

EJCDC
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND DESIGN/BUILDER
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is by and between Nassau County Board of County Commissioners (Owner)
and EltonAlan, Inc. (Design/Builder).

Owner and Design/Builder, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01. Design/Builder shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Produce design plans and construct a new structure for the crossing of Roy Sikes Road over Deep Creek Branch off of CR 121 in Hilliard, Florida

ARTICLE 2 - THE PROJECT

2.01. The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Task 1 – Survey: Design/Builder shall have a licensed surveyor conduct a survey of the project area. Survey shall consist of all features within 200-feet east and west and 50-feet north and south, of the center line of the culvert crossing, an area approximately 0.9-acres in size. The survey shall include, but is not limited to, all driveways, utilities, and drainage system features and any other features.

Task 2 – Design: Design/Builder shall perform the required design services in order to remove and replace the existing metal culvert and sandbag endwalls with a reinforced concrete culvert and precast concrete headwall (or acceptable alternatives, as approved by the Owner). Design/Builder shall provide signed and sealed documents, prepared by the Design/Builder, in which specifications and plans show details covering the project and adhere to the standards and time from for completion. Design shall be in accordance with Nassau County and Florida Department of Transportation (FDOT) current standards. Drainage analysis, Erosion Control Plan, Utility Coordination, Vehicular Access Mitigation Plan and a construction method shall be included with the Engineering plans and shall be approved by the Owner. Design considerations must be made to allow for access to be reopened in no more than 48 hours.

Task 3 – Vehicle Access Mitigation: Design/Builder shall submit an access mitigation plan for the proposed road closing and/or detour to the Owner for approval; this shall be included with the 100% and final sets of plans. The access mitigation plan shall ensure that vehicle access over the crossing is re-established no more than 48 hours after the crossing is closed. The plan shall also provide for emergency vehicle access. The plan shall provide for all necessary notifications, road closures and detours. Acceptable methods to mitigate traffic include, but are not limited to temporary crossings, temporary access easements, room and boarding, etc.

Task 4 – Permitting: Design/Builder shall perform all required permitting services in order to apply for the approval of St. Johns River Water Management District (SJRWMD) and Army Core of Engineers (ACOE).

Task 5 – Construction: Design/Builder shall construct the culvert crossing in accordance to the approved plans, specifications and to the latest Nassau County and FDOT standards. The construction shall not prevent vehicular access for more that 48 hours. The Engineer of Record shall provide certification that the project was built in substantial compliance with the plans and specifications. A certified copy of the as-builts shall be provided to the Owner upon completion.

ARTICLE 3 - CONTRACT TIMES

3.01. Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02. Time period for the performance of the Design/Builder Services

A. A preliminary 100% set of plans shall be submitted within 60 days after the date when the Contract Times commence to run as issued in the Notice to Proceed, as provided in paragraph 2.02 of the General Conditions.

B. After the Design/Builder receives all comments from Owner, a final set of plans and specifications shall be submitted with 30 days.

C. Construction shall be substantially completed within 45 days following the Owner's approval of the final set of plans, and completed and ready for final payment in accordance with paragraph 13.08 of the General Conditions within 20 days from substantial completion.

ARTICLE 4 - CONTRACT PRICE

4.01. Owner shall pay Design/Builder for completion of the Work in accordance with the Contract Documents an amount in current funds at the prices stated in Design/Builder's Proposal, attached hereto as an exhibit.

A. For all Work as proposed in the revised negotiated bid for Guardrail and Sand Cement Endwall, dated 1-29-14, a Lump Sum of:

Two Hundred Seventeen Three Hundred Seventy-One Dollars and Twenty-Five Cents (\$217,371.25)

B. The contract price referenced in 4.01.A. above may be subject to a deductive change order of \$26,847.70 should it be determined during the design process that sufficient property can be obtained to allow for the elimination of the guardrail and to extend the culverts.

ARTICLE 5 - PAYMENT PROCEDURES

5.01. Design/Builder shall submit and Owner will process Applications for Payment in accordance with Article 13 of the General Conditions.

A. *Progress Payments; Retainage.* Owner shall make progress payments on account of the Contract Price on the basis of Design/Builder's Applications for Payment which are to be submitted once each month during performance of the Work as provided in paragraphs 5.01.A.1 and A.2 below. All such payments will be based on the Schedule of Values established in paragraph 2.06.A.3 of the General Conditions (and in the case of Unit Price Work based on the number of units completed).

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold in accordance with paragraph 13.03.B of the General Conditions.

a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Owner, and if the character and progress of the Work have been satisfactory to Owner, Owner may determine that as long as the character and progress of the Work remain satisfactory to Owner, there will be no additional retainage on account of Work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the remaining Work completed.

b. 90 percent (with the balance being retainage) of the cost of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner as provided in paragraph 13.02.A of the General Conditions).

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Design/Builder to 5 percent of the Contract Price (with the balance being retainage), less such amounts as Owner may withhold in accordance with paragraph 13.03.B of the General Conditions.

B. *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 13.08 of the General Conditions, Owner shall pay the remainder of the Contract Price.

ARTICLE 6 - INTEREST

6.01. All moneys not paid when due as provided in Article 13 of the General Conditions shall bear interest at the rate of zero (0) percent per annum.

ARTICLE 7 - DESIGN/BUILDER'S REPRESENTATIONS

7.01. To induce Owner to enter into this Agreement, Design/Builder makes the following representations:

A. Design/Builder has examined and carefully studied the Contract Documents (including the Addenda) listed in paragraphs 8.01.A through J and the other related data identified in the Request for Proposals but excluding the documents described in paragraph 8.01.K.

B. Design/Builder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Design/Builder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Design/Builder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

E. Design/Builder has correlated the information known to Design/Builder, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

F. Design/Builder has given Owner written notice of all conflicts, errors, ambiguities or discrepancies that Design/Builder has discovered in the Contract Documents and the written resolution thereof by Owner is acceptable to Design/Builder.

G. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 8 - CONTRACT DOCUMENTS

8.01. The Contract Documents consist of the following:

A. This Agreement (pages 1 to 5, inclusive);

B. Standard General Conditions of the Contract Between Owner and Design/Builder (pages 1 to 28, inclusive);

C. Supplementary Conditions

- D. Conceptual Documents identified and accepted during negotiations of this agreement;
 - 1. Plan Sheet No. 1, 2, and 3 submitted by Design/Builder during a negotiation session on 1-8-14
 - 2. Plan Sheet No. 1, 2, and 10 submitted by Design/Builder on 1-15-14; requested during negotiation session on 1-8-14
- E. Design/Builder's Initial Proposal dated 10-23-13; incorporated by reference and made a part hereof
- H. Addenda numbers 1 through 2 inclusive; incorporated by reference and made a part hereof
- I. Exhibits to this Agreement (pages 1 to 1, inclusive);
 - 1. EltonAlan's negotiated bid for guardrail and sand cement endwalls, dated 1-29-14
- J. The following, which may be delivered, prepared, or issued after the Effective Date of this Agreement and are not attached hereto:
 - 1. Performance Bond
 - 2. Payment Bond
 - 3. Certificate of Insurance
 - 4. Notice to Proceed;
 - 5. All Work Change Directives, and Change Orders amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04.A of the General Conditions;
 - 6. Specifications as defined in Paragraph 1.01.A.40 of the General Conditions; and
 - 7. Drawings as defined in Paragraph 1.01.A.18 of the General Conditions.

8.02. The documents listed in paragraph 8.01 above are attached to this Agreement (except as expressly noted otherwise above).

8.03. There are no Contract Documents other than those listed above in this Article 8.

8.04. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 9 - MISCELLANEOUS

9.01. The Standard General Conditions of the Contract Between Owner and Design/Builder are referred to herein as the General Conditions.

9.02. Terms used in this Agreement will have the meanings indicated in the General Conditions.

9.03. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.04. Owner and Design/Builder each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

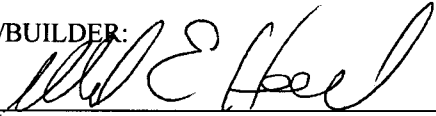
9.05. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Design/Builder, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Design/Builder have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Design/Builder. All portions of the Contract Documents have been signed, initialed or identified by Owner and Design/Builder.

2/24/14

This Agreement will be effective on February 24, 2014 (which is the Effective Date of the Agreement).

OWNER: 

DESIGN/BUILDER: 


By: Barry Holloway, Chair

By: Michael E. Holcomb, P.E., Vice President

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest: 

Attest: 

Address for giving notices:

Address for giving notices:

Nassau County Contract Management

EltonAlan, Inc.

96135 Nassau Place, Suite 6

2771-29 Monument Road #342

Yulee, Florida 32097

Jacksonville, Florida 32225

Engineer License No. or Certificate No.: CA# 30320
(Where applicable)

State: Florida

Contractor License No.: CGC# 1504922
(Where applicable)

State: Florida

(If Design/Builder is a corporation, attach evidence of authority to sign.)

Designated Representative:

Designated Representative:

Name: Becky Hiers

Name: Michael E. Holcomb, P.E.

Title: Project Manager

Title: Project Manager

Address: 96131 Nassau Place
Yulee, Florida 32097

Address: 2771-29 Monument Road #342
Jacksonville, Florida 32225

Phone: 904-491-7330

Phone: 904-900-7620

Facsimile: 904-491-3611

Facsimile: _____

Email: bhiers@nassaucountyfl.com

Email: mike@eltonalan.com

MES
8.19.14

CS-13-126
append

THE AMERICAN INSTITUTE OF ARCHITECTS



INSTR # 201408930, Book 1911, Page 1055
Pages 7
Doc Type UNK, Recorded 04/09/2014 at 03:06 PM,
John A Crawford, Nassau County Clerk of Circuit Court
Rec. Fee \$61.00
#1

Bond No. 10010879

AIA Document A312

Performance Bond

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

CONTRACTOR (Name and Address):
Elton Alan, Incorporated
2771-29 Monument Rd #342
Jacksonville, FL 32225

SURETY (Name and Principal Place of Business):
Hudson Insurance Company
100 William Street, 5th Floor
New York, NY 10038


OWNER (Name and Address):
Nassau County, FL
96161 Nassau Place
Yulee, FL 32097

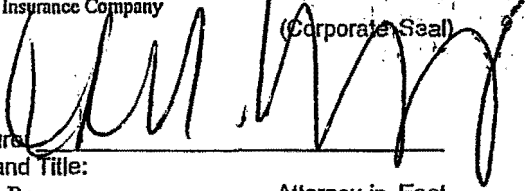
CONSTRUCTION CONTRACT
Date: 2/24/14
Amount: \$ 217,371
Description (Name and Location):

Design Build Services for Roy Sikes Culvert Replacement, Construct
Bond Double 60" Culvert Under Rural Road
Date (Not earlier than Construction Contract Date): 4/8/14
Amount: \$ 217,371
Modifications to this Bond: None See Page 3

CONTRACTOR AS PRINCIPAL COMPANY:
Elton Alan, Incorporated

SURETY COMPANY:
Hudson Insurance Company

Signature:  (Corporate Seal)
Name and Title: Dale Dubberly, President

Signature:  (Corporate Seal)
Name and Title: Jessica Reno Attorney-in-Fact

(Any additional signatures appear on page 3)

FOR INFORMATION ONLY-Name, Address and Telephone
AGENT OR BROKER:
Bonds Only, LLC dba Bonds Only, Inc.
1515 CR 210 W, Suite 211
Jacksonville, FL 32259

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.

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 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.

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 required 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.

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 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 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:

SURETY Company:

(Corporate Seal)

(Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

Signature: _____
Name and Title: _____
Address: _____



POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

Jessica Reno
of the State of FL

its true and lawful Attorney(s)-in-Fact, at New York, New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking shall obligate said Company for any portion of the penal sum thereof in excess of the sum of

Two Hundred Seventeen Thousand Three Hundred Seventy One Dollars and Twenty Five Cents (\$217,371.30)

Such bonds and undertakings when duly executed by said Attorney(s)-in-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Executive Vice President thereunto duly authorized, on this 31st day of October, 2013 at New York, New York.

Notarial Seal: Dina Daskalakis, Corporate Secretary

Handwritten signature of Dina Daskalakis

HUDSON INSURANCE COMPANY

By: Christopher T. Suarez, Executive Vice President

STATE OF NEW YORK
COUNTY OF NEW YORK. SS.

On the 31st day of October, 2013 before me personally came Christopher T. Suarez to me known, who being by me duly sworn did depose and say that he is an Executive Vice President of HUDSON INSURANCE COMPANY, the corporation described herein and which executed the above instrument, that he knows the seal of 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.

(Notarial Seal)



Handwritten signature of Ann M. Murphy, Notary Public, State of New York

CERTIFICATION

STATE OF NEW YORK
COUNTY OF NEW YORK

The undersigned Dina Daskalakis hereby certifies:

That the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27th, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOLVED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Witness the hand of the undersigned and the seal of said Corporation this 8th day of APRIL, 2014.



Handwritten signature of Dina Daskalakis, Corporate Secretary

THE AMERICAN INSTITUTE OF ARCHITECTS

THIS BOND HEREBY IS AMENDED SO THAT THE PROVISIONS AND LIMITATIONS OF SECTION 255.05 OR SECTION 713.23, FLORIDA STATUTES, WHICHEVER IS APPLICABLE, ARE INCORPORATED HEREIN BY REFERENCE.



Bond No. 10010879

Premium: Included in Performance Bond

AIA Document A312

Payment Bond

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

CONTRACTOR (Name and Address):

Elton Alan, Incorporated
2771-29 Monument Rd #342
Jacksonville, FL 32225

SURETY (Name and Principal Place of Business):

Hudson Insurance Company
100 William Street, 5th Floor
New York, NY 10038

OWNER (Name and Address):

Nassau County, FL
96161 Nassau Place

Yulee, FL 32097

CONSTRUCTION CONTRACT

Date: 2/24/14

Amount: \$ 217,371

Description (Name and Location):

Design Build Services for Roy Sikes Culvert Replacement
Construct 60" Culvert Under Rural Road

BOND

Date (Not earlier than Construction Contract Date): 4/18/14

Amount: \$ 217,371

Modifications to this Bond:

None

See Page 6

CONTRACTOR AS PRINCIPAL COMPANY:

Elton Alan, Incorporated

(Corporate Seal)

Signature:

Name and Title: Dale Dubberly, President

SURETY COMPANY:

Hudson Insurance Company

(Corporate Seal)

Signature:

Name and Title: Jessica Reno

Attorney-in-Fact

(Any additional signatures appear on page 6)

**FOR INFORMATION ONLY-Name, Address and Telephone
AGENT OR BROKER:**

Bonds Only, LLC dba Bonds Only, Inc.

1515 CR 210 W, Suite 211

Jacksonville, FL 32259

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

AIA DOCUMENT A312 PERFORMANCE BOND AND PAYMENT BOND DECEMBER 1984 ED., AIA®
THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., N.W., WASHINGTON, D.C. 20005
THIRD PRINTING - MARCH 1987

A312-1984 4

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its rights to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

2. Deny liability in whole or in part and notify the Owner citing reasons therefor.

5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.

8. 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.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. 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.

10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11. 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 here from 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.

12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Con-

tractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

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

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 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:

THIS BOND HEREBY IS AMENDED SO THAT THE PROVISIONS AND LIMITATIONS OF SECTION 255.05 OR SECTION 713.23, FLORIDA STATUTES, WHICHEVER IS APPLICABLE, ARE INCORPORATED HEREIN BY REFERENCE.

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

CONTRACTOR AS PRINCIPAL COMPANY:

SURETY COMPANY:

(Corporate Seal)

(Corporate Seal)

Signature: _____
Name and Title:
Address:

Signature: _____
Name and Title:
Address:

CONTRACT MANAGEMENT

CERTIFICATE OF SUBSTANTIAL COMPLETION 2014 DEC 17 PM 1:17

Project: Roy Sikes Road Culvert Replacement Project

Contractor: Elton Alan, Inc.

Purchase Order No.: N/A Contract No.: CM2090

This Certificate of Substantial Completion applies to:

All work under Contract [] Portion of work described as follows:

The Work to which this Certificate applies has been inspected by authorized representatives of the COUNTY and the CONTRACTOR and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on : 11/18/14
DATE

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within 14 days of the above date of Substantial Completion.
(12/2/14)

The date of Substantial Completion is the date upon which all guarantees and warranties begin.

SIGNED:

NASSAU COUNTY CONSTRUCTION INSPECTOR

By: [Signature]

DATE: 11/18/14

NASSAU COUNTY PROJECT MANAGER

By: Rebecca Bray

DATE: 11/18/14

NASSAU COUNTY ROAD & BRIDGE REPRESENTATIVE

By: [Signature]

DATE: 11-18-14

ENGINEER OF RECORD:

[Signature]

By: Elton Alan, Inc.

DATE: 11/18/14

CONTRACTOR:

[Signature]

By: Elton Alan, Inc.

DATE: 11/18/14

EltonAlan

Consulting Engineers | General Contractors

Becky Hiers-Bray, P.E. - Engineer III
Nassau County Engineering Services
96161 Nassau Place
Yulee, Florida 32097

RECEIVED

CONTRACT MANAGEMENT

2014 DEC 17 PM 1:17

11/12/2014

RE: Roy Sikes Substantial Completion

Becky,

As of the close of business today, EltonAlan considers the Roy Sikes project to be substantially complete. Considering the 5 days of rain delay that we are claiming, the project was substantially completed within the 45 day contract duration. If you agree with our assessment, please issue a certificate of substantial completion and a list of any items that you deem to be incomplete or that may need correction. Once we have made all corrections or rectifications included on that list, we will request a final certification and final payment and the project will be complete.

If you would like to meet at the site this week, please let me know a date works for you and we will set it up. If you have any questions or comments, please do not hesitate to call me.

Michael E. Holcomb, P.E.