Performance Bond -Dual Obligee Section 232

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U.S. Department of Housing and Urban Development Office of Residential Care Facilities

OMB Approval No. 2502-0605 (exp. 03/31/2018)

Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Warning: Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions

CONTRACTOR/PRINCIPAL (Name and Address):
OWNER (Name and Address):
LENDER (Name and Address):
SURETY (Name and Principal Place of Business):
PROJECT (Name, FHA Project Number and Location):
CONSTRUCTION CONTRACT: Date: Amount:
BOND: Date: Amount:
RIDERS TO THIS BOND: Yes No
This Performance Bond-Dual Obligee is issued simultaneously with a Payment Bond

This Performance Bond-Dual Obligee is issued simultaneously with a Payment Bond ("Payment Bond") issued with respect to the Project. As used herein, "Obligees" shall mean Owner, Lender, U.S. Department of Housing and Urban Development ("HUD") and the additional obligee(s), if any, identified in a Rider to this Bond and "Obligee" shall mean any of the Obligees.

- 1. Contractor has entered into a Construction Contract with Owner for the construction of the Project (**"Contract"**). The Contract (as the same may be now or hereafter amended by change order or otherwise) is made a part hereof by reference.
- 2. Lender has agreed to lend to Owner a sum of money to be secured by a mortgage between Owner and Lender ("Security Instrument") on the Project that provides for advances under that certain note executed by Owner and payable to Lender ("Note"), in part, to make

payment under the Contract, and desires protection as its interest appears, in event of default by Contractor under the Contract.

3. Contractor and Surety, jointly and severally, t	oind themselves, their he	irs, executors,
administrators, successors and assigns, to Owner and to	Lender, its successors ar	nd assigns, as
their respective interests appear, as Obligees, in the sum	of	
	Dollars (\$), for
the performance of the Contract. Any approved increase	e in the total Contract pri	ice shall increase
the obligation of Obligors accordingly.		

- 4. If the Contractor performs the Contract and fully indemnifies and saves harmless Obligees from all costs and damages which they may suffer by reason of failure to do so, and fully reimburse and repay Obligees all expenses which any Obligee may incur in making good any such default, then this obligation shall be null and void; otherwise it shall remain in full force and effect.
- 5. Surety shall not be liable under this Performance Bond to Obligees, or any of them, unless Obligees make payments to Contractor in accordance with the terms of the Contract as to payments, and/or perform any of the other obligations under the Contract. However, Surety shall not assert a failure by Obligees to make payments or perform obligations under the Contract unless each Obligee has been given written notice by Surety of any such failure and a reasonable period of time (but in no event less than thirty (30) days from receipt of said notice), in which to cure such failure.
- 6. Surety agrees that any right of action that any of Obligees herein may have under this Performance Bond may be assigned, without the consent of Contractor or Surety, to HUD, and that such assignment will in no manner invalidate or qualify this instrument.
- 7. The aggregate liability of Surety hereunder to Obligees or their assigns is limited to the penal sum above stated, and Surety, upon making any payment hereunder, shall be subrogated to, and shall be entitled to an assignment of, all rights of the payee, either against Contractor or against any other party liable to the payee in connection with the loss which is the subject of the payment. Notwithstanding the foregoing, no amounts paid to Owner without the written consent of Lender shall reduce the liability of Surety to Lender under this Performance Bond.
- 8. Any suit, action or proceeding by reason of any default whatever shall be instituted within two years after the date Owner declares Contractor in default under the Contract. If this limitation is deemed to be in contravention of any controlling law, this Performance Bond is deemed amended so as to substitute the minimum period of limitation permitted by such controlling law for the above limitation.
- 9. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.

10. Notice to Surety, Owner, or Coregistered mail or certified mail, postage proposed by Bond or to such other address as may have given in accordance herewith.	repaid, to the address shown on thi	is Performance
SIGNED and SEALED THIS	day of	_, 20
Witness as to Contractor:	CONTRACTOR:	
	By:	
	Name and Title (Printed)	
	SURETY:	
	By:	
	Name and Title (Printed)	

	Project Name: FHA Project Number:	
ADDITIONAL OBLIGEE RIE (Additional obligee only allow	<u>DER</u> red with prior HUD approval.)_	
Performance Bond, dated	igee Rider is attached to and made a part of that certain, 20, executed and delivered by attractor, and, as Surety, in favor of Ob (\$) with respect to the Project reference	ligees, in
the sum of	(\$) with respect to the Project reference	d above.
	ditions and provisions of the Performance Bond are hererence as if fully set forth herein.	eby
3. All defined terms as herein.	set forth in the Performance Bond shall have the same	meanings
4additional named Obligee.	is hereby added to the Performance Bond as an	1
	alter or affect any of the terms, conditions and other pr ng especially but without limitation, the aggregate liabil sh 3 of the Performance Bond.	
Signed and sealed this	day of, 20	
Witness as to Contractor:	CONTRACTOR:	
	By:	
	Name and Title (Printed)	
	SURETY:	
	By:	
	Name and Title (Printed)	
	Project Name: Project Number:	

ADDITIONAL SURETY RIDER

(Additional surety only allowed with prior HUD approval.)

Performance Bond, dated	Rider is attached to and made a part of that certain, 20, executed and delivered by, as Contractor, and
	, as Surety, in favor of Obligees, in the sum of(\$) with respect to the Project
referenced above.	
2. All of the terms, conditi incorporated herein by this referen	ions and provisions of the Performance Bond are hereby ace as if fully set forth herein.
3. Except as set forth in pa Performance Bond shall have the s	aragraph 5 below, all defined terms as set forth in the same meanings herein.
4Performance Bond as an additiona	("Additional Surety") is hereby added to the ll named surety.
jointly and severally, onto Obligee	nal surety (collectively, "Surety") is held and firmly bound, es. Further, each undersigned Surety binds itself in the erally, as well as severally, for the purpose of allowing joint

include Additional Surety.

SIGNED AND SEALED this	day of, 20
Witness as to Contractor:	CONTRACTOR:
	By:
	Name and Title (Printed)
	SURETY:
	By:
	Name and Title (Printed)