

**FIGURE 20**  
**BOND FORMS**

**A. PERFORMANCE/WARRANTY BOND**

KNOW ALL MEN BY THESE PRESENTS:

THAT [Insert the legal name and address of Contractor for Subdivider/Developer] \_\_\_\_\_, as Principal, hereinafter called the "Contractor", and [insert the legal title of surety] \_\_\_\_\_, as surety, hereinafter called the "Surety", are held and firmly bound unto [Insert the legal name and address of the owner of the bond (Subdivider/Developer)] \_\_\_\_\_ as obligee, hereinafter called "Owner", 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 \_\_\_\_\_, 20\_\_\_\_, entered into a contract with Owner to construct [Insert project name and City Project Number] \_\_\_\_\_ in accordance with drawings and specifications prepared by [name and title:] \_\_\_\_\_ which contract is by reference made a part hereof, and is hereinafter referred to as the "Contract".

NOW, THEREFORE, the condition of the obligation is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever the Contractor shall be, and is declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations there under; the Surety may promptly remedy the default or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for submission to Owner for completing the Contract in accordance with its terms and conditions, and, upon determination by Owner and Surety of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make

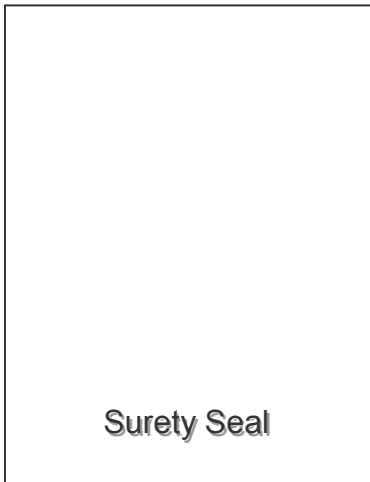
available as work progresses (even though there should be default or a succession of defaults under the Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion, but not exceeding, including other costs, and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.

The Contractor shall guarantee any and all work performed under this bond against defective materials and workmanship, for a period of one (1) year following its completion and its acceptance by the City of Albuquerque.

Any suit under this bond must be instituted before the expiration of one (1) year from the date on which final payment under the Contract falls due.

Following the completion and formal acceptance by the City of Albuquerque of any and all work performed under this bond, the right of action with respect to the guarantee against defective materials and workmanship on this bond shall accrue to and for the City of Albuquerque, a municipal corporation, and if the work includes water and wastewater infrastructure, the Albuquerque Bernalillo County Water Utility Authority, a political subdivision of the State of New Mexico.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.



Name of Surety:

\_\_\_\_\_

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

Its [Title] \_\_\_\_\_

Local Agent of Surety:

\_\_\_\_\_

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

\_\_\_\_\_

Phone: \_\_\_\_\_



Name of Principal (Contractor):

\_\_\_\_\_

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

Its [Title] \_\_\_\_\_

If contractor does not have a company seal, notarization of contractor signature is required.

CONTRACTOR'S NOTARY

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by [name(s) of person(s):] \_\_\_\_\_,  
[title or capacity, for instance, "President", "Member", "Partner", etc...:] \_\_\_\_\_  
of [Contractor:] \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

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

[SURETY POWER OF ATTORNEY ATTACHED]

**B. LABOR AND MATERIAL PAYMENT BOND**

Note: This bond is issued simultaneously with the performance/warranty bond in favor of the owner/subdivider/developer conditioned for the full and faithful performance of the contract.

KNOW ALL PERSONS BY THESE PRESENTS:

That [insert the legal name and address of contractor for Subdivider/Developer] \_\_\_\_\_  
\_\_\_\_\_  
as principal, hereinafter called the "Contractor", and [insert the legal title of surety] \_\_\_\_\_  
\_\_\_\_\_  
as surety, hereinafter called "Surety", are held and firmly bound unto [insert the legal name and  
address of the bond (Subdivider/Developer)] \_\_\_\_\_  
as obligee, hereinafter called "Owner", for the use and benefit of claimants as herein below  
defined, in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for  
the payment whereof Contractor and Surety firmly bind themselves, their heirs, executors,  
administrators, successors, and assigns jointly and severally by these presents.

WHEREAS, Contractor has by written agreement dated \_\_\_\_\_ entered  
into contract with the Owner for [Insert project name and City Project Number] \_\_\_\_\_  
\_\_\_\_\_  
in accordance with drawings and specifications prepared by [name and title:] \_\_\_\_\_  
\_\_\_\_\_. Which  
contract is by reference made a part hereof, and is hereinafter referred to as the "Contract".

NOW, THEREFORE, the condition of this obligation is such that, if the Contractor shall promptly make payments to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void, otherwise it shall remain in full force and effect, subject, however, to the following conditions:

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, used or reasonably required for use in the performance of the contract, labor and material being constructed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Contractor and Surety hereby jointly and severally agree with the Owner that every claimant, as herein defined, who has not been paid in full before the expiration of the period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution hereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

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

a.) Unless claimant, other than on having a direct contract with the Contractor, shall have given written notice to any two (2) of the following:

The Contractor, 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 Contractor, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforementioned project is located, save that such service need not be made by an officer.

b.) After the expiration of two (2) years following the date of final settlement, it being understood, however, that if any limitation embodied in this 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.

c.) Other than in a state court of competent jurisdiction as established by law.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Name of Surety:

\_\_\_\_\_

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

Its [Title] \_\_\_\_\_

Local Agent of Surety:

\_\_\_\_\_

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

\_\_\_\_\_

Phone: \_\_\_\_\_

