

(1) A PERFORMANCE BOND WHICH IS:

(i) EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE AND SATISFACTORY TO THE PUBLIC BODY AWARDING THE CONTRACT; AND

(ii) IN TERMS AND AMOUNT ADEQUATE IN THE OPINION OF THE PUBLIC BODY FOR THE PROTECTION OF THE PUBLIC BODY; AND

(2) A PAYMENT BOND, EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE, SATISFACTORY TO THE PUBLIC BODY FOR THE PROTECTION OF ALL PERSONS SUPPLYING LABOR AND MATERIALS, INCLUDING LESSORS OF EQUIPMENT TO THE EXTENT OF ITS FAIR RENTAL VALUE, AND TO THE CONTRACTOR OR HIS SUBCONTRACTOR IN THE PROSECUTION OF THE WORK PROVIDED IN THE CONTRACT FOR THE USE OF EACH PERSON. THE AMOUNT OF THE BOND MAY NOT BE LESS THAN 50 PERCENT OF THE TOTAL AMOUNT PAYABLE BY THE TERMS OF THE CONTRACT. ANY CONTRACTOR COVERED BY THE BOND IS NOT REQUIRED TO FURNISH A WAIVER OF MECHANICS' LIENS TO THE STATE. BEFORE RECEIVING A PROGRESS OR FINAL PAYMENT UNDER A CONTRACT COVERED BY THIS SECTION, A CONTRACTOR SHALL CERTIFY IN WRITING THAT HE HAS MADE PAYMENT FROM THE PROCEEDS OF PRIOR PAYMENTS, AND THAT HE WILL MAKE TIMELY PAYMENTS FROM THE PROCEEDS OF THE PROGRESS OR FINAL PAYMENT THEN DUE HIM, TO HIS SUBCONTRACTORS AND SUPPLIERS IN ACCORDANCE WITH HIS CONTRACTUAL ARRANGEMENT WITH THEM.

(D) AUTHORITY TO REQUIRE ADDITIONAL BONDS.

NOTHING IN THIS SECTION LIMITS THE AUTHORITY OF THE PUBLIC BODY PROVIDED IN THIS SECTION, TO REQUIRE A PERFORMANCE BOND OR OTHER SECURITY IN ADDITION TO THOSE, OR IN CASES OTHER THAN THE CASES SPECIFIED IN SUBSECTION (B).

(E) RIGHT TO INSTITUTE SUIT ON PAYMENT BONDS.

ANY PERSON WHO FURNISHES LABOR OR MATERIAL AS PROVIDED IN THE CONTRACT, FOR WHICH A PAYMENT BOND IS FURNISHED UNDER THIS SECTION AND WHO HAS NOT BEEN PAID IN FULL BEFORE THE EXPIRATION OF 90 DAYS AFTER THE DAY ON WHICH THE LAST OF THE LABOR WAS PERFORMED BY HIM, OR MATERIAL WAS FURNISHED BY HIM, AND FOR WHICH THE CLAIM IS MADE, HAS THE RIGHT TO SUE ON THE PAYMENT BOND FOR THE AMOUNT OR THE BALANCE UNPAID AT THE TIME OF INSTITUTION OF THE SUIT. HE ALSO HAS A RIGHT TO PROSECUTE THE ACTION TO FINAL JUDGMENT AND EXECUTION FOR THE SUM JUSTLY DUE HIM. HOWEVER, ANY PERSON HAVING A DIRECT CONTRACTUAL RELATIONSHIP WITH A SUBCONTRACTOR OF THE CONTRACTOR, OR WITH ANY SUB-SUBCONTRACTOR OF THE CONTRACTOR, BUT WHO DOES NOT HAVE AN EXPRESS OR IMPLIED CONTRACTUAL