

PAYMENT BOND

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

CONTRACTOR <i>(Name and Address):</i>	
SURETY <i>(Name and Address of Principal Place of Business):</i>	
OWNER: <div style="text-align: center; margin-left: 100px;"> Fauquier County Water and Sanitation Authority 7172 Kennedy Road Warrenton, VA 20187 </div>	
CONTRACT Amount: FCWSA Contract ID No.: Description <i>(Project Name)</i> :	
BOND Bond Number: Date: Amount: _____ \$ _____ <div style="display: flex; justify-content: space-around; width: 100%;"> <i>(Words)</i> <i>(Figures)</i> </div>	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.	
CONTRACTOR AS PRINCIPAL <div style="text-align: right; margin-bottom: 10px;"> _____ (Seal) <i>Contractor's Name and Corporate Seal</i> </div> By: _____ <div style="text-align: center; margin-left: 100px;"><i>(Signature)</i></div> Name: _____ <div style="text-align: center; margin-left: 100px;"><i>(Printed or typed)</i></div> Title: _____ Attest: _____ <div style="text-align: center; margin-left: 100px;"><i>(Signature)</i></div> Name: _____ <div style="text-align: center; margin-left: 100px;"><i>(Printed or typed)</i></div> Title: _____	SURETY <div style="text-align: right; margin-bottom: 10px;"> _____ (Seal) <i>Surety's Name and Corporate Seal</i> </div> By: _____ <div style="text-align: center; margin-left: 100px;"><i>(Signature) (Attach Power of Attorney)</i></div> Name: _____ <div style="text-align: center; margin-left: 100px;"><i>(Printed or typed)</i></div> Title: _____ Attest: _____ <div style="text-align: center; margin-left: 100px;"><i>(Signature)</i></div> Name: _____ <div style="text-align: center; margin-left: 100px;"><i>(Printed or typed)</i></div> Title: _____
<i>Notes: (1) Provide execution by additional parties, such as joint venturers, if necessary.</i>	

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to 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 Contractor:
 - 4.2.1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to 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 or equipment were furnished or supplied, or for whom the labor was done or performed; and
 - 4.2.2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 - 4.2.3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Paragraph 4, and has submitted all supporting documentation and any proof of claim requested by the Surety, the Surety shall, with reasonable promptness, notify the Claimant of the amounts that are undisputed and the basis for challenging any amounts that are disputed, including, but not limited to, the lack of substantiating documentation to support the claim as to entitlement or amount, and the Surety shall, with reasonable promptness, pay or make arrangements for payment of any undisputed amount; provided, however, that the failure of the Surety to timely discharge its obligations under this paragraph or to dispute or identify any specific defense to all or part of a claim shall not be deemed to be an admission of liability to the Surety as to such claim or otherwise constitute a waiver of the Contractor's or Surety's defenses to, or right to dispute, such claim. Rather, the Claimant shall have the immediate right, without further notice, to bring suit against the Surety to enforce any remedy available to it under this Bond.

7. 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 Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. 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. Surety hereby certifies the bond will be effective as of the date the Contractor signs the Contract. Surety hereby waives notice of any change, including changes of time, to the 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 Paragraph 4.1 or Paragraph 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 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 Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or 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 requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted here from and provisions conforming to such statutory 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. If any provision of this Bond is held to be illegal, invalid or unenforceable, such provision shall be fully severable and this Bond shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been part of this Bond, and the remaining provisions of this Bond shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision, or by its severance from this Bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. The failure or refusal of Owner to take any action, proceeding, or step to enforce any remedy or exercise any right under the Contract or the taking of any action, proceeding or step by Owner, acting in good faith upon the belief that same is permitted, shall not in any way release Contractor or Surety, or any of them, or their respective executors, administrators, successors or assigns from liability under this Bond. Surety hereby waives notice of any amendment, indulgence or forbearance made, granted or permitted by Owner.
16. Definitions
 - 16.1. *Claimant*—An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of 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 Contract, architectural and engineering services required for performance of the Work of Contractor and 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.

- 16.2. *Contract*—The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 16.3. *Owner Default*—Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

End of Bond

FOR INFORMATION ONLY— (*Name, Address, and Telephone*)

Surety Agency or Broker:

Owner's Representative (*Engineer or other party*):