

**ATTACHMENT 4 TO CONTRACT
RFP # 08-10-02
DIRECT DIGITAL CONTROL SYSTEMS/
BUILDING AUTOMATION SYSTEMS**

**CITY OF ROANOKE, VIRGINIA
CONTRACTOR'S LABOR AND MATERIAL PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS:

that _____

(Insert full name or legal title and address of Contractor)

as Principal, (hereinafter referred to as "Contractor"),

and _____

(Insert full name or legal title and address of Surety)

Telephone: _____ Fax: _____

as Surety (hereinafter referred to as "Surety"), are held and firmly bound unto the City of Roanoke, Virginia, a municipal corporation, 215 Church Avenue, S.W., Noel C. Taylor Municipal Building, Room 202, Roanoke, Virginia 24011, as Obligee (hereinafter referred to as "City" or "Owner"), for the use and benefit of Claimants as herein below defined, 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 to the terms of this bond.

WHEREAS, Contractor has entered into a Contract with the City dated _____, 20____, incorporating certain specifications and drawings prepared by:

(Insert full name or legal title and address)

(which Contract, specifications, drawings, and other Contract Documents are hereinafter referred to collectively as the "Contract") for providing a fully functional and properly operating project, namely furnishing all equipment, materials, goods, labor, and services necessary for eliminating or reducing lead-based paint and lead hazards in residential units, and associated

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work, which Contract is expressly incorporated herein by reference and made a part of this bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor shall promptly make payment to all Claimants, as hereinafter defined, for all material furnished or labor supplied or performed in the prosecution of the work provided for in the Contract, then this obligation shall be void; otherwise this Labor and Material Payment Bond shall remain in full force and effect and is subject to the following conditions:

- a. Any alteration which may be made in the terms of the Contract, including, without limitation, the amount to be paid or the work to be done under it, or the giving by the City of any extension of time for the performance of the Contract or any other forbearance of any nature whatsoever on the part of either the City or the Contractor to the other shall not in any way release the Contractor and the Surety, or either of them, their heirs, executors, administrators, successors, or assigns from their liability hereunder, and notice of such alteration, extension, or forbearance is hereby expressly waived by Surety.
- b. A Claimant is defined as one who has and fulfills a contract to supply labor or materials, or both, to the Contractor or to any of the Contractor's subcontractors, in the prosecution of work provided for in the Contract, labor and material being construed to include, without limitation, public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site, or who may otherwise be allowed by law to file a claim against the Contractor and/or Surety.
- c. The Contractor and Surety hereby jointly and severally agree with City that every Claimant, as defined in paragraph b, who has performed labor or furnished material in accordance with the Contract in the prosecution of the work provided for in the Contract and who has not been paid in full therefore before the expiration of ninety (90) days after the day on which such Claimant performed the last such labor or furnished the last of such materials for which Claimant claims payment, or as may otherwise be allowed by law, may bring an action on this payment bond to recover any amount due Claimant for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The Contractor and Surety expressly agree that City shall not be liable for the payment of any judgment, costs, or expenses resulting from any such suit and that neither Contractor nor Surety shall cause City to be named as a party in any such suit.
- d. The Contractor and Surety hereby jointly and severally agree with City that every Claimant, as defined in paragraph b, who has direct contractual relationship with any subcontractor from whom the Contractor has not required a subcontractor payment bond but who has no contractual relationship, express or implied, with such Contractor, may bring an action on this bond only if the Claimant has given written notice to the Contractor within one hundred eighty (180) days from the day on which the Claimant performed the last of the labor or furnished the last of the materials for which payment is claimed, 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, or as may otherwise be allowed by law. The Contractor and Surety expressly agree that City shall not be liable for the payment of any judgment, costs, or expenses resulting from any such suit and

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that neither Contractor nor Surety shall cause City to be named as a party in any such suit.

- e. The Surety hereby submits itself to a court of competent jurisdiction in Roanoke, Virginia, and agrees that any suit or action hereunder by any Claimant shall be brought only in a Virginia court of competent jurisdiction in and for the City of Roanoke, or in the United States District Court for the Western District of Virginia, Roanoke Division, and not elsewhere.
- f. Any suit or action hereunder shall be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.
- g. The provisions of this bond shall be governed by and interpreted to be consistent with the laws of the Commonwealth of Virginia.

SIGNED AND SEALED this ____ day of _____, 20____, in the presence of:

WITNESS: _____

CONTRACTOR

By: _____ (Seal)

(Type Name and Title)

WITNESS: _____

SURETY

By: _____ (Seal)
Attorney-In-Fact

(Type Name and Title)

(Attorneys-in-fact affix seal and attach current original or certified copy of power of attorney.)