****

**HECO-10.1**

**STANDARD LABOR AND MATERIAL PAYMENT BOND**

**KNOW ALL BY THESE PRESENTS**: That       (“Contractor”) whose principal place of business is located at       , and       (“Surety”) whose address for delivery of ‘Notices’ is located at       , are held and firmly bound unto the Commonwealth of Virginia and The Rector and Visitors of the University of Virginia, the Owner, (collectively, the “University”) in the amount of       Dollars ($     ) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS,**

Contractor has by written agreement dated       entered into a contract with University for       which contract (the "Contract") is by reference expressly made a part hereof;

**NOW THEREFORE, THE CONDITION OF THIS OBLIGATION** is such that, if the Contractor shall promptly make payment to all claimants as hereinafter defined, for labor performed and material furnished in the prosecution of the Work provided for in the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions.

The Contractor and Surety, jointly and severally, hereby agree with University as follows:

1. A claimant is defined as one having a direct contract with the Contractor or with a subcontractor of the Contractor for labor, material, or both for use in the performance of the Contract. A ''subcontractor'' of the Contractor, for the purposes of this bond only, includes not only those subcontractors having a direct contractual relationship with the Contractor, but also any other contractor who undertakes to participate in the Work which the Contractor is to perform under the aforesaid Contract, whether there are one or more intervening subcontractors contractually positioned between it and the Contractor (for example, a subcontractor). ''Labor'' and ''material'' shall include, but not be limited to, public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the work site.

2. Any claimant who has a direct contractual relationship with the Contractor and who has performed labor or furnished material in accordance with the Contract documents in the furtherance of the Work provided in the Contract, who has not been paid in full therefor before the expiration of ninety (90) days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on this bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The University need not be a party to such action and shall not be liable for the payment of any costs, fees or expenses of any such suit.

1. Any claimant who has a direct contractual relationship with any subcontractor of the Contractor but who has no contractual relationship, express or implied, with the Contractor, may bring an action on this bond only if he has given written notice to the Contractor within ninety (90) days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the Work was performed or to whom the material was furnished. Notice to the Contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to the Contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this paragraph 3.

4. No suit or action shall be commenced hereunder by any claimant.

a. Unless brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, the limitation embodied within this bond shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

b. Other than in a Virginia court of competent jurisdiction, with venue as provided by statute, or in the United States District Court for the district in which the project, or any part thereof is situated.

1. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

Signed and sealed this       day of

 *Contractor* **(SEAL)**

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

*Witness* Typed Name:

 Title:

 *Surety* **(SEAL)**

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

 *Attorney-in-Fact*

 Typed Name:

**AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT**

COMMONWEALTH OF VIRGINIA

(or alternatively, Commonwealth or State of       )

 of

I, the undersigned notary public, do certify that      , whose name is signed to the foregoing labor and material payment bond in the sum of       Dollars ($     ) and dated       and which names the Commonwealth of Virginia and The Rector and Visitors of the University of Virginia as obligee, personally appeared before me today in the above jurisdiction and made oath that he/she is the attorney-in-fact of      , a       corporation which is the Surety in the foregoing bond, that he/she is duly authorized to execute on the above Surety’s behalf the foregoing bond pursuant to the Power of Attorney noted above and attached hereto, and on behalf of the surety, he/she acknowledged the foregoing bond before me as the above Surety’s act and deed

She/he has further certified that her/his Power of Attorney has not been revoked.

(The Power of Attorney, or a copy or facsimile thereof, should be attached hereto.)

Given under my hand this       day of      .

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

 *Notary Public*  (SEAL)

My name (printed) is:

My registration number is:

My commission expires:

APPROVED:

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

*Attorney General/Designee* Date