

Proposal No. _____

Commonwealth of Massachusetts
Massachusetts Department of Transportation - Highway Division
Office of Construction Contracts – Suite 6260
Ten Park Plaza, Boston, MA 02116
MassDOTspecifications@dot.state.ma.us

INSURANCE

FORMS FOR EXECUTION OF CONTRACT

INSTRUCTIONS: *There are two sets of Forms for Execution of Contract – Contractors and Insurance. On the Insurance forms, Contractors should electronically enter their information as identified on the Performance Bond and Payment Bond. These forms should subsequently be sent electronically to any insurance companies that will be providing the Performance Bond, Payment Bond, Workers’ Compensation, and Certificate of Liability Insurance.*

Insurance companies should complete the required sections of the applicable forms electronically as noted in the following checklist, and then print, sign by hand (wet signature), scan, and email the completed forms to the Contractor. Original copies with wet signatures and seals affixed must also be returned by mail to the Contractor, and subsequently submitted by the Contractor by mail to the Office of Construction Contracts along with the Contractor forms.

Contractors should sign where required on the Performance and Payment Bonds and return all Insurance forms together with the Contractor forms electronically by email for execution of contract to the Office of Construction Contracts within fourteen (14) calendar days. Failure of the Contractor to properly complete or return any Insurance or Contractor Forms for Execution of Contract within fourteen calendar days of the contract award will result in a delay of the execution of the contract¹. Original copies of the Insurance forms with wet signatures and seals affixed must also be submitted by the Contractor to the Office of Construction Contracts. Per the Notice of Contract Award, these contract forms for execution are available on www.bidx.com

BEFORE RETURNING INSURANCE FORMS, PLEASE CHECK THE FOLLOWING:

1. PERFORMANCE BOND - One Original

- (Contractor)* Fill in the company name. Select Option 1, 2, or 3 based on the business structure or state of organization. For both in-state and out-of-state Limited Liability Companies and/or Joint Ventures, select and complete Option 1. For other in-state companies, complete Option 2. For other out-of-state companies, complete Option 3.
 - (Contractor)* Enter the insurance company name(s), and the contract amount in text *and* numerals.
 - Enter the Contract Execution Date.
 - (Contractor)* Contractor must sign bottom portion and affix corporate seal (if applicable).
 - Surety must sign and affix the Surety seal where indicated.
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2. PAYMENT BOND - One Original

- Repeat all the instructions in 1. Performance Bond.
 - Licensed Massachusetts Resident Agent must sign and affix its Surety seal.
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¹ Section 3.05 of the Standard Specifications of Highways and Bridges states: the prepared Contract forms, bond forms and certificate of insurance forms will be sent with notification of award to the successful bidder who shall execute and deliver the Contract and furnish the required surety to the Department within fourteen calendar days after the date of the notice of award.

3. POWER OF ATTORNEY (SAMPLE) - One Original (To be provided by Insurance Company)

- The same information must appear on Power of Attorney as on the Performance and Payment Bonds contained within the Insurance forms, including the name and address.
 - Date on the Power of Attorney must be prior to or on the Contract Execution Date.
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4. INSURER'S AFFIDAVIT AS TO WORKERS' COMPENSATION - One Original

- Enter name and address and check the appropriate box as a producer or agent in the voluntary insurance market, or a prime or sub-contractor which is insured for workers' compensation, and write the company name.
 - Enter the effective date, prime or sub-contractor name, insurance company name, and insurance policy number(s). Effective date must be before the Notice to Proceed date.
 - Sign and enter the title of the authorized representative, agent, or signatory.
 - Ensure the affidavit is notarized on the form in the space provided. Notary date must be on or after the Contract Execution Date and before the Notice to Proceed date.
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5. CERTIFICATE OF LIABILITY INSURANCE - One Original

- Insurance Carriers must be authorized to write business in the Commonwealth of Massachusetts or approved by the Massachusetts Commissioner of Insurance and have a minimum AM Best Rating of A-IX unless approved in writing by MassDOT.
 - Ensure that the "Massachusetts Department of Transportation" and applicable railroads are listed as additional insured for general liability, automobile liability, umbrella liability, and any others as applicable. Insurance limits are stated in the construction contract standards.
 - Waiver of Subrogation must be provided in favor of MassDOT on general liability, automobile liability, umbrella liability, and worker's compensation policy.
 - On projects which require Railroad Insurance, Railroad Protective Liability Insurance and Protective Property Damage Liability Insurance shall be obtained in the amount specified in the contract railroad special provisions on behalf of the name of the railroad company(ies).
 - On projects which have pay items for either testing or removal of asbestos, asbestos insurance is required. If asbestos insurance is required, the Contractor and the Massachusetts Department of Transportation shall be named as additional insureds.
 - Ensure the Contract Number is included in the Certificate Description of Operations / Locations / Vehicles.
 - The Policy Effective Dates in the Coverages section must be on or after the Contract Execution Date and before the Notice to Proceed date.
 - Certificates of Insurance must be provided naming the following entities as Certificate Holders:
 - o Massachusetts Department of Transportation; 10 Park Plaza, Suite 4160; Boston, MA 02116
 - o Additional Entities may be required depending on contract
 - Notice of Cancellation on all lines of required coverage mailed directly to MassDOT 30 days prior to cancellation, the policy must be so endorsed. An "endeavor to provide notice" may not be included.
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Insurance companies should complete the required sections of the applicable forms electronically and then print, sign, scan, and return to the Contractor by email. Original copies with wet signatures and seals affixed must also be mailed to the Contractor.

Please contact the Office of Construction Contracts with questions at
MassDOTspecifications@dot.state.ma.us.

1. PERFORMANCE BOND

Know all men by these presents, that

_____ (Contractor Name),

[OPTION 1 – LLC or JV] a _____ (Type of Business Structure) registered to do business in the Commonwealth of Massachusetts under MGL Chapter 156C and having a usual place of business in _____ (Contractor Town/City), _____ (Contractor State), as principal, and

or

[OPTION 2 – In-State Contractor] a _____ (Type of Business Structure) duly organized under the laws of the Commonwealth of Massachusetts and having a usual place of business in _____ (Contractor Town/City), Massachusetts, as principal, and

or

[OPTION 3 – Out-of-State Contractor] a _____ (Type of Business Structure) duly organized under the laws of _____ (Contractor State) and registered to do business in the Commonwealth of Massachusetts and having a usual place of business in _____ (Contractor Town/City), _____ (Contractor State), as principal, and

Additional Notes:

_____ (Insurance Companies) as surety, are held and firmly bound upon the Massachusetts Department of Transportation in the sum of

\$ _____ (Contract Amount in Text)
\$ _____ (Contract Amount in Numerals)

lawful money of the United States of America, to be paid to the Massachusetts Department of Transportation, for which payments, well and truly to be made, we bind ourselves, our respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly be these presents.

Whereas, the said principal has made a contract with the Massachusetts Department of Transportation, bearing date of _____ (Contract Execution Date) for the construction of Contract _____ (State Contract Number) _____ (Project Name).

Now the condition of this obligation is such that if the principal shall well and truly keep and perform all the undertakings, covenants, agreements, terms and conditions of said contract on its part to be kept and performed during the original term of said contract and any extensions thereof that may be granted by the Massachusetts Department of Transportation, with or without notice to the surety, and during the life of any guaranty required under the contract, and

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shall also well and truly keep and perform all the undertakings, covenants, agreements, terms and conditions of any and all duly authorized modifications, alterations, changes or additions to said contract that may hereafter be made, notice to the surety of such modifications, alterations, changes or additions being hereby waived, then this obligation shall become null and void; otherwise it shall remain in full force and virtue.

In the event that the contract is abandoned by the Contractor, or is terminated by the Massachusetts Department of Transportation, under the provisions of Sec. 8.12 of the Standard Specifications for Highways and Bridges, said surety hereby further agrees that, if required in writing by the Massachusetts Department of Transportation, said surety shall take such action as is necessary to complete said contract.

In witness whereof we hereunto set our hands and seals this

_____ (Contract Execution Date)

Principal

_____ (Contractor Name)

X _____ (Authorized Signature)

_____ (Name of Authorized Signatory)

Corporate Seal

Surety

_____ (Surety Name)

X _____ (Surety Authorized Signature)

_____ (Surety Name of
Authorized Signatory)

Corporate Seal

2. PAYMENT BOND

Know all men by these presents, that

_____ (Contractor Name),

[OPTION 1 – LLC or JV] a _____ (Type of Business Structure) registered to do business in the Commonwealth of Massachusetts under MGL Chapter 156C and having a usual place of business in _____ (Contractor Town/City), _____ (Contractor State), as principal, and

or

[OPTION 2 – In-State Contractor] a _____ (Type of Business Structure) duly organized under the laws of the Commonwealth of Massachusetts and having a usual place of business in _____ (Contractor Town/City), Massachusetts, as principal, and

or

[OPTION 3 – Out-of-State Contractor] a _____ (Type of Business Structure) duly organized under the laws of _____ (Contractor State) and registered to do business in the Commonwealth of Massachusetts and having a usual place of business in _____ (Contractor Town/City), _____ (Contractor State), as principal, and

Additional Notes:

_____ (Insurance Companies) as surety, are held and firmly bound upon the Massachusetts Department of Transportation in the sum of

\$ _____ (Contract Amount in Text)

\$ _____ (Contract Amount in Numerals)

lawful money of the United States of America, to be paid to the Massachusetts Department of Transportation, for which payments, well and truly to be made, we bind ourselves, our respective heirs, executor administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the said principal has made a contract with the Massachusetts Department of Transportation, bearing date of _____ (Contract Execution Date) for the construction of Contract _____ (State Contract Number) _____ (Project Name).

Now the condition of this obligation is such that if the principal shall pay for all labor performed or furnished and for all materials used or employed in said contract and in any and all duly authorized modifications, alterations, extensions of time, changes or additions to said contract that may hereafter be made, notice to the surety of such modifications, alterations, extensions of time, changes or additions being hereby waived, the foregoing to include any

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other purposes or items set out in, and to be subject to, the provisions of Massachusetts General Laws, (Ter. Ed.), Chapter 30, Section 39A as amended and Chapter 149, Section 29 as amended, then this obligation shall become null and void; otherwise it shall remain in full force and virtue.

In witness whereof we hereunto set our hands and seals this

_____ (Contract Execution Date)

Principal

_____ (Contractor Name)

X _____ (Authorized Signature)

_____ (Name of Authorized Signatory)

Corporate Seal

Surety

_____ (Surety Name)

X _____ (Surety Authorized Signature)

_____ (Surety Name of
Authorized Signatory)

Corporate Seal

1. Name and Address of Agent or Agency receiving commission on this Bond.

_____ (Agent or Agency) Corporate Seal

_____ (Address)

_____ (Address)

2. Name and Address of Resident Agent, if any, of Surety, or other Agent appointed by Surety to Whom Notice should be sent (Must be completed by Attorney-in-Fact of Surety).

_____ (Agent) Corporate Seal

_____ (Address)

_____ (Address)

3. POWER OF ATTORNEY (SAMPLE)

KNOW ALL MEN BY THESE PRESENTS, THAT (insurance company) Insurance Company, a corporation duly organized and existing under laws of the State of (state), and having its principal office in (office location), and (insurance company) Insurance Company a corporation organized and existing under the laws of the State of (state) and having its principal office in (office location), and (insurance company) Insurance Corporation, organized under the laws of the State of (state), and having its principal office in (office location) each does hereby make, constitute and appoint:

_____ (name(s) of attorney)

its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or surety ship executed under this authority shall exceed the contract amount.

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of _____ Insurance Company and _____ Insurance Company at meetings duly called and held on _____ and _____ Insurance Corporation by written consent of its Executive Committee dated _____.

"RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or-any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and, any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."

CORPORATE SEAL By: X _____ CORPORATE SEAL

By: X _____

IN WITNESS WHEREOF, _____ Insurance Company, _____ Insurance Company and _____ Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this _____ day of _____, _____.

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On this ____ day of _____, _____ before me, a Notary Public personally appeared _____, _____ of _____ International Insurance Company and _____, _____ of _____ Insurance Company and _____, _____ of _____ Insurance Company personally known to me; who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.

I, _____, the duly elected _____ of _____ Insurance Company do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this ____ day of _____, _____.

4. INSURER'S AFFIDAVIT AS TO WORKERS' COMPENSATION INSURANCE

I, _____ (Signatory Name), of _____ (Company) am:

- an authorized representative of _____ Insurance Company (a producer² in the voluntary market)³
- an authorized agent of _____ Insurance Company (an agent in the voluntary market, authorized to sign on behalf of a producer)²
- an authorized signatory of _____, the Prime Contractor (an insured of a producer in the involuntary market pool)⁴
- an authorized signatory of _____, the Sub-Contractor (an insured of a producer in the involuntary market pool, group, or otherwise insured)³

located at _____ (Company Address)
and do hereby aver that effective _____ (Policy Effective Date),
_____ (Contractor Name), the Prime or Sub-Contractor, is insured for Workers' Compensation insurance with _____ (Insurance Company Name) Insurance Company under Policy No[s]. _____ (Policy Number[s]), pursuant to the attached Certificate of Insurance, and in accordance with Massachusetts General Laws, Chapter 152 and Subsection 7.05A of the Standard Specifications for Highways and Bridges of the Highway Division of the Massachusetts Department of Transportation.

X _____
(Signature)

(Signatory Title)

On this _____ (Notary Signature Date), before me, the undersigned notary public, personally appeared _____ (Signatory Name), proved to me through satisfactory evidence of identification, which was/were _____ (Evidence of Identification), to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of their knowledge and belief.

X _____
Notary Signature

Notary Printed Name
Commission Expiration Date: _____

² A producer is an insurance company that provides insurance policies directly, not an insurance agent.

³ For Prime or Sub-Contractor companies insured through the voluntary market, this Affidavit must be completed by the insurer or an authorized agent of the insurer.

⁴ If the Prime or Sub-Contractor is insured through the involuntary insurance market, a pool, such as the Worker's Compensation Inspection and Rating Bureau, or is otherwise insured they may provide a Certificate of Insurance and this Affidavit which may be signed by an authorized signatory (company officer) of the Prime or the Sub-Contractor.

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5. CERTIFICATE OF LIABILITY INSURANCE

*** END OF DOCUMENT ***