

SUPPLY BOND

PRINCIPAL (SUPPLIER)

Name: _____
Address: _____

SURETY

Name: _____
Address: _____

OBLIGEE (CONTRACTOR)

THE WHITING-TURNER CONTRACTING COMPANY
300 E. Joppa Road
Baltimore, MD 21286

PURCHASE ORDER

Whiting-Turner Purchase Order Number: _____
Date: _____
Project Name: _____
Location of Project: _____

BOND NO.

Date (Not earlier than purchase Order Date): _____
Penal Amount (Purchase Order Price): \$ _____

Supplier AS PRINCIPAL

Company: _____
Signature: _____
Name: _____
Title: _____

SURETY

Company: _____
Signature: _____
Name: _____
Title: _____

Attach Power of Attorney

Witness: _____
Name _____
Address _____
Telephone _____

Witness: _____
Name _____
Address _____
Telephone _____

SURETY AGENT or BROKER:

Name _____
Address _____
Telephone _____

ARTICLES

1. **SCOPE OF BOND.** The Principal and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Obligee (a) for the performance of the Purchase Order, including all undertakings, covenants, terms, conditions, warranties and all other obligations contained in or arising out of the Purchase Order, and (b) to pay for labor, materials, equipment, supplies, services and the like used or reasonably required for use in the performance of the Purchase Order, which is incorporated in this bond by reference and pursuant to which this bond is issued.
2. **EFFECT OF OBLIGATION.** If the Principal performs the Purchase Order and all other obligations contained in or arising out of the Purchase Order promptly makes payment of amounts due all Claimants, as defined in this bond, for all labor, material or equipment used or reasonably required for use in the performance of the Purchase Order, then this bond shall be null and void; otherwise it shall remain in full force and effect. The Principal and the Surety agree that this bond shall inure to the benefit of (a) the Obligee and (b) all individuals or entities supplying labor, material, equipment, supplies, services and the like used or reasonably required for use in the performance of the Purchase Order (“Claimants”), that unpaid Claimants may maintain independent claims or causes of action upon the bond in their own names and that the Obligee shall have the right, but not the obligation to bring an action against the Principal and the Surety on behalf of unpaid Claimants.
3. **ALTERATION NOTICE WAIVER.** The Surety waives notice of any change, alteration or extension of the Purchase Order, including but not limited to the Purchase Order scope, price and/or time, made by the Obligee, or any forbearance on the part of either the Obligee or the Principal to the other. No such change, alteration, extension or forbearance shall in any way release the principal or the Surety from liability hereunder. Any increase in the Purchase Order Price shall automatically result in a corresponding increase in the penal amount of this bond: decreases in the Purchase Order Price shall not, however, reduce the penal amount of the bond unless expressly provided in a written change order signed by both the Principal and the Obligee.
4. **PRINCIPAL DEFAULT.** Whenever the Principal is declared by the Obligee to be in default in its performance under the Purchase Order, with the Obligee(s) having performed its obligations in the Purchase Order, the Surety must promptly within ten (10) days of such declaration:
 - 4.1 **REMEDY DEFAULT.** Remedy the default in all respects in accordance with the terms and conditions of the Purchase Order; or
 - 4.2 **COMPLETE PURCHASE ORDER.** Complete the Purchase Order in accordance with its terms and conditions; or
 - 4.3 **HIRE A REPLACEMENT SUPPLIER.** Hire and make payment to a qualified replacement supplier to complete the requirements of the Purchase Order in accordance with its terms and conditions, or
PAY OBLIGEE(S). Make payment to the Obligee of all costs, fees and expenses incurred by Obligee, including without limitation legal fees and expenses, to complete the requirements of the Purchase Order in accordance with its terms and conditions.
5. **SURETY DEFAULT.** Should Surety not proceed as provided in Article 4, the Surety shall be deemed to be in default on this bond two (2) days after receipt of an additional written notice from the Obligee(s) to the Surety demanding that the Surety perform its obligations under this bond, and the Obligee shall be entitled to immediately enforce any remedy available to the Obligee without further notice to the Surety.
6. **EXTENT OF SURETY OBLIGATION.** To the limit of the penal amount of this bond, the Surety is obligated without duplication for:

- 6.1** All costs, fees and expenses associated with performing all the responsibilities and obligations of the Principal under the Purchase Order.
 - 6.2** Legal, design professional, expert, and delay fees, costs and expenses associated with the Principal's default, or resulting from the actions or the failure to act of the Surety under Article 4;
 - 6.3** Consequential and liquidated damages, or if no liquidated damages exist under the Purchase Order or the Prime Contract, actual damages caused by delayed performance, impacted performance, accelerated performance, or non-performance of the Principal or the Surety; and
 - 6.4** Payment to unpaid Claimants.
- 7. DENIAL OF LIABILITY.** Should the Surety deny liability in whole or in part on any claim asserted hereunder, it shall notify the Oblige in writing within ten (10) days of the declaration of default and state all reasons for the denial of liability.
- 8. RIGHT OF ACTION.** No right of action shall accrue on this bond to or for the use of any person or entity other than (a) the Oblige, their heirs, executors, administrators, assigns, or successors and (b) unpaid Claimants. Any suit must be brought only in the court of the jurisdiction in which the Project is located or as otherwise provided in the Purchase Order. The Principal, Oblige(s), Surety and Claimants consent and agree to the exclusive jurisdiction and venue of those courts.
- 9. STATUTORY BOND.** When this bond has been furnished to comply with a statutory or other legal requirement in the location where the construction is or was to be performed, any provision in this bond conflicting with such statutory or legal requirement shall be deemed deleted from this Supply Bond and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The parties agree that their intent is that in such situations this bond shall be deemed to comply with such statutory or legal requirements.
- 10. NOTICE.** Notice to the Principal, the Surety, or the Oblige shall be delivered via overnight service to the applicable address shown on the signature page above.
- 11. MULTIPLE PARTIES.** Any singular reference to the Principal, the Surety, the Oblige, or other person shall be considered plural where applicable or appropriate.

Form: Supply Bond