

PERFORMANCE BOND (Contractor)

_____, a corporation duly
[Insert Proper Name of Surety]
organized and existing under the laws of the State of _____, as surety ("Surety"), and
_____, as principal
[Insert Proper Name of Contractor]
("Contractor"), enter into, execute this bond ("Performance Bond"), and bind themselves in
favor of the Walker County Board of Education as obligee ("Owner"), in the penal sum of
_____ dollars (\$_____), as of _____.
[Insert Penal Sum in words and numerals] *[Insert Date Contractor signed Contract]*

WHEREAS, the Contractor signed a contract with the Owner on _____, 20____
("Construction Contract") for construction of:

[Insert Description and Location of the Project]

("Project"); and

WHEREAS, the Owner has required the Contractor to furnish this Performance Bond containing
the terms and conditions set forth herein as a condition to executing the Construction Contract with the
Contractor;

NOW THEREFORE, the Surety and the Contractor, both jointly and severally, and for themselves,
their heirs, administrators, executors and successors agree:

1.

The Construction Contract is hereby incorporated herein and by reference made a part hereof to
the same extent and effect as though it were copied verbatim herein. The Surety and the Contractor are
bound for the full performance of the Construction Contract, including, without exception, all of its terms
and conditions, both express and implied.

2.

If the Contractor is in default of the Construction Contract and the Owner, by written notice to the
Contractor and the Surety, declares the Contractor to be in default and terminates the right of the
Contractor to proceed, the Surety shall thereupon promptly notify the Owner in writing as to which of the
actions permitted to the Surety in Paragraph 3 it will take.

3.

Upon default and termination of the Contractor and notice to the Contractor and Surety as provided in Paragraph 2 above, the Surety shall, within 30 days, proceed to take one or, at its option, more than one of the following courses of action:

(A) Proceed itself, or through others acting on its behalf, to complete full performance of the Construction Contract including, without limitation, correction of defective and nonconforming work performed by or on behalf of the Contractor. During such performance by the Surety, the Owner shall pay the Surety from its own funds only such sums as would have been due and payable to the Contractor in the absence of the default and termination.

(B) Applicable law permitting, and with the prior written consent of the Owner, obtain bids or proposals from contractors previously identified as being acceptable to the Owner, for full performance of the Construction Contract. The Surety shall furnish the Owner a copy of such bids or proposals upon receipt of same. The Surety shall promptly select, with the agreement of the Owner, the best responsive bid or proposal and shall promptly tender the contractor submitting it, together with a contract for fulfillment and completion of the Construction Contract executed by the completing contractor, to the Owner for the Owner's execution. Upon execution by the Owner of the contract for fulfillment and completion of the Construction Contract, the completing contractor shall furnish to the Owner a performance bond and a separate payment bond, each in the form of those bonds previously furnished to the Owner for the Project by the Contractor. Each such bond shall be in the penal sum of the (1) fixed price for completion, (2) guaranteed maximum price for completion, or (3) estimated price for completion, whichever is applicable. The Owner shall pay the completing contractor from its own funds only such sums as would have been due and payable to the Contractor under the Construction Contract as and when they would have been due and payable to the Contractor in the absence of the default and termination. To the extent that the Owner is obligated to pay the completing contractor sums which would not have then been due and payable to the Contractor under the Construction Contract, the Surety shall provide the Owner with such sums in a sufficiently timely manner that the Owner can utilize such sums in making timely payment to the completing contractor; or,

(C) Take any and all other acts, if any, mutually agreed upon in writing by the Owner and the Surety.

4.

In addition to those duties set forth hereinabove, the Surety shall promptly pay the Owner all loss, costs and expenses resulting from the Contractor's default(s), including, without limitation, fees, expenses and costs for architects, engineers, consultants, testing, surveying and attorneys, liquidated or actual damages, as applicable, for delay in completion of the Project, and fees, expenses and costs incurred at the direction, request, or as a result of the acts or omissions of the Surety.

5.

In no event shall the Surety be obligated to the Owner hereunder for any sum in excess of the Penal Sum. As used in this Performance Bond, the term "Penal Sum" means the amount stated as the penal sum in the preamble of this Performance Bond, as that amount may be adjusted from time to time pursuant to Paragraph 6 below.

6.

The Surety waives notice of any changes to the Construction Contract including, without limitation, changes in the contract time, the contract price, or the work to be performed. If the total amount payable by the terms of the Construction Contract is increased to an amount in excess of the then current Penal Sum, then, automatically and without notice to or any action required of any party, the Penal Sum shall be increased as the total amount payable by the terms of the Construction Contract is increased.

7.

This Performance Bond is provided by the Surety for the sole and exclusive benefit of the Owner, together with its successors or assigns. No other party, person or entity shall have any rights against the Surety hereunder.

8.

Any and all notices to the Surety, the Contractor or the Owner shall be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

Surety: _____

Attn: _____

Contractor: _____

Attn: _____

Owner: Walker County Board of Education
298 Culberson Avenue
LaFayette, Georgia, 30278
Attn: Superintendent

9.

Any statutory limitation, which may be contractually superseded, to the contrary notwithstanding, any action hereon may be instituted so long as the applicable statute of limitations governing the Construction Contract has not run or expired.

CONTRACTOR:

SURETY:

_____[Seal]
[Typed Name]

_____[Seal]
[Typed Name]

By: _____
[Signature]

By: _____
[Signature]

[Printed Name, Title and Address]

[Printed Name, Title and Address]

