" Thick Sidewalk	$78,996.75	$78,996.75	$0.00	$0.00	$78,996.75	100.000	$0.00	$0.00
	$6.15 PER SF	12845.000	12845.000	0	0	12845.000		0	0
0000210	6" Thick Sidewalk	$6,739.32	$6,739.32	$0.00	$0.00	$6,739.32	100.000	$0.00	$0.00
	$8.52 PER SF	791.000	791.000	0	0	791.000		0	0
0000220	Handicap Ramp	$2,954.63	$2,954.63	$0.00	$0.00	$2,954.63	100.000	$0.00	$0.00
	$422.09 PER EA	7.000	7.000	0	0	7.000		0	0
0000230	Colorize Existing F Curb	$12,900.42	$0.00	$0.00	$0.00	$0.00	0	$12,900.42	$0.00
	$4.81 PER LF	2682.000	0	0	0	0		2682.000	0
0000240	Colorize Existing D Curb	$2,888.12	$0.00	$0.00	$0.00	$0.00	0	$2,888.12	$0.00
	$4.12 PER LF	701.000	0	0	0	0		701.000	0
0000250	Crosswalks	$49,855.65	$49,855.65	$0.00	$0.00	$49,855.65	100.000	$0.00	$4,985.57
	$14.43 PER SF	3455.000	3455.000	0	0	3455.000		0	345.500
0000260	Guardrail	$5,880.00	$0.00	$0.00	$0.00	$0.00	0	$5,880.00	$0.00
	$35.00 PER LF	168.000	0	0	0	0		168.000	0
0000270	Signalization	$34,048.00	$0.00	$0.00	$0.00	$0.00	0	$34,048.00	$0.00
	$34,048.00 PER LS	1.000	0	0	0	0		1.000	0
0000275	Electrical	$286,666.50	$249,973.20	$0.00	$0.00	$249,973.20	87.200	$36,693.30	$24,997.32
	$286,666.50 PER LS	1.000	0.872	0	0	0.872		0.128	0.087
0000280	Landscaping	$429,605.27	$408,125.00	$21,480.26	$0.00	$429,605.26	100.000	$0.01	$42,960.53
	$429,605.27 PER LS	1.000	0.950	0.050	0	1.000		0	0.100
0000290	4' High Wall	$126,564.56	$126,564.56	$0.00	$0.00	$126,564.56	100.000	$0.00	$0.00
	$203.48 PER LF	622.000	622.000	0	0	622.000		0	0
0000300	6' High Wall	$310,466.10	$310,466.10	$0.00	$0.00	$310,466.10	100.000	$0.00	$0.00
	$317.45 PER LF	978.000	978.000	0	0	978.000		0	0
0000310	Entry Signs	$30,003.44	$30,003.44	$0.00	$0.00	$30,003.44	100.000	$0.00	$0.00
	$30,003.44 PER LS	1.000	1.000	0	0	1.000		0	0
C00002	Sign Substitution	$23,297.39	$23,297.39	$0.00	$0.00	$23,297.39	100.000	$0.00	$0.00
C00012	Repair Street Light Conduit	$4,572.37	$4,572.37	$0.00	$0.00	$4,572.37	100.000	$0.00	$0.00
C00022	Extend Landscape at Median	$2,360.78	$2,360.78	$0.00	$0.00	$2,360.78	100.000	$0.00	$0.00
C00032	Credit for Bismarck Replacement	($800.00)	($800.00)	$0.00	$0.00	($800.00)	100.000	$0.00	$0.00
C00042	Street Lighting Repairs at Jumbo	$5,573.64	$5,573.64	$0.00	$0.00	$5,573.64	100.000	$0.00	$0.00
C00052	Street Light Repairs - Intersection	$7,369.99	$0.00	$0.00	$0.00	$0.00	0	$7,369.99	$0.00

(2012)

AIA DOCUMENT G703® APPLICATION AND CERTIFICATE FOR PAYMENT • 1992 EDITION • AIA® • ©1992 • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5292 • WARNING: Unlicensed photocopying violates U.S. copyright laws and will subject the violator to legal prosecution.
"This document has been reproduced electronically with the permission of The American Institute of Architects under License G703 to Primavera Systems, Inc. Reproduction of this document without project-specific information is not permitted. Contact The American Institute of Architects to verify the current version of this document and license status."

CONTINUATION SHEET

AIA DOCUMENT G703

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.
In tabulations below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00020
APPLICATION DATE:
PERIOD TO: 3/28/2012
ARCHITECT'S PROJECT NO.:

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)	WORK COMPLETED THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
C00062	Repairs to Traffic Signal Conduit	$6,330.47	$0.00	$0.00	$0.00	$0.00	0	$6,330.47	$0.00
C00072	T.I. Added Sign	$12,483.61	$2,500.00	$9,983.61	$0.00	$12,483.61	100.000	$0.00	$1,248.36
C00082	Landscape Modifications	$12,799.32	$10,000.00	$2,799.32	$0.00	$12,799.32	100.000	$0.00	$1,279.93
DEDCO	Deduct Landscaping DPV Park	($33,654.00)	$0.00	($33,654.00)	$0.00	($33,654.00)	100.000	$0.00	($3,365.40)
WO3	Dr. Paul Vogel Park	$320,482.25	$217,839.48	$102,642.76	$0.00	$320,482.24	100.000	$0.01	$32,048.22
		$2,489,566.82	$2,280,204.56	$103,251.95	$0.00	$2,383,456.51	95.74%	$106,110.31	$105,286.85

Itemized.

11C(13)

AIA DOCUMENT G703 • APPLICATION AND CERTIFICATE FOR PAYMENT • 1992 EDITION • AIA® • ©1992 • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5292 • WARNING: Unlicensed photocopying violates U.S. copyright laws and will subject the violator to legal prosecution.
"This document has been reproduced electronically with the permission of The American Institute of Architects under License G703 to Primavera Systems, Inc. Reproduction of this document without project-specific information is not permitted. Contact The American Institute of Architects to verify the current version of this document and license status."

SureTec

Bond Claims Dept.
jsparks@suretec.com
(512) 314-3660 Direct
(512) 314-3661 Facsimile

June 21, 2012

Dennis Kelly
City Manager
City of North Bay Village
1700 Kennedy Causeway, Ste., 132
North Bay Village, FL 33141

Re: **Principal:** M. Vila & Associates, Inc.
Obligee: City of North Bay Village
Project: JFK Causeway Design Build
Bond No.: 5072120

Dear Mr. Kelly:

This correspondence will serve as the response of SureTec Insurance Company ("SureTec") to your correspondence dated May 31, 2012 on the above-referenced payment bond as well as confirm my conversation with Mr. Gary Brown regarding the same. For the reason outlined below SureTec denies your claim on the performance bond.

As you know, our principal, M. Vila & Associates, Inc ("M. Vila"), had a contract with the City of North Bay Village (the "City") to design and redevelop the JFK causeway (see attached). The City issued additional work orders to increase the project by two million dollars from the original contract. As you can see from the attached performance and payment bonds issued by SureTec to M. Vila, SureTec issued the bond to cover a portion of the original contract detailed as Work Order #1, Task I: ROW Preparation in the penal limit of $60,000.00. As you can see Task I is a specific portion of the contract. Our bond covered all work associated with that particular scope, which my understanding, has been completed for some time with no issues.

Based on the information received, and review of the project by our consultant Gary Bierhalter, the work done by M. Vila on Task I of the project has long been completed accepted and paid for by the City. I have discussed this matter with Mr. Gary Brown as well and I understand that he

Therefore, based on the information received and review of the attached Bond and Contract, your claim for performance is denied. Our responsibility for Task I portion of the contract is completed and we have received no information to the contrary.

11L(14)

However, if you have any documentation or information that would cause SureTec to reconsider its position, please forward that information to the undersigned immediately for review.

This correspondence and all prior or subsequent communications and/or investigative efforts are made with the express reservation of all rights and defenses the Surety has or may have at law, equity or under the terms and provisions of the bond and contract documents. This reservation includes, without limitation, defenses that may be available under any applicable notice and suit limitation provisions. Subject to this strict and continuing reservation, we look forward to hearing from you.

Should you have any questions please do not hesitate to contact me.

Sincerely,

Jimmy Sparks
Surety Claims Manager

Enclosures

cc: M. Vila & Associates, Inc.
Gary Brown, Esq. via e-mail (gbrown@wsh-law.com)

11L(15)

M. Vila & Associates, P.A.

Roads & Highways
Earthwork
Paving
Drainage
Water & Sewer
Bridges
Parks
Sports Complexes
Design-Build
CM at-Risk

October 6, 2009

City of North Bay Village
1666 Kennedy Causeway, Suite 700
N. Bay Village, Fl 33141

Attn: Matthew Schwartz

Re: JFK Design Build Contract – **Work Order #1**

Mr. Schwartz,
Please find below the costs associated with Work Order #1 for Phase 1 of the Project:

I. PRELIMINARY DESIGN SERVICES

Task A: Engineering Survey

Engineering Survey of Kennedy Causeway on Treasure Island. Survey will include right-of-way lines, all above-ground improvements, trees and full roadway cross-sections at 50 ft. intervals.

Task B: Underwater Biological Assessment

Perform a marine biological resources survey of the 75' strip lying north of the existing north seawall of Treasure Island, from Adventure Avenue extension to beginning of bridge to Normandy Isle.

Task C: Pavement Testing

Perform asphalt pavement cores along eastbound and westbound Kennedy Causeway at 500 ft. intervals.

Task D Traffic/Access Management and Signal Warrant Studies.

Proposed improvements include modifications to existing left turn lanes and median openings, and also the addition of a mid-block signalized pedestrian crosswalk on Treasure Island between Adventure and Hispanola Avenues. The medians are planned to be modified to accommodate longer landscaped islands within the median. To determine the feasibility of these improvements, an access management evaluation is in order. This access management review will consist of: turning moving traffic counts at all signalized intersections on Treasure Island, field review to assess the existing conditions: Driveways spacing, signalized intersections spacing, connections spacing and median opening spacing shall be field-verified for compliance with FDOT Rule 17-97. All unused driveways shall be identified. We will document existing conditions and recommendations in an Access Management Report that will be submitted to FDOT for review and approval. An AASHTO signal warrant study will be performed for the proposed pedestrian signal. We will attend meetings with FDOT and North Bay Village

Miami:
12097 N.W. 98th Avenue
Hialeah Gardens, Fl 33018
Telephone: (305) 821-1226
Fax: (305) 828-0004

Certified General Contractor – State of Florida
CG C010901
Miami-Dade County
CO# E2216
Broward County
CO# 93-1355

11L(16)

to present the results of the Access Management Evaluation and Signal Warrant to discuss the recommendations and obtain approval for the new access plan.

Task E Design Development (Entire Corridor & Boardwalk)

Based on approved initial conceptual design work, prepare Design Development-level plans for Kennedy Causeway (within limits of North Bay Village) and the proposed Treasure Island Boardwalk along north seawall of Treasure Island, from extension of Adventure Avenue to beginning of bridge to Normandy Isle. This will include the boardwalk, access easements to Kennedy Causeway and decorative architectural and water features. The Causeway will include roadway and median improvements, curbs and sidewalks, crosswalks, drainage, lighting, landscaping, irrigation, architectural features, bridge-attached shade structure, street signage and signalization. Presentation to City Boards and City Commission.

II. FINAL DESIGN SERVICES

Task F: Phase I - Construction Documents

Final design and preparation of construction documents and specifications for Phase I implementation of overall Causeway improvements as described in Design Development scope above.

Task G: Phase I - Permitting

Submittal and processing of required permits and approvals through the Florida Department of Transportation, District 6 Office, the Miami-Dade County Public Works Department – Traffic Division, and the North Bay Village Building Department for the construction of the proposed Phase I improvements.

III. PRECONSTRUCTION SERVICES

Task H: Constructability Review

Constructability Review during plans preparation; including resolution with underground utilities in conflict with construction.

Task I: ROW Preparation

Advance preparation of ROW for proposed construction in Phase 1.

TERMS AND CONDITIONS:

All terms and conditions shall be per our Design/Build Agreement. Our fees for the above services shall be as follows.

I. PRELIMINARY DESIGN SERVICES

Task A: Engineering Survey	$ 18,112.00
Task B: Underwater Biological Assessment	$ 10,292.00
Task C: Pavement Testing	$ 5,060.00
Task D: Traffic/Access Management & Signal Warrant Studies	$ 30,476.00
Task E: Design Development (Entire Corridor)	$170,200.00
Subtotal	**$234,139.00**

II. FINAL DESIGN SERVICES

Task F: Phase I Construction Documents	$189,750.00
Task G: Phase I Permitting	$ 33,926.00
Subtotal	**$223,676.00**

III. PRECONSTRUCTION SERVICES

Task H: Constructability Review	$ 60,000.00
Task I: ROW Preparation (Allowance)	$ 60,000.00
Subtotal	**$ 120,000.00**
TOTAL	**$577,814.00**

We are ready to begin working on the above upon your authorization to proceed. If acceptable to you, please sign below as your written authorization.

Sincerely,

Miguel Vila
Vice President

City of North Bay Village
Approved BY:

Date: 3/2/10

11L(18)

ALTER SURETY GROUP, INC.

Bond Department

Public Works Bond
in compliance with Florida Statute Chapter 255.05

Bond Number	5072120
Contractor Address & Phone No.	M. Vila & Associates, Inc. 12097 N.W. 98th Avenue Hialeah Gardens, FL 33016 305-821-1226
Surety Address & Phone No.	SureTec Insurance Company 952 Echo Lane, Suite 450 Houston, TX 77024 713- 812-0800
Owner Name Address & Phone No.	City of North Bay Village 1666 Kennedy Causeway, Suite 700 North Bay Village, FL 33141 305- 756-7171
Contract/Project Number	RFQ #2009-001-CP, Work Order #1, Task I: ROW Preparation
Project Name	Design-Build Services for John F. Kennedy Causeway Redevelopment, Work Order #1, Task I: ROW Preparation
Project Location	John F. Kennedy Causeway, North Bay Village, FL
Legal Description And Street Address	Design-Build Services for John F. Kennedy Causeway Redevelopment, Work Order #1, Task I: ROW Preparation John F. Kennedy Causeway, North Bay Village, FL
Description of Work	Right of Way Improvements

This bond is given to comply with section 255.05 Florida Statutes and any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes. Any provision of this bond which conflict with or purports to grant broader or more expanded coverage in excess of the minimum requirements of the application statute shall be deemed deleted herefrom. This bond is a statutory bond, not a common law bond.

This is the *front page* of the bond.
All other page(s) are deemed subsequent to this page regardless of any page number(s) that may be pre-printed thereon.

11L(19)

Design-Build Performance Bond Bond No.: 5072120

The Owner, City of North Bay Village, (the "Owner") and the Design-Builder, M. Vila & Associates, Inc. (the "Design-Builder") have entered into a Contract (the "Contract") dated October 13, 2009 for Design-Build Services for John Kennedy Causeway Redevelopment* (the "Project"). The Contract is incorporated by reference into this Performance Bond (the "Bond"). *Work Order #1, Task I: ROW Preparation

By virtue of this Bond, the Design-Builder as Principal and as Surety ("Surety"), are bound to the Owner as Obligee in the maximum amount of Sixty Thousand and No/100--- Dollars $60,000.00 (the "Bond Sum"). The Design-Builder and Surety hereby bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein.

1. GENERAL CONDITIONS. It is the condition of this Bond that if the Design-Builder performs the construction work called for pursuant to the Contract, the Surety's obligations under this Bond are null and void. Otherwise the Surety's obligations shall remain in full force and effect. The Surety waives any requirement to be notified of alterations or extensions of time made by the Owner in the Contract. The Owner may not invoke the provisions of this Bond unless the Owner has performed its obligations pursuant to the Contract. Upon making demand on this Bond, the Owner shall make the Contract Balance (the total amount payable by the Owner to the Design-Builder pursuant to the Contract less amounts properly paid by the Owner to the Design-Builder) available to the Surety for completion of the construction work.

2. SURETY OBLIGATIONS. If the Design-Builder is in default pursuant to the Contract and the Owner has declared the Design-Builder in default, the Surety promptly may remedy the default or shall:
   a. Complete the construction work with the consent of the Owner, through the Design-Builder or otherwise;
   b. Arrange for the completion of the construction work by a design-builder acceptable to the Owner and secured by performance and payment bonds equivalent to those for the Contract issued by a qualified surety. The Surety shall make available as the construction work progresses sufficient funds to pay the cost of completion of the construction work less the Contract Balance up to the Bond Sum; or
   c. Waive its right to complete the construction work and reimburse the Owner the amount of its reasonable costs, not to exceed the Bond Sum, to complete the construction work less the Contract Balance.

3. NO LIABILITY FOR DESIGN. Pursuant to Article 2 of the Bond, the Surety shall be liable for all construction costs of the Work, up to the Bond Sum, but shall not be liable for any costs or damages arising from any design services provided pursuant to the Contract.

4. DISPUTE RESOLUTION. All disputes pursuant to this Bond shall be instituted in any court of competent jurisdiction in the location in which the Project is located and shall be commenced within two years after default of the Design-Builder or Substantial Completion of the Work, whichever occurs first. If this provision is prohibited by law, the minimum period of limitation available to sureties in the jurisdiction shall be applicable.

This Bond is entered into as of April 5, 2010.

DESIGN-BUILDER:	SURETY:
M. Vila & Associates, Inc.	SureTec Insurance Company
By:	By
Print Name: Miguel Vila	Print Name: Warren M. Alter
Print Title: Vice President	Print Title: Attorney-In-Fact and Florida Resident Agent
Witness:	Witness:

11 L (20)

POA #: 910043

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Warren M. Alter, David T. Satine

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety, providing the bond penalty does not exceed

Five Million Dollars and no/100 ($5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment shall continue in force until 9/30/12 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-In-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-In-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. *(Adopted at a meeting held on 20th of April, 1999.)*

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 28th day of October, A.D. 2008.

SURETEC INSURANCE COMPANY

By: _____
B.J. King, President

State of Texas ss:
County of Harris

On this 28th day of October, 2008 before me personally came B.J. King, to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.

Michelle Denny
Notary Public
State of Texas
Expires August 27, 2012

Michelle Denny
Michelle Denny, Notary Public
My commission expires August 27, 2012 .

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 5th day of April, 2010, A.D.

M. Brent Beaty
M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:00 am and 5:00 pm CST.

11C(21)

Payment Bond Bond No.: 5072120

Contractor (Name and Address)
M. Vila & Associates, Inc.
12097 N.W. 98th Avenue
Hialeah Gardens, FL 33016

Surety (Name and Principal Place of Business)
SureTec Insurance Company
952 Echo Lane, Suite 450
Houston, TX 77024

Owner: City of North Bay Village
1666 Kennedy Causeway
Suite 700
North Bay Village, FL 33141

CONSTRUCTION CONTRACT
Date: October 13, 2009
Amount: $ 60,000.00
Description (Name and Location): Design-Build Services for John F. Kennedy Causeway Redevelopment, Work Order #1, Task I: ROW Preparation

BOND
Date: (Not earlier than Construction Contract Date): April 5, 2010.
Amount: $ 60,000.00
Modifications to this Bond: None
® See Page 4

CONTRACTOR AS PRINCIPAL
Company: (Corporate Seal)
M. Vila & Associates, Inc.

By: _____
Name and Title:
Miguel Vila, Vice President

SURETY
Company: (Corporate Seal)
SureTec Insurance Company

By: _____
Name and Title: , Attorney-in-Fact and Florida Resident Agent Warren M. Alter

(Any additional signatures appear on page 5)

(FOR INFORMATION ONLY - Name, Address and Telephone)

11L (22)

Agent or Broker

Alter Surety Group, Inc.
5979 NW 151st St., Suite 104
Miami Lakes, FL 33014

Owner's Representative (Architect or City Manager)

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the construction Contract, which is incorporated herein by reference.

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for the use in the performance of the Construction Contract provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits to the Contractor and the surety, and provided there is no Owner Default.

3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4 The Surety shall have no obligation to Claimants under this bond until:

4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial
accuracy, the amount of the claim.

4.2 Claimants who do not have a direct contract with the Contractor:

.1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and

.2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

.3 Not having been paid within the above 30 days, have sent a written notice to the surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5 If a notice by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed..

6.2 Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the
Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this
Bond.

10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12 Notice to the surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

1.14(23)

14 Upon receipt by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15 DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and City Managering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

THIS BOND HEREBY IS AMENDED SO THAT THE PROVISIONS AND LIMITATIONS OF SECTION 255.05, FLORIDA STATUTES, ARE INCORPORATED HEREIN BY REFERENCE

THIS BOND IS GIVEN TO COMPLY WITH SECTION 255.05 FLORIDA STATUTES, AND ANY ACTION INSTITUTED BY A CLAIMANT UNDER THIS BOND FOR PAYMENT MUST BE IN ACCORDANCE WITH THE NOTICE AND TIME LIMITATION PROVISIONS IN SECTION 255.05(2), FLORIDA STATUTES.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL
Company:
M. Vila & Associates, Inc. (Corporate Seal)

By: _____
Name and Title:
Miguel Vila, Vice-President
Address: 12097 NW 98th Avenue, Hialeah Gardens, FL 33018

SURETY
Company: (Corporate Seal)

By: _____
Name and Title: , Attorney-In-Fact and
Florida Resident Agent

11L(24)

POA #: 910043

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Warren M. Alter, David T. Satine

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety, providing the bond penalty does not exceed

Five Million Dollars and no/100 ($5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment shall continue in force until 9/30/12 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be It Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents cancelling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. *(Adopted at a meeting held on 20th of April, 1999.)*

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 28th day of October, A.D. 2008.

SURETEC INSURANCE COMPANY

By: _____
B.J. King, President

State of Texas ss:
County of Harris

On this 28th day of October, 2008 before me personally came B.J. King, to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.

Michelle Denny
Notary Public
State of Texas
Expires August 27, 2012

Michelle Denny
Michelle Denny, Notary Public
My commission expires August 27, 2012

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 5th day of April, 2010, A.D.

M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:00 am and 5:00 pm CST.

11(25)

ValleyCrest
Landscape Development

4155 East Mowry Drive
Homestead, FL 33033
office (305) 258-8011
fax (305) 258-0809

www.ValleyCrest.com

August 31, 2012

Attention: Sam Zamacona Jr.

Delivery Method: email: Samzamacona@nbvillage.com
Project: JFK – 79th Street Causeway Completion
Scope: Landscape, Irrigation, Civil & Electric

Project Team: ValleyCrest Landscape Development (VCD) is pleased to submit final pricing for the completion of the JFK Design Build Project to North Bay Village. VCD will require 90 days to complete this project once this proposal has been accepted and a contract is executed for this balance to complete. VCD assumes no liability or warranty for work completed to date other than the specific scope of landscape and irrigation which was self performed as a subcontractor under M. Vila. We sincerely appreciate this opportunity and look forward to working together to bring this project to an end. Please see Attachment 'A' for pricing detail.

Sincerely,

Karl V. Kaliebe
Operations Manager

11L(25)

ValleyCrest
Landscape Development

ATTACHMENT 'A'

Description	Original Proposal	Changes & Discounts	August 30, 2012 Final Offer
Completed work by SouthEast - Discounted 10%	$ 109,640.00	$ (10,964.00)	$ 98,676.00
Completed work by ValleyCrest - Discounted 10%	$ 152,581.00	$ (15,258.00)	$ 137,323.00
Total Due to Begin Work			$ 235,999.00
BALANCE TO FINISH			
Pressure Clean all ICC - ***By City***	$ 2,550.00	$ (2,550.00)	$ -
Painting all existing D curbs - ***By City***	$ 15,788.54	$ (15,788.54)	$ -
Mill & Resurface asphalt North side @ bldg entrance	$ 6,488.00		$ 6,488.00
Adjust all ADA mats	$ 993.60		$ 993.60
Repair ICC concrete @ bore location north side	$ 918.00		$ 918.00
Dominican coral cladd replace chipped	$ 1,518.75		$ 1,518.75
Restriping of 150' east and west of traffic signal	$ 2,700.00		$ 2,700.00
Install 2 sections of guardrail 37.5 LF each - MV - $5880.00	$ 5,880.00		$ 5,880.00
Paint 3 door sills - ***By City***	$ 942.44	$ (942.44)	$ -
Correct drainage @ playground	$ 2,500.00		$ 2,500.00
Remove old irrigation timer station	$ 135.00		$ 135.00
Sub-Total Civil			**$ 21,133.35**
Balance to finish for SouthEast	$ 155,484.00	$ (37,454.49)	$ 118,029.51
VCD Management 5%	$ 7,774.20	$ (816.05)	$ 6,958.14
Sub-Total Electrical	**$ 163,258.20**		**$ 124,987.65**
General Conditions	**$ 27,880.00**		**$ 27,880.00**
Total to Finish Uncompleted Items			$ 174,001.00
Grand Total			$ 410,000.00

11.7.(26)

IN THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR, MIAMI-DADE COUNTY, FLORIDA

CASE NO.

VALLEYCREST LANDSCAPE DEVELOPMENT, INC., a foreign corporation,

Plaintiff,

v.

M. VILA & ASSOCIATES, INC., a Florida Corporation, FIDELITY & DEPOSIT COMPANY OF MARYLAND, a foreign corporation, and SURETEC INSURANCE COMPANY, a foreign corporation,

Defendants.
_____/.

COMPLAINT

Plaintiff, ValleyCrest Landscape Development, Inc. ("ValleyCrest"), by and through its undersigned counsel, hereby sues the Defendants, M. Vila & Associates, Inc., a Florida corporation ("Vila"), Suretec Insurance Co., a foreign corporation ("Suretec") and Fidelity & Deposit Company of Maryland ("Fidelity"), a foreign corporation (collectively, the "Defendants"), and in furtherance thereof, provides as follows:

PARTIES, JURISDICTION AND VENUE

1. This is an action seeking greater than $15,000 excluding attorneys' fees and costs.

2. ValleyCrest is a foreign corporation which at all times material has been authorized to transact business in the State of Florida.

3. ValleyCrest's office in Miami-Dade County, Florida is located at 4451 East Mowry Drive, Homestead, Florida.

11L(27)

4. Vila is a Florida corporation with its principal place of business being located at 12097 NW 98th Avenue, Hialeah Gardens, Miami-Dade County, Florida.

5. Fidelity is a foreign insurance corporation which is authorized to conduct business in Florida.

6. Suretec is a foreign insurance corporation which is authorized to conduct business in Florida.

7. The actions giving rise to this complaint occurred in Miami-Dade County, Florida. The contracts at issue were to be performed in Miami-Dade County, Florida and the breaches at issue occurred in Miami-Dade County, Florida.

8. The real property improved by ValleyCrest pursuant to its three subcontracts with Vila is located in Miami-Dade County, Florida.

FACTUAL BACKGROUND

A. JFK Causeway Project.

9. On May 24, 2010, ValleyCrest entered into that certain Subcontractor Agreement wherein pursuant to the terms of the contract ValleyCrest was to provide landscaping labor and materials for the improvement of the JFK Causeway Design Build project in the City of North Bay Village (the "JFK Causeway Subcontract").

10. A true and correct copy of the JFK Causeway Subcontract is attached hereto as ***Exhibit "A"*** and incorporated herein by reference.

11. Pursuant to *Fla. Stat.* § 255.05, Vila, as principal, and Surtec, as surety, bound themselves jointly and severally in the penal sum of $60,000 to make payment to all persons having a direct relationship with Vila which furnish labor, materials, or both in the prosecution of the work provided for in connection with the JFK Causeway Subcontract. A true and correct

11(28)

copy of this bond is attached hereto as ***Exhibit "B"*** and incorporated herein by reference (the "JFK Causeway Bond").

12. ValleyCrest satisfactorily performed all of its obligations under the JFK Causeway Subcontract. Its day of final furnishing was March 16, 2012.

13. Vila failed to pay ValleyCrest for the labor and materials it provided pursuant to the Lincoln Road Subcontract. ValleyCrest is owed $152,581.20 on the JFK Causeway Subcontract.

14. On May 9, 2012, ValleyCrest sent a Notice of Non-Payment to Vila, Suretec, and the owner. A true and correct copy of this Notice of Non-Payment is attached hereto as ***Exhibit "C"*** and incorporated herein by reference.

15. On May 15, 2012, ValleyCrest sent the statutory demand letter to Vila pursuant to Fla. Stat. § 255.05(10)(d). A true and correct copy of this letter is attached hereto as ***Exhibit "D"*** and incorporated herein by reference. Vila did not respond to this letter.

B. <u>The Lincoln Road Right-of-Way Project</u>.

16. On June 6, 2011, ValleyCrest entered into that certain Subcontractor Agreement wherein pursuant to the terms of the contract ValleyCrest was to provide landscaping labor and materials for the improvement of the Lincoln Road Right-of-Way Infrastructure (the "Lincoln Road Subcontract").

17. A true and correct copy of the Lincoln Road Subcontract is attached hereto as ***Exhibit "E"*** and incorporated herein by reference.

18. Pursuant to *Fla. Stat.* § 255.05, Vila, as principal, and Surtec, as surety, bound themselves jointly and severally in the penal sum of $1,171,208.25 to make payment to all persons having a direct relationship with Vila to furnish labor, materials, or both in the

11(29)

prosecution of the work provided for in connection with the Lincoln Road Project. A true and correct copy of this bond is attached hereto as ***Exhibit "F"*** and incorporated herein by reference (the "Lincoln Road Bond").

19. ValleyCrest satisfactorily performed all of its obligations under the Lincoln Road Subcontract. Its day of final furnishing was February 29, 2012.

20. Vila failed to pay ValleyCrest for the labor and materials it provided pursuant to the Lincoln Road Subcontract. ValleyCrest is owed $91,083.15 on the Lincoln Road Subcontract.

21. On April 23, 2012, ValleyCrest sent a Notice of Non-Payment to Vila, Suretec and the owner. A true and correct copy of this Notice of Non-Payment is attached hereto as ***Exhibit "G"*** and incorporated herein by reference.

22. On May 1, 2012, ValleyCrest sent the statutory demand letter to Vila pursuant to Fla. Stat. § 255.05(10)(d). A true and correct copy of this letter is attached hereto as ***Exhibit "H"*** and incorporated herein by reference. Vila did not respond to this letter.

C. **The Florida Marlins Garage Project.**

23. On September 19, 2011, ValleyCrest entered into that certain Subcontractor Agreement wherein pursuant to the terms of the Agreement, ValleyCrest was to provide landscaping labor and materials to improve the Florida Marlins parking garage area (the "Florida Marlins Subcontract").

24. A true and correct copy of the Florida Marlins Subcontract is attached hereto as ***Exhibit "I"*** and incorporated herein by reference.

25. Pursuant to *Fla. Stat.* § 255.05, Suffolk Construction Co., the project's construction manager, as principal, and Fidelity, as surety, bound themselves jointly and

11L(30)

severally in the penal sum of $75,000,000.00 to make payment to all persons which furnished labor, materials, or both in the prosecution of the work provided for in connection with the Florida Marlins Garage Project. A true and correct copy of this bond is attached hereto as ***Exhibit "J"*** and incorporated herein by reference (the "Florida Marlins Bond").

26. On September 26, 2011 and October 10, 2011, ValleyCrest sent a Notice to Owner/Contractor advising the owner, construction manager, Fidelity and Vila that ValleyCrest would look to the Florida Marlins Bond in the event it was not paid. True and correct copies of these Notices are attached hereto as ***Exhibit "K"*** and incorporated herein by reference.

27. ValleyCrest satisfactorily performed all of its obligations under the Florida Marlins Subcontract. Its day of final furnishing was February 8, 2012.

28. Vila failed to pay ValleyCrest for the labor and materials it provided pursuant to the Florida Marlins Subcontract. ValleyCrest is owed $137,954.70 on the Florida Marlins Subcontract.

29. On April 23, 2012, ValleyCrest sent a Notice of Non-Payment to Vila, Fidelity, the owner, and its construction manager. A true and correct copy of this Notice of Non-Payment is attached hereto as ***Exhibit "L"*** and incorporated herein by reference.

30. On May 1, 2012, ValleyCrest sent the statutory demand letter to Vila pursuant to Fla. Stat. § 255.05(10)(d). A true and correct copy of this letter is attached hereto as ***Exhibit "M"*** and incorporated herein by reference. Vila did not respond to this letter.

31. All conditions precedent to the bringing of this action have been met or are otherwise waived.

32. ValleyCrest has been required to retain the services of the undersigned law firm and is responsible for paying their attorneys' fees and costs.

COUNT I – BREACH OF THE JFK CAUSEWAY SUBCONTRACT

33. Paragraphs 1-15 and 31-32 are incorporated by reference as if fully stated herein.

34. There exists a valid and enforceable contract between ValleyCrest and Vila.

35. ValleyCrest fully and satisfactorily performed all of its obligations under the JFK Causeway Subcontract.

36. Vila materially breached the JFK Causeway Subcontract by failing to pay ValleyCrest the amounts due and owing.

37. ValleyCrest has been harmed as a direct result of Vila's breach of the JFK Causeway Subcontract.

38. Pursuant to the JFK Causeway Subcontract, ValleyCrest is entitled to recover its attorneys' fees and costs as a result of having to bring this act.

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, M. Vila & Associates, Inc., for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

COUNT II – ACTION FOR PAYMENT UNDER THE JFK CAUSEWAY BOND (Suretec)

39. Paragraphs 1-15 and 31-32 are incorporated by reference as if fully stated herein.

40. This is an action against the bond pursuant to Fla. Stat. § 255.05.

41. ValleyCrest has fully and satisfactorily performed its obligations under the JFK Causeway Subcontract. Vila has failed to pay ValleyCrest in accordance with the terms of the JFK Causeway Subcontract.

42. ValleyCrest is an intended beneficiary under the terms of the JFK Causeway Bond.

114(32)

43. ValleyCrest served timely demand upon Suretec to honor the terms of the JFK Causeway Bond and pay ValleyCrest for the outstanding balance owed under the JFK Causeway Subcontract.

44. Suretec has failed to pay ValleyCrest the outstanding amounts owed under the JFK Causeway Subcontract and JFK Causeway Bond.

45. ValleyCrest has been harmed as a direct result of Suretec's failure to pay ValleyCrest pursuant to the terms of the JFK Causeway Bond.

46. Pursuant to the terms of the JFK Causeway Subcontract, the JFK Causeway Bond, and Fla. Stat. § 255.05, ValleyCrest is entitled to recover its attorneys' fees and costs from Suretec.

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, SureTec Insurance Company, for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

COUNT III – ACCOUNT STATED JFK CAUSEWAY PROJECT
(Vila)

47. Paragraphs 1-15 and 31-32 are incorporated by reference as if fully stated herein.

48. Per the JFK Causeway Subcontract, Vila agreed to pay ValleyCrest for labor and/or materials provided to the JFK Causeway Project.

49. In accordance with the JFK Causeway Subcontract, ValleyCrest submitted to Vila the payment applications that are attached herein as ***Composite Exhibit "N"*** and which are incorporated herein by reference. These invoices are true and correct and Vila has never objected to them. There is a balance of $18,665 on PR #6 (inv #3826857) due to ValleyCrest processing a debit memo in the amount of $32,500 against some monies owed to Vila on a

1/L(33)

different job and applying them to the JFK Causeway Project as set forth in a memorandum of understanding between the parties. Then ValleyCrest received ck #5837 from North Bay Village (the owner) in the amount of $82,541.76, which was applied to PR# 7 (invoice #3844540) leaving a balance owed on that invoice of $66,012.24.

50. Vila has failed to pay ValleyCrest the outstanding amount owed pursuant to the payment applications.

51. Vila owes ValleyCrest the amounts stated in the payment applications.

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, M. Vila & Associates, Inc., for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

COUNT IV – BREACH OF LINCOLN ROAD SUBCONTRACT
(Vila)

52. ValleyCrest re-asserts paragraphs 1-8, 16-22, and 31-32 and incorporates them by reference as if fully stated herein.

53. There exists a valid and enforceable contract between ValleyCrest and Vila.

54. ValleyCrest fully and satisfactorily performed all of its obligations under the Lincoln Road Subcontract.

55. Vila materially breached the Lincoln Road Subcontract by failing to pay ValleyCrest the amounts due and owing.

56. ValleyCrest has been harmed as a direct result of Vila's breach of the Lincoln Road Subcontract.

57. Pursuant to the Lincoln Road Subcontract, ValleyCrest is entitled to recover its attorneys' fees and costs as a result of having to bring this act.

11L(34)

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, M. Vila & Associates, Inc., for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

COUNT V – ACTION FOR PAYMENT UNDER LINCOLN ROAD BOND (Suretec)

58. ValleyCrest re-asserts paragraphs 1-8, 16-22, and 31-32 and incorporates them by reference as if fully stated herein.

59. This is an action against a bond pursuant to Fla. Stat. § 255.05.

60. ValleyCrest has fully and satisfactorily performed under the terms of the Lincoln Road Subcontract. Vila has failed to pay ValleyCrest in accordance with the terms of the Lincoln Road Subcontract.

61. ValleyCrest is an intended beneficiary under the terms of the Lincoln Road Bond.

62. ValleyCrest served timely demand upon Suretec to honor the terms of the Lincoln Road Bond and pay ValleyCrest for the outstanding balance owed under the Lincoln Road Subcontract.

63. Suretec has failed to pay ValleyCrest the outstanding amounts owed under the Lincoln Road Subcontract and Lincoln Road Bond.

64. ValleyCrest has been harmed as a direct result of Suretec's failure to pay the amounts owed to ValleyCrest under the Lincoln Road Bond.

65. Pursuant to the terms of the Lincoln Road Subcontract, the Lincoln Road Bond, and Fla. Stat. § 255.05, ValleyCrest is entitled to recover its attorneys' fees and costs from Suretec.

11L(35)

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, SureTec Insurance Company, for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

COUNT VI – ACCOUNT STATED LINCOLN ROAD PROJECT (Vila)

66. ValleyCrest re-asserts paragraphs 1-8, 16-22, and 31-32 and incorporates them by reference as if fully stated herein.

67. Per the Lincoln Road Subcontract, Vila agreed to pay ValleyCrest for labor and/or materials provided to the Lincoln Road Project.

68. In accordance with the Lincoln Road Subcontract, ValleyCrest submitted to Vila the payment applications that are attached herein as ***Composite Exhibit "O"*** and which are incorporated herein by reference.

69. The payment applications are true and correct and Vila has never objected to them.

70. Vila has failed to pay ValleyCrest the amounts set forth in the payment applications.

71. Vila owes ValleyCrest the amounts stated in the payment applications.

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, M. Vila & Associates, Inc., for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

116(36)

COUNT VII – BREACH OF FLORIDA MARLINS SUBCONTRACT
(Vila)

72. ValleyCrest re-asserts paragraphs 1-8 and 23-32 and incorporates them by reference as if fully stated herein.

73. There exists a valid and enforceable contract between ValleyCrest and Vila.

74. ValleyCrest fully and satisfactorily performed all of its obligations under the Florida Marlins Subcontract.

75. Vila materially breached the Florida Marlins Subcontract by failing to pay ValleyCrest the amounts due and owing.

76. ValleyCrest has been harmed as a direct result of Vila's breach of the Florida Marlins Subcontract.

77. Pursuant to the Florida Marlins Subcontract, ValleyCrest is entitled to recover its attorneys' fees and costs as a result of having to bring this act.

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, M. Vila & Associates, Inc., for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

COUNT VIII – ACTION FOR PAYMENT UNDER FLORIDA MARLINS BOND
(Fidelity)

78. ValleyCrest re-asserts paragraphs 1-8 and 23-32 and incorporates them by reference as if fully stated herein.

79. This is an action against a bond pursuant to Fla. Stat. § 255.05.

114(37)

80. ValleyCrest fully and satisfactorily performed under the Florida Marlins Subcontract. Vila has failed to pay ValleyCrest in accordance with the terms of the Florida Marlins Subcontract.

81. ValleyCrest is an intended beneficiary under the terms of the Florida Marlins Bond.

82. ValleyCrest timely served a demand upon Fidelity to honor the terms of the Florida Marlins Bond and pay ValleyCrest for the outstanding balance owed under the Florida Marlins Subcontract.

83. Fidelity has failed to pay ValleyCrest the outstanding amounts owed under the Florida Marlins Subcontract and Florida Marlins Bond.

84. ValleyCrest has been harmed as a direct result of Fidelity's failure to pay ValleyCrest pursuant to the terms of the Florida Marlins Bond.

85. Pursuant to the terms of the Florida Marlins Subcontract, the Florida Marlins Bond, and Fla. Stat. § 255.05, ValleyCrest is entitled to recover its attorneys' fees and costs from Fidelity.

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, Fidelity & Deposit Company of Maryland, for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

COUNT IX – ACCOUNT STATED FLORIDA MARLINS PROJECT
(Vila)

86. ValleyCrest re-asserts paragraphs 1-8 and 23-32 and incorporates them by reference as if fully stated herein.

116(38)

87. Per the Florida Marlins Subcontract, Vila agreed to pay ValleyCrest for labor and/or materials provided to the Florida Marlins Project.

88. In accordance with the Florida Marlins Subcontract, ValleyCrest submitted to Vila the payment applications that are attached herein as ***Composite Exhibit "P"*** and which are incorporated herein by reference.

89. The payment applications are true and correct and Vila has never objected to them.

90. Vila owes ValleyCrest the amounts stated in the payment applications.

WHEREFORE, Plaintiff, ValleyCrest Landscape Development, Inc., hereby requests entry of a judgment against Defendant, M. Vila & Associates, Inc., for issuance of an award of all monetary and equitable damages permitted by law, for its attorneys' fees and costs, and for such other relief as this Court deems just and proper.

SIGNED THIS 30th day of May, 2012.

AMANDA G. SIMMONS, ESQ.
Florida Bar No. 0728020
Shutts & Bowen, LLP
300 South Orange Avenue, Suite 1000
Orlando, Florida 32801
Telephone: 407-423-3200
Facsimile: 407-237-2202
Email: asimmons@shutts.com
Attorneys for the Plaintiff

11-L(39)

IN THE COUNTY COURT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CIVIL DIVISION

CASE NO 12-15053CC05

CENTRAL CONCRETE SUPERMIX, INC.,

Plaintiff,

vs.

SURETEC INSURANCE COMPANY and
THE CITY OF NORTH BAY VILLAGE,

Defendant(s).

COMPLAINT

ORIGINAL
FILED
JUL 23 2012
HARVEY RUVIN
CLERK

COMES NOW the Plaintiff, CENTRAL CONCRETE SUPERMIX, INC., by and through the undersigned attorney and sues the Defendants, SURETEC INSURANCE COMPANY and THE CITY OF NORTH BAY VILLAGE and alleges:

BACKGROUND ALLEGATIONS

1. This is an action for damages in an amount less than the jurisdictional maximum of this Court based upon breach of the terms of a public construction payment bond against Defendant SURETEC INSURANCE COMPANY and failure to obtain a statutory public construction payment bond against THE CITY OF NORTH BAY VILLAGE.

2. Plaintiff, CENTRAL CONCRETE SUPERMIX, INC.,(CCS), is a Florida corporation with its principal place of business in Miami-Dade County, Florida.

3. Defendant, SURETEC INSURANCE COMPANY (SURETEC) is a foreign insurance company authorized to do business in the state of Florida and doing business in Miami-Dade County, Florida.

4. Defendant, THE CITY OF NORTH BAY VILLAGE is municipal corporation situated in Miami-Dade County, Florida.

5. This action arises out of the provision of construction materials (ready mix concrete) by Plaintiff to a project owned by THE CITY OF NORTH BAY VILLAGE and presumably secured by a payment bond issued by SURETEC INSURANCE COMPANY.

IL(40)

6. All of the events pertaining to this litigation occurred in Miami-Dade County, Florida.

7. Venue of this action is proper in Miami-Dade County, Florida.

COUNT I

8. Plaintiff reavers and realleges the allegations of paragraphs 1,2,3,5,6 and 7.

9. This is an action for damages based upon breach of the terms of a public construction payment bond in which SURETEC INSURANCE COMPANY is the surety. A copy of the payment bond is attached hereto as Exhibit A.

10. Plaintiff sold ready mix concrete to M. Vila & Associates, Inc., the principal on the payment bond. M. Vila & Associates, Inc., has ceased doing business and has not been joined as a party to this action.

11. On January 8, 2011, Plaintiff caused to be issued a document entitled Notice to Owner and Notice to Contractor. A copy of the notice is attached hereto as Exhibit B. A copy of the notice was served by certified mail upon both THE CITY OF NORTH BAY VILLAGE and SURETEC INSURANCE COMPANY. The Notice was issued within 45 days of first delivering ready mix concrete to the project.

12. Plaintiff last delivered ready mix concrete to the project September 14, 2011.

13. At the time of the last delivery to the project Plaintiff was owed $8,325.71. A copy of the open invoices and associated delivery tickets are attached hereto as composite Exhibit C.

14. Plaintiff has not been paid for the materials sold to M. Vila & Associates, Inc., and delivered to the project. Plaintiff issued a Notice of Nonpayment on October 7, 2011. A copy of the Notice of Nonpayment is attached hereto as Exhibit D. The Notice of Nonpayment was issued and served within 90 days of the last delivery to the project.

15. Despite service of the Notice of Nonpayment Defendant SURETEC INSURANCE COMPANY has refused payment on the bond. A copy of the SURETEC INSURANCE COMPANY denial of responsibility under the bond is attached hereto as Exhibit E.

16. Plaintiff is entitled to payment under the terms of the bond.

17. Plaintiff has retained the undersigned counsel and is required to pay a reasonable fee for professional services. Pursuant to F.S.§255.05, F.S.§713.29 and the terms of the bond, Defendant SURETEC INSURANCE COMPANY is responsible for Plaintiff's attorneys fees herein.

WHEREFORE, PLAINTIFF requests this Court enter Judgment for damages in the amount of $8,325.71, prejudgment interest, Court costs and attorneys fees against Defendant SURETEC INSURANCE COMPANY.

COUNT II

18. Plaintiff reavers and realleges all of the background allegations of this complaint as well as the allegations of Count I herein.

19. This is an action for damages against the Defendant THE CITY OF NORTH BAY VILLAGE.

20. Plaintiff sold ready mix concrete to M. Vila & Associates, Inc., for the project owned by THE CITY OF NORTH BAY VILLAGE as more fully set forth in Count I above.

21. Upon information and belief, THE CITY OF NORTH BAY VILLAGE did not require any additional payment bonds for the project.

22. F.S.§255.05 states:

> "(1)(a). Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority or private entity, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety."

23. Upon information and belief this project was large enough so that THE CITY OF NORTH BAY VILLAGE was prohibited from waving the bond requirement.

24. In the event the position taken by SURETEC INSURANCE COMPANY, as set forth in Exhibit E attached is correct, the Defendant THE CITY OF NORTH BAY VILLAGE breached its statutory duty by failing to require the purchase of a statutory payment and performance bond.

25. Plaintiff has been damaged as a result of the breach of statutory duty by Defendant THE CITY OF NORTH BAY VILLAGE.

26. Plaintiff has retained the undersigned counsel and is required to pay a reasonable fee for professional services.

WHEREFORE Plaintiff requests this Court enter judgment for damages against THE CITY OF NORTH BAY VILLAGE in the amount of $8,325.71, prejudgment interest, Court costs and attorneys fees.

KEITH J. MERRILL, P.A.
7901 SW 67th Avenue
Suite 206
Miami, Fl 33143
Telephone: (305) 663-0506
Facsimile: (305) 667-8529
KJMPA@bellsouth.net

By: _____
KEITH J. MERRILL, ESQ.
Florida Bar No. 247316

112(43)

Payment Bond — Bond No.: 5072120

Contractor (Name and Address)
M. Vila & Associates, Inc.
12097 N.W. 98th Avenue
Hialeah Gardens, FL 33016

Surety (Name and Principal Place of Business)
SureTec Insurance Company
952 Echo Lane, Suite 450
Houston, TX 77024

Owner: City of North Bay Village
1666 Kennedy Causeway
Suite 700
North Bay Village, FL 33141

CONSTRUCTION CONTRACT
Date: October 13, 2009
Amount: $ 60,000.00
Description (Name and Location): Design-Build Services for John F. Kennedy Causeway Redevelopment, Work Order #1, Task I: ROW Preparation

BOND
Date: (Not earlier than Construction Contract Date): April 5, 2010
Amount: $ 60,000.00
Modifications to this Bond: , None
® See Page 4

CONTRACTOR AS PRINCIPAL
Company: (Corporate Seal)
M. Vila & Associates, Inc.

By: _____
Name and Title:
Miguel Vila, Vice President

SURETY
Company:
SureTec Insurance Company (Corporate Seal)

By: _____
Name and Title: , Attorney-In-Fact and
Florida Resident Agent: Warren M. Alter

(Any additional signatures appear on page 5)

(FOR INFORMATION ONLY - Name, Address and Telephone)

EXHIBIT
A

11.L(44)

Agent or Broker

Alter Surety Group, Inc.
5979 NW 151st St., Suite 104
Miami Lakes, FL 33014

Owner's Representative (Architect or City Manager)

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the construction Contract, which is incorporated herein by reference.

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for the use in the performance of the Construction Contract provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits to the Contractor and the surety, and provided there is no Owner Default.

3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4 The Surety shall have no obligation to Claimants under this bond until:

4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2 Claimants who do not have a direct contract with the Contractor:

.1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and

.2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

.3 Not having been paid within the above 30 days, have sent a written notice to the surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5 If a notice by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2 Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12 Notice to the surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11C44

14 Upon receipt by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15 DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and City Managering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

THIS BOND HEREBY IS AMENDED SO THAT THE PROVISIONS AND LIMITATIONS OF SECTION 255.05, FLORIDA STATUTES, ARE INCORPORATED HEREIN BY REFERENCE

THIS BOND IS GIVEN TO COMPLY WITH SECTION 255.06 FLORIDA STATUTES, AND ANY ACTION INSTITUTED BY A CLAIMANT UNDER THIS BOND FOR PAYMENT MUST BE IN ACCORDANCE WITH THE NOTICE AND TIME LIMITATION PROVISIONS IN SECTION 255.05(2), FLORIDA STATUTES.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		SURETY	
Company: M. Vik & Associates, Inc.	(Corporate Seal)	Company:	(Corporate Seal)
By: _____		By: _____	
Name and Title: Miguel Vik, Vice-President		Name and Title: , Attorney-in-Fact and Florida Resident Agent	
Address: 12097 NW 98th Avenue, Hialeah Gardens, Fl. 33018			

11(C46)

POA #: 910043

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Warren M. Alter, David T. Satine

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety, providing the bond penalty does not exceed

Five Million Dollars and no/100 ($5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment shall continue in force until 9/30/12 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be It Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents cancelling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and affected by the Corporate Secretary.

Be It Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. *(Adopted at a meeting held on 20th of April, 1999.)*

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 28th day of October, A.D. 2008.

SURETEC INSURANCE COMPANY

By: _____
B.J. King, President

State of Texas
County of Harris ss:

On this 28h day of October, 2008 before me personally came B.J. King, to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.

Michelle Denny
Notary Public
State of Texas
Expires August 27, 2012

_____
Michelle Denny, Notary Public
My commission expires August 27, 2012

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 5th day of April, 2010, A.D.

_____
M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:00 am and 5:00 pm CST.

11C(47)

NOTICE TO OWNER AND NOTICE TO CONTRACTOR

TO:

OWNER: CITY OF NORTH BAY VILLAGE
% PUBLIC WORKS DEPT
CONSTRUCTION ADMINISTRATION
1666 79TH STREET CSWY STE 700
NORTH BAY VLG FL 33141-4190

Certified: 7101 0412 3440 1852 4829

WO# 1927056D
BATCH:033692 ID:CEN88 DATE:01/03/11

The undersigned hereby informs you that he or she has furnished or is furnishing services or materials as follows:

Labor and/or Building Materials. READY MIX CONCRETE AND/OR BLOCKS

For improvement of the real property described as: CITY OF NORTH BAY VILLAGE - JFK CAUSEWAY

VAR LOC IN THE CITY OF NORTH BAY VILLAGE, MIAMI (long legal available 800-432-1959)
POR OF LAND IN THE CITY OF NORTH BAY VILLAGE MIA D ADE CNTY, FL JFK DESIGN BUILD SERVICES WORK AKA 7
9 ST CAUSEWAY BOND# 5072120

Under an order given by: M VILA & ASSOCIATES INC A67800177

Florida law prescribes the serving of this Notice and restricts your right to make payments under your contract in accordance with Section 713.06 Florida Statutes. Pursuant to Florida Statute 713.16(1) please furnish a copy of your direct contract with the contractor. Responsibility for copy costs is acknowledged. Request for Sworn Statement of Account must be addressed to:

CENTRAL CONCRETE SUPERMIX 4300 SW 74TH AVE MIAMI FL 33155

IMPORTANT INFORMATION FOR YOUR PROTECTION

Under Florida's law, those who work on your property or provide materials and are not paid have a right to enforce their claim for payment against your property. This claim is known as a construction lien. If your contractor fails to pay subcontractors or material suppliers or neglects to make other legally required payments, the people who are owed money may look to your property for payment, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL.

PROTECT YOURSELF

--RECOGNIZE that this Notice to Owner may result in a lien against your property unless all those supplying a Notice to Owner have been paid.

--LEARN more about the Construction Lien Law, Chapter 713, Part I, Florida Statutes, and the meaning of this notice by contacting an attorney or the Florida Department of Business and Professional Regulation.

The undersigned will look to contractors bond for protection of the work.

If a payment bond exists for this project, this notice shall serve as the preliminary notice of intention to make claim against any such bond(s). Request for a copy of the bond(s) is hereby made, with acknowledgment of responsibility for copy costs. Failure to furnish the requested copy may have adverse consequences as described in Florida Statutes.

FIRM: CENTRAL CONCRETE SUPERMIX
PHONE 305-264-5334
4300 SW 74TH AVE
MIAMI FL 33155

By: James A Carmel
James A. Carmel, Agent

[OWNER]
Certified: 7101 0412 3440 1852 4829
CITY OF NORTH BAY VILLAGE
% PUBLIC WORKS DEPT
CONSTRUCTION ADMINISTRATION
1666 79TH STREET CSWY STE 700
NORTH BAY VLG FL 33141-4190

[CUSTOMER]
M VILA & ASSOCIATES INC

[GENERAL CONTRACTOR]	[SURETY]	[SURETY AGENT]
M VILA & ASSOCIATES INC 12097 NW 98TH AVE HIALEAH GARDENS FL 33016-2927	Certified: 7101 0412 3440 1852 4836 SURETEC INSURANCE CO BOND #5072120 **US TREASURY RATED** 952 ECHO LN STE 450 HOUSTON TX 77024-2815	Certified: 7101 0412 3440 1852 4843 WARREN M ALTER ALTER SURETY GROUP INC 5979 NW 151ST ST STE 104 MIAMI LAKES FL 33014-2426

To assemble manually, fold A to A then fold B to B

EXHIBIT
B

RECEIVED

SUPERMIX
The On Time Concrete Company®
4500 S.W. 74TH AVE. • P.O.BOX-557520 • MIAMI, FL 33155-7520
PHONE (305) 265-4465 • FAX (305) 264-0360
CREDIT DEPT. PHONE: (305) 264-5334 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000171874

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON

SHIP TO: 4

INVOICE DATE
07/15/2011

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	P.O.	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	07/15/11	Supermix			1% 10 days	07151105

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
5.00 cy	3500 REGULAR	66.50	332.50
5.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	140.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50

Ticket number(s) shipped from plant P-7
661936

EXHIBIT
tabbies
C

SUBTOTAL	505.00
STATE SALES TAX	29.42
COUNTY SALES TAX	7.00
TOTAL	541.42

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

NRMCA

11L(49)

"The On Time Concrete Company"®

1-305-879-3282

BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

CENTRAL CONCRETE SUPERMIX, INC.

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA880	7 661936	15-Jul-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE 93	79 ST CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR 07151105

QUANTITY	DESCRIPTION	PRICE	UNIT	EXTENSION
5.00	3500 REGULAR SMESA BUFF 1.5%6. 1ENV 1Fuel Surcharge		CYDS ea ea ea	JUL 15 PM02:36

EXTRA UNLOADING TIME CHARGE ➡ MINUTES - ALLOWABLE TIME* = PER MINUTE X $1.00 =

*6 MINUTES PER CU. YD. ALLOWED. SHORT LOAD CHARGE ➡

SLUMP 4"+/-1"

THIS DELIVERY TOTAL 5.00 CU. YDS.
OF YOUR ORDER FOR 5.00 CU. YDS.

AMOUNT
TAX

WATER ADDED BY SUPERVISOR ONLY

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☒ YES ☐ NO ____ GLS.

TOTAL ◆

TIME ARRIVED ON JOB	STARTED UNLOADING	FINISHED UNLOADING	LEAVING THIS JOB	TOTAL TIME
3:05	3:10	4:10	4:19 PM	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK	DRIVER
269	Garcia, Carlos

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X _____

CONTROL 7-188957

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK
OFFICE COPY

NRMCA

11L(50)

SUPERMIX
The On Time Concrete Company
4300 S.W. 74TH AVE. • P.O.BOX 557520 • MIAMI, FL 33155-7520
PHONE (305) 265-4465 • FAX (305) 264-0866
CREDIT DEPT. PHONE: (305) 264-9934 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000171917

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON

SHIP TO: 4

INVOICE DATE
07/18/2011

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	...	P.O.	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	07/18/11	Supermix				1% 10 days	07181103

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
10.00 cy	3500 REGULAR	66.50	
10.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	
1.00 ea	Environmental Fee	7.00	
1.00 ea	Fuel Surcharge	26.50	
	Ticket number(s) shipped from plant P-2 662014		
		SUBTOTAL	
		STATE SALES TAX	
		COUNTY SALES TAX	
		TOTAL	1,047.00

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

NRMCA

116(51)

"The On Time Concrete Company"®

BLOCK PLANT:(305) 805-3226
WWW.SUPERBLOCK.COM

CENTRAL CONCRETE SUPERMIX, INC.

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA880	# 662014	18Jul11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE Order : 46	79 ST CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR

QUANTITY	DESCRIPTION	TAXES	UNIT	EXTENSION
10.00	3500 REGULAR		CYDS	
10.00	MEBA BUFF 1.5%.		ea	
1.00	ENV		ea	
1.00	Fuel Surcharge		ea	

WATER ADDED BY SUPERVISOR ONLY

EXTRA UNLOADING TIME CHARGE ➡ MINUTES − ALLOWABLE TIME* = PER MINUTE X $1.00 =

*6 MINUTES PER CU. YD. ALLOWED

SHORT LOAD CHARGE ➡

JUL 18 10:27

SLUMP		
	THIS DELIVERY TOTAL 10.00 CU. YDS.	AMOUNT
	OF YOUR ORDER FOR 10.00 CU. YDS.	TAX
CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☐ YES ☐ NO _____ GLS.		TOTAL ◆

TIME ARRIVED JOB	STARTED UNLOADING	FINISH UNLOADING	LEAVING JOB	TOTAL TIME
11:05	11:10			

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK	DRIVER
391	Matech, Arma

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X _____

TICKET NO. 2-103702

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

116(52)

SUPERMIX
The On Time Concrete Company ®
4300 S.W. 74TH AVE. • P.O.BOX 857520 • MIAMI, FL 33185-7520
PHONE (305) 269-4469 • FAX (305) 264-0866
CREDIT DEPT. PHONE: (305) 264-5884 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000171919

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS , FL 33018 USA

SALESPERSON

SHIP TO: 4

INVOICE DATE
07/18/2011

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	07/18/11	Supermix		1% 10 days	718102

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
10.00 cy	3500 REGULAR	66.50	665.00
10.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	280.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50

Ticket number(s) shipped from plant P-22
662055

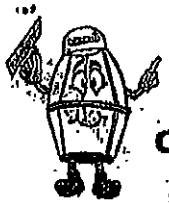
SUBTOTAL
STATE SALES TAX
COUNTY SALES TAX

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

TOTAL 1,047.00

NRMCA

11L(53)



SUPERMIX

"The On Time Concrete Company"®

CENTRAL CONCRETE SUPERMIX, INC.

DEERFIELD: (954) 480-9333
BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA880	22 662055	18Jul11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE Order : 66	79 ST. CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR

QUANTITY	DESCRIPTION	PRICE	UNIT	EXTENSION
10.00	3500 REGULAR		CYDS	
[illegible]	[illegible]		ea	
1.00	ENV		ea	
1.00	Fuel Surcharge		ea	

EXTRA UNLOADING TIME CHARGE ➡ MINUTES – ALLOWABLE TIME* = PER MINUTE X $1.00 =

*6 MINUTES PER CU. YD. ALLOWED

SHORT LOAD CHARGE ➡

SLUMP 4"

THIS DELIVERY TOTAL 10.00 CU. YDS.

OF YOUR ORDER FOR 10.00 CU. YDS.

AMOUNT JUL 18 [illegible]

TAX

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☐ YES ☑ NO _____ GLS.

TOTAL ◆

TIME ARRIVED ON JOB	STARTED UNLOADING	FINISHED UNLOADING	LEAVING THIS JOB	TOTAL TIME
245	2,18	321	330	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK	DRIVER
367	Navarro, Est

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X _____

CONTROL 2-103376

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

116(54)

SUPERMIX
The On Time Concrete Company®
4300 S.W. 74TH AVE. • P.O.BOX 557520 • MIAMI, FL 33155-7520
PHONE (305) 265-4455 • FAX (305) 264-0965
CREDIT DEPT. PHONE: (305) 264-5334 • FAX: (305) 266-0002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000172131

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON

INVOICE DATE
07/25/2011

SHIP TO: 4

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	P.O.	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	07/25/11	Supermix			1% 10 days	07221104

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
6.00 cy	3500 REGULAR	66.50	399.00
6.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	168.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50
	Ticket number(s) shipped from plant P-77 662690		
		SUBTOTAL	600.50
		STATE SALES TAX	
		COUNTY SALES TAX	42.04
		TOTAL	642.54

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

11 L(55)

"The On Time Concrete Company"®

1-800-[illegible]-3282

CENTRAL CONCRETE SUPERMIX, INC.

BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA890	77 662690	25-Jul-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	JOB SITE / DELIVER ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE 42	79 ST CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR 07221104

QUANTITY	DESCRIPTION	MIX CODE	UNIT	EXTENSION
6.00	3500 REGULAR SMEGA BUFF 1.5%6. 1ENV 1Fuel Surcharge		CYDS ea ea ea	JUL 25 AM09:41

EXTRA UNLOADING TIME CHARGE ➡ MINUTES – ALLOWABLE TIME* = PER MINUTE X $1.00 =

*6 MINUTES PER CU. YD. ALLOWED

SHORT LOAD CHARGE ➡

SLUMP			
4+/-1	THIS DELIVERY TOTAL 6.00 CU. YDS.	AMOUNT	WATER ADDED BY SUPERVISOR ONLY
	OF YOUR ORDER FOR 6.00 CU. YDS.	TAX	
CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☐ YES ☐ NO 0 GLS.		TOTAL ◆	

TIME ARRIVED ON JOB	STARTED UNLOADING	FINISHED UNLOADING	LEAVING THE JOB	TOTAL TIME
10 05	10 15	10 40	10 45	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

BATCHER	DRIVER	
7403	Rodriguez, Jose Luben	I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket. RECEIVED BY: X

TICKET NO. 187067

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

114(56)

SUPERMIX
The On-Time Concrete Company
4300 S.W. 74TH AVE. • P.O. BOX 557920 • MIAMI, FL 33155-7520
PHONE (305) 266-4466 • FAX (305) 264-0366
CREDIT DEPT. PHONE: (305) 264-5534 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000173446

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON

INVOICE DATE
09/07/2011

SHIP TO: 4

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB #:

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	P.P.	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	09/07/11	Supermix			1% 10 days	09071102

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
10.00 cy	3500 REGULAR	66.50	665.00
10.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	280.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50

Ticket number(s) shipped from plant P-77
667287

SUBTOTAL	
STATE SALES TAX	
COUNTY SALES TAX	
TOTAL	1,047.00

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

NRMCA

114(57)

PLANT [redacted] SUPERMIX

"The On Time Concrete Company"®

1-[redacted]-3282

CENTRAL CONCRETE SUPERMIX, INC.

BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA880	77 667287	07-Sep-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE 64	79 ST CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR 09071108

QUANTITY	DESCRIPTION	PRICE	UNIT	EXTENSION
10.00	3500 REGULAR		CYDS	
	10MESA BUFF 1.5%6.		ea	
	1ENV		ea	
	1Fuel Surcharge		ea	

WATER ADDED BY SUPERVISOR ONLY

EXTRA UNLOADING TIME CHARGE — MINUTES — ALLOWABLE TIME* = — PER MINUTE X $1.00 =

*6 MINUTES PER CU. YD. ALLOWED — SHORT LOAD CHARGE

SEP 07 PM02:50

SLUMP		
4+/-1	THIS DELIVERY TOTAL 10.00 CU. YDS.	AMOUNT
	OF YOUR ORDER FOR 10.00 CU. YDS.	TAX
		TOTAL

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☒ YES ☐ NO 12 GLS.

TIME ARRIVED ON JOB	START UNLOADING	FINISH UNLOADING	LEAVING JOB	TOTAL TIME
330 PM	340 PM			

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK NO.	DRIVER	
375	Hernandez, Balbino	I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket. RECEIVED BY: X

CONTROL
189638

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

11.4(58)

SUPERMIX
The On Time Concrete Company ©
4300 S.W. 74TH AVE. • P.O.BOX 887520 • MIAMI, FL 33188-7520
PHONE (305) 265-4465 • FAX (305) 264-0866
CREDIT DEPT. PHONE: (305) 264-5334 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000173482

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON

SHIP TO: 4

INVOICE DATE
09/08/2011

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	P.P.	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	09/08/11	Supermix			1% 10 days	09081102

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
4.00 cy	3500 REGULAR	66.50	266.00
4.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	112.00
1.00 ea	SHORT LOAD 75	75.00	75.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50

Ticket number(s) shipped from plant: P-7
667434

SUBTOTAL
STATE SALES TAX
COUNTY SALES TAX

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

TOTAL 520.56

NRMCA

11L(59)

"The On Time Concrete Company"®

1-800-879-3282

CENTRAL CONCRETE SUPERMIX, INC.

DEBRIEFED: (954) 480-9333
BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILASSO	7 667434	08-Sep-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE 69	79 ST CAUSEWAY ~~MIAMI BEACH~~ KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR NORTH BAY ISLAND 09081102

QUANTITY	DESCRIPTION	PRICE	UNIT	EXTENSION
4.00	3500 REGULAR 4MESA BUFF 1.5%6. 1ENV 1Fuel Surcharge		CYDS ea ea ea	

WATER ADDED BY SUPERVISOR ONLY

EXTRA UNLOADING TIME CHARGE ➡ MINUTES - ALLOWABLE TIME* = PER MINUTE X $1.00 = SEP 08 PM02:52

*6 MINUTES PER CU. YD. ALLOWED

SHORT LOAD CHARGE ➡

SLUMP		
3"	THIS DELIVERY TOTAL 4.00 CU. YDS.	AMOUNT
	OF YOUR ORDER FOR 4.00 CU. YDS.	TAX

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☐ YES ☒ NO ___ GLS.

TOTAL ◆

TIME ARRIVED ON JOB	STARTED UNLOADING	FINISHED UNLOADING	LEAVING THIS JOB	TOTAL TIME
16:02	16:02	16:20	16:20	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK	DRIVER
7401	Lopez, Jose A

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X Sergio Rodriguez

CONTROL
-187694

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

116(60)

SUPERMIX
The On Time Concrete Company®
4300 S.W. 74TH AVE. • P.O.BOX 557520 • MIAMI, FL 33155-7520
PHONE (305) 265-4465 • FAX (305) 264-0866
CREDIT DEPT. PHONE: (305) 264-5584 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000173570

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON: 4

INVOICE DATE: 09/12/2011

SHIP TO:
79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	09/12/11	Supermix		1% 10 days	09121101

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
10.00 cy	3500 REGULAR	66.50	665.00
10.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	280.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50
	Ticket number(s) shipped from plant P-77 667721		
		SUBTOTAL	978.50
		STATE SALES TAX	61.71
		COUNTY SALES TAX	6.79
		TOTAL	1,047.00

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

NRMCA

11461

"The On Time Concrete Company"®

CENTRAL CONCRETE SUPERMIX, INC.

BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA080	77 667781	12-Sep-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO
M. VILA & ASSOCIATES INC
12097 NW 98 AVE

42

DELIVERY ADDRESS
79 ST CAUSEWAY MIAMI BEACH KENNE
DY CAUSEWAY (SR 934) MEDIAN IMPR

09121101

QUANTITY	DESCRIPTION	PRICE	UNIT	EXTENSION
10.00	3500 REGULAR		CYDS	
1	MESA BUFF 1.5%.		EA	
1	ENV		EA	
1	Fuel Surcharge		EA	

WATER ADDED BY SUPERVISOR ONLY

EXTRA UNLOADING TIME CHARGE ➡ MINUTES – ALLOWABLE TIME* = PER MINUTE X $1.00 =

*6 MINUTES PER CU. YD. ALLOWED

SHORT LOAD CHARGE ➡

5" SLUMP

THIS DELIVERY TOTAL 10.00 CU. YDS.

OF YOUR ORDER FOR 10.00 CU. YDS.

AMOUNT

TAX

TOTAL

SEP 12 AM10:00

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☐ YES ☐ NO _____ GLS.

TRUCK ARRIVED ON JOB	START UNLOADING	FINISH UNLOADING	LEAVE JOB	TOTAL TIME
10:36	11:30	12:02	12:30	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK NO.	DRIVER

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X _____

YOUR ORDER NO.
189717

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

11L (62)

SUPERMIX
The On Time Concrete Company
4500 S.W. 74TH AVE. • P.O.BOX 557520 • MIAMI, FL 33155-7520
PHONE (305) 265-4465 • FAX (305) 264-0866
CREDIT DEPT. PHONE: (305) 264-5554 • FAX: (305) 264-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000173571

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON: 4

INVOICE DATE: 09/12/2011

SHIP TO:

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	P.P.	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	09/12/11	Supermix			1% 10 days	09121102

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
8.00 cy	3500 REGULAR	66.50	532.00
8.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	224.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50
	Ticket number(s) shipped from plant P-77 667776		
		SUBTOTAL	789.50
		STATE SALES TAX	44.87
		COUNTY SALES TAX	10.40
		TOTAL	844.77

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

NRMCA

IL L63

PLAN [redacted]

"The On Time Concrete Company"®

1-20[illegible]

CENTRAL CONCRETE SUPERMIX, INC.

BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILASSD	77 667776	12-Sep-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE 44	79 ST CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR 09121102

QUANTITY	DESCRIPTION	PRICE	UNIT	EXTENSION
8.00	3500 REGULAR 3MESA BUFF 1.5%6. 1ENV 1Fuel Surcharge		CYDS ea ea ea	

WATER ADDED BY SUPERVISOR ONLY

EXTRA UNLOADING TIME CHARGE ➡ MINUTES - ALLOWABLE TIME* = PER MINUTE X $1.00 =

*6 MINUTES PER CU. YD. ALLOWED — SHORT LOAD CHARGE ➡

SEP 12 PM01:56

SLUMP		
4"	THIS DELIVERY TOTAL 8.00 CU. YDS.	AMOUNT
	OF YOUR ORDER FOR 8.00 CU. YDS.	TAX

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☒ YES ☐ NO 10 GLS.

TOTAL ◆

TIME ARRIVED ON JOB	STARTED UNLOADING	FINISHED UNLOADING	LEAVING THIS JOB	TOTAL TIME
2.30	2.50	4.20	4.30	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK	DRIVER
7407	Santana, Lenier

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X Sergio Rodriguez

CONTROL
7-189727

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK
OFFICE COPY

NRMCA

116(64)

SUPERMIX
The On Time Concrete Company®
4900 S.W. 74TH AVE. • P.O.BOX 557520 • MIAMI, FL 33155-7520
PHONE (305) 265-4465 • FAX (305) 264-0366
CREDIT DEPT. PHONE: (305) 264-3934 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000173656

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS , FL 33018 USA

SALESPERSON: 4

INVOICE DATE: 09/14/2011

SHIP TO:

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	...	P.P.	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	09/14/11	Supermix				1% 10 days	09131102

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
10.00 cy	3500 REGULAR	66.50	665.00
10.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	280.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50
	Ticket number(s) shipped from plant P-7 667974		
		SUBTOTAL	978.50
		STATE SALES TAX	61.72
		COUNTY SALES TAX	6.78
		TOTAL	1,047.00

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

NRMCA

11/6(65)

"The On Time Concrete Company"®

CENTRAL CONCRETE SUPERMIX, INC.

BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA800	7 667974	14-Sep-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS / JOB NAME
M. VILA & ASSOCIATES INC 12097 NW 98 AVE 34	79 ST CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR 09131102

QUANTITY	PRODUCT DESCRIPTION	PRICE	UNIT	EXTENSION
10.00	3500 REGULAR		CYDS	
	10MESA BUFF 1.5%A.		ea	
	1ENV		ea	
	1Fuel Surcharge		ea	

WATER ADDED BY SUPERVISOR ONLY

EXTRA UNLOADING TIME CHARGE ➡ MINUTES − ALLOWABLE TIME* = PER MINUTE X $1.00

*6 MINUTES PER CU. YD. ALLOWED

SHORT LOAD CHARGE ➡

SLUMP 4+/-1

THIS DELIVERY TOTAL 10.00 CU. YDS.

OF YOUR ORDER FOR 10.00 CU. YDS.

AMOUNT

TAX

TOTAL ◆

SEP 14 AM10:10

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☐ YES ☒ NO _____ GLS.

TIME ARRIVED JOB	START UNLOADING	FINISH UNLOADING	LEAVING JOB	TOTAL TIME
1030	1035	1055	1100	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK	DRIVER
393	Navarro, Esteban

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X Sergio Rodriguez

CONTROL 7-187785

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

11 L (66)

SUPERMIX
The On Time Concrete Company
5300 S.W. 74TH AVE. • P.O.BOX 557520 • MIAMI, FL 33155-7520
PHONE (305) 265-4465 • FAX (305) 264-0366
CREDIT DEPT. PHONE: (305) 264-5334 • FAX: (305) 266-8002
CENTRAL CONCRETE SUPERMIX, INC.

INVOICE

1000173657

TO:

M. VILA & ASSOCIATES INC
12097 NW 98 AVE

HIALEAH GARDENS ,FL 33018 USA

SALESPERSON

SHIP TO: 4

INVOICE DATE
09/14/2011

79 ST CAUSEWAY MIAMI BEACH KENNEDY CAUSEW
JFK CAUSEWAY PROPOSED MEDIAN
LOCATION: A62394121
CUSTOMER JOB # :

ACCOUNT NO.	DATE SHIPPED	SHIPPED VIA	P.P	F.O.B. POINT	TERMS	YOUR ORDER NUMBER
MVILASSO	09/14/11	Supermix			1% 10 days	09131102

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
5.00 cy	3500 REGULAR	66.50	332.50
5.00 ea	MESA BUFF 1.5% LAMBERT 6 SX	28.00	140.00
1.00 ea	Environmental Fee	7.00	7.00
1.00 ea	Fuel Surcharge	26.50	26.50
	Ticket number(s) shipped from plant P-77 668031		
		SUBTOTAL	506.00
		STATE SALES TAX	35.42
		COUNTY SALES TAX	0.00
		TOTAL	541.42

PLEASE WRITE ACCOUNT # AND THE INVOICE # ON YOUR CHECK

NRMCA

11.467

PLANT SUPERMIX
"The On Time Concrete Company"®
1-2[illegible]-3262
CENTRAL CONCRETE SUPERMIX, INC.

DEERFIELD: (954) [illegible]
BLOCK PLANT: (305) 805-3226
WWW.SUPERBLOCK.COM

MAIN OFFICE: 4300 S.W. 74th Ave. • Miami, FL 33155
PHONE: (305) 262-3250 • FAX: (305) 267-0698

CUSTOMER NO.	DELIVERY TICKET	DATE
MVILA650	77 668031	14-Sep-11

SERVING MIAMI-DADE, BROWARD AND PALM BEACH COUNTIES

SOLD TO	DELIVERY ADDRESS
M. VILA & ASSOCIATES INC 12097 NW 98 AVE 55	79 ST CAUSEWAY MIAMI BEACH KENNE DY CAUSEWAY (SR 934) MEDIAN IMPR 09131102

QUANTITY	DESCRIPTION	SLUMP/GRADE	UNIT	EXTENSION
5.00	3500 REGULAR MESA DIFF 1.5% ENV Fuel Surcharge		CYDS EA EA EA	

WATER ADDED BY SUPERVISOR ONLY

EXTRA UNLOADING TIME CHARGE ➡ MINUTES [illegible] − ALLOWABLE TIME* [illegible] = PER MINUTE X $1.00 = [illegible]

*6 MINUTES PER CU. YD. ALLOWED

SHORT LOAD CHARGE ➡ [illegible]

SEP 14 PM 02:52

SLUMP 4+/−1

THIS DELIVERY TOTAL 5.00 CU. YDS.

OF YOUR ORDER FOR 5.00 CU. YDS.

AMOUNT [illegible]

TAX [illegible]

CUSTOMER OR HIS AGENT ASSUMES FULL RESPONSIBILITY FOR STRENGTH AND/OR PERFORMANCE OF ANY CONCRETE PLACED ABOVE DESIGN SLUMP OR WHEN WATER IS ADDED. WATER ADDED ☑ YES ☐ NO 10 GLS.

TOTAL ◆ [illegible]

TIME ARRIVED JOB	STARTED UNLOADING	FINISHED UNLOADING	LEAVING JOB	TOTAL TIME
8/20	4:05	5:25	5:35	

SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON BOTH THE FRONT AND BACK OF THIS TICKET.

TRUCK NO.	DRIVER
391	Mateeh, Armando

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket.

RECEIVED BY: X [signature]

CONTRACT NO. 7-189762

10 LOADING POINTS AT 7 MIAMI-DADE, BROWARD AND S. PALM BEACH COUNTY PLANTS TO SERVE YOU BETTER
MIAMI • AIRPORT • OPA LOCKA • MEDLEY • PERRINE • PEMBROKE PINES • DEERFIELD
PRODUCERS AND SUPPLIERS OF QUALITY READY MIXED CONCRETE AND CONCRETE BLOCK

OFFICE COPY

NRMCA

112 (68)

CENTRAL CONCRETE SUPERMIX, INC.

4300 SW 74th Avenue
Miami, Florida 33155
Telephone: (305) 264-5334
Facsimile: (305) 266-8002

10/07/2011

Certified Mail # 70111570000267243000
Return Receipt Requested

CITY OF NORTH BAY VILLAGE
1666 79 ST CAUSEWAY #700
NORTH BAY VILLAGE FL 33141-4190

NOTICE OF NON-PAYMENT

The undersigned notifies you that he has furnished Ready-Mix Concrete and/or Blocks for the improvement of the real property identified as:

CITY OF NORTH BAY VILLAGE - JFK CAUSEWAY VAR LOC IN THE CITY OF NORTH BAY VILLAGE MIAMI DADE COUNTY FL JFK DESIGN BUILD SERVICES WORK AKA 79 ST CAUSEWAY BOND# 5072120 — A62394121

Under an order given by M. VILA & ASSOCIATES INC

The last of the labor, services or materials was furnished on 09/14/2011.

The amount due and unpaid is $8,325.71 for principal and $ 175.00 for filing fee.

Request for immediate payment is hereby made.

If applicable, a copy of the Recorded Claim of Lien will follow.

If you have any questions please do not hesitate to contact me at (305) 264-5334.

Sincerely,

BERNARDO DIAS
EXEC VICE PRESIDENT

Copies To:
70090960000016045258 M VILA & ASSOCIATES INC

70090960000016045265 WARREN M ALTER

70111570000267243017 SURETEC INSURANCE COMPANY

EXHIBIT
Exhibit
D

11L(69)

SureTec

Bond Claims Dept.
jsparks@suretec.com
(512) 314-3660 Direct
(512) 314-3661 Facsimile

June 6, 2012

via email: manuel@supermix.com

Mr. Manny Sanchez
Credit Manager
Central Concrete Supermix Inc.
4300 SW 74th Avenue
Miami FL 33165

Re: **Principal:** M. Vila & Associates, Inc.
Obligee: City of North Bay Village
Project: JFK Causeway Design Build
Claimant: Central Concrete Supermix Inc.
Bond No.: 5072120

Dear Mr. Manny Sanchez:

This letter responds to Central Concrete Supermix Inc.'s claim in the amount of $8500.71 on the above-referenced payment bond. For the reason outlined below, SureTec Insurance Company ("Suretec") denies the claim.

Our principal, M. Vila & Associates, Inc ("M. Vila"), had a contract with the City of North Bay Village (the "City") to design and redevelop the JFK causeway (see attached). The City issued additional work orders to increase the project by two million dollars from the original contract. As you can see from the attached payment bond issued by SureTec to M. Vila, SureTec issued the bond to cover a portion of the original contract detailed as Work Order #1, Task I: ROW Preparation in the penal limit of $60,000.00. As you can see Task I is a specific portion of the contract. Our bond covered all work associated with that particular scope.

Based on the information received, the work done by your client is for a portion of the project that is outside the bonded scope of work in Task I.

Therefore, based on the information received and review of the attached Bond and Contract, the claim by your client is denied.

However, if you have any documentation or information that would cause SureTec to reconsider its position, please forward that information to the undersigned immediately for review.

EXHIBIT
E

11(70)

This correspondence and all prior or subsequent communications and/or investigative efforts are made with the express reservation of all rights and defenses the Surety has or may have at law, equity or under the terms and provisions of the bond and contract documents. This reservation includes, without limitation, defenses that may be available under any applicable notice and suit limitation provisions. Subject to this strict and continuing reservation, we look forward to hearing from you.

Should you have any questions please do not hesitate to contact me. Thank you.

Sincerely,

Jimmy Sparks
Surety Claims Manager

Enclosures

cc: M. Villa & Associates, Inc.

114(71)

LAW OFFICES OF RICHARD S. COHEN, LLC
1806 OLD OKEECHOBEE ROAD
WEST PALM BEACH, FLORIDA 33409
E-MAIL: RSCOHENESQ@AOL.COM

PHONE: 561-684-7701 FAX: 561-615-6265

July 18, 2012

UPS and US Mail

Gary Brown
Weiss, Serota, Helfman, et.al.
200 E Broward Blvd., Suite 19900
Fort Lauderdale, FL 33301-1949

Re: Cemex Construction Materials Florida, LLC v M. Vila & Associates

Dear Mr. Brown:

I represent the interests of Cemex Construction Materials of Florida, LLC that provided building materials to a former customer named M. Vila and Associates to a project known as the JFK Causeway. My client was not paid and we provided to both your client the City of North Bay Village as well to a surety, SureTec, a Notice of non-payment a copy of which is enclosed. My client has since been advised that with regard to the contract in which these materials were supplied the City did not require a payment bond and derogation of Florida statute 255.05. Demand is made upon the City for the payment of these charges as well as all interest, costs and attorney fees.

I am providing you with the case of Palm Beach County v Trinity Industries, Inc., the site is 661 So 2d 942 with regard to contracts on public projects worth $200,000.00 or more. The public entity is required to insure the payment bond is provided on the project and that there is liability in the event no payment bond is provided.

Please review this with your with client and get back to me with your client's position. If I have somehow misstated the law please advise.

Respectfully,

Richard S. Cohen

cc: Andy Tate/Cemex Construction Materials

11L(72)

NOTICE OF NONPAYMENT
DATE 03/22/2012
13462345

TO: CITY OF NORTH BAY VILLAGE
1666 KENNEDY CSWY SUITE 700
NORTH BAY VILLAGE, FL 33141

TO: SURETEC INSURANCE COMPANY
1330 POST OAK BLVD, SUITE 1100
HOUSTON, TX 77056
BOND No. 5072126

CERTIFIED MAIL 7004 2510 0005 7629 2634

CERTIFIED MAIL 7004 2510 0005 7629 2658

In accordance with Section 255.05, Section 713.23, or Section 713.245 of the Florida Statutes, the undersigned, as authorized agent, hereby gives notice that pursuant to a contract with

M VILA & ASSOCIATES INC

the last was furnished on January 27, 2012

JF KENNEDY CAUSEWAY
(79 STREET CSWY) NORTH BAY VILLAGE
MIAMI DADE COUNTY, FLORIDA

Owned by: CITY OF NORTH BAY VILLAGE

On which you are the general contractor. Undersigned has not been paid (or has not been paid in full) and is owed

$10,609.91

In accordance with Florida law, the undersigned is looking directly to you for payment of this amount, and to the surety bond executed to insure payment on said project pursuant to Section 255.05, Section 713.23, or Section 713.245, Florida Statutes, and common law.

CEMEX Construction Materials Florida LLC
(305) 558-0316
BY:
Its: REGION CREDIT REPRESENTATIVE

cc: M VILA & ASSOCIATES INC 12097 NW 98 AVENUE HIALEAH GARDENS, FL 33016 CERTIFIED MAIL 7004 2510 0005 7629 2719	cc:

cemex
11100 NW 138th Street
Miami, Florida 33178

1/6(73)

[2, 3] It is our determination that guardians of the estate, like personal representatives and lawyers seeking fees, should follow the guidelines set out in section 733.617(1), Florida Statutes (1987) and *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla.1985). *See also In re Estate of Platt*, 586 So.2d 328 (Fla.1991). In order to provide for meaningful appellate review the order awarding fees and expenses in all such cases, attorneys fees, personal representative fees and guardians fees, should specifically set out the record basis for the award and otherwise comply with the intent of *Rowe*, *Platt* and the statute. This should include an itemization of all awarded expenses.

The order is quashed and this cause remanded for a new hearing and order.

REVERSED and REMANDED.

HARRIS and ANTOON, JJ., concur.

1

Edward C. VINING, Jr., Appellant,

v.

Eva MARTYN, Appellee.

No. 94-3700.

District Court of Appeal of Florida, Fourth District.

Oct. 23, 1995.

Appeal from the Circuit Court for Martin County; Robert R. Makemson, Judge.

Douglas H. Stein, P.A., Coral Gables, for appellant.

Lauri Waldman Ross of Maland & Ross, Miami, for appellee.

PER CURIAM.

Finding that appellant has failed to demonstrate a preliminary basis for reversal of the order under review, we dispense with oral argument and summarily affirm under Florida Rule of Appellate Procedure 9.315.

GUNTHER, C.J., and FARMER and STEVENSON, JJ., concur.

2

PALM BEACH COUNTY, a political subdivision of the State of Florida, Appellant,

v.

TRINITY INDUSTRIES, INC., a Delaware corporation, Appellee.

No. 94-3510.

District Court of Appeal of Florida, Fourth District.

Oct. 25, 1995.

After contractor on county construction project became insolvent, subcontractor sued county to collect for materials it had supplied. The Circuit Court, Palm Beach County, Harold J. Cohen, J., entered summary judgment in favor of subcontractor. County appealed. The District Court of Appeal, Gunther, C.J., held that county was required by statute to ensure that contractor post payment and performance bond for the protection of subcontractors before construction commenced.

Affirmed.

1. Public Contracts ⇐44

Statute requiring contractors on public projects worth $200,000 or more to post payment and performance bond is remedial in nature and therefore entitled to a liberal construction, within reason, to effect its purpose of protecting subcontractors and suppliers by providing them with an alternative

1/c(74)

remedy to mechanic's liens on public projects. West's F.S.A. § 255.05(1)(a).

2. Public Contracts ⇐41

Statute requiring contractors on public projects worth $200,000 or more to post payment and performance bond prior to commencing construction places a corresponding duty on public agency to see that a bond is in fact posted for protection of subcontractors. West's F.S.A. § 255.05(1)(a).

3. Judgment ⇐181(19)

When the determination of the issues of a lawsuit depends upon construction of a written instrument and the legal effect to be drawn therefrom, the question at issue is essentially one of law only and determinable by entry of summary judgment.

4. Judgment ⇐181(1, 2)

Summary judgment is appropriate where the material facts are not in dispute and the judgment is based on the legal construction of documents.

5. Judgment ⇐185(2)

The standard for reviewing entry of summary judgment requires that moving party must conclusively show the absence of any genuine issue of material fact.

6. Judgment ⇐185(2)

Trial court, in determining whether party moving for summary judgment has conclusively shown absence of a genuine issue of material fact, must draw every reasonable inference in favor of nonmoving party.

7. Counties ⇐129

County was liable to subcontractor which had supplied materials for public guardrail project where estimated annual amount of guardrail contract was $250,000, where county failed to ensure that contractor post a payment and performance bond before construction commenced, and where contractor had become insolvent, making it impossible for subcontractor to collect on default judgment against contractor. West's F.S.A. § 255.05(1)(a).

Anne' Desormier-Cartwright and Denise J. Bleau, West Palm Beach, for appellant.

Paul A. Turk, Jr. of Paul A. Turk, Jr., P.A., West Palm Beach, for appellee.

GUNTHER, Chief Judge.

Appellant, Palm Beach County, defendant below (the County), appeals a final judgment entered after the trial court granted Appellee's, Trinity Industries, Inc., plaintiff below (Trinity), motion for summary judgment as to liability. Because no genuine issue of material fact exists as to liability, we affirm the final judgment.

The County posted a notice of bid for a contract for the furnishing and/or installing of guardrail for various job sites at any location within Palm Beach County. In the bid specifications, the scope provided that the term of the contract should be for dates certain to run twelve months with an option to renew for an additional twelve months. The bid specifications also revealed that the estimated annual expenditure would be $245,000.00.

Subsequently, the Palm Beach County Board of County Commissioners entered into a price agreement with Palm Beach Guardrail and Erosion Control (Palm Beach Guardrail) that set forth the duration of the agreement to run from August 20, 1991 through August 22, 1992 and the estimated dollar value at $247,000.00. Trinity entered this scenario as a subcontractor who provided materials to Palm Beach Guardrail for installation at one of the County's significant job sites. When Palm Beach Guardrail could no longer provide services to the County under the price agreement, the County entered into a price agreement with Rawls & Associates, Inc. to "complete the term of the original price agreement with Palm Beach Guardrail."

In sum, Palm Beach Guardrail performed work for the County worth $196,565.84 pursuant to the price agreement. In fulfilling the time remaining in the original contractual agreement, Rawls & Associates, Inc., provided services to the County in the amount of $39,701.99. Thus, the total work received by the County pursuant to their notice of bid for the furnishing and/or installing of guardrail was in the amount of $236,267.83.

IIL.(75)

Trinity obtained a default judgment against Palm Beach Guardrail. However, collection of that judgment proved unsuccessful because Palm Beach Guardrail lacked assets. Trinity then filed an action against the County alleging that the County had failed to require Palm Beach Guardrail to post a bond in accordance with section 255.05, Florida Statutes (1991). In the parties' undisputed statement of facts, it is conceded that the County did not require the contractor, Palm Beach Guardrail, to submit a payment and performance bond under section 255.05(1)(a). The parties also stipulated that the estimated annual amount of the guardrail contract between the County and Palm Beach Guardrail was for $250,000.00.

Section 255.05(1)(a), Florida Statutes (1991), requires, in pertinent part:

> Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, ... for the construction of a public building or public work shall be required, before commencing the work, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety....

The statute further exempts those contractors whose contracts fall under $200,000.00 from obtaining a bond:

> At the discretion of the official or board awarding such public authority, any person entering into such a contract which is for $200,000 or less may be exempted from executing the payment and performance bond.

[1] This court has noted that the above statute is remedial in nature and therefore, entitled to a liberal construction, within reason, to effect its intended purpose. *Fidelity and Deposit Co. of Maryland v. Waldron's Inc.*, 608 So.2d 119, 120 (Fla. 4th DCA 1992). Historically, the purpose of this section is to protect subcontractors and suppliers by providing them with an alternative remedy to mechanic's liens on public projects. *School Bd. of Palm Beach County v. Vincent J. Fusano, Inc.*, 417 So.2d 1063, 1065 (Fla. 4th DCA 1982); *see also Gorman Co. of Fort Lauderdale, Inc. v. Frank Maio Gen. Contractor, Inc.*, 438 So.2d 1018, 1019 (Fla. 4th DCA 1983); *Winchester v. Florida Elec. Supply, Inc.*, 161 So.2d 668, 669 (Fla. 2d DCA 1964).

[2] In following the Florida Supreme Court in *Warren v. Glens Falls Indem. Co.*, 66 So.2d 54 (Fla.1953), this court has explained that section 255.05 places a corresponding duty on the public agency, as well as the contractor, to see that a bond is in fact posted for the protection of the subcontractors before construction commences. *Pavex Corp. v. Broward County Bd. of County Com'rs*, 493 So.2d 1317, 1318 (4th DCA), *rev. dismissed*, 509 So.2d 1118 (Fla.1987).

[3–6] Where the determination of the issues of a lawsuit depends upon the construction of a written instrument and the legal effect to be drawn therefrom, the question at issue is essentially one of law only and determinable by entry of summary judgment. *Angell v. Don Jones Ins. Agency Inc.*, 620 So.2d 1012, 1014 (Fla. 2d DCA 1993). Moreover, a summary judgment is appropriate where the material facts are not in dispute and the judgment is based on the legal construction of documents. *Ball v. Florida Podiatrist Trust*, 620 So.2d 1018 (Fla. 1st DCA 1993). The standard for reviewing the entry of a summary judgment requires that a party moving must conclusively show the absence of any genuine issue of material fact. *Moore v. Morris*, 475 So.2d 666 (Fla.1985). The trial court must then draw every reasonable inference in favor of the non-moving party. *Id.; Lenhal Realty, Inc. v. Transamerica Commercial Fin. Corp.*, 615 So.2d 207 (Fla. 4th DCA 1993).

[7] In the instant case, we find that the evidence presented no genuine issue of material fact. The parties' statement of undisputed facts clearly reveals the County's approval to award Palm Beach Guardrail a guardrail contract to provide for countywide guardrail requirements for an estimated annual amount of $250,000.00. In addition, the statement of undisputed facts establishes that the contract between the parties was for one year. There exists no genuine issue of material fact that Palm Beach Guardrail be-

11L(76)

came insolvent, making it impossible for Trinity to collect against its default judgment. Furthermore, we find that the legislature, by enacting section 255.05, intended to protect the subcontractor, or materialman, from precisely this type of occurrence. Clearly, the contract between the County and Palm Beach Guardrail exceeded the $200,000.00 exemption, thus requiring the County to ensure that Palm Beach Guardrail "execute, deliver to the public owner, and record in the public records ... a payment and performance bond...." § 255.05(1)(a), Fla.Stat. (1991). Accordingly, we affirm the final judgment and summary judgment entered by the trial court in favor of Trinity.

AFFIRMED.

DELL and STEVENSON, JJ., concur.

William A. WALKER, Appellant,

v.

STATE of Florida, Appellee.

No. 95-1744.

District Court of Appeal of Florida, Fourth District.

Oct. 25, 1995.

Defendant moved for postconviction relief. The Circuit Court, St. Lucie County, Dwight L. Geiger, J., summarily denied motion, and defendant appealed. The District Court of Appeal held that trial court was required to conduct evidentiary hearing as to timeliness of motion.

Reversed and remanded.

Criminal Law ⇐998(19)

Trial court was required to conduct evidentiary hearing as to timeliness of motion for postconviction relief, which was allegedly based on facts unknown to defendant or his attorney, which could not have been discovered by exercise of due diligence; defendant claimed that county jail withheld from him pair of boxer shorts which he was wearing when arrested and which would provide key evidence in his case, and while sheriff's deputy claimed at defendant's trial that defendant had discarded shorts or sent them home with relative, property sheet received by defendant over three years after trial showed that jail had in fact had possession of shorts throughout his trial. West's F.S.A. RCrP Rule 3.850.

William A. Walker, Daytona Beach, pro se.

Robert A. Butterworth, Attorney General, Tallahassee, and John Tiedemann, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

This is an appeal by a prisoner from the summary denial of his motion for postconviction relief pursuant to Rule 3.850. The state claims that it is filed untimely, more than two years from his conviction, but the appellant alleges that the facts on which it is based were unknown to him or his attorney and could not have been discovered by the exercise of due diligence. *Steinhorst v. State*, 636 So.2d 498 (Fla.1994). In all other respects the motion appears legally sufficient and would have required either the holding of an evidentiary hearing on its merits or the attachment of portions of the record conclusively refuting its allegations. We hold that the trial court was required to conduct an evidentiary hearing as to the timeliness of the motion.

The record tends to support appellant's contention. He claims that the St. Lucie County jail withheld from him a pair of boxer shorts which he was wearing when arrested and which would provide key evidence in his case. At appellant's trial in 1990 a sheriff's deputy claimed the appellant discarded them or sent them home with a relative. After his conviction, the appellant began requesting his property and records from the jail.

11477

LAW OFFICES OF RICHARD S. COHEN, LLC
1806 OLD OKEECHOBEE ROAD
WEST PALM BEACH, FLORIDA 33409
E-MAIL: RSCOHENESQ@AOL.COM

PHONE: 561-684-7701 FAX: 561-615-6265

July 26, 2012

Via e-mail: GBrown@wsh-law.com

Gary Brown
Weiss, Serota, Helfman, et.al.
200 E Broward Blvd., Suite 19900
Fort Lauderdale, FL 33301-1949

Re:Cemex Construction Materials Florida, LLC v M. Vila & Associates

Dear Gary:

Pursuant to your request, enclosed are copies of the open invoices along with the statement with regard to the materials sold to M. Vila and Associates, Inc. for the project known as JF Kennedy Causeway in which you represent the City of North Bay Village.

I look forward to hearing from you relative to these open invoices and my client's claim.

Respectfully,

Richard S. Cohen

cc: Andy Tate/Cemex Construction Materials

11E(78)

LAW OFFICES OF RICHARD S. COHEN, LLC
1806 OLD OKEECHOBEE ROAD
WEST PALM BEACH, FLORIDA 33409
E-MAIL: RSCOHENESQ@AOL.COM

PHONE: 561-684-7701 FAX: 561-615-6265

August 6, 2012

Via e-mail: GBrown@wsh-law.com

Gary Brown, Esquire
Weiss, Serota, Helfman, et.al.
200 E Broward Blvd., Suite 19900
Fort Lauderdale, FL 33301-1949

Re:Cemex Construction Materials Florida, LLC v M. Vila & Associates

Dear Gary:

I need to hear from you at this time as to your client's position. My recommendation is to bring suit to collect what is owed to my client. I will hold my file for a period of ten (10) days from the date of this letter.

Very truly yours,

Richard S. Cohen

RSC/lrl

1/4(79)

CEMEX
11100 NW 138TH ST
MEDLEY, FL 33178-3110

CEMEX

ENERGY STAR AWARD 2010
PARTNER OF THE YEAR

Date 06/30/2012
Account # 3017237
Page 1 of 2

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

Statement of Account

CODE DESCRIPTIONS:
IN Invoice
CR Credit Memo
DM Debit Memo
RE Return Credit
FC Finance Charge
AJ Adjustment
PD Payment Difference
PY Payment
UD Unearned Discount
ZB Returned Check

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS, FL 33018-2927

SUMMARY OF ACCOUNT

We appreciate your business!

For inquiries call: 800-99-CEMEX (23639)

Remittance Instructions
To ensure prompt and accurate payments, please follow the suggestions below.

1) **Detach the remittance portion(s) FROM ALL PAGES and mail back to us along with your payment.**
2) Put a check mark next to each item paid in the column provided on remittance stub.
3) Indicate amount paid in the space provided next to each invoice not paid in full.
4) Make a note of any address changes in the space provided.
5) Use the enclosed return envelope provided to mail in your payment along with the remittance portion only.

Date 06/30/2012
Account # 3017237

Please write account # on your check

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS, FL 33018-2927

Address change _____
_____
_____

CEMEX

CEMEX
PO Box 905875
Charlotte, NC 28290-5875

11L (80)

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS, FL 33018-2927

Date 06/30/2012
Account # 3017237

SUBTOTALS BY ACCOUNT

13452345		79ST CSWY W/C - NNP 3/23/12		MIAMI SHORES, FL 33138	
	02/04/2012	FC	1607858992		57.71
	03/04/2012	FC	1607887886		61.33
	04/07/2012	FC	1607923787		160.37
	05/06/2012	FC	1607952683		155.22
	06/03/2012	FC	1607981202		160.37
	12/21/2011	IN	9422844749	9422844749	2,213.83
	12/20/2011	IN	9422851653	9422851653	1,163.09
	01/06/2012	IN	9422905916	9422905916	1,651.02
	01/11/2012	IN	9422931844	9422931844	825.51
	01/13/2012	IN	9422944573	9422944573	606.81
	01/20/2012	IN	9422984196	9422984196	2,925.93
	01/25/2012	IN	9423008466	9423008466	488.47
	01/27/2012	IN	9423022664	9423022664	622.21
	160.37	155.22	160.37	10,509.91	11,085.87

(18)711

Date 06/30/2012
Account # 3017237

REMIT

1607858992	57.71	☐	$
1607887886	61.33	☐	$
1607923787	160.37	☐	$
1607952683	155.22	☐	$
1607981202	160.37	☐	$
9422844749	2,213.83	☐	$
9422851653	1,163.09	☐	$
9422905916	1,651.02	☐	$
9422931844	825.51	☐	$
9422944573	606.81	☐	$
9422984196	2,925.93	☐	$
9423008466	488.47	☐	$
9423022664	622.21	☐	$

Total Paid $ _____

CEMEX

PARTNER OF THE YEAR

INVOICE

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

Date	12/21/2011
Invoice No.	9422844749
Reference No.	

DETAIL IDENTICAL TO MAILED COPY

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS, FL, 33018-2927

CEMEX
11100 NW 138TH ST
MEDLEY, FL 33170-3110

Terms: 1% 15th prox, net 15th
Discount Amount: (20.69) (if paid within terms)
Payment Due On: 01/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.:
Account Number: 0003017237

Remit To:

CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

PO Number	Delivery Address	City	Zip Code
12161105	MAT: 79TH STREET CAUSEWAY IMP ME	AVENTURA	33160

DATE SHIPPED	DELIVERY NUMBER	REF #	PRODUCT CODE	PRODUCT DESCRIPTION	DELIVERED QTY	DELIVERED UOM	NET UNIT PRICE	PRICED BY	PRICED UOM	PRICED UNITS	MATERIAL AMOUNT	FREIGHT
12/21/2011	8051930265	31922945	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
12/21/2011	8051930265	31922945	1247818	FUEL SURCHARGE	1.00	EA	27.00	1	PC	1.00	27.00	0.00
12/21/2011	8051930265	31922945	1528055	3500REG/MESABUFF	10.00	YD3	105.00	1	YD3	10.00	1,050.00	0.00
12/21/2011	8051930270	31922977	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
12/21/2011	8051930270	31922977	1247818	FUEL SURCHARGE	1.00	EA	27.00	1	PC	1.00	27.00	0.00
12/21/2011	8051930270	31922977	1528055	3500REG/MESABUFF	9.00	YD3	105.00	1	YD3	9.00	945.00	0.00

PO subtotal : 19.00 Yards 0.00 Tons 2,069.00 Material 0.00 Freight 0.00 Other 144.83 Tax 2,213.83 Total

Yards	19.00	Tons	0.00	Freight Total	0.00	Other	0.00	Sales Tax Total	144.83	Invoice Total	2,213.83

This Invoice incorporates herein by reference Buyer's previously-executed Credit Application, if any, Sellers Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties),as fully set forth on this Invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

(28)711

CEMEX

PARTNER OF THE YEAR

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

INVOICE

Date	12/20/2011
Invoice No.	9422851653
Reference No.	

DETAIL IDENTICAL TO MAILED COPY

Terms: 1% 15th prox, net 16th
Discount Amount: (10.87) (if paid within terms)
Payment Due On: 01/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.:
Account Number: 0003017237

M VILA & ASSOCIATES INC
12097 NW 96TH AVE
HIALEAH GARDENS,FL,33018-2927

CEMEX
11100 NW 138TH ST
MEDLEY,FL 33178-3110

Remit To:

CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

PO Number	Delivery Address	City	Zip Code
12161105	MAT: 79TH STREET CAUSEWAY IMP ME	AVENTURA	33160

DATE SHIPPED	DELIVERY NUMBER	REF #	PRODUCT CODE	PRODUCT DESCRIPTION	DELIVERED QTY	DELIVERED UOM	UNIT PRICE	PRICED BY	PRICED UOM	PRICED UNITS	MATERIAL AMOUNT	FREIGHT
12/20/2011	8051916629	31921073	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
12/20/2011	8051916629	31921073	1247818	FUEL SURCHARGE	1.00	EA	27.00	1	PC	1.00	27.00	0.00
12/20/2011	8051916629	31921073	152805S	3500REG/MESABUFF	10.00	YD3	105.00	1	YD3	10.00	1,050.00	0.00

PO subtotal : 10.00 Yards 0.00 Tons 1,087.00 Material 0.00 Freight 0.00 Other 76.09 Tax 1,163.09 Total

Yards	10.00	Tons	0.00	Freight Total	0.00	Other	0.00	Sales Tax Total	76.09	Invoice Total	1,163.09

This invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Seller's Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties),as fully set forth on this invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

111 (83)

CEMEX

PARTNER OF THE YEAR

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

INVOICE

Date	01/06/2012
Invoice No.	9422905916
Reference No.	

DETAIL IS IDENTICAL TO MAILED COPY

Terms: 1% 15th prox, net 16th
Discount Amount: (15.43) (if paid within terms)
Payment Due On: 02/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.: 01041205
Account Number: 0003017237

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS,FL,33018-2927

CEMEX
11100 NW 138TH ST
MEDLEY,FL 33178-3110

Remit To:

CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

PO Number	Delivery Address	City	Zip Code
01041205	79TH STREET CAUSEWAY IMP MESA BU	MIAMI	33138

DATE SHIPPED	DELIVERY NUMBER	REF #	PRODUCT CODE	PRODUCT/DESCRIPTION	DELIVERED QTY	DELIVERED UOM	UNIT PRICE	PRICED BY	PRICED UOM	PRICED QUANTITY	MATERIAL AMOUNT	FREIGHT
01/06/2012	8052044511	31934316	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/06/2012	8052044511	31934316	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/06/2012	8052044511	31934316	152805S	3500REG/MESABUFF	10.00	YD3	105.00	1	YD3	10.00	1,050.00	0.00
01/06/2012	8052044518	31934417	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/06/2012	8052044518	31934417	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/06/2012	8052044518	31934417	152805S	3500REG/MESABUFF	4.00	YD3	105.00	1	YD3	4.00	420.00	0.00

PO subtotal : 14.00 Yards 0.00 Tons 1,543.00 Material 0.00 Freight 0.00 Other 108.02 Tax 1,651.02 Total

Yards	Tons	Freight Total	Other	Sales Tax Total	Invoice Total
14.00	0.00	0.00	0.00	108.02	1,651.02

This invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Seller's Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties),as fully set forth on this invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

(48)711

CEMEX

PARTNER OF THE YEAR

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

INVOICE

Date	01/11/2012
Invoice No.	9422931844
Reference No.	

DETAIL IDENTICAL TO MAILED COPY

Terms: 1% 15th prox, net 16th
Discount Amount: (7.72) (if paid within terms)
Payment Due On: 02/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.: 01041205
Account Number: 0003017237

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS,FL,33018-3927

CEMEX
11100 NW 138TH ST
MEDLEY,FL 33178-3110

Remit To:

CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

PO Number	Delivery Address	City	Zip Code
01041205	79TH STREET CAUSEWAY IMP MESA BU	MIAMI	33138

DATE SHIPPED	DELIVERY NUMBER	REF #	PRODUCT CODE	PRODUCT DESCRIPTION	DELIVERED QTY	DELIVERED UOM	UNIT COST PRICE	PRICED BY	PRICED UOM	PRICED SURCHG	MATERIAL AMOUNT	FREIGHT AMOUNT
01/11/2012	8052085651	31939213	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/11/2012	8052085651	31939213	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/11/2012	8052085651	31939213	1528055	3500RBG/MESABUFF	7.00	YD3	105.00	1	YD3	7.00	735.00	0.00

PO subtotal : 7.00 Yards 0.00 Tons 771.50 Material 0.00 Freight 0.00 Other 54.01 Tax 825.51 Total

Yards	7.00	Tons	0.00	Freight Total	0.00	Other	0.00	Sales Tax Total	54.01	Invoice Total	825.51

This invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Seller's Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties) as fully set forth on this invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

11785

CEMEX

PARTNER OF THE YEAR

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

INVOICE

Date	01/13/2012
Invoice No.	9422944573
Reference No.	

DETAIL IDENTICAL TO MAILED COPY

Terms: 1% 15th prox, net 16th
Discount Amount: (5.62) (If paid within terms)
Payment Due On: 02/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.: 01041205
Account Number: 0003017237

Remit To:
CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS,FL,33018-2927

CEMEX
11100 NW 138TH ST
MEDLEY,FL 33178-3110

PO Number	Delivery Address	City	Zip Code
01041205	79TH STREET CAUSEWAY IMP MESA BU	MIAMI	33138

DATE SHIPPED	DELIVERY NUMBER	REF #	PRODUCT CODE	PRODUCT DESCRIPTION	DELIVERED QTY	DELIVERED UOM	UNIT PRICE	PRICED BY	PRICED UOM	PRICED QUANTITY	MATERIAL AMOUNT	FREIGHT
01/13/2012	8052110988	31942057	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/13/2012	8052110988	31942057	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/13/2012	8052110988	31942057	1528055	3500REG/MESABUFF	5.00	YD3	105.00	1	YD3	5.00	525.00	0.00

PO subtotal : 5.00 Yards 0.00 Tons 561.50 Material 0.00 Freight 0.00 Other 39.31 Tax 600.81 Total

Yards	5.00	Tons	0.00	Freight Total	0.00	Other	0.00	Sales Tax Total	39.31	Invoice Total	600.81

This invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Seller's Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties),as fully set forth on this invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

(98) 11

CEMEX

PARTNER OF THE YEAR

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

INVOICE

Date	01/20/2012
Invoice No.	9422984196
Reference No.	

DETAIL IDENTICAL TO MAILED COPY

Terms: 1% 15th prox, net 16th
Discount Amount: (27.35) (if paid within terms)
Payment Due On: 02/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.: 01191201
Account Number: 0003017237

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS,FL,33018-2927

CEMEX
11100 NW 138TH ST
MEDLEY,FL 33178-3110

Remit To:

CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

PO Number	Delivery Address	City	Zip Code
01191201	MAT: 79TH STREET CAUSEWAY IMP **	MIAMI	33138

DATE SHIPPED	DELIVERY NUMBER	PO/JOB #	PRODUCT CODE	PRODUCT DESCRIPTION	DELIVERED QTY	DELIVERED UOM	UNIT PRICE	PRICED QTY	PRICED UOM	PRICED QUANTITY	MATERIAL AMOUNT	FREIGHT
01/20/2012	8052181214	31950246	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/20/2012	8052181214	31950246	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/20/2012	8052181214	31950246	1528055	3500REG/MESABUFF	10.00	YD3	105.00	1	YD3	10.00	1,050.00	0.00
01/20/2012	8052182729	31950480	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/20/2012	8052182729	31950480	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/20/2012	8052182729	31950480	1528055	3500REG/MESABUFF	10.00	YD3	105.00	1	YD3	10.00	1,050.00	0.00
01/20/2012	8052183319	31950899	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/20/2012	8052183319	31950899	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/20/2012	8052183319	31950899	1528055	3500REG/MESABUFF	5.00	YD3	105.00	1	YD3	5.00	525.00	0.00

PO subtotal : 25.00 Yards 0.00 Tons 2,734.50 Material 0.00 Freight 0.00 Other 191.43 Tax 2,925.93 Total

Yards	25.00	Tons	0.00	Freight Total	0.00	Other	0.00	Sales Tax Total	191.43	Invoice Total	2,925.93

This invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Seller's Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties),as fully set forth on this invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

(787)711

CEMEX

PARTNER OF THE YEAR

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

INVOICE

Date	01/25/2012
Invoice No.	9423808466
Reference No.	

DETAIL IDENTICAL TO MAILED COPY

Terms: 1% 15th prox, net 16th
Discount Amount: (4.57) (if paid within terms)
Payment Due On: 02/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.: 01241207
Account Number: 0003017237

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS,FL,33018-2927

CEMEX
11100 NW 138TH ST
MEDLEY,FL 33178-3110

Remit To:

CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

PO Number	Delivery Address	City	Zip Code
01241207	MAT: 79TH STREET CAUSEWAY IMP **	MIAMI	33138

DATE SHIPPED	DELIVERY NUMBER	REF #	PRODUCT CODE	PRODUCT DESCRIPTION	DELIVERED QTY	DELIVERED UOM	NET UNIT PRICE	PRICED BY	PRICED UOM	PRICED UNITS	MATERIAL AMOUNT	FREIGHT
01/25/2012	8052222211	31955530	1001368	MINIMUM LOAD CHARGE,DIV 10	1.00	PC	0.01	1	PC	1.00	0.01	0.00
01/25/2012	8052222211	31955530	1202749	ENVIRONMENTAL CHARGE	1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/25/2012	8052222211	31955530	1247818	FUEL SURCHARGE	1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/25/2012	8052222211	31955530	1528055	3500REG/MESABUFF	4.00	YD3	105.00	1	YD3	4.00	420.00	0.00

PO subtotal : 4.00 Yards 0.00 Tons 456.51 Material 0.00 Freight 0.00 Other 31.96 Tax 488.47 Total

(98)777

Yards	4.00	Tons	0.00	Freight Total	0.00	Other	0.00	Sales Tax Total	31.96	Invoice Total	488.47

This invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Sellers Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties),as fully set forth on this invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

CEMEX

PARTNER OF THE YEAR

INVOICE

CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC
CEMEX CONSTRUCTION MATERIALS, LP
CEMEX ONE

Date	01/27/2012
Invoice No.	9423022664
Reference No.	

DETAIL IDENTICAL TO MAILED COPY

M VILA & ASSOCIATES INC
12097 NW 98TH AVE
HIALEAH GARDENS, FL, 33018-2927

CEMEX
11100 NW 136TH ST
MEDLEY, FL 33178-3110

Terms: 1% 15th prox, net 16th
Discount Amount: (5.82) (if paid within terms)
Payment Due On: 02/15/2012
Job No.: 13452345
Legal Address: 79ST CSWY W/C - NNP 3/23/12
Customer Job No.: 304
Account Number: 0003017237

Remit To:

CEMEX
PO BOX 905875
CHARLOTTE, NC 28290-5875

For All Inquiries Call: 305-558-0315

PO Number		Delivery Address			City						Zip Code		
DATE SHIPPED	DELIVERY NUMBER	REF #	PRODUCT CODE	PRODUCT DESCRIPTION		DELIVERED QTY	DELIVERED UOM	NET UNIT PRICE	PRICED BY	PRICED UOM	PRICED UNITS	MATERIAL AMOUNT	FREIGHT
01261205		79TH STREET CAUSEWAY IMP **COLOR**			MIAMI						33138		
01/27/2012	8052250171	31959929	1001368	MINIMUM LOAD CHARGE,DIV 10		1.00	PC	125.00	1	PC	1.00	125.00	0.00
01/27/2012	8052250171	31959929	1202749	ENVIRONMENTAL CHARGE		1.00	EA	10.00	1	PC	1.00	10.00	0.00
01/27/2012	8052250171	31959929	1247818	FUEL SURCHARGE		1.00	EA	26.50	1	PC	1.00	26.50	0.00
01/27/2012	8052250171	31959929	1528055	3500REG/MESABUFF		4.00	YD3	105.00	1	YD3	4.00	420.00	0.00

PO subtotal : 4.00 Yards 0.00 Tons 581.50 Material 0.00 Freight 0.00 Other 40.71 Tax 622.21 Total

Yards	4.00	Tons	0.00	Freight Total	0.00	Other	0.00	Sales Tax Total	40.71	Invoice Total	622.21

This Invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Sellers Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (including limitations of warranties), as fully set forth on this Invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.
Note: The customer mailing address above reflects the current address not necessarily the address at the time of invoicing.

(68) 711

PROJECT AGREEMENT

Between

CITY OF NORTH BAY VILLAGE

And

KIMLEY-HORN AND ASSOCIATES, INC.

For

Work Authorization No. 06-12

79th Street Causeway Improvements
Construction Phase Services

11C(90)

PROJECT AGREEMENT

Between

CITY OF NORTH BAY VILLAGE

And

KIMLEY-HORN AND ASSOCIATES, INC.

For

Work Authorization No. 06-12

79th Street Causeway Improvements
Construction Phase Services

Pursuant to the provisions contained in the "Continuing Services Agreement for Professional Engineering Services" (hereinafter referred to "CONTINUING SERVICES AGREEMENT") between the CITY OF NORTH BAY VILLAGE (hereinafter referred to as "CITY") and KIMLEY-HORN AND ASSOCIATES, INC. (KHA), (hereinafter referred to as "CONSULTANT") dated April 11, 2006, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below.

The CITY and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 Based on the CITY'S General Contractor defaulting on the 79th Street Causeway Improvement project, the CITY is proceeding with an alternative General Contractor to complete the remaining work. The CONSULTANT shall assist the CITY by providing construction phase services associated with completing the project. The CONSULTANT was involved as part of a prior authorization in determining the value of the work in place, reviewing and evaluating the remaining work, and reviewing the costs provided by the alternative General Contractor to complete the project. The proposed professional services are described in the "Project Description" attached as Exhibit "1."

1.2 The "Scope of Services" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in Exhibit "2."

1.3 The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement,

11L(91)

prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

As part of the Scope of Services the CONSULTANT shall provide to the CITY the following Deliverables:

See "Scope of Services" as listed in Exhibit "2."

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect until the project is completed, unless otherwise terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The CITY Manager, in his sole discretion, may extend the term of this Agreement through written notification to the CONSULTANT. Such extension shall not exceed 90 days. No further extensions of this Agreement shall be effective unless authorized by the CITY Commission

3.2 **Commencement.** The CONSULTANT'S services under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon the date provided in a written Notification of Commencement ("Commencement Date") provided to the CONSULTANT from the CITY. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification of Commencement. CONSULTANT must receive written notice from the CITY Manager prior to the beginning the performance of services.

3.3 **Contract Time.** Upon receipt of the Notification of Commencement, the CONSULTANT shall commence services to the CITY on the Commencement Date, and shall continuously perform services to the CITY, without interruption, in accordance with the time frames set forth above. The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, not to exceed 120 days from the Commencement Date, shall constitute the Contract Time.

3.4 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Lump Sum Compensation.** CITY agrees to pay CONSULTANT as compensation for performance of all services as related to the Project a Lump Sum of $23,000.00. It is understood that the method of compensation is that of Lump Sum which means that CONSULTANT shall perform all services set forth for total compensation in the amount

11L(92)

stated above. Said Lump Sum includes but is not limited to, compensation for all fees, expenses, and out-of-pocket costs of the CONSULTANT.

4.2 **Reimbursables.** It is acknowledged and agreed to by CONSULTANT that the lump sum set forth in Section 4.1 includes Direct Expenses and describes the maximum extent of, CITY'S obligation to reimburse CONSULTANT for direct, nonsalary expenses, but does not constitute a limitation of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 **Invoices**

5.1.1 **Lump Sum Compensation.** CONSULTANT shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule as shown on Exhibit "3", attached hereto and made a part of this Agreement. Invoices for each phase shall not exceed the amounts allocated to said phase.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the CITY for payment to the CONSULTANT is disputed, or additional backup documentation is required, the CITY shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the CITY with a written response and any additional information requested by the CITY within five (5) working days of the date of the CITY'S notice. The CITY may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The CITY, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 **Suspension of Payment.** In the event that the CITY becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subparagraph 5.1, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement, the CITY may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the CITY's reasonable satisfaction.

5.4 **Final Payment.** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the CITY all documents requested by the CITY evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as

11L(93)

dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the CITY by the CONSULTANT.

SECTION 6. TERMINATION/SUSPENSION

6.1 **For Cause.** This Agreement may be terminated by either party upon three (3) calendar days' written notice to the other party should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Agreement or causes it to be terminated by the CITY, the CONSULTANT shall indemnify the CITY against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the CITY for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 of this Project Agreement and the provision of Section 6.2 shall apply.

6.2 **For Convenience.** This Agreement may be terminated by the CITY for convenience upon five (5) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the CITY and reimbursable expenses incurred prior to the date of termination. In such event, the CONSULTANT shall promptly submit to the CITY its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 5.1. Under no circumstances shall the CITY make any payment of profit to the CONSULTANT for services which have not been performed.

6.3 **Assignment upon Termination.** Upon termination of this Project Agreement, the work product of the CONSULTANT shall become the property of the CITY and the CONSULTANT shall, within ten (10) working days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, a copy of all work product in its possession, including but not limited to, designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Upon the CITY'S request, the CONSULTANT shall additionally assign its rights, title and interest under any subcontractor's agreements to the CITY.

6.4 **Suspension for Convenience**. The CITY shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to 30 calendar days. If any such suspension is directed by the CITY, the CONSULTANT shall immediately comply with same. In the event the CITY directs a suspension of performance as provided for herein, through no fault of the CONSULTANT, the CITY shall pay to the CONSULTANT as full compensation for such suspension the CONSULTANT'S reasonable cost, actually incurred and paid, of demobilization and remobilization.

11L(94)

SECTION 7. PERSONNEL ASSIGNED TO PROJECT

7.1 The CONSULTANT shall assign only qualified personnel to perform any services concerning this Project. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

NAME	FUNCTION
Gary R Ratay	Project Manager
Stefano Viola	Engineer
John McWilliams	Engineer
Shanda Layne	Administrative
Jeanine Woll	Administrative

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. Furthermore, the CITY reserves the right to reject any proposed substitution for any of the above-named individuals, and the CITY shall have the further right to require that any individual assigned to the Project by the CONSULTANT be removed from the Project and reassigned for good cause.

SECTION 8. INCORPORATION OF CONTINUING SERVICES AGREEMENT

All terms and conditions of the "Continuing Service Agreement" between the CITY and the CONSULTANT dated April 11, 2006, not specifically modified by this Project Agreement shall remain in full force and effect and are incorporated into and made a part of this Project Agreement by this reference as though set forth in full.

SECTION 9. SEVERABILITY

If any provision of this Project Agreement or its application to any person or situation shall to any extent, be invalid or unenforceable, the remainder of this Project Agreement, and the application of such provisions to persons or situations other than those to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IIL(95)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: The CITY, signing by and through its _____, attested to by its CITY Clerk, duly authorized to execute same, and by CONSULTANT, by and through its __Senior Associate__, duly authorized officer to execute same.

ATTEST:

_____
City Clerk

CITY OF NORTH BAY VILLAGE

By:_____

Date: _____

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
Secretary

_____
Print Name

KIMLEY-HORN AND ASSOCIATES, INC.

By:_____
Gary R. Ratay, P.E.

Date: _____

(CORPORATE SEAL)

WITNESSES:

_____
Print Name: _____

_____
Print Name: _____

11L(96)

Exhibit "1"

Project Description

KHA is pleased to provide construction phase services during the construction process associated with completing the 79th Street Causeway Improvement Project and Dr. Paul Vogel Community Park. The intent of the project is to assist the CITY in observing construction operations to confirm the project is being completed in general compliance with the construction documents.

The scope of services generally includes professional services for project meetings, shop drawing review, contract administration, onsite observations, and project close-out.

11L(97)

Exhibit "2"

Scope of Services

The scope of services will be completed by KHA and the following task will be performed in close coordination with City staff. It is anticipated that administration of this project will require approximately 3 months.

Task 1 – Attend Project Meetings

1.1 KHA shall attend one pre-construction meeting and an average of one progress review meeting per month. The intent of the progress review meetings is to assess the project schedule and Contractor progress for the duration of the construction process.

Task 2 - Review Shop Drawings

2.1 KHA shall review Shop Drawings, samples, and other data that the Contractor is required to submit for conformance with the design concept of the Project and compliance with the information given in the Contract Documents (such review and approval, or other action, shall not extend to means, methods, sequences, techniques or procedures of construction, or safety precautions and programs incident hereto). KHA shall perform these reviews in accordance with the standard of care of the profession at the time of service.

2.2 KHA shall consult with and advise the City as to the acceptability of substitute materials and equipment proposed by the Contractor.

Task 3 - Contract Administration

3.1 Based on KHA's on-site observations, review of applications for payment, and the accompanying data and schedules, KHA shall review the amounts owing to the Contractor and recommend in writing payments to the Contractor in such amounts. Such recommendations of payment will constitute a representation to the City based on such observations and review that the work has progressed to the point indicated and that, to the best of KHA's knowledge, information, and belief, the quality of work is in accordance with the Contract Documents, and that payment of the amount recommended is due the Contractor.

3.2 By recommending any payment, KHA shall not thereby be deemed to have represented that observations made by KHA to check Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to KHA in this Agreement. Neither KHA's review of Contractor's work for the purposes of recommending payments nor KHA's recommendation of any payment including final payment will impose on KHA responsibility to supervise, direct,

1/4/98 J

or control Contractor's work in progress or for the means, methods, techniques, equipment choice and usage, sequences, or procedures of construction of safety precautions or programs incident thereto, nor Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

3.3 The KHA shall issue necessary interpretations and clarifications of the Contract Documents and act as initial interpreter of the requirements of the Contract Documents pertaining to the execution and progress of the work.

Task 4 - Onsite Observations

4.1 A Resident Project Representative (RPR) will be furnished by KHA and shall act as directed by KHA in order to assist KHA in observing performance of the work of the Contractor. The duties, responsibilities, and limitations on the authority of the RPR and assistants will be in accordance with the Contract Document.

4.2 The RPR shall visit the site up to two times per week during the construction process to observe the progress and quality of the executed work of Contractor(s) and to determine if such work is progressing in general accordance with the Contract Documents. The onsite observations provided by KHA are for construction coordination of the project. KHA will coordinate with the City and the contractor for the sequence of visits, and the observation milestones as they pertain to the project permits. The RPR shall not be responsible for the means, methods, techniques, sequences, or procedures of the investigative approach or construction selected by the Contractor or the safety precautions and programs incident to the work of Contractor. The RPR's efforts will be directed toward providing the City with a greater degree of confidence that the completed work of the Contractor will conform to the Contract Documents. The RPR shall not be responsible for the failure of Contractor(s) to perform the work in accordance with the Contract Documents. During such visits and on the basis of on-site observations, KHA shall keep the City informed of the progress of the work, shall endeavor to protect the City against defects and deficiencies in such work, and may disapprove or reject work if it fails to conform to the Contract Documents. The KHA shall perform the observations in accordance with the standard of care of the profession at the time of service.

Task 5 – Project Close-out

5.1 KHA shall review the project to determine if the project is substantially complete, prepare a punch list, and conduct a final review to determine if the work has been completed in accordance with the Contract Documents.

5.2 KHA will review "As-Built" drawings provided by the Contractor. The Contractor's "As-Built" drawings must be signed and sealed by a certified Florida Surveyor.

5.3 KHA shall not be responsible for the acts or omissions of any Contractor or subcontractor, any of the Contractor(s)' or subcontractor(s)' agents or employees, or any

11/6(99)

other persons (except KHA's own employees and agents) at the site or otherwise performing any of the Contractor(s)' work.

Task 6 - Additional Services

6.1 KHA will provide, as requested and authorized by the City, additional services beyond those described in the task sections above. Additional services may include, but not be limited to project design modifications, construction contract extensions, additional project meetings, and additional onsite visits.

6.2 Compensation for additional services will be based upon hourly billing rates at the time of authorization.

DELIVERABLES

- Reviewed shop drawings
- Contractor payment recommendations
- Project punch list

SCHEDULE

KHA will provide our services as expeditiously as practicable and will commence work within ten calendar days following receipt of a notice to proceed. Once construction begins, we anticipate the following schedule:

- Substantial completion - 60 days from NTP
- Final complete - 90 days from NTP

11C(100)

Exhibit "3"

Payment Schedule

The Consultant will accomplish the services outlined in Tasks 1 through 5 for the lump sum budget of $23,000.

The following task items represent a breakdown of the lump sum amount for reference:

Task 1:	Attend Project Meetings	$2,400
Task 2:	Review Shop Drawings	$500
Task 3:	Contract Administration	$4,100
Task 4:	Onsite Observations	$13,700
Task 5:	Project Close-out	$2,300
	LUMP SUM	**$23,000**

11L(10D