**Irrevocable Standby Letter of Credit**

**(Double Signature)**

**Issuer’s Letter of Credit Number:**

**Issuer (Banking Institution)**

**Name:**

**Address:**

**City/State/Zip:**

**Telephone:**

**Issue Date:**

**Expiration Date and Time:**

**Beneficiary**

**Name:** City of Sioux Falls

City Engineering Office

**Address:** 231 North Dakota Avenue

P.O. Box 7402

**City/State/Zip:** Sioux Falls, SD 57117-7402

**Telephone:** (605) 367-8601

**Applicant (Developer)**

**Name:**

**Address:**

**City/State/Zip:**

**Telephone:**

**Amount: $**      **(per SCA)**

**Re: Subdivision Construction Agreement**

The Issuer, a bank that is an official depository of the City of Sioux Falls (“*City*”), hereby issues this Irrevocable Standby Letter of Credit (“*Letter of Credit*”) in the Beneficiary’s favor pursuant to the Subdivision Construction Agreement (“*Subdivision Construction Agreement*” or “*SCA*”) adopted under the City of Sioux Falls, South Dakota Code of Ordinances attached hereto as **Exhibit A** and incorporated by reference herein.

Presentation of Documents*.* Your draft must be presented at the Issuer’s office indicated above by personal delivery or by registered or certified mail or courier and must be accompanied by (1) the original Letter of Credit and any original amendments, and (2) an original statement purportedly signed by an engineer or other employee of the Beneficiary stating:

*“The amount of this draw under Irrevocable Standby Letter of Credit No. \_\_\_\_\_\_, issued by \_\_\_\_\_\_\_\_\_\_\_\_ [*Insert Name of the Issuer*], represents the amount due the Beneficiary as a result of the failure of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*Name of the Applicant*] to complete, in whole or in part, the improvement and/or other performance or warranty required of the Applicant under the City of Sioux Falls Subdivision Ordinance and the Subdivision Construction Agreement including, but not limited to, the applicable plans, drawings and specifications, and warranty. I hereby certify that notice of the incompletions or other failure to perform upon which this draw is based was given to the Applicant by registered or certified mail or by courier on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*Insert Date at Least Twenty Days Prior to Date of Draw Request*].”*

Except for presentation of this documentation, this Letter of Credit is unconditional. Multiple partial drawings are permitted.

Expiry*.* The initial term of this Letter of Credit shall expire at midnight, CST, on the date set forth above. Thereafter, this Letter of Credit shall be deemed to be automatically extended annually for successive periods of one (1) year each unless the Issuer provides the Applicant and the Beneficiary notice by registered or certified mail or by courier at least sixty (60) days prior to the then current expiration date.

In the event of the failure of the Applicant to furnish another Letter of Credit meeting the requirements of the Subdivision Construction Agreement, or other security acceptable to the Beneficiary in its sole discretion as indicated by a writing and actually signed by the Beneficiary’s duly authorized officer delivered to the Applicant, at least thirty (30) days prior to the expiration date of this Letter of Credit, the Beneficiary may draw upon this Letter of Credit in the amount the Beneficiary estimates is required to complete the required construction or repairs or other performance set forth above in this Letter of Credit.

Reductions in Amount; Termination*.* The amount of this Letter of Credit (or any replacement Letter of Credit) may be reduced to reflect the progress of the Applicant’s required performance, consistent with the SCA, as the Beneficiary may determine in its sole discretion, but consistent with the requirements of the SCA. Reductions may be made only upon Issuer’s receipt of a writing actually signed by the Beneficiary’s duly authorized officer specifying the permitted reduction in amount. This Letter of Credit may be terminated in the manner set forth in the SCA upon completion of the warranty period as more fully delineated therein.

This Letter of Credit shall inure to the benefit of the Beneficiary only and no other party shall acquire any rights hereunder.

This Letter of Credit shall be governed by the laws of the State of South Dakota, and the City of Sioux Falls, South Dakota Code of Ordinances, without respect to any conflicts for choice of law provisions. All terms used but not defined herein shall have the meaning provided by Article 5 (including incorporated provisions) of the Uniform Commercial Code as enacted by the State of South Dakota. Captions and headings contained in this Letter of Credit are for the convenience of the parties and shall not be used to interpret or construe this Letter of Credit. This Letter of Credit is further subject to the [Uniform Customs and Practice for Documentary Credits (1993 Revision) (the “*UCP*”)], except where the UCP may conflict with a mandatory provision of applicable law.

All correspondence to the Issuer, the Applicant, or the Beneficiary concerning this Letter of Credit shall be addressed to the addressee’s address indicated above. The Issuer hereby represents that it is a banking institution licensed and registered under the laws of the State of South Dakota and that it has been approved as an issuer by the City.

Issuer to Honor Letter of Credit*.* We hereby agree with the Beneficiary that draws under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation to us.

**Issuer**

By:

Printed Name

Title

STATE OF )

: SS

COUNTY OF )

On this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a banking corporation, and that \_he, as such \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by \_\_\_self as\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

In witness whereof I hereunto set my hand and official seal.

   (SEAL) Notary Public—State of:

                             My Commission Expires:

**Issuer**

By:

Printed Name

Title

STATE OF )

: SS

COUNTY OF )

On this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a banking corporation, and that \_he, as such \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by \_\_\_self as\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

In witness whereof I hereunto set my hand and official seal.

   (SEAL) Notary Public—State of:

                             My Commission Expires:

**Exhibit A**

(Subdivision Construction Agreement)