

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, acknowledge ourselves held and firmly bound unto the City of Hopewell, Virginia as Obligee, in the amount of \_\_\_\_\_ Dollars, (\$\_\_\_\_) for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

WHEREAS, the said \_\_\_\_\_ did, on the \_\_\_\_\_ day of \_\_\_\_\_ 2014, enter into a Comprehensive Agreement (contract) with the City of Hopewell, Virginia for the Alternative 4A-1 Light, Phase 2 Project of the city-owned Hopewell Regional Wastewater Treatment Facility, which said contract is by reference made a part hereof, is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall in all respects promptly and faithfully comply with and fulfill all the terms and conditions of said contract, then this obligation shall be void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any change, alteration or addition to the terms of the Contract or extension of time made by the Owner.

Whenever principal shall be, and declared by Obligee to be in default under the Contract, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. 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 bidder, or, if the Obligee elects, upon determination by the Obligee and Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the

contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by the Obligee to principal under the Contract and any amendments thereto, less the amount properly paid by Obligee to principal.

It is hereby expressly further understood and agreed that this Bond is also given and made against defective material and workmanship in the said work covered by the said Contract, provided, however, that no suit, action or proceeding, by reason of any defect whatever, shall be brought upon this Bond after one (1) year following the date of final acceptance of the completed project by the Owner.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of Obligee.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
PRINCIPAL

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_

ATTORNEY-IN-FACT

COUNTERSIGNED:

\_\_\_\_\_  
Resident Virginia Agent of Surety  
(if original Agent is non-resident)

Submit with Power of Attorney

APPROVED AS  
TO FORM

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City Attorney

**LABOR AND MATERIAL PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, \_\_\_\_\_ as Principal, and \_\_\_\_\_, as Surety, acknowledge ourselves held and firmly bound unto the City of Hopewell, Virginia as Obligee in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

WHEREAS, the said \_\_\_\_\_ did, on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, enter into a contract with the City of Hopewell Virginia, for the Alternative 4A-1 Light, Phase 2 Project of the city-owned Hopewell Regional Wastewater Treatment Facility which said contract is by reference made a part hereof, is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if 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 also 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 City that every claimant as herein defined, who has not been paid in full before

the expiration of a period 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 such sum or sums as may be justly due claimant, and have execution thereon. The City shall not be liable for the payment 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 of the following: The Principal, the City, and 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 or certified mail, postage prepaid, in an envelope addressed to the Principal, City and Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be 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 of competent jurisdiction in and for the City 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 mechanics' 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.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Contractor

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Surety

BY \_\_\_\_\_

ATTORNEY-IN-FACT

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Resident Virginia Agent of Surety  
(if original agent is non-resident)

APPROVED AS TO FORM

\_\_\_\_\_ City Attorney