

E 2446531 B 4766 P 569-576
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
04/30/2009 12:20 PM
FEE \$24.00 Pgs: 8
DEP RT REC'D FOR R&O CONSTRUCTION

Bond No. 929474264

PERFORMANCE BOND
Exhibit "A" to Supplementary Conditions

KNOW ALL MEN BY THESE PRESENTS, That R & O Construction Company

(hereinafter called the "Principal"), as Principal and
Western Surety Company

a corporation; duly authorized to do business in UT (project state) (hereinafter called the "Surety"),
are held and firmly bound unto WAL-MART STORES, JNC. (hereinafter called the "Obligee"), and its representatives,
successors and assigns, in the sum of One Million Twenty Nine Thousand One Hundred Fourteen Dollars
and 00/100 Dollars (\$1,029,114.00)
for the payment of which sum well and truly to be made the said Principal and Surety bind themselves, and their respective
heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has been awarded a contract with Obligee for Walmart Supercenter #5234-110

Clinton, Utah
(hereinafter called the "Contract") and which Contract is hereby referred to and incorporated by express reference as if fully
set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Principal shall well
and truly perform all the work, undertakings, covenants, terms, conditions, and agreements of said Contract within the time
provided therein and any extensions thereof that may be granted by Obligee, and during the life of any maintenance
obligation, guaranty or warranty required under said Contract, and shall also well and truly perform all the undertakings,
covenants, terms, conditions, and agreements of any and all modifications of said Contract that may hereafter be made, and
shall indemnify and save harmless said Obligee of and from any and all loss, damage, and expense, including costs and
attorneys' fees, which the said Obligee may sustain by reason of Principal's failure to do so, then this obligation shall be null
and void; otherwise it shall remain in full force and effect.

The said Surety agrees that no change, extension of time, alteration, addition, omission, waiver, or other modification of the
terms of either the said Contract or in the said work to be performed, or in the specifications, or in the plans, or in the
Contract documents, or any forbearance on the part of either the Obligee or Surety to the other, shall in any way affect said
Surety's obligation on this Bond, and said Surety does hereby waive notice of any such changes, extensions of time,
alterations, additions, omissions, waivers, or other modifications.

The parties executing this Bond on behalf of Principal and Surety represent and warrant that they are duly authorized to bind
the Principal and Surety respectively.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this 13th day of April, 2009 the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

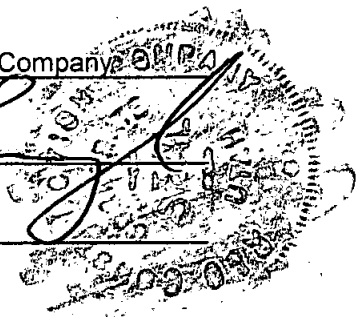
PRINCIPAL: R & O Construction Company

By: [Signature]

Title: Vice President

933 Wall Avenue
Ogden, UT 84404

(Principal's Address)



[Signature: Beverly Borgarding]
Witness:

Or Secretary's Attest

[SEAL]

SURETY: Western Surety Company

By: [Signature: Judy Parry]

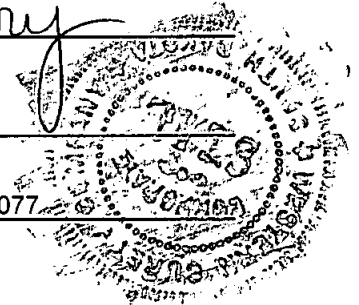
Judy Parry

Title: Attorney-in-Fact

P. O. Box 5077

Sioux Falls, SD 57117-5077

(Surety's Address)



[Signature: Nadine L. Huss]
Witness:

Or Secretary's Attest

[SEAL]

Attach Power of Attorney if executed by attorney-in-fact on behalf of Surety

Bond No. 929474264

PAYMENT BOND

Exhibit "B" to the Supplementary Conditions

KNOW ALL MEN BY THESE PRESENTS, That R & O Construction Company
 _____ (hereinafter called the "Principal"),
 as Principal and Western Surety Company
 _____,
 a corporation, duly authorized to do business in UT, (hereinafter called the
 "Surety"), are held and firmly bound unto WAL-MART STORES, INC. (hereinafter
 called the "Obligee"), and its representatives, successors and assigns, in the sum of
One Million Twenty Nine Thousand One Hundred Fourteen Dollars and 00/100 Dollars (\$1,029,114.00) for the
 payment of which sum well and truly to be made the said Principal and Surety bind
 themselves, and their respective heirs, administrators, executors, successors and assigns
 jointly and severally, firmly by these presents.

WHEREAS, the Principal has been awarded a contract with Obligee for Walmart
Supercenter #5234-110 Clinton, Utah (hereinafter
 called the "Contract") and which Contract is hereby referred to and incorporated by
 express reference as if fully set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the
 Principal shall promptly make payment in full to all persons or entities supplying labor,
 material, supplies, services, utilities and equipment in the prosecution of the work
 provided for in said Contract and any and all modifications of said Contract that may
 hereafter be made, and shall indemnify and save harmless said Obligee of and from any
 and all loss, damage, and expense, including costs and attorneys' fees, which the said
 Obligee may sustain by reason of Principal's failure to do so, then this obligation shall be
 null and void; otherwise it shall remain in full force and effect.

The said Surety agrees that no change, extension of time, alteration, addition, omission,
 waiver, or other modification of the terms of either the said Contract or in the said work
 to be performed, or in the specifications, or in the plans, or in the Contract documents, or
 any forbearance on the part of either the Obligee or Principal to the other, shall in any
 way affect its obligation on this Bond, and Surety does hereby waive notice of any such
 changes, extensions of time, alterations, additions, omissions, waivers, or other
 modifications.

The said Principal and the said Surety agree that this Bond shall inure to the benefit of all
 persons or entities as supplying labor, material, supplies, services, utilities and equipment
 in the prosecution of the work provided for in said Contract, as well as to the Obligee,
 and that any of such persons or entities may maintain independent actions upon this Bond
 in the name of the person or entities bringing any such action.

The parties executing this Bond on behalf of Principal and Surety represent and warrant
 that they are duly authorized to bind the Principal and Surety, respectively.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals this 13th day of April, 2009, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

PRINCIPAL; R & O Construction Company

By:

Title:

933 Wall Avenue
Ogden, UT 84404

(Principal's Address)

Beverly Bergerding
Witness:

Or Secretary's Attest

[SEAL]

SURETY: Western Surety Company

By:

Judy Parry

Title: Attorney-in-Fact

P. O. Box 5077
Sioux Falls, SD 57117-5077
(Surety's Address)

Nadine L. Huss
Witness:

Or Secretary's Attest

[SEAL]

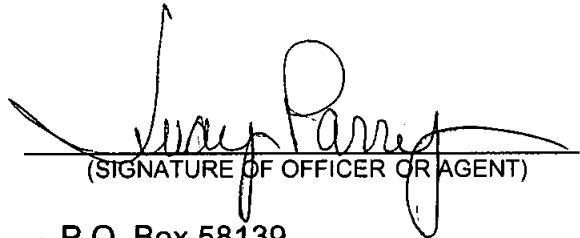
Attach Power of Attorney if executed by
attorney-in-fact on behalf of Surety

**AFFIDAVIT OF QUALIFICATION
FOR SURETY COMPANIES**

STATE OF UTAH) SS
COUNTY OF SALT LAKE)

JUDY PARRY, BEING FIRST AND DULY SWORN, ON OATH DEPOSES AND SAYS THAT HE IS THE ATTORNEY-IN-FACT (OFFICER OR AGENT) OF SAID COMPANY, AND THAT HE IS DULY AUTHORIZED TO EXECUTE THE SAME AND HAS COMPLIED IN ALL RESPECTS WITH THE LAWS OF THE STATE OF UTAH, IN REFERENCE TO BECOMING SOLE SURETY UPON BONDS, UNDERTAKINGS AND OBLIGATIONS.


SUBSCRIBED AND SWORN TO BEFORE
ME THIS 13th DAY OF April A.D.
2009.


(SIGNATURE OF OFFICER OR AGENT)

P.O. Box 58139
709 East South Temple
Salt Lake City, UT 84158-0139
(RESIDENCE)

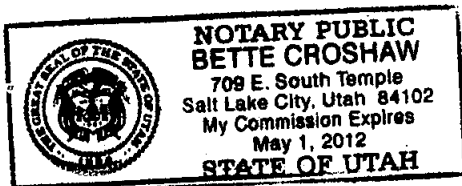

(SIGNATURE OF NOTARY PUBLIC)

(SEAL)
MY COMMISSION EXPIRES:
5-1-2012

(SURETY SEAL) 

(THIS FORM REQUIRED TO
BE FILLED OUT BY SECTION
31-24-3, UCA 1953)

709 East South Temple
Salt Lake City, Utah 84102



LEGAL DESCRIPTION

Clinton Walmart Store #5234 – 1632 North 2000 West, Clinton UT 84015

All of Lot 6 in the Clinton Pines Subdivision, Phase II.

Tax ID #: 14-352-0006

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

William R Moreton, Jonathan M Jepsen, Philip S Walter, Judy A Parry, Bette J Croshaw, Valorie S Jarvis, Individually

of Salt Lake City, UT, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 12th day of December, 2008.



WESTERN SURETY COMPANY

Paul T. Bruflat

Paul T. Bruflat, Senior Vice President

State of South Dakota }
County of Minnehaha } ss

On this 12th day of December, 2008, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell

D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 13 day of April 2009.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

