

## Performance Bond

This CONSTRUCTION PERFORMANCE BOND (Bond) is dated March 31, 2021

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (hereafter designated as "Principal"), has, by written agreement dated \_\_\_\_\_, contracted with Ramona Food & Clothes Closet, Inc., 773 Main Street, Ramona, California 92065 (hereafter designated as "Owner") to Solar PV on Shade Structure on the property legally described as 773 Main Street, Ramona, CA 92065 APN: 281-313-25-0. This Agreement, and all of the Contract Documents attached to or forming a part of the Agreement (hereinafter designated as "Contract"), are hereby referred to and incorporated by reference;

NOW THEREFORE, we, the Principal, and \_\_\_\_\_, a corporation having its principal office at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and authorized to transact a general surety business in the state of California as Surety, are held and firmly bound unto Owner in the sum of \$0.00, lawful money of the United States of America for the payment of which sum Principal and Surety hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors, and assigns.

### **Bond Terms and Conditions**

Principal and surety, jointly and severally bind themselves, their heirs, executors, successors and assigns, to the owner for the complete and proper performance of the construction contract. If the Principal promptly and faithfully performs all the covenants and conditions of the Contract on its part, then the surety and Contractor shall have no obligation under this bond.

### **Default by Principal**

Whenever the Principal is in default under the Contract and is declared by the Owner to be in default, the Surety has to remedy the default. In the alternative, the Surety shall have the option to:

- a) assume and complete the Contract in accordance with its terms and conditions;
- b) Obtain another to complete the Contract, and thereafter the Surety or that other person shall be subrogated to all the rights of the Principal under the Contract.

### **Default by the Owner**

If the Owner defaults in the performance of any material covenant or condition on its part to be performed under the Contract, the Surety shall be relieved from all liability hereunder.

### **Limitation of Liability**

Surety's monetary obligation under this Bond is limited by the Amount of this Bond identified herein

as Penal Sum. This monetary obligation shall augment the balance of the Contract Sum. Subject to these limits, Suretys obligations under this Bond are commensurate with the obligations of the Principal under the Construction Contract. Suretys obligations shall include, but are not limited to:

- a) The responsibilities of Principal under the Construction Contract for completion of the Construction Contract and correction of defective work.
- b) The responsibilities of Principal under the Construction Contract to pay liquidated damages, and for damages for which no liquidated damages are specified in the Construction Contract, actual damages caused by non-performance of the Construction Contract, including, but not limited to, all valid and proper back charges, offsets, payments, indemnities, or other damages.
- c) Additional legal, design professional and delay costs resulting from Principals default or resulting from the actions or failure to act of the Surety.

### **Suretys Rights Regarding Modification of Construction Contract**

If the Principal and the Owner agree on any modifications in the terms of the Contract, or in the drawings and specifications mentioned therein, the Principal shall immediately and prior to the commencement of work designed to put that modification into effect, give notice to the Surety stating the nature and amount of the modification; and the Surety shall have the right in its absolute discretion to disapprove any modification which would, collectively with other modifications not specifically approved by the Surety, increase the contract cost of constructing the building by more than 10 percent.

### **Force Majeure**

The Surety shall not be liable for the nonperformance of any of the terms of the Contract attributable to fire, riot, strike, the elements or other acts of God, or for any loss or damage resulting there from.

### **Third Party Rights**

No right of action shall accrue on this bond to or for the use of any person, firm, or corporation other than the Owner, its business successors or assigns.

### **Limitation**

No suit, action, or proceeding shall be maintained under this bond unless commenced within two years after the completion of the work.

### **Governing Law**

Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction where a proceeding is pending regarding the Construction Contract, or in the courts of the State of California or in a court of competent jurisdiction where the work is performed.

### **Notice**

All notices to the Surety or Principal shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to the owner shall be mailed or delivered to the

address provided in the Construction Contract.

**Severability**

Any provision in this Bond conflicting with any statutory or regulatory requirement shall be deemed deleted here from and provisions conforming to such statutory requirement shall be deemed incorporated herein.

IN WITNESS WHEREOF two identical counterparts of this instrument, each of which shall for all purposes be deemed an original, have been duly executed by the above Principal and Surety on.

**Signatures**

This Bond shall be signed by \_\_\_\_\_ on behalf of \_\_\_\_\_ and by \_\_\_\_\_ on behalf of \_\_\_\_\_.

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

Date: \_\_\_\_\_