



Community Development Planning Division

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GORHAM MUNICIPAL CENTER, 75 South Street, Gorham, ME 04038

Tel: 207-222-1620

PERFORMANCE GUARANTEE						
Property Description	Parcel ID	Map(s)		Lot(s)		Date of Final Plan Approval
Project Address/Location						
Subdivision/Project Name						
Applicant or Applicant's Agent Information	Name				Mailing Address	
	Phone					
	Email:					
See the "Establishing a Performance Guarantee" attachment in this packet.						
Schedule of Values	<p>An interactive SCHEDULE OF VALUES is available on our website and hard copies are available in the Planning office.</p> <p>The SCHEDULE OF VALUES must be completed and submitted with this application.</p>					
PERFORMANCE GUARANTEE INFORMATION						
Type of Guarantee	<input type="checkbox"/> LETTER OF CREDIT		<input type="checkbox"/> SECURITY BOND		<input type="checkbox"/> ESCROW ACCOUNT	
Specify Bank or other Institution						
ID #	LOC #:		BOND #:		CHECK #:	
Expiration or Completion Date						
ADDITIONAL COMMENTS:						

Please note: The amount due for field inspection is automatically calculated on the *Schedule of Values Form* and is 2.5% of the estimated cost.

I certify that the above information is true and accurate to the best of my knowledge.

SIGNATURE: APPLICANT OR APPLICANT'S AGENT

DATE

PRINT NAME

ESTABLISHING A PERFORMANCE GUARANTEE

All Performance Guarantees must be established through the Community Development office and approved by the Town Manager and the Town Attorney.

STEP ONE The applicant must submit an itemized schedule of values of the work that is to be secured by the Performance Guarantee to the Community Development office. An interactive spreadsheet is available on the Town website. This itemized schedule of values must include all approved public and quasi-public improvements including, but not limited to, road construction, fire ponds, the installation of public sewer and public water, roadway monumentation, and the installation of street trees, required landscaping, etc. The applicant must indicate the date by which all of the improvements will be completed.

STEP TWO The Community Development office will refer the itemized schedule of values for improvements to the Town's Engineer who will review the proposed scope of work and cost estimates. Once the description of the work to be done and the estimated costs have been reviewed by the Town's Engineer, the Community Development office will advise the applicant of any requested changes.

STEP THREE The applicant can then use the approved schedule of values to establish a Performance Guarantee with a local bank or other lending institution of his/her choice. The required Performance Guarantee can be one of several forms:

1. A Letter of Credit from a bank or financial institution that contains all of the items listed on the attached checklist;
2. A Bond from a company licensed to do business in Maine, including the corporate authorization of the person signing the bond on behalf of the company; or
3. A Cash deposit via a certified bank check/treasurer's check that is held in an escrow account by the Town of Gorham.

STEP FOUR The proposed form of the Performance Guarantee is submitted to the Community Development office by the applicant. Community Development staff will forward it to the Town Attorney and the Town Manager for review and advise the applicant if any revisions are necessary.

STEP FIVE When the Town Attorney and the Town Manager have given their final approvals, the Community Development office will notify the applicant who can then ask the lending or bonding institution to prepare and submit a final guarantee document to the Community Development office.

If you have any questions, please contact the Director of Community Development at 207-222-1620.

See the Gorham Land Use ordinance for additional information regarding performance guarantees.

APPLICANT'S CHECKLIST for ILOC

IRREVOCABLE LETTER OF CREDIT (See sample document next page.)

A proposed Irrevocable Letter of Credit should contain the following:

1. A specific date by which the improvements secured by the Letter of Credit will be completed.
2. The expiration date of the Letter of Credit should be set between sixty and ninety days following the date set for the completion of the improvements.
3. The letter must specify the improvements that are secured by the Letter of Credit. An itemized list of improvements and their cost should be incorporated into the document and must include the 25% retainage.
4. The letter must specify how partial drawings on the Letter of Credit are to be made.
5. The letter must state that the Town may alternatively use funds drawn on the Letter of Credit to restore a subdivision trust.
6. The letter must provide a procedure for resubmission of a sight draft if it should be dishonored by the lender.
7. The letter must state that it shall be the responsibility of the developer and lender to initiate an extension of the Letter of Credit, prior to the expiration date if the improvements cannot be completed by the specified date. (failure to notify may cause the Town to draw the Letter of Credit in order to protect the Town's interest.)
8. All Letters of Credit must be reviewed and approved by the Town Attorney, prior to finalization by the lending authority.
9. When it becomes necessary to extend a Letter of Credit, a new Letter is required.

NOTE: THE ORIGINAL LETTER OF CREDIT WILL REMAIN WITH THE TOWN OF GORHAM UNTIL THE IMPROVEMENTS ARE COMPLETED AND THE LETTER IS RELEASED BY THE TOWN.

Bank Letterhead

IRREVOCABLE LETTER OF CREDIT

Date

Letter of Credit No. _____

Town of Gorham
75 South Street, Suite 1
Gorham, ME 04038

Gentlemen:

This letter shall constitute an irrevocable letter of credit verifying that this lending institution *[insert name of lending institution]* (the “Lender”) has on account and available a sum or sums not less than *[insert amount]* for the account of *[insert name of developer]* (the “Developer”) to be paid to the Town of Gorham upon receipt at the Lender’s office at *[insert address of local branch or office or of local confirming bank for presentment of the draft]* of your written statement(s), signed by the Town Manager that payment is due based upon the Developer’s default or failure to construct or install in a timely and satisfactory manner (including inspection and approval by the Town’s Engineer) the improvements listed below on or before the completion date of *[insert construction completion date, which date shall be no more than two (2) years after the date of this irrevocable letter of credit]*.

[List improvements and amount stated for each improvement here or on a separate sheet]

This obligation, however, shall be reduced by the amounts stated for each of the above-listed improvements upon receipt of written certification from the Town Engineer that the corresponding improvements have been satisfactorily completed, inspected and approved by the Town prior to notice in writing by the Town of any such default or failure by the developer.

In the event that the Lender refuses to honor the Town’s draft, the Lender shall provide the Town with written reasons for the dishonor and shall notify the Town of the dishonor within three (3) working days of presentation of the draft, and subsequently shall permit the Town to present a revised draft or drafts hereunder.

In the event that the developer has failed to perform or is in default in timely and satisfactory completion of the improvements referred to above, any funds collected by the Town of Gorham under this obligation shall be used towards completion of said improvements or reasonable restoration of the site.

We hereby agree with the Town of Gorham, its successors and assigns, acting in compliance with the terms of this obligation, that the same shall be duly honored upon notice duly given on or before the termination date of *[insert a date that is at least sixty to ninety days later than the construction completion date]*.

Very truly yours,

[Authorized official’s signature and title]

(Letterhead)

(Name of Bonding company)

Performance Bond No. ____

KNOW ALL MEN BY THESE PRESENTS:

That We, (Applicant's Name and Project Name) in the county of ____ and State of Maine), as Principal, (hereinafter called Principal), and ____ Bonding Company as Surety, hereinafter called Surety, are held and firmly bound until the Town of Gorham, Maine, as Obligee, (hereinafter called Obligee), in the penal sum of thousand ____ hundred ____ and ____/100 Dollars (\$____) for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, The Town of Gorham Planning Board issued a ____ approval on ____ (date) for ____ (describe what the approval was for) which approval is by reference incorporated herein.

AND WHEREAS, said Town of Gorham is desirous of the Principal furnishing a performance bond, conditioned to guarantee the completion of the improvements set forth in the attached schedule of values, such work to be completed by ____ (date) by the Principal.

NOW THEREFORE, if the Principal completes all required work by the completion date specified, then it shall be released from its obligation hereunder.

PROVIDED, HOWEVER, that the Obligee shall give Principal and Surety notice of unfinished work or observed defects with reasonable promptness.

SIGNED and sealed this ____ day of ____, 20____.

IN THE PRESENCE OF:

(Applicants Name and Project)

Notary

By: _____

Bonding Company

Witness

By: _____

Attorney-in-Fact