# STRENGTHEN WIFIA

## SUPPORT H.R. 1740 & S. 2928

THE SURETY & FIDELITY ASSOCIATION OF AMERICA

**Surety bonds should be required** on water infrastructure construction projects using WIFIA assistance to protect taxpayer dollars, ensure project completion, support economic growth, and protect local small business subcontractors and workers.

### Why WIFIA needs to ensure performance and payment protections

- Public private partnerships (P3s) benefiting from WIFIA assistance need adequate bonding requirements. State P3 laws often do not provide the same level of protections required for all other public infrastructure projects.
- Congress supported the need to close a similar loophole for the TIFIA program by including a policy fix, by a unanimous 97-0 Senate vote, in the Infrastructure Investment and Jobs Act. WIFIA should require similar bonding practices as TIFIA.

### The government and public have the same interest in completing projects and ensuring payments to local subcontractors and suppliers.

- Construction is a risky business, and for over 90 years, the federal and state Miller Acts have protected against the risk of public loss by requiring payment and performance bonds.
- The risks of the contractor's default, nonpayment to subcontractors and suppliers, and increased completion costs are the same, no matter the construction delivery method.

### The solution must require performance and payment bonds to protect the public interest.

- Our proposed solution, H.R. 1740 and S. 2928, developed with stakeholders, including the EPA WIFIA Office, would require the EPA Administrator, or the Secretary of the Army, as appropriate, to ensure construction projects receiving WIFIA assistance use appropriate payment and performance security protections.
- The Administrator or Secretary must accept State bonding requirements if security (bonding) is required at 50% of the construction costs, the industry minimum standard for security for large water projects, setting a minimum floor for bonding WIFIA-financed projects.

### Benefits of H.R. 1740 and S. 2928

- The solution ensures parity for protections between traditional project delivery methods and P3 projects utilizing the WIFIA program, and the same protections required in the TIFIA program.
- Bonding does not add to bureaucratic processes or delays in infrastructure development. All the contractors who bid on these large projects already have longstanding bonding programs in place.

***Federal funds are at the same risk no matter the construction delivery method***

### *The Economic Value of Surety Bonds* by Ernst & Young (EY)

10x **Unbonded construction projects are more likely to default** than bonded projects — by as much as 10 times.*

Nearly five times as many construction leaders report **bonded projects are more likely to be completed on time or ahead of schedule** than unbonded projects.*

**Bonded projects cost less** than unbonded projects. 75% of public project owners report that surety bonding reduces contractor pricing by an average of 3.2%.

If a contractor defaults on a bonded project, surety companies intervene, **lowering the cost of project completion by 85% and reducing the time to complete by two times**.*

1 Executive Summary available at https://surety.org/wp-content/uploads/2022/11/EY-SFAA-Report-on-economic-value-of-surety-bonding-ES-2022-FINAL-1.pdf. Full report available at https://surety.org/wp-content/uploads/2022/11/surety_protects_2022_report.pdf

*All data based on analysis by EY

### 16 SUPPORTING ORGANIZATIONS

- American Property and Casualty Insurance Association
- American Subcontractor Association
- Business Coalition for Fair Competition
- Council of Insurance Agents and Brokers
- Finishing Contractors Association International
- International Union of Operating Engineers
- Mechanical Contractors Association of America
- National Electrical Contractors Association
- National Association of Minority Contractors
- National Association of Mutual Insurance Companies
- National Association of Surety Bond Producers
- Sheet Metal and Air Conditioning Contractors' National Association
- The Association of Union Constructors
- The Construction Employers of America
- The Surety & Fidelity Association of America
- Women Construction Owners and Executives