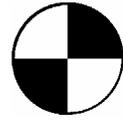




Highway Division Project Delivery Leadership Team Operational Notice



NUMBER PD- 15	SUPERSEDES N/A	EFFECTIVE DATE March 1, 2005	CANCELLATION DATE N/A
SUBJECT Project Risk Assessment and Insurance		ISSUING BODY Project Delivery Leadership Team (PDLT)	

PURPOSE: To provide direction to the business line relating to the structured assessment of risk and insurance against identified risks for contractors and subcontractors performing work on Highway Division projects.

RATIONALE: This operational notice implements a standardized approach to identify potential project risks and improve the quality of decisions relating to general and specialty insurance requirements during project development and construction.

GUIDANCE: This notice identifies who is responsible for specific actions and decisions and appropriate accountable manager(s) for identifying and assuring that risks are managed optimally.

RISK ASSESSMENT/ INSURANCE REQUIREMENTS

The risk assessment is a process to identify project risk and opportunities to mitigate or reduce the risk. The risk assessment process, for construction contracts, will also serve as a guide to assist in development of insurance requirements for Special Provisions 00170.70. A process flow chart is attached.

The first step in risk assessment is the completion of the risk assessment portion of Project Delivery Work Planning tool (PDWP). It will require in-depth knowledge of the project including location, environmental, safety, rail, hazardous materials and all other project elements identified during project scoping and design.

The identified risk exposures will be mitigated through project management, insurance, and bonding. The project leader will provide the specification writer the information needed to complete the special provisions for insurance.

Risk Assessment

During the development of the project, the project team, consultant team or local agency project team will complete the Project Risk Assessment through PDWP. Training on conducting a risk assessment will be coordinated by the Office of Project Delivery.

ODOT, Local, or Consultant Specification Writer

The specification writer is responsible for completing the blanks of Special Provision 00170.70 for the project based on the risk assessment provided by the Project Team Leader, Consultant Project Manager, or Local Agency Liaison.

The specifications writer is responsible also to assure that in the solicitation document (Blue Book) on the page titled DESCRIPTION OF WORK, under project information, the actual Project Manager administering the construction contract (not the ODOT CPM or the ODOT Local Agency Liaison) is identified as the Construction Project Manager, along with the Project Manager's phone number and address.

Office of Pre-Letting

The PS&E package from the project team is typically due 45 days prior to the scheduled bid letting. The project submittal will include a summary of the completed Project Risk Assessment.

The assigned Quality Assurance (QA) engineer validates the completeness of the submittal. The same QA engineer will review the project special provisions to confirm the insurance related sections (00170.70) are complete and in conformance with whatever is stated in the also submitted Project Risk Assessment summary.

The assigned Quality Assurance engineer will check to assure the actual Project Manager administering the construction contract is listed in the solicitation document.

The QA Engineer will resolve any discrepancies with the project leader and team.

The PS&E documents will be passed on for signature and printing.

During the project advertisement period, the QA engineer will monitor addenda for changes that may alter the insurance requirements of the project. When found, the discrepancies are expected to be resolved with the project leader and team.

Construction Contracts Section (CCS)

Construction Contracts Section is responsible for bid opening, review of bid proposals, award letter, and Notice to Proceed (NTP) letter.

CCS sends the formal award letter along with contract documents to the contractor for signature. Instructions for Certificate of Insurance requirements identified in 00170.70 will accompany the award letter. These requirements are outlined in the attached sample Instructions for Certificates of Insurance.

If specialty insurance requirements are identified, the contractor will receive the award letter, Instructions for Certificate of Insurance, and Attachment B. This attachment will be filled out and signed by the contractor indicating which specialty insurance requirements are being provided by the contractor and/or subcontractor(s). The Attachment B will be returned to the CCS for review along with the final and complete contract documents and any insurance certificates for coverages provided by the prime contractor.

After the contract has been executed, a Notice to Proceed letter is sent to the Contractor, Construction Section, Project Manager (PM) listed in the solicitation document (Blue Book) on

the page titled DESCRIPTION OF WORK, and other appropriate parties along with insurance certificates for coverages provided by the Prime Contractor and Attachment B.

Project Manager

Upon receiving the Notice to Proceed (NTP) letter, the Project Manager will review contract document and insurance obligations. If the prime contractor's completed Attachment B Form indicates that subcontractors will be performing specialty work and will be providing specialty insurance for that exposure, such as pollution, asbestos, or lead, the Project Manager will not allow the subcontractor to start work until certificate of specialty insurance is provided to the PM.

Project Manager will also monitor specialty insurance renewal requirements. Standard contract language requires a 30 day notice of cancellation, thereby informing the PM of potential loss of insurance.

When PM receives a NTP, PM sends contractor letter reminding contractor of specialty insurance required for the specific work items. Project Manager requires contractor to provide a written Insurance Plan to accomplish the specialty work, identifying subcontractors doing the specialty work, the activities on the contractor's project schedule that involve the specialty work, and the timeframes when the specialty work will take place. The Project Manager will require the contractor's written Insurance Plan to be provided before the pre-con. If the contractor has not yet selected subcontractors for the specialty work, the contractor's Insurance Plan shall so note and shall be required to be updated and resubmitted once the contractor determines which subcontractors will do the specialty work.

The Project Manager's letter must also remind the contractor that the specialty insurance information must be provided to the PM with the Contractor's request to subcontract for any activities involving the specialty work, and that the specialty insurance must be approved prior to the PM approving the request to subcontract. PM's letter will inform the contractor that the agency will require 28 days to review the submitted specialty insurance. Project Manager will allow 21 days for CCS review and approval, and 7 days for transmittal time.

When PM receives Request to Subcontract pertaining to the specialty work that requires specialty insurance:

- The PM must receive required specialty insurance certificate with contractor's Request to Subcontract.
- PM must forward the insurance certificate to CCS for review and approval. Ten working days will be allowed for CCS to complete the review. If certificates are incorrect or incomplete, CCS will identify needed corrections and inform PM, who will in turn notify the prime contractor. After prime contractor obtains corrected insurance certificates from the subcontractor they will be forwarded to the PM.
- PM will inform contractor that their insurance certificate is being checked, once approved, the rest of the approval of the subcontract will start.

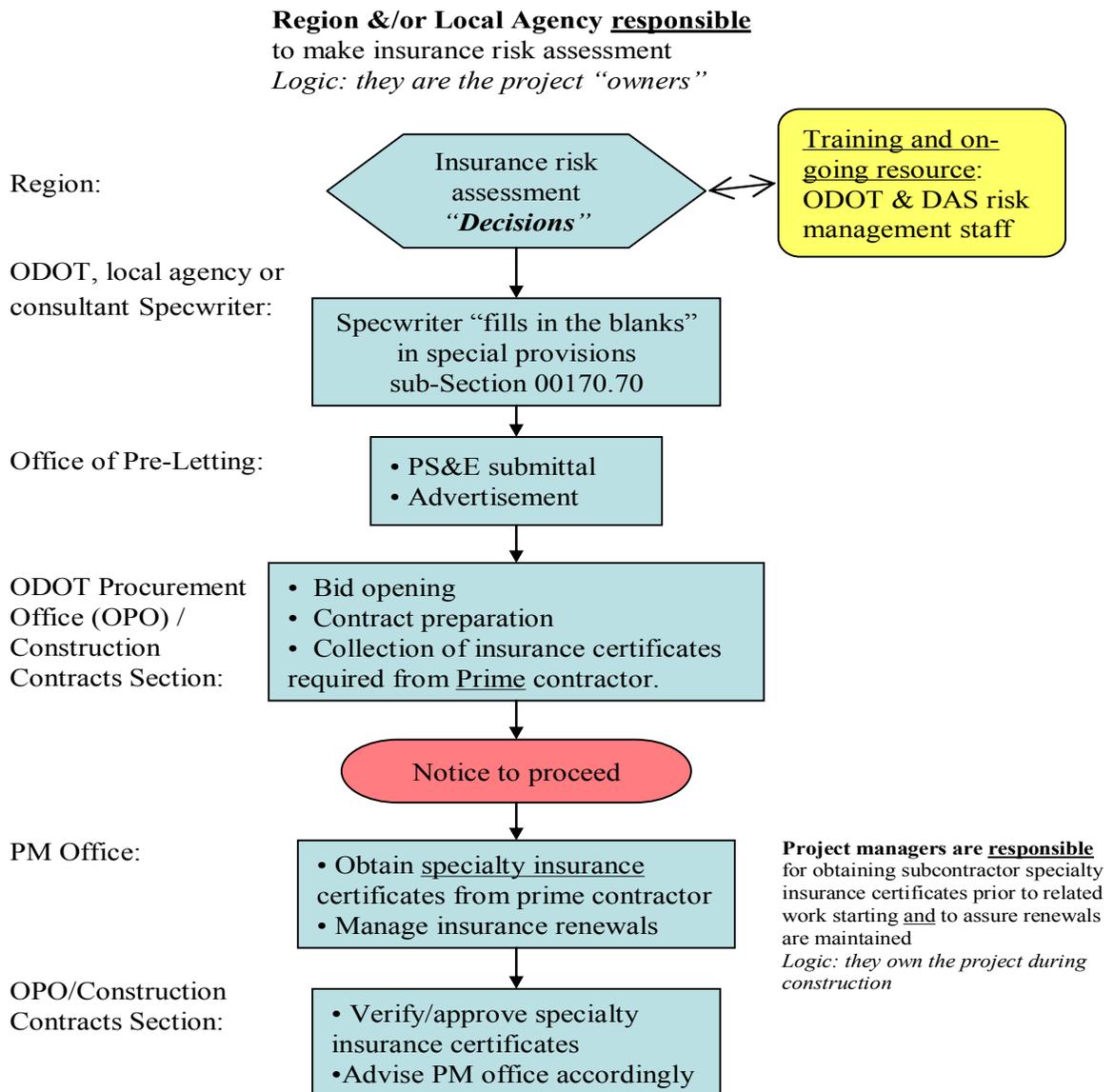
Upon CCS approval of the specialty insurance certificate, CCS notifies PM it is acceptable, PM reviews subcontract and approves if appropriate. The PM will record the date of insurance expiration, and by subcontract approval informs contractor to provide either a renewal of the

certificate at least 2 months before expiration, or provide notice of work complete and need for insurance expires.

PM notes date specialty insurance expires and records into reminder file. The PM checks to ensure contractor provides the required renewals. The PM stops specialty work if insurance is not renewed prior to expiration of initial certificate or completion of the work.

Attachment A

Insurance Risk Assessment and Certificate Management



INSTRUCTIONS FOR CERTIFICATES OF INSURANCE
CONTRACT NO.

Requirements for the **Certificates of Insurance** are contained in the Special Provisions of the Contract under Subsection 00170.70 and are shown on Pages 3 through 5.

Keep this paragraph only if specialty insurance requirements are listed in the special provisions.

According to the Special Provisions, Subsection 00170.70, specialty insurance requirements are listed below. The **Contractor** must fill out **Attachment B** and return to the Oregon Department of Transportation, Construction Contracts Section (CCS) along with the completed contracts. If Contractor is allowing any subcontractor(s) to issue specialty insurance requirements, please forward these instructions on to the subcontractor(s) for their use in complying with the instructions for the specialty insurance requirements only.

The following **Original** Certificates of Insurance from the **Contractor** must be issued for the contract and furnished to: **Oregon Department of Transportation, Construction Contracts Section, 455 Airport Rd. SE, Bldg. K, Salem OR 97301-5348** (**List as Certificate Holder**) before the Department will execute the contract and issue a notice to proceed.

Keep this paragraph only if specialty insurance requirements are listed in the special provisions.

The following **Original** Certificates of Insurance from the **Subcontractor(s)** must be issued for the contract and furnished to: Oregon Department of Transportation, **PROJECT MANAGER'S NAME AND ADDRESS** (**List as Certificate Holder**) before the Project Manager will allow subcontractor(s) to start work.

Remove any insurance requirements that do not apply.

1. **Commercial General Liability in the amount of \$ million each occurrence/\$ million annual aggregate limit and \$ million products/completed operations.**
2. **Pollution Liability in the amount of \$ million each occurrence/\$ million annual aggregate limit.**
3. **Asbestos Liability Endorsement to the pollution policy or separate policy at the same combined single limit per occurrence and annual aggregate limit as the pollution liability**
4. **Lead Liability Endorsement to the pollution policy or separate policy at the same combined single limit per occurrence and annual aggregate limit as the pollution liability**
5. **Commercial Automobile Liability in the amount of \$ each occurrence.**
6. **Commercial Automobile Liability with Pollution Coverage in the amount of \$ each occurrence.**
7. **The following additional insured clause must be added to the certificate(s) or on an attached endorsement for the insurance requirements listed above or accompanied by a Blanket Additional Insured Endorsement which states "any person or organization you are required to include as an additional insured on this policy by a written contract"**

⇒**The State of Oregon, the Transportation Commission and its members, the Department of Transportation, and their officers and employees**, as additional insureds but only with respect to the contractor's activities to be performed under this contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

8. **Builders' Risk** for an amount equal to at least \$_____. Any deductible shall not exceed \$50,000 for each loss, except that the earthquake and flood deductible shall not exceed 5% of each loss or \$50,000, whichever is greater. The policy shall include as loss payee the Department of Transportation and _____(owner)_____.
9. **Per Project Aggregate** shall be included with the **Commercial General Liability, Pollution Liability, Asbestos Liability, and Lead Liability**. This can be achieved: a) with an **Endorsement for same**; or b) **with the following wordage**: "The general liability, pollution liability, asbestos liability, lead liability policies shall be endorsed to state that the general aggregate limits of liability shall apply separately to this contract;"; or c) On the front of the Acord Certificate under Type of Insurance.
10. Contract Number and name of project must be included on each certificate.
11. **Cancellation Clause: All certificates of insurance, including Workers' Comp., must include a 30-day notice of cancellation clause**. Suggested language to include on certificate: "Should any of the above-described policies be cancelled before the expiration date thereof, the issuing company will mail 30 days' written notice to the above-named certificate holder." or, The standard cancellation clause on Acord Certificate Form 25-S is acceptable with 30 days filled in.
12. **Workers' Compensation. Must include a 30-day cancellation clause.**

00170.70 Insurance Coverages:

(a) Insurance Coverages - The Contractor shall obtain, at its expense, and keep in effect during the term of the Contract, the insurance coverages listed below. The Contractor may however, contractually obligate an appropriate subcontractor to obtain, at the subcontractor's expense or at the Contractor's expense, and keep in effect during the term of the Contract, pollution liability coverage, asbestos liability, lead liability, or automobile liability with pollution coverages, or such other types of insurance coverage that, before execution of the Contract, the Agency approves as types of insurance coverage that may be obtained by appropriate subcontractors. If both the Contractor and an appropriate subcontractor will perform pollution related Work or other Work that would be covered by the other above-described types of insurance permitted to be obtained by an appropriate subcontractor, the insurance coverages listed below that correspond to such Work shall be obtained, at the Contractor's or subcontractor's expense, and shall cover the liability of the Contractor and the subcontractor, either under the same or separate insurance policies.

Remove any insurance requirements that do not apply. If Commercial Automobile Liability with Pollution Coverage is required, also keep the Commercial Automobile Liability paragraph.

- **Commercial General Liability** - Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the Agency. This insurance shall include personal and advertising injury liability and products and completed operations coverage. Coverage may be written in combination with Commercial Automobile Liability Insurance with separate limits for Commercial General Liability and Commercial Automobile Liability. Coverage shall be written on an occurrence basis. Combined single limit per occurrence shall not be less than \$_____. The annual aggregate limit shall not be less than \$_____. The policy shall be endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.

If the Contractor's Commercial General Liability Insurance limits are less than the required limits stated above, the Contractor shall obtain Excess or Umbrella Liability Insurance with sufficient limits that when added to the Contractor's Commercial General Liability Insurance limits the total combined limits of Commercial General Liability Insurance and Excess or Umbrella Liability Insurance equal or exceed the above-stated Commercial General Liability Insurance limits required for this Project. The above-stated combined single limit per occurrence and the above-stated annual aggregate limit must each be met. Excess or Umbrella Liability Insurance coverage shall extend to the same perils, terms, and conditions as the underlying Commercial General Liability Insurance coverage.

- **Pollution Liability** - Pollution Liability Insurance covering the Contractor's liability, or the liability of an appropriate subcontractor, if the coverage is obtained by the subcontractor, for bodily injury and property damage, and environmental damage resulting from sudden and accidental pollution, gradual pollution, and related clean-up costs incurred by the Contractor, or by the subcontractor if the coverage is obtained by the subcontractor, while performing Work required by the Contract. If the coverage is obtained by the Contractor, the coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Pollution Liability and Commercial General Liability. Combined single limit per occurrence shall not be less than \$_____. The annual aggregate limit shall not be less than \$_____. The policy shall be endorsed to state that the aggregate limit of liability shall apply separately to the Contract.
- **Asbestos Liability** - In addition to the Pollution Liability coverage, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide an Asbestos Liability endorsement to the pollution liability coverage. If an endorsement cannot be obtained, the Contractor or subcontractor shall provide separate Asbestos Liability Insurance at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance with the policy endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.

- **Lead Liability** - In addition to the Pollution Liability coverage, the Contractor, or the subcontractor, if the coverage is obtained by the subcontractor, shall provide a Lead Liability endorsement to the pollution liability coverage. If an endorsement cannot be obtained, the Contractor or subcontractor shall provide separate Lead Liability Insurance at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance with the separate policy endorsed to state that the annual aggregate limit of liability shall apply separately to the Contract.
- **Commercial Automobile Liability** - Commercial Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Commercial Automobile Liability and Commercial General Liability. Combined single limit per occurrence shall not be less than \$_____. If this coverage is written in combination with the Commercial General Liability, the policy shall be endorsed to state that the Commercial General Liability annual aggregate limit shall apply separately to the Contract.
- **Commercial Automobile Liability with Pollution Coverage** - Commercial Automobile Liability Insurance with Pollution coverage covering the Contractor's liability, or the liability of an appropriate subcontractor, if the coverage is obtained by the subcontractor, for bodily injury and property damage, and environmental damage arising out of the use of all owned, non-owned, or hired vehicles while performing Work under the Contract. If the coverage is obtained by the Contractor, the coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Commercial Automobile Liability with Pollution Coverage and Commercial General Liability. Combined single limit per occurrence shall not be less than \$_____ or the amount required by the U.S. Department of Transportation, whichever is greater. If this coverage is written in combination with the Commercial General Liability, the policy shall be endorsed to state that the Commercial General Liability annual aggregate limit shall apply separately to the Contract.

Commercial Automobile Liability with Pollution Coverage is required for this Project because the Project includes pollution related Work. If the Contractor will be performing pollution related Work, this coverage covering the Contractor must be provided. If an appropriate subcontractor, but not the Contractor, will perform the pollution related Work, Commercial Automobile Liability with Pollution Coverage covering the subcontractor, but not the Contractor, must be provided, however, the Contractor shall provide Commercial Automobile Liability insurance coverage covering the Contractor as provided in the Commercial Automobile Liability bullet above. If both the Contractor and an appropriate subcontractor will be performing pollution related Work, Commercial Automobile Liability with Pollution Coverage covering both the Contractor and the subcontractor shall be provided, and the Contractor may provide the coverage covering both the Contractor and the subcontractor, or the Contractor, and the subcontractor may provide their own, separate Commercial Automobile Liability with Pollution coverages.

(b) Tail Coverage - If any of the required liability insurance coverages of 00170.70(a) are on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 24 months, or the maximum time period reasonably available in the marketplace. The Contractor shall furnish certification of "tail" coverage as described, or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the Contract. If Continuous "claims made" coverage is used, the Contractor shall keep the coverage in effect for a duration of not less than 24 months from the end of the Contract. This will be a condition of Final Acceptance.

(c) Additional Insured - The General Liability, Pollution Liability, Asbestos Liability, and Lead Liability insurance coverages of 00170.70(a) shall include:

⇒ **The State of Oregon, the Transportation Commission and its members, the Department of Transportation, and their officers and employees**, as additional insureds but only with respect to the contractor's activities to be performed under this contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The liability coverages of 00170.70(a) that are permitted by the Agency to be obtained by an appropriate subcontractor shall include all of the foregoing as Additional Insureds and shall also include Contractor and its officers and employees as Additional Insureds.

(d) Workers' Compensation - All employers, including the Contractor and its Subcontractors, if any, that employ subject workers who are performing Work or providing labor or Materials under the Contract in the State shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. The Contractor shall ensure that each of its Subcontractors complies with these requirements.

The Contractor shall certify in the Contract that the Contractor is registered by the Oregon Workers' Compensation Division either as a carrier-insured employer, a self-insured employer, an exempt employer, or is an independent contractor who will perform the Work without the assistance of others.

The Contractor shall ensure that its insurance carrier files a guaranty contract with the Oregon Workers' Compensation Division before performing any Work.

(e) Notice of Cancellation or Change - The Contractor shall not cancel, change materially, or take any action showing intent not to renew the insurance coverage(s) without 30 days' written notice from the Contractor or its insurer(s) to the Agency. The Contractor shall be responsible for ensuring that insurance coverage(s) obtained by an appropriate subcontractor as permitted by the Agency under 00170.70(a), are not cancelled, changed materially, or have any action taken by the subcontractor showing intent not to renew the insurance coverage(s) without 30 days' advance written notice from the Contractor or the insurer(s) to the Agency. Any failure to comply with the reporting provisions of this insurance shall not affect the coverage(s) provided to the State of Oregon, the Transportation Commission and its members, the Department of Transportation, their officers and employees, or any additional insureds required by the Contract.

(f) Certificate(s) of Insurance - As evidence of the insurance coverages required by this Contract, the Contractor shall furnish Certificate(s) of Insurance to the Agency at the time(s) provided in 00130.50(a). As evidence of insurance coverages required by this Contract but permitted by the Agency under 00170.70(a) to be obtained by an appropriate subcontractor, the Contractor shall furnish Certificate(s) of Insurance to the Agency for such coverages together with the Contractor's request under 00180.21 for approval of the subcontract with that subcontractor. The Certificate(s) will specify all of the parties who are Additional Insureds. The Contractor shall obtain, or ensure that the appropriate subcontractors obtain, insurance coverages required under this Contract from insurance companies or entities acceptable to the Agency and authorized to issue insurance in the State. The Contractor, or the appropriate subcontractor, but not the Agency, shall be responsible for paying all deductibles, self-insured retentions and/or self-insurance included under these provisions.

(g) Builders' Risk - The Contractor shall obtain, at its expense, and keep in effect during the term of the Contract, Builders' Risk insurance on an all risks of direct physical loss basis, including, without limitation, earthquake and flood damage, for an amount equal to at least \$ _____. Any deductible shall not exceed \$50,000 for each loss, except that the earthquake and flood deductible shall not exceed 5% of each loss or \$50,000, whichever is greater. The policy shall include as loss payee, **the Oregon Department of Transportation, and _____(owner)_____.**

Attachment B

SPECIALTY INSURANCE REQUIREMENTS

Please mark if the Contractor or Subcontractor(s) will be providing pollution liability, asbestos liability, lead liability, or auto liability with pollution. If subcontractor(s) are providing any of the specialty insurance requirements, insert the subcontractor's name.

	Contractor	Subcontractor
Pollution Liability in the amount of \$ each occurrence/\$ annual aggregate limit Subcontractor(s) _____	<input type="checkbox"/>	<input type="checkbox"/>
Asbestos Liability Endorsement to the pollution policy or separate policy at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance Subcontractor(s) _____	<input type="checkbox"/>	<input type="checkbox"/>
Lead Liability Endorsement to the pollution policy or separate policy at the same combined single limit per occurrence and annual aggregate limit as the Pollution Liability Insurance Subcontractor(s) _____	<input type="checkbox"/>	<input type="checkbox"/>
Commercial Automobile Liability with Pollution Coverage in the amount of \$ each occurrence. Subcontractor(s) _____	<input type="checkbox"/>	<input type="checkbox"/>

 Prime Contractor's Company Name

 Authorized Printed Name

 Authorized Signature