

**IRREVOCABLE LETTER OF CREDIT**  
**NO. \_\_\_\_\_**

Issue Date: \_\_\_\_\_, 20\_\_  
Beneficiary: The City of New Berlin, Wisconsin  
Amount: \$ \_\_\_\_\_  
Expiration Date: \_\_\_\_\_, 20\_\_

RE: **Name of Development**

This Letter of Credit covers Infrastructure Installation, Infrastructure Workmanship and Materials, Street Lighting Installation, Landscaping Installation, Landscaping Maintenance, or Inspection that is performed in accordance with approved Plans and/or the Development Agreement and in accordance with conditions of approval by the Plan Commission.

Letter of Credit Itemized Costs	
Water System	\$
Sanitary System	\$
Storm System	\$
Road System	\$
Street Lighting	\$
Landscaping Installation	\$
Landscaping Maintenance	\$

The Developer shall provide a copy of the Bid(s) to show proof that the value of the Letter of Credit will be sufficient to pay for the work. The Letter of Credit shall equal 120% of the total cost to do the work.

It is the responsibility of the Developer to complete the work covered by this Letter of Credit prior to the Expiration Date. It is also the responsibility of the Developer to notify the Department of Community Development that the work has been completed. The City has to inspect and approve the work before the Letter of Credit will be allowed to expire. If the work has not been approved by the City prior to forty five (45) days before the Expiration Date listed above, the Developer shall notify the Bank that a one year extension of this Letter of Credit needs to occur. The Bank shall notify the City Clerk and City Engineer by certified mail, return receipt requested, that the Expiration Date is being extended for a period of one year to facilitate completion of the work.

With the signature below, the property owner, heirs, successors, assigns agree to allow the City access to the site to perform the requisite inspections and if the required work is not completed as required by the Development Agreement and approved Plans, the City shall have the right to contract for the completion of this work using the funds obtained from this Letter of Credit and to enter the premises to perform said work without additional authorization.

The Letter of Credit shall be issued by a bank/financial institution authorized to transact business in the State of Wisconsin

By: \_\_\_\_\_  
Property Owner

Gentlemen:

\_\_\_\_\_ ("Bank") hereby establishes, at the request of and for the account of Corporate Name of Developer ("Borrower") in favor of the City of New Berlin ("Beneficiary") our Irrevocable Letter of Credit No. \_\_\_\_\_ for the sum or sums not exceeding \_\_\_\_\_ (US \$ \_\_\_\_\_) ("Credit Amount") available on the date hereof. The Credit Amount is available to Beneficiary against presentation of Beneficiary's draft(s) at sight drawn on Bank at Address of Financial Institution or upon presentation of Beneficiary's draft(s) as delivered by certified mail to Bank at the foregoing address.

Each request drawn under this Letter of Credit must be accompanied by:

- an original executed Sight Draft, in the form attached hereto as Appendix A (the "Sight Draft");
- an original executed certification, in the form of a letter, on beneficiary's letterhead, in the form attached hereto as Appendix B (the "Certification"); and
- this original Letter of Credit, so that the amount of any partial draw upon this Letter of Credit can be marked or reflected thereon, prior to being returned to the beneficiary, or so that this Letter of Credit can be retained and canceled if the entire balance or remaining balance of the Credit Amount is drawn hereunder.

This Letter of Credit shall expire on the earlier to occur of:

- The Expiration Date: This Letter of Credit will terminate thirty-six (36) months from the date of issuance, however the termination will not be effective unless, not less than sixty (60) days prior to the expiration date, written notice is delivered to the City Clerk and the City Engineer of New Berlin via certified mail indicating that this Letter of Credit, pursuant to its terms, will expire. If the Expiration Date of this Letter of Credit is not a business day (as defined below), then this Letter of Credit shall expire at Bank's close of business on the first business day (as defined below) thereafter. Beneficiary shall promptly deliver this Letter of Credit to Bank upon expiry.
- the date on which Beneficiary surrenders this Letter of Credit to Bank for cancellation; or
- payment at any time by Bank of the entire balance of the remaining balance of the Credit Amount.

It is a condition of this Letter of Credit that it will be automatically extended without amendment for a period of one year from the Expiration Date hereof, or any future Expiration Date, unless at least sixty (60) days prior to such Expiration Date, the Bank notifies the City Clerk and the City Engineer by certified mail of the election not to extend this Letter of Credit for an additional period.

We hereby engage with the Beneficiary that all drafts under and in strict compliance with the terms of this Letter of Credit will be duly honored by us upon presentation to Bank of the applicable Sight Draft, the Certification and the Letter of Credit as specified above at the

aforesaid address during Bank's business hours on any day on which Bank is open for business (a "business day") through the Expiration Date.

The Credit Amount of this Letter of Credit shall be automatically reduced by the amount of any previous payment by Bank hereunder, regardless of whether any such payment is marked or reflected on this Letter of Credit.

This Letter of Credit shall be governed by the International Chamber of Commerce's uniform Customs and Practices for Documentary Credits, 1993 revision, International Chamber of Commerce Publication No. 500.

This Letter of Credit is irrevocable and unconditional. This Letter of Credit sets forth in full the terms of Bank's undertaking, and this undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument or agreement referred to herein or in which this Letter of Credit is referred to or to which this Letter of Credit relates and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement, except as attached hereto.

This Letter of Credit is not transferable or assignable, except with the prior written consent of Bank. Please address all correspondence regarding this Letter of Credit to the attention of our Commercial Real Estate Department, mentioning our reference number as it appears above.

Name of Financial Institution

ATTEST

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

**APPENDIX A**

(Name of Financial Institution)

Irrevocable Letter of Credit No. \_\_\_\_\_

**SIGHT DRAFT**

Drawn Under Name Of Financial Institution Irrevocable Letter of Credit No. \_\_\_\_\_

\$ \_\_\_\_\_, 20\_\_

At sight pay to the order of the City of New Berlin, 3805 South Casper Drive, New Berlin, Wisconsin the sum of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_),

THE CITY OF NEW BERLIN

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TO: Name & Address of Financial Institution

## APPENDIX B

(To Name of Financial Institution)

Irrevocable Letter of Credit No. \_\_\_\_\_

### CERTIFICATION

Name & Address of Financial Institution

Attention: Commercial Real Estate Department

The City of New Berlin, a Wisconsin corporation hereby certifies as follows:

1. This statement is executed by \_\_\_\_\_, whose position or title is and who is duly authorized by the corporate authorities of the City of New Berlin to execute this statement on behalf of the said City.
2. This statement is made and delivered to obtain payment against Name of Financial Institution, Irrevocable Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_.
3. That all or a portion of the improvements described in the Development Agreement between the City and Corporate Name of Developer have not been completed or paid for on schedule or do not conform to the plans and specifications submitted to the City of New Berlin.
4. That the City has notified Corporate Name of Developer of said failure to complete or conform, and said failure has not been corrected.

### CITY OF NEW BERLIN

By: \_\_\_\_\_  
City Engineer