

FORM D

**TOWN OF SOUTH HADLEY, MASSACHUSETTS
PLANNING BOARD**

PERFORMANCE BOND AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20____, at South Hadley, in the County of Hampshire and Commonwealth of Massachusetts, by and between _____ party of the first part, hereinafter called the SUBDIVIDER, and the TOWN OF SOUTH HADLEY, a township within said County of Hampshire acting through its Planning Board, party of the second part, hereinafter called the TOWN.

WITNESS:

WHEREAS the Subdivider has petitioned the Town for approval of a Definitive Plan of a subdivision entitled: _____, located _____, said Plan has been submitted to the Town Planning Board, copies of which are on file in the office of said Board.

NOW THEREFORE, in consideration of the approval of said Definitive Plan and plan-profile by the Planning Board of said Town, the Subdivider agrees with the Town as follows:

1. To construct and install streets, ways, utilities and improvements as shown on the approved Definitive Plan, cross-sections and plan-profile in strict compliance with the subdivision rules and regulations of the Planning Board and in accordance with the following general specifications:
 - a. Streets and ways shown on the Plan shall be cleared for the entire width, including the necessary side slope excavations, and the roadway shall be excavated to sub-base grade and below sub-grade where specified by the Planning Board and/or Highway Superintendent, and then brought up to sub-base grade by compacting gravel the required number of inches.
 - b. Utilities shown on the Definitive Plan and plan-profile endorsed by the Planning Board shall be installed, where specified, including: water mains, hydrants, sanitary sewers, storm water drains, manholes, catch basins, electrical and telephone wires and cables, together with their appurtenances.
 - c. All roadways shall consist of a gravel base course of twelve (12) inches of good binding gravel placed upon the sub-base in two layers with the first layer consisting of eight (8) inches of bank-run gravel and a second layer consisting of four (4) inches of fine grade road gravel, each layer thoroughly rolled true to lines and grades.
 - d. The hardened surface of the roadway shall be paved the required width, and the hardened surface treatment shall be compacted bituminous concrete, Type I-1, at a depth of two and one-half (2 ½) inches, placed in two (2) layers, as specified in Section 8.02, of the Subdivision Plan and in accordance with the Subdivision Regulations of South Hadley.

- e. Monuments, sidewalks, curbs, loaming and seeding, planting and street signs shall be installed as shown on the Definitive Plan and in accordance with the Subdivision Regulations.
2. To file with the Planning Board a Certificate of Performance attesting to the satisfactory performance of all works and installations as set forth in this agreement and the subdivision rules and regulations of the Town at which time the Planning Board or their authorized representative shall inspect the works and installations and said Board will proceed with the release of the deposit or bond if the provisions of this agreement have been completed.
 3. SPECIAL CONDITIONS:

The Planning Board, its representatives, or other agents of the Town shall have right of entry at all times during the life of this agreement for the purpose of examination and inspection of works and installations included herein and that the Town at its discretion shall have the right to use whatever materials may be in or on the land for completion of said works and installations as hereinafter provided.

- a. All easements to be transferred to the Town by recording said instruments in the Hampshire County Registry of Deeds of Land Court at the expense of the Subdivider before the final bond is released.
 - b. Sale or transfer of any lot or lots abutting any street covered in this Bond Agreement shall not release the Subdivider of any obligation contained herein to complete any roadway construction, including clearing, excavation, side slopes, utility installations, grading, gravel or paving, monuments, sidewalks, curbing, loaming and seeding, planting, and street signs in the fifty (50) foot right-of-way strip.
4. To deposit with the Town Treasurer cash in the form of a Certified Check or Pass Book payable to the Town of South Hadley, or file with the Town Treasurer a bond with sufficient sureties, approved by the Town in the amount of _____ which shall insure to the said Town the faithful performance, by the subdivider, of the within covenants, promises and agreements, which shall be applied in one of the following ways;
 - a. Full amount to be deposited before the Definitive Plan is endorsed and to be released on satisfactory completion of this agreement.
 - b. Full amount to be deposited before the Definitive Plan is endorsed and at the request of the subdivider, partial release to be made upon satisfactory completion and approved by the Planning Board of items 1(a), 1(b), 1(c), 1(d), and the remainder to be released upon completion of the remaining conditions of this agreement.

NOW, THEREFORE, if the Subdivider shall, on or before _____, 20____, make and complete the work and installations as set forth herein and file with the Planning Board the Certificates of Performance required, any cash deposited hereunder shall be released to the Subdivider, and, the obligation under any surety bond filed with the Board shall be null and void; otherwise the amount which the Town pays to complete said work and installations shall be deducted from such cash deposit, and, the principal and surety

shall pay to the Treasurer of the Town the amount which the town pays to complete said work and installations; provided, however, the amount shall not exceed the total deposit required or the penal sum of the bond.

This agreement shall terminate upon satisfactory completion of all requirements under the subdivision rules and regulations of the Planning Board and of said work and installations agreed to.

This instrument includes the Subdivider, his administrator, executor, successor or assigns.

The Subdivider herein states as one of the material allegations that induce the said Town to approve this subdivision that he/it is the owner of the tract in fee, subject to the following incumbrance:

_____ and that he will not sell, convey, mortgage or pledge that tract in whole or in part, except as individual building lots, without consent of the Town and without making such sale, conveyance, mortgage or pledge subject to the conditions set forth herein.

IN WITNESS WHEREOF, the said Subdivider and mortgagee has/have caused his/their seals to be affixed and these presents to be signed the day and year first above written.

MORTGAGEE

SUBDIVIDER

RECEIPT of the original, hereof, together with the cash deposit or Bond stipulated in paragraph (4) is hereby acknowledged.

SOUTH HADLEY PLANNING BOARD

Date _____, Chairman

