

The standardized form of performance surety bond required by an approving authority pursuant to section 41 of P.L. 1975, c.291 ([N.J.S.A. 40:55D-53](#)) shall be as follows:

Block(s) Lot(s)

PERFORMANCE SURETY BOND

We, _____ (applicant or owner name), having offices at _____, as Principal, and _____ (surety company name), having offices at _____, (mailing address) a corporation duly licensed to transact a surety business in the State of New Jersey, as surety, are indebted to the County of Middlesex, Obligee, in the sum of \$ _____, for which payment we bind ourselves and our respective heirs, legal representatives, successors, and assigns, jointly and severally.

On _____ (date of conditional approval), Principal was granted approval by the Planning Board (approving authority) of the County of Middlesex for the Principal is the owner of certain property located in _____ (municipality), as shown on the map entitled, “ _____ ” and dated _____ and revised through _____ (include reference to specific job and resolution of approval). The estimate by the county engineer of the cost of this work and the resolution of approval are attached hereto and made a part hereof.

Pursuant to County Resolution, adopted under authority of the Municipal Land Use Law ([N.J.S.A. 40:55D-1 et seq.](#)), the Principal hereby furnishes a performance surety bond in the amount of \$ _____ (not to exceed 120 percent of the cost of the improvements, as certified by the County Engineer), written by _____, a surety licensed in the State of New Jersey, guarantying full and faithful completion of improvements approved by the approving authority, in lieu of completing the required improvements prior to the granting of final approval. This bond shall remain in full force and effect until such time as all improvements covered by the bond have been approved or accepted by resolution of the County of Middlesex governing body, except that in those instances where some of the improvements are approved or accepted by resolution of the governing body upon certification by the planning board, county engineer, and public works partial release from the bond shall be granted in accordance with [N.J.S.A. 40:55D-53](#). The amount of the bond remaining shall be sufficient to secure provision of the improvements not yet approved; provided, however, that the County of Middlesex may require that 30 percent of the amount of the bond be retained to ensure completion of all improvements.

This bond shall remain in full force and effect until released by resolution of the County of Middlesex governing body.

This bond is issued subject to the following expressed conditions:

1. This bond shall not be subject to cancellation either by the Principal or by the Surety for any reason until such time as all improvements subject to the bond have been accepted by the County of Middlesex, in accordance with the applicable provisions of the Municipal Land Use Law.
2. This bond shall be deemed to be continuous in form and shall remain in full force and effect until the improvements are accepted by the County of Middlesex and the bond is released, or until default is declared, or until the bond is replaced by another bond meeting applicable legal requirements. Upon approval or acceptance of all improvements by the County of Middlesex, or upon replacement of this bond by another bond, liability under this bond shall cease. Upon approval or acceptance of some, but not all, of the required improvements by the County of Middlesex, partial release from the bond shall be granted in accordance with [N.J.S.A. 40:55D-53](#); provided, however, that the portion of the bond amount sufficient to secure completion of the improvements shall continue in effect and the County of Middlesex may retain 30 percent of the bond amount posted in order to ensure such completion.
3. The aggregate liability of the surety shall not exceed the sum set forth above.
4. In the event that the improvements subject to this bond are not completed within the time allowed under the conditions of the final approval issued pursuant to the Municipal Land Use Law, including such extensions as may be allowed by the approving authority, the County of Middlesex governing body may, at its option, and upon at least 30 days prior written notice to the Principal and to the Surety by personal delivery or by certified or registered mail or courier, declare the principal to be in default and, in the event that the Surety fails or refuses to complete the work in accordance with the terms and conditions of the original approval, claim payment under this bond for the cost of completion of the work. In the event that any action is brought against the Principal under this bond, written notice of such action shall be given to the Surety by the County of Middlesex by personal delivery or by registered or certified mail or courier at the same time.
5. The Surety shall have the right to complete the work in accordance with the terms and conditions of the original approval, either with its own employees or in conjunction with the Principal or another contractor; provided, however, that the Surety, in its sole discretion, may make a monetary settlement with the County of Middlesex as an alternative to completing the work.
6. In the event the Principal does not perform pursuant to its obligations as set forth under the conditions of final approval issued by the County and the County commences an action to enforce the obligations of the Principal and Surety, then an additional 20% shall be added to the amount then needed to complete the work as set forth above, which amount shall represent the increased costs and expenses of suit, administrative fees and expenses and rise in costs.
7. In the event that the Principal and the approving authority agree to changes in the scope of work, the obligations of the Surety under this bond shall not be affected so long as the cost of the work does not exceed 120 percent of the county engineer's certified estimate, attached hereto and made a part hereof, which 120 percent of the estimate shall be the limit of the Surety's obligation under this bond in any case. If the cost of the work exceeds 120 percent of the certified estimate, the principal shall secure a rider from a Surety for the additional amount; provided, however, that this provision shall not be construed as requiring a Surety to provide additional coverage.
8. This bond shall inure to the benefit of the County of Middlesex only and no other party shall acquire any rights hereunder.

9. In the event that this bond shall for any reason cease to be effective prior to the approval or acceptance of all improvements, a cease and desist order may be issued by the governing body, in which case all work shall stop until such time as a replacement guarantee acceptable to the approving authority becomes effective.

“When Ownership is transferred on this project the Seller is required to notify this office, within 30 days of said transfer of property, subject to the provisions of N.J.S.A. 40:55D-53c, posting a replacement performance guarantee subject to the same terms and conditions. Failure to do so may result in the imposition of penalties and relief set forth in N.J.S.A. 40:55D-55”.

ATTEST:

PRINCIPAL

By: _____

(Type Name)

(Type Name and Title)

ATTEST:

SURETY

By: _____

(Type Name)

(Type Name and Title)

(Affix corporate seal if Applicable)

PLEASE NOTE:

The Applicant or Owner must supply the bond NOT the CONTRACTOR.

ATTACH THE FOLLOWING ITEMS WITH THE BOND:

The Performance Guarantee letter supplied by the County with the cost estimate.

The Appropriate Power of Attorney and Financial Statement of the Surety.

The Appropriate Executed Corporate, Partnership or Individual Acknowledgment.

Bond#: _____

County Planning Board File# _____

CORPORATE ACKNOWLEDGMENT

STATE OF NEW JERSEY:

SS:

COUNTY OF MIDDLESEX:

I certify that on this day _____ of _____, 20__ personally came before me and this person acknowledged, under oath, to my satisfaction, that:

- A) This person is _____ the _____ of _____, the **Corporation** described in the foregoing documents;
- B) This person is the attesting witness to the signing of the said documents by the proper Corporate Officer who is _____, of _____, **President of the Corporation;**
- C) The documents were signed and delivered by the corporation as its voluntary act duly authorized by a proper corporate resolution;
- D) This person knows the proper seal of the Corporation, which was affixed to said documents; and
- E) This person signed this proof to attest to the truth of these facts.

Signature
Print name of Attesting Witness and Title

**SWORN TO AND SUBSCRIBED BEFORE
ME ON THIS _____ DAY OF _____, 20__**

**PARTNERSHIP
ACKNOWLEDGMENT**

STATE OF NEW JERSEY:

SS:

COUNTY OF MIDDLESEX:

I certify that on this day _____ of _____, 20__ personally came before me and appeared _____, to me known and known to me to be one of the members of the firm of _____, described in and who executed the foregoing instruments, and acknowledged to me that executed the same as and for the same as for the act and deed of said firm.

Signature

Print name of Attesting Witness and Title

SWORN TO AND SUBSCRIBED BEFORE

ME ON THIS _____ DAY OF _____, 20__

**INDIVIDUAL
ACKNOWLEDGMENT**

STATE OF NEW JERSEY:

SS:

COUNTY OF MIDDLESEX:

I certify that on this day _____ of _____, 20__ personally came before me and appeared _____, to me known and known to me to be the person described in and who executed the foregoing instruments, and acknowledged to me that executed the same.

Signature

Print name of Attesting Witness and Title

SWORN TO AND SUBSCRIBED BEFORE

ME ON THIS _____ DAY OF _____, 20__