TAKEOVER AGREEMENT – federal projects

This Takeover Agreement (the “Agreement”) is made and entered as of the Effective Date by and between the United States of America, acting by and through the [*name of federal agency*] (“the Government”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Surety”) (individually, a “Party” and collectively, the “Parties”).

Recitals

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Principal”) entered into a contract dated \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_ (the “Contract”), with the Government to furnish certain labor and material and perform work on a construction project referred to as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Project”), in accordance with the terms and provisions of the Contract, including all documents incorporated by reference therein and all modifications made under the terms and conditions of the Contract.
2. Surety issued a Performance Bond (the “Performance Bond”) and a Payment Bond (the “Payment Bond”), both numbered \_\_\_\_\_\_\_\_\_\_ and each in the penal sum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in connection with the Project naming Principal as principal and the Government as obligee (collectively, the “Bonds”).
3. On or about \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_, the Government declared Principal in default under the Contract.
4. [*Alternative language when Principal abandons*: On or about \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_, Principal advised the Parties that it was financially unable to complete the performance of its work on the Project and to comply with its contractual obligations and irrevocably and voluntarily abandoned performance of the Contract, and the Government declared Principal in default.]
5. On or about \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_, the Government terminated Principal’s right to proceed with work under the Contract, and made demand upon Surety under the terms of the Performance Bond.
6. [*Alternative language when principal disputes termination (to be used with reservation language below)*: Principal contends that the Government is in default of and improperly terminated Principal’s right to proceed with work under the Contract.
7. Subject to the reservation of rights set forth below, Surety is willing to undertake and arrange for the performance of the work remaining under the Contract (the “Work”) pursuant to the terms of the Performance Bond and this Agreement provided the entire Contract Balance as defined below [*For unit price contracts, consider adding*: (subject to adjustment for variations in the estimate quantities in accordance with the Contract)] is paid to Surety in accordance with this Agreement and certain other agreements set forth below are made between the Parties.

In consideration of the agreements and undertakings set forth below and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

Agreements

# **Takeover and Performance of the Work.** As provided in FAR, Section 49.404(e), Surety agrees to undertake and arrange for the performance of the Contract, including any and all agreed written amendments and/or change orders thereto. The Government acknowledges that Surety is acting in its capacity as surety for Principal in undertaking and arranging for the performance and completion of the Contract, and not as a completing contractor or a design professional. The Government acknowledges that Surety is neither responsible for nor assuming any obligations or liabilities beyond those set forth in the Performance Bond and this Agreement. The Government acknowledges that Surety’s obligation or loss shall not, under any circumstances, exceed the penal sum of the Performance Bond. For purposes of completion of the Contract, except as may otherwise be provided in this Agreement, Surety is entitled to all rights, title, and interest of Principal in and to the Contract in all respects as if Surety were the original party to the Contract. The term “Contractor” as used in the Contract shall be deemed, after the Effective Date, to refer to Surety rather than Principal.

Surety reserves the right to assert all claims, rights, and defenses against the Government that Principal now has or Surety may now have or acquire in the future in connection with the Contract and the Bonds. Nothing in this Agreement will be construed as a waiver of any rights, remedies, claims, or defenses by Principal against the Government.

Moreover, any agreements with respect to the warranty work of Principal and/or Completion Contractor or corrective work as a result of latent defect(s) in the work performed by Principal or Completion Contractor shall require written notice to Surety by the Government.

[*If Principal is executing the Takeover Agreement, consider the following language, as well as an appropriate signature block:* Principal hereby confirms and acknowledges that Principal has and hereby transfers all such claims, rights, and defenses to Surety. All rights, remedies, claims, or defenses Principal now has or may hereinafter acquire against the Government are hereby reserved.]

Surety has the right to assign personnel to the Project that it believes are in the best interest of the Project’s successful completion, and approval of such assignment of personnel will not be unreasonably withheld.

# **Appointment of Completion Contractor.** The Government acknowledges that Surety may undertake and arrange for the performance of the Work pursuant to one or more separate agreements with one or more independent agents/entities and/or one or more completion contractors (collectively, “Completion Contractor”). The Government hereby consents to Surety’s selection of Completion Contractor and agrees that Completion Contractor is competent and qualified to complete the Work in accordance with Section 49.404(c) of the Federal Acquisition Regulation (“FAR”) The Government does reserve the right to object to any changes in selection. Surety agrees to provide Government with a copy of the Completion Agreement once executed. Surety may satisfy the required insurance obligations under the Contract by providing evidence of the required insurance coverage carried by Completion Contractor, with the Government and Surety names as additional insureds under the policy or policies.

# **Contract Balance.** The Government and Surety agree that as of the Effective Date:

## The authorized amount of the Contract, including all additions and deductions through Change Order No. \_\_\_, is $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

## Principal has been paid the sum of $\_\_\_\_\_\_\_\_\_\_.

## The “Contract Balance” shall be hereinafter defined as the sum of $\_\_\_\_\_\_\_\_\_\_ (subsection (a) minus subsection (b)). The Contract Balance shall be adjusted as a result of any change order executed by the Parties after the Effective Date.

## [*When there are pending change orders at the time of execution, consider adding*: As of the Effective Date, there are pending change orders identified as follows:]

## The Government is currently holding the sum of $\_\_\_\_\_\_\_\_\_\_ in retainage pursuant to the Contract, which sum is included in the Contract Balance.

## The Contract Balance shall be increased or decreased as a result of any changes to the scope of the Work as provided by the Contract.

## Subject to the foregoing paragraph, as of the Effective Date, the Government represents and warrants that the Contract Balance is accurate. Surety reserves the right to verify the accuracy of the Contract Balance. Surety’s sole remedy against the Government for the discovery of any deviation in the true Contract Balance from the above stated Contract Balance is reformation of the Contract Balance to the proper amount.

## Any pending Contract modifications and any future Contract modifications will be processed and resolved in the ordinary course pursuant to the terms of the Contract.

## As provided in Section 49.404(e)(1) of the FAR, any unpaid earnings of Principal, including progress estimates for work accomplished before the date of this Agreement are subject to debts due the Government by Principal, except to the extent that the unpaid earnings may be used to pay Surety and Completion Contractor the actual costs and expenses incurred in the completion of the Work.

# **Payment of the Contract Balance.** The Government agrees that the Contract Balance is dedicated to and shall be paid to Surety for completion of the Work in accordance with the Contract and this Agreement. The payment of the Contract Balance to Surety shall be made in accordance with the terms and conditions of the Contract and this Agreement as to the time, amount, and method of payment. No payment shall be delayed by reason of any prior breach in the performance of Work by Principal or by reason of any slow down or cessation of work in connection with the takeover of the Contract by Surety. Further, in no event shall the Government withhold, set off, or backcharge any of the Contract Balance from Surety because of or on account of any claims, liens, lawsuits, or demands by any persons or entities furnishing or alleging to have furnished labor and/or materials to the Project or because of any costs or expenses incurred as a result of such claims, including, but not limited to, legal fees, court costs, administrative fees, or other consequential damages.

The Government recognizes that Surety’s equitable lien and equitable subrogation rights to the Contract Balance date back to the execution of the Bonds, including but not limited to, those rights and remedies that may accrue during the completion of the Contract. No waiver of such rights is agreed to or implied or intended regardless of any provision of this Agreement to the contrary.

All Contract Balance payments to Surety will be delivered to Surety by EFT to:

[***insert name of financial institution***]  
[***insert address***]  
Routing #[***insert number***]  
Acct#[***insert number***]  
Name on Account: [***insert name***]  
Box #[***insert number***]

This account has been added in SAM. The Duns + 4 number and CAGE number will be confirmed by separate communication from Surety to Government. As provided in Section 49.404(e)(4) of the FAR, the Government must not pay Surety more than the amount it expends completing the Work and discharging its liabilities under the Bonds. Payments to Surety to reimburse it for discharging its liabilities under the applicable Payment Bond must be only on authority of: (i) mutual agreement among the Government, Principal, and Surety; (ii) determination of the Comptroller General as to payee and amount; or (iii) order of a court of competent jurisdiction.

# Surety does not, under this Agreement or otherwise, assume any civil or criminal liability of Principal for violations of 31 USC 3729.

# **Use of Equipment and Materials.** Insofar as the Government has any right, title, or interest therein, the Government agrees that Surety, its agents and contractors shall have the right to use, without charge by the Government, any materials, supplies, equipment, or personal property furnished or supplied by Principal which are stored on the site of the Project or which may have been fabricated for use in connection with the Project, whether or not presently upon the Project site; provided, that nothing in this provision will relieve Surety from the obligation to pay for materials, supplies, equipment, or personal property to the extent that such is required by the terms of the Contract and Bonds; and, further provided that, should Surety desire to use any such materials, supplies, equipment or personal property that are not located on the Project site, the handling and transportation costs for moving such items to the Project site shall be at Surety’s expense.

# **Time for Performance**. The Government and Surety will agree on a schedule establishing a new construction completion date for the Work and Surety will submit the revised schedule for use by the Parties in administering the Contract. Surety will cause the Work to be completed pursuant to this Agreement on or before [***insert Completion Date***] (“Completion Date”). Surety is hereby granted a non-compensatory time extension from the original completion date until the Completion Date. As consideration for the non-compensatory time extension, Surety hereby waives any right to claim damages as a result of any delays that may have been caused by the Government. Liquidated damages under the Contract and this Agreement, if any, shall not commence sonner than the day after the Completion Date, as may be adjusted according to any requests for the extension of the Completion Date for excusable delays alleged by Surety and granted by the Government in the performance of the Contract and this Agreement.

# [*If Principal is executing the Takeover Agreement as evidence of its consent to the surety’s takeover, consider the following language, as well as an appropriate signature block:*] Principal agrees that the Government is not obligated to pay or reimburse it for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer of this Agreement, other than those that the Government in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the Contract.

# The Government agrees that, after the date of this Agreement, no assignment of contract proceeds under the Assignment of Claims Act of 1940 (the “Act”) will be recognized by the Government to any lender or other third party assignee of Principal and Surety’s equitable lien, subrogation, and other rights to the Contract Balance as set forth in this Agreement. Subject to and without waiving the Surety’s equitable lien and subrogation rights to the Contract Balance, the Government recognizes Surety’s additional rights, as assignee, to the Contract Balances pursuant to the terms of this Agreement and the General Indemnity Agreement (“the Indemnity Agreement”) among Surety, Principal, and its indemnitors, the terms of which are incorporated herein by reference, and, to the extent expressly provided for in this Agreement, the Government expressly waives the provisions of the Act in connection with this assignment of Contract Balances to Surety.

# The Government shall not be bound to any contractor as a result of this Agreement and shall look only to Surety for ensuring completion in accordance with the terms of this Agreement and the Contract, subject to the penal sum of the Performance Bond. In that regard, any change orders or directions of the Government that are negotiated with, or directed to, the Completion Contractor or any other third party as authorized by Surety pursuant to this Agreement, or any subsequent authorization, shall not thereby create any contractual rights between the Government and the Completion Contractor or any other third party.

# **Notices**. All notices sent in accordance with the Contract or this Agreement shall be sent to the Party to receive such notice at the addresses set forth below or to such other address as either Party may specify in writing, and shall be presumed to have been given three (3) calendar days after mailing, provided mailing was by certified mail, with a copy transmitted by electronic mail, addressed to the intended recipient at its address set forth below:

Surety:  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

With a copy to:

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

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

The Government:  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

With a copy to:

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

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

# **The Performance Bond**. Surety ratifies and confirms its Performance Bond and that the same remains in full force and effect, in accordance with its terms and provisions. Surety’s total liability under this Agreement and the Performance Bond for the performance of the work, after the expenditure of the Contract Balance, is limited to and shall not exceed the penal sum of the Performance Bond. Surety agrees to spend its own funds as may be necessary from time to time to pay for the performance of the Contract by Completion Contractor in the event that the Contract Balance is insufficient, with any and all such payments being credited against the penal sum of the Performance Bond. Nothing in this Agreement constitutes a waiver of such penal sum or an increase in the liability of Surety under the Performance Bond. In the amplification of the foregoing, it is the intention of the Parties that the Surety’s ultimate loss upon completion of the Contract shall not exceed under any circumstances the penal sum of the Performance Bond. Upon Surety’s expenditure of the penal sum, its obligations to further perform under this Agreement shall immediately cease and its obligations under the Performance Bond shall be immediately discharged.

# **The Payment Bond.** Surety ratifies and confirms its Payment Bond and that the same remains in full force and effect, in accordance with its terms and provisions. In no event shall the Government withhold any of the Contract Balance from Surety because of or on account of any claims, liens, suits or demands by any persons or entities furnishing or alleging to have furnished labor and/or materials to the Project. The total liability of the Surety under the Payment Bond is limited to and shall not exceed the penal sum of the Payment Bond. All Payment Bond payments made by Surety shall be credited against the penal sum of the Payment Bond. Nothing in this Agreement constitutes a waiver of such penal sum or an increase in the liability of Surety under the Payment Bond.

The Government acknowledges that claims have been or may be asserted on the Payment Bond by Principal’s unpaid suppliers and/or subcontractors. Unless required by law, the Government acknowledges that it is not authorized to and agrees not to make any representations or promises regarding payment to such suppliers and/or subcontractors, and the Government shall refer all inquiries from such suppliers and/or subcontractors with respect to payment to Surety. Surety shall have the right to settle, compromise, defend, appeal, pay, or dispute such claims as it, in its sole and complete discretion, may deem appropriate in accordance with the terms of the Payment Bond and applicable law.

# **Reservation of Rights.** [*Full general reservation of rights*: Except as otherwise expressly set forth herein, Surety, for itself and for Principal, and the Government reserve all of their respective rights, claims, and defenses under the Contract, the Bonds, at law, and in equity. Neither this Agreement nor any provision hereof shall be deemed or construed to be an admission or concession of liability of any kind or nature by Principal, Surety, or the Government or a waiver of any right, claim, or defense the Principal, Surety, or the Government may have under the Contract, the Bonds, at law, and in equity. It is the understanding and intention of the Parties that, except as expressly set forth herein, any claims or contentions that may have been made or that may be made in relation to the Contract, the Bonds, at law, or in equity are in no way affected by this Agreement, and that by entering into this Agreement, the Parties acknowledge and agree that any and all rights, claims, or defenses which Principal and/or Surety may believe themselves to have against the Government or the Government may believe itself to have against Principal and/or Surety in relation to the Contract, the Bonds, at law, or in equity are in no way impaired or reduced by this Agreement and are fully reserved.]

[*Full reservation with identification of particular claims (claims identified used as examples only)*: Neither this Agreement nor any provision hereof shall be deemed or construed to be an admission or concession of liability of any kind or nature by Principal, Surety, or the Government or a waiver of: (i) any of the rights or claims of Principal or Surety in relation to the Contract, the Bonds, at law, or in equity, including, but not limited to, the claim that the Government prejudiced Surety by reducing the Contract Balance contrary to the terms of the Contract [*or identify such other variation from the terms of the Contract by the Government*], the claim that the Government prejudiced Surety by not mitigating damages, claims for pending change orders and extensions of time; or (ii) of any rights or claims of the Government in relation to the Contract, the Bonds, at law, or in equity, including, but not limited to, the Government’s claim for liquidated damages and backcharges. It is the understanding and intention of the Parties that, except as expressly set forth herein, any claims or contentions that may have been made or that may be made in relation to the Contract, the Bonds, at law, or in equity, including, without limitation, those identified above, are in no way affected by this Agreement, and that by entering into this Agreement, the Parties acknowledge and agree that any and all rights, claims, or defenses which Principal and/or Surety may believe themselves to have against the Government or the Government may believe itself to have against Principal and/or Surety in relation to the Contract, the Bonds, at law, or in equity are in no way impaired or reduced by this Agreement and are fully reserved.]

[*If Principal disputes termination and Surety wishes to reserve rights with respect to same:* Principal disputes the termination of the Contract by the Government, contending that the Government is in default under the terms of the Contract. Except as otherwise specifically stated in this Agreement, the Parties acknowledge and agree that Surety reserves and does not waive any rights, remedies, and defenses that Surety or Principal may have against The Government with respect to any claims or defenses that Surety or Principal may have against the Government for wrongful termination or otherwise, including, but not limited to, claims for reimbursement of Surety’s reasonable costs and expenses incurred under this Agreement in excess of the Contract Balance, any damages incurred by Principal as a result of wrongful termination, claims for additional compensation, balances due and owing, time extensions, reduction of or elimination of liquidated damages, and any other damages that may be claimed by Surety or Principal under this Agreement, the Contract, or the Bonds. Except as otherwise specifically stated in this Agreement, Surety and the Government acknowledge and agree that the Government reserves and does not waive any rights, remedies, and defenses it may have against Surety and/or Principal; except, however, the Government acknowledges and agrees that Surety’s execution and satisfactory performance under this Agreement constitutes Surety’s performance of its obligations under the Performance Bond.]

# **Rights against Third Parties.** The Parties expressly reserve all claims, rights, remedies, and defenses they may have against any person or legal entity not a signatory hereto, including, but not limited to, Principal, and any and all suppliers, materialmen, and subcontractors.

# **No Third Party Rights.** This Agreement is solely for the benefit of the Parties. The Parties do not intend by any provision of this Agreement to create any rights in favor of or increase the rights of any third party, nor confer any benefit or enforceable rights, under this Agreement or otherwise, upon any person or entity other than the Parties. Further, the Parties acknowledge and agree that nothing in this Agreement is intended to or shall be construed to grant or expand any rights of any third-party claimants or the liabilities or obligations of Surety under the Bonds or waive or alter any available defense or limitation against any third-party claims.

# **Entire Agreement.** This Agreement constitutes the entire Agreement and understanding of the Parties hereto relating to the subject matter hereof, and shall supersede all prior or contemporaneous agreements, understandings, representations, and warranties, whether written or oral, relating to the subject matter hereof. Each of the Parties acknowledges that the other Party, or anyone acting on behalf of the other Party has made no representations, inducements, promises, or agreements, orally or otherwise, unless such representations, inducements, promises, or agreements are expressly embodied in this Agreement.

# **No Waiver**. This Agreement does not waive, alter, or modify any rights or obligations set forth in the Indemnity Agreement, or any contract or agreement, by and between Principal and Surety. Surety expressly hereby reserves all rights, remedies, and defenses that it may have against Principal and any other indemnitors, whether at law, under contract, or in equity. The Government expressly reserves any and all prior rights under the Contract or at law. Except as otherwise set forth in this Agreement, no waiver of such rights is agreed to, implied, or intended.

# **Illegality, Unenforceability, or Invalidity.** If any term or provision of this Agreement is construed or found to be void, voidable, illegal, unenforceable, or invalid, such term or provision will not affect the legality, enforceability, or validity of any of the other terms or provisions of this Agreement. The illegal, unenforceable, or invalid term or provision shall be deemed stricken and deleted, but all other terms and provisions shall nevertheless continue and be given full force and effect as if the illegal, unenforceable, or invalid terms or provisions had never been incorporated.

# **Additional Actions that May be Required.** The Parties shall execute such documents and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby.

# **Modifications to this Agreement.** No modification, amendment, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties. Any attempted amendment or modification of this Agreement that does not comply with this Paragraph shall be deemed void.

# **Construction.** The Recitals to this Agreement are incorporated into this Agreement and form a part of the terms and conditions of this Agreement. The provisions of this Agreement are contractual and are not mere recitals. The Parties, together with their respective attorneys if any, participated in the drafting and preparation of this Agreement. Therefore, this Agreement shall not be construed in favor of or against any Party on the basis that any such Party did or did not draft this Agreement or any attachment to it.

# **Headings.** The headings of the sections and subsections of this Agreement are inserted for convenience only and shall not control or affect the meaning, construction, or effect of this Agreement, or any provisions hereof.

# **Execution in Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

# **Authority.** This Agreement has been duly executed and delivered by the parties hereto and constitutes a legal, valid, and binding obligation of the parties. Each person executing this Agreement on behalf of a Party hereto represents and warrants that they have full right and authority to enter into this Agreement. The person or persons signing and executing this Agreement on behalf of the Party, or representing themselves as signing and executing this Agreement on behalf of the Party, do hereby warrant and guarantee that he, she, or they have been duly authorized by the Party to execute this Agreement and to validly and legally bind the Party to all terms, performances, and provisions herein set forth. By their signatures below, the duly authorized representatives of the Parties accept the terms of this Agreement in full.

# **Successors and Assigns.** This Agreement and the respective rights and obligations of the Parties shall inure to the benefit and be binding upon the successors and assigns of the Parties.

# **Effective Date.** The Effective Date of this Agreement is the date of the last signature below.

*[Remainder of page left blank intentionally.]*

**UNITED STATES OF AMERICA**  
  
  
  
By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Its: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF §  
 §  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and that he executed the same as the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_\_\_\_

My Commission Expires:  
  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SURETY**  
  
  
  
By:   
Its:

STATE OF §  
 §  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and that he executed the same as the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_\_\_\_

My Commission Expires:  
  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*When Principal voluntarily defaulting and consents to takeover by Surety, consider adding*:

PRINCIPAL’S CONSENT AND AGREEMENT  
TO THIS TAKEOVER AGREEMENT

Principal, by its authorized representative below, who acknowledges that he/she has the full right, power, and authority to execute this Consent and Agreement on behalf of Principal, hereby consents to cease its performance of the Work under the Contract so that The Government and Surety, with Principal’s consent and agreement, may arrange for a Completion Contractor to perform the Work.

**PRINCIPAL**  
  
  
  
By:   
Its:

STATE OF §  
 §  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and that he executed the same as the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_\_\_\_

My Commission Expires:  
  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]