

*Writer's Direct Line: (763) 783-5129
E-Mail Address: slepak@bgs.com*

September 21, 2026

Surety

Old Republic Surety Company
P.O. Box 1635
Milwaukee, WI 53201-1635
Mary Jo Dingwall

Contractor

Equity Builders & Construction Services, Inc.
10433 Commerce Ave. N.
Prior Lake, MN
Owner/Officer: Jacob Roy

RE: Performance Bond for 2025 Concrete Alley Construction, Columbia Heights Project
2506

Dear Surety and Contractor:

This office serves as the City Attorneys for the City of Columbia Heights, Minnesota. It is our understanding that Old Republic Surety Company is the surety on the attached Performance Bond (hereinafter referred to as the Bond).

Please be advised that, pursuant to Section 3.1 of the Bond, the City hereby notifies the Surety and Contractor that it is considering declaring a Contractor Default. The basis for this consideration is that the Contractor has not performed work on the contract since December 1, 2025 and the substantial completion date is September 30, 2026 with completion for final payment on or before October 17, 2025. It is further the City's position that the Contractor's status as a disbarred contractor constitutes a further basis for the City's consideration.

Suspended Debarred Vendors - Minnesota Office of State Procurement

In consideration of this notice, the City has identified certain sums and retainage that could be used to complete a significant portion, if not all, of the remaining work. The City is also amenable to utilizing the subcontractor that the Contractor assigned to perform the remaining work as an entity that is familiar with the scope of the remaining work to be performed.

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Robert J. Slepak
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Jamie L. Carrell
Maxwell W. Jacobson

Of Counsel
Robert J. Slepak
Adam J. Slepak
Jacob W. LeVahn
Jamie L. Carrell
Maxwell W. Jacobson

Senior Counsel
Robert J. Slepak
Adam J. Slepak
Jacob W. LeVahn
Jamie L. Carrell
Maxwell W. Jacobson

* Also Licensed
in Wisconsin

Please contact me to discuss this matter further. Thank you for your attention to this matter.

Sincerely,

BARNA, GUZY & STEFFEN, LTD.

A handwritten signature in black ink, appearing to read "Scott M. Lepak". The signature is fluid and cursive, with the first name "Scott" and last name "Lepak" being the most prominent parts.

Scott M. Lepak
Columbia Heights City Attorney

ENC

cc: Rochelle Widmer, Columbia Heights City Director of Engineering and Facilities

5155607.2

PERFORMANCE BOND

Bond No. 5943753

Contractor

Name: Equity Builders & Construction Services, Inc.
Address (principal place of business):
12204 S Robert Trail
Rosemount, MN 55068
612-900-7486

Surety

Name: Old Republic Surety Company
Address (principal place of business):
PO Box 1635
Milwaukee, WI 53201-1635

Owner

Name: City of Columbia Heights, Minnesota
Mailing address (principal place of business):
3989 Central Ave NE
Columbia Heights, MN 55421

Contract

Description (name and location):
2025 Concrete Alley Construction, Columbia Heights Project 2506

Contract Price: \$1,072,501

Effective Date of Contract: April 28th, 2025

Bond

Bond Amount: One Million Seventy-Two Thousand Five Hundred One Dollars and 00/100 (\$1,072,501.00)

Date of Bond: May 19, 2025

(Date of Bond cannot be earlier than Effective Date of Contract)

Modifications to this Bond form

☒ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative

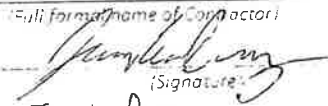
Contractor as Principal

Surety

Equity Builders & Construction Services, Inc.

(Full formal name of Contractor)

By:



Name:

Jacob Roy

(Printed or typed)

Title:

President

Attest:



Name:

L. Roy

(Printed or typed)

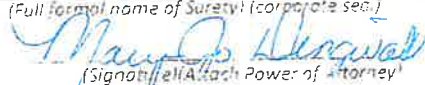
Title:

Project Mgr

Old Republic Surety Company

(Full formal name of Surety) (corporate seal)

By:



Name:

Mary Jo Dingwall

(Printed or typed)

Title:

Attorney-In-Fact

Witness:

xxxxxx



(Signature)

Name:

Matthew Schmidt

(Printed or typed)

Title:

N/A

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner or other party is considered plural where applicable

EJCDC® C-610, Performance Bond

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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 Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may 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 Paragraph 3.1 will 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 does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. 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 Paragraph 3.1 does 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 Paragraph 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 Owners 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 Paragraph 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:

- 5.4.1 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
 - 5.4.2 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 Paragraph 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 Paragraph 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 Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will 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:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. 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 Paragraph 5; and
 - 7.3. 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 Paragraph 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 will not be reduced or set off on account of any such unrelated obligations. No right of action will 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 must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must 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 periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
- 12. Notice to the Surety, the Owner, or the Contractor must 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 will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will 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 for the Contractor for 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 will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows: None.