

Performance Bond

Cover Sheet and Instructions

APPROVED DOCUMENT – This document is approved by the Office of the President and Office of the General Counsel for use by the Facility and is available on electronic media.

PURPOSE OF DOCUMENT:	Provides the University with a source of funds to complete the project should the CM/Contractor default under the contract.			
CROSS-REFERENCE TO FACILITIES MANUAL:	None			
CONTENTS:	Performance Bond			
FOR USE WITH:	CM/Contractor Agreement			
COMPLETED BY:	✓	Filling in	Adding Text	No Data Required
ITS USE IS:	✓	Required	Optional	

NOTE: To use the electronic file of this document, you must go to the “Tools” pull down menu in Microsoft Word, select “Options,” select the “View” tab, and then put a check in the box “Hidden text.” Most instructions and alternate language is displayed in hidden text. Do not print the hidden text for the final document.

Completion Instructions:

1. Notes, suggested text, instructions and other information is formatted using the following methods:
 - Hidden text within brackets. Read the material within the brackets and take the appropriate action (usually inserting text or selecting from a choice of texts.) When printing this document, the default print property will not print the hidden text.
 - Coded instruction within brackets. {This is an example of the format.} The instructions and shading will disappear when the required information is typed.
 - Suggested text is shaded in gray without brackets (see Modification and Additions below.)

Modifications and Additions:

None

Comments:

1. The signature on behalf of the surety and the surety’s power of attorney must both be notarized.
2. The completed form is required before award of the contract.

EXHIBIT {NUMBER}

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, The Regents of the University of California ("The Regents") has awarded to _____ as Principal, a contract dated the _____ day of _____, _____, (the "Contract"), which Contract is by this reference made a part hereof, for the work described as follows:

{DESCRIPTION OF WORK. INCLUDES PROJECT NAME AND NUMBER}

AND WHEREAS, Principal is required to furnish a bond in connection with the Contract, guaranteeing the faithful performance thereof;

NOW, THEREFORE, we, the undersigned Principal and _____ as Surety are held and firmly bound unto The Regents in the sum of \$ {See General Conditions 11.3.2 for amount}, to be paid to The Regents or its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by The Regents, shall promptly and faithfully perform the covenants, conditions, and agreements of the Contract during the original term and any extensions thereof as may be granted by The Regents, with or without notice to Surety, and during the period of any guarantees or warranties required under the Contract, and shall also promptly and faithfully perform all the covenants, conditions, and agreements of any alteration of the Contract made as therein provided, notice of which alterations to Surety being hereby waived, on Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify, defend, protect, and hold harmless The Regents as stipulated in the Contract, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect.

No extension of time, change, alteration, modification, or addition to the Contract, or of the work required thereunder, shall release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification, or addition.

Whenever Principal shall be and declared by The Regents to be in default under the Contract, Surety shall promptly remedy the default, or shall promptly:

- 1. Undertake through its agents or independent contractors, reasonably acceptable to The Regents, to complete the Contract in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages, or, at Surety's election, or, if required by The Regents.

2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and, upon determination by The Regents of the lowest responsible bidder, arrange for a contract between such bidder and The Regents 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 Sum, and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages; but, in any event, Surety's total obligations hereunder shall not exceed the amount set forth in the third paragraph hereof. The term "balance of the Contract Sum," as used in this paragraph, shall mean the total amount payable by The Regents to the Principal under the Contract and any amendments thereto, less the amount paid by The Regents to Principal.

Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing The Regents' rights against the others.

No right of action shall accrue on this bond to or for the use of any person or corporation other than The Regents or its successors or assigns.

Surety may join in any arbitration proceedings brought under the Contract and shall be bound by any arbitration award.

In the event suit is brought upon this bond by The Regents, Surety shall pay reasonable attorney's fees and costs incurred by The Regents in such suit.

Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20_____.

Principal: _____
(Name of Firm)

Surety: _____
(Name of Firm)

By: _____

By: _____

Title: _____

Title: _____

Address for Notices:

NOTE: Notary acknowledgement for individual signing above on behalf of Surety is required. Surety's Power of Attorney must also be attached with Notary Acknowledgement of Signature on Power of Attorney