

## SET-ASIDE LETTER

(WORDS IN PARENTHESES ARE INSTRUCTIONS.  
NO VARIATIONS IN TEXTS ARE ALLOWED)

### BANK OR INSTITUTION 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

Gentlemen:

We have made a development loan covering **(Plan Name & Number)**, to **(Borrower's Name)**, (hereinafter Borrower).

In consideration of the acceptance of this Set-Aside Letter by the Board of Supervisors of Fairfax County, Virginia (hereinafter referred to as the "Board" or the "County"), through its designees, the undersigned lender, **(Lenders Name)**, (hereinafter Lender) hereby pledges that monies to the extent of **(Amount US Dollars written out) (\$00.00)** are set aside from said loan for the purpose of securing an agreement dated **(Agreement Date)** between Borrower and the Board for the construction of physical improvements and facilities shown on the approved plans and profiles for this project (the "Agreement").

Lender further agrees that as work progresses on this project, the amount set aside from the loan may be reduced no more than three times and no more often than monthly, to the Borrower to cover the cost of the aforementioned improvements and facilities actually installed and for no other purpose; however, that said reduction shall not be made until the Director, Department of Public Works and Environmental Services, or agent, has been satisfied that the work, secured by the amount of the reduction requested, is in place. Provided further, that in no event will the amount set aside (prior to release of the Agreement by Fairfax County) be less than the cost to complete construction of the improvements in accordance with the terms of the Agreement, or ten percent (10%) of the amount specified in the Agreement whichever is greater.

Lender further agrees that upon receipt of a written notice from the County that Borrower has defaulted in performance of the terms and conditions of the Agreement, Lender shall,

within ten days, pay said funds, or such amount thereof as shall be set forth in said notice, to the County for the purpose of completing the construction of the improvements required by the Agreement, and the County shall not in any way be obliged to repay said funds. Lender shall have no duty, obligation, or right to evaluate the correctness or appropriateness of such notice given by County and Lender shall not interplead or in any manner delay payment over of said funds and shall be held free of liability by Borrower upon the payment or transfer of any such funds to County.

Lender hereby agrees that no change, extension of time, alteration or addition to the work to be performed or to the plans or specifications relating to the same, shall in any way affect the Lender's obligations under this Set-Aside Letter and Lender hereby waives 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 Lender's obligation under this Set-Aside Letter.

If the issuer of this Set-Aside Letter 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 Set-Aside Letter. In such event, you may draw on this Set-Aside Letter by means of your drafts on us, at sight accompanied by certification of Director, Department of Public Works and Environmental Services, that the issuer of this Set-Aside Letter 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.

This is an irrevocable commitment of funds which is not subject to recall by the Lender, and it is further understood and agreed that Lender's liability under this Set-Aside Letter shall not exceed the amount specified in the Agreement, less all prior reductions authorized by the County or amounts paid to the County.

The undersigned warrant that this Set-Aside Letter is made and executed pursuant to authority properly granted by the charter, articles of incorporation, or by-laws and action of the Boards of Directors of the respective undersigned corporations.

Any notices pursuant to the Set-Aside Letter shall be given by certified mail, return receipt requested, to the Lender and Borrower at the addresses shown herein and to the Board or County by copies to the addresses of this letter and to the Director, Department of Public Works and Environmental Services, c/o Chief, Bonds and Agreements Center, 12055 Government Center Parkway, Suite 216 Fairfax, Virginia 22035-5503.

This is an integral part of Set-Aside Letter issued by \_\_\_\_\_ dated \_\_\_\_\_  
Page 3

**\*\*\*PLEASE NOTE THAT THE SIGNATURE AND NOTARY STATEMENT NEED TO BE  
ON THE SAME PAGE.\*\*\***

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

**(LENDERS NAME AND ADDRESS)**

**(SIGNATURE )**  
**(TYPE NAME AND TITLE)**

**(ACKNOWLEDGMENT OF SIGNATURE)**

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: \_\_\_\_\_ My Notary Registration #: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC (SEAL)