

PERFORMANCE, PAYMENT, AND MAINTENANCE BOND

Bond No. MNC 68704

KNOW ALL BY THESE PRESENTS:

That we, Castrejon, Inc., 9201 Isanti Street NE, Blaine, MN 55449, as Principal (hereinafter the "Contractor" or "Principal") and Merchants Bonding Company (Mutual), ^{6700 Westown Parkway,} West Des Moines, IA 50266, as Surety, are held and firmly bound unto the **City of Ankeny, Iowa**, as Obligee, (hereinafter referred to as the "Jurisdiction"), and to all persons who may be injured by any breach of any of the conditions of this Bond in the penal sum of Thirty-Five Thousand Two Hundred Fifty-One and 25/100 **DOLLARS** (\$ 35,251.25), lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, legal representatives, and assigns, jointly or severally, firmly by these presents.

The conditions of the above obligations are such that whereas said Contractor entered into a contract with the Jurisdiction, bearing date the 10th day of June, 20 20, (hereinafter the "Contract") wherein said Contractor undertakes and agrees to construct the following described improvements:

FIBER OPTIC CONNECTION TO PUBLIC SERVICES BUILDING

The Fiber Optic Connection to Public Services Building project includes installing fiber optic cable to the City of Ankeny Public Services Building located at 1210 NW Prairie Ridge Drive. The fiber optic route extends from W 1st Street to NW 18th Street, and is located in existing City of Ankeny right-of-way or existing City of Ankeny property.

The construction improvements include installation of approximately 12,000 LF of City-provided 96-count fiber optic cable, removal of an existing fiber optic hub cabinet and approximately 1,150 LF of existing fiber optic cable, providing and installing three (3) splice cases and completing approximately 450 fusion splices. Other associated improvements include fiber optic cable testing, restoration and any miscellaneous associated work necessary to complete the project.

and to faithfully perform all the terms and requirements of said Contract within the time therein specified, in a good and workmanlike manner, and in accordance with the Contract Documents.

It is expressly understood and agreed by the Contractor and Surety in this Bond that the following provisions are a part of this Bond and are binding upon said Contractor and Surety, to-wit:

1. **PERFORMANCE:** The Contractor shall well and faithfully observe, perform, fulfill, and abide by each and every covenant, condition, and part of said Contract and Contract Documents, by reference made a part hereof, for the above referenced improvements, and shall indemnify and save harmless the Jurisdiction from all outlay and expense incurred by the Jurisdiction by reason of the Contractor's default or failure to perform as required. The Contractor shall also be responsible for the default or failure to perform as required under the Contract and Contract Documents by all its subcontractors, suppliers, agents, or employees furnishing materials or providing labor in the performance of the Contract.

2. **PAYMENT:** The Contractor and the Surety on this Bond are hereby agreed to pay all just claims submitted by persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the performance of the Contract on account of which this Bond is given, including but not limited to claims for all amounts due for labor, materials, lubricants, oil, gasoline, repairs on machinery, equipment, and tools, consumed or used by the Contractor or any subcontractor, wherein the same are not satisfied out of the portion of the contract price which the Jurisdiction is required to retain until completion of the improvement, but the Contractor and Surety shall not be liable to said persons, firms, or corporations unless the claims of said claimants against said portion of the contract price shall have been established as provided by law. The Contractor and Surety hereby bind themselves to the obligations and conditions set forth in Chapter 573 of the Iowa Code, which by this reference is made a part hereof as though fully set out herein.
3. **MAINTENANCE:** The Contractor and the Surety on this Bond hereby agree, at their own expense:
 - A. To remedy any and all defects that may develop in or result from work to be performed under the Contract within the period of **one (1)** year from the date of acceptance of the work under the Contract, by reason of defects in workmanship or materials used in construction of said work;
 - B. To keep all work in continuous good repair; and
 - C. To pay the Jurisdiction's reasonable costs of monitoring and inspecting to assure that any defects are remedied, and to repair the Jurisdiction all outlay and expense incurred as a result of Contractor's and Surety's failure to remedy any defect as required by this section.
4. **GENERAL:** Every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:
 - A. To consent without notice to any extension of time to the Contractor in which to perform the Contract;
 - B. To consent without notice to any change in the Contract or Contract Documents, which thereby increases the total contract price and the penal sum of this bond, provided that all such changes do not, in the aggregate, involve an increase of more than twenty percent (20%) of the total contract price, and that this Bond shall then be released as to such excess increase; and
 - C. To consent without notice that this Bond shall remain in full force and effect until the Contract is completed, whether completed within the specified contract period, within an extension thereof, or within a period of time after the contract period has elapsed and the liquidated damage penalty is being charged against the Contractor.
 - D. That no provision of this Bond or of any other contract shall be valid which limits to less than five years after the acceptance of the work under the Contract the right to sue on this Bond.

- E. That as used herein, the phrase "all outlay and expense" is not to be limited in any way, but shall include the actual and reasonable costs and expenses incurred by the Jurisdiction including interest, benefits, and overhead where applicable. Accordingly, "all outlay and expense" would include but not be limited to all contract or employee expense, all equipment usage or rental, materials, testing, outside experts, attorney's fees (including overhead expenses of the Jurisdiction's staff attorneys), and all costs and expenses of litigation as they are incurred by the Jurisdiction. It is intended the Contractor and Surety will defend and indemnify the Jurisdiction on all claims made against the Jurisdiction on account of Contractor's failure to perform as required in the Contract and Contract Documents, that all agreements and promises set forth in the Contract and Contract Documents, in approved change orders, and in this Bond will be fulfilled, and that the Jurisdiction will be fully indemnified so that it will be put into the position it would have been in had the Contract been performed in the first instance as required.

In the event the Jurisdiction incurs any "outlay and expense" in defending itself with respect to any claim as to which the Contractor or Surety should have provided the defense, or in the enforcement of the promises given by the Contractor in the Contract, Contract Documents, or approved change orders, or in the enforcement of the promises given by the Contractor and Surety in this Bond, the Contractor and Surety agree that they will make the Jurisdiction whole for all such outlay and expense, provided that the Surety's obligation under this Bond shall not exceed 125% of the penal sum of this Bond.

In the event that any actions or proceedings are initiated with respect to this Bond, the parties agree that the venue thereof shall be Polk County, State of Iowa. If legal action is required by the Jurisdiction to enforce the provisions of this Bond or to collect the monetary obligation incurring to the benefit of the Jurisdiction, the Contractor and the Surety agree, jointly and severally, to pay the Jurisdiction all outlay and expense incurred therefore by the Jurisdiction. All rights, powers, and remedies of the Jurisdiction hereunder shall be cumulative and not alternative and shall be in addition to all rights, powers, and remedies given to the Jurisdiction, by law. The Jurisdiction may proceed against Surety for any amount guaranteed hereunder whether action is brought against the Contractor or whether Contractor is joined in any such action(s) or not.

NOW THEREFORE, the condition of this obligation is such that if said Principal shall faithfully perform all of the promises of the Principal, as set forth and provided in the Contract, in the Contract Documents, and in this Bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

When a word, term, or phrase is used in this Bond, it shall be interpreted or construed first as defined in this Bond, the Contract, or the Contract Documents; second, if not defined in the Bond, Contract, or Contract Documents, it shall be interpreted or construed as defined in applicable provisions of the Iowa Code; third, if not defined in the Iowa Code, it shall be interpreted or construed according to its generally accepted meaning in the construction industry; and fourth, if it has no generally accepted meaning in the construction industry, it shall be interpreted or construed according to its common or customary usage.

Failure to specify or particularize shall not exclude terms or provisions not mentioned and shall not limit liability hereunder. The Contract and Contract Documents are hereby made a part of this Bond.

Witness our hands, in triplicate, this 12th day of June, 2020.

Surety Countersigned By:

N/A
Signature of Agent

N/A
Printed Name of Agent

N/A
Company Name

N/A
Company Address

N/A
City, State, Zip Code

Company Telephone Number

PRINCIPAL:

Castrejon, Inc.
Contractor

By: [Signature]
Signature

President
Title

SURETY:

Merchants Bonding Company (Mutual)
Surety Company

By: [Signature]
Signature Attorney-in-Fact Officer

Nicole M. Saji

Printed Name of Attorney-in-Fact Officer

North Risk Partners
Company Name

2010 Centre Pointe Boulevard
Company Address

Mendota Heights, MN 55120
City, State, Zip Code

(651) 379-7800
Company Telephone Number

NOTE:

1. All signatures on this Performance, Payment, and Maintenance Bond must be original signatures in ink; copies, facsimiles, or electronic signatures will not be accepted.
2. This Bond must be sealed with the Surety's raised, embossing seal.
3. The Certificate or Power of Attorney accompanying this Bond must be valid on its face and sealed with the Surety's raised, embossing seal.
4. The name and signature of the Surety's Attorney-in-Fact/Officer entered on this Bond must be exactly as listed on the Certificate of Power or Attorney accompanying this Bond.

CORPORATE ACKNOWLEDGMENT

STATE OF Minnesota
COUNTY OF Dakota

On the 18 day of June, 2020, before me personally appeared, Burt Castro to me, who being duly sworn, did depose and say: that s/he resides in Beeville that s/he is the President of the _____ Castrejon, Inc. _____ the corporation described in and which executed the foregoing instrument; that s/he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that s/he signed her/his name thereto by like order.

(SEAL)



ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF MINNESOTA
COUNTY OF Dakota

On the 12th day of June, 2020 before me personally appeared, Nicole M. Saji to me known, who being duly sworn, did say: that s/he resides in Minnesota that s/he is the aforesaid officer or attorney in fact of Merchants Bonding Company (Mutual) a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument as signed and sealed on behalf of said corporation by the aforesaid officer, by authority of its board of directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

(SEAL)

Patricia M. Rowan
Notary Public



MERCHANTS
BONDING COMPANY
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Amanda Plantenberg; DeeAnn Swanson; Dena M Grunhovd; Erin Pohlman; Jacqueline Riley; Jeffrey T Moat; Leslie Seehusen; Litton E S Field Jr; Lori Hubbard; Mark Hayford; Martha Hoven; Nicole M Coty; Nicole M Saji; Patricia M Rowan; Sarah C Lorenzen; Tamara J Amos

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 11th day of February, 2020.



MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By

Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 11th day of February, 2020, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



POLLY MASON
Commission Number 750576
My Commission Expires
January 07, 2023

Polly Mason
Notary Public

(Expiration of notary's commission
does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 12th day of June, 2020.



William Warner Jr.
Secretary