

## Loy, Norman

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**From:** Estrada, Sue M  
**Sent:** Tuesday, January 28, 2020 1:17 PM  
**To:** Loy, Norman  
**Cc:** Young, Bernie C  
**Subject:** Artec

I have been informed that the case Pinellas County v. Artec has been resolved and any documents held in lock-up can now be released. Please let me know if you have any questions. Thank you.

~ Sue

**Susan M. Estrada**, Executive Assistant to  
Jewel White, County Attorney  
Donald S. Crowell, Chief Assistant County Attorney  
Pinellas County Attorney's Office  
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IN THE CIRCUIT COURT OF THE 6<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
PINELLAS COUNTY, FLORIDA

CASE NO. 17-006972-CI

PINELLAS COUNTY BOARD OF  
COUNTY COMMISSIONERS, a  
political subdivision of the  
State of Florida,

Plaintiff,

v.

THE ARTEC GROUP, INC. and NORTH  
AMERICA SPECIALTY INSURANCE  
COMPANY,

Defendants.

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**MEDIATED SETTLEMENT AGREEMENT**

This *Mediated Settlement Agreement* (the “*Agreement*”) is made this 10<sup>th</sup> day of September 2019, by and between the Plaintiff, PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS (“COUNTY”), and the Defendant, NORTH AMERICA SPECIALTY INSURANCE COMPANY (“NAS”) (COUNTY and NAS shall collectively be referred to as the “Parties”).

**WHEREAS**, on or about March 17, 2016, the COUNTY, as owner, and THE ARTEC GROUP, INC. (“ARTEC”), as contractor, entered into a written *Contract* for the performance of certain work (the “*Contract*”) on the project commonly known as the “Terminal Improvements – Phase 3, Gates 7-10 Terminal Addition” (the “Project”); and

**WHEREAS**, NAS, as surety, issued a *Performance Bond* bearing no. 2208113 (the “*Bond*”) on behalf of Artec, as principal, with the COUNTY, as obligee; and

**WHEREAS**, disputes arose between the COUNTY and ARTEC concerning performance of the *Contract*; and

**WHEREAS**, on or about October 31, 2017, the COUNTY terminated ARTEC under the *Contract*, and made demand upon NAS under the *Bond*; and

**WHEREAS**, the COUNTY has filed suit against NAS under the *Bond* seeking damages associated with the completion of the Project; and

**WHEREAS**, the Parties recognize that the end result of this *Agreement* is intended to comprise a full and complete release and discharge of the *Bond*; and

**WHEREAS**, the Parties desire to memorialize their agreement.

**NOW THEREFORE**, in consideration of the promises, and other good and valuable consideration, and the mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals.** The recitals are part of this *Agreement* as if fully set forth herein.
2. **NAS Payment to COUNTY.** Within thirty (30) days of approval of this *Agreement* by the COUNTY's Board of County Commissioners, NAS shall pay to COUNTY the sum of Three Million Seven Hundred Fifty Thousand and 00/100 Dollars (\$3,750,000.00) (the "Settlement Payment"), representing a full and complete satisfaction of NAS' obligations under the *Bond*. Said payment shall be made payable to "Pinellas County, Florida", and delivered to the attention of Christy Donovan Pemberton, Pinellas County Attorney's Office, 315 Court Street, Clearwater, FL 33756.
3. **COUNTY's Release in Favor of NAS.** Upon the execution of this *Agreement*, COUNTY's receipt of the Settlement Payment and clearance thereof, and in consideration of the Parties' performance as specified herein, COUNTY does hereby expressly RELEASE, ACQUIT and FOREVER DISCHARGE NAS, and its heirs, executors, administrators, successors and assigns, of and from any and all claims, rights, demands and/or causes of action, of whatsoever kind or nature, whether known or unknown, which NAS has or may ever claim to have, now or in the future, against NAS under and/or by reason of the *Contract*, *Bond* and/or Project. By operation hereof, this *Agreement* and clearance of the Settlement Payment shall constitute the full and final discharge of the *Bond* by the COUNTY, rendering same null, void and of no further force and effect. Nothing in this paragraph alters or otherwise affects the rights and/or obligations as between COUNTY and ARTEC.
4. **NAS' Release in Favor of COUNTY.** Upon the execution of this *Agreement*, COUNTY's receipt of the Settlement Payment and clearance thereof, and in consideration of the Parties' performance as specified herein, NAS does hereby expressly RELEASE, ACQUIT and FOREVER DISCHARGE COUNTY, and its heirs, executors, administrators, successors and assigns, of and from any and all claims, rights, demands and/or causes of action, of whatsoever kind or nature, whether known or unknown, which NAS has or may ever claim to have, now or in the future, against COUNTY under and/or by reason of the *Contract*, *Bond* and/or Project.
5. **COUNTY's Requisite Approval of Agreement.** It is specifically acknowledged and agreed by the Parties that this instant *Agreement* does not constitute a final and binding agreement until and unless approved by the COUNTY's Board of County Commissioners. That said, as evidenced by the Approved as to Form signature on behalf of the County Attorney, this Agreement is going before the COUNTY's Board of County Commissioners with a recommendation for approval. If this *Agreement* is approved by the COUNTY'S Board of County Commissioners, then the *Agreement* shall be in full force and effect pursuant to the terms hereof.



6. **Stipulation for Dismissal.** Within ten (10) business days of receipt and clearance of the Settlement Payment, counsel for NAS shall prepare, execute and deliver to counsel for COUNTY a *Stipulation for Dismissal with Prejudice*, with a proposed *Order* thereupon, which shall provide that this entire action is dismissed with prejudice with each of the Parties to bear their own attorneys' fees and costs. Within three (3) business days of receiving same, counsel for the COUNTY shall execute the *Stipulation of Dismissal with Prejudice* and file same with the Court with the request that the Court enter the *Order*.

7. **Event of Enforcement.** If any action or claim is brought for breach of this *Agreement* or to enforce any of the terms of this *Agreement*, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and expenses against the non-prevailing party.

8. **Binding Agreement.** This *Agreement* shall only extend to and be binding upon the Parties hereto and their respective successors and assigns. Nothing contained in this *Agreement* shall create any third-party beneficiaries to other claimants under the *Bond*, nor confer any benefit or enforceable rights under this *Agreement* other than to the Parties and their respective successors and assigns.

9. **No Modification Except in Writing.** This *Agreement* may not be modified unless in writing and executed by the Parties hereto. No waiver of any provisions of the *Agreement* shall be valid unless in writing and signed by the Party against whom it is sought to be enforced.

10. **Entire Agreement.** This *Agreement* sets forth the entire understanding of the Parties and no verbal or written warranties or representations have been made or have been relied upon which do not appear in writing within this *Agreement*. Any reliance on verbal or other representations which do not appear within this *Agreement* shall be deemed unjustifiable reliance. Each Party hereto is represented by that Party's own counsel (or has had the opportunity to confer with counsel of their own choosing) and has had the benefit of (or the opportunity to have the benefit of) such counsel's advice in reviewing, commenting upon, and modifying this *Agreement*.


11. **No Admission of Liability.** By this *Agreement*, no Party admits any liability, but rather the Parties have agreed to this settlement as a compromise of disputed claims in the interests of avoiding the costs and uncertainty of continued litigation.

12. **Binding Effect.** This *Agreement* may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The individuals signing below on behalf of entities represent and warrant that they have the full authority to bind their respective entities to all of the provisions hereof. A copy hereof shall be as binding as the executed original.

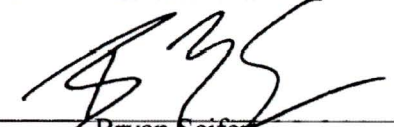
13. **Governing Law.** This *Agreement* shall be governed by the laws of the State of Florida, without regard to its principles of conflicts of law.

IN WITNESS WHEREOF, the Parties hereto have affixed their hands and seals to this Agreement the day and year first set forth above, and the individuals who execute this Agreement personally represent and warrant that they have full authority to execute this Agreement on behalf of the respective Parties, subject to the limitations contained herein.

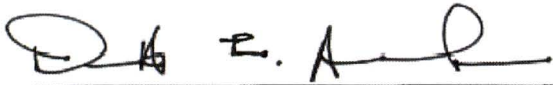
**NORTH AMERICAN SPECIALTY  
INSURANCE COMPANY**

  
Name: Dave Mathews  
Title: Vice President


**NORTH AMERICAN SPECIALTY  
INSURANCE COMPANY**

  
Name: Bryan Seifert  
Title: Vice President


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[geller@etchlaw.com](mailto:geller@etchlaw.com)

  
Jeffrey S. Geller, Fla. Bar No.: 63721


**APPROVED AS TO FORM**

  
By: Christy Donovan Pemberton  
Title: Office of the County Attorney

**PINELLAS COUNTY FLORIDA, BY AND  
THROUGH ITS BOARD OF COUNTY  
COMMISSIONERS**

  
By: Karen Williams Seel, Chair Person

ATTEST: Ken Burke, Clerk

  
By: Deputy Clerk

