

ASSIGNMENT OF CERTIFICATE OF DEPOSIT
FOR DEFECT BOND

This Assignment made and entered into by and among **(name of developer)** (“Developer”), the County of Henrico, Virginia, a political subdivision of the Commonwealth of Virginia (“County”), and **(name of financial institution)** (“Bank”) provides as follows:

1. Developer owns a certain parcel of real estate located in Henrico County, Virginia, which real estate has been developed under a plan of development known as **(PODyyyy-nnnnn name of development)** (the “Property”); and

2. Developer has constructed the streets, parking areas, and related improvements, including curb and gutter, driveway entrances, storm sewers, roadway shoulders, drainage improvements, and other appurtenances (the “Improvements”), pursuant to the terms of the Code of the County of Henrico, Virginia and the conditions of approval of said plan of development (all of which are collectively referred to herein as the “Requirements”); and

3. The Code of the County of Henrico, Virginia requires Developer to post a defect bond for the maintenance of the Improvements, which shall remain in effect for a period of three years from the date of the issuance of the final occupancy permit associated with the Property.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. *Assignment of Certificate of Deposit.* The Developer hereby irrevocably assigns to the County all of its right, title, and interest in and to funds represented by a Certificate of Deposit in the face amount of \$ **(amount)** issued by the Bank (the “Certificate”), a copy of which is attached hereto as Exhibit A, as security for the maintenance of the Improvements. The Certificate shall be held by the Bank as escrow agent for the County. The Bank shall hold the Certificate and its principal amount for the benefit of the County. The Bank shall not release the Certificate to the Developer or other third party unless directed by the Director of Planning of the County pursuant to the terms and conditions set forth in this Assignment.

2. *Payment of Assigned Proceeds.* If the Developer does not maintain the Improvements in accordance with the Requirements, then the funds evidenced by the Certificate shall be paid directly by the Bank to the County. As a condition precedent to receiving funds assigned hereunder, the County shall provide the Bank with a certified statement, signed by the Director of Planning, stating that the Developer has failed to satisfactorily maintain, repair, or replace the Improvements. Upon receipt of such certified statement, the Bank will unconditionally release the funds to the County. Upon receipt of such funds from the Bank, the County shall forthwith apply the funds for the sole and exclusive purpose of maintaining, repairing, or replacing the Improvements, and upon completion of such work shall promptly return all unused amounts to the Developer.

3. *Termination.* This Assignment shall terminate and be of no further force and effect three years from the date of the issuance of the final occupancy permit associated with the Property. If the term of the Certificate expires before the end of such three-year period, the Certificate shall be renewed without reduction.

4. *Warranties.* The Bank warrants that there are no legal or equitable defenses currently available to the Bank that might affect the County's ability to use proceeds of the Certificate for the purposes set forth in Section 2 of this Assignment. The Developer warrants that there are no defects or prior liens incumbent on the Property.

5. *Effect of Assignment.* Nothing herein shall be construed to relieve the Developer of its independent legal obligation to satisfy the Requirements.

6. *Interpretations.* This Assignment shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia and shall be binding on the parties, their successors and assigns.

WITNESS the following signatures and seals all as of **(date)**.

(Bank) _____

By _____

Title _____

(Developer) _____

By _____

Title _____

County of Henrico, Virginia

By _____

Director of Planning

Approved as to form:

County Attorney