

PERFORMANCE BOND

BOND NO.: _____

PREMIUM: _____

City of Folsom

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF FOLSOM (hereinafter referred to as "CITY") has awarded to _____, hereinafter designated as the "Principal" a contract for _____ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, the undersigned Principal and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the CITY in the sum of _____ DOLLARS, (\$_____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the two-year guarantee of all materials and workmanship; and shall indemnify and save harmless the CITY, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by CITY in enforcing such obligation.

The obligations of Surety hereunder shall continue so long as any obligation of Principal remains. Nothing herein shall limit the CITY's rights or Principal's or Surety's obligations under

the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Principal shall be, and is declared by the CITY to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the CITY's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the CITY, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

(3) Permit the CITY to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the CITY may reject any design-builder, contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by Principal. Surety shall not utilize Principal in completing the Project nor shall Surety accept a bid from Principal for completion of the Project if the CITY, when declaring Principal in default, notifies Surety of the CITY's objection to Principal's further participation in the completion of the Project.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed there under shall in any way affect its obligations 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 Documents or to the Project.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: _____

By: _____

APPROVED AS TO FORM

Surety: _____

Address: _____

City Attorney

Telephone: _____

Attorney in Fact: _____

(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)

NOTICE:

A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.