



BONDING RELEASE PACKAGE

Dear Applicant,

During the final stages of construction or at the satisfactory completion of 80% of the site improvements and/or within 30 days of the issuance of the permanent or temporary Certificate of Occupancy, an as-built plan, formal written request (on company letterhead) for release of the site and siltation bonds and associated fees must be submitted to the City Development Bond Administrator.

A temporary Residential Use & Occupancy or Commercial Use & Occupancy Permit may be issued to accommodate weather related delays for **landscaping and paving only**. After approval of the as-built plan, a one-year warranty bond must be submitted with the associated surety review fee for approval. The original site and siltation bonds will then be returned to the applicant. A permanent Residential Use & Occupancy or Commercial Use & Occupancy Permit will be issued upon satisfactory compliance with all required improvements to provide safe public and emergency access.

Approximately three (3) months prior to warranty bond expiration, a letter from the City Development Bond Administrator will be mailed to the applicant; however this may be initiated by the bonding agent for the developer no sooner than three (3) months prior to warranty bond expiration. The applicant will be instructed to submit a formal request in writing (on company letterhead) for release of the warranty bond and pay the associated bond release fee. This request must be made prior to the expiration of the warranty bond. Upon satisfactory inspection by the City Public Works Department Facilities Inspector, the original warranty bond will be returned to the applicant.

Account Number & Title FY 19-20 Adopted Fees 316466 Surety Review

(Performance bond*, letter of credit, cash escrow)

Less than \$100,000	\$290.00 each
\$100,001-300,000	\$575.00 each
More than \$300,000	\$840.00 each
Request for reduction	\$290.00 each
Request for replacement/extension/release	\$290.00 each

***Note: a performance bond/corporate surety, cash escrow or letter of credit will be accepted for Site Bonds. Siltation Agreements will be accepted with cash escrow or letter of credit only.**

If you should have any questions regarding the bonding process, please contact the Development Bond Administrator at 703-385-7820.

The City of Fairfax is committed to the letter and spirit of the Americans with Disabilities Act. To request a reasonable accommodation for any type of disability, please call 703-385-7930, (TTY 711)

General Steps for site and siltation bond release and conversion to warranty bond

- First – Submit an AS-BUILT plan application/plans (with associated fee) for review/approval. Along with the AS-BUILT, please submit a letter (on company letterhead) addressed to the bond administrator requesting release of the site and siltation bonds and to convert to warranty bond. There is a fee for each bond to be released and a fee for the warranty bond surety review. You can choose to pay the warranty bond surety review fee at the next step or pay it at the same time you submit the AS-BUILT, however, **DO NOT SUBMIT** any warranty bond documentation (agreement/letters of credit, etc) until the next step. The reason is that if you submit the warranty paperwork at this time you stand a chance of having to redo the paperwork if the AS-BUILT approval is drawn out (and that does sometimes happen).

NOTE:

The AS-BUILT will be routed for staff review. The first review cycle is for two weeks. All comments will be sent to the applicant from the planner assigned to the project. If you have any questions during the AS-BUILT review, please refer them to the assigned planner.

- AFTER the AS-BUILT plan has been approved – you will be notified to submit the warranty agreement and bond instrument (Cash, Letter of Credit or Corporate Bond) for review and approval. There is a fee for the warranty bond surety review due at this time if not already paid in the step above.

IMPORTANT PHONE NUMBERS

Board of Architectural Review Liaison	703-385-7820
Site Plan Coordinator	703-385-7820
Development Bond Administrator	703-385-7820
Code Administration	703-385-7830
Planning Director	703-385-7930
Public Works Director	703-385-7810
Public Works Facilities Inspector	703-385-7828
Street Superintendent	703-385-7980
Zoning Administrator	703-385-7820



CITY OF FAIRFAX WARRANTY AGREEMENT

THIS WARRANTY AGREEMENT, made this _____ day of _____ 20 ____,
by and between: _____ party of the first part, also
called Developer, and THE CITY OF FAIRFAX, VIRGINIA, a municipal corporation, party of the second
part; also called City, **WITNESSETH**,

The obligations required of the Developer by this Agreement and by the Ordinances of the City of Fairfax
are secured by a (check one):

- Personal Bond / Corporate Bond
- Property Bond
- Letter of Credit
- Cash Escrow

dated _____ in the amount of \$ _____.

WHEREAS, the Developer has developed improvements on the following described land located
in the City of Fairfax, to wit (enter address of the property below):

_____ and,

WHEREAS, pursuant to the Ordinances of the City of Fairfax, the Developer shall provide a one-
year warranty of the improvements as shown on the "As Built" site plan prepared
by _____

Dated _____ and as revised through _____.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00), the approval of
the improvements as shown on the aforesaid plat, plans, profiles and specifications and other good and
valuable consideration, the parties agree as follows:

1. The Developer warrants that the City shall be free from maintenance or repairs for a period of one (1)
year from the date of this Agreement for the following improvements in accordance with the aforesaid "As
Built" site plan and related documents:

- a. A drainage system by means of gutters, storm sewers, culverts under roadways and other structures to provide adequate drainage for the disposition of storm and natural waters for all streets and adjoining properties.
- b. Streets, concrete curbs, gutters and sidewalks, meeting the requirements of the City of Fairfax.
- c. A public water and sewerage system made available to each site as shown.
- d. Screening, fences and walls within the public rights-of-way or easements as shown.
- e. Other (If "none", enter "none" below):
_____.

- 2. The Developer shall promptly furnish to the City all necessary additional plats, plans, profiles, specifications and other related documents which may be required in order to maintain the improvements hereunder, which documents shall become the property of the City.
- 3. It is agreed and understood that final approval of maintenance work only can be given by the Director of Public Works, City of Fairfax.
- 4. It is understood and agreed that by approving the aforesaid improvements the City of Fairfax assumes no liability or responsibility for the maintenance thereof for a period of one (1) years from date of this Agreement.
- 5. This Agreement shall benefit and bind the parties hereto and their respective successors, heirs, executors, administrators and assigns.
- 6. The bankruptcy or receivership of the Developer, whenever occurring, may be construed by the City as a default under this Agreement.
- 7. The Developer Agrees to indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against all losses, damages, cost, claims, including without limitation, reasonable attorneys' fees and court costs, arising out of or related to this agreement.
- 8. The undersigned represents and warrants to the City that he is duly authorized to execute this Agreement on behalf of the Developer and to bind the Developer hereto.
- 9. Additional provisions (If "none", enter "none" below):

_____.

IN WITNESS WHEREOF, the Developer herein has caused this Agreement to be executed by _____, and the City, acting pursuant to authorization from the City Council, has caused this Agreement to be executed on its behalf by _____, its City Manager, and its seal to be affixed and attested by _____, its Clerk, all on the date first above mentioned.

NOTARIZED SIGNATURES TO FOLLOW ON PAGES 3 AND 4

WARRANTY AGREEMENT # (to be filled in by staff): _____

Developer
By: _____
Signature

Name

Title

(Corporate Seal)

Attest: _____
Secretary

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

STATE OF _____ County/City/Town of _____ to-wit:

I, the undersigned, A Notary Public in and for the State and County, City or Town aforesaid, do hereby certify that this day personally appeared before me in the State and County, City or Town aforesaid:

(Name) (Title)

whose name(s) is(are) signed to the foregoing and hereunto annexed agreement bearing the _____ day of _____, 2_____, and acknowledged the same before me.

Given under my hand this _____ day of _____, 2_____.

Notary Registration Number#: _____

My Commission expires: _____ day of _____, 2_____.

(Notary Public Signature)

WARRANTY AGREEMENT # (to be filled in by staff): _____

CITY OF FAIRFAX

By: _____
City Attorney – Approved as to Form

By: _____
City Manager

Attest: _____
City Clerk

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

COMMONWEALTH OF VIRGINIA
CITY OF FAIRFAX to-wit:

The foregoing instrument was acknowledged before me this:

_____ day of _____, 2____, by _____, as City Manager, on behalf of the City of Fairfax, Virginia.

My Commission expires: _____ day of _____, 2_____.

Notary Registration Number#: _____

(Notary Public Signature)



CITY OF FAIRFAX WARRANTY BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____ party of the first part, also called Developer, as Principal, hereinafter called Principal, and (enter Surety name below – i.e. insurance company name):

as Surety, hereinafter called Surety, are held and firmly bound unto the City of Fairfax, as Obligee, hereinafter called Obligee, in the amount of : _____ Dollars (\$ _____), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated _____ Entered into a Warranty Agreement with Obligee that the Obligee shall be free from maintenance or repairs of the improvements therein described and to perform pursuant to the terms thereof, which Agreement is incorporated herein by reference and is made part hereof, and is hereinafter referred as the Agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Principal shall promptly and faithfully perform said Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time; or of any maintenance required by the Obligee.

Whenever the Principal shall be, and declared by the Obligee to be, in default under the Agreement, the Surety shall at the option of the Obligee:

1. Complete the Agreement in accordance with its terms and condition, or
2. Obtain a bid or bids for submission to the Obligee for completing the Agreement in accordance with its terms and conditions. Upon determination by the Obligee and Surety of the lowest responsive and responsible bidder or bidders, arrange for a contract between such bidder or bidders and the Obligee, and make available as work progresses (even if there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion, but not exceeding (including other costs and damages for which the Surety may be liable to the Obligee hereunder), the amount set forth in the first paragraph hereof.

A suit may be brought for the amount of this bond after ten (10) days from the date of written notification of the Surety by the Obligee of the default of the Principal.

NOTARIZED SIGNATURES TO FOLLOW ON PAGES 2 AND 3

IN WITNESS THEREOF, the parties hereto have hereunto set their hand and seals this _____ day of _____ 20_____.

Principal

By: _____
Signature (Seal)

Name (print)

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

STATE OF _____, COUNTY/CITY/TOWN OF _____
to-wit:

I, _____, a Notary Public in and for the
said State and County, City or Town do hereby certify that:

(Name) (Title)

this day personally appeared before me in the State and County whose name(s) is (are)
signed to the foregoing writing, dated _____, 20____, and being duly
sworn, acknowledged the same to be his (their) own.

My Commission expires _____, _____.

GIVEN under my hand and seal this _____ day of _____, 20_____.

Notary Registration Number: _____

Notary Public Signature

IN FURTHER WITNESS WHEREOF, the **SURETY** herein has caused this bond to be executed on its behalf by _____, Agent by authority of the power of attorney attached hereto.

Surety

By: _____
Agent

STATE OF _____, COUNTY/CITY/TOWN OF _____
to-wit:

I, _____, a Notary Public in and for the said State and County, City or Town do hereby certify that:

(Name) (Title)

this day personally appeared before me in the State and County, City or Town whose name(s) is (are) signed to the foregoing writing, dated _____, 20____, and being duly sworn, acknowledged the same to be his (their) own.

My Commission expires _____, _____.

GIVEN under my hand and seal this ____ day of _____, 20 ____.

Notary Registration Number: _____

Notary Public Signature

SAMPLE LETTER OF CREDIT
(Must be on letterhead of the issuing institution)

TO REQUEST DOCUMENT IN WORD FORMAT PLEASE EMAIL: bereket.merzi@fairfaxva.gov

IRREVOCABLE LETTER OF CREDIT NUMBER: _____

City of Fairfax
City Hall
10455 Armstrong Street
Fairfax, VA 22030

NOTE: (DATE OF ISSUANCE MUST BE ON OR AFTER THE WARRANTY AGREEMENT DATE)

Date of Issuance: _____

Applicant: _____

Beneficiary: City of Fairfax

Project Name & Location: _____

Site Plan #: _____

Ladies and Gentlemen:

We hereby open our Irrevocable and Unconditional Letter of Credit No. _____, effective date _____, for the account of _____ (developer's name) and in favor of the City of Fairfax, Virginia, for the sum of U.S. Dollars not to exceed in the aggregate _____ Dollars (\$_____) available by your sight drafts drawn on the (bank name): _____ accompanied by written certification of the Director of Public Works or the City Manager of the City of Fairfax that the Applicant has:

1. Failed to complete installation of the public improvements in accordance with a site plan known as _____ (name of project and site plan #) **or**
2. Failed to meet its obligations in accordance with a WARRANTY Agreement, dated _____ between the Applicant and the City of Fairfax **or**
3. Is not diligently and satisfactorily maintaining the public improvements set forth on the site plan in a manner that such improvements will be maintained by the completion date of the WARRANTY Agreement.

We hereby further agree that:

1. All drafts hereunder must bear the clause "Drawn under (bank name): _____ Letter of Credit Number _____ dated _____." (**NOTE:** Letter of Credit shall be drawn under a bank located in the state of Virginia or a confirming letter must be submitted in conjunction with a Letter of Credit on an institution outside of the state of Virginia).

2. The Bank hereby engages with drawers, endorsers and bona fide holders that all drafts drawn in compliance with the terms of the Letter of Credit shall be duly honored upon presentation and delivery of such documents.
3. Drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored at the location of the issuing bank if presented at our office on or before _____ (**NOTE:** this date must be at least six months after the Site Agreement project completion date) and this Letter of Credit shall remain in full force and effect until such Expiration Date.
4. Notwithstanding any other language to the contrary contained elsewhere in this Letter of Credit, it is a condition of this Letter of Credit that it shall automatically renew itself from year to year after the Expiration Date thereof unless and until the Bank shall give ninety (90) days prior written notice to the City Manager or Director of Public Works of the City of Fairfax, Virginia, by certified mail, returned receipt requested, of its intent to terminate same at the expiration of said ninety (90) day period. During said ninety (90) days notice period, this Irrevocable Letter of Credit shall remain in full force and effect.
5. Upon receipt by the Beneficiary of such notice of non-renewal, the Beneficiary may draw upon this Letter of Credit by means of sight drafts accompanied by such written certification of the Director of Public Works or the City Manager as set forth in the opening paragraph of this Letter of Credit.
6. This Letter of Credit may be terminated by the Beneficiary giving a written release to the Applicant and to the Bank stating that the Applicant has furnished the Beneficiary with an acceptable substitute form of surety in an amount required by the Beneficiary.
7. This Letter of Credit is not assignable by the Bank, Beneficiary or Applicant.
8. Funds available under this Letter of Credit shall be paid to the Beneficiary in such amounts and at such times as set forth by the Director of Public Works or City Manager of the City of Fairfax, Virginia in the written certification as set forth in the opening paragraph of this Letter of Credit, provided that the total amount drawn shall not exceed the face amount of this Letter of Credit. Checks will be made payable to the City of Fairfax and directed to the attention of the Director of Public Works or City Manager.
9. The Bank shall have no right, duty, obligation or responsibility to evaluate the performance or nonperformance of any underlying obligations, contractual or otherwise, between the Applicant and the Beneficiary or between the Applicant and any third party.
10. The Bank hereby agrees that no change, extension of time, alteration or addition to the work to be performed or the plans or specifications relating to the same or the Applicant's obligations under the Site Agreement, shall in any way effect the Bank's obligation to honor drafts under this Letter of Credit.
11. Approval of this Letter of Credit by the Beneficiary shall be deemed acceptance thereof without further notice to either the Bank or the Applicant.
12. Notwithstanding any other language to the contrary contained elsewhere in this Letter of Credit, if the Bank 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 Beneficiary shall be immediately entitled to draw on this Letter of Credit. In such event, the Beneficiary may draw on this Letter of Credit by means of sight drafts accompanied by certification of the Director of Public Works or the City Manager that the Bank 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.

13. This Letter of Credit shall be construed in accordance with the "Uniform Customs and Practices for Commercial Documentary Credits, International Chamber of Commerce" in effect on the date of issuance of this Letter of Credit and the provisions of the Uniform Commercial Code – Letters of Credit – Title 8.5 of the Code of Virginia, 1950 as amended.

Very truly yours,

(Name of Bank)

By: _____
(Name)

Its: _____
(Title)

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

STATE OF _____: COUNTY/CITY/TOWN OF: _____, To wit,

I, _____, A Notary Public in and for the said State and
(Notary Name)

County, City or Town do hereby certify that this day personally appeared before me in my said State and County, City or Town:

(Name) (Title)

Whose name is/are signed to the foregoing in writing, dated _____, 2_____
and being duly sworn acknowledged the same to be his or her (their) own.

Given under my hand this _____ day of _____, 2_____.

My Commission expires: _____ day of _____, 2_____.

Notary Registration Number#: _____

(Notary Public Signature)

Note: A written declaration of authority is required which attests that the signatory has the authority to sign Letter of Credit (LOC) for said Bank. Authority may not be required when the LOC is signed by the President of the issuing Bank.