

IRREVOCABLE LETTER OF CREDIT [ENTER LOC NUMBER HERE]

[WORDS IN BOLD TYPE IN BRACKETS ARE INSTRUCTIONS. NO VARIATIONS ARE ALLOWED.]

[BANK LETTERHEAD]

[DATE]

Board of Supervisors of Fairfax County, Virginia
c/o Chief, Bonds and Agreements Center
Department of Public Works and Environmental Services
Land Development Services
12055 Government Center Parkway, Suite 216
Fairfax, VA 22035-5503

Ladies and Gentlemen:

We hereby authorize the Director, Department of Public Works and Environmental Services (hereinafter DPWES), or agent to draw on us for the account of **[Developer's Name and Address]** up to an aggregate amount of **[Insert Dollar Amount Numerically and Written Out]** U.S. Dollars available by your drafts at sight accompanied by certification of the Director, DPWES, that the developer failed to complete installation in accordance with a plan known as **[Plan Name and Number]** or otherwise failed to perform in accordance with an agreement dated **[Agreement Date]** between **[Developer's Name]**, (the "Developer"), and the County. This Letter of Credit is irrevocable and unconditional.

We hereby further agree that:

- (a) Drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented at our office on or before **[This Date Must Be At Least Six Months After the Agreement's Expiration Date]**.
- (b) Funds available under this Letter of Credit shall be paid by us in such amounts and at such times as determined by the Director, DPWES, in his sole discretion, provided that the amount drawn shall not exceed the aggregate amount specified herein. Funds shall be remitted by electronic funds transfer for the benefit of the "County of Fairfax" in accordance with the delivery instructions accompanying your draft and notice of said transfer shall be simultaneously directed to the attention of the Chief, Bonds and Agreements Center.
- (c) We shall have no right, duty, obligation or responsibility to evaluate the performance or non-performance of the underlying contract between our customer and the beneficiary of this Letter of Credit.
- (d) We hereby agree that no change, extension of time, alteration or addition to work to be performed or to the plans and specifications relating to the same, shall in any way affect our obligations under this Letter of Credit, and we hereby waive notice of any such change, extension of time, alteration, or addition, on the understanding that no such change, extension of time, alteration, or addition shall increase the amount of our obligation under this Letter of Credit.
- (e) It is a condition of this Letter of Credit that it will be automatically extended for successive six (6) month periods of time unless thirty (30) days prior to an expiration date we notify the Director, DPWES, in writing by registered mail, that we elect not to renew this Letter of Credit for such additional period.
- (f) Upon receipt by you of such notice of non-renewal or in the event of a default, you may draw hereunder by means of your drafts on us, at sight accompanied by your written certification that

you have not released liability under the aforesaid agreement or undertaking and the proceeds of your draft will be used by you to meet eventual payments under your agreement or until your undertaking is satisfied. You will refund to us the amount paid, less any amounts which may have been paid by you in the meantime under this agreement or undertaking. A default shall be deemed to have occurred on the part of the Developer whenever, in the sole judgment of the Director, DPWES, the Developer is not diligently and satisfactorily completing the improvement for which the Letter of Credit has been given as security or at the date the underlying agreement, or any extension thereof, expires.

- (g) If the issuer of this Letter of Credit becomes critically undercapitalized, as defined in the Code of Federal Regulations, or insolvent, as defined in any applicable federal or state statute or regulation, the County shall be immediately entitled to draw on this Letter of Credit. In such event, you may draw on this Letter of Credit by means of your drafts on us, at sight accompanied by certification of the Director, DPWES, that the issuer of this Letter of Credit has become critically undercapitalized, as defined in the Code of Federal Regulations, or insolvent, as defined in any applicable federal or state statute or regulation. The refund provisions of paragraph (f) above would also apply to a draft under this paragraph.
- (h) Except so far as otherwise expressly stated, this Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce in effect on the date of issuance. The amount of any draft drawn hereunder must be endorsed on the reverse side hereof. All drafts must be marked "Drawn under **[Bank's Name]** Letter of **Credit [Number and Date as above]**."
- (i) Approval of this Letter of Credit by the County shall be deemed acceptance without further notice to the bank and/or the Developer.

[BANK NAME AND ADDRESS]

[SIGNATURE OF AUTHORIZED OFFICER]

[PRINTED NAME AND TITLE OF OFFICER OF THE BANK]

[IF AN ADDITIONAL PAGE IS REQUIRED, ADD HEADER, AS ABOVE, TO THAT PAGE WITH CORRECT PAGE NO.]

STATE OF _____

COUNTY/CITY OF _____ :

I, _____, a Notary Public in and for the State and County aforesaid, do hereby certify that _____ whose name is signed to the foregoing, this day personally appeared before me in my State and County aforesaid and acknowledged the same.

Given under my hand this _____ day of _____, 20_____.

My commission expires: _____ (SEAL)

Notary Public