

LABOR AND MATERIALS PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, the Undersigned

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*(Here insert the full name of CONTRACTOR)*

Is PRINCIPAL, and

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*(Here insert the full name of SURETY)*

a corporation organized and existing under the laws of the State of \_\_\_\_\_

as SURETY are held and firmly bound unto the

\_\_\_\_\_, as OBLIGEE,

for the use and benefit of CLAIMANTS as hereinbelow defined, in the full and just several sums of

\_\_\_\_\_ (Dollars) (\$\_\_\_\_\_) lawful money of the United States of America, to be paid to the said OBLIGEE, or its attorney, successors, or assigns, to the payment of which sums well and truly to be made, the said PRINCIPAL and SURETY bind themselves, their heirs, administrators, executor, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, said PRINCIPAL has entered into a certain CONTRACT with said OBLIGEE, dated

\_\_\_\_\_, 20\_\_\_\_, (hereinafter called the CONTRACT) for

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which CONTRACT and the CONTRACT DOCUMENTS for said work shall be deemed a part hereof as fully as if set forth herein.

NOW, THEREFORE, the condition of this BOND shall be such that:

If the PRINCIPAL shall promptly make payment to all CLAIMANTS as hereinafter defined, for all labor and material used or reasonably required for use in the Performance of the CONTRACT, then this obligation shall be void; otherwise it shall remain in full force and effect, subject however, to the following conditions:

- 1) A CLAIMANT is defined as one having a direct contract with the PRINCIPAL or with a SUBCONTRACTOR of the PRINCIPAL for labor, material or both used or reasonably required for use in the performance of the CONTRACT, labor, and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the CONTRACT.
- 2) The above named PRINCIPAL and SURETY hereby jointly and severally agree with the Owner that every CLAIMANT as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such CLAIMANT'S work or labor was done or performed, or materials were furnished by such CLAIMANT, may sue on this BOND for the use of such CLAIMANT, prosecute the suit to final judgment for such sums as may be justly due CLAIMANT, and have executed thereon. The OWNER shall not be liable for the pavement of any costs or expenses of any such suit.
- 3) No suit or action shall be commenced hereunder by any CLAIMANT:
  - a) Unless CLAIMANT, other than one having a direct CONTRACT with the PRINCIPAL, shall have given written notice to any of the following: The PRINCIPAL, the OWNER, or the SURETY above named, within ninety (90) days after such CLAIMANT did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in the State in which the aforesaid project is located, save that such service need not be made by a public officer.
  - b) After the expiration of one (1) year following the date on which PRINCIPAL ceased work on said CONTRACT, it being understood, however, that if any limitation embodied in this BOND is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  - c) Other than in a state court or competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.
- 4) The amount of this BOND shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by SURETY of mechanic's liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this BOND.

- 5) The PRINCIPAL and the SURETY agree that any alterations, changes or additions to the CONTRACT DOCUMENTS, and/or any alterations, changes or additions to the work to be performed under the CONTRACT in accordance with CONTRACT DOCUMENTS, and/or any alterations, changes or additions to the CONTRACT, and/or any giving by the OBLIGEE of any extensions of time for the performance of the CONTRACT in accordance with the CONTRACT DOCUMENTS and/or any act of forbearance of either the PRINCIPAL or the OBLIGEE toward the other with respect to the CONTRACT DOCUMENTS and the CONTRACT and/or reduction of any percentage to be retained by the OBLIGEE as permitted by the CONTRACT DOCUMENTS and by the CONTRACT, shall not release, in any manner whatsoever, the PRINCIPAL and the SURETY, or either of them, or their heirs, executors, administrators, successors and assigns, from liability under the BOND; and the SURETY, for value received does not waive notice of any such alterations, changes, additions, extensions of time, act of forbearance and/or reduction of retained percentage.
- 6) If the OWNER and the PRINCIPAL agree to arbitration then the SURETY shall become a party thereto and be bound by the results of the arbitration.

**IN WITNESS WHEREOF**, the PRINCIPAL and SURETY have executed this instrument under their several seals this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its proper officers, pursuant to authority of its governing body.

*ON BEHALF OF INDIVIDUAL OR PARTNERSHIP*

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*(Individual or Partnership Principal)*

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*(Address)*

Witness: \_\_\_\_\_

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*(Individual or Partnership Principal)*

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*(Address)*

Witness: \_\_\_\_\_

*ON BEHALF OF CORPORATION*

Attest:  
(affix corporate seal)

\_\_\_\_\_

\_\_\_\_\_  
(Authorized Signatory)

\_\_\_\_\_  
(Business Address)

*ON BEHALF OF SURETY*

Attest:

\_\_\_\_\_  
ATTACH EFFECTIVE  
POWER OF ATTORNEY

\_\_\_\_\_  
(Name of Surety)

By \_\_\_\_\_