

A G R E E M E N T

THIS AGREEMENT entered into this 27th day of February, 2006, by and between the **BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, a political subdivision of the State of Florida**, hereinafter referred to as "Owner", and Douglas Asphalt Company, doing business as (a corporation, a partnership, or an individual), hereinafter referred to as "Contractor".

WITNESSETH: For and in consideration of the payments and agreements hereinafter mentioned, the parties agree as follows:

1. Contractor shall perform all work and furnish all necessary labor, equipment, material, and transportation for the Full Depth Reconstruction of CR 121 from US 1 to the Duval County Line, Nassau County, Florida, hereinafter referred to as the "Work".

2. The Work includes, but is not limited to, the full depth reclamation of approximately 35 miles of roadway, widening of existing roadway to a 25 foot wide base typical section with 12' travel lanes, reconstruction of paved connections to match new profile as needed, and optional installation of pavement, striping, reflective pavement markers, guardrails, and sod.

Contractor will provide all required testing and certifications except base proctor/density testing, which will be performed by the owner or owner's representative, at the owners cost.

All Work is to be performed per Nassau County Ordinance 99-17 and the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, dated 2004, supplements thereto, when not specifically stated in the Special Provisions, or shown on the plans. FDOT Ride-ability standards shall not apply to this project.

3. The Contractor will commence the Work required by the Contract Documents within fifteen (15) calendar days after the date of the Notice to Proceed and will **SUBSTANTIALLY** complete the same within **90 consecutive calendar days**, and fully complete the Project in a total of **150 consecutive calendar days** after the date of the Notice

to Proceed unless the period for completion is extended otherwise by the Contract Documents.

Time is of the essence in the construction of this Project. The Owner will suffer financial damage if this Project is not substantially completed on the date set forth in the Contract Documents. Therefore, the Owner and the Contractor specifically agree that the Contractor shall pay to the Owner the sum of Three Hundred and no/100 Dollars (\$300.00) per calendar day or any part thereof elapsing between the date established as provided in Section 16 of the General Conditions, and the actual date upon which substantial completion is achieved. Moreover, if after thirty (30) calendar days after the date of substantial completion of the Project is achieved, the Project is not fully and finally complete, then the sum of Three Hundred and no/100 Dollars (\$300.00) per calendar day of any part thereof elapsing between the established date of final completion and the actual date of final completion shall be paid to the Owner by the Contractor.

These amounts to be paid to the Owner by the Contractor shall, in no event, be considered as a penalty or otherwise than the consequential and adjusted damages of the Owner because of the delay. Furthermore, the sums per calendar day or any part thereof set forth hereinabove, may be at the sole option of the Owner and may be deducted and retained out of the sums payable to the Contractor. If not so deducted, the Contractor shall remain liable therefore.

4. The Owner has determined and declared the above-named Contractor to be the lowest responsible bidder on the above referenced Project, and has duly awarded this Contract to said Contractor, for the sum named in the proposal, to-wit:

Six Million Eight Hundred Ninety Seven Thousand Nine Hundred Forty-Four & 56/100
(Amount of Bid)

The Owner shall pay the Contractor for the Work performed as follows: ~~Payment for unit price items shall be at the unit price bid for actual construction quantities measured in place and approved by the Owner or its Resident Project Representative(s). Payment for lump sum priced items shall be at the lump sum price bid.~~ set forth in Section 20 of the General Terms and Conditions. Supplemental to Section 20 is the following:

a. Copies of invoices for payment shall be simultaneously sent to the Contract Manager for review and recommendation for payment or non-payment. The Contract Manager shall submit the recommendation to the Engineering Services Director, who shall review the invoice and make a recommendation to the County Administrator, who shall review said invoice, who shall review said invoice and make a recommendation and forward same to the Clerk of the Court for review and submittal to the Board of County Commissioners. If there is a dispute as to a payment, and if it is not addressed by the Contractor and the County's representative, the dispute resolution shall be utilized.

The Owner reserves the right to make additions or deletions to bid quantities and/or portions of the bid at the bid item prices.

5. Contractor, by signing this Agreement, acknowledges that they have the ability to perform the work set forth in the attached documents and have performed their due diligence prior to execution of the contract and can proceed based upon the attachments and bid submittal.

6. The Owner will pay the Contractor in a manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents.

7. The term "Contract Documents" means and includes the following:

- a. Bid Form
- b. Sworn Statement
- c. Bid Bond
- d. Agreement
- e. Notice of Award
- f. Notice to Proceed
- g. Change Order Request
- h. Performance Bond
- i. Payment Bond
- j. Hold Harmless Agreement
- k. General Conditions
- l. Specifications prepared by the Engineer
- m. Drawings

8. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

9. All facilities, programs, and services should be compliant with the Florida Accessibility Code and the Federal Americans with Disabilities Act (ADA).

10. Appropriations necessary for the funding of this Agreement shall be adopted annually by the Board of County Commissioners during the regular budget process. Non-appropriation by the Board of County Commissioners will cause this Agreement to terminate.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in two (2) copies, each of which shall be deemed an original on the date first above written.

OWNER:

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



THOMAS D. BRANAN, JR

Its: Chairman

ATTEST:

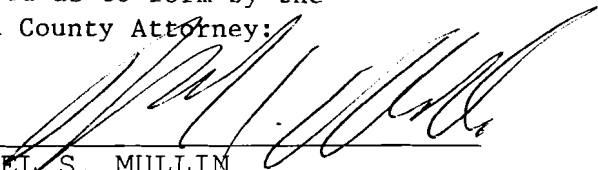


JOHN A. CRAWFORD

Its: Ex-Officio Clerk

~~Approved as to form by the
Nassau County Attorney~~

Approved as to form by the
Nassau County Attorney:



MICHAEL S. MULLIN

CONTRACTOR:

Douglas Asphalt Company

Joel Spivey

By: Joel Spivey, President

Its: _____

Payment Bond

Conforms with the American Institute of Architects, AIA Document A312.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):
DOUGLAS ASPHALT COMPANY
10010 NORTH MAIN STREET
JACKSONVILLE, FLORIDA 32218

SURETY (Name and Principal Place of Business):
ARCH INSURANCE COMPANY
3 PARKWAY, SUITE 1500
PHILADELPHIA, PA 19102

OWNER (Name and Address):
BOARD OF COUNTY COMMISSIONERS OF NASSAU
COUNTY, FLORIDA - P. O. BOX 1010
FERNANDINA BEACH, FLORIDA 32035-1010

CONSTRUCTION CONTRACT

Date:

Amount: SIX MILLION EIGHT HUNDRED NINETY SEVEN THOUSAND NINE HUNDRED FIFTY FOUR AND 56/100 DOLLARS (\$6,897,954.56)

Description (Name and Location): Full Depth Reconstruction of CR 121 from US 1 to the Duval County Line, Nassau County, Florida (35 miles of Roadway, Widening of existing Roadway to a 25 foot wide base typical section, etc)

BOND

Date(Not earlier than Construction Contract Date):

Amount: SIX MILLION EIGHT HUNDRED NINETY SEVEN THOUSAND NINE HUNDRED FIFTY FOUR AND 56/100 DOLLARS (\$6,897,954.56)

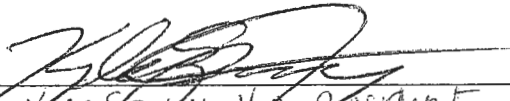
Modifications to this Bond:


None

See Page 2

CONTRACTOR AS PRINCIPAL
Company: DOUGLAS ASPHALT COMPANY (Corporate Seal)

SURETY
Company: ARCH INSURANCE COMPANY (Corporate Seal)

Signature: 
Name and Title: Kyle Sweeney, Vice President
(Any additional signatures appear on page 2.)

Signature: 
Name and Title: JERRY BOUTWELL
ATTORNEY-IN-FACT

(FOR INFORMATION ONLY Name, Address and Telephone) AGENT or BROKER: H & H INSURANCE SERVICES, INC. - 3160 CAMPUS DRIVE, SUITE 100 NORCROSS, GEORGIA 30071 (770) 409-0014

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

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.

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.

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

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

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

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.

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 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 and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

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 required by paragraph 4 is given by 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.

14 Upon request 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. The intent of this Bond shall be to include without limitation in 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 engineering 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.

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.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

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

CONTRACTOR AS PRINCIPAL
Company: _____ (Corporate Seal)

SURETY
Company: _____ (Corporate Seal)

Signature: _____
Name and Title:
Address:

Signature: _____
Name and Title:
Address:

In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 1st day of February, 2006.

Arch Insurance Company

Attested and Certified



Martin J. Nilsen

Martin J. Nilsen, Secretary

Edward M. Titus

Edward M. Titus, Vice President

STATE OF NEW YORK SS

COUNTY OF NEW YORK SS

I Peter J. Calleo, a Notary Public, do hereby certify that Edward M. Titus and Martin J. Nilsen personally known to me to be the same persons whose names are respectively as Vice President and Secretary of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.

PETER J. CALLEO, ESQ.
Notary Public, State of New York
No. 02CA6109336
Qualified in New York County
Commission Expires May 3, 2008

Peter J. Calleo

Peter J. Calleo, Notary Public
My commission expires 5-03-2008

CERTIFICATION

I, Martin J. Nilsen, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said Edward M. Titus, who executed the Power of Attorney as Vice President, was on the date of execution of the attached Power of Attorney the duly elected Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this _____ day of _____, 20_____.

Martin J. Nilsen

Martin J. Nilsen, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Surety
3 Parkway, Suite 1500
Philadelphia, PA 19102



POWER OF ATTORNEY

Know All Men By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal office in Kansas City, Missouri (hereinafter referred to as the "Company") does hereby appoint

Leslie A. Paulsen, Christopher B. Wortham, Shirley A. Coleman, Derek Wortham, Jerry Boutwell and Michael A. Jones of Norcross, GA (EACH)

its true and lawful Attorney(s)-in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds and undertakings

EXCEPTION: NO AUTHORITY is granted to make, execute, seal and deliver bonds or undertakings that guarantee the payment or collection of any promissory note, check, draft or letter of credit.

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The Company may revoke this appointment at any time.

The execution of such bonds and undertakings in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office in Kansas City, Missouri.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on March 3, 2003, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or any Vice President, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings, obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on March 3, 2003:

VOTED, That the signature of the Chairman of the Board, the President, or any Vice President, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on March 3, 2003, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.