

NASSAU COUNTY COMMISSION
SR 105A (A1A)
PIPE CROSSING REPLACEMENT
Bid No.: NC005-00
Nassau County, Fernandina Beach, Florida

CONTRACT

This Contract, made this 24th day of ~~SEPTEMBER~~ July 2000, between Nassau County, hereinafter called the County and ISWD Const. Inc. of ORANGE PARK FL, his, its or their successors, executors, administrators and permitted assigns, hereinafter called the Contractor;

WITNESSETH:

WHEREAS, the County desires to make drainage improvements to SR 105A (A1A); and

WHEREAS, the County has requested Bids for the performance of work for Bid No. NC005-00, and the County received no bids; and

WHEREAS, the Contractor is presently performing work on the Harris Teeter site; and can perform the work in conjunction with its current contract; and

WHEREAS, the County desires to engage Contractor to render its services as hereinafter set forth; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the services to be performed and the compensation to be paid for such services, and desire to set forth their understanding in the form of a written agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, it is agreed as follows:

ARTICLE I: Engagement of Contractor

The County hereby engages Contractor and Contractor hereby accepts such engagement for the purpose of providing to the County, at Contractor's own proper cost and expense, completion of all work, including furnishing all the materials, equipment, supplies and labor necessary therefore, and in the manner and to the full extent set forth therein, described in the following (which are incorporated by this reference):

- a. General Provisions, Contract Documents, Bid and Plans for construction of the SR 105A (A1A) Pipe Crossing Replacement, Bid No. NC005-00 and any addenda thereto.

- b. Florida Department of Transportation "Standard Specifications for Road and Bridge Construction", 2000 Edition, and all subsequent revisions.
- c. Contractor's Bid and Plans.
- d. Should there be a conflict in the above documents, the order of precedence is as set forth in Paragraph 5.2 of the Florida Department of Transportation "Standard Specifications for Road and Bridge Construction", 2000 Edition.

ARTICLE II: **Review by County**

Contractor agrees that its services herein shall be performed to the satisfaction of the duly authorized representatives of the County who shall have at all times full opportunity to inspect the materials to be furnished and the work to be done under this Contract.

ARTICLE III: **Completion Date**

The services to be performed hereunder shall commence within 10 days of the issuance of the Notice to Proceed (NTP) and shall be completed, notwithstanding any reference in the specifications to the contrary, within 30 calendar days of the date of the NTP.

ARTICLE IV: **Compensation**

In consideration of the premises, the County hereby agrees to pay the Contactor \$93,720.00 , as sole compensation for the performance of this Contract, with payments for the actual quantity of authorized work performed to be made as provided in the Specifications at the prices for the Scheduled Items in Contractor's Bid.

ARTICLE V: **Applicable State Law**

The rights, obligations and remedies of the parties as specified under this Contract shall be interpreted and governed in all respects by the laws of the State of Florida. Should any provision of this Contract be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired.

ARTICLE VI: **Nonwaiver**

Failure by either part to insist upon strict performance of any of the provisions hereof, wither party's failure or delay in exercising any rights or remedies provided herein or by law, the county's payment for the services or any part of combination hereunder, or any purported oral modification or rescision of this Contract by an employee or agent of either party shall not release either party of any of its obligations under this Contract, shall not be deemed a waiver of any rights of wither party to insist upon strict performance hereof or of any of wither party's rights or remedies under this Contract or by law, and shall not operate as a waiver of any of the provisions hereof.

ARTICLE VII: Permits, Licenses & Taxes

Contractor shall provide all necessary licenses and permits and shall be responsible for complying with all local ordinances and all applicable state and federal regulations and laws.

ARTICLE VIII: Compliance with Applicable Laws & Regulations

Contractor shall comply with all applicable federal, state and local laws, rules and regulations as the same exists and as they may be amended from time to time, including by not limited to the Public Records Law, Chapter 119, Florida Statutes.

ARTICLE IX: Public Entity Crimes

The County reserves the right to terminate this Contract effective immediately upon written notice in the event the Contractor or any affiliate is placed on the convicted vendor list maintained by the Florida Department of General Services pursuant to Section 287.133, Florida Statutes. For purposes hereof, "affiliate" shall have the meaning set forth in Section 287.133 (1)(a), Florida Statutes. Contractor shall advise the County promptly after conviction of any "public entity crime" as defined in Section 287.133 (1)(g), Florida Statutes, applicable to Contractor or any affiliate.

ARTICLE X: Indemnity & Save Harmless

For Ten (10) Dollars and other valuable consideration, the receipt and sufficiency of which is acknowledged, by executing the Contract the Contractor shall indemnify, defend and save harmless, the County, the Engineer and their respective officers, agents and employees, against any claims or liability arising from or based on the violation of any laws, by-laws, ordinances, regulations, orders or decrees; whether by himself, his employees, his Subcontractor or his Subcontractors' employees. Contractor's obligation to indemnify, defend and save harmless the County and Engineer and their respective officers, agents and employees shall also apply to claims or liability arising out of allegations of negligence or other wrongdoing of the indemnitee, except that the Contractor's obligation to indemnify, defend and save harmless an indemnitee for damages caused in whole, or in part by an indemnitee shall be limited to \$2,000,000.

Contractor's obligation to indemnify, defend and save harmless the Engineer and their respective officers, agents and employees shall not apply to the liability, cost or expense of the Engineer or their officers, agents and employees arising out of

- (1) the preparation or approval of or the failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or
- (2) the giving of or the failure of to give directions or instructions by the Engineer or their officers, agents or employees, provided such giving or failure to give is the primary cause of the liability, cost or expense.

ARTICLE XI: Contract Work Hours and Safety Standards Act

The wages of every laborer and mechanic employed by the Contractor or any Subcontractor in the performance of work under this Contract shall be computed on the basis of a standard work week of 40 hours. For each work-week in which any such laborer or mechanic is so employed, such wages shall include compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in the work-week. Contractor shall otherwise comply with, and shall require all Subcontractors hereunder to comply with the Contract Work Hours and Safety Standards Act 40 U.S.C. & 327ff and regulations enacted thereunder.

ARTICLE XII: Access to Records

The County or any of its authorized agents of the foregoing, shall, for purposes of audit and examination, be granted access to any books, documents, papers and records of Contractor or any Subcontractor hereunder that are pertinent to operations or activities under this Contract or any subcontract hereunder. Contractor shall maintain, and shall require all Subcontractors hereunder to maintain, these records for not less than three years following completion of this Contract.

ARTICLE XIII: Compliance by Subcontractors

Contractor shall include provisions in all subcontracts entered into pursuant to this Contract to enforce the provisions of this Contract with respect to all Subcontractors who perform work in connection with this Contract and shall require all Subcontractors to do the same with respect to their own Subcontractors.

ARTICLE XIV: Dispute

Any dispute arising under this contract, which is not disposed of by agreement, shall be decided by a mediator, who shall reduce his/her decision to writing and furnish a copy to both parties. Claims disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be submitted to mediation in accordance with mediation rules as established by the Florida Supreme Court. Mediators shall be chosen from the Supreme Court approved list of mediators in the Fourth Judicial Circuit and the cost of mediation shall be borne by the Consultant/Contractor. The decision of the mediator shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, or so grossly erroneous as to necessarily imply bad faith or not supported by substantial evidence.


ARTICLE XV: Contract Work


All work to be performed under the Contract Documents is to be at Contractor's expense unless stated herein to the contrary.

IN WITNESS WHEREOF, the parties hereto have duly executed this Contract, in Duplicate, the day and year first above written.

Nassau County Commission

Attest: 
S. M. "Chip" Oxley, Jr.
Ex-Officio Clerk

By: 
Title: Chairman
Nick D. Deonas
Chairman

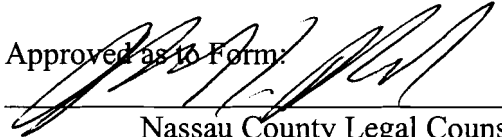
By:  (Seal)

Title: President.


Attest:  (Seal)

Title: V. PRESIDENT

(Affix Contractor's
Corporate Seal)

Approved as to Form: 
Nassau County Legal Counsel

I Certify that the expenditure contemplated by the foregoing Contract has been duly authorized, and the provision has been made for the payment of the monies hereto to be paid.

By: 
Title: ~~County Attorney~~ Ex-Officio Clerk
Nassau County

Doc# 200028230
Book: 951
Pages: 1413 - 1419
Filed & Recorded
10/02/2000 08:58:27 AM
J. H. OXLEY JR
CLERK OF CIRCUIT COURT
NASSAU COUNTY, FLORIDA
RECORDING \$ 29.00
TRUST FUND \$ 4.00

SR 105A (A1A)

PIPE CROSSING REPLACEMENT

Bid No.: NC005-00

PAYMENT AND PERFORMANCE BOND

Bond # C756967

EWP Construction, Inc. (the "Principal" or the "Contractor"), a corporation organized under the laws of the State of Florida, the principal business address of which is P.O. Box 858 Orange Park, FL 32067, and Capitol Indemnity Corporation (the "Surety"), a corporation organized under the laws of the State of WI and authorized to do business in the State of Florida as a surety, the principal business address of which is 4610 University Ave., Madison, WI 53705, jointly and severally bind themselves, their heirs, executors, administrators, successors and permitted assigns, to the NASSAU COUNTY COMMISSION (the "COUNTY"), the principal business address of which is 191 Nassau Place, Yulee, Florida 32097, in the amount of Ninety-Three Thousand Seven Hundred Twenty and No/100 (this sum shall be at least equal to the amount of the Contract), on the terms and conditions set forth below.

WHEREAS, the Contractor has entered into a Contract with the County dated July 24, 2000 for the construction of SR 105A (A1A) Pipe Crossing Replacement, Nassau County, Florida, Bid No. NC005-00 which contract, including all documents such as specifications, special provisions, proposal, plans and specifications forming a part thereof (the foregoing, as they may be amended from time to time, are referred collectively as the "Contract") is by reference incorporated herein;

WHEREAS, Section 255.05, Florida Statutes, requires that the Contractor enter into a payment and performance bond;

WHEREAS, the County as one of the conditions of the Contract has required an expanded performance bond in addition to that required by such statute;

NOW, THEREFORE, for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Principal and the Surety bind themselves as set forth herein.

1. PAYMENT BOND

1.1 The Principal and the Surety agree to promptly make payments to all claimants (the "Claimants"), as defined in Section 255.05, Florida Statutes, as it may be amended from time to time (the "Statute"), whose claims derive directly or indirectly from the prosecution of the work provided for in the Contract, whether such claims derive from furnishing labor, materials or supplies used in connection therewith.

R 33.00

* Give to Joan

- 1.2 Claimants shall comply with the applicable notice provisions of the Statute in order to be entitled to recover under this Bond.
- 1.3 No action shall be instituted by any Claimant under Section 1 of this Bond after one year from the performance of the labor or completion of delivery of the materials or supplies for which payment is sought, provided, however, that if the time limitation provisions of the Statute, as it may be amended from time to time, shall be different, such limitations shall control.
- 1.4 The parties intend that Section 1 of this Bond shall be construed as a statutory bond executed pursuant to the Statute, and not as a common law bond. Any provision in this Bond conflicting with such Statute shall be deemed deleted from this Bond and provisions conforming to the requirements of such Statute shall be deemed incorporated herein.

2. PERFORMANCE BOND

- 2.1 The Principal and the Surety bind themselves to perform the Contract at the times and in the manner set forth therein, including the warranties against defects in workmanship and materials set forth in the Contract and any such other warranties as are deemed by law.
- 2.2 In the event of any default by the Principal under the Contract, the Surety is liable, to the limit of the amount of this Bond, without duplications, for:
 - a. The responsibilities of the Principal to complete the Contract and to correct defects in workmanship or materials, including latent defects; and
 - b. Damages caused by the Principal's default under the Contract or the negligence or wrongdoing of the Principal, its agents or employees, including, but not limited to, errors in plans or specifications furnished by the Principal, which damages shall include, but not be limited to, attorneys fees and costs, engineering, and delay costs resulting from any such default, negligence or wrongdoing.
- 2.3 The Surety agrees to indemnify, defend and hold harmless the County from all costs incident to ascertaining and collecting losses under Section 2 of this Bond, including legal fees and expenses of the County, whether incurred before or at trial, in settlement negotiations, on appeal or in insolvency proceedings, together with court costs.
- 2.4 No action shall be instituted by the County against the Principal or the Surety under this Bond after 2 years from the date on which final payment under the Contract falls due.

2.5 The parties intend that Section 2 of this Bond shall be construed as a common law bond and not as a statutory bond.

3. **GENERAL PROVISIONS**

3.1 The Surety hereby waives notice of any changes to the Contract or any subcontract, purchase order, or any other obligation relating to the Contract, including, but not limited, to any extension of time for performance.

3.2 The Contractor and the Surety, and their respective heirs, executors, administrators, successors and permitted assigns, shall be jointly and severally liable for all obligations under this Bond.

3.3 This Bond shall be recorded in the public records of Nassau County, Florida.

3.4 This Bond shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

Signed and sealed this 10 day of AUGUST, 2000

(Affix Contractor's
Corporate Seal)

EWP Construction, Inc.

By: [Signature]

Name: C. D. PETERSON

Title: PRESIDENT
"Contractor"

Capitol Indemnity Corporation

(Affix Surety's
Corporate Seal)

By: [Signature]

Name: Robert T. Theus

Title: Attorney-in-Fact
"Surety"

NOTE: Power-of-Attorney showing County of Surety's Agent or Attorney-in-Fact must be attached.

STATE OF Florida

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 8th day of August,
2000 by Robert T. Theus, the Attorney-in-Fact of
Capitol Indemnity Corporation, a Wisconsin corporation,
on behalf of the corporation.

[Signature: Laura M. Sever]

Notary Public

LAURA M. SEVER

Notary Public, State of Florida

My Commission Expires:

My Comm. expires Mar. 26, 2003

Comm. No. CC 813313

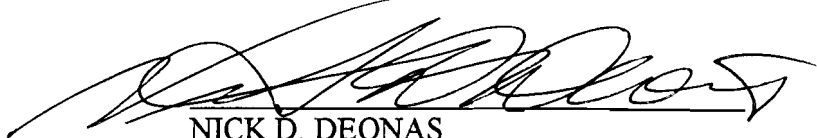
Signed, sealed and delivered

GRANTOR:

In our presence as witnesses:

OWNER

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



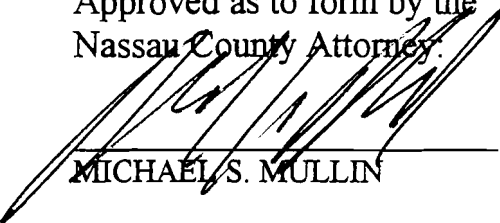
NICK D. DEONAS
Its: Chairman

Attest:



J. M. "CHIP" OXLEY, JR
Its: Ex-Officio Clerk

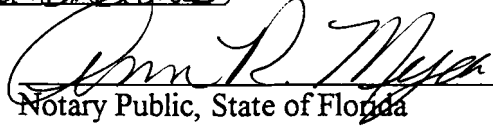
Approved as to form by the
Nassau County Attorney:



MICHAEL S. MULLIN

STATE OF FLORIDA
COUNTY OF Nassau

The foregoing instrument was acknowledged before me this 28th day
of Aug, 2000, by Nick D. Deonas, who did not take an oath.



Notary Public, State of Florida
at large.

ANN R. MYERS

My Commission Expires:



Ann R. Myers
MY COMMISSION # CC881894 EXPIRES
January 3, 2004
BONDED THRU TROY FAIR INSURANCE, INC.

Serial No. _____

Personally known ✓ OR produced
identification _____. Identification produced _____.

Performance and Payment Bond

Public Work

Surety Bond No.: C756967 Contract No.: NC005-00

As to the Contractor/Principal:

Name: EWP Construction, Inc.

Principal Business Address: P. O. Box 858, Orange Park, FL 32067

Telephone: (904)264-2011

As to the Surety:

Name: Capitol Indemnity Corporation

Principal Business Address: 4610 University Avenue., Madison, WI 53705

Telephone: (608)232-0433

As to the Owner of the Property/Contracting Public Entity:

Name: Nassau County Commission

Principal Business Address: 191 Nassau Place, Yulee, FL 32097

Telephone:

Project Description: SR 105A (A1A) Pipe Crossing replacement, Nassau County Florida,
Bid No NC005-00

Project Address: Nassau County, Florida

Legal Description of Project: SR 105A (A1A) Pipe Crossing replacement, Nassau County Florida,
Bid No NC005-00

This bond has been furnished to comply with the requirements of F.S.A. 255.05. This bond is hereby amended such that
All provisions and limitations, including conditions, notice and time limitations of F.S.A. 255.05 are incorporated herein by
reference. Any provisions of this bond which conflicts with or purports to grant broader or more expanded coverage in
excess of the minimum requirements of the applicable statute shall be deemed herefrom. This bond is a statutory bond,
not a common law bond.

*This is the front page of the performance/ payment bond(s) regardless of preprinted numbers on the other pages issued in
compliance with Florida Statute 255.05*



Capitol INDEMNITY CORPORATION

4610 UNIVERSITY AVENUE, SUITE 1400, MADISON, WISCONSIN 53705-0900
PLEASE ADDRESS REPLY TO P.O. BOX 5900, MADISON, WI 53705-0900
PHONE (608) 231-4450 • FAX (608) 231-2029

POWER OF ATTORNEY

No: 543977

Know all men by these Presents, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Madison, Wisconsin, does make, constitute and appoint

----- ROBERT T. THEUS, FITZHUGH K. POWELL, JR., WENDY A. DYGERT -----
----- FITZHUGH K. POWELL OR MARY P. MULCAHEY -----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- NOT TO EXCEED \$1,000,000.00 -----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 5th day of May 1960:

"RESOLVED, that the President, and Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested by its Secretary, this 1st day of June, 1999.

CAPITOL INDEMNITY CORPORATION

Attest:

Virgiline M. Schulte
Virgiline M. Schulte, Secretary

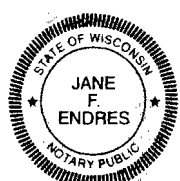


George A. Fait
George A. Fait, President

STATE OF WISCONSIN }
COUNTY OF DANE }

On the 1st day of June, A.D., 1999, before me personally came George A Fait, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Dane, State of Wisconsin; that he is the President of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; 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 corporation and that he signed his name thereto by like order.

STATE OF WISCONSIN }
COUNTY OF DANE }

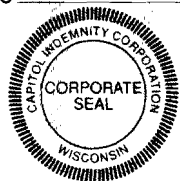


Jane F. Endres
Jane F. Endres
Notary Public, Dane Co., WI
My Commission Expires March 23, 2003

CERTIFICATE

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Madison. Dated the _____ day of _____



Paul J. Brethauer
Paul J. Brethauer, Treasurer

This power is valid only if the power of attorney number printed in the upper right hand corner appears in red. Photocopies, carbon copies or other reproductions are not binding on the company. Inquiries concerning this power of attorney may be directed to the Bond Manager at the Home Office of the Capitol Indemnity Corporation.