

4. The surety shall have the right to repair any defects in functioning, materials or quality of work and, to that end, to do such corrective work as may be necessary 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 as an alternative to performing such maintenance or corrective work it may, in its sole discretion, make a monetary settlement with the municipality.

5. This bond shall inure to the benefit of the municipality only and no other party shall acquire any rights hereunder.

Date: _____, Principal Witness/Attest: _____

_____, Surety Witness/Attest: _____

5:39-1.3 Irrevocable standby letter of credit (performance)

The standardized form for a letter of credit (performance) 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) _____

IRREVOCABLE STANDBY LETTER OF CREDIT (PERFORMANCE)

Issued by:
 Name of Banking Institution: _____
 Address: _____
 City/State/ZIP: _____
 Telephone: _____ Fax: _____
 Issue date: _____
 Expiration date and time: _____
 Letter of Credit Number _____
 Beneficiary:
 Name: _____
 Address: _____
 City/State/ZIP: _____
 Telephone: _____ Fax: _____
 Applicant:
 Name: _____
 Address: _____
 City/State/ZIP: _____
 Telephone: _____ Fax: _____
 Amount: _____ Dollars(\$ _____)
 Not to exceed 120 percent of the cost of the improvements, as certified by the municipal engineer)

We hereby issue our irrevocable standby letter of credit in your favor, which is available by your draft at sight bearing our letter of credit number _____ on _____ (name of banking institution).

Your draft must be presented at the office indicated above by personal delivery or by registered or certified mail or courier and must be accompanied by (1) the original

standby letter of credit and any subsequent original amendments and (2) an original statement purportedly signed by the municipal engineer of _____ (name of the municipality) stating: "The amount of this drawing under Irrevocable Standby Letter of Credit No. _____, issued _____ by _____ (name of banking institution), represents the amount due us as a result of the failure of _____ (name of applicant) to complete, in whole or in part, the required site improvements as detailed in the municipal resolution of approval and in that certain Engineer's Estimate entitled "_____ prepared by _____ and dated _____. I hereby certify that notice of the incompleteness upon which this drawing is based was given to the applicant by registered or certified mail or by courier on _____ (date at least 30 days prior to the date of the municipal engineer's statement)." This certification shall be accompanied by a resolution of the municipal governing body endorsing the findings of the engineer and stating that the improvements have not been approved or accepted.

This letter of credit shall be deemed to be automatically extended annually for periods of one year unless written notice is given by the banking institution by registered or certified mail or by courier to the applicant and the municipality at least 60 days prior to the then-current expiration date.

In the event of the failure of the applicant to furnish another letter of credit meeting the requirements of N.J.S.A. 40:55D-53.5 and N.J.A.C. 5:39-1.3, or other acceptable security, at least 30 days prior to the expiration date of this letter of credit, the municipality may, to the extent allowed by law, draw upon this letter of credit to pay the cost of any incompleteness.

This letter of credit shall expire upon approval or acceptance by resolution of the municipal governing body of all improvements cited in the aforesaid Engineer's Estimate or upon replacement of this letter of credit by other security meeting applicable legal requirements. Upon approval or acceptance of some, but not all, of said improvements, a reduction in the amount of this letter of credit shall be granted in accordance with N.J.S.A. 40:55D-53, provided that the remaining amount shall be sufficient to secure provision of the improvements not yet approved and that the municipality may require that the remaining amount be 30 percent of the original amount.

All correspondence to the banking institution concerning this letter of credit shall be addressed to the office indicated above.

This letter of credit shall inure to the benefit of the beneficiary municipality only and no other party shall acquire any rights hereunder.

This letter of credit is subject to [Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500] [International Standby Practices 1998 (ISP98)]. (Note: Either shall be acceptable.)

We hereby agree with you that drawings under and in compliance with the terms of this letter of credit shall be duly honored upon presentation to us.

Witness/Attest:

(authorized signature and title)

5:39-1.4 Irrevocable standby letter of credit (maintenance)

The standardized form for a letter of credit (maintenance) 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) _____

IRREVOCABLE STANDBY LETTER OF CREDIT (MAINTENANCE)

Issued by:

Name of Banking Institution: _____

Address: _____

City/State/ZIP: _____

Telephone: _____ Fax: _____

Issue date: _____

Expiration date and time: _____

Letter of Credit Number _____

Beneficiary:

Name: _____

Address: _____

City/State/ZIP: _____

Telephone: _____ Fax: _____

Applicant:

Name: _____

Address: _____

City/State/ZIP: _____

Telephone: _____ Fax: _____

Amount: _____ Dollars(\$_____)

(Not to exceed 15 percent of the cost of the improvements, as certified by the municipal engineer)

We hereby issue our irrevocable standby letter of credit in your favor, which is available by your draft at sight bearing our letter of credit number _____ on _____ (name of banking institution).

Your draft must be presented at the office indicated above by personal delivery or by registered or certified mail or courier and must be accompanied by (1) the original standby letter of credit and any subsequent original amendments and (2) an original statement purportedly signed by

the municipal engineer of _____ (name of the municipality) stating: "The amount of this drawing under Irrevocable Standby Letter of Credit No. _____, issued _____ by _____ (name of banking institution), represents the amount due us as a result of the failure of _____ (name of applicant) to take necessary corrective action to repair defects in functioning, materials or quality of work in the required site improvements as detailed in the municipal resolution of approval and in that certain Engineer's Estimate entitled "_____ prepared by _____ and dated _____. I hereby certify that notice of the defects upon which this drawing is based was given to the applicant by registered or certified mail or by courier on _____ (date at least 30 days prior to the date of the municipal engineer's statement)." This certification shall be accompanied by a resolution of the municipal governing body endorsing the engineer's findings.

This letter of credit shall continue in effect until the expiration date and shall be deemed to be automatically extended for a further period of _____ (not to exceed one year) unless written notice is given by the banking institution by registered or certified mail or by courier to the applicant and the municipality at least 60 days prior to the then current expiration date.

In the event of the failure of the applicant to furnish another letter of credit meeting the requirements of N.J.S.A. 40:55D-53.5 and N.J.A.C. 5:39-1.4, or other security meeting applicable legal requirements, at least 30 days prior to the expiration date of this letter of credit, the municipality may draw upon this letter of credit, to the extent allowed by law.

All correspondence to the banking institution concerning this letter of credit shall be addressed to the office indicated above.

This letter of credit shall inure to the benefit of the beneficiary municipality only and no other party shall acquire any rights hereunder.

This letter of credit is subject to [Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500] [International Standby Practices 1998 (ISP98)]. (Note: Either shall be acceptable.)

We hereby agree with you that drawings under and in compliance with the terms of this letter of credit shall be duly honored upon presentation to us.

Witness/Attest:

(authorized signature and title)