

APPENDIX C

LETTER OF CREDIT TEMPLATE

Performance Letter of Credit Template  
(FINANCIAL INSTITUTION LETTERHEAD)

IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_  
DATE: \_\_\_\_\_, 20\_\_

BENEFICIARY: City of St. Charles ("City")  
ATTN: Development Engineering Division Manager  
2 East Main Street  
St. Charles, IL 60174

FOR THE ACCOUNT OF: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
and  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AMOUNT OF CREDIT: \$ \_\_\_\_\_  
EXPIRY DATE: \_\_\_\_\_

Ladies and Gentlemen:

We hereby open our Irrevocable Standby Letter of Credit in your favor available by your draft on us at sight, signed by the Director of Public Works, City of St. Charles, bearing the clause "Drawn under (Name of Bank) Letter of Credit No. \_\_\_\_\_ effective (Date)" accompanied by the following documents:

1. This original Letter of Credit and all amendment(s) thereto (if any).
2. A statement in duplicate signed by the Director of Public Works, City of St. Charles, reading as follows: "Name of Developer/Owner has failed to comply with any one or more of the following as such relates to the (Name of Project):
  - a. The Land Improvement Agreement entered into by and between the City of St. Charles and (Name of Developer/Owner) on or about \_\_\_\_\_, 20\_\_;
  - b. Any other applicable Agreement entered into by and between the City of St. Charles and (Name of Developer/Owner) or applicable completion date for the Land Improvements (as defined in the St. Charles Municipal Code) set forth in the St. Charles Municipal Code.

The funds claimed under this Letter of Credit are for the payment of the cost of construction of improvements according to the engineering plans prepared by (Name of Engineering Firm) and dated

*(Date of Plans)*, together with any amendments thereto approved by the City and/or reimbursement to the City of expenses or other costs as set forth in the Land Improvement Agreement."

Demands may be presented either in person or via mail or overnight courier; provided, however that payment under such draw will only be effected after receipt of original documents by *(Name of Bank)*. Original documents are to be sent to: \_\_\_\_\_ *(Address of Bank)*.

No consent by *(Name of Developer/Owner)* shall be required in order for the City to make demand hereunder.

\_\_\_\_\_ *(Name of Bank)* agrees that this Irrevocable Letter of Credit shall not be reduced or discharged except upon receipt of a certificate from the Director of Public Works for the City of St. Charles, or his designee, certifying that this Irrevocable Letter of Credit may be reduced and the amount by which it may be reduced. The outstanding balance of this Irrevocable Letter of Credit shall be the face amount of this Irrevocable Letter of Credit less any amount which is discharged upon certification of the Director of Public Works, or his designee, provided, however, the outstanding balance of this Irrevocable Letter of Credit shall not be reduced to less than 115% of the Development Engineering Division Manager's estimate of the cost of completion of all remaining Land Improvements until the St. Charles City Council has accepted all of the aforementioned Land Improvements and the Director of Public Works, or his designee, has certified that the City Council has released this Irrevocable Letter of Credit.

It is a condition of this Letter of Credit that it shall be automatically extended, without amendment, for additional periods of one year from the present and each future expiration date, unless we notify you in writing via Certified Mail, Return Receipt Requested, at least ninety (90) days prior to any given expiry date that we have elected not to renew this Letter of Credit for such additional period of time. Upon receipt of such notice, you may draw hereunder by means of the following:

1. Sight draft in accordance with the terms of this Letter of Credit;
2. This original Letter of Credit, and all amendment(s) thereto (if any);
3. A statement, signed by the Director of Public Works, City of St. Charles, reading as follows:

"*(Name of Bank)* has elected not to renew Letter of Credit No. \_\_\_\_\_ beyond its present expiration date and *(Name of Developer/Owner)* has failed to supply us with an acceptable replacement Letter of Credit and/or other acceptable substitute collateral."

We hereby agree with you that all drafts drawn under and in compliance with the terms of this credit shall be duly honored on presentation. In the event that we do not make payouts in accordance with this Letter of Credit and the City of St. Charles is required to file a lawsuit to compel compliance with this agreement and shall prevail, we will be obligated to pay to the City of St. Charles its expenses and costs of litigation including attorneys' fees.

The undersigned institution hereby represents and warrants to the City that it has the full power, right and authority to deliver this Irrevocable Letter of Credit, that the same is within all lending limits of such institution, is in full conformity with all state and federal law, and that the same is binding in accordance with its terms on the undersigned institution. All acts, requirements and other preconditions for the issuance of this Irrevocable Letter of Credit have been completed.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 ("UCP 600") and to the

Uniform Commercial Code-Letters of Credit, 810 ILCS 5/5-101 et seq., as amended, as in effect in the State of Illinois (UCC). In the event of conflict between UCP 600 and the UCC, UCP 600 shall govern.  
*(FINANCIAL INSTITUTION)*

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_

**BILL OF SALE**

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_ ("Seller"), in consideration of One (\$1.00) Dollar and other good and valuable consideration, does hereby grant, sell, transfer and deliver unto the CITY OF ST. CHARLES, an Illinois municipal corporation in Kane County, Illinois, ("City") the following goods, chattels or other items of personal property, to wit:

ONE: Each and every part of a \_\_\_\_\_, as fully described in a certain set of plans and specifications attached hereto and incorporated herein as Exhibit "A".

TWO: The object of this Bill of Sale is to grant, sell, transfer and deliver to the CITY, with the exceptions noted, the ownership in all items of personalty, which comprise the \_\_\_\_\_ by SELLER to date within the CITY.

SELLER does hereby covenant and warrant to the CITY that SELLER is the lawful owner of the aforescribed goods, chattels and personalty; that such items are free and clear from all encumbrances; that SELLER has the absolute right to sell the same as aforesaid; and that SELLER warrants and will defend the same against the claims and demands of all persons; and that the execution of this Bill of Sale is an authorized act of said SELLER.

IN WITNESS WHEREOF, SELLER has signed and sealed this Bill of Sale at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(SELLER)

BY: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

**Maintenance Letter of Credit Template**  
*(FINANCIAL INSTITUTION LETTERHEAD)*

IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_  
DATE: \_\_\_\_\_, 20\_\_

BENEFICIARY: City of St. Charles ("City")  
ATTN: Engineering Dept.  
2 East Main Street  
St. Charles, IL 60174

FOR THE ACCOUNT OF: \_\_\_\_\_ *(Developer)*  
\_\_\_\_\_  
\_\_\_\_\_  
and  
\_\_\_\_\_ *(Owner)*  
\_\_\_\_\_  
\_\_\_\_\_

AMOUNT OF CREDIT: \$ \_\_\_\_\_  
EXPIRY DATE: \_\_\_\_\_

Ladies and Gentlemen:

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1. This original Letter of Credit and all amendment(s) thereto (if any).
2. A statement in duplicate signed by the Director of Public Works, City of St. Charles, reading as follows: "*(Name of Developer/Owner)* has failed to comply with any one or more of the following as such relates to the *(Name of Project)*:
  - a. The Land Improvement Agreement entered into by and between the City of St. Charles and *(Name of Developer/Owner)* on or about \_\_\_\_\_, 20\_\_;
  - b. Any other applicable Agreement entered into by and between the City of St. Charles and *(Name of Developer/Owner)* or applicable completion date for the Land Improvements (as defined in the St. Charles Municipal Code) set forth in the St. Charles Municipal Code.

The funds claimed under this Letter of Credit are for the payment of the cost of construction of improvements according to the engineering plans prepared by *(Name of Engineering Firm)* and dated *(Date of Plans)*, together with any amendments thereto approved by the City and/or reimbursement to the City of expenses or other costs as set forth in the Land Improvement Agreement."

Demands may be presented either in person or via mail or overnight courier; provided, however that payment under such draw will only be effected after receipt of original documents by *(Name of Bank)*. Original documents are to be sent to: \_\_\_\_\_ *(Address of Bank)*.

No consent by *(Name of Developer/Owner)* shall be required in order for the City to make demand hereunder.

\_\_\_\_\_ (*Name of Bank*) agrees that this Irrevocable Letter of Credit shall not be reduced or discharged except upon receipt of a certificate from the Director of Public Works for the City of St. Charles, or his designee, certifying that this Irrevocable Letter of Credit may be reduced and the amount by which it may be reduced. The outstanding balance of this Irrevocable Letter of Credit shall be the face amount of this Irrevocable Letter of Credit less any amount which is discharged upon certification of the Director of Public Works, or his designee, provided, however, the outstanding balance of this Irrevocable Letter of Credit shall not be reduced to less than 115% of the Development Engineering Division Manager's estimate of the cost of completion of all remaining Land Improvements until the St. Charles City Council has accepted all of the aforementioned Land Improvements and the Director of Public Works, or his designee, has certified that the City Council has released this Irrevocable Letter of Credit.

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1. Sight draft in accordance with the terms of this Letter of Credit;
2. This original Letter of Credit, and all amendment(s) thereto (if any);
3. A statement, signed by the Director of Public Works, City of St. Charles, reading as follows:

"(*Name of Bank*) has elected not to renew Letter of Credit No. \_\_\_\_\_ beyond its present expiration date and (*Name of Developer/Owner*) has failed to supply us with an acceptable replacement Letter of Credit and/or other acceptable substitute collateral."

We hereby agree with you that all drafts drawn under and in compliance with the terms of this credit shall be duly honored on presentation. In the event that we do not make payouts in accordance with this Letter of Credit and the City of St. Charles is required to file a lawsuit to compel compliance with this agreement and shall prevail, we will be obligated to pay to the City of St. Charles its expenses and costs of litigation including attorneys' fees.

The undersigned institution hereby represents and warrants to the City that it has the full power, right and authority to deliver this Irrevocable Letter of Credit, that the same is within all lending limits of such institution, is in full conformity with all state and federal law, and that the same is binding in accordance with its terms on the undersigned institution. All acts, requirements and other preconditions for the issuance of this Irrevocable Letter of Credit have been completed.

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(FINANCIAL INSTITUTION)

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_

(Ord. 2012-M-45 § 2.)