



Addendum 2

Performance and Payment Bonds

1. When Required

If the awarded contract exceeds \$100,000, the Contractor must furnish both a Performance Bond and a Payment Bond. This reflects HUD requirements for PHA construction projects over the federal small-purchase threshold and Oregon's "Little Miller Act" for public improvement contracts valued over \$100,000.

2. Amounts

Each bond shall be in a penal sum equal to 100% of the Contract Price (as amended). If change orders increase the Contract Price, the Contractor shall promptly provide bond riders to maintain 100% coverage.

3. Timing of Submission

Bonds are due upon contract execution and in any event before any Notice to Proceed or on-site work. Failure to furnish acceptable bonds as required may result in award withdrawal and forfeiture of bid security, at the Owner's discretion.

4. Surety Qualifications

Bonds must be executed only by a corporate surety authorized to do business in Oregon and listed on U.S. Treasury Circular 570 (the "T-List") as an approved surety. Individual sureties are not permitted. Attach the surety's Power of Attorney.

5. Form of Bonds

Separate Performance and Payment Bonds are required on forms acceptable to MCHA (e.g., AIA A312 or equivalent). Any combined bond must still meet the separate statutory protections and 100% amounts for both performance and payment.

6. Scope of Coverage

Performance Bond secures full and faithful performance, including correction of defective work through the warranty period. Payment Bond protects all claimants supplying labor and materials to the project consistent with ORS 279C.600–279C.625.

7. Claims & Notices (Payment Bond)

A person not paid in full may pursue the payment bond by giving written notice of claim to the Contractor and MCHA no later than 180 days after that person last provided labor or materials (delivery by registered/certified mail or hand-delivery).

8. Consent of Surety

A Consent of Surety for Final Payment acceptable to MCHA is required before release of final payment and retainage.

9. Costs

Bond premiums are included in the Contract Price; no separate reimbursement will be made.

10. No Waiver Except as Allowed by Law

MCHA will not waive bonding unless permitted by law (e.g., formally declared emergencies).

11. HUD Note

HUD permits alternative assurances (e.g., letters of credit or cash escrow) for certain PHA construction projects; however, MCHA requires 100% Performance and 100% Payment Bonds for this Project to comply with Oregon and County rules.

12. Separate BOLI Public Works Bond (Information Only)

In addition to the above, contractors and every subcontractor must have a \$30,000 Public Works Bond filed with the Oregon Construction Contractors Board before starting work on any public works project where the total project cost exceeds \$100,000, unless exempt. This is separate from the Performance and Payment Bonds.

Authority & Cross-References

- HUD PHA Procurement Handbook 7460.8 REV-2, Ch. 6, §6.11
- 2 CFR 200.326 (bonding provisions for construction/facility improvement contracts)
- ORS 279C.380 (100% performance and payment bonds; \$100,000 threshold; surety must be a company)
- Marion County Public Contracting Rules §§40-0460, 40-0290
- MCHA Public Contracting Rules (adopt Marion County rules unless otherwise stated)
- Treasury Circular 570 (approved sureties list)