



SUBORDINATION AGREEMENT

Date: Financial File No.:

The parties to this Agreement are:

- 1. _____, hereinafter called Contractor
2. _____, hereinafter called Creditor
3. _____, hereinafter called Surety

WHEREAS, the Contractor has entered into or is about to enter into a contract for _____

and may from time to time enter into other construction contracts with various owners and the Surety, in its discretion, at the request of the Contractor and the Creditor but upon the express condition, inter alia, that this agreement be entered into, has executed, or is about to execute, a bond for the performance of such contract or contracts and such other bond or bonds as the Contractor may be required to give in connection with or growing out of the said contract or contracts each or all of said bonds being hereinafter called bond or bonds, and

WHEREAS, the Contractor is indebted to the Creditor in the aggregate sum of _____

_____ (\$ _____) Dollars as evidenced by _____

and may from time to time increase said indebtedness, the total amount of which indebtedness with any increases being hereinafter referred to as "said indebtedness".

NOW, THEREFORE, in consideration of the execution by the Surety of such bond or bonds, it is agreed by all the parties hereto, their respective heirs, administrators, successors and assigns as follows:

- 1. The Creditor agrees to subordinate and does hereby subordinate all rights and claims against the Contractor on account of said indebtedness to any and all rights, claim or claims of the Surety on account of loss, costs, damages, attorneys' fees and expenses sustained or incurred by the Surety on account of said bond or bonds, so that any such rights, claim or claims of the Surety under said bond or bonds will be paid out of the assets of the Contractor before any payment is made to the Creditor on account of the aforesaid indebtedness.
2. That in the event of receivership, bankruptcy or insolvency of the Contractor, the Creditor agrees to assign, and does hereby assign, any claim or claims that he may have on account of said indebtedness, to the Surety, so that the Surety may receive dividends thereon as well as on any claim or claims that the Surety itself may have against said Contractor, until the Surety is reimbursed in full for all such loss, costs, damages, attorneys' fees and expenses.
3. That prior to the receipt by the Creditor and the Contractor of written notice from the Surety to the effect that the Contractor has performed all the conditions of said bond or bonds and that the Surety has not sustained any loss, costs, damages, attorneys' fees and expenses under said bond or bonds, Creditor and Contractor agree that said indebtedness shall remain undiminished and that neither will do any act or thing directly or indirectly which may result in reducing said indebtedness, and, among other things, Creditor will neither demand nor accept from Contractor or others and Contractor will not make or cause others to make any payment on account of principal of said indebtedness; nor will Creditor withhold or cause others to withhold payment of any sum, due or to become due Contractor, as an offset against said indebtedness, nor will Creditor take or receive or cause others to take or receive any property of Contractor, as security or otherwise, for application to said indebtedness, nor will Creditor sell, assign, transfer, dispose of, hypothecate or pledge to any person, firm or corporation whatsoever, any right, title or interest in and to said indebtedness or evidence thereof; nor will the Creditor sue for, or institute proceedings against the Contractor, directly or indirectly, for the recovery of the amount due on said indebtedness or any part thereof.
4. That the rights afforded the Surety under this agreement are in addition to, and not in lieu of, any and all other rights which the Surety may have or acquire against the Creditor, the Contractor or others, whether by the terms of any other agreement or by operation of law, and all such rights, including the right afforded hereunder, shall inure to the benefit of the Surety and any of its co-sureties or reinsurers.
5. That in the event of a breach of any of the agreements, and covenants on the part of the Creditor to be performed under this instrument, the Creditor will indemnify the Surety from and against any and all liability, loss, costs, damages, attorneys' fees and expenses of whatsoever kind or nature which the Surety may sustain or incur by reason of or in consequence of having executed said bond or bonds, in defending or prosecuting, any action, suit or other proceeding which may be brought in connection therewith, in making any investigation on account thereof, and in enforcing any agreements herein contained.

6. It is understood and agreed by and between the parties hereto that the word "bond" or "bonds" appearing in this agreement shall include the bond or bonds mentioned herein as well as any and all alterations, renewals, extensions and modifications thereof.
7. That all the terms, provisions, conditions and agreements herein contained shall be binding and obligatory upon the Creditor with respect to any such bond or bonds hereafter executed by the Surety for the Contractor which bond or bonds shall be deemed to have been executed by the Surety at the request, in each instance, of the Contractor and the Creditor this agreement to extend from the date thereof and until receipt by the Surety of written notice by registered mail, addressed to _____ the Surety at _____ revoking this agreement of indemnity, the Creditor to have no liability under this agreement with respect to bonds executed by the Surety for the Contractor after the actual receipt of such notice but to be bound under this agreement with respect to bonds executed before the actual receipt of such notice.

(Contractor) (SEAL)

(Surety) (SEAL)

By: _____

By: _____

(Creditor) (SEAL)

(SEAL)

By: _____

STATE OF _____]
COUNTY OF _____

On _____ before me, _____,
(here insert name and title of the officer), personally appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (SEAL)

STATE OF _____]
COUNTY OF _____

On _____ before me, _____,
(here insert name and title of the officer), personally appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (SEAL)