

FORM I

CONTRACT (PERFORMANCE BOND)

KNOW ALL PERSONS THESE PRESENTS,

That _____ (insert name of Applicant) and _____ (insert name of insurance company), duly authorized to conduct business in the Commonwealth of Massachusetts and having a usual place of business at _____.

hereby bind and obligate themselves jointly and severally, their executors, administrators, devisees, heirs, successors and assigns to the Planning Board, City of Gardner, Massachusetts, with this Performance Bond in the full and just sum of \$ _____ (in words, _____ dollars) to be used by said City of Gardner to secure the construction of streets and ways, the installation of municipal services, and the construction of certain other improvements by the Applicant within two (2) years from the date hereof (the "Completion Date"), and in accordance with the attached construction schedule, for lots as shown on the subdivision plan entitled _____, drawn by _____ and last revised on _____; endorsed by the Planning Board on _____ and the Planning Board's Certificate of Approval, dated _____, 20___. Said plan is recorded at the Worcester County Registry of Deeds as Plan Book _____, Page _____.

The Performance Bond shall not expire until the Planning Board, upon request, has certified that the Applicant has performed and completed all road work, improvements and obligations according to the aforesaid documents, or the Planning Board has accepted another method of securing performance as provided in Massachusetts General Laws Chapter 41, Section 81U.

Upon the Planning Board's certification that the Applicant has completed all obligations as specified herein by the above completion date, or such later date as the Planning Board may approve upon a written request by the Applicant and the Insurance Company made at least 45 days prior to the Completion Date, the Planning Board shall release its interest in this Performance Bond.

In the event that the Applicant fails to complete all obligations as specified herein, the full amount of this Performance Bond shall be due immediately to the City of Gardner. Failure by the Applicant to complete all obligations set forth herein shall be defined as follows:

1. Failure to complete all improvements as specified herein by the Completion Date;
2. Bankruptcy of the Applicant or the foreclosure of any mortgage on all or part of the land shown on the Approved Plan before the scheduled completion date;
3. Notice to the Planning Board of the withdrawal or termination of this Performance Bond, or of its substitution with another method of securing performance, unless such notice is given 45 days prior to the date of withdrawal, termination or substitution; or
4. Any other condition or circumstance, which in the opinion of the Planning Board constitutes the Applicant's default under this Performance Bond.

Any amendments to this Performance Bond shall not take effect unless agreed upon in writing by all parties to this Agreement.

IN WITNESS WHEREOF, this instrument has been executed by the duly authorized representatives of the Applicant, Insurance Company and Planning Board.

Signed, sealed and dated: _____, 20__.

Signature for Applicant

Signature for Insurance Company

Signature for Planning Board

Attachments:

- Performance Bond
- Power of Attorney for Person Signing on Behalf of Insurance Company
- License of Insurance Company to Operate in the Commonwealth of Massachusetts
- Construction Schedule