



FORM H

PLANNING BOARD BERKLEY, MASSACHUSETTS

PERFORMANCE SECURED BY A SURETY COMPANY

_____, 20____

AGREEMENT made this date between the **Town of Berkley** and _____, hereinafter referred to as "the applicant" of _____ and _____, a corporation duly organized and existing under the laws of the state of **Massachusetts** and having a usual place of business at _____ hereinafter referred to as "the surety," to secure construction of ways and installation of municipal services in the subdivision of land shown on a plan entitled: _____ by: _____ dated: _____, owned by, _____ address: _____ land located: _____, and showing _____ proposed lots.

KNOW ALL MEN by these presents that the applicant and the surety hereby bind and obligate themselves, their, or its executors, administrators, devisees, heirs, successors and assigns, jointly and severally to the **Town of Berkley**, a Massachusetts municipal corporation, acting through its Planning Board, in the sum of _____ dollars, and have secured this obligation by depositing with the Treasurer of said **Town of Berkley**, a surety bond to secure the above sum of money, said surety bond to be used to insure the performance by the applicant of all covenants, conditions, agreements, terms and provisions contained in the following:

1. Application for Approval Definitive Plan (Form C), dated: _____;
2. The subdivision control law and the Planning Board's Rules and Regulations governing this subdivision and dated _____;
3. Conditions included in the Certificate of Approval issued by the Planning Board and dated _____;
4. The definitive plan as qualified by the Certificate of Approval; and
5. Other document(s) specifying construction of installation to be completed, namely; (specify other documents, if any, and list lots secured if only a part of the subdivision is secured by a surety company)

This agreement shall remain in full force and effect until the applicant has fully and satisfactorily performed all obligations, or has elected to provide another method of securing performance as provided by M.G.L., Chapter 41, Section 81-U.

Upon completion by the applicant of all obligations as specified herein, on or before _____, or such later date as may be specified by vote of the Planning Board with a written concurrence of the applicant and the surety, the interest of the town in such surety bond shall be released, the surety bond shall be returned to the surety, and this agreement shall become void. In the event the applicant should fail to complete the construction of ways and installation of municipal services as specified in this agreement and within the time herein specified, the surety bond may be

enforced, in whole, or in part, by the Planning Board for the benefit of the **Town of Berkley** to the extent of the reasonable cost to the city/town of completing such construction or installation as specified in this agreement. Any unused portion of the surety bond will be released and the unused portion of the surety bond will be returned to the surety upon completion of the work by said town; and the town of **Berkley** acting by and through its Planning Board hereby agrees to accept the aforesaid surety bond in the amount specified in this agreement as security for the performance of the project as aforesaid.

Any amendments to this agreement and/or to the aforesaid security shall be agreed upon in writing by all parties to this agreement.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ of _____, 20____.

Signature of Applicant

Chairman

Signature of Authorized Representative of the Surety

Signatures of a Majority of the Planning Board Town of Berkley

COMMONWEALTH OF MASSACHUSETTS

_____, ss

_____, 20____

Then personally appeared _____ one of the above-named members of the **Planning Board of Berkley, Massachusetts**, the applicant, and the authorized representative of the surety, and acknowledged the foregoing instrument to be the free act and deed of said parties before me.

Notary Public

My commission expires _____

Duplicate copy to:

____ Applicant

____ Town Clerk

____ Surety

____ Town Treasurer

____ Planning Board

____ Board of Selectmen