

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between SureTec Insurance Company and Collin County, Texas.

I. DEFINITIONS

As used throughout this Settlement Agreement, the terms listed below are defined as follows:

- A. **"Agreement"** shall mean this Settlement Agreement.
- B. **"SureTec"** shall mean and include SureTec Insurance Company along with its predecessors, successors, parents, subsidiaries, affiliated companies, and assigns.
- C. **"Collin County"** shall mean and include Collin County, Texas, along with its predecessors, successors, parents, subsidiaries, affiliated companies, and assigns.
- D. **"JMI"** shall mean and include JMI Maintenance, Inc., along with its predecessors, successors, parents, subsidiaries, affiliated companies, and assigns.
- E. **"Parties"** shall mean and include SureTec and Collin County.
- F. **"Bonds"** shall mean and include the Performance and Payment Bonds both numbered 4378229, issued by SureTec in connection with the Project naming JMI Maintenance, Inc., as principal and Collin County, Texas as Obligees.
- G. **"Project"** shall mean and include that certain construction project described as IFB 10054-10, Construction Bridge: County Rd. 618 over Cedar Creek and County Road 655 over Branch of Brushy Creek.
- H. **"Lawsuit"** shall mean and include that certain lawsuit styled *Collin County, Texas v. SureTec Insurance Company*, Cause No. 296-02645-2012, in the 296th Judicial District, Collin County, Texas.

II. RECITALS

- A. Whereas, on or about April 8, 2010, Collin County entered into a contract with JMI whereby JMI agreed to provide certain materials, labor and equipment as necessary to complete the Project;
- B. Whereas SureTec issued the Bonds in connection with the Project;
- C. Whereas, on or about July 18, 2012, Collin County filed the Lawsuit against SureTec seeking recovery of damages allegedly resulting from relating to JMI's breach of the construction contract for the Project;

D. Whereas, bona fide disputes and controversies exist between the Parties as to the liability and amount arising from or relating to the Lawsuit, if any; and each are aware of the hazards and costs of continued litigation and by reason of such disputes, controversies, hazards and costs, they intend to settle and compromise same by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein and in exchange for the consideration of the mutual release set forth hereinbelow, the sufficiency of which is hereby acknowledged, the Parties hereby agree to the following:

III. AGREEMENTS

A. **Release by Collin County.** In consideration of payment of Two Hundred Thirty-Five Thousand, Six Hundred Fourteen and 61/100 Dollars (\$235,614.61) by SureTec to Collin County and the terms and mutual covenants of this Agreement, Collin County fully and finally remises, releases and forever discharges SureTec and its respective agents, representatives, insurers, affiliates, parent company, successors and assigns from any and all manner of actions, causes of action, suits, damages, attorneys' fees, debts, dues, sums of money, accounts, reckonings, bills, bonds, specialties, covenants, conditions, contracts, rights, controversies, agreements, trespasses, judgments, executions, claims, liabilities, responsibilities, and demands whatsoever at law or in equity, which Collin County ever had, now has or may have had, now or in the future, whether known or unknown, whether liquidated or unliquidated, whether fixed or contingent, against SureTec that may be evidenced by, arise out of, be in connection with or in any manner related to the Project and/or Bonds and all claims which could have been asserted by Collin County against SureTec related to the subject matter of the Lawsuit, whether or not asserted in the Lawsuit.

B. **Assignment of Claims.** In consideration of the mutual promises and agreements set forth herein, Collin County hereby assigns to SureTec any and all rights it has, or may have, against JMI arising from or related to the Project, to the extent of the payment made herein.

C. **Dismissal of Lawsuit with Prejudice.** In consideration of the agreements set forth above, Collin County will file a motion in the Lawsuit dismissing SureTec with prejudice to the refiling of same.

D. **Return of Performance Bond.** Collin County fully and finally releases the Performance Bond, Bond No. 4378229, and agrees to return the original of such Bond to SureTec upon execution of this Agreement.

E. **No Admission of Liability.** Nothing contained in this Agreement shall be deemed, or in any way construed, to be an admission of any liability by any party to this Agreement. The parties to this Agreement recognize that this Agreement is being executed for purposes of settlement of disputed claims. Neither this Agreement, nor any negotiations in connection herewith, shall be construed or deemed to be used as

evidence or an admission on the part of the Parties hereto of any liability or wrongdoing for any of the claims released herein and this Agreement shall not be offered or received into evidence as any such admission with respect to the settled claims.

F. Capacity and Authority. The Parties represent and warrant that: (a) they have the legal capacity to and are duly authorized to execute and deliver this Agreement; (b) they have taken all action and obtained all consent, if any, necessary to authorize the execution and delivery of this Agreement; (c) this Agreement is a legal, valid, and binding obligation, enforceable in accordance with its terms; and (d) the execution and delivery of this Agreement does not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any material agreement or instrument or any other provision of law, statute, or regulation to which they may be bound.

G. Ownership of Claims. This Agreement shall be binding upon and inure to the benefit of the undersigned Parties and their respective representatives, successors and assigns. The Parties specifically warrant and represent that they are the current legal and beneficial owner and holder of the claims and causes of action which are being released in this Agreement. The Parties further warrant that they have not sold, assigned, or otherwise transferred any such claims or causes of action to any other person or entity.

H. Entirety of Agreement. This Agreement contains the full and complete agreement of the parties hereto and all other prior negotiations and agreements pertaining to the subject matter hereof are merged into this Agreement. Each of the Parties hereby expressly disclaims reliance upon any facts, promises, undertakings, representations or omissions made by any other party or person, or such party's or person's agents, representatives, or attorneys, prior to the date of the execution of this Agreement. Each of the Parties to this Agreement has had the benefit of its own counsel of choice, has carefully reviewed this Agreement with their chosen counsel, and executes this Agreement of its own free will and accord, for the purposes and considerations expressed herein.

I. Construction. All Parties, together with their respective attorneys, participated in the drafting and preparation of this Agreement. Therefore, the Agreement shall not be construed in favor of or against any party on the basis that any such party did or did not draft this Agreement or any attachment to it. If any covenant, term, or condition of this Agreement is illegal, invalid, or unenforceable for any reason, the illegality, invalidity, or unenforceability shall not affect the legality, validity, or enforceability of the remaining terms, covenants, conditions, or provisions of this Agreement.

J. Terms are Contractual. The provisions of this Agreement are contractual and are not mere recitals.

K. Multiple Counterparts. This Agreement may be executed in one or more counterparts, all of which together shall constitute one agreement. In any action to

enforce this Agreement, or any term hereof, it shall be necessary only to introduce a counterpart of this Agreement executed by the party against whom enforcement is sought without the necessity of introduction of other counterparts or proof as to the execution of other counterparts by other parties to this Agreement.

L. Headings. The headings of the sections and subsections of this Agreement are inserted for convenience only and shall not control or affect the meaning, construction, or effect of this Agreement, or any provisions hereof.

M. Governing Law. This Agreement shall be construed under the laws of the State of Texas.

Executed this 2nd day of July, 2013.

COLLIN COUNTY, TEXAS

By:

Keith Self
[Printed Name]

County Judge
[Title]

STATE OF TEXAS

COUNTY OF Collin

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BEFORE ME, the undersigned notary public, on this day personally appeared, Keith Self who is the County Judge of Collin County, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed, in the capacity stated herein and as the act and deed of said Corporation.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 2nd day of July, 2013.

Georgia S. Shepherd
Notary Public In and for the State of Texas

Commission Expires: 10/26/2016

