

**ATTACHMENT 5 TO CONTRACT  
RFP#08-10-02  
DIRECT DIGITAL CONTROL SYSTEM/  
BUILDING AUTOMATION SYSTEM**

**CITY OF ROANOKE, VIRGINIA**

**CONTRACTOR'S PERFORMANCE 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"), 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 a fully functional and properly operating project, namely \_\_\_\_\_

\_\_\_\_\_ 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 and faithfully perform the Contract, in strict conformity with each and every requirement of the Contract, then this obligation shall be null and void; otherwise, this Performance Bond shall remain in full force and effect and is subject to the following conditions:

Project: Direct Digital Control System/Building Automation System RFP08-10-02

Rev. 5/1/2005

- 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. IT IS NOT INTENDED BY ANY OF THE PROVISIONS OF ANY PART OF THIS BOND TO CONFER A BENEFIT UPON ANY OTHER PERSON OR ENTITY NOT A PARTY TO THIS PERFORMANCE BOND OR TO AUTHORIZE ANY PERSON OR ENTITY NOT A PARTY TO THIS BOND TO MAINTAIN A SUIT PURSUANT TO THE TERMS OR PROVISIONS OF THIS BOND OTHER THAN THE CITY OR ITS SUCCESSORS OR ASSIGNS.
- c. The Surety hereby submits itself to a court of competent jurisdiction in Roanoke, Virginia, and agrees that any suit or action hereunder shall be brought only in a Virginia court of competent jurisdiction in the City of Roanoke or in the United States District Court for the Western District of Virginia, Roanoke Division, and not elsewhere.
- d. Any suit under this bond must be instituted within one (1) year after (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, in all other cases.
- e. 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 original or certified copy of current power of attorney.)