

FORM OF LABOR AND MATERIAL PAYMENT BOND

It is hereby agreed that, _____
of _____
(hereinafter called the "Principal")
and _____
of _____
(hereinafter called the "Surety")

are held firmly bound to the Long Island Rail Road Company, a New York Public Benefit Corporation (hereinafter called the LIRR), for the use and benefit of claimants as herein below described, in the amount of _____ Dollars (\$ _____) good and lawful money of the United States of America, for the payment of which sum of money, the Principal binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal has entered into a contract with the LIRR for:

Contract No. and Description:

Which is incorporated herein by reference as though herein set forth in full.

Now, therefore, the conditions of this obligation are such, that if Principal shall promptly pay all monies due to all persons furnishing labor or materials to it or its subcontractors in the prosecution of the Work provided for in said Contract, then this obligation shall be void, otherwise to remain in full force and effect;

Provided, however, that all rights and remedies on this bond shall inure solely to such persons and shall be determined in accordance with the provisions, conditions and limitations of Section 137 of the State Finance Law to the same extent as if they were copied at length herein; and further, provided, the place of filing of any suit or action on this bond shall be in the county which the said Contract was to be performed, or if said Contract was to be performed in more than one county, then in any such county, and not elsewhere.

No suit or action shall be commenced hereunder by any claimant:

- (a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the LIRR, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed.

Such notice shall be served by mailing the same by registered mail or certified mail, return receipt requested, postage prepaid, in an envelope addressed to the Principal, LIRR or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

- (b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
- (c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this _____ day of _____, 20_____,

(Corporate seal of the
Principal if a corporation)

(Full legal name of the Principal)

Signed and delivered by the
Principal in the presence of

Attest:

By: _____

Title: _____

Secretary

(Corporate seal of Surety)

(Full legal name of the Surety)

Signed and delivered by the Surety
in the presence of

Attest:

By: _____

Title: _____

Title

ACKNOWLEDGEMENT BY PRINCIPAL, IF A CORPORATION

STATE OF _____)

) SS.:

COUNTY OF _____)

On the _____ day of _____, 20____,

before me personally came _____

_____ resides at _____

and is the _____ of _____

one of the corporations described in and which executed the foregoing instrument; and knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by the order of the Board of Directors of said corporation; and that the signature is affixed thereto by like order.

Notary Public

ACKNOWLEDGEMENT BY PRINCIPAL, IF A PARTNERSHIP

STATE OF _____)

) SS.:

COUNTY OF _____)

On the _____ day of _____, 20____, before me personally appeared _____, to me known and known to me to be one of the members of the firm of _____

_____ described in and who executed the foregoing instrument, and he/she acknowledged to me that he/she executed the same as and for the act and deed of said firm.

Notary Public

ACKNOWLEDGEMENT BY PRINCIPAL, IF AN INDIVIDUAL

STATE OF _____)

) SS.:

COUNTY OF _____)

On the _____ day of _____, 20_____, before me personally appeared _____ to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed same.

Notary Public

Affix Acknowledgement and Justification of Sureties together with
Certificate of Qualification pursuant to Section 1111 of Insurance Law.