

THIS IS AN APPROVED FORM. DO NOT SUBSTITUTE OR REVISE

CONTRACT NUMBER 10013

(Contract Number to be inserted by the City of Jacksonville)

PERFORMANCE BOND NUMBER FLC82992

REQUIRED BY SECTION 255.05, FLORIDA STATUTES

As to the Contractor/Principal:

Name: Evans Contracting Services, Inc.

Principal Business Address: 320 Foxtail Avenue, Middleburg, Florida 32068

Telephone: (904) 282-0155

As to the Surety:

Name: Merchants Bonding Company

Principal Business Address: 2100 Fleur Drive, Des Moines, IA 50321

Telephone: (800) 678-8171

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

Name: The City of Jacksonville, Florida (c/o Public Works Department)

Principal Business Address: 609 St. Johns Bluff Road North, Jacksonville, Florida 32202

Telephone: (904) 998-5396

Description of Project including address and description of improvements: furnishing, not by way of limitation, all labor, materials, and equipment, and performing all operations necessary for the complete cleaning and rehabilitation of the Emily Lane/Emily Lane West a/k/a Bowden Branch Outfall by use of mechanical equipment and/or manual labor, and all other related work shown on construction plans and described in the Scope of Work and the Emily Lane/Emily Lane West Outfall Bid Form.

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CITY OF JACKSONVILLE, FLORIDA

PERFORMANCE BOND

Bond #FLC82992

REQUIRED BY SECTION 255.05, FLORIDA STATUTES

KNOW ALL MEN BY THESE PRESENTS, that EVANS CONTRACTING SERVICES, INC., as Principal, (hereinafter called "Contractor"), and Merchants Bonding Company, a corporation organized and existing under the laws of the State of IA and duly authorized to conduct and carry on a general surety business in the State of Florida, as Surety (hereinafter called "Surety"), are each held and firmly bonded unto the City of Jacksonville, a municipal corporation in Duval County, Florida, as Obligee (hereinafter called "City"), in the sum of THREE HUNDRED TWENTY-FIVE THOUSAND AND 00/100 USD (\$325,000.00), lawful money of the United States of America, for the payment whereof Contractor and Surety bind themselves, their respective heirs, executors, administrators, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal made and entered into City Contract Number 10013 (the "Contract"), dated as of the 2nd day of July, 2014, for furnishing, not by way of limitation, all labor, materials and equipment, and performing all operations necessary for the complete cleaning and rehabilitation of various outfall ditches and Storm Water Management Facilities (SWMF) ponds located within the City's rights-of-way and easements, and all other related work shown on construction plans and described in the Scope of Work, all in accordance with plans and specifications entitled *Request for Qualifications for Stormwater Outfall Ditch Cleaning and Rehabilitation* for the City of Jacksonville, Florida, in strict accordance with plans and

specifications prepared by the Right of Way and Stormwater Maintenance Division of the City of Jacksonville's Department of Public Works, RFQ numbered RFQ-0053-14, RFQ date March 26, 2014, and any advertisement for bids for said work and the drawings, plans, and specifications for said work and requirements of the City request for bids and award therefor and of the Contract and all documents included as a part of the Contract, all of which are, by this reference, made a part hereof to the same extent as if fully set out herein; and

WHEREAS, on August 7, 2014, Contractor received from City an award in the amount of \$325,000.00 as the lowest responsive and responsible bidder for site specific work on the Emily Lane/Emily Lane West a/k/a Bowden Branch Outfall, as detailed in the Emily Lane/Emily Lane West Outfall Bid Form, incorporated by this reference into the Contract;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall: **(1)** promptly and faithfully perform the construction work and other work in the time and manner prescribed in said Contract, which is made a part of this Bond by reference, in strict compliance with the Contract requirements; and **(2)** perform the guarantee and maintenance of all work and materials furnished under the Contract for the time specified in the Contract; and, **(3)** pay the City all losses, delay and disruption damages, and all other damages, expenses, costs, statutory attorney's fees, including appellate proceedings, that the City sustains because of a default by Contractor under the Contract, then this Bond shall be void; otherwise, it shall remain in full force and effect, both in equity and in law, in accordance with the laws and statutes of the State of Florida.

PROVIDED, that the Surety hereby waives notice of any alteration or extension of time made by the City, and any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's

obligation under this bond.

PROVIDED FURTHER, that whenever Contractor shall be declared by the City to be in default under the Contract, the City having performed the City's obligations thereunder, the Surety shall, at the City's sole option, take one (1) of the following actions:

- (1) Within a reasonable time, but in no event later than thirty (30) days after the City's written notice of termination for default, arrange for Contractor with the City's consent, which shall not be unreasonably withheld, to complete the Contract and the Surety shall pay the City all losses, delay and disruption damages, and all other damages, expenses, costs, and statutory attorney's fees, including appellate proceedings, that the City sustains because of a default by the Contractor under the Contract; or
- (2) (A) Within a reasonable time, but in no event later than sixty (60) days after the City's written notice of termination for default, award a contract to a completion contractor and issue a notice to proceed. Surety shall obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible qualified bidder, award a contract; (B) alternatively, the City may elect to have the Surety determine jointly with the City the lowest responsible qualified bidder, to have the Surety arrange for a contract between such bidder and the City, and for the Surety to make available as Work progresses sufficient funds to pay the cost of completion less the balance of the Contract price (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph). The term "balance of the Contract price", as used in this

Bond, shall mean the total amount payable by the City to Contractor under the Contract and any approved change orders thereto, less the amount properly paid by the City to Contractor. (C) Either way, the Surety shall pay the City all remaining losses, delay and disruption damages, expenses, costs, and statutory attorney's fees, including those incurred in appellate proceedings, that the City sustains because of a default by Contractor under the Contract; or

- (3) Within a reasonable time, but in no event later than thirty (30) days after City's notice of termination for default, waive its right to complete or arrange for completion of the Contract and, within twenty-one (21) days thereafter, determine the amount for which it may be liable to the City and tender payment to the City of any amount necessary in order for the City to complete performance of the Contract in accordance with its terms and conditions less the balance of the Contract price, and shall also indemnify and save the City harmless on account of all claims and damages arising from the Contractor's default under the Contract, and pay the City for all losses, delay and disruption damages, and other damages, expenses, costs, and statutory attorney's fees, including those incurred in appellate proceedings, that the City sustains because of a default of the Contractor under the Contract.

PROVIDED FURTHER, the Surety shall indemnify and save the City harmless from any and all claims and damages arising from the Contractor's default under the Contract, including, but not limited to, contractual damages, expenses, costs, injury, negligent or intentional default, patent infringement, and actual damages (including delay and disruption damages) in accordance with the Contract, and including all other damages and assessments

which may arise by virtue of failure of the product to perform or any defects in work or materials within a period of one (1) year from the date on which the Contractor receives from the City a certificate of final completion under the Contract.

PROVIDED FURTHER, that during any interim period after the City has declared Contractor to be in default but Surety has not yet remedied the default in the manner acceptable to the City, Surety shall be responsible for securing and protecting the work site, including, but not limited to, the physical premises, structures, fixtures, materials, and equipment, and shall be responsible for securing and protecting materials and equipment stored off-site in accordance with the Contract.

PROVIDED FURTHER, no right of action shall accrue on this Bond to or for the use of any person or corporation other than the City named herein or the heirs, executors, administrators, or successors of the City.

[Remainder of page intentionally left blank. Signature page follows immediately.]

SIGNED AND SEALED this 28th day of August, 2014.

WITNESS:

EVANS CONTRACTING SERVICES, INC.

Cystal Evans
Signature

Cystal Evans
Type/Print Name

Contract Admin.
Title

Nora M. Evans
Signature

NORA M. EVANS
Type/Print Name

Vice President
Title

AS PRINCIPAL

Signed, Sealed and Delivered
in the Presence of:

[Signature]
[Signature]

Merchants Bonding Company

By [Signature]
Its Attorney-In-Fact

AS SURETY

Name of Agent: Robert T. Theus

Address: 219 N. Newnan St.

Jacksonville, FL 32202

Note. Date of Bond Must Not Be Prior to Date of Contract

Form Approved:

James R. McCaig
Office of General Counsel

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CONTRACT NUMBER 10013

(Contract Number to be inserted by the City of Jacksonville)

PAYMENT BOND NUMBER FLC82992

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Telephone: (904) 282-0155

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CITY OF JACKSONVILLE, FLORIDA

Bond #FLC82992

PAYMENT BOND

REQUIRED BY SECTION 255.05, FLORIDA STATUTES

KNOW ALL MEN BY THESE PRESENTS, that EVANS CONTRACTING SERVICES, INC., as Principal, (hereinafter called "Contractor"), and Merchants Bonding Company, a corporation organized and existing under the laws of the State of IA and duly authorized to conduct and carry on a general surety business in the State of Florida, as Surety (hereinafter called "Surety"), are each held and firmly bonded unto the City of Jacksonville, a municipal corporation in Duval County, Florida, as Obligee (hereinafter called "City"), in the sum of THREE HUNDRED TWENTY-FIVE THOUSAND AND 00/100 USD (\$325,000.00), lawful money of the United States of America, for the payment whereof Contractor and Surety bind themselves, their respective heirs, executors, administrators, legal representatives, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal made and entered into City Contract Number 10013 (the "Contract"), dated as of the 2nd day of July, 2014, for furnishing, not by way of limitation, all labor, materials and equipment, and performing all operations necessary for the complete cleaning and rehabilitation of various outfall ditches and Storm Water Management Facilities (SWMF) ponds located within the City's rights-of-way and easements, and all other related work shown on construction plans and described in the Scope of Work, all in accordance with plans and specifications entitled *Request for Qualifications for Stormwater Outfall Ditch Cleaning and Rehabilitation* for the City of Jacksonville, Florida, in strict accordance with plans and

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WHEREAS, on August 7, 2014, Contractor received from City an award in the amount of \$325,000.00 as the lowest responsive and responsible bidder for site specific work on the Emily Lane/Emily Lane West a/k/a Bowden Branch Outfall, as detailed in the Emily Lane/Emily Lane West Outfall Bid Form, incorporated by this reference into the Contract;

NOW, THEREFORE, THE CONDITION OF THIS BOND is such that if the said Principal:

(1) Promptly makes payments to all claimants, as defined in Sections 255.05 and 713.01, Florida Statutes, supplying Principal with labor, materials, or supplies that are consumed or used directly or indirectly by Principal in connection with the prosecution of the work provided for in such Contract and including all insurance premiums on the work and any authorized extensions or modifications of such Contract; and

(2) Defends, indemnifies, and saves the City harmless from claims, demands, liens, or suits by any person or entity whose claim, demand, lien, or suit is for the payment of labor, materials, or equipment furnished for use in the performance of the Contract, provided the City has promptly notified the Principal and Surety of any claims, demands, liens, or suits and provided there is no failure by the City to pay the Principal as required by the Contract; and

(3) Pays the City all losses, damages, expenses, costs, and attorney's fees, including those

incurred in appellate proceedings, that the City sustains because of the Principal's failure to promptly make payments to all claimants as provided above, then this Bond is void; otherwise, it remains in full force and effect, both in equity and in law, in accordance with the statutes and the laws of the State of Florida and specifically Section 255.05, Florida Statutes.

PROVIDED, no suit or action for labor, materials, or supplies shall be instituted hereunder against the Principal or the Surety unless a claimant provides to each of them both of the proper notices in accordance with the requirements of Section 255.05(2)(a), Florida Statutes. Both notices must be given in order to institute such suit or action.

PROVIDED FURTHER, an action, except for an action exclusively for recovery of retainage, must be instituted against the Principal or Surety on this Payment Bond within one (1) year after the performance of the labor or completion of delivery of the materials or supplies in accordance with the requirements of Section 255.05(2)(a), Florida Statutes.

PROVIDED FURTHER, an action exclusively for the recovery of retainage must be instituted against the Principal or Surety within one (1) year after the performance of the labor or completion of delivery of the materials or supplies, or within ninety (90) days after the Principal's receipt of final payment (or the payment estimate containing the Owner's final reconciliation of quantities if no further payment is earned and due as a result of deductive adjustments) by the Principal or Surety, whichever comes last, in accordance with the requirements of Section 255.05(2)(a), Florida Statutes.

PROVIDED FURTHER, that the said Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its

obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the specifications.

SIGNED AND SEALED this 28th day of August, 2014.

WITNESS:

Crystal Em
Signature

Crystal Evans
Type/Print Name

Contract Admin
Title

**EVANS CONTRACTING SERVICES,
INC.**

Nora M. Evans
Signature

Nora M. Evans
Type/Print Name

Vice President
Title

AS PRINCIPAL

Signed, Sealed and Delivered
in the Presence of:

[Signature]
[Signature]

Merchants Bonding Company

By: [Signature]
Its Attorney-In-Fact

AS SURETY

Name of Agent: Robert T. Theus
219 N. Newnan St.

Address: Jacksonville, FL 32202

Form Approved:

[Signature]
Office of General Counsel

Note. Date of Bond Must Not Be Prior to Date of Contract

MERCHANTS
BONDING COMPANY™
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

Benjamin Powell; Fitzhugh K Powell Jr; Robert T Theus; Roger R Hurst; Susan W Jordan; Walter N Myers

of Jacksonville and State of Florida their true and lawful Attorney-in-Fact, with full power and authority hereby conferred in their name, place and stead, to sign, execute, acknowledge and deliver in their behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

FOURTEEN MILLION (\$14,000,000.00) DOLLARS

and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint 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.

The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 4th day of August, 2014.



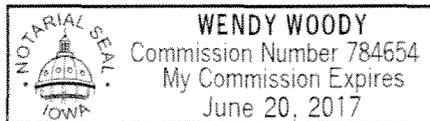
MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 4th day of August, 2014, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



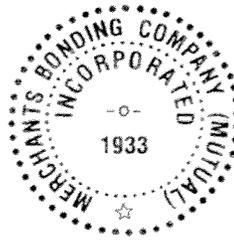
Wendy Woody

Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 28th day of August, 2014.



William Warner Jr.
Secretary