

# FREEDOM BANK

## IRREVOCABLE LETTER OF CREDIT

BENEFICIARY:	FOR ACCOUNT OF (CUSTOMER)
Town of Vienna 127 Center Street S Vienna, Virginia 22180	Swan Homes, LLC 916 Ninovan Road SE Vienna, Virginia 22180
Letter of Credit Number:	164
Expiration Date:	April 3, 2016
Aggregate Amount	\$781,643.00

We hereby authorize the Town of Vienna, 127 Center Street, S, Vienna, Virginia 22180 to draw on The Freedom Bank of Virginia ("Bank"), 10555 Main Street, Fairfax, Virginia 22030, for the account of **Swan Homes, LLC** (Applicant) up to an aggregate amount of U.S. Dollars **\$781,643.00 (Seven Hundred Eighty-One Thousand Six Hundred Forty-Three dollars 00/100 US Dollars)** available by your drafts at sight accompanied by certification of Director of Public Works (hereinafter "Director PW"), that **Swan Homes, LLC** failed to complete installation of public improvements in accordance with the plan for the **Onondio Cove Subdivision, also known as Plan Number PF 51-14 FP**. This Letter of Credit is Irrevocable and Unconditional.

- a) Drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented at our office on or before **April 3, 2016**.
- b) Funds available under this Letter of Credit shall be paid by us in such amounts and at such times as determined by the Director PW, in his sole discretion, provided that the amount drawn shall not exceed the aggregate amount specified herein.
- c) We shall have no right, duty, obligation or responsibility to evaluate the performance or non-performance of the underlying contract between the Applicant and Beneficiary of this Letter of Credit.
- d) We hereby agree that no change, extension of time, alteration or addition to the work to be performed or to the plans and specifications relating to the same, shall in any way affect our obligations under this agreement and we hereby waive notice of any such change, extension of time, alteration, or addition, on the understanding that no such change, extension of time, alteration, or addition shall increase the amount of obligation under this Letter of Credit.
- e) It is a condition of this Letter of Credit that it be automatically extended for successive six month periods of time unless, at least thirty days prior to the expiration date The Freedom Bank of Virginia notify Town of Vienna, in writing by registered mail, that we elect not to renew the Letter of Credit for an additional period.
- f) Upon receipt by you of such notice of non-renewal or in the event of a default, you may draw hereunder by means of your drafts on us, at sight accompanied by your written certification that you have not released liability for the **Onondio Cove**

502 Maple Avenue West  
Vienna, Virginia 22180  
703.667.4170

11700 Plaza America Drive  
Reston, Virginia 20190  
703.663.2300

10555 Main Street  
Fairfax, Virginia 22030  
703.242.5300

Subdivision, also known as Plan Number PF 51-14 FP, or undertaking and proceeds of your draft will be used by you to meet eventual payment for the Onondio Cove Subdivision, also known as Plan Number PF 51-14 FP. or until your undertaking is satisfied, you will refund to us the amount paid, less any amounts which may have been paid by you. A default shall be deemed to have occurred on the part of the developer whenever, in the sole judgment of the Director PW, the developer is not satisfactorily completing the improvements for which the Letter of Credit has been given as security or at the date the underlying agreement, or the extensions thereof, expires.

- g) Except so far as otherwise expressly stated herein, the Letter of Credit is subject to the Uniforms Customs and Practices for Documentary Credit (2007 Revision), International Chamber of Commerce Publication No. 600 in effect on the date on the reverse side hereof, all drafts must be marked "Drawn under Letter of Credit No 164 dated April 3, 2015.
- h) Approval of this Letter of Credit by the Director PW, shall be deemed acceptance without further notice to the Bank and/or Developer.

Beneficiary to draw on The Freedom Bank of Virginia for the account of the Customer, in the event of default by the Customer, amounts up to the aggregate amount of this Letter of Credit, available by sight drafts. Drafts meeting the requirements specified in this Letter of Credit will be duly paid by the Bank in accordance with the terms.

The Freedom Bank of Virginia

By: [Signature]

STATE OF Virginia  
COUNTY OF Fairfax : to wit:

The foregoing instrument was acknowledged before me the 3rd day of April, 2015 by  
C. Kevin Curtis Executive Vice President

[Signature]  
(Notary Public)

My commission expires: 6/30/2015

