



## COUNTY ATTORNEY'S OFFICE

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November 8, 2024

SENT VIA CERTIFIED MAIL R-R-R  
AND E-MAIL AT [DMARQUEZ@VLPLAW.COM](mailto:DMARQUEZ@VLPLAW.COM)

Daniel A. Marquez, Esq.  
VLP Copenhaver Espino  
2121 Ponce de Leon Blvd., Suite 310  
Coral Gables, FL 33134

Re: New Vista Builders Group, LLC  
Your File No.: 2804-000  
Our Contract No.: 21-C00008

Dear Mr. Marquez:

In response to your letter to Hernando County, dated November 5, 2024, please be advised that, pursuant to paragraph 55.5.5 of the Contract, the Chief Procurement Officer's denial of New Vista's claim is final and binding unless the Contract's dispute resolution procedure is invoked within thirty days of the denial. Paragraph 55.5.5 reads:

Chief Procurement Officer's written action or denial pursuant to Paragraphs 55.5.3 and 55.5.4 will be final and binding upon Owner and Vendor/Contractor, unless Owner or Vendor/Contractor invoke the dispute resolution procedure set forth in Paragraph 61 within thirty (30) days of such action or denial.

Paragraph 61 of the Contract reads as follows:

- 61.1. Owner and Vendor/Contractor may mutually request mediation of any claim submitted to the Owner for a decision as provided in Paragraph 55.5 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the effective date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association. Timely submission of the request shall stay the effect as described in Paragraph 55.5.5.
- 61.2. Owner and Vendor/Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- 61.3. If the claim is not resolved by mediation, Chief Procurement Officer's action or denial pursuant to Paragraph 55.5.3 or 55.5.4 shall become final and binding

thirty (30) days after termination of the mediation unless, within that time period, Owner or Vendor/Contractor:

- 61.3.1. Agrees with the other party to submit the claim to another dispute resolution process, or
- 61.3.2. Gives written notice to the other party of their intent to submit the claim to a court of competent jurisdiction.

The Chief Procurement Officer's denial was issued and sent to your client via certified mail and email on September 30, 2024. The Contract's dispute resolution procedure has not been invoked, and the thirty-day deadline for invoking it has passed. Therefore, the Chief Procurement Officer's denial is final and binding.

Regarding payment on New Vista's final payment application (#20), please be advised that the matter is scheduled to be heard at a public meeting by the Board of County Commissioners on November 19, 2024. Please see section 59.7 of the Contract regarding the requirements for final payment and for the Board's approval thereof. Specifically, paragraph 59.7.3 reads:

Payment Becomes Due: After the presentation to Owner of the Application for Payment and accompanying documentation to include all of the required federal and state submittals, the Owner will, within the time periods established by applicable provisions of the Florida Prompt Payment Act, Part VII, Ch. 218.735, F.S. (current version), pay the Vendor/Contractor the amount recommended by Owner Designated Representative, less any sum Owner is entitled to set off against Owner Designated Representative's recommendation, including but not limited to liquidated damages.

Please contact me should you have any questions.

Sincerely,

*Melissa Tartaglia*

Melissa A. Tartaglia, Esq.  
Assistant County Attorney

cc: Carla Rossiter-Smith, Chief Procurement Officer  
Jeffrey Rogers, County Administrator  
Toni Brady, Deputy County Administrator