

[BANK LETTERHEAD]

[Words in bold type in brackets are instructions. Any variations must be cleared by the county attorney.]

IRREVOCABLE LETTER OF CREDIT NO. _____

Date: _____

To: Botetourt County
Department of Community Development
[name, title]
57 S. Center Drive, Suite 220
Daleville, Virginia 24083

Re: [Name of Project]

We hereby open this Irrevocable Letter of Credit effective on ____ day of _____, 20__ in favor of Botetourt County, Virginia for the account of _____ [Developer's name and address] ("Developer") and authorize you to draw on the Bank up to an aggregate amount not exceeding U.S. \$ _____, available by your sight draft ("written demand") accompanied by a statement signed by an official of Botetourt County that "the Developer has not satisfactorily complied with the requirements of _____ as detailed in the construction documents titled ' _____ ' dated _____ and the demand is for the purpose of providing for the performance of the obligations of the Developer." All written demands must be marked "Drawn under _____ [Bank's name] _____ [Letter of Credit Number and Date as above]."

We further agree that:

1. Funds available under this Letter of Credit shall be paid by us in such amounts as demanded by an official of Botetourt County, in his or her sole discretion, provided that the amount drawn shall not exceed the aggregate amount specified above. Checks shall be made payable to "County of Botetourt" and directed to the attention of [name, title]. Any amounts paid by the Bank and not used for the purpose of meeting the obligations of the Developer, shall be refunded to the Bank.
2. The Bank shall have no right, duty, obligation or responsibility to evaluate the respective obligations of our customer (Developer) and the beneficiary of this Letter of Credit (Botetourt County).
3. No change, extension of time, alteration, or addition to work to be performed or to the plans and specifications relating to same, shall in any way affect our obligations under this Letter of Credit and we waive notice of any such change, extension of time, alteration, or addition.
4. This Letter of Credit shall renew automatically from year-to-year unless and until the Bank gives at least ninety (90) days prior written notice of nonrenewal to Botetourt County, attention: [name, title], by certified mail, return receipt requested or other receipted delivery service, of its intent to terminate same at the current expiration date.

This is an integral part of Letter of Credit # _____ dated _____, 20__.

5. Upon receipt by you of a notice of nonrenewal or in the event of a default, you may draw on the Bank by means of your drafts on us at sight accompanied by the written statement of an official of Botetourt County that “the County has not released liability for obligations pursuant to _____ as detailed in the construction documents titled ‘ _____ ’ dated _____ and the proceeds of the demand will be used to secure or provide for performance of those obligations.” A default shall be deemed to have occurred on the part of the Developer whenever, in the sole judgment of the [department], 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 between the Developer and the County, or any extension thereof, expires.

6. 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 written demand on us, accompanied by a statement of an official of Botetourt County that “the issuer of the 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.”

7. Except as otherwise expressly stated, this Letter of Credit is subject to the Uniform Customs and Practices for Documentary Letters of Credit, International Chamber of Commerce, in effect at the time of issuance.

8. Approval of the Letter of Credit by the County shall be deemed acceptance without further notice to the Bank or any other party.

9. This Letter of Credit may be terminated at any time upon the County giving written release to the Developer and the Bank.

We agree that all written demands drawn in compliance with the terms of this Letter of Credit shall be duly honored upon presentation and delivery of the applicable statement set out above.

[Bank Name and Address]

Very truly yours,
[Signature of Authorized Officer]

By: _____
Name: _____
Title: _____

CITY/COUNTY OF _____
STATE/Commonwealth of _____

The foregoing instrument was acknowledged before me _____, 20 __, by _____.

(Seal)

Notary Public
My commission expires: _____

This is an integral part of Letter of Credit # _____ dated _____, 20__.

Approved as to content:

Date:

County Attorney Approval as to form:

Date:

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