

**Bid Bond #** \_\_\_\_\_

**BID BOND**

KNOW ALL MEN BY THOSE PRESENT: That we, the undersigned:

\_\_\_\_\_ as Principal, and \_\_\_\_\_

\_\_\_\_\_ as Surety,

acknowledge ourselves held and firmly bound unto the City of Suffolk, Virginia, in the just and full sum of five percent (5%) of the maximum amount of accompanying bid for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

WHEREAS, the Principal has submitted a bid, dated \_\_\_\_\_, 20\_\_\_\_, for **ASPHALT PAVEMENT REPAIR & RESURFACE SERVICES, IFB # 18112-AG.**

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Obligee the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Obligee may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect. The General Conditions of the Contract Documents, Section C, Paragraph 11, Progress of Work, requires the Contract shall be executed within fifteen (15) calendar days from Notice of Award.

IN WITNESS WHEREOF, the parties hereto have caused their corporation names and seals, respectively, to be hereunto subscribed and affixed by their officers in that behalf duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

CONTRACTOR

BY \_\_\_\_\_  
SEAL

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_  
SEAL

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Resident Virginia Agent of Surety

Submit with Power of Attorney

Labor & Material Bond # \_\_\_\_\_

**LABOR AND MATERIAL PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, \_\_\_\_\_  
\_\_\_\_\_, as Principal, and  
\_\_\_\_\_, as Surety,  
acknowledge ourselves held and firmly bound unto the City of Suffolk, Virginia as Obligee in the amount  
of \_\_\_\_\_ Dollars (\_\_\_\_\_) for the payment of which, well  
and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators,  
successors and assigns.

WHEREAS, the said \_\_\_\_\_ did, on the \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, enter into a contract with the City of Suffolk, Virginia, for the **ASPHALT  
PAVEMENT REPAIR & RESURFACE SERVICES, IFB # 18112-AG**, which said contract is by  
reference made a part hereof, as fully and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall  
promptly make payment 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 Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to also 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 Principal and Surety hereby jointly and severally agree with the City that every claimant as herein defined, who has not been paid in full before the expiration of a period 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 such sum or sums as may be justly due claimant, and have execution thereon. The City 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 one having a direct contract with the Principal, shall have given written notice of the following: The Principal, the City, and 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 or certified mail, postage prepaid, in an envelope addressed to the Principal, City and 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 aforesaid project is located, save that such service need not be made by a public officer.

B. After the expiration of one (1) year following the date on which Principal ceased work on said Contract, 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 in and for the county or other political subdivision of the state in which the Project, or any part thereof, is

situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Contractor

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Surety

BY \_\_\_\_\_

ATTORNEY-IN-FACT

\_\_\_\_\_  
Resident Virginia Agent of Surety  
(if original agent is non-resident)

Submit with Power of Attorney

APPROVED AS  
TO FORM

\_\_\_\_\_  
City Attorney

Performance Bond # \_\_\_\_\_

## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned \_\_\_\_\_  
\_\_\_\_\_, as Principal, and  
\_\_\_\_\_, as Surety,  
acknowledge ourselves held and firmly bound unto the City of Suffolk, Virginia as Obligee, in the  
amount of \_\_\_\_\_ dollars, \_\_\_\_\_ for the payment of which, well and  
truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators,  
successors and assigns.

WHEREAS, the said \_\_\_\_\_  
did, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, enter into a contract with the City  
of Suffolk, Virginia for the **ASPHALT PAVEMENT REPAIR & RESURFACE SERVICES, IFB  
# 18112-AG**, which said contract is by reference made a part hereof, is hereinafter referred to as the  
Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall in all respects  
promptly and faithfully comply with and fulfill all the terms and conditions of said contract, then this  
obligation shall be void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any change, alteration or addition to the terms of the Contract or  
extension of time made by the Owner.

Whenever principal shall be, and declared by Obligee to be in default under the Contract, 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 completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Obligee elects, upon determination by the Obligee and Surety jointly of the lowest

responsible bidder, arrange for a contract between such bidder and Obligee, and make available as work progresses (even though there should be a 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 less the balance of the contract price; 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 term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by the Obligee to principal under the Contract and any amendments thereto, less the amount properly paid by Obligee to principal.

It is hereby expressly further understood and agreed that this Bond is also given and made against defective material and workmanship in the said work covered by the said Contract, provided, however, that no suit, action or proceeding, by reason of any defect whatever, shall be brought upon this Bond after one (1) year following (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty, if the action be for such.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of Obligee.

SIGNED AND SEALED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CONTRACTOR

BY \_\_\_\_\_  
Signature of Authorized  
Owner, Partner or Officer

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_  
Attorney In Fact

*Attach Original Power of Attorney*





## NOTICE OF ESCROW OPTION

IF THIS IS A BID FOR CONSTRUCTION AS DEFINED IN VIRGINIA CODE SECTION 2.2-4334 IN THE AMOUNT OF \$200,000.00, OR MORE, I/WE ELECT TO UTILIZE THE ESCROW ACCOUNT PROCEDURE DESCRIBED IN THE PROVISIONS OF THIS BID IF DETERMINED TO BE THE SUCCESSFUL LOW BIDDER(S) \_\_\_\_\_

(WRITE "YES" OR "NO")

### INTEREST ON RETAINAGE

At the time the Contractor submits a bid, the Contractor shall have the option to use the escrow account procedure for utilization of City retained funds by so indicating in the space provided in the bid documents. In the event the Contractor elects to use the escrow account procedure, the "Escrow Agreement" form included in the Bid and Contract shall be executed and submitted to the City within 15 calendar days after notification of award of the bid. If the "Escrow Agreement" form is not submitted as noted herein before, the Contractor shall forfeit such rights to the use of the escrow account procedure. In order to have retained funds paid to an escrow agent, the Contractor, the escrow agent and the surety shall execute an "Escrow Agreement" form and submit same to the City for approval. The Contractor's escrow agent shall be a trust company, bank or savings and loan institution with its principal office located in the Commonwealth of Virginia. The "Escrow Agreement" form shall contain the complete address of the escrow agent and surety, and the executed "Escrow Agreement" will be authority for the City to make payment of retained funds to the escrow agent. After approving the agreement, the City will pay to the escrow agent the funds retained as provided herein except that funds retained for lack of progress or other deficiencies on the part of the Contractor will not be paid to the escrow agent. The escrow agent may, in accordance with the stipulations contained in the "Escrow Agreement", invest the funds paid into the escrow account and pay earnings on such investments to the Contractor or release the funds to the Contractor provided such funds are fully secured by approved securities.

Retained funds invested and securities held as collateral for retainage may be released only as and when directed by the City. When the final estimate is released for voucher, the City will direct the escrow agent to settle the escrow account by paying the Contractor or the City monies due them as determined by the City. The City reserves the right to recall retained funds and to release same to the surety upon receipt of written request from the Contractor or in the event of default.

This section shall be applicable only to contracts for \$200,000.00, or more, for the construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines, and pumping stations.

This section shall not apply to contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph, or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.

If this contract includes payment of interest on retained funds, the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay the specified penalty for each day exceeding the completion date stated in the contract.

Any subcontract for such public project, which provides for similar progress payments shall be subject to the provisions of this section.

