

**ADVERTISEMENT FOR BIDS**

\_\_\_\_\_  
City of Pikeville  
Owner  
\_\_\_\_\_  
243 Main Street  
Address  
\_\_\_\_\_  
Pikeville, Ky 41501

Separate sealed Bids for the construction of

\_\_\_\_\_  
Walters Road Bridge

will be received by \_\_\_\_\_  
City of Pikeville Attn: City Clerk

at the \_\_\_\_\_  
Pikeville City Hall, 243 Main Street, Pikeville, KY 41501

until 10:00 a.m. (Local Time) on July 25, 2016. Bids received shall be publicly opened and read aloud in the meeting room of City Hall immediately after the close of the bid period.

This project includes removing and disposing of an existing bridge at Walters Road, installation and removal of a temporary stream crossing, and construction of a new bridge at Walters Road.

The Contract Documents may be examined at the following locations:

\_\_\_\_\_  
Pikeville City Hall, 243 Main Street, Pikeville, Kentucky 41501

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Federal wage and hour provisions DO NOT apply to this project. State wage and hour provisions MAY apply to this project. If the contractor's bid exceeds the \$250,000, state wage and hour provisions are applicable.

A Pre-Bid Conference will not be conducted for this project.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Donovan Blackburn, City Manager

**CITY OF PIKEVILLE  
WALTERS ROAD BRIDGE**

**INSTRUCTIONS TO BIDDERS**

**Examination of Bidding Documents, Other Related Data, and Site**

It is the responsibility of the Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, the other related data identified in the Bidding Documents, and any Addenda;
- B. visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. If applicable, carefully study all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities), and (2) reports and drawings of Hazardous Environmental Conditions at the Site;
- E. obtain and carefully study (or accept consequences of not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
- F. agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;
- G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
- H. correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;
- I. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
- J. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

## **Interpretation and Addenda**

All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.

## **Contract Times**

Substantial Completion is desired within the number of days as stated in the contract agreement. It will be necessary for the apparent Successful Bidder to satisfy Owner that it will be able to achieve Substantial Completion and be ready for final payment within the times designated in the Bid.

## **Preparation of Bid**

The Bid Form is included with the Bidding Documents. Additional copies may be obtained from the Engineer.

All blanks on the Bid Form shall be completed by printing in ink or by typewriter and the Bid signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each alternative, and adjustment unit price item listed therein, or the words "No Bid," "No Change," or "Not Applicable" entered.

A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signature.

A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown below the signature.

A Bid by an individual shall show the Bidder's name and official address.

A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown below the signature.

All names shall be typed or printed in ink below the signatures.

The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.

The address and telephone number for communications regarding the Bid shall be shown.

The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

### **Basis of bid; Comparison of Bids**

The Bidder will submit a lump sum bid for removing and disposing of the existing bridge, installation and removal of a temporary stream crossing, and construction of a new bridge.

The Bidder, being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, proposes to furnish all labor, materials, and supplies to construct the project in accordance with the time set forth in the Construction Agreement and the Bid Price. This price is to cover all expenses incurred in performing the work required under the Contract Documents.

### **Submittal of Bid**

With each copy of the Bidding Documents, a Bidder is furnished one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted.

A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement or Invitation to Bid and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security, if required, and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED."

### **Modification and Withdrawal of Bid**

A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

If within 24 hours after Bids are opened, any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security, if required, will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

### **Opening of Bids**

Bids will be opened at the time and place indicated in the Advertisement or Invitation to Bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

### **Bids to Remain Subject to Acceptance**

All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

### **Evaluation of Bids and Award of Contract**

Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.

More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.

Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the Contract Documents.

If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Project.

### **Contract Security and Insurance**

Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due.

All bonds shall be in the form prescribed by the Contract Documents, except as provided otherwise by laws or regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this section, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, which will comply with the terms of this section.

Refer to Article 10 of the Construction Agreement for Insurance requirements.

### **Signing of Agreement**

When Owner gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

**CITY OF PIKEVILLE  
WALTERS ROAD BRIDGE**

**PROJECT DESCRIPTION**

The existing bridge at Walters Road, which crosses Chloe Creek, is shown in the attached exhibit.

The scope of work for this project includes:

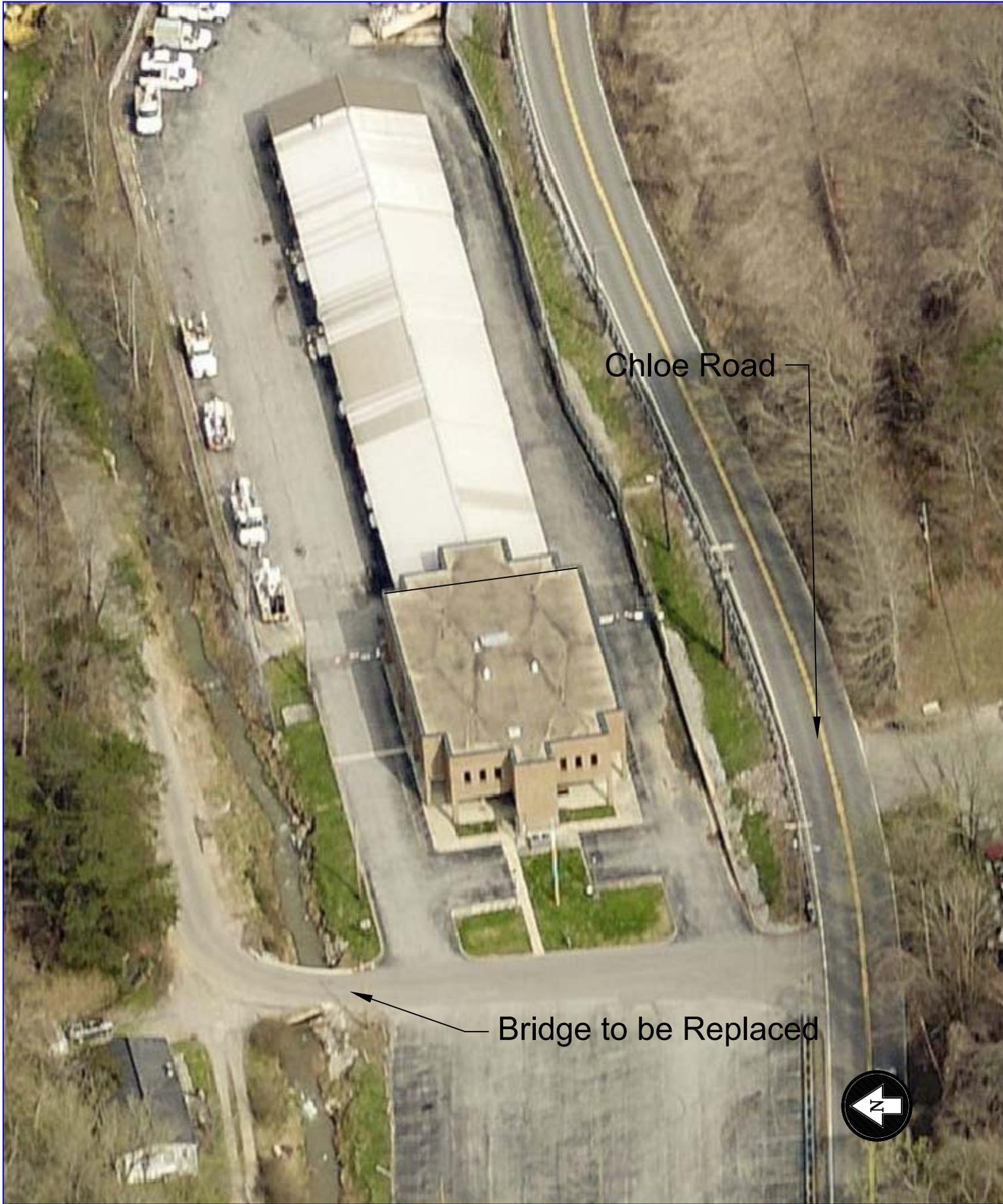
1. Demolition and disposal of the existing bridge;
2. Installation of a temporary stream crossing to maintain traffic flow along Walters Road; and
3. Construction of a new bridge in the location of the existing bridge.

The successful Bidder is responsible for obtaining a design for the temporary stream crossing as well as the bridge. Both designs must be certified by a Professional Engineer licensed to practice in the Commonwealth of Kentucky. Both designs must be submitted to the City of Pikeville, City Engineer for review prior to beginning construction.

The successful Bidder is responsible for obtaining all necessary permits for installation of these structures.

The City of Pikeville will be responsible for the following:

1. Identification of utilities in the construction area;
2. Signage regarding the construction and potential closure of the road at various times through the day; and
3. Paving of the approaches to the bridge.



Chloe Road

Bridge to be Replaced



CITY OF PIKEVILLE  
243 MAIN STREET  
PIKEVILLE, KY 41501

WALTERS ROAD BRIDGE

DATE:	07/01/16
SCALE:	NTS
DRAWN BY:	P. ELSWICK
CHECKED:	
PROJECT NO:	
SHEET:	
OF:	

**CITY OF PIKEVILLE  
WALTERS ROAD BRIDGE**

**BID FORM**

**ARTICLE 1 – BID RECIPIENT**

**1.01** This Bid is submitted to:

*Elizabeth Thompson  
City Clerk  
City of Pikeville  
243 Main St.  
Pikeville, KY 41501*

**1.02** The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

**ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS**

**2.01** Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

**ARTICLE 3 – BIDDER'S REPRESENTATIONS**

**3.01** In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
---------------------	----------------------

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.

D. If applicable, Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities), and (2) reports and drawings of Hazardous Environmental Conditions.

- E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- K. Bidder will submit written evidence of its authority to do business in the state where the Project is located not later than the date of its execution of the Agreement.

**ARTICLE 4 – FURTHER REPRESENTATIONS**

**4.01** Bidder further represents that:

- A. this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

**ARTICLE 5 – BASIS OF BID**

**5.01** The base bid is \_\_\_\_\_  
 (\$\_\_\_\_\_).

**ARTICLE 6 – TIME OF COMPLETION**

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the Contract Times.

**ARTICLE 7 – ATTACHMENTS TO THIS BID**

- 7.01 The following documents are attached to and made a condition of this Bid:
  - A. None

**ARTICLE 8 – DEFINED TERMS**

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

**ARTICLE 9 – BID SUBMITTAL**

- 9.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
*(Individual's signature)*

Doing business as: \_\_\_\_\_

A Partnership

Partnership Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
*(Signature of general partner -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

A Corporation

Corporation Name: \_\_\_\_\_ (SEAL)

State of Incorporation: \_\_\_\_\_

Type (Gen. Business, Professional, Service, Limited Liability): \_\_\_\_\_

By: \_\_\_\_\_  
*(Signature -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_ (CORPORATE SEAL)

Attest \_\_\_\_\_

Date of Authorization to do business in Kentucky is \_\_\_\_/\_\_\_\_/\_\_\_\_.

A Joint Venture

Name of Joint Venture: \_\_\_\_\_

First Joint Venturer Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
*(Signature of first joint venture partner -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

Second Joint Venturer Name: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_  
*(Signature of second joint venture partner -- attach evidence of authority to sign)*

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address \_\_\_\_\_

\_\_\_\_\_

Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

SUBMITTED on \_\_\_\_\_, 20\_\_\_\_.

State Contractor License No. \_\_\_\_\_. (If applicable)

## CONSTRUCTION AGREEMENT

THIS AGREEMENT entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between the CITY OF PIKEVILLE (“Owner”) of 243 Main Street, Pikeville KY 41501 and \_\_\_\_\_ (“Contractor”) of \_\_\_\_\_, Owner and Contractor, in consideration of the fulfillment of the terms and conditions contained herein to be observed and followed by the parties do hereby agree as follows:

### ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Bid Documents and other documents described in Article 9 below and are hereafter collectively referred to as contract documents. The Work is generally described as follows:

Walters Road Bridge

### ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the contract documents may be the whole or only a part is generally described as follows:

Walters Road Bridge

### ARTICLE 3 – ENGINEER

3.01 The City Engineer, Philip R. Elswick, P.E., assume all duties and responsibilities, and has the rights and authority as Engineer in connection with the completion of the Work in accordance with the Contract.

### ARTICLE 4 – CONTRACT TIME

#### 4.01 Time of the Essence

- A. All time limits completion and readiness as stated in the Contract Documents are of the essence of the Contract.

#### 4.02 Days to Achieve Substantial Completion and Final Payment

- A. The Work will be substantially completed within **90 days** after the date when the Contract Time commence. The contract time may only be changed by a change order. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is timely made. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing

other work as contemplated by fires, floods, epidemics, abnormal weather conditions, or acts of God.

4.03 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **\$200.00** for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **\$200.00** for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

**ARTICLE 5 – CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 6.01.A below.

**ARTICLE 6 – PAYMENT PROCEDURES**

6.01 Submittal and Processing of Payments

A. Owner will pay contractor for the work performed here under the total sum of \_\_\_\_\_.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on the 4<sup>th</sup> Monday of each month during performance of the Work. All such payments will be measured as follows:

- a. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages:
  - i. 90 percent of Work completed (with the balance being retainage); and

ii. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

b. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

#### 6.03 Final Payment

Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment, Owner shall pay Contractor the remainder of the Contract Price as recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

### **ARTICLE 7 – INTEREST**

NOT USED

### **ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

1. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
2. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
4. If applicable, Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site.
5. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods,

techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

6. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
7. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
8. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## **ARTICLE 9 – CONTRACT DOCUMENTS**

### 9.01 Contents

- A. The Contract Documents consist of the following:
  1. This Agreement (pages 1 to 6, inclusive).
  2. Performance bond
  3. Payment bond
  4. Instructions to Bidders
  5. Bid Form

The Contract Documents may only be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by either a Field Order, Engineer's approval of a Shop Drawing or Sample, or Engineer's written interpretation or clarification.

## ARTICLE 10

### 10.01 Miscellaneous Terms

1. To the fullest extent permitted by Laws, Contractor shall indemnify, hold harmless and defend (regardless of whether contractor has complied with the insurance provisions herein) Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by in whole or in part by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them maybe liable.
2. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the work being performed pursuant to this agreement and in the amount set forth in Exhibit A which will provide protection from claims set forth below which may arise out a result from the work being performed under the contract document, whether is to be performed by the contractor, any subcontractor or supplier, or by anyone directly or indirectly employed by any of them to perform any of the work, or by anyone whose acts any of them may be liable:
  - a. claims under workers compensation, disability benefits and other similar employee benefit acts and the statutory amount required by the Commonwealth of Kentucky;
  - b. claims for damages because of bodily injury, occupational sickness or disease, or death of contractor's employees and the statutory amount required by the Commonwealth of Kentucky;
  - c. claims for damages because of bodily injury, sickness or disease, or death of any person;
  - d. claims for damages, other than to the work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

- e. claims for damages because of bodily injury or death of persons or property damage arising out of the ownership, maintenance or use of any motor vehicle.

3. The policies of insurance required by this Paragraph shall:

- a. With respect to insurance required by Paragraphs 10.01 A. inclusive, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner who shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
- b. Include at least the specific coverages and be written for not less than the limits of liability provided in Exhibit A or required by Laws or Regulations, whichever is greater;
- c. include completed operations insurance;
- d. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor.
- e. Remain in effect at least until final payment and at all times thereafter when contractor may be correcting or removing defective work.
- f. Contractor shall purchase and maintain property insurance upon the work at the site in an amount of the full replacement cost there of (contractor shall be responsible for any deductible or self-insured retention). This insurance shall include the interests of owner, contractor and subcontractors.

4. Supervision and Superintendence

- a. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method,

technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

- b. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

5. Services, Materials, and Equipment

- a. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- b. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- c. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

- 6. Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by contractor in accordance with the laws and regulations of the place of the project which are applicable during the performance of the work.

- 7. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste

materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

8. *Cleaning:* Prior to Substantial Completion of the Work, Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
9. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
10. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer.

#### 10.02 Assignment of Contract

1. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

#### 10.03 Successors and Assigns

1. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

#### 10.04 Severability

1. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to

replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in four copies. One counterpart each has been delivered to Owner, Contractor, Engineer, and Agency. All portions of the Contract Documents have been signed, initialed, or identified by Owner and Contractor.

OWNER:

CONTRACTOR

City of Pikeville

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address for giving notices:

Address for giving notices:

243 Main Street

Pikeville, KY 41501

## EXHIBIT A

The limits of liability for insurance required by Article 10 shall provide coverage for not less than the following amount or greater where required by Laws and Regulations.

1. Workers' Compensation and related coverages:
  - a. State: Statutory
  - b. Applicable Federal Statutory
  - c. Employer's Liability \$500,000
2. Contractor's General Liability shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of the Contractor:
  - a. General Aggregate \$2,000,000
  - b. Products – Complete Operations Aggregate \$1,000,000
  - c. Each Occurrence (Bodily injury and property damage) \$1,000,000
  - d. Excess or Umbrella Liability
    - i. General Aggregate \$2,000,000
    - ii. Each Occurrence \$2,000,000
3. Automobile Liability
  - a. Bodily Injury
    - i. Each person \$1,000,000
    - ii. Each Accident \$2,000,000
  - b. Property Damage
    - i. Each Accident \$1,000,000
  - c. Combined Single Limit of \$1,000,000
4. Owner and Engineer to be endorsed and included on policies as additional insureds with the coverage being primary.

# NOTICE TO PROCEED

Dated \_\_\_\_\_

Project: <b>Walters Road Bridge</b>	Owner: <b>City of Pikeville</b>	Owner's Contract No.:
Contract:		Engineer's Project No.:
Contractor:		
Contractor's Address: [send Certified Mail, Return Receipt Requested]		

You are notified that the Contract Times under the above contract will commence to run on \_\_\_\_\_. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the date of Substantial Completion is \_\_\_\_\_, and the date of readiness for final payment is \_\_\_\_\_ [(or) the number of days to achieve Substantial Completion is \_\_\_\_\_, and the number of days to achieve readiness for final payment is \_\_\_\_\_].

Before you may start any Work at the Site, you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start any Work at the Site, you must [add other requirements]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

_____	_____
	Owner
_____	Given by:
	Authorized Signature
_____	Title
_____	Date

Copy to Engineer



1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
  - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
  - 4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2. Claimants who do not have a direct contract with Contractor:
    1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
    2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
    3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
  - 6.1. Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 6.2. Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. DEFINITIONS
  - 15.1. Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
  - 15.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 15.3. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

**FOR INFORMATION ONLY – Name, Address and Telephone  
 Surety Agency or Broker:  
 Owner's Representative (engineer or other party):**

# PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

---

CONTRACTOR (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

City of Pikeville  
243 Main Street  
Pikeville, KY 41501

CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Bond Number:

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Company:

Signature: \_\_\_\_\_ (Seal)

Name and Title:

SURETY

\_\_\_\_\_  
(Seal)

Surety's Name and Corporate Seal

By:

\_\_\_\_\_  
Signature and Title

(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

Attest:

\_\_\_\_\_  
Signature and Title

CONTRACTOR AS PRINCIPAL

Company:

Signature: \_\_\_\_\_ (Seal)

Name and Title:

SURETY

\_\_\_\_\_  
(Seal)

Surety's Name and Corporate Seal

By:

\_\_\_\_\_  
Signature and Title

(Attach Power of Attorney)

Attest:

\_\_\_\_\_  
Signature and Title:

EJCDC No. C-610 (2002 Edition)

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, and the American Institute of Architects.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.
2. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.
3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
  - 3.1. Owner has notified Contractor and Surety, at the addresses described in Paragraph 10 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
  - 3.2. Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 3.1; and
  - 3.3. Owner has agreed to pay the Balance of the Contract Price to:
    1. Surety in accordance with the terms of the Contract;
    2. Another contractor selected pursuant to Paragraph 4.3 to perform the Contract.
4. When Owner has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:
  - 4.1. Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
  - 4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
  - 4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and Contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
  - 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
    2. Deny liability in whole or in part and notify Owner citing reasons therefor.
5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 4.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
6. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To a limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:
  - 6.1. The responsibilities of Contractor for correction of defective Work and completion of the Contract;
  - 6.2. Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions or failure to act of Surety under Paragraph 4; and
  - 6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.
7. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.
8. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
  - 12.1. Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
  - 12.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 12.3. Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
  - 12.4. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY – Name, Address and Telephone  
 Surety Agency or Broker  
 Owner's Representative (engineer or other party)