

AIA® Document A101™ – 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Twenty-sixth day of April in the year Two Thousand Thirteen

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

Smyrna School District
82 Monrovia Avenue
Smyrna, DE 19977
Telephone Number: 302-653-8585
Fax Number: 302-653-3149

and the Contractor:

(Name, legal status, address and other information)

American Infrastructure-MD, Inc. d/b/a American Infrastructure
P.O. Box 278
Fallston, MD 21047
Telephone Number: 410-879-3055

for the following Project:

(Name, location and detailed description)

Sunnyside Elementary School - Parking Revisions
123 Rabbit Chase Road
Smyrna, Delaware 19977

The project consists of revisions to existing parking lots to change bus and visitor circulation patterns. A staff/visitor parking lot in the front of the school will be expanded to accommodate bus parking. This revision will require four light poles to be relocated to accommodate the new layout. The staff parking in front of the school will also be expanded and will require one new light pole. The bus parking located on the side of the school will be re-stripped for visitor parking.

The Architect:

(Name, legal status, address and other information)

Fearn-Clendaniel Architects, Inc.
6 Larch Avenue
Suite 398
Wilmington, DE 19804
Telephone Number: 302-998-7615
Fax Number: 302-998-7685

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

AIA Document A101™ – 2007. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 17:46:27 on 04/22/2013 under Order No. 4217670316_1 which expires on 12/02/2013, and is not for resale.

User Notes:

(861031023)

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS
- 10 INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

| n/a

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

| The Contractor shall achieve Substantial Completion of the entire Work not later than August 16, 2013.

Init.

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Hundred Ten Thousand Dollars and Zero Cents (\$ 210,000.00), subject to additions and deductions as provided in the Contract Documents. This sum is based on the Base Bid amount of Two Hundred Ten Thousand Dollars and Zero Cents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

None

§ 4.3 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Add	Unit (\$ 0.00) Deduct
Unit Price No. 1 – Structural Fill (DelDot Type G):	1. Description: Additional quantity required of less than 500 cubic yards, with work performed according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	\$45.00	\$45.00
Unit Price No. 2 – Structural Fill (DelDot Type G):	1. Description: Additional quantity required of more than 500 cubic yards, with work performed according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	\$30.00	\$30.00
Unit Price No. 3 – Cut:	1. Description: Removal from site of less than 500 cubic yards according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	\$18.00	\$18.00
Unit Price No. 4 – Cut:	1. Description: Removal from site of more than 500 cubic yards according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	\$13.00	\$13.00
Unit Price No. 5 – Silt Fence:	1. Description: Additional quantity of silt fence material and installation. 2. Unit of Measurement: Linear Foot (l.f.)	\$3.00	\$3.00
Unit Price No. 6 – Geogrid Reinforcement:	1. Description: Placement of Tensar BX1100 geogrid reinforcement material and installation per section 2.03 of the Earthwork specification. 2. Unit of Measurement: Square Yard (s.y.)	\$5.00	\$5.00

Init.

§ 4.4 Allowances included in the Contract Sum, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

Item

Price

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Twentieth day of a month, after the Architect has approved and issued a Certificate for Payment, payment shall be made by the Owner within 30 days after Owner's receipt of the Certificate for Payment. If an Application for Payment is received by the Architect after the application date fixed above, after the Architect has approved and issued a Certificate for Payment, payment shall be made by the Owner within 30 days after Owner's receipt of the Certificate for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5.00 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Five percent (5.00 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)

Init.

- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Upon receipt of all required closeout documentation, provided all other requirements of the Contract Documents have been met.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201-2007

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007.

Init.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

| Not to exceed twelve percent % 12% per annum beginning thirty (30) days after the "presentment" as specified.

§ 8.3 The Owner's representative:
(Name, address and other information)

| Ms. Deborah D. Wicks
82 Monrovia Avenue
Smyrna, DE 19977
Telephone Number: 302-653-8585
Fax Number: 302-653-3149
Mobile Number: 302-270-4458
Email Address: WicksDeborah@smyrna.k12.de.us

§ 8.4 The Contractor's representative:
(Name, address and other information)

| Ken Monroe
440 Twin Oak Drive
Dover, DE 19904
Telephone Number: 302-530-3692

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

| Per Title 29

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

| *(Table deleted)*

| Are those contained in the Project manual dated February 2013.

Init.

§ 9.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Are those listed in the Project manual dated February 2013 – See Exhibit 'B'

(Table deleted)

§ 9.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Are those listed in the Project manual dated February 22, 2013 – See Exhibit 'C'

(Table deleted)

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
1	March 15, 2013	2
2	March 18, 2013	1
3	March 22, 2013	1

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- .1 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

N/A

- .2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Instructions to Bidders AIA document A701 -1997, Supplemental Instructions to Bidders, and Project Supplemental Instructions to Bidders

All drawing and sketches issued in Addenda.

Exhibit 'A'

Exhibit 'B'

Exhibit 'C'

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

(Table deleted)

Per requirements indicated in specifications under General Requirements, Supplementary Conditions, Project Supplementary Conditions

Init.

This Agreement entered into as of the day and year first written above.

Original on File

OWNER (Signature)

Ms. Deborah D. Wicks, Superintendent

(Printed name and title)

Original on File

CONTRACTOR (Signature)

Ken Monroe, Director of Operations

(Printed name and title)

Richard W. Dungan

Vice President / General Manager

Init.

AIA Document A101™ – 2007. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997 and 2007 by The Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 17:46:27 on 10/4/22/2013 under Order No. 4217670316_1 on 12/02/2013, and is not for resale.

User Notes:

Additions and Deletions Report for

AIA[®] Document A101[™] – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:46:27 on 04/22/2013.

PAGE 1

AGREEMENT made as of the Twenty-sixth day of April in the year Two Thousand Thirteen

...

Smyrna School District
82 Monrovia Avenue
Smyrna, DE 19977
Telephone Number: 302-653-8585
Fax Number: 302-653-3149

...

American Infrastructure-MD, Inc. d/b/a American Infrastructure
P.O. Box 278
Fallston, MD 21047
Telephone Number: 410-879-3055

...

Sunnyside Elementary School - Parking Revisions
123 Rabbit Chase Road
Smyrna, Delaware 19977

The project consists of revisions to existing parking lots to change bus and visitor circulation patterns. A staff/visitor parking lot in the front of the school will be expanded to accommodate bus parking. This revision will require four light poles to be relocated to accommodate the new layout. The staff parking in front of the school will also be expanded and will require one new light pole. The bus parking located on the side of the school will be re-stripped for visitor parking.

...

Fearn-Clendaniel Architects, Inc.
6 Larch Avenue
Suite 398
Wilmington, DE 19804
Telephone Number: 302-998-7615
Fax Number: 302-998-7685

PAGE 2

n/a

...

The Contractor shall achieve Substantial Completion of the entire Work not later than August 16, 2013.

PAGE 3

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Hundred Ten Thousand Dollars and Zero Cents (\$ 210,000.00), subject to additions and deductions as provided in the Contract Documents. This sum is based on the Base Bid amount of Two Hundred Ten Thousand Dollars and Zero Cents.

...

None

...

<u>Item</u>	<u>Units and Limitations</u>	<u>Price Per Unit (\$0.00)</u>	
<u>Item</u>	<u>Units and Limitations</u>	<u>Price Per Add</u>	<u>Unit (\$ 0.00) Deduct</u>
<u>Unit Price No. 1 – Structural Fill (DelDot Type G):</u>	1. Description: Additional quantity required of less than 500 cubic yards, with work performed according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	<u>\$45.00</u>	<u>\$45.00</u>
<u>Unit Price No. 2 – Structural Fill (DelDot Type G):</u>	1. Description: Additional quantity required of more than 500 cubic yards, with work performed according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	<u>\$30.00</u>	<u>\$30.00</u>
<u>Unit Price No. 3 – Cut:</u>	1. Description: Removal from site of less than 500 cubic yards according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	<u>\$18.00</u>	<u>\$18.00</u>
<u>Unit Price No. 4 – Cut:</u>	1. Description: Removal from site of more than 500 cubic yards according to Division 312000 Section "Earthwork." 2. Unit of Measurement: Cubic Yard (c.y.)	<u>\$13.00</u>	<u>\$13.00</u>
<u>Unit Price No. 5 – Silt Fence:</u>	1. Description: Additional quantity of silt fence material and installation. 2. Unit of Measurement: Linear Foot (l.f.)	<u>\$3.00</u>	<u>\$3.00</u>
<u>Unit Price No. 6 – Geogrid Reinforcement:</u>	1. Description: Placement of Tensar BX1100 geogrid reinforcement material and installation per section 2.03 of the Earthwork specification. 2. Unit of Measurement: Square Yard (s.y.)	<u>\$5.00</u>	<u>\$5.00</u>

PAGE 4

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the ~~day of a month~~, the Owner shall make payment of the certified amount to the Contractor not later than the ~~day of the month~~. Twentieth day of a month, after the Architect has approved and issued a Certificate for Payment, payment shall be made by the Owner within 30 days after Owner's receipt of the Certificate for Payment. If an Application for Payment is received by the Architect after the application date fixed above, after the Architect has approved and issued a

Certificate for Payment, payment shall be made by the Owner ~~not later than () days after the Architect receives the Application~~ within 30 days after Owner's receipt of the Certificate for Payment.

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5.00 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Five percent (5.00 %);

PAGE 5

Upon receipt of all required closeout documentation, provided all other requirements of the Contract Documents have been met.

...

☒ [X] Litigation in a court of competent jurisdiction

PAGE 6

Not to exceed twelve percent % 12% per annum beginning thirty (30) days after the "presentment" as specified.

...

Ms. Deborah D. Wicks
82 Monrovia Avenue
Smyrna, DE 19977
Telephone Number: 302-653-8585
Fax Number: 302-653-3149
Mobile Number: 302-270-4458
Email Address: WicksDeborah@smyrna.k12.de.us

...

Ken Monroe
440 Twin Oak Drive
Dover, DE 19904
Telephone Number: 302-530-3692

...

Per Title 29

...

Document	Title	Date	Pages
----------	-------	------	-------

Are those contained in the Project manual dated February 2013.

PAGE 7

Are those listed in the Project manual dated February 2013 -- See Exhibit 'B'

Section	Title	Date	Pages
---------	-------	------	-------

...

Are those listed in the Project manual dated February 22, 2013 -- See Exhibit 'C'

Number	Title	Date
...		
<u>1</u>	<u>March 15, 2013</u>	<u>2</u>
<u>2</u>	<u>March 18, 2013</u>	<u>1</u>
<u>3</u>	<u>March 22, 2013</u>	<u>1</u>

...

N/A

...

Instructions to Bidders AIA document A701 -1997, Supplemental Instructions to Bidders, and Project
Supplemental Instructions to Bidders
All drawing and sketches issued in Addenda.
Exhibit 'A'
Exhibit 'B'
Exhibit 'C'

...

Type of insurance or bond	Limit of liability or bond amount (\$0.00)
---------------------------	--

Per requirements indicated in specifications under General Requirements, Supplementary Conditions, Project
Supplementary Conditions

PAGE 8

Ms. Deborah D. Wicks, Superintendent

Ken Monroe, DE Operations

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Kenneth B. Fearn, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:46:27 on 04/22/2013 under Order No. 4217670316_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ ~ 2007, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

Original on File

(Signed)

PRINCIPAL

(Title)

4-25-2013

(Dated)

Exhibit A

Smyrna School District

Sunnyside Elementary School – Parking Lot Revisions

Bid No. SSD12003

- I. General Conditions (AIA 201): Delete 15.4.4 and substitute the following:

15.4.4 Consolidation or Joinder

A controversy or claim arising out of or related to this Agreement, or the breach thereof, may include, by consolidation or joinder, the Architect and Surety. The objective is to permit the Owner to resolve any such controversy or claim in one litigation proceeding by permitting consolidation or joinder of the Owner, Contractor, Architect and Surety. The Owner shall include in its agreement with the Architect a provision permitting consolidation or joinder.

End of Exhibit A

Exhibit B

Smyrna School District
Sunnyside Elementary School – Parking Lot Revisions
Bid No. SSD12003

TECHNICAL SPECIFICATIONS

VOLUME I

<u>SECTION</u>	<u>TITLE</u>
011000	Summary
012200	Unit Prices
012300	Alternates
012600	Contract Modification Procedures
012900	Payment Procedures
013100	Project Management and Coordination
013200	Construction Progress Documentation
013233	Photographic Documentation
013300	Submittal Procedures
014000	Quality Requirements
014200	References
015000	Temporary Facilities and Controls
016000	Product Requirements
017300	Execution
017329	Cutting and Patching
017400	Warranties
017419	Construction Waste Management & Disposal
017700	Closeout Procedures
017823	Operation and Maintenance Data
017839	Project Record Documents

<u>SECTION</u>	<u>TITLE</u>
----------------	--------------

ELECTRICAL

260000	General Requirements, Electrical
260500	Basic Materials and Methods, Electrical

CIVIL

311000	Site Clearing
312000	Earth Moving
321216	Hot-Mix Asphalt Paving
321313	Portland Cement Concrete Paving
322210	Erosion and Sediment Control
329200	Turf and Grasses
334100	Storm Utility Drainage Piping

End of Exhibit B

Exhibit C

Smyrna School District
Sunnyside Elementary School – Parking Lot Revisions
Bid No. SSD12003

LIST OF DRAWINGS:

<u>SHEET NO.</u>	<u>DRAWING TITLE</u>
------------------	----------------------

COVER

T10-01	Title Sheet
--------	-------------

CIVIL

C-00	Site Construction Plan Cover Sheet
C-01	Site Demolition Pre-Bulk Erosion & Sediment Control Plans
C-02	Post-Bulk Erosion & Sediment Control Plans
C-03	Grading, drainage, and Utility Plans
C-04	Site Construction + Layout Plans
C-05	Erosion & Sediment Control Notes and Details
C-06	Site Construction Details
C-07	Site Construction Details

ELECTRICAL

E11-01	Electrical Site Plans – Removal & New Work
E11-02	Schedules & Details

End of Exhibit C



AIA Document A312™ – 2010

Bond No. PRF9128609

Performance Bond

CONTRACTOR:

(Name, legal status and address)

AMERICAN INFRASTRUCTURE-MD, INC. D/B/A
AMERICAN INFRASTRUCTURE
2011 Belair Road, PO Box 278
Fallston, MD 21047

OWNER:

(Name, legal status and address)

SMYRNA SCHOOL DISTRICT
82 Monrovia Avenue
Smyrna, DE 19977

SURETY:

(Name, legal status and principal place

of business)

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
600 Red Brook Blvd, 4th Floor
Surety Underwriting
Owings Mills, MD 21117

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

CONSTRUCTION CONTRACT

Date: April 26, 2013

Amount: Two Hundred Ten Thousand and 00/100
Dollars (\$ 210,000.00)

Description:

(Name and location)

Bid No. SSD12003 - Sunnyside Elementary School Parking Revisions

BOND

Date: May 2, 2013

(Not earlier than Construction Contract Date)

Amount: Two Hundred Ten Thousand and 00/100
Dollars (\$ 210,000.00)

Modifications to this Bond: ☒ None ☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)
AMERICAN INFRASTRUCTURE-MD, INC. D/B/A
AMERICAN INFRASTRUCTURE

Signature: Original on File

Name: Richard W. Dungan
and Title: Vice President / General Manager

(Any additional signatures appear on the last page of this Performance Bond.)

SURETY

Company: (Corporate Seal)

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Signature: Original on File

Name: Christine A. Dunn

and Title: Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Rosenberg & Parker, Inc.
455 South Gulph Road
Suite 400
King of Prussia, PA 19406
610.668.9100

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Fearn-Clendael Architects, Inc.
6 Larch Avenue, Suite 398
Wilmington, DE 19804

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 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 the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction 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 the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 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 a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the 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.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.



AIA Document A312™ – 2010

Bond No. PRF9128609

Payment Bond

CONTRACTOR:

(Name, legal status and address)

AMERICAN INFRASTRUCTURE-MD, INC. D/B/A
AMERICAN INFRASTRUCTURE
2011 Belair Road, PO Box 278
Fallston, MD 21047

OWNER:

(Name, legal status and address)

SMYRNA SCHOOL DISTRICT
82 Monrovia Avenue
Smyrna, DE 19977

CONSTRUCTION CONTRACT

Date: April 26, 2013

Amount: Two Hundred Ten Thousand and 00/100
Dollars (\$ 210,000.00)

Description:

(Name and location)

Bid No. SSD12003 - Sunnyside Elementary School Parking Revisions

SURETY:

(Name, legal status and principal place
of business)

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
600 Red Brook Blvd, 4th Floor
Surety Underwriting
Owings Mills, MD 21117

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

BOND

Date: May 2, 2013

(Not earlier than Construction Contract Date)

Amount: Two Hundred Ten Thousand and 00/100
Dollars (\$ 210,000.00)

Modifications to this Bond: ☒ None ☐ See Section 18

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

AMERICAN INFRASTRUCTURE-MD, INC. D/B/A
AMERICAN INFRASTRUCTURE

Signature: Original on File

Name: Richard W. Dorgan
and Title: Vice President / General Manager

(Any additional signatures appear on the last page of this Payment Bond.)

SURETY

Company: (Corporate Seal)

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Signature: Original on File

Name: Christine A. Dunn
and Title: Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Rosenberg & Parker, Inc.
455 South Gulph Road
Suite 400
King of Prussia, PA 19406
610.668.9100

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Fearn-Clendael Architects, Inc.
6 Larch Avenue, Suite 398
Wilmington, DE 19804

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, 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.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. 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 Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the 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.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **GEOFFREY DELISIO, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Harry C. ROSENBERG, David C. ROSENBERG, Matthew J. ROSENBERG, Christine A. DUNN, Denise M. BRUNO, Julia R. BURNET, Kimberly G. RIVELY, Michelle G. HIGGINS, Joyce M. HOFFMAN and Jonathan F. BLACK, all of King of Prussia, Pennsylvania, EACH** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 7th day of February, A.D. 2013.

ATTEST:

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



Original on File

By: _____
*Assistant Secretary
Gerald F. Haley*

Original on File

*Vice President
Geoffrey Delisio*

**State of Maryland
City of Baltimore**

On this 7th day of February, A.D. 2013, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **GEOFFREY DELISIO, Vice President, and GERALD F. HALEY, Assistant Secretary**, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Maria D. Adamski

Maria D. Adamski, Notary Public
My Commission Expires: July 8, 2015



FIDELITY AND DEPOSIT COMPANY

OF MARYLAND

600 Red Brook Blvd., Suite 600, Owings Mills, MD 21117

Statement of Financial Condition As Of December 31, 2012

ASSETS

Bonds	\$ 157,177,826
Stocks	23,000,311
Cash and Short Term Investments.....	119,155
Reinsurance Recoverable	17,923,564
Other Accounts Receivable.....	35,473,256
TOTAL ADMITTED ASSETS	<u>\$ 233,694,113</u>

LIABILITIES, SURPLUS AND OTHER FUNDS

Reserve for Taxes and Expenses	\$ 74,782
Ceded Reinsurance Premiums Payable	48,323,524
Securities Lending Collateral Liability	1,716,240
TOTAL LIABILITIES	<u>\$ 50,114,546</u>
Capital Stock, Paid Up	\$ 5,000,000
Surplus	178,579,567
Surplus as regards Policyholders.....	183,579,567
TOTAL	<u>\$ 233,694,113</u>

Securities carried at \$59,468,002 in the above statement are deposited as required by law.

Securities carried on the basis prescribed by the National Association of Insurance Commissioners. On the basis of December 31, 2012 market quotations for all bonds and stocks owned, the Company's total admitted assets would be \$243,518,971 and surplus as regards policyholders \$193,404,425.

I, DENNIS F. KERRIGAN, Corporate Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing statement is a correct exhibit of the assets and liabilities of the said Company on the 31st day of December, 2012.

Original on File

State of Illinois
City of Schaumburg } SS:

Corporate Secretary

Subscribed and sworn to, before me, a Notary Public of the State of Illinois, in the City of Schaumburg, this 15th day of March, 2013.

Original on File

Notary Public

