

## AGREEMENT

THIS AGREEMENT, made this \_\_\_ day of \_\_\_\_\_, 2021 by and between **The City of Keene**, hereinafter called "OWNER" and \_\_\_\_\_ doing business as a Corporation – Partnership - Individual (please circle), hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of

2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the PROJECT described herein.

3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within ten (10) Calendar days after the date of the Notice to Proceed unless the period for completion is extended otherwise by the contract documents. Completion time for the project will be calculated as a number of calendar days from the date specified in the Notice to Proceed as follows:

\_\_\_ calendar days for substantial completion.

\_\_\_ calendar days for contract completion.

Liquidated damages will be in the amount of

\$ \_\_\_\_\_ or each calendar day of delay from the date established for substantial completion and

\$ \_\_\_\_\_ for each calendar day of delay from the date established for contract completion

4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) or as shown in the BID schedule

5. The term "**CONTRACT DOCUMENTS**" means and includes the following:

- (A) ADVERTISEMENT FOR BIDS
- (B) INFORMATION FOR BIDDERS
- (C) BID
- (D) BID BOND

- (E) NOTICE OF AWARD
- (F) AGREEMENT
- (G) PAYMENT BOND
- (H) PERFORMANCE BOND
- (I) NOTICE TO PROCEED
- (J) CONTRACTORS AFFIDAVIT
- (K) CONTRACTORS RELEASE
- (L) CERTIFICATE OF SUBSTANTIAL COMPLETION
- (M) CHANGE ORDER(S)
- (N) FIELD ORDER
- (O) APPLICATION FOR PAYMENT
- (P) GENERAL CONDITIONS
- (Q) SPECIFICATIONS prepared or issued by:

\_\_\_\_\_

Date: \_\_\_\_\_

- (R) DRAWINGS prepared by \_\_\_\_\_ numbered 1 through \_\_\_ and dated:

\_\_\_\_\_

- (S) ADDENDA:

No. \_\_\_\_, dated \_\_\_\_\_

No. \_\_\_\_, dated \_\_\_\_\_

No. \_\_\_\_, dated \_\_\_\_\_

No. \_\_\_\_, dated \_\_\_\_\_

6. The **OWNER** will pay to the **CONTRACTOR** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

**IN WITNESS WHEREOF**, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in \_\_\_\_ copies, each of which shall be deemed an original on the date first above written.

OWNER: **City of Keene, NH**

By: \_\_\_\_\_

Name: **Elizabeth A. Dragon, City Manager**

Address: **City Hall, 3 Washington St., Keene, NH 03431**

CONTRACTOR:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

SAMPLE DOCUMENT

**PAYMENT BOND**

*This Bond shall remain in effect for one (1) year from the certified date of substantial completion*

**KNOW ALL MEN BY THESE PRESENTS:** that

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called Principal, and  
(Corporation, Partnership or Individual)

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

**The City of Keene, New Hampshire**

\_\_\_\_\_  
(Name of Owner)

**3 Washington Street, Keene, New Hampshire 03431**

\_\_\_\_\_  
(Address of Owner)

hereinafter called **OWNER** and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the contract and to their successors

and assigns, in the total aggregate penal sum of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$) \_\_\_\_\_) in lawful money of the United States, for the payment of which sum 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 whereas, the Principal entered into a certain contract with the **OWNER**, dated the \_\_\_\_\_ day of \_\_\_\_\_ 2021, a copy of which is hereto attached and made a part hereof for the construction of: \_\_\_\_\_

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, and corporations furnishing materials for or performing labor in the prosecution of the **WORK** provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment, and tools, consumed or used in connection with the

construction of such **WORK**, and for all labor cost incurred in such WORK including that be a subcontractor, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal Law; then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the subcontractors, and persons, firms, and corporations having a direct contract with the PRINCIPAL or its SUBCONTRACTORS

PROVIDED FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or the **WORK** to be performed thereunder or the **SPECIFICATIONS** accompanying the same shall in any way affect its obligation on this **BOND**, and it does hereby waive notice of any such change, the extension of time, alteration, or addition to the terms of the contract or to the **WORK** or to the **SPECIFICATIONS**.

PROVIDED, FURTHER that 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 to any two of the following: The PRINCIPAL, the OWNER, or 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 mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction 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 from the certified date of substantial completion** following the date on which PRINCIPAL ceased work on said CONTRACT, it being understood, however, that if any limitation embodied in the 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.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this BOND and whether referring to this BOND, the contract or the loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

**PROVIDED FURTHER**, that no final settlement between the **OWNER** and the **CONTRACTOR** shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

**IN WITNESS WHEREOF**, this instrument is executed in \_\_\_\_\_ counterparts, each one of  
(number)

which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 2021

**ATTEST:**

**Principal**

By:

\_\_\_\_\_  
(Principal) Secretary

**(SEAL)**

By

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Address)

By:

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Address)

\_\_\_\_\_  
(Surety)

**ATTEST:**

By

\_\_\_\_\_  
Attorney - in - Fact

By

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*NOTE: The date of BOND must not be prior to date of the Contract. If the CONTRACTOR is Partnership, all partners should execute BOND. Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of New Hampshire.*

**PERFORMANCE BOND**

*This Bond shall remain in effect for one (1) year from the certified date of substantial completion*

**KNOW ALL MEN BY THESE PRESENTS:** that

\_\_\_\_\_  
(Name of Contractor)

,

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called Principal,

(Corporation, Partnership or Individual)

and

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

**The City of Keene, New Hampshire**

\_\_\_\_\_  
(Name of Owner)

**3 Washington Street, Keene, New Hampshire 03451**

\_\_\_\_\_  
(Address of Owner)

hereinafter called **OWNER**, in the total aggregate penal sum of

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )

in lawful money of the United States, for the payment of which sum 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 whereas, the Principal entered into a certain contract with the **OWNER**, dated the \_\_\_\_\_ day of \_\_\_\_\_ 2021, a copy of which is hereto attached and made a part hereof for the construction of:

**NOW, THEREFORE**, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extension thereof which may be granted by the **OWNER**, with or without notice to the Surety and during the one year guaranty period, (**which is one year from the certified date of substantial completion**) and if the

PRINCIPAL shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the **OWNER** from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the **OWNER** all outlay and expense which the **OWNER** may incur in making good any default, then this obligation shall be void: otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value, received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to WORK to be performed thereunder or the specifications accompanying same shall in any way affect its obligation 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 or to the WORK or to the specifications.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this BOND and whether referring to this BOND, the contract or the loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

**IN WITNESS WHEREOF**, this instrument is executed in \_\_\_\_\_ counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

SAMPLED DOCUMENT

\_\_\_\_\_  
Principal

By: \_\_\_\_\_  
(Principal) Secretary

(SEAL) By \_\_\_\_\_

(Address) \_\_\_\_\_

By: \_\_\_\_\_

Witness as to Principal

\_\_\_\_\_  
(Address)

\_\_\_\_\_

**ATTEST:**

By

\_\_\_\_\_  
(Surety)

\_\_\_\_\_  
Attorney - in - Fact

By

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

*NOTE: The date of BOND must not be prior to the date of the Contract. If the CONTRACTOR is Partnership, all partners should execute BOND. Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of New Hampshire.*

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