PAYMENT BOND

(CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the Ontario-Montclair School District (sometimes referred to hereinafter as “Obligee”) has awarded to _______________________________ (hereinafter designated as the “Principal” or “Contractor”), an agreement for the work described as follows:

____________________________________ (hereinafter referred to as the “Public Work or Project”);

and

WHEREAS, said Contractor is required to furnish a bond in connection with said Contract, by Division 4, Part VI, Title III, Chapter 5 (commencing at Section 9550) of the California Civil Code;

NOW, THEREFORE, We, _____________________ __________________, the undersigned Contractor, as Principal; and ____________________ ____________, a corporation organized and existing under the laws of the State of ________________, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Ontario-Montclair School District and to any and all persons, companies, or corporations entitled by law to file stop notices under California Civil Code section 9100, or any person, company, or corporation entitled to make a claim on this bond, in the sum of ______________________________________ Dollars ($__________________), such sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code section 9100; or fail to pay for any materials, provisions, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code section 13020, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code section 13020 with respect to work and labor thereon of any kind, then said Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys’ fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code section 9550 et seq.

This bond shall inure to the benefit of any person named in Civil Code section 9100 giving such person or his/her assigns a right of action in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, Plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described; or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants
otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Obligee and the Contractor or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code section 9100, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the___________ day of ___________________, 20___.

PRINCIPAL/CONTRACTOR:

__________________________________________

By: _______________________________________

SURETY:

_______________________________

By: ________________________________
   Attorney-in-Fact
IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety’s name must also appear on the Treasury Department’s most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:
(Name and Address of Surety) (Name and Address of agent or representative for service for service of process in California)

Telephone: ___________________________ Telephone: ___________________________

STATE OF CALIFORNIA )
) ss.
COUNTY OF )

On ___________________________ before me, ____________________________________, a Notary Public in and for said State, personally appeared _______________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument as the Attorney-in-Fact of the _____________________ (Surety) and acknowledged to me that he/she/they subscribed the name of the ________________ (Surety) thereto and his own name as Attorney-in-Fact on the executed instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

______________________________ (SEAL)
Notary Public in and for said State

Commission expires: ___________________________

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.
PERFORMANCE BOND

(CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the Ontario-Montclair School District (sometimes referred to hereinafter as “Obligee”) has awarded to ___ ______________________________________ (hereinafter designated as the “Principal” or “Contractor”), an agreement for the work described as follows: ______________________________________ (hereinafter referred to as the “Public Work or Project”); and

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for said Public Work dated _____________ ____________________, (hereinafter referred to as the “Contract”), which Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, ___________________ ___________________, the undersigned Contractor, as Principal, and ________________ ________________, a corporation organized and existing under the laws of the State of ________________, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Ontario-Montclair School District in the sum of _____________________________________ Dollars ($_______________), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which amount 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 the bounded Contractor, his or her heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in said Contract and any alteration thereof made as therein provided, on his or her part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill guarantees of all materials and workmanship; and indemnify, defend and save harmless the Obligee, its officers and agents, as stipulated in said Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any change, extension of time, alteration in or addition to the terms of the contract or to the work to be performed there under or the specifications accompanying the same, nor by any change or modification to any terms of payment or extension of time for any payment pertaining or relating to any scheme of work of improvement under the contract. Surety also stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any overpayment or underpayment by the Obligee that is based upon estimates approved by the Architect. The Surety stipulates and agrees that none of the aforementioned changes, modifications, alterations, additions, extension of time or actions shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, modifications, alterations, additions or extension of time to the terms of the
contract, or to the work, or the specifications as well notice of any other actions that result in the
foreshadowing.

Whenever Principal shall be, and is declared by the Obligee to be, in default under the Contract,
the Surety shall promptly either remedy the default, or shall promptly take over and complete the Contract
through its agents or independent contractors, subject to acceptance and approval of such agents or
independent contractors by Obligee as hereinafter set forth, 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 Obligee’s
sole discretion and election, Surety shall obtain a bid or bids for completing the Contract in accordance
with its terms and conditions, and upon determination by Obligee of the lowest responsible bidder,
arrange for a contract between such bidder and the Obligee and make available as work progresses (even
though there should be a default or 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” (as hereinafter defined), 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. The term “balance of the Contract price,” as used in this paragraph, shall
mean the total amount payable to Principal by the Obligee under the Contract and any modifications
thereof, less the amount previously paid by the Obligee to the Principal, less any withholdings by the
Obligee allowed under the Contract. Obligee shall not be required or obligated to accept a tender of a
completion contractor from the Surety.

Surety expressly agrees that the Obligee may reject any agent or contractor which may be
proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Unless
otherwise agreed by Obligee, in its sole discretion, Surety shall not utilize Principal in completing the
Contract nor shall Surety accept a bid from Principal for completion of the work in the event of default by
the Principal.

No final settlement between the Obligee and the Contractor shall abridge the right of any
beneficiary hereunder, whose claim may be unsatisfied.

The Surety shall remain responsible and liable for all patent and latent defects that arise out of or
relate to the Contractor’s failure and/or inability to properly complete the Public Work as required by the
Contract and the Contract Documents. The obligation of the Surety hereunder shall continue so long as
any obligation of the Contractor remains.

Contractor and Surety agree that if the Obligee is required to engage the services of an attorney in
connection with enforcement of the bond, Contractor and Surety shall pay Obligee’s reasonable attorneys’
fees incurred, with or without suit, in addition to the above sum.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety
shall pay all costs incurred by the Obligee in such suit, including reasonable attorneys’ fees to be fixed by
the Court.
IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of ____________, 20__.

PRINCIPAL/CONTRACTOR:

By: ________________________________

SURETY:

____________________________________

By: ________________________________

Attorney-in-Fact

The rate of premium on this bond is ______________________________ per thousand.

The total amount of premium charged: $__________________________ (This must be filled in by a corporate surety).

IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety’s name must also appear on the Treasury Department’s most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:
(Name and Address of Surety)  (Name and Address of agent or representative for service for service of process in California)

____________________________________  ______________________________________

____________________________________  ______________________________________

Telephone: __________________________  Telephone: __________________________
STATE OF CALIFORNIA                                    )
                                          ) ss.
COUNTY OF                                        )

On ____________________________, before me, _________________________, a Notary Public in
and for said State, personally appeared _______________________________, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument
as the Attorney-in-Fact of the _____________________ (Surety) and acknowledged to me that
he/she/they subscribed the name of the _____________________ (Surety) thereto and his own name as
Attorney-in-Fact on the executed instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

______________________________                    (SEAL)
Notary Public in and for said State

Commission expires:____________________________

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be
attached hereto.