

**PART VII**

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, that

Davis H. Elliot Construction Company, Inc.

(Name of CONTRACTOR)

673 Blue Sky Parkway, Lexington, KY 40509

(Address of CONTRACTOR)

a Corporation, hereinafter  
(Corporation, Partnership, or Individual)

called Principal, and Hartford Fire Insurance Company

(Name of Surety)

One Hartford Plaza, Hartford, CT 06155

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

Lexington-Fayette Urban County Government

(Name of OWNER)

200 East Main Street, Lexington, KY 40507

(Address of OWNER)

hereinafter called "OWNER" in the penal sum of Three Hundred Eighty Six Thousand Two Hundred Twenty Nine and 25/100-----  
Dollars, (\$ 386,229.25), for the payment of whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal by written agreement is entering into a Contract with OWNER for Fiber-Optic Pathway and Cable Installation Project in accordance with Drawings and Specifications prepared by LFUCG Division of Traffic Engineering which Contract is reference made a part hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the OWNER.

Whenever, Principal shall be, and declared by OWNER to be in default under the Contract, the OWNER having performed OWNER'S obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions or
- (2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or if the OWNER elects, upon determination by the OWNER and Surety jointly of the lowest responsible bidder, arrange for a Contract between such bidder and OWNER, and make available as Work progresses (even though there may be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price", as used in this paragraph shall mean the total amount payable by OWNER to Principal under the Contract and any amendments thereto, less the amount properly paid by OWNER to Principal.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the OWNER named herein or the heirs, executors, administrators or successors of OWNER.

IN WITNESS WHEREOF, this instrument is executed in THREE each one of which  
(number)  
shall be deemed an original, this the 19th day of March, 2012.

ATTEST:

*Laura Kleindl*  
(Principal) Secretary - ASSISTANT

Davis H. Elliot Construction Company, Inc.  
Principal

BY: *Keith Simpson* (s)  
673 Blue Sky Parkway Keith Simpson, Vice President  
(Address)  
Lexington, KY 40509

*Stephen H. Stollenberg*  
Witness as to Principal

673 Blue Sky Parkway  
(Address)  
Lexington, KY 40509

ATTEST: *[Signature]*  
(Surety) Secretary

Hartford Fire Insurance Company  
Surety  
BY: *Theresa S. Stump*  
Attorney-in-Fact  
One Hartford Plaza  
(Address)  
Hartford, CT 06155

(SEAL)  
*[Signature]*  
Witness as to Surety  
Sarah Olejarz,

(Address)  
10 Franklin Road, S.E., Suite 550  
Roanoke, VA 24011

TITLE: Attorney-In-Fact  
Surety  
BY: Theresa S. Stump

TITLE: Witness

NOTE: The number of executed counterparts of the bond shall coincide with the number of executed counterparts of the Contract.

**PART VII**

**PAYMENT BOND**

**KNOW ALL MEN BY THESE PRESENT:** that  
Davis H. Elliot Construction Company, Inc.

\_\_\_\_\_  
(Name of Contractor)  
673 Blue Sky Parkway, Lexington, KY 40509  
\_\_\_\_\_  
(Address of Contractor)

Corporation  
\_\_\_\_\_, hereinafter  
(Corporation, Partnership or Individual)

called Principal, and Hartford Fire Insurance Company  
\_\_\_\_\_  
(Name of Surety)  
One Hartford Plaza, Hartford, CT 06155  
\_\_\_\_\_  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto  
Lexington-Fayette Urban County Government  
\_\_\_\_\_  
(Name of OWNER)  
200 East Main Street, Lexington, KY 40507  
\_\_\_\_\_  
(Address of OWNER)

Obligee, hereinafter called OWNER, for the use and benefit of claimants as hereinafter defined, in  
the amount of Three Hundred Eighty Six Thousand Two Hundred Twenty Nine and 25/100  
(\$ 386,229.25) Dollars the payment whereof Principal and Surety bind themselves, their heirs, executors,  
administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal by written agreement is entering into a Contract with OWNER for  
Fiber-Optic Pathway and Cable Installation Project in accordance with Drawings and  
Specifications prepared by LFUCG Division of Traffic Engineering which Contract is  
reference made a part hereof, and is hereinafter referred to as the Contract

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall  
promptly make payment to all claimants as hereinafter defined for all labor and material used or  
reasonably required for use in the performance of the Contract, then this obligation shall be void;  
otherwise it shall remain in full force and effect, subject, however, to the following conditions.

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. The above named Principal and Surety hereby jointly and severally agree with the OWNER that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The OWNER shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
  - (a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the OWNER, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the Work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the Work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, OWNER, or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
  - (b) After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  - (c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

IN WITNESS WHEREOF, this instrument is executed in THREE counterparts,  
each one of (number)

which shall be deemed an original, this the 19th day of March, 2012.

ATTEST:

Davis H. Elliot Construction Company, Inc.

(Principal)

*Laura Kleind*  
(Principal) Secretary - ASSISTANT

(SEAL)

BY: *Keith Simpson* (S) Keith Simpson, Vice President  
673 Blue Sky Parkway  
(Address)  
Lexington, KY 40509

*Stephen H. Keltner*  
(Witness to Principal)  
673 Blue Sky Parkway  
(Address)  
Lexington, KY 40509

Hartford Fire Insurance Company

(Surety)

ATTEST:

*[Signature]*  
(Surety) Secretary

BY: *Theresa S. Stump*  
(Attorney-in-Fact)

Theresa S. Stump, Attorney-In-Fact

(SEAL)

*Sarah Olejarz*  
Witness as to Surety  
Sarah Olejarz, Witness  
(Address)  
10 Franklin Road, S.E., Suite 550  
Roanoke, VA 24011

One Hartford Plaza

(Address)

Hartford, CT 06155

# POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD

Bond T-4

One Hartford Plaza

Hartford, Connecticut 06155

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 14-730214 & 14-730836

KNOW ALL PERSONS BY THESE PRESENTS THAT:


- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of unlimited:

E. Bruce Wilsie, Theresa S. Stump, Deanna W. Sparks, Sherrie B. Denison, Matthew D. Kerr III, Vickie H. Bibee, Bethany Murphy of Roanoke VA, Robert M. Coon, Susan F. Westbrook, Linda P. Greenway of Greensboro NC, Latimer Williams, Tambri Doby of Charlotte NC, R. Hutcheson Mauck Jr., Mike Philhower, Stacey W. Hall of Richmond VA, Windy Lebbad of Raleigh NC, William B. San Soucie, Joanna M. Carson, Lindsey M. DeJarnette, Stephen B. Dolin, Cary A. McFadden, Cara Brown of Lynchburg VA

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , 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.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on September 12, 2000, July 21, 2003, or January 22, 2004 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.




*Cheryl A. Corien*  
Cheryl A. Corien, Assistant Secretary

*M. Ross Fisher*  
M. Ross Fisher, Assistant Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford


On this 11th day of August, 2011, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that (s)he resides in the County of Hartford, State of Connecticut; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.



*Nora M. Stranko*  
Nora M. Stranko  
Notary Public  
My Commission Expires March 31, 2013

CERTIFICATE

I, the undersigned, Assistant Vice President of the Companies, 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 effective as of *March 19, 2012*  
Signed and sealed at the City of Hartford.



*Gary W. Stumper*  
Gary W. Stumper, Assistant Vice President