

Welfare, and Huffman-Wolfe Company, of Columbus, Ohio. This contract covers the construction and completion of plumbing contract for Cottage No. 1, Institution for Feeble Minded, Apple Creek, Ohio, and calls for an expenditure of thirteen thousand seven hundred dollars (\$13,700.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also submitted evidence that the consent of the Controlling Board to the release of funds has been obtained in accordance with Section 4 of House Bill 203 of the 88th General Assembly. In addition, you have submitted a contract bond upon which the Seaboard Surety Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.

926.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE HUFFMAN-WOLFE COMPANY, COLUMBUS, OHIO, FOR PLUMBING IN POWER HOUSE, INSTITUTION FOR FEEBLE-MINDED, APPLE CREEK, OHIO, AT AN EXPENDITURE OF \$2,400.00—SURETY BOND EXECUTED BY THE SEABOARD SURETY COMPANY.

COLUMBUS, OHIO, September 26, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Department of Public Welfare, and the Huffman-Wolfe Company, of Columbus, Ohio. This contract covers the construction and completion of contract for plumbing in power house, Institution for Feeble-Minded, Apple Creek, Ohio, and calls for an expenditure of twenty-four hundred dollars (\$2400.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also submitted evidence that the consent of the Controlling Board to the release of funds has been obtained in accordance with Section 4 of House Bill 203 of the 88th General Assembly. In addition, you have submitted a contract bond upon which the Seaboard Surety Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my

approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

927.

PUBLIC CONTRACT—MONEY DUE CONTRACTOR NOT PAYABLE TO SURETY TO COVER MATERIALMAN'S CLAIMS—WHEN SUCH CLAIMS MAY BE FILED WITH BONDING COMPANY.

SYLLABUS:

1. *Where a contractor has performed all of the work required of him under a contract with the State for the construction of a building of the State, and there remain certain funds on the final estimate due the contractor, the amount so remaining due should be paid to such contractor, and the surety upon the bond of the contractor has no claim to said fund by reason of the fact that certain claims for labor or material furnished to the contractor in the construction of such building have not been paid.*

2. *Under the provisions of Section 2365-3, General Code, as amended, 111 O. L. 72, claims for labor or material performed or furnished in the construction, erection, alteration or repair of a public building, work or improvement, may be effectively filed with the sureties on the contract bond at any time after such labor or material is furnished, even though at the time such building, work or improvement may not have been accepted by the board or officer authorized to accept the same. In addition to this, such claims for labor or material may be effectively filed with such sureties after the acceptance of such building, work or improvement by the duly authorized board or officer, if the same be filed not later than ninety days after such acceptance.*

COLUMBUS, OHIO, September 27, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of a communication from your department over the signature of T. Ralph Ridley, state architect and engineer, which communication reads as follows:

“SUBJECT: Liability of Globe Indemnity Co. on their bond issued to D. E. Gardner Co., general contractor for Auditorium, Ohio University, Athens, Ohio.

Your consideration and opinion is requested upon the following data:

The Globe Indemnity Co. bonded the above contractor in the sum of \$240,000.00 on his contract for the Auditorium at Ohio University, the contract being in an amount of \$226,953.00. Of this amount \$108,958.43 was paid from state funds and \$117,994.57 was paid from funds donated to the University.

The building was accepted by the State December 3, 1928, but final estimates were not issued to the Gardner Co. until January 28, 1929, in amounts of \$5899.73 (donated funds), and \$5447.92 (state funds). However, it was arranged with the Auditor of State's office to retain the sum of \$1,267.27 due the Gardner Co. on their contract, to be paid later by voucher issued by Ohio